

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RODELIO BUGAYONG, ACCUSED-APPELLANT.

G.R. No. 126518. December 02, 1998

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

The Information charged appellant with statutory rape committed "before and until October 15, 1994 xxx several times." In the instant appeal, he asserts that this allegation regarding the date of the commission of the offense violated his constitutional right "to be informed of the nature and cause of the accusation against him."

The Case

This is the main question raised before the Court by the appellant who seeks the reversal of the May 29, 1996 Decision[1] of the Regional Trial Court of Baguio City, which convicted him of rape and acts of lasciviousness.

On January 5, 1995, First Assistant City Prosecutor Herminio C. Carbonell charged appellant with rape in an Information[2] which reads:

"The undersigned 1st Asst. City Prosecutor hereby accuses RODELIO BUGAYONG a.k.a. "BOY" of the crime of RAPE, at the instance, relation and written complaint of ARLENE CAUAN, a minor, 11 years of age. Copies of her statement are hereto attached and made an integral part of this INFORMATION, committed as follows:

"That sometime before and until October 15, 1994, in the City of Baguio, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, did then and there wilfully, unlawfully and feloniously, and by means of force or intimidation, have carnal knowledge of the said complainant, several times, against her will and consent."

When arraigned on July 10, 1995,[3] appellant, with the assistance of counsel, entered a plea of not guilty. After trial in due course, the court a quo rendered the assailed Decision, the dispositive portion of which we quote below:

"WHEREFORE, premises considered, the accused RODELIO BUGAYONG is hereby found GUILTY of the crime of Acts of Lasciviousness committed on October 15, 1994 and he is hereby sentenced to suffer an indeterminate penalty of six (6) months of arresto mayor as minimum to four (4) years and two (2) months of prision correccional as maximum, and of the crime of Rape he committed in 1993 for which he is sentenced to suffer the penalty of reclusion perpetua."[4]

Hence, this appeal filed directly before this Court.[5]

The Facts

Common Version of the Prosecution and the Defense

Adopted by the lower court and the prosecution, appellant's summation of the facts of the case is reproduced hereunder:[6]

"Alberto Cauan and Leticia Yu Cauan got married on May 14, 1978. Out of this marital union they begot three (3) children, namely: ALBERT, HONEYLET and ARLENE[,] the private complainant herein. The spouses Alberto and Leticia Cauan separated way back in 1983. Albert and Arlene stayed with their mother Leticia while Honeylet stayed with her grandmother Anita Yu at Slaughter Comp[o]und, Baguio City. Later, Alberto and Leticia started living together with another woman and another man respectively, [with whom each of them] raised another family xxx. Leticia cohabited with the accused RODELIO BUGAYONG and had one (1) child, a minor by the name of CATHERINE BUGAYONG. For his part, ALBERTO CAUAN lived in with another woman with whom he has six (6) children.

"In October 1994, Leticia, the accused RODELIO BUGAYONG, ALBERT and the then 11-year-old ARLENE (who was born on November 19, 1982) were residing at No. 13 MRR Queen of Peace, Baguio City. On October 15, 1994 accused RODELIO BUGAYONG had ARLENE hold his penis inside the room he share[d] with Leticia. At that time CATHERINE BUGAYONG who was six (6) years old was also inside the same room and her father, the accused was letting her sleep. Bugayong threatened to maim Arlene if she [did] not hold his penis. When the penis was already hard and stiff, he placed it inside the mouth of Arlene and a white substance came out from the penis. The young girl CATHERINE BUGAYONG saw this incident. Arlene testified that her stepfather had been doing the same act when she was still in Grade 3 and was nine years old. She also said that there were occasions when BUGAYONG played first with his penis then touched her vagina with his penis until a white substance [came] out [of] it and that was the time BUGAYONG would pull back his penis, or in the words of Arlene "idinidikit at pag may lumabas saka inilalayo." When asked to explain what she meant by "idinidikit", Arlene said that the penis of BUGAYONG partly entered [her] vagina and she got hurt.

"In any event, when LETICIA arrived home that day, CATHERINE reported to her that her father, RODELIO BUGAYONG, had Arlene hold his penis and put it inside the mouth of the former. Leticia called for RODELIO BUGAYONG and they talked. While the two (2) were talking, Alberto, the elder brother of Arlene, called for the latter and they went to the house of their grandmother ANITA YU at Slaughter Compound for fear that something [would] happen. Arlene reported the incident to her grandmother. Anita Yu told Arlene that she [would] not allow her to go to her mother and that she (YU) [would] file a case against Bugayong.

"In the morning of October 27, 1994, Arlene Cauan accompanied by her father Alberto Cauan and her aunt Marilyn Yu, Carmelita Yu and Rosie Yu went to the National Bureau of Investigation to file a complaint. They were advised by an NBI agent to go to the hospital to have Arlene examined by a Medico-legal Officer. Dr. HUMBELINA HARRIET M. LAZO examined Arlene and issued a certification stating therein her findings. The medical findings (EXH. "A") are hereunder quoted:

CERTIFICATION

TO WHOM THIS MAY CONCERN:

This is to certify that I have personally seen and examined ARLENE CAUAN, 11 years old, female, child, a Grade V pupil from Slaughter Compound, who was allegedly sexually assaulted, xxx by father Alberto Cauan.

NOI: Alleged Sexual Assault

POI: #13 Queen of Peace Road, Baguio City

TOI: 3:15 P.M.

DOI: 15 October 1994

G/S: Conscious, coherent, ambulatory, afebrile.

Skin: No abrasion, no hematoma.

C/L: Clear breath sounds.

Extremities: No edema.

Perineal Inspection:

Posterior fourchette - not well coaptated.

Labia majora - with erythema.

Labia minora - with erythema.

Hymen: open with old healed laceration at 5 o'clock and 8 o'clock position[s].

V[a]gina: Admit one finger with ease.

Laboratory Result:

Sperm Cell Identification: Negative for sperm cell.

Gram Stain: Smear shows moderate gram (+) cocci appearing singly and in pairs with rare (+) rods

Epithelial cells: few.

Pus cells: 5-8.

"The following day, October 28, 1994 they went back to the NBI office. Arlene gave her sworn statement (EXH. "C"). Alberto Cauan also gave his sworn statement (EXH "E").

"Pertinent portions of Arlene's statement given to the NBI read -

'4. Q. Of what nature [is the complaint you are] filing xxx against your stepfather?

A. The nature of my xxx complaint against my "TATAY" (RODELIO BUGAYONG) is [that] he raped me several times ever since I was nine years old and while I was in Grade 3.

7. Q. Were there other instances that your father sexually molested you?

A. I could no longer remember how many times and everytime he sexually molested me he would threaten to hurt me. There were even times that he would force me to put his penis into my mouth until something sticky would come out of his penis and inside my mouth. At times he would play with his penis and when that sticky liquid already c[a]me out [of] his penis, he would put his penis into my vagina and force it inside and he [would] put the sticky liquid inside my vagina. He did this when I was around 10 years old but lately he would only force me to lick and swallow his penis until the sticky liquid which comes out of his penis suddenly comes out."

Ruling of the Trial Court

The trial court held that the accused raped the victim in 1993, not in 1994. Notwithstanding the rather encompassing allegation in the Information that the crime was committed "before and until October 15, 1994," the trial court ruled that it could legally convict the accused for the crime committed in 1993. The primordial consideration in determining the sufficiency of the averment in the Information as to time is whether the accused was accorded the opportunity to prepare a defense. In this case, the trial court observed that he was not so deprived. Furthermore, it noted that the Information charged more than one offense, but that the accused failed to interpose an opposition.

The Issues

In his Brief, appellant raises the following issues:

"I

The lower court erred in convicting the accused-appellant [of] statutory rape that was proved to have been committed in 1993 under an information alleging that the offense was committed on or before October 15 of the year 1994.

"II

The lower court erred [i]n convicting the accused [of] statutory rape [on] an unspecified date in 1993."[7]

In fine, he poses the question of whether he may be convicted of rape committed in 1993, under the present Information, which accused him of committing the said crime "before and until October 15, 1994 xxx several times." In other words, the issue is whether appellant's conviction for the said act is warranted under the Information. In resolving this issue, the Court will determine whether the averment in the Information in respect to the time of the commission of the crime sufficiently apprised appellant of the "nature and cause of the accusation against him." [8]

The Court's Ruling

The appeal is devoid of merit.

Main Issue: Sufficiency of the Information

Appellant argues that he cannot be convicted of a crime committed in 1993 under the Information that accused him of rape "before or until October 15, 1994." He insists that the Information "refer[red] to dates shortly before and until October 15, 1994," but that the trial court "unnecessarily stretched the meaning of the phrase xxx to include any date before it." [9] Thus, appellant claims a violation of his constitutional right to be informed of the nature and cause of the accusation against him. He maintains that he was unable to prepare properly for his defense or to anticipate the evidence to be controverted. We disagree.

Precise Date Need Not Be Alleged in the Information

Although the Information alleged that the crime was committed "before and until October 15, 1994," the trial court did not err in convicting appellant of rape committed in 1993. It is doctrinal that the precise time of the commission of an offense need not be alleged in the complaint or information, unless time is an essential element of the crime charged. [10] Section 11, Rule 110 of the Rules of Court, buttresses this view:

"Section 11. Time of the commission of the offense. - It is not necessary to state in the complaint or information the precise time at which the offense was committed except when time is a material ingredient of the offense, but the act may be alleged to have been committed at any time as near to the actual date at which the offense was committed as the information or complaint will permit."

It bears emphasis that the date is not an essential element of rape, for the gravamen of the offense is carnal knowledge of a woman. [11] The time-tested rule is that "when the 'time' given in the complaint is not of the essence of the offense, it need not be proven as alleged and that the complaint will be sustained if the proof shows that the offense was committed at any time within the period of the statute of limitations and before the commencement of the action." [12]

Explaining that the specific date or time need not always appear in the complaint or information, the Court held:

"It is true that the complaint must allege a specific time and place when and where the offense was committed. The proof, however, need not correspond to this allegation, unless the time and place [are] material and of the essence of the offense as a necessary ingredient in its description. The evidence is admissible and sufficient if it shows that the crime was committed at any time within the period of the statute of limitations and before or after the time stated in the complaint or indictment and before the action is commenced." [13]

In *US v. Dichao*, [14] the Court also ruled that "the question [of] whether the allegations of the information are sufficiently definite as to time and the question which arises [from] a variance between the allegations and the proof are different in nature and legal effect, and are decided on different principles."

Applying the aforecited rule in *People v. Borromeo*, [15] the Court elucidated: "[A] difference of one (1) year or twelve (12) months [is] merely a matter of form and does not prejudice the rights of the accused. xxx. The phrase 'on or about' employed in the information does not require the prosecution to prove any precise date but may

prove any date which is not so remote as to surprise and prejudice the defendant."

Indeed, the determinative factor in the resolution of the question involving a variance between allegation and proof in respect of the date of the crime is the element of surprise on the part of the accused and his corollary inability to defend himself properly. The records of this case belie appellant's claim of surprise.

No Surprise on the Part of the Accused

The text of the Information filed in the court below clearly alleged that appellant committed rape "before or until October 15, 1994 xxx several times." If vagueness afflicted the aforementioned text of the Information, it was cured by the victim's Sworn Statement, which was expressly made an integral part of the Information. The victim categorically alleged that she had been raped by appellant in 1993 when she was in grade three, as the pertinent portions of the Sworn Statement indicate:

"04.

Q Of what nature [is the complaint you are] filing xxx against your stepfather?

A The nature of my filing a complaint against my "TATAY" is [that] he raped me several times ever since I was nine years old and while I was in Grade 3.

05.

Q Could your please narrate to me how this happened?

A Ever since I was [in] Grade 3, my stepfather always forced me to play with his penis and whenever I refused, he would threaten to hurt me by saying "KUNG HINDI KA PAPAYAG, LULUMPUHIN KITA", so I played with his penis until it was fully erect, then he [would] tell me to get out of their room.

06.

Q Was your mother ever around, when he forced you to play with his penis?

A No sir, he would always make it a point that my mother was out of the house when he molested me.

07.

Q [Were] there other instances that your father sexually molested you?

A I could no longer remember how many times sir, the only thing that I could remember is he did it to me many times and ever[y]time he sexually molested me he would threaten to hurt me. There were even times that he would force me to put his penis into my mouth until something sticky would come out of his penis and inside my mouth. At times he would play with his penis and when that sticky liquid [would] already come out [of] his penis, he would put his penis into my vagina, and force it inside and he [would] put the sticky liquid inside my vagina[;] he did this when I was around 10 years old but lately he would only force me to lick and swallow his penis until the sticky liquid which comes out of his penis suddenly comes out.

08.

Q Did he ever repeat the forcing of his penis into your vagina?

A Many times sir, he would always pin me down [o]n the bed and force his penis in[to] my vagina.

09.

Q When was the last time he molested you?

A The last time he sexually molested me was when my younger sister, CATHERINE BUGAYONG caught us.

10.

Q When was this?

A Last October 15, 1994 sir, my sister CATHERINE caught me while my stepfather was forcing me to swallow his penis and letting me play with it. My sister CATHERINE told my mother about the incident when she arrive[d], then my mother talked to me and asked me if it was true[;] at first I denied it because my "TATAY" might hurt me, but after a while I confessed to her so she talked to my stepfather and they had a fight. When my relatives learned of the incident, they fetched me at home and brought me to my grandmother's house at Slaughter House Compound." (Underscoring supplied.)

In effect, the Sworn Statement substantiated the averments in the Information. Hence, appellant was sufficiently apprised that the "several" instances of rape committed "before and until October 15, 1994," which were asserted in the body of the Information, included the sexual assault on the victim in 1993 as alleged in the said Statement.

Furthermore, appellant could not have been oblivious to the victim's Sworn Statement, for he requested and was given an opportunity to rebut the same in his Motion for Reinvestigation. Below, we repeat with approval the trial court's astute refutation of appellant's feigned ignorance:

"Besides, it can not be said that the accused was surprised and deprived of the chance to prepare for trial because of the allegations of several incidents of rape he committed "sometime before and until October 15, 1994." The records will show that before he was arraigned under the present information the accused moved for a reconsideration of the resolution of the City Prosecutor of Baguio finding probable cause against him and asked for a re-investigation of the case. The Court granted his motion and ordered the City Prosecutor to conduct a re-investigation of the case. The accused was given the chance to rebut the sworn statement of the private complainant Arlene Cauan contained in Exhibit "C". And in this sworn statement, Arlene narrated what happened not only on October 15, 1994; she also related other incidents occurring before the said date, more specifically the one that took place in 1993 when she was in Grade 3. The accused, therefore, was fully aware, or at least made aware, that he would be charged with rape committed several times before and until October 15, 1994." [16]

In arguing that "before and until October 15, 1994" could only mean "on October 15, 1994 or within a reasonable time before such date" [17] and not 1993, appellant asks rhetorically: "What if the prosecution proved that the rape was committed in 1985?" [18] The question, indeed, is academic. The Sworn Statement alleged and the appellant is here convicted of a rape committed in 1993, not 1985. There is basis to hold him liable for the rape committed in 1993, but none for a putative crime committed in 1985.

Waiver of the Right to Object to the Duplicious Information

It will be noted that appellant was charged with rape committed "before and until October 15, 1994 xxx several times." Said acts are alleged in only one Information which, as a general rule, is defective for charging more than one offense. [19]

Section 1, Rule 117 of the Rules of Court, states that the accused may move to quash the information "at any time before entering his plea." However, appellant failed, within the prescribed period, to file such motion on the ground of duplicity. He is thus deemed to have waived the defect in the Information. It is axiomatic that "when the accused fails, before arraignment, to move for the quashal of such information and goes to trial thereunder, he thereby waives the objection, and may be found guilty of as many offenses as those charged in the information and proved during the trial." [20]

To recapitulate, appellant cannot be said to have been deprived of his constitutional right to be informed of the

accusation against him. Despite the duplicitous nature of the Information, he did not object to such defect. Moreover, he was given the chance to defend himself in court and to cross-examine the complainant. There was no deprivation of due process here.

Sufficiency of Evidence

In his Brief, appellant did not challenge the sufficiency of the evidence proffered to show that he committed rape in 1993. Notwithstanding such failure, the Court rigorously examined the records and arrived upon the conclusion that his guilt had been established beyond reasonable doubt. The victim's clear, categorical and straightforward testimony indubitably demonstrated the culpability of appellant for the dastardly acts committed before and until October 15, 1994, viz.:

"Q.

Do you know Arlene, will you please tell the Court if in the month of October Rodelio Bugayong did something to you?

A.

Yes, sir.

Q.

What did he do to you?

A.

He had his penis held by me, sir.

Q.

Where did this happen?

A.

At Queen of Peace, sir.

Q.

In your house?

A.

Yes, sir.

Q.

Who were the persons there at the time when Bugayong told you to hold his penis, in your house at the time?

A.

I was with my younger stepsister.

PROS. DIZON:

Q.

How old is this younger sister?

A.

Six (6) years old.

Q.

In 1994, how old was she?

A.

Five (5).

Q.

So you mean to say younger stepsister, this stepsister is the daughter of Bugayong?

A.

Yes, sir.

Q.

I see! Now, what did you do when Bugayong told you to hold his penis?

A.

I just held it.

Q.

Why did you hold it?

A.

Because I was afraid of him.

Q.

Why, what did he say, if any, to make you afraid of him?

A.

He told me that 'lulumpuhin kita' (I will maim you).

Q.

In what place of the house did this incident happen?

A.

In their room with my mother.

Q.

Who were in the room at the time aside from you and Rodelio?

A.

My stepsister.

Q.

Your stepsister [was] inside the room at the time or she was outside the room?

A.

She was inside the room but my stepfather was letting her sleep.

Q.

Was she asleep at that time?

A.

Yes, sir.

Q.

Now, so did you hold the penis of Bugayong the accused?

A.

Yes, sir.

Q.

What else did he tell you to do, if any?

A.

He placed his penis in my mouth, sir.

Q.

Was the penis hard at that time or stiff?

A.

Yes, sir.

Q.

And what did he do when his penis was already inside your mouth?

A.

Whenever his penis [was] xxx placed inside my mouth I [would] go out to drink water because I [would feel] like vomitting, sir.

PROS. DIZON:

Q.

You say whenever[;] you mean to say that was not the only time he did that to you?

A.

No, sir.

Q.

How many times did he do that to you?

A.

When I was still in Grade 3.

Q.

And how young were you when you were in Grade 3?

ATTY. ESTRADA:

At this point in time, Your Honor, we now object to this line of questioning because this was never stated in the information.

PROS. DIZON:

This is preliminary, Your Honor.

ATTY. ESTRADA:

Because what is being elicited now is that incident when she was in Grade 3.

PROS. DIZON:

We have to consider the tender age of the accused.

COURT:

I will allow the prosecution to propound additional questions.

ATTY. ESTRADA:

We submit, Your Honor.

PROS. DIZON:

Q.

How old were you when you were in Grade 3?

A.

Nine (9) years old.

Q.

Now, why did you feel like vomitting whenever he did that thing to you?

A.

Because whenever he [put] his penis inside my mouth it seem[ed] like pus [was] coming out [of] his penis.

Q.

What [was] the color, if you know?

A.

White.

Q.

Now, aside from all those things, do you remember if in the month of October, the same month, 1994, he did anything else to you aside from what you have relayed before this Court?

A.

Sometimes he [put] his penis in my vagina and when something sticky ...

COURT:

Agree on the translation.

ATTY. ESTRADA:

We object to that translation.

INTERPRETER:

Whenever the penis of Rodelio Bugayong touche[d] my vagina something ...

ATTY. ESTRADA:

May we just have the word 'idinidikit' ...

COURT:

All right! The word 'dikit' will remain and [the] translation - touch.

INTERPRETER:

Whenever the penis of Rodelio touche[d] my vagina something white [would come] out and he [would take] his penis farther from me.

PROS. DIZON:

Before [d]oing that he [would] first [play] with his penis and then the moment ...

COURT:

You agree first on the translation.

PROS. DIZON:

There were occasions when he brought out his penis and touch[ed] xxx my vagina [with it] but before doing so he played with his penis until the sticky white substance xxx c[a]me out and that [was] the time he touched my vagina, the penis touched my vagina. I think that is the answer. I do not know if counsel is agreeable.

COURT:

Will you please read back the translation?

Stenographer reading back the answer, as follows:

There were occasions when he brought out his penis and touch[ed] xxx my vagina [with it] but before doing so he playe[d] with his penis first until the sticky white substance xxx c[a]me out and that [was] the time the penis touched my vagina.

COURT;

If I remember correctly the testimony of the victim in Tagalog was that 'idinidikit at pag may lumabas saka inilalayo'.

PROS. DIZON:

Okay, we submit.

INTERPRETER:

Rodelio Bugayong touche[d] my vagina with his penis until such time that a sticky substance [came] out and that [was] the time that he pull[ed] back.

COURT:

Official translation, Mrs. Lockey?

Stenographer reading back the translation, as follows:

Rodelio Bugayong touche[d] my vagina with his penis until such time that a sticky substance [came] out and that [was] the time that he pull[ed] back.

ATTY. ESTRADA;

I think the interpretation is not accurate.

PROS. DIZON:

May we just be allowed to ask the witness?

Q.

Aside from putting his penis in[to] your mouth, what other things did he do to you in the month of October and previous to that, if any?

COURT:

Defense counsel please assist the interpreter.

INTERPRETER:

The penis of Rodelio touche[d] my vagina and sometimes he ...

PROS. DIZON:

We really have to ask the assistance of ...

COURT:

Again!

INTERPRETER:

A.

Sometimes his penis touche[d] my vagina but before doing that he played first with his penis until a white substance [came] out of his penis and after that his penis touche[d] my vagina.

PROS. DIZON:

Q.

I see! How many times did he do that to you?

A.

Maybe five (5) times or ten (10) times, sir.

Q.

During th[o]se times he did that to you[,] were there people in the house?

A.

None, sir.

PROS. DIZON:

Q.

And in those five (5) or ten (10) times, where did this happen, where did he do that to you, in what place in the house?

A.

In our house, sir.

Q.

In what particular place in the house?

A.

In their room, sir.

Q.

The room of Bugayong and your mother?

A.

Yes, sir.

Q.

Why did you not object?

A.

Because I was afraid of what he told me that xxx 'lulumpuhin niya ako'.

Q.

Now, every time he did that thing to you, that is the touching of xxx your vagina [with his penis], what did you feel, if any? Do you not feel any pain?

A.

I got hurt, sir.

Q.

Now, you remember the last time he had his penis touch your vagina?

A.

I could not remember, sir.

Q.

Now, you said that his penis touched your vagina. You mean to say the penis [--] we will withdraw that in the

meantime. We will rephrase it rather.

Q.

You said that his penis touched your vagina. You said 'idinikit'. Will you please tell the Court what do you mean by 'idinikit' or touched your vagina?

A.

He had his penis partly enter my vagina that is why I got hurt, sir." [21]

The foregoing shows that appellant sexually assaulted complainant in 1993 when she was 10 years old. Thus, the trial court correctly convicted him of statutory rape under Article 335 (3) of the Revised Penal Code. Moreover, appellant is also guilty of acts of lasciviousness committed on October 15, 1995.

The trial court correctly awarded P50,000 as indemnity ex delicto, an amount which is automatically granted to the offended party without need of further evidence other than the fact of the commission of rape. [22]

Consistent with recent jurisprudence, appellant should also be ordered to pay the victim the additional amount of P50,000 as moral damages. In *People v. Prades*, [23] the Court resolved that "moral damages may additionally be awarded to the victim in the criminal proceeding, in such amount as the Court deems just, without the need for pleading or proof of the basis thereof as has heretofore been the practice."

Republic Act 7659, which amended the Revised Penal Code, prescribes, among others, the death penalty where the rape victim is under 18 years of age and the offender is the common-law spouse of her mother. The amendatory law, however, cannot be applied in this case, because there is no showing that the crime was committed after the effectivity of the said law.

WHEREFORE, the appeal is hereby DENIED and the assailed Decision is AFFIRMED, with the MODIFICATION that Appellant Rodelio Bugayong is ordered to pay Complainant Arlene Cauan P50,000 as indemnity and the additional amount of P50,000 as moral damages, or a total of P100,000. Costs against the appellant.

SO ORDERED.

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

[1] Penned by Judge Abraham B. Borreta.

[2] Records, p. 1.

[3] Ibid., p. 48.

[4] Decision, p. 15; rollo, p. 35.

[5] The case was deemed submitted for resolution on April 20, 1998, upon receipt by this Court of the Appellee's Brief. The filing of a reply brief was deemed waived, as none was submitted within the reglementary period.

[6] Appellant's Brief, pp. 4-7 (rollo, pp. 59-62); Appellee's Brief, pp. 3-8 (rollo, pp. 107-112); RTC Decision, pp. 2-5 (rollo, pp. 22-25). The Appellant's Brief was signed by Atty. Abelardo C. Estrada, while the Appellee's Brief was signed by Solicitor General Romeo C. de la Cruz, Assistant Solicitor General Mariano M. Martinez and Solicitor Edwin C. Yan.

[7] Appellant's Brief, p. 2; rollo, p. 57.

[8] Art. III, § 14 (2), Constitution of the Philippines.

[9] Appellant's Brief, p. 17; rollo, p. 72.

[10] *US v. Arcos*, 11 Phil. 555, November 4, 1908; citing *US v. Smith*, 3 Phil. 20, December 4, 1903; *People v. Opemia*, 98 SCRA 698, March 26, 1956.

[11] *People v. Hortillano*, 177 SCRA 729, September 19, 1989; *People v. Puedan*, 196 SCRA 388, April 26, 1991; *People v. Villegas Jr.*, 127 SCRA 195, January 30, 1984.

[12] *US v. Smith*, 3 Phil. 20, 22, December 4, 1903, per Johnson, J.; citing *State v. Miller*, 33 Miss., 356; *People v. Jackson*, 111 N.Y., 362, November 27, 1888; *Cook v. State*, 56 Am. Dec., 56, January 1852; *Herchenbach v. State*, 34 Texas, CR 122, February 9, 1895.

[13] *Ibid.*

[14] 27 Phil. 421, March 30, 1914, per Carson, J.

[15] 123 SCRA 253, June 29, 1983, per Makasiar, J.; citing *People v. Rivera*, 33 SCRA 746, June 30, 1970 ; and *US v. Ramos*, 23 Phil. 300, October 18, 1912.

[16] RTC Decision, p. 14; rollo, p. 34.

[17] Appellant's Brief, p. 17; rollo, p. 72.

[18] *Ibid.*

[19] Section 3(e), Rule 117 of the Rules of Court provides: "Motion to quash - Grounds - The defendant may move to quash the complaint or information on any of the following grounds: x x x (e) That more than one offense is charged except in those cases in which existing laws prescribe a single punishment for various offenses."

[20] *People v. Manalili*, GR No. 121671, August 14, 1998, per Panganiban, J.; *People v. Conte*, 247 SCRA 583, August 23, 1995; *People v. Dulay*, 217 SCRA 132, January 18, 1993; *People v. Basay*, 219 SCRA 404, March 3, 1993; *People v. Ducay*, 225 SCRA 1, August 2, 1993.

[21] TSN, August 7, 1995, pp. 23-28.

[22] *People v. Pili*, GR No. 124739, April 15, 1998; *People v. Balmoria*, GR No. 120620-21, March 20, 1998; *People v. Caballes*, GR No. 102723-24, June 19, 1997.

[23] GR No. 127569, July 30, 1998, p. 19, per curiam. See also *People v. Moreno*, GR No. 126921, August 28, 1998.

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