

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ORLITO VILLACORTA, ACCUSED-APPELLANT.

G.R. No. 186412. September 07, 2011

Ponente: LEONARDO-DE CASTRO, J.

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LEONARDO-DE CASTRO, J.:

On appeal is the Decision[1] dated July 30, 2008 of the Court of Appeals in CA-G.R. CR.-H.C. No. 02550, which affirmed the Decision[2] dated September 22, 2006 of the Regional Trial Court (RTC), Branch 170, of Malabon, in Criminal Case No. 27039-MN, finding accused-appellant Orlito Villacorta (Villacorta) guilty of murder, and sentencing him to suffer the penalty of reclusion perpetua and to pay the heirs of Danilo Cruz (Cruz) the sum of P50,000.00 as civil indemnity, plus the costs of suit.

On June 21, 2002, an Information[3] was filed against Villacorta charging him with the crime of murder, as follows:

That on or about 23[rd] day of January 2002, in Navotas, Metro Manila, and within the jurisdiction of this Honorable Court, the above-named accused, armed with a sharpened bamboo stick, with intent to kill, treachery and evident premeditation, did then and there willfully, unlawfully and feloniously attack, assault and stab with the said weapon one DANILO SALVADOR CRUZ, thereby inflicting upon the victim serious wounds which caused his immediate death.

When arraigned on September 9, 2002, Villacorta pleaded not guilty.[4]

During trial, the prosecution presented as witnesses Cristina Mendeja (Mendeja) and Dr. Domingo Belandres, Jr. (Dr. Belandres).

Mendeja narrated that on January 23, 2002, she was tending her sari-sari store located at C-4 Road, Bagumbayan, Navotas. Both Cruz and Villacorta were regular customers at Mendeja's store. At around two o'clock in the morning, while Cruz was ordering bread at Mendeja's store, Villacorta suddenly appeared and, without uttering a word, stabbed Cruz on the left side of Cruz's body using a sharpened bamboo stick. The bamboo stick broke and was left in Cruz's body. Immediately after the stabbing incident, Villacorta fled. Mendeja gave chase but failed to catch Villacorta. When Mendeja returned to her store, she saw her neighbor Aron removing the broken bamboo stick from Cruz's body.[5] Mendeja and Aron then brought Cruz to Tondo Medical Center.[6]

Dr. Belandres was Head of the Tetanus Department at the San Lazaro Hospital. When Cruz sustained the stab wound on January 23, 2002, he was taken to the Tondo Medical Center, where he was treated as an out-patient. Cruz was only brought to the San Lazaro Hospital on February 14, 2002, where he died the following day, on February 15, 2002. While admitting that he did not personally treat Cruz, Dr. Belandres was able to determine, using Cruz's medical chart and diagnosis, that Cruz died of tetanus infection secondary to stab wound.[7] Dr. Belandres specifically described the cause of Cruz's death in the following manner:

The wound was exposed x x - spurs concerted, the patient developed difficulty of opening the mouth,

spasticity of the body and abdominal pain and the cause of death is hypoxic encephalopathy - neuro transmitted - due to upper G.I. bleeding x x x. Diagnosed of Tetanus, Stage III.[8]

The prosecution also intended to present Dr. Deverni Matias (Dr. Matias), who attended to Cruz at the San Lazaro Hospital, but the prosecution and defense agreed to dispense with Dr. Matias' testimony based on the stipulation that it would only corroborate Dr. Belandres' testimony on Cruz dying of tetanus.

For its part, the defense presented Villacorta himself, who denied stabbing Cruz. Villacorta recounted that he was on his way home from work at around two o'clock in the morning of January 21, 2002. Upon arriving home, Villacorta drank coffee then went outside to buy cigarettes at a nearby store. When Villacorta was about to leave the store, Cruz put his arm around Villacorta's shoulder. This prompted Villacorta to box Cruz, after which, Villacorta went home. Villacorta did not notice that Cruz got hurt. Villacorta only found out about Cruz's death upon his arrest on July 31, 2002.[9]

On September 22, 2006, the RTC rendered a Decision finding Villacorta guilty of murder, qualified by treachery. The dispositive portion of said Decision reads:

WHEREFORE, in the light of the foregoing, the Court finds accused Orlito Villacorta guilty beyond reasonable doubt of the crime of Murder and is hereby sentenced to suffer the penalty of reclusion perpetua and to pay the heirs of Danilo Cruz the sum of P50,000.00 as civil indemnity for the death of said victim plus the costs of suit.[10]

Villacorta, through his counsel from the Public Attorney's Office (PAO), filed a notice of appeal to assail his conviction by the RTC.[11] The Court of Appeals directed the PAO to file Villacorta's brief, within thirty days from receipt of notice.

Villacorta filed his Appellant's Brief[12] on May 30, 2007; while the People, through the Office of the Solicitor General (OSG), filed its Appellee's Brief[13] on October 2, 2007.

On July 30, 2008, the Court of Appeals promulgated its Decision affirming in toto the RTC judgment of conviction against Villacorta.

Hence, Villacorta comes before this Court via the instant appeal.

Villacorta manifested that he would no longer file a supplemental brief, as he was adopting the Appellant's Brief he filed before the Court of Appeals.[14] The OSG, likewise, manifested that it was no longer filing a supplemental brief. [15]

In his Appellant's Brief, Villacorta raised the following assignment of errors:

I

THE COURT A QUO GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY OF THE CRIME CHARGED DESPITE THE FAILURE OF THE PROSECUTION TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.

II

THE TRIAL COURT GRAVELY ERRED IN APPRECIATING THE QUALIFYING CIRCUMSTANCE OF TREACHERY.

III

ASSUMING ARGUENDO THAT THE ACCUSED COMMITTED A CRIME, HE COULD ONLY BE HELD LIABLE FOR SLIGHT PHYSICAL INJURIES.[16]

Villacorta assails the credibility of Mendeja, an eyewitness to the stabbing incident. It was Mendeja who positively identified Villacorta as the one who stabbed Cruz in the early morning of January 23, 2002. Villacorta asserts that Mendeja's account of the stabbing incident is replete with inconsistencies and incredulities, and is contrary to normal human experience, such as: (1) instead of shouting or calling for help when Villacorta allegedly stabbed Cruz, Mendeja attempted to run after and catch Villacorta; (2) while, by Mendeja's own account, there were other people who witnessed the stabbing and could have chased after Villacorta, yet, oddly, only Mendeja did; (3) if Cruz was stabbed so swiftly and suddenly as Mendeja described, then it would have been physically improbable for Mendeja to have vividly recognized the perpetrator, who immediately ran away after the stabbing; (4) after the stabbing, both Villacorta and Cruz ran in opposite directions; and (5) Mendeja had said that the bamboo stick, the alleged murder weapon, was left at her store, although she had also stated that the said bamboo stick was left embedded in Cruz's body. Villacorta maintains that the aforementioned inconsistencies are neither trivial nor inconsequential, and should engender some doubt as to his guilt.

We are not persuaded.

To begin with, it is fundamental that the determination by the trial court of the credibility of witnesses, when affirmed by the appellate court, is accorded full weight and credit as well as great respect, if not conclusive effect. Such determination made by the trial court proceeds from its first-hand opportunity to observe the demeanor of the witnesses, their conduct and attitude under grilling examination, thereby placing the trial court in the unique position to assess the witnesses' credibility and to appreciate their truthfulness, honesty and candor.[17]

In this case, both the RTC and the Court of Appeals gave full faith and credence to the testimony of prosecution witness Mendeja. The Court of Appeals rejected Villacorta's attempts to impugn Mendeja's testimony, thus:

Appellant's reason for concluding that witness Mendeja's testimony is incredible because she did not shout or call for help and instead run after the appellant, fails to impress the Court because persons who witness crimes react in different ways.

"x x x the makings of a human mind are unpredictable; people react differently and there is no standard form of behavior when one is confronted by a shocking incident.

Equally lacking in merit is appellant's second reason which is, other persons could have run after the appellant after the stabbing incident. As explained by witness Mendeja, the other person whom she identified as Aron was left to assist the appellant who was wounded. Further, the stabbing occurred at 2:00 o'clock in the morning, a time when persons are expected to be asleep in their house, not roaming the streets.

His [Villacorta's] other argument that the swiftness of the stabbing incident rendered impossible or incredible the identification of the assailant cannot likewise prosper in view of his admission that he was in the store of witness Mendeja on January 23, 2002 at 2:00 o'clock in the morning and that he assaulted the victim by boxing him.

Even if his admission is disregarded still the evidence of record cannot support appellant's argument. Appellant and the victim were known to witness Mendeja, both being her friends and regular customers. There was light in front of the store. An opening in the store measuring 1 and ¼ meters enables the person inside to see persons outside, particularly those buying articles from the store. The victim was in front of the store buying bread when attacked. Further, immediately after the stabbing, witness Mendeja ran after the appellant giving her additional opportunity to identify the malefactor. Thus, authorship of the attack can be credibly ascertained.[18]

Moreover, Villacorta was unable to present any reason or motivation for Mendeja to fabricate such a lie and falsely accuse Villacorta of stabbing Cruz on January 23, 2002. We have ruled time and again that where the prosecution eyewitness was familiar with both the victim and accused, and where the locus criminis afforded

good visibility, and where no improper motive can be attributed to the witness for testifying against the accused, then her version of the story deserves much weight.[19]

The purported inconsistencies in Mendeja's testimony pointed out by Villacorta are on matters that have no bearing on the fundamental fact which Mendeja testified on: that Villacorta stabbed Cruz in the early morning of January 23, 2002, right in front of Mendeja's store.

In the face of Mendeja's positive identification of Villacorta as Cruz's stabber, Villacorta could only muster an uncorroborated denial. Denial, like alibi, as an exonerating justification, is inherently weak and if uncorroborated, regresses to blatant impotence. Like alibi, it also constitutes self-serving negative evidence which cannot be accorded greater evidentiary weight than the declaration of credible witnesses who testify on affirmative matters.[20]

Hence, we do not deviate from the foregoing factual findings of the RTC, as affirmed by the Court of Appeals.

Nevertheless, there is merit in the argument proffered by Villacorta that in the event he is found to have indeed stabbed Cruz, he should only be held liable for slight physical injuries for the stab wound he inflicted upon Cruz. The proximate cause of Cruz's death is the tetanus infection, and not the stab wound.

Proximate cause has been defined as "that cause, which, in natural and continuous sequence, unbroken by any efficient intervening cause, produces the injury, and without which the result would not have occurred." [21]

In this case, immediately after he was stabbed by Villacorta in the early morning of January 23, 2002, Cruz was rushed to and treated as an out-patient at the Tondo Medical Center. On February 14, 2002, Cruz was admitted to the San Lazaro Hospital for symptoms of severe tetanus infection, where he died the following day, on February 15, 2002. The prosecution did not present evidence of the emergency medical treatment Cruz received at the Tondo Medical Center, subsequent visits by Cruz to Tondo Medical Center or any other hospital for follow-up medical treatment of his stab wound, or Cruz's activities between January 23 to February 14, 2002.

In *Urbano v. Intermediate Appellate Court*, [22] the Court was confronted with a case of very similar factual background as the one at bar. During an altercation on October 23, 1980, Urbano hacked Javier with a bolo, inflicting an incised wound on Javier's hand. Javier was treated by Dr. Meneses. On November 14, 1980, Javier was rushed to the hospital with lockjaw and convulsions. Dr. Exconde, who attended to Javier, found that Javier's serious condition was caused by tetanus infection. The next day, on November 15, 1980, Javier died. An Information was filed against Urbano for homicide. Both the Circuit Criminal Court and the Intermediate Appellate Court found Urbano guilty of homicide, because Javier's death was the natural and logical consequence of Urbano's unlawful act. Urbano appealed before this Court, arguing that Javier's own negligence was the proximate cause of his death. Urbano alleged that when Dr. Meneses examined Javier's wound, he did not find any tetanus infection and that Javier could have acquired the tetanus germs when he returned to work on his farm only two (2) weeks after sustaining his injury. The Court granted Urbano's appeal.

We quote extensively from the ratiocination of the Court in *Urbano*:

The issue, therefore, hinges on whether or not there was an efficient intervening cause from the time Javier was wounded until his death which would exculpate Urbano from any liability for Javier's death.

We look into the nature of tetanus-

"The incubation period of tetanus, i.e., the time between injury and the appearance of unmistakable symptoms, ranges from 2 to 56 days. However, over 80 percent of patients become symptomatic within 14 days. A short incubation period indicates severe disease, and when symptoms occur within 2 or 3 days of injury the mortality

rate approaches 100 percent.

"Non-specific premonitory symptoms such as restlessness, irritability, and headache are encountered occasionally, but the commonest presenting complaints are pain and stiffness in the jaw, abdomen, or back and difficulty swallowing. As the disease progresses, stiffness gives way to rigidity, and patients often complain of difficulty opening their mouths. In fact, trismus is the commonest manifestation of tetanus and is responsible for the familiar descriptive name of lockjaw. As more muscles are involved, rigidity becomes generalized, and sustained contractions called risus sardonicus. The intensity and sequence of muscle involvement is quite variable. In a small proportion of patients, only local signs and symptoms develop in the region of the injury. In the vast majority, however, most muscles are involved to some degree, and the signs and symptoms encountered depend upon the major muscle groups affected.

"Reflex spasm usually occur within 24 to 72 hours of the first symptoms, an interval referred to as the onset time. As in the case of the incubation period, a short onset time is associated with a poor prognosis. Spasms are caused by sudden intensification of afferent stimuli arising in the periphery, which increases rigidity and causes simultaneous and excessive contraction of muscles and their antagonists. Spasms may be both painful and dangerous. As the disease progresses, minimal or inapparent stimuli produce more intense and longer lasting spasms with increasing frequency. Respiration may be impaired by laryngospasm or tonic contraction of respiratory muscles which prevent adequate ventilation. Hypoxia may then lead to irreversible central nervous system damage and death.

"Mild tetanus is characterized by an incubation period of at least 14 days and an onset time of more than 6 days. Trismus is usually present, but dysphagia is absent and generalized spasms are brief and mild. Moderately severe tetanus has a somewhat shorter incubation period and onset time; trismus is marked, dysphagia and generalized rigidity are present, but ventilation remains adequate even during spasms. The criteria for severe tetanus include a short incubation time, and an onset time of 72 hrs., or less, severe trismus, dysphagia and rigidity and frequent prolonged, generalized convulsive spasms. (Harrison's Principle of Internal Medicine, 1983 Edition, pp. 1004-1005; Emphasis supplied)

Therefore, medically speaking, the reaction to tetanus found inside a man's body depends on the incubation period of the disease.

In the case at bar, Javier suffered a 2-inch incised wound on his right palm when he parried the bolo which Urbano used in hacking him. This incident took place on October 23, 1980. After 22 days, or on November 14, 1980, he suffered the symptoms of tetanus, like lockjaw and muscle spasms. The following day, November 15, 1980, he died.

If, therefore, the wound of Javier inflicted by the appellant was already infected by tetanus germs at the time, it is more medically probable that Javier should have been infected with only a mild case of tetanus because the symptoms of tetanus appeared on the 22nd day after the hacking incident or more than 14 days after the infliction of the wound. Therefore, the onset time should have been more than six days. Javier, however, died on the second day from the onset time. The more credible conclusion is that at the time Javier's wound was inflicted by the appellant, the severe form of tetanus that killed him was not yet present. Consequently, Javier's wound could have been infected with tetanus after the hacking incident. Considering the circumstance surrounding Javier's death, his wound could have been infected by tetanus 2 or 3 or a few but not 20 to 22 days before he died.[23]

The incubation period for tetanus infection and the length of time between the hacking incident and the manifestation of severe tetanus infection created doubts in the mind of the Court that Javier acquired the severe tetanus infection from the hacking incident. We explained in Urbano that:

The rule is that the death of the victim must be the direct, natural, and logical consequence of the wounds inflicted upon him by the accused. (People v. Cardenas, supra) And since we are dealing with a criminal

conviction, the proof that the accused caused the victim's death must convince a rational mind beyond reasonable doubt. The medical findings, however, lead us to a distinct possibility that the infection of the wound by tetanus was an efficient intervening cause later or between the time Javier was wounded to the time of his death. The infection was, therefore, distinct and foreign to the crime. (*People v. Rellin*, 77 Phil. 1038).

Doubts are present. There is a likelihood that the wound was but the remote cause and its subsequent infection, for failure to take necessary precautions, with tetanus may have been the proximate cause of Javier's death with which the petitioner had nothing to do. As we ruled in *Manila Electric Co. v. Remoquillo, et al.* (99 Phil. 118).

"A prior and remote cause cannot be made the basis of an action if such remote cause did nothing more than furnish the condition or give rise to the occasion by which the injury was made possible, if there intervened between such prior or remote cause and the injury a distinct, successive, unrelated, and efficient cause of the injury, even though such injury would not have happened but for such condition or occasion. If no danger existed in the condition except because of the independent cause, such condition was not the proximate cause. And if an independent negligent act or defective condition sets into operation the instances, which result in injury because of the prior defective condition, such subsequent act or condition is the proximate cause." (45 C.J. pp. 931-932). (at p. 125)[24]

We face the very same doubts in the instant case that compel us to set aside the conviction of Villacorta for murder. There had been an interval of 22 days between the date of the stabbing and the date when Cruz was rushed to San Lazaro Hospital, exhibiting symptoms of severe tetanus infection. If Cruz acquired severe tetanus infection from the stabbing, then the symptoms would have appeared a lot sooner than 22 days later. As the Court noted in *Urbano*, severe tetanus infection has a short incubation period, less than 14 days; and those that exhibit symptoms with two to three days from the injury, have one hundred percent (100%) mortality. Ultimately, we can only deduce that Cruz's stab wound was merely the remote cause, and its subsequent infection with tetanus might have been the proximate cause of Cruz's death. The infection of Cruz's stab wound by tetanus was an efficient intervening cause later or between the time Cruz was stabbed to the time of his death.

However, Villacorta is not totally without criminal liability. Villacorta is guilty of slight physical injuries under Article 266(1) of the Revised Penal Code for the stab wound he inflicted upon Cruz. Although the charge in the instant case is for murder, a finding of guilt for the lesser offense of slight physical injuries may be made considering that the latter offense is necessarily included in the former since the essential ingredients of slight physical injuries constitute and form part of those constituting the offense of murder.[25]

We cannot hold Villacorta criminally liable for attempted or frustrated murder because the prosecution was not able to establish Villacorta's intent to kill. In fact, the Court of Appeals expressly observed the lack of evidence to prove such an intent beyond reasonable doubt, to wit:

Appellant stabbed the victim only once using a sharpened bamboo stick, hitting him on the left side of the body and then immediately fled. The instrument used is not as lethal as those made of metallic material. The part of the body hit is not delicate in the sense that instant death can ensue by reason of a single stab wound. The assault was done only once. Thus, there is doubt as to whether appellant had an intent to kill the victim, which should be resolved in favor of the appellant. x x x.[26]

The intent must be proved in a clear and evident manner to exclude every possible doubt as to the homicidal (or murderous) intent of the aggressor. The onus probandi lies not on accused-appellant but on the prosecution. The inference that the intent to kill existed should not be drawn in the absence of circumstances sufficient to prove this fact beyond reasonable doubt. When such intent is lacking but wounds were inflicted, the crime is not frustrated murder but physical injuries only.[27]

Evidence on record shows that Cruz was brought to Tondo Medical Center for medical treatment immediately

after the stabbing incident. Right after receiving medical treatment, Cruz was then released by the Tondo Medical Center as an out-patient. There was no other evidence to establish that Cruz was incapacitated for labor and/or required medical attendance for more than nine days. Without such evidence, the offense is only slight physical injuries.[28]

We still appreciate treachery as an aggravating circumstance, it being sufficiently alleged in the Information and proved during trial.

The Information specified that "accused, armed with a sharpened bamboo stick, with intent to kill, treachery and evident premeditation, did then and there willfully, unlawfully and feloniously attack, assault and stab with the said weapon one DANILO SALVADOR CRUZ x x x."

Treachery exists when an offender commits any of the crimes against persons, employing means, methods or forms which tend directly or especially to ensure its execution, without risk to the offender, arising from the defense that the offended party might make. This definition sets out what must be shown by evidence to conclude that treachery existed, namely: (1) the employment of such means of execution as would give the person attacked no opportunity for self-defense or retaliation; and (2) the deliberate and conscious adoption of the means of execution. To reiterate, the essence of qualifying circumstance is the suddenness, surprise and the lack of expectation that the attack will take place, thus, depriving the victim of any real opportunity for self-defense while ensuring the commission of the crime without risk to the aggressor.[29] Likewise, even when the victim was forewarned of the danger to his person, treachery may still be appreciated since what is decisive is that the execution of the attack made it impossible for the victim to defend himself or to retaliate.[30]

Both the RTC and the Court of Appeals found that treachery was duly proven in this case, and we sustain such finding. Cruz, the victim, was attacked so suddenly, unexpectedly, and without provocation. It was two o'clock in the morning of January 23, 2002, and Cruz, who was out buying bread at Mendeja's store, was unarmed. Cruz had his guard down and was totally unprepared for an attack on his person. Villacorta suddenly appeared from nowhere, armed with a sharpened bamboo stick, and without uttering a word, stabbed Cruz at the left side of his body, then swiftly ran away. Villacorta's treacherous mode of attack left Cruz with no opportunity at all to defend himself or retaliate.

Article 266(1) of the Revised Penal Code provides:

ART. 266. Slight physical injuries and maltreatment. - The crime of slight physical injuries shall be punished:

1. By *arresto menor* when the offender has inflicted physical injuries which shall incapacitate the offended party from labor from one to nine days, or shall require medical attendance during the same period.

The penalty of *arresto menor* spans from one (1) day to thirty (30) days.[31] The Indeterminate Sentence Law does not apply since said law excludes from its coverage cases where the penalty imposed does not exceed one (1) year.[32] With the aggravating circumstance of treachery, we can sentence Villacorta with imprisonment anywhere within *arresto menor* in the maximum period, i.e., twenty-one (21) to thirty (30) days. Consequently, we impose upon Villacorta a straight sentence of thirty (30) days of *arresto menor*; but given that Villacorta has been in jail since July 31, 2002 until present time, already way beyond his imposed sentence, we order his immediate release.

Under paragraph (1), Article 2219 of the Civil Code, moral damages may be recovered in a criminal offense resulting in physical injuries. Moral damages compensate for the mental anguish, serious anxiety, and moral shock suffered by the victim and his family as being a proximate result of the wrongful act. An award requires no proof of pecuniary loss. Pursuant to previous jurisprudence, an award of Five Thousand Pesos (P5,000.00) moral

damages is appropriate for less serious, as well as slight physical injuries.[33]

WHEREFORE, the Decision dated July 30, 2008 of the Court of Appeals in CA-G.R. CR.-H.C. No. 02550, affirming the Decision dated September 22, 2006 of the Regional Trial Court, Branch 170, of Malabon, in Criminal Case No. 27039-MN, is REVERSED and SET ASIDE. A new judgment is entered finding Villacorta GUILTY beyond reasonable doubt of the crime of slight physical injuries, as defined and punished by Article 266 of the Revised Penal Code, and sentenced to suffer the penalty of thirty (30) days arresto menor. Considering that Villacorta has been incarcerated well beyond the period of the penalty herein imposed, the Director of the Bureau of Prisons is ordered to cause Villacorta's immediate release, unless Villacorta is being lawfully held for another cause, and to inform this Court, within five (5) days from receipt of this Decision, of the compliance with such order. Villacorta is ordered to pay the heirs of the late Danilo Cruz moral damages in the sum of Five Thousand Pesos (P5,000.00).

SO ORDERED.

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

[1] Rollo, pp. 2-16; penned by Associate Justice Sixto C. Marella, Jr. with Associate Justices Amelita G. Tolentino and Japar B. Dimaampao, concurring.

[2] CA rollo, pp. 58-60; penned by Presiding Judge Benjamin T. Antonio.

[3] Records, p. 1.

[4] CA rollo, p. 6.

[5] TSN, October 20, 2003, pp. 2-9.

[6] Records, p. 72.

[7] TSN, May 5, 2003, pp. 1-11; Dr. Domingo Belandres, Jr. was also referred to as Dr. Domingo Melendres, Jr. in the TSN.

[8] Id. at 6.

[9] TSN, March 6, 2006, pp. 2-5.

[10] CA rollo, p. 60.

[11] Records, p. 144.

[12] CA rollo, pp. 37-57.

[13] Id. at 67-96.

[14] Rollo, pp. 30-32.

[15] Id. at 35.

[16] CA rollo, p. 39.

[17] People v. Mayingque, G.R. No. 179709, July 6, 2010, 624 SCRA 123, 140.

[18] CA rollo, pp. 9-10.

- [19] *People v. Alcantara*, 471 Phil. 690, 700 (2004).
- [20] *People v. Barde*, G.R. No. 183094, September 22, 2010, 631 SCRA 187, 211.
- [21] *Calimutan v. People*, 517 Phil. 272, 284 (2006).
- [22] 241 Phil. 1 (1988).
- [23] *Id.* at 9-11.
- [24] *Id.* at 11-12.
- [25] *People v. Vicente*, 423 Phil. 1065, 1078 (2001).
- [26] CA rollo, p. 13.
- [27] *People v. Pagador*, 409 Phil. 338, 351-352 (2001).
- [28] *Li v. People*, 471 Phil. 128, 150 (2004).
- [29] *People v. Casta*, G.R. No. 172871, September 16, 2008, 565 SCRA 341, 356-357.
- [30] *People v. Napalit*, G.R. No. 181247, March 19, 2010, 616 SCRA 245, 252.
- [31] Revised Penal Code, Article 27.
- [32] *People v. Tan*, 411 Phil. 813, 843 (2001).
- [33] *Aradillos v. Court of Appeals*, 464 Phil. 650, 679 (2004); *People v. Loreto*, 446 Phil. 592, 614 (2003).

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