

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. CARLO UYCOQUE Y YAP, ACCUSED (ACQUITTED). JOSE VILLANUEVA Y ANDES, ACCUSED-APPELLANT.

G.R. No. 107495. July 31, 1995

Ponente: PUNO, J.

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PUNO, J.:

In an Information^[1] dated May 6, 1991, accused-appellant JOSE VILLANUEVA y ANDES and his brother-in-law, Carlo Uycoque, were charged with MURDER before the Regional Trial Court of Manila (Branch XLIX).^[2]

Upon arraignment on August 2, 1991, they pleaded "NOT GUILTY."^[3] Trial ensued.

Accused-appellant Jose Villanueva was an investigator at Police Station No. 5 at the time of the incident. He had been a policeman for almost twenty (20) years. Admittedly, before the incident, bad blood existed between him and the victim. Accused-appellant and his brother-in-law, Carlo Uycoque, reside inside the Department of Public Works and Highways Compound in Punta, Sta. Ana, Manila.

The victim, Lucas Flores, was a former member of the Philippine Marines, Armed Forces of the Philippines. After his separation from the service, he worked as a security guard. At the time of his death, he was a barangay tanod at Barangay No. 905, Zone III, Punta, Sta. Ana, Manila.

On May 2, 1991, at around 9:30 P.M., Lucas and his wife, Francisca Flores, were resting in their house situated inside the DPWH Compound, in Punta, Sta. Ana, Manila. They heard someone knocking at the door. Lucas stood up and opened the door. Suddenly, someone grabbed Lucas, poked a gun at him, and forced him out of the house. Immediately thereafter, Francisca heard two (2) successive gunshots, followed by another volley of gunshots.^[4]

Francisca rushed to her husband's succor. However, she was too late. She found him lying prostrate on the ground. He had been shot. According to Francisca, she saw accused-appellant Jose Villanueva and two (2) other suspects surrounding her fallen husband. The three (3) men were armed with guns.^[5]

Instinctively, Francisca embraced Lucas. Irked, accused-appellant shoved her aside and in the process Lucas was released from her hold. Accused-appellant then poked his gun at her and threatened: "Kung gusto mo, ikaw ang isusunod ko!" Francisca quipped: "Iputok mo!"^[6] Thereafter, she sought help from her neighbors. Accused-appellant and his cohorts fled.

When Francisca returned to the scene of the crime, she saw her friend, Veronica Venezuela. Veronica embraced her. With the help of some neighbors, Lucas was taken to the Trinity General Hospital. He did not survive the gunshots.

At about 11:15 P.M., that same evening, Lucas' body was autopsied by Dr. Manuel Lagonera, Medico-Legal Officer of the Western Police District Command (WPDC). The Post-Mortem Findings^[7] revealed that Lucas was

shot at least seven (7) times on the different parts of his body, thus:

"POST MORTEM FINDINGS

"EXTERNAL INJURIES WITH EXTENSION INTERNALLY:

"1.

Gunshot wound, with the point of entry at the left lateral side of the nose, 59 1/4 inches from heel, 2.5 cms. from anterior midline, measuring 0.4 x 0.3 cm. and contusion collar measures 1 x 0.6 cms.

"Course: Directed obliquely downward, slightly backward, crossing the midline towards the right lateral (from left to right), lacerating muscles and sub-cutaneous tissues, and fracturing the nasal bone, right maxillary bone, alveolar process and body of right mandible. The slug lodged in the musculo-cutaneous layer of the right lateral side of the neck where it was extracted.

2.

" Gun shot wound, thru and thru, with the following points of entry and exit:

"Point of entry- left cheek, oval in shape, 57 1/4 from heel, 6.3 cms. from anterior midline, measuring 0.3 x 0.4 cm. and contusion collar measures 0.8 x 0.7 cm. and

"Point of exit- at the left anterior neck, irregular in shape, with rugged and everted edges, 55 inches from heel, 3 cms. from anterior midline measuring 3 x 1.8 cms.

"Course: Directed obliquely downward, forward towards midline, lacerating muscles and sub--cutaneous tissues fracturing left maxillary bone, alveolar process and body of left mandible.

"3.

Gunshot wound, thru and thru, with the following points of entry and exit.

"Point of entry- Just below the left zygomatic bone, elongated in shape, 57 1/2 inches from heel, 10 cms. from anterior midline measuring 2.5 x 0.5 cms., widest at the angle of approach, and contusion collar measures 2.8 x 0.8 cms. and

"Point of exit- left anterior neck, irregular in shape with rugged and everted edges, 55 inches from heel, 3 cms. from anterior midline measuring 3 x 1.8 cms.

"4.

Gunshot wound, with the point of entry at the left anterior thorax, along anterior axillary line, oval in shape, 49 inches from heel, 18.7 cms. from anterior midline measuring 0.6 x 0.5 cm. and contusion collar measures 1.2 x 1.2 cms.

"Course: Directed obliquely downward, backward towards midline, fracturing the left 6th rib, lacerating upper lobe, left lung (thru and thru), then lower lobe, left lung (thru and thru). The slug lodged in the body of 10th cervical vertebra where a deformed slug was extracted.

"5.

Gunshot wound, with the point of entry at the right lower anterior thorax, 46 1/2 inches from heel, 5.6 cms. from anterior midline, measuring 0.5 x 0.6 cm. and contusion collar measures 1.2 x 1 cms.

"Course: Directed obliquely upward, backward towards midline fracturing the right 10th costal cartilage near the sternal end, lacerating middle lobe, right lung (thru and thru), pericardium and right auricle. The slug lodged in the muscular layer along the 5th posterior intercostal space near the vertebral and where the

undeformed lead slug was extracted.

"6.

Gunshot wound, with point of entry at the right subcostal region near the midline, circular in shape, 42 1/2 inches from heel, 4 cms. from anterior midline, measuring 0.5 x 0.4 cm. and contusion collar measures 1.2 x 0.9 cms.

"Course: Obliquely upward, backward towards lateral lacerating lesser curvature of the stomach and posterior portion of the right lobe of the liver. The slug embedded in the muscular layer of the right posterior 10th intercostal space where a copper jacketed slug was extracted.

"7.

Gunshot wound, thru and thru, with the following points of entry and exit.

"Point of entry- oval in shape, medial aspect, upper 3rd, right anterior thigh, 29 inches from heel, measuring 0.5 x 0.3 cm. and contusion collar measures 1 x 0.9 cms. and

"Point of exit- slit like in shape, at the right peri-anal region, 32 inches from heel and measures 1 x 0.4 cms.

"Course: Obliquely upward, backward, towards the midline lacerating muscles and sub-cutaneous tissues.

x x x x x x x x

"Cause of Death

MULTIPLE GUNSHOT WOUNDS."

(Italics ours)

Dr. Lagonera extracted four (4) slugs (Exhibits "J-2" and "J-3") from the victim's body. These slugs were later submitted to the Ballistic Section of the WPD for examination.[8]

The evidence reveal that, shortly after the incident, accused-appellant surrendered to the authorities at Police Station No. 6. Later in the evening, he was turned over to the Homicide Section of the Western Police District (WPD), in United Nations Avenue, Manila, where he was further investigated.

During the investigation, Francisca Flores positively identified accused-appellant as one of her husband's assailants. She was, however, unable to name his cohorts, although she averred she had recognized their faces. Thereafter, at about 11:30 P.M., she executed her sworn statement before investigating officer Pat. Rosendo Delos Santos of the WPD-Homicide Section.[9]

The following day, at about 6:00 P.M., Francisca gave additional statement to Pat. Delos Santos and claimed that her husband's two (2) other assailants were Ulysis Garcia and Carlo Uycoque. Carlo is the brother-in-law of accused-appellant, while Ulysis is the brother of her friend Veronica Venezuela.

Accused-appellant claimed sole responsibility for shooting the victim. He, however, claimed he shot the victim in self-defense.

Allegedly, on the material date and time, accused-appellant dropped by Amado Hael's house, also situated inside the DPWH Compound in Punta, Sta. Ana, Manila. He was to ask Amado Hael, a carpenter, how much it would cost to repair his house. At that time, accused-appellant was in civilian clothes. He also had his service gun with him and six (6) live bullets which were given to him by Captain Reynaldo Jaylo.

While accused-appellant and Amado Hael were conversing in front of Amado's house, they heard a gunshot.

Accused-appellant turned and saw a man standing across the street about ten (10) meters away from them. Accused-appellant could hardly recognize the man who was then carrying a gun. Accused-appellant thus headed towards the gunman.

The gunman fired at accused-appellant but failed to hit the latter. Thereafter, the gunman fled towards an alley while accused-appellant pursued him. After a brief chase, their paths crossed. To accused-appellant's surprise, the assailant turned out to be Lucas Flores, the Chief of Barangay Tanod and an alleged henchman of Barangay Chairman Manuel Venezuela.[10]

Accused-appellant went closer to Lucas. He was about four (4) or five (5) meters away from Lucas when the latter pulled a hand grenade from his pocket using his left hand. Lucas warned: "This is a grenade, don't go near me." Thereafter, Lucas placed his right forefinger into the grenade's pin. Sensing that Lucas was going to pull the pin, accused-appellant shot him twice. Unsure if he had hit Lucas, accused-appellant moved about two (2) meters more towards Lucas. For the second time, Lucas attempted to pull the grenade's pin. Again, accused-appellant shot Lucas twice. Lucas slumped on the ground, face up. Accused-appellant then took Lucas's gun and hand grenade.

In the meantime, Francisca Flores arrived at the scene. She shouted caustic remarks against accused-appellant. He then offered to bring Lucas to a hospital, but Francisca insisted on taking Lucas to the hospital by herself. She shouted for help. Accused-appellant then left the scene and surrendered to the authorities at Police Station No. 6. Later in the evening, he was brought to the Homicide Section of the WPD in United Nations Avenue.

Upon his surrender, he turned over his service firearm, a .38 caliber revolver Smith & Wesson, bearing Serial Number AUF2177[11] with four (4) spent shells, to the investigating officers. He also submitted the weapons he allegedly retrieved from Lucas after the shooting incident, viz: a .38 caliber revolver Smith & Wesson (Paltik), bearing Serial Number 307739, two spent shells, and one (1) M-67 live hand grenade.[12]

To bolster his contention that he shot Lucas in self-defense, accused-appellant presented defense witnesses Amado Hael, Mario Macato Castillo and Captain Reynaldo Jaylo.

Amado Hael and Mario Castillo claimed they witnessed the shooting incident. They testified in substance that Lucas was the one who first fired at accused-appellant but missed, prompting the latter to fire back at Lucas.

According to AMADO HAEL, he was talking to accused-appellant when they heard a gunshot coming from the other side of the road. Accused-appellant then ran across the street to check where the gunshot came from. Amado Hael followed accused-appellant who proceeded towards an alley leading to the house of Lucas. Accused-appellant accosted Lucas in the middle of the alley near the latter's house and confronted the latter if he was the one who fired the gun. At that time, accused-appellant had his gun drawn. Suddenly, Lucas drew his gun and fired at accused-appellant. Accused-appellant retaliated by firing back at Lucas twice. Two seconds later, two more shots were fired by accused-appellant.[13] Lucas then fell on the ground, face up. Thereafter, accused-appellant took the grenade and the gun from Lucas.

When Francisca arrived at the scene, she screamed: "Putang-ina mo, Joe. Bakit mo binaril ang asawa ko?" He replied: "Binaril ako ng asawa mo." Accused-appellant later offered to bring Lucas to a hospital. Francisca retorted: "Ako na ang bahala sa asawa ko." [14]

MARIO MACATO CASTILLO testified that, on May 2, 1992, at about 9:00 P.M., he was inside the DPWH Compound to visit a relative. Allegedly, he saw four (4) armed men running towards the house of Lucas Flores. Thereafter, Lucas and accused-appellant's paths crossed. At a distance of about ten (10) meters, Mario saw Lucas and accused-appellant arguing. At that time, Lucas was holding a grenade with his left hand. Thereafter, Lucas

pulled out a .38 cal. handgun and fired at accused-appellant twice. In turn, accused-appellant fired back at Lucas once. At that instance, Mario ran for his safety. While fleeing, Mario heard two (2) more shots.[15]

CAPTAIN REYNALDO JAYLO corroborated the testimony of accused-appellant that he gave the latter six (6) pieces of bullets, a special type of bullet known in the United States as SABOT bullet. Captain Jaylo explained that when fired, a "double slug bullet" separates into two slugs, while a "triple slug bullet" separates into three slugs.[16] The innuendo of the defense was that, using these special bullets, the victim could sustain more than four (4) gunshot wounds although accused-appellant shot him four times.

After trial on the merits, the court a quo rendered judgment, convicting Jose Villanueva, Jr., of the crime charged. His co-accused, Carlo Uycoque, was acquitted by the trial court for the prosecution's failure to establish his guilt beyond reasonable doubt. The dispositive portion of the trial court decision,[17] provides:

"WHEREFORE, judgment is hereby rendered finding the Accused Jose Villanueva guilty beyond reasonable doubt of the crime of "Murder" defined and penalized by Article 248 of the Revised Penal Code, qualified by treachery, and hereby metes on him the penalty of "RECLUSION PERPETUA" with all the accessory penalties of the law and condemns him to pay to the heirs of Lucas Flores P50,000.00 by way of indemnity; P20,000.00 as moral damages, and P40,000.00 as actual damages. The period during which the accused was detained at the City Jail of Manila shall be credited to the said accused in full provided that he agreed in writing to abide by and comply strictly with the rules and regulations of the City Jail of Manila. With costs against said accused.

"The accused Carlo Uycoque is hereby acquitted of the said charge for failure of the prosecution to prove the guilt of the (said) (a)ccused beyond reasonable doubt. The (a)ccused Carlo Uycoque is not also liable for damages to the heirs of Lucas Flores for the latter's demise. The Warden of the City Jail of Manila is hereby ordered to release the accused Carlo Uycoque from detention unless he is being detained for another cause or charge.

"SO ORDERED."

Hence, the appeal. Accused-appellant contends:

I

THE LOWER COURT GRAVELY ERRED IN HOLDING THAT THE KILLING OF VICTIM LUCAS FLORES WAS QUALIFIED BY TREACHERY.

II

THE LOWER COURT ERRED IN NOT GIVING CREDENCE TO THE ACCUSED' VERSION THAT HE SHOT THE VICTIM, LUCAS FLORES, IN SELF-DEFENSE.

III

THE LOWER COURT ERRED IN HOLDING THAT THE AGGRAVATING CIRCUMSTANCES OF DWELLING ATTENDED THE COMMISSION OF THE CRIME.

IV

THE LOWER COURT GRAVELY ERRED IN SENTENCING THE ACCUSED THE PENALTY OF RECLUSION PERPETUA AND (sic) NOTWITHSTANDING THE PRESENCE OF MITIGATING CIRCUMSTANCE OF VOLUNTARY SURRENDER.

V

THE LOWER COURT ERRED IN ORDERING ACCUSED TO PAY P40,000.00 AS ACTUAL DAMAGES.

We affirm the judgment of conviction.

The guilt of the accused-appellant hinges on the proper calibration of the credibility of the witnesses for the prosecution vis-a-vis the witnesses for the defense.

The essence of the testimony of Francisca is that, while she and her husband, Lucas, were resting in their house, Lucas was forcibly taken and then immediately shot by the malefactors, led by accused-appellant. The trial court gave her testimony full faith and credit and we have no cogent reason not to concur. It is settled that when the issue boils down to the credibility of witnesses, the findings of the trial court deserve great respect since it is in a better position to observe the demeanor of the witnesses while testifying in court and discern its dimensions, verbal and non-verbal. Her relationship with the victim did not necessarily diminish her credibility as a witness. On the contrary, it lent more credence to her testimony as her natural interest is to see the guilty punished.

Over and above the testimony of Francisca, the physical evidence on record repudiate accused-appellant's claim of self-defense. Physical evidence are mute but eloquent manifestations of truth and they rate high in our hierarchy of trustworthy evidence.

In his Incident Report, dated May 2, 1991,[18] accused-appellant claimed he shot Lucas Flores four (4) times. To justify the seven (7) gunshot wounds inflicted on the victim, accused-appellant collaborated with Captain Reynaldo Jaylo and attempted to establish that the special bullets, particularly, triple slug bullets, were used during the shooting incident. The attempt cannot succeed.

The ballistic examination[19] conducted on the four (4) slugs extracted from the body of the victim reveals the following:

"FINDINGS/CONCLUSION:

x x x x x x x x

"B. Examinations made among the four (4) .38 caliber fired bullets revealed the following results:

"1. Two (2) .38 caliber fired bullets marked L and L-1 (Exhibit "J-2") are plain lead bullets with five (5) lands and grooves, lands slightly broader than groove(s) and with riflings twisting to the left.

"2. Two (2) .38 caliber fired bullets marked L-2 and L-3 (Exhibit "J-3") are copper jacket 'Hydra shock' type and silver jacket, respectively, with five (5) lands and grooves, lands and grooves of equal width with riflings twisting to the right; a class characteristic of Smith and Wesson type of firearm."

It is crystal clear from the foregoing that there were at least three (3) types of bullets used during the shooting incident, viz: two (2) plain lead bullets (Exhibit "J-2"); a copper jacketed bullet (Exhibit "J-3", marked as L-2); and a silver jacketed bullet (Exhibit "J-3", marked as L-3).

It was also established that the subject slugs were fired from at least two different firearms. According to Ballistician Emmanuel Aragon, the two (2) slugs in Exhibit "J-2" had riflings twisting to the left, while the other two (2) slugs, (Exhibit "J-3") had riflings twisting to the right, a class characteristic of a Smith & Wesson type of firearm.[20] He testified[21] as follows:

"FISCAL PERALTA:

... Now, could it be possible Mr. Witness that as far as this "L" and "L-1" or Exhibit "J-2" and "L-2 and "L-3" or Exhibit "J-3" for the Prosecution, these were fired by two (2) different firearms?

"WITNESS:

Definitely, sir.

"FISCAL PERALTA:

Why do you say that?

"WITNESS:

Because they have different class characteristic, sir.

"FISCAL PERALTA:

What do you mean (by) different class characteristic?

x x x x x x

"WITNESS:

The Smith and Wesson type, let's say for example, the number of lands, the number of grooves, the pitch of the riflings, the depth of lands, the depth of grooves, the twist of the riflings, are (the) ... class characteristics, sir."

Significantly, even defense witness Reynaldo Jaylo admitted during the trial that Smith & Wesson revolvers (just like the service gun of accused-appellant), are always right rifling groove revolvers.[22] Since the slugs marked as Exhibit "J-2" had riflings twisting to the left, it follows that they were not fired from the .38 caliber Smith & Wesson service revolver of accused-appellant and that another person was responsible for at least two (2) of the gunshot wounds sustained by the victim.

We also note that some of the wounds sustained by the victim showed a downward trajectory of the bullets, particularly, gunshot wound nos. 1 to 3 (points of entry: head, specifically, below the left cheekbone, the left side of the nose just below the left eye, and the left cheek) and gunshot wound No. 4 (point of entry: the left portion of the breast).[23] On the other hand, gunshot wound nos. 5 to 7 (points of entry: the right lower portion of breast, frontal portion of the abdomen, and upper portion of the thigh) showed an obliquely upward trajectory.[24]

Dr. Lagonera opined that, considering the wounds sustained by the victim on the head, the left chest and the thigh, it was possible that the victim was shot while lying prostrate on the ground. He testified[25] as follows:

"COURT:

The question was, what were the relative positions of the assailant or assailants vis-a-vis the victim?

"WITNESS:

Your Honor, the relative position of the assailant would have been above the head of the victim from the left top portion of the victim.

"FISCAL PERALTA:

Now, is it possible as far as these wounds sustained by the victim on the head, on the left chest and on the thigh, is it possible that the victim was already lying prostrate on the ground and the assailant and/or assailants were still firing their guns directed at the body or at the head of the victim?

"WITNESS:

It is possible, sir.

On cross-examination,[26] Dr. Lagonera further testified:

"ATTY. DOMINGO:

"You also answered that it was possible that the wound on the head, as a result of the question of the Public Prosecutor, that the victim was then lying prostrate. You said "yes"?"

"WITNESS:

Yes, sir.

"ATTY. DOMINGO:

But it was also probable that they were standing at that time?

"WITNESS:

No, with the trajectory of the bullets, it is not possible that they were standing on the same level, sir." (Italics supplied)

The fault lines in the defense of accused-appellant ran through his testimony. His testimony vis-a-vis the testimony of the other defense witnesses is marred with inconsistencies.

Accused-appellant testified that after the first shot, he turned and saw the gunman standing across the street, about ten (10) meters from him and Amado Hael. He further declared that he was forced to shoot Lucas since, after confronting him, the latter pulled out a grenade from his pocket and threatened to pull its firing pin.

Accused-appellant's testimony was contradicted by defense witness Amado Hael who, during his cross-examination, admitted that the gunman could not be seen from the place where he and accused-appellant were standing. In fact, accused-appellant had to proceed to the place where the gunshot came from, precisely to look for the person who was responsible therefor.[27] Amado Hael also testified that Lucas' left hand was still inside his pocket when accused-appellant shot him for the first time.[28]

Defense witness Mario Castillo, for his part, declared that, during the alleged confrontation, Lucas was already holding the hand grenade. Thereafter, Lucas drew his gun and fired at accused-appellant twice. On cross-examination, Mario further averred that he immediately left the scene after Lucas had fired at accused-appellant twice. On further cross-examination, he changed his answer and said that Lucas fired at accused-appellant only once. Mario then hurriedly left the scene. While fleeing, he heard two (2) more shots. He was not certain who fired the two (2) gunshots. On further questioning by the court, he claimed he saw accused-appellant fired two shots. While he (Mario) was leaving, he heard two more shots.[29]

We agree with the trial court that the killing was committed with treachery which qualified the crime to Murder. There is alevosia since the attack was sudden and unexpected, rendering the victim defenseless in the hands of his assailants and ensuring the accomplishment of the assailants' evil purpose.[30] We quote with approval the findings of the trial court, thus:

"The Court is convinced that, as testified to by Francisca Flores, the (a)ccused, Jose Villanueva, and his cohorts killed Lucas Flores with treachery. The (a)ccused Jose Villanueva and his cohorts pretended to be visitors, knocked on the door to the house of Lucas Flores and, when the latter went to open the door, the (a)ccused and his cohorts then pulled Lucas Flores out of the door and shot him to death. Lucas Flores sustained no less than seven (7) gunshot wounds. The incident was so sudden and unexpected. Lucas Flores was not thus able to defend himself and (sic) against the unforeseen assault on him."

The aggravating circumstance of dwelling also attended the commission of the crime even if the victim was killed outside his residence. A person's abode is regarded as a sanctuary which should be respected by everybody. Here, while the victim was resting in the comfort of his home, accused-appellant and his cohort(s) forcibly led him (the victim) out of his house shortly before he was shot to death. At that point, the aggression had begun, although it

ended outside the victim's house.

An act performed cannot be divided or its unity be broken up, when the offender began the aggression in the dwelling of the offended party and ended it in the street or outside said dwelling. Dwelling is aggravating if the victim was taken from his house and killed just beside his abode although the offense was not completed therein.[31]

The penalty prescribed for Murder is reclusion temporal in its maximum period to death.[32] The generic aggravating circumstance of dwelling was offset by the generic mitigating circumstance of voluntary surrender. Thus, as correctly ruled by the trial court, the penalty should be imposed in its medium period, that is, reclusion perpetua.[33]

Parenthetically, section 21 of R.A. No. 7659[34] amended Article 27 of the Revised Penal Code by specifying the duration of reclusion perpetua, viz: from twenty (20) years and one (1) day to forty (40) years. The amendment created some confusion on whether the new law had reclassified reclusion perpetua as a divisible penalty. This issue has been settled in the case of *People vs. Lucas*,[35] where we categorically stated that, although the duration of reclusion perpetua has been fixed under R.A. No. 7659, it remains as an indivisible penalty.

We now come to the civil liability of accused-appellant. The indemnification in favor of the legal heirs of Lucas Flores (in the amount of P50,000.00 for the death of Lucas; P20,000.00 for moral damages; and P40,000.00 for actual damages) is affirmed except with respect to the award for actual damages which is hereby reduced to P15,000.00, the amount established for funeral and burial expenses.[36]

IN VIEW WHEREOF, the impugned decision of the trial court in Criminal Case No. 91-94950, dated September 30, 1992, is **AFFIRMED** with modification that the award for actual damages is reduced to fifteen thousand pesos (P15,000.00). No costs.

SO ORDERED.

Narvasa, C.J., (Chairman), Regalado, Mendoza, and Francisco, JJ., concur.

[1] Rollo, p. 7.

[2] Docketed as Criminal Case No. 91-94950.

[3] Certificate of Arraignment, Original Records, p. 16.

[4] TSN, September 2, 1991, pp. 4-5, 30.

[5] TSN, September 2, 1991, pp. 6-8.

[6] *Ibid*, p. 7.

[7] Exhibit "D", Original Records, pp. 53-55.

[8] Exhibit "G"; Original Records, p. 59.

[9] Exhibit "A"; Original Records, pp. 47-48.

[10] Allegedly, these barangay officials were responsible for the illegal electric and water connections within the DPWH Compound and that they charged exorbitant fees for said services from the people residing within the DPWH Compound.

- [11] Exhibit "L-1".
- [12] Exhibit "L", Exhibit "K", and Exhibit "R-1", respectively.
- [13] TSN, January 3, 1992, p. 8.
- [14] TSN, January 3, 1992, pp. 10-11.
- [15] TSN, June 16, 1992, pp. 3-6.
- [16] TSN, July 28, 1992, pp. 4, 15.
- [17] Penned by Judge Romeo J. Callejo on September 30, 1992.
- [18] Exhibit "2"; Original Records, p. 70.
- [19] See Laboratory Report prepared by Ballistician Emmanuel Aragones, dated September 27, 1991, Original Records pp. 60-61.
- [20] Laboratory Report, dated September 27, 1991, *supra*.
- [21] TSN, October 7, 1991, p. 23.
- [22] TSN, July 28, 1992, p. 17.
- [23] TSN, September 11, 1991, pp. 9-16; Exhibit "D", Original Records, p. 53.
- [24] *Ibid*.
- [25] TSN, September 11, 1991, p. 16.
- [26] TSN, September 11, 1991, pp. 20-21.
- [27] TSN, January 3, 1992, p. 15.
- [28] *Ibid.*, pp. 47-48.
- [29] TSN, June 16, 1992, pp. 12-13, 19, 24.
- [30] *People vs. Rosalijos*, G.R. No. 98253, November 25, 1994, 238 SCRA 362, 370.
- [31] *People vs. Jardiniano*, No. L-37191, March 30, 1981, 103 SCRA 530, citing *United States vs. Lastimoso*, No. 9178, March 30, 1914, 27 Phil. 432.
- [32] Article 248 of the Revised Penal Code.
- [33] See Article 63 of the Revised Penal Code.
- [34] "An Act to Impose the Death Penalty on Certain Heinous Crimes, Amending for that Purpose the Revised Penal Code, as Amended, Other Special Penal Laws, and for Other Purposes.
- [35] See En Banc Resolution, promulgated on January 9, 1995, which modified the First Division's Decision in *People vs. Lucas*, G.R. Nos. 108172-173, May 25, 1994.
- [36] Exhibits "X" and "Y", Original Records, pp. 183-184.

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