

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. CIC GILBERT PERALTA Y RINGOR, ACCUSED-APPELLANT.

G.R. No. 128116. January 24, 2001

Ponente: DE LEON, JR., J.

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DE LEON, JR., J.:

Before us on appeal is the Decision[1] of the Regional Trial Court of Quezon City, Branch 106, in Criminal Case No. Q-91-23687 convicting the appellant, Gilbert Peralta y Ringor, of the crime of murder.

Gilbert Peralta was charged with the crime of murder as defined and penalized under Article 248 of the Revised Penal Code, in an Information that reads:

That on or about the 3[rd] day of July, 1991, in Quezon City, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with intent to kill, qualified by evident premeditation and treachery, taking advantage of superior strength, did then and there wilfully, unlawfully and feloniously, attack, assault and employ personal violence upon the person of one LOUISE RIMANDO Y MEDINA, by then and there, shooting him with a gun, hitting him twice in the body, thereby inflicting upon him serious and mortal wounds which was the direct and immediate cause of his untimely death, to the damage and prejudice of the heirs of the said offended part (sic) in such amount as may be awarded under the provisions of the Civil Code.

Upon being arraigned, appellant Gilbert R. Peralta pleaded "Not Guilty", and the trial ensued.

The evidence of the prosecution shows that prosecution witnesses Crizaldo Esguerra, Delfin Soriano, and Danilo Gaa were schoolmates of the victim, Louise Rimando, at The Technological Institute of the Philippines and fraternity brothers in Tau Gamma Fraternity. After watching a basketball game in Pasig City in the evening of July 2, 1991, Louise Rimando together with Crizaldo Esguerra, Delfin Soriano and Danilo Gaa, proceeded to Quezon City "to pick up" prostitutes. When they reached the Aberdeen Court Hotel along Quezon Avenue in Quezon City, Rimando alighted from their owner type jeep that was being driven by Esguerra and talked to a gay pimp named Roberto Reyes. Rimando introduced himself as an agent of the National Bureau of Investigation apparently to avail of a discount for the services of the prostitutes. Reyes agreed to introduce certain young girls to Rimando and proposed to pick them up in front of the Aberdeen Court Hotel. When the jeep reached the hotel, Reyes together with two (2) of the girls and another gay named Sandro Lim suddenly boarded the jeep. Reyes told Rimando, "Mamang NBI, tulungan ninyo kami. Andiyan iyong CAPCOM na nanghihingi sa amin ng pera." Upon Rimando's instructions, the jeep sped away with eight (8) persons on board.[2]

While driving along Quezon Avenue in Quezon City, one of the pimps noticed that they were being followed by appellant in a taxi cab. Rimando instructed Esguerra to park the jeep in front of Dunkin Donuts at the corner of Quezon and West Avenues in Quezon City. Rimando ordered the two gays to alight from the jeep. Meanwhile, the taxi parked behind the jeep. One of the ladies also got off the jeep for fear of being arrested. The appellant who was holding a .38 caliber firearm alighted and approached Rimando who was then seated beside the driver's

seat. Appellant inquired if they were policemen, but Rimando replied in the negative. Rimando stated that he was an agent of the National Bureau of Investigation and showed the appellant his N.B.I. Identification Card. The appellant said, "N.B.I. ka pala" and suddenly grabbed Rimando's identification card before he shot Rimando twice in the body. Appellant went back to his taxi and left. The three (3) eyewitnesses had a clear view of appellant's face inasmuch as there was a lamppost that illuminated the area.[3]

On cross and re-direct examination, prosecution witness Crizaldo Esguerra testified that Rimando and the appellant had an argument that lasted for two (2) to three (3) minutes before the appellant shot Rimando.[4]

Rimando was brought to the United Doctors Medical Center but was later transferred to Santo Tomas University Hospital in Manila. On July 7, 1991, he was pronounced dead.[5] Dr. Sergio Alteza, Jr., the medico legal officer of the Santo Tomas University Hospital, conducted the autopsy on the body of the deceased, Rimando. His findings showed that:

GENERAL PHYSICAL EXAMINATION:

Conscious (sic), Stretcher - Borne

INJURIES :

- GSW of entry, 2 x 2 cm., abdomen Rt. Anterior lumbar area.
- GSW of entry, 1 x 1.5 cm., Rt. Posterior lumbar area.
- GSW of exit, left antero-lateral iliac area.
- Multiple perforating GSW (6) involving the jejunum and 2 perforations of sigmoid colon.
- Hemoperitonium

CONCLUSION:

Patient pronounced dead July 7, 1991.[6]

According to Dr. Alteza, the first gunshot wound was fatal inasmuch as it hit the intestines and other vital organs of the victim. On the basis of the location of the gunshot wounds, he declared that the assailant must have been at the right lateral side of the victim at the time of the shooting incident. He did not find any injuries on the hands of the victim.

For the defense, appellant testified that he was a member of the Central District Field Force, Intelligence Investigation Unit of the Central Police District. On July 2, 1991, pursuant to a mission order[7], the appellant was dispatched to Quezon Avenue near Aberdeen Court Hotel in Quezon City concerning rampant prostitution in the area. He was in a civilian attire and was carrying an authorized .38 caliber gun.[8]

While conducting police surveillance on board a taxi, at about 1:00 o' clock in the morning of July 3, 1991, he spotted three (3) young girls sitting in front of the Aberdeen Court Hotel along Quezon Avenue in Quezon City. Suspecting them to be prostitutes, he instructed the taxi driver to stop in front of the hotel. When a pimp named Roberto Reyes approached him and said, "Mama, gusto mong chicks?", he identified himself as a police officer. Reyes then shouted to warn the girls that the appellant was a police officer. Reyes together with two (2) of the girls and another gay boarded an owner-type jeep. Appellant went back to the taxi and followed the jeep to effect an arrest. When the jeep stopped, he alighted from the taxi and approached its passengers. After identifying himself as a police officer, Rimando arrogantly introduced himself by saying "E, ano kung pulis ka, NBI naman ako." [9] Appellant showed his identification card to Rimando but the latter asked him what he wanted from them.

Appellant replied, "Pare, wala naman iyon," and informed Rimando that the girls inside the jeep were subject to arrest. The hot-tempered Rimando insisted that the ladies were the girlfriends of his companions.[10] Their heated discussion lasted for about two (2) to three (3) minutes.[11] The girls jumped off the jeep after hearing that the appellant was going to arrest them. Appellant tried to pursue them but Rimando grabbed appellant's right forearm and held appellant's .38 caliber gun. However, the appellant maintained his hold of the gun with both of his hands. As the companions of Rimando were already approaching, appellant accidentally pressed the trigger twice.[12] After the gun went off, appellant took cover behind a concrete post. After the jeep had left toward the south, appellant proceeded to his headquarters and reported the incident to the Officer-in-Charge of the Intelligence Investigation Unit, Dante Yan.[13]

The next day, Police Officer Dante Yan formed a team to conduct follow-up operations regarding the incident; however, the team was not able to find out the identity of the victim. Police Officer Yan prepared a spot report to inform their commanding officer, Police Chief Senior Inspector Absalon Salboro, of the accidental firing of the appellant's firearm.[14] It was only on August 23, 1991, or about one and a half months after the shooting incident, that the appellant was identified as the assailant of the deceased victim, Rimando.[15]

In his eleven (11) years in the police service, this was the first time that appellant was charged with a criminal offense.[16]

To corroborate the appellant's testimony, Roberto Reyes testified that in the early morning of July 3, 1991, Rimando approached him looking for "pick-up" girls. To avail of a discount, he introduced himself as an agent of the National Bureau of Investigation. They agreed that the girls would be picked up in front of the Aberdeen Court Hotel located along Quezon Avenue in Quezon City. Before the jeep arrived at their rendezvous, the appellant's taxi arrived. Reyes approached the taxi and offered the services of a pick-up girl to the appellant. But the appellant threatened to arrest Reyes. This prompted Reyes to warn his companions of the presence of a police officer. Reyes, together with two (2) girls and a certain Sandro Lim boarded the victim's jeep which immediately sped away. The taxi followed the jeep up to an outlet of the Dunkin Donuts located along West Avenue in Quezon City where they parked. Reyes claimed that the appellant drove the taxi by himself. Reyes and Lim hid near a parked car after alighting from the jeep. Appellant approached Rimando who stood up and confronted the appellant face to face. Rimando and the appellant had a heated argument. Rimando even pushed the appellant. As Rimando tried to get something from his back pocket, the appellant pulled out his hand gun and poked it at the former. When Rimando was not able to get his weapon from his waist, he grabbed the appellant's firearm. While the appellant and Rimando struggled for the possession of the gun, Reyes heard two (2) gunshots. Thereafter, Reyes and Lim left the premises by boarding a taxi.[17]

After weighing the evidence, the trial court on November 21, 1996 rendered a Decision finding the appellant guilty beyond reasonable doubt of the crime of murder. The dispositive portion of the decision reads:

WHEREFORE, in view of all the foregoing considerations, judgment is hereby rendered finding accused GILBERT PERALTA Y RINGOR GUILTY beyond reasonable doubt of the crime of MURDER, defined and penalized under the provisions of Article 248 of the Revised Penal Code and conformably thereto, and as its commission was prior to the effectivity of the Death Sentence Law, he is hereby sentenced to suffer the penalty of imprisonment of RECLUSION PERPETUA; and to indemnify the heirs of the deceased victim the sum of P50,000.00, plus P57,000.00, actual damages and P35,000.00, as moral damages and P35,000.00 as exemplary damages and to pay the costs.

It appearing that the accused is a detention prisoner, he may be entitled to be credited of his preventive imprisonment in the service of his sentence provided therein, pursuant to existing laws.

SO ORDERED.[18]

In his appeal, the appellant raised the following assignment of errors:

I

The Court a quo erred in finding that accused-appellant CIC Gilbert Peralta who was engaged in the performance of his official duty, did not act in self-defense in shooting and killing victim Louise Rimando.

II

The Court a quo erred in finding that treachery attended the shooting of victim.

III

The Court a quo erred in disregarding the testimony of Roberto Reyes who was with the group of victim at the time of the shooting.

IV

The Court a quo erred in ordering accused-appellant to pay the heirs of victim the amount of P50,000.00 death indemnity; P57,000.00 actual damages; P35,000.00 moral damages; and P35,000.00 exemplary damages.[19]

That appellant killed the victim is not disputed. However, the appellant invokes the justifying circumstance of self-defense. Consequently, the burden of proof is shifted from the prosecution to the defense and it is the duty of the latter to establish self-defense by clear and convincing evidence. The defense must rely on the strength of its own evidence and not on the weakness of the prosecution, for even if that were weak it cannot be disbelieved after the appellant himself has admitted killing the victim.[20]

The three (3) elements of self-defense are provided under Article 11 of the Revised Penal Code which states that:

Art. 11. Justifying Circumstances. - The following do not incur any criminal liability:

- Anyone who acts in defense of his person or rights, provided that the following circumstances concur:

First. Unlawful aggression;

Second. Reasonable necessity of the means employed to prevent or repel it;

Third. Lack of sufficient provocation on the part of the person defending himself.

x x x

There is unlawful aggression when the peril to one's life, limb or right is either actual or imminent. There must be actual physical force or actual use of a weapon.[21] It is a statutory and doctrinal requirement that for the justifying circumstance of self-defense, the presence of unlawful aggression is a condition sine qua non. There can be no self-defense, complete or incomplete, unless the victim has committed an unlawful aggression against the person defending himself.[22]

In the case at bar, the appellant's claim that his forearm was held by the victim and even attempted to grab his gun cannot be believed. There were no signs of injuries on the hands of the victim. It was sufficiently proven by the prosecution that appellant shot the victim while the latter was still seated beside the driver's seat inside the jeep. The medical findings of Dr. Sergio Alteza, Jr., medico legal officer of the UST Hospital, showed that the point of entry of one of the bullets was at the right upper quadrant of the abdomen while the point of exit was at the lower left portion of the abdomen. This indicates that the trajectory of the bullet was downwards which reinforces the prosecution's version that the victim was shot while he was seated inside the jeep. Moreover, the finding of the said medico legal officer that the two (2) gunshot wounds were located at the right portion of the victim's body bolsters the claim that the right portion of the victim's body was the part vulnerable to attack inasmuch as he was

seated at the right front seat of the jeep. The testimony of Roberto Reyes that the victim alighted from their jeep and stood up prior to the shooting incident cannot be given credence for the reason that it runs counter to the medical findings of Dr. Alteza who is a disinterested and credible witness. There being no unlawful aggression on the part of the victim, the claim of self-defense by the appellant is not credible.

The plea of self-defense is also belied by the failure of the appellant to immediately report to his superior officer on the night of the incident that he shot somebody with his service firearm in self-defense. In fact, the appellant testified in court that he did not know he hit anyone after he allegedly fired his gun accidentally. Aside from being inconsistent with his plea of self-defense, this feigned ignorance of the appellant is not persuasive. Firstly, it was impossible for the appellant to have overlooked the reaction of the victim who was just beside him during the shooting incident inasmuch as the area was illuminated by a lamppost. Secondly, there was no scuffle. Thirdly, the act of twice firing his service firearm suggests that appellant was acting deliberately when he pulled the trigger for the second time as he had full control of the handle and the trigger of the gun.

On the other hand, this Court finds the testimonies of prosecution witnesses Crizaldo Esguerra, Delfin Soriano, and Danilo Gaa to be credible. From their eyewitness accounts, it appears that appellant who was holding a handgun, approached them after they parked their jeep near Dunkin Donuts at the corner of Quezon and West Avenues in Quezon City. A heated argument ensued between the appellant and the victim. Thereafter, the appellant shot the victim twice while the latter remained seated beside the driver's seat of the jeep.

Nevertheless, we cannot agree with the trial court's finding that the act of shooting happened suddenly and immediately after the victim introduced himself as a National Bureau of Investigation agent to the appellant. The trial court's reliance on the affidavits of the prosecution's three (3) eyewitnesses overlooked the testimony of prosecution witness Crizaldo Esguerra that there was an interval of two (2) to three (3) minutes before the two (2) shots were fired by the appellant. During that period of time, the appellant tried to arrest the two (2) women on board the jeep whom he suspected to be prostitutes but the victim intervened by maintaining that the women were girlfriends of his companions. The victim's adamant refusal to surrender the suspected prostitutes who later jumped off the jeep must have earned the ire of the appellant thereby causing him to shoot the victim.

The shooting incident was a result of the heated argument between the victim and the appellant. Hence, the qualifying circumstance of treachery may not be appreciated. The essence of treachery is the sudden and unexpected attack by an aggressor on an unsuspecting victim, depriving the latter of any real chance to defend himself, thereby ensuring its commission without risk to the aggressor and without the slightest provocation on the part of the victim.[23] The elements of treachery are: (1) the means of execution employed gives the person no opportunity to defend himself or retaliate; and (2) the means of execution were deliberately or consciously adopted.[24] It does not follow that a sudden and unexpected attack is tainted with treachery for it could have been that the same was done on impulse, as a reaction to an actual or imagined provocation offered by the victim.[25] Provocation of the appellant by the victim negates the presence of treachery even if the attack may have been sudden and unexpected.[26] The suddenness of the attack does not, of itself, suffice to support a finding of alevosia, even if the purpose was to kill, so long as the decision was made all of a sudden and the victim's helpless position was accidental. The qualifying circumstance of treachery may not be simply deduced from presumption as it is necessary that the existence of this qualifying or aggravating circumstance should be proven as fully as the crime itself in order to aggravate the liability or penalty of the culprit.[27]

In the case at bar, the victim provoked the appellant when the former engaged the latter in a heated argument. It was not shown that appellant deliberately or consciously thought of shooting the victim prior to their confrontation. The protagonists did not meet previously until they confronted each other at the corner of West Avenue and Quezon Avenue in Quezon City. According to the three (3) prosecution witnesses, they saw appellant

holding his firearm as he approached the jeep. The victim was not therefore unaware of the danger of being shot for the reason that appellant was already brandishing his weapon while he was approaching the jeep.

This Court also rules out the presence of evident premeditation. For the qualifying circumstance of evident premeditation to be appreciated, the following requisites should be proved: (1) the time when the offender determined to commit the crime, (2) an overt act manifestly indicating that the culprit has clung to his determination, and (3) a sufficient lapse of time between the determination and execution, to allow him to reflect upon the consequences of his act.[28] In the case at bar, there was no proof of the time when appellant allegedly determined to commit the crime against the victim. The appellant did not even know the victim and vice versa prior to their confrontation at the place of the shooting incident. The Solicitor General correctly pointed out that appellant's act of tailing the victim's group is not an overt act that reflects appellant's determination to kill Rimando. Appellant followed the jeep in order to effect an arrest of women whom he suspected to be prostitutes.

Appellant attempts to impeach the credibility of prosecution witnesses Crizaldo Esguerra, Delfin Soriano and Danilo Gaa for the reason that they were biased witnesses. Appellant pointed out that Esguerra testified that as a fraternity brother he would do anything and everything for the victim.[29] A witness may be said to be biased when his relation to the cause or to the parties is such that he has an incentive to exaggerate or give false color or pervert the truth, or to state what is false.[30] To impeach a biased witness, the counsel must lay the proper foundation of the bias by asking the witness the facts constituting the bias. In the case at bar, there was no proper impeachment by bias of the three (3) prosecution witnesses. Esguerra's testimony that he would do anything for his fellow brothers was too broad and general so as to constitute a motive to lie before the trial court. Counsel for the defense failed to propound questions regarding the tenets of the fraternity that espouse absolute fealty of the members to each other. The question was phrased so as to ask only for Esguerra's personal conviction. And even if Esguerra's credibility were impeached, it does not follow that the testimonies of Soriano and Gaa should also be undermined as they were not asked the same question on cross examination.

Appellant claims that he shot the victim while he was in the performance of his police duties. Article 11 of the Revised Penal Code provides that a person who acts in the fulfillment of a duty does not incur any criminal liability. Two (2) requisites must concur before this defense can prosper: (1) the accused must have acted in the performance of a duty or in the lawful exercise of a right or office, (2) the injury caused or the offense committed should be the necessary consequence of the due performance of duty.[31] We find the requisites absent in the case at bar. Appellant was not in the performance of his duties at the time of the shooting for the reason that the girls he was attempting to arrest were not committing any act of prostitution in his presence. If at all, the only person he was authorized to arrest during that time was Roberto Reyes, who offered him the services of a prostitute, for acts of vagrancy. Even then, the fatal injuries that the appellant caused the victim were not a necessary consequence of appellant's performance of his duty as a police officer. The record shows that appellant shot the victim not once but twice after a heated confrontation ensued between them. His duty to arrest the female suspects did not include any right to shoot the victim to death.

Appellant faults the trial court for disregarding the testimony of Roberto Reyes. The matter of appreciating the credibility of this witness was best left to trial Judge Tabiolo who was the presiding judge of the Regional Trial Court of Quezon City, Branch 106, when Roberto Reyes took the witness stand, and, hence, the said trial judge was able to observe his demeanor.[32] As pointed out by the Solicitor General, the issues as to who of the witnesses and whose testimonies are to be believed are best addressed by the trial judge who had the unique opportunity to observe the witnesses firsthand and to note their demeanor, conduct and attitude on the witness stand.[33] In fact, the testimony of Reyes is full of material inconsistencies that militate against his credibility. First, he testified that prior to the shooting incident he was already arrested by the appellant. However, despite

knowing the appellant was a police officer, Reyes still offered to him the services of a prostitute.[34] Second, he told the trial court that appellant drove the taxi that followed the jeep, but appellant testified that he had a driver with him while tailing the jeep.[35] Third, he claimed that the taxi was parked in front of the jeep but appellant testified that the taxi was parked behind the jeep.[36] Lastly, Reyes testified that he heard gunshots and yet he did not see anyone get hit as a result thereof. It was unbelievable for Reyes not to have seen the victim hit by the gunshots inasmuch as he testified having seen the appellant while in the act of shooting the victim in that illuminated place.[37]

As there is reasonable doubt on the alleged attendance of treachery and evident premeditation in the case at bar, the crime committed by the appellant was only homicide. Article 249 of the Revised Penal Code provides that:

Art. 249. Homicide. Any person who, not falling within the provisions of Article 246, shall kill another without the attendance of any other circumstances enumerated in the next preceding article, shall be deemed guilty of homicide and be punished by reclusion temporal.

With respect to appellant's civil liabilities, Zenaida Obias Rimando, mother of the victim, testified that his son was a 3rd year mechanical engineering student at the Technological Institute of the Philippines and a civilian agent of the National Bureau of Investigation, that at the time of his death, he had an approved application for work in Kuwait, through a recruitment agency called EEI, where he was about to earn One Thousand Two Hundred Dollars (\$1,200.00) per month were it not for his untimely death. She incurred hospitalization expenses in the amount of Sixteen Thousand Pesos (P16,000.00) and engaged the services of a funeral parlor which cost her Eighteen Thousand Five Hundred Pesos (P18,500.00).[38] She also had to buy a funeral lot worth Eight Thousand Pesos (P8,000.00) and spent Four Hundred Pesos (P400.00) [39] for the funeral mass. She felt terrible when she lost her only son who was the eldest among the siblings.[40]

The Court notes that the funeral expenses in the total amount of Twenty Six Thousand Nine Hundred Pesos (P26,900.00) are properly supported by official receipts. However, we cannot consider the alleged hospitalization expenses inasmuch as the same were not evidenced by any receipt. Likewise, we cannot award alleged loss of earning capacity of the victim inasmuch as the documents showing that he was allegedly bound to work in Kuwait were not presented in evidence. We affirm the trial court's award of Fifty Thousand Pesos (P50,000.00) as civil indemnity ex delicto, and Fifty Thousand Pesos (P50,000.00) as moral damages. However, the award of exemplary damages is deleted for the reason that the crime was not committed with one or more aggravating circumstances.

In the case at bar, there was neither mitigating nor aggravating circumstance.

WHEREFORE, the appealed decision of the Regional Trial Court of Quezon City, Branch 106 is hereby MODIFIED in that the appellant is GUILTY only, beyond reasonable doubt, of the crime of HOMICIDE as defined under Article 249 of the Revised Penal Code; and the sentence imposed on the appellant is hereby reduced to an indeterminate sentence of imprisonment for a period of six (6) years and one (1) day of prison mayor, as minimum, to fourteen (14) years, eight (8) months and one (1) day of reclusion temporal, as maximum, with accessory penalties provided by law; and the appellant is also ordered to pay the heirs of the deceased victim, Louise Rimando, the sum of P26,900.00 as actual damages, P50,000.00 as civil indemnity ex delicto, and P50,000.00 as moral damages.

Inasmuch as the appellant is a detention prisoner, the period of his preventive imprisonment shall be credited to the service of his sentence.

SO ORDERED.

Bellosillo, (Chairman), Mendoza, Quisumbing, and Buena, JJ., concur.

[1] Penned by Judge Julieta P. Tabiolo. Rollo, pp. 444-452.

[2] TSN, dated October 23, 1991, pp. 1-25; Exhibits "A", "A-1", "A-2", "C", "C-1", "C-2", "E", "E-1", "E-2".

[3] Id.

[4] TSN, dated October 2, 1992, pp. 1-18.

[5] Exhibit "G".

[6] Exhibit "I".

[7] Exhibit "F".

[8] TSN, dated March 3, 1994, pp. 1-6.

[9] TSN, dated July 7, 1994, p. 17.

[10] TSN, dated March 3, 1994, pp. 1-16.

[11] Id., p. 52.

[12] Id., pp. 57-59.

[13] Id., pp. 17-25.

[14] Exhibit "1".

[15] TSN, dated March 3, 1994, pp. 25-26.

[16] Id., p. 60.

[17] TSN, dated May 16, 1996, pp. 3-10.

[18] Decision, p. 9; Rollo, p. 452.

[19] Appellant's Brief, pp. 1-2; Rollo, pp. 53-54.

[20] *People v. Silang Cruz*, 53 Phil 635, (1929); *People v. Ansoyon*, 75 Phil 772, (1946); *People v. Clemente*, 21 SCRA 261, (1967); *People v. Talaboc, Jr.* 30 SCRA 87 (1969); *People v. Montejo*, 167 SCRA 506 (1988); *People v. Corecor* 159 SCRA 84, 87 (1988).

[21] *People v. Crisostomo*, 108 SCRA 288, 298 (1981).

[22] *People v. Sazon*, 189 SCRA 700, 704 (1990); *People v. Bayocot*, 174 SCRA 285, 291 (1989).

[23] *People v. Macucha*, 310 SCRA 14, 23-24 (1999).

[24] *People v. Atrejenio*, 310 SCRA 229, 244 (1999).

[25] *People v. Sabanal*, 172 SCRA 430, 434 (1989); *People v. Macaso*, 64 SCRA 659 (1975); *People v. Ardiza*, 55 SCRA 245 (1974).

[26] *People v. Sabanal*, 172 SCRA 430, 434 (1989).

[27] *People v. Aninon*, 158 SCRA 701 (1988).

[28] *People v. Lagarto*, 196 SCRA 611, 619-620 (1991); *People v. Clamor*, 198 SCRA 642, 655 (1991); *People v. Barelano*, 319 SCRA 567, 589 (1999).

[29] TSN, dated October 2, 1992, p. 16.

[30] *People v. Watin*, 67 OG 5901.

[31] *People v. Oanis*, 74 Phil 257, 259 (1943); *People v. Pajenado*, 69 SCRA 172, 177 (1976).

[32] Judge Jose M. Aguila presided over the hearing of the testimonies of prosecution witnesses Crizaldo Esguerra, Delfin Soriano, Danilo Gaa, and Zenaida Obias Rimando. Judge Julieta P. Tabiolo presided over the hearing of the testimonies of prosecution witness Dr. Sergio Alteza, Jr., and defense witnesses Gilbert Peralta, Dante Yan, and Roberto Reyes.

[33] *People v. Pinca*, 318 SCRA 270, 279 (1999).

[34] TSN, dated May 16, 1996, p. 14.

[35] *Id.*, p. 7.

[36] *Id.*, p. 15.

[37] *Id.*, pp. 17-18.

[38] Exhibit "J-4".

[39] Exhibit "J-1".

[40] TSN, dated May 29, 1992, pp. 2-11.

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