

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. CESARIO MONTAÑEZ AND DANIEL SUMAYLO, ACCUSED.

G.R. No. 148257. March 17, 2004

Ponente: CALLEJO, SR., J.

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CALLEJO, SR., J.:

This case was certified to this Court by the Court of Appeals under Section 14, Rule 124 of the Rules of Court, as amended. The Court of Appeals affirmed the Decision[1] of the trial court dated September 19, 1995 convicting the appellant of murder, as principal by direct participation, and set aside the Order of the trial court dated November 17, 1995 modifying its decision and convicting the appellant of murder, but only as accomplice.

The Proceedings in the Trial Court

On August 11, 1993, an Information was filed in the Regional Trial Court of Tangub City charging the appellant of murder. The accusatory portion of the Information reads:

That on or about the 20th day of July, 1993, at 12:00 midnight, more or less, in Barangay Pangabuan, Tangub City, Philippines, and within the jurisdiction of this Honorable Court, the above named accused, with treachery and evident premeditation, and with intent to kill, did then and there, willfully, unlawfully and feloniously shot one Perlito Ollanes resulting in the instantaneous death of the victim.

CONTRARY TO LAW with the qualifying circumstances of treachery and evident premeditation.[2]

The appellant was arraigned, assisted by counsel, and entered a plea of not guilty. The prosecution then adduced testimonial and documentary evidence and rested its case. The appellant also rested his case after adducing his evidence. The prosecution then adduced rebuttal evidence and presented Daniel Sumaylo as surrebuttal witness. Sumaylo declared that the appellant did not kill the victim, but also stated that he did not know the killer. The appellant, thereafter, closed the presentation of his evidence.

Before the court could render judgment, Daniel Sumaylo gave a statement on May 14, 1994 to SPO3 Julius Rosales admitting to having shot the victim. His mother, Lucia Sumaylo, executed a separate affidavit corroborating that of her son. The appellant then filed a motion to re-open the trial to enable him to present Daniel Sumaylo. Sumaylo testified that he executed his statement with full knowledge of its contents and that he was not coerced and intimidated into making it. The court granted the appellant's motion and allowed him to present Sumaylo as his witness.

An Amended Information was filed on July 27, 1994 considering Daniel Sumaylo as an additional accused. The accusatory portion of the Amended Information reads as follows:

That on or about the 20th day of July 1993, at 12:00 midnight, more or less, in Barangay Pangabuan, Tangub City, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and helping one another, with treachery and evident premeditation, and with intent to kill, did then and there, willfully, unlawfully and feloniously shot one Perlito Ollanes resulting in the instantaneous death of the victim.

CONTRARY TO LAW with the qualifying circumstance of treachery and evident premeditation.[3]

On April 7, 1995, Sumaylo was arraigned, assisted by counsel, and with conformity of the victim's father and the public prosecutor, entered a plea of guilty to the lesser crime of homicide.

Evidence for the Prosecution

Edmundo Ollanes testified that in the evening of July 20, 1993, he was fishing along the seashore at Pangabuan, Toledo City with Joven Hintogaya and his younger brother, Perlito Ollanes. They stopped fishing by 11:00 a.m., sold their catch, and went home. Edmundo took a shortcut, while Joven and Perlito walked home together. He and Perlito had a flashlight with them, while Joven carried a kerosene lamp. Perlito's house was only about forty meters from his, and Joven lived only about eighteen meters away.

As Edmundo was climbing the stairs to his house, he heard gunshot coming from the direction of the house of Perlito. He rushed to the scene and passed by Joven's house. He then saw his brother lying prostrate nearby. As he was facing towards the ground, the left side of his face tilted towards his left shoulder, he saw the appellant, who was armed with a long firearm.

Edmundo carried his brother in his arms and noticed the gunshot wounds on the latter's chest. He was still alive, but barely breathing. Perlito told him that he was on the verge of death. When Edmundo asked Perlito who shot him, the latter declared that it was the appellant. Perlito mentioned the appellant's name three times. Edmundo carried Perlito to the hospital, but the latter died on the way.

Joven Hintogaya corroborated Edmundo's testimony. He testified that Perlito was his brother-in-law. He was carrying a kerosene lamp as he and Perlito were on their way home that fateful night. Perlito was about seven meters away from him. Suddenly, he heard a gunshot and saw that Perlito was hit. He fell to the ground. Joven went near Perlito, still carrying the kerosene lamp, and saw the appellant holding a long handgun in his right hand. In the meantime, the appellant went near Perlito and dropped a piece of paper with writings in the Cebuano dialect,[4] then left. Momentarily, Edmundo arrived, carried Perlito and talked to him. Dadan Ollanes and Cresing also arrived and helped Edmundo bring Perlito to the hospital. Perlito died on the way.

Dr. Paulita Almendras performed an autopsy on the cadaver of Perlito and prepared her report containing her postmortem findings, thus:

Front view

Multiple gunshot wounds chest, abdominal region, pubic region approximately numbering 25 with different sizes of wounds of entrance some ½ cm. in diameter and some ¼ cm. in diameter.

Back view

Gunshot wounds of exit back, left side level of umbilicus – 8 cms. from the spinal column & another one 5 cms. from the spinal column.[5]

The doctor also signed the Certificate of Death of Perlito Ollanes.[6]

The Case for the Appellant

Emilia Antipolo testified that at around 8:00 p.m. on July 20, 1993, she was in her house in Baybay, Pangabuan, waiting for the fishermen to arrive. The appellant, Elizabeth Robillos and the latter's husband were her regular customers and were with her that night. When the fishermen arrived at 11:00 p.m., Emilia weighed the fish and sorted them with the help of Elizabeth and the appellant. They finished the work at 2:00 a.m.

Emilia and her companions heard gunfire coming from the upper portion of Pangabuan. Not long after, three CAFGUs arrived and asked Emilia if they heard the fire of the gun. She answered in the affirmative. The following day, they learned that somebody had been killed at the upper portion of Pangabuan where the victim lived.

Danilo Ollanes testified that at midnight of July 20, 1993, he was at home. He heard gunfire and rushed to the place with his brother Edmundo. He brought a small petroleum lamp with him. They saw somebody lying on the ground, face down. Edmundo lifted the fallen Perlito, and Danilo heard him say that the person who shot him was Alfredo Ollanes. He did not see Cesario Montañez during the incident. On cross examination, Danilo testified that he arrived at the place and he heard gunfire a minute later. He did not see the appellant nor Alfredo Ollanes. According to his brother, the appellant was implicated in the killing of Perlito because the former was involved in the plan.

Elizabeth, whom Emilia Antipolo alleged to be with the appellant at her house in the evening of July 20, 1993, testified that she was also there with the appellant, CAFGUs Camilo Alipaopao, Boy Aranilla and Eustaquio Abadia. She also heard the gunfire along with the others. She left the house of Antipolo with the appellant at 2:00 a.m. Elizabeth also testified that she knew the victim, a resident of Pangabuan who sometimes bought fish on the road.

Barangay Captain Rudy Matalines of Pangabuan, Tangub City, testified that the father of the victim went to him for help when his son was killed. Rudy Matalines went to the place of the incident and asked Edmundo whether he knew the culprit, and the latter answered in the negative. Danilo went to his house to have his affidavit taken, where he stated that the person responsible for the killing was Alfredo Ollanes. The affidavit was not sworn to and the barangay captain gave a copy to the appellant.

Eutiquio Amodia corroborated the testimonies of witnesses Emilia Antipolo and Elizabeth Robillos that the appellant was at the house of Emilio Antipolo at the time when they heard the gunfire in the evening of July 20, 1993. When he left at about 1:00 a.m., the appellant and Elizabeth were still there.

The appellant denied the allegations of Joven and Edmundo, reasoning that at the time of the incident, he was in the house of Emilia Antipolo in Baybay Pangabuan, Tangub City, about one-and-a-half kilometers away from the victim's house. He testified that he arrived at the house of Emilia at 8:00 p.m. to meet the fishermen and buy their catch. At 12:00 midnight, while he was still in the house, he heard gunfire coming from the upper portion of Pangabuan. He denied having known that the victim had impregnated Maricia Ollanes.

Daniel Sumaylo testified that Alfredo Ollanes ordered the killing of the victim and gave P100.00 for the assignment. He conspired with Alfredo Ollanes, Federico Ollanes, Roque Ollanes, Larry Ollanes and Rogelio Aman, Jr. to kill the victim, because the latter impregnated his cousin, Maricia Ollanes. It was Roque Ollanes who dropped the note near the victim. Sumaylo stated that he used an unlicensed firearm owned by Rogelio Aman, Jr. in the shooting. After the killing, he returned the gun to Aman, Jr. The appellant was implicated because he had the same body built as Roque Ollanes. Sumaylo gave his sworn statement to SPO3 Ramon Daomilas, Jr. in the presence of Erdie Quinto, a minister of the Iglesia ni Kristo.

After trial, the court rendered judgment on September 19, 1995, convicting the appellant of murder as principal and convicting Sumaylo of homicide. The decretal portion of the said decision reads:

WHEREFORE, premises considered, this Court finds accused Cesario Montañez guilty beyond reasonable doubt for the crime of Murder, defined and penalized under Art. 248 of the Revised Penal Code and there being no aggravating nor mitigating circumstance, said accused Cesario Montañez is hereby sentenced to a penalty of Reclusion Perpetua while accused Daniel Sumaylo is hereby found guilty beyond reasonable doubt

for the crime of Homicide defined and penalized under Art. 249 of the Revised Penal Code, and there being no aggravating nor mitigating circumstance, said accused Daniel Sumaylo is hereby sentenced to an indeterminate penalty ranging from 8 years and 1 day of prision mayor as its minimum period to 14 years, 8 months and 1 day of reclusion temporal as its maximum period.

Both accused Cesario Montañez and Daniel Sumaylo are to suffer the accessory penalties provided by law, to solidarily and jointly indemnify the heirs of the victim the sum of P50,000.00, and to pay the costs.

They must be credited of the time according to law of the time they were under preventive imprisonment.[7]

The appellant filed a motion for the reconsideration of the decision. On November 17, 1995, the court issued an order partially granting the motion and convicting the appellant of murder, but only as an accomplice. The decretal portion of the decision reads:

WHEREFORE, premises duly considered, the decision dated September 19, 1995 is hereby reconsidered and modified in the sense that accused Cesario Montañez is found guilty beyond reasonable doubt as an accomplice of the crime of Murder defined and penalized under Art. 248 in relation to Art. 52 of the Revised Penal Code and he is sentenced to suffer an indeterminate penalty ranging from 8 years and 1 day of prision mayor as its minimum to 14 years, 8 months and 1 day of reclusion temporal as its maximum period. All the other aspects of the penalty are hereby sustained.

SO ORDERED.[8]

The appellant appealed the decision, asserting that there was no proof of conspiracy between him and Sumaylo; as such, he should be exonerated of the crime charged. Furthermore, he could not be held criminally liable as an accomplice because there was no direct connection between his presence at the scene of the crime and the killing of the victim.

On June 30, 1999, the Court of Appeals rendered judgment reversing the November 17, 1995 Order of the trial court and reinstating the trial court's September 19, 1995 Decision.

Neither the appellant nor the Office of the Solicitor General filed their respective supplemental briefs. The appellant manifested that he was adopting his brief in the Court of Appeals in the instant appeal, where he asserted that:

THE LOWER COURT ERRED IN FINDING ACCUSED-APPELLANT CESARIO MONTAÑEZ GUILTY BEYOND REASONABLE DOUBT AS AN ACCOMPLICE OF THE CRIME OF MURDER.[9]

The appellant contends that both the trial court and the appellate court erred in giving credence and full probative weight to the testimonies of Edmundo and Joven. He insists that he was in the house of Emilia Antipolo, one-and-a-half kilometers away from the house of the victim, when the latter was shot. Besides, Sumaylo already confessed to being the sole assailant, and thereby absolved him of any criminal liability for the victim's death. The appellant argues that it was illogical for the trial court to convict him of murder as an accomplice, although Sumaylo, who was the principal by direct participation for the killing of the victim, was convicted of homicide. There is no evidence on record that he conspired with Sumaylo in killing the victim. His mere presence at the scene of the killing did not render him criminally liable as an accomplice.

The appellant's submission has no merit.

We agree with the ratiocinations of the Court of Appeals in affirming the September 19, 1995 Decision of the trial court convicting the appellant of murder as principal by direct participation, thus:

CESARIO contends that "[S]ince neither conspiracy nor unity of purpose and intention in the commission of

the crime charged on the accused-appellant was proven x x x [T]he accused-appellant, therefore, deserves a verdict of acquittal.”

The contention is without basis. The fact that CESARIO was at the scene of the crime is established by JOVEN’s positive identification of him. Corollarily, the issue to be resolved is the degree of his participation in the killing of JOVEN.

A reading of the prosecution’s evidence shows that CESARIO is a principal by direct participation in the killing of PERLITO.

x x x

x x x

x x x

The incriminating circumstantial evidence that point to CESARIO as the perpetrator of the crime are the following:

(1) After a shot was heard, JOVEN saw PERLITO fall to the ground and thereafter, JOVEN saw CESARIO approached PERLITO, drop a piece of paper beside him and leave immediately;

(2) At that time, CESARIO was seen carrying a firearm in his right arm; and

(3) A few moments later, EDMUNDO arrived and found out that PERLITO sustained a gunshot wound in his chest. Upon inquiry, PERLITO answered, three (3) times, that it was CESARIO who shot him. JOVEN saw them conversing but he could not hear what they were talking about.

Since the prosecution witnesses had no motive whatsoever to falsify the truth and impute to CESARIO the commission of so grave an offense, the foregoing circumstances cannot be seriously disputed.

The combination of the foregoing circumstances is sufficient to establish the guilt of CESARIO beyond reasonable doubt.

In relation hereto, DANIEL’s testimony is given scant attention by this Court – “The Court has held in a number of cases that a recantation of a testimony is exceedingly unreliable, for there is always the probability that such recantation may later on be itself repudiated. Courts look with disfavor upon retractions, because they can easily be obtained from witnesses through intimidation or for monetary consideration.

Crime committed

CESARIO assails the logic of the trial court’s ruling on the ground that “[T]he principal by direct participation was convicted of the lesser offense of homicide while his accomplice in the commission of the crime, herein accused-appellant, was convicted of the more serious crime of murder.”

Murder has been defined as “the unlawful killing of any person which is not parricide or infanticide, provided that any of the following circumstances is present: (a) With treachery x x x”

The circumstance of treachery is attendant in the case at bar. “The killing of the deceased is murder for the victim was not only unarmed but also deprived of every means to defend himself from the treacherous attack. As testified by Joven Hintogaya, the victim Perlito Ollanes was on the process of placing his push net above the door and when he turned his side, he was shot.

Considering that treachery is present in the killing of PERLITO, the nature of the crime committed is categorized as murder. The crime, as charged, remains notwithstanding DANIEL’S plea of guilty to a lesser

offense. That is, “where the accused is allowed to plead guilty to a lesser offense, regardless of whether the same is or is not necessarily included in the crime charged, no amendment of the complaint or information is necessary.” This is so because “[A] conviction under this plea shall be equivalent to a conviction of the offense charged for purposes of double jeopardy.” As stated by the Solicitor General, “[I]t appears that in the eyes of the law, the convicted felon (sic) is still convicted of the crime charged although he was benefited by his entering a plea of guilty to the lesser offense.”[10]

The conviction of the accused may be proved by the prosecution either by direct evidence or by circumstantial evidence. As we held in *People vs. Delim*: [11]

... Circumstantial evidence consists of proof of collateral facts and circumstances from which the existence of the main fact may be inferred according to reason and common experience. What was once a rule of account respectability is now entombed in Section 4, Rule 133 of the Revised Rules of Evidence which states that circumstantial evidence, sometimes referred to as indirect or presumptive evidence, is sufficient as anchor for a judgment of conviction if the following requisites concur:

“ x x x if (a) there is more than one circumstance; (b) the facts from which the inferences are derived have been established; and (c) the combination of all the circumstances is such as to warrant a finding of guilt beyond reasonable doubt.

The prosecution is burdened to prove the essential events which constitute a compact mass of circumstantial evidence, and the proof of each being confirmed by the proof of the other, and all without exception leading by mutual support to but one conclusion: the guilt of accused for the offense charged. For circumstantial evidence to be sufficient to support a conviction, all the circumstances must be consistent with each other, consistent with the hypothesis that the accused is guilty and at the same time inconsistent with the hypothesis that he is innocent, and with every other rational hypothesis except that of guilt. If the prosecution adduced the requisite circumstantial evidence to prove the guilt of the accused beyond reasonable doubt, the burden of evidence shifts to the accused to controvert the evidence of the prosecution.[12]

In this case, the prosecution failed to adduce direct evidence to prove that the appellant killed the victim. However, the prosecution adduced sufficient circumstantial evidence to prove that the culprit was the appellant, and no other.

First. Immediately after Joven and Edmundo heard the gunshot coming from the direction of Perlito’s house, they rushed to the place and saw Perlito sprawled on the ground, mortally wounded.

Second. The only person near Perlito was the appellant, who was holding a long firearm in his right hand. No other person was near the victim or within the periphery of the crime scene when Edmundo and Joven arrived.

Third. The appellant went near Perlito and dropped an unsigned note written in the Cebuano dialect purporting to be from the BHB. The appellant then immediately left the scene.

Q When you reached, Perlito was already lying face down.

Were you bringing (sic) your flashlight?

A I was bringing (sic) a flashlight because I was not able to go upstairs.

Q What did you see beside the body of Perlito?

A A letter.

Q What was written in that letter?

A There was a treat (sic) that they will kill two more others come (sic) from HB (sic).

Q Where is that letter now?

A It is in the possession of the city fiscal.

COURT:

Show it to the witness, Fiscal.

Q Will you examine carefully this letter brought out by Fiscal Inting and tell the Honorable Court that is this (sic) letter. Is this the one?

A This is the one.

FISCAL INTING:

Few questions, Your Honor.

COURT:

Proceed.

FISCAL INTING:

Q How far from the body of Perlito Ollanes did you find this letter?

A Very near beside him.[13]

Translated in English, the note reads:

This man is not worth raising (sic), he is a garbage of society. This kind of man is not worth to live; do not follow him (sic) because we oppose these works (sic). In this place there are two whom we will eliminate.[14]

The contents of the note is self-explanatory. Its sender had the victim killed by the appellant because of the belief that the victim was not a good member of society; hence, not fit to live.

Fourth. When Edmundo Ollanes asked his brother Perlito who shot him, Perlito replied three times that it was the appellant. Perlito himself told his brother Edmundo that he was about to die. In fact, the victim died on the way to the hospital.

Q Then what did you do after hearing the gun explosion coming from the direction of the house of Perlito Ollanes?

A I ran towards their house.

Q And what did you observe when you arrived or when you were near the house of Perlito Ollanes?

A I saw Perlito Ollanes lying with face downward.

Q What did you find on his body, if any?

A He was hit with the gun fire (sic).

Q How did you know that he was hit by the gunfire (sic)?

A I placed him in my arms.

Q How did you know that he was injured?

A I carried him in my arms because he was still alive.

Q Where did you find the injuries?

A On his breast. (Witness pointing from his breast to his stomach).

Q You said that when you placed Perlito Ollanes in your arms he was still alive, what did you say, if any, to him?

FISCAL INTING:

Q (refer last).

A I asked him whether he recognized the one who shot him.

Q And what did he answer, if any?

A He answered 3 times that it was Cesar Montañez.

COURT:

Q Did your brother know that he was going to die because of that gunshot wound?

A Maybe he knew that he was about to die because he told me that he would die.

Q That was the time when you asked him who was responsible in shooting him?

A Yes.

Q And he answered you 3 times the name of Cesar Montañez?

A Yes.

COURT:

Proceed.

FISCAL INTING:

Q How serious was the physical condition of Perlito Ollanes when you asked him and he answered you?

A He was uneasy.

COURT:

Q After answering you the name of Cesar Montañez, what happened to your brother, Perlito?

A We carried him and brought him downward in order to bring him to the hospital.

Q He was still alive?

A Yes.

Q Until what point did you bring him downward?

A He died on the way.[15]

Perlito's statement that it was the appellant who shot him was a dying declaration. The statement is highly reliable, having been made in extremity when the declarant is at the point of death and when any hope of survival is gone, when every motive to falsehood is silenced, and when the mind is induced by the most powerful considerations to speak the truth.[16] Even if the declarant did not make a statement that he was at the brink of death, the degree and seriousness of the words and the fact that death superseded shortly afterwards may be considered as substantial evidence that the declaration was made by the victim with full realization that he was in

a dying condition.[17]

The barefaced fact that Daniel Sumaylo pleaded guilty to the felony of homicide is not a bar to the appellant being found guilty of murder as a principal. It bears stressing that Sumaylo plea-bargained on his re-arraignment. Even if the public prosecutor and the father of the victim agreed to Sumaylo's plea, the State is not barred from prosecuting the appellant for murder on the basis of its evidence, independently of Sumaylo's plea of guilt.

Neither is the appellant entitled to acquittal merely because Sumaylo confessed, after the appellant had rested his case, to being the sole assailant. The trial court disbelieved Sumaylo's testimony that he alone killed the victim and that the appellant was not at all involved in the killing. The Court of Appeals affirmed the judgment of the trial court. It bears stressing that when Sumaylo testified for the appellant on surrebuttal, he declared that he did not know who killed the victim. He even declared that the appellant did not kill the victim. However, he made a complete volte-face when he executed an affidavit and testified that he alone killed the victim and that the appellant was not at all involved in the killing. We are convinced that Sumaylo's somersault was an afterthought, a last-ditch attempt to extricate the appellant from an inevitable conviction. We agree with the ratiocinations of the trial court, thus:

There is great doubt to the mind of the Court on the testimonies of accused Daniel Sumaylo. He was presented as surrebuttal witness to deny the allegation of the prosecution regarding the presence of the accused Cesario Montañez in the house of Federico Ollanes on July 20, 1993. If it was true that he, Daniel Sumaylo, was there, enabling him to tell whether accused Cesario Montañez was present or not, why was he not able to give the date and time of said marriage arrangement? He did not know the future groom and the future parents-in-law of the daughter of Federico Ollanes. He could have, at least remembered any of the important matters about such marriage arrangement if indeed he was there.

Accused Daniel Sumaylo's affidavit was executed on May 14, 1994, a day after he was presented as surrebuttal witness wherein he testified that he does not know who killed the victim. He retracted such testimony given in Court for the reason that he was disturbed by his conscience. However, the Court has looked with disfavor upon retraction of testimonies previously given in Court. Recanted testimony is exceedingly unreliable (*People vs. Clamor*, G.R. No. 82708, July 1, 1991, 198 SCRA 642). ...[18]

The strategem of the appellant was evident. Sumaylo was to confess to having killed the victim, and at the same time, absolve the appellant from any involvement in the crime. Sumaylo would then plead guilty to the lesser felony of homicide and would be sentenced to an indeterminate penalty. He expected to be free, after serving the minimum of his sentence. If the trial court believed Sumaylo's recantation, the appellant would be acquitted of the crime charged and, as a consequence, would be set free. Unfortunately for the appellant, although the trial court allowed Sumaylo to plead guilty to homicide and sentenced him to an indeterminate penalty, it disbelieved the latter's testimony exculpating the appellant.

The appellant's strategy backfired. Instead of being content with his conviction of murder as an accomplice, he appealed to the Court of Appeals, which found him guilty of murder as a principal by direct participation.

On the civil liabilities of the appellant, the trial court did not award exemplary damages, contrary to current jurisprudence.[19] The decision of the trial court shall, thus, be modified.

IN LIGHT OF ALL THE FOREGOING, the appeal is DISMISSED. The Decision of the Court of Appeals, which affirmed the decision of the Regional Trial Court of Tangub City, Branch 16, dated September 19, 1995 convicting the appellant as principal, is AFFIRMED with MODIFICATION. The appellant Cesario Montañez is hereby directed to pay to the heirs of the victim Perlito Ollanes the amount of P25,000.00 as exemplary damages.

SO ORDERED.

Quisumbing, (Acting Chairman), Austria-Martinez, and Tinga, JJ., concur.

Puno, (Chairman) on leave.

[1] Penned by Judge Vicente T. Baz, Jr.

[2] Records, p. 1.

[3] Records, p. 130.

[4] Exhibit “C.”

[5] Records, p. 53.

[6] Exhibit “A.”

[7] Records, p. 194.

[8] Records, p. 228.

[9] CA Rollo, p. 16.

[10] CA Rollo, pp. 82-84.

[11] 396 SCRA 386 (2003).

[12] Id. at 401-402.

[13] TSN, 9 September 1993, p. 12.

[14] Records, p. 9.

[15] TSN, 9 September 1999, pp. 5-6.

[16] People vs. Seduco, 349 SCRA 149 (2001).

[17] People vs. Tanya, 334 SCRA 30 (2000).

[18] Records, pp. 192-193.

[19] People vs. Francisco, 351 SCRA 351 (2001).

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