

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROMEO JOYA Y CLAMOS A AND JOSELITO ARBOLANTE Y NIVIA R, ACCUSED, ROMEO JOYA Y CLAMOS A, ACCUSED-APPELLANT.

G.R. No. 79090, October 01, 1993

Ponente: REGALADO, J.

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REGALADO, J.:

Illustrating once again the continuing social phenomenon of unabated sexual deviance, accused Romeo Joya and Joselito Arbolante were charged on August 28, 1984 with rape in an information[1] filed with the Regional Trial Court of Trece Martires City, Cavite, Branch 23, and docketed therein as Criminal Case No. TM-89. The particulars of said indictment allege that on or about April 28, 1984, at Barangay Bucal, Tanza, Cavite, the aforesaid accused, together with one Ismael Cervania who was then at large, conspired and mutually assisted each other to have unconsented carnal knowledge of 14-year old Maria Benneth C. Tolentino by means of force and intimidation, such felonious sexual assault being attended by the aggravating circumstance of having been committed in the dwelling of the offended party.

The court proceedings, starting with the arraignment on October 21, 1984 of both accused wherein they entered a plea of not guilty and followed thereafter by trial on the merits, culminated in a decision rendered by the court below on January 27, 1987 convicting both accused of the offense charged. They were consequently sentenced to suffer the penalty of reclusion perpetua, to indemnify the offended party in the amount of P30,000.00, and to pay the costs.[2]

Not having been included in the aforestated criminal case, Ismael Cervania was separately charged with rape before the same trial court in Criminal Case No. TM-299. However, complainant Maria Benneth C. Tolentino executed an affidavit on September 15, 1988 retracting her testimony in said Criminal Case No. TM-89 with regard to Cervania's participation in the crime. Consequently, on September 27, 1988, the trial court dismissed the case against Cervania, there being no evidence to establish his guilt beyond reasonable doubt.[3]

During the pendency of this case before us, a motion to withdraw his appeal was filed by appellant Arbolante, wherein he stated that he had allegedly lost contact with his counsel of record and he believed that such an action on his part would be favorable to him. On the bases of the comment of his counsel de oficio[4] affirming the authenticity of Arbolante's withdrawal of his appeal and his awareness of the consequences thereof, and the favorable endorsement of the Solicitor General,[5] we granted Arbolante's motion in our resolution of June 28, 1993.[6] The appellate review of the present case shall, therefore, proceed only with respect to appellant Romeo Joya.

Finding the People's recital of the antecedent facts of this case, as capsulized by the Solicitor General, to be complete and duly substantiated by the evidence on record which we have scrutinized, the same is hereunder reproduced, subject to our subsequent dissection and analysis.

"During the month of March 1984, complainant Maria Benneth Tolentino, 14 years of age, was living with her

mother Aurora Tolentino (a laundrywoman), sister, cousin, aunt and two (2) nephews in their house at Bucal, Tanza, Cavite (TSN, June 25, 1985, pp. 3-7). Fronting the house is the store of Maria's mother (Id., p. 15).

"On April 28, 1984, classes having closed for vacation and her mother having left to wash clothes for a household in Parañaque, Maria started tending her mother's store at around 8:00 o'clock in the morning (Id., p. 12).

"Around 7:00 o'clock in the evening of the same day, appellant, together with Joselito Arbolante, Ismael 'alias Maeng' Cervania, George Aricayo, Jun Nepona and Antonio Murillo, arrived at the store with a bottle of gin. They are all Maria's neighbors. Sitting in front of the store, they had a drinking spree up to 9:00 o'clock in the evening (TSN, June 26, 1985, pp. 18 to 20).

"Around 9:00 o'clock, upon advice of her neighbor Felicidad Sosa, Maria closed the store and waited for her mother inside. After some time, she heard a noise/commotion coming from the direction of their house. Worried for her sister and nephews, as her aunt was also out that day, Maria left the store and went to their house. There, she found nothing unusual, nor anything to worry about (TSN, June 27, 1987, p. 4).

"As she was told to sleep in the store whenever her mother was out, Maria returned thereat at about 11:00 o'clock and saw appellant inside. Suddenly and without warning, appellant boxed Maria on the stomach causing her to sit on the folding bed. He ordered her not to shout and threatened to kill her. Thereupon, he forced her to lie down on the folding bed, after which, he removed her shorts and panty. Forthwith, appellant held Maria's hand, put himself on top of her and tried to insert his private organ into hers (Id., p. 5). Maria struggled to free herself from appellant who completely immobilized her hands. She tried to shout for help but no voice came out of her mouth. She also kicked appellant, but in vain. Appellant eventually succeeded in raping her. Maria could only cry, while blood oozed out of her private part (Id., pp. 35 to 54).

"At this point, Maria noticed the presence of Joselito Arbolante and Maeng Cervania at the door of the store. The two stood as guards at appellant's instruction (TSN, December 17, 1984, pp. 21 to 24).

"After appellant's sexual onslaught, Maeng Cervania entered the store, held Maria's hands, la(y) on top of her and also succeeded in having carnal knowledge of her. Thereafter, Joselito Arbolante replaced Maeng Cervania. The same ghastly sexual violation was repeated. After Joselito's turn, appellant replayed his horrid sexual assault upon Maria. The devastated girl quietly suffered the repeated sexual abuse committed against her (Id., pp. 25 to 29).

"After appellant and the two others were through with their sexual carnage, they left Maria who could only cry until the following morning of April 29, 1984 (TSN, June 27, 1985, p. 78)."[7]

Not surprisingly, appellant presented in his brief a diametrically-opposed version of the incident, relying on the conjoint defense of denial and alibi to escape liability, to wit:

"Accused Romeo Joya testified that he was at the store of Maria from 6:00 o'clock in the evening of April 28, 1984, with other companions, namely, Ismael 'Maeng' Cervania, Benjamin Opena, Bobby Aricayos and Tony Murillo, up to more or less 8:00 o'clock in the evening. He said that after leaving the store he went directly to the house of his employer to see Marietta Garido, the girl he was courting. He said he stayed there until around 9:00 o'clock, then proceeded to the farm of Ricardo Riginding, his brother-in-law, at Biga, Tanza, Cavite where he stayed overnight because he usually stays there to help in watching the plants. (TSN, Jan. 24, 1986, pp. 3-5). Aside from outrightly denying any knowledge of the alleged rape, accused Joya said that at around 11:00 p.m. he was no longer with the accused (Joselito Arbolante and Maeng Cervania), because he was the first one to leave the store where complainant was staying. (ibid., pp. 6-7). Accused Joya further testified that he arrived at the Riginding farmhouse at about 9:30 in the evening and never left the place. (ibid., p. 23).

"Barangay tanod Senando Dulce testified that on the night of April 28, 1984, he was conducting the 'ronda' with two other companions, Alejandro Senica and Francisco Cases. (TSN, Dec. 10, 1985, pp. 4-5). Dulce said

that they started making their ronda at 9:00 o'clock in the evening and went home at about 2:00 o'clock. He said that they passed by the store which Maria was tending 'at least four times' but they did not notice of (sic) any 'unusual incident' which took place that night. He also said that during the night they did not receive any report of any unusual incident, but they learned of something the morning of the following day. (ibid., pp. 8-10).

"Mateo Cesa, a neighbor of the Tolentinos, testified that on the night of April 28, 1984, after arriving at his house at around 8:00 o'clock in the evening, he had supper; then he went out to look for his three cows to remove cow lice from them until around 11:00 o'clock. He said that the distance from where he was tending the cows to the store of Aurora Tolentino was only around twenty (20) meters, and that during all this time, (especially from 10:00 to 11:00 in the evening) he did not see any person in the store and he did not notice any 'untoward incident'. (TSN, February 25, 1986, pp. 9-10). Cesa also said that on the night of April 28, 1984 he saw the barangay tanod passed (sic) by the store of Aurora Tolentino where the alleged rape took place. (ibid., p. 11).

"Ricardo Riginding, owner of the farmhouse, testified that he arrived at his farmhouse before 10:00 o'clock and that accused Romeo Joya was already there. (TSN, March 25, 1986, pp. 5-7). Riginding said that when he entered the farmhouse Joya was already sleeping. (ibid., p. 8). He further testified that the defendant helps him in overseeing the plants; that 'He used to go there by night. Since the time they planted vegetables almost every night Romeo Joya was there.' (ibid., p. 10).

"Co-accused Joselito Arbolante, on the other hand, testified that he went home about 11:45 o'clock in the evening of April 28, 1984, and said he did not 'notice anything unusual' when he passed by the house of Maria. (TSN, June 25, 1986, pp. 10-11).

"Teresita Gatdula, sister of the accused Joselito Arbolante, said that the complainant (referring to the mother of the complainant) 'has a personal charge (grudge) against me and not against my brother' because of a debt to her store. (TSN, August 29, 1986, pp. 3-4)."[8]

Sui generis in a prosecution for rape is the fact that generally only the participants can testify to the alleged sexual molestation. The accused usually sets up a defense of alibi or maintains that the act was done with the consent of the woman. The resolution of the case then boils down to the plausibility of the complainant's testimony on the alleged sexual abuse, as well as the credibility of the parties. Inevitably, the court is left with the arduous task of ascertaining the probability of whether or not the sexual assault did indeed take place. To say the least, this undertaking is not always pleasant nor effortless, as it is in the present case.

At the outset, appellant seeks to undermine the credibility of complainant by pointing out certain inconsistencies in her testimony. The Court has made a meticulous review of complainant's declarations and it can not be denied that indeed the complainant has made certain contradictory statements on some details of why she left the store and proceeded to their house nearby; with respect to the time she closed the store, went to their house and then returned to the store; regarding the length of time each of the rapists ravished her; and, lastly, as to the kind of illumination inside the store at the time. Nonetheless, on the query of whether or not these seeming testimonial flaws warrant a reversal of the trial court's decision, we respond in the negative.

One must bear in mind the circumstances prevailing when complainant gave her statements. The first part of her direct examination was given on December 17, 1984, or less than eight months after the incident. The continuation of her direct examination, as well as the cross-examination, could not be held until five months later or, to be exact, on May 28, 1985. As explained by Dr. Flora Marfil of the National Mental Hospital, complainant was then undergoing psychiatric examination and to present her in court at that time would not be advisable as it could aggravate her mental and emotional condition.[9] On the succeeding hearings, the lower court was even repeatedly forced to order the deferment of the testimony of complainant either because she was crying or she

could not stand the rigors of the cross-examination.[10] Those postponements were never opposed by the defense counsel; in fact, said defense counsel said that he understood the situation of complainant since the same must have been apparent during the trial.

Taking into account, therefore, that from the time of her direct examination a considerable period had elapsed before she was cross-examined, as well as her emotional and mental condition at that time, one can not hope for her testimonies to jibe in all points. This is especially true where, as we have discerned from the transcripts of the proceedings, she was subjected to tricky leading questions designed to confuse her into erroneously expressing assent. Additionally, it is hard to expect a rape victim to remember every ugly detail of her traumatic experience since she might actually be trying not to remember them.[11]

It is a recognized axiom in rape cases that inconsistencies in the victim's testimony do not detract from the vital fact that, in truth, she had been abused.[12] Testimonial discrepancies could have been caused by the natural fickleness of the memory, which variances tend to strengthen rather than weaken credibility as they erase any suspicion of rehearsed testimony.[13] What is essential is the positive identification by the victim of the accused as the rapist,[14] and, of equal importance, the manner in which she was raped.

In fact, the mere circumstance that complainant was testifying in the presence of strangers on an intimate matter not usually even mentioned in public might have caused her not a little embarrassment and confusion that rendered her narrative less than perfect.[15] In the final analysis, what is important is that complainant's statement conduced to one basic fact, that is, that appellant, together with his co-accused Joselito Arbolante, had sexual congress with complainant through force and intimidation.

As previously stated, the complainant could not help but cry when she was being interrogated on the witness stand. Similarly, her mother also cried while giving her testimony. We have heretofore held, with the verity born out of human nature and experience, that the crying of the victim during her testimony is evidence of the credibility of the rape charge.[16]

Considering the documented and proven drastic changes that took place in the life of complainant, which could only be explained by the traumatic ordeal experienced by her at the hands of appellant, the Court finds the narration of the former more credible. Prior to the incident, complainant was leading the normal and productive life of a student in Cavite. She was a first year high school student in Tanza National Comprehensive High School. After the incident, complainant could no longer continue her studies.[17] Furthermore, she even refused to stay in Cavite and had to transfer residence to Marimar Village in Parañaque.

The records show that complainant suffered emotionally and mentally due to the traumatic incident. Previous to the unfortunate incident, there were no indications, nor did appellant proffer any evidence to show, that complainant was already suffering from any mental malaise or illness. Thus, the Court can safely conclude that complainant was mentally healthy prior to the sexual assault. The law presumes that every person is of sound mind in the absence of proof to the contrary.[18]

The initial findings of Dr. Alfredo Felix in his tests on the mental state of complainant conducted on May 7, 1984, barely a few days after the incident, showed that complainant "was fairly clean in person but with uncombed hair, tearful, complaining of epigastric and hypogastric pain. She was depressed but compliant. Her gait was retarded." [19] Less than a year later, in a report dated August 20, 1985, Dr. Lolita de Guzman described the mental condition of the complainant as follows:

"Psychiatric interviews and test revealed patient suffered from a brief reactive psychosis characterized by a depressed mood, auditory and visual hallucinatory experiences, ideas of reference and insomnia. This brief psychotic condition is triggered by a severe psychosocial stress which in this particular case was the rape

committed on the patient.

"Altho(ugh) patient is at present in social remission, it is recommended that treatment be continued, and that patient report to the hospital for regular follow-up." [20]

In court, said Dr. De Guzman reiterated that complainant was suffering from a brief reactive psychosis "triggered by a severe psychosocial stress which in this case was the rape committed on the patient." [21] Although, on cross-examination, the doctor testified that frustration in love may bring about this mental disturbance, this cause was highly unlikely. [22] Complainant at that time was merely fourteen years old; she was too young for any romantic liaison. Furthermore, the records do not show that she was romantically involved with anyone at that time.

The medical report which confirms a woman's story makes the latter credible. [23] In the medical certificate issued by Dr. Nieto Salvador of the National Bureau of Investigation on April 30, 1984, his examination showed that complainant suffered an abrasion at the left forearm and "a healing hymenal laceration was present". [24] These findings are significant. The abrasion on the complainant's forearm confirmed that force had been employed to make her submit to the gang rape. The fact that complainant had sexual intercourse involuntarily is proven by the physical findings on her genitalia as reported in the medical certificate.

It is true that, although complainant testified that appellant boxed her on the stomach, the medical report did not indicate any abrasion, hematoma or bruise on that part of her anatomy. This is of no consequence. Medical authorities agree that when force is applied on the stomach, no marks may be detected. Injuries may have been caused in the internal organs, but external signs are not always visible. [25] The absence of injuries, however, does not negate the commission of rape. [26]

After all, it is a long accepted doctrinal truth that when a woman testifies that she was raped, she says in effect all that is necessary to show that said crime has been committed. If the testimony is not improbable, the accused may be convicted on the basis of such uncorroborated testimony. [27]

Complainant testified that prior to the actual sexual assault, her panty and shorts were pulled down to her knees. From this, appellant argues that "it is well-nigh impossible for a man to insert his penis into a woman's vagina (even if she be cooperative) when her panties are down only to her thighs." Appellant further asserts that even assuming "her panty and shorts were brought down to her knees, still the pretended rape could not have been consummated". [28]

We do not agree. The rule is settled that to sustain a conviction for rape, full penetration is not required. Proof of entry of the male organ within the labia or pudendum of the female organ consummates the crime; the slightest penetration of the labia of the pudendum is sufficient. [29] Under the circumstances in the present case, the fact that her panty and shorts were brought down only to her thighs (or knees, for that matter) does not make it physically impossible for the male organ to effect penetration into the labia of the female sexual organ. For that matter, in the aforecited case of *People vs. Tismo*, this Court upheld the conviction of the accused, although the complainant's "shorts and panty were lowered to the middle part of her thigh" only.

The conduct of the woman immediately following the alleged assault is of utmost importance as tending to establish the truth or falsity of the charge. [30] The day after the incident, complainant and her neighbor, Felicidad Zabala Sosa, immediately went to Barangay Captain Magno Dulce of Bucal, Tanza, Cavite to complain against the accused. The matter not having been attended to at the barangay level, complainant and her mother went to the National Bureau of Investigation (NBI) for physical examination of the former, as suggested by said barangay captain. Complainant, however, was not examined because no doctor was available that day. Undaunted, they returned the next day and the examination was finally conducted. Later, they went to the Tanza police station to

give their statements regarding the incident. Seeing complainant acting strangely, her mother brought her back to the psychiatrist of the NBI, who referred her to the National Mental Hospital.[31] These acts could not but indicate the persistent efforts of an aggrieved party to obtain redress at law for the criminal violation of her chastity.

Complainant's family, although not poverty-stricken, is not exactly moneyed. In fact, her mother had to leave for Parañaque on that fateful day to wash clothes for a household. Not having the financial or material resources, they would not have been willing to squander what little they had except to vindicate so grave a wrong perpetrated on Maria Benneth. The Tolentino family would not have gone through such lengths and privations if there was no valid reason to do so.

Contrary to appellant's diatribe, complainant did not unduly delay her revelation of what had happened to her. She immediately went to the barangay captain to complain the very morning after the incident. Whatever delay there was -- from the time the incident happened and the time she went to the residence of the barangay tanod -- is too negligible to affect her credibility. In a number of instances, this Court has upheld the conviction of the accused even when the complainant disclosed the incident days or even months after the fact.[32] It is not uncommon for young girls to conceal for some time the assaults on their virtue because of the rapist's threat on their lives.[33]

We have already noted that accused Arbolante moved to withdraw his appeal and his motion was granted by this Court. Although in the comment of Arbolante, he stated that his withdrawal of his appeal does not imply guilt,[34] nevertheless in *People vs. Budol, et al.*,[35] the Court held that the withdrawal of his appeal by a co-accused expresses not only his acquiescence to the judgment of conviction but also his affirmation of the fact that rape had really been committed.

The testimony of a rape victim as to who abused her is credible where she had no motive to testify against the accused.[36] Teresita Gatdula, sister of accused Arbolante, testified that the mother of complainant had a personal grudge against her arising from a disputed debt of P146.00.[37] Appellant asseverates that this is the motive for the filing of the rape charge against him. The said theory advanced by appellant as to the cause for the filing of said rape charge is absurd. The amount involved is too nominal for one to submit to a public scandal, hence not only is appellant's submission speculative but also downright ridiculous. Yet, even assuming that said misunderstanding could constitute a valid reason, still that does not explain why appellant Joya was included as one of the accused, considering that the supposed motive involves only the Arbolantes and the Tolentinos.

Complainant, just like her mother, is a simple and ingenuous barrio resident. We are not dealing here with a worldly-wise woman who could fabricate an elaborate scheme to destroy the life and reputation of appellant for no reason at all, but a 14-year old girl barely out of her adolescent years. Considering her naivete and her tender age, it would be difficult to believe that her rape charge is a prevaricated concoction.

We have repeatedly stressed that no woman in her right mind would be willing to make public her being a rape victim and risk the ordeal of interrogation, were it not for the purpose of vindicating her honor. Complainant's willingness and courage to face the interrogation and medical examination is a mute but eloquent proof of the truth of her charge.[38]

Desperate for an exculpation, appellant raises the discredited defense of alibi. He insists that at the time of the rape, he was already in the farm of his brother-in-law, Ricardo Riginding, at Biga, Tanza, Cavite where he slept the whole night. The distance between the store of the Tolentinos in Bucal, Tanza, Cavite and the farm is only half a kilometer,[39] or a 20-minute walk.[40] His alibi was sought to be corroborated by Riginding, who testified that he arrived at the farm at about 10:00 P.M., after which he went around the yard. When he entered the hut, he saw De Joya already sleeping. Both of them woke up at 5:00 A.M. the following day and they returned to Bucal

that same morning.

The defense advanced by complainant does not merit serious consideration, much less can it warrant the reversal of the appealed decision. Appellant was positively identified by complainant. Alibi cannot prevail over the positive identification of prosecution witnesses.[41] Appellant's alibi was mainly based on and sought to be established by his testimony and that of his brother-in-law. The consistent dictum is that alibi becomes less plausible as a defense when it is merely established by the accused himself and his immediate relatives, and not by credible persons.[42]

Finally, we are constrained to reiterate that if there is no physical impossibility for the accused to be at the scene of the crime, alibi will not prosper as a defense.[43] We have observed that the distance between the store of complainant's mother and the farm of Riginding was not so far as would render it impossible for appellant to return to the farm before 5:00 A.M., which was the time Riginding and appellant allegedly woke up together. Significantly, Riginding did not state the exact time when he first saw appellant in the farm on the night the incident happened. It was then possible for appellant to have committed the crime at 11:00 P.M. and then returned to the farm before Riginding noticed that he was not yet in the hut.

We noted earlier that complainant executed an affidavit of retraction with regard to the involvement of Ismael Cervania in the crime charged. Appellant now invokes said retraction as a ground for his acquittal arguing that "the lower court came to different conclusions as to Cervania, on one hand, and Joya and Arbolante, on the other, on essentially the same set of countervailing evidences." [44] Said contention is meritless and specious. As correctly argued by the Solicitor General, complainant's retraction refers to Ismael Cervania and not to herein appellant, hence there is neither rhyme nor reason for appellant to invoke the same in his favor. The affidavit does not contain a retraction of the charge against appellant; on the contrary, it even confirms his culpability for the crime for which he stands indicted.[45]

Generally, courts do not look with favor on affidavits of retraction. Recanted testimony is highly questionable because it may have been secured through monetary considerations. It would be a dangerous rule for courts to reject testimonies solemnly given before courts of justice simply because the witnesses who had given them later on changed their minds for one reason or another, for such a rule would make solemn trials a mockery and place the investigation of truth at the mercy of unscrupulous witnesses.[46]

At any rate, just because complainant retracted her testimony regarding Cervania does not mean that she was lying with respect to appellant's participation in the crime. Also, her awareness that, despite her poor state of health, she would have to again go through the ordeal of testifying against Cervania in the separate rape case against him could have been enough reason for complainant to desist from pressing charges therein by making that retraction, even if thereby one of her three defilers would be spared.

We agree with the trial court that the aggravating circumstance of dwelling can not be considered in the case at bar. A dwelling must be a building or structure, exclusively used for rest and comfort.[47] The crime was committed in a store which was about fifteen meters away from the complainant's house.[48] It is obvious that the store can not be considered a dwelling, or even a dependency of complainant's home.

Under the prevailing jurisprudential policy, the accused in rape cases is normally ordered to indemnify the offended party in the amount of P30,000.00 for moral damages. Under certain circumstances, however, this Court has awarded moral damages of P50,000.00, such as in rape of young girls with ages ranging from thirteen to nineteen years,[49] rape of a mental retardate,[50] forcible abduction with rape,[51] and statutory rape.[52] Accordingly, considering the age of herein complainant at the time of the commission of what actually were multiple rapes, and the grave consequences of such heinous offenses on her present plight and future prospects,

the Court deems it necessary to increase the award of damages to P50,000.00.

One last point. The records show that appellant Joya and accused Arbolante conspired with one another and successively raped the offended party. In fact, complainant was ravished four times and, as a legal consequence, appellant should have been charged with four counts of rape. Now, since complainant executed an affidavit of desistance with regard to Ismael Cervania, appellant should have been liable for at least three crimes of rape. Withal, the information charges him with only one act of rape, hence appellant cannot be held liable for more than what he is charged. There can only be one conviction for rape if the information charges only one offense, even if the evidence shows three separate acts of forcible intercourse.[53]

WHEREFORE, on the foregoing premises, the judgment of the court a quo convicting accused-appellant Romeo Joya of the crime of rape is hereby AFFIRMED, with the modification that the award of moral damages to complainant Maria Benneth C. Tolentino is increased to P50,000.00.

SO ORDERED.

Narvasa, C.J., (Chairman), Padilla, Nocon, and Puno, JJ., concur.

[1] Original Record, 7.

[2] Ibid., 184; per Judge Mariano M. Umali.

[3] Ibid., 132.

[4] Rollo, 228.

[5] Ibid., 233.

[6] Ibid., 238.

[7] Brief for the Appellee, 2-5; Rollo, 148-151.

[8] Brief for Appellant Romeo Joya, 6-7; Rollo, 83-84.

[9] TSN, April 24, 1985, 31-32.

[10] Ibid., June 25, 1985, 16; *ibid.*, June 26, 1985, 32.

[11] *People vs. Mancilla*, 173 SCRA 373 (1989).

[12] *People vs. Munar*, 131 SCRA 44 (1984).

[13] *People vs. Cayago*, 158 SCRA 586 (1988).

[14] *People vs. Egot*, 130 SCRA 134; *People vs. Mustacisa*, 159 SCRA 227 (1988).

[15] *People vs. Borja*, 191 SCRA 120 (1990).

[16] *People vs. Syquioco*, 118 SCRA 413 (1982).

[17] TSN, July 26, 1985, 10.

[18] Art. 800, Civil Code.

[19] Original Record, 105.

- [20] Ibid., 108.
- [21] TSN, October 21, 1985, 10.
- [22] Ibid., id., 18.
- [23] People vs. Japitana, Jr., 185 SCRA 682 (1990).
- [24] Original Record, 4.
- [25] People vs. Renojo, 132 SCRA 365 (1984).
- [26] People vs. Arenas, et al., 198 SCRA 172 (1991).
- [27] People vs. Averro, 165 SCRA 130 (1988).
- [28] Brief for Appellant Romeo Joya, 14; Rollo, 91.
- [29] People vs. Tismo, 204 SCRA 535 (1991).
- [30] People vs. Mejias, 168 SCRA 33 (1988).
- [31] TSN, July 26, 1985, 5-8.
- [32] People vs. Nunag, et al., 173 SCRA 274 (1989); People vs. Santiago, 197 SCRA 556 (1991).
- [33] People vs. San Buenaventura, 164 SCRA 150 (1988).
- [34] Rollo, 230.
- [35] 143 SCRA 241 (1986), Cf. People vs. Bongo, et al., 55 SCRA 547 (1974).
- [36] People vs. Natan, 193 SCRA 355 (1991).
- [37] TSN, August 29, 1986, 5.
- [38] People vs. Ramos, 167 SCRA 476 (1988).
- [39] TSN, March 25, 1984, 4.
- [40] Ibid., id., 17.
- [41] People vs. Babac, 204 SCRA 968 (1991).
- [42] People vs. Flores, 195 SCRA 295 (1991); People vs. Sabellano, et al., 198 SCRA 196 (1991).
- [43] People vs. Arroyo, 201 SCRA 616 (1991).
- [44] Rollo, 107.
- [45] Ibid., 169.
- [46] People vs. Galicia, 123 SCRA 556 (1983).
- [47] Reyes, The Revised Penal Code, Vol. I, 1981 Ed., 336.
- [48] TSN, June 25, 1985.
- [49] People vs. Ramos, 197 SCRA 523 (1991).
- [50] People vs. Tomentos, 211 SCRA 212 (1992).

[51] People vs. Grefiel, 215 SCRA 596 (1992).

[52] People vs. Santos, 183 SCRA 25 (1990).

[53] People vs. Robles, 170 SCRA 557 (1989).

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