

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. EDGAR AYUPAN,
GERRY HABLONA (AT LARGE), ACCUSED, EDGAR AYUPAN,
APPELLANT.**

G.R. No. 140550. February 13, 2002

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

When the evidence does not establish how the aggression commenced, treachery cannot be appreciated to qualify a killing to murder. In the present case, the lone prosecution witness did not see how the attack on the victim was initiated. Hence, the crime is only homicide, not murder.

The Case

Edgar Ayupan appeals the August 12, 1999 Decision[1] of the Regional Trial Court (RTC) of Iloilo City (Branch 33) in Criminal Case No. 32949, finding him guilty of murder and sentencing him to reclusion perpetua.

The Information, dated April 17, 1989 and signed by Second Assistant Provincial Prosecutor Irene S. Panigbatan, charged appellant as follows:

“That on or about the 27th day of June, 1984 in the Municipality of Batad, Province of Iloilo, Philippines, and within the jurisdiction of this Honorable Court, above-named accused, conspiring, confederating and cooperating, with an unidentified companion, with treachery, evident premeditation and taking advantage of their superior strength, and a decided purpose to kill, did then and there wilfully, unlawfully and feloniously, attack, assault and stab several times the victim FRANCISCO MENDOZA using the bladed weapon the accused were provided at that time, thereby hitting him and inflicting upon FRANCISCO MENDOZA several stab wounds on different parts of his body which caused his death.”[2]

With the assistance of counsel,[3] appellant pleaded not guilty when arraigned on November 28, 1995.[4] After trial, the RTC rendered its Decision, the dispositive portion of which reads:

“Based on the foregoing, this Court hereby decrees that.

“1. Accused Edgar Ayupan is guilty of the crime of Murder as defined and penalized by paragraph 1, Article 248 in its further relation to paragraph 16, Article 14 of the Revised Penal Code, as proven beyond reasonable doubt;

“2. Accused Edgar Ayupan is meted the penalty of reclusion perpetua by reason of the absence of any aggravating or mitigating circumstance;

“3. Accused Edgar Ayupan is directed to indemnify the heirs of deceased-victim Francisco Mendoza [in] the amount of P50,000.00 without subsidiary imprisonment in case of insolvency;

“4. The Director of [the] Bureau of Correction, Muntinlupa City is directed to credit in favor of the accused Edgar Ayupan the duration of his preventive detention reckoned from 24 January 1995 until the promulgation

of this Decision.

“SO ORDERED.”[5]

The Facts

Version of the Prosecution

The prosecution’s version of the facts is summarized by the Office of the Solicitor General, as follows:[6]

“On June 26, 1984, prosecution witness Helen Batislaong accompanied by her younger sister, Juvy, and her cousin, Joseph, arrived at the dance hall of Crossing Hamod, Batad, Iloilo Province at around 9:00 p.m. At around 12:00 o’clock midnight, Batislaong heard a commotion inside the dance hall. Concerned that her cousin might be involved in the fight, since he was no longer near her, Batislaong ran to the center of the dance floor. She did not see her cousin but instead, it was the sight of a bloodied Francisco Mendoza lying down on the floor which confronted her. Francisco Mendoza, who is also her relative since her mother and his father are cousins was being stabbed repeatedly in the chest by appellant Edgar Ayupan who was kneeling over the victim. Batislaong knows appellant since they both reside in Batad. Batislaong saw everything clearly since she was only four (4) meters away from the attacker and the victim. Furthermore, there was a light bulb brightly illuminating the scene.

“Horried, Batislaong shouted at appellant, demanding why he was stabbing Francisco Mendoza when as far as she knew her relative had done no wrong. She shouted for people to help Mendoza. But since most of the people ran away, nobody assisted them. Appellant and his companions ran away after stabbing the victim. Finally, the barangay captain came and investigated the incident. Weak after witnessing the stabbing incident, Batislaong was brought home by the barangay captain.

“Batislaong was not able to report the incident immediately because at that time she was nervous and afraid. A week after the incident, she was able to relate the circumstances surrounding the killing to Atty. Teodosio. Atty. Teodosio told her that they ha[d] two other witnesses to the killing which he felt were quite sufficient in prosecuting appellant. But he told her that he would call her if the need arises.

“Dr. Noel C. Posadas, a retired rural health physician and a resident of Batad, conducted the autopsy on the cadaver of the victim. He testified that the victim received three (3) stab wounds on the chest, the third of which was fatal. The immediate cause of death was shock and hemorrhage.” (Citations omitted)

Version of the Defense

Appellant, on the other hand, presented the following version of the facts:[7]

“Accused Edgar Ayupan testified that he did kn[o]w the victim but he did not stab him. On June 26, 1984, he and his companions Gerry Hablona, Roquito Penuela and Efren Hablona were at the dance party. Before entering the dance hall, the barangay tanod at the gate, frisked him and his companions. Once inside the hall, he invited a lady to dance with him. At said instance, the victim slapped his hand. When he turned his head, he saw the victim and the latter immediately boxed him. Hit at the bridge of his nose, he lost his consciousness. Gerry Hablona and Roquito Penuela brought him out of the dance hall when he regained his consciousness. He did not know Helen Batislaong; he did not leave his barangay. He only learned of the charge against him when he was arrested on June 21, 1995.

“Roquito Penuela corroborated the testimony of accused Ayupan that before they entered the dance hall on June 26, 1984 at Barangay Hamod, they were bodily frisked. At about 1:00 early morning of June 27, 1984, accused Ayupan approached a woman. At said instance, the hand of the x x x victim slapped the hand of the accused. Accused Ayupan then boxed the latter on the nose. Accused fell down. When the victim went away and walked towards the center of the dance hall, somebody met him and stabbed him many times and [a]

commotion took [place] and people were running. At that time, accused Ayupan was still lying down. He carried the accused out of the dance hall and went home when [the] accused regained his consciousness.”

Ruling of the Trial Court

Giving full faith and credence to the testimony of Helen Batislaong, the trial court held that the witness, having been at the locus criminis had the opportunity to see and observe the specific details of the crime.

The RTC disbelieved appellant’s defense of denial and rejected the evidence of good moral character offered by the defense witnesses. It held that this defense was based purely on conjecture and might have even been fabricated, since it was unsubstantiated by concrete details.[8] Further, it ruled that the flight of appellant after the commission of the crime was an indication of his guilt.

Hence, this appeal.[9]

The Issue

Appellant raises this lone assignment of error for our consideration:

“The trial court erred in convicting the accused-appellant Edgar Ayupan of the crime of murder despite the insufficient, unreliable testimony of prosecution lone witness Helen Batislaong.”[10]

This Court’s Ruling

The appeal is partly meritorious. Appellant should be convicted only of homicide.

Main Issue:

Credibility of Lone Witness

Appellant argues that the lower court erred in relying on the testimony of the lone prosecution witness, Helen Batislaong, because her testimony was not corroborated by other witnesses. We disagree.[11]

It is well-settled that the testimony of a lone witness -- if found by the trial court to be positive, categorical and credible -- is sufficient to support a conviction. This is so, especially if the testimony bore the earmarks of truth and sincerity and was delivered spontaneously, naturally and in a straightforward manner.[12] Corroborative evidence is necessary only when there are reasons to suspect that the witness bent the truth, or that his or her observation was inaccurate.[13] Evidence is assessed in terms of quality, not quantity. It is to be weighed, not counted.[14] Therefore, it is not uncommon to reach a conclusion of guilt on the basis of the testimony of a lone witness.[15]

In the case at bar, the prosecution could have presented two other witnesses, Rodrigo L. Demayo and Noel T. Estebal, but both died before they could testify.[16] Be that as it may, the trial court found Batislaong’s narration of the incident straightforward and categorical. She testified thus:

“ATTY TEODOSIO ON
DIRECT EXAMINATION:

May it please the honorable court.

Q

Miss Batislaong, you said you are a resident of Batad, Iloilo[;] since when have you been a resident of Batad, Iloilo?

A

Since I was small.

Q

Do you know the accused in this case Edgar Ayupan?

A

Yes, sir.

Q

If he is present inside this courtroom will you please point to us Edgar Ayupan?

A

Yes, sir.

Q

Where is he?

A

(Witness pointing to a person inside the courtroom who upon being asked his name, x x x answered Edgar Ayupan)

Q

On the evening of June 26, 1984, do you remember where were you?

A

I was at the dance hall.

COURT:

(to witness)

Where is that dance hall?

THE WITNESS:

At Hamod, Batad, Iloilo.

xxx xxx xxx

Q

In going [to] the dance hall from your house, [did] you have any companions?

A

My younger sister and my cousin.

xxx xxx xxx

Q

What was your purpose in going to the dance hall?

A

To watch the dance.

Q

At about 12:00 o'clock midnight[,] June 26, 1984, could you tell us if there was anything unusual that happened in that dance hall?

A

There was a commotion.

Q

Where were you when you noticed that there was a commotion?

A

I was inside the dance hall on the bench.

Q

And because you notice that there was a commotion, what did you do if any?

A

I ran [to] the center of the dance hall to see x x x what happened.

Q

Why did you r[u]n towards the middle of the dance hall to see what happened?

A

Because I ha[d] to see x x x who were fighting because my cousin was no longer with me.

Q

And what did you observe when you proceeded to the middle portion of the dance hall?

A

I saw Francisco Mendoza lying [down while] being stabbed by Edgar.

Q

What is the family name of this Francisco?

A

Mendoza.

Q

And what is the family name of this Edgar?

A

Ayupan.

Q

This Edgar Ayupan whom you said was stabbing Francisco Mendoza, was he the same Edgar Ayupan whom you identified a while ago as the accused in this case?

A

Yes, sir.

Q

And do you know what kind of weapon was being used by Edgar Ayupan when you saw him [stabbing] Francisco Mendoza?

A

A knife.

Q

What was the position of Francisco Mendoza when he was stabbed by Edgar Ayupan?

A

He was lying [down].

Q

Where was he lying [down]?

A

At the center of the dance hall.

Q

And how about this Edgar Ayupan[,] where was he situated in relation to Francisco Mendoza when he stabbed Francisco Mendoza while the latter was lying on the ground?

A

Near the knee and he was kneeling.

xxx xxx xxx

Q

How many times did Edgar Ayupan stab Francisco Mendoza?

A

Many times.

Q

Now what did you do when you saw Edgar Ayupan kneeling somewhere on the knee portion of the body of Francisco Mendoza, at the same time stabbing Francisco Mendoza?

A

I shouted why he stabbed Francisco Mendoza because he ha[d] no fault.

Q

In what part of the body of . Were you able to see if Francisco Mendoza was hit when he was stabbed for several times by Edgar Ayupan?

A

Yes, sir.

Q

And could you tell the Court in what part of the body of Francisco Mendoza was hit when he was stabbed for several times by Edgar Ayupan?

A

On the chest.

Q

Now after you shouted considering that you saw Edgar Ayupan [stab] Francisco Mendoza for several times what next happened?

A

I shouted for help [for] Francisco Mendoza.

Q

Then what happened next?

A

Nobody help[ed] us because most people ran away.

Q

After Edgar Ayupan stabbed Francisco Mendoza for several times[,] what [happened next]?

A

He ran away.

Q

Aside from - do you know if Edgar Ayupan had other companions?

A

Yes, sir.

Q

And where [were] his companions at that time that he was stabbing Francisco Mendoza?

A

Just near him.

Q

Now you said - what happened to the companions of Edgar Ayupan after Edgar Ayupan ran away?

ATTY. LAUREA:

Incompetent, your honor, he would be incompetent as to what happened to the companions of Edgar Ayupan after he ran away.

COURT:

What happened to the companions after he ran away?

ATTY. TEDOSIO:

What happened to the companions of Edgar after Edgar Ayupan ran away?

A

They ran away together.

Q

Now after Edgar Ayupan and his companions ha[d] left, what did you do?

A

I shouted and cried for help for Francisco Mendoza.

Q

Then what next happened when you were there?

A

When I was there[,] the barangay captain also went there and [saw] who was there and he was left there and I was brought by the barangay captain, because I was crying[;] since I [could] not walk, they just brought me home.

Q

Were you able to reach your house?

A

Yes, sir, I was brought by my younger sister and my cousin.

Q

Could you tell the Court how were you able to recognize Edgar Ayupan as the person whom you saw [stab] for several times Francisco Mendoza, considering that it was night?

A

Because I already knew him and he is also from Batad.”[17]

Moreover, Batislaong had a clear view of the stabbing incident as shown by the following:

“ATTY. TEODOSIO:

How far were you from Edgar Ayupan and Francisco Mendoza when you saw Edgar Ayupan [stab] Francisco Mendoza?

A

Four (4) meters.

Q

And where were you situated in relation to Francisco Mendoza who was lying on the ground when he was stabbed by Edgar Ayupan?

A

Somewhere on the head of Francisco Mendoza

xxx xxx xxx

Q

What was a condition of the light at that time in that dance hall when you saw Edgar Ayupan [stab] Francisco

Mendoza?

A

The light was bright.

Q

And from where [did] this brightness come x x x?

THE WITNESS:

Because the light [was] near x x x them because they [were] in the center of the dance hall.

ATTY. TEODOSIO:

That would be all for the witness.

xxx xxx xxx

That would be all.”[18]

Based on the foregoing, we find no reason to disturb the factual findings of the RTC. Time and time again, we have held that the credibility of witnesses is a matter best left to the determination of the trial court because of its unique advantage of observing them firsthand; and of noting their demeanor, conduct and attitude.[19] It is aided by various indicia that could not be readily seen on the records. The “candid answer, the hesitant pause, the nervous voice, the undertone, the befuddled look, the honest gaze, the modest blush, or the guilty blanch”[20] -- these reveal if the witness is reciting the whole truth or merely weaving a web of lies and deceptions.

Positive Identification

Well-settled is the rule that the positive identification of the accused -- when categorical and consistent and without any ill motive on the part of the eyewitness testifying on the matter -- prevails over alibi and denial which are negative and self-serving, undeserving of weight in law.[21]

In the present case, there is no doubt that Batislaong’s testimony positively identified appellant as the perpetrator of the crime. First, she had a clear view of the stabbing incident, as she was standing just four (4) meters from the victim. Moreover, the dance hall was sufficiently illuminated. As a witness to a violent incident, she strove to see

the appearance of the perpetrators of the crime and observe the manner in which it was committed.[22] Second, the medicolegal's testimony[23] and Medical Report[24] corroborated her recollection of the specific details of the crime -- the stabbing of the victim on the chest several times, the use of a knife, and the position of the assailant. A detailed testimony acquires greater weight and credibility when confirmed by autopsy findings.[25]

The fact that Batislaong is a relative of the victim does not necessarily taint her testimony. We have held that blood relationship between a witness and the victim does not, by itself, impair the former's credibility. On the contrary, relationship may strengthen credibility, for it is unnatural for an aggrieved relative to falsely accuse someone other than the real culprit.[26]

On the other hand, while appellant denies being the perpetrator of the crime, he admits that he was in the dance hall where the victim was stabbed to death. His claim that he was unconscious at that particular instant does not persuade.

The denial by appellant is inherently weak and must fail vis-à-vis Batislaong's positive declaration affirming that he was at the scene of the crime and was its perpetrator.[27] It was not physically impossible for him to be at the locus criminis.[28] More so, undisputed is his admission that, prior to the stabbing incident, his hand was slapped by the victim when the former asked a lady for a dance.[29]

When there is no evidence to indicate that the principal witness for the prosecution was moved by an improper motive, the presumption is that such motive was absent, and that the witness' testimony is entitled to full faith and credit.[30] Between appellant's denial and the witness' positive testimony, there is no doubt that the latter is entitled to credence.

Delay in Reporting

In a futile attempt to discredit Batislaong, appellant argues that since she did not immediately report the incident to the police, her testimony deserves scant consideration. We are not convinced.

We have held that different people react differently to a given stimulus or type of situation, and there is no standard form of behavioral response when one is confronted with a strange, startling or frightful experience.[31] Delay in a witness' reporting of a crime to police authorities, when adequately explained, does not impair that witness' credibility.[32]

In the present case, Batislaong explained that, initially, she was nervous and afraid to report the incident.[33] In fact, she had to be brought home, as she was weak from crying after witnessing the stabbing incident.[34] Thus, it was quite understandable that she did not immediately report the identity of the offender after the startling occurrence, which became an even more traumatic experience because she was related to the victim.[35] Moreover, there is no rule that the suspect in a crime should be immediately named by a witness.[36]

Appellant's Flight

The crime happened in June 1984, and the indictments against appellant commenced only in 1995. In addition, he claims that the prosecution has no record to show that the facts of the case have been preserved. We disagree.

First, as correctly pointed out by the solicitor general,[37] the relevant documents had been preserved before the case was archived. Second, appellant is to blame for the delay in the prosecution of this case. A review of the records reveals that an Order for his arrest was issued on July 24, 1984.[38] For failure to serve the warrant of arrest, another Order was issued on November 22, 1984, implementing an alias warrant of arrest against him.[39] Because he remained at large, another alias warrant of arrest was issued on August 20, 1987.[40]

Thereafter, the case was archived on November 29, 1989, in view of several failed attempts to apprehend him. It

was only in 1995 -- ten years after the commission of the crime -- that he was arrested by the police, although in connection with another crime attributed to him.

In criminal law, flight means the act of evading the course of justice by voluntarily withdrawing oneself to avoid arrest or detention or the institution or continuance of criminal proceedings. The unexplained flight of the accused may, as a general rule, be taken as evidence tending to establish guilt.[41]

In the present case, it is interesting to note that as soon as the Information was filed and the corresponding warrant of arrest issued, appellant could not be found in Batad, resulting in the archiving of the case. It is thus plain that he left the place to avoid arrest and prosecution.[42] If it were true that he never left Batad, as he claims, he should have been apprehended by the police a long time ago. Indeed, his flight to Masbate is an indication of his guilt.

Treachery

In his Reply,[43] appellant argues that if he was responsible for the death of the victim, he would be guilty only of homicide, because the qualifying circumstance of treachery was not proven.

We are convinced. Well-settled is the rule that treachery must be proved by clear and convincing evidence as conclusively as the killing itself.[44] Any doubt as to the existence of treachery must be resolved in favor of the accused.[45] There is treachery when the offender commits any of the crimes against the person, employing means, methods, or forms in the execution thereof, tending directly and specially to insure its execution without risk to himself arising from the defense which the offended party might make.[46] To appreciate treachery, two conditions must be present: (1) the employment of means of execution that gives the person attacked no opportunity for self-defense or for retaliation and (2) the deliberate or conscious adoption of the means of execution.[47]

The RTC explained that the crime had been attended by treachery because, at the moment of its commission, appellant stabbed the victim who was lying on the ground. It rationalized that such a situation propelled the method of attack to a successful accomplishment of the criminal act without exposing the accused to any possible retaliation from the victim.[48]

True, the essence of treachery is the swiftness and the unexpectedness of an attack upon an unsuspecting and unarmed victim who has not given the slightest provocation.[49] However, the suddenness of the attack does not by itself suffice to support a finding of *alevosia*, even if the purpose is to kill, so long as the decision is sudden and the victim's helpless position is accidental.[50] In order to appreciate treachery as a modifying circumstance in a continuous aggression, as in the present case, it must be shown to have been present at the inception of the attack.[51]

We hold that the second requisite was not sufficiently established by the prosecution. It was not able to show that appellant had deliberately adopted the attack, considering that it was executed during a commotion and as a result of it.[52] The lower court failed to consider that the lone eyewitness could not have had any knowledge of it. She arrived at the scene sometime after the stabbing started; thus, she could not testify on whether there was provocation on the part of the victim.[53]

It must be pointed out that appellant and the victim had an altercation prior to the stabbing incident. Indeed, the attack could have been done on impulse as a reaction to the latter's actual or imagined provocation. Such provocation negated the presence of treachery, even if the attack may have been sudden and unexpected.[54]

Further, the mere fact that, according to the testimony of the medicolegal officer, several stab wounds were

inflicted on the victim --who was either sitting or lying down - did not show treachery unless there was evidence that such form of attack had purposely been adopted by the accused.[55] Also, the fact that a bladed weapon was used did not per se make the attack treacherous.[56]

Absent any particulars as to the manner in which the aggression commenced, treachery cannot be appreciated.[57] One cannot substitute mere suppositions for a hiatus in the prosecution's evidence, as the trial court apparently did.[58] Since the lone prosecution witness failed to see how the attack had been initiated on the victim, the qualifying circumstance of treachery cannot be applied.[59] Thus, appellant can be convicted only of homicide,[60] for which the imposable penalty under the Revised Penal Code is reclusion temporal.

Applying the Indeterminate Sentence Law and considering the absence of aggravating or mitigating circumstances, the proper penalty is prision mayor in its medium period, as minimum, to reclusion temporal in its medium period, as maximum.[61]

WHEREFORE, the appealed Decision is hereby MODIFIED. Appellant is CONVICTED of homicide and sentenced to an indeterminate penalty of eight (8) years and one (1) day of prision mayor medium, as minimum to 14 years eight (8) months and one (1) day of reclusion temporal medium, as maximum. The civil indemnity awarded by the RTC is AFFIRMED. No pronouncement as to costs.

SO ORDERED.

Melo, (Chairman), Vitug, Sandoval-Gutierrez, and Carpio, JJ., concur.

[1] Written by Judge Virgilio M. Patag; rollo, pp. 20-31; records, pp. 197-208.

[2] Rollo, p.9; records, p. 1.

[3] Atty. Von Lovel Bedona.

[4] Order dated November 28, 1995; records, p. 81.

[5] Assailed Decision, pp. 11-12; rollo, pp. 30-31; records, pp. 207-208.

[6] Appellee's Brief, pp. 4-6; rollo, pp. 91-93. The Brief was signed by Solicitor General Simeon V. Marcelo, Assistant Solicitor General Azucena R. Balanon-Corpuz and Associate Solicitor Jonathan L. de la Vega.

[7] Appellant's Brief, pp. 4-5; rollo, pp. 50-51. The Brief was signed by Attys. Arceli A. Rubin, Teresita S. de Guzman, and Liwayway J. Nazal, all of the Public Attorney's Office.

[8] Assailed Decision, pp.10-11; rollo, pp. 29-30.

[9] This case was deemed submitted for resolution on August 28, 2001, upon receipt by this Court of appellant's Reply Brief.

[10] Rollo, p. 47.

[11] Appellant's Brief, p. 6; rollo, p. 52.

[12] *People v. Navarro*, 297 SCRA 331, October 7, 1998; *People v. Villanueva*, 284 SCRA 501, June 22, 1998; *People v. Hayahay*, 279 SCRA 567, September 26, 1997.

[13] *People v. Hillado*, 307 SCRA 535, May 24, 1999, citing *People v. De la Cruz*, 207 SCRA 632, March 31, 1992.

- [14] *People v. Hillado*, supra, citing *People v. De Roxas*, 241 SCRA 369, February 15, 1995.
- [15] *People v. Tulop*, 289 SCRA 316, April 21, 1998.
- [16] TSN, February 10, 1997, p. 4; records, pp. 140-142.
- [17] TSN, September 11, 1996, pp. 4-9.
- [18] TSN, September 11, 1996, pp. 7, 9-10.
- [19] *People v. Milliam*, 324 SCRA 155, 167, January 31, 2000.
- [20] *People v. Bonito*, 342 SCRA 405, 420-421, October 10, 2000, per Puno, J.
- [21] *People v. Lovedorial*, GR No. 139340, January 17, 2001, citing *People v. Enriquez*, 292 SCRA 656, July 20, 1998.
- [22] *People v. Pulusan*, 290 SCRA 353, May 21, 1998.
- [23] TSN, June 19, 1996, pp. 7-10.
- [24] Records, p. 11.
- [25] *People v. Leal*, GR No. 139313, June 19, 2001; *People v. Molina*, 312 SCRA 130, August 10, 1999; *People v. De Guia*, 280 SCRA 141, October 2, 1997.
- [26] *People v. Tayco*, GR No. 138609, January 17, 2001, citing *People v. Realm*, 301 SCRA 495, January 21, 1999.
- [27] *People v. Sesbreño*, 314 SCRA 87, September 9, 1999.
- [28] *People v. Dee*, 342 SCRA 115, October 5, 2000.
- [29] TSN, November 19, 1997, pp. 6-7.
- [30] *People v. Cabuang*, 217 SCRA 675, January 27, 1993.
- [31] *People v. Espero*, 346 SCRA 617, 624, December 1, 2000.
- [32] *People v. Hilot*, 342 SCRA 128, 135, October 5, 2000.
- [33] TSN, September 11, 1996, p. 11.
- [34] TSN, September 11, 1996, p. 9.
- [35] *People v. Lovedorial*, supra, citing *People v. Nang*, 289 SCRA 16, April 15, 1998.
- [36] *People v. Hilot*, supra, citing *People v. Queliza*, 279 SCRA 145, September 15, 1997.
- [37] Appellee's Brief, pp. 11-15; rollo, pp. 98-102.
- [38] Records, p. 13.
- [39] Exhibit "F"; records, p. 17.
- [40] Records, p. 21.
- [41] *People v. Cirilo*, 346 SCRA 648, December 1, 2000.
- [42] *People v. Bionat*, 278 SCRA 454, September 4, 1997.

- [43] Rollo, p. 121.
- [44] *People v. Orio*, 330 SCRA 576, April 12, 2000.
- [45] *People v. Santos*, 332 SCRA 394, May 31, 2000.
- [46] Section 16, Article 14, Revised Penal Code.
- [47] *People v. Arrojado*, GR No. 130492, January 31, 2001.
- [48] Assailed Decision, p. 11; rollo, p. 30.
- [49] *People v. Ubaldo*, 342 SCRA 338, October 9, 2000, citing *People v. Rebamontan*, 305 SCRA 609, April 13, 1999.
- [50] *People v. Templo*, supra.
- [51] *People v. Porras*, 255 SCRA 514, March 29, 1996.
- [52] *People v. Cabareno*, GR No. 138645, January 16, 2001.
- [53] *People v. Macaliag*, 337 SCRA 502, August 9, 2000.
- [54] *People v. Sabanal*, 172 SCRA 430, April 18, 1989.
- [55] *People v. Garcia*, 258 SCRA 411, July 5, 1996.
- [56] *People v. Hilot*, supra.
- [57] *People v. Nalangan*, 270 SCRA 234, March 20, 1997.
- [58] *People v. Porras*, 255, supra.
- [59] *People v. Amamangpang*, 291 SCRA 638, July 2, 1998, citing *People v. Salvador*, 224 SCRA 819, July 30, 1993; and *People v. Cordero*, 217 SCRA 1, January 5, 1993.
- [60] *People v. Hilot*, supra.
- [61] *People v. De Mesa*, GR No. 137036, March 14, 2001.

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