

**FELIPE E. PEPITO, SINONOR E. PEPITO, AND SONNY E. PEPITO,
PETITIONERS, VS. THE HONORABLE COURT OF APPEALS AND
PEOPLE OF THE PHILIPPINES, RESPONDENTS.**

G.R. No. 119942. July 08, 1999

Ponente: MENDOZA, J.

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MENDOZA, J.:

This is a petition for review on certiorari of the decision[1] of the Court of Appeals, dated March 29, 1995, which affirmed the judgment of the Regional Trial Court, Branch 21, Laoang, Northern Samar, finding petitioners Felipe, Sinonor, and Sonny Pepito guilty beyond reasonable doubt of homicide and sentencing them to an indeterminate penalty of ten (10) years, six (6) months and one (1) day of prision mayor, as minimum, and sixteen (16) years and one (1) day of reclusion temporal, as maximum, and ordering them to pay the heirs of Noe Sapa, the victim, the amount of P50,000.00 as death indemnity and P10,000.00 by way of moral damages.

Felipe Pepito and Estrella Pepito are husband and wife. Sinonor and Sonny are their children. They were charged with murder in an information, filed on October 5, 1989 by the provincial prosecutor, which alleged

That on or about the 15th day of July, 1989 at about 3:30 in the morning more or less, at Barangay Burabod, Laoang, Northern Samar, and within the jurisdiction of this Honorable Court, the above-named accused persons, conspiring, confederating and helping one another with treachery and evident premeditation and with deliberate intent to kill and taking advantage of superior strength did, then and there wilfully, unlawfully and feloniously attack, assault and stab, NOE SAPA who was then asleep at their house, all of them armed with bladed weapon, an arrow and a spear, which they conveniently provided themselves for the purpose, directing blows against the vital parts of the body, thereby inflicting upon the latter multiple stab, incised and hacking wounds, which directly caused the death of said NOE SAPA.

With the aggravating circumstance of dwelling and abuse of superior strength.

CONTRARY TO LAW.

The evidence for the prosecution shows that, at around 8:30 in the morning of July 15, 1989, while Cynthia Sapa, the wife of the victim, was in her mother's house in Barangay Burabud, Laoang, Northern Samar, where she and her husband were staying, she heard someone on the street calling her husband. The latter was still asleep, having gone to bed late as he had to make rounds in the barangay the previous night as a member of the local Bantay Bayan. Upon looking out of the window, Cynthia saw accused Felipe, Sinonor, Sonny, and Estrella Pepito armed with various weapons locally known as "depang,"[2] "indian pana,"[3] and "sagangat." [4] Frightened, Cynthia rushed out of the house and ran to her neighbor's house where she sought refuge.[5]

On her way she met her mother-in-law, Urdanita Sapa, to whom she said, "Mother, Noe is there and somebody went up the house for him." [6] Whereupon, Urdanita, who had also seen accused Felipe, Sinonor, Sonny, and Estrella, went back to her house and told them: "Noe has not done you any wrong, and you must leave him." [7]

But Felipe, Sinonor, and Sonny entered the house as Estrella stood by the door, even as she urged them to kill the victim. A commotion inside the house was heard, after which accused Felipe, Sinonor, and Sonny were seen coming out with their weapons bloodied. Then addressing the people outside, Sinonor announced that the victim was already dead.[8]

The victim was found dead in a pool of blood on the floor of the kitchen.[9] The autopsy showed that he sustained 19 stab, incise, and hack wounds.[10]

On the other hand, the defense evidence shows that, between 6 and 7 in the morning of July 15, 1989, the victim, Noe Sapa, drunk and armed with a bolo and an "indian pana," made trouble in the neighborhood, prompting Estrella to report the matter to Godofredo Espino, the barangay captain, who brought the victim home.[11]

However, half an hour later, Noe Sapa came back and challenged the family of accused to a fight. He chased Felipe, who was then returning home from the seashore. Felipe ran towards their house. Sapa did not pursue any further. He stopped about 8 meters from the door of the Pepito residence and then went home.

Sinonor, who was in the kitchen having breakfast, thought that his father had been hurt. He grabbed a bolo, rushed out of the house, and went after Noe Sapa, eventually catching up with him on the highway. Sapa hit Sinonor with his "indian pana," and struck him with a bolo on the right arm. Somehow, however, Sinonor was able to grab the right arm of the victim, which was holding the bolo, and stab him several times. Sapa tried to flee, but Sinonor pursued him until they reached the former's house. Sapa staggered inside their house, fell on the floor of the kitchen, and died. Felipe, Sonny, and Estrella met Sinonor as he came out, his clothes, hands, and bolo all bloodied.[12]

The trial court gave credence to the evidence of the prosecution. In its decision, dated November 9, 1992, it stated:

It is a fact undisputed that the victim Noe Sapa was killed inside the house, particularly in the kitchen of spouses Domingo and Myrna Garnudo, a house where a husband Noe and a wife Cynthia resided in Brgy. Burabud, Laoang, N. Samar. This fact is supported by the testimonies of the prosecution's witnesses Cynthia Garnudo Sapa, victim's widow, Urdanita Sapa, the victim's mother, Genaro Tepace, Brgy. Kagawad of Burabod and Amada Bantilo, a public school teacher and whose house is an armslength to the house of Noe Sapa, the place of incident. This fact is further supported and substantiated by the testimonies of Police Officer Redencio Irinco of the PNP Laoang and Pablo Fulga, who declared that they saw drops of blood or bloodstains inside and not outside the house, particularly in the kitchen. The drops of blood that has been seen inside the house refuted and negated the testimonies of accused Sinonor, Sonny, Felipe and Estrella, all surnamed Pepito and other defense witnesses Venancio Laguitan, Crispulo Renate, Rodolfo Tepace and Andrea Garnudo. The drops of blood or bloodstains were the indicia of truth as to the place of the killing.

....

The RESOLUTION of the Municipal Court dated 22 September 1989 which found Sinonor armed with small bolo, Sonny with a big bolo, Felipe with a bow and arrow and a bolo and Estrella with a spear rushed towards the direction of Noe Sapa and while at the house of Noe, the three accused, Sinonor, Sonny and Felipe, all surnamed Pepito, entered the house, one after the other holding with them their respective weapons. After a short while and some sounds of scuffle, like a butchered chicken, the three assailants came out with their respective weapons bloodied. That ended the tragedy and the life of the victim Noe Sapa.

The finding of the Municipal Court Resolution finds support and is substantiated by the credibility of the prosecution's witnesses and the veracity of the Autopsy Report of Dr. Lucita Lacbanes Ver, marked as Exh. "A" prosecution, which showed nineteen (19) stab and hacking wounds ten (10) wounds at the front and nine (9) at the back of the victim's body which caused his death. According to Dr. Ver and Dr. Leandro Negado,

these wounds in a split of a second or a minute attack could not be inflicted by one person, but by more than one, possible two or three persons.

The defense of Felipe Pepito and Sonny Pepito that they did not participate in the killing of the victim as they already appeared at the scene after Sinonor Pepito wounded many times Noe Sapa is incredible, preposterous and not convincing.

....

The plea of self-defense invoked by accused Sinonor Pepito is without merit as in the situation he became an aggressor, he became an offender and not a defender. His role was offense, not defense. Besides, the means employed are not reasonable to prevent or repel is indicated in the nineteen wounds sustained by the victim.

Likewise, the plea of voluntary surrender is not appreciated in favor of the accused as it has not been proved in Court.

....

WHEREFORE, in the light of the foregoing, the case against Sinonor Pepito, Sonny Pepito and Felipe Pepito having been proved beyond a reasonable doubt, this Court hereby sentences the above-named accused to suffer an imprisonment with the aggravating circumstances of abuse of superior strength appreciated against the accused of ten years, six months and one day of prision mayor as minimum, to sixteen years and one day of reclusion temporal as maximum.

To pay the heirs for the death of the victim P50,000.00.

To pay moral damages in the amount of P10,000.00.

Accused Estrella Pepito is acquitted as she did not participate, she just stood by and watched in the fracas inside the victim's house.

The bail bond posted by Sinonor, Sonny and Felipe, all Pepito are hereby cancelled and the bondsman are discharged from their obligation.

Instruments and/or effects used in the commission of the crime are confiscated in favor of the government.

SO ORDERED.

In affirming the judgment of the trial court, the Court of Appeals held:

We are not convinced that Sinonor alone was responsible for the death of Sapa. The number of wounds sustained by the victim support the theory of the prosecution that the three accused attacked Sapa. The witnesses for the prosecution were emphatic that they saw all the four Pepitos go to the house of Sapa, all of them armed.

This fact was also proven by the testimony of Amada Bantilo, a neighbor of the Sapas, who likewise testified that she saw all the four (4) accused armed with deadly weapons going to the house of Noe Sapa and thereafter she heard a commotion, after which she saw Sinonor Pepito with his clothes bloodstained.

The fact that there had been a prior incident when Sapa challenged the Pepitos to a fight and when Felipe fell on the doorway unconscious, all the more leads us to believe that the four of them conspired to kill Noe Sapa. Thus, all the four of them went to his house and as Estrella stood guards outside the house, the three other accused ganged up on Sapa and inflicted the numerous wounds sustained by him.

The desire of Sinonor Pepito to exculpate his father and his younger brother is understandable. But unfortunately, the same cannot be considered in this case where the common design and concerted action is

evident.

However, we do believe that the mitigating circumstance of sufficient provocation on the part of the victim should be considered in favor of the accused. The evidence has established that the victim Sapa challenged the Pepitos to a fight and ran after Felipe Pepito who lost consciousness after the chase. This was what prompted the Pepitos to commit the crime. But the lower court already imposed the correct penalty. In this case, the penalty imposable should range from prision mayor of 6 years, 1 day to 16 years as minimum and 14 years, 8 months and 1 day to 18 years and 4 months as maximum. The penalty prescribed by the lower court is therefore already within the range allowable under the law.

WHEREFORE, finding no reason to reverse or modify the decision rendered by the lower court, the same is hereby AFFIRMED.

Costs against accused-appellants.

SO ORDERED.

Hence, this appeal. Petitioners contend:

- THE COURT OF APPEALS ERRED BY ADOPTING IN TOTO THE FINDINGS OF THE LOWER COURT HENCE FAILING THEREBY TO CONSIDER THE TESTIMONIES OF THE DEFENSE WITNESSES INDICATING THE INNOCENCE OF THE PETITIONERS, OR AT THE LEAST NEGATING THE FINDINGS OF CONSPIRACY.
- THE COURT OF APPEALS ERRED IN FINDING THAT PETITIONERS FELIPE PEPITO AND SONNY PEPITO CONSPIRED WITH PETITIONER SINONOR PEPITO IN KILLING NOE SAPA.
- THE COURT OF APPEALS ERRED IN NOT CONSIDERING IN FAVOR OF PETITIONER SINONOR PEPITO THE MITIGATING CIRCUMSTANCES OF UNLAWFUL AGGRESSION AND SUFFICIENT PROVOCATION ON THE PART OF THE VICTIM AS WELL AS PASSION AND OBFUSCATION OF THE PART OF PETITIONER SINONOR PEPITO.
- IN ANY EVENT, THE COURT OF APPEALS ERRED IN NOT REVERSING THE CONVICTION OF THE PETITIONERS BASED, AT THE VERY LEAST, ON REASONABLE DOUBT AND ACCORDING PETITIONERS THE PRESUMPTION OF INNOCENCE.

These contentions can be reduced to two issues: (1) whether the guilt of Felipe and Sonny was proven beyond reasonable doubt, and if so, whether the existence of a conspiracy between Felipe, Sinonor, and Sonny was sufficiently established; and (2) whether the mitigating circumstances of incomplete defense of a relative, sufficient provocation or threat on the part of the offended party immediately preceding the act, and that of having acted upon an impulse so powerful as naturally to have produced passion or obfuscation should be appreciated in favor of Sinonor. We will discuss these issues in the same order.

First. Amada Bantilo testified for the prosecution as follows:

GOVT. PROSECUTOR HERMOSILLA:

Q On July 15, 1989, at about 8:30 o'clock in the morning, do you remember where you were?

A At home.

Q What were you doing at home?

A Washing clothes and it was a Saturday.

Q While thus washing clothes in your house, do you remember if there was an unusual incident that happened?

A The incident where they went to the house of Noe.

Q Who went to the house of Noe?

A The first whom I saw was Sinonor with a small bolo.

Q You mean the accused Sinonor Pepito?

A Yes, sir.

Q And when you said Noe you mean Noe Sapa, the victim in this case?

A Yes, Sir.

Q

Now, when was that when you saw or noticed Sinonor Pepito carrying the small bolo locally known as "depang"?

A That July 15 which is a Saturday and I was then laundering when I saw him passed by.

Q Now, was he the only one who passed by your house?

A No, Sir.

Q Who else?

A

Felipe, then Sonny and then Estrella was the third.

COURT:

Q By the way, where did these four (4) accused pass by?

A In the street, your Honor.

....

Q

You said that you saw Sinonor Pepito passed by the street and followed by the three other accused, when they passed by, did they pass by at the same time or sometime has elapse before the three accused followed or an interval of time?

A There was an interval of time one after the other.

Q You name the interval of time between Sinonor and the other accused?

A One minute after the other.

COURT:

Q

When you saw Sinonor armed with a weapon called "depang", you likewise saw the three accused passed one after the other, did you also see each of them carrying a weapon?

A Yes, your Honor.

GOVT. PROSECUTOR HERMOSILLA:

Q Did you recognize the weapon being carried, for example, by Sonny Pepito?

A It was not clear to me but I saw him bringing something long.

COURT:

Q Since you saw Sonny Pepito you cannot just identify what was he bringing because it was long?

A

It was something black and long, your Honor.

Q Could it be a bolo or a stick?

A Not a bolo but something long.

GOVT. PROSECUTOR HERMOSILLA:

Q And how about Felipe Pepito, was he also carrying a weapon or a bolo?

A

He was not carrying anything although I have observed him with a bolo tack to his waist.

Q And how about Estrella Pepito?

A In the case of Estrella I saw her bringing something with a bamboo handle. I have not observed the lower edge of the portion below from the handle.

Q For record purposes may I ask the witness how far is the distance between her house and the house of Noe Sapa, the victim in this case?

A More than one (1) armslength.

Q And what is that thing that divides to act as boundary from your house to the house of Noe Sapa?

A A bamboo fence, Sir.

Q Now, after you saw Sinonor followed by the three accused passed by the street, do you remember what happened after that?

A I heard a sort of commotion a semblance to me as if a chicken was being butchered, thereupon I stopped my work.

Q Where was that commotion came from?

A From his house.

Q Whose house?

A Noe Sapa's.

Q And after you heard the commotion, what else happened?

A I ran towards the street.

Q What street particularly, is it the main highway or the side street?

A The main highway.

Q Now, what did you notice or observe while running thus towards the highway?

A I have seen Sinonor with stains of blood in front of him.

Q From where did Sinonor Pepito come from?

A From the house of Cynthia.[13]

Bantilo's testimony was corroborated by Genaro Tepace,[14] Cynthia Sapa,[15] and Urdanita Sapa.[16]

On the other hand, Venancio Laguitan, testifying for the defense, declared:

Q

Now, while he was going to the place of Myrna Garnodo do you remember what transpired next?

A

The house where Noe was going today on the street from the highway, for that I lost my site on him but later I noticed the people and the children were scampering and what was happened I was informed Felipe Pepito was being pursued by Noe Sapa immediately I look on Noe window I saw Noe challenging Felipe Pepito.

Q

When you saw Noe Sapa challenging Felipe Pepito what was he holding if any if you saw?

A

Because my attention now was on the people I noticed only that Sinonor Pepito was holding a small bolo I did not clearly see what Noe Sapa was holding but, I saw it that he was being pursued towards the house of Myrna Garnodo.

....

Q

Now, let us clarify. When you saw Felipe Pepito being challenged by Noe he was running across the highway towards his house, is that what you mean?

A

From the bridge of Burabod that is along the highway, the boundary of the road leading the school in the west it was from the point when I observed Felipe Pepito being challenged by Noe Sapa along the highway towards the house of Felipe Pepito. Right side going to Rawis, Noe remain the highway just moments later I saw Sinonor Pepito emerged and this time pursued Noe Sapa towards the house of Myrna Garnodo.

....

Q

Now, when Sinonor Pepito chased Noe Sapa what did you do?

A

When Noe Sapa was being challenged by Sinonor Pepito towards the house of Myrna Garnodo I immediately went out the house and cross the highway and went directly to the house of Andres Bantillo which is a house across the street to the house of Myrna Garnodo. I pursued myself because I want to see what was happened.

....

Q

Now, when you reached the place inside the fence of Andres Bantillo what transpired if any across the place in the yard of Myrna Garnodo if you have recall?

A

Sinonor Pepito and Noe Sapa grappled.

Q

While they were grappling where there other people who joined the grappling?

A

None.

Q

Now, what did you see when they grappling each other what they are holding?

A

What I have observed the right hand of Noe Sapa was being held by the left hand of Sinonor Pepito. The right hand of Noe and the left of Sinonor Pepito was holding a bolo. Sinonor Pepito who was armed a small bolo and continuously stabbed Noe Sapa.

COURT:

Q

In what particular place did the fight of Sinonor Pepito and Noe Sapa took place?

A

Right side of the door of the house in the northern part of the house.

Q

Whose house?

A

The house of Myrna Garnodo.

Q

How far it is to the house of Felipe Pepito?

A

About 40 to 50 meters away.

Q

If the measurement would be determine from the two house the distance would be estimated to 40 to 50 meters from the street and then towards the house. When you saw Sinonor Pepito successively stabbed Noe Sapa what happened then?

A

As to this moment Noe staggered towards the house and that was the time I lost my site of them that was already on the western part of the house. I observed Sinonor Pepito pursued of Noe.

Q

After you lost your site from the moment what transpired next?

A

I saw Sinonor Pepito coming out with his hand bloodied he followed to the street towards the highway.

Q

When you saw Sinonor Pepito came out from that bridge where you lost your site did you see Noe Sapa came out also from that place?

A

No, sir.

Q

When you saw Sinonor Pepito came out from that place did you see Sonny Pepito came out from that place

also?

A

No, sir.

Q

Did you also see Felipe Pepito came out from that place when you saw Sinonor Pepito came out?

A

No, sir, I did not.

Q

How about Estrella Pepito did you see her came out from that place?

A

No, sir.

Q

It was Sinonor Pepito who came out walking towards the highway?

A

Yes, sir.

Q

Was he also bloodied at his shirts?

A

Yes, sir, his shirts is still bloodied I am not very much interested of that your honor, whether his hand was bloodied.

Q

When Sinonor Pepito reached the highway what did you see if any?

A

When I saw Sinonor Pepito going to the highway I also went out from that place where I was personally going home. At the highway from where I observed Sinonor Pepito walking towards the house and I notice it was made by Sonny Pepito a younger brother, Estrella Pepito his mother and Felipe Pepito his father.[17]

Laguitan's testimony was substantially corroborated by Rodolfo Tepace[18] and Felipe,[19] Sinonor,[20] Sonny,[21] and Estrella Pepito.[22]

After reviewing the evidence of the parties, we are convinced that the allegations of the defense rather than those of the prosecution deserve to be given credence.

First, Pablo Pulga, who photographed the victim's body and was presented by the prosecution as a witness, testified that there was a bolo in its right hand.[23] Indeed, the two photographs (Exhs. C-1 and C-2) taken by him on July 15, 1989 show this to be the fact. These photographs belie the claim of the prosecution that the victim was sleeping when he was killed and supports the claim of the defense that he died in a fight with Sinonor Pepito.

Second, the victim was found in the kitchen and not in the living room. This negates the claim of the prosecution that the victim was killed while he was sleeping and bolsters the allegation of the defense that Sinonor finished him off as he retreated to his house.

The fact that the victim sustained 19 wounds does not necessarily show that the same were inflicted by several persons using different weapons. Dr. Lucita Ver, the physician who examined the victim, could not make a categorical statement on this point when presented by the prosecution as an expert witness. When asked, "Could the Court simply conclude that with these 19 wounds of different dimensions could have been caused by different kinds of weapon?", she said, "I cannot entirely say yes your Honor. But I can say it's possible." [24]

There may indeed be suspicion that Felipe and Sonny are equally guilty as Sinonor. But we cannot render judgment on the basis of mere guesses, surmises, or suspicion. Our legal culture demands the presentation of proof beyond reasonable doubt before any person may be convicted of any crime and deprived of his life, liberty, or even property. The hypothesis of his guilt must flow naturally from the facts proved and must be consistent with all of them.[25]

As shown above, some of the facts proved in the instant case tend to negate the findings of guilt against Felipe and Sonny as well as the existence of conspiracy among petitioners and the use of superior force against the victim.

Second. The mitigating circumstance of incomplete defense of a relative cannot be appreciated in favor of Sinonor. Although this mitigating circumstance can be appreciated even if based on the mistaken belief of the person making the defense that there was unlawful aggression against his relative,[26] it is required that the act done would have been lawful had the facts been as the accused believed them to be.[27] It is settled that a person making a defense has no more right to attack an aggressor when the unlawful aggression has ceased.[28] In this case, even if Noe Sapa had indeed killed Felipe as Sinonor claims he thought, Sinonor would not have been justified in attacking the victim, as the latter had stopped about 8 meters from the door of the Pepito residence and then turned towards his mother-in-law's house before Sinonor went after him.

However, the Court of Appeals correctly appreciated in favor of Sinonor the mitigating circumstance of sufficient provocation or threat on the part of the offended party immediately preceding the act. Provocation is defined to be any unjust or improper conduct or act of the offended party, capable of exciting, inciting, or irritating anyone.[29] In order to be mitigating, provocation must be sufficient and should immediately precede the act.[30] Provocation is sufficient if it is adequate to excite a person to commit the wrong, which must accordingly be proportionate in gravity.[31] That the provocation must immediately precede the act means that there should not be any interval of time between the provocation by the offended party and the commission of the crime by the person provoked.[32]

In the present case, the acts of the victim of challenging the family of petitioners while armed with a bolo and an "indian pana" and of chasing Felipe clearly constitute sufficient provocation on his part. Several witnesses for the defense testified that Sinonor attacked the victim shortly after the latter's provocation. Hence, this mitigating circumstance should be appreciated in favor of petitioner Sinonor Pepito.

The aggravating circumstance of dwelling cannot be appreciated against an accused if the victim gave provocation.[33] The trial court is therefore right in not taking this into account in determining the penalty to be imposed on Sinonor.

The Court of Appeals likewise correctly disregarded the mitigating circumstance of having acted upon an impulse so powerful as naturally to have produced passion or obfuscation after it appreciated that of sufficient provocation or threat on the part of the offended party immediately preceding the act. It is settled that if these two mitigating circumstances are based on the same facts, the same should be treated as one.[34]

In the absence of any qualifying circumstance, the crime committed was homicide, the penalty for which under Art. 249 of the Revised Penal Code is reclusion temporal. As there was one mitigating circumstance and no aggravating circumstance, the penalty should be fixed in its minimum period.[35] Applying the Indeterminate Sentence Law, petitioner Sinonor Pepito should be sentenced to an indeterminate penalty, the minimum of which is within the range of the penalty next lower in degree, i.e., prision mayor, and the maximum of which is that properly imposable under the Revised Penal Code, i.e., reclusion temporal in its medium period.[36] Finally, in accordance with current jurisprudence, the amount of moral damages should be raised from P10,000.00 to P50,000.00.[37]

WHEREFORE, the decision of the Court of Appeals as to Felipe Pepito and Sonny Pepito is REVERSED and they are hereby ACQUITTED but AFFIRMED with respect to Sinonor Pepito who is hereby sentenced to suffer a prison term of eight (8) years of prision mayor, as minimum, to fourteen (14) years and eight (8) months of reclusion temporal, as maximum, and to pay the heirs of Noe Sapa the amounts of P50,000.00 as death indemnity and P50,000.00 as moral damages and to pay the costs.

SO ORDERED.

Bellosillo, (Chairman), Puno, Quisumbing, and Buena, JJ., concur.

[1] Per Justice Salome A. Montoya and concurred in by Justices Fidel P. Purisima and Godardo A. Jacinto.

[2] A type of bolo.

[3] A type of bow and arrow.

[4] Spear.

[5] TSN, pp. 72-78, Aug. 1, 1990

[6] TSN, p. 64., June 7, 1990.

[7] Id., p. 65.

[8]-39, 40-41, 47-50, July 2, 1990.

[9] TSN, pp. 6-7, 12-13, Sept. 5, 1990.

[10] Exhibit A, Records, p. 12.

[11] TSN, pp. 64-69, July 8, 1991.

[12] TSN, pp. 190-198, 204-212, 214-222, Aug. 21, 1991.

[13] TSN, pp. 6-7, 12-15, July 19, 1990.

- [14] TSN, pp. 3-5, Aug. 6, 1990.
- [15] TSN, pp. 73-79, 81-90, Aug. 1, 1990.
- [16] TSN, pp. 33-42, 47-49, July 2, 1990.
- [17] TSN, pp. 9-11, 15, 17-20, Nov. 15, 1990.
- [18] TSN, pp. 25-37, March 11, 1991.
- [19] TSN, pp. 148-155, July 4, 1991.
- [20] TSN, pp. 187-201, Aug. 21, 1991.
- [21] TSN, pp. 165-176, July 12, 1996.
- [22] TSN, pp. 64-75, July 8, 1991.
- [23] TSN, pp. 7, 14, Sept. 5, 1990.
- [24] TSN, p. 28, March 20, 1990.
- [25] *People v. Morada*, G.R. No. 129723, May 19, 1999.
- [26] *U.S. v. Esmedia*, 17 Phil. 260 (1910).
- [27] See *U.S. v. Ah Chong*, 15 Phil. 488 (1910).
- [28][28] *People v. Alconga*, 78 Phil. 366 (1947).
- [29] Luis B. Reyes, I *The Revised Penal Code*, 264 (13th ed.)
- [30] *People v. Pagal*, 79 SCRA 570 (1977).
- [31] *People v. Nabora*, 73 Phil. 434 (1941).
- [32] *Supra* note 32, p. 268.
- [33] *Revised Penal Code*, Art. 14, par. 3.
- [34] *People v. Pagal*, 79 SCRA 570 (1977).
- [35] *Revised Penal Code*, Art. 64.
- [36] Act. No. 4103, §1.
- [37] See *People v. Robles*, G.R. No. 124300, March 25, 1999

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