

**THE PEOPLE OF THE PHILIPPINES, APPELLEE, VS. EFREN MATEO Y GARCIA, APPELLANT.***G.R. Nos. 147678-87. July 07, 2004*

Ponente: VITUG, J.

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On 30 October 1996, ten (10) informations, one for each count of rape, allegedly committed on ten different dates - 07 October 1995, 14 December 1995, 05 January 1996, 12 January 1996, 29 February 1996, 08 May 1996, 02 July 1996, 18 July 1996, 16 August 1996 and 28 August 1996 - were filed against appellant EFREN MATEO. Except for the variance in dates, the ten informations, later docketed Criminal Cases No. 9351 to No. 9360, inclusive, in the Regional Trial Court of Tarlac, uniformly read -

"The undersigned OIC Provincial Prosecutor upon preliminary investigation conducted by the MTC, Tarlac, Tarlac, Branch 1, accuses Efren Mateo of Brgy. Buenavista, Tarlac, Tarlac of the crime of Rape, committed as follows:

"That on or about January 12, 1996, in the Municipality of Tarlac, Province of Tarlac, Philippines and within the jurisdiction of this Honorable Court, the said accused Efren Mateo y Garcia, who is the guardian of the complaining witness, did then and there willfully, unlawfully and feloniously and by means of force and intimidation have carnal knowledge with said Imelda C. Mateo in their house against her consent." [1]

The trial ensued following a plea of "not guilty" entered by appellant to all the charges.

According to Imelda Mateo, she was born on 11 September 1980 to the spouses Dan Icban and Rosemarie Capulong. Rosemarie Capulong and appellant started to live together without the benefit of marriage when private complainant was only two years old. Imelda stayed with her mother and appellant in a house in Buenavista, Tarlac, and adopted the surname of appellant when she started schooling.

Imelda recalled that each time the ten rape incidents occurred her mother, Rosemarie, was not at home. On 07 October 1995, the date of the first rape, Rosemarie went to Bamban and returned home only the next day. The second rape was said to have occurred on 14 December 1995, while her mother was attending a seminar for day-care workers. Imelda recalled the third rape to have been committed on 05 January 1996, the same day her mother resigned from her job and left for Manila. The fourth rape, she said, happened a week later, on 12 January 1996, when Rosemarie Capulong was attending yet another seminar for day-care workers. The fifth incident was on 29 February 1996, when Rosemarie left for Manila to follow-up her application for an overseas job. The sixth rape took place on 08 May 1996 when Rosemarie was once again in Manila to attend to her application papers. On 01 July 1996, Rosemarie and appellant left for Manila as Rosemarie was scheduled to depart for Jeddah. Appellant returned home in the evening of the next day, 02 July 1996, the same day the job recruiter relayed the news that Rosemarie Capulong could not yet leave for Jeddah. During the night, appellant again molested Imelda. With Rosemarie finally away, appellant frequented his nocturnal visits. On the night of 18 July 1996, appellant went into her room and abused her while her siblings were sleeping in the sala. The same incident was repeated

on the night of 16 August 1996 when appellant, already naked, entered the room and sexually assaulted Imelda. The last rape was committed on 28 August 1996. According to private complainant, she never reported any of the ten incidents to anybody because the accused had threatened to kill her and her mother if she were to disclose the matter to anyone.

Imelda stated that each of the ten rape incidents were committed in invariably the same fashion. All were perpetrated inside the house in Buenavista, Tarlac, during the night and, each time, she would try to ward off his advances by kicking him but that he proved to be too strong for her. These incidents occurred in the presence of her three sleeping siblings who failed to wake up despite the struggles she exerted to fend off the advances. She recalled that in all ten instances, appellant had covered her mouth with a handkerchief to prevent her from shouting. Subsequently, however, she changed her statement to say that on two occasions, particularly the alleged sexual assaults on 02 July 1996 and 18 July 1996, appellant had only covered her mouth with his hands. Still much later, Imelda testified that he had not covered her mouth at all.

The predictable pattern of the rape incidents testified to by Imelda prompted the defense to ask her whether she had, at any one time, taken any protective measure in anticipation of the rape incidents. She replied that once she had requested her brothers and sister to keep her company in the bedroom at night but appellant had scolded them. On the night of the fourth rape, she narrated that she armed herself with a knife but, when appellant entered her room that night, she was not able to retrieve the bladed weapon from under the bed as appellant was sitting right on top of it.

Dr. Rosario Fider, the second witness for the prosecution, stated that she had physically examined private complainant on 14 October 1996 and found superficially healed lacerations at 3:00, 6:00 and 9:00 positions on her private organ that could have been caused by an insertion of an instrument or by sexual intercourse. According to Dr. Fider, the lacerations pointed to possibly one or two, and at most three, incidents of rape, which had happened not earlier than two weeks before the date of the physical examination.

Appellant denied each of the charges. On 07 October 1995, the date of the first rape, he claimed that he was in Barangay Talaga, Capas, to pick up newly hatched ducklings, numbering about a thousand, which had to be properly fed, kept warm and constantly cared for that required him to be around the entire day and night for two weeks. The fowls had then to be brought into an open field located one and a half kilometers away which could be traversed by foot. He continued to tend to the animals from 20 October 1995 until sometime in February 1996. During the period, he was able to go home only once a week or three times a month.

On 14 December 1995, the supposed date of the second rape, appellant admitted that he had temporarily left the care of his ducks to go caroling with his wife, their daughter Imelda and some friends. He immediately returned to care for his ducks, located some 500 meters from their residence, that kept him busy and away from home when the third, fourth and fifth rape incidents were said to have taken place on the 5th and 12th of January and 29th of February of 1996. While he admitted to leaving occasionally the animals in order to go home, these visits, however, were said to be brief and mainly for getting some food and fresh clothes. Appellant could not recall when exactly he sold the ducks but it was definitely prior to 08 May 1996, the day he was accepted and reported for work at the LA Construction of Hacienda Luisita, Tarlac, located some three kilometers away. On 08 May 1996, the date of the sixth rape, he was at work from seven o'clock in the morning until the following day to finish a rush job.

On 01 July 1996, he accompanied his wife, Rosemarie, to Manila who was scheduled to leave for Jeddah the following day. Upon being advised that her flight was postponed, the couple stayed in the house of one Luding Sevilla in Caloocan. On 03 July, he returned to Tarlac. From 15 July to September, 1996, he was given the

nightshift at the LA Construction. Appellant asserted that it was impossible for him to have raped private complainant on 28 August 1996 because at six o'clock that evening, his friends Boy Botio, Boy Pineda, Marvin Dalangin and Nelson Castro had picked him up at his house to attend the fiesta at Barangay Murcia, Concepcion, Tarlac, where they spent the night.

Appellant dismissed the charges against him as being the malicious "retribution" of a vengeful stepdaughter. Allegedly, on 11 October 1996, he took private complainant to task after his son, Marlon Mateo, who had reported seeing her engaged in sexual intercourse with one Pikong Navarro inside the room of their house. Earlier, on 05 August 1996, he also learned that Sharon Flores, a neighbor and a friend of private complainant, had caught his stepdaughter and Navarro in a very compromising position. In anger, he hit Imelda twice with a piece of bamboo. He then forbade her from going out at night and leaving her siblings alone in the house.

Rosemarie Capulong, the mother of private complainant, rose to testify in defense of her common-law husband. Capulong asserted that she had not at any time, prior to her departure for Jeddah, spent any night outside their house. Rosemarie said that she was a day-care teacher from June 1990 until June 1996. On 07 October 1995, the date of the supposed first rape, she was at home and did not go to Bamban as so claimed by private complainant. Capulong disputed the claim of private complainant that she attended a seminar for day-care workers on 12 January 1996 since her job did not require her to attend seminars except for regular meetings held on the last Friday of every month, with each meeting lasting for only half a day. The last seminar she had attended was in June of 1990 in Tarlac. On 29 February 1996, Rosemarie was also certain that she spent the night at home as she had to report for work the following day. She started obtaining documents for her planned employment abroad only on 12 February 1996, when she secured her birth certificate in Bamban as so attested by the date appearing on the certification from the Municipal Civil Registrar of Bamban. On 08 May 1996, she admitted being away from home while attending a general assembly of day-care workers in Zambales. On that day, appellant was likewise not at home due to his overtime work up until about three or four o'clock in the early morning. Imelda herself, Capulong testified, had attended on that day the San Miguel fiesta. Contrary to the allegation of private complainant, the witness was not in Manila on the 5th and 12th of January 1996 because, at that time, she had yet no plans of working overseas. She denied the assertions of private complainant that Capulong had resigned from her day-care work on 05 January 1996, saying it was actually months later, or in June of 1996, when she quit her job. It was on 13 February 1996 when she went to Manila for the first time to attend to her application for a possible overseas work. She made subsequent trips to the city, that is, on the 3rd, 5th, 8th and 24th of the month of June, to follow-up her employment papers and to submit herself to a medical check-up. All these visits only took a day, and she would always be home in Buenavista at nightfall. On 01 July 1996, appellant accompanied her to Manila but, upon learning that her flight was postponed, they spent the night in Caloocan. The couple stayed together in Manila until 03 July 1996, when appellant decided to return to Tarlac. Rosemarie worked in Jeddah, Saudi Arabia, until 11 November 1996 when she decided to return home.

Rosemarie Capulong corroborated the testimony of appellant regarding his whereabouts from October 1995, when the ducks were first brought to the field, until 15 December 1995, when appellant had joined her and their friends caroling. Capulong believed that the charges may have been fabricated by her relatives who were "jealous" of appellant because it was he, not they, who had been receiving the remittances of her earnings from Saudi Arabia.

Sharon Flores, a neighbor, testified that, about noontime on 05 August 1996, she repaired to the house of private complainant to investigate rumors regarding a man seen entering the Capulong residence. When she went in, she saw private complainant and Pikong Navarro lying on the bed, embracing each other under a blanket.

Anselmo Botio, a friend of appellant, and Marlon Mateo, a brother of private complainant, corroborated appellant's alibi. Botio said that on 28 August 1996, at six o'clock in the evening, he, together with appellant and

some friends, went to attend the fiesta in Barangay Murcia upon the invitation of one Ruben Santos. The group arrived in Murcia at seven o'clock that evening and promptly had dinner and a drinking spree which lasted until the morning of the next day.

Marlon Mateo testified that one day in October 1996, while his mother was working overseas, he arrived home from school, and saw Pikong Navarro and private complainant, both naked, on the bed. Navarro was on top of private complainant and was making thrusting motions. Marlon Mateo hurriedly left to report the incident to his father.

At the conclusion of the trial, the court a quo issued its decision, dated 23 January 2001, finding appellant guilty beyond reasonable doubt of ten (10) counts of rape -

"WHEREFORE, the Court finds the accused guilty beyond reasonable doubt of ten (10) counts of rape and is hereby sentenced to suffer the penalty of reclusion perpetua for each count of rape and to indemnify the complainant the sum of P50,000.00 as actual damages and P50,000.00 as moral damages for each count of rape." [2]

More often than not, the Court has deemed it sufficient to convict an accused for rape solely on the basis of the testimony of the victim. [3] The heavy reliance normally given by the Court on the narration of the victim finds justification on the fact that, generally, she would be the sole witness to the incident and the shy and demure character of the typical Filipina would preclude her from fabricating that crime. It is imperative, nonetheless, that the testimony must be convincing and straightforward in order to avoid any serious doubt from being cast on the veracity of the account given.

Relative to the first supposed rape incident, private complainant categorically stated that she had slept in the lone bedroom of the house while her siblings and her stepfather slept in the sala –

"Q. How did (sic) he able to remove your t-shirt and shorts?

"A. He brought me to the sala and in that place when he undressed me, sir.

"x x x x x x x x

"Q. How did (sic) he able to take you out from the room? In what way?

"A. She (sic) lifted me and still my mouth was covered, my hands were stocked and I cannot move, sir.

"Q. She (sic) lifted you by his two hands, is that right?

"A. Yes, sir." [4]

"Q. You testified on direct examination that there is only one room in your house, is that right?

"A. Yes, sir.

"Q. And you were then sleeping inside your house in that one room, is that right?

"A. Yes, sir.

"Q. While your brothers as well as your stepfather were then sleeping outside your room, you [were] also sleeping, is that right?

“A. Yes, sir.”[5]

In the next breath, however, she testified that all her three siblings were sleeping with her on the night of 07 October 1995 -

“Q. How did (sic) he able to remove your t-shirt and shorts?

“A. He brought me to the sala and in that place when he undressed me, sir.

“Q. Do you want to tell this Honorable Court that he brought you to the sala where your brothers Ryan and Marlon and your sister Iris were then sleeping?

“A. My brothers and sister were sleeping in the room, sir.

“Q. Is it not a fact that there was only one room in your house?

“A. But they slept there on that night, sir.

“Q. In other words, Madam Witness, you were sleeping together with Ryan, Marlon, and Iris by that time in one room together in one bed?

“A. Yes, sir.”[6]

Still, later, Imelda changed her testimony and said that her brothers were in the sala and that it was only her sister Iris who was with her in the bedroom when the rape incidents were committed -

“Q. How about your brother Ryan where did he sleep on October 7, 1995?

“A. At the sala, sir.

“Q. Who was with him in the sala?

“A. He [was] sleeping with my stepfather and my brother Marlon, sir.

“Q. How about Iris, where was she sleeping?

“A. She was with me, sir.

“Q. You mean to imply to the Court that according to you the accused abused you on October 7, 1995, Iris [was] with you in the room?

“A. Yes, sir.

“Q. Are you sure of that?

“A. Yes, sir.

“x x x x x x x x

“Q. You stated in your direct testimony that on October 7, 1995 your father entered your room where you were sleeping, covering your mouth and forced you to go to the sala, do you recall that statement?

“A. No, sir.

“Q. Do you not remember that you have testified that he was able to take you to the

sala?

“A. No, sir.

“Q. And then when you reached the sala, you stated that the accused criminally abused you?

“A. No, sir.

“Q. Do you not remember having been asked by the prosecutor examining you, and now I cite to you your statement; `Q - Public Prosecutor Llobrera, `Now, let us make it clear. You said you were brought to the sala and your answer, `Yes, sir.’” Do you not remember having made that statement?

“A. No, sir.

“Q. And another question, `When you reached the sala what were the first things he did to you and your answer, `He kissed me, sir.’” Do you remember that?

“A. No, sir. The first time he abused me was in the room, sir.”[7]

The Solicitor General would posit that the claim of private complainant that she had the sole privilege of sleeping in the lone bedroom of their house while the rest of the family, namely both her parents and her three siblings, had to squeeze themselves in the sala strained credulity, and that the testimony of her mother, Rosemarie Capulong, to the effect that the couple were the occupants of the single bedroom while their children stayed in the sala where the television was located, made more sense.

Imelda testified that her three siblings - Marlon, Ryan and Iris - were sleeping inside the house every time the rape incidents were committed. The identical testimony of everyone else in the Mateo household, including her mother Rosemarie Capulong and brother Marlon Mateo, exposed such assertions to be a blatant lie and categorically stated that Ryan himself had never stayed in the Mateo residence because he was living with his grandparents since childhood.

Private complainant testified that during the rape incidents she was gagged with a handkerchief which rendered her unable to shout for help. Later on, however, she gave different versions on whether appellant covered her mouth with his hand or with a handkerchief during the rape incidents occurring on 07 October 1995, 05 January 1996, 12 January 1996, 18 July 1996, 16 August 1996 and 28 August 1996. Eventually, she repudiated her earlier testimony by stating that appellant had never covered her mouth, either with a handkerchief or with his hand -

“Q. Both the incidents of July 2 and July 18, according to you, he only covered your mouth on both occasions?

“A. Yes, sir.

“Q. He did not tie your mouth with anything?

“A. No, sir.

“Q. Miss Witness, in your statement also on August 20, 1997, you stated that the accused covered your mouth and tied your mouth with a handkerchief on both occasions. Do you remember having given that statement?

“A. No, sir.

“Q. So, you do not remember having made that statement?

“A. No, sir.

“Q. Recalling your testimony you gave on August 20, 1997, for the July 2 occasion and

the testimony that you gave as appearing on page 18 of the transcript of stenographic notes. These questions and answers were given and answered by you. `Q. While he was doing all these things to you, did you call for help? A. I cannot shout because my mouth was covered with a handkerchief, sir. Q. Was he holding that handkerchief? A. It was tied, sir.’ On July 17, 1997, you said that the accused tied your mouth on July 2, 1996, and you said that you cannot shout because your mouth was tied with a handkerchief. Do you remember having stated that?

“A. No, sir.

“x x x x x x x x

“Q. On the July 18 occasion, you also stated in your direct testimony on August 29,

1997, when asked these following questions appearing on page 21 of the transcript of stenographic notes. `Q. Tell the Court how did he rape you on that night? A. On that night while I was sleeping in my room, he tied a handkerchief in my mouth so I could not shout, sir.’ Do you remember having stated that?

“A. No, sir.

“Q. And also you were asked this question: `Q. After tying this handkerchief to your mouth, what did he do to you?’ You said that he raped you. Do you remember having given this statement?

“A. No, sir.”[8]

Also quite telling were some discrepancies in the testimony of private complainant regarding the whereabouts of her mother Rosemarie Capulong on the dates of the incidents. According to private complainant, it was when her mother Rosemarie was not at home when appellant would commit the dastardly crimes. Not only did the account of Imelda contradict that of Rosemarie but that Imelda herself would appear to have made irreconcilable statements. According to her, on 07 October 1995, the date of the first rape, Rosemarie had gone to Bamban to visit her mother. Subsequently, however, she said that Rosemarie went to Bamban because she worked there, only to later say that, at that time, Rosemarie had already resigned from work. Imelda would further change her story by stating that Rosemarie Capulong did not report for work that day; then, in a quick turnaround, she remarked that her mother did go to Bamban not to work but to get her birth certificate. Interestingly, Imelda said that 07 October 1995 was a working day, and that she had gone to school the following day. Judicial notice could be taken of the fact, however, that 07 October 1995 was a Saturday and that the following day, a Sunday, could not have been a school day. With respect to the rape committed on 12 January 1996, Imelda testified that Rosemarie was attending a seminar; yet, when cross-examined, she told the trial court that on that day Rosemarie went to Manila to borrow money from her cousin.

The subsequent conduct of a victim could also either confirm or negate her claim of rape.[9] The human nature, characterized by an instinct for self-preservation and an aversion to humiliation, would dictate that a typical victim of rape could display changes in behavior, erratic mood swings and an alteration in her daily routine. No such changes were observed in the case of private complainant. She testified that on the day after the first incident on 07 October 1995, she woke up at six o'clock in the morning, washed her face, and went to school. There was no apparent attempt on her part to run away from home despite every chance to escape from her tormentor or to exercise every means available to ensure that the incidents would not be repeated. At fifteen years old, already old

enough to think of her safety and well-being, Imelda Mateo went about her usual business as if nothing unusual had occurred. She continued to sleep in the same bedroom with nary any precaution against the bestiality she was sure would come everytime her mother was away.

While it may be argued that appellant's moral ascendancy over Imelda was enough to intimidate her to suffer in silence; still, it could well be improbable for a victim who had been raped no less than ten times not to make a simple outcry against her unarmed rapist when she had every opportunity to do so.

The Solicitor General assails the factual findings of the trial court and recommends an acquittal of appellant.

The records would disclose that the first half of the trial, from 17 July 1997 until 15 October 1997, was conducted by Judge Lino L. Diamsay. Judge Edgardo F. Sundiam conducted the trial from 14 January 1999 until 24 February 1999. From 11 May 1999 until the day of the last hearing, it was Judge Arsenio P. Adriano who heard the case. While this change of the presiding judges would not invalidate the proceedings, it did deny to the deciding magistrate the opportunity to observe in entirety the demeanor of the witnesses which could well be vital to the decision-making process, particularly where credibility would, by and large, constitute the singular issue.

The law demands that only proof of guilt beyond reasonable doubt can justify a verdict of guilt.

Up until now, the Supreme Court has assumed the direct appellate review over all criminal cases in which the penalty imposed is death, reclusion perpetua or life imprisonment (or lower but involving offenses committed on the same occasion or arising out of the same occurrence that gave rise to the more serious offense for which the penalty of death, reclusion perpetua, or life imprisonment is imposed). The practice finds justification in the 1987 Constitution –

Article VIII, Section 5. The Supreme Court shall have the following powers:

“(2) Review, revise, reverse, modify, or affirm on appeal or certiorari, as the law or the Rules of Court may provide, final judgments and orders of lower courts in:

“x x x x x x x x

“(d) All criminal cases in which the penalty imposed is reclusion perpetua or higher.”

The same constitutional article has evidently been a thesis for Article 47 of the Revised Penal Code, as amended by Section 22 of Republic Act No. 7659,[10] as well as procedural rules contained in Section 3 of Rule 122,[11] Section 10 of Rule 122,[12] Section 13 of Rule 124[13] and Section 3 of Rule 125[14] of the Rules of Court. It must be stressed, however, that the constitutional provision is not preclusive in character, and it does not necessarily prevent the Court, in the exercise of its rule-making power, from adding an intermediate appeal or review in favor of the accused.

In passing, during the deliberations among the members of the Court, there has been a marked absence of unanimity on the crucial point of guilt or innocence of herein appellant. Some are convinced that the evidence would appear to be sufficient to convict; some would accept the recommendation of acquittal from the Solicitor General on the ground of inadequate proof of guilt beyond reasonable doubt. Indeed, the occasion best demonstrates the typical dilemma, i.e., the determination and appreciation of primarily factual matters, which the Supreme Court has had to face with in automatic review cases; yet, it is the Court of Appeals that has aptly been given the direct mandate to review factual issues.

While the Fundamental Law requires a mandatory review by the Supreme Court of cases where the penalty imposed is reclusion perpetua, life imprisonment, or death, nowhere, however, has it proscribed an intermediate review. If only to ensure utmost circumspection before the penalty of death, reclusion perpetua or life

imprisonment is imposed, the Court now deems it wise and compelling to provide in these cases a review by the Court of Appeals before the case is elevated to the Supreme Court. Where life and liberty are at stake, all possible avenues to determine his guilt or innocence must be accorded an accused, and no care in the evaluation of the facts can ever be overdone. A prior determination by the Court of Appeals on, particularly, the factual issues, would minimize the possibility of an error of judgment. If the Court of Appeals should affirm the penalty of death, reclusion perpetua or life imprisonment, it could then render judgment imposing the corresponding penalty as the circumstances so warrant, refrain from entering judgment and elevate the entire records of the case to the Supreme Court for its final disposition.[15]

Statistics would disclose that within the eleven-year period since the re-imposition of the death penalty law in 1993 until June 2004, the trial courts have imposed capital punishment in approximately 1,493,[16] out of which 907 cases[17] have been passed upon in review by the Court. In the Supreme Court, where these staggering numbers find their way on automatic review, the penalty has been affirmed in only 230 cases comprising but 25.36% of the total number. Significantly, in more than half or 64.61% of the cases, the judgment has been modified through an order of remand for further proceedings, by the application of the Indeterminate Sentence Law or by a reduction of the sentence. Indeed, the reduction by the Court of the death penalty to reclusion perpetua has been made in no less than 483 cases or 53.25% of the total number. The Court has also rendered a judgment of acquittal in sixty-five (65) cases. In sum, the cases where the judgment of death has either been modified or vacated consist of an astounding 71.77% of the total of death penalty cases directly elevated before the Court on automatic review that translates to a total of six hundred fifty-one (651) out of nine hundred seven (907) appellants saved from lethal injection.

Under the Constitution, the power to amend rules of procedure is constitutionally vested in the Supreme Court -

Article VIII, Section 5. The Supreme Court shall have the following powers:

“(5) Promulgate rules concerning the protection and enforcement of constitutional rights, pleading, practice, and procedure in all courts.”

Procedural matters, first and foremost, fall more squarely within the rule-making prerogative of the Supreme Court than the law-making power of Congress. The rule here announced additionally allowing an intermediate review by the Court of Appeals, a subordinate appellate court, before the case is elevated to the Supreme Court on automatic review, is such a procedural matter.

Pertinent provisions of the Revised Rules on Criminal Procedure, more particularly Section 3 and Section 10 of Rule 122, Section 13 of Rule 124, Section 3 of Rule 125, and any other rule insofar as they provide for direct appeals from the Regional Trial Courts to the Supreme Court in cases where the penalty imposed is death, reclusion perpetua or life imprisonment, as well as the resolution of the Supreme Court en banc, dated 19 September 1995, in "Internal Rules of the Supreme Court" in cases similarly involving the death penalty, are to be deemed modified accordingly.

WHEREFORE, the instant case is REMANDED, and all pertinent records thereof ordered to be FORWARDED, to the Court of Appeals for appropriate action and disposition, consistent with the discussions hereinabove set forth. No costs.

### **SO ORDERED.**

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

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[1] Records, p. 1.

[2] Rollo, p. 53.

[3] *People v. Paranzo*, G.R. No. 107800, 26 October 1999 (317 SCRA 367).

[4] TSN, Imelda Mateo, Cross-examination, 16 September 1997, pp. 17-19.

[5] TSN, Imelda Mateo, Cross-examination, 16 September 1997, pp. 4-5.

[6] TSN, Imelda Mateo, Cross-examination, 16 September 1997, pp. 17-18.

[7] TSN, Imelda Mateo, Cross-examination, 14 January 1999, pp. 5-12.

[8] TSN, Imelda Mateo, Cross-examination, 11 May 1999, pp. 22-25.

[9] *People v. Bayron*, G.R. No. 122732, 07 September 1999 (313 SCRA 727); *People v. Ablaneda*, G.R. No. 128075, 14 September 1999 (314 SCRA 334).

[10] ART. 47. In what cases the death penalty shall not be imposed; Automatic Review of death penalty cases. - x x x

In all cases where the death penalty is imposed by the trial court, the records shall be forwarded to the Supreme Court for automatic review and judgment by the court en banc, within twenty (20) days but not earlier than fifteen (15) days after promulgation of the judgment or notice of denial of any motion for new trial or reconsideration. The transcript shall also be forwarded within ten (10) days after the filing thereof by the stenographic reporter.

[11] Sec. 3. How appeal taken. –

x x x x x x x x

(c) The appeal to the Supreme Court in cases where the penalty imposed by the Regional Trial Court is reclusion perpetua or life imprisonment, or where a lesser penalty is imposed but for offenses committed on the same occasion or which arose out of the same occurrence that gave rise to the more serious offense for which the penalty of death, reclusion perpetua, or life imprisonment is imposed, shall be by filing a notice of appeal in accordance with paragraph (a) of this Section.

(d) No notice of appeal is necessary in cases where the death penalty is imposed by the Regional Trial Court. The same shall be automatically reviewed by the Supreme Court as provided in section 10 of this Rule.

[12] Sec. 10. Transmission of records in case of death penalty. - In all cases where the death penalty is imposed by the trial court, the records shall be forwarded to the Supreme Court for automatic review and judgment within five (5) days after the fifteenth (15<sup>th</sup>) day following the promulgation of the judgment or notice of denial of a motion for new trial or reconsideration. The transcript shall also be forwarded within ten (10) days after the filing thereof by the stenographic reporter.

[13] Sec. 13. Quorum of the court; certification or appeal of cases to Supreme Court. - Three (3) Justices of the Court of Appeals shall constitute a quorum for the sessions of a division. The unanimous vote of the three (3) Justices of a division shall be necessary for the pronouncement of a judgment or final resolution, which shall be reached in consultation before the writing of the opinion by a member of the division. In the event that the three (3) Justices can not reach a unanimous vote, the Presiding Justice shall direct the raffle committee of the Court to designate two (2) additional Justices to sit temporarily with them, forming a special division of five (5) members

and the concurrence of a majority of such division shall be necessary for the pronouncement of a judgment or final resolution. The designation of such additional Justices shall be made strictly by raffle and rotation among all other Justices of the Court of Appeals.

Whenever the Court of Appeals finds that the penalty of death, reclusion perpetua, or life imprisonment should be imposed in a case, the court, after discussion of the evidence and the law involved, shall render judgment imposing the penalty of death, reclusion perpetua, or life imprisonment as the circumstances warrant. However, it shall refrain from entering the judgment and forthwith certify the case and elevate the entire record thereof to the Supreme Court for review..

[14] Sec. 3. Decision if opinion is equally divided. - When the Supreme Court en banc is equally divided in opinion or the necessary majority cannot be had on whether to acquit the appellant, the case shall again be deliberated upon and if no decision is reached after re-deliberation, the judgment of conviction of the lower court shall be reversed and the accused acquitted.

[15] In this instance, then, the Supreme Court may exercise its “exclusive appellate jurisdiction” over all cases where the penalty of death, reclusion perpetua or life imprisonment is imposed by lower courts, under applicable laws like Republic Act No. 296 and Batas Pambansa Blg. 129.

[16] As of 06 July 2004, the total number of cases pending in the Supreme Court are as follows:

|                          |      |
|--------------------------|------|
| Death Penalty -----      | 586  |
| Life Imprisonment -----  | 375  |
| Reclusion Perpetua ----- | 1320 |
|                          | 2281 |

The total number of cases certified by the Court of Appeals to the Supreme Court for review are as follows:

|                          |    |
|--------------------------|----|
| Death Penalty -----      | 1  |
| Life Imprisonment -----  | 3  |
| Reclusion Perpetua ----- | 28 |
|                          | 32 |

[17] As per report from the Judicial Records Office of the Supreme Court, the following are the data as of 08 June 2004:

|                                                        |     |
|--------------------------------------------------------|-----|
| DISMISSED due to death of the Accused-Appellants ----- |     |
|                                                        | 26  |
| AFFIRMED -----                                         |     |
|                                                        | 230 |

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