

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. FAUSTINO MORANO, EDGAR “TATA” MOLETA, JULIAN MONDANO, AND SANDY MORANO, ACCUSED. FAUSTINO MORANO, ACCUSED-APPELLANT.

G.R. No. 129235. November 18, 2002

Ponente: DAVIDE, JR., C.J.

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DAVIDE, JR., C.J.:

Accused-Appellant Faustino Morano (MORANO) challenges the decision[1] of 15 August 1996 of the Regional Trial Court of Surigao City, Branch 30, which convicted him and his co-accused Edgar “Tata” Moleta of the crime of murder and sentenced each of them to suffer the penalty of reclusion perpetua and to jointly and severally pay the heirs of the victim Cosme “Baby” Nalam (NALAM) the amounts of P50,000 as indemnification for the latter’s death; P10,000 for equitable and reasonable reimbursement of hospital, burial and necessary expenses; and P10,000 as moral and exemplary damages.

Together with Sandy Morano, Edgar “Tata” Moleta, and Julian Mondano, MORANO was charged with murder in an Amended Information which reads as follows:

That on or about January 16, 1994, at Magsaysay, Mainit, Surigao del Norte, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, conniving, confederating and mutually helping one another with full freedom, intelligence and deliberate criminal intent to kill, did then and there willfully, unlawfully, criminally and feloniously attack, assault and throw stones at Cosme Nalam, thereby inflicting upon the latter the following injuries, to wit:

- Lacerated wound tagus (L) ear
- Contusion hematoma (R) fronto parietal
- Abrasion ® asis
- T/C cerebral concussion
- Intracranial hemorrhage

for which injuries Cosme Nalam was immediately brought to the Surigao Provincial Hospital but on January 20, 1994, said victim died due to cardio respiratory arrest, secondary to cerebral hemorrhage, to the damage and prejudice of his heirs by way of actual, compensatory, moral and exemplary damages, the total of which shall be established in court during the trial.

Contrary to Art. 248, Revised Penal Code with the qualifying circumstance of superior strength.[2]

The case was docketed in the court below as Criminal Case No. 4300. Upon arraignment, each of the accused entered a plea of not guilty. Trial thereafter ensued. The prosecution presented four witnesses: Manuel Roxas, Generio Andit, Rustico Peril, and Dr. Audie M. Reliquette.

Manuel Roxas, 31 years old and a resident of Barangay Magsaysay, Mainit, Surigao del Norte, testified that at about 7:30 P.M. of 16 January 1994, while he was walking towards his home with his wife and children, they met a group of persons. Among these persons were accused MORANO and Julian Mondano. MORANO and his companions asked Roxas where Rustico Peril was. Roxas told them that Rustico was at the crossing of Sanghan, Magsaysay. At this instance, Roxas saw another group of persons, among whom were accused Edgar “Tata” Moleta and MORANO’s son, accused Sandy Morano. When the second group joined the first group, he heard Sandy tell his father MORANO “Tay, here is Baby Nalam.” Suddenly, there was a commotion. While he was being dragged or pulled away by his wife towards the side street where the house of the Barangay Captain was situated, Roxas saw MORANO throw stones at victim NALAM and one Generio Andit. As it was quite dark, Roxas did not see Julian Mondano, Edgar Moleta and Sandy Morano throw stones at anybody.[3]

Generio Andit, 49 years old and a resident of Mabini, Mainit, Surigao del Norte, recalled that on the night in question, while he was walking along the national highway near the house of the Barangay Captain on his way to the house of his younger brother, he noticed some persons stoning somebody. When he beamed his flashlight on their faces he recognized accused MORANO, Edgar Moleta, Julian Mondano, and Sandy Morano as the ones who threw stones at NALAM. After having been hit on the back of his head, the left ear, and the back of his shoulder, NALAM fell down the road near the house of one Behagan. Andit was likewise hit on the chest by a stone thrown by Moleta. When Andit asked the attackers why they were stoning him and what his fault was, the attackers simply disappeared.[4]

Rustico Peril, a 44-year-old farmer and a resident of Barangay Magsaysay, Mainit, Surigao del Norte, testified that at around 7:30 P.M. of 16 January 1994 he was in the house of Henry Behagan, having a drinking session with the latter. Suddenly there was a commotion outside the house. He saw NALAM already lying down by the side of the road just in front of Behagan’s house. At a distance of about three meters from NALAM were MORANO, who was holding a wooden stick, and Julian Mondano, who was pointing his M-14 weapon at NALAM. He immediately admonished the duo by saying “That’s enough because the person might be killed.” MORANO and Julian forthwith walked away. Peril claimed that there were about ten to twenty other persons in the vicinity at the time he witnessed the incident, but he could not recognize them because it was dark.[5]

Dr. Audie M. Reliquette, a resident physician of the Provincial Hospital of Surigao City, declared that at around 10:15 P.M. of 16 January 1994 he examined the victim NALAM, who was then unconscious. He entered his findings in his Medical Certificate.[6] NALAM sustained the following injuries: (1) a “lacerated wound tagus,” about 1.5 cm. long on the left ear, which could have been caused by a blunt instrument; (2) a contusion hematoma at the right portion of the forehead, which could have been also caused by a blunt instrument; and (3) a superficial abrasion on the right side of the superior iliac spine. Based on the location of the injuries, NALAM was not assaulted from behind. NALAM also suffered “cerebral contusion” and “intracranial hemorrhage,” which caused his unconsciousness or the suspension of his brain’s function. NALAM remained in the hospital for the succeeding days and finally expired on the fourth day, or on 20 January 1994. The cause of his death was cardio-respiratory arrest secondary to cerebral hemorrhage.[7]

The witnesses presented by the defense were SPO2 Ramon Samolde; accused Julian Mondano; accused Edgar Moleta; Rolan Laromo; Nestor Mordeno; accused MORANO; Cesar Cauling; and Elsie Nalam, wife of NALAM.

SPO2 Ramon Samolde, a member of the PNP of Mainit, Surigao del Norte, declared that an hour before the occurrence of the fatal incident in question, he was at a store outside the cockpit where he witnessed the verbal altercation between accused Julian Mondano and Peril. He promptly prevented the fight and requested Mondano to stay with him in the meantime and assist him in maintaining peace and order in the area. While performing his duties, Samolde saw many people going out of the cockpit. At about the same time, he saw NALAM run and then

fall down near Henry Behagan's house. He did not see MORANO, Sandy Morano, and Edgar Moleta during the commotion. He then requested for a police car to bring NALAM to the Medicare Emergency Hospital. Mondano who was with him at the time the commotion took place, helped him bring NALAM to the hospital.[8]

For his part, accused Julian Mondano declared that at about 8:00 P.M. of 16 January 1994, while he and SPO2 Samolde was conversing at a store near the cockpit, they heard shouts coming from a distance. Upon arrival at the scene of the commotion, they noticed someone had fallen down over the opposite side of the road. Only Samolde crossed the road to examine the body, while he (Julian) stayed put about six meters away. At that time, he noticed many people come out of the cockpit. Samolde requested somebody to call the police. When the police patrol car arrived, he accompanied Samolde and NALAM's wife to take NALAM to the hospital. Mondano admitted that he had with him an M-14 firearm, which was issued to him as a CAFGU member.[9]

Accused Edgar "Tata" Moleta, for his part, declared that he had nothing to do with NALAM's death. He claimed that at about 7:00 P.M. of on 16 January 1994, he and his friend Rolan Laromo went out of the cockpit and proceeded to buy fish at the public market. Finding no fish, they instead drank liquor in a store inside the market. The drinking session lasted until 4:00 A.M. the next day.[10] Rolan Laromo substantially corroborated Moleta's testimony.[11]

Nestor Mordeno, the Barangay Captain of Magsaysay, Mainit, Surigao del Norte, testified that he saw MORANO and Rustico Peril having a heated argument inside the cockpit at about 7:00 P.M. of 16 January 1994. He pacified them and escorted MORANO out of the cockpit up to the road to see that the latter would go home. He noticed that MORANO was walking ahead of NALAM. Thereafter, he returned inside the cockpit. About thirty minutes later, somebody shouted that there was a fight outside the cockpit. Mordeno immediately went out to the place of the incident. With his flashlight, he saw NALAM already on the ground, face down with blood oozing out on the left side of his mouth. He also saw NALAM's son Reming brandish a "sundangay," a local small sharp-pointed bolo. He requested Reming to put down the weapon. Later, he saw Police Officer Samolde point his service revolver at Reming as he (Samolde) was ordering the latter to put down his weapon. Samolde then brought Reming to the police station.[12]

At the witness stand, MORANO declared that at about 7:00 P.M. of 16 January 1994, he and Rustico Peril were engaged in a heated argument inside the cockpit, as the latter refused to pay the bet he lost. They were, however, eventually pacified by Barangay Captain Mordeno, who escorted him out of the cockpit. On his way home, MORANO, together with his son Sandy Morano and one Cesar Cauling, saw groups of persons. In one of the groups, he saw the victim NALAM heatedly arguing with Martin Galve. Sandy then told him that they better go home. On their way home, they met Manuel Roxas and briefly conversed with him. They arrived home at 8:30 P.M. and went to sleep. He heard the next day that something happened to NALAM.[13] Cesar Cauling substantially corroborated MORANO's testimony.[14]

Elsie Nalam, wife of the deceased NALAM, testified that from the Mainit Medicare Hospital, she brought her husband to the Surigao Provincial Hospital aboard the police patrol car. While in transit, she noticed that her husband could not move his body and was sometimes unconscious. During the times that he was conscious, she asked him who stoned him. NALAM answered, "I do not know who stoned me. I was not able to recognize." When they arrived at the Surigao Provincial Hospital, NALAM could not talk anymore, and his eyes were closed until his death four days after.[15]

In its decision, the trial court first made an observation that the crime scene was dark when the stoning incident in question happened. The lights from the nearby houses might have illumined to some extent the area surrounding the locus criminis but not its outer edges. Against this backdrop, the trial court proceeded to scrutinize the

testimonies of the prosecution eyewitnesses Generio Andit, Manuel Roxas, and Rustico Peril. It believed Andit's testimony that he saw MORANO and Moleta throw stones at NALAM. However, it doubted Andit's identification of Sandy Morano and Julian Mondano since he did not mention their names in the affidavit he executed before the arraignment. It did not believe Andit's explanation that he was confused as to their names and that he thought they were Lito Basil and Justino Henete, who were included in the original information and substituted with the names of Sandy Morano and Julian Mondano in the Amended Information, respectively.

As to Peril's testimony, the trial court was not persuaded. It gave credit to Police Officer Samolde's testimony regarding the whereabouts of accused Julian Mondano on the night NALAM was assaulted. It was thus convinced that only MORANO and Edgar Moleta were responsible for the stoning and killing of NALAM.

Fully crediting the accounts of the prosecution witnesses Andit and Roxas that MORANO and Moleta suddenly threw stones at the unsuspecting NALAM, the trial court concluded that the duo used or employed excessive force against an unarmed and hapless victim who, when hit, fell to the ground. Thus, it appreciated the qualifying circumstance of abuse of superior strength. It also deduced from their acts unity of purpose and design to kill NALAM, which were indicative of conspiracy.

The trial court then decreed in its decision, to wit:

WHEREFORE, for all the foregoing, since the stoning incident transpired on January 16, 1994 and Republic Act No. 7659 took effect on December 31, 1993 yet, this Court finds accused FAUSTINO MORANO and EDGAR "TATA" MOLETA GUILTY beyond reasonable doubt of the crime of MURDER, as defined and penalized under Article 248 of the Revised Penal Code, as amended by R.A. No. 7659, and, there being no modifying circumstances, hereby sentences each of them to suffer an imprisonment of RECLUSION PERPETUA; to jointly and severally pay the heirs of victim Cosme "Baby" Nalam, the following:

- Fifty Thousand (P50,000) Pesos, as indemnification for the death of the victim;
- Ten Thousand (P10,000) Pesos for equitable and reasonable reimbursement of hospital, burial, and necessary expenses incurred; and
- Ten Thousand (P10,000) Pesos for moral and exemplary damages.

without subsidiary imprisonment in case of insolvency; to suffer the accessory penalties provided for by law; and, to pay the costs.

Considering that accused Edgar "Tata" Moleta has been detained on April 18, 1994, and was only able to put up his bond on February 24, 1995, but the same was withdrawn on November 7, 1995, hence, he was detained again up to the present, his cumulative preventive detention shall be deductible from the penalty imposed upon him, as provided for by law.

On the other hand, for having been not positively identified by the prosecution witnesses, accused JULIAN MONDANO, JR. and SANDY MORANO are hereby EXCULPATED from the crime charged; the filed property bonds for their provisional liberty are hereby ordered CANCELLED and RELEASED.

SO ORDERED.[16]

Only accused MORANO appealed from the judgment.[17] In his Appellant's Brief, he argues that the trial court's conclusions are speculative and unsupported by the evidence on record. Prosecution eyewitnesses Manuel Roxas and Generio Andit failed to see the actual stoning of NALAM. Roxas merely saw the beginning of the commotion and the actual stoning of Andit. As for Andit, he is not a credible witness considering that the trial court rejected his testimony regarding his identification of Sandy Morano and Julian Mondano. MORANO asserts that prosecution witness Peril was biased and unreliable, for he had an axe to grind against him (MORANO) in

view of their altercation inside the cockpit previous to the incident. He further maintains that there is no evidence of abuse of superior strength and conspiracy. The trial court engaged itself in conjectures and surmises on these issues.

The Office of the Solicitor General (OSG) disagrees with MORANO. It maintains that the testimonies of the prosecution eyewitnesses proved that accused MORANO and Edgar Moleta simultaneously threw stones at NALAM, who was alone and unarmed. NALAM was hit on the head, shoulder and ear. His injuries were confirmed by Dr. Reliquette, who examined him and issued the death certificate. These simultaneous overt acts of stoning NALAM proved unity of purpose and design on the part of MORANO and Moleta. They likewise took advantage of their superior strength in attacking NALAM. Their superiority in number and strength rendered NALAM helpless and without adequate means of defending himself.

It is clear, to us, that MORANO's conviction by the trial court depended mainly on the testimonies of prosecution eyewitnesses Manuel Roxas and Generio Andit. A scrutiny of their testimonies is, therefore, in order.

A careful review of the testimony of Roxas reveals that he did not see the entire "commotion"; he saw only the inception of the "throwing of stone incident." [18] While he was being dragged by his wife away from the scene, he maintained that he saw MORANO pelt a stone at NALAM and another stone at witness Andit. [19] But then he admitted in court that in his affidavit, which he executed three days after the event, he only mentioned that MORANO threw a stone at Andit. He admitted that he did not mention, or that he forgot to state, in his affidavit that he also saw MORANO throw a stone at NALAM. He remembered that vital information only on the morning he was called to the witness stand. [20]

We seriously doubt that Roxas actually saw MORANO throw a stone at NALAM. Our jurisprudence teaches us that affidavits are generally inferior or subordinate in importance to open court declarations because they are often executed when the affiant is at a high pitch of excitement and when his mental faculties are not in such a state as to afford him a fair opportunity of narrating in full the incident which has transpired. [21] This rule does not, however, apply where the omission in the affidavit refers to a very important detail of the incident that the one relating the incident as an eyewitness would not be expected to fail to mention. [22] Roxas reasoned that he simply forgot at the time his affidavit was prepared to include therein the fact that MORANO stoned NALAM. Then, suddenly, seven months after and on the day he was to testify, he seemed to expediently remember such very important detail. For Roxas to have forgotten this most important detail in his affidavit and to remember only the stoning of Generio Andit leaves some doubt in our minds on the veracity of his delayed revelation.

Let us now examine the testimony of Andit. He claims that he saw accused MORANO, Moleta, Sandy Morano, and Mondano stone NALAM at his back. He focused his flashlight on them before NALAM's fall. He was certain that Moleta threw one stone at him. Considering the questionable eyewitness account of Roxas as to the actual stoning of NALAM by MORANO, would Andit's eyewitness story suffice to convict MORANO?

Let us follow Andit's testimony, thus:

Q: So, while you were walking toward the house of your brother Eleuterio Andit at the highway, what unusual incident happened?

A: When I arrived near the house of the barangay captain Mordeno, I witnessed that this Baby Nalam was being stoned.

Q: Stoned by whom?

A: I saw four persons stoning to[sic] Baby Nalam.

Q: Who were these four persons?

A: These four accused.

Q: Then, what happened to Cosme Baby Nalam when they stoned him?

A: He fell down.

Q: In what part of the road did he fall?

A: Near the house of Behagan.

Q: After Cosme Nalam had fallen down, what else did they do?

A: I was also stoned by them.[23]

.....

Q: How far away from you were the persons throwing stones at Baby Nalam?

A: Nine meters, more or less.

Q: Were you standing in the same direction at [sic] that of Baby Nalam in relation to the persons who were throwing stones at him?

A: Yes, sir.

Q: Since you said that you saw Baby Nalam at the time that the persons were throwing stones at him, did you see whether he was facing toward the person or whether his back was turned to them?

A: His back was facing from the persons who stoned him.

Q: And you saw at the precise moment that ... the first stone was thrown that [sic] Baby Nalam was turning his back away to these persons?

A: Yes, sir.

Q: And he was hit immediately by the first stone that was thrown at Baby Nalam?

A: I was not able to see whether he was hit by that first stone, I only saw four persons who stoned him.

Q: Did you see at the same time Baby Nalam and the four persons who were throwing stones at him?

A: They did not throw at the same time.

Q: So, the four persons therefore were throwing stones one after the other, is that what you want to impress to the court?

A: Yes, sir, that [was] what I saw.

Q: And what was the gap of time when each one of the four persons throws [sic] stones at Baby Nalam?

A: One after the other successively.

Q: And of the four persons who threw stones at Baby Nalam, did you see anyone of the stones hit Baby Nalam?

A: Yes, sir.

Q: And through all these time Baby Nalam [sic] his back was turned away from the four persons?

A: Yes, sir.

Q: And after Baby Nalam fell down, they started throwing stones at you also?

A: Yes, sir.

Q: How many times... many stones were thrown at you?

A: Only one.

Q: And that time you were facing the four persons who threw stones at you?

A: Yes, sir.[24]

.....

COURT:

Few questions from the court.

Q: Of course, you saw who threw that single stone at you?

A: Yes, sir.

Q: Who was that person?

A: Tata Moleta.

Q: You clearly saw because you ha[d] a flashlight focused to [sic] him?

A: Yes, your Honor.[25]

.....

Q: You better be certain. At what instance did you focus your flashlight to Nalam, when Nalam fell down?

A: Before he fell down.

Q: You focused your flashlight on Nalam already?

A: I focused my flashlight to [sic] the four persons.[26]

.....

Q: What attracted you to focus your flashlight to the four accused?

A: Because I noticed that they were stoning somebody?

Q: You focused your flashlight. So when you focused your flashlight, there were already stones thrown?

A: Yes, your Honor, I saw four persons stoning.

.....

Q: You did not see them throw stones?

A: I saw them, they were the ones who stoned Baby Nalam.

Q: Did you actually see the throwing of the stones by the accused?

A: Yes, Sir.

.....

Q: How did you know that Baby Nalam fell down?

A: I saw him fell down.

Q: Because, he was hit on the back?

A: Yes, your Honor.

Q: And you clearly saw what part of the back he was hit because you were lighting your flashlight?

A: Yes, Sir.

Q: What part of the back?

A: Into his head and also the left ear and at the back of the shoulder.

Q: So, from what you saw how many stones hit Nalam?

A: Four stones.[27]

Without delving into the trial court's thesis rejecting Andit's testimony on the identity of the two other assailants of NALAM because they were already acquitted, we give full credit to its finding that Andit was clear and consistent on MORANO's participation in the killing of NALAM. On Andit's credibility, we apply the rule that when the issue of credibility of a witness is involved, the appellate courts will generally not disturb the findings of the trial court because the latter is in a better position to resolve the issue, having heard the witness himself and observed his deportment during trial unless certain facts of value have been plainly ignored, which if considered, might affect the result of the case.[28]

We see no compelling reason to depart from the trial court's favorable appreciation of the testimony of Andit on MORANO's culpability. Besides, our own evaluation of his testimony shows that it is positive, credible and consistent on the stoning of NALAM by four persons, which included MORANO. Andit did not waver even under a rigid cross-examination that he saw these persons. His identification of MORANO was convincing and had the ring of truth. He focused his flashlight on the assailants, among whom was MORANO. He observed that MORANO and his companions were grouped together, about one arm-length of each other and that they successively threw stones on NALAM.

It is indisputable, therefore, that MORANO was one of the four persons who stoned NALAM. Thus, based on Andit's testimony alone, there is more than sufficient proof to convict MORANO. We have held that the testimony of a single witness, if positive and credible, is sufficient to convict an accused even in a murder charge.[29]

We also agree with the trial court that there was conspiracy among MORANO and his companions in the stoning of NALAM. In a conspiracy, it is not necessary to show that all the conspirators actually hit and killed the victim. What is important is that all the participants performed specific acts with closeness and coordination as to unmistakably indicate a common purpose and design to bring about the death of the victim. Conspiracy may even be shown through circumstantial evidence; deduced from the mode and manner in which the offense was perpetrated; or inferred from the acts of the accused themselves when such acts point to a joint purpose and design, a concerted action, and a community of interest.[30]

Clearly, there was unanimity in the design, intent, and execution of the attack of NALAM. The overt acts of throwing the stones at the target NALAM prove the malevolent common intent of MORANO and his

companions.

However, we disagree with the finding of the trial court that abuse of physical strength attended the commission of the crime. It was not established that MORANO and his companions deliberately took advantage of their number and combined strength, and applied excessive force out of proportion to the means available to the deceased in order to consummate the crime.[31] From Andit's testimony, he merely chanced upon the group as they were throwing stones at NALAM, and they quickly disappeared when he asked them why he was being hit also. Hence, in the absence of the qualifying circumstance of abuse of superior strength, MORANO is liable for the crime of homicide only, and not murder.

Under Article 249 of the Revised Penal Code, homicide is punishable by reclusion temporal. There being no modifying circumstance, the penalty shall be imposed in its medium period pursuant to Article 64(1) of the same Code. Applying the Indeterminate Sentence Law, MORANO may be sentenced to an indeterminate penalty, the minimum of which should be within the range of prision mayor in its medium period, and the maximum is reclusion temporal in its medium period.

Neither can we sustain the trial court's awards of P10,000 as equitable and reasonable reimbursement of hospital, burial, and necessary expenses and of P10,000 as moral and exemplary damages. These awards have no factual basis.

WHEREFORE, in view of the foregoing, the decision of the Regional Trial Court of Surigao City, Branch 30, in Criminal Case No. 4300 finding accused-appellant FAUSTINO MORANO GUILTY beyond reasonable doubt of the crime of Murder is hereby MODIFIED. As modified, he is hereby found guilty beyond reasonable doubt as principal of the crime of homicide, defined and penalized under Article 249 of the Revised Penal Code. In view of the absence of any modifying circumstance, he is hereby sentenced to suffer an indeterminate imprisonment penalty ranging from ten (10) years of prision mayor as minimum to seventeen (17) years and four (4) months of reclusion temporal as maximum. The awards of P10,000 as equitable and reasonable reimbursement of hospital, burial, and necessary expenses incurred and P10,000 for moral and exemplary damages are hereby deleted. The order for accused-appellant FAUSTINO MORANO and his co-accused Edgar "Tata" Moleta to jointly and severally pay the heirs of the victim Cosme "Baby" Nalam P50,000 as indemnity for his death stands.

Costs de officio.

SO ORDERED.

Vitug, Ynares-Santiago, Carpio, and Azcuna, JJ., concur.

[1] Original Record (OR), 138-169; Rollo, 181-212. Per Judge Melchor M. Libarnes.

[2] OR, 22; Rollo, 11-12.

[3] TSN, 30 August 1994, 4-7, 10-11, 17.

[4] Id., 21-23; 38-45.

[5] Id., 18-21, 29.

[6] OR, 17.

[7] TSN, 13 September 1994, 5-6, 11-12.

[8] TSN, 21 February 1995, 5-14.

[9] TSN, 7 November 1995, 5-8.

[10] Id., 15-17, 19.

[11] TSN, 12 July 1995, 41-45.

[12] TSN, 15 November 1995, 4-8.

[13] Id., 10-14.

[14] TSN, 12 July 1995, 33-38.

[15] Id., 24-28.

[16] Supra note 1.

[17] OR, 186.

[18] TSN, 30 August 1994, 10.

[19] Id., 6-7.

[20] Id., 13-15.

[21] See *People v. Sanchez*, 313 SCRA 254, 268 [1999]; *People v. Castillo*, 349 SCRA 732, 742 [2001].

[22] *People v. Anggot*, 105 SCRA 168, 175 [1981].

[23] TSN, 30 August 1994, 22.

[24] TSN, 30 August 1994, 38-39.

[25] Id., 40.

[26] TSN, 30 August 1994, 43.

[27] Id., 44-45.

[28] *People v. Aquino*, G.R. No. 145371, 28 September 2001; *People v. Rama*, G.R. No. 144386, 23 January 2002; *People v. De la Cruz*, G.R. No. 135022, 11 July 2002.

[29] *People v. Batidor*, 303 SCRA 335, 350 [1999].

[30] *People v. Barnuevo*, G.R. No. 134928, 28 September 2001. See also *People v. Alib*, 322 SCRA 93, 101 [2000]; *People v. Orbita*, 322 SCRA 321, 325-326 [2000].

[31] *People v. Mationg*, 355 SCRA 458, 475 [2001].

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