

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROGER SEMACIO, RENATO MARTIN @ “BOYOYOY MARTIN”; JOHN DOE @ “BERLING ATACADOR” & PETER DOE @ “IDO ATACADOR”; ACCUSED, ROGER SE...

Ponente: DE GUIA-SALVADOR, R., J.

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DE GUIA-SALVADOR, R., J.:

Accused-appellants Roger Semacio and Renato Martin a.k.a. “Boyoyoy Martin” (or “appellants”) appeal from the 05 November 2002 Decision of Branch 27, Regional Trial Court of Cabanatuan City (or “RTC”) in Criminal Case No. 8668-AF, finding them guilty of the crime of murder.

The Charge

For the fatal shooting of Romano Espino, an Information was filed with the RTC charging appellants and their co-accused, Berling Atacador and Ido Atacador, with the crime of murder as follows:

“That on or about the 1st day of November 1998, in the City of Cabanatuan, Republic of the Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually aiding and abetting with one another armed with a cal. 38 Revolver and M-16 Armalite Rifles did then and there, willfully, unlawfully, and feloniously and with intent to kill, with treachery and evident premeditation, nighttime, with the aid of armed men, and committed in the dwelling of the offended party, then and there shoot and inflict fatal wound on the body of Romano Espino thereby inflicting upon him serious bodily injury which directly caused his death.

CONTRARY TO LAW.”

Upon arraignment, appellants entered entered separate pleas of not guilty.[1] Their co-accused, Berling and Ido, eluded arrest and remain at large. Thus, trial on the merits ensued with respect only to appellants.

The FactsVersion of the Prosecution

The scene of the crime was the one storey, four-bedroom house owned by spouses Araceli and Emilio Cardona, located at Purok 6, Barangay Sta. Arcadia, Cabanatuan City.

On the night of 01 November 1998, Araceli’s daughter, Lilibeth, and son-in-law, Romano, who was drunk,[2] decided to spend the night in the said house and occupied one of the rooms therein. The other three rooms were separately occupied by spouses Araceli and Emilio, their grandson, Larry, their son, Leovino, and his wife, Gloria. At midnight of even date, Araceli and her husband were awakened by the incessant coughing of Larry. Araceli decided to check on Larry while Emilio went back to sleep. When she was about to enter the room of her ailing grandson, she saw Berling and appellant SEMACIO inside the house. SEMACIO immediately grabbed her by the neck and covered her mouth with his hand. Berling, toting a long firearm, and SEMACIO holding a

pistol,[3] then pointed their guns at her.

SEMACIO pushed Araceli towards the room where Lilibeth and Romano were sleeping. Said room was illuminated by light[4] coming from a round type electrical daylight installed at the ceiling.[5] After Araceli had opened the makeshift door of the room, SEMACIO shoved her inside, causing her to lose balance and fall on Lilibeth, rousing the latter from her slumber. Romano, who was sleeping on a table located a meter[6] away from Lilibeth's bed, remained unperturbed by the commotion. At a distance of a meter and a half,[7] Lilibeth saw Berling and SEMACIO[8] standing inside the room. Upon SEMACIO's order, Lilibeth turned her back to them.

In the meantime, Berling momentarily left the room then returned with Ido and MARTIN in tow. MARTIN approached and beamed a flashlight on the face of Romano, then shook his head. He then went outside the room. While pointing his gun at Araceli, SEMACIO gestured Berling, Ido and MARTIN to go to the room occupied by Leovino and Gloria. The trio complied.

Araceli then heard gunshots emanating from Leovino's room. At the same time, SEMACIO approached the sleeping Romano and fired a single shot on top of his head.[9] SEMACIO then fled through the main door of the house followed by his three cohorts.[10] Araceli and Lilibeth witnessed the gruesome killing of Romano.

Meanwhile, awakened by the gunshots, Emilio went out of his room and hid himself behind a wall from where he saw SEMACIO, followed by Berling, Ido and MARTIN, dash towards the dark ricefields.

The post-mortem examination of Romano's cadaver revealed that he sustained a lone gunshot wound in the mid-parietal area or almost on top of his head. The diameter of the point of entry of the slug is 1 X 1 centimeter without an exit wound.[11]

The attack on Araceli's household left three casualties: Romano Espino and Leovino Cardona, who both died, and Gloria Cardona whose right arm was severed.[12] The present appeal concerns only the liability of MARTIN and SEMACIO for the death of Romano.[13]

Version of the Defense

SEMACIO and MARTIN both denied the accusation against them and invoked the defense of alibi.

Corroborated by his wife and daughter, SEMACIO recounted that after attending church service on the night of the incident, he returned to their store at about 7:45 p.m. and stayed there with his family. At 12:00 o'clock midnight, they closed the store and proceeded home to Sta. Arcadia where they arrived at about 12:15 midnight. He retired for the night and woke up at 10:00 a.m. the next day.

SEMACIO admitted that his house was only about a kilometer[14] away from the place where the shooting incident occurred and could be negotiated by foot in 15-minutes.[15]

For his part, MARTIN asserted that on the night of the incident, he had a drinking binge with Pogi Mateo, Mario Mateo and Ontong Semacio at Mario's house located at Sta. Arcadia. At about 1:00 a.m. of November 2, 1998, they heard bursts of gunfire. On their way to buy cigarettes, they saw some policemen looking for the house of Emilio. Allegedly, somebody had been killed at Emilio's house but they did not bother to find out who. Instead, they proceeded to their respective houses.

MARTIN stated that the house where the shooting incident took place was visible from Mario's house where they were then having a drinking spree as it was located only about half a kilometer away.[16]

The Trial Court's Ruling

On 05 November 2002, the trial court rendered the assailed decision finding SEMACIO and MARTIN guilty of murder, as follows:

“WHEREFORE, premises considered, the Court finds, and so holds, the accused ROGER SEMACIO and RENATO MARTIN @ “Boyoyoy Martin,” guilty beyond reasonable doubt of the crime of MURDER, and with the presence of aggravating circumstances [of treachery, use of firearm, nocturnity and dwelling] and in the absence of any mitigating circumstances, sentences them to suffer the penalty of DEATH; for each of them to indemnify the heirs of the deceased offended party in the amount of P50,000.00, plus P50,000.00., representing moral damages, and to pay the costs.

FURTHER, issue Warrants of Arrest against accused ...”Berling Atacador,” and ...”Ido Atacador,” at their respective given addresses, for their immediate apprehension.

SO ORDERED.”[17]

Hence, the instant appeal.

The Issues

SEMACIO and MARTIN filed their respective appellant’s briefs ascribing to the trial court identical errors which essentially boil down to the following issues:

- 1) Whether SEMACIO’s Motion for New Trial was properly rejected by the trial court;
- 2) Whether the place where the incident occurred was sufficiently illuminated to enable the prosecution witnesses to recognize and positively identify appellants;
- 3) Whether MARTIN conspired in the killing of Romano; and
- 4) Whether appellants are liable for the crime of murder.

The Court’s Ruling

The judgment of conviction is sustained.

On the first issue, SEMACIO asserted that if his Motion for New Trial was allowed it will show that the situs was not well-lighted; that appellants’ names were not mentioned to SPO3 Menor when he interviewed Araceli and Lilibeth on the night of the incident and were revealed only after a follow-up investigation; and that there were intercalations in the police-blotter regarding the identities of the perpetrators.[18]

The motion for new trial was correctly denied by the trial court. A motion for new trial based on newly discovered evidence requires the concurrence of the following: (a) the evidence is discovered after trial; (b) such evidence could not have been discovered and produced at the trial even with the exercise of reasonable diligence; and (c) the evidence is material, not merely cumulative, corroborative, or impeaching and of such weight that, if admitted, could probably change the judgment.[19] A new trial is justifiably denied where only impeaching evidence is sought to be introduced as the court had already passed upon the issue of credibility at the trial and where only corroborative evidence is to be offered as it would not change the result of the case.[20] In this case, the trial court correctly struck down appellants’ motion for new trial on the ground that the last two requisites are absent. The alleged newly discovered evidence could have easily been discovered, presented and produced during the trial with the exercise of reasonable diligence. Then, too, said evidence constitute only impeaching proof and their presentation would hardly be material to the outcome of the case. Appellants were positively identified by

prosecution witnesses Araceli and Lilibeth as being the perpetrators of the crime.

On the second issue, SEMACIO contended that no light was installed[21] in the room where Romano was killed and that the partitions of the rooms extended all the way up to the ceiling[22] barring any illumination coming from outside of the house. Both appellants argued that if the room were lighted, MARTIN would not have beamed a light on Romano's face nor the responding policemen used a flashlight upon arriving at the crime scene.

We find no merit in appellant's contention.

In criminal cases, when an accused challenges his identification by witnesses, he, in effect, assails their credibility.[13] Jurisprudence holds that appellate courts will not interfere with the trial court's findings on the credibility of the witnesses and their testimonies or set aside its judgment, considering that said court is in a better position to decide the question because of its opportunity to observe the witnesses and their demeanor, conduct and attitude especially under cross-examination. Its assessment is respected unless certain facts of substance and value were overlooked, which if considered, might affect the result of the case[24]. In the absence of any showing that the trial courts' assessment of the credibility of the witness was flawed, we are bound by its assessment.[25]

In the present case, the trial court gave credence and full probative weight to the candid and straightforward lachrymose testimonies of Araceli and Lilibeth. Our own painstaking review of the records revealed no error in the trial court's assessment of their testimonies.

Questions of visibility and lighting conditions are factual ones,[26] which unquestionably fall within the province of the trial court. An ocular inspection of the situs criminis was here conducted by the trial court. At that very place, the cross-examination of Araceli was held and, despite intense grilling from the defense counsel and the clarificatory queries of the trial court, she remained steadfast in her claim that the place was sufficiently illuminated as to enable her to recognize SEMACIO and MARTIN. Prosecution witnesses Lilibeth[27] and Emilio[28] corroborated Araceli's declarations.

The inconsistency in Araceli's testimony as to the number of lights in the house, i.e., from 2 to 4, is insignificant and cannot have any bearing on the essential fact testified to, that is, that appellants were the ones who killed the victim.[29] Lapses in the testimony of a witness serve to strengthen rather than to weaken his credibility as they tend to erase any suspicion that the testimony was rehearsed. A discrepancy in the testimony of a witness, to be of value to appellants' cause, must refer to significant facts crucial to the guilt or innocence of the accused. Inconsistencies irrelevant to the elements of the crime, as in this case, are not grounds to reverse a conviction.[30]

The defense' vain attempt to attribute ill-motive on the part of the prosecution witnesses merely served to cast their credibility in dubious light. SEMACIO alleged that he was implicated in the case because he was suspected of having caused the filing of a criminal case against Araceli's son.[31] MARTIN, on the other hand, claims that that he was suspected by Emilio of having caused the arrest of the latter's son.[32]

Appellants themselves betrayed the incredulity of their allegations. For no apparent reason, SEMACIO refused to identify the person who told him of private complainant's supposed ill-motive.[33] MARTIN, on the other hand, conveniently forgot the identity of the person who informed him that he was being blamed for the arrest of Emilio's son.[34] Uncorroborated by any other clear and convincing evidence, appellants' contentions are self-serving and without probative weight.

Moreover, it must be borne in mind that the earnest desire to seek justice for a dead kin is not served should witnesses abandon their conscience and prudence and blame one who is innocent of the crime.[35] The natural interest of witnesses, who are relatives of the victim, in securing the conviction of the guilty would deter them from implicating persons other than the true culprits, otherwise, the guilty would go unpunished. Given their

interest in vindicating the crime committed against Romano, it would be unnatural for Lilibeth and Araceli, wife and mother-in-law, respectively, of Romano, to accuse somebody other than the real culprits as the perpetrators.[36]

Moreover, the proximity of Araceli to SEMACIO, alongside the fact that from the time she got out of their room up to the time SEMACIO shot Romano, she had every opportunity to freely stare at and recognize the latter's uncovered face, aided in her identification of said appellant. She also had a good look at MARTIN when, beaming a flashlight at Romano, he entered the latter's room. In addition to the camouflage jacket[37] SEMACIO was wearing, she noticed that the intruders' eyes were "naniningkit."[38] Furthermore, Araceli's testimony that the trespassers were drunk[39] jibes with MARTIN's admission that he imbibed alcoholic drink on the night of the incident.

Lilibeth positively identified SEMACIO whom she saw from the time her mother woke her up. In fact, after noticing that she was staring at him,[40] SEMACIO ordered her mother to tell Lilibeth to turn her back to them. Likewise, from a distance of only two meters,[41] she had an unimpeded view of SEMACIO when the latter pumped a bullet into Romano's head. She did not testify on the presence of MARTIN at the room simply because she had been told to turn her back when MARTIN arrived.[42] Notably, the fact that her testimony dovetails with Araceli's on material details proves its credibility.

That Araceli and Lilibeth's testimonies to the effect that Romano was shot on the top of his head was corroborated by the autopsy report[43] bolsters their truthfulness. A detailed testimony acquires greater weight and credibility when confirmed by autopsy findings.[44]

The presence of SEMACIO and MARTIN at the situs criminis was further confirmed by Emilio, who from his hiding place of about four meters away, had a clear view of the assailants as they dashed towards the dark ricefields.

The positive identification of appellants disprove their defense of alibi and denial. A bare denial, if unsubstantiated by clear and convincing evidence, is negative and self-serving and cannot be given evidentiary weight greater than the testimony of witnesses who testify affirmatively.

Furthermore, for the defense of alibi to prosper, it must be so convincing as to preclude any doubt that the accused could not have been physically present at the place of the crime or its vicinity at the time of the commission.[45] The accused must establish with clear and convincing evidence not only (1) that he was somewhere else when the crime was committed but also (2) that it was physically impossible for him to have been at the scene of the crime at the time it was committed.[46] Appellants' alibi failed to meet the requisites of time and place. SEMACIO was only a kilometer away while MARTIN was only half that distance away from the crime scene at the time of its commission. Thus, even if the sole means of traveling between the two places at that time was only by walking, their proximity to the crime scene would not render their presence thereat physically impossible.[47] Consequently, their defense of denial and alibi must fail.

That appellants stayed in their residences and did not flee after the incident does not mean that they were not guilty of the crime attributed to them. Each culprit behaves differently in externalizing and manifesting his guilt. Some may escape or flee – which circumstance is strongly indicative of guilt, while others may remain in the same vicinity so as to create a semblance of normalcy, careful not to arouse suspicion in the community.[48] There is no law or principle which guarantees that non-flight per se is proof, let alone conclusive proof, of one's innocence and, when placed astride the undisputed fact that there is positive identification of the felon, such a defense is unavailing.[49]

Noteworthy is appellants' perplexing aloofness and disinterest in the crime committed in their neighborhood which led the trial court to make the following pointed observation, thus:

"...while the incident involved the shooting ...of two barangay-mates..., the [appellants] choose to steer clear from the actual site of the crime.

Oddly, not one of them cared to determine who the victims were and the circumstances leading to the deaths of their village folks, which hardly speaks well of the nature of persons who have come across an incident of such horrible nature.

This manner of intentionally ignoring the occurrence and the persons involved is contrary to human nature, especially given the fact that the shooting incident took place virtually within their midst. If persons have nothing to do with such occurrence, they would be bold enough to come close to the place of the incident and make inquiries of the whys and wherefores surrounding the incident. It could only be expected of persons similarly located for them to immediately proceed to the place of the incident and inquire as to the facts and the persons involved.

When the accused manifested this extraordinary aloofness, they immediately invited suspicion upon themselves that they are parties to the occurrence. There could be no other explanation for the accused's nonchalance but one of a guilty frame, given the nature and depth of the testimonies of herein prosecution."

We also find a similar dearth of merit in appellants' protestations of innocence because of their alleged lack of motive. Motive is not an element of the offense of murder; it becomes material only when the evidence is circumstantial or inconclusive and there is some doubt on whether the accused had committed it.[50] In the present case, no such doubt exists as the prosecution witnesses positively identified SEMACIO and MARTIN as the assailants. Hence, the prosecution need not prove motive.[51]

In a further attempt to discredit the prosecution witnesses, appellants fault them for their failure to immediately identify and point to them as perpetrators of the crime. Suffice it to state that no law or jurisprudence requires that witnesses should within minutes of the occurrence of the crime, identify the perpetrators. At any rate, SEMACIO's name was mentioned to SPO3 Menor on the night of the incident[52] and MARTIN was identified the morning after.[53] To our mind, the time frames within which appellants' names cropped-up as suspects in the killing will not detract from the credibility of the prosecution witnesses. The fact that the police blotter made no mention of appellants' names is non-sequitur. The ruling of the High Court on a similar argument raised in *People vs. Paragua*[54] is instructive, thus:

"...appellants raise doubt as to their identification by pointing to the fact that, in the report made by the victim's relative and the eyewitness Umila, they were not named as suspects and hence, Umila could not have actually witnessed the killing. This court has held since time immemorial that entries in a police blotter, though regularly done in the course of the performance of official duty, are not conclusive proof of the truth of such entries and should not be given undue significance or probative value for they are usually incomplete and inaccurate. Sometimes they are taken from either partial suggestion or inaccurate reporting and hearsay, untested in the crucible of a trial on the merits."[55]

The result of the paraffin test which showed that SEMACIO was negative for gunpowder nitrates cannot be considered conclusive proof of his innocence or that he had not fired a gun.[56] It has been held that it is possible for one to fire a gun and yet be negative for the presence of nitrates as when the hands are washed before the test.[57] Besides, where there is positive identification by the eyewitness of the accused as the perpetrator of the

crime, a paraffin test is of lesser consequence.[58]

On the third issue, MARTIN argues that he is not liable as principal for the death of Romano. In fact, the assailed decision made no finding of conspiracy. And, even if it did, his supposed conspiratorial act consisted solely of beaming a flashlight on the face of Romano and was anchored on the testimony of Araceli alone. In support of his hypothesis, MARTIN cites the case of *People vs. Sgt. Magno, et. al.*[59] where the Supreme Court held that beaming a flashlight on the victim which merely facilitated the commission of the felonious act of shooting is insufficient to hold one liable as a co-conspirator in the commission of the crime of murder.

Indeed, the liability of MARTIN was not elucidated by the trial court. But since his appeal opens the whole case for review, we are not precluded from determining MARTIN's liability for the killing of Romano.

A circumspect evaluation of the records of the case discloses that, unlike the appellant in the *Magno* case, MARTIN's participation was not limited to his act of beaming a flashlight at the victim's face. The chain of events indubitably shows MARTIN's active participation in a conspiracy to eliminate the victim. The appellants' synchronous presence at the crime scene was not a mere coincidence. At the time SEMACIO and Berling together with Araceli entered the room of Romano, SEMACIO had all the opportunity to shoot Romano right there and then; he had no need for MARTIN to accomplish the act. Even so, SEMACIO waited for MARTIN, who was fetched by Berling from the other part of the house. When MARTIN arrived, he entered the room and approached Romano, beamed a light on his face; shook his head and left the room. This commenced the bloodbath in Araceli's house. Immediately after MARTIN went out of the room, SEMACIO signaled Ido, Berling, and MARTIN to go to Leovino's room. The trio proceeded to the room wherefrom sounds of gunfire forthwith reverberated. At the same instance, SEMACIO shot Romano. The convergence of the wills of SEMACIO and MARTIN amply justifies the conclusion that they acted in concert in their unlawful objective when in the stillness of the night they both stealthily crashed into Araceli's residence, committed the crime and concurrently made their escape therefrom. The synchronized attack on the occupants of the house and appellants' coordinated escape from the crime scene clearly evince the existence of conspiracy among them. Direct proof of previous agreement to commit a crime is not necessary. Conspiracy may be deduced from the mode and manner in which the offense was perpetrated, or inferred from the acts of the appellants themselves when such acts point to a joint purpose and design, concerted action, and community of intent.[60] Accordingly, conspiracy was properly appreciated by the trial court. Hence, as a co-conspirator whose participation emboldened the actual killer and contributed to the success of the common design, MARTIN is liable as a co-principal in the killing of Romano.

On the fourth issue, the trial court properly appreciated the circumstance of treachery qualifying the killing to murder.

It is settled that if the victim, when killed, was sleeping or had just awakened, the killing is with treachery because in such cases, the victim was not in a position to put up any form of defense.[61] Since Romano was shot while asleep, treachery qualified his killing to murder.

The aggravating circumstance of dwelling was likewise aptly considered by the trial court. Dwelling is considered aggravating because of the sanctity of privacy that the law accords to human abode.[62] Dwelling may mean temporary dwelling[63] and is aggravating even though the victim was not the owner of the house where the crime was committed.[64] In *People vs. Sto. Tomas*,[65] where the victim was killed in her mother's house where she temporarily stayed to avoid appellant in their conjugal house, the Supreme Court held that dwelling is aggravating even if the victim's stay in the house is temporary. Here, dwelling was correctly appreciated since the crime was committed in the place of abode of Romano's parents-in-law and he had not given immediate

provocation to the perpetrators.[66]

However, the aggravating circumstance of nighttime and use of firearm cannot be appreciated. Nocturnity does not become a modifying factor when the place is adequately lighted, and could no longer insure the offender's immunity from identification.[67] As earlier pointed out, in this case, the crime scene was sufficiently illuminated making appellants' identification an easy task for the eyewitnesses. Likewise, use of firearm aggravates the crime only if there is an allegation and proof that it is unlicensed. Section 1 of Republic Act No. 8294 provides that "if homicide or murder is committed with the use of an unlicensed firearm, such use of an unlicensed firearm shall be considered as an aggravating circumstance." Here, it was not alleged in the Information nor was proof presented that the firearm used in the killing of Romano was unlicensed. Such failure precludes us from appreciating said circumstance to enhance appellants' liability.

The penalty for murder is reclusion perpetua to death. Under Article 63 of the Revised Penal Code, when the law prescribes two indivisible penalties, the greater penalty shall be imposed when, in the commission of the deed, one aggravating circumstance is present. Consequently, in view of the attendant aggravating circumstance of dwelling, the trial court correctly imposed the supreme penalty of death. However, in view of the abolition of the death penalty under R.A. 9346,[68] appellants should be meted the penalty of reclusion perpetua.

We sustain the trial court's award in favor of the heirs of the victim of civil indemnity in the amount of P50,000.00 and another P50,000.00 as moral damages. Civil indemnity is awarded without need of further proof other than the victim's death and the accused authorship thereof[69] while the grant of moral damages is appropriate there being evidence to show emotional suffering on the part of the heirs of the victims.[70]

The trial court was correct in not awarding actual damages in line with the rule that it cannot be allowed unless supported by evidence in the record.[71] However, even where the amount of actual damages cannot be determined because no receipts were presented to prove the same, but it is shown that the heirs are entitled thereto, temperate damages in the amount of P25,000.00 should be awarded.[72] In this case, it is indubitable that the family of the deceased incurred interment and burial expenses.

Furthermore, under Article 2230 of the Civil Code, exemplary damages as part of the civil liability may be imposed when the crime was committed with one or more aggravating circumstances. The attendance in this case of the qualifying and ordinary aggravating circumstances of treachery and dwelling entitles the heirs of the victim to exemplary damages in the amount of P25,000.00.[73]

Finally, appellants having acted in conspiracy in the commission of the murder, their civil liability is not separate as decreed by the trial court but joint and solidary. SEMACIO and MARTIN should therefore satisfy the awards in favor of the heirs of Romano in solidum.[74]

WHEREFORE, with the MODIFICATIONS imposing on appellants the penalty of reclusion perpetua and holding them solidarily liable for the satisfaction of the civil indemnity and moral damages awarded to the heirs of Romano Espino, and further ORDERING them to jointly and severally pay the latter P25,000.00, as temperate damages, and another P25,000.00, as exemplary damages, the appealed decision is AFFIRMED in all other respects.

The records of Criminal Case No. 8669 (for the murder of Leovino Cardona) and Criminal Case No. 8670 (for the frustrated murder of Gloria Cardona) are REMANDED to the trial court for appropriate proceedings.

SO ORDERED.

REBECCA DE GUIA-SALVADOR

Associate Justice

WE CONCUR:

MAGDANGAL M. DE LEON

Associate Justice

RAMON R. GARCIA

Associate Justice

[1] Records, p. 35.

[2] TSN, 22 October 1999, p. 03.

[3] TSN, 1 July 1999, p. 06.

[4] TSN, 1 July 1999, p. 12; 09 November 1999, p. 19.

[5] Id., pp. 11-12.

[6] TSN, 09 November 1999, p. 04.

[7] Id., p. 14.

[8] Id., p. 06.

[9] Id., p. 18; 01 July 1999, p. 10.

[10] TSN, 15 October 1999, p. 16.

[11] TSN, 26 November 1999, p. 06.

[12] TSN, July 1, 199, p.13

[13] TSN, 11 June 2002, p. 2. Two other Informations (Records, pp. 25 and Records of Criminal Case No. 8669, p. 1.) were filed against the same set of accused for the crimes of Murder and Frustrated Murder (Criminal Case No. 8670) committed on the same occasion against Leovino Cardona and Gloria Cardona, respectively. The three criminal cases were consolidated but only Criminal Case 8668-AF was tackled and ruled upon by the trial court.

[14] TSN, 13 October 2000, p. 13.

[15] Id., p. 03.

[16] TSN, 31 May 2001, p. 05.

[17] Records, p. 284.

[18] Rollo, p. 101.

[19] People vs. Bongalon, G.R. No. 125025, January 23, 2002.

[20] People vs. Bongalon, *supra*.

[21] Rollo, p. 107.

[22] Ibid.

- [23] People v. Aquino, et al., G.R. No. 129288, March 30, 2000.
- [24] People vs. Peña, G.R. 133964, February 13, 2002; People vs. barite, 418 SCRA 564, 565 citing People vs. Yulo, 370 SCRA 284, 293
- [25] People v. Pamor, 237 SCRA 462; and People v. Taton, 282 SCRA 300.
- [26] People vs. Delmo, G.R. Nos. 130078-82, October 4, 2002.
- [27] TSN, 9 November 1999, pp. 9 and 19.
- [28] TSN, 11 January 2000, p. 5.
- [29] People vs. Appegu, G.R. No. 130657, April 1, 2002.
- [30] People vs. Villanueva, G.R. No. 122746, January 29, 1999.
- [31] TSN, 13 October 2000, p. 03.
- [32] TSN, 29 May 2001, pp. 07.
- [33] TSN, 13 October 2000, p. 03.
- [34] TSN, 29 May 2001, p. 08.
- [35] People vs. Mansueto, G..R. No. 135196, July 31, 2000.
- [36] Id.
- [37] TSN, 15 October 1999, p. 16
- [38] Id., p. 17
- [39] Ibid., Intoxication was not appreciated as a mitigating circumstance because it was not shown that it impaired SEMACIO and MARTIN's willpower that they did not know what they were doing or could not comprehend the wrongfulness of their acts at the time of the commission of the crime. See People vs. Empante, G.R. Nos. 130665 and 137996-97, April 21, 1999, citing People vs. Bañez, G.R. No. 125849, January 20, 1999.
- [40] TSN, 9 November 1999, p. 06.
- [41] Id., p. 18.
- [42] TSN, 01 July 1999, pp. 7-8.
- [43] Records, p. 253.
- [44] People vs. Hinaut, et. al., G.R. No. 143764, February 15, 2002.
- [45] People v. Empleo, G.R. No. 96009, September 15, 1993.
- [46] People v. Espinosa, G.R. No. 138742, June 15, 2004.
- [47] See People v. Payot, G.R. No. 119352, June 8, 1999.
- [48] People vs. Zuela, G.R. No. 112177, January 28, 2000, citing People vs. Ocampo, 218 SCRA 609, 618 (1993).
- [49] People vs. Layno, 264 SCRA 558 (1996).

[50] People vs. Lozada, G.R. No. 130589, June 29, 2000, 334 SCRA 602; and People vs. Quillosa, 382 Phil. 638 (2000).

[51] People vs. Vasquez, G.R. No. 123939, May 28, 2004.

[52] TSN, 25 January 2000, p. 2.

[53] Araceli executed her Affidavit at 7:10 a.m. on 02 November 1998, implicating both SEMACIO and MARTIN in the death of Romano.

[54] People vs. Paragua, 257 SCRA 118 (1996).

[55] Emphasis provided.

[56] People vs. Cajumocan, G.R. No. 155023. May 28, 2004.

[57] People vs. Cajumocan, G.R. No. 155023, May 28, 2004

[58] Id.

[59] G.R. No. 134535, 19 January 2000.

[60] People vs. Bergante, G. R. Nos. 120369-70, February 27, 1998.

[61] People vs. Abatayo, G.R. No. 139456, July 7, 2004.

[62] People vs. Ventura, G. R. Nos. 148145-46, July 5, 2004.

[63] People vs. Melendres, Jr., G.R. No. 134940, April 30, 2003, citing People vs. Badilla, 185 SCRA 554, 570 (1990); People vs. Sto. Tomas, 138 SCRA 206, 219 (1985).

[64] People vs. Melendres, Jr., supra., citing People vs. Parazo, 272 SCRA 512, 523 (1997); People vs. Badilla, supra.

[65] 138 SCRA 206.

[66] See People vs. Bihag, Jr., G.R. No. 129532, October 5, 2000.

[67] People vs. Macaliag, G.R. No. 130655, August 9, 2000.

[68] An Act Prohibiting the imposition of Death Penalty in the Philippines. Section 2 thereof provides: In lieu of death penalty, the following shall be imposed:

(a) the penalty of reclusion perpetua, when the law violated makes use of the nomenclature of the penalty of the Revised Penal Code. x x x

[69] People vs. Paulino, G.R. No. 148810, November 18, 2003.

[70] TSN, 9 November 1999, p. 12.

[71] People vs. Ricafaranca, 323 SCRA 652 (2000).

[72] People vs. Apatay, G.R. No. 147965, July 7, 2004, citing People vs. Abrazaldo, 397 SCRA 137 (2003).

[73] People vs. Abolidor, G.R. No. 147231, February 18, 2004.

[74] People vs. Manalo, G.R. No. 144734, March 7, 2002.

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