PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. FRANCISCO HAPA Y EBASCO, CLARO FERATERO Y ENCINARES, AMADOR ESPAÑO Y OFALSA AND CONRADO ENTERESO Y HAPA, ACCUSED-APPELLANTS.

G.R. No. 125698. July 19, 2001

Ponente: PARDO, J.

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PARDO, J.:

Accused Francisco Hapa y Ebasco, Claro Feratero y Encinares, Amador Español y Ofalsa and Conrado Entereso y Hapa[1] appeal from the decision[2] of the Regional Trial Court, Branch 52, Sorsogon, Sorsogon finding them guilty beyond reasonable doubt of murder for the death of Leoniso Hermo, and sentencing each of them to reclusion perpetua, with all the accessory penalties provided therefor, and to indemnify jointly and severally, the heirs of the deceased Leoniso Hermo in the sum of P50,000.00, without subsidiary imprisonment in case of insolvency, and to pay their proportionate share of the costs.

On July 11, 1977, Sorsogon Assistant Provincial Fiscal Manuel C. Genova filed with the Court of First Instance of Sorsogon, Branch 3 an information for murder against Francisco Hapa y Ebasco, Claro Feratero y Encinares, Amador Español y Ofalsa and Conrado Entereso y Hapa, which reads:

> "That on or about the 14[th] day of June, 1977, in the Municipality of Casiguran, Province of Sorsogon, Philippines, and with the jurisdiction of this Honorable Court, the above-named accused, Francisco Hapa y Ebasco, Claro Feratero y Encinares, Amador Español y Ofalsa and Conrado Entereso y Hapa, armed with pointed bladed weapons conspiring, confederating and confabulating with one another, with treachery and evident premeditation, did then and there willfully, unlawfully, feloniously and suddenly stab and maul one Leoniso Hermo and inflicting on his right chest a fatal stab wound, while they (accused) were surrounding the victim in order that he could not properly defend himself thereby inflicting a fatal wound which resulted to his instantaneous death, to the damage and prejudice of his heirs.
>
> "Contrary to law."[3]

Upon arraignment on August 8, 1978, all accused entered a plea of not guilty. Thereafter, trial ensued.[4]

On June 13, 1977, the people of Trece Martirez, Casiguran, Sorsogon celebrated the town fiesta, which culminated in a dance. Accused Francisco Hapa, Claro Feratero, Amador Español and Conrado Entereso attended the dance.

At about 2:30 in the morning of June 14, 1977, the people at the dance started to wane and head for home, including prosecution witness Delfina Gratil. Upon arrival at her house, which was fifteen (15) meters away from the dance hall, Delfina proceeded to the kitchen for a cup of coffee. She opened the window of the kitchen for a breath of fresh air.

From the window of her house she saw Leoniso Hermo being held in each arm by two (2) persons. Another

person, whom she later identified as accused Francisco, was wearing a jacket and was standing in front of the victim. The fourth person stood guard behind the victim.[5] Though it was dark outside, Delfina witnessed what transpired because of light coming from a nearby lamppost that illuminated the scene of the crime.[6]

Delfina heard someone utter, "Where is your house, you are our target?" The victim replied, "What is my fault?" Then she heard the voice of the same person again: "you are our target." Delfina identified the voice as that of accused Francisco.[7]

Thereafter, accused dragged the victim toward the fence of Delfina's house. Accused Francisco pulled a bladed instrument from his jacket and made a "downward and forward thrusts" against Leoniso Hermo (hereafter Leoniso). All the while, Delfina thought that what she witnessed was just a joke, until she saw blood dripped from the bladed instrument held by accused Francisco.

Delfina saw that Leoniso was in pain as he clutched his breast. Thereafter, his assailants fled the scene. Delfina witnessed the incident from the window of her house, about two (2) meters or two and one-half (2 ½) arms length from the scene.

Thereafter, Delfina tried to go out of her house and shout for help. Many people arrived, including special police Jose Hadap who apprehended Conrado Entereso and brought him to Delfina's house for interrogation. In the course of the interrogation, a sharp instrument was found in his possession. When asked why he had that in his possession, Conrado replied that it was his "because he has a target." He denied stabbing Leoniso and pointed to Francisco as the one who stabbed the victim.

As soon as the questioning was over, Conrado was brought outside Delfina's house and turned over to police officer Edilberto Hicarte, PC soldier Jose Hular and Brgy. Capt. Alberto Coderes.[8]

Benerando Hitosis, thirty (30) years old, farmer and a resident of Trece Martires, Casiguran, Sorsogon corroborated Delfina's testimony. At about 2:00 in the morning of June 14, 1977, while on his way home coming from the dance at the barangay hall, he met the four (4) accused, Francisco, Claro, Amador and Conrado. The dance hall was one hundred (100) meters from his house. He walked barely fifteen (15) meters when he heard shouts from behind him.

Benerando recognized the voice as that of Leoniso Hermo, his neighbor who was tailing behind him at a distance of ten (10) meters.[9] Leoniso, who also attended the dance, was carrying a bench, which he was about to return to its owner. Leoniso had no shirt on, but was carrying his white t-shirt on his shoulder.

As Benerando turned his back, he saw three (3) persons, whom he recognized as Francisco, Amador, and Conrado, running towards the house of Conrado Hadap. Francisco was carrying a jacket and a five and one half (5 ½) inches bladed instrument, while Amador was holding a fork and Conrado was armed with a dagger. The other accused Claro was also armed with a bladed instrument.

As soon as the three, Francisco, Amador and Conrado reached the house of Conrado Hadap, they went up the house and closed it. Meanwhile, Leoniso tried to walk towards his house, which was beside the dance hall, but he died before he could reach his house.

By this time, the people in the barrio had been alerted. Upon learning that three (3) of the four (4) accused were hiding at the house of Conrado Hadap, the barrio people surrounded the Hadap residence to foil attempts of the accused to escape. Many people were present because the stabbing took place right after the dance. With the help of the barrio people all the accused were apprehended and turned over to Brgy. Capt. Alberto Coderes and M/Sgt. Jose Hular of the Philippine Constabulary.[10]

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Benerando confirmed that the four (4) accused were not natives of their place. Though it was dark when the incident happened, he recognized the four (4) accused because the place was illuminated by the light coming from the dance hall. His barrio mates left the house of Conrado Hadap only after the four (4) accused were apprehended by the authorities. Failing to contain their anger, the barrio people boxed the accused.[11]

Evelyn Hadap, the daughter of Conrado Hadap corroborated Benerando's testimony that three (3) of the accused namely, Francisco, Claro and Amador arrived at their house at about 2:30 in the morning of June 14, 1977. She remembered that Francisco was carrying a knife.

Upon arrival at their house, the three kept moving and shouting "Are you still willing to fight?" The three (3) stayed at their house for around two (2) hours. They wanted to flee, but they could not because her parents closed the door.[12]

Based on the autopsy report of Dr. Evanswinda Ansus Demate, Municipal Health Officer, Casiguran, Sorsogon, Leoniso was nineteen (19) years at the time of his death. The cause of death was shock secondary to severe hemorrhage due to the following:

> "1. stab wound, right anterior chest, mammary region; incised muscles and blood vessels underneath.
>
> "2. Laceration of the upper lobe of the right lung.[13]

Aside from the stab wound on the anterior chest of the victim, Dr. Demate also saw linear abrasion about fourteen (14) inches long, located two (2) inches below the stab wound. Moreover, she confirmed that a sharp bladed instrument could have caused the stab wound sustained by the victim.[14]

Mrs. Fidela Hermo, mother of Leoniso testified that while she was at home at about 2:00 in the morning of June 14, 1979, she heard that her nineteen (19) year old son, Leoniso was stabbed. She immediately went out of the house and proceeded to where her son was. The sight of the lifeless body of her son lying by the road beside Delfina's house made Fidela cry. She saw three (3) persons running away, carrying deadly weapons. She identified these people as accused Francisco, Claro, and Amador. One of the four (4) accused, Conrado, went inside Delfina's house.[15] Although she did not witness the stabbing incident, Fidela was positive that the three (3) persons she saw scampering away from the scene were responsible for the death of her son. The knife Francisco was carrying was still dripping with blood.[16]

Because of the loss of her son, who was the sole breadwinner of the family, her husband being a paralytic, Fidela "felt much the loss of a son."[17]

All four (4) accused denied participation in the stabbing of Leoniso Hermo. They admitted going to the barrio fiesta of Trece Martirez, Casiguran, Sorsogon on the day in question and attended the dance.

Accused Amador Españo testified that in the evening of June 13, 1977, he and his three companions Francisco Hapa, Claro Feratero and Conrado Entereso attended a dance in Trece Martirez, Casiguran, Sorsogon. It was the barrio fiesta of Trece Martirez and the dance at the barangay hall was the highlight of the festivities. On that day, they ate at the house of Conrado Hadap, the wife of the latter being a relative of Amador. The four (4) accused stayed at the Hadap household until around 8:00 in the evening when they decided to proceed to the dance hall, five (5) meters away from the house.

About 12:00 midnight, Amador stepped out of the dance hall to answer a call of nature at the nearby church. While he was in the act of urinating, two (2) unknown persons approached him. One of them tapped him on the left shoulder and asked him: "You are about to create something?" But he did not know what the person was talking about.

At that precise moment, Francisco arrived and told him to go home. It was already 1:00 in the morning of June 14, 1977. Amador did as he was told and proceeded towards the Hadap residence. All this time, Amador was alone. He left his three (3) companions, still dancing, at the dance hall. When he arrived at the Hadap residence, he saw Conrado Hadap and all the members of the latter's family. His other companions, Francisco and Claro, arrived at the house of Conrado Hadap at around 2:00 in the morning.

Amador further testified that while he was in the Hadap residence, several people arrived and mauled them. He could not remember the exact time it happened and the identity of the persons who mauled them. He noticed that Conrado Hadap and his family went out of the house at that time. Amador could not tell why the barrio people would maul them. Thereafter, they were brought to the municipal hall of Casiguran, Sorsogon.

Though he sustained physical injuries, he did not submit himself to any medical examination because they were not serious. When asked about any plausible reason why Evelyn Hadap, a relative of his, should testify against him, he said that he did not know. Francisco Hapa and Claro Feratero, his co-accused were his barrio mates, all of them being from Onion, Gubat, Sorsogon.[18]

Conrado Entereso y Hapa partly corroborated Amador's testimony. He said that all four (4) of them Francisco, Claro, Amador and himself went to Trece Martirez, Casiguran, Sorsogon and attended the barrio fiesta on June 13, 1977. They left the Hadap residence and proceeded to the dance hall at about 8:00 in the evening.

Contrary to Amador's claim that Conrado remained at the dance hall when he [Amador] left at 12:00 midnight, accused Conrado alleged that he left the dance hall and headed for home at about 12:00 midnight. He went home alone and on foot. His three (3) companions, Francisco, Claro and Amador were still dancing at the dance hall. He headed for home to Sangat, Gubat, Sorsogon, about ten (10) kilometers from Trece Martirez.[19] He went ahead of his three (3) companions because he did not have a place to stay in Trece Martirez. The others were sleeping over at the Hadap residence.

Conrado Entereso y Hapa was not able to go home that early morning of June 14, 1977. Ten (10) meters from the dance hall, several persons assaulted him and he lost consciousness. The scars on his left eyebrow and on his upper lips were the reminders of the beatings that he suffered that night. He did not recognize his assailants because it was dark.

When he regained consciousness, Conrado Entereso y Hapa went up a certain house, five (5) meters away and sought help. He was bleeding profusely because he was hit several times. He did not know who was the owner of the house nor did he find out who it was. He stayed in that house for two (2) hours until the police fetched him and brought him to the police station of Casiguran, Sorsogon. Several persons were present in that house, but he did not recognize them. He could still hear the music at the dance hall signifying that the dance was still on going. He did not know what happened to his three (3) companions. It was only at the police station of Casiguran that he met them again.

Conrado was not aware of any reason why several persons would cause him harm. It was the first time that he had been to Trece Martirez, Casiguran, Sorsogon. He was not investigated during his one (1) week stay at the police station of Casiguran.[20]

For his part, Claro Feratero y Encinares admitted that he and his three (3) co-accused went to Trece Martirez, Casiguran, Sorsogon arriving there at around 5:00 in the afternoon of June 13, 1977. They proceeded to the house of Conrado Hadap and left at about 8:00 to attend the dance at the nearby barangay hall. He, Francisco and Amador stayed at the dance hall until 2:00 in the morning. Thereafter, they decided to go home to the Hadap residence, five (5) meters from the dance hall.[21] When they arrived at the Hadap residence, he noticed the

presence of many people.

Claro said that they were awakened when policemen fetched him and his two (2) companions, Francisco and Amador, at the Hadap residence in the early morning of June 14, 1977. It was only then that they found out that somebody was killed, and they were suspected of being responsible for such killing. Despite the fact that they were his visitors, Conrado Hadap did not inquire from the policemen why his visitors were being arrested. Instead, Conrado Hadap and some members of his family left when the policemen started manhandling them.[22]

Afterwards, the policemen questioned them on their involvement in the stabbing incident. They were tied together and brought to the municipal building of Casiguran, Sorsogon. Claro could not remember how many policemen arrived, nor could he remember who they were because of the darkness of the night.

On May 3, 1995, the trial court rendered a decision finding accused Francisco, Claro, Amador and Conrado guilty of murder qualified by treachery, without any aggravating or mitigating circumstance. The decretal portion of the decision reads, thus:

> "WHEREFORE, accused Francisco Hapa y Ebasco, Claro Feratero y Encinares, Amador Español y Ofalsa and Conrado Entereso y Hapa, are all found GUILTY beyond reasonable doubt of the crime of Murder penalized under Article 248 of the Revised Penal Code. Absent any aggravating or mitigating circumstance attendant to the commission of the offense, they are hereby sentenced to suffer imprisonment of RECLUSION PERPETUA, together with all the accessory penalties provided therefor, to jointly and severally indemnify the heirs of the victim Leoniso Hermo the sum of P50,000.00 without subsidiary imprisonment in case of insolvency and to pay their proportionate share of the costs.
>
> "The immediate confinement of the accused in the jail is hereby ordered pursuant to the pertinent provisions of Supreme Court Administrative Circular No. 12-94 dated August 16, 1994.
>
> "SO ORDERED.
>
> "Quezon City (for Sorsogon, Sorsogon)
>
> "May 3, 1995.
>
> "(SGD.) EUDARLIO B. VALENCIA
> "J u d g e"[23]

On August 4, 1995, accused Hapa, Feratero, Español and Entereso filed a joint notice of appeal.[24] Accused-appellants contend that the trial court erred in finding them guilty of murder, instead of homicide only. They argue that if indeed what they committed was murder, the trial court would not have allowed them to post bail for their temporary liberty.[25] Secondly, they questioned the authority of the judge who penned the decision because he was not the one who conducted the trial and heard the proceedings of the case. Corollarily, they claimed that the trial court erroneously condemned them for murder without giving accused Francisco Hapa the opportunity to testify on his behalf. Lastly, accused-appellants assailed the credibility of prosecution witnesses Delfina Gratil and Fidela Hermo.

The appeal is without merit.

Before conviction, every person is bailable except if charged with a capital offense,[26] or an offense punishable by reclusion perpetua or life imprisonment when evidence of guilt is strong.[27] A capital offense has been defined as an offense which, under the law existing at the time of its commission and of the application for admission to bail, may be punished with death.[28] Consequently, when the accused is charged with an offense punishable by death, reclusion perpetua or life imprisonment, the judge shall conduct a hearing, whether summary

or otherwise in the discretion of the court, not only to take into account the guidelines set forth in Rule 114, Section 9 of the Rules of Criminal Procedure, but primarily to determine the existence of strong evidence of guilt or lack of it, against the accused.[29] If the evidence of guilt is not strong, bail becomes a matter of right.[30]

Accused-appellants alleged that since they were allowed to post bail for their temporary liberty despite the murder charge against them proved that the evidence to convict them for such was not strong. At most, they could be held guilty of the lesser offense of homicide.

This argument is manifestly flawed. It has no sound basis in law or in jurisprudence. In a summary hearing conducted for the purpose of determining whether the evidence of guilt is strong for purposes of bail, what the court does is to determine the weight of the evidence, not the guilt or innocence of the accused. On such hearing, the court does not sit to try the merits or to enter into any inquiry as to the weight that ought to be allowed to the evidence for or against the accused nor will it speculate on the outcome of the trial or on what further evidence may be therein offered and admitted.[31] Consequently we find that accused-appellants' argument has no basis to stand on.

Moreover, there were three (3) of the four (4) accused who were minors at the time of the commission of the crime. Their subsequent release and the transfer to the custody of their biological parents was pursuant to Article 189, Chapter 3 of the Presidential Decree No. 603, otherwise known as the Child and Youth Welfare Code.[32] The trial court took into consideration the recommendation of the social worker who conducted a case study on these minors that since it was their first infraction, it would be better for them to be released on recognizance to the custody of their parents pending the prosecution of the criminal case against them.

With regard to the second assigned error, the fact that Judge Valencia who decided the case was not the one who heard the testimonies of the witnesses would not automatically warrant a reversal of the decision.[33] Such fact constitutes no compelling reason to jettison his findings and conclusions, and does not per se render his decision void. It may be true that the trial judge who conducted the hearing would be in a better position to ascertain the truth or falsity of the testimonies of the witnesses. However, it does not necessarily follow that a judge who was not present during the trial can not render a valid and just decision. For the judge who was not present during the trial can rely on the transcript of stenographic notes taken during the trial as basis of his decision. Such reliance does not violate substantive and procedural due process of law.[34]

We have meticulously pored over the records, especially the transcript of stenographic notes; we find no reason to disturb the factual findings of Judge Valencia.[35]

As regards the contention that the lower court did not give accused-appellant Francisco Hapa an opportunity to testify on his behalf, thus depriving him of the right to due process, there is nothing that would support this contention.

It is well settled that the right to be heard by himself and counsel is one of the constitutional rights guaranteed to an accused. Not only this but he likewise has the right to present evidence in his defense.[36] Due process of law in judicial proceedings requires that he must be given an opportunity to be heard. He has the right to be present and defend in person at every stage of the proceedings.[37] A decision would only be void for lack of due process if, as a result, a party is deprived of the opportunity to be heard.[38]

In the case at bar, the last witness for the defense was accused-appellant Claro Feratero, who took the witness stand on February 18, 1985. From that time until the defense rested its case on October 13, 1987, the defense had sufficient time and opportunity to present further evidence. Yet, every time that the case was set for trial,[39] despite due notice to him, accused-appellant Francisco Hapa never showed up. Hence, the trial would be reset to

another date. Because accused Francisco jumped bail, his counsel had to rest the case and submit it for decision.[40] Obviously, accused-appellants were given ample opportunity to present evidence to prove their innocence.

As a last ditch effort to extricate themselves from criminal liability, accused-appellants question the credibility of the prosecution witnesses, particularly eyewitness Delfina Gratil and the victim's mother, Fidela Hermo. We find that the inconsistencies in the testimonies of these witnesses merely dwell on immaterial and insignificant details. They do not affect their credibility as their testimonies jibe on material points. The inconsistencies on minor details of the crime are not earmarks of falsehoods. On the contrary, they show that their testimonies are unrehearsed.[41]

It is well settled that immaterial and insignificant details do not discredit a testimony on the very material and significant point bearing on the very act of accused-appellants. As long as the testimonies of the witnesses corroborate each other on material points, minor inconsistencies therein cannot destroy their credibility. Inconsistencies on minor details do not undermine the integrity of a prosecution witness. The minor inconsistencies and contradictions only serve to attest to the truthfulness of the witnesses and the fact that they had not been coached or rehearsed.[42]

Delfina Gratil's testimony was straightforward, categorical and definite. She testified that accused-appellant Francisco Hapa stabbed the victim. Despite the fact that the stabbing took place in the darkness of the night, she clearly witnessed the whole incident from the window of her house located 2 and ½ arms length from where it took place. The light coming from a nearby lamppost provided sufficient illumination that enabled her to recognize the assailants of her neighbor Leoniso Hermo.

The testimony of a lone eyewitness, if positive and credible, 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. Witnesses 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.[43]

Accused-appellants contend that the testimony of Fidela Hermo was not consistent with the testimony of the other prosecution witness, Benerando Hitosis. Accused-appellants point out that Mrs. Hermo testified that her son died within the premises of Delfina's house, which, according to them, runs directly in contradiction with the statement of Benerando that the victim ran to his house and expired there.

We find nothing inconsistent with these testimonies. Indeed, Benerando testified that Leoniso tried to go to his house after he was stabbed. At the same time, Benerando confirmed that Leoniso died before he could reach his house. Instead of contradicting the testimony of Benerando, Fidela's testimony confirmed what Benerando testified to.

We affirm the findings of the trial court that the crime committed was murder. The lower court correctly concluded that treachery qualified the killing of Leoniso Hermo. The essence of treachery is the sudden and unexpected attack, without the slightest provocation on the part of the person attacked. Treachery exists when any of the crimes against person is committed with the employment of means, methods or forms that tend directly and especially to insure its execution, such that the offender faces no risk that may arise from the defense which the offended party might make.[44]

In the present case, the victim was caught off guard by the suddenness of the attack. He was alone, innocently walking, and was carrying a bench on his shoulder, which he was about to return to its owner. Out of nowhere, the four (4) accused appeared, all armed, and took hold of Leoniso. Two of the four accused immediately held his

arms. One went behind Leoniso and Francisco Hapa went in front and stabbed him. In that condition and situation, it is very apparent that the victim would not be able to ward off any attack against him.

Moreover, the evidence clearly established the existence of conspiracy. Conspiracy exists when two or more persons come to an agreement concerning the commission of a felony and decide to commit it. Direct proof of conspiracy is rarely found, for criminals do not write down their lawless plans and plots. The agreement to commit a crime, however, may be deduced from the mode and manner of the commission of the offense or inferred from acts that point to a joint purpose and design, concerted action, and community of intent. It did not matter if it was only accused-appellant Francisco who inflicted the mortal wound, as the act of one was the act of all, and each incurred the same criminal liability.[45]

Article 248 of the Revised Penal Code[46] provides that the penalty for murder is reclusion temporal in its maximum period to death if committed with treachery.[47] As the killing was not attended to by any aggravating nor mitigating circumstance, accused-appellants shall suffer the penalty prescribed by law in its medium period,[48] or reclusion perpetua.

We affirm the trial court's award of civil indemnity to the heirs of the victim in the amount of fifty thousand pesos (P50,000.00) as death indemnity.[49]

However, pursuant to current jurisprudence, we deem it proper to give an additional award for moral damages to the heirs of the victim.[50] No proof of pecuniary loss is required in the assessment of moral damages, and the award is essentially by way of indemnity or reparation.[51] Article 2206 of the Civil Code provides that damages for death caused by a crime or quasi-delict can be awarded to the heirs of the victim by proof alone of such fact of death.[52] Moral damages are not awarded to punish the accused but to compensate for the mental anguish, serious anxiety, and moral shock suffered by the victim or his family as the proximate result of the wrongful act and they are recoverable where a criminal offense results in physical injuries which culminate in the death of the victim.[53] Incapable of exact pecuniary estimation, the assessment of such damages is left to the discretion of the court.[54] The award is not meant to enrich the victim at the expense of the accused. An award of fifty thousand pesos (P50,000.00) is commensurate to the emotional suffering of the heirs of the victim.[55]

WHEREFORE, the Court AFFIRMS the appealed decision of the Regional Trial Court, Sorsogon, Sorsogon, Branch 52 in Criminal Case No. 419, with modification. The Court finds accused-appellants Francisco Hapa y Ebasco, Claro Feratero y Encinares, Amador Españo y Ofalsa and Conrado Entereso y Hapa guilty beyond reasonable doubt of MURDER defined and penalized under Article 248 of the Revised Penal Code, and hereby sentences each of them to reclusion perpetua, with all the accessory penalties of the law; and to indemnify the heirs of the victim in the amount of fifty thousand pesos (P50,000.00) as death indemnity and fifty thousand pesos (P50,000.00) as moral damages, and to pay the costs.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Puno, Kapunan, and Ynares-Santiago, JJ., concur.

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[1] Based on the social case study report conducted by the Department of Social Services and Development, accused Conrado Entereso's middle name is Escarcha and not Hapa as what was written on the title of the criminal case. Regional Trial Court Records, p. 67.

[2] In Criminal Case No. 419, Decision dated May 3, 1995, Judge Eudarlio B. Valencia, presiding; Rollo, pp. 14-36; However, the trial and the proceedings of the instant case was heard and presided by two other judges,

Hon. Nicolas Galing and Hon. Jose A. Madrilejos, Jr.

[3] Rollo, p. 14.

[4] Pending the trial of the case against them, on November 11, 1977 the trial court issued an order for the release of minors Claro Feratero (19), Conrado Entereso (20), and Amador Españo (20) and their transfer to the care and custody of their respective parents pursuant to Presidential Decree No. 603; Regional Trial Court Records, p. 17.

[5] TSN, August 1, 1979, pp. 5-6.

[6] Ibid., p. 32.

[7] Ibid., pp. 7-8.

[8] TSN, August 1, 1979, pp. 10-12.

[9] TSN, August 8, 1978, p. 17.

[10] Ibid., pp. 4-7.

[11] TSN. August 8, 1978, pp. 10-12.

[12] TSN, January 18, 1979, p. 13-14.

[13] Ibid., p. 5.

[14] TSN, January 18, 1979, p. 8.

[15] TSN, May 15, 1980, pp. 4-5.

[16] Ibid., p. 8.

[17] Ibid., p. 6.

[18] TSN, June 18, 1981, pp. 17-18.

[19] TSN, January 14, 1985, p. 6. In the transcript of stenographic notes, accused Conrado Entereso y Hapa continuously referred to Brgy. Trece Martirez as Brgy. Namoro. He confirmed that Namoro and Trece Martirez are one and the same place, the latter being the more familiar name of the place [TSN, January 14, 1985, p. 7].

[20] TSN, January 14, 1985, pp. 9-16.

[21] TSN, January 18, 1985, p. 4.

[22] Ibid., p. 16.

[23] Regional Trial Court Records, Rollo, pp. 24-36, at pp. 35-36.

[24] Rollo, p. 37.

[25] Appellants' Brief, Rollo, pp. 110-127, at p. 111.

[26] Borinaga v. Tamin, 226 SCRA 206, 213-214 [1993].

[27] Rule 114, Section 7, Revised Rules of Criminal Procedure, as amended; People v. Manes, 303 SCRA 231, 238 [1999].

[28] Rule 114, Section 6, Revised Rules of Criminal Procedure, as amended.

[29] Cortes v. Judge Catral, 344 Phil. 415, 424 [1997]; People v. Manes, supra, Note 27.

[30] Obosa v. Court of Appeals, 266 SCRA 281, 300 [1997], citing Padilla v. Court of Appeals, 260 SCRA 155 [1996].

[31] Basco v. Judge Rapatalo, 336 Phil. 214, 221 [1997].

[32] See Regional Trial Court Records, pp. 77-83.

[33] People v. Rabutin, 338 Phil. 705, 712 [1997].

[34] People v. Espanola, 338 Phil. 403, 430 [1997], citing People v. Rayray, 241 SCRA 1 [1995].

[35] People v. Navarro, 357 Phil. 1010 [1998].

[36] People v. Diaz, 311 SCRA 585 [1999].

[37] Parada v. Judge Veneracion, 336 Phil. 354, 360 [1997].

[38] Palu-ay v. Court of Appeals, 355 Phil. 94 [1998].

[39] On the following dates, the hearing of the case for reception of evidence of the defense have been cancelled and reset due to the absence of accused-appellant Francisco Hapa. Of the four (4) accused, only Hapa was not able to take the witness stand: (1) October 21, 1985, Regional Trial Court Records, p. 61; (2) December 2, 1985, Regional Trial Court Records, p. 73; (3) May 5, 1986, Regional Trial Court Records, pp. 94-96; (4) September 7, 1987, Regional Trial Court Records, p. 196; and (5) October 13, 1987, Regional Trial Court Records, p. 202.

[40] Regional Trial Court Records, p. 202.

[41] People v. Espanola, supra, Note 34, at p. 423.

[42] People v. Rabutin, supra, Note 33.

[43] People v. Alagon, 325 SCRA 297, 310-311 [2000].

[44] People v. Navarro, supra, Note 35.

[45] People v. Cawaling, 355 Phil. 1 [1998].

[46] In force at the time of the commission of the crime.

[47] Article 248, paragraph (1), Revised Penal Code.

[48] Article 64 (1), Revised Penal Code.

[49] People v. Ronas, G. R. Nos. 128088 & 146639, January 31, 2001.

[50] People v. Honra, Jr., G. R. Nos. 136012-16, September 26, 2000.

[51] People v. Bantillo, G. R. No. 117949, October 23, 2000; People v. Aringue, 283 SCRA 291, 307 [1997], citing de la Serna v. Court of Appeals, 233 SCRA 325 [1994]; Development Bank of the Philippines v. Court of Appeals, 231 SCRA 370 [1994].

[52] People v. Dianos, 357 Phil. 871 [1998].

[53] People v. Tambis, 311 SCRA 430 [1999].

[54] People v. Dianos, supra, Note 52.

[55] People v. Tambis, supra, Note 53; People v. de la Cruz, G. R. No. 128362, January 16, 2001.

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