

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS GREGORIO TULOP @ “BOY TULOP,” SALVADOR BALDEVIANO, RENY MONDEJAR, JESSIE PINATUBO, @ “BISAYA,” EDUARDO SENIA @ “ERNING PULA,” A...

G.R. No. 124829. April 21, 1998

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

The credible and positive testimony of a single witness may be a sufficient basis for conviction. For evidence is assessed in terms of quality, not necessarily of quantity.

The Case

The Court applies this principle in resolving this appeal from the Decision[1] dated February 22, 1996,[2] promulgated by the Regional Trial Court of Balanga, Bataan, Branch 3, convicting Gregorio Tulop and Salvador Baldeviano of murder and sentencing each of them to reclusion perpetua.

After conducting a preliminary investigation, Second Assistant Provincial Prosecutor Angelito V. Lumabas filed before the court a quo an Information dated February 16, 1994, charging the following with murder: Gregorio Tulop @ “Boy Tulop,” Eduardo Senia @ “Erning Pula,” Reny Mondejar, Jessie Pinatubo @ “Bisaya,” Salvador Baldeviano and Ernesto Tejada. The murder was allegedly committed as follows:

“That on or about July 5, 1992 at nighttime purposely sought to better accomplish their criminal designs at Brgy. Gen. Lim, Orion, Bataan, Philippines and within the jurisdiction of this Honorable Court, the said accused, with intent to kill, conspiring, confederating together and mutually aiding one another, with treachery and evident premeditation, did then and there willfully, unlawfully and feloniously attack, assault and use personal violence upon Sesenando Sandoval, by then and there stabbing him with bladed weapons on the different parts of his body, thereby inflicting upon the said Sesenando Sandoval mortal injuries which were the direct and immediate cause of his death thereafter, to the damage and prejudice of the heirs of said victim.

CONTRARY TO LAW.”[3]

Accused Eduardo Senia, Reny Mondejar, Jessie Pinatubo and Ernesto Tejada eluded arrest and remained at large. Hence, the case against them was archived, pursuant to Circular No. 7-A-92. Only the two other accused, Salvador Baldeviano and Gregorio Tulop, were arraigned. With the assistance of their Counsel de Parte Joe Frank Zuniga, both of them entered a plea of not guilty. On May 11, 1994, Atty. Zuniga withdrew his appearance as counsel for Accused Salvador Baldeviano and was replaced by Atty. Joey V. Saldana of the Public Attorney’s Office.

After trial on the merits, the court a quo rendered the assailed Decision, the decretal portion of which reads:

“WHEREFORE, the guilt of the accused Gregorio Tulop and Salvador Baldeviano having been proved beyond reasonable doubt, they are hereby sentenced to reclusion perpetua with all accessory penalties provided by law,

plus costs.

SO ORDERED.”[4]

Appellant Gregorio Tulop filed a notice of appeal, but Accused Baldeviano did not.[5] A few months after posting the Appellant’s Brief on March 31, 1997, Atty Zuniga, through a motion dated June 2, 1997, also withdrew as counsel for Appellant Tulop.

The Facts

Version of the Prosecution

The Appellee’s Brief presents these facts as viewed by the prosecution:[6]

“1. On July 5, 1992, at around 7:30 in the evening, Sesenando Sandoval, a furniture maker in Balanga, Bataan, arrived home from work. His daughter, Rowena Sandoval, was at home taking care of her newborn baby. After resting, he planted some banana suckers at the back of their house (pp. 18-20, TSN, January 18, 1995).

2. At around 10:30 in the evening, Rowena woke up Sesenando and asked him to get hot water for her (pp. 20-21, TSN, supra).

3. At around 11:00 in the evening, Sesenando was still awake and standing beside the door when suddenly appellant and his co-accused barged into the house and then forcibly dragged Sesenando outside. He was taken to the back of the house where he was surrounded by the other co-accused. At that time, Rowena stood by a window about 4 arms length from the place where the incident occurred (pp. 21-23, TSN, supra, p. 4, TSN, supra).

4. From her location, Rowena saw appellant hack her father with a “panlabra” (big bolo used to cut wood), while co-accused Salvador Baldeviano stabbed him with a fan knife or balisong. The 5 other co-accused, who surrounded him were all armed. They then took turns in hacking and stabbing him (pp. 4-6, TSN, supra).

5. After witnessing the killing of her father, Rowena went into shock and lost consciousness. When she recovered her grandmother told her that her father was dead (pp. 6-7, TSN, supra).

6. Dr. Nicudemos Corpuz, rural health physician of Balanga, Bataan examined the body of the victim on July 5, 1992 and issued a death certificate (Exh. A) with the following findings:

‘The cause of death was cardio-respiratory arrest with the multiple hacked wounds being the immediate and antecedent cause.’”

Version of the Defense

In his nine-page Brief, Appellant Tulop sets up alibi and denial. He curtly narrates the facts in this way:

“On the other hand, the defense for Tulop presented three (3) witnesses, namely: the accused himself, M/Sgt. Modesto Novero, and Zaldy Dizon. These witnesses testified in corroboration, that it was impossible for the accused Tulop to have committed the crime being imputed to him because he was at Camp Aguinaldo from July 3 to 7, 1992 with Zaldy Dizon staying at his aunt because the former was asking assistance from M/Sgt. Novero so that he could go back to the military service.”[7]

The testimonies of the defense witnesses were summarized by the trial court as follows:

“DEFENSE EVIDENCE

GREGORIO TULOP, 28 years old, testified that on July 5, 1992, he was at Camp Aguinaldo, Quezon City. Sesenando Sandoval was the godfather of his son. He accompanied his friend Zaldy Dizon who wanted to join

the armed forces. They left Brgy. Gen. Lim, Orion, Bataan on July 3, 1992, arrived at Camp Aguinaldo on the same day and stayed there up to July 7, 1992. Zaldy Dizon was to help in the canteen of M/Sgt. Novero in the camp while the latter was working for his papers. Tulop stayed with his aunt in Camp Aguinaldo and stayed there for four days because he was asking the assistance of Master Sgt. Novero so that he could go back to the service. He was a former member of the Philippine Air Force. His service was discontinued when he was assigned at Cebu when his wife gave birth and he was not able to report for duty and considered AWOL. When he returned on July 7, 1992, to Orion, Bataan, he learned that Sesenando Sandoval was already dead. Rowena Sandoval told him that her father was taken away by unknown persons and brought at the back of their house. On January 25, 1994 some policemen came to their house and invited him to the house of [the] Brgy. Captain but instead was brought to the police headquarters at [the] Municipal Building of Orion. After about one hour, Salvador Baldeviano and Rowena Sandoval, together with her husband arrived. Then he was told he was being charged of murder. Thereafter, he was jailed. When asked why Rowena Sandoval testified against him, he said that Rowena Sandoval was still young when her parents separated and were demanding from him P80,000.00 because they would buy [a] motorcycle. From July 7, 1992 up to January 25, 1994, he used to stay at Gen. Lim, Orion Bataan but used to go to Manila to visit his aunt and his brother and sister. The visits lasted from two to three days (tsn. March 16, 1995, p. 10)

On cross-examination, he stated that he did not have any previous misunderstanding with Sesenando or Rowena. He insisted that Rowena was demanding P80,000.00 because of the murder charge even if she knew that on July 5, 1992, he was jobless. But she knew that he could get the amount from a Japanese brother-in-law. Tulop admitted also that his application to go back to the military was denied because he was dishonorably dismissed in 1991.

M/SGT. MODESTO NOVERO, 43 years old, married and a resident of Camp Aguinaldo for twenty years. He knew Gregorio Tulop as he was also a soldier and had been his companion. He alleged that on July 3, 1992, in the afternoon, Tulop arrived with Zaldy Dizon. Tulop was seeking his help if he could be reinstated in his job even if he was an AWOL, while Dizon [wanted] to enlist as a soldier. He told Tulop to wait and he would do his best and advised Dizon to stay with him while waiting to be enlisted. Both Tulop and Dizon stayed in his house from July 3, 1992. Tulop left his house on July 7, 1992. Tulop used to help in his canteen at the concessionaire's area at Camp Aguinaldo (tsn. May 16, 1995, p.5). From July 3 to July 7, 1992, Tulop slept at 11:00 o'clock in the evening. Tulop did not leave on July 5, 1992, because he was waiting for the result of his reinstatement. He was not able to reinstate Tulop as his case was quite grave; but Dizon became a soldier. Novero did not know the time when Tulop left on July 7, 1992, as he was in his office.

On cross-examination, Novero admitted that as a soldier he reported for work at 8:00 o'clock in the morning. He stays in his office until 11:00 or 12:00 in the morning. He reported for work daily and he did so on July 3, 4, 5, 6 and 7. He admitted that he was told by the superior to whom he talked about the enlistment of Tulop that it was difficult and hopeless but he [did] not remember these officers who told this to him on July 3, 4 and 5.

ZALDY DIZON, 21 years old, single, a soldier and resident of Gen. Lim, Orion, Bataan, testified that Tulop helped him in applying to be enlisted in the military. He said he arrived with Tulop, at Camp Aguinaldo in the morning (tsn. August 17, 1995, p. 4). Up to July 5, 1992, he was accompanied by Tulop in the processing of his papers. After that, Tulop like him helped in the canteen from 8:00 in the morning until 10:00 in the evening. Tulop left on July 7, 1992. He admitted on direct-examination that he went out with Tulop to process his papers while on cross-examination he said that from 7:00 in the morning up to the evening, he was helping in the canteen (tsn. August 17, 1995, p. 13). He also admitted he owe[d] Tulop a debt of gratitude (tsn, idem, p. 15)."[8]

The Issue

Appellant interposes the present appeal with these allegations:

“I

The lower court erred in not discrediting the lone testimony of the complainant.

II

The lower court erred in convicting the herein accused Gregorio Tulop.”[9]

Principally, this appeal questions the trial court’s assessment of the credibility of witnesses.

The Court’s Ruling

The appeal is devoid of merit.

Credibility of Witnesses

This Court has consistently accorded deference to the trial judge’s assessment of the witnesses and their credibility, since he had the opportunity to observe firsthand their demeanor and deportment.[10] “This Court has none of the advantages of the trial judge’s position, relying as it does, only on the cold records of the case and on the judge’s discretion. In the absence of showing that the factual findings of the trial judge were reached arbitrarily or without sufficient basis, these findings are to be received with respect by, and indeed are binding on, this Court.”[11]

We have carefully examined the testimony of Rowena Sandoval, the lone eyewitness, and have found no reason to disturb the conclusion of the trial court that her testimony was straightforward, guileless and credible. She testified:

“PROS. MENDOZA:

Q Why do you know both of these accused?

A They were the ones who killed my father, ma’am.

Q Who is your father?

A Sesenando Sandoval, ma’am.

Q You said that these accused killed your father. When did this take place?

A On July 5, 1992, ma’am.

PROS. MENDOZA:

Q What time on July 5, 1992?

WITNESS:

A More or less 11:00 in the evening, ma’am.

Q Where were you when this incident took place?

A I was inside our house, ma’am.

Q Where in particular inside your house were you when this incident took place?

A I was in our window, ma’am.

Q How about your father and the accused, where were they when this took place?

A They were at the back of our house.

Q How far were you when you were in the window inside your house from the place where your father was slain by both of these accused?

A More or less I was about 4 arm lengths from them, ma'am.

Q Was there anything that may obstruct your view at the time that this incident took place?

A None, ma'am.

Q What kind of instrument did these accused use in slaying your father?

ATTY. ZUÑIGA:

I would object, Your Honor, that is very leading.

COURT:

Reform the question.

PROS. MENDOZA:

Q What kind of instrument, if any, did you see by which these persons killed your father?

ATTY. ZUÑIGA:

Same objection, Your Honor.

COURT:

Sustained.

PROS. MENDOZA:

Q How was your father killed?

WITNESS:

A They hacked and stabbed my father, ma'am.

Q What kind of instrument did they use in hacking and stabbing your father?

A "Panlabra" and a fan knife, ma'am.

Q Who among the accused was holding this "panlabra"?

A Gregorio Tulop was holding the "panlabra", ma'am.

Q How about this "balisong", who was holding it at that time?

A Salvador Baldeviano, ma'am.

PROS. MENDOZA:

Q Do you still remember how many hacking and stabbing did you see your father received during that time?

WITNESS:

A I was not able to count how many stabbed wounds and hacked wounds my father received because of several wounds inflicted on him, ma'am.

Q Will you please tell this Honorable Court the position of your father in relation to these accused at the time that he was being hacked and stabbed to death?

A They were surrounding my father, ma'am.

COURT:

Q Who were surrounding your father?

A Gregorio Tulop and Salvador Baldeviano and the others who are still at large, Your Honor.

PROS. MENDOZA:

Q How many were these persons you saw during the hacking incident?

A Seven (7), ma'am.

Q And they were surrounding your father?

A Yes, ma'am.

Q These 5 other persons, were they using [an] instrument at the time of this incident?

A Yes, ma'am.

PROS. MENDOZA:

Q What was the weather condition at the time of the night on July 5, 1992 when this incident occurred?

WITNESS:

A The moon was bright, ma'am.

Q How long have you known these 2 persons whom you identified previously as Salvador Baldeviano and Gregorio Tulop?

A Since I was 7 years old, ma'am.

Q After you saw these persons hacking and stabbing your father, what happened next, if any?

A I lost consciousness because I was shocked due to that incident, ma'am.

Q When did you recover consciousness?

A After a week, ma'am."[12]

In a candid and convincing manner, Rowena Sandoval narrated how two of the accused held her father,[13] then forcibly dragged him out of their house[14] with the help of five others,[15] and finally stabbed and hacked him while he lay on the ground. She was able to witness the crime because the "moon was bright at the time,"[16] and she was looking out of a window which was only four "arms lengths" away from where the assailants stabbed and hacked her father.[17] Likewise, she was able to identify the appellant because he had been their neighbor since she was seven years old.[18]

Rowena's testimony regarding the injuries sustained by the victim was supported by the medico-legal findings of Dr. Nicudemos Corpuz, who conducted the autopsy. His testimony on the cause of death and the injuries of the victim is reproduced below:

"Q. In this certificate of death, it is stated here the cause of death - cardio respiratory arrest, immediate cause and antecedent cause, multiple hack wound. How did you arrive [at] this cause of death?

A. Because of the multiplicity of the hacked wounds, since there [was] a quick loss of blood that's why I arrived at that cause, cardio respiratory arrest due to multiple hacked wounds.

x x x x x x x x

Q. In your honest opinion, what have caused this cardio-respiratory arrest and multiple hacked wounds?

A. Due to physical injuries, sir.

Q. What instrument could have caused [those] physical injuries?

A. It was caused by a bladed instrument, sir.

Q. Like for example, what instrument?

A. Bolo, sir.

COURT:

Q. When did you examine the body of Sesenando Sandoval?

A. On July 5, 1992, Your Honor.

Q. Were you able to determine at the time of the examination how long he has been dead?

A. More or less 10 hours, Your Honor.

Q. You said that the victim suffered many stabbed wounds. Which of them could have caused his death?

A. The one on the face and on the stomach area.

Q. Were you able to determine which organs were injured because of the wounds? at the abdominal area?

A. The intestinal organ, Your Honor.

Q. What happened to the intestinal organ?

A. It was eviscerated, Your Honor.

Q. Were you able to determine upon examination of the body of the victim whether he lost blood?

A. Yes, Your Honor.

Q. Did he lose blood before he died?

A. Yes, Your Honor.

COURT:

Q. Continue[.]

PROS. TANCIONGCO:

Q. Can you tell this Honorable Court in your examination how many hacked wounds the victim sustained?

WITNESS:

A. I forgot the number of hacked wounds. I was not able to count the number of hacked wounds he sustained.

Q. And according to you that wound he sustained on his face was the one mortal or serious [sic] which caused his death?

A. Yes, sir.[19]

That Rowena Sandoval is a daughter of the victim does not ipso facto discredit her testimony as biased.[20] Family relationship does not by itself render an eyewitness' testimony inadmissible or less credible or devoid of probative value.[21] On the contrary, Rowena Sandoval, "being a blood relative of the deceased, would not just indiscriminately impute the crime to anybody but would necessarily identify and seek the conviction of the real culprit himself to obtain justice." [22]

So too, the failure of Rowena Sandoval to reveal at once the identity of accused-appellants as the perpetrators of the crime does not impair her credibility as a witness. It has been held that "[i]t is not uncommon for a witness to a crime to show some reluctance about getting involved in a criminal case, as in fact the natural tendency of most people not to get involved is of judicial notice." [23] She stated that she reported the matter a year-and-a-half late "out of fear because there was a threat on our part, my two brothers and myself that they would kill us." [24] Specifically, she said that Accused Salvador Baldeviano made this threat: "Isusunod ka naming patayin." [25] The situation of the witness must be taken in the context of reality. She was but a 15-year-old child living in a barrio and threatened by her very neighbors who were grown men, one of whom was a former soldier. Her diffidence about the matter is therefore understandable.

In his Brief, appellant disparages the "lone and uncorroborated" testimony of the complainant. He had no reason to be disconsolate. We reiterate the well-entrenched rule that "the testimony of a lone eyewitness, if found positive and credible by the trial court, is sufficient to support a conviction especially when the testimony bears the earmarks of truth and sincerity and had been delivered spontaneously, naturally and in a straightforward manner." [26] It has been held that "[w]itnesses are to be weighed, not numbered[;] hence, it is not at all uncommon to reach a conclusion of guilt on the basis of the testimony of a single witness. For although the number of witnesses may be considered a factor in the appreciation of evidence, preponderance is not necessarily with the greatest number and conviction can still be had on the basis of the credible and positive testimony of a single witness." [27] Corroborative evidence is deemed necessary "only when there are reasons to warrant the suspicion that the witness falsified the truth or that his observation had been inaccurate." [28] In the case before us, the trial court found the testimony of Rowena Sandoval convincing and trustworthy. We find no reason to disturb such finding.

Appellant also assails the credibility of Rowena on the ground of an alleged inconsistency in her testimony. Although Rowena claimed that the accused threatened her and her two brothers, her recollection of the wording of the threat demonstrated that the same was directed at her alone. [29] This contention scarcely deserves consideration. The alleged inconsistency does not question the eyewitness account of Rowena that appellant was one of the assailants of her father; it only challenges her recollection of the subsequent attempt of the accused to prevent her from testifying. The Court has held that inconsistencies in the testimony of a witness with respect to minor details and collateral matters do not affect the substance, veracity or weight of his or her declarations. [30]

Appellant further faults the prosecution for not presenting Rowena's sworn statement dated January 24, 1994, and for not calling to the witness stand the "officer who investigated the case." [31] He argues that the failure of the prosecution to do so engenders the presumption that these pieces of evidence were not favorable to the prosecution. This contention is untenable. The adverse presumption does not apply where the evidence allegedly suppressed by the prosecution was also available to the defense. [32] In this case, appellant himself showed the said sworn statement to Rowena during the trial, and he had a choice to present the same as his own evidence. Furthermore, appellant himself could have compelled the presentation of the investigating officer, but he failed to show why he was unable to do so.

Alibi

Accused-appellant denies the charge and invokes alibi as his defense. This Court reiterates that the defense of alibi, as a rule, is considered with suspicion and is always received with caution, not only because it is inherently weak and unreliable but also because it can be easily fabricated and concocted.[33] For such defense to prosper, “it must be convincing enough to preclude any doubt on the physical impossibility of the presence of the accused at the locus criminis or its immediate vicinity at the time of the incident.”[34]

Appellant contended that he was in Camp Aguinaldo in Quezon City, when the crime was committed in Bataan. This appeared to be corroborated by M/Sgt Novero, who testified that appellant stayed in the former’s house in Quezon City from July 3 to July 6, 1992 and therefore could not have been at the scene of the crime at the time. The trial court did not give credence to Novero’s testimony, and we agree with the trial court. Novero merely assumed that appellant was working in his canteen in Quezon City, but he had no personal knowledge thereof, because he himself was in his office at the time.

Novero added that he allowed Tulop to stay in his house for three more days thereafter in order to enable the latter to await the result of his application for reinstatement to the military service. As observed by the trial court, this “smacks of prevarication. Tulop was an AWOL, dishonorably discharged, and Novero, as a military man of some two decades, would have known of the improbability of Tulop’s reinstatement. His alleged inquiries are unworthy of credit, as he could not even mention any single superior officer from whom he inquired.”[35] Moreover, the trial court found that “from Quezon City, Orion, Bataan is reachable in some three (3) hours by normal travel by bus.”[36] Hence, the possibility that the accused committed the crime in Bataan existed, even if he was indeed in Quezon City on the day of the killing.

Crime Committed

The Court agrees with the trial court that accused-appellant is guilty of murder qualified by treachery. It was established that the “the accused were armed with deadly weapons and with great superiority in number rendered the unarmed victim helpless.”[37] The lone prosecution eyewitness testified that the accused entered their house and dragged her father out, stabbing and hacking him thereafter with bladed weapons. As such, “treachery is deemed present in the commission of the crime, accused having employed a method which tended directly and specifically to insure the execution of their dastardly act without any risk to themselves arising from whatever defense the victim might make.”[38]

We likewise agree with the trial court that the prosecution was unable to prove the aggravating circumstance of evident premeditation. For this circumstance to be appreciated, there must be proof, as clear as the evidence of the crime itself, of the following elements thereof, viz.: 1) the time when the offender determined to commit the crime, 2) an act manifestly indicating that he or she clung to such determination, and 3) a sufficient lapse of time between determination and execution to allow the offender to reflect upon the consequences of his or her act.[39] No evidence was presented by the prosecution to establish said requisites.

Although the Information alleged that the aggravating circumstance of nighttime attended the commission of the crime, the prosecution failed to substantiate it. No evidence was presented proving that the accused purposely utilized this circumstance in order to facilitate the execution of their plan.[40]

However, we note that the trial court erred in not ordering the accused to pay civil indemnity to the heirs of the victim. This civil liability should be imposed upon the appellant without need of further proof other than the fact that he committed the crime.[41]

Epilogue

In the dispositive portion of the assailed Decision, the trial court stated simply that Accused Gregorio Tulop and Salvador Baldeviano were guilty, without specifying (a) the offense for which they were convicted, (b) the degree of their participation therein and (c) their civil liability. This disposition falls short of the standards prescribed by Rule 120 of the Rules of Court, which provides:

“SEC. 2. Form and contents of judgment. – xxx

If it is of conviction, the judgment shall state (a) the legal qualification of the offense constituted by the acts committed by the accused, and the aggravating or mitigating circumstances attending the commission thereof, if there are any; (b) the participation of the accused in the commission of the offense, whether as principal, accomplice, or accessory after the fact; (c) the penalty imposed upon the accused; and (d) the civil liability or damages caused by the wrongful act to be recovered from the accused by the offended party, if there is any, unless the enforcement of the civil liability by a separate action has been reserved or waived.”

This Court, therefore, urges the members of the bench to observe precision of language in writing their decisions. The dispositions of courts must be complete by themselves, bereft of equivocation and conflicting interpretations. We have said it before and we say it again: clarity and accuracy are shibboleths of the judicial craft.

WHEREFORE, the appeal is hereby DENIED and the assailed Decision is AFFIRMED with the CLARIFICATION that appellant is convicted as principal in the crime of murder, without any aggravating or mitigating circumstance, and with the ADDITION that the appellant is ORDERED to pay civil indemnity in the amount of fifty thousand pesos (P50,000) to the heirs of the victim, Sesenando Sandoval. Costs against appellant.

SO ORDERED.

Davide, Jr., (Chairman), Bellosillo, Vitug, and Quisumbing, JJ., concur.

[1] Rollo, pp. 38-44.

[2] Penned by Judge Lorenzo R. Silva, Jr.

[3] Rollo, pp. 1-2.

[4] Decision, p. 7; Rollo, p. 44.

[5] The case was deemed submitted for decision on June 30, 1997, upon receipt by this Court of the Appellee's Brief. The filing of a reply brief was deemed waived in the Court's Resolution dated September 3, 1997.

[6] Appellee's Brief, pp. 3-5; this was signed by Solicitor General Silvestre H. Bello, III, Assistant Solicitor General Antonio L. Villamor and Solicitor Ellaine Rose A. Sanchez-Lorro.

[7] Appellant's Brief, p. 4. This was signed by Atty. Joe Frank Zuniga.

[8] Decision, pp 3-5; Rollo, pp. 40-42.

[9] Appellant's Brief, p. 1.

[10] People v. Marollano, GR No. 105004, July 24, 1997, per Panganiban, J.; People v. Ombrog, GR No. 104666, February 12, 1997; People v. Cogonon, GR No. 94548, October 4, 1996; People v. Gamiao, 240 SCRA 254, January 19, 1995.

[11] People v. Mendoza, 223 SCRA 108, June 3, 1993, per Melo, J.; People v. Eligino, 216 SCRA 320, December 11, 1992; People v. Anciano, 189 SCRA 519, September 13, 1990; People v. Bernardo, 186 SCRA 876, June 27,

1990.

[12] TSN, January 18, 1995, pp. 3-7.

[13] TSN, January 18, 1995, pp. 27-28.

[14] Ibid., p. 21.

[15] Id., pp. 28-30.

[16] Ibid., p. 19.

[17] Id., p. 4.

[18] TSN, January 18, 1995, pp. 7 & 10.

[19] TSN, February 27, 1995.

[20] Lagunsad v. Court of Appeals, 229 SCRA 596, February 2, 1994; People v. Tinampay, 207 SCRA 425, March 23, 1992; People v. Galandez, 210 SCRA 360, June 26, 1992.

[21] People v. Aguihao, 231 SCRA 9, March 10, 1994; People v. Hasiron, 214 SCRA 586, October 15, 1992.

[22] People v. Macagaling, 237 SCRA 299, October 3, 1994, per Regalado, J.

[23] People v. Castillo, 261 SCRA 493, September 6, 1996, per Bellosillo, J.; People v. Fuertes, 229 SCRA 289, January 17, 1994.

[24] TSN, January 18, 1995.

[25] Ibid.

[26] People v. Dela Cruz, 207 SCRA 632, March 31, 1992, per Davide, Jr., J; People v. De la Cruz, 148 SCRA 582; People v. Javier, 182 SCRA 830; March 16, 1987; People v. Francia, 154 SCRA 495, September 30, 1987.

[27] People v. Rayray, 241 SCRA 1, February 1, 1995; per Bellosillo, J.; People v. Jumao-as, 230 SCRA 70, February 14, 1994.

[28] People v. Dela Cruz, *supra*.

[29] Appellant's Brief, p. 6.

[30] People vs. Dione Palomar, et al., G.R. Nos. 108183-85, August 21, 1997.

[31] Appellant's Brief, pp. 6-7.

[32] People vs. Pagal, G.R. Nos. 112620-21, May 14, 1997.

[33] People v. Sagadsad, 215 SCRA 641, November 13, 1992; People v. Valiente, 213 SCRA 499 September 2, 1992.

[34] People v. Sumbillo, GR No. 105292, April 18, 1997, per Panganiban, J.; People v. Morin, 241 SCRA 709, February 24, 1995, People v. Lopez; 249 SCRA 610, October 30, 1995; People v. Jose, 250 SCRA 319, November 24, 1994.

[35] Decision, p. 7; Rollo, p. 44.

[36] Ibid.

[37] Decision, p. 6; Rollo. p. 43.

[38] *People v. Talingting*, GR No. 107747, October 20, 1997, per Romero, J.; *People v. Soldao*, 243 SCRA 119, March 31, 1995, citing Article 14, No. 16, par. 2 of the Revised Penal Code; *People v. Villanueva*, 225 SCRA 353, August 17, 1993.

[39] *People v. Baydo*, G.R. No. 113799, June 17, 1997; *People v. Halili*, 245 SCRA 340, June 27, 1995.

[40] *People vs. Ronquillo*, 247 SCRA 793, August 31, 1995.

[41] *People vs. Caballes*, G.R. Nos. 1102723-24, June 19, 1997.

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