

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JESUS GIANAN Y MOLINA, ACCUSED-APPELLANT.

G.R. Nos. 135288-93. September 15, 2000

Ponente: MENDOZA, J.

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MENDOZA, J.:

This is an automatic review of the decision[1] of the Regional Trial Court, Branch 20, Imus, Cavite finding accused-appellant guilty of “multiple rape” and sentencing him to “triple death” and to pay complainant the amount of P100,000.00 as compensatory damages.

On June 26, 1996, complainant Myra Gianan, then 15 years old, filed a criminal complaint for multiple rape against her father, accused-appellant Jesus Gianan, on the basis of which the public prosecutor filed the following information:[2]

That sometime in November 1995, and some occasions prior and/or subsequent thereto, in the Municipality of Dasmariñas, Province of Cavite, and within the jurisdiction of this Honorable Court, the above-named accused, with lewd designs, taking advantage of his superior strength over the person of his own twelve (12) year old daughter, and by means of force, violence and intimidation, did, then and there, wilfully, unlawfully and feloniously, have repeated carnal knowledge of Myra M. Gianan, against her will and consent, to her damage and prejudice.

Accused-appellant pleaded not guilty to the charge, whereupon trial of the case ensued.

The evidence for the prosecution shows the following:

Myra Gianan was born on April 19, 1981 in Catanduanes, the eldest of three children of accused-appellant Jesus Gianan and his wife Dominga Gianan. After the birth of Myra, the family moved to Aroma, Tondo.[3]

Sometime in December 1992, at around 9 o’clock in the evening, Myra (then eleven years old) and her younger brother Jeffrey asked permission from accused-appellant to watch TV in a neighbor’s house. Accused-appellant allowed Jeffrey to go but told Myra to stay and give him a massage. Myra obeyed her father. Afterwards, she again asked permission to go to their neighbor’s house and was already at the door when accused-appellant pulled her and started kissing her. Startled, she resisted by pushing and hitting her father, but she was warned to keep quiet or else she would be killed. She was made to lie down by accused-appellant who then took off her clothes. He also undressed and proceeded to have sexual intercourse with her. After accused-appellant was through, he got up, dressed and then left. For fear that her father would make good his threats, Myra kept to herself what happened.[4]

A few days later, while Myra was taking a bath in their house in Tondo, accused-appellant entered the bathroom and started kissing her on the lips, neck and genitalia. Because she resisted and pushed him away, accused-appellant left.[5]

Still, in the same month of December 1992, Myra was again molested by accused-appellant. She was cleaning the

room of their house and her father was the only other person in the house. Accused-appellant suddenly seized her and started kissing her. As before, her father succeeded in undressing her despite her resistance and eventually consummated the sexual act. Like the first incident, she did not mention this incident to her mother for fear that accused-appellant would carry out his earlier threats.[6]

Shortly afterwards, the Gianan's house was destroyed by fire, as a result of which the family moved to Barangay Pag-asa in Dasmariñas, Cavite. Myra's mother was able to land a job as bookkeeper at the Santos Pension House where she was required to work from 7:30 in the morning to 9 o'clock in the evening. Accused-appellant, who was unemployed, was left in their house with the children.[7]

Under this setup, the abuses against Myra continued. One morning in March 1993, while Myra was taking a bath, accused-appellant entered the bathroom, removed his shorts, then started embracing and kissing her. Myra, who was only in her undergarments, tried to push him away, but was unsuccessful. Accused-appellant, while seated on the toilet bowl, made Myra straddle him as he did the sexual act.[8]

The fourth rape incident took place in the evening of April 1993, after Myra and her two younger siblings had gone to bed. Their mother had not yet arrived from work. Myra was awakened as accused-appellant was undressing her. She instinctively kicked him, but she was warned not to make any noise. Accused-appellant then started kissing her and pinned down her left leg with his feet while undressing. He then proceeded with the sexual intercourse with Myra who was crying while her father violated her.[9]

The fifth rape took place in November 1995. During the wake for her grandfather, while Myra was serving coffee to those who came to condole with the family, she was told by accused-appellant to go home. A short while after complainant arrived, her father followed. They were the only ones in the house. She was then told to prepare the beddings and, while she was doing so, accused-appellant embraced and started kissing her. She resisted but was told to keep quiet. Although accused-appellant was only able to lower her pants and underwear down to her knees, he succeeded in abusing her.[10]

In June 1996, after deciding that she had had enough of her father's abuses, Myra fled from their house. In a letter to her mother which she left hidden under her clothes, she revealed what had happened to her. Myra went to stay in a friend's house in Tondo.[11]

Three days later, Dominga Gianan discovered her daughter's letter. She looked for Myra in Tondo and, after confirming from her daughter the contents of the letter, Dominga sought the help of her sister who was living in Fairview, Quezon City.[12]

On June 25, 1996, Myra filed a complaint for multiple rape with the police in Dasmariñas, Cavite and later underwent physical examination at the National Bureau of Investigation (NBI) office in Manila.

Dr. Renato C. Bautista, the NBI examining physician, issued the following certification:[13]

GENERAL PHYSICAL EXAMINATION:

Height: 150.0 cm. Weight: 93 lbs.

Normally developed, fairly nourished, conscious, coherent, cooperative, ambulatory subject.

Breasts, developed, hemispherical, doughy. Areolae, light brown, 2.4 cm. in diameter. Nipples, light brown, protruding, 0.8 cm. in diameter.

No extragenital physical injuries noted.

GENITAL EXAMINATION:

Pubic hair, fully grown, abundant. Labia majora and minora, coaptated. Fourchette, tense. Vestibular mucosa, pinkish. Hymen, moderately thick, moderately wide with an old healed deep laceration at 4:00 o'clock position corresponding to the face of a watch, edges rounded and non-coaptable. Hymenal orifice admits a tube 2.5 cm. in diameter with moderate resistance. Vaginal walls, lax. Rugosities, shallow.

CONCLUSIONS:

1. No evident sign of extragenital physical injury noted on the body of the subject at the time of examination.
2. Old healed deep hymenal laceration present.

Dr. Bautista testified that the laceration in Myra's hymen was more than six months old and that, in the normal course of events, it could have been caused by sexual intercourse. He explained that the admission of a tube with 2.5 centimeter diameter into the victim's vaginal orifice meant that her genitalia could accommodate a fully erect male organ without being injured. He opined that considering the age of the victim, who was then 15 years old, it was unusual for her vagina to have such an opening and that the lax vaginal walls and shallow rugosities indicated that the victim has had sexual intercourse several times.[14]

On cross-examination, Dr. Bautista belied the defense's suggestion that since there was only one laceration in the victim's hymen, she could have engaged in only one instance of sexual intercourse. He explained that there are cases where the hymen is intact even after several incidents of sexual intercourse. He conceded, however, that hymenal lacerations could be caused by factors other than sexual intercourse.[15]

The defense then presented its evidence. Accused-appellant, testifying as the lone witness for the defense, denied having raped his daughter Myra. He claimed that the filing of the case against him was due to his being a strict disciplinarian and that Myra resented her not being allowed to attend parties and go out with her friends. Accused-appellant testified that after moving to Cavite, he worked as a carpenter from 7 o'clock in the morning to 5 o'clock in the afternoon. He claimed that he was out of the house in the evening, performing his duties as a barangay tanod until 3 o'clock in the morning of the following day.[16]

On cross-examination, he admitted that the place where he worked as a carpenter was only four houses away from theirs and that he went home whenever he wanted to rest.

On April 1, 1998, the trial court rendered its decision, the dispositive portion of which reads:[17]

WHEREFORE, in view of the foregoing, judgment is hereby rendered finding accused Guilty beyond reasonable doubt of multiple rape. Accordingly, the penalty of triple death is imposed upon him. In addition, he is ordered to indemnify the victim of the sum of P100,000.00 as compensatory damages.

SO ORDERED.

Hence this appeal. Accused-appellant contends that —

THE TRIAL COURT GRAVELY ERRED IN FINDING ACCUSED-APPELLANT GUILTY BEYOND REASONABLE DOUBT OF THE CRIME OF MULTIPLE RAPE.

THE TRIAL COURT GRAVELY ERRED IN IMPOSING THE PENALTY OF TRIPLE DEATH.

THE TRIAL COURT GRAVELY ERRED IN ORDERING THE ACCUSED-APPELLANT TO INDEMNIFY THE VICTIM THE SUM OF P100,000.00 AS COMPENSATORY DAMAGES.[18]

I

Accused-appellant contends that the information against him was void because it did not allege with certainty the

dates of commission of the rapes, as a result of which he was allegedly deprived of the opportunity to defend himself. In addition, he argues that by charging multiple rape, the information charged more than one crime.

It is settled that the time of the commission of rape is not an element thereof, as this crime is defined in Art. 335 of the Revised Penal Code. The gravamen of the crime is the fact of carnal knowledge under any of the circumstances enumerated therein, i.e., (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. In accordance with Rule 110, §11, as long as it alleges that the offense was committed “at any time as near to the actual date at which the offense was committed,” an information is sufficient. Thus, in *People v. Bugayong*,^[19] it was held when the time given in the (information) is not the essence of the offense, the time need not be proven as alleged and that the complaint will be sustained if the proof shows that the offense was committed at any time within the period of the statute of limitations and before the commencement of the action.^[20]

In the case at bar, Myra stated in her complaint that her father had raped her several times from 1992 up to November 1995.^[21] The prosecution was able to establish that during such period accused-appellant raped his daughter five times and committed acts of lasciviousness against her once. Hence, the allegation in the information that accused-appellant committed multiple rape “sometime in November 1995 and some occasions prior and/or subsequent thereto” should be deemed sufficient compliance with the requirements that the five counts of rape were committed within the statute of limitations and before the criminal action was commenced in the trial court.

Indeed, this Court has held that the allegations that rapes were committed “before and until October 15, 1994,”^[22] “sometime in the year 1991 and the days thereafter,”^[23] and “on or about and sometime in the year 1988”^[24] constitute sufficient compliance with Rule 110, §11. In any event, even if the information failed to allege with certainty the time of the commission of the rapes, the defect, if any, was cured by the evidence presented during the trial and any objection based on this ground must be deemed waived as a result of accused-appellant’s failure to object before arraignment. Accused-appellant’s remedy was to move either for a bill of particulars^[25] or for the quashal of the information on the ground that it does not conform substantially to the prescribed form.^[26]

In this case, accused-appellant’s counsel took active part in the trial. He cross-examined the prosecution’s witnesses and afterwards presented evidence for the defense. It is now late in the day for him to claim on appeal that the information against him was defective. Accused-appellant’s reliance on *United States v. Dichao*^[27] is unavailing because in that case, the accused made a timely motion to quash the information.

Accused-appellant nevertheless argues that his conviction for rape in December 1992 is so remote from the date (November 1995) alleged in the information, so that the latter could no longer be considered as being “as near to the actual date at which the offense was committed” as provided under Rule 110, §11.^[28]

This contention is also untenable. In *People v. Garcia*,^[29] this Court upheld a conviction for ten counts of rape based on an information which alleged that the accused committed multiple rape “from November 1990 up to July 21, 1994,” a time difference of almost four years which is longer than that involved in the case at bar. In any case, as earlier stated, accused-appellant’s failure to raise a timely objection based on this ground constitutes a waiver of his right to object.

In *People v. Ladrillo*,^[30] it was held that an information alleging that the accused-appellant committed rape “on or about the year 1992” was defective and that the failure of the accused to move for a bill of particulars or for the quashal of the information was not a waiver of objection based on this ground. But, in that case, the need for a more definite allegation as to the time of the commission of the rape was essential in the determination of the

accused's guilt because in 1992, the accused was not yet residing in the town where the crime was committed. In addition, the victim could not recall either the month or the year she was raped. Said the Court:

The phrase 'on or about the year 1992' encompasses not only the twelve (12) months of 1992 but includes the years prior and subsequent to 1992, e.g., 1991 and 1993, for which accused-appellant has to virtually account for his whereabouts. Hence, the failure of the prosecution to allege with particularity the date of the commission of the offense and, worse, its failure to prove during the trial the date of the commission of the offense as alleged in the Information, deprived accused-appellant of his right to intelligently prepare for his defense and convincingly refute the charges against him. At most, accused-appellant could only establish his place of residence in the year indicated in the Information and not for the particular time he supposedly committed the rape.[31]

In this case, accused-appellant's denial and alibi are so general that it cannot be said that his defense hinges on the date of the commission of the rapes. Furthermore, Myra was unwavering in her claim that her father committed acts of lasciviousness against her once in December 1992, raped her twice in December 1992, twice in 1993, specifically in the months of March and April, and once in November 1995.

II

With regard to the contention that the information against him is defective because it charges more than one offense, the pertinent provisions of Rule 117 state:

SECTION 1. Time to move to quash. — At any time before entering his plea, the accused may move to quash the complaint or information.

SEC. 3. Grounds. — The accused may move to quash the complaint or information on any of the following grounds:

....

(e) That more than one offense is charged

SEC. 8. Failure to move to quash or to allege any ground therefor. — The failure of the accused to assert any ground of a motion to quash before he pleads to the complaint or information, either because he did not file a motion to quash or failed to allege the same in said motion shall be deemed a waiver of the grounds of a motion to quash

Clearly, as a result of accused-appellant's failure to move for the quashal of the information on the ground that more than one offense was charged, he is deemed to have waived his objection based on such ground.

III

The trial court convicted accused-appellant of "multiple rape" without stating the number of counts of rape involved. The prosecution established beyond doubt that accused-appellant is guilty of five counts of rape. In a simple and straightforward manner, Myra related to the trial court how her father raped her twice in December 1992, twice in 1993 (March and April), and once in November 1995. As the trial court noted:

She positively established in detail the antecedents and surrounding circumstances of the sexual assaults committed by her father against her. Her testimony was given in a candid, frank and straightforward manner, thereby, leaving no doubt about its credibility and truthfulness. It has been held that "a candid and straightforward narration by the victim of how she had been raped bears the earmarks of credibility. [32]

Undoubtedly, Myra erred in stating that she and her family moved to Dasmariñas, Cavite in June 1993

considering that she testified that after they had transferred to Cavite, accused-appellant raped her again in March and April of that year. When she was confronted with this discrepancy, she admitted that she got confused but explained that, although she could no longer recall the exact month when she was first raped by her father in 1993 in Dasmariñas, she was certain that the rape in April of that year took place before her birthday on the 19th of that month.[33] Hence, complainant must have transferred to Cavite before March 1993. Indeed, Myra's recollection of these two rapes was very vivid, thus:[34]

PROS. MADRIAGA:

Q

When for the first time did your father rape you in Dasmariñas, Cavite?

A

While I was taking a bath.

Q

When was that?

A

Around March 1993.

Q

Who were present at that time in your house?

A

My brother Jeffrey.

Q

Who else?

A

No more. My mother was in the place of work.

Q

What time was that incident occurred?

A

Morning.

Q

Around what time?

A

Around 10:00 in the morning.

Q

Will you tell this Hon. Court how did it happen?

A

I was taking a bath in our bathroom.

Q

While you were taking a bath in your bathroom, what happened?

A

He followed me.

Q

What happened after he followed you?

A

He entered inside the bathroom and removed his short.

Q

What clothes were you wearing at that time?

A

I was wearing a bra and a panty.

Q

After undressing himself, what did your father do?

A

He embraced me and I was pushing him.

Q

What else happened?

A

He kissed me on the lips, neck and breast.

Q

Aside from kissing you on the different parts of your body, what else did your father do to you?

A

He inserted his organ into my organ.

Q

When he inserted his organ to your organ, what was your position?

A

I was sitting and pushing him.

Q

What was the position of your father?

A

Also sitting.

Q

Was he able to insert his penis in your organ?

A

Yes, sir, a short while.

....

Q

Madam Witness, last time, during your direct examination with respect to the first time you were raped by your father in Dasmariñas, you said that the same was committed inside the bathroom while you and your father were sitting?

A

Yes, sir.

Q

Where were you sitting?

A

On the lap of my father, sir.

Q

And where [was] your father sitting?

A

At the toilet bowl, Sir.

Q

To what direction were you facing?

A

Facing him, sir.

....

Q

Can you recall the approximate time and date when that second sexual assault was done in Dasmariñas?

A

April 1993.

Q

What time?

A

9:00 in the evening.

Q

Who were present in your house when this was done?

A

My brother and sister who were then sleeping.

Q

Where was your mother at that time?

A

She is at work.

....

Q

How did the second sexual assault occur in Dasmariñas?

A

I was then sleeping. I did not notice that my father was removing my skirt and my t-shirt and panty.

Q

What did you do upon discovering that your father was undressing you?

A

I kicked him.

Q

What did he do when you kicked him?

A

He told me to keep quiet.

Q

What happened next?

A

He kissed my lip, cheek, my organ and breast.

Q

Was your father able to undress you?

A

Yes, sir.

Q

What were the clothes that he removed from you?

A

My skirt, t-shirt, bra and panty.

Q

What did your father do after he was able to remove your dress, panty, bra etc.?

A

He also removed his clothes.

Q

What did he do after removing his clothes?

A

He spread my legs and inserted his organ into my organ.

Q

Was he able to insert his organ into your organ?

A

Yes, sir, a short while.

Q

While he was inserting his organ into your organ, what did you do?

A

I was crying.

Q

After that, what did your father do?

A

He put on his clothes and he slept.

Considering that the exact time of the commission of the rape is not an essential element of the crime, Myra's testimony is sufficient to establish the two rape incidents in 1993.

Furthermore, Myra's claim of multiple rape was fully corroborated by the result of the medical examination which shows that she had sexual intercourse several times.

The evidence shows that accused-appellant was able to consummate each of the rapes through force and intimidation. Myra testified that her father threatened to kill her and the other members of their family if she revealed the sexual attacks to anyone.[35] The threats cannot be minimized considering the moral influence of accused-appellant over her. Indeed, we have consistently ruled that in cases of incestuous rapes, the father's moral ascendancy over the victim substitutes for violence and intimidation.[36] This especially holds true in the case of Filipino children who are traditionally raised to obey and to respect their elders.[37]

With regard to the incident in December 1992 during which accused-appellant kissed complainant in various parts of her body in the bathroom where she was taking a bath,[38] the crime committed was acts of lasciviousness. The elements of the crime are: (1) that the offender commits any act of lasciviousness or lewdness; (2) that it is done (a) by using force or intimidation or (b) when the offended party is deprived of reason or otherwise unconscious, or (c) when the offended party is under 12 years of age; and (3) that the offended party is another person of either sex.[39] Although the information filed was for multiple rape, accused-appellant can be convicted of acts of lasciviousness because the crime of acts of lasciviousness is included in rape.[40]

IV

The trial court sentenced accused-appellant to "triple death penalty." However, as the Solicitor General correctly observed, the death penalty cannot be imposed for the two rapes committed in December 1992 and the two others committed in March and April 1993, because R.A. No. 7659, which imposes the death penalty for rapes committed under any of the circumstances provided under §11 thereof, took effect only on December 31, 1993, and it cannot be given retroactive application.[41] Hence, only the penalty of reclusion perpetua can be imposed on accused-appellant for each count of rape.

With respect to the rape committed in November 1995, R.A. 7659, §11 provides that the death penalty shall be imposed "when the victim is under eighteen (18) years of age and the offender is a parent." Both the age of the offended party and her filiation with the accused must be alleged in the information as part of the constitutional right of the accused to be informed of the nature and cause of the accusation against him.[42] However, the information in this case alleged that accused-appellant "with lewd designs, taking advantage of his superior strength over the person of his own twelve (12) year old daughter" had repeated carnal knowledge of her by means of force, violence, and intimidation. This is similar to the allegations in the four informations filed in *People v. Teves*.^[43] In that case, three informations alleged that the accused committed multiple rape by "taking advantage of his superior strength over the person of his thirteen (13) year old daughter." The fourth information alleged that the accused committed rape by "taking advantage of his superior strength over the person of his own daughter who is only thirteen years old." This Court ruled that none of these informations specifically alleged the qualifying circumstances of age and relationship of the offended party to the accused. It explained:

[T]he informations . . . as phrased, . . . unduly lay stress on the generic aggravating circumstance of "taking

advantage of superior strength.” Be it in terms of syntax or composition, the wording of the informations is unable to sufficiently notify the accused, a person of common understanding or ordinary intelligence, of the gravity or nature of the crime he had been charged, especially considering that the generic aggravating circumstance of taking advantage of superior strength is not even an element of the attendant circumstances treated under number 1 of the last paragraph of Art. 335. . . .[44]

In accordance with the ruling in Teves, therefore, the rape committed in November 1995 must be considered to be only simple rape for which the penalty should only be reclusion perpetua.

As for the damages to be awarded to complainant, the P100,000.00 awarded by the trial court should be modified. In accordance with current case law,[45] accused-appellant should be ordered to pay complainant moral damages in the amount of P50,000.00 and civil indemnity in the amount of P50,000.00 for each of the four counts of simple rape. For the rape committed in November 1995, he should likewise be ordered to pay moral damages in the amount of P50,000.00 and civil indemnity in the amount of P50,000.00.

WHEREFORE, the decision of the Regional Trial Court, Branch 20, Imus, Cavite is AFFIRMED with the following modifications:

- (1) For each of the four counts of simple rape committed in December 1992 (two counts) and March and April 1993, accused-appellant is sentenced to suffer the penalty of reclusion perpetua and to pay complainant moral damages in the total amount of P200,000.00 and civil indemnity in the total amount of P200,000.00.
- (2) For the rape committed in November 1995, accused-appellant is sentenced to suffer the penalty of reclusion perpetua and to pay complainant civil indemnity in the amount of P50,000.00 as well as moral damages in the amount of P50,000.00 and the costs.
- (3) For the acts of lasciviousness committed in December 1992, accused-appellant is sentenced to an indeterminate penalty of 12 years and 1 day of reclusion temporal, as minimum, to 15 years, 6 months and 20 days of reclusion temporal, as maximum.

SO ORDERED.

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

[1] Per Judge Lucenito N. Tagle.

[2] Records, p.1.

[3] TSN (Dominga Gianan), pp. 3 & 10, Sept. 8, 1997; TSN (Myra Gianan), p. 9, March 17, 1997; TSN, p. 4, Feb. 10, 1997.

[4] TSN (Myra Gianan), pp. 4-6, Feb. 10, 1997.

[5] Id., p. 7

[6] Id. pp. 8-9.

[7] TSN (Myra Gianan), p. 9, March 17, 1997; TSN (Dominga Gianan), pp. 9-10, Sept. 8, 1997.

[8] TSN, pp. 9-11, Feb. 10, 1997.

[9] Id., pp. 11-12.

[10] TSN, pp. 3-7, March 12, 1997.

[11] Id., pp. 7-9.

[12] TSN (Dominga Gianan), pp. 4-5, & 7, Sept. 8, 1997; TSN (Myra Gianan), p. 11, March 12, 1997.

[13] Exh. C (Underscoring supplied).

[14] TSN, pp. 3-4, May 19, 1997.

[15] Id., p. 6.

[16] TSN, pp. 3-7, Nov. 26, 1997.

[17] RTC Decision, pp. 5-6; Rollo, pp. 19-20.

[18] Appellant's Brief, p. 1 ; Rollo, p. 32.

[19] 299 SCRA 528 (1998). See also *People v. Losano*, 310 SCRA 707 (1999).

[20] *People v. Bugayong*, 299 SCRA 528, 537.

[21] Records, p. 5.

[22] *People v. Bugayong*, *supra*.

[23] *People v. Magbanua*, G.R. No. 128888, Dec. 3, 1999.

[24] *People v. Santos*, G.R. Nos. 131103 & 143472, June 29, 2000.

[25] *Rocaberte v. People*, 193 SCRA 152 (1991).

[26] See *People v. Garcia*, 281 SCRA 463 (1997) holding that if a motion to quash is filed, the trial court deny the motion and instead order the public prosecutor to amend the information by alleging with certainty the time of the commission of the offense. It is only when the prosecutor fails to make the necessary amendment that the case should be dismissed. Id. at 475.

[27] 27 Phil. 419 (1914).

[28] Appellant's Brief, p.4; Rollo, p. 35.

[29] 281 SCRA 463 (1997).

[30] G.R. No. 124342, Dec. 8, 1999.

[31] Id. at 6. (Emphasis added)

[32] RTC Decision, p. 5; Rollo, p. 19.

[33] TSN, pp. 5-6, 9, March 17, 1997.

[34] TSN, pp. 9-12, Feb. 10, 1997; TSN, pp. 2-3, March 12, 1997.

[35] TSN, pp. 7, 11, Feb. 10, 1997; TSN, pp. 5-6, March 12, 1997.

[36] *People v. Maglente*, 306 SCRA 546 (1999); *People v. Acala*, 307 SCRA 330 (1999).

[37] People v. Panique, G.R. No. 125763, Oct. 13, 1999.

[38] TSN, p. 7, Feb. 10, 1997.

[39] People v. Contreras, G.R. Nos. 137123-34, Aug. 23, 2000.

[40] Dulla v. Court of Appeals, G.R. No. 123164, Feb. 18, 2000.

[41] People v. Magbanua, G.R. No. 128888, Dec. 3, 1999.

[42] People v. Licanda, G.R. No. 134084, May 4, 2000; People v. Campaner, G.R. Nos. 130500 and 143834, July 26, 2000.

[43] 310 SCRA 788 (1999).

[44] Id. at 807-808.

[45] E.g. People v. Santos, G.R. Nos. 131103 & 143472, June 29, 2000; People v. Dreu, G.R. No. 126282, June 20, 2000; People v. Martinez, G.R. No. 130606, Feb. 15, 2000.

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