

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. DOMNINO G. GREFIEL, ACCUSED-APPELLANT.

G.R. No. 77228. November 13, 1992

Ponente: DAVIDE, JR., J.

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DAVIDE, JR., J.:

Accused appeals from the Decision[1] of Branch 3 (Guiuan) of the Regional Trial Court of Eastern Samar in Criminal Case No. 801, promulgated on 31 October 1985, finding him guilty of the complex crime of forcible abduction with rape and sentencing him to suffer:

"x x x the undivisible (sic) penalty of Reclusion Perpetua, to indemnify the offended party, Marcela R. Torlao, the sum of P20,000.00 with the accessories of the law and to pay the costs."

The conviction is based on the evidence adduced by the prosecution through its witnesses -- the complainant Marcela Torlao, Patrolman Estanislao Gamalo, Barangay Captain Pamfilo Inciso, Station Commander Francisco Gavan, Dr. Catalina Camenforte, Judge Enrique Garado -- which is faithfully summarized in the Brief for the Appellee as follows:

"It was about 2:00 o'clock in the early morning of September 19, 1982. Victim Marcela Torlao, her husband and their four children were sound asleep in their house located at Sitio Bagacay, Lawa-an, Eastern Samar when they were awakened by the sound of their front door breaking. An intruder, later identified as accused-appellant Domnino Grefiel, suddenly entered the family's bedroom and beamed a flashlight on their faces shouting, 'Walang kikilos ng masama, sapagkat ako'y mayor ng sundalo'.

Accused-appellant then grabbed Marcela Torlao's right hand and pulled her up. Seeing this, Marcela's husband made a move to stand up but was prevented by accused-appellant who stepped on his shoulder. The Torlao children, who were awakened by the commotion, cried in fear.

Accused-appellant dragged Marcela outside the house saying, 'Walang titingin-tingin'. Adding, (sic) 'mga kasama pag mayroon bumaba, barilin ninyo at paikutin ninyo ang bahay'.

Marcela asked accused-appellant where he was taking her and what he planned to do with her. Accused-appellant answered, 'Wag ka nang maingay dahil sandali lang, babalik kaagad sa inyo'.

While dragging Marcela towards the direction of the Lawa-an Elementary School, accused-appellant inserted his hand inside the former's blouse and fondled her breast. When they reached the school, accused-appellant brought Marcela to the farthest room of the Marcos-type building on the right nearest the stage.

There, Marcela was ordered by accused-appellant to sit on a table. He then proceeded to undress Marcela who stood unmoving rooted by fear. Accused-appellant first took off Marcela's blouse then her skirt which had a garter top and her shorts.

When the victim was naked, accused-appellant quickly removed his own clothes. He then spread out a table cover on the floor before taking hold of Marcela's waist and pulling her down to lie face up on the cemented

floor.

Marcela, who was then four months pregnant, pleaded to (sic) accused-appellant, 'Please don't do it, I am pregnant, please be merciful'. To which accused-appellant answered, 'Putang ina, if you do not allow me to have intercourse with you, I will kill you.'

Unmoved by the pleas of the crying victim, accused-appellant continued kissing Marcela's face and sucking on her nipples while he performed coitus with her.

Not satisfied with his bestial act, accused-appellant then ordered Marcela to lie face down on the floor pushed her knees to the floor, raised her buttocks and performed anal intercourse with the victim. Marcela, who was at that point already weak with fear and extreme pain, could not do anything but follow accused-appellant's-orders.

Still unsatisfied, accused-appellant lay down on the floor face up and ordered Marcela to suck his penis. Mercifully, sleep overtook the drunken perpetrator before he could force the victim to perform fellatio on him.

Gathering her strength, Marcela put on her clothes and crept out of the room. She went straight to the residence of Barangay Chairman Pamfilo Inciso where she reported the incident. Inciso left the victim with his wife to let her sleep. He, in turn, reported the incident to the local Station Commander of the Integrated National Police, Corporal Francisco Gavan.

At daybreak, Inciso, Cpl. Gavan and Pfc. Estanislao Gamalo, together with the victim, went to the Lawa-an Elementary School. There, Inciso and Gavan found accused-appellant stark naked still asleep with the tablecloth partially covering his body. Beside him were his clothes and a pisaw (small sharp pointed bolo).

Inciso and Gavan roused accused-appellant and brought him to the municipal building for investigation. Incidentally, Cpl. Gavan prepared a sketch of both the schoolroom and the Torlao's residence with its broken front door.

About 10:00 o'clock of the same day, victim Marcela Torlao submitted herself to a medical examination conducted by Dra. Catalina Monasterio-Camenforte, a resident physician of the Balangiga Emergency Hospital, who subsequently, prepared a 'Living Case Report'. (Exhibit "D" and series).

Barely a month later, Marcela Torlao suffered a miscarriage."^[2]

In her Living Case Report,^[3] Dr. Camenforte made the following entries:

"INTERNAL EXAMINATION FINDINGS:

Public (sic) hair fairly grown and scanty. Labia Majora & Minora are no longer well coapted. Hymenal opening originally linear in shape is with an (sic) old complete lacerations at 7:00 o'clock & 3:00 o'clock in the face of the clock. Hymenal opening admits 2 fingers easily with no resistance. Vaginal rugosities are not appreciated. Vaginal canal is lax.

CONCLUSIONS:

1. No, signs of traumas has (sic) been noted on external & internal examination.
2. Findings in microscopic Seminal Examination = three (3) Immobile sperms were seen, (probably dead).
3. Physical virginity already lost."

In the morning of the following day, 20 September 1982, the sworn statements of Marcela and her husband, Bienvenido Torlao,^[4] were taken by Pfc. Patricio Abe, Jr. at the office of the substation commander of the INP of Lawa-an, Eastern Samar. The same were, however, sworn to before Municipal Circuit Judge Enrique Garado on

29 September 1982.

Also on 20 September 1982, a criminal complaint for forcible abduction with rape against the accused-appellant was signed by Marcela; this was sworn to before Judge Garado only on 29 September 1982 upon its filing with the 10th Municipal Circuit Court of Balangiga-Lawa-an, Eastern Samar. The case was docketed therein as Criminal Case No. 580.[5]

Judge Garado immediately conducted a preliminary examination and then issued a warrant for the arrest of accused-appellant.[6] The latter was arrested on the same date.[7] On 9 October 1982, the accused filed a Waiver of the second stage of the preliminary investigation.[8] The Circuit Court thereupon elevated the case to the then Court of First Instance of Guiuan, Eastern Samar.

On 12 November 1982, Acting 2nd Assistant Provincial Fiscal Roberto A. Navidad filed With the Court of First Instance at Guiuan, Eastern Samar, an Information charging the accused - appellant with the crime of forcible abduction with rape. The case was docketed as Criminal Case No. 801. On 6 December 1982, Fiscal Navidad filed an Amended Information with the following accusatory portion:

"That on or about the 19th day of September, 1982 at 2:00 o'clock in the morning, in the municipality of Lawa-an, Province of Eastern Samar, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused armed with a deadly weapon and pretending to be a soldier and by means of force, violence, intimidation and threats did, then and there, with lewd and unchaste designs, willfully, unlawfully and feloniously take and carry away Marcela R. Torlao, from her house to the school building of Lawa-an Central School, Lawa-an, Eastern Samar, against her will and once said accused was in possession of the said Marcela R. Torlao by means of force violence, intimidation and threats, did, then and there willfully, unlawfully and feloniously had (sic) carnal knowledge with said Marcela R. Torlao against her will and without her consent.

Contrary to law, with the aggravating circumstances of nighttime and craft."[9]

The accused-appellant pleaded not guilty to the crime charged at his arraignment on 7 December 1982.[10] Trial subsequently ensued. After the prosecution presented its witnesses, counsel for the accused-appellant orally moved to be allowed to file a demurrer to evidence. In its Order of 29 January 1985, the trial court granted the defense forty (40) days from receipt thereof within which to file the demurrer.[11] On 12 April 1985, accused-appellant filed his "Memorandum on Demurer (sic) to Evidence"[12] contending therein that the evidence for the prosecution failed to establish the crime of rape by the quantum of evidence required by law considering that (a) there is doubt as to the identity of the accused, (b) there was not even a token resistance offered by the complainant and (c) the findings of Dr. Camenforte do not support a conclusion that accused-appellant had sexual intercourse with the victim.

The prosecution vigorously opposed the demurrer to evidence.[13] Subsequently, on 30 July 1985, the new counsel for the accused-appellant filed a motion to withdraw the demurrer to evidence[14] which the trial court granted on the same date.[15]

Accused-appellant testified in his own behalf and presented no other witnesses. In his Appellant's Brief, he summarizes his testimony in this wise:

"The accused-appellant as the sole witness for the defense testified that he and Marcela Torlao had several sexual liaisons by mutual consent for the past three months, even though they were not sweethearts; that on the evening of September 18, 1982, while in attendance at a dance that was being held at the town plaza, Marcela Torlao extended an invitation to the accused-appellant, through a child, to meet her at their usual rendezvous, the Lawa-an Elementary School where they proceeded to satisfy their animal passions.

Having left ahead of him, Marcela Torlao returned home only to discover that her husband had noticed her unusual arrival at such a late hour. The husband, out of spite and in anger over their illicit liaison, insisted that Marcela Torlao lodge a complaint against the accused-appellant for forcible abduction with rape. It was in the light of the foregoing that Domnino Grefiel, sound asleep from the liquor he consumed from the previous night and the sexual exertions, was roused by officers of the law and detained at the municipal jail."[16]

which We find to be supported by the transcripts of stenographic notes of his testimony.

The trial court refused to believe the accused-appellant's story which it describes as a fantastic fallacy.[17] It gave full credit to the version of the complainant whom it described as being "undoubtedly virtuous and with a moral excellence which cannot be trampled upon by a mere verbal intrusion of an unfounded and uncorroborated (sic) declarations (sic) of the swain in the scene of the bench."[18]

Finding the elements of the complex crime of forcible abduction[19] with rape[20] to exist, the trial court sentenced the accused-appellant to suffer the penalty of reclusion perpetua, to indemnify the complainant in the sum of P20,000.00 and to pay the costs.

The court a quo did not take into account the aggravating circumstances of nighttime and craft which are alleged in the amended information because as to the first, "it was not especially sought for by the offender to facilitate" the commission of the crime, and as to the second, the pretense that the accused is a soldier "was not employed to give entrance to the dwelling." [21]

In this appeal, accused-appellant does not plead for his acquittal but merely asks this Court to modify the challenged decision by finding him guilty only of forcible abduction. He thus submits this single assignment of error:

“I

The Trial Court erred in convicting the Accused-appellant of the complex crime of Forcible Abduction with rape when only the crime of Forcible Abduction was established by the evidence." [22]

and prays as follows:

"WHEREFORE, in view of the foregoing, it is most respectfully prayed of this Honorable Court that the decision of the Court a quo be modified finding the accused-appellant guilty of the crime of forcible abduction only and reducing his penalty proportionately." [23]

Having finally admitted committing the crime of forcible abduction, which he earlier vigorously denied up to the last minute while in the witness box for according to him it was the complainant -- through a child-courier -- who arranged their illicit tryst, accused-appellant reduced the difficult task of this Court to merely determining the merits of his contention that he did not commit the crime of rape. As to this, he was no less transilient. After dishing out his concocted story of the alleged tryst and both his and the victim's mutual satisfaction of their sexual urges, he filed his Memorandum[24] which states, inter alia, that "there is a strong possibility that the complaining witness had no sexual intercourse or carnal knowledge with the accused on the date and time of the incident in question"[25] because the Living Case Report of Dr. Camenforte discloses that only three (3) immobile sperms, which were probably dead, were seen during the microscopic seminal examination; moreover, on cross-examination, Dr. Camenforte admitted that it is possible that the sperms could have belonged to the complainant's husband who had coitus with the complainant days before the rape. In the face of the accused's admission of sexual intercourse at the time and place proven by the prosecution, the suggested possibility and malicious insinuation that the examined semen belonged to the complainant's husband is clearly preposterous. This, of course, should not be taken against the accused-appellant for even if he had lied a thousand times, the

weakness of his defense or even the lack of it would not necessarily bring about his conviction. The fundamental law presumes him innocent;[26] to overthrow this presumption, the prosecution must establish his guilt by proof beyond reasonable doubt, or that degree of proof which produces conviction in an unprejudiced mind.[27]

Thus, the crucial issue that crops up is whether or not the evidence for the prosecution has shown beyond reasonable doubt that rape was committed by the accused-appellant. The latter's final stand is that per his version, complainant submitted herself voluntarily to the sexual act; and even assuming that this theory is to be rejected, accused-appellant claims that it is still clear that complainant failed to make manifest her vehement objection and tenacious resistance to the intrusion against her honor and privacy, thereby negating the charge of rape. He capitalizes on the failure of the complainant to shout or put up a fight to defend her honor.

His arguments neither impress nor convince Us. The appeal must therefore fail.

By his admission that he forcibly abducted the victim which, by the way, was independently established by the evidence for the prosecution beyond reasonable doubt, accused-appellant unqualifiedly affirms the existence of the elements of the crime of forcible abduction under Article 342 of the Revised Penal Code, namely: the taking of a woman against her will and with lewd designs. Indeed, the taking was against complainant's will because she was dragged out of her house by means of force and intimidation. The abduction was not for any lawful or noble purpose; as he now frankly admits, it was with lewd designs. The word "lewd" is defined as obscene, lustful, indecent, lascivious, lecherous. It signifies that form of immorality which has relation to moral impurity; or that which is carried on in a wanton manner.[28] To carry out his lewd designs, accused-appellant pretended to be a "mayor ng sundalo," thereby suggesting his possession of military power and its concomitant instrument of violence -- a firearm. He suddenly grabbed complainant's right hand and pulled her up; when her husband made a move to stand up, accused-appellant prevented the latter from doing so by stepping on his shoulder. As the accused-appellant dragged his unwilling victim outside the house, he shouted the following instructions: "mga kasama pag mayroon bumaba, barilin ninyo at paikutin ninyo ang bahay," thereby impressing upon the victim, her husband and anyone who may come to the rescue that he, a "mayor ng sundalo," had armed companions. When the complainant pleaded that she be spared from the impending sexual assault because she was four (4) months pregnant, he threatened to kill her. It is therefore clear that there existed a continuing intimidation which produced reasonable fear on the latter's part. Under such circumstances, the failure to shout or offer tenacious resistance did not make voluntary complainant's submission to the criminal acts of the accused-appellant. This Court further notes that the intimidation was further compounded by the latter's deliberate choice of time and place -- the crime was committed at the unholy hour of 2:00 o'clock in the morning and in an isolated place. This circumstance, taken together with the fact that she had seen her husband stepped upon by accused-appellant, was still gripped by a well-founded fear that the accused-appellant had armed companions and had just been threatened with death if she would not yield to his bestial desires, certainly made her realize that a shout for help or a tenacious resistance would prove to be futile. It would be demanding too much from an ordinary mortal placed under such a stressful psychological and emotional situation to require that she shout or ward off the impending evil. We have said before that the workings of a human mind when placed under emotional stress are unpredictable and people react differently. In such a given situation, some may shout; some may faint; and some may be shocked into insensibility; while others may openly welcome the intrusion.[29]

Under Article 335 of the Revised Penal Code, rape is committed by having carnal knowledge of a woman through, inter alia, the use of force or intimidation. It is a well established doctrine that for the crime of rape to exist, it is not necessary that the force employed in accomplishing it be so great or of such character as could not be resisted; it is only necessary that the force employed by the guilty party be sufficient to consummate the purpose which he had in view.[30] Otherwise stated, when force is an element of rape, it need not be irresistible;

it need but be present, and so long as it brings about the desired result, all considerations of whether it was more or less irresistible is beside the point.[31] So it must likewise be for intimidation which is addressed to the mind of the victim and is therefore subjective. Intimidation must be viewed in the light of the victim's perception and judgment at the time of the commission of the crime and not by any hard and fast rule; it is therefore enough that it produces fear -- fear that if the victim does not yield to the bestial demands of the accused, something would happen to her at that moment or even thereafter as when she is threatened with death if she reports the incident. Intimidation includes the moral kind as the fear caused by threatening the girl with a knife or pistol.[32] And where such intimidation exists and the victim is cowed into submission as a result thereof, thereby rendering resistance futile, it would be extremely unreasonable, to say the least, to expect the victim to resist with all her might and strength. If resistance would nevertheless be futile because of a continuing intimidation, then offering none at all would not mean consent to the assault as to make the victim's participation in the sexual act voluntary.

Such voluntariness on the part of the complainant could hardly be imagined given the circumstances obtaining in this case. She was not only forcibly abducted from her humble home in the presence of her husband and children, she was also forced to perform a perverse sexual act -- anal coitus. And had her assailant not fallen asleep, she would have also been forced to perform fellatio on him. Despite the outrage and shame, she lost no time in reporting the incident to the barangay captain. In less than twelve (12) hours from the commission of the crime, she narrated the sordid details of her horrifying and harrowing experience in a statement given to the police authorities, submitted to a medical examination and signed a criminal complaint for forcible abduction with rape against the accused-appellant. Not only did these acts demonstrate courage of the highest order, they also enhance the complainant's credibility. It has been repeatedly said by this Court that when a woman admits that she has been raped, she says in effect all that is necessary to show that rape has been committed; if her testimony meets the test of credibility, the accused may be convicted on the basis thereof.[33] We have likewise ruled that a complainant would not make public the offense, undergo the troubles and humiliation of public trial[34] and endure the ordeal of testifying to all its gory details if she had not in fact been raped,[35] for no decent Filipina would publicly admit that she had been raped unless it is the truth.[36] Considering the inbred modesty and antipathy of a Filipina to the airing in public things that affect her honor, it is hard to conceive that the complainant would assume and admit the ignominy she had undergone if it were not true.[37]

There is no doubt in Our minds that it is only the desire to bring the accused-appellant to justice and for him to answer for his evil deeds which impelled the complainant to immediately report the crime, subject herself to a medical examination, file the necessary complaint and undergo the troubles, inconvenience, scandal, embarrassment and humiliation of a public trial.[38]

There is, however, no evidence to show that the rape was committed with the use of a deadly weapon. A finding on this point would ordinarily be crucial because a higher penalty -- reclusion perpetua to death -- is imposed under the third paragraph of Article 335 if rape is committed with the use of a deadly weapon. Of course, in view of Section 19(1), Article III of the 1987 Constitution, the death penalty can no longer be imposed. The trial court based its affirmative conclusion as to the existence of a deadly weapon on the discovery of the "pisaw" near the accused-appellant who was sleeping at the scene of the crime. The trial court thus stated:

"The bolo, commonly known as 'Pisaw', (Exhibit "D"), as physical evidence and coming from the reliable source having (sic) found by the Chief of Police at the side of the sleeping naked accused, undenied by him, surely was the deadly instrument referred to by the complainant whom (sic) she had mistakenly believed to a gun used during her forcible abduction." [39]

We have carefully and meticulously read the transcript of the stenographic notes of the complainant's testimony and note that she never stated that she saw a pistol in the possession of the accused-appellant. She merely

concluded that being "the head of the soldier (sic)," he had a pistol. Thus:

"FISCAL:

Q Now, on the way from your house to the School building, what was he doing to you aside from dragging you?

A I was being frightened, which (sic) I was made to understand that since he was the head of the soldier (sic), he has a pistol."[40]

The prosecution did not exert further efforts to elicit from her a statement that she did in fact see a pistol or any other firearm in the accused-appellant's possession or at the place where the "pisaw" was actually recovered. In short, there is absolutely no proof that accused-appellant used the "pisaw" to commit the crime of rape or facilitate its commission.

Verily then, the accused-appellant committed the complex crime of forcible abduction with rape.[41] Forcible abduction was the necessary means used to commit the rape. Pursuant to Article 48 of the Revised Penal Code, the penalty for the more serious crime shall be imposed. Article 342 of the said Code penalizes forcible abduction with the penalty of reclusion temporal while Article 335 penalizes the crime of rape with reclusion perpetua. The latter then is the more serious crime. Accordingly, the penalty imposed by the trial court -- reclusion perpetua -- is correct. We do not, however, agree with its conclusion that the generic aggravating circumstance of nighttime, which is alleged in the Information, should not be appreciated against the accused-appellant. It is obvious that nighttime was deliberately and especially sought or taken advantage of by him to facilitate the commission of the crime.[42] He deliberately waited until the unholy hour of 2:00 o'clock in the morning, thereby being assured of the cover of darkness and the stillness of a sleeping world, before unleashing his criminal fury to accomplish his evil deed.

Although not alleged in the Information, the generic aggravating circumstance of dwelling should have also been appreciated against the accused-appellant considering that it was fully established without any objection on the part of the defense. This Court has held that in the crimes of abduction[43] and illegal detention[44] where the offended party is taken from his house, dwelling may be taken into account as an aggravating circumstance.

However, the presence of the foregoing aggravating circumstances would not affect the imposable penalty considering that the same is indivisible.[45]

Taking into account the nature of the crime committed and the following facts: that the victim is a married woman who was on the fourth month of pregnancy for her fifth child at the time the crime was committed; she was forcibly abducted in the presence of her husband and children; and she suffered a miscarriage barely a month thereafter, thus necessarily causing her untold mental anguish, fright, serious anxiety, fear, moral shock, besmirched reputation and social humiliation, the indemnity, in the concept of moral damages,[46] is hereby increased to P50,000.00.

Considering, further, the moral corruption, perversity, viciousness and wickedness of the accused-appellant who cruelly ravaged the complainant, savaged the sanctity of her home and grievously wronged the institution of marriage by raping a married woman after forcibly abducting her in the presence of her husband, the imposition of exemplary damages by way of example to deter others from committing similar acts or correction for the public good[47] is in order. Accordingly, he should be ordered to pay P25,000.00 as exemplary damages.

WHEREFORE, except as above modified, the appealed Decision of Branch 3 of the Regional Trial Court of Eastern Samar in Criminal Case No. 801 is AFFIRMED. As modified, the indemnity awarded by the trial court is hereby increased from P30,000.00 to P50,000.00 and the accused-appellant DOMNINO G. GREFIEL is further

ordered to pay the offended party, Marcela R. Torlao, the amount of P25,000.00 as exemplary damages.

Costs de officio.

SO ORDERED.

Gutierrez, Jr., Acting C.J., (Chairman), Bidin, Romero, and Melo, JJ., concur.

[1] Original Records, 79-89; Rollo, 15-25. Per Judge Isabelo B. de los Santos.

[2] Brief of Appellee, 1-8; Rollo, 80, et seq. References to specific pages of the transcripts of stenographic notes are deleted.

[3] Exhibit "D"; Original Records, 7.

[4] Id., 10-13.

[5] Original Records, 6.

[6] Id., 25.

[7] Id., 27.

[8] Id., 28.

[9] Original Records, 1.

[10] Id., 31.

[11] Id., 52.

[12] Id., 54-61.

[13] Original Records, 63-67.

[14] Id., 69-70.

[15] Id., 71.

[16] Brief for Accused-Appellant, 4; Rollo, 51, et seq.

[17] Original Records, 86.

[18] Id.

[19] Article 342, Revised Penal Code.

[20] Article 335, Id.

[21] Original Records, op, cit., 88-89.

[22] Brief for Accused-Appellant, 1; Rollo, 51, et seq.

[23] Id., 10, et seq.

[24] Original Records, 73, et seq.

[25] Original Records, 76-77.

- [26] Section 14(2), Article III, 1987 Constitution.
- [27] Section 2, Rule 133, Rules of Court.
- [28] Black's Law Dictionary, Fifth ed., 817.
- [29] *People vs. Cabradilla*, 133 SCRA 413, 418-419 [1984].
- [30] *U.S. vs. Villarosa*, 4 Phil. 434 [1905]; *People vs. Plaga*, 202 SCRA 53 [1991]; *People vs. Saldivia*, 203 SCRA 461 [1991].
- [31] *People vs. Momo*, 56 Phil. 86 [1931].
- [32] *People vs. Garcines*, 57 SCRA 653 [1974], citing 2 Cuello Calon, *Codigo Penal*, 12th ed., 537.
- [33] *People vs. Royeras*, 56 SCRA 666 [1974]; *People vs. Soterol*, 140 SCRA 400 [1985]; *People vs. Averro*, 165 SCRA 130 [1988]; *People vs. Pocolan*, 167 SCRA 176 [1988]; *People vs. Cariño*, 167 SCRA 285 [1988]; *People vs. Ramos*, 197 SCRA 523 [1991]; *People vs. Tismo*, 204 SCRA 535 [1991].
- [34] *People vs. Robles*, 170 SCRA 557 [1989]; *People vs. Villaflores*, 174 SCRA 70 [1989].
- [35] *People vs. Estolano*, 193 SCRA 383 [1991].
- [36] *People vs. Robles*, *supra.*; *People vs. Santiago*, 197 SCRA 556 [1991].
- [37] *People vs. Fernandez*, 165 SCRA 302 [1988]; *People vs. Eclarinal*, 182 SCRA 106 [1990].
- [38] *People vs. Muñoz*, 163 SCRA 730 [1988].
- [39] Original Records, 87.
- [40] TSN, 11 May 1983, 25-26.
- [41] *People vs. Famador*, 113 SCRA 310 [1982]; see also *People vs. Bulaong*, 106 SCRA 344 [1981].
- [42] *People vs. Balmaceda*, 87 SCRA 94 [1978]; *People vs. Veloso*, 92 SCRA 515 [1979]; *People vs. Lungbos*, 162 SCRA 383 [1988].
- [43] *U.S. vs. Banila*, 19 Phil. 130 [1911].
- [44] *U.S. vs. Velasquez*, 8 Phil. 321 [1907].
- [45] Article 63, Revised Penal Code.
- [46] Article 2217 in relation to Article 2219(3), Civil Code.
- [47] Articles 2229 and 2230, Civil Code.

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