

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
BARTOLOME TAMPUS AND IDA MONTESCLAROS, DEFENDANTS. IDA
MONTESCLAROS, APPELLANT.**

G.R. No. 181084. June 16, 2009

Ponente: PUNO, C.J.

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PUNO, C.J.:

On appeal is the decision[2] of the Court of Appeals, Visayas Station, dated September 29, 2006 in CA-G.R. CR-HC No. 00215. The Court of Appeals affirmed, with modification, the decision[3] of the Regional Trial Court of Lapu-lapu City in Criminal Case No. 013324-L, finding appellant Ida Montesclaros (Ida) guilty as an accomplice in the commission of rape.

The present appeal stems from two criminal cases: (1) Criminal Case No. 013324-L charging Bartolome Tampus (Tampus) and Ida as conspirators in the rape of ABC[4] on April 1, 1995 at 4:30 p.m.; and (2) Criminal Case No. 013325-L charging Tampus of raping ABC on April 4, 1995 at 1:00 a.m.

The Information[5] in each case reads as follows:

CRIM. CASE NO. 013324-L[6]

That on the 1st day of April 1995, at about 4:30 o'clock [sic] in the afternoon, in Looc, Lapulapu City, Philippines, within the jurisdiction of this Honorable Court, accused Bartolome Tampus, taking advantage that [ABC] was in deep slumber due to drunkenness, did then and there willfully, unlawfully and feloniously have carnal knowledge with [sic] the latter, who was at that time thirteen (13) years old, against her will, in conspiracy with the accused Ida Montesclaros who gave permission to Bartolome Tampus to rape [ABC].

CONTRARY TO LAW.

CRIM. CASE NO. 013325-L[7]

That on the 3rd day of April, 1995,[8] at about 1:00 o'clock [sic] dawn, in Looc, Lapulapu City, Philippines, within the jurisdiction of this Honorable Court, the above-named accused, armed with a wooden club (poras), by means of threat and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge with [sic] [ABC], who was at that time thirteen (13) years old, against her will.

CONTRARY TO LAW.

The offended party, ABC, is the daughter of appellant Ida, and was 13 years old at the time of the incident. Ida worked as a waitress in Bayanihan Beer House in Mabini, Cebu City. On February 19, 1995, Ida and ABC started to rent a room in a house owned by Tampus, a barangay tanod. On April 1, 1995, about 4:30 p.m., ABC testified that she was in the house with Ida and Tampus[9] who were both drinking beer at that time. They forced her to drink beer[10] and after consuming three and one-half (3 1/2) glasses of beer, she became intoxicated and very sleepy.[11] While ABC was lying on the floor of their room, she overheard Tampus requesting her mother, Ida,

that he be allowed to "remedyo "[12] or have sexual intercourse with her.[13] Appellant Ida agreed and instructed Tampus to leave as soon as he finished having sexual intercourse with ABC. Ida then went to work, leaving Tampus alone with ABC. ABC fell asleep and when she woke up, she noticed that the garter of her panties was loose and rolled down to her knees. She suffered pain in her head, thighs, buttocks, groin and vagina, and noticed that her panties and short pants were stained with blood which was coming from her vagina.[14] When her mother arrived home from work the following morning, she kept on crying but appellant Ida ignored her.[15]

ABC testified that on April 4, 1995 around 1:00 a.m., she was left alone in the room since her mother was at work at the beer house.[16] Tampus went inside their room and threatened to kill her if she would report the previous sexual assault to anyone.[17] He then forcibly removed her panties. ABC shouted but Tampus covered her mouth and again threatened to kill her if she shouted.[18] He undressed himself, spread ABC's legs, put saliva on his right hand and he applied this to her vagina; he then inserted his penis into ABC's vagina and made a push and pull movement.[19] After consummating the sexual act, he left the house. When ABC told appellant Ida about the incident, the latter again ignored her.[20]

On May 4, 1995, after being maltreated by her mother, ABC sought the help of her aunt, Nellie Montesclaros (Nellie). She told Nellie about the rape and that her mother sold her.[21] ABC, together with Nellie and Norma Andales, a traffic enforcer, reported the incident of rape to the police. On May 9, 1995, Nestor A. Sator, M.D. (Dr. Sator), head of the Medico-Legal Branch of the Philippine National Crime Laboratory Services, Regional Unit 7, conducted a physical examination of ABC and issued a Medico-Legal Report.[22] Dr. Sator testified that the result of his examination of ABC revealed a deep healed laceration at the seven (7) o'clock position and a shallow healed laceration at the one (1) o'clock position on ABC's hymen.

On September 22, 1995, ABC filed two Complaints. She accused Tampus of taking advantage of her by having carnal knowledge of her, against her will, while she was intoxicated and sleeping on April 1, 1995 at 4:30 p.m. She declared in her Complaint that this was done in conspiracy with accused Ida who gave permission to Tampus to rape her. And again, she stated that on April 3, 1995, she was threatened with a wooden club by Tampus, who then succeeded in having sexual intercourse with her, against her will.

Tampus denied raping ABC on April 1, 1995. He claimed that at 4:00 p.m. of April 1, 1995, he left the house to go to the public market of Lapu-lapu City. When he arrived home at 6:00 p.m., ABC and Ida were not there as they usually go to the beer house at 4:00 p.m. or 5:00 p.m.[23] He denied forcing ABC to drink beer. He also denied asking Ida to allow him to have sexual intercourse with ABC.[24] Appellant Ida also testified that she and ABC left for the beer house at 4:00 p.m. of April 1, 1995 and they came back at 6:00 a.m. the following day.[25] She said that she always brought her daughter to the beer house with her and there was never an instance when she left her daughter alone in the house.[26] She denied forcing ABC to drink beer at 4:30 p.m. of April 1, 1995, and she denied giving permission to Tampus to have sexual intercourse with ABC.[27]

Tampus also denied raping ABC on April 4, 1995. He testified that he arrived at the Barangay Tanod Headquarters between 7:00 p.m. and 8:00 p.m. of April 3, 1995[28] and that his actual duty time shift was from midnight to 5:00 a.m. of April 4, 1995. Guillermo Berdin (Berdin), a defense witness, testified that on April 3, 1995, Tampus reported, for duty at the police outpost at 8:00 p.m. and left at 5:00 a.m. of April 4, 1995, as reflected in the attendance logbook. However, on cross-examination, Berdin could not tell whether the signature appearing on the logbook really belonged to Tampus. It was noted by the trial court that the handwriting used by Tampus in the logbook entry on April 2, 1995 is different from his handwriting appearing on April 3, 1995.[29] It was also revealed that the house of Tampus is just 500 meters away or just a three-minute walk from the barangay tanod outpost and that the barangay tanod on duty could leave the outpost unnoticed or without permission.[30]

Agustos B. Costas, M.D.[31] (Dr. Costas), the Head of the Department of Psychiatry of the Vicente Sotto Memorial Medical Center, issued a Medical Certification,[32] which showed that appellant Ida was treated as an outpatient at the Vicente Sotto Memorial Medical Center Psychiatry Department from November 11, 1994 to January 12, 1995 and was provisionally diagnosed with Schizophrenia, paranoid type.

The trial court convicted Tampus of two counts of rape, as principal in Criminal Case No. 013324-L and Criminal Case No. 013325-L. Appellant Ida was found guilty as an accomplice in Criminal Case No. 013324-L. The trial court appreciated in Ida's favor the mitigating circumstance of illness which would diminish the exercise of will-power without depriving her of the consciousness of her acts, pursuant to Article 13(9) of the Revised Penal Code.[33] The dispositive portion of the trial court's decision states, viz.:

WHEREFORE, in the light of the foregoing considerations, the Court finds accused Bartolome Tampus GUILTY BEYOND REASONABLE DOUBT of two counts of rape, as principals [sic], in Criminal Case No. 013324-L and Criminal Case No. 013325-L and he is hereby sentenced to suffer the penalty of Reclusion Perpetua in each of the aforementioned cases.

The Court also finds accused Ida Montesclaros GUILTY BEYOND REASONABLE DOUBT as an accomplice in Criminal Case No. 013324-L, and she is hereby sentenced to suffer the penalty of twelve (12) years and one (1) day to fourteen (14) years, and eight (8) months of Reclusion Temporal.

Both accused are hereby ordered, jointly and severally, to indemnify the offended party, [ABC], the sum of P50,000.00 in Criminal Case No. 013324-L.

With costs against the accused. SO ORDERED.[34]

Pending resolution of the appeal before the Court of Appeals, accused Tampus died on November 16, 2000[33] and his appeal was dismissed by the Third Division of this Court.[36] Thus, the appeal before the Court of Appeals dealt only with that of appellant Ida. The appellate court gave credence to the testimony of ABC and affirmed the trial court's decision with modification. It appreciated the mitigating circumstance of illness in favor of Ida, but found that Ida failed to prove that she was completely deprived of intelligence on April 1, 1995. On the basis of the medical report and the testimony of the attending physician, Ida's schizophrenia was determined by both the trial court and the Court of Appeals to have diminished the exercise of her will-power though it did not deprive her of the consciousness of her acts. The dispositive portion of the decision of the Court of Appeals states:

WHEREFORE, the instant appeal is DISMISSED for lack of merit. The assailed decision is AFFIRMED with MODIFICATION. Appellant Ida Montesclaros is guilty beyond reasonable doubt as accomplice in the commission of rape and hereby sentenced to suffer the indeterminate penalty often (10) years and one (1) day of prision mayor as minimum, to twelve (12) years and one (1) day of reclusion temporal as maximum. Further, she is ORDERED to pay moral damages in the amount of fifty thousand pesos (Php 50,000.00) and exemplary damages in the amount of twenty-five thousand pesos (Php 25,000.00).[37]

We find the findings of the lower courts to be well-taken.

The finding of guilt of Ida as an accomplice in the rape of ABC is dependent on proving the guilt of the principal accused. Upon examination of the records of the case, we agree with the ruling of the trial and appellate courts that the testimony of ABC is clear and straightforward, and is sufficient to conclude that Tampus is guilty beyond reasonable doubt as principal in the rape of ABC, in Criminal Case No. 013324-L, as well as to convict appellant Ida as an accomplice in the same criminal case.

The findings of the trial courts carry great weight and respect and, generally, appellate courts will not overturn said findings unless the trial court overlooked, misunderstood or misapplied some facts or circumstances of weight and substance which will alter the assailed decision or affect the result of the case.[38] The rule finds an

even more stringent application where the said findings are sustained by the Court of Appeals.[39]

The trial court has carefully scrutinized the testimony of complainant ABC and has given full faith and credence to her testimony. Both the trial and appellate courts found that the rape of ABC by Tampus on April 1, 1995 has been established beyond reasonable doubt. Indeed, it is highly inconceivable for a young girl to impute the crime of rape, implicate her own mother in such a vile act, allow an examination of her private parts and subject herself to public trial if she has not been a victim of rape and was impelled to seek justice for the defilement of her person. Testimonies of child-victims are normally given full credit.

Tampus was positively identified by ABC as the person who had carnal knowledge of her against her will on April 1, 1995. The denial of Tampus cannot prevail over the positive and direct identification by the victim, ABC. Although ABC was asleep and unconscious at the time the sexual debasement was committed by Tampus, circumstantial evidence established beyond doubt that it is Tampus who raped ABC. Circumstantial evidence is sufficient for conviction if: (a) there is more than one circumstance; (b) the facts from which the inferences are derived are proven; and (c) the combination of all the circumstances is such as to produce a conviction beyond reasonable doubt.⁴¹ In cases like the one at bar, the Court takes into consideration the events that transpired before and after the victim lost consciousness in order to establish the commission of the act of coitus.[42]

The trial court correctly determined, thus:

The prosecution has clearly established by its evidence that accused Bartolome Tampus had carnal knowledge of [ABC] on April 1, 1995 under the circumstance set forth in Article 335 (2) of the Revised Penal Code, as amended; that is, when the woman is deprived of reason or otherwise unconscious.

x x x x

The Court cannot accept accused Bartolome Tampus' defense of denial and alibi. His denial pales in effect against the positive evidence given by [ABC] that he ravished her [on] two occasions.

x x x x

It is true that in the first incident on April 1, 1995, [ABC] did not see Tampus lie down with her. What she saw was the aftermath of her deflowering upon waking up. Nevertheless, the Court has taken note of the following circumstances: (1) The drinking session where the complainant was forced to drink beer by both accused; (2) The conversation between the two accused when accused Tampus requested accused Ida Montesclaros, and was granted by the latter, permission to have sexual intercourse with the complainant; (3) Accused Tampus and the complainant were the only persons left in the house when Ida Montesclaros went to work after acceding to the request of Tampus; (4) The bloodstained pants, the pain and blood in complainant's vagina and the pain in her head, groin and buttocks; (5) The threat made by accused Tampus on the complainant in the dawn of April 4, 1995 that he would kill her if she would tell about the previous incident on April 1, 1995; and (6) The second incident of rape that immediately ensued. These circumstances form a chain that points to accused Bartolome Tampus as the person who had carnal knowledge of [ABC] when she was asleep in an inebriated condition.[43]

After establishing the guilt of Tampus as principal, the trial court then determined the guilt of Ida. Although Ida was charged as a conspirator, the trial court found her liable as an accomplice. The trial court ruled that her act of forcing or intimidating ABC to drink beer and then acceding to the request of co-accused Tampus to be allowed to have sexual intercourse with ABC did not prove their conspiracy.[44] Hence, it held that, "[undoubtedly, Ida Montesclaros participated in the commission of the crime by previous acts but her participation, not being indispensable, was not that of a principal. She is liable as an accomplice.]"[45]

In her appeal, appellant Ida argued that it is against human nature for a mother to allow her daughter to be raped.

She maintained that there was no instance when she left ABC alone in the house. The Court of Appeals dismissed appellant Ida's appeal as it also gave credence to the testimony of ABC.

In her appeal brief filed before this Court, Ida raises the following assignment of errors:

I

THE TRIAL COURT ERRED IN CONVICTING THE ACCUSED BARTOLOME TAMPUS OF THE CRIMES OF RAPE DESPITE FAILURE OF THE PROSECUTION TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.

II

THE TRIAL COURT ERRED IN CONVICTING IDA MONTESCLAROS AS ACCOMPLICE TO THE CRIME OF RAPE DESPITE FAILURE OF THE PROSECUTION TO PROVE HER GUILT BEYOND REASONABLE DOUBT.[46]

We affirm the trial and appellate courts in ruling that Ida is liable as an accomplice in the rape of her daughter, ABC.

Accomplices are persons who, not being included in Article 17 of the Revised Penal Code, cooperate in the execution of the offense by previous or simultaneous acts.⁴⁷ The following requisites must be proved in order that a person can be considered an accomplice:

(a)

community of design, i.e., knowing that criminal design of the principal by direct participation, he concurs with the latter in his purpose;

(b)

he cooperates in the execution of the offense by previous or simultaneous acts; and,

(c)

there must be a relation between the acts done by the principal and those attributed to the person charged as accomplice.[48]

The testimony of ABC establishes that Ida cooperated in the execution of the rape by Tampus when prior to the act of rape by Tampus, she forced ABC to drink beer and she agreed to Tampus' request for him to have sexual intercourse with ABC. Ida's acts show that she had knowledge of and even gave her permission to the plan of Tampus to have sexual intercourse with her daughter.

During the cross-examination by the defense counsel, Atty. Paulito Cabrera, of witness ABC, she testified that:

Q

Before this date, April 1, 1995, did you already usually drink beer?

A

No, sir.

Q

So, you are telling the Honorable Court that it was only on April 1, 1995 that you first drank beer?

A

Yes, sir.

Q

What did you say, you were forced to drink beer?

A

Yes, sir.

Q

Who forced you to drink beer in that afternoon of April 1, 1995?

A

Bartolome Tampus and "Nanay", my mother.[49]

x x x x

Q

By the way, your mother proposed to you to drink beer?

A

Yes, sir.

Q

Before you concede to her proposition, did you not complain that you had not been used to drinking beer and then, why suddenly, she would let you drink beer at that time?

A

No, sir.

Q

Did you not tell her that, "I am not used to drinking beer, so, I would not drink beer"?

A

Because the beer was mixed with Coke.

Q

So, you mean that you also agreed to drink beer at that time?

A

I just agreed to the proposal of my mother.

Q

But you never voiced any complaint or any refusal to her at that time?

A

No, sir because I was afraid that she might maltreat me.

Q

At that time when she proposed to you to drink beer, was she already threatening to maltreat you if you would not drink that beer?

A

Not yet.

Q

And how were you able to conclude that she might maltreat you if you would not drink that beer that she proposed for you to drink?

A

Because "Nanay" stared at me sharply and she had a wooden stick prepared.

Q

Are you sure that she was doing that while she was offering the glass of beer to you?

A

Yes, sir.

x x x x

Q

While you were drinking beer, your mother and Bartolome went out of the house and you overheard Bartolome asking or proposing to your mother that he would have sexual intercourse with you which you term in the Visayan dialect "remedyo", Bartolome would want to have a "remedyo" with you. When [sic], particular moment did you allegedly hear this statement, while you were drinking beer or after you had finished drinking beer?

A

When I was already lying on the floor of the room we were renting.[51]

x x x x

Q

And, of course, as you have stated now, it was you, you were quite sure that it was you who was being referred by Bartolome Tampus when he said to your mother in the Visayan dialect that "gusto siya moremedyo nimo", he wants to have sexual intercourse with you?

A

Yes, sir, but I don't know the meaning of "remedyo".

Q

At that time, you did not know the meaning of "remedyo"?

A

Not yet, sir.

x x x x

Q

Was that the very first time that you ever heard of the word "remedyo"?

A

Yes, sir

x x x x

Q

And when your mother came back from work at about 7:00 o'clock [sic] in the morning of April 2, 1995, did you not also bother to tell her of what you suspected that something serious or bad had happened to you in the previous day?

A

Because she already knew, sir.

Q

How did you know that she already knew?

A

Because I heard her telling Omeng,[54] "After you have sexual intercourse with her, leave her immediately!"[55]

x x x x

Q

Considering that you never knew what is the meaning of the word, "remedyo", when your mother arrived in the morning of April 2, 1995, did you not confront your mother, did you not tell her that, "Is this what you mean by "remedyo", as what you had agreed with Bartolome Tampus that he would do something to my genitals?

A

No sir, because when she arrived, she kept on laughing.[56]

All the requisites concur in order to find Ida guilty as an accomplice to Tampus in the rape of ABC. The testimony of ABC shows that there was community of design between Ida and Tampus to commit the rape of ABC. Ida had knowledge of and assented to Tampus' intention to have sexual intercourse with her daughter. She forced ABC to drink beer, and when ABC was already drunk, she left ABC alone with Tampus, with the knowledge and even with her express consent to Tampus' plan to have sexual intercourse with her daughter.

It is settled jurisprudence that the previous acts of cooperation by the accomplice should not be indispensable to the commission of the crime; otherwise, she would be liable as a principal by indispensable cooperation. The evidence shows that the acts of cooperation by Ida are not indispensable to the commission of rape by Tampus. First, because it was both Ida and Tampus who forced ABC to drink beer, and second because Tampus already had the intention to have sexual intercourse with ABC and he could have consummated the act even without Ida's consent.

The acts of Ida are closely related to the eventual commission of rape by Tampus. They both forced ABC to drink beer; when ABC was already drunk, Tampus asked Ida if he could have sexual intercourse with ABC and Ida gave her consent; and lastly, Ida left ABC alone with Tampus so that he proceed with his plan to rape ABC.

Circumstances affecting the liability of the Appellant as an Accomplice

We agree with both the trial and appellate courts in their appreciation of the mitigating circumstance of illness as would diminish the exercise of willpower of Ida without depriving her of the consciousness of her acts, pursuant to Article 13(9) of the Revised Penal Code.

Dr. Costas testified that Ida was provisionally treated for schizophrenia a few months before the incident, from November 11, 1994 to January 12, 1995. Based on his expert opinion, Ida was not totally deprived of intelligence at the time of the incident; but, she may have poor judgment. On Direct Examination of Dr. Costas by City Prosecutor Celso V. Espinosa, he testified as follows:

Q

Doctor, taking into consideration your diagnosis, as you said, is provisional, would you say that the patient [sic] totally deprived of intelligence or reason?

A

Not totally.

Q

She will be conscious of her acts?

A

She may be, that is possible, for certain cause.

Q

And there will be loss of intelligence?

A

There could be.

Q

Now, Doctor, she is charged her [sic] as one of the principals in the commission of the crime of rape for having given her daughter to be sexually abused by her co-accused, allegedly convinced by her co-accused on the first day of April, 1995. Now, if she was then under treatment, Doctor, from November 11, 1994 to January 12, 1995, would you say, Doctor, that having taken this diagnosis for [sic] schizophrenic patient, at the time, after January 12, 1995, she must have acted with discernment?

A

It is possible because you are this kind of mental illness even with the treatment, and even without any medication, it may be what we called spontaneous, really it will get back.

Q

At that time it will loss the intelligence? [sic]

A

I think because it might be back, the treatment should be yearly.

Q

Doctor, in your opinion, since our office is very much concern [sic] on this, if a person is totally deprived of intelligence, he has still discernment, she is unconscious of her act, she or he may be exempted from any criminal liability, please tell, Doctor, in your personal opinion for the purpose of this proceedings she may be acting with discernment and with certain degree of intelligence?

A

It is possible but I think of a mother feeding her own daughter to somebody, I think there is a motive, she wants to gain financial or material things from the daughter if no material gain, then perhaps it was borne out of her illness. This is my opinion."

x x x x

Q

Doctor, is this schizophrenic person can distinguish the right or wrong? [sic]

A

If they are in the [sic] state of illness, judgment is impaired to discern between right or wrong.

Q

In the case of this particular accused, what would you say at the state of her ailment?

A

When she was brought to the hospital, Your Honor, I think, although the mother alleged that the sickness could be more than one year duration, it is in acute stage because she was allegedly destroying everything in the house according to the mother, so she was in acute stage.

On cross-examination by Atty. Paulito Cabrera, Dr. Costas testified thus:

Q

Would you say, Doctor, that that particular ailment of Ida Montesclaros affected her sense of judgment?

A

I think, so.

Q

And that being scizophrenic [sic] somehow, it has, while in that stage, the patient lost contact with reality?

A

Yes, that is possible.

Q

In your opinion, Doctor, granting, for the sake of argument, the alleged accusation against her is true, being an expert on scizophrenia, could you tell the Honorable Court as a mother, who would allegedly do such an offense to her daughter, is it still in her sound mind or proper mental sane [sic]?

A

I think, as I said, one thing to be considered is the motivation if she want [sic] to gain some material things, if not, it is because of her judgment.

Q

If she would not gain anything from allowing her daughter allegedly to be rubbished by another person, then there must be something wrong?

A

There must be something wrong and it came up from scizpphria.

A

It is the judgment, in the case of the schizophrenic.[59]

We have previously held that Schizophrenia may be considered mitigating under Art. 13(9) if it diminishes the exercise of the willpower of the accused.[60] In this case, the testimony of Dr. Costas shows that even though Ida was diagnosed with schizophrenia, she was not totally deprived of intelligence but her judgment was affected. Thus, on the basis of the Medical Certification that Ida suffered from and was treated for schizophrenia a few months prior to the incident, and on the testimony of Dr. Costas, Ida's schizophrenia could be considered to have diminished the exercise of her willpower although it did not deprive her of the consciousness of her acts.

We note that in the case at bar, the undisputed fact that Ida is the mother of ABC—who was 13 years old at the time of the incident—could have been considered as a special qualifying circumstance which would have increased the imposable penalty to death, under Article 266-B of the Revised Penal Code, viz.:

ARTICLE 266-B. Penalties.

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;

x x x x

Both the circumstances of the minority and the relationship of the offender to the victim, either as the victim's 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, must be alleged in the information and proved during the trial in order for them to serve as qualifying circumstances under Article 266-B of the Revised Penal Code.[61] In the case at bar, although the victim's minority was alleged and established, her relationship with the accused as the latter's daughter was not properly alleged in the Information, and even though this was proven during trial and not refuted by the accused, it cannot be considered as a special qualifying circumstance that would serve to increase the penalty of the offender. Under the 2000 Rules of Criminal Procedure, which should be given retroactive effect following the rule that statutes governing court proceedings will be construed as applicable to actions pending and undetermined at the time of their passage,[62] every Information must state the qualifying and the aggravating circumstances attending the commission of the crime for them to be considered in the imposition of the penalty.[63] [] Since in the case at bar, the Information in Criminal Case No. 013324-L did not state that Ida is the mother of ABC, this circumstance could not be appreciated as a special qualifying circumstance. Ida may only be

convicted as an accomplice in the crime of simple rape, which is punishable by reclusion perpetua. In any event, Republic Act No. 9346, entitled an "An

Act Prohibiting the Imposition of Death Penalty in the Philippines," which was signed into law on June 24, 2006 prohibits the imposition of the death penalty.

Civil indemnity imposed against the appellant

The dispositive portion of the trial court's decision ordered Tampus and Ida "jointly and severally, to indemnify the offended party, [ABC], the sum of P50,000.00 in Criminal Case No. 013324-L."[[64]] The Court of Appeals, however, did not award any civil indemnity to ABC, and only awarded moral and exemplary damages. We deem it necessary and proper to award ABC civil indemnity of P50,000.00. Civil indemnity ex delicto is mandatory upon finding of the fact of rape. This is distinct from moral damages awarded upon such finding without need of further proof, because it is assumed that a rape victim has actually suffered moral injuries entitling the victim to such award.[65]

Consistent with prevailing jurisprudence, the victim in simple rape cases is entitled to an award of P50,000.00 as civil indemnity ex delicto and another P50,000.00 as moral damages.[66] However, Tampus' civil indemnity ex delicto has been extinguished by reason of his death before the final judgment, in accordance with Article 89 of the Revised Penal Code.[67] Thus, the amount of civil indemnity which remains for accomplice Ida to pay is put at issue.

It becomes relevant to determine the particular amount for which each accused is liable when they have different degrees of responsibility in the commission of the crime and, consequently, differing degrees of liability. When a crime is committed by many, each one has a distinct part in the commission of the crime and though all the persons who took part in the commission of the crime are liable, the liability is not equally shared among them. Hence, an accused may be liable either as principal, accomplice or accessory.

The particular liability that each accused is responsible for depends on the nature and degree of his participation in the commission of the crime. The penalty prescribed by the Revised Penal Code for a particular crime is imposed upon the principal in a consummated felony.[68] The accomplice is only given the penalty next lower in degree than that prescribed by the law for the crime committed[69] and an accessory is given the penalty lower by two degrees.[70] However, a felon is not only criminally liable, he is likewise civilly liable.[71] Apart from the penalty of imprisonment imposed on him, he is also ordered to indemnify the victim and to make whole the damage caused by his act or omission through the payment of civil indemnity and damages.

Civil liability arising from the crime is shared by all the accused. Although, unlike criminal liability—in which the Revised Penal Code specifically states the corresponding penalty imposed on the principal, accomplice and accessory—the share of each accused in the civil liability is not specified in the Revised Penal Code. The courts have the discretion to determine the apportionment of the civil indemnity which the principal, accomplice and accessory are respectively liable for, without guidelines with respect to the basis of the allotment.

Article 109 of the Revised Penal Code provides that "[i]f there are two or more persons civilly liable for a felony, the courts shall determine the amount for which each must respond." Notwithstanding the determination of the respective liability of the principals, accomplices and accessories within their respective class, they shall also be subsidiarily liable for the amount of civil liability adjudged in the other classes. Article 110 of the Revised Penal Code provides that "[t]he principals, accomplices, and accessories, each within their respective class, shall be liable severally (in solidum) among themselves for their quotas, and subsidiarily for those of the other persons liable."[72]

As courts are given a free hand in determining the apportionment of civil liability, previous decisions dealing with this matter have been grossly inconsistent.

In *People v. Galapin*,^[73] *People v. Continente*,^[74] *United States v. Lasada*,^[75] *People v. Mobe*,^[76] *People v. Irinea*,^[77] *People v. Rillorta*,^[78] *People v. Cagalingan*,^[79] *People v. Villanueva*,^[80] *People v. Magno*,^[81] *People v. del Rosario*,^[82] *People v. Yrat*,^[83] *People v. Saul*,^[84] and *People v. Tamayo*,^[85] the principal and accomplice were ordered to pay jointly and severally the entire amount of the civil indemnity awarded to the victim. In *People v. Sotto*,^[86] the accomplice was ordered to pay half of the amount of civil indemnity imposed by the trial court, while the principal was liable for the other half. In *People v. Toring*,^[87] the principal, accomplice and the accessory were made jointly and severally liable for the entire amount of the civil indemnity.

In the cases mentioned above, the principal and accomplice were made to pay equal shares of the civil indemnity. This makes the accomplice who had less participation in the commission of the crime equally liable with the principal for the civil indemnity. The degree of their participation in the crime was not taken into account in the apportionment of the amount of the civil indemnity. This is contrary to the principle behind the treble division of persons criminally responsible for felonies, i.e., that the liability must be commensurate with the degree of participation of the accused in the crime committed. In such a situation, the accomplice who just cooperated in the execution of the offense but whose participation is not indispensable to the commission of the crime is made to pay the same amount of civil indemnity as the principal by direct participation who took a direct part in the execution of the criminal act. It is an injustice when the penalty and liability imposed are not commensurate to the actual responsibility of the offender; for criminal responsibility is individual and not collective, and each of the participants should be liable only for the acts actually committed by him. The proportion of this individual liability must be graduated not only according to the nature of the crime committed and the circumstances attending it, but also the degree and nature of participation of the individual offender.

In *Garces v. People*,^[89] *People v. Flores*,^[90] *People v. Barbosa*,^[91] *People v. Ragundiaz*,^[92] *People v. Bato*,^[93] and *People v. Garalde*,^[94] the accomplice was held to be solidarity liable with the principal for only one-half (1/2) of the amount adjudged as civil indemnity. In *Garces*, the accomplice was held solidarity liable for half of the civil indemnity *ex delicto* but was made to pay the moral damages of P50,000.00 separately from the principal. In *Flores*, *Ragundiaz*, *Bato*, and *Garalde*, the accomplice was held solidarily liable for half of the combined amounts of the civil indemnity *ex delicto* and moral damages. In *Ragundiaz*, the accomplice was also made solidarily liable with the principal for half of the actual damages, and in *Garalde* the accomplice was also held solidarily liable with the principal for half of the exemplary damages, aside from the civil and moral damages.

In these cases, the accomplice was made jointly and severally liable with the principal for only half of the amount of the civil indemnity and moral damages, only for purposes of the enforcement of the payment of civil indemnity to the offended party. When the liability in *solidum* has been enforced, as when payment has been made, the person by whom payment has been made shall have a right of action against the other persons liable for the amount of their respective shares.^[95] As against each other, whoever made the payment may claim from his co-debtors only the share that corresponds to each, with interest for the payment already made.^[96] In these cases, therefore, payment is made by either the principal or the accomplice, the one who made the payment to the victim could demand payment of the part of the debt corresponding to his co-debtor. If for example the principal paid the victim the entire amount of the civil indemnity, he could go against the accomplice for one-fourth (1/4) of the total amount of civil indemnity and damages. The principal was primarily liable for only one-half (1/2) of the total amount of civil indemnity and he was solidarily liable with the accomplice for the other half. Since the principal paid for the half which the accomplice is solidarily liable with, he could claim one-half (1/2) of that amount from

the accomplice. Thus, the principal would have become ultimately liable for three-fourths (3/4) of the total amount of the civil indemnity and damages, while the accomplice would have become liable for one-fourth (1/4) of such amount.

In *People v. Cortes*,^[97] *People v. Budol*,^[98] *People v. Nulla*,^[99] and *People v. Madali*,^[100] the principal was ordered to pay twice the share of the accomplice in the civil indemnity. In *Nulla*, the Court determined the respective amounts for which the principal, accomplice and accessory were liable for. The principal was ordered to pay P20,000.00, the accomplice was ordered to pay P10,000.00, and the accessory was ordered to pay P2,000.00. Unlike the cases cited above where the principal and accomplice were held solidarity liable for the entire amount of the civil indemnity or half of it, in *Nulla*, the court particularly determined the amount for which each shall respond. This is consistent with Article 109 and Article 110 of the Revised Penal Code, which require that the courts should determine the amount for which the principals, accomplices and accessories must respond to and upon specifying this amount, the principals are solidarity liable within their class for their quota, the accomplices are solidarity liable among themselves for their quota and the accessories are solidarity liable for their quota. If any one of the classes is unable to pay for its respective quota, it becomes subsidiarily liable for the quota of the other classes, which shall be enforced first against the property of the principals; next, against that of the accomplices; and lastly, against that of the accessories.^[101]

There are also cases where the principal was ordered to pay more than double the amount that the accomplice is liable for. In *Lumiguís v. People*,^[102] the civil liability of P6,000.00 was apportioned as follows: the sole principal was primarily liable for P3,000.00, the four accomplices were primarily liable in solidum among themselves for the other half of the indemnity, or P3,000.00. Thus, each accomplice was answerable for one-fourth (1/4) of P3,000.00 or one-eighth (1/8) of the entire amount of civil indemnity, which is P750.00.

Similarly in *People v. Bantagan*,^[103] the principal was required to indemnify the heirs of the deceased in the amount of P500.00. In case of his insolvency, his three accomplices should be jointly and severally liable. The three accomplices were jointly and severally liable for the other P500 and in case of their insolvency the principal was secondarily liable for such amount.

In *People v. Castillo*,^[104] the accomplice was ordered to pay one-fourth (1/4) of the amount of the civil indemnity, while the principal was liable for the remaining three-fourths (3/4).

In *People v. Cariaga*,^[105] the total amount of indemnity and damages due to the heirs of the victim amounted to P601,000.00. The sole accomplice was ordered to pay P101,000.00 which is roughly one-sixth (1/6) of the entire civil indemnity, while the two principals were ordered to pay the rest of the indemnity and damages amounting to P500,000.00.

The cases cited above demonstrate the ad hoc method by which the ratio of shares of the civil indemnity and damages among the principal, accomplice and accessory is determined. Though the responsibility to decide the respective shares of persons liable for a felony is left to the courts, this does not mean that this amount can be decided arbitrarily or upon conjecture. The power of the courts to grant indemnity and damages demands factual, legal and equitable justification, and cannot be left to speculation and caprice.

The entire amount of the civil indemnity, together with the moral and actual damages, should be apportioned among the persons who cooperated in the commission of the crime according to the degree of their liability, respective responsibilities and actual participation in the criminal act. Salvador Viada, an authority in criminal law, is of the opinion that there are no fixed rules which are applicable in all cases in order to determine the apportionment of civil liability among two or more persons civilly liable for a felony, either because there are different degrees of culpability of offenders, or because of the inequality of their financial capabilities.^[106] On

this note, he states in his commentaries on the 1870 Penal Code of Spain that the law should leave the determination of the amount of respective liabilities to the discretion of the courts.[107] The courts have the competence to determine the exact participation of the principal, accomplice, and accessory in the commission of the crime relative to the other classes because they are able to directly consider the evidence presented and the unique opportunity to observe the witnesses.

We must stress, however, that the courts' discretion should not be untrammelled and must be guided by the principle behind differing liabilities for persons with varying roles in the commission of the crime. The person with greater participation in the commission of the crime should have a greater share in the civil liability than those who played a minor role in the crime or those who had no participation in the crime but merely profited from its effects. Each principal should shoulder a greater share in the total amount of indemnity and damages than every accomplice, and each accomplice should also be liable for a greater amount as against every accessory. Care should also be taken in considering the number of principals versus that of accomplices and accessories. If for instance, there are four principals and only one accomplice and the total of the civil indemnity and damages is P6,000.00, the court cannot assign two-thirds (2/3) of the indemnity and damages to the principals and one-third (1/3) to the accomplice. Even though the principals, as a class, have a greater share in the liability as against the accomplice-- since one-third (1/3) of P6,000.00 is P2,000.00, while two-thirds (2/3) of P6,000.00 is P4,000.00—when the civil liability of every person is computed, the share of the accomplice ends up to be greater than that of each principal. This is so because the two-thirds (2/3) share of the principals—or P4,000.00—is still divided among all the four principals, and thus every principal is liable for only P1,000.00.

In the case at bar, the trial court ruled that the accomplice is solidarity liable with the principal for the entire amount of the civil indemnity of P50,000.00. This is an erroneous apportionment of the civil indemnity. First, because it does not take into account the difference in the nature and degree of participation between the principal, Tampus, versus the accomplice, Ida. Ida's previous acts of cooperation include her acts of forcing ABC to drink beer and permitting Tampus to have sexual intercourse with her daughter. But even without these acts, Tampus could have still raped ABC. It was Tampus, the principal by direct participation, who should have the greater liability, not only in terms of criminal liability, but also with respect to civil liability. Second, Article 110 of the Revised Penal Code states that the apportionment should provide for a quota amount for every class for which members of such class are solidarity liable within their respective class, and they are only subsidiarily liable for the share of the other classes. The Revised Penal Code does not provide for solidarity liability among the different classes, as was held by the trial court in the case at bar.

Thus, taking into consideration the difference in participation of the principal and accomplice, the principal, Tampus, should be liable for two-thirds (2/3) of the total amount of the civil indemnity and moral damages and appellant Ida should be ordered to pay one-third (1/3) of the amount. Civil indemnity for simple rape was correctly set at P50,000.00 and moral damages at P50,000.00. The total amount of damages to be divided between Tampus and Ida is P100,000.00, where Tampus is liable for P66,666.67 (which is two-thirds [2/3] of P100,000.00) and Ida is liable for P33,333.33 (which is one-third [1/3] of P100,000.00). This is broken down into civil indemnity of P16,666.67 and moral damages of P16,666.67. However, since the principal, Tampus, died while the case was pending in the Court of Appeals, his liability for civil indemnity *ex delicto* is extinguished by reason of his death before the final judgment.[108] His share in the civil indemnity and damages cannot be passed over to the accomplice, Ida, because Tampus' share of the civil liability has been extinguished. And even if Tampus were alive upon the promulgation of this decision, Ida would only have been subsidiarily liable for his share of the civil indemnity of P66,666.67. However, since Tampus' civil liability *ex delicto* is extinguished, Ida's subsidiary liability with respect to this amount is also eliminated, following the principle that the accessory follows the principal. Tampus' obligation to pay P66,666.67 — his quota of the civil indemnity — is the principal

obligation, for which Ida is only subsidiarily liable. Upon the extinguishment of the principal obligation, there is no longer any accessory obligation which could attach to it; thus, the subsidiary liability of Ida is also extinguished.

On the matter of exemplary damages, we find that exemplary damages were incorrectly awarded by the Court of Appeals.

In criminal cases, exemplary damages are imposed on the offender as part of the civil liability when the crime was committed with one or more aggravating circumstances.[109] Also known as "punitive" or "vindictive" damages, exemplary or corrective damages are 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 a punishment for those guilty of outrageous conduct.[110] Exemplary damages may be awarded only when one or more aggravating circumstances are alleged in the information and proved during the trial.[111]

In the case at bar, no qualifying or aggravating circumstance was appreciated against Ida. Although, the minority of the victim coupled with the fact that the offender is the parent of the victim could have served to qualify the crime of rape, the presence of these concurring circumstances cannot justify the award of exemplary damages since the relationship of the offender, Ida, to the victim, ABC, was not alleged in the Information. " The minority of the rape victim and her relationship with the offender must both be alleged in the information and proved during the trial in order to be appreciated as an aggravating/qualifying circumstance. While the information in the instant case alleged that ABC was a minor during the incident, there was no allegation that Ida was her parent. Since the relationship between ABC and appellant was not duly established, the award of exemplary damages is not warranted.

IN VIEW WHEREOF, the Decision of the Court of Appeals, Visayas Station, dated September 29, 2006, in CA-G.R. CR-HC No. 00215, finding appellant Ida Montesclaros guilty beyond reasonable doubt as accomplice in the crime of rape and sentencing her to suffer the indeterminate penalty often (10) years and one (1) day of prison mayor, as minimum, to twelve (12) years and one (1) day of reclusion temporal, as maximum, is **AFFIRMED** with **MODIFICATION**. Appellant Ida Montesclaros is **ORDERED** to pay civil indemnity in the amount of sixteen thousand, six hundred sixty-six pesos and sixty-seven centavos (P16,666.67), and moral damages in the amount of sixteen thousand, six hundred sixty-six pesos and sixty-seven centavos' (P16,666.67). The award of exemplary damages is **DELETED**.

SO ORDERED.

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

[1] Deceased.

[2] Rollo, pp. 4-24.

[3] CA rollo, pp. 24-36.

[4] Pursuant to Republic Act No. 9262, otherwise known as the "Anti-Violence Against Women and Their Children Act of 2004" and its implementing rules, the real name of the victim, together with the real names of her immediate family members, is withheld and fictitious initials instead are used to represent her, to protect her privacy. (People v. Cubalquinto, G.R. No. 167693, September 19, 2006, 502 SCRA 419, 421-426.)

Section 44 of R.A. No. 9262 provides:

SECTION 44. Confidentiality. — All records pertaining to cases of violence against women and their children including those in the barangay shall be confidential and all public officers and employees and public or private clinics to hospitals shall respect the right to privacy of the victim. Whoever publishes or causes to be published, in any format, the name, address, telephone number, school, business address, employer, or other identifying information of a victim or an immediate family member, without the latter's consent, shall be liable to the contempt power of the court.

x x x x

[5] In the Records of this case, the Information is labelled as the Complaint.

[6] Original Records, vol. 2, pp. 1-3.

[7] Id. at vol. 2, pp. 1-2.

[8] On March 22, 1996, the prosecution filed a motion for leave of court to file an amended complaint stating that the incident of rape happened at one o'clock of dawn of April 4, 1995, and not one o'clock of dawn of April 3, 1995. Finding the motion meritorious, the motion was granted by the RTC in its March 28, 1996 Order; see Original Records, vol. 2, pp. 26-27.

[9] TSN, February 28, 1996, pp. 11-12.

[10] Id. at p. 13.

[11] Id.

[12] "Remedyo" is a Visayan term for sexual intercourse; see rollo, p. 5.

[13] TSN, February 28, 1996, p. 14.

[14] Id. at pp. 14-15.

[15] Id. at p. 16.

[16] Id. at p. 17.

[17] Id. at p. 18.

[18] Id. at p. 20.

[19] Id. at pp. 21-22.

[20] Id. at p. 23.

[21] TSN, March 19, 1996, p. 43.

[22] Original Records, vol. 1, p. 6.

[23] TSN, August 8, 1996, p. 7.

[24] Id. at p. 8.

[25] TSN, October 22, 1996, pp. 5-6.

[26] Id. at p. 6.

[27] Id. at p. 7.

[28] TSN, August 27, 1996, pp. 15-16.

[29] CA rollo, p. 30.

[30] Id.

[31] Dr. Costas is a graduate of South Western University in 1965. He is the head of the Psychiatry Department of Vicente Sotto Memorial Medical Center and has been working with the same institution, at the time he testified, for more than 12 years; TSN, September 28, 1998, p. 6.

[32] Original Records, vol. 1, p. 66.

[33] ARTICLE 13. MITIGATING CIRCUMSTANCES.—The following are mitigating circumstances:

x x x x

(9) Such illness of the offender as would diminish the exercise of the will-power of the offender without however depriving him of consciousness of his acts.

[34] CA rollo, pp.

[35] Certificate of Death; CA rollo, p. 57.

[36] Id. at p. 70.

[37] Rollo, p. 23.

[38] People v. Manuel Aguilar, G.R. No. 177749, December 17, 2007, 540 SCRA 509, 522; People v. Blancaflor, 466 Phil. 86, 96 (2004).

[39] People v. Cabugatan, G.R. No. 172019, February 12, 2007, 515 SCRA 537, 547.

[40] People v. Patricia Pioquinto, G.R. No. 168326, April 11, 2007, 520 SCRA 712, 720; People v. Alvero, G.R. Nos. 134536-38, April 5, 2000, 329 SCRA 737, 753.

[41] RULES OF COURT, Rule 133, Sec. 4.

[42] People v. Villanueva, 459 Phil. 856, 867-868 (2003).

[43] CA rollo, pp. 32-33.

[44] Id. at p. 35.

[45] Id.

[46] CA rollo, p. 73.

[47] REVISED PENAL CODE, Art. 18.

[48] People v. Roche, G.R.No. 115182, April 6, 2000, 330 SCRA 91, 113-144.

[49] TSN, March 19, 1996, pp. 8-9.

[50] Id. at pp. 9-11.

[51] Id. at pp. 11-12.

[52] Id. at p. 13.

[53] Id. at p. 14.

[54] Omeng is short for the name of the accused, Bartolome Tampus.

[55] TSN, March 19, 1996, p. 19.

[56] Id. at p. 20.

[57] TSN, September 29, 1998, pp. 10-11.

[58] Id. at pp. 12-13.

[59] Id. at pp. 15-16.

[60] *People v. Villanueva*, G.R. No. 172697, September 25, 2007, 534 SCRA 147, 154; *People v. Pombid*, G.R.No. 124453, March 15, 2000, 328 SCRA 158; *People v. Banez*, G.R.No. 125849, January 20 1999 301 SCRA 248, 262.

[61] *People v. Opong*, G.R. No. 177822, June 17, 2008, 554 SCRA 706, 729; *People v. Ching*, G.R. no. 177150, 22 November 2007, 538 SCRA 117, 131.

[62] *People v. Detos Santos*, G.R. No. 135919, May 9, 2003, 403 SCRA 153, 164.

[63] Rule 110, SEC. 8. Designation of the offense. — The complaint or information shall state the designation of the offense given by the statute, aver the acts or omissions constituting the offense, and specify its qualifying and aggravating circumstances. If there is no designation of the offense, reference shall be made to the section or subsection of the statute punishing it.

SEC. 9. Cause of the accusation. — The acts or omissions complained of as constituting the offense and the qualifying and aggravating circumstances must be stated in ordinary and concise language and not necessarily in the language used in the statute but in terms sufficient to enable a person of common understanding to know what offense is being charged as well as its qualifying and aggravating circumstances and for the court to pronounce judgment.

[64] CA rollo, p. 36.

[65] *People v. Calongui*, G.R. No. 170566, March 3, 2006, 484 SCRA 76, 88.

[66] *People v. Albeno Mahinay*, G.R. No. 179190, January 20, 2009; *People v. Restitute Valenuela*, G.R. No. 182057, February 6, 2009; *People v. Richard Sulima*, G.R. No. 183702, February 10, 2009; *People v. Elmer Baldo*, G.R. No. 175238, February 24, 2009; *People v. Agustin Abellera*, G.R. No. 166617, July 3, 2007, 526 SCRA 329.

[67] REVISED PENAL CODE, Art. 89.

ART. 89. HOW CRIMINAL LIABILITY IS TOTALLY EXTINGUISHED.—Criminal liability is totally extinguished:

- By the death of the convict, as to the personal penalties; and as to pecuniary penalties, liability therefore is extinguished only when the death of the offender occurs before final judgment;

x x x x

[68] REVISED PENAL CODE, Art. 46.

[69] REVISED PENAL CODE, Art. 52.

[70] REVISED PENAL CODE, Art. 53.

[71] REVISED PENAL CODE, Art. 100.

- [72] REVISED PENAL CODE, Art. no. 110
- [73] "G.R. No. 124215, July 31, 1998, 293 SCRA 474.
- [74] G.R. Nos. 100801-02, August 25, 2000, 339 SCRA 1.
- [75] 21 Phil. 647(1912).
- [76] G.R. No. L-1292, May 24, 1948, 81 SCRA 58.
- [77] G.R. Nos. L-44410-11, August 5, 1988, 164 SCRA 121.
- [78] G.R. No. 57415, December 15, 1989, 180 SCRA 102.
- [79] G.R. No. 79168, August 3, 1990, 188 SCRA 313.
- [80] G.R. No. 110613, March 26, 1997, 270 SCRA 456.
- [81] G.R. No. 134535, January 19, 2000, 322 SCRA 494.
- [82] G.R. Nos. 107297-98, December 19, 2000, 348 SCRA 603.
- [83] G.R. No. 130415, October 11, 2001, 367 SCRA 154.
- [84] G.R. No. 124809, December 19, 2001, 372 SCRA 636.
- [85] G.R. No. 138608, September 24, 2002, 389 SCRA 540.
- [86] G.R. Nos. 106083-84, March 29, 1996, 255 SCRA 344.
- [87] G.R. No. 56358, October 26, 1990, 191 SCRA 38.
- [88] United States v. Magcomot, 13 Phil. 386, 390 (1909).
- [89] G.R. No. 173858, July 17, 2007, 527 SCRA 827.
- [90] Phil. 532, 552 (2000).
- [91] G.R. No. L-39779, November 7, 1978, 86 SCRA 217.
- [92] G.R. No. 124977, June 22, 2000, 334 SCRA 193.
- [93] G.R. No. 127843, December 15, 2000, 348 SCRA 253.
- [94] G.R. No. 173055, April 13, 2007, 521 SCRA 327.
- [95] Revised penal Code, Art. 110.
- [96] Civil Code, Art. 1217.
- [97] 55 Phil. 143, 150(2000).
- [98] 227 Phil. 225(1986).
- [99] G.R.No.L-69346, August 31, 1987, 153 SCRA 471.
- [100] G.R. Nos. 67803-04, July 30, 1990, 188 SCRA 69.
- [101] REVISED PENAL CODE, Article 110.
- [102] G.R. No. L-20338, April 27, 1967, 19 SCRA 842, 847.

[103] 54 Phil. 834(1930).

[104] G.R. No. 32864, March 8, 1989, 171 SCRA 30.

[105] G.R. No. 135029, September 12, 2003, 411 SCRA 40.

[106] SALVADOR VIADA, CODIGO PENAL REFORMADO DE 1870, Con Las Variaciones Introducias En El Mismo, Comentado 4th ed. 1890, Tomo I, p. 549.

The Spanish text provides, viz.,:

Pues bien, cuando tal ocurra, como quiera que no cabe determinar reglas fijas que resuelvan todos los casos, or a par ser distintos los grados de ciilpabiiickid de los delincuentes, ora por la desigualdad de sus forlunas, ha creido conveniente la Ley dejar la resolution de cada caso a! pntdente arbitrio de los Tribunates, determinado que esios senalaran la cuota de que deba responder cada uno de los que en el hecho participation 6 intervention tuveiron.

[107] Id.

[108] Supra, note 67.

[109] CIVIL CODE, Art. 2230.

[110] People v. Orilla, G.R. Nos. 148939-40, February 13, 2004, 422 SCRA 620, 643, citing People v. Catubig, G.R. No. 137842, August 23, 2001, 363 SCRA 621.

[111] People v. Opong, G.R. No. 177822, June 17, 2008, 554 SCRA 706; People v. Cachapero, G.R. No. 153008, May 20, 2004, 428 SCRA 744, 758, citing Talay v. Court of Appeals, 446 Phil. 256, 278-279 (2003); People v. Villanveva, 440 Phil. 409, 425 (2002); People v. Catubig, 416 Phil. 102, 119 (2001).

[112] RULES OF COURT, Rule 1 10, SEC. 8.

[113] People v. Ching, G.R. No. 177150, 22 November 2007, 538 SCRA 117, 131.

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