

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JUANITO APATTAD, ACCUSED-APPELLANT.

G.R. No. 193188. August 10, 2011

Ponente: VELASCO JR., J.

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VELASCO JR., J.:

The Case

This is an appeal from the August 28, 2009 Decision[1] of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 03173, which affirmed, with modification, an earlier Decision[2] in Criminal Case Nos. 10172-10175 of the Regional Trial Court (RTC), Branch 4 in Tuguegarao City, Cagayan. The RTC found accused Juanito Apattad guilty beyond reasonable doubt of three (3) counts of rape.

The Facts

Accused was charged in four (4) separate informations, the accusatory portions of which read:

CRIMINAL CASE NO. 10172

That sometime in the year 2001, in the evening[,] in the Municipality of Peñablanca, Province of Cagayan, and within the jurisdiction of this Honorable Court, the said accused, JUANITO APATTAD[,] father of the offended party, [AAA],[3] a minor below 12 years of age, thus have moral ascendancy over the complainant, with lewd design and by the use of force, did, then and there, willfully, unlawfully and feloniously have sexual intercourse with his own daughter, the herein offended party, [AAA], a minor woman below 12 years of age against her will.

CONTRARY TO LAW.[4] (Emphasis in the original.)

CRIMINAL CASE NO. 10173

That sometime in the year 2002, in the evening[,] in the Municipality of Peñablanca, Province of Cagayan, and within the jurisdiction of this Honorable Court, the said accused, JUANITO APATTAD[,] father of the offended party, [AAA], a minor below 12 years of age, thus have moral ascendancy over the complainant, with lewd design and by the use of force, did, then and there, willfully, unlawfully and feloniously have sexual intercourse with his own daughter, the herein offended party, [AAA], a minor woman below 12 years of age against her will.

CONTRARY TO LAW.[5] (Emphasis in the original.)

CRIMINAL CASE NO. 10174

That on or about June 10, 2003, in the Municipality of Peñablanca, Province of Cagayan, and within the jurisdiction of this Honorable Court, the said accused, JUANITO APATTAD[,] father of the offended party, [AAA], a minor below 12 years of age, thus have moral ascendancy over the complainant, with lewd design

and by the use of force, did, then and there, willfully, unlawfully and feloniously have sexual intercourse with his own daughter, the herein offended party, [AAA], a minor woman below 12 years of age against her will.

CONTRARY TO LAW.[6] (Emphasis in the original.)

CRIMINAL CASE NO. 10175

That on or about June 11, 2003, in the Municipality of Peñablanca, Province of Cagayan, and within the jurisdiction of this Honorable Court, the said accused, JUANITO APATTAD[,] father of the offended party, [AAA], a minor below 12 years of age, thus have moral ascendancy over the complainant, with lewd design and by the use of force, did, then and there, willfully, unlawfully and feloniously have sexual intercourse with his own daughter, the herein offended party, [AAA], a minor woman below 12 years of age against her will

CONTRARY TO LAW.[7] (Emphasis in the original.)

On June 1, 2004, the accused, with the assistance of his counsel, pleaded not guilty to all the charges against him.[8] Subsequently, on June 8, 2004, pre-trial conference was held and was terminated on the same day, with the parties stipulating on the following:

- (a) The identities of the accused and AAA;
- (b) AAA is the daughter of the accused;
- (c) AAA was a minor, being born on October 14, 1994, and was only ten (10) years old during the commission of the crime;
- (d) The existence of the Certificate of Live Birth of AAA; and
- (e) The existence of the Medico Legal Report of AAA issued by Dr. Mila Lingan-Simangan, Health Officer of Peñablanca, Cagayan.[9]

Thereafter, trial on the merits ensued. During trial, the prosecution offered the oral testimonies of AAA and Dr. Mila Lingan-Simangan. On the other hand, the defense presented as its witnesses the accused himself and Louie Calimag.[10]

Version of the Prosecution

AAA testified that sometime in 2001, while she was sleeping with her sisters, the accused pulled and positioned her just below the feet of her siblings, and right then and there, succeeded in molesting her.[11] AAA was just seven (7) years old then.[12]

On June 10, 2003, the accused sexually abused AAA again. While she was sleeping beside her younger sister in their room, accused carried her from the bed through the window and placed her on the floor.[13] Afterwards, accused removed his own shirt and used it to cover the mouth of AAA.[14] Accused then removed his underwear and AAA's underwear, and inserted his penis inside AAA's vagina, while telling her not to report the incident to her mother.[15] When the accused was finished in satisfying his lust, he put AAA's clothes back on, carried her back to bed, and untied the shirt covering AAA's mouth.[16]

The same incident happened on June 11, 2003, when accused carried AAA once again through the window, placed her on the floor, covered her mouth, undressed her, and inserted his penis into her vagina.[17] The accused also threatened to kill her if she reports the incident to her mother.[18]

When AAA finally told her mother on June 13, 2003 that she was being abused by her own father, her mother whipped her for not telling her about it immediately.[19] Thereafter, they went to the Department of Social

Welfare and Development (DSWD) office in Peñablanca, Cagayan, where AAA was interviewed by a certain Ms. Abrena, a DSWD personnel.[20] Afterwards, they proceeded to the police station where AAA executed a sworn statement narrating what happened. Dr. Mila Lingan-Simangan (Dr. Simangan) also subsequently conducted a physical examination on AAA.[21]

On cross-examination, AAA explained that the reason why it was only on June 13, 2003 that she reported the incidents to her mother was because she was afraid that her father would kill them.[22] AAA also confirmed that her parents often quarrel and shout at each other.[23] She even admitted that she had seen her father slap her mother and that because of this, she sympathized and took pity on her.[24] When asked whether she would do anything that her mother would tell her to do, AAA answered in the affirmative.[25] However, on re-direct examination, AAA clarified that her mother did not teach her to claim that she was raped and that she was only telling the truth.[26]

Dr. Simangan, the prosecution's other witness, testified that on June 16, 2003, she conducted a physical examination on AAA and discovered that the latter had a healed hymen laceration at 4 and 7 o'clock positions, and that her vagina admitted the tip of the fifth finger easily.[27] She stated that the laceration could have been caused by a blunt object.[28] She also testified that after conducting the physical examination, she interviewed AAA and the latter gave her the name of the person who raped her.[29] However, Dr. Simangan admitted that she can no longer remember the name that was mentioned by AAA.[30] Dr. Simangan also identified the Medico-Legal Report that she prepared.[31]

Version of the Defense

The accused denied the accusation of rape hurled against him and claimed that his wife was the one who initiated the criminal complaint against him because she thinks that he has a mistress.[32]

The other defense witness, Louie Calimag (Calimag), testified that from June 3, 2003 until July 8, 2003, he employed the services of the accused to help him in the operation of the chainsaw.[33] As part of their routine, he and the accused would saw logs in the forest from 7:00 a.m. to 5:00 p.m., go back to his house, and sleep there at night.[34] Calimag further testified that when the accused was arrested by the police in the forest on July 8, 2003, he was also with him.[35] Thus, when he found out that the accused was arrested for rape allegedly committed on June 10 and 11, 2003, Calimag claimed that he did not believe this because the accused stayed in his house on those days.[36]

Calimag likewise added that after the accused was arrested, he saw AAA, who admitted to him that she was not raped by the accused and that it was her mother who instructed her to give false information. AAA allegedly told him that her parents had a fight due to her father's illicit relationship with another woman.[37]

On cross-examination, Calimag admitted that the house of the accused was only three (3) kilometers away from his house and that the accused's house may be reached by jeepney in an hour and by foot in four (4) hours.[38]

Ruling of the Trial Court

Between the two versions of the incident, the trial court gave credence to the version of the prosecution and rendered its Decision dated October 24, 2007, finding the accused guilty of three (3) counts of rape. The decretal portion reads:

ACCORDINGLY, this Court finds accused JUANITO APATTAD GUILTY beyond reasonable doubt of the crime of rape for three (3) counts in Criminal Cases Nos. 10172, 10174 and 10175 and hereby imposes upon him the penalty of RECLUSION PERPETUA for each case. He is further ordered to pay [AAA] the amount of One Hundred Fifty Thousand (P150,000.00) Pesos as civil indemnity.

Accused is acquitted in Criminal Case No. 10173 for lack of sufficient evidence.

No pronouncement as to costs.[39]

On December 19, 2007, accused-appellant filed his Notice of Appeal[40] of the Decision dated October 24, 2007 rendered by the trial court. On April 15, 2008, the CA, where the case was docketed as CA-G.R. C.R.-H.C. No. 03173, issued a notice to file brief to the parties.[41]

On September 5, 2008, accused-appellant filed his Brief for the Accused-Appellant,[42] while the People of the Philippines, through the Office of the Solicitor General, filed its Brief for the Plaintiff-Appellee[43] on March 27, 2009.

Ruling of the Appellate Court

As stated above, the CA, in its Decision[44] dated August 28, 2009, affirmed with modification the judgment of conviction by the trial court, the dispositive portion of which reads:

WHEREFORE, in view of the foregoing, the instant appeal is DISMISSED. The assailed Decision of Branch 4 of the Regional Trial Court of Tuguegarao City in Criminal Case Nos. 10172, 10174 and 10175 is hereby AFFIRMED with the MODIFICATION that the civil indemnity awarded should be P75,000.00 for each count of rape. In addition, moral damages and exemplary damages in the amounts of P75,000.00 and Php25,000.00 respectively, for each count of rape are hereby awarded.

SO ORDERED.[45]

On September 22, 2009, accused-appellant filed his Notice of Appeal[46] from the CA Decision dated August 28, 2009.

In Our Resolution dated October 4, 2010, We notified the parties that they may file their respective supplemental briefs. Both parties manifested that they are no longer filing supplemental briefs and they are adopting their respective main briefs before the CA.

The Issues

Accused-appellant contends in his Brief[47] that:

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

The Court's Ruling

We sustain accused-appellant's conviction.

Denial and alibi are inherently weak defenses

In his Brief, accused-appellant contends that while, generally, the defense of alibi is frowned upon by the court, it assumes significance when it is corroborated by credible and disinterested witnesses.[48] Accused-appellant claims that Calimag's testimony was categorical, concise and persistent in affirming that he was innocent of the crimes charged.[49] Accused-appellant also maintains that although he was not able to adduce any evidence to corroborate his stand that it was his wife, motivated by revenge and anger, who ultimately caused the filing of the criminal charges against him, this should not be entirely taken against him.[50]

In *People v. Estoya*,[51] this Court laid down the jurisprudential guidelines in assessing the proffered defense of alibi. Particularly:

Jurisprudential rules and precepts guide this Court in assessing the proffered defense. One, alibis and denials are generally disfavored by the courts for being weak. Two, they cannot prevail over the positive identification of the accused as the perpetrators of the crime. Three, for alibi to prosper, the accused must prove not only that they were somewhere else when the crime was committed, but also that it was physically impossible for them to be at the scene of the crime at the time of its commission. Fourth, alibi assumes significance or strength only when it is amply corroborated by credible and disinterested witnesses. Fifth, alibi is an issue of fact that hinges on the credibility of witnesses, and the assessment made by the trial court -- unless patently and clearly inconsistent -- must be accepted.[52] (Emphasis supplied.)

Measured against the foregoing yardstick, accused-appellant's defenses of alibi and denial cannot prosper. As mentioned above, alibis and denials are inherently weak defenses. This is understandably so because said defenses can be easily fabricated by an accused in order to escape criminal liability.[53]

Likewise, it was stated in *Estoya* that alibi and denial cannot prevail over the positive identification of the accused as the perpetrator of the crime. Notably, these defenses crumble in light of positive identification by truthful witnesses.[54] An alibi is evidence negative in nature and self-serving, and, thus, cannot attain more credibility than the testimonies of prosecution witnesses who testify on clear and positive evidence.[55] In the present case, AAA positively identified accused-appellant in her testimony as the very perpetrator of the crime of rape committed against her, to wit:

Q:

While you were sleeping, do you remember any untoward incident that happened to you?

A:

Yes, ma'am.

Q:

What was that?

A:

Somebody carried me, ma'am.

Q:

Who carried you?

A:

My father, ma'am.

Q:

Where did he bring you?

A:

From the bed, he brought me to the floor.

Q:

Why do you have light in the room?

A:

Yes, ma'am.

Q:

What is that light?

A:

Electric light, ma'am.

Q:

After carrying you and brought [sic] you to the floor, what did he do to you?

A:

He removed his t-shirt and tied my mouth.

Q:

You mean to say he used his t-shirt in tying your mouth?

A:

He tied his t-shirt covering my mouth.

Q:

After removing his t-shirt and tying your mouth, what did he do next?

A:

He removed my t-shirt and short[s], ma'am.

Q:

When he undressed you, what happened next?

A:

He also removed his short[s] and brief, ma'am, and he also removed my panty.

Q:

After undressing himself and undressed [sic] you, what happened next?

A:

He inserted his penis [sic] into my vagina, ma'am.

Q:

While inserting his penis [sic] into your vagina, did he utter something to you?

A:

He ordered me not to report the incident to my mother because they just quarrel [sic].

Q:

Did your two (2) sisters wake up?

A:

No ma'am.

Q:

Can you estimate what time was that?

A:

Its [sic] already late at that time, ma'am.

Q:

Aside from putting his pennis [sic] into your vagina, what are the things that he do [sic] to you?

Atty Doran:

That is assuming the fact, your honor.

Prosecutor Ugale: I will reform my question, your honor.

Prosecutor Ugale:

Q:

Is that all the things that he did to you?

A:

Not only that, ma'am.

Q:

What else did he do to you?

A:

He out my shorts and panty and my t-shirt, he dressed himself [sic] and then he put me back to be beside my sister then he untied me.

Q:

What did you feel when your father inserted his pennis [sic] into your vagina?

A:

I felt pain, ma'am.

Q:

Did he also kiss you?

A:

He kissed my cheek, ma'am.

Q:

Did he kiss your lips?

A:

No ma'am.

Q:

How about your neck?

A:

No ma'am.

Q:

What did you feel when your papa inserted his pennis [sic] into your vagina?

A:

It is hard and I felt pain.[56] (Emphasis supplied.)

Moreover, for alibi to prosper, it is not enough for the accused to prove that he was in another place when the crime was committed as he must likewise prove that it was physically impossible for him to be present at the crime scene or its immediate vicinity at the time of its commission.[57] As correctly observed by the trial court, a distance of three (3) kilometers does not make it physically impossible for accused-appellant to be at the scene of the crime at the time it was committed.[58] Calimag himself admitted during cross-examination that the house of accused-appellant may be reached by jeepney in an hour. Significantly, even if accused-appellant indeed stayed in Calimag's house on the dates that he committed rape, it was still not physically impossible for accused-appellant to go home and commit the said crime at the time it was said to have been committed.

Also, alibi assumes significance or strength only when it is amply corroborated by credible and disinterested witnesses. In this regard, it should be noted that alibi becomes unworthy of merit not only because accused-appellant was positively identified by AAA but also in cases where it is established mainly by the accused himself, his relatives, friends and comrades-in-arms,[59] and not by credible persons.[60]

Finally, as mentioned in *Estoya*, alibi is an issue of fact that hinges on the credibility of witnesses, and that the assessment made by the trial court must be accepted unless it is patently and clearly inconsistent.

Indeed, "it is a hornbook doctrine that the findings of fact of the trial court are entitled to great weight on appeal and should not be disturbed except for strong and valid reasons, because the trial court is in a better position to examine the demeanor of the witnesses while testifying." [61] In *People v. Lusabio, Jr.*, this Court held:

All in all, we find the evidence of the prosecution to be more credible than that adduced by accused-appellant. When it comes to credibility, the trial court's assessment deserves great weight, and is even conclusive and binding, if not tainted with arbitrariness or oversight of some fact or circumstance of weight and influence. The reason is obvious. Having the full opportunity to observe directly the witnesses' deportment and manner of testifying, the trial court is in a better position than the appellate court to evaluate testimonial evidence properly.[62] (Emphasis supplied; citations omitted.)

Since accused-appellant failed to show any palpable error, arbitrariness, or capriciousness on the findings of fact of the trial and appellate courts, these findings deserve great weight and are deemed conclusive and binding.

The guilt of accused-appellant has been established beyond reasonable doubt

After a careful examination of the records of this case, this Court is satisfied that the prosecution's evidence established the guilt of accused-appellant beyond reasonable doubt.

In reviewing the evidence in rape cases, the following considerations should be made: (1) an accusation for rape can be made with facility, it is difficult to prove but more difficult for the person, though innocent, to disprove; (2) in view of the intrinsic nature of the crime of rape where only two persons are usually involved, the testimony of the complainant must be scrutinized with extreme 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.[63] Nonetheless, it also bears stressing that rape is essentially committed in relative isolation or secrecy; thus, it is most often only the victim who can testify with regard to the fact of forced coitus.[64]

Under Article 266-A of the Revised Penal Code, as amended, the crime of rape is committed by a man having carnal knowledge of a woman under any of the following circumstances: (1) through force, threat or intimidation; (2) when the offended party is deprived of reason or otherwise unconscious; (3) by means of fraudulent machination or grave abuse of authority; and (4) when the offended party is under twelve (12) years of age or is demented, even though none of the circumstances mentioned above be present.[65]

In *People v. Orillosa*,[66] this Court held that in incestuous rape of a minor, actual force or intimidation need not be employed where the overpowering moral influence of the father would suffice.[67] Thus, in order for the accused to be found guilty of the crime of statutory rape in this jurisdiction, only two (2) elements must concur: (1) that the offender had carnal knowledge of the victim; and (2) that the victim is below twelve (12) years old.[68]

In the present case, it is undisputed that the victim, AAA, was below twelve (12) years old when the crime was committed. A copy of AAA's birth certificate to prove her age was duly presented in evidence by the prosecution, indicating that she was indeed born on October 14, 1994.[69] Concomitantly, AAA was only seven (7) years old when the crime of rape was first committed against her in 2001, and was only nine (9) years old when the accused once again succeeded in committing the same crime in 2003.[70] Also, it is undisputed that accused-appellant is the father of AAA, as stipulated by the parties during the pre-trial conference and as also indicated in AAA's birth certificate.[71] Thus, what only remains to be proved is the fact of carnal knowledge by the accused of the victim.

Verily, the prosecution has sufficiently established the foregoing element, thus proving that accused-appellant is guilty beyond reasonable doubt of three (3) counts of rape.

When AAA was called to the witness stand, she gave a detailed narration of how she was sexually molested by her father, which narration is difficult, if not improbable, for a 10-year-old girl to concoct. As aptly observed by the CA, "[AAA] was able to describe in detail how her father carried her through the window, laid her down the floor, tied her mouth, removed her clothes and inserted his penis inside her vagina. She even described that she felt pain while her father was performing the carnal act against her." [72]

Pertinently, "it is settled jurisprudence that the testimony of a child-victim is given full weight and credence, considering that when a woman, specially a minor, says that she has been raped, she says in effect all that is necessary to show that rape was committed. Youth and immaturity are generally badges of truth and sincerity." [73]

Moreover, the fact that AAA's testimony was able to withstand scrutiny during cross-examination bolsters her credibility and makes her statements more credible.[74]

Further, it should be noted that the findings in the medical examination of Dr. Simangan corroborate the testimony of AAA. In this regard, while a medical examination of the victim is not indispensable in the prosecution of a rape case, and no law requires a medical examination for its successful prosecution, the medical examination conducted and the medical certificate issued are veritable corroborative evidence, which strongly

bolster AAA's testimony.[75]

In addition, this Court is not convinced that a child of a tender age would concoct a story as sordid as in the instant case due to her mother's alleged ill motive. In *People v. Padilla*, We held that accused-appellant's imputation of ill motive on the victim's mother for being jealous of another woman is clearly unmeritorious, for no mother in her right mind would possibly wish to stamp her child with the stigma that follows the crime of rape only because she is consumed with hatred and revenge. Specifically:

Appellant, nonetheless, imputes ill-motive on Laiza and her mother Elisa in charging him with rape contending that the latter was jealous when she found that he was courting a woman in their place.

Again, appellant's excuse is simply too frail to cause resentment and ill will on the part of Laiza and her mother against him. Though one may be consumed with much hatred and revenge, it takes nothing less than psychological depravity for a mother to concoct a story too damaging to the welfare and well-being of her own daughter. Certainly, no mother in her right mind would possibly wish to stamp her child with the stigma that follows a despicable crime of rape. We are convinced that the victim and her mother boldly initiated the present case to seek justice for the abominable act committed by appellant. (Emphasis supplied; citations omitted.)

All told, We accordingly sustain accused-appellant's conviction.

Award of Damages

The Decision of the CA as to the damages awarded must be modified.

In rape cases, when the victim is under 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, the imposable penalty is death.[76] However, with the enactment of Republic Act No. (RA) 9346 or An Act Prohibiting the Imposition of Death Penalty in the Philippines, the imposition of death penalty is now prohibited.[77] In lieu of the penalty of death, the penalty of reclusion perpetua shall be imposed when the law violated makes use of the nomenclature of the penalties of the RPC.[78]

Consequently, courts can no longer impose the penalty of death. Instead, they have to impose reclusion perpetua. Nonetheless, the principal consideration for the award of damages is "the penalty provided by law or imposable for the offense because of its heinousness, not the public penalty actually imposed on the offender."

Pertinently, as early as July 9, 1998, this Court has held that when the circumstances surrounding the crime would justify the imposition of the penalty of death were it not for RA 9346, the award of civil indemnity for the crime of rape should be PhP 75,000,[79] racionating that "[t]his is not only a reaction to the apathetic societal perception of the penal law and the financial fluctuations over time, but also an expression of the displeasure of the Court over the incidence of heinous crimes against chastity."[80]

Likewise, the award of moral damages in the amount of PhP 75,000 is warranted,[81] without need of pleading or proving them.[82] In rape cases, it is recognized that the victim's injury is concomitant with and necessarily results from the odious crime of rape to warrant per se the award of moral damages.[83]

Further, the Court also awards exemplary damages in the amount of PhP 30,000, despite the lack of any aggravating circumstances,[84] to deter others from committing similar acts or for correction for the public good.[85]

WHEREFORE, the appeal is DENIED. The CA Decision dated August 28, 2009 in CA-G.R. CR-H.C. No. 03173 finding accused-appellant Juanito Apattad guilty of rape is AFFIRMED with MODIFICATIONS. As thus

modified, accused-appellant is ordered to pay AAA for each count of rape, PhP 75,000 as civil indemnity, PhP 75,000 as moral damages, and PhP 30,000 as exemplary damages.

SO ORDERED.

Carpio,[*] Brion,**] Peralta, and Sereno,[***] JJ., concur.

[*] Acting member per Special Order No. 1059 dated August 1, 2011.

**] Acting member per Special Order No. 1056 dated July 27, 2011.

[***] Additional member per Special Order No. 1028 dated June 21, 2011.

[1] Rollo, pp. 2-18. Penned by Associate Justice Mariflor P. Punzalan Castillo and concurred in by Associate Justices Mario L. Guariña III and Jane Aurora C. Lantion.

[2] CA rollo, pp. 12-17. Penned by Judge Lyliha L. Abella-Aquino.

[3] The real name of the victim and the immediate family member is withheld to protect their identity and privacy pursuant to 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. 2.

[5] CA rollo, p. 12.

[6] Records, p. 2.

[7] Id.

[8] CA rollo, p. 13.

[9] Id.

[10] Rollo, p. 3.

[11] TSN, August 11, 2004, p. 5.

[12] Id.

[13] Rollo, p. 3.

[14] Id.

[15] Id.

[16] Id.

[17] Id.

[18] Id. at 3-4.

[19] TSN, December 6, 2004, p. 1.

[20] Rollo, p. 4.

[21] Id.

- [22] Id.
- [23] Id.
- [24] Id.
- [25] Id.
- [26] TSN, December 6, 2004, p. 3.
- [27] Rollo, p. 5.
- [28] Id.
- [29] Id.
- [30] Id.
- [31] TSN, January 19, 2005, p. 2.
- [32] Rollo, p. 5.
- [33] CA rollo, p. 42.
- [34] Rollo, p. 5.
- [35] Id. at 5-6.
- [36] Id. at 6.
- [37] Id.
- [38] Id.
- [39] CA rollo, p. 17.
- [40] Id. at 18.
- [41] Id. at 22.
- [42] Id. at 36-49.
- [43] Id. at 58-71.
- [44] Rollo, pp. 2-13.
- [45] Id. at 17.
- [46] Id. at 19-20.
- [47] Id. at 31-47.
- [48] CA rollo, p. 45.
- [49] Id.
- [50] Id. at 46-47.
- [51] G.R. No. 153538, May 19, 2004, 428 SCRA 544.
- [52] Id. at 556.

- [53] See *De La Salle University, Inc. v. CA*, G.R. No. 127980, December 19, 2007, 541 SCRA 22, 55.
- [54] See *People v. dela Cruz*, G.R. No. 175929, December 16, 2008, 574 SCRA 78, 91; *Velasco v. People*, G.R. No. 166479, February 28, 2006, 483 SCRA 649, 664-665.
- [55] *People v. Ranin, Jr.*, G.R. No. 173023, June 25, 2008, 555 SCRA 297, 309; *Velasco v. People*, G.R. No. 166479, February 28, 2006, 483 SCRA 649, 664-665.
- [56] TSN, August 11, 2003, pp. 3-4.
- [57] *People v. Alfredo*, G.R. No. 188560, December 15, 2010; citing *People v. Guerrero*, G.R. No. 170360, March 12, 2009, 580 SCRA 666, 683 and *People v. Garte*, G.R. No. 176152, November 25, 2008, 571 SCRA 570, 583.
- [58] Rollo, p. 14.
- [59] *People v. Alfredo*, supra note 57; citing *People v. Manzano*, G.R. No. 108293, September 15, 1995, 248 SCRA 239, 248.
- [60] *People v. Alfredo*, id.; citing *People v. Panganiban*, G.R. No. 97969, February 6, 1995, 241 SCRA 91, 100-101.
- [61] *Tayco v. Heirs of Concepcion Tayco-Flores*, G.R. No. 168692, December 13, 2010.
- [62] G.R. No. 186119, October 27, 2009, 604 SCRA 565, 590.
- [63] *People v. Alfredo*, supra note 57; citing *People v. San Diego*, G.R. No. 129297, March 17, 2000, 328 SCRA 477, 486-487.
- [64] *People v. Alfredo*, id.; citing *People v. Resurreccion*, G.R. No. 185389, July 7, 2009, 592 SCRA 269, 276.
- [65] *People v. Dominguez, Jr.*, G.R. No. 180914, November 24, 2010.
- [66] G.R. Nos. 148716-18, July 7, 2004, 433 SCRA 689, 698.
- [67] *People v. Dominguez, Jr.*, G.R. No. 180914, November 24, 2010.
- [68] *People v. Salazar*, G.R. No. 181900, October 20, 2010 citing *People v. Tampos*, G.R. No. 142740, August 6, 2003, 408 SCRA 403, 410.
- [69] Rollo, pp. 9-10.
- [70] Id. at 10.
- [71] Id.
- [72] Id.
- [73] *People v. Padilla*, G.R. No. 142899, March 31, 2004, 426 SCRA 648, 662.
- [74] Rollo, p. 10.
- [75] *People v. Alfredo*, supra note 57; citing *People v. Ferrer*, G.R. No. 142662, August 14, 2001, 362 SCRA 778, 788.
- [76] Revised Penal Code, Art. 266-B; *People v. Combate*, G.R. No. 189301, December 15, 2010.
- [77] *People v. Combate*, supra note 76.

[78] Id.

[79] Id.

[80] *People v. Victor*, G.R. No. 127903, July 9, 1998, 292 SCRA 186, 200-201.

[81] *People v. Combate*, supra note 76; citing *People v. Soriano*, G.R. Nos. 142779-95, August 29, 2002, 388 SCRA 140.

[82] Id.; citing *People v. Arizapa*, G.R. No. 131814, March 15, 2000, 328 SCRA 214.

[83] Id.

[84] Id.; citing *People v. Abellera*, G.R. No. 166617, July 3, 2007, 526 SCRA 329.

[85] *People v. Alfredo*, supra note 57; citing *People v. Cristobal*, G.R. No. 116279, January 29, 1996, 252 SCRA 507, 517-518.

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