

PEOPLE OF THE PHILIPPINES VS. RODOLFO SISON, ACCUSED-APPELLANT.

G.R. No. 172752. June 18, 2008

Ponente: REYES, R.T., J.

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REYES, R.T., J.:

WE review on appeal by certiorari the Decision[1] of the Court of Appeals (CA) affirming with modification that[2] of the Regional Trial Court (RTC) in Lingayen, Pangasinan, finding appellant Rodolfo Sison, alias "Danny" and "Pagong," guilty of murder.

The Facts

On November 25, 1993, at about 10:00 p.m., Bernadette dela Cruz, her brother Bernie, sister Bernalyn, and her grandfather were at the second floor of their house in Balang Street, barangay Maniboc, Lingayen, Pangasinan.[3] While lying in bed, they heard stones landing at the roof of their house.[4] Bernadette immediately peeped through their window. She saw appellant Rodolfo Sison, together with Corleto Sendaydiego, in a sitting position atop a Pepsi stand outside their fence.[5] A moment later, she saw her father Bernabe dela Cruz come out of their house clad in an undershirt and underwear.[6]

Bernabe walked towards appellant and Sendaydiego to confront them. Unexpectedly, appellant drew a gun and shot Bernabe thrice, hitting him in the chest and stomach.[7] Bernabe cried out in pain and clutched his stomach.[8] After the shooting, the duo fled the crime scene post-haste. Bernabe was brought to a hospital. He later expired as efforts to revive him proved futile.

On January 6, 1994, appellant and Sendaydiego were charged with murder in an Information bearing the following accusation:

The undersigned hereby accuses DANNY SISON @ "Pagong" and CORLETO SENDAYDIEGO @ "Kolet" of the crime of MURDER, committed as follows:

That on or about the 25[th] day of November 1993 in the evening, in Balang Street, barangay Maniboc, Municipality of Lingayen, province of Pangasinan, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually helping one another, armed with a gun, with treachery and evident premeditation and intent to kill, did then and there willfully, unlawfully and feloniously attack, shoot and hit Bernabe dela Cruz, inflicting upon him, the following:

x x x x

which injuries directly caused his death, to the damage and prejudice of the heirs of the said Bernabe dela Cruz.

CONTRARY to Art. 248 of the Revised Penal Code.[9]

Appellant was also charged with possession of an unlicensed firearm, in a separate Information which reads:

That on or about the 25th day of November 1993 in the evening, in barangay Maniboc, municipality of Lingayen, province of Pangasinan, Philippines and within the jurisdiction of the Honorable Court, the above

named accused, did then and there willfully, unlawfully and feloniously have in his possession, custody and control an unlicensed firearm without first securing the necessary permit and/or license from the lawful authorities to possess the same.

Contrary to P.D. 1866.[10]

He was arrested after the lapse of almost five (5) years since the death of Bernabe. Co-accused Sendaydiego, however, has remained at large.

Appellant pleaded not guilty to both Informations. Joint trial ensued after the arraignment.

Bernadette testified on the events that led to the killing of Bernabe. She testified on the stoning incident and the shooting of her father. Bernie[11] and Bernalyn[12] narrated the same story.

Lydia, Bernabe's widow, testified that at about 10:00 p.m. of November 25, 1993, she was lying at the ground floor of their house[13] while her husband was playing video games.[14] Moments later, their house was hit by a stone, prompting her husband to go out of the house.[15] She heard three consecutive gunshots.[16] Later, she saw her husband fall down. She likewise saw appellant and Sendaydiego fleeing from the crime scene. Lydia testified that she knew appellant well, they being neighbors for quite some time.[17]

Lydia ran to the house of their neighbor Emily Sison to call for help.[18] When she returned, she was informed that her husband was brought to the hospital.[19] It was while in the police station that she learned of her husband's death.[20]

Dr. Jose U. Martinez conducted an autopsy on the victim and submitted an Autopsy Report, which reads:

External findings:

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Gunshot wound over the (L) chest, about 3 inches above and medial to the (L) nipple, measuring about 1/5 x 1/5 inches in diameter, the trajectory cannot be determined until the chest and the abdominal cavity was opened, by following the hole found over the chest wall and the information that the gun used was desabog, point of entrance.

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Multiple abrasion like wounds over the chest and abdomen, with 3 small metal places recovered embedded in the abrasive wounds over the chest and abdomen.

-

Gunshot wound over (L) back, lat. aspect about the level of the 8[th] thoracic vertebra about 7 inches lateral to it, measuring 1/5 x 1/5 inches in diameter, suspected point of exit of above gunshot wound.

Internal findings:

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On exposing the thoracic wall shows a hole over the 3[rd] & 4[th] intercostal space, medial aspect, measuring about 1/2 x 1/2 inches in diameter.

-

On opening the thoracic cavity shows accumulation of fresh and clotted blood of about 700-800 cc.

-

Perforation of the (L) surface of the (L) lung.

-

The heart is clean.

Cause of death:

-

Respiratory arrest, shock and hemorrhage sec. to lung damage and loss of blood due to gunshot wound to the (L) chest.[21]

Dr. Martinez also testified that he recovered three metal pellets embedded in Bernabe's chest wounds and in the left part of his abdomen. He concluded that the firearm used in the crime was possibly a "desabog" (shotgun).

Dr. Ronald Bandonill, Medico-Legal Officer II of the NBI CAR, Baguio City,[22] corroborated the testimony of Dr. Martinez. He conducted an autopsy on the exhumed cadaver of the victim. Dr. Bandonill testified that the cause of death of Bernabe was the gunshot wounds.[23] He stated that the bullet is possibly a "domdom," which shatters into small metals when it hits a hard object.

The defense anchored its evidence on denial.[24] Lone defense witness, appellant Rodolfo Sison himself, claimed that on November 25, 1995, at about 10:00 p.m., he and Sendaydiego were on their way home. They came from the birthday party of a certain Patrolman Bert Santiago.

When they reached the house of Bernabe, Sendaydiego started throwing stones at the house of the victim.[25] He tried to pacify Sendaydiego. Sendaydiego, however, was adamant. As Sendaydiego persisted in his mischief, appellant hid himself behind the fence of a neighbor.[26]

After the stoning incident, appellant heard Sendaydiego fire four to five shots.[27] Appellant ran away and went home.[28] When they met later, Sendaydiego told him that he only wanted to avenge his father who was mauled and killed by Bernabe.[29] Appellant then told Sendaydiego to go as far away as possible.[30]

The following day, appellant returned to Manila where he was employed as a taxi driver.[31] He did not see Sendaydiego anymore although he knew that the latter is a tricycle driver in Pasig City, Metro Manila.[32] Appellant denied hiding from the police. He claimed that he frequently goes to Lingayen, Pangasinan on holidays, barangay fiesta,[33] and every time his wife gives birth.[34] According to appellant, he would often invite members of the Lingayen Police Office who are his friends whenever there are occasions in his house.[35]

On cross-examination, appellant admitted that Bernabe had previously filed a case against him for frustrated homicide; that it resulted to his conviction for less serious physical injuries. He claimed he did not harbor any ill-feelings against Bernabe.[36] Appellant likewise admitted that he did not surrender to the police although he knew of the filing of the murder charge.[37]

RTC and CA Dispositions

On August 19, 1999, the RTC rendered a decision convicting appellant of murder but acquitting him of illegal possession of firearm, thus:

WHEREFORE, foregoing considerations taken, the Court hereby convicts the accused Rodolfo Sison alyas "Danny" and "Pagong" guilty beyond reasonable doubt of the crime of Murder, defined and penalized under Article 248 of the Revised Penal Code as amended by R.A. 7659 and hereby sentences him to suffer a penalty of reclusion perpetua, and to pay the heirs of Bernabe dela Cruz the sum of P50,000.00 as indemnity, P75,000.00 as actual damages and P25,000.00 as exemplary damages.

Insofar as the charge of Illegal Possession of Firearm and Ammunition is concerned, defined and penalized under P.D. 1866 as amended by R.A. 8294, accused Rodolfo Sison @ Pagong and Danny is hereby ACQUITTED.

Meanwhile, let a warrant be issued for the arrest of accused Corleto Sendaydiego @ Kolet in Criminal Case No. L-4976.

SO ORDERED.[38]

The case was then elevated to Us but conformably with Our decision in *People v. Mateo*,^[39] this Court transferred the case to the CA for proper disposition.

On January 31, 2006, the CA rendered judgment affirming with modification the conviction of appellant for murder. The fallo of the said decision reads:

WHEREFORE, in view of the foregoing, the decision of the Regional Trial Court of Lingayen, Pangasinan finding accused-appellant Rodolfo Sison alias "Danny" and "Pagong" guilty beyond reasonable doubt of murder is hereby AFFIRMED with MODIFICATION. In addition to the penalty of reclusion perpetua imposed, and the award of P50,000.00 as civil indemnity, P75,000.00 as actual damages and P25,000.00 as exemplary damages, accused-appellant is likewise ordered to pay the heirs of the victim the amount of P50,000.00 as moral damages.

SO ORDERED.[40]

Hence, the present recourse.

Issues

Appellant imputes to the CA twin errors, viz.:

I.

THE COURT A QUO GRAVELY ERRED IN FINDING THAT THE GUILT OF THE ACCUSED-APPELLANT FOR THE CRIME CHARGED HAS BEEN PROVEN BEYOND REASONABLE DOUBT.

II.

ON THE ASSUMPTION THAT THE ACCUSED-APPELLANT COMMITTED THE ACTS COMPLAINED OF, THE COURT A QUO NEVERTHELESS ERRED IN CONVICTING HIM OF THE CRIME OF MURDER INSTEAD OF HOMICIDE.[41]

Our Ruling

The guilt of appellant was proven beyond reasonable doubt. His bare denial cannot prevail over his positive identification by eyewitnesses.

Appellant contends that the prosecution fell short of its duty to prove his guilt beyond reasonable doubt. He claims he was innocently implicated in the killing of Bernabe. He points to co-accused Sendaydiego as the gunman. Appellant also questions the RTC finding of facts and appreciation of evidence, particularly the credibility of the prosecution witnesses.

It is settled that appellate courts will not interfere with the judgment of the trial court on the credibility of witnesses, unless there appears in the record some facts or circumstances of weight and influence which have been overlooked and, if considered, would affect the result.^[42] Findings of facts and assessment of credibility of witnesses is a matter best left to the trial court because of its unique position and opportunity of being able to observe the witnesses' deportment on the stand while testifying.

That opportunity is denied to the appellate courts. We find that the RTC calibration of the credibility of the witnesses is not flawed. The testimonies of Bernadette, Bernie, Bernalyn, and Lydia positively established, beyond reasonable doubt, that it was appellant who shot Bernabe.

The said witnesses testified in a clear, straightforward, and convincing manner on the material events that led to the shooting of Bernabe, to wit: (1) the stoning of their house; (2) how they immediately stood up and peeped through the window and saw appellant and Sendaydiego sitting on their fence; (3) how Bernabe came out from their house; (4) how appellant shot Bernabe while the latter was about to approach the place where appellant and Sendaydiego were situated; (5) how they vividly witnessed the shooting of Bernabe by appellant because of the moonlight and the illumination coming from street lamp; (6) how Bernabe held his stomach and jumped after the shooting; and (7) how appellant and Sendaydiego ran away after the shooting.

Bernadette, on direct examination, testified that she saw appellant shoot his father, thus:

Q: Will you please tell the Court on that evening of November 25, 1993, if there was anything unusual that happened?

A: Yes, Sir. On that night time someone stone our house.

Q: When your house was stone, what did you do?

A: After the stoning, I woke up, together with my sister, and we peep at the hole of our window.

x x x x

Q: And so from the second storey, you saw this two persons from the distance of 8 to 10 meters?

A: Yes, Sir.

Q: What were those two persons doing?

A: Danny Sison and his companion were sitting in the fence.

Q: Were you able to recognize the companion of Danny Sison?

A: Yes, Sir, person with a nickname Kulot.

Q: Do you know his true name?

A: Corleto Sendaydiego, Sir.

Q: You saw these two persons Corleto Sendaydiego and Danny Sison, what happened next?

A:

I saw these persons and after a while my father coming out to our house passing at the back door, he went to see these persons who stone our house.

x x x x

Q: When your father came out to your house and see those person who stone your house, what happened next?

A: Then we saw that they shot my father.

Q: Do you know who shot your father?

A: Yes, Sir.

Q: Who shot your father?

A: Rodolfo Sison alias "Danny." (Witness pointing to the accused Danny Sison.)

Q: Could you tell this Honorable Court how far were the two persons when Danny Sison shot your father?

A: (Witness pointing about 2 to 3 meters away.)

Q: And how were you able to recognize that it was the accused Rodolfo Sison alias "Danny" who shot your father?

A: The moon was bright and there was a straight [street] lamp to the road.

Bernadette remained unwavering on cross examination. She was categorical that it was appellant who shot her father:

Q: You said that when you peeped, you noticed the accused, Pagong, did I get you right?

A: Yes, Sir. Two of them.

x x x x

Q: You were still peeping when your father was shot?

A: The incident happened so fast and my mother, followed by my brother came out of the house and shouting for help, Sir.

COURT:

Q:

You claimed that you were then peeping when you saw your father in relation to the sketch near the Pepsi stand. Did you see actually Pagong fired a gun at your father at the time you were peeping?

A: Yes, Sir.

Q: Are you sure of that?

A: Yes, Sir.

Q: What kind of firearm did Pagong use if you really see?

A: I do not know what kind of caliber the gun but it is short gun, Sir.[43] (Emphasis supplied)

The testimony of Bernadette that it was appellant who shot her father was corroborated by Bernie and Bernalyn, who also witnessed the incident. The widow of the victim, Lydia, similarly testified that it was appellant who shot her husband, thus:

Q:

When you said somebody stoned your house, what did your husband do?

A:

My husband went out.

Q: What about you, what did you do when your husband went out?

A: I was following him.

Q:

When your husband went out of your house, will you please tell the Honorable Court if there was anything unusual that happened?

A: There was, Sir.

Q: Will you please tell the Honorable Court what is that incident that happened?

A: My husband was already shot.

Q:

You said that you were following him and he was shot, will you please tell the Honorable Court how far were you, from your husband when he was shot?

A: From here up to there?

COURT:

4-5 meters.

Q: You said that your husband was shot from that distance which is 4-5 meters away from you, could you please tell the Honorable Court how many shots did you hear?

A: Three (3) shots.

Q: And when your husband was shot according to you, what happened to him?

A: He fell down.

Q: And when he fell down, what did your husband say, if there was anything?

A: There was, Sir.

Q: What did he utter or tell?

A:

When my husband fell down, he uttered, "Baon-inam Pagong, nak-naak," which means in English "vulva of your mother, Pagong, I'm shot."

Q: When you saw your husband fell down and you heard those words uttered, what happened?

A: I went out and went to see what happened.

x x x x

Q:

You said that you went out to see what happened and you saw those two (2) persons running, will you please tell the Honorable Court who were those persons who were running whom you saw?

A: Danny Sison and Kolet.[44] (Emphasis supplied)

The bare denial of appellant cannot succeed in light of the positive testimonies of the prosecution witnesses. It is

settled that denials which are unsubstantiated by clear and convincing evidence are negative and self-serving evidence. It merits no weight in law and cannot be given greater evidentiary value over the testimony of credible witnesses who testified on affirmatives matters.[45] Denial, like alibi, is an inherently weak defense and cannot prevail over the positive and categorical identification provided by eyewitnesses.[46]

Appellant was correctly convicted of murder. Although there was no evident premeditation, the qualifying circumstance of treachery was proven.

Appellant argues[47] that assuming it was he who shot Bernabe, the lower court nevertheless erred in convicting him of murder because the qualifying circumstances of treachery and evident premeditation were not adequately proven. According to him, if ever he is guilty, he should be convicted only of homicide.

In order that evident premeditation may be appreciated, the following requisites must concur: (1) the time when accused decided to commit the crime; (2) an overt act manifestly indicating that he has clung to his determination; and (3) sufficient lapse of time between decision and execution to allow accused to reflect upon the consequences of the act.[48]

We agree with appellant that there was no evident premeditation. There is no evidence that appellant and Sendaydiego planned to kill Bernabe. Even the Solicitor General admits that the lapse of time from the stoning incident until the shooting cannot be considered sufficient for appellant to reflect upon the consequences of his act. The interval of time was only for several minutes. Evident premeditation should not be appreciated where, as in this case, there is neither evidence of planning or preparation to kill nor of the time when the plot was conceived.

We, however, find that the qualifying circumstance of treachery attended the killing of the victim.

Article 14(6) of the Revised Penal Code provides that there is treachery (alevosia) "when the offender commits any of the crimes against the person, employing means, methods or forms in the execution thereof which tend directly and specially to insure its execution, without risk to himself arising from the defense which the offended party might make."[49]

The essence of treachery lies in the attack which comes without warning, and is swift, deliberate and unexpected, and affords the hapless, unarmed and unsuspecting victim no chance to resist or escape,[50] ensuring its commission without risk to the aggressor, without the slightest provocation on the part of the victim.[51] What is decisive in treachery is that the execution of the attack made it impossible for the victim to defend himself or retaliate.[52] Treachery may also be appreciated even if the victim was warned of the danger to his life where he was defenseless and unable to flee at the time of the infliction of the coup de grace.[53]

Here, Bernabe was suddenly shot without any warning by appellant at a distance of about 3 to 4 meters. An unexpected and sudden attack, which renders the victim unable and unprepared to defend himself by reason of the suddenness of the attack, constitutes alevosia.[54] Even a frontal attack could be treacherous when unexpected and on an unarmed victim would be in no position to repel the attack or avoid it.[55]

On the penalty and award of damages

Murder is punishable by reclusion perpetua to death.[56] There being no mitigating nor aggravating circumstances,[57] appellant was correctly sentenced by the RTC and the CA to reclusion perpetua.

We, however, modify the award of damages.

Both the RTC and the CA awarded the heirs of Bernabe the amount of P75,000.00 as actual damages. It is settled that actual damages must be duly substantiated by documentary evidence, such as receipts to prove the expenses

incurred as a result of the death of the victim.[58] Here, only the amount of P6,030.00 is supported by the evidence on record.[59] Too, the alleged miscellaneous expenses of P68,970.00 cannot be the basis of an award because they were not sufficiently proven.[60]

However, consistent with Our ruling in *People v. Werba*,[61] which affirmed the case of *People v. Villanueva*,[62] We award temperate damages in the amount of P25,000.00 in lieu of the actual damages of a lesser amount. As well stated in said cases, to rule otherwise would be anomalous and unfair because the victim's heirs who tried but succeeded in proving actual damages of an amount less than P25,000 would be in a worse situation than those who might have presented no receipts at all but would now be entitled to P25,000 temperate damages.[63]

Civil indemnity of P50,000.00[64] and moral damages in the amount of P50,000.00 were correctly awarded. Pursuant to Article 2206(3) of the Civil Code, the spouse, legitimate and illegitimate descendants and ascendants of the deceased may demand moral damages for mental anguish by reason of the death of the deceased resulting from a crime.

The award of exemplary damages in the amount of P25,000.00 is likewise justified when treachery is proved,[65] as in this case.

WHEREFORE, the appealed judgment is **AFFIRMED WITH MODIFICATION**. Appellant Rodolfo Sison, alias "Danny" and "Pagong," is found **GUILTY** beyond reasonable doubt of murder qualified by treachery and sentenced to suffer reclusion perpetua.

Appellant is ordered to pay the heirs of Bernabe dela Cruz the amounts of P50,000.00 as civil indemnity, P50,000.00 as moral damages, P25,000.00 as temperate damages, and P25,000.00 as exemplary damages.

SO ORDERED.

Ynares-Santiago, (Chairperson), Austria-Martinez, Chico-Nazario, and Brion, JJ., concur.

* Designated as additional member vice Associate Justice Antonio Eduardo B. Nachura per raffle dated April 28, 2008. Justice Nachura participated as Solicitor General in the present case.

[1] Rollo, pp. 3-12. CA-G.R. CR-H.C. No. 01502. Penned by Associate Justice Eliezer R. de los Santos (deceased), with Associate Justices Jose C. Reyes and Arturo R. Tayag, concurring.

[2] *Id.* at 31-47. Penned by Judge Salvador P. Vedaña.

[3] TSN, July 29, 1998, p. 3; *id.* at 5-6.

[4] *Id.* at 6.

[5] *Id.* at 8.

[6] *Id.* at 8-9; rollo, p. 10.

[7] *Id.* at 9.

[8] *Id.* at 11.

[9] *Id.* at 16-17.

[10] *Id.* at 32.

[11] TSN, August 15, 1998, pp. 4-19.

[12] TSN, March 9, 1999, pp. 4-12.

[13] Id. at 5.

[14] Id. at 6.

[15] Id.

[16] Id. at 8.

[17] Id. at 9.

[18] Id. at 12.

[19] Id. at 13.

[20] Id. at 15.

[21] CA rollo, pp. 110-111.

[22] TSN, February 9, 1999, p. 2.

[23] Id. at 19.

[24] TSN, April 7, 1999, pp. 3-4.

[25] Id. at 7.

[26] Id. at 8.

[27] Id.

[28] Id.

[29] Id. at 10.

[30] Id.

[31] Id. at 11.

[32] Id. at 20.

[33] Id. at 17.

[34] Id. at 15.

[35] Id. at 18.

[36] Id. at 43.

[37] Id. at 40.

[38] Id. at 46-47.

[39] G.R. Nos. 147678-87, July 7, 2004, 433 SCRA 640. This case modified the pertinent provisions of the Revised Rules on Criminal Procedure, more particularly Sections 3 and 10 of Rule 122, Section 13 of Rule 124, Section 3 of Rule 125 and any other rule insofar as they provide for direct appeals from the RTCs to the Supreme Court in cases where the penalty imposed is death, reclusion perpetua or life imprisonment.

[40] Rollo, p. 11.

[41] Id. at 104-105.

[42] *People v. Agbayani*, G.R. No. 122770, January 16, 1998, 284 SCRA 315.

[43] TSN, August 3, 1998, pp. 6-11.

[44] TSN, March 9, 1999, pp. 4-5.

[45] *People v. Sernadilla*, G.R. No. 137696, January 24, 2001, 350 SCRA 243.

[46] *Olivarez v. Court of Appeals*, G.R. No. 163866, July 29, 2005, 465 SCRA 465.

[47] CA rollo, pp. 106-108.

[48] *People v. Ventura*, G.R. Nos. 148145-46, July 5, 2004, 433 SCRA 389, 400; *People v. Manlansing*, G.R. Nos. 131736-37, March 11, 2002, 378 SCRA 685, 701; *People v. Cabote*, G.R. No. 136143, November 15, 2001, 369 SCRA 65; *People v. Kinok*, G.R. No. 104629, November 13, 2001, 368 SCRA 510, 521; *People v. Bautista*, G.R. No. 131840, April 27, 2000, 331 SCRA 170; *People v. Valdez*, G.R. No. 127663, March 11, 1999, 304 SCRA 611, 626; *People v. Raquipo*, G.R. No. 90766, August 13, 1990, 188 SCRA 571, 577.

[49] *People v. Arca*, G.R. No. 135857, June 18, 2003, 404 SCRA 311; *People v. Mesa*, G.R. No. 120072, July 28, 1997, 276 SCRA 407; *People v. Patrolla, Jr.*, G.R. No. 112445, March 7, 1996, 254 SCRA 467; *People v. Lacao, Sr.*, G.R. No. 95320, September 4, 1991, 201 SCRA 317; *People v. Velaga, Jr.*, G.R. No. 87202, July 23, 1991, 199 SCRA 518, 523.

[50] *People v. Baltazar*, G.R. No. 143126, July 31, 2003, 407 SCRA 542.

[51] *People v. Gregorio*, G.R. No. 153781, September 24, 2003, 412 SCRA 90.

[52] *People v. Almedilla*, G.R. No. 150590, August 21, 2003, 409 SCRA 428.

[53] *People v. Escote, Jr.*, G.R. No. 140756, April 4, 2003, 400 SCRA 603, citing *People v. Bustos*, G.R. No. 35475, March 16, 1989, 171 SCRA 243.

[54] *People v. Pinuela*, G.R. Nos. 140727-28, January 31, 2003, 396 SCRA 561.

[55] *People v. Gumayao*, G.R. No. 138933, October 28, 2003, 414 SCRA 539; *People v. Dala*, G.R. No. 134563, October 28, 2003, 414 SCRA 532; *People v. Perez*, G.R. No. 134485, October 23, 2003, 414 SCRA 106; *People v. Pedrigal*, G.R. No. 152604, September 18, 2003, 411 SCRA 339; *People v. Vicente*, G.R. No. 137296, June 26, 2003, 405 SCRA 40; *People v. Caballero*, G.R. Nos. 149028-30, April 2, 2003, 400 SCRA 424; *People v. Alfon*, G.R. No. 126028, March 14, 2003, 399 SCRA 64.

[56] Revised Penal Code, Art. 248.

[57] Id., Art. 63(2).

[58] Id. at 431, citing Civil Code of the Philippines, Art. 2199; *People v. Perreras*, G.R. No. 139622, July 31, 2001, 362 SCRA 202, 214, citing *People v. Galo*, G.R. No. 132025, January 16, 2001, 349 SCRA 161.

[59] *People v. Ibañez*, G.R. Nos. 133923-24, July 30, 2003, 407 SCRA 406, 430; records, pp. 119-121.

[60] Id. at 430-431, citing *People v. Mercado*, G.R. No. 116239, November 29, 2000, 346 SCRA 256, 291; *People v. Nullan*, G.R. No. 126303, April 14, 1999, 305 SCRA 679, 706, citing *People v. Cordero*, G.R. No. 108919, October 11, 1996, 263 SCRA 122; *People v. Degoma*, G.R. Nos. 89404-05, May 22, 1992, 209 SCRA 266.

[61] G.R. No. 144599, June 9, 2004, 431 SCRA 482.

[62] G.R. No. 139177, August 11, 2003, 408 SCRA 571.

[63] *People v. Werba*, supra at 499, citing *People v. Villanueva*, id.

[64] *People v. Mostrales*, G.R. No. 125937, August 28, 1998, 294 SCRA 701; *People v. Prades*, G.R. No. 127569, July 30, 1998, 293 SCRA 411.

[65] *People v. Malinao*, G.R. No. 128148, February 16, 2004, 423 SCRA 34; *People v. Ibañez*, supra note 59, citing *People v. Bernal*, G.R. Nos. 132791 & 140465-66, September 2, 2002, 388 SCRA 211; *People v. Escote, Jr.*, supra note 53, citing *People v. Catubig*, G.R. No. 137842, August 23, 2001, 363 SCRA 621, 635.

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