

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
AMADEO PERALTA, ET AL., DEFENDANTS ANDRES FACTORA,
LEONARDO DOSAL, ANGEL PARUMOG, AMADEO PERALTA,
FLORENCIO LUNA AND GERVA...**

G.R. No. L-19069. October 29, 1968

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PER CURIAM:

In the decision in criminal case 7705 of the Court of First Instance of Rizal, subject of the present automatic review, Amadeo Peralta, Andres Factora, Leonardo Dosal, Angel Parumog, Gervasio Larita and Florencio Luna (six among the twenty-two defendants[1] charged therein with multiple murder) were pronounced guilty, and all sentenced to death, to indemnify jointly and severally the heirs of each of the victims, namely, Jose Carriego, Eugenio Barbosa and Santos Cruz, in the sum of P6,000, and each to pay his corresponding share of the costs.

The information recites

"That on or about the 16th day of February, 1958, in the municipality of Muntinglupa, province of Rizal, Philippines, and within the jurisdiction of this honorable court, the above-named accused, who are convicts confined in the New Bilibid Prisons by virtue of final judgments, conspiring, confederating and mutually helping and aiding one another, with evident premeditation and treachery, all armed with deadly weapons, did, then and there, willfully, unlawfully and feloniously kill Jose Carriego, Eugenio Barbosa and Santos Cruz, also convicts confined in the same institution, by hitting, stabbing and striking them with ice picks, clubs and other improvised weapons, pointed and/or sharpened, thereby inflicting upon the victims multiple serious injuries which directly caused their deaths;

"That the aggravating circumstance of quasi-recidivism is present in the commission of the crime in that the crime was committed after the accused have been convicted by final judgments and while they are serving the said judgments in the New Bilibid Prisons.

"Contrary to law with the following aggravating circumstances:

"1. That the crime was committed with insult to public authorities;

"2. That the crime was committed by a band;

"3. That the crime was committed by armed men or persons who insure or afford impunity;

"4. That use of superior strength or means was employed to weaken the defense;

"5. That as a means to the commission of the crime doors and windows have been broken;

"6. That means was employed which add ignominy to the natural effects of the act;

"7. That the crime was committed where public authorities were engaged in the discharge of their duties."

Upon motion of the provincial fiscal before trial, the lower court dismissed the charge against one of the

accused[2] for lack of evidence. After the prosecution had rested its case, the charges against six of the accused[3] were dismissed for failure of the prosecution to establish a prima facie case against them. One of the defendants died[4] during the pendency of the case. After trial, the court a quo acquitted eight[5] of the remaining defendants.

As early as in 1956, a great number of inmates confined in the national penitentiary at Muntinlupa arrayed themselves into two warring gangs, the "Sigue-Sigue" and the "OXO," the former composed predominantly of Tagalog inmates, the latter comprised mainly of prisoners from the Visayas and Mindanao. Since then the prison compound has been rocked time and time again by bloody riots resulting in the death of many of their members and suspected sympathizers. In an effort to avert violent clashes between the contending groups, prison officials segregated known members of the "Sigue-Sigue" from those of the "OXO." Building 1 housed "Sigue-Sigue" members, while a majority of the prisoners confined in Bldg. 4 belonged to the "OXO." Even in Bldg. 4, which is composed of four brigades, namely, 4-A and 4-B (upper floor) and 4-C and 4-D (first floor), inmates from Visayas and Mindanao, from whom the "OXO" drew most of its members, were confined in 4-A.

It was at about 7:00 a. m. on February 16, 1958, while the inmates of the penitentiary were preparing to attend Sunday mass, that a fight between two rival members of the "Sigue-Sigue" and "OXO" gangs occurred in the plaza where the prisoners were assembled, causing a big commotion. The fight was, however, quelled, and those involved were led away for investigation, while the rest of the prisoners were ordered to return to their respective quarters. Hardly had conditions returned to normal when a riot broke out in Bldg. 1, a known lair of the "Sigue-Sigue." The inmates thereof tried to invade Bldg. 4, where many members and sympathizers of the "OXO" gang were confined. The timely arrival of the guards forced the invading inmates to retreat and return to Bldg. 1. Moments later, another riot erupted in Bldg. 4, as the inmates of brigade 4-A destroyed the lock of their door and then rampaged from one brigade to another. The invading prisoners from 4-A mostly "OXO" members and sympathizers, clubbed and stabbed to death Jose Carriego an inmate of 4-B. Afterwards, they forcibly opened the door of 4-C, and killed two more inmates, namely, Eugenio Barbosa and Santos Cruz.

The three victims sustained injuries which swiftly resulted in their death - before they could be brought to the hospitals.

Jose Carriego: (a) lacerated wound on the lower lip, 5 cm. in length and 3 cm. in depth; (b) contusion and hematoma of the back of the neck, about 2 inches in diameter; and (c) five punctured wounds in the chest, penetrating the lungs. Cause of death: internal hemorrhage from multiple fatal wounds in the chest.

Eugenio Barbosa: (a) lacerated wound in the occipital region, 3 inches in length and 1 cm. in depth; (b) two penetrating wounds in the abdomen, puncturing the intestines; (c) lacerated wounds on the right axilla, 3 cm. in length and 2 cm. in depth; and (d) several bruises at the right and left lower extremities. Cause of death: shock, secondary internal hemorrhage in the abdomen.

Santos Cruz: (a) lacerated wound on the head, 2 inches in length; (b) fractured skull; (c) wound on the upper lip cutting the lip in two; (d) seven punctured wounds in the chest, two of which were penetrating; (e) hematoma on the right hand; and (f) three punctured wounds on the left hand. Cause of death: fractured skull.

Romeo Pineda, an inmate and first quarter-in-charge of brigade 4-B, testified that while he was taking his breakfast with Jose Carriego, who was at the time the representative of the prisoners confined in 4-B to the inmate carcel, he "suddenly heard commotion" near the door of their brigade; that his fellow prisoners started shouting "pinapasok na tayo," as the invading inmates from brigade 4-A stampeded into 4-B; that he and Carriego took hold of their clubs and stood at the end of the passageway; that he saw Carriego surrender his club to Andres Factora, an "OXO" member from 4-A; that as Carriego started to walk away, Factora clubbed Carriego on the nape causing the latter to fall; that Factora turned up the face of his fallen victim and struck him again in the face;

that while Carriego was in this prostrate position, Amadeo Peralta and Leonardo Dosal, companions of Factora, re-peatedly stabbed him.

The testimony of Pineda was corroborated in all its material points by Juanito Marayoc and Avelino Sauza, both inmates of 4-B. These two prosecution witnesses identified Factora, Peralta and Dosal as the assailants of Carriego.

From 4-B, the invading inmates of 4-A went down and forcibly entered 4-C. According to Oscar Fontillas, an inmate of 4-C, he saw the prisoners from 4-A rushing toward their brigade; that among the invading inmates who forced open the door of 4-C, with help from the inside provided by Visayan prisoners confined in 4-C, were Factora, Dosal, Angel Parumog, Gervasio Larita, Ernesto Fernandez and Jose Tariman; that he saw Factora, Larita and Fernandez kill Barbosa, while the rest of their companions instructed the Visayans to leave their cell and ordered the "Manila boys" (Tagalogs) to remain. Antonio Pabaran, another inmate of 4-C, declared that he saw Peralta stab Barbosa, as Dosal, Larita, Florencio Luna, Parumog and Factora clubbed the hapless victim. Another inmate of 4-C, Jose Halili, not only corroborated the testimony of Fontillas and Pabaran but as well added grim details. He declared that while Barbosa was trying to hide under a cot, he was beaten and stabbed to death by Dosal, Parumog, Factora and Fernandez, with Luna, Larita, Pedro Cogol and Eilel Tugaya standing guard, armed with clubs and sharp instruments, in readiness to repel any intervention from the Tagalog inmates. Carlos Espino, also confined in 4-C, declared that he saw Parumog, Peralta, Factora and Larita assault and kill Barbosa.

The same witnesses for the prosecution testified that after killing Barbosa, the invading "OXO" members and sympathizers proceeded to hunt for Santos Cruz, another Tagalog like Carriego and Barbosa. Halili testified that he saw Peralta, Larita, Cogol and Tugaya take Santos Cruz to 4-A from 4-C; that Santos Cruz knelt down and pleaded for his life, saying, "Maawa kayo sa akin. Marami akong anak;" that Luna and Peralta were unmoved as they stabbed Santos Cruz to death. Pabaran declared that after the death of Barbosa, Santos Cruz was brought to 4-A by the invading inmates but Cruz was able to slip back to his cell only to be recaptured by Factora, Dosal and Luna and brought to near the fire escape where he was clubbed and stabbed to death by Parumog, Dosal, Factora and Peralta. Fontillas and Espino corroborated the declarations of Halili and Pabaran with respect to the killing of Santos Cruz, and both mentioned Larita as one of the assailants of Cruz.

The trial judge summarized the evidence for the prosecution, thus:

" . . . it clearly appears that the three killings in question were an offshoot of the rivalry between the two organizations. All those who were killed, namely, Barbosa, Carriego and Santos Cruz, were Tagalogs and well known as members if not sympathizers of the Sigue Sigue, while the accused so charged with their killing were mostly members if not sympathizers of the Oxo organization. These three killings were sparked by the commotion that happened in the plaza between 8:00 and 9:00 in the morning, while the prisoners were preparing to go the mass. . . . It was evident that the clash that occurred in the plaza produced a chain reaction among the members and followers of the two organizations. The inmates of Building No. 1, known lair of the Sigue Sigues, bolted the door of their cells and tried to invade Building No. 4 where a big number of the Oxo members and their sympathizers were confined, but, however, were forced too by the timely arrival of the guards who sent them back to their building. When the members of the Oxo in Building No. 4 learned about this, they went on a rampage looking for members of the Sigue Sigue or their sympathizers who were confined with them in the same building. As the evidence of the prosecution shows, the accused who were confined in Brigade 4-A of Building No. 4 led the attack. They destroyed the lock of their dormitories and with the help of their companions succeeded in bolting the door of the different brigades, and once they succeeded in bolting the doors of the different brigades, they went inside and tried to segregate the Tagalogs from their group; that as soon as they discovered their enemies they clubbed and stabbed them to death. . . ."

Admitting that he was one among several who killed Jose Carriego, Peralta nevertheless claims self-defense. He testified that on the morning of the riot he was attacked by Carriego and Juan Estrella near the door of 4-A while he was returning to his brigade from the chapel with some companions; that Carriego clubbed him on the head; that he was able to parry the second blow of and then succeeded in squeezing Carriego's head with his hands; that forthwith he whipped out an improvised ice pick and stabbed Carriego several times; that when he (Peralta) was already dizzy due to the head wound he sustained from the clubbing, Carriego managed to slip away; that he then became unconscious, and when he regained consciousness he found himself on a tarima, with his head bandaged.

Peralta's declarations do not inspire belief. The impressive array of prosecution witnesses who saw him actively participate in the killing of the three victims pointed to him as the aggressor, not the aggrieved. Pineda, Marayoc and Sauza positively identified him as one of the assailants of Carriego. Contrary to the pretensions of Peralta, Carriego, an alleged "Sigue-Sigue" member, would not have attacked him, knowing fully well that Building No. 4 was an "OXO" lair where the "Sigue-Sigue" members were outnumbered. Anent the killing of Barbosa and Santos Cruz, Peralta failed to offer any explicit defense to rebut the inculpatory declarations of prosecution witnesses Pabaran and Espino who saw him participate in the killing of Barbosa and those of Halili, Fontillas and Espino who identified him as one of the murderers of Santos Cruz.

For his part, Leonardo Dosal stated that he killed Santos Cruz, but also claims self-defense in exculpation. He declared that Santos Cruz, Jose Carriego, Juanito Espino, Carlos Espino and Oscar Fontillas invaded 4-A where he was confined; that a free-for-all forthwith ensued; that he then heard Santos Cruz call Carlos Espino, and advise the latter to go away as "I will be the one to kill that person (Dosal);" that with a sharp instrument, Cruz hit him on the head and then on the nose; that as Cruz was about to hit him again, he got hold of his ice pick and stabbed Cruz repeatedly until the latter fell.

Dosal's avowal is clearly belied by the positive testimonies of Pabaran, Halili and Espino who saw him participate in the killing of Santos Cruz. If it is true that Dosal killed Santos Cruz in self-defense when the latter together with his companions supposedly invaded Dosal's brigade (4-A), why is it that the body of Santos Cruz was found at the fire escape near the pasillo between 4-C and 4-D of the first floor of Bldg. 1 instead of in 4-A which is located in the upper floor? Moreover, Dosal failed to explain why he was seen in 4-C, which he does not deny, since he was an inmate of 4-A where he was allegedly attacked. With respect to the murder of Carriego and Barbosa with which Dosal was also charged, he did not offer any evidence in his behalf. Hence, the testimonies of Pineda, Marayoc and Sauza identifying him as one of the killers of Carriego, and those of Pabaran, Halili and Espino implicating him in the death of Santos Cruz, stand un rebutted.

Andres Factora declared that he clubbed Carriego and Santos Cruz under compulsion of his co-accused who threatened to kill him if he disobeyed their order; that he did not hit Barbosa anymore because the latter was already dead; that it was his co-accused who actually killed the three victims. Again, the declarations of the prosecution witnesses, which were accorded full credence by the trial court, exposes the guilt of Factora beyond reasonable doubt. In fact, according to Pineda, whose testimony was corroborated by Marayoc, it was Factora who started the mass assault by grabbing Carriego treacherously. Fontillas, Halili, Pabaran and Espino pointed to Factora as one of the killers of Barbosa, while at least three prosecution witnesses, namely, Pabaran, Fontillas and Espino, saw Factora participate in the slaying of Santos Cruz. The active participation of Factora in the killing, which is a clear index of voluntariness, thus negates his claim of compulsion and fear allegedly engendered by his co-accused.

Angel Parumog, Gervasio Larita and Florencio Luna take refuge in the exculpatory device of alibi. Parumog testified that he did not participate in the killing of the three inmates because he stayed during that entire hapless day in the office of the trustees for investigation after the fight in the plaza; that he was implicated in the killing

by the prosecution witnesses because of his refusal to accede to their request to testify against his co-accused; that he is not a Visayan but a Tagalog from Nueva Ecija. Larita claims that he did not know about the killing until he was informed that three inmates had died; that on the day in question he was brought to the police trustee brigade for investigation after the incident in the plaza; that he was escorted back to his brigade only in the afternoon. Luna likewise disclaims any knowledge of the killing and asserts that for the entire duration of the riot he remained in his cell (brigade 4-A).

The alibis of Parumog, Larita and Luna merit no credence when set against the positive testimonies of prosecution witnesses identifying them as participants in the killing of Barbosa and Santos Cruz. Pabarlan, Espino and Fontillas declared that Larita was one of the killers of Barbosa; Espino and Fontillas declared that they saw Larita kill Santos Cruz; Pabarlan, Halili and Espino testified that they saw Parumog participate in the murder of Barbosa; Espino, Fontillas and Pabarlan stated that Parumog took part in the killing of Santos Cruz. Pabarlan and Halili declared that Luna participated in the fatal assault on Barbosa and Santos Cruz.

The alibis of the accused are thus sufficiently overcome by strong evidence to the contrary. The defense of alibi is generally weak since it is easy to concoct. For this reason, courts view it with no small amount of caution and accept it only when proved by positive, clear and satisfactory evidence.^[6] In the case at bar, if Parumog and Larita were really confined in the police trustee brigade for investigation on the day of the incident, there should have been a record of the alleged investigation. But none was presented. The testimony of Luna that throughout the riot he stayed in his cell is quite unnatural. He claims that he did not even help his cell-mates barricade their brigade with tarimas in order to delay if not prevent the entry of the invading inmates. According to him, he "just waited in one corner."

The rule is settled that the defense of alibi is worthless in the face of positive identification by prosecution witnesses pointing to the accused as *particeps criminis*.^[7] Moreover, the defense of alibi is an issue of fact the resolution of which depends almost entirely on the credibility of witnesses who seek to establish it. In this respect the relative weight which the trial judge accords to the testimony of the witnesses must, unless patently inconsistent with the evidence on record, be accepted.^[8] In the case at bar, the trial court, in dismissing the alibis of Parumog, Larita and Luna, said that "their mere denial cannot prevail over the positive testimony of the witnesses who saw them participate directly in the execution of the conspiracy to kill Barbosa, Carriego and Santos Cruz."

The killing of Carriego constitutes the offense of murder because of the presence of treachery as a qualifying circumstance. Carriego was clubbed by Factora from behind, and as he lay prostrate and defenseless, Peralta and Dosal stabbed him repeatedly on the chest. The blow on the nape and the penetrating chest wounds were all fatal, according to Dr. Bartolome Miraflor. Abuse of superior strength qualified the killing of Barbosa and Santos Cruz to the category of murder. The victims, who were attacked individually, were completely overwhelmed by their assailant's superiority in number and weapons and had absolutely no chance at all to repel or elude the attack. All the attackers were armed with clubs or sharp instruments while the victims were unarmed, as so found by the trial court. In fact, Halili testified that Barbosa was clubbed and stabbed to death while he was trying to hide under a cot, and Santos Cruz was killed while he was on his knees pleading for his life.

The essential issue that next confronts us is whether conspiracy attended the commission of the murders. The resolution of this issue is of marked importance because upon it depends the quantity and quality of the penalties that must be imposed upon each of the appellants.

For this purpose, it is not amiss to briefly restate the doctrine on conspiracy, with particular emphasis on the facets relating to its nature, the quantum of proof required, the scope and extent of the criminal liability of the

conspirators, and the penalties imposable by mandate of applicable law.

Doctrine. A conspiracy exists when two or more persons come to an agreement concerning the commission of a felony and decide to commit it.[9] Generally, conspiracy is not a crime except when the law specifically provides a penalty therefor as in treason,[10] rebellion[11] and sedition.[12] The crime of conspiracy known to the common law is not an indictable offense in the Philippines.[13] An agreement to commit a crime is a reprehensible act from the view-point of morality, but as long as the conspirators do not perform overt acts in furtherance of their malevolent design, the sovereign-ty of the State is not outraged and the tranquility of the public re-mains undisturbed. However, when in resolute execution of a com-mon scheme, a felony is committed by two or more malefactors, the existence of a conspiracy assumes pivotal importance in the determination of the liability of the perpetrators. In stressing the significance of conspiracy in criminal law, this Court in *U.S. vs. Infante and Barreto*[14] opined that

"While it is true that the penalties cannot be imposed for the mere act of conspiring to com-mit a crime unless the statute specifically prescribes a penalty therefor, nevertheless the existence of a conspiracy to commit a crime is in ma-ny cases a fact of vital importance, when considered together with the other evidence of record, in establishing the existence of the consummated crime and its commission by the conspirators."

Once an express or implied conspiracy is proved, all of the conspirators are liable as co-principals regardless of the ex-tent and character of their respective active participation in the commission of the crime or crimes perpetrated in furtherance of the conspiracy because in contemplation of law the act of one is the act of all.[15] The foregoing rule is anchored on the sound prin-ciple that "when two or more persons unite to accomplish a criminal object, whether through the physical volition of one, or all, proceeding severally or collectively, each individual whose, evil will actively contributes to the wrong-doing is in law responsible for the whole, the same as though performed by himself alone." [16] Although it is axiomatic that no one is liable for acts other than his own, "when two or more persons agree or conspire to commit a crime, each is responsible for all the acts of the others, done in furtherance of the agreement or conspiracy." [17] The imposition of collective liability upon the conspirators is clearly explained in one case[18] where this Court held that

". . . it is impossible to graduate the separate liability of each (conspirator) without taking into consideration the close and inseparable relation of each of them with the criminal act, for the commission of which they all acted by common agreement. . . The crime must therefore in view of the solidarity of the act and intent which existed between the . . . accused, be regarded as the act of the band or party created by them, and they are all equally responsible. . ."

Verily, the moment it is established that the malefactors conspired and confederated in the commission of the felony proved, collective liability of the accused conspirators attaches by reason of the conspiracy, and the court shall not speculate nor even inves-tigate as to the actual degree of participation of each of the perpe-trators present at the scene of the crime. Of course, as to any conspirator who was remote from the situs of aggression, he could be drawn within the enveloping ambit of the conspiracy if it be proved that through his moral ascendancy over the rest of the cons-pirators the latter were moved or impelled to carry out the conspiracy.

In fine, the convergence of the wills of the conspirators in the scheming and execution of the crime amply justifies the imputation to all of them the act of any one of them. It is in this light that conspiracy is generally viewed, not as a separate indictable offense, but a rule for collectivising criminal liability.

The ensharing nature of conspiracy is projected in bold re-lief in the cases of malversation and rape committed in furtherance of a Common design.

The crime of malversation is generally committed by an accountable public officer who misappropriates public

funds or public property under his trust.[19] However, in the classic case of *People vs. Ponte*[20] this Court unequivocally held that a janitor and five municipal policemen, all of whom were not accountable public officers, who conspired and aided a municipal treasurer in the malversation of public funds under the latter's custody, were principally liable with the said municipal treasurer for the crime of malversation. By reason of conspiracy, the felonious act of the accountable public officer was imputable to his co-conspirators, although the latter were not similarly situated with the former in relation to the object of the crime committed. Furthermore, in the words of Groizard, "the private party does not act independently from the public officer: rather, he knows that the funds of which he wishes to get possession are in the latter's charge, and instead of trying to abstract them by circumventing the other's vigilance he resorts to corruption, and in the officer's unfaithfulness seeks and finds the most reprehensible means of accomplishing a deed which by having a public officer as moral instrument assumes the character of a social crime." [21] In an earlier case [22] a non-accountable officer of the Philippine Constabulary who conspired with his Superior, a military supply officer, in the malversation of public funds as adjudged guilty as co-principal in the crime of malversation, although it was not alleged, and in fact it clearly appeared, that the funds misappropriated were not in his custody but were under the trust of his superior, an accountable public officer.

In rape, a conspirator is guilty not only of the sexual assault he personally commits but also of the separate and distinct crimes of rape perpetrated by his co-conspirators. He may have had carnal knowledge of the offended woman only once but his liability includes that pertaining to all the rapes committed in furtherance of the conspiracy. Thus, in *People vs. Villa*, [23] this Court held that"

"... from the acts performed by the defendants from the time they arrived at Consolacion's house to the consummation of the offense of rape on her person by each and everyone of them, it clearly appears that they conspired together to rape their victim, and therefore each one is responsible not only for the rape committed personally by him, but also that committed by the others, because each sexual intercourse had, through force, by each one of the defendants with the offended party was consummated separately and independently from that had by the others, for which each and every one is also responsible because of the conspiracy."

The rule enunciated in *People vs. Villa* was reiterated in *People vs. Quitain* [24] where the appellant Teofilo Anchita was convicted of forcible abduction with double rape for having conspired and cooperated in the sexual assault of the aggrieved woman, although he himself did not actually rape the victim. This Court observed:

"We have no doubt at all that Teofilo Anchita took part in the sexual assault. . . the accused inserted his fingers in the woman's organ, and witnessed it. Whether he acted out of lewdness or to help his brother-in-law consummate the act, is immaterial: it was both maybe. Yet, surely, by his conduct, this prisoner conspired and cooperated, and is guilty."

With respect to robbery in band, the law presumes the attendance of conspiracy so much so that "any member of a band who is present at the commission of a robbery by the band, shall be punished as principal of any of the assaults committed by the band, unless it be shown that he attempted to prevent the same." [25] In this instance, conspiracy need not be proved, as long as the existence of a band is clearly established. Nevertheless, the liability of a member of the band for the assaults committed by his group is likewise anchored on the rule that the act of one is the act of all.

Proof of conspiracy. While conspiracy to commit a crime must be established by positive evidence, [26] direct proof is not essential to show conspiracy. [27] Since by its nature, conspiracy is planned in utmost secrecy, it can seldom be proved by direct evidence. [28] Consequently, competent and convincing circumstantial evidence will suffice to establish conspiracy. According to *People vs. Cabrera*, [29] "conspiracies are generally proved by a number of indefinite acts, conditions, and circumstances which vary according to the purposes to be

accomplished. If it be proved that the defendants pursued by their acts the same object, one performing one part and another part of the same, so as to complete it, with a view to the attainment of the same object, one will be justified in the conclusion that they were engaged in a conspiracy to effect, the object." Or as elucidated in *People vs. Carbonel*,^[30] the presence of the concurrence of minds which is involved in conspiracy maybe inferred from "proofs of facts and circumstances which, taken together, apparently indicate that they are merely parts of some complete whole. If it is proved that two or more persons aimed by their acts towards the accomplishment of the same unlawful object, each doing a part so that their acts, though apparently independent, were in fact connected and cooperative indicating a closeness of personal association and a concurrence of sentiment, a conspiracy may be inferred though no actual meeting among to concert means is proved. . ." In two recent cases,^[31] this Court ruled that where the acts of the accused, collectively and individually, clearly demonstrate the existence of a common design toward the accomplishment of the same unlawful purpose, conspiracy is evident.

Conspiracy presupposes the existence of a preconceived plan or agreement; however, to establish conspiracy, "it is not essential that there be proof as to previous agreement to commit a crime, it being sufficient that the malefactors shall have acted in concert pursuant to the same objective."^[32] Hence, conspiracy is proved if there is convincing, evidence to sustain a finding that the malefactors committed an offense in furtherance of a common objective pursued in concert.

Liability of conspirators. A time-honored rule in the cor-pus of our jurisprudence is that once conspiracy is proved, all of the conspirators who acted in furtherance of the common design are liable as co-principals.^[33] This rule of collective criminal liability emanates from the ensnaring nature of conspiracy. The con-certed action of the conspirators in consummating their common purpose is a patent display of their evil partnership, and for the consequences of such criminal enterprise they must be held soli-darily liable.

However, in order to hold an accused guilty as co-principal by reason of conspiracy, it must be established that he performed an overt act in furtherance of the conspiracy, either by actively participating in the actual commission of the crime, or by lending moral assistance to his co-conspirators by being present at the scene of the crime, or by exerting moral ascendancy over the rest of the conspirators as to move them to executing the conspiracy. The difference between an accused who is a principal under any of the three categories enumerated in Art. 17 of the Revised Penal Code and a co-conspirator who is also a principal is that while the former's criminal liability is limited to his own acts, as a gene-ral rule, the latter's responsibility includes the acts of his fellow conspirators.

In *People vs. Izon, et al.*,^[34] this Court acquitted appellant Francisco Robles, Jr., who was convicted by the trial court of robbery with homicide as a conspirator, on the ground that although he may have been present when the conspiracy to rob was proposed and made, "Robles uttered not a word either of approval or disap-proval. There are authorities to the effect that mere presence at the discussion of a conspiracy, even approval of it, without any ac-tive participation in the same, is not enough for purposes of conviction." In a more recent case,^[35] this Court, in exonerating one of the appellants, said:

"There is ample and positive evidence on record that appellant Jose Guico was absent not only from the second meeting but likewise from the robbery itself. To be sure, not even the deci-sion under appeal determined otherwise. Conse-quently, even if Guico's participation in the first meeting sufficiently involved him with the conspi-racy (as he was the one who explained the location of the house to be robbed in relation to the surrounding, streets and the points thereof through which entrance and exit should be effected), such participation and involvement, however, would be inadequate to render him criminally liable as a conspirator. Conspiracy alone, without the exe-cution of its purpose, is not a crime punishable by law, except in special instances (Article 8, Revised Penal Code) which, however, do not include robbery."

Imposition of multiple penalties where conspirators commit more than one offense. Since in conspiracy, the act of

one is the act of all, then, perforce, each of the conspirators is liable for all of the crimes committed in furtherance of the conspiracy. Consequently, if the conspirators commit three separate and distinct crimes of murder in effecting their common design and purpose, each of them is guilty of three murders and shall suffer the corresponding penalty for each offense. Thus in *People vs. Masin*,^[36] this Court held:

"... it being alleged in the information that three crimes were committed not simultaneously indeed but successively, inasmuch as there was, at least, solution of continuity between each other, the accused (seven in all) should be held responsible for said crimes. This court holds that the crimes are murder... In view of all these circumstances and of the frequently reiterated doctrine that once conspiracy is proven each and every one of the conspirators must answer for the acts of the others, provided said acts are the result of the common plan or purpose... it would seem evident that the penalty that should be imposed upon each of the appellants for each of their crimes should be the same, and this is the death penalty... "(underscoring supplied).

In the aforesaid case, however, the projected imposition of three death penalties upon each of the conspirators for the three murders committed was not carried out due to the lack of the then requisite unanimity in the imposition of the capital penalty.

In another case,^[37] this Court, after finding that conspiracy attended the commission of eleven murders, said through Mr. Justice Tuason:

"Some members of this Court opine that the proper penalty is death, under the circumstances of the case, but they fall short of the required number for the imposition of this punishment. The sentence consequently is reclusion perpetua; but each appellant is guilty of as many crimes of murder as there were deaths (eleven) and should be sentenced to life imprisonment for each crime, although this may be a useless formality for in no case can imprisonment exceed forty years." (Underscoring supplied).

In *People vs. Masani*,^[38] the decision of the trial court imposing only one life imprisonment for each of the accused was modified by this Court on appeal on the ground that "inasmuch as their (the conspirators') combined attack resulted in the killing of three persons, they should be sentenced to suffer said penalty (reclusion perpetua) for each of the three victims (crimes)." (Underscoring supplied)

It is significant to note that in the abovementioned cases, this Court consistently stressed that once conspiracy is ascertained, the culpability of the conspirators is not only solidary (all co-principals) but also multiple in relation to the number of felonies committed in furtherance of the conspiracy. It can also be said that had there been a unanimous Court in the *Masin* and *Macaso* cases, multiple death penalties would have been imposed upon all the conspirators.

Legality and practicality of imposing multiple death penalties upon conspirators. An accused who was charged with three distinct crimes of murder in a single information was sentenced to two death penalties for two murders,^[39] and another accused to thirteen (13) separate death penalties for the 13 killings he perpetrated.^[40] Therefore there appears to be no legal reason why conspirators may not be sentenced to multiple death penalties corresponding to the nature and number of crimes they commit in furtherance of a conspiracy. Since it is the settled rule that once conspiracy is established, the act of one conspirator is attributable to all, then each conspirator must be held liable for each of the felonious acts committed as a result of the conspiracy, regardless of the nature and severity of the appropriate penalties prescribed by law.

The rule on the imposition of multiple penalties where the accused is found guilty of two or more separate and distinct crimes charged in one information, the accused not having interposed any objection to the multiplicity of the charges, was enunciated in the leading case of *U.S. vs. Balaba*,^[41] thus: Upon conviction of two or more offenses charged in the complaint or information, the prescribed penalties for each and all of such offenses may

be imposed, to be executed in conformity with the provisions of article 87 of the Penal Code [now article 70 of the Revised Penal Code]. In other words, all the penalties corresponding to the several violations of law should be imposed. Conviction for multiple felonies demands the imposition of multiple penalties.

The two conceptual exceptions to the foregoing rule are the complex crime under article 48 of the Revised Penal Code and the special complex crime (like robbery with homicide). Anent an ordinary complex crime falling under article 48, regardless of the multiplicity of offenses committed, there is only one imposable penalty - the penalty for the most serious offense applied in its maximum period. Similarly, in special complex crimes, there is but a single penalty prescribed by law notwithstanding the number of separate felonies committed. For instance, in the special complex crime of robbery with homicide the imposable penalty is reclusion perpetua to death[42] irrespective of the number of homicides perpetrated by reason or on occasion of the robbery.

In *Balaba*, the information charged the accused with triple murder. The accused went to trial without objection to the said information which charged him with more than one offense. The trial court found the accused guilty of two murders and one homicide but it imposed only one death penalty. In its review en consulta, this Court modified the judgment by imposing separate penalties for each of the three offenses committed. The Court, thru Mr. Justice Carson (with Mr. Justice Malcolm dissenting with respect to the imposition of two death penalties), held:

"The trial judge was erroneously of the opinion that the prescribed penalties for the offenses of which the accused was convicted should be imposed in accord with the provisions of article 89 of the Penal Code. That article is only applicable to cases wherein a single act constitutes two or more crimes, or when one offense is a necessary means for committing the other. (*U. S. vs. Ferrer*, 1 Phil. Rep., 56)

"It becomes our duty, therefore, to determine what penalty or penalties should have been imposed upon the accused upon conviction of the accused of three separate felonies charged in the information.

"There can be no reasonable doubt as to the guilt of the convict of two separate crimes of *asesinato* (murder) marked with the generic aggravating circumstances mentioned in the decision of the trial judge. . . It follows that death penalty must and should be imposed for each of these offenses. . .

"Unless the accused should be acquitted hereafter on appeal of one or both the *asesinatos* with which he is charged in the information, it would seem to be a useless formality to impose separate penalties for each of the offenses of which he was convicted, in view of the nature of the principal penalty; but having in mind the possibility that the Chief Executive may deem it proper to grant a pardon for one or more of the offenses without taking action on the others; and having in mind also the express provisions of the above cited article 87 of the Penal Code, we deem it proper to modify the judgment entered in the court below by substituting for the penalty imposed by the trial judge under the provisions of article 89 of the Code, the death penalty prescribed by law for each of the two separate *asesinatos* of which he stands convicted, and the penalty of 14 years 8 months and 1 day of reclusion temporal (for the separate crime of homicide). . . these separate penalties to be executed in accord with the provisions of article 87 of the Penal Code." (Underscoring supplied)

The doctrine in *Balaba* was reiterated in *U. S. vs. Jamad*[43] where a unanimous Court, speaking again thru Mr. Justice Carson (with Mr. Justice Malcolm concurring in the result in view of the *Balaba* ruling), opined:

"For all the offenses of which the accused were convicted in the court below, the trial judge imposed the death penalty, that is to say the penalty prescribed for the most serious crime committed, in its maximum degree, and for this purpose made use of the provisions of article 89 of the Penal Code [now article 48 of the Revised Penal Code]. But as indicated in the case of the *United States vs. Balaba*, recently decided where in the controlling facts were substantially similar to those in the case at bar, 'all of the penalties corresponding to the several violations of law' should have been imposed under the express provisions of article 87 [now

engrafted in article 70 of the Re-vised Penal Code] and under the ruling in that case, the trial court erred in applying the provisions of article 89 of the code.

"We conclude that the judgment entered in the court below should be reversed, . . . and that the following separate penalties should be imposed upon him [the accused Jamad], to be executed in accordance with article 87 of the Penal Code: (1) The penalty of death for the parricide of his wife Aring; (2) the penalty of life imprisonment for the murder of Labonete; (3) the penalty of life imprisonment for the murder of Torres; (4) the penalty of 12 years and one day of cadena temporal for the frustrated murder of Taclind. . ."

The doctrine in *Balaba* was reechoed in *People vs. Guzman*[44], which applied the pertinent provisions of the Revised Penal Code, where this Court, after finding the accused liable as co-principals because they acted in conspiracy, proceeded to stress that where an "information charges the defendants with the commission of several crimes of murder and frustrated murder, as they failed to object to the multiplicity of the charges made in the information, they can be found guilty thereof and sentenced accordingly for as many crimes the information charges them, provided that they are duly established and proved by the evidence on record." (Underscoring supplied)

The legal and statutory justification advanced by the majority in *Balaba* for imposing all the penalties (two deaths and one life imprisonment) corresponding to the offense charged and proved was article 87 of the old Penal Code which provided:

"When a person is found guilty of two or more felonies or misdemeanors, all the penalties corresponding to the several violations of law shall be imposed, the same to be simultaneously served, if possible, according to the nature and effects of such penalties, "

in relation to article 88 of the old Code which read:

"When all or any of the penalties corresponding to the several violations of the law, can not be simultaneously executed, the following rules shall be observed with regard thereto:

"1. In the imposition of the penalties, the order of their respective severity shall be followed so that they may be executed successively or as nearly as may be possible, should a pardon have been granted as to the penalty or penalties first imposed, or should they have been served out."

The essence and language, with some alterations in form and in the words used by reason of style, of the abovesaid provisions have been preserved in article 70 of the Revised Penal Code which is the product of the merger of articles 87 and 88 of the old Penal Code. Article 70 provides:

"When the culprit has to serve two or more penalties, he shall serve them simultaneously if the nature of the penalties will so permit; otherwise, the following rules shall be observed:

"In the imposition of the penalties, the order of their respective severity shall be followed so that they may be executed successively or as nearly as may be possible, should a pardon have been granted as to the penalty or penalties first imposed, or should they have been served out."

Although article 70 does not specifically command, as the former article 87 clearly did, that "all the penalties corresponding to the several violations of law shall be imposed," it is unmistakable, however, that article 70 presupposes that courts have the power to impose multiple penalties, which multiple penal sanctions should be served either simultaneously or successively. This presumption of the existence of judicial power to impose all the penalties corresponding to the number and nature of the offenses charged and proved is manifest in the opening sentence of article 70: "When the culprit to serve or more penalties, he shall serve them simultaneously if the nature of the penalties will so permit. . ." (Underscoring supplied) Obviously, the two or more penalties which

the culprit has to serve are those legally imposed by the proper court. Another reference to the said judicial prerogative is found in the second paragraph of article 70 which provides that "in the imposition of the penalties, the order of their respective severity shall be followed. . ." Even without the authority provided by article 70, courts can still impose as many penalties as there are separate and distinct offenses committed, since for every individual crime committed, a corresponding penalty is prescribed by law. Each single crime is an outrage against the State for which the latter, thru the courts of justice, has the power to impose the appropriate penal sanctions.

With respect to the imposition of multiple death penalties, there is no statutory prohibition or jurisprudential injunction against it. On the contrary, article 70 of the Revised Penal Code presumes that courts have the power to mete out multiple penalties without distinction as to the nature and severity of the penalties. Moreover, our jurisprudence supports the imposition of multiple death penalties as initially advocated in *Balaba* and thunderously reechoed in *Salazar* where the accused was sentenced on appeal to thirteen (13) death penalties. Significantly, the Court in *Balaba* imposed upon the single accused mixed multiple penalties of two deaths and one life imprisonment.

The imposition of multiple death penalties is decried by some as a useless formality, an exercise in futility. It is contended, undeniably enough, that a death convict, like all mortals, has only one life to forfeit. And because of this physiological and biological attribute of man, it is reasoned that the imposition of multiple death penalties is impractical and futile because after the service of one capital penalty, the execution of the rest of the death penalties will naturally be rendered impossible. The foregoing opposition to the multiple imposition of death penalties suffers from four basic flaws: (1) it fails to consider the legality of imposing multiple capital penalties; (2) it fails to distinguish between imposition of penalty and service of sentence; (3) it ignores the fact that multiple death sentences could be served simultaneously; and (4) it overlooks the practical merits of imposing multiple death penalties.

The imposition of a penalty and the service of a sentence are two distinct, though related, concepts. The imposition of the proper penalty or penalties is determined by the nature, gravity and number of offenses charged and proved, whereas service of sentence is determined by the severity and character of the penalty or penalties imposed. In the imposition of the proper penalty or penalties, the court does not concern itself with the possibility or practicality of the service of the sentence, since actual service is a contingency subject to varied factors like successful escape of the convict, grant of executive clemency or natural death of the prisoner. All that go into the imposition of the proper penalty or penalties, to reiterate, are the nature, gravity and number of the offenses charged and proved and the corresponding penalties prescribed by law.

Multiple death penalties are not impossible to serve because they will have to be executed simultaneously. A cursory reading of article 70 will show that there are only two modes of serving two or more (multiple) penalties: simultaneously or successively. The first rule is that two or more penalties shall be served simultaneously if the nature of the penalties will so permit. In the case of multiple capital penalties, the nature of said penal sanctions does not only permit but actually necessitates simultaneous service.

The imposition of multiple death penalties, far from being a useless formality, has practical importance. The sentencing of an accused to several capital penalties is an indelible badge of his extreme criminal perversity, which may not be accurately projected by the imposition of only one death sentence irrespective of the number of capital felonies for which he is liable. Showing thus the reprehensible character of the convict in its real dimensions, the possibility of a grant of executive clemency is justifiably reduced in no small measure. Hence, the imposition of multiple death penalties could effectively serve as a deterrent to an improvident grant of pardon or commutation. Faced with the utter delinquency of such a convict, the proper penitentiary authorities would

exercise judicious restraint in recommending clemency or leniency in his behalf.

Granting, however, that the Chief Executive, in the exercise of his constitutional power to pardon (one of the presidential prerogatives which is almost absolute) deems it proper to commute the multiple death penalties to multiple life imprisonments, then the practical effect is that the convict has to serve the maximum of forty (40) years of multiple life sentences. If only one death penalty is imposed, and then is commuted to life imprisonment, the convict will have to serve a maximum of only thirty years corresponding to a single life sentence.

Reverting now to the case at bar, it is our considered view that the trial court correctly ruled that conspiracy attended the commission of the murders. We quote with approval the following incisive Observations of the court a quo in this respect:

"Although, there is no direct evidence of conspiracy, the Court can safely say that there are several circumstances to show that the crime committed by the accused was planned. The following circumstances show beyond any doubt the acts of conspiracy: First, all those who were killed, Barbosa, Santos Cruz and Carriego, were Tagalogs. Although there were many Tagalogs like them confined in Building 4, these three were singled out and killed thereby showing that their killing has been planned. Second, the accused were all armed with improvised weapons showing that they really prepared for the occasion; third, the accused accomplished the killing with team work precision going from one brigade to another and attacking the same men whom they have previously marked for liquidation and lastly, almost the same people took part in the killing of Carriego, Barbosa and Santos Cruz."

It is also important to note that all the accused were inmates of brigade 4-A; that all were from either the Visayas or Mindanao except Peralta who is from Masbate and Parumog who hails from Nueva Ecija; that all were either "OXO" members or sympathizers; and that all the victim were members of the "Sigue-Sigue" gang.

The evidence on record proves beyond peradventure that the accused acted in concert from the moment they bolted their common brigade, up until the time they killed their last victim, Santos Cruz. While it is true that Parumog, Larita and Luna did not participate in the actual killing of Carriego, nonetheless, as co-conspirators they are equally guilty and collectively liable for in conspiracy the act of one is the act of all. It is not indispensable that a co-conspirator should take a direct part in every act and should know the part which the others have to perform. Conspiracy is the common design to commit a felony; it is not participation in all the details of the execution of the crime. All those who in one way or another help and cooperate in the consummation of a felony previously planned are co-principals.[45] Hence, all of the six accused are guilty of the slaughter of Carriego, Barbosa and Santos Cruz - each is guilty of three separate and distinct crimes of murder.

We cannot agree, however, with the trial court that evident premeditation was also present. The facts on record and the established jurisprudence on the matter do not support the conclusion of the court a quo that evident premeditation "is always present and inherent in every conspiracy." Evident premeditation is not inherent in conspiracy as the absence of the former does not necessarily negate the existence of the latter.[46] Unlike in evident premeditation where a sufficient period of time must elapse to afford full opportunity for meditation and reflection for the perpetrator to deliberate on the consequences of his intended deed, conspiracy arises at the very instant the plotters agree, expressly or impliedly, to commit the felony and forthwith decide to commit it.[47] This view finds added support in *People vs. Custodio*,[48] wherein this Court stated:

"Under normal conditions, where the act of conspiracy is directly established, with proof of the attendant deliberation and selection of the method, time and means of executing the crime, the existence of evident premeditation can be taken for granted. In the case before us, however, no such evidence exists; the conspiracy is merely inferred from the acts of the accused in the perpetration of the crime. There is no proof how and when the plan to kill Melanio Balancio was hatched, or what time elapsed before it was carried out;

we are, there-fore, unable to determine if the appellants enjoyed ‘sufficient time between its inception and its ful-fillment dispassionately to consider and accept the consequences.’ (cf. *People vs. Bangug*, 52 Phil. 91). In other words, there is no showing of the opportunity for reflection and the persistence in the criminal intent that characterize the aggravating circumstance of evident premeditation (*People vs. Mendoza*, 91 Phil. 58; *People vs. Iturriaga*, 47 Off. Gaz., [Supp. to No. 12] 166; *People vs. Lesada*, 70 Phil., 525.)”

Not a single extenuating circumstance could be appreciated in favor of any of the six accused, as they did neither allege nor prove any.

In view of the attendance of the special aggravating circumstance of quasi-recidivism, as all of the six accused at the time of the commission of the offenses were serving sentences[49] in the New Bilibid Prison at Muntinlupa, by virtue of convictions by final judgments, the penalty for each offense must be imposed in its maximum period, which is the mandate of the first paragraph of article 160 of the Revised Penal Code. Viada observes, in apposition, that the severe penalty imposed on a quasi-recidivist is justified because of his perversity and incorrigibility.[50]

ACCORDINGLY, the judgment a quo is hereby modified as follows: Amadeo Peralta, Andres Factora, Leonardo Dosal, Angel Parunog, Gervasio Larita and Florencio Luna are each pronounced guilty of three separate and distinct crimes of murder, and are each sentenced to three death penalties; all of them shall, jointly and severally, indemnify the heirs of each of the three deceased victims in the sum of P12,000;[51] each will pay one-sixth of the costs.

Concepcion, C.J., Reyes, J.B.L., Dizon, Makalintal, Sanchez, Castro, Angeles, Fernando, and Capistrano, JJ., concur.

Zaldivar, J., on official leave.

[1] Amadeo Peralta, Andres Factora, Leonardo Dosal, Angel Parumog, Gervacio Larita, Florencio Luna, Jose Tariman, Silverio Lumanog, Leonardo Hamora, Eilel Tugaya, Gabriel Buclatin, Roberto Abada, Ubaldo Peralta, Arsenio Cunanan, Pedro Cogol, Jesus Baldueza, Felicisimo Aguipo, Jose Loyola, Beltran Agrava, Alfredo Paunil, Ambrosio Paunil and Ernesto Fernandez.

[2] Roberto Abada.

[3] Alfredo Paunil, Ambrosio Paunil, Ubaldo Peralta, Arsenio Cunanan, Jesus Baldueza and Beltran Agrava.

[4] Gabriel Buclatin.

[5] Pedro Cogol, Ernesto Fernandez, Jose Tariman, Felicisimo Aguipo, Eilel Tugaya, Silverio Lumanog, Leonardo Amora and Jose Loyola.

[6] *People vs. Pasiona*, L-18295, February 28, 1966; *People vs. Bautista*, L-17772, October 31, 1962, cited in *People vs. Dayday*, L-20806-07, August 14, 1965.

[7] *People vs. Tansiangco*, L-19448, February 28, 1964; *People vs. Rival*, L-14077, March 31, 1964; cited in *People vs. Berdida, et al.*, L-20183, June 30, 1966.

[8] *People vs. Berdida, et al.*, *supra*, citing *People vs. Constante*, L-14639, December 28, 1964.

[9] Article 8, Revised Penal Code.

[10] Article 115, Revised Penal Code.

- [11] Article 136, Revised Penal Code.
- [12] Article 141, Revised Penal Code.
- [13] U.S. vs. Lim Buanco, 14 Phil. 472; U.S. vs. Remigio, 37 Phil. 599, 614; People vs. Assad, 55 Phil. 697.
- [14] 36 Phil. 149.
- [15] U.S. vs. Ramos, 2 Phil. 434; U.S. vs. Maza, 5 Phil. 346; U.S. vs. Grant and Kennedy, 18 Phil. 122; U.S. vs. Ipil, 27 Phil. 530 and the cases therein cited.
- [16] U.S. vs. Snyder, 3 McCrary, 377; See also People vs. Bannaisan, 49 Phil. 423; U.S. vs. Maza, supra.
- [17] U.S. vs. Ipil, supra; U.S. vs. Grant, supra.
- [18] U.S. vs. Bundal, et al., 3 Phil. 89.
- [19] See Article 217 of the Revised Penal Code.
- [20] 20 Phil. 379.
- [21] Quoted in People vs. Ponte, supra.
- [22] U.S. vs. Dowdell, 11 Phil. 4.
- [23] 81 Phil. 193, 198.
- [24] 99 Phil. 226.
- [25] See second paragraph of Article 296 of the Revised Penal Code.
- [26] People vs. Ancheta, et al., 66 Phil. 638.
- [27] People vs. Carbonel, 48 Phil. 868.
- [28] People vs. Cadag, L-13830, May 31, 1961; People vs. Romualdez, 57 Phil. 148.
- [29] 43 Phil. 64, citing 5 RCL 1088.
- [30] See note 27, p. 876.
- [31] People vs. Condemena, L-22426, May 29, 1968; People vs. Fontillas, L-25298, April 16, 1968.
- [32] People vs. San Luis, 86 Phil. 485.
- [33] U.S. vs. Bundal, supra; U.S. vs. Maza, supra; U.S. vs. Matanug, 11 Phil. 188; U.S. vs. Ipil, supra; People vs. Go, 88 Phil. 203; People vs. Jaravata, L-22029, August 15, 1967; People vs. Fontillas, supra.
- [34] 104 Phil. 690.
- [35] People vs. Pelagio, L-16177, May 24, 1967.
- [36] 64 Phil. 757.
- [37] People vs. Macaso, 85 Phil. 819.
- [38] L-3973, September 18, 1952.
- [39] United States vs. Balaba, 37 Phil. 260.

[40] People vs. Salazar, 105 Phil. 1060.

[41] See note 30.

[42] See Article 294, subdivision 1, Revised Penal Code.

[43] 37 Phil. 305.

[44] L-7530, August 30, 1958.

[45] People vs. Valeriano, L-2859, September 19, 1951.

[46] People vs. Datu Dima Binasing, et al., 98 Phil. 902.

[47] People vs. Monroy, et al., L-11177, October 30, 1958.

[48] 97 Phil. 698, 704-705.

[49] Amadeo Peralta was serving sentences for robbery (two counts), evasion of sentence (two counts) and murder; Andres Factora was serving sentences for illegal possession of hand grenade and frustrated homicide (two counts); Leonardo Dosal was serving sentence for frustrated homicide and murder; Angel Parumog was serving sentence for qualified theft; Gervasio Larita was serving sentence for robbery in band with physical injuries and rape; and Florencio Luna was serving sentence for homicide, murder and evasion of sentence.

[50] 1 Viada, 4th edition, p. 562, cited in Aquino, The Revised Penal Code, vol. II, p. 930.

[51] See People vs. Pantoja, L-18793, October 11, 1968.

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