

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. VICTORIO PAGKALINAWAN, ACCUSED-APPELLANT.

G.R. No. 184805. March 03, 2010

Ponente: VELASCO JR., J.

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VELASCO JR., J.:

The Case

This is an appeal from the May 9, 2008 Decision[1] of the Court of Appeals (CA) in CA-G.R. CR No. 02648 entitled *People of the Philippines v. Victorio Pagkalinawan*, which affirmed the January 16, 2007 Joint Decision[2] in Criminal Case Nos. 13624-D and 13625-D of the Regional Trial Court (RTC), Branch 267 in Pasig City. The RTC found accused-appellant Victorio[3] Pagkalinawan guilty of violation of Sections 5 and 11, Article II of Republic Act No. (RA) 9165 or the Comprehensive Dangerous Drugs Act of 2002.

The Facts

The charges against appellant stemmed from the following Informations:

Criminal Case No. 13624-D
(Violation of Sec. 5, paragraph 1 [Sale], Art. II of RA 9165)

That, on or about the 20[th] day of July 2004, in the Municipality of Taguig, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, without being authorized by law, did, then and there willfully, unlawfully and knowingly sell, deliver, and give away to another 0.28 gram of white crystalline substance contained in one (1) heat-sealed transparent plastic sachet, which was found positive to the test for Methylamphetamine Hydrochloride, also known as shabu, a dangerous drug, in consideration of the amount of Php500.00, and violation of the above-cited law.

Contrary to law.[4]

Criminal Case No. 13625-D
(Violation of Sec. 11, par. 2 [Possession], Art. II of RA 9165)

That, on or about the 20[th] day of July 2004, in the Municipality of Taguig, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, without being authorized by law to possess any dangerous drug, did, then and there willfully, unlawfully and knowingly possess 0.13 gram and 0.08 gram, respectively, or a total of 0.21 gram of white crystalline substance separately contained in two (2) heat-sealed transparent plastic sachets, which substance was found positive to the test for Methylamphetamine Hydrochloride, also known as shabu, a dangerous drug, in violation of the above-cited law.

Contrary to law.[5]

On August 9, 2004, appellant was arraigned. He pleaded "not guilty" to the charges against him. After the pre-trial conference, trial on the merits ensued.

During the trial, the prosecution presented as its witnesses Police Officer (PO1) Rey Memoracion and PO3 Arnulfo Vicuña, both members of the Station Drug Enforcement Unit, Taguig Police Station, Taguig City. On the other hand, the defense presented as its witnesses appellant Pagkalinawan, Paula San Pedro, and May Pagkalinawan.

The Prosecution's Version of Facts

On July 20, 2004, at around 11:00 p.m., a confidential informant arrived at the office of the Station Anti-Illegal Drugs-Special Operations Task Force (SAID-SOTF) of the Taguig City Police and reported the illegal activities of a certain "Berto," a resident of Captain Ciano St., Ibayo, Tipaz, Taguig City.

The leader of the group, Police Senior Inspector Romeo Paat, immediately formed a buy-bust team with PO1 Memoracion as the poseur-buyer and the rest of the group as back-up. The buy-bust money was then marked and recorded in the blotter. Afterwards, the team, along with the police informant, proceeded to where Berto lives. Upon reaching the place, PO1 Memoracion and the informant alighted from the service vehicle and walked towards Berto, who was leaning against a wall, while the rest of the team positioned themselves in strategic locations from where they could see clearly what was going on.

The informant introduced PO1 Memoracion to Berto as a taxi driver who wanted to buy shabu. Berto immediately took the Php 500 buy-bust money from PO1 Memoracion and showed three (3) plastic sachets containing shabu in his palm, and asked the poseur-buyer to pick one. Once PO1 Memoracion took hold of the shabu, he took off his cap, which was the pre-arranged signal for the rest of the team to close in and arrest Berto. Berto suddenly became suspicious of PO3 Vicuña, who was coming up to them, so he attempted to flee the scene. PO1 Memoracion was able to stop him and ordered him to empty his pockets. The other two (2) sachets of shabu were recovered from him and the appropriate markings were made on them. Berto was identified later on as appellant Pagkalinawan.

Afterwards, the team brought appellant to its headquarters in Taguig City for investigation. After the police investigator made the request for laboratory examination of the confiscated transparent plastic sachets of suspected shabu, PO1 Memoracion brought these to the Philippine National Police (PNP) Crime Laboratory, Southern Police District Crime Laboratory Office. Police Inspector (P/Insp.) May Andrea A. Bonifacio, Forensic Chemical Officer, conducted a qualitative examination on the specimens, which tested positive for methamphetamine hydrochloride, a dangerous drug. She issued Physical Science Report No. D-546-04S dated July 21, 2004, which showed the following results:

SPECIMEN SUBMITTED:

Three (3) heat-sealed transparent sachets each containing white crystalline substance with the following markings and net weights:

- A ("SAID-SOTF" VSP) = 0.28 gram
- B ("SAID-SOTF" VSP) = 0.13 gram
- C ("SAID-SOTF" VSP) = 0.08 gram

x x x x

PURPOSE OF LABORATORY EXAMINATION:

To determine the presence of any dangerous drug. x x x

FINDINGS:

Qualitative examination conducted on the above-stated specimen gave POSITIVE result to the tests for the presence of Methylamphetamine hydrochloride, a dangerous drug. x x x

CONCLUSION:

Specimen A to C contain Methylamphetamine Hydrochloride, a dangerous drug.[6] x x x

Version of the Defense

Appellant, on the other hand, interposed the defense of denial.

Appellant recounted that, on July 20, 2004, he was watching television inside their house at No. 10-D Ibayo, Tipaz, Taguig City. His granddaughter Paula San Pedro and sister-in-law May Pagkalinawan were with him in the house at the time. Suddenly, armed men barged into the house and introduced themselves as policemen. One of them pointed a gun at him and asked where he was keeping the shabu. He denied having what the policemen were looking after. Despite his denial, the policemen still searched his house. When they could not find any prohibited drugs there, the policemen brought him to the Drug Enforcement Unit of the Taguig City Police Station. At the police station, he was told by the policemen to amicably settle the case with them. But because he did not heed their order, cases for violation of RA 9165 were filed against him by the policemen.

May Pagkalinawan testified that, on July 20, 2004, she was resting inside their house at No. 10-D Ibayo, Tipaz, Taguig City after selling her wares, while appellant was watching television. Between 10:00 to 11:00 p.m., however, she went to the house of her sister-in-law Zenaida for about ten minutes, but when she returned home, she saw policemen apprehending appellant. She asked the policemen where they were bringing appellant and they told her to follow them at the police station in the Taguig City Hall. She also averred that the policemen did not present any document giving them authority to search their house and arrest appellant. She further claimed that the police officers did not apprise appellant of his constitutional rights during and after the arrest.

Defense witness Paula San Pedro, who claimed to be appellant's granddaughter, also corroborated the stories of both May Pagkalinawan and appellant. In her testimony, she stressed that her grandfather was apprehended but not bodily frisked by the policemen inside their house; hence, it was not possible for an illegal drug to be found in the possession of appellant.

Ruling of the Trial Court

After trial, the RTC convicted appellant. The dispositive portion of its Joint Decision reads:

WHEREFORE, in view of the foregoing considerations, the Court finds accused VIRGILIO PAGKALINAWAN y Silvestre alias "Berto" in Criminal Case No. 13624-D for Violation of Section 5, 1[st] paragraph, Article II of Republic Act No. 9165, otherwise known as "The Comprehensive Drugs Act of 2002", GUILTY beyond reasonable doubt. Hence, accused Virgilio Pagkalinawan y Silvestre alias "Berto" is hereby sentenced to suffer LIFE IMPRISONMENT and ordered to pay a fine of FIVE HUNDRED THOUSAND PESOS (PhP500,000.00).

Moreover, accused VIRGILIO PAGKALINAWAN y Silvestre alias "Berto" is also found GUILTY beyond reasonable doubt in Criminal Case No. 13625-D for Violation of Section 11, 2[nd] paragraph, Article II of Republic Act No. 9165, otherwise known as "The Comprehensive Drugs Act of 2002". And since the quantity of methylamphetamine hydrochloride (shabu) found in the possession of the accused is only 0.21 gram, accused Virgilio Pagkalinawan y Silvestre alias "Berto" is hereby sentenced to suffer imprisonment ranging from TWELVE (12) YEARS and ONE (1) DAY as minimum -to- FOURTEEN (14) YEARS and

TWENTY-ONE (21) DAYS as maximum. Accused Virgilio Pagkalinawan y Silvestre alias "Berto" is further penalized to pay a fine in the amount of THREE HUNDRED THOUSAND PESOS (Php300,000.00).

Accordingly, the Jail Warden of the Taguig City Jail where accused Virgilio Pagkalinawan y Silvestre alias "Berto" is presently detained is hereby ordered to forthwith commit the person of convicted Virgilio Pagkalinawan y Silvestre alias "Berto" to the New Bilibid Prisons, Bureau of Corrections in Muntinlupa City, Metro Manila.

Upon the other hand, the shabu contained in three (3) heat-sealed transparent plastic sachets with a total weight of 0.49 [gram] which are the subject matter of the above-captioned cases are hereby ordered to be immediately transmitted and/or submitted to the custody of the Philippine Drug Enforcement Agency (PDEA) for its proper disposition.

Costs de oficio.

SO ORDERED.[7]

On appeal to the CA, appellant disputed the RTC's finding of his guilt beyond reasonable doubt of the crimes charged. He argued that the presumption of innocence should prevail over the principle of regularity of performance of the police officers. Further, he contended that what actually happened was an instigation and not a buy-bust operation. Lastly, he claimed that there was no compliance with the law as to the proper requirements for a valid buy-bust operation.

Ruling of the Appellate Court

On May 9, 2008, the CA affirmed the judgment of the RTC. It ruled that the prosecution was able to discharge the statutory burden of guilt beyond reasonable doubt. It also dismissed the allegation of instigation, saying that what happened was actually an entrapment, to wit:

x x x It should be noted that the accused-appellant was neither cajoled nor seduced into peddling drugs. In fact, when he was told that the poseur buyer wanted to score shabu, the accused-appellant had several sachets of shabu ready in his pocket. This means that even without the slightest prodding from the police officers, the accused-appellant already harbored the intent to commit the crime of drug pushing. The feigned offer to buy on the part of the poseur-buyer was merely a ploy to entrap a drug peddler who was about to actualize his felonious intent.[8]

The dispositive portion of the CA Decision reads:

WHEREFORE, in the light of the foregoing discussion, the appealed Joint decision dated 16 January 2007 is perforce affirmed in toto

SO ORDERED.[9]

Appellant filed a timely notice of appeal of the decision of the CA.

The Issue

Appellant assigns the following errors:

I.

The trial court gravely erred in giving credence to the incredible testimony of the prosecution witnesses while totally disregarding the evidence adduced by the defense.

II.

The trial court gravely erred in finding that the guilt of the accused-appellant for the crime charged has been proven beyond reasonable doubt.

Our Ruling

We sustain appellant's conviction.

Buy-Bust Operation Is a Form of Entrapment

Appellant argues that the buy-bust operation conducted was invalid and that what really happened was instigation, not entrapment. Such contention lacks basis and is contrary to jurisprudence.

Instigation is the means by which the accused is lured into the commission of the offense charged in order to prosecute him. On the other hand, entrapment is the employment of such ways and means for the purpose of trapping or capturing a lawbreaker.[10]

In *People v. Lua Chu and Uy Se Tieng*, the Court laid down the distinction between entrapment and instigation, to wit:

ENTRAPMENT AND INSTIGATION.--While it has been said that the practice of entrapping persons into crime for the purpose of instituting criminal prosecutions is to be deplored, and while instigation, as distinguished from mere entrapment, has often been condemned and has sometimes been held to prevent the act from being criminal or punishable, the general rule is that it is no defense to the perpetrator of a crime that facilities for its commission were purposely placed in his way, or that the criminal act was done at the 'decoy solicitation' of persons seeking to expose the criminal, or that detectives feigning complicity in the act were present and apparently assisting in its commission. Especially is this true in that class of cases where the offense is one of a kind habitually committed, and the solicitation merely furnishes evidence of a course of conduct. Mere deception by the detective will not shield defendant, if the offense was committed by him, free from the influence or instigation of the detective. The fact that an agent of an owner acts as a supposed confederate of a thief is no defense to the latter in a prosecution for larceny, provided the original design was formed independently of such agent; and where a person approached by the thief as his confederate notifies the owner or the public authorities, and, being authorised by them to do so, assists the thief in carrying out the plan, the larceny is nevertheless committed. It is generally held that it is no defense to a prosecution for an illegal sale of liquor that the purchase was made by a 'spotter,' detective, or hired informer; but there are cases holding the contrary.[11]

One form of entrapment is the buy-bust operation. It is legal and has been proved to be an effective method of apprehending drug peddlers, provided due regard to constitutional and legal safeguards is undertaken.[12]

In order to determine the validity of a buy-bust operation, this Court has consistently applied the "objective" test. In *People v. Doria*,[13] this Court stressed that in applying the "objective" test, the details of the purported transaction during the buy-bust operation must be clearly and adequately shown, i.e., the initial contact between the poseur-buyer and the pusher, the offer to purchase, and the promise or payment of the consideration until the consummation of the sale by the delivery of the illegal drug subject of the sale. It further emphasized that the "manner by which the initial contact was made, whether or not through an informant, the offer to purchase the drug, the payment of the 'buy-bust' money, and the delivery of the illegal drug, whether to the informant alone or the police officer, must be subject of strict scrutiny by courts to insure that law-abiding citizens are not unlawfully induced to commit an offense." [14]

In the instant case, the evidence clearly shows that the police officers used entrapment, not instigation, to capture appellant in the act of selling a dangerous drug. It was the confidential informant who made initial contact with appellant when he introduced PO1 Memoracion as a buyer for shabu. Appellant immediately took the PhP 500

buy-bust money from PO1 Memoracion and showed him three pieces of sachet containing shabu and asked him to pick one. Once PO1 Memoracion got the shabu, he gave the pre-arranged signal and appellant was arrested. The facts categorically show a typical buy-bust operation as a form of entrapment. The police officers' conduct was within the acceptable standards for the fair and honorable administration of justice.

Moreover, contrary to appellant's argument that the acts of the informant and the poseur-buyer in pretending that they were in need of shabu instigated or induced him to violate the Anti-Drugs Law, a police officer's act of soliciting drugs from the accused during a buy-bust operation, or what is known as a "decoy solicitation," is not prohibited by law and does not render the buy-bust operation invalid.[15] This was clarified by the Court in *People v. Sta Maria*:

It is no defense to the perpetrator of a crime that facilities for its commission were purposely placed in his way, or that the criminal act was done at the "decoy solicitation" of persons seeking to expose the criminal, or that detectives feigning complicity in the act were present and apparently assisting its commission. Especially is this true in that class of cases where the offense is one habitually committed, and the solicitation merely furnishes evidence of a course of conduct.

As here, the solicitation of drugs from appellant by the informant utilized by the police merely furnishes evidence of a course of conduct. The police received an intelligence report that appellant has been habitually dealing in illegal drugs. They duly acted on it by utilizing an informant to effect a drug transaction with appellant. There was no showing that the informant induced the appellant to sell illegal drugs to him.[16]

It bears stressing that what is material to the prosecution for illegal sale of drugs is the proof that the transaction or sale actually took place, coupled with the presentation in court of evidence of *corpus delicti*. In other words, the essential elements of the crime of illegal sale of prohibited drugs are: (1) the accused sold and delivered a prohibited drug to another; and (2) he knew that what he had sold and delivered was a prohibited drug.[17] All these elements were satisfactorily proved by the prosecution in the instant case. Appellant sold and delivered the shabu for PHP 500 to PO1 Memoracion posing as buyer; the said drug was seized and identified as a prohibited drug and subsequently presented in evidence; there was actual exchange of the marked money and contraband; and finally, appellant was fully aware that he was selling and delivering a prohibited drug.

Likewise, the prosecution was also able to prove with moral certainty the guilt of appellant for the crime of illegal possession of dangerous drugs. It was able to prove the following elements: (1) that the accused is in possession of the object identified as a prohibited or regulatory drug; (2) that such possession is not authorized by law; and (3) that the accused freely and consciously possessed the said drug.[18]

In the case at bar, appellant was caught in actual possession of prohibited drugs without showing any proof that he was duly authorized by law to possess them. Having been caught in *flagrante delicto*, there is, therefore, a *prima facie* evidence of *animus possidendi* on appellant's part. [19]

As a matter of fact, the trial court, in disposing of the case, said:

The substance of the prosecution's evidence is to the effect that accused Virgilio Pagkalinawan y Silvestre alias "Berto" was arrested by the police because of the existence of shabu he sold to PO1 Rey B. Memoracion as well as the recovery of the buy-bust money from his possession together with the other two (2) plastic sachets similarly containing shabu.

To accentuate, the prosecution witnesses in the person of PO1 B. Memoracion and PO3 Arnulfo J. Vicuña positively identified accused Virgilio Pagkalinawan y Silvestre alias "Berto" as the person that they apprehended on July 20, 2004 at Ibayo, Tipaz, Taguig City. That they arrested accused Virgilio S. Pagkalinawan within the vicinity of a store because their team was able to procure shabu from him during the

buy-bust operation they purposely conducted against the aforementioned accused.

The buy-bust money recovered by the arresting police officers from the possession of the accused Virgilio Pagkalinawan y Silvestre alyas "Berto" as well as the shabu they were able to purchase from the accused sufficiently constitute as the very corpus delicti of the crime of "Violation of Section 5, 1[st] paragraph, Article II of Republic Act No. 9165", and the two (2) plastic sachets containing shabu that were recovered from the same accused Pagkalinawan similarly constitute as the corpus delicti of the crime of "Violation of Section 11, 2[nd] paragraph, No. 3, Article II of Republic Act No. 9165". As already established, corpus delicti has been defined x x x as the body or substance of the crime and refers to the fact that a crime has actually been committed. As applied to a particular offense, it means the actual commission by someone of the particular crime.

The testimony of PO1 Rey B. Memoracion that was corroborated by PO3 Arnulfo J. Vicuña, who have not shown and displayed any ill motive to arrest the accused, is sufficient enough to convict the accused of the crimes charged against him. x x x As law enforcers, their narration of the incident is worthy of belief and as such they are presumed to have performed their duties in a regular manner, in the absence of any evidence to the contrary. To stress x x x testimony of arresting officers, with no motive or reason to falsely impute a serious charge against the accused, is credible.[20]

This Court has consistently relied upon the assessment of the trial court, which had the opportunity to observe the conduct and demeanor of the witnesses during the trial. It is a fundamental rule that findings of the trial courts which are factual in nature and which involve credibility are accorded respect when no glaring errors; gross misapprehension of facts; or speculative, arbitrary, and unsupported conclusions can be gathered from such findings. The reason for this is that the trial court is in a better position to decide the credibility of witnesses, having heard their testimonies and observed their deportment and manner of testifying during the trial.[21] In this case, appellant has not sufficiently demonstrated the application of any of the aforementioned exceptions.

Sec. 21 of RA 9165 Provides for Exceptions

Additionally, appellant argues that the prosecution failed to show compliance with Sec. 21 of RA 9165 and its implementing rules regarding the custody and disposition of the evidence against him. He contends that absolute compliance is required and that anything short of that renders the evidence against him inadmissible.

We are not persuaded.

Sec. 21 of the Implementing Rules and Regulations of RA 9165 provides:

SECTION 21. Custody and Disposition of Confiscated, Seized and/or Surrendered Dangerous Drugs, Plant Sources of Dangerous Drugs, Controlled Precursors and Essential Chemicals, Instruments/Paraphernalia and/or Laboratory Equipment. - The PDEA shall take charge and have custody of all dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, as well as instruments/paraphernalia and/or laboratory equipment so confiscated, seized and/or surrendered, for proper disposition in the following manner:

(a) The apprehending officer/team having initial custody and control of the drugs shall, immediately after seizure and confiscation, physically inventory and photograph the same in the presence of the accused or the person/s from whom such items were confiscated and/or seized, or his/her representative or counsel, a representative from the media and the Department of Justice (DOJ), and any elected public official who shall be required to sign the copies of the inventory and be given a copy thereof; Provided, that the physical inventory and photograph shall be conducted at the place where the search warrant is served; or at the nearest police station or at the nearest office of the apprehending officer/team, whichever is practicable, in case of warrantless seizures; Provided, further, that non-compliance with these requirements under justifiable grounds,

as long as the integrity and evidentiary value of the seized items are properly preserved by the apprehending officer/team, shall not render void and invalid such seizures of and custody over said items. x x x (Emphasis supplied.)

As can be gleaned from the language of Sec. 21 of the Implementing Rules, it is clear that the failure of the law enforcers to comply strictly with it is not fatal. It does not render appellant's arrest illegal nor the evidence adduced against him inadmissible.[22] What is essential is "the preservation of the integrity and the evidentiary value of the seized items, as the same would be utilized in the determination of the guilt or innocence of the accused." [23]

Here, there was substantial compliance with the law and the integrity of the drugs seized from appellant was preserved. The chain of custody of the drugs subject matter of the case was shown not to have been broken. The factual milieu of the case reveals that after PO1 Memoracion seized and confiscated the dangerous drugs, as well as the marked money, appellant was immediately arrested and brought to the police station for investigation, where the sachets of suspected shabu were marked appropriately. Immediately thereafter, the confiscated substance, with a letter of request for examination, was submitted to the PNP Crime Laboratory for laboratory examination to determine the presence of any dangerous drug. Per Physical Science Report No. D-546-04S dated July 21, 2004, the specimen submitted contained methamphetamine hydrochloride, a dangerous drug. The examination was conducted by one P/Insp. May Andrea A. Bonifacio, a Forensic Chemical Officer of the PNP Crime Laboratory. Therefore, it is evidently clear that there was an unbroken chain in the custody of the illicit drug purchased from appellant.

Presumption of Regularity of Performance Stands

Notably, in the absence of clear and convincing evidence that the police officers were inspired by any improper motive, this Court will not appreciate the defense of denial and instead apply the presumption of regularity in the performance of official duty by law enforcement agents.

In the instant case, the defense of appellant consists of bare denial. It is considered as an inherently weak defense, for it can easily be concocted and is a common standard line of defense in drug cases.

Furthermore, as found by the trial court, the defense has failed to show any evidence of ill motive on the part of the police officers:

Such allegation of the accused that his apprehension was just a result of a frame-up, as he was not really engaged in peddling shabu when he was arrested, cannot be given credence because he was not able to offer and show proof of any previous disagreement between him and the arresting law officers that may lead the police officers to concoct and hatch baseless accusations against him, or the presence of any other circumstances that may have fired up the ire of the police officers against him.[24] x x x

For this reason, we uphold the presumption of regularity in the performance of official duties and find that the prosecution has discharged its burden of proving the guilt of appellant beyond reasonable doubt.

WHEREFORE, the appeal is DENIED. The Decision of the CA in CA-G.R. CR No. 02648 finding appellant Victorio Pagkalinawan guilty of the crimes charged is AFFIRMED.

SO ORDERED.

Corona, (Chairperson), Nachura, Peralta, and Mendoza, JJ., concur.

[1] Rollo, pp. 2-11. Penned by Associate Justice Bienvenido L. Reyes and concurred in by Associate Justices

Vicente Q. Roxas and Pampio A. Abarintos.

[2] CA rollo, pp. 11-22. Penned by Judge Florito S. Macalino.

[3] Also referred to as "Virgilio" and "Victorino" in some parts of the records.

[4] Records, p. 1.

[5] Id. at 11.

[6] Id. at 8.

[7] CA rollo, p. 22.

[8] Rollo, pp. 9-10.

[9] Id. at 10-11.

[10] *People v. Bayani*, G.R. No. 179150, June 17, 2008, 554 SCRA 741; citing *People v. Gatong-o*, No. L-78698, December 29, 1988, 168 SCRA 716, 717.

[11] 56 Phil. 44, 52-53 (1931).

[12] *People v. Herrera*, G.R. No. 93728, August 21, 1995, 247 SCRA 433, 439; *People v. Tadepa*, G.R. No. 100354, May 26, 1995, 244 SCRA 339.

[13] G.R. No. 125299, January 22, 1999, 301 SCRA 668.

[14] Id. at 698-699.

[15] *People v. Bayani*, supra note 10.

[16] G.R. No. 171019, February 23, 2007, 516 SCRA 621, 628.

[17] *People v. Pendatun*, G.R. No. 148822, July 12, 2004, 434 SCRA 148, 155-156; citing *People v. Cercado*, G.R. No. 144494, July 26, 2002, 385 SCRA 277; *People v. Pacis*, G.R. No. 146309, July 18, 2002, 384 SCRA 684.

[18] *People v. Del Norte*, G.R. No. 149462, March 29, 2004, 426 SCRA 383.

[19] *U.S. v. Bandoc*, 23 Phil. 14, 15 (1912).

[20] CA rollo, pp. 19-20.

[21] *People v. Julian-Fernandez*, 423 Phil. 895, 910 (2001).

[22] *People v. Naquita*, G.R. No. 180511, July 28, 2008, 560 SCRA 430, 448; citing *People v. Del Monte*, G.R. No. 179940, April 23, 2008, 552 SCRA 627.

[23] Id.; citing *People v. Concepcion*, G.R. No. 178876, June 27, 2008, 556 SCRA 421.

[24] CA rollo, p. 62.

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