

EXEQUIEL SENOJA, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

G.R. No. 160341. October 19, 2004

Ponente: CALLEJO, SR., J.

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CALLEJO, SR., J.:

Before us is a petition for review on certiorari of the Decision[1] of the Court of Appeals (CA) in *People v. Exequiel Senoja*, docketed as CA-G.R. CR No. 26564, affirming with modification the Decision[2] of the Regional Trial Court (RTC) of Baler, Aurora, Branch 96, in Criminal Case No. 2259, for homicide.

The Case For the People

As culled by the Office of the Solicitor General (OSG) in its comment on the petition, the case stemmed from the following:

- On April 16, 1997, petitioner Exequiel Senoja, Fidel Senoja, Jose Calica, and Miguel Lumasac were drinking gin in the hut of Crisanto Reguyal in Barangay Zarah, San Luis, Aurora. An angry Leon Lumasac suddenly arrived at the said place, holding a bolo in his right hand and looking for his brother Miguel. Petitioner and Jose tried to pacify Leon. But when petitioner approached Leon, the latter tried to hack him so he embraced Leon and Jose took Leon's bolo. Then, Leon and petitioner talked things out and later reconciled (pp. 2-4, TSN, November 16, 1998; pp. 2-4, TSN, August 30, 2002; p. 2, TSN, April 21, 1998; p. 5, TSN, March 14, 2001; p. 2, CA Decision).
- Subsequently, Leon walked out of Crisanto's hut followed by petitioner. Suddenly, about ten meters from the hut, petitioner stabbed Leon at the back. When Leon turned around, petitioner continued stabbing him until he fell to the ground. Then, petitioner ran towards the barangay road and threw away the "kolonial" knife he used in stabbing Leon. The latter died on the spot (pp. 2-6, TSN, November 22, 2000; p. 5, TSN, August 30, 2002; p. 3, CA Decision).
- Dr. Pura Deveza Valenzuela-Uy, San Luis Municipal Health Officer, examined the cadaver of Leon and found multiple lesions on his body and five fatal wounds on his chest. Dr. Uy issued a medico-legal report and death certificate (Exhibits A and B, pp. 13-14, Records; pp. 3-5, TSN, November 20, 1997).[3]

On August 13, 1997, an Information was filed charging petitioner Exequiel Senoja with homicide, the accusatory portion of which reads:

That on April 16, 1997 at around 11 o'clock in the morning in Barangay Zarah, San Luis, Aurora, Philippines, and within the jurisdiction of this Honorable Court, the said accused, did then and there, willfully, unlawfully, and feloniously, with intent to kill, attack, assault, and use personal violence upon the person of one Leon Lumasac by then and there stabbing him with a bladed weapon locally known as "kolonyal" at the different parts of his body thereby inflicting upon the latter mortal stab wounds which were the direct and immediate cause of his death thereafter.

CONTRARY TO LAW.[4]

The petitioner admitted killing the victim but invoked the affirmative defense of self-defense. His version of the fatal incident is set forth in his petition at bar:

- On April 16, 1997 at about 11 o'clock in the morning, Crisanto Reguyal, Fidel Senoja, Jose Calica, Miguel Lumasac, and Exequiel Senoja were in the hut of Crisanto Reguyal in Barangay Zarah, San Luis, Aurora, drinking gin;
- Leon Lumasac suddenly arrived holding a bolo and hacked the doorpost of Crisanto's hut, angrily demanding for his brother, Miguel Lumasac, whom he suspected of drying up the ricefield he was plowing;
- At this time, Miguel Lumasac was no longer inside the hut but fetching water;
- To prevent Leon Lumasac from entering the hut, Exequiel Senoja (appellant) and Jose Calica stood by the door while simultaneously trying to pacify Leon Lumasac;
- Exequiel Senoja with a knife then went outside and tried to pacify Leon Lumasac but the latter angered by the gestures of the former tried to hack Exequiel Senoja;
- To avoid any injury, Exequiel Senoja embraced Leon which gave an opportunity to disarm the duo. Jose Calica got the bolo of Leon and threw it away while Fidel Senoja took the "colonial" knife of Exequiel;
- Jose Calica and Fidel Senoja were able to pacify Leon Lumasac so they invited him to get inside the hut. Inside the hut, Leon Lumasac tried to box Fidel Senoja for siding with his brother, Miguel, but was prevented by Exequiel Senoja who held Leon's hands;
- After a while, Leon Lumasac left but returned and angrily demanded for his bolo. Jose Calica gave his own bolo with a sabbard to replace the bolo of Leon which he threw away;
- With Jose Calica's bolo in him, Leon Lumasac left but only after leaving a threat that something will happen to Exequiel Senoja for siding with his brother;
- After walking for about 10 meters away from the hut, Leon Lumasac turned around and saw Exequiel Senoja on his way home following him;
- Leon Lumasac walked back to meet Exequiel Senoja and upon reaching him, the former suddenly and treacherously hacked the latter at the left side of his head and right thigh;
- Unable to evade the treacherous attack by Leon Lumasac who persisted in his criminal design, Exequiel Senoja drew his "colonial" knife and stabbed Leon Lumasac in self-defense, inflicting upon him multiple wounds which caused his death.[5]

On June 7, 2002, the trial court rendered judgment against the petitioner, finding him guilty beyond reasonable doubt of the crime charged. The fallo of the decision reads:

WHEREFORE, premises considered, this Court finds accused Exequiel Senoja GUILTY beyond reasonable doubt of the crime of Homicide for the death of victim Leon Lumasac and hereby sentences him, applying Article 64, paragraph 1 of the Revised Penal Code and Section 1 of the Indeterminate Sentence Law, (a) to suffer the penalty of twelve (12) years of prision mayor as minimum to seventeen (17) years and four (4) months of reclusion temporal as maximum; (b) to pay the heirs of the victim the amount of Fifteen (sic) Thousand Pesos (Php 50,000.00) by way of civil indemnity; and (c) to pay the costs.

SO ORDERED.[6]

In due course, the petitioner appealed the decision to the CA which rendered judgment affirming, with modification, the decision of the RTC. The petitioner now seeks relief from this Court, contending that:

The Honorable Court of Appeals failed to appreciate vital facts which, if considered, would probably alter the result of this case on appeal finding appellant's plea of self-defense credible.[7]

The petitioner faults the CA for its analysis of his testimony, as follows:

The injuries suffered by the petitioner at the left side of his head and right thigh was confirmed by Dr. Rodolfo Eligio in open court. The relative positions of the wounds clearly show that the drunken Leon Lumasac brandished and executed several hacking blows against Exequiel Senoja before he was stabbed, neutralized and finished by the latter. It would be physically and highly improbable for the victim if he was treacherously hit at the left buttock and as he turned around to face the petitioner, the latter stabbed him successively and without let-up hitting him 9 times resulting in 9 fatal wounds. This did not give a chance to the victim to retaliate and inflict those wounds upon the aggressor. The victim used Mr. Jose Calica's bolo which was secured by its scabbard. Unless earlier drawn, it would be impossible for the victim to use it in defending himself from the surprise attack and stabbing at a lightning fashion inflicting nine (9) fatal wounds. Time element was the essence of this encounter which, as narrated by the Honorable Court, after the assailant poked the victim at the left side of the buttock with the use of the "colonial" knife he stabbed him successively until he fell down dead. Under these circumstances, how could Exequiel Senoja suffered (sic) those hacking (sic) wounds inflicted by the victim using Calica's bolo? In all indications, it was Leon Lumasac who attacked his adversary first but lost in the duel considering that he was older than Exequiel Senoja and drunk. Clearly, therefore, it was Leon Lumasac who was the aggressor both in the first and second phases of the incident and Exequiel Senoja was compelled to defend himself.

A closer scrutiny of the attending circumstances which resulted in this stabbing incident shows that Exequiel Senoja has no compelling reasons to kill his godfather. On that same occasion, Mr. Exequiel Senoja was with the brother of the victim, Miguel Lumasac, which only shows that there was no pre-existing grudge between these families. And still, what titillates our imagination is the fact that Miguel Lumasac, who was then with the group drinking gin at the hut of Crisanto Reguyal did not clearly impute this crime to petitioner. On the contrary, when he was presented to the witness stand, he was very evasive in answering the questions profounded by the prosecutors if he wanted the petitioner to be imprisoned. Miguel Lumasac could have told the real truth that Senoja murdered his brother.[8]

The CA declared that, based on the evidence on record:

As seen from appellant's testimony, Leon Lumasac's actions can be divided into two (2) phases: the first phase, when Leon entered Crisanto Reguyal's hut, up to the time he and the appellant reconciled. The second phase was when Leon left to go home. In phase one where Leon entered Reguyal's hut, Leon was the aggressor but his aggression was mostly directed to his brother Miguel who was not inside the hut anymore, although it was also partly directed at the appellant and even at Fidel Soneja (sic). But Leon's aggression against the appellant and Fidel Senoja ceased since, as appellant testified, when Leon tried to box Fidel Senoja and he (appellant) told Leon "Huwag po, Huwag po," Leon was pacified.

In the second phase, when Leon left the hut to go home, his aggression had already ceased.

It is uncontroverted that the appellant followed the victim when the latter went out of the hut to go home. Appellant's testimony is that when he was two meters outside the hut, Leon turned around to face him saying "if you're not only my godson" in a threatening way, then approached and hacked him (with Calica's bolo) inflicting wounds on the left side of his head and his right thigh, thus, he (appellant) attacked the victim with the kolonial knife he was holding. That appellant suffered such injuries was corroborated by the testimony of Dr. Rodolfo Eligio.[9]

The petition is denied.

Paragraph 1, Article 11, of the Revised Penal Code provides:

ART. 11. Justifying circumstances. – The following do not incur any criminal liability:

- Anyone who acts in defense of his person or rights, provided that the following circumstances concur;

First. Unlawful aggression;

Second. Reasonable necessity of the means employed to prevent or repel it;

Third. Lack of sufficient provocation on the part of the person defending himself.

The affirmative defense of self-defense may be complete or incomplete. It is complete when all the three essential requisites are present; it is incomplete if only unlawful aggression on the part of the victim and any of the two essential requisites were present. In fine, unlawful aggression on the part of the victim is a condition sine qua non to self-defense, complete or incomplete. Whether or not the accused acted in self-defense is a question of fact. Like alibi, the affirmative defense of self-defense is inherently weak because, as experience has demonstrated, it is easy to fabricate and difficult to disprove.[10]

The right of self-defense proceeds from necessity and limited by it. The right begins where necessity does, and ends where it ends.[11] There is, however, a perceptible difference between necessity and self-defense, which is that, self-defense excuses the repulse of a wrong; necessity justifies the invasion of a right. Hence, it is essential to self-defense that it should be a defense against a present unlawful attack.[12]

Life can be taken under the plea of necessity, when necessary for the preservation of the life on the party setting up the plea. Self-defense is an act to save life; hence, it is right and not a crime.[13] There is a need for one, indeed, for it is a natural right for one to defend oneself when confronted by an unlawful aggression by another. It is a settled rule that to constitute aggression, the person attacked must be confronted by a real threat on his life and limb; and the peril sought to be avoided is imminent and actual, not merely imaginary. Absent such an actual or imminent peril to one's life or limb, there is nothing to repel; there is no necessity to take the life or inflict injuries on another.[14]

But then what is the standard to use to determine whether the person defending himself is confronted by a real and imminent peril to his life or limb? We rule that the test should be: does the person invoking the defense believe, in due exercise of his reason, his life or limb is in danger? After all, the rule of law founded on justice and reason: *Actus no facit rem, nisi mens sit rea*. Hence, the guilt of the accused must depend upon the circumstances as they reasonably appear to him.[15]

Unlawful aggression presupposes an actual, sudden, unexpected attack or imminent danger thereof, not merely a threatening or intimidating attitude.[16] Hence, when an inceptual/unlawful aggression ceases to exist, the one making a defense has no right to kill or injure the former aggressor.[17] After the danger has passed, one is not justified in following up his adversary to take his life. The conflict for blood should be avoided if possible.[18] An assault on his person, he cannot punish when the danger or peril is over. When the danger is over, the right of self-defense ceases. His right is defense, not retribution.[19]

When the accused offers the affirmative defense of self-defense, he thereby admits killing the victim or inflicting injuries on him. The burden of evidence is shifted on the accused to prove, with clear and convincing evidence, that he killed the victim or inflicted injuries on him to defend himself. The accused must rely on the strength of his own evidence and not on the weakness of that of the prosecution because if the evidence of the prosecution were weak, the accused can no longer be acquitted.[20]

We agree with the CA that, as gleaned, even from the testimony of the petitioner, there were two separate but interrelated incidents that culminated in the petitioner's stabbing and killing of the victim Leon Lumasac. The

first was the arrival of the victim, who was armed with a bolo, in the hut of Crisanto Reguyal, looking for his brother Miguel Lumasac, whom he was angry at. The victim hacked the wall of the house in anger. The petitioner, who was armed with a knife, tried to pacify the victim. The victim attempted to hack the petitioner; nevertheless, the latter embraced and managed to pacify the victim. Forthwith, Jose Calica took the bolo of the victim and threw it away. For his part, Fidel Senoja took the petitioner's knife. As it was, the victim was already pacified. He and the petitioner were already reconciled.[21] Fidel even gave back the knife to the petitioner.

The second incident took place when the victim demanded that Calica return his bolo as he wanted to go home already. Because he had thrown away the victim's bolo, Calica was, thus, impelled to give his own. The victim then warned the petitioner three times, "May mangyayari sa iyo, kung hindi ngayon, bukas," and left the hut. When the victim had already gone about ten meters from the hut, the petitioner followed the victim. The victim turned around and told the petitioner, "Kung hindi lang kita inaanak." The victim then hacked the petitioner, hitting the latter on the left side of his head and thigh. Believing that the victim would attack him anew, the petitioner stabbed the victim frontally several times.[22] He also stabbed the victim on the left buttock. The petitioner could not recall how many times he stabbed the victim and what parts of the latter's body had been hit.

The first episode inside the hut had been completed with the protagonist, the victim, and the petitioner reconciled. The second episode commenced inside the hut and continued outside, and ended with the petitioner stabbing the victim several times.

The trial and the appellate courts gave no credence and probative weight to the testimony of the petitioner. So do we.

First. The findings of fact of the trial court and its conclusions based on the said findings are accorded by this Court high respect, if not conclusive effect, especially when affirmed by the CA. This is because of the unique advantage of the trial court of having been able to observe, at close range, the demeanor and behavior of the witnesses as they testify. This rule, however, is inapplicable if the trial court ignored, overlooked, or misinterpreted cogent facts and circumstances which, if considered, will alter or reverse the outcome of the case. We have reviewed the records and found no justification for a reversal of the findings of the trial court and its conclusions based thereon.

Second. The victim sustained six hack wounds and one lacerated wound. This is gleaned from the Necropsy Report of Dr. Pura Uy, to wit:

FINDINGS: The victim lies in supine position, stocky in built; his clothing completely soaked with fresh blood.

CHEST:

(+)

stab wound 2 inches below the L nipple 4 inches deep running medially to the anterior median line.

(+)

stab wound 2 inches to the L of the anterior median line at the level of the L nipple 5½ inches deep running posteriorly.

(+)

stab wound 1 inch above the L nipple 4 inches deep running inferomedially.

(+)

stab wound 2 inches to the left of the anterior median line 4 inches deep running inferoposteriorly.

(+)

stab wound 1 inch to the right of the anterior median line at the level of the second right intercostal space 0.5 inch in depth.

(+)

stab wound ½ inch to the right of the anterior median line at the level of the xyphoid process 3½ inches deep running superiorly.

(+)

stab wound at the level of the L nipple L anterior axillary line 4½ inches in depth running superiorly to the left armpit.

(+)

hack wound at the left armpit 3 inches long injuring the muscles and the blood vessels.

(+)

lacerated wound on the left palm almost cutting off the proximal phalanx of the left thumb.[23]

Five of the wounds of the victim on his chest were fatal.[24] The victim also sustained a stab wound on the left buttock. According to the doctor, it was unlikely for the victim to have survived even with medical attention.[25] After the doctor made her initial autopsy and submitted her report, she noted that the victim sustained a stab wound of about two inches deep at the left buttock, thus:

Q

In this medico-legal report, you indicated that the cause of death of the victim is “Hypovolemic shock 2° to multiple stab wounds, chest.” Will you please explain this?

A

“Ito pong nakalagay o dahilan ng pagkamatay ng biktima sa sobrang natapon na dugo gawa ng maraming saksak na tinamo ng biktima sa kanyang dibdib ang nagbigay ng daan sa kanyang kamatayan.”

Q

Will you please tell us, Dr. Uy, if there is one amount (sic) these lesions that is located at the back of the victim?

A

I forgot to tell you that a day after I submitted the report, the funeral parlor which attended the victim has called my attention because of the wound at the back of the victim and I attended immediately to see these lesions at the home of the victim. I reviewed for (sic) these lesions and I saw one lesion located at the left buttock of the victim.

Q

What is the nature of the injury?

A

Stab wound, about two inches deep.

Q

By the nature of the lesion, is it not fatal?

A

It is not that fatal.

Q

In your expert opinion, by the nature of the wound sustained by the victim, what could have been the relative position of the victim in relation to his assailant?

A

Based on my examination, I think the victim and the assailant were facing each other. "Masyadong malapit."

Q

How many fatal wounds have (sic) the victim sustained in his chest?

A

Five fatal stab wounds on the chest.[26]

Considering the number, nature and location of the wounds sustained by the victim, the petitioner's plea of self-defense is incredible.[27] It bears stressing that the petitioner resolutely denied stabbing the victim at the buttock and insisted that he stabbed the victim frontally:

Q

As a matter of fact, he sustained an injury at the back of his buttock (pigi) and when he faced you, you stabbed him again several times?

A

That is not true, Sir.

Q

But you are admitting that you stabbed him several times frontally?

A

Yes, Sir, because I am (sic) defending myself.

Q

You also stabbed him in his left armpit?

A

I don't know, Sir.

Q

But you knew that you stabbed him in his buttock?

A

No, Sir.

Q

After stabbing him several times and felt that he was already dead, you already left the place?

A

Yes, Sir.[28]

The testimony of the petitioner is belied by the physical evidence on record. The settled rule is that physical evidence is evidence of the highest order; it speaks more eloquently than a hundred witnesses.[29]

Third. The petitioner threw away his knife and failed to surrender it to the policemen; neither did he inform the policemen that he killed the victim in self-defense. The petitioner's claim that the victim was armed with a bolo is hard to believe because he even failed to surrender the bolo.[30]

Fourth. The petitioner's version of the events that transpired immediately before he stabbed the victim does not inspire belief. He claims that when he saw the victim emerged from the hut, the victim walked towards the petitioner saying, "Kung hindi lang kita inaanak," but hit and hacked the latter on the left buttock.[31] As gleaned from his statement, the victim was not disposed, much less determined to assault the petitioner. And yet, the petitioner insists that without much ado, the victim, nevertheless, hit him on the head and on the thigh with his bolo.

Fifth. According to the petitioner, the victim warned him three times before leaving the hut, "May mangyayari sa iyo, kung hindi ngayon, bukas." The petitioner testified that shortly before the victim uttered these words, the latter even touched the blade of the bolo to see if it was sharp.[32] The petitioner was, thus, aware of the peril to his life if he followed the victim. The petitioner, nevertheless, followed the victim and left the hut after the victim had gone barely ten meters. He should have waited until after the victim had already gone far from the hut before going home to avoid any untoward incident.

Sixth. The petitioner presented his brother-in-law Ruben Dulay to corroborate his testimony that the victim stabbed the petitioner and that this impelled the latter to stab the former. But the testimony of Dulay contradicted the testimony of the petitioner:

Q

When Exequiel Senoja stabbed Leon Lumasac several times, he immediately fell to the ground and was fatal[ly] wounded, immediately died because of several stabs and lay (sic) down?

A

I did not see that scene because Exequiel Senoja stabbed Leon Lumasac, I turn (sic) back upon seeing Leon Lumasac hack Exequiel Senoja, I turn (sic) back because I was afraid then. When I turn (sic) back I saw them embracing each other, Sir.

Q

And that is the time when Exequiel Senoja stabbed Leon Lumasac?

A

I did not see the stabbing. What I only saw was that they were embracing each other, Sir.

Q

So you are now changing your answer, you actually saw Exequiel Senoja stabbing Leon Lumasac several

times, after he was hack[ed] by Leon Lumasac?

A

I did not see that Exequiel Senoja stab Leon Lumasac, Sir.[33]

Seventh. The bare fact that the petitioner sustained a five-centimeter wound at the left temporal region and an eight-centimeter hack wound on the anterior portion of his right thigh does not preclude the fact that he was the unlawful aggressor; nor buttress his plea that he acted in self-defense. The petitioner failed to inform the doctor that he sustained the wounds to defend himself. Moreover, the doctor testified that the wounds the petitioner sustained were slight:

Pros. Ronquillo:

Q

Does (sic) the wound at the right anterior thigh vertical, diagonal or what?

A

I did not place it, Sir.

Q

So, you don't know?

A

It is vertical, Sir, but I did not place it on the record. And the hack wound on the temporal region is oblique.

Q

Were the injuries only slight?

A

Yes, Sir.

Q

So, it is (sic) possible that these injuries were self-inflicted?

A

Probably, Sir, but I cannot comment on that.

Q

You said that the patient was under the influence of alcohol? Would you say that the patient was then so drunk at that time?

A

When I saw him at that time, he was moderately drunk.[34]

The doctor gave the petitioner due medications for 30 minutes and the petitioner then went home:

Q

How did it happen that you were able to kill the victim in this case Mr. Leon Lumasac?

A

Because when I went out, he hacked me, Sir.

Q

Were you hit by the hack made by the victim in this case?

A

Yes, Sir.

Q

Where?

A

Here, Sir.

And Witness is pointing to his left head.

Q

Q Where else?

A

(His) right thigh.

Q

In what place did this incident happen?

A

In the hut of Tata Santos, Sir.

Q

What is his real name?

A

Crisanto Reguyal, Sir.[35]

If, as claimed by the petitioner, the victim stabbed him frontally, it is incredible that the victim was able to hack the anterior part of his right thigh.

Eighth. The testimony of the petitioner that the victim stabbed him outside the hut on the left side of his head and the anterior portion of his right thigh is belied by his testimony on direct examination that the victim stabbed him while still inside the hut of Reguyal:

Q

How did it happen that you were able to kill the victim in this case Mr. Leon Lumasac?

A

Because when I went out, he hacked me, Sir.

Q

Were you hit by the hack made by the victim in this case?

A

Yes, Sir.

Q

Where?

A

Here, Sir.

And Witness is pointing to his left head.

Q

Where else?

A

(His) right thigh.

Q

In what place did this incident happen?

A

In the hut of Tata Santos, Sir

Q

What is his real name?

A

Crisanto Reguyal, Sir.[36]

But then, after the said incident, the petitioner and the victim had reconciled. We agree with the following findings of the appellate court:

The question that must be resolved is whether or not the victim was the unlawful aggressor as the appellant's testimony pictures him to be. The Court rules in the negative. The victim had already left the hut and was ten (10) meters away from it. There is no showing that the victim, who was drunk, was aware that appellant was following him, or that the appellant called out to him so that he (the victim) had to turn around and notice him. It is clear that at that point in time, the victim was simply walking toward his home; he had stopped being an aggressor. It was the appellant who, smarting from the earlier incident in the hut where Leon told him "hindi ka tatagal, sa loob ng tatlong araw mayroong mangyayari sa iyo, kung hindi ngayon, bukas" repeated three times, wanted a confrontation. Appellant stabbed or poked the victim in the left buttock resulting in the non-fatal wound, and when the latter turned around, successively stabbed and hacked the victim in the armpit and chest until he fell. In all, the victim suffered nine (9) wounds.

It is the well-considered finding of this Court that while Leon Lumasac had ceased being the aggressor after he left the hut to go home, accused Exequiel Senoja was now the unlawful aggressor in this second phase of their confrontation. It bears mentioning that appellant contradicted himself with respect for (sic) the reason why he

left the hut. First, it was to pacify Leon and the second reason was that he was going home.

As for appellant's injuries, it is clear that they were sustained in the course of the victim's attempt to defend himself as shown by the lacerated wound on the victim's left palm, a defensive wound. [37]

IN LIGHT OF ALL THE FOREGOING, the petition is DENIED. The assailed Decision of the Court of Appeals is AFFIRMED.

SO ORDERED.

Puno, (Chairman), Austria-Martinez, and Tinga, JJ., concur.
Chico-Nazario, J., on leave.

[1] Penned by Associate Justice Portia Aliño-Hormachuelos, with Associate Justices Perlita J. Tria-Tirona and Rosalinda Asuncion Vicente, concurring.

[2] Penned by Acting Presiding Judge Armando A. Yanga.

[3] Rollo, pp. 52-53.

[4] Records, p. 1.

[5] Rollo, pp. 11-12.

[6] Id. at 22-23.

[7] Id. at 13.

[8] Id at 16-17.

[9] Id. at 32-33.

[10] People v. Noay, 296 SCRA 292 (1998).

[11] Bishop, A Treatise on Criminal Law, 9th ed., Vol. I, pp. 599-600.

[12] Id. at 180.

[13] Wharton, Criminal Law, 12th ed., Vol. I, pp. 176-177.

[14] People v. Langres, 316 SCRA 769 (1999).

[15] Id. at 845-846.

[16] People v. Arizala, 317 SCRA 244 (1999).

[17] People v. Bitoon, Sr., 309 SCRA 209 (1999).

[18] Bishop, *supra*, p. 617.

[19] Wharton Criminal Law, 12th ed., Vol. I, p. 186.

[20] People v. Arizala, 317 SCRA 244 (1999); People v. Real, 308 SCRA 244 (1999).

[21] TSN, 7 September 2001, pp. 6-7.

[22] Id. at 8-9.

[23] Exhibit “A,” Records, p. 13.

[24] TSN, 20 November 1997, p. 8.

[25] Id. at 7.

[26] Id. at 8.

[27] *People v. More*, 321 SCRA 538 (1999); *People v. Real*, 308 SCRA 244 (1999).

[28] TSN, 7 September 2001, p. 9.

[29] *People v. Sunpongco*, 163 SCRA 222 (1988).

[30] *People v. Piamonte*, 303 SCRA 577 (1999).

[31] TSN, 7 September 2001, p. 8.

[32] Id. at 7.

[33] TSN, 29 January 2002, p. 13.

[34] TSN, 12 February 2002, pp. 3-4.

[35] TSN, 14 March 2001, pp. 3-4.

[36] Ibid.

[37] Rollo, p. 33.

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