

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
EUTQUIA CARMEN @ MOTHER PERPETUALA, CELEDONIA FABIE @
ISABEL FABIE, DELIA SIBONGA @ DEDING SIBONGA, ALEXANDER
SIBONGA @ N...**

G.R. No. 137268. March 26, 2001

Ponente: MENDOZA, J.

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MENDOZA, J.:

This is an appeal from the decision[1] of the Regional Trial Court, Branch 14, Cebu City, finding accused-appellants Eutiquia Carmen @ Mother Perpetuala, Celedonia Fabie @ Isabel Fabie, Delia Sibonga @ Deding Sibonga, Alexander Sibonga @ Nonoy Sibonga, and Reynario Nuñez @ Rey Nuñez guilty of murder and sentencing them to suffer the penalty of reclusion perpetua and to pay the heirs of the victim the amount of P50,000.00 as indemnity as well as the costs.

The information[2] against accused-appellants alleged:

That on or about the 27th day of January, 1997 at about 2:00 o'clock p.m., in the City of Cebu, Philippines, and within the jurisdiction of this Honorable Court, the said accused, conniving and confederating together and mutually helping one another, with deliberate intent, with intent to kill, with treachery and evident premeditation, did then and there inflict fatal physical injuries on one Randy Luntayao which injuries caused the death of the said Randy Luntayao.

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

The prosecution presented evidence showing the following: At around 2 o'clock in the afternoon of January 27, 1997, Honey Fe Abella, 10, and her friend Frances Claire Rivera, 7, were playing takyan in front of the house of one Bebing Lastimoso in Quiot, Pardo, Cebu City, when suddenly they heard a child shout, "Tabang ma!" ("Help mother!"). The cry came from the direction of the house of accused-appellant Carmen, who is also known in their neighborhood as Mother Perpetuala. The two children ran towards Mother Perpetuala's house.[3] What Honey Fe saw on which she testified in court, is summarized in the decision of the trial court, to wit:

While there[,] she saw a boy, whose name . . . she [later] came to know as one Randy Luntayao, . . . being immersed head first in a drum of water. Accused Alexander Sibonga was holding the waist of the body while accused Reynario Nuñez held the hands of the boy at the back. Accused Eutiquia Carmen, Delia Sibonga, and Celedonia Fabie were pushing down the boy's head into the water. She heard the boy shouting "Ma, help" for two times. Later, she saw accused Reynario or Rey Nuñez tie the boy on the bench with a green rope as big as her little finger. . . . After that Eutiquia Carmen poured [water from] a plastic container (galon) . . . into the mouth of the boy. Each time the boy struggled to raise his head, accused Alexander Sibonga banged the boy's head against the bench [to] which the boy was tied down. She even heard the banging sound everytime the boy's head hit the bench. For about five times she heard it. According to this witness after forcing the boy to drink water, Eutiquia Carmen and accused Celedonia Fabie alias Isabel Fabie took turns in pounding the boy's chest with their clenched fists. All the time Rey Nuñez held down the boy's feet to the bench. She also

witnessed . . . Celedonia Fabie dropped her weight, buttocks first, on the body of the boy. Later on, Eutiquia Carmen ordered Delia or Deding Sibonga to get a knife from the kitchen. Eutiquia Carmen then slowly plunged the stainless knife on the left side of the boy's body and with the use of a plastic gallon container, the top portion of which was cut out, Eutiquia Carmen [caught] the blood dripping from the left side of the boy's body. Honey Fe heard the moaning coming from the tortured boy. Much later she saw Nonoy or Alexander Sibonga, Reynario Nuñez, Delia Sibonga, Celedonia Fabie, and Eutiquia Carmen carry the boy into the house.[4]

Eddie Luntayao, father of the victim, testified that he has five children, the eldest of whom, Randy, was 13 years old at the time of the incident. On November 20, 1996, Randy had a "nervous breakdown" which Eddie thought was due to Randy having to skip meals whenever he took the boy with him to the farm. According to Eddie, his son started talking to himself and laughing. On January 26, 1997, upon the suggestion of accused-appellant Reynario Nuñez, Eddie and his wife Perlita and their three children (Randy, Jesrel, 7, and Lesyl, 1) went with accused-appellant Nuñez to Cebu. They arrived in Cebu at around 1 o'clock in the afternoon of the same day and spent the night in Nuñez's house in Tangke, Talisay.

The following day, they went to the house of accused-appellant Carmen in Quiot, Pardo,[5] where all of the accused-appellants were present. Eddie talked to accused-appellant Carmen regarding his son's condition. He was told that the boy was possessed by a "bad spirit," which accused-appellant Carmen said she could exorcise. She warned, however, that as the spirit might transfer to Eddie, it was best to conduct the healing prayer without him. Accused-appellants then led Randy out of the house, while Eddie and his wife and two daughters were locked inside a room in the house.[6]

After a while, Eddie heard his son twice shout "Ma, tabang!" ("Mother, help!"). Eddie tried to go out of the room to find out what was happening to his son, but the door was locked. After about an hour, the Luntayaos were transferred to the prayer room which was located near the main door of the house.[7]

A few hours later, at around 5 o'clock in the afternoon, accused-appellants carried Randy into the prayer room and placed him on the altar. Eddie was shocked by what he saw. Randy's face was bluish and contused, while his tongue was sticking out of his mouth. It was clear to Eddie that his son was already dead. He wanted to see his son's body, but he was stopped from doing so by accused-appellant Eutiquia Carmen who told him not to go near his son because the latter would be resurrected at 7 o'clock that evening.[8]

After 7 o'clock that evening, accused-appellant Carmen asked a member of her group to call the funeral parlor and bring a coffin as the child was already dead. It was arranged that the body would be transferred to the house of accused-appellant Nuñez. Thus, that night, the Luntayao family, accompanied by accused-appellant Nuñez, took Randy's body to Nunez's house in Tangke, Talisay. The following day, January 28, 1997, accused-appellant Nuñez told Eddie to go with him to the Talisay Municipal Health Office to report Randy's death and told him to keep quiet or they might not be able to get the necessary papers for his son's burial. Nuñez took care of securing the death certificate which Eddie signed.[9]

At around 3 o'clock in the afternoon of January 28, 1997, accused-appellant Carmen went to Tangke, Talisay to ensure that the body was buried. Eddie and his wife told her that they preferred to bring their son's body with them to Sikatuna, Isabela, Negros Occidental but they were told by accused-appellant Carmen that this was not possible as she and the other accused-appellants might be arrested. That same afternoon, Randy Luntayao was buried in Tangke, Talisay.[10]

After Eddie and his family had returned home to Negros Occidental, Eddie sought assistance from the Bombo Radyo station in Bacolod City which referred him to the regional office of the National Bureau of Investigation

(NBI) in the city. On February 3, 1997, Eddie filed a complaint for murder against accused-appellant Nuñez and the other members of his group.[11] He also asked for the exhumation and autopsy of the remains of his son.[12] As the incident took place in Cebu, his complaint was referred to the NBI office in Cebu City.

Modesto Cajita, head of NBI, Region VII (Cebu), took over the investigation of the case. He testified that he met with Eddie Luntayao and supervised the exhumation and autopsy of the body of Randy Luntayao.[13] Cajita testified that he also met with accused-appellant Carmen and after admitting that she and the other accused-appellants conducted a "pray-over healing" session on the victim on January 27, 1997, accused-appellant Carmen refused to give any further statement. Cajita noticed a wooden bench in the kitchen of Carmen's house, which, with Carmen's permission, he took with him to the NBI office for examination. Cajita admitted he did not know the results of the examination.[14]

Dr. Ronaldo B. Mendez, the NBI medico-legal officer who conducted the autopsy on Randy Luntayao, testified that he, the victim's father, and some NBI agents, exhumed the victim's body on February 20, 1997 at Tangke Catholic Cemetery in the Tangke, Talisay, Cebu. He conducted the autopsy on the same day and later submitted the following report (Exhs. E and F):[15]

FINDINGS

Body in advanced stage of decomposition wearing a white shirt and shorts wrapped in printed blanket (white and orange) placed in white wooden coffin and buried underground about 4 feet deep.

Contusion, 3.0 x 4.0 cms. chest, anterior, left side.

Fracture, 3rd rib, left, mid-clavicular line.

Fracture, linear, occipital bone right side extending to the bases of middle cranial fossae right to left down to the occipital bone, left side.

Fracture, diastatic, lambdoidal suture, bilateral.

Internal organs in advanced stage of decomposition.

Cranial vault almost empty.

CAUSE OF DEATH: [The victim] could have died due to the internal effects of a traumatic head injury and/or traumatic chest injury.

Dr. Mendez testified that the contusion on the victim's chest was caused by contact with a hard blunt instrument. He added that the fracture on the rib was complete while that found on the base of the skull followed a serrated or uneven pattern. He said that the latter injury could have been caused by the forcible contact of that part of the body with a blunt object such as a wooden bench.[16]

On cross-examination, Dr. Mendez admitted that he did not find any stab wound on the victim's body but explained that this could be due to the fact that at the time the body was exhumed and examined, it was already in an advanced state of decomposition rendering such wound, if present, unrecognizable.[17]

Accused-appellants did not testify. Instead, the defense presented: (a) Ritsel Blase, an alleged eyewitness to the incident; (b) Maria Lilina Jimenez, Visitacion Seniega, and Josefina Abing, alleged former "patients" of accused-appellant Carmen; (c) Dr. Milagros Carloto, the municipal health officer of Talisay, Cebu and; (d) Atty. Salvador Solima of the Cebu City Prosecutor's Office.

Ritsel Blase, 21, testified that since 1987 she had been with the group of accused-appellant Carmen, whom she calls Mother Perpetuala. She recounted that at around 2 o'clock in the afternoon of January 27, 1997, while she was in the house of accused-appellant Carmen, she saw Eddie Luntayao talking with the latter regarding the

treatment of his son. The boy was later led to the kitchen and given a bath prior to "treatment." After water was poured on the boy, he became unruly prompting accused-appellant Carmen to decide not to continue with the "treatment," but the boy's parents allegedly prevailed upon her to continue. As the boy continued to resist, accused-appellant Carmen told accused-appellants Delia Sibonga and Celedonia Fabie to help her (Carmen) lay the boy on a bench. As the child resisted all the more, Eddie Luntayao allegedly told the group to tie the boy to the bench. Accused-appellant Delia Sibonga got hold of a nylon rope which was used to tie the child to the bench. Then Carmen, Delia Sibonga, and Fabie prayed over the child, but as the latter started hitting his head against the bench, Carmen asked Nuñez to place his hands under the boy's head to cushion the impact of the blow everytime the child brought down his head. To stop the boy from struggling, accused-appellant Fabie held the boy's legs, while accused-appellant Nuñez held his shoulders. After praying over the boy, the latter was released and carried inside the house. Accused-appellant Alexander Sibonga, who had arrived, helped carry the boy inside. After this, Blase said she no longer knew what happened inside the house as she stayed outside to finish the laundry.[18]

Blase testified that the parents of Randy Luntayao witnessed the "pray-over" of their son from beginning to end. She denied that accused-appellants Fabie and Delia Sibonga struck the victim on his chest with their fists. According to her, neither did accused-appellant Carmen stab the boy. She claimed that Randy was still alive when he was taken inside the house.[19]

The defense presented Maria Lilia Jimenez, 20, Visitacion Seniega, 39, and Josefina Abing, 39, who testified that accused-appellant Carmen had cured them of their illnesses by merely praying over them and without applying any form of physical violence on them.[20]

Milagros Carloto, Municipal Health Officer of Talisay, Cebu, was also presented by the defense to testify on the death certificate she issued in which she indicated that Randy Luntayao died of pneumonia. According to her, Eddie Luntayao came to her office on January 28, 1997 to ask for the issuance of a death certificate for his son Randy Luntayao who had allegedly suffered from cough and fever.[21]

On cross-examination, Dr. Carloto admitted that she never saw the body of the victim as she merely relied on what she had been told by Eddie Luntayao. She said that it was a midwife, Mrs. Revina Laviosa, who examined the victim's body.[22]

The last witness for the defense, Assistant City Prosecutor Salvador Solima, was presented to identify the resolution he had prepared (Exh. 8)[23] on the re-investigation of the case in which he recommended the dismissal of the charge against accused-appellants. His testimony was dispensed with, however, as the prosecution stipulated on the matters Solima was going to testify with the qualification that Solima's recommendation was disapproved by City Prosecutor Primo Miro.[24]

The prosecution recalled Eddie Luntayao to the stand to rebut the testimonies of Ritsel Blase and Dr. Milagros Carloto. Eddie denied having witnessed what accused-appellants did to his son. He reiterated his earlier claim that after accused-appellants had taken Randy, he and his wife and two daughters were locked inside a room. He disputed Blase's statement that his son was still alive when he was brought into the prayer room. He said he saw that his son's head slumped while being carried by accused-appellants.[25]

As for the testimony of Dr. Carloto, Eddie admitted having talked with her when he and accused-appellant Nuñez went to her office on January 28, 1997. However, he denied having told her that his son was suffering from fever and cough as he told her that Randy had a nervous breakdown. He took exception to Dr. Carloto's statement that he was alone when he went to her office because it was Nuñez who insisted that he (Eddie) accompany him in order to secure the death certificate.[26]

On November 18, 1998, the trial court rendered a decision, the dispositive portion of which states:

WHEREFORE, in view of the foregoing facts and circumstances, [the] accused are all found guilty beyond reasonable doubt of the crime of Murder and are hereby [sentenced] to suffer the penalty of RECLUSION PERPETUA, with the accessory penalties of the law; to indemnify jointly and severally the heirs of the deceased Randy Luntayao in the sum of P50,000.00; and to pay the costs. The accused, are, however, credited in full during the whole period of their detention provided they will signify in writing that they will abide by all the rules and regulations of the penitentiary.[27]

In finding accused-appellants guilty of murder, the trial court stated:

Killing a person with treachery is murder even if there is no intent to kill. When death occurs, it is presumed to be the natural consequence of physical injuries inflicted. Since the defendant did commit the crime with treachery, he is guilty of murder, because of the voluntary presence of the qualifying circumstance of treachery (P v. Cagoco, 58 Phil. 530). All the accused in the case at bar had contributed different acts in mercilessly inflicting injuries to the victim. For having immersed the head of the victim into the barrel of water, all the herein accused should be held responsible for all the consequences even if the result be different from that which was intended (Art. 4, par. 1, RPC). It is pointed out that in P. v. Cagoco, 58 Phil. 524, even if there was no intent to kill[,] in inflicting physical injuries with treachery, the accused in that case was convicted of murder. In murder qualified by treachery, it is required only that there is treachery in the attack, and this is true even if the offender has no intent to kill the person assaulted. Under the guise of a ritual or treatment, the accused should not have intentionally immersed upside down the head of Randy Luntayao into a barrel of water; banged his head against the bench; pounded his chest with fists, or plunged a kitchen knife to his side so that blood would come out for these acts would surely cause death to the victim. . . .

One who commits an intentional felony is responsible for all the consequences which may naturally and logically result therefrom, whether foreseen or intended or not. Ordinarily, when a person commits a felony with malice, he intends the consequences of his felonious act. In view of paragraph 1 of Art. 4, a person committing a felony is criminally liable although the consequences of his felonious acts are not intended by him. . . .

....

Intent is presumed from the commission of an unlawful act. The presumption of criminal intent may arise from the proof of the criminal act and it is for the accused to rebut this presumption. In the case at bar, there is enough evidence that the accused confederated with one another in inflicting physical harm to the victim (an illegal act). These acts were intentional, and the wrong done resulted in the death of their victim. Hence, they are liable for all the direct and natural consequences of their unlawful act, even if the ultimate result had not been intended.[28]

Hence, this appeal. Accused-appellants allege that the trial court erred in convicting them of murder.[29]

First. It would appear that accused-appellants are members of a cult and that the bizarre ritual performed over the victim was consented to by the victim's parents. With the permission of the victim's parents, accused-appellant Carmen, together with the other accused-appellants, proceeded to subject the boy to a "treatment" calculated to drive the "bad spirit" from the boy's body. Unfortunately, the strange procedure resulted in the death of the boy. Thus, accused-appellants had no criminal intent to kill the boy. Their liability arises from their reckless imprudence because they ought that to know their actions would not bring about the cure. They are, therefore, guilty of reckless imprudence resulting in homicide and not of murder.

Art. 365 of the Revised Penal Code, as amended, states that reckless imprudence consists in voluntarily, but without malice, doing or failing to do an act from which material damage results by reason of inexcusable lack of

precaution on the part of the person performing such act. Compared to intentional felonies, such as homicide or murder, what takes the place of the element of malice or intention to commit a wrong or evil is the failure of the offender to take precautions due to lack of skill taking into account his employment, or occupation, degree of intelligence, physical condition, and other circumstances regarding persons, time, and place.

The elements of reckless imprudence are apparent in the acts done by accused-appellants which, because of their lack of medical skill in treating the victim of his alleged ailment, resulted in the latter's death. As already stated, accused-appellants, none of whom is a medical practitioner, belong to a religious group, known as the Missionaries of Our Lady of Fatima, which is engaged in faith healing.

In *United States v. Divino*,^[30] the accused, who was not a licensed physician, in an attempt to cure the victim of ulcers in her feet, wrapped a piece of clothing which had been soaked in petroleum around the victim's feet and then lighted the clothing, thereby causing injuries to the victim. The Court held the accused liable for reckless imprudence resulting in physical injuries. It was noted that the accused had no intention to cause an evil but rather to remedy the victim's ailment.

In another case, *People v. Vda. de Golez*,^[31] the Court ruled that the proper charge to file against a non-medical practitioner, who had treated the victim despite the fact that she did not possess the necessary technical knowledge or skill to do so and caused the latter's death, was homicide through reckless imprudence.

The trial court's reliance on the rule that criminal intent is presumed from the commission of an unlawful act is untenable because such presumption only holds in the absence of proof to the contrary.^[32] The facts of the case indubitably show the absence of intent to kill on the part of the accused-appellants. Indeed, the trial court's findings can be sustained only if the circumstances of the case are ignored and the Court limits itself to the time when accused-appellants undertook their unauthorized "treatment" of the victim. Obviously, such an evaluation of the case cannot be allowed.

Consequently, treachery cannot be appreciated for in the absence of intent to kill, there is no treachery or the deliberate employment of means, methods, and manner of execution to ensure the safety of the accused from the defensive or retaliatory attacks coming from the victim.^[33] Viewed in this light, the acts which the trial court saw as manifestations of treachery in fact relate to efforts by accused-appellants to restrain Randy Luntayao so that they can effect the cure on him.

On the other hand, there is no merit in accused-appellants' contention that the testimony of prosecution eyewitness Honey Fe Abella is not credible. The Court is more than convinced of Honey Fe's credibility. Her testimony is clear, straightforward, and is far from having been coached or contrived. She was only a few meters away from the kitchen where accused-appellants conducted their "pray-over" healing session not to mention that she had a good vantage point as the kitchen had no roof nor walls but only a pantry. Her testimony was corroborated by the autopsy findings of Dr. Mendez who, consistent with Honey Fe's testimony, noted fractures on the third left rib and on the base of the victim's skull. With regard to Dr. Mendez's failure to find any stab wound in the victim's body, he himself had explained that such could be due to the fact that at the time the autopsy was conducted, the cadaver was already in an advanced state of decomposition. Randy Luntayao's cadaver was exhumed 24 days after it had been buried. Considering the length of time which had elapsed and the fact that the cadaver had not been embalmed, it was very likely that the soft tissues had so decomposed that, as Dr. Mendez said, it was no longer possible to determine whether there was a stab wound. As for the other points raised by accused-appellants to detract the credibility of Honey Fe's testimony, the same appear to be only minor and trivial at best.

Accused-appellants contend that the failure of the prosecution to present the testimony of Frances Claire Rivera as well as the knife used in stabbing Randy Luntayao puts in doubt the prosecution's evidence. We do not think so.

The presentation of the knife in evidence is not indispensable.[34]

Finally, accused-appellants make much of the fact that although the case was tried under Judge Renato C. Dacudao, the decision was rendered by Judge Galicano Arriesgado who took over the case after the prosecution and the defense had rested their cases.[35] However, the fact that the judge who wrote the decision did not hear the testimonies of the witnesses does not make him less competent to render a decision, since his ruling is based on the records of the case and the transcript of stenographic notes of the testimonies of the witnesses.[36]

Second. The question now is whether accused-appellants can be held liable for reckless imprudence resulting in homicide, considering that the information charges them with murder. We hold that they can.

Rule 120 of the Revised Rules of Criminal Procedure provides in pertinent parts:

SEC. 4. Judgment in case of variance between allegation and proof. $\frac{3}{4}$ When there is variance between the offense charged in the complaint or information and that proved, and the offense as charged is included in or necessarily includes the offense proved, the accused shall be convicted of the offense proved which is included in the offense charged, or of the offense charged which is included in the offense proved.

SEC. 5. When an offense includes or is included in another. $\frac{3}{4}$ An offense charged necessarily includes the offense proved when some of the essential elements or ingredients of the former, as alleged in the complaint or information, constitute the latter. And an offense charged is necessarily included in the offense proved, when the essential ingredients of the former constitute or form part of those constituting the latter.

In *Samson v. Court of Appeals*,[37] the accused were charged with, and convicted of, estafa through falsification of public document. The Court of Appeals modified the judgment and held one of the accused liable for estafa through falsification by negligence. On appeal, it was contended that the appeals court erred in holding the accused liable for estafa through negligence because the information charged him with having wilfully committed estafa. In overruling this contention, the Court held:

While a criminal negligent act is not a simple modality of a willful crime, as we held in *Quizon v. Justice of the Peace of Bacolor*, G.R. No. L-6641, July 28, 1955, but a distinct crime in itself, designated as a quasi offense in our Penal Code, it may however be said that a conviction for the former can be had under an information exclusively charging the commission of a willful offense, upon the theory that the greater includes the lesser offense. This is the situation that obtains in the present case. Appellant was charged with willful falsification but from the evidence submitted by the parties, the Court of Appeals found that in effecting the falsification which made possible the cashing of the checks in question, appellant did not act with criminal intent but merely failed to take proper and adequate means to assure himself of the identity of the real claimants as an ordinary prudent man would do. In other words, the information alleges acts which charge willful falsification but which turned out to be not willful but negligent. This is a case covered by the rule when there is a variance between the allegation and proof. . . .

The fact that the information does not allege that the falsification was committed with imprudence is of no moment for here this deficiency appears supplied by the evidence submitted by appellant himself and the result has proven beneficial to him. Certainly, having alleged that the falsification has been willful, it would be incongruous to allege at the same time that it was committed with imprudence for a charge of criminal intent is incompatible with the concept of negligence.

In *People v. Fernando*,[38] the accused was charged with, and convicted of, murder by the trial court. On appeal, this Court modified the judgment and held the accused liable for reckless imprudence resulting in homicide after finding that he did not act with criminal intent.

Third. Coming now to the imposable penalty, under Art. 365, reckless imprudence resulting in homicide is

punishable by arresto mayor in its maximum period to prision correccional in its medium period. In this case, taking into account the pertinent provisions of Indeterminate Sentence Law, the accused-appellants should suffer the penalty of four (4) months of arresto mayor, as minimum, to four (4) years and two (2) months of prision correccional, as maximum.

As to their civil liability, accused-appellants should pay the heirs of Randy Luntayao an indemnity in the amount of P50,000.00 and moral damages also in the amount of P50,000.00.[39] In addition, they should pay exemplary damages in the amount of P30,000.00 in view of accused-appellants' gross negligence in attempting to "cure" the victim without a license to practice medicine and to give an example or correction for the public good.[40]

WHEREFORE, the decision of the Regional Trial Court, Branch 14, Cebu City, is AFFIRMED with the MODIFICATION that accused-appellants are hereby declared guilty of reckless imprudence resulting in homicide and are each sentenced to suffer an indeterminate prison term of four (4) months of arresto mayor, as minimum, to four (4) years and two (2) months of prision correccional, as maximum. In addition, accused-appellants are ORDERED jointly and severally to pay the heirs of Randy Luntayao indemnity in the amount of P50,000.00, moral damages in the amount of P50,000.00, and exemplary damages in the amount of P30,000.00.

SO ORDERED.

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

[1] Per Judge Galicano N. Arriesgado.

[2] Records, pp. 1-2.

[3] TSN (Honey Fe Abella), pp. 12-15, Dec. 23, 1997.

[4] Decision, p. 2; Rollo, p. 17.

[5] TSN (Eddie Luntayao), pp. 5-7, Jan. 21, 1998; TSN (Ronaldo Mendez), p. 19, Jan. 20, 1998.

[6] TSN (Eddie Luntayao), pp. 7-8, 19, Jan. 21, 1998; TSN, pp. 11-12, July 27, 1998.

[7] Id., pp. 8-9; id., pp. 13-15.

[8] TSN (Eddie Luntayao), pp. 9-10, Jan. 21, 1998.

[9] TSN (Eddie Luntayao), pp. 10-12, Jan. 21, 1998.

[10] Id., pp. 11-12.

[11] TSN (Eddie Luntayao), p. 12, Jan. 21, 1998; Exh. I; Records, pp. 110-114.

[12] Exh. C; Records, p. 110-B.

[13] TSN (Modesto Cajita), pp. 4, 7-8, 20, Feb. 3, 1998.

[14] Id., pp. 8-10, 14-15, 17.

[15] Records, pp. 110-D and E.

[16] TSN (Ronaldo Mendez), pp. 7, 9-13, Jan. 20, 1998.

[17] Id., pp. 15, 19.

- [18] TSN (Ritsel Blase), pp. 3-11, 22-23, March 3, 1998.
- [19] *Id.*, pp. 10-11.
- [20] TSN (Maria Lilia Jimenez), pp. 15-17; Feb. 27, 1998; TSN (Visitacion Seniega), pp. 3-5, Feb. 27, 1998; and TSN (Josefina Abing), pp. 8-9, Feb. 27, 1998.
- [21] TSN (Milagros Carloto), pp. 4-5, Feb. 25, 1998.
- [22] *Id.*, pp. 7-9, 15-18.
- [23] Records, pp. 47-48.
- [24] TSN (Salvador Solima), pp. 2-3, July 27, 1998.
- [25] TSN (Eddie Luntayao), pp. 4-7, July 27, 1998.
- [26] *Id.*, pp. 2-3.
- [27] Decision, p. 13; Rollo, p. 28.
- [28] Decision, pp. 9-11; Rollo, pp. 24-26.
- [29] Rollo, p. 69.
- [30] 12 Phil. 175 (1908).
- [31] 108 Phil. 855 (1960).
- [32] *People v. Sia Teb Ban*, 54 Phil. 52 (1929).
- [33] See *People v. Suplito*, 314 SCRA 493 (1999); *People v. Gatchalian*, 300 SCRA 1 (1998).
- [34] *People v. Dela Cruz*, G.R. No. 118967, July 14, 2000.
- [35] Appellants' Brief, pp. 14-15; Rollo, pp. 70-71
- [36] *People v. Ulzoron*, 286 SCRA 741 (1998).
- [37] 103 Phil. 277 (1958); *Cabella v. Sandiganbayan*, 197 SCRA 94 (1991).
- [38] 49 Phil. 75 (1926).
- [39] Civil Code, Arts. 2206(3) and 2219(1); See *People v. Silva*, 321 SCRA 647 (1999); *People v. Silvestre*, 307 SCRA 60 (1999).
- [40] Civil Code, Arts. 2229 and 2231; See *People v. Medroso, Jr.*, 62 SCRA 245 (1975).

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