

PEOPLE OF THE PHILIPINES, Appellee, vs. CHARLIE VILLA, JR., Accused, Appellant.

G.R. No. 179278. March 28, 2008

Ponente: CHICO-NAZARIO, J.

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CHICO-NAZARIO, J.:

For review is the Decision[1] dated 13 March 2007 of the Court of Appeals in CA-G.R. CR-H.C. No. 00859 which affirmed the Decision[2] dated 9 October 2002 of the Regional Trial Court (RTC) of Antipolo, Rizal, Fourth Judicial Region, Branch 35, finding appellant Charlie Villa, Jr. guilty of the crime of murder and sentencing him to suffer the penalty of reclusion perpetua.

In an Information dated 6 October 1997, appellant Charlie Villa, Jr. was charged before the RTC of Antipolo, Rizal with the crime of murder under Article 248 of the Revised Penal Code, as amended. The accusatory portion of the Information reads:

That sometime on or about 18 July 1997 at around 3:00 o'clock in the morning, in the Municipality of Antipolo, Province of Rizal, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with intent to kill, armed with a brass knuckle, and acting with treachery, abuse of superior strength, and evident premeditation, did then and there willfully, unlawfully and feloniously attack and assault one Rodolfo Arevalo y Gamboa by punching him on the left nape with the use of the hand where he was wearing the brass knuckle thereby resulting in a skull fracture which caused the death of said Rodolfo Arevalo y Gamboa.[3]

During his arraignment on 26 November 1998, appellant, with the assistance of counsel de oficio, entered a "not guilty" plea.[4] Thereafter, trial ensued.

At the trial, the prosecution presented the oral testimonies of the three eyewitnesses to the incident, namely: (1) Orly Arevalo (Orly), the son of the deceased-victim who saw the events prior to, during and after the killing of his father; (2) Marlo Rellosa (Marlo), the person at the wake who was hit by appellant and who was present when the punching of the victim took place; and (3) Roger Herrera (Roger), who corroborated the testimony of Orly. Dr. Ma. Cristina Freyra, the medico-legal officer who conducted the autopsy on the cadaver of the victim, testified on the cause of death of the same.

On 18 July 1997, a wake was held in a house close to that of Rodolfo Arevalo (Rodolfo) located at Zone 10, Barangay San Roque, Antipolo City. Rodolfo was there at the wake drinking coffee. At around 3:00 a.m. of the same day, appellant, who was also attending the wake, suddenly boxed the face of a certain Marlo Rellosa for no reason at all.[5] He then turned his direction to a sleeping boy and started putting some biscuits into the boy's mouth.[6] This caught the attention of Rodolfo who advised appellant not to disturb the boy and said, "Huwag mo pagtripan ang batang natutulog." [7] Appellant reacted and said, "Anong pakialam mo?" [8]

Soon after, Rodolfo left the wake and headed for home. Appellant, who was wearing a brass knuckle wrapped in a handkerchief, followed Rodolfo and punched the latter three to five times, hitting him on the nape.[9] Rodolfo

fell to the ground. Some people tried to help Rodolfo and carried him to the house of his sister nearby.[10] They asked appellant to help them carry Rodolfo, but appellant merely smiled and told them that Rodolfo just fainted.[11] Appellant then crossed the street and boarded a jeepney going to Manila.[12] Rodolfo was rushed to Unciano Hospital in Antipolo City but the staff there refused to accept him since they felt they could not handle his severe injury. Rodolfo was then transferred to a community hospital in the city, but the hospital staff also refused to accept him for the same reason. Finally, it was at the Amang Rodriguez Hospital in Marikina City that Rodolfo was accepted and treated. Unfortunately, at 3:00 p.m. of the same day, Rodolfo passed away.[13]

Per autopsy report, the cause of death of the victim is Intracranial Hemorrhage Secondary to Skull Fracture.[14]

Medico-legal Officer Dr. Ma. Cristina Freyra found four external injuries on the cadaver of the victim, all of which were contusions. She said that the three injuries were at the head and the other one was in the trunk. According to her, the fracture in the right parietal occipital region could have been caused by a hard blunt object.[15]

The defense, on the other hand, invoked self-defense. To prove this, the testimonies of the appellant, Randy Jose Gonzales, a friend of appellant, and Walter Villa, appellant's younger brother, were presented.

Appellant testified that on the afternoon of 17 July 1997 until 1:00 a.m. of 18 July 1997, he was assisting his mother sell food to the FX drivers near the Cathedral of Antipolo City.[16] At around 2:30 in the morning of 18 July 1997, they went home. After asking money from his mother, he proceeded to the wake. There he played cards with his friends. Near the table where they were playing was a little boy. Appellant made fun of this boy by feeding him with biscuits. Rodolfo berated appellant when he saw what the latter was doing with the boy and asked him why he was forcibly feeding the boy. Appellant answered Rodolfo to mind his own business. This reply of the appellant angered Rodolfo who picked up a stone and was about to hit the head of the appellant when the latter's friends prevented Rodolfo.[17] The people in the wake asked both appellant and Rodolfo to leave the place. But before Rodolfo left, he uttered to the accused, "Antayin mo ako, babalikan kita." [18] Appellant went home. While he was walking, the victim came back and, armed with a club, hit the former. It was then that appellant boxed the victim on the nape once, causing the latter to fall down.

Defense witness Randy Jose Gonzales, testified that at exactly 3:00 a.m. of the date in question, he was there at the wake watching appellant gambling with some persons. He then saw Rodolfo hit the hands of the appellant for forcibly feeding a little boy.[19] Appellant just stood up and left the place to avoid Rodolfo. Armed with a *dos por dos*, Rodolfo ran after appellant until he went past the latter. Having been cornered, appellant was forced to face his attacker. A fistfight ensued which ended with Rodolfo being floored face down.[20]

Walter Villa declared on the witness stand that he arrived at the scene after the incident had happened. The hitting incident was only recounted to him by a lad. He went along with the victim when the latter was brought to the hospital.[21] At around 7:00 a.m. he went home.[22]

Unconvinced that appellant killed the victim in self-defense, the RTC in its decision dated 9 October 2002, convicted the appellant of murder, and imposed upon him the penalty of *reclusion perpetua*. Appellant was also ordered to indemnify the heirs of the victim in the amounts of P50,000.00 as death indemnity, and another P50,000.00 as temperate damages. The dispositive portion of the RTC decision reads:

WHEREFORE, premises considered, accused Charlie Villa, Jr. is hereby found guilty beyond reasonable doubt as charged and is hereby sentenced to *reclusion perpetua*. Said accused is hereby further ordered to pay the heirs of Rodolfo Arevalo y Gamboa the amount of Php50,000.00 as death indemnity and another amount of Php50,000.00 as temperate damages. The period during which the accused had undergone preventive imprisonment shall be credited in his favor in serving the foregoing sentence.[23]

On 6 November 2002, appellant filed a notice of appeal.[24] The trial court ordered the transmittal of the entire records of the case to this Court. This Court, however, referred the case to the Court of Appeals for intermediate review, conformably to the ruling in *People v. Mateo*. [25]

The Court of Appeals, on 13 March 2007, promulgated its Decision affirming the decision of the RTC in all respects, except the award of temperate damages which it reduced from the amount of P50,000.00 to P25,000.00. The Court of Appeals decreed:

WHEREFORE, premises considered, the instant appeal is DISMISSED. The assailed decision of the Regional Trial Court, Branch 73 of Antipolo City dated October 9, 2002 finding accused-appellant Charlie Villa, Jr. guilty beyond reasonable doubt of the crime of murder, sentencing him to suffer the penalty of reclusion perpetua is AFFIRMED. The award of temperate damages is hereby reduced to P25,000.00.[26]

Hence, the instant case.

In his brief, the appellant assigns a single error:

THE TRIAL COURT GRAVELY ERRED IN NOT CONSIDERING THE JUSTIFYING CIRCUMSTANCE OF SELF-DEFENSE INTERPOSED BY THE ACCUSED-APPELLANT.

Appellant takes exception to the trial court's verdict convicting him and maintains that he was able to prove by competent evidence all the elements of self-defense. To support this, he states that there was unlawful aggression on the part of the deceased Rodolfo Arevalo, when the latter hit him with a club or a piece wood. It was fortunate that appellant was able to evade the first swing, but eventually he was hit by the second. Before appellant could further harm him and put his life on the verge of danger, appellant instinctively retaliated by boxing the victim on his nape, which he did not know would result in Rodolfo's demise. Appellant claims he hit the victim only once, but because the latter was drunk, he lost his balance and fell down.

According to appellant, the act of punching the victim was commensurate with the onslaught initiated and continued by the latter, thereby exposing appellant to an imminent and actual danger to his life. Appellant insists that when he boxed the victim, he was merely employing reasonable means to repel the attack carried out by the victim.

Appellant likewise asserts that he was able to prove that there was unlawful aggression on the part of the victim since he initiated the attack by clobbering appellant. Having established all elements of self-defense, appellant argues he deserves acquittal.

The Office of the Solicitor General, however, differs. It is of the conviction that appellant cannot successfully put up self-defense, considering the number of wounds and the nature of the injuries sustained by the victim, especially that fatal wound at the back. It avers that the failure of appellant to surrender to authorities after the incident and to report the same indicates he was not acting in self-defense.

Self-defense as a justifying circumstance may exempt an accused from criminal liability when the following requisites are met, namely: (1) there was an unlawful aggression on the part of the victim; (2) the means employed to prevent or repel such aggression was reasonably necessary; and (3) the person defending himself had not provoked the victim into committing the act of aggression.[27] The burden of proving by clear and convincing evidence that the killing was justified is on the accused. In doing so, he must rely on the strength of his own evidence and not on the weakness of that of the prosecution.

The varying accounts of the prosecution and of the defense as to who initiated the aggression was resolved by the RTC which gave full faith and credence to the testimonies of the prosecution witnesses over those of the defense,

thus:

In the present case, the burden of evidence having been shifted, the Court finds the narrations of the sequence of events by the accused decidedly unconvincing.

X X X X

Be that as it may, self-defense on the part of the accused is further negated by the physical evidence in the case. The wound located at the back of the head of the victim indicates that the accused indeed followed the victim when he left the wake and punched him with a hard blunt object. Such wound, according to the medico-legal officer, was the most fatal one among those sustained by the victim as it fractured his skull and eventually caused his death. These facts, in addition to the testimonies of prosecution witnesses who did not show any motive to falsely testify and implicate or point on erring finger at the accused inside the courtroom as the perpetrator of the crime, established that the accused's act was not an act of self-defense but a determined effort to kill his victim.[28]

The trial court, which had the opportunity to observe the demeanor of the witnesses on the stand, was convinced of the veracity of the prosecution witnesses' testimonies and not that of appellant's.

We find no reason to reverse or alter the evaluation of the trial court as affirmed by the Court of Appeals.

The time-tested doctrine is that the matter of assigning values to declarations on the witness stand is best and most competently performed by the trial judge who, unlike appellate magistrates, can weigh such testimony in light of the declarant's demeanor, conduct and position to discriminate between truth and falsehood.[29] Thus, appellate courts will not disturb the credence, or lack of it, accorded by the trial court to the testimonies of witnesses. [30] This is especially true when the trial court's findings have been affirmed by the appellate court, because said findings are generally conclusive and binding upon this Court unless it be manifestly shown that the lower courts had overlooked or disregarded arbitrarily the facts and circumstances of significance in the case.[31] A scrutiny of the records shows that no such error was committed by either the RTC or the Court of Appeals.

An assiduous evaluation of the transcript of stenographic notes indicates that the three prosecution witnesses -- Marlo, Orly and Roger -- whose accounts agree on material points, testified in a candid and straightforward manner as to what had really transpired on that fateful day. Marlo declared on the witness stand the incident prior to the killing of the victim, and also his own experience at the hands of the appellant:

Q:

Mr. Witness, do you recall where you were on July 18, 1997 at 3:00 o'clock in the morning?

A:

Yes, sir. I was attending a wake, sir.

Q:

Where was that, in what place?

A:

Barangay San Roque, Antipolo.

Q:

You said you were attending a wake, where were you, inside or out where the wake was held?

A:

I was near the place.

Q:

What were you doing that time?

A:

I was sleeping.

Q:

Did you wake up from your sleep?

A:

Yes, sir.

Q:

Around what time did you wake up?

A:

3:00 a.m.

Q:

Was there any particular reason why you woke up from your sleep?

A:

I was box by Hapon.

Q:

What is the full name of this Hapon you are referring to?

A:

Charlie Villa, Jr.

Q:

In what part of your body were you boxed by this Charlie Villa, Jr.

A:

In my face.

Q:

Did you find out the reason why you were boxed by Charlie Villa, Jr.?

A:

"Pinag-tripan po ako."

Q:

When you woke up when you were boxed by Charlie Villa, Jr. in the face, what happened next?

A:

He also took a fancy to my friend.

Q:

Who is this friend you are referring to?

A:

Buboy.

Q:

What is his full name?

A:

I don't know, we just call him Buboy.

Q:

In what way did Charlie Villa took a fancy to your friend?

A:

He fed him with biscuit.

Q:

By the way, how old is this Buboy?

A:

Still young.

Q:

When Charlie Villa was putting biscuit in the mouth of this Buboy, what was Buboy doing then?

A:

He was sleeping.

Q:

How far away was Buboy when you saw this?

A:

About four meters away.

Q:

While Charlie Villa was putting biscuit on the mouth of Buboy while sleeping, what happened?

A:

Mang Loloy tried to prevent him.

Q:

What is the complete name of this Mang Loloy?

A:

I don't know.

Q:

Up to now you do not know the name of this Mang Loloy?

A:

Yes, sir.

Q:

Then what happened next?

A:

Mang Loloy went to Charlie Villa and said, "Huwag mong pagtripan ang batang natutulog."

Q:

What was the reaction of Charlie Villa if any?

A:

Charlie said, "anong pakialam mo."

Q:

How far was Charlie Villa from Mang Loloy when he answered that way?

A:

About a meter away.

Q:

After Charlie Villa told Mang Loloy to mind his own business, what happened next?

A:

Mang Loloy stood up and walked away and Charlie Villa followed him and boxed him and he fell to the ground.

Q:

Did you see what part of the body of Mang Loloy was boxed by Charlie?

A:

On his nape.

Witness Orly testified that when appellant boxed the victim, he was wearing a brass knuckle wrapped by a handkerchief. He also corroborated what Marlon stated:

Q:

Where were you on the date the incident happened?

A:

I was at the other street corner. I just could not get near them immediately because Charlie Villa immediately rode on a jeep.

Q:

When did this incident happen?

A:

On the night of the 18[th] at past 2:00 in the morning.

Q:

July 18?

A:

Yes, sir.

x x x x

Q:

Can you tell the Court why you were there in that area on that particular date and time.

A:

Because there was a wake at the house nearby.

x x x x

Q:

You said there was a wake that time near your house, what about your father Rodolfo Arevalo, what was he doing prior to the incident wherein he was punched by accused Charlie Villa?

A:

He was drinking coffee at the wake.

Q:

After he drank coffee, what happened next?

A:

Charlie Villa arrived and he fed a child with biscuit and he was prevented by my father.

Q:

That child which Charlie Villa fed biscuit, what was the child doing prior to the time he was fed biscuit?

A:

He was sleeping.

Q:

After Charlie Villa fed the child who was sleeping with biscuit, what happened next?

A:

He was accosted by my father not to disturb the child who is sleeping.

Q:

After your father told that to Charlie Villa, what happened next?

A:

Charlie Villa said, "huwag mo akong pakialaman."

Q:

After Charlie Villa responded by saying, "huwag mo akong pakialaman," what happened next?

A:

My father left.

Q:

To what direction did your father go when he left?

A:

To the direction of our house.

Q:

So, he was leaving the wake?

A:

Yes, sir.

Q:

When your father left the wake, what happened next?

A:

Charlie followed him.

Q:

After Charlie followed your father when he left the wake, what happened next?

A:

That was the time when I saw that he punched my father.

Q:

What hand did Charlie Villa use in punching your father?

A:

His right fist.

Q:

What, if anything, did you notice at the hand of Charlie Villa which he used in punching your father?

A:

His fist was wrapped with a handkerchief that covered the metal knuckle.

Q:

Did you see the metal knuckle?

A:

Yes, sir, because it is bulging.

x x x x

Q:

Was your father hit when he was punched by Charlie Villa?

A:

Yes, sir.

Q:

Where was he hit?

A:

On his nape.

Q:

How many times did Charlie Villa hit your father?

A:

About three to five times.

Q:

In that three to five times that Charlie Villa hit your father, was your father hit?

A:

Yes, sir.

Q:

And in those three to five times that Charlie Villa punched your father, where was he hit in those three times?

A:

All in his nape.

Q:

After your father was hit in the nape by the several punches made by Charlie Villa, what happened next?

A:

He fell down unconscious.

Q:

How did he fall down?

A:

Face first.

Q:

After your father fell down face first, what did you see Charlie Villa do?

A:

He crossed the street and suddenly rode a jeep.[33]

Roger narrated a similar story, thus:

Q:

Do you recall where you were on July 20, 1997 at around 3:00 o'clock in the morning?

A:

Yes, sir.

Q:

Where were you on that date and on that particular time?

A:

I was attending a wake, sir.

x x x x

Q:

Now, did you come to see the person of Rodolfo Arevalo on 20 July 1997 at that place?

A:

Yes, sir.

x x x x

Q:

Now, where did Rodolfo Arevalo go after you saw him for the period of ½ hour at that wake?

A:

He went home.

Q:

Did you see him going home?

A:

Yes, sir.

Q:

How did you know that he was going home.

A:

He said goodbye, and he said he will go home.

Q:

Was he able to go home?

A:

No, sir.

Q:

Why did you know that he was not able to go home?

A:

Because we saw him [fell] down on the ground at the store of Aling Helen.

Q:

How far was the place you saw him lying down on the ground from the place where the wake was being held?

A:

Five (5) meters, sir.

Q:

How did you see him lying on the ground?

A:

Because when a vehicle passed by the light of the vehicle fell on the body of this Rodolfo Arevalo, that's why we saw him.

x x x x

Q:

Do you know the reason why Rodolfo Arevalo was lying on the ground?

A:

Yes, sir.

Q:

What was the reason?

A:

He was punched by using metal knuckle on his nape, sir.

Q:

Who was this person who punched him who used metal knuckle?

A:

Charlie Villa, Jr., sir. [34]

From the testimonies of the prosecution witnesses, it is readily clear that the first requisite of self-defense is wanting. The unlawful aggression did not originate from the victim but from the appellant himself. Appellant was offended when the victim reprimanded him by telling him not to make fun of the sleeping child. Nurturing that ill feeling, appellant immediately went after the victim as the latter was leaving. Not suspecting that the appellant harbored rancor, the victim walked on his way home, thereby exposing his back to the attack of the appellant. With the brass knuckle around his right fist, and without warning, appellant poured his anger towards the victim by punching the latter's nape until he fell unconscious. When he came to his senses, appellant realized what he had done. Feeling responsible for it, he fled. With this evidence adduced by the prosecution, appellant's posture can hardly succeed. He was the aggressor. Appellant's behavior right after the incident runs contrary to his avowed innocence. His act of fleeing from the scene of the crime instead of reporting the incident to the police authorities are circumstances highly indicative of guilt and negate his claim of self-defense.[35]

The version of the defense detailing the manner in which he supposedly defended himself from the assault of the victim is hard to believe. He claims that he boxed the victim on his nape only once. The autopsy report, however, belies appellant's assertion. The autopsy report revealed that the victim sustained four injuries, three of which were at the head near the nape and one at the trunk.

It is also inconceivable how he could have hit the victim at the back of the latter's head when, as he claimed, they were facing each other and appellant was just defending himself. Furthermore, why should appellant wear a brass knuckle if he had no intention to kill the victim?

Another troubling account of the defense is the conflicting version of both defense witnesses. Witness Randy Jose Gonzales declared it was the appellant who first left the wake and was subsequently chased by the victim with a *dos por dos*. Appellant, on the other hand, bared that it was the victim who first left the wake and went home. When the victim returned, he was already holding a club. These diverging statements of the defense tend to support the RTC opinion that, indeed, the defense interposed by the appellant was merely an afterthought.

The nature and number of injuries likewise make appellant's defense highly suspect. If appellant punched the victim just to defend himself, it defies logic why he had to deliver several blows on the head of the victim. If indeed the victim was drunk, one blow from the appellant would have been sufficient to repel the alleged attack coming from the victim. But appellant could not contain his fury for being humiliated by the victim. In order to gratify himself he had to box the victim until the latter became unconscious. It has been held in this regard that the location and presence of several injuries on the body of the victim is physical evidence that eloquently refutes appellant's allegations of self-defense.[36]

The RTC appreciated the presence of treachery qualifying the killing of Rodolfo to murder.

The essence of treachery is a deliberate and sudden attack that renders the victim unable and unprepared to defend himself by reason of the suddenness and severity of the attack.[37] It is an aggravating circumstance that qualifies the killing of the person to murder. Two essential elements are required in order that treachery can be appreciated: (1) the employment of means, methods or manner of execution that would ensure the offender's safety from any retaliatory act on the part of the offended party, who has, thus, no opportunity for self-defense or retaliation; and (2) deliberate or conscious choice of means, methods or manner of execution. Moreover, treachery must be alleged in the information and proved during the trial.

The prosecution sufficiently proved treachery. In the instant case, the prosecution established that the victim was punched from behind while on his way home. While there may have been an exchange of words between the appellant and the victim prior to the killing, the latter did not have the slightest idea that he was about to be attacked by the former, since the victim thought he was just giving a constructive advice. No heated argument or a physical contest had occurred prior to the punching incident. Unwary that appellant had taken badly his piece of advice, the victim was walking when the appellant behind suddenly punched him three times at the back of his head with the use of a brass knuckle, causing him to fall. The victim could not put up a defense, as the attack was swift and he was not in the position to repel the same, since the onslaught was from behind.

Also affirmed is the ruling of the RTC and the Court of Appeals imposing upon the appellant the penalty of reclusion perpetua. The penalty for murder under Article 248 of the Revised Penal Code is reclusion perpetua to death. Considering that neither mitigating nor aggravating circumstances attended the commission of the crime, the imposition of reclusion perpetua is proper pursuant to Article 63, paragraph 2 of the Revised Penal Code.[38]

As to the award of damages, the Court of Appeals correctly awarded to the heirs of the victim the amount of P50,000.00 as civil indemnity, P50,000.00 as moral damages and P25,000.00 as temperate damages. The award of moral damages does not require allegation and proof of the emotional suffering of the heirs, since the emotional wounds from the vicious killing of the victim cannot be denied.[39] Civil indemnity is mandatory and granted to the heirs of the victim without need of proof other than the commission of the crime. Based on current jurisprudence, the RTC award of civil indemnity ex delicto in the amount of P50,000.00 in favor of the heirs of the victim is in order.[40]

Although the prosecution presented evidence that the heirs incurred expenses, no receipts were presented. The award of temperate damages, in the amount of P25,000.00, to the heirs of the victim is justified. Temperate damages are awarded where no documentary evidence of actual damages was presented in the trial because it is reasonable to presume that, when death occurs, the family of the victim incurred expenses for the wake and funeral.[41]

However, in addition to these damages, exemplary damages should also be awarded to the heirs of the victim, since the qualifying circumstance of treachery was proven by the prosecution.[42] When a crime is committed with an aggravating circumstance, either qualifying or generic, an award of P25,000.00 as exemplary damages is justified under Article 2230 of the New Civil Code.[43] This kind of damage is intended to serve as a deterrent to serious wrongdoings and as a vindication of undue sufferings and wanton invasion of the rights of an injured, or as a punishment for those guilty of outrageous conduct.[44]

WHEREFORE, the Decision of the Court of Appeals dated 13 March 2007 convicting appellant Charlie Villa, Jr. of murder and sentencing them to suffer the penalty of reclusion perpetua is hereby **AFFIRMED** with **MODIFICATIONS** with respect to the award of damages. Appellant is ordered to indemnify the heirs of Rodolfo Arevalo the amount of P50,000.00 as civil indemnity, P50,000.00 as moral damages, P25,000.00 as exemplary damages and another P25,000.00 as temperate damages. Costs against appellant.

SO ORDERED.

Austria-Martinez, (Acting Chairperson), Tinga,[*]Nachura, and Reyes, JJ. , concur.

[*]Per Special Order No. 497, dated 14 March 2008, signed by Chief Justice Reynato S. Puno, designating Associate Justice Dante O. Tinga to replace Associate Justice Consuelo Ynares-Santiago, who is on official leave under the Court's Wellness Program; and assigning Associate Justice Alicia Austria-Martinez as Acting

Chairperson.

[1] Penned by Associate Justice Rosmari D. Carandang with Associate Justices Martin S. Villarama, Jr. and Mariflor P. Punzalan Castillo, concurring; rollo, pp. 4-16.

[2] Penned by Judge Mauricio M. Rivera; CA rollo, pp. 19-25.

[3] Records, p. 1.

[4] Id. at 21.

[5] TSN, 23 March 1999, p. 4.

[6] Id. at 5.

[7] Id. at 6.

[8] Id.

[9] TSN, 21 January 1999, p. 8.

[10] TSN, 23 March 1999, p. 10.

[11] Id. at 11.

[12] TSN, 21 January 1999, p. 9.

[13] Id. at 11.

[14] Records, p. 143.

[15] TSN, 1 June 1999, pp. 8-9.

[16] TSN, 8 March 2001, p. 3.

[17] Id. at 7.

[18] Id.

[19] TSN, 7 December 2000, p. 7

[20] TSN, 9 December 2000, p. 9.

[21] TSN, 25 January 2001, pp. 5-6.

[22] Id. at 6.

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

[24] Records, p. 134.

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

[26] Rollo, p. 15.

[27] *People v. Cabansay*, 406 Phil. 247, 257 (2001).

[28] CA rollo, p. 24.

[29] *People v. Matito*, 468 Phil. 14, 24 (2004).

- [30] *People v. Piedad*, 441 Phil. 818, 838-839 (2002).
- [31] *People v. Castillo*, G.R. No. 118912, 28 May 2004, 430 SCRA 40, 50.
- [32] TSN dated 23 March 1999, pp. 3-6.
- [33] TSN, 21 January 1999, pp. 4-9.
- [34] TSN, 10 August 1999, pp. 5-11.
- [35] *People v. Macuha*, 369 Phil. 257, 267 (1999).
- [36] *People v. Saragina*, 332 SCRA 219.
- [37] *People v. Abatayo*, G.R. No. 139456, 7 July 2004, 433 SCRA 562, 578.
- [38] *People v. Malejana*, G.R. No. 145002, 24 January 2006, 479 SCRA 610, 627.
- [39] *People v. Caraig*, 448 Phil. 78, 98 (2003).
- [40] *People v. Guillermo*, 465 Phil. 248, 274 (2004).
- [41] *Id.*
- [42] *People v. Aguila*, G.R. No. 171017, 6 December 2006, 510 SCRA 642, 663.
- [43] *Id.*
- [44] *Id.*

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