

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. MACAPANTON SALIMBAGO, ACCUSED-APPELLANT.

G.R. No. 121365. September 14, 1999

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

Appellant was indicted and tried for kidnapping with ransom and serious illegal detention in an information which reads:

“That on or about 06 January 1993 at around 7:00 in the morning near the vicinity of Park and Taft Avenues, Pasay City and within the jurisdiction of this Honorable Court, the above-named accused together with some other persons who had already been identified and charged in court and/or whose identities remain unknown, conspiring, confederating and mutually helping one another did then and there, by force and intimidation, wilfully, unlawfully and feloniously take, carry away and thereafter, detain Stanley and Jermyn, both surnamed Chua and Elizabeth Luega, in the middle of a sugar cane field at Sitio Malipa, Barangay Malaking Pulo, Tanauan, Batangas against her (sic) will and consent thereby depriving them of liberty, for the purpose of extorting ransom for their release in the amount of P6M.”[1]

After trial, the lower court disposed of the case as follows:

"WHEREFORE, the Court finds the accused Macapanton Salimbago GUILTY beyond reasonable doubt of the crime of KIDNAPPING and SERIOUS ILLEGAL DETENTION under Art. 267 of the Revised Penal Code.

"Accordingly, in the absence of any mitigating and aggravating circumstance, and considering that the kidnapping or detention was committed for the purpose of extorting ransom from the victims or other person, the accused is hereby sentenced to suffer the penalty of RECLUSION PERPETUA considering that the penalty of death cannot be imposed, the crime having been committed prior to the re-imposition of the death penalty.

"SO ORDERED.”[2]

Supported by evidence on record are the following facts:*

“Sometime between 6:00 and 7:00 A.M. on January 6, 1993, Mrs. Rosita Chua was bringing her two (2) children, Stanley and Jermyn to school on board the family car, together with family maid Elizabeth Luega, as well as family driver Bartolome Mabuti. Near the vicinity of Park and Taft Avenue, Pasay City, the Chuas’ car was blocked, front and rear, by two (2) other vehicles. Three (3) men alighted from the car in front and boarded the Chua car after introducing themselves as CIS agents; thereafter, the three (3) cars sped away. After an hour’s travel, Mrs. Chua was left by the roadside near a sign which read “Susana Heights.” The two (2) Chua children, the maid and family driver were then blindfolded and their hands tied. After another hour’s drive in this state, during which time Stanley Chua ascertained from the men that they had been abducted for purposes of ransom (i.e., “pamasko”), these individuals sensed they stopped in front of a house and were brought upstairs into a room. While in that room, appellant forcibly copulated with maid Luega, after poking a gun to her neck. The latter saw appellant’s face because in the course of resisting his lewd designs, her blindfold fell-off. Appellant afterwards apologized to maid Luega for sexually molesting her. Later, the victims

were transferred by their captors to an improvised hut in the middle of a sugar cane field, where their blindfolds were removed. Maid Luega then saw appellant guarding them with a long firearm at the improvised hut, which consisted of sugar cane plants pressed down by an iron grill and bed, a G.I. sheet for roofing, no walls, and surrounded by sugar cane leaves that have been tied together.

“During this time, Benito Manglo, a farmer residing at Malaking Pulo, Tanauan, Batangas, had been coerced by the kidnappers to provide food for the latter and the victims. From noontime of January 6, 1993, until the evening of January 7, 1993, he would deliver food to a place one hundred (100) meters from his house. Then a person would give a signal and he would walk away. After half an hour, a person would give a signal and he would return to the same spot to retrieve the empty food containers. He was not allowed to go near the place where the victims were being held in the middle of the sugar cane plantation. Although on one occasion, he was able to crawl and peep into the improvised hut and saw the four kidnap victims. During his food deliveries, he would look back and see the appellant retrieve the food for the kidnappers and the victims.

“At around 10:00 P.M. in the evening of January 7, 1993, SPO3 Rommel Macatlang of the Police Intelligence Operations Group and his rescue team leader, Captain Rodrigo Agojo, where crawling towards a santol tree, which was serving as their reference point, to locate the improvised hut inside the sugar cane plantation where the kidnap victims were being held. At the santol tree, SPO3 Macatlang saw the two (2) Chua children by their light colored clothing a few meters away, lying on the ground outside the improvised hut. They crawled towards them and woke them up. SPO3 Macatlang told the children they were policemen who came to rescue them. The children pointed out to him that their maid and driver were asleep on the bed, likewise outside the improvised hut. SPO3 Macatlang told one child to wake-up their servants. The child did so, but he returned to SPO3 Macatlang and reported that the driver’s leg was tied to a chain. SPO3 Macatlang crawled towards the maid and driver and knelt before the driver to remove his chain. But then SPO3 Macatlang noticed shadows of persons approach them; SPO3 Macatlang and Captain Agojo behind him drew their service pistols and waited. One person sat at one end of the bed while the other stood 1 ½ meters away from the first person and slightly to the left of SPO3 Macatlang. SPO3 Macatlang then jumped onto the bed, shone his flashlight on these two persons and announced he was a policemen. The two persons started shooting and a firefight ensued between these two men and the two policemen. SPO3 Macatlang saw that the appellant was one of the gunmen. SPO3 Macatlang called for back-up from his radio and then fell to the ground after being hit twice. After about five minutes, back-up policemen swarmed over the area and evacuated all of them (i.e., victims and rescuers). SPO3 Macatlang did not know what happened to the gunmen thereafter; neither did his responding teammates locate them after the firefight.

“In the morning of January 8, 1993, policemen brought Elizabeth Luega to a hospital in Tanauan, Batangas, where a person bearing gunshot wounds was confined. He recognized that person to be appellant, the man who forcibly copulated with her, and she so denounced him to the policemen. That same afternoon, she was formally investigated at PNP Headquarters and executed a sworn statement regarding the incident.

“On January 10, 1993, policemen also brought farmer Benito Manglo to the hospital at Tanauan, Batangas where appellant was confined and arrested. When he saw appellant, Benito Manglo told the policemen that he (appellant) was the person who retrieved the food he delivered for the kidnap victims.

“Sometime after preparing his initial report of the rescue incident on January 27, 1993, while recuperating from his two (2) gunshot wounds to the left forearm and left chest at the Makati Medical Center, a colleague of SPO3 Rommel Macatlang showed him a newspaper article concerning a man arrested by police at a hospital in Tanauan, Batangas. He recognized the man (appellant) pictured in the newspaper as one of the two (2) persons he shot at during the rescue of the kidnap victims in the evening of January 7, 1993.

“The three (3) men who boarded the Chua car at the start of the abduction in the morning of January 6, 1993 were tried and convicted of the crime of kidnapping and serious illegal detention in Criminal Case No. 93-2363, which was heard by Judge Alfredo J. Gustilo of Branch 116, Regional Trial Court in Pasay City,

chiefly upon the testimony of Elizabeth Luega and Benigno Manglo, who testified for the prosecution. Appellant was not tried in Criminal Case No. 93-2363 because he was still hospitalized at that time and was not yet physically fit to stand trial. He was tried for complicity in the kidnap incident in this present case.”[3]

From a judgment of conviction, appellant interposes the present appeal praying for his acquittal of the crime charged on the ground that he was not positively identified by the prosecution witnesses whose testimonies he claims are “incredible, contradictory and inconsistent”. [4] Appellant imputes the following inconsistencies and contradictions in the prosecution witnesses’ testimony:

On witness Luega:

§ For declaring in her sworn statement that she saw appellant as one of the men who rode with them in the car during the abduction but testified later that appellant is not one of the three persons;

§ that the reason why she did not review the statement she gave to the police was because it was already dark, yet the statement appears to have been made at about 3:30 P.M.; and,

§ that she could not have positively identified appellant because she was placed in a dark room and was blindfolded.

On witness Manglo:

§ he did not recognize any of the three kidnappers yet he testified that he recognized appellant as the person who took the food he brought to a certain spot;

§ he and his wife failed to report the matter to the authorities.

On witness Sgt. Macatlang:

§ he could not have identified appellant because of his admission that he did not know what happened to the kidnapers during the shoot-out; and

§ his testimony that he jumped to the “papag”, opened his flashlight and saw the face of kidnappers is “highly unbelievable”[5] because it is contrary to the instinct of self-preservation;

§ to jump on that “papag”, remain standing, flash his flashlight and announced that he is a policeman thereby exposing himself to danger is “ridiculous and not in conformity with human nature”[6]; and

§ that it would be more natural if he remained in a kneeling and unexposed position, use the kidnapped family driver as cover, before announcing his authority as police officer.

After reviewing the evidence on record, the Court finds the alleged inconsistencies and discrepancies as too minor to merit a reversal of the judgment of conviction. They do not affect the truth of the testimonies of witnesses.[7] Neither do they reflect on their credibility[8] nor pertain to the why’s and wherefore’s of the crime as to adversely affect the essential integrity of the People’s evidence as a whole. On the contrary, such trivial inconsistencies strengthen rather than diminish the prosecution’s case as they erase suspicion of a rehearsed testimony[9] and negate any suspicion that the same were merely perjured.[10] It has been consistently held that if there is an inconsistency between the affidavit of witnesses and their testimonies given in open court, the latter commands greater weight than the former.[11] Affidavits, usually taken ex parte, are almost invariably incomplete and oftentimes inaccurate.[12] Besides, *confessio facta in iudicio omni probatione major est* - a confession made in Court is more important than all proof. There is also no showing that the omissions, if any, in the affidavit refer to very important details of the incident that one relating as an eyewitness would not be expected to fail to mention, or, the narration in the sworn statement substantially contradicts the testimony in court.[13] Besides, even the most candid witnesses oftentimes make mistakes and would fall into confused

statements, and at times, far from eroding the effectiveness of the evidence, such lapses could instead constitute signs of veracity.[14]

Witness Luego was one of the kidnap victims. Appellant, however, puts premium on the following testimony of said witness which allegedly tarnished her credibility as a witness, to wit:

Q: Now you said during the cross-examination of this case here that the persons who got inside your car are not here?

A: They are not here, Your Honor.

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Q: But you said that he was one of those who block your car. Now which is correct?

A: The truth is that, I did not see him as one of those who blocked our car when our way was blocked.[15]

There is nothing inconsistent in the foregoing testimony. The persons who entered the victims' car may not necessarily be the same persons who blocked the car. It should be noted that there was another car that was following them. In any case, the fact that said witness did not see appellant as one of those who blocked their way does not negate his criminal liability considering his positive identification by the prosecution witness.

Appellant's contention that a police officer cannot possibly risk his life but instead use the kidnap victims as shield for his protection is a vain attempt to exculpate him from liability. Precisely, the essence of the fulfillment of duty of police officers, who are the frontliners in the implementation of peace and order, consists in taking that risk involving his very existence. The safety of helpless citizens cannot be sacrificed for the sake of the police, otherwise we would only have cowards in our law enforcement agencies. One cannot be a law enforcer by surrounding himself with a human wall. Risking one's life is inherent in a policeman's job although simply incidental to the performance of duty. His priority is not to save his own life but to protect the public. And one who does that should receive commendation rather than condemnation, for bravery is not a monopoly of dead heroes, just as cowardice has no place in the hearts of dedicated public servants. The government did not simply arm policemen, grant them authority and put them in the streets without training them. Certainly, these officers were taught schemes, strategies and plans on how to approach danger. And exposing oneself to harm is probably part of police strategy which is not within the province of this Court to re-design.

Article 267 of the Revised Penal Code (RPC), prior to its amendment by Section 8 of R.A. No. 7659 reads:[16]

"Kidnapping and serious illegal detention. – Any private individual who shall kidnap or detain another, or in any other manner deprive him of his liberty, shall suffer the penalty of reclusion perpetua to death;

1. If the kidnapping or detention shall have lasted more than three days.
2. If it shall have been committed simulating public authority.
3. If any serious physical injuries shall have been inflicted upon the person kidnapped or detained; or if threats to kill him shall have been made.
4. If the person kidnapped or detained shall be a minor, except when the accused is any of the parents, female or a public officer.

"The penalty shall be death where the kidnapping or detention was committed for the purpose of extorting ransom from the victim or any other person, even if none of the circumstances abovementioned were present in the commission of the offense."

The elements of the crime defined in Article 267 above, are:

1. that the offender is a private individual;
2. that he kidnaps or detains another, or in any manner deprives the latter of his liberty;
3. that the act of detention or kidnapping must be illegal; and

4. in the commission of the offense, any of the following circumstances is present:
- a.) that the kidnapping or detention last for more than three days;
 - b.) that it is committed simulating public authority;
 - c.) that any serious physical injuries are inflicted upon the person kidnapped or detained or threats to kill him are made; or
 - d.) that the person kidnapped or detained is a minor, female, or a public officer.[17]

There is kidnapping when the actual intent of the malefactors is to deprive the offended parties of their liberty.[18] The essential element for this crime is the deprivation of liberty under any of the four circumstances enumerated above - the simulation of public authority or that the person kidnapped is a minor or female - being two of those instances.[19] In this case, the kidnappers pretended to be members of the "CIS"[20] which is part of the military establishment. Two of the kidnap victims were minor children ages 12 and 13 years of age. The third victim was a female, the maid of the Chua's. The three of them together with the Chua family driver were abducted and later detained in an isolated house located in a sugarcane field. This is clear from the following excerpts in her testimony:

"Fiscal Danosos:

Q: Miss Luega, can you recall where were you sometime on January 6, 1993?

A: We were bringing the children to school, sir.

FISCAL DANOSOS:

Q: You said that "we were bringing the children to school," who are those "we"?

A: Mrs. Chua, her two children and the driver, sir.

Q: Who are these two children together with Mrs. Chua?

A: Jermaine and Stanley, sir.

Q: How about the driver, who was your driver?

A: Bartolome Mabuti, sir.

Q: What vehicle were you riding while you were bringing the children to school?

A: A Nissan car with red color, sir.

Q: More or less, what time in the morning of January 6, 1993 when you, Mrs. Chua, the two children and driver Mabuti were in the vehicle bringing the children to school?

A: About 6:00 to 7:00 o'clock in the morning, sir.

FISCAL DANOSOS:

Q: While you were on the way to school at around 6:00 or 7:00 o'clock in the morning, do you recall of any unusual incident that transpired during that time?

A: Somewhere in a street whose name I do not know, but near our house, one car cut its way with our car and blocked our way, sir.

Q: Can you give us a brief description of the car that blocked your path?

A: It is a dark-blue car, sir.

Q: How about the name of the car, can you recall?

A: I do not know the brand name but it has a color of dark-blue, sir.

Q: Immediately after your car was blocked by a dark-blue car, do you recall what happened next?

A: I also noticed a car which has also the same color as the one which blocked our way bearing plate no. 997, sir.

FISCAL DANOSOS:

Q: This car that you said were following you closely bearing plate no. 997, did it also stop when your car was blocked?

ATTY. ABDUL:

The question is misleading, your Honor, because the witness did not testify that there was a car immediately following their car.

COURT:

The interpretation is that there is another car which was (sic) blocked our way. You lay the basis first.

FISCAL DANOSOS:

Q: Where was this car positioned, the car bearing plate no. 997 which has the same color as the one which was (sic) blocked your way?

A: It was positioned at our back, sir.

FISCAL DANOSOS:

Q: Let us go back to the blocking of the car. Now, after your car was blocked, do you recall what happened next?

A: Three (3) men alighted from the car, then they approached us, sir.

Q: What did they do if any?

A: They forcibly opened the door of our car and introduced themselves as CIS, sir.

Q: What happened next, if any, after they introduced themselves as CIS?

A: Then they boarded our car, sir.

Q: You said that the three men who introduced themselves as PNP CIS forcibly opened and that they rode inside the car, since they were three, will you tell the Honorable Court where exactly did these three men ride with you in that car?

A: The two kidnapper boarded the front seat and the other one boarded the back seat, sir.

FISCAL DANOSOS:

Q: Now, who was riding with you at the back seat of the car, beside you, who was with you?

A: Mrs. Chua, the two children, me and the kidnapper, sir.

Q: How about the front seat of the car, who occupied the front seat of the car?

A: Two boarded the front seat, the one who also boarded the front seat drove the car, sir."

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FISCAL DANOSOS:

Q: After that conversation, what happened next, if any?

A: Mrs. Chua approached us and told them, "Huwag n'yong sasaktan ang mga anak ko ha."

Q: Do you know to whom Mrs. Chua addressed the word "Huwag n'yong sasaktan ang mga anak ko ha"?

A: To us, sir.

Q: When Mrs. Chua said those words, where were the kidnappers sitted (sic), the three persons whom you said kidnapped you?

A: They were also inside the car, sir.

FISCAL DANOSOS:

Q: After that what else happened, if anything happened?

A: We continued our journey, sir.

Q: What happened to Mrs. Chua, was she with you?

A: She was left behind, sir.

Q: You said that after that Mrs. Chua was left and you proceeded, now, do you know where you were going after that?

A: I do not know where we are (sic) going, but during the journey inside the car they blindfolded us and then tied our hands, sir.

Q: When you said that they blindfolded us and then tied our hands while we were inside our car, whom are you referring to who were tied u (sic)?

A: Me, the two children and the driver, sir.

Q: What happened to the Red Nissan car that you and Mrs. Chua was (sic) riding, what happened to the car?

A: It was also the car that we rode, sir.

Q: Who was driving the car when driver Mabuti was tied up and blindfolded?

A: One of the kidnappers drove the car and Mabuti was situated between them, sir.

Q: You said that there were three kidnappers who were with you, when you started moving towards another place, these three kidnappers, were they also the same kidnappers who were with you who forcibly went inside your car when you were blocked at Taft Avenue?

A: Yes, sir, they were the very same persons, sir.

x x x x x x x x

FISCAL DANOSOS:

Q: After all these things happened inside the room of that house, what else, if anything happened?

A: He put on my pants, sir.

Q: You said that your hands were tied, was it still there?

A: Yes, sir.

Q: You said that after that Salimbago put your trousers again, now, what else if any happened, after Salimbago put in (sic) again your trousers?

A: After that at around 7:00 o'clock in the evening, they transferred us to another house, sir.

Q: You said that after, probably around 7:00 o'clock in the evening, because it was already dark, you were transferred to another place, is that correct?

A: Yes, sir.

FISCAL DANOSOS:

Q: When you said "yes", who were with you moved or transferred?

A: The four of us, Stanley, Jermyn, Bartolome and I, sir.

Q: When you were transferred or moved to another place, do you recall who escorted you or guarded you?

A: Him, sir (sic). (Witness pointing to accused Macapanton Salimbago), and with another companions.

Q: Do you recall how many companions he has at that time when you were moved or transferred?

A: I saw only three but I cannot recognize them because it was dark, sir.

Q: From the house where you were kept and raped to the place where you said you were moved or transferred, can you recall briefly or described (sic), more or less, how far from the house to the place where you were transferred or moved?

A: Maybe it would take a five minutes walk, sir.

Q: How were you transferred, were you walking or were you placed inside a vehicle?

A: We were walking, sir.

Q: Will you specifically describe the kind of place where you were transferred from that house to the place

which you said that you were moved?

A: I know that we were walking inside the sugarcane field, sir.

Q: Will you briefly describe the place where you were transferred from the house to the sugarcane field, will you kindly describe, specifically the place where you were transferred?

A: It is a small nipa hut in the middle of a sugarcane field plantation, sir.

FISCAL DANOSOS:

Q: While you were there in that small nipa hut in the middle of the sugarcane plantation, do you recall if you, Mabuti and the two children were still blindfolded and your hands tied?

A: Yes, sir, we were still tied and our blindfolds were already removed, sir, by them.

Q: Would you be able to estimate, tell this Honorable Court what time in the evening already was that considering that you said that your blindfold was already removed?

A: I have no watch at that time but maybe it was around 8:00 o'clock in the evening, sir.

Q: When you the two children and Mabuti were already there in the nipa hut, were you able to notice if there were people guarding you?

A: Yes, sir, two persons.

Q: Would you be able to recognize one of these persons that were guarding you?

A: Him, sir. (Witness referring to accused Macapanton Salimbago).

Q: The one guarding you including Salimbago, did you notice if they were armed?

A: Yes, sir, they were carrying arms, sir.

Q: Was it a long arm or a short arm?

A: One long arm and one small arm, sir.”[21]

The foregoing testimony manifestly shows how the victims were abducted and thereafter deprived of their liberty. Their hands were tied and blindfolds were placed on their eyes to prevent them from seeing the place where they were brought. In order to prevent them from escaping, there were persons armed with guns guarding them outside the hut where they were detained. All these facts satisfy the elements necessary to constitute the crime of kidnapping – the gravamen of which, as earlier mentioned, is the deprivation of their liberty.

Assuming arguendo that none of the four circumstances mentioned in Article 267 concur in this case, appellant is still liable for kidnapping since the purpose of depriving the victims of their liberty was to obtain ransom. One of the two children asked the kidnappers why they were kidnapped to which one kidnapper replied that they only want “Christmas gifts or pamasko.”[22] No specific form of ransom is required to consummate the felony of kidnapping for ransom so long as it was intended as a bargaining chip in exchange for the victim’s freedom. In municipal criminal law, ransom refers to the money, price or consideration paid or demanded for redemption of a captured person or persons, a payment that releases from captivity.[23] Neither actual demand for nor actual payment of ransom is necessary for the crime to be committed. It is enough if the crime was committed “for the purpose of extorting ransom.” Considering therefore, that the kidnapping was committed for such purpose, it is not necessary that one or any of the four circumstances be present.[24]

Contrary to appellant’s posture, the fact that the judge who penned the decision is not the same judge who heard the testimonies of witnesses is no compelling reason to jettison the findings of conviction by the court a quo and does not ipso facto render it erroneous[25] more so when the judgment appears to be fully supported by the evidence on record as in the case at bar.[26] Although a judge in such situation had no way of testing the credibility of witnesses considering that he did not have the unique opportunity of having observed that elusive and incommunicable evidence of the witnessess’ demeanor and behavior while testifying,[27] nonetheless the

lower court's evaluation of the testimonies is supported by the evidence on record. It is settled that the trial court's factual findings are binding on this Court when they are ably supported by evidence on record. In any case, the Court finds that no cogent reasons exist to justify a departure from the findings of the court a quo.

Finally, kidnapping for ransom carries the maximum penalty of death. But in the light of the general proscription in Section 19(1) of the 1987 Constitution, the penalty of death cannot be imposed in this case since the kidnapping transpired in January 1993 when such penalty was proscribed and prior to its reimposition on December 31, 1993 under R.A. No. 7659.[28] Besides, under the principle of non-retroactivity of penal laws with unfavorable effect on the accused as provided in Article 22 of the RPC, the provisions of said R. A. No. 7659 imposing death penalty for kidnapping with ransom cannot be applied to appellant, the same being unfavorable to him. Accordingly, in the absence of mitigating and aggravating circumstances in the commission of the crime, only the lower range of penalty - reclusion perpetua – can be imposed on appellant in accordance with Article 63 of the RPC.

WHEREFORE, based on the foregoing, the assailed decision of the Regional Trial Court, Branch 118, Pasay City convicting appellant Macapanton Salimbago of kidnapping and serious illegal detention is hereby **AFFIRMED** in toto.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Puno, Kapunan, and Pardo, JJ., concur.

* No sic is inserted so as not to interrupt the quoted narration and transcription.

[1] Rollo, p. 6.

[2] Decision (Regional Trial Court, Branch 118 – Pasay City) penned by Judge Alfredo R. Enriquez dated February 3, 1995, p. 8; Rollo, p. 39.

[3] Appellee's Brief, pp. 4-12; Rollo, pp. 125-133.

[4] Appellant's Brief, pp. 2-3; Rollo, pp. 65-66.

[5] Appellant's Brief, pp. 14-17; Rollo, p. 79.

[6] Appellant's Brief, p. 17; Rollo, p. 80.

[7] See *People v. Andal*, 344 Phil. 889; *People v. Agunias*, 344 Phil. 467; *People v. Traverro*, 342 Phil. 263; *People v. Gondora*, 265 SCRA 408.

[8] *People v. Nazareno*, 260 SCRA 256.

[9] *People v. Tan, Jr.*, 264 SCRA 546; *People v. Herbias*, 265 SCRA 571.

[10] *People v. Sumaoy*, 263 SCRA 425.

[11] *People v. Traverro*; 342 Phil. 263; *People v. Laray*, 253 SCRA 654.

[12] *People v. Salazar*, 342 Phil. 745; *People v. Castro*, 342 Phil. 540.

[13] *People v. Español*, 256 SCRA 137.

[14] *People v. Bernal*, 254 SCRA 659.

[15] Transcript of Stenographic Notes (TSN), September 24, 1993, pp. 18-19.

[16] The paragraph included by R.A. 7659 to Article 267 of the RPC reads: “When the victim is killed or dies as a consequence of the detention or is raped, or is subjected to torture or dehumanizing acts, the maximum penalty shall be imposed.”

[17] *People v. Mercado*, 131 SCRA 501.

[18] *People v. Villanueva*, 253 SCRA 155; *People v. Puno*, 219 SCRA 85.

[19] *People v. Suarez, et.al.*, 82 Phil. 484.

[20] Criminal Investigation Service.

[21] TSN, September 20, 1993, pp. 4-9, 13-15, 27-31.

[22] TSN, September 24, 1993, pp. 37-38.

[23] *Corpus Juris Secundum*, 458 cited in Reyes, Revised Penal Code, Book II, 1998 ed. P. 548; *People v. Puno*, 219 SCRA 85.

[24] Article 267, RPC.

[25] *People v. Quiamco*, 335 Phil. 988.

[26] *People v. Rayray*, 241 SCRA 1.

[27] *People v. Dizon*, G.R. No. 126044-45, July 2, 1999; *People v. Jagolingay*, 345 Phil. 1018; *People v. Burton*, 268 SCRA 531.

[28] *People v. Lumiwan*, G.R. Nos. 122753-56; September 7, 1998. For date of effectivity of R.A. 7659 (The Death Penalty Law) see *People v. Hayag*, G.R. No. 127356, June 9, 1999 citing *People v. Midtomod*, 283 SCRA 395; *People v. Unarce*, 272 SCRA 321; *People v. Martin Simon*, 234 SCRA 555.

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