

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RUDY SICAD, CAMELO LOBATON, MELCHOR SICAD, JOHNNY GUIÑEZ AND PAQUITO BERNIL, ACCUSED-APPELLANTS.

G.R. No. 133833. October 15, 2002

Ponente: SANDOVAL-GUTIERREZ, J.

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SANDOVAL-GUTIERREZ, J.:

On appeal[1] is the Decision dated February 9, 1998,[2] of the Regional Trial Court, Branch 31, Iloilo City in Criminal Case No. 38613 finding Rudy Sicad, Camelo Lobaton, Melchor Sicad, Johnny Guiñez and Paquito Bernil, accused-appellants, guilty of murder and sentencing them to suffer the penalty of reclusion perpetua. They were likewise ordered to indemnify, jointly and severally, the heirs of the victim, Roberto Asturias, Sr., in the amount of P50,000.00 and to pay the costs.

The Information charging the accused-appellants with murder is quoted as follows:

“INFORMATION

“The provincial Prosecutor of Iloilo through the undersigned accuses RUDY SICAD, CAMELO LOBATON, Alias ‘Boy’, MELCHOR SICAD, JOHNNY GUIÑEZ and Alias ‘Pakit’ of the crime of murder, committed as follows:

“That on or about June 24, 1992, in the Municipality of Concepcion, Province of Iloilo, Philippines and within the jurisdiction of the Honorable Court, the above-named accused conspiring, confederating and mutually helping one another armed with firearms of unknown calibers with deliberate intent and decided purpose to kill with treachery and evident premeditation and taking advantage of superior strength, did then and there wilfully, unlawfully and feloniously attack, assault, and shoot ROBERTO ASTURIAS, SR., inflicting multiple gunshot wounds on the latter which caused his death immediately thereafter.

“CONTRARY TO LAW.”[3]

During the arraignment, the accused-appellants, with the assistance of their counsel, pleaded not guilty to the crime charged.[4] Thereupon, the case was heard.

The evidence for the prosecution shows that on June 24, 1992, around 4:00 o’clock in the afternoon, Melchor Sicad went to his parents’ house in Sitio Punta Luis, Concepcion, Iloilo, to attend to his ailing mother who suffered a stroke. Present in the house were his nephews, namely, Jimmy Asturias, Rudy Sicad and Camelo Lobaton.

Roberto Asturias, Sr., Melchor’s cousin, also arrived. Melchor offered Roberto a bottle of beer, but he refused. This resulted in a verbal clash and an exchange of fist blows between them.[5] Roberto finally left at 5:30 in the afternoon, while Melchor returned to the bedside of his mother who, shortly thereafter, died.[6]

About two (2) hours later, around 7:30 in the evening, Roberto Asturias, Sr. was found dead near his fishing

banca in Barangay Loong Poblacion, Concepcion, Iloilo, due to multiple gunshot wounds.

Roberto Asturias, Jr., the victim's 11-year old son, and Jimmy Asturias pointed to accused-appellants Rudy Sicad, Camelo Lobaton, Melchor Sicad, and the latter's employees, Paquito Bernil and Johnny Guíñez, as the assailants.

Roberto Asturias, Jr. testified that on June 24, 1992, around 7:30 in the evening, while he was draining water from his father's banca in Loong Poblacion, he saw Paquito Bernil throwing a dynamite at his father. The dynamite exploded, hitting his father's back. He was more or less three (3) meters away from Paquito. Then, from a distance of fifteen (15) meters,[7] Rudy Sicad fired a gun at his father. While his father was already lying on the ground with his face down, Camelo Lobaton also shot him. All the while, Melchor Sicad and Johnny Guíñez stood as lookouts under a nearby camachile tree. Thereafter, the five accused-appellants escaped toward the house of Melchor.[8]

According to Asturias, Jr., there was an electric bulb hanging from a tree some two (2) meters away which illuminated the crime scene and enabled him to identify his father's assailants.[9] In the course of his testimony, Asturias, Jr. identified and affirmed his sworn statement[10] dated June 26, 1992 narrating the foregoing incidents and stating that the accused-appellants are the perpetrators of the crime.[11]

Jimmy Asturias (Melchor's nephew) corroborated the testimony of Roberto Asturias, Jr.. He recounted that around 7:30 in the evening of June 24, 1992, he met the five accused-appellants and saw them proceeding toward the banca of Roberto Asturias, Sr.. Jimmy stopped at a nearby store, about 15 meters away. While there, he heard the explosion of a dynamite and saw Rudy Sicad and Camelo Lobaton shoot the victim successively. Then the five accused-appellants ran toward the house of Melchor Sicad. He affirmed that three of them were armed; that the place where he met the group was provided with light that emanated from the house of Melchor Sicad; and that an electric bulb illuminated the place where the shooting occurred.[12]

When the accused-appellants were gone, Jimmy immediately sought the help of his uncle Ronnie and together, they brought the body of the victim to the house of Dr. Jeremiah Obañana in the poblacion.[13]

Dr. Obañana, resident physician of Sara District Hospital in Sara, Iloilo, testified that he conducted the autopsy on the body of Roberto Asturias, Sr.[14] His autopsy report,[15] which he confirmed on the witness stand, states:

“FINDINGS

- Gunshot wound 2 cm in diameter located at the right infrascapular area penetrating the middle lobe of the right lung exiting at the 4th right intercostal space parasternal line
- Gunshot wound 2 cm in diameter located at the right infrascapular area penetrating the middle lobe of the right lung
- Gunshot wound 2 cm in diameter located at the right infrascapular area penetrating the middle lobe of the right lung and the mediastinum
- Gunshot wound 2 cm in diameter located at the right infrascapular area penetrating the mediastinum and exiting at the 4th intercostal space parasternal line
- Gunshot wound 2 cm in diameter located at the right infrascapular area penetrating the middle lobe of the right lung and the mediastinum
- Gunshot wound 2 cm in diameter located at the right infrascapular area penetrating the middle lobe of the right lung and the great blood vessels

“Cause of Death: Irreversible Shock secondary to Multiple Gunshot Wounds

(Sgd.) JEREMIAH E. OBAÑANA, M.D.
Medico-legal Officer-on-duty”

The paraffin tests conducted on Melchor Sicad, Camelo Lobaton and Rudy Sicad yielded positive results, indicating the presence of gunpowder on their hands. The corresponding Chemistry Report[16] on these paraffin test results was prepared and affirmed under oath by Police Inspector Zenaida Sinfuego, Forensic Chemist of the PNP Crime Laboratory of Camp Delgado, Iloilo City.[17]

The accused-appellants denied the charge. Melchor Sicad, Rudy Sicad and Camelo Lobaton claimed they were at the house of Melchor’s mother, in Sitio Punta Luis, Concepcion, Iloilo, about 150 meters away from the crime scene, in the afternoon of June 24, 1992 until the morning of June 25, 1992.[18]

Dr. Raul Baniyas, the physician who assisted Melchor’s mother, declared on the witness stand that he saw Melchor in his mother’s house at around 6:00 o’clock in the evening of June 24, 1992; and that he immediately attended to the patient and from then on, he no longer saw or noticed Melchor.[19]

On the part of accused-appellant Johnny Guiñez, his siblings Ariel Guiñez and Erlinda Guiñez testified that he was with them at their parents’ house in Barangay Loong, Concepcion, Iloilo on the night Roberto Asturias, Sr. was killed; and that Johnny stayed in their parents’ house until around 9:00 o’clock in the evening.[20]

Ramon Malabago, also testified that his brother, accused-appellant Paquito Bernil, was with him in his house in Sitio Punta Luis, also in Concepcion, Iloilo, from 7:00 o’clock in the morning until 7:30 in the evening of June 24, 1992.[21]

In assailing the testimonies of prosecution witnesses Roberto Asturias, Jr. and Jimmy Asturias, the defense theorized that it was impossible for them to have seen the victim’s aggressors as there was no electric light in Barangay Loong during the incident.

Ronnie Anceno and Antonio Abellar, Jr., employees of the Iloilo Electric Cooperative, testified that they conducted repairs and restored the supply of electricity in Barangay Loong at 5:00 o’clock in the afternoon of June 25, 1992.[22]

The trial court disregarded the accused-appellants’ defense of alibi, being unworthy of credence on the face of their positive identification by the prosecution witnesses. On February 9, 1998,[23] it rendered a decision, the dispositive portion of which reads:

“WHEREFORE, finding the accused Melchor Sicad, Rudy Sicad, Camelo Lobaton, Paquito Bernil and Johnny Guiñez guilty beyond reasonable doubt of the crime of murder defined and penalized under Article 248 of the Revised Penal Code, judgment is hereby rendered sentencing each of the said accused to suffer the penalty of reclusion perpetua with all the necessary penalties of the law, all as principals by direct participation there being conspiracy among the accused to commit the crime of Murder, considering the generic aggravating circumstance of evident premeditation, and in the absence of any mitigating circumstance. In addition, the accused are ordered to pay the heirs of the late Roberto Asturias, Sr. civil indemnity in the amount of P50,000.00, jointly and severally, with costs.

“SO ORDERED.”

Hence, this appeal by accused-appellants.

In their brief, accused-appellants, Melchor Sicad and Johnny Guiñez alleged that the trial court erred:

“I

...IN CONVICTING ACCUSED-APPELLANTS MELCHOR SICAD AND JOHNNY GUIÑEZ BEYOND REASONABLE DOUBT OF THE CRIME OF MURDER;

II

...IN FINDING THAT THE OFFENSE WAS COMMITTED WITH THE ATTENDANT CIRCUMSTANCES OF CONSPIRACY, TREACHERY AND EVIDENT PREMEDITATION;

III

...IN SENTENCING ACCUSED-APPELLANT CAMELO LOBATON TO SUFFER THE PENALTY OF RECLUSION PERPETUA DESPITE HIS BEING A MINOR;

IV

...IN DISREGARDING THE DEFENSE OF ALIBI/DENIAL DESPITE WEAKNESS OF PROSECUTION’S EVIDENCE.”[24]

In their separate brief, accused-appellants Rudy Sicad, Camelo Lobaton, and Paquito Bernil ascribed to the trial court the following errors:

“I

IN GIVING CREDENCE TO THE TESTIMONIES OF ALLEGED EYE WITNESSES OF THE PROSECUTION DESPITE THEIR IMPROBABILITY;

II

IN CONVICTING ALL THE ACCUSED-APPELLANTS OF THE CRIME OF MURDER DESPITE LACK OF MOTIVE ON THEIR PART TO COMMIT THE SAME.”[25]

The defense basically questions the credibility of prosecution witnesses Roberto Asturias, Jr. and Jimmy Asturias, contending that it was impossible for them to have seen the culprits. It was a dark evening, there being no electricity. Also, it was unlikely for eyewitness Roberto Asturias, Jr. to have identified the malefactors since his natural reaction then was to focus his attention to his dying father.

Well-entrenched is the rule in our criminal jurisprudence that when the issue is one of credibility of witnesses, appellate courts will generally not disturb the findings of the trial court, which is in a better position to decide the question of credibility. This is because the trial court has heard the witnesses themselves and has observed their deportment and manner of testifying during the trial. This rule will not of course apply in cases where the trial court has plainly overlooked certain facts of substance and value which, if considered, might affect the result of the case, or when the conclusions arrived at by the trial court are clearly unsupported by the evidence.[26] There is no showing in the case at bar that the trial court’s assessment of the credibility of the prosecution witnesses was flawed. Thus, this Court adopts the trial court’s findings.

Roberto Asturias, Jr. testified that he saw the five accused-appellants where the crime took place. Specifically, he testified that Paquito Bernil threw a dynamite at his father; that Rudy Sicad and Camelo Lobaton fired their firearms at the victim; and that Melchor Sicad and Johnny Guiñez acted as lookouts.

This Court is convinced that the scene of the crime was sufficiently lighted to enable Asturias, Jr. to identify the victim’s assailants. The testimony of Ronnie Anceno and Antonio Abellana, Jr., employees of the Iloilo Electric

Cooperative, that electricity in Barangay Loong was restored at 5:00 o'clock in the afternoon of June 25, 1992 does not necessarily show that there was no electricity in the crime scene at 7:30 in the evening of June 24, 1992 when the crime was committed. In fact, both employees never testified that there was power failure in the evening of that particular day (June 24). What is clear from the record, however, is that prosecution witnesses Roberto Asturias, Jr. and Jimmy Asturias categorically testified that at the time the victim was killed, the crime scene was illuminated by an electric bulb hanging from a tree two (2) meters away, thus enabling them to witness the killing.[27] The positive testimony of the prosecution witnesses prevails over the negative allegation of the defense. Affirmative testimony is stronger than a negative one especially when it comes from the mouth of a credible witness.[28] Where, as here, (1) the prosecution eyewitnesses were familiar with both the victim and the accused-appellants; (2) the locus criminis provided sufficient visibility; and (3) no improper motive can be attributed to them for testifying against the accused-appellants, the testimony of said witnesses commands greater weight.[29]

Corollarily, there is nothing unnatural, as the defense would insist, on the part of Roberto Asturias, Jr. when he identified the accused-appellants as the persons who killed his father notwithstanding his traumatic experience of witnessing their criminal act. Contrary to the claim of the defense, there is no standard human behavior when one is faced with a strange, startling and frightening event. Besides, the natural reaction of relatives of victims of violence is to strive to see the appearance of the perpetrators of the crime and observe the manner in which the crime is being committed.[30] They will naturally be interested in identifying the malefactors to secure the latter's conviction to obtain justice for the death of their relative.[31]

The defense further points out that Roberto Asturias, Jr.'s affidavit dated June 26, 1992[32] does not state that accused-appellants Melchor Sicad and Johnny Guíñez are among the assailants. Consequently, such omission renders doubtful his testimony that the accused-appellants are the ones who killed his father.

We disagree. The established rule is that as between the contents of a sworn statement and a witness' testimony in open court, the latter generally prevails since affidavits are ordinarily prepared by a person other than the affiant and, as such, often incomplete and inaccurate.[33]

Likewise, the accused-appellants maintain that the report on the paraffin tests is hearsay since the police officer who actually conducted the tests was not called to the witness stand.

The argument is untenable. The paraffin test report was prepared and signed by Forensic Chemist Zenaida Sinfuego, who testified on the contents thereof. Thus, her report is not hearsay. It bears stressing that Sinfuego, being a Forensic Chemist of the PNP Crime Laboratory, is a public officer and her report, made in the performance of her official duty, enjoys the presumption of regularity.[34] It is worthy to note that the defense failed to overcome such presumption.

Neither is there factual or legal support in accused-appellants' defense of alibi. For alibi to be given weight, they must prove not only that they were somewhere else when the crime was committed but that they were so far away that it was physically impossible for them to be present at the scene of the crime at the time of its commission.[35] Here, the element of physical impossibility is absent. Record shows that accused-appellants Melchor Sicad, Rudy Sicad and Camelo Lobaton were at the house of Melchor's mother in Sitio Punta Luis, Concepcion, Iloilo, only 150 meters away from the place where the crime was committed.[36] Accused-appellant Johnny Guíñez testified that he was at the house of his parents in Barangay Loong, the same barangay where the crime took place; while the brother of accused-appellant Paquito Bernil declared that the latter was in Sitio Punta Luis, also in Concepcion.[37] Clearly, the accused-appellants were in places near the locus criminis when the incident occurred. It bears emphasis that they failed to show that it was physically impossible for them to be at the scene of

the crime when it was committed.

The defense's reliance on the testimony of Dr. Raul Bantias that he saw Melchor Sicad in the house of the latter's mother on the night of the incident is weak. The pertinent portion of Dr. Bantias' testimony is quoted, as follows:

"CROSS-EXAMINATION

BY ATTY. IGMEDIO PRADO, JR.:

Q: Doctor Bantias, what time did you arrive to (sic) the house of Felicidad Asturias Sicad?

A: About 6:00 in the evening.

Q: Do we get it clear from you that the only time you saw Melchor Sicad (was) when you arrived at 6:00?

A: Yes. Sir.

Q: And then you did not see him anymore?

A: Yes, Sir."^[38] (Italics supplied)

Verily, Dr. Bantias' testimony does not buttress Melchor's defense of alibi as it does not show that Melchor stayed in his mother's house until 7:30 in the evening of June 24, 1992.

Moreover, in light of the prosecution eyewitnesses' positive identification of the accused-appellants done in a forthright and consistent manner, and without any showing of ill motive on their part, the defense of alibi must fail.^[39]

We now turn to the issue of whether or not there was conspiracy among the accused-appellants. There is conspiracy when two or more persons come to an agreement concerning the commission of a felony and decide to commit it.^[40] As a rule, conspiracy must be proved as convincingly and indubitably as the crime itself.^[41] It is not necessary, however, that conspiracy be proved by direct evidence of a prior agreement to commit the crime. Conspiracy may be deduced from the mode and manner in which the offense was perpetrated or inferred from the acts of the accused which show a joint or common purpose and design, a concerted action and a community of interest among the accused.^[42]

This Court holds that the trial court did not err when it found that conspiracy exists in this case. While there is no direct evidence to show that accused-appellants agreed to commit the crime, however, their acts and the attendant circumstances surrounding the commission of the crime disclose a common design that would make all of them co-principals in the crime committed.

As shown by the records, accused-appellants Paquito Bernil, Rudy Sicad and Camelo Lobaton threw a dynamite and fired at the victim, while accused-appellants Melchor Sicad and Johnny Guíñez stood guard and acted as lookouts. All of them performed specific acts with such closeness and coordination as to unmistakably indicate a common purpose of bringing about the death of the victim.^[43] Moreover, the simultaneous convergence of the accused-appellants at the crime scene, their specific acts in the commission of the crime, and their simultaneous flight toward the house of Melchor Sicad pointed to a conspiracy among them.^[44]

The contention of Melchor Sicad and Johnny Guíñez, who acted as lookouts, that their mere presence in the scene of the crime did not make them co-conspirators does not persuade us. One who participates in the material execution of the crime by standing guard or lending moral support to the actual perpetrators thereof is criminally

responsible to the same extent as the latter.[45] In a conspiracy, it is not necessary to show that all the conspirators actually hit and killed the victim.[46] Indeed, the accused-appellants' synchronous presence at the place was not a mere coincidence but was in pursuance of a design to kill Roberto Asturias, Sr., with whom Melchor Sicad had a previous fight.

Accused-appellants Rudy Sicad, Camelo Lobaton, Johnny Guinez and Paquito Bernil further claim that they had no motive to kill the victim as it was only accused-appellant Melchor Sicad who had an axe to grind against the victim. Again, this argument cannot exculpate them from criminal liability. Proof of ill-motive on the part of Melchor's co-conspirators is irrelevant in view of their having been positively identified by the prosecution eyewitnesses. Motive assumes significance only when there is no showing who the perpetrators of the crime were.[47]

There being conspiracy among the accused-appellants, they are liable as co-principals regardless of the manner and extent of their participation since, in point of law, the act of one is the act of all.[48]

With regard to the attendance of the qualifying circumstance of treachery, this Court notes that the same was correctly appreciated by the trial court to qualify the crime to murder. There is treachery when one commits any of the crimes against persons by employing means, methods or forms in the execution thereof without risk to oneself arising from the defense which the offended party might make.[49] Here, the accused-appellants attacked the victim from behind in a swift, deliberate and unexpected manner. Without warning and without risk to themselves, they threw a dynamite at him and shot him even as he had already fallen to the ground. The attack was thus treacherous, affording the victim no opportunity to resist or escape or defend himself.

The trial court's appreciation of the aggravating circumstance of evident premeditation cannot be sustained. Proof of conspiracy does not imply the existence of evident premeditation. The rule is that evident premeditation may not be taken into account where, as here, conspiracy is not based on direct proof but is inferred from the acts of the accused in the perpetration of the crime.[50]

Thus, this Court sustains the trial court's finding that the accused-appellants are guilty of murder, qualified by treachery.

Under Article 248 of the Revised Penal Code, as amended, the penalty imposable when the crime was committed in 1992 is reclusion temporal in its maximum period to death which has a duration of 17 years, 4 months and 1 day to death. There being no mitigating or aggravating circumstances that attended the commission of the crime, the maximum of the penalty is the medium period of reclusion temporal in its maximum period to death, which is reclusion perpetua.[51] Hence, the trial court imposed the correct penalty upon the accused-appellants except Camelo Lobaton. Records reveal that he was 16 years old at the time of the commission of the crime, having been born on May 14, 1976.[52] This was not disputed by the prosecution.[53] Such minority is a privileged mitigating circumstance[54] which reduces the imposable penalty by one degree lower, or prision mayor in its maximum period to reclusion temporal in its medium period which has a duration of 10 years and 1 day to 17 years and 4 months. There being no mitigating or aggravating circumstance that attended the commission of the crime and applying the Indeterminate Sentence Law, the maximum of the penalty is the medium period of prision mayor in its maximum period to reclusion temporal in its medium period, the duration of which is 12 years, 5 months and 11 days to 14 years, 10 months and 20 days. The minimum is within the range of the penalty next lower in degree which is prision correccional in its maximum period to prision mayor in its medium period which has a duration of 4 years, 2 months and 1 day to 10 years.

Finally, on the civil aspect of the crime, we affirm the trial court's award of civil indemnity in the amount of Fifty Thousand Pesos (P50,000.00)[55] in favor of the heirs of Roberto Asturias, Sr.. By way of exemplary damages

based on the presence of the qualifying circumstance of treachery, an amount of Twenty-five Thousand Pesos (P25,000.00) should also be awarded to the heirs of the victim. It is settled that the presence of an aggravating circumstance, whether ordinary or qualifying, entitles the victim or his heirs to an award of exemplary damages insofar as the civil aspect of the case is concerned.[56]

As to moral damages, we cannot award the same. The record reveals that no evidence whatsoever was presented to prove the fact that the heirs of the victim suffered mental anguish and serious anxiety which constitute the bases for the award of moral damages under Article 2217 of the New Civil Code, as amended.[57]

WHEREFORE, the appealed Decision dated February 9, 1998 of the Regional Trial Court, Branch 31, Iloilo City, in Criminal Case No. 38613, finding accused-appellants Rudy Sicad, Camelo Lobaton, Melchor Sicad, Johnny Guíñez and Paquito Bernil guilty beyond reasonable doubt of the crime of murder, is **AFFIRMED** with **MODIFICATION** in the sense that accused-appellant Camelo Lobaton is sentenced to serve an indeterminate penalty of 4 years, 2 months and 1 day of prision correccional, as minimum, to 12 years 5 months and 11 days of reclusion temporal, as maximum. The accused-appellants are ordered to pay exemplary damages in the amount of Twenty-five Thousand Pesos (P25,000.00).

Costs against accused-appellants.

SO ORDERED.

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

[1] Pursuant to Rule 122 of the 1985 Rules on Criminal Procedure.

[2] Rollo, pp. 137-150.

[3] RTC record, p. 1.

[4] Order dated October 22, 1992, *id.*, at 81.

[5] TSN, March 17, 1993, p. 19.

[6] TSN, December 14, 1994, pp. 12-13, 18.

[7] TSN, March 10, 1993, p. 23.

[8] *Id.*, at 1-8.

[9] *Id.*

[10] Exhibit “A”, RTC record, pp. 10-11.

[11] *Id.*, at 10.

[12] TSN, March 17, 1993, pp. 10-13, 20-21.

[13] *Id.*, at 14-15.

[14] TSN, March 17, 1993, pp. 2-4.

[15] Exhibit “B”, RTC record, p. 9.

[16] Exhibit “E,” RTC record, p. 5.

- [17] TSN, September 23, 1993, pp. 4-7.
- [18] TSN, August 4, 1994, pp. 8-11; TSN, December 14, 1994, pp. 2-12.
- [19] TSN, October 17, 1997, pp. 2-9.
- [20] TSN, December 8, 1994, pp. 3-19; TSN, September 20, 1995, pp. 4-7.
- [21] TSN, November 22, 1995, pp. 3-5.
- [22] TSN, August 4, 1994, pp. 1-5.
- [23] Rollo, pp. 137, 150.
- [24] Brief for accused-appellants Melchor Sicad and Johnny Guíñez, Rollo, p. 71.
- [25] Brief for accused-appellants Rudy Sicad, Camelo Lobaton and Paquito Bernil, *id.*, at 125.
- [26] *People vs. Mendoza*, 332 SCRA 485, 494-495 (2000); *People vs. Espina*, 326 SCRA 753,761 (2000).
- [27] TSN, March 10, 1993, p. 23; TSN, March 17, 1993, pp. 10-13, 20-21.
- [28] *People vs. Brigildo*, 323 SCRA 631, 648 (2000), citing *People vs. Balmoria*, 287 SCRA 687, 709 (1998).
- [29] *People vs. Balleras*, G.R. No. 134564, June 26, 2002; *People vs. Quijon*, 325 SCRA 453, 462 (2000).
- [30] *People vs. Alipayo*, 324 SCRA 447, 459 (2000).
- [31] *People vs. Adoviso*, 309 SCRA 1, 12 (1999).
- [32] Exhibit “A,” RTC record, pp. 10-11.
- [33] *People vs. Lagarto*, 326 SCRA 693, 743 (2000).
- [34] Section 3 (m), Rule 131 of the Revised Rules of Court; *People vs. Uy*, 327 SCRA 335, 347 (2000).
- [35] *People vs. Alib*, 322 SCRA 93, 100 (2000); *People vs. Juan*, 322 SCRA 598, 616-617 (2000); *People vs. Rendoque*, 322 SCRA 622, 636 (2000).
- [36] TSN, August 4, 1994, pp. 8-11; December 14, 1994, pp. 2-12.
- [37] TSN, December 8, 1994, pp. 3-19; TSN, September 20, 1995, p. 4-7; TSN, November 22, 1995, pp. 3-5.
- [38] TSN, October 17, 1997, pp. 7-8.
- [39] *People vs. Zacarias*, G.R. No. 138990, January 30, 2002.
- [40] Article 8, Revised Penal Code, as amended.
- [41] *People vs. Santiago*, 342 SCRA 52, 61 (2000).
- [42] *People vs. Ricafranca*, 323 SCRA 652, 662-663 (2000).
- [43] *People vs. Arizobal*, 348 SCRA 143, 152 (2000).
- [44] *People vs. Delos Santos*, 345 SCRA 642, 652-653 (2000).
- [45] *People vs. Diaz*, 271 SCRA 504, 515 (1997).
- [46] *People vs. Honra, Jr.*, 341 SCRA 110, 132 (2000).

[47] *People vs. Bermas*, 309 SCRA 741, 775 (1999), citing *People vs. Padlan*, 290 SCRA 388, 397 (1998); and *People vs. Gamiao*, 240 SCRA 254, 264 (1995).

[48] *People vs. Abordo*, 321 SCRA 23, 39 (1999).

[49] Article 14 (16) Revised Penal Code, as amended.

[50] *People vs. Anivado*, 348 SCRA 74, 90 (2000); *People vs. Padlan*, 290 SCRA 388, 404 (1998).

[51] Article 64 (1), Revised Penal Code.

[52] TSN, August 4, 1994, p. 12.

[53] *People vs. Villaruel*, 261 SCRA 386, 397 (1996).

[54] “Article 68. When the offender is a minor under 18 years x x x, the following rules shall be observed: x x x (2) Upon a person over 15 and under 18 years of age, the penalty next lower than that prescribed by law shall be imposed, but always in the proper period.”

[55] *People vs. Verde*, 302 SCRA 690, 706 (1999).

[56] Article 2230 of the New Civil Code. See also *People vs. Dionisio*, G.R. No. 137676, September 27, 2001; *People vs. Catubig*, G.R. No. 137842, August 23, 2001.

[57] “ART. 2217. Moral Damages include physical suffering, mental anguish, fright, serious anxiety, besmirched reputation, wounded feelings, moral shock, social humiliation, and similar injury. Though incapable of pecuniary computation, moral damages may be recovered if they are the proximate result of the defendant’s wrongful act or omission.” See also *People vs. Virgilio Belaong and Roy Belaong*, G.R. No. 138615, September 18, 2002, citing *People vs. Oliano*, 287 SCRA 158, 180 (1998).

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