

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. DOMINADOR WERBA Y RICAFORT ALIAS DOMING ALSO KNOWN AS DOMINGO WERBA, APPELLANT.

G.R. No. 144599. June 09, 2004

Ponente: CORONA, J.

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CORONA, J.:

For automatic review is the decision[1] dated May 15, 2000 of the Regional Trial Court of Lucena City, Branch 55, finding appellant Dominador Werba guilty beyond reasonable doubt of the crime of robbery with homicide and imposing upon him the supreme penalty of death.

Four years earlier, or on May 15, 1996, an Information was filed against appellant charging him with robbery with homicide allegedly committed as follows:

That on or about the 1st day of April, 1996, at Barangay Arawan, in the Municipality of San Antonio, Province of Quezon, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, armed with short firearm, with intent to gain and to rob, by means of force, intimidation and physical violence and taking advantage of nighttime to better accomplish his purpose, did then and there, willfully, unlawfully and feloniously enter the house of spouses Alipio Bril and Lucia Bril and once inside, take, steal, and carry away cash money amounting to P7,000.00 and assorted jewelries of an undetermined amount, to its damage and prejudice in the aforesaid amount; and on the same occasion and by reason thereof, the above-named accused, with intent to kill and by means of treachery and intimidation, did then and there willfully, unlawfully and feloniously attack, assault and shoot with said firearm said Lucia Bril, inflicting gunshot wound on vital parts of her body, which directly caused her death.

Contrary to law.[2]

Upon arraignment, appellant pleaded not guilty to the crime charged. Trial ensued.

The case[3] for the prosecution was succinctly summarized by the Office of the Solicitor General:

On April 1, 1996, between 11:00 and 12:00 in the evening, Gerardo Bril was going out of their house at Barangay Arawan, San Antonio, Quezon Province, to store water in the drum. As he opened the door, appellant Dominador Werba, also known as Doming Werba, simultaneously entered the house and poked a gun at Gerardo Bril. Then, appellant forced him to go to the room of his parents, Alipio Bril and Lucia Bril. Upon entering the room of his parents, Gerardo Bril was ordered to lie down in prostrate position. He was scared and trembling. (p. 2, TSN dated January 7, 1998)

About that time, Alipio Bril was already asleep. He was awakened because a gun was poked at him by Dominador Werba, saying: “Tatalsik ang bao ng ulo ninyo kapag hindi kayo dadapa!” Out of fear, he and his son Gerardo Bril lied (sic) down in prostrate position. Thereafter, appellant ordered Lucia Bril to bring out the things from the “aparador” and the “baul,” and demanded money and gun from the latter. After searching the “baul,” Lucia Bril handed to her (sic) the amount of P7,000.00. Then, appellant proceeded to the room of

Gerardo Bril where he took several pieces of jewelry, namely, a bracelet valued at P10,000.00; a ring valued at P3,500.00; a necklace at P1,000.00 and earrings at P500.00. (pp. 15, 19-20, TSN dated April 2, 1997)

Unsatisfied, appellant demanded for a gun, and proceeded to the room of Michelle Bril, daughter of Gerardo Bril, which was about one (1) meter and a half across the room of Alipio and Lucia Bril. Appellant further searched the room, looking for the gun and the proceeds of the sale of cow (sic). Finding nothing, he ordered that the lights in the rooms of Michelle and Gerardo Bril be switched on. Angrily, appellant brought Michelle and Lucia Bril in (sic) the latter's room, ordering Lucia Bril to lie down under the bed, kicking her for (sic) several times in the process. (pp. 20-22, TSN dated April 2, 1997)

Soon after, appellant dragged Michelle towards the kitchen. While thereat, he forced Michelle to remove her clothes. On the pain of threats, Michelle removed her T-shirt and her bra. At that time, Lucia Bril came and pleaded to appellant not to do any harm to her granddaughter Michelle. Irked by Lucia Bril's pleas, appellant dragged both Michelle and Lucia back to the latter's room. He ordered Lucia Bril to lie down under the bed and kicked her again. Afterwards, appellant dragged Michelle to the door forcing her to remove her jogging pants, thus prompting the latter to cry for help. At that moment, Lucia Bril came in and tried to wrest the gun from appellant. During the struggle, appellant shot Lucia Bril with his black short gun, hitting her in the chest. As Lucia Bril fell down, appellant ran away, bringing with him his gun. The robbery and homicide incident at the Bril's residence lasted for about one (1) and a half hour. (pp. 9-14, TSN dated November 26, 1996)

Dr. Pedro P. Landicho, Municipal Health Officer of San Antonio, Quezon, conducted the post mortem examination of Lucia Bril on April 3, 1996:

FINDINGS:

The body belong (sic) to a pale, female, cadaver, brown complexion not in rigor mortis, about 61 inches in length.

- Gun Shot wound, 1.0 cm in diameter, 5th ICS, Anterior Left Chest (Thorax), 7.0 cm from anterior midline.

CAUSE OF DEATH: Hemmorrhagic Shock secondary to Gun Shot Wound, at Left Chest.

(Exh. "A", Post Mortem Findings dated August 26, 1997)[4]

Appellant denied the accusation against him and interposed the defense of alibi. He alleged that on March 30, 1996, he and his wife left for Barangay Masaya, Bai, Laguna to harvest rice. They returned home in the afternoon of April 2, 1996, the day after the crime was committed. He presented three witnesses who testified that they harvested palay with appellant until April 2, 1996.

On May 15, 2000, the trial court rendered judgment finding appellant guilty of the special complex crime of robbery with homicide and sentenced him to death. The decretal portion of the decision read:

WHEREFORE, in light of the foregoing premises and considerations, this Court finds the accused Dominador Werba also known as Doming Werba GUILTY beyond reasonable doubt as principal of the special complex crime of Robbery With Homicide, as the felony is defined and penalized by Article 294, paragraph (1) of the Revised Penal Code and, furthermore, applying the provisions of Republic Act No. 7659 entitled "An Act to Impose the Death Penalty on Certain Heinous Crimes," which took effect on December 31, 1993, hereby sentences the same accused to suffer the maximum penalty of death by lethal injection, to pay the family of the deceased Lucia Bril the sums of P21,500.00, as indemnity for the sum and the value of the jewelries taken away by the accused, P126,000.00 as actual damages incurred by the family of Lucia Bril on account of her death, P50,000.00, as indemnity for the death of Lucia Bril, P50,000.00, as moral damages, and P50,000.00, as exemplary damages, plus costs.

Let the entire records of this case be transmitted to the Honorable Supreme Court for automatic review in accordance with the provisions of the law and pertinent rules on criminal procedure.

SO ORDERED.[5]

Appellant assigns the following alleged errors of the trial court:

ASSIGNMENT OF ERRORS

I.

THE HONORABLE PRESIDING JUDGE DID NOT EVEN SEE THE DEMEANOR OF THE PROSECUTION'S WITNESSES, AND YET GAVE WEIGHT AND CREDENCE TO THEIR DOUBTFUL TESTIMONIES.

II.

THE COURT BELOW ERRED IN CONSIDERING THE TESTIMONIES OF THE PROSECUTION WITNESSES, ESPECIALLY THAT OF SPO2 REYNALDO GALA KASILAG.

III.

THE COURT A QUO ERRED IN CONVICTING THE ACCUSED-APPELLANT FOR THE SPECIAL COMPLEX CRIME OF ROBBERY WITH HOMICIDE.[6]

In the first two errors, appellant raises the issue of credibility. He essentially assails the findings of the trial court on his identification as the perpetrator of the offense charged. He alleges that the findings of the trial court should not be relied upon because the judge who rendered the decision was not the one who tried and heard the testimonies of the witnesses. However, while it is true that Judge Eleuterio Guerrero, who penned the decision, merely took over the case from Judge Jose V. Hernandez, who tried it, it did not necessarily follow that Judge Guerrero could not render a just and valid decision. The complete records of the case, including the transcript of stenographic notes, were with Judge Guerrero and it can be fairly assumed that, in rendering the decision, the records were thoroughly read and evaluated by him. Indeed, the efficacy of a decision is not necessarily impaired by the fact that its writer only took over from a colleague who had earlier presided at the trial.[7]

The well-settled rule in this jurisdiction is that the trial court's findings on the credibility of witnesses are entitled to the highest degree of respect and will not be disturbed on appeal without any clear showing that it overlooked, misunderstood or misapplied some facts or circumstances of weight or substance which could affect the result of the case.[8] We therefore find no reason to deviate from the conclusions of the trial court on the identification of appellant as the person who robbed the Bril family and shot Lucia Bril, considering that the prosecution eyewitnesses testified on this fact in a categorical, straightforward and consistent manner.

As Michelle Bril narrated:

Q: On April 1, 1996 at about 11:30 in the evening, do you remember where were you?

A: I was inside our house in Brgy. Arawan, San Antonio, Quezon sir.

Q: Where particularly in your house were you?

A: I was inside my bedroom sir.

Q: While inside your bedroom, did you hear anything unusual?

A: Yes sir.

Q: What was that unusual thing?

A:

I heard the voice of Dominador Werba saying “do not shout,” in tagalog, “sasabog ang bao ng ulo ninyo and everybody will be killed,” sir.

Q: After hearing that statement what did you do if any?

A: I was listening (nakikiramdam) until Dominador Werba passed by my room sir.

Q: What did you do if any then?

A: I saw Dominador Werba poking his gun at my father Gerardo Bril sir.

Q: That person who poked his gun to your father is he in court now?

A: Yes sir, he is that man wearing stripe T-shirt.

INTERPRETER

The person pointed to by the witness when asked give his name Dominador Werba.

Q: After that what happened if any?

A: Dominador Werba together with my father went to the room of my grandmother and my grandfather sir.

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Q: After that what happened?

A: He poked his gun at my grandmother sir.

Q: Did the accused say anything to your lola?

A:

I heard Werba told my grandmother to bring out the proceeds from the sale of the cow and the pieces of the jewelries and the gun, sir.

Q: What happened next?

A:

The accused told my lola to bring out all the things inside the baul and he found more than P7,000.00 which he got sir.

Q: What happened next?

A:

Werba ordered and dragged my grandmother to the room of my parents and he ordered that the lights be put on, sir.

Q: Was the lights actually put on?

A: Yes sir.

Q:

What happened next?

A:

He told my grandmother to get all the things inside the aparador of my parents and he was able to find pieces of jewelries, ring sir, the ring of my father, earrings and bracelet of my mother sir.

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Q: After that what happened?

A:

Dominador Werba went to my room together with my grandmother and ordered that the light be put on, sir.

Q: Was the light actually put on?

A: Yes sir.

Q: What happened next?

A:

He turned his attention to my younger sister May Bril and he hold my sister on her shoulder he asked about the profit from the sale of the cow and of the jewelries and the gun sir.

Q: What was the reply of your sister May Bril?

A:

My sister told him she does not know of any gun and the profit from the sale of the cow is very minimal only and she also said the jewelries are faked (sic) only sir, and then he poked his gun to me sir.

Q: What happened when he poked his gun to you?

A: He asked me about the profit from the sale of the cow and about the gun and the jewelries sir.

Q: What was your answer?

A:

I told him we don't have any gun and the money from the sale of the cow have been spent for the construction of the house sir, and that the jewelries are only faked (sic).

Q: What happened when you answered that?

A:

Dominador Werba got angry and he brought me and my grandmother to the room and he ordered my lola to lie flat under the bed and he kicked her sir, for several times.

Q: While he was doing this, did he make any statement?

A: He said nobody should rise because everybody will be killed sir.

Q: What happened next?

A: I was dragged going to the kitchen sir.

Q: While in the kitchen what happened?

A: He was forcing me to remove my clothes sir.

Q: Which particular part of your clothes did you or were you ordered to remove?

A: My T-shirt and my bra sir.

Q: Did you remove them?

A: Yes sir because he told me if I will not remove my T-shirt and my bra, sasabog ang ulo naming lahat, sir.

Q: What happened next?

A: On that particular moment my grandmother came sir.

Q: What did your grandmother do or say?

A:

She was pleading to Dominador Werba not to do anything bad to me or hurt me sir. Dominador Werba got angry and he dragged me and my grandmother to the room of my grandmother sir.

Q: What happened next?

A: He told my grandmother to lie under the bed and he kicked again my grandmother sir.

Q: And then what happened?

A: He dragged me going to the door of the three rooms and he was forcing me to remove my jogging pants.

Q: What happened next?

A: I cried and asked help from my grandmother sir.

Q: Did your grandmother help you?

A:

My grandmother stood up and went to the place where we were and tried to wrest the gun from Dominador Werba sir.

Q: What happened next?

A: Dominador Werba shot my grandmother sir.

Q: Was your grandmother Lucia Bril hit?

A: Yes sir, she was hit on her chest.

Q: What happened to your grandmother after she was shot by the accused?

A:

She fell down and Dominador Werba run away sir.[9]

Categorically and positively identifying the appellant, Michelle further testified:

Q:

What made you remember Dominador Werba such that you were able to identify him inside the municipal jail?

A: Because our house was lighted, he stayed long in our house when he robbed us and killed my grandmother sir.

Q:

What particular appearance of Dominador Werba did you remember that made you identify him when he was inside the jail?

A: His face sir, his gold teeth, his arms and hair and his body sir.

Q: What did you notice with his hair?

A: His hair has natural curl.

Q: What about his eyes?

A: Maliit na mabagsik sir.

Q: What about his body?

A: He is short and dark sir.[10]

The foregoing narration of facts and the positive identification of appellant were corroborated by witness Alipio Bril:

Q: Now you said that this person Lucia Bril is your wife, where is she now?

A: She is already dead, sir.

Q: Do you know why she died?

A: Yes, sir.

Q:

Why did she die?

A: Because she was shot by Dominador Werba, sir.

Q: This Dominador Werba, is he in court?

A: Yes sir.

Q: Please point to him?

A: That one with handcuffs, sir.

INTERPRETER:

The person pointed to by the witness identified himself as Dominador Werba your Honor.

ATTY. QUITAIN:

Before today how long have you known the accused Dominador Werba whom you have just pointed to this honorable court a moment ago?

A: More or less ten (10) years, sir.

Q:

Why do you know the accused Dominador Werba for about ten (10) years?

A:

Because I bought from him a cow for three (3) times already, sir.[11]

Likewise, witness Gerardo Bril testified:

Q: Where was your daughter Michelle Bril on April 1, 1996 between 11 and 12 o'clock in the evening?

A: Inside our house, sir.

Q:

Now, at that time, more or less, what were you doing, if any?

A:

I was then going out of the house to store water in the drum and I opened the door and, simultaneously, Doming entered the house and poked a gun at me, sir.

Q: Who is this Doming? If this Doming is inside the courtroom, please point him out?

A:

That one at the middle sir. (The person pointed to stood up and when asked of (sic) his name, replied that he is Dominador Werba).

Q: In what part of your body did Doming poke a gun at you?

A: Here, sir. (Witness pointing to his forehead).

Q: And then, what happened when he poked his gun at you?

A: I was forced to go to the room of my parents, sir.

Q: And after inside (sic) the room of your parents, what happened next?

A: I was told to lie down, face down, sir.

Q: Did you actually lie down face downward?

A: Yes sir.[12]

The prosecution witnesses who identified appellant as the perpetrator of the crime were members of the victim's family husband Alipio, son Gerardo and granddaughter Michelle. Mere relationship of a witness to the victim does not impair his credibility.[13] On the contrary, a witness' relationship to the victim of a crime makes his testimony even more credible as it would be unnatural for a relative interested in vindicating a crime done to their family to accuse somebody other than the real culprit.[14]

Appellant further avers that the testimonies of the prosecution witnesses were rehearsed as they were allegedly coached by SPO2 Reynaldo Kasilag to point at appellant as the malefactor. However, he failed to substantiate his accusation of alleged influence exerted by the police on the prosecution witnesses.

In stark contrast to the overwhelming evidence against him, all appellant could offer were alibi and denial. For the defense of alibi to prosper, the accused must prove not only that he was at some other place at the time the crime was committed but that it was likewise impossible for him to be at the locus criminis or its immediate vicinity at the time of the alleged crime.[15] Where there is even the least chance for the accused to be present at the crime scene, the defense of alibi will not hold water.[16] Appellant himself admitted that Barangay Masaya, Bai, Laguna where he was allegedly harvesting rice was only 45 minutes by jeepney from Barangay Arawan, San Antonio, Quezon where the crime was committed. His witnesses testified that they harvested palay with him during the day from March 30 to April 2, 1996. But they could not account for his whereabouts at past 11:00 p.m.

on April 1, 1996 when the crime was committed. Appellant failed to prove that it was physically impossible for him to be at the scene of the crime at the approximate time of its commission. His alibi therefore deserves no consideration at all.

Furthermore, appellant's denial fails in the light of the positive identification and declarations of the prosecution witnesses. The positive identification of an accused by eyewitnesses prevails over the defenses of alibi and denial.[17] Courts generally view the defenses of denial and alibi with disfavor on account of the facility with which an accused can concoct them to suit his defense.[18] Being evidence that is negative in nature and self-serving, they cannot attain more credibility than the testimonies of prosecution witnesses who testify on clear and positive evidence.[19]

We agree with the trial court that appellant committed the special complex crime of robbery with homicide under paragraph 1, Article 294 of the Revised Penal Code:

Art. 294. Robbery with violence against or intimidation of persons – Penalties – Any person guilty of robbery with the use of violence against or intimidation of any person shall suffer:

- The penalty of reclusion perpetua to death, when by reason or on occasion of the robbery, the crime of homicide shall have been committed; or when the robbery shall have been accompanied by rape or intentional mutilation or arson.

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The elements of robbery with homicide are: (a) the taking of personal property with the use of violence or intimidation against a person; (b) the property thus taken belongs to another; (c) the taking is characterized by intent to gain or animus lucrandi and (d) on the occasion of the robbery, homicide (used in its generic sense) is committed.[20]

Essential in robbery with homicide is that there is a nexus, an intimate connection between the robbery and the killing, whether the latter be prior or subsequent to the former or whether both crimes are committed at the same time.[21]

In the case at bar, the deceased, Lucia Bril, was killed by appellant on the occasion of the robbery. While appellant was demanding more money and a gun from the Bril family, he was irked by the protestations of Lucia and her granddaughter Michelle who were crying that they had nothing more to give him. He then dragged Michelle to the kitchen and later, to her grandparents' bedroom, and ordered her to undress while threatening to shoot her if she refused. Michelle begged her grandmother to help her and Lucia pleaded with appellant not to harm her granddaughter. Lucia then tried to wrestle the gun away from appellant but the latter overpowered her and shot her in the chest. Then he fled.

A conviction for robbery with homicide is proper even if the homicide is committed before, during or after the robbery. The homicide may be committed by the malefactor at the spur of the moment or by mere accident. Even if two or more persons are killed or a woman is raped or physical injuries are inflicted on another on the occasion or by reason of the robbery, there is only one special complex crime of robbery with homicide. What is critical is the result obtained without reference or distinction as to circumstances, cause, modes or persons intervening in the commission of the crime.[22]

We, however, disagree with the court a quo that the aggravating circumstance of dwelling attended the commission of the crime. This circumstance was not specifically alleged in the information. By virtue of its amendment, effective December 1, 2000, Rule 110, Section 8 of the Revised Rules on Criminal Procedure now provides that aggravating circumstances must be alleged in the information, otherwise, they cannot be considered

against the accused even if they are proven during the trial.[23] Being favorable to the appellant, the rule, as amended, should be applied retroactively.[24]

We cannot likewise appreciate the aggravating circumstance of nighttime because, while the information alleged that the killing was committed at past 11:00 p.m., there was no showing that nocturnity was deliberately sought to facilitate the commission of the crime. It is settled that, by and of itself, nighttime is not an aggravating circumstance. It becomes so only when it is specially sought by the offender, or taken advantage of by him, to facilitate the commission of the crime or to insure his immunity from capture.[25] Here, appellant was known by the Bril family for almost ten years. Thrice, he bought a cow from Alipio Bril. On the night he robbed the Bril family and killed Lucia Bril, appellant did not make any attempt to hide his identity from his victims. He did not wear a hood to cover his face and even ordered the lights to be turned on as he instructed the Bril family to bring out their valuables. It appears that the reason he committed the crime on the eve of April 1, 1996 was because of his ill-founded belief that he could get away with it, since he had witnesses to prove that he was busy harvesting palay during the day.

The qualifying circumstance of treachery cannot likewise be logically appreciated because appellant did not prepare to kill the deceased in such a manner as to insure the commission of the crime or to make it impossible or difficult for her to defend herself or to retaliate.[26] Clearly, appellant had no plan to kill Lucia Bril. He shot her on the occasion of the robbery only because she tried to wrestle the gun away from him as he tried to sexually abuse Michelle. For treachery to be considered, two elements must concur: (1) the employment of means of execution that gives the person attacked no opportunity to defend himself or retaliate and (2) the means of execution is deliberately or consciously adopted.[27] Both elements are absent in the case at bar.

On the issue of damages, the Office of the Solicitor General recommends the reduction of the award of actual damages from P126,000 to P18,000 because only the expense for the funeral services in the amount of P18,000 was duly receipted and no other evidence was presented to support the other alleged expenses.

In *People vs. Abrazaldo*,[28] we laid down the doctrine that where the amount of actual damages for funeral expenses cannot be determined because of the absence of receipts to prove them, temperate damages may be awarded in the amount of P25,000.[29] This doctrine specifically refers to a situation where no evidence at all of funeral expenses was presented in the trial court. However, in instances where actual expenses amounting to less than P25,000 are proved during the trial, as in the case at bar, we apply the ruling in the more recent case of *People vs. Villanueva*[30] which modified the *Abrazaldo* doctrine. In *Villanueva*, we held that “when actual damages proven by receipts during the trial amount to less than P25,000, the award of temperate damages for P25,000 is justified in lieu of the actual damages of a lesser amount.” To rule otherwise would be anomalous and unfair because the victim’s heirs who tried but succeeded in proving actual damages of an amount less than P25,000 would be in a worse situation than those who might have presented no receipts at all but would now be entitled to P25,000 temperate damages.[31]

In the case at bar, private complainants were only able to prove the funeral expense of P18,000 as evidenced by the receipt issued by the Amparo-Coloma Funeral Homes although they incurred more expenses for the wake and funeral of Lucia Bril than they were actually able to prove. We therefore apply the *Villanueva* doctrine and award private complainants temperate damages in the amount of P25,000, in lieu of the actual damages of P126,000 which was erroneously awarded by the trial court.

The trial court likewise erred in awarding exemplary damages to the heirs of Lucia Bril in the amount of P50,000. We reduce the same to P25,000 in line with existing jurisprudence.[32]

The court a quo, however, correctly awarded moral damages in the amount of P50,000 on account of the grief and

suffering of the victim's heirs.[33] The award of moral damages in the amount of P75,000, as prayed for by the Office of the Solicitor General, refers to cases of rape where the victim dies. The rule is not applicable to cases of robbery with homicide.

Under Article 294 of the Revised Penal Code, as amended by Section 9 of RA 7659, the prescribed penalty for robbery with homicide is composed of two indivisible penalties, reclusion perpetua to death. Considering that, in the present case, there was no aggravating circumstance that attended the commission of the crime, we impose upon appellant the lower penalty of reclusion perpetua.

WHEREFORE, the assailed decision is hereby **AFFIRMED** with the **MODIFICATION** that the penalty is reduced to reclusion perpetua. Temperate damages in the amount of P25,000 shall be awarded private complainants in lieu of the P126,000 awarded by the trial court. In line with existing jurisprudence, appellant is likewise ordered to pay private complainants P50,000 civil indemnity, P50,000 moral damages, P25,000 exemplary damages and P21,500 as indemnity for the sum and value of the cash and jewelries stolen.

Costs de officio.

SO ORDERED.

Davide, Jr., C.J., Puno, Vitug, Panganiban, Quisumbing, Ynares-Santiago, Sandoval-Gutierrez, Carpio, Austria-Martinez, Carpio-Morales, Callejo, Sr., Azcuna, and Tinga, JJ., concur.

[1] Penned by Judge Eleuterio F. Guerrero.

[2] Record, pp. 2-3.

[3] Based on the testimony of the seven prosecution witnesses: Michelle Bril, Alipio Bril, SPO2 Reynaldo Kasilag, Dr. Pedro Landicho, Gerardo Bril, Eugenio Bril and Jose de Luna.

[4] Brief for the Plaintiff-Appellee (With Recommendation for Reduction of Actual Damages, Increase of Civil Indemnity and Award of Temperate Damages), Rollo, pp. 80-90.

[5] Decision, RTC, 4th Judicial Region, Branch 55, Lucena City, Rollo, p. 40.

[6] Appellant's Brief, Rollo, pp. 60-61.

[7] *People vs. Yatco*, 379 SCRA 432 [2002].

[8] *Ibid.*; see also *People vs. Boquirin*, 383 SCRA 164 [2002], *People vs. Taboga*, 376 SCRA 500 [2002].

[9] TSN dated November 26, 1996, pp. 5-12.

[10] *Ibid.*, p. 15.

[11] TSN dated April 2, 1997, pp. 8-10.

[12] TSN dated January 7, 1998, p. 2.

[13] *People vs. Godoy*, 382 SCRA 680 [2002] cited in *People vs. Romero*, G.R. No. 145166, October 8, 2003.

[14] *Ibid.*

[15] see *People vs. Peloperio et al.*, G.R. No. 126119, October 15, 2003; *People vs. Taboga*, *supra* at note 8; *People vs. Blanco*, 324 SCRA 280 [2002].

[16] People vs. Lopez, G.R. No. 149808, November 27, 2003.

[17] see People vs. Juan, 322 SCRA 598 [2000].

[18] People vs. Alib, 322 SCRA 93 [2000].

[19] Ibid.

[20] see People vs. Arondain, 366 SCRA 325 [2001]; People vs. Amba, 365 SCRA 518 [2001]; People vs. Boagat, 364 SCRA 425 [2001]; People vs. Olita, 362 SCRA 521 [2001]; People vs. del Rosario, 359 SCRA 166 [2001].

[21] People vs. Cabillo, 362 SCRA 521 [2001].

[22] People vs. Daniela et. al, 401 SCRA 519 [2003].

[23] Revised Rules on Criminal Procedure, Rule 110, Sec. 8, specifically provides:

Sec. 8. Designation of the offense. The complaint or information shall state the designation of the offense given by the statute, aver the acts or omissions constituting the offense, and specify its qualifying and aggravating circumstances. If there is no designation of the offense, reference shall be made to the section or subsection of the statute punishing it.

[24] People vs. Ibanez, G.R. No. 133923-34, July 30, 2003.

[25] People vs. Silvano, 350 SCRA 385 [2001].

[26] People vs. Cabareno, 349 SCRA 297 [2001].

[27] People vs. Amazan, 349 SCRA 218 [2001].

[28] 397 SCRA 137 [2003].

[29] Ibid.

[30] G.R. No. 139177, August 11, 2003.

[31] Ibid.

[32] People vs. Almoguerra, supra at note 24.

[33] People vs. Otayde, G.R. No. 140227, November 28, 2003.

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