

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. EDUARDO FELIPE (AT LARGE), MA. LOURDES FELIPE AND DIONISIO FELIPE, ACCUSED,

G.R. No. 142505. December 11, 2003

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

In rejecting this appeal, the Court reiterates the well-entrenched rule that the factual findings of trial courts are entitled to great respect and will not be disturbed unless they plainly overlooked or neglected material evidence which, if considered, will affect the disposition of the case.

The Case

Before us is an appeal from the October 6, 1999 Decision[1] of the Regional Trial Court (RTC) of Malolos, Bulacan (Branch 82) in Criminal Case No. 16- M-95, convicting Dionisio Felipe and Ma. Lourdes Felipe of murder and sentencing them to reclusion perpetua.

The decretal portion of the RTC Decision reads as follows:

"IN VIEW OF THE FOREGOING, the Court finds accused DIONISIO FELIPE and MA. LOURDES FELIPE GUILTY beyond reasonable doubt of the crime of Murder, qualified by treachery, as defined in and penalized under Article 248 of the Revised Penal Code, and hereby sentences each of them to suffer the penalty of Reclusion Perpetua, and to indemnify the heirs of their victim Eduardo Bagtas, jointly and severally, the sum of P50,000.00.

"Let the records of the above-entitled case be sent to the files for archives with respect to accused EDUARDO FELIPE, who remains at large, without prejudice to the revival of the case when supervening circumstances so warrant."[2]

The Information[3] dated December 29, 1994, charged appellants, together with their co-accused Eduardo Felipe, as follows:

"That on or about the 20[th] day of November 1994, in the municipality of San Miguel, province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, armed with bladed weapon and pieces of wood and with intent to kill one Eduardo Bagtas, conspiring, confederating and mutually helping one another, did then and there wilfully, unlawfully and feloniously, with evident premeditation, abuse of superior strength and treachery, attack, assault and stab with the said bladed weapon the said Eduardo Bagtas, hitting the latter on the different parts of his body, thereby causing him serious physical injuries which directly caused his death."[4]

Although appellants have remained in detention, their co-accused -- Eduardo Felipe -- has remained at large. During their arraignment on July 5, 1995, appellants, assisted by counsel de oficio,[5] pleaded not guilty after the Information had been read to them in a language that they fully understood.[6] After trial on the merits, the lower court promulgated its assailed Decision. Counsel[7] for appellants then filed the Notice of Appeal[8] on

December 9, 1999.

The Facts

Version of the Prosecution

In its Brief,[9] the Office of the Solicitor General (OSG) presents the prosecution's version of the facts as follows:

"About 10:00 in the evening of November 20, 1994, Willy, Gerardo, Randy and Eduardo, all surnamed Bagtas, were walking along the irrigation canal situated in Batasang Matanda, San Miguel, Bulacan. They were going home from the wake of the late Bibang de los Reyes. Upon reaching the part of the feeder road where both sides are covered by about seven (7) feet tall 'talahib' grasses, accused Eduardo Felipe and herein appellants suddenly emerged from the 'talahib' grasses. Since the moon was brightly shining and being their neighbors, Willy, Gerardo and Randy were able to recognize them. As Eduardo Felipe was coming out from the 'talahib' he uttered 'wala na kayong ligtas' and suddenly hacked by the use of a scythe the neck of Eduardo Bagtas, which caused the latter to fall down on the ground. Appellants Lourdes and Dionisio uttered '[s]ige patayin mo, patayin mo.['] While blocking the road, appellants told the group '[h] uwag kayong makialam, pati kayo mamamatay.' Appellant Dionisio or Boy Bulag stated, 'mamamatay kayong lahat dahil galit kami sa mga Bagtas.' Willy, Gerardo and Randy were shocked and when they recovered their wits, they tried to help Eduardo Bagtas. But because of the threats of accused Eduardo Felipe and the two appellants, they got scared and ran away from where the victim Eduardo Bagtas was being hacked.

"On that same night of November 20, 1994, Hipolito Bagtas was irrigating his palay fields when suddenly Randy Bagtas emerged running and told him about the hacking incident. Thereafter, Hipolito went to the scene of the incident and saw, by the bright light of the moon, Eduardo Bagtas lying on the ground while still being hacked by accused Eduardo Felipe and being hit [by] a piece of wood by Dionisio Felipe. Hipolito saw the incident while he remained hidden by the 'talahib' grasses. Hipolito heard appellant Lourdes Felipe saying, '[d]alian natin, umalis na tayo, baka tayo abutan.'

"The bloody cadaver of Eduardo Bagtas was brought in front of his father Almario's house at Batasang Matanda, San Miguel, Bulacan. Out of anger, the Bagtas family shouted and threw stones at the house of Eduardo Felipe and appellants.

"Marifel Dulo, a common neighbor of the Bagtas and Felipe families, testified that about midnight of November 20, 1994, appellant Ma. Lourdes went to their house. Ma. Lourdes borrowed Marifel's t-shirt to change her blood-stained striped t-shirt. Marifel brought the already washed t-shirt left to her by Ma. Lourdes to SPO4 George Villena. The t-shirt was duly identified and marked as Exhibit 'C'. The t-shirt which Marifel lent to Ma. Lourdes and later reacquired by her was likewise identified and marked as Exhibit 'Q'. On that same night, Marifel executed her affidavit stating that appellant Ma. Lourdes told her, '[n]akapatay kami' and that when Ma. Lourdes said 'kami' she was referring to [her] brother, appellant Dionisio, and nephew, accused Eduardo Felipe. Marifel also alleged that appellant also told her that same night that they killed Eduardo Bagtas in the field, which was only about 150 meters away from her house. Marifel is a good friend of appellant Ma. Lourdes.

"Batasang Matanda, San Miguel, Bulacan Brgy. Captain Diogracias Francisco testified: When he went to the crime scene, he saw the victim dead, lying with his face towards the ground. On that same night, he and some policemen went to the house of appellant Ma. Lourdes and was told that the latter was sleeping. When appellant Ma. Lourdes was awakened and appeared, Francisco saw that there was mud all over said appellant's feet. He was told by appellant Ma. Lourdes, 'I did not do it' and 'lumusong nga ako at pinigil ko sila' in the presence of the policemen who were with him.

"Brgy. Captain Nestor Sangalang of Brgy. Lourdes, Candaba, Pampanga (adjacent to Brgy. Batasang Matanda, San Miguel, Bulacan) testified that between 1:00 and 2:00 in the morning of November 21, 1994, he saw

appellant Dionisio Felipe or Boy Bulag pass by their Barangay. Having earlier been informed about the incident, Sangalang asked said appellant what he was doing in that place at that time. Appellant Dionisio replied, 'sabit ako sa pagpatay'. Sangalang apprehended and surrendered said appellant to Brgy. Capt. Francisco. The incident of Sangalang's arrest of appellant Dionisio Felipe was entered in the Barangay Blotter of Brgy. Lourdes, Candaba, Pampanga.

"Dr. Lilia C. Aure conducted the post mortem examination of victim Eduardo Bagtas and issued a Certificate of Death.

"Dr. Aure described in her testimony the wounds sustained by the victim, as follows:

'The anterior position meaning the front of the body. To the neck is 1 cm. length and the total cut off is from here up to the back. Cut throat at the back neck meaning all the blood vessels, the esophagus, the trachea, the bronchia, all in all the air passage have been cut off totally, the skin left here is only 1 cm., the total cut off, that is why all the organs have been cut off and the upper extremities, the radical arteries are also cut off, both hands and the lower extremities, the anterior side and posterior side have multiple abrasions, numbering so many, as indicated in the diagram.'

"Dr. [Aure] also testified that based on the nature of the injuries (hack wounds and abrasions), there were at least two or more persons who inflicted the wounds [on] the body of the victim. The hack wounds on the neck [were] inflicted by five (5) or more hack blows. The nature and number of the wounds indicate that the victim offered no resistance to his attackers. The wounds must have been caused by a 'sharp instrument, sharp object or bladed' and 'a piece of wood or a blunt instrument'.

x x x x x x x x

"Before the incident in question, the accused Eduardo Felipe's family and the victim Eduardo Bagtas' family had a land boundary dispute. These two families were not in good terms also because the Bagtas family suspected that the Felipe family poisoned their chickens, and in turn, the Felipe family suspected that Almario Bagtas, the father of the victim Eduardo Bagtas, poisoned their chicken. Said quarrel between the two families is recorded in the barangay [b]lotter." [10]

Version of the Defense

Resorting to plain denial, appellants contend that their individual participation in the killing has not been proven beyond reasonable doubt. Further, there was no conspiracy, and the act of one should not be deemed the act of all. They summarize the evidence in their behalf as follows:

"The first witness presented was the accused Ma. Lourdes Felipe who testified that on said date and time she was already in her house since 5:00 o'clock in the afternoon as she was very tired from her planting of palay in the farm of Olimpio Urbano. She did not leave her house until the evening of said date when she was [awakened] by her sister who told her that there were policemen looking for her together with Bgy. Captain Deogracias Francisco who told her to go with them to the Municipal Hall of San Miguel, Bulacan[,] telling her further that she was involved in the killing of Eduardo Bagtas. She denied having passed the house of Marifel Dulo on the night of November 24, 1994 and the reason why she has the T- shirt of Marifel [was] that it was given to her as a Christmas gift on December 1993 and denied having uttered the following words, '[d]alian natin, umalis na tayo, baka tayo abutan.' She denied any participation in the killing of Eduardo Bagtas.

"On cross-examination[,] she admitted having borrowed or given a T-shirt by Marifel which T-shirt according to her was given to her by Marifel on December 25, 1993 as a gift. She stated that she has not given any gift to any other person before 1994.

"For his defense, Dionisio Felipe testified as follows: He stated that he is a resident of Batasang Matanda, San Miguel, Bulacan since birth. Between the hours of 10:00 to 11:00 o'clock in the evening of November 10,

1994, he was in their house at Batasang Matanda, San Miguel, Bulacan and from 8:00 o'clock in the morning up to 9:00 in the evening, he was at San Fernando Pampanga, as he attended the [interment] of his relative. He was with Olimpio Urbano and Marciana Bagtas to attend the [interment] of his relative on that said date and upon his return from the [interment] of his relative, he drove the vehicle of Olimpio Urbano to convey passengers to their respective residences. After conveying or transporting his passengers, he arrived [at] his home at about 9:00 o'clock in the evening and after resting for a while, he transfer[red] to the house of his sister to rest which is just located more than one (1) meter away from his house. He rested and watched the television and slept there from 8:00 to 9:00 in the morning. While asleep, he was awakened by his sister Ma. Lourdes Felipe (Baby) from whom he came to know that he was being taken by the policemen to San Miguel, Bulacan. After he was awakened from the house of his sister Baby, he was taken by the policemen to fetch his brother-in-law and another sister by the name of Linda at Batasang Bata, but was not able to fetch them. He further testified that there is no truth [to] the testimony of Brgy. Captain Nestor Sanggalang of Brgy. Lourdes, Candaba, Pampanga of the prosecution that when he met him, he told Brgy. Captain Sanggalang that '[n]asabit ako sa patayan' because the truth of the matter is that he was not able to get to the house of his sister on that time and date.

"On cross[-]examination, he admitted that he did not know the name of the deceased whose funeral he allegedly attended in San Fernando, Pampanga and who is not in any way related to him. When he suddenly decided to take the usual route in going to his sister and brother-in-law and passed by Brgy. Lourdes, he was confronted by unknown persons.

"In support of their defense, Marissa Velasquez testified that she is a resident of Batasang Matanda, San Miguel, Bulacan[,] since birth up to the present. She knows Eduardo Felipe, one of the accused in this case who is still at large, being her cousin. On the evening of November 20, 1994, while she was in their house together with her family, Eduardo Felipe came to their house knocking their door rapidly and she opened the door. After she opened the door, she saw Eduardo Felipe bloodied and was asked by Eduardo Felipe to fetch his parents at Batasang Matanda, San Miguel, Bulacan because he killed somebody. She was able to ask Eduardo Felipe who was killed by him and he answered Eduardo Bagtas. She further asked who are his companions and answered that he was alone. Because of his request to fetch his parents, she went to Batasang Matanda in the following morning to inform the parents of Eduardo Felipe and that they are being requested by Eduardo Felipe to fetch them.

"The last defense witness was Edna Reyes who testified that on November 20, 1994, she was in the house of her brother Glandino delos Reyes at Batasang Matanda, San Miguel, Bulacan at about 8:00 o'clock in the evening because her auntie died on that day. They attended the wake of [their] auntie at Batasang Matanda. [Her] brother invited them to sleep in their house with her father Joaquin delos Reyes and when they reached the house of her brother, it was already past 8:00 o'clock in the evening. Dionisio (Boy) Felipe and Ma. Lourdes (Baby) Felipe [were] in the house of [her] brother when they came. Baby Felipe was sleeping in the house near the house of her brother. At about past 10:00 o'clock in the evening, they heard two (2) gunshots and noise coming from the compound of the victim. Boy Felipe was there and later on her brother opened the door, so they heard the shoutings. At first she heard that somebody died and she heard the shout 'Ed, bakit mo pinatay si Edward?' After she heard that noise, they learned that the house of Eduardo Felipe was being stoned. After a few minutes when she heard those shoutings, the police officers together with the Brgy. Captain of Batasang Matanda came and they proceeded to the compound of his brother because they want to talk to Baby Felipe. For them to talk to Baby Felipe, they instructed her sister-in-law Marciana to wake up Baby Felipe, who was already sleeping at that time. After Baby Felipe was awakened by her sister-in-law, Brgy. Captain and his companions brought Baby Felipe immediately to the Municipal Hall but Boy Felipe stayed in the house of her brother. When Baby Felipe immediately was brought by the Brgy. Captain and his companions, she started to panic and said that they have no involvement in the killing. Her sister-in-law followed Baby Felipe in the Municipal Hall where she was brought by the Brgy. Captain and his companions. Boy Felipe proceeded to the house of his brother to fetch the latter and she saw Boy Felipe when he left. She found out on the following

day that Boy Felipe and Baby Felipe were arrested and incarcerated.

"On cross[-]examination, she stated that she only heard the voice of an old woman shouting, 'Ed, bakit mo pinatay si Eduard' but she cannot recognize her because they did not do anything when the house of the assailants was being stoned." [11]

Ruling of the Trial Court

Confronted with a question of credibility, the trial court opted to give more weight to the testimony of the prosecution witnesses. In particular, it described as unaffected and convincing the testimonies of the following: 1) Willy, Gerardo and Randy -- all surnamed Bagtas; 2) Marifel Dulo, a common neighbor of appellants and the victim; 3) Deogracias Francisco, the barangay captain who had gone to the house of Appellant Ma. Lourdes Felipe after the hacking incident; and 4) Dr. Lilia C. Aure, who had conducted the autopsy on the victim.

The court a quo ruled that the three accused had clearly acted in concert in killing the victim. It also dismissed appellants' denial and alibi, holding that such defenses could not prevail over the positive testimonies of the prosecution witnesses.

Finally, the lower court held that the killing was qualified by treachery. However, it rejected the allegation of evident premeditation for insufficiency of evidence.

Hence, this appeal. [12]

The Issues

In their appeal, appellants raise the following alleged errors of the trial court:

"I. The trial court gravely erred in holding that there was conspiracy among the accused.

"II. The trial court erred in not giving weight and credence to the testimony of all the defense witnesses, which if considered will lend a reasonable doubt on their guilt." [13]

The Court's Ruling

The appeal is unmeritorious.

Main Issue:

Prosecution Evidence Vis-à-Vis Conspiracy

The defense anchors its case on the testimony of Marisa Vasquez. She testified that on the night in question, Eduardo Felipe had gone to her house to ask her to fetch his parents. When she asked him what had happened, he admitted having killed Eduardo Bagtas. [14] In reply to her question who his companions were, he said that he was alone. [15] Relying on this testimony, appellants now question the finding of conspiracy. They maintain that the only evidence that implicates Ma. Lourdes Felipe "was her dirty feet, and when summoned by the police, she was there in her house already sleeping." [16]

As in most criminal cases, the crux of the controversy lies in the evaluation of the credibility of the witnesses. [17] In the present case, the lower court based its decision on the positive and categorical testimonies of the prosecution witnesses. It ruled as follows:

"The Court finds no cause to doubt the testimony of the prosecution witnesses who were keenly perceived by the Court to have delivered narrations of the events and their observations of what transpired in their presence in a direct, unaffected and convincing manner x x x." [18]

After judiciously reviewing the testimonies of all the witnesses, we find no cogent reason to reject the trial court's

evaluation. The three key ones presented by the government were the actual companions of the victim on the night he was killed. Willy Bagtas testified in this manner:

"Atty. Kliatchko:

Q

You said `we,' who were your companions?

A

Randy Bagtas, Eduardo Bagtas and Gerry Bagtas, Sir.

Q

In going home, where did you pass together with your companions?

A

On the road of the irrigation, Sir.

Q

While you were walking on the road of the irrigation together with your companions, was there anything unusual that happened?

A

Yes, Sir.

Q

What happened, please tell this Honorable Court?

A

While we were walking along the road these accused suddenly appeared coming from the `talahiban,' Sir.

Atty. Liwanag:

We would like to request that the answer of the witness in Tagalog, Your Honor, `nanggaling sa talahiban,' be reflected on the record.

Note: (Interpreter repeating the answer of the witness)

While we were walking along the road these accused suddenly appeared coming from the `talahiban.'
(Nanggaling sa talahiban.)

Atty. Kliatchko:

Q

You stated that when you were walking and upon reaching that place where `talahib' grasses [grew] in abundance the three persons suddenly appeared and you mentioned the names of Eduardo Felipe, Dionisio Felipe and Ma. Lourdes Felipe, will you please point to Dionisio Felipe if he is in Court?

A

Yes, Sir.

Q

Will you please point to him?

A

He is there, Sir. (Witness pointing to a person who is wearing a stripe T-shirt, and when asked his name answered that he is Dionisio Felipe.)

Q

How about this Ma. Lourdes Felipe, if she is in Court will you please point to her?

A

Yes, Sir.

Q

Please point to her?

A

She is there, Sir. (Witness pointing to a woman who is wearing a green T-shirt, and when asked her name answered that she is Maria Lourdes Felipe.)

Q

How about this Eduardo Felipe, if he is in Court, please point to him?

A

He is not around, Sir.

Q

Do you know by what other name this Dionisio Felipe is also known? I am referring to his nickname or alias if you know?

A

Yes, Sir.

Q

What?

A

Boy Bulag, Sir.

Q

How about this Maria Lourdes Felipe, do you know if she is known by any other name or alias?

A

Baby tomboy, Sir.

Q

When, according to you, you and your companions were walking on the irrigation road there were several persons who suddenly appeared coming from the `talahiban,' who were those persons?

A

Ed, Baby and Boy, Sir.

Q

When you said Eduardo, Baby and Boy, are you referring to these three accused?

A

Yes, Sir.

Q

Now, when these three persons suddenly appeared in that area where `talahib' grasses [grew] in abundance, what happened?

A

Ed hacked Eduardo Bagtas, Sir.

Q

Who is this Ed whom you are referring to who killed Eduardo Bagtas?

A

Eduardo Felipe, Sir.

Q

When Eduardo Bagtas was hacked by Eduardo Felipe, in what part of his body was he hit by hacking?

A

On the neck, Sir.

Q

And when Eduardo Bagtas was hacked on his neck, what happened to him?

A

He fell down, Sir.

Q

When Eduardo Bagtas, after he was hacked on his neck by Ed, fell to the ground, then what happened?

A

Baby and Boy told Ed `sige patayin mo, sige patayin mo,' Sir.

Q

At this stage x x x, what did you and your companions do?

A

We were shocked then, Sir.

Q

After suffering from that shock because you said you were `nabigla,' what, if any, did you and your companions do?

A

We ran, Sir.

Q

Who ran with you?

A

Gerry, Randy and myself, Sir.

Q

And when the three of you ran away, where was Eduardo Bagtas, the person who was hacked on his neck?

A

We left him, Sir.

Q

Where did you and your companions proceed when you ran away?

A

I proceeded to our house, Sir.

Q

How about Randy and Gerry, where did they proceed?

A

We separated from one another, Sir.

Q

After you reached your house, then what happened if anything happened?

A

I told it to my brother Almario, Sir.

Q

What exactly did you tell your brother Almario?

A

I told him Ed hacked Eduardo Bagtas together with Baby and Boy, Sir."[19]

x x x x x x x x

"Q

By the way, what was the weapon used by Ed Felipe in hacking Eduardo Bagtas?

A

Scythe (karet), Sir.

Q

Will [you] describe that weapon which, according to you, you saw Ed Felipe [use] in hacking Eduardo Bagtas?

A

Curved bladed weapon, Sir.

Atty. Kliatchko:

Q

Where is that curve? In what part of the weapon was it located?

A

At the end of the weapon, Sir.

Q

By the way, was there a handle provided in this bladed weapon?

A

Yes, Sir.

Q

Now, which portion of the bladed weapon is curved, the bladed portion or the handle?

A

The bladed portion, Sir.

Q

How about this Dionisio Felipe, what [weapon], if any, did you see him [hold] during the incident?

A

A piece of wood, Sir.

Q

How long was it?

A

More or less, 1-1/1 feet, Sir.

Q

Now, did you see this Dionisio Felipe after the incident?

A

No more, Sir.

Q

How about this Maria Lourdes Felipe alias Baby Tomboy, did you see her again after the incident?

A

No more, Sir.

Q

Did you attend the burial of Eduardo Bagtas?

A

Yes, Sir.

Q

How about the accused Baby Tomboy and Boy Felipe, did you see them [attend] the burial?

A

No, Sir."[20]

On cross-examination, Willy Bagtas identified appellants as follows:

"Q

Last hearing of this case when you testified on direct testimony, you claimed that you were present during the hearing of Eduardo Bagtas, do you remember having stated that?

A

Yes, sir.

Q

Would you recall whether before the said hacking of [Eduardo] Bagtas by Eduardo Felipe there was first a conversation or altercation between them?

A

None, sir.

Q

Now, at the place where this hacking incident took place, Mr. [W]itness, you stated that it was NIA road along the farm, is that correct?

A

Yes, sir, but it is near the field.

Q

How far is that road to the nearest house in that place, Batasang Matanda?

A

More or less 200 meters, sir.

Q

And the place was not lighted, is that correct, because it is a place where there is no Meralco, nor lights that will illuminate the place?

A

There is no light, sir.

Q

And considering that the nearest house is two hundred (200) meters from that place, the lights coming from the house will not reach the place where the alleged incident took place, is it not?

A

Yes, sir.

Q

Now, if that is so, how did you come to recognize Eduardo Felipe and the two (2) other [a]ccused, Baby Felipe and Bulag Felipe?

A

I know them very well because there was a light coming from the moon and they are our neighbors.

Q

When Eduardo Felipe allegedly hacked Eduardo Bagtas, you, as a companion, what did you do, what was your immediate reaction?

Atty. Kliatchko:

Your Honor, the objection here is not a serious one, I would like to put in the record that when this witness testified, he did not say 'allegedly' but [what] he actually saw.

Atty. Liwanag:

Alright, I will consider the word 'alleged' just to avoid any discussion, Your Honor.

Court:

Witness may answer.

A

I was shocked, sir.

Q

You were shocked and you did not do anything?

A

None, sir.

Q

How far were you from Eduardo Bagtas at the time of the hacking?

A

More or less four (4) arms-length, sir.

Q

And how far were you to the two (2) other [a]ccused?

Atty. Kliatchko:

Who among the two?

Atty. Liwanag:

The other [a]ccused Baby and Bulag.

A

More or less five (5) arms-length, sir.

Q

Were you facing them?

A

Yes, sir.

Q

How about your other companions, where were they?

A

They were towards my back following each other.

Q

Did I get you right that at the very moment of the hacking, as stated by you in your direct examination, you ran away together with your companions because according to you, you were afraid?

A

No, sir, we were dispersed from one another."^[21]

The testimony of Gerardo Bagtas is equally positive and convincing, as shown by the following excerpts from his testimony:

"Q

Will you kindly tell this Honorable Court how the death of your brother happened?

A

While we were going home together with Randy and the late Eduardo Bagtas suddenly three persons came out from the `talahiban' and those were Eddie, Baby and Boy, Sir.

Q

When these three persons whom you named as Eddie, Baby and Boy suddenly came out from the `talahiban,' what happened?

A

Eduardo Felipe said `wala na kayong ligtas' and he suddenly hacked Eduardo Bagtas, Sir.

Q

Who suddenly hacked Eduardo Bagtas?

A

Eduardo Felipe, Sir.

Q

And when Eduardo Felipe suddenly hacked Eduardo Bagtas, what were his companions Baby and Boy doing?

A

The two said `sigi patayin mo, patayin mo,' Sir.

Q

Did you see anything from these two when they were uttering those words?

Atty. Liwanag:

Objection, Your Honor, leading.

Court:

Objection sustained.

Atty. Kliatchko:

Q

And then what happened afterwards?

A

The two also said `Huwag kayong makikialam pati kayo mama[ma]tay', Sir.

Q

By the way, who uttered those words?

A

The two, Sir.

Q

Who were those two?

A

Boy and Baby, Sir.

Q

While Baby and Boy were uttering those words, what was Eduardo Felipe doing?

A

He was still hacking my brother, Sir.

Q

Now, this Baby and Boy, if they are present in Court, will you please point to them?

A

Yes, Sir.

Q

Please point to them[.]

A

They are there, Sir. (Witness pointing to a person wearing fuchsia red T-shirt and when asked his name answered that he is Dionisio Felipe and a woman wearing a white T-shirt who when asked her name answered that she is Maria Lourdes Felipe.)

Q

When you and your companions were told that 'Do not interfere otherwise you will die,' what happened after that?

A

When we were about to help our brother Eduardo Bagtas they turned on us, Sir.

Q

Who turned on you and your companions?

A

The two, Sir.

Q

What did these two do? By the way, who were those two?

A

Boy and Baby, Sir.

Q

What did they do, when these two you said confronted you?

A

They chased us, Sir.

Q

And when you were being chased, what happened?

A

We ran away, Sir.

Q

Who ran away with you?

A

My companions Willy, Randy and me, Sir.

Q

What about Eduardo Bagtas?

A

He was left behind, Sir.

Q

Why was he left behind?

A

Because he was hacked, Sir.

Q

And until where were you pursued or chased, you and your companions, x x x by Boy and Baby?

A

They already stopped chasing us, Sir.

Q

Where did you and your companions proceed when these persons Baby and Boy stopped chasing you?

A

I went to my parents and told them what happened, Sir.

Q

How about your other two companions, do you know where they proceeded?

A

Randy went home already and Willy Bagtas went to our house ahead of me, Sir."[22]

Gerardo Bagtas remained unwavering during his cross-examination, pertinent parts of which we reproduce below:

"Q

And at that time, according to your direct testimony, you noticed the accused in the case at around 4 meters from where you were standing, is it not?

A

Yes, Sir.

Q

How were you able to recognize them?

A

Because of the light coming from the moon.

Q

And you want to impress upon the court that the moon was then shining in full moon that's why it was not dark

there as you had claimed before.

A

Yes, Sir.

Q

Is it not true that it was not dark as what you have stated a while ago?

A

It was also dark.

Q

So you want to maintain that it was also dark in that place?

Atty. Kliatchko:

Already answered.

Atty. Liwanag:

I'm on cross[-]examination, it is very vital.

Court:

Answer for the last time.

A

Yes, Sir.

Atty. Liwanag:

You claimed also in your direct testimony that the accused Baby and Boy Bulag ran after you when they turned against you after the other companion x x x Eduardo Felipe hacked Eduardo Bagtas, they turned against you, you and your companion ran away. Where did you proceed?

A

In our house.

Q

Who were your companion[s]?

A

Randy Bagtas while Willy Bagtas went to our house."[23]

x x x x x x x x

"Q

Now back to the scene of the incident, you claim that you have recognized Baby Felipe and Boy Bulag on that night, how were you able to recognize these two persons?

A

Because we are residents of the same barangay and we are neighbors.

Q

What are the particular signs of things that made you recognize them considering that according to you the night is dark and they [were] around 4 meters away from you[?] What signs or what particular identification made you recognize them[?]

A

They are our barangay mates and from their voices alone I know them already.

Q

Did they talk to you that you recognized them[?]

A

No, Sir, but x x x they talked.

Q

What was the particular time when they talked?

A

More or less 10:00 o'clock in the evening.

Q

What did they talk?

A

They told 'huwag kayong makikialam pati kayo ay mama[ma]tay.'

Q

Why did they tell you that?

Atty. Kliatchko:

Incompetent, Your Honor.

Court:

Reform.

Atty. Liwanag:

What was the exact word[s] that according to you they told you then?

A

Sige patayin ninyo, huwag kayong makikialam pati kayo mama[ma]tay.

Q

Who among the three uttered those words[?]

A

The two, Sir.

Int:

Witness referring to Baby Felipe and Boy Bulag.

Atty. Liwanag:

At the time they uttered these words what were they doing?

A

They were just guarding.

Q

What do you mean by they were just guarding?

A

Nakaakma at nakabantay.

Atty. Kliatchko:

May we ask Your Honor that the answer of the witness be quoted in tagalog.

Atty. Liwanag:

Whey you say nakaakma at nakabantay how far were you then when they were nakabantay at nakaakma?

A

More or less four (4) meters.

Atty. Liwanag:

How far is the victim at that moment?

A

Almost very near.

Q

What was happening at that time when these two allegedly uttered those words?

A

When we were helping my brother they turned to us.

Q

You were not able to help your brother?

A

Yes, Sir.

Q

What you did is to run away?

A

Yes, Sir."^[24]

Finally, Randy Bagtas further strengthened the case for the prosecution with his testimony, from which we quote:

"Q

Now on that night of November 20, 1994 at about 10:00 o'clock in the evening, where were you?

A

In the N[IA] road, sir.

Atty. Kliatchko:

May we ask if Your Honor please, that the answer x x x in tagalog '[n]asa kalsada ng patubig' be made to appear on the record.

Court:

Okay.

Atty. Kliatchko:

Where is that kalsada ng patubig?

A

By Batasang Matanda, sir.

Q

Why is it called kalsada ng patubig, if you know?

A

It is a water way of the [NIA].

Q

Now, x x x in that place where you said that you were on that date and time, will you please tell the Honorable Court where is the road and where is the patubig?

A

The patubig is between the road.

Q

Were you alone on that date and time when you said you were on that place?

A

No, sir.

Q

If you were not alone will you please tell this Honorable Court who were your companions?

A

Gerardo Bagtas, Willy Bagtas, Eduardo Bagtas and myself, sir.

Q

You said you were there at about 10:00 o'clock in the evening, why were you there?

A

We were on our way home.

Q

Where did you and your companions come from?

A

At the wake, sir.

Q

Now, on your way home with your companions coming from that wake, was there any unusual thing that

happened?

A

There was, sir.

Q

What happened?

A

About the killing of Eduardo Bagtas.

Q

Now tell the Honorable Court how that killing of Eduardo Bagtas took place?

A

While we were walking at the NIA road on our way home Baby Tomboy, Eduardo Felipe the one at large, and alias Boy Bulag suddenly appeared.

Q

Now, to clarify your answer, how many persons suddenly appeared while you and your companions were walking along the kalsada sa Patubig?

A

3, sir.

Q

Where did these three (3) persons come from when according to you they suddenly appeared?

A

At the place where talahib grasses were growing in abundance.

Q

And when these persons came out of this place where talahib grasses were growing in abundance, what happened?

A

They came out, sir, and Eduardo Felipe suddenly hacked Eduardo Bagtas.

Q

How about these Dionisio Felipe alias Boy Bulag and Lourdes Felipe alias [B]aby [T]omboy, what if any did they do?

A

The two of them said `mamamatay kayong lahat dahil galit kami sa mga Bagtas.'

Q

And who uttered those words[?]

A

Boy Felipe and Baby Tomboy.

Q

As you were testifying [on] that point, you pointed to x x x certain [persons,] who are these persons you are pointing to?

A

Boy Felipe and Baby Tomboy, sir.

Q

How about this Boy [B]ulag what did he do?

A

He uttered the words.

Q

What did he say?

A

He uttered the words `mamamatay kayong lahat dahil galit kami sa mga Bagtas.'

Q

Now at this juncture what happened?

A

I ran away.

Q

Why did you [run] away?

A

I might also be killed if I will not ran away.

Q

Why, what did you see that made you [run] away?

A

Eduardo Bagtas was hacked.

Q

Who hacked Eduardo Bagtas?

A

Eduardo Felipe, sir.

Q

And where was Eduardo Bagtas hit by the hack made by Eduardo Felipe?

Atty. Liwanag:

We will object because he said he already ran away... It will be noticed in the statement given by the witness that he ran away after this Boy Bulag according to him uttered the words `mamamatay kayo dahil galit kami sa mga Bagtas'. So the next question here will have no bearing to the incident that transpired before the hacking was allegedly made, Your Honor, that is my point.

Atty. Kliatchko:

Your Honor please, we take exception to the manifestation of counsel because the record will show that he ran away after he saw Eduardo Felipe hack Eduardo Bagtas.

Atty. Liwanag:

For clarity let us go back to the question.

Court:

Reform the question.

Atty. Kliatchko:

We are appealing to the records because it is our position that he ran away after Eduardo Felipe hacked Eduardo Bagtas.

Court:

You clarify.

Atty. Kliatchko:

When did you [run] away[?] You said you ran away[,] when did you [run] away during that incident[?] At what part of the incident did you [run] away?

A

After Eduardo Felipe hacked Eduardo Bagtas.

Q

You said you ran away after you saw this Eduardo Felipe hack Eduardo Bagtas, in what part of the body was Eduardo Bagtas hit?

Atty. Liwanag:

He may be incompetent because once Eduardo Bagtas was allegedly hacked he already ran away so he had no chance to find out in what part of the body he was hacked.

Court:

May answer.

A

At his neck.

Q

Then according to you after you saw that Eduardo Bagtas was hacked and hit on his neck you ran away, where did you go?

A

I went home."[25]

Categorical, candid and convincing were the testimonies of these witnesses. Precisely because of the unusual acts of violence committed right before their eyes, they remembered with a high degree of reliability the identities of the criminals.[26] This Court has noted that in many crimes of violence, the most natural reaction of persons involved in an attack -- either instinctively or as a means to fend off any further attack -- is to strive to see the faces and the appearances of the assailants,[27] to observe the manner in which the crime is committed, and to approximate what might be the latter's next move.[28]

Time and time again, this Court has declared that when the issue is one of credibility of the witnesses and their testimonies, the findings of a trial court will generally not be disturbed,[29] unless it has plainly overlooked certain facts or circumstances of substance and value which, if considered, might well affect the result of the case.[30] This doctrine is premised on the undisputed fact that the trial court had the best opportunity to observe the demeanor of the witnesses while they were on the stand; thus, it was in the best position to discern whether they were telling the truth.[31] Appellants have not given the Court sufficient reason to deviate from this doctrine.

They deny any participation in the death of Eduardo Bagtas, maintaining that it was Eduardo Felipe who actually hacked and killed the victim. According to appellants, the testimony of their witness, Marisa Velasquez, showed that there was no conspiracy among them. Hence, they pass the blame to their co-accused in the belief that the latter, who has not yet been apprehended, will be in no position to contradict their assertions. This Court notes, though, the patent weakness of their arguments.

First, appellants' defenses contradict one another, to say the least. They testified that they had not been present at the locus criminis. In their Brief, however, they argue that the prosecution failed to prove their active participation in the killing, thus impliedly admitting their presence therein and contradicting their testimonies. Interestingly, they even cite cases[32] holding that mere presence during the commission of the crime is insufficient to prove conspiracy. By applying these cases, they necessarily abandon their stand that they were not present when the victim was killed.

The Court will not leave this point without issuing a warning to the counsel of appellants. Going over the cases cited in their Brief, the Court noted that she had incorrectly presented these. For instance, on page 7 thereof, she alleges that in *People v. Ramos*,[33] "the Supreme Court [had the] occasion to state that criminal conspiracy must always be founded on facts, not on mere inferences, conjectures and presumptions. It must be proven like any other crime accusation, that is, independently and beyond reasonable doubt." [34] But a review of the said case, shows absolutely no mention of criminal conspiracy. How can there be any when the accused therein was charged with committing the crime of kidnapping all by his lonesome self?

Moreover, also on page 7 of appellants' Brief, counsel made it appear that in *People v. Carpo*, [35] "the Supreme Court held [that] mere presence, even with approval but without active participation of the accused[,] is not enough for purposes of conviction. Thus, it was held, the acts of [accused-appellant] in allowing the three

unidentified men to board the tricycle despite the [victim's] payment for the unoccupied seats and in deviating from the usual route, which were the basis for his conviction -- are not sufficient evidence to prove or to suggest a concerted action, much less unity of purpose in perpetuating the slay of the victim. While it may elicit suspicion on the [accused-appellants'] actuations, there is no evidence to prove the existence of criminal conspiracy. Conspiracy to be a basis for conviction should be proved as clearly and convincingly as the commission of the crime itself, for conspiracy is not the product of negligence but of intention on the part of the cohorts." [36]

Again, we reviewed the cited case in its entirety, but we did not find any of the facts and ruling that counsel had quoted. We caution her to be more careful in citing cases in her pleadings, for any similar act committed in the future will be dealt with severely.

Second, in the light of the positive identification of appellants as participants in the perpetration of the crime, their denial and alibi cannot be sustained.[37] Well-settled is the rule that such positive identification, when categorical and consistent, prevails over these twin defenses.[38] Unless substantiated by clear and convincing proof, they are negative, self-serving and undeserving of any weight in law.[39]

Alibi is the weakest of all defenses, because it is easy to concoct and difficult to disprove.[40] For it to prosper, proof that the accused were somewhere else when the crime was committed is insufficient; it must likewise be shown that it was physically impossible for them to have been at the scene of the crime at the time.[41] In the case before us, appellants failed to show the physical impossibility thereof.

Equally important is the fact that the denial and alibi proffered by Appellant Ma. Lourdes Felipe was made even weaker by her good friend Marifel Dulo. Since what she was wearing was bloodied, the former allegedly went to the latter's house around midnight of November 20, 1994, to borrow a t-shirt.[42] When Marifel asked what had happened, appellant answered, "[N]akapatay kami." [43] Upon further inquiry, the latter revealed that she was with "Boy her brother and her nephew named Eduardo." [44]

On direct examination by Atty. Rodolfo P. Liwanag -- appellants' former counsel -- Ma. Lourdes Felipe positively testified on the events of November 20, 1994. According to her, she went to the house of Marifel to change her bloodstained t-shirt with a clean one lent by the latter.[45] Atty. Liwanag repeatedly asked this question to make sure appellant knew what question she was answering, but she persisted. She, however, completely changed her testimony when examined by their new counsel, Atty. Bernardina R. Ariñas. Appellant testified that she had never changed any bloodied t-shirt, much less gone to the house of Marifel.[46] This inconsistency in the statements of the former works against her, as it shows that her defenses of denial and alibi were mere afterthoughts concocted to exonerate her from criminal liability.

As to Appellant Dionisio Felipe, the trial court characterized his alibi as follows:

"Accused Dionisio Felipe, on the other hand, in his vain attempt to escape and exculpate himself[,] proceeded towards Brgy. Lourdes, Candaba, Pampanga where he was caught by the barangay tanods led by Brgy. Captain Nestor Sanggalang of Lourdes, Candaba, Pampanga while walking along the said place[. He] admitted later[,] when confronted by the barangay tanods[,] that he was involved in a killing incident." [47]

Moreover, Barangay Captain Sanggalang positively testified during direct and cross-examinations that the said appellant had told him, "[S]abit ako sa pagpatay." [48] We see absolutely no reason why the barangay captain would fabricate this part of his testimony. He did not stand to gain anything by making up statements allegedly relayed to him by appellant. What this fact demonstrates is that the prosecution presented witnesses whose positive testimonies about the events -- prior to, during and immediately after the killing -- were rebutted by appellants with bare denials and negative statements. As a rule, greater weight is accorded to the positive narration of prosecution witnesses than to the negative testimonies of the defense.[49]

Third, to rebut the prosecution's allegation of conspiracy, appellants rely on the testimony of Marisa Velasquez that Eduardo Felipe admitted having killed the victim all by himself. Velasquez testified in the following manner:

"Atty. Ariñas:

Q

Between the hours of 11:00 and 12:00 of November 20, 1994, do you recall if there was any incident that transpired?

A

There was, Ma'am.

Q

What was that incident?

A

Eduardo Felipe came to our house and he [knocked] at our door.

Q

How did he knock at your door?

A

He was knocking rapidly, Ma'am.

Q

What did you do?

A

I opened the door, Ma'am.

Q

What did you find out, what did you do?

A

I saw him bloodied, Ma'am.

Q

Was there any conversation between you and Eduardo Felipe?

A

There was, Ma'am.

Q

What was that conversation all about?

A

He asked me to fetch his parents at Batasan[g] Matanda.

Q

Why [did] he [ask] you to fetch his parents?

A

According to him, he killed somebody.

Q

Did you ask him who was that person whom he killed?

A

Yes, Ma'am.

Q

What was his answer?

A

Eduardo Bagtas, Ma'am.

Q

Did you ask him any question other [than] that?

A

I asked him who were his companions[.]

Q

What was his reply?

Atty. Kliathcko:

We object, Your Honor please, that calls for a hearsay answer.

Atty. Ariñas:

That was the conversation between the witness and Eduardo Felipe, Your Honor. It's not hearsay.

Court:

Witness may answer.

WITNESS

A

He told us that he was alone."^[50]

We, however, agree with the OSG that the foregoing testimony will not lead to appellants' acquittal. Velasquez was not an eyewitness to the incident; hence, her testimony cannot defeat the positive declarations of the actual witnesses to the crime.

The OSG further asserts that "the alleged conversation does not clearly show that the accused was alone while killing the victim."^[51] We find reason in the OSG's explanation, as follows:

"Facts show that indeed accused Eduardo delivered the mortal hack blows that nearly totally severed the neck of the victim. Thus, viewed in this light, said accused indeed killed the victim. However, this fact does not rule out the fact that accused had company while hacking to death his victim. The uncontroverted fact alone that the cadaver of the victim sustained not only hack wounds but likewise abrasions indubitably show that said accused was not alone at the crime scene and in attacking the victim." ^[52]

Finally, conspiracy may be inferred from the acts of the accused -- before, during and after the crime -- which are indicative of design, concerted action and concurrence of sentiments.^[53] Once it is shown that there was conspiracy in action or action in concert to achieve a criminal design, the act of one is deemed the act of all the conspirators; and the precise extent or modality of participation of each of them becomes secondary.

Conspiracy among appellants and their co-accused was established from the attendant facts: they had suddenly emerged from the talahiban and blocked the path of the victim and his companions; without any remonstrance coming from either of them, appellants allowed Eduardo Felipe to hack the victim; by prodding Eduardo with shouts of "Sige patayin mo, sige patayin mo!" they even encouraged the killing of the victim; they prevented his companions from helping him by threatening them, "Huwag kayong makialam, pati kayo mamamatay!"; to show their agreement with all the actions done, appellants shouted, "Mamamatay kayong lahat, dahil galit kami sa mga Bagtas!"; they chased the victim's companions, thus showing that they deliberately employed means to ensure that the crime would be consummated; and, finally, all of the accused fled together, with one of them shouting, "Dalian natin, umalis na tayo, baka tayo abutan." The three were thus united in a common end -- to assault and kill Eduardo Bagtas -- and, as shown by their concerted acts, they were also united in the consummation of the evil plan.

Two or more persons had inflicted the wounds on the victim,[54] as the doctor who had conducted the autopsy opined:

"Because the injury on the neck will mean at least one (1) person and the abrasions will mean another person, so it involves two or more because the cut length can be done by several persons. The cut [on] that neck cannot be done x x x once only to penetrate the whole organ."[55]

There is conspiracy when two or more persons come to an agreement concerning the commission of a felony and decide to commit it.[56] It comes to life at the very instant the plotters agree, expressly or impliedly, to commit and forthwith to pursue it actually. [57] It is not, however, necessary that direct proof be adduced to establish such agreement; it may be inferred from the acts of the assailants before, during and after the commission of the crime.[58]

Conspiracy is present so long as the acts of the accused clearly manifest a concurrence of will and a common intent or design to commit a crime. It may be inferred if it is proven that two or more persons aimed their acts towards the accomplishment of the same unlawful object, each doing a part so that their acts -- although apparently independent -- were in fact connected and cooperative, thus indicating a closeness of personal association and a concurrence of sentiment.[59] The act of one therefore becomes the act of all, and each of the accused will thereby be deemed equally guilty of all the crimes committed.[60]

There must be a showing that each co-accused cooperated in the commission of the offense -- either morally, through advice, encouragement or agreement; or materially, through external acts indicating a manifest intent of supplying aid in the efficacious perpetration of the crime.[61] This fact is more than apparent in the present case. The common purpose of all the accused was manifestly shown by the deliberate and methodical manner in which the crime was committed. In view of the presence of conspiracy, all the perpetrators of the crime bear equal responsibility.[62]

Final Issue:

Crime and Penalty

In convicting appellants of murder, the trial court appreciated treachery.

To prove this qualifying circumstance, the following must be shown: (1) the employment of such means of execution as would give the person attacked no opportunity for self-defense or retaliation; and (2) the deliberate and conscious adoption of the means of execution.[63] Case law requires that where treachery is alleged, the manner of attack must be proven.[64] The essence of treachery is the sudden and unexpected attack by an aggressor without the slightest provocation on the part of the victim, thereby depriving the latter of any real opportunity for self-defense and ensuring the commission of the crime without risk to the aggressor.[65]

In this case, treachery was already present when the three accused emerged from the talahiban -- one of them armed with a scythe and another, with a piece of wood -- and suddenly attacked the victim. He and his companions were vulnerable to the attack. Due to its suddenness, the members of his group were not able to do anything. As they themselves testified later, they were shocked by its viciousness. Its suddenness and the absence of the slightest provocation from the victim -- who was unarmed and had no opportunity to repel the aggression or defend himself -- necessarily qualifies the crime with treachery.[66]

As correctly found by the trial court:

"The three accused made a deliberate and surprise attack on Eduardo Bagtas in such a manner that there was no risk to themselves arising from any defense which the said victim might make. There was no pause nor a moment's hesitation in the action of the three therein accused from the time that they emerged from the tall

`talahib' grasses, and x x x promptly positioned themselves strategically at a distance from where they could safely and accurately hack the victim. It happened so fast that Eduardo Bagtas[,] who was unarmed, did not have any chance. He was not able to say anything, nor to take any defensive or evasive action. His neck linking the head with the body was almost totally cut. Apparently, the victim[,] together with his companions[, was] totally taken by surprise by the very swift and coordinated attack, [that they] could not put up a shred of defense. This deliberate, surprise attack shows that the three accused employed a mode of execution that insured the consummation of the crime without any risk to themselves." [67]

The RTC also appreciated abuse of superior strength, but considered it absorbed in treachery. That is correct. [68]

Furthermore, the trial court aptly rejected the aggravating circumstance of evident premeditation, because none of its elements [69] has been established in the present case.

As regards appellants' pecuniary liabilities, the heirs of the victim were correctly given by the trial court a fixed sum representing civil indemnity for the death of Eduardo Bagtas. This indemnity is fixed by jurisprudence at P50,000. [70] This award is separate and distinct from other forms of damages and is automatically given without need of further proof other than the fact of death.

WHEREFORE, the appeal is DENIED and the assailed Decision AFFIRMED. Costs against appellants.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Ynares-Santiago, Carpio, and Azcuna, JJ., concur.

[1] Rollo, pp. 36-53. Penned by Judge Oscar P. Barrientos.

[2] Assailed RTC Decision, p. 18; rollo, p. 53.

[3] Rollo, p. 7. Signed by 3[rd] Assistant Provincial Prosecutor Rita M. Gammad.

[4] Ibid.

[5] Atty. Benjamin C. Pineda assisted the accused only for purposes of arraignment.

[6] See Order dated July 5, 1995; records, p. 14. See also Certificate of Arraignment; records, p. 15.

[7] Atty. Bernardina R. Ariñas.

[8] Records, Vol. I, p. 286.

[9] Rollo, pp. 119-144. Signed by Assistant Solicitors General Carlos N. Ortega and Cecilio O. Estoesta and Associate Solicitor Rebecca S. Dacanay.

[10] Appellee's Brief, pp. 4-10; rollo, pp. 125-131. Citations omitted.

[11] Appellants' Brief, pp. 2-6; id., pp. 83-87. Signed by Atty. Bernardina R. Ariñas.

[12] This case was deemed submitted for decision on August 13, 2003, upon this Court's receipt of appellee's Brief. Appellants' Brief was received by the Court on March 6, 2003. The submission of a Reply Brief was deemed waived, as none had been filed within the reglementary period.

[13] Appellants' Brief, p. 6; rollo, p. 87. Original in upper case.

[14] Id., pp. 8 & 89.

[15] Id., pp. 9 & 90.

[16] Id., pp. 6-7 & 87-88.

[17] People v. Mendoza, 369 SCRA 268, November 16, 2001.

[18] Assailed RTC Decision, p. 13; rollo, p. 48.

[19] TSN, August 21, 1995, pp. 5-8.

[20] Id., pp. 13-14.

[21] TSN, October 6, 1995, pp. 2-5.

[22] TSN, August 7, 1996, pp. 5-7.

[23] TSN, August 14, 1996, pp. 3-4.

[24] Id., pp. 6-8.

[25] TSN, January 21, 1997, pp. 3-7.

[26] People v. De Leon, 378 SCRA 495, March 6, 2002; People v. Porras, 413 Phil. 563, July 17, 2001; People v. Sumallo, 367 Phil. 14, May 24, 1999.

[27] People v. Teehankee Jr., 319 Phil. 128, October 6, 1995; People v. Salazar, 248 SCRA 460, September 20, 1995.

[28] People v. Avillano, 336 Phil. 534, March 13, 1997.

[29] People v. Monterey, 330 Phil. 44, September 3, 1996.

[30] People v. Jose, 367 Phil. 68, May 24, 1999; People v. Laceste, 355 Phil. 136, July 30, 1998.

[31] People v. Baltazar, 352 SCRA 678, February 26, 2001; People v. Barrameda, 342 SCRA 568, October 11, 2000.

[32] Appellants erroneously cited in their Brief People v. Ramos, GR No. 136304, January 25, 2001; the correct citation is People v. Rama, 350 SCRA 266, January 25, 2001. They also cited People v. Carpo, GR No. 132676, April 4, 2001; and People v. Cui, GR No. 121982.

[33] This should be People v. Rama, supra.

[34] Appellants' Brief, p. 7; rollo, p. 88.

[35] 356 SCRA 248, April 4, 2001.

[36] Appellants' Brief, p. 7; rollo, p. 88.

[37] People v. Balmoria, 351 Phil. 188, March 20, 1998; People v. Baydo, 273 SCRA 526, June 17, 1997; People v. Datun, 338 Phil. 884, May 7, 1997; People v. Apongan, 337 Phil. 393, April 4, 1997; People v. Caritativo, 326 Phil. 1, April 1, 1996.

[38] People v. Lovedorial, 349 SCRA 402, January 17, 2001; People v. Enriquez, 354 Phil. 659, July 20, 1998.

[39] People v. Sansaet, 376 SCRA 426, February 6, 2002; People v. Jose, 381 Phil. 207, January 31, 2000; People v. Orbita, 379 Phil. 334, January 19, 2000.

- [40] *People v. Lachica*, 382 SCRA 162, May 9, 2002; *People v. Sansaet*, supra; *People v. Cuenca*, 375 SCRA 119, January 29, 2002.
- [41] *People v. Hofileña*, 389 Phil. 553, June 22, 2000; *People v. Legaspi*, 387 Phil. 108, April 27, 2000; *People v. Llanes*, 381 Phil. 733, February 4, 2000; *People v. Rendoque*, 379 Phil. 671, January 20, 2000.
- [42] TSN, February 2, 1996, p. 4.
- [43] Id., p. 5.
- [44] Ibid.
- [45] TSN, November 21, 1997, pp. 7-9.
- [46] TSN, March 31, 1998, pp. 3-5.
- [47] Assailed RTC Decision, p. 16; rollo, p. 51.
- [48] TSN, September 20, 1996, pp. 7 & 13.
- [49] *People v. Amba*, 417 Phil. 852, September 20, 2001; *People v. Bares*, 355 SCRA 435, March 27, 2001; *People v. Samudio*, 353 SCRA 746, March 7, 2001.
- [50] TSN, January 7, 1999, pp. 4-6.
- [51] Appellee's Brief, p. 12; rollo, p. 133.
- [52] Id., pp. 13 & 134.
- [53] *People v. Quinicio*, 417 Phil. 571, September 13, 2001; *People v. Parungao*, 332 Phil. 917, November 28, 1996.
- [54] TSN, June 17, 1996, p. 12.
- [55] Ibid.
- [56] 2nd Paragraph of Article 8 of the Revised Penal Code.
- [57] *People v. Appegu*, 379 SCRA 703, April 1, 2002; *People v. Quitlong*, 354 Phil. 372, July 10, 1998.
- [58] *People v. De Leon*, supra; *People v. Bejo*, 376 SCRA 651, February 13, 2002; *People v. Templa*, 415 Phil. 523, August 16, 2001.
- [59] *People v. Quinicio*, supra.
- [60] *People v. Dumalahay*, 380 SCRA 37, April 2, 2002; *People v. Drew*, 371 SCRA 279, December 3, 2001; *People v. Medios*, 371 SCRA 120, November 29, 2001.
- [61] *People v. Visaya*, 352 SCRA 713, February 26, 2001.
- [62] *People v. Sabadao*, 344 SCRA 432, October 30, 2000.
- [63] *People v. Casingal*, 337 SCRA 100, August 1, 2000; *People v. Aquino*, 379 Phil. 845, January 20, 2000.
- [64] *People v. Mendoza*, supra; *People v. Parba*, 416 Phil. 902, September 5, 2001; *People v. Samudio*, supra.
- [65] *People v. Tejero*, 381 SCRA 382, April 19, 2002; *People v. Castellano*, 377 SCRA 79, February 15, 2002; *People v. Medios*, supra.

[66] *People v. Cabillan*, 376 SCRA 290, February 6, 2002; *People v. Taclan*, 367 Phil. 648, June 17, 1999.

[67] Assailed RTC Decision, p. 17; rollo, p. 52.

[68] *People v. Suyum*, 378 SCRA 415, March 6, 2002; *People v. Pascua Jr.*, 370 SCRA 599, November 27, 2001; *People v. Julianda Jr.*, 370 SCRA 448, November 23, 2001.

[69] *People v. Calago*, 381 SCRA 448, April 22, 2002.

[70] *People v. Callet*, 382 SCRA 43, May 9, 2002; *People v. Dumalahay*, *supra*; *People v. Kinok*, 368 SCRA 510, November 13, 2001.

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