

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROMMEL ROSARIO AND ROLDAN ROSARIO, ACCUSED, ROLDAN ROSARIO Y MISLANG, ACCUSED-APPELLANT.

Ponente: CASTILLO, M., J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/43d51da1e335/>

CASTILLO, M., J.:

On appeal before Us is the Decision dated November 8, 2012[1] rendered by the Regional Trial Court of Dagupan City, Branch 40, finding the accused Rommel Rosario and Roldan Rosario guilty of the crime of frustrated homicide.

On January 7, 2003, the accused Rommel Rosario and Roldan Rosario were charged in an Information[2] for Frustrated Homicide, the accusatory portion of which reads:

“That on or about July 3, 2002, in the evening at Banaoang, Calasiao, Pangasinan, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, armed with a lead pipe and a bladed weapon, conspiring, confederating and mutually helping each other, with intent to kill, did and there willfully, unlawfully and feloniously attack, strike and hit JESSIE DECILES inflicting upon him several mortal wounds and injuries on the vital parts of his body, the said accused having thus performed all the acts of execution which could have produced the crime of Homicide as a consequence, but nevertheless did not produce it by reason of some causes independent of the will of the accused, to his damage and prejudice.

Contrary to Article 249 in relation to 2[nd] par. of Art. 6 and 50 of the Revised Penal Code.”

Warrants of arrest[3] were issued against the accused on September 23, 2002. Their respective warrants were returned with the information that the accused were arrested and indorsed to BJMP, Calasiao, Pangasinan for custody.[4] They applied for and were released on bail.[5]

On April 10, 2003, the accused, assisted by their counsel, pleaded “not guilty” to the crime charged.[6] During the pre-trial, only the identities of the accused as the same persons charged and arraigned were admitted by the defense.[7] On May 22, 2003, the pre-trial conference was terminated and trial on the merits ensued.[8]

The prosecution, in support of the allegations in the information, presented three (3) witnesses, namely: Tessie Deciles, wife of the complainant, Jessie Deciles and Ruben Rosario. The defense also presented three (3) witnesses, namely: Eusebio Rosario, father of the accused, Rommel Mislang Rosario and Roldan Mislang Rosario.

Tessie Deciles testified that on July 3, 2002, she was with her elder sister, her sister-in-law, their aunt and her husband singing at a videoke place at Lucao District, Dagupan City. She stayed for about half an hour and went home around 11:30 in the evening with her husband, Jessie Deciles. Their house is located at Bengal, Sitio Lucao, Dagupan City. While they were on their way home, they were accosted by the accused. Her husband was stabbed at the brow by Roldan Rosario and was hit on the head by a lead pipe by Rommel Rosario until she shouted “that is enough, that is enough”. When her husband fell down, she shouted for help. She pulled her husband to the road and people came out to help them rush her husband to the hospital. They brought her husband to the emergency

room of Region I Medical Hospital. She went to Calasiao, Pangasinan to report the incident. Thereafter, she went back to the hospital where her husband remained unconscious for six (6) days. Her husband underwent CT Scan due to a fracture in his skull. They stayed in the hospital for three (3) weeks. Subsequently, she brought her husband to Makati Medical Center in Manila where they repeated a CT Scan because her husband could not talk possibly due to bleeding inside his head. They stayed at Makati Medical Center for one (1) week. After a week, her husband recovered and they went home.[9] She testified that she paid P5,000.00 for her husband's CT Scan at Villaflor Hospital. She spent P4,000.00 on medicines bought outside the hospital. All in all, she spent about P15,000.00 for hospital expenses.[10]

On cross-examination, she stated that the incident occurred on the road in front of the house of the accused. She testified that she saw Roldan Rosario stab her husband using an icepick. She was beside her husband when he was hit on his right eyebrow. Before he stabbed her husband, she heard Roldan Rosario say, “vulva of your mother.” Then Rommel Rosario hit her husband on the head with a lead pipe about one (1) meter long and about two (2) inches in diameter. Her husband fell on the ground after he was hit. She dragged him towards the road which was around 100 meters away and brought him to the hospital.[11]

The prosecution called the private offended party, Jessie Deciles, to the witness stand. He testified that he personally knew the accused because they were his first cousins. On July 3, 2002, Jessie Deciles arrived at a videoke place around fifteen (15) meters away from his house with his cousins, uncle, sister-in-law, and his wife. He saw his uncle, (the father of the accused) and paid his respects to the latter but the latter said, “vulva of your mother, you are not my nephew, your uncle is your companion” because the uncle who came with Jessie and the father of the accused were not on speaking terms. Jessie and his companions proceeded to the videoke bar and stayed there for about two (2) hours. Later on, he went home with his wife and their companions. He and his wife did not reach their house because about five (5) meters away from their house, they met the accused and their father, Eusebio Rosario. Jessie was stabbed by Roldan Rosario on his left eyebrow with a knife. Then, Rommel Rosario hit Jessie on the head with a Nawasa pipe. As a result, Jessie lost consciousness. He woke up in the hospital where he was confined for a week.[12]

The prosecution also presented Ruben Rosario, who testified that he was the first cousin of the accused and Jessie Deciles. He stated that on the night of July 3, 2002, he and his companions were inside the videoke place in Lucao, Banaoang, Calasiao when he heard Roldan Rosario shouting. Roldan Rosario was on the road and he had an enemy. Ruben and his companions went out and asked what was the problem. Roldan's father, Eusebio Rosario, answered, “it's you who has a problem.” Ruben and his companions did not mind them and returned to the videoke place to drink. At around 12:30 a.m., he and his companions, including Jessie Deciles, went home. While Jessie Deciles was walking home, he was met by Eusebio Rosario and Ruben heard them shouting at each other. He saw them fighting each other. He also saw Rommel Rosario hit Jessie Deciles twice on the head with a pipe. Jessie Deciles fell down and was brought to the hospital.[13]

The defense presented Eusebio L. Rosario as witness. Eusebio L. Rosario is the father of the accused Roldan and Rommel Rosario and the uncle of Jessie Deciles.[14] He testified that his house was around ten (10) meters away from the house of Jessie Deciles. On July 3, 2002, he was in the compound of his house when Jessie Deciles passed by on his way home and said, “vulva of your mother Eusebio, I will kill you.” Eusebio replied, “Why are you saying those words to me you still uttered my name, I'm even here at my house.” Then, Jessie stoned Eusebio and struck his head with a hollow block. Eusebio pushed him and Jessie banged his head on the wall of Eusebio's house. As a result, Jessie injured his head. Eusebio left and went to the barangay captain to report the incident but was unable to do so because the barangay captain was already asleep. He proceeded to the Municipal Hall in Calasiao to report the incident to the PNP. He also testified that at the time of the incident, Rommel Rosario and

Roldan Rosario were not present. Rommel Rosario, who was a tricycle driver, was out to do his “pasada” while Roldan Rosario, who was employed in a trucking business, traveled to Isabela.[15]

Accused Rommel Rosario testified that he left their house in Banaoang, Calasiao, Pangasinan at 6:00 o'clock in the evening on July 3, 2002 to ply his tricycle route. He stayed in CSI Dagupan and had two (2) passengers. He returned at 7:00 o'clock in the morning of the next day and slept. He denied Jessie's contentions that he hit the latter with a lead pipe. He declared that he learned of the incident only on July 4, 2002 when he was informed by his mother, Mercedes Rosario.[16] On cross-examination, he stated that he did not know who stabbed his cousin, Jessie Deciles, and he did not bother finding out. He went back to sleep and woke up at around 5:00 o'clock. He also stated that using his tricycle, it took less than fifteen (15) minutes from his place of residence to reach CSI Square, Dagupan City where he picked-up his passengers.[17]

Accused-appellant Roldan Rosario testified that on July 3, 2002 at about 11:30 o'clock in the evening he was in Cauayan, Isabela with a truck driver, Nestor Calimlim, delivering rice. He left his house in Banaoang, Calasiao, Pangasinan in the morning of July 1, 2002 and proceeded to Cauayan, Isabela using a ten (10) wheeler truck. He stayed in Cauayan, Isabela for two (2) weeks. From Isabela, they went to Manila to deliver rice which they took from Isabela. In Manila, they loaded corn and went back to Isabela. He returned to Banaoang, Calasiao, Pangasinan only on July 12, 2002. When he arrived home, he was arrested by the police.[18]

On November 8, 2012, the trial court promulgated the assailed Decision[19], the dispositive portion of which reads:

“WHEREFORE, in view of the foregoing, judgment is hereby rendered finding the accused ROMMEL ROSARIO and ROLDAN ROSARIO GUILTY beyond reasonable doubt of the crime of Frustrated Homicide defined and penalized under Article 249 in relation to Article 6, par. 2, and Article 50 of the Revised Penal Code, and pursuant to law, each of them is sentenced to suffer the indeterminate penalty of four (4) years, two (2) months and one (1) day of Prision Correccional in its maximum period as minimum to eight (8) years and one (1) day of Prision Mayor in its medium period as maximum.

They are likewise ordered to pay proportionately to the complainant the amounts of P15,000.00 as civil indemnity and P20,000.00 as moral damages.

SO ORDERED.”[20]

On November 19, 2012, only accused Roldan Rosario, through counsel, filed a Notice of Appeal,[21] which was approved by the trial court in its Order dated January 24, 2013.[22] In his appeal, accused-appellant alleged that the trial court gravely erred in convicting him despite the fact that his guilt has not been proven beyond reasonable doubt.[23]

Art. 249 of the Revised Penal Code provides:

Art. 249. Homicide. — Any person who, not falling within the provisions of Article 246,[24] shall kill another without the attendance of any of the circumstances enumerated in the next preceding article,[25] shall be deemed guilty of homicide and be punished by reclusion temporal.

In *Ramon Josue v. People of the Philippines*,[26] the Supreme Court enumerated the elements of frustrated homicide, as follows:

- the accused intended to kill his victim, as manifested by his use of a deadly weapon in his assault;
- the victim sustained fatal or mortal wound/s but did not die because of timely medical assistance; and

- none of the qualifying circumstance for murder under Article 248 of the Revised Penal Code is present.

Accused-appellant's defense centered on denial and alibi. Accused-appellant argued that there are various significant inconsistencies in the testimonies of the witnesses for the prosecution allegedly placing accused-appellant at the scene of the crime, which bolstered his defense of denial and alibi.[27]

Accused-appellant asserted that Tessie Deciles never mentioned that the other witness for the prosecution, Ruben Rosario, was with them at the videoke bar. In his testimony, Ruben Rosario never mentioned Tessie Deciles as being present or involved in any stage of the incident. Tessie attested that only she and her husband who walked home that night prior to the incident, while Ruben declared that he was the one who accompanied Jessie on the way home. Neither witness mentioned each other as being present at that time, which was odd because both of them vowed being present during the entirety of the incident.[28]

Accused-appellant also averred that based on the testimony of Tessie, she saw accused-appellant stab Jessie while Rommel Rosario quickly struck Jessie with a lead pipe. However, what Ruben witnessed was starkly different from what Tessie relayed.[29] Ruben categorically stated that the fight was between Jessie and Eusebio Rosario.[30] Jessie, on the other hand, averred in his Sworn Statement made about six (6) days from the incident, that he was alone when the attack took place. The fact that both prosecution witnesses failed to recognize and mention each other's presence during the assault given their alleged proximity to each other as well as the gravity of their participation during and after the alleged incident raises doubt as to the veracity of their claims that they actually saw the incident and could positively identify its perpetrators.[31] Jurisprudence is consistent that for testimonial evidence to be believed, it must both come from a credible witness and be credible in itself – tested by human experience, observation, common knowledge and accepted conduct that has evolved through the years.[32]

Accused-appellant further claimed that Ruben's testimony did not mention any stabbing incident involving the accused-appellant while Tessie stated that her husband was stabbed on the right eyebrow.[33] However, this was not at all supported by the medico-legal certificate issued by Nelson H. Cuison, M.D. (Dr. Cuison) stating that the victim suffered “multiple hacking wound left frontal and right parietal area T/C Cerebral concussion.” A second medico-legal certificate was issued by Dr. Cuison stating that “in his opinion, the injuries require medical attendance for a period of seven (7) to fourteen (14) days, with no further assessment as to the gravity of the injuries.” Besides, the prosecution failed to present Dr. Cuison to attest to his expertise, confirm his findings, particularly, the nature and extent of the injuries incurred by the victim, and to attest whether said injuries were indeed fatal as to cause the victim's death had it not been for timely medical attendance. His non-presentation at the trial clearly deprived accused-appellant of the chance to cross-examine said doctor on the veracity of his findings. Likewise, the examining doctor's qualifications were not stipulated upon during pre-trial or the trial proper itself.[34]

Accused-appellant contended that both medico-legal certificates issued by Dr. Cuison did not indicate whether the injuries were fatal as to cause Jessie's death had it not been for timely medical assistance. Furthermore, Tessie was unable to produce evidence of Jessie's actual hospitalization and continuous medication. Clearly, the prosecution failed to establish that the injury sustained by Jessie was even serious. Without such evidence, the offense would only be slight physical injuries.[35]

On the other hand, plaintiff-appellee, through the OSG, argued that the fact that Tessie did not mention Ruben does not mean that Ruben was not present during the incident. Mere omission does not mean absence. It is more plausible to believe that Ruben was indeed present, but Tessie failed to mention him in light of the more pressing matter at hand: that her husband was attacked by the two accused.[36] The question of who accompanied the victim – whether it was only Tessie, or only Ruben, or both – is purely incidental and has nothing to do with the

guilt of accused-appellant. The RTC's conviction was based on the finding that the two accused attacked Jessie.[37]

The OSG contended that even if Ruben did not see the stabbing incident, this is not incongruous with Tessie's testimony which expressly mentioned the stabbing incident.[38] Tessie, who kept shouting for help as she witnessed her husband being attacked by the two accused, cannot be expected to precisely identify the bladed weapon's point of contact on her husband's body. The location of Jessie's wound is again incidental. Inconsistencies regarding the location of Jessie's wound cannot alter the fact that the two accused attacked Jessie Rosario. Not all inconsistencies can be the basis of an acquittal.

The trial court gave credence to the testimony of the prosecution witnesses, ruling:

After a careful evaluation of the evidence presented, the Court believes and holds that the guilt of the two accused were positively identified by the complainant and his witnesses Tessie Deciles and Ruben Rosario as the persons who stabbed the complainant Jessie Deciles on that night of July 3, 2002 in Banaoang, Calasiao, Pangasinan causing on the latter injuries.[39]

As to the alleged inconsistencies in the testimonies of the prosecution witnesses, the Supreme Court ruled that for a discrepancy to serve as basis for acquittal, such must refer to significant facts vital to the guilt or innocence of the accused. An inconsistency, which has nothing to do with the elements of the crime, cannot be a ground to reverse a conviction.[40]

We find merit in the contentions of the OSG. The fact that Tessie Deciles did not mention that Ruben Rosario was with Jessie Deciles at the time of the incident did not mean that Ruben was not present. The fact that Tessie testified that her husband was hit on the right eyebrow while the medico-legal certificate stated that the victim suffered "multiple hacking wound left frontal and right parietal area T/C Cerebral concussion" is not sufficient to cast doubt on the veracity of Tessie's testimony.

The records show that the alleged inconsistencies in the testimonies of the prosecution witnesses pertain only to inconsequential matters that do not bear upon the elements of the crime. Inconsistencies and discrepancies on minor details that are irrelevant to the constitutive elements of the crime cannot be considered grounds for acquittal.[41]

Moreover, the accused was positively and categorically identified by the prosecution witnesses as the persons who attacked, stabbed and hit Jessie Deciles. The prosecution witnesses were familiar with the accused because they were relatives and lived in the same neighborhood. And while there was no mention of a stabbing incident in Ruben Rosario's testimony, Tessie Deciles categorically declared that she saw accused-appellant Roldan Rosario stab her husband. She was beside her husband when accused-appellant attacked. Hence, she was able to clearly identify accused-appellant as the perpetrator. The victim himself testified that it was accused-appellant who stabbed him. He was able to identify accused-appellant at that time because there was a fluorescent light near the place where the incident occurred.[42]

We have reviewed the testimonies and the evidence passed upon by the trial court and see no reason to deviate from its factual findings. Questions concerning the credibility of a witness are best addressed to the sound discretion of the trial court, since it is the latter which is in the best position to observe the demeanor and bodily movements of a witness.[43]

In *David v. Court of Appeals and People of the Philippines*,[44] the Supreme Court held:

Findings of the trial court on the credibility of witnesses are entitled to great respect because it has the opportunity to observe the deportment of the witnesses and their manner of testifying.[45] The decision of the

trial court in this case is notable for its painstaking analysis of the evidence of the parties. Its conclusion that the prosecution witnesses were more credible than the defense witnesses should be upheld in the absence of proof that it has overlooked certain important matters as to the credibility of the witnesses.

The matter of appreciating evidence and assessing credibility of witnesses rests primarily with the trial court. In the absence of a clear showing that the court has ignored, overlooked or failed to properly appreciate matters of significance or substance likely to affect the eventual outcome of the case, its findings thereon are entitled to great respect and accorded the highest consideration by the appellate courts.[46]

As to the alleged contradiction between the affidavit executed by Jessie Deciles and his testimony as to whether he was alone or with a companion at the time of the incident, the Supreme Court held in a number of cases that as between an affidavit executed outside the court and a testimony given in open court, the latter almost always prevails.[47] The Supreme Court held in *People v. Minangga and Agando*[48]:

Discrepancies between a sworn statement and testimony in court do not outrightly justify the acquittal of an accused. Such discrepancies do not necessarily discredit the witness since ex parte affidavits are often incomplete. They do not purport to contain a complete compendium of the details of the event narrated by the affiant. Thus, our rulings generally consider sworn statements taken out of court to be inferior to in court testimony.

With regard to the non-presentation of Dr. Cuison, We note that counsel for the defense admitted the issuance of the medical certificates issued by Dr. Cuison during the hearing on December 13, 2007.[49] Hence, the testimony of Dr. Cuison was dispensed with and the RTC relied on the medico-legal certificates as validly admitted evidence.

Accused-appellant's defense centers on his alibi that he was in Isabela at the time of the incident. For alibi to prosper, it is not enough for the accused to prove that he was in another place when the crime was committed. He must likewise prove that it was physically impossible for him to be present at the crime scene or its immediate vicinity at the time of its commission.[50] In *People v. De Jesus and Morales*,[51] the Supreme Court held that accused-appellant must establish by clear and convincing evidence that (a) he was in another place at the time of the commission of the offense; and (b) he was so far away that he could not have been physically present at the place of the crime, or its immediate vicinity, at the time of its commission.

Physical impossibility in relation to alibi takes into consideration not only the geographical distance between the scene of the crime and the place where accused maintains he was, but more importantly, the accessibility between these points.[52]

In this case, accused-appellant testified on cross-examination that he was not required to stay in Isabela in the evening while he waited for the unloading of 700 sacks of rice; that there were many buses from Cauayan, Isabela going to Calasiao but he did not leave the truck because he had to take care of the rice.[53] Hence, the element of physical impossibility of accused-appellant's presence that fateful night at the crime scene was not established by clear and convincing evidence.

Aside from his bare allegations, accused-appellant has not adduced any other evidence to prove that he was in another place at the time of the commission of the offense. He failed to present the testimonies of his companion during his alleged trip to Isabela and Manila. Thus, accused-appellant's defense of alibi cannot prosper.

We agree with accused-appellant, however, that the medico-legal certificates did not indicate whether the injuries sustained by the Jessie were fatal as to cause Jessie's death had it not been for the timely medical assistance given to him.

Going now to the elements of the offense charged, the first element of attempted or frustrated homicide is the accused's intent to take his victim's life. The prosecution has to prove this clearly and convincingly to exclude every possible doubt regarding homicidal intent.[54] And the intent to kill is often inferred from, among other things, the means the offender used and the nature, location, and number of wounds he inflicted on his victim.[55]

The fact that accused-appellant used a sharp weapon and stabbed the victim on the face resulting in "multiple hacking wounds on the left frontal area" shows that accused-appellant intended to kill the victim.

Is the accused guilty then of frustrated homicide? We rule in the negative.

In *Colinares v. People of the Philippines*,[56] the Supreme Court found the accused guilty only of attempted homicide after the prosecution failed to prove that the injuries sustained by the victim were fatal. The Supreme Court held:

The Court is inclined, however, to hold Arnel guilty only of attempted, not frustrated, homicide. In *Palaganas v. People*,[57] we ruled that when the accused intended to kill his victim, as shown by his use of a deadly weapon and the wounds he inflicted, but the victim did not die because of timely medical assistance, the crime is frustrated murder or frustrated homicide. If the victim's wounds are not fatal, the crime is only attempted murder or attempted homicide.

Thus, the prosecution must establish with certainty the nature, extent, depth, and severity of the victim's wounds. While Dr. Belleza testified that "head injuries are always very serious," he could not categorically say that Rufino's wounds in this case were "fatal." (Emphasis ours.)

In the instant case, the medico-legal certificates did not state whether the injuries sustained by the victim were fatal or mortal wounds. In fact, the second medical certificate issued by Dr. Cuison stated that the injuries would require medical attendance for a period of seven (7) to fourteen (14) days unless complications would set in or be manifested due to internal injuries which were not apparent at the time of examination that might later appear.[58] The prosecution thus failed to prove the second element of frustrated homicide: that the wounds sustained by the victim were fatal. Thus, accused-appellant can only be guilty of attempted homicide, not frustrated homicide.

Article 249 of the Revised Penal Code provides that the imposable penalty for the crime of homicide is reclusion temporal. Articles 51 and 250 of the Revised Penal Code provide for the imposable penalty for an attempt to commit homicide:

Art. 51. Penalty to be imposed upon principals of attempted crimes. — A penalty lower by two degrees than that prescribed by law for the consummated felony shall be imposed upon the principals in an attempt to commit a felony.

Art. 250. Penalty for frustrated parricide, murder or homicide. — The courts, in view of the facts of the case, may impose upon the person guilty of the frustrated crime of parricide, murder or homicide, defined and penalized in the preceding articles, a penalty lower by one degree than that which should be imposed under the provision of Article 50.

The courts, considering the facts of the case, may likewise reduce by one degree the penalty which under Article 51 should be imposed for an attempt to commit any of such crimes.

The imposable penalty for attempted homicide is prision correccional. However, applying the Indeterminate Sentence Law,[59] and there being no aggravating or mitigating circumstance, the accused should suffer the penalty of imprisonment ranging from six (6) months of arresto mayor as minimum to four (4) years and two (2) months of prision correccional as maximum.

As to the civil liability, We affirm the damages awarded by the trial court. In *People of the Philippines v.*

Molina,[60] the Supreme Court ruled that the award of P20,000.00 as civil indemnity to each victim of attempted murder is neither arbitrary nor excessive. The Supreme Court also awarded P10,000.00 as moral damages and P25,000.00 as exemplary damages. In light of prevailing jurisprudence[61], We affirm the award of P15,000.00 as civil indemnity and P20,000.00 as moral damages imposed by the trial court.

WHEREFORE, in view of the foregoing, the instant appeal is **PARTLY GRANTED**. This Court **MODIFIES** the Decision dated November 8, 2012 rendered by the Regional Trial Court, Branch 40, Dagupan City. We find accused-appellant Roldan Rosario y Misleng guilty of the offense of attempted homicide, and **SENTENCE** him to suffer an indeterminate penalty of imprisonment ranging from six (6) months of arresto mayor as minimum to four (4) years and two (2) months of prision correccional as maximum and to pay the complainant the amounts of P15,000.00 as civil indemnity and P20,000.00 as moral damages.

SO ORDERED.

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

[*]Cruz, R.A., and Galapate-Laguilles, Z.T., JJ., concur.

[*] Acting Senior Member, vice Justice Javier, per Office Order No. 198-14-ABR.

[1] Records, pp. 226 -233.

[2] Records, pp. 57-58, 59-60, 61-62.

[3] Records, p. 12, 14.

[4] Records, p. 11, 13.

[5] Records, pp. 20-36, 38-53.

[6] Records, p. 73.

[7] Records, p. 75.

[8] Records, p. 75.

[9] TSN dated July 3, 2003, pp. 4-17.

[10] TSN dated January 29, 2004, pp. 4-6.

[11] TSN dated April 22, 2004, p. 8-15.

[12] TSN dated September 7, 2004, p. 3-15.

[13] TSN dated October 26, 2006, p. 3-12.

[14] TSN dated March 4, 2009, p. 4-5.

[15] TSN dated March 4, 2009, p. 10-18.

[16] TSN dated March 3, 2010, p. 5-7.

[17] TSN dated March 3, 2010, p. 12-14.

[18] TSN dated May 11, 2011, p. 3-13.

[19] Records, pp. 226-233.

[20] Records, p. 233.

[21] Records, p. 237.

[22] Records, p. 240, 242.

[23] Rollo, p. 78.

[24] Art. 246. Parricide. — Any person who shall kill his father, mother, or child, whether legitimate or illegitimate, or any of his ascendants, or descendants, or his spouse, shall be guilty of parricide and shall be punished by the penalty of reclusion perpetua to death.

[25] Art. 248. Murder.—Any person who, not falling within the provisions of Article 246, shall kill another, shall be guilty of murder and shall be punished by reclusion perpetua, to death if committed with any of the following attendant circumstances:

- With treachery, taking advantage of superior strength, with the aid of armed men, or employing means to weaken the defense, or of means or persons to insure or afford impunity;

- In consideration of a price, reward, or promise;

- By means of inundation, fire, poison, explosion, shipwreck, stranding of a vessel, derailment or assault upon a railroad, fall of an airship, by means of motor vehicles, or with the use of any other means involving great waste and ruin;

- On occasion of any calamities enumerated in the preceding paragraph, or of an earthquake, eruption of a volcano, destructive cyclone, epidemic, or any other public calamity;

- With evident premeditation;

- With cruelty, by deliberately and inhumanly augmenting the suffering of the victim, or outraging or scoffing at his person or corpse.

- [26] G.R. No. 199579, December 10, 2012.
- [27] Rollo, p. 79.
- [28] Rollo, p. 79.
- [29] Rollo, p. 79.
- [30] Rollo, p. 81.
- [31] Rollo, pp. 81-82.
- [32] Citing *People v. Maraorao*, G.R. No. 174369, June 20, 2012.
- [33] Rollo, p. 82.
- [34] Rollo, p. 83.
- [35] Rollo, p. 85.
- [36] Rollo, p. 110.
- [37] Rollo, p. 111.
- [38] Rollo, p. 111.
- [39] Records, p. 231.
- [40] *Id.* citing *People v. Perez*, G.R. No. 113265, March 5, 2001.
- [41] See *People v. Manalo*, G.R. No. 144989-90, January 31, 2003.
- [42] TSN dated September 7, 2004, pp. 13-14.
- [43] *People v. Elarcosa and Orias*, G.R. No. 186539, June 29, 2010, 622 SCRA 417.
- [44] G.R. No. 111168, June 17, 1998.
- [45] Citing *People v. Cabiles*, 248 SCRA 207 (1995).
- [46] *People v. Latasa*, G.R. No. 144331, August 19, 2003 citing *People v. Sumalpong*, G.R. No. 124705, 20 January 1998, 284 SCRA 464; *People v. Villaruel*, G.R. Nos. 110803-04, 25 November 1994, 238 SCRA 408.
- [47] *People v. Mamaruncas, et al.*, G.R. No. 179497, January 25, 2012, 664 SCRA 182. See also *Gemma Ong a.k.a Maria Teresa Gemma Catacutan v. People*, G.R. No. 169440, November 23, 2011.
- [48] G.R. No. 130670, May 31, 2000, citing *People v. Lazaro*, 249 SCRA 234 (1995).
- [49] Order dated December 13, 2007, Records, p. 156.
- [50] *People v. Guerrero*, G.R. No. 170360, March 12, 2009, 580 SCRA 666, 683; *People v. Garte*, G.R. No. 176152, November 25, 2008, 571 SCRA 570, 583 cited in *People v. Elarcosa and Orias*, *supra*, note 41.
- [51] G.R. No. 186528, January 26, 2011 citing *People v. Dela Cruz*, G.R. No. 175929, December 16, 2008.
- [52] *People v. Gomez*, G.R. No. 132171, May 31, 2000.
- [53] TSN dated May 11, 2011, pp. 18-19.
- [54] *People v. Pagador*, 409 Phil. 338, 351 (2001).

[55] *Rivera v. People*, 515 Phil. 824, 832 (2006).

[56] G.R. No. 182748, December 13, 2011.

[57] G.R. No. 165483, September 12, 2006, 501 SCRA 533, 555-556.

[58] *Records*, p. 5.

[59] Section 1, Act No. 4103, *The Indeterminate Sentence Law* provides:

Section 1. Hereafter, in imposing a prison sentence for an offense punished by the Revised Penal Code, or its amendments, the court shall sentence the accused to an indeterminate sentence the maximum term of which shall be that which, in view of the attending circumstances, could be properly imposed under the rules of the said Code, and the minimum which shall be within the range of the penalty next lower to that prescribed by the Code for the offense; and if the offense is punished by any other law, the court shall sentence the accused to an indeterminate sentence, the maximum term of which shall not exceed the maximum fixed by said law and the minimum shall not be less than the minimum term prescribed by the same.

[60] G.R. No. 184173, March 13, 2009, 581 SCRA 519.

[61] See *Giovani Serrano y Cervantes v. People of the Philippines*, G.R. No. 175023, July 5, 2010; *Rosie Quidet v. People of the Philippines*, G.R. No. 170289, April 8, 2010; and *Rujjeri Z. Palaganas v. People of the Philippines*, G.R. No. 165483, September 12, 2006.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.