

PEOPLE OF THE PHILIPPINES, PLAINTIFF, VS. ROLANDO MADRIAGA Y BAUTISTA @ OLAN AND ROLANDO PANGILINAN Y CRUZ @ OLAN, RESPONDENTS.

G.R. No. 82293. July 23, 1992

Ponente: DAVIDE, JR., J.

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DAVIDE, JR., J.:

In an information filed with the Regional Trial Court of Caloocan City, Branch 124, and docketed therein as Criminal Case No. C-28540, appellants Rolando Madriaga y Bautista @ Olan and Rolando Pangilinan y Cruz @ Olan, were charged with the violation of Section 4, Article II of the Dangerous Drugs Act, Republic Act No. 6425, as amended by Presidential Decree No. 1675, committed as follows:[1]

"That on or about the 27th day of March 1987 in Caloocan City, Metro Manila and within the jurisdiction of this Honorable Court, the above-named accused, conspiring together and mutually helping with (sic) one another, without authority of law, did then and there willfully, unlawfully and feloniously sell and deliver to Pat. Reynaldo Lechido, who acted as poseur-buyer dried marijuana flowering tops wrapped in a newspaper, a prohibited drug, knowing the same to be such."

After each of them entered a plea of not guilty during arraignment,[2] trial on the merits ensued.

After hearing the testimonies of the prosecution witnesses, namely: Patrolman Reynaldo Lechido, Corporal Alfredo Rodillas, Corporal Wilfredo Tamondong and Neva G. Gamosa, and the appellants, who took the witness stand in their defense, the trial court promulgated on 17 September 1987 a judgment of conviction,[3] the dispositive portion of which reads:

"WHEREFORE, this Court finds the herein accused ROLANDO MADRIAGA Y BAUTISTA @ OLAN, and ROLANDO PANGILINAN Y CRUZ @ OLAN, GUILTY, beyond reasonable doubt, of the offense charged against them in the manner alleged in the information, and are each sentenced by this Court to THIRTY (30) YEARS OF life imprisonment and to pay a fine of P20,000.00 with subsidiary imprisonment in case of insolvency. x x x"

On 30 September 1987, appellants filed a Notice of Appeal.[4]

The facts of the case upon which the conviction is based are summarized by the trial court as follows:

"In the morning of March 27, 1987, a civilian informant appeared at the Office of the Anti-Narcotics Unit, Caloocan City Police Station, and informed Cpl. Wilfredo Tamondong and his men that a certain "Olan" whose description was given by the informant, is engaged in the illegal traffice (sic) of marijuana somewhere at Elisa Street, Marcela, Maypajo, Caloocan City. Forthwith, Cpl. Tamondong, as Assistant Chief and investigator of the same unit, formed and dispatched a surveillance team of narcotics operatives to the place mentioned by the informant. The team returned with positive result (sic). After clearing the matter with the chief of the Anti-Narcotics Unit who arrived in the office in the afternoon of the same date, Cpl. Tamondong gathered his men for a buy-bust operation. At the briefing, it was agreed that Pat. Reynaldo Lechido will act as

the poseur-buyer while the rest of the team are to give Lechido a (sic) back-up support. Lechido was furnished by Cpl. Tamondong with a P10-bill with Serial No. BG4-32975 which he instructed his men to familiarize with (sic) (Exh. "A"). Cpl. Tamondong also marked the P10-bill in the presence of his men with a slant in ball pen (sic) across the figure "10" at its lower left portion (Exh. "A-1"). Soon after the briefing, the team on board two (2) motor vehicles, proceeded to the area mentioned by the informant. They parked their vehicles somewhere at Marcela Street and from there they went on foot to Elisa Street, taking caution not to be detected or suspected. At Elisa Street, Lechido positioned himself near the opening of an alley which leads to the interior of a cluster of squatter houses, while the other members of the team scattered and strategically posted themselves within the vicinity. Not long thereafter, a man which fitted (sic) the description earlier given by the civilian informant appeared. Lechido approached the man and told the latter that he would want to buy a (sic) P10-worth of marijuana. Lechido handed the P10-marked money (sic) (Exh. "A"), to the man who told Lechido to wait. Thereafter, the man left and some (sic) few minutes later, he returned, at which point Lechido gave the pre-arranged signal to his companions. The man handed to Lechido something wrapped in a newspaper, whereupon the other members of the team swooped in. Lechido identified himself to the man as a police officer while the rest of the team placed the man under arrest. Asked by Lechido as to what his name is, the man identified himself as the herein accused, Rolando Madriaga. Lechido asked the man where he got the stuff, to which the man answered answered (sic) he got it from a certain man also nicknamed 'Olan', whose place is at the interior of the alley. Together with Rolando Madriaga, Lechido and two of his companions entered the alley and as they were walking, Madriaga, pointed to a man standing some 7 to 10 meters away from where he was apprehended, as the source of the stuff. Lechido and his two companions approached the man, identified themselves to him as police officers, and thereafter frisked the man. Found by Lechido inside the right pocket of the man's pants was the marked P10-bill. When queried, the man answered that the money came from the other accused, Rolando Madriaga. Lechido got the marked money from the man who gave his name as Rolando Pangilinan. The team brought both accused to the office of the Anti-Narcotics Unit whereat they turned over the persons of both accused as well as the suspected marijuana stuff and the P10-marked money (sic) to Cpl. Wilfredo Tamondong. In the ensuing investigation, both accused refused to give any written statement upon being apprised of their constitutional rights. For their part, Pat. Lechido and three of the members of the team executed a joint statement relating therein the circumstances that transpired during the buy bust operation (Exh. "B"). That same afternoon of March 27, 1987, the suspected marijuana flowering tops as wrapped in a piece of newspaper which Lechido received from accused Rolando Madriaga (Exh. "F-2"), was (sic) forwarded to the NBI chemist for examination after Cpl. Tamondong had placed his initials reading 'WLT' (Exh. "F-2-B-2"), on the newspaper wrapper. The item was received by NBI chemist Neva Gamosa who, for purposes of identification, placed her own identifying marked (sic) on the newspaper wrapper (Exh. "F-2-A"). After subjecting a representative sample of the suspected marijuana flowering tops to microscopic, chemical and chromatographic tests, chemist Neva Gamosa found that the specimen submitted 'gave positive results for marijuana' (Exh. "G")."[5]

On the other hand, the appellants denied the accusations against them and claimed that they were the victims of a frame-up. This defense was summarized by the trial court, to wit:

"Thus, accused Rolando Pangilinan who admitted being jobless on March 27, 1987, testified that while he was on his way to buy cigarettes from a corner store at Elisa Street in the afternoon of March 27, 1987, men in civilian clothes suddenly grabbed him and boarded (sic) him in a jeep together with his co-accused Rolando Madriaga, a close friend and neighbor of him (sic) at Elisa Street. After boarding (sic) them in the jeep, the men brought them to the Caloocan City Police Station. He denied being the source of the marijuana allegedly sold by Madriaga to Pat. Lechido in the afternoon of March 27, 1987. He also denied that there was found from (sic) his pocket the marked money involved in this case (Exh. "A").

For his part, the other accused Rolando Madriaga, who gave his occupation as a carpenter in the furniture shop of one Senying de Leon at Elisa Street, declared that in the afternoon of March 27, 1987, while he was doing carpentry work at the shop of his employer, men in civilian clothes picked him up and boarded (sic) him,

together with his friend Rolando Pangilinan, into an owner-type jeep. The men brought him and Pangilinan to the police headquarters whereat they were immediately locked inside a cell. From there, they were subsequently transferred to the Caloocan City Jail, where they (sic) now detained. He denied having allegedly sold marijuana to Pat. Lechido, much less having received a P10-bill from the latter. He added that when the men picked him up and placed him under arrest, he and his employer Senying de Leon, complained (sic) why he was being arrested but the men merely told him to go with them. On cross-examination, he testified that the men first arrested him, after which the same men also arrested his friend Rolando Pangilinan, as the latter was coming out from his house at the interior of the alley along Elisa Street.”[6]

In this appeal, appellants, assisted by their counsel de officio, Atty. Ramon C. Fernandez, interpose the following assignment of errors:[7]

"I. THE TRIAL COURT ERRED IN GIVING CREDENCE TO THE VERSION OF THE PROSECUTION.

II. THE TRIAL COURT ERRED IN NOT DECLARING THE BUY-BUST OPERATION ILLEGAL.

III. THE TRIAL COURT ERRED IN NOT ACQUITTING THE TWO ACCUSED OF THE CRIME CHARGED IN THE INFORMATION."

In support of the first assigned error, appellants contend that the testimonies of Pat. Lechido and Pat. Rodillas on the circumstances surrounding the apprehension of the appellants and the buy-bust operation are biased, erratic and contradictory. The inconsistencies pointed out involve the different versions showing how the buy-bust money was marked and what the pre--arranged signal for the appellants' apprehension was. They point out that Pat. Lechido contradicted himself when he initially said that the mark used was the serial number, while in his later testimony, he said that it was a slant placed on the buy-bust money.

As to the pre-arranged signal, they claim that while Lechido testified that it was to be the pulling out of his handkerchief, Cpl. Tamondong declared that it was to be Lechido's scratching of his head. They furthermore present the theory that since Lechido is a stranger to appellant Madriaga, it would have been stupid and naive for the latter to immediately deal with the former; they assert that no person with ordinary common sense would deliver marijuana in a crowded place within the view of many people.

They further contend that the search conducted on appellant Pangilinan's person was illegal as it was done without a search warrant; hence, the marked P10.00 bill obtained from him is inadmissible in evidence.

As to the second assigned error, appellants disagree with the trial court's characterization of the apprehensions as entrapment and vigorously maintain that it was Lechido who offered to buy marijuana from appellant Madriaga; the former, therefore, induced the latter to commit the crime of drug pushing.

The third assigned error is anchored on the conclusion that the prosecution failed to discharge its duty to establish the guilt of the appellants beyond reasonable doubt.

After a judicious review of the facts and the law, We conclude that there is no merit in this appeal. The challenged decision has to be affirmed in all respects, save for the penalty of thirty (30) years of life imprisonment, which should be modified to life imprisonment.

We shall take up the assigned errors in seriatim.

1. The allegations of inconsistencies in the testimony of Lechido as to the marking of the buy-bust money for the purpose of casting doubt on the identity of the P10.00 bill is more apparent than real. It is clear from his testimony that he was positive that the serial number of the ten-peso bill was recorded although he was not sure whether any other marking existed. Thus:

"Q: And how could you determine that it is the same money which will be used or utilized for the purchase of marijuana?

A: From our office I already segregated the money from my own money. I placed it in my pocket wherein there is no other money except that money.

COURT:

After segregating that money with (sic) your other money, what did you do first with that money? Did you mark that money?

WITNESS (A):

No, sir. The one who marked it is our investigator.[8]

x x x

COURT:

While ago (sic) you testified that it was not you who put the marking in (sic) that money?

A: Yes, Your Honor.

COURT:

According to you it was the investigator?

A: Yes, sir.

COURT:

What was the marking he made in (sic) that money? Were you not told by the investigator what was the identifying mark he made in (sic) that money so that you would detect that is (sic) the same marked money you used in the buy-bust operation?

A: The serial number.

COURT:

You said it was your investigator who marked that money, what was the marking he made in (sic) that money or were you told it was marked by him?

A: That is clarification (sic) our investigator must also testify in this Court."[9]

Pat. Lechido's failure to recall the marking on the bill can be attributed to the fact that when he first testified on 1 September 1987, the ten-peso bill was not yet available and thus was not presented in court. In fact, the non-availability of the ten-peso bill was the reason for his being recalled to the witness stand. It was upon being recalled to the witness stand on 2 September 1987 that he remembered that in addition to recording the serial number, a slant was placed on the bill. Lechido cannot be blamed for not remembering all the details involved because human memory is frail. Thus, We find no reason to doubt him when he said:

"FISCAL SILVERIO:

Q: You earlier, in your previous testimony, stated that your police investigator marked the P10-bill. Where is that Mr. Witness?

A: This one, sir (witness pointing to a slant imposed across the figure 10 on the lower left hand corner of the P10-bill which slant appears to be written in ink).[10]

x x x

ATTY. YAP: (Q - ADDITIONAL CROSS-EXAMINATION)

Q: Aside from the marking (sic) slant on the face of this P10-bill, was the serial number of this alleged marked money jot (sic) down by your investigator?

A: Yes, sir.

Q: Where did he jot down the serial number?

A: It was listed in our dispatch book or the blotter.

Q: When was that made?

A: It was made before the actual operation, sir, but the same date (sic) March 27.[11]

x x x

COURT TO WITNESS:

Q: What I am telling you is, you identified a slant across the lower corner of the P10-bill. Is this the usual procedure you used (sic) in indicating or marking the buy-bust money for purposes of identification?

A: Yes, sir.

Q: You always put a slant?

A: No, sir. It is not variable (sic).

Q: What markings are usually placed on the face of the money?

A: Sometimes we placed (sic) a letter X, sometimes a circle and sometimes we wrote (sic) an initial of a name and sometimes we placed (sic) the figure 0."[12]

There is no inconsistency in the testimony of Pat. Lechido because the police investigator recorded the serial number of the ten-peso bill and at the same time placed a slant on the bill itself. As testified to by Cpl. Tamondong on direct examination:

"Q: How did you know that this is the same P10.00-bill you gave to Pat. Lechido during the conference.

A: I put a slant to (sic) this P10.00 bill.

FISCAL SILVERIO:

Q: Will you please point (sic) the slant?

WITNESS:

A. (Witness pointing to the right side of the P10.00 bill wherein there appears a slant on the P10.00 to the left.)

FISCAL SILVERIO:

Which slant was already marked Exhibit "A-1".

Q: What was Pat. Lechido supposed to do with this P10.00-bill?

A: I gave him the piece of paper to write the serial number to identify the marked bill.

Q: What did Pat. Lechido do with this serial number written in (sic) a piece of paper?

A: And to pass it to other members so that they will familiarize (sic) the said -P10.00-bill.

Q: You mean the same serial number written in (sic) the piece of paper were (sic) passed around the members of the raiding team?

A: Yes, sir.”[13]

On cross-examination, Cpl. Tamondong further explained the marking placed on the ten-peso bill, thus:

"Q: Before you took this money from your pocket, was this money already marked?

A: I marked it, sir, before I gave (sic) to Pat. Lechido.

COURT:

Where did you mark it?

A: In our office, sir.

COURT:

In whose presence?

A: The members of the Unit, sir.

COURT:

You mean during the briefing?

A: Yes, sir.

COURT:

All of them knew that you made your marking in (sic) the money?

A: Yes, sir.

COURT:

Alright.

ATTY. YAP (Q):

Was this the usual way of marking when you conduct buy-bust operation, slanting?

A: Except that, it was put in our dispatch book, the serial number.

Q: My question is: Is this the usual way of marking money (sic) to conduct buy-bust operation (sic)?

A: Yes, sir.”[14]

The other inconsistency as to the pre-arranged signal is inconsequential. According to Pat. Lechido, the pre-arranged signal was his act of pulling out his handkerchief.[15] He, however, explained that this was the signal to show that the accused had answered him “in a positive way that there is stuff.” Thus:

"COURT:

What was your understanding with respect to your handkerchief before you proceeded to the place?

WITNESS (A):

That is (sic) one of our plans.

COURT:

What is that plan.

A: I said to my companions that when I approach that person and when he answered (sic) me in a positive way that there is a (sic) stuff so I will draw my handkerchief and that once I drew (sic) my handkerchief that must alert all deployed personnel."[16]

On the other hand, Cpl. Tamondong testified that the signal he told Pat. Lechido to use was the scratching by the latter of his head. Thus, he said:

"COURT:

Now, in the role which Lechido was supposed to play in that buy-bust operation, did you give him specific instructions on what he is supposed to do?

A: Yes, sir.

COURT:

What was this instruction?

A: When he handed (sic) the marked P10.00-bill to the suspect and the suspected marijuana is handed to Lechido, he will scratch his head.

COURT:

In other words, during the briefing the agreed pre-arranged signal was Lechido's scratching his head and this is supposed to be this (sic) pre-arranged signal when the marijuana is already in the possession of Lechido, is that what we understand from you?

A: Yes, sir.

COURT:

And this is (sic) also made known to the rest of the members of the team during the briefing?

WITNESS (A):

Yes, sir."[17]

From the foregoing, no serious inconsistency even appears. The pulling out of the handkerchief was a signal to inform Lechido's group that appellant Madriaga has the marijuana, while the scratching of the head was supposed to signal that Lechido already had the marijuana in his possession. In any event, the inconsistency, if any, was sufficiently explained by Cpl. Tamondong when he testified that:

"FISCAL SILVERIO:

Just one question, your Honor.

FISCAL SILVERIO (Q - Cont'n):

You said, Mr. Witness, that the pre--arranged signal was for Pat. Reynaldo Lechido to scratch his head in order (sic) that he pay (sic) the P10.00 bill and receive (sic) the marijuana stuff, is that correct?

WITNESS (A):

Yes, sir.

FISCAL SILVERIO (Q):

But did you allow him to devise his own way of pre-arranged signal in the buy-bust operation?

A: Yes, sir.

COURT:

And this permission was also that (sic) they will devise their pre-arranged signal?

A: Yes, sir.

COURT:

Why do you have to discuss a definite pre-arranged signal if after all they can invent their own signal?

A: Sometimes, your Honor, when somebody was (sic) holding a cigarette and the suspect handed to him a suspected marijuana, the poseur-buyer throws the cigarette stick.

COURT:

In this case?

A: I instructed Pat. Lechido to scratch his head.

COURT:

In this particular case, did you know if Pat. Lechido changed the signal and invented a signal of his own?

A: I do not know sir.

FISCAL SILVERIO (Q):

So you did not know, Mr. Witness, whether on the way of the team (sic) to the place of the operation they devised another pre-arranged signal?

A: Yes, sir.

Q: Is it possible that they made their own pre-arranged signal?

A: But I gave already pre-arranged signal to Pat. Lechido.

Q: But is it possible?

A: Yes, sir."¹⁸

The only conclusion that can be reached, therefore, is that Pat. Lechido decided to change the pre-arranged signal for some reason or another. The fact that the pre-arranged signal used was the act of pulling out the handkerchief was further confirmed by Pat. Alfredo Rodillas, who was present during the buy-bust operation. He testified that:

"COURT TO WITNESS:

Q: When you were (sic) at the headquarters, is it not normal that everytime you conduct a buy-bust operation the one designated as poseur-buyer is usually required to give a pre-arrange (sic) signal to signal his companions that the transaction is consummated and its (sic) time for them to apprehend or to arrest the suspect?

A: Yes, your Honor.

Q: Now, when you were still having that briefing at your unit, was there an agreement reached among the members of that unit as to what was the pre-arrange signal to be used by the poseur-buyer?

A: There was, sir.

Q: What was that?

A: He will put out his handkerchief, sir.

Q: Who was supposed to put out his handkerchief?

A: Pat. Lechido, sir."[19]

Furthermore, even assuming *arguendo* that inconsistencies exist, such are on minor details which do not affect the case of the prosecution. Settled is the rule that discrepancies on minor matters do not impair the essential integrity of the prosecution's evidence as a whole or reflect on the witnesses' honesty.[20] These inconsistencies, which may be caused by the natural fickleness of memory, even tend to strengthen rather than weaken the credibility of the prosecution witnesses because they erase any suspicion of rehearsed testimony.[21] What is important is that the testimonies agree on the essential facts and that the respective versions corroborate and substantially coincide with each other to make a consistent and coherent whole.[22]

Equally unmeritorious is appellants' final argument under this assigned error. They want this Court to believe that appellant Madriaga would not have sold a prohibited drug to Pat. Lechido, a stranger, since "no person engaged in the illegal traffic of prohibited drugs will be stupid or naive to immediately deal with a stranger; and no person with ordinary common sense would deliver marijuana in a crowded place within the view of many people."

In real life, small-quantity or retail drug pushers sell their prohibited wares to customers who have the money to pay for the drug, be they strangers or not.[23] What matters is not the existing familiarity between the buyer and the drug pusher, but rather their agreement and the acts constituting the sale and delivery of the prohibited drug.[24]

Also, with respect to the sale of drugs on a small scale basis, this Court, in *People vs. Paco*,[25] held:

"Drug pushing when done on a small level as in this case belongs to that class of crimes that may be committed at anytime and at any place. After the offer to buy is accepted and the exchange is made, the illegal transaction is completed in a few minutes. The fact that the parties are in a public place and in the presence of other people may not always discourage them from pursuing their illegal trade as these factors may even serve to camouflage the same. Hence, the Court has sustained the conviction of drug pushers caught selling illegal drugs in a billiard hall, in front of a store, along a street at 1:45 p.m., and in front of a house."[26]

The contention that the search conducted on appellant Pangilinan was illegal and the evidence obtained by reason thereof is inadmissible in evidence pursuant to paragraph (2), Section 3, Article III of the 1987 Constitution is likewise devoid of merit. The arrest of both appellants was validly effected. Paragraphs (a) and (b), Section 5, Rule 113 of the Revised Rules of Court provide:

"SECTION 5. Arrest without warrant; when lawful. -- A peace officer or a private person may, without a warrant, arrest a person:

- (a) When, in his presence, the person to be arrested has committed, is actually committing, or is attempting to commit an offense;
- (b) When an offense has in fact just been committed, and he has personal knowledge of facts indicating that the person to be arrested has committed it; x x x ."

Appellant Rolando Madriaga was arrested in flagrante delicto; he was apprehended while in the act of giving the marijuana to Pat. Lechido, the poseur buyer. As such, his arrest, effected pursuant to paragraph (a) of the aforesaid Section 5,[27] was valid. Furthermore, the search conducted on his person was likewise valid because it was made as an incident to a valid arrest. This is in accordance with Section 12, Rule 126 of the Revised Rules of Court which provides:

"SECTION 12. Search incident to lawful arrest. -- A person lawfully arrested may be searched for dangerous weapons or anything which may be used as proof of the commission of an offense, without a search warrant."

The warrantless arrest of the other appellant Rolando Pangilinan falls under paragraph (b), Section 5, Rule 113 of the Revised Rules of Court. Pat. Lechido, as the poseur buyer in the buy bust operation, had personal knowledge that an offense -- the sale to him by Madriaga of the marijuana -- had in fact been committed. He also had personal knowledge of facts indicating that Pangilinan was the source of the prohibited drug by virtue of the information given to him by Madriaga to this effect. Thus, the arrest of appellant Pangilinan was likewise valid. Consequently, the search of Pangilinan's body incident to his valid arrest was also valid. The evidence obtained from the search is, therefore, admissible in evidence.

In *People vs. Paco*,[28] We said:

"Having caught the appellant in flagrante as a result of the buy-bust operation, the policemen were not only authorized but were also under (sic) obligation to apprehend the drug pusher even without a warrant of arrest. And since the appellant's arrest was lawful, it follows that the search made incidental to the arrest was also valid. (Rule 126, Sec. 12., *Alvero vs. Dizon*, 76 Phil. 637 (1946); *People vs. Claudio*, G. R. No. 72564, April 15, 1988)."

2. In their second assignment of error, appellants claim that they were instigated into selling the marijuana; hence, their apprehension should be declared illegal.

We are not persuaded.

What actually obtained in the case at bar was an entrapment, not an inducement or instigation. Appellants miserably failed to prove that they were in fact induced into committing the offense. Upon the other hand, the prosecution successfully proved beyond any shadow of a doubt that the appellants were engaged in the illegal traffic of marijuana, and that the surveillance team dispatched to conduct the buy-bust operation confirmed their illegal business. The operation then was to expose, arrest and prosecute the traffickers. The latter were committing a crime and needed no one else to induce them to commit it.

In entrapment, ways and means are resorted to for the purpose of trapping and capturing the law breakers in the execution of their criminal plan. In instigation, the instigator practically induces the would-be defendant into the commission of the offense; the inducer thus becomes the principal. Entrapment then does not bar the prosecution and conviction of the person entrapped. In instigation, however, the instigated party has to be acquitted.[29]

Entrapment has consistently proven to be an effective method of apprehending drug peddlers.[30]

The foregoing renders unnecessary a discussion on the third assigned error.

We thus affirm the decision of the trial court. However, the penalty of "THIRTY (30) YEARS OF life imprisonment" imposed by it is not correct because the penalty for drug pushing provided by Section 4, Article II of Republic Act. No. 6425, as amended, is life imprisonment and a fine ranging from P20,000.00 to P30,000.00. The penalty is not divisible into periods or into specific durations. Also, it is not the same as the penalty of reclusion perpetua provided under the Revised Penal Code which carries accessory penalties.[31] The proper

penalty then should just be life imprisonment.

WHEREFORE, IN VIEW OF ALL THE FOREGOING, the decision appealed from is hereby AFFIRMED in all respects, except as above-modified.

No pronouncement as to costs.

SO ORDERED.

Gutierrez, Jr., (Chairman), Feliciano, Bidin, and Romero, JJ., concur.

[1] Original Records, 2.

[2] Original Records, 35, 46.

[3] Per Judge Cancio C. Garcia; Id., 78-84. The decision is dated 10 September 1987.

[4] Id., 88.

[5] Original Records, 80-82; Rollo, 12-14.

[6] Original Records, 82-83; Rollo, 14-15.

[7] Id., 36.

[8] TSN, 1 September 1987, 5-6.

[9] Id., 12.

[10] TSN, 2 September 1987, 7.

[11] Id., 8.

[12] TSN, 2 September 1987, 10.

[13] TSN, 3 September 1987, 4-5.

[14] TSN, 3 September 1987, 14.

[15] TSN, 1 September 1987, 35.

[16] Id., 36.

[17] TSN, 3 September 1987, 17-18.

[18] TSN, 3 September 1987, 22-24.

[19] TSN, 2 September 1987, 16-17.

[20] *People vs. Bernardino*, 193 SCRA 448 [1991].

[21] *People vs. Custodio*, 197 SCRA 538 [1991]; *People vs. Cabato*, 160 SCRA 98 [1988]; *People vs. Salufrania*, 159 SCRA 401 [1988].

[22] *People vs. Gadiana*, 195 SCRA 211 [1991]; *People vs. de Guzman*, 188 SCRA 407 [1990].

[23] *People vs. Sanchez*, 173 SCRA 305 [1989].

[24] *People vs. Tejada*, 170 SCRA 497 [1989]; *People vs. Rodriguez*, 172 SCRA 742 [1989]; *People vs. Borja*, 182 SCRA 581 [1990]; *People vs. Fernandez*, G.R. No. 86495, 13 May 1992.

[25] 170 SCRA 681, 689 [1989].

[26] Citing *People vs. Sarmiento*, 147 SCRA 252 [1987]; *People vs. Rubio*, 142 SCRA 329 [1986]; *People vs. Toledo*, 140 SCRA 259 [1985]; *People vs. Policarpio*, 158 SCRA 85 [1988]. See also *People vs. Garcia*, 198 SCRA 603 [1991].

[27] *People vs. Kalubiran*, 196 SCRA 644 [1991]; *People vs. Claudio*, 160 SCRA 646 [1988]; *People vs. Rodriguez*, 172 SCRA 742 [1989]; *People vs. Tangliben*, 184 SCRA 220 [1990].

[28] *Supra*.

[29] *People vs. Valmores*, 122 SCRA 922 [1983]; *People vs. Lua Chu*, 56 Phil. 44 [1931].

[30] *People vs. Gatong-o*, 168 SCRA 716 [1988].

[31] *People vs. Baguio*, 196 SCRA 459 [1991]; *People vs. Mobe*, 81 Phil. 58 [1948]; *People vs. Segovia*, 92 Phil. 1080 [1953]; *People vs. Pilonos*, 84 SCRA 167 [1978]; *People vs. Penillos*, G.R. No. 65673, 30 January 1992.

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