

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. VIRGILIO LUCENA Y SANTIAGO, ACCUSED-APPELLANT.

G.R. No. 137281. April 03, 2001

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

For the fatal hacking of Urbano U. Dulay and Lazaro U. Dulay, Sr., accused-appellant Virgilio Lucena y Santiago was charged with Double Murder in an Information[1] which alleges:

That on or about the 18th day of July 1995 in the Municipality of Aringay, Province of La Union, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with intent to kill and being armed with a bolo, did then and there, by means of treachery and with evident premeditation and taking advantage of his superior strength, wilfully, unlawfully and feloniously attack, assault and use personal violence on one URBANO DULAY y ULAT and LAZARO DULAY, Sr. y ULAT, by hacking them to death with the said bolo and inflicting upon them mortal wounds which were the direct and immediate cause of their deaths, to the damage and prejudice of their heirs.

Contrary to law.

Accused-appellant pleaded not guilty at his arraignment.[2] The case thereafter proceeded to trial. Subsequently, the court a quo rendered judgment as follows:

WHEREFORE, this Court finds accused VIRGILIO LUCENA guilty beyond reasonable doubt of the crime of MURDER for killing Lazaro Dulay and Urbano Dulay on July 18, 1995. This Court appreciated the presence of alevosia as an aggravating circumstance in the killing of Lazaro Dulay. This court could have appreciated the aggravating circumstance of dwelling but it was not alleged in the Information. Evident premeditation qualified the killings to Murder. Taking advantage of his superior strength was also present considering the ages of the victims and the perpetrator.

Evidently, the Prosecution is of the view that this incident presents a continuous offense on the theory that there was only one criminal resolution on the part of the accused. Hence, the charge is double murder.

This is a heinous crime.

This Court sentences him to suffer the penalty of death (Art. 63, par. 1, Revised Penal Code).

He is also ordered to pay the heirs of Lazaro Dulay, a civil indemnity of P50,000.00 and P25,000.00 for expenses in connection with his death. Further, he is ordered to pay the heirs of Urbano Dulay a civil indemnity of P50,000.00 and P15,000.00 for expenses in connection with his death.[3]

On automatic review before this Court, accused-appellant alleges that:

I

THE TRIAL COURT ERRED IN GIVING FULL FAITH AND CREDENCE TO THE TESTIMONY OF ROSALINA DULAY AND DISBELIEVING THE THEORY OF THE DEFENSE.

II

EVEN ASSUMING THAT APPELLANT IS GUILTY FOR THE DEATHS OF URBANO DULAY AND LAZARO DULAY, THE COURT NONETHELESS ERRED IN APPRECIATING AGAINST HIM THE QUALIFYING CIRCUMSTANCES OF TREACHERY AND EVIDENT PREMEDITATION AND TAKING ADVANTAGE OF SUPERIOR STRENGTH.

The prosecution's version of the incident is summarized thus in the People's Brief:

At about 2:00 in the afternoon of July 18, 1995, Rosalina Dulay was inside her house in Barrio Sta. Cecilia, Aringay, La Union. She was washing clothes near the entrance of the kitchen. Her brother-in-law Lazaro Dulay, also known as Saroy, was sleeping on the kitchen table while her husband, Urbano Dulay, was sleeping in the second storey of the house with their two children.[4]

Appellant arrived inside the house and said something to Rosalina. Appellant who was carrying a long and straight bolo, suddenly hacked the sleeping Lazaro. After hacking Lazaro, appellant went upstairs, awakened Urbano and hacked him. Rosalina brought her two children to the corn field to hide. Urbano later ran towards the corn field where he died due to his wounds. Lazaro died inside the house.[5]

Dr. Armando Avena, Municipal Health Officer of Aringay, La Union, conducted the autopsy on the remains of Urbano and prepared a Post-Mortem Examination Report[6] stating that the cause of death of Urbano was the massive loss of blood secondary to multiple hacked and stab wounds. The weapon used in the killing of Urbano could have been a bolo which penetrated six (6) centimeters (cm) and hit the heart. Another wound, a hack wound, measuring seven (7) cms. in length was found at the right scapular region with the depth of about three (3) cms. at the posterior aspect.

Dr. Avena also conducted the autopsy on Lazaro or Pertolino Dulay. He prepared a Post-Mortem Examination Report[7] on the death of Lazaro stating the following findings:

There is a wound hacked 14 cm. linear hitting the anterior neck down to the left lower breast about 6 cm. in depth hitting the ribs and anterior lower pillars.[8]

Accused-appellant had a different story. He testified that in the morning of July 18, 1995, he was at his house in Sta. Cecilia, Aringay, La Union, repairing its roof since 7:00 o'clock.[9] At noon, he went to the house of Rosalina Dulay, which was about 100 meters away, to have lunch.[10] He usually ate lunch at Rosalina's house.[11] He reached the house at around 1:30 o'clock in the afternoon.[12] Rosalina was outside the house.[13] When accused-appellant entered the house, he found the brothers, Urbano and Lazaro Dulay, hacking each other with bolos.[14] Since Urbano, who was older, was being attacked by the younger Lazaro, accused-appellant intervened to restrain the latter.[15] While accused-appellant was pacifying Lazaro, Urbano was able to run away.[16] Lazaro, however, turned to accused-appellant and hacked him with the bolo five (5) times, hitting him in the head and on his left foot above the ankle.[17] Accused-appellant ran away but was pursued by Lazaro. In order to defend himself, accused-appellant picked up Urbano's bolo and hacked Lazaro with it.[18] Accused-appellant then left the Dulay residence,[19] leaving Lazaro lying on the floor, and went home. He brought with him the bolo which he used to defend himself.[20] Accused-appellant was seen by his brother and was brought to the Health Center in Agoo to have his bloodied head treated.[21]

In sum, accused-appellant insists that it was Lazaro Dulay who hacked Urbano Dulay and that when he intervened, Lazaro turned to him, thus forcing him to defend himself. Furthermore, accused-appellant attempts to destroy the credibility of prosecution eyewitness, Rosalina Dulay, pointing to "material and notable points which

engender serious doubts in the truthfulness of the prosecution's version and evidence,"[22] to wit: (1) Rosalina was threatened by the relatives of her husband to testify against accused-appellant; (2) Rosalina's testimony that her husband was hacked by accused-appellant was not indicated in the testimony of the doctor who conducted the autopsy on the cadaver of her husband; (3) She testified on direct examination that when Lazaro was attacked he was downstairs near the table, but on cross-examination she declared that he was sleeping on top of the table; and (4) The prosecution failed to establish any motive for the accused to kill the two victims.

The issues raised by accused-appellant boil down to a question of credibility. In this connection, it has been consistently held by this Court that the matter of assigning values to declarations on the witness stand is best and most competently performed by the trial judge,[23] who had the unmatched opportunity to observe the witnesses and to assess their credibility by the various indicia available but not reflected in the record. The demeanor of the person on the stand can draw the line between fact and fancy. The forthright answer or the hesitant pause, the quivering voice or the angry tone, the flustered look or the sincere gaze, the modest blush or the guilty blanch - these can reveal if the witness is telling the truth or lying through his teeth.[24]

For the reasons stated above, findings of the trial court on matters of credibility are binding and conclusive on the appellate court, unless some facts or circumstances of weight and substance have been overlooked, misapprehended or misinterpreted.[25] In the case at bar, the trial court, which had the unique opportunity to directly hear the testimony of the prosecution eyewitness Rosalina Dulay, gave credence to her assertion that she saw accused-appellant hacking the victims. Accused-appellant has not shown sufficient grounds to deviate from the aforesaid doctrine.

Accused-appellant asserts that Rosalina Dulay's testimony was not voluntarily given. He points to a statement elicited during cross-examination that the relatives of her deceased husband threatened to kill her if she was "going to testify on (sic) the other party." [26] Accused-appellant also makes capital of the fact that Rosalina admits to have never been threatened by his relatives, while at the same time acknowledging that she stayed twice in the house of the same relatives when she went to Aringay, La Union sometime after the incident.

This lone discordant note in the testimonial declarations of Rosalina, as adverted to by accused-appellant, will not extricate accused-appellant from his predicament. The controlling rule in this regard is that the testimony of a witness may be believed in part and disbelieved in part depending upon the corroborative evidence and the probabilities and improbabilities of the case.[27] By itself, prejudice against an accused cannot warrant the disqualification of a witness or the total disregard of the witness's testimony.[28] Indeed:

The maxim *falsus in uno, falsus in omnibus* deals only with the weight of evidence and is not a positive rule of law; the rule is not an inflexible one of universal application. Modern trend in jurisprudence favors more flexibility when the testimony of a witness may be partly believed and partly disbelieved depending on the corroborative evidence presented at the trial. Thus, where the challenged testimony is sufficiently corroborated in its material points, or where the mistakes arise from innocent lapses and not from an apparent desire to pervert the truth, the rule may be relaxed. It is a rule that is neither absolute nor mandatory and binding upon the court, which may accept or reject portions of the witness' testimony based on its inherent credibility or on the corroborative evidence in the case.[29]

There is, furthermore, no standard of human behavior for a person confronted with a shocking incident. One may immediately report the incident to the proper authorities while another, in fear and/or avoiding involvement in a criminal investigation, may keep to himself what he had witnessed.[30] Others may come forward to reveal the identity of the perpetrators of the crime only after the lapse of a considerable length of time.[31]

In this case, it should be noted that right after the incident, Rosalina voluntarily executed a sworn statement implicating accused-appellant. That she later showed some hesitation should not be taken against her, because the

reluctance of a witness to testify in criminal actions due to reprisal is of judicial notice,[32] and does not impair the witness's credibility.[33] The pertinent excerpts of Rosalina's testimony reveal that while her husband's relatives did threaten her to take the witness stand, it was not for the purpose of falsely testifying against the accused-appellant, viz:

Q. While you were in Tarlac, Tarlac you were visited by the relatives of your husband, Urbano Dulay?

A. Yes, sir.

Q. And they were asking you to testify against the accused Virgilio Lucena, is that correct?

A. They did not tell that, sir.

Q. And when they visited you in Tarlac, Tarlac, what was then the reason for their visit?

A. They delivered to me the subpoena, sir.

Q. And they asked you also to testify?

ATTY. CALOZA:

Already answered, Your Honor.

COURT:

Sustained.

ATTY. GAYMAN:

Is it not a fact that you were also threatened by them to come and testify against Virgilio Lucena?

ATTY. CALOZA:

Objection. No basis, Your Honor.

COURT:

Witness may answer.

A. Yes, sir. They were threatening to kill me if I am going to testify on the other party.

ATTY. CALOZA:

May we move to strike out the answer of the witness, on the other party, Your Honor.

COURT:

Remain on record the answer of the witness, on the other party.

Q. Were the relatives of your husband threatening you to testify?

A.

They were not telling me that, sir.[34]

Accused-appellant further contends that Rosalina's testimony as to his having attacked Urbano many times was contrary to the medical findings. This is likewise bereft of merit. On the contrary, her assertion is consistent with the findings of Dr. Armando Avena that the cause of death was the "massive loss of blood secondary to multiple hacked wounds and stab wounds." [35] It must be remembered in this regard that the detailed testimony of a

witness in a murder or homicide case acquires greater weight and credibility if it corresponds with the autopsy report.[36]

So, too, must fall accused-appellant's argument as to the alleged inconsistency in Rosalina's testimony on direct examination that Lazaro Dulay was near the table downstairs, which concededly conflicts with her claim on cross-examination that he was sleeping on top of the table at the time he was attacked by accused-appellant. While indeed these statements are contradictory, the alleged conflict is more apparent than real and refers to minor or trivial matters which, in fact, serve to strengthen rather than destroy the credibility of a witness to a crime, especially so when the crime is, as in this case, shocking to the conscience and numbing to the senses.[37]

These supposed inconsistencies hardly dent the credibility of Rosalina who remained steadfast and unwavering in relating the principal occurrence and positively identifying the accused-appellant as the assailant of the victims.[38] In other words, as long as the mass of the testimony jibes on material points, the slight clashing of statements dilute neither the witness's credibility nor the veracity of the testimony - variations in the testimony of witnesses on the same side in respect to minor, collateral or incidental matters do not impair the weight of their united testimony to the prominent facts.[39]

For the foregoing considerations, accused-appellant's argument with regard to his supposed lack of motive to kill the victims becomes a moot point. Suffice it to state in this regard that proof of ill motive to commit the crime becomes irrelevant with the positive identification of the accused.[40] Indeed, positive identification, where categorical and consistent, without any showing of ill motive on the part of the eyewitness testifying on the matter, prevails over alibi and denial.[41]

In the second assigned error, accused-appellant takes the trial court to task for imposing the death penalty on him contending that treachery, evident premeditation and abuse of superior strength were not attendant in the commission of the felonies.

With regard to treachery, accused-appellant insists that there was no evidence to show that he deliberately hacked the victims in such manner as to avoid risk to himself. In the case of Lazaro Dulay, accused argues that he merely chanced upon Lazaro and there was nothing to show that he planned to kill him while he was sleeping. Accused-appellant also points out that he had no grudge sufficient to motivate him to plan the killing of Lazaro.

There is *alevosia* when the offender commits any of the crimes against persons employing means, methods or forms in the execution thereof which tend directly and specially to insure its execution without risk to himself arising from the defense which the offended party might make.[42] What is decisive in treachery is that the execution of the attack made it impossible for the victim to defend himself or to retaliate.[43] In this case, Lazaro Dulay was asleep when he was hacked to death by accused-appellant. It has been repeatedly held by this Court that there exists the qualifying circumstance of *alevosia* when one takes the life of a person who is asleep.[44]

As regards the slaying of Urbano, however, treachery can not be appreciated because it is not clear if he was also asleep when he was assaulted. On the contrary, the evidence shows that Urbano was initially asleep when accused-appellant entered his house and attacked the sleeping Lazaro on the first floor of his house, but that he woke up when accused-appellant, after hacking Lazaro, went upstairs and hacked him. In fact, Urbano was even able to run towards the cornfield where he expired because of the severity of his wounds.[45]

The trial court erred in appreciating the aggravating circumstance of superior strength vis-à-vis the circumstances surrounding the slaying of Lazaro. When treachery qualifies the crime of murder, the generic aggravating circumstance of abuse of superior strength is necessarily included in the former.[46] In other words, the generic aggravating circumstance of abuse of superior strength is absorbed in treachery.[47]

This aggravating circumstance cannot also be appreciated in the killing of Urbano because to take advantage of superior strength means to use purposely excessive force out of proportion to the means of defense available to the person attacked.[48] There has been no showing in this case that accused-appellant purposely employed superior strength to consummate his nefarious deed, hence, it can not be appreciated against him.

It, likewise, is unnecessary to consider evident premeditation in the twin killings although this was also alleged in the information. For evident premeditation to be appreciated, there must be proof, as clear as the evidence of the crime itself, of the following elements thereof, to wit: (1) the time the accused decided to commit the crime; (2) an overt act manifestly indicating that he clung to his determination; and (3) sufficient lapse of time between the decision and the execution to allow the accused to reflect upon the consequence of his act.[49] The essence of evident premeditation is that the execution of the crime is preceded by cool thought and reflection upon a resolution to carry out the criminal intent during a space of time sufficient to arrive at a calm judgment.[50]

In this case, the records are bereft of any evidence of any of the above requisites of evident premeditation. There is absolutely no proof of the time when accused-appellant decided to commit the crime. Neither is there any showing of how accused-appellant planned the killings, nor of how much time elapsed before he executed his plan. Absent all these, evident premeditation can not be appreciated.[51]

The resolution of the issues raised in this case will not be complete without a word being made on the defectively crafted Information indicting accused-appellant for the twin killings of the Dulay brothers. It bears stressing that an indictment for multiple offenses in a single complaint or information transgresses Rule 110, Section 13[52] of the Rules of Court, which states that a "complaint or information must charge but one offense, except only in those cases in which existing laws prescribe a single punishment for various offenses." Be that as it may, this Court held in *People v. Ramon*[53] that:

Regrettably for accused-appellant, however, he has failed to timely question the above defect, and he may thus be deemed to have waived this objection to the multiplicity of charges. In *People vs. Conte*,[54] this Court has ruled:

xxx xxx xxx. . . Under Sections 1 and 3 (e) of Rule 117, the appellant before entering his plea, should have moved to quash the complaint for being duplicitous. For his failure to do so, he is deemed to have waived this defect (Section 8, Rule 117, Rules of Court; *People vs. Dulay*, 217 SCRA 132 [1993]; *People vs. Basay*, 219 SCRA 404 [1993]; *People vs. Ducay*, 225 SCRA 1 [1993]). Hence, pursuant to Section 3 of Rule 120, the court could convict him of as many offenses as are charged and proved, and impose on him the penalty for each and every one of them.[55]

Given the foregoing factual backdrop, the penalties imposed on accused-appellant must be modified. In the case of the killing of Lazaro U. Dulay, treachery qualified the offense to Murder, punishable by reclusion perpetua to death.[56] While the aggravating circumstance of abuse of superior strength was alleged, this is absorbed in alevosia. Evident premeditation was likewise alleged but it cannot be appreciated in the absence of evidence that the execution of the criminal act was preceded by cool thought and reflection upon the resolution to carry out the criminal intent during a space of time to arrive at a calm judgment.[57] In the absence of any other aggravating circumstance to justify the imposition of the death penalty, only reclusion perpetua, the lesser penalty, should be imposed.[58]

On the other hand, the killing of Urbano U. Dulay was not attended by any qualifying aggravating circumstance, thus, accused-appellant should be convicted of the lesser offense of Homicide, which is punishable by reclusion temporal.[59] In the absence of any modifying circumstance, the imposable penalty shall be in the medium period.[60] Since accused-appellant is entitled to the benefits of the Indeterminate Sentence Law, he should be sentenced to an indeterminate penalty whose minimum must be within the range of prision mayor, the penalty

next lower in degree, and whose maximum shall be within the range of reclusion temporal in its medium period. Taken in the light of the prevailing facts of the case, this Court deems it proper to impose upon the accused-appellant an indeterminate penalty of eight (8) years and one (1) day of prision mayor, as minimum, to seventeen (17) years and four (4) months of reclusion temporal, as maximum, with all the accessory penalties prescribed by law.[61]

It appearing that civil indemnity awarded is in accordance with controlling case law on the matter and that the other damages awarded are borne out by the evidence on record, the same are likewise sustained.

WHEREFORE, the decision of the Regional Trial Court of Agoo, La Union, Branch 31, in Criminal Case No. A-3036, is MODIFIED as follows:

Accused-appellant is found GUILTY beyond reasonable doubt of the crime of Murder for the killing of Lazaro U. Dulay, Sr., and is sentenced to serve the penalty of Reclusion Perpetua.

Accused-appellant is likewise found GUILTY beyond reasonable doubt of the crime of Homicide for the killing of Urbano U. Dulay, and is sentenced to serve an indeterminate penalty of Eight (8) Years and One (1) Day of Prision Mayor, as minimum, to Seventeen (17) Years and Four (4) Months of Reclusion Temporal, as maximum.

The Decision under review, insofar as it orders accused-appellant to pay the heirs of Lazaro Dulay the sums of P50,000.00 as civil indemnity and P25,000.00 for expenses in connection with this death, and to pay the heirs of Urbano Dulay the sums of P50,000.00 as civil indemnity and P15,000.00 for expenses in connection with his death, is AFFIRMED.

SO ORDERED.

Davide, Jr., C.J., Bellosillo, Melo, Puno, Vitug, Kapunan, Mendoza, Panganiban, Quisumbing, Pardo, Buena, Gonzaga-Reyes, De Leon, Jr., and Sandoval-Gutierrez, JJ., concur.

[1] Record, p. 16.

[2] Ibid, p. 21.

[3] Rollo, pp 19-20; penned by Judge Clifton U. Ganay.

[4] TSN, July 5, 1996, pp. 3, 4, 6, 16, 17.

[5] Ibid., pp. 4-7, 21.

[6] Exhibit D.

[7] Exhibit E.

[8] TSN, December 14, 1996, pp. 3-5.

[9] TSN, November 5, 1997, p. 3.

[10] Ibid., pp. 3-4.

[11] Id., p. 4.

[12] Id.

[13] Id., p. 5.

[14] Id.

[15] Id., pp. 5-6.

[16] Id., p. 6.

[17] Id., pp. 6-7.

[18] Id., p. 7.

[19] Id., p. 8.

[20] Id., pp. 8-9.

[21] Id., p. 9.

[22] Appellant's Brief, p. 7.

[23] *People v. Tacipit*, 242 SCRA 241 [1995]; *People v. Sarabia*, 266 SCRA 471 [1997].

[24] *People v. Sanchez, et al.*, 302 SCRA 21 [1999], citing *People v. Espinosa*, 180 SCRA 393 [1989]; *People v. Bihison, et al.*, 308 SCRA 510 [1999].

[25] *People v. Jaberto*, 307 SCRA 93 [1999], citing *People v. Ollano*, 287 SCRA 158 [1998]; *People v. Gaorana*, 289 SCRA 652 [1998]; *People v. Bersabe*, 289 SCRA 685 [1998]; *People v. Tulop*, 289 SCRA 316 [1998]; *People v. Castillo*, 289 SCRA 213 [1998]; *People v. Siguin*, 299 SCRA 124 [1998]; *People v. Sta. Ana*, 291 SCRA 188 [1998]; *People v. Villamor*, 284 SCRA 184 [1998]; *People v. Bahatan*, 285 SCRA 282 [1998].

[26] TSN, July 5, 1996, pp. 11-12.

[27] *People v. Dela Cruz*, 313 SCRA 254 [1999]; *People v. Sala*, 311 SCRA 301 [1999]; *People v. Mendoza*, 301 SCRA 66 [1999].

[28] *People v. Maldo*, 307 SCRA 424 [1999].

[29] *People v. Torio*, 318 SCRA 345 [1999], citing II Regalado, *Remedial Law Compendium*, 7[th] Revised Ed, p. 687 [1995].

[30] *People v. Navales*, 266 SCRA 569 [1997]

[31] *People v. Paraiso*, 319 SCRA 422 [1999], citing *People v. Dadles*, 278 SCRA 393 [1997].

[32] *People v. Realin*, 301 SCRA 495 [1999], citing *People v. Vicente*, 225 SCRA 361 [1993]; *People v. Landicho*, 258 SCRA 1 [1996].

[33] *People v. Reduca*, 301 SCRA 516 [1999]; *People v. Batidor*, 303 SCRA 335 [1999]; *People v. Agsunod*, 306 SCRA 612 [1999]; *People v. Badon*, 308 SCRA 175 [1999]; *People v. Ramos*, 309 SCRA 643 [1999]; *People v. Patalin*, 311 SCRA 186 [1999]; *People v. Sanchez*, 313 SCRA 254 [1999]; *People v. Manegdeg*, 316 SCRA 689 [1999]; *People v. Capello*, 319 SCRA 223 [1999]; *People v. Merino*, 321 SCRA 199 [1999].

[34] TSN, July 5, 1996, pp. 11-12; emphasis and italics supplied.

[35] TSN, December 4, 1996, pp. 3-4; Exhibit D.

[36] *People v. Castelo*, 316 SCRA 895 [1999], citing *People v. De Guia*, 280 SCRA 141 [1997], citing *People v. Molina*, 213 SCRA 52 [1992]; *People v. Molina*, 312 SCRA 130 [1999].

[37] *People v. Patalin*, 311 SCRA 186 [1999].

[38] *People v. Gonzales*, 311 SCRA 547 [1999]; *People v. Garigadi*, 317 SCRA 399; *People v. Lacaba*, 318 SCRA 301 [1999]; *People v. Moreno*, 321 SCRA 334 [1999]; *People v. More*, 321 SCRA 538 [1999].

[39] *People v. Binas*, 320 SCRA 22 [1999], citing *People v. Rada*, 308 SCRA 191 [1999], citing *People v. De Gracia*, 264 SCRA 200 [1996].

[40] *People v. Bermas*, 309 SCRA 741 [1999].

[41] *People v. Sala*, 311 SCRA 301 [1999]; *People v. Accion*, 312 SCRA 250 [1999]; *People v. Guarin*, 317 SCRA 234 [1999]; *People v. Bromo*, 318 SCRA 760 [1999]; *People v. Patalin*, supra; *People v. Manegdeg*, supra; *People v. Binas*, supra.

[42] *People v. Lumacang*, 324 SCRA 254 [2000], citing *People v. De la Cruz*, 242 SCRA 129 [1995].

[43] *People v. Jose*, 324 SCRA 196 [2000], citing *People v. Marcelino*, 316 SCRA 104 [1999].

[44] *People v. Caisip*, 290 SCRA 451 [1998], citing *People v. Caringal*, 176 SCRA 404 [1989]; *People v. Nolasco*, 163 SCRA 223 [1988]; *People v. Trinidad*, 162 SCRA 714 [1988]; *People v. Andres*, 155 SCRA 686 [1988]; *People v. Perante*, 143 SCRA 56 [1986]; *People v. Miranda*, 90 Phil. 91 [1951]; *People v. Dequina*, 60 Phil. 279 [1934]; *People v. More*, 311 SCRA 342 [1999].

[45] TSN, July 5, 1996, pp. 4-7, 21.

[46] *People v. Sanchez*, 308 SCRA 264 [1999], citing *People v. Violin*, 266 SCRA 224 [1997]; *People v. Apongan*, 270 SCRA 713 [1997]; *People v. Datun*, 272 SCRA 380 [1997].

[47] *People v. Rendoque*, 322 SCRA 622 [2000], citing *People v. Lapay*, 298 SCRA 62 [1998]; *People v. Gutierrez*, 302 SCRA 643 [1999], *People v. Manes*, 303 SCRA 231 [1999]; *People v. Valdez*, 304 SCRA 611 [1999]; *People v. Macahia*, 307 SCRA 404 [1999]; *People v. Recones*, 310 SCRA 809 [1999]; *People v. Villablanca*, 316 SCRA 13 [1999].

[48] *People v. Ocumen*, 319 SCRA 539 [1999], citing *I Reyes*, Revised Penal Code, 14[th] ed. pp. 395-396 [1998], citing *People v. Cabling*, 74 SCRA 285 [1976], citing *Albert's Commentaries on the Revised Penal Code*; *People v. Sarabia*, 96 SCRA 714 [1980]; *People v. Cabato*, 160 SCRA 98 [1988]; *People v. Carpio*, 191 SCRA 108 [1990]; *People v. Moka*, 196 SCRA 378 [1991].

[49] *People v. Magno*, 322 SCRA 494 [2000], citing *People v. Sesbreno*, 314 SCRA 87 [1999].

[50] *People v. Adrales*, 322 SCRA 424 [2000].

[51] *People v. Bahenting*, 303 SCRA 558 [1999].

[52] Which has been retained as numbered and streamlined in the 2000 Revised Rules on Criminal Procedure to read as follows :

SEC. 13. Duplicity of offenses. - A complaint or information must charge only one offense, except when the law prescribes a single punishment for various offenses.

[53] 320 SCRA 775 [1999].

[54] 247 SCRA 583 [1995].

[55] See also *People v. Manalili*, 294 SCRA 220 [1998].

[56] REVISED PENAL CODE, Art. 248.

[57] *People v. Danque*, 228 SCRA 83 [1993]; see also *People v. Medina*, 286 SCRA 44 [1998]; *People v. Salvador*, 224 SCRA 819 [1993].

[58] *People v. Reduca*, 301 SCRA 516 [1999]; *People v. Hillado*, 307 SCRA 535 [1999]; REVISED PENAL CODE, Art. 248 in relation to Art. 63 (2).

[59] REVISED PENAL CODE, Art. 249.

[60] REVISED PENAL CODE, Art. 64 (1).

[61] See *People v. Academia*, 307 SCRA 229 [1999]; *People v. Mangahas*, 311 SCRA 384 [1999], citing *People v. Albao*, 287 SCRA 129 [1998].

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