328 Phil. 1123

THIRD DIVISION

[G.R. No. 108028, July 30, 1996]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. CRISTINA M. HERNANDEZ, ACCUSED-APPELLANT.

D E C I S I O N

FRANCISCO, J.:

Accused-appellant Cristina Hernandez was charged with the crime of illegal recruitment committed in large scale in violation of Article 38 (a) and (b) in relation to Article 13 (b) and (c) of the New Labor Code,[1] committed as follows:

> "That in or about and during the period comprised between December 14, 1988 to December 24, 1988, inclusive in the City of Manila, Philippines, the said accused representing herself to have the capacity to contract, enlist and transport Filipino workers for employment abroad, did then and there willfully and unlawfully for a fee, recruit and promise employment/job placement abroad to the following persons to wit: **ROGELIO N. LEGASPI, ULDARICO P. LEGASPI, SONNY P. BERNABE, ARNEL B. MENDOZA, BENITO L. BERNABE, ARNOLD P. VALENZUELA, ARMANDO P. PAGULAYAN, GREGORIO P. MENDOZA, JR., RONALD T. CORREA, DANILO PALAD and ROBERT P. VELASQUEZ** (hereinafter known as private complainants) without first having secured the required license or authority from the POEA."[2] (underscoring supplied.)

Upon arraignment, appellant pleaded not guilty and trial on the merits ensued. Of the fourteen (14) private complainants, four (4) were presented as witnesses for the prosecution, namely: Benito L. Bernabe, Robert P. Velasquez, Gregorio P. Mendoza and Arnel Mendoza. They testified to the following essential facts: Private complainants' first encounter with the appellant was on December 12, 1988 when one Josefa Cinco accompanied them to the office of the Philippine Thai Association, Inc. (Philippine-Thai) in Ermita, Manila to meet the appellant. Introducing herself as the general manager of Philippine-Thai, appellant asserted that her company recruited workers for placement abroad and asked private complainants if they wanted to work as factory workers in Taipeh. Enticed by the assurance of immediate employment and an $800 per month salary, private complainants applied. Appellant required private complainants to pay placement and passport fees in the total amount of P22,500.00 per applicant, to be paid in three installments, to wit: P1,500 on December 14, 1988, P10,000.00 on December 16, 1988, and P11,000.00 on December 22, 1988. When the complainants-witnesses paid the first two installments, they were issued receipts by Liza Mendoza,

the alleged treasurer of Philippine-Thai signed by the latter in the presence of the appellant. The receipts for the last installment paid by them were signed by Liza Mendoza, and the appellant. After having received the entire amount[3] from the witnesses, appellant assured them that they would be able to leave for Taipeh sometime before the end of December, 1988. But contrary to appellant's promise, complainants-witnesses were unable to leave for abroad. They demanded for the return of their money but to no avail. Appellant's unfulfilled promise of employment and her refusal to return the money that had been paid by way of placement and passport fees, triggered the filing of the complaint.

For its part, the defense presented as its lone witness, the appellant whose testimony consisted mainly in denying the charges against her. Appellant claimed that she never met any of the complainants nor did she ever recruit any of them. She likewise denied having received money from anyone and asserted that she did not know any Liza Mendoza who is the alleged treasurer of Philippine-Thai. Appellant maintained that although she had an office in Ermita Building located at Arquiza Street, Ermita, Manila, the said office belonged to B.C. Island Wood Products Corporation which was engaged in the logging business. However, when questioned further, appellant admitted being the president of Philippine-Thai but only in a nominal capacity, and claimed that as nominee-president, she did not participate in any of its transactions. Appellant likewise insisted that Philippine-Thai was engaged solely in the barong tagalog business.

After careful calibration of the evidence presented by the prosecution and the defense, the court *a quo* rendered a decision holding that the defense of "denial" interposed by the accused could not prevail over the positive and clear testimonies of the prosecution witnesses which had established the guilt of the accused beyond reasonable doubt.[4] The dispositive portion of the decision reads:

> "WHEREFORE, premises considered, this Court hereby finds that the accused CRISTINA HERNANDEZ, (sic) guilty beyond reasonable doubt of the crime of illegal recruitment, committed in large scale, as defined in Article 38(a) & (b) of Presidential Decree No. 1412, x x x in relation to Article 13 (b) and (c) x x x, accordingly, sentences the accused to suffer the penalty of life imprisonment (RECLUSION PERPETUA) with the accessory penalties provided for by law; to pay a fine of ONE HUNDRED THOUSAND (P100,000.00) PESOS without subsidiary imprisonment in case of insolvency; to return and pay to BENITO L. BERNABE the amount of TWENTY EIGHT THOUSAND AND FIVE HUNDRED (P28,500.00) PESOS; to ROBERT P. VELASQUEZ the amount of TWENTY TWO THOUSAND AND FIVE HUNDRED (P22,500.00) PESOS; to GREGORIO P. MENDOZA the amount of TWENTY TWO THOUSAND FIVE HUNDRED (P22,500.00) PESOS; to ARNEL MENDOZA the amount of TWENTY TWO THOUSAND FIVE HUNDRED (P22,500.00) PESOS also without subsidiary imprisonment in case of insolvency; and to pay the costs.
>
> SO ORDERED.

Manila, Philippines, November 29, 1991."[5]

Appellant comes to this Court for the reversal of the judgment of conviction assigning the following errors against the lower court:

I

THE TRIAL COURT ERRED IN FINDING THE ACCUSED "LIABLE OF (sic) ILLEGAL RECRUITMENT COMMITTED IN A LARGE SCALE AND BY A SYNDICATED (sic)" FOR HAVING "MAINTAINED OFFICE WITHOUT LICENSE OR REGISTRATION FROM THE DEPARTMENT OF LABOR, THRU ITS OFFICE, THE PHILIPPINE OVERSEAS EMPLOYMENT ADMINISTRATION (POEA)."

II

THE TRIAL COURT ERRED IN TAKING JUDICIAL NOTICE OF THE "FACT THAT ACCUSED CRISTINA M. HERNANDEZ HAD BEEN CHARGED x x x OF ANOTHER ILLEGAL RECRUITMENT x x x DOCKETED AS CRIMINAL CASE NO. 88-62599" AND IN CONSIDERING THE PENDENCY THEREOF AS EVIDENCE OF THE "SCHEME AND STRATEGY ADOPTED BY THE ACCUSED x x x AND PRACTICED WITH THE HELP OF HER AGENTS AND OTHER PERSONS WORKING UNDER THE SHADE OF HER PROTECTION."

III

THE TRIAL COURT ERRED IN NOT GIVING CREDENCE OR WEIGHT TO THE DEFENSE OF THE ACCUSED.[6]

The first assignment of error is anchored on the contention that the prosecution failed to prove one of the essential elements of the crime of illegal recruitment -- that the offender is a non-licensee or non-holder of authority to lawfully engage in the recruitment and placement of workers.[7] The aforementioned element, specifically the fact that neither appellant nor Philippine-Thai was licensed or authorized to recruit workers as shown by the records of the POEA, was the subject of a stipulation proposed by the prosecution and admitted by the defense during trial. Appellant assails as erroneous the reliance placed by the prosecution on the said stipulation of facts in dispensing with the presentation of evidence to prove the said element of the crime of illegal recruitment. Appellant argues that: (1) the stipulation of facts was not tantamount to an admission by the appellant of the fact of non-possession of the requisite authority or license from the POEA, but was merely an admission that the Chief Licensing Officer of the POEA, if presented in court, would testify to this fact, and (2) the stipulation of facts is null and void for being contrary to law and public policy. Appellant posits the foregoing arguments to bolster her contention that the stipulation of facts did not relieve the prosecution of its duty to present evidence to prove all the elements of the crime charged to the end that the guilt of the accused may be proven beyond reasonable doubt.

At the outset, it should be said that the above contention and the arguments are

insignificant in view of the fact that records disclose that the prosecution had in fact presented evidence to prove the said element of the crime of illegal recruitment. "EXHIBIT I", a certification issued by the Chief Licensing Branch of the POEA, attesting to the fact that neither appellant nor Philippine-Thai is licensed/authorized to recruit workers for employment abroad, was offered and admitted in evidence without the objection of the appellant.[8]

Although appellant's arguments find no significant bearing in the face of the existence of "EXHIBIT I", they nonetheless require deeper scrutiny and a clear response for future application. Hence, the following discussion.

Appellant correctly distinguishes between an admission that a particular witness if presented in court would testify to certain facts, and an admission of the facts themselves. According to the appellant, what was stipulated on between the prosecution and defense counsel at the hearing on June 6, 1990 was "merely that the testimony of the Chief Licensing Officer of the POEA would be to the effect that appellant is not licensed nor authorized to recruit workers",[9] Thus:

> "Prosecutor
>
> x x x Before we call on our first witness, we propose some stipulations regarding the testimony of the Chief Licensing Branch of the POEA -- that Cristina Hernandez is not a (sic) licensed nor authorized by the Department of Labor to recruit workers abroad.
>
> Court
>
> Would you agree?
>
> Atty. Ulep (Counsel for the Accused): Agreed, Your Honor."[10]

She claims that the foregoing clearly indicate that there was no judicial admission of the fact of non-possession of a license/authority but rather a mere admission that the witness, if presented, would testify to such fact. This being the case, it remained incumbent upon the prosecution to present evidence of such fact. To buttress her position, the following was cited to note the distinction:

> "Suppose a case is set for trial and one of the parties moves for a continuance because of the absence of W, an important witness. His opponent, who is anxious to go to trial; asks what are the facts to which W would testify. The other attorney tells him, adding: 'If I consent to the overruling of my motion, will you stipulate that those are the facts?' The attorney who is pressing for trial says: 'No but I will stipulate that if W were called in this case as a witness, he would so testify.' What is the difference between the two stipulations?
>
> In the first stipulation proposed there is a judicial admission of the facts, and they cannot be contradicted. But the second stipulation proposed will only

> have the same effect as if the witness had testified to the facts. Such testimony the party is free to contradict."[11]

The distinction, though cogent, is unfortunately inapplicable to the case at bar. Conveniently omitted from the appellant's reply brief is the ensuing statement made by the court after counsel for the accused, Atty. Ulep agreed to the stipulation proposed by the prosecution, to wit:

> Atty. Ulep (counsel for the accused): Agreed, Your Honor.
>
> Court
>
> The prosecution and the defense agreed to stipulate/admit that from the record of the POEA Licensing and Regulation Office, Dept. of Labor and Employment, accused Cristina Hernandez/Phil. etc., Ass. x x x is neither licensed nor authorized by that office to recruit workers overseas abroad and that if the duly authorized representative from the POEA Administration is to take the witness stand, he will confirm to this fact as borne by the records. [12] (Underscoring supplied .)

From the foregoing, it is evident that the prosecution and the defense counsel stipulated on two things: that "x x x from the record of the POEA, x x x accused Cristina Hernandez, Phil. etc. Ass. x x x is neither licensed nor authorized by that office to recruit workers for overseas abroad and that if the duly authorized representative from the POEA Administratin (sic) is to take the witness stand, he will confirm to this fact x x x."[13]The claim that the lower court mistakenly interpreted defense counsel's acquiescence to the prosecution's proposed stipulation as an admission of non-possession of the requisite POEA license or authority is belied by the fact that after the above enunciation by the court, no objection was interposed by defense counsel.

Appellant further contends that granting arguendo that defense counsel had in fact agreed to the above stipulation of facts, the same is null and void for being contrary to the well-established rule that a stipulation of facts is not allowed in criminal cases. To bolster this contention, appellant cited the consistent ruling of this Court on the matter. Thus, as held in the case of *U.S. vs. Donato*:[14]

> "Agreements between attorneys for the prosecution and for the defense in criminal cases, by which it is stipulated that certain witnesses, if present, would testify to certain facts prevent a review of the evidence by the Supreme Court and are in violation of the law."[15]

The above ruling was reiterated in a subsequent case where the accused was convicted solely on the basis of an agreement between the fiscal and the counsel for the accused that certain witnesses would testify confirming the complaint in all its parts. In reversing the judgment of conviction, this Court held that:

> "It is neither proper nor permissible to consider a case closed, or to render judgment therein, by virtue of an agreement entered into between the provincial fiscal and the counsel for the accused with reference to facts,

> some of which are favorable to the defense, and others related to the prosecution, without any evidence being adduced or testimony taken from the witnesses mentioned in the agreement; such practice is not authorized and defeats the purposes of criminal law; it is an open violation of the rules of criminal procedure x x x."[16]

The rule prohibiting the stipulation of facts in criminal cases is grounded on the fundamental right of the accused to be presumed innocent until proven guilty, and the corollary duty of the prosecution to prove the guilt of the accused beyond reasonable doubt. It is therefore advanced that the prosecution being duty-bound to prove all the elements of the crime, may not be relieved of this obligation by the mere expedient of stipulating with defense counsel on a matter constitutive of an essential element of the crime charged.

The rationale behind the proscription against this class of agreements between prosecution and defense was enunciated in the case of *U.S. vs. Manlimos:*[17]

> "It is not supposed to be within the knowledge or competence of counsel to predict what a proposed witness shall say under the sanction of his oath and the test of cross-examination. A conviction for crime should not rest upon mere conjecture. Nor is it possible for a trial court to weigh with exact nicety the contradictory declaration of witnesses not produced so as to be subjected to its observation and its judgment as to their credibility."[18]

However, in the light of recent changes in our rules on criminal procedure, particularly the pre-trial provisions found in Rule 118, the prohibition against a stipulation of facts in criminal cases no longer holds true. Rule 118 provides the following:

> "Section 1. Pre-trial; when proper -- To expedite trial, where the accused and counsel agree, the court shall conduct a pre-trial conference on the matters enunciated in Section 2 hereof, without impairing the rights of the accused.
>
> Sec. 2 Pre-trial conference; subjects x x x The pre-trial conference shall consider the following:
>
> (a) Plea bargaining;
>
> (b) Stipulation of facts;
>
> x x x x x x x x x"(underscoring supplied)

By virtue of the foregoing rule, a stipulation of facts in criminal cases is now expressly sanctioned by law. In further pursuit of the objective of expediting trial by dispensing with the presentation of evidence on matters that the accused is willing to admit, a stipulation of facts should be allowed not only during pre-trial but also and with more reason, during trial proper itself. Parenthetically, although not expressly sanctioned under the old rules of court, a stipulation of facts by the parties in criminal cases has long been allowed and recognized as declarations constituting judicial admissions,

hence, binding upon the parties. In the case of *People vs. Mapa*[19] where the accused was charged with illegal possession of firearms, the prosecution and the defense stipulated on the fact that the accused was found in possession of a gun without the requisite permit or license. More at point is the case of *People vs. Bocar*[20] wherein the fiscal proposed the admission by the accused of the affidavits and other exhibits already presented by the prosecution to dispense with oral testimonies on the matter. Holding that the admissions made by the parties were binding, this Court stated that:

> "x x x [T]here is nothing unlawful or irregular about the above procedure. The declarations constitute judicial admissions, which are binding on the parties, by virtue of which the prosecution dispensed with the introduction of additional evidence and the defense waived the right to contest or dispute the veracity of the statements contained in the exhibits."[21] (underscoring supplied .)

American jurisprudence has established the acceptability of the practice of stipulating during the trial of criminal cases, and categorically stated in *People vs. Hare*[22] that:

> "That record discloses that the defense counsel stipulated to what certain witnesses would testify if they were present in court. x x x
>
> x x x The defendant contends that it was error for his counsel to make these stipulations. This court has held that an accused may by stipulation waive the necessity of proof of all or any part of the case which the people have alleged against him and that having done so, he cannot complain in this Court of evidence which he has stipulated into the record.[23]

The corollary issue left for the determination of this Court is whether or not Section 4 of Rule 118 -- requiring an agreement or admission made or entered during the pre-trial conference to be reduced in writing and signed by the accused and his counsel before the same may be used in evidence against the accused -- equally applies to a stipulation of facts made during trial. We resolved this issue in the negative.

A stipulation of facts entered into by the prosecution and defense counsel during trial in open court is automatically reduced into writing and contained in the official transcript of the proceedings had in court. The conformity of the accused in the form of his signature affixed thereto is unnecessary in view of the fact that: "x x x an attorney who is employed to manage a party's conduct of a lawsuit x x x has prima facie authority to make relevant admissions by pleadings, by oral or written stipulation, x x x which unless allowed to be withdrawn are conclusive."[24] (underscoring supplied.) In fact, "judicial admissions are frequently those of counsel or of the attorney of record, who is, for the purpose of the trial, the agent of his client. When such admissions are made x x x for the purpose of dispensing with proof of some fact, x x x they bind the client, whether made during, or even after, the trial."[25]

The foregoing find basis in the general rule that a client is bound by the acts of his counsel who represents him.[26] For all intents and purposes, the acts of a lawyer in

the defense of a case are the acts of his client. The rule extends even to the mistakes and negligence committed by the lawyer except only when such mistakes would result in serious injustice to the client.[27] No cogent reason exists to make such exception in this case. It is worth noting that Atty. Ulep, appellant's counsel in the lower court, agreed to the stipulation of facts proposed by the prosecution not out of mistake nor inadvertence, but obviously because the said stipulation of facts was also in conformity to defense's theory of the case. It may be recalled that throughout the entire duration of the trial, appellant staunchly denied ever having engaged in the recruitment business either in her personal capacity or through Philippine-Thai. Therefore, it was but logical to admit that the POEA records show that neither she nor Philippine-Thai was licensed or authorized to recruit workers.

It is true that the rights of an accused during trial are given paramount importance in our laws on criminal procedure. Among the fundamental rights of the accused is the right to confront and cross-examine the witnesses against him.[28] But the right of confrontation guaranteed and secured to the accused is a personal privilege which may be waived.[29] Thus, in the case of *U.S. vs. Anastasio,*[30] this Court deemed as a waiver of the right of confrontation, the admission by the accused that witnesses if present would testify to certain facts stated in the affidavit of the prosecution.[31]

In the same vein, it may be said that such an admission is a waiver of the right of an accused to present evidence on his behalf. Although the right to present evidence is guaranteed by no less than the Constitution itself for the protection of the accused, this right may be waived expressly or impliedly.[32] This is in consonance with the doctrine of waiver which recognizes that "x x x everyone has a right to waive, and agree to waive, the advantage of a law or rule made solely for the benefit and protection of the individual in his private capacity, if it can be dispensed with and relinquished without infringing on any public right, and without detriment to the community at large."[33]

The abovementioned doctrine is squarely applicable to the case at bar. Appellant was never prevented from presenting evidence contrary to the stipulation of facts. If appellant believed that the testimony of the Chief Licensing Officer of the POEA would be beneficial to her case, then it is the defense who should have presented him. Her continuous failure to do so during trial was a waiver of her right to present the pertinent evidence to contradict the stipulation of facts and establish her defense.

In view of the foregoing, the stipulation of facts proposed during trial by prosecution and admitted by defense counsel is tantamount to a judicial admission by the appellant of the facts stipulated on. Controlling, therefore, is Section 4, Rule 129 of the Rules of Court which provides that:

> "An admission, verbal or written, made by a party in the course of the proceedings in the same case, does not require proof. The admission may be contradicted only by showing that it was made through palpable mistake or that no such admission was made."

We now go to appellant's second and third assignment of errors. In her second assignment of error, appellant makes much ado of the "judicial notice" taken by the

lower court of the fact that appellant had been charged with another illegal recruitment case,[34] and in considering the pendency thereof as evidence of the scheme and strategy adopted by the accused. Appellant cites a violation of Section 3 of Rule 129 of the Rules of Court which provides that before the court may take judicial notice of any matter, the parties shall be heard thereon if such matter is decisive of a material issue in the case. It is claimed that the lower court never announced its intention to take judicial notice of the pendency of the other illegal recruitment case nor did it allow the accused to be heard thereon.

It is true that as a general rule, courts are not authorized to take judicial notice of the contents of the records of other cases, even when such cases have been tried or are pending in the same court, and notwithstanding the fact that both cases may have been tried or are actually pending before the same judge.[35] However, this rule is subject to the exception that:

> "x x x in the absence of objection and as a matter of convenience to all parties, a court may properly treat all or any part of the original record of the case filed in its archives as read into the records of a case pending before it, when with the knowledge of the opposing party, reference is made to it, by name and number or in some other manner by which it is sufficiently designated, x x x"[36] (underscoring supplied .)

The judicial notice taken by the lower court of the pendency of another illegal recruitment case against the appellant falls squarely under the above exception in view of the fact that it was the appellant herself who introduced evidence on the matter when she testified in open court as follows:

"Q:	You mean to say . . . by the way, where (sic) were you at the NBI when Mrs. Cinco inquired from you about placement abroad?
A:	I was just invited by the personnel of the NBI and I was not allowed to go home.
Q:	Why were you invited by the NBI?
A:	They told me that there was a complaint against me.
Q:	Complaint about what?
A:	The same case.
Q:	You mean illegal recruitment also?
A:	Yes, sir.
	xxx xxx xxx
Q:	You made mention than an illegal recruitment case which was supposed to be the cause of your detention at the NBI.
	. . .
	I am not referring to this case, Mrs. Hernandez -- what happened to that case, what is the status of that case?
A:	It is also in this sala.
COURT:	It is already submitted for decision.[37]

Even assuming, however, that the lower court improperly took judicial notice of the pendency of another illegal recruitment case against the appellant, the error would not be fatal to the prosecution's cause. The judgment of conviction was not based on the existence of another illegal recruitment case filed against appellant by a different group of complainants, but on the overwhelming evidence against her in the instant case.

Anent the last assignment of error, suffice it to say that we do not find any compelling reason to reverse the findings of the lower court that appellant's bare denials cannot overthrow the positive testimonies of the prosecution witnesses against her.

Well established is the rule that denials if unsubstantiated by clear and convincing evidence are negative, self-serving evidence which deserve no weight in law and cannot be given greater evidentiary weight over the testimony of credible witnesses who testify on affirmative matters.[38] That she did not merely deny, but likewise raised as an affirmative defense her appointment as mere nominee-president of Philippine-Thai is a futile attempt at exculpating herself and is of no consequence whatsoever when weighed against the positive declarations of witnesses that it was the appellant who executed the acts of illegal recruitment as complained of.

Finally, under Article 39 of the New Labor Code, the penalty for illegal recruitment committed in large scale is life imprisonment and a fine of ONE HUNDRED THOUSAND PESOS (P100,000.00). As previously held by this Court, life imprisonment is not synonymous with reclusion perpetua.[39] The lower court erred in imposing "the penalty of life imprisonment (reclusion perpetua) with the accessory penalties provided for by law; x x x"[40] (Underscoring supplied)

WHEREFORE, appellant's conviction of the crime of illegal recruitment in large scale is hereby AFFIRMED, and the penalty imposed MODIFIED as follows: the court sentences the accused to suffer the penalty of life imprisonment and to pay a fine of ONE HUNDRED THOUSAND (P100,000.00) PESOS without subsidiary imprisonment in case of insolvency; to return and pay to BENITO L. BERNABE the amount of TWENTY EIGHT THOUSAND FIVE HUNDRED (P28,500.00) PESOS; to ROBERT P. VELASQUEZ the amount of TWENTY TWO THOUSAND FIVE HUNDRED (P22,500.00) PESOS; to GREGORIO P. MENDOZA the amount of TWENTY TWO THOUSAND FIVE HUNDRED (P22,500.00) PESOS; to ARNEL MENDOZA the amount of TWENTY TWO THOUSAND FIVE HUNDRED (P22,500.00) PESOS also without subsidiary imprisonment in case of insolvency; and to pay the costs.

SO ORDERED.

Narvasa, C.J., (Chairman), Davide, Jr., Melo, and Panganiban, JJ., concur.

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[1] "Art. 38. Illegal Recruitment. (a) Any recruitment activities, including the prohibited practices enumerated under Article 34 of this Code, to be undertaken by non-licenses or non-holders of authority shall be deemed illegal and punishable under Article 39 of this Code. The Ministry of Labor and Employment or any law enforcement officers may initiate complaints under this article.

(b) Illegal recruitment when committed by a syndicate or in large scale shall be considered an offense involving economic sabotage and shall be penalized in accordance with Article 39 hereof.

Illegal recruitment is deemed committed by a syndicate if carried out by a group of three (3) or more persons conspiring and/or confederating with one another in carrying out any unlawful or illegal transaction, enterprise or scheme, defined under the first paragraph hereof. Illegal recruitment is deemed committed against three (3) or more persons individually or as a group. x x x"

[2] Decision dated November 29, 1991, p. 1; Rollo, p. 14.

[3] Witnesses paid a total of P22,500.00 each with the exception of BENITO BERNABE who paid P28,500.00.

[4] Supra, note 2, pp. 5-6; Rollo, pp. 18-19.

[5] Id. at pp. 7-8; Rollo, pp. 20-21.

[6] Appellant's Brief, p. 9.

[7] People vs. Bodozo, 215 SCRA 33, 40.

[8] Records, pp. 77-B and 79.

[9] Appellant's Reply Brief, March 30, 1995, p. 3.

[10] TSN, Hearing on June 6, 1990, pp. 1-2.

[11] Supra, note 9, p. 4. Francisco, The Revised Rules of Court in the Philippines (1990), Vol. VII, p. 101 citing Tracy, Handbook on Evidence, pp. 16-17.

[12] TSN, supra note 10.

[13] Id.

[14] 9 Phil. 701.

[15] Id. at p. 101.

[16] U.S. vs. Pobre, 11 Phil. 51, 51-52.

[17] 11 Phil. 547.

[18] Id. at p. 548.

[19] People vs. Mapa, 20 SCRA 1164, 1165.

[20] People vs. Bocar, 27 SCRA 512.

[21] Id., at p. 518.

[22] People vs. Hare, 185 N.E. 2d 178.

[23] Id., at p. 179. Also People vs. Hawkins, 189 N.E. 2d 252.

[24] McCormick on Evidence, 2nd Ed. p. 641.

[25] 31 C.J.S. 537

[26] People vs. Ravelo, 202 SCRA 655; Ayllon vs. Sevilla, 156 SCRA 257.

[27] Villa Rhecar Bus vs. De la Cruz, 157 SCRA 13; De La Cruz vs. C.A., June 29, 1989.

[28] Section 1(f) Rule 115 of the Rules of Court.

[29] U.S. vs. Anastasio, 6 Phil. 413.

[30] Id.

[31] Id. citing United States vs. Sacramento, 2 Mont. 239; 25 Am. Rep. 742.

[32] People vs. Dichoso, 96 SCRA 957; People vs. Angco, 103 Phil. 33.

[33] People vs. Donato, 198 SCRA 130, 154.

[34] Criminal Case No. 88-625 99 pending in the same court.

[35] Tabuena vs. CA, 196 SCRA 650.

[36] Id., at p. 656, citing U.S. vs. Claveria, 29 Phil. 527.

[37] TSN, Hearing on August 22, 1990, p. 5.

[38] People vs. Guibao, 217 SCRA 64; People vs. Marti, 193 SCRA 57; People vs. Song, et al., 204 SCRA 135.

[39] People vs. Alvero, 224 SCRA 16; People vs. Avendana, 216 SCRA 187.

[40] Supra, note 2, p. 8, Rollo, p. 21.
