PEOPLE OF THE PHILIPPINES, APPELLEE, VS. DANIEL PEREZ Y BACANI, APPELLANT.

G.R. No. 172875. August 15, 2007

Ponente: CARPIO MORALES, J.

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CARPIO MORALES, J.:

Appellant, Daniel Perez y Bacani, was charged before the Regional Trial Court, Antipolo City with rape in an Information[1] which was docketed as Criminal Case No. 98-14590, the accusatory portion of which reads:

> x x x x
>
> That on or about the 27[th] day of January, 1998, in the Municipality of Antipolo, Province of Rizal, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, armed with a knife, with lewd designs and by means of force and intimidation did, then and there willfully, unlawfully and feloniously have sexual intercourse with [AAA], without her consent and against her will.[2]

At the time material to the case at bar, appellant and the private complainant, AAA, a mother of four, had been neighbors for around six years, their houses in Pinugay, San Jose, Antipolo being separated only by around three Meralco posts. AAA in fact used to buy some stuff at the store of appellant and his wife. And one of appellant's children is the godson of AAA's husband.[3] The work of AAA's husband called for him to be out of their house on weekdays and return home during weekends.

At the witness stand, AAA gave the following account:

Between 12 midnight and 12:30 a.m. of January 27, 1998, a Tuesday, AAA, who shared the only bedroom in her one storey house with her four children aged 12, 9, 5, and 1½, was awakened when she felt that a bladed weapon was pointed at her back. She noticed that it was already dark as the light inside the house which she had left switched on was already off. She soon heard appellant warning her not to make any noise or he would kill her.[4]

Appellant then removed AAA's short pants and inserted his finger inside her vagina in the course of which her one and a half (1½)-year old child who was at her side cried,[5] drawing her to breastfeed him. In the meantime, as she was pleading with appellant to stop what he was doing, her eldest child 12-year old BBB was awakened. Appellant thereupon threatened that he would kill them.[6]

AAA lost no time to sit down on the bed in an attempt to restrain appellant from further molesting her. But appellant dragged her from the room and brought her outside the house, passing through the kitchen door.[7]

On reaching a mango tree outside the kitchen door, appellant forced AAA to lie down on the ground. Appellant then embraced her at which instant AAA took the knife from appellant which she threw away in the hope that without it, she could flee as she did attempt to flee. After negotiating two steps, however, appellant caught up with her.[8]

Appellant then again forced AAA to lie down on the ground, pulled down his knee-high trousers and succeeded in

inserting his penis into her vagina.[9]

After appellant had ejaculated and had weakened, AAA ran inside the house and instructed BBB, who witnessed the incident, to ask for help. Afraid, however, that something might happen to him, she changed her mind and instructed BBB not to proceed.[10]

After the lapse of ten minutes, appellant approached AAA's house and intimidated that he was ready to kill someone, he and his wife having had a quarrel.[11]

AAA was awake until around 4:00 a.m. when she proceeded to the Antipolo police detachment[12] where she reported the incident.

When AAA's husband arrived the following Saturday, she informed him about the incident. While her husband was infuriated, he did not take any action against appellant.[13]

AAA's son BBB gave the following account:

On being awakened by the cry of his baby brother, he saw a "shadow" at the foot of the bed and heard his mother pleading "maawa ka, maawa ka." The "shadow" responded "tumigil ka kung hindi papatayin kita."[14]

AAA was thereafter dragged to the mango tree which was about four (4) meters outside the kitchen door.[15]

BBB could hear appellant saying "Mare, nag-away kami ni mare mo, papatay ako." He also saw appellant lying on top of his mother AAA. Overcome by fear, he returned to the bedroom.[16]

When AAA returned to the house, BBB noticed that she was not wearing her underwear and short pants anymore. From outside, he heard appellant shout "sige mare, magdemanda ka bukas." He then tried to ask help from their neighbor CCC but he immediately returned for fear that appellant was just nearby.[17]

Police Officer (PO) Loreto Espinelli corroborated AAA's testimony that on January 27, 1998, she filed a complaint for rape at their detachment, adding that her statement was taken by SPO2 Ricardo Aquino. He went on to state that he, together with AAA and PO3 Gripal,[18] proceeded to the house of appellant at around 4:00 to 5:00 a.m. As they reached appellant's house, his wife woke him up.[19]

PO Espinelli furthermore stated that when appellant was informed that a complaint was filed against him, he voluntarily went with them to the detachment where he was turned over to the police headquarters.[20] SPO2 Aquino was unable to secure appellant's statement, however, as he had then no counsel of his choice to assist him.[21]

P/Sr. Inspector Ruby Grace Sabino, a medico-legal officer, who was presented as an expert witness, interpreted the Medico-Legal Report No. 222-98[22] of Dr. Dennis Bellin who examined AAA on January 27, 1998. The Report-Exhibit "E" reflected the following findings:

> GENERAL AND EXTRAGENITAL
>
> Fairly developed, fairly nourished and coherent female subject. Breasts are pendulous with brownish areola and nipples from which milky secretions could be pressed out. Abdomen is flabby and soft with strae of pregnancy. The following injuries were noted:
>
> 1) Abrasion, right scapular region, measuring 0.3 x 0.2 cm, 6.7 cm from the posterior midline.
> 2) Abrasion right knee, measuring 0.5 x 0.1 cm, 1.5 cm lateral to its anterior midline.
> 3) Abrasion, proximal 3[rd] of the right thigh, measuring 0.9 x 0.1 cm, 5.5 cm lateral to its posterior midline
> 4) Abrasion, distal 3[rd] of the right thigh, measuring 4.9 x 0.1 cm, 9 cm lateral to its posterior midline.
> 5) Abrasion, left knee, measuring 0.8 x 0.1 cm, 1.5 cm lateral to its anterior midline

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> 6) Area of multiple abrasions, proximal 3[rd]of the left leg, measuring 2.4 x 1 cm, 7 cm lateral to its anterior midline
> 7) Area of multiple abrasions, proximal 3[rd] of the left thigh, measuring 11 x 10 cm, 8 cm lateral to its posterior midline.
> 8) Abrasion, proximal 3[rd] of the left leg, measuring 0.9 x 0.1 cm, 1 cm lateral to its posterior midline.
>
> GENITAL:
>
> There is abundant growth of pubic hair. Labia majora are full, convex and obaptated with the brownish labia minora presenting in between. On separating the same disclosed and abraded posterior fourchette and carunculae myrtiformis. External vaginal orifice offers slight resistance to the introduction of the examiner's index finger. Vaginal canal is wide with flattened rugosities. Cervix is firm and closed.
>
> CONCLUSION:
>
> Subject is in non-virgin state physically.
>
> Barring unforeseen complications, it is estimated that the above injuries will solve in 5 to 7 days.
>
> REMARKS:
>
> Vaginal and peri-urethral smears are negative for gras negative diplococci and for spermatosoa[23]

On the other hand, appellant's version goes as follows:

About past 10:00 p.m. of January 26, 1998, he proceeded to the house of AAA whom he was courting and who had hinted that he could go to her house anytime from Monday to Friday.[24] The two of them went out of the house and sat under the mango tree. From his conversation with AAA who was asking him if "i-regular ko siya talaga," he took it to mean that "[m]aybe . . . she will be my paramour."[25]

After staying under the mango tree until 12 midnight, the two of them went inside the house where they continued conversing in the course of which BBB was awakened. BBB then asked AAA who was he to whom she was talking, but gave no reply. Instead, she asked appellant to go home, and he did.[26]

Appellant speculates that AAA filed the case against him because she was embarrassed being seen with him by BBB "during that unholy hour."[27]

Giving more credence to AAA's positive declaration as against appellant's denial in the absence of any ill-motive for her to falsely charge appellant, not to mention that part of her testimony was corroborated by BBB "who witnessed the sexual assault," the trial court convicted appellant.

> . . . [T]he Court finds more credence [to] the declaration of the complainant as opposed to the mere denial of the accused.
>
> A candid narration by a rape victim deserves credence particularly where no ill motive is attributed to the rape victim that would make her testify falsely against the accused for no woman in her right mind will admit to having been raped, allow an examination of her most private parts and subject herself as well as her family to the humiliation and shame concomitant with a rape prosecution, unless the charges are true (People vs. Sampior[,] 327 SCRA 31).
>
> All the more in this case where the testimony of the victim was corroborated by the testimony of her son who had witnessed the sexual assault.
>
> However, while it was proven that the sexual assault was made in full view of the victim's child, the ultimate penalty of death cannot be meted, as the information did not include such fact [sic] in the allegations.[28]

(Underscoring supplied)

The trial court thus disposed in its Decision of May 5, 2004:[29]

> WHEREFORE, accused DANIEL PEREZ is hereby found guilty beyond reasonable doubt and is sentenced to suffer the penalty of Reclusion Perpetua pursuant to the provisions of Republic Act 8353.
>
> The accused is also ordered to pay [AAA] the amount of P50,000 as moral damages.[30]

Appellant appealed to the Court of Appeals, faulting the trial court for

> I
>
> x x x GIVING FULL FAITH AND CREDENCE TO THE INCREDIBLE TESTIMONY OF THE PRIVATE COMPLAINANT.
>
> II
>
> x x x CONVICTING THE ACCUSED-APPELLANT FOR RAPE DESPITE THE FAILURE OF THE PROSECUTION TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.[31]

In his brief filed before the appellate court, appellant contended that AAA's claim of having thrown the knife which he was allegedly holding and which she allegedly took from him is "unusual," for she could have used it to stab him to defend her honor or to free herself from his embrace.[32]

And appellant found it incredible that he would still drag AAA outside the house after he inserted his finger inside her vagina, when he could simply have continued his desire inside the house as she and BBB were, by their claim, threatened.[33]

By Decision of March 16, 2006,[34] the appellate court thus affirmed the decision of the trial court, modifying it, however, by awarding the victim an additional P50,000 as indemnity ex delicto. Thus it disposed:

> WHEREFORE, the foregoing premises considered, the appealed Decision dated 05 May 2004 of the Regional Trial Court of Antipolo City (Branch 73), Province of Rizal, in Criminal Case No. 98-14590 is, as it is hereby AFFIRMED with MODIFICATION in the sense that in addition to the award of P50,000.00 as moral damages to herein private-complainant, [AAA], accused-appellant DANIEL PEREZ is also ordered to pay her P50,000.00 as civil indemnity.
>
> With costs de oficio.[35] (Emphasis and italics in the original)

On appellant's appeal, the records of this case were forwarded to this Court[36] which required the parties to file their respective supplemental briefs if they so desired, within 30 days from notice. Both parties manifested that they were no longer filing supplemental briefs as the briefs they filed before the appellate court exhaustively discussed their arguments.

In People v. Bidoc, this Court reiterated the well-entrenched guiding principles in reviewing rape cases:

> In reviewing rape cases, the Court is guided by these principles: First, the prosecution has to show the guilt of the accused by proof beyond reasonable doubt or that degree of proof that, to an unprejudiced mind, produces conviction. Second, unless there are special reasons, the findings of trial courts, especially regarding the credibility of witnesses, are entitled to great respect and will not be disturbed on appeal. Third, the disposition of rape cases are governed by the following guidelines: (1) an accusation for rape can be made with facility; it is difficult to prove but more difficult for the person accused, though innocent, to disprove; (2) in view of the intrinsic nature of the crime of rape where only two persons are usually involved, the testimony of the complainant must be scrutinized with extreme caution, and (3) the evidence for the prosecution must stand or

> fall on its own merits and cannot draw strength from the weakness of the evidence of his defense.[37] (Italics in the original, emphasis and underscoring supplied)

The credibility of the victim is, in rape cases, almost always the single most important issue.[38] If her testimony passes the test of credibility, which means it is credible, natural, convincing, and consistent with human nature and the normal course of things, the accused may be convicted solely on the basis thereof.[39] If the prosecution, however, fails to discharge the onus of proving the guilt beyond reasonable doubt of the accused, even if his defense is weak, he has the right to be freed. More than that, it is the Court's constitutional duty to acquit him.[40]

> A rape charge is a serious matter with pernicious consequences. It exposes both the accused and the accuser to humiliation, fear and anxieties, not to mention the stigma of shame that both have to fear for the rest of their lives. By the very nature of the crime of rape, conviction or acquittal depends almost entirely on the credibility of the complainant's testimony because of the fact that usually only the participants can testify as to its occurrence. This notwithstanding, the basic rule remains that in all criminal prosecutions without regard to the nature of the defense which the accused may raise, the burden of proof remains at all times upon the prosecution to establish his guilt beyond a reasonable doubt. If the accused raises a sufficient doubt as to any material element, and the prosecution is then unable to overcome this evidence, the prosecution has failed to carry its burden of proof of the guilt of the accused beyond a reasonable doubt and the accused must be acquitted.
>
> The rationale for the rule is that, confronted by the full panoply of State authority, the accused is accorded the presumption of innocence to lighten and even reverse the heavy odds against him. The evidence for the prosecution must be strong per se, strong enough to establish the guilt of the accused beyond reasonable doubt. In other words, the accused may be convicted on the basis of the lone uncorroborated testimony of the offended woman, provided such testimony is Mere accusation is not enough to convict him, and neither is the weakness of his defense.clear, positive, convincing and otherwise consistent with human nature and the normal course of things.[41] (Italics in the original, emphasis and underscoring supplied)

In the present case, this Court finds that the guilt of accused-appellant was not proven beyond reasonable doubt.

True, as the appellate court pointed out, "matters affecting credibility [are] best left to the trial court because of its unique opportunity of observing the elusive and incommunicable evidence of the witness or witnesses' deportment on the stand while testifying."[42] When there is, however, a showing that the trial court failed to appreciate certain facts and circumstances that would have altered its conclusion, it is incumbent upon the Court to rectify the same.[43]

AAA's following testimony on cross examination is replete with details which elicit nagging doubts on her claim that she was abused against her will.

> Q: After he removed your panty and shorts, what did he do?
> A: He fingered me.
>
> Q: He inserted his finger inside your vagina?
> A: Yes, ma'am.
>
> Q: He fingered you while your son was crying?
> A: Yes, ma'am.
>
> Q: And your son continued crying?
> A: I tried to stop my son from crying and I gave my son my breast to suck until he went back to sleep again.
>
> Q: Your eldest son also woke up at that time?
> A: Yes, ma'am.

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Q: What did you do after your eldest [son] woke up?
A: I asked my eldest son not to stand up even if he knows that my youngest son is awake because [appellant] told me not to allow my son to stand up. He just continued what he was doing.

Q: So, your son saw the assailant inserting his finger to your vagina?
A: Yes, ma'am.

Q: Your son was not saying anything?
A: No, ma'am. Because we were so afraid.

Q: And this accused did not say anything to your son when your son woke up?
A: None, ma'am. But [appellant][was telling to me what he wanted my son to do.[44] (Emphasis and underscoring supplied)

In People v. Ramos,[45] this Court found it strange for a rape victim, under threat of death, to still find time to pat her niece to sleep and then to fix her nephew's mosquito net before facing an armed aggressor demanding to have intercourse with her.

This Court similarly finds it strange for AAA, who was already being molested by appellant with the insertion of his finger inside her vagina, to still find time to expose her breast and breastfeed her crying child in order to calm him.

And if both AAA and her son BBB were overcome by fear and intensely threatened, why would appellant still relay to her what he wanted BBB to do when he himself could have directly told BBB what he wanted him to do. After all, he had threatened them.

Still on cross-examination, AAA declared:

Q: But he removed his shorts and brief?
A: He only lowered his shorts.

Q: What kind of shorts was he wearing then?
A: The shorts was up to his knees.

x x x x

Q: You were only [able] to get that knife after this accused lowered his shorts?
A: Yes, ma'am.

Q: Cons[i]dering that he was not totally or he has not totally removed his shorts but only lowered it up to his knees?
A: Yes, ma'am.

Q: He could not run after you if he will run because his shorts was only up to his knees?

A: When I ran away he was still wearing shorts and he pulled me down to the ground.[46] (Emphasis and underscoring supplied)

From the immediately quoted account of AAA, she could have easily escaped after getting the knife had she ran fast enough since appellant could not have immediately ran after her. For by her claim, he had merely "lowered" his knee-length pair of pants to thus naturally impede his movement. When confronted with such natural, logical conclusion, AAA gave a non-responsive, vague answer by claiming that appellant was "still wearing shorts." If that were the case, however, she could not have grabbed the knife from him since, as she had earlier claimed, the chance to flee came "after the accused [had] lowered his shorts."

Further, the immediately quoted-portion of AAA's testimony during cross-examination does not jibe with her earlier testimony on direct, viz:

> Q: What happened next after he pulled you out of your house?
> A: He forced me down the ground.
>
> Q: Was he able to force you to lie down on the ground?
> A: Yes, sir.
>
> Q: Then what happened next?
> A: He was embracing me and laid on top of me and I felt that his knife has a scabbard and I was able to take it and threw it near us because he was embracing me.
>
> Q: You [s]aid that you were able to take the knife, why did you not use the knife on him?
> A: Because I was afraid that I might kill him.
>
> Q: So, you would rather be raped than kill him?
> A: Because what I was planning to do was that if he had not the knife I could run away but I was not able to run away [because] he pulled me again.
>
> x x x x
>
> Q: After he was able to grab you again, what happened next?
> A: He forced me down again on the ground.
>
> Q: After he forced you down again what happened next?
> A: Because I was so weak he laid on top of me.
>
> Q: Aside from laying on top of you what happened next?
> A: He pulled down his shorts up to his knees.
>
> x x x x
>
> Q: After he was able to pull down his shorts up to his knees what happened next?
> A: He inserted his penis inside my vagina.[47] (Emphasis and underscoring supplied)

In AAA's immediately-quoted direct testimony, the sequence of her tale was, first, she was able to take the knife from appellant after which she threw it. Second, after appellant grabbed her again after she had negotiated two steps, he pinned her down again to the ground. Third, appellant lowered his trousers down to his knees and inserted his penis inside her vagina.

In AAA's earlier-quoted testimony on cross-examination, AAA claimed that after appellant lowered his trousers down to his knees, she grabbed the knife which she threw away.

In other words, in her direct testimony, the grabbing and throwing of the knife occurred before appellant lowered his trousers. On cross-examination, the grabbing and throwing of the knife occurred after appellant lowered his trousers.

While rape victims are not required or expected to remember all the details of their harrowing experience, and minor inconsistencies are considered badges of truth, the inconsistencies drawn from AAA's declarations on direct and cross-examination cannot be considered as mere minor not affecting her credibility of testimony.[48]

In another vein, AAA and BBB were afforded opportunity to attempt to frustrate appellant's acts but they did not avail of it. Consider the following testimony of AAA on cross-examination:

Q: You said you were dragged outside, it was dark outside?
A: There was a light from the house of our neighbor.

Q: How far is that house of your neighbor from your house?
A: Ten (10) feet away.

x x x x

Q: What is the name of that neighbor of yours?
A: [CCC].

Q: And at that time you knew that [CCC] was in her house that night?
A: Yes, ma'am.

x x x x

Q: While dragging you the accused put the knife inside his shorts, right?
A: Yes, ma'am.

Q: And he held on to your hands while he was dragging you?
A: Yes, ma'am.

Q: When the accused dragged you outside, he was not pointing the knife at your neck or to any part of your body, right?
A: Yes, ma'am.

Q: You could have shouted?
A: Yes, ma'am. I can shout but I did not do so because I was afraid.[49] (Emphasis supplied)

Given that the house of AAA was 10 feet away or more than 3 yards from the house of her neighbor CCC who, AAA confirmed, was in her house at the time of the incident, why did not AAA and/or BBB shout for help. By failing to do so, her young son BBB unwittingly became a witness to the spectacle of her being laid on top by appellant.

As for the injuries on AAA's body, appellant, when asked to account for them, declared:

Because in going out from their house there was a low fence that you have to hop over and she was injured by that.[50]

Appellant's explanation assumes credibility, given BBB's admission that in going to the mango tree, "they have to pass by that barbed wire."[51]

It may not be amiss to state that it is not farfetched to consider that the witnessing by BBB of the sexual congress spawned the filing by AAA of the case.

In all criminal cases, all doubts should be resolved in favor of the accused on the principle that it is better to liberate a guilty man than to unjustly keep in prison one whose guilt has not been proven by the required quantum of evidence.[52] This is one instance. Appellant must be acquitted.

This Court takes this occasion to remind judges to deal with rape cases with extreme caution and circumspection.

> . . . Rape is a very emotional word, and the natural human reactions to it are categorical: admiration and sympathy for the courageous female publicly seeking retribution for her outrageous violation, and condemnation of the rapist. However, being interpreters of the law and dispensers of justice, judges must look at a rape charge without those proclivities, and deal with it with extreme caution and circumspection. Judges must free themselves of the natural tendency to be overprotective of every woman decrying her having been

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> sexually abused, and demanding punishment for the abuser. While they ought to be cognizant of the anguish and humiliation the rape victim goes through as she demands justice, judges should equally bear in mind that their responsibility is to render justice based on the law.[53] (Emphasis supplied)

WHEREFORE, the Decision of the Court of Appeals in CA-G.R. CR-HC No. 00287 is REVERSED and SET ASIDE. Appellant, Daniel Perez y Bacani, is ACQUITTED of rape in Criminal Case No. 98-14590 of the Regional Trial Court of Antipolo City, Branch 73.

Let a copy of this Decision be furnished the Director of Prisons who is hereby directed to cause the immediate release of appellant, unless he is being lawfully held for another cause, and to inform this Court of action taken within ten days from notice hereof.

SO ORDERED.

Quisumbing, (Chairperson), Carpio, Tinga, and Velasco, Jr., JJ., concur.

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[1] Records, pp. 1-2.

[2] Id. at 1.

[3] TSN, August 27, 1998, pp. 3, 7-8.

[4] Id. at 4-7.

[5] Id. at 6. On page 7 of the TSN, AAA answered:

Q: When you said he fingered you and pulled your vagina what was your position then?
A: I was lying face up because he already pulled me.
Q: And you were still carrying your child?
A: I placed down my child on my side because I was trying to look for som[e]thing that I could use as defense.

[6] Id. at 7.

[7] Id. at 8.

[8] Id. at 9.

[9] Id. at 10.

[10] Id. at 11.

[11] Id. at 12.

[12] Ibid.

[13] Id. at 16-17.

[14] TSN, December 22, 1998, pp. 5-7.

[15] Id. at 8-9.

[16] Id. at 9-10.

[17] Id. at 12-16.

[18] SPO1 in some parts of the records.

[19] TSN, May 23, 2000, pp. 3-8.

[20] Id. at 8-9.

[21] TSN, September 19, 2000, p. 4.

[22] Records, p. 195, Exhibit "E."

[23] Id. at 195.

[24] TSN, July 24, 2001, pp. 20-22.

[25] Id. at 25.

[26] Id. at 26-28.

[27] Id. at 30.

[28] Records, p. 183.

[29] Id. at 177-183.

[30] Id. at 183.

[31] CA rollo, p. 32.

[32] Id. at 41, Appellant's Brief.

[33] Id. at 41-42.

[34] Id. at 102-119. Penned by Justice Bienvenido L. Reyes with the concurrence of Justices Arturo D. Brion and Mariflor Punzalan Castillo.

[35] Id. at 118-119.

[36] Id. at 120.

[37] People v. Bidoc, G.R. No. 169430, October 31, 2006, 506 SCRA 481, 495.

[38] People v. Fernandez, G.R. No. 172118, April 24, 2007; People v. Corpuz, G.R. No. 168101, February 13, 2006, 482 SCRA 435, 448.

[39] Ibid., ibid., People v. Guambor, 465 Phil. 671, 678 (2004).

[40] People v. Ramos, G.R. Nos. 155292-93, February 13, 2004, 422 SCRA 715, 725-726.

[41] People v. Godoy, 321 Phil. 279, 310-311 (1995).

[42] CA rollo, p. 108.

[43] People v. Surio, 435 Phil. 586, 598 (2002).

[44] TSN, October 13, 1998, pp. 10-12.

[45] Supra note 40 at 723.

[46] TSN, October 13, 1998, pp. 20-21.

[47] TSN, August 27, 1998, pp. 9-10.

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[48] Vide People v. Surio, supra note 43 at 603.

[49] TSN, October 13, 1998, pp. 15-17.

[50] TSN, July 24, 2001, p. 32.

[51] Q : And your mother was brought to the mango tree, is that right?
A : Yes, ma'am.
Q : And in going to the mango tree, they have to pass by that barbed wire?
A : Yes, ma'am. (TSN, September 15, 1999, p. 13)

[52] People v. Buenaflor, 412 Phil. 399, 413 (2001).

[53] People v. Godoy, supra note 41 at 322.

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