

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. WILSON MITRA, ACCUSED-APPELLANT.

G.R. No. 130669. March 27, 2000

Ponente: PUNO, J.

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PUNO, J.:

Once again, a man's bestiality is up for judgment by the Court. The case at bar involves the traumatic experience of a young girl robbed of her innocence by a man who admitted defeat in the face of his lust. The appellant Wilson Mitra was convicted of the crime of rape committed against the 14-year old provincial lass, Marites B. Eliang, and was sentenced to suffer the penalty of reclusion perpetua and to indemnify the victim in the amount of P100,000.00 for moral damages and P50,000.00 for exemplary damages and to pay the costs.[1] The Information charging the appellant of the said crime reads:

"That on or about the 23rd day of May, 1996, in Barangay Bayaoas, municipality of Urbiztondo, province of Pangasinan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, by means of force or intimidation, did then and there, willfully, unlawfully, and feloniously have sexual intercourse with Marites B. Eliang against her will and consent, to her damage and prejudice.

Contrary to Article 335 of the Revised Penal Code."[2]

When arraigned, the accused pleaded not guilty of the crime charged.

The prosecution's evidence shows that on May 23, 1996, at about 4:00 in the afternoon, Marites was cooking her family's supper in the kitchen of their house in Barangay Bayaoas, Urbiztondo, Pangasinan.[3] Thereupon, the appellant knocked and borrowed a bolo from her. Without fear nor hesitation as the appellant was her neighbor, Marites told the appellant to just get the bolo at the back of the door. Once in possession of the bolo, the appellant approached Marites, seized her left wrist, pointed the bolo at her and threatened her not to shout or else he would pierce her with the bolo.[4] Marites struggled to break free from the appellant's hold, but to no avail because the latter proved to be much stronger than her.[5] The appellant then forcibly brought Marites to their bedroom where she was laid on a bed.[6] She continued to struggle, but was quelled by the appellant's reiteration of his threat that she would be pierced with the bolo if she shouted.[7] The appellant then started kissing her on the lips and embracing her.[8] Thereafter, the appellant removed her shirt, sando, shorts, and panty, and likewise removed his shorts and brief.[9] He then straddled the victim and forced an intercourse.[10] During the entire sexual assault, the appellant pointed the bolo at Marites. He also covered Marites' mouth with his other hand to keep her from shouting.[11]

Having satisfied his lustful desires, the appellant then ordered Marites to sit down and threatened her not to tell her parents about the incident lest her whole family would be killed.[12] Marites then dressed herself up, and the appellant also put on his clothes and left the Eliang residence.

On June 26, 1996, approximately one month after that fateful day in May, Marites mustered enough courage to tell her parents about the May 23 incident because she learned that the appellant had already left for Manila the

previous day.[13] On June 27, 1996, Marites' father, Manuel Eliang, accompanied her to the Urbiztondo Police Station to report the rape incident.[14] The report was entered in the police blotter[15] by one SPO1 Teofilo Garcia. Thereafter, SPO1 Garcia along with another police officer accompanied Marites and her father to the San Carlos General Hospital in Pangasinan[16] where one Dr. Araceli Callao examined Marites and subsequently issued a medical certificate dated June 27, 1996 with the following findings:

"PERINEUM: No sign of external injuries noted

HYMEN: With old incomplete lacerations at 5, 6, & 8 o'clock positions

VAGINA: Admits 1 finger with ease

CERVIX: Soft, close"[17]

Dr. Callao testified that the above findings indicate that the victim may have experienced sexual intercourse at least a month previous to the examination.[18]

After being physically examined, Marites went back to the Urbiztondo Police Station and gave a sworn statement narrating the incident of May 23, 1996.[19] Thereafter, on July 10, 1996, Marites filed a criminal complaint against the appellant.[20]

The defense had a different story to tell. The appellant testified that on May 23, 1996, from 7:00 a.m. to 5:00 p.m., he was in his house which was then under construction. He was with a carpenter named Eddie, a certain Mama Pering, his wife, and his grandmother.[21] On that day, he also went back home to his parents-in-law's house where he was then staying and which was located next to the Eliang residence.[22] The house of the appellant's parents-in-law stood between appellant's house which was then being constructed and the Eliang residence.[23]

The appellant also testified that he had known Marites for eight years and had treated her like a younger sister.[24] Marites, however, was very sweet to him and even wrote to him a letter in June 1996 and also told him in person that she had special feelings for him.[25] He returned the letter to Marites for fear that it might cause a quarrel between his wife and himself.[26] Thereafter, he saw and even talked to Marites almost everyday because she would watch television at the house of the appellant's parents-in-law where the appellant was staying. In one of their conversations, appellant told Marites to treat him like an older brother.[27] Nonetheless, he claims that Marites remained sweet to him, until one day, she cried professing her unrelenting love for him.[28] The appellant then tried to avoid Marites, but she pursued him. Finally, on June 23, 1996, he told her that he and his family were moving to Manila. The appellant's family then stayed in Manila until the appellant was offered a driving job in Batangas.[29] On August 16, 1996, the appellant learned of the instant case when he was arrested by virtue of a warrant of arrest issued on August 6, 1996.[30]

To corroborate the appellant's story, the defense presented 10-year old Corazon Lomboy, appellant's niece-in-law who lived with appellant in the house of his parents-in-law. Corazon testified that Marites was a flirt.[31] She cited one instance when she saw Marites putting camote into the mouth of the appellant[32] and another instance when Marites followed the appellant inside the bathroom.[33] She also testified that Marites asked her to give appellant her (Marites') letter to him which said "I love you" at the bottom.[34] Consistent with the testimony of the appellant, Corazon further testified that Marites would watch television in the house of appellant's parents-in-law because there was no television and electricity in Marites' house.[35] Virginia Olieca, an employee of the sole electric company supplying electricity to Urbiztondo, Pangasinan, confirmed that Manuel Eliang, the father of Marites, was not a subscriber of electricity.[36]

A certain Zaldy Ramos was also presented as a witness by the defense. Claiming to be a photographer by profession, he took photographs of the residence of the Eliang's and noted that the distance from their house to an artesian well, which the defense claimed to be a public well,[37] was only about ten (10) meters,[38] as opposed

to the testimony of Marites that the distance was about one hundred (100) meters.

The trial court sustained the prosecution's version of the rape incident. It found that the appellant intimidated Marites with bodily injury using the bolo he borrowed from the latter and sexually abused her in her house on May 23, 1996. It thus convicted the appellant of the crime of rape and imposed upon him the penalty above-stated. Hence, this appeal by the accused with the following assignment of errors:

I. The trial court erred in disregarding certain facts of substance and value which if considered would affect the result of the case.

II. The trial court erred in convicting the accused-appellant despite the fact that his guilt has not been proved beyond reasonable doubt.

III. The trial court erred in awarding exemplary and moral damages. "

The law applicable to the present case is Art. 335 of the Revised Penal Code, as amended by R.A. 7659, which states that:

"Art. 335. When and how rape is committed. - Rape is committed by having carnal knowledge of a woman under any of the following circumstances.

1. By using force or intimidation;

x x x

The crime of rape shall be punished by reclusion perpetua.

Whenever the crime of rape is committed with the use of a deadly weapon . . . the penalty shall be reclusion perpetua to death."

In reviewing the present case, the Court adheres to the well-settled rule that the trial judge is best suited to assess the probity and trustworthiness of witnesses because he has the opportunity to observe directly their behavior and manner of testifying.[39] As eloquently stated by the Court in *People v. Agbayani*:[40]

"The trial judge is in a better position to decide the question of credibility, since he personally heard the witnesses and observed their deportment and manner of testifying.[41] He had before him the essential aids to determine whether a witness was telling the truth or lying. Truth does not always stalk boldly forth naked; she often hides in nooks and crannies visible only to the mind's eye of the judge who tried the case. To him appears the furtive glance, the blush of conscious shame, the hesitation, the sincere or flippant or sneering tone, the heat, the calmness, the yawn, the sigh, the candor or lack of it, the scant or full realization of the solemnity of an oath, the carriage and mien."

In the first assignment of error, in relation to the second one, the defense attempts to place the present case under the mantle of the exception to the above doctrine. That is, the rule does not apply when the trial court has plainly overlooked certain facts of substance and value that, if considered, might affect the result of the case.[42]

Among the substantial facts claimed by the defense to have been overlooked by the trial court was the lack of tenacious resistance on the part of the complaining witness during the entire sexual assault. In the absence of such resistance, the appellant suggests that no rape can be inferred.[43] This claim, however, is not borne out by the records of the case. In fact, several parts of Marites' testimony manifest that she persistently offered resistance but was quelled by the strength and threats of the appellant. She testified to wit:

"Q.

When he lay (sic) you on the bed, what did you do?

A.

I was struggling to be freed but he was stronger than me, and aside from that he told me that if I will shout he will prick me with the bolo, sir. He was pointing to me the bolo sir.[44]

x x x

Q.

While doing that act to you, what did you do?

A.

I was struggling but he was stronger than me sir, and his other hand was covering my mouth while the other hand was holding the bolo pointed at me, sir.[45]

x x x

Q.

And so it is not true Madam Witness that you struggled?

A.

I struggled hard and in the process of my struggle, he again threatened me that if I continue to do so he would going to (sic) stab me with the bolo he was holding and so out of fear I lost my strength."[46]

Besides, even assuming arguendo that the defense is correct that Marites did not show resistance towards her molester, it is well-settled that "physical resistance need not be established in rape when intimidation is exercised upon the victim and the latter submits herself, against her will, to the rapist's advances because of fear for her life and personal safety." [47] It is sufficient that the intimidation produces fear in the mind of the victim that if she did not submit to the bestial demands of the accused, something far worse would befall her at the time she was being molested. As pronounced by the Court, "(i)f resistance would nevertheless be futile because of intimidation, then offering none at all does not mean consent to the assault so as to make the victim's submission to the sexual act voluntary." [48] In several rape cases, the Court has held that threatening the victim with bodily injury while holding a knife or a bolo constitutes intimidation sufficient to bring a woman to submission to the lustful desires of the molester. [49] The appellant's threat of bodily injury to Marites while holding the bolo he borrowed from her sufficed to intimidate Marites into submission to appellant's bestial act. As a corollary, it is not necessary for a finding of rape that the victim should have marks of physical violence on her body [50] as in the present case. [51] Likewise, contrary to the appellant's insinuation, it is not beyond the realm of possibilities that the appellant was holding the bolo during the entire sexual congress, similar to the finding of the Court in the recently decided case of *People of the Philippines v. Flores*, G.R. No. 123599, December 13, 1999.

To bolster its claim that Marites was not raped because the prosecution failed to show Marites' resistance towards her molester, the defense would have the Court believe that Marites was a flirt and that it was in fact Marites who had amorous intentions towards the appellant. This claim, however, does not lend support to the theory of the defense and deserves minimal attention because even if such flirtatiousness were pushed to the extreme, the Court has not just once held that even prostitutes can be victims of rape. [52] Besides, if the defense's purpose for this claim is to suggest consent on Marites' part, this position is incongruent with and does not strengthen the appellant's defense of alibi.

The defense also observed that the testimony of Marites was fraught with inconsistencies. For instance, during the preliminary investigation, Marites stated that the appellant stopped inserting his penis into her vagina when he

noticed that her parents were about to arrive; while on cross-examination, she testified that she did not know why the appellant stopped his despicable act.[53] Another inconsistency pointed out by the defense is that in Marites' sworn statement dated June 27, 1996,[54] she narrated that the appellant carried her into the bedroom; while on cross-examination, she testified that the appellant dragged her into the bedroom.[55] Such minor inconsistencies do not impair Marites' credibility. It is settled that minor discrepancies do not damage the essential integrity of the evidence in its material whole nor reflect adversely on the witnesses' credibility.[56] In fact, they may even strengthen their credibility.[57] Considering that Marites' experience was harrowing, it is understandable that she would not remember its minor details for precisely, no woman would wish to retain in her memory file such tragedy which had befallen her. Thus, the Court has held that victims of rape hardly remember the dates, number of times and manner they were violated.[58]

The defense's effort to undermine Marites' credibility by pointing out the one month delay in reporting the sexual assault upon her also proves futile in view of the justification provided by Marites. She chose to suffer in silence and not to reveal her deplorable experience to a single soul until one month after that fateful day in May for fear that the appellant would carry out his threat to kill Marites' whole family if she reported the rape incident. By June 26, 1996, however, the appellant had left for Manila. Believing that the appellant no longer posed a threat to her family, Marites finally revealed her agonizing experience to her parents and reported it to the police authorities. In a number of cases, the Court has held that delay or vacillation in filing criminal charges does not necessarily undermine the credibility of witnesses if such delay is satisfactorily explained. Among the reasons considered sufficient by the Court are fear of reprisal, social humiliation, familial considerations and economic reasons. The Court declared that it was understandable that a fourteen-year old rape victim, similar to Marites, would be cowed into silence as the accused warned her that she would be killed if she divulged the incident to anybody.[59]

The appellant likewise makes much of the fact that a public artesian well was located near the Eliang residence, thus making it highly improbable that the rape was perpetrated in said house which was within hearing and seeing distance from the well.[60] This argument of the appellant deserves scant consideration for the Court has repeatedly held that lust respects no time and place. In *People v. Agbayani*, the Court stated that, "(t)he evil in man has no conscience. The beast in him bears no respect for time and place; it drives him to commit rape anywhere -- even in places where people congregate such as in parks, along the roadside, within school premises, and inside a house where there are other occupants." [61] Rape does not necessarily have to be committed in an isolated place [62] and can in fact be committed in places which to many would appear to be unlikely and high-risk venues for sexual advances.[63]

As demonstrated above, the facts which appellant claims to have been overlooked by the trial court are not of such substance and value as to affect the outcome of the case. Therefore, the Court finds no reason to depart from the well-settled rule that the findings of the trial court with respect to the credibility of the witness deserve great weight. It is quite significant that the trial court noted that during her testimony, Marites could not immediately answer some questions propounded to her because she was crying and sobbing in between her answers. It was only after she had regained her composure that she would continue with her testimony.[64] The following are some parts of her testimony which are apropos:

"Q.

You also said that you struggled but you were overpowered, now my question is, did he hold both of your hands that is why you were Overpowered?

A.

No madam, he only hold (sic) one of my hand (sic) but I was cowed by fear because of his threat that he is

(sic) going to kill me and that is (sic) enough to overpower me.

Q.

So you did not infact (sic) struggle because you were so scared that he might kill you?

A.

(The witness is in tears.)[65]

x x x

Q.

You also said Madam Witness, that when you were already inside the room, accused tried to kiss you, now, where did he kiss you?

A.

My lips, madam.

Q.

How long?

PROS. QUINTIT

We want to put again on record, your Honor, that the witness is again crying on that bad experience she had. Since the time a question was asked when she was brought to the room up to this point, witness has been continuously crying because of the traumatic experience she had with this incident, your Honor.[66]

x x x

Q.

It was Wilson Mitra who undressed you?

A.

Yes madam, because he forced to undress me, (and at this juncture the witness is again crying)"[67]

It is a matter of judicial cognizance that the crying of the victim during her testimony is evidence of the credibility of the rape charge.[68] Furthermore, the trial court also noted that Marites "stuck to his (sic) testimony inspite (sic) of the exhaustive and intelligent cross-examination made by the defense counsel." [69]

Again, the Court takes judicial notice of the fact that it is highly inconceivable that a young barrio lass, such as the herein complaining witness, Marites Eliang, "would fabricate a charge of defloration, allow a medical examination of her private parts, subject herself to public trial, and tarnish her family's honor and reputation unless she was motivated solely by a potent desire to seek justice for the wrong committed against her." [70]

Anent the third assignment of error, the Court has pronounced that aggravating circumstances not alleged in the information may be proved during the trial and appreciated in imposing the sentence. Evidence in support thereof merely forms part of the actual commission of the crime and its appreciation by the courts does not constitute a violation of the constitutional right of the accused to be informed of the nature and cause of the accusation against him.[71] It is equally settled that an aggravating circumstance justifies an award for exemplary damages under Art. 2230[72] of the Civil Code of the Philippines even in the absence of an allegation of the aggravating circumstance in the information.[73] The trial court was therefore correct in awarding the complaining witness

exemplary damages in the amount of P50,000.00 in view of the presence of the aggravating circumstances of dwelling[74] and use of a deadly weapon[75] in the commission of the crime.

While, moral damages was properly awarded, we reduce it to P50,000.00 as dictated by recent jurisprudence.[76] The victim testified that she suffered pain and public humiliation, loss of appetite and sleepless nights brought about by her traumatic experience.[77] Indeed, even without proof in the pleadings to support an award of moral damages, the Court has declared that in crimes of rape, in addition to civil indemnity, moral damages may be awarded to the victim.[78] It is quite apparent that the victim had to endure much anguish and pain that it would be expecting too much for her to recite in detail her traumatic experience merely to obtain pecuniary restitution. As aptly stated by the Court, "a rape victim is a victim many times over. She is physically, psychologically and emotionally scarred resulting in trauma which may last a lifetime." [79]

With respect to the accused's civil liability *ex delicto*, the Court has outrightly awarded victims of rape P50,000.00 as indemnity.

We give short shrift to appellant's defense of alibi. He claims that he could not have committed the odious act narrated by Marites because at the time of the rape incident, he was in his house which was then being constructed. The defense relied upon by the appellant simply cannot stand in the face of the positive identification made by Marites. Time and again, the Court has held that alibi is the weakest defense not only because of its inherent weakness and unreliability, but also because it is easy to fabricate. For it to prosper, it does not suffice to prove that the accused was at another place when the crime was committed, but it must also be shown that there was physical impossibility for the accused to have been at the scene of the crime.[80] In general, this defense is rejected especially when the complaining witness positively established the identity of the accused.[81]

In the instant case, although the appellant claims to have been at another place at the time of the rape incident, he has failed to show that it was physically impossible for him to have been at the scene of the crime. It is worth noting that the house under construction, where appellant claims to have been at the time of the rape incident, was only twenty meters away from the house of the Eliang's.[82] The appellant also admitted that while he spent the whole day of May 23, 1996 at his house under construction, he occasionally left the construction site to run errands for the carpenters who were working on his house.[83] He also testified that on that fateful day, he went back home to the house of his parents-in-law which was right next to the Eliang residence.[84] Under these circumstances, appellant has failed to satisfy the proof required to establish the physical impossibility for him to have been at the scene of the crime.

A last word. The imposition of the sentence of reclusion perpetua upon the appellant does not only serve the desire of the victim, Marites B. Eliang, to seek justice for the wrong committed against her. It is likewise a reminder that man is endowed with reason and temperance so that in the face of lust which chooses neither time nor place, he will not act like a beast. This, the appellant has utterly failed to do, and for this he must suffer the penalty meted out to him.

IN VIEW WHEREOF, the Court finds the accused-appellant Wilson Mitra guilty beyond reasonable doubt of rape under Article 335 of the Revised Penal Code, as amended by R.A. 7659, attended by the aggravating circumstances of dwelling and use of a deadly weapon, and sentences him to suffer the penalty of reclusion perpetua and to pay the offended party, Marites B. Eliang, P50,000.00 as civil indemnity, P50,000.00 as moral damages, P50,000.00 as exemplary damages, and to pay the costs.

SO ORDERED.

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

- [1] Rollo, p. 30.
- [2] Rollo, p. 7.
- [3] TSN, December 3, 1996, p. 3.
- [4] Id., p. 5.
- [5] Id., p. 6.
- [6] Id., p. 7.
- [7] TSN, January 21, 1997, p. 5.
- [8] Original Records, p. 3; TSN, January 21, 1997, p. 8.
- [9] Original Records, p. 3.
- [10] TSN, December 3, 1996, p. 8.
- [11] TSN, January 21, 1997, p. 5.
- [12] TSN, December 3, 1996, p. 10.
- [13] Original Records, p. 3.
- [14] Id., p. 152.
- [15] TSN, March 25, 1997, p. 4; Exhibit "D", Original Records, p. 152.
- [16] Original Records, p. 152.
- [17] Exhibit "B", Original Records, p. 5.
- [18] TSN, January 23, 1997, p. 9.
- [19] Exhibit "A", Original Records, p.3.
- [20] Original Records, p. 2.
- [21] TSN, May 26, 1997, p. 9.
- [22] Id., p. 9.
- [23] Id., p. 39.
- [24] Id., p. 10.
- [25] Ibid.
- [26] Id., p. 11.
- [27] Id., p. 12.
- [28] Id., p. 13.

[29] Ibid.

[30] Id., p. 14.

[31] TSN, April 8, 1997, p. 5.

[32] Ibid.

[33] Id., p. 6.

[34] Ibid.

[35] Id., p. 8.

[36] TSN, May 16, 1997, p. 20.

[37] TSN, May 26, 1997, p. 23.

[38] TSN, May 16, 1997, p. 19.

[39] *People v. Quisay*, G.R. No. 106833, December 10, 1999, citing *People v. Peralta*, 283 SCRA 81 (1997).

[40] 284 SCRA 315 (1998), citing *People v. Delovino*, 317 Phil. 741, 753 (1995), citing *Creamer v. Bivert*, 214 MO 473, 474 (1908) as cited in M. FRANCES MCNAMARA, 2000 FAMOUS LEGAL QUOTATIONS 548 (1967).

[41] Id., citing *People v. Conde*, 322 Phil. 757, 766 (1996).

[42] *People v. Quisay*, supra, citing *People v. Dizon*, G.R. No. 128889, August 20, 1999.

[43] Rollo, p. 60.

[44] TSN, December 3, 1996, p. 7.

[45] Id., p. 9.

[46] TSN, January 21, 1997, p. 5.

[47] *People v. Prades*, 293 SCRA 411 (1998), citing *People v. Rabosa*, 273 SCRA 142 (1997); *People v. Quiamco, et al.*, 268 SCRA 516 (1997); *People v. Salazar*, 258 SCRA 55 (1996).

[48] *People v. Agbayani*, supra, citing *People v. Grefiel*, 215 SCRA 596, 608, 630 (1992); *People v. Matrimonio*, 215 SCRA 613, 630 (1992); *People v. Pamor*, 237 SCRA 462, 472 (1994).

[49] *People v. Reynaldo*, 291 SCRA 701 (1998), citing *People v. Roll*, 200 Phil. 665 (1982); *People v. Espinoza*, 317 Phil. 79 (1995) citing *People v. Adlawan, Jr.*, 217 SCRA 489 (1993). See also *People v. Ulzorón*, 286 SCRA 741 (1998), citing *People v. Bantasil*, 249 SCRA 367, 377 (1995).

[50] *People v. Ulzorón*, supra, citing *People v. Soronio*, 204 SCRA 741, 743 (1991), citing *People v. Feliciano*, 195 SCRA 19 (1991).

[51] TSN, January 23, 1997, p. 10.

[52] *People v. Alfeche, et al.*, 294 SCRA 352 (1998), citing *People v. Rivera, et. al.*, 242 SCRA 26, 37 (1995); *People v. Barera*, 262 SCRA 63, 77 (1996).

[53] TSN, January 30, 1997, pp. 4-7.

[54] Exhibit "A", Original Records, p. 3.

[55] TSN, January 21, 1997, p. 2.

[56] *People v. Sañez*, G.R. No. 132512, December 15, 1999, citing *People v. Simon*, 234 SCRA 555 (1994).

[57] *People v. Carullo*, 289 SCRA 481 (1998), citing *People v. Lorenzo*, 240 SCRA 624 (1995).

[58] *People v. Villamor*, 297 SCRA 262 (1998), citing *People v. Zaballero*, 274 SCRA 627 (1997).

[59] *People v. Lusa*, 288 SCRA 296 (1998), citing *People v. Fuensalida*, G.R. No. 119963, November 6, 1997.

[60] Appellant's Brief, p. 15; Original Records, p. 60.

[61] *Supra* at 45, citing *People v. Aragona*, 138 SCRA 569, 580 (1985); *People v. Viray*, 164 SCRA 135, 143 (1988); *People v. De los Reyes*, 203 SCRA 707, 723 (1991).

[62] *People v. Sumampong*, 290 SCRA 471 (1998), citing *People v. Leoterio*, 264 SCRA 608 (1996).

[63] *People v. Gementiza*, 285 SCRA 478 (1998), citing *People v. Quenevista*, 244 SCRA 586 (1995); *People v. Dado, et al.*, 244 SCRA 655 (1995).

[64] TSN, January 21, 1997, pp. 4, 6, 9; January 14, 1997, pp. 10, 21; January 30, 1997, pp. 5, 7-8, 12, 16.

[65] TSN, January 21, 1997, p. 4.

[66] *Id.*, p. 6.

[67] *Id.*, p. 9.

[68] *People v. Ramos*, 296 SCRA 559 (1998), citing *People v. Joya, et al.*, 227 SCRA 9 (1993).

[69] Decision, p. 5; Rollo, p. 27.

[70] *People v. Dacoba*, 289 SCRA 265 (1998), citing *People v. Esguerra*, 256 SCRA 657 (1996). See also *People v. Taneo*, 284 SCRA 251 (1998), citing *People v. Dado, et al.*, *supra*; *People v. Guibao*, 217 SCRA 64 (1993); *People v. Derpo*, 168 SCRA 447 (1988); *People v. Selfaison, et al.*, 1 SCRA 235 (1961).

[71] *People v. Ramos*, *supra*, citing *People v. Ang, et al.*, 139 SCRA 115 (1985).

[72] Art. 2230 of the Civil Code provides that, "(i)n criminal offenses, exemplary damages as a part of the civil liability may be imposed when the crime was committed with one or more aggravating circumstances. Such damages are separate and distinct from fines and shall be paid to the offended party."

[73] See *People v. Chua*, 297 SCRA 229 (1998), citing Art. 2230, Civil Code of the Philippines; *People v. Bergante*, 286 SCRA 629 (1998); *People v. Esguerra*, 256 SCRA 659 (1996); *People v. Manero, Jr.*, 218 SCRA 85 (1993). See also *People v. Padlan*, 290 SCRA 388 (1998) and *People v. Daraman*, 294 SCRA 27 (1998).

[74] Art. 14 of the Revised Penal Code provides in relevant part:

"Art. 14. Aggravating circumstances. -- The following are aggravating circumstances:

x x x

3. That the act be committed . . in the dwelling of the offended party, if the latter has not given provocation."

[75] Art. 335 of the Revised Penal Code, as amended by R.A. 7659, provides in relevant part that, "(w)henever the crime of rape is committed with the use of a deadly weapon . . . the penalty shall be reclusion perpetua to

death."

[76] *People v. Flores*, G.R. No. 123599, December 13, 1999, citing *People v. Bantilan*, G.R. No. 129286, September 14, 1999.

[77] TSN, January 14, 1997, pp. 25-26.

[78] *People v. Villamor*, 297 SCRA 262 (1998), citing *People v. Prades*, 293 SCRA 411 (1998).

[79] *People v. Villamor*, *supra*.

[80] *People v. Silvestre*, 244 SCRA 479 (1995), citing *People v. Penillos*, 205 SCRA 546 (1992); *People v. Martinado*, 214 SCRA 712 (1992). See *People v. Buka*, 205 SCRA 557 (1992); *People v. Devaras*, 205 SCRA 676 (1992); *People v. Casinillo*, 213 SCRA 777 (1992); *People v. Florida*, 214 SCRA 227 (1992).

[81] *People v. Apostol*, G.R. Nos. 123267-68, December 9, 1999, citing *People v. Roger Vaynaco*, G.R. No. 126286, March 22, 1999.

[82] TSN, May 26, 1997, p. 39.

[83] *Id.*, p. 41.

[84] *Id.*, p. 9.

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