

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. PATERNO OLIQUINO, ACCUSED-APPELLANT.

G.R. NO. 171314. March 06, 2007

Ponente: CHICO-NAZARIO, J.

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CHICO-NAZARIO, J.:

For Review is the Decision[1] rendered by the Court of Appeals promulgated on 21 March 2005 in CA-G.R. CR No. 00540 entitled, "People of the Philippines v. Paterno Oliquino," affirming, with modification, the Decision[2] dated 3 December 1999 of the Regional Trial Court of Legazpi City, Branch 3, in Criminal Case No. 7192, finding appellant guilty of the crime of rape and imposing upon him the penalty of reclusion perpetua.

By virtue of the complaint of AAA,[3] an Information dated 10 July 1996[4] was filed against appellant. Subsequently, the provincial prosecutor approved the filing of an Amended Information stating the commission of the crime of rape defined and penalized under Article 335 of the Revised Penal Code, as amended by Republic Act No. 7659,[5] as follows:

That on September 30, 1995 at around 7:00 o'clock in the morning, more or less, at Barangay Quinuartilan, Municipality of Camalig, Province of Albay, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design and threatening the victim with a fan knife (balisong), by means of force, threat and intimidation, did then and there willfully, unlawfully, and feloniously have carnal knowledge with AAA, against her will and consent, which act impregnated her, to her damage and prejudice.[6]

Upon arraignment, appellant, duly assisted by counsel, entered a plea of not guilty.[7]

The evidence for the prosecution established the following antecedents:

In the morning of 30 September 1995, AAA was in her grandparents' house with only her invalid uncle as companion. Her grandmother, BBB, left earlier that day for Daraga, Albay, while her grandfather was in Libod, Camalig, of the same province.[8] Her two minor cousins who were staying with them went out of the house to catch spiders.[9] While she was busy preparing breakfast, appellant, who is a stepbrother of her grandmother, arrived. He held both her hands and pushed her to the floor. When she was already lying on the floor, appellant straddled her stomach and started removing her shorts and then her panty.[10] Appellant then stood up and removed his pants and his briefs. At that point, she attempted to move but was prevented from doing so by appellant who was then holding a small knife.[11] Appellant then inserted his penis into her vagina for which she felt pain.[12] She wanted to shout but appellant warned her not to or else he would kill her. After appellant had satisfied his lust, he immediately left but not without threatening her with harm in case she would call attention to what happened.[13]

AAA did not tell anyone about what occurred during that morning. Her grandmother, however, noticed that AAA's stomach was getting bigger and asked the latter if she was pregnant. AAA ignored said inquiry. Finally, on 14 May 1996, when she was already on the eighth month of pregnancy, AAA admitted to her grandmother that she was indeed heavy with child and pointed to appellant as the one who impregnated her.[14] Upon learning of

what happened, BBB confronted appellant about what happened to AAA. Thereafter, AAA and BBB went to the police station to report the incident. That same day, AAA underwent a physical examination by Dr. Tirso de los Reyes, the Municipal Health Officer of Camalig, Albay, who issued a medical certificate, the material portion of which states:

TO WHOM IT MAY CONCERN:

This is to certify that Mr./Ms. AAA, a 16 (year) old, female, single, 2[nd] yr. H.S. and presently residing at Kuinantilan (sic), Camalig, Albay.

Had been (examined, treated) and was found to be pregnant for 8 months. Last Menstrual Period: Sept. 12, 1995.

Physical Exam: Abdomen: Globularly enlarged AOG.[15]

On 20 June 1996, AAA gave birth to a baby girl.[16]

Appellant admitted that he is the father of the child born to AAA.[17] He, however, denied having raped AAA for according to him, the two of them had a sexual relationship which commenced in June 1995 when AAA borrowed P50.00 from him in order to pay her tuition fee.[18] He claimed that at one time, BBB sent AAA to fetch him at 3:00 o'clock in the morning so that he could help in making copra.[19] He recalled that AAA was then riding a carabao and on their way back to BBB's house, they stopped by a grassy area and made love.[20]

Another instance, appellant revealed, when they had sexual intercourse was when he was again summoned by BBB. According to appellant, he and AAA went fishing at a nearby river and on that occasion, he "used to touch the vagina of (AAA)."[21] Then, there was the instance when BBB sent AAA to his house but before they made their way back to where BBB lived, he and AAA first engaged in sexual intercourse.[22] As far as appellant could recall, the two of them had more than fifty sexual encounters.[23]

He also surmised that BBB was aware of his relationship with AAA for the former even told him to buy a pig for AAA to raise.[24] He also maintained that he could not have raped AAA at her grandparents' kitchen as the place was filthy because her invalid uncle defecated there.[25]

Appellant likewise stated in his testimony that he came to know that AAA was pregnant in April 1996 when he returned from Manila.[26] When BBB discovered the condition of AAA, the former allegedly confronted him and insisted that they should settle the matter in the municipal building but he refused; instead, he requested his sister to talk to BBB.[27]

To support the theory that appellant and AAA were lovers, the defense presented Otilo Gomez, Buenaventura Arogar, and Haydee Ortile.

Gomez stated in the witness stand that appellant was staying in his property located in Manawan, Camalig, Albay; that he treated AAA as his granddaughter even though they were already distant relatives; that there were occasions when he saw AAA, a high school student, go to appellant's house; that at times, he even witnessed appellant carry AAA on his back to help her cross the river; that he actually saw the appellant and AAA in a compromising situation at appellant's house when he once took a peek inside after hearing an "unusual" sound emanating from therein.[28]

Arogar testified that he used to always see appellant and AAA together; that there were even two instances when he witnessed appellant and AAA riding the same carabao with the latter in front and appellant at the back holding onto AAA's waist; that appellant quickly removed his hands from AAA's waist as soon as he saw that he (Arogar) was looking at them.[29]

Arogar proceeded to claim that appellant entrusted to him the amount of two thousand pesos. However, after appellant returned from Manila, he, together with BBB, went to see Arogar in order to get back half of the amount to be used to buy a pig in preparation for AAA's pregnancy.[30]

Ortile, who is a half-sister of appellant, testified that on 14 May 1996, BBB went to her house and immediately upon seeing appellant, BBB confronted him about AAA's pregnancy. Appellant allegedly assured BBB that he was willing to marry AAA and to defray the costs of the baby's delivery.[31]

On rebuttal, both AAA and BBB categorically denied the allegations of appellant and his witnesses.[32]

In its decision of 3 December 1999, the trial court adjudged appellant guilty of the crime of rape, thus:

WHEREFORE, based on the foregoing considerations, this Court (finds) the accused PATERNO P. OLIQUINO GUILTY beyond reasonable doubt of the crime of RAPE and sentences him to a penalty of Reclusion Perpetua and to indemnify the victim AAA the amount of P50,000.00 as moral damages.

Considering that accused Paterno Oliquino admits that he is the father of CCC[33] which is the product of the rape committed by him upon private complainant AAA(,) he is ordered to acknowledge the child CCC as his daughter and to give her the necessary support.[34]

Appellant seasonably appealed his case before this Court. In our Resolution dated 29 September 2004, we transferred the case to the Court of Appeals pursuant to our holding in the case of *People v. Mateo*. [35]

The Court of Appeals affirmed, with modification, the findings of the trial court. The dispositive portion of the appellate court's Decision states:

WHEREFORE, the foregoing premises considered, the decision subject of the appeal is hereby AFFIRMED save for a slight modification in that the accused-appellant is ordered to pay the victim an additional amount of the P50,000 as civil indemnity.[36]

Once again, appellant is pleading his case before us arguing that the prosecution was unable to prove his guilt beyond reasonable doubt.[37]

Appellant maintains that AAA's account of what transpired during that fateful day "is not in accord with human experience and does not carry with it the essence of truth"[38] and should not have been given full evidentiary weight and credence.

He also argues that his testimony as well as those of his witnesses were consistent and reliable as compared to the version presented by the prosecution.[39] Thus, while alibi is an inherently weak defense, the same gains significance and strength when it is corroborated by a credible witness. In this case, he insists that the prosecution was not able to discredit the witnesses he presented before the trial court.

Lastly, appellant points to the period of time that had lapsed before AAA instituted the criminal case against him. This fact, he argues, gives rise to the assumption that the filing of the rape charge was a mere afterthought so that AAA and BBB could extract some money from him.[40]

Appellant's arguments fail to convince.

As with other rape cases, the outcome of the present action boils down to the issue of credibility of witnesses. In this regard, it has been this Court's consistent stance that the trial court's evaluation of the testimonies of witnesses are accorded highest respect as it had the singular opportunity to observe the witnesses and to gauge their truthfulness. Appellate courts do not have the same privilege for, in deciding cases, they are confronted with mere cold transcripts of the testimonies given before the trial court. Thus, it is settled that-

The question of whether or not the sexual intercourse in question is free and voluntary, hinges, on the credibility of witnesses, the determination of which is largely addressed to the sound discretion of the trial court. Appellate courts will generally not disturb the findings of the trial court, considering that it has unequalled competence to consider and determine the credibility of witnesses, in view of its unique opportunity to observe the demeanor of witnesses on the stand, an opportunity not afforded the appellate court, unless it has plainly overlooked certain facts of substance and value that, if considered, might affect the result of the case.[41]

We have carefully reviewed the records of this case and found no reason to disturb the findings of both the trial court and the Court of Appeals. We particularly subjected the testimony of AAA to careful scrutiny as we are fully aware that oftentimes, rape cases are decided based on the testimony of the aggrieved party. In the end, we find that the conclusion reached by the trial court is proper. AAA's narration of appellant's attack upon her maidenhood was candid and straightforward -

WITNESS:

A. I was preparing food for breakfast.

Q. Now, while you were preparing food for breakfast, what happened?

A. That morning, Paterno Oliquinio arrived.

Q. When you say Paterno, is he the same Paterno Oliquinio who is the accused in this case?

A. Yes, sir.

Q. What happened after Paterno arrived?

A. When Paterno arrived, he held my both hands.

Q. What happened next after he held your two hands?

A. He pushed me.

Q. And what happened to you after he pushed you?

A. After pushing me, he immediately sat on my stomach. (Witness points to her stomach).

Q. What was your position when the accused sat on your stomach?

A. I was already lying because of the push that he made.

Q. Was your face facing upward or facing towards the ground?

A. My face was facing up.

Q. Now, what else happened after he sat on your stomach while you were lying on the ground?

A. He undressed me.

Q. How did he undress you?

A. He removed my shorts (sic).

Q. After he removed your shorts, what else did he do?

A. He also removed my panty.

Q. Then, after he removed your panty, what else happened?

A. After removing my panty he also undressed himself.

Q. What did he undress himself?

A. First, he removed his pants.

x x x x

COURT:

Q. What did he remove first?

WITNESS:

A. His shorts and then his briefs (sic).

PROSECUTOR TOLOSA:

Q. Then after he removed his shorts and briefs (sic), what transpired next?

A. After that he placed himself on top of me and placed his penis on my vagina.

Q. Was his penis inserted on your vagina?

A. The penis of Paterno was inserted on my vagina.

x x x x

PROSECUTOR TOLOSA:

Q. Then after his penis was inserted to your vagina, what happened next?

WITNESS:

A. I felt pain.

Q. Did you shout?

A. I was hindered by Paterno from shouting because according him when I shout he will kill me.

Q. So what did you do?

A. I did not move because I was afraid.

Q. How long was Paterno on top of you?

A. For a while, sir.

Q. Now, after he finished, what transpired next?

A. After that, after Paterno was through, he put on his brief.

Q. Did he talk to you before he left?

ATTY. MACASINAG:

Leading.

WITNESS:

A. I was instructed not to shout, otherwise, he will kill me.

PROSECUTOR TOLOSA:

Q. Were you afraid?

A. Yes, sir.

Q. Why?

A. Because he will kill me.

x x x x

ATTY. MACASINAG:

Q. Can you demonstrate to us how Paterno Oliquino sat on your stomach by demonstrating it using the Court Process Server as yourself and you as Paterno Oliquino.

COURT:

Q. She's lying down. Just a moment, where were you lying down?

WITNESS:

A. I was lying on the floor.

COURT INTERPRETER:

At this juncture, witness is going down the witness stand to demonstrate how the accused sat on her stomach. Witness is now sitting on the stomach of the Process Server. The position is that like she is riding on a horse back, facing both legs of the Process Server.

ATTY. MACASINAG:

Q. So on that position, Madam Witness, your panty and your shorts were removed by Paterno Oliquino?

WITNESS:

A. Yes, sir.

Q. And on that position, Paterno Oliquino inserted his penis to your vagina?

A. After removing my short pants and panty, he changed his position by turning and facing me already.

Q. And he kissed your lips?

A. No, sir.

Q. He did not kiss your breast?

A. No, sir.

Q. So he just immediately inserted his penis on your vagina?

A. Yes, sir.

Q. And on your position demonstrated a while ago by you, you did not hold anything to protect yourself because Paterno at that time was facing your legs?

WITNESS:

A. No, sir.

x x x x

COURT:

Q. In that position, he removed your short pants and your panty?

A. Yes.

Q. Did you not move?

A. I was attempted to move but he told me not to move.

Q. He really told you not to move?

A. Yes because I was afraid.

Q. Why were you afraid?

A. Because he will kill me.

Q. By his bare hands or what?

A. He was armed, your honor.

Q. What?

A. A small knife.

Q. What did he do with it?

A. He was just holding that small knife.

Q. Did he show it to you?

A. Yes, sir.

Q. Now, when he was able to remove your panty and your shorts, what did he do next?

A. After removing my short pants and my panty he face (sic) me already.

Q. You did not stand at first?

A. I stood up but he placed his both legs spread on my body.

Q. Facing you already. You're face to face already?

A. Yes, sir.

Q. He was able to remove his short pants, how?

A. He was standing straight with his legs spread, that was the time when he removed his pants.

COURT:

Q. At that time when he remove his short pants as well as his briefs (sic), he was with you?

WITNESS:

A. Yes, sir.

Q. At that time when he removed his brief and shorts, he was standing astride facing you?

A. Yes, sir.

Q. After that when he was able to remove his shorts and his briefs (sic), what else did he do?

A. He placed himself on top of me.

Q. After that, what else did he do?

A. That was the time when he placed his penis on my vagina.

Q. After placing his penis and penetrated on your vagina, what did he do?

A. When his penis was already on my vagina, he started pumping.

Q. How many minutes, how many seconds or how long?

A. For a while, sir.

Q. After he satisfied himself, what did he do?

A. That was the time when he dressed up.

Q. What you are telling here is true?

A. It is true, sir.

Q. You must remember that what you are telling here is serious? If he found to be guilty, he might be penalized or sentenced to death?

A. That is true, sir.[42]

Equally significant is that the defense counsel asked AAA to demonstrate how appellant removed her shorts and panty as well as how appellant removed his pants and brief. In addition, the presiding judge himself subjected AAA to scrutiny and he even went as far as to impress upon her the serious nature of the crime she filed against appellant and the grave penalty that awaited him if convicted; yet, AAA remained steadfast in her contention that appellant indeed raped her.[43] To our minds, these amply support the findings of the court a quo.

On the other hand, appellant completely relies on the supposed relationship he had with AAA which allegedly started in June 1995. As we had previously declared elsewhere, for this defense to prosper, "it should be substantiated by some documentary or other evidence of the relationship " like mementos, love letters, notes, pictures and the like." [44] In this case, appellant depended on the testimonies of witnesses who claim to have seen him and AAA on various occasions. Still, we believe that these testimonies fail to vindicate appellant.

We quote with approval the following observation of the trial court with respect to the testimony of Gomez, the owner of the land where appellant built his house:

It is noteworthy to consider first the actuation of Otilio Gomez: He considers AAA (his) granddaughter, nevertheless, he kept mum about what he saw between Paterno and AAA who were engaged in the alleged sexual act because he presumed that they have a good understanding. In a barangay where the residents regard themselves as closely knit and who observe family tradition, as in this case, the normal reaction of Otilio Gomez is to talk to herein accused and ask him why he was having a relationship with AAA who was only 15 years old then. But he never lifted a finger to tell Paterno or AAA's grandmother because he "presumed" the good relationship of the two. The relationship of Paterno and AAA if there really was, is unusual which can not be taken sitting down by an on-looker, especially considering that Otilio allegedly saw the two in (a compromising) situation.[45]

Indeed, if it were true that Gomez treated AAA as his own kin, he would have immediately discussed his observations with appellant or informed BBB regarding the inappropriate behavior of her minor granddaughter. The fact that he did not does not augur well for his credibility.

As for Arogar's testimony that appellant gave BBB one thousand pesos for AAA's pregnancy, the same was outright denied by BBB. Also, this Court sees no reason for BBB to ask for support from appellant as the latter was, in fact, sometimes hired and paid by BBB in her copra-making business.[46]

We likewise cannot afford to give weight to Ortile's claim that BBB and appellant had already reached an agreement regarding AAA's condition. According to Ortile, appellant, who happens to be her half-brother, had offered to marry AAA and pay for the delivery of their baby. To be more specific, Ortile stated that on 14 May 1996, BBB confronted appellant and the two supposedly had an understanding that appellant would shoulder the costs of AAA's delivery. Ortile claimed that appellant even offered to wed AAA. However, two days after, AAA and BBB reported the rape to the Office of the Investigation Section of the Camalig Municipal Police.[47] If appellant and AAA were really sweethearts, AAA would have readily acceded to appellant's offer of marriage rather than expose herself to the rigors and humiliation of a very public trial. Such reaction is unnatural for a young girl who had sexual intimacies with a man of her choice if she truly loves him.[48]

Even appellant's actuation after he learned of AAA's pregnancy belies his claim that he loved her. In his testimony, he stated that he found out in April 1996[49] that he had impregnated AAA and that he was more than glad that he would finally have his own child.[50] Yet, instead of facing his obligation, he still opted to go to Manila and leave AAA behind to deal with her predicament by herself. Such cavalier attitude certainly speaks volume of his affection for AAA.

Moreover, he alleged that as soon as BBB discovered AAA's pregnancy, BBB asked that they discuss the problem at the municipal hall but he refused. He then requested his sister to talk to BBB at the latter's house. This testimony contravenes BBB and Ortile's accounts of what transpired immediately after AAA's condition was detected. Both BBB and Ortile claimed in the witness stand that the former found out that AAA was pregnant in May 1996. Ortile was even more specific on the date of the discovery which she claimed occurred on 14 May 1996. That same day, BBB confronted appellant at Ortile's house and if Ortile would be believed, BBB and appellant had quickly reached an agreement at that time. Such agreement would have precluded any need for the parties to discuss the problem at the municipal hall as claimed by appellant.

What further destroys the veracity of appellant's contention was his own testimony that it was only in July 1996, when he sent Ortile to BBB in order to tender his offer of marriage or support for AAA and the child.[51] Such belated attempt on appellant's part to appease AAA and BBB betrays his plea of innocence and amounts to nothing but a desperate attempt at evading the consequences of his offense. Not a few number of cases have established that an offer of marriage is considered an implied admission of guilt of the accused.[52]

As for AAA's delay in reporting the rape, suffice it to state that delay in revealing the commission of rape is not an indication of a fabricated charge.[53] It must be remembered that appellant threatened AAA with harm in the event that she told anyone of what happened between them. The lingering fear instilled upon AAA is understandable considering that appellant lives only about one kilometer away from her. Also, he was called upon by her grandmother, BBB, to help in making copra. The possibility of him making good his threat is therefore not remote at all and the fear for her life remained palpable. Besides, this Court has taken judicial notice of the fact that people placed under the burden of emotional stress react differently. Some may shout, some may faint, and some may be shocked into insensibility; while some may openly welcome the intrusion.[54] There is no standard form of behavior when one is faced by a shocking incident. Under emotional stress, the human mind is not

expected to follow a predictable path.[55] As we held in *People v. Geromo*[56] -

[I]ntimidation must be viewed in light of the victim's perception and judgment at the time of the commission of the crime and not by any hard and fast rule. It is enough that the intimidation produces a fear that if the victim does not yield to the bestial demands of the accused, something would happen to her at the moment, or even thereafter, as when she is threatened with death should she report the incident. x x x.

Finally, the parties agree that there was no animosity among them prior to this dispute. This, to our minds, undermines the appellant's case for in areas such as where AAA was raised, young ladies by custom and tradition act with circumspection and prudence, and that great caution is observed so that their reputation remains untainted.[57] We see no reason, and appellant failed to produce any, to inquire into the motive behind AAA's institution of this action except to seek justice for the irreparable damage that appellant had inflicted upon her. Indeed, no woman, much less a young girl such as AAA, would make public a painful and humiliating secret unless she was viciously wronged.

Under Article 335 of the Revised Penal Code, as amended by Republic Act No. 7659, "(w)henever the crime of rape is committed with the use of a deadly weapon," the penalty to be imposed shall be reclusion perpetua to death. Article 63 of the same statute instructs us that in the event the law prescribes a penalty composed of two indivisible penalties and there are neither mitigating nor aggravating circumstances in the commission of the offense, the lesser penalty shall be applied.

In this case, as the Information does not allege any attending circumstance in the execution of the crime of rape. We, therefore, sustain the penalty of reclusion perpetua that was imposed by the trial court and the Court of Appeals.

In addition, appellant, being an unmarried man, is ordered to acknowledge the child of AAA pursuant to Article 345 of the Revised Penal Code that directs persons guilty of rape to acknowledge the offspring, unless the law should prevent him from so doing. Corollarily, appellant must provide support to his illegitimate child with AAA's in the amount of P500.00 each month.[58]

The Court of Appeals is likewise correct in directing appellant to pay AAA the amount of P50,000.00 by way of civil indemnity apart from the P50,000.00 earlier given by the trial court in the form of moral damages for it is settled that these two are distinct from one another, thus:

With regard to his civil liability, however, the trial court's award of damages should be modified. Under the present law, an award of P50,000.00 as civil indemnity is mandatory upon the finding of the fact of rape. This is exclusive of the award of moral damages of P50,000.00, without need of further proof. The victim's injury is now recognized as inherently concomitant with and necessarily proceeds from the appalling crime of rape which per se warrants an award of moral damages.[59]

WHEREFORE, premises considered, the Decision of the Court of Appeals in CA-G.R. CR No. 00540 affirming, with modification, the decision of the Regional Trial Court Branch 3, Legazpi City, in Criminal Case No. 7192, is hereby AFFIRMED. In addition, appellant is ordered to give support to his offspring by AAA in the amount of P500.00 each month. No costs.

SO ORDERED.

Ynares-Santiago, (Chairperson), Austria-Martinez, and Nachura, JJ., concur.
Callejo, Sr., J., on leave.

[1] Penned by Associate Justice Bienvenido L. Reyes with Associate Justices Godardo A. Jacinto and Rosalinda Asuncion-Vicente, concurring; rollo, pp. 3-10.

[2] Records, pp. 109-131.

[3] Under Republic Act No. 9262 also known as "Anti-Violence Against Women and Their Children Act of 2004" and its implementing rules, the real name of the victim and those of her immediate family members are withheld and fictitious initials are instead used to protect the victim's privacy.

[4] Records, p. 12.

[5] An Act to Impose the Death Penalty on Certain Heinous Crimes, Amending for that Purpose the Revised Penal Code, as Amended, Other Special Penal Laws, and for Other Purposes.

[6] Dated 22 July 1996; records, p. 14.

[7] Id. at 29.

[8] TSN, 23 December 1997, pp. 5-6.

[9] Id. at 16.

[10] Id. at 6-7.

[11] Id. at 25.

[12] Id. at 7-8.

[13] Id.

[14] Id. at 9; TSN, 26 June 1997, p. 6.

[15] Exh. "A" for the prosecution; Exh. "1" for the defense.

[16] TSN, 23 December 1997, p.11; Exh. "D" for the prosecution.

[17] TSN, 28 August 1998, p. 10.

[18] Id. at 4-5.

[19] Id. at 5.

[20] Id. at 7.

[21] Id. at 8.

[22] Id.

[23] Id. at 9.

[24] Id.

[25] Id. at 10.

[26] Id.

[27] Id. at 12.

[28] TSN, 31 March 1998, pp. 1-18.

- [29] TSN, 8 May 1998, pp. 5-6.
- [30] Id. at 6-7.
- [31] Id. at 5.
- [32] TSN, 11 February 1999, pp. 3-15.
- [33] The child of AAA.
- [34] Records, p. 131.
- [35] G.R. Nos. 147678-87, 7 July 2004, 433 SCRA 640; rollo, p. 129.
- [36] Rollo, p. 9.
- [37] Id. at 18.
- [38] Id.
- [39] Id. at 20.
- [40] Id. at 23.
- [41] People v. Soterol, G.R. No. L-53498, 16 December 1985, 140 SCRA 400, 404.
- [42] TSN, 23 December 1997, pp. 6-28.
- [43] Id. at 24-27.
- [44] People v. Gabelinio, G.R. Nos. 132127-29, 31 March 2004, 426 SCRA 608, 621.
- [45] Records, p. 123.
- [46] TSN, 11 February 1999, p. 12.
- [47] Records, p. 4.
- [48] People v. Niebres, G.R. No. 69190, 29 September 1989, 178 SCRA 114, 117.
- [49] TSN, 28 August 1998, p. 10.
- [50] Id. at 11.
- [51] TSN, 13 October 1998, pp. 8-9.
- [52] People v. Andaya, 365 Phil. 654, 669 (1999), citing People v. Valdez, G.R. No. L-51034, 29 May 1987, 150 SCRA 405, 411; People v. Aragona, G.R. No. L-43752, 19 September 1985, 138 SCRA 569, 577; People v. Gerones, G.R. No. 91116, 24 January 1991, 193 SCRA 263, 269.
- [53] People v. Melendres, 393 Phil. 878, 894 (2000).
- [54] People v. Niebres, *supra* note 48 at 119.
- [55] People v. Solomon, 434 Phil. 1, 21 (2002).
- [56] 378 Phil. 972, 981 (1999), citing People v. Melendres, *supra* note 53.
- [57] People v. Caratay, 374 Phil. 590, 608 (1999).

[58] People v. Sgt. Bayani, 331 Phil. 169, 202 (1996).

[59] People v. Caratay, supra note 57 at 610-611.

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