THE PEOPLE OF THE PHILIPPINES, PLAINTIFF, VS. HENRY TOGAHAN, EMELDO LAURO, DANILO BALINDO (AT LARGE) AND MARCO TURGA (AT LARGE), APPELLANTS.

G.R. No. 174064. June 08, 2007

Ponente: TINGA, J.

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TINGA, J.:

Appellants Henry Togahan (Togahan) and Emeldo Lauro (Lauro) assail the Decision[1] of the Court of Appeals dated 5 May 2006, affirming with modification the Decision[2] of the Regional Trial Court (RTC), Branch 28,[3] Lianga, Surigao del Sur, dated 24 September 2003. The RTC had found appellants guilty beyond reasonable doubt for the murder of Ananias Villar, Sr. (Villar), and his son-in-law David Gene Richardson (Richardson).

On 13 September 2000, appellants, together with their co-accused Danilo Balindo (Balindo) and Marco Turga (Turga), were charged with two (2) counts of murder, in separate Informations[4] filed by Prosecutor Zacharias P. Joven, the texts of which read:

> Criminal Case No. L-1674
>
> That on the 12[th] day of May 2000, at about 6:30 o'clock in the evening more or less, in Purok 1, Spring, [B]arangay Amaga, [M]unicipality of Barobo, [P]rovince of Surigao del Sur, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, armed with .38 caliber pistol, conspiring, confederating and mutually helping each other, with evident premeditation, treachery and intent to kill, did then and there willfully, unlawfully and felon[i]ously shot one Ananias Villar, Sr. with the use of said deadly weapon, as a result thereof the latter was hit and sustained the following wounds or injuries:
>
> Gunshot wound[,] suprasternal area
> Gunshot wound[,] left flank at the level of umbilicus
> Gunshot wound[,] right upper quadrant parasternal
> Lacerated wound[,] on left post auricular area
>
> which wounds or injuries caused his instantaneous death to the damage and prejudice of his heirs in the following amount:
>
> P50,000.00 as life indemnity of the victim
> P15,000.00 as moral damages
> P15,000.00 as exemplary damages.
>
> CONTRARY TO LAW. (In violation of Article 248 of the Revised Penal Code).
>
> Criminal Case No. L-1675
>
> That on the 12[th] day of May 2000, at about 6:30 o'clock in the evening more or less, in Purok 1, Spring, [B]arangay Amaga, [M]unicipality of Barobo, [P]rovince of Surigao del Sur, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, armed with .38 caliber pistol, conspiring,

> confederating and mutually helping each other, with evident prem[e]ditation, treachery and intent to kill, did then and there willfully, unlawfully and felon[i]ously shot one David Gene Richardson, an [A]merican national, with the use of said weapon, as a result thereof the latter was hit and sustained the following wounds or injuries:
>
> Gunshot wound[,] right lower quadrant
> Hematoma[,] right leg lateral aspect
> Abrasion, [l]inear right shoulder
> Abrasion, linear lumbar area
>
> which wounds or injuries caused his instantaneous death to the damage and prejudice of his heirs in the following amount:
>
> P100,000.00 as life indemnity of the victim
> P15,000.00 as moral damages
> P15,000.00 as exemplary damages.
>
> CONTRARY TO LAW. (In violation of Article 248 of the Revised Penal Code).

Custody only of appellants Togahan and Lauro was acquired. Their co-accused Balindo and Turga remained at large then and to this day. Upon being arraigned separately, both appellants pleaded not guilty.[5] Trial on the merits ensued with the prosecution espousing the following narration of facts:

On 12 May 2000, at around 6:30 p.m., Magdalena Villar (Mrs. Villar), her daughter Vilma Villar-Richardson (Mrs. Richardson), son-in-law Richardson, grandchildren Kenneth, Kevin, Junelyn, Jovelyn and Michelle, and brother Pedro Castillo were all watching television in the living room of their residence in Spring, Amaga, Barobo, Surigao del Sur. Without warning, two armed men wearing bonnets suddenly arrived. At that time, the victim Villar, husband of Mrs. Villar, was in his room. When Villar heard the commotion, he went to the door and tried to prevent the armed men from entering, but he was shot twice, pulled towards the balcony and clubbed to death.[6]

One of the armed men, later identified as Togahan, pointed a gun at Mrs. Richardson and pulled the trigger thrice. The gun did not fire however. The other man, later identified as Lauro, approached Richardson and likewise pointed a gun at him. When Mrs. Richardson heard gunfire, she asked the men: "Who are you, what do you want?" To this, Lauro replied: "We are here for war."[7] Mrs. Richardson told her husband to run away but the latter, in an attempt to protect his wife, struggled and tried to wrestle the gun away from Togahan instead. In the course thereof, Lauro shot Richardson then ran out of the house with Richardson's 3-year old son.[8] Richardson, in spite of his wound, chased Lauro but was later found sitting on the mud, unable to talk and dying. The rest of the family had fled during the commotion and sought refuge. Villar and Richardson were brought to DO Plaza Memorial Hospital in Patin-ay, Prosperidad, Surigao del Sur but were dead upon arrival.[9]

In her testimony, Mrs. Richardson narrated that during the struggle between her husband and Togahan for the gun, the mask of the latter was removed by Richardson; thus, she was able to recognize Togahan as the assailant who poked and tried to fire the gun at her. Mrs. Richardson was able to identify Lauro through his voice and physical appearance as the one who remarked "We are here for war."[10] Lauro was alleged to be responsible for shooting her father, Villar, twice and also for shooting her husband, Richardson.

Eyewitness Lowelito Villar (Lowelito), grandson of victim Villar, testified that on the evening of the incident, he was in his home about fifteen (15) meters away from his grandparents' house when he heard a gun burst. He immediately ran towards the house of his grandparents and hid behind a coconut tree, also about fifteen (15) meters from victim Villar's house. He claims to have seen three (3) armed and masked men he identified as

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Togahan, Lauro and Balindo enter the victims' house. According to the witness, Lauro shot Richardson in the house whereas Lauro and Balindo shot and clubbed his grandfather in the balcony. After the attack, all the accused ran out of the house, removing their masks in the process. Witness Lowelito maintained that he had been friends with the accused for five (5) years and recognized them because of their physical features and movements and that he could see the events that transpired as there were fluorescent lamps lit inside and outside the house.[11]

The prosecution likewise presented witnesses to fortify the charges of participation against appellants. Witness Rosemarie Enriquez, a former sweetheart of Togahan, testified that the pair of slippers recovered from the scene of the crime belonged to the latter.[12] It was witness Federico Sayson, Barangay Kagawad of Purok 1, Spring, Amaga, Barobo, Surigao del Sur, who discovered the pair of slippers and a dirty white jacket about thirty (30) meters from the house of Villar.[13]

SPO2 Santo Ocate, the firearm examiner of the Philippine National Police, Caraga Region who conducted the physical examination of two bullets recovered from the crime scene, testified that the bullets were discharged from a .38 caliber revolver.[14]

Upon request of Mrs. Richardson, Dr. Edgar Savella, Medico-Legal Officer of the National Bureau of Investigation–Caraga Region, conducted an autopsy of the bodies of the victims. Dr. Savella testified that the gunshot wound sustained by Richardson on his abdomen was fatal and caused his death, the bullet having hit the sciatic artery on his right leg, as well as his vertebrae in the lumbar area.[15] Villar, on the other hand, died of multiple gunshot wounds to his chest and abdomen.[16] Dr. Savella found no indication of self-defense or struggle-related injuries on both Villar and Richardson.[17]

Dr. Tomas Centino testified that he conducted the examination of the bodies of the victims who were both clinically dead upon arrival at the DO Plaza Memorial Hospital.[18] He likewise opined that the respective gunshot wounds sustained by Villar and Richardson were fatal and the immediate cause of their death.[19]

To counter the prosecution, Togahan presented the defense of alibi. He testified that on 12 May 2000, at 6:30 p.m., he was in the home of his parents-in-law in Barangay Bahi, Barobo, Surigao del Sur, with whom he and his family lived. He averred that he was playing with his children at that time. Thereafter, he had supper with the entire family, retired with the household to the balcony from 7:00 to 9:00 p.m., and then went to sleep at 9:00 p.m.[20] The following day, appellant maintains that he and his father-in-law repaired the gutter of their house.[21] On 14 May 2000, appellant was allegedly fetched by his brother at 9:00 a.m. to visit their father who was seriously ill in Barangay Tagongon, Barobo, Surigao del Sur.[22]

To corroborate Togahan's alibi, his father-in-law, Segundo Andalan, testified that on 12 May 2000, appellant helped him in repairing their house. Beginning around 6:30 p.m., the whole family had dinner, took their rest and then went to bed. He asserted that appellant did not leave their house that night. Their repair work on the house allegedly continued the next day. According to the witness, appellant's sister fetched him on 14 May 2000, at around 1:00 p.m. as their father was ill.[23]

Similarly, Lauro denied the charges made against him. Appellant maintains that on 12 May 2000, he was in the home of his brother in Purok 4, Barobo, Surigao del Sur, helping the latter arrange stones on which their billiard table was to be placed. At around 6:30 p.m., appellant allegedly rested in the balcony of his brother's house with the latter's wife and neighbor while his brother prepared supper.[24]

On rebuttal, the prosecution presented two witnesses, the first of whom negated the claims of Lauro that he had never set foot in Barangay Amaga, Barobo, Surigao del Sur. According to witness Restituto Basada, for about

four (4) to five (5) years commencing in 1980, Lauro and his family lived on his property in the said barangay. However, Lauro later fled as Basada filed a case against the former for stoning him.[25]

The second rebuttal witness of the prosecution, Luzviminda Villar Sabaysabay, was the daughter of victim Villar. She testified that in March and June 2001, they received letters from Togahan, requesting them to visit him in the provincial jail where he was then incarcerated. In Togahan's second letter, she claimed, he requested a visit to reveal to them that Lauro was one of his companions in killing Villar.[26]

The RTC found appellants guilty of murder on both charges and sentenced each of them to suffer in each case the penalty of death and to indemnify the respective heirs of the victims in each case in the amounts of P50,000.00 as civil indemnity, P15,000.00 as moral damages, P15,000.00 as exemplary damages and costs.[27]

With the death penalty imposed on appellants, the case was elevated to this Court on automatic review. However, pursuant to this Court's ruling in People v. Mateo,[28] the case was transferred to the Court of Appeals.

On 5 May 2006, the appellate court rendered its decision affirming with modification appellants' conviction. In downgrading the penalty from death to reclusion perpetua, the Court of Appeals held that the RTC erred in appreciating the generic aggravating circumstances of dwelling and nighttime, both of which were not alleged in the Informations.[29] Thus, there being no mitigating or aggravating circumstance attending the commission of the crimes, the appellate court imposed the penalty of reclusion perpetua upon appellants for each count of murder. The dispositive portion of the said decision states:

> "WHEREFORE, in view of the above disquisitions, the decision under review is hereby AFFIRMED with MODIFICATION that the penalty is reduced to reclusion perpetua for each of the accused-appellants, and in line with recent jurisprudence the following amounts are awarded to the heirs of the victims in each case, to wit: P50,000.00 as civil indemnity, P50,000.00 as moral damages, and P25,000.00 as exemplary damages.
>
> Conformably to the ruling in People vs. Mateo, We refrain from entering judgment therein. The Division Clerk of Court is directed to elevate the records of this case to the Honorable Supreme Court for final disposition.
>
> SO ORDERED."[30]

In their brief,[31] appellants challenge their conviction for murder, stressing that there is a great doubt as to the identities of the persons who perpetrated the crime.

The issue of whether or not appellants were in fact identified by the prosecution witnesses is a question of credibility. It is well-settled that factual findings of the trial court on credibility of witnesses and their testimonies are entitled to the highest respect and will not be disturbed on appeal in the absence of clear showing that the trial court overlooked, misunderstood or misapplied some facts or circumstances of weight and substance that would have affected the result of the case. Having seen and heard the witnesses themselves and observed their behavior and manner of testifying, the trial court was in a better position to decide the question of credibility.[32]

After an exhaustive review of the records, we find no reason to deviate from the trial court's assessment of the credibility of the witnesses. The trial court did not err in giving credence to the testimony of the prosecution witnesses that they were able to identify appellants and their co-accused as perpetrators of the crime.

Mrs. Richardson, in recounting her horrifying experience in the hands of the appellants, categorically identified appellants as the perpetrators of the vicious crimes, viz:

> x x x x
>
> Court:

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Few clarificatory question (sic) from the Court.

Q

In Exh. "A-1", which is the question and answer of your sworn statement, you said that you could not identify the culprit in this case?

A

Yes, sir.

Q

But in the direct examination now, you were able to identify the suspects as Emeldo Lauro and Henry Togahan?

A

Yes, sir.

Q

Why is it now that your testimony is now in conflict with that of your sworn statement?

A

Because they asked me a lot of questions. I was then depressed. I don't (sic) know what to do. I lost my husband and when I was told to go to Barobo, I was in a hurry to call my family in Pennsylvania, sir.

Q

The height of your husband is 6'2 inches?

A

Yes, sir.

Q

And he tried to grab the bonnet from the assailants?

A

Yes, sir.

Q

Was he able to grab the bonnets (sic)?

A

One of them, sir.

Q

Which one of them that (sic) your husband able to grab the bonnets (sic)?

A

That guy. (Witness pointing to accused Henry Togahan)

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Q

Was the bonnet Togahan was wearing held by your husband out of his face?

A

Not all the way, sir.

Q

Until what part of the face of Henry Togahan?

A

Up to the eyebrow, sir.

Q

Before the incident, you had not met Henry Togahan?

A

No, sir.

Q

The other accused Emeldo Lauro, was he wearing also a bonnet at that time?

A

Yes, sir.

Q

Your husband was not able to pull the bonnet out from his face?

A

No, sir.

Q

How could you identify Emeldo Lauro as the very person who was responsible in killing your husband and your father?

A

Because when I came here, when I saw his appearance and everything, I remembered I heard his voice. You're the one who said we're here for war. Don't you. You can't deny it.

Q

You can identify him?

A

Yes, sir, by his voice and his appearance.

Q

As you said, it was Henry Togahan who pointed a gun to your head?

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A

Yes, sir.

Q

Is he the same person who shot to death also (sic) your husband?

A

No, sir.

Q

That guy?

A

Yes, sir.

Q

Who shot your father also (also)?

A

Same guy, sir.

x x x[33]

Two other prosecution witnesses, Mrs. Villar and Lowelito, similarly identified appellants as the malefactors.[34]

Appellants failed to show that the prosecution witnesses were prompted by any ill motive to falsely testify or accused them of so grave a crime as murder. The Court adheres to the established rule that, in the absence of any evidence showing reason or motive for the witness to perjure, their testimony and identification of the assailant should be given full faith and credit.[35]

We cannot see ill-motive on the part of the prosecution witnesses, particularly Mrs. Villar and Mrs. Richardson. As widows of the victims, they have more reason to desire punishment for the real perpetrators of the crime. It is unnatural for a victim's relative interested in vindicating the crime to accuse somebody other than the real culprit.[36] Human nature tells us that the aggrieved relatives would want the real killer punished for their loss, and not accept a mere scapegoat to take the rap for the real malefactor.[37]

Concomitantly, witnesses need not know the names of the malefactors so long as they recognize their faces. What is imperative is that the witnesses are positive as to the perpetrators' physical identification from the witnesses' own personal knowledge, as is obtaining in this case.[38] It is the natural reaction of victims of criminal violence to strive to see the appearance of their assailants and to observe the manner in which the crime was committed. Most often, the face and body movements of the assailant create an impression which cannot easily be erased from their memory.[39]

Insofar as the alleged inconsistencies between the testimony of Mrs. Richardson and her sworn testimony on identifying the appellants are concerned, suffice it to say that the affidavits are generally not prepared by the affiants themselves but by others, and affiants are only made to sign them. Certain discrepancies between declarations made in the affidavit and those made at the witness stand seldom discredit the declarant.[40] Moreover, Mrs. Richardson was able to satisfactorily explain such inconsistency during her testimony.

Appellants likewise attack the seeming inconsistencies between the testimonies of Mrs. Villar, Mrs. Richardson and Lowelito. They point to two alleged conflicts in those testimonies which, to their mind, are fatal and discredit the reliability of the witnesses: the number of assailants and the identification of whom among the culprits shot the victims. These inconsistencies, in our view, are not sufficiently substantial to impair the veracity of the prosecution's evidence.

While witnesses may differ in their recollections of an incident, it does not necessarily follow from their disagreement that all of them should be disbelieved as liars and their testimonies completely discarded as worthless.[41] As long as the mass of testimony jibes on material points, the slight clashing statements neither dilute the witnesses' credibility nor the veracity of their testimony,[42] for indeed, such inconsistencies are but natural and even enhance credibility as these discrepancies indicate that the responses are honest and unrehearsed.[43]

Witnesses cannot be expected to remember all the details of the harrowing event which unfolded before their eyes. Minor discrepancies might be found in their testimony, but they do not damage the essential integrity of the evidence in its material whole, nor should they reflect adversely on the witness' credibility as they erase suspicion that the same was perjured.[44]

The trial court is correct in disregarding appellants' defense of alibi and denial. For the defense of alibi to prosper, the accused must prove not only that he was at some other place at the time of the commission of the crime but also that it was physically impossible for him to be at the locus delicti or within its immediate vicinity.[45] Apart from testifying with respect to the distance of their houses from that of the victims', appellants were unable to explain and show that it was physically impossible for them to be at the scene of the crime.

Between the categorical statements of the prosecution witnesses, on one hand, and the bare denial of appellants, on the other, the former must perforce prevail.[46] An affirmative testimony is far stronger than a negative testimony especially when it comes from the mouth of a credible witness. Alibi and denial, if not substantiated by clear and convincing evidence, are negative and self-serving evidence undeserving of weight in law. They are considered with suspicion and always received with caution, not only because they are inherently weak and unreliable but also because they are easily fabricated and concocted.[47]

The culpability of appellants and their co-accused is undeniable. Lauro was consistently identified by the witnesses as the person responsible for shooting both victims. At the same time, the existence of conspiracy among the assailants is patent. Conspiracy has been deduced by the Court in a case where three malefactors jointly lifted, carried and dumped their victim in a deep well filled with water head first and threw rocks inside the well to cover him;[48] by the successive acts of three appellants in shooting, clubbing and piercing the eye of the victim;[49] where one appellant put his arms around the body of the victim while his co-appellant held the thighs of the victim and while they held him down, one poked and fired the gun at the back of the head of the victim;[50] when two accused chased their victim into his house, kicked open the door to enter and then shot him;[51] and when one malefactor hacked the victim and two others chased after the latter to finish up the aggression they had started.[52]

In the instant case, by the concurrent acts of barging into the residence of the victims, holding them at gunpoint and shooting and attacking the victims, Lauro, Togahan and their co-accused are deemed to have agreed to commit the crime of murder. Each of their contributory acts without semblance of desistance reflected their resolution to commit the crime.[53] From a legal standpoint, there is conspiracy if, at the time of the commission of the offense, the appellants had the same purpose and were united in its execution.[54] Direct proof of previous agreement to commit a crime is not necessary. Conspiracy may be deduced from the mode and manner in which

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the offense was perpetrated, or inferred from the acts of the appellants themselves when such acts point to a joint purpose and design, concerted action, and community of intent.[55] Where conspiracy is established, the act of one is the act of all.[56]

We agree with the trial court that treachery qualified the killing of the victims. The essence of treachery is the sudden and unexpected attack by an aggressor on an unsuspecting victim, depriving the latter of any real chance to defend himself, thereby ensuring its commission without risk to the aggressor, without the slightest provocation on the part of the victim.[57] In the case at bar, four armed men entered the home of the innocent victims and together used this advantage to facilitate their crime. Aggravating this was the fact that Villar was a 68-year old man who could not have been reasonably able to put up a defense against the much younger and armed men.

Thus, we reach the inescapable conclusion that the trial court and the Court of Appeals were correct in finding appellants guilty of two counts of murder and affirm the imposition of reclusion perpetua upon them for each of the murders committed. Likewise, in line with recent jurisprudence,[58] we affirm the award of damages in favor of the heirs of the victims.

WHEREFORE, the 5 May 2006 Decision of the Court of Appeals in CA-G.R. CR-HC No. 00156-MIN finding Henry Togahan and Emeldo Lauro guilty beyond reasonable doubt of two counts of murder each, is AFFIRMED. They are sentenced to suffer the penalty of reclusion perpetua for each count of murder and to pay jointly and severally the legal heirs of each victim P50,000.00 as civil indemnity, P50,000.00 as moral damages and P25,000.00 as exemplary damages.

SO ORDERED.

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

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[1]Rollo, pp. 4-28. Penned by Associate Justice Rodrigo F. Lim, Jr. and concurred in by Associate Justices Teresita Dy-Liacco Flores and Ramon R. Garcia.

[2] CA rollo, pp. 19-36.

[3]Presided by Executive Judge Alfredo P. Jalad.

[4] CA rollo, pp. 4-7.

[5] Records, pp. 112, 256.

[6] TSN, 10 April 2002, pp. 23-29.

[7] Id. at 7.

[8] Id. at 8-9.

[9] Id. at 12-14.

[10] Id. at 19-21.

[11]TSN, 4 February 2002, pp. 5-14.

[12] TSN, 15 November 2001, pp. 5-7.

[13] TSN, 13 December 2001, pp. 7-8.

[14] Id. at 21-23.

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[15]TSN, 5 February 2002, pp. 21, 25.

[16]Id. at 26-28.

[17]Id. at 22-23, 31.

[18]TSN, 22 May 2002, pp. 8-9.

[19] Id. at 10-15.

[20] TSN, 8 August 2002, pp. 3-4.

[21] Id. at 5.

[22]Id. at 17.

[23] TSN, 25 September 2002, pp. 2-5.

[24] TSN, 31 January 2003, pp. 2-4.

[25]TSN, 7 May 2003, pp. 2-6.

[26]Id. at 9, 11, 14-15.

[27] CA rollo, p. 35.

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

[29] Rollo, p. 26.

[30] Id. at 27.

[31] CA rollo, pp. 54-75.

[32] People v. Hate, 438 Phil. 363, 369-370 (2002). See also People v. SPO3 Mendoza, 401 Phil. 496 (2000).

[33] Supra note 10.

[34] TSN, 10 April 2002, pp. 29-31; TSN, 4 February 2002, pp. 8-10.

[35] People v. Hate, 438 Phil. 363, 373 (2002), citing People v. Baniega, G.R. No. 139578, 15 February 2002, 377 SCRA 170. See also People v. Comadre, G.R. No. 153559, 8 June 2004, 431 SCRA 366.

[36] Lucas v. Court of Appeals, 438 Phil. 530, 541 (2002), citing People v. Dimailig, G.R. No. 120170, 31 May 2000, 332 SCRA 340, 350.

[37] People v. Arca, 452 Phil. 386, 397 (2003).

[38] People v. Hate, 438 Phil. 363, 372 (2002), citing People v. Dinamling, G.R. No. 134605, 12 March 2002, 379 SCRA 107. See also People v. Mendoza, supra.

[39] People v. SPO3 Mendoza, supra note 32 at 510, citing People v. Teehankee, Jr., 249 SCRA 54 (1995). See also People v. Campa, G.R. No. 105391, 28 February 1994, 230 SCRA 431 and People v. Apawan, G.R. No. 85329, 16 August 1994, 235 SCRA 355, 363.

[40] People v. Hate, supra note 35, citing People v. Bulan, et al. G.R. No. 133224, 25 January 2002. See also Lucas v. Court of Appeals, supra note 36 at 541, citing People v. Canales, G.R. No. 126319, 12 October 1998, 297 SCRA 667; People v. Gondora, 333 Phil. 240 (1996).

[41] People v. Eligino, G.R. Nos. 70113-14, 11 December 1992, 216 SCRA 320, 331, citing People v. Manalansan, 189 SCRA 619 (1990).

[42] Id., citing People v. delos Santos, 200 SCRA 431 (1991).

[43] Id., citing People v. Barba, 203 SCRA 436 (1991) and People v. delos Reyes, 203 SCRA 707 (1991). See also People v. Sanez, 378 Phil. 573, 583 (1999), citing People v. Simon, 234 SCRA 555 (1994); People v. Carullo, 352 Phil. 315, 327 (1998), citing People v. Lorenzo, 240 SCRA 624 (1995).

[44] People v. Comadre, supra note 35 at 375, citing People v. Del Valle, G.R. No. 119616, 14 December 2001, 372 SCRA 297. See also People v. Mendoza, 401 Phil. 496, 511 (2000).

[45]Id., citing People v. Abundo, G.R. No. 138233, 18 January 2001, 349 SCRA 577. See also People v. Dinglasan, supra.

[46]Id. at 376, citing People v. Francisco, G.R. Nos. 134566-67, 22 January 2001, 350 SCRA 55. See also People v. Mendoza, supra, citing People v. Gallego, G.R. No. 130603, 15 August 2000; People v. Rojas, 386 Phil. 749 (2000); People v. Cortes, 380 Phil. 89, 104 (2000). See also People v. Dinglasan, 334 Phil. 691 (1997).

[47] People v. Baniega, 427 Phil. 405, 418 (2002). See also People v. Ramos, G.R. No. 125898, 14 April 2004, 427 SCRA 207.

[48] People v. Ortega, Jr., 342 Phil. 124 (1997).

[49] People v. Bergante, 350 Phil. 275 (1998).

[50] People v. Macahia, 366 Phil. 873 (1999).

[51] People v. Juan, 379 Phil. 645 (2000).

[52]People v. Hugo, 457 Phil. 76 (2003).

[53] People v. Bergante, supra note 49, citing People v. Cordova, 224 SCRA 319 (1993).

[54] Id., citing People v. Canillo, 236 SCRA 22, 41 (1994) and People v. Hubilla, Jr., G.R. No. 114904, 29 January 1996, 252 SCRA 471, 481.

[55] Id., citing People v. Pama, 216 SCRA 385, 401 (1992); People v. Buntan, Sr., 221 SCRA 421, 428-429 (1993); People v. Canillo, G.R. No. 106579, 30 August 1994, 236 SCRA 22, 41-42.

[56]Id., citing People v. Pama, supra; People v. Rostata, 218 SCRA 657, 678 (1993).

[57] People v. Hate, supra note 35, citing People v. Ciron, et al., G.R. No. 139409, 18 March 2002, 379 SCRA 376. See also People v. Caboquin, 420 Phil. 744 (2001); People v. Arca, 452 Phil. 386 (2003).

[58]People v. Piliin, G.R. No. 172966, 8 February 2007.

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