

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. ARTURO MANAMBAY Y DIAMSON, APPELLANT.

G.R. No. 130684. February 05, 2004

Ponente: SANDOVAL-GUTIERREZ, J.

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SANDOVAL-GUTIERREZ, J.:

This is an appeal from the Decision[1] dated August 27, 1997 of the Regional Trial Court, Branch 95, Quezon City in Criminal Cases Nos. Q-97-69584-85 convicting Arturo Manambay y Diamson, appellant, of two counts of rape and sentencing him to reclusion perpetua in each case.

The criminal complaints against appellant are quoted as follows:

Criminal Case No. Q-97-69585

“That on or about the 8th day of December 1996, in Quezon City, Philippines, the said accused by means of force and intimidation, to wit: by then and there willfully, unlawfully and feloniously undress one JOVITA SALAS Y YONSON and, at the point of a bolo, put himself on top of her and thereafter have carnal knowledge of the undersigned complainant against her will and without her consent.

“Contrary to law.”

Criminal Case No. Q-97-69584

“That on or about the 9th day of December 1996, in Quezon City, Philippines, the said accused by means of force and intimidation, to wit: by then and there willfully, unlawfully and feloniously undress one JOVITA SALAS Y YONSON and, at the point of a bolo, put himself on top of her and thereafter have carnal knowledge of the undersigned complainant against her will and without her consent.

“Contrary to law.”

Upon arraignment, appellant, assisted by counsel, pleaded not guilty to both charges. Trial ensued thereafter.

The evidence for the prosecution, consisting of the testimonies of private complainant Jovita Salas and Dr. Ma. Cristina B. Freyra, discloses that in 1996, appellant was living with his common-law spouse, Anita Salas, in a rented house located at No. 11 Capri Street, Villa Nova Subdivision, Novaliches, Quezon City. Anita’s younger sister, Jovita Salas, and a lady boarder named Lourdes, also stayed with them in the same house.[2]

On December 8, 1996, at around 8:00 o’clock in the evening, Jovita was alone in the house watching television when appellant, whom she identified in court, arrived. Visibly drunk, he approached Jovita, pointed a bolo at her breast and ordered her to follow him to the room. Extremely scared he might kill her, Jovita followed him. Once inside the room, appellant commanded her to remove her clothes and to lie down on the bed. Still afraid, Jovita obliged. Appellant then hurriedly removed his short pants and brief and placed himself on top of her, with his right hand holding the bolo still pointed at her. While in that position, appellant forcibly inserted his penis into her vagina. She felt pain. (At this juncture, the trial court noted that Jovita was crying while narrating such harrowing

experience.)[3] When appellant withdrew his penis, Jovita noticed some blood oozing from her vagina. Then he stood and told her to dress up and to act as if nothing wrong has happened. He warned her not to tell anyone about it, or else he would kill her sister Anita. That was the first time Jovita had a sexual experience.[4]

The following day, December 9, 1996, at around 9:00 o'clock in the morning, Anita left the house and went to her place of work. Jovita also tried to leave, but appellant blocked her way by closing the door. With a bolo pointed at her, he told her to "accommodate him again" ("Pagbigyan ko siya uli."). He then ordered her to go to her room. Due to extreme fear, she complied. While inside, he ordered her to remove her clothes and lie down. Thereupon, he undressed himself, went on top of her and inserted his penis into her vagina. At that time, his right hand was holding the bolo pointed at her, while his left hand was holding her right hand. After satisfying his lust, he warned her not to reveal the incident to anyone, especially to her sister, or else he would kill both of them.[5]

After a few days, Jovita mustered enough courage to reveal the rape incidents to her elder brother who immediately accompanied her to the police. On December 27, 1996, Jovita was physically examined by Dr. Rosaline O. Cosidon, Medico-Legal Officer of the Philippine National Police (PNP) Central Crime Laboratory, Kamuning, Quezon City.[6] Her Medico-Legal Report No. M-1872-96,[7] issued on the same day, states:

"PURPOSE OF LABORATORY EXAMINATION:

To determine physical signs of sexual abuse.

"FINDINGS:

x x x

"Genital: There is moderate growth of pubic hair. Labia majora are full, convex and coaptated with the pinkish brown labia minora presenting in between. On separating the same, disclosed an elastic fleshy-type hymen with deep, healed lacerations at 3 and 9 o'clock position. External vaginal orifice offers moderate resistance to the introduction of the examining index finger and the virgin-sized vaginal speculum. Vaginal canal is narrow with prominent rugosities. Cervix is normal in size, color and consistency.

"CONCLUSION:

"Subject is in non-virgin state physically. There are no external signs of recent application of any form of trauma at the time of examination.

"REMARKS:

"Vaginal and peri-urethral smears are negative for gram-negative diplococci and spermatozoa."

Dr. Cosidon could not testify as she was transferred to the far-flung province of Cagayan Valley. It was Dr. Ma. Cristina B. Freyra, the PNP Medico-Legal Officer in Kamuning, Quezon City, who took the witness stand and confirmed the findings and results of Dr. Cosidon's Report. Appellant's counsel, Atty. Trebonian C. Tabang, admitted the competency of Dr. Freyra.[8] She testified that the deep-healed lacerations at 3:00 o'clock and 9:00 o'clock positions in Jovita's hymen were sustained about 20 days before the examination, and that such lacerations were caused by the insertion of a hard blunt object like an erect penis. She further declared that Jovita could have been a virgin before her hymen sustained lacerations.[9]

The appellant denied the charges. He testified that on the night of December 8, 1996, he was not drunk as he was merely watching television with his brother, Jovita herself and Lourdes in their house from 5:00 to 10:00 PM. At 10:30, Anita, his common-law wife, arrived.[10] He noticed that Jovita went out of the house twice that night. The following day, December 9, at 7:30 AM, he left the house and went to work in Project 6, Quezon City. Jovita was alone in the house that day. Appellant contends that the charges were filed against him because (1) Jovita

wants him to be separated from her sister Anita as they are not married; and (2) he reported to Anita that he saw Jovita and her boyfriend having sex in his house on November 19, 1996. Still, he and Jovita have remained “in good terms.”[11]

The defense also presented Anita who testified that on December 8, 1996, she reported for work in Diliman, Quezon City at 8:00 o’clock in the morning and returned home at around 10:00 o’clock in the evening of that same day. The following day (December 9) at 8:00 o’clock in the morning, she again left for work (leaving appellant and Jovita in the house) and returned home at 8:00 o’clock that evening. Anita recalled that during those two days, she did not notice any unusual incident that happened in their house.[12]

Upon cross-examination, Anita confessed that in December 1996 during Christmas time, she and appellant pleaded with Jovita not to file any complaint for rape against him. Appellant even “walked with his knees asking for forgiveness” from Jovita’s elder brother.[13]

Romulo A. de Jesus, the last defense witness, testified that since 1993, appellant has been one of his trusted and hardworking employees in the International Distillers Philippines, Quezon City. Appellant was assigned to wash and clean bottles and deliver them to their clients, collect payments, issue sales invoices, and withdraw cash from the bank. He works from Monday through Friday and goes home Saturday. On December 9, 1996 (Monday), he reported for work. He (witness de Jesus) visited appellant at his detention cell in Novaliches Police Station, Quezon City, and came to know of the rape charge against him.

Upon cross-examination, de Jesus admitted that he did not maintain any daily time record of his employees’ attendance, and that when this case was investigated before the Fiscal’s Office, he did not execute any affidavit in favor of appellant.[14]

On August 27, 1997, the trial court rendered a Decision, the dispositive portion of which reads:

“WHEREFORE, judgment is hereby rendered in the following:

“1. In Criminal Case No. Q-97-69584, the Court finds the accused, Arturo Manambay y Diamson, GUILTY beyond reasonable doubt of the crime of rape defined in and penalized by Art. 335 of the Revised Penal Code, as amended, and is hereby sentenced to suffer the penalty of reclusion perpetua and to indemnify the victim, Jovita Salas y Yonson, the amount of P50,000.00 as moral damages;

“2. In Criminal Case No. Q-97-69585, the Court finds the accused, Arturo Manambay y Diamson, GUILTY beyond reasonable doubt of the crime of rape defined in and penalized by Art. 335 of the Revised Penal Code, as amended, and is hereby sentenced to suffer the penalty of reclusion perpetua and to indemnify the victim, Jovita Salas y Yonson, the amount of P50,000.00 as moral damages.

“The period during which the accused was detained at the City Jail of Quezon City shall be credited to the said accused in full provided that he agrees in writing to abide by and comply strictly with the rules and regulations of the said institution.

“With costs against the accused.

“IT IS SO ORDERED.”[15]

Appellant, in his brief, ascribes to the trial court the following of errors:

“I. The court a quo gravely erred in finding the accused-appellant guilty beyond reasonable doubt of two counts of rape.

“II. The court a quo gravely erred in not giving weight and credence to the evidence of the defense.”[16]

The basic issue for our resolution is whether the prosecution has proved appellant’s guilt beyond reasonable

doubt.

The law applicable to the cases at bar is Article 335 of the Revised Penal Code, as amended by Republic Act No. 7659, the pertinent portions of which provide:

“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;
2. When the woman is deprived of reason or otherwise unconscious; and
3. When the woman is under twelve years of age or is demented.

“The crime of rape shall be punished by reclusion perpetua.

“Whenever the crime of rape is committed with the use of a deadly weapon or by two or more persons, the penalty shall be reclusion perpetua to death.

x x x.” (Underscoring ours)

The elements of rape under the above provisions are: (1) the offender had carnal knowledge of the victim, and (2) such act was accomplished by using force or intimidation; or when the victim is deprived of reason or otherwise unconscious; or when the victim is under 12 years of age.

Jovita testified that appellant had carnal knowledge of her through force and intimidation, thus:

“PROSECUTOR RIO ESPIRITU on Direct Examination:

x x x

Q On December 8, 1996, do you know where you were at around 8:00 in the evening?

A I was in our house, sir.

x x x

Q Who were present at that time?

A I and my brother-in-law (referring to herein appellant).

x x x

Q What were you doing at that time at around 8:00 in the evening?

A I was inside the house, watching T.V.

Q While watching T.V., what happened next?

A While watching T.V., my brother-in-law approached me, he was drunk and was holding a bolo.

Q x x x, what happened next after he approached you?

A x x x my brother-in-law x x x told me to follow him.

Q How long was that bolo?

A (Witness demonstrating two feet including a handle)

COURT: As stipulated by the parties, two feet.

PROSECUTOR:

Q You said that he directed you to go to the room, what else did he tell you?

A He further told me not to make noise and obey all his orders.

Q While he was giving you the instruction and while he was threatening you, where was the bolo pointed?

A It was directed and pointed at my breast.

Q What happened next x x x?

A He further told me to remove all my clothes.

Q Who removed your clothes?

A I was the one, sir.

Q Why did you follow his order?

A I was scared because he might harm me with his bolo.

Q Were you able to undress yourself later?

A Yes, sir.

Q What happened next after you undressed yourself?

A He told me to lie down on the bed.

Q Why did you follow his order?

A I was forced to follow him because he might kill me.

Q What happened next after you lied down on bed?

A He removed his short pants and brief and after that he went on top of me. While he was pointing the bolo at me, he went on top of me.

Q After he went on top of you, what happened next?

A He inserted his private organ into my private organ.

COURT: Put on record that the private complainant/victim is crying.

PROSECUTOR:

Q After he was able to insert his private organ into your private organ, what happened next?

A After a while, which I cannot tell how long was it, he stood up.

Q After he stood up, did he tell you anything?

A Yes. he told me to act naturally as if nothing happened.

Q After he stood up and threatened you with those words, what did you do?

A After he stood up, he ordered me to dress up and not to reveal what happened because if I reveal what happened, he would kill my sister.

Q How sure are you, madam witness, that the private organ of this accused was able to penetrate your private organ?

A I felt his private organ was inserted into my private organ because I felt pain and he forced his private organ to penetrate my private organ.

x x x

Q The following day, in the morning of December 9, 1996, do you know whether your sister again reported to

work?

A Yes, sir.

Q At around what time?

A 9:00 in the morning, sir.

Q After your sister left x x x, what were you doing at that time x x x?

A After my sister went out of the house, while I was going out of the house, he prevented me by closing the door.

Q After he closed the door, what happened next?

A After closing the door, with hands holding a bolo, he again confronted me and told me to again accommodate him ('Pagbigyan mo uli ako.').

x x x

Q When he uttered those words, 'Pagbigyan mo uli ako', while holding the bolo, what happened next?

A Because of my fear, I obeyed all his orders.

Q Aside from those words uttered to you, what was he doing with that bolo?

A It was pointed at me.

Q What happened next after he pointed that bolo?

A He told me to get inside my room.

Q Were you able to go to your room?

A Yes, sir.

Q What happened next?

A He again ordered me to undress.

Q x x x, did you follow the order?

A Yes, because of my fear I followed all his orders.

Q You said that you undressed yourself, how about him, what did he do next?

A He told me to lie down.

Q What did he do next?

A After that, he undressed himself and went on top of me.

Q x x x, do you know where was the bolo at that time?

A He was holding the bolo being pointed at me.

Q After he undressed himself, what happened next?

A He raped me again.

Q You said that he raped you, how sure are you that his private organ was able to penetrate your private organ?

A I felt that he inserted his private organ into my private organ.

Q Where were his hands at that time when he inserted his private organ?

A His right hand was holding the bolo that was being pointed at me, while his left hand was holding my right hand.

Q That was the time that his private organ penetrated your private organ?

A Yes, sir.

Q Then, how long did this rape occasion last?

A Around 30 minutes, sir.

Q x x x, what happened next?

A He stood up and told me not to reveal what happened between us, specifically to my sister.

Q After he uttered those words, what happened next?

A He further told me to act naturally as if nothing happened.

Q If this person whom you said your brother-in-law raped you on December 8 and 9, 1996 is inside the courtroom, can you identify him?

A Yes, sir.

Q Will you please point to him?

A (Witness pointed to a male person wearing yellow shirt, and when asked of his name, he answered ‘Arturo Manambay’).”[17]

The trial court gave full faith and credence to Jovita’s testimony, holding that she narrated her harrowing sexual ordeal at the hands of appellant “in a categorical, forthright, straightforward and clear manner without any pretensions that would tarnish the credibility of her testimony.”[18] It is doctrinally settled that the factual findings of the trial court which are supported by the records, especially on the credibility of the rape victim, are accorded great weight and respect and will not be disturbed on appeal in view of its advantage of having directly observed the demeanor of the witness while testifying.[19]

In fact, as carefully noted by the trial court, Jovita wept in shame and disgust while recounting how appellant sexually ravished her through force and intimidation. It is jurisprudentially recognized that when the victim cries while testifying in court, such act is an indication of truth born out of human nature and experience.[20] Indeed, a Filipina with nary an evidence of loose morals, like the victim in this case, would not dare put her honor at stake by unraveling her tragic rape experience before a public trial and by having her sex organ examined by a doctor, if her story of defloration were not true.[21]

Moreover, Jovita’s testimony that appellant sexually assaulted her on December 8 and 9, 1996 is sustained by the Medico-Legal Officer’s findings that the deep-healed lacerations at 3:00 and 9:00 o’clock positions found in her hymen could have been inflicted about 20 days before the genital examination on December 27, 1996; and that they could have been caused by the insertion of a hard blunt object like an erect penis. The victim’s credible testimony, corroborated by the medical findings, is more than sufficient to establish the essential requisite of carnal knowledge.[22]

Significantly, Jovita positively identified the appellant as the one who sexually desecrated her womanhood on December 8 and 9, 1996. The well-established doctrine is that the victim’s positive identification of the accused as her rapist prevails over his unsubstantiated denials, which are merely negative and self-serving allegations that cannot be given any weight on the scale of justice.[23]

The appellant, in his brief, insists that Jovita’s testimony is doubtful. He contends that her failure to immediately report the incidents to her sister and to the authorities, or to flee from the appellant despite her opportunity to do so, belie her allegations of rape.[24]

We are not persuaded.

There is no standard human behavioral response when one is confronted with a shocking, startling or horrifying event, such as the one experienced by Jovita. People react differently to such situation because the workings of a human mind are unpredictable. The innate differences in man make each one unique by himself. Man’s actions and reactions cannot be stereotyped.[25] Thus, a woman, despite real threats to her life, may instinctively flee from her lecherous captor, or resist vehemently the bestial attack against her person, or instantly call for help, or report the intrusion of her womanhood to the authorities and her relatives without delay.[26] In the case at bar, Jovita reacted differently. During her cross-examination, she explained her reaction in the following manner:

“Q

It did not occur to your mind to revenge by doing anything harm to the accused while the accused was sleeping?

A No, because my fear overwhelmed me.

Q On December 9, you mentioned also that you were raped by the accused in this case?

A Yes, sir.

Q Now, that was 9:00 in the morning, is that correct?

A Yes, sir.

Q What time did you wake up on December 9, 1996?

A 8:00 in the morning, sir.

Q

What time did you sleep in that evening of December 8?

A I already slept in the early morning because I could not sleep during that time.

Q Why could you not sleep?

A Because I was thinking of what happened and also thinking of the threats that he made.

Q You did not think of reporting the incident to the police authority or to your sister while lying on bed?

A I also thought of that, but I also thought of the threats he made against me and thought of what he did to me and of what my brothers will do to him.

x x x

Q Madam witness, you mentioned a while ago that you woke up around 8:00 in the morning and it was one hour that transpired before the incident on December 9, 1996. My question is, why did you (not) flee from the house or go away considering that it was daytime and not night time?

A Because during that time, I was very confused, I did not know what to do first, either go away or report the incident to the Barangay.

Q Now, you reported the incident to the police, what date?

A On December 26, 1996.”[27] (Underscoring ours)

Clearly, Jovita was overwhelmed with fear before, during and immediately after the two traumatic events. She was extremely afraid that appellant might kill her and her sister Anita should she report the incidents to the authorities. We hold that her delay in divulging what transpired is reasonably justified and, therefore, cannot by itself diminish the probative value of her testimony.[28]

Appellant also claims that Jovita concocted these rape charges in order to force him to separate from Anita; and because he reported to Anita that he saw her (Jovita) and her boyfriend engaging in sex.

It is easily discernible that such claims are concoctions in appellant’s desperate attempt to exculpate himself from the present charges.

We fully agree with the trial court’s finding that “Jovita was motivated to come to court in order to vindicate her honor and seek justice so that the accused may be made to answer for his misdeeds.”[29] For, as we have consistently held, a rape victim would not come out in the open and go through the humiliation of a public trial if her motive is not to seek redress and obtain justice.[30]

But what finally shatters appellant’s defense is the testimony of Anita, his very own witness and live-in partner, that few days after the rape incidents, or in “December 1996, during Christmas time,” he walked on bended knees and asked forgiveness from her brother for molesting Jovita.[31] Appellant did not dispute such testimony. He thus sealed his own fate by his virtual admission of guilt. Evidently, no one would ask for forgiveness unless he committed some wrong. And a plea for forgiveness by herein appellant may be considered as analogous to an attempt to compromise.[32] In criminal cases, except those involving quasi-offenses or those allowed by law to be settled through mutual concessions, an offer of compromise by the accused may be received in evidence as an implied admission of guilt.[33]

Considering that appellant committed the crime with a qualifying circumstance, the use of a bolo, a deadly weapon,[34] the prescribed penalty is reclusion perpetua to death, pursuant to Article 335 of the Revised Penal Code, as amended, quoted earlier. Corollarily, Article 63 of the same Code provides:

“Art. 63. Rules for the application of indivisible penalties. — In all cases in which the law prescribes a single indivisible penalty, it shall be applied by the courts regardless of any mitigating or aggravating circumstances that may have attended the commission of the deed.

“In all cases in which the law prescribes a penalty composed of two indivisible penalties, the following rules shall be observed in the application thereof:

“1. When in the commission of the deed there is present only one aggravating circumstance, the greater penalty shall be applied.

“2. When there are neither mitigating nor aggravating circumstances in the commission of the deed, the lesser penalty shall be applied.

“3. When the commission of the act is attended by some mitigating circumstance and there is no aggravating circumstance, the lesser penalty shall be applied.

“4. When both mitigating and aggravating circumstances attended the commission of the act, the courts shall reasonably allow them to offset one another in consideration of their number and importance, for the purpose of applying the penalty in accordance with the preceding rules, according to the result of such compensation.”
(Underscoring ours)

Here, the prosecution failed to allege in the Informations and prove during the trial any aggravating or mitigating circumstance that attended the commission of the crime. The use of a deadly weapon was alleged in the Informations merely as a qualifying circumstance. Hence, pursuant to the above provisions, the lesser penalty of reclusion perpetua should be imposed upon appellant for each count of rape.[35] In *People vs. Joel Ayuda*, [36] we held: “Where no aggravating circumstance is alleged in the Information and proven during the trial, the crime of rape through the use of a deadly weapon may be penalized only with reclusion perpetua, not death.”

With respect to appellant’s civil liability, we observed that the trial court awarded the victim only moral damages of P50,000.00 for each count of rape. While such award is correct, the victim is also entitled to P50,000.00 as indemnity ex delicto in each case. Such award is mandatory upon the finding of the fact of rape.[37]

Additionally, we award the victim exemplary damages because the rapes were committed with the use of a deadly weapon.[38] In *People vs. Silverio Montemayor*, [39] we declared: “x x x exemplary damages are justified under Article 2230 of the Civil Code if there is an aggravating circumstance, whether ordinary or qualifying.” Since the qualifying circumstance of the use of a deadly weapon was present in the commission of the rapes subject of these cases, exemplary damages in the amount of P25,000.00 may be awarded to the offended party in each case.

WHEREFORE, the appealed Decision of the Regional Trial Court, Branch 95, Quezon City in Criminal Cases Nos. Q-97-69584-85 is hereby **AFFIRMED** with **MODIFICATION** in the sense that appellant **ARTURO MANAMBAY Y DIAMSON** is ordered to pay complainant Jovita Salas, aside from moral damages, P50,000.00 as indemnity ex delicto and P25,000.00, as exemplary damages for each count of rape.

Costs de officio.

SO ORDERED.

Vitug (Chairman), Corona, and Carpio-Morales, JJ., concur.

[1] Penned by Judge Diosdado Madarang Peralta.

[2] Transcript of Stenographic Notes (TSN), June 2, 1997 at 2-3, 13.

[3] Id. at 5.

[4] Id. at 3-7, 15.

[5] Id. at 7-9, 14.

[6] Id. at 12.

[7] Exhibit “D”, Folder of Evidence for the Prosecution at 3.

[8] TSN, June 4, 1997 at 2.

[9] Id. at 3-5.

[10] TSN, June 16, 1997 at 6-7.

[11] Id. at 8-10.

[12] TSN, July 7, 1997 at 4-7.

[13] Id. at 8-9.

[14] Id. at 9-12.

[15] Rollo at 26.

[16] Appellant's Brief, Rollo at 47-48.

[17] TSN, June 2, 1997 at 3-9.

[18] Appealed Decision, Rollo at 60.

[19] People vs. Joel Ayuda, G.R. No. 128882, October 2, 2003, citing People vs. Artemio Invencion, G.R. No. 131636, March 5, 2003.

[20] People vs. Gecomo, G.R. Nos. 115035-36, February 23, 1996, 254 SCRA 82.

[21] People vs. Loyola, G.R. No. 126026, February 6, 2001, 351 SCRA 263.

[22] People vs. Nicolas, G.R. Nos. 125125-27, 324, February 4, 2000, 324 SCRA 748.

[23] People vs. Preciados, G.R. No. 122934, January 5, 2001, 349 SCRA 1; People vs. Lovedorial, G.R. No. 139340, January 17, 2001, 349 SCRA 402; People vs. Mira, G.R. No. 123130, October 2, 2000, 341 SCRA 631.

[24] Appellant's Brief, Rollo at 51.

[25] People vs. Ybanez, G.R. No. 136257, February 14, 2001, 351 SCRA 589; People vs. Flores, G.R. No. 98069, January 27, 1993, 217 SCRA 613; People vs. Salazar, G.R. No. 84391, April 7, 1993, 221 SCRA 170.

[26] People vs. Sinatao, G.R. Nos. 110815-16, October 25, 1995, 249 SCRA 554.

[27] TSN, June 6, 1997 at 8-9.

[28] People vs. Sergio Abon y Esteban, G.R. No. 130662, October 15, 2003, citing People vs. Balili, 388 SCRA 376 (2002).

[29] Appealed Decision, Rollo at 64.

[30] People vs. Baroy, G.R. Nos. 137520-22, May 9, 2002, 382 SCRA 56; People vs. Sancha, G.R. Nos. 131818-19, February 3, 2000, 324 SCRA 646.

[31] TSN, July 7, 1997 at 8-9.

[32] People vs. Prades, G.R. No. 127569, July 30, 1998, 293 SCRA 411, 424, citing People vs. De Guzman, 265 SCRA 228 (1996); People vs. Alvero, G.R. No. Nos. 134536-38, April 5, 2000, 329 SCRA 737, 755; People vs. Bartolome, G.R. No. 129054, September 29, 1998, 296 SCRA 615.

[33] Id.; Section 27, Rule 130, Revised Rules on Evidence.

[34] People vs. Baroy, et al., G.R. Nos. 137520-22, May 9, 2002, 382 SCRA 56; People vs. Silverio Montemayor, G.R. Nos. 124474 & 139972-78, January 28, 2003.

[35] People vs. Silverio Montemayor, id.

[36] G.R. No. 128882, October 2, 2003, citing People vs. Baroy, et al., supra.

[37] People vs. Joel Ayuda, supra, citing People vs. Alfredo Baroy, id.; People vs. Salalima, G.R. Nos. 137969-71, August 5, 2001, 363 SCRA 192; People vs. Escaxjo, G.R. Nos. 140218-23, February 13, 2002, 376 SCRA 670; People vs. Arizapa, G.R. Nos. 131814, March 15, 2000, 328 SCRA 214.

[38] People vs. Joel Ayuda, *supra*, citing People vs. Francisco Sorongon, G.R. No. 142416, February 11, 2003; People vs. Edem, G.R. No. 130970, February 27, 2002, 378 SCRA 38.

[39] *Supra*.

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