

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. MARCELO BUSTAMANTE Y ZAPANTA, NEIL BALUYOT Y TABISORA, RICHARD DELOS TRINO Y SARCILLA, HERMINIO JOSE Y MONSON, EDWIN SORIANO Y DELA CRUZ...

G.R. No. 172357. March 19, 2010

Ponente: DEL CASTILLO, J.

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DEL CASTILLO, J.:

The police authorities are the ones tasked to promote and maintain peace and order in our country. Thus, it becomes doubly deplorable when they themselves commit the criminal act. In this case, appellants insist on their innocence; they deny that they killed the victim Romeo Quintos on June 1, 1997 inside the detention cell of the Ninoy Aquino International Airport (NAIA). But we are not persuaded. We took a second hard look at the evidence presented and we hold that both the trial court and the appellate court correctly found that the prosecution proved beyond reasonable doubt that the appellants are guilty of murder.

This is an appeal from the July 19, 2005 Decision[1] of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 00665 which affirmed in toto the March 17, 2000 Decision[2] of the Regional Trial Court (RTC) of Pasay City, Branch 109, finding the appellants guilty beyond reasonable doubt of the crime of murder. Also assailed is the March 6, 2006 Resolution[3] of the CA denying the separate motions for reconsideration filed by the appellants.

Factual Antecedents

On May 22, 1998, two Informations were filed against the herein appellants, together with Carlito Lingat and Mutalib Abdulajid, charging them with the crimes of Murder and Arbitrary Detention. The Informations read:

Crim. Case No. 98-0547 (for Murder):

The undersigned Ombudsman Investigator, Office of the Deputy Ombudsman for the Military, hereby accuses NEIL BALUYOT, RICHARD DELOS TRINO, HERMINIO JOSE, EDWIN SORIANO, MARCELO BUSTAMANTE, CARLITO LINGAT, MUTALIB ABDULAJID, AND ELMER SALVADOR of the crime of MURDER defined and penalized under Article 248 of the Revised Penal Code, committed as follows:

That in the early morning of June 01, 1997, between 2:00 to 3:00 o'clock [in the morning], or sometime prior or subsequent thereto, in Pasay City, Philippines, and within the jurisdiction of this Honorable Court, the accused NEIL BALUYOT, RICHARD DELOS TRINO, HERMINIO JOSE, EDWIN SORIANO, MARCELO BUSTAMANTE, and CARLITO LINGAT, all public officers, being then members of the Philippine National Police (PNP) Force, assigned [at] the Ninoy Aquino International Airport (NAIA), and accused ELMER SALVADOR and MUTALIB ABDULAJID, security guards, also assigned at the NAIA, conspiring and confederating with one another, with intent to kill and taking advantage of their superior strength, did then and there willfully, unlawfully and feloniously tie a plastic nylon cord around the neck of one Romeo A. Quintos, and hang him at the end portion of the detention cell, which caused the instantaneous death of said Romeo A. Quintos to the damage and prejudice of the heirs of said victim.

CONTRARY TO LAW.[4]

Criminal Case No. 98-0548 (for Arbitrary Detention)

The undersigned Ombudsman Investigator, Office of the Ombudsman for the Military, hereby accuses EDWIN D. SORIANO, MARCELO Z. BUSTAMANTE, HERMINIO M. JOSE, CARLITO D. LINGAT and NEIL T. BALUYOT of the crime of ARBITRARY DETENTION, defined and penalized under Article 124 of the Revised Penal Code, committed as follows:

That on or about June 01, 1997, in Pasay City, Metro Manila, Philippines, and within the jurisdiction of this Honorable Court, the abovenamed accused, all public officers, being then members of the Philippine National Police Force assigned at the Ninoy Aquino International Airport, conspiring and confederating with each other, committing the offense in relation to their office, and without any legal ground, did then and there willfully, unlawfully, and feloniously detain and restrain Romeo A. Quintos of his personal liberty, without his consent and against his will since midnight of May 31, 1997 until around 3:15 a.m. of June 01, 1997 when said Romeo A. Quintos was found dead inside the detention cell.

CONTRARY TO LAW.[5]

Neil Baluyot (Baluyot), Richard Delos Trino (Delos Trino), Herminio Jose (Jose), Edwin Soriano (Soriano), Marcelo Bustamante (Bustamante), Carlito Lingat (Lingat) and Elmer Salvador (Salvador), were arraigned on July 14, 1998 where they all entered a plea of not guilty.[6] Mutalib Abdulajid (Abdulajid) remains at large.

The records show that at around midnight of May 31, 1997, Romeo Quintos (Romeleo) and his friend, Ancirell Sales (Ancirell), went to the NAIA to fetch Rolando Quintos (Rolando), brother of Romeo, who was arriving from the United States. At the arrival extension area of the NAIA, Ancirell alighted from the car driven by Romeo to check whether Rolando had already arrived. Upon his return, he was surprised to see Romeo arguing with a man in uniform later identified as Soriano who arrested Romeo for expired license.

Romeleo vehemently denied the charge causing a heated altercation. Outraged, Romeo challenged Soriano to a gun duel. Thinking that Romeo was a military man, Soriano called for reinforcement. In a few minutes, Lingat and Bustamante arrived followed by Jose. They asked Romeo to hand over his license but the request went unheeded. Thus, Jose seized the ignition key of the vehicle and ordered Romeo to alight from the vehicle but the latter refused. Thereupon, Soriano, Lingat, Bustamante and Jose pulled Romeo out of the vehicle and brought him to the Intelligence and Investigation Division of the NAIA (IID-NAIA) supposedly for questioning. At the IID-NAIA, it was decided that Romeo be brought to the Pasay General Hospital for examination where he was found positive for alcoholic breath. Thereafter, Romeo was brought back to the IID-NAIA for further investigation.

Romeleo was shoved into a cell already occupied by prosecution witness Noel Gabornes (Gabornes), who had earlier been arrested for being an unauthorized porter. Professing his innocence, Romeo cursed and shouted at Baluyot, Delos Trino, Jose, Soriano, Bustamante, Lingat, Salvador and Abdulajid to release him as he was only at the airport to fetch his brother. Jose ordered him to stop but Romeo persisted. Infuriated, Jose entered the cell and kicked the victim hard on the stomach. Salvador also entered the cell followed by Baluyot while Delos Trino stayed near the door. Romeo was still reeling from the blow delivered by Jose when Baluyot boxed him in the abdomen. Salvador also punched him at the solar plexus causing the victim to writhe in pain at a corner of the cubicle. To avoid being hit, Gabornes went outside the cell.

Gasping for breath, Romeo sought succor from Gabornes but the latter declined, afraid to get involved. After a while, Gabornes asked Jose if he could go home but the latter did not answer. Instead, Jose directed Salvador to transfer Gabornes to an adjacent cell. Thereafter, Gabornes overheard Jose saying "tapusin na natin ito". Intrigued,

Gabornes peered through the iron grill to see what was happening. From his vantage point, he saw Baluyot handing a piece of grayish plastic cord to Salvador. Thereafter, he heard Romeleo coughing and gasping for breath as if he was being strangled. Peering closely, the witness saw Salvador and Abdulajid twisting the cord with a piece of wood, "garrote" style. Romeleo's hand could be seen trying to reach for the piece of wood in a backward angle in a vain effort to stop the twisting. After a couple of minutes, Gabornes saw a body being carried out of the cell. Delos Trino then approached Gabornes and said: "Kung anong nakita mo, nakita mo lang. Kung anong narinig mo, narinig mo lang. Sana huwag mo ng ikalat ito." Fearing for his life, Gabornes promised not to tell anybody about the incident. Thereafter, he was released.

At about that time, the victim's brother, Rolando, had already arrived from the United States. Informed by Ancirell of the detention of his brother Romeleo, Rolando set out for home to deposit his luggage but immediately went back to the airport with Ancirell and a cousin, Rabadon Gavino (Gavino), to check on Romeleo. At around 3:00 a.m. of the same day, they arrived at the IID-NAIA office and were met in the hallway by Bustamante who told them that Romeleo was in the detention cell. Asking for directions, the group was ushered towards a dark cell. When the lights were turned on, they were horrified to see the lifeless body of Romeleo hanging with a cord around his neck with the other end tied around the iron grills of the cell window.

Rolando, Ancirell and Gavino, along with Soriano and Lingat, immediately brought the victim to the San Juan De Dios Hospital aboard a police car. Rolando and his companions carried the victim to the emergency room. Soriano and Lingat remained in the vehicle but returned to the NAIA after a while. Romeleo was declared dead on arrival by the attending physician. Gabornes later learned of the victim's identity through the newspapers.

Baluyot, Delos Trino, Jose, Soriano, Bustamante, and Lingat, were all members of the Philippine National Police (PNP) assigned with the IID-NAIA, while Salvador and Abdulajid were security guards of the Lanting Security Agency assigned at NAIA.

Ruling of the Regional Trial Court

After due proceedings, the trial court promulgated its Decision dated March 17, 2000, the decretal portion reads:

In view of all the foregoing, the Court finds the accused Neil Baluyot y Tabisora, Richard delos Trino y Sarcilla, Herminio Jose y Mozon, Edwin Soriano y dela Cruz, Marcelo Bustamante y Zapanta, Carlito Lingat y Salvador, Elmer Salvador y Javale, and Mutalib Abdulajid guilty beyond reasonable doubt of MURDER in Criminal Case No. 98-0457. It appearing on evidence that the accused voluntarily surrendered at the Criminal Investigation and Detection Group as evidenced by Exh. 21, the Court credits them with the mitigating circumstances of voluntary surrender and hereby sentences each of them to RECLUSION PERPETUA and for each accused to pay the heirs of the victim indemnity in the amount of P50,000.00.

In Criminal Case No. 98-0548 for Arbitrary Detention, it appearing from the evidence that the victim Romeleo Quintos was detained at the IID for three (3) hours and fifteen (15) minutes, the same is punished or penalized under Art. 124, paragraph 1 of the Revised Penal Code which is herein below reproduced:

ART. 124. Arbitrary Detention. - Any public officer or employee who, without legal grounds, detains a person, shall suffer:

1. The penalty of *arresto mayor* in its maximum period to *prision correccional* in its minimum period if the detention has not exceeded three days;

x x x x

hence the case is not within the jurisdiction of this Court.

The OIC of this Court is hereby ordered to transmit the records of Criminal Case No. 98-0548 for Arbitrary

detention to the Metropolitan Trial Court.

The Petition for Bail filed by all the accused is hereby considered moot and academic.

Let an Alias Warrant of arrest be issued in so far as accused Mutalib Abdulajid is concerned who remains at large.

SO ORDERED.[7]

Ruling of the Court of Appeals

The CA affirmed the Decision of the RTC in a Decision dated July 19, 2005, thus:

IN VIEW OF ALL THE FOREGOING, the appealed decision is hereby AFFIRMED in toto. Costs de officio.

SO ORDERED.[8]

Aggrieved, appellants filed their respective Motions for Reconsideration. In the meantime, Lingat died. On March 6, 2006, the CA denied the motions for reconsideration.[9]

All the appellants, except Bustamante, filed notices of appeal. Bustamante filed an Urgent Motion for Leave to Admit Second Motion for Reconsideration[10] but it was denied by the CA in its Resolution[11] dated April 28, 2006. Thereafter, Bustamante filed a Petition for Review on Certiorari but the same was treated as an appeal in the Resolution[12] dated January 15, 2007.

Issues

The issues raised are: (1) whether the uncorroborated testimony of the lone eyewitness, Gabornes, is sufficient to produce a judgment of conviction; (2) whether conspiracy was proven beyond reasonable doubt; and (3) whether appellants should be held liable only for homicide, and not for murder.

Our Ruling

Upon careful consideration of the evidence presented by both the prosecution and the defense, we are unable to consider the appellants' appeal with favor.

The uncorroborated testimony of a single witness, if credible, is enough to warrant conviction.

We find that the CA did not err in affirming the Decision of the trial court convicting the appellants of murder based on the testimony of Gabornes, the lone eyewitness. It is settled jurisprudence that the testimony of a single witness, if credible, is enough to warrant conviction. Both the trial court and the CA found Gabornes to be credible and whose testimony is entitled to full faith. We find no cogent reason to depart from said findings.

As borne out by the records, Gabornes positively identified and categorically pointed to appellants as the ones who conspired with one another to kill Romeo on June 1, 1997. He narrated the incident in a clear and convincing manner. He testified on the degree of participation of each of the accused with regard to the killing of Romeo inside the IID-NAIA detention cell in such a manner that only an unbiased eyewitness could narrate. Gabornes was not shown to have had any ill motives to testify falsely against the appellants. As correctly observed by both the trial court and the CA, the fact that Gabornes was previously arrested for being an unauthorized porter is not enough reason for him to falsely accuse appellants of a very grave offense.

We also hold that the CA correctly disregarded the affidavit of recantation of Gabornes dated February 21, 2005. In the said affidavit, Gabornes denied that he was inside the detention cell of the NAIA on June 1, 1997. Instead,

he claimed that he was under the fly-over near the NAIA playing a card game. Consequently, he averred that there is no truth to his testimony given before the trial court pointing to the appellants as the perpetrators of the crime. We are not persuaded.

Our ruling in *People v. Ballabare*[13] is instructive:

It is absurd to disregard a testimony that has undergone trial and scrutiny by the court and the parties simply because an affidavit withdrawing the testimony is subsequently presented by the defense. In the first place, any recantation must be tested in a public trial with sufficient opportunity given to the party adversely affected by it to cross-examine the recanting witness. x x x

In the second place, to accept the new evidence uncritically would be to make a solemn trial a mockery and place the investigation at the mercy of unscrupulous witnesses. For even assuming that Tessie Asenita had made a retraction, this circumstance alone does not require the court to disregard her original testimony. A retraction does not necessarily negate an earlier declaration. For this reason, courts look with disfavor upon retractions because they can easily be obtained from witnesses usually through intimidation or for monetary considerations. Hence, when confronted with a situation where a witness recants his testimony, courts must not automatically exclude the original testimony solely on the basis of the recantation. They should determine which testimony should be given credence through a comparison of the original testimony and the new testimony, applying the general rules of evidence. x x x [14]

As we have already discussed, Gabornes' testimony given before the National Bureau of Investigation (NBI) and the trial court was replete with details that only a person who witnessed such gruesome crime could narrate. Even during cross-examination, he remained steadfast in his account that the appellants were the ones who killed Romeleo. Also, both the trial court and the appellate court had several opportunities of taking a hard look at the records of the case considering the motions for reconsideration filed by the appellants. Both the CA and the RTC found beyond reasonable doubt that the appellants were indeed the authors of the crime.

The prosecution satisfactorily established that appellants conspired with each other in killing Romeleo.

We are not persuaded by the contention of the appellants that there was no conspiracy considering that they were in different areas of the NAIA premises when the crime took place. As correctly held by the CA:

At bar, appellants claimed that they were either at the NAIA parking lot or were at the adjacent IID-NAIA office when the crime took place. These places, however, are but a short distance away from the scene of the crime and one could travel to and from these points in a little over a few seconds or minutes of leisure walking, as readily admitted by appellants in their own version of the event. Verily, the possibility of appellants to be at the scene of the crime at the time of its commission, is thus not farfetched.[15]

Besides, it is not required for conspiracy to exist that there be an agreement for an appreciable period prior to the occurrence. It is sufficient that at the time of the commission of the offense, the accused had the same purpose and were united in its execution. Direct proof of such agreement is not necessary. It may be deduced from the mode and manner in which the offense was perpetrated, or inferred from the acts of the accused which point to a joint purpose and design, concerted action and community of interest.[16]

This community of design is present among the appellants as deduced from their individual acts. The RTC observed thus:

The act of the accused Elmer Salvador, Neil Baluyot y Tabisora, and Richard Delos Trino y Sarcilla of boxing the victim on the stomach and the act of accused Herminio Jose who said 'tapusin na natin ito' together with

the act of accused Neil Baluyot of handing a `tale' or cord to Elmer Salvador who thereafter twisted the cord which was around the neck of the victim with a piece of wood with the help of accused Mutalib Abdulajid who up to the present remained at large, all acts of which were done in the presence of all the accused namely: Neil Baluyot y Tabisora, Richard Delos Trino y Sarcilla, Herminio Jose y Mozon, Edwin Soriano y dela Cruz, Marcelo Bustamante y Zapanta, Carlito Lingat y Damaso and Elmer Salvador (including the accused who is at large) clearly show that all accused conspired, confederated and helped one another in murdering the victim with abuse of superior strength by strangling and hanging the victim Romeleo Quintos causing him to die of asphyxia. In conspiracy, the act of one is the act of all.

x x x x

Likewise, the act of accused Carlito Lingat y Damaso and Edwin Soriano y Dela Cruz of not coming to the hospital to give the medical clerk the name and circumstances of the victim including the facts surrounding the victim's death is very suspicious indeed and is contrary to the SOP of officers who bring victims to the hospital. Also the failure of all the accused to immediately report to the police investigator of Pasay City is quite unusual. In the same manner the acts of accused Neil Baluyot y Tabisora, Herminio Jose y Mozon and Richard Delos Trino y Sarcilla of leaving the IID office and cell which is the scene of the crime and then going to Biñan and to Atty. Augusto Jimenez is quite unusual for persons who professed innocence.[17]

Moreover, the doctrine is well settled that conspiracy need not be proved by direct evidence but may be proven through the series of acts done by each of the accused in pursuance of their common unlawful purpose. For collective responsibility among the accused to be established, it is sufficient that at the time of the aggression, all of them acted in concert, each doing his part to fulfill their common design to kill the victim.[18]

The CA correctly observed that:

A fortiori, appellants should be held liable for the death of Romeleo Quintos. Their sequential attack, one after another, revealed their unlawful intent to kill the victim. Herminio Jose's utterances of "tapusin na natin ito" only strengthens the link that binds the acts of the appellants in their coordinated effort to kill Romeleo. x x x[19]

The circumstance of abuse of superior strength qualified the killing to murder.

There is likewise no merit to appellants' contention that they should only be held liable for homicide, and not for murder, because the qualifying circumstance of abuse of superior strength was not specifically alleged in the Information.

Contrary to the assertion of the appellants, the Information specifically alleged that the appellants were -

x x x conspiring and confederating with one another, with intent to kill and taking advantage of their superior strength, did then and there willfully, unlawfully and feloniously tie a plastic nylon cord around the neck of one Romeleo A. Quintos, and hang him at the end portion of the detention cell, which caused the instantaneous death of said Romeleo A. Quintos to the damage and prejudice of the heirs of said victim.

It has been satisfactorily established that Baluyot, Delos Trino, Jose, Soriano, Bustamante, and Lingat, were all members of the PNP assigned with the IID-NAIA, while Salvador and Mutalib were security guards of the Lanting Security Agency assigned at NAIA. The eight of them acted in concert and definitely took advantage of their superior strength in subduing and killing their lone victim who was unarmed. Thus, all the appellants must be held liable for the crime of murder.

All told, appellants miserably failed to show convincing reasons to overturn the Decision of both the trial court and the CA. In this case, the CA ascertained the factual findings of the trial court to be supported by proof beyond

reasonable doubt which led to the conclusion that appellants acted in unison in killing Romeleo. It is worthy to stress that findings of fact of the CA, especially if they affirm factual findings of the trial court, will not be disturbed by this Court, unless these findings are not supported by evidence.[20]

The liabilities of Carlito Lingat and
Mutalib Abdulajid

It has not escaped our notice that Abdulajid was not arraigned and remains at large up to this time. However, in the Decision of the trial court which was affirmed by the CA, Abdulajid was likewise found guilty as charged. This is erroneous considering that without his having been arraigned, the trial court did not acquire jurisdiction over his person.

As regards Lingat, his death pending appeal and prior to the finality of conviction extinguished his criminal and civil liabilities.[21] Moreover, the death of Lingat would result in the dismissal of the criminal case against him.[22]

Damages

We note that both the trial court and the CA awarded the heirs of the victim only the amount of P50,000.00 as civil indemnity. In line with prevailing jurisprudence,[23] we also award the amount of P50,000.00 as moral damages. Further, we also award the amount of P25,000.00 as exemplary damages pursuant to our ruling in *People v. Angeles*[24] where we held that "under Article 2230 of the Civil Code, exemplary damages may be awarded in criminal cases when the crime was committed with one or more aggravating circumstances, (in this case, abuse of superior strength). This is intended to serve as deterrent to serious wrongdoings and as vindication of undue sufferings and wanton invasion of the rights of an injured, or as a punishment for those guilty of outrageous conduct. The imposition of exemplary damages is also justified under Article 2229 of the Civil Code in order to set an example for the public good." In addition, and in lieu of actual damages, we also award temperate damages in the amount of P25,000.00.[25]

Likewise, we note that both the trial court and the CA overlooked the fact that during the testimony of Clementina Quintos, the mother of the victim, sufficient evidence was presented to show that the victim before his untimely death, was gainfully employed in a private company with a monthly salary of P15,000.00.

Fiscal Barrera:

Q -

Would you describe Romeleo Quintos prior to his death?

A -

He was gainfully employed. He is an executive at IPC (International product Corporation), Makati as operation officer.

x x x x

Q -

How much was your son Romeleo Quintos receiving as operation officer at IPC?

A -

P15,000.00, sir, monthly.

Q -

Do you have any evidence to show that he earn Five Thousand pesos [sic] (P15,000.00) a month as project engineer?

A -

Yes, sir.

Fiscal Barrera:

May I request that the Certification dated January 22, 1999 issued by IPC be marked as Exh. "EEE"; the name appearing thereat that Romeo Quintos has been an employee of IPC from January 8, 1997 up to June 1, 1997 with the position of operation officer with monthly salary of P15,000.00 x x x be marked as Exh. "EEE-1" and the signature of a person who issued the certification be marked as Exh. "EEE-2".[26]

The formula[27] for unearned income is as follows:

Life Expectancy x [Gross Annual Income (GAI) less Living Expenses (50% GAI)]

Where Life Expectancy= $\frac{2}{3} \times (80 - \text{age of the deceased})$

Article 2206 of the Civil Code provides:

Art. 2206. That amount of damages for death caused by a crime or quasi-delict shall be at least Three Thousand Pesos, even though there may have been mitigating circumstances. In addition:

(1) the defendant shall be liable for the loss of the earning capacity of the deceased, and the indemnity shall be paid to the heirs of the latter, such indemnity shall in every case be assessed and awarded by the court, unless the deceased on account of permanent physical disability not caused by the accused, had no earning capacity at the time of his death;

x x x x

Hence, the testimony of the victim's mother that Romeo was earning P15,000.00 per month is sufficient basis for an award of damages for loss of earning capacity.

It is well settled that the factors that should be taken into account in determining the compensable amount of lost earnings are: (1) the number of years for which the victim would otherwise have lived; (2) the rate of loss sustained by the heirs of the deceased.

The unearned income of Romeo is computed as follows:

$$\begin{aligned} \text{Unearned Income} &= \frac{2}{3} (80 - 30[28]) [(P15,000.00 \times 12) - \frac{1}{2} (P15,000.00 \times 12)] \\ &= \frac{2}{3} (50) (P180,000.00 - P90,000.00) \\ &= \frac{2}{3} (50) (P90,000.00) \\ &= 9,000,000.00/3 \\ &= P 3,000,000.00 \end{aligned}$$

WHEREFORE, the July 19, 2005 Decision of the Court of Appeals in CA-G.R. CR-H.C. No. 00665 is MODIFIED. Appellants Neil Baluyot, Richard Delos Trino, Herminio Jose, Edwin Soriano, Marcelo Bustamante, and Elmer Salvador, are hereby found guilty beyond reasonable doubt of the crime of Murder and are sentenced to suffer the penalty of reclusion perpetua and to pay the heirs of Romeo Quintos the amounts of P50,000.00 as civil indemnity, P50,000.00 as moral damages, P25,000.00 as temperate damages, P25,000.00 as exemplary damages, and P3,000,000.00 as lost income. In view of the death of Carlito Lingat pending appeal and prior to the

finality of his conviction, Criminal Case No. 98-0547 is DISMISSED and the appealed Decision is SET ASIDE insofar as Carlito Lingat is concerned. Insofar as Mutalib Abdulajid is concerned, the March 17, 2000 Decision of the Regional Trial Court of Pasay City, Branch 109 in Criminal Case No. 98-0547 is NULLIFIED for failure of the trial court to acquire jurisdiction over his person. Consequently, the appealed July 19, 2005 Decision of the Court of Appeals in CA-G.R. CR-H.C. No. 00665 is likewise SET ASIDE insofar as Mutalib Abdulajid is concerned.

SO ORDERED.

Carpio, (Chairperson), Brion, Abad, and Perez, JJ., concur.

[1] CA rollo, pp. 786-803; penned by then Associate Justice Conrado M. Vasquez, Jr. and concurred in by Associate Justices Rebecca De Guia-Salvador and Aurora Santiago Lagman.

[2] Id. at 128-179; penned by Judge Lilia C. Lopez.

[3] Id. at 854-855.

[4] Id. at 85-86.

[5] Id. at 87.

[6] Records, pp. 110-116.

[7] CA rollo, pp. 178-179.

[8] Id. at 802.

[9] Id. at 854-855.

[10] Id. at 858-867.

[11] Id. at 871.

[12] Rollo, p. 167.

[13] 332 Phil. 384 (1996).

[14] Id. at 396-397.

[15] CA rollo, p. 801

[16] People v. Ricafranca, 380 Phil. 631, 642-643 (2000).

[17] CA rollo, pp. 177-178.

[18] People v. Magalang, G.R. No. 84274, January 27, 1993, 217 SCRA 571, 574.

[19] CA rollo, p. 800.

[20] Bañas, Jr. v. Court of Appeals, 382 Phil. 144, 154 (2000).

[21] People v. Abungan, 395 Phil. 456, 458 (2000).

[22] Id. at 462.

[23] People v. Badriago, G.R. 183566, May 8, 2009.

[24] G.R. No. 177134, August 14, 2009.

[25] *People v. Diaz*, G.R. No. 185841, August 4, 2009.

[26] TSN, February 25, 1999, pp. 4-5.

[27] *People v. Jabiniao, Jr.*, G.R. No. 179499, 30 April 2008, 553 SCRA 769, 787.

[28] Romeleo was 30 years old at the time of his death on June 1, 1997.

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