

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROGELIO LASANAS, ET AL., ACCUSED, ROGELIO LASANAS AND CONRADO MAGSALIN, DEFENDANTS-APPELLANTS.

G.R. Nos. L-48879-82. July 07, 1987

Ponente: FELICIANO, J.

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FELICIANO, J.:

A decision of the then Court of First Instance of Iloilo City dated 27 June 1978 is before us on automatic review.

It appears from the records that at or about 9:00 o'clock in the evening on 10 July 1974, in Iloilo City, Benigno Ricaforte was walking with his family and a friend along a narrow interior footpath which opened onto Rizal and Estanzuela Streets and nearing Rizal Street when Rogelio Lasanas and Conrado Magsalin approached Benigno. Rogelio Lasanas suddenly stabbed Benigno in the abdomen while Conrado Magsalin hit him in the back with a meter-long piece of wood. Johnny Lorque and Domingo Fernandez followed up by striking and beating Benigno with lead pipe and hammer, respectively. Benigno died on the spot. Benigno's brothers, Alfonso and Enecito, who rushed to his rescue, also suffered several wounds inflicted on them by the four; fortunately, they received timely medical treatment.

On 10 June 1975, four separate informations in four criminal cases were filed with the Court of First Instance of Iloilo City:

- Criminal Case No. 5054 — charged Rogelio Lasanas with violation of General Orders Nos. 6 and 7 (dated 22 and 23 September 1972, respectively) in relation to Presidential Decree No. 9 (dated 2 October 1972).
- Criminal Case No. 5055 — similarly charged Conrado Magsalin with violation of General Orders Nos. 6 and 7 in relation to Presidential Decree No. 9.
- Criminal Case No. 5056 — charged Rogelio Lasanas, Conrado Magsalin and Johnny Lorque with Murder for the death of Benigno Ricaforte.
- Criminal Case No. 5057 — charged Rogelio Lasanas, Conrado Magsalin and Johnny Lorque with Frustrated Murder committed against Alfonso Ricaforte and Enecito Ricaforte.

After a full-blown joint trial of the four criminal cases, the trial court rendered one decision dated 27 June 1978, but with separate dispositive portions, thus:

"1. Criminal Case No. 5054 — Conrado Magsalin is hereby acquitted on reasonable doubt for failure of the prosecution to prove the corpus delicti or the knife for which he was charged.

2. Criminal Case No. 5055 — Finding the accused Rogelio Lasanas guilty beyond reasonable doubt of the crime of violation of General Orders Nos. 6 to 7, in relation to PD No. 9, he is hereby sentenced to five (5) years straight of imprisonment. He shall be credited in full for his period of preventive imprisonment.

3. Criminal Case No. 5057 — Finding the accused Rogelio Lasanas and Conrado Magsalin both guilty of the crime of frustrated murder, they are hereby sentenced to an indeterminate sentence of twelve (12) years and one (1) day to fourteen (14) years and eight (8) months of reclusion temporal medium together with the accessory penalties and to pay the costs.

Further, both accused are jointly and severally ordered to pay Enecito Ricaforte the sum of P3,000.00 for medical expenses, P2,500.00 for loss of work, and P5,000.00 moral damages and to pay the costs.

Both accused are credited in full with their period of detention.

4. Criminal Case No. 5056 — Finding the accused Rogelio Lasanas and Conrado Magsalin both guilty beyond reasonable doubt of the crime of murder, they are hereby both sentenced to death together with the accessory penalties and to pay the costs. They are further ordered to indemnify the heirs of Benigno Ricaforte jointly and severally the sum of P12,000.00 and to pay the costs."^[1]

Johnny Lorque had promptly entered a plea of guilty and, being a youthful offender, was given a suspended sentence by the trial court by virtue of Presidential Decree No. 603.^[2] Domingo Fernandez was never charged; he apparently just dropped out of sight.

The brief for the appellants assigns the following errors as having been committed by the lower court, to wit:

"I. That the lower court erred in finding accused-appellants Rogelio Lasanas and Conrado Magsalin guilty for (sic) violation of General Orders Nos. 6 to 7, in relation to Presidential Decree No. 9.

II. That the lower court erred in rejecting the account of the accused-appellants and in finding both appellants Rogelio Lasanas and Conrado Magsalin guilty of murder in Criminal Case No. 5056 and frustrated murder in Criminal Case No. 5057 with the aggravating circumstance of evident premeditation and treachery.

III. That the lower court erred in finding that there exist (sic) conspiracy.

IV. That the lower court erred in admitting in evidence the extra-judicial confessions of appellants Rogelio Lasanas and Conrado Magsalin."

Considering that the accused did not appeal from the decision of the trial court, it is important to determine first whether or not an automatic or mandatory review of their death sentence in Criminal Case No. 5056 includes a review of the convictions for the lesser offenses with which Lasanas was charged in Criminal Case No. 5055 and Lasanas and Magsalin in Criminal Case No. 5057.

It is the contention of the accused that the crimes charged under Criminal Cases Nos. 5055 and 5057 arose out of the same occurrence and in the course of the same acts charged in Criminal Case No. 5056 and that consequently, the facts and circumstances are so interlinked that the findings of fact in the latter case (No. 5056) will substantially affect the other two cases. The accused point to Section 17 (1) of the Judiciary Act which reads as follows:

"Sec. 17. Jurisdiction of the Supreme Court. — The Supreme Court shall have jurisdiction to review, reverse, modify or affirm on appeal, as the law or Rules of Court may provide, final judgments and decrees of inferior courts herein provided, in —

1. All Criminal Cases involving offenses for which the penalty imposed is death or life imprisonment; and those involving other offenses which, although not so punished, arose out of the same occurrence or which may have been committed by the accused on the same occasion, as that giving rise to the more serious offense, regardless of whether the accused are charged as principals, accomplices or accessories, or whether they have been tried jointly or separately."

The defense correctly points out that the purpose behind Section 17 (1) is, as explained in *People versus Cariño*,^[3] "to avoid possible conflicts between decisions of this Court in criminal cases involving offenses for which the penalty imposed is death or life imprisonment, and decisions of the Court of Appeals in criminal cases involving offenses which, although not so punished, arose out of the same occurrence or which may have been committed by the accused on the same occasion as that giving rise to the more serious offense."^[4]

Upon the other hand, the Solicitor General argues that while Section 17 (1) of the Judiciary Act gave jurisdiction to the Supreme Court over other cases which, although not punished with death, arose out of the same occurrence, Section 17 (1) did not provide for automatic review of such other cases by the Supreme Court since automatic review, governed by the Rules of Court, refers only to cases where the death penalty has been imposed by the trial court.^[5] Thus, it is urged, the accused must nonetheless appeal from the judgment of conviction of a lesser offense arising out of the same occurrence which gave rise to the capital offense; otherwise, the conviction for the less serious offense attains finality.

The issue is not one of first impression. In *People versus Panganiban*^[6] three separate informations for murder were filed against Moises Panganiban and three other accused. The first information, docketed as Criminal Case No. L-437, was for the murder of one Generoso Panganiban. The second, Criminal Case No. L-438, against the same four persons, was for the murder of Victoria G. Panganiban while the third, Criminal Case No. L-439, also against the same four persons, was for the murder of Anatalia Panganiban. Victoria G. Panganiban and Anatalia Panganiban were the wife and daughter, respectively, of the first victim — Generoso Panganiban. The three killings were perpetrated on one and the same occasion and in the same place. The trial judge rendered one single decision in the three murder cases which had been tried jointly. The judge sentenced the accused Moises Panganiban to reclusion perpetua in Criminal Case No. L-437 while in Nos. L-438 and L-439, two death penalties were imposed for the murders of Victoria and Anatalia Panganiban. L-438 and L-439 came before this Court on automatic review. Criminal Case L-437, however, was not appealed by the accused. In reversing the judgment of the trial court, and acquitting accused Moises Panganiban of the charges against him in all three cases — L-437, L-438 and L-439 — the Court, in an opinion concurred in by eight of its members, held:

"Criminal Case No. L-437 where accused-appellant was sentenced to life imprisonment (reclusion perpetua) by the trial court, should be deemed also included in this automatic review of the death penalty imposed on him in the other two cases, L-438 and L-439, although accused-appellant did not expressly appeal his conviction in L-437.

... ..

It should be noted that under the aforequoted provision [of Section 17 (1) of the Judiciary Act], the Supreme Court has appellate jurisdiction over other offenses not so punished by death or life imprisonment, but arising 'out of the same occurrence or committed by the accused on the same occasion, as that giving rise to the more serious offense,' even if the accused is merely charged as an accomplice, or accessory and even when the cases are tried separately.

It should be emphasized that the subject matter under automatic review in these cases, G.R. Nos. L-33822-23, is the joint decision of the trial court in the three criminal cases Nos. L-437, L-438 and L-439 against the same accused-appellant for the murder of the spouses and their 13-year-old daughter on the same night of May 5, 1965, and not three separate decisions.

It would be absurd to require accused-appellant, under the peculiar circumstances, to file a separate appeal in L-437 because the three criminal cases of which he was convicted by the trial court in a single decision are so intertwined with each other, the three cases having arisen on the same occasion.

It is therefore patent that Criminal Case No. L-437 is deemed ipso facto appealed together with the two death

sentence cases (L-438 and L-439) notwithstanding the absence of an express appeal by the accused-appellant in said Criminal Case No. L-437. All the three criminal cases are necessarily involved in and affected by the discussion and the prayer (the Solicitor General prayed for the affirmance of the judgment of conviction by the trial court in the three criminal cases) in the briefs filed by the State, by the defense and Our review of the joint decision in these three cases which relate to the entire tragedy that resulted in three murders. The principal target was the deceased Generoso Panganiban, of whose murder appellant was sentenced by the trial court to only reclusion perpetua."[7]

In a dissenting opinion, concurred in by four members of this court, Mr. Justice Aquino said:

"Panganiban did not appeal from that decision. Only the two death penalties are under automatic review. The murder case wherein reclusion perpetua was imposed is not under automatic review. Thus, only two (2) cases are docketed in this Court. The third case, the reclusion perpetua case (Case No. L-437 in the lower court), was not docketed.

... ..

The statement in the dispositive part of the majority opinion that the whole judgment in the three cases rendered by Judge Valencia is set aside and that Panganiban 'is hereby acquitted of the charges against him in all the three cases' is not well-taken.

We cannot set aside that portion of the judgment imposing reclusion perpetua because it is not under review. It has long become final and executory because there was no appeal from that portion of the judgment. It should have been appealed in order to be reviewed by this Court.

With respect to the death penalties imposed for the killing of Victoria Gunda and her daughter Anatalia (Cases Nos. L-438 and L-439), I am of the opinion that the guilt of Moises Panganiban, as co-conspirator in the killing of the two victims, was established beyond reasonable doubt by the testimony of Ernesto Catapang, 20. However, I vote for the imposition of reclusion perpetua, not death."[8]

In the type of cases dealt with in Panganiban and the instant case, the facts involved in the criminal case or cases for the lesser offense are commonly, perhaps necessarily, closely interwoven with the facts involved in the capital (i.e., automatic review) case. As a purely procedural matter, therefore, the position taken by the majority of the Court in Panganiban commends itself as correct, for it would enable this Court to review the facts as a whole and accordingly evaluate all the evidence for both the capital and the less serious offenses. In the present case, as will be apparent later, the adoption of the majority Panganiban rule is favorable to the accused and therefore we have no hesitation in adopting and applying such rule to the present case. It is of course possible, that an automatic review which embraces also a review of less serious offenses committed on the same occasion as the capital offense may not always end up favorably for the accused; for a comprehensive review of the facts may show that the penalty imposed for the less serious offense was erroneous and should have been increased. However, as a practical matter, this issue will be of distinctly limited import in the future, considering the abolition of the death penalty by Article III (19) (1) of the 1987 Constitution and considering that the present Rules of Court do not provide for automatic review of cases where reclusion perpetua or some lesser penalty is imposed. Moreover, the practice adopted by this Court in connection with the abolition of capital punishment and hence of automatic review, has been to ask the accused whether he still wishes to appeal his conviction considering the automatic reduction of his death sentence to reclusion perpetua. Thus, in the future, unless the death penalty is reinstituted or mandatory review of reclusion perpetua cases is provided for, an accused must explicitly appeal both his conviction for an offense punishable with reclusion perpetua and his conviction for a less serious crime or crimes committed on the same occasion as the more serious one.

In their first assignment of error, the accused Rogelio Lasanas and Conrado Magsalin urge that the lower court

erred in finding them guilty of violation of General Orders Nos. 6 and 7 in relation to Presidential Decree No. 9. Since, as already noted, the trial court acquitted Conrado Magsalin in Criminal Case No. 5054, this assignment of error must be regarded as raised by Rogelio Lasanas alone. The information charging Lasanas with such violation in Criminal Case No. 5055 read as follows:

"The undersigned City Fiscal accuses Rogelio Lasanas for violation of General Orders Nos. 6 and 7 in relation to Presidential Decree No. 9, as implemented by Letter of Instruction, DND No. 707, committed as follows:

That on or about the 10th day of July, 1974, in the City of Iloilo, Philippines and within the jurisdiction of this court, said accused, with deliberate intent and without any justifiable motive, did then and there willfully, unlawfully and criminally carry outside of his residence one (1) knife which is a deadly weapon and which, at that time, was not being used by him as a necessary implement for his livelihood or occupation or in connection therewith.

Contrary to law."

While the information failed to identify the specific paragraph of P.D. No. 9 alleged to have been violated by accused Lasanas, even a cursory examination of P.D. No. 9 will show that the information must have been intended to refer to paragraph 3 of P.D. No. 9 which provided as follows:

"3. It is unlawful to carry outside of residence any bladed, pointed or blunt weapon such as 'fanknife', 'spear', 'dagger', 'bolo', 'balisong', 'barong', 'kris', or club, except where such articles are being used as necessary tools or implements to earn a livelihood and while being used in connection therewith; and any person found guilty thereof shall suffer the penalty of imprisonment ranging from five to ten years as a Military Court/Tribunal/Commission may direct."

In *People vs. Purisima*,^[9] Mme. Justice Munoz Palma speaking for the Court, in a tour de force of statutory construction, addressed the question of: "What . . . are the elements of the offense treated in [paragraph 3 of] the Presidential Decree [No. 9] in question?":

"We hold that the offense carries two elements: first, the carrying outside one's residence of any bladed, blunt, or pointed weapon, etc. not used as a necessary tool or implement for a livelihood; and second, that the act of carrying the weapon was either in furtherance of, or to abet, or in connection with subversion, rebellion, insurrection, lawless violence, criminality, chaos, or public disorder.

It is the second element which removes the act of carrying a deadly weapon, if concealed, outside of the scope of the statute or the city ordinance mentioned above. In other words, a simple act of carrying any of the weapons described in the presidential decree is not a criminal offense in itself. What makes the act criminal or punishable under the decree is the motivation behind it. Without that motivation, the act falls within the purview of the city ordinance or some statute when the circumstances so warrant."^[10]

Applying the doctrine of *Purisima*, it is plain that the information filed in Criminal Case No. 5055 was fatally defective. That information failed to charge the commission of acts constitutive of the second element of the offense sought to be charged — i.e., that the carrying of the weapon was in furtherance of, or to abet, or in connection with "subversion, rebellion, insurrection, lawless violation, criminality, chaos or public disorder." Thus, the information failed to charge an offense under P.D. No. 9, paragraph 3 with the result that accused Lasanas could not have been lawfully convicted of such offense under the information as actually filed.

We turn to the second assignment of error involving the conviction of Rogelio Lasanas and Conrado Magsalin for murder in Criminal Case No. 5056 and for frustrated murder in Criminal Case No. 5057.

The information charging Lasanas and Magsalin with murder read as follows:

"That on or about the 10th day of July 1974 in the City of Iloilo, Philippines, and within the jurisdiction of this court, said accused, armed with butcher's knives (flamingco), lead pipes and pieces of wood, conspiring and confederating among themselves, working together and helping one another, with deliberate intent, with treachery, and evident premeditation and with intent to kill, did then and there willfully, unlawfully and feloniously stab, strike and hit and wound Benigno Ricaforte with the said butcher's knives (flamingco), lead pipes and pieces of wood with which the accused were provided at that time, thereby inflicting upon the latter stab wounds on vital parts of his body which caused his death few moments thereafter."

The prosecution presented five eyewitnesses to the killing of Benigno Ricaforte: Benigno's friend Numeriano Venerable; Benigno's daughter Maxima Ocate; his wife Demetria Ricaforte; and his brothers Alfonso and Enecito Ricaforte. The testimonies of these eyewitnesses may be summarized as follows:

At about 9:00 o'clock p.m. on 10 July 1974, Benigno Ricaforte led his friend Numeriano and his family along an electric-lighted foot path, about two feet wide, leading onto the main streets — the Rizal and Estanzuela Streets.[11]

Meanwhile, the accused Rogelio Lasanas, Conrado Magsalin, with Johnny Lorque and Domingo Fernandez were standing by the "Pining Rolling Store" at the opposite end of Rizal Street.[12] Upon seeing Benigno approaching the main street, Rogelio, in almost perfect coordination with Conrado, came forward and stabbed Benigno Ricaforte in the abdomen while Conrado hit him at the back with a piece of wood.[13] Alfonso Ricaforte who was following his brother Benigno, ran to succor the latter but was effectively prevented from doing so by Johnny Lorque who whipped him on the upper jaw with a lead pipe and by Domingo Fernandez who struck him on his chest with a hammer, causing Alfonso to fall to the ground face up.[14] Maxima and Demetria shouted for Enecito who had been left behind at Alfonso's house.[15] Enecito accordingly ran towards the fray and the shouting only to be stabbed by Rogelio Lasanas and by Conrado Magsalin.[16].

The defense of the accused-appellants consisted simply of denying the acts attributed to them. Both claimed that they went to the scene of the crime not as participants but as witnesses to the incident, unarmed and with no intention to assault anyone.[17] They went there, they said, as curiosity seekers and to pacify the contenders.[18] The appellants also attacked the testimonies of the eyewitnesses as being biased, coming as they did from the daughter, wife and brothers of the deceased.

Basically, the trial judge believed the testimony of the eyewitnesses and gave little credence to that of the appellants. We find no reason to disturb the findings of the trial judge who heard all the witnesses and was in a position to observe their detailed demeanor while testifying.

The information in Criminal Case No. 5056 alleged the presence of conspiracy, and the elements of evident premeditation and treachery. In respect of evident premeditation, the prosecution failed to show when the accused determined to kill Benigno Ricaforte, an element which is essential in order that the Court could determine whether sufficient time had elapsed between the inception of a concerted plan by the guilty parties and "its fulfillment for them dispassionately to consider and accept the consequences." [19] The trial court did find that the group of Rogelio Lasanas stood waiting for the victim to come out from the interior footpath onto Rizal Street; [20] this circumstance, however, by itself and without proof of when the criminal plan was first agreed upon, is not evidence that a sufficient length of time had lapsed between the formation of the criminal design and its execution. Accordingly, we find that the trial court erred on this account.

Turning to the question of conspiracy, the trial court explicitly found the presence of conspiracy, the accused having attacked the victim "in concert, which positively prove their unity and community of purpose." [21] The accused and their companions waited for Benigno at the "Pining Rolling Store" at the opposite end of Rizal Street.

As Benigno was emerging from the footpath, the two accused together approached him and suddenly attacked him. Johnny Lorque and Domingo Fernandez then came up and finished off Benigno with lead pipe and hammer. Plainly, all four acted in concert. We see no basis for disturbing the finding of conspiracy by the trial court.

We come to the question of treachery. It is familiar doctrine that two conditions need to be satisfied for treachery to be found properly: (a) the employment of means, method or manner of execution which would ensure the offender's safety from defensive or retaliatory acts on the part of the victim, no opportunity being given to the latter to defend himself or to retaliate; and (b) such means, method or manner of execution were deliberately or consciously chosen.[22] In the instant case, the victim Benigno Ricaforte had no opportunity to defend himself from the sudden and unexpected attack by the accused. He had no reason to expect danger from the accused as his prior relationships with them had been at least civil and perhaps cordial.[23] True, the victim had with him, or more precisely, behind him, companions who might have defended him. But those companions were themselves caught by surprise and, more importantly, were unarmed. While the suddenness of an attack might not itself be enough to constitute treachery, such suddenness is, however, enough to qualify an act as treacherous if such suddenness were, as here, consciously adopted to ensure the commission of the planned killing without risk to the perpetrators.[24] As previously noted, both accused approached Benigno simultaneously and struck at him at almost the same time, one with a knife in front and the other with a piece of wood from behind. Shortly thereafter, Johnny Lorque and Domingo Fernandez dispatched the victim with lead pipe and hammer. Johnny Lorque and Domingo Fernandez then turned upon Alfonso Ricaforte and whipped him too with lead pipe and hammer preventing any succor to Benigno. The suddenness and the concerted nature of the deadly attack on Benigno sustain the court's finding of treachery.

We come to the charge of Frustrated Murder in Criminal Case 5057. The prosecution presented the same eyewitnesses to the killing of Benigno. These eyewitnesses testified as follows:

Alfonso followed Benigno Ricaforte along the interior footpath. Upon seeing his brother Benigno attacked by Rogelio Lasanas and Conrado Magsalin, Alfonso immediately ran to assist Benigno but was prevented from doing so by Johnny Lorque and Domingo Fernandez who intercepted and whipped him with a piece of lead pipe and a hammer.[25] Alfonso fell to the ground face upwards. Enecito, another brother of Benigno, upon hearing the cries of Benigno's wife and daughter,[26] rushed to the scene and there he was met and suddenly stabbed by Rogelio Lasanas in the abdomen and struck by Conrado Magsalin in the back.[27] Enecito staggered from the scene of the crime apparently towards the hospital. He was later picked by a police patrol car and brought to the hospital.[28]

The prosecution submitted a medical certificate[29] issued by Dr. Tito Doromal, Assistant Medico-Legal Officer, who examined Enecito Ricaforte at St. Mary's Hospital, Iloilo City. This certificate attested that Enecito suffered the following wounds:

"1) Stab wound, 10 cm. long, left hypochondriac region, penetrating the abdominal cavity, with 5 perforations of the ementum, one perforation of the transverse colon, and one perforation of the descending colon, with small bowels coming out, and with severe bleeding.

2) Stab wound, 2.0 cm. long, left posterior lumbar region, directed medially. Non-penetrating.

3) Stab wound, 1.5 cm. long, level of the 12th thoracic vertebra, along the right paravertebral, non-penetrating.

Operation performed - Exploratory laparotomy.

PROGNOSIS: GUARDED."

Dr. Doromal testified that Enecito Ricaforte would have died of hemorrhage due to wound no. 1 had there not been timely medical and surgical intervention.[30]

It thus appears clear that all the acts of execution necessary to produce the death of Enecito Ricaforte had already been performed by the accused and that death did not ensue because of the intervention of timely medical attention, a cause independent of the will of the accused.[31] The suddenness of the coordinated attack upon Alfonso and then Enecito signified the continuing presence of the element of treachery for neither Alfonso nor Enecito, who were both unarmed, had any opportunity to defend themselves or to retaliate against their aggressors. We hold that the accused were properly convicted of the crime of frustrated murder.

The last error assigned by the accused relates to the admission in evidence of their extra-judicial confessions. The extra-judicial confessions of Rogelio Lasanas and Conrado Magsalin taken down by Sergeant Melquiades Teodoro have a major flaw which was made clear in the testimony of Sergeant Teodoro himself.[32] The accused had not been informed that if they had no lawyer or could not afford counsel, the state will provide them with one to assist them in the course of the investigation. Under both Article IV (20) of the 1973 Constitution and Article III (12) of the 1987 Constitution, the extra-judicial confessions of the accused are not admissible in evidence.[33]

The exclusion of such extra-judicial confessions has no effect, however, upon the conclusions reached by the trial court. Its conclusions, as far as they relate to the guilt of the accused of the crimes of murder and frustrated murder, are sustained by evidence other than the extra-judicial confessions, i.e., the testimony of eyewitnesses, showing guilt beyond reasonable doubt.

WHEREFORE, the judgment of the lower court is MODIFIED so as to read as follows:

- Criminal Case No. 5054 — Conrado Magsalin is hereby ACQUITTED on reasonable doubt for failure of the prosecution to prove the corpus delicti, or the knife for which he was charged.
- Criminal Case No. 5055 — Rogelio Lasanas is ACQUITTED of the crime of violation of General Orders Nos. 6 to 7, in relation to Presidential Decree No. 9.
- Criminal Case No. 5057 — The accused Rogelio Lasanas and Conrado Magsalin are both GUILTY beyond reasonable doubt of the crime of Frustrated Murder and in the absence of any generic aggravating or mitigating circumstances, they are hereby sentenced to an indeterminate penalty of from eight (8) years of prision mayor as a minimum to fourteen (14) years and eight (8) months of reclusion temporal as a maximum. Both accused are credited in full with their period of detention. Further, both accused shall be jointly and severally liable to pay Enecito Ricaforte the sum of Three Thousand (P3,000.00) Pesos for medical expenses, Two Thousand Five Hundred (P2,500.00) Pesos for loss of work, and Five Thousand (P5,000.00) Pesos moral damages and to pay the costs.
- Criminal Case No. 5056 — The accused Rogelio Lasanas and Conrado Magsalin are hereby found both GUILTY beyond reasonable doubt of the crime of Murder. There being no generic aggravating circumstance nor any mitigating circumstance, the penalty of reclusion perpetua is imposed upon the accused. They are further ordered to indemnify the heirs of Benigno Ricaforte, jointly and severally, the sum of Thirty Thousand (P30,000.00) Pesos, and to pay the costs.

SO ORDERED.

Teehankee, C.J., Yap, Fernan, Narvasa, Melencio- Herrera, Gutierrez, Jr., Cruz, Paras, Gancayco, Padilla, Bidin, Sarmiento, and Cortes, JJ., concur.

[1] Decision, Criminal Cases Nos. 5054, 5055, 5056 and 5057 ("Decision"). Rollo, pp. 19-20; italics supplied.

[2] TSN, 9 December 1975, p. 22; Decision, 27 June 1978, Rollo, p. 5.

[3] 101 Phil. 1206 (1957).

[4] 101 Phil. at 1206.

[5] Brief for the Appellee, p. 7.

[6] 125 SCRA 595 (1983).

[7] 125 SCRA at 623-624; italics supplied.

[8] 125 SCRA at 626. It is unclear to what extent the split in the Court was due to differences in the evaluation of the evidence of guilt.

[9] 86 SCRA 542 (1978).

[10] SCRA, at 557. Batas Pambansa Blg. 6, enacted on 21 November 1978, may have sought to undo the effects of the decision of the Court in *Purisima* by amending paragraph 3 of P.D. No. 9 so as to penalize the act of carrying outside of one's residence any bladed, pointed or blunt weapon as a *malum prohibitum*, except where such articles were used as necessary tools or implements to earn a livelihood or in pursuit of a lawful activity. B.P. Blg. 6 reduced the penalty to imprisonment of not less than one month, and not more than one year or a fine of not less than P200.00 and not more than P2,000.00 or both such imprisonment and fine. We cannot apply B.P. Blg. 6 to the instant case, Criminal Case No. 5055, since B.P. Blg. 6 is not more favorable to Rogelio Lasanas than the original paragraph 3, P.D. No. 9 as construed in *Purisima*.

[11] TSN, 14 November 1975, p. 9, TSN, 5 March 1976, p. 37.

[12] *Ibid.*, pp. 4 and 14.

[13] TSN, 9 December 1975, pp. 21-22 & 25; TSN, 5 March 1976, p. 37.

[14] TSN, 5 March 1976, pp. 37, 40 & 41.

[15] TSN, 14 November 1975, p. 5; TSN, 17 February 1976, p. 69.

[16] TSN, 9 December 1975, p. 23; TSN, 17 February 1976, pp. 69-70.

[17] TSN, 8 February 1978, pp. 94-95.

[18] *Ibid.*, pp. 96-99.

[19] *People vs. Bangug*, 52 Phil. 87, at 91 (1928); see also *People vs. Canitan, et al.*, 118 Phil. 370, at 376 (1963).

[20] Decision, p. 13.

[21] Decision, p. 14.

[22] *People vs. Samonte*, 64 SCRA 319 (1975); *People vs. Macariola*, 120 SCRA 92 (1983); *People vs. Rhoda*, 122 SCRA 909 (1983) and *People vs. Banayo*, 129 SCRA 725 (1984).

[23] TSN, 17 February 1976, p. 75; Brief for Accused-Appellants, Rollo, p. 79.

[24] *People vs. Lanseta*, 95 SCRA 166 (1980).

[25] TSN, 5 March 1976, pp. 40-41.

[26] TSN, 17 February 1976, p. 69.

[27] Ibid., p. 70.

[28] Ibid., p. 72.

[29] Exhibit "G". Folder of Index of Exhibits.

[30] TSN, 21 May 1976, pp. 55-57.

[31] Article 6, second paragraph, Revised Penal Code. See *People v. Catipon*, 139 SCRA 192 (1985).

[32] TSN, 21 May 1976, pp. 46-51.

[33] See *People vs. Pascual*, 109 SCRA 197 (1981).

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