

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. FLORENTINO ESCULTOR, APPELLANT.

G.R. Nos. 149366-67. May 27, 2004

Ponente: CARPIO, J.

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CARPIO, J.:

The Case

Before this Court for automatic review is the Decision[1] dated 5 June 2001 of the Regional Trial Court of Barili, Cebu, Branch 60 (“trial court”), in Criminal Case Nos. CEB-BRL-478 and CEB-BRL-479. The trial court found Florentino Escultor (“appellant”) guilty beyond reasonable doubt of two counts of statutory rape. The dispositive portion of the decision reads:

JUDGMENT is therefore rendered declaring the accused, FLORENTINO ESCULTOR, GUILTY of STATUTORY RAPE and is hereby sentenced to suffer the penalty of Death for each of two (2) counts rape (sic). The accused is further ordered to pay the victim the sum of P100,000.00 as civil indemnity.

SO ORDERED.[2]

The Charges

The prosecution charged appellant with two counts of rape committed against the daughter of his common-law wife. The Informations read:

In Criminal Case No. CEB-BRL-478:

That sometime in the year 1995, at Sitio Canlatumbo, Barangay Giloctog, Municipality of Barili, Province of Cebu, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused who is the step father of the victim, with lewd design and by means of force and intimidation, did then and there willfully, unlawfully and feloniously lie and succeed in having carnal knowledge with Jenelyn Alcontin, a minor who is only seven (7) years of age, against her will and consent.

CONTRARY TO LAW.[3]

In Criminal Case No. CEB-BRL-479:

That on the 13th day of January, 2000, at Sitio Canlatumbo, Barangay Giloctog, Municipality of Barili, Province of Cebu, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused who is the step father of the victim, with lewd design and by means of force and intimidation, did then and there willfully, unlawfully and feloniously lie and succeed in having carnal knowledge with Jenelyn Alcontin, a minor who is only eleven (11) years of age, against her will and consent.[4]

Arraignment and Plea

When arraigned on 18 July 2000, appellant, with the assistance of counsel, pleaded not guilty to the charges.[5] Joint trial of the cases followed.

The Trial

Version of the Prosecution

The prosecution presented two witnesses: the victim Jenelyn Alcontin or Jennylyn Manansad Lomaino (“Jenelyn”)[6] and Dr. Noli Yap (“Dr. Yap”), the municipal health officer who conducted the physical examination on Jenelyn.

In the People’s Brief, the Solicitor General summarized the prosecution’s version of the two incidents as follows:

Sometime in 1995, Jenelyn Alcontin (private complainant), then 7 years old, was lying on the floor of their house in Sitio Canlatumbo, Giloctog, Barili, Cebu when Florentino Escultor (appellant), common-law husband of private complainant’s mother Linda Alcontin, undressed her (at the time, Linda was out of the house). After removing all her clothing, appellant, who was already naked, placed himself on top of her and forcibly inserted his organ on her vagina. Private complainant cried. After ejaculating, appellant warned her not to reveal the incident to anyone otherwise he would kill her (TSN, February 8, 2001, pp. 3-4).

The incident was repeated in the morning of January 13, 2000 (at the time, private complainant’s mother and younger brother was (sic) in the market buying corn grits). While the private complainant was inside the house, appellant asked her to remove his moustache. Private complainant complied (private complainant was then 11 years old) (TSN, February 8, 2001, p. 7).

After shaving his moustache, appellant ordered the private complainant to sleep as he would follow her mother to the market (ibid). After a while, appellant returned (ibid).

Private complainant was lying on the floor when appellant sat beside her. He pulled off his pants and ordered her to undress. When private complainant ignored him, appellant forcibly removed her clothes (TSN, February 8, 2001, p. 8).

After undressing her, appellant thrust his genital organ toward her private part and made successive pumping motions. After ejaculating, appellant threatened private complainant with harm should she divulge the incident to anyone (TSN, February 8, 2001, pp. 8-9; February 22, 2001, p. 8).

Unable to bear anymore appellant’s bestiality, private complainant confided her ordeal to her elder brother Jerry (private complainant’s half-brother from her mother’s first marriage). Her brother immediately accompanied her to the DSWD. Said office helped the private complainant in filing the complaint against the appellant (TSN, February 8, 2001, p. 9; February 22, 2001, p. 5).

The medical examination of appellant showed the presence of an old healed hymenal laceration. The examining physician concluded that the private complainant could have been raped in 1995. It is also possible that the sexual assault was repeated in 2000 (TSN, October 12, 2000, pp. 3-4).[7]

Version of the Defense

The defense presented appellant as its only witness. The Public Attorney summarized appellant’s testimony as follows:

FLORENTINO ESCULTOR testified that he is innocent of the charges imputed against him. He knew the complainant personally because she is the daughter of his common-law-wife. He had an agreement with her mother that he can instill discipline on the complainant whenever she commits any wrong. There were instances that he used a broom or a piece of wood or stick in hitting the complainant. Every time, he would discipline the complainant, she would run away from home.

He learned that a certain Montano brought the complainant to the Municipal Hall and then charges were filed against him. (TSN, March 8, 2001, pp. 1-4)[8]

The Trial Court’s Judgment

The trial court found Jenelyn's testimony positive, credible, spontaneous and straightforward. The trial court was fully convinced that she was telling the truth when she testified in court. On the other hand, the trial court found appellant's denial unworthy of belief. The trial court held that appellant committed statutory rape since the prosecution established that appellant had sexual intercourse with the victim who was below twelve (12) years old. In imposing the death penalty, the trial court considered appellant's live-in relationship with the victim's mother coupled with the victim's age as attendant circumstances.

Issues

Appellant seeks the reversal of his conviction on the following grounds:

I

THE COURT A QUO GRAVELY ERRED IN CONVICTING APPELLANT IN CRIM. CASE NO. CEB-BRL-478 DESPITE THE DENIAL OF HIS RIGHT TO DUE PROCESS.

II

THE COURT A QUO GRAVELY ERRED IN CONVICTING APPELLANT OF THE CRIME OF RAPE IN CRIM. CASE NO. CEB-BRL-479 DESPITE LACK OF SPECIFIC DETAILS ON HOW APPELLANT COMMITTED THE RAPE.

III

THE COURT A QUO GRAVELY ERRED IN IMPOSING THE SUPREME PENALTY OF DEATH FOR EACH COUNT OF RAPE DESPITE THE FACT THAT THE INFORMATIONS WERE DEFECTIVE.[9]

The Court's Ruling

The Court has reviewed the records of this case and has found appellant's contentions partly meritorious. An appeal in a criminal case opens the entire case for review on any question, including one not raised by the parties.[10]

Allegation of Exact Date or Month in the Information

Appellant points out that the first information merely alleged that appellant committed the rape in 1995. There was no mention of the exact date or at least the month the incident happened. Appellant contends that as a result, he had no opportunity to defend himself of the rape allegedly committed in that year because the information did not specify the date. He could not interpose the defense of alibi for the whole year of 1995.

This contention is untenable.

Rule 110 of the Rules of Court (before the amendment by the Rules on Criminal Procedure that took effect on 1 December 2000) provides:

Sec. 11. Time of the commission of the offense. – It is not necessary to state in the complaint or information the precise time at which the offense was committed except when time is a material ingredient of the offense, but the acts may be alleged to have been committed at any time as near to the actual date at which the offense was committed as the information or complaint will permit.

We have repeatedly held that the date of the commission of rape is not an essential element of the crime.[11] It is not necessary to state the precise time when the offense was committed except when time is a material ingredient of the offense. In statutory rape, time is not an essential element.[12] What is important is that the information alleges that the victim was a minor under twelve years of age and that the accused had carnal knowledge of her, even if the accused did not use force or intimidation on her or deprived her of reason.

The allegation in the first information in CEB-BRL-478 that appellant committed the rape "sometime in the year 1995" was sufficient to inform appellant that he was being charged of rape of a child who was 7 years old. The

allegation adequately afforded appellant an opportunity to prepare his defense. Thus, in *People v. Espejon*,^[13] the Court convicted the accused of rape under an information charging him with rape perpetrated “sometime in the year 1982 and dates subsequent thereto” and “sometime in the year 1995 and subsequent thereto.” Thus, appellant in the present case cannot complain that he was deprived of his right to be informed of the nature of the accusation against him.

The time of the commission of the crime assumes importance only when it creates serious doubt on the commission of the rape or the sufficiency of the evidence for purposes of conviction.^[14] The date of the commission of the rape becomes relevant only when the accuracy and truthfulness of the victim’s narration almost hinge on the date of the commission of the crime.^[15] In this case, the defense raised by appellant is plainly denial. However, there is no dispute that when the alleged first rape occurred in 1995, appellant was living with Jenelyn’s mother and Jenelyn in one house. Appellant himself testified that they were all living in one house since 1989.^[16] Thus, the veracity of the rape charge is not dependent on the time of the commission of the offense but on Jenelyn’s credibility. The trial court considered the following testimony of Jenelyn on the 1995 rape incident as believable and truthful:

Q:

What did Florentino Escultor do to you in 1995 as contained in the information?

A:

He abused me.

Q:

To be specific how it was done by Florentino Escultor when you said you were abused by him?

A:

I was raped by him.

Q:

How did Florentino Escultor raped (sic) you?

A:

While I was lying he undressed me.

Q:

And upon being undress (sic) what did Florentino Escultor do to you?

A:

He placed himself on top of me.

Q:

What other thing did he do to you?

A:

I was then molested.

Q:

How did Florentino Escultor molest you?

A:

He also undressed himself.

Q:

You mean you were naked so do with (sic) Florentino Escultor?

A:

Yes sir.

Q:

Did he Florentino Escultor succeeded (sic) in his lewd desire?

A:

Yes.

Q:

According to you, you were molested and Florentino Escultor succeeded in his intention to rape you. After that did he tell you anything if any?

A: He told me not to tell to anybody about what he had done to me.

Q: How did you know that Florentino Escultor succeeded in his intention to rape you?

A: He inserted his penis to my sexual organ.

Q: How did you know that the penis of Florentino Escultor was inserted to your sex organ?

A: Because I was awaken.

Q: And what did you feel during that particular time when the organ of Florentino Escultor was inserted to your vagina?

A: I felt pain.

Q: Did you not shout for help?

A: No, because Florentino Escultor told me not to shout and he will kill me if I will do.

Q: Where was your mother during that time?

A: She was out of home working.

Q: Where was your mother working?

A: At Poblacion, Barili, Cebu.

Q: What time was that in 1995 when Florentino Escultor molested you?

A: In the evening.

Q: Can you estimate the time?

A: I could no longer recall.

Q: In 1995 you were sexually abused by Florentino Escultor by inserting his penis to your sex organ, where did this incident happen?

A: At Latumbo, Barili.

Q: In what particular place?

A: At the house.

Q: The same house where your mother and Florentino Escultor were living?

A: Yes, sir.

Q: Do you have brothers and sisters?

A: Yes.

Q: How old were they?

A: I do not know because they are living in Iligan.[17]

When it comes to credibility, the trial court's assessment deserves great weight, and is even conclusive and binding, if not tainted with arbitrariness or oversight of some fact or circumstance of weight and influence.[18] The reason is obvious. Having the full opportunity to observe directly the witnesses' deportment and manner of testifying, the trial court is in a better position than the appellate court to evaluate properly testimonial evidence.[19] Appellant has not given us any reason, and we find none, to depart from or give exception to this principle.

Testimony of Victim is Lacking in Details

Appellant argues that the prosecution failed to prove the second rape beyond reasonable doubt. Appellant points out that Jenelyn's testimony on what transpired on 13 January 2000 was nothing but a mere general narration without specifically telling the chain of events. There was even no mention of penetration or the insertion of appellant's penis in her vagina.

Jenelyn testified on direct examination as follows:

Q:

Another information for rape against Florentino Escultor which refer to an incident on January 13, 2000, where did this incident happen?

A:

Also at Giloctog, Barili.

Q: In what particular place?

A: Also at the house.

Q: You mean the same house where the first incident happen?

A: In a different house.

Q: Who owns that house?

A: It was owned by Florentino Escultor.

Q: And during that date on Jan. 13, 2000 you were living at that house?

A: Yes sir.

Q: How many are you living at that house?

A: The four (4) of us.

Q: You mean you, your mother and Florentino Escultor?

A: With my younger brother.

Q: How old is your younger brother?

A: He was then six (6) years old when the incident happen.

Q: What is the name of your brother?

A: Jr. Escultor.

Q: Who is the father of Jr. Escultor?

A: Florentino Escultor.

Q: And the mother is your mother?

A: Yes sir.

Q: You claimed that you were abused by Florentino Escultor on Jan. 13, 2000 were was your mother at that time?

A: She was in the market buying corn grits.

Q: How about your younger brother, where was he?

A: He was together with my mother.

Q: Who was left in the house?

A: Me and Florentino Escultor.

Q: What were you doing at that time?

A: I was told by Florentino Escultor to pull up his moustache.

Q: Can you recall what time was that?

A: About 9:00 o'clock in the morning.

Q: What did he (Florentino Escultor) do to you on Jan. 13, 2000 at 9:00 o'clock in the morning, while you were pulling his moustache?

A: After that he told me to sleep because he will follow my mother.

Q: In effect, did Florentino Escultor follow your mother?

A: No.

Q: And what did he do instead of following your mother?

A: After I laid on the floor, Florentino Escultor placed himself on top of me.

Q: Was he dressed when he placed himself on top of you?

A: He was wearing shirt but he pulled off his pants.

Q: How about you, were you naked?

A: I have my dress.

Q: What did Florentino Escultor do to you?

A: He commanded me to undress but I did not obey so he undress (sic) me because at that time my mother was about to arrive.

Q: Can you tell if during that time Florentino Escultor was able to commit the sexual act to you?

A: Yes sir.

Q: Can you tell if there was push and pull move (sic)?

A: Yes sir.

Q: And what did you feel?

A: I cried because of pain.

Q: Why did you not tell Florentino Escultor to stop?

A: I did not tell him to stop because I was afraid.

Q: Did you not shout for help?

A: I did not.[20]

On continuance, Jenelyn's testimony established that appellant succeeded in sexually abusing her. She testified:

Q:

During the first rape which an information was filed in March 21, 2000 regarding an incident that happen (sic) in the year 1995 when you were still seven (7) years old and during that time you were threatened, can you remember if the organ of Florentino Escultor was actually inserted to your sex organ?

A:

Yes sir.

Q:

And the same is true also on the second information on Jan. 13, 2000 when you were eleven (11) years old when you were also actually raped the organ of Florentino Escultor was actually inserted to your sex organ?

A:

Yes sir.[21](Emphasis supplied)

Jenelyn testified that appellant placed himself on top of her while she was lying on the floor. He pulled off his pants and undressed Jenelyn. Appellant made push and pull movements at which point Jenelyn cried because she felt pain. When asked by the prosecutor whether “the organ of appellant was actually inserted into her sex organ,” Jenelyn replied “Yes.”

A question that suggests to the witness the answer, which the examining party wants, is a leading question.[22] As a rule, leading questions are not allowed. However, the rules provide for exceptions when the witness is a child of tender years[23] as it is usually difficult for such child to state facts without prompting or suggestion.[24] Leading questions are necessary to coax the truth out of their reluctant lips.[25] The prosecutor asked leading questions to Jenelyn as she was young and unlettered, making the recall of events difficult, if not uncertain. Jenelyn was only 11 years old the second time appellant sexually assaulted her and 12 years old when she testified in court. Her educational attainment is only Grade 1.[26] As explained in *People v. Daganio*: [27]

The trend in procedural law is to give wide latitude to the courts in exercising control over the questioning of a child witness. The reasons are spelled out in our Rule on Examination of a Child Witness, which took effect on December 15, 2000, namely, (1) to facilitate the ascertainment of the truth, (2) to ensure that questions are stated in a form appropriate to the developmental level of the child, (3) to protect children from harassment or undue embarrassment, and (4) avoid waste of time. Leading questions in all stages of examination of a child are allowed if the same will further the interests of justice.

Although Jenelyn’s testimony was not perfect in all details, it bore the earmarks of truth. She was not sophisticated enough to fabricate the crime of rape against her mother’s live-in partner. The revelation of a young and innocent child whose chastity was abused deserves full credit.[28] Surely, Jenelyn would not concoct a story of defloration, allow the examination of her private parts and expose herself to the humiliation of a public trial if she was not motivated solely by a desire to vindicate her honor. As the Court has stressed in numerous cases, when a woman or a child victim says that she has been raped, she in effect says all that is necessary to show that rape was indeed committed.[29] At any rate, if the defense wanted to object on the ground that leading questions were being asked the victim, they could have done so. However, they did not. Thus, appellant waived the defense based on this ground.

Lastly, appellant contends that the doctor who examined Jenelyn only a week after the alleged second rape on 13 January 2000 testified that the laceration was already old, which shows that no rape was committed on that date. In crimes against chastity, the medical examination of the victim’s genitalia is not a necessary element for the successful prosecution of the crime. The examination is merely corroborative in nature.[30] The fact that Dr. Yap did not find fresh lacerations when he examined Jenelyn a week after the alleged commission of the second rape does not negate rape. Absence of fresh hymenal lacerations does not disprove sexual abuse especially when the victim is a child.[31] To prove rape, it is sufficient that the penis touched the labia of the pudendum of the victim.[32]

In his defense, appellant merely denied raping Jenelyn. Appellant insinuates that the charges were filed because he punishes the children of Linda Alcontin, including Jenelyn, to discipline them. Denial is an intrinsically weak defense, which the accused must buttress with strong evidence of non-culpability to merit credibility.[33] Appellant did not even attempt to corroborate any material allegation in his testimony. A mere denial constitutes negative evidence, which does not deserve greater evidentiary weight than the declaration of a credible witness who testifies on affirmative matters.[34]

Penalty and Damages

The trial court convicted appellant under Article 335 of the Revised Penal Code, as amended by Republic Act No. 7659[35] and Republic Act No. 8353,[36] which reads:

Article 266-A. Rape; When And How Committed. – Rape is Committed -

1) By a man who shall have carnal knowledge of a woman under any of the circumstances:

x x x.

d) When the offended party is under twelve (12) years of age or is demented, even though none of the circumstances mentioned above is present.

x x x.

Article 266-B. Penalties. - x x x.

x x x.

The death penalty shall also be imposed if the crime of rape is committed with any of the following aggravating/qualifying circumstances:

1) When the victim is under eighteen (18) years of age and the offender is a parent, ascendant, step-parent, guardian, relative by consanguinity or affinity within the third civil degree, or the common-law spouse of the parent of the victim;

x x x.

We hold that the trial court correctly found appellant guilty of two (2) counts of statutory rape. The prosecution established Jenelyn's age during the trial with the presentation of her birth certificate showing that she was born on 15 July 1988. Hence, when appellant raped Jenelyn in 1995, she was only 7 years old. When appellant raped her a second time on 13 January 2001, she was 11 years old. Where the victim is below 12 years of age, violence or intimidation is not required, and the only subject of inquiry is whether "carnal knowledge" took place.[37] Proof of force, intimidation or consent is unnecessary, not only because force is not an element of statutory rape, but the absence of free consent is conclusively presumed when the victim is below the age of twelve.[38]

Nevertheless, the death penalty is not the correct penalty for the two counts of rape committed by appellant because the two informations in Criminal Case Nos. CEB-BRL-478 and CEB-BRL-479 failed to correctly state appellant's relationship with Jenelyn. To justify the death penalty, the prosecution must specifically allege in the information and prove during the trial the qualifying circumstances of the minority of the victim and her relationship to the offender.[39] The information must jointly allege these qualifying circumstances to afford the accused his right to be informed of the nature and cause of the accusation against him.[40] Sections 8[41] and 9[42] of Rule 110 of the Revised Rules of Criminal Procedure expressly mandate that the qualifying circumstance should be alleged in the information.

Although the prosecution proved that appellant was the common-law spouse of Jenelyn's mother, what appears in the informations is that the victim is the stepdaughter of appellant. A stepdaughter is the daughter of one's spouse by a previous marriage.[43] For appellant to be the stepfather of Jenelyn, he must be legally married to Jenelyn's mother. However, appellant and the victim's mother were not legally married but merely lived in common-law relation. The two informations failed to allege specifically that appellant was the common-law spouse of the victim's mother. Instead, the two informations erroneously alleged the qualifying circumstance that appellant was the stepfather of the victim. Hence, appellant is liable only for two counts of simple statutory rape punishable with reclusion perpetua for each count.

Lastly, we affirm the trial court's award of civil indemnity of P100,000 or P50,000 for each of the two counts of simple statutory rape in accordance with recent case law.^[44] In addition, appellant shall pay the victim P100,000 in moral damages or P50,000 for each count of rape, which are awarded to rape victims without need of pleading or proof of its basis.

WHEREFORE, the Decision dated 5 June 2001 of the Regional Trial Court of Barili, Cebu, Branch 60, in Criminal Case Nos. CEB-BRL-478 and CEB-BRL-479 is MODIFIED. Appellant Florentino Escultor is found guilty of two (2) counts of SIMPLE RAPE. He is sentenced to suffer the penalty of reclusion perpetua for each count of rape. He is also ordered to pay the victim, Jenelyn Alcontin, P100,000 as civil indemnity and P100,000 as moral damages for the two counts of rape.

SO ORDERED.

Vitug (Acting Chief Justice), Panganiban, Quisumbing, Ynares-Santiago, Sandoval-Gutierrez, Austria-Martinez, Corona, Carpio Morales, Callejo, Sr., Azcuna, and Tinga, JJ., concur.
Davide, Jr., C.J., and Puno, J., on official leave.

[1] Penned by Judge Ildefonso B. Suerte.

[2] Rollo, p. 59.

[3] Records, pp. 1-2.

[4] Ibid., pp. 3-4.

[5] Ibid., p. 15.

[6] The Informations identify the victim as Jenelyn Alcontin. The birth certificate presented during the trial shows that the victim is registered under the name Jennylyn Manansad Lomaino. Jenelyn testified in court that Jenelyn Alcontin and Jennylyn Manansad Lomaino are one and the same person. She explained that her mother is Erlinda Manansad Lomaino while her mother's first husband was surnamed Alcontin. Thus, she sometimes uses her mother's maiden name or that of her mother's first husband.

[7] Rollo, pp. 73-76.

[8] Ibid., p. 43.

[9] Ibid., pp. 39-40.

[10] *People v. Mataro*, G.R. No. 130378, 8 March 2001, 354 SCRA 27.

[11] *People v. Hilet*, G.R. Nos. 146685-86, 30 April 2003; *People v. Garcia*, G.R. No. 117406, 16 January 2001, 349 SCRA 67; *People v. Alba*, 365 Phil. 365 (1999).

[12] *People v. Awing*, G.R. Nos. 133919-20, 19 February 2001, 352 SCRA 188.

[13] 427 Phil. 672 (2002).

[14] *People v. Cantomayor*, G.R. No. 145522, 5 December 2002, 393 SCRA 504.

[15] Ibid.

[16] TSN dated 8 March 2001, p. 2.

[17] TSN dated 8 February 2001, pp. 14-17.

[18] *People v. Narido*, 374 Phil. 489 (1999).

[19] *Ibid.*

[20] TSN dated 8 February 2001, pp. 18-21.

[21] TSN dated 22 February 2001, pp. 7-8.

[22] Section 10, Rule 132 (as amended effective July 1, 1989) of the Revised Rules of Court provides:

“SEC. 10. Leading and misleading questions. -- A question which suggests to the witness the answer which the examining party desires is a leading question. It is not allowed, except:

(a) x x x (b) x x x (c) When there is difficulty in getting direct and intelligible answers from a witness who is ignorant, or a child of tender years, or is of feeble mind, or a deaf-mute; x x x.”

[23] *Ibid.*

[24] *People v. Perez*, G.R. No. 142556, 5 February 2003, 397 SCRA 12.

[25] *Ibid.*

[26] TSN dated 7 December 2000, p. 8.

[27] 425 Phil. 186 (2002).

[28] *People v. Narido*, *supra*, see note 18.

[29] *Supra*, see note 27.

[30] *People v. Aspuria*, G.R. Nos. 139240-43, 12 November 2002, 391 SCRA 404.

[31] *People v. Llanita*, 416 Phil. 921 (2001).

[32] *Ibid.*

[33] *People v. Hivela*, 373 Phil. 600 (1999).

[34] *Ibid.*

[35] Effective 31 December 1993.

[36] Effective 22 October 1997.

[37] *People v. Rote*, G.R. No. 146188, 11 December 2003.

[38] *Ibid.*

[39] *People v. Santos*, G.R. No. 145305, 26 June 2003.

[40] *People v. Rata*, G.R. Nos. 145523-24, 11 December 2003.

[41] SECTION 8. Designation of the Offense. — The complaint or information shall state the designation of the offense given by the statute, aver the acts or omissions constituting the offense, and specify its qualifying and aggravating circumstances. If there is no designation of the offense, reference shall be made to the section or subsection of the statute punishing it. (8a)

[42] SECTION 9. Cause of the Accusation. — The acts or omissions complained of as constituting the offense and the qualifying and aggravating circumstances must be stated in ordinary and concise language and not necessarily in the language used in the statute but in terms sufficient to enable a person of common understanding to know what offense is being charged as well as its qualifying and aggravating circumstances and for the court to pronounce judgment. (9a)

[43] *People v. Hilet*, G.R. Nos. 146685-86, 30 April 2003.

[44] *People vs. Bato*, 382 Phil. 558 (2000).

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