

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS.
ELIAS JARANILLA, RICARDO SUYO, FRANCO BRILLANTES AND
HEMAN GORRICETA, ACCUSED, ELIAS JARANILLA, RICARDO SUYO,
AND FRAN...**

G.R. NO. L-28547. February 22, 1974

Ponente: AQUINO, J.

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AQUINO, J.:

This is an appeal of defendants Elias Jaranilla, Ricardo Suyo and Franco Brillantes from the decision of the Court of First Instance of Iloilo, which convicted them of robbery with homicide, sentenced each of them to reclusion perpetua and ordered them to pay solidarily the sum of six thousand pesos to the heirs of Ramonito Jabatan and the sum of five hundred pesos to Valentin Baylon as the value of five fighting cocks (Criminal Case No. 11082).

The evidence for the prosecution shows that at around eleven o'clock in the evening of January 9, 1966, Heman Gorriceta, who had just come from Fort San Pedro in Iloilo City, was driving a For pickup truck belonging to his sister, Remia G. Valencia. While he was in front of the Elizalde Building on J.M. Basa Street, he saw Ricardo Suyo, Elias Jaranilla and Franco Brillantes. They hailed Gorriceta who stopped the truck. Jaranilla requested Gorriceta to bring them to Mandurriao, a district in another part of the city. Gorriceta demurred. He told Jaranilla that he (Gorriceta) was on his way home.

Jaranilla prevailed upon Gorriceta to take them to Mandurriao because Jaranilla ostensibly had to get something from his uncle's place. So, Jaranilla, Brillantes and Suyo boarded the pickup truck which Gorriceta drove to Mandurriao.

Upon reaching Mandurriao, Gorriceta parked the truck at a distance of about fifty to seventy meters from the provincial hospital. Jaranilla, Suyo and Brillantes alighted from the vehicle. Jaranilla instructed Gorriceta to wait for them. The trio walked in the direction of the plaza. After an interval of about ten to twenty minutes, they reappeared. Each of them was carrying two fighting cocks. They ran to the truck.

Jaranilla directed Gorriceta to start the truck because they were being chased. Gorriceta drove the truck to Jaro (another district of the city) on the same route that they had taken in going to Mandurriao.

It is important to note the positions of Gorriceta and his three companions on the front seat of the truck. Gorriceta, as the driver, was on the extreme left. Next to him on his right was Suyo. Next to Suyo was Brillantes. On the extreme right was Jaranilla.

While the truck was traversing the detour road near the Mandurriao airport, then under construction, Gorriceta saw in the middle of the road Patrolmen Ramonito Jabatan and Benjamin Castro running towards them. Gorriceta slowed down the truck after Patrolman Jabatan had fired a warning shot and was signalling with his flashlight that the truck should stop. Gorriceta stopped the truck near the policeman. Jabatan approached the right side of the truck near Jaranilla and ordered all the occupants of the truck to go down. They did not heed the injunction of the

policeman.

Brillantes pulled his revolver but did not fire it. Suyo did nothing. Jaranilla, all of a sudden, shot Patrolman Jabatan. The shooting frightened Gorriceta. He immediately started the motor of the truck and drove straight home to La Paz, another district of the city. Jaranilla kept on firing towards Jabatan.

Jaranilla, Suyo and Brillantes alighted in front of Gorriceta's house. Gorriceta parked the truck inside the garage. Jaranilla warned Gorriceta not to tell anybody about the incident. Gorriceta went up to his room. After a while, he heard policemen shouting his name and asking him to come down. Instead of doing so, he hid in the ceiling. It was only at about eight o'clock in the morning of the following day that he decided to come down. His uncle had counselled him to surrender to the police. The policemen took Gorriceta to their headquarters. He recounted the incident to a police investigator.

Victorino Trespeces, whose house was located opposite the house of Valentin Baylon on Taft Street in Mandurriao, testified that before midnight of January 9, 1966, he conducted a friend in his car to the housing project in the vicinity of the provincial hospital at Mandurriao. As he neared his residence, he saw three men emerging from the canal on Taft Street in front of Baylon's house. He noticed a red Ford pickup truck parked about fifty yards from the place where he saw the three men. Shortly thereafter, he espied the three men carrying roosters. He immediately repaired to the police station at Mandurriao. He reported to Patrolmen Jabatan and Castro what he had just witnessed. The two policemen requested him to take them in his car to the place where he saw the three suspicious-looking men. Upon arrival thereat, the men and the truck were not there anymore.

Trespeces and the policemen followed the truck speeding towards Jaro. On reaching the detour road leading to the airport, the policemen left the car and crossed the runway which was a shortcut. Their objective was to intercept the truck. Trespeces turned his car around in order to return to Mandurriao. At that moment he heard gunshots. He stopped and again turned his car in the direction where the shots had emanated. A few moments later, Patrolman Castro came into view. He was running. He asked Trespeces for help because Jabatan, his comrade, was wounded. Patrolman Castro and Trespeces lifted Jabatan into the car and brought him to the hospital. Trespeces learned later that Jabatan was dead.

Doctor Raymundo L. Torres, the chief medico-legal officer of the Iloilo City police department, conducted an autopsy on the remains of Patrolman Jabatan. He found:

(1) Contusion on left eyebrow.

(2) Bullet wound one centimeter in diameter, penetrating left anterior axilla, directed diagonally downward to the right, perforating the left upper lobe of the lungs through and through, hitting the left pulmonary artery and was recovered at the right thoracic cavity; both thoracic cavity was full of blood.

Cause of death: Shock, hemorrhage, secondary to bullet wound.

Valentin Baylon, the owner of the fighting cocks, returned home at about six o'clock in the morning of January 10, 1966. He discovered that the door of one of his cock pens or chicken coops (Exhs. A and A-1) was broken. The feeding vessels were scattered on the ground. Upon investigation he found that six of his fighting cocks were missing. Each coop contained six cocks. The coop was made of bamboo and wood with nipa roofing. Each coop had a door which was locked by means of nails. The coops were located at the side of his house, about two meters therefrom.

Baylon reported the loss to the police at Mandurriao. At about ten o'clock, a group of detectives came to his house together with the police photographer who took pictures of the chicken coops. The six roosters were valued at one hundred pesos each. Two days later, he was summoned to the police station at Mandurriao to identify a rooster

which was recovered somewhere at the airport. He readily identified it as one of the six roosters which was stolen from his chicken coop (Exh. B).

Gorriceta, Jaranilla, Suyo and Brillantes were charged with robo con homicidio with the aggravating circumstances of use of a motor vehicle, nocturnity, band, contempt of or with insult to the public authorities and recidivism. The fiscal utilized Gorriceta as a state witness. Hence, the case was dismissed as to him.

On February 2, 1967, after the prosecution had rested its case and before the defense had commenced the presentation of its evidence, Jaranilla escaped from the provincial jail. The record does not show that he had been apprehended.

The judgment of conviction was promulgated as to defendants Suyo and Brillantes on October 19, 1967 when it was read to them in court. They signed at the bottom of the last page of the decision.

There was no promulgation of the judgment as to Jaranilla who, as already stated, escaped from jail (See Sec. 6, Rule 120, Rules of Court).

However, the notice of appeal filed by defendants' counsel de oficio erroneously included Jaranilla. Inasmuch as the judgment has not been promulgated as to Jaranilla, he could not have appealed. His appeal through counsel cannot be entertained. Only the appeals of defendants Suyo and Brillantes will be considered.

In convicting Suyo, Jaranilla and Brillantes of robo con homicidio, the trial court assumed that the taking of the six fighting cocks was robbery and that Patrolman Jabatan was killed "by reason or on the occasion of the robbery" within the purview of article 294 of the Revised Penal Code.

In this appeal the appellants contend that the trial court erred in not finding that Gorriceta was the one who shot the policeman and that Jaranilla was driving the Ford truck because Gorriceta was allegedly drunk. Through their counsel de oficio, they further contend that the taking of the roosters was theft and, alternatively, that, if it was robbery, the crime could not be robbery with homicide because the robbery was already consummated when Jabatan was killed.

After evaluating the testimonies of Gorriceta and Brillantes as to who was driving the truck and who shot the policeman, this Court finds that the trial court did not err in giving credence to Gorriceta's declaration that he was driving the truck at the time that Jaranilla shot Jabatan.

The improbability of appellants' theory is manifest. The truck belonged to Gorriceta's sister. He was responsible for its preservation. He had the obligation to return it to his sister in the same condition when he borrowed it. He was driving it when he saw Brillantes, Jaranilla and Suyo and when he allegedly invited them for a paseo. There is no indubitable proof that Jaranilla knows how to drive a truck.

The theory of the defense may be viewed from another angle. If, according to the appellants, Gorriceta asked Jaranilla to drive the truck because he (Gorriceta) was drunk, then that circumstance would be inconsistent with their theory that Gorriceta shot Jabatan. Being supposedly intoxicated, Gorriceta would have been dozing when Jabatan signalled the driver to stop the truck and he could not have thought of killing Jabatan in his inebriated state. He would not have been able to shoot accurately at Jabatan. But the fact is that the first shot hit Jabatan. So, the one who shot him must have been a sober person like Jaranilla.

Moreover, as Jaranilla and his two comrades were interested in concealing the fighting cocks, it was Jaranilla, not Gorriceta, who would have the motive for shooting Jabatan. Consequently, the theory that Gorriceta shot Jabatan and that Jaranilla was driving the truck appears to be implausible.

Was the taking of the roosters robbery or theft? There is no evidence that in taking the six roosters from their coop

or cages in the yard of Baylon's house violence against or intimidation of persons was employed. Hence, article 294 of the Revised Penal Code cannot be invoked.

Neither could such taking fall under article 299 of the Revised Penal Code which penalizes robbery in an inhabited house (*casa habitada*), public building or edifice devoted to worship. The coop was not inside Baylon's house. Nor was it a dependency thereof within the meaning of article 301 of the Revised Penal Code.

Having shown the inapplicability of articles 294 and 299, the next inquiry is whether the taking of the six roosters is covered by article 302 of the Revised Penal Code which reads:

"ART. 302. Robbery in an uninhabited place or in private building. — Any robbery committed in an uninhabited place or in a building other than those mentioned in the first paragraph of article 299, if the value of the property exceeds 250 pesos, shall be punished by prison correccional in its medium and maximum periods provided that any of the following circumstances is present:

- If the entrance has been effected through any opening not intended for entrance or egress.
- If any wall, roof, floor or outside door or window has been broken.
- If the entrance has been effected through the use of false keys, picklocks or other similar tools.
- If any door, wardrobe, chest, or any sealed or closed furniture or receptacle has been broken.
- If any closed or sealed receptacle, as mentioned in the preceding paragraph, has been removed, even if the same be broken open elsewhere.

xxx xxx xxx."

In this connection, it is relevant to note that there is an inaccuracy in the English translation of article 302. The controlling Spanish original reads:

"ART. 302. Robo en lugar no habitado o edificio particular. — El robo cometido en un lugar no habitado o en un edificio que no sea de los comprendidos en el parrafo primero del articulo 299, x x x." (Tomo 26, Leyes Publicas 479).

The term "lugar no habitado" is erroneously translated as "uninhabited place", a term which may be confounded with the expression "uninhabited place" in articles 295 and 300 of the Revised Penal Code, which is the translation of *despoblado* and which is different from the term *lugar no habitado* in article 302. The term *lugar no habitado* is the antonym of *casa habitada* (inhabited house) in article 299.

One essential requisite of robbery with force upon things under articles 299 and 302 is that the malefactor should enter the building or dependency where the object to be taken is found. Articles 299 and 302 clearly contemplate that the malefactor should enter the building (*casa habitada* o *lugar no habitado* o *edificio*). If the culprit did not enter the building, there would be no robbery with force upon things. (See Albert, Revised Penal Code, 1932 edition, page 688).

Thus, where the accused broke the show-window of the Bombay Palace Bazar at Rizal Avenue, Manila and removed forty watches therefrom, the crime was theft and not robbery because he did not enter the building. The show-window was outside the store. (*People vs. Adorno*, CA 40 O.G. 567, per Montemayor, J., who later became a member of this Court).[*]

In the instant case, the chicken coop where the six roosters were taken cannot be considered a building within the meaning of article 302. Not being a building, it cannot be said that the accused entered the same in order to commit the robbery by means of any of the five circumstances enumerated in article 302.

The term "building" in article 302, formerly 512 of the old Penal Code, was construed as embracing any structure not mentioned in article 299 (meaning not an "inhabited house or public building or edifice devoted to worship" or any dependency thereof) used for storage and safekeeping of personal property. As thus construed, a freight car used for the shipment of sugar was considered a private building. The unnailing of a strip of cloth nailed over the door, the customary manner of sealing a freight car, was held to constitute breaking by force within the meaning of article 512, now article 302. (U.S. vs. Magsino, 2 Phil. 710).

The ruling in the Magsino case is in conflict with the rulings of the Supreme Court of Spain that a railroad employee who, by force, opens a sealed or locked receptacle deposited in a freight car, does not commit robbery. He is guilty of theft because a railroad car is neither a house nor a building within the meaning of article 302 which corresponds to article 525 of the 1870 Spanish Penal Code. Article 302 refers to houses or buildings which, while not actually inhabited, are habitable. Thus, a pig sty is not a building within the meaning of article 302. The stealing of hogs from a pig sty is theft and not robbery, although the culprit breaks into it. Article 302 refers to habitable buildings. (Guevara, Revised Penal Code, 1939 Edition, pages 555-6, citing II HidalgoCodigo Penal 636-7, 642, which in turn cites the decisions of the Spanish Supreme Court dated March 2, 1886 and April 25, 1887).[**]

As may be seen from the photographs (Exhs. A and A-1), Baylon's coop, which is known in the dialect as tangkal or kulungan, is about five yards long, one yard wide and one yard high. It has wooden stilts and bamboo strips as bars. The coop barely reaches the shoulder of a person of average height like Baylon. It is divided into six compartments or cages. A compartment has an area of less than one cubic yard. A person cannot be accommodated inside the cage or compartment. It was not intended that a person should go inside that compartment. The taking was effected by forcibly opening the cage and putting the hands inside it to get the roosters.

Therefore, the taking of the six roosters from their coop should be characterized as theft and not robbery. The assumption is that the accused were animated by single criminal impulse. The conduct of the accused reveals that they conspired to steal the roosters. The taking is punishable as a single offense of theft. Thus, it was held that the taking of two roosters in the same place and on the same occasion cannot give rise to two crimes of theft (People vs. De Leon, 49 Phil. 437, citing decision of Supreme Court of Spain dated July 13, 1894 and 36 C.J. 799; People vs. Tumlos, 67 Phil. 320; People vs. Villanueva, 49 O.G. 5448, L-10239, August 7, 1953).

Nocturnity and use of a motor vehicle are aggravating. Those circumstances facilitated the commission of the theft. The accused intentionally sought the cover of night and used a motor vehicle so as to insure the success of their nefarious enterprise (People vs. Tan, 89 Phil. 647, 660; People vs. Gardon, 104 Phil. 372).

Also to be appreciated against appellants Suyo and Brillantes is the aggravating circumstance of recidivism which was alleged in the information. They admitted their previous convictions for theft (130, 132 tsn; Exhs. I and J; Art. 14[9], Revised Penal Code).

The theft of six roosters valued at six hundred pesos is punishable by prision correccional in its minimum and medium periods (Art. 309[3], Revised Penal Code). That penalty should be imposed in its maximum period because only aggravating circumstances are present (Art. 64[3], Revised Penal Code).

Although recidivists, appellants Suyo and Brillantes are not habitual delinquents. They are entitled to an indeterminate sentence (Sec. 2, Act No. 4103).

With respect to the killing of Patrolman Jabatan, it has already been noted that the evidence for the prosecution points to Jaranilla as the malefactor who shot that unfortunate peace officer. The killing was homicide because it

was made on the spur of the moment. The treacherous mode of attack was not consciously or deliberately adopted by the offender (U.S. vs. Namit, 38 Phil. 926; People vs. Tumaob, 83 Phil. 738; People vs. Abalos, 84 Phil. 771).

The twenty-four year old Jabatan was an agent of authority on night duty at the time of the shooting. He was wearing his uniform. The killing should be characterized as a direct assault (atentado) upon an agent of authority (Art. 148, Revised Penal Code) complexed with homicide. The two offenses resulted from a single act. (Art. 48, Revised Penal Code; People vs. Guillen, 85 Phil. 307; People vs. Lojo, Jr., 52 Phil. 390).

The evidence for the prosecution does not prove any conspiracy on the part of appellants Jaranilla, Suyo and Brillantes to kill Jabatan. They conspired to steal the fighting cocks. The conspiracy is shown by the manner in which they perpetrated the theft. They went to the scene of the crime together. They left the yard of Baylon's residence, each carrying two roosters. They all boarded the getaway truck driven by Gorriceta.

The theft was consummated when the culprits were able to take possession of the roosters. It is not an indispensable element of theft that the thief carry, more or less far away, the thing taken by him from its owner (People vs. Mercado, 65 Phil. 665; Duran vs. Tan, 85 Phil. 476; U.S. vs. Adiao, 38 Phil. 754).

It is not reasonable to assume that the killing of any peace officer, who would forestall the theft or frustrate appellants' desire to enjoy the fruits of the crime, was part of their plan. There is no evidence to link appellants Suyo and Brillantes to the killing of Jabatan, except the circumstance that they were with Jaranilla in the truck when the latter shot the policeman. Gorriceta testified that Suyo did not do anything when Jabatan approached the right side of the truck and came in close proximity to Jaranilla who was on the extreme right. Brillantes pulled his revolver which he did not fire (47, 53-55 tsn). Mere presence at the scene of the crime does not necessarily make a person a co-principal thereof.

Jaranilla heard Gorriceta's testimony that he (Jaranilla) shot Jabatan. Instead of taking the witness stand to refute the testimony of Gorriceta, Jaranilla escaped from jail. That circumstance is an admission of guilt.

The instant case is different from People vs. Mabassa, 65 Phil. 568 where the victim was killed on the occasion when the accused took his chickens under the house. It is distinguishable from the People vs. Gardon, 104 Phil. 372 and People vs. Salamudin No. 1, 52 Phil. 670 (both cited by the Solicitor General) where the robbery was clearly proven and the homicide was perpetrated on the occasion of the robbery. As already noted, theft, not robbery, was committed in this case.

The situation in this case bears some analogy to that found in the People vs. Basisten, 47 Phil. 493 where the homicide committed by a member of the band was not a part of the common plan to commit robbery. Hence, only the person who perpetrated the killing was liable for robbery with homicide. The others were convicted of robbery only.

There is a hiatus in the evidence of the prosecution as to the participation of Suyo and Brillantes in the killing of Jabatan by Jaranilla. As already stated no robbery with homicide was committed. Therefore, it cannot be concluded that those two appellants have any responsibility for Jabatan's death. Their complicity in the homicide committed by Jaranilla has not been established.

WHEREFORE, the judgment of the trial court convicting appellants Ricardo Suyo and Franco Brillantes of robbery with homicide is reversed. They are acquitted of homicide on the ground of reasonable doubt.

As coprincipals with Elias Jaranilla in the theft of the six fighting cocks, they are (a) each sentenced to an indeterminate penalty of six (6) months of arresto mayor as minimum to four (4) years and two (2) months of prision correccional as maximum and (b) ordered to indemnify solidarily the complainant, Valentin Baylon, in the

sum of five hundred pesos (P500). Each appellant should pay one-third of the costs.

As to the liability of Elias Jaranilla for theft and homicide, with direct assault upon an agent of authority, the trial court should render a new judgment consistent with this opinion (See Sec. 19, Art. IV, Constitution).

SO ORDERED.

Zaldivar, (Chairman), Fernando, Antonio, and Fernandez, JJ., concur.

Barredo, J., see concurring opinion.

[*] "Criminal Law; Qualifications of the crime; Theft; Breaking show-windows; Entrance is necessary in the crime of robbery. — The offense committed by the accused is merely that of theft and not of robbery, for the reason that although the show-window was broken open, the accused did not enter the same but merely introduced his hand thru the broken glass in order to remove the watches from the show-window, and for the further reason that the show-window in question was outside the store. There is robbery with force upon things only when doors or windows are broken in order to enter a building to steal or when doors or wardrobes are broken, inside a building. Here there had been no entrance." (Syllabus, *People vs. Adorno*, CA 40 O.G. 567. See *People vs. Ingay*, II ACR 275, per Albert, J. and *U.S. vs. Callotes*, 2 Phil. 16, where the manner of entrance was not proven).

[**] "El guardafreno de un ferrocarril que iba solo en el furgon de cola, abrio el baul de un viajero fracturando la cerradura y extrajo algunos efectos. Condenado como autor del delito de robo, interpuso recurso de casacion alegando que era estafa y el Ministerio fiscal se adherio por conceptuar que el delito era hurto.

El Tribunal Supremo estima la adhesion por considerar: que los hechos declarados probados no constituyen el delito de robo en lugar inhabitado calificado por la Sala sentenciadora, por no referirse los articulos 521 y 525 delCodigo Penal en las expresiones de lugar habitado e, inhabitado al material movil de ferrocarriles, y si tan solo a lugares y casas que puedan servir de albergue o habitacion para las personas, distinguiendolas unicamente por el objeto a que se dedican." Sentencia de 25 de Abril de 1887.

"Varios sujetos saltando la cerca de una zahurda, penetraron en esta y sustrajeron cuatro cerdos.

Condenados como autores del delito de robo, el Tribunal Supremo casa y anula la sentencia, por considerar:

Que si bien es cierto que el delito de robo se caracteriza por la fuerza en las cosas o violencia sobre las personas con que realiza el delincuente la sustraccion de cosa ajena con animo de lucro, es menester ademas que el hecho se encuentre comprendido en alguno de los casos especificados en el capitulo del Codigo que trata de los robos, porque no hay ningun articulo que pene genericamente el robo tal cual se define en el articulo 515:

Que la sustraccion de cerdos imputada a los recurrentes no se halla comprendida en el articulo 525, como erroneamente supone el Tribunal sentenciador, porque al hablarse en dicho articulo de Lugar no habitado, es en contraposicion a Lugar o casa habitada de que trata el articulo 521, y porque, en uno y otro caso, el Codigo se refiere a lugares o casas que puedan servir de albergue o habitacion para las personas, distinguiendolos solamente por el objeto a que estos lugares se dedican, y no a los demas abiertos o meramente cerrados, cual es la zahurda de cerdos donde los recurrentes realizaron la sustraccion, pues el hecho criminal no reviste, en este ultimo caso, la importancia y transcendencia que en aquellos:

Que la Audiencia sentenciadora ha incurrido en error de derecho al calificar de delito de robo un hecho que solo puede serlo como hurto por no hallarse comprendido en ninguno de los casos especificados en el capitulo sobre los robos." Sentencia de 2 de Marzo de 1886.

CONCURRING OPINION

BARREDO, J.:

I concur.

I am in full accord with the findings of fact and the legal rationalization and conclusions in the main opinion very ably written for the Court by Mr. Justice Aquino.

I would like to make observation, however, that I cannot find any error in the literal translation of the term "lugar no habitado" used in the controlling Spanish text of Article 302 into "uninhabited place" appearing in the English version. The correct concept of the said term as used in Article 302 is indeed different from the "uninhabited place" contemplated in Articles 295 and 300, which means "despoblado" or open country — referring to a "lugar", meaning place, site or space where nobody lives or is usually found. And, of course, it is also clear to me that what Article 302 refers to as an "uninhabited place" is really an unoccupied or uninhabited house, the antonym of the "casa habitada" referred to in Article 299. But I cannot bring myself to the thought that the word "lugar" in Article 302 may literally be translated to anything else than "place, site or space". I simply cannot see in it the specific connotation of house or building. Maybe it is the wording of the Spanish text that is somewhat inaccurate, unless it can be shown, which I am afraid cannot be done, that colloquially or somewhere in the Spanish speaking world, said word means house or building or any structure wherein personal properties may be deposited, stored or kept.

I would prefer to footnote Article 302 the same way Justice Luis B. Reyes of the Court of Appeals does, thus:

"The 'uninhabited place' mentioned in Article 302 is a building, because paragraphs Nos. 1 and 3 speak of 'entrance', which necessarily refers to a building." (The Revised Penal Code by Luis B. Reyes, Vol. II, 1968, p. 617.)

In that way, I believe the true and correct meaning of the provision is clarified without attributing any possible misconstruction to faulty literal translation, which I am convinced does not exist. I reiterate, the error in translation noted in the main opinion is inevitable — for while the literal translation is indubitably accurate, on the other hand, as a matter of construction, the correct interpretation is different. Evidently, the Spanish text uses "lugar" for house, building or structure, and, to my mind, that is not the sense that word is usually understood in Spanish. But I agree that what is contemplated in Article 302 is not "despoblado" but simply an unoccupied or uninhabited house, building or structure. In other words, it appears that the correct expression that should be in Article 302 is "uninhabited house," disregarding, consequently, the inaccurate reference to "lugar" in the Spanish text and sticking, by way of construction, to the correct concept of the thing really contemplated.

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