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As to the second issue, it is evident that the lower court, and not this Court, should be the one to approve or pass upon the compromise agreement which is a settlement of the main case. *The merits of the main case are not involved in the instant incident regarding the docket fee.*

WHEREFORE, the petition is dismissed for lack of merit. The lower court's orders of July 8 and August 26, 1975 filing the docket fee at ₱200 are affirmed. The restraining order is dissolved.

The parties are directed to submit their compromise agreement to the lower court for approval. Costs against the petitioner.

SO ORDERED.

Castro C.J., Barredo, Concepcion Jr., and *Santos, J.*, concur.

Santos, J., took no part.

Fernando and *Antonio JJ.*, are abroad.

SECOND DIVISION

[G.R. No. L-49818. February 20, 1979]

PEOPLE OF THE PHILIPPINES, *plaintiff-appellee, vs.* **LUCAS RAMOS** *y* **MACASIRAY**, *accused-appellant.*

SYLLABUS

REMEDIAL LAW; CRIMINAL PROCEDURE; CONVICTION; DUTY OF THE COURT OF APPEALS IF IT IS OF THE OPINION

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THAT DEATH OR *RECLUSION PERPETUA* SHOULD BE IMPOSED IN A CRIMINAL CASE. — Should the Court of Appeals be of the opinion that the penalty of death or *reclusion perpetua* (life imprisonment) should be imposed in any criminal case appealed to it where the penalty imposed by the trial court is less than *reclusion perpetua*, the said Court, with a comprehensive written analysis of the evidence and discussion of the law involved, shall render judgment expressly and explicitly imposing the penalty of either death or *reclusion perpetua* as the circumstances warrant, refrain from entering judgment, and forthwith certify the case and elevate the entire record thereof to this Court for review.

RESOLUTION

ABAD SANTOS, *J.*:

Invoking Rule 124, Section 12 of the Rules of Court, the Court of Appeals certified this case to this Court "for final determination."

The appellant was found guilty of rape and sentenced to "a prison term ranging from eight (8) years and one (1) day of *prision mayor*, as minimum, to fourteen (14) years and eight (8) months of *reclusion temporal*, as maximum; to indemnify the offended party Elisa Malana the amount of ₱10,000.00 as moral damages, without subsidiary imprisonment in case of insolvency taking into consideration the principal penalty imposed, and to pay the costs," by the Court of First Instance of Cagayan, Branch V. Upon appeal to the Court of Appeals, the 5th Division thereof "after a careful and painstaking evaluation of the evidence [found] that appellant is guilty as charged." But instead of rendering judgment and imposing a penalty, said court stated: "However, since the imposable penalty for the crime of rape is *reclusion perpetua* (Art. 335 Revised Penal Code, as amended by R.A. 4111), this Court, instead of entering judgment, hereby certifies this case to the Supreme Court for final determination, pursuant to the provision of Section 12, Rule 124 of the Rules of Court."

In People of the *Philippines vs. Amado Daniel* (G.R. No. L-40330), November 20, 1978), this Court, through Chief Justice

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Fred Ruiz Castro said "this Court directs that, henceforth, should the Court of Appeals be of the opinion that the penalty of death or *reclusion perpetua* (life imprisonment) should be imposed in any criminal case appealed to it where the penalty imposed by the trial court is less than *reclusion perpetua*, the said Court, with a comprehensive written analysis of the evidence and discussion of the law involved, render judgment expressly and explicitly imposing the penalty of either death or *reclusion perpetua* as the circumstances warrant, refrain from entering judgment, and forthwith certify the case and elevate the entire record thereof to this Court for review."

WHEREFORE, this case is ordered returned to the Court of Appeals for disposition in accordance with the directive quoted-above.

SO ORDERED.

Fernando (Chairman), Antonio, Concepcion Jr., and *Santos, JJ.*, concur.

Barredo, J., concurs. I wish to make it of record that I voted with the majority in *People vs. Daniel* only to complete the number for a judgment, even if I was not in agreement with the opinion of the Chief Justice. My words are stated in a separate opinion in this case.

Aquino, J., dissents.

BARREDO, *J.*, *concurring*:

In the case of *People vs. Daniel* referred to in the main opinion, I voted with the majority. I did so not because I agreed with the opinion of Chief Justice Castro on the issue of whether or not the Court of Appeals has the jurisdiction to render a judgment imposing the penalty of death or of life imprisonment. Actually, I originally voted with the minority, but when it appeared that there were seven votes in favor of the view of the Chief Justice, it occurred to me that if I persisted in my vote, the matter in issue would remain legally unresolved and the Court of Appeals would be at a loss whether to adhere to the old

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practice or follow the view of the majority, notwithstanding there would actually be not enough votes to make it binding I felt apprehensive that considering that the majority would lack only one vote, the various divisions in the appellate court might take different positions on the matter, thereby producing juridical chaos. Under the circumstances, I thought it best to vote for the adoption of the position of the Chief Justice as a matter of judicial necessity, without prejudice to my making my adverse personal views of record. Thru my own oversight, however, the decision in that case was released without my separate opinion. I now take this opportunity to express my views, using as frame of reference the same case of Daniel.

Charged with the crime of rape allegedly committed on September 20, 1965, the Court below after due trial, found appellant Amado Daniel guilty as charged and sentenced him to suffer an indeterminate penalty of "not more than TWELVE (12) YEARS and ONE (1) DAY of *reclusion temporal* and not less than SIX (6) YEARS and ONE (1) DAY of *prision mayor*, and to pay the costs," evidently overlooking that Article 335 of the Revised Penal Code had already been amended by Republic Act 4111 on June 20, 1964 by increasing the penalty for rape to *reclusion perpetua*, provided that when it is committed with the use of a deadly weapon or by two or more persons, the penalty shall be *reclusion perpetua* to death. An appeal was taken to the Court of Appeals where on March 6, 1975, as to be expected, in view of the passage of Republic Act 4111, the Tenth Division of that court rendered the "decision", from which it is evident that the Court of Appeals studied the evidence and found the appellant guilty beyond reasonable doubt, but refrained from imposing any penalty, considering that in its opinion, under Republic Act 4111, the penalty that should be imposed as *reclusion perpetua* and pursuant to Section 17 of Chapter II of the Judiciary Act, as amended, the Supreme Court has *exclusive appellate* jurisdiction in "all criminal cases involving offenses for which the penalty imposed is death or life imprisonment x x x." Instead, said court certified the case to this Supreme Court "for appropriate proceedings pursuant to law."

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The issue is whether or not the Court of Appeals omitted to perform its duty in the premises in not actually imposing the penalty of *reclusion perpetua* before making said certification or together with it. And the principal argument advanced in favor of the affirmative view is that what the applicable provision of the Rules of Court, which is Sec. 12 of Rule 124 providing as follows:

"x x x x x x x x x

"Whenever in any criminal case submitted to a division the said division should be of the opinion that the penalty of death or life imprisonment should be imposed, the said court shall refrain from entering judgment thereon and shall forthwith certify the case to the Supreme Court for final determination, as if the case had been brought before it on appeal."

restrains the Court of Appeals from doing is not the act of rendering judgment, which necessarily includes imposing the corresponding penalty, but that of "entering judgment thereon." It is maintained that, considering that the known connotation of the term "entering judgment" contemplates judgments that are already final and executory, it follows that there is no prohibition against the Court of Appeals "rendering" the appropriate judgment, as long as no entry thereof is made, which in effect means that the decision containing the penalty is to be elevated to the Supreme Court in the same fashion as judgments of the Courts of First Instance of the same nature. It is further pointed out that if Courts of First Instance have jurisdiction and power to impose the penalties of *reclusion perpetua* and death in appropriate cases, there is no reason why the Court of Appeals should be held to be devoid of such prerogative.

I hold that the issue should be resolved in the light of the limits expressly laid down in the Judiciary Act upon the jurisdiction of the Court of Appeals, in the sense that since the constitutional appellate jurisdiction of the Supreme Court over "all cases in which the penalty imposed is death or life imprisonment" [Article X, Section 6 (2) (d)] has been made exclusive to the Supreme Court by the Judiciary Act, [Sec. 17 (1)] it is

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ineludibly implicit thereunder that only the Supreme Court can *on appeal* impose said grave penalties to the exclusion of the Court of Appeals, specially, because under Section 29 of the same Act, the appellate jurisdiction of the Court of Appeals is extensive only to "all cases, actions and proceedings not enumerated in Section seventeen." True it is that what are referred to are appeals in cases in which either of said penalties has been actually imposed and not to those in which the offense charged is merely punishable therewith under the Revised Penal Code, but logic and obvious considerations of hierarchical import in the judicial system dictate inevitably that no other appellate court, under any circumstances, should partake or share with the Supreme Court the authority in question. To concede to the Court of Appeals the authority to render judgment and impose the penalties in issue, even if such judgment could have no legal import whatsoever, since it should not even be reviewable by Us, is to indulge in an exercise in futility, utterly purposeless in law and procedure. Let us not forget that Section 12 of Rule 124 very explicitly says that on the basis of the certification that the Court of Appeals is supposed to make the appeal shall be in "the Supreme Court for final determination as if the case had been brought before it on appeal," obviously meaning the appeal from the trial court and not from the Court of Appeals, since it is incontrovertible that in capital cases, the Supreme Court reviews the whole record, both on facts and on law, which would not be the case were the rule to be construed as referring to the appeal from the Court of Appeals, it being the law that conclusions of fact of the Court of Appeals are as a rule not reviewable by the Supreme Court. And I underline the point that I am referring to *appellate* and not original jurisdiction, since by necessity and in the very nature of the criminal process, courts of first instance must be clothed with the power to impose said penalties.

Accordingly, on the premise that in appeals from judgments of trial courts, it is only the Supreme Court that can impose those penalties, the injunction that the Court of Appeals "shall refrain from entering judgment" in the pertinent provision of the rules abovequoted may not be reasonably or logically

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construed in any other sense than that of rendering judgment. And this is not strange at all. As a matter of fact, it is not true that in the Rules of Court the term "entering judgment" necessarily and exclusively refers to the entry of judgment as contemplated in Section 2 of Rule 36, Section 10 of Rule 51 and Section 8 of Rule 120 and other similar provisions in said rules. In Rule 36 itself, there are two provisions wherein the term "entering judgment" is used to mean "rendering" judgment. Sections 5 and 6 of said rule provide:

"SEC. 5. *Judgment at various stages.* — When more than one claim for relief is presented in an action, the court at any stage, upon a determination of the issues material to a particular claim and all counterclaims arising out of the transaction or occurrence which is the subject matter of the claim, may enter a judgment disposing of such claim. The judgment shall terminate the action with respect to the claim so disposed of and the action shall proceed as to the remaining claims. In case a separate judgment is so entered, the court by order may stay its enforcement until the entering of a subsequent judgment or judgments and may prescribe such conditions as are necessary to secure the benefit thereof to the party in whose favor the judgment is entered."

"SEC. 6. *Judgment against association.* — When judgment is entered against two or more persons sued as an association, the judgment shall set out their individual or proper names, if known."

It is therefore clear that under the rules, the term "to enter judgment" is to be construed not in only one sense but according to the context in which it is employed. It can refer to a judgment that is already final and executory as well as to a judgment that is to be rendered, depending on the intended purpose. Indeed, I would say that this is generally true in remedial law everywhere. And as Justice Muñoz-Palma very aptly put it in her dissent in Daniel, *supra*, "(i)t is incumbent upon Us to construe the Rule (in dispute) in the spirit and intent it was conceived and in harmony with pertinent laws and jurisprudence," and may I add, with the Constitution and current practice of long standing, I know for a fact that in my ten years in this Court, certifications of the tenor now in question have never been challenged at all, even as I believe it is best that the Supreme Court settled once

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and for all whatever doubts there might be about the matter in the minds of the members of the bench and bar.

Before closing, however, I might add that like Justices Tuazon, Bengzon (Cesar) and Padilla in *People vs. Ramos*,[1] I will go as far as holding that it is not only useless but improper to require the Court of Appeals in cases of the nature of the one at bar to prepare any opinion stating in detail its findings of fact, much less of law. It is my considered view that a simple certification reciting in general and broad terms the circumstances or points that the Court of Appeals considers would make the penalty *reclusion perpetua* or death imposable should suffice.

When a court of first instance imposes in any case the penalty of either life imprisonment or death, under the existing rules and uniform practice, the Supreme Court accepts the appeal without inquiring preliminary whether under the circumstances found by the trial court — much less those duly proven by the evidence — the said penalty is justified. Thus, even if on the face of the decision, it is clear that a higher penalty should have been imposed, We acquire jurisdiction over the appeal. This simply means, that correct or not, the opinion of the trial court as to such penalty binds this Court, for purposes of determining whether the appeal should be here or in the Court of Appeals. With this point in mind, I cannot understand why it has to be required of the Court of Appeals to make the usual statement of facts and of law to support its opinion in its certification that the proper penalty should be either of the two penalties in question. For what purpose? If We do not make any preliminary inquiry of that kind as regards decisions of the trial courts, why should We do so when the case comes from the Court of Appeals? Are We supposed to give more credence and reliability to the opinion of a trial judge than to the joint opinion of three or five justices of the Court of Appeals?

In any event, whatever opinion the Court of Appeals may have on the matter can at best serve the purposes of that court only. It cannot be even recommendatory in any sense — much

[1] 79 Phil. 612.

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less binding — to this Court. It should not in fact and in principle influence Our own conclusions. It is bad enough that a broad and general certification can create some degree of persuasion on the formulation of Our judgment. The certification would naturally be more inducive if the detailed conclusions of fact and ratiocination were to be before Us, and that would be worse. Indeed, it can even give rise to patent conflicts of views between the two courts on material points which can mark in the eyes of some the intrinsic merit of Our decision. As I have said, such a requirement does not only serve no useful purpose, it gives the impression that the opinion of the Court of Appeals does not deserve full respect, when in truth, under the law, it should be binding for purposes of conferring jurisdiction upon this Court to take cognizance of the case" as if the same had been brought before it on appeal" (Sec. 12, Rule 124) directly from the Court of First Instance.

Incidentally, may I add that I cannot understand how the Court of Appeals has referred to its subject certification as a decision. To my mind, the dispositive part of a decision is what really counts, and in a criminal case it must contain the finding of innocence or guilt and in the latter instance the penalty. Without such part, there is no decision. A "decision" without the finding of guilt or innocence and without the imposition of a penalty is like a human being without a head — which if mysteriously alike is useless and cannot have any juridical standing. And I believe that in this particular case the Court of Appeals unnecessarily exceeded its jurisdiction by making a conclusion as to the guilt of appellant. Such a conclusion can embarrass Us.

AQUINO, *J.*, *dissenting*:

I dissent for reasons stated in the *Daniel* Case.

The Court of Appeals in *People vs. Lucas Ramos*, CA-G.R. No. 17008-CR *rendered* a decision with complete findings of fact and law. The last paragraph of that decision reads as follows:

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"However, since the imposable penalty for the crime of rape is *reclusion perpetua* (Art. 335, Revised Penal Code, as amended by R.A. 4111), this Court, instead of entering judgment, hereby certifies this case to the Supreme Court for final determination, pursuant to the provisions of Section 12, Rule 124 of the Rules of Court."

The above certification, contained in a *decision on the merits of the appeal* (as distinguished from a mere *resolution*), is a sufficient compliance with section 34 of the Judiciary Law and Section 12, Rule 124 of the Rules of Court.

To require the Court of Appeals to *impose* the penalty of *reclusion perpetua* is not necessary and is not within the contemplation of those legal rules.

SECOND DIVISION

[G.R. No. L-25601. February 21, 1979]

LUISA V. VDA. DE GUISON, PAULINA G. CARLOS; JUANITO GUISON, LILIA G. BONIFACIO, RODOLFO V. GUISON, PACITA G. REYES, ESTER G. CRUZ, RICARDO V. GUISON, and NARCISO GUISON, JR., *petitioners-appellants*, *vs.* **CHIEF OF THE PHILIPPINE CONSTABULARY and PROVINCIAL COMMANDER OF RIZAL**, *respondents-appellees*.