

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. CRISPIN VELARDE Y BANDOJO, APPELLANT.

G.R. No. 139333. July 18, 2002

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

A municipal mayor cannot be considered a competent and independent counsel qualified to assist a person under custodial investigation. Hence, the extrajudicial confession taken from the accused with His Honor as counsel is inadmissible in evidence. Without this confession, the remaining evidence, which is circumstantial, fails the test of moral certainty. Hence, acquittal is inevitable.

The Case

For automatic review by this Court is the Decision[1] dated February 12, 1999, issued by the Regional Trial Court (RTC) of Malolos, Bulacan (Branch 11), finding Crispin Velarde y Bandojo guilty beyond reasonable doubt of rape with homicide in Criminal Case No. 773-M-97. The decretal portion of the Decision reads as follows:

“WHEREFORE, this Court finds the accused CRISPIN B. VELARDE GUILTY beyond reasonable doubt of Rape with Homicide and hereby sentences him to suffer the supreme penalty of Death and to indemnify the heirs of the victim the amount of P100,000.00 as actual damages.”[2]

The Information[3] against appellant dated June 13, 1997, reads as follows:

“That on or about the 12th day of May, 1997, in the [M]unicipality of Guiguinto, [P]rovince of Bulacan, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with lewd designs, and by means of violence and intimidation, did then and there wilfully, unlawfully and feloniously have carnal knowledge of one Brenda Candelaria, a minor who is eight (8) years of age, against her will and consent.

“That on the occasion and by reason of said rape, the above-named accused, with intent to kill, did then and there wilfully, unlawfully and feloniously attack, assault and strangle said Brenda Candelaria in the neck which directly caused her death.”[4]

When arraigned on July 1, 1997, appellant, assisted by his counsel de oficio,[5] pleaded not guilty.[6] In due course, he was tried and found guilty.

The Facts

Version of the Prosecution

The Office of the Solicitor General (OSG) summarized the evidence for the prosecution as follows:[7]

“On May 11, 1997 at around 10:00 o’clock in the morning, Brenda Candelaria, an eight year old child, together with her friend Melanie Sangalang, seven years of age, was on board a pedicab driven by appellant. Upon reaching the house of Melanie, said appellant told Melanie to alight on the pretext that her mother might look for her. Melanie obeyed leaving Brenda inside the pedicab with appellant continuing his driving.

“In the afternoon of the same day, appellant and Brenda were seen together by Flora Bonganay in front of the latter’s store located near the church in Tikay riding the same pedicab.

“Later on, Angelita Robles while waiting for a ride saw appellant already alone emerging from a place near Doña Pilar Homes Subdivision. Angelita noticed something strange in appellant’s actuation as he was uneasy, haggard looking with his hair disheveled.

“The following day, May 12, 1997, the naked lifeless body of Brenda Candelaria was found in a grassy vacant lot along the Cagayan Valley Highway in Sta. Rita, Guiguinto, Bulacan near the Doña Pilar Homes Subdivision. Recovered beside her body were a rubber slipper, blood stained white sando, a blue and white striped t-shirt and a shoe string.

“Dr. Dominic Aguda, a medico-legal officer of the NBI assigned at Region III, conducted a post mortem examination on the body of the victim. His findings revealed that Brenda Candelaria was raped and strangled to death. According to the doctor, the victim died of asphyxia by manual strangulation.

“On the other hand, based on the leads furnished by witnesses, appellant was tagged as suspect and was brought to the Malolos Bulacan Police Station for investigation.

“During his investigation, appellant, after being informed of his constitutional rights in the presence of Atty. Danilo Domingo whom he agreed to act as his counsel, voluntarily admitted having raped and killed the victim Brenda Candelaria. Accordingly, his extrajudicial confession was reduced to writing which was signed by him.

“It was on the bases of the foregoing occurrences that the corresponding Information for rape with homicide was filed against appellant with the Regional Trial Court.” (Citations omitted)

Version of the Defense

On the other hand, appellant presents his version of the incident as follows:[8]

“Accused Crispin Velarde DENIED having raped and killed Brenda Candelaria. Thus,

CONT. OF DIRECT-EXAM.
OF CRISPIN VELARDE BY:

Atty. de Leon:

Q Mr. Velarde, do we understand from you that you did not rape Brenda?

A No, sir.

Q You did not kill Brenda?

A No, sir.

Q Brenda is your first cousin?

A Yes, sir.

Q Your mother and the mother of Brenda are sisters, is it not?

A Yes, sir.

Q If you did not rape Brenda, if you did not kill Brenda and Brenda is your first cousin, your mother and the mother of Brenda are sisters, why were you accused of rape and killing Brenda?

Atty. Villacorta:

Objection, Your Honor, the question calls for an opinion.

Court:

Never mind, it is a matter of defense.

Witness:

A I was only suspected (n[a]pagbintangan), sir.

Atty. De Leon:

Q According to some witnesses who testified for the prosecution, they have seen you and Brenda riding in a tricycle?

Atty. Villacorta:

No, no, not tricycle, Your Honor, pedicab:

Court:

After the incident?

Atty. De Leon:

No, no, several days before the incident. Not exactly the day of the incident. I modify the question by adding several days before the alleged incident.

Witness:

A No, sir, that is not true.

Atty. De Leon:

Q And, there was a witness who testified here that she has seen you riding on a jeep perspiring . . .

Court:

Give the specific place.

Atty. De Leon:

Q The witness has seen the accused about to ride the jeep perspiring as if you have committed a crime is it true?

A I do not know anything about it, sir.

Q But according to that witness, you were carrying a basket, is it true?

A No, sir.

Atty. De Leon:

That's all, Your Honor please.

Atty. Villacorta:

May we be allowed to conduct the cross considering . . .

Court:

(to witness)

Q Have there been an occasion when Brenda took a ride in your tricycle you were driving?

A None, Your Honor.

Q Never?

A No, Your Honor.

Court:

Cross next time?

Atty. Villacorta:

Yes, Your Honor.

“Accused declared on June 19, 1998 that he has been detained since May 12, 1997 or more than one (1) year already because he was told that he was the one who committed a crime against his cousin Brenda Candelaria. According to him, on the night of May 11, 1997 he was arrested while selling balot in Tikay, Malolos, Bulacan, by four (4) Barangay Officials. When said Barangay Officials asked him where he brought the child Brenda Candelaria, he told them he ‘don’t know’ [sic]. He did not insist answering them ‘because I don’t know what they were asking about the child’. He just went with them because if he will not go with them ‘di nila lulubayan and pamilya ko’. He was brought to the Barangay Hall of Barangay Tikay, Malolos, Bulacan. He was kicked and mauled by the father and brothers of Brenda. The father of Brenda is his uncle and was the one who hurted [sic] him. He was boxed several times, hitting him in all parts of his body. While he was being boxed, he told them to stop because he did not know about the incident. Inside the Barangay Hall he was ‘nilusob’), was stabbed by the eldest son (Ruel Candelaria) hitting him in his right leg. The person who stabbed him even said: ‘Tabla tabla na lang kami’ meaning ‘manos na lang kami sa nangyari’. He did not answer because he did not know anything about the incident. Besides, he was already ‘bugbog sarado’, meaning his body was aching and it was painful. His hands were even tied at his back with a handkerchief by a former neighbor. After hurting him inside the Barangay Hall he was made to sign by one of the Barangay Officials. He signed without reading what he signed because he cannot read very well. After signing, the members of the Barangay including the Barangay Captain, brought him to the Municipal Building on the midnight of May 12, 1997. Upon reaching the Municipal Building he was brought to the Provincial Hospital where his wounds were treated and [s]turtured [sic]. He was not however given medicine. After one (1) hour he was returned to the Municipal Building by the Barangay Officials. He was placed inside the jail where he was mauled by around eight (8) inmates. They were asking him where the child was, but he told them he did not know. They were insisting that he admit or to confess but he answered he did not know anything. According to him ‘marami pong pahirap na ginawa sa akin. Mayruon pong koriente, mayruon pong saksak sa puwit’. He could not talk because he was already ‘hirap na hirap na’. Such hurting acts were done several days, six (6) times a day. His body was even pounded by a piece of wood hitting him in his back because he was on a sitting position. He could not speak because of the ‘sobrang kirot ng katawan ko.’

“He further declared that in the morning of May 11, 1997, he was in the basket ball court watching the game. He came from their house because it was the birthday of his mother. They heard mass in Tikay. He is a Catholic, a Corsilista.

“The accused was candid enough to admit that the signature appearing in Exh. M is his signature; that Atty. Domingo is known to him because he was then the Mayor of Malolos; that he hired or engaged the services of Atty. Domingo; that he was also candid enough to testify that ‘wala akong alam diyan.’ His educational attainment was up to Grade four (4) only. He claims that he does not know the police investigator who typed the ‘Sinumpaang Salaysay’ marked Exh. M.” (Citations omitted)

Ruling of the Trial Court

The RTC found the existence of enough circumstantial evidence pointing to appellant as the culprit in the crime. It also found his written extrajudicial confession admissible in evidence. As a consequence, it convicted him of

rape with homicide and imposed upon him the supreme penalty of death.

Hence, this automatic review.[9]

Assignment of Errors

In his Brief, appellant faults the court a quo for the following alleged errors:[10]

“FIRST ASSIGNMENT OF ERROR

The trial court erred in relying merely on the weight and sufficiency of the circumstantial evidence adduced by the prosecution and the admissibility of the extra-judicial confession of the accused contained in his Sworn Statement made before the police authorities of Malolos, Bulacan.

“SECOND ASSIGNMENT OF ERROR

The trial court erred in not relying on the weight and sufficiency of the evidence presented by the accused in support of his defense.

“THIRD ASSIGNMENT OF ERROR

The trial court erred in finding and declaring that the accused himself was the culprit behind the rape-slay of the victim Brenda Candelaria, which finding and declaration were based on surmi[s]es and conjectures.

“FOURTH ASSIGNMENT OF ERROR

The trial court erred in finding and declaring that the extrajudicial confession of the accused of May 14, 1997 (Exh. H) is admissible in evidence.

“FIFTH ASSIGNMENT OF ERROR

The trial court erred in finding and declaring that there was nothing irregular or objectionable in Atty. Domingo’s representation who is a lawyer of good standing and being the local chief executive of Malolos, Bulacan, to serve as counsel for the accused.

“SIXTH ASSIGNMENT OF ERROR

The trial court erred in finding and declaring that the confession of the accused is considered valid and binding upon said accused.

“SEVENTH ASSIGNMENT OF ERROR

The trial court erred in not giving due credence to the defense of the accused of denial which defense prevails over and above the alleged circumstantial evidence presented by the prosecution.

“EIGHT ASSIGNMENT OF ERROR

The trial court erred in finding the accused guilty beyond reasonable doubt of rape with homicide and sentenced him to suffer the supreme penalty of death and to indemnify the heirs of the victim the amount of P100,000.00 as actual damages.

“NINTH ASSIGNMENT OF ERROR

The trial court erred in not acquitting the accused of the crime charged, with costs-de-oficio.

“TENTH ASSIGNMENT OF ERROR

The trial court erred in not ordering the release of the accused from confinement and detention.”

The issues in this case can be compressed into two: (1) whether the extrajudicial confession of appellant is admissible in evidence, and (2) whether the circumstantial evidence presented by the prosecution sufficiently proves his guilt beyond reasonable doubt.

The Court’s Ruling

The appeal is meritorious.

First Issue:

Extrajudicial Confession

Barangay tanods and officials of Barangay Tikay, Municipality of Malolos arrested appellant while he was selling balut on the night of May 11, 1997.[11] He was subsequently brought to the Malolos Police Station, where he was initially incarcerated and allegedly mauled.[12] On May 14, 1997, his case was referred by the Malolos police to the incumbent mayor of Malolos, Bulacan, Atty. Danilo Domingo, who asked that appellant be brought to him.[13] Upon the advice of the mayor, Velarde’s written extrajudicial confession was taken. During the investigation, appellant was assisted by the mayor as counsel.[14] Armed police officers were also present during the investigation.[15]

Appellant was investigated by a PNP member of the Malolos Police Station, SPO4 Edilberto Almazar, who testified as follows:

“Q: Mr. Witness, you said that you are a police officer of Malolos Police Station?

A: Yes, sir.

Q: Since when have you been connected with that station?

A: Since February 9, 1982, sir.

Q: Up to the present?

A; Yes, sir.

x x x x x x x x

Q: What time on May 14, 1997 did you meet that Crispin Velarde?

A: In the afternoon, sir. I cannot remember the exact time.

Q: Where did you meet him?

A: At the Malolos Police Station, sir.

Q: Can you tell the Honorable Court the reason why Crispin Velarde was in the Malolos Police Station?

A: He is the suspect in a Rape with Homicide case, sir.

x x x x x x x x

Q: What transpired during your meeting with Crispin Velarde at Malolos Police Station?

A: We made investigations in his person, sir.

Q: When you were conducting ... who was conducting the investigation or the questioning?

A: I, sir.

Q: And who were the persons present while you were interrogating or conducting investigation on Crispin Velarde?

A: Atty. Danilo Domingo, sir.

Q: Will you please tell the Honorable Court why Mayor Danilo Domingo was present during the investigation of Crispin Velarde?

x x x x x x x x

A: He was the one assisting Crispin Velarde, sir.[16]

Yet on cross, appellant stated:

Q: Was Atty. Danilo Domingo the counsel or the lawyer of the accused when you took his statement?

Court:

Base on your perception?

A: No, sir.

Court:

What do you mean by 'No'?

A: He is not the lawyer of Crispin Velarde, Your Honor.

Court:

That's how you can see it at that time?

A: Yes, Your Honor.

Atty. Villacorta:

Q: If he is not the counsel, what was he doing there?

A: He learned about the incident that's why he talked to the accused, sir.

Q: Did you see Mayor Domingo talking to the accused at the time this statement was being taken by you?

A: Yes, because the three of us were there, sir.

x x x x x x x x

Q: Before the statement was taken, where did Crispin Velarde come from?

Co[ur]t:

If you know[?]

A: He was inside the jail, sir.

Q: Municipality of what?

A: Malolos, sir.

Q: This jail, how far was it from the investigation room?

A: Very near, sir. Just downstairs because the police station is located in the basement and the jail was located upstairs.

x x x x x x x x

Q: But no relatives of Crispin Velarde were present during the investigation?

A: I do not remember, sir.

x x x x x x x x

Atty. De Leon:

I am asking now, who were present?

A: Atty. Danilo Domingo and myself, sir.

Q: How about other policemen?

A: And the other police officers, sir.

Q: Beside you, Atty. Domingo and the accused, there were policemen present?

A: Yes, sir.

Q: How many?

A: I cannot remember how many and who were they, sir.

Q: During the investigation, the policemen were armed with weapons?

A: Yes, sir.”[17]

Appellant contends that the extrajudicial confession taken during the investigation is inadmissible in evidence. We agree.

Article III Section 12 (1) of the Constitution provides:

“Any person under custodial investigation for the commission of an offense shall have the right to be informed of his right to remain silent and to have competent and independent counsel preferably of his own choice. If the person cannot afford the services of counsel, he must be provided with one. These rights cannot be waived except in writing and in the presence of counsel.”

The dead body of Brenda Candelaria was found in the Municipality of Guiguinto, Bulacan. But appellant, a resident of Barangay Tikay, Municipality of Malolos was brought to and detained in the Malolos Police Station, where he was investigated by the Malolos police.

Under the circumstances, Atty. Domingo cannot be considered as an independent counsel. He was the mayor of Malolos at the time. As such, he exercised “operational supervision and control”[18] over the PNP unit in that municipality. His powers included the utilization of the elements thereof for the maintenance of peace and order, the prevention of crimes, the arrest of criminal offenders and the bringing of offenders to justice.[19]

As mayor of Malolos, his duties were inconsistent with those of his responsibilities to appellant, who was already incarcerated and tagged as the main suspect in the rape-slay case. Serving as counsel of appellant placed him in direct conflict with his duty of “operational supervision and control” over the police. “What the Constitution requires in Article III Section 12 (1) is the presence of competent and independent counsel, one who will effectively undertake his client’s defense without any intervening conflict of interest.”[20] Evidently Atty. Domingo, being the mayor of the place where the investigation was taken, could not act as counsel, independent or otherwise, of appellant.

In *People v. Taliman*,[21] we ruled that a mayor cannot be considered the independent lawyer referred to by the Constitution.

“Mayor Pardo cannot be considered as an independent counsel for accused during their custodial investigation.

“In *People vs. Culala*, we held that the extrajudicial confession of the accused-appellant was inadmissible as he was ‘assisted’ by the incumbent municipal attorney. In *People vs. Bandula*, we held that a municipal attorney could not be an independent counsel as required by the Constitution. We reasoned that as legal officer of the municipality, he provides legal assistance and support to the mayor and the municipality in carrying out the delivery of basic services to the people, including the maintenance of peace and order. It is therefore seriously doubted whether he can effectively undertake the defense of the accused without running into conflict of interests.

x x x x x x x x

“If in the aforecited cases, we disregarded the extra-judicial statements of the accused, how much more must we do so now, given that it was the mayor himself, and not just the provincial attorney, that assisted accused-appellants?”[22]

Furthermore, the right to counsel is a fundamental right and contemplates not just the mere presence of a lawyer beside the accused.[23] The competent and independent lawyer so engaged should be present “at all stages of the interview, counseling or advising caution reasonably at every turn of the investigation, and stopping the interrogation once in a while either to give advice to the accused that he may either continue, choose to remain silent or terminate the interview. The desired role of counsel in the process of custodial investigation is rendered meaningless if the lawyer merely gives perfunctory advice as opposed to a meaningful advocacy of the rights of the person undergoing questioning. If the advice given is so cursory as to be useless, voluntariness is impaired.”[24]

During the investigation, Atty. Domingo failed to act as the independent and competent counsel envisioned by the Constitution. He failed to give any meaningful advice to protect the rights of appellant. The former did not even bother to inform the latter of the consequences of an extrajudicial confession.

It is significant to point out that, during the cross-examination and perhaps in total confusion, the investigator even went so far as to state that Atty. Domingo had not acted as appellant’s lawyer. If this were so, then appellant had absolutely no counsel when his extra-judicial confession was taken.

In whatever way we may look at the situation, it is clear that, in palpable violation of the Constitution, appellant was not assisted by a competent and independent counsel during the custodial investigation and the taking of his extra-judicial confession. Hence, the Court is duty-bound to disregard it.

“This Court x x x will always insist on the observance of basic constitutional rights as a condition sine qua non against the awesome investigative and prosecutory powers of government. The admonition given by this Court to government officers, particularly those involved in law enforcement and the administration of justice, in the case of *People v. Cuizon*, where NBI agents mishandled a drug bust operation and in so doing violated the constitutional guarantees against unlawful arrests and illegal searches and seizures, is again called for and thus reiterated in the case at bench, to wit:

“x x x. In the final analysis, we in the administration of justice would have no right to expect ordinary people to be law-abiding if we do not insist on the full protection of their rights. Some lawmen, prosecutors and judges may still tend to gloss over an illegal search and seizure as long as the law enforcers show the alleged evidence of the crime regardless of the methods by which they were obtained. This kind of attitude condones law-breaking in the name of law enforcement. Ironically, it only fosters the more rapid breakdown of our system of justice, and the eventual denigration of society. While this Court appreciates and encourages the efforts of law enforcers to uphold the law and to preserve the peace and security of society, we nevertheless admonish them to act with deliberate care and within the parameters set by the Constitution and the law. Truly,

the end never justifies the means.[25]

Second Issue:

Circumstantial Evidence

Circumstantial evidence would be sufficient for conviction if (a) there is more than one circumstance, (b) the facts from which the inferences have been derived are proven, and (c) the combination of all the circumstances is such that it produces a conviction beyond reasonable doubt. These circumstances must be consistent with one another, and the only rational hypothesis that can be drawn therefrom must be that the accused is guilty. They must create a solid chain of events, coherent and intrinsically believable, that point to the accused -- to the exclusion of others -- as the perpetrator of the crime; and that sufficiently overcome thereby the presumption of innocence in his or her favor.[26]

In this case, the prosecution presented the following pieces of evidence to prove that appellant was the perpetrator of the crime.

First, appellant was with Brenda on the morning of May 11, 1997.[27] They were also together on McArthur Highway between three and four o'clock in the afternoon on the same day, aboard a pedicab coming from Industrial City and going south towards Manila.[28]

Second, around five thirty in the afternoon on May 11, 1997, appellant was seen alone emerging from Jaycee Auto Repair Shop, just beside Doña Pilar Homes.[29] He looked haggard and had disheveled hair.[30]

Third, Brenda's naked, lifeless body was found at six o'clock in the morning on May 12, 1997, on a vacant lot in Doña Pilar Homes.[31]

The above set of circumstantial evidence is too general. It is also consistent with the hypothesis that appellant is innocent. He cannot be faulted for being seen with Brenda on a pedicab, since the records show that the two of them are first cousins who live in the same house.[32] He cannot be faulted, either, for emerging near Doña Pilar Homes,[33] since the records show that he lives in Barangay Tikay,[34] at the back of which is Doña Pilar Homes.[35] As Prosecution Witness Robles testified, she also lived in Barangay Tikay, yet she waited for a jeepney in front of Doña Pilar Homes. Evidently, it is natural for residents of Barangay Tikay to emerge in Doña Pilar Homes and wait for a ride from there. Appellant cannot be convicted based on the circumstantial evidence which, though proven, remains ambiguous.

The prosecution evidence leaves much to be desired. It is too full of holes. The approximate time of death of Brenda has not been established, other than that she died less than 24 hours before the autopsy. Such evidence shows that she could have been killed on the night of May 11, 1997 or on the early morning of May 12, 1997. By that time appellant was already in custody and, hence, could not have been the perpetrator. The records further allude to a tee shirt found at the crime scene. Yet, the prosecution failed to present it and have it identified. Had the police officers and the prosecution exerted more effort in identifying its owner, a more direct link between the crime and the perpetrator could have been established, and reasonable doubts on his identity could have been eased.

In case of doubt, the scales must be tipped in favor of the accused. Circumstantial evidence as a basis for criminal conviction should be weighed and accepted with great caution. Jurisprudence teaches that it is preferable for the guilty to remain unpunished than for the innocent to suffer unjustly[36] -- in this case, to be sentenced to die by lethal injection.

Without the extrajudicial confession, the circumstantial evidence becomes utterly insufficient to pass the test of moral certainty.

Although the defense of appellant -- mere denial -- is weak, this fact alone cannot justify his conviction. The burden is on the prosecution to prove his guilt beyond reasonable doubt, not on him to prove his innocence. Well-entrenched in jurisprudence is the rule that the conviction of the accused must rest, not on the weakness of the defense, but on the strength of the prosecution.[37] The Court cannot magnify the weakness of the defense and overlook the prosecution's failure to discharge the onus probandi.[38]

Although the prosecution adequately proved the crime of rape with homicide in this case, it failed to establish the identity of the perpetrator beyond reasonable doubt. Hence, we cannot sustain appellant's conviction. The assault on the child is unpardonable, but this Court must uphold the primacy of the constitutional presumption of innocence in favor of the accused, when the evidence at hand miserably falls short of the quantum required to support conviction.[39]

WHEREFORE, the appeal is GRANTED and the Decision of the Regional Trial Court of Bulacan in Criminal Case No. 773-M-97 SET ASIDE. Appellant Crispin Velarde y Bandojo is ACQUITTED on reasonable doubt. He is ordered released immediately from custody unless he is being held for some other lawful cause.

The director of the Bureau of Corrections is DIRECTED to implement this Decision forthwith and to INFORM this Court within five (5) days from receipt hereof of the date appellant was actually released from confinement. Costs de officio.

SO ORDERED.

Bellosillo, (Acting C.J.), Puno, Vitug, Kapunan, Mendoza, Quisumbing, Ynares-Santiago, Sandoval-Gutierrez, Carpio, Austria-Martinez, and Corona, JJ., concur. Davide, Jr., C.J., on leave.

[1] Penned by Judge Basilio R. Gabo Jr.

[2] RTC Decision, p. 9; rollo, p. 37; records, p. 181.

[3] Signed by 3rd Assistant Provincial Prosecutor Benjamin R. Caraig.

[4] Rollo, p. 11; records, p. 2.

[5] Atty. Jose P. de Leon.

[6] Order dated July 1, 1997; records, p. 12.

[7] Appellee's Brief, pp. 2-4; rollo, pp. 96-98. The Brief was signed by Solicitor General Ricardo P. Galvez, Asst. Solicitor General Cecilio O. Estoesta and Solicitor Ma. Antonia Edita C. Dizon.

[8] Appellant's Brief, pp. 12-14; rollo, pp. 70-72. The Brief was signed by Atty. Jose P. de Leon.

[9] This case was deemed submitted for resolution on October 23, 2000, upon this Court's receipt of appellant's Reply Brief.

[10] Appellant's Brief, pp. 1-2; rollo, pp. 59-60. Original in upper case.

[11] TSN, June 19, 1998, pp. 9 & 10.

[12] Ibid., p. 27.

[13] TSN, September 12, 1997, p. 4.

[14] Ibid., pp. 5-7.

[15] TSN, June 19, 1998, pp. 22-23.

[16] TSN, November 6, 1998, pp. 3-6.

[17] Ibid., pp. 19-23.

[18] §51 (b), Republic Act No. 6975.

[19] Ibid.

[20] *People v. Matos-Viduya*, 189 SCRA 403, 410, September 11, 1990, per Gutierrez, J.

- [21] 342 SCRA 534, October 11, 2000, per Pardo, J.
- [22] Ibid., p. 542.
- [23] People v. Labtan, 320 SCRA 140, December 8, 1999.
- [24] People v. Deniega, 251 SCRA 626, 638, December 29, 1995, per Kapunan, J.
- [25] People v. Januario, 267 SCRA 608, 643, February 7, 1997, per Panganiban, J.
- [26] People v. Rayos, 351 SCRA 336, 344, February 7, 2001, citing People v. Ragon, 282 SCRA 90, November 18, 1997; People v. Doro, 282 SCRA 1, November 17, 1997; People v. Oracoy, 224 SCRA 759, July 27, 1993; People v. Peligro, 225 SCRA 65, August 3, 1993.
- [27] TSN, July 15, 1997, p. 7.
- [28] TSN, August 22, 1997, pp. 4-8.
- [29] TSN, September 3, 1997, pp. 9-10.
- [30] Ibid., p. 12.
- [31] TSN, January 7, 1998, p. 5.
- [32] TSN, August 22, 1997, pp. 14-15.
- [33] Also referred to in some parts of the record as Doña Pilar Subdivision.
- [34] TSN, August 1, 1997, p. 5.
- [35] TSN, September 3, 1997, p. 10.
- [36] People v. Salangoste, 188 SCRA 422, August 8, 1990, People v. Solis, 350 SCRA 608, January 30, 2001.
- [37] People v. Marquita, 327 SCRA 41, March 1, 2000; People v. Vidal, 308 SCRA 1, June 1, 1999; People v. Laguerta, 344 SCRA 453, October 30, 2000.
- [38] People v. Tan, 323 SCRA 30, January 21, 2000.
- [39] People v. Bravo, 318 SCRA 812, 825, November 22, 1999, per Gonzaga-Reyes, J.

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