

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. MARIO SERZO, JR., ACCUSED-APPELLANT.

G.R. No. 118435. June 20, 1997

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

The right to counsel of an accused is guaranteed by our Constitution, our laws and our Rules of Court. During custodial investigation, arraignment, trial and even on appeal, the accused is given the option to be represented by a counsel of his choice. But when he neglects or refuses to exercise this option during arraignment and trial, the court shall appoint one for him. While the right to be represented by counsel is absolute, the accused's option to hire one of his own choice is limited. Such option cannot be used to sanction reprehensible dilatory tactics, to trifle with the Rules or to prejudice the equally important rights of the state and the offended party to speedy and adequate justice.

This will be amplified in this appeal seeking the reversal of the August 23, 1994 Decision of the Regional Trial Court of Antipolo, Rizal, Branch 72,[1] in Criminal Case No. 90-5997 convicting Appellant Mario Serzo, Jr. of murder under Article 248 of the Revised Penal Code.

Appellant was charged with murder in an Information dated September 4, 1990 filed by Rizal Assistant Provincial Prosecutor Filipinas Z. Aguilar-Ata, worded as follows:[2]

“That on or about the 22nd day of August, 1990, in the Municipality of Antipolo, Province of Rizal, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, armed with bladed weapon, with intent to kill, with treachery, did then and there willfully, unlawfully and feloniously attack, assault and stab one Alfredo Alcantara y Casabal at the back, thereby inflicting upon him stab wounds which directly caused his death.”

Thereafter, pre-trial was waived and the case proceeded to trial on the merits. After arraignment and trial, appellant was found guilty as charged and sentenced thus:[3]

“WHEREFORE, on the basis of the foregoing, the Court finds accused GUILTY BEYOND REASONABLE DOUBT of having committed the crime of MURDER and as prescribed under Article 248 of the Revised Penal Code, hereby sentences accused to suffer the penalty of reclusion perpetua and to indemnify the victim's wife in the amount of FIFTY THOUSAND PESOS (P50,000.00) as actual damages and TWENTY FIVE THOUSAND PESOS (P25,000.00) as moral damages and costs.”

The Antecedents

Summarizing the testimonies of Adelaida Alcantara (the victim's widow), Medico-Legal Officer Dario L. Gajardo and Epifania Andrade, the trial court found the following facts:[4]

“Alfredo Alcantara Y Casabal never knew that death was just around the corner inevitably meeting his way. That fateful night of August 22, 1990, Alfredo together with his wife Adelaida Alcantara were (sic) staying

inside their house comfortably watching television when at around 11:30 in the evening, Susana Serzo, mother of the accused, and one Epifania Bentilacion came knocking at their doorsteps and pleading for help to bring out her grandchildren who were being held inside their house by her son, the accused in this case. Unhesitatingly, the couple heeded their call and went with them at (sic) their house, located just across the private complainant's residence. The spouses were able to rescue the grandchildren and to bring them to a safer place. When returning to their house, Alfredo Alcantara who was walking just armslength ahead of his wife, was attacked by accused Mario Serzo from behind. Accused stabbed Alfredo at his back forcing the latter to scamper for his dear life. However, accused was able to overpower him thereby causing his fall in the canal where he was repeatedly stabbed by the accused. Adelaida Alcantara shouted for help but was likewise attacked by the accused as she was only half-meter away from her husband. However, Adelaida fortunately was able to hold the hand of the knifewielder and persistently fought the accused. (p. 05 TSN June 3, 1991) At that moment, the commotion had already caught the attention of the residents within the vicinity who responded to help her thereby causing the accused to flee. The victim Alfredo Alcantara, who remained lying and motionless in the canal, was rushed to the hospital where he was confirmed dead. (p. 06 TSN June 3, 1991) The Medico-legal Officer, Dr. Dario Gajardo, testified in Court that the victim sustained three (3) stab wounds, two at the back and one in his chest, which instantaneously caused the victim's death. (p.04 TSN May 13, 1991)"

In view of appellant's allegation that he was denied his right to counsel, a narration of the proceedings before the trial court is now in order. Arraignment was set by the trial court on January 8, 1991, during which appellant appeared without counsel. Consequently, the trial court appointed Atty. Wilfredo Lina-ac as counsel de oficio for the arraignment only. Appellant, however, moved that the arraignment be reset and that he be given time to engage a counsel of his own choice, which the trial court granted.[5]

On February 11, 1991, appellant appeared without a counsel de parte. He was nonetheless arraigned with the assistance of Counsel de oficio Wilfredo Lina-ac.[6] He pleaded "not guilty." Pre-trial was waived and trial was set on April 22, May 6 and 13, 1991 for the reception of the prosecution evidence and June 3 and 17, 1991 for the defense.

The hearings scheduled on April 22, 1991 and May 6, 1991 were cancelled on motion of Public Prosecutor Robert H. Tobia.[7] On both dates, appellant appeared with Atty. Lina-ac. On May 13 and June 3, 1991, trial proceeded with the testimonies of prosecution witnesses. On behalf of appellant, Atty. Lina-ac cross-examined the said witnesses.

On June 17, 1991, trial was again cancelled as appellant appeared without counsel.[8] On August 13, 1991, the prosecution rested its case.[9]

On November 4 and 11, 1991, presentation of evidence for the defense was reset as appellant was not ready to testify[10] and he manifested his intention to secure the services of a counsel de parte.[11] On March 3, 1992, Atty. Lina-ac was relieved as counsel de oficio in view of appellant's manifestation and refusal to cooperate with said counsel.[12] On April 6, 1992 appellant appeared without counsel, forcing the trial court to appoint another counsel de oficio, Bella Antonano. Counsels for both parties agreed to reset the trial, but appellant refused to sign the minutes of the proceedings.[13]

On April 27, 1992,[14] over vehement objection from the prosecution, hearing was reset for the last time as appellant was still looking for a counsel de parte.[15] On August 25, 1992, appellant appeared without counsel; thus, the trial court appointed Atty. Bonifacia Garcia of the Public Attorney's Office (PAO) as appellant's counsel de oficio. Again, trial was postponed.[16] On September 1 and October 19, 1992, trial was postponed on motion of Atty. Garcia.[17] Appellant again refused to sign the minutes of the proceedings for both trial dates. On November 5, 1992, appellant refused to cooperate with Atty. Garcia by declining to take the witness stand,

forcing the defense to rest its case.[18] Both parties were ordered to submit their respective memoranda in ten days, after which the case would be submitted for decision. Atty. Garcia was further ordered to manifest within the same period whether appellant would change his mind and cooperate with her. No memorandum or manifestation was ever filed by appellant.

Appellant wrote Judge Angeles three times within the period beginning December 16, 1992 until April 2, 1993, seeking legal advice and the early resolution of the case. Branch Clerk of Court Melchisedek A. Guan replied to him twice, informing him that Judge Angeles was prohibited by law from giving legal advice to litigants in cases pending in his court and that a decision was forthcoming. On July 13, 1994, appellant wrote Deputy Court Administrator Reynaldo L. Suarez, asking for the early resolution of his case.[19] The latter referred said letter to Judge Angeles for appropriate action.

Thereafter, the assailed Decision convicting appellant of murder was promulgated on August 23, 1994.

Ruling of the Trial Court

In its Decision, the trial court noted that appellant simply refused to secure the services of a counsel de parte and to present evidence in his defense despite ample opportunity accorded to him. Said the trial court:

“The defense particularly the accused assisted by counsel however refused to present any evidence despite several opportunities afforded by the Court. As early as the arraignment stage, accused refused to be assisted by a counsel de oficio from the Public Attorney’s Office (PAO) insisting that he be assisted by a counsel of his own choice. For several settings, accused and her (sic) mother were allowed to secure the services of a counsel de parte. However, they failed to present one. Hence, the Court, to avoid further delay in the proceedings of the case, was constrained to assign a counsel de oficio from the PAO.

During the presentation of evidence for the defense, accused and counsel could not present any witness as accused refused to cooperate and to testify in Court. Hence, the defense waived its right to present any evidence.

Considering that this case has been dragging for several years already x x x the court x x x afforded the defense another opportunity to present its case by submitting its memorandum simultaneously with the Prosecution. Thereafter, the case was submitted for decision.”[20]

Consequently, the trial court convicted appellant on the basis of the evidence presented by the prosecution. Appellant was positively identified as the assailant by the widow, Adelaida Alcantara, who survived his attack. In her distinct and vivid narration of the sequence of events leading to the murder, she showed that the attack was treacherous as the victim was stabbed at the back and without warning.

Not satisfied with the trial court’s Decision, appellant through Counsel Carmelo L. Arcilla[21] appealed to this Court.

Assignment of Errors

In his Brief filed by Atty. Arcilla, appellant questions his conviction for murder based on the following alleged errors on the part of the trial court:[22]

“I

The lower court erred in not giving the defendant-appellant time to engage counsel of his own choice.

“II

The lower court erred in not affording the defendant-appellant the chance to present evidence for his defense.

“III

The lower court erred in not acquitting the defendant-appellant.”

Mainly, appellant alleges that he had been denied effective legal representation. His thesis is that the trial court did not give him enough time to engage a counsel de parte, effectively depriving him of the chance to present evidence in his defense. In fact, the scant five-page Appellant’s Brief was dedicated entirely to this argument without contesting the facts found by the trial court.

The Court’s Ruling

The right of an accused to counsel is guaranteed by the Constitution, the supreme law of the land. This right is granted to minimize the imbalance in the adversarial system where the accused is pitted against the awesome prosecutory machinery of the state. In the words of Justice Black,[23] this is a “recognition xxx that an average (accused) does not have the professional skill to protect himself xxx before a tribunal with power to take his life or liberty, wherein the (prosecutor) is xxx an experienced and learned counsel.” In *Powell vs. Alabama*,[24] Mr. Justice Sutherland wrote at greater length on why an accused needs a competent counsel:

“Even the intelligent and educated layman has small and sometimes no skill in the science of law. If charged with crime, he is incapable, generally, of determining for himself whether the indictment is good or bad. He is unfamiliar with the rules of evidence. Left without the aid of counsel he may be put on trial without a proper charge, and convicted upon incompetent evidence, or evidence irrelevant to the issue or otherwise inadmissible. He lacks both the skill and knowledge adequately to prepare his defense, even though he has a perfect one. He requires the guiding hand of counsel at every step in the proceedings against him. Without it, though he be not guilty, he faces the danger of conviction because he does not know how to establish his innocence.”

The right covers the period beginning from custodial investigation, well into the rendition of judgment,[25] and even on appeal. Article III of the 1987 Constitution provides this right to an accused not only during trial but even before an information is filed. It provides:

“SEC. 12. (1) Any person under investigation for the commission of an offense shall have the right to be informed of his right to remain silent and to have competent and independent counsel preferably of his own choice. If the person cannot afford the services of counsel, he must be provided with one. These rights cannot be waived except in writing and in the presence of counsel.”

“SEC. 14 (1) No person shall be held to answer for a criminal offense without due process of law.

(2) In all criminal prosecutions, the accused shall be presumed innocent until the contrary is proved, and shall enjoy the right to be heard by himself and counsel, x x x.”

With these precepts as springboard, the Rules of Court grants an accused the right to counsel under the following provisions, viz.:

“RULE 112PRELIMINARY INVESTIGATION

x x x x x x x x

SEC. 7. When accused lawfully arrested without warrant.--x x x

However, before the filing of such complaint or information, the person arrested may ask for a preliminary investigation by a proper officer in accordance with this Rule, but he must sign a waiver of the provisions of Article 125 of the Revised Penal Code, as amended, with the assistance of a lawyer and in case of non-availability of a lawyer, a responsible person of his choice. x x x.

x x x x x x x x

RULE 113 ARREST

SEC. 14. Right of attorney or relative to visit person arrested. -- Any member of the bar shall, at the request of the person arrested or of another acting in his behalf, have the right to visit and confer privately with such person, in the jail or any other place of custody at any hour of the day or, in urgent cases, of the night. This right shall also be exercised by any relative of the person arrested subject to reasonable regulation.

Rule 115

RIGHTS OF ACCUSED

SEC. 1. Rights of accused at the trial.--In all criminal prosecutions, the accused shall be entitled:

x x x x x x x x

(c) To be present and defend in person and by counsel at every stage of the proceedings, from the arraignment to the promulgation of the judgment. x x x.

x x x x x x x x”

Rule 116 of the Rules of Court makes it compulsory that the trial court inform the accused of his right to counsel prior to arraignment, thus:

“SEC. 6. Duty of court to inform accused of his right to counsel. -- Before arraignment, the court shall inform the accused of his right to counsel and shall ask him if he desires to have one. Unless the accused is allowed to defend himself in person, or he has employed counsel of his choice, the court must assign a counsel de oficio to defend him.

SEC. 7. Appointment of counsel de oficio.--The court, considering the gravity of the offense and the difficulty of the questions that may arise, shall appoint as counsel de oficio only such members of the bar in good standing who, by reason of their experience and ability may adequately defend the accused. But in localities where such members of the bar are not available, the court may appoint any person, resident of the province and of good repute for probity and ability, to defend the accused.”

Even on appeal, the accused is still afforded the right to counsel under Rule 122:[26]

“SEC. 13. Appointment of counsel de oficio for accused on appeal.--It shall be the duty of the clerk of the trial court upon the presentation of a notice of appeal in a criminal case, to ascertain from the appellant, if he be confined in prison, whether he desires the Court of Appeals or the Supreme Court to appoint a counsel to defend him de oficio and to transmit with the record, upon a form to be prepared by the clerk of the appellate court, a certificate of compliance with this duty and of the response of the appellant to his inquiry.”

The foregoing is buttressed by another provision in Rule 124:

“SEC. 2. Appointment of counsel de oficio for the accused.-- If it appears from the record of the case as transmitted: (a) that the accused is confined in prison, (b) without counsel de parte on appeal, and (c) signed

the notice of appeal himself, then the clerk of the Court of Appeals shall designate a member of the bar to defend him, such designation to be made by rotation, unless otherwise directed by order of the court.

An accused-appellant not confined in prison shall not be entitled to a counsel de oficio, unless the appointment of such counsel is requested in the appellate court within ten (10) days from receipt of the notice to file brief and the right thereto is established by affidavit.”

Recently, Republic Act No. 7438 was enacted providing, inter alia, that any person arrested, detained or under custodial investigation shall at all times be assisted by counsel.

A deprivation of the right to counsel divests the accused of an equality in arms resulting in the denial of a level playing field, so to speak. In a previous case, this Court held that an accused was deprived of his right to counsel when he retained the services of a person who misrepresented himself as a lawyer.[27] In *People vs. Malunsing*,[28] retrial was ordered on the ground that petitioner was denied his constitutional right to counsel. Very old and unlettered, he was shown not to have understood what was going on during the trial. In said case, although the lawyer of his co-accused was appointed as his counsel, petitioner was not properly apprised by said court of his right to be assisted by counsel. No evidence was presented for and on his behalf and the trial court did not even bother to inquire why he did not take the witness stand when all the other defendants were presented as witnesses.

This is the legal backdrop against which appellant’s allegation of deprivation of his right to counsel shall be measured.

Right to Counsel De Parte Is Not Absolute

Accordingly, an accused may exercise his right to counsel by electing to be represented either by a court-appointed lawyer or by one of his own choice. While his right to be represented by counsel is immutable, his option to secure the services of counsel de parte, however, is not absolute. The court is obliged to balance the privilege to retain a counsel of choice against the states’s and the offended party’s equally important right to speedy and adequate justice. Thus, the court may restrict the accused’s option to retain a counsel de parte if the accused insists on an attorney he cannot afford, or the chosen counsel is not a member of the bar, or the attorney declines to represent the accused for a valid reason, e.g. conflict of interest and the like.[29]

Also, the right to counsel de parte is, like other personal rights, waivable[30] so long as (1) the waiver is not contrary to law, public order, public policy, morals or good customs; or prejudicial to a third person with a right recognized by law[31] and (2) the waiver is unequivocally, knowingly and intelligently made.[32]

In *Sayson vs. People*,[33] this Court held that the duty of the court to appoint a counsel de oficio is not mandatory where the accused has proceeded with the arraignment and the trial with a counsel of his choice but, when the time for the presentation of the evidence for the defense was due, he appears by himself alone because of the inexcusable absence of his counsel. In another case, this Court held that the right to be heard and to reopen the case (and send it to trial anew) could not be allowed if doing so would sanction a plainly dilatory tactic and a reprehensible trifling with the orderly administration of justice.[34]

In the present case, appellant claims that he was not given sufficient time to engage a counsel de parte, thereby preventing him from presenting evidence in his defense. In his Brief he adds, but without giving particulars or proof, that allegedly his counsels de oficio did not exert their “utmost efforts” in representing him, thus:[35]

“x x x (T)he lower court afforded the accused the assistance of counsel de oficio as early as the arraignment stage but failed to show that utmost efforts were exerted by said counsel to defend the life and liberty of the accused. The duty of the court is not ended with such appointment, however, as it should also see to it that the

counsel does his duty by the defendant. Counsel de officio should not merely make the motions of defending the accused but exert his utmost efforts as if he were representing a paying client.”

The Solicitor General, in his eleven-page Brief,[36] rebuts this, arguing that appellant’s actions during the trial showed instead a “lackadaisical stance on his own defense.”

Appellant had been given ample time to secure the services of a counsel de parte, but his subsequent appearances in court without such counsel and his act of allowing this situation to continue until the presentation of his evidence betrays his lack of intention to do so. It even appears that he was merely delaying his own presentation of evidence on purpose to the prejudice of the offended party, the trial court and the orderly administration of justice.

Furthermore, appellant did not demonstrate in what way the services of his counsels de officio were unsatisfactory. He did not cite any instance substantiating his claim that he was not effectively represented. In short, he was afforded a chance to be heard by counsel of his own choice, but by his own neglect or mischief, he effectively waived such right. It taxes the mind to think that, almost two years[37] since appellant first invoked his right to be represented by counsel de parte, he still could not find one who would suit his needs and desires. Neither did he cooperate with his court-named lawyers.

The facts of this case do not constitute a deprivation of appellant’s constitutional right to counsel because he was adequately represented by three court-appointed lawyers: Atty. Lina-ac, Atty. Antonano and Atty. Garcia. Courts are not required to await indefinitely the pleasure and convenience of the accused as they are also mandated to promote the speedy and orderly administration of justice. Nor should they countenance such an obvious trifling with the rules. Indeed, public policy requires that the trial continue as scheduled, considering that appellant was adequately represented by counsels who were not shown to be negligent, incompetent or otherwise unable to represent him.

Crime and Punishment

In spite of appellant’s failure, either through negligence or unreasonable refusal, to impute errors to the assailed Decision -- other than the alleged violation of his right to counsel -- this Court nonetheless scoured the records of the trial, perused the transcripts of the testimony of the witnesses for the prosecution, evaluated the evidence and examined the applicable laws and jurisprudence to determine the correctness of the trial court’s Decision. We, however, find no cogent reason to reverse the conviction of appellant. In a case of murder or homicide, it is enough that the death of the victim and the responsibility of the person who caused such death are proven[38] beyond reasonable doubt. Both elements were duly established by the prosecution witnesses. Dr. Gajardo testified to the fact of death while Widow Adelaida Alcantara positively identified the appellant as the assailant.

Based on the facts established by the prosecution which remain uncontested, the Court affirms the trial court’s appreciation of the qualifying circumstance of treachery. To constitute treachery, two conditions must concur: (1) the employment of means of execution that gives the person attacked no opportunity to defend himself or to retaliate and (2) deliberate or conscious adoption of the means of execution.[39] The manner of the attack itself is proof enough of alevosia. Widow Adelaida vividly described the stabbing as follows:[40]

“Q: And you said a certain Suzana Serzo together with one Epifania Bantilacion came to your house and asked for help from you, is that right?

A: Yes, sir.

Q: And that you responded for help Mrs. witness?

A: Yes, sir.

Q: And you are together with your husband in helping Suzana Serzo?

A: Yes, sir.

Q: What was the help she was asking Mrs. witness?

A: She was asking to help her children being held by Mario Serzo by not letting them go out of the house.

Q: Were you able to help the grandchildren of Suzana Serzo?

A: Yes, sir.

Q: And after you help (sic) them what happened next?

A: We brought them to where they could hide and then we went home.

Q: You said you heard somebody approaching you at the back through the sound of his footsteps is that right?

A: Yes, sir.

Q: What happened next after you hear (sic) those footsteps at your back?

A: My husband was just beside me.

Q: And immediately your husband was stabbed by the accused?

A: Yes, sir.”

From this testimony, it appears that appellant waited for the victim and his wife and pounced on them swiftly and without warning. The victim and his wife were already on their way home after transferring appellant’s children to a safe place. They were unarmed as they had absolutely no idea that appellant would attack them right then and from behind. The manner of the attack tended directly and especially to insure the execution of the crime without risk to appellant and virtually no chance for the victim to defend himself.[41] Even Adelaida’s life would have been mortally threatened were it not for the timely intervention of her neighbors.

Damages and Indemnity

Actual and moral damages require the presentation of proof before they can be awarded by the trial court.[42] According to Adelaida, burial expenses in the amount of P2,000.00 were incurred.[43] This is separate and distinct from civil indemnity awarded under prevailing jurisprudence, which is granted without further proof beyond the fact of death and the accused’s responsibility therefor. Moral damages were not discussed at all in Adelaida’s testimony. Hence, without any factual basis, the award of moral damages is not justified.

WHEREFORE, the assailed Decision is hereby AFFIRMED, but the award of moral damages is DELETED. Instead, appellant is ORDERED TO PAY the amount of P50,000.00 as civil indemnity and actual damages of P2,000.00 as burial expenses.

SO ORDERED.

Narvasa, C.J., (Chairman), Davide, Jr., and Melo, JJ., concur.

Francisco, J., on leave.

[1] Presided by Executive Judge Rogelio L. Angeles.

[2] Rollo, p. 1.

[3] Rollo, p. 11.

[4] RTC Decision, pp. 1-2; Rollo, pp. 9-10.

[5] Minutes of the Proceedings and Order dated January 8, 1991, Records, pp. 11-12.

[6] Ibid., pp. 14 & 16.

[7] Id., pp. 20-21 & 22-23.

[8] Id., pp. 30 & 31.

[9] Id., pp. 34 & 35.

[10] Id., pp. 38 & 39.

[11] Id., pp. 40 & 41.

[12] Id., pp. 43 & 44.

[13] Id., pp. 46-47.

[14] This date appears to be incorrect as, in the RTC's Order of that day, trial was reset on August 25 and September 1, 1992.

[15] Order dated August 27, 1992, Records, p. 50; Minutes of the Proceedings, Records, p. 49.

[16] Ibid., pp. 52-53.

[17] Id., pp. 54-55 & 57-58.

[18] Id., pp. 60-61.

[19] Rollo, p. 78.

[20] RTC Decision, p. 10; Rollo, p. 83.

[21] Atty. Arcilla, who was/is employed in the Provincial Legal Office of the Province of Rizal, was "tasked by the Provincial Governor (of Rizal) to render legal assistance to one of his impoverished constituents, Accused Mario Serzo, Jr." (Arcilla's "Explanation" dated April 11, 1996, p. 1; Rollo, p. 37.)

[22] Rollo, pp. 48 b-c.

[23] Johnson vs. Zerbst, 304 U.S. 458, 462-3 (1938) which was cited in Abriol vs. Homeres, 84 Phil. 534, 533 (1949).

[24] 287 U.S. 45, 69 (1932). See also People vs. Holgado, 85 Phil. 752, 756-757 (1950).

[25] People vs. Jose, 37 SCRA 450, 472-473, February 6, 1971.

[26] Rule 122, Section 13, Rules of Court.

[27] Telan vs. Court of Appeals, 202 SCRA 534, 542, October 4, 1991; and Delgado vs. Court of Appeals, 145 SCRA 357, 360, November 10, 1986.

[28] 63 SCRA 493, 496, April 29, 1975.

[29] "Twenty-Fourth Annual Review of Criminal Procedure: United States Supreme Court and Courts of Appeals 1993-1994," Georgetown Law Journal, Vol. 83, No. 3, March-April 1995, pp. 1086-1087.

[30] U.S. vs. Go-Leng, 21 Phil 426, 427-479 (1912); U.S. vs. Kilayko, 31 Phil 371, 372-373 (1915); People vs. Sim Ben, 98 Phil 138, 139 (1955); and People vs. Holgado, supra.

[31] Article 6, Civil Code.

[32] *People vs. Nicandro*, 141 SCRA 289, 299, February 11, 1986; and *Chavez vs. Court of Appeals*, 24 SCRA 663, 683, August 19, 1968.

[33] 166 SCRA 680, 690-692, October 28, 1988.

[34] *People vs. Mendez*, 28 SCRA 880, 887-889, July 29, 1969.

[35] Rollo, p. 48-e.

[36] Appellee's Brief, Rollo, pp. 66-76.

[37] The trial court patiently waited for the appearance of appellant's counsel de parte from January 8, 1991 until November 5, 1992.

[38] *People vs. Roluna*, 231 SCRA 446, 453, March 24, 1994; *People vs. Sasota*, 91 Phil. 111, 116 (1952).

[39] *People vs. Mallari*, 212 SCRA 777, 784, August 21, 1992; and *People vs. Mabubay*, 185 SCRA 675, 680, May 24, 1990; and *People vs. Samonte*, 64 SCRA 319, 325-326, June 11, 1975.

[40] TSN, June 3, 1991, pp. 7-8.

[41] *People vs. Isleta*, G.R. No. 114971, November 19, 1996, pp. 11-17; *People vs. Layno*, G.R. No. 110833, November 21, 1996, pp. 19-20; and *People vs. Dinglasan*, G.R. No. 101312, January 28, 1997, pp. 23-24.

[42] *People vs. Arguelles*, 222 SCRA 166, 172, May 17, 1993; and *People vs. Rosario*, 246 SCRA 658, 671, July 18, 1995.

[43] TSN, June 3, 1991, p. 7.

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