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In view of all the foregoing, the Court is convinced that the Court of Appeals committed no reversible error in its challenged Decision.

WHEREFORE, the petition is *DENIED*. The assailed Decision of the Court of Appeals dated November 27, 1995 in CA-G.R. SP No. 36401 is *AFFIRMED*. Costs against petitioner.

SO ORDERED.

Bellosillo (Chairman), Mendoza, Quisumbing, and *Callejo, Sr., JJ* ., concur.

EN BANC

[G.R. No. 146106. December 16, 2002]

PEOPLE OF THE PHILIPPINES, *plaintiff-appellee, vs.* **FERNANDO VILLANUEVA, JR.,** *accused-appellant.*

SYNOPSIS

Accused-appellant Fernando Villanueva was convicted of qualified rape committed against his fourteen-year-old daughter, and was sentenced to suffer the supreme penalty of death. On automatic review, appellant contended that the complainant was merely motivated by a grudge in filing the case which explains the delay of three years before reporting the alleged sexual assault and was meant only to spite him. Appellant also alleged that the medical findings of the medical officer who conducted the physical examination on the victim is unreliable since a ruptured hymen does not in itself prove the crime of rape. At best, it can only prove the possibility of sexual intercourse, but not necessarily with the appellant.

The Supreme Court affirmed appellant's conviction. The Court applied the well-settled rule that delay in filing a criminal charge

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does not impair the credibility of a witness if such delay is satisfactorily explained. The victim in this case characterized appellant during the trial as a cruel "beast" who threatened the private complainant and her entire family with death should anyone of them dare expose his bestial instincts. Such image of her father was sufficient to cow her into silence. The victim's revelation in court on how appellant made an attempt on the life of his own father who caught him in bed with one of his younger daughters, also convinced the Court of appellant's alleged bestiality. The element of carnal knowledge was also sufficiently established. The medical officer who conducted the physical examination of the victim testified that the victim suffered hymenal lacerations at the 3, 6, 9 and 12 o'clock positions which may have been caused by the penetration of a hard object like the penis. He also testified that her vaginal orifice admitted two fingers with slight resistance and concluded that she was not a virgin. The Court ruled that the medical finding coupled with the victim's testimony of rape is more than sufficient to establish the essential requisite of carnal knowledge.

SYLLABUS

1. **REMEDIAL LAW; CREDIBILITY OF WITNESSES; CREDIBILITY OF COMPLAINANT IS THE SINGLE MOST IMPORTANT FACTOR IN THE REVIEW OF RAPE CASES.**— In the review of rape cases, the credibility of the private complainant is the single most important factor for consideration. The case of the prosecution stands or falls on the credibility of the victim. This rule is in accordance with the intrinsic nature of the crime of rape where only two parties, namely the victim and the accused, are usually involved. In this regard, the appellate court will generally not disturb the assessment of the trial court on matters of credibility owing to its unique opportunity to observe the deportment and manner of testifying of witnesses firsthand during the trial unless certain facts of substance and value were overlooked which, if considered, might affect the result of the case.

2. **ID.; ID.; ID.; COMPLAINANT'S TESTIMONY UPHELD; CASE AT BAR.**— After a careful review of the evidence, the Court fully agrees with the assessment made by the court *a quo* on the credibility of the victim, herein private complainant. Her

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testimony has the ring of truth as it was given in a simple but clear and straightforward manner. Thus, her recollection of the sexual assault on January 22, 1994 provides a vivid picture of a beast pouncing on its helpless innocent prey as appellant forced his daughter into his room to rape her. Appellant must have been salivating with lust as no amount of supplication could deter him from ravishing her. She could only protest in tears inasmuch as appellant was armed with a knife which he used to further cow her into submission. Ruth stuck to the details of her story and consistently pinpointed her father as the perpetrator of the crime despite rigorous interrogation by counsel for the defense during cross-examination. Her testimony stopped at least thrice as she could not control the outbursts of her emotion. Her genuine cries of anguish while recounting the sexual assault carried the badge of truth. Besides, a daughter will not accuse her own father of such an unspeakable crime as incestuous rape unless she was really aggrieved. Ruth was fully aware of the serious consequences of her accusation against her father. It takes depravity for a young girl to concoct a story which will put her own father on death row and drag herself and the rest of her family to a lifetime of shame. Such kind of character was never shown to be possessed by the victim in this case. Neither did the defense prove any ulterior motive on the part of the private complainant to perjure herself.

3. **ID.; ID.; ID.; CREDIBILITY NOT IMPAIRED BY DELAY IF REASON THEREFOR IS ADEQUATELY EXPLAINED.**— Appellant points out that the complaint against him was filed only in September 1997, more than three years after the time he allegedly raped the private complainant on January 22, 1994, thereby allegedly lending credence to his claim that the private complainant harbored a grudge against him. Well-settled is the rule that a delay in filing a criminal charge does not impair the credibility of a witness if such delay is satisfactorily explained. This is specially true in rape cases, wherein young girls, such as the private complainant, usually conceal for sometime their ordeals due to the threats made by their attackers. Ruth characterized her father during the trial as a cruel "beast" who threatened the private complainant and her entire family with death should anyone of them dare expose his bestial instincts. Such image of her father was sufficient to cow her into silence. True enough, Ruth revealed in court how the appellant made

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an attempt on the life of his own father who caught him in bed with one of his younger daughters.

4. **CRIMINAL LAW; RAPE; ELEMENT OF CARNAL KNOWLEDGE; ESTABLISHED BY THE TESTIMONY OF COMPLAINANT AND CORROBORATED BY THE MEDICAL FINDINGS; CASE AT BAR.**— In addition to the private complainant's testimony, the prosecution also presented as witness the medical officer who conducted the physical examination of the victim. Dr. de Rivera testified on his findings that Ruth suffered hymenal lacerations at the 3, 6, 9 and 12 o'clock positions which may have been caused by the penetration of a hard object like the penis. He also testified that her vaginal orifice admitted two fingers with slight resistance and concluded that she was not a virgin. We have always held that a medical finding that the victim was no longer a virgin (which could have been caused by her having sex with a man) coupled with the victim's testimony of rape, is more than sufficient to establish the essential requisite of carnal knowledge.

5. **ID.; ID.; ESTABLISHED IN CASE AT BAR.**— We affirm appellant's conviction for rape under Article 335 of the Revised Penal Code, as amended by Section 11 of Republic Act No. 7659, which was the governing law at the time said crime was committed. The information in this case alleges the minority of Ruth and her relationship to the appellant as the latter's daughter. The birth certificate presented by the prosecution during trial reveals that the private complainant, Ruth T. Villanueva, was only 13-year-old when she was raped by her father on January 22, 1994. She was born on July 22, 1980. The same document also proves that the herein appellant, Fernando Villanueva, is the father of the private complainant, a fact which the appellant himself admitted during the trial. Consequently, the penalty of death for raping his minor daughter was correctly imposed on the appellant.

APPEARANCES OF COUNSEL

The Solicitor General for plaintiff-appellee.
Public Attorney's Office for accused-appellant.

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DECISION

***PER CURIAM*:**

On automatic review is the decision[1] dated September 25, 2000 of the Regional Trial Court of Aparri, Cagayan, Branch 8, in Criminal Case No. 08-1066 convicting the appellant, Fernando Villanueva, Jr. of rape and sentencing him to suffer the penalty of death.

Fernando Villanueva, Jr. was charged with the crime of rape, defined and penalized under Article 335 of the Revised Penal Code, as amended by Section 11 of RA 7659,[2] in an Information that reads:

> That on or about January 22, 1994, in the municipality of Aparri, province of Cagayan, and within the jurisdiction of this Honorable Court, the above-named accused, with lewd designs, by means of force or intimidation, did then and there have carnal knowledge of his daughter, the herein offended party, a woman under eighteen years of age, all against her will and consent.

Upon arraignment, Fernando Villanueva, assisted by his counsel, entered the plea of "not guilty." Thereafter, trial ensued.

It appears that during their marital union, spouses Fernando and Erlinda Villanueva were blessed with eight children, of which the private complainant, Ruth T. Villanueva, was the third. On December 6, 1992, appellant Fernando became a widower. Not long thereafter, he took another wife and left his children under the care of their maternal grandparents in Sta. Teresita, Cagayan. However, in January 1994, Fernando took his younger children, namely, Joy, Loida and Harold, to Macanaya, Aparri, Cagayan and lived in a house owned by his sister. It was in this house in Macanaya where appellant Fernando allegedly raped the private complainant as charged in the information.

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[1] Penned by Judge Antonio N. Laggui, *Rollo*, pp. 10-24.

[2] RA 7659, otherwise known as Death Penalty Law, took effect on December 31, 1993.

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On January 22, 1994, then 13-year-old private complainant, Ruth T. Villanueva, paid a visit to her younger siblings who were living with their father in Macanaya, Aparri, Cagayan. At 8:00 in the evening and while his other children were out, appellant summoned Ruth to his bedroom. When she entered the room, he pulled the private complainant to himself and began to remove her pants and panty. She cried in protest but appellant was undeterred. He threatened her with a knife so he was able to ravish his daughter without much resistance. He kissed her while making pumping motions, thereby consummating his carnal desire.[3]

Ruth no longer felt physical pain from the sexual act since, according to her, she had been sexually molested by her father, appellant herein, many times before.[4] The following day, she went home to her grandparents in Centro, Sta. Teresita, Cagayan. She could not muster enough courage to expose her father's bestiality since he also threatened to kill her younger siblings should she do so. In fact, the sexual assault on January 22, 1994 would have remained under wraps like the other rape incidents in the past had it not been for the incident between appellant Fernando and his father.[5]

It happened that appellant Fernando hacked his father when the latter chanced upon him (Fernando) molesting his daughter, Joy. To spare her other sisters from suffering a similar fate, Ruth finally revealed her misfortune to an uncle. When confronted about his daughter's revelation, Fernando fumed and chased Ruth who managed to flee unharmed.[6]

Accompanied by her grandparents, Ruth lodged a complaint for rape with the police authorities on September 1, 1997.[7] The physical examination which was conducted by Dr. Romulo

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[3] TSN dated October 28, 1999, pp. 10-18; 22-23.

[4] *Id.*, pp. 19-20.

[5] *Id.*, pp. 21-25; 31.

[6] *Id.*, pp. 27-33.

[7] Exhibit "D", Original records, p. 2.

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de Rivera, M.D., showed that Ruth suffered hymenal lacerations at the 3, 6, 9 and 12 o'clock positions. Her vaginal orifice admitted two fingers with slight resistance. She was no longer a virgin. According to Dr. de Rivera, the lacerations which were sustained at least several months earlier, may have been caused by the penetration of a hard object like a penis.[8]

Traversing the evidence of the prosecution, appellant testified that he was in Sta. Teresita, Cagayan together with his younger children in the evening of January 22, 1994. Therefore, he could not have raped Ruth that same evening in Macanaya, Aparri, Cagayan. He claimed that Ruth apparently resented his second marriage a mere four months after the demise of their mother, and his abandonment of his children. He was unable to provide them any material support as his second wife always took all his earnings. In support of his claim, he mentioned the alleged letters[9] he sent his daughter while in detention seeking forgiveness for not being a good provider. He vehemently denied hacking his father nor molesting one of his younger daughters.[10]

On September 25, 2000, the trial court rendered a decision, the dispositive portion of which is quoted hereunder:

> WHEREFORE, the court finds the accused Fernando Villanueva, Jr., GUILTY beyond reasonable doubt of the crime of RAPE as defined under Article 335, Revised Penal Code, as amended by Sec. 11, Republic Act No. 7659, for sexually abusing her (*sic*) own daughter Ruth Villanueva who was then only fourteen (14) years of age at the time of the incident complained of, and hereby sentences him to:
>
> 1. suffer the supreme penalty of DEATH by lethal injection;
>
> 2. indemnify the victim Ruth Villanueva in the amounts of:
>
> – ₱75,000.00 – as civil indemnity;

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[8] TSN dated September 9, 1998, pp. 5-9; Exhibit "D", Original records, p. 88.

[9] The letters adverted to by the appellant were not presented in evidence by the defense.

[10] TSN dated March 28, 2000, pp. 3-10.

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– 50,000.00 – as moral damages;

– 20,000.00 – as exemplary damages;

3. pay the costs of litigation.

SO ORDERED.

In his brief,[11] the appellant raises the following assignments of errors:

I

THE TRIAL COURT GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY BEYOND REASONABLE DOUBT OF THE CRIME OF RAPE.

II

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT OF THE CRIME CHARGED DESPITE THE FACT THAT APPELLANT'S RIGHT TO DUE PROCESS WAS VIOLATED AS DEMONSTRATED BY THE PRESIDING JUDGE'S MANIFEST PARTIALITY IN FAVOR OF THE PROSECUTION.

Appellant contends, in essence, that the private complainant took more than three years before reporting the alleged sexual assault. This was because private complainant was merely motivated by a grudge against him. Thus the filing of this case was meant only to spite him. The prosecution cannot rely on the medical findings of Dr. de Rivera since a raptured hymen does not prove rape. At best, it can only prove the possibility of sexual intercourse but not necessarily with the appellant.

In addition, he claims that his case was not heard by an impartial court. The judge had allegedly made suggestions to the prosecution on what questions to ask in order to ensure his conviction. The same judge allegedly even encouraged the private complainant to recall the dates of the previous sexual assaults supposedly committed by the appellant so that the same could be investigated and that charges could be filed against him.

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[11] *Rollo*, pp. 36-49.

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In the review of rape cases, the credibility of the private complainant is the single most important factor for consideration. The case of the prosecution stands or falls on the credibility of the victim. This rule is in accordance with the intrinsic nature of the crime of rape where only two parties, namely the victim and the accused, are usually involved. In this regard, the appellate court will generally not disturb the assessment of the trial court on matters of credibility owing to its unique opportunity to observe the deportment and manner of testifying of witnesses firsthand during the trial[12] unless certain facts of substance and value were overlooked which, if considered, might affect the result of the case.[13]

After a careful review of the evidence, the Court fully agrees with the assessment made by the court *a quo* on the credibility of the victim, herein private complainant. Her testimony has the ring of truth as it was given in a simple but clear and straightforward manner. Thus, her recollection of the sexual assault on January 22, 1994 provides a vivid picture of a beast pouncing on its helpless innocent prey as appellant forced his daughter into his room to rape her. Appellant must have been salivating with lust as no amount of supplication could deter him from ravishing her. She could only protest in tears inasmuch as appellant was armed with a knife which he used to further cow her into submission.

Ruth stuck to the details of her story and consistently pinpointed her father as the perpetrator of the crime despite rigorous interrogation by counsel for the defense during cross-examination. Her testimony stopped at least thrice[14] as she could not control the outbursts of her emotion. Her genuine cries of

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[12] *People vs. Canonigo*, 337 SCRA 310, 316 [2000]; *People vs. Navales*, 337 SCRA 436, 447 [2000]; *People vs. Labuguen*, 337 SCRA 488, 500 [2000].

[13] *People vs. Mendiola*, 337 SCRA 418, 424 [2000].

[14] TSN dated October 28, 1999, pp. 15, 37.

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anguish while recounting the sexual assault carried the badge of truth.[15]

Besides, a daughter will not accuse her own father of such an unspeakable crime as incestuous rape unless she was really aggrieved.[16] Ruth was fully aware of the serious consequences of her accusation against her father.[17] It takes depravity for a young girl to concoct a story which will put her own father on death row and drag herself and the rest of her family to a lifetime of shame.[18] Such kind of character was never shown to be possessed by the victim in this case. Neither did the defense prove any ulterior motive on the part of the private complainant to perjure herself.

In addition to the private complainant's testimony, the prosecution also presented as witness the medical officer who conducted the physical examination of the victim. Dr. de Rivera testified on his findings that Ruth suffered hymenal lacerations at the 3, 6, 9 and 12 o'clock positions which may have been caused by the penetration of a hard object like the penis. He also testified that her vaginal orifice admitted two fingers with slight resistance and concluded that she was not a virgin. We have always held that a medical finding that the victim was no longer a virgin (which could have been caused by her having sex with a man) coupled with the victim's testimony of rape, is more than sufficient to establish the essential requisite of carnal knowledge.[19]

Appellant points out that the complaint against him was filed only in September 1997, more than three years after the time

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[15] *People vs. Sancha*, 324 SCRA 646, 663 [2000]; *People vs. Mosqueda*, 813 SCRA 694, 707 [1999].

[16] *People vs. Geraban*, 358 SCRA 213, 221 [2001].

[17] TSN dated October 28, 1999, p. 37.

[18] *People vs. Magdato*, 324 SCRA 785, 797 [2000]; *People vs. Cabanela*, 299 SCRA 153, 161 [1998].

[19] *People vs. Nicolas*, 324 SCRA 748, 753 [2000]; *People vs. Bation*, 305 SCRA 253, 269 [1999].

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he allegedly raped the private complainant on January 22, 1994, thereby allegedly lending credence to his claim that the private complainant harbored a grudge against him. Well-settled is the rule that a delay in filing a criminal charge does not impair the credibility of a witness if such delay is satisfactorily explained.[20] This is specially true in rape cases, wherein young girls, such as the private complainant, usually conceal for sometime their ordeals due to the threats made by their attackers.[21] Ruth characterized her father during the trial as a cruel "beast"[22] who threatened the private complainant and her entire family with death should anyone of them dare expose his bestial instincts. Such image of her father was sufficient to cow her into silence. True enough, Ruth revealed in court how the appellant made an attempt on the life of his own father who caught him in bed with one of his younger daughters.

That private complainant allegedly harbored a grudge against him for re-marrying too soon and for being an irresponsible father are reasons too flimsy to merit even scant consideration by the Court. We reiterate that private complainant was not shown by the defense as morally depraved and capable of concocting a web of lies that could cost the life of her own father.

In a desperate attempt to escape responsibility for the crime, appellant assails the trial judge for manifesting bias and/or partiality. The judge allegedly suggested to the prosecution what questions to ask. In particular, appellant adverts to that part of the transcript where the trial judge addressed the public prosecutor, thus:

"ACP CORTES:

Make it of record that witness is again crying, your Honor.

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[20] *People vs. Tanail*, 323 SCRA 667, 675 [2000].

[21] *People vs. Rafales*, 323 SCRA, 13, 24 [2000]; *People vs. Gallo*, 284 SCRA 590, 614 [1998].

[22] TSN dated October 28, 1999, pp. 36-37.

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COURT:

Why don't you ask her that the father even did that (molest) to her sisters.[23]

The above exchange should be considered in the light of private complainant's prior insinuation that appellant had also attempted to molest his other daughters and that she was prompted to file a complaint for rape to prevent him from further ravaging their chastity. Likewise, the encouragement provided by the trial court to the private complainant to recall the dates of the other prior sexual molestations by the appellant was well within its prerogative and duty to ferret out the truth.[24] While he may have arguably acted rather zealously in suggesting future investigation involving the other sexual molestations allegedly committed by the appellant on his daughter, such actuation is clearly extraneous and thus cannot affect the outcome of this case where the evidence indubitably establishes his guilt for the crime charged.

In view of the foregoing, appellant's defense of denial must perforce be rejected. Denial, like alibi, is among the weakest defenses as it can easily be fabricated and concocted. Indeed, it cannot prevail over the positive testimony of the victim – private complainant.[25]

Consequently, we affirm appellant's conviction for rape under Article 335 of the Revised Penal Code, as amended by Section 11 of Republic Act No. 7659, which was the governing law at the time said crime was committed.[26] As amended, Article 335 reads:

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[23] *Ibid.*

[24] *People vs. Castillo*, 289 SCRA 213, 226-227 [1998].

[25] *People vs. Ocsimas*, 253 SCRA 689, 695 [1996]; *People vs. Miranday*, 242 SCRA 620, 626 [1995].

[26] Pursuant to RA 8353, otherwise known as the Anti-Rape Law of 1997, rape has been reclassified as a crime against persons and is now covered by Chapter III of Title VIII of the Revised Penal Code and Articles 266-A, 266-B, 266-C and 266-D thereof.

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Art. 335. *When and how rape is committed.* — Rape is committed by having carnal knowledge of a woman under any of the following circumstances:

1. By using force or intimidation;

2. When the woman is deprived of reason or otherwise unconscious:

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

The crime of rape shall be punished by *reclusion perpetua.*

Whenever the crime of rape is committed with the use of a deadly weapon or by two or more persons, the penalty shall be *reclusion perpetua* to death.

When the reason or on the occasion of the rape, the victim has become insane, the penalty shall be death.

When the rape is attempted or frustrated and a homicide is committed by reason or on occasion thereof, the penalty shall be *reclusion perpetua* to death.

When by reason or on occasion of the rape, a homicide is committed, the penalty shall be death.

The death penalty shall also be imposed if the crime is committed with any of the following attendant 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

The information in this case alleges the minority of Ruth and her relationship to the appellant as the latter's daughter. The birth certificate[27] presented by the prosecution during trial reveals that the private complainant, Ruth T. Villanueva, was only 13-year-old when she was raped by her father on January 22, 1994. She was born on July 22, 1980. The same document also proves that the herein appellant, Fernando Villanueva, is

[27] Exhibit "C".

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the father of the private complainant, a fact which the appellant himself admitted during the trial.[28]

Consequently, the penalty of death for raping his minor daughter was correctly imposed on the appellant.

We also find the award of ₱75,000 as civil indemnity and ₱50,000 as moral damages to be proper and in accordance with prevailing jurisprudence.[29] However, we raise the award of exemplary damages to ₱25,000 to deter fathers with perverse tendencies and aberrant sexual behavior from sexually abusing their daughters.[30]

Three members of the Court maintain their position that RA 7659, insofar as it prescribes the death penalty is unconstitutional. Nevertheless, they submit to the ruling of the Court, by a majority vote, that the law is constitutional and that the death penalty should be accordingly imposed.

WHEREFORE, the judgment of the Regional Trial Court of Aparri, Cagayan, Branch 8, in Criminal Case No. 08-1066, finding the appellant, Fernando Villanueva, Jr. guilty beyond reasonable doubt of the crime of rape, penalized under Article 335 of the Revised Penal Code, as amended by Section 11 of RA 7659 and sentencing him to suffer the death penalty and to pay ₱75,000 as civil indemnity ₱50,000 as moral damages is hereby *AFFIRMED*, with *MODIFICATION* that the award of exemplary damages is increased to ₱25,000.

In accordance with Article 83 of the Revised Penal Code, as amended by Section 25 of RA 7659, upon finality of this decision, let the records of these cases be forwarded to the Office of the President for possible exercise of executive clemency.

Cost *de oficio*.

SO ORDERED.

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[28] TSN dated March 28, 2000, p. 3.

[29] *People vs. Geraban, supra*, p. 229 [2001].

[30] *People vs. Matrimonio*, 215 SCRA 613, 616 [1995].

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

THIRD DIVISION

[A.M. No. MTJ-00-1252. December 17, 2002]

NELSON RODRIGUEZ and RICARDO CAMACHO, *complainants, vs.* **JUDGE RODOLFO S. GATDULA,** *respondent.*

SYNOPSIS

Mariveles Pawnshop Corp. represented by one Candido, filed with the MTC a complaint for forcible entry against Camacho and Hernandez. Defendants moved to dismiss the same on the ground that the court has no jurisdiction over the case since the case involves an intra-corporate dispute. Respondent judge, however, denied the motion, and later ruled in favor of Natividad. Thereafter, respondent allowed the execution of his decision as defendants failed to post a *supersedeas* bond. Defendants filed a petition for *certiorari* with the RTC and filed this administrative complaint against respondent judge for ignorance of the law.

As to whether the instant administrative complaint is permissible in light of the filing by complainants of a notice of appeal and a petition for *certiorari* assailing respondent judge's decision and order of execution, the Court ruled in the negative. An administrative complaint against a judge cannot be pursued simultaneously with the judicial remedies accorded to parties aggrieved by his erroneous order or judgment. Administrative remedies are neither alternative nor cumulative to judicial review where such review is available to the aggrieved parties and the