

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ELEGIO NADERA, JR. Y SADSAD, ACCUSED-APPELLANT.

G.R. Nos. 131384-87. February 02, 2000

Ponente: MENDOZA, J.

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MENDOZA, J.:

These cases are before us on automatic review of the decision of the Regional Trial Court, Branch 40, Calapan, Oriental Mindoro, finding accused-appellant Elegio Nadera, Jr. guilty of four counts of rape of his minor daughters, Oleby and Maricris Nadera, and sentencing him to suffer the penalty of reclusion perpetua for one count of rape and death for each of the remaining three counts. Accused-appellant was also ordered to indemnify complainants Oleby Nadera in the amount of P150,000.00 and Maricris Nadera in the amount of P50,000.00, without subsidiary imprisonment in case of insolvency.

Reversal of the decision is sought on the sole ground that -

THE TRIAL COURT GRAVELY ERRED IN ACCEPTING ACCUSED-APPELLANT'S IMPROVIDENT PLEA OF GUILTY TO A CAPITAL OFFENSE AND IN FAILING TO CONDUCT A SEARCHING INQUIRY TO DETERMINE WHETHER THE ACCUSED FULLY UNDERSTOOD THE CONSEQUENCE OF HIS PLEA.[1]

The facts are as follows:

Accused-appellant Elegio Nadera, Jr. has four children by his wife Daisy, namely: Oleby, born on October 2, 1982; Maricris, born on March 16, 1984; March Anthony, born on January 8, 1986; and Sherilyn, born on September 27, 1987.[2]

On September 22, 1991, Daisy left for a job in Bahrain, and came home to the Philippines for vacation only in July 1993. She then left again for Bahrain in September 1993 and did not return until September 12, 1995.[3]

On April 28, 1996, Oleby and Maricris, assisted by a neighbor, Lita Macalalad, told their mother that they had been raped by their father, herein accused-appellant. Thereupon, they went to the police authorities of Naujan and filed a complaint against accused-appellant.[4]

After preliminary examination, on June 6, 1996, four informations charging accused-appellant with rape on various dates were filed in the Regional Trial Court, Calapan, Oriental Mindoro.

In Criminal Case No. C-4982, the information[5] alleged-

That on or about the 17th day of May, 1992, at around 10:00 o'clock in the evening, at Barangay Bayani, Municipality of Naujan, Province of Oriental Mindoro, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, motivated by lust and lewd design, and by means of force and intimidation, wilfully, unlawfully and feloniously did lie and succeeded in having carnal knowledge with his daughter, OLEBY NADERA, nine (9) years of age at that time against the latter's will and consent.

In Criminal Case No. C-4983, the information[6] charged -

That on or about the 17th day of April, 1995 at Barangay Bayani, Municipality of Naujan, Province of Oriental Mindoro, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, motivated by lust and lewd design, and by means of force and intimidation, wilfully, and unlawfully and feloniously did lie and succeeded in having carnal knowledge with his daughter, OLEBY NADERA, twelve (12) years of age at that time against the latter's will and consent.

In Criminal Case No. C-4984, the information[7] stated-

That on or about the 24th day of April, 1995, sometime in the evening, at Barangay Bayani, Municipality of Naujan, Province of Oriental Mindoro, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, motivated by lust and lewd design, and by means of force and intimidation, wilfully, unlawfully and feloniously did lie and succeeded in having carnal knowledge with his daughter, OLEBY NADERA, twelve (12) years of age at that time against the latter's will and consent.

In Criminal Case No. C-4985, the information[8] recited -

That on or about the 3rd day of March 1996 at around 8:00 o'clock in the evening, at Barangay Bayani, Municipality of Naujan, Province of Oriental Mindoro, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, motivated by lust and lewd design, and by means of force and intimidation, wilfully, unlawfully and feloniously did lie and succeeded in having carnal knowledge with his daughter, MARICRIS NADERA, eleven (11) years of age against the latter's will and consent.

The record shows that at his arraignment on July 23, 1996, accused-appellant, assisted by Atty. Manolo A. Brotonel of the Public Attorney's Office, pleaded not guilty to the charges filed against him.[9] However, on August 5, 1997, after the prosecution had presented Dr. Cynthia S. Fesalbon, accused-appellant pleaded guilty to the crime charged in all the informations.

The prosecution presented four witnesses, namely: Dr. Cynthia Fesalbon, Oleby Nadera, Maricris Nadera, and Daisy Nadera.

Dr. Cynthia S. Fesalbon, Medical Officer IV of the Oriental Mindoro Provincial Hospital, who conducted the medical examination of both complainants, submitted a report on the result of Oleby Nadera's examination as follows:[10]

PHYSICAL EXAMINATION:

- No sign of external physical injuries as of time of examination.
- Breast developed
- Abdomen: flat, soft non-tender.

EXTERNAL GENITALIA

- Minimal pubic hair
- Healed incomplete hymenal lacerations at 5, 7, 12 o'clock positions.
- No bleeding.

INTERNAL SPECULUM EXAMINATION

- Vagina admits 2 fingers with ease.
- Cervix small, firm, close non-tender (-) bleeding.
- Uterus not enlarged.
- Adnexae negative

LABORATORY EXAMINATION:

- Smear for the presence of spermatozoa revealed positive result.

She testified that the hymenal lacerations may have been caused by the insertion of a hard object, the patient's history of genitalic insertions, a straddle injury, or sitting on hard wood. She could not determine when these lacerations were sustained because they had healed over a period beyond seven days.[11]

Dr. Fesalbon likewise rendered a report[12] on the medical examination of Maricris Nadera, the pertinent parts of which state:

PHYSICAL EXAMINATION:

- No sign of external physical injuries as of time of examination.
- Abdomen, flat, soft.

EXTERNAL GENITALIA:

- Absence of pubic hair healed hymenal lacerations, incomplete at 1, 5, 8, 11 o'clock positions.

INTERNAL EXAMINATION:

- Vagina admits 1 finger with ease.
- Cervix small (-) bleeding
- Uterus not enlarged.
- Adnexae (-).

LABORATORY EXAMINATION

- Smear for the presence of spermatozoa revealed Negative result.

In the case of Maricris Nadera, Dr. Fesalbon explained that the hymenal lacerations could have been caused by penetration such as through instrumentation or insertion of an object inside the vagina. They could also have been caused by the penetration of the penis. Upon inquiry from the court, Dr. Fesalbon stated that the fact that Maricris had more hymenal lacerations than Oleby could be due to the difference in the impact of penetration. She added that the number of times each of the girls had sexual intercourse could not be ascertained merely from the hymenal lacerations, although it could be concluded that an object had been inserted in the vagina.[13]

Oleby Nadera testified about the rapes committed by her father against her as follows:

On May 17, 1992, at around 10 o'clock in the evening, while Daisy was away working as a domestic helper in Bahrain, accused-appellant pulled Oleby, then nine years of age, towards a bed, removed her panties and shorts and ordered her to keep quiet. He then placed himself on top of her and inserted his penis into her vagina. He proceeded to make an up and down motion while on top of his daughter. All the while, Oleby was crying, pleading with her father, "Huwag po!", "Huwag po!" Accused-appellant again ordered Oleby to keep quiet lest her brother and sisters were awakened. Afterwards, accused-appellant told Oleby to put on her panties and shorts and to go to sleep. Oleby went to the bed where her brother and sisters were sleeping and cried.

On another occasion, on April 17, 1995, accused-appellant sent Sherilyn and Maricris to the sari-sari store while he asked March Anthony to gather firewood. While Oleby was left alone inside their house in Barangay Bayani, Naujan, Oriental Mindoro, accused-appellant again raped her. Oleby was 12 years old at that time. Accused-appellant closed the door and windows, removed Oleby's panties and shorts and sat down. While sitting down, accused-appellant placed Oleby's legs on his thighs and inserted his penis into her vagina. Later on, he told

Oleby to put on her panties and shorts and told her to fetch her brother and sisters.

Oleby was raped by her father for the third time on April 24, 1995. That evening, she woke up to find her father on top of her, taking off her shorts and panties and inserting his penis into her vagina. As her father was taking off her clothes, Oleby cried and pleaded, "Huwag po! Huwag po!" Instead of desisting, accused-appellant told her to keep quiet so as not to awaken her brother and sisters, and threatened her with harm if she made any noise. Accused-appellant then made a pumping motion, consummating the sexual act with his daughter.[14]

After Oleby's direct examination had been finished, Atty. Brotonel, accused-appellant's counsel, did not conduct any cross examination on the ground that he was convinced Oleby was telling the truth.[15]

On that same day, Maricris also testified. She related how she was raped by her father on March 3, 1996, the year before, when she was 11 years old. At about eight o'clock in the evening of said date, while her brother and sisters were sleeping, she was pulled by her father towards his bed and told to lie down. Accused-appellant then placed himself on top of Maricris and inserted his penis into her vagina. Maricris pleaded "Papa, huwag po, maawa naman kayo sa amin." Ignoring his daughter's pleas, accused-appellant continued raping her by making a pumping motion and threatened to kill all of them if she cried. Accused-appellant afterwards asked Maricris to put on her shorts and panties and return to bed. He told Maricris not to cry so as not to awaken her siblings. She did not tell anyone what befell her because she was afraid. A neighbor, named Lita Macalalad, asked her if Oleby had been raped by their father. It turned out Oleby had told her ordeal to Lita Macalalad while they were washing clothes and talking about Oleby's parents. Oleby also told Lita Macalalad that Maricris had been raped by their father as well, a fact related to Oleby by Maricris.[16]

Daisy Nadera, accused-appellant's wife, also testified for the prosecution. Her testimony focused on the dates of births of her children and the fact that she was out of the country when the alleged rapes occurred. She testified that she and her daughters filed a complaint for rape against accused-appellant after discovering his hideous acts. Thereafter, her children were subjected to a medical examination.[17]

On August 12, 1997, the prosecution formally offered its documentary evidence and rested its case thereafter.

Accused-appellant did not present any evidence in his defense.

On August 27, 1997, the trial court rendered judgment finding accused-appellant guilty of four counts of rape against his daughters. The dispositive portion of its decision[18] reads:

ACCORDINGLY, the Court finds accused Elegio Nadera, Jr., guilty beyond reasonable doubt, as principal, of the crime of Rape [4 counts] with the qualifying circumstance that the victims are under 18 years of age and the offender is a parent. He is hereby sentenced to suffer the penalty of Reclusion Perpetua ranging from 20 years and 1 day to 40 years for the rape committed on May 17, 1992 and three DEATH PENALTIES for the rape committed on April 17 and 24, 1995 and March 3, 1996, together with the accessory penalties provided by law. He is also ordered to indemnify victim Oleby Nadera the total amount of P150,000.00 in Criminal Case Nos. C-4982, C-4983 and C-4984 and Maricris Nadera, the amount of P50,000.00 in Criminal Case No. C-4985, without subsidiary imprisonment in case of insolvency, and to pay the costs.

S O O R D E R E D.

As already stated, accused-appellant's lone assignment of error is that the trial court accepted his plea of guilty to a capital offense without making a searching inquiry to determine whether he understood the consequences of his plea. In support of his contention, accused-appellant invokes the ruling in the case of *People v. Dayot*[19] in which this Court ruled that, in criminal cases, the judge must be convinced that the accused, in pleading guilty, is truly guilty. This could be done by requiring him to narrate the events leading to the crime, making him reenact it,

or asking him to supply missing details. The judge must satisfy himself that: (1) the accused is voluntarily pleading guilty, and (2) he is truly guilty and there is a rational basis for a finding of guilt based on his testimony.

We find merit in accused-appellant's allegations. In addition, we find that there was inadequate representation of his case in court, thus necessitating the remand of this case for further proceedings.

I.

Rule 116 of the Rules on Criminal Procedure provides:

SEC. 3. Plea of guilty to capital offense; reception of evidence.- When the accused pleads guilty to a capital offense, the court shall conduct a searching inquiry into the voluntariness and full comprehension of the consequences of his plea and require the prosecution to prove his guilt and the precise degree of culpability. The accused may also present evidence on his behalf.

Under this Rule, three things are enjoined upon the trial court when a plea of guilty to a capital offense is entered: (1) the court must conduct a searching inquiry into the voluntariness of the plea and the accused's full comprehension of the consequences thereof; (2) the court must require the prosecution to present evidence to prove the guilt of the accused and the precise degree of his culpability; and, (3) the court must ask the accused if he desires to present evidence on his behalf and allow him to do so if he desires.[20]

What constitutes a searching inquiry, as explained in *People v. Alicando*,[21] is that the plea of guilt must be based on a free and informed judgment. Hence, a searching inquiry must focus on: (1) the voluntariness of the plea, and (2) the full comprehension of the consequences of the plea.

In the case at bar, the record does not show what exactly transpired at the re-arraignment of accused-appellant, for what reason he changed his plea from "not guilty" to "guilty," and whether he fully understood the consequences of his guilty plea. The only indication in the record that accused-appellant changed his plea to guilty is the Certificates of Re- Arraignment, dated August 5, 1997, in Criminal Case Nos. C-4982 to C-4985.[22] On what exactly accused-appellant said in entering his plea of guilty and what exactly he had been told by the trial judge, the records shed no light. There is thus no evidence to show that accused-appellant's guilty plea was voluntarily made or that he had fully understood the consequences of such plea.

In its decision, the trial court described the manner in which the accused pleaded guilty, thus:

Upon arraignment, accused, assisted by Atty. Manolo A. Brotonel of the Public Attorney's Office, pleaded not guilty to the crime charged. However, on August 5, 1997, when these cases were called for pre-trial and trial, counsel for the accused manifested that the accused, realizing the futility of entering into trial and considering that he actually committed the acts complained of, intimated his intention to enter a plea of guilty to the above-mentioned charges. The accused was then asked by this Court if he was aware of the consequences of a plea of guilty to a capital offense: that for the rape he committed on May 17, 1992 against his daughter, Oleby Nadera, who was 9 years old at the time, he would be sentenced to reclusion perpetua and for the three other counts of rape committed on April 17 and 24, 1995 [both against Oleby Nadera] and on March 3, 1996 [against Maricris Nadera, 11 years old at the time], he would be sentenced to death by lethal injection. After having been informed of this, he insisted that he is willing to enter a plea of guilty to the crimes charged and is ready to face the consequences thereof.[23]

The warnings given by the trial court in this case fall short of the requirement that it must make a searching inquiry to determine whether accused-appellant understood fully the import of his guilty plea. As has been said, a mere warning that the accused faces the supreme penalty of death is insufficient.[24] For more often than not, an accused pleads guilty upon bad advice or because he hopes for a lenient treatment or a lighter penalty. The trial

judge must erase such mistaken impressions.[25] He must be completely convinced that the guilty plea made by the accused was not made under duress or promise of reward. The judge must ask the accused the manner the latter was arrested or detained, and whether he was assisted by counsel during the custodial and preliminary investigations. In addition, the defense counsel should also be asked whether he conferred with the accused and completely explained to him the meaning and the consequences of a plea of guilt. Furthermore, since the age, educational attainment and socio-economic status of the accused may reveal insights for a proper verdict in the case, the trial court must ask questions concerning them.[26] In this case, absent any showing that these questions were put to accused-appellant, a searching inquiry cannot be said to have been undertaken by the trial court.

What the trial court did in this case, as described in its decision, is similar to what happened in *People v. Sevileno*. [27] In that case, the accused was charged with the rape and homicide of a nine-year old girl. The accused pleaded guilty whereupon the judge asked him questions: (1) Do you understand your plea of guilt? and (2) Do you know that your plea of guilt could bring the death penalty? This Court held that these questions did not constitute a searching inquiry.

. . . In every case where the accused enters a plea of guilty to a capital offense, especially where he is an ignorant person with little or no education, the proper and prudent course to follow is to take such evidence as are available and necessary in support of the material allegations of the information, including the aggravating circumstances therein enumerated, not only to satisfy the trial judge himself but also to aid the Supreme Court in determining whether the accused really and truly understood and comprehended the meaning, full significance and consequences of his plea.[28]

Clearly, the plea of guilty of accused-appellant in this case was made improvidently.

II.

Convictions based on an improvident plea of guilt are set aside only if such plea is the sole basis of the judgment. If the trial court relied on sufficient and credible evidence to convict the accused, the conviction must be sustained, because then it is predicated not merely on the guilty plea of the accused but on evidence proving his commission of the offense charged.[29]

As already stated, the prosecution evidence consisted of the testimonies of Oleby and Maricris Nadera, the results of their medical examinations, and the testimonies of their mother, Daisy, and the physician who conducted the medical examination of the two girls, Dr. Cynthia Fesalbon. Certain circumstances present in this case, however, persuade us that a remand of this case is necessary.

First. A perusal of the decision of the court reveals that the trial judge failed to state the factual and legal reasons on which he based accused-appellant's conviction. Except for the narration of the prosecution's evidence and a bare recital of R.A. No.7659, amending Art. 335 of the Revised Penal Code, there is nothing else to indicate the reason for the decision. There is no evaluation of the evidence and no reason given why the court found the testimonies of the witnesses credible. Rule 120 of the 1985 Rules on Criminal Procedure provides:

Sec. 2. Form and contents of judgment.- The judgment must be written in the official language, personally and directly prepared by the judge and signed by him and shall contain clearly and distinctly a statement of the facts proved or admitted by the accused and the law upon which the judgment is based.

If it is of conviction, the judgment shall state (a) the legal qualification of the offense constituted by the acts committed by the accused, and the aggravating or mitigating circumstances attending the commission thereof, if there be any; (b) participation of the accused in the commission of the offense, whether as principal, accomplice, or accessory after the fact; (c) the penalty imposed upon the accused; and (d) the civil liability or damages caused by the wrongful act to be recovered from the accused by the offended party, if there be any,

unless the enforcement of the civil liability by a separate action has been reserved or waived.

In case of acquittal, unless there is a clear showing that the act from which the civil liability might arise did not exist, the judgment shall make a finding on the civil liability of the accused in favor of the offended party.

In *People v. Bugarin*,^[30] we stated:

The requirement that the decisions of courts must be in writing and that they must set forth clearly and distinctly the facts and the law on which they are based serves many functions. It is intended, among other things, to inform the parties of the reason or reasons for the decision so that if any of them appeals, he can point out to the appellate court the finding of facts or the rulings on points of law with which he disagrees. More than that, the requirement is an assurance to the parties that, in reaching judgment, the judge did so through the processes of legal reasoning. It is, thus, a safeguard against the impetuosity of the judge, preventing him from deciding by *ipse dixit*. Vouchsafed neither the sword nor the purse by the Constitution but nonetheless vested with the sovereign prerogative of passing judgment on the life, liberty or property of his fellowmen, the judge must ultimately depend on the power of reason for sustained public confidence in the justness of his decision. The decision of the trial court in this case disrespects the judicial function.

Second. The cavalier attitude of accused-appellant's counsel, Atty. Manolo A. Brotonel of the Public Attorney's Office, cannot go unnoticed. It is discernible in (a) his refusal to cross examine Oleby Nadera; (b) the manner in which he conducted Maricris Nadera's cross examination; and, (c) his failure not only to present evidence for the accused but also to inform the accused of his right to do so, if he desires.

Only faithful performance by counsel of his duty towards his client can give meaning and substance to the accused's right to due process and to be presumed innocent until proven otherwise. Hence, a lawyer's duty, especially that of a defense counsel, must not be taken lightly. It must be performed with all the zeal and vigor at his command to protect and safeguard the accused's fundamental rights.

In the case of *People vs. Bermas*,^[31] no less than three PAO lawyers were found by the Court to have failed in performing their duties to their client, an accused charged with raping his daughter. The first lawyer inexplicably waived the cross examination of the private complainant and later asked to be relieved of her duties as counsel de oficio. A second lawyer appointed by the court missed several hearings during the trial and could no longer be located. The third PAO lawyer appointed by the trial court accepted his duties reluctantly and later ceased to appear for the accused. This Court held that:

The right to counsel must be more than just the presence of a lawyer in the courtroom or the mere propounding of standard questions and objections. The right to counsel means that the accused is amply accorded legal assistance extended by a counsel who commits himself to the cause for the defense and acts accordingly. The right assumes an active involvement by the lawyer in the proceedings, particularly at the trial of the case, his bearing constantly in mind of the basic rights of the accused, his being well-versed on the case and his knowing the fundamental procedures, essential laws and existing jurisprudence. The right of an accused to counsel finds substance in the performance by the lawyer of his sworn duty of fidelity to his client. Tersely put, it means an efficient and truly decisive legal assistance and not a simple perfunctory representation.

Measured by this standard, the defense counsel's conduct in this case falls short of the quality of advocacy demanded of him, considering the gravity of the offense charged and the finality of the penalty. A glaring example of his manifest lack of enthusiasm for his client's cause is his decision not to cross examine Oleby Nadera, as revealed in the following portion of the records:

COURT:

Any cross?

ATTY. BROTONEL:

If Your Honor please, we are not conducting any cross-examination, because this representation, from the demeanor of the witness, I am convinced that she is telling the truth.[32]

It may be so that defense counsel personally found Oleby's testimony to be believable. Nonetheless, he had the bounden duty to scrutinize private complainant's testimony to ensure that the accused's constitutional right to confront and examine the witnesses against him was not rendered for naught.

It bears pointing out that in rape cases, it is often the word of the complainant against that of the accused, the two being the only persons present during the commission of the offense. While the lone testimony of the victim is sufficient to convict the accused, such testimony must be clear, positive, convincing and consistent with human nature and the normal course of things. Complainant's testimony cannot be accepted with precipitate credulity without denying the accused's constitutional right to be presumed innocent.[33] This is where cross examination becomes essential to test the credibility of the witnesses, expose falsehoods or half-truths, uncover the truth which rehearsed direct examination testimonies may successfully suppress, and demonstrate inconsistencies in substantial matters which create reasonable doubt as to the guilt of the accused and thus to give substance to the constitutional right of the accused to confront the witnesses against him. For unless proven otherwise to be guilty beyond all reasonable doubt, the accused is presumed to be innocent.[34]

Indeed, cross examining Oleby Nadera becomes indispensable if her testimony is viewed together with the results of her medical examination. Oleby Nadera claimed that she was last raped by her father on April 24, 1995.[35] Yet, the medical examination conducted on her on April 30, 1996[36] revealed the presence of spermatozoa in the vaginal canal on that date. This was a year after the last rape allegedly committed by her father. This evident discrepancy leads to only one natural conclusion: Oleby engaged in sexual intercourse a few days before she was examined. This raises a number of questions that bear upon the credibility of Oleby as a witness and upon the guilt of accused-appellant. This may not necessarily mean that she was lying when she said that on April 24, 1995 she had been raped by accused-appellant, but it does indicate a necessity-that of cross examining her in order to ferret out the truth.

The same may be said of defense counsel's treatment of Maricris' testimony. While she was cross examined by defense counsel, the examination was at best a half-hearted attempt to comply with a lawyer's obligation, lacking the rigor and zeal required considering that a man's life is at stake. The cross examination centered on what Maricris did or did not do while she witnessed her sister being raped, and on her failure to report the allegedly incestuous rapes against them. Said cross examination did not even touch upon the specific details concerning the rape committed against her. Containing lurid details as it may be, it was nonetheless important to probe Maricris' testimony, especially since it was substantially similar to the first incident of rape narrated by her sister, and thus raised the possibility that it was a rehearsed, if not concocted, story.

Lastly, not only did defense counsel fail to object to the documentary evidence presented by the prosecution, according to the trial court's decision, he even expressed his conformity to the admission of the same. Neither did he present any evidence on behalf of accused-appellant.[37] Worse, nowhere in the records is it shown that accused-appellant was informed, either by his counsel or by the court, of his right to present evidence, if he so desires.

Atty. Brotonel, as counsel de oficio, had the duty to defend his client and protect his rights, no matter how guilty or evil he perceives accused-appellant to be. The performance of this duty was all the more imperative because the life of accused-appellant hangs in the balance. His duty was no less because he was counsel de oficio.

In view of the foregoing, we find it necessary to remand the case for the proper arraignment and trial of the

accused, considering not only the accused's improvident plea of guilt but also his lawyer's neglect in representing his cause. A new trial has been ordered in criminal cases on the ground of retraction of witnesses, negligence or incompetency of counsel, improvident plea of guilty, disqualification of an attorney de oficio to represent the accused in the trial court, and where a judgment was rendered on a stipulation of facts entered into by both the prosecution and the defense.[38]

WHEREFORE, the decision, dated April 27, 1997, of the Regional Trial Court, Branch 40, Calapan, Oriental Mindoro, is hereby SET ASIDE and Criminal Case Nos. C-4982, C-4983, C-4984 and C-4985 are REMANDED to it for further proceedings in accordance with this decision. The trial court is enjoined to conduct the proper trial of accused-appellant with all deliberate speed upon receipt of the records of the cases.

SO ORDERED.

Davide, Jr., C.J., Bellosillo, Melo, Puno, Vitug, Kapunan, Panganiban, Quisumbing, Purisima, Pardo, Buena, Gonzaga-Reyes, Ynares-Santiago, and De Leon, Jr., JJ., concur.

- [1] Rollo, p. 73.
- [2] TSN, pp. 3-8, Aug. 12, 1997.
- [3] Id., pp. 9-10.
- [4] Id., pp. 11-13.
- [5] Rollo, p. 10.
- [6] Id., p. 12.
- [7] Id., p. 14.
- [8] Id., p. 16.
- [9] Records of Criminal Case No. C-4982, p. 20.
- [10] Exh. A; Records of Criminal Case No. C-4982, p. 10.
- [11] TSN, pp. 9-10, Aug. 22, 1996.
- [12] Exh. B; Records of Criminal Case No. C-4985, p. 20.
- [13] Id., p. 16-17.
- [14] TSN, pp. 4-19, Aug. 6, 1997.
- [15] Id., p. 22.
- [16] Id., pp. 24-34.
- [17] TSN, pp. 1-13, Aug. 12, 1997.
- [18] Records of Criminal Case No. C-4982, p. 63; Decision, p. 7.

[19] 187 SCRA 637 (1990)

- [20] People v. Bello, G.R. Nos. 130411-14, Oct. 13, 1999.
- [21] 321 Phil. 657 (1995)
- [22] Records of Criminal Case No. C-4982, pp. 49, 54-56.
- [23] Records of Criminal Case No. C-4982, pp. 58-59.
- [24] People v. Estomaca, 326 Phil. 429 (1996)
- [25] People v. Bello, *supra*.
- [26] People v. Estomaca, *supra*.
- [27] G.R. No. 129058, March 29, 1999.
- [28] *Ibid*.
- [29] People v. Lakindanum, G.R. No. 127123, March 10, 1999.
- [30] 339 Phil. 570, 579-580 (1997)
- [31] G.R. No. 120420, April 21, 1999.
- [32] TSN, p. 22, August 6, 1997.
- [33] People v. Estrera, 285 SCRA 372 (1998)
- [34] People v. Pido, 200 SCRA 45 (1991).
- [35] TSN, p. 16, Aug. 6, 1997.
- [36] Exh. A.
- [37] Records of Criminal Case No. C-4982, p. 61.
- [38] People v. Del Mundo, 262 SCRA 266 (1996), citing Jose v. Court of Appeals, 70 SCRA 257 (1976)

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