

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. CESAR LACANIETA ALIAS "BOY ALOG", JERRY BALLENAS ALIAS "MARLON MARQUEZ" AND CARLITO GAMAD, ACCUSED.

G.R. No. 124299. April 12, 2000

Ponente: GONZAGA-REYES, J.

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GONZAGA-REYES, J.:

Conсорcia Tayo (Conсорcia) claims that her daughter, 19-year-old WILMA TAYO (WILMA) was abducted at gunpoint on March 20, 1987. WILMA was found dead the next day, her body bore signs that she was first raped then brutally stabbed ten times. Four persons were suspected as perpetrators of the crime: JERRY BALLENAS (BALLENAS) alias MARLON MARQUEZ, CESAR LACANIETA (LACANIETA) alias BOY ALOG, ALBERTO SALVADOR (SALVADOR) and CARLITO GAMAD (GAMAD). SALVADOR was shot dead during the police investigation and GAMAD was also shot dead after the re-investigation conducted by the Office of the Provincial Fiscal of San Jose, Antique.

Based on the records of this case, LACANIETA and BALLENAS were already charged with murder at the Regional Trial Court, Branch 12 of San Jose, Antique. Since BALLENAS had already been arraigned for murder, an Information for Forcible Abduction with Rape was filed on October 12, 1987 against BALLENAS and LACANIETA before the same court. LACANIETA thereafter posted bail, but he eventually absconded. The Information was then amended on June 19, 1989 to read as follows:

"At the instance of the mother of the deceased offended party, Wilma Tayo, who has subscribed and sworn to a complaint attached to the records of the above-entitled cases, the undersigned Assistant Provincial Prosecutor accuses JERRY BALLENAS alias "MARLON MARQUEZ" of the crime of forcible abduction with rape committed as follows:

That on or about the 20th day of March, 1987 in the Municipality of Sibalom, Province of Antique, Republic of the Philippines and within the jurisdiction of this Honorable Court, the above-named accused together with Cesar Lacanieta who is still at large and Alberto Salvador and Carlito Gamad, both deceased, being then armed with gun and knife and by means of force and intimidation and with lewd designs, conspiring, confederating together and mutually helping one another, did, then and there willfully, unlawfully and feloniously abduct and carry away Wilma Tayo at a gun point (sic) to an uninhabited place and while there, by means of force and intimidation, have carnal knowledge of the said Wilma Tayo against the latter's will.

Contrary to the provisions of article 335 of the Revised Penal Code in relation to Article 342 of the same Code."^[1]

Trial fiscal Juan C. Mission, Jr. was of the opinion that the proper charge against BALLENAS is forcible abduction with rape "because an independent act of forcible abduction preceded the rape and murder of the deceased Wilma Tayo," and not the special complex crime of rape with homicide.^[2]

The arraignment of BALLENAS for forcible abduction with rape came belatedly because it was only after the case was already submitted for decision when the trial court discovered that BALLENAS had not yet been arraigned. Both the prosecution and defense then agreed to arraign BALLENAS and to consider all the evidence earlier presented as reproduced. BALLENAS was accordingly arraigned on the Amended Information on February 18, 1992; he pleaded not guilty. The evidence for the prosecution consisted of the testimonies of Consorcia and Florencio Millones (Florencio) and Exhibits "A", "B", "C", and "D" as documentary evidence, while the defense presented BALLENAS as its lone witness.

The version of the prosecution as summarized by the trial court is as follows:

"On March 20, 1987 about 7 o'clock in the evening, the Wilma Tayo (sic) and her mother Mrs. Consorcia Tayo were in their house at Sitio Bulho, Cubay-Sermon, Sibalom, Antique. They were about to eat supper when someone called to them asking to light a cigarette. Wilma Tayo asked who was calling and the answer was "I am Junior, let me light my cigarette". Wilma Tayo opened the door slightly and there stood accused Jerry Ballenas alias Marlon Marquez. Accused did not light his cigarette but instead blew the gas lamp and put out the light. He held Wilma Tayo by the wrist.

Accused Jerry Ballenas pointed a short firearm to Wilma Tayo and Consorcia Tayo. Accused told Wilma Tayo to accompany him to Maria Leong-on, his girlfriend. Wilma Tayo refused as they were about to eat supper. Consorcia Tayo also told her daughter, Wilma Tayo not go out (sic) because it was already dark. Accused Jerry Ballenas forced Wilma Tayo to go out with him and struck the hand of Consorcia Tayo and pointed the handgun at her. Accused held Wilma Tayo tightly and took her away.

Because of the abduction, Consorcia Tayo sought the help of a neighbor, Andres Mallorca, whose house is about 20 meters away from her house but to no avail, Andres Mallorca shut the door on her for fear of Jerry Ballenas as the latter is known as a member of the dreaded Sparrow Unit of the New People's Army.

The following morning, Consorcia Tayo reported the abduction of Wilma Tayo to her son-in-law who is a member of the Integrated National Police. She learned from Aurelio Gamad that her daughter Wilma Tayo was already dead. The police then proceeded to the scene of the incident.

At the time Wilma Tayo was abducted, she was 19 years old. She was single and a third year student in the Polytechnic State College of Antique, Sibalom, Antique.

Consorcia Tayo spent P30,000.00 for the funeral of Wilma Tayo. Consorcia was shocked and she felt pain with the death of her only daughter Wilma Tayo. To Consorcia Tayo no amount of money could compensate the death of her daughter Wilma Tayo whom they loved so much."

BALLENAS disavows any participation in the abduction, rape and killing of WILMA and offered this version, viz:

"In the afternoon of March 20, 1987, at about past 4:00 p.m., he was in the house of CARLITO GAMAD. When darkness came, CARLITO asked him to accompany CEZAR LACANIETA (a boarder of the GAMAD's), to the house of victim WILMA TAYO. Victim was the girlfriend of LACANIETA. On the way, LACANIETA told him of his plan to elope with victim, and asked him to talk to her. He proceeded to the house of victim, while LACANIETA was left behind near the irrigation canal. Upon reaching the house of victim, he called out and the mother answered his call and then victim came out of the house. He told victim that LACANIETA had something to tell her and that he was waiting for her at the irrigation canal. Both of them proceeded to where LACANIETA was waiting and after he led victim to LACANIETA, he went home (T.S.N., pp. 7-10, August 9, 1990).[3]

On May 29, 1992, the Regional Trial Court, Branch 12 of San Jose, Antique rendered its Decision[4] finding BALLENAS guilty of forcible abduction with rape, the judgment declares:

"WHEREFORE, in view of all the foregoing, judgment is hereby rendered finding the accused Jerry Ballenas alias Marlon Marquez GUILTY beyond reasonable doubt of the crime of Forcible Abduction with Rape punished under Article 335 of the Revised Penal Code in relation to Article 342 and Article 48 of the same Code with reclusion perpetua to death by reason of the use of a firearm by accused Jerry Ballenas in the abduction of Wilma Tayo. And applying Article 63 of the Revised Penal Code, the penalty that should be imposed should be the greater penalty of death there being two aggravating circumstances but because the present Constitution prohibits the imposition of the death penalty accused Jerry Ballenas is hereby sentenced to suffer a prison term of reclusion perpetua or life imprisonment and to suffer the accessory penalty provided for by law and he is ordered to indemnify the heirs of the deceased Wilma Tayo the sum of P50,000.00 and to pay Consorcia Tayo, the sum of P30,000.00 for the funeral expenses incurred by her for the funeral of the deceased Wilma Tayo and to pay the cost.

SO ORDERED."[5]

In this appeal, BALLENAS questions the quoted decision on these grounds:

I.

THE COURT A QUO GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY BEYOND REASONABLE DOUBT OF THE CRIME OF FORCIBLE ABDUCTION WITH RAPE.

II.

THE COURT A QUO ERRED IN ORDERING ACCUSED-APPELLANT TO INDEMNIFY THE HEIRS OF VICTIM IN THE AMOUNT OF P 50,000.00, THE SUM OF P 30,000.00 FOR FUNERAL EXPENSES AND TO PAY THE COSTS.[6]

This Court is convinced that the trial court did not err in concluding that BALLENAS is guilty beyond reasonable doubt of the forcible abduction and rape of WILMA. In asserting his innocence, BALLENAS foists the defense of alibi, a defense that has long been considered as intrinsically the weakest of all defenses.[7] Basic is the rule that the defense of alibi should be rejected when the identity of the accused has been sufficiently and positively established by eyewitnesses to the crime because alibi cannot prevail over the positive identification of the accused by the prosecution witnesses.[8]

In this case, Consorcia, the mother of WILMA, positively identified BALLENAS as the person who went to her house and abducted her daughter at gunpoint that fateful night. Moreover, the testimony of Florencio fortifies the theory of the prosecution that after the abduction of WILMA, BALLENAS together with LACANIETA, SALVADOR and GAMAD raped and stabbed WILMA. According to Florencio, he was passing through the street of Barangay Catmon, Sibalom, Antique when he saw "Boy Alog" (LACANIETA) lying on top of WILMA.[9] The hands of WILMA were then held down by BALLENAS and SALVADOR.[10] Surprised by the presence of Florencio, LACANIETA stood up and told the former that they were just having a "happy-happy".[11] Florencio then left and after reaching three brazas, he hid to see what the group was up to.[12] Florencio testified that he thereafter saw four men take turns in ravishing and stabbing WILMA.[13] The following testimony of Florencio establishes the participation of BALLENAS in the crime charged: katarungan

Q: Mr. Millones, you said that you are a resident of Barangay Catmon, Sibalom, Antique, how long have you been a resident of that place?

A: I was born there.

Q: Are you still a resident in that place?

A: Yes, sir.

Q: On March 20, 1987, were you still a resident of that place?

A: Yes, sir.

Q: On that day, about 7:00 o'clock in the evening can you recall where you were?

A: Yes, sir, I was walking on the street of Barangay Catmon, Sibalom, Antique and it was already past 7:00 o'clock in the evening.

Q: Where did you come from?

A: I came from Durog leading to Catmon.

Q: Where were you going then?

A: I was intending to go to the house of my deceased mother whose wake falls on that night.

Q: While walking from Durog towards your house, can you recall if you were able to observe any unusual incident?

A: Yes, sir.

Q: What was that about?

A: While I was in the street of Brgy. Catmon, Sibalom Antique, I saw four persons, three are squatting while the other one is lying flat on his stomach and I thought there (sic) were all drinking.

Q: As you pass by these four persons, did you start any conversation with them?

A: While I was approaching them and when I reach that place, the fellow who was lying flat on his stomach, stood up and told me that they were just having a happy happy so I will just pass by my way.

Q: What else did you see when he stood up?

A: When he stood up, he told me I will proceed on my way and I saw that the three persons were holding a girl.

Q: You said they were holding a girl, do you know that girl?

A: Yes, sir, Wilma Tayo, daughter of Consorcia Tayo.

Q: Aside from Marlon, do you know that three other persons?

A: Yes, sir.

Q: Who were they?

A: They were Alberto Salvador, Carlito Gamad, Marlon and Boy Alog.

Q: And who was that person who was lying flat on his stomach?

A: Boy Alog.

Q: If these three persons are inside the courtroom, could you please point to them?

A: Only one is here inside the courtroom.

Q: And who was that?

A: Jerry Ballenas.

INTERPRETER:

At this juncture, the witness pointed to a man seated inside the courtroom and when asked by the Interpreter what his name is, identified himself as Jerry Ballenas.

Q: You said that three persons were holding on to Wilma Tayo, will you please tell us who among these three persons were holding Wilma Tayo and on what part of the body?

A: Carlito Gamad was holding the hands of Wilma Tayo and the hands of the girl are both stretched above his head.

Q: How about the two other persons?

A: While Jerry Ballenas and Alberto Salvador, Jr. were holding on each of the leg of the girl.

Q: How did these Jerry Ballenas and Alberto Salvador, how were they holding the legs of Wilma Tayo.

A: Wilma was lying flat on his (sic) back on the street and each of these persons were holding on each of the leg of Wilma Tayo.

Q: Are the legs of Wilma Tayo held fell (sic) to the ground or raised up?

A: The legs are joined to the ground in V-position.

Q: Do you know if Wilma Tayo saw you pass by?

ATTY. ABIERA:

Incompetent, your Honor.

COURT:

Sustained.

FISCAL MISSION:

After you were told that they were just there for a happy happy, what did you do?

A: I told them I will pass my way.

Q: After that, what did you do?

A: I walk farther and observe.

Q: How far did you walk and observe these persons?

A: I walk from the place about three brazas so that I could observe what they were doing.

Q: Will you please demonstrate to the court by pointing inside the courtroom how far more or less is three brazas?

INTERPRETER:

Witness is pointing to the wall of the other courtroom of Branch 11 which is more or less 8 to 9 brazas.

FISCAL MISSION:

Q: Now, upon reaching that place about 8 brazas to make some observation, what did you do?

A: I hid and observe what they were doing.

Q: Did you observe anything else?

A: Yes, sir.

Q: What did you observe?

A: I saw them. These four took turns in raping the girl.

Q: Then what else did you see?

A: After raping Wilma Tayo, they also took turns in stabbing her.

Q: How long did you observe the group?

A: I could not determine the length of time I stayed in that place because I do not have a watch.

Q: After making such observation, what did you do?

A: After I have witnessed that horrifying incident, I just proceed to the house of my deceased mother.[14]

The autopsy report made by Dr. Julito V. Osunero, Chief of the Ramon Maza Memorial District Hospital, Sibalom, Antique confirms the testimony of Florencio. The report contains these findings:

- "1. Stab wound, 1 inch long left side Neck, point of entrance and point of exit, Right side neck thru and thru.
2. Stab wound, 1 inch long left side Neck, point of entrance and point of exit, Right side neck thru and thru.
3. Stab wound, 1 inch long Left side neck and point of exit Right side Neck thru and thru, cutting carotid and jugular vessels.
4. Stab wound, 1 inch long, Epigastric Area perforating Abdominal Cavity perforating Liver.
5. Stab wound, 1 inch diameter perforating Abdominal Cavity perforating Stomach.
6. Stab wound, 1 inch long, Right anterior Chest perforating thoracic Cavity penetrating Right Lung.
7. Stab wound, 1 inch long, Right Lumber Area perforating Abdominal Cavity penetrating Kidney.
8. Stab wound, 1 inch long, Lumbar Area Right, perforating Abdominal Cavity.
9. Stab wound, Inter-scapular, 1 inch long, muscle depth.
10. Stab wound, Inter-scapular, 1 inch long, muscle depth.
11. Contusion both thigh, 2 inches diameter, left and 3 inches diameter, right.
12. Hymen Lacerations 3:00 o'clock and 9:00 o'clock, Fresh."[15]

The cause of the death of WILMA is reported as due to hemorrhage secondary to wounds on the neck, chest, abdomen and back.[16]

The trial court opined that the contusions on the thighs of WILMA show that her legs were forcibly set apart to facilitate the rape of WILMA. That WILMA was raped is evidenced by hymenal lacerations, still found fresh on March 21, 1987, the day the autopsy was conducted. We agree with the trial court that based on the evidence, it could readily be concluded that the perpetrators stabbed WILMA several times after the commission of the rape.[17]

In a desperate attempt to reverse the decision of the trial court, BALLENAS impresses upon this Court his theory that if he indeed committed the crime charged, he would not have exposed himself to Consorcia at the time that WILMA was abducted.[18] BALLENAS also points out that his return to Catmon the following Monday after the

death of WILMA and on which date he was arrested, belies his participation in the despicable crime.[19] BALLENAS argues that if he was guilty of the crime, he would not have returned to Catmon to face the possibility of being arrested since the victim was with him on the night of March 20, 1987.[20]

We are not persuaded. A telling detail in this case is the fact that the mother of the victim witnessed first hand the abduction of her daughter at gunpoint. Consorcia has no reason to wrongfully implicate BALLENAS. As the mother of the deceased victim, Consorcia would want nothing short of justice for her dead daughter. BALLENAS does not deny the fact that he went to see WILMA to fetch her that evening of March 20, 1987. In professing his innocence, BALLENAS merely denies the allegations of Consorcia that he took away WILMA at gunpoint and offers the defense that he merely talked to WILMA to convince her to meet with LACANIETA. Well-settled is the rule that denial is an intrinsically weak defense which must be buttressed by strong evidence of non-culpability to merit credence.[21] An affirmative testimony is far stronger than negative testimony, especially so when it comes from the mouth of a credible witness.[22] The fact that BALLENAS exposed himself to Consorcia all the more indicates his brazenness in abducting WILMA. The return of BALLENAS to Catmon after the death of WILMA cannot be also taken as a badge of his innocence. It is the credible and unwavering testimony of Consorcia that stands as solid proof of the guilt of BALLENAS.

BALLENAS assails the testimony of Florencio on the ground that it "abounds in inconsistencies"[23] and is not credible. The alleged inconsistencies are however not clearly established. Notably, Florencio unequivocally said that he saw LACANIETA, BALLENAS, SALVADOR and GAMAD rape and stab WILMA. We have no reason to doubt the credibility of Florencio in light of the doctrine that where there is no evidence to show any dubious reason or improper motive why a prosecution witness should testify falsely against the accused or implicate him in a serious offense, the testimony deserves full faith and credit.[24] The initial reluctance of Florencio to get involved in this case is understandable and does not cast doubt on his credibility as a witness. Whenever the issue boils down to credibility, we have always maintained that the credibility of witnesses and their testimonies is a matter best undertaken by the trial court, because of its unique opportunity to observe the witnesses firsthand and to note their demeanor, conduct and attitude.[25] Findings of the trial court on such matters are binding and conclusive on the appellate court, unless some facts or circumstances of weight and substance have been overlooked, misapprehended or misinterpreted.[26]

We therefore see no cogent reason to reverse the judgment of the trial court convicting BALLENAS of the crime of forcible abduction with rape. The trial court ruled that there are two aggravating circumstances in this case, nighttime[27] and that the wrong done in the commission of the crime was deliberately augmented by causing other wrong not necessary for its commission[28]. We however digress from the finding of the trial court that the aggravating circumstances of nighttime and that the wrong done in the commission of the crime was deliberately augmented by causing other wrong not necessary for its commission are present in the case at bar.

Based on the records, BALLENAS abducted WILMA around 7 o'clock in the evening of March 20, 1987 and that BALLENAS blew off the lighted kerosene lamp offered by WILMA to BALLENAS to light his cigarette.[29] However, Consorcia testified that there was some light coming from another kerosene lamp upstairs that "reflected (sic) the door" and that Consorcia also had a kerosene lamp with her that BALLENAS also put off.[30] In the case of *People vs. Pallarco*,[31] the scene of the crime was sufficiently illuminated by a kerosene lamp, hence we ruled in that case that nocturnity cannot be appreciated if it can be shown that the place was adequately lighted.[32] The prosecution also failed to prove that nighttime was specially sought by the accused or taken advantage of by him or that nighttime facilitated the commission of the crime, circumstances which must be present before the aggravating circumstance of nighttime can be appreciated. We also do not agree with the trial court that the aggravating circumstance of cruelty attended the commission of the crime charged. The aggravating

circumstance of cruelty is present when "the wrong done in the commission of the crime is deliberately augmented by causing other wrong not necessary for its commission".[33] There is cruelty when the culprit enjoys and delights in making his victim suffer slowly and gradually, causing him unnecessary physical pain in the consummation of the criminal act.[34] In *People vs. Ferrer*[35], the aggravating circumstance of cruelty was not appreciated in the absence of positive proof that the appellants inflicted the thirteen (13) wounds upon the victim in such a way that he was made to agonize before they rendered any of the blows which snuffed out his life. In this case, WILMA sustained ten (10) stab wounds, but these multiple wounds alone do not prove that the accused deliberately inflicted the injuries to prolong unnecessarily her physical suffering. Thus, the trial court improperly considered the aggravating circumstance of cruelty in the case at bar.

What is present in this case is the aggravating circumstance of dwelling. Consorcia testified that her house has a ladder that leads to the main door; that BALLENAS was at the main door when he called WILMA; and that when WILMA refused to go with BALLENAS, it was there that BALLENAS forced WILMA to go with him.[36] Without a doubt, WILMA was abducted while she was still in her house. Thus, dwelling may be appreciated as an aggravating circumstance considering that it is not necessary that the accused should have entered the dwelling of the victim.[37]

BALLENAS committed the crime of forcible abduction with rape punished under Article 335 of the Revised Penal Code in relation to Article 342 and 48 of the same Code. The two elements of forcible abduction are (1) the taking of a woman against her will and (2) with lewd designs[38]. The crime of forcible abduction with rape is a complex crime that occurs when there is carnal knowledge with the abducted woman under the following circumstances: (1) by using force or intimidation; (2) when the woman is deprived of reason or otherwise unconscious; and (3) when the woman is under twelve years of age or is demented.[39] BALLENAS committed the crime of forcible abduction with rape on March 20, 1987, before the passage of Republic Act 7659 or the Heinous Crimes Law that took effect on December 31, 1993. At the time that BALLENAS committed the crime of forcible abduction with rape, the penalty then applicable was reclusion perpetua to death. The use by BALLENAS of a firearm in committing the crime, a fact duly alleged in the information and proven in court, should have warranted the imposition of the death penalty. However, since the crime took place prior to the implementation of RA 7659, the trial court correctly ruled that the penalty that can be imposed on BALLENAS is reclusion perpetua. Hence, despite the presence of the aggravating circumstance of dwelling, the penalty herein of reclusion perpetua would not be affected. Under Article 63 of the Revised Penal Code, the penalty of reclusion perpetua should be applied regardless of any mitigating or aggravating circumstance that may have attended the commission of a crime.[40]

This Court is however constrained to disallow the amount of P 30,000.00 for the burial expenses incurred by Consorcia. We can only give credit for actual damages such as burial expenses if there are receipts that can support the claim.[41] The records in the case at bench do not substantiate the P 30,000.00 burial expenses sought by Consorcia, except for her lone assertion.

The P50,000.00 indemnity awarded by the trial court must be modified. Instead of the sum of P50,000.00 as indemnity, we award P75,000.00 as civil indemnity considering that the crime was committed with the use of a weapon as alleged in the information and proven in court. In consonance with jurisprudence, the increase of the civil indemnity to P75,000.00 is justified if the crime was committed under circumstances that justify the imposition of the death penalty.[42] In *People vs. Bañago*[43], the accused committed the crime of rape with the use of a gun on October 15, 1993, before the passage of RA 7659. This Court was thus precluded from meting out the death penalty, but nevertheless the accused was ordered to pay civil indemnity in the amount of P75,000.00.[44]

In spite of the death of the victim in this case, we cannot award the higher amount of P 100,000.00, the civil indemnity awarded in cases of rape with homicide.[45] The information in the case at bar is merely for forcible abduction with rape and not for rape with homicide.

Moral damages in the amount of P 50,000.00 are also hereby granted to the heirs of the victim. The award of moral damages may be made to the heirs of the victim in a criminal proceeding without the need for pleading or proof of the basis thereof. The fact that they suffered the trauma of mental or physical and psychological sufferings which constitute the bases for moral damages under the Civil Code are too obvious to still require recital thereof at trial.[46] Here, Consorcia testified as to the inconsolable loss that she felt when her only daughter was abducted, ravished and killed.[47]

Exemplary damages may be awarded in criminal cases as part of the civil liability if the crime was committed with one or more aggravating circumstances.[48] Since dwelling is appreciated in this case as an aggravating circumstance under Article 14 (6) of the Revised Penal Code, the award of P 20,000.00 as exemplary damages is therefore in order.

WHEREFORE, the decision of the Regional Trial Court, Branch 12, San Jose, antique is **AFFIRMED** with the **MODIFICATION** that the accused-appellant Jerry Ballenas alias Marlon Marquez is ordered to pay the heirs of the victim in the amount of P75,000.00 as civil indemnity, P50,000.00 as moral damages and P20,000.00 as exemplary damages. The award of actual damages of P30,000.00 is deleted.

SO ORDERED.

Melo, (Chairman), Panganiban, and Purisima, JJ., concur.

Vitug, J., abroad, on official business.

[1] Rollo, p.7.

[2] Records, p. 73.

[3] Rollo, p.156.

[4] Per Judge Bonifacio Sanz Maceda.

[5] Rollo, p. 23.

[6] Ibid., p. 157.

[7] People vs. Barellano, G.R. No. 121204, December 2, 1999.

[8] Ibid.

[9] TSN, July 14, 1989, p.9.

[10] Ibid., pp. 6-9.

[11] Ibid., p.3.

[12] Ibid., p.4.

[13] Ibid., p. 5.

[14] TSN, July 14, 1989, pp. 96-99.

[15] Records, p. 12.

[16] Ibid.

[17] Rollo, p. 22.

[18]

[19] Ibid.

[20] Ibid., p. 157.

- [21] *People vs. Sagun*, G.R. No. 110554, February 19, 1999 citing *People vs. Burce*, 269 SCRA 293 (1997)
- [22] *Ibid.*, citing *People vs. Antonio*, 233 SCRA 283 (1994)
- [23] *Ibid.*
- [24] *People vs. Quiñanola*, G.R. No. 126148, May 5, 1999 citing *People vs. Banguis*, G.R. No. 121626, June 28, 1996.
- [25] *People vs. Tabones*, G.R. No. 129695, March 17, 1999.
- [26] *Ibid.*
- [27] Article 14 (6), Revised Penal Code.
- [28] Article 14 (21), Revised Penal Code.
- [29] TSN, July 13, 1989, p. 6.
- [30] *Ibid.*, p. 19.
- [31] 288 SCRA 151 (1998)
- [32] *Ibid.*, p. 170.
- [33] *People vs. Ferrer*, 255 SCRA 19 (1996), p. 36.
- [34] LUIS B. REYES, *THE REVISED PENAL CODE*, 14th Ed., Vol. I, p. 454.
- [35] *Supra*.
- [36] TSN, July 13, 1989, pp. 4-5.
- [37] *THE REVISED PENAL CODE*, RAMON C. AQUINO and CAROLINA C. GRIÑO-AQUINO, 1997 ED., VOL. I., p. 329.
- [38] RAMON C. AQUINO and CAROLINA C. GRIÑO-AQUINO, *THE REVISED PENAL CODE*, 1997 Ed., Vol. III, p. 464.
- [39] Article 335, Revised Penal Code.
- [40] *People vs. Perez*, 270 SCRA 526 (1997), p. 536.
- [41] *People vs. Robles*, G.R. No. 124300, March 25, 1999.
- [42] *People vs. Padil*, G.R. No. 127566, November 22, 1999.
- [43] G.R. No. 128384, June 29, 1999.
- [44] *Ibid.*
- [45] *People vs. Robles*, *supra*.
- [46] *Ibid.*
- [47] TSN, pp. 10-11, July 13, 1989.
- [48] *People vs. Batoon*, G.R. No. 134194, October 26, 1999.

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