

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. CARLOS FORCA (AT LARGE), RUFINO TESTON AND ROGELIO GACO, ACCUSED. RUFINO TESTON AND ROGELIO GACO, ACCUSED-APPELLANTS.

G.R. No. 134938. June 08, 2000

Ponente: GONZAGA-REYES, J.

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GONZAGA-REYES, J.:

On July 12, 1995, CARLOS FORCA,[1] RUFINO TESTON alias Toto, ROGELIO GACO alias Yoyong and MANUEL OSORIO alias Maning were charged with MURDER before the Regional Trial Court of Palawan and Puerto Princesa City. Except for FORCA who has remained at large, all the accused pleaded not guilty to the following information:[2]

That on or about the 14th day of April, 1995, in the afternoon, at Brgy. Sowangan, Municipality of Quezon, Province of Palawan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating together and mutually helping each other, with evident premeditation, treachery and abuse of superior strength, with intent to kill and while armed with bladed weapons, did then and there willfully, unlawfully and feloniously attack, assault, stab and hack with their bladed weapons, one VLADINER DECENA, hitting him in the different vital parts of his body and inflicting upon him multiple stab and hack wounds which cause [sic] cardio-pulmonary arrest which were the direct and immediate cause of his death shortly thereafter.

CONTRARY TO LAW.

On July 19, 1996, acting upon a motion filed by the prosecution, the trial court excluded OSORIO from the information so that he could serve as a state witness.[3]

The witnesses for the prosecution were Victor Bucol, OSORIO, Delfin Decena and Alex Inaje; on the other hand, testifying for the defense were accused GACO and TESTON, Atty. Onos Mangotara - Chief of the National Bureau of Investigation, and Katong Lantay - barangay chairman of Sowangan.

Victor Bucol[4] testified that on April 14, 1995, at about 2:30 p.m., he went to the plaza of barangay Sowangan, Quezon, Palawan, where he played basketball with Vladiner Decena. FORCA, TESTON, GACO and OSORIO were already there drinking at a nearby store. After they had finished playing, he and Vladiner watched the butchering of a shark; Vladiner was seated inside a cart, while Bucol stood about ten meters away from him. When Bucol turned to look at his friend, he saw FORCA about to stab Vladiner with a bolo, prompting him to shout "Toto, sasaksakin ka," but nevertheless, Vladiner was stabbed. FORCA stabbed the victim three times. TESTON hacked the victim 19 times, using a bolo about 15 inches long, while GACO held him by his armpits and OSORIO held him by his hair.[5]

On cross-examination, Bucol testified that immediately before the attack, FORCA and Vladiner had a fight and

were about to hit each other.[6] Meanwhile, on re-direct and re-cross examination, Bucol clarified his testimony on the details of the attack. He testified that, immediately after the averted boxing incident, Forca stabbed Vladiner, and that it was after this first stabbing blow that OSORIO and GACO held down Vladiner, thus allowing FORCA to stab Vladiner two more times. OSORIO and GACO then released Vladiner, and it was at this point that TESTON came forward and hacked him several times.[7]

The autopsy report[8] prepared by Dr. Marcela Remigio described the cause of death as "cardio-pulmonary arrest secondary to internal and external hemorrhage due to multiple hacking and stab wounds." It also listed the wounds sustained by the victim as follows:

1. Hacking wound 8 inches in length from the occipital along the midsternal line passing the left lateral side of the neck down to the left supra scapular region.
2. Hacking wound 3.5 inches in length 1 inch left of the midsternal line on the occipital region.
3. Hacking wound 2.5 inches in length at the occipital region beside the second lesion.
4. Hacking wound 3 inches in length left supra scapular region 1 inch left of the midsternal line.
5. Hacking wound 3 inches in length left supra scapular region beside the above lesion.
6. Hacking wound 3 inches in length left supra scapular region beside the above lesion.
7. Hacking wound 3 inches in length left supra scapular region beside the above lesion.
8. Hacking wound 8.5 inches in length left scapular region.
9. Stab wound 1 inch in length at the interscapular region along the midsternal line.
10. Stab wound 0.5 inch in length at the axillary region 2.5 inches posterior to the right axillary line.
11. Stab wound 1.5 inch at the right lumbar region.
12. Stab wound .5 inch in length at the left lumbar region.
13. Hacking wound 5 inches in length at the left lumbar region.
14. Hacking wound 2.5 inches in length middle third of left forearm.

Although Dr. Remigio was unable to testify in court, the defense admitted the authenticity and veracity of the autopsy report.[9]

The testimony of OSORIO, who was discharged as a state witness, departed substantially from that given by Bucol. OSORIO claimed that on April 14, 1995, at around 3:00 p.m., while he was waiting for a shark to be butchered at the house of Nilo Pasion in barangay Sowangan,[10] an altercation erupted between FORCA and Vladiner. As he was only twenty meters away from the two, he noticed that FORCA was wielding a knife, while Vladiner was holding a stone. However, the two were pacified by TESTON. Vladiner ran away and shouted "Wait for me, I will be back." After a short while, Vladiner returned with a .38 caliber gun, which he fired at FORCA and TESTON, who were hiding behind a post beside OSORIO's house. Vladiner continued firing, although unsuccessfully, at the two accused, and as he got closer to them, the latter ganged up on him - FORCA stabbed Vladiner with a knife, while TESTON hacked him with his bolo.[11] According to OSORIO, Vladiner dropped the gun upon being stabbed by FORCA.[12] GACO picked up the gun and subsequently surrendered it to the barangay captain. Apart from this, GACO had no other involvement in the attack upon Vladiner.[13]

Alex Inaje[14] testified that two days prior to the killing of Vladiner, he was at the house of a certain Berting

Bartolome in sitio Simunong in barangay Sowangan, together with FORCA, TESTON, GACO and OSORIO.[15] While the accused were drinking, FORCA proposed the killing of a member of the Decena family, which proposal was approved by TESTON, GACO and OSORIO. Inaje was the only one who disapproved the plan.[16] He further stated that he did not know what propelled the accused to come up with such a scheme.[17] Inaje, however, failed to tell the Decenas about the conversation of the accused.[18]

Delfin Decena, the father of Vladiner, testified that on April 14, 1995, at around 3:30 p.m., he was roused from his sleep by a certain Jesus Pimentel, who informed him of the incident at the plaza. He then ran towards the plaza only to find his son bloodied and mortally wounded. With the help of a certain Jerick Jones, Delfin brought his son to a hospital in Quezon, Palawan.[19] On the way to the hospital, he asked his son who had attacked him. Vladiner identified FORCA, TESTON and GACO as his assailants.[20] On cross-examination, Delfin denied that he owned a gun or that he had given one to his son.[21] He also testified that Vladiner and FORCA had a fistfight about a week prior to the killing.[22]

Delfin claimed that he had spent P30,000 for burial expenses, but that he had no receipts to substantiate such amount. He also testified that, at the time of his death, Vladiner, who was single and working as a fisherman, had a monthly income of P2,000.[23]

Accused GACO's account of the events which transpired on April 14, 1995, largely coincided with OSORIO's testimony. He maintained that Vladiner and FORCA, who had grudges against each other, got into a fistfight and were pacified by TESTON and OSORIO; that Vladiner ran away and returned with a gun which he fired at FORCA and TESTON; that he did not know at first if the two accused were hit, but that he later on saw TESTON bleeding; and that FORCA stabbed Vladiner while TESTON hacked him, causing Vladiner to drop his gun.

GACO insisted that he did not participate in the attack on Vladiner, maintaining that all he did was to pick up the latter's gun which he surrendered to the barangay captain.[24] He claimed that he was able to identify the gun as belonging to Delfin Decena because he had once repaired it sometime in February, 1995.[25]

In connection with the gun allegedly recovered by GACO from Vladiner, the defense presented Katong Lantay, the barangay chairman of Sowangan at the time, who testified that on April 14, 1995, GACO surrendered to him a gun, which was allegedly retrieved from Vladiner, together with three spent and three live bullets. Lantay turned the gun over to the local police of Quezon, Palawan.[26]

Meanwhile, also testifying for the defense was Atty. Onos Mangotara, the Chief of the National Bureau of Investigation (NBI), who declared that a gun was forwarded to his office by the Philippine National Police of Quezon, Palawan for ballistic examination.[27]

TESTON claimed that he hacked Vladiner in self-defense. Like GACO, he testified that on April 14, 1995, Vladiner and Forca were quarrelling and that he pacified the two; after which Vladiner ran towards his house only to return shortly after with a gun, which he fired three times at TESTON and FORCA, hitting TESTON on his left wrist. As Vladiner was getting closer to them, FORCA repeatedly stabbed Vladiner, causing the latter to drop the gun he was holding.[28] On cross-examination, TESTON admitted to having hacked Vladiner. The day after the killing, TESTON went to a doctor to have his wound treated. However, despite TESTON's insistence, the doctor refused to give him a medical certificate stating that his wound was due to a gun shot, maintaining that TESTON had suffered a hacking wound.[29]

The trial court found Victor Bucol's testimony to be more credible than the testimonies of GACO, TESTON or OSORIO. TESTON's plea of self-defense was, according to the trial court, belied by the number of wounds sustained by the victim. Additionally, the trial court explained that, even assuming that Vladiner had a gun,

OSORIO himself testified that after Vladiner was stabbed he dropped the gun, yet FORCA and TESTON did not let up on their attack. Meanwhile, GACO's claim that he did not participate in the killing was directly contradicted by Bucol's positive identification of GACO as the person who held Vladiner by the armpits as he was being stabbed and hacked by FORCA and TESTON.

The qualifying circumstance of treachery was ruled out by the trial court. It held that since the attack upon Vladiner was preceded by an altercation between FORCA and the victim, the latter was sufficiently forewarned of the danger to himself and furthermore, the altercation reveals that the accused did not consciously adopt their mode of attack. Evident premeditation was also rejected by the trial court for, despite Inaje's testimony that two days before the killing the accused agreed to kill any member of the Decena family, the prosecution failed to present proof of an overt act of the accused to show that they had clung to their determination to commit the crime. However, the trial court declared that the qualifying circumstance of abuse of superior strength attended the killing, as shown by the fact that while GACO and OSORIO held down Vladiner, FORCA and TESTON stabbed and hacked him. Thus, the court explicitly rejected OSORIO's claim that only FORCA and TESTON attacked Vladiner and that the latter was armed with a gun.

Finally, the trial court found that the accused acted in conspiracy. It held that, in the killing of Vladiner, each of the accused performed specific acts with such closeness and coordination so as to indicate a common purpose and design.

Thus, in the decretal portion of its decision, the trial court held -

WHEREFORE, premises considered judgment is hereby rendered finding accused RUFINO TESTON and ROGELIO GACO guilty beyond reasonable doubt as co-principals of the crime of murder, and there being no modifying circumstances appreciated, and pursuant to Article 248 of the Revised Penal Code, as amended by R.A. 7659, in relation to Article 63 (2) of the same Code, and not being entitled to the benefits of the Indeterminate Sentence Law, they are hereby sentenced to RECLUSION PERPETUA, with the accessory penalties of civil interdiction for life and of perpetual absolute disqualification; to pay the heirs of Vladiner Decena civil indemnity in the amount of P50,000 and the costs.

As co-accused Carlos Forca remains at large, the case against him is hereby ordered ARCHIVED to be prosecuted upon his apprehension.

Issue alias warrant for the arrest of Carlos Forca.

SO ORDERED.[30]

Accused TESTON and GACO are now before this Court appealing their conviction for murder. In their Brief,[31] the accused make a lone assignment of error, that -

THE LOWER COURT ERRED IN CONVICTING THE ACCUSED RUFINO TESTON AND ROGELIO GACO BASED ON THE INCREDIBLE TESTIMONIES OF VICTOR BUCOL & ALEX ENAJE WHICH ARE FULL OF INCONSISTENCIES AND HENCE NOT WORTHY OF CREDIBILITY FOR BEING DEVOID OF TRUTH.

Basically, accused-appellants are questioning the trial court's appreciation of the credibility of the prosecution witnesses, claiming that Bucol and Inaje's testimonies are intrinsically unbelievable and that they are biased witnesses since they are somehow related to the victim. Furthermore, they claim that Bucol cannot be relied upon to give an accurate account of the events which transpired on the day of the killing since he is only in second year high school and has a very short memory. Instead, accused urge this Court to adopt the testimony of OSORIO, whom they claim is a "neutral witness." Pursuant to OSORIO's narration of events, they insist that they should be

acquitted since TESTON acted in self-defense, whereas GACO had no participation in the killing.

In its Brief,[32] the Office of the Solicitor General (OSG) maintains that the trial court was correct in upholding the credibility of Bucol who positively identified the accused and described their participation in the killing of Vladiner Decena, in the absence of any evidence that he was actuated by improper motives. Any inconsistencies which may be found in Bucol's testimony refer only to minor and unsubstantial matters and strengthen, rather than diminish, his credibility since they remove all suspicion of a rehearsed testimony. It is a well-settled rule that the appellate court will generally not disturb the findings of the trial court with regards to the credibility of witnesses.

The OSG also reiterates the trial court's ruling that the number of wounds sustained by the victim negates TESTON's claim of self-defense and instead, indicates a determined effort to kill the victim. Meanwhile, GACO's denial of participation in the killing was rendered futile by Bucol's testimony which, as above mentioned, was granted full faith and credit by the trial court.

In full agreement with the trial court, the OSG asserts that accused acted in conspiracy. Based on the testimony of Bucol, FORCA stabbed Valdiner, after which GACO held him by the armpits, while OSORIO grabbed his hair. Thereupon, TESTON hacked the victim several times with his bolo. Their various acts clearly show that they were animated by the same purpose and impelled by a common design. The manner in which the accused attacked Vladiner also shows that they acted with abuse of superior strength since they clearly outnumbered the victim who was utterly defenseless. Thus, the trial court was correct in holding the accused liable for the crime of murder.

It has long been established that the trial court's evaluation of a witnesses' trustworthiness is entitled to the highest respect for it has the distinct opportunity to observe directly the demeanor of a witness and to determine whether he is telling the truth.[33] Thus, absent any showing that the trial court overlooked, misapprehended, or misapplied some facts of weight and substance which, if properly considered, would have altered the result of the case, we are compelled to uphold the trial court's assessment of the credibility of the witnesses.[34] After carefully studying the transcripts of this case, we find that the trial court was justified in giving full faith and credence to Bucol's testimony, which was clear and straightforward. Any inconsistencies in his testimony refer only to minor details and do not impair his credibility.[35] Moreover, the defense has not presented any evidence that Bucol was impelled by dubious or improper motives, therefore it must be presumed that he was not so moved.[36] It matters little that, apart from the accused, Bucol is essentially the lone eyewitness to the killing of Vladiner. The testimony of a single prosecution witness, if found credible and positive, is sufficient to convict, for the truth is not established by the number of witnesses, but by the quality of their testimonies.[37]

Besides, in the case of TESTON, the credibility of Bucol is no longer the issue since he has invoked the justifying circumstance of self-defense. Whenever an accused admits inflicting a fatal injury on his victim and invokes self-defense, the burden of proof immediately shifts from the prosecution to the defense; the accused must rely on the strength of his own evidence and not on the weakness of the prosecution's evidence.[38] In order for self-defense to be appreciated, the following requisites must be proven: (1) unlawful aggression on the part of the victim; (2) reasonable necessity of the means employed to prevent or repel it; and (3) lack of sufficient provocation on the part of the person defending himself.[39] In the present case, there is no unlawful aggression to begin with. Bucol testified that it was only after Vladiner was already stabbed three times, that Teston began to hack him repeatedly. On direct examination, the attack was described by Bucol in the following manner -

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Q : And Carlos Forca was one of those you saw attacking Vladiner Decena?

A : Yes, Sir, he was the one who stabbed.

Q : Mr. Witness, you said that Carlos Forca stabbed Vladiner Decena, what kind of weapon was he using?

A : It looks like a small bolo, more or less one foot.

Q : What about this Rufino Teston, what was he doing at that time?

A : He just kept hacking Vladiner Decena.

Q : And what kind of instrument did he use?

A : A bolo.

Q : About how long is that bolo?

A : More or less 15 inches.

Q : Mr. Witness, how many times did Carlos Forca stab Vladiner Decena?

A : Three times.

Q : And did you see what part of his body was hit?

A : Yes, sir.

Q : What part of his body?

A : The right side of his body.

Q : And this Rufino Teston alyas Toto, how many times did he hack Vladiner Decena?

A : 19 times

Q : What about Rogelio Gaco, what was he doing?

A : He was holding Vladiner Decena by his two armpits while raising his arms.

Q : What about Manuel Osorio alyas Maning, what was he doing at that time?

A : He was holding Vladiner by his hair.

Q : Mr. Witness, when Carlos Forca stabbed Vladiner Decena three times and Rufino Teston hacked Vladiner Decena 19 times, after that what happened next?

A : They just left him thinking that he was already dead.[40]

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Bucol further clarified some of the details of the attack on re-direct examination -

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PROSECUTOR

(to witness)

Mr. witness you said that Rogelio Gaco held Vladimir by the armpit at what stage did he hold Vladimir Decena in his armpit when Carlos Porca was stabbing the victim?

A The victim was already stabbed when he was held.

Q You said that Carlos Porca stabbed the victim three (3) times was it after the first time he was hit by Carlos Porca that Rogelio Gaco held Vladimir by his armpit?

A Yes sir.

Q Or could it be during or after the second stabbing?

A After the first stabbing sir.

Q And not after the third stabbing?

A No sir it was during the first stabbing.

Q What about the hacking, at what stage of the hacking was Vladimir held by the armpit by Rogelio Gaco?

A Vladimir was released and then he was hacked.

Q Which came first, the stabbing or the hacking?

A The stabbing came first.

COURT

(to witness)

Are we made to understand that the three (3) stabbing was already done when the hacking was started by Tiston?

A Yes sir after the stabbing the victim was released from their hold and then he was hacked at the back until he fell.

PROSECUTOR

(to witness)

To whom are you referring when you said released by the two who were those two (2)?

A I was referring to Maning Osorio and Rogelio Gaco.[41]

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Apparently, Vladiner was already seriously injured by FORCA's stabbing blows when he was hacked by TESTON. In this condition, Vladiner could not have possibly assaulted TESTON or gave him the impression that he was in danger of an imminent attack. The trial court disbelieved OSORIO's assertion that Vladiner was armed with a gun and that he shot at FORCA and TESTON.[42] As stated earlier, this finding goes into the trial court's assessment of a witness' credibility and will not be disturbed by this Court.[43] The fact that there was actually a gun at the scene of the crime[44] still does not prove that Vladiner owned or had used such weapon. Defense witness Katong Lantay, barangay chairman of Sowangan, merely testified that on April 14, 1995, GACO surrendered to him a gun and some bullets.[45] NBI Chief Atty. Onos Mangotara stated that such gun was forwarded to his office by the PNP for ballistic examination, but he did not testify as to the results of such examination, or for that matter, whether such an examination was even conducted.[46] Clearly, the defense obviously failed to establish that Vladiner had a gun and that he actually used it against the accused.

Even assuming that Vladiner had a gun and that he fired it at accused, according to OSORIO's own testimony, Vladiner had already dropped the gun after he was stabbed by FORCA; thus, he was totally defenseless and unarmed when TESTON repeatedly hacked at him.[47] When the unlawful aggression which had begun no longer exists, the one making the defense has no more right to kill or even wound the former aggressor.[48]

Moreover, TESTON's own judicial admission belies his claim of having acted in self-defense. In their appellants' brief, it was stated that "As it is Carlos Forca and Rufino Teston only acted in self-defense after they were fired

upon by Vladimir Decena and so the killing is justified although there was an over kill." [49] The only sense which we can make of these words is that accused themselves were keenly aware that their assault upon Vladiner was grossly disproportionate with the aggression which the victim had allegedly exhibited. Thus, by the defense's own admission, another indispensable element of self-defense is missing in this case - that is, the means employed was not reasonably necessary to prevent or repel the unlawful aggression.

Finally, we agree with the trial court that the number of wounds sustained by Vladiner stands as an irrefutable argument against the existence of self-defense. According to the autopsy report, the victim had ten (10) hacking wounds and four (4) stab wounds in various parts of his body. The number and nature of the wounds sustained by the victim in this case are persuasive indicia that the assault was not a simple act of self-defense but a determined and murderous aggression. [50]

Accused GACO asserts that he had absolutely no participation in the killing of Vladiner; that he merely picked up the gun used by the victim and surrendered it to the local authorities. [51] However, GACO's claims are directly contradicted by the positive testimony of Bucol who identified him as one of Vladiner's assailants. Bucol declared that GACO held Vladiner by his armpits, while FORCA stabbed him. [52] Between the categorical identification of the accused by a prosecution witness and the accused's plain denial of participation in the commission of the crime, greater weight is always given to the former. [53]

We disagree with the trial court's ruling that treachery did not attend the killing. Treachery is present when the attack is sudden and unexpected, depriving the victim of any real chance to defend himself and thereby ensuring the commission of the crime without risk to the offender. [54] The lower court held that since Vladiner and FORCA fought on the day of the killing, Vladiner was forewarned of the danger to himself. Also, it considered the fight as evidence that the accused did not consciously adopt their mode of attack "as their confrontation was coincidental." [55]

That the victim and the accused had an altercation immediately before the attack upon the victim does not negate the presence of treachery. In *People v. Molina*, [56] we held that "[t]reachery may also be appreciated even when the victim was warned of danger or initially assaulted frontally, but was attacked again after being rendered helpless and had no means to defend himself or to retaliate." Similarly, in *People v. Villonez*, [57] this Court declared that -

However, we do not share the assessment of the trial court that there was no treachery in this case because the victim had engaged in a fight previous to the killing and was thus forewarned of an attack against him. Treachery may still be appreciated even when the victim was forewarned of danger to his person. What is decisive is that the execution of the attack made it impossible for the victim to defend himself or to retaliate. The overwhelming number of the accused, their use of weapons against the unarmed victim, and the fact that the victim's hands were held behind him preclude the possibility of any defense by the victim.

In the instant case, it has been established that while Vladiner was being held down by GACO and OSORIO, FORCA stabbed him several times. However, despite Vladiner's helpless and vulnerable condition, TESTON still hacked him repeatedly, guaranteeing that the victim would not survive the attack. This undoubtedly constitutes treachery for the means employed by accused ensured the execution of their nefarious designs upon the victim without risk to themselves arising from any defense which the offended party might have made. [58]

Having appreciated treachery, the qualifying circumstance of abuse of superior strength need no longer be taken against accused since it is deemed absorbed in treachery. [59]

We agree with the trial court that the aggravating circumstance of evident premeditation has not been proven. The elements of evident premeditation are the following: (1) the time when the accused decided to commit the crime;

(2) an overt act manifestly indicating that the accused had clung to his determination to commit the crime; and (3) a sufficient lapse of time between the decision to commit the crime and the execution thereof to allow the accused to reflect upon the consequences of his act.[60] Although the testimony of Alex Inaje established that accused had decided to kill a member of the Decena family at least two days before the actual killing of Vladiner, the prosecution has not pointed to any external act of accused indicating that they had clung to their decision to commit the crime.

We hold that the acts of accused in this case indubitably establish conspiracy. As earlier discussed, after FORCA first stabbed Vladiner, GACO held down the victim's arms while OSORIO held him by his hair, thus enabling FORCA to stab the victim two more times. After releasing him, TESTON moved in and mercilessly hacked at the already seriously injured Vladiner at least ten times, as indicated by the autopsy report. As shown by their concerted acts, accused clearly harbored and were united in the execution of the same criminal purpose - to end the life of Vladiner Decena.[61] Since conspiracy has been proven, it need not be determined who among the accused delivered the fatal blow. All of the accused are liable as principals regardless of the extent and character of their participation, for in conspiracy the act of one is the act of all.[62]

Under Article 248 of the Revised Penal Code, the penalty for the crime of murder is reclusion perpetua to death. There being no aggravating or mitigating circumstances, the penalty of reclusion perpetua was correctly imposed by the trial court.[63] Pursuant to current jurisprudence, accused-appellants are also ordered to pay jointly and severally the heirs of the victim the amount of Fifty Thousand Pesos (P50,000) by way of indemnity for the killing.[64] However, no actual damages may be awarded since the prosecution failed to produce receipts to substantiate the same.[65]

WHEREFORE, the decision appealed from is hereby AFFIRMED. Costs against accused.

SO ORDERED.

Melo, (Chairman), Panganiban, and Purisima, JJ., concur.

Vitug, J., Abroad, On Official Business.

[1] Alternately spelled as "Porca."

[2] Rollo, 11.

[3] OR, 70.

[4] Alternately spelled as "Bocol."

[5] TSN, February 29, 1996, 4-5.

[6] TSN, March 1, 1996, 20.

[7] TSN, March 1, 1996, 28-30.

[8] Exhibit A; OR, 121.

[9] TSN, June 5, 1997, 2.

[10] TSN, August 1, 1996, 10.

[11] TSN, August 1, 1996, 3-5, 12.

- [12] TSN, August 1, 1996, 13.
- [13] TSN, August 1, 1996, 6, 13-14.
- [14] Alternately spelled as "Enaje."
- [15] TSN, January 30, 1997, 6, 13-14.
- [16] TSN, January 30, 1997, 5, 7-8, 14-15.
- [17] TSN, January 30, 1997, 15.
- [18] TSN, January 30, 1997, 16.
- [19] TSN, December 5, 1996, 2-3.
- [20] TSN, December 5, 1996, 3.
- [21] TSN, December 5, 1996, 5.
- [22] TSN, December 5, 1996, 7.
- [23] TSN, December 5, 1996, 4-5.
- [24] TSN, June 5, 1997, 6-9.
- [25] TSN, June 5, 1997, 11.
- [26] TSN, October 17, 1997, 2-4.
- [27] TSN, August 21, 1997, 3.
- [28] TSN, August 22, 1997, 3-6.
- [29] TSN, August 22, 1997, 7,13-14.
- [30] Rollo, 23-42.
- [31] Rollo, 62-78.
- [32] Rollo, 159-177.
- [33] *People v. Albao*, 287 SCRA 129 (1998); *People v. Obello*, 284 SCRA 79 (1998).
- [34] *People v. Albao*, 287 SCRA 129 (1998).
- [35] *People v. Lising*, 285 SCRA 595 (1998); *People v. Llaguno*, 285 SCRA 124 (1998).
- [36] *People v. Ravaness*, 284 SCRA 634 (1998); *People v. Mendoza*, 284 SCRA 705 (1998).
- [37] *People v. Matubis*, 288 SCRA 210 (1998); *People v. Correa*, 285 SCRA 679 (1998).
- [38] *People v. Pena*, 291 SCRA 606 (1998); *People v. Cario*, 288 SCRA 404 (1998); *People v. Mendoza*, 284 SCRA 705 (1998)
- [39] *People v. Timblor*, 285 SCRA 64 (1998).
- [40] TSN, February 29, 1996, 4-5.
- [41] TSN, March 1, 1996, 28-29.

[42] Rollo, 35-36.

[43] *People v. Magpantay*, 284 SCRA 96 (1998).

[44] TSN, March 1, 1996, 8.

[45] TSN, October 17, 1997, 2-4.

[46] TSN, August 21, 1997, 3.

[47] TSN, August 1, 1996, 13.

[48] *People v. Albao*, 287 SCRA 129 (1998).

[49] Rollo, 77.

[50] *People v. Sambulan*, 289 SCRA 500 (1998).

[51] TSN, June 5, 1997, 6-9.

[52] TSN, March 1, 1996, 28-30.

[53] *People v. Balmoria*, 287 SCRA 687 (1998); *People v. Correa*, 285 SCRA 679 (1998); *People v. Baccay*, 284 SCRA 296 (1998).

[54] *People v. Reyes*, 287 SCRA 229 (1998).

[55] Rollo, 34-35.

[56] 292 SCRA 742 (1998).

[57] 298 SCRA 566 (1998).

[58] *People v. Sumalpong*, 284 SCRA 464 (1998).

[59] *People v. Villonez*, 298 SCRA 566 (1998), citing *People v. De Leon*, 248 SCRA 609 (1995) and *People v. Landicho*, 258 SCRA 1 (1996).

[60] *People v. Timblor*, 285 SCRA 64 (1998).

[61] *People v. Obello*, 284 SCRA 79 (1998).

[62] *People v. Gungon*, 287 SCRA 618 (1998).

[63] Revised Penal Code, art. 63, par. 2.

[64] *People v. Solis*, 291 SCRA 529 (1998).

[65] *People v. Oliano*, 287 SCRA 158 (1998).

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