PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. GEORGE ALAY-AY Y JUDERIAS, ACCUSED-APPELLANT.

G.R. Nos. 137199-230. August 23, 2001

Ponente: DE LEON, JR., J.

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DE LEON, JR., J.:

This is an appeal from the Decision[1] of the Regional Trial Court, National Capital Judicial Region, Branch 54, Manila, convicting the accused-appellant George Alay-ay y Juderias of the crime of rape in Criminal Case No. 97-157054, and also of the crime of acts of lasciviousness in Criminal Case No. 97-157055, and sentencing him to suffer the penalty of reclusion perpetua for the crime of rape, and imprisonment of two (2) years, four (4) months and one day as minimum to four (4) years and two (2) months as maximum of prision correccional for the crime of acts of lasciviousness.

At the outset, we resolve to dismiss the appeal in Criminal Case No. 97-157055 wherein the Regional Trial Court convicted accused-appellant of the crime of acts of lasciviousness. Under Section 2 (b) of Rule 122 of the Rules on Criminal Procedure, the appeal from a judgment rendered by the Regional Trial Court in its original jurisdiction sentencing the accused to a penalty other than life imprisonment or death must be taken to the Court of Appeals by the filing of a notice of appeal with the trial court which rendered the judgment or order appealed from, and by serving a copy thereof on the adverse party.[2] Since accused-appellant did not appeal from the Decision of the Regional Trial Court in Criminal Case No. 97-157055 to the Court of Appeals, it became final and executory after the lapse of the 15-day period for perfecting an appeal.[3]

Hence, we limit our review[4] to the appealed Decision of the Regional Trial Court in Criminal Case No. 97-157054 where accused-appellant was convicted of the crime of rape and sentenced to reclusion perpetua.

The Information in Criminal Case No. 97-157054 reads:

> That sometime in April 1996 at a house in Manila, and within the jurisdiction of this Honorable Court, the above-named Accused did then and there willfully, unlawfully and feloniously had (sic) carnal knowledge of a child in the person of KAREN JANE ESTRADA, who was then under twelve years of age, by using force and intimidation.
>
> CONTRARY TO LAW.[5]

When arraigned, appellant pleaded not guilty. Thereafter, trial on the merits ensued.

The prosecution presented the following testimonial evidence:

Private complainant Karen Jane Estrada, a student and resident of No. 12 Padilla St., Lingayen, Pangasinan, testified that she was born on November 26, 1984 as evidenced by her Birth Certificate.[6] Her parents were Bobby Estrada and Daisy Estrada, a domestic helper working in Hongkong. She was living with her grandmother.[7]

During the summer of 1996, after complainant finished Grade 5, her grandmother, Leyte Gelido, brought her and her cousin, Glynness Gerald Gelido, to the house of her Aunt Felame Esquejo at No. 1252 Prudencio Street, Sampaloc, Manila to spend their vacation there from April to May. However, complainant's grandmother did not stay with them. The persons who were then residing in her Aunt Felame's house were her Aunt Felame, Uncle Dennis, Mang Flox, Manang Virgie, Ate An-an (Anne Lorraine Esquejo), Kuya Wengweng (Sherwin Esquejo), Dario, and her cousin, Kimball. During the day, the persons left in the house were Manang Virgie, the helper of her aunt; her one-year-old cousin, Kimball; Dario whom she identified as the accused-appellant; and herself.[8]

During the early part of their stay at her Aunt Felame's house, when complainant and Glynness got tired of playing at noon, they watched television in the living room. Appellant was also there. While watching television, appellant told Glynness to go upstairs. Then appellant started kissing complainant on the sofa, but she tried to evade him. Appellant told her to lie down on the sofa, and he removed her panty while she resisted by kicking him, but to no avail. After he removed her panty, he licked her private part, touched the same, and also inserted his finger in her private part. Appellant did the same thing to her everyday at about 1:00 or 2:00 o'clock in the afternoon. Complainant's companions in the house then were Manang Virgie and Kimball who were upstairs sleeping. Her cousin Glynness was in the house of her Aunt Leonie in Fairview.[9]

About one week after the first incident, while Manang Virgie and Kimball were upstairs, appellant forcibly removed complainant's shorts and he removed his pants. While complainant was lying down on the sofa, appellant forced his private organ into her private organ. The same thing happened when appellant raped her a second time on the sofa. Her companions in the house were Manang Virgie and Kimball. After the second rape, appellant committed lascivious acts against her.[10]

Complainant's aunt and uncle arrived home in the evening. She did not report the molestation and rape to her aunt because she was afraid as appellant told her that he would kill her.[11]

Complainant went home to the province sometime in June 1996. She did not tell her grandmother or anybody that she was sexually abused by appellant in Manila.[12]

After complainant graduated from elementary school in 1997, she again spent a two-week vacation in the house of her Aunt Felame in Manila with her cousin Glynness and her grandmother. On April 20, 1997, at about 1:00 o' clock in the afternoon, appellant dragged her to the counter of the bar near the sofa downstairs. He removed the buttons of her shorts, inserted his fingers in her private part and mashed her private part, which took place about one minute while she was standing. At that time, her companions in the house were Manang Virgie and Kimball, who were at the second floor. Her cousin Glynness was in the house of her Aunt Lyn.[13]

Sometime in May 1997, complainant was fetched by her Aunt Lenny. At her Aunt Lenny's house, the latter teased her if she already had a boyfriend and if somebody was courting her. She started crying. She then told her grandmother what appellant did to her. Her grandmother also cried. Then they filed a complaint at the National Bureau of Investigation (NBI). Her statement was taken by Mamerto Espartero.[14]

On cross-examination, complainant testified that during her vacation in Manila in April and May 1996, she also visited her aunt (Leonida Galimba) at No. 5 Butler St., Fairmont Subdivision, Fairview, Quezon City on Sundays. Appellant was staying at Prudencio Street, Sampaloc, Manila. He stayed home from 7:00 to 2:30 o' clock in the afternoon and went to work at Robinson's Galleria from Monday to Sunday from 2:30 in the afternoon until the evening.[15]

Glynness Gerald Gelido, 10 years old, and resident of No. 27 Padilla Street, West Lingayen, Pangasinan, testified that in April 1996 and 1997, he and his Ate Karen (private complainant) spent their summer vacation at the house

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of their Aunt Felame at No. 1252 Prudencio Street, Sampaloc, Manila. Sometime in April 1996, while they were in their aunt's house watching the TV program Eat Bulaga, appellant told him to go upstairs. At the stairs, he saw appellant kissing his Ate Karen in the living room. He stayed at the stairs, but when he saw appellant touching the body of Ate Karen, he went down and called her, then they went up. At that time, the persons in the house were Manang Virgie and Kimball who were in the room upstairs. Three (3) days later, he went to the house of his Aunt Leonida in Fairview, Quezon City, while Karen was left behind.[16]

Sometime in April 1997, while Glynness was in the house of his Aunt Leonida in Fairview with his grandparents and complainant, it was revealed that appellant kissed the complainant and touched her private parts after they were teasing the complainant that she was already a young lady. They went to the NBI and Glynness gave a statement.[17]

On cross-examination, Glynness confirmed his answer to Question No. 12 in his affidavit that the persons living in the house of his Aunt Felame were Sherwin, Ate An-an, Uncle Dennis, Tita Felame, Dwight Kimball, Mang Flox, George Dario and Manang Virgie. He testified that those residing in said house everyday were Tita Felame, Uncle Dennis, Kimball and Ate An-an. George (appellant) and Mang Flox did not reside there everyday.[18]

Leonida Galimba, a resident of No. 5 Butler Street, Fairmont Subdivision, Fairview, Quezon City, testified that she knew complainant Karen Jane Estrada because the latter is her niece. On April 24, 1997, she accompanied Karen Jane Estrada in filing a complaint for rape at the NBI. In the morning of said date, Karen told her that she was raped. At that time, Karen had her menstruation and she joked Karen that maybe somebody was already courting her. Karen cried together with her cousin Glynness. At first, it was Glynness who said that Karen was raped. Afterwards, they asked Karen herself and she narrated to them what happened. Karen told them that Dario (appellant) was the one who raped her. Dario was formerly a neighbor at Prudencio. After the revelation, Leonida went to the NBI with her parents and Karen to file a complaint. She was a witness in the sworn statement dated April 24, 1997 given by Karen at the NBI and she identified her signature on the third page thereof. [19]

Mamerto Espartero, an NBI agent assigned as a field agent at the National Capital Region of the NBI, Manila, testified that on April 23, 1997, the case of Karen Jane Estrada was referred to him for investigation. He interviewed the complainant and after he was convinced that the crime of rape was committed, he requested the medico-legal officer to examine complainant.[20]

On April 24, 1997, Mamerto Espartero went to appellant's address in Sampaloc, Manila, introduced himself as an NBI agent and informed appellant that there was a charge against him for acts of lasciviousness. He invited appellant to their office for a confrontation with the complainant. In the office, the complainant positively identified him as the person who raped and committed acts of lasciviousness against her. Complainant's cousin (Glynness Gelido) also positively identified appellant as the person whom he saw kissing his cousin (complainant).[21]

At first, appellant denied having committed the acts imputed to him, but during the course of their conversation, he admitted having kissed the victim, but denied that he had sexual intercourse with her or that he inserted his fingers in her vagina. Later, appellant asked Espartero for some time to talk with the grandmother who accompanied complainant. At the time he conducted the investigation, the complainant was turning 13 years old, but when the alleged rape was committed, she was only eleven (11) years and five (5) months old.[22]

Espartero took the sworn statement of the complainant and her cousin. He also took pictures of complainant pointing at appellant as the person who raped and committed acts of lasciviousness against her. At 11:00 o' clock in the morning of April 24, 1997, he placed appellant under arrest and prepared a booking sheet and arrest report (Exh. 6). He also prepared a Joint Affidavit of Arrest (Exhs. F to F-1), and identified his signature therein.[23]

On cross-examination, Espartero testified that he did not procure a warrant of arrest when he invited appellant to their office, and that appellant voluntarily went to their office. He did not present appellant for identification to complainant. He asked appellant to sit on the other side of the room where they conducted the investigation and asked the complainant to look around and see if the person who abused her was present, and she was able to recognize appellant. There was no person seated next to appellant, but there were so many persons inside their office. Appellant was not assisted by any counsel. He arrested appellant in their office without a warrant of arrest.[24]

Dr. Armie Soreta, NBI medico-legal officer, testified that on April 23, 1997, she conducted the medico-genital examination of private complainant Karen Jane Estrada. She found that the complainant's hymen was intact, distensible or elastic, with no sign of laceration. The absence of laceration in the hymen, however, does not prove absence of sexual intercourse. It was possible that there was actual penetration in the genital of complainant because the hymenal orifice of the complainant is 2.5 centimeters in diameter, which means that it can accommodate a complete penetration of an adult male organ in full erection without causing any hymenal laceration. Her findings were reduced into writing (Exh. C).[25]

On the other hand, accused-appellant George Alay-ay, 41 years old, married, leadsman of the janitorial services of Robinson's Galleria, put up the defense of denial and alibi. He testified that in April 1996, he was residing at No. 1252 Prudencio Street, Sampaloc, Manila together with Dennis Esquejo, his wife Felame Esquejo, Sherwin Esquejo, Anne Lorraine Esquejo, Virgie Palma, Vernon dela Cruz, and Jasmin Caranza. During the day, the persons who usually stayed in the house were Anne Lorraine Esquejo, Sherwin Esquejo, Virgie Palma, Vernon dela Cruz and himself. Virgie was the house helper. Sherwin and Anne Lorraine, who were students, stayed home during daytime because it was summer vacation. Vernon dela Cruz, a policeman assigned at the Tondo Police Station, worked during the night.[26]

In April 1996, appellant was employed at Robinson's Galleria at EDSA Ortigas. It took him more than one and a half (1½) hours to reach his place of work. His work was from 3:00 o'clock in the afternoon until 12:00 o'clock midnight as evidenced by his time card (Exh. 1). Since his work started at 3:00 o'clock in the afternoon, he left the house at about 1:15 because his workplace was far and they also had a briefing 15 minutes before they started working. He left his workplace at 12:15 early in the morning, arrived home at about 1:00 to 2:00 o'clock in the morning, and slept at about 3:00 o'clock in the morning. He usually woke up before 12:00 noon.[27]

Appellant stated that he knew complainant Karen Jane Estrada because she is the niece of his cousin's wife. She spent her vacation at their place in April 1996. He could remember that they arrived about April 10, 1996 because it was the wedding anniversary and also the birthday of his cousin. Complainant arrived with her grandparents, cousins and aunts. After the said occasion, her aunt left, but her grandparents stayed at their house. Complainant and her cousin used to transfer to another house for about one week.[28]

On April 22 or 23, 1996, while appellant was sleeping downstairs on the sofa, he was awakened by the noise of complainant and her cousin Glynness Gelido, whom they called Pinoy. He immediately stood up because he was very angry and he chided them for being noisy when they could see that he was sleeping. He told Pinoy to go upstairs. He told complainant that she was already a big girl and yet she was still playing and was very noisy. He was very mad at that time. Complainant replied, "Gago, wala kang pakialam." He got mad and held her breast and groin (singit) and told her that she was already a lady. He held her breast and groin only to show her that she was already a big girl and that she should not be playing and be childish. She kicked him repeatedly and scratched him, and told him, "gago, bastos" repeatedly. He told her to go upstairs. At that time, his cousin, Anne Lorraine, Virgie Palma, Vernon dela Cruz and his cousin Sherwin Esquejo were present at their residence. Anne Lorraine was in the family room upstairs, Manang Virgie was also upstairs taking care of the child, and his cousin Sherwin

Esquejo was just outside the house. The following day, complainant went to the house of her aunt, Leonida Galimba, in Fairview. After one week, she returned to their place in Sampaloc, Manila.[29]

Appellant said that he was arrested on April 24, 1997 without a warrant of arrest and was brought to the NBI, NCR Office, but he was not interviewed there. They only asked him simple questions inside the car.[30]

Sherwin Esquejo, 19, a third year college student, testified that he was a resident of No. 1252 Prudencio Street, Sampaloc, Manila in the months of April and May 1996 and 1997. He did not witness any crime committed by appellant in the summer of 1996 and 1997. In 1996, he stayed home from 12:00 o'clock noon until the evening because he went to school only in the morning.[31]

Anne Lorraine Esquejo, 18, a food attendant, corroborated the testimony of appellant that she resided in the same house as the appellant in the months of April and May 1996 and 1997. Most of the time, she stayed home because it was summer vacation and she was not enrolled in a summer class. She said that at that time, there was no unusual incident that happened in the house which disturbed the peace and relations of the persons staying therein.[32]

SPO4 Vernon dela Cruz testified that he was staying at No. 1252 Prudencio Street, Sampaloc, Manila in April and May of 1996 and 1997. Most of the time, he stayed in the house because his tour of duty started at 5:30 in the afternoon since his shift was during the night. He said that there was no unusual incident that happened which disturbed the peace and the good relationship between the people living in said house.[33]

On October 29, 1998, the court a quo rendered judgment, the dispositive portion of which reads:

> WHEREFORE, judgment is hereby rendered finding the accused guilty beyond reasonable doubt of the crime of rape charged in Criminal Case No. 97-157054 and one (1) charge of act of lasciviousness covered by Criminal Case No. 97-157055; the victim being less than 12 years old as of April 1996, the absence of force or intimidation does not negate the crimes, the accused is, therefore, sentenced in Criminal Case No. 97-157054 to reclusion perpetua and in Criminal Case No. 97-157055, he is sentenced to imprisonment of two (2) years, four (4) months and one (1) day as minimum and four (4) years and two (2) months as maximum of prision correccional. The accused is also adjudged to pay the victim Karen Jane Estrada P200,000.00 as moral damages. The accused is acquitted in all the other cases.
>
> SO ORDERED.[34]

Accused-appellant ascribed to the trial court this lone error:

> THE TRIAL COURT ERRED IN CONVICTING BEYOND REASONABLE DOUBT THE ACCUSED OF THE CRIMES OF RAPE AND ACTS OF LASCIVIOUSNESS IN VIOLATION OF ARTS. 335 AND 336 OF THE REVISED PENAL CODE RESPECTIVELY.[35]

In his Brief, accused-appellant assailed the credibility of the private complainant due to her inconsistent testimony. While complainant testified that he committed acts of lasciviousness against her everyday at about 1:00 or 2:00 in the afternoon after the first incident, complainant's cousin Glynness Gelido testified that he was not residing in their aunt's house everyday; hence, it would be physically impossible for him to commit the crimes when he was not staying in said house everyday. Moreover, if complainant was really a victim of rape, it was inconsistent with human nature that she still spent her summer vacation in 1997 at the place of her aunt where she had allegedly been raped and molested in the summer of 1996, and exposed herself to the same danger in his hands. Further, there was even no satisfactory explanation why it took complainant more than one year to inform her relatives of what happened to her. She did not confide in anyone even in the province where she had nothing to fear from him. Based on said arguments, appellant prayed for his acquittal for failure of the prosecution to

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prove his guilt beyond reasonable doubt.

Appellant's arguments are devoid of merit.

The aforementioned inconsistencies refer merely to collateral matters, which either do not touch upon the commission of the crime of rape or detract from the positive identification of appellant as the person who sexually abused private complainant; therefore, said inconsistencies do not affect either the substance of private complainant's declarations, their veracity, or the weight of her testimony.[36]

The alleged inconsistent testimony of private complainant regarding the acts of lasciviousness committed against her everyday after the first incident (Crim. Case No. 97-157055) was not even considered by the trial court when it found appellant guilty of the crime of rape. Nevertheless, appellant himself admitted that he resided at No. 1252 Prudencio Street, Sampaloc, Manila in April 1996 when the said crimes were committed against private complainant. The Solicitor General observed that even assuming that appellant did not reside in said house of Felame Esquejo, this fact alone does not prove that appellant did not abuse complainant.

Moreover, the delay on the part of private complainant in informing her relatives that she was raped is understandable since any woman, especially a young girl, would try to hide such a traumatic and horrible experience even from the persons closest to her because of shame and fear.[37] The fact that private complainant returned to her aunt's house in the summer of 1997 after she was raped in the same house the summer before only shows the immaturity of private complainant, and that she had not revealed the incident to her grandmother, otherwise her grandmother would not have taken her there again for a vacation.

The trial court's findings on the credibility of the witnesses carry great weight and respect because it heard them and observed their behavior at the witness stand.[38] Its findings will be sustained by the appellate courts unless the trial court overlooked, misunderstood or misapplied some facts or circumstances of weight and substance which will alter the assailed decision or affect the result of the case.[39] In the instant case, we see no reason to disturb the findings of the trial court.

Further, there is no evidence showing any improper motive on the part of the prosecution witnesses to testify falsely against the appellant; hence, the logical conclusion is that their testimonies are worthy of full faith and credit.[40]

It was established that appellant is guilty beyond reasonable doubt of one count of rape against the private complainant as shown by her straightforward testimony, thus:

> ASST. PUB. PROS. MARCO
>
> xxx xxx xxx
>
> Q You mentioned earlier that the accused removed his pants when he raped you, when did it happen reckoned from the date that the accused first raped you?
>
> A About one week, sir.
>
> Q When you said that, "he raped me", what do you mean when you said "he raped me", what do you want to tell the Honorable Court?
>
> A He forced his private organ to my private organ, sir.
>
> Q And you mentioned that it was a week after that first incident, who were the persons present at that time when he raped you according to you?
>
> A Manang Virgie and Kimbol, sir.

Q And where was your Manang Virgie and Kimbol when this Dario raped you according to you?

A They were upstairs, sir.

Q And in what portion of the house of your auntie was he able to rape you?

A At the sofa, sir.

Q Also on the sofa?

A Yes, sir.

Q Before he actually tried to force his private organ to your private organ, what was the first act committed against you by Dario, if any?

A He told me that he will kill me and also my cousin, sir.

Q And after he told you that, what else did he do to you on that date?

A He threatened me, sir.

Q Before this Dario was able to force his private organ to your private organ, what was he wearing at that time?

A He was wearing pants, sir.

Q How about you, what were you wearing at that time?

A I was wearing shorts, sir.

Q And what did he do to your shorts before because according to you you were raped by this Dario?

A He removed my shorts, sir.

Q And you let him removed your shorts?

A I was forced to remove my shorts, sir.

Q How did he force you?

A He was removing it forcibly, sir.

Q After he was able to forcibly removed your shorts, how was he able to rape you because according to you he was wearing pants, how was he able to rape you?

A He removed his pants, sir.

Q After removing his pants, what else did he do to you?

A He forced his private organ to my private organ, sir.

Q And where were you at that time when he forced his private organ to your private organ?

A He was beside me, sir.

Q And where were you on the sofa?

A Yes, sir.

Q And what was your position on the sofa?

A I was lying down, sir.

Q Was he able to push his organ to your organ?

A Yes, sir.

Q And after he was able to push through his organ to your organ, what did you feel?

A I was hurt, sir.

Q You mentioned that after that first time he raped you, he raped you again, when did that happen?

A Also in the month of May, sir.

Q May of that year 1996 also?

A Yes, sir.

Q Can you still remember the actual date?

A I cannot remember, sir.

Q On that second rape that according to you was committed by Dario, where did it happen?

A Also on that place, the sofa, sir.

Q And who were the persons at that time in the house when he raped you for the second time?

A They were Manang Virgie and Kimbol, sir.[41]

x x x x x x x x x

As a rule, testimonies of rape victims who are young and immature deserve full credence, considering that no young woman, especially of tender age, would concoct a story of defloration, allow an examination of her private parts, and thereafter pervert herself by being subject to a public trial, if she was not motivated solely by the desire to obtain justice for the wrong committed against her.[42]

Appellant's defense of denial and alibi cannot prevail over his positive identification.[43] A mere denial, like alibi, is inherently a weak defense and constitutes self-serving negative evidence which cannot be accorded greater evidentiary weight than the declaration of credible witnesses who testify on affirmative matters.[44] For alibi to prosper, the accused must prove not only that he was somewhere else when the crime was committed but he must likewise demonstrate that it was physically impossible for him to be at the scene of the crime at the time of its commission.[45] Accused-appellant failed to establish that it was physically impossible for him to be at home at No. 1252 Prudencio Street, Sampaloc, Manila where the rape took place considering that he and private complainant stayed in the same house in April 1996 when the crime was committed. The time card of appellant would only show the time he reported for work, which is from 3:00 o'clock in the afternoon to 12:00 o'clock midnight, but it could not prove his whereabouts before 3:00 o'clock in the afternoon when the crime was allegedly committed.

Under Article 335 of the Revised Penal Code, 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;

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3. When the woman is under twelve years of age or is demented.

The crime of rape shall be punished by reclusion perpetua.

Hence, the trial court correctly imposed the penalty of reclusion perpetua for the rape of private complainant who was then under 12 years old. The trial court also correctly awarded private complainant moral damages in view of the mental anxiety and emotional trauma she suffered; however, the amount of Two Hundred Thousand Pesos (P200,000.00) is excessive and should be reduced to Fifty Thousand Pesos (P50,000.00) in accordance with the latest jurisprudence.[46] The Solicitor General correctly pointed out that the trial court failed to award civil indemnity to private complainant which is mandatory upon the finding of the fact of rape.[47]

WHEREFORE, the Decision in Criminal Case No. 97-157054 of the Regional Trial Court finding accused-appellant George Alay-ay y Juderias guilty beyond reasonable doubt of the crime of rape is hereby AFFIRMED with MODIFICATION. Accused-appellant is sentenced to suffer the penalty of reclusion perpetua and is ordered to pay the offended party, Karen Jane Estrada, the amount of Fifty Thousand Pesos (P50,000.00) as civil indemnity, whereas the award of moral damages in the amount of Two Hundred Thousand Pesos (P200,000.00) is reduced to Fifty Thousand Pesos (P50,000.00).

The appeal from the Decision of the Regional Trial Court in Criminal Case No. 97-157055 is DISMISSED, the said Decision having become final and executory after the lapse of the 15-day period to perfect an appeal therefrom to the Court of Appeals.

SO ORDERED.

Bellosillo, (Chairman), Mendoza, Quisumbing, and Buena, JJ., concur.

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[1] Penned by Judge Manuel T. Muro, Rollo, pp. 82-95.

[2] People v. Pajo, G.R. No. 135109, December 18, 2000.

[3] Id.

[4] Article VIII, Section 5, paragraph 2 (D) of the 1987 Constitution.

[5] Rollo, p. 8.

[6] Exh. “D”, Exhibits of Criminal Case, p. 6.

[7] TSN, October 15, 1997, pp. 4-6, 26, 48.

[8] TSN, October 15, 1997, pp. 6-10, 44-45.

[9] TSN, October 15, 1997, pp. 11-18.

[10] TSN, October 15, 1997, pp. 18-23.

[11] TSN, October 15, 1997, pp. 24-26.

[12] TSN, October 15, 1997, p. 26.

[13] TSN, October 15, 1997, pp. 28-30.

[14] TSN, October 15, 1997, pp. 34-36.

[15] TSN, October 15, 1997, pp. 43-44.

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[16] TSN, November 24, 1997, pp. 8, 18-24, 27.

[17] TSN, November 24, 1997, pp. 8-14.

[18] TSN, November 24, 1997, pp. 25-26.

[19] TSN, February 10, 1998, pp. 3-17.

[20] TSN, November 18, 1997, pp. 3-5.

[21] TSN, November 18, 1997, p. 6.

[22] TSN, November 18, 1997, pp. 6-8.

[23] TSN, November 18, 1997, pp. 8-14.

[24] TSN, November 18, 1997, pp. 16-21.

[25] TSN, November 18, 1997, pp. 6-14.

[26] TSN, April 30, 1998, pp. 3-5.

[27] TSN, April 30, 1998, pp. 6-7.

[28] TSN, April 30, 1998, pp. 7-9.

[29] TSN, April 30, 1998, pp. 9-12.

[30] TSN, April 30, 1998, p. 14.

[31] TSN, May 5, 1998, pp. 3-6.

[32] TSN, May 14, 1998, pp. 3-4.

[33] TSN, May 14, 1998, p. 5.

[34] Rollo, pp. 82-95.

[35] Rollo, p. 72.

[36] People v. Irinea, 164 SCRA 121, 127 (1988).

[37] People v. Bañago, 309 SCRA 417, 421 (1999).

[38] People v. Banela, 301 SCRA 84, 90-91 (1999).

[39] Ibid.

[40] Id., p. 92.

[41] TSN, October 15, 1997, pp. 18-23.

[42] Supra, note 37, 422.

[43] People v. Nazareno, 260 SCRA 256, 282 (1996).

[44] People v. Alvero, G.R. Nos. 134536-38, April 5, 2000.

[45] People v. Banela, 301 SCRA 84, 93 (1999).

[46] People v. Pajo, et al., G.R. No. 135109, December 18, 2000.

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[47] Supra, note 37, 423.

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