THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. EX-KGD. LUDIVINO MIANA, SR., LUDIVINO MIANA, JR. (AT LARGE), ALFONSO MIANA, MOODY MIANA (AT LARGE), SALVADOR MIANA, JOHNNY...

G.R. No. 134565. August 09, 2001

Ponente: MENDOZA, J.

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MENDOZA, J.:

This is an appeal from the decision[1] of the Regional Trial Court, Branch 51, Tayug, Pangasinan, finding accused-appellants Ludivino Miana, Sr., Alfonso Miana, Salvador Miana, Johnny Palasigue, Darwin Vidal, and Joel Miana guilty of murder and sentencing each of them to suffer the penalty of reclusion perpetua and to pay the heirs of the victim, Avenido Miana, Sr., damages in the amount of P300,000.00.

The amended Information against accused-appellants and two other co-accused[2] who are at large, alleged:

> The undersigned hereby accuses EX-KGD. LUDIVINO MIANA, SR., LUDIVINO MIANA, JR., ALFONSO MIANA, MOODY MIANA, SALVADOR MIANA, JOHNNY PALASIGUE, DARWIN VIDAL, and one JOEL MIANA of the crime of MURDER, committed as follows:
>
> That on or about the 19th day of November, 1995, in the evening, at Brgy. Luna, municipality of Natividad, province of Pangasinan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused together with one John Doe whose identity has not yet been established, with intent to kill, armed with a bladed weapon and stone, taking advantage of superior strength, conspiring, confederating, and helping one another, did then and there wilfully, unlawfully and feloniously attack, assault, strike, and stab one AVENIDO MIANA, SR., inflicting upon the latter the following injuries, to wit:
>
> -
>
> Stab wound, clean cut, 4 cm[s]. length x 0.3 cm. width x 16 cm[s]. depth, below left scapula, back level of 8th ICS. Trajectory of wound is upward hitting the lower lobe of left lung, 5 cm[s]. in length x 2 cm[s]. (depth) and ends at sternum.
>
> -
>
> Hematom[a], T-shape, 2 x 2 cm[s]. lateral aspect of left eye.
>
> -
>
> Incised wound 2 cm[s]. medial part of 2nd finger, palmar aspect, left hand.
>
> -
>
> Incised wound, irregular (zigzag) shape, between thumb and 2nd finger, palmar aspect, 3 x 3 [cms.] right hand.
>
> causing the immediate death of said AVENIDO MIANA, SR., to the damage and prejudice of the heirs of

AVENIDO MIANA, SR.

Accused-appellants pleaded not guilty to the charge, whereupon they were tried.

The prosecution evidence is as follows: At around 6:45 in the evening of November 19, 1995, while Wilson Miana was in the house of his niece, Fely Esteban, along the barangay road in Luna, Natividad, Pangasinan, he saw Ludivino Miana, Jr., Darwin Vidal, Alfonso Miana, and a certain Lito Andrada enter the store of Lucena Palado, which was about five meters from Esteban's house along the same side of the barangay road. The four were after someone inside the store who said "Saancayo nga agcasta!" (Don't do that!) Wilson recognized the voice to be that of his father, Avenido Miana, Sr., who soon came into view. Accused-appellant Ludivino Miana, Sr., who was standing near the gate of his house, located a few meters from Palado's store, said "Patayenyo ketdin!" (Kill him!) The four accused, joined by Salvador Miana, Johnny Palasigue, Joel Miana, and two other companions, Lope Miana and Daniel Palasigue, attacked Avenido Sr. Salvador Miana kicked Avenido, while Daniel Palasigue, Moody Miana, and Joel Miana gave him fist blows. Lito Andrada tried to stab the victim, but Avenido was able to parry the blows with his hands. Wilson cannot recall what Alfonso Miana did during the melee.[3]

While the fight was going on, five of the nine assailants ran towards the nearby house of Ludivino Miana, Sr., leaving behind Ludivino Miana, Jr., Darwin Vidal, Johnny Palasigue, and another one whom Wilson failed to identify. Ludivino Miana, Jr. stabbed Avenido Sr. in the back, while Darwin Vidal hit him on the head with a stone. As Avenido dropped to the ground, the four followed their companions to Ludivino Miana, Sr.'s house. Before leaving, Johnny Palasigue gave Avenido a kick on the body.[4]

Angeline Miana, who claimed she was only five meters from the fight, corroborated Wilson Miana's testimony. She said that Ludivino Miana, Sr. told his co-accused to kill the victim at the height of the rumble.[5]

Angeline and Wilson both testified that even after the accused-appellants and their companions had left and gone to the house of Ludivino Miana, Sr., they (Angeline and Wilson) still found it difficult to get the victim's body because they were stoned by someone from Ludivino Sr.'s house.[6]

The autopsy conducted by Dr. Felix C. Briones, Municipal Health Officer of Natividad, Pangasinan, at around 10:30 in the evening of the same day revealed that the deceased sustained a stab wound in the back, incised wounds in both hands, and a hematoma near the left temporal area. Dr. Briones opined that the victim could have sustained the incised wounds while trying to parry the blows delivered by his assailants. On the other hand, the hematoma below the left temporal area could have been caused either by a blunt instrument or by a fist blow. Aside from these injuries, Dr. Briones said that he did not find any other wound or contusion on the victim's body. Of the injuries he noted, it was the stab wound, measuring 16 centimeters deep, which proved fatal as it penetrated the victim's left lung and sternum.[7]

The prosecution offered to present Alicia Miana, the wife of the victim, to testify on the civil aspect of the case. Her testimony was, however, dispensed with in view of the defense's stipulation to pay damages in the total amount of P300,000.00.[8]

The defense's version of the incident is as follows: According to Ludivino Miana, Sr., a former councilor of Barangay Luna, at around 6 o'clock in the evening of November 19, 1995, he was in the front yard of his house in Luna, Natividad, Pangasinan, fixing the rear wheel of his jeep. His co-accused, namely, his sons Ludivino Jr. and Alfonso, his nephews Johnny Palasigue, Joel, Salvador, and Moody (all surnamed Miana), and his son-in-law Darwin Vidal, were in front of Vidal's house about 10 meters away, for the birthday party of Vidal's daughter. All of a sudden, they were stoned. Ludivino Sr. said he went to the gate of his house to find out who the culprits were.

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He could not find them however, so he went inside his house. Then he heard a commotion outside which soon subsided. Later that night, he saw policemen in the barangay road. The next morning, he reported the incident to the Natividad police. When he went back home at around 10 o'clock in the morning, he learned that Avenido Miana, Sr. had been killed.[9]

Ludivino Sr. admitted that he and the victim's family had a feud resulting in the filing by his daughter and nephew of criminal charges against the children of Avenido Miana, Sr.[10]

Alfonso Miana and Johnny Palasigue corroborated Ludivino Sr.'s testimony. Johnny Palasigue added that those who had thrown stones at them during the party were the three sons of the deceased, namely, Tata, Wilson, and Allan, a certain Bador Miana, and one Joven Quiros. Alfonso and Johnny claimed that they both went home after the incident.

Upon reaching home, according to Alfonso, he looked out of the window and he saw Wilson, Tata, and Allan Miana, together with their father Avenido Sr., and two others, namely, Bador Miana and Joven Quiros, hurling stones at them. He went to the kitchen, but he heard a commotion outside and so he went back to the window. He saw Avenido Sr. and his three sons attacking Joel Miana near the store of Lucena Palado. Alfonso said he went out of his house and met Joel Miana, who was running and said "Innacon Insan." (Cousin, I have to go.)[11]

Accused-appellant Darwin Vidal, a member of the Philippine Army, denied knowledge of the stoning incident. According to him, although he was at the party of his daughter in the afternoon of November 19, 1995, his ulcer began acting up so he excused himself from the group at around 3 o'clock in the afternoon and went inside his house to sleep. The following day, he said he left for Makati to report at Fort Bonifacio.[12]

On the other hand, accused-appellant Joel Miana confessed to the killing of Avenido Miana, Sr., but claimed that he did so in self-defense. He said that when their group was stoned, they were forced to break up. He said he ran to the house of Ludivino Sr. to take cover. As there was a commotion in a nearby store, he went there to check if any of his cousins were involved. However, he was allegedly met by four men, two of whom he later came to know as Avenido Miana, Sr. and his son Tata, who attacked him. Avenido Sr. allegedly drew a knife and tried to stab him, but he was able to wrest the weapon from Avenido Sr. At this point, Joel claimed somebody boxed him from behind and he reacted by swinging the knife, hitting Avenido Sr. in the process.[13]

Salvador Miana, for his part, testified that on the date and time in question he was in the barangay road in Luna when a fight between the deceased Avenido Miana, Sr. and his sons Allan, Wilson, and Tata, on one hand, and Joel Miana, on the other hand, broke out. Jose Palasigue, who at that time was allegedly walking along the barangay road in Luna towards the direction of the store of Palado, also corroborated Joel Miana's testimony.[14]

The defense presented SPO2 Orlando B. Arciaga who investigated the case. Arciaga testified that at around 7:00 to 7:30 in the evening of November 19, 1995, while he was on duty at the Philippine National Police (PNP) station in Natividad, Pangasinan, he received a report of a stabbing incident in Barangay Luna. In response, he and three other officers, namely, SPO1 Rodolfo Hidalgo, SPO1 Segundo Seriosa, and SPO1 Nestor Rivera, proceeded to the scene of the crime. Wilson Miana told him that he had moved his father's body from where it originally lay. Indeed, they found bloodstains on the shoulder of the barangay road, about eight meters from Ludivino Miana, Sr.'s house and six meters from a store. Arciaga testified that Wilson did not tell the police the identities of his father's assailants until after the autopsy had been performed. According to Arciaga, Wilson told him that his father was stabbed by Darwin Vidal and hit on the head with a stone by Ludivino Miana, Jr.[15]

The defense also presented Angeline Miana as its own witness to clarify the testimony she had earlier given for the prosecution regarding the identity of the victim's assailants and of her location during the incident in question.

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Angeline reiterated that there were more or less eight men who took part in the killing of the victim and that, although she could not tell who among them first struck the victim, she was certain that it was Vidal who hit the victim on the head with a stone. She likewise confirmed that Ludivino Miana, Sr. was present during the incident although she was not sure he took part in the assault. She clarified that at the time of the incident in question, she was on the shoulder of the road across the street from the store of Palado and about five meters away from where the killing took place.[16]

On May 20, 1998, the trial court rendered its decision, the dispositive portion of which provides:

> WHEREFORE, the Court hereby pronounces that beyond a reasonable doubt, the accused Ex-Kgd. Ludivino Miana, Sr., Alfonso Miana, Salvador Miana, Johnny Palasique, Darwin Vidal, and Joel Miana are guilty of the crime of Murder, attended by the qualifying circumstance of taking advantage of superior strength, as defined and penalized under Article 248 of the Revised Penal Code, as amended.
>
> Accordingly, the said accused are hereby sentenced to suffer the penalty of RECLUSION PERPETUA and such accessory penalties as are imposed by law; and, in solidum, to indemnify the heirs of the late Avenido Miana for damages in the negotiated amount of three hundred thousand pesos (P300,000.00)[17]

Hence, this appeal. Accused-appellants contend that the trial court erred (1) in convicting the accused-appellants on the basis of the evidence of the prosecution; (2) in finding them to have acted in conspiracy; and (3) in finding abuse of superior strength and declaring the offense to be murder.[18]

First. Accused-appellants contend that the trial court erred in giving credence to the testimonies of Wilson Miana and Angeline Miana, disregarding for this purpose the admission of Joel Miana that it was he who stabbed Avenido Miana, Sr. although this was done in self defense. Accused-appellants contend that Wilson Miana's testimony could not be believed for the following reasons: (1) Fely Esteban's house, where Wilson said he was when the incident took place, and Lucena Palado's store, in which the killing took place, were separated by a house and a vacant lot and Wilson could thus not have heard or seen the assault on his father; (2) Wilson failed to immediately disclose the identity of his father's killers; (3) when he finally made his identification of the assailants, he told SPO2 Arciaga that Darwin Vidal stabbed his father while Ludivino Miana, Jr. hit the victim on the head with a stone, but in his testimony in court he said it was the other way around; and (3) Dr. Briones discounted the possibility that the deceased was a victim of mauling. It is also contended that by agreeing to testify for the defense, Angeline Miana, one of the prosecution witnesses, has placed her credibility in doubt.[19]

We find the contentions to be without merit.

With regard to the allegation that Wilson Miana could not have seen his father being assaulted because of the distance between the house of Fely Esteban, where he said he was, and the store of Lucena Palado, where the killing took place, it must be pointed out that there is no evidence how far from each other the house and the store actually were. Nor was it shown that the view from Esteban's house was obstructed such that it was impossible for somebody in the house to see anything unusual going on in the store. In other words, there is nothing in the record to cast doubt on the claim of Wilson Miana that from Fely Esteban's house he saw accused-appellants and their companions attacking his father.

Significantly, Wilson Miana's account coincides with the autopsy findings of Dr. Felix Briones, who noted a stab wound in the victim's back, a hematoma below his left temporal, and incised wounds in his hands. Accused-appellants make much of Dr. Briones' statement that, aside from the foregoing injuries, he was unable to detect any signs of trauma on the victim's body, thus negating the possibility that the victim was attacked by several men. The absence of bruises from the kicks and blows inflicted by accused-appellants does not necessary negate the commission of such acts. The kicks and blows may not have been forceful enough to leave bruises or

cause hematomas. Even the blow on the victim's head produced only a hematoma, measuring two centimeters square.

Accused-appellants maintain that Wilson Miana pointed to Ludivino Miana, Jr. and Darwin Vidal only after the autopsy had been performed on his father. But SPO2 Arciaga himself said that when he first met Wilson the latter was in shock, which could only result from the fact that he saw the gruesome killing of Avenido Sr. SPO2 Arciaga testified:

> [COURT]
>
> Q
>
> You asked him questions and he did not answer you . . .?
>
> A
>
> He did not answer.
>
> Q
>
> Are you sure of that?
>
> A
>
> Yes, sir.
>
> Q
>
> You were not mad, after all you are a police officer conducting an investigation of a crime that [w]as allegedly committed and yet he appeared to be uncooperative?
>
> A
>
> Wilson Miana was shocked [at] that moment, sir.
>
> Q
>
> So, you're not able to obtain any answer from him?
>
> A
>
> Yes, sir.
>
> Q
>
> Immediately after this alleged incident?
>
> A
>
> Yes, sir.
>
> Q
>
> Only after the autopsy that you finally were able to [e]licit answer from Wilson Miana?
>
> A
>
> Yes, sir.[20]

Neither could accused-appellants make much of the fact that while Wilson Miana told SPO2 Arciaga that it was

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Darwin Vidal who stabbed his father and Ludivino, Jr. was the one who struck the victim on the head, he subsequently said in his statement to the police[21]and in his testimony in court that it was the other way around, i.e., Ludivino, Jr. stabbed Avenido Miana, Sr. and Darwin hit the victim on the head with a stone. Wilson's testimony, unlike that of Arciaga, was corroborated by Angeline Miana. It is probable that Arciaga got confused in his recollection of what he had been allegedly told by Wilson. In any event, what is important is that SPO2 Arciaga said he had been told by Wilson that among those who assaulted his father were Ludivino, Jr. and Darwin.

Nor did Angeline Miana compromise her credibility by subsequently testifying for the defense. Angeline did not contradict her testimony as a prosecution witness. To the contrary, she affirmed it. Furthermore, having presented her as their own witness, accused-appellants are precluded from impeaching her credibility.

Finally, accused-appellants point to Joel Miana as the one who stabbed Avenido Miana, Sr. As earlier stated, the former testified that he killed the victim in self-defense. He claimed that while he was walking towards the store of Lucena Palado, he met the victim and his three sons who, without any provocation, attacked him. Joel claimed that the victim had a knife and tried to stab him, but he was able to wrest the knife. Then, according to him, because someone attacked him from behind, he swung the knife and hit the victim in the process.

Joel's allegation is, however, contrary to the physical evidence. According to the findings of Dr. Briones, the stab wound was in the middle of the victim's back, about two inches to the left of the spinal column.[22] Furthermore, Joel Miana's story fails to account for the incised wounds in the victim's hands and the hematoma on his head.

It is noteworthy that in his statement to the police on June 26, 1996 (Exh. 5),[23] Joel Miana never claimed he had acted in self-defense. What he claimed was that there was a "rumble" and in the confusion he stabbed the victim. This is what was said in that statement:

> [TANONG]
>
> Maari mo bang sabihin kung sino ang sumaksak kay Avenido Miana, [Sr.]?
>
> [SAGOT]
>
> Ako po.
>
> T
>
> Sino o sinu-sino and mga kasama mong sumaksak at pumatay kay Avenido Miana, [Sr.]?
>
> S
>
> Ako lang po.
>
> T
>
> Anong dahilan at sinaksak mo itong si Avenido Miana, [Sr.]?
>
> S
>
> Nabigla po ako dahil po sa rambol, kaya nasaksak ko siya.[24]

Accused-appellants' defense is alibi. The rule is that alibi cannot prevail over the positive identification of the accused as the perpetrator of the crime.[25] In addition, accused-appellants were within a few meters from where the victim was assaulted, thus negating the requirement that for alibi to be successfully invoked, it must be impossible for the accused to have been at the scene of the crime at the time of its commission.[26]

Indeed, the trial court's assessment of the credibility of witnesses are accorded great weight on appeal, except when such is tainted with arbitrariness or oversight of some material part or circumstance.[27] As often stated, this rule is based on the fact that trial courts, unlike appellate courts, have the advantage of observing the witnesses' deportment and manner of testifying and thus are able to easily detect whether they are telling the truth.[28] The court has reviewed the records of this case, taking into account the claims of accused-appellants, and finds no reason to set aside the trial court's findings giving full weight and credence to the testimonies of the prosecution witnesses.

Second. The foregoing notwithstanding, the Court finds merit in accused-appellants' contention that the trial court erred in holding them liable as principals by conspiracy for the killing of the victim in this case. Conspiracy exists when two or more persons come to an agreement concerning the commission of a felony and decide to commit it.[29] Although the agreement need not be directly proven, circumstantial evidence of such agreement must nonetheless be convincingly shown.[30] Indeed, like the offense itself, conspiracy must be proved beyond reasonable doubt.[31] Thus, it has been held that neither joint nor simultaneous action is per se sufficient proof of conspiracy.[32]

In the case at bar, the prosecution's principal eyewitness, Wilson Miana, testified that his father was first assaulted by Ludivino Miana, Jr., Darwin Vidal, Alfonso Miana, and a certain Lito Andrada and that later the assailants were joined by accused-appellants Salvador Miana, Johnny Palasigue, Joel Miana, and their companions, Lope Miana and Daniel Palasique. However, as the defense alternatively points out,[33] accused-appellants, who were then gathered for the birthday of Ludivino Miana, Sr.'s granddaughter, were stoned and they went after the culprits in reaction to the incident. Finding the victim, they vented their ire on him. Accused-appellants' seemingly concerted and simultaneous act thus was more a spontaneous reaction to a perceived affront rather than the result of a common plan to kill the victim. Indeed, in People v. Quitlong,[34] where the accused, sidewalk vendors and a taxi driver, attacked the victim for quarreling with another vendor, the Court ruled that conspiracy cannot be appreciated for, aside from the fact that such was not alleged in the information, the attack occurred at a spur of the moment.

In the absence of conspiracy, the liability of the accused is individual and not collective.[35] Accused Ludivino Miana, Jr. is liable as a principal by direct participation for having inflicted the stab wound which caused the victim's death. Accused-appellants Alfonso Miana, Salvador Miana, Johnny Palasigue, Joel Miana, and their companions, who kicked and/or boxed the victim, and accused-appellant Darwin Vidal, who hit the victim on the head with a piece of stone, are liable not for the physical injuries inflicted by them but as accomplices in the killing of the victim by reason of their having cooperated in the assault by simultaneous acts which, although not indispensable to the commission of the crime, contributed in its execution.[36] As illustrated in People v. Cortes,[37]citing a decision of the Supreme Court of Spain:

> [Suppose] two individuals attacked a third person inflicting two lesions, one fatal, the other curable in twenty days. . . [T]he author of the latter injury is responsible for the crime of homicide, in the character of accomplice, and not of the crime of inflicting physical injuries, on the ground that, although the injury inflicted by the other co-defendant was the one that caused death to the person slain, it is nevertheless undeniable that, by the infliction of the other wound at the same time, the author of the latter cooperated in the tragic result, and that consequently, . . . he should be considered as an accomplice in the homicide, since, without having taken part in its execution [as principal], he cooperated in the offense by means of a simultaneous act. (Sentence of December 1, 1873; I-Hidalgo, Codigo Penal, 303.)

Accused-appellant Ludivino Miana, Sr. is likewise liable as an accomplice in the killing of Avenido Miana, Sr. It has been held that one who, with knowledge of criminal intent, cooperates in the commission of a crime by giving moral support in the execution of the crime is liable as an accomplice.[38]In this case, Ludivino Sr. went with his

co-accused, his sons, nephews, and a son-in-law to the scene of the crime and told them to kill the victim. His presence and verbal encouragement, coupled with his authority over his co-accused, undoubtedly gave moral aid to the latter.

The crime committed by accused-appellants is murder qualified by abuse of superior strength. The evidence shows that they took advantage of their number and their strength in killing their victim. Avenido Sr. was 66 years old and unarmed, while majority of his assailants were in their 20s, two of whom were armed with the bladed weapons while another used a stone. Considering further that the victim was already wounded at the time the fatal blow was inflicted, there was a notorious inequality of strength which accused-appellants used to their advantage.

Third. As accomplices in the crime of murder, accused-appellants should be punished with a penalty lower by one degree from what is provided under Art. 248.[39] In addition, the mitigating circumstance of voluntary surrender should be appreciated in favor of accused-appellants Ludivino Miana, Sr., Salvador Miana, Alfonso Miana, and Johnny Palasigue considering that they voluntarily surrendered to SPO3 Alberto Valdo, Office-In-Charge, PNP Criminal Investigation Bureau, Urdaneta, Pangasinan.[40] The same holds true for accused-appellant Darwin Vidal who was delivered to the authorities by his commanding officer.[41] Accused-appellant Joel Miana was arrested by the police on June 25, 1996 and thus cannot be credited with any mitigating circumstance.

Anent the award of damages, the Court finds no reason to disturb the award of moral and actual damages in the amount of P300,000.00 as stipulated by the parties.[42] By agreeing to pay such, the defense is deemed to have waived presentation of proof thereof.[43]

WHEREFORE, the decision of the Regional Trial Court, Branch 51, Tayug, Pangasinan, is AFFIRMED with the following modifications:

(1) Accused-appellants Ludivino Miana, Sr., Alfonso Miana, Salvador Miana, Darwin Vidal, and Johnny Palasigue are found guilty as accomplices in the murder of Avenido Miana, Sr. and, taking into account the mitigating circumstance of voluntary surrender and the pertinent provisions of the Indeterminate Sentence Law, are each sentenced to suffer an indeterminate prison term of eight (8) years of prision mayor, as minimum, to fourteen (14) years and eight (8) months of reclusion temporal, as maximum.

(2) Accused-appellant Joel Miana is found guilty as an accomplice in the murder of Avenido Miana, Sr. and is sentenced to suffer an indeterminate prison term of ten (10) years of prision mayor, as minimum, to seventeen (17) years and four (4) months of reclusion temporal, as maximum.

SO ORDERED.

Bellosillo, (Chairman), Quisumbing, Buena, and De Leon, Jr., JJ., concur.

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[1] Per Judge Ulysses R. Butuyan.

[2] Ludivino Miana, Jr. and Moody Miana.

[3] TSN (Wilson Miana), pp. 6-10, 18, April 1, 1996.

[4] Id., pp. 10-12, 20-21.

[5] TSN (Angeline Miana), pp. 3-9, Nov. 15, 1996.

[6] TSN (Wilson Miana), p. 12, April 1, 1996; TSN (Angeline Miana), p. 5, Nov. 15, 1996.

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[7] TSN (Felix Briones), pp. 5-6, 8-17, Dec. 12, 1996.

[8] Records, p. 276.

[9] TSN (Ludivino Miana, Sr.) pp. 5-6, 9-15, June 16, 1997.

[10] Id., p. 17.

[11] TSN (Johnny Palasigue), pp. 6, 13, 17-18, Aug. 18, 1997; TSN (Alfonso Miana), pp. 4-5, 7-10, Sept. 9, 1997.

[12] TSN (Darwin Vidal), pp. 4-8, July 15, 1997.

[13] TSN (Joel Miana), pp. 3-10, 12, 20-22, 27-34, June 30, 1997; TSN, pp. 4-6, July 11, 1997.

[14] [TSN (Salvador Miana), pp. 8-10, June 23, 1997; TSN (Jose Palasique), pp. 2-8, Oct. 22, 1997.]

[15] TSN (Orlando Arciaga), pp. 3-12, April 15, 1997.

[16] TSN (Angeline Miana), pp. 14-15, 20-21, 27-31, April 18, 1997.

[17] RTC Decision, p. 42; Rollo, p. 76.

[18] Appellants' Brief, p. 1; Rollo, p. 89.

[19] Id., pp. 8-18; id., pp. 96-107.

[20] TSN (Orlando Arciaga), p. 12, April 18, 1997 (emphasis added).

[21] Records, pp. 11-12.

[22] TSN (Felix C. Briones), p. 8, Dec. 12. 1996.

[23] Records, vol. 2, pp. 35-36.

[24] Id., p. 36 (emphasis added).

[25] People v. Ronas, G.R. Nos. 128088 & 146639 (2001); People v. Castro, G.R. No. 130785, Sept. 29, 2000.

[26] People v. Orcula, G.R. No. 132350, July 5, 2000; People v. Flores, 328 SCRA 461 (2000).

[27] People v. Reduca, 301 SCRA 516 (1999); People v. Salazar, 277 SCRA 67 (1997).

[28] Dizon v. Court of Appeals, 311 SCRA 1 (1999); People v. Tomolin, 311 SCRA 498 (1999).

[29] Revised Penal Code, Art. 8.

[30] People v. Padrones, 189 SCRA 496 (1990); People v. Saavedra, 149 SCRA 610 (1987).

[31] People v. Tividad, 20 SCRA 549 (1967). See also People v. Jorge, 231 SCRA 693 (1994); People v. Padrones, 189 SCRA 496 (1990).

[32] People v. Dorico, 54 SCRA 172 (1973); People v. Tividad, supra.

[33] Petition, pp. 18-23; Rollo, pp. 107-113.

[34] 292 SCRA 360 (1998).

[35] People v. Quitlong, supra.

[36] See People v. Lumiguis, 19 SCRA 892 (1967); People v. Cortes, 55 Phil. 143 (1930).

[37] 55 Phil. 143, 147-148 (1930).

[38] See People v. Custodio, 47 SCRA 289 (1972); People v. Silvestre, 56 Phil. 353 (1931).

[39] Revised Penal Code, Art. 52.

[40] Records, p. 142.

[41] Id., p. 61; TSN (Darwin Vidal), pp. 17-18, July 15, 1997.

[42] Records, p. 276.

[43] See People v. Paraiso, G.R. No. 131829, Jan. 17, 2001.

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