

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. SONNY GATARIN Y CABALLERO @ “JAY-R” AND EDUARDO QUISAYAS, ACCUSED, EDUARDO QUISAYAS, ACCUSED-APPELLANT.

G.R. No. 198022. April 07, 2014

Ponente: PERALTA, J.

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PERALTA, J.:

Assailed in this appeal is the Court of Appeals (CA) Decision[1] dated February 23, 2011 in CA-G.R. CR H.C. No. 03593 affirming the Regional Trial Court (RTC)[2] Decision[3] dated June 20, 2008 in Criminal Case No. 13838 convicting appellant Eduardo Quisayas of Robbery with Homicide committed against the victim Januario Castillo y Masangcay (Januario).

The facts of the case follow:

Appellant and accused Sonny Gatarin y Caballero were charged in an Information[4] with Robbery with Homicide committed as follows:

That on or about the 3[rd] day of November, 2004, at about 8:00 o'clock (sic) in the evening, at Barangay Poblacion, Municipality of Mabini, Province of Batangas, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, armed with a bladed weapon, conspiring and confederating together, acting in common accord and mutually helping each other, with intent to gain, without the knowledge and consent of the owner thereof and with violence against or intimidation of person, did then and there willfully, unlawfully and feloniously take, rob, and carry away cash money amounting to Twenty Thousand Pesos (P20,000.00), Philippine Currency, belonging to Januario Castillo y Masangcay alias “Ka Maning,” to the damage and prejudice of the latter in the aforementioned amount and that on the occasion and by reason of said robbery, the said accused with intent to kill and taking advantage of their superior strength, did then and there willfully, unlawfully and feloniously attack, assault and stab with the said weapon Januario Castillo y Masangcay alias “Ka Maning,” thereby inflicting upon the latter the stab wounds to [the] anterior chest and right shoulder and right axilla, which directly caused his death.

Contrary to law.[5]

Appellant was arrested, while his co-accused remained at-large. When arraigned, he pleaded “Not Guilty.” Trial on the merits thereafter ensued.

The prosecution presented the testimonies of the following witnesses: (1) Maria Castillo, the victim’s wife; (2) Howel Umali (Umali), who allegedly saw how the accused mauled the victim; (3) SPO3 Gregorio G. Mendoza (SPO3 Mendoza) of the Mabini Police Station, who saw the victim lying on the floor and the accused running away from the crime scene, and testified on the dying declaration of Januario; (4) Dr. Catalino Ike A. Rasa Jr. (Dr. Rasa), who attended to the victim when he was brought to the hospital; and (5) PO1 Rogelio Dizon Coronel (PO1 Coronel), who saw the accused running fast near the crime scene and who, likewise, testified on Januario’s ante mortem statement.

From the testimonies of the above-named witnesses, the prosecution established the following facts:

On November 3, 2004, at 8 o'clock in the evening, Umali was riding a bicycle on his way home when he saw Januario being mauled by two persons opposite Dom's Studio in Poblacion, Mabini, Batangas. Upon seeing the incident, he stayed in front of the church until such time that the accused ran away and were chased by policemen who alighted from the police patrol vehicle.[6]

On the same night, SPO3 Mendoza and PO1 Coronel were on board their patrol vehicle performing their routine patrol duty when they met two men, later identified as the accused, who were running at a fast speed. When asked why they were running, the accused did not answer prompting the policemen to chase them. The policemen, however, were unsuccessful in catching them and when it became evident that they could no longer find them, they continued patrolling the area. There they saw Januario lying on the street in front of Dom's studio. As he was severely injured, the policemen immediately boarded Januario to the patrol vehicle and brought him to the Zigzag Hospital. While inside the vehicle, SPO3 Mendoza asked Januario who hurt him. He answered that it was "Jay-R and his uncle" who stabbed him. The uncle turned out to be the appellant herein, while Jay-R is his co-accused who remains at-large.[7]

At the Zigzag Hospital, Januario was attended to by Dr. Rasa who found him in critical condition. Three fatal wounds caused by a bladed weapon were found in Januario's body which eventually caused his death.[8]

Maria Castillo, for her part, testified on how she learned of what happened to her husband, the victim herein, the amount allegedly stolen from her husband, as well as on the expenses and loss incurred by reason of Januario's death. She, further, quantified the sorrow and anxiety the family suffered by reason of such death.[9]

In his defense, appellant denied the accusation against him. He claimed that he is from the Province of Samar but has been residing in Cupang, Muntinlupa City since 1987. He denied knowing, much more residing in, Mabini, Batangas, as he only heard about the province from his employer who happens to be a resident therein. He claimed that he did not know Januario and that he was, in fact, working in Muntinlupa City on the date and time the crime was allegedly committed.[10]

The prosecution's rebuttal witness Mr. Bienvenido Caponpon, however, belied appellant's claim and insisted that appellant was renting a house in Mabini, Batangas and that he was seen there until the day the crime was committed.[11]

On June 20, 2008, the RTC rendered a Decision against the appellant, the dispositive portion of which reads:

WHEREFORE, the People having proven the guilt of accused Eduardo Quisayas beyond reasonable doubt, he is hereby declared "GUILTY" of the offense as charged. Accordingly, he is hereby sentenced to a prison term of Reclusion Perpetua.

Further, he is hereby ordered to pay herein offended party of the following:

- (a) civil indemnity in the amount of Php50,000.00
- (b) actual damages in the amount of Php20,000.00, plus Php35,310.00 (funeral and hospital expenses), and
- (c) moral damages in the amount of Php100,000.00

SO ORDERED.[12]

The trial court gave credence to the testimony of Maria Castillo not only as to the fact of taking money from Januario but also the amount taken.[13] The fact of death was, likewise, found by the court to have been adequately proven by the testimony of Dr. Rasa.[14] Though there was no evidence whether the unlawful taking preceded the killing of Januario, the court held that there was direct and intimate connection between the two

acts.[15]

As to the identity of the perpetrators, the court considered the victim's response to SPO3 Mendoza's question as to who committed the crime against him as part of the *res gestae*, which is an exception to the hearsay rule.[16] As to appellant's defense of alibi, the court gave more weight to the prosecution's rebuttal evidence that indeed the former was an actual resident of Mabini, Batangas.[17]

On appeal, the CA affirmed the RTC decision. Contrary, however, to the RTC's conclusion, the appellate court considered Januario's statement to SPO3 Mendoza, that the accused were the ones who stabbed him and took his wallet, not only as part of *res gestae* but also as a dying declaration.[18]

Hence, the appeal before the Court.

We find appellant guilty beyond reasonable doubt not of robbery with homicide but of murder.

The trial court's factual findings, including its assessment of the credibility of the witnesses, the probative weight of their testimonies, and the conclusions drawn from the factual findings are accorded great respect and even conclusive effect. We, nevertheless, fully scrutinize the records, since the penalty of reclusion perpetua that the CA imposed on appellant demands no less than this kind of careful and deliberate consideration.[19]

To sustain a conviction for robbery with homicide, the prosecution must prove the following elements: (1) the taking of personal property belonging to another; (2) with intent to gain; (3) with the use of violence or intimidation against a person; and (4) on the occasion or by reason of the robbery, the crime of homicide, as used in the generic sense, was committed.[20]

First, in order to sustain a conviction for the crime of robbery with homicide, it is necessary that the robbery itself be proven as conclusively as any other essential element of the crime.[21] In order for the crime of robbery with homicide to exist, it must be established that a robbery has actually taken place and that, as a consequence or on the occasion of robbery, a homicide be committed.[22]

For there to be robbery, there must be taking of personal property belonging to another, with intent to gain, by means of violence against or intimidation of any person or by using force upon on things.[23] Both the RTC and the CA concluded that robbery was committed based on the testimonies of Maria Castillo, SPO3 Mendoza, and PO1 Coronel. A closer look at the testimonies of these witnesses, however, failed to convince us that indeed robbery took place.

Maria Castillo's testimony was offered by the prosecution to prove that her husband, the victim herein, was a victim of robbery with homicide and that he is a businessman, and that she suffered damages by reason of such death. The pertinent portion of her direct testimony is quoted below for a closer scrutiny:

ATTY. MASANGYA:

Q The victim in this case Januario Castillo, how are you related to him?

WITNESS:

A My husband, sir.

Q On November 3, 2004, do you remember of any unusual incident that has occurred?

A Yes, sir.

Q And what is that event?

A At around 8:30 o'clock in the evening of November 3, 2004 while I was at home, policemen arrived and informed me that my husband was wounded, sir.

Q Did these police officers inform you the location (sic) of where your husband was located?

A According to the policemen, my husband was at Zigzag Hospital, sir.

Q Did you go to Zigzag Hospital, Madam Witness?

A Yes, sir.

Q What happened, Madam Witness, when you arrived at the hospital?

A I was informed by the nurse there that my husband was already dead.

ATTY. MASANGYA:

Q Were you informed of the cause of the death of your husband?

WITNESS:

A According to them my husband was wounded, many wounds and he was robbed, sir.

Q Madam Witness, were you able to know who are the persons responsible for the death of your husband?

ATTY. EBORA:

We will object. That will be misleading.

COURT:

If she is aware.

ATTY. EBORA:

We submit.

COURT:

You ask her if she is aware who the perpetrators are.

ATTY. MASANGYA:

Q Madam Witness, were you informed who are the perpetrators of the crime on your husband?

WITNESS:

A Not yet, sir. It was not told to me by the policemen because the policemen were in a hurry.

ATTY. MASANGYA:

Q After the policemen went to your house, was there [any] person who informed you who were the perpetrators of the crime?

A Yes, sir. My niece.

Q And who is that niece of yours, Madam Witness?

A Josephine Borbon, sir.

Q Did Miss Borbon tell you about the identity of the perpetrators of the crime, Madam Witness?

A Yes, sir.

Q And who are the persons did Miss Borbon mention?

A My former helper Sonny Gatarin and his uncle Eduardo Quisayas, sir.

Q You were told that your husband was robbed, how much was taken from your husband, Madam Witness?

A P20,000.00.

Q And can you tell, Madam Witness, why is your husband carrying that amount of money at the time of his death?

A Yes, sir.

WITNESS:

A Those were the earnings for that day for he delivered merchandise and groceries, sir.

ATTY. MASANGYA:

Q Do you know, Madam Witness, if your husband is engaged in any business?

A Yes, sir.

Q And what is your proof in saying your husband is engaged in business?

A Our business was we delivered bottled goods and groceries, sir.

Q The business wherein your husband is engaged has an existing license with the appropriate local government?

A Yes, sir.

Q If a copy will be shown to you, will you be able to identify the same?

A Yes, sir.

Q I am showing to you [a] certified copy of [the] Mayor's permit previously marked as Exhibit "H"?

A This is it, sir.

Q If you know, Madam Witness, how much is your husband earning in his sari-sari or grocery business?

WITNESS:

A Yes, sir.

ATTY. MASANGYA:

Q How much is he earning at the time?

A He earns P40,000.00.

Q In a month or year?

A P40,000.00 a month, sir.

Q How do you feel or confront the situation that your husband is already dead?

A We felt deep sorrow together with my three (3) children, sir. (Witness is crying)

x x x x[24]

From the above testimony, it can be inferred that Maria Castillo obviously was not at the scene of the crime on that fateful night as she was only informed that the incident took place and that Januario was brought to the Zigzag Hospital. It, likewise, appears that she had no personal knowledge that Januario was robbed. While she claimed that P20,000.00 was illegally taken from him, no evidence was presented to show that Januario indeed had that amount at that time and that the same was in his possession. As Maria Castillo claimed that the said amount was allegedly received from their clients in their grocery business, said fact could have been proven by receipts or testimonies of said clients. The prosecution's failure to present such evidence creates doubt as to the existence of the money.

The trial and appellate courts likewise relied on the testimony of SPO3 Mendoza and PO1 Coronel on the statement of Januario after the commission of the crime. While both policemen testified as to the dying declaration of Januario pertaining to the cause and circumstances surrounding his death, only PO1 Coronel testified during his direct examination that when asked who stabbed him, Januario replied that it was "Jay-Ar and his uncle who stabbed him and took his wallet." [25] In response to the Presiding Judge's clarificatory question, however, PO1 Coronel admitted that when he asked Januario who stabbed him, he replied that it was Jay-Ar and his uncle. After which, no further question was asked. [26] On the other hand, nowhere in SPO3 Mendoza's testimony did he talk about the alleged taking of wallet. The pertinent portions of their testimonies read:

Direct Examination of PO1 Coronel:

x x x x

Q: What did you do next after boarding him inside your vehicle?

A We brought him at the Zigzag Hospital and we asked him who stabbed him.

Q What was his reply Mr. Witness?

A He told us that Jay-ar and his uncle stabbed him and took his wallet.

x x x x[27]

PO1 Coronel's Answers to the questions propounded by the Presiding Judge:

THE COURT:

Alright, the Court will ask.

Q When did you talk with the victim?

A When we were inside the patrol car, your Honor.

Q What exactly did you ask from the victim?

A I asked him who stabbed him, your Honor.

Q Did you tell the victim his condition?

A No, your Honor.

Q You just asked the victim who stabbed him?

A Yes, your Honor.

Q What was the answer of the victim?

A That he was stabbed by Jay-ar and his uncle, your Honor.

Q And no other question did you ask him?

A None, your Honor.

x x x x[28]

Direct Testimony of SPO3 Mendoza:

x x x x

Q And when you saw Januario Castillo lying on the street, what did you do?

A We lifted him and boarded him in our vehicle then we brought him to the hospital.

Q While you were travelling, were you able to talk to the victim Januario Castillo?

A Yes, sir.

Q What was your conversation all about?

A I asked Ka Maning Castillo as to who stabbed him and he answered Jay-R and his uncle.

x x x x[29]

It is, therefore, clear from the foregoing that the evidence presented to prove the robbery aspect of the special complex crime of robbery with homicide, does not show that robbery actually took place. The prosecution did not convincingly establish the corpus delicti of the crime of robbery. Corpus delicti has been defined as the body or substance of the crime and, in its primary sense, refers to the fact that a crime has actually been committed. As applied to a particular offense, it means the actual commission by someone of the particular crime charged.[30] In this case, the element of taking, as well as the existence of the money alleged to have been lost and stolen by appellant, was not adequately established.[31] We find no sufficient evidence to show either the amount of money stolen, or if any amount was in fact stolen from Januario. Even if we consider Januario's dying declaration, the same pertains only to the stabbing incident and not to the alleged robbery.

Moreover, assuming that robbery was indeed committed, the prosecution must establish with certitude that the killing was a mere incident to the robbery, the latter being the perpetrator's main purpose and objective. It is not enough to suppose that the purpose of the author of the homicide was to rob; a mere presumption of such fact is not sufficient.[32] Stated in a different manner, a conviction requires certitude that the robbery is the main purpose, and objective of the malefactor and the killing is merely incidental to the robbery. The intent to rob must precede the taking of human life but the killing may occur before, during or after the robbery.[33] What is crucial for a conviction for the crime of robbery with homicide is for the prosecution to firmly establish the offender's intent to take personal property before the killing, regardless of the time when the homicide is actually carried out.[34] In this case, there was no showing of the appellant's intention, determined by their acts prior to, contemporaneous with, and subsequent to the commission of the crime, to commit robbery.[35] No shred of evidence is on record that could support the conclusion that appellant's primary motive was to rob Januario and that he was able to accomplish it.[36] Mere speculation and probabilities cannot substitute for proof required in establishing the guilt of an accused beyond reasonable doubt.[37]

Where the evidence does not conclusively prove the robbery, the killing of Januario would be classified either as a simple homicide or murder, depending upon the absence or presence of any qualifying circumstance, and not the crime of robbery with homicide.[38]

To establish the fact that appellant and his co-accused killed the victim by stabbing him with a bladed weapon, the prosecution presented Umali as an eyewitness to the mauling incident. It was this same witness who identified the perpetrators. The trial and appellate courts also relied on the statement of Januario as to the circumstances of his death, testified to by PO1 Coronel and SPO3 Mendoza as dying declaration and as part of *res gestae*.

A dying declaration, although generally inadmissible as evidence due to its hearsay character, may nonetheless be admitted when the following requisites concur, namely: (a) the declaration concerns the cause and the surrounding circumstances of the declarant's death; (b) it is made when death appears to be imminent and the declarant is under a consciousness of impending death; (c) the declarant would have been competent to testify had he or she survived; and (d) the dying declaration is offered in a case in which the subject of inquiry involves the declarant's death.[39]

In the case at bar, it appears that not all the requisites of a dying declaration are present. From the records, no questions relative to the second requisite was propounded to Januario. It does not appear that the declarant was under the consciousness of his impending death when he made the statements. The rule is that, in order to make a dying declaration admissible, a fixed belief in inevitable and imminent death must be entered by the declarant. It is the belief in impending death and not the rapid succession of death in point of fact that renders a dying declaration admissible. The test is whether the declarant has abandoned all hopes of survival and looked on death as certainly impending.[40] Thus, the utterances made by Januario could not be considered as a dying declaration.

However, even if Januario's utterances could not be appreciated as a dying declaration, his statements may still be appreciated as part of the *res gestae*. *Res gestae* refers to the circumstances, facts, and declarations that grow out of the main fact and serve to illustrate its character and are so spontaneous and contemporaneous with the main fact as to exclude the idea of deliberation and fabrication. The test of admissibility of evidence as a part of the *res gestae* is, therefore, whether the act, declaration, or exclamation, is so interwoven or connected with the principal fact or event that it characterizes as to be regarded as a part of the transaction itself, and also whether it clearly negates any premeditation or purpose to manufacture testimony.[41]

The requisites for admissibility of a declaration as part of the *res gestae* concur herein. When Januario gave the identity of the assailants to SPO3 Mendoza, he was referring to a startling occurrence which is the stabbing by appellant and his co-accused. At that time, Januario and the witness were in the vehicle that would bring him to the hospital, and thus, had no time to contrive his identification of the assailant. His utterance about appellant and his co-accused having stabbed him, in answer to the question of SPO3 Mendoza, was made in spontaneity and only in reaction to the startling occurrence. Definitely, the statement is relevant because it identified the accused as the authors of the crime. Verily, the killing of Januario, perpetrated by appellant, is adequately proven by the prosecution.

From the evidence presented, we find that as alleged in the information, abuse of superior strength attended the commission of the crime, and thus, qualifies the offense to murder. Abuse of superior strength is considered whenever there is a notorious inequality of forces between the victim and the aggressor, assessing a superiority of strength notoriously advantageous for the aggressor which the latter selected or took advantage of in the commission of the crime.[42]

It is clear from the records of the case that Januario was then fifty-four (54) years old. Appellant, on the other hand, was then forty (40) years old. Appellant committed the crime with his co-accused, his nephew. Clearly, assailants are younger than the victim. These two accused were seen by Umali as the persons who mauled Januario. Moreover, assailants were armed with a bladed weapon, while Januario was unarmed. This same bladed weapon was used in repeatedly stabbing Januario, who no longer showed any act of defense. Dr. Rasa, the medical doctor who attended to Januario when he was brought to the hospital, also testified as to the nature and extent of the injury sustained by Januario. He clearly stated that Januario sustained three fatal injuries which caused his death. The pertinent portion of Dr. Rasa's testimony reads:

ATTY. MASANGYA:

Q How many injuries were sustained by the victim, Mr. Witness?

A Three.

Q In what parts of the body was the victim injured?

A The victim sustained three injuries: one on the left side of the parasternal border the heart (sic) and it penetrated, and then the second one was on the right side of the chest near the shoulder and the third one was under the armpit also to the chest.

ATTY. MASANGYA:

Q Which of those injuries caused the death of the victim?

A All of them are fatal, because the one over the heart penetrated the heart and the aorta. The one in the anterior chest near the right shoulder hit the blood vessels of the armpit and the wound under the armpit apparently hit the lungs.

x x x [43]

This same physician issued the Medical Certificate explaining the location of the stab wounds as well as the cause

of death of Januario, to wit:

Location of Stab Wounds:

- Stab wound penetrating 2[nd] inter-costal space left para-sternal border, 6” deep penetrating the heart chambers and aorta
- Stab wound over the right anterior deltoid muscle, penetrating 3” into the right axilla space; injuring the axilla blood vessels.
- Stab wound over the right axilla, penetrating to the right chest cavity.

CAUSES OF DEATH

Immediate Cause: Hypovolemic Shock

Antecedent Cause: Multiple stab wounds to the anterior chest, right axilla, and right axilla penetrating the chest cavity.

x x x x[44]

From the testimony of the eyewitness and corroborated by the medical certificate of Dr. Rasa, it can be inferred that indeed the qualifying circumstance of abuse of superior strength attended the commission of the crime. To be sure, with two assailants younger than the victim, armed with a bladed weapon and inflicting multiple mortal wounds on the victim, there is definitely abuse of superior strength deliberately taken advantage of by appellant and his co-accused in order to consummate the offense.

Now on the penalty. Article 248 of the Revised Penal Code provides:

ART. 248. Murder. – Any person who, not falling within the provisions of article 246 shall kill another, shall be guilty of murder and shall be punished by reclusion perpetua to death if committed with any of the following attendant circumstances:

1. With treachery, taking advantage of superior strength, with the aid of armed men, or employing means to weaken the defense or of means or persons to insure or afford impunity.

x x x x[45]

There being neither mitigating nor aggravating circumstances, appellant shall be meted the penalty of reclusion perpetua.

Finally, the award of damages. In murder, the grant of civil indemnity which has been fixed by jurisprudence at P50,000.00 requires no proof other than the fact of death as a result of the crime and proof of the accused's responsibility therefor. Moral damages, on the other hand, which in this case is also P50,000.00 are awarded in view of the violent death of the victim.[46] Moreover, exemplary damages in the amount of P30,000.00 should likewise be given, considering that the offense was attended by an aggravating circumstance whether ordinary, or qualifying as in this case. As duly proven by Maria Castillo, actual damages representing the hospital and funeral expenses, as evidenced by receipts in the amount of P35,300.00, be awarded. Finally, in addition and in conformity with current policy, we also impose on all the monetary awards for damages an interest at the legal rate of six percent (6%) from date of finality of this decision until full payment.[47]

WHEREFORE, premises considered, we MODIFY the Court of Appeals Decision dated February 23, 2011 in CA-G.R. CR H.C. No. 03593, affirming the Regional Trial Court Decision dated June 20, 2008 in Criminal Case No. 13838, convicting appellant Eduardo Quisayas of Robbery with Homicide. We find appellant guilty beyond reasonable doubt of the crime of MURDER and is sentenced to suffer the penalty of reclusion perpetua.

We, likewise, ORDER appellant TO PAY the heirs of the victim Januario Castillo y Masangcay the following: (1) P35,300.00 actual damages; (2) P50,000.00 civil indemnity; (3) P50,000.00 moral damages; (4) P30,000.00 exemplary damages; plus (5) six percent (6%) interest on all damages awarded from the date of the finality of this decision until full payment.

SO ORDERED.

Velasco, Jr., (Chairperson), Abad, Mendoza, and Leonen, JJ., concur.

April 23, 2014

NOTICE OF JUDGMENT

Sirs/Mesdames:

Please take notice that on ____April 7, 2014____ a Decision, copy attached herewith, was rendered by the Supreme Court in the above-entitled case, the original of which was received by this Office on April 23, 2014 at 1:44 p.m.

Very truly yours,

LUCITA ABJELINA SORIANO
Division Clerk of Court

By:
(SGD)
WILFREDO V. LAPITAN
Deputy Division Clerk of Court

[1] Penned by Associate Justice Stephen C. Cruz, with Associate Justices Isaias P. Dicdican and Rodil V. Zalameda, concurring; rollo, pp. 2-14.

[2] Branch 3, Pallocan West, Batangas City.

[3] Penned by Judge Ruben A. Galvez, CA rollo, pp. 5-11.

[4] Records, pp. 2-3.

[5] Id.

[6] TSN, February 20, 2006, pp. 5-7.

[7] Rollo, p. 5.

[8] Id.

[9] CA rollo, p. 6.

[10] TSN, November 27, 2007, pp. 1-13.

[11] TSN, January 31, 2008, pp. 1-14.

[12] Records, pp. 187-188.

[13] Id. at 185-186.

[14] Id. at 186.

[15] Id.

[16] Id.

[17] Id. at 187.

[18] Rollo, p. 8.

[19] *People v. Algarme*, G.R. No. 175978, February 12, 2009, 578 SCRA 601, 613.

[20] Id. at 621; *People v. Latam*, G.R. No. 192789, March 23, 2011, 646 SCRA 406, 410; *People v. Baron*, G.R. No. 185209, June 28, 2010, 621 SCRA 646, 656.

[21] *People v. Orias*, G.R. No. 186539, June 29, 2010, 622 SCRA 417, 430.

[22] *People v. Abundo*, 402 Phil. 616, 635-636 (2001), citing *People v. Pacala*, 58 Phil. 370, 377-378 (1974); *People v. Arondain*, 418 Phil. 354, 367 (2001)

[23] *People v. Obedo*, 451 Phil. 529, 538 (2003).

[24] TSN, November 24, 2005, pp. 3-8.

[25] TSN, July 10, 2007, p. 8.

[26] Id. at 20.

[27] Id. at 8.

[28] Id. at 20.

[29] TSN, May 30, 2006, pp. 6-7.

[30] *People v. Obedo*, supra note 23, at 538-539.

[31] Id. at 539.

[32] *People v. Algarme*, supra note 19, at 625.

[33] Id. at 621; *People v. Latam*, supra note 20, at 410;

[34] *People v. Canlas*, 423 Phil. 665, 684 (2001).

[35] See *People v. Algarme*, supra note 19, at 625-626.

[36] *People v. Canlas*, supra note 34.

[37] *People v. Canlas*, supra note 34, at 684-685.

[38] *People v. Orias*, supra note 21.

[39] *People v. Rarugal*, G.R. No. 188603, January 16, 2013, 688 SCRA 646, 654; *People v. Maglian*, G.R. No. 189834, March 30, 2011, 646 SCRA 770, 778.

[40] *Belbis, Jr. v. People*, G.R. No. 181052, November 14, 2012, 685 SCRA 518, 530-531.

[41] *People v. Salafranca*, G.R. No. 173476, February 22, 2012, 666 SCRA 501, 514.

[42] *People v. Calpito*, 462 Phil. 172, 179 (2003).

[43] TSN, May 24, 2007, pp. 5-6.

[44] Records, p. 144.

[45] Emphasis supplied.

[46] *People v. Gutierrez*, G.R. No. 188602, February 4, 2010, 611 SCRA 633, 646-647.

[47] *People v. Camat*, G.R. No. 188612, July 30, 2012, 677 SCRA 640, 672; *People v. Concillado*, G.R. No. 181204, November 28, 2011, 661 SCRA 363, 384; *People v. Rebucan*, G.R. No. 182551, July 27, 2011, 654 SCRA 726, 760.

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