

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. DANIEL ORTEGA, ACCUSED-APPELLANT.

G.R. No. 186235. January 25, 2012

Ponente: LEONARDO-DE CASTRO, J.

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LEONARDO-DE CASTRO, J.:

On appeal is the Decision[1] dated January 30, 2008 of the Court of Appeals in CA-G.R. CR.-H.C. No. 00136, affirming in toto the Decision[2] dated May 9, 2005 of the Regional Trial Court (RTC), Branch 39 of Polomolok, South Cotabato, in Criminal Case Nos. 585 and 586, which found accused-appellant Daniel Ortega (Ortega) guilty of two counts of rape committed against his daughter AAA.[3] The RTC sentenced Ortega to reclusion perpetua for each count of rape, and ordered him to pay AAA the amounts of P50,000.00 as civil indemnity, P50,000.00 as moral damages, and P25,000.00 as exemplary damages for each count of rape.

The two Informations filed before the RTC against Ortega read:

Criminal Case No. 585:

That sometime in 1995, in the residence of the accused and complainant, at Barangay [xxx], Municipality of Polomolok, Province of South Cotabato, Philippines, and within the jurisdiction of this Honorable Court, the said accused, by means of force and intimidation, did then and there willfully, unlawfully and feloniously lie and succeed in having carnal knowledge of [AAA], a sixteen (16)[-]year[-]old girl and daughter of said accused Daniel Ortega.[4]

Criminal Case No. 586:

That sometime in 1990, in the residence of the accused and complainant, at Barangay [xxx], Municipality of Polomolok, Province of South Cotabato, Philippines, and within the jurisdiction of this Honorable Court, the said accused, by means of force and intimidation, did then and there willfully, unlawfully and feloniously lie and succeed in having carnal knowledge of [AAA], an eleven[-]year[-]old girl and daughter of said accused Daniel Ortega.[5]

At his arraignment, Ortega pleaded "not guilty" to both charges.

The prosecution called to the witness stand AAA, the victim, and Dr. Porfirio P. Pasuelo, Jr. (Dr. Pasuelo), the physician who conducted the physical examination of AAA; while the defense presented Ortega, the accused, as its lone witness.

The prosecution's version of events is as follows:

Private-complainant [AAA] is the daughter of accused-appellant. [AAA] lived with accused-appellant and her step-mother in x x x.

In 1990, then 11 year old [AAA] was at home, when accused-appellant suddenly dragged her from the kitchen to her bedroom. [AAA], with all her strength, resisted and cried. She then tried to cling on a wooden wall but it did not help her in any way. When inside the room, accused-appellant forcibly undressed [AAA]. [AAA] tried

to cover her body but her effort proved futile. Accused-appellant succeeded in overpowering her and laid her down on the bed. Accused-appellant, thereafter, mounted and inserted his penis to [AAA]'s vagina, and made pumping motions. [AAA] cried for help but to no avail. After raping his daughter, accused-appellant threatened [AAA] not to tell the incident to anyone.

In 1995, [AAA] who was then 16-years old, would again suffer the same harrowing ordeal in the hands of her own father.

It happened when accused-appellant and [AAA] were at home. Accused-appellant removed her shorts, shirt and underwear and laid her down on the bed. Accused-appellant then undressed himself, mounted and inserted his penis into [AAA]'s vagina. During the sexual act, [AAA] felt pain in her vagina.

As a result of the incident, [AAA] got pregnant but had a miscarriage thereafter. Later on, she ran away from home and reported the incidents to the police.

On May 9, 2006, Dr. Porfirio Pasuelo, Jr., the Municipal Health Office of Polomolok, South Cotabato, conducted a medical examination on [AAA]. The medical examination revealed that [AAA] has a loose vaginal opening as it easily admitted a forefinger, an indication that there was already a prior intrusion in [AAA]'s genitalia. Dr. Pasuelo did not find lacerations on [AAA]'s vagina.[6]

Ortega relied on denial and alibi. Below is the gist of his testimony:

Appellant admitted that he had maltreated the complainant in trying to discipline her, but he vehemently denied that he raped her in both incidents. He testified that he never stayed at Polomolok in 1990. He, who was a sergeant, was assigned at Lebak, Sultan Kudarat, and only his son Roldan lived with him in the camp. In December 1990, his wife lived with him at Alabel, Sarangani Province, where he was "held up" by his battalion for having lost a firearm.

Appellant stated that complainant had run away from home many times when he was still attending military operations. He admitted that he was never close to the complainant and that latter was jealous of his children from his second wife. He surmised that because of this jealousy, the complainant fabricated these rape charges against him. His friend Nonoy Somito intimated to him that complainant was sexually molested thrice by the latter's admirer in 1995.[7]

On May 9, 2005, the RTC rendered its Decision finding Ortega guilty beyond reasonable doubt of two counts of rape and sentencing him thus:

WHEREFORE, finding the guilt of the accused DANIEL ORTEGA, beyond reasonable doubt of the crime of TWO (2) COUNTS OF RAPE, defined and penalized under Article 335, of the Revised Penal Code, the other defined and penalized under Article 335, of the Revised Penal Code, as amended by R.A. No. 7659.

The Court hereby sentenced the accused to suffer the penalty of imprisonment of reclusion perpetua for each count of rape and he shall pay private complainant P50,000.00 as civil indemnity for every rape committed, P50,000.00 as moral damages and the amount of P25,000.00 as exemplary damages and to pay the cost.

Upon finality of Decision, the Branch Clerk of Court is hereby directed to forward the complete records of this case to the Clerk of Court of the Court of Appeals, Cagayan de Oro City for its intermediate review pursuant to the OCA Circular No. 57-2005 dated 12 May 2005 and Supreme Court Administrative Circular No. 20-2005 dated 19 May 2005.[8]

In accordance with the Office of the Court Administrator Circular No. 57-2005 dated May 12, 2005 and Supreme Court Administrative Circular No. 20-2005 dated May 19, 2005, the RTC forwarded the complete records of the case to the Court of Appeals, Cagayan de Oro City, for its immediate review.

After Ortega filed his Accused-Appellant's Brief[9] on October 18, 2006 and the People, through the Office of the Solicitor General, submitted its Appellee's Brief [10] on March 2, 2007, the Court of Appeals promulgated its Decision on January 30, 2008, denying Ortega's appeal and affirming in toto the assailed RTC judgment.

Ortega filed on March 14, 2008 with the Court of Appeals a Notice of Appeal.[11]

In a Resolution dated March 16, 2009, we accepted Ortega's appeal and required the parties to file their respective supplemental briefs, if they so desire. We also required the Provincial Jail Warden of South Cotabato Rehabilitation and Detention Center to confirm the commitment of Ortega to prison and to submit to us a report thereon.[12]

Both Ortega[13] and the People[14] waived the filing of supplemental briefs and, instead, opted to stand by the briefs they filed before the Court of Appeals.

On May 14, 2009, this Court received a letter from Provincial Warden Jesus S. Sta. Cruz of the Provincial Jail Management Division, Koronadal City, South Cotabato, with the information that Ortega was already transferred/committed to the custody of the Penal Superintendent of the Davao Prison and Penal Farm, Panabo, Davao del Norte on June 22, 2008.[15]

We now consider the same assignment of error raised by Ortega before the Court of Appeals:

THE COURT A QUO GRAVELY ERRED IN CONVICTING APPELLANT OF THE CRIME CHARGED DESPITE THE FAILURE OF THE PROSECUTION TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.[16]

Ortega averred that the RTC ignored or overlooked facts or circumstances which cast serious doubt on AAA's credibility and claims of rape, particularly: (1) AAA did not mention at all in her testimony that Ortega succeeded in having carnal knowledge of her in 1995 with the use of force and intimidation, a vital element of the crime of rape; (2) the incident in 1990 cannot be considered rape because as AAA testified, Ortega only threatened her after he had carnal knowledge of her; (3) AAA did not struggle or exert real resistance to protect her chastity against an unarmed Ortega or to attract attention from neighbors, casting doubt on whether the carnal act was committed without her consent; (4) AAA could not remember the date or even just the month when the two alleged rape incidents occurred and not mentioning at all the time (whether day or night) of the alleged second rape incident; (5) AAA testified that she became pregnant as a result of the alleged second rape incident in 1995, contradicting her statement in her Affidavit that she was only three months pregnant as of May 9, 1996, meaning, she conceived the baby only in 1996; (6) the RTC erroneously ruled that AAA's declaration of defloration was corroborated by Dr. Pasuelo's finding that AAA's vaginal opening admitted a forefinger, when the very same physician admitted that such finding is not conclusive proof that a woman already experienced sexual intercourse; (7) AAA's claims that she was pregnant by May 9, 1996 and she eventually had a miscarriage were not supported by independent evidence, such as by a doctor's finding; (8) AAA stated in her sworn statement that she was 11 years old when she was first raped by Ortega in 1990, but she testified during trial that she was born on August 11, 1980 and was raped before her birthday in 1990, which would mean she was just 10 years old at the time of the alleged first rape incident; and (9) although not mentioned in her Affidavit nor her testimony during direct examination, AAA would claim during her cross examination that Ortega bathed her before raping her.

Ortega's arguments boil down to the insufficiency of the evidence for the prosecution to support his conviction for two counts of rape, especially considering the doubtful credibility of AAA.

We reiterate the following standard in reviewing an appeal from a conviction for rape:

In reviewing rape cases, this Court had always been guided by three well-entrenched principles: (1) an

accusation of rape can be made with facility and while the accusation is difficult to prove, it is even more difficult to disprove; (2) considering that in the nature of things, only two persons are usually involved in the crime of rape, the testimony of the complainant should be scrutinized with great caution; and (3) the evidence for the prosecution must stand or fall on its own merits and cannot be allowed to draw strength from the weakness of the evidence for the defense.[17]

Yet, we have also held that an accused may be convicted solely on the basis of the victim's testimony, provided that such testimony is logical, credible, consistent, and convincing. At the witness stand, AAA related her painful ordeal in 1990, to wit:

Q Now, sometime in 1990 in the house where you are staying, do you remember if there is something that happened to you and your father?

A Yes, sir.

Q What was that incident?

A He placed himself on top of me and undressed me.

COURT:

Q Which comes first, his putting himself on top of you or undressing?

A The undressing.

x x x x

PROS. MADURAMENTE:

Q What part of the house did this take place?

A Inside the room.

Q Were there other people other than your father and you?

A None, sir?

Q What time of the day was that?

A Morning.

Q Have you already eaten your breakfast?

A Yes, sir.

Q Now, how did he do it?

A He undressed me and afterwards he put himself on top of me.

Q Now, after placing himself on top of you, what did he do?

A He made a pumping motion.

Q Now, were you completely naked?

A Yes, sir.

Q And where did you lay if any?

A In the bed.

Q Did he place you in bed or did you go there by yourself?

A He placed me there.

x x x x

PROS. MADURAMENTE:

Q After lying naked on bed, what happened next?

A He abused me.

Q How did he abuse you?

x x x x

COURT:

Q What do you mean when you said you were abused by him?

A I asked for help.

x x x x

PROS. MADURAMENTE:

Q When did you ask for help?

A Me.

Q Why were you asking for help?

A Because I was raped.

COURT:

Q When you said you were raped, can you tell us how did your father raped you?

A He inserted his into mine.

x x x x

PROS. MADURAMENTE:

Q So his penis penetrated your vagina?

A Yes, sir.[18]

AAA also recounted the second rape incident in 1995, as follows:

Q Now, in 1995, do you remember if there was any unusual incident that happened between you and your father?

A Yes, sir.

Q What was that incident about?

A I was raped.

Q Who raped you?

A My father.

Q Where?

A Still at the house.

x x x x

PROS. MADURAMENTE:

Q How did he raped you?

A He undressed me, he removed my t-shirt and short pant[s].

Q In the same room where you were raped?

A Yes, sir.

Q After removing your clothings, your short pants and underwear, what happened?

A He made me lay down.

COURT:

Q Where?

A In the bed.

COURT:

Q Alright, proceed.

PROS. MADURAMENTE:

Q As you were already lying down, what happened?

A He undressed himself and rode on me.

Q When he was already on top of you, what happened next?

A He inserted his penis into my vagina.

Q Did his penis really penetrated your vagina?

A Yes, sir.

COURT:

Q What did you feel?

A It was painful.[19]

The RTC gave AAA's testimony great weight and credibility, considering that it was clear and untainted and could only have been given by one who was subjected to such a harrowing experience. There is no compelling reason for us to disturb these RTC findings.

In *People v. Velasco*, [20] we declared that:

We therefore see no cogent reason to doubt the complainant's credibility. It has long been established that the testimony of a rape victim, especially a child of tender years, is given full weight and credit. A rape victim who testifies in a categorical, straightforward, spontaneous and frank manner, and remains consistent, is a credible witness. Furthermore, this Court has repeatedly ruled that matters affecting credibility are best left to the trial court because of its unique opportunity to observe that elusive and incommunicable evidence of the witness' deportment on the stand while testifying, an opportunity denied the appellate courts which usually rely only on the cold pages of the mute records of the case.[21]

Ortega's insistence on the lack of evidence proving that he used force and intimidation during both incidents of rape does little to change our mind. In incestuous rape of a minor, it is not necessary that actual force and intimidation be employed. The moral ascendancy of appellant over the victim, his daughter, renders it unnecessary to show physical force and intimidation. Our following observations in *People v. Chua* [22] are enlightening:

In Philippine society, the father is considered the head of the family, and the children are taught not to defy the father's authority even when this is abused. They are taught to respect the sanctity of marriage and to value the family above everything else. Hence, when the abuse begins, the victim sees no reason or need to question the righteousness of the father whom she had trusted right from the start. The value of respect and obedience to parents instilled among Filipino children is transferred into the very same value that exposes them to risks of exploitation by their own parents. The sexual relationship could begin so subtly that the child does not realize that it is abnormal. Physical force then becomes unnecessary. The perpetrator takes full advantage of this blood

relationship. Most daughters cooperate and this is one reason why they suffer tremendous guilt later on. It is almost impossible for a daughter to reject her father's advances, for children seldom question what grown-ups tell them to do.[23]

In this case, Ortega took advantage of his overpowering moral and physical ascendancy over AAA, which was reinforced even further by the fact that having been separated from AAA's mother, Ortega alone exercised parental authority over AAA. Indeed, in rape committed by a father, his moral ascendancy and influence over the victim substitute for the requisite force, threat, and intimidation, and strengthen the fear which compels the victim to conceal her dishonor. AAA was sufficiently cowed into silence by the physical superiority and moral influence which her father exercised over her even though he may have been unarmed when the rape incidents took place. Thus, contrary to Ortega's argument, evidence of force and intimidation is not necessary for his conviction for two counts of rape.

The purported inconsistencies or contradictions in AAA's testimony vis-a-vis her sworn statement do not adversely affect her credibility. AAA was a minor at the time she was first raped by her father, Ortega. Her painful experience, followed by the police investigation, medical examination, and court trial in full view of the public, surely placed her under a lot of pressure and caused her confusion, given her tender age. We have repeatedly held that "the precise time of the commission of the crime is not an essential element of rape and it has no bearing on its commission." [24] Despite her failure to give the exact time and date of the two rape incidents, AAA was able to recall in detail how the sexual assault was committed against her by Ortega.

AAA's credibility is also not impaired by her unsubstantiated claim of pregnancy and miscarriage as a result of the 1995 rape and her allegation, made for the first time during cross examination, that Ortega had bathed her prior to the 1990 rape. These matters have no significant effect on AAA's testimony that Ortega had carnal knowledge of her against her will. Time and again, we have held that "a few discrepancies and inconsistencies in the testimonies of witnesses referring to minor details and not in actuality touching upon the central fact of the crime do not impair the credibility of the witnesses. Instead of weakening their testimonies, such inconsistencies tend to strengthen the witnesses' credibility because they discount the possibility of their being rehearsed." [25]

We give scant consideration to Ortega's assertion that AAA only charged him with rape because she was jealous of her half-siblings. Such a reason is too flimsy and insignificant for a daughter to falsely charge her father with so serious a crime and to publicly disclose that she had been raped and then undergo the concomitant humiliation, anxiety, and exposure to public trial. As we ratiocinated in *People v. Ponsica* [26]:

It bears emphasis that when the offended parties are young and immature girls from the ages of twelve to sixteen, courts are inclined to lend credence to their version of what transpired, considering not only their relative vulnerability but also the shame and embarrassment to which they would be exposed by court trial if the matter about which they testified is not true. It is instinctive for a young, unmarried woman to protect her honor and it is thus difficult to believe that she would fabricate a tale of defloration, allow the examination of her private parts, reveal her shame to the small town where she grew up, and permit herself to be subject of a public trial had she not really been ravished.[27]

We further ruled in *People v. Surilla* [28]:

[I]t [is] most unnatural for a fourteen (14) year old to concoct a tale of defloration against her very own father just to get back at him for having physically manhandled her. Certainly, an unmarried teenage lass would not ordinarily file a complaint for rape against anyone, much less, her own father, undergo a medical examination of her private parts, submit herself to public trial and tarnish her family's honor and reputation, unless she was motivated by a potent desire to seek justice for the wrong committed against her.[29]

AAA's testimony was corroborated by the medical findings of Dr. Pasuelo, the examining physician. In his report,

Dr. Pasuelo stated that although AAA's hymen was still intact and no laceration or healed laceration was seen, her genital organ admitted a forefinger. He explained during trial that a woman's hymen may remain intact even if the woman had already experienced several sexual intrusions because a hymen is elastic. Our following ruling in *People v. Dy*[30] finds application in the case at bar:

Further, lack of lacerated wounds does not negate sexual intercourse. A freshly broken hymen is not an essential element of rape. Even the fact that the hymen of the victim was still intact does not negate rape. As explained by Dr. Maximo Reyes, medico-legal officer of the NBI, there are hymens that may admit without necessarily producing laceration and there are hymens that may admit injuries that will produce such laceration.[31]

At any rate, "in crimes against chastity, the medical examination of the victim is not an indispensable element for the successful prosecution of the crime as her testimony alone, if credible, is sufficient to convict the accused thereof, as in this case." [32]

As correctly held by the RTC, Ortega's defense of alibi and denial cannot prevail over the clear, positive and convincing testimony of AAA. AAA positively identified his father Ortega as the one who raped her. "Positive identification, where categorical and consistent and without any showing of ill motive on the part of the eyewitness testifying on the matter, prevails over alibi and denial which if not substantiated by clear and convincing evidence are negative and self-serving evidence undeserving of weight in law." [33]

The RTC correctly imposed upon Ortega the penalty of reclusion perpetua for each count of rape.

In Criminal Case No. 586, the rape was committed sometime in 1990, that is, prior to the effectivity of Republic Act No. 7659 (the Death Penalty Law) on December 31, 1993. Prior to its amendment, Article 335 of the Revised Penal Code imposed the penalty of reclusion perpetua for the crime of rape.

In Criminal Case No. 585, the rape was committed in 1995, thus, Article 335, as amended by Republic Act No. 7659, already applies. It provides:

Art. 335. When and how rape is committed - Rape is committed by having carnal knowledge of a woman under any of the following circumstances:

- By using force or intimidation.
- When the woman is deprived of reason or otherwise unconscious; and
- When the woman is under twelve years of age or is demented.

The crime of rape shall be punished by reclusion perpetua.

x x x x

The death penalty shall also be imposed if the crime of rape is committed with any of the following attendant 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.

Under Article 335, as amended, the twin circumstances of minority and relationship are in the nature of qualifying circumstances because they alter the nature of the crime of rape and increase the penalty. As special qualifying circumstances they must be specifically pleaded or alleged and proved with certainty in the information, otherwise, the death penalty cannot be imposed.

In this case, AAA's relationship with Ortega was properly indicated in the Information and proven in the course of the trial. The Information clearly stated that Ortega had carnal knowledge with his daughter AAA and

Ortega admitted in open court that AAA is his daughter. However, AAA's minority, although alleged in the Information, was not sufficiently proven by the prosecution. Minority as a qualifying circumstance must be proved with equal certainty and clearness as the crime itself. Here, the Information stated and AAA herself averred in her sworn statement[34] that she was 11 years of age when she was first raped by her father in 1990. However, AAA later testified before the RTC that she was born on August 11, 1990[35] and her father raped her for the first time before her birthday on August 11, 1990, making her less than 10 years of age. While Ortega confirmed that AAA is his daughter, he could not remember AAA's exact date of birth. When questioned further during trial, he only said that AAA was born in 1979.[36] No other evidence was presented to prove AAA's exact age. Given the doubt as to AAA's exact age, the RTC properly convicted Ortega only of simple rape punishable by reclusion perpetua.

In *People v. Alvarado*,[37] we did not apply the death penalty because the victim's age was not satisfactorily established, thus:

We agree, however, that accused-appellant should not have been meted the death penalty on the ground that the age of complainant was not proven beyond reasonable doubt. The information alleged that, on July 26, 1997, the date of the rape, Arlene was 14 years old. In her testimony, Arlene stated that she was 14 years old at the time of the incident. Accused-appellant confirmed this during the presentation of the defense evidence, but Lonelisa Alvarado, complainant's mother, testified that Arlene was born on November 23, 1983, which would mean she was only 13 years old on the date of the commission of the crime. No other evidence was ever presented, such as her certificate of live birth or any other document, to prove Arlene's exact age at the time of the crime. As minority is a qualifying circumstance, it must be proved with equal certainty and clearness as the crime itself. There must be independent evidence proving the age of the victim, other than the testimonies of the prosecution witnesses and the absence of denial by accused-appellant. Since there is doubt as to Arlene's exact age, accused-appellant must be held guilty of simple rape only and sentenced to reclusion perpetua.[38]

We similarly ruled in *People v. Gavino*[39] that:

In the case at bar, no birth certificate or similar authentic document was offered by the prosecution to prove Wenna's minority. Neither was it shown that they were lost, destroyed or unavailable at the time of the trial. The testimony of the mother or the victim relative to the latter's age cannot be accepted as adequate proof thereof. In addition, we note that the prosecution failed to adduce independent proof to establish appellant's relationship with the victim. Although Wenna's filiation to appellant and minority was neither refuted nor contested by the defense, proof thereof is critical considering the penalty of death imposed for qualified rape. Thus, the prosecution's failure to sufficiently establish Wenna's minority and relationship to appellant bars the latter's conviction for qualified rape and the imposition of the extreme penalty of death.[40]

We further stressed in *People v. Villarama*[41] that:

Court decisions on the rape of minors invariably state that, in order to justify the imposition of the death penalty, there must be independent evidence showing the age of the victim. Testimonies on the victim's age given by the prosecution witnesses or the lack of denial of the accused or even his admission thereof on the witness stand is not sufficient. This Court has held that, to justify the imposition of the death penalty for rape committed against a child below 7, the minority of the victim must be proved with equal certainty and clarity as the crime itself. The failure to sufficiently establish the victim's age with factual certainty and beyond reasonable doubt is fatal and consequently bars conviction for rape in its qualified form.[42]

As to the award of damages, the victim in a simple rape case is entitled to P50,000.00 civil indemnity and P50,000.00 moral damages, without need for proof. An award for exemplary damages is also proper to deter other

fathers with perverse tendencies or aberrant sexual behavior from sexually abusing their own daughter. In line with our prevailing jurisprudence, we increase the award of exemplary damages from P25,000.00 to P30,000.00 for each of the two counts of rape.[43]

WHEREOF, the instant appeal is DENIED. The Decision dated January 30, 2008 of the Court of Appeals in CA-G.R. CR.-H.C. No. 00136, affirming in toto the Decision dated May 9, 2005 of the Regional Trial Court, Branch 39 of Polomolok, South Cotabato, in Criminal Case Nos. 585 and 586, which found accused-appellant Daniel Ortega GUILTY beyond reasonable doubt of two counts of rape, is AFFIRMED with the MODIFICATION that the award of exemplary damages in favor of AAA is increased to P30,000.00 for each count of rape.

SO ORDERED.

Corona, C.J., (Chairperson), Bersamin, Del Castillo, and Villarama, Jr. JJ. concur.

[1] Rollo, pp. 4-23; penned by Associate Justice Teresita Dy-Liacco Flores with Associate Justices Rodrigo F. Lim, Jr. and Michael P. Elbinias, concurring.

[2] CA rollo, pp. 31-45; penned by Judge Eddie R. Rojas.

[3] The real name of the victim is withheld to protect her identity and privacy pursuant to Section 29 of Republic Act No. 7610, Section 44 of Republic Act No. 9262, and Section 40 of A.M. No. 04-10-11-SC. See our ruling in *People v. Cabalquinto*, G.R. No. 167693, September 19, 2006, 502 SCRA 419.

[4] Records, p. 1.

[5] *Id.* at 3.

[6] CA rollo, pp. 58-60.

[7] *Id.* at 20-21.

[8] *Id.* at 45.

[9] *Id.* at 15-30.

[10] *Id.* at 51-81.

[11] *Id.* at 109.

[12] Rollo, pp. 29-30.

[13] *Id.* at 31-34.

[14] *Id.* at 35-37.

[15] *Id.* at 40.

[16] CA rollo, p. 17.

[17] *People v. Rapisora*, G.R. No. 147855, May 28, 2004, 430 SCRA 237, 248-249.

[18] TSN, November 18, 1997, pp. 7-11.

[19] *Id.* at 14-15.

- [20] 405 Phil. 588 (2001).
- [21] Id. at 604.
- [22] 418 Phil. 565 (2001).
- [23] Id. at 582.
- [24] People v. Cabigting, 397 Phil. 944, 951 (2000).
- [25] People v. Pascua, 462 Phil. 245, 254 (2003).
- [26] People v. Ponsica, 433 Phil. 365 (2002).
- [27] Id. at 378.
- [28] 391 Phil. 257 (2000).
- [29] Id. at 267.
- [30] 425 Phil. 608 (2002).
- [31] Id. at 638.
- [32] People v. San Juan, 337 Phil. 375, 389-390 (1997).
- [33] People v. Enriquez, G.R. No. 124833, July 20, 1998, 292 SCRA 656, 661.
- [34] Records, p. 5.
- [35] TSN, June 9, 1998, p. 38.
- [36] TSN, November 23, 2000, p. 121.
- [37] 429 Phil. 208 (2002).
- [38] Id. at 224.
- [39] 447 Phil. 395 (2003).
- [40] Id. at 406-407.
- [41] 445 Phil. 323 (2003).
- [42] Id. at 341-342.
- [43] People v. Manjarez, G.R. No. 185844, November 23, 2011.

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