

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROMULO CARULLO Y BONGAO, JOSE TAULE Y OMADTO, AND VIRGILIO DE LOS REYES Y ABIGANIA, ACCUSED. ROMULO CARULLO Y BONGAO AND JOSE ...

G.R. No. 82351. April 24, 1998

Ponente: MENDOZA, J.

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MENDOZA, J.:

This is an appeal from a decision of Branch 172 of the Regional Trial Court of Valenzuela, Metro Manila, in Criminal Case No. 5980-V-83, finding accused-appellants Romulo Carullo y Bongao and Jose Taule y Omadto guilty of robbery with homicide and sentencing each of them to suffer three penalties of reclusion perpetua and ordering them to indemnify the heirs of the victim in the amount of P30,000.00.

The third accused, Virgilio de los Reyes, escaped from confinement before the termination of the trial of the case and has remained at large.

The prosecution's evidence shows that in the early morning of December 9, 1983, herein accused-appellants Romulo Carullo and Jose Taule broke into the Carolina Hairdresser, a beauty parlor, which also served as the dwelling of the owner, Carolina Coronel, at Paso de Blas, Valenzuela, by picking the lock on the door. They took valuables from the house, including a cassette recorder, a lady's ring, and an undetermined amount of money. The three not only robbed Carolina Coronel but also took turns raping her, with Virgilio de los Reyes doing it twice. After he had finished raping Carolina a second time, De los Reyes banged her head on the cement floor, causing her death.

The accused-appellants were arrested separately on December 11, 1983. Each executed an extrajudicial confession,[1] as did De los Reyes, admitting participation in the crime. The extrajudicial statement of accused-appellant Carullo was taken on December 12, 1983, while that of accused-appellant Taule was taken on December 13, 1983. These statements formed part of the prosecution's evidence.

Aside from the confessions, the prosecution also relied on the testimony of Angelino Obaña, a security guard at the Canumay Wood Corp. in Canumay, Valenzuela, that he saw accused-appellants near the scene of the crime on December 9, 1983. Obaña testified that in the early morning of that day, while he was on duty, he saw accused-appellant Carullo with two others, whom he did not recognize, near the Canumay Wood Corp. According to him, he saw Carullo enter the house of one Ilong Alejandrino. When he (Carullo) came out, he was holding a bag.[2] Later in the morning, Obaña was asked by a son of Alejandrino if he had seen anyone in the vicinity of their house the previous night as they had been robbed.[3]

The prosecution presented as eyewitness Aileen Maclang. Aileen is the niece of the deceased Carolina Coronel. On December 8, 1983 she was fetched by the deceased from her house in Malolos[4] and she spent the night with Coronel. She was a little over four years old at that time, having been born on March 21, 1979.[5] At the time she

was presented for examination on the witness stand, she was six years old.[6]

The crime was discovered on the same day it occurred. Aileen Maclang was taken to the police station for investigation. Accused-appellant Carullo and his coaccused De los Reyes were brought before Aileen Maclang for identification.[7]

Aileen Maclang pointed to Carullo and De los Reyes as among those whom she saw inside the parlor.[8] Aileen Maclang said that she was awakened on the night the incident happened by a noise coming from the sala,[9] where the beauty parlor was located. She said she peeped through the curtain[10] which covered the doorway leading from the bedroom to the sala. When she saw the men, she hid under the sink adjacent to the doorway because she was afraid the three might see her, but, from where she was, she saw what the three men were doing in the sala.[11] Her aunt, Carolina Coronel, was lying on the floor.[12] Aileen saw them bind Carolina's hands and feet and hit her on the head.[13] She also saw them taking money from Carolina's wallet which was inside a drawer in the sala.[14] After the men had left, she came out from under the sink.[15] She approached the body of her aunt and covered it with a blanket as she cried.[16]

Aileen saw the faces of the intruders as there was light coming from the bedroom as well as from the neighboring houses.[17] The men were facing her, she said.[18] In an ocular inspection of the scene of the crime, she demonstrated to the court the position of Carolina Coronel's body on the floor.[19] She said Carolina was killed "by [beside] the chair." [20] Indeed, the photograph (Exh. E-3) shows Carolina Coronel lying dead near a sofa. She showed the court the positions of the men when she saw them. As stipulated, the distance between her and the men was less than a meter.[21]

Aileen identified the accused-appellants and their coaccused De los Reyes in open court as the men she saw inside Carolina's beauty parlor.[22] She tapped them one by one as they were seated in different places in the courtroom.[23]

The defense of each accused-appellant was alibi. Each denied knowledge of the crime. Accused-appellant Romulo Carullo claimed that he was at home at Donesa St., Canumay, Valenzuela the whole day of December 9, 1983.[24] Accused-appellant Jose Taule claimed that, at the time of the incident, which was the early morning of December 9, 1983, he was working at the Canumay Wood Corp. in Canumay, Valenzuela.[25] His testimony was corroborated by Pedro Badiana, a coworker.

Both claimed to have been subjected to various forms of torture to force them to admit the crime by the police officers who had arrested them.

On September 11, 1987, the trial court rendered judgment, finding accused-appellants guilty of robbery with homicide, with the aggravating circumstances of multiple rape, nocturnity, and abuse of superior strength, as alleged in the information. Accused-appellants were each sentenced to suffer three penalties of reclusion perpetua and to indemnify the heirs of Carolina Coronel in the amount of P30,000.00.[26]

In arriving at its decision, the trial court relied on accused-appellants' confessions, on the testimony of security guard Angelino Obaña, who said he saw accused-appellant Carullo, with two others, presumably accused-appellant Taule and Virgilio de los Reyes, coming out of the house of Iliong Alejandrino, and on the eyewitness account of Aileen Maclang. The trial court noted that while Aileen's testimony appeared at times to be off-tangent, this could be attributed to the witness' tender age. Otherwise, Aileen was able to withstand rigid direct and cross examination and she had no motive to testify falsely against accused-appellants, according to the court. Children of her age seldom lie.[27]

Accused-appellants seek a reversal of the trial court's decision. Carullo contends that —

1. THE COURT A QUO ERRED IN HOLDING THAT SECTION 29, RULE 130 OF THE REVISED RULES OF COURT CAN APPLY, AS IN FACT IT DID APPLY AGAINST ALL THE ACCUSED, PARTICULARLY ROMULO CARULLO;
2. THE COURT ERRED IN CONCLUDING THAT THE PROSECUTION WAS ABLE TO PROVE CORPUS DELICTI; AND,
3. THE COURT ERRED IN TOTALLY DISREGARDING THE DEFENSE OF ALIBI ADDUCED BY THE ACCUSED PARTICULARLY ROMULO CARULLO.

Similarly, Taule claims that -

1. THE TRIAL COURT ERRED IN GIVING WEIGHT AND CREDENCE TO THE EXTRA-JUDICIAL CONFESSION/ADMISSION OF JOSE TAULE AS WELL AS HIS CO-ACCUSED.
2. THE TRIAL COURT ERRED IN FINDING APPELLANT JOSE TAULE'S GUILT BEYOND REASONABLE DOUBT.

We have examined the records of this case, but we find no reason to reverse the trial court's decision. We therefore affirm.

First. We agree with accused-appellants' contention that the trial court erred in admitting their confessions. It is not denied by the prosecution that accused-appellants' confessions were made without the assistance of counsel.

With regard to accused-appellant Taule's statement, Pfc. Wilfredo Pagsanjan testified:[28]

Q: May we know the reason, Pfc., why the third and the fourth pages was not signed by Jose Taule?

A: Before he was able to sign the other pages, there came an attorney.

His answer clearly indicates that Taule's testimony was made without the assistance of counsel.

Accused-appellant Carullo's statement was likewise given without the assistance of counsel as the testimony of Pfc. Pagsanjan clearly shows:[29]

Q: And you proceeded with the investigation despite the absence of a lawyer?

A: He waived his right.

Q: Was there a lawyer or none?

A: There was none, sir.

....

Q: And the waiver was signed by him without also a lawyer?

A: Yes, sir.

Q: And despite that you proceeded because he waived his right?

A: Yes, sir.

The prosecution contends, however, that, at the time the statements were given, there was no requirement for assistance of counsel for there to be a valid waiver of the right to counsel, because this requirement was put for the first time in Art. III, §12 of the 1987 Constitution, which took effect on February 2, 1987. The 1973 Constitution did not have a similar provision as Art. III, §12.

This contention is mistaken. As early as April 26, 1983, this Court already ruled in the case of *Morales v. Enrile*[30] that the assistance of counsel was needed in order to waive the right to counsel in custodial interrogations. We there held:

. . . No custodial investigation shall be conducted unless it be in the presence of counsel engaged by the person arrested, by any person on his behalf, or appointed by the court upon petition either of the detainee himself or by anyone on his behalf. The right to counsel may be waived but the waiver shall not be valid unless made with the assistance of counsel. Any statement obtained in violation of the procedure herein laid down, whether exculpatory or inculpatory, in whole or in part, shall be inadmissible in evidence.[31]

This ruling was subsequently applied in *People v. Galit*[32] decided on March 20, 1985.

In the case at bar, while the investigating officer testified that he had advised each of the accused-appellant of their constitutional rights and that they had all waived assistance of counsel, the waivers were made without counsel's assistance. In accordance with the *Morales* rule, therefore, the confessions obtained from them were inadmissible. Consequently, §29 of Rule 130 of the Revised Rules of Court[33] could not be applied in this case, as accused-appellants contend.

Nevertheless, the Solicitor General argues that while under *People v. Galit*[34] waivers of the right to counsel must be made with the assistance of counsel, in *People v. Nabaluna*,[35] it was held that this requirement did not apply to waivers made before March 20, 1985[36] because before that date there were as yet no guidelines regarding waivers of the right to counsel.[37]

As already noted, *People v. Galit* merely reiterated the doctrine laid down in *Morales* on April 26, 1983. In *People v. Nabaluna*, the Court did not state that the requirement of counsel for the waiver of the right to counsel did not apply to waivers made before March 20, 1985. For the fact was that the decision of the trial court in that case had already been rendered and the confessions of the accused had been previously admitted before the date of the decision in *Morales*.

In contrast, the confessions in this case were made under the regime of *Morales* and therefore came under its proscription. Hence their admission by the trial court was erroneous.

Accused-appellants further claim that they were tortured by the police officers who arrested and interrogated them to force them to confess to the crime. The conclusion we have reached on the question of admissibility of confession makes it unnecessary to pass upon this contention.

Second. We likewise agree with accused-appellants that it was error for the trial court to have relied on the testimony of Angelino Obaña, a security guard at the Canumay Wood Corp. Obaña's testimony is to the effect that he had seen accused-appellant Carullo, together with accused-appellant Taule, coming out of the house of a certain Ilong Alejandrino. But, as accused-appellants contend, assuming that they had indeed robbed the house of Alejandrino, that does not prove that they were also responsible for the robbery with homicide of which they now stand accused. This contention of accused-appellants is well taken.

Third. We hold, however, that the trial court correctly based its decision on the testimony of Aileen Maclang. Accused-appellants claim that Aileen's testimony is so riddled with inconsistencies which cast doubts on its truthfulness. Accused-appellants make much of the fact that even the trial court said that Maclang's testimony was at times off-tangent.

It is settled that minor inconsistencies do not affect the credibility of witnesses. On the contrary, they may even tend to strengthen their credibility.[38] What is impressive is that this child was able to pick the three out of the crowd in the courtroom when asked to identify them. The three were seated in different places of the courtroom.

Aileen identified the three accused as the ones she had seen kill her aunt, Carolina Coronel.

Accused-appellant Carullo questions how Aileen could have identified him and his co-accused when, as she said, she only looked at the men for a short while and the sala where the incident happened was not lighted.[39] On the other hand, accused-appellant Taule points out that Aileen was only four years old when the incident happened and was not asked to testify until three years later. According to Taule, it is incredible for Aileen to be able to identify the culprits after three years.

In the first place, “three years” is inaccurate. When Aileen first testified on September 6, 1985, it was less than two years after the incident which occurred on December 9, 1983.

In the second place, it should not be forgotten that Aileen was only six years old when she testified so that her estimate at the time she looked at the men may not be accurate. What is important is that, as far as she was concerned, the time was long enough for her to be able to identify the assailants of her aunt and to recognize them less than two years after the incident when she saw them again. That the incident had been etched clearly in the child’s mind is not far-fetched.

As to the source of light that illuminated the sala and the faces of the offenders, Aileen testified that it came from the light in the bedroom and the light from the neighboring houses. During the ocular inspection, Aileen showed the trial court the relative positions of the three men when she saw them just a meter away. It is therefore not incredible for her to have seen the faces of the intruders long enough to be able to recognize them later on. Besides, the men were facing her when she saw them.

Accused-appellants wonder how Aileen could have seen the assailants bind Carolina’s hands and feet when they allegedly did this behind a concrete wall separating the bedroom from the sala.[40] The record does not show that the assailants were in fact behind the concrete wall. During the ocular inspection, Aileen pointed to a place in the middle of the sala where she said the assailants were. There was no mention at all as to where the concrete wall was in relation to the spot where, according to Aileen, she was so that it could have obstructed her view.

Nor did Aileen’s tender age, three at the time of the incident, in any way affect her credibility. There is no rule prescribing a minimum age for witnesses. The rule is that anyone who can perceive and, perceiving, can make known his perceptions may be a witness.[41] Thus, even a child can be a witness so long as he can perceive and relate his perceptions:

. . . [T]he test of an infant’s competency to testify is his capacity to receive just impressions of the facts to which he has to testify and to relate such impressions truly. If he possesses the necessary mental capacity to that effect and comprehends the obligation of an oath, he is a competent witness.[42]

Aileen Maclang satisfies the foregoing requirements. She knows that it is not right to tell a lie.[43] She was able, during the trial, to relate what she saw on the night the crime happened.

Indeed, this is not the first time a child of tender years testified in court and her testimony was given weight, perhaps even greater than that given to adult witnesses. After all, it took a child to point out that the emperor was naked. In *Collado v. IAC*,[44] it was a five-year-old boy who testified as to the identity of a man who attempted to molest his mother. The room where the incident occurred was lighted only by a gas lamp (gasera). The Court held that “the testimony of children of sound mind is likely to be more correct and truthful than that of older persons.”[45]

In *People v. Mesias*,[46] it was a six-year-old boy who also testified regarding the identity of the man who stabbed and killed his father. We reiterated in that case the view that “[c]hildren of sound mind are likely to be more observant of incidents which take place within their view than older persons, and their testimony is therefore

likely to be more correct in detail than that of older persons. . .”[47]

We are convinced of the truthfulness of Aileen’s Maclang’s narration.

Accused-appellants point to inconsistencies in her testimony regarding the source of the light that filtered through the sala.[48] Did it come from the bedroom or from the neighboring houses? When questioned by the trial court, Aileen testified that there was light coming from both the bedroom and the neighboring houses. At one point, she mentioned that there was also light coming from the moon. By that time, however, she must have already been rattled by the relentless questioning to which she was being subjected. This contradiction is not enough to destroy her credibility, however.

It must be pointed out that Carolina Coronel’s shop, which served also as her dwelling was only five meters by five meters,[49] or twenty-five square meters in area. It was divided into a sala, where the beauty parlor was, and a bedroom.[50] It is true that a concrete wall separated the two rooms, but there was an open doorway.[51] The bedroom was lighted by a fluorescent lamp in the center of a “stooping” (most probably sloping or inclined) ceiling.[52] The light in the bedroom could easily illuminate the sala as well, particularly considering the area’s small size, even if a wall separated the two rooms. It must also be noted that only a curtain covered the doorway.[53] Aileen parted this curtain as she tried to see what was going on in the sala. It is possible for light to have shone through the curtain[54] and through its parting.

Aileen testified that she was crying while standing by the bedroom door, and accused-appellants wonder why none of the men she saw even noticed her.[55] This is misleading. There is no evidence to show that they could not have failed to notice her if she was there near the door to the bedroom. At any rate, this is irrelevant to the question as to whether or not she saw them.

In his separate brief, accused-appellant Taule asserts that if Aileen was crying, at the time of the incident, she could not have seen the whole incident happen. Crying would diminish her attentiveness it is said. And if she was crying, it is asked, why did that not invite the attention of other people?

Crying for a stretch of time may or may not affect a person’s attentiveness. In the case of Aileen, it is apparent that it did not prevent her from identifying the men who robbed and killed her aunt. She was crying precisely because of what she was witnessing. Besides, it is unlikely that she really cried for two hours. The two hours she mentioned was the mere estimate of a six-year-old child. As to Aileen’s crying calling the attention of other people, that is mere speculation that does not need to be discussed.

Accused-appellants point out that Aileen could not have witnessed the incident because, according to her, she slept at 2:00 in the morning on the day of the incident and woke up at 10:00 in the morning the following day.[56] Again, this seeming inconsistency in Aileen’s estimate can easily be explained by her tender age. It must be remembered that Aileen was a mere child who cannot be faulted for making inaccurate estimates as to time.

Fourth. Accused-appellants’ defense is alibi. Carullo claimed he was at home at the time the incident happened. Taule, on the other hand, claimed he was in his place of work and his testimony was corroborated by a co-worker. Home for Carullo was at Donesa St., Canumay, Valenzuela, while work for Taule was at the Canumay Wood Corp., also in Canumay, Valenzuela. The incident happened at Paso de Blas, also in Valenzuela. Canumay is less than two kilometers away from Paso de Blas. One could reach Paso de Blas from Canumay in less than five minutes.[57]

For alibi to prosper, it is not enough for accused-appellants to prove that they were somewhere else when the crime was committed. They must likewise demonstrate that they were so far away that they could not have been present at the place of the crime or its immediate vicinity at the time of its commission.[58]

Indeed, alibi is the weakest of defenses. Between the defense of alibi and the positive identification of the accused as perpetrator of the felony, the latter will prevail.[59]

For the foregoing reasons, we hold that the trial court correctly found accused-appellants guilty of robbery with homicide. It is apparent that the main purpose of accused-appellants in entering Coronel's house was to commit robbery. It could not have been to kill Coronel as they themselves said they did not even know Coronel. They killed Coronel only when she woke up, saw them, and presumably tried to resist them.

Under Art. 293 of the Revised Penal Code, robbery is committed by one who:

with intent to gain, shall take any personal property belonging to another, by means of violence against or intimidation of any person, or using force upon anything . . .

Under Art. 294[60] of the same Code:

Robbery with violence against or intimidation of persons - Penalties. - Any person guilty of robbery with the use of violence against or intimidation of any person shall suffer:

1. The penalty of reclusion perpetua to death, when by reason or on occasion of the robbery, the crime of homicide shall have been committed.

Aileen testified that she saw the accused-appellants take money from a wallet in a drawer.[61] Carolina Coronel's sister, Josefina, likewise testified that several valuables, including a cassette, a tape recorder, and a ring, were taken from Carolina Coronel's house.[62] We have no reason to doubt their testimony. As already stated, accused-appellants broke into the victim's residence by picking the lock on the door. All the elements of robbery, were present, i.e., (a) personal property belonging to another, (b) was unlawfully taken, (c) with intent to gain, and (d) with the use of force upon things. Since the killing was committed by reason or on the occasion of the robbery, accused-appellants are guilty of robbery with homicide under Art. 294 of the Revised Penal Code.[63]

The trial court took into account the aggravating circumstances of nocturnity and abuse of superior strength in this case.[64] Accused-appellant Carullo questions the appreciation of these circumstances. Indeed, it has not been shown that nocturnity was purposely sought by accused-appellants to avoid detection or to facilitate the commission of the crime or the escape of the criminals.[65] We think the trial court correctly found there was abuse of superior strength, since accused-appellants and Virgilio de los Reyes took advantage of their combined strength and number in overpowering Carolina Coronel.[66] However, there was treachery, considering that the victim was bound hand and foot which rendered her helpless.[67] Although there was abuse of superior strength, this circumstance was absorbed by treachery.[68] There was also the aggravating circumstance of dwelling,[69] in addition to rape as found by the trial court.[70]

In sum, there was treachery, dwelling, and rape which would have required the imposition of the death penalty. However, in view of the 1987 Constitution, which suspended the imposition of the death penalty, the only penalty which could be imposed in this case, considering the presence of aggravating circumstances and the absence of any mitigating circumstance, was reclusion perpetua only.[71] This rule has not been changed by the enactment of R.A. No. 7659 as the said law does not apply to crimes committed prior to its effectivity.[72]

The trial court correctly imposed the penalty of reclusion perpetua.[73] But we think the trial court erred in sentencing each of accused-appellants to three counts of reclusion perpetua.[74] Even though conspiracy has been established, the fact is that the information charged only one crime of robbery with homicide. Accordingly, the penalty for each accused-appellant must be modified. Also, accused-appellants' liability for indemnity for the death of Carolina Coronel should be increased to P50,000.00 in accordance with our recent cases, not P30,000.00 as held by the trial court.[75]

WHEREFORE, the decision appealed from is AFFIRMED, with the MODIFICATION that the indemnity to the heirs of the deceased Carolina Coronel is increased to P50,000.00 and accused-appellants Romulo Carullo y Bongao and Jose Taule y Omadto are each sentenced to one count of reclusion perpetua only.

SO ORDERED.

Regalado, (Chairman), Melo, Puno, and Martinez, JJ., concur.

[1] Exhs. D, G, H, and I; Record, pp. 4-7, 11-13.

[2] TSN, pp. 3-4, Feb. 22, 1984.

[3] Id., p. 5; Exh. C.

[4] TSN, p. 13, Feb. 3, 1984.

[5] TSN, p. 6, Oct. 14, 1985.

[6] She was first presented as a witness on Sept. 6, 1985.

[7] TSN, pp. 29-31, May 4, 1984.

[8] Id., p. 32.

[9] TSN, p. 36, March 7, 1986.

[10] TSN, p. 5, Sept. 6, 1985.

[11] TSN, pp. 30, 39-41, March 7, 1986.

[12] Id., p. 55.

[13] TSN, p. 4, Sept. 6, 1985; TSN, p. 10, Feb. 17, 1986.

[14] TSN, p. 46, March 7, 1986.

[15] TSN, p. 10, Feb. 17, 1986; id., p. 31.

[16] Id., pp. 32-33.

[17] Id., p. 49; TSN, p. 8, April 28, 1986.

[18] TSN, p. 6, April 28, 1986.

[19] TSN, p. 32, March 7, 1986.

[20] TSN, p. 4, Sept. 6, 1985.

[21] TSN, p. 54, March 7, 1986.

[22] TSN, p. 3, Sept. 6, 1985.

[23] Record, p. 303.

[24] TSN, p. 5, Sept. 1, 1986.

[25] TSN, p. 4, Oct. 3, 1986.

[26] Rollo, p. 40.

[27] Id., p. 100.

[28] TSN, p. 8, Aug. 20, 1984.

[29] TSN, p. 8, Jan. 21, 1985.

[30] 121 SCRA 538 (1983).

[31] Id. at 554.

[32] 135 SCRA 465 (1985).

[33] This refers to §29 of Rule 130 before the 1985 amendments to the Rules on Criminal Procedure. It then read: “The declaration of an accused expressly acknowledging his guilt of the offense charged, may be given in evidence against him.”

[34] 135 SCRA 465 (1985).

[35] 142 SCRA 46 (1986).

[36] Date the decision in *People v. Galit* was promulgated.

[37] Rollo, p. 118.

[38] *People v. Lorenzo*, 240 SCRA 624 (1995).

[39] Rollo, p. 148.

[40] Id., p. 148.

[41] Rules of Court, Sec. 20, Rule 130.

[42] 8 Vicente J. Francisco, *Evidence* 221 (1973).

[43] TSN, Sept. 6, 1985, p. 3.

[44] 206 SCRA 206 (1992).

[45] Id. at 213.

[46] 199 SCRA 20 (1991).

[47] Id, at p. 25.

[48] Rollo, pp. 147-149, 192-193.

[49] TSN, p. 38, May 4, 1984.

[50] TSN, p. 4, March 7, 1986.

[51] Id., pp. 6, 9.

[52] Id., p. 50.

[53] Id., p. 6.

[54] See also TSN, p. 11, April 28, 1986.

[55] Rollo, p. 147.

[56] Id., p.149.

[57] TSN, p. 2, Dec. 15, 1986.

[58] *People v. Pija*, 245 SCRA 80 (1995).

[59] *People v. Soberano*, 244 SCRA 467 (1995).

[60] As amended by R.A. No. 7659, Art. 294 reads in relevant parts: Robbery with violence against or intimidation of persons - Penalties. — Any person guilty of robbery with the use of violence against or intimidation of any person shall suffer:

1. The penalty of reclusion perpetua to death, when by reason or on occasion of the robbery, the crime of homicide shall have been committed, or when the robbery shall have been accompanied by rape or intentional mutilation or arson.

[61] TSN, p. 5, Sept. 1, 1986.

[62] TSN, p. 12, May 4, 1994.

[63] *People v. Apolinario*, 223 SCRA 94 (1993); *People v. Puloc*, 202 SCRA 179 (1991); *People v. Coronel*, 17 SCRA 509 (1966).

[64] Rollo, p. 152.

[65] *People v. Pareja*, 265 SCRA 429 (1996).

[66] See *People v. Moreno*, G.R. No. 120956, June 11, 1997.

[67] *People v. Salvatierra*, 257 SCRA 489 (1996); *People v. Gapasin*, 145 SCRA 178 (1996).

[68] *People v. Rosario*, 134 SCRA 496 (1985).

[69] *People v. Sabenorio*, 91 SCRA 47 (1979); *People v. Pinca*, 4 SCRA 574 (1962).

[70] In *People v. Salvatierra*, 257 SCRA 489 (1996) it was held that where rape and homicide coexist in the commission of robbery, Art. 294(1) applies, the rape being an aggravating circumstance.

[71] *People v. Feliciano*, 256 SCRA 706 (1996).

[72] *People v. Redulosa*, 255 SCRA 279 (1996).

[73] Its identification of this penalty with life imprisonment is erroneous. It is now settled that reclusion perpetua and the penalty of life imprisonment are distinct from each other, reclusion perpetua having a specific duration and corresponding accessory penalties.

[74] See *People v. Plaga*, 202 SCRA 53 (1991); *People v. Tapales*, 93 SCRA 134 (1979).

[75] *People v. Cristobal*, 245 SCRA 620 (1995); *People v. Macam*, 238 SCRA 306 (1994).

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