

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. FELY MERCADO, ACCUSED-APPELLANT.

G.R. No. 143676. February 19, 2003

Ponente: AZCUNA, J.

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AZCUNA, J.:

Appellant Fely Mercado comes before this Court to appeal the decision, dated March 20, 2000, of the Regional Trial Court of Bacolod City in Criminal Case No. 17693,[1] finding her guilty beyond reasonable doubt of the crime of Qualified Theft.

The information charging appellant reads as follows:

The undersigned Assistant City Prosecutor hereby accuses FELY MERCADO of the crime of QUALIFIED THEFT (Art. 310 of the Revised Penal Code), committed as follows:

That sometime in the month of November, 1995, in the City of Bacolod, Philippines, and within the jurisdiction of this Honorable Court, the herein accused being then employed as manager of the herein offended party, Dobros Agencia de Empeños, Inc. and Dobros Jewelry Store, Bacolod City, herein represented by its treasurer and director, Lilibeth Anglo, with grave abuse of confidence, and obvious ungratefulness by reason of the trust and confidence reposed upon her as such manager of the herein offended party, with intent to gain and without knowledge and consent of the owner thereof, did then and there, wil[l]fully, unlawfully and feloniously take, steal and carry away with h[er] various pieces of jewelry items including the pawned items inside the vault with a total value of NINE MILLION SEVEN HUNDRED NINETY TWO THOUSAND FOUR HUNDRED FIFTY (P9,792[,]450.00) PESOS, Philippine Currency, all belonging to the herein offended party, thus causing damage and prejudice to the latter in the aforementioned amount.[2]

Appellant pleaded not guilty.[3] After trial, she was found guilty in the aforementioned decision of the trial court that has the following dispositive portion:

FOR ALL THE FOREGOING, the court finds the accused Fely Mercado GUILTY beyond reasonable doubt of Qualified Theft as Principal by Direct Participation as charged in the Information. She is hereby sentenced to suffer the penalty of [r]eclusion perpetua but with all the accessories of the penalty imposed under Article 40 of the Revised Penal Code. She is also condemned to pay the offended party, DOBROS AGENCIA DE EMPEÑOS the sum of P9,792,450.00 as indemnification for the value of the stolen jewelr[y] and the sum of P50,000.00 as attorney's fees.

THE FACTS

The prosecution's account of the facts is as follows:[4]

Accused-appellant Fely Mercado was the manager of the Dobros Agencia de Empeños and Dobros Jewelry Store at Libertad Street, Bacolod City. The store was one of the jewelry stores operated by the V.Y. Domingo chain of jewelry stores. She had been with the company since 1996, where she rose from the ranks after starting as a pawnshop clerk, appraiser and finally, manager of the store.

As manager, accused-appellant was in-charge of the safety vault of the store and only she was allowed to go inside thereof to get pieces of jewelry. Only accused-appellant and Connie Domingo, a corporate director of the V.Y. Domingo chains of Jewelry Store, knew the lock combination of the outer door vault and were holders of the key of the vault's inner door. Her duties and responsibilities as manager of the store and as the accountable officer with respect to the jewelry stored therein had been properly relayed to the accused-appellant as shown by an "acknowledgement of accountabilities and responsibilities" wherein accused appellant agreed to answer for all the losses that may be incurred on account of her accountabilities.

On 20 November 1995, an inventory of the store's jewelry in the vault was conducted by the auditors of the company, namely: Jocelyn Alcantara and Pilar Vicente. The inventory was conducted six months after the last inventory of the store in May 1995. During the 20 November 1995 inventory, it was found that 345 pieces of jewelry kept in the vault were missing, valued at P9,792,450.00. Confronted by this loss, accused-appellant, who was then present during the audit and inventory, readily acknowledged the losses and undertook to pay them.

Appellant presents her own version of the facts:[5]

x x x x x

The accused-appellant Fely Mercado was first assigned as a bookkeeper, and then assistant appraiser and later on as vault-in-charge of Dobros Agencia de Empeños. The highest position she was holding prior to her separation as an employee was that of manager/appraiser. As such employee, there are other people involved in the management of the said jewelry store such as Mark Quiamco who was the vault keeper in charge of taking out the [pieces of] jewelr[y] from the vault and also the pledged [pieces of] jewelr[y] and he was the one in charge in keeping back the [pieces of] jewelr[y] (p. 19, TSN, October 21, 1997). Clara Lorca was the assistant vault keeper if Mark Quiamco is not around (p. 20, TSN, *ibid.*) and she also attends to the jewelry store (p. 21, TSN, *ibid.*) while Jeneth Cuevas was assigned as clerk. All in all, there were four (4) people assigned in the said store (p. 17, TSN, *ibid.*)

Dobros Agencia de Empeños has a vault inside the store where pieces of jewelry were being kept. There are actually two (2) doors before you can get to the vault (p. 22, TSN, *ibid.*) The vault [i]s made of steel body in front; the second door is made of steel bars. These two doors were provided with respective locks. The inner door is provided with padlock which can be opened only with a key (p. 24, TSN, *ibid.*) and the outer door ha[s] a combination lock (p. 25, TSN, *ibid.*), which combination number thereof is known to the accused-appellant and Connie Domingo and if the vault keeper is absent and it is necessary to open the vault it is Connie Domingo that [sic] will open the vault (p. 33-34, TSN, February 28, 1997).

[I]n the month of November an inventory was made wherein the accused-appellant was not present (p. 36, TSN, October 21, 1997) since she was transferred to FS Domingo Pawnshop located in front of Gaisano Department Store on November 24 while the inventory was being made (p. 43, TSN, *ibid.*). Neither did they inform her what the reason was why she was transferred (p. 43, TSN, *ibid.*) The inventory usually takes seven days to complete and that the specific date when the inventory was made was on November 21 (p.45, TSN, *ibid.*). In essence, the inventory was still being conducted when she was transferred to FS Domingo Pawnshop (p. 47, TSN, *ibid.*) and she does not know when they finished the inventory (p. 47, TSN, *ibid.*). During an inventory, accused-appellant is required to present some documents before they actually start the inventory. Some of these documents were the Inter Transfer Receipts, Cash lay-away slip and consignment slip (p. 50, TSN, *ibid.*). Whenever a piece of jewelry is sold, a cash lay-away slip is prepared by the store to show that [the] particular jewelry was sold (p. 60, TSN, *ibid.*). These cash lay-away slips [are] separately kept in a Tupperware and [kept] inside the vault (p. 61, TSN, *ibid.*). Since the store can sell an average of 50 jewelry a month, it would amount to 350 items sold covering the period of May to November. These sales of 350 items were all covered by cash lay-away slips (p.63, TSN, *ibid.*), which the accused-appellant in fact presented to the auditors when the inventory was made (p. 64, TSN, *ibid.*).

THE ISSUES

Appellant seeks a reversal of her conviction and assigns the following as errors:[6]

I

THE COURT A QUO GROSSLY ERRED IN FINDING THE ACCUSED GUILTY BEYOND REASONABLE DOUBT OF THE CRIME OF QUALIFIED THEFT FOR THE FOLLOWING REASONS:

- NO PLAUSIBLE EVIDENCE RELATING TO THE VALUE OF THE ALLEGED MISSING JEWELRY HAS BEEN CONCLUSIVELY ESTABLISHED BY THE PROSECUTION;
- THE WITNESSES FOR THE PROSECUTION WERE NOT UNQUESTIONABLY CREDIBLE;
- THERE WAS NO SINGLE EVIDENCE, DIRECT OR CIRCUMSTANTIAL, LEADING TO THE CONCLUSION THAT THE ACCUSED TOOK THE JEWELRY SUBJECT MATTER OF THE CRIME CHARGED.

II

THE COURT A QUO GRAVELY ERRED IN RENDERING JUDGMENT UPON CONJECTURES/SURMISES.

III

THE COURT A QUO GROSSLY ERRED IN THE IMPOSITION OF THE PENALTY OF RECLUSION PERPETUA WHEN THE PENALTY IMPOSABLE FOR QUALIFIED THEFT SHOULD ONLY BE RECLUSION TEMPORAL THUS ENTITLING THE ACCUSED TO THE BENEFIT OF THE INDETERMINATE SENTENCE LAW.

THE COURT'S RULING

On the First Assignment of Error: Evidence on Value and Credibility of Witnesses

The argument that no plausible evidence relating to value of the missing jewelry was presented by the prosecution has no merit. To begin with, the prosecution presented the testimony of Jocelyn Alcantara, Chief Auditor of V.Y. Domingo Diamond and Gems, Inc. ("V.Y. Domingo").[7] Dobros Agencia de Empeños, Inc. and Dobros Jewelry Store (collectively "Dobros"),[8] where appellant worked as manager/appraiser, is a branch store of V.Y. Domingo.[9] Ms. Alcantara testified that she conducted a physical inventory[10] of the items contained inside the vault of Dobros on November 20, 1995[11] and it was discovered that a considerable number of jewelry were missing, amounting in value to P9,792,450.00.[12]

A list of the missing jewelry and their corresponding values, which amounted to P9,792,450.00, was made in an audit report prepared by Ms. Alcantara and her auditing staff. The audit report was presented as evidence by the prosecution.[13]

Witnesses Jermin Cruz and Lilibeth Anglo also testified on the amount that was missing.

Jermin Cruz testified that she is the General Manager of Dobros.[14] Ms. Cruz recounted how she was present during the inventory and that an audit report was prepared which tallied the missing items to be P9,792,450.00 in value.[15]

Lilibeth Anglo testified that she is a member of the Board of Directors and Treasurer of Dobros,[16] and that she was present during the audit and was given an audit report stating that the missing items amounted in value to

P9,792,450.00.[17]

Clearly, the value of the missing jewelry has been firmly established by the prosecution.

Also unmeritorious is appellant's claim that the witnesses were not unquestionably credible. Suffice it to say that the trial court's findings on the credibility of witnesses are entitled to great respect and will not be disturbed on appeal, absent any showing of palpable mistake or grave abuse of discretion.[18] The reason for this is that the trial court has the direct opportunity to observe the witnesses on the stand and to determine whether or not they are telling the truth.[19] In this case, there is no showing that the trial court committed such palpable mistake or grave abuse of discretion.

Appellant impugns the witnesses' credibility solely on the basis that they were still in the employ of the private complainant at the time their testimonies were given.[20] This is not sufficient basis to disregard their testimonies. Time and again, we have ruled that the testimony of a witness is not discredited by the mere fact that he is an employee of the complainant.[21]

The third argument of the accused is related to the second assignment of error. Hence, we shall address them together.

On the Second Assignment of Error: The Alleged

Conjectures/Surmises and the Circumstantial Evidence

Appellant claims that the trial court gravely erred in rendering judgment upon conjectures and surmises. We have arduously gone over the records of the case and found the contrary.

Appellant herself admitted taking the missing jewelry. On record are the testimonies of three witnesses[22] who said that appellant readily admitted to them that she took the missing items and promised to pay for the same.[23] As previously held, the declaration of the accused expressly acknowledging his guilt to the offense may be given in evidence against him, and any person otherwise competent to testify as a witness, who heard the confession, is competent to testify as to the substance of what he heard, if he understood it.[24]

In addition, the prosecution submitted two documents, executed by appellant herself, wherein she expressly admitted taking the missing jewelry.[25] In one of the documents, appellant explained that she had the items pawned. In the other document, appellant transferred to Dobros some of her personal properties as partial payment for the missing jewelry that she took. When appellant was shown these two documents on cross-examination, she identified the signatures appearing thereon as hers.[26] After she herself thus established the due execution and authenticity of the documents, these written admissions are admissible against her.[27]

But even without the extrajudicial admissions of appellant, there is enough circumstantial evidence to uphold her conviction.

Circumstantial evidence sufficient for conviction requires that: (a) There is more than one circumstance; (b) the facts from which the inferences have been derived are proven; and (c) the combination of all the circumstances is such that it produces a conviction beyond reasonable doubt.[28]

The prosecution established the following circumstances:

- Appellant is the manager and vault keeper of Dobros.[29]
- Being the manager and vault keeper of Dobros, appellant knows the combination of the vault's outer door and possesses the key to the vault's inner grill door.[30]

- Appellant is the only person working in Dobros who can open the vault and is allowed to go in and out of the vault to get jewelry.[31]
- The only other person who knows the combination to the vault's outer door and has custody of the key to the vault's inner grill door is Connie Domingo, a member of the Board of Directors of V.Y. Domingo.[32]
- Inside the vault are safety deposit boxes where some of the jewelry are kept and appellant possesses the keys to the safety deposit boxes.[33] Duplicate keys are kept in the main office of V.Y. Domingo under the custody of Connie Domingo.[34]
- Connie Domingo opens the vault only if appellant is absent. However, even if the vault has been opened, only pawnshop transactions are made and no jewelry can be taken out while appellant is absent.[35]
- An audit was conducted in May 1995 and nothing was found missing.[36]
- At the next audit, conducted in November 1995, it was found that there were jewelry missing worth P9,792,450.00.[37]
- Between the first and the second audits, appellant was never absent from work.[38]
- All the missing jewelry were previously received by appellant as evidenced by receipts she issued.[39]
- No documents could be found that would show that the missing jewelry have been sold, taken out or transferred to other jewelry branches of V.Y. Domingo.[40]

From the foregoing, the prosecution established that the theft occurred between May 1995 and November 1995. During that period, appellant was never absent from work. Hence, it was only appellant who opened and locked the vault, had total access to the missing jewelry and was always present in the store during the times the vault door was open. Under these circumstances, at no instance could another person take the missing jewelry from the vault without appellant knowing about it. Thus, only appellant could have taken the jewelry or at the very least, assuming it was not appellant, the taking could not be achieved without her indispensable cooperation.

The pieces of circumstantial evidence presented by the prosecution constitute an unbroken chain leading to a fair and reasonable conclusion that appellant took the jewelry. The prosecution's evidence passes the test of moral certainty and establishes beyond reasonable doubt that appellant is guilty of Qualified Theft.

In a feeble attempt to escape liability, appellant tries to impress upon us that, assuming there was taking, the taking was with the consent of the owner. Appellant cites the following testimony:

x x x

Atty. Lucot: You said that usually there are 2 copies prepared by you and the two copies are kept by the accused. Why do you allow her to keep the two copies and not retain any of the two copies?

Witness [Jeneth Cuevas]: She is the Manager and at the same time she is the appraiser and she has the right to do what she wants to the store.

x x x

(TSN, February 22, 1999, pages 36-37)

x x x

Court: So, actually, as far as you are concerned this procedure of issuing a consignment receipts is valueless insofar as you are concerned?

Witness [Jeneth Cuevas]: This consignment receipts which we used to issue [to] her because she is in charge of all the items in the store.

x x x

(TSN, February 22, 1999, pp.44)

Court: You said that Fely Mercado can go directly to the vault and get the jewelries that she desires to get, am I correct on that?

Witness [Jeneth Cuevas]: Yes, Your Honor.

Court: And so, did you ask Fely Mercado what is the need for her asking you to issue a consignment receipt when it is not recorded insofar as you are concerned and she can go direct to the vault and get the item that she needs, why does she [have] to pass [before] you for a consignment receipt?

Witness [Jeneth Cuevas]: That is her jurisdiction because she is the Manager at the same time the appraiser.

x x x

(TSN, February 22, 1999, pages 45-46)[41]

Appellant claims that it can be interpreted from the above testimony that appellant had authority to bring jewelry out of Dobros, thereby negating the element of taking without consent necessary in the crime of Qualified Theft.[42] This argument fails. The fact that the owner authorized appellant to bring jewelry out of Dobros cannot be interpreted as a license to steal. On the contrary, the testimony cited only bolsters the fact that appellant had the trust and confidence of the owner and, therefore, could take the missing items without much difficulty.

Appellant also adverts to the fact that she was transferred to another branch of V.Y. Domingo during the inventory in November 1995. As a result, she adds, she was not present at the time the items were allegedly found to be missing. [43]

Appellant's transfer can be easily explained. As testified to by appellant, the inventory started on November 21, 1995 and she was transferred to another branch on November 24, 1995.[44] Presented as evidence were two documents executed by appellant wherein she admitted that she took the missing items.[45] These documents are both dated November 22, 1995. This means that, at the time of the transfer, appellant had already admitted taking the missing items. Consequently, it indicates that appellant was transferred because the management of Dobros found out that she took the jewelry. It would indeed be foolhardy of the management of Dobros to allow appellant to continue working in Dobros even after she had admitted her deed.

On the Third Assignment of Error: The Proper Penalty

Appellant asserts that the trial court erred in applying the proper penalty. As reasoned by appellant, the penalty for Qualified Theft under Article 310 of the Revised Penal Code is prision mayor in its minimum and medium periods, raised by two degrees. Hence, the penalty higher by two degrees should be reclusion temporal in its medium and maximum periods and not reclusion perpetua as imposed by the trial court. Being a divisible penalty, the Indeterminate Sentence Law could then be applied.

On the other hand, appellee cites the cases of *People v. Reynaldo Bago*[46] and *People v. Cresenia C. Reyes*[47] to show that the trial court properly imposed the penalty of reclusion perpetua.[48]

We agree with appellee that the trial court imposed the proper penalty.

Article 309 (1) of the Revised Penal Code provides the penalty for simple theft, as follows:

- The penalty of prision mayor in its minimum and medium periods, if the value of the thing stolen is more than 12,000 pesos but does not exceed 22,000 pesos; but if the value of the thing stolen exceeds the latter amount, the penalty shall be the maximum period of the one prescribed in this paragraph, and one year for each additional ten thousand pesos, but the total of the 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.

On the other hand, the penalty for Qualified Theft is found in Article 310 of the Revised Penal Code:

Art. 310. Qualified theft. — The crime of theft shall be punished by the penalties next higher by two degrees than those respectively specified in the next preceding article, if committed by a domestic servant, or with grave abuse of confidence, or if the property stolen is motor vehicle, mail matter or large cattle or consists of coconuts taken from the premises of a plantation, fish taken from a fishpond or fishery or if property is taken on the occasion of fire, earthquake, typhoon, volcanic eruption, or any other calamity, vehicular accident or civil disturbance.

Appellant, in her computation of the penalty, did not take into consideration the value of the stolen jewelry. To compute the penalty, we begin with the value of the property stolen, which is P9,792,450.00. Based on the above quoted paragraph, since the value of the items exceeds P22,000.00, the basic penalty is prision mayor in its minimum and medium periods to be imposed in the maximum period, which is 8 years, 8 months and 1 day to 10 years of prision mayor.

To determine the additional years of imprisonment, we deduct P22,000.00 from P9,792,450.00, which gives us P9,770,450.00. The amount of P9,770,450.00 should then be divided by P10,000.00, disregarding any amount less than P10,000.00. The end result is that 977 years should be added to the basic penalty. However, the total imposable penalty for simple theft should not exceed 20 years. Thus, had appellant committed simple theft, the penalty would be 20 years of reclusion temporal.

Considering that the penalty for Qualified Theft is two degrees higher, the trial court properly imposed the penalty of reclusion perpetua.[49]

However, we find it necessary to modify the award of actual damages and attorney's fees. The trial court condemned appellant to pay P9,792,450.00 in actual damages, representing the total value of the missing jewelry. This amount should be reduced by the value of appellant's own personal properties that she transferred to private complainant in her extrajudicial admission. The award of attorney's fees should be deleted as no basis for it was presented by the private complainant.

Finally, appellant alternatively prays that she be given a new trial due to the alleged manifest incompetence and negligence of her previous counsel in presenting her defense.[50] She maintains that her former counsel failed to present important evidence that would prove her innocence.

We find no convincing reason to grant the alternative prayer. As held in the case of *Tesoro v. Court of Appeals*: [51]

It has been repeatedly enunciated that "a client is bound by the action of his counsel in the conduct of a case and cannot be heard to complain that the result might have been different if he proceeded differently. A client is bound by the mistakes of his lawyer. If such grounds were to be admitted as reasons for reopening cases, there would never be an end to a suit so long as new counsel could be employed who would allege and show that prior counsel had not been sufficiently diligent or experienced or learned. x x x Mistakes of attorneys as to the competency of a witness, the sufficiency, relevancy or irrelevancy of certain evidence, the proper defense, or the burden of proof, x x x failure to introduce certain evidence, to summon witnesses, and to argue the case

are not proper grounds for a new trial, unless the incompetency of counsel is so great that his client is prejudiced and prevented from properly presenting his case.”

In our examination of the records of the case, we found nothing which would indicate that appellant’s former counsel was incompetent or negligent in his defense of appellant. The former counsel was present at and participated in every important stage of the proceedings. When the former counsel could not attend any of the hearings, he would diligently file a motion to that effect or instruct appellant to ask for a resetting,[52] which the trial court would always grant.[53] In no instance did it appear that appellant was denied her day in court.

WHEREFORE, the Decision of the Regional Trial Court of Bacolod City (Branch 49) is hereby **AFFIRMED** with the **MODIFICATION** as to the award of actual damages, namely, that from the sum of P9,792,450.00 should be deducted the value of the properties transferred by appellant. The trial court is hereby ordered to receive evidence on actual damages in accordance with this decision. The award of attorney’s fees is deleted. No costs.

SO ORDERED.

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

[1] Rollo, pp. 32-40.

[2] Rollo, p. 16.

[3] Records, Vol. II, p. 35.

[4] Appellee’s brief, Rollo, pp. 131-133.

[5] Appellant’s brief, Rollo, pp. 71-74.

[6] Id., pp. 66-67.

[7] TSN, February 13, 1997, pp. 4-5.

[8] The trial court stated that Dobros Agencia de Empeños, Inc. and Dobros Jewelry Store are one entity but did not explain how nor were the records clear. We will assume that Dobros Agencia de Empeños, Inc. refers to the corporate name, while Dobros Jewelry Store is the business name. Hence, we will collectively refer to both as “Dobros.”

[9] Rollo, pp. 35-36.

[10] Interchangeably used with “audit” in her testimony.

[11] TSN, February 13, 1997, pp. 18-19.

[12] Id., pp. 24-27.

[13] Exhibit “A.”

[14] TSN, August 26, 1996, p. 4.

[15] Id., pp. 37 and 28-29.

[16] TSN, February 28, 1997, p. 7.

[17] Id., pp. 24 and 26-27.

- [18] *People v. Lerio*, 324 SCRA 76 (2000).
- [19] *People v. Blanco*, 324 SCRA 280 (2000).
- [20] Rollo, pp. 93-94.
- [21] *People v. Gomez*, 251 SCRA 45 (1995), citing *People v. Viente*, 225 SCRA 361 (1993).
- [22] Jermin Cruz, Jocelyn Alcantara and Lilibeth Anglo.
- [23] TSN, August 26, 1996, p. 38; TSN, February 13, 1997, pp. 31-32; TSN, February 28, 1997, p. 27; The actual words used were “guimitiran” meaning “taking.”
- [24] *People v. Maqueda*, 242 SCRA 565 (1995).
- [25] Exhibits “DDDD” and “EEEE.”
- [26] TSN, November 24, 1997, pp.120-121; TSN, February 4, 1998, pp. 29-31.
- [27] *Ong v. People*, 342 SCRA 372 (2000).
- [28] *People v. Samus*, G.R. Nos. 135957-58, September 17, 2002.
- [29] TSN, August 26, 1996, p.10; TSN, February 13, 1997, p. 15; TSN, February 28, 1997, p. 11.
- [30] TSN, December 10, 1996, p. 75; TSN, February 13, 1997, p. 15.
- [31] TSN, August 26, 1996, pp. 15-18; TSN, February 13, 1997, pp. 14-15; TSN, February 28, 1997, pp. 14-15; TSN, July 28, 1997, p. 105.
- [32] TSN, December 10, 1996, pp. 70-71; TSN, February 13, 1997, pp. 170-171; TSN, February 28, 1997, pp. 131-34.
- [33] TSN, July 28, 1997, pp. 42-43; TSN, February 13, 1997, pp. 173-175.
- [34] TSN, February 13, 1997, pp. 188-190.
- [35] TSN, February 13, 1997, pp. 170-173.
- [36] TSN, October 29, 1996, pp. 26-29; TSN, July 28, 1997, pp. 16-17; TSN, November 24, 1997, pp. 26-27.
- [37] TSN, August 26, 1996, pp. 29-30; TSN, February 13, 1997, pp. 24-27; TSN, February 28, 1997, pp. 26-27.
- [38] February 13, 1997, p. 199; TSN, February 28, 1997, pp. 21-22; TSN, July 28, 1997, pp. 105-106.
- [39] TSN, August 26, 1996, pp. 44-59.
- [40] TSN, October 29, 1996, pp. 38-39; TSN, February 13, 1997, pp. 140-142.
- [41] Appellant’s brief, Rollo, pp. 78-80.
- [42] *Id.*, p. 80.
- [43] *Id.*, p. 81.
- [44] TSN, October 21, 1997, pp. 41-42.
- [45] See note 19, *supra*.

[46] 330 SCRA 115 (2000).

[47] 212 SCRA 402 (1992).

[48] Rollo, pp. 161-164.

[49] People v. Cañales, 297 SCRA 667 (1998).

[50] Id., pp.100-102.

[51] 54 SCRA 296 (1973).

[52] Records, Vol. I, pp. 326, 640, 677.

[53] Id., pp.326, 644, 677.

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