

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RONNIE QUITLONG Y FRIAS, SALVADOR QUITLONG Y FRIAS AND EMILIO SENOTO, JR., Y PASCUA, ACCUSED-APPELLANTS.

G.R. No. 121562. July 10, 1998

Ponente: VITUG, J.

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VITUG, J.:

The Regional Trial Court of Baguio City, Branch 5,[1] disposed of Criminal Case No. 13336-R; thus:

"WHEREFORE, the Court finds and declares the accused RONNIE QUITLONG Y FRIAS, SALVADOR QUITLONG Y FRIAS and EMILIO SENOTO, JR. Y PASCUA guilty beyond reasonable doubt of the crime of murder as charged and hereby sentences EACH of them to suffer an indeterminate penalty of TWENTY (20) YEARS of reclusion temporal, as minimum, to FORTY (40) YEARS of reclusion perpetua, as maximum; to indemnify, jointly and severally, the heirs of the deceased Jonathan Calpito y Castro in the sums of P50,000.00 for the latter's death; P35,700.00 as consequential damages; and P100,000.00 as moral damages, plus their proportionate shares in the costs.

"In the service of their sentence, the said accused shall be credited with their preventive imprisonment under the terms and conditions prescribed in Article 29 of the Revised Penal Code, as amended.

"Conformably with Section 1, Rule 111 of the 1985 Rules on Criminal Procedure, as amended, the corresponding filing fee for the P100,000.00 moral damages herein awarded shall constitute a first lien on this judgment.

"The evidence knife, Exhibit 'B', is hereby declared forfeited in favor of the Government.

"Pursuant to Circular No. 4-92-A of the Court Administrator, the Warden of the City Jail of Baguio is directed to immediately transfer the same accused to the custody of the Bureau of Corrections, Muntinlupa, Metro Manila.

"Let a copy of this Decision be furnished the Warden of the City Jail of Baguio for his information and guidance.

"There being no indication that the remaining accused, Jesus Mendoza, and several John Does could be arrested/identified and arrested shortly, let the case against them be, as it is hereby, archived without prejudice to its prosecution upon their apprehension.

"SO ORDERED."[2]

The case was generated by an information for murder filed on 25 October 1994 against accused-appellants Salvador Quitlong, Ronnie Quitlong, Emilio Senoto, Jr., and several other unidentified persons following the killing of Jonathan Calpito. Accused-appellants, shortly after the filing of the information, submitted a motion for reinvestigation alleging that "it was a certain Jesus Mendoza who stabbed the victim after getting irked when the latter urinated near and in front"[3] of his wife. The trial court acted favorably on the motion. On 12 December

1994, the City Prosecutor filed a motion to admit an amended information on the basis of affidavits^[4] executed by Nonita F. delos Reyes, Nicanor Ellamil, Lydia Q. Cultura, as well as accused-appellants Salvador and Ronnie Quitlong themselves, to the effect that it was Jesus Mendoza who had been responsible for the death of the victim. The information, as amended, included Jesus Mendoza among the named accused.^[5] Unlike accused-appellants who were immediately arrested after the commission of the crime, Jesus Mendoza remained at large. At their arraignment, the detained accused pleaded not guilty to the crime charged.

The evidence of the prosecution has narrated how a simple misunderstanding and relatively so small a matter could lead to so dastardly and unfortunate an outcome.

At around six o'clock in the evening of 20 October 1994, Lito Adjaro, who had just come from work as a dispatcher of passenger jeepneys plying the Baguio City-Loakan route, repaired to a nearby game parlor where he saw 19-year-old University of Baguio medical technology student Jonathan Calpito playing billiards with Jonathan Gosil. Adjaro was Calpito's neighbor and barkada (gangmate) in Loakan. At past eight o'clock, Calpito decided that it was time to go home. Since at that hour there were no longer passenger jeepneys bound for Loakan, the three friends decided to walk down to Harrison Road behind the Melvin Jones grandstand to grab a taxicab. The area was well-lighted. Wanting to partake of some "fishballs," Calpito and Gosil approached a fishball vendor about three to four meters away. The two returned with three sticks of fishballs worth fifteen pesos. When Calpito counted the change for his 100-peso bill, he saw that he had only been handed back thirty five pesos. Confronted by Calpito and Gosil, the fishball vendor would not admit that he had short-changed Calpito.

Herbert Soriano, a civil engineer driving a passenger-type jeep on his way to Loakan from the Dominican Hill, was seen passing by. Adjaro, his neighbor, hailed him. Soriano positioned his jeep around four or five meters from where Gosil and Calpito were still having an argument with the fishball vendor. Soriano called out to the two to board the jeep but they ignored him. Moments later, Soriano saw eight men rushing towards Gosil and Calpito from the direction of the taxicab-stand behind his jeep. Some of the men later backed out but four of them pursued Calpito who, meanwhile, had started to retreat from the group. The four men, however, succeeded in cornering Calpito. Soriano saw Calpito fall to the ground and thought that the latter had just been weakened by the men's punches but, when Calpito was carried on board his jeep, Soriano realized that Calpito had been stabbed.

Adjaro saw no less than eight men approach and aggressively confront Calpito and Gosil. Seeing that his friends were outnumbered, Adjaro shouted at Calpito and Gosil to run posthaste. Adjaro promptly boarded Soriano's jeep. From where he sat, Adjaro could see appellant Emilio Senoto embracing Calpito from behind and appellants Salvador Quitlong and Ronnie Quitlong holding Calpito's right hand and left hand, respectively. Calpito struggled unsuccessfully to free himself. Suddenly, appellant Ronnie Quitlong stabbed Calpito at the left side of the body just below the nipple. Once the three men had released their hold on Calpito, the latter fell to the ground. Despite the condition that Calpito was already in, his assailants still went on hitting him with their feet.

Police officers Jerry Patacsil, Arthur Viado and Nito Revivis were on foot patrol that evening. Attracted by the commotion along Harrison Road, the police officers hurriedly proceeded to the brightly-lighted place and saw Calpito lying on the ground. Three of the malefactors started to flee upon seeing the approaching police officers but the rest kept on with their attack on Calpito. Patacsil drew out his service firearm and told the attackers to freeze. Seeing that the victim had bloodstains on his left chest, Patacsil advised the victim's companions to rush him to the hospital. Soriano, Gosil and Adjaro took Calpito to the Baguio General Hospital on board Soriano's jeep.

The police officers brought accused-appellants to the police station. SPO1 Gabriel Isican prepared the complaint

assignment sheet[6] before turning them over to the investigation division. SPO4 Avelino Tolean, officer-in-charge of the police investigation division on the 4:00 p.m. to 12:00 midnight shift, also received a call from the Baguio General Hospital about the incident. SPO4 Tolean, along with SPO1 Rafael Ortencio, Jr., and two "Bombo" radio reporters, went to the hospital where Calpito was by then in the operating room. The police officers interviewed Adjaro and Gosil at the hospital's emergency room and then repaired to the crime scene and searched the area. Recovered near the flowering plants beside the electric post was a "stainless knife"[7] with bloodstains on its blade. Adjaro recognized the knife to be the one used in stabbing Calpito. SPO4 Gerardo Tumbaga prepared Form 1 of the National Crime Reporting System indicating that accused-appellants were arrested and that a certain Mendoza escaped and went into hiding. The report also disclosed that Adjaro and Gosil had a drinking spree with the victim at the Genesis Folkden before the stabbing incident. SPO4 Tumbaga based his findings on the documents attached to the records of the case.

That same evening of 20 October 1994, at 8:55, Calpito died at the Baguio General Hospital. Dr. Kathryn Ayro, the hospital's medico-legal officer, conducted the autopsy on the victim upon the request of Dr. Samuel Cosme, the attending surgeon, and of First Assistant City Prosecutor Herminio Carbonell, with the consent of a brother of Calpito.[8] Dr. Ayro found a solitary stab wound that penetrated Calpito's left thoracic cavity at the level of the 5th intercostal space that caused a "through and through" laceration of his anterior pericardium and the apex of the left ventricle of his heart.[9] Dr. Ayro indicated the cause of Calpito's death as being one of hypovolemic shock secondary to stab wound.[10] She opined that a knife, single or double bladed, must have been used in inflicting the stab wound. Abrasions were also found on different parts of Calpito's body.

Precy Calpito, the mother of the victim, testified that the family had spent the amount of P37,500.00[11] for his wake, burial and 9-day prayers. Her youngest son's death left her losing hope in life and "feeling very badly."

The defense gave no alibi and admitted the presence of accused-appellants at the vicinity of the crime scene; however, it interposed denial by appellants of any participation in the commission of the crime.

Appellant Emilio Senoto, Jr., a taxicab driver, testified that out of curiosity, after parking his cab to buy some cigarettes and getting attracted by the commotion, went near the scene and saw the victim lying on the ground beside a cart. He was about to leave the place when several policemen arrived and arrested him.

Appellant Salvador Quitlong, a food vendor at the Burnham Park and father of five children, denied having had any participation in the stabbing incident nor having been acquainted with Jesus Mendoza. He admitted, however, that on the night in question when he was selling "fishballs" at the park, around eighty meters away from where Mendoza was selling his wares, the latter's daughter, who was a classmate of his own daughter, asked for help yelling that her father was in trouble. He rushed over to Mendoza's place (puesto) but barely in time to witness the stabbing of Calpito by Mendoza.

Appellant Ronnie Quitlong, Salvador Quitlong's 26-year-old younger brother, was also a sidewalk vendor at the waiting shed along Harrison Road. He learned of the trouble Mendoza got himself into when the latter's daughter summoned for help. When he and his brother responded, Mendoza had by then already stabbed Calpito.

Nonita de los Reyes and Lydia Cultura, both sidewalk vendors, corroborated the story of the Quitlong brothers. According to Nonita, it was Mendoza who stabbed Calpito. She witnessed the incident from a distance of ten meters away. Nonita explained that she did not immediately reveal what she saw to the authorities because of shock. Lydia Cultura, on her part, said that she saw Jesus Mendoza in the "rumble" with five or six men who had come from the Genesis Folkden. She saw Mendoza embrace and stab the man in white t-shirt. Nonita and Alma Balubar followed appellants to the police station but did not tell the police what she knew because she was busy attending to the crying pregnant wife of appellant Ronnie Quitlong.

On 21 April 1995, the trial court, following his evaluation of the respective submissions of the prosecution and the defense, including their rebuttal and sur-rebuttal evidence, rendered its now assailed decision.

In their assignment of errors, the Quitlong brothers would have it -

"1. That the Honorable Lower Court gravely abused its discretion and/or acted in excess of or without jurisdiction in finding that conspiracy may readily be inferred inspite of explicit failure to allege in the information or complaint;

"2. That the Honorable Lower Court gravely abused its discretion and/or acted in excess of or without jurisdiction in finding that there was conspiracy between and among the accused-appellants in the commission of the crime;

"3. That the Honorable Lower Court gravely abused its discretion and/or acted in excess of or without jurisdiction in finding the accused-appellants guilty of the crime of Murder instead of Homicide." [12]

In his case, appellant Senoto contends that the trial court has erred in finding conspiracy among the accused and argues that the crime committed is homicide, not murder, given the circumstances.

On the particular issue of conspiracy, the trial court had this to say:

"The question is whether or not the herein three accused participated in, and may be held guilty as co-principals by reason of conspiracy for, the fatal stabbing of the victim, Calpito, there being no dispute that the latter died due to the solitary stab inflicted on him.

"But before proceeding any further, the Court takes notice of the lapse committed, perhaps inadvertently, by the prosecution in drafting the indictment. Both the original and amended Informations fail to explicitly allege conspiracy. This could have been timely cured if obeisance had been observed of the admonition, often given, that the prosecution should not take the arraignment stage for granted but, instead, treat the notice thereof as a reminder to review the case and determine if the complaint or information is in due form and the allegations therein contained are sufficient vis-à-vis the law involved and the evidence on hand. It is fortunate that in the case at bench conspiracy may readily be inferred from the way the allegation of abuse of superior strength has been phrased, to wit: `xxx the above-named accused, being then armed with a knife, with intent to kill xxx and taking advantage of their numerical superiority and combined strength did then and there willfully, unlawfully and feloniously attack, assault and stab JONATHAN CALPITO y CASTRO xxx.'" [13]

Citing *Balmadrid vs. Sandiganbayan*, [14] the trial court has opined that "conspiracy may be deemed adequately alleged if the averments in the Information logically convey that several persons (have been) animated with the single purpose of committing the offense charged and that they (have) acted in concert in pursuance of that purpose." [15] Holding that no direct proof is essential and that it suffices that the existence of a common design to commit the offense charged is shown by the acts of the malefactors and attendant circumstances, the trial court has concluded:

"In the case on hand, it bears repeating that Ronnie Quitlong and Salvador Quitlong were admittedly responding to Jesus Mendoza's call for help through the latter's daughter. They must have, therefore, been disposed, out of empathy with a fellow sidewalk vendor, to lend Mendoza all the assistance the latter needed under the circumstances. They were joined, according to prosecution witnesses Lito Adjaro and Herbert Soriano, by no less than six others, including Emilio Senoto, Jr. They came upon Mendoza engaged in a heated altercation with the victim Calpito. When they reached Calpito, they pushed him and started beating him up and his companion Jonathan Gosil. Four to five men manhandled Calpito who kept on retreating and even went around Soriano's parked jeep until he was cornered. Senoto then held Calpito's body from behind; Ronnie, his left hand; and Salvador, his right hand, and they mauled him. Calpito struggled to free himself but that proved futile and, instead, Ronnie stabbed him once. It was only then that he was released and when he fell down on

his back, his attackers still kicked him. Only the arrival of some policemen made some of the assailants stop and run away. However, Ronnie, Salvador and Senoto, kept on kicking the victim and they were restrained and arrested.

"Guided by the jurisprudential authorities heretofore cited, it becomes ineluctable for the Court to conclude that Ronnie, Salvador and Senoto acted in a conspiracy and may thus be held liable as co-principals for the death of Calpito." [16]

Overwhelming, such as it may have been thought of by the trial court, evidence of conspiracy is not enough for an accused to bear and to respond to all its grave legal consequences; it is equally essential that such accused has been apprised when the charge is made conformably with prevailing substantive and procedural requirements. Article III, Section 14, of the 1987 Constitution, in particular, mandates that no person shall be held answerable for a criminal offense without due process of law and that in all criminal prosecutions the accused shall first be informed of the nature and cause of the accusation against him. [17] The right to be informed of any such indictment is likewise explicit in procedural rules. [18] The practice and object of informing an accused in writing of the charges against him has been explained as early as the 1904 decision of the Court in *U.S. vs. Karelsen*; [19] viz:

"First. To furnish the accused with such a description of the charge against him as will enable him to make his defense; and second, to avail himself of his conviction or acquittal for protection against a further prosecution for the same cause; and third, to inform the court of the facts alleged, so that it may decide whether they are sufficient in law to support a conviction, if one should be had. (*United States vs. Cruikshank*, 92 U.S., 542). In order that this requirement may be satisfied, facts must be stated, not conclusions of law. Every crime is made up of certain acts and intent; these must be set forth in the complaint with reasonable particularity of time, place, names (plaintiff and defendant), and circumstances. In short, the complaint must contain a specific allegation of every fact and circumstance necessary to constitute the crime charged."

An information, in order to ensure that the constitutional right of the accused to be informed of the nature and cause of his accusation is not violated, must state the name of the accused; the designation given to the offense by the statute; a statement of the acts or omissions so complained of as constituting the offense; the name of the offended party; the approximate time and date of the commission of the offense; and the place where the offense has been committed. [20] In embodying the essential elements of the crime charged, the information must set forth the facts and circumstances that have a bearing on the culpability and liability of the accused so that the accused can properly prepare for and undertake his defense. One such fact or circumstance in a complaint against two or more accused persons is that of conspiracy. Quite unlike the omission of an ordinary recital of fact which, if not excepted from or objected to during trial, may be corrected or supplied by competent proof, an allegation, however, of conspiracy, or one that would impute criminal liability to an accused for the act of another or others, is indispensable in order to hold such person, regardless of the nature and extent of his own participation, equally guilty with the other or others in the commission of the crime. Where conspiracy exists and can rightly be appreciated, the individual acts done to perpetrate the felony becomes of secondary importance, the act of one being imputable to all the others. [21] Verily, an accused must know from the information whether he faces a criminal responsibility not only for his acts but also for the acts of his co-accused as well.

A conspiracy indictment need not, of course, aver all the components of conspiracy or allege all the details thereof, like the part that each of the parties therein have performed, the evidence proving the common design or the facts connecting all the accused with one another in the web of the conspiracy. Neither is it necessary to describe conspiracy with the same degree of particularity required in describing a substantive offense. It is enough that the indictment contains a statement of the facts relied upon to be constitutive of the offense in ordinary and concise language, with as much certainty as the nature of the case will admit, in a manner that can enable a person

of common understanding to know what is intended, and with such precision that the accused may plead his acquittal or conviction to a subsequent indictment based on the same facts. It is said, generally, that an indictment may be held sufficient "if it follows the words of the statute and reasonably informs the accused of the character of the offense he is charged with conspiring to commit, or, following the language of the statute, contains a sufficient statement of an overt act to effect the object of the conspiracy, or alleges both the conspiracy and the contemplated crime in the language of the respective statutes defining them." [22]

The information charging herein appellants for the death of Jonathan Calpito, as amended, has but simply stated:

"That on or about the 20th day of October 1994, in the City of Baguio, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, being then armed with a knife, with intent to kill and with treachery and taking advantage of their numerical superiority and combined strength, did then and there willfully, unlawfully and feloniously attack, assault and stab JONATHAN CALPITO Y CASTRO suddenly and unexpectedly, without any warning whatsoever, inflicting upon him a stab wound at the left thorax at the level of the 7th rib, left medclavicular line, penetrating the pereduum and left ventricle causing left remothones of 700 cc and hemoperecuduum of 250 cc, which directly caused his death.

"CONTRARY TO LAW." [23]

The opinion of the trial court to the effect that conspiracy may be inferred from the allegation of abuse of superior strength and with the aid of armed men, i.e., that "x x x the above-named accused, being then armed with a knife, with intent to kill xxx and taking advantage of their numerical superiority and combined strength, did then and there willfully, unlawfully and feloniously attack, assault and stab JONATHAN CALPITO Y CASTRO x x x" [24] is difficult to accept. Conspiracy arises when two or more persons come to an agreement concerning the commission of a felony and decide to commit it. Conspiracy comes to life at the very instant the plotters agree, expressly or impliedly, to commit the felony and forthwith to actually pursue it. [25] Verily, the information must state that the accused have confederated to commit the crime or that there has been a community of design, a unity of purpose or an agreement to commit the felony among the accused. Such an allegation, in the absence of the usual usage of the words "conspired" or "confederated" or the phrase "acting in conspiracy," must aptly appear in the information in the form of definitive acts constituting conspiracy. In fine, the agreement to commit the crime, the unity of purpose or the community of design among the accused must be conveyed such as either by the use of the term "conspire" or its derivatives and synonyms or by allegations of basic facts constituting the conspiracy. Conspiracy must be alleged, not just inferred, in the information on which basis an accused can aptly enter his plea, a matter that is not to be confused with or likened to the adequacy of evidence that may be required to prove it. In establishing conspiracy when properly alleged, the evidence to support it need not necessarily be shown by direct proof but may be inferred from shown acts and conduct of the accused.

In the absence of conspiracy, so averred and proved as heretofore explained, an accused can only be made liable for the acts committed by him alone and this criminal responsibility is individual and not collective. [26] And so it is that must be so held in this case. The conflicting claims of the prosecution and the defense on who stabbed the victim is an issue that ultimately and unavoidably goes into the question of whom to believe among the witnesses. This issue of credibility requires a determination that is concededly best left to the trial court with its unique position of having been enabled to observe that elusive and incommunicable evidence of the deportment of witnesses on the stand. [27] Findings of the trial court, following that assessment, must be given the highest degree of respect absent compelling reasons to conclude otherwise. [28]

The Court is not, at this time and in this instance, disposed to deviate from the foregoing rule. In the first place, Lito Adjaro, the eyewitness in the stabbing of Calpito, has steadfastly stood by, even on rebuttal, to his story on the commission of the crime. A witness who testifies in a categorical, straightforward and spontaneous manner, as

well as remains consistent on cross and rebuttal examination, is not likely to be an incredible witness.[29] Secondly, the defense has failed to establish any ill motive on the part of Adjaro that would have prompted him to testify wrongly against appellants. Where there is no evidence to indicate that the prosecution witness has been actuated by any improper motive, it would be hard to reject the supposition that a person will not prevaricate and cause damnation to one who has brought him no harm.[30] Finally, Herbert Soriano and the police, who have testified seeing the already wounded Calpito lying on the ground and still being attacked, both corroborate Adjaro's positive identification of appellants as the persons who did maul Calpito.

After positively pointing to appellants in open court to be the persons who ganged up on Calpito, Adjaro testified on their respective participations in the commission of the crime; thus:

"PROSECUTOR:

"Q.

Now, you pointed to Emilio Senoto, Jr. as one of the persons who held the deceased Jonathan Calpito. What part of the body of Jonathan Calpito did he hold?

"A.

His body, sir.

"Q.

How about Salvador Quitlong whom you also identified in Court. What part of the body of Jonathan Calpito did he hold?

"A.

I saw him hold his hand.

"Q

What hand was held by Salvador Quitlong?

"A.

Right hand, sir.

"Q.

How about Ronnie Quitlong?

"A.

His left hand.

"Q.

After Jonathan Calpito was held by these three persons and other, what happened next?

"A.

They mauled ("binugbog") Jonathan Calpito.

"Q.

Did you notice what part of the body was hit and boxed by these three persons?

"A.

His body and his face.

"Q.

What did Jonathan Calpito do, if any, when he is being held by these three persons and others?

"A.

He was struggling, sir.

"Q.

Was he able to free himself from the helds (sic) of these persons?

"A.

No more, sir.

"Q.

What do you mean no more?

"A.

He was not able to free himself.

"Q.

Yes, why was he not able to free himself anymore?

"A.

They held him tightly, he could not struggle.

"Q.

And what happened next when you said he could no longer struggle?

"A.

They boxed him and also stabbed him, sir.

"Q.

Did you see the person who stabbed him?

"A.

I saw, sir.

"Q.

Will you be able to identify him?

"A.

Yes, sir.

"Q.

I will request you to again look inside the courtroom and point to the person whom you saw stab Jonathan Calpito?

"WITNESS:

The person wearing white jacket.

"INTERPRETER:

Witness pointing to a gentleman inside the courtroom wearing cream jacket who gave his name as Ronnie Quitlong." [31]

Appellant Ronnie Quitlong was a principal by his own act of stabbing Calpito that caused the latter's death. [32] Appellants Salvador Quitlong and Emilio Senoto, Jr., were holding the hands of Calpito at the precise time that Ronnie Quitlong was in the act of executing his criminal intent. Simultaneity, however, would not itself demonstrate the concurrence of will or the unity of action and purpose that could be a basis for collective responsibility of two or more individuals; [33] indeed, from all indications, the incident would appear to have occurred at the spur of moment. Appellants Salvador Quitlong and Emilio Senoto, Jr., shall therefore be held to be mere accomplices conformably with Article 18 [34] of the Revised Penal Code.

The crime committed was qualified by abuse of superiority. [35] While superiority in number would not per se mean superiority in strength, enough proof was adduced, however, to show that the attackers had cooperated in such a way as to secure advantage of their superiority in strength certainly out of proportion to the means of defense available to the person attacked. [36]

Treachery may not be here considered as a generic aggravating circumstance although it might have ensured the commission of the crime. In order that treachery may be taken as an aggravating circumstance, there must be proof that the accused has consciously adopted a mode of attack to facilitate the perpetration of the killing without risk to himself, i.e., appellant Ronnie Quitlong in this case. [37] No such proof has been adequately shown.

Under Article 248 of the Revised Penal Code, the crime of murder is punishable by reclusion temporal maximum to death. There being neither aggravating nor mitigating circumstances to appropriately appreciate in this case, appellant Ronnie Quitlong, as principal, shall suffer the penalty of reclusion perpetua. The indeterminate penalty of twenty (20) years of reclusion temporal, as minimum to forty (40) years of reclusion perpetua, as maximum, has been imposed by the trial court on the premise that reclusion perpetua is a divisible penalty. In the Court's Resolution of 09 January 1995, clarifying its decision [38] in *People vs. Lucas*, [39] the Court has said that -

"x x x although Section 17 of R.A. No. 7659 has fixed the duration of reclusion perpetua from twenty (20) years and one (1) day to forty (40) years, there was no clear legislative intent to alter its original classification as an indivisible penalty. It shall then remain as an indivisible penalty." [40]

The two accomplices, appellants Salvador Quitlong and Emilio Senoto, Jr., shall be subject to the imposition of the penalty next lower in degree than reclusion temporal maximum to death or, accordingly, prision mayor in its maximum period to reclusion temporal in its medium period. Absent any mitigating or aggravating circumstance, the penalty that may be imposed is reclusion temporal minimum. Applying the Indeterminate Sentence Law to them, each may be held to suffer the indeterminate sentence of anywhere from prision correccional in its maximum period to prision mayor in its medium period, as the minimum penalty, to anywhere within the range of reclusion temporal minimum, as the maximum penalty.

The trial court correctly imposed the payment of a civil indemnity of P50,000.00 in favor of the heirs of the victim. The consequential (actual) damages in the amount of P35,700.00 not having been substantiated, except for

the amount P12,000.00 paid to the memorial chapel, is disallowed. The award of moral damages recoverable under Article 2219(1), in relation to Article 2206, of the Civil Code is reduced from P100,000.00 to P20,000.00.

WHEREFORE, appellant Ronnie Quitlong is found guilty of the crime of murder for the killing of Jonathan Calpito and sentenced to suffer the penalty of reclusion perpetua and further ordered to indemnify the heirs of the victim in the amount of P50,000.00, to reimburse them the actual damages of P12,000.00 and to pay moral damages of P50,000.00. Appellants Salvador Quitlong and Emilio Senoto, Jr., are found guilty as accomplices in the commission of the crime, and each shall suffer the indeterminate sentence of nine (9) years and four (4) months of prision mayor minimum period, as minimum penalty, to thirteen (13) years and nine (9) months and ten (10) days of reclusion temporal minimum period, as maximum penalty. Appellants Salvador Quitlong and Emilio Senoto, Jr., are also hereby held solidarily liable with appellant Ronnie Quitlong in the payment of the damages hereinabove mentioned. Costs against appellants.

Let a copy of this Decision be furnished the Philippine National Police and the Department of Justice in order that the other participants in the killing of Jonathan Calpito, specifically Jesus Mendoza, be arrested and made to face the force of the law.

SO ORDERED.

Davide, Jr., (Chairman), Bellosillo, Panganiban, and Quisumbing, JJ., concur.

[1] Presided by Judge Salvador J. Valdez, Jr.

[2] Rollo, pp. 121-122.

[3] Records, p. 12.

[4] Ibid., pp. 23-27.

[5] The amended information also indicates the date of commission of the crime as October 20, 1994 that was shown as October 20, 1991 in the original information.

[6] Records, p. 478.

[7] Exh. B, Records, p. 201.

[8] Exh. D-1, Ibid. p. 204.

[9] Exh. E-3, Ibid., p. 210.

[10] Exh. F, Ibid., p. 214.

[11] Exhs. H & H-1, Ibid., p. 216.

[12] Rollo, p. 91.

[13] Rollo, pp. 113-114.

[14] 195 SCRA 497.

[15] Rollo, p. 114.

[16] Rollo, p. 116.

[17] Sec. 14. (1) No person shall be held to answer for a criminal offense without due process of law.

(2) In all criminal prosecutions, the accused shall be presumed innocent until the contrary is proved, and shall enjoy the right to be heard by himself and counsel, to be informed of the nature and cause of the accusation against him, to have a speedy, impartial, and public trial, to meet the witnesses face to face, and to have compulsory process to secure the attendance of witnesses and the production of evidence in his behalf. However, after arraignment, trial may proceed notwithstanding the absence of the accused provided that he has been duly notified and his failure to appear is unjustifiable.

[18] Section 1 (b) of Rule 115, 18 of the Revised Rules on Criminal Procedure.

[19] 3 Phil. 223, 226, cited in *Pecho vs. People*, 262 SCRA 518, 527.

[20] Sec. 6, and Sec. 8, Rule 110, Rules of Court.

[21] *People vs. Ilano*, 313 Phil. 442.

[22] See 15A C.J.S., 842-844.

[23] Records, p. 28.

[24] *Ibid.*

[25] See Article 8, Revised Penal Code; *People vs. Mirabete*, 318 Phil. 146 (1995).

[26] *People vs. Federico*, 317 Phil. 293.

[27] See *People vs. Tan, Jr.*, 264 SCRA 425; *People vs. Alcartado*, 261 SCRA 291; *People vs. Ramos*, 260 SCRA 402; *People vs. Belga*, 258 SCRA 583.

[28] See *People vs. Garcia*, 258 SCRA 411.

[29] *People vs. Salvame*, 270 SCRA 766.

[30] *Juliano vs. Sandiganbayan*, 269 SCRA 52.

[31] TSN, February 13, 1995, pp. 13-14.

[32] Art. 17 (1), Revised Penal Code.

[33] *People vs. Ibañez*, 77 Phil. 664 (1946).

[34] ART. 18. Accomplices. - Accomplices are those persons who, not being included in Article 17, cooperate in the execution of the offense by previous or simultaneous acts.

[35] Art. 248, Revised Penal Code.

[36] *People vs. Bernal*, 325 Phil. 128; see *People vs. Elizaga*, 86 Phil. 364.

[37] AQUINO, THE REVISED PENAL CODE, Vol. I, 1987 ed., p. 400.

[38] Promulgated on May 25, 1994.

[39] 310 Phil. 77.

[40] At p. 80.

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