

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. ISMAEL MOKAMMAD, CAIRODEN MOKAMMAD, HADJI AMER MOKAMMAD AND TARATINGAN MOKAMMAD, ACCUSED, ISMAEL MOKAMMAD AND CAIRODEN MOKAMMAD, APPELLANTS.

G.R. No. 180594. August 19, 2009

Ponente: NACHURA, J.

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NACHURA, J.:

On appeal is the August 17, 2007 Decision[1] of the Court of Appeals (CA) in CA-G.R. CR-HC No. 00357 which affirmed with modification the decision[2] rendered by Branch 12 of the Regional Trial Court (RTC) of Lanao del Sur, finding appellants Ismael Mokammad and Cairoden Mokammad (appellants) guilty beyond reasonable doubt of murder and three (3) counts of frustrated murder.

On September 25, 1996, an information[3] for the complex crime of murder with frustrated murder was filed against appellants and other accused Hadji Amer Mokammad (Amer) and Taratingan Mokammad (Taratingan). The accusatory portion of the information reads:

That on or about August 3, 1996 at around 8:00 o'clock in the morning at Barangay Tangkal, Municipality of Tubaran, Province of Lanao del Sur, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused conspiring, confederating and mutually helping each other with intent to kill, armed with assorted high powered firearms and by means of treachery and evident premeditation did then and there willfully, unlawfully and feloniously attack, assault, ambush and shot upon (sic) Hadji Nasser Kasim [Amerol], Olomoddin Abbas, Calauto [Radiamoda] Kamid, Lito Mabandos and Mizangkad Atal [Hadji Yusoph], and hitting them on the different part[s] of their body, thereby inflicting upon said Olommodin Abbas serious and fatal wounds which caused his instantaneous death, and perform all the acts of execution which should have produce[d] the crime of murder as a consequence with respect to victims Hadji Nasser Kasim [Amerol], Calauto [Radiamoda] Kamid, Lito Mabandus and Mizangkad Atal [Hadji Yusoph], but nevertheless did not produce it by r[e]ason of causes independent of the will of the perpetrators, that is, by the timely and able medical attendance rendered to said victims which prevented their death.

CONTRARY TO and in violation of Article 248 in relation to Article[s] 48 and 6 of the Revised Penal Code with the qualifying aggravating circumstance of treachery and a generic aggravating circumstance of evident premeditation.[4]

When arraigned on June 3, 1997, appellants, with the assistance of counsel de oficio, entered their respective pleas of not guilty. Accused Amer and Taratingan remained at large. Trial on the merits then ensued.

The Office of the Solicitor General (OSG) summed up the prosecution's version as follows:

On August 3, 1996, about 7 o'clock in the morning, the incumbent vice-mayor of Tubaran, Lanao del Sur, Hadji Nasser Kasim [Amerol] was on his way to the Tangkal Market. He was in the company of Calauto Radiamoda [Kamid], Mizangkad [Atal Hadji] Yusoph, Bangcola Rasad and [Olomoddin] Hadji Abbas. Upon

reaching the Poblacion of Tangkal, a few meters from the market, the group was ambushed by four (4) persons. The attackers, who were in a prostrate position, fired their armalite and carbine rifles at Hadji Nasser and his companions. Hadji [Nasser] did not move from his position and, instead, invoked the help of Allah. Hadji Nasser saw Olomoddin wounded by the gunfire (TSN, June 3, 1997, pp. 3-4, 6).

After finishing one magazine of bullets, the ambushers stood up to reload. The ambushers stepped backwards and again opened fire while backing away. Hadji Nasser was able to recognize the ambushers to be some of his relatives namely: the brothers, appellant Ismael, Hadji Taratingan and Hadji Amer Mokammad and their nephew Cairoden (TSN, June 3, 1997, p. 5). During the second barrage of gunfire, Hadji Nasser was hit in his left thigh and right ankle. Hadji [Nasser's] other companions were likewise hit. [Calauto Radiamoda Kamid] was hit in his thigh and left leg, Mizangkad [Atal Hadji] Yusoph in his right arm and Bangcola Rasad in his thigh (TSN, June 3, 1997, pp. 6-7, 9). The ambushers stopped firing when they were about ten (10) fathoms away from their victims. After the dust had settled, the relatives of the victims came to their rescue and brought them to the hospital. [Olomoddin] was found dead. Hadji Nasser was brought to the Iligan City Medical Center where he was confined for ten (10) days (TSN, June 3, 1997, pp. 6-12, 6, 33-34; July 8, 1997, p. 21).

Mizangkad [Atal] Hadji Yusoph was treated at the Cagayan de Oro General Hospital for five (5) days. Bangcola Madid Rasad was brought to the Iligan City Medical Center where he was confined for seven (7) days. [Calauto Radiamoda Kamid] was brought to the Mercy Clinic and was confined therein for six (6) days; afterwards, he was transferred to a public hospital where he was confined for twenty-six (26) days. [Calauto Radiamoda Kamid] was not able to completely recover as he can no longer walk. He also needs assistance to stand or sit. Olommodim was buried after Muslim rites were held (TSN, June 3, 1996, p. 8; July 8, 1997, pp. 21-22, 25-27).[5]

Appellants' defense consists of denial and alibi. Ismael Mokammad (Ismael) averred that on August 3, 1996, from 5:00 a.m. until 8:00 a.m., he was at his farm pasturing his cows. He returned home at around 8:45 in the morning and stayed there the whole day.[6] According to Ismael, it would take 2½ hours before he could reach Tangkal, Tubaran.[7] Thus, he denied participation in the ambush staged against Vice Mayor Hadji Nasser Kasim Amerol and the latter's companions. Ismael added that on August 4, 1996, fifty (50) persons, headed by a certain Linog, went to his house looking for the perpetrators of the ambush against the Vice Mayor. The group destroyed his house; and thereafter brought him and Cairoden Mokammad (Cairoden) to the residence of Mayor Lomiloda of Binidayan, Lanao del Sur. Subsequently, they were brought to Lancaf, Marawi City, where they were detained for twenty-eight (28) days.[8]

Cairoden, for his part, also denied participation in the ambush. He claimed that he was in his house in Cabasaran doing carpentry work.[9] He also confirmed Ismael's testimony on the incident that transpired on August 4, 1996 that caused the destruction of the latter's house.

Noraisa Ongca, Ismael's wife,[10] and Omairah Macarangat,[11] appellants' neighbor, also took the witness stand to corroborate appellants' testimonies.

The trial court, however, disbelieved appellants' defense and rendered a judgment of conviction. It ruled that their defense of alibi could not prevail over the positive identification by the victims. It found that there was no physical impossibility for appellants to be present at the scene of the crime. It added that appellants admitted that the victims had no grudge against them; thus, the latter's testimonies were entitled to full faith and credit. The RTC, however, found that appellants could not be held liable for the injuries sustained by Bangcola Rasad, because his name was not reflected in the information as one of the victims who sustained injuries during the ambush; that there was no showing that Lito Mabandos, as reflected in the information, and Bangcola Rasad refer to one and the same person. Thus, the RTC absolved appellants from any liability arising from the injuries sustained by Bangcola Rasad. The RTC further held that appellants' guilt, as established, did not warrant their

conviction for the complex crime of murder with frustrated murder, but for separate crimes of murder and three (3) counts of frustrated murder.

The RTC disposed thus:

WHEREFORE, finding accused Ismael Mokammad and Cairoden Mokammad guilty of the crimes lodged against them beyond reasonable doubt, they are hereby sentenced to suffer the following:

1. For the crime of Murder (killing of Olomoddin Abbas), the penalty of Reclusion Perpetua;
2. As to the [offense] of Frustrated Murder:
 - a) The mortal wounds inflicted on Hadji Nasser Kasim Amerol, imprisonment of 8 years, 1 day to 10 years;
 - b) The mortal wounds inflicted on Radiamoda Calauto (Calauto [Radiamoda] Kamid), imprisonment of 8 years, 1 day to 10 years; and
 - c) The wounds of Mizangkad [Atal] Hadji Yusoph, same imprisonment of 8 years, 1 day to 10 years.
3. Both accused are further ordered to pay the heirs of Olomoddin Hadji Abbas the sum of P20,000.00 as actual damages; moral damages of P50,000.00 and exemplary damages of P20,000.00.

SO ORDERED.[12]

Initially, this case was brought to this Court for review, docketed as G.R. No. 146104.

In their brief, appellants assigned the following errors allegedly committed by the trial court:

[I]

THE TRIAL COURT GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANTS ISMAEL MOKAMMAD AND CAIRODEN MOKAMMAD GUILTY BEYOND REASONABLE DOUBT OF THE CRIMES OF MURDER AND FRUSTRATED MURDER.

II

THE TRIAL COURT GRAVELY ERRED IN CONSIDERING THE INCREDIBLE AND INCONSISTENT TESTIMONIES OF THE PROSECUTION WITNESSES.

III

THE TRIAL COURT GRAVELY ERRED IN NOT CONSIDERING THE DEFENSE INTERPOSED BY THE ACCUSED-APPELLANTS.[13]

The OSG, on behalf of the People, also filed its brief[14] with a recommendation for the modification of the penalty. It asserted that the trial court correctly gave credence to the testimony of the prosecution witnesses and rejected appellants' defense of alibi. The OSG insisted that appellants' guilt for murder and three (3) counts of frustrated murder was proven beyond reasonable doubt. It added that the maximum penalty of ten (10) years imposed by the trial court was erroneous. The maximum penalty, it argued, should be anywhere between fourteen (14) years, eight (8) months and one (1) day to seventeen (17) years and four months of Reclusion Temporal. Thus, it moved for the modification of the penalty.

On December 15, 2005, this Court transferred this case to the CA for intermediate review, consistent with its ruling in *People v. Mateo*. [15]

On August 17, 2007, the CA rendered the assailed Decision affirming appellants' conviction and modifying the maximum penalty imposed upon them. The dispositive portion of the Decision of the CA, reads:

WHEREFORE, premises considered, the appeal is dismissed and the Decision dated 20 September 2000 of the Regional Trial Court, Branch 12, Malabang, Lanao del Sur is AFFIRMED WITH MODIFICATION in that the appellants shall each suffer the penalty of imprisonment of eight (8) years and one (1) day of [Prision] Mayor, as minimum, to fourteen (14) years, eight (8) months and one (1) day of Reclusion Temporal Medium, as maximum[,] on three (3) counts, together with the accessory penalties imposed by law.

SO ORDERED.[16]

Appellants are now before the Court reiterating their contentions. Both the OSG and the Public Attorney's Office, counsel for appellants, replicated the arguments in their respective briefs filed during the pendency of this case for review and prior to its transfer to the CA. Essentially, appellants dispute the surviving victims' identification of them as among the perpetrators of the ambush. They argue that, in a surprise attack, positive identification is highly impossible. The normal tendency of the persons attacked is to seek cover, and not to look at the perpetrators. They further contend that the testimonies of the victims were incredible and were pure concoctions; and, thus, insufficient to establish appellants' guilt beyond reasonable doubt.

After a thorough evaluation and scrutiny of the evidence on record, we arrive at the conclusion that the guilt of appellants was established beyond reasonable doubt.

Appellants were positively identified by three (3) of the surviving victims as among the perpetrators of the ambush against them. Both the trial court and the appellate court found their testimonies credible. It is doctrinal that findings of trial courts on the credibility of witnesses deserve a high degree of respect and will not be disturbed on appeal absent a clear showing that the trial court had overlooked, misunderstood or misapplied some facts or circumstances of weight and substance, which could reverse a judgment of conviction. In fact, in some instances, such findings are even accorded finality. This is so because the assignment of value to a witness' testimony is essentially the domain of the trial court, not to mention that it is the trial judge who has the direct opportunity to observe the demeanor of a witness on the stand, thus providing him unique facility in determining whether or not to accord credence to the testimony or whether the witness is telling the truth or not.[17]

This Court is not the proper forum from which to secure a re-evaluation of factual issues, except only where the factual findings of the trial court do not find support in the evidence on record or where the judgment appealed from was based on a misapprehension of facts.[18] None of the exceptions obtains in this case; thus, we find no compelling reason to depart from this rule.

The alibi offered by appellants does not deserve credence. To be believed, an alibi must be supported by the most convincing evidence, as it is an inherently weak, though paradoxically volatile, if allowed to go unchecked, human argument that can be easily fabricated to suit the ends of those who seek its recourse. [19]

We agree with the courts below that the alibi resorted to by appellants is worthless in the face of the positive identification by the victims. The surviving victims were found not to have any reason to falsely testify against appellants. Admittedly, the surviving victims had no grudge against appellants. It is unnatural for victims interested in vindicating a crime to accuse somebody other than the real culprits. Human nature tells us that the aggrieved parties would want the real culprits punished, and not accept a mere scapegoat to take the rap for the real malefactors.[20]

As aptly said by the RTC:

[T]he parties have all admitted in open court that they have no grudge against each other. Hence, there is no reason why private complainants should point to the accused as the culprits if the latter were not the perpetrators of the crime. In a very recent ruling of the Highest Tribunal, it held that time and again, proof of motive is not indispensable to conviction especially if the accused has been positively identified by an

[eyewitness] and his participation therein has been definitely established.

The victims would have no credible reason to point to the accused as the culprits if it is not the truth. The Court assiduously scrutinized the records to find out if the complainants were actuated by improper motives. There is none. Where there is nothing to indicate that a principal witness for the prosecution was actuated by improper motives, the presumption is that he was not so actuated and his testimony is entitled to full faith and credit.[21]

Likewise, for alibi to prosper, an 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.[22] Apart from testifying that they were in their respective houses in the morning of August 3, 1996, appellants were unable to show that it was physically impossible for them to be at the scene of the crime. Their respective houses were only an hour's drive away from the scene of the crime. We, therefore, sustain the RTC and the CA in ruling that no physical impossibility existed for appellants to have been at the scene of the crime at the time of its commission.

Appellants' alibi was further demolished by the fact that it was corroborated by their relatives and friends who may not have been impartial witnesses. Thus, in the light of the positive identification of appellants as among the perpetrators of the crime, their defense of alibi and denial cannot be sustained.

Jurisprudence teems with pronouncements that 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. An affirmative testimony is far stronger than a negative one, especially when it comes from the mouth of credible witnesses. 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.[23] Accordingly, we affirm the RTC and the CA in giving full faith and credence to the testimonies of the surviving victims.

This Court also agrees with the trial court in appreciating treachery as a qualifying circumstance. As we have consistently ruled, there is treachery when the offender commits any of the crimes against persons, employing means, methods or forms in the execution thereof, which tend directly and specially to ensure its execution without risk to himself arising from the defense that the offended party might make. Two conditions must concur for treachery to exist, namely: (a) the employment of means of execution gave the person attacked no opportunity to defend himself or to retaliate; and (b) the means or method of execution was deliberately and consciously adopted.[24]

In the case at bar, the attack on the victim was deliberate, sudden and unexpected. Appellants, surreptitiously and without warning, fired at the victims who were at that time unarmed and completely unaware of any impending danger to their lives. They had no opportunity to offer any defense at all against the surprise attack by appellants and their co-accused with armalite and carbine rifles. All these indicate that appellants employed means and methods that tended directly and specially to ensure the execution of the offense without risk to themselves arising from the defense that the victims might make. Thus, treachery was correctly appreciated as a circumstance to qualify the crime to murder.

This Court notes that the information filed with the RTC was for the complex crime of murder with frustrated murder. Evidence on record, however, established that the injuries sustained by the victims were the consequences of volleys of gunshots. Thus, the murder and each act of frustrated murder should have been charged in separate informations because they were not covered by Article 48[25] of the Revised Penal Code (RPC).

Nevertheless, appellants did not, within the prescribed period, file a motion to quash the information on the

ground of duplicity. They are, therefore, deemed to have waived the defect in the information. It is axiomatic that when an accused fails, before arraignment, to move for the quashal of such information, and goes to trial thereunder, he thereby waives the objection, and may be found guilty of as many offenses as those charged in the information and proved during the trial.[26] Thus, appellants' conviction for murder and three (3) counts of frustrated murder cannot be considered a reversible error.

Under Article 248[27] of the RPC, as amended, the penalty imposed for the crime of murder is reclusion perpetua to death. There being no aggravating or mitigating circumstance, the penalty imposed on appellants is reclusion perpetua, pursuant to Article 63, paragraph 2,[28] of the RPC. The prison term imposed by the trial court and affirmed by the CA for the death of Olommodin Abbas is, therefore, correct.

We also affirm the CA's modification of the penalty imposed for frustrated murder from 8 years of prision mayor, as minimum, to 14 years, 8 months and 1 day of reclusion temporal, as maximum. Under Article 61, paragraph 2,[29] of the RPC, the penalty for frustrated murder is one degree lower than reclusion perpetua to death, which is reclusion temporal. Reclusion temporal has a range of 12 years and 1 day to 20 years.

Applying the Indeterminate Sentence Law, the maximum of the indeterminate penalty should be taken from reclusion temporal, the penalty for the crime taking into account any modifying circumstances in the commission of the crime. The minimum of the indeterminate penalty shall be taken from the full range of prision mayor which is one degree lower than reclusion temporal.[30] Since there is no modifying circumstance in the commission of the frustrated murder, an indeterminate prison term of eight (8) years and one (1) day of prision mayor, as minimum, to fourteen (14) years, eight (8) months and one (1) day of reclusion temporal, as maximum, is appropriate for the frustrated murder under the facts of this case. Thus, we sustain the penalty for frustrated murder as modified by the CA.

And now, the award of damages. The RTC awarded, and the CA affirmed, the award of P20,000.00 as actual damages, P50,000.00 as moral damages, and P20,000.00 as exemplary damages to the heirs of Olommodin Abbas.

When death occurs due to a crime, the following may be recovered: (1) civil indemnity ex delicto for the death of the victim; (2) actual or compensatory damages; (3) moral damages; (4) exemplary damages; (5) attorney's fees and expenses of litigation; and (6) interest, in proper cases.[31]

In murder, the grant of civil indemnity, which has been fixed by jurisprudence at P50,000.00, requires no proof other than the fact of death as a result of the crime and proof of an accused's responsibility therefor.[32] Thus, the heirs of Olommodin Abbas should be awarded civil indemnity of P50,000.00.

This Court sustains the award of P50,000.00 as moral damages to the heirs of Olommodin Abbas. Moral damages are awarded in view of the violent death of the victim. These do not require allegation and proof of the emotional sufferings of the heirs. [33]

Likewise, the award of exemplary damages is warranted when the commission of the offense is attended by an aggravating circumstance, whether ordinary or qualifying,[34] as in this case. Accordingly, we sustain the RTC for awarding exemplary damages to the heirs, but we increase the award to P30,000.00.

However, the award of P20,000.00 as actual damages should be deleted as the prosecution failed to present any receipt to substantiate its claim. In lieu of actual damages for funeral and burial expenses, we award the amount of P25,000.00 as temperate damages since it cannot be denied that the heirs suffered some pecuniary loss as a result of the death of Olommodin Abbas.

Similarly, the surviving victims are entitled to temperate, moral and exemplary damages.

Indisputably, the surviving victims were hospitalized and operated on. They, however, failed to present any receipt for their hospitalization expenses. Nevertheless, it could not be denied that they suffered pecuniary loss; thus, we deem it prudent to award P25,000.00 to each of the surviving victims, as temperate damages.

The surviving victims are also entitled to moral damages which this Court hereby awards in the amount of P40,000.00 to each of them. Ordinary human experience and common sense dictate that the wounds inflicted upon the surviving victims would naturally cause physical suffering, fright, serious anxiety, moral shock, and similar injuries. Finally, the award in the amount of P20,000.00 each, as exemplary damages, is also in order considering that the crime was attended by the qualifying circumstance of treachery.[35]

WHEREFORE, the appeal is DISMISSED. The assailed Decision of the Court of Appeals in CA-G.R. CR-HC No. 00357 is AFFIRMED with MODIFICATIONS. Appellants Ismael Mokammad and Cairoden Mokammad are found GUILTY beyond reasonable doubt of MURDER and are hereby sentenced to suffer the penalty of reclusion perpetua. Appellants are also ordered to jointly and severally pay the heirs of Olomoddin Abbas the amounts of P50,000.00 as civil indemnity, P50,000.00 as moral damages, P25,000.00 as temperate damages, and P30,000.00 as exemplary damages.

Ismael Mokammad and Cairoden Mokammad are also found guilty beyond reasonable doubt of three (3) counts of FRUSTRATED MURDER and are hereby sentenced to suffer the penalty of eight (8) years and one (1) day of prision mayor, as minimum, to fourteen (14) years, eight (8) months and one (1) day of reclusion temporal, as maximum, on each count, with all the accessory penalties imposed by law. Appellants are further ordered to jointly and severally pay each of the surviving victims - Hadji Nasser Kasim Amerol, Calauto Radiamoda Kamid and Mizangkad Atal Hadji Yusoph - P25,000.00 as temperate damages, P40,000.00 as moral damages, and P20,000.00 as exemplary damages.

SO ORDERED.

Carpio Morales,[*] Chico-Nazario,**] (Acting Chairperson), Velasco, Jr., and Peralta, JJ., concur.

[*] Additional member in lieu of Associate Justice Consuelo Ynares-Santiago per Special Order No. 679 dated August 3, 2009.

[**] In lieu of Associate Justice Consuelo Ynares-Santiago per Special Order No. 678 dated August 3, 2009.

[1] Penned by Associate Justice Jane Aurora C. Lantion, with Associate Justices Edgardo A. Camello and Elihu A. Ybañez, concurring; rollo, pp. 4-15.

[2] Records, pp. 148-162.

[3] Id. at 2-3.

[4] Id. at 2.

[5] CA rollo, pp. 128-130.

[6] TSN, July 30, 1998, pp. 29-30.

[7] Id. at 7-9.

[8] Id. at 19.

[9] TSN, July 31, 1998, pp. 9, 22.

[10] TSN, August 20, 1998.

[11] TSN, September 30, 1998.

[12] CA rollo, pp. 161-162.

[13] Id. at 75.

[14] Id. at 119-149.

[15] Id. at 161.

[16] Id. at 188.

[17] *Lascano v. People*, G.R. No. 166241, September 7, 2007, 532 SCRA 515, 523-524.

[18] Id. at 524.

[19] *People v. Cantere*, 363 Phil. 468, 479 (1999).

[20] *People v. Togahan*, G.R. No. 174064, June 8, 2007, 524 SCRA 557, 571.

[21] Records, p. 158. (Citation omitted.)

[22] *People v. Delim*, G.R. No. 175492, September 13, 2007, 533 SCRA 366.

[23] *People v. Togahan*, supra note 20, at 573-574; *People v. Baniega*, 427 Phil. 405, 418 (2002); see *People v. Ramos*, G.R. No. 125898, April 14, 2004, 427 SCRA 207.

[24] *People v. Ducabo*, G.R. No. 175594, September 28, 2007, 534 SCRA 458, 474.

[25] ART. 48. Penalty for complex crimes. - When a single act constitutes two or more grave or less grave felonies, or when an offense is a necessary means for committing the other, the penalty for the most serious crime shall be imposed, the same to be applied in its maximum period.

[26] *People v. S Sgt. Dalmacio*, 426 Phil. 563, 597 (2002).

[27] ART. 248. Murder. - Any person who, not falling within the provisions of article 246 shall kill another, shall be guilty of murder and shall be punished by reclusion perpetua to death if committed with any of the following attendant circumstances:

1. With treachery, x x x.

[28] ART. 63. Rules for the application of indivisible penalties. - x x x.

x x x x

2. When there are neither mitigating nor aggravating circumstances in the commission of the deed, the lesser penalty shall be applied.

[29] ART. 61. Rules for graduating penalties. - For the purpose of graduating the penalties which, according to the provisions of articles 50 to 57, inclusive, of this Code, are to be imposed upon persons guilty as principals for any frustrated or attempted felony, or as accomplices or accessories, the following rules shall be observed:

x x x x

2. When the penalty prescribed for the crime is composed of two indivisible penalties, or of one or more divisible penalties to be imposed to their full extent, the penalty next lower in degree shall be that immediately following the lesser of the penalties prescribed in the respective graduated scale.

[30] *People v. Tolentino*, G.R. No. 176385, February 26, 2008, 546 SCRA 671, 700.

[31] *Id.* at 699.

[32] *People of the Philippines v. Emilio Manchu, et al.*, G.R. No. 181901, November 28, 2008.

[33] *People of the Philippines v. Esperidion Balais*, G.R. No. 173242, September 17, 2008.

[34] *Id.*

[35] *People v. Tolentino*, *supra* note 30, at 701.

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