

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. EVANGELINE LASCANO Y VELARDE, APPELLANT.

G.R. No. 172605. November 22, 2010

Ponente: PERALTA, J.

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PERALTA, J.:

Appellant Evangeline V. Lascano seeks the reversal of the Decision[1] dated February 14, 2006 of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 01656 which affirmed her convictions for violation of Sections 4 and 8 of Article II of Republic Act (RA) No. 6425, as amended, otherwise known as the Dangerous Drugs Act of 1972.

The facts, as gathered from the records, are as follows:

On October 22, 2001, two separate Informations were filed before the Regional Trial Court (RTC) of Malabon City against appellant for violation of Sections 4 and 8 of Article II of R.A. No. 6425, as amended. The accusatory portions of the Informations respectively read:

Criminal Case No. 25582-MN

That on or about the 18[th] day of October 2001, in the City of Malabon, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, being a private person and without authority of law, did then and there, willfully, unlawfully and feloniously have in her possession, custody and control a transparent plastic sachet containing dried suspected Marijuana fruiting tops with net weight of 5.84 grams and one (1) plastic bag colored yellow and marked as D containing one (1) brick of dried suspected marijuana fruiting tops with markings ACF R-1/10/01 and marked as D-1 weighing 942.8 grams, which when subjected to chemistry examination gave positive result for "Marijuana" which is a prohibited drug.

CONTRARY TO LAW.[2]

Criminal Case No. 25583-MN

That on or about the 18[th] day of October 2001, in the City of Malabon, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, being a private person and without authority of law, did then and there, willfully unlawfully and feloniously sell and deliver in consideration in the amount of P200.00 to poseur-buyer two (2) heat sealed transparent plastic bags, each containing Marijuana fruiting tops with net weight 5.41 grams, and 6.13 grams which when subjected to chemistry examination gave positive result for Marijuana which is a prohibited drug.

CONTRARY TO LAW.[3]

Upon her arraignment, appellant, assisted by a counsel de oficio, pleaded not guilty to the charges.[4] Trial thereafter ensued.

The prosecution's version of the incident were testified to by Police Officer 1 Allan Fernandez (PO1 Allan), PO1 Joel Fernandez (PO1 Joel) and Forensic Chemist Vicente Drapete (Drapete) as follows:

Around 5 p.m. of October 18, 2001, the Office of the Drug Enforcement Unit (DEU) of the Malabon City Police received a call from a confidential informant reporting that he was able to close a deal with a drug pusher known as "Belen," herein appellant, for the purchase of two sachets of marijuana leaves for P100.00 each. PO1 Allan and PO1 Joel respectively talked with the informant on the phone and the latter told them to meet him at Lascano Street, Malabon City. Acting on such information, a buy-bust team was formed by the DEU Chief, Lt. Noel Lasquite, who designated PO1 Joel as the poseur-buyer and to whom the two marked P100.00 bills were given. PO1 Joel and PO1 Allan, together with the other police operatives, went to the meeting place.

Upon arriving at Lascano St., the police operatives saw the confidential informant. Some members of the buy-bust team positioned themselves at a nearby gas station. PO1 Joel then walked ahead of PO1 Allan and met the informant. PO1 Joel and the informant went into an alley followed by PO1 Allan. PO1 Joel and the informant stopped in front of appellant's house and later met and talked with a woman, the appellant. After a while, PO1 Joel gave the money to appellant, who in turn took out two plastic sachets from her plastic bag and handed it to the former. PO1 Joel then gave the pre-arranged signal by holding the back of his head. PO1 Allan then immediately approached appellant and arrested her. He was able to recover from her the marked money and a yellow plastic bag containing one plastic sachet of marijuana and a brick of marijuana. He then informed appellant of her constitutional rights and then called for the other police operatives. They brought appellant to the Pagamutang Bayan ng Malabon for medical check up and then proceeded to the police station. The two plastic sachets subject of the illegal sale were marked by PO1 Joel, while the other plastic sachet and the brick of marijuana were marked by PO1 Allan before they were given to Police Investigator Vicente Mandac. A request for laboratory examination of the seized items was made to the Philippine National Police (PNP) Crime Laboratory. Drapete submitted Physical Science Report No. D-1312-01 which contained, among others, the following:

X X X X

SPECIMEN SUBMITTED:

- Three (3) staple-sealed transparent plastic bags, each containing dried suspected marijuana fruiting tops with the following markings and recorded net weights:

- A- (JFF-BB/10-18-01)= 5.41 grams
- B- (JFF-BB1/10-18-01) = 6.13 grams
- C- (ACF-R1/10-18-01) = 5.84 grams

- One (1) plastic bag colored yellow and marked as D containing one (1) brick of dried suspected marijuana fruiting tops with markings ACF-R1/10-18-01, and, marked as D-1 weighing 942.8 grams.

X X X X

FINDINGS:

Qualitative examination conducted on the above-stated specimen gave POSITIVE result to the tests for Marijuana, a prohibited drug.[5]

Appellant denied the accusation against her. She testified that around 7:30 p.m. of October 18, 2001, she was at home with her husband and their children watching television when the door of their house was forcibly opened with its bolt lock being destroyed. Three persons entered their house, two of whom went upstairs while the other one remained at the ground floor asking the whereabouts of a certain Litong Putol. When she replied that Putol was not around, she was dragged out to the alley and to the main road. They forced her to board a jeep and was brought to the police station. While at the station, she was told that she would not be released until Putol was produced. She denied that the marijuana came from her as they were planted evidence.

The testimony of Alejandro Lascano, appellant's husband, was dispensed with after the parties admitted that said witness would purely corroborate appellant's testimony.

Defense witness Emmanuel Celestino testified that he was having coffee in the alley when he saw men open appellant's door by means of a screw driver, after which four persons entered the house with one left at the door. He tried to follow, but another person held his arm. He saw appellant being dragged outside of her house to the main road and was forced to board an owner type-jeep.

Magdalena Sabenal corroborated Celestino's testimony and added that she followed appellant to the police station where they were told to wait for appellant's relatives to arrive; and that the police would not release appellant unless Putol would show up.

After trial, a Decision[6] was rendered finding appellant guilty beyond reasonable doubt of the crimes charged, the dispositive portion of which reads:

WHEREFORE, premises considered, judgment is hereby rendered finding accused Evangeline Lascano y Velarde guilty as charged in these cases and she is hereby condemned to suffer the prison term of Reclusion Perpetua in Crim. Case No. 25582-MN for illegal possession of prohibited drug/marijuana involving a total of 948.64 grams, and to pay a fine of P500,000.00.

In Crim. Case No. 25583-MN for drug pushing (Section 4, Art. II, RA 6425, as amended by RA 7659), in the absence of any mitigating or aggravating circumstance, and applying the provisions of the Indeterminate Sentence Law, accused Lascano is also sentenced to a prison term ranging from SIX (6) MONTHS of arresto mayor, as minimum, to TWO (2) YEARS, FOUR (4) MONTHS, and ONE (1) DAY of prision correccional, as maximum.

The sachets of marijuana fruiting tops and the brick of marijuana fruiting tops subjects of these cases are hereby forfeited in favor of the government to be disposed under rules governing the same. For this purpose, Branch Clerk of Court Atty. Magnolia P. Gonzales is hereby ordered to turn over the sachets with marijuana fruiting tops to the National Bureau of Investigation for further disposition. The custody of brick of marijuana fruiting tops having been retained by Inspector Grapete (sic) of the PNP Crime Laboratory, let the said remain with said PNP Crime Laboratory for further disposition.

In both cases, costs against the accused.

SO ORDERED.[7]

In so ruling, the RTC gave credence to the testimonies of the prosecution witnesses regarding the buy-bust operation as well as the confiscation of sachets of marijuana and a brick of marijuana. The RTC brushed aside the defenses of denial and evidence-planting put up by appellant saying that (1) appellant's denial cannot prevail over the positive and credible testimonies of the prosecution witnesses; (2) the defense of evidence-planting does not deserve serious consideration, since it was a usual defense invoked by drug pushers and that the law enforcers were presumed to have performed their duties regularly in the absence of proof negating the same; and (3) planting evidence against someone was usually resorted to by reason of extreme hatred which the appellant did not claim was the motive of the police for doing so.

Appellant filed her appeal with us.

On May 20, 2002, appellant filed a Motion for New Trial[8] alleging newly-discovered evidence which consisted of the Sinumpaang Salaysay of a certain Nonie Villaester, who claimed to be a police informer of the Narcotics Unit of the Malabon Police Station. Villaester stated, among others, that the evidence against appellant was planted by the police. In the Resolution[9] dated July 29, 2002, we denied the motion, since it should have been

filed with the trial court.

After the submission of the respective pleadings of the parties and pursuant to our ruling in *People v. Mateo*,^[10] we referred the case to the CA for appropriate action and disposition.^[11]

On February 14, 2006, the CA issued its assailed Decision, which affirmed in toto the RTC decision.

In affirming appellant's convictions, the CA upheld the RTC's findings which accorded credence to the testimonies of the police officers who conducted the buy-bust operation.

The CA rejected appellant's claim that no drug pusher in her right mind would bring a large amount of marijuana when the transaction was only for two sachets worth P200.00, saying that drugs dealers are known to sell their goods even to strangers and even ply their wares wherever prospective customers may be found. The CA also brushed aside appellant's defense of frame up as she failed to present convincing evidence to overcome the presumption that the arresting officers regularly performed their official duties.

As to appellant's claim that doubts exist as to the items examined by Drapete as the same could not have been the same items seized from her, the CA said that appellant was caught red-handed, or in flagrante delicto, selling and in possession of prohibited drugs and the incriminatory evidence on record adequately established her guilt beyond reasonable doubt.

Dissatisfied, appellant appealed the CA decision.

On July 5, 2006, we required the parties to submit their respective Supplemental Briefs simultaneously, if they so desire, within 30 days from notice.^[12] However, only the Solicitor General filed a Supplemental Brief. Thus, in a Resolution^[13] dated February 19, 2007, we dispensed with the filing of the appellant's Supplemental Brief.

The issue for resolution is whether the prosecution was able to prove beyond reasonable doubt the crimes charged against appellant.

The appeal is not meritorious.

Well settled is the rule that findings of trial courts, which are factual in nature and which involve the credibility of witnesses, are to be respected when no glaring errors, gross misapprehension of facts and speculative, arbitrary and unsupported conclusions can be gleaned from such findings.^[14] Such findings carry even more weight if they are affirmed by the Court of Appeals,^[15] as in the instant case.

We find no error in the CA's affirmance of the RTC's findings that appellant is guilty of illegal sale of marijuana.

The essential elements to be established in the prosecution of illegal sale of marijuana are as follows: (1) the identity of the buyer and the seller, the object of the sale and the consideration; and (2) the delivery of the thing sold and the payment therefor.^[16] What is material is the proof that the transaction or sale actually took place, coupled with the presentation in court of the corpus delicti as evidence.^[17] We find these elements duly proved beyond reasonable doubt by the prosecution.

Appellant was arrested in a buy bust operation conducted by the Malabon Police DEU. Prosecution witness PO1 Joel, a member of the buy-bust team and the poseur- buyer, clearly and positively identified appellant as the one who possessed and sold two plastic sachets of dried marijuana fruiting tops to him for the amount of P100 each. PO1 Joel narrates the incident as follows:

Q.

Did you report for work on Oct. 18, 2001 at around 6:45 p.m?

A.

Yes, sir.

Q.

Where is your office located?

A.

DEU, Malabon Police Station, F. Sevilla Blvd., Malabon City.

Q.

While in your office on said date, was there anything unusual that happened?

A.

Yes, sir.

Q.

What was that unusual incident?

A.

Our confidential informant called our office and informed us that he has closed a deal with a certain Belen for the sale of marijuana for P100 for two sachets.

Q.

Who talked with the confidential informant on the phone?

A.

It was Allan first, sir, then after that I also talked to the informant.

Q.

And what did the confidential informant and you talk?

A.

He confirmed that he had a close deal with alias Belen and said that she is "malakas magbenta, pamangkin ni Litong Putol."

Q.

Then what happened afterwards?

A.

We informed our superior, Insp. Lasquite, and he immediately formed a team.

Q.

Who was designated as poseur-buyer ?

A.

It was me, sir.

Q.

Were you given money to be used as buy-bust?

A.

Yes, sir, Two P100 bills.

Q.

Then what happened?

A.

We first recorded the planned buy-bust in the blotter and dispatch and also the buy-bust money and then we proceeded to the area.

Q.

Where is that place where the buy-bust operation will take place?

A.

Tugatog, Malabon City at Lascano Street, sir.

Q.

Who were with you when you proceeded to the area?

A.

PO1 Allan Fernandez acted as my back-up, sir, with our chief and other team members, who positioned themselves at a gasoline station along Letre Road.

Q.

What about the confidential informant? Was he with you?

A.

No, sir. He met us at Lascano St.

Q.

Then what happened?

A.

When we saw the confidential informant, I walked with him into an alley near the Epifanio delos Santos High School.

Q.

Was Allan with you?

A.

No, sir. The confidential informant and I walked ahead of him at the corner of Gen. San Miguel St. and Lascano St.

Q.

Then where did you proceed?

A.

When we were in the alley, we reached the back of a house, where our confidential informant introduced me to a female person?

Q.

And who is this female person?

A.

Alias Belen.

Q.

And did you come to know what is the name of this alias Belen?

A.

Evangeline Lascano, sir.

Q.

The accused in these cases?

A.

Yes, sir.

Q.

And after you were introduced to this alias Belen, then what happened?

A.

We talked for a while and then Belen, or Evangeline Lascano, demanded for the money.

Q.

And did you give the money to her?

A.

Yes, sir.

Q.

Then what happened after you gave the money to Belen?

A.

She took the money and then she handed to me two transparent plastic sachets which she took from a transparent color yellow plastic bag.

Q.

After that what happened?

A.

I gave the pre-arranged signal that the transaction was positive.

Q.

When you gave the pre-arranged signal, what happened next?

A.

PO1 Allan Fernandez immediately responded and arrested the suspect.

Q.

Did you recover the buy-bust money?

A.

Yes, sir.

Q.

What else?

A.

Also the yellow transparent plastic bag containing one transparent plastic sachet which contains dried flowering tops of suspected marijuana leaves and a brick of marijuana wrapped in masking tape.[18]

The testimony of poseur-buyer PO1 Joel was corroborated by PO1 Allan, who acted as the former's back-up. PO1 Allan testified that he saw PO1 Joel and the confidential informant enter an alley going to appellant's house and saw them talking with appellant; that, after a while, he saw appellant receive something from PO1 Joel and appellant in turn gave something to the latter.[19] After such exchange, PO1 Joel then gave the pre-arranged signal by holding the back of his head, thus, he (PO1 Allan) immediately approached them and was able to recover from appellant the buy-bust money,[20] which was also presented in court.

The testimonies of these prosecution witnesses had clearly established that a sale of marijuana took place between appellant and poseur-buyer PO1 Joel. The delivery of the illicit drug to the poseur-buyer and the receipt by the seller of the marked money successfully consummated the buy-bust transaction.[21]

PO1 Joel had also established in court the identity of the two plastic sachets of dried marijuana fruiting tops which appellant had sold to him. He testified that he marked the two plastic sachets,[22] i.e., with his initials as well as the date of the buy-bust operation, and were then turned over to Police Investigator Vicente Mandac. Together with the request for a laboratory examination signed by Inspector Lasquite, the two plastic sachets of marijuana subject of the illegal sale, as well as the other plastic sachet of dried marijuana fruiting tops and a brick of marijuana recovered by PO1 Allan from appellant, were brought by investigator Mandac to the Crime Laboratory where it was duly received. Upon examination conducted by Drapete on the specimens submitted, he found them all positive for marijuana, a prohibited drug, which finding was contained in his Physical Science Report No. D-1312-01 and which he testified on during the trial.

We, likewise, affirm appellant's conviction for illegal possession of marijuana. In the prosecution of such crime, the following facts must be proven with moral certainty: (1) that the accused is in possession of the object identified as prohibited or regulated drug; (2) that such possession is not authorized by law; and (3) that the accused freely and consciously possessed the said drug.[23]

Prosecution witness PO1 Allan testified that after the illegal sale of marijuana was consummated and the

pre-arranged signal was given by PO1 Joel, he immediately approached and arrested appellant.[24] He was also able to recover from appellant one plastic sachet of dried marijuana fruiting tops and a brick of marijuana[25] wrapped in masking tape which were both contained in a yellow plastic bag carried by appellant during the bust-buy operation. The fact that appellant consciously possessed the said drugs was further bolstered by PO1 Joel's testimony that appellant had also taken the two plastic sachets of marijuana sold to him from the same yellow plastic bag.[26] PO1 Allan testified that he placed markings on the plastic sachet of marijuana and the brick of marijuana before they were given to Investigator Mandac. These items, as we said, were found to be positive for marijuana and were properly identified in court.

Appellant claims that she was framed-up, because of her failure to divulge the whereabouts of her uncle Litong Putol, a drug pusher. We are not convinced.

Frame-up is a defense that has been invariably viewed with disfavor for it can easily be concocted but difficult to prove and is a common and standard line of defense in most prosecutions arising from violations of the Dangerous Drugs Act.[27] We find no convincing evidence presented by appellant to prove such defense. Appellant's claim that her arrest was to make Litong Putol come out is unbelievable considering that she admitted not knowing where Putol resides,[28] that Putol was not a frequent visitor in their house or had met with him anywhere,[29] and that she had no communications with him.[30] Thus, it would be futile for the police to arrest appellant just to make Putol come out when appellant herself admitted that she had no communication with Putol long before her arrest. Hence, in the absence of proof of motive of the police officers to falsely impute such serious crimes against appellant, the presumption of regularity in the performance of official duty and the findings of the trial court on the credibility of witnesses shall prevail over appellant's claim of having been framed.[31]

Appellant contends that Drapete testified that he ended his duty at 9 a.m. of October 19, 2001, thus, showing that he was no longer working at the time the specimens were received by his office at 1:40 p.m. of October 19, 2001; that such discrepancy created a reasonable doubt as to whether the items received by Drapete, and which he identified as the marijuana fruiting tops during his testimony in the trial court, were the same items seized from appellant.

We find the argument not meritorious.

The question propounded on direct examination to Drapete was what time did he report for work on October 18, 2001 to which he replied that he reported at 9 a.m. to 9 a.m. also of October 19, 2001,[32] thus, making appellant conclude that Drapete was no longer working at the time he received the specimens in the afternoon. There was no evidence showing that Drapete did not, and could not, have worked in the afternoon of October 19, 2001. On the contrary, the evidence shows that he had worked in the afternoon of October 19 as evidenced by his stamp mark of the time of 1:45 p.m. on the request for laboratory examination of the seized items.[33] He then subsequently conducted the examination on the specimen received and found the same positive for marijuana, which findings were embodied in a report submitted on the same afternoon. As a PNP forensic chemist, Drapete is a public officer, and his report carries the presumption of regularity in the performance of official functions. Besides, entries in official records made in the performance of official duty, as in the case of his report, are prima facie evidence of the facts therein stated.[34] In fact, Drapete testified in his report and affirmed the contents of the same, thus, there could be no doubt as to the identity of the marijuana he examined which were the same items seized from appellant.

Appellant also claims that both PO1 Allan and Drapete admitted that there was no marking on the yellow plastic bag which contained the brick of marijuana, thus, creating a serious doubt on the identity of such substance.

We are not persuaded.

While PO1 Allan admitted on his cross-examination that he failed to make any marking on the yellow plastic bag which contained the confiscated plastic sachet of marijuana and the brick of marijuana wrapped in masking tape, such failure had no effect on the integrity of the seized items since the contents of the yellow plastic bag were separately marked. Drapete's testimony also established that it was the yellow plastic bag which did not contain any markings.

Finally, appellant claims that after her conviction by the RTC, a certain Ma. Nonie Villaester confessed that she was the one who made a strip search on the body of appellant but failed to find marijuana; and that marijuana was only planted to force her to admit the whereabouts of her uncle, Litong Putol. Notably, such claim was embodied in the Sinumpaang Salaysay of Villaester which appellant attached in her Motion for New Trial[35] filed with us. We denied the motion, finding that it should have been filed in the trial court. Thus, we find no basis to consider Villaester's statement.

As to the imposable penalty, Sections 4 and 8, Article II, in relation to Section 20, of RA No. 6425, as amended by R.A. No. 7659, respectively provide:

Sec. 4. Sale, Administration, Delivery, Distribution and Transportation of Prohibited Drugs. - The penalty of reclusion perpetua to death and a fine ranging from five hundred thousand pesos to ten million pesos shall be imposed upon any person who, unless authorized by law shall sell, x x x any prohibited drug, x x x

Sec. 8. Possession or Use of Prohibited Drugs. - The penalty of reclusion perpetua to death and a fine ranging from five hundred thousand pesos to ten million pesos shall be imposed upon any person, who, unless authorized by law, shall possess or use any prohibited drug subject to the provisions of Section 20 hereof.

x x x x

Sec. 20. Application of Penalties, Confiscation and Forfeiture of the Proceeds or Instruments of the Crime. - The penalties for offenses under Sections 3, 4, 7, 8 and 9 of Article II and Sections 14, 14-A, 15 and 16 of Article III of this Act shall be applied if the dangerous drugs involved is in any of the following quantities:

5. 750 grams or more of Indian hemp or marijuana; x x x

Otherwise, if the quantity involved is less than the foregoing quantities, the penalty shall range from prison correccional to reclusion perpetua depending upon the quantity.

We find the penalty of reclusion perpetua imposed by the RTC on appellant for illegal possession of marijuana with a total weight of 948.64 grams proper, since they exceeded 750 grams. We, likewise, affirm the fine of P500,000.00 imposed by the RTC since it is the minimum of the range of fines imposed under Section 4.

We also affirm the penalty of six (6) months of arresto mayor, as minimum, to two (2) years, four (4) months, and one (1) day of prison correccional, as maximum imposed by the RTC on appellant for the illegal sale of 11.54 grams of marijuana. In *People v. Simon*, [36] and *People v. De Lara*, [37] we clarified the proper penalties to be imposed for drug-related crimes under R.A. No. 6425, as amended by R.A. No. 7659. With regard to marijuana, the appropriate penalty is reclusion perpetua if the quantity of the drug weighs 750 grams or more. If the marijuana involved is below 250 grams, the penalty to be imposed is prison correccional; from 250 grams to 499 grams, prison mayor; and, from 500 grams to 749 grams, reclusion temporal.

Since the quantity recovered from appellant was only 11.54 grams, the maximum penalty to be imposed is prison correccional in its medium period in the absence of any mitigating or aggravating circumstance. And applying the Indeterminate Sentence Law, the minimum sentence should be within the range of arresto mayor, the penalty next lower to prison correccional, which is the maximum range we have fixed.[38]

WHEREFORE, the Decision dated February 14, 2006 of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 01656, is hereby AFFIRMED.

SO ORDERED.

Corona,[*] C.J., Carpio, (Chairperson), Abad, and Mendoza, JJ., concur.

[*] Designated as an additional member in lieu of Associate Justice Antonio Eduardo B. Nachura, per raffle dated May 11, 2009.

[1] Penned by Associate Justice Eliezer R. delos Santos, with Associate Justices Jose C. Reyes, Jr. and Arturo G. Tayag, concurring; rollo, pp. 3-15.

[2] Records, p. 1.

[3] Id. at 7.

[4] Id. at 15.

[5] Id. at 46.

[6] CA rollo, pp. 19-28.

[7] Id. at 27-28.

[8] Id. at 32-39

[9] Id. at 42.

[10] G.R. Nos. 147678-87, July 7, 2004, 433 SCRA 640.

[11] Resolution dated January 17, 2005; CA rollo p. 166.

[12] Rollo, p. 16.

[13] Id. at 37.

[14] Teodosio v. Court of Appeals, G.R. No. 124346, June 8, 2004, 431 SCRA 194, 203, citing *People v. Mirafuentes*, 349 SCRA 204 (2001), *People v. Flores*, 252 SCRA 31 (1996), *People v. Bahuyan*, 238 SCRA 330 (1994), *People v. Sanchez*, 250 SCRA 14 (1995).

[15] Id.

[16] *Buenaventura v. People*, G.R. No. 171578, August 8, 2007, 529 SCRA 500, 510, citing *People v. Razul*, 441 Phil. 62, 75 (2002).

[17] *People v. Dulay*, G.R. No. 150624, February 24, 2004, 423 SCRA 652, 660, citing *People v. So*, 370 SCRA 252, 260-261 (2001), citing *People v. Uy*, 327 SCRA 335, 358 (2000).

[18] TSN, December 3, 2001, pp. 3-5.

[19] TSN, November 29, 2001, pp. 9-10.

[20] Id. at 10.

[21] *People v. Razul*, supra note 16, citing *People v. Gonzales*, 430 Phil. 504 (2002); *People v. Uy*, 338 SCRA

232 (2000); *People v. De Vera*, 275 SCRA 87 1997.

[22] TSN, January 3, 2002, p. 3.

[23] *People v. Tee*, G.R. No. 140546, January 20, 2003, 395 SCRA 419, 447, citing *People v. Ting Uy*, 380 SCRA 700 (2002), citing *Manalili v. Court of Appeals*, 280 SCRA 400 (1997).

[24] TSN, November 29, 2001, p. 10.

[25] TSN, December 20, 2001, p. 23.

[26] TSN, December 3, 2001, p. 5.

[27] *People v. Barita*, G.R. No. 123541, February 8, 2000, 325 SCRA 22, 38, citing *Espino v. Court of Appeals*, 288 SCRA 558, 564 (1998).

[28] TSN, January 24, 2002, p. 27.

[29] *Id.*

[30] *Id.* at 28.

[31] *Dacles v. People*, G.R. No. 171487, March 14, 2008, 548 SCRA 643, 658.

[32] TSN, December 20, 2001, pp. 4-5.

[33] *Records*, p. 46.

[34] *People v. Razul*, *supra* note 16, at 579, citing *Rules of Evidence*, Rule 130, Sec. 44.

[35] *CA rollo*, pp. 32-39.

[36] G.R. No. 93028, July 29, 1994, 234 SCRA 555, 571.

[37] G.R. No. 94953, September 5, 1994, 236 SCRA 291, 299.

[38] *People v. Simon*, *supra*.

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