

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. RONIE GABELINIO, APPELLANT.

G.R. Nos. 132127-29. March 31, 2004

Ponente: SANDOVAL-GUTIERREZ, J.

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SANDOVAL-GUTIERREZ, J.:

Appeal from the Decision[1] dated November 7, 1997 of the Regional Trial Court, Branch 50, Bacolod City, in Criminal Cases Nos. 97-18209, 97-18210 and 97-18211 convicting Ronie Gabelinio of three (3) counts of rape and sentencing him to reclusion perpetua in each count. He was ordered to pay the victim, Susan Precioso, P50,000.00 as civil indemnity, also in each count.

The Informations in Criminal Cases Nos. 97-18209, 97-18210 and 97-18211 read:

Criminal Case No. 97-18209:

“That on or about the 1[st] day of November, 1996, in the City of Bacolod, Philippines, and within the jurisdiction of this Honorable Court, the herein accused Ronie Gabelinio, armed with a revolver, by means of force, violence and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge of the herein complainant, Susan Precioso, a woman 21 years old, against the latter’s will.

“Act contrary to law.”

Criminal Case No. 97-18210:

“That on or about the 20[th] day of November, 1996, in the City of Bacolod, Philippines, and within the jurisdiction of this Honorable Court, the herein accused Ronie Gabelinio, by means of force, violence and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge of the herein complainant, Susan Precioso, a woman 21 years old, against the latter’s will.

“Act contrary to law.”

Criminal Case No. 97-18211:

“That on or about the 31[st] day of October, 1996, in the City of Bacolod, Philippines, and within the jurisdiction of this Honorable Court, the herein accused Ronie Gabelinio, armed with a revolver, by means of force, violence and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge of the herein complainant, Susan Precioso, a woman 21 years old, against the latter’s will.

“Act contrary to law.”

Upon arraignment, appellant Ronie Gabelinio, assisted by counsel, pleaded not guilty to the crimes charged.

The evidence for the prosecution shows that on October 31, 1996 at around 7:00 o’clock in the morning, private complainant Susan Precioso, a 21-year old lass, reported for work at Jet’s Lechon Manok Eatery, Burgos Street, Villamonte, Bacolod City. Dr. Celeste Lim-Treyes, the owner, instructed her to open the store at around 9:00

o'clock that morning. After Dr. Treyes left, Susan proceeded to the kitchen to wash her hands. Instantly, appellant sneaked from the door and pointed his .38 revolver to her, saying in his dialect, "something will happen today." He dragged her and forced her to lie down on the floor. Then he kissed her lips and neck, touched her breasts and sucked her nipple. He then proceeded to undress her. She shouted for help and struggled by kicking him. But he subdued her, placed himself on top of her and inserted his penis inside her vagina, making push-and-pull movements. When he withdrew his penis, she saw a whitish fluid coming out from her vagina. Afterwards, he threatened to kill her family should she reveal the incident to anyone. Nonetheless, when her co-workers Criselda Bonza and Honeylyn Jimena arrived, she revealed to them what happened. But they advised her not to report the matter to their employer.

The next day or on November 1, 1996, she arrived in the eatery around 7:00 o'clock in the morning and immediately proceeded to the kitchen to defrost the chicken. Suddenly, appellant grabbed her, kissed her lips and neck and caressed her breasts. She shouted for help but nobody came. He then went on top of her and forcibly inserted his penis into her vagina and made push-and-pull movements. Again, he warned her not to tell anybody what transpired or else he would kill her family.

On November 20, 1996 at around 7:00 o'clock in the morning, Susan arrived at the eatery. Appellant suddenly dragged her to a cemented floor surrounded by plants. There he strangled her and pushed her to the floor causing her to feel dizzy. Taking advantage of her condition, appellant kissed her lips, cheeks and neck. He then undressed her and once more, he sexually ravished her.

On November 22, 1996, Susan mustered enough courage and revealed her traumatic ordeal to her mother Nenita. They then reported the incidents to the Women's Desk of the Bacolod City Police Station where she executed and signed a sworn statement.

On the same day, Dr. Joy Ann C. Jocson examined Susan and issued a Medical Certificate[2] with the following findings:

"1)

Whitish vaginal discharge noted at the introitus;

2)

Inflamed vulvar area with abrasion noted at the left labia minora;

3)

New lacerations noted around the hymenal ring: one at the 3 o'clock position another at the 7 o'clock position and another at the 10 o'clock position;

4) Vaginal introitus admits 2 fingers with ease."

Dr. Jocson confirmed on the witness stand that the inflammation, abrasion and lacerations at Susan's hymen were caused by the insertion of a penis in her vagina.

Dr. Ester Regina Baron-Servando, a psychiatrist at the Bacolod City Health Department, testified that on November 26, 1996 and December 4, 1996, she examined Susan and found that she was suffering from a major

depression.

Appellant vehemently denied the charges. He testified that he initially courted Susan when they were schoolmates at Ramon Torres High School at Bago City. He was then a senior student, while she was a sophomore. After graduation, he was employed as a security guard by Tirad Pass Security Agency at Bacolod City and eventually assigned at the Jet's Lechon Manok Eatery where Susan worked as a waitress. There he again courted her and finally they became sweethearts. From then on, he accompanied her whenever she visited her parents in E.B. Magalona, Tabigui, Negros Occidental. He was surprised when her mother, during his and Susan's visit on November 20, 1996, demanded P20,000.00, with threat that she will file rape charges against him should he fail to comply with her demand.

According to appellant, what transpired between him and Susan were sexual trysts, they being sweethearts. He explained that he could not have committed the crimes considering that his twelve (12) hour shift at the eatery was from 6:00 o'clock in the evening to 6:00 o'clock in the morning, and that he applied for leave of absence from October 30, 1996 to November 3, 1996 to attend an in-service re-training course conducted by the NEMA Agency in Barangay Villamonte, Bacolod City.

During her rebuttal testimony, Susan denied appellant's claim that they were sweethearts; and that her mother demanded P20,000.00 from him.

Nenita Preciosa, complainant's mother, testified denying that she threatened to file rape charges against him should he refuse to give her P20,000.00 for her husband's medical treatment.

Criselda Bonza and Honeylyn Jimena, cashiers at Jet's Lechon Manok Eatery, testified that Susan confided to them that appellant was indeed her sweetheart and that they planned to get married.

Gloria Villalobos, secretary of Tirad Pass Security and Investigation Agency, appellant's employer, confirmed that from October 30, 1996 to November 3, 1996, appellant did not report for duty in Jet's Lechon Manok Eatery as he was on leave.

On November 7, 1997, the trial court rendered a Decision, the dispositive portion of which reads:

"After a very careful evaluation of the evidence, the Court finds that the guilt of the accused for the offenses he is charged has been proven beyond reasonable doubt. The Court therefore, declares the accused guilty as charged in all the Informations and there being no extenuating circumstances, condemns him to suffer the following penalties and civil liabilities:

Penalty

Civil Liability

1. CC No. 97-18209

Reclusion Perpetua

P50,000.00

2. CC No. 97-18210

Reclusion Perpetua

P50,000.00

3. CC No. 97-18211

Reclusion Perpetua

P50,000.00

“The civil liability shall inure in favor of the complainant Susan Precioso and shall earn interest at the rate of six (6) percent per annum from date of this judgment.

“The accused shall be credited the full term of his preventive detention.”

Appellant, in his brief, submits the following assignments of error:

“I

THE TRIAL COURT ERRED IN GIVING CREDENCE TO THE TESTIMONY OF COMPLAINANT SUSAN PRECIOSO WHEN HER BEHAVIOR SHOWS THAT THERE WAS NO RAPE AT ALL.

“II

THE TRIAL COURT ERRED IN FINDING THAT THE ACCUSED-APPELLANT HAD COERCED COMPLAINANT INTO HAVING SEX WITH HIM THRICE.

“III

THE TRIAL COURT ERRED IN FINDING THAT THE PROSECUTION HAS BEEN ABLE TO PROVE THE GUILT OF THE ACCUSED-APPELLANT FOR THE CRIME OF RAPE ON THREE (3) COUNTS.”

The basic issue for our resolution is whether the prosecution has established appellant’s guilt beyond reasonable doubt.

The law applicable to the cases at bar is Article 335 of the Revised Penal Code, as amended by R.A. 7659, which provides:

“Art. 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, even though neither of the circumstances mentioned in the two next preceding paragraphs shall be present.

“The crime of rape shall be punished by reclusion perpetua.

“Whenever the crime of rape is committed with the use of a deadly weapon or by two or more persons, the penalty shall be reclusion perpetua to death.

x x x.”

The elements of rape under the above provision are: (1) the offender had carnal knowledge of the victim; and (2) such act was accomplished through the use of force or intimidation; or when the victim is deprived of reason or otherwise unconscious; or when the victim is under 12 years of age.

An extract from Susan’s testimony, quoted hereunder, indubitably shows that appellant had carnal knowledge of her by using force and intimidation, thus:

For Criminal Case No. 97-18211:

“X X X

“FISCAL EDUARDO B. ESQUILLA:

X X X

Q

Do you know the accused in this case, Ronie Gabelinio?

A

Yes, sir.

Q

If he is inside this courtroom, will you be able to identify him?

A

Yes, sir. The witness pointed crying.

Q

So, while washing your hand what happened?

A

While I was washing my hands at the kitchen I noticed that there was somebody opening the door, when I turned around I saw Ronie holding a .38 revolver pointed at me.

Q

So, that on October 31, 1996 at about 7:00 o'clock in the morning, were you able to report to Jet's Lechon Manok?

A

Yes, sir.

X X X

Q

So, while you were opening the store what happened?

A

When I opened the store, nothing happened.

Q

After Dr. Treyes left Jet's Lechon Manok, what happened?

A

I washed my hands at the kitchen.

Q

So, while washing your hand what happened?

A

While I was washing my hands at the kitchen I noticed that there was somebody opening the door, when I turned around I saw Ronie holding a .38 revolver pointed at me.

Q

And what happened next after Ronie Gabelinio, the accused in this case, pointed a revolver at you?

A

He told me that something will happen today.

Q

Was there a particular incident in that particular morning as have told you?

A

Yes, sir.

Q

Please tell us.

A

He dragged me.

Q

After he dragged you, what happened?

A

He let me lie on the floor of the kitchen.

Q

Did he succeed in dragging you, letting you lie on the kitchen floor?

A

Yes, sir.

Q

And after that, what happened?

A

He held my hand.

Q

And after the accused held you hands, what happened?

A

He kissed me.

Q

Where?

A

My lips.

Q

What else?

A

My neck and then he mashed my breast, and then he lifted my t-shirt and then he sucked my nipple.

Q

After that what happened?

A

He placed his revolver at the table and then he put himself on top of me.

Q

When the accused put himself on top of you, what did he do?

A

He pulled down my pants.

Q

After he pulled down your pants, what happened?

A

He again lie on top of me.

Q

When he was already on your top, what happened?

A

He pulled my pants down. I struggled and kicked him.

Q

And you said you kicked the accused after that, what happened?

A

I shouted for help but nobody came

Q

Because, nobody came, what happened next?

A

I was asking him not to rape me.

x x x

Q

What happened next?

A

His penis was inserted to my vagina and having a push and pull motion.

Q

While the accused was doing a push and pull then, what happened?

A

He kept moving, a push and pull motion.

Q

What happened next?

A

After that he stood up and I notice that my vagina was wet.

Q

What do you mean that your vagina was wet, will you please explain to this Honorable Court that wetness you felt at that time?

A

I felt that there was a white fluid at my vagina flowing.

Q

Can you identify what fluid?

A

It was a whitish fluid.

Q

So, you said after that the accused stood up?

A

Yes, sir.

Q

So what happened next?

A

He warned me.

Q

What did he tell you?

A

That if I will tell anybody, he will kill my family.

x x x"[3]

For Criminal Case No. 97-18209:

“x x x

“FISCAL EDUARDO B. ESQUILLA:

Q

So, after October 31, 1996, how about November 1, 1996 at about 7:00 o'clock where were you?

A

I was at Jet's Lechon Manok.

x x x

Q

So, when you arrived at Jet's Lechon Manok at 7:00 o'clock in the morning, what did you do?

A

I opened the kitchen.

Q

Was there any unusual incident that happened on that particular date in the morning of November 1, 1996?

A

Yes, sir.

Q

Please tell us what was that unusual incident?

A

Ronie closed the gate while I was inside the kitchen, and then he went inside.

Q

And when the accused was inside the kitchen, what happened?

A

When I took the chicken at the freezer, he grabbed me.

Q

So, after that what happened?

A

He kissed me and made romance.

Q

Where did he kiss you?

A

He kissed me at my lips, cheeks, neck and he mashed my breasts and he lifted my blouse.

Q

And when he lifted your blouse, what happened next?

A

He sucked my nipples after he lifted my blouse.

Q

And then while the accused was sucking your nipples, what did you do?

A

I was shouting.

Q

And what else did you do aside from shouting?

A

He sucked my nipples and pulled down my pants.

FISCAL ESQUILLA:

I would like to make it of record that the witness is crying.

Q

So, after that what happened next?

A

He put himself on top of me, and at the same time he inserted his penis in my vagina.

Q

After his penis was inserted to your vagina, what happened next?

A

A gesture of push and pull and after that there was a white fluid flowing out from my vagina.

Q

While the accused Ronie Gabelinio was having carnal knowledge with you, what did you do?

A

I was asking for help not to have intercourse with me.

Q

Did somebody came to help you?

A

Nobody helped me.

Q

At that time were there other persons inside the Jet's Lechon Manok?

A

Nobody.

Q

You want to impress this Honorable Court that there were only the two (2) of you inside the Jet's Lechon Manok?

A

I was the first one to arrive every morning.

Q

After the accused Ronie Gabelinio finished his desire, what happened next?

A

He stood up and then he put on his pants.

Q

How about you?

A

I sat for a while and after that I stood up.

x x x

Q

Was he armed?

x x x

A

Yes, sir.

Q

After the accused got dressed and you were sitting on the floor, did he tell you something?

A

Yes, sir.

Q

What did he tell you?

A

That he will kill my family.

Q

Why will the accused kill your family?

A

I do not know. We have not done anything against him.

x x x.”[4]

For Criminal Case No. 97-18210:

“x x x

“FISCAL EDUARDO B. ESQUILLA:

Q

After this November 1, 1996 incident, was there a next incident that happened to you?

A

Yes, sir.

Q

That was on what date?

A

November 20, 1996.

Q

Why, on November 20, 1996 in the morning where were you?

A

I was at Jet's Lechon Manok at 7:00 o'clock in the morning.

Q

What were you doing there?

A

I was at the gate standing, pleading for Ronie not to rape me again.

Q

After that what happened next?

A

I asked for the key.

Q

Then what happened next?

A

He dragged me by the shoulders.

Q

When the accused dragged you by your shoulders, what happened next?

A

He brought me to a cemented floor with many plants.

Q

And then when he brought you to the cemented floor with many plants, what happened?

A

He strangled me and then threw me to the cemented floor where my head hit the floor.

Q

What happened next?

A

He kissed me at the lips, cheeks, neck and lifted my blouse and then sucked my nipples.

Q

And after he sucked your nipples, what happened next?

A

He pulled down my pants and my panty, and then I felt pain, dizzy and lost my strength.

Q

So, what happened next?

A

After he pulled down his pants and panty, he inserted his fingers in my vagina.

Q

After that what happened?

A

He inserted his finger in my vagina and I felt pain.

Q

So after he inserted his finger in your vagina, what happened?

A

I shouted aloud but nobody came for help.

Q

Miss Witness, in short he succeeded in having carnal knowledge of you?

A

Yes, sir.

Q

That same incident happened last October 31 and November 1, 1996?

A

But at that time my vagina bled because of the insertion.

x x x.”[5]

In a prosecution for rape, the victim’s credibility becomes the single most important issue, and when her testimony satisfies the test of credibility, an accused may be convicted solely on the basis thereof.[6]

Here, Susan’s direct and straightforward account reveals every relevant detail of the three (3) rape incidents. Even during the cross-examination, she never wavered in her assertion that it was appellant who raped her through force and intimidation and with the use of a firearm.

The trial court, in giving full credence to Susan’s testimony, held:

“x x x. It is difficult to believe that Susan would charge the accused for rape when there was no rape. It is more difficult to believe that Susan and her mother would file a case for rape as a method of extortion. It has been held that an unmarried Filipina would not publicly admit that she had been raped, voluntarily allow herself to be medically probed, and endure the humiliating and delicate questions in the course of the trial, if her accusations were merely malicious concoctions (People vs. Bautista, 236 SCRA 102 [1994]).

“Susan was very categorical that she was threatened by the accused before and after the rapes. As observed by the Court, Susan appears weak and frail and could readily be subdued, especially by a guard who must have learned the rudiments of physical combat. x x x.”

It is doctrinally settled that the factual findings of the trial court, especially on the credibility of the rape victim, are accorded great weight and respect and will not be disturbed on appeal. This is so because the trial court has the advantage of observing the victim through the different indicators of truthfulness or falsehood, such as the angry flush of an insisted assertion, the sudden pallor of a discovered lie, the tremulous mutter of a reluctant answer, the forthright tone of a ready reply, the furtive glance, the blush of conscious shame, the hesitation, the yawn, the sigh, the candor or lack of it, the scant or full realization of the solemnity of an oath.[7]

Appellant, to exculpate himself, interposed the defense of alibi. He maintained that it was physically impossible for him to have been at Jet’s Lechon Manok on the dates the crimes were allegedly committed because he was then on official leave attending an in-service re-training course conducted by the NEMA Agency in Barangay Villamonte.

We find appellant’s defense of alibi unavailing. For this defense to stand, it must be shown that not only was appellant somewhere else when the crime was committed but also that it was physically impossible for him to have been at the scene of the crime at the time it was committed.[8]

On this point, the trial court held:

“One defense raised by the accused is the defense of alibi as he alleged to be undergoing a Re-Training course when the rapes on October 31 and November 1, 1996 happened. It has been shown, however, that the alleged Re-Training course was held in Brgy. Villamonte in Bacolod City which is only about two (2) to three (3) kilometers from Jet. Even if it were true that the accused went home to Ma-ao, Bago City, this fact would not have precluded the accused from being at Bacolod City, specifically at Jet’s, in the morning of the day when the rape was committed as Bago could be traversed by public transportation in less than two (2) hours.”

We sustain the trial court’s finding that it was physically possible for appellant to have been in the crime scene at the time the rape incidents were committed considering that it was “only about two (2) to three (3) kilometers” away from Barangay Villamonte where he was undergoing a re-training course.

We are not persuaded by appellant’s claim that he and Susan are sweethearts and that what transpired between them was a consensual sex. A “sweetheart defense,” to be credible, should be substantiated by some documentary or other evidence of the relationship – like mementos, love letters, notes, pictures and the like.[9] Here, appellant

categorically admitted that no such evidence exists. Clearly, his alleged romantic relation with Susan is just a figment of his imagination.

Assuming that appellant and Susan were sweethearts, it does not mean that he could not rape her. Such a relationship is not a guaranty that he will not assault and tarnish that which she holds so dearly and trample upon her honor and dignity. Indeed, a sweetheart can be forced to engage in sexual intercourse against her will.[10]

Appellant also submits that Susan's disturbing silence and failure to report to their employer the rape incidents evince that the charges are mere fabrications. On this point, the Solicitor General aptly observed that appellant's "real threat that he would kill her family if she would report the incident to anyone proved disastrous and paralyzed her from taking immediate action against appellant." Indeed, no adverse inference can be drawn from complainant's hesitation or failure to immediately expose her tragic experiences. Fear of reprisal, social humiliation, family considerations, and economic reasons are sufficient explanations.[11]

Considering that appellant committed the crimes (in Criminal Cases Nos. 97-18209 and 97-18211) with the use of a firearm, a deadly weapon, the penalty imposable upon him is reclusion perpetua to death, pursuant to Article 335 of the Revised Penal Code, quoted earlier. Corollarily, Article 63 of the same Code provides:

"Art. 63. Rules for the application of indivisible penalties. – In all cases in which the law prescribes a single indivisible penalty, it shall be applied by the courts regardless of any mitigating or aggravating circumstances that may have attended the commission of the deed.

"In all cases in which the law prescribes a penalty composed of two indivisible penalties, the following rules shall be observed in the application thereof:

- When in the commission of the deed there is present only one aggravating circumstance, the greater penalty shall be applied.
 - When there are neither mitigating nor aggravating circumstances in the commission of the deed, the lesser penalty shall be applied.
 - When the commission of the act is attended by some mitigating circumstance and there is no aggravating circumstance, the lesser penalty shall be applied.
 - When both mitigating and aggravating circumstances attended the commission of the act, the courts shall reasonably allow them to offset one another in consideration of their number and importance, for the purpose of applying the penalty in accordance with the preceding rules, according to the result of such compensation."
- (Underscoring ours)

In *People vs. Eduardo Limos*,^[12] we held: "Where no aggravating circumstance is alleged in the information and proven during the trial, the crime of rape through the use of a deadly weapon may be penalized only with reclusion perpetua, not death."

In the present case, there is neither aggravating nor mitigating circumstance that attended the commission of the crimes. Thus, the trial court correctly imposed upon appellant the lesser penalty of reclusion perpetua in each count of rape committed with the use of a firearm. Likewise, the imposition of the penalty of reclusion perpetua for the rape committed through force and intimidation (Criminal Case No. 97-18210) is in order, following the provision of Article 335 of the Revised Penal Code, as amended, earlier quoted.

With respect to appellant's civil liability, aside from the award of civil indemnity of P50,000.00 in each case, the trial court should have awarded the victim moral damages fixed at P50,000.00 (in each case) without need of pleading or proof of basis thereof.[13] This is so because the anguish and the pain she endured are evident. In our

culture, which puts a premium on the virtue of purity or virginity, rape stigmatizes the victim more than the perpetrator.[14]

We likewise award the victim exemplary damages of P25,000.00 in each case (Criminal Cases Nos. 97-18209 and 97-18211). Here, the use of a deadly weapon was alleged in both Informations and proved during the trial. In *People vs. Ayuda*,[15] we held:

“Likewise, the award of exemplary damages is justified. The circumstance of use of a deadly weapon was duly alleged in the information and proven at the trial. In *People vs. Edem* (G.R. No. 130970, February 27, 2002), we awarded exemplary damages in the amount of P25,000.00 in a case of rape committed with the use of a deadly weapon.”

WHEREFORE, the appealed Decision dated November 7, 1997 of the Regional Trial Court, Branch 50, Bacolod City, in Criminal Cases Nos. 97-18209, 97-18210 and 97-18211 is hereby **AFFIRMED** with **MODIFICATION** in the sense that in addition to the award of P50,000.00 as civil indemnity in each case to herein victim, Susan Precioso, appellant **RONIE GABELINIO** is also ordered to pay her P50,000.00 as moral damages in each case, and P25,000.00 as exemplary damages in Criminal Cases Nos. 97-18209 and 97-18211.

With costs de oficio.

SO ORDERED.

Corona, and Carpio Morales, JJ., concur.

Vitug, J., (Chairman), on official leave.

[1] Penned by Judge Roberto S. Chiongson, Rollo at 23-46.

[2] Exhibit “B”, Records at 64.

[3] Transcript of Stenographic Notes (TSN), May 15, 1997 at 7-17.

[4] *Ibid.* at 20-27.

[5] *Ibid.* at 27-30.

[6] *People vs. Sergio Abon*, G.R. No. 130662, October 15, 2003 at 8, citing *People vs. Dalisay*, G.R. No. 133926, August 6, 2003; *People vs. Agustin*, 365 SCRA 667 (2001).

[7] *People vs. Eduardo Limos*, G.R. No. 122114-17, January 20, 2004 at 26-27, citing *People vs. Ayuda*, G.R. No. 128882, October 2, 2003.

[8] *People vs. Almoguerra and Aton*, G.R. No. 121177, November 12, 2003 at 20, citing *People vs. Visaya*, 352 SCRA 713 (2001).

[9] *People vs. Limos*, *ibid.* at 28, citing *People vs. Ayuda*, G.R. No. 128882, October 2, 2003; *People vs. Flores*, 372 SCRA 421 (2001); *People vs. Sale*, 345 SCRA 490 (2000).

[10] *People vs. Ayuda*, *supra.* at 12, citing *People vs. Francisco Sorongon*, G.R. No. 142416, February 11, 2003.

[11] See *People vs. Blazo*, G.R. No. 127111, February 19, 2001, 352 SCRA 94, 102, citing *People vs. Manggasin*, 306 SCRA 228 (1999); *People vs. Accion*, 312 SCRA 250 (1999).

[12] *Supra.* at 30-31, citing *People vs. Joel Ayuda*, G.R. No. 128882, October 2, 2003; *People vs. Baroy*, 382

SCRA 52 (2002).

[13] *People vs. Ayuda*, supra. at 14, citing *People vs. Baroy*, supra; *People vs. Salalima*, 363 SCRA 192 (2001).

[14] See *ibid.*, citing *People vs. Baway*, 350 SCRA 29 (2001); *People vs. Banela*, 301 SCRA 84 (1999).

[15] *Supra*, citing *People vs. Sorsogon*, 397 SCRA 264 (2003).

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