

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. ROGELIO LAYUGAN Y FURUC, APPELLANT.*G.R. Nos. 130493-98. April 28, 2004*

Ponente: SANDOVAL-GUTIERREZ, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-nos-130493-98/>**SANDOVAL-GUTIERREZ, J.:**

For automatic review is the Joint Decision[1] dated December 12, 1996 of the Regional Trial Court, Branch 19, Cauayan, Isabela in Criminal Cases Nos. 19-970, 19-972 to 19-975, convicting Rogelio Layugan y Furuc, appellant, of five counts of rape and sentencing him to suffer the penalty of death in each count and to pay the victim, his very own daughter, P100,000.00 as moral damages.

The five separate Amended Informations filed against appellant have similar allegations (except the dates of commission), charging him as follows:

“That on or about (August 25, 1995 – in Criminal Case No. 19-970; August 30, 1995 – in Criminal Case No. 19-972; October 11, 1995 – in Criminal Case No. 19-973; October 18, 1995 – in Criminal Case No. 19-974; and April 21, 1996 – in Criminal Case No. 19-975), in the municipality of Angadanan, province of Isabela, Philippines, and within the jurisdiction of this Honorable Court, said accused, Rogelio Layugan, did then and there willfully, unlawfully and feloniously have carnal knowledge with his own daughter, Evelyn Layugan, a fourteen-year old girl, against her will and consent.

”Contrary to Law.”

Upon being arraigned, appellant, assisted by counsel, entered a plea of “Not guilty” to each of the crimes charged. A joint trial commenced thereafter.

The evidence for the prosecution, as culled from the testimonies of Evelyn Layugan, complainant, her mother Josefina Ramones-Layugan, and Dr. Inocencio Agpaon, may be stated as follows:

Evelyn is the daughter of appellant and Josefina. The spouses have eleven children, three of them are deceased – the two died a day after their birth, while the 24-year old eldest son, Eriberto, was killed by appellant himself.[2] At the time the crimes were committed, the following children were living with the couple, namely: Charlita (20), an epileptic, Arnel (17), complainant Evelyn (14), Analiza (13), and Gloria (11).[3] The family reside at Barangay Aniog, Angadanan, Isabela.

On August 25, 1995, about 10:00 o’clock in the evening, Evelyn and her sisters Charlita, Analiza and Gloria were at home sleeping in their room. At that time, their brother Arnel and mother Josefina were in Aglipay, Quirino visiting her ailing mother, Juana Tallud. Suddenly Evelyn was awakened by the weight of her father on top of her. Instinctively, she struggled to extricate herself, but he warned her not to shout if she did not want to be harmed. Overwhelmed with fear as she remembered how he killed her own eldest brother, she just remained still and merely cried. Then he quickly undressed her and kissed the different parts of her body, forcibly inserting his penis in her vagina. She felt pain and sensed something was torn inside. That was the first time she experienced sexual

intercourse.[4]

On August 30, 1995, while Josefina and Arnel were still in Aglipay, Quirino, appellant ravished Evelyn for the second time. About 12:00 o'clock midnight, while she and her sisters were sleeping in their house appellant removed her dress and underwear. Before she could shout, he threatened to kill her. He then proceeded to kiss her body and later on inserted his penis inside her vagina.[5]

In October 1995, Josefina's mother died. Thus, she and Arnel had to stay again in Aglipay, Quirino to attend the wake.

Taking advantage of his wife's absence, appellant sexually abused Evelyn for the third time in their house on October 11, 1995 at 1:00 o'clock in the morning. That time, while her sisters were sleeping soundly, she woke up when appellant took off her underwear. However, she "could not do anything" considering his strength. After he removed her underwear, he then forcibly shoved his penis into her vagina. She felt something came out from his penis which he later withdrew.[6]

For the fourth time, or on October 18, 1995, appellant sexually molested Evelyn. She cried as she felt helpless against the sexual assault by her own father.[7]

In the second week of April 1996, appellant and Josefina went to Echague, Isabela to harvest corn in her brother's farm. Only Evelyn and her sister Charlita were left at home.

However, on April 20, 1996, appellant returned home alone. The following day, around 1:00 o'clock in the morning, Evelyn was roused from her sleep as he was forcibly undressing her. Once more, she was engulfed with fear and remained motionless. She merely cried as he easily ravished her for the fifth time.[8]

That same day (April 21, 1996), Evelyn mustered enough courage and revealed to her mother the traumatic incidents she suffered in the hands of her father. Without delay, Josefina reported the matter to Barangay Captain Josie Siquian who accompanied them to the police headquarters. There Evelyn's statement was taken. It was only this time she confided to her mother what took place in detail since she was so terrified of her father's threat. And she believed her father would kill them because according to her, "he already killed my eldest brother." [9] For her part, Josefina confirmed that appellant killed their son and that when he sought her forgiveness and promised to reform, she desisted from pursuing the case against him.[10]

The following day (April 22), Evelyn was examined by Dr. Inocencio R. Agpaoa, Municipal Health Officer of Angadanan, Isabela. He issued a Medico-Legal Report/ Certification dated April 22, 1996,[11] stating his findings he confirmed on the witness stand,[12] thus:

"Nature Of Incident:

Alleged rape by Evelyn Layugan's own father.

Pertinent Physical Findings:

Presence of a fresh laceration, reddish in appearance, at the lower end portion of her vagina located at 4:30 o'clock position. Also noted was old laceration of her hymen at 3:00 o'clock position." (Underscoring ours)

Appellant, upon the other hand, interposed the defenses of alibi and denial. He testified that he could not have committed the crimes charged since he never slept in their house during the dates in question. At that time, he worked as caretaker of Rebecca Tamani's farm situated about 100 meters away from his house. He further testified that he loves his children and, therefore, could not have sexually abused his own daughter. He admitted that he killed his own eldest son, Eriberto, resulting in his detention for two years at the Provincial Jail.[13]

On December 12, 1996, the trial court rendered the appealed Joint Decision, the dispositive portion of which reads:

“WHEREFORE, in view of the foregoing considerations and finding the accused Rogelio Layugan y Furuc guilty beyond reasonable doubt of the five counts of rape charged in the Informations, judgment is hereby rendered sentencing him to suffer the death penalty in each case, or a total of five (5) death penalties, and to indemnify the victim in the amount of P100,000.00 as moral damages.

”SO ORDERED.”[14]

In his Brief, appellant claims that the trial court committed the following lone error:

“THE COURT A QUO ERRED IN FINDING THAT THE GUILT OF THE ACCUSED FOR THE CRIMES CHARGED HAS BEEN PROVED BEYOND REASONABLE DOUBT.”

Upon the other hand, the Solicitor General, in his Appellee’s Brief, disputed appellant’s claim and prayed that the trial court’s Joint Decision be affirmed.

As alleged in the five Amended Informations, four of the crimes charged were committed in 1995 and the fifth one in 1996. Hence, the law applicable to the cases at bar is Article 335 of the Revised Penal Code, as amended by Republic Act No. 7659,[15] which provides:

“Article 335. When and how rape is committed. – Rape is committed by having carnal knowledge of a woman under any of the following circumstances:

- By using force or intimidation;
- When the woman is deprived of reason or otherwise unconscious; and
- When the woman is under twelve years of age or is demented.

The crime of rape shall be punished by reclusion perpetua.

x x x

The death penalty shall also be imposed if the crime of rape is committed with any of the following attendant circumstances:

- When the victim is under eighteen (18) years of age and the offender is a parent, ascendant, step-parent, guardian, relative by consanguinity or affinity within the third civil degree, or the common-law spouse of the parent of the victim.

x x x.” (Underscoring ours)

For the charge of rape to prosper under the above provisions, it is required that (1) the offender had carnal knowledge of a woman; and (2) he accomplished such act through force or intimidation upon her; or when she is deprived of reason or otherwise unconscious; or when she is under 12 years of age or is demented.[16]

The same provisions categorize rape as either simple or qualified. It is qualified when any of the qualifying/aggravating circumstances which attended the commission of the crime – as when the victim is below 18 years of age and the offender is a parent, ascendant, step-parent, guardian, relative by consanguinity or affinity within the third civil degree, or the common-law spouse of the parent of the victim – is alleged in the Information and proven during trial.[17] A finding of qualified rape raises the penalty to death.

In a prosecution for rape, the complainant’s credibility is the single most important issue. When her testimony meets the test of credibility, the accused may be convicted solely on the basis thereof.[18]

We have scrutinized with great caution Evelyn's testimony, fully mindful of the well-established guiding principles in the adjudication of rape cases that an accusation of rape can be made with facility, but more difficult for the accused to disprove it;[19] hence, the victim's testimony must not be received with precipitate credulity.[20]

We find that the prosecution has sufficiently and convincingly proved that appellant, on five occasions, had carnal knowledge of Evelyn through force or intimidation. We quote the following pertinent portions of her testimony:

1.

Rape committed on August 25, 1995 –

“Q

At around 10:00 o'clock in the evening of August 25, 1995, do you remember if there was any unusual incident that happened at your house at Aniog, Angadanan, Isabela?

A

Yes, sir.

x x x

Q

What was that incident that happened on August 25, 1995?

A

My father abused me, sir.

Q

What do you mean by your father abused you?

A

Ginalaw po ako ng tatay ko.

Q

What do you mean by your father abused you?

A

My father abused me. He raped me, sir.

PROSECUTOR MENDOZA:

I noticed your Honor, that the witness also said hinubaran niya ako.

A

He undressed me and raped me, sir.

Q

What did you do when your father was removing your dress?

A

I cannot do anything because he was stronger than me, sir.

COURT:

Q

Were you awake when your father undressed you?

A

Yes, sir.

PROSECUTOR MENDOZA:

Q

It was already 10 o'clock in the evening, how were you able to recognize your father?

A

He talked, sir.

Q

What did he tell you?

A

Huwag kang sisigaw kung ayaw mong masaktan. (Don't shout if you don't want to be harmed.)

COURT:

Q

In what language or dialect did he say that?

A

In Gaddang, sir.

Q

Will you repeat to this Court what was said in Gaddang?

A

Mem maggerawa no meme gusto maluwan.

COURT:

Proceed.

PROSECUTOR MENDOZA:

Q

What about your sister Charlita, where was she when your father abused you?

A

My sister was asleep, sir.

Q

You said your father raped you. Will you tell this Honorable Court what were the actions done by your father when he raped you?

A

He kissed the different parts of my body and after kissing the different parts of my body....

Q

And after kissing the different parts of your body, what else did your father do to you?

A

He inserted his penis to my vagina, sir.

Q

How many times did he insert his penis to your vagina?

A

Once only, sir.

Q

What happened to your vagina when your father inserted his penis to your private part?

A

It was painful, sir.

Q

What else did you feel?

A

I felt that it was painful inside and I felt that there was something torn, sir.

Q

When you said that it was your father who raped you, are you referring to the person whom you identified inside the courtroom?

A

Yes, sir.

Q

Was that the first time that you have experienced sexual intercourse?

Q

Yes, sir.”[21] (Underscoring ours)

2.

Rape committed on August 30, 1995 –

“Q

On August 30, 1995 at around 12 o'clock midnight, where were you madam witness, if you can still remember?

A

I was at our residence, sir.

Q

Do you mean at Aniog, Angadanan, Isabela?

A

Yes, sir.

COURT:

Q

Who were your companions in that house on August 30, 1995?

A

My sisters Charlita, Analiza and Gloria, sir.

Q

How about your other sisters and brothers?

A

My brother was at Aglipay, Quirino, sir.

Q

How about the others?

A

They were already married, sir.

x x x

Q

At 12 o'clock midnight on August 30, 1995, do you remember if there was an unusual incident that happened at your residence at Abiog, Angadanan, Isabela?

A

Yes, sir.

Q

What was that incident?

A

My father again raped me, sir.

Q

How did he rape you?

A

He removed my dress, sir.

Q

How about your panty?

A

The same, sir, he removed.

Q

After removing your dress and your panty, what did your father do?

A

He kissed the different parts of my body, sir.

Q

After your father kissed the different parts of your body, what happened next?

A

He inserted his penis to my vagina, sir.

Q

How many times did he insert his penis to your vagina?

A

Once, sir.

Q

Your sister Charlita, Analiza and Gloria, what were they doing when your father raped you at around 12 o'clock midnight on August 30, 1995?

A

They were sleeping, sir.

Q

It was 12 o'clock midnight, how were you able to know that your father raped you?

A

As usual, he talked to me, sir.

Q

And what did he tell you?

A

The same sir. He warned me not to shout otherwise, he will kill me.”[22] (Underscoring ours)

3.

Rape committed on October 11, 1995 –

“Q

On October 11, 1995 at around 1 o’clock in the morning, do you remember madam witness, where were you?

A

Yes, sir.

Q

Where were you, madam witness?

A

In our house at Aniog, Angadanan, Isabela, sir.

Q

Who were your companions at your house at Angadanan, Isabela at 1 o’clock in the morning on October 11, 1995?

A

My sisters, Charlita, Analiza and Gloria, sir.

Q

How about your mother and your brothers?

A

My mother and brother were at Aglipay, Quirino, sir.

Q

At that time 1 o’clock in the morning of October 11, 1995, do you remember if there was anything that happened at your house at Aniog, Angadanan, Isabela?

A

Yes, sir.

Q

What was that incident that happened?

A

My father raped me, sir.

Q

When you said your father raped you, what do you mean by that?

A

He removed all my clothes, sir.

Q

After removing all your clothes, what else did your father do?

A

He inserted his penis inside my vagina, sir.

x x x

Q

What did you do when your father removed your dress?

A

None, sir, because I cannot do anything.

Q

How about your sisters Charlita, Analiza, and Gloria. What did they do when your father raped you at around 1 o'clock in the morning on October 11, 1995?

A

They don't know anything, sir, because they were asleep.

COURT:

Q

You said that your father inserted his penis inside you vagina, what do you mean by that?

A

As what he did to me before, sir.

Q

Did you feel something that came out from his penis inside your vagina when he inserted his penis to your vagina?

A

Yes, sir.

Q

After you felt something that came out from his, did he remove his penis from your vagina?

A

Yes, sir.

x x x.”[23] (Underscoring ours)

4.

Rape committed on October 18, 1995 –

“PROSECUTOR MENDOZA:

Q

On October 18, 1995 at around 1 o’clock in the morning, can you still remember where you were?

A

Yes, sir.

Q

Where were you?

A

I was at our house at Aniog, Agadanan, Isabela, sir.

Q

Who were your companions in your house on October 18, 1995?

A

My sisters Charlita, Analiza and Gloria, sir.

Q

What about your mother and your brother?

A

At Aglipay, Quirino, sir.

Q

Why were they in Aglipay, Quirino?

A

Because my grandmother died.

Q

When did your grandmother die?

A

October, sir.

Q

On that particular time at 1 o’clock in the morning of October 18, 1995, do you remember if there was an unusual incident that happened in your house at Aniog, Angadanan, Isabela?

A

I remember, sir.

Q

What was that incident that happened?

A

My father raped me again, sir.

Q

When you said 'he raped me again', what do you mean by that?

A

He removed my dress, sir.

Q

And what did you do when your father was removing your dress?

A

I did nothing. I was crying, sir.

Q

After he removed your dress, what did your father do?

A

He inserted his penis to my vagina, sir.

x x x

Q

And what did your sisters Charlita, Analiza and Gloria do when your father raped you in the early morning of October 18, 1995 at around 1 o'clock in the morning?

A

None, sir.

COURT:

Why?

Because they were sleeping, sir.

PROSECUTOR MENDOZA:

Q

It was 1 o'clock in the morning on October 18, 1995, how were you able to recognize that your father raped you?

A

I could see him from the reflection of the light of our neighbor, sir.

Q

How far is that light of your neighbor from your house?

A

From here up to that tank, sir. (Witness indicating a distance of around 10 meters)”[24] (Underscoring ours)

5.

Rape committed on April 21, 1996 –

“Q

On April 21, 1996 at around 1 o’clock in the morning, do you remember where you were?

A

At our house at Aniog, Angadanan, Isabela, sir.

Q

Who were your companions in that house in the early morning of April 21, 1996?

A

Only my sister Charlita who has epilepsy (Kisiw).

Q

How about your sisters Analiza and Gloria?

They were at Echague, sir.

x x x

Q

Why were your sisters Analiza and Gloria at Echague, Isabela on April 21, 1996?

A

Because it was a vacation, they went to Echague, Isabela, sir.

Q

How about your mother, where was she?

A

She was at Echague, Isabela, sir.

Q

Why was your mother at Echague, Isabela, sir.

A

They were harvesting, sir.

Q

At around 1 o’clock in the morning of April 21, 1996, do you remember if there was an unusual incident that happened at your house at Aniog, Angadanan, Isabela?

A

Yes, sir.

Q

What was the incident that happened?

A

My father raped me again, sir.

Q

What do you mean by 'my father raped me again?'

A

He removed my dress.

Q

After removing your dress, what did your father do?

A

He inserted his penis to my vagina, sir.

Q

How many times did your father insert his penis to your vagina?

A

Once, sir.

Q

When your father was removing your dress in the early morning of April 21, 1996, what did you do?

A

I only cried, sir.

Q

After your father raped you for several times from August 25, 1995 to April 21, 1996, what did you do, madam witness?

A

I stopped studying, sir.

Q

On April 21, 1996 did you see your mother?

A

Yes, sir.

Q

Where did you see her?

A

At Echague, Isabela, sir.

Q

Did you go to Echague, Isabela on April 21, 1996?

A

Yes, sir.

Q

What was your purpose in going to Echague, Isabela on April 21, 1996?

A

I reported to my mother what my father did to me, sir.

Q

That was the first time that you reported the incidents that happened to you on August 25, 1995 to April 21, 1996?

A

Yes, sir.

Q

Why did it take you that long to report the incident to your mother?

A

Because my father was threatening me, sir.

Q

How did your father threaten you?

A

He told me that if I will squeal, he would kill us all.

Q

Did you believe your father that he will kill you if you will squeal?

A

Yes, sir.

Q

Why did you believe your father's threat?

A

x x x, because he already killed my eldest brother.”[25] (Underscoring ours)

Evelyn's story of her harrowing experiences in the hands of appellant, her own father, exhibits the marks of a credible testimony coming from a truthful witness and, therefore, must be given full faith and credit. She exuded

an unmistakable aura of complete innocence and simplicity as a barrio lass, obviously unexposed to worldly lusts, as indicated by her curt but frank and straightforward answers to the questions describing how she was sexually abused five times by her father. She was definitely sincere and forthright when she declared that on August 25 and 30, 1995, October 11 and 18, 1995, and April 21, 1996, appellant, in order to satisfy his bestial desires, used forced and intimidation when he undressed her, removed her underwear, and inserted his penis inside her vagina. Her boldness in facing a public trial, unmindful of the humiliating ordeals she unfolded as she positively identified her own father as the perpetrator, obviously demonstrates her genuine desire to seek justice.

It bears stressing that Evelyn's account was reinforced by physical evidence. The Medico-Legal Report and testimony of Dr. Inocencio Agpaoa, who physically examined her on April 22, 1996, or a day after the fifth rape incident (April 21), show that her genital has (1) a fresh laceration, reddish in appearance, at the lower end portion of the vagina located at 4:30 o'clock position, and (2) an old hymenal laceration at 3:00 o'clock position. The lacerations and pain Evelyn suffered in her genital could be nothing but the result of penile penetration showing that appellant had carnal knowledge of her.[26]

We are thus convinced beyond reasonable doubt that Evelyn was telling the truth. We have consistently held that no decent lass will publicly cry rape, particularly against her father, if such were not true.[27] Courts usually accord great weight to the testimony of the victim of sexual assault, particularly in cases of incestuous rape, because no woman would be willing to undergo a public trial, along with the shame, humiliation and dishonor of exposing her own degradation, were it not to condemn an injustice and to have the offender apprehended and punished.[28] Too, it is highly unnatural for a mother (such as Josefina in this case), virtuous or not, to influence her own daughter to concoct a story which would put her own father for most of his remaining life in jail, if not put him to his death, and drag herself and the rest of her family to a lifetime of shame.[29]

Appellant wants us to doubt Evelyn's version, contending that it is simply incredible because "it is difficult to comprehend how he could perpetrate the alleged bestial acts (in the same room where her sisters were then sleeping) without any of them being awakened." He added that Evelyn's testimony that her sisters were then fast asleep "was contrary to human experience and natural course of things." [30]

We are not swayed by appellant's arguments.

It has been oft said that lust is no respecter of time or place.[31] Neither the crampedness of the room, nor the presence of other people therein, nor the high risk of being caught, has been held sufficient and effective obstacles to deter the commission of rape.[32] Jurisprudence is replete with rulings that rape can be committed in places where people congregate, in parks, alongside the road, within school premises, inside a house where there are other occupants, and even in the same room where there are other members of the family who are sleeping.[33]

In the case at bar, it is understandable that Evelyn's sisters were not awakened when appellant sexually assaulted her on those five occasions. She testified that it was only on the first rape incident that she attempted to resist his bestial attack, but she stopped when he threatened to harm her. She was thus cowed to submit quietly to his lust since she was overwhelmed with fear when she recalled how he killed her own eldest bother.

Moreover, contrary to appellant's assertion, it is not impossible for him to rape her very own daughter. In *People vs. Palero*[34] and *People vs. Makilang*,[35] we noted, with sadness and disdain, the "increasing frequency" of rape cases elevated to this Court where fathers molest and defile the innocence of their own flesh and blood.

Anent appellant's defenses of denial and alibi, the same utterly failed to show that he could not have committed the crimes charged. Both defenses are intrinsically weak. Denial is a negative and self-serving assertion that cannot overcome the victim's affirmative, categorical, and convincing testimony.[36] Also, his alibi can easily be

fabricated, and for it to prosper, it must be established by positive, clear and satisfactory proof that it was physically impossible for him to be at the scene of the crime at the time of its commission and not merely assert that he was somewhere else. Physical impossibility refers to the distance between the place where the accused was when the crime happened and the place where it was committed, as well as the facility of the access between the two places.[37]

Here, the element of physical impossibility is absent since appellant's place of work is merely about 100 meters away from his house. Obviously, he could easily reach home anytime to perpetrate the crimes charged.

However, we find that the trial court erred in finding appellant guilty of qualified rape and in imposing the death penalty in each case. While the five Amended Informations sufficiently allege that Evelyn was 14 years of age when appellant, her own father, committed the crimes charged, however, the prosecution failed to prove her actual age. Evelyn's Certificate of Live Birth, the best evidence to prove her age,[38] was never offered in evidence. Josefina merely declared that Evelyn was 14 years old when appellant committed the crimes, without even stating the date she was born. Certainly, such declaration does not satisfy the requirement that the victim's age must be proved with certainty as the crime itself.[39]

As stated earlier, for qualified rape to prosper, both the qualifying circumstances of the victim's minority (below 18 years of age) and her relationship with the offender (father) must be alleged in the Information and proved during trial. Absent such proof of the victim's minority, as in these cases, appellant can only be convicted of five counts of simple rape and meted the penalty of reclusion perpetua in each count.[40]

With respect to the civil aspect of the crime, the trial court likewise erred in awarding the victim only moral damages of P100,000.00. Current jurisprudence requires that upon a finding of the fact of rape, the award of civil indemnity in the sum of P50,000.00 is mandatory. Here, the victim should be entitled to P50,000.00 for each count of simple rape.[41]

Additionally, we award the victim moral damages of P50,000.00 in each count of simple rape, without need of pleading or proof of the basis thereof since the anguish and pain she has endured are evident.[42]

WHEREFORE, the assailed Joint Decision dated December 12, 1996 of the Regional Trial Court, Branch 19, Cauayan, Isabela in Criminal Cases Nos. 19-970, 19-972 to 19-975 is hereby **AFFIRMED** with **MODIFICATION** in the sense that appellant Rogelio Layugan y Furuc is found guilty beyond reasonable doubt of five (5) counts of simple rape and is sentenced to suffer the penalty of reclusion perpetua in each count. He is ordered to pay the victim, Evelyn Layugan, P50,000.00 as civil indemnity and P50,000.00 as moral damages, also in each count.

Costs de officio.

SO ORDERED.

Davide, Jr., C.J., Puno, Vitug, Panganiban, Quisumbing, Ynares-Santiago, Carpio, Austria-Martinez, Carpio-Morales, Callejo, Sr., Azcuna, and Tinga, JJ., concur.
Corona, J., on leave.

[1] Penned by Judge Artemio R. Alivia; Rollo at 41-47.

[2] Testimony of Josefina Ramones-Layugan, Transcript of Stenographic Notes (TSN), July 12, 1996 at 32.

[3] Id. at 22-23, 35-36, 41.

[4] Testimony of Evelyn R. Layugan, TSN, July 12, 1996 at 36, 38-40.

[5] Id. at 40-42.

[6] Id. at 42-44.

[7] Id. at 44-46.

[8] Id. at 46-47.

[9] Id. at 47-49.

[10] Testimony of Josefina Ramones-Layugan, TSN, July 12, 1996 at 32.

[11] Exhibit "A," RTC Records in Criminal Case No. 19-970 at 6.

[12] TSN, July 12, 1996 at 8-10, 16-17.

[13] Testimony of appellant, TSN, July 17, 1996 at 2-27; see also Appellant's Brief, Rollo at 73.

[14] Rollo at 47.

[15] "An Act To Impose The Death Penalty On Certain Heinous Crimes, Amending For That Purpose The Revised Penal Code, As Amended, Other Special Penal Laws, And For Other Purposes," which took effect on December 31, 1993 (People vs. Simon, G.R. No. 93028, July 29, 1994, 234 SCRA 555, 569; People vs. Derilo, G.R. No. 117818, April 18, 1997, 271 SCRA 633, 661).

[16] Eduardo Limos y de Vera, G.R. Nos. 122114-17, January 20, 2004; People vs. Paraiso, G.R. No. 131823, January 17, 2001, 349 SCRA 335; People vs. Pillas, G.R. Nos. 138716-19, September 23, 2003.

[17] People vs. Pancho, G.R. Nos. 136592-93, November 24, 2003, citing People vs. Bartolome, 323 SCRA 836 (2000).

[18] People vs. Ruben Dalisay, G.R. No. 133926, August 6, 2003; People vs. Estomaca, G.R. Nos. 134288-89, January 15, 2002, 373 SCRA 197; People vs. Agustin, G.R. Nos. 132524-25, September 24, 2001, 365 SCRA 667; People vs. Palero, G.R. No. 138235, May 10, 2001, 357 SCRA 724.

[19] People vs. Garcia, G.R. No. 117406, January 16, 2001, 349 SCRA 67; citing People vs. Barcelona, 325 SCRA 168 (2000); People vs. Bea, Jr., 306 SCRA 653 (1999).

[20] People vs. Bawar, G.R. No. 119957, September 23, 1996, 262 SCRA 325, citing People vs. Graza, 196 SCRA 512 (1991) and People vs. Dulay, 217 SCRA 132 (1993).

[21] TSN, July 12, 1996 at 36-40.

[22] Id. at 40-42.

[23] Id. at 42-44.

[24] Id. at 44-46.

[25] Id. at 46-48.

[26] People vs. Makilang, G.R. No. 139329, October 23, 2001, 368 SCRA 155; People vs. Pillas, *supra*.

[27] Id.; People vs. Tabanggay, 334 SCRA 575, 597 (2000).

[28] Id.; People vs. Diasanta, 335 SCRA 218, 226 (2000); People vs. Dizon, G.R. Nos. 126044-45, July 2, 1999, 309 SCRA 669; People vs. Brandares, G.R. No. 130092, July 26, 1999, 311 SCRA 159. People vs. Dizon, G.R.

Nos. 126044-45, July 2, 1999, 309 SCRA 669.

[29] *Id.*; *People vs. Alcala*, 307 SCRA 330 (1999); *People vs. Deleverio*, 289 SCRA 547 (1998).

[30] Appellant's Brief, Rollo at 74-75.

[31] *People vs. San Juan*, G.R. No. 105556, April 4, 1997, 270 SCRA 693.

[32] *People vs. Zabala*, G.R. Nos. 140034-35, August 14, 2003.

[33] *People vs. Paraiso*, G.R. No. 131823, January 17, 2001, 349 SCRA 335, 350, citing *People vs. Bersabe*, 289 SCRA 685 (1998).

[34] G.R. No. 138235, May 10, 2001, 357 SCRA 724.

[35] *Supra*.

[36] *People vs. Aquino*, G.R. Nos. 145309-10, April 4, 2003.

[37] *People vs. Evina*, G.R. Nos. 124830-31, June 27, 2003.

[38] *People vs. Pruna*, G.R. No. 138471, October 10, 2002, 390 SCRA 577.

[39] *People vs. Umayam*, G.R. No. 147033, April 30, 2003; *People vs. Bawang*, G.R. No. 131942, October 5, 2000, 342 SCRA 147; *People vs. Tipay*, G.R. No. 131472, March 28, 2000, 329 SCRA 52.

[40] *People vs. Ruben Dalisay*, *supra*; *People vs. Jose Santos*, G.R. Nos. 137828-33, March 23, 2004.

[41] *People vs. Jose Santos*, *id.*, citing *People vs. Pancho*, *supra*.

[42] *Id.*

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