

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. BENIDO ALCARTADO AND RODOLFO ALCARTADO, ACCUSED-APPELLANTS.

G.R. Nos. 132379-82. June 29, 2000

Ponente: DE LEON, JR., J.

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DE LEON, JR., J.:

Before us on automatic review is the Decision[1] of the Regional Trial Court of Bangued, Abra, Branch 2, convicting herein appellant Benido Alcartado in Criminal Cases Nos. 97-005 to 06 and appellant Rodolfo Alcartado in Criminal Cases Nos. 97-007 to 08 of the crime of rape and sentencing them to suffer the supreme penalty of death.

The appellants, Benido Alcartado and Rodolfo Alcartado, father and son respectively, stand charged with the crime of rape defined and penalized under Article 335 of the Revised Penal Code, as amended, in four separate Informations, which read:

Criminal Case No. 97-005:

That on or about September 21, 1996, at around 10:00 o'clock in the morning, at Sitio Dumeguiay, Barangay Caupasan, Municipality of Danglas, Province of Abra, Philippines and within the jurisdiction of this Honorable Court, the above named accused, by means of force and intimidation with threats to kill, with criminal and carnal knowledge and with lewd design, did then and there, wilfully, unlawfully and feloniously lie and succeed in having carnal knowledge of the offended party Marites Bandeyrel Perez, a.k.a. Cristina Bandeyrel Perez, an 11-year old girl, hence below 12 years old, to the damage and prejudice of the offended party.

CONTRARY TO LAW.

Criminal Case No. 97-006:

That on or about December 10, 1996, at around 11:00 o'clock in the morning, at Sitio Dumeguiay, Barangay Caupasan, Municipality of Danglas, Province of Abra, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, by means of force and intimidation with threats to kill, with criminal and carnal knowledge and with lewd design, did then and there, wilfully, unlawfully and feloniously lie and succeed in having carnal knowledge of the offended party Marites Bandeyrel Perez, a.k.a. Cristina Bandeyrel Perez, an 11-year old girl, hence below 12 years of age, to the damage and prejudice of the offended party.

CONTRARY TO LAW.

Criminal Case No. 97-007:

That on or about August 23, 1996, at around 11:00 o'clock in the morning, at Sitio Dumeguiay, Barangay Caupasan, Municipality of Danglas, Province of Abra, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, by means of force and intimidation, with threats to kill, with criminal and carnal knowledge and with lewd design, did then and there, wilfully, unlawfully and feloniously lie and succeed in having carnal knowledge of the offended party Marites Bandeyrel Perez, a.k.a. Cristina Bandeyrel

Perez, an 11-year old girl, hence below 12 years of age, and to the damage and prejudice of the offended party.

CONTRARY TO LAW.

Criminal Case No. 97-008:

That on or about October 19, 1996, at Sitio Dumeguay, Barangay Caupasan, Municipality of Danglas, Province of Abra, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, by means of force and intimidation with threats to kill, with criminal and carnal knowledge and with lewd design, did then and there, wilfully, unlawfully and feloniously lie and succeed in having carnal knowledge of the offended party Marites Bandeyrel Perez, a.k.a. Cristina Bandeyrel Perez, an 11 year old girl, hence below twelve years of age, to the damage and prejudice of the offended party.

CONTRARY TO LAW.

Upon being arraigned, both appellants, assisted by counsel, separately entered the plea of "Not guilty" to each of the Informations filed against them. Thereafter, joint trial on the merits ensued.

The evidence of the prosecution shows that on January 13, 1997, Marites B. Perez, a.k.a. Cristina B. Perez, was accompanied by her mother, Patricia P. Alcartado, to the Department of Social Welfare and Development (DSWD) office in Bangued, Abra to seek assistance for the reason that Marites was allegedly raped by her stepfather, Rodolfo Alcartado, and her stepgrandfather, Benido Alcartado.[2] It was learned that Marites is second to the eldest of the three (3) children of Patricia Alcartado and born out of wedlock. The two (2) other children are Bogard Perez and Bernard Perez. Patricia has since been married to herein appellant Rodolfo Alcartado with whom she has one (1) child named Estrella Alcartado.[3]

Marites Perez was referred by the DSWD to SPO1 Florderico Javier in Camp Juan Villamor, Bangued, Abra for proper investigation. On January 13, 1997 SPO1 Javier took the sworn statement[4] of Marites Perez and the same became the basis for the subsequent filing in court of four (4) informations for the crime of rape against herein appellants Benido Alcartado and Rodolfo Alcartado.

Marites related on the witness stand how she was raped by her stepfather, Rodolfo Alcartado, on August 23, 1996 at about 11:00 o'clock in the morning. It was Friday and Marites did not go to class, due to headache, in Caupasan Elementary School, Bangued, Abra where she was a grade four elementary pupil. Her mother at that time was out in the river washing some clothes while her stepfather Rodolfo remained in the house together with her two other younger siblings, Bernard and Estrella. Their eldest brother, Bogard, was not at home as he was a stay-in worker at the Lucky's Restaurant.

Rodolfo sent Bernard and Estrella to the store of a certain Lola Caring to buy something. After the two children had left, Rodolfo called for Marites who was sitting at the doorway to come inside the house. Subsequently, Rodolfo suddenly pulled her by the hand and kissed her. Rodolfo removed the clothes of Marites before he took off his own clothes. Once they were both naked, Rodolfo laid Marites on the floor before he went on top of her and inserted his penis into her vagina. Marites felt pain in her private part and noticed afterward that it was bleeding.[5]

Her next ordeal came on September 21, 1996, a Saturday, this time from the hands of her step-grandfather, herein appellant Benido Alcartado. At around 11:00 o'clock in the morning, while both parents of Marites were out and the two children, Bernard and Estrella, were playing outside the house, Benido approached and handed her a note which, as far as she can recall, states in Ilocano "I love you. Don't call me lolo anymore." Benido left after he handed the note to Marites only to come back later. He told Marites to ignore the note as it did not mean anything. Thereafter, he pulled Marites toward the kitchen where he undressed himself. After undressing Marites, Benido

made her lie down and raped her by inserting his penis into her vagina. Like in the first instance, Marites felt pain and her private part bled.[6]

Came another Saturday, October 19, 1996, at around 10:00 o'clock in the morning. The two younger children, Bernard and Estrella, were busy playing at the back of the house fifty (50) meters away, and Marites was left alone inside the house. Rodolfo entered the house and suddenly held the hands of Marites. He kissed her on the cheeks and removed his clothes before undressing her. Subsequently, Rodolfo laid down Marites on the floor and again raped her by inserting his penis into her vagina. Marites again felt pain in her private part.[7]

The last incident of rape occurred on a Tuesday, December 10, 1996. Both parents of Marites were away and her two younger siblings were, as usual, playing outside the house. Marites was lying inside the house when her stepgrandfather came in. Benido held the hands of Marites and kissed her. He undressed himself before taking off her dress. Benido consummated the act by getting on top of Marites and inserted his penis into her vagina, causing the latter great pain.[8]

In each instance or occasion of rape aforestated, Marites was overcome by fear for the reason that her attackers might harm or even kill her. She disclosed that there was a bolo nearby.[9]

Unable to bear her agony much longer, Marites confided her ordeal to her uncle, Sonny Venus, on January 12, 1997. She admitted having initially kept the matter secret from her mother for fear that the situation would only become worse. However, upon being informed that her daughter had been raped, Patricia, together with Sonny Venus, accompanied Marites to the DSWD in Bangued, Abra which gave them assistance through Josephine Dumlao, Social Welfare Officer III, in filing complaint with the police.[10]

After the investigation, Marites underwent physical examination in Camp Bado, Dangwa, La Trinidad, Benguet which was conducted by medico-legal officer Dr. Vladimir V. Villasenor, M.D. Per Medico-Legal Report No. M-029-97[11] dated January 30, 1997 and signed by Dr. Vladimir Villasenor, the following findings appear, to wit:

General and Extragenital:

Fairly nourished, fairly developed, coherent female child. Breasts are conical, with light brown areola and nipples from which no secretion could be pressed out. Abdomen is flat and tight.

Genital:

There is lanugo-type growth of pubic hair. Labia majora are full convex, coaptated with the light brown labia minora, presenting in between. On separating the same is disclosed an elastic hymen with shallow healed lacerations at 3, 8 and 9 o'clock positions. External vaginal orifice offers moderate resistance to the introduction of the examining index finger and the virgin-size vaginal speculum. Vaginal canal is narrow with prominent rugosities. Cervix is normal in size, color and consistency.

Conclusion:

Subject is in Non-Virgin State Physically.

There are no external sign of recent application of physical violence.

The appellants denied liability for the charges of rape filed against them in the instant criminal cases. Appellant Benido Alcartado testified that he did not go to the house of the complainant during the occasions when he allegedly raped her on September 21, 1996 and on December 10, 1996. He denied having handed to the complainant a love note on September 21, 1996 for the reason that he allegedly did not know how to read nor write. Benido also testified that he has a weak constitution owing to pulmonary tuberculosis and bronchial

asthma[12] from which he has been suffering for almost 25 years now.

The testimony of Benido Alcartado was corroborated by his daughter, Mary Alcartado, who testified that she lives in the house of her father Benido; that she did not leave their house in order to look after her father who has been suffering from pulmonary tuberculosis and bronchial asthma; that her father did not go to the house of the complainant on September 21, 1996 and December 10, 1996; that her father is an illiterate; that the complainant used to watch bold films together with other men in the house of a certain Encarnacion Velasco; that the complainant talks back to her mother whenever she was scolded by the latter; and that she (complainant) was caught stealing rice from their house in order to sell the same to the store.[13]

For his defense, appellant Rodolfo Alcartado testified that he was planting rice in the field of Felix Valera during the day from August 20, 1996 to August 28, 1996. On the other hand, from October 15, 1996 to October 30, 1996, he continuously worked in the field owned by Valera harvesting rice. Hence, he could not have been in his house on the two occasions when he allegedly raped his stepdaughter, Marites.[14]

Felix Valera corroborated Rodolfo's testimony on material points. Valera testified that Rodolfo and five other laborers planted rice in his field from August 20 to 28, 1996 during the day for which he paid them either P50.00 or 1 ½ gantas of rice daily at their option. From October 15 to 30, 1996, Rodolfo worked alone in his field digging holes for banana seedlings and harvesting rice during the day for which Rodolfo had a share of 30 sacks of palay at the termination of his work. Valera stated that Rodolfo did not go back to his house during the day for the entire period that he (Rodolfo) worked in his field. Rodolfo ate his meals in his house and regularly goes home in the evening at 7:30 o'clock after watching T.V. Patrol on the television.[15]

Patricia Alcartado, mother of the complainant, Marites Perez, denied that she accompanied her daughter to the DSWD and to the police to file complaints for rape against her husband and father-in-law. On the contrary, she was fetched from the house and was made to sign the sworn statement of her daughter and the four (4) complaints for rape which were prepared by the police of Bangued, Abra without understanding their contents. She also denied the truth of her daughter's claim that she (Marites) was raped by the appellants. She revealed that Marites is a rebellious daughter who had many boyfriends. Marites would talk back whenever she scolded her for being frequently late in coming home from school.

Patricia further testified that Marites even attempted to stab her with a knife after she whipped her for being in the company of men. Marites was even allegedly caught by her brother in the act of pulling down her pants while kissing with a man. She would also steal two (2) to three (3) gantas of rice from their house and sell the same so she could buy her boyfriends soft drinks and biscuits. When confronted by her mother, Marites allegedly denied stealing anything and even retorted "Oki ni inam" (Vagina of your mother).[16]

Marieta Oca, who is a neighbor of the Alcartados, described the house of her neighbor which is made of materials from cogon grass and boho as small, old, and dilapidated. The kitchen which is separate from the house has no walls and likewise dilapidated. Marieta stated in general that she did not witness any instance of rape in the house as well as in the kitchen of the Alcartado's during the occasions when the same were allegedly committed.[17]

After analyzing the evidence, the trial court concluded that:

There is no doubt at all in the mind of the court that accused Rodolfo Alcartado raped the complainant Marites Bandeyrel Perez, his step-father (sic) on August 23, 1996, when the latter was only 11 years, 9 months and 17 days, and on October 19, 1996 when she was 11 years and 11 months and 13 days. Likewise, accused Benido Alcartado raped the complainant Marites Bandeyrel Perez, his step-granddaughter on September 21, 1996, when the latter was 11 years, 10 months and 15 days, and on December 10, 1996, when she was 12 years, 1 month and 4 days old. Although the complainant was already 1 month and 4 days older than the "statutory

rape" stage there is enough evidence that the victim was overcome by fear at the time and cannot do anything because she might be killed. There was even a bolo lying nearby. Fear and intimidation in rape cases according to Supreme Court need not be irresistible. It is enough that it exists in the mind of the victim and produce the same evil result.[18]

Consequently, the appellants were sentenced to suffer the capital punishment, thus:

WHEREFORE, the court finds both accused guilty of the crime of rape on all the informations filed against them as defined and penalized under Article 335 of the Revised Penal Code, as amended, and further amended by Republic Act No. 7659, and sentences them to suffer the penalty of death on all the offenses they have been charged of (sic) and to pay the amount of P50,000.00 to the complainant, Marites Bandeyrel Perez plus the amount of P100,000.00 as moral and exemplary damages for each of the crime of rape they have committed and to pay the costs of these suits.

SO ORDERED.[19]

In their joint Appellants' Brief, appellants Benido Alcartado and Rodolfo Alcartado raise the following assignment of errors:

I

THE LOWER COURT ERRED IN CONVICTING ACCUSED-APPELLANTS OF THE CRIME OF RAPE DESPITE INSUFFICIENCY OF EVIDENCE TO PROVE THEIR GUILT BEYOND REASONABLE DOUBT.

II

GRANTING THAT ACCUSED-APPELLANTS DID COMMIT THE CRIME CHARGED IN THE INFORMATIONS, THE LOWER COURT ERRED IN IMPOSING THE SUPREME PENALTY OF DEATH DESPITE THE FACT THAT THE COMPLAINTS FILED MERELY CHARGED ACCUSED-APPELLANTS WITH THE CRIME OF SIMPLE RAPE.

At the outset, We emphasize the rule that the credibility of the offended party's testimony is determinative of the outcome of these cases for the crime of rape for the reason that when an alleged victim of rape says that she was violated, she says in effect all that is necessary to show that rape has been inflicted on her, and so long as her testimony meets the test of credibility, the accused may be convicted on the basis thereof.[20] In the cases at bench, the victim, Marites Bandeyrel Perez, a.k.a. Cristina B. Perez, categorically testified during the trial that she was raped by her stepfather, herein appellant Rodolfo Alcartado, twice on August 23, 1996 and on October 19, 1996. She also testified that her stepgrandfather, herein appellant Benido Alcartado, raped her twice on September 21, 1996 and on December 10, 1996. The trial court characterized the testimony of the victim as straightforward, unhesitating and delivered in a clear manner, therefore credible.[21]

After a thorough review of the record, the Court failed to discern any material contradiction in the assertion of Marites Perez that she was raped four (4) times on separate occasions by the appellants. She did not waver in her testimony even under the extensive and exhaustive cross-examination by the defense counsel. Hence, there is no cogent reason to deviate from the time-honored legal principle that when the issue is one of credibility of witnesses, appellate courts will not disturb the findings of the trial court.[22] In the case of *People vs. De Guzman*,[23] this Court ruled that the trial judge is in the best position to detect that sometimes thin line between fact and prevarication that will determine the guilt or innocence of the accused. That line may not be discernible from a mere reading of the impersonal record by the reviewing court. The record will not reveal those tell-tale signs that will affirm the truth or expose the contrivance, like the angry flush of an insisted assertion or the sudden pallor of a discovered lie or the tremulous mutter of a reluctant answer or the forthright tone of a ready reply. The record will not show if the eyes have darted in evasion or looked down in confession or gazed steadily with a

serenity that has nothing to distort or conceal. The record will not show if tears were shed in anger, or in shame, or in remembered pain, or in feigned innocence. Only the judge trying the case can see all these and on the basis of his observations arrive at an informed and reasoned verdict.

The defense of denial interposed by appellant Benido Alcartado pales in the light of the positive identification by the victim of her said attacker on September 21, 1996 in the kitchen and on December 10, 1996 inside their house. In like manner, he can not seek refuge under the fact that he is already old and allegedly suffering from bronchial asthma and pulmonary tuberculosis. The said appellant (Benido) did not even present during the trial of his cases the physicians who allegedly issued the medical certificates attesting that he is allegedly suffering from the said ailments. The age of the said appellant and his alleged ailments, by themselves, do not establish that he is not capable of consummating the sexual act. As a defense, impotence is both a physical and medical question that should be satisfactorily established with the aid of an expert and competent testimony. On the contrary, the trial court pointedly observed that "the appellant attends most of the hearing and comes to court unaided in any way. He is better groomed than his son and co-accused Rodolfo." [24]

Apart from denying the instant charges, appellant Rodolfo Alcartado posits the defense of alibi. Rodolfo claims that he was out in the fields doing farmwork on both occasions that he allegedly raped his step-daughter Marites. The defense of the appellant was properly dismissed by the trial court in this wise:

In these particular cases, there is no physical impossibility for the accused Rodolfo to be in his house at 11:00 o'clock in the morning on August 23 and at the same time on October (19), 1996, the distance being only 400 to 500 meters away between the two places. Four hundred meters is the distance of an athletic field's track oval which a fast runner can negotiate for less than 50 seconds, a brisk walker in 2-3 minutes and an ordinary walker in 5 minutes so that with or without the permission of Valera accused Rodolfo, at the most can only be away for some 20 minutes without his boss or his companion noticing his absence unless there is an extraordinary happening which involves him as when his harvested palay are missing, burning or being eaten by stray carabaos. But nothing of this sort happened that day on August 23, 1996. xxx. He was positively identified by his step-daughter as her abuser in the late morning on the 23rd of August and the 19th of October, 1996. [25]

Time and again, this Court has ruled that for the easily concocted defense of alibi to prosper, the requisites of time and place should concur. [26] From the aforequoted findings of the trial court, Rodolfo failed to demonstrate satisfactorily that it was physically impossible for him to be in their house at the time when the crimes were committed. Hence, between the alibi of the appellant and his positive identification by the victim, the latter deserves greater credence. [27]

The defense points out the apparent lack of resistance from the victim on the specific occasions when she was allegedly raped. Appellants Rodolfo and Benido Alcartado, being the stepfather and stepgrandfather respectively of the victim, definitely exercised moral and physical ascendancy over Marites which could be sufficient to cow her into submission to their bestial desires. [28] Besides, the victim in these cases was below twelve (12) years old on the three (3) occasions when she was raped by her stepfather on August 23, 1996 and on October 19, 1996 and by her stepgrandfather on September 21, 1996, her birth date having been satisfactorily established to be on November 6, 1984. [29] The absence of a struggle or an outcry from the victim is immaterial in the rape of a child below twelve (12) years of age because the law presumes that the victim, on account of her tender age, does not and cannot have a will of her own. [30]

That the victim resents her mother's excessive love for her stepfather does not militate against her credibility. If jealousy is the underlying motive as the defense would make it appear, the victim would not have implicated her stepgrandfather in the instant criminal cases who is already old and allegedly ailing. Her resentment is rooted

from her mother's apparent lack of concern for her plight caused by her elders. Indeed, no woman especially one who is of tender age such as the complainant would concoct a story of defloration, let alone against her own relatives, allow an examination of her private parts and thereafter permit herself to be subjected to a public trial, if she is not motivated solely by the desire to have the culprit apprehended and punished.[31]

The testimony of defense witness Marieta Oca to the effect that the house and the kitchen of the Alcartados are small, old and dilapidated deserves scant consideration by the Court. Common experience shows that lust is no respecter of time and place; it can be committed in most unlikely places such as in the park, along a roadside, within school premises, or even in an occupied room.[32]

In a desperate attempt to cast doubt on the credibility of the victim, the defense was able to convince the mother, Patricia, to abandon her previous stance. The record is clear that Patricia and a certain Sonny Venus (uncle of the victim) accompanied Marites to the DSWD and the police in Bangued, Abra to lodge a complaint for rape against the appellants. Her signatures appear on the sworn statement of her daughter Marites B. Perez and on the four (4) criminal complaints which were filed with the Office of the Provincial Prosecutor in Bangued, Abra. Apparently realizing the fate awaiting her husband and her father-in-law for the crimes that they had committed, Patricia made a complete turn around and even pictured her daughter in court as rebellious and a loose woman. In any case, moral character is immaterial in the prosecution and conviction of the appellants. This Court had occasion to rule that even prostitutes can be the victims of rape.[33]

However, the trial court erred in imposing the supreme penalty of death on the appellants. It appears that the informations in Criminal Cases Nos. 97-005 to 06 against appellant Benido Alcartado and the informations in Criminal Cases Nos. 97-007 to 08 against appellant Rodolfo Alcartado charge the said appellants with the crime of rape under Article 335 of the Revised Penal Code, as amended, without alleging any of the circumstances provided under Republic Act No. 7659 that warrants the imposition of the death penalty for the said crime. As further amended by Section 11 of Republic Act No. 7659, Article 335 of the Revised Penal Code, reads:

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

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

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.

When by reason or on the occasion of the rape, the victim has become insane, the penalty shall be death.

When the rape is attempted or frustrated and a homicide is committed by reason or on the occasion thereof, the penalty shall be reclusion perpetua to death.

When by reason or on the occasion of the rape, a homicide is committed, the penalty shall be death.

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

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

parent of the victim.

2. when the victim is under the custody of the police or military authorities.

3. when the rape is committed in full view of the husband, parent, any of the children or other relatives within the third degree of consanguinity.

4. when the victim is a religious or a child below seven (7) years old.

5. when the offender knows that he is afflicted with Acquired Immune Deficiency Syndrome (AIDS) disease .

6. when committed by any member of the Armed Forces of the Philippines or the Philippine National Police or any law enforcement agency.

7. When by reason or on the occasion of the rape, the victim has suffered permanent physical mutilation.

In the cases of *People vs. Garcia*,^[34] *People vs. Ramos*^[35] and *People vs. Medina*,^[36] this Court declared that the aforequoted seven (7) attendant circumstances enumerated in Section 11 of R.A. No. 7659 partake of the nature of qualifying circumstances since the same are punishable by the single indivisible penalty of death and not reclusion perpetua to death. It has been the rule that qualifying circumstances must be properly pleaded in the indictment. If the same are not pleaded but proved, they shall be considered only as aggravating circumstances. Despite the absence of allegation in Criminal Cases Nos. 97-005 to 08 that appellants Benido Alcartado and Rodolfo Alcartado are the step-grandfather and the step-father of the victim, respectively, the trial court nevertheless, imposed on the appellants the death penalty in violation of their right under Article III, Section 14 of the 1987 Constitution to be informed of the nature and cause of the accusation against them. Consequently, the appellants can be held liable for two (2) counts each of the crime of simple rape only.

WHEREFORE, the Decision of the Regional Trial Court of Bangued, Abra, Branch 2, is hereby **AFFIRMED** with the **MODIFICATION** that the appellants, Benido Alcartado and Rodolfo Alcartado, shall suffer the penalty of reclusion perpetua in each of Criminal Cases Nos. 97-005 to 06 and in each of Criminal Cases No. 97-007 to 08, respectively; and to pay to the victim, Marites Bandeyrel Perez, the amount of P50,000.00 for civil indemnity in addition to P50,000.00 as moral damages for each of the crimes of rape they have committed.

SO ORDERED.

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

Vitug, J., on leave.

[1] Penned by Judge Benjamin A. Boñgolan. Rollo, pp. 35-45.

[2] TSN dated January 31, 1997, p. 6.

[3] Exhibit "G".

[4] Exhibit "A".

[5] TSN dated February 12, 1997, pp. 8-12.

[6] TSN dated February 12, 1997, pp. 16-18.

[7] TSN dated February 12, 1997, pp. 13-14.

[8] TSN dated February 12, 1997, pp. 19-20.

[9] TSN dated February 12, 1997, p. 45.

[10] TSN dated February 12, 1997, p. 53.

[11] Exhibit "J".

[12] Exhibits "3" and "4".

[13] TSN dated March 19, 1997, pp. 9-19.

[14] TSN dated April 3, 1997, pp.15-16.

[15] TSN dated April 3, 1997, pp. 4-7.

[16] TSN dated May 7, 1997, pp. 6-11.

[17] TSN dated August 12, 1997, pp. 9-12.

[18] Decision, Rollo, pp. 44-45.

[19] Decision, Rollo, p. 45.

[20] People vs. Julian, 270 SCRA 733, 746 (1997)

[21] Decision, Rollo, p. 39.

[22] People vs. Llaguno, 285 SCRA 124, 135 (1998)

[23] 188 SCRA 407, 410-411 (1990)

[24] Decision, Rollo, p. 43.

[25] Decision, Rollo, p. 43.

[26] People vs. Gabas, 233 SCRA 77,85 (1994)

[27] People vs. Perciano, 233 SCRA 393, 400 (1994)

[28] People vs. Sagaral, 267 SCRA 671, 680 (1997)

[29] Exhibit "I".

[30] People vs. Alimon, 257 SCRA 658, 674 (1996)

[31] People vs. Ramirez, 266 SCRA 335, 352 (1997)

[32] People vs. Cabillan, 267 SCRA 258, 265 (1997)

[33] People vs. Edualino, 271 SCRA 189, 199 (1997)

[34] 281 SCRA 463, 489 (1997)

[35] G.R. No. 129439, September 25, 1998.

[36] 300 SCRA 98, 116 (1998)

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