

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. GEORGE WAD-AS, APPELLANT.

G.R. No. 146103. November 21, 2002

Ponente: DAVIDE, JR., C.J.

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DAVIDE, JR., C.J.:

Appellant George Wad-as (hereafter WAD-AS) challenges the decision of 21 August 2000 of the Regional Trial Court, Branch 6, Baguio City, in Criminal Case No. 15986-R finding him guilty of murder for the killing of Mario Olpindo (hereafter OLPINDO), and sentencing him to suffer the penalty of reclusion perpetua and to pay the heirs of the victim P50,000 as civil indemnity; P55,000 as actual damages; P200,000 as moral damages; and P1,481,666.50 as unearned income.[1]

WAD-AS was accused of murder under an Information which reads as follows:

That on or about the 8[th] day of September 1998, in the City of Baguio, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with intent to kill and with treachery, did then and there willfully, unlawfully and feloniously attack, assault and shoot MARIO OLPINDO Y GAPUZ on his head with a handgun, thereby inflicting upon the latter gunshot wound on the vital part of his body, which was the direct cause of his death, to the damage and prejudice of his heirs.

The qualifying circumstance of treachery is in attendance because the attack was sudden and unexpected and the victim was not in a position to defend himself.

CONTRARY TO LAW.[2]

WAD-AS entered a plea of not guilty upon his arraignment. Trial on the merits thereafter ensued.

The prosecution presented as its witnesses Rodolfo Sion, Jr.; Marcial Bachain; Dr. Ma. Fe Lagmay de Guzman; Dr. Jesus Nigos; and the victim's widow, Celia Olpindo.

Rodolfo Sion, Jr., a resident of San Fabian, Pangasinan, and an overseas contract worker, testified that on 8 September 1998, he visited his uncle OLPINDO at No. 14 Private Road, Magsaysay Ave., Baguio City. OLPINDO was a laborer working in the construction of a three-storey house at said address. Sion arrived at the place at around 5:30 p.m. and found his uncle drinking gin with Marcial Bachain and WAD-AS on the second floor of the three-storey house under construction. He joined the group in their drinking spree. They were all seated on the concrete floor at the foot of the stairway leading to the third floor. From where they were seated, they could see the landing of the third floor.[3]

While the group was thus drinking into the night and exchanging stories, WAD-AS repeatedly told the group that he was the tough guy (siga) there. Sion kept silent, as he sensed trouble brewing. OLPINDO and Bachain also remained silent while WAD-AS was repeatedly bragging about his toughness. Sion broke his silence by addressing WAD-AS, "We are not doing [anything] wrong to you, why are you like that!" Just as suddenly, WAD-AS drew a black and white 9 mm. style .45 pistol, which was tucked inside his right waist. He stood up and

pointed the gun at them. WAD-AS then started kicking Sion and Bachain on the breast and neck.[4]

While being repeatedly kicked by WAD-AS, Sion noticed that his uncle OLPINDO ran away and climbed the stairway leading to the third floor. WAD-AS pursued OLPINDO. As Sion looked up into the stairway and the third floor, he saw WAD-AS catch up with OLPINDO on the third floor and point the pistol at the left temple of the latter. WAD-AS pressed the trigger, and OLPINDO “fell down” and crumpled on the floor.[5] WAD-AS turned to Sion and Bachain, who then separately ran outside. Sion and Bachain forthwith reported the incident to the police. They accompanied the police in the service car to where OLPINDO was shot. They saw him lying on his back on the third floor. They could not find WAD-AS. They brought OLPINDO to the Baguio General Hospital, while the police remained on the scene of the incident to conduct an investigation.[6]

On cross-examination, Sion admitted that there was another person, a companion of WAD-AS whose name he could not remember, who was with them in the place and time in question. He repeatedly offered a drink to this fifth man, but the latter consistently refused the offer. After a while, this man left the place.[7]

Prosecution witness Marcial Bachain testified that he was a painter for the house being constructed at No. 14 Private Road, Baguio City. OLPINDO, a cousin of his wife, was his co-worker in this construction work. After they had finished work on 8 September 1998 at 5:00 p.m. he, OLPINDO, WAD-AS, and Rodolfo Sion, Jr., engaged in a drinking spree on the second floor of the house under construction. When their conversation turned to the matter of “going abroad,” WAD-AS suddenly became angry at Sion and told the latter that he was the “tough guy” at Magsaysay Ave. WAD-AS then began kicking Sion. OLPINDO tried to pacify them. Unheeded, OLPINDO stood up and went to the third floor. WAD-AS then pulled out a gun and pointed it at Bachain and Sion. Soon, WAD-AS followed OLPINDO to the third floor. From where he was seated, Bachain saw both WAD-AS and OLPINDO on the last step of the stairway. WAD-AS pointed his gun at the head of OLPINDO, pulled the trigger, and shot OLPINDO, who then fell down.[8]

WAD-AS came down the stairs and pointed his gun at Bachain and Sion. The two ran outside.[9] As to the events thereafter, Bachain substantially corroborated Sion’s testimony on the details thereof.[10]

As with Sion, Bachain admitted, on cross-examination, to the presence of a fifth person, a companion of WAD-AS who did not drink with them and whose name he could not remember.[11]

Dr. Ma. Fe Lagmay de Guzman, a Municipal Health Officer of Sison, Pangasinan, testified that she issued and signed OLPINDO’s Death Certificate[12] indicating that the cause of the death was the gunshot wound on the head, frontoparietal left. She admitted that she did not conduct any autopsy and issued the death certificate based on her interpretations of the Medical Certificate issued by the Baguio General Hospital.[13]

In view of the objections to Dr. De Guzman’s testimony and competence to issue a death certificate without the benefit of autopsy, the prosecution presented Dr. Jesus Nigos, Medical Officer III, Department of Surgery of the Baguio General Hospital and Medical Center. Dr. Nigos recalled that he attended to OLPINDO upon the latter’s admission to the hospital on 8 September 1998 at around 11:00 p.m. He found that OLPINDO sustained a fatal lacerated wound on the head. His x-ray findings revealed that foreign objects, which could be metallic fragments, were deeply lodged in the frontoparietal area of OLPINDO’s brain. Upon his discharge from the hospital, OLPINDO was not breathing anymore but had blood pressure, which meant that he was clinically brain-dead. His final diagnosis was Gunshot wound POEN: Frontoparietal (L),[14] which confirmed his Pre-Operative Diagnosis: Gunshot wound Point of Entry POEN: Frontoparietal (L).[15]

The widow of the victim, Celia Olpindo, testified that she went straight to the Baguio General Hospital to see her husband when she learned of the incident. She was advised by Dr. Nigos to bring her husband home, as he was

brain-dead and his case was hopeless. She then brought home her husband on 10 September 1998, but he died shortly after arrival. She was then six months pregnant; she was so hurt that she collapsed and suffered miscarriage. She incurred the amount of P55,000 for hospitalization, medicine, vigil, and burial expenses. Her husband was 45 years old at the time of his death and his main occupation was farming, with an annual gross earning of P127,000.[16]

The defense presented a two-pronged theory of exculpation. The first part consisted in the alleged failure of the prosecution eyewitnesses to have seen the shooting incident because of the peculiar shape of the stairway of the second floor of the locus criminis and because of the brownout at that time. The second part consisted in attributing the crime to a certain Alex, the fifth man whose presence at the locus criminis was admitted to by the prosecution eyewitnesses.

The first part was supported by the testimony of Augusto Balbawang. As a former mason of the house being constructed at No. 14 Private Road, Magsaysay Ave., Baguio City, he knew that the stairway going to the third floor had initially five steps before making a 90-degree curve, turning to an L-shaped form upwards with eight steps. A person on the first step of the stairway could not see the top of the stairway.[17]

Barangay Captain Joseph Limmayog, a resident of No. 10 Private Road, Magsaysay Avenue, testified that when the brownout occurred, he saw the time on his table clock as 8:30 p.m. He peeped through the window and saw that his neighbors' lights were out, including the house being constructed at No. 14 Private Road. While he was already on bed, he heard a gunshot. He got his flashlight and looked at his table clock. It was 9:15 p.m. He did not pay attention to the gunshot, as he thought it was fired by a neighbor, a policeman who had the habit of firing his gun when drunk.[18]

Charlie Calpo, radio operator of Benguet Electric Co. (BENECO), testified that in the evening of 8 September 1998, Circuit 2, which covered Magsaysay and Private Road, tripped-off. There was no electric power from 8:36 p.m. to 9:35 p.m. Power was restored at 9:36 p.m.[19]

The testimony of WAD-AS revealed that at around 6:00 p.m. of 8 September 1998 he, Bachain, OLPINDO, and Sion were drinking liquor in the kitchen of the second floor of the house being constructed at No. 14 Private Road. He said that he obtained the contract for the installation of the floor tiles, while OLPINDO and Bachain were the painters.[20] They exchanged stories during the drinking spree. The talk turned to purchasing a weapon to protect and guard their tools. OLPINDO informed the group that he had a friend who was selling a gun. WAD-AS did not reply. Later, WAD-AS's neighbor arrived to inform WAD-AS that he had a visitor in his house.[21]

WAD-AS left for his house at No. 15 Private Road, which was about five meters from the house under construction. His visitor was Cariño Mesmesen. They had dinner first and then proceeded to the house at No. 14. As WAD-AS was pointing his sanding machine to Mesmesen, he noticed that Bachain was with a male companion in the sala of the second floor. Bachain then remarked to him, "George, this is the person whom I said was selling a gun." WAD-AS came to know the name of that person when Bachain said, "Alex, you show the gun." WAD-AS then held the gun and observed that it was marked 9 mm. and heavy. He immediately returned the gun to Alex, as Mesmesen was in a hurry to leave. He accompanied Mesmesen to his taxi that was parked along Magsaysay Ave.[22]

At about 8:30 p.m., the lights in the street and in the houses went off. He then went to his house, got a flashlight, and walked back to No. 14. He re-joined the group of OLPINDO, Bachain, Sion, and Alex. While drinking liquor, he told Alex that he needed the gun to protect his tools, but he could not afford the selling price of P15,000. He only had P5,000 in his pocket, which he received that afternoon as down payment for his contract in connection

with the construction of the house at No. 14. While thus conversing, OLPINDO offered Alex a drink, but the latter refused because he was under medication. Sion insisted for Alex to take a drink, but the latter repeatedly refused the offer.[23]

When Alex persisted in selling the gun, WAD-AS requested to take a look at the gun again. Alex removed the gun from the holster and gave it to him. OLPINDO then requested to see the gun. WAD-AS gave the gun to OLPINDO, who said that he wanted to test fire it. OLPINDO also took a flashlight and climbed the stairs to the third floor. Alex followed him. From the second floor, WAD-AS heard the exchanges of words from the third floor. He followed OLPINDO and Alex to the third floor.[24]

On the last step of the stairway, WAD-AS saw and heard Alex angrily confront OLPINDO: "Why do you test fire it when you will not buy it." Alex asked for the gun, but OLPINDO refused. Alex then grabbed the gun from OLPINDO. After a few seconds, WAD-AS heard the gun fire. He was about to run when he saw Alex pick up the gun and warned him not to run or he would be shot. At that point OLPINDO was already lying down on the floor.[25] Alex then told him to hand over his money. For fear of being shot, WAD-AS gave his P5,000 to Alex, who warned him to be quiet and not to report the matter to the police; otherwise he and his family would be killed. Alex then went downstairs and told Bachain that they should go because WAD-AS shot OLPINDO.[26]

WAD-AS thereafter went downstairs and did not find anybody there. He did not bring OLPINDO to the hospital because he was afraid. Upon reaching home, he told his wife not to open the door should someone knock. He then went to his brother's house. Upon arrival, the lights went on. It was 9:30 p.m. He slept in his brother's house. Early morning the next day, he went to the house of Barangay Captain Limmayog and narrated to him what had transpired in the night. Limmayog got mad and told him to leave the place. WAD-AS then went home and took his family to Pangasinan for fear of the threats of Alex.[27]

The testimony of WAD-AS on the presence of Alex in the house at No. 14 Private Road was corroborated by Cariño Mesmesen. He declared that in the evening of 8 September 1998, WAD-AS took him to the house at No. 14 Private Road to see the destroyed sanding machine, which he would take to Pozzurobio, Pangasinan.[28] He noticed two men in the sala, one of whom informed WAD-AS that the person selling the gun was there. WAD-AS answered, "Show us the gun." The person with the gun showed it to WAD-AS, who, after holding the gun, gave it back. Accompanied by WAD-AS, Mesmesen left the place at 8:30 p.m. and walked towards where he parked his taxi. They then parted ways.[29]

Barangay Captain Limmayog also confirmed that WAD-AS visited him at around 7:00 a.m. of 9 September 1998 and told him that a certain Alex killed one of his companions in their drinking session the night before. This Alex also took WAD-AS's money and threatened to kill him and his family should he report the incident. Limmayog then told WAD-AS to leave the neighborhood to avoid trouble.[30]

The trial court conducted an ocular inspection of the house to validate the claim of the defense that considering the design of the staircase it was impossible for the prosecution witnesses Sion and Bachain to see the shooting of OLPINDO by WAD-AS. We quote the transcripts of the stenographic notes on this ocular inspection:

[Prosecutor] Centeno:

We would like to put also on record that the landing of the stairway is really a baluster and the distance of the baluster is about four inches. And if the person would be along the aisle going towards the kitchen, the person could briefly see the last step together with the landing on the third floor with ease without any obstruction since the balusters are far apart. Or whether a person could be sitting down or standing, he would be able to see the landing at the third floor.

.....

Court:

.....

The court noted that the kitchen below the stairway is almost a square five meters by four meters. So that if there [were] four or five people sitting on the floor they could easily be accommodated. Because if you drink and play on the floor you will be accommodated even if you are about five people.

.....

The court noted that in the last step of the stairway which coincides with the third floor. Two persons can already be accommodated easily [sic].

.....

Atty. Balo: [for the defense]

Well, the distance from the last step to the flooring of the second floor is less than five (5) meters. . .

I manifest likewise Your Honor that the [comfort room] and the balusters [were] already present during the incident. . .

Court:

And if you are in the alley you can see the third floor, correct?

Atty. Balo:

You can hardly see your honor. The distance your honor is less than five (5) meters.

Court:

You can easily see the third floor. Be fair. Okay, no more. Thank you. . . [31]

In its decision of 21 August 2000, the trial court found WAD-AS guilty beyond reasonable doubt of the crime of murder for the death of OLPINDO.

WAD-AS seasonably appealed to us from the decision of the trial court. In his Appellant's Brief, he claims that Sion and Bachain could not have seen the actual killing because there was a brownout and the L-shaped staircase and balusters obstructed their view of the last step of the stairway and the landing of the third floor. Second, they admitted to the presence of a fifth person at the time of the shooting incident who was the real assailant of OLPINDO. Even granting but without admitting that he (WAD-AS) was the culprit, the trial court erred in appreciating the qualifying circumstance of treachery. While the attack was sudden, the events preceding the shooting, specifically the aggressive and threatening behavior of WAD-AS, reasonably forewarned OLPINDO of the impending attack. His avoidance of the blows and his retreat to the third floor indicated expectation of an attack. In any event, the shooting was a spur of the moment occurrence. WAD-AS finally maintains that his behavior after the fatal incident was purely impelled by his fear of Alex and his desire to protect his family from the latter's threats on their lives.

In the Appellee's Brief, the Office of the Solicitor General (OSG) disagrees with WAD-AS's propositions and recommends the affirmation in toto of the challenged decision. It argues that the defense failed to put a dent of doubt on the testimonies of the prosecution eyewitnesses, which were strengthened by the testimonial evidence of Dr. Nigos and OLPINDO's wife, as well as the documentary medical evidence.

Time and again, we have ruled that the findings of facts of the trial court, especially on the issue of the credibility of witnesses, are accorded great respect and even finality. This is so because the trial court has the peculiar advantage to observe the witnesses firsthand and note their demeanor, conduct, and attitude under grueling examination; it is therefore, in the best position to assess their credibility.[32] The rule, however, admits of exceptions as where there exists a fact or circumstance of weight and influence which has been ignored or misconstrued, or where the trial court has acted arbitrarily in its appreciation of facts.[33]

None of the exceptions exists in the case at bar. We fully afford respect and finality to the trial court's findings on the issue of credibility of the witnesses for the prosecution. We fully subscribe to the eyewitness accounts of Sion and Bachain in that after WAD-AS drew the gun, pointed it to them and beat them, they saw from where they were positioned that WAD-AS pursued OLPINDO, who retreated into the stairway towards the third floor; and that WAD-AS caught up with OLPINDO at the last step of the stairway, pointed his gun at the left temple or head of OLPINDO, and pressed the trigger of the gun.

The testimonial evidence of Sion and Bachain on the actual killing were indeed credible, spontaneous, free from improper motive, and consistent despite the rigorous cross-examination. WAD-AS's attempts to assail the credibility of Sion and Bachain prove futile. There was no more brown-out when the killing took place at 9:45 p.m. Sion testified that WAD-AS kicked him and pointed his gun at him and Bachain at 9:45 p.m.[34] The shooting therefore occurred at around or immediately after 9:45 p.m. This certainly corresponds with the defense's testimony of BENECO representative Charlie Calpo that the power failure happened from 8:36 p.m. to 9:35 p.m. Sion and Bachain's narrative that the place where the incident took place was lighted is obviously indisputable. Further, the sworn statements given by both witnesses to the police immediately after the incident, which were introduced in evidence and admitted in court, stated that the shooting happened at 9:45 p.m.[35]

WAD-AS's claim that the L-shaped staircase and the balusters on the top thereof could block the view of a person who is at the landing of the second floor deserves a short shrift. We subscribe to the trial court's finding, based on its observation during the ocular inspection, that notwithstanding the balusters and the L-shaped design of the staircase Sion and Bachain could witness the crime perpetrated on the last step of the staircase with their view unimpeded. They were about five meters away from the gruesome scene which they witnessed. Indeed the testimonial evidence of the eyewitnesses completely conform with the observations of the trial court in the ocular inspection. There is, therefore, no room for doubt that Sion and Bachain saw WAD-AS shoot OLPINDO under the circumstances they related.

Consequently, the presence of a fifth male person during the drinking spree, whom WAD-AS identified as Alex and alleged to be the killer of OLPINDO, is of no moment. What is important is that Sion and Bachain positively identified WAD-AS as the perpetrator of the crime both in the sworn statements they executed after the incident and in court during the trial. Full weight and credence should be given to the testimonies of Sion and Bachain, there being no evidence of an improper motive on their part to falsely testify against WAD-AS. It was even admitted by WAD-AS that being relatives of OLPINDO, Sion and Bachain would primarily desire that justice be done to said victim for his untimely death.

We also accede to the conclusion of the trial court that WAD-AS's conduct and deportment immediately after the crime were inconsistent with his plea of innocence. His flight alone evidences guilt or betrays the existence of a guilty conscience.[36] Truly, "the wicked man flees though no man pursueth, but the righteous are as bold as a lion." [37]

However, we disagree with the trial court's appreciation of treachery. There is treachery when the offender commits any of the crimes against persons, employing means, methods or forms in the execution thereof which

tend directly and specially to ensure its execution without risk to himself arising from any defensive or retaliatory act which the victim might make. For treachery to be appreciated, two conditions must concur: (1) the means of execution were employed to give the person attacked no opportunity to defend himself or retaliate; and (2) the means of execution were deliberately or consciously adopted.[38] The essence of treachery is a swift and unexpected attack on an unarmed victim without the slightest provocation on the part of the victim.[39]

In the case at bar, while the attack on OLPINDO was concededly swift, it was not, however, entirely unexpected. We believe that OLPINDO had reasonably surmised or anticipated an attack from WAD-AS when he saw the latter draw a gun and point it at Sion and Bachain. This could be easily inferred from his behavior. He quickly sensed the forthcoming trouble. Thus alerted, he immediately retreated to, or climbed, the third floor where unfortunately, he was pursued and killed by WAD-AS. This forewarning negates the presence of treachery.

Thus, WAD-AS should be held guilty of homicide only, which is punishable by reclusion temporal. There being no modifying circumstances, the penalty should be imposed in its medium period. Applying the Indeterminate Sentence Law, WAD-AS should be sentenced to an indeterminate penalty, the minimum of which shall be within the range of prison mayor, being the penalty next lower in degree to that prescribed for the offense, and the maximum is reclusion temporal in its medium period.

We sustain the trial court's award of death indemnity in the amount of P50,000, as well as the award for loss of earning capacity which was computed in accordance with the following formula:

Net Earning Capacity = $\frac{2}{3} \times (80 - \text{age of the victim at the time of death}) \times \text{reasonable portion of the annual net income which would have been received as support by the heirs.}$

The victim was 45 years old at the time of his death. His widow testified that he was earning P127,000 annually from farming. There being no evidence of his living expenses, his net income is deemed to be 50% of his gross income.[40] Thus:

Net Earning Capacity = $\frac{2(80-45)}{3} \times (50\% \text{ of } P127,000)$

3

= $\frac{2(35)}{3} \times P63,500$

3

= P1,481,666.60

As regards the award of P55,000 as actual damages, the same has to be reduced to P15,000, inasmuch as only the latter amount[41] was supported by a receipt.[42] The list of medical, burial, and traveling expenses, albeit certified to by Punong Barangay Narcisco S. Ocumen, Sr.,[43] cannot replace receipts when the latter could have been issued as a matter of course in business transactions.[44] Basic is the jurisprudential principle that in determining actual damages, the courts cannot rely on mere assertions, speculations, conjectures, or guesswork but must depend on competent proof or the best obtainable evidence of the actual amount of loss.[45]

Likewise, we find the award of P200,000 for moral damages to be unconscionably high. Hence, we reduce it to P50,000 conformably with current jurisprudence.

IN VIEW OF ALL THE FOREGOING, the assailed decision of the Regional Trial Court of Baguio City, Branch

6, in Criminal Case No. 15986-R, finding accused-appellant GEORGE WAD-AS guilty of Murder is hereby MODIFIED. As modified, he is hereby found GUILTY beyond reasonable doubt as principal of the crime of homicide, defined and penalized under Article 249 of the Revised Penal Code, and he is hereby sentenced to suffer an indeterminate imprisonment penalty ranging from ten (10) years of prision mayor as minimum, to seventeen (17) years and four (4) months of reclusion temporal as maximum. Except for the awards of actual and moral damages which are hereby reduced to P15,000 and P50,000, respectively, all the other awards for damages stand.

Costs de oficio.

SO ORDERED.

Vitug, Ynares-Santiago, Carpio, and Azcuna, JJ., concur.

[1] Original Record (OR), 177-193; Rollo, 29-45. Per Judge Ruben C. Ayson.

[2] OR, 1.

[3] TSN, 25 August 1999, 3-6, 15.

[4] TSN, 25 August 1999, 9-13.

[5] Id., 14-17.

[6] Id., 17-19.

[7] Id., 29-30.

[8] TSN, 21 September 1999, 3-7, 9.

[9] Id., 8.

[10] Id., 8-12.

[11] TSN, 22 September 1999, 4-6.

[12] Exh. "C."

[13] TSN, 26 August 1999, 2-15.

[14] Exh. "D-2."

[15] Exh. "D-3."

[16] TSN, 4 October 1999, 15-24.

[17] TSN, 15 March 2000, 3, 7-11.

[18] TSN, 4 April 2000, 4-7.

[19] TSN, 29 May 2000, 5-6.

[20] Id., 13-16.

[21] Id., 17-19.

- [22] TSN, 29 May 2000, 20-24.
- [23] Id., 21-31.
- [24] Id., 32-34.
- [25] TSN, 29 May 2000, 34-35.
- [26] Id., 35-37.
- [27] Id., 38-40.
- [28] TSN, 5 April 2000, 2-4.
- [29] TSN, 5 April 2000, 4-8.
- [30] TSN, 25 August 1999, 9-10.
- [31] TSN, 27 March 2000, 3-4.
- [32] People v. Manalo, G.R. No. 144734, 7 March 2002; People v. Rama, G.R. No. 144386, 23 January 2002.
- [33] People v. Bertulfo, G.R. No. 143790, 7 May 2002; People v. Langalen, G.R. No. 139670, 21 January 2002.
- [34] TSN, 25 August 1999, 26.
- [35] Exhs. "B" and "E," OR, 8-9; See TSN 25 August 1999, 22; TSN, 21 September 1999, 13.
- [36] People v. Villegas, 262 SCRA 314, 323 [1996].
- [37] People v. Landicho, 258 SCRA 1, 39 [1996].
- [38] People v. Pacantara, G.R. No. 140896, 7 May 2002; People v. Bolivar, 252 SCRA 438, 452 [2001].
- [39] People v. Quinico, G.R. No. 142430, 13 September 2001.
- [40] People v. Barnuevo, G.R. No. 134928, 28 September 2001.
- [41] Exh. "H."
- [42] People v. Montinola, G.R. Nos. 131856-57, 9 July 2001.
- [43] Exh. "G."
- [44] People v. Bonifacio, G.R. No. 133799, 5 February 2002.
- [45] Citytrust Banking Corp. v. Villanueva, G.R. Nos. 141011 & 141028, 19 July 2001. See also People v. Bonifacio, *supra*.

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