

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RODRIGO MALDO AND REYNALDO MALDO, ACCUSED. RODRIGO MALDO, APPELLANT.

G.R. No. 131347. May 19, 1999

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

The Court reiterates that (1) prejudice, by itself, does not suffice to discredit a witness totally; (2) the trial court's assessment of the credibility of witnesses and their testimonies is entitled to great respect; and (3) treachery cannot be appreciated when the prosecution fails to establish how the attack on the victim commenced.

The Case

Rodrigo Maldo appeals the 53-page Judgment[1] in Criminal Case No. SC-5301 of the Regional Trial Court of Santa Cruz, Laguna (Branch 28), which convicted him of murder and sentenced him to reclusion perpetua.

In an information[2] dated May 16, 1994, First Assistant Provincial Prosecutor Felipe L. Arcigal Jr. charged Reynaldo Maldo and Rodrigo Maldo with murder, allegedly committed as follows:

"That on or about 3:45 o'clock in the afternoon of February 20, 1994 at L. Taleon St., Municipality of Sta. Cruz, Province of Laguna and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually helping one another, with intent to kill xxx [--specifically,] accused Reynaldo Maldo [who] was conveniently armed with [an] unlicensed firearm/handgun and accused Rodrigo Maldo [who] was conveniently armed with a piece of wood (dos por dos) [--] did then and there willfully, unlawfully and feloniously attack, assault and sho[o]t one MICHAEL BACHO several times on his head and chest, thereby inflicting fatal gunshot wounds upon the said Michael Bacho which directly caused his instantaneous death, to the damage and prejudice of the surviving heirs of the said victim.

"That the crime was aggravated with the qualifying circumstances of evident premeditation, treachery and with the use of superior strength."

At his arraignment, Appellant Rodrigo, duly assisted by Counsel de Parte Leonardo Ragaza,[3] pleaded not guilty. The other accused, Reynaldo Maldo, was and has remained at large.

After trial, the lower court rendered the assailed September 25, 1997 Judgment, the decretal portion of which reads:

"WHEREFORE, in the light of all the foregoing considerations, the Court finds the accused Rodrigo Maldo GUILTY beyond reasonable doubt of having committed the offense of MURDER defined and penalized under Article 248 of the Revised Penal Code, as amended by Republic Act No. 7659. Accordingly, aforesaid accused is hereby sentenced to suffer the penalty of RECLUSION PERPETUA.

"Furthermore, said accused is hereby ordered to pay the heirs of Michael Bacho the sum of P50,000.00 as indemnity for his death; P25,000.00 as expenses for the funeral parlor in the interment and burial of Michael as

reflected in Exhibit "L"; the sum of P11,079.45 as expenses in the interment of Michael in the Garden of Peace as reflected in Exhibit "M" and to pay the costs of the instant suit.

"So also, let a warrant of arrest be issued for the apprehension of the other accused Reynaldo Maldo with the directives to the police authorities to exert earnest efforts to serve at the soonest possible time said warrant in order that the accused may be brought before the bar of justice.

"Said warrant of arrest should be furnished the NBI, CISC, PNP-Local, Provincial and National Command and other [p]olice and [m]ilitary [o]fficers with authority to effect the arrest of the accused Reynaldo Maldo.

"The immediate kins of the deceased Michael Bacho are hereby advised to extend their earnest cooperation to the [p]olice [a]uthorities in locating the whereabouts of the accused Reynaldo Maldo so that his eventual arrest could be effected in order to face trial for the same offense for which his co-accused Rodrigo Maldo was charged, tried and convicted."[4]

In view of the penalty imposed, this appeal was filed directly with this Court.[5]

The Facts

Version of the Prosecution

The Office of the Solicitor General[6] presents the facts, as viewed by the prosecution, in this wise:

"On February 20, 1994, around 3:45 p.m., Michael Bacho (victim) was running for his life along L. Taleon Street, Santa Cruz, Laguna. Chasing him were Rodrigo (appellant) and Reynaldo Maldo. Reynaldo ran ahead of his father, Rodrigo, and was armed with a handgun. Rodrigo, on the other hand, was carrying a piece of wood (dos por dos) and shouting "[P]atayin mo, patayin mo."

"Bacho entered an alley ('iskinita') where he was cornered by the father and son team. There, Reynaldo shot Bacho twice: first, on the chest, and then on the head. After shooting, Reynaldo proclaimed before his father Rodrigo, '[W]ala na, patay na.' Bacho indeed died from the gunshot wounds."[7]

The trial court, on the other hand, summarized the prosecution's evidence in the following manner:

"That on or about 3:45 o'clock in the afternoon of February 20, 1994, at L. Taleon Street, Santa Cruz, Laguna, the victim Michael Bacho was chased by accused Reynaldo Maldo who was then armed with a firearm/handgun with his father and co-accused Rodrigo Maldo who was then armed with a piece of wood (dos por dos), and was behind and following Reynaldo. Michael was cornered (nasukol) at the 'iskinita' at L. Taleon Street Reynaldo shot two (2) times Michael who was hit first on his chest, and thereafter, Reynaldo shot Michael who was hit on his head.

"Of the nine (9) prosecution witnesses who testified in the case at bar, it appears that prosecution witnesses Virginia Cordova and Ronnie Toquero were actual eyewitnesses to the shooting incident.

"Virginia Cordova testified that on the aforesaid date and time, she was then in her store just opposite her house when she saw Michael Bacho running towards the 'iskinita' of L. Taleon Street, five (5) meters, more or less, away from her. Michael was followed by Reynaldo armed with [a] handgun, and Reynaldo was followed by his father Rodrigo Maldo who was then carrying a two by two piece of wood, and Virginia saw Reynaldo sho[o]t Michael on the chest who fell down with his back on the surface and after five (5) seconds, the second shot was fired by Reynaldo and Michael was hit on his head.

"Herein witness even alleged that she heard Rodrigo shouting the words '[P]atayin mo, patayin mo' which was addressed to his son Reynaldo. After the shooting incident, Reynaldo told his father 'wala na, patay na.'

"x x x x x x x x

"The second prosecution witness who also appears to have actually witnessed the shooting incident on February 20, 1994, at about 3:45 o'clock in the afternoon at L. Taleon Street, Santa Cruz, Laguna was Ronnie

Toquero. According to him, he was in their house near the house of Elvira Pambuan, when he heard a sound not so loud like a gunshot. He peeped and saw the accused Reynaldo Maldo sho[o]t the victim Michael Bacho two (2) times. Actually, there were three (3) shots which were fired, one (1) shot which missed (nagmintis) and the two (2) shots [which] were fired directly on the person of Michael. The distance of Reynaldo to Michael when the former shot the latter was one and one-half (1½) meters. He heard Rodrigo Maldo shouting 'sige, patayin mo, patayin mo.' Although he did not actually see Rodrigo utter those words, he was familiar with the voice of Rodrigo at the billiard hall. But this witness admitted that in the sworn statement which he gave, he did not state the words uttered by Rodrigo because he was confused (taranta na).

"Prosecution witness Evelyn Calugtong, the owner of the house adjacent to the billiard hall owned by the accused Rodrigo Maldo, testified that on February 20, 1994, at about or between 3:00 to 4:00 o'clock in the afternoon, she was at home when she heard a commotion coming from the east. When she looked out, she saw Rodrigo who uttered the words 'sige, patayin mo na' xxx to his son Reynaldo Maldo and Rodrigo was then carrying a 'pamalo'. After twenty (20) minutes, Rodrigo came back to the 'bilyaran' and face[d] the barangay saying '[N]gayon ninyo ako kalabanin', '[H]indi na bale akong makulong napatay naman'. She admitted that she was approached by Arsenia Bacho, mother of the victim, who requested her to testify in this case. She did not execute an affidavit in the case at bench and xxx almost one and one-half (1 ½) years xxx had elapsed from the time the shooting incident happened [up to the time] when she testified in court. She further alleged that she knew the character of the accused Rodrigo and that Rodrigo could also help someday. She admitted that she never saw anybody ahead of Reynaldo and she didn't know who was the enemy of Rodrigo when she saw Rodrigo [go] out of the billiard hall and follow his son Reynaldo. She didn't see Michael during the commotion and never saw xxx Michael [at any time] during February 20, 1994, nor [did she see] Tommy Idian during the commotion inside the billiard hall.

"Armando Villasin, the other prosecution witness, was not also an eyewitness to the shooting incident. But according to him, on February 20, 1994, at about 3:00 o'clock in the afternoon, he was at the house of Viena Ramirez and was a mere 'kibitzer' in mahjong when he heard a shot coming from the eastern portion. He went out of the house of Viena and he met and saw Rodrigo Maldo and Reynaldo Maldo. Rodrigo was holding a "dos por dos" while following his son Reynaldo who was holding a .38 caliber gun. The two (2) accused were coming out [of] the 'iskinita' leading to Pedro Guevarra street. When he went directly to the place where the victim was, he found out that the victim was lying on a canal and he was injured on his head and his chest. He alleged that when he met Reynaldo and Rodrigo, he heard Virginia Cordova shouting '[P]atay na, patay na si Michael Bacho'. However, he admitted that those statements were not included in his affidavit because he was already confused. But according to him, he did not actually see the person who fired shots against Michael.

"x x x x x x x x

"Edenly Tan Bacho, complaining witness and widow of the victim Michael Bacho, was offered and mainly testified on the civil aspects of the case. Aside from the indemnity for the death of Michael Bacho, the other items of damages sufficiently proven by the widow [were] in the sum of xxx twenty five thousand pesos (P25,000.00) which could be predicated and considered reasonable, the value of cost of the items specified in Exhibits 'L' and 'L-1', as well as the amount of P11,079.45 as reflected in Exhibits 'M' and 'M-1'." [8]

Version of the Defense

In his Brief,[9] appellant denies any participation in the killing and alleges the following narration of the facts:

"On February 20, 1994, at or about 3:45 p.m., the appellant was sleeping inside his house at L. Pantaleon Street, Sta. Cruz Laguna, on the ground floor of which was a billiard hall which his family owned and operated. At or about the same time, appellant's wife, ELNORA MALDO, and their grandchildren, among them RAQUEL MALDO, were likewise watching the television program 'Ipaglaban Mo.' It was while the abovenamed persons were engaged in the said mundane pursuits when, for reasons still unknown, a fight ensued in the billiard hall between Accused-Appellee REYNALDO MALDO on the one hand as well as MICHAEL BACHO and one TOMMY IDIAN on the other.

"RAQUEL MALDO's unrefuted testimony is to the effect that she saw MICHAEL BACHO hit his father, Accused-Appellee REYNALDO MALDO, with a lead pipe for around six times even as TOMMY IDIAN started throwing billiard balls and hitting the billiard table with a baseball bat. Escaping MICHAEL BACHO's attack, REYNALDO MALDO crawled towards the door for the purpose of asking for help. He was however pursued by the former who continued hitting him.

"The rumpus attracted the attention of appellant's daughter, RHODORA CASTILLO who lived about ten meters away from her father. Rushing out of her house towards the general direction of the billiard hall, she likewise saw MICHAEL BACHO hitting her brother with the lead pipe and TOMMY IDIAN causing further damage not only to the billiard table but also the light fixture/s in the hall. Alongside RAQUEL MALDO, her niece, RHODORA CASTILLO saw the fact, among others, that MICHAEL BACHO and REYNALDO MALDO grappled on the floor for about five minutes; that from his waist, MICHAEL BACHO drew a gun which REYNALDO MALDO tried to wrestle from him; and, that when the latter was able to gain possession of the firearm, the former ran towards the general direction of Dolor Subdivision, with REYNALDO MALDO in pursuit.

"In the meantime, the commotion downstairs as well as the proddings of his wife to seek some help roused appellant from his sleep. Going downstairs and outraged by the sight of TOMMY IDIAN still causing damage to the billiard hall, appellant confronted the former and shouted, `(B)akit ka nanggugulo, ano ang dahilan?" Because TOMMY IDIAN started pelting him with billiard balls, appellant was constrained to flee towards his house where he directed his wife and daughter to call for police assistance."[10]

The Trial Court's Ruling

Giving credence to the prosecution's evidence, the trial court convicted Rodrigo Maldo of murder. The lower court described the testimonies of Witnesses Cordova and Villasin as "unshaken, straightforward and steadfast in [their] material points." [11] Their testimonies were also corroborated by the other prosecution witnesses.

The court a quo disbelieve the defenses of denial and alibi, because the eyewitnesses positively identified Rodrigo and Reynaldo as the malefactors. Inasmuch as the father and the son acted in unison, the trial court declared the presence of conspiracy.

"xxx conspiracy can be inferred when prosecution witnesses saw accused Rodrigo and Reynaldo when the latter shot to death Michael and heard Rodrigo shouting `Patayin mo, patayin mo' which he addressed to his son Reynaldo. The fact that Rodrigo did not flee with his son Reynaldo after the killing incident does not negate the existence of conspiracy." [12]

Assignment of Errors

Appellant assigns these alleged errors:

"I. The court a quo erred in giving credence to the testimony of prosecution witness Virginia Cordova whose bias against appellant and his family was apparent;

"II. Even with the supposed corroboration by the testimony of Ronnie Tocquero, the court a quo erred in finding that the testimony of Virginia Cordova supported a finding of conspiracy to kill Michael Bacho;

"III. The court a quo erred in not finding that, even if accorded precipitate credulity, the prosecution evidence indicate[d] lack of criminal liability on the part of herein appellant for the death of Michael Bacho;

"IV. The court a quo erred in finding that the crime charged was attended by the qualifying circumstance of treachery;

"V. The court a quo erred in holding appellant criminally and civilly liable for the death of Michael Bacho, beyond reasonable doubt." [13]

In the main, appellant questions (1) the credibility of the prosecution witnesses, (2) the presence of conspiracy and (3) the appreciation of treachery as a qualifying circumstance.

This Court's Ruling

The appeal is partly meritorious. Appellant should be convicted only of homicide, not murder.

First Issue:

Credibility of Witnesses

Appellant argues that the trial court erred in relying on Prosecution Eyewitness Virginia Cordova, because she had a motive to testify falsely against him. He stresses that he had earlier filed a criminal case against her and her children. Her prejudice against him was vividly demonstrated when she scornfully said, "[I]sinusuka na siya [appellant] ng barangay." [14] He further contends that there was inconsistency between her testimony and her sworn statement.

We are not persuaded. By itself, prejudice against an accused cannot warrant the disqualification of witnesses or the total disregard of their testimonies. Under the Rules of Court, [15] any person, as a rule, can testify in court, regardless of personal interest in a case. In any event, appellant was given an opportunity to cross-examine Cordova and to demonstrate any falsity or error in her allegedly biased testimony. He failed, however, to undermine her credibility.

Indeed, the lower court's appreciation of the credibility of witnesses and their testimonies is generally binding on appellate tribunals, absent any palpable error or grave abuse of discretion. [16] Cordova's allegedly manifest prejudice against appellant has been assessed by the trial court, which had the opportunity to observe her. Appellant has given us no sufficient reason to reverse its ruling that she was credible.

Cordova testified in a categorical, straightforward, spontaneous, consistent and frank manner on how appellant and his son chased and killed Michael Bacho. Even under the rigorous cross-examination conducted by the defense counsel, she remained steadfast in her testimony. Equally important, it was corroborated on material points by prosecution Witnesses Evelyn Calugtong, [17] Amando Villasin, Jr. [18] and Ronnie Toquero who was also an eyewitness. [19]

Nor does the variance between the testimony and the affidavit of Cordova taint her credibility. The rule is that "an affidavit taken ex parte is judicially considered to be almost incomplete and often inaccurate, sometimes from partial suggestions and sometimes from want of suggestions and inquiries, without the aid of which the witness may be unable to recall the connected circumstances necessary for his accurate recollection of the subject." [20]

Second Issue:

Conspiracy

Appellant submits that there is no evidence that establishes conspiracy between him and Reynaldo.

We disagree. Conspiracy exists when two or more persons come to an agreement concerning the commission of a felony and decide to commit it. [21] Direct proof is not essential, for conspiracy may be inferred from the acts of the accused prior to, during or subsequent to the incident. Such acts must point to a joint purpose, concert of action or community of interest. [22] Hence, the victim need not be actually hit by each of the conspirators for the act of one of them is deemed the act of all. [23]

Appellant's participation was narrated by Prosecution Witness Cordova as follows:

"Q Where were you specifically in the afternoon of February 20, 1994 in relation to your store?

A In this place, in fact, I was sitting on the top of this table (witness demonstrating her position while she was

[I]n this place on February 20, 1994).

x x x x x x x x

Q

It was while you were seated on top of your table when you saw the victim Michael Bacho coming?

A Yes, sir.

Q Where was he coming from?

A He came from that entrance from a billiard hall, sir.

Q Now did you know that Michael Bacho was coming?

A

Because I saw Michael Bacho coming towards this direction being followed by Reynaldo who was armed with a gun and Reynaldo Maldo was being followed by Rodrigo Maldo[, his] father, who was armed with a piece of wood, dos por dos.

xxx xxx xxx

ATTY. TOLENTINO:

Q Was Michael uttering anything when you first saw him coming?

A He did not utter anything when I saw him coming, sir. In fact, he was running gasping for breath while being followed by Reynaldo Maldo who was armed with a black gun, sir.

xxx xxx xxx

Q So Reynaldo Maldo was immediately behind Michael Bacho?

A Yes, sir.

Q That being the case, how were you able to see Reynaldo Maldo?

A Michael Bacho was being chased by Reynaldo Maldo and said Michael Bacho was gasping for breath.

Q Considering that according to you xxx Reynaldo Maldo was immediately behind Michael Bacho, how were you able to notice that he was armed with a gun?

A

I saw that Michael Bacho was being chased by Reynaldo Maldo and I saw that Reynaldo Maldo was carrying a gun and in fact, I was sitting on this table when they passed by this place, sir.

Q So your attention was focused on Michael Bacho and Reynaldo Maldo, is that correct?

A Yes, sir.

Q How did you [come] to know that Rodrigo Maldo was following Reynaldo Maldo.

A I also saw that Rodrigo Maldo was carrying dos por dos, sir.

xxx xxx xxx

Q And at the time that you [were] hiding yourself behind the guava tree, where was Michael Bacho?

A

He was already here (witness referring to the distance between the guava tree [and] the palmera tree that could be seen in the place which [was] about a distance of exactly 223 meters (as actually measured)).

Q So Madam Witness, Michael Bacho stopped upon reaching the dead end of this alley, is that correct?

xxx xxx xxx

A

Yes, sir.

ATTY. TOLENTINO:

Q And Michael had his back toward you?

A Yes, sir, Michael Bacho's back was towards me and then he faced xxx me.

Q And where was Reynaldo Maldo in relation to the position of Michael Bacho who was at the front of a gate?

A Reynaldo Maldo was standing here while Michael Bacho was here (witness referring to a distance which [was] immediately behind).

Q And are you telling us that Reynaldo Maldo also stopped when he was immediately behind Michael Bacho?

A Yes, sir.

Q And it was at that juncture that Reynaldo Maldo fired his gun?

A Yes, sir.

Q Which hand of Reynaldo Maldo was holding the gun?

A His right hand, sir.

Q Will you demonstrate before this Honorable Court how he fired his first shot?

A Reynaldo Maldo was then standing holding his gun uttering this statement: "Sige, ngayon ka lumaban" and he fired his gun.

Q The first time he was shot, what happened to Michael?

A He then fell down with his back on the surface (nakatihaya).

Q And according to you he fired another shot, Reynaldo Maldo?

A Yes, sir.

Q More or less how many seconds had elapsed before he fired the second shot?

A Five (5) second more or less, sir.

Q At the time the first two shots were fired allegedly by Reynaldo Maldo, Rodrigo Maldo was not yet in this place?

A Rodrigo Maldo was here carrying a piece of dos por dos uttering "Patayin mo, pataying mo".

Q Where was Rodrigo Maldo at the time he allegedly uttered those remarks?

A He was here (witness referring to a place beyond the guava tree)."

From the foregoing, it is clear that Michael was chased by appellant who was holding a dos por dos and cajoling his son Reynaldo, "[P]atayin mo, patayin mo." [24] After his son shot and killed Michael, appellant shouted,

"[N]gayon niyo ako kalabanin"[25]; and "[H]indi bale na akong makulong, napatay naman."[26] His conduct clearly indicated that he had a common criminal design with his son. As we ruled in *People v. Hubilla Jr.*,[27] "[w]hile he did not fire a single shot, his conduct indicated complete cooperation with Hubilla. His armed presence unquestionably gave encouragement and a sense of security to Hubilla. Hence, his liability is that of a co-conspirator, for where conspiracy is established, the act of one is the act of all."

Citing *People v. Balderama*[28] and *People v. Agapinay*,[29] appellant argues that there was no conspiracy because the prosecution failed to prove that his utterances were "the determining cause of the crime." [30]

We differ. In *Agapinay*, this Court ruled that Julia Rapada's utterance "[k]ill him and we will bury him" did not make her a co-conspirator, because it was made after the assault. Hence, we declared "her words xxx amount but to imprudent utterances said in the excitement of the hour or in the heat of anger x x x, and not, rather, in the nature of a command that had to be obeyed."

In *Balderama*, this Court ruled that there was no sufficient proof of conspiracy. After challenging Nestor, Ernesto shouted "Birahin mo," whereupon the former was attacked by Oscar who suddenly appeared. We declared that "[n]either joint nor simultaneous action per se is sufficient indicium of conspiracy[;] a common design must further be shown to have motivated such action."

In this case, appellant's words and conduct showed that he and his son shared a common purpose to kill the victim. Armed, both of them chased the victim. When their quarry was cornered, appellant ordered his son to kill him. After the victim fell, appellant reaffirmed his part in the crime, shouting "Hindi bale na akong makulong, napatay naman." These circumstances categorically demonstrated conspiracy.

Third Issue: Treachery

We do not agree with the finding of the trial court that treachery attended the killing. "Absent any particulars as to the manner in which the aggression commenced or how the act that resulted in the death of the victim unfolded, treachery cannot be appreciated." [31] It is not sufficient that the victim was unarmed and that the means employed by the malefactor brought the desired result. The prosecution must prove that the appellant deliberately and consciously adopted such means, method or manner of attack as would deprive the victim of an opportunity for self-defense or retaliation.[32] In the present case, the commission of the crime was preceded by a melee; the victim fled, but he was chased by appellant and his son. The prosecution evidence did not show how the attack was commenced. On the other hand, the defense showed that the victim started the melee.

Likewise, evident premeditation was not established. The prosecution utterly failed to prove the following: (1) the time when the accused decided to commit the crime; (2) an overt act showing that the accused clung to their determination to commit the crime; and (3) the lapse of a sufficient period of time between the decision and the execution of the crime, as to allow the accused to reflect upon the consequences of the act.[33]

Furthermore, there is no abuse of superior strength. This qualifying circumstance is appreciated when the accused purposely used excessive force out of proportion to the means of defense available to the person attacked.[34] The prosecution did not present any evidence showing that appellant and his son had done so. As earlier noted, the killing was preceded by a fracas.

Absent any qualifying circumstance, appellant may be held guilty only of homicide and should suffer the penalty of reclusion temporal.[35] He is also entitled to the benefits of the Indeterminate Sentence Law. However, we affirm the monetary awards of P50,000.00 as indemnity ex delicto and P36,079.45 as actual damages (P25,000.00 for the coffin and P11,079.45 for the interment expenses duly established during the trial).

WHEREFORE, the appeal is **PARTIALLY GRANTED** and the assailed Decision is hereby **MODIFIED**.

Appellant Rodrigo Maldo is found guilty beyond reasonable doubt of HOMICIDE and is sentenced to an indeterminate penalty of ten (10) years of prison mayor as minimum to seventeen (17) years and four (4) months of reclusion temporal as maximum. Appellant is likewise ordered to pay the heirs of Michael Bacho P50,000.00 as civil indemnity and P36,079.45 as actual damages.

SO ORDERED.

Romero, (Chairman), Vitug, and Gonzaga-Reyes, JJ., concur.
Purísima, J., did not participate in the deliberations.

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- [1] Rollo, pp. 54-106; records, pp. 332-385. The Judgment was written by Judge Hilario F. Corcuera.
- [2] Rollo, p. 14.
- [3] Records, p. 144.
- [4] Assailed Decision, pp. 52-53; Rollo, pp. 105-106.
- [5] The case was deemed submitted for resolution on February 3, 1999, when the Court received the Appellee's Brief. The filing of a reply brief was deemed waived, as none was filed within the reglementary period.
- [6] The Brief for the Appellee was signed by Solicitor General Ricardo P. Galvez, Assistant Solicitor General Carlos N. Ortega and Associate Solicitor Norman R. Bueno.
- [7] Brief for the Appellee, pp. 4-5; Rollo, pp. 253-254.
- [8] Judgment, pp. 43-46; rollo, pp. 96-99.
- [9] Although the Notice of Appeal was signed by Atty. Jose B. Tolentino Jr, the 17-page Appellant's Brief was signed by Appellant Rodrigo Maldo himself.
- [10] Brief for Appellant Rodrigo Maldo, pp. 1-3; rollo, pp. 158-160.
- [11] Judgment, p. 49; rollo, p. 102. Citations omitted.
- [12] Ibid., p. 51; rollo, p. 104.
- [13] Brief for Appellant, pp. 7-8; rollo, pp. 164-165.
- [14] TSN, July 3, 1995, pp. 15-16.
- [15] Section 20, Rule 130.
- [16] People v. Daraman et al., G.R. No. 126046, August 7, 1998; People v. Sta. Ana, GR No. 115657-59, June 26, 1998; People v. Betonio, GR No. 119165, September 26, 1997; People v. Gutierrez, 258 SCRA 71, July 5, 1996.
- [17] TSN, August 14, 1995, pp. 4-21; August 28, 1995, pp. 4-18.
- [18] TSN, September 25, 1995, pp. 3-42.
- [19] TSN, September 26, 1995, pp. 16-43.
- [20] People v. Marollano, 276 SCRA 84, July 24, 1997, per Panganiban, J.; cited in People v. Andres, et al., GR No. 122735, September 25, 1998. See also People v. Jamiro, 279 SCRA 290, September 18, 1997; People v. Oliva, 282 SCRA 470, December 5, 1997.

[21] Article 8, par. 2 of the Revised Penal Code.

[22] *People v. Magallano*, 266 SCRA 305, 314, January 16, 1997, *People v. Palomar*, 278 SCRA 114, August 21, 1997; *People v. Dinglasan*, 267 SCRA 26, January 28, 1997, *People v. Cabiles Sr.*, 258 SCRA 271, July 5, 1996.

[23] *People v. Azugue*, 268 SCRA 711, 724-725, February 26, 1997; *People v. Leangsiri*, 252 SCRA 213, January 24, 1996; *People v. Salison Jr.*, 253 SCRA 758, February 20, 1996; *People v. Obzunar*, 265 SCRA 547.

[24] TSN, July 3, 1995, p. 10. See also September 26, 1995, p. 21.

[25] TSN, August 14, 1995, p. 13.

[26] *Ibid.*, p. 14.

[27] 252 SCRA 471, 481, January 29, 1996, per Davide, J. (now CJ).

[28] 226 SCRA 537, September 17, 1993, per Vitug, J.

[29] 186 SCRA 812, June 27, 1990, per Sarmiento, J.

[30] Appellant's Brief, p. 14; rollo, p. 171.

[31] *People v. Nalangan*, 270 SCRA 234, 240, March 20, 1997, per Regalado, J., See also *People v. De Manuel*, 263 SCRA 49, October 9, 1996; *People v. Dinglasan*, 267 SCRA 26, January 28, 1997; *People v. Dansal*, 275 SCRA 549, July 17, 1997; *People v. Chavez*, 278 SCRA 230, August 21, 1997; *People v. Real*, 242 SCRA 671, March 24, 1995.

[32] *People v. Molina*, GR Nos. 115835-36, July 22, 1998; *People v. Sumalpong*, 284 SCRA 464, January 20, 1998; *People v. Navarro*, GR No. 129566, October 7, 1998; *People v. Dela Cruz*, GR Nos. 109619-23, June 26, 1998; *People v. Ombrog*, 268 SCRA 93, February 12, 1997; *People v. Baydo*, 273 SCRA 526, June 17, 1997.

[33] *People v. Quinao*, 269 SCRA 495, 512, March 13, 1997; *People v. Renato Albao*, 287 SCRA 129, March 6, 1998; *People v. Castillo*, 289 SCRA 213, April 20, 1998; and *People v. Sumalpong*, 284 SCRA 464, January 20, 1998.

[34] *People v. Asto*, 277 SCRA 697, 711, August 20, 1997; *People vs. Ruelan*, 231 SCRA 650, 662, April 19, 1994; *People vs. Padilla*, 233 SCRA 46, 60, June 10, 1994.

[35] Article 249 of the Revised Penal Code.

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