

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. JUAN FACTAO ALIAS “BOYET,” ALBERT FRANCIS LABRODA ALIAS “ABET,” AND TIRSO SERVIDAD, APPELLANTS.

G.R. No. 125966. January 13, 2004

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TINGA, J.:

The defense of alibi is by nature weak but it assumes significance and strength where the evidence for the prosecution is also intrinsically weak.[1] The contrasting weight of the prosecution evidence against appellants Juan Factao and Albert Francis Labroda, on the one hand, and appellant Tirso Servidad, on the other, accounts for the difference that the Court accords their respective alibis.

In the evening of August 23, 1991, Vicente Manolos was in a kamalig near the seashore in Barangay Sirawagan, San Joaquin, Iloilo with Eduardo Sardoma, Rolando Nierves, Noel Serrano and the hut's owner, Fernando Sardoma.[2] Sometime past 8:00 p.m., Vicente felt the urge to defecate so he went beside a boat about four or five meters from the hut.[3] As Vicente relieved himself, he saw Juan Factao and Albert Francis Labroda approach the hut.[4] Factao was armed with a garand rifle.[5]

As the two men neared the kamalig, Labroda looked around as if to see if there was anyone else about.[6] Factao peeped into the hut, which was illuminated by an electric light bulb, aimed his gun at a hole in the hut's bamboo wall and fired.[7]

Factao and Labroda then sped towards the Sirawagan River.[8] In his haste, Factao tripped on the outrigger of the boat beside which Vicente was defecating.[9] Fortunately, Factao did not notice Vicente, who tried to hide himself.[10] Vicente quickly pulled up his pants and ran towards the hut.[11]

From about five arms' length away,[12] Jose Manuel Sermona also witnessed the shooting. Jose Manuel saw Juan Factao, Albert Francis Labroda and Tirso Servidad pass the hut where he was staying as they walked towards the kamalig of Fernando Sardoma.[13] Factao was carrying a garand, although the other two were unarmed.[14] Labrado looked on as Factao peeped into the kamalig, aimed and fired.[15] Factao and Labrado then ran towards the river while Servidad separated from the two.[16]

Inside the kamalig, Eduardo Sardoma was conversing with Rolando Nierves, Noel Serrano and Fernando Sardoma.[17] The latter was on the floor lying on his side.[18] Suddenly, Eduardo heard an explosion.[19] Immediately, he went outside and saw Tirso Servidad bending his body forward and moving his head sideways.[20] Eduardo quickly wrapped his arms around Tirso. Eduardo also espied Juan Factao, who was carrying a garand, and Albert Francis Labroda running from the scene.[21]

Eduardo then heard Fernando Sardoma pleading for help.[22] Fernando said he had been shot and asked to be brought to the hospital.[23] Eduardo went back inside the hut, where he found Fernando bathing in his own blood.[24]

The same bloody sight greeted Vicente Manolos when he reached the hut.[25] He cuddled Fernando and pushed

inside the victim's protruding intestines.[26] Vicente, Eduardo, Jose Manuel and Rolando Nierves loaded Fernando into a jeep and rushed him to the hospital.[27] Their efforts were for naught, however, as Fernando was already dead upon arrival at the Pedro Trono Memorial Hospital in Guimbal, Iloilo.[28]

The autopsy conducted by Dr. Irene Escanlar, Medical Officer III of said hospital, revealed that the victim sustained a gunshot wound at the eleventh left intercostal space with exit at the right hypochondriac area.[29] The bullet perforated the left lower lobe of the lung, the pancreas, the whole lobe of the liver and the right diaphragm.[30] The bullet also caused a fracture on the right tenth and eleventh ribs.[31] Hypovolemic shock or massive blood loss, secondary to the rupture of the liver, was the victim's immediate cause of death.[32] According to Dr. Escanlar, Fernando probably had his side towards the assailant when he was shot.[33] Dr. Escanlar reduced her findings in a Post Mortem Report.[34]

The police investigation resulted in the apprehension of Juan Factao, Albert Francis Labroda and Tirso Servidad. The three were subsequently charged with Murder in an Information reading:

That on or about the 23[rd] day of August, 1991, in the Municipality of San Joaquin, Province of Iloilo, Philippines, and within the jurisdiction of this Honorable Court, above-named accused, conspiring, confederating and mutually helping one another to better realize their purpose, with deliberate intent and decided purpose to kill, armed with Garand, US Rifle Caliber .30 M1, with treachery and evident premeditation and without any justifiable cause or motive, did then and there, willfully, unlawfully and feloniously assault, attack and shoot one FERNANDO SARDOMA with the weapon they were then provided, inflicting upon their said victim gunshot wound on the vital part of his body which caused the immediately (sic) and instantaneous death of said Fernando Sardoma.

CONTRARY TO LAW.[35]

When arraigned, all three accused pleaded not guilty.[36] Trial ensued, during which the prosecution offered the testimonies of Jose Manuel Sermona, Eduardo Sardoma, Vicente Manolos and Dr. Irene Escanlar. The prosecution witnesses testified to the foregoing narration.

The accused denied any participation in the killing of Fernando Sardoma. They invoked alibi as their defense.

Factao and Labrado, both members of the Citizens Armed Forces Geographical Unit (CAFGU), claimed that at the time of the incident they, along with Noel Lupase and Carlos Garcia, were celebrating the birthday of Labroda in the latter's house.[37] The party ended at around 10:00 p.m.[38] Thereafter, Carlos Garcia repaired to his home while Juan Factao returned to camp.[39] Noel Lupase, who corroborated Labroda and Factao's presence at the party,[40] spent the night at Labroda's house.[41] They learned about the tragedy only the following day.[42]

Factao and Labrado, suspected that the victim's companions, the principal prosecution witnesses, were sympathizers of the New People's Army (NPA).[43] Factao also imputed ill motive on prosecution witness Vicente Manolos with whom he had a quarrel during a basketball game five days before the killing of Fernando Sardoma.[44]

Accused Servidad, also a CAFGU member,[45] presented a different account of his whereabouts. Servidad was on his way home when he met Sirawagan Barangay Captain Faustino Nierves at about 8:30 in the evening of 23 August 1991.[46] The two then heard an explosion from the direction of the seashore.[47] Barangay Captain Nierves instructed Servidad to investigate the explosion.[48]

Some ten meters from Fernando's hut, Servidad came upon Rolando Nierves and Vicente Manalos,[49] and inquired about the explosion.[50] Rolando and Vicente replied that Fernando had been shot.[51] Servidad asked them to call for other people to help bring Fernando to the hospital.[52] Servidad then proceeded to the kamalig

and peeped through the door.[53] Inside, he saw a bleeding Fernando.[54] Servidad asked people to help him lift Fernando to the jeep.[55] Thereafter, he headed back home.[56]

Servidad denied being with Factao and Labroda on that fateful evening or that Eduardo Sardoma grabbed him right after the explosion.[57] Servidad said he was not in good terms with prosecution witnesses Eduardo Sardoma and Jose Manuel Sermona, whom he suspected were NPA sympathizers.[58] He denied harboring a grudge against the victim, who he claimed was a good friend.[59]

Servidad's alibi was corroborated by Barangay Captain Nierves, who testified having met Servidad right before the explosion, and instructing the latter to investigate the incident.[60] Later that evening, Servidad informed him that Fernando Sardoma had been shot[61]

The defense also presented Juan Roweno Secuban, likewise a CAFGU member, whose testimony was offered to disprove that the killing of Fernando Sardoma was in retaliation for Secuban's hacking.[62] According to Secuban, he was hacked by a certain Ronaldo San Miguel over a girl they were both courting.[63] Fernando, allegedly a witness to the incident, even executed an affidavit in favor of Secuban.[64]

On July 14, 1995, the Regional Trial Court (RTC) of Iloilo City, Branch 25, rendered judgment finding all three accused guilty of Murder and sentencing them to suffer the penalty of reclusion perpetua. The dispositive portion of the Decision reads as follows:

WHEREFORE, premises considered and finding the accused, Juan Factao alias "Boyet," Albert Francis Labroda alias "Abet" and Tirso Servidad, guilty of murder as charged beyond the shadow of doubt, they are hereby sentenced to suffer the invisible (sic) penalty of Reclusion Perpetua, plus the accessory penalties as provided under Article 41 of the Revised Penal Code, and moreover, they are ordered to indemnify the family of the victim the amount of P50,000.00 to reimburse the family the amount of P10,000.00 for the coffin and another P10,000.00 as expenses for the funeral and wake, and to pay the attorney's fee of P9,000.00 and the cost. At the time the crime was committed the death penalty was not yet restored, hence it cannot be imposed in this case.

SO ORDERED.[65]

From this Decision, the accused have appealed.

The Court entertains no doubt that appellants Juan Factao and Albert Francis Labroda are guilty of the slaying of Fernando Sardoma. Prosecution witness Vicente Manolos unerringly pointed to the two as the perpetrators of the crime:

Q:

At around that time while you were defecating beside the boat can you tell the Court if there was any unusual incident that happened?

A:

Yes, sir.

Q:

Will you please tell the Court what was the incident about?

A:

I saw two men approaching the hut of Fernando Sardoma.

Q:

Now, can you identify these two persons which you said were approaching the hut of Fernando Sardoma?

A:

Yes, sir.

Q:

Please tell the court the names.

A:

Juan Factao alias Boyet and Albert Francis Labroda.

....

Q:

At that time that you saw Juan Factao was he carrying something?

A:

Yes, sir.

Q:

Can you please tell the court was he was carrying?

A:

A long firearm.

Q:

Can you identify that firearm?

A:

Yes, it was agaran (sic).

Q:

Now, thereafter, what did Juan Factao and Albert Labroda do?

A:

They went nearer the hut of Fernando Sardoma. When they were near already I saw Albert Francis Labroda looking around seemingly trying to find out if there are people around.

Q:

What about Juan Factao, what did he do?

A:

Looking stiltthelly (sic), towards the hut of Fernando Sardoma.

....

Q:

Was Juan Factao able to reach the hut of Fernando Sardoma?

A:

Yes, sir.

Q:

When he arrived to the hut of Fernando Sardoma do you know what he did?

A:

Yes, sir.

Q:

Please tell the court.

A:

He first peep (sic) or took a look inside and afterwards aimed the firearm at a hole because the hut is filled with holes, and then fired the shot.

Q:

After firing the shot, what did Jun Factao do, if any?

A:

They ran away.

....

Q:

What about Albert Francis Labroda did (sic) know where he went?

A:

They escaped together.[66]

Vicente's foregoing testimony was corroborated by Jose Manuel Sermona.

Conspiracy between appellants Factao and Labrado was adequately established. Conspiracy exists when two or more persons come to an agreement concerning the commission of a felony and decide to commit it.[67] It is not necessary, however, that conspiracy be proved by direct evidence of a prior agreement to commit the crime. Conspiracy may be deduced from the mode and manner in which the offense was perpetrated or inferred from the acts of the accused which show a joint or common purpose and design, a concerted action and a community of interest among the accused.[68]

While there is no direct evidence to show that Factao and Labroda agreed to commit the crime, the acts of Factao and Labroda immediately before and after the shooting evince a commonality in design sufficient to make them co-principals to the killing. Vicente Manolos testified that as Factao prepared to shoot Fernando, Labrado was looking around to see if anyone else was about.[69] Thereafter, the two fled together, running in the same direction, a fact to which Jose Manuel Sermona[70] and Eduardo Sardoma[71] also testified.

The alibi of appellants Factao and Labroda cannot prosper in the face of the positive identification by prosecution witnesses Vicente Manolos and Jose Manuel Sermona, who were both familiar with the two appellants. Alibi,

which is easy to concoct, cannot prevail over positive identification.[72]

Moreover, for their alibi to prosper, the accused must not only prove that they were somewhere else when the offense was committed, but also that they were so far away that they could not have been physically present at the scene of the crime or its immediate vicinity at the time of its commission.[73] Appellants Factao and Labroda utterly failed to prove that it was physically impossible for them to be present at the scene of the crime at the time of its commission. Factao and Labroda themselves testified that they were at the house of Labroda to celebrate the latter's birthday on 23 August 1991 at approximately the same time that Fernando Sardoma was killed.[74] Labroda's house was just more than a kilometer away from the place where the crime was committed, or approximately thirty (30) minutes on foot.[75] Evidently, the accused-appellants were in a place near the crime scene.

On the other hand, the prosecution failed to establish appellant Tirso Servidad's guilt beyond reasonable doubt. Vicente Manolos testified that he saw only Juan Factao and Albert Labroda at the scene of the crime. On direct examination, he did not mention appellant Servidad at all.

Q-

Now, can you identify these two person[s] which you said were approaching the hut of Fernando Sardoma?

A-

Yes, sir.

Q-

Please tell the Court their names?

A-

Juan Factao alias Boyet and Albert Francis Labroda.[76]

On cross-examination, the witness adverted to appellant Tirso Servidad but only because the private prosecutor mentioned his name. Moreover, he confirmed the fact that he did not see the appellant Servidad at the same time that he saw the other two appellants.

Q-

You mean to say that you have not seen or meet (sic) this Tirso Servidad in the evening of August 23, 1991?

....

A-

Yes, sir.

Q-

Where?

A-

Outside the hut, I heard his voice.

Q-

You mean to say that you only heard the voice of this Tirso Servidad, is that what you mean?

A-

Yes, sir. But when we were carrying Fernando Sardoma, I noticed him. Later, I lost sight of him.

....

Q-

But at the time you were then relieving yourself at the seashore near the fishing boat you have not seen Tirso Servidad with Juan Factao and Francis Albert Labroda, is that correct?

A-

No. I saw only both of them.[77] (Underscoring supplied.)

Vicente's testimony contradicts that of Jose Manuel Sermona, who allegedly saw Servidad with Factao and Labroda going to Fernando's hut. Jose Manuel claimed that Servidad allegedly separated from the other two and went to the front door, which was facing the seashore:

Q:

Have you gone to the hut of Fernando Sardoma before 23 August 1991?

A:

Yes, sir.

....

Q:

Can you tell this Honorable Court, if you were familiar of (sic) that hut of Hernando (sic) Sardoma where you went inside on August 23, 1991?

A:

Yes, sir.

Q:

Can you tell the Honorable Court how many doors this "kamalig" of Hernando (sic) Sardoma has?

A:

Only one door.

Q:

And this door of the "kamalig" of Hernando (sic) Sardoma, is it facing the seashore or not?

A:

Facing the seashore.[78]

The front of the door where Jose Manuel allegedly saw Servidad, however, was only about four to five meters away from where Vicente Manolos was defecating. Yet Vicente categorically stated that he did not see Servidad as Factao fired the fatal shot.[79]

These irreconcilable discrepancies in the testimonies of the two prosecution witnesses cast doubt on the

culpability of appellant Servidad.

Eduardo Sardoma's claim that he caught Servidad peeping into the hut as Factao and Labroda were fleeing defies human nature. If Servidad were at all present at the time of the shooting and conspired with his co-appellants to kill Fernando Sardoma, he would have immediately fled from the scene with his cohorts once the criminal deed was done. But as the defense would have it, Servidad separated from the other appellants and worst, even linger at the crime scene and risked arrest.

Senior Inspector Bonifacio Servano also said that he saw Tirso sometime after the killing, some distance from the crime scene:

Q-

When you arrived at the place of the incident at around 9:25 in the evening on August 23, 1991 together with two (2) policemen, you saw Tirso Servidad in the place of the incident?

A-

Yes, sir.

....

Witness: Correction please, your honor, I saw or met him but outside the place of the incident about 200 meters from the national highway of Brgy. Siwaragan.

....

Q-

Was he running or walking?

A-

He was walking and he stop (sic) when he saw me and saluted me.[80]

Servidad's behavior in nonchalantly greeting no less than the Chief of Police is unusual for one who had just killed a fellow human being. Again, as correctly pointed out by the defense, it is contrary to human experience for a guilty person, right after the commission of a crime, to roam the streets within the vicinity of the crime scene where police authorities could easily apprehend him.[81]

Even if Servidad were indeed present at the scene during the shooting, such fact by itself would not render him criminally liable. The mere presence of a person at the scene of the crime does not make him a co-conspirator.[82] The prosecution did not offer any evidence that Servidad performed any act from which his conspiracy to the crime may be deduced.

In the face of the contradicting and unbelievable testimonies of the prosecution witnesses, the alibi of appellant Servidad assumes strength and significance. According to appellant, he was on his way home when he met Sirawagan Barangay Captain Faustino Nierves at the precise time of the explosion,[83] a fact corroborated by the Barangay Captain himself.[84] No ill motive has been attributed for this witness, a public officer, to testify falsely.

The crime committed by appellants Factao and Labroda is Murder, the killing being qualified by treachery. There is treachery when the offender commits any of the crimes against persons, employing means, methods, or forms in the execution thereof which tend directly and specially to insure its execution without risk to himself arising from the defense which the offended party might make.[85] Treachery attended the killing of the victim Fernando

Sardoma, where his assailant Factao first peeped into the bamboo wall, inserted the rifle through the bamboo wall and shot Fernando, who was then lying on his side in the relative security of his hut, utterly defenseless and completely unaware of the impending attack.

Evident premeditation, although alleged in the information, was not adequately proven. The essence of evident premeditation is that the execution of the criminal act is preceded by cool thought and reflection upon the resolution to carry out the criminal intent within a space of time sufficient to arrive at a calm judgment.[86] The elements of evident premeditation are: (1) the time when the offender determined to commit the crime; (2) an act manifestly indicating that the culprit has clung to his resolve; and (3) a sufficient interval of time between the determination or conception and the execution of the crime to allow him to reflect upon the consequence of his act and to allow his conscience to overcome the resolution of his will if he desired to hearken to its warning.[87] Where, as in this case, there is no evidence as to how and when the plan to kill was decided and what time had elapsed before it was carried out, evident premeditation cannot be considered an aggravating circumstance.[88]

The trial court ruled that the aggravating circumstances of nighttime and dwelling attended the killing. Nighttime, as a rule, is absorbed in treachery, and should not have been appreciated.[89] The killing, however, was committed in the dwelling of the victim, who did not give any provocation therefor.[90] This aggravating circumstance was, therefore, correctly appreciated.

At the time of the commission of the offense, Murder was punishable by reclusion temporal maximum to death.[91] As there is no mitigating circumstance, and one aggravating circumstance, the maximum of the penalty should be imposed,[92] but as the death penalty was then suspended. At the time of the commission of the offense, only the penalty of reclusion perpetua may be meted upon appellants.[93]

In accordance with prevailing jurisprudence,[94] appellants Factao and Labrado are each liable to pay the heirs of the victim Fernando Sardoma P50,000.00 as civil indemnity. Exemplary damages in the amount of P25,000.00 should also be awarded to said heirs because of the presence of aggravating circumstances.[95]

While Fernando Sardoma's widow Virgilia testified that she incurred P30,000.00 in expenses for her late husband's two-week wake,[96] apart from the coffin, which cost P10,000.00, including the service,[97] such testimony was not supported by a single receipt. Accordingly, the award of P10,000.00 for the coffin and another P10,000.00 for the wake and funeral expenses by the RTC is deleted.[98] However, they may be awarded temperate damage of P25,000.00 from each guilty appellant[99]

The widow Virgilia also said she spent P9,500.00 for a private prosecutor, to whom she still owes another P1,500.00.[100] Again, this amount is not borne by any receipt or agreement in evidence. Nevertheless, the Court, in light of the award of exemplary damages, sustains the grant by the RTC of P9,000.00 as attorney's fees.[101]

WHEREFORE, appellants Juan Factao and Albert Francis Labroda are found GUILTY of the crime of Murder and are sentenced to suffer the penalty of reclusion perpetua. They are each ordered to pay the heirs of the victim Fernando Sardoma the amounts of P50,000.00 as civil indemnity, P25,000.00 as exemplary damages, P25,000.00 as temperate damages and P9,000.00 as attorney's fees.

For failure of the prosecution to establish his guilt beyond reasonable doubt, appellant Tirso Servidad is ACQUITTED. The Director of Prisons is ordered to cause his immediate release, unless he is being held for some other lawful cause, and to inform this Court of such action within five days from receipt of this Decision.

SO ORDERED.

Puno, (Chairman), Quisumbing, Austria-Martinez, and Callejo, Sr., JJ., concur.

[1] People v. Canlas, G.R. No. 141633, December 14, 2001, 372 SCRA 401.

[2] TSN, August 14, 1992, p. 3.

[3] TSN, August 13, 1992, p. 9.

[4] Id, at 8.

[5] Id., at 10.

[6] Ibid.

[7] TSN, August 13, 1992, pp. 10-11; TSN, August 14, 1992, p. 3.

[8] Id, at 11.

[9] Ibid.

[10] TSN, August 14, 1992, p. 11.

[11] TSN, August 13, 1992, p. 11.

[12] TSN, September 18, 1992, p. 6.

[13] Id. at 4.

[14] Ibid.

[15] TSN, September 18, 1992, p. 5.

[16] Ibid.

[17] TSN, August 21, 1992, p. 3.

[18] Id, at 10.

[19] Id, at 4.

[20] Id, at 12.

[21] Id, at 5-6.

[22] Id, at 6, 18.

[23] Ibid.

[24] TSN, August 21, 1992, p. 6.

[25] TSN, August 13, 1992, p. 11.

[26] Id., at 12.

[27] Ibid.

[28] TSN, August 13, 1992, p. 4.

- [29] Ibid.
- [30] Ibid.
- [31] Ibid.
- [32] Ibid.
- [33] TSN , August 13, 1992, pp. 4, 6.
- [34] Exhibit A.
- [35] Records, p. 1.
- [36] Id, at 90, 96.
- [37] TSN, December 28, 1992, p. 5; TSN, January 7, 1993, pp. 17-19.
- [38] Id, at 6.
- [39] Ibid.
- [40] TSN, January 7, 1993, pp. 3-5.
- [41] TSN, December 28, 1992, p. 6.
- [42] Id., at 7.
- [43] Id, at 10.
- [44] TSN, January 7, 1993, pp. 19, 22-23.
- [45] TSN, December 17, 1992, p. 3.
- [46] Id, at 4-5.
- [47] Id, at 5.
- [48] Ibid.
- [49] Id., at 15-16.
- [50] Id, at 16.
- [51] Id, at 17.
- [52] Ibid.
- [53] Ibid.
- [54] TSN, December 17, 1992, pp. 5-6.
- [55] Id, at 17-18.
- [56] Ibid.
- [57] Id, at 7.
- [58] Id., at 7-8.
- [59] Id, at 20.

- [60] TSN, December 11, 1992, p. 5.
- [61] Id, at 12.
- [62] TSN, January 7, 1993, p. 10.
- [63] Id., at 12.
- [64] Id, at 14.
- [65] Records, p. 214.
- [66] TSN, August 13, 1992, pp. 8, 10-11.
- [67] REVISED PENAL CODE, art. 8.
- [68] People v. Ricafranca, G.R. No. 124384-86, January 28, 2000, 323 SCRA 652 (2000).
- [69] TSN, August 13, 1992, p. 10.
- [70] TSN, September 18, 1992, p. 5.
- [71] TSN, August 13, 1992, p. 4.
- [72] People v. Guanson, G.R. No. 130966, December 13, 2001, 372 SCRA 222.
- [73] People v. Peleras, G.R. No. 140512, September 12, 2001, 365 SCRA 220.
- [74] TSN, December 28, 1992-pp. 4-5; TSN, January 7, 1993, p. 17.
- [75] TSN, December 28, 1992, p. 16; TSN, January 7, 1993, p. 22.
- [76] TSN, August 13, 1992, p. 8.
- [77] TSN, August 14, 1992, pp. 5-6.
- [78] TSN, September 18, 1992, pp. 9-10.
- [79] See Note 4, *supra*.
- [80] TSN, September 17, 1992, pp. 6-7.
- [81] Rollo, p. 86.
- [82] People v. Del Rosario, 365 Phil 292 (1999).
- [83] TSN, December 17, 1992, pp. 4-5.
- [84] TSN, December 11, 1992, p. 5.
- [85] People v. Bolivar, G.R. No. 130597, February 21, 2001, 352 SCRA 438.
- [86] People v. Sia, G.R. No. 137457, November 21, 2001, 370 SCRA 123; People v. Uganap, G.R. No. 130605, June 19, 2001, 358 SCRA 26; People v. Lucena, G.R. No. 137281, April 3, 2001, 356 SCRA 90.
- [87] Ibid; People v. Cantonjos, G.R. No. 136748, November 21, 2001, 370 SCRA 105; People v. Acojedo, G.R. No. 138661, November 19, 2001, 369 SCRA 376; People v. Cabote, G.R. Nos. 136143, November 15, 2001, 369 SCRA 65.
- [88] People v. Punsalan, G.R. No. 145475, November 22, 2001, 370 SCRA 379; People v. Julianda, G.R. No.

128886, November 23, 2001, 370 SCRA 448; *People v. Feliciano*, G.R. No. 127759-60, September 24, 2001, 365 SCRA 613.

[89] *People v. Coloma, et al.*, G.R. No. 116511, February 12, 1997; *People v. Artiaga*, G.R. No. 115689, June 30, 1997, 274 SCRA 685.

[90] REVISED PENAL CODE, art. 14.3.

[91] *Id.*, art. 248.

[92] *Id.*, art. 64.3.

[93] *People v. Carullo, et al.*, G.R. No. 82351, April 24, 1998, 289 SCRA 481.

[94] *People v. Navca*, G.R. No. 129217, August 25, 2000, 339 SCRA 76; *People v. Villamor*, G.R. Nos. 111313-14, January 16, 1998, 284 SCRA 184.

[95] *People v. Mangompit*, G.R. Nos. 139962-66, March 7, 2000, 353 SCRA 833; *People v. Galvez*, G.R. No. 136790, March 26, 2001, 355 SCRA 246.

[96] TSN, September 18, 1992, p. 14.

[97] *Ibid.*

[98] See *People v. Baltazar*, G.R. No. 129933, February 26, 2001, 352 SCRA 678.

[99] *People v. Delos Santos*, G.R. No. 135919, 9 May 2003.

[100] TSN, September 18, 1992, p. 15.

[101] NEW CIVIL CODE, art. 2208.1.

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