

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. VICENTE DEUNA Y DIMDAM, EMMANUEL PLANTA Y DANA O ALIAS ‘MANING’, JOHN DICHOSO Y UNIZA ALIAS ‘BOBOT,’ JOHN DOE, PETER DOE, RICHA...

G.R. No. 87555. November 16, 1993

Ponente: FELICIANO, J.

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FELICIANO, J.:

Vicente Deuna y Dimdam, Emmanuel Planta y Danao (a.k.a. “Maning”) and John Dichoso y Uniza (a.k.a. “Bobot”) were charged with murder in an information which read as follows:

“The undersigned Assistant City Fiscal accuses VICENTE DEUNA, JR. Y DIMDAM [sic], EMMANUEL PLANTA Y DANA O ALIAS “MANING”, JOHN DICHOSO Y UNIZA ALIAS “BOBOT”, JOHN DOE, PETER DOE, RICHARD DOE, ALBERT DOE and ROMEO DOE, the last five-named accused whose true name and present whereabouts have not yet been ascertained, of the crime of Murder, committed as follows:

That on or about the 22nd day of November, 1985, in Quezon City, Metro Manila, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring together, confederating with and mutually helping one another, with intent to kill, with abuse of superior strength [and] evident premeditation and treachery, did then and there wilfully, unlawfully and feloniously attack, assault and employ personal violence upon the person of one RAMON TORRES Y SALAS, by then and there stabbing him and throwing stones at him, thereby inflicting upon said victim [a] serious and mortal wound which was the direct and immediate cause of his untimely death, to the damage and prejudice of the heirs of the said victim in such amount as may be awarded to them under the provisions of the Civil Code.

Contrary to law.”[1]

Upon arraignment, Emmanuel Planta and John Dichoso entered pleas of “not guilty.”[2] The arraignment of Vicente Deuna, upon the other hand, was suspended pending resolution of his petition before the then Ministry of Justice seeking review of the decision of the public prosecutor to file the criminal information.[3] On 13 October 1987, in conformity with the then recent ruling in *Crespo v. Mogul*,[4] the trial court issued an Order lifting its previous Order suspending the proceedings so far as concerned Deuna.[5] The prosecution then manifested that it was adopting the evidence it had already presented against Vicente Deuna during his preliminary investigation.[6] The five (5) other accused remained unidentified and at large.

After trial, the court a quo rendered a decision convicting all the accused of murder, the dispositive portion of which read:

“WHEREFORE, in view of the foregoing, judgment is hereby rendered:

1. Finding accused Vicente Deuna, Jr. y Dimdan [sic] alias “Jun Pat”, Emmanuel Planta y Danao alias “Maning” and John Dichoso y Uniza alias “Bobot” all GUILTY beyond reasonable doubt as principals of the crime of Murder as defined and penalized under Art. 248 of the Revised Penal Code;

2. Sentencing each of the aforesaid accused to suffer the penalty of Reclusion Perpetua;
3. Ordering each of the accused to indemnify the heirs of the victim Ramon Torres in the amount of THIRTY THOUSAND and 00/100 (P30,000.00) PESOS without subsidiary imprisonment in case of insolvency; and
4. To pay costs.

SO ORDERED.”[7]

On 7 November 1991, during the pendency of this appeal, the Court received a Notice of Death of Vicente Deuna who, according to such Notice, had passed away on 16 November 1988. Attached to the Notice of Death was a certified photocopy of a Certificate of Death issued by the Local Civil Registrar of Manila, together with the Certificate of Post Mortem Examination[8] issued by the National Bureau of Investigation (“NBI”) Medico Legal Section. In the paragraphs which follow below, we have refrained from discussing the assignment of errors made by deceased appellant Vicente Deuna, in view of the extinction of his criminal liability by reason of death.

The remaining accused filed separate appeals. Appellant John Dichoso made the following assignment of errors:

“I

Whether or not John Dichoso y Uniza can be convicted of the offense charged despite the fact that he was not assisted by counsel during the custodial investigation.

II

Whether or not the monosyllabic questions propounded by the police investigator during custodial investigation satisfy the requirements of the law that the accused shall be informed of their rights under the new constitution,

III

Whether or not John Dichoso can be convicted of the offense charged when conspiracy cannot be proven.”[9]

For his part, appellant Emmanuel Planta contended that the trial court had erred in the following respects:

“I

The lower court erred in finding appellant Emmanuel Planta guilty of the crime of murder despite his constitutional right of presumption of innocence and the absence of clear showing that he is guilty beyond reasonable doubt considering the totality of facts and circumstances which negate conviction, and in not sustaining the defense of alibi and denial.

II

The lower court erred in relying on the inconsistent testimonies of Leonardo Alibuyog and Anthony Ramos in convicting the appellant Emmanuel Planta.

III

The lower court erred in not finding that the accused was arrested illegally and in not consequently finding that the consequences and effects of the arrest are equally illegal.

IV

The lower court erred in appreciating that the element of conspiracy was present in the killing of Ramon Torres.

V

The lower court erred in finding that the aggravating circumstances of abuse of superior strength and evident premeditation was positively established by the evidence adduced for the prosecution.”[10]

The relevant facts found by the trial court to have been proven by the prosecution are the following:

“From the People’s evidence it appears that sometime around 9:30 o’clock in the evening of November 22, 1985, Ramon Torres was exchanging pleasantries with his friends among them Lito Fronda, Anthony Ramos and Leonardo Alibuyog at the corner of Oliva and Narcissus Streets, Barangay Roxas, Quezon City when Robert Ramos (Anthony Ramos’ brother) arrived accusing Emmanuel ‘Maning’ Planta of boxing him. Bristling with righteous indignation, Torres and his friends rushed to Lilac Street to confront Robert’s tormentor. However, when asked for an explanation Maning Planta ignored them and chose to remain silent. Maning’s apparent defiance infuriated Ramon Torres who retaliated by boxing him then ordering him home. After Maning departed, the group turned back towards Oliva Street. Fifteen minutes later, Ramon Torres’ group espied Maning Planta approaching them together with his brother Carlito ‘Totoy’ Planta and others identified as Vicente ‘Jun Pat’ Deuna, John ‘Bobot’ Dichoso, Alexander ‘Alex’ de los Santos and Pedro Macabuhay armed with knives and stones. Sensing that Maning Planta was out for revenge, Ramon Torres’ group scampered for safety, seeking refuge inside the house of one Alex Alon. Unfortunately, Ramon Torres lagged behind due to a leg injury which he had sustained playing basketball. Thus, when his friends peeped through an open window of Alon’s house they saw Ramon Torres being held by the arms by Maning Planta and Pedro, surrounded by the rest of the gang. And as they watched in horror, they heard John “Bobot” Dichoso order ‘Sige Totoy (Planta) saksakin mo na.’ Totoy promptly responded by stabbing Ramon Torres on the chest with a knife and as the latter fell to the ground mortally wounded, Alex [threw] stones at him while Vicente “Jun Pat” Deuna kicked the hapless victim. Then having satisfied their thirst for blood, the assailants left. In the meantime, the victim’s friends bided their time and when they were certain that the coast was clear, they emerged from their hiding place and quickly rushed Ramon Torres to the Capitol Medical Center where he was pronounced dead on arrival. x x x The post-mortem examination conducted on the victim’s body by the Medico-Legal Officer was that the cause of death was ‘hemorrhage, severe, secondary stab wound to the chest’ x x x.”[11] (Underscoring supplied)

The above facts were testified to by the following prosecution witnesses:

- (a) Dr. Daniel Miranda, the attending physician at the Capitol Medical Center at the time Ramon Torres’ body was brought in;[12]
- (b) Ricardo Ibarrola, NBI Medico Legal Officer who had conducted the post mortem examination on the body of Ramon Torres;[13]
- (c) Leonardo Alibuyog[14] and Anthony Ramos[15] friends and companions of Ramon Torres on the night of the fatal stabbing;
- (d) Pat. Dante Lequilles, the Investigating Officer in the murder case;[16] and
- (e) Pat. David Navilla, the officer who had arrested appellant Dichoso.[17]

Reynaldo Salas Torres and Cipriano Baela testified in respect of the civil liability of appellants; they presented receipts relating to expenses incurred by the family of the deceased.[18]

For their part, each of the remaining appellants professed his innocence and disclaimed any participation in or knowledge of the circumstances surrounding the felony with which they were charged. The trial court summed up the stories of the appellants:

“John ‘Bobot’ Dichoso testified that he is presently residing at Bagong Bayan, Dasmarinas, Cavite. He narrated that sometime around 8:00 o’clock in the evening of November 22, 1985, he was at the store of his aunt located at Gumamela Street, Roxas District, Quezon City drinking beer with one Rodolfo Buco and Pedro Macabuhay. After he had drank a bottle of beer, he left for Dasmarinas, Cavite at around 9:00 o’clock that same night. He further explained that he had been staying at Roxas District for about a week prior to the incident at bar helping his father at some carpentry and masonry work in the area. He was arrested around 11:00 o’clock in the morning of November 26, 1985 at his house in Dasmarinas, Cavite. While undergoing interrogation at the police headquarters in Dasmarinas, Cavite he was handcuffed, blindfolded and tortured to force him to admit his involvement in the killing of Ramon Torres. However, he refused to give any written statement. Later, he was brought to the police at Quezon City where he gave a written statement. x x x.

Vicente Deuna x x x claimed that he was at home having dinner when the incident at bar took place. He resides at 39-C Gumamela Street, Roxas District, Quezon City where he was arrested around 1:00 o’clock in the morning, brought to SID Headquarters, Quezon City, tortured and forced to sign a prepared text admitting his guilt. x x x Paradoxically, said accused adopted as his Exhibit ‘1-Deuna’ his statement which the prosecution had offered in evidence x x x.

In like manner, Emmanuel Planta disclaims any knowledge or participation in the offense charged, alleging that at around 8:00 o’clock of the night in question, he was at home with his parents and siblings at No. 24-B Gumamela, Roxas District, Quezon City. Sometime later at around 9:00 o’clock, the accused accompanied his father’s compadre, a certain Erning Mirol home to Narcissus Street about a block away. Along the way home, the accused met Bobby Ramos who apparently took a fancy to his face and without the slightest provocation delivered a blow to his face. Because Bobby Ramos was with his barkada, Emmanuel did not retaliate and instead [chose] to quietly proceed home. When he reached home, he did not mention the incident to his family although his brother Carlito did notice the bruise on his face.

On November 25, 1985, Emmanuel Planta was fetched from his house by Ricardo Torres and brought to the latter’s residence where the accused was maltreated in an effort to force him to admit complicity in the stabbing of Ramon Torres. From there, the accused was taken to the police precinct where he underwent torture and (was) forced to sign a written statement. x x x”[19]

Appellant Dichoso sought to raise constitutional questions in his appeal-brief, relating to the alleged violation of his rights during custodial investigation. We do not think it necessary to deal with this argument considering that the judgment of conviction against John Dichoso is supported by independent evidence satisfying the standard of proof beyond reasonable doubt. As the trial court pointed out, prosecution witness Leonardo Alibuyog, who had been a resident of Roxas District for sixteen (16) years, positively identified appellant John Dichoso as one of the group of men armed with knives and stones who surrounded the victim Ramon Torres and as one who uttered the command or direction “Sige, Totoy (Carlito Planta, brother of Emmanuel Planta) saksakin mo na.”[20] John Dichoso was similarly positively identified by prosecution witness Anthony S. Ramos as among those who had accompanied Emmanuel Planta when the latter returned seeking vengeance upon the rival barkada or gang for the beating earlier administered by such rival gang.[21] Anthony Ramos also corroborated the testimony of Leonardo Alibuyog to the effect that John Dichoso had on that occasion uttered the words: “Sige, patayin mo na ‘yan!”[22] In much the same way, appellant Emmanuel Planta was identified by prosecution witnesses Anthony Ramos and Leonardo Alibuyog as having led the group which returned seeking revenge for the alleged affront to his person. The same witnesses stated that Emmanuel Planta together with one Pedro Macabuhay held Ramon Torres by the arms when John Dichoso directed or urged Carlito (Totoy) Planta to stab or finish off Ramon Torres.[23]

Contraposed to the prosecution's evidence consisting of positive identification, was appellants' defense of alibi. The widely known rule is that alibi to be sustainable as a defense, must establish that the accused was at some other place at the time the felony occurred and that it was physically impossible for the accused to have been at the scene of the crime at the same time.[24] These two (2) requirements are indispensable. In the case at bar, the alibi presented by appellants Dichoso and Planta failed to satisfy the above twin requirements.

John Dichoso claimed that at about 8:00 o'clock on the fatal evening of 22 November 1985, he spent fifteen (15) minutes at his aunt's store at Roxas District drinking a bottle of beer with Rodolfo Buco and Pedro Macabuhay. He went on to say that he left Roxas District for Dasmariñas, Cavite at about 9:00 o'clock that same evening.[25] But Dichoso presented only his bare testimony to prove his defense of alibi; he failed to present either Rodolfo Buco or Pedro Macabuhay and did not explain his failure to do so. Neither did he present any proof showing that he had in fact boarded a bus for Dasmariñas, Cavite at 9:00 o'clock that evening.

Emmanuel Planta, for his part, alleged that around 8:00 o'clock on the night of 22 November 1985, he was at home with his parents and brothers at No. 24-B Gumamela Street, Roxas District, Quezon City; that at around 9:00 o'clock that same evening, he accompanied one Erning Mirol to the latter's home in Narcissus Street, a block away from No. 24--B Gumamela Street; that having been punched on the face without provocation, Emmanuel did not fight back and instead chose quietly to go home. At home, he mentioned the incident to no one in his family. Emmanuel Planta, however, failed (like John Dichoso) to present any witness who would corroborate his claim of injured innocence.

And so the trial court applied the firmly settled rule that as between the defense of alibi and the positive and credible identification of the accused, the latter must prevail.[26]

The fact that the prosecution witnesses were close friends of the deceased Ramon Torres did not render their testimony either inadmissible or non-credible. Mere blood relationship of prosecution witnesses to the victim does not necessarily vitiate their otherwise clear and straightforward and credible testimonies, in the absence of proof of any evil motive on the part of the witnesses.[27] The record here is bare of any proof of improper motive which might have moved the witnesses of the prosecution to deliberate perjury.

Appellants lay great stress on the ostensibly inconsistent statements of prosecution witnesses Leonardo Alibuyog and Anthony Ramos.[28] According to the appellants, the inconsistency arose when Alibuyog testified that he saw appellant Dichoso at the scene of the crime and heard him saying "Sige, saksakin mo na"[29] and that when the victim Ramon Torres had fallen and was lying on the ground, "Alex [delos Santos] threw a stone at him [the victim] and kicked him." [30] Anthony Ramos, however, when testifying on the same incident, stated that "John Dichoso had said, 'Sige, patayin mo na 'yan' and the rest started kicking him [the victim]."[31] Moreover, appellants add, in a sworn statement executed by Anthony Ramos, he stated that he had heard appellant Dichoso say "Todasin na 'yan.'"[32] Appellants claim that "it is incomprehensible that both witnesses who were allegedly only five (5) meters from the victim heard entirely different utterances from the accused." [33] Appellants also argue that despite the physical proximity of the prosecution witnesses to the place where the stabbing took place, they were not even sure as to who had held the victim while the latter was being stabbed.[34]

We are not persuaded by the above arguments. The inconsistency, if that is what it was, related to the exact words uttered in Pilipino by appellant John Dichoso. No inconsistency may be observed, however, insofar as the intent or import of the statement attributed to Dichoso -- i.e., to slay the victim Ramon Torres; in the specific context here, saksakin, patayin and todasin obviously meant the same thing. We agree with the trial court when it said in its order denying Dichoso's motion for reconsideration, that

"x x x A slight variation in the testimonies of the prosecution witnesses as to the exact words uttered by

accused Dichoso on the aforesaid occasion, i.e. ‘Sige, Totoy, saksakin mo na’ and ‘Todasin mo iyan’ does not detract from the credibility and probative value considering that both statements are of similar import -- to liquidate the victim. Slight variations in the terms used which are not contradictory may be attributed to the frailty of a person’s memory considering the lapse of time between the commission of the crime (November 22, 1985) and the date the testimonies were given in court. [sic] What matters most is that the prosecution witnesses positively identified accused John Dichoso as one of those present at the scene of the crime x x x.”[35]

The alleged inconsistency is also clearly inconsequential when it is borne in mind that the attackers of Ramon Torres were multiple in number,[36] most of whom, if not all, were shouting and screaming.[37] Considering the confusion which accompanied the chase and actual slaying of Ramon Torres, it would have been surprising had prosecution witnesses Alibuyog and Ramos given absolutely identical statements as to the precise words uttered by John Dichoso.

Both appellant Dichoso and appellant Planta assail the finding of conspiracy by the trial court. There is no dispute that conspiracy must be shown to exist by the same degree of proof necessary to establish the constitutive ingredients of the offense itself. Dichoso and Planta insist that the trial court’s finding of conspiracy rested on the inconsistent and non-credible testimony of prosecution witnesses Leonardo Alibuyog and Anthony Ramos.

We find it difficult to be impressed with appellants’ arguments. The well-known principle is that findings of the trial court on the issue of credibility of witnesses and their testimonies are entitled to great respect and are accorded the highest consideration by appellate courts.[38] The principle, of course, admits of certain exceptions;[39] none of these have been shown to be present in the case at hand.

More importantly, to establish conspiracy, it is not necessary -- indeed it would be absurd -- to require proof of a previous agreement to commit a crime.[40] There is no necessity to show that two (2) or more persons met together and entered into an explicit or formal agreement, verbally or in writing, setting out the details of an unlawful scheme or the details by which the unlawful combination was to be made effective. This Court has repeatedly ruled that conspiracy may be inferred from the acts of the accused themselves, provided such acts manifest a concurrence of wills or an intention to commit a crime.[41] Direct evidence is not indispensable to prove conspiracy. Upon the other hand, conspiracy may be inferred from the mode or manner in which the offense was carried out as well as the circumstances surrounding the commission of the offense. Thus, the rule is that conviction is proper upon proof that the accused acted in concert, each of them doing his part to fulfill the common design to kill the victim.[42]

In the case at bar, concerted acts on the part of the accused were clearly shown by the prosecution. Fifteen (15) minutes after Emmanuel Planta had been boxed in the face and had left Ramon Torres’ group, Emmanuel Planta, together with John Dichoso and the now deceased Vicente Deuna and others, were seen approaching, armed with knives and stones, the group of Ramon Torres.[43] Upon sighting Torres’ group and seeing them disperse and run for safety, the accused acting in concert gave chase and caught up with their victim Ramon Torres who was limping away because of an injury suffered while playing basketball.[44] Torres was then surrounded and held by the arms and rendered immobile and then fatally stabbed. The accused then withdrew and dispersed.[45]

The trial court found the presence of the circumstances of evident premeditation and abuse of superior strength. The elements which must be shown to support a finding of evident premeditation are well-known. The prosecution must prove (1) the time when the offender determined to commit the crime; (2) an act manifestly indicating that the offender had clung to his determination to execute a criminal act; and (3) a sufficient lapse of time between the decision and execution that would permit the malefactor to reflect upon the consequences of his act and allow his conscience to overcome the resolution of his will.[46] In the case at bar, there was no showing

by the prosecution of the first and the third elements. It can only be surmised that sometime after he was boxed and before the actual stabbing of Ramon Torres, Emmanuel Planta sought and planned his revenge. The interval between the two (2) events was only fifteen (15) minutes; we are unable to say with any confidence that fifteen (15) minutes were enough to allow reflection and the activation and operation of conscience.[47]

The circumstance of abuse of superior strength is present where the accused deliberately employs excessive force, force out of proportion to the means of defense available to the person attacked.[48] We do not consider that this circumstance was shown to exist in the case at bar. Granting that Ramon Torres' attackers numbered between five (5) to eight (8), it does not follow that abuse of superior strength was present here. Ramon Torres was not alone and by himself when he was attacked; Torres was part of a group which comprised at least five (5) persons. It was, in other words; an attack by one group upon another group rather than an assault by a group upon a lone victim. In this context, we do not believe that abuse of superior strength was properly found by the trial court. The fact that some of the accused were armed with a knife and stones does not change the equation, considering that the state of evidence does not permit a clear inference as to the relative physical strength of the two (2) groups.[49]

Because neither abuse of superior strength nor evident premeditation was shown in the case at bar, and because the trial court did not find (nor even mention) treachery (although alleged in the information), appellants Dichoso and Planta cannot be convicted of murder, but rather of homicide merely, under Article 249 of the Revised Penal Code.

WHEREFORE, for all the foregoing, the decision of the trial court in Criminal Case No. Q-43219 dated 14 September 1988 is hereby MODIFIED and judgment is hereby RENDERED:

- (1) finding the accused Emmanuel Planta and John Dichoso guilty of the crime of homicide under Article 249 of the Revised Penal Code;
- (2) sentencing each of them to suffer imprisonment for an indeterminate period the minimum of which shall be ten (10) years and the maximum of which shall be seventeen (17) years and four (4) months; and
- (3) ordering Emmanuel Planta and John Dichoso, jointly and severally, to indemnify the heirs of the victim Ramon Torres in the amount of P50,000.00, without subsidiary imprisonment in case of insolvency, and to pay the costs.

SO ORDERED.

Bidin, Romero, Melo, and Vitug, JJ., concur.

[1] Rollo, pp. 4-5; Records, pp. 1-2.

[2] Records, p. 24.

[3] Id.

[4] 151 SCRA 462 (1987).

[5] TSN, 13 October 1987, pp. 3-4.

[6] Id.

[7] Rollo, pp. 34-35.

- [8] Id., p. 62 and 69.
- [9] Appellant's Brief (Dichoso), Rollo, p. 79.
- [10] Appellant's Brief (Planta), Rollo, pp. 150 and 153.
- [11] Trial Court Decision, pp. 24-26.
- [12] TSN, 10 April 1986, pp. 1-12.
- [13] TSN, 29 May 1986, pp. 1-17.
- [14] TSN, 4 September and 27 November 1986, 27 January 1987, pp. 1-9, 1-34, 1-15; TSN dated 15 July 1986 was misplaced and never found by Ms. Aurora M. Loquinario, Court Stenographer Reporter as per her Manifestation found on p. 286 of the Records.
- [15] TSN, 2 April 1987, pp. 1-33.
- [16] TSN, 7 April 1987, pp. 1-18.
- [17] TSN, 25 June 1987, pp. 8-12.
- [18] TSN, 16 June and 25 June 1987, pp. 1-11 and 1-12, respectively; TSN, 23 July 1987, pp. 1-9; Records, p. 194.
- [19] Trial Court Decision, Rollo, pp. 26-28.
- [20] Refer to TSN, 27 November 1986, p. 3; Erlinda S. Salita.
- [21] TSN, 2 April 1987, p. 6; Aurora M. Loquinario.
- [22] Id., p. 9; Aurora M. Loquinario.
- [23] TSN, 27 November 1986, p. 14; Aurora M. Loquinario.
- [24] *People v. Tamayo*, 183 SCRA 375 (1990); *People v. Alcantara*, 163 SCRA 783 (1988); *People v. Mendoza*, 163 SCRA 568 (1988); *People v. Sato*, 163 SCRA 602 (1988) *People v. Ramillo*, 147 SCRA 102 (1987); *People v. Quinlob*, 119 SCRA 130 (1982).
- [25] TSN, 13 October 1989, pp. 7-8; Erlinda S. Salita.
- [26] *People v. Tamayo*, 183 SCRA 375 (1990); *People v. Bautista*, 147 SCRA 500 (1987); *People v. Cervantes*, 125 SCRA 187 (1983); *People v. Elefano, Jr.*, 125 SCRA 702 (1983); *People v. Imbo*, 116 SCRA 355 (1982).
- [27] *People v. Sanchez*, 199 SCRA 414 (1991); *People v. Mision*, 194 SCRA 432 (1991); *People v. De Guzman*, 194 SCRA 432 (1991); *People v. Cuyo*, 196 SCRA 447 (1991); *People v. Lardizabal*, 204 SCRA 320 (1991).
- [28] Appellant's Brief (Dichoso), Rollo, pp. 85-90; Appellant's Brief (Planta), Rollo, pp. 151-165.
- [29] Id., Rollo, p. 86.
- [30] TSN, 15 July 1986, p. 9.
- [31] Id., p. 87.
- [32] Id.
- [33] Id., p. 88.

[34] Appellant's Brief (Planta), Rollo, p. 158.

[35] *Id.*, p. 343.

[36] The information lists 8 accused: 3 identified and 5 unidentified. The decision, however, identifies 6 participants who attacked the group of Ramon Torres. These are Maning Planta, Carlito Planta, Vicente Deuna, John Dichoso, Alexander de los Santos and Pedro Macabuhay.

[37] TSN, 2 April 1987, pp. 20-21.

[38] *People v. Gerones*, 193 SCRA 263 (1991); *People v. Natan*, 193 SCRA 355 (1991); *People v. Umali*, 193 SCRA 493 (1991); *Concepcion v. Court of Appeals*, 193 SCRA 586 (1991); *People v. Martinada*, 194 SCRA 36 (1991); *People v. Arenas*, 198 SCRA 172 (1991).

[39] See *People v. Deocariza*, G.R. No. 103396, 3 March 1993; *People v. Salcedo*, 195 SCRA 345 (1991); *People v. Yutuc*, 188 SCRA 1 (1990); *People v. Taruc*, 157 SCRA 182 (1988); *Arcada Cortes y Yengson v. Court of Appeals and People*, 163 SCRA 139 (1988).

[40] *People v. Sy*, 113 SCRA 207 (1982); *People v. Tala*, 141 SCRA 240 (1986).

[41] *People v. Largo*, 46 SCRA 597 (1992).

[42] See *People v. Alfiler, et al.*, 104 Phil. 410 (1958); *People v. Molleda*, 86 SCRA 667 (1978); *People v. Roncal*, 79 SCRA 509 (1977); *People v. Manlangit*, 73 SCRA 49 (1976); *People v. Pajenado*, 72 O.G. 4759, 69 SCRA 172 (1976); *People v. Page*, 77 SCRA 348 (1977); *People v. Munoz*, 107 SCRA 313 (1981).

[43] *Id.*; TSN, 27 November 1986, p. 5.

[44] *Id.*; TSN, 27 November 1986, p. 11.

[45] Trial Court Decision, Rollo, p. 25.

[46] *Reyes*, Revised Penal Code, Vol. I, 1993, p. 382; *People v. Lagarto*, 196 SCRA 611 (1991); *People v. Clamor*, 198 SCRA 642 (1991); *People v. Pacris*, 194 SCRA 654 (1991); *People v. Vigan*, 191 SCRA 643 (1990); *People v. Raguipo*, 188 SCRA 571 (1990).

[47] *People v. Pantoja*, 25 SCRA 468 (1968); *U.S. v. Blanco*, 18 Phil. 206 (1911).

[48] *People v. Cabiling*, 74 SCRA 285 (1976); *People v. Sarabia*, 96 SCRA 714 (1980); *People v. Cabato*, 160 SCRA 98 (1988); *People v. Carpio*, 191 SCRA 108 (1990); *People v. Moka*, 196 SCRA 378 (1991).

[49] *People v. Bustos*, 51 Phil. 385 (1928); *People v. Diokno*, 63 Phil. 601 (1936); *U.S. v. Denela*, 3 Phil. 625 (1904); *People v. Maloloy-on*, 189 SCRA 250 (1990).

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