PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. PACITO GARCES JR., ACCUSED-APPELLANT.

G.R. No. 132368. January 20, 2000

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

The credible testimony of a rape victim is a sufficient basis for conviction, especially when it is corroborated by other witnesses and supported by medicolegal findings. A "sweetheart defense" should be substantiated by some documentary and/or other evidence of the relationship like mementos, love letters, notes, pictures and the like. Such relationship, if proven, would not necessarily establish consent, for love is not a license for lust.

The Case

Pacito Garces Jr., also known as "Bolingot," appeals the Decision of the Regional Trial Court (RTC) of Dumaguete City (Branch 32), which convicted him of rape and sentenced him to reclusion perpetua.

In a Complaint dated May 16, 1995, Rosalie Ganaganag charged herein appellant with rape. During the preliminary investigation, he failed to appear or to adduce any evidence for his defense. Finding sufficient ground to establish a well-founded belief that he had committed the crime, Circuit Trial Judge Tirso F. Banquerigo subsequently forwarded the records to the Office of the Provincial Prosecutor. Because appellant had escaped from the Municipal Jail of Jimalalud, Negros Oriental, warrants[1] for his re-arrest were also issued.

The Information[2] dated August 18, 1995, was filed by Second Assistant Provincial Prosecutor Juditho J. Agan, charging appellant as follows:

> "That on or about 11:30 o'clock in the morning of May 14, 1995, at Barangay Bangcal, Jimalalud, Negros Oriental, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with the use of a deadly weapon and by using force and intimidation, did then and there wil[l]fully, unlawfully and feloniously have carnal knowledge of one Rosalie[3] Ganaganag, against her will, to the damage and prejudice of herein offended party.
>
> An [a]ct defined and penalized by Article 335 of the Revised Penal Code.
>
> Attached herewith to form an integral part hereof is the Criminal Complaint dated May 16, 1995, signed by complainant Rosalie Ganaganag.
>
> The commission of the crime is attended by the aggravating circumstance of [d]welling."[4]

Appellant was eventually arrested and detained at the Ozamis City Reformatory on December 19, 1996. With the assistance of Atty. Ernesto Valencia,[5] he entered a plea of not guilty during the arraignment on March 13, 1997. After trial in due course, Judge Eleuterio E. Chiu rendered the assailed Decision, the dispositive part of which reads:

> "WHEREFORE, premised considered, the court finds accused PACITO GARCES JR., A.K.A. 'BOLINGOT'

> GUILTY beyond reasonable doubt of RAPE penalized under Art. 335 of the Revised Penal Code in relation to R.A. 7659 and hereby sentences him to the penalty of reclusion perpetua together with all the accessory penalties provided for by law, to pay offended party Rosalie Ganaganag the sum of P200,000.00 as moral damages, and to pay the costs.
>
> The jailer is ordered to make the proper reduction of the period during which the accused was under preventive custody by reason of this case in accordance with law."[6]

Hence, this appeal.[7]

The FactsVersion of the Prosecution

In its Brief,[8] the Office of the Solicitor General presents the facts in this wise:

> "At about 11:30 o'clock in the morning of May 14, 1995, private complainant Rosalie Ganaganag was left alone in their house while her parents Santiago and Amparo Ganaganag went to the market in the poblacion of Jimalalud, Negros Oriental. Appellant Pacito Garces, Jr., also known as Bolingot, barged into the house of private complainant and embraced her. Suddenly, he poked a knife at her chest and forced her to lie on the ground. Appellant then went on top of private complainant, raised her skirt and removed her underwear. After appellant succeeded in having sexual intercourse with private complainant, he threatened to kill her and her family if she would report the incident to anyone.
>
> "Thereafter, private complainant proceeded to the house of their neighbor Pacita Garces. Private complainant approached Pacita, hugged her and cried after telling that she was raped by appellant. Pacita noticed that the hair of private complainant was disheveled. She also noted a scratch caused by two fingernails at the lower part of the cheek of private complainant.
>
> "Pacita and private complainant went to the house of Barangay Councilor Wilson Garces to whom private complainant reported in tears that she was raped by appellant. Wilson Garces noted that 'at the time her hair [was] disheveled.' He also 'saw some hematoma around her mouth.' Wilson accompanied Pacita and private complainant to Barangay Captain Felicito Torres.
>
> "Meanwhile, while Santiago and Amparo were in the market, Felix Talido approached and informed them of the rape incident. Santiago and Amparo immediately proceeded to the house of the barangay captain where they met private complainant.
>
> "On the same day, Wilson accompanied private complainant and her parents to the police station to report the rape incident. Around 3:00 o'clock in the afternoon, they proceeded to Guihulngan District Hospital where private complainant was examined by Dr. Precy Paguntalan Ung.[9] The internal examination revealed the following findings:
>
> For the Pubis:
>
> No hematoma
>
> For the Hymen:
>
> Positive laceration at 3:00 o'clock and 6:00 o'clock
>
> For the Vulva:
>
> No contusion, no lacerations, no erythema
>
> For the vagina:
>
> There was negative fresh blood at the vaginal canal. Positive lacerations at 3:00 o'clock and 6:00 o'clock

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> Admits two (2) fingers
>
> For the Cervix:
>
> There [were] no lacerations
>
> "Aside from noting the abrasion at the right cheek of private complainant, Dr. Ung also found that after examining the vaginal smear, the same was positive for spermatozoa."[10] (citations omitted)

Version of the Defense

Maintaining that he and Rosalie Ganaganag were lovers, Appellant Garces submits in his Brief the following version of the facts of the case:[11]

> "Porferio Paculang claimed that Pacito Garces, Jr. and Rosalie Ganagan[a]g were sweethearts. On May 14, 1995 at 12:00 o'clock noon, he was driving his motorcycle when he saw Pacito Garces, Jr. and Rosalie Ganagan[a]g walking towards the house of the latter. He had always seen Rosalie riding on the motorcycle driven by Pacito. One time he asked Pacito: 'how are you now with Rosalie?' The latter replied: 'We are now engaged with each other.'
>
> "Pacito Garces, Jr. claimed that he and Rosalie Ganagan[a]g are sweethearts and had made love several times. In the morning of May 14, 1995, he was at Rosalie's residence and had sex with the latter. The sexual act was mutual because they are sweethearts. After their love making, Rosalie warned him that if he will not marry her, she would file a rape case against him. He told Rosalie not to worry because I will marry you. He likewise told Rosalie that he would be coming back in the evening to meet her parents. Rosalie told him: 'let['s go now because I know that you still have to go back driving.' So he proceeded towards Jimalalud town proper on his motorcycle. In the afternoon of May 14, 1995, he was informed by Porferio Paculang that Rosalie filed a rape case against him, so he stayed at the Poblacion of Jimalalud. Thereat, he was detained for more than a week as a living out prisoner. While under detention, he was sent to buy fish at the market where he met Rosalie. She told him to escape because she will elope with him. He asked Rosalie why she filed a rape case against him even though they agreed to get married. The latter replied that her parents don't agree to their proposal. They agreed to meet later at Pulupantaw, so he escaped from the Municipal Jail of Jimalalud. He failed to meet Rosalie at Pulupantaw because he was nearly caught by the police authorities." (citations omitted)

The Trial Court's Ruling

The trial court rejected the sweetheart theory and ruled that Appellant Garces raped the 14-year-old Rosalie Ganaganag. It held:

> "To bite the story of the accused is to believe that Rosalie was madly in love with Pacito. If Rosalie has been a sweetheart of Pacito, if she has had several passionate trysts with him, and if both of them agreed to marry each other, why did she charge him with the heinous crime of rape? Putting Pacito behind bars solely on the strength of her supposed false accusation of rape is rather odd and diametrically inconsistent with the feeling of love towards him. No girl in her right mind would ever hurt her boyfriend, more so, a person whom she wants to be her husband. There was no strong and overwhelming reason or even just any slight reason for her to invent a false story of being raped by the accused. It was only a matter of minutes, after being sexually abused by the accused that Rosalie reported the harrowing experience to a close family friend. There was no appreciable length of time for her to fabricate so serious a crime as rape which necessarily means exposing herself to shame. Rosalie's swift revelations of the outrage committed against her person shows that her feeling at that time was to immediately avenge her honor and have the sex molester arrested. This can hardly be an act of a woman who wants to be the wife of the accused. In a similar case, the Supreme Court held:
>
> 'The actuations of the complainant subsequent to the commission of the crime are likewise consistent with her allegations of rape. Her immediate revelation of the incident to her uncle upon arrival as well as her swift

> recourse to the barangay captain and the police authorities are not acts of a woman savoring an illicit tryst but that of a maiden seeking retribution for the outrage committed against her.'
>
> "Hence, after a painstaking study of the entire evidence on record along with the law and jurisprudence on rape, the Court brushes aside the defendant's 'sweetheart' theory. There was no consent on the part of the victim. The accused has therefore violated Art. 335 of the Revised Penal Code, as amended by R.A. 7659, which provides -
>
> 'ART. 335. When and how rape is committed -
>
> Rape is committed by having carnal knowledge of a woman under any of the following circumstances:
>
> - By using force or intimidation;

x x x x x x x x x'

> "Moreover, the accused escaped from the Municipal Jail of Jimalalud while being detained thereat by reason of this case. He successfully remained a fugitive from justice for over one (1) year and six (6) months. He was only re-arrested on December 28, 1996 in Ozamis City pursuant to the warrant of arrest issued by this Court. This constitutes additional evidence of Pacito's guilt, for flight is evidence of guilt."[12] (citations omitted)

The Issues

The appellant presents before us this lone assignment of error:

> "THE TRIAL COURT GRAVELY ERRED IN CONVICTING ACCUSED-APPELLANT OF RAPE DESPITE FAILURE OF THE PROSECUTION TO PROVE HIS GUILT BEYOND REASONABLE DOUBT."[13]

In disposing of this case against the appellant, we shall consider the following issues: the sufficiency of the prosecution evidence and the proper damages.

The Court's Ruling

We find no merit in this appeal.

First Issue:Sufficiency of Prosecution Evidence

In reviewing rape cases, the Court is guided by the following three principles: (1) to accuse a man of rape is easy, but to disprove it is difficult though the accused may be innocent; (2) considering that in the nature of things, only two persons are usually involved in the crime of rape, the testimony of the complainant should be scrutinized with great caution; and (3) the evidence for the prosecution must stand or fall on its own merit and not be allowed to draw strength from the weakness of the evidence for the defense. Corollary to these is the dictum that when a victim of rape says that she has been defiled, she says in effect all that is necessary to show that rape has been inflicted on her, and so long as her testimony meets the test of credibility, the accused may be convicted on the basis thereof.[14]

In the light of these principles, we have scrutinized the testimony of the victim and we find no reason to overturn the trial court's assessment of her credibility. Rosalie Ganaganag narrated in the following manner how Pacito Garces Jr. raped her:

> "FISCAL BUSTAMANTE:
>
> Q
>
> Now, on May 14, 1995 , at about 11:00 o'clock in the morning, can you please tell us where you were on that

date and time?

A

I was in our house.

xxx xxx xxx

Q

Who was you[r] companion in your house in Bangcal, Jimalalud on May 14, 1995 , at about 11:30 in the morning?

A

I was alone.

Q

How about your parents, where were they at that time?

A

They were in the poblacion of Jimalalud because that was a Saturday.

xxx xxx xxx

Q

Can you recall if there was an unusual incident that happened on May 14, 1995 , at about 11:30 in the morning?

A

Yes.

Q

And what was this unusual incident which you said you can remember?

A

I was raped by Pacito Garces, Jr.

Q

When you said Pacito Garces, Jr., you are referring to Pacito Garces, Jr. also known as Bolingot in this case?

A

Yes.

Q

You said that you were raped by Pacito Garces, Jr. also known as Bolingot, the accused in this case on May 14, 1995, at about 11:30 o'clock in the morning[;] where did this incident happen?

A

in our Barangay.

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xxx xxx xxx

Q

Yes, but you did not get my question[;] in your residence?

A

Yes.

Q

You said that you were raped by Pacito Garces, Jr.[;] will you please explain to us how Pacito Garces, Jr. raped you?

A

He hugged me upstairs, and while he was carrying a knife he ga[gg]ed my mouth then covered it with a cloth and then forcibly laid me on the floor.

Q

When you said you were forcibly laid on the floor, will you please tell us what was your position when you were laid forcibly on the floor by Pacito Garces, Jr.?

A

He hugged me tightly.

Q

When you were already lying on the floor?

A

Yes.

Q

And when you were already lying on the floor, can you tell us what Pacito Garces, Jr. did to you?

A

He ripped off my panty.

Q

And what happened to you panty, was it taken off completely?

A

Yes.

Q

And after Pacito Garces, Jr. successfully ripped off your panty, can you tell us what Pacito Garces, Jr. did after that?

A

Yes.

Q

Please tell us.

A

He took off his pants and brief.

Q

And after Pacito Garces, Jr. took off his pants and brief, what happened next?

A

His organ was inserted to my private organ.

Q

Was Pacito Garces, Jr. successful in inserting his organ to your private organ?

A

Yes.

Q

And while the organ of Pacito Garces, Jr. was already inside your private organ, what was Pacito Garces, Jr. doing?

A

He [went] on top of [me] (gui-ub-an ko niya).

Q

What do you mean by "gui-ub-an"?

A

He mounted me.

FISCAL BUSTAMANTE:

.

At this juncture, Your Honor, may we ask for a few minutes recess since the witness is already sobbing

COURT:

Alright, recess.

xxx xxx xxx

FISCAL BUSTAMANTE:

Q

For how many minutes did Pacito Garces, Jr. insert his organ into your private organ if you can remember?

A

He] was not able to insert [his organ] immediately because I kept on moving.

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Q

Now, you said awhile ago that Pacito Garces, Jr. was able to insert his organ to your organ[;] can you tell us if Pacito Garces, Jr. was able to pull his organ out from your organ?

A

Yes, and I noticed that there was fluid coming out from his private organ.

Q

And after Pacito Garces, Jr. pulled his organ from [your] organ and after fluid came out from his organ, will you please tell us what Pacito Garces, Jr. did?

A

He was standing carrying his knife and then he said to me that don't tell this to your parents because if you will do it, I will kill you all.

Q

You said that Pacito Garces, Jr. raped you. Were you able to shout when Pacito Garces, Jr. raped you?

A

No, because my mouth was covered with his hands very tightly.

Q

And what happened to your mouth?

A

I sustained injuries on my mouth.

Q

Will you please point to the Court where your injuries were located as a result of the plu[g]ging of your mouth by Pacito Garces, Jr.?

A

Here. (Witness pointing to her right cheek.)

Q

You said that Pacito Garces, Jr. was bringing with him a knife[;] will you please describe to this Court what knife was that?

A

About eleven (11) inches long including the handle.

Q

And what did Pacito Garces, Jr. do to that knife, if you know?

A

It was pointed [at] me while he was at [my] right side with the use of his right hand where the knife was, and it

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was pointed at my right breast.

Q

At what point in time did Pacito Garces, Jr. point that knife at you while you were lying down [and he was] hugging you?

A

While he was hugging me.

Q

Did Pacito Garces, Jr. say anything to you while he was pointing that knife [at] you?

A

No.

Q

After Pacito Garces, Jr. raped you as you said awhile ago, what did Pacito Garces, Jr. say to you?

A

He warned me not to tell my parents about this incident because if I will do it, he said, that he would kill all of us.

Q

While Pacito Garces, Jr. was saying all these threatening words, where was that knife that Pacito Garces, Jr. used to point at you?

A

He placed it on a bench.

Q

After Pacito Garces, Jr. said these threatening words, what did he do?

A

He went home.

Q

How about you, what did you do?

A

I immediately changed my clothes and then ran towards the house of Pacita Cuevas.

xxx xxx xxx

Q

And were you able to meet Pacita Cuevas at her house?

A

Yes.

Q

And what did you do upon meeting Pacita Cuevas?

A

I was then crying and told her that I was raped by Pacito Garces, Jr.

Q

And what was the reaction of Pacita Cuevas upon hearing your story?

A

She accompanied me to the house of Councilor Winston[15] Garces."[16]

We stress the well-settled doctrine that the lower court's assessment of credibility is accorded great respect, owing to its direct opportunity to observe the demeanor of witnesses during the trial.[17]

Appellant has not presented any convincing argument for this Court to reverse or modify the trial court ruling. He has failed to show any motive for Rosalie to accuse him falsely of this serious crime.[18] Rather, he merely presents what to his mind are three "easily perceived and discernible defects in private complainant's testimony which amply demonstrate that no rape was ever committed x x x."[19]

He avers that it was impossible for him to hug Rosalie while pointing a knife at her. Moreover, while doing all this, he could not have at the same time covered her mouth to prevent her from shouting for help. He adds that Rosalie had the opportunity to escape while he was allegedly removing his pants and brief, but she did not do so.

We see no inconsistency. The unwavering answers of Rosalie Ganaganag during cross-examination remove all doubt as to her credibility and manifest that the alleged inconsistencies are more imagined than real. She testified as follows:

"ATTY. VALENCIA :

Q.

Now, you said that you were forcibly laid down by Pacito Garces, Jr. on the floor[;] was he holding a knife at that time?

A

No, he placed the knife on the bench.

Q

And while placing himself on top of you, was he still holding a knife?

A

No more, because the knife was on the bench.

Q

While in that position, was Pacito Garces, Jr. covering your mouth with his hand?

A

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Yes.

Q

Was Pacito Garces, Jr. covering your mouth from the time he inserted his organ up to the pulling of his organ from your organ?

A

Yes.

Q

How about when he was taking off his pants and brief, was he covering your mouth at that time?

A

Yes, and his other hand was the one doing the taking off of his pants and brief.

Q

You mean Pacito Garces, Jr. was always covering your mouth from the time he hugged you up to the time he pulled off his organ from your organ?

A

Yes."[20]

Clearly, appellant first placed the knife on a bench, then covered Rosalie's mouth to prevent her from shouting.[21] Her failure to escape from his clutches while he was removing his pants was due to the fact that he was holding her down. Besides, at that particular point, it is not difficult to imagine her freezing in fear especially while the knife was within his reach.[22]

Corroborative Evidence

We must hasten to add that Rosalie's testimony, aside from withstanding the test of cross-examination, was corroborated on important points by the testimonies of Pacita Cuevas,[23] Wilson Garces[24] and Dr. Precy P. Ung.[25] Both Cuevas and Garces noted that, right after the incident, Rosalie was crying, her hair was disheveled, and there were abrasions on her right cheek.

On the other hand, Dr. Ung testified thus:

"FISCAL BUSTAMANTE:

Q

Did you make actual physical examination on Rosally Ganaganag?

A

On May 14, 1995 , at 3:00 p.m.

Q

In the course of your examinations on Rosally Ganaganag, what [were] your findings, if any?

A

The pertinent findings I had was there was a positive abrasion at her right cheek, and then I did an internal

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examination, I inserted a speculum, and there [were] positive lacerations at 3:00 o'clock and 6:00 o'clock [positions in] her hymen and vagina.

xxx xxx xxx

Q

Doctor, what could have caused this laceration at 3:00 o'clock and 6:00 o'clock at the hymen, as well as the laceration at 3:00 o'clock and 6:00 o'clock in the vagina?

A

There are many causes of hymenal laceration, but since my vaginal smear revealed it [was] positive for spermatozoa, then I could say that it [was caused by] a male genital organ.

Q

A male erect genital organ, is that correct Doctor?

A

Yes.

Q

How about the abrasion at the right cheek of Rosally Ganaganag, what could have caused this abrasion?

A

It could have been caused by a force coming from the other party.

Q

Could it be compatible with a force similar to [the] force of a hand?

A

Yes, Attorney.

Q

Would you agree with me if it [was] love-making [then] the woman [would be] properly stimulated by reason of romance, [there would be] vaginal secretion x x x and that a sexual intercourse preceded by this fact would not cause any injury on the vagina or even at the hymen of the woman?

A

If there was proper stimulus, then the injuries or lacerations I have written there could not be as apparent because we all know that in love-making, there will be secretions coming from the cervix or coming from the vagina causing lubrications wherein dilation of the blood vessels [would cause] the vagina[l] canal to expand.

Q

So that injuries may not be apparent in love-making or in the sexual intercourse if it is preceded by a proper stimulus, is that correct?

A

Yes.

Q

After examining Rosally Ganaganag, what opinion could you form with respect to the sexual intercourse that Rosally Ganaganag had on May 14, 1995 ?

A

So after the examination I have done, I conclude that she was raped by the other party."[26]

During the cross-examination, Dr. Ung further explained the results of her examination and her consequent conclusions, as follows:

"ATTY. VALENCIA :

Q

In other words, since there was no fresh blood at the vagina[l] canal, no veins or blood vessels were ruptured?

A

Yes, at the vagina[l] canal but there was laceration.

Q

By laceration, we mean there was no force or violence that was made?

A

There was.

Q

By laceration, you mean the tissues in the hymen were injured?

A

The hymen is at the face of the vulva. The hymen is different from the vagina. The hymen is a membranous tissue covering the vulva.

Q

But in your findings Doctor, will you agree with me that never in your findings was [any indication] that there was laceration in the vagina[l] canal?

A

There was laceration at the vagina[l] canal."[27]

Thus, Rosalie's testimony not only rings true, but is also supported by the medicolegal findings of Dr. Ung.[28] It leaves no doubt as to the guilt of appellant.

Sweetheart Defense

Appellant alleges in his defense that the sexual congress between him and Rosalie was consensual. Several points militate against this argument. One, apart from the testimony of Porferio Paculanang, no documentary or any other concrete proof of their alleged relationship was shown by appellant.[29] No love letter, picture, gift or any other memento was presented to substantiate his claim.[30] Two, even if we assume by a considerable stretch of imagination that they indeed were lovers, this fact would not have precluded rape,[31] as it did not necessarily

mean there was consent.[32] A love affair would not have justified what appellant did -- subjecting Rosalie to his carnal desires against her will.[33]

Moreover, we agree with the trial court's observation that it was unnatural for Rosalie to have filed this case against appellant if they were really lovers.[34] Appellant testified that after their afternoon tryst, she brought up the issue of marriage, warning him that if he did not agree to it, she would file a rape case against him. Based on his testimony, he had agreed to marry her, and he left her that day with that promise.[35] Why then would she still charge him with rape? The inconsistency in his testimony betrayed the contrived nature of his story.

Further evidencing the culpability of appellant was his flight after the charges against him had been filed. For one and a half years until he was arrested in Ozamis City, he was a fugitive from justice. A clear conscience would have precluded that course of action.

All told, we find that the prosecution established appellant's guilt beyond reasonable doubt.

Second Issue:Damages

The solicitor general is correct in pointing out that the award of moral damages imposed by the lower court should be reduced[36] to fifty thousand pesos[37] (P50,000). People v. Victor[38] is not applicable here because that case involved qualified rape punishable with death. Current jurisprudence also mandates[39] the award of fifty thousand pesos (P50,000) as indemnity ex delicto.

Moreover, appellant should pay the victim twenty-five thousand pesos (P25,000) as exemplary damages, since the aggravating circumstance of dwelling was duly proven.[40] The evidence showed that he entered the residence of the victim and there perpetrated the sexual assault.

WHEREFORE, the appealed Decision is hereby AFFIRMED insofar as it convicted the appellant of rape. However, the award of damages is hereby MODIFIED. The appellant is ordered to PAY Rosalie Ganaganag P50,000 as indemnity ex delicto, P50,000 as moral damages and P25,000 as exemplary damages. Costs against appellant.

SO ORDERED.

Melo, (Chairman), Vitug, Purisima, and Gonzaga-Reyes, JJ., concur.

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[1] Alias warrants of arrest were issued, as the first warrant was returned unserved.

[2] Records, pp. 1-2; rollo, pp. 7-8.

[3] Also spelled "Rosally" in the records.

[4] Records, p. 1; rollo, p. 8.

[5] See Order dated May 13, 1997; records, p. 59.

[6] Records, p.132; rollo, p. 21.

[7] The Notice of Appeal was filed on July 29, 1997. This case was deemed submitted for resolution on April 16, 1999, upon the Court's receipt of the Brief for the Appellee. The filing of a reply brief was deemed waived, as none was submitted within the reglementary period.

[8] Signed by Solicitor General Ricardo P. Galvez, Assistant Solicitor General Nestor J. Ballacillo and Associate Solicitor Mae Antoinette T. Balares.

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[9] Spelled "Ong" in the assailed Decision.

[10] Rollo, pp. 3-7.

[11] Appellant's Brief, pp. 5-6; rollo, pp. 40-41. The Brief was signed by Public Attorney IV Arceli A. Rubin, Public Attorney III Amelia C. Garchitorena and Public Attorney II Elpidio C. Bacuyag.

[12] Decision, pp. 4-6; records, pp. 130-132; rollo, pp. 19-21.

[13] Appellant's Brief, p. 1; rollo, p. 36.

[14] People v. Tabion, GR No. 132715, October 20, 1999, p. 10 (footnotes omitted); People v. Tresballes, GR No. 126118, September 21, 1999; People v. Monfero, GR No. 126367, June 17, 1999; People v. Tayaban, 296 SCRA 497, September 25, 1998.

[15] Also spelled "Wilson" in the records.

[16] TSN, May 13, 1997, pp. 16-21.

[17] See People v. Carullo, GR No. 129289, July 29, 1999; People v. Tresballes, supra; People v. Monfero, supra; People v. Accion, supra.

[18] See People v. Pagpaguitan, GR No. 116599, September 27, 1999.

[19] Appellant's Brief, p. 8; rollo, p. 43.

[20] TSN, May 13, 1997, pp. 24-25.

[21] Appellee's Brief, p. 26; rollo, p. 89.

[22] TSN, May 13, 1997, p. 27.

[23] TSN, April 23, 1997, pp. 4-8.

[24] TSN, April 24, 1997, pp. 5-8.

[25] TSN, May 13, 1997, p. 5.

[26] TSN, May 13, 1997, pp. 5, 8 & 9.

[27] TSN, May 13, 1997, p. 11.

[28] See People v. Pagpaguitan, GR No. 116599, September 27, 1999; People v. Tabion, GR No. 132715, October 20, 1999; People v. Accion, GR No. 122550-51, August 11, 1999.

[29] TSN, May 22, 1997, pp. 7-12.

[30] See People v. Monfero, GR No. 126367, June 17, 1999; People v. Manahan, GR No. 128157, September 29, 1999. Cf. People v. Accion, supra.

[31] See People v. Monfero, supra; People v. Accion, supra.

[32] See People v. Corea, 269 SCRA 76, March 3, 1997.

[33] See People v. Shareff Ali El Akhtar, GR No. 130640, June 21, 1999; People v. Manahan, supra.

[34] Decision, p. 4; rollo, p. 19.

[35] TSN, May 22, 1997, pp. 17-18.

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[36] Appellee's Brief, pp. 30-31; rollo, pp. 93-94.

[37] See People v. Pagpaguitan, GR No. 116599, September 27, 1999; People v. Tabion, supra.

[38] 186 SCRA 292, July 9, 1998.

[39] Art. 100 in relation to Art. 104 of the Revised Penal Code. See People v. Prades, 293 SCRA 411, July 30, 1998.

[40] People v. Tabion, supra.

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