

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, V. OSCAR GIMPAYA AND ROEL GIMPAYA, ACCUSED, OSCAR GIMPAYA, ACCUSED-APPELLANT.

G.R. No. 227395. January 10, 2018

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CAGUIOA, J:

Before this Court is an Appeal[1] filed under Section 13, Rule 124 of the Rules of Court from the Decision[2] (assailed Decision) dated September 18, 2015 of the Court of Appeals (CA), Sixth (6[th]) Division in CA-G.R. CR HC No. 06785. The assailed Decision affirmed the Judgment[3] (RTC Decision) dated January 24, 2014 of the Regional Trial Court (RTC) of Biñan, Laguna, Branch 24, in Crim. Case No. 11475-B, finding herein accused-appellant Oscar Gimpaya (Oscar) and his co-accused Roel Gimpaya (Roel) guilty of the crime of Murder under Article 248 of the Revised Penal Code (RPC).

The Information states as follows:

That on or about September 16, 2000, in the Municipality of Biñan, Province of Laguna, Philippines and within the jurisdiction of this Honorable Court, accused Oscar Gimpaya and Roel Gimpaya conspiring, confederating together and mutually helping one another, with intent to kill, abuse of superior strength and treachery while conveniently armed with a deadly bladed weapons (sic) (kampitan), did then and there wilfully, unlawfully and feloniously attack, assault and stab Genelito Clete y Gabuyo several times on the trunk which directly caused his death, to the damage and prejudice of his surviving heirs.

CONTRARY TO LAW.[4]

Oscar entered a plea of "not guilty" upon his arraignment.[5] Roel was still at-large as of the promulgation of the RTC Decision.

The Facts

Version of the Prosecution

Roosevelt Agamosa (Roosevelt), the victim's neighbor, and Roselyn Clete (Roselyn), the victim's wife, testified as to the commission of the crime.

The testimonies of both witnesses, as summarized by the RTC, are as follows:

Witness ROOSEVELT AGAMOSA testified: that he witnessed the commotion between the two (2) accused and victim, Genelito Clete; that he saw the victim Genelito Clete being hugged by accused Oscar Gimpaya while the other accused Roel Gimpaya was stabbing him; that when accused Roel Gimpaya saw the witness he uttered the words: "IKAW, GUSTO MO?"; that the witness upon hearing said utterance, ran and met along the way the wife of the victim Genelito Clete, Roselyn Clete; that Roselyn Clete likewise saw the manner how her husband was stabbed to death; that the victim was brought to the University of Perpetual Help System Hospital, where he was pronounced dead on arrival.

x x x x

The witness [Roselyn B. Clete] testified: that on September 16, 2000 she was inside their house while the commotion happened; that as she was about to check what the commotion was all about, she was met by one Roosevelt Agamosa, who informed her that her husband Genelito Clete was stabbed; that when she reached the place of the incident, she saw the lifeless and bloodied body of her husband slumped on the ground; that [s]he saw accused Oscar Gimpaya on top of her husband as the former was strangling her husband; that the witness tried to help as she came to the assistance of her husband, but accused Oscar Gimpaya shoved her away; that thereafter, the Barangay authorities arrived; that her husband Genelito Clete was brought to [the] University of Perpetual Help Hospital, and died thereat.[6]

The prosecution also presented Dr. Erwin M. Escal, the Medico-Legal officer who examined the body of the victim Genelito Clete (Genelito) and prepared the Medico-Legal Report[7] and Death Certificate[8] which both indicated the cause of death as "stab wound." Abelardo Potenciano Almarinez, the employer of the victim, also testified as to the earnings of the victim at the time of his death.[9]

Version of the Defense

The defense presented the accused-appellant Oscar and his wife, Lea Gimpaya. Their testimonies, as summarized by the RTC, are as follows:

The witness [Lea Gimpaya] testified: that when the incident happened, she was present; that the aggression came from the deceased himself Genelito Clete y Gabuyo; that one (1) of the accused herein was attacked by Genelito Clete and the other accused merely pacified him; that she is the wife of accused Oscar Gimpaya; that the other accused who remains to be at-large up to the present, named Roel Gimpaya is the cousin of her husband; that around 7:20 in the evening, upon her husband's arrival at home, she had coffee with him; the victim, Gene[l]ito Clete called on her husband, Oscar Gimpaya, and so the latter went outside their house; that Genelito Clete hit her husband Oscar Gimpaya with a long object which appears to be an umbrella; that Oscar Gimpaya fell down, thereafter, Genelito Clete went over him and continuously boxed him; that the witness shouted out for help and so Roel Gimpaya arrived at the scene; that when Roel Gimpaya approached Genelito Clete, Roel stabbed Genelito at his back and that her husband even tried to join the group that brought Genelito in going to [the] hospital, but he was already arrested by the Barangay Officials.

x x x x

[Accused-appellant Oscar] testified: that he denies the allegation in the Criminal Information pertaining to the incident that happened on September 16, 2000; that he had been detained at the Provincial Jail of Santa Cruz, Laguna for nine (9) years and four (4) months at the time that he took the witness stand and that his co-accused Roel Gimpaya is his cousin.[10]

Ruling of the RTC

The RTC held Oscar and Roel guilty beyond reasonable doubt of the crime of Murder, qualified by treachery, and sentenced them to reclusion perpetua.[11] In arriving at its Decision, the trial court ruled:

Based on the totality of the circumstances this Court is led to the inevitable conclusion that both the accused are guilty of the crime imputed against them. This Court have (sic) consistently ruled that there is treachery when the offender/s commits any of the crimes against persons, employing means, methods or forms in the execution thereof which tend directly and specially to insure its execution without risk to himself arising from the defense which the offended party might make. x x x

In the case at bar, this Court appreciates the element of treachery, which as defined indicates that it is subjective in character. It was deliberately sought by the two (2) accused and consciously adopted the same as their mode of attack. The victim was rendered helpless and defenseless, as when he was hugged by accused Oscar Gimpaya while being stabbed to death by co-accused Roel Gimpaya, both accused acted in concert

towards a common criminal goal.

Indeed, the essence of treachery is the swift and unexpected attack on an unarmed victim even with provocation on his part.[12]

Oscar was further ordered to pay the heirs of the victim Fifty Thousand Pesos (P50,000.00) as indemnity and the aggregate amount of One Hundred Thousand (P100,000.00) as actual, moral, and exemplary damages. An alias warrant of arrest without expiration was issued against Roel.[13]

Oscar appealed to the CA via Notice of Appeal[14] dated February 3, 2014. Oscar then filed his Brief[15] dated February 26, 2015, while the plaintiff-appellee, through the Office of the Solicitor General (OSG), filed its Brief[16] dated July 1, 2015. Thereafter, the appeal was submitted for decision.[17]

Ruling of the CA

The CA affirmed the RTC Decision with modification only as to the award of damages.[18]

The appellate court held that the prosecution was able to prove all the elements of Murder qualified by treachery. The witness Roosevelt had positively identified accused-appellant Oscar as the person who embraced and locked the victim while being stabbed by Roel. In so doing, the victim was completely deprived of the chance to defend himself. Such method employed by both the accused insured the execution of their plan to kill the victim. Thus, treachery clearly attended the killing of the victim.[19]

The CA then modified the award of damages accordingly: Seventy-Five Thousand Pesos (P75,000.00) as civil indemnity; Seventy-Five Thousand Pesos (P75,000.00) as moral damages; and Thirty Thousand Pesos (P30,000.00) as exemplary damages.[20]

On October 8, 2015, Oscar brought the instant case before this Court via Notice of Appeal.

In lieu of supplemental briefs, Oscar and plaintiff-appellee filed separate manifestations respectively dated February 10, 2017[21] and February 9, 2017,[22] foregoing their right to file the same.

Issue

Whether or not Oscar's guilt for the crime of Murder was proven beyond reasonable doubt.

The Court's Ruling

The Appeal is meritorious.

As a general rule, factual findings of the trial court are accorded great weight and respect especially when they are affirmed by the appellate court. However, as with every rule, there are exceptions. In the case of *Quidet v. People*,[23] the Court held:

x x x where the trial court overlooked, misunderstood or misapplied some facts or circumstances of weight and substance which can affect the result of the case, this Court is duty-bound to correct this palpable error for the right to liberty, which stands second only to life in the hierarchy of constitutional rights, cannot be lightly taken away. x x x[24]

In the instant case, the Court finds that the prosecution failed to prove beyond reasonable doubt the existence of conspiracy between accused appellant Oscar and his co-accused Roel in the killing of Genelito.

Conspiracy exists when two or more persons come to an agreement concerning the commission of a felony and decide to commit it.[25] The essence of conspiracy is the unity of action and purpose. Conspiracy requires the same degree of proof required to establish the crime — proof beyond reasonable doubt.[26]

The RTC did not discuss its finding of conspiracy; it merely held that "both accused acted in concert towards a common criminal goal." [27] Conspiracy was not also discussed by the CA. On the subject, the appellate court only said that "[the] [a]ccused-[a]ppellant [Oscar] and [a]ccused Roel Gimpaya acted in concert in killing the victim." [28] These pronouncements do not sufficiently establish that there was a conspiracy between Oscar and Roel in the stabbing of the victim.

The records are also wanting of any indication of conspiracy. To determine if Oscar conspired with Roel, the Court must examine the overt acts of accused-appellant before, during, and after the stabbing incident and the totality of the circumstances. The inception and location of the stabbing incident must also be considered. These can be gleaned from the testimony of prosecution witness Roosevelt:

[Cross-examination of Roosevelt by Atty. Froilan Geronga]

Q

Whose houses are inside the Almarinez Compound?

A

Houses of ... there are several houses, sir, I just do not know the owners of that house. I only know Mang Danny who has a house there, sir.

Q

I will help you recall. Is it not a fact that one of the houses there is owned by Oscar Gimpaya. Is that correct?

A

Yes, sir. That is correct.

Q

Another house located inside the compound is the house of another person by the name of Roel Gimpaya?

A

Yes, sir.

Q

How far was the house of Roel Gimpaya from the house [of] Oscar Gimpaya?

A

Two houses apart, sir.

Q

When you say two houses apart, are these houses independent or separately built Mr. Witness?

A

Magkakadikit, sir.

x x x x

Q

You also know personally the person of Genelito Clete, allegedly the victim of the stabbing incident, Mr. Witness?

A

Yes, sir, I know him.

Q

The house of Genelito Clete is also located inside the Almarinez Compound?

A

Yes, sir.

Q

How far is that house of Genelito Clete from the House of Oscar Gimpaya, Mr. Witness?

A

Malayo po, tatawid po ng highway.

x x x x

Q

How big is the compound if you say the house of Clete is also inside the compound Mr. Witness?

A

It is big. It is a huge compound. There are actually two portions of the said compound, sir.

Q

So, for clarification, Mr. Witness, you are telling this x x x Honorable Court that there are two Almarinez Compound?

A

Yes, sir.

Q

And these two Almarinez Compound are divided by the highway. Is that correct?

A

Yes, sir.

Q

In the first compound where the house ... I will recall ... the house of Oscar Gimpaya is located inside the first compound?

A

Yes, sir.

Q

And the house of Clete is located on the other compound?

A

Yes, sir.

x x x x

Q

How does a person go inside the compound where the house of Oscar Gimpaya is located?

A

There is a passage way in going inside the ... inside the compound, sir.

x x x x

Q

Aside from that passageway, there is no other exit or entrance?

A

Yes, sir.

Q

In relation to the passageway that you mentioned, where were you at the time you saw accused Oscar Gimpaya and Genelito Clete quarreling?

A

I was standing on top of the [p]iles of cement pipes, sir.

Q

How far were you from the passage way that you mentioned?

A

About three (3) meters, sir.

Q

At that juncture Mr. Witness, before the quarreling took place, is it not a fact that Genelito Clete entered the compound through the passageway you mentioned?

A

Yes, sir.

x x x x

Q

Okay, will you tell us the distance where you saw Genelito Clete now bloodied in relation to the house of Oscar Gimpaya?

x x x x

Q

About ten (10) arms length, sir.[29]

Based on Roosevelt's testimony, it was the victim, Genelito, who went to the house of Oscar where the quarrel and stabbing incident took place. This is corroborated by the testimony of the wife of Oscar, Lea Gimpaya:

[Direct examination of Lea Gimpaya by Atty. Angel Navarroza]

Q

Madam Witness, do you know Oscar Gimpaya?

A

Yes, sir.

Q

Who is he in relation to you?

A

He is my husband, sir.

Q

How about Roel Gimpaya, do you know him?

A

Yes, sir.

Q

Who is he in relation to you?

A

Cousin of my husband, sir.

Q

On the 16th day of September 2000, do you recall where were you then?

A

Yes, sir.

Q

Where were you then?

A

I was inside our house, sir.

x x x x

Q

When you were inside your house, do you recall of any untoward incident that you witnessed or that happened then?

A

None, sir.

Q

After that, do you recall of any incident that happened?

A

My husband went home, sir.

Q

What time when your husband arrived?

A

Around 7:20, sir.

Q

Morning or p.m.?

A

In the evening, sir.

Q

At what date?

A

September 16, 2000, sir.

Q

Upon arrival of your husband, what happened next?

A

I gave him coffee and somebody called on him, sir.

Q

Do you know who is that somebody that called him?

A

Genelito Clete, sir.

Q

You said Genelito Clete called your husband, what did your husband do when he was called?

A

He went outside, sir.

Q

When he went out where were you then?

A

I followed him, sir.

Q

Was your husband able to approach the one calling him?

A

Yes, sir.[30]

Thus, Oscar was just at his house on September 16, 2000 at around 7:00 p.m. when he was called upon by Genelito. The house of Oscar and Genelito are on separate sides of the Almarinez Compound while the house of Roel is beside the house of Oscar.

Thereafter, Oscar and Genelito had a quarrel which escalated into a physical altercation. Roel intervened and stabbed Genelito in the back. Prosecution witness Roosevelt testified:

[Direct examination of Roosevelt by Prosecutor Eusebio Gatbonton]

Q:

xxx [Did you witness] any unusual incident that happened?

A:

Yes, there was.

Q:

What was that unusual incident that you have witnessed?

A:

There was a commotion.

Q:

And what was that commotion all about?

A:

There was a quarrel. There was a fight.

x x x x

Q:

xxx who were those persons quarrelling?

A:

Oscar Gimpaya and Lito.

Q:

Who else?

A:

Just the two of them.

Q:

While these two were quarrelling what happened next?

A:

Until it led to stabbing incident.

Q:

You said that there was stabbing incident that ensued (sic). Will you please tell the Honorable Court who were those persons involved in the said stabbing incident?

A:

Roel Gimpaya and Oscar Gimpaya.

Q:

And who else?

A:

And the victim who died, Lito.

Q:

Will you please tell the Honorable Court how the stabbing incident happened?

A:

I noticed that while they were fighting, Oscar Gimpaya embraced Lito while Roel Gimpaya was stabbing him.

x x x x

Q:

Will you please explain further how did the said person stabbed (sic) the victim in this case?

A:

When he was stabbed, Oscar Gimpaya embraced the victim Lito while Roel Gimpaya was stabbing Lito at his back.

x x x x

Q:

How far were you when you saw them?

A:

About three (3) meters.

Q:

What was the condition of your surroundings when you saw the stabbing incident?

A:

In the area where they were fighting it was dark.

Q:

And the place where the stabbing incident happened?

A:

It was dark.

x x x x

Fiscal Gatbonton:

If I am the victim, how was I held by one of the accused?

A:

This way.

Interpreter:

Witness demonstrated how accused Oscar Gimpaya embraced the victim by putting his arms over the shoulder of the victim, encircling both arms.

Q:

Where was Roel Gimpaya standing while he was stabbing the said victim in this case?

A:

He was standing at the back of the victim, Lito, so that the back portion of the body of Lito was in front of the body of the one who stabbed him.

x x x x

Q:

What happened next after [Genelito] was stabbed?

A:

He was raising his hand asking for help.

x x x x

Q:

In what instance, if you know, when Lito, the victim, was able to be released from the embrace of Oscar Gimpaya? (sic)

A:

When the Barangay Officials arrived.

Q:

And what happened after the Barangay Officials arrived?

A:

Oscar Gimpaya was apprehended.

Q:

How about the other accused?

A:

He escaped.[31]

This testimony is also confirmed by the testimony of Lea:

[Direct examination of Lea Gimpaya by Atty. Navarroza (continued)]

Q

Was your husband able to approach the one calling him?

A

Yes, sir.

Q

After that what happened?

A

Genelito Clete hit Oscar Gimpaya, sir.

Q

Hit by what Madam Witness?

A

He was struck with a long object which looks like an umbrella, sir.

Q

What did your husband do because of that striking?

A

He fell down, sir.

Q

When he fell down, what happened next?

A

Genelito Clete went over him and continuously boxed him, sir.

Q

At that instance when Genelito Clete was continuously boxing your husband, what transpired next?

A

I shouted for help and Roel appeared, sir.

Q

Who is this Roel?

A

The cousin of Oscar Gimpaya, sir.

Q

Is this the same Roel the accused in this case?

A

Yes sir.

Q

And what did Roel do when he peeped?

A

After Roel had peeped on what was happening, he went back to the room and went out again and he approached Genelito Clete, sir.

Q

When this accused Roel approached Genelito Clete, what happened next?

A

Roel stabbed Genelito, sir.

Q

Do you know what portion of Genelito's body he was hit?

A

At his back, sir.

Q

How many times?

A

I did not see anymore how many times he was stabbed because when Roel stabbed Genelito I together with my children went away, sir.

Q

After that what else do you know about this incident?

A

The barangay officials arrived, Oscar even tried to join them in going to the hospital but he was already arrested by the barangay officials, sir.[32] (Emphasis supplied)

There are thus conflicting versions as to Oscar's participation in the incident. According to prosecution witness Roosevelt, Oscar was hugging Genelito. Meanwhile, defense witness Lea testified that Oscar had fallen down after being struck by Genelito. The common thread in their testimony however, is that it was Roel who stabbed Genelito in the back and not Oscar.

As it was not Oscar who delivered the fatal blow (or any blows, at all) it was incumbent upon the prosecution to establish the existence of conspiracy. It must be borne in mind that the evidence required to prove conspiracy is of the same weight of evidence needed to establish the crime itself—proof beyond reasonable doubt.

Even if the prosecution's version were to be believed, to the mind of the Court, the act of Oscar in merely hugging the victim does not establish conspiracy in the intent to kill. It was not proven that he acted in concert with Roel or that he even knew of Roel's intention to stab Genelito. It was not established that Oscar was hugging Genelito deliberately to enable Roel to stab him as he had no knowledge of Roel's intention. The RTC's finding that this constituted conspiracy[33] is thus a mere conjecture.

In *People v. Jesalva*,[34] the Court ruled:

Direct proof is not essential to prove conspiracy for it may be deduced from the acts of the accused before, during and after the commission of the crime charged, from which it may be indicated that there is a common purpose to commit the crime. It is not sufficient, however, that the attack be joint and simultaneous for simultaneousness does not of itself demonstrate the concurrence of will or unity of action and purpose which are the bases of the responsibility of the assailants. It is necessary that the assailants be animated by one and the same purpose. x x x[35] (Emphasis supplied)

The necessity of community of criminal intent in conspiracy was also iterated in the case of *People v. Tilos*[36]:

The essence of conspiracy is community of criminal intent. It exists when two or more persons come to an agreement concerning the commission of a felony and perform overt acts to commit it. The overt act may consist of active participation in the actual commission of the criminal act, or it may be in the form of moral assistance such as the exertion of moral ascendancy over the other co-conspirators by moving them to implement the conspiracy. Conspiracy may be proven by direct evidence, or deduced from the manner in which the offense was committed, as when the accused acted in concert to achieve the same objective. x x x[37]

Furthermore, after the stabbing incident, Oscar did not flee and abandon the supposed victim, unlike Roel who immediately escaped and remains at-large. While non-flight is not necessarily an indication of innocence, this Court has recognized that taken together with other circumstances, it may bolster the innocence of the accused. In the case of *Buenaventura v. People*,^[38] the Court held:

xxx Non-flight may not necessarily indicate innocence, but under the circumstances obtaining in the present case, the Court recognizes the fact that while the guilty flees even as no one pursues him, the innocent remains as brave and steadfast as a lion. x x x^[39] (Emphasis supplied)

Even prosecution witness Roosevelt testified that Oscar went voluntarily with the barangay authorities after the incident:

[Cross-examination of Roosevelt by Atty. Geronga]

Q

xxx Where was Oscar Gimpaya, was it Oscar Gimpaya who fled before the authorities arrived?

A

Oscar Gimpaya was still embracing Genelito Clete when the Barangay Officials and police arrived, sir.

Q

And he voluntarily went to the Barangay Officials?

A

Yes, sir.

Q

How about Roel Gimpaya, where was he when the authorities arrived at the crime scene?

A

He already escaped, sir.^[40]

Oscar can neither be considered a principal by indispensable cooperation or an accomplice. The cooperation that the law punishes is the assistance knowingly or intentionally rendered that cannot exist without previous cognizance of the criminal act intended to be executed.^[41] As discussed above, there is nothing on record which indicates that Oscar knew that Roel was going to stab Genelito. Notably, it was not Oscar, but his wife Lea, who called for help as she witnessed the altercation between Genelito and her husband. In addition, the stabbing incident was done in the heat of the moment, it was not premeditated or planned.

The testimony of the victim's wife, Roselyn Clete, cannot be given any credence as she did not witness the stabbing incident. She arrived only thereafter as shown by her testimony:

[Direct examination of Roselyn Clete by Prosecutor Gatbonton]

Q

While you were inside your house, do you remember of any unusual incident that happened during that day?

A

There was a commotion going on outside our house, sir, and when I went outside the house, I met in my way Roosevelt Agamoza, sir.

Q

What happened when you met in your way Roosevelt Agamoza?

A

He told me that my husband was stabbed.

Q

What did you do if any when you learned that your husband was stabbed?

A

I sent (sic) to the place of the incident, sir.

Q

And were you able to reach the place of the crime?

A

Yes, sir.

Q

And what happened when you reached the place?

A

I saw the lifeless body of my husband bloodied slumped on the floor, sir.

Q

Who else if you remember have y[o]u seen in that particular place?

A

I saw Oscar Gimpaya on top of my husband. He was strangling my husband, sir.[42] (Emphasis supplied)

Thus, as admitted by Roselyn herself, she did not witness the actual stabbing incident. Furthermore, her testimony that she saw Oscar strangling her husband is not supported by the Medico-Legal Report and Death Certificate which both declare the cause of death as "stab wound" and not strangulation. There were also no findings of abrasions or bruising in the neck and jaw area in the said documents to indicate strangulation.

Absent any evidence to create the moral certainty required to convict accused-appellant Oscar, the Court cannot uphold the RTC and CA's finding of guilt. Oscar's guilt was not proven beyond reasonable doubt.

WHEREFORE, premises considered, the Decision dated September 18, 2015 of the Court of Appeals, Sixth (6[th]) Division in CA-G.R. CR HC No. 06785 is REVERSED and SET ASIDE. Accused-appellant Oscar Gimpaya is hereby ACQUITTED for failure of the prosecution to prove his guilt beyond reasonable doubt. He is ordered immediately RELEASED from detention, unless he is confined for any other lawful cause.

Let a copy of this Decision be furnished to the Director of the Bureau of Corrections, Muntinlupa City, for immediate implementation. The Director of the Bureau of Corrections is directed to report to this Court, within five (5) days from receipt of this Decision, the action he has taken. A copy of the Decision shall also be furnished to the Director General of the Philippine National Police for his information.

SO ORDERED.

Carpio (Chairperson), Del Castillo, and Perlas-Bernabe, JJ., concur.
Reyes, Jr.,[*] J., on leave.

[*] Designated additional Member per Raffle dated January 8, 2018.

[1] Rollo, pp. 12-15.

[2] Id. at 2-11. Penned by Associate Justice Jane Aurora C. Lantion, with Associate Justices Fernanda Lampas Peralta and Nina G. Antonio-Valenzuela concurring.

[3] CA rollo, pp. 55-60. Penned by Presiding Judge Marino E. Rubia.

[4] Records, p. 1

[5] Id. at 16-18.

[6] CA rollo, p. 56.

[7] Records, pp. 52-53.

[8] Id. at 10.

[9] CA rollo, p. 57.

[10] Id. at 57-58.

- [11] See *id.* at 59-60.
- [12] *Id.* at 59.
- [13] *Id.* at 60.
- [14] *Id.* at 30.
- [15] *Id.* at 39-54.
- [16] *Id.* at 71-87.
- [17] CA Resolution dated August 10, 2015; *id.* at 94.
- [18] Rollo, p. 10.
- [19] See *id.* at 6-9.
- [20] *Id.* at 10.
- [21] *Id.* at 23-27.
- [22] *Id.* at 28-32.
- [23] 632 Phil. 1 (2010).
- [24] *Id.* at 12.
- [25] REVISED PENAL CODE, Art. 8, par. 2.
- [26] *San Juan v. People*, 664 Phil. 547, 562 (2011).
- [27] RTC Decision, p. 5, CA rollo, p. 59.
- [28] CA Decision, p. 8, rollo, p. 9.
- [29] TSN, May 7, 2002, pp. 5-15.
- [30] TSN, September 1, 2005, pp. 6-11.
- [31] TSN, April 23, 2002, pp. 3-7.
- [32] TSN, September 1, 2005, pp. 11-15.
- [33] See RTC Decision, p. 5, CA rollo, p. 59.
- [34] G.R. No. 227306, June 19, 2017.
- [35] *Id.* at 5.
- [36] 402 Phil. 314 (2001).
- [37] *Id.* at 327.
- [38] 526 Phil. 199 (2006).
- [39] *Id.* at 206.
- [40] TSN, May 7, 2002, pp. 18-19.
- [41] *Rustia, Jr. v. People*, G.R. No. 208351, October 5, 2016, 805 SCRA 311, 324.

[42] TSN, May 23, 2002, pp. 4-6.

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