

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JUANCHO GATCHALIAN, ACCUSED-APPELLANT.

G.R. NO. 90301. December 10, 1998

Ponente: MENDOZA, J.

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MENDOZA, J.:

This is an appeal from the decision of the Regional Trial Court of Manila, Branch 49, finding accused-appellant Juancho Gatchalian guilty of murder for the killing on January 23, 1986 of Arthur Aumentado and imposing on him the penalty of reclusion perpetua and ordering him to indemnify the heirs of Arthur Aumentado in the amount of P38,000.00 and to pay the costs of suit.[1]

As is usual in cases of this nature, the parties present conflicting versions of the incident. The question is which version is the more credible, given the rule that the burden is on the prosecution to prove beyond reasonable doubt the guilt of the accused.

The prosecution version is based mainly on the testimonies[2] of Luisito Reyes and his father Agapito Reyes. Luisito said that at about 5 o'clock in the afternoon of January 23, 1986, he went to the store of Aling Paro at the corner of Perla B and Pavia Streets in Tondo, Manila, to buy cigarettes. While he was there, he saw accused-appellant Juancho Gatchalian and Boyong Hagibis pass by. They came from the direction of Sevilla Street and they were walking towards Perla C Street. They both seemed drunk. Accused-appellant's head appeared bloodied. Neither of them was carrying a weapon. The two had reportedly been drinking and accused-appellant had gotten into a quarrel at Sevilla Street with a certain "Eddie" and also one "Pedro".

After accused-appellant and Boyong Hagibis had passed by, Arthur Aumentado, a co-worker and neighbor of Luisito Reyes, came to the store to buy cigarettes. Luisito's father, Agapito Reyes, also dropped by the store. He was on his way to a neighbor's house and his purpose in stopping by was to tell his son to go home soon.

Luisito Reyes told the court that shortly after he had seen the two, accused-appellant Juancho Gatchalian and Boyong Hagibis passed by the store again. This time, accused-appellant was armed with a jungle bolo, about 2 1/2 feet long, while Boyong Hagibis was armed with an iron pipe, about a foot long and an inch in diameter. At that point, Arthur Aumentado walked a few meters away to go to an alley to try to see what was going on at Sevilla Street where earlier there had reportedly been a commotion. Although Arthur Aumentado's back was turned towards them, accused-appellant and Boyong Hagibis nonetheless recognized him. Luisito heard Boyong Hagibis say to accused-appellant, "Pare, Pare, may kaaway tayo." (Pal, we have an enemy.) When Arthur Aumentado turned around to return to the store, Boyong Hagibis struck him on the head with the iron pipe. Arthur Aumentado fell to the ground, whereupon, accused-appellant stabbed him, once in the breast and again in the abdominal area with his jungle bolo. Boyong Hagibis then fled towards Perla C Street, followed by accused-appellant who brought with him the jungle bolo he used to stab the victim.

Luisito Reyes and his father, Agapito Reyes, saw the entire incident. Luisito Reyes was barely five (5) meters away, while Agapito was about four (4) arms length away from the scene of the stabbing. The place where the

stabbing occurred was well lighted by a string of electric bulbs used during the last fiesta and by Meralco posts. There was a commotion as a result of the incident. Agapito Reyes went home while Luisito Reyes asked somebody to call for Arnold Aumentado, a brother of the victim. When Arnold Aumentado arrived, he and Luisito Reyes took Arthur Aumentado to the Mary Johnson Hospital in Tondo, Manila. However, he was already dead when they arrived at the hospital at about 6:50 that evening.

Meantime, police investigators, headed by Pat. Feliciano Cristobal, arrived, following a call from a security guard of the Mary Johnson Hospital. The police officers encountered Luisito Reyes at the hospital who told them that he had witnessed the stabbing and pointed to accused-appellant Juancho Gatchalian and Boyong Hagibis as the culprits. The police also learned that Agapito Reyes likewise saw the incident and that accused-appellant was at the Tondo General Hospital for treatment. They were not able to interview accused-appellant, however, as he was still under sedation. Meanwhile, both Luisito Reyes and his father, Agapito, went to the Western Police District on United Nations Avenue. At 9:45 that evening, Luisito Reyes gave his written statement to Pat. Rodolfo Rival. Later that evening, at 10:10, Agapito Reyes gave his written statement to Pat. Feliciano Cristobal.[3]

Accused-appellant categorically denied he stabbed Arthur Aumentado. He claimed he did not know a person named Boyong Hagibis. The defense presented evidence[4] showing that, on January 23, 1986, at about 6 o'clock in the evening, accused-appellant was in the house of his compadre Batotoy on Pavia Street. He was there, according to him, to get jewelry to sell on commission. While he was in the house of Batotoy, he was fetched by his aunt because his child fell sick. On her way to Batotoy's house, accused-appellant's aunt, Myrna Conje, noticed two (2) men near the alley at the corner of Pavia Street. One of the men, whom she later came to know was Arthur Aumentado, held a jungle bolo, while the other, whom she later came to know was Artemio (Temy) Aumentado, a brother of Arthur Aumentado, had a gun tucked at his waist.

Myrna Conje said that upon reaching Batotoy's house, she called accused-appellant who lost no time going home with her. On their way back, they saw from about four (4) to five (5) meters away, Artemio Aumentado aim his gun at accused-appellant's direction and fire it. As accused-appellant tried to run, he found himself and his aunt surrounded. Behind them, blocking a small alley, were three (3) men: Arnold Aumentado (brother of Arthur Aumentado), who had a jungle bolo; Luisito Reyes, who had a foot long knife; and Elmer Aumentado (another brother of the victim), who was holding a jungle bolo. Arthur Aumentado then went to the middle of the street and demanded to know why accused-appellant and his aunt were "blocking" the street ("Bakit kayo paharang-harang?"). Without waiting for an answer, accused-appellant said, Arthur Aumentado struck him with a jungle bolo, hitting him (accused-appellant) on the right side of the head and causing him to fall on his back. Thereupon, he claimed Artemio Aumentado, Arnold Aumentado, Elmer Aumentado, and Luisito Reyes rushed toward them and started attacking him. At this point, Arthur Aumentado, his brothers, and Luisito Reyes were surrounding the accused-appellant and Myrna Conje who was behind him. He tried to parry the blows of his attackers with the use of his feet and by rolling on the ground. In the process, the first interdigital web of his left foot was cut.

During the attack, accused-appellant said he fell unconscious. He was pulled away from the group by his aunt and brought home. He was then taken to the hospital. Accused-appellant claimed the attack lasted about thirty (30) minutes.

Accused-appellant was taken to the Tondo General Hospital shortly before 7 o'clock that evening. He was found to have sustained a lacerated wound, three (3) centimeters on the first interdigital web of his left foot, and an avulsion of the scalp, parieto-occipital (right) with an area of five (5) centimeters by four (4) centimeters. He also tested positive for alcohol. He was placed under sedation and discharged from the hospital the following day.[5]

On January 27, 1986, he was taken to the Western Police District on United Nations Avenue. In the presence of his counsel, Atty. David Paz, accused-appellant and his aunt, Myrna Conje, gave statements to the police investigators. Atty. David Paz filed a letter, dated January 27, 1986, with the Office of the Superintendent of the Western Police District requesting for the investigation of Artemio (Temy) Aumentado and others, including Arthur Aumentado, for the injuries suffered by accused-appellant. On April 11, 1986, he filed a complaint for frustrated murder against Arthur Aumentado, Artemio Aumentado, Elmer Aumentado, Arnold Aumentado, and a John Doe with the Office of the City Fiscal of Manila. On July 21, 1986, however, Assistant City Fiscal Cesario del Rosario, with the concurrence and approval of the City Fiscal, found the complaint to be without merit and accordingly dismissed the case filed by accused-appellant against Arthur Aumentado. Instead, the filing of an Information for murder against accused-appellant was ordered.[6]

Accordingly, on August 29, 1986, an Information[7] for murder was filed against accused-appellant Juancho Gatchalian.[8] After trial, he was found guilty by the Regional Trial Court of Manila, Branch 49, in a decision, dated December 8, 1987.[9]

Hence, this appeal.

Accused-appellant raises the following errors in his brief:[10]

I

THE TRIAL COURT ERRED IN DISREGARDING THE CLAIM OF SELF-DEFENSE BY THE ACCUSED DESPITE CLEAR EVIDENCE ON RECORD SUPPORTING THE SAME.

II

THE TRIAL COURT ERRED IN GIVING CREDENCE TO THE PROSECUTION WITNESSES, NAMELY LUISITO AND AGAPITO BOTH SURNAMED, REYES WHO BOTH HAVE INTEREST IN THE CASE.

III

THE TRIAL COURT ERRED IN FINDING THE ACCUSED GUILTY BEYOND REASONABLE DOUBT OF THE CRIME OF MURDER DESPITE WEAK EVIDENCE FOR THE PROSECUTION.

IV

GRANTING WITHOUT ADMITTING THAT ACCUSED COULD BE HELD LIABLE FOR THE DEATH OF ARTHUR AUMENTADO, EVIDENCE SHOWS THAT THE CRIME WAS NOT ATTENDED BY THE QUALIFYING CIRCUMSTANCES OF MURDER.

We find the foregoing contentions to be untenable.

First. The first three assignments of errors involve basically a question of credibility. The time-honored rule is, of course, that when the issue is one of credibility of witnesses, appellate courts will not disturb the findings of the trial court unless it has plainly overlooked certain facts of substance and value which, if considered, might affect the result of the case. This is so because the trial judge heard the witnesses testify and had the opportunity to observe their demeanor and manner of testifying.[11] As we explained in *People v. Cayabyab*:[12]

. . . Having the advantage of directly observing witnesses, the trial judge is able to detect that sometimes thin line between fact and prevarication that will determine the guilt or innocence of the accused. That line may not be discernible from a mere reading of the impersonal record by the reviewing court. The record will not reveal those tell-tale signs that will affirm the truth or expose the contrivance, like the angry flush of an insistent assertion or the sudden pallor of a discovered lie or the tremulous mutter of a reluctant answer or the forthright tone of a ready reply. The record will not show if the eyes have darted in evasion or looked down in confession or gazed steadily with a serenity that has nothing to distort or conceal. The record will not show if tears were shed in anger, or in shame, or in remembered pain, or in feigned innocence. Only the judge trying the case can

see all these and on the basis of these observations arrive at an informed and reasoned verdict.

There is no reason for departing from this salutary rule. The defense version that accused-appellant was attacked while he and his aunt were walking home simply defies credibility.

(1) The medical certificate[13] presented by accused-appellant shows that he sustained the following injuries: "lacerated wound, 3 cm. first interdigital web, left foot," and "avulsion of the scalp, 5x4 cm. parieto-occipital (right)." Although he was advised to remain at the hospital for one night, it was primarily because he was intoxicated. According to Dr. Gan, who examined him, accused-appellant could have made his way home immediately after suture of his wounds.[14]

(2) The trial court expressed disbelief that accused-appellant would have sustained only minor injuries which required less than nine (9) days of treatment if, as the defense claimed, accused-appellant had been attacked by five men, all heavily armed with a gun, jungle bolos, and a knife, who, if the defense were to be believed, were out to do him serious harm, if not to kill him. Accused-appellant's story is all the more difficult to believe because the attack allegedly lasted for about half an hour.[15] How accused-appellant survived such an attack with only two minor injuries is incredible.

Second. Another puzzling matter is the claim that accused-appellant's aunt was able to pull him away from his assailants. Why would his alleged attackers gang up on him and yet half an hour later allow, without protest, his aunt to take him away? Myrna Conje said she cried for help but no one came to their aid.[16] What is even more incredible is that while accused-appellant was allegedly attacked by five fully armed men, it was one of the latter, victim Arthur Aumentado, who ended up dead after the alleged assault.

Indeed, a perusal of the transcript of stenographic notes shows that the respective testimonies of accused-appellant and his aunt are inconsistent with each other. Accused-appellant claimed it was only the victim who had actually struck at him because the other four men merely surrounded them.[17] This is inconsistent with the testimony of his aunt that all five men ganged up on him.[18] This is a substantial aspect of the defense theory. Moreover, the defense witnesses gave their statements only after four days had elapsed since the killing of the victim while the prosecution witnesses gave theirs on the very day itself, a few hours later. Lastly, the trial court observed that witness Myrna Conje initially tried to deny any knowledge of Boyong Hagibis but later admitted to being familiar with him.[19] Such being the case, the trial court could not be faulted for not giving credence to their testimonies.

In contrast, witnesses presented by the prosecution were categorical and consistent in saying that they saw accused-appellant stab Arthur Aumentado after the latter was rendered helpless by accused-appellant's companion who first hit the victim on the head with an iron pipe. All three corroborate the substantial aspects of each other's accounts. The said witnesses have stood firm by their accounts of the killing of the victim from the time they were first questioned up to the time they testified in court.

Luisito Reyes testified:[20]

FISCAL FORMOSO:

When you noticed Boyong and Juancho [Gatchalian] approaching, how far were you?

WITNESS:

About 5 meters, sir.

FISCAL FORMOSO:

What did you observe when Boyong and Juancho were approaching?

WITNESS:

They had a quarrel with somebody, sir.

FISCAL FORMOSO:

What else did you observe?

WITNESS:

Boyong was carrying an iron pipe and Juancho was carrying a bolo, sir.

FISCAL FORMOSO:

How long was this pipe which Boyong was carrying?

WITNESS:

About one foot long, sir.

FISCAL FORMOSO:

What kind of a pipe is that?

WITNESS:

It is a water pipe, sir.

FISCAL FORMOSO:

Now, this Gatchalian, who (sic) long the bolo that he was carrying?

WITNESS:

About two feet, sir.

FISCAL FORMOSO:

After seeing these two persons, what happened next?

WITNESS:

Kuya Arthur was hit by an iron pipe thrown on his head, sir.

FISCAL FORMOSO:

Who threw this iron pipe on the head of Arthur?

WITNESS:

Boyong Hagibis, sir.

FISCAL FORMOSO:

And what about Juancho, what did you notice to (sic) him?

WITNESS:

I saw Juancho struck (sic) Arthur with a bolo when Arthur fell, sir.

FISCAL FORMOSO:

How far were you from the place where Arthur, Juancho and Boyong were?

WITNESS:

About 5 meters, sir.

FISCAL FORMOSO:

What was the lighting condition when the incident happened?

WITNESS:

The place was lighted, sir.

FISCAL FORMOSO:

Where were the lights come from?

WITNESS:

There were lines of bulbs in our place, sir.

FISCAL FORMOSO:

Are there Meralco posts there?

WITNESS:

Yes, sir.

COURT:

Aside from the Meralco post, are there other sources of lights in that place?

WITNESS:

Yes, the bulbs that are lined in that place, sir.

COURT:

Why was it lighted in that way?

WITNESS:

Because those bulbs were left there whenever there were fiestas there in that place, Your Honor.

Luisito Reyes' account of the killing was duly corroborated by another prosecution witness, Agapito Reyes, who was also at the scene of the crime at the time the incident occurred. Agapito Reyes testified:[21]

FISCAL FORMOSO:

While in the store to call your son, did you notice any unusual incident that happened?

WITNESS:

Yes, sir.

FISCAL FORMOSO:

What was that about?

WITNESS:

I saw Juancho Gatchalian and Boyong Hagibis, sir.

FISCAL FORMOSO:

Where did you see Juancho and Boyong?

WITNESS:

Also in the store near Perla 'B', sir.

FISCAL FORMOSO:

How far were you from these two when you saw them?

WITNESS:

More or less four arms length, sir.

FISCAL FORMOSO:

What happened when you saw these two?

WITNESS:

I saw Boyong hit Arthur, and after that Juancho struck Arthur with a bolo, sir.

FISCAL FORMOSO:

What instrument did Boyong use in hitting Arthur?

WITNESS:

I saw it was a pipe, sir.

FISCAL FORMOSO:

What kind of a pipe was that?

WITNESS:

It was an iron pipe, sir.

...

FISCAL FORMOSO:

You said that Boyong hit Arthur with a piece of lead [iron] pipe. What happened to Arthur after that?

WITNESS:

He fell down on the ground, sir.

FISCAL FORMOSO:

After that when Arthur fell to the ground, what did the accused do?

WITNESS:

He struck the victim, sir.

COURT: (to the stenographer)

You insert the word used by the witness, "tinaga".

FISCAL FORMOSO:

How many times did he hit the victim with a bolo?

WITNESS:

Two times but the other one was "pasak-sak", sir.

FISCAL FORMOSO:

While the Accused was stabbing the victim, what was Boyong doing at that time?

WITNESS:

None, but after that they ran away, sir."

The medico-legal certification of Dr. Marcial G. Ceñido and his testimony support the accounts of the aforementioned witnesses that the victim had been hit on the head with a water pipe (a blunt instrument) and stabbed with a bolo (a pointed bladed weapon).

There can be no doubt that the prosecution witnesses could positively identify accused-appellant. The place where the killing took place was well-lighted by street lights and rows of electric bulbs set up during a recent fiesta celebration.[22] The witnesses and accused-appellant were all neighbors and hence the former were familiar with accused-appellant whom they used to see loitering around the neighborhood[23].

Accused-appellant contends, however, that prosecution witnesses Luisito Reyes and Agapito Reyes had ill motives in testifying against him.[24] Yet he has not shown, to any satisfactory degree, that the said witnesses were impelled to testify against him by reason of false or ill motives. The presumption is that witnesses are not actuated by any improper motive absent any proof to the contrary and that their testimonies must accordingly be met with considerable, if not conclusive, favor under the rules of evidence.[25] In fact, accused-appellant admits that there was no misunderstanding or quarrel between himself and the said witnesses.[26]

We therefore find no reason to hold that the trial judge erred in giving credence to the testimonies of the prosecution witnesses.

Another telling factor which detracts from the credibility of the defense is the inconsistency in its theory of self-defense. Accused-appellant claims that he was merely defending himself from an attack by Arthur Aumentado and his group, and yet also claims that he did not kill the victim.[27] He claims that when he was pulled to safety by his aunt, Myrna Conje, what began as an attack on him became a free-for-all fight and that he does not know who killed Arthur Aumentado.

Anyone who claims self-defense impliedly admits the killing of the victim. But how can accused-appellant invoke self-defense when he does not admit killing the victim because he claims the victim was killed in the melee that followed after he had been rescued by his aunt? We agree with the Solicitor General that "the absence of logic in appellant's defense reflects its weakness."

The trial court then correctly gave no weight to the version of the defense. Aside from being replete with inconsistencies, the evidence for the defense is incredible and cannot pass the test of simple logic.[28]

As for accused-appellant's contention that the prosecution should have presented the weapons allegedly used to commit the crime, we have already ruled that:

For purposes of conviction, it is enough that the prosecution establishes by proof beyond reasonable doubt that a crime was committed and the accused is the author thereof. The production of the weapon used in the commission of the crime is not a condition sine qua non for the discharge of such burden, for the same may not have been recovered at all from the assailant. (*People v. Florida*, 214 SCRA 227 (1990)).[29]

With three credible eyewitnesses and documentary evidence which corroborates their testimonies, the prosecution has clearly discharged its burden of proving accused-appellant's guilt beyond reasonable doubt.

Third. We come now to the question what crime the accused-appellant committed. Accused-appellant contends that assuming arguendo he is guilty of killing Arthur Aumentado, the crime he committed is homicide and not murder because there was no treachery.[30] It is not clear from the appellant's brief why he claims that the qualifying circumstance of treachery should not be appreciated. It would seem that his theory is that the hacking of Arthur Aumentado was done to vindicate a past wrong committed by the latter. Hence, there can be no treachery because the victim knew that his enemies would try to get even with him.

There is no merit in this contention.

In the first place, as we have already said, there is no showing that there was such prior altercation between accused-appellant and the victim. Moreover, Luisito Reyes and Arnold Aumentado (a brother of the victim), on rebuttal, categorically denied accused-appellant's allegations.[31] Although Luisito Reyes and Agapito Reyes said they saw accused-appellant with injuries in the head, they explained that the injuries were sustained as a result of a prior fight with other people.[32] Accused-appellant's effort to implicate the victim, his brothers, and the witness Luisito Reyes appears to be an afterthought. Accused-appellant claims that he filed a complaint against Arthur Aumentado, but it was ignored by the police. The fact is, however, that it was never really followed up by him, as Pat. Cristobal said on cross-examination.[33] It is noteworthy that accused-appellant's counsel filed the letter requesting an investigation of his claim only four days after the incident. Accused-appellant was released from the hospital the day after he was brought there. He could thus have easily reported the matter to the police. The fact is, however, that his claim is so incredible the police could not believe it. Consequently, when accused-appellant was still at the hospital, he was handcuffed by the police, and neither he nor his aunt ever protested this.[34]

In the second place, the qualifying circumstance of treachery was sufficiently proven by the prosecution. This circumstance requires for its application the following requisites: (1) the employment of means, method, or manner of execution which will ensure the safety of the malefactor from defensive or retaliating acts on the part of the victim, no opportunity being given to the latter to defend himself or to retaliate; and (2) deliberate or conscious adoption of such means, method, or manner of execution.[35]

In this case, there is no doubt that the first requisite is present. The testimonies of the prosecution witnesses show that the victim Arthur Aumentado was attacked in such a manner as to foreclose the possibility that he would defend himself. He was unaware of the oncoming attack since he was merely buying some cigarettes from the store and was looking toward Sevilla Street where a fight had earlier taken place when suddenly he was struck on the head with an iron pipe by Boyong Hagibis and then subsequently stabbed by accused-appellant while he was lying on the ground, hurt and helpless.

As regards the second requisite, the following facts lead us to no other conclusion than that the accused-appellant and his companion consciously adopted a mode which would ensure the realization of their purpose without danger to themselves: the accused-appellant and Boyong Hagibis were already carrying weapons when they first saw the victim; when they saw the victim, Boyong said, "Pare, may kaaway tayo"; they approached the victim when his back was to them and hit him with an iron pipe as he turned towards them; the victim was stabbed when he was already lying on the ground, hurt and helpless; the victim was first hit on the head and thus already

defenseless before he was stabbed; they purposely approached the victim after Boyong saw that he was an enemy; lastly, the victim was hit on the head and stabbed in the chest. The manner in which the victim was killed and the aforementioned external manifestations of the accused-appellant and his companion clearly show that they consciously and deliberately adopted the particular method or form of attack to insure the accomplishment of their purpose.[36]

The qualifying circumstance of evident premeditation, however, was not sufficiently proven. This circumstance qualifies killing to murder if the following elements are shown: (1) the time when the offender determined to kill his victim; (2) an act of the offender manifestly indicating that he clung to his determination to kill his victim; and (3) a sufficient lapse of time between the determination and the execution of the killing.[37] The trial court correctly held:[38]

. . . The Court believes and so finds that the killing was not qualified by evident premeditation. The Prosecution has not adduced evidence to prove when the Accused and Boyong Hagibis decided and resolved to kill Arthur Aumentado for the Court to ascertain whether the Accused has had ample time and opportunity to reflect on the consequences of the crime he committed. Extant such evidence, the Court cannot appreciate against the Accused the qualifying circumstance of evident premeditation. (People v. Mamerto Narvaez, 121 SCRA 339, 404).

The trial court was, therefore, correct in holding that the accused is guilty of murder by virtue of the qualifying circumstance of treachery. There being no aggravating circumstance, any abuse of superior strength being absorbed by treachery, nor any mitigating circumstance, the trial court rightly imposed the penalty of reclusion perpetua. The civil indemnity for the victim's death, however, should be increased to P50,000.00 in accordance with current rulings of this Court.

WHEREFORE, the decision of the Regional Trial Court of Manila, Branch 49, is **AFFIRMED** with the **MODIFICATION** that the indemnity for the victim's death is increased to P50,000.00.

SO ORDERED.

Bellosillo (Chairman), Puno and Martinez JJ., concur

[1] Rollo, p. 38.

[2] TSN, pp. 14-59, Sept. 14, 1987.

[3] Decision, pp. 2-3, Rollo, pp. 21-22.

[4] TSN, pp. 2-31, Sept. 23, 1987; TSN, pp. 2-27, Sept. 25, 1987; TSN, pp. 3-23, Oct. 26, 1987; TSN, pp. 2-37, Nov. 13, 1987.

[5] Decision, p. 7, Rollo, p. 26.

[6] Id., pp. 7-8, id., pp. 26-27.

[7] Rollo, p. 6.

[8] Boyong Hagibis (an alias), on the other hand, was not charged in the Information although the same alleges that the crime was committed by Juancho Gatchalian "conspiring and confederating with another whose true name, identity and present whereabouts are still unknown. . ."

[9] Rollo, pp. 20-38.

[10] Appellant's Brief, pp. 1-2, id., pp. 121-122.

[11] *People v. Eubra*, 274 SCRA 180 (1997).

[12] 274 SCRA 387 (1997).

[13] Exhibit 8, Records, p. 124.

[14] TSN, pp. 11-12, Sept. 30, 1987.

[15] TSN, p. 14, Sept. 25, 1987.

[16] Id., pp. 13-14.

[17] TSN, p. 28, Nov. 13, 1987.

[18] TSN, p. 9, Sept. 25, 1987.

[19] Decision, p. 17, Rollo, p. 36.

[20] TSN, pp. 15-17, Sept. 14, 1987 (underscoring added).

[21] TSN, pp. 47-49, Sept. 14, 1987 (underscoring added).

[22] TSN, p. 17, Sept. 14, 1987.

[23] Decision, p. 9, Rollo, p. 28.

[24] Appellant's Brief, p. 15, id., p. 135.

[25] *People v. Baydo*, 273 SCRA 526 (1997).

[26] TSN, pp. 36-37, Nov. 13, 1987.

[27] Appellant's Brief, pp. 16-17, Rollo, pp. 136-137.

[28] *People v. Artiaga*, 274 SCRA 685 (1997).

[29] *People v. Bello*, 237 SCRA 347, 352 (1994).

[30] Appellant's Brief, pp. 17-18, Rollo, pp. 137-138.

[31] TSN, pp. 2-7, Nov. 20, 1987.

[32] TSN, pp. 23-24, Sept. 14, 1987.

[33] TSN, p. 25, Sept. 16, 1987.

[34] TSN, pp. 18, 20-21, 23, Oct. 5, 1987.

[35] *Supra* note 25.

[36] *People v. Nazareno*, 260 SCRA 256 (1996).

[37] *Supra* note 30.

[38] Decision, p. 18, Rollo, p. 37.

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