

RODOLFO C. VELASCO, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

G.R. NO. 166479. February 28, 2006

Ponente: CHICO-NAZARIO, J.

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CHICO-NAZARIO, J.:

Before Us is a petition for review on certiorari which seeks to set aside the decision[1] of the Court of Appeals in CA-G.R. CR No. 23366 dated 30 July 2004 which affirmed the decision[2] of Branch 41 of the Regional Trial Court (RTC) of Dagupan City in Criminal Case No. 98-02175-D dated 29 June 1999, finding accused-petitioner Rodolfo C. Velasco guilty of Attempted Murder, and its Resolution[3] dated 21 December 2004 denying petitioner's motion for reconsideration.

An Information[4] dated 20 April 1998 charged petitioner with the crime of Attempted Murder committed as follows:

That on or about the 19[th] day of April, 1998, in the City of Dagupan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, SN I RODOLFO C. VELASCO, being then armed with a gun, with treachery and with intent to kill one FREDERICK MARAMBA, did then and there, wilfully, unlawfully and criminally, attack, assault and use personal violence upon the latter by shooting him, hitting him on the left upper arm, the said accused having thus commenced a felony directly by overt acts but did not perform all the acts of execution which could have produced the crime of murder, by reason of some cause or accident other than his own spontaneous desistance, to the damage and prejudice of said FREDERICK MARAMBA.

When arraigned, petitioner, with the assistance of counsel de oficio, pleaded not guilty to the crime charged.[5]

On 29 September 1998, the Hon. Luis M. Fontanilla, Executive Judge of RTC of Dagupan City, ordered the release of petitioner after a surety bond was posted by the Mega Pacific Insurance Corporation in the amount of P120,000.00.[6]

The evidence is summarized by the trial court as follows:

The evidence of the prosecution tends to show that on April 19, 1998, at about 7:30 o'clock in the morning, private complainant Frederick Maramba was cleaning and washing his owner type jeep in front of his house at Lasip Grande, Dagupan City when a motorized tricycle stopped near him. Accused Rodolfo Velasco dashed out of the tricycle, approached the complainant and fired at him several times with a .45 caliber pistol. The accused missed with his first shot but the second one hit the complainant at the upper arm, causing him to stumble on the ground. The complainant stood up and ran, while the accused continued firing at him but missed.

The shooting incident was reported to the police sub-station in Malued District by Barangay Captain Dacasin of Lasip Grande, describing the suspect as wearing a vest or a "chaleco." The police, composed of SPO4 Romulo Villamil, PO3 Rolando Alvendo, and SPO1 Soliven respondent and pursued the accused who

proceeded on board a motorized tricycle to the highway going to Barangay Banaoang in Calasiao town.

The police caught up with the tricycle and brought the accused to the police sub-station. A firearm (Exhibit "A") protruding from the waistline of the accused, three (3) magazines (Exhibit "B", "B-1" & "B-2") and fourteen (14) live ammunitions (Exhibits "C" to "C-13") were confiscated from the possession of the accused. The police also recovered seven (7) spent ammunitions (Exhibits "D" to "D-6") at the crime scene. At the City Jail in Dagupan City where the accused was subsequently brought, the private complainant Frederick Maramba identified and pointed to the accused as the one who fired at him, hitting him on the upper left arm. Complainant identified the affidavit which he executed naming the accused as his assailant (Exhibit "H") and who shot him on the morning of April 19, 1998 in front of his residence at Lasip Grande.

Private complainant further testified that he was hospitalized and treated at the Region 1 Medical Center, Dagupan City by Dr. Arturo de Vera, Jr. who issued a Medico-Legal Certificate stating that the victim sustained, "Gunshot wound point of entry: 1.5 cm lateral aspect distal, 3[rd] arm left" and; "Gunshot wound point of exit: 4 cm lateral aspect posterior, 3[rd] arm left" (Exhibit "I"). By reason of his wounds, complainant incurred expenses for hospitalization and medicines in the total amount of P2,696.06 (Exhibit "J" to "J-14").

Armando Maramba, the driver of the tricycle in which the accused rode, testified that he picked up the accused who was wearing a chaleco, at the intersection of Pogo-Lasip Road. Upon reaching the parked jeep which was being washed by the private complainant, the accused ordered him to stop. The accused alighted and fired several shots at the victim. Then the accused went back to the tricycle and ordered him to proceed to Calasiao. The accused alighted at the intersection of the De Venecia Highway and Malued Road and took another tricycle. Witness executed an affidavit before the Police Headquarters in Dagupan City (Exhibit "G") and identified the accused as the one who shot the private complainant.

The accused, on the other hand, interposed the defense of alibi. He said that on April 18, 1998, he went to a friend's house in Lingayen, Pangasinan and spent the night there. The following morning, April 19, 1998, between 6:00 to 7:00 o'clock, he left Lingayen riding in the Volkswagen car of Berting Soriano. He alighted at the corner of Banaoang diversion road. From there he took a tricycle and told the driver to bring him at the foot of the bridge going to Bayambang. While on his way to Calasiao, he heard a jeep behind him blowing its horn and when he looked back he saw three men on board pointing their guns at him. He told the tricycle driver to stop and thereupon the three men approached him and introduced themselves as policemen. They confiscated his gun and then brought him to the police station for interrogation. Thereafter, the police lodged him in the City Jail of Dagupan.

Accused testified that he did not know personally the complaining witness and denied having fired at him. He further said that his .45 caliber pistol which was seized from him by the police is licensed (Exhibit "2").[7]

In its decision dated 29 June 1999, the RTC of Dagupan City, Branch 41, found petitioner guilty of the crime charged, disposing of the case in this wise:

WHEREFORE, finding accused Rodolfo C. Velasco guilty beyond reasonable doubt of the crime of attempted murder, defined and penalized under Article 248, in relation to the 3[rd] par. of Arts. 6 and 51 of the Revised Penal Code, he is hereby sentenced to suffer the indeterminate penalty of Four (4) years of prison correccional, as minimum to Eight (8) years and One (1) day of prison mayor, as maximum.

Accused is further ordered to indemnify the complaining witness the amount of P2,696.00, as actual damages.[8]

The trial court gave credence to the testimonies of the private complainant Frederick Maramba and Armando Maramba when they identified petitioner as the assailant. It rejected petitioner's defense of alibi saying it was not impossible for him to be at the crime scene when the crime was committed because the place where he allegedly alighted from the car of a certain Berting Soriano was only about ten minutes away. It concluded that his defense

cannot prevail over the positive identification made by the prosecution witnesses.

On 1 July 1999, petitioner filed a Notice of Appeal signifying his intention to appeal to the Court of Appeals.[9]

Pending appeal with the Court of Appeals, petitioner, after filing a Motion to Bail, was allowed to post bail in the amount of P160,000.00.[10] To obviate the possibility of flight, the Bureau of Immigration and Deportation (BID) was directed to include petitioner in its hold departure list.[11]

On 30 July 2004, the Court of Appeals dismissed the appeal and affirmed the decision of the RTC. The decretal portion of the decision reads:

WHEREFORE, for lack of merit, the appeal is DISMISSED. The assailed Decision dated June 29, 1999 of the Regional Trial Court, Branch 41 of Dagupan City, in Criminal Case No. 98-02175-D, is hereby AFFIRMED. Costs against accused-appellant.[12]

Petitioner moved for a reconsideration of the decision which motion was denied per resolution[13] dated 21 December 2004.

Petitioner is now before us via petition for review on certiorari, raising the following grounds:

I

THE COURT OF APPEALS GRAVELY ERRED WHEN IT AFFIRMED THE DECISION OF THE REGIONAL TRIAL COURT.

II

THE COURT OF APPEALS GRAVELY ERRED WHEN IT DENIED THE MOTION FOR RECONSIDERATION PER THE RESOLUTION DATED DECEMBER 21, 2004.[14]

Petitioner invokes the defenses of denial and alibi. He denies having shot the victim. He alleges that the prosecution was not able to sufficiently establish the identity of the assailant because the Barangay Chairman, who reported the incident to the policemen, identified the assailant as one wearing a "chaleco," was not presented to corroborate the testimony of petitioner. He contends that had the Barangay Chairman been presented, the latter's testimony would have been adverse to the prosecution. Instead, he points out that the prosecution presented police officers who were not eyewitnesses. He adds that he had no motive to harm, much less kill, the victim, the latter being a total stranger. He explains that since the identity of the assailant is in doubt, motive becomes important and his alibi gains weight and value.[15]

In a resolution dated 6 April 2005, the Court, without giving due course to the petition, required respondent to file a Comment.[16]

In its Comment[17] dated 8 September 2005, respondent People of the Philippines, through the Office of the Solicitor General (OSG), argues that the factual findings of the Court of Appeals cannot be reviewed since the issue (i.e., positive identification) petitioner is raising involves the credibility of witnesses and the weighing of evidence. It asserts that since the same deals with a question of fact and there being no instance present to take the case out of the general rule that factual findings of the Court of Appeals may be reviewed, a review thereof cannot be made because only a question of law can be re-examined if a petition for review on certiorari under Rule 45 of the Rules of Court has been filed. It adds that even if the case is to be decided on the merits, the petition likewise will fail.

In his Reply,[18] petitioner submits that a review of the facts of the case is justified on the ground that the Court of Appeals sanctioned substantial and jurisprudential departures committed by the trial court. He maintains that

(1) the trial court precipitately observed that alibi is a weak defense; (2) the trial court did not consider that the prosecution had no evidence proving his intention to kill; (3) the trial court did not consider the fact that victim did not know him and vice-versa; (4) it was impossible for him, a navy man – a protector of the people – to have failed to fatally hit the victim after firing seven shots; and (5) the instant case is a frame up.

On 17 October 2005, the Court gave due course to the petition and required the parties to submit their respective memoranda.[19]

In his memorandum, petitioner further argues that the findings of fact in this case should be reviewed because the Court of Appeals erroneously restated the factual findings of the trial court when it purposely omitted and added words changing the tenor of the shooting incident as found by the trial court. He adds that the findings of fact of the trial court do not support a conviction of attempted murder but only attempted homicide as there was no treachery since private complainant was still able to focus his eyes on the gunman until he was fired upon. Further, he points out that the Court of Appeals made different findings as to where the seven spent shells were recovered. He maintains there was suppression of evidence when the prosecution failed to present a ballistic report on the seven empty shells that would show the identity of the assailant. In addition, he claims that since there was suppression of evidence on the part of the prosecution, the testimony of Armando Maramba is not credible, he being a relative of the victim.

Petitioner primarily invokes the defenses of denial and alibi. It is his claim that the prosecution failed to conclusively establish the identity of the assailant and that he was merely framed-up.

At the outset, it must be stressed that the instant petition for review on certiorari was filed pursuant to Rule 45 of the Rules of Court where a review is not a matter of right but of sound judicial discretion and will be granted only when there are special and important reasons therefor. It is not the function of this Court to re-examine the evidence submitted by the parties unless the findings of fact of the Court of Appeals are not supported by evidence on record or the judgment is based on a misapprehension of facts. This Court is limited to the review or revision of errors of law and not to analyze or weigh the evidence all over again.[20]

We agree with the OSG that as ruled by this Court, no questions of facts may be raised in this Court under Rule 45 of the Rules of Court, unless, among other grounds, there is clear and convincing proof that the judgment of the Court of Appeals is based on a misapprehension of facts or when the Court of Appeals failed to notice and appreciate certain relevant facts of substance which if properly considered would justify a different conclusion, and when there is a grave abuse of discretion in the appreciation of facts in the light of the evidence on record. Anything less will not suffice to overturn the decision of the Court of Appeals affirming on appeal the decision of the trial court. It bears stressing that the findings of facts of the trial court, its calibration of the testimonial evidence of the parties and the assessment of the credibility and probative weight of the evidence of the parties and its conclusion anchored on its findings are given high respect if not conclusive effect by this Court, especially if affirmed by the Court of Appeals because of the unique advantage of the trial court of observing and monitoring the demeanor, conduct and deportment of the witnesses as they regale the court with their testimonies. The exception to this rule is when the trial court ignored, overlooked, misconstrued or misappreciated cogent facts and circumstances of substance which if considered would alter the outcome of the case.[21] After scrutinizing the records of the case and thoroughly evaluating all the evidence proffered, we find no reason to deviate from the findings of facts of the trial court as affirmed by the Court of Appeals.

In the case at bar, the testimonies of private complainant Frederick Maramba and Armando Maramba were given credence and full probative weight and credence by the trial court in the identification of petitioner as the assailant. Private complainant saw petitioner alight from the tricycle of Armando Maramba before he successively

shot at him at a distance of about four meters while chasing him for 25 to 30 meters.[22] Armando Maramba witnessed the shooting because he was the driver of the tricycle in which petitioner rode in going to the house of private complainant and in leaving the crime scene.[23] After the shooting incident, private complainant went to the City Jail and identified petitioner as the person who shot him.[24] At the Dagupan City Police Station, Armando Maramba pointed to petitioner as the assailant not because he saw a man wearing a chaleco, but because it was he whom he saw shoot the private complainant.[25]

Petitioner asks that the findings of fact of the case should be reviewed because the Court of Appeals erroneously restated the factual findings of the trial court when it purposely omitted and added words changing the tenor of the shooting incident as found by the trial court. Petitioner said the Court of Appeals purposely added the word "suddenly" and replaced the phrase "near him" with "in front of." He adds that the Court of Appeals added the phrase "without any warning" and removed the phrase "approached the complainant." He even claims that the Court of Appeals changed the manner how private complainant was shot, when he was hit, and how he stumbled and how he was able to stand up and continue running. He further states that the Court of Appeals made a different finding as to where the seven spent shells were recovered. He points out that the Court said the seven spent shells were recovered from the accused while the trial court found that the same were found in the crime scene.

As above discussed, the findings of the trial court on its assessment of the credibility of the witnesses and their testimonies and the probative weight thereof, are accorded by the appellate court high respect if not conclusive effect, unless the trial court ignored, misconstrued or misinterpreted facts and circumstances, which if considered, would alter the outcome of the case.[26] In the case at bar, the addition or omission of these words, and the difference between the findings of the trial court and the Court of Appeals as to where the seven spent shells were found, are too minor and inconsequential to affect the outcome of this case. These, even if considered, would not overturn the established fact that petitioner was identified as the assailant. Nothing in the record shows that there was any inconsistency as regards the identity of the assailant. Both private complainant and Armando Maramba were one in pointing to petitioner as the culprit.

Petitioner interposes the defenses of denial and alibi. He denies participation in the crime claiming that he was aboard a tricycle on his way to Calasiao, Pangasinan, when policemen arrested him and brought him to the Dagupan Police Station. On the other hand, the victim himself identified petitioner as his attacker which statement was corroborated by Armando Maramba.

To be believed, denial must be buttressed by strong evidence of non-culpability. Otherwise, it is purely self-serving and without merit.[27] Settled is the rule that the defense of alibi is inherently weak and crumbles in the light of positive declarations of truthful witnesses who testified on affirmative matters.[28] Greater weight is given to the categorical identification of the accused by the prosecution witnesses than to the accused's plain denial of participation in the commission of the crime.[29] There being no strong and credible evidence adduced to overcome the testimonies of private complainant and Armando Maramba pointing to him as the culprit, no weight can be given petitioner's denial.

Petitioner's defense of alibi likewise fails. As against positive identification by prosecution witnesses, the accused's alibi is worthless.[30] Having been identified by two credible witnesses, petitioner cannot escape liability. Moreover, for alibi to prosper, it must be proven that during the commission of the crime, the accused was in another place and that it was physically impossible for him to be at the locus criminis.[31] Courts view the defense of alibi with suspicion and caution not only because it is inherently weak and unreliable, but also it can be fabricated easily.[32] As found by the trial court, it was not physically impossible for petitioner to be at the crime scene when the crime was committed since it only takes a ten-minute ride from the place where he allegedly

alighted from the car of one Berting Soriano to the crime scene. We have held that:

Alibi, the plea of having been elsewhere than at the scene of the crime at the time of the commission of the felony, is a plausible excuse for the accused. Let there be no mistake about it. Contrary to the common notion, alibi is in fact a good defense. But to be valid for purposes of exoneration from a criminal charge, the defense of alibi must be such that it would have been physically impossible for the person charged with the crime to be at the locus criminis at the time of its commission, the reason being that no person can be in two places at the same time. The excuse must be so airtight that it would admit of no exception. Where there is the least possibility of accused's presence at the crime scene, the alibi will not hold water.[33]

Petitioner contends there was suppression of evidence when the prosecution did not place on the witness stand Barangay Captain Dacasain of Lasip Grande and when it failed to present a ballistic report on the seven empty shells because both are vital evidence to prove the identity of the assailant.

We find such contention untenable.

As to the non-presentation of Barangay Captain Dacasin, the same does not constitute suppression of evidence. Barangay Captain Dacasin was not an eyewitness to the shooting incident contrary to the claim of petitioner. Although he was the one who reported the incident to the police station, he was merely informed by Armando Maramba that the person who shot private complainant wore a "chaleko" or vest.[34] Thus, not being an eyewitness, his testimony, even if taken, would have nothing to do with the identification of the assailant. If he really wanted to have Barangay Captain Dacasin take the witness stand, he could have asked the trial court for a subpoena ad testificandum. This, he did not do.

As regards the failure of the police to present a ballistic report on the seven spent shells recovered from the crime scene, the same does not constitute suppression of evidence. A ballistic report serves only as a guide for the courts in considering the ultimate facts of the case.[35] It would be indispensable if there are no credible eyewitnesses to the crime inasmuch as it is corroborative in nature.[36] The presentation of weapons or the slugs and bullets used and ballistic examination are not prerequisites for conviction. The corpus delicti and the positive identification of accused-appellant as the perpetrator of the crime are more than enough to sustain his conviction.[37] Even without a ballistic report, the positive identification by prosecution witnesses is more than sufficient to prove accused's guilt beyond reasonable doubt. [38] In the instant case, since the identity of the assailant has been sufficiently established, a ballistic report on the slugs can be dispensed with in proving petitioner's guilt beyond reasonable doubt.

Petitioner's asseveration that it is unthinkable for him to shoot private complainant because he has no motive to harm, much less kill the latter, he being a total stranger, deserves scant consideration. It must be stressed that motive is a state of (one's) mind which others cannot discern. It is not an element of the crime, and as such does not have to be proved. In fact, lack of motive for committing a crime does not preclude conviction. It is judicial knowledge that persons have been killed or assaulted for no reason at all.[39] Even in the absence of a known motive, the time-honored rule is that motive is not essential to convict when there is no doubt as to the identity of the culprit.[40] Motive assumes significance only where there is no showing of who the perpetrator of the crime was.[41] In the case at bar, since petitioner has been positively identified as the assailant, the lack of motive is no longer of consequence.

Petitioner argues that the testimony of prosecution witness Armando Maramba should not be given weight because the same is biased and incredible on the ground that he is the uncle of the private complainant.

This argument does not inspire belief. The blood relationship of Armando Maramba and private complainant would not render the former's testimony unworthy of belief. On the contrary, relationship could strengthen the

witnesses' credibility, for it is unnatural for an aggrieved relative to falsely accuse someone other than the actual culprit. Their natural interest in securing the conviction of the guilty would deter them from implicating a person other than the true offender.[42] It is settled that where there is no evidence and nothing to indicate that the principal witnesses for the prosecution were actuated by improper motive, the presumption is that they were not so actuated and their testimonies are entitled to full faith and credit.[43] The weight of the testimony of witnesses is not impaired nor in anyway affected by their relationship to the victim when there is no showing of improper motive on their part.[44] Jurisprudence likewise holds that if an accused had really nothing to do with a crime, it would be against the natural order of events and of human nature, and against the presumption of good faith, that a prosecution witness would falsely testify against him.[45] In the case before us, aside from petitioner's claim that he was framed-up, there is nothing in the records that shows that Armando Maramba had ulterior motives in testifying against him. Necessarily, the testimony of Armando Maramba must be given full credit.

Petitioner claims that as a navy man who is trained to kill enemies of the state, a "protector of the people," he could not have acted in the manner which the prosecution pointed out. He said it is against human experience to attempt to kill a person in the presence of a witness and in broad daylight, and that it is preposterous that after firing seven shots at close range, he failed to fatally hit the private complainant. All these, he said, only point to a different assailant.

We are not convinced. The records show that the shooting happened at around 7:30 a.m. The fact that the shooting occurred in broad daylight does not render its commission impossible.[46] This Court takes notice that it is not unusual that killings are perpetrated in front of witnesses. In the instant case, the attempted killing was witnessed by Armando Maramba, the driver of the tricycle which petitioner rode in going to, and in leaving, the crime scene.

Petitioner argues that he could not have been the assailant because it was simply impossible for him, being a navy man, not to fatally hit private complainant after firing seven shots at close range. In effect, what he is saying is that the bungled killing cannot be the handiwork of an experienced soldier like him. Such an argument does not hold water. In the case of *People v. Mamarion*,[47] we brushed aside the very same argument raised by the accused therein who was an experienced military man. We ruled that an accused is not entitled to an acquittal simply because of his previous, or even present, good moral character and exemplary conduct. The fact that petitioner was a navy man -- a protector of the people -- does not mean that he is innocent of the crime charged or that he is incapable of doing it. This argument fails in light of the identification made by the victim himself and by Armando Maramba that it was petitioner who was the assailant.

Finally, petitioner submits that if ever he committed a crime, he merely committed attempted homicide. He maintains there was no sudden firing because the victim testified he was observing the alleged gunman for a period of ten seconds before the latter finally drew his .45 caliber pistol and fired at him. After the first shot, the victim was able to run away.

The lower court was correct in appreciating treachery in the commission of the crime. There is treachery when the following essential elements are present, viz: (a) at the time of the attack, the victim was not in a position to defend himself; and (b) the accused consciously and deliberately adopted the particular means, methods or forms of attack employed by him.[48] The essence of treachery is the swift and unexpected attack on an unarmed victim without the slightest provocation on the part of the victim.[49] It was clearly established that private complainant, while washing his jeep, was suddenly fired upon by petitioner for no reason at all. The suddenness of the shooting and the fact that he was unarmed left private complainant with no option but to run for his life. It is likewise apparent that petitioner consciously and deliberately adopted his mode of attack making sure that private complainant will have no chance to defend himself by reason of the surprise attack. Petitioner's claim that the shooting was not sudden because private complainant was observing him from the time he alighted from the

tricycle is belied by the fact that private complainant was not able to run when he was first fired upon. Though private complainant was looking at him, the former was not forewarned by any outward sign that an attack was forthcoming. It was only after the first shot that he felt his life was in danger.

Having commenced the criminal act by overt acts but failing to perform all acts of execution as to produce the felony by reason of some cause other than his own desistance, petitioner committed an attempted felony. Petitioner already commenced his attack with a manifest intent to kill by shooting private complainant seven times, but failed to perform all the acts of execution by reason of causes independent of his will, that is, poor aim and the swiftness of the latter. Private complainant sustained a wound on the left arm that is not sufficient to cause his death. The settled rule is that where the wound inflicted on the victim is not sufficient to cause his death, the crime is only attempted murder, since the accused did not perform all the acts of execution that would have brought about death.[50]

The penalty imposed by the trial court is correct. Under Article 51 of the Revised Penal Code, the penalty lower than two degrees than that prescribed by law for the consummated felony shall be imposed upon the principal in an attempted felony. Under Article 248 of the Revised Penal Code, the penalty for murder is reclusion perpetua to death. The penalty two degrees lower is prision mayor. Applying the Indeterminate Sentence Law, and there being no aggravating or mitigating circumstances, the minimum of the penalty to be imposed should be within the range of prision correccional, and the maximum of the penalty to be imposed should be within the range of prision mayor in its medium period.

WHEREFORE, in view of the foregoing, the petition is DENIED. Costs against petitioner.

SO ORDERED.

Panganiban, C.J., (Chairman), Ynares-Santiago, Austria-Martinez and Callejo, Sr., JJ., concur.

[1] CA rollo, pp. 164-170; Penned by Associate Justice Hakim S. Abdulwahid with Associate Justices Cancio C. Garcia (now Associate Justice of the Supreme Court) and Remedios A. Salazar-Fernando, concurring.

[2]Records, pp. 169-173.

[3]CA rollo, p. 183.

[4] Records, p. 1.

[5]Id., p. 13.

[6] Id., p. 74.

[7] Id., pp. 169-171.

[8] Id., p. 173.

[9] Id., p. 177.

[10] Id., pp. 93-94.

[11] Id., p.121.

[12] CA rollo, p. 169.

[13]Id., p. 183.

[14] Rollo, p. 23.

- [15] Id., pp. 24-25.
- [16] Id., p. 49.
- [17] Id., pp. 66-77.
- [18] Id., pp. 79-88.
- [19] Id., pp. 97-98.
- [20] *Spouses Caoili v. Court of Appeals*, 373 Phil. 122, 131 (1999).
- [21] *Arcilla v. Court of Appeals*, G.R. No. 135270, 30 December 2003, 418 SCRA 487, 495-496.
- [22] TSN, 5 November 1998, pp. 6-11.
- [23] TSN, 3 November 1998, pp. 6-12.
- [24] TSN, 5 November 1998, p. 14.
- [25] TSN, 3 November 1998, p. 20.
- [26] *People v. Sampaga*, G.R. No. 139823, 12 March 2004, 425 SCRA 426, 434.
- [27] *Belonghilot v. Hon. Angeles*, 450 Phil. 265, 293 (2003).
- [28] *People v. Larrañaga*, G.R. No. 138874-75, 21 June 2005, 463 SCRA 652, 662.
- [29] *People v. Baccay*, 348 Phil. 322, 327-328 (1998).
- [30] *People v. Oco*, G.R. Nos. 137370-71, 29 September 2003, 412 SCRA 190, 215.
- [31] *People v. Alfaro*, G.R. Nos. 136742-43, 30 September 2003, 412 SCRA 293, 305.
- [32] *People v. Dela Cruz*, G.R. No. 152176, 1 October 2003, 412 SCRA 503, 509.
- [33] *People v. Malones*, G.R. Nos. 124388-90, 11 March 2004, 425 SCRA 318, 339.
- [34] TSN, 3 November 1998, p. 17.
- [35] *People v. Macoy*, 341 Phil. 1, 18 (1997).
- [36] *People v. Dela Cruz*, 390 Phil. 961, 984 (2000).
- [37] *People v. Dando*, 382 Phil. 290, 310 (2000).
- [38] *People v. Nicolas*, 448 Phil. 253, 265 (2003).
- [39] *People v. Rollon*, G.R. No. 131915, 3 September 2003, 410 SCRA 295, 314.
- [40] *People v. Diaz*, 443 Phil. 67, 88 (2003).
- [41] *People v. Bermas*, 369 Phil. 191, 231 (1999).
- [42] *People v. Ave*, 439 Phil. 829, 849 (2002).
- [43] *People v. Tagana*, G.R. No. 133027, 4 March 2004, 424 SCRA 620, 639.
- [44] *People v. Rollon*, *supra* note 39, p. 314.
- [45] *People v. Simon*, G.R. No. 130531, 27 May 2004, 429 SCRA 330, 350-351.

[46] People v. Calicdan, G.R. No. L-73602, 31 August 1988, 165 SCRA 225, 231.

[47] G.R. No. 137554, 1 October 2003, 412 SCRA 438, 475.

[48] People v. Escote, Jr., 448 Phil. 749, 786 (2003).

[49] People v. Lopez, 371 Phil. 852, 864 (1999).

[50] People v. Valledor, 433 Phil. 158, 171 (2002).

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