

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. BINAD SY CHUA, ACCUSED-APPELLANT.

G.R. Nos. 136066-67. February 04, 2003

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

Accused-appellant Binad Sy Chua was charged with violation of Section 16, Article III of R.A. 6425, as amended by R.A. 7659, and for Illegal Possession of ammunitions in two separate Informations which read as follows:

Criminal Case No. 96-507[1]

That on or about the 21st day of September 1996, in the City of Angeles, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully, unlawfully and feloniously have in his possession and under his control two (2) plastic bags containing Methamphetamine Hydrochloride (SHABU) weighing more or less two (2) kilos and one (1) small plastic bag containing Methamphetamine Hydrochloride weighing more or less fifteen (15) grams, which is a regulated drug, without any authority whatsoever.

Criminal Case No. 96-513[2]

That on or about the 21st day of September 1996, in the City of Angeles, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully, unlawfully and feloniously have in his possession and under his control twenty (20) pieces of live .22 cal. ammunitions, without first having obtained a license or permit to possess or carry the same.

Accused-appellant pleaded “not guilty” on arraignment. The two cases were then jointly tried.

The prosecution presented three (3) witnesses, all members of the police force of Angeles City. Their testimonies can be synthesized as follows:

On September 21, 1996, at around 10:00 in the evening, SPO2 Mario Nulud and PO2 Emmeraldo Nunag received a report from their confidential informant that accused-appellant was about to deliver drugs that night at the Thunder Inn Hotel in Balibago, Angeles City. The informer further reported that accused-appellant distributes illegal drugs in different karaoke bars in Angeles City. On the basis of this lead, the PNP Chief of Angeles City, Col. Neopito Gutierrez, immediately formed a team of operatives composed of Major Bernardino, Insp. Tullao, Insp. Emmanuel Nunag, PO2 Emmeraldo Nunag, SP01 Fernando Go, and some civilian assets, with SPO2 Mario Nulud, as team investigator. The group of SPO2 Nulud, PO2 Nunag and the civilian informer positioned themselves across McArthur Highway near Bali Hai Restaurant, fronting Thunder Inn Hotel. The other group acted as their back up.

At around 11:45 in the evening, their informer pointed to a car driven by accused-appellant which just arrived and parked near the entrance of the Thunder Inn Hotel. After accused-appellant alighted from the car carrying a sealed Zest-O juice box, SPO2 Nulud and PO2 Nunag hurriedly accosted him and introduced themselves as police

officers. As accused-appellant pulled out his wallet, a small transparent plastic bag with a crystalline substance protruded from his right back pocket. Forthwith, SPO2 Nulud subjected him to a body search which yielded twenty (20) pieces of live .22 caliber firearm bullets from his left back pocket. When SPO2 Nunag peeked into the contents of the Zest-O box, he saw that it contained a crystalline substance. SPO2 Nulud instantly confiscated the small transparent plastic bag, the Zest-O juice box, the twenty (20) pieces of .22 caliber firearm bullets and the car used by accused-appellant. Afterwards, SPO2 Nulud and the other police operatives who arrived at the scene brought the confiscated items to the office of Col. Gutierrez at the PNP Headquarters in Camp Pepito, Angeles City.[3]

When Col. Gutierrez opened the sealed Zest-O juice box, he found 2 big plastic bags containing crystalline substances. The initial field test conducted by SPO2 Danilo Cruz at the PNP Headquarters revealed that the seized items contained shabu.[4] Thereafter, SPO2 Nulud together with accused-appellant brought these items for further laboratory examination to the Crime Laboratory at Camp Olivas, San Fernando, Pampanga. After due testing, forensic chemist S/Insp. Daisy Babor concluded that the crystalline substances yielded positive results for shabu. The small plastic bag weighed 13.815 grams while the two big plastic bags weighed 1.942 kilograms of shabu.[5]

Accused-appellant vehemently denied the accusation against him and narrated a different version of the incident.

Accused-appellant alleged that on the night in question, he was driving the car of his wife to follow her and his son to Manila. He felt sleepy, so he decided to take the old route along McArthur Highway. He stopped in front of a small store near Thunder Inn Hotel in Balibago, Angeles City to buy cigarettes and candies. While at the store, he noticed a man approach and examine the inside of his car. When he called the attention of the onlooker, the man immediately pulled out a .45 caliber gun and made him face his car with raised hands. The man later on identified himself as a policeman. During the course of the arrest, the policeman took out his wallet and instructed him to open his car. He refused, so the policeman took his car keys and proceeded to search his car. At this time, the police officer's companions arrived at the scene in two cars. PO2 Nulud, who just arrived at the scene, pulled him away from his car in a nearby bank, while the others searched his car.

Thereafter, he was brought to the Salakot Police Station and was held inside a bathroom for about fifteen minutes until Col. Gutierrez arrived, who ordered his men to call the media. In the presence of reporters, Col. Gutierrez opened the box and accused-appellant was made to hold the box while pictures were being taken.[6]

Wilfredo Lagman corroborated the story of the accused-appellant in its material points. He testified that he witnessed the incident while he was conducting a routine security check around the premises of the Guess Building, near Thunder Inn Hotel.[7]

On September 15, 1998 the Regional Trial Court of Angeles City, Branch 59, rendered a decision,[8] the dispositive portion of which reads:

WHEREFORE, the foregoing considered, judgement is hereby rendered as follows:

- In Criminal Case No. 96-513 for Illegal Possession of Ammunitions, the accused is hereby acquitted of the crime charged for insufficiency of evidence.
- In Criminal Case No. 96-507 for Illegal Possession of 1,955.815 grams of shabu, accused Binad Sy Chua is found GUILTY beyond reasonable doubt of the crime charge and is hereby sentenced to suffer the penalty of reclusion perpetua and to pay a fine of One Million (P1,000,000.00) Pesos.

SO ORDERED.[9]

Hence, the instant appeal where accused-appellant raised the following errors:

THE TRIAL COURT ERRED GRAVELY IN ITS FOLLOWING FINDINGS:

- THE ARREST OF ACCUSED-APPELLANT BINAD SY CHUA WAS LAWFUL;
- THE SEARCH OF HIS PERSON AND THE SUBSEQUENT CONFISCATION OF SHABU ALLEGEDLY FOUND ON HIM WERE CONDUCTED IN A LAWFUL AND VALID MANNER;
- THE PROSECUTION EVIDENCE SUPPORTING THE CRIME CHARGED IS SUFFICIENT TO PROVE THE GUILT OF THE ACCUSED-APPELLANT BEYOND REASONABLE DOUBT.[10]

Accused-appellant maintains that the warrantless arrest and search made by the police operatives was unlawful; that in the light of the testimony of SPO2 Nulud that prior to his arrest he has been under surveillance for two years, there was therefore no compelling reason for the haste within which the arresting officers sought to arrest and search him without a warrant; that the police officers had sufficient information about him and could have easily arrested him. Accused-appellant further argues that since his arrest was null and void, the drugs that were seized should likewise be inadmissible in evidence since they were obtained in violation of his constitutional rights against unreasonable search and seizures and arrest.

Accused-appellant's argument is impressed with merit.

Although the trial court's evaluation of the credibility of witnesses and their testimonies is entitled to great respect and will not be disturbed on appeal, however, this rule is not a hard and fast one.

It is a time-honored rule that the assessment of the trial court with regard to the credibility of witnesses deserves the utmost respect, if not finality, for the reason that the trial judge has the prerogative, denied to appellate judges, of observing the demeanor of the declarants in the course of their testimonies. The only exception is if there is a showing that the trial judge overlooked, misunderstood, or misapplied some fact or circumstance of weight and substance that would have affected the case.[11]

In the case at bar, there appears on record some facts of weight and substance that have been overlooked, misapprehended, or misapplied by the trial court which casts doubt on the guilt of accused-appellant. An appeal in a criminal case opens the whole case for review and this includes the review of the penalty and indemnity imposed by the trial court.[12] We are clothed with ample authority to review matters, even those not raised on appeal, if we find that their consideration is necessary in arriving at a just disposition of the case. Every circumstance in favor of the accused shall be considered.[13] This is in keeping with the constitutional mandate that every accused shall be presumed innocent unless his guilt is proven beyond reasonable doubt.

First, with respect to the warrantless arrest and consequent search and seizure made upon accused-appellant, the court a quo made the following findings:

Accused was searched and arrested while in possession of regulated drugs (shabu). A crime was actually being committed by the accused and he was caught in flagrante delicto. Thus, the search made upon his personal effects x x x allow a warrantless search incident to a lawful arrest. x x x x

While it is true that the police officers were not armed with a search warrant when the search was made over the personal effects (sic) of the accused, however, under the circumstances of the case, there was sufficient probable cause for said officers to believe that accused was then and there committing a crime.

x x x x x x x x

In the present case, the police received information that the accused will distribute illegal drugs that evening at the Thunder Inn Hotel and its vicinities. The police officer had to act quickly and there was no more time to secure a search warrant. The search is valid being akin to a "stop and frisk".[14]

A thorough review of the evidence on record belies the findings and conclusion of the trial court. It confused the two different concepts of a search incidental to a lawful arrest (in flagrante delicto) and of a “stop-and-frisk.”

In *Malacat v. Court of Appeals*,^[15] we distinguished the concepts of a “stop-and-frisk” and of a search incidental to a lawful arrest, to wit:

At the outset, we note that the trial court confused the concepts of a “stop-and-frisk” and of a search incidental to a lawful arrest. These two types of warrantless searches differ in terms of the requisite quantum of proof before they may be validly effected and in their allowable scope.

In a search incidental to a lawful arrest, as the precedent arrest determines the validity of the incidental search, the legality of the arrest is questioned in a large majority of these cases, e.g., whether an arrest was merely used as a pretext for conducting a search. In this instance, the law requires that there first be arrest before a search can be made—the process cannot be reversed. At bottom, assuming a valid arrest, the arresting officer may search the person of the arrestee and the area within which the latter may reach for a weapon or for evidence to destroy, and seize any money or property found which was used in the commission of the crime, or the fruit of the crime, or that which may be used as evidence, or which might furnish the arrestee with the means of escaping or committing violence.

x x x x x x x x

We now proceed to the justification for and allowable scope of a “stop-and-frisk” as a “limited protective search of outer clothing for weapons,” as laid down in *Terry*, thus:

We merely hold today that where a police officer observes unusual conduct which leads him reasonably to conclude in light of his experience that criminal activity may be afoot and that the persons with whom he is dealing may be armed and presently dangerous, where in the course of investigating this behavior he identifies himself as a policeman and makes reasonable inquiries, and where nothing in the initial stages of the encounter serves to dispel his reasonable fear for his own or others’ safety, he is entitled for the protection of himself and others in the area to conduct a carefully limited search of the outer clothing of such persons in an attempt to discover weapons which might be used to assault him. Such a search is a reasonable search under the Fourth amendment.

Other notable points of *Terry* are that while probable cause is not required to conduct a “stop-and-frisk,” it nevertheless holds that mere suspicion or a hunch will not validate a “stop-and-frisk”. A genuine reason must exist, in light of the police officer’s experience and surrounding conditions, to warrant the belief that the person detained has weapons concealed about him. Finally, a “stop-and-frisk” serves a two-fold interest: (1) the general interest of effective crime prevention and detection, which underlies the recognition that a police officer may, under appropriate circumstances and in an appropriate manner, approach a person for purposes of investigating possible criminal behavior even without probable cause; and (2) the more pressing interest of safety and self-preservation which permit the police officer to take steps to assure himself that the person with whom he deals is not armed with a deadly weapon that could unexpectedly and fatally be used against the police officer.^[16] (Emphasis ours)

In the case at bar, neither the in flagrante delicto nor the “stop and frisk” principles is applicable to justify the warrantless arrest and consequent search and seizure made by the police operatives on accused-appellant.

In in flagrante delicto arrests, the accused is apprehended at the very moment he is committing or attempting to commit or has just committed an offense in the presence of the arresting officer. Emphasis should be laid on the fact that the law requires that the search be incidental to a lawful arrest. Therefore it is beyond cavil that a lawful arrest must precede the search of a person and his belongings.^[17] Accordingly, for this exception to apply two elements must concur: (1) the person to be arrested must execute an overt act indicating that he has just

committed, is actually committing, or is attempting to commit a crime; and (2) such overt act is done in the presence or within the view of the arresting officer.[18]

We find the two aforementioned elements lacking in the case at bar. The record reveals that when accused-appellant arrived at the vicinity of Thunder Inn Hotel, he merely parked his car along the McArthur Highway, alighted from it and casually proceeded towards the entrance of the Hotel clutching a sealed Zest-O juice box. Accused-appellant did not act in a suspicious manner. For all intents and purposes, there was no overt manifestation that accused-appellant has just committed, is actually committing, or is attempting to commit a crime.

However, notwithstanding the absence of any overt act strongly manifesting a violation of the law, the group of SPO2 Nulud “hurriedly accosted”[19] accused-appellant and later on “introduced themselves as police officers.”[20] Accused-appellant was arrested before the alleged drop-off of shabu was done. Probable cause in this case was more imagined than real. Thus, there could have been no in flagrante delicto arrest preceding the search, in light of the lack of an overt physical act on the part of accused-appellant that he had committed a crime, was committing a crime or was going to commit a crime. As applied to in flagrante delicto arrests, it has been held that “reliable information” alone, absent any overt act indicative of a felonious enterprise in the presence and within the view of the arresting officers, is not sufficient to constitute probable cause that would justify an in flagrante delicto arrest.[21] Hence, in *People v. Aminudin*,[22] we ruled that “the accused-appellant was not, at the moment of his arrest, committing a crime nor was it shown that he was about to do so or that he had just done so. What he was doing was descending the gangplank of the M/V Wilcon 9 and there was no outward indication that called for his arrest. To all appearances, he was like any of the other passengers innocently disembarking from the vessel. It was only when the informer pointed to him as the carrier of the marijuana that he suddenly became suspect and so subject to apprehension” (Emphasis supplied).

The reliance of the prosecution in *People v. Tangliben*[23] to justify the police’s actions is misplaced. In the said case, based on the information supplied by informers, police officers conducted a surveillance at the Victory Liner Terminal compound in San Fernando, Pampanga against persons who may commit misdemeanors and also on those who may be engaged in the traffic of dangerous drugs. At 9:30 in the evening, the policemen noticed a person carrying a red travelling bag who was acting suspiciously. They confronted him and requested him to open his bag but he refused. He acceded later on when the policemen identified themselves. Inside the bag were marijuana leaves wrapped in a plastic wrapper. The police officers only knew of the activities of Tangliben on the night of his arrest.

In the instant case, the apprehending policemen already had prior knowledge from the very same informant of accused-appellant’s activities. No less than SPO2 Mario Nulud, the team leader of the arresting operatives, admitted that their informant has been telling them about the activities of accused-appellant for two years prior to his actual arrest on September 21, 1996. An excerpt of the testimony of SPO2 Mario Nulud reveals the illegality of the arrest of accused-appellant as follows:

Q.

Did the civilian informer of yours mentioned to you the name of this chinese drug pusher?

A.

He is mentioning the name of Binad or Jojo Chua.

Q.

And he had been mentioning these names to you even before September 21, 1996?

A.

Yes, sir.

Q.

How long did this civilian informant have been telling you about the activities of this chinese drug pusher reckoning in relation to September 21, 1996?

A.

That was about two years already.

Q.

Notwithstanding his two years personal knowledge which you gained from the civilian informant that this chinese drug pusher have been engaged pushing drugs here in Angeles City, you did not think of applying for a search warrant for this chinese drug pusher?

A

No, sir.

x x x x x x x x

Q.

When you accosted this Binad Chua, he was casually walking along the road near the Thunder Inn Hotel, is that right?

A.

He was pinpointed by the civilian informer that he is the chinese drug pusher that will deliver to him also.

Q.

My question Mr. Witness, is this Jojo Chua or Binad Chua the accused in this case he alighted with a Corolla car with plate number 999, I think, he just alighted when you saw him?

A.

Yes, sir.

Q.

From the car when he alighted, he casually walked towards near the entrance of the Thunder Inn Hotel?

A.

He was about to proceed towards Thunder Inn Hotel but he was pinpointed already by the civilian informer.

Q.

But he was just walking towards the entrance of the Thunder Inn Hotel?

A.

Yes, sir, he is about to enter Thunder Inn Hotel.

x x x x x x x x

Q.

While he was walking, then you and PO2 Nunag pounced on him as you used pounced on him in your affidavit?

A.

Yes, sir.

x x x x x x x x

Q.

And you pounced on Jojo Chua before you saw that alleged small plastic bag, is that correct?

A.

Yes, sir.

Q.

And after that you also confiscated this Zesto juice box?

A.

Yes, sir.

x x x x x x x x

Q.

But would you agree with me that not all crystalline substance is shabu?

A.

No, that is shabu and it is been a long time that we have been tailing the accused that he is really a drug pusher.

Q.

So you have been tailing this accused for quite a long time that you are very sure that what was brought by him was shabu?

A.

Yes, sir.[24]

The police operatives cannot feign ignorance of the alleged illegal activities of accused-appellant. Considering that the identity, address and activities of the suspected culprit was already ascertained two years previous to the actual arrest, there was indeed no reason why the police officers could not have obtained a judicial warrant before arresting accused-appellant and searching his person. Whatever information their civilian asset relayed to them hours before accused-appellant's arrest was not a product of an "on-the-spot" tip which may excuse them from obtaining a warrant of arrest. Accordingly, the arresting team's contention that their arrest of accused-appellant was a product of an "on-the-spot" tip is untenable.

In the same vein, there could be no valid "stop-and-frisk" in this case. A stop-and-frisk was defined as the act of a police officer to stop a citizen on the street, interrogate him, and pat him for weapon(s)[25] or contraband. The police officer should properly introduce himself and make initial inquiries, approach and restrain a person who manifests unusual and suspicious conduct, in order to check the latter's outer clothing for possibly concealed weapons.[26] The apprehending police officer must have a genuine reason, in accordance with the police officer's experience and the surrounding conditions, to warrant the belief that the person to be held has weapons (or contraband) concealed about him.[27] It should therefore be emphasized that a search and seizure should precede the arrest for this principle to apply.[28]

This principle of "stop-and-frisk" search was invoked by the Court in *Manalili v. Court of Appeals*.[29] In said case, the policemen chanced upon the accused who had reddish eyes, walking in a swaying manner, and who appeared to be high on drugs. Thus, we upheld the validity of the search as akin to a "stop-and-frisk." In *People v. Solayao*,[30] we also found justifiable reason to "stop-and-frisk" the accused after considering the following circumstances: the drunken actuations of the accused and his companions, the fact that his companions fled when they saw the policemen, and the fact that the peace officers were precisely on an intelligence mission to verify reports that armed persons were roaming the vicinity.

The foregoing circumstances do not obtain in the case at bar. There was no valid "stop-and-frisk" in the case of accused-appellant. To reiterate, accused-appellant was first arrested before the search and seizure of the alleged illegal items found in his possession. The apprehending police operative failed to make any initial inquiry into accused-appellant's business in the vicinity or the contents of the Zest-O juice box he was carrying. The apprehending police officers only introduced themselves when they already had custody of accused-appellant.

Besides, at the time of his arrest, accused-appellant did not exhibit manifest unusual and suspicious conduct reasonable enough to dispense with the procedure outlined by jurisprudence and the law. There was, therefore, no genuine reasonable ground for the immediacy of accused-appellant's arrest.

Obviously, the acts of the police operatives wholly depended on the information given to them by their confidential informant. Accordingly, before and during that time of the arrest, the arresting officers had no personal knowledge that accused-appellant had just committed, was committing, or was about to commit a crime.

At any rate, even if the fact of delivery of the illegal drugs actually occurred, accused-appellant's warrantless arrest and consequent search would still not be deemed a valid "stop-and-frisk". For a valid "stop-and-frisk" the search and seizure must precede the arrest, which is not so in this case. Besides, as we have earlier emphasized, the information about the illegal activities of accused-appellant was not unknown to the apprehending officers. Hence, the search and seizure of the prohibited drugs cannot be deemed as a valid "stop-and-frisk".

Neither can there be valid seizure in plain view on the basis of the seized items found in accused-appellant's possession. First, there was no valid intrusion. Second, the evidence, i.e., the plastic bags found in the Zest-O juice box which contained crystalline substances later on identified as methamphetamine hydrochloride (shabu) and the 20 rounds of .22 caliber ammunition, were not inadvertently discovered. The police officers first arrested accused-appellant and intentionally searched his person and peeked into the sealed Zest-O juice box before they were able to see and later on ascertain that the crystalline substance was shabu. There was no clear showing that the sealed Zest-O juice box accused-appellant carried contained prohibited drugs. Neither were the small plastic bags which allegedly contained crystalline substance and the 20 rounds of .22 caliber ammunition visible. These prohibited substances were not in plain view of the arresting officers; hence, inadmissible for being the fruits of the poisonous tree.

In like manner, the search cannot be categorized as a search of a moving vehicle, a consented warrantless search, or a customs search. It cannot even fall under exigent and emergency circumstances, for the evidence at hand is bereft of any such showing.

All told, the absence of ill-motive on the part of the arresting team cannot simply validate, much more cure, the illegality of the arrest and consequent warrantless search of accused-appellant. Neither can the presumption of regularity of performance of function be invoked by an officer in aid of the process when he undertakes to justify an encroachment of rights secured by the Constitution.[31] In *People v. Nubla*,[32] we clearly stated that:

The presumption of regularity in the performance of official duty cannot be used as basis for affirming accused-appellant's conviction because, first, the presumption is precisely just that – a mere presumption. Once challenged by evidence, as in this case, xxx [it] cannot be regarded as binding truth. Second, the presumption of regularity in the performance of official functions cannot preponderate over the presumption of innocence that prevails if not overthrown by proof beyond reasonable doubt.

Furthermore, we entertain doubts whether the items allegedly seized from accused-appellant were the very same items presented at the trial of this case. The record shows that the initial field test where the items seized were identified as shabu, was only conducted at the PNP headquarters of Angeles City.[33] The items were therefore not marked at the place where they were taken. In *People v. Casimiro*,[34] we struck down with disbelief the reliability of the identity of the confiscated items since they were not marked at the place where they were seized, thus:

The narcotics field test, which initially identified the seized item as marijuana, was likewise not conducted at the scene of the crime, but only at the narcotics office. There is thus reasonable doubt as to whether the item allegedly seized from accused-appellant is the same brick of marijuana marked by the policemen in their

headquarters and given by them to the crime laboratory.

The government's drive against illegal drugs needs the support of every citizen. But it should not undermine the fundamental rights of every citizen as enshrined in the Constitution. The constitutional guarantee against warrantless arrests and unreasonable searches and seizures cannot be so carelessly disregarded as overzealous police officers are sometimes wont to do. Fealty to the constitution and the rights it guarantees should be paramount in their minds, otherwise their good intentions will remain as such simply because they have blundered. The criminal goes free, if he must, but it is the law that sets him free. Nothing can destroy a government more quickly than its failure to observe its own laws, or worse, its disregard of the charter of its own existence.[35]

WHEREFORE, in view of the foregoing, the decision of the Regional Trial Court of Angeles City, Branch 59, in Criminal Cases Nos. 96-507 and 96-513, convicting accused-appellant Binad Sy Chua of violation of Section 16, Article III, Republic Act No. 6425 and sentencing him to suffer the penalty of reclusion perpetua and to pay a fine of P1,000,000.00, is REVERSED and SET ASIDE. Accused-appellant Binad Sy Chua is ACQUITTED on the ground of reasonable doubt. Consequently, he is ordered forthwith released from custody, unless he is being lawfully held for another crime.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Vitug, Carpio, and Azcuna. JJ., concur.

[1] Records, Volume 1, p. 1.

[2] Ibid., p. 12.

[3] TSN, January 7, 1998, pp. 4-10; TSN, April 21, 1998, pp. 5-9.

[4] TSN, April 21, 1998, pp. 9-10.

[5] Records, Vol. 2, p. 306.

[6] TSN, July 2, 1998, pp. 3-8.

[7] TSN, August 5, 1998, pp. 5-19.

[8] Penned by Judge Eliezer R. De Los Santos now Associate Justice of the Court of Appeals.

[9] Rollo, p. 26.

[10] Ibid., pp. 40-41.

[11] People v. Alvarado, G.R. No. 145730, March 19, 2002, citing People v. De Los Santos, 355 SCRA 301 (2001); People v. Osing, 349 SCRA 310 (2001).

[12] People v. Leones, G.R. Nos. 128514 & 143856-61, October 3, 2001.

[13] People v. Manambit, 271 SCRA 344, 385-386 (1997), citing Heirs of Crisanta Y. Gabriel-Almoradie v. CA, 229 SCRA 15 (1994) and People v. Villagrancia, 226 SCRA 374, 381(1993).

[14] Rollo, pp. 470, 473-474; RTC Decision, pp. 7, 10-11.

[15] 283 SCRA 159 (1997).

[16] Ibid, pp. 175-177.

[17] People v. Aruta, 288 SCRA 626, 643 (1998).

[18] Concurring Opinion of Justice Artemio V. Panganiban in People v. Doria, 301 SCRA 668, 720 (1999).

[19] TSN, January 7, 1998, p. 8.

[20] Ibid.

[21] People v. Molina, 352 SCRA 174, 183 (2001).

[22] 163 SCRA 402, 409-410(1988).**[23] 184 SCRA 220, 221-222 (1990).**

[24] TSN, January 27, 1998, pp. 8-13.

[25] Manalili v. CA, 280 SCRA 400, 411 (1997).

[26] Concurring Opinion of Justice Artemio Panganiban in People v. Doria, 301 SCRA 668, 729 (1999).

[27] Malacat v. CA, supra, p. 177.

[28] Posadas v. CA, 188 SCRA 288, 292 (1990).

[29] 280 SCRA 400 (1997).**[30] 262 SCRA 255 (1996).**

[31] People v. Salanguit, 356 SCRA 683, 702 (2001), citing Nolasco v. Paño, 139 SCRA 152 (1985).

[32] G.R. No. 129376, May 29, 2002, citing People v. Ruiz, G.R. Nos. 135679 and 137375, October 10, 2001.

[33] TSN, January 7, 1998, pp. 10-12.

[34] G.R. No. 146277, June 20, 2002.

[35] People v. Sagaysay, 308 SCRA 432, 454 (1999).

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