JOHN MANGIO, PETITIONER, VS. COURT OF APPEALS AND THE PEOPLE OF THE PHILIPPINES, RESPONDENTS.

G.R. No. 139849. December 05, 2001

Ponente: PUNO, J.

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PUNO, J.:

Not only did petitioner John Mangio breach the law when he committed estafa in the case at bar, he also breached the trust reposed upon him by his former business partners, private complainant spouses Reynaldo and Aurea Dillena. Indeed, he should be taught a lesson and penalized, for dishonesty and unfaithfulness not only disrupt peace and order, but also deeply undermine good human relations.

Petitioner Mangio filed this petition for review on certiorari to reverse the respondent court's Decision dated March 31, 1999 and Resolution dated August 25, 1999 affirming the trial court's decision convicting him of estafa.

An information for estafa under Article 315, par. 1(b) of the Revised Penal Code was filed against petitioner Mangio on January 4, 1994, viz:

> "The undersigned Asst. Provincial Prosecutor accuses John Mangio of the crime of estafa, penalized under the provisions of Art. 315, par. 1(b) of the Revised Penal Code, committed as follows:
>
> That in or about the month of January, 1991, in the municipality of Hagonoy, province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, received in trust from the complaining witness (sic) Reynaldo and Aurea Dillena an owner-type jeep bearing Plate No. CCS-121 with a total value of P40,000.00 with the express obligation to deliver the said jeep to Agnes Salvador as payment for an obligation, but the said accused once in possession of the said jeep and far from complying with his aforesaid obligation and inspite of repeated demands for such compliance, did then and there wilfully, unlawfully and feloniously with unfaithfulness, abuse of confidence and intent to gain, misapply, misappropriate and convert the said jeep to third person, to the damage and prejudice of the said Reynaldo and Aurea Dillena in the said amount of P40,000.00.
>
> Contrary to law."[1]

The following facts spurred the present controversy:

Petitioner Mangio and private complainant Aurea Dillena used to be business partners. In October 1990, Aurea and her husband, Reynaldo Dillena, approached the petitioner as they badly needed money because of the losses they suffered in their fishpond business. The petitioner informed them that they could ask help from his friend, Agnes Salvador, and accompanied the couple to the latter so they could borrow money from her with the petitioner as guarantor. As Salvador did not have money at that time, the Dillena couple went back to her on some other day and obtained a P50,000.00 loan. Salvador asked the Dillenas to issue a check for P50,000.00 as evidence of the loan. The Dillenas obliged, but told Salvador that their checking account was already closed. When the loan fell due, Salvador asked the couple to make good their check. The couple failed to do so, and

instead asked Mangio to bring P10,500.00 to Salvador. The payment was evidenced by a receipt.[2] Aurea, however, also testified that Mangio subsequently came to the Dillenas' house and told her and Reynaldo that Salvador refused to accept the P10,500.00 and demanded payment of the entire P50,000.00. The couple told Mangio that they would give Salvador whatever she needed other than cash. Mangio came back to their house after some time and told them that their loan had increased to P64,000.00, and that Salvador instructed him to get the couple's Toyota jeep as payment for the loan. Mangio showed them a type-written agreement, the "Dapat Malaman ng Lahat" dated January 19, 1991, viz:

> "DAPAT MALAMAN NG LAHAT
>
> KASULATAN NG KASUNDUAN
>
> Na, ako si Reynaldo Boy Dillena, kasal kay Aurea Dillena, sapat na gulang, at kasalukuyang naninirahan sa Sto. Niño, Hagonoy, Bulacan ay may nakuhang pera kay Gng. Agnes M. Salvador kasal kay Rodolfo Salvador na taga Sta. Ana, Bulacan, Bulacan ng halagang ANIMNAPO AT APAT NA LIBONG PISO (P64,000.00) Perang Pilipino at ito ay aking babayaran sa ika-28 ng Pebrero 1991. At kung sakali at hindi ko maibalik o mabayaran ay aking ipananagot ang aking sasakyan na may mapagkakakilanlan ay ang sumusunod:

Make or Type ------ TOYOTA JEEP
Motor No. ---------- -2R- 1486112
Chassis or Serial No. --76-04206-C
Plate No. ----------CCS-121

> Na, ang nasabing sasakyan ay nasa pag-iingat ni Gng. Agnes Salvador. At ibibigay ko sa kanya ang lahat ng aking karapatan bilang may-ari ng nasabing sasakyan.
>
> At bilang patotoo ako ay lumalagda sa ibaba ng kasulatang ito ngayong ika-19 ng Enero, 1991.
>
> (signed)
> REYNALDO DILLENA
>
> (May-ari ng Sasakyan)
>
> Saksi:
> (signed)
> John Mangio"

In his own handwriting, Reynaldo added at the bottom of the document that he signed it with the understanding that Salvador would give back to him and his wife the P50,000.00 check they issued as evidence of their loan. His note read:

> "1/22/91
>
> Katunayan lamang ito na ako ay lumagda sa ibaba ayon sa kasunduan na ibabalik ang aking tseke na may halagang P50,000.
>
> (signed)
> Boy Dillena"[3]

Mr. Dillena signed the agreement. Mangio signed it as a witness and also to attest to his receipt of the jeep. Reynaldo then surrendered the jeep to Mangio, and the latter took it.

Sometime thereafter, Aurea was surprised to learn that Salvador sued her for violation of B. P. Blg. 22 because their check for P50,000.00 was dishonored. When she asked Salvador about the payment and the jeep, the latter

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told her that she did not receive anything. Based on the affidavit executed by petitioner Mangio[4] in November 1991 in connection with that B.P. Blg. 22 case, it turned out that Mangio sold the jeep for P20,000.00 and allegedly used the money to pay the interest of the Dillenas' loan to Salvador and other expenses. Counsel for the petitioner admits Mangio executed said affidavit. The Dillena spouses did not give authority to Mangio to sell the jeep. From the court hearings in the B.P. Blg. 22 case filed by Salvador against Aurea, as shown by the transcript of stenographic notes therein, Aurea learned that Salvador did not receive the P20,000.00 sale proceeds.[5] Aurea was convicted for violation of B.P. Blg. 22.[6] The Dillenas demanded that the petitioner return the jeep or the purchase price therefor, but the petitioner did not do so.[7] When the Dillenas looked for the jeep, they learned that Marcelino Rodriguez had bought it.[8] The latter attested in his "Sinumpaang Salaysay" that he bought the Dillenas' jeep from Salvador through the petitioner Mangio who was his "amain" and that the jeep was transferred to Salvador in payment of a debt owed by the Dillenas to her.[9]

Aurea and her husband were embarrassed by the B.P. Blg. 22 case as it was the first time she was sued. They spent P15,000.00 for the services of their lawyer and P700.00 appearance fee per hearing in the instant case.

Reynaldo Dillena also took the witness stand. He knows the petitioner Mangio as he and his wife, Aurea Dillena, used to buy fingerlings from him for their fishpond business. Sometime in January 1991, petitioner Mangio brought a document entitled "Dapat Malaman ng Lahat," regarding the petitioner's taking of his Toyota jeep from the Dillena residence for delivery to Agnes Salvador as payment for Aurea's debt to the latter. The document stipulated, "Na, ang nasabing sasakyan ay nasa pag-iingat ni Gng. Agnes M. Salvador at ibibigay ko sa kanya ang lahat ng aking karapatan bilang may-ari ng nasabing sasakyan." Reynaldo signed the document because he trusted that Mangio would deliver the jeep to Salvador. The petitioner Mangio also signed the document as witness. Reynaldo did not, however, sign a Deed of Sale covering the sale of the jeep to Salvador as he agreed to do so only upon Mangio's return of the check his wife issued to Salvador. The Dillenas did not give authority to sell the jeep to any person other than Salvador. After Mangio took the jeep, Salvador got mad at Aurea and sued her for violation of B.P. Blg. 22. In the proceedings for said case, Reynaldo learned from Salvador that Mangio sold the jeep to another person and spent the proceeds of the sale. Aurea was convicted for violation of B.P. Blg. 22.[10]

Marcelino Rodriguez took the witness stand for the petitioner. He knows the petitioner as they live in the same place in Bulacan and he (petitioner) is the uncle of his wife. Rodriguez had also known Agnes Salvador for ten years as they previously had a money lending transaction. In the latter part of 1992, Rodriguez purchased a Toyota jeep from Salvador for P30,000.00. He paid her an initial amount of P20,000.00 with the remaining balance of P10,000.00 to be paid upon delivery of the Deed of Sale over the jeep. Rodriguez took the jeep after making the initial payment in Salvador's house in the presence of petitioner Mangio and his son Manny. He knew that Salvador was not the owner of the jeep as the jeep's certificate of ownership showed that Mr. Boy (Reynaldo) Dillena was its owner. Nonetheless, he no longer required Salvador to issue a receipt as he had only paid partially. Moreover, Salvador showed him a contract regarding the ownership of the jeep, entitled "Dapat Malaman ng Lahat", executed between Reynaldo Dillena and Salvador which stipulated that if by February 28, 1991, Reynaldo had not paid his debt to Salvador, the jeep would serve as payment for the loan. At the time of the jeep's sale to Rodriguez, it had been more than one year from February 28, 1991. He thus presumed that the jeep was already owned by Salvador. Rodriguez never paid the balance of P10,000.00 as Salvador failed to deliver to him the Deed of Sale because the "real owner did not sign the Deed of Sale." Rodriguez offered that he return the jeep and Salvador return the P20,000.00, but Salvador told him that she had already spent the money. Sometime thereafter, Reynaldo and his wife went to see Rodriguez asking him to testify that he purchased the jeep from Salvador in a case filed by the latter against Aurea. He did not have any document to prove that he purchased the jeep from Salvador or from the Dillenas.[11]

The petitioner took the witness stand. He knows Reynaldo Dillena as he transacted business with him. He also knows Agnes Salvador because he lived in her apartment sometime in October 1990 for five months. About that time, the Dillena spouses went to Mangio to buy fingerlings for P200,000.00. Having spent their money to buy another fishpond, the Dillenas were not able to pay petitioner Mangio. This enraged petitioner's son and the barangay captain of Bulacan, Bulacan. Reynaldo thus asked the petitioner to borrow money for him even at a 10% interest. The petitioner then introduced Reynaldo to Agnes Salvador for the latter to help the spouses financially. With the petitioner as "guarantor" of the loan, Salvador agreed to lend Reynaldo P150,000.00. Of this amount, Dillena paid P100,000.00 to the petitioner's son, Emmanuel Mangio, and P20,000.00 to the petitioner, and kept P30,000.00 for himself. Reynaldo was able to pay back Salvador P100,000.00 and for the remaining P50,000.00, he issued a check in her favor. The check bounced. The loan increased to P80,000.00 because of the interest, and Reynaldo was able to pay P10,000.00 for the interest. The petitioner told Salvador not to file a complaint against Reynaldo and that he would talk to him for the payment of the loan. In January 1991, the petitioner talked to Reynaldo and the latter told him that he would pay Salvador even if the loan increased to P100,000.00 and would give his owner-type jeep as collateral. Salvador prepared a document enitled "Dapat Malaman ng Lahat" dated January 19, 1991, regarding the payment arrangement. Reynaldo signed the document and the petitioner also signed as witness. The jeep was delivered to Salvador's house and was parked there. Subsequently, Salvador asked Reynaldo to take back the jeep. Reynaldo then talked to the petitioner and told him that he (Reynaldo) would just sell the jeep and apply the proceeds thereof to the payment of his loan to Salvador. Upon learning this, Salvador asked the petitioner to get the jeep's certificate of registration from Reynaldo so she could sell the jeep. Salvador found a buyer, Marcelino Rodriguez, and agreed to sell it for P30,000.00, P20,000.00 to be paid initially and the remaining P10,000.00 to be paid upon transfer of registration to Rodriguez. Rodriguez paid P20,000.00 to Salvador in her house at Sta. Ana, Bulacan, Bulacan in the presence of the petitioner and his son, then took the jeep. The balance of P10,000.00 was never paid as the registration was not transferred to Rodriguez. Petitioner denied the Dillenas' allegation that he sold the jeep and received the proceeds of the sale. Salvador then filed a case for B.P. Blg. 22 against Reynaldo in relation to the loan, and the latter was convicted. He also filed a collection suit against the Dillenas for payment of bangus fry and fingerlings and the case was decided in his favor.[12]

Manuel Mangio, son of the petitioner, also testified. He knows the Dillena spouses because they had been buying fingerlings from him since 1989. In September 1990, they bought P100,000.00 worth of fingerlings from him. Their agreement was that payment would be made outright in cash, but the couple failed to pay right away, causing Manuel to get mad at them. It took more than one month for the couple to pay. Manuel also knows Agnes Salvador as she is his kumadre. In October 1991, he accompanied his kumpadre, Marcelino Rodriguez, to Salvador's house to look at Reynaldo Dillena's jeep which Salvador was selling. According to Salvador, the jeep was mortgaged to her. Rodriguez asked Manuel to check if the jeep was in good condition, and when told that it was, Rodriguez paid Salvador P20,000.00 in Salvador's residence. Rodriguez and Manuel then took the jeep. When Manuel was confronted with his father's affidavit stating that he (the petitioner) sold the jeep, Manuel testified that he was not aware of this.[13]

The trial court convicted the petitioner, viz:

> "WHEREFORE, premises considered, the Court finds the accused JUANITO MANGIO,[14] GUILTY beyond reasonable doubt of the crime of estafa as defined and penalized under Art. 315, par. (b) of the Revised Penal Code and hereby sentences him to suffer the indeterminate penalty of 2 years 4 months and 1 day of prision correccional as minimum to 8 years of prision mayor as maximum and to pay the private complainant the sum of P40,000.00, the value of the goods misappropriated."[15]

He appealed to the Court of Appeals which affirmed the trial court's decision in toto on March 31, 1999. He filed

a motion for reconsideration which was denied on August 29, 1999. Hence, this petition for review with the following assignment of errors:

> "I.
>
> THE HONORABLE COURT OF APPEALS ERRED IN APPLYING THE LAW WHEN IT TOOK INTO CONSIDERATION TESTIMONIES OF AGNES SALVADOR GIVEN IN ANOTHER CASE, WHERE PETITIONER WAS NOT AFFORDED THE CHANCE TO CROSS-EXAMINE HER.
>
> II.
>
> THE HONORABLE COURT OF APPEALS ERRED IN AFFIRMING THE PENALTY WHICH IS NOT IN ACCORD WITH LAW."

Petitioner faults the decision of the appellate court for having appreciated Exhibit "G" which is page 31 of the transcript of stenographic notes of Agnes Salvador's testimony in another case, Crim Case. No. 413-M-94 of the Regional Trial Court of Malolos, Bulacan, Branch 78 for violation of B. P. Blg. 22. Salvador filed said case against Aurea Dillena in relation to the check the latter issued for her P50,000.00 loan from Salvador in 1990. Exhibit "G" shows that Salvador testified that she did not receive the P20,000.00 proceeds of the sale of the Dillenas' owner-type jeep. According to petitioner, the appellate court erred in admitting said testimony as he did not have the opportunity to cross-examine Salvador who was not presented in the trial of the instant case, and thus claims that he was denied due process. Petitioner asserts that Salvador's testimony did not satisfy the requisites for admissibility under Sec. 47, Rule 130 of the Rules of Court, viz:

> "Sec. 47. Testimony or deposition at a former proceeding.- The testimony or deposition of a witness deceased or unable to testify, given in a former case or proceeding, judicial or administrative, involving the same parties and subject matter, may be given in evidence against the adverse party who had the opportunity to cross-examine him."

Without said testimony of Salvador, petitioner contends that respondent's cause is left without a leg to stand on as there is no other evidence to support respondent's allegation that Salvador did not receive the Dillena spouses' owner-type jeep or the proceeds of its sale.

The Solicitor General, on the other hand, argues that it is too late in the day for petitioner to raise denial of due process in relation to Rule 130, Sec. 47 as grounds for objecting to the admissibility of Exhibit "G". In petitioner's Comment on the Prosecution's Offer of Documentary Exhibits dated February 14, 1996, petitioner objected to Exhibit "G" only for being immaterial and self-serving, and not on due process grounds or for failure to satisfy the requisites under Sec. 47, Rule 130. The Solicitor General contends, viz:

> ". . . it is a rule of universal application that objection is deemed limited to the ground or grounds specified and does not cover others not specified. In other words, where the grounds for objection are specified, every other ground which is not particularly stated, is to be considered abandoned or waived, and cannot be relied upon in appeal (Essentials on Evidence by Apostol, 1991 Edition, p. 457). In Tan Machan v. De la Trinidad, et al. (3 Phil. 648 (1904), this Honorable Court ruled that in examining the question as to whether the ruling of the court below on an objection to evidence was correct or not, the appellate court will not consider any other ground of objection than that raised in the court below. Hence, at the proceedings a quo, the defense objected to Exhibit "G" for being allegedly immaterial and self-serving. At this stage, therefore, petitioner is barred by law from raising any other grounds, such as deprivation of his right to due process and the right to cross-examine Agnes Salvador, which are already considered abandoned or waived."[16]

We agree with the Solicitor General. In Sermonia v. Court of Appeals,[17] we ruled that as the ground raised for objecting to the evidence presented was violation of the rule on privileged communication, the petitioner was

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considered to have waived his right to make an objection on the ground of the evidence being hearsay. In People v. Competente,[18] we also ruled that the failure of the accused to object to hearsay evidence constitutes a waiver of the right to cross-examine the actual witness to the occurrence, thereby rendering the evidence admissible.

We have carefully reviewed the evidence on record and find that petitioner Mangio is guilty of estafa under Art. 315, par. 1(b),viz:

> "Art. 315. Swindling (estafa). - Any person who shall defraud another by any of the means mentioned hereinbelow shall be punished by:
>
> xxx
>
> 1. With unfaithfulness or abuse of confidence, namely:
>
> xxx
>
> (b) By appropriating or converting, to the prejudice of another, money, goods, or any other personal property received by the offender in trust, or on commission, or for administration, or under any other obligation involving the duty to make delivery of, or to return the same, even though such obligation be totally or partially guaranteed by a bond; or by denying having received such money, goods, or other property;
>
> xxx"

Petitioner Mangio himself admitted that he received the subject jeep from the Dillena spouses for him to deliver it to Agnes Salvador as collateral for the outstanding debt of the Dillenas to Salvador.[19] The Dillena spouses trusted him to take the jeep to Salvador as he was the one who facilitated the Dillenas' loan from Salvador and even stood as "guarantor" of the loan. In the affidavit which he admits to have executed in connection with the criminal case for violation of B.P. Blg. 22 filed by Salvador against Aurea Dillena, he stated that when he brought the jeep to Salvador, the latter refused to accept it because it was dilapidated and she opined that it could not even fetch a P30,000.00 purchase price. Petitioner thus drove the jeep and parked it in his residence. Subsequently, upon alleged instructions of Reynaldo Dillena, he sold the same for P20,000.00 to Marcelino Rodriguez and allegedly turned over the proceeds to Salvador in payment of the interest of the Dillenas' loan and other expenses. We hold that petitioner Mangio has not adequately shown evidence to support his claim that the Dillenas authorized him to sell the subject jeep, especially in light of the spouses' denial of such grant of authority and the document entitled "Dapat Malaman ng Lahat" which states that the jeep was supposed to be delivered to Salvador and not sold to any other person. In the course of the trial of the B.P. Blg. 22 case filed by Salvador against Aurea, the latter learned that Salvador did not receive the subject jeep. Aurea thus repeatedly demanded from petitioner that he return the jeep to the Dillenas or at least turn over to them the proceeds of its sale.[20] As petitioner failed to return the jeep or give the proceeds of the sale to them, Aurea and her husband filed the instant case.

The above circumstances satisfy the elements of estafa under Art. 315, par. 1(b), viz:

> "(1) that money, goods or other personal property is received by the offender in trust, or on commission, or for administration, or under any other obligation involving the duty to make delivery of, or to return, the same;
>
> (2) that there be misappropriation or conversion of such money or property by the offender or denial on his part of such receipt;
>
> (3) that such misappropriation or conversion or denial is to the prejudice of another;
>
> (4) that there is a demand made by the offended party on the offender."[21]

To "convert" and "misappropriate" connote acts of using or disposing of another's property as if it were one's own

or devoting it to a purpose or use different from that agreed upon. Misappropriation for one's own use includes, not only conversion to one's personal advantage, but also every attempt to dispose of the property of another without right,[22] as in the case at bar when petitioner sold the Dillenas' jeep to Rodriguez without the authority of the Dillena spouses.

Anent the penalty imposed by the trial court, the petitioner contends that although the information stated that the subject jeep was worth P40,000.00, there is a dearth of evidence with respect to said value of the jeep. Hence, according to him, should he be found guilty, the penalty imposed should be the lowest provided in par. 4 of Art. 315 of the Revised Penal Code which is arresto mayor in its medium and maximum periods. Additionally, he contends that even if the P20,000.00 proceeds of the sale be considered as the amount misappropriated, the imposable penalty, under the Indeterminate Sentence Law, is prision correccional in its minimum and medium periods, which is six months and one day to four years and two months as minimum, and five years, five months and eleven days as maximum.[23]

We disagree. While the information states that the value of the jeep was P40,000.00, there is no proof of such amount. However, petitioner Mangio himself admitted that the jeep was sold for P30,000.00, the initial payment of P20,000.00 having been made and the balance of P10,000.00 to be paid upon execution of the Deed of Sale covering the subject jeep. Marcelino Rodriguez, the buyer of the jeep, corroborated this testimony of Mangio. We are of the view that the P30,000.00 purchase price of the jeep is a fair value upon which the penalty should be based. Par. 1 of Art. 315 provides for the following penalty:

> "Art. 315 Swindling (estafa).- Any person who shall defraud another by any of the means mentioned hereinbelow shall be punished by:
>
> 1st. The penalty of prision correccional in its maximum period to prision mayor in its minimum period, if the amount of the fraud is over 12,000 pesos but does not exceed 22,000 pesos; and if such amount exceeds the latter sum, the penalty provided in this paragraph shall be imposed in its maximum period, adding one year for each additional 10,000 pesos; but the total penalty which may be imposed shall not exceed twenty years. In such cases, and in connection with the accessory penalties which may be imposed and for the purpose of the other provisions of this Code, the penalty shall be termed prision mayor or reclusion temporal, as the case may be."

As the amount involved in the instant case, i.e., P30,000.00, exceeds P22,000.00, the penalty should be imposed in its maximum period of prision mayor in its minimum period. Applying the Indeterminate Sentence Law, the trial court was correct in imposing the penalty of two years, four months, and one day of prision correccional as minimum to eight years of prision mayor as maximum. The amount of P40,000.00 which the trial court ordered the petitioner to pay is reduced to P30,000.00 as only this amount is supported by the evidence on record.

IN VIEW WHEREOF, the impugned decision is AFFIRMED with MODIFICATION that the petitioner is ordered to pay the private complainants P30,000.00 as actual damages. Costs against petitioner.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Kapunan, Pardo, and Ynares-Santiago, JJ., concur.

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[1] Original Records, p. 1.

[2] Original Records, p. 185; Exhibit A.

[3] Original Records, p. 186.

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[4] Original Records, pp. 191-192; Exhibit F.

[5] TSN, Aurea Dillena, November 21, 1994, p. 16.

[6] Original Records, pp. 226-232; Exhibit H.

[7] TSN, Aurea Dillena, November 21, 1994, pp. 1-17.

[8] Id., February 24, 1995, pp. 1-9.

[9] Original Records, p. 236; Exhibit 1.

[10] TSN, Reynaldo Dillena, July 17, 1995, pp. 3-9; also October 9, 1995, pp. 3-8.

[11] TSN, Marcelino Rodriguez, April 22, 1996, pp. 3-8.

[12] TSN, Juanito Mangio, August 7, 1996, pp. 2-8; also August 26, 1996, p. 2; Exhibit 3, Original Records, pp. 238-239.

[13] TSN, Manuel Mangio, October 14, 1996, pp. 2-5.

[14] Should be John Mangio as stated in the information.

[15] Rollo, pp. 61-62.

[16] Rollo, pp. 96-97; Comment, pp. 4-5.

[17] 233 SCRA 146 (1994).

[18] 207 SCRA 591 (1992), citing People v. Garcia, 89 SCRA 440 (1979).

[19] TSN, John Mangio, August 26, 1996, p. 2.

[20] TSN, Aurea Dillena, November 21, 1994, p. 17.

[21] Barrameda v. Court of Appeals, 313 SCRA 477 (1999), citing Fontanilla v. People, 258 SCRA 460 and Manahan, Jr. v. Court of Appeals, 255 SCRA 202.

[22] Lim v. Court of Appeals, et al., 271 SCRA 12 (1997).

[23] Rollo, pp. 43-44; Petition, pp. 6-7.

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