

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROSELLER ALAS ALIAS “BAGONG” AND MANUEL APORBO, ACCUSED-APPELLANTS.

G.R. Nos. 118335-36. June 19, 1997

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

In affirming the conviction of appellants, this Court reiterates some well-entrenched doctrines: (1) the issue of credibility of witnesses is best left to the discretion of the trial court; and (2) the elements of conspiracy, like those of the crime charged, must be established beyond reasonable doubt.

In six consolidated criminal cases filed before the Regional Trial Court[1] of Tandag, Surigao del Sur, Appellants Roseller Alas alias “Bagong” and Manuel Aporbo and Accused Santiago Isiang alias “Titi” and Rene Requierme were charged with multiple counts of murder. In Criminal Case Nos. 2052 and 2053, Appellants Alas and Aporbo were indicted for the killing of Spouses Fidel and Andresa Lagura; whereas in Criminal Case Nos. 2056, 2057, 2058 and 2059, Appellant Alas and Accused Isiang and Requierme were charged with the killing of Spouses Luciano and Maria Isiang, Susito Pajo Jasmin and Danny Malubay. This appeal, however, refers only to Criminal Case Nos. 2052 and 2053 where the two appellants were convicted of two counts of murder for which they were each sentenced to two terms of reclusion perpetua.

In Criminal Case No. 2052, Appellants Alas and Aporbo were charged with murder allegedly committed as follows:[2]

“That on the 30th day of April, 1992, at about 10:00 o’ clock in the evening, more or less, at Barangay Manlico, Cortes, Surigao del Sur, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused armed with a small bolo, locally known as ‘Sundangay’, and a piece of stick with sharpened arrow, locally known as ‘Bidyo’, conspiring, confederating and mutually helping one another, with intent to kill, treachery and evident premeditation, did, then and there, willfully, unlawfully and feloniously assault, attack and stab one Fidel Lagura, hitting and inflicting upon the latter, stab wound(s) on the different parts of his body to wit:

- ‘ - Stabbed (sic) wound at the back, 3 inches in length (sic), penetrating posterior chest cavity directed downwards and medially at Supra-Clavicular area right;
- Stabbed (sic) wound at the back, one inch in length (sic) bone deep with chip fracture of the tip scapula right;
- Incised wound 1.5 inches in length (sic), subcutaneous depth over the left knee;
- Two parallel stabbed (sic) wounds, one inch in length (sic) below the left nipple penetrating the anterior chest wall;
- Multiple incised wounds (5 Sites) 1 inch in length (sic), subcutaneous depth below the left nipple;

- Stabbed (sic) wound 1 inch in length (sic) penetrating; anterior axillary line at the level of the 6-7th ICS left;
- Incised wound: 1 inch in length (sic) subcutaneous depth; medial (sic) aspect left arm.

which wounds or injuries have caused the instantaneous death of said Fedil (sic) Lagura, to the damage and prejudice of his heirs in the following amounts:

P50,000.00 - as life indemnity to the victim;

P10,000.00 - as moral damages;

P10,000.00 - as exemplary damages.”

In Criminal Case No. 2053, the two appellants were likewise charged with murder, thus:[3]

“That on the 30th day of April 1992, at about 10:00 o’ clock in the evening, more or less, at Barangay Manlico, Cortes, Surigao del Sur, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, armed with small bolo, locally known as ‘Sundangay’, and (a) piece of stick with sharpened arrow, locally known as ‘Bidyo’, conspiring, confederating and mutually helping one another, with intent to kill, treachery and evident premeditation, did, then and there, willfully, unlawfully and feloniously assault, attack and stab one Andresa Lagura, hitting and inflicting upon the latter, stab wounds on the different parts of her body to wit:

- ‘- Incised wound 1.5 inches in length (sic), subcutaneous depth deltoid area right;
- Incised wound at the head occipital area 3 inches in length with chip fracture of the skull;
- Multiple incised wounds around right arm (7 Sites) 1 inch in length subcutaneous depth;
- Multiple incised wounds (5 Sites) around left arm subcutaneous depth 1 inch in length;
- Superficial incised wounds 2 inches in length (R) elbow;
- Stabbed (sic) wound, 6 inches in length; approximately (sic) at the level of the 10- 11th ICS penetrating the posterior chest wall;
- 2 parallel stabbed (sic) wound 1 inch in length underneath the above described wound penetrating;
- Stabbed (sic) wound 1 inch in length muscle deep axillary area left;
- Multiple stabbed wounds (7 sites) 1 to 1.5 inches in length sporadically located at the back;
- 2 parallel stabbed (sic) wounds 1 inch in length underneath the nipple left penetrating;
- One punctured wound outer lower quadrant (L) breast;
- Multiple incised wounds (10 Sites 1 to 1.5 inches in length, subcutaneous depth anterior chest wall’

which wounds or injuries have caused the instantaneous death of said Andresa Lagura, to the damage and prejudice of her heirs in the following amounts:

P50,000.00 - as life indemnity of the victim;

10,000.00 - as moral damages;

10,000.00 - as exemplary damage(s).”

Only Appellants Alas and Aporbo were arrested. The other accused remained at large. Appellant Alas, duly

assisted by counsel, was arraigned in all six cases filed against him; in each of them, he pleaded not guilty.[4] Appellant Aporbo, assisted by the same counsel, was also arraigned in Criminal Case Nos. 2052 and 2053 and he likewise pleaded not guilty in each case.[5] Joint trial of the six criminal cases ensued.

On September 12, 1994, the trial court rendered its Decision finding Appellants Alas and Aporbo guilty of killing Spouses Lagura in Criminal Case Nos. 2052 and 2053 but exonerating Appellant Alas in the four other criminal cases. The dispositive portion of the Decision reads:[6]

“WHEREFORE, finding both accused Roseller Alas y Arasan alias ‘Bagong’ and Manuel Aporbo guilty beyond reasonable doubt of two separate offenses of Murder in Criminal Case(s) Nos. 2052 and 2053, and there being no modifying circumstance which attended the commission of said offenses, the Court hereby sentences each of them to suffer two separate penalties of Reclusion Perpetua, to jointly and severally pay the heirs of the deceased-victims, the spouses Fidel and Andresa Lagura, the sum of One Hundred Thousand (P100,000.00) Pesos as life indemnity, and Twenty Thousand (P20,000.00) Pesos as moral damages, without subsidiary imprisonment in case of insolvency; and to pay the cost.

Being detained, both Accused are credited in the service of their respective sentences with the full term of their preventive imprisonment if they agreed in writing to abide by the same disciplinary rules imposed on convicted prisoners, otherwise four-fifths (4/5) thereof.

On ground of reasonable doubt, Accused Roseller Alas y Arasan alias ‘Bagong’ is acquitted in Criminal Case Nos. 2056, 2057, 2058 and 2059. He is also absolved from civil liability. Let the respective records of said cases be archived to be retrieved upon arrest of either accused Santiago Isiang alias ‘Titi’ or Rene Requirme (sic).”

Hence, this appeal.

The Facts Version of the Prosecution

The trial court discussed the facts presented by the prosecution as follows:[7]

“In Crim. Case Nos. 2052 and 2053, prosecution’s evidence shows that in the evening of April 30, 1992, at about 10:00 o’ clock, the spouses Fidel Lagura and Andresa Lagura, residents of Barangay Manlico, Cortes, Surigao del Sur, were on their way home. They came from the novena in the house of Santos Polinar, their neighbor who just passed away. Following them were prosecution witnesses Esterlito Laquinta and Vicente Guiduvia (sic), who also attended the novena and were likewise on their way home. As the Laguras were about to enter their house, accused Roseller Alas and Manuel Aporbo, who had waited for them from behind a coconut tree near their house, suddenly sprang up and stabbed them many times until they died on the spot. Early in the following morning Esterlito Laquinta and Vicente Guiduvia (sic) informed the deceased-victim’s eldest son Danny Lagura of what happened to his parents. They also reported the incident to Barangay Captain Teodoro Bibat of Manlico.

As for the motive of the killing, Laquinta and Guiduvia (sic) testified that the two Accused were paid P6,000.00 by Soyna Villapañe, who suspected the deceased-victims of having practiced witchcraft (‘gibarang’) on her. Both Accused allegedly admitted this fact before the policeman who investigated them in the presence of Guiduvia (sic).”

Version of the Accused

Appellants Alas and Aporbo interposed the defense of alibi. The trial court narrated the circumstances of the defense, thus:[8]

“x x x. And on April 30, 1992 (the date of the incident alleged in Crim. Case Nos. 2052 and 2053), he (Roseller Alas) claimed that he was in Barangay Caromata, San Miguel, Surigao del Sur, in the company of

Anastacio Bulilan, the Owner of the furniture shop in Tandag, where he was working as (a) helper. They left for Caromata in the afternoon of April 29, 1992 and went back to Tandag on May 1, 1992. He worked in the said furniture shop until his arrest on May 3, 1992. He denied participation in the killing of the spouses Fidel and Andresa Lagura.

He claimed that Esterlito Laquinta had a motive for testifying against him, because he had a quarrel with him in the first week of April, 1992. He told the following story: He accidentally met Laquinta at the Barangay Road of Manlico. On seeing him, Laquinta allegedly asked him: 'How is the famous NPA?' He answered: 'Fine, but I have already surrendered.' Laquinta then remarked: 'You have already surrendered but you have offended me', simultaneously pulling out from his waist a small bolo and (attempting to) stab him. He avoided the thrust and left hurriedly. Laquinta shouted at him calling him a coward and warned him that he (Laquinta) would take revenge.

He denied having executed an affidavit of confession and claimed that the signature attributed to him in Exhibit 'I' is (sic) not his. He further denied having confessed to Police Investigator Cesar Morales and of having written Exhibit 'A', claiming that his penmanship is (sic) the one found in Exhibits '1' and '2'.

On the other hand, accused Manuel Aporbo, co-accused of Roseller Alas in Crim. Case Nos. 2052 and 2053, claimed that in the evening of April 30, 1992, he was already in the capital town of Tandag. He left Manlico, together with Bonifacio Hontanosas, at about 2:30 in the afternoon, bound for Tandag, arriving there at 4:00 o'clock. They passed the night in Tandag and early the following morning at about 3:15, he left for Davao City on board the Bachelor Express Bus. He went to Davao to look for a job, but before he could get one, he was apprehended by the Police.

He denied involvement in the killing of the spouses Fidel and Andresa Lagura, with whom neither he nor his parents had any misunderstanding. Like Roseller Alas, he, too, was not in good terms with Esterlito Laquinta, as well as, with Vicente Guiduvia (sic), because he allegedly refused to join their group, which always had (a) drinking spree."

The Issues

Appellants Alas and Aporbo allege that the following errors were committed by the trial court:

"1. The Court a quo erred in giving credence to the fabricated, conflicting and hearsay testimonies of the prosecution witnesses." [9]

"2. The Court a quo erred in holding the accuseds-appellants (sic) guilty beyond reasonable doubt of the crime of murder." [10]

The Court's Ruling

The appeal has no merit.

Credibility of Prosecution Witnesses

Appellants argue that the alleged conflicts in the declarations of Prosecution Witnesses Esterlito Laquinta, Vicente Guidobia and Police Investigator Cesar Morales show that their "story was fabricated and hearsay." [11] The contradictory testimonies are allegedly on the following details:

"1. Time when the novena was commenced and the time they went home together from the novena; [12]

"2. On the matter of their distances from the place where the crime took place, the alleged eyewitnesses also gave different versions, x x x; [13]

"3. On the issue of who allegedly hired and paid the accuseds (sic) the amount of P6,000.00 in order to kill the

deceased victims;[14] and

“4. On the matter as (sic) to whom they first reported the incident and who reported the same to the police, the prosecution’s alleged eyewitnesses also gave conflicting versions x x x”[15]

We do not agree.

This Court has stated time and again that minor inconsistencies in the narration of witnesses do not detract from their essential credibility as long as their testimony on the whole is coherent and intrinsically believable. Inaccuracies may in fact suggest that the witnesses are telling the truth and have not been rehearsed. Witnesses are not expected to remember every single detail of an incident with perfect or total recall.[16]

The credibility of Prosecution Eyewitnesses Laquinta and Guidobia is not diminished by their differing testimonies on the time when the novena started and ended, the distance of the two prosecution eyewitnesses from the scene of the incident, the identity of the person who allegedly induced the appellants to commit the crime, and the person to whom they reported the incident. These alleged inconsistencies notwithstanding, the prosecution witnesses gave on the witness stand an explicit, straightforward and credible account, in which the appellants were clearly identified as the perpetrators of the crime. They testified to having seen Appellant Roseller Alas, with the use of a small bolo locally called sundangay, stab Fidel Lagura four times -- once at the back, then thrice at the chest -- after which the victim fell to the ground.[17] The witnesses also positively narrated that Appellant Aporbo attacked and stabbed Andresa with the use of a small spear, otherwise known as bidyo, hitting her first at the right breast, then at the back and the right shoulder.[18]

The inconsistencies as to the time when the novena commenced and ended -- supposedly indicative of fabrication -- are inconsequential. The statements as to the time the witnesses went home with the deceased spouses were, on the other hand, not really contradictory. Witness Laquinta testified that they had gone home at past 10 o’clock in the evening;[19] Witness Guidobia was more precise when he said that the time was 11 o’clock in the evening.[20] Considering that time is not an essential element in the murder, such inconsistency, if it may be considered so at all, is insignificant and cannot have any bearing on the essential matter testified to, that is, the fact that appellants had killed Spouses Lagura.[21]

Appellants also assail the variance in the accounts of the eyewitnesses regarding their distance from the locus criminis. Laquinta allegedly said that he was six (6) meters away, while Guidobia testified that he was sixty (60) meters from the crime scene.[22] It bears emphasis that witnesses testifying on the same event do not have to be consistent in every detail as differences in recollections, viewpoints or impressions are inevitable.[23] What matters is whether the eyewitnesses actually saw the consummation of the killing and positively identified the appellants as the persons responsible. There was no allegation that the vision of the eyewitnesses had been obstructed, or that their distance from the crime scene had effectively impaired their ability to identify the perpetrators. Normally, where conditions of visibility are favorable and the witnesses do not appear to be biased, their assertion as to the identity of the malefactors should be accepted.[24]

The discrepancies on who induced appellants to kill Spouses Lagura and to whom the eyewitnesses reported the incident are insignificant and irrelevant details that do not vitiate the witnesses’ account of the killing and, more importantly, their identification of the killers. It has been ruled that:

“It is perfectly reasonable to believe the testimony of a witness with respect to some facts and disbelieve it with respect to other facts. And it has been aptly said that even when witnesses are found to have deliberately falsified in some material particulars, it is not required that the whole of their uncorroborated testimony be rejected, but such portions thereof deemed worthy of belief may be credited. Suffice it to say, in this connection, that a trial

court by reason of its proximate contact with witnesses, [is] in a more competent position to discriminate between the true and false....”[25]

In fine, the matter of assigning value to the testimony of witnesses is best performed by trial courts because, unlike appellate courts, they can weigh such testimony in the light of the demeanor, conduct and attitude of the witnesses at the trial. Unless the court a quo overlooked certain facts of substance and value which, if considered, might affect the result, the findings of the trial court must be accorded full respect and credit. After a thorough review of the law and evidence, we find no such infraction in the case at bar.[26]

Alibi as Defense

Appellants’ defense of alibi fails to overthrow the straightforward accounts of the credible prosecution eyewitnesses and their positive identification of the appellants as the perpetrators of the murder of Spouses Lagura. We agree with this discussion of the trial court rejecting the defense of alibi:[27]

“As against the positive identification of the two accused as the Assailants of the deceased spouses Fidel and Andresa Lagura, their alibi must be, as [it] is hereby, rejected. Easy to concoct, difficult to contradict and harder still to disprove, the Court has misgivings on this kind of defense. Besides, considering that at the time of the killings of the deceased-victims, accused Roseller Alas’ alleged place of work was a furniture shop in Tandag, which is an adjacent Municipality to Cortes, and that accused Manuel Aporbo allegedly left Manlico only in the afternoon of the incident and was in Tandag when it happened, it was not at all improbable for the two accused to be in Tandag on the day of the killings, be in Manlico, Cortes, in the evening to kill the deceased-victims, and back in Tandag thereafter. For alibi to be given credence, it must be shown to the satisfaction of the court that the accused was somewhere else at the time of the commission of the crime that it was physically impossible for him to be at the scene thereof precisely when it was committed, and that the evidence of the prosecution on his identification is weak.”

Conspiracy Not Established Beyond Reasonable Doubt

We do not agree however that there was conspiracy between the two appellants in the killing of the spouses that would have justified the imposition of two counts of reclusion perpetua on each appellant. Well-settled is the rule that conspiracy must be proved independently and beyond reasonable doubt.[28] There is conspiracy "when two or more persons come to an agreement concerning the commission of a felony and decide to." Conspiracy is not presumed. Like the physical acts constituting the crime itself, the elements of conspiracy must be proven beyond reasonable doubt. While conspiracy need not be established by direct evidence, it may be inferred from the conduct of the accused before, during and after the commission of the crime. All taken together, however, the evidence therefor must be reasonably strong enough to show a community of criminal design.[29] Settled is the rule that to establish conspiracy, evidence of actual cooperation, rather than mere cognizance or approval of an illegal act, is required.[30] The testimony of Witness Esterlito Laquinta was clear as to how the offense had been committed. There was no showing that one appellant had cooperated with the other in killing the spouses. Rather, from the narration of what happened, Appellant Alas stabbed Fidel Lagura while Appellant Aporbo assaulted Andresa Lagura -- independently rather than in concert. There was no proof of assistance lent by one appellant to the other in performing his assault on his intended victim. Witness Laquinta testified:[31]

“Prosecutor Montenegro:

Q What was that incident that happened that you saw?

A Aporbo and Alas stabbed Fidel Lagura first then Andresa Lagura.

Q You said that Andresa and Fidel Lagura were stabbed. Who stabbed them?

A The one who stabbed Fidel Lagura was Alas.

Q Are you referring to Roseller Alas the accused in these cases?

A Yes, sir.

Q And you are referring to this alias 'Bagong' as Roseller Alas.

A Yes, sir.

Q You said Andresa Lagura was also stabbed. Who stabbed Andresa Lagura?

A Manuel Aporbo.

xxx xxx xxx

PROS. MONTENEGRO:

Q You said Fidel Lagura was stabbed first by Roseller Alas, how many times did Roseller Alas stab Fidel Lagura?

A The first stab was done at the back.

COURT: The question was how many times was the deceased stabbed.

WITNESS:

A Only once, sir.

PROS. MONTENEGRO:

Q What did Roseller Alas use in stabbing Fidel Lagura?

A Small bolo, sir.

Q How big was that bolo?

A 18 centimeters, sir.

Q You said that Andresa Lagura was stabbed by Manuel Aporbo. What was the weapon used by Manuel Aporbo in stabbing Andresa Lagura?

A An object called 'bidyo', small sphere (sic) for catching fish.

Q Where was Fidel Lagura hit when he was stabbed by Roseller Alas alias 'Bagong'?

A Fidel Lagura was hit at the back once and in front in the chest, perhaps four when he fell down already.

Q How about Andresa Lagura, where was he (sic) hit?

A In the right breast then at the back and also at the right shoulder.

Q At the time when the stabbing incident took place what did you and Vicente Gedovia (sic) do?

A We were hiding in the side because they were bringing (sic) with them bolos."

Although in his testimony he clearly identified the two appellants as the ones responsible for the killing, Witness Guidobia was unclear on how the two had allegedly conspired and cooperated in killing the spouses Lagura. He testified:[32]

Q Who stabbed or killed (sic) first, Alas or Aporbo?

A It was Alas first.

Q How many times did Alas thrust his bolo?

A Four times, sir.

Q How about Aporbo, how many times did he stab or thrust his bolo?

A Four times also, sir.

Q At the time of the stabbing incident, where were you?

A We were very near looking at them.

Q After the stabbing what happened to the spouses Fidel and Andresa Lagura?

A They were killed.”

It is noteworthy that the prosecution presented no proof that appellants had hidden together prior to the murder. Neither was there testimony or evidence on record to the effect that appellants, in mutual agreement, had simultaneously attacked the spouses. What was testified to and proven by the prosecution witnesses was only the actual perpetration of the two killings which were independent of and separate from each other.

Time and again, the Court has held that conspiracy must be proven beyond reasonable doubt. The reason is obvious. Under the law, a conspirator, no matter how minimal his participation in the crime, is as guilty as the principal perpetrator of the crime.[33] We find reasonable doubt, however, on the presence of conspiracy; hence, such doubt should be resolved in favor of the accused. As borne by the records, Appellant Alas killed Fidel by himself, while Appellant Aporbo was solely responsible for the death of Andresa. It was not clearly shown whether Alas had assisted Aporbo, or vice versa, an act that would have warranted a finding of conspiracy between the two. Mere knowledge, acquiescence or agreement to cooperate, is not enough to constitute one as a conspirator, absent any active participation in the commission of the crime with a view to the furtherance of the common design and purpose.[34]

Treachery

The qualifying circumstance of treachery was clearly proven in this case. Appellants perpetrated the killings during nighttime, and the victims were completely taken by surprise when appellants attacked them without warning, rendering them unable to defend themselves.[35] Further, the number, nature and location of the wounds inflicted upon the couple are strong indications that appellants had ensured the success of their effort to kill the spouses without risk to themselves.[36]

Indemnity is awarded in case of death; it is limited, however, to the sum of P50,000.00 in line with current jurisprudence.[37] The award of moral damages in this case is deleted. The rule is that moral damages may be recovered in criminal offenses resulting in physical injuries which, incidentally, include death. But there must be a factual basis for the award of moral damages.[38] We have carefully studied the records and found that there was none.

WHEREFORE, premises considered, the assailed Decision is AFFIRMED with MODIFICATIONS. Accused-appellants Alas and Aporbo are each found guilty of a single count of murder and each is sentenced with the penalty of reclusion perpetua. Appellant Roseller Alas is ordered to pay P50,000.00 to the heirs of Fidel Lagura as indemnity; and Appellant Manuel Aporbo, the same amount of P50,000.00 to the heirs of Andresa Lagura, also as civil indemnity in line with current jurisprudence. The award of moral damages is deleted for lack of factual basis. No costs.

SO ORDERED.

Narvasa, C.J., (Chairman), Davide, Jr., and Melo, JJ., concur.

Francisco, J., On leave.

[1] Branch 27.

[2] Original Records of Criminal Case No. 2052, pp. 24-25; rollo, pp. 6-7.

- [3] Original Records of Criminal Case No. 2053, pp. 1-2; rollo, pp. 8-9.
- [4] RTC Decision, p. 2. See also Original Records of Criminal Case No. 2052, p. 15.
- [5] Ibid., See also Original Records of Criminal Case No. 2053, p. 16.
- [6] RTC Decision, pp. 9-10, penned by Executive Judge Ermelindo G. Andal; rollo, pp. 21-22.
- [7] Decision, pp. 2-3; rollo, pp. 14-15.
- [8] Rollo, pp. 16-17; Decision, pp. 4-5.
- [9] Rollo, p. 48; underscoring omitted.
- [10] Ibid., p. 58; underscoring omitted.
- [11] Ibid.,p. 49.
- [12] Ibid.,
- [13] Ibid., p. 50.
- [14]Ibid.,
- [15] Ibid., p. 51.
- [16] People vs. Echegaray, 257 SCRA 561, 572, June 25, 1996.
- [17] TSN, December 2, 1992, p. 6.
- [18] Ibid.,
- [19] Witness Esterlito Laquinta testifying on direct examination:
Prosecutor Montenegro:
Q At what time did you go home with Andresa and Fidel Lagura and Vicente Gedovia (sic) and Sosing Besinga?
A Past 10:00 o' clock.
Q While on the (sic) way, do you recall if there was any unusual incident that happened?
A I did not expect that there would be an incident that could happened (sic) but later on there was already an incident." (TSN, December 2, 1992, pp. 3-4).
- [20] Witness Vicente Guidobia testifying on direct examination:
‘PROS. MONTENEGRO:
Q At 10:00 o' clock, what did you do?
A We have our snacks, sir.
Q After the snack, what did you do?
A We just stayed there and conversing (sic) with each other.
Q What time did you go home?
A About 11:00 o' clock, sir." (TSN, December 3, 1992, pp. 4).
- [21] People vs. Pandiano, 232 SCRA 619, 625, May 30, 1994.
- [22] Appellant's Brief, p. 15; rollo, p. 50.

[23] See, *People vs. Cruza*, 237 SCRA 410, 417, October 7, 1994.

[24] *People vs. Bongadillo*, 234 SCRA 233, 243, July 20, 1994, citing *People vs. Jacolo*, 216 SCRA 631, December 16, 1992.

[25] *People vs. Cañeja*, 235 SCRA 328, 337, August 15, 1994.

[26] *People vs. Pano*, 257 SCRA 274, 286, citing *People vs. Catalino*, 22 SCRA 1091, March 15, 1968.

[27] Decision, p. 7; rollo, p. 19.

[28] *People vs. Cuizon*, 256 SCRA 325, 350, citing *People vs. Lug-aw*, 229 SCRA 308, January 18, 1994 and *People vs. Jorge*, 231 SCRA 693, April 22, 1994.

[29] *Magsuci vs. Sandiganbayan*, 240 SCRA 13, 17, January 3, 1995.

[30] *People vs. Paguntalan*, 242 SCRA 753, 772, March 27, 1995.

[31] TSN, December 2, 1992, pp. 4-6.

[32] TSN, December 3, 1992, pp. 5-6.

[33] *People vs. Cedon*, 233 SCRA 187, 194, June 15, 1994.

[34] *People vs. Cedon*, supra, at p. 195 citing *People vs. Bragaes*, 203 SCRA 555, November 14, 1991; *Taer vs. Court of Appeals*, 186 SCRA 598, June 18, 1990 and *Orodio vs. Court of Appeals*, 165 SCRA 316, September 13, 1988.

[35] *People vs. Paragua*, 257 SCRA 118, 125, May 24, 1996; *People vs. Caritativo*, 256 SCRA 1, 13, April 1, 1996; *People vs. Canuzo*, 255 SCRA 497, 502, March 29, 1996; *People vs. Lapura*, 255 SCRA 85, 98, March 15, 1996; *People vs. Halili*, 245 SCRA 353, June 27, 1995; *People vs. Liston*, 179 SCRA 415, November 15, 1989.

[36] *People vs. Paragua*, supra.

[37] *People vs. Abalos*, 258 SCRA 523, 534, July 9, 1996; *People vs. Porras*, 255 SCRA 514, 531, March 29, 1996; *People vs. Panlilio*, 255 SCRA 497, 503, March 29, 1996; *People vs. Juan*, 254 SCRA 478, 490, March 7, 1996.

[38] *People vs. Patrolla, Jr.*, 254 SCRA 467, 477, March 7, 1996.

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