

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RICARDO NAPALIT Y PARAL,

G.R. Nos. 142919 and 143876. February 04, 2003

Ponente: CARPIO MORALES, J.

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CARPIO MORALES, J.:

Before this Court on automatic review is the consolidated decision[1] rendered by the Regional Trial Court of Manila, Branch 18, in Criminal Case Nos. 96-150264 and 97-156381 finding accused- appellant Ricardo Napalit guilty of robbery with homicide and violation of R. A. 6539 (the Anti-Carnapping Act), respectively.

In Criminal Case No. 96-150264, the Information[2] charges accused- appellant with robbery in band with homicide defined and penalized under Article 294 (as amended by R. A. 7659) and Article 296 of the Revised Penal Code allegedly committed as follows:

“That on or about April 3, 1996, in the City of Manila, Philippines, the said accused, conspiring and confederating with others, whose true names, real identities and present whereabouts are still unknown and helping one another, did then and there wilfully, unlawfully and feloniously, all armed with unknown caliber firearms, with intent of (sic) gain and by means of force, violence and intimidation, to wit: by then and there barging inside Tondo General Hospital located at Honorio Lopez Blvd., Tondo, announcing a hold-up, ordering the people/employees thereat to lie down on the floor, grabbing the cashier and ordering him to open the vault and filing cabinets and once opened, take, rob and carry away the following, to wit:

cash money consisting of union’s collection, professional fees, patients’ fees, cash advances and salaries of employees
amounting to, more or less --- P1,300,000.00

two (2) .38 caliber revolver, Squires Bingham with Serial Nos. 1093998 (from Benjamin Saclolo) and 1093986 (from Eric Santos) valued at --- P10,353.00

one (1) .38 caliber revolver, Squires Bingham with Serial No. 1094407 more or less
valued at --- P 5,000.00

all valued in the amount of more than P1,315,353.00, belonging to Tondo General Hospital, represented herein by Rodrigo Calonzo y Sauza and Benjamin Saclolo and Eric Santos, against their will, to the damage and prejudice of the said owners, in the aforesaid amount of more than P1,315,353.00, Philippine Currency; that said accused, on the occasion and by reason of said robbery, attacked, assaulted and used personal violence upon one Pio Gomez y Ora, one of the security guards therein, by then and there firing (sic) two successive shots, hitting him at the back, thereby inflicting upon him mortalgunshots (sic) wounds which were the direct and immediate cause of his deaththereafter. (Emphasis supplied)

In Criminal Case No. 97-156381, the Information[3] charges accused- appellant with violation of the Anti-Carnapping Act allegedly committed as follows:

That on or about April 3, 1996, in the City of Manila, Philippines, the said accused, conspiring and

confederating with others whose true names, identities and present whereabouts are still unknown and helping one another, did then and there wilfully, unlawfully and feloniously with intent to gain, forcibly take and carry away or carnap two (2) motor vehicles, more particularly described as follows:

One (1) Unit, Toyota Tamaraw FX, BGC Taxi with Plate No. NYU-381 and

One (1) Unit, Toyota Tamaraw Delivery Van with Plate No. PBM-990

valued at P400,000.00 more or less from the drivers Felix Buenaobra y Bumaba and Nomeriano Castor y Serbo, respectively, without their consent, to the damage and prejudice of the drivers/owners thereof in the aforesaid amount of P400,000.00, Philippine currency.

Upon arraignment, accused-appellant pleaded not guilty to both charges. Joint trial of the cases thereupon ensued.

From the evidence for the prosecution, the following facts are established:

At about 4:00 p. m. of April 3, 1996, a group of more than six armed men including accused-appellant barged into the Tondo General Hospital in Honorio Lopez Boulevard, Balut, Tondo, Manila.

Security guard Eric Santos who was posted at the hospital emergency room had just finished talking to a person who was asking about the location of the x-ray room when one of the armed men pointed a gun at him, announced that there was a holdup, and instructed him to keep still as he took his firearm.[4] Simultaneously, accused-appellant pointed a gun at, and grabbed the firearm[5] of, another security guard, Benjamin Saclolo, who was seated in front of a desk at the emergency room.

Santos grappled with his assailant for the possession of the latter's gun in the course of which Santos' other firearm, a service revolver, was accidentally pulled out of its holster, resulting to a gunshot. This caught the attention of accused-appellant who pointed his gun at Santos and warned him that he would shoot him should he make one false move.[6] Santos then pushed his assailant in the direction of accused-appellant, causing the former to fall at which instant Santos ran but not before he was dispossessed of his service revolver.

In the meantime, about 20 meters away[7], four members of the group entered the cashier's office of the hospital and ordered the employees to lie down on the floor. One of them pointed a gun at cashier Rodrigo Alonzo and ordered him to open the vault.[8] Before Alonzo could do as instructed, he was searched for weapons in the course of which his wallet containing P450.00 in cash was taken. Alonzo then opened the vault which the four emptied of P1,010,274.90 in cash.[9]

While the four malefactors were at the cashier's office, another security guard, Pio Gomez who was manning the hospital gate and conversing with maintenance plumber Cesar Rosella, was disarmed of his service pistol, pushed outside the hospital premises, and shot twice by one of the armed men.[10]

The four armed men who emptied the vault then rushed out of the hospital and one of them also shot Gomez who had by then collapsed on the ground.[11] Two of them headed toward a Toyota Tamaraw vehicle driven by Numeriano Castor which was on a stop position, due to heavy traffic, in front of the hospital at San Rafael Street. One of the duo ordered the passenger at the front seat to get off the vehicle. The other, after forcing Castor to alight from the vehicle, drove it and fled with his companion.

That same afternoon of April 3, 1996, at around 6:00 o'clock, the vehicle, valued at P300,000.00, was found abandoned somewhere in Manila and was brought back to the hospital by police authorities.[12]

More than a month and three weeks after the heist, or on May 27, 1996, accused-appellant was arrested by police authorities. At the Western Police District, Ermita, Manila, he was positively identified in a police line-up by the

hospital security guards Santos and Saclolo as one of the two armed men who announced a holdup and took their firearms at the emergency room of the hospital on the afternoon of April 3, 1996. Santos and Saclolo thereupon executed sworn statements.[13]

On June 8, 1996, security guard Gomez who sustained four gunshot wounds[14] expired. The findings on the autopsy conducted on his body by Dr. Juan Garcia of the Tondo Medical Center were incorporated in a medico-legal certificate.[15]

For the hospitalization and medical expenses of Gomez, his family incurred P70,000.00.[16] And for funeral and miscellaneous expenses, the amount of P48,000.00[17] was incurred.

As for the defense, lone witness accused-appellant came up with an alibi. He claimed that between 3:00 p. m. and 4:00 p. m. of April 3, 1996, he and his wife were at Balic-balic, Sampaloc, Manila looking for a house to rent, and they returned home at about 7:00 p. m., thus rendering it impossible for him to be present at the scene of the crime.[18]

Discrediting accused-appellant's alibi in favor of his positive identification by security guards Santos and Saclolo as one of the malefactors, the trial court convicted him of robbery with homicide in the first case and carnapping in the second in its Decision of April 25, 2000 on review, the dispositive portion of which reads:

WHEREFORE, in Criminal Case No. 96-150264, the court finds accused Ricardo Napalit y Paral guilty beyond reasonable doubt of the crime of robbery with homicide with the attendant aggravating circumstance of the offense having been committed by an organized/syndicated crime group of which the accused belongs, and sentences him to suffer the penalty of death by lethal injection and to pay the costs.

On the civil liability of the accused, the court further sentences him to pay Evelyn Gomez, widow of the slain security guard, Pio Gomez, actual and moral damages in the respective sums of P118,000.00 and P300,000.00, and indemnity for the loss of life of the victim in the sum of P50,000.00, with interest thereon at the legal rate of 6% per annum from this date until fully paid.

In Criminal Case No. 97-156381, the court likewise, finds accused Ricardo Napalit y Paral guilty beyond reasonable doubt of the crime of Violation of R.A. 6539, or carnapping, and sentences him to suffer imprisonment of 25 years and to pay the costs. [19]

In his brief, accused-appellant ascribes the following errors to the trial court:

- THE TRIAL COURT ERRED IN FINDING ACCUSED-APPELLANT GUILTY BEYOND REASONABLE DOUBT OF THE CRIME CHARGED.
- EVEN GRANTING THAT ACCUSED-APPELLANT WAS A CO-CONSPIRATOR IN THE PLAN TO COMMIT ROBBERY, THE TRIAL COURT, NONETHELESS, ERRED IN ATTRIBUTING TO HIM AND HOLDING HIM LIABLE FOR THE CRIME OF HOMICIDE WHICH HAPPENED ON THE OCCASION OF THE ROBBERY.[20]

On the first assigned error, accused-appellant maintains that his identification by Santos and Saclolo as one of the more than six armed men during the incident was not established with moral certainty for, so he argues, said witnesses were at the time of the robbery fraught with fear and nervousness. To buttress his claim, accused-appellant draws attention to Santos' failure to hear the gunshot which first hit Gomez when he (Santos) was struggling with his assailant for the possession of the latter's gun, which failure, accused-appellant alleges, prevented Santos from taking a clear look at the armed man attending to Saclolo, identified as accused-appellant, since his (Santos') attention was fully focused on his assailant.

Accused-appellant readily admits, however, that both Santos and Saclolo were credible, conceding that their

respective testimonies were straightforward and consistent insofar as their recollection of the disarming incident is concerned.[21]

When the issue of credibility is involved, appellate courts generally do not disturb the findings of the trial court since the latter is in a better position to pass on it, having heard the witnesses themselves and observed their deportment and manner of testifying, unless it is shown that it overlooked certain facts or circumstances of substance that, if considered, could affect the outcome of the case.[22]

In the case at bar, the trial court found the testimony of witnesses Santos and Saclolo to be worthy of credence. From the transcripts of the stenographic notes of their testimonies, this Court finds that, indeed, they merit credence. They are straightforward and consistent. Consider the following answers of Santos, quoted verbatim:

Q:

On April 3, 1996, at about 4:05 p.m., while you are manning the emergency room of the Tondo General Hospital, do you recall of any unusual incident that took place?

A:

At around 4:00 p.m. that date, while I was talking to a person who was asking about the location of the x-ray room, someone pointed a gun at me and told me not to move and that it was a holdup, and he took my firearm.

Q:

What else happened after that man poked a gun at you and took your firearm?

A:

When I raised up my hand, I look at the direction where my co-security guard was and I noticed that he was also disarmed by a companion of the man who poked a gun at me and when the man that disarmed the other security guard was leaving the premises, I noticed that the man poking a gun at me was nervous because his gun was shaking and because of this observation and considering that my co-security guard was nearby, I was emboldened to grab the gun that was being poked at me so I grappled with the man that was poking a gun at me by grabbing the gun. While I was holding the arm of the robber, I held with my left arm the gun in my holster because he was trying to grab it and there was a struggle between us and in the course of our struggle, my gun fired after it was accidentally pulled out from its holster.

Q:

What happened after that?

A:

The gunshot caught the attention of that man who disarmed my co-security guard and he came back and poked a gun in front of my face and warned me that should I make a false move, he would shoot me.

Q:

What happened next after that?

A:

I pushed the man with whom I was struggling with towards the man who was poking a gun at me and the two of them fell down on the ground and I ran away but in the process, they were able to grab and get hold of my service revolver.

Q:

Were you able to identify that person who initially poked a gun at you?

A:

I recognized him and if I will see him again, I will be able to recognize him.

Q:

How about the other person who divested the gun of your co-security guard and your gun also, can you recognize him?.

A:

Yes, sir

Q:

Will you please look around and point to him?

At this juncture, witness is pointing to a man who answered by the name Ricardo Napalit.

Q:

Why do you say that he was the same person who divested your gun and the gun of your co-security guard?

A:

Because he was the one that disarmed my cosecurity guard and later on poked a gun at me and when he disarmed my co- security guard, I saw him at a close distance and when he poked his gun at me, we were very near each other and I could see his face.[23] (Emphasis supplied)

The positive identification of accused-appellant was corroborated by Saclolo in his answers, quoted verbatim:

Q:

Were you able to identify the person who poked his 45 caliver firearm at you?

A:

Yes, sir.

Q:

Look around and tell the court if he is inside the court room?

A:

Yes, sir. (At this juncture, witness is pointing to a man who answered by the name Ricardo Napalit)

x x x

Q:

You also testified that one of the robbers poked his gun at your back and you identified him as the accused in this case, is that correct?

A:

He did not poke his gun at my back, he was in front of me because I was sitted at the table.

Q:

What was your position at the time of the incident, before the gun poking?

A:

I was sitted on a chair in front of a table.

Q:

Were you facing the door or you are at the back of the door?

A:

The entrance to the emergency room was in front of me.

Q:

You also mentioned that you also saw the gun of the alleged robber?

A:

When they entered the emergency room, I did not see the gun. It was only when my service pistol was taken by one of them that I saw the robbers.

Q:

How far were you from the robber that approached you?

At this juncture, witness is pointing to a distance of about 2 and one-half feet.

Q:

While you were sitting, was the alleged robber in front of you standing?

A:

He was standing in front of me.

Q:

How did you see him, did you see space or did you peep?

A:

I looked up at his face.[24] (Emphasis supplied).

From the foregoing testimonies, it is clear that Santos and Saclolo saw accused-appellant at close range as he stood before them at the time of the taking of their firearms. It bears noting that the incident occurred in broad daylight. When conditions of visibility are favorable and the witnesses do not appear to be biased, their assertions as to the identity of the malefactor should be accepted as trustworthy.[25]

That witnesses to a sudden attack may be frightened or nervous as a result thereof does not fatally impair the credibility of their testimony, especially with respect to the identification of their assailant, for they tend to strive to see his appearance and observe the manner in which the crime is being committed.[26] In the case at bar, there is no evidence to show that Santos and Saclolo were so petrified with fear as to result in subnormal sensory functions on their part.[27]

Accused-appellant's bare assertion of alibi thus deserves no merit. Already a weak defense, his alibi becomes

even weaker by reason of his failure to present any corroboration.[28]

Accused-appellant argues nevertheless that assuming that he had indeed participated in the incident, he should only be held liable for robbery and not for the special complex crime of robbery with homicide. For, so he claims, the shooting of Gomez by his companions was beyond his contemplation and he never intended to perpetrate any killing, hence, only the actual perpetrators of the killing should be held liable therefor and the killing should not be appreciated to increase his liability.[29] And he adds that his carrying of a firearm was only for the purpose of threatening the victims so that they would not offer any resistance to him and his companions.

Accused-appellant's arguments do not persuade. Article 294 (1) of the Revised Penal Code, as amended by R.A. 7659, provides:

Article 294. Robbery with violence against or intimidation of persons. – Penalties. – Any person guilty of robbery with the use of violence against or intimidation of any person shall suffer:

- The penalty of reclusion perpetua to death, when by reason or on occasion of the robbery, the crime of homicide shall have been committed, or when the robbery shall have been accompanied by rape or intentional mutilation or arson.

x x x (Emphasis supplied.)

In robbery with homicide cases, the prosecution needs to prove these elements: (a) the taking of personal property is perpetrated by means of violence or intimidation against a person; (b) the property taken belongs to another; (c) the taking is characterized by intent to gain or *animus lucrandi*; and (d) on the occasion of the robbery or by reason thereof, the crime of homicide, here used in its generic sense, is committed.[30]

In a long line of cases, this Court has ruled that whenever homicide is committed as a consequence or on the occasion of the robbery, all those who took part as principals in the robbery will also be held guilty as principals in the special complex crime of robbery with homicide although they did not take part in the homicide, unless it is clearly shown that they endeavored to prevent the homicide.[31]

Direct proof of a previous agreement to commit a crime is not indispensable in conspiracy. It may be deduced from the mode and manner by which the offense was perpetrated, or inferred from the acts of the accused themselves, when such point to a joint purpose and design, concerted action and community of interest.[32]

From the time accused-appellant and his companions entered the hospital and announced a holdup up to the time they fled, in the course of which security guard Gomez was shot, there can be no other conclusion than that they hatched a criminal scheme, synchronized their acts for unity in its execution, and aided each other for its consummation.

As correctly pointed out by the trial court, the united, concerted and coordinated contemporaneous acts of accused-appellant and his companions in marauding the hospital, neutralizing its security guards and robbing it of P1,010,274.90 unerringly indicate a well-planned robbery operation and a conspiracy among them.[33]

As conspiracy has been established, all the conspirators are liable as co-principals regardless of the manner and extent of their participation since, in conspiracy, the act of one is the act of all.[34]

That accused-appellant did not shoot Gomez is immaterial. Article 294 (1) of the Revised Penal Code is clear and leaves no room for any other interpretation. For, for robbery with homicide to exist, it is sufficient that a homicide results by reason or on the occasion of robbery.[35] The law of course exculpates a person who takes part in the robbery from the special complex crime of robbery with homicide and punishes him only for simple robbery when there is proof that he tried to prevent the homicide. No such proof, however, was offered.

As an appeal in a criminal proceeding throws the whole case open for review, it becomes the duty of this Court to correct errors it may find in the appealed judgment even if they have not been specifically assigned.[36]

One such error committed by the trial court which was not assigned by accused-appellant is its appreciation of the aggravating circumstance of the offense being committed by a person belonging to an organized or syndicated crime group under Article 62 of the Revised Penal Code, as amended by R.A. 7659.

While accused-appellant and company confederated and mutually helped one another for the purpose of gain, that they formed part of a group organized for the general purpose of committing crimes for gain, which is the essence of a syndicated or organized crime group,[37] was neither alleged nor proved.

There being then no aggravating circumstance to be appreciated, the proper imposable penalty for the commission of the crime of robbery with homicide is reclusion perpetua, following Article 63 (2) of the Revised Penal Code which states that when there are neither mitigating nor aggravating circumstances in the commission of the deed, the lesser penalty shall be applied.

And the trial court erred too in finding accused-appellant guilty of the Anti-Carnapping Act. Carnapping, as defined under Section 2, paragraph 2 of this special law, is the taking, with intent to gain, of a motor vehicle belonging to another without the latter's consent, or by means of violence against or intimidation of persons, or by use of force upon things. The elements of carnapping are thus: (a) the taking of a motor vehicle which belongs to another; (b) the taking is without the consent of the owner or by means of violence against or intimidation of persons or by using force upon things; (c) the taking is done with intent to gain.[38]

From the following testimony of the Toyota Tamaraw driver Castor:

Q:

You said that armed men arrived, more or less, how many armed men did you see?

A:

There were two armed men who approached my vehicle. One went to my passenger's seat and the other one to the driver's seat.

Q:

What did the armed person who go (sic) to the passenger's seat do?

A:

He ordered my passenger to get off and he even hit my passenger with his gun.

Q:

What about that armed person who went to your side, what did he do to you?

A:

He forced me to get off the vehicle and he took over the driver's seat.

Q:

Were you able to identify these two armed men who took you (sic) vehicle?

A:

If I see them again, I can recognize them.

Q:

Will you please look inside the court room and tell us if these two armed men who forcibly took your vehicle are inside the court room?

A:

They are not inside the court room, sir.

Q:

Aside from these two armed men who forcibly took your vehicle, did you see any other armed men also in the vicinity?

A:

No one else, sir,[39]

it is clear that accused-appellant took no part in seizing the vehicle. Since there is no showing that the taking was made in pursuance of the common criminal plan of the malefactors to rob the hospital, the two armed robbers who took the vehicle having merely chanced upon it while they were fleeing from the scene of the crime, accused-appellant cannot be faulted therefor. Well-settled is the rule that co-conspirators are liable only for acts done pursuant to the conspiracy, not for other acts done outside their contemplation or which are not the necessary and logical consequence of the intended crime.[40]

As to the civil aspect of the case, for loss of earning capacity, Article 2206 (1) of the Civil Code is the applicable law. It provides:

Article 2206. The amount of damages for death caused by a crime or quasi-delict shall be at least three thousand pesos, even though there may have been mitigating circumstances. In addition:

(1) The defendant shall be liable for the loss of the earning capacity of the deceased, and the indemnity shall be paid to heirs of the latter; such indemnity shall in every case be assessed and awarded by the court, unless the deceased on account of permanent physical disability not caused by the defendant, had no earning capacity at the time of his death.

Accused-appellant is thus liable for damages for the loss of the earning capacity of the deceased Pio Gomez which shall be paid to his heirs. In fixing the indemnity, account is taken of the victim's actual income at the time of his death and his probable life expectancy[41] in accordance with the formula adopted by this Court, to wit:

Net earning capacity

= $\frac{2}{3} \times (80 - \text{age of the victim at the time of his death})$

x

a reasonable portion of the annual net income which would have been received by the heirs for support[42]

At the time of his death, Gomez was 48 years old.[43] Per the certification of employment and compensation[44] presented at the trial court, his average monthly gross income was P5,383.12 or an annual gross income of P64,597.44. In the absence of proof of his living expenses, his net income is deemed to be 50 percent of his gross income.[45] Using the above-stated formula, the indemnity for the loss of earning capacity of Gomez is P688,931.70, arrived at as follows:

Net earning capacity

= $2 (80 - 48) \times [P64,597.44 - P32,298.72]$

3

= $2 (32) \times P32,298.72$

3

= $21.33 \times P32,298.72$

= P688,931.70

With respect to the award by the trial court of P200,000.00 in moral damages, in line with prevailing jurisprudence[46], it is hereby reduced to P50,000.00.

As for the award of actual damages in the amount of P118,000.00, since it is borne out by the records, it is affirmed and so is the award of civil indemnity in the amount of P50,000.00.

WHEREFORE, the decision of the trial court in Criminal Case No. 96-150264 finding accused-appellant, Ricardo Napalit y Paral, guilty beyond reasonable doubt of the special complex crime of robbery with homicide is hereby AFFIRMED with MODIFICATION. As modified, accused-appellant is hereby sentenced to suffer the penalty of reclusion perpetua; and to pay the legal heirs of Pio Gomez P118,000.00 for actual damages, P50,000.00 as indemnity for death, P688,931.70 for lost earnings, and P50,000.00 for moral damages.

The conviction of accused-appellant Ricardo Napalit y Paral in Criminal Case No. 97-156381 for violation of R. A. 6539 or the Anti-Carnapping Law is REVERSED and SET ASIDE and he is hereby ACQUITTED for insufficiency of evidence.

Costs de oficio.

SO ORDERED.

Davide, Jr., C.J., Bellosillo, Puno, Vitug, Mendoza, Panganiban, Quisumbing, Ynares-Santiago, Sandoval-Gutierrez, Carpio, Austria-Martinez, Corona, Callejo, Sr., and Azcuna, JJ., concur.

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- [1] Rollo at 223-228.
- [2] Records at 45-46.
- [3] Rollo at 71.
- [4] TSN, September 19, 1997 at 3.
- [5] Id. at 10-14.
- [6] Id. at 4.
- [7] TSN, October 3, 1997 at 14.
- [8] Id. at 6.
- [9] Id. at 8.
- [10] TSN, November 5, 1997 at 3.
- [11] Id. at 3-4.
- [12] TSN, January 30, 1998 at 2-4.
- [13] Exhibits “B” and “D,” Records at 7 and 9.
- [14] TSN, December 4, 1997 at 4.
- [15] Exhibit “G,” Records at 134.
- [16] Exhibits “H” to “H-20,” Records at 148-169.
- [17] Exhibits “I,” “J,” “M,” Records at 170, 218, 220.
- [18] TSN, January 6, 2000 at 3.
- [19] Records at 228.
- [20] Appellant’s Brief at 1-2, Rollo at 48-49.
- [21] Id. at 13, Rollo at 60.
- [22] *People v. Arrojado*, 350 SCRA 679, 691 (2001); *People v. Aquino*, 329 SCRA 247, 261 (2000).
- [23] TSN, September 19, 1997 at 3-4.
- [24] Id. at 11-14.
- [25] *People v. Martinez*, 274 SCRA 259, 270 (1997) (citations omitted).
- [26] *People v. Pulusan*, 290 SCRA 353, 372 (1998) (citations omitted).

- [27] Martinez, 274 SCRA 270.
- [28] People v. Pedroso, 336 SCRA 163, 174 (2000) (citation omitted).
- [29] Appellant's Brief at 17, Rollo at 64.
- [30] People v. Robles, 333 SCRA 107, 118 (2000) (citation omitted).
- [31] People v. Cando, 344 SCRA 330, 345 (2000), People v. Zuela, 323 SCRA 589, 609 (2000), People v. Nang, 289 SCRA 16, 33-34 (1998), Piandiong, 268 SCRA 570, People v. Cobre, 239 SCRA 159, 166 (1994).
- [32] Pulusan, 290 SCRA 374 (citations omitted).
- [33] Decision at 4, Rollo at 226.
- [34] People v. Cerveto, 315 SCRA 611, 620 (1999) (citation omitted).
- [35] Piandiong, 268 SCRA 570 (citation omitted).
- [36] People v. Ocampo, G. R. No. 145303-04, August 7, 2002.
- [37] People v. Alberca, 257 SCRA 613, 636 (1996).
- [38] People v. Calabroso, G.R. No. 126368, September 14, 2000.
- [39] TSN, January 30, 1998 at 3-4.
- [40] People v. Federico, 247 SCRA 246, 253 (1995) (citation omitted).
- [41] People v. Barnuevo, G.R. No. 134928, September 28, 2001.
- [42] People v. Concepcion, G.R. No. 136844, August 1, 2002 (citation omitted).
- [43] Records at 141.
- [44] Exhibit "N", Records at 221.
- [45] People v. Aspiras, 330 SCRA 479, 495-496 (2000) (citation omitted).
- [46] Arrojado, 350 SCRA 696.

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