

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROMULO GARCIA Y MACEDA, ACCUSED-APPELLANT.

G.R. No. 177740. April 05, 2010

Ponente: VILLARAMA, JR., J.

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VILLARAMA, JR., J.:

On appeal is the Decision [1] dated July 26, 2006 of the Court of Appeals in CA-G.R. CR-H.C. No. 02170, which affirmed with modification the Decision [2] of the Regional Trial Court (RTC) of Mandaluyong City, Branch 213, in Criminal Case No. MC-00-107-H, convicting and sentencing appellant Romulo Garcia y Maceda to reclusion perpetua for the crime of rape.

On March 27, 2000, an Information [3] for rape was filed against appellant which reads as follows:

That on or about the 6[th] day of January 2000, in the City of Mandaluyong, Philippines, a place within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully, unlawfully and feloniously lie and have carnal knowledge of one [AAA], [4] five (5) years of age and his grandniece by affinity thus sexual abuse prejudicial to the child's development.

CONTRARY TO LAW.

Upon arraignment on April 13, 2000, appellant, assisted by counsel de oficio, pleaded not guilty to the charge. [5] On June 20, 2000, both parties stipulated during pre-trial that the victim AAA was a minor, being born on June 22, 1994. [6] Thereafter, trial ensued on the merits.

The facts as established by the prosecution are as follows:

In the afternoon of January 6, 2000, AAA, then five (5) years old, was playing with her friends on the street outside their house in Sto. Rosario Street, Mandaluyong City. Appellant called AAA and brought her to his house, which was right next to AAA's house. At the time, the house was unoccupied. They went up to the second floor where appellant's room is located. Inside his room, appellant began removing AAA's dress, shorts and panty. Appellant then removed his own clothes. He told AAA to lie on the bed, and wasting no time, inserted his penis into her vagina. AAA felt pain, but she was unable to cry for help because appellant warned her not to tell anyone. Thereafter, appellant told AAA to dress up and go home.[7]

Around 6:00 p.m. of the same day, BBB, the grandmother of AAA, was preparing to take a bath when the latter arrived. AAA asked her grandmother to give her a bath, but when BBB was about to wash AAA's genital area, she refused. BBB noticed that her granddaughter was trembling and covering her private part with her hands. BBB became suspicious and asked her to explain what happened. AAA replied that it was painful because it was pierced by a stick. They went upstairs and BBB told her granddaughter to lie down. BBB looked at AAA's vagina and saw that it was swollen and reddish. Hence, she suspected that AAA had been abused. [8]

The following day, January 7, 2000, BBB brought AAA to the house of her sister-in-law, CCC, in Makati City, to inform her of AAA's condition. AAA requested BBB to go out of the room because she was embarrassed. It was

on this occasion that AAA revealed to CCC that it was appellant, whom she calls "Lolo Boyet," who abused her in the afternoon of January 6, 2000. BBB explained that AAA is appellant's grandniece because his wife, DDD, is her sister. [9]

Consequently, BBB reported the incident to the PNP Mandaluyong City Police Station. The case was referred to PO1 Josefina L. Abenojar of the Women and Children's Desk for investigation. PO1 Abenojar prepared the sworn statements executed by BBB and AAA relative to the incident. [10]

SPO4 Julieta SI Espiritu, Chief of the Women and Children's Desk, corroborated the testimony of PO1 Abenojar. SPO4 Espiritu testified that she tried to familiarize AAA with the surroundings in the police station because she was hesitant to talk at first. She also noticed that AAA looked serious about what she was saying and observed AAA to be a bit afraid and ashamed. She attested that she issued a referral letter to the City Prosecutor's Office. [11]

It likewise appears that BBB was accompanied by DSWD representative Brenda Galope when they brought AAA to St. Claire's Hospital. However, for unknown reasons, they were refused admission. Thus, they proceeded to the National Bureau of Investigation, where AAA was examined by medico-legal officer Dr. Ida De Perio Daniel. [12] Dr. Daniel testified that she conducted physical and medico-genital examination on AAA. [13] She prepared a report, entitled Living Case No. MG-00-29, [14] which showed the following findings:

CONCLUSIONS:

1. No evident signs of extragenital physical injury was noted on the body of the subject at the time of examination.
2. Hymen, intact and its orifice small (0.3 cm. in diameter) as to preclude complete penetration by an average-sized adult Filipino male organ in full erection without producing genital injury.

According to Dr. Daniel, the phrase "to preclude complete penetration by an average-sized adult Filipino male organ" means that the hymen was not penetrated by an erect penis, but explained that in rape cases, a normal finding will not disprove that there was no sexual intercourse or abuse. [15]

The defense, on the other hand, interposed the defense of alibi.

Testifying for appellant, DDD, appellant's common-law-wife, testified that on January 6, 2000, she woke up at 7:00 a.m. and cooked breakfast for her children and husband. Appellant was allegedly already downstairs, outside their house, fixing the motor pump when she cooked breakfast. She testified that appellant fixed the water pump the whole day, but admitted that she did not actually see her husband the whole time because every now and then her husband would go outside to test the pump. She was not able to monitor the movements of appellant as he was sometimes out of her sight. DDD admitted that the victim is her niece while the latter's guardian, BBB, is her sister. She further said that she had disagreements with BBB regarding the house where she resides, and that the house was given to her by BBB and their other sister. [16]

Appellant, for his part, testified that on January 6, 2000, he was at the house of Marvin Tara in St. Ignacio Street, Mandaluyong City, installing a water pump. He started at 8:00 a.m. and came back around 12:00 noon. From 1:00 p.m. to 6:00 p.m., he was at the said house with Mario Odtuhan, his helper; Cora Reyes; a nephew of Marvin, whose name he does not know; and a certain Carding. He further testified that DDD is his live-in partner, and admitted that he did not have a harmonious relationship with DDD's father and sister, BBB. [17]

On July 1, 2004, the trial court promulgated its decision convicting appellant as charged, the fallo of which reads:

WHEREFORE, this Court is morally convinced that the accused, ROMULO GARCIA Y MACEDA, is

GUILTY, beyond reasonable doubt of the crime of RAPE, as defined and penalized under the Revised Penal Code, as amended by R.A. 7659, in relation to R.A. 7160. Finding the victim, [AAA], to have been under eighteen (18) years of age at the time of rape on January 6, 2000 and finding the offender to be a relative by affinity within the third civil degree, in addition to the fact that said victim is below seven (7) years old, this Court imposes the supreme penalty of Death through Lethal Injection, as provided for in Republic Act, 8177, amending section 24 of R.A. 7659, in the manner and procedure therein provided.

The accused is hereby directed to indemnify the offended party the amount of Seventy Five Thousand (Php 75,000.00) Pesos, the crime of Rape being effectively qualified by the circumstances under which the Death Penalty is authorized by the applicable amendatory laws.

He is further ordered to indemnify the victim in the amount of Fifty Thousand (Php 50,000.00) Pesos, by way of moral damages.

SO ORDERED. [18]

In view of the Death Penalty imposed by the trial court, the entire records of the case were forwarded to this Court for automatic review. In a Resolution [19] dated January 24, 2006, the Court referred the case to the Court of Appeals for appropriate action and disposition pursuant to the Court's pronouncement in *People v. Mateo*. [20]

After a review of the case, the Court of Appeals reduced the penalty of death imposed by the trial court to reclusion perpetua in view of the abolition of the Death Penalty by Republic Act No. 9346. [21] The dispositive portion of the Court of Appeals decision reads:

WHEREFORE, premises considered, herein appeal is hereby DISMISSED for evident lack of merit and the assailed Judgment is hereby AFFIRMED with MODIFICATION imposing the penalty of RECLUSION PERPETUA upon the Appellant.

SO ORDERED. [22]

The case was then elevated to this Court for review. Appellant alleges that

THE TRIAL COURT GRAVE[LY] ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY OF RAPE DESPITE THE FAILURE OF THE PROSECUTION TO PROVE HIS GUILT BEYOND REASONABLE DOUBT. [23]

The core issue to be resolved in the instant case is whether the crime of rape has been sufficiently proven.

Appellant insists that the prosecution failed to prove his guilt beyond reasonable doubt for the crime of rape. He contends that the trial court hastily disregarded his defense of denial, which was sufficient to absolve him in light of the evidence on record. He emphasizes that the medico-legal officer testified that there were no signs of swelling on the victim's vagina when she was examined. Appellant further claims that the victim was coached to make false accusations against him, considering that he was not in good terms with the victim's grandmother. [24]

The Court finds appellant's contentions untenable.

To determine the innocence or guilt of the accused in rape cases, the courts are guided by three well-entrenched principles: (1) an accusation of rape can be made with facility and while the accusation is difficult to prove, it is even more difficult for the accused, though innocent, to disprove; (2) considering that in the nature of things, only two persons are usually involved in the crime of rape, the testimony of the complainant should be scrutinized with great caution; and (3) the evidence for the prosecution must stand or fall on its own merits and cannot be allowed to draw strength from the weakness of the evidence for the defense. [25]

In the present case, AAA categorically testified that appellant directly inserted his penis into her vagina, causing

her to feel pain. AAA's testimony specified the acts committed by appellant when he violated her on January 6, 2000, to wit:

PROS. SILAO:

Q-

Matagal mo nang kakilala si Papa Boyet?

A-

Opo.

Q-

Bakit, kaano-ano mo ba siya?

A-

Lolo po.

Q-

Matatandaan mo ba [AAA] kung ano ang nangyari sa iyo nung ika-6 ng Enero 2000 mga bandang hapon?

A-

Nung lumalabas po ako, kami po ay naglalaro.

Q-

Saan ka naglalaro?

A-

Sa labas po.

Q-

Sa labas ng ano?

A-

Sa kalsada.

Q-

Nung naglalaro ka sa may kalsada, may matatandaan ka bang ginawa sa'yo si Papa Boyet?

A-

Opo.

Q-

Ano ang ginawa sa'yo ni Papa Boyet?

A-

Sabi niya huwag ka magsusumbong sa Nanay mo.

Q-

Bakit, ano ang ginawa niya sa'yo?

A-

Sabi niya wag ka daw magsusumbong sa Daddy mo.

Q-

Saan ka dinala ni Papa Boyet?

A-

Sa bahay niya po.

Q-

Malayo ba yung bahay ni Papa Boyet?

A-

Hindi po, malapit lang po.

Q-

May tao ba sa bahay ni Papa Boyet?

A-

Opo.

Q-

Sino ang tao sa bahay ni Papa Boyet nung dinala ka niya doon?

A-

Siya lang po.

Q-

Malaki ba yung bahay ni Papa Boyet?

A-

Opo.

Q-

Yung bahay ba ni Papa Boyet, may ibaba at may itaas?

A-

May pataas pa po.

Q-

Saan ka dinala, sa ibaba o sa itaas ng bahay?

A-

Sa itaas po ng bahay.

Q-

Nung nasa itaas na kayo ng bahay ni Papa Boyet, ano ang ginawa sa'yo ni Papa Boyet?

A-

Hinubadan po yung damit ko po at short ko po.

Q-

Ano ang suot mo ba noon?

A-

Bistida po.

Q-

Yung panloob mo, ano ang iyong suot?

A-

Short po.

Q-

Pagkatapos niya hubadin ang iyong bistida at short, ano pa ang hinubad niya sa'yo?

A-

Panty ko po.

Q-

Nung hinubadan ka niya, ano naman ang suot ni Papa Boyet?

A-

Damit po niya.

Q-

Ano naman ang ginawa niya sa damit niya?

A-

Hinubad niya din po.

Q-

Naka pantalon ba si Papa Boyet noon?

A-

Hindi po.

Q-

Ano ang ginawa niya sa pantalon niya?

A-

Hinubadan po.

Q-

Bukod sa pantalon niya, ano pa ang hinubad niya?

A-

Yung short lang po.

Q-

Pagkatapos niya hinubad yung panty mo, at tsaka hinubad nya rin yung pantalon niya at yung short niya, ano ang ginawa niya sa'yo?

A-

Pinahiga po ako.

Q-

Saan ka ipinahiga?

A-

Sa kama niya po.

Q-

Pagkatapos nung pinahiga ka niya sa kama, ano ang ginawa niya sa'yo?

A-

Tinusok po nang "titi" niya ang "pepe" ko.

Q-

Anong naramdaman mo?

A-

Masakit po.

Q-

Hindi ka humingi ng saklolo nung ginagawa niya iyon?

A-

Hindi po.

Q-

Bakit?

A-

Kasi, huwag daw ako magsusumbong sa Nanay ko.

Q-

Anong naramdaman mo bukod sa masakit?

A-

Sinasabihan niya ako huwag magsusumbong.

Q-

Gaano katagal niya iyon ginawa sa'yo?

A-

Isa lang po.

Q-

Pagkatapos niya ginawa iyon, matagal ka pa ba nakahiga dun sa kama ni Papa Boyet?

A-

Hindi na po.

Q-

Anong ginawa niya sa'yo?

A-

Sinuot ko na po yung damit ko.

Q-

Pagkatapos mo isinuot yung damit mo, saan ka nagpunta?

A-

Sa bahay namin po.

Q-

Pag sinabi mong sa bahay, sino ang pinuntahan mo sa bahay nyo?

A-

Si Nanay ko po.

Q-

Yung sinabi mo bang si Nanay mo, ito, itong katabi mo ngayon?

A-

Opo.

Q-

Pagdating sa bahay nang Nanay mo, nagsumbong ka ba agad sa Nanay mo?

A-

Opo.

Q-

Anong sinabi mo sa Nanay mo?

A-

"Nanay, nanay, nung lumabas po ako, tapos masakit na yung "puke" ko po."

Q-

Ano pa ang sabi mo?

A-

"Huwag mo hugasan kasi masakit."

Q-

Tinanong ba ni Nanay kung bakit masakit?

A-

Opo.

Q-

Ano ang sagot mo?

A-

Sabi ko, "Nanay huwag mo ng hugasan kasi masakit."

Q-

Bakit tinanong ni Nanay kung bakit masakit?

A-

Sabi ko po, "Nanay, matutulog na po ako sa higaan po."

Q-

Sinabi mo pa ba kay Nanay kung bakit naging masakit yung "pepe" mo?

A-

Opo.

Q-

Ano ang sinabi mo sa kanyang dahilan?

A-

"Nanay, masakit po "puke" ko po.

Q-

Sinabi mo ba kay Nanay mo nung pag-uwi mo sa bahay kung sino ang may kagagawan kung bakit masakit yung "pepe" mo?

A-

Kasi po tinusok po ng "titi" ni Papa Boyet.

Q-

Sinabi mo kung sino yung tumusok?

A-

Opo.

Q-

Sino ang pangalan?

A-

Si Lolo Boyet po.

Q-

Tumingin ka sa amin dito sa kwarto, nandito ba si Lolo Boyet?

A-

Opo.

Q-

Pakituro mo nga kung sino dito?

A-

Siya po.

PROS. SILAO:

May we make it appear on record that the victim in this case [AAA] pointed to a person ...

Will you please stand up. What is your name?

PERSON:

Romulo Garcia.

PROS SILAO:

And make it appear that in so doing, the child is a little bit trembling and with fear. [26]

Both the RTC and the Court of Appeals are in agreement that AAA was categorical, straightforward, spontaneous, convincing, clear and candid in her testimony. A rape victim who testifies in a categorical, straightforward, spontaneous and frank manner, and remains consistent, is a credible witness. [27]

In resolving rape cases, primordial consideration is given to the credibility of the victim's testimony. The settled rule is that the trial court's conclusions on the credibility of witnesses in rape cases are generally accorded great weight and respect, and at times even finality, unless there appear in the record certain facts or circumstances of weight and value which the lower court overlooked or misappreciated and which, if properly considered, would alter the result of the case. [28] Having seen and heard the witnesses themselves and observed their behavior and manner of testifying, the trial court stood in a much better position to decide the question of credibility. [29] Here, we note that no such facts or circumstances of weight and substance have been overlooked, misapprehended or

misinterpreted by the trial and appellate courts.

Appellant's claim that the criminal complaint was filed against him because he was not in good terms with AAA's grandmother deserves scant consideration. The Court finds it incredible for AAA and her grandmother to trump up charges of rape against appellant for the simple reason that they did not have a harmonious relationship. Well-settled is the rule that testimonies of young victims of rape deserve full credence and should not be so easily dismissed as a mere fabrication. [30]

Moreover, it is highly improbable that BBB would allow her granddaughter to be exposed to the ridicule of a public trial, if the charges were not true. We note that AAA has been in the custody of BBB since she was an infant, and who treated her as if she were her own daughter. It was thus very unlikely that she would sacrifice her own granddaughter, a child of tender years, and subject her to the rigors and humiliation of a public trial for rape, if she were not motivated by an honest desire to have her daughter's transgressor punished accordingly. [31]

The Court is likewise not persuaded by appellant's contention that AAA was never sexually abused because the medico-legal findings showed that there were no signs of swelling on the victim's vagina when she was examined.

We have ruled in a number of cases that the lack of lacerated wounds does not negate sexual intercourse. A freshly broken hymen is not an essential element of rape. Even the fact that the hymen of the victim was still intact does not rule out the possibility of rape. [32] Research in medicine even points out that negative findings are of no significance, since the hymen may not be torn despite repeated coitus. [33] In any case, for rape to be consummated, full penetration is not necessary. Penile invasion necessarily entails contact with the labia. It suffices that there is proof of the entrance of the male organ into the labia of the pudendum of the female organ. Penetration of the penis by entry into the lips of the vagina, even without rupture or laceration of the hymen, is enough to justify a conviction for rape. [34]

As to the penalty, Article 266-B of the Revised Penal Code, as amended, provides:

ART. 266-B. Penalties. - Rape under paragraph 1 of the next preceding article shall be punished by reclusion perpetua.

x x x x

The death penalty shall also be imposed if the crime of rape is committed with any of the following aggravating/qualifying circumstances:

- 1) When the victim is under eighteen (18) years of age and the offender is a parent, ascendant, step-parent, guardian, relative by consanguinity or affinity within the third civil degree, or the common-law spouse of the parent of the victim;
- 2) When the victim is under the custody of the police or military authorities or any law enforcement or penal institution;
- 3) When the rape is committed in full view of the spouse, parent, any of the children or other relatives within the third civil degree of consanguinity;
- 4) When the victim is a religious engaged in legitimate religious vocation or calling and is personally known to be such by the offender before or at the time of the commission of the crime;
- 5) When the victim is a child below seven (7) years old;
- 6) When the offender knows that he is afflicted with Human Immuno-Deficiency Virus (HIV)/Acquired Immune Deficiency Syndrome (AIDS) or any other sexually transmissible disease and the virus or disease is transmitted to the victim;

- 7) When committed by any member of the Armed Forces of the Philippines or para-military units thereof or the Philippine National Police or any law enforcement agency or penal institution, when the offender took advantage of his position to facilitate the commission of the crime;
- 8) When by reason or on the occasion of the rape, the victim has suffered permanent physical mutilation or disability;
- 9) When the offender knew of the pregnancy of the offended party at the time of the commission of the crime; and
- 10) When the offender knew of the mental disability, emotional disorder and/or physical handicap of the offended party at the time of the commission of the crime. (Emphasis supplied.)

Under Article 266-B, paragraph 6, subsection 1, the death penalty shall be imposed if the crime of rape is committed when the victim is under 18 years old and the offender is a "parent, ascendant, step-parent, guardian, relative by consanguinity or affinity within the third degree, or the common law spouse of the parent of the victim." The circumstances that qualify a crime should be alleged and proved beyond reasonable doubt as the crime itself, as these attendant circumstances alter the nature of the crime of rape and increase the penalty. They are in the nature of qualifying circumstances. [35] The age of the victim and her relationship with the offender must, therefore, be both alleged in the information and proven during the trial; otherwise, the death penalty cannot be imposed. [36]

Here, the Information [37] alleged that AAA is appellant's grandniece by affinity. It should be pointed out, however, that this relationship does not make the appellant a relative of the victim by consanguinity or affinity within the third civil degree. Hence, the provision in Article 266-B, paragraph 6, subsection 1, is not applicable in this case.

Nevertheless, it is provided under Article 266-B, paragraph 6, subsection 5, that the death penalty shall also be imposed if the crime of rape is committed when the victim is a child below seven (7) years old. The special qualifying circumstance that the victim was below seven (7) years of age at the time of the commission of the rape was properly alleged in the Information and proved during trial by the testimonies of the complainant and her grandmother. It was also supported by the copy of the birth certificate [38] establishing that the victim was only five (5) years old when the rape was committed. Thus, appellant was, at that time, correctly sentenced to death by the trial court. In view of the enactment of Rep. Act No. 9346 [39] on June 24, 2006, repealing the Death Penalty Law, the Court of Appeals also correctly modified the death penalty imposed upon appellant to reclusion perpetua, without eligibility for parole. [40]

We likewise uphold the award of P75,000.00 as civil indemnity made by the courts a quo as the award is in line with existing case law. We have held that if the rape is perpetrated with any of the attending qualifying aggravating circumstances that require the imposition of the death penalty, the civil indemnity for the victim shall be P75,000.00.

Also, in rape cases, moral damages are awarded without need of proof other than the fact of rape, because it is assumed that the victim has suffered moral injuries entitling her to such an award. The moral damages awarded in the instant case, however, should be increased from P50,000.00 to P75,000.00 pursuant to current jurisprudence on qualified rape. [41] Exemplary damages in the amount of P30,000.00 are also called for, [42] by way of public example, and to protect the young from sexual abuse. [43]

WHEREFORE, the Decision dated July 26, 2006 of the Court of Appeals in CA-G.R. CR-H.C. No. 02170 is hereby **AFFIRMED** with **MODIFICATION** in that appellant is further ordered to indemnify the victim

P75,000.00 as moral damages and P30,000.00 as exemplary damages.

With costs against the accused-appellant.

SO ORDERED.

Puno, C.J., (Chairperson), Carpio Morales, Leonardo-De Castro, and Bersamin, JJ., concur.

[1] Rollo, pp. 3-20. Penned by Associate Justice Myrna Dimaranan Vidal, with Associate Justices Eliezer R. De Los Santos and Fernanda Lampas Peralta concurring.

[2] CA rollo, pp. 17-25. Penned by Judge Amalia F. Dy.

[3] Records, pp. 1-2.

[4] This appellation is pursuant to Section 44, Republic Act No. 9262, otherwise known as the "Anti-Violence Against Women and Their Children Act of 2004" and our ruling in *People v. Cabalquinto*, G.R. No. 167693, September 19, 2006, 502 SCRA 419, 425-426, wherein this Court has resolved to withhold the real name of the victim-survivor and to use fictitious initials instead to represent her in its decisions. Likewise, the personal circumstances of the victims-survivors or any other information tending to establish or compromise their identities, as well as those of their immediate family or household members, shall not be disclosed.

[5] Records, p. 25.

[6] *Id.* at 39-41.

[7] TSN, June 6, 2001, pp. 4-6.

[8] TSN, June 5, 2001, pp. 4-7.

[9] *Id.* at 7-9; TSN, June 13, 2001, pp. 8-10.

[10] TSN, June 20, 2001, pp. 3-8; Exhibits "B" and "F" for the prosecution, records, pp. 261-262, 265.

[11] TSN, June 26, 2001, pp. 3-6; Exhibit "C" for the prosecution, records, p. 263.

[12] TSN, June 13, 2001, pp. 11-12.

[13] TSN, September 17, 2002, p. 14.

[14] Exhibit "D" for the prosecution, records, p. 264.

[15] TSN, September 17, 2002, pp. 19, 26.

[16] TSN, March 13, 2003, pp. 3-13.

[17] TSN, July 29, 2003, pp. 2-6; TSN, December 4, 2003, pp. 2-5.

[18] CA rollo, pp. 24-25.

[19] *Id.* at 94.

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

[21] AN ACT PROHIBITING THE IMPOSITION OF DEATH PENALTY IN THE PHILIPPINES.

[22] Rollo, pp. 19-20.

[23] CA rollo, p. 44.

[24] Id. at 49-51.

[25] *People v. Pangilinan*, G.R. No. 171020, March 14, 2007, 518 SCRA 358, 373.

[26] TSN, June 6, 2001, pp. 4-8.

[27] *People v. Madraga*, G.R. No. 129299, November 15, 2000, 344 SCRA 628, 639.

[28] *People v. Noveras*, G.R. No. 171349, April 27, 2007, 522 SCRA 777, 787.

[29] *People v. Balonzo*, G.R. No. 176153, September 21, 2007, 533 SCRA 760, 768.

[30] *People v. Sabardan*, G.R. No. 132135, May 21, 2004, 429 SCRA 9, 27.

[31] *People v. Tumala, Jr.*, G.R. No. 122100, January 20, 1998, 284 SCRA 436, 443.

[32] *People v. Operario*, G.R. No. 146590, July 17, 2003, 406 SCRA 564, 572.

[33] *People v. Basite*, G.R. No. 150382, October 2, 2003, 412 SCRA 558, 565.

[34] *People v. Operario*, *supra*.

[35] *People v. Begino*, G.R. No. 181246, March 20, 2009, 582 SCRA 189, 196, citing *People v. Ferolino*, 386 Phil. 161 (2000).

[36] *People v. Bayya*, 384 Phil. 519, 527 (2000); *People v. Maglente*, 366 Phil. 221, 254 (1999); *People v. Ilao*, 357 Phil. 656, 672 (1998); *People v. Ramos*, 357 Phil. 559, 574 (1998).

[37] *Supra* note 3.

[38] Records, p. 260.

[39] *Supra* note 21.

[40] *People v. Ibañez*, G.R. No. 174656, May 11, 2007, 523 SCRA 136, 144-145.

[41] *People v. Sambrano*, G.R. No. 143708, February 24, 2003, 398 SCRA 106, 117.

[42] *People v. Regalaro*, G.R. No. 174483, March 31, 2009, 582 SCRA 738, 762.

[43] *People v. Sambrano*, *supra*.

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