

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. CAFGU
FRANCISCO BALTAR, JR., CAFGU PRIMO VILLANUEVA ALIAS
“ESPOK” AND ROLLY BALTAR, ACCUSED.**

G.R. No. 125306. December 11, 2000

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

Accused-appellant Primo Villanueva alias "Espok" seeks the reversal of the decision[1] dated February 27, 1996, of the Regional Trial Court of Roxas City, Branch 14, in Criminal Case No. C-4583.[2] Together with co-accused, Francisco Baltar, Jr. and Rolly Baltar, he was convicted of murder and sentenced to reclusion perpetua, and to pay the amount of thirty thousand twenty-four pesos and forty centavos (P30,024.40) as actual damages and fifty thousand pesos (P50,000.00) as moral damages, and the costs.

In an Information dated May 31, 1994, Assistant Provincial Prosecutor Romulo V. Gotico accused Francisco Baltar, Jr., Rolly Baltar and herein appellant Primo Villanueva of murder committed as follows:

"That on or about 5:30 o'clock in the afternoon of January 30, 1994 at the public plaza of Bgy. Sto. Niño, President Roxas, Capiz and within the jurisdiction of this Court, the above-named accused who were armed with automatic rifles, conspiring, confederating and helping one another did then and there, with evident premeditation and deliberate intent to take the life of MARIANO CELINO, JR., wilfully, feloniously and treacherously attack, maltreat, maul, shoot and strafe with automatic rifle the defenseless Mariano Celiño, Jr., thereby inflicting upon him several fatal gunshot wounds which caused the direct and immediate death of said Mariano Celino, Jr.

ACTS CONTRARY TO LAW and with generic aggravating circumstances of evident premeditation, taking advantage of superior strength and public position as CAFGU members; and the qualifying circumstance of treachery."[3]

Upon arraignment, the three accused pleaded not guilty, and following trial on the merits, the court a quo rendered its judgment, disposing as follows:

"IN THE LIGHT OF THE FOREGOING established facts, the court finds the three accused Francisco Baltar, Jr., Rolly Baltar and Primo Villanueva GUILTY beyond reasonable doubt of the crime of MURDER under Section 6 of Republic Act No. 7659, amending Article 248 of the Revised Penal Code.

Accordingly, they are sentenced to suffer an imprisonment of thirty (30) years of RECLUSION PERPETUA and to indemnify the widow of Mariano Celino, Jr., Cecilia Celino in the amount of THIRTY THOUSAND TWENTY-FOUR PESOS AND FORTY CENTAVOS (P30,024.40) as actual damages she incurred in the hospital and burial expenses plus FIFTY THOUSAND PESOS (P50,000.00) as moral damages and to pay the costs."[4]

In the Appellee's Brief,[5] the Solicitor General[6] narrated the facts of the case:

On January 30, 1994, about 5:30 p.m., about thirty (30) persons were watching a basketball game being played at the barangay plaza of Barangay Sto. Niño, President Roxas, Capiz. Some of these persons who were watching the basketball game were victim Mariano Celino, Jr., his brother Virgilio Celino, Danilo Dumosdos, Bercelo Villanueva, Ernesto Bendecio, Lito Cajelo, Edward Besa, Abondio Dumosdos and Ian Dumosdos (pp. 8-9, TSN, November 16, 1994). Thereafter, a cargo truck ('tapaw') arrived and stopped near the front of the basketball court. Francisco Baltar, Jr., a member of CAFGU (pp. 5-6, TSN, November 16, 1994), jumped from the cargo truck. However, Francisco fell down with his back touching the ground (p. 10, TSN, September 20, 1994; p. 9, TSN, November 16, 1994). Francisco stood up and fired his rifle two (2) times towards the direction of the house of one Rodesia dela Cruz, about ten (10) meters away from the basketball court (p. 10, TSN, September 20, 1994; p. 10, TSN, November 16, 1994). Francisco then shouted 'challenging anybody who is brave' (p. 11, TSN, November 16, 1994). Rolly Baltar (a brother of Francisco), who was then at the top of the cargo truck shouted that Mariano was at the plaza watching the basketball game ('ara si Mariano Celino sa plaza galantaw sang hampang') (pp. 11-12, TSN, September 20, 1994; p. 11, TSN, November 16, 1994). Rolly jumped from the cargo truck and went to the place where Mariano (who was then unarmed) was. At that time, Mariano was sitting on a bench. Appellant (also a member of the CAFGU), who was also at the cargo truck carrying a rifle, followed Rolly. Rolly boxed Mariano who parried the former's fist blows (p. 12, TSN, September 20, 1994; pp. 7, 11, 12 & 26, TSN, November 16, 1994). Appellant, on the other hand, acted as a 'look-out' and pointed his rifle towards the public (p. 12, TSN, November 16, 1994). Francisco also proceeded to the place where Mariano was. Rolly then ordered Francisco to shoot Mariano ('tiroha na') (p. 13, TSN, September 20, 1994; p. 13, TSN, November 16, 1994). Francisco shot Mariano, hitting him on the left side of his abdomen, one on the upper side of his right breast, and one at the back (pp. 13-14, TSN, November 16, 1994). Mariano stumbled down with his face downward (p. 15, TSN, November 16, 1994). Virgilio attempted to go near Mariano, but was prevented by appellant when he fired a warning shot which hit the ground in front of him (Virgilio). Thus, Virgilio was not able to move since he was afraid that appellant might box and shoot him (Ibid.). Thereafter, appellant, Rolly and Francisco ran away. When they (appellant, Rolly and Francisco) reached the victim's house, about twenty-five (25) meters away from the basketball court, Virgilio heard successive shots. Virgilio and his younger brother (whose name was not mentioned) brought Mariano to the Bailan District Hospital for treatment, but they were referred to Saint Anthony Hospital. Upon arrival at Saint Anthony Hospital, Mariano died (pp. 15-18, TSN, November 16, 1994).

Dr. Pilar A. Posadas, Rural Health Physician, President Roxas, Capiz, conducted a post-mortem examination on the victim's body and found the following:

- Gunshot wound at he (sic) left lower quadrant measuring 0.5 cm. X. 0.5 cm. in length and in width respectively.
- Gunshot wound at the left lumbar area, level of L4 measuring 2.0 x 3.5 cm. in length and width respectively.
- Gunshot wound above the left scapula measuring 1.5 cm. x 1.0 cm. in length and in width respectively.
- Irregularly shaped gunshot wound at the back, level of T1 and T3 measuring 20 cm. x 3 cm.

CAUSE OF DEATH: Multiple gunshot wounds back and left lower quadrant.[7]

For his part, the appellant offers the following version of the incident in his Brief,[8] to wit:

The defense presented six (6) witnesses. Accused Francisco Baltar, Jr., Rollie Baltar and Primo Villanueva, as well as, witness Emeterio Villa testified that they all boarded the cargo truck on different time at the public market of Pres. Roxas, Capiz. Emeterio Villa was on his way home to Barangay Manoling, Pres. Roxas, Capiz. Accused Rollie Baltar was on his way home to Barangay Dulangan, Pilar, Capiz. Accused Francisco Baltar, Jr. was on his way home to Barangay Manoling, Pres. Roxas, Capiz while accused-appellant Primo Villanueva was on his way of Barangay Manoling, Pres. Roxas, Capiz to report for duty in the detachment in said barangay, he being a member of the CAFGU. The cargo truck left the public market at around 5:30 in the

afternoon. Before reaching Barangay Manoling the cargo truck had to pass Barangays Ibaca and Sto. Niño, which the latter is a highly infested area of the New People's Army, thus, as CAGU member, they are always on the alert if ever they pass said barangay. The cargo truck was flagged down by Mariano Celino, Jr. and another person, as a result of which the cargo truck stopped. Upon seeing Francisco Baltar, Jr., Mariano Celino, Jr. attempted to grab possession of garand rifle that Francisco Baltar, Jr. was carrying, as a result of which Francisco Baltar, Jr. fell to the ground. Still, Mariano Celino, Jr. tried to push him further. The garand rifle he was carrying accidentally fired hitting Mariano Celino, Jr. Accused-appellant Primo Villanueva who was situated in the middle of the cargo truck knew nothing of what had happened but he however heard the gun fire coming from the barangay plaza. He saw accused Francisco Baltar, Jr. in the barangay plaza and then heard another gun fire. He jumped from the cargo truck and proceeded towards the barangay plaza with the intention [of] going to the barangay plaza, however, he was not able to go near accused Francisco Baltar, Jr. for around ten (10) persons rushed towards him, prompting him to fire a warning shot. Still said persons continued rushing towards him; for said reason he fired another warning shot and at the same time retreating towards Barangay Manoling being followed by accused Francisco Baltar, Jr., and reported the incident to their team leader.

Accused Francisco Baltar, Jr. further testified that a day before, January 29, 1994 at around 4:00 o'clock, he was waylaid by two (2) persons whom he failed to identify. Said two (2) persons even chased him but they failed to catch him. The incident was reported by him to their detachment at Barangay Manoling, Pres. Roxas, Capiz; however, no action was made since the identity of said persons were not known.[9]

The trial court rejected the defense of denial raised by co-accused Rolly Baltar and appellant Primo Villanueva, stating that the same was not enough to overcome the positive testimonies of the prosecution's witnesses, which were observed to be both truthful and credible. The trial court took note of the inconsistent testimonies of the witnesses presented by the defense which raised serious doubts as to their credibility. The trial court held that:

It may be well to stress that the witnesses for the defense wanted to convince the court that it was only accused Francisco Baltar, Jr. who was responsible for the death of Mariano Celino, Jr. on account of the fact that the deceased victim tried to snatch away the service firearm which is a .30 caliber Garand rifle. It is likewise noted that the testimonies of various witnesses for the defense are replete with serious inconsistencies like for instance the testimony of witness (for the defense) Emeterio Villa that the incident happened in the afternoon of January 31, 1994 instead of January 30, 1994 thus, making it inconsistent with the testimony of other defense witnesses hence, raising serious doubts as to his own credibility. In the testimonies of PO3 Rosellini Buenvenida and PO2 Carlos Lee, the detachment Commander and Assistant Commander respectively of PNP Detachment at Barangay Manoling, President Roxas the number of persons who waylaid CAGU Francisco Baltar, Jr. were three. However, in the direct testimony of accused Francisco Baltar, Jr., the number of persons who waylaid him in the afternoon of January 30, 1994 were only two. Thus, raising serious doubts as of his own credibility. Likewise, he mentioned in his direct testimony that although he was not sure on what part of the body Mariano Celino, Jr. was hit but probably, according to him, Mariano Celino, Jr. was hit on his right breast, contradicting his own statement later that he did not know what happened to the victim. He likewise made statement that after the shooting incident at Barangay Sto. Nino, he reported the incident directly to their detachment at Barangay Manoling together with Primo Villanueva and Rolly Baltar to their detachment Commander when according to Rolly Baltar (his co-accused) he proceeded to Barangay Goco and did not become curious about asking Francisco Baltar, Jr. about what happened and that he did not go home that day at his home at Barangay Manoling, contradicting therefore the statement of accused Francisco Baltar, Jr. that he was together with Primo Villanueva and Rolly Baltar.[10]

Based on the evidence presented during trial, the trial court determined that the three accused acted in conspiracy in the killing of Mariano Celino, Jr. and that treachery, abuse of superior strength and evident premeditation were present thus qualifying said killing into murder.

From said decision, only Primo Villanueva has appealed. He prays for the reversal of said judgment, based on the following assigned errors:

- THE TRIAL COURT ERRED IN HOLDING THAT ACCUSED-APPELLANT PRIMO VILLANUEVA WAS IN CONSPIRACY WITH ACCUSED FRANCISCO BALTAR, JR. AND ROLLIE BALTAR WHEN THE FORMER SHOT AND KILLED MARIANO CELINO, JR.
- THE TRIAL COURT ERRED IN HOLDING THAT THE KILLING OF MARIANO CELINO, JR. WAS ATTENDED BY TREACHERY, TAKING ADVANTAGE OF SUPERIOR STRENGTH AND EVIDENT PREMEDITATION.[11]

In this appeal, Primo Villanueva contends that the trial court erred in finding that he conspired with Rolly Baltar and Francisco Baltar, Jr. when the latter shot and killed Mariano Celino, Jr. He argues that while Rolly Baltar was boxing the victim and later on when Francisco Baltar, Jr. shot Mariano Celino, Jr., he was not doing anything. He further states that the only act he did was to fire a warning shot at several persons who were rushing towards them in order to protect himself. Accused-appellant asserts that if he were in conspiracy with the two other co-accused, he could have, but did not, fired shots directly at the crowd -- which included the victim's brother -- or at Mariano Celino, Jr. himself. Accused-appellant also argues that the trial court erred in finding that the killing of Mariano Celino, Jr. was attended by treachery, taking advantage of superior strength, and evident premeditation.

We shall discuss the appellant's contentions seriatim.

Well-settled is the rule that "conspiracy exists when two or more persons come to an agreement concerning the commission of a felony and decide to commit it. The agreement to commit a crime may be deduced from the mode and manner of the commission of the offense or inferred from the acts that point to joint purpose and design, concerted action, and community of intent." [12] It is sufficient that at the time of the aggression, all the accused manifested by their acts, a common intent or desire to attack so that the act of one accused becomes the act of all. [13]

In the present case, unity of design or objective can easily be inferred from the concerted acts of the three accused. Note that they arrived riding the same truck. Looking for trouble, they challenged anyone who would dare fight them. There being no response, accused Rolly Baltar pointed out that the victim, Mariano Celino, Jr. was in the plaza, and all three proceeded towards the said place. Finding their target at the basketball court, Rolly Baltar boxed and dealt blows on the victim then shouted for Francisco Baltar, Jr. to shoot the victim. Francisco Baltar, Jr. complied and shot the victim thereby causing his death. All throughout, accused-appellant Primo Villanueva accompanied them, standing just a short distance behind Francisco Baltar, Jr., while holding a firearm. His presence not only gave moral support to the two other accused, but likewise reinforced the aggression by serving as a deterrent so that the people nearby would not even think of helping the victim. In fact, accused-appellant even fired warning shots to prevent the people approaching -- which included Virgilio Celino, the victim's brother -- from coming to the victim's aid. Accused-appellant's contention that he merely fired a warning shot towards the crowd in order to protect himself is hardly believable because if it were true that he merely wanted to protect himself, then he could have simply moved away from where the victim was. However, instead of doing so, he remained where he was and succeeded in driving back the people who attempted to aid the victim, thus defending assailants' position and insuring the commission of the felony. Moreover, accused-appellant committed no act whatsoever to indicate that he and the two other accused were not co-conspirators, as he even fled with them after Francisco Baltar, Jr. had shot the victim. Thus, their conspiracy is evident, notwithstanding the accused-appellant's claim that he did not do anything to the victim. It must be remembered that in conspiracy, evidence need not establish the actual agreement among the conspirators showing a preconceived plan or motive

for the commission of the crime. Proof of concerted action before, during and after the crime, which demonstrates their unity of design and objective, is sufficient.[14]

Thus, having shown that the three accused were in conspiracy thru their concerted acts, there is collective criminal responsibility, since "all the conspirators are liable as principals regardless of the extent and character of their participation, because the act of one is the act of all." [15]

However, while we affirm the guilt beyond reasonable doubt of the three accused for the killing of Mariano Celino, Jr., we find nevertheless that the crime committed is not murder but only homicide. In order to qualify a killing to murder, the qualifying circumstance therefor must be proved as indubitably as the killing itself and cannot be deduced from mere inference.[16] Although the trial court concluded that the three circumstances attended the commission of the crime, it did not prove any qualifying circumstance in the present case. Furthermore, a closer examination of the charges shows that the first three circumstances mentioned therein are only generic. Only the fourth, treachery, is expressly set out as qualifying.

As to the treachery, we are of the view that the trial court erred in appreciating this circumstance so as to qualify the killing to murder. Treachery can only be appreciated "when two conditions concur, namely, that the means, method and forms of execution employed gave the person attacked no opportunity to defend himself or to retaliate; and that such means, methods and form of execution were deliberately and consciously adopted." [17] In this case, the means employed in killing the victim did not leave the victim with absolutely no opportunity to defend himself or prevent the same. For it was possible that he could have escaped as soon as accused-appellants alighted from the truck which they rode. Further, there was no showing that the means employed in the killing were deliberately and consciously adopted by the accused to insure its commission.

Taking advantage of superior strength, alleged as generic aggravating circumstance, cannot be appreciated in the present case since the prosecution was not able to prove that the accused purposely used excessive force in the commission of the crime.[18]

The aggravating circumstance of abuse of superior strength depends on the age, size and strength of the parties. It is considered whenever there is a notorious inequality of forces between the victim and the aggressor, assessing a superiority of strength notoriously advantageous for the aggressor which is selected or taken advantage of by him in the commission of the crime.[19] While it may be conceded that the three accused outnumbered the victim, who was unarmed, it must be pointed out that numerical superiority does not always mean abuse of superiority.[20] Under the facts of the case, the two accused, namely, Rolly Baltar and Francisco Baltar, Jr. attacked the victim alternately, that is, one after the other. First, Rolly Baltar boxed the victim, then summoned Francisco Baltar, Jr. to shoot him. There was no notorious inequality of force shown to have been employed in the killing.[21] In other words, the three accused did not secure advantage of their combined strength to perpetrate the crime with impunity.[22] Indeed, when the attack was made on the victim alternately, there is no abuse of superior strength.[23]

Neither can evident premeditation be used to qualify the crime to murder as the same was not alleged as a qualifying circumstance. It was only termed "generic" and must be so considered, if properly proved. "For evident premeditation to aggravate a crime, there must be proof, as clear as the evidence of the crime itself, of the following elements: (1) the time when the offender determined to commit the crime; (2) an act manifestly indicating that he clung to his determination; and (3) sufficient lapse of time, between determination and execution, to allow himself to reflect upon the consequences of his act." [24] For this circumstance to be appreciated, there must be direct evidence showing a plan or preparation to kill, or proof that the accused meditated and reflected upon his decision to kill the victim.[25] Here, there is no such demonstration of

calculation and previous resolution on the part of the three accused.

Abuse of their position as CAFGU members was also left unproved.

In sum, we are constrained to conclude that since the killing of Mariano Celino, Jr. was not attended by any qualifying circumstance enumerated in Article 248 of the Revised Penal Code, appellant Primo Villanueva can only be convicted of homicide under Article 249 of the Revised Penal Code.

In view of this conclusion that the crime committed and proved is homicide only and not murder, we will now discuss its consequences with respect to the criminal liability of the two other accused, namely Francisco Baltar, Jr. and Rolly Baltar, who did not interpose an appeal. Previously, the sentence imposed upon the accused who did not appeal became final, while that of his co-accused who appealed was stayed. For it had been held that decisions of the appellate court did not in any way affect the sentence imposed upon the accused who did not appeal, even if the appellants were subsequently acquitted or their sentences increased or reduced.[26] Not having appealed, it was previously held that the appellate court did not have jurisdiction over his case.[27]

However, the provisions of the Rules of Court on criminal procedure have been amended.[28] Sec. 11, Rule 122 now reads:

"SEC. 11. Effect of appeal by any of several accused.--

(a) An appeal taken by one or more of several accused shall not affect those who did not appeal, except insofar as the judgment of the appellate court is favorable and applicable to the latter.

(b) The civil appeal of the offended party shall not affect the criminal aspect of the judgment or order appealed from;

(c) Upon the perfection of the appeal, the execution of the judgment or order appealed from shall be stayed as to the appealing party." (Emphasis supplied.)

Thus, at present, the accused who did not appeal may be benefited by the judgment of the appellate court insofar as it is favorable and applicable to him. This amendment modifies the former case law aforecited.[29] With the modification of the judgment from murder to homicide in this case, it follows that the two other accused who did not appeal should benefit from the reduction of the sentence imposed on the crime committed.

Finally, as to the civil liability imposed by the trial court, modifications are in order. The award for actual damages in the amount of Thirty Thousand Twenty-four Pesos and Forty Centavos (P30,024.40) is reduced to Fifteen Thousand Twenty-four Pesos and Forty Centavos (P15,024.40), which is the amount duly proved in the course of the trial. The amount of Fifteen Thousand Pesos (P15,000.00) representing attorney's fees, which formed part of the actual damages awarded by the trial court, should be deleted for lack of appropriate legal basis.[30] The award of Fifty Thousand Pesos (P50,000.00) as moral damages is affirmed, since there is sufficient evidence given by Cecilia Celino, the victim's wife, that she suffered mental and moral shock, wounded feelings and anxiety. The award for moral damages is definitely proper. The victim's heirs are also entitled to civil indemnity in the amount of Fifty Thousand Pesos (P50,000.00) with no need of proof other than the fact of the victim's death.[31]

WHEREFORE, the instant appeal is partially GRANTED. The challenged decision of the Regional Trial Court of Roxas City, Branch 19, is hereby MODIFIED. Appellant Primo Villanueva @ "Espok", and co-accused Francisco Baltar, Jr. and Rolly Baltar are declared GUILTY beyond reasonable doubt as principals of the crime of homicide as defined in Article 249 of the Revised Penal Code. Considering the absence of any mitigating or aggravating circumstance, and applying the Indeterminate Sentence Law, they are SENTENCED to suffer an indeterminate

penalty ranging from eight (8) years and one (1) day of prision mayor medium as minimum to fourteen (14) years, eight (8) months and one (1) day of reclusion temporal medium as maximum, deducting therefrom the period of their confinement. They must also solidarily pay the heirs of the victim the amounts of Fifty Thousand Pesos (P50,000.00) by way of civil indemnity, Fifteen Thousand Twenty-Four Pesos and Forty Centavos (P15,024.40) as actual damages, and Fifty Thousand Pesos (P50,000.00) as moral damages. Costs de oficio.

SO ORDERED.

Bellosillo, (Chairman), Mendoza, Buena, and De Leon, Jr., JJ., concur.

[1] Rollo, pp. 25-45.

[2] Entitled "People of the Philippines vs. CAFGU Francisco Baltar, Jr., CAFGU Primo Villanueva alias 'Espok' and Rolly Baltar."

[3] Rollo, pp. 7-8.

[4] Id. at 45.

[5] Id. at 110-110-Q.

[6] The Appellee's Brief was signed by Solicitor General Silvestre H. Bello III, Assistant Solicitor General Carlos N. Ortega, Assistant Solicitor General Amparo M. Cabotaje-Tang and Solicitor Demosthenes D.C. Dimayacyac.

[7] Rollo, pp. 110E-110I.

[8] Id. at 67-76.

[9] Id. at 70-72.

[10] Id. at 44.

[11] Id. at 72.

[12] People vs. Cawaling, 293 SCRA 267, 306 (1998).

[13] People vs. Gupo, 190 SCRA 7, 18 (1990).

[14] People vs. Sumalpong, 284 SCRA 464, 488 (1998). People vs. Lopez, 249 SCRA 610 (1995); People vs. Abarri, 242 SCRA 39 (1995).

[15] People vs. Obello, 284 SCRA 79, 94 (1998). People vs. Salison, Jr., 253 SCRA 758 (1996); People vs. Yabut, 226 SCRA 715 (1993).

[16] People vs. Solis, 291 SCRA 529, 540 (1998).

[17] People vs. Castillo, 289 SCRA 213, 229 (1998). See also People vs. Silvestre, 244 SCRA 479, 494 (1995).

[18] People vs. Cabiling, 74 SCRA 285, 303 (1976), citing Albert's Commentaries on the Revised Penal Code, pp. 126-127; People vs. Sarabia, 96 SCRA 714, 719-720 (1980).

[19] People vs. Carpio, 191 SCRA 108, 119 (1990); People vs. Cabato, 160 SCRA 98 (1988).

[20] People vs. Ybañez, 56 SCRA 210, 217 (1974).

[21] People vs. Solis, 291 SCRA 529, 541 (1998) citing People vs. Escoto, 244 SCRA 87 (1995).

- [22] *People vs. Baluyot*, 170 SCRA 569, 576 (1989), citing *People vs. Balictar*, 91 SCRA 500 (1970).
- [23] *People vs. Narciso*, 23 SCRA 844, 865-866 (1968).
- [24] *People vs. Sumalpong*, 284 SCRA 464, 490 (1998) citing *People vs. Baydo*, 273 SCRA 526 (1997).
- [25] *People vs. Asto*, 277 SCRA 697, 712, citing *People vs. Daquipil*, 240 SCRA 314 (1995).
- [26] Regalado, *Remedial Law Compendium*, Vol. 2, 1989 ed., p. 392, citing *U.S. vs. Dagalea*, 4 Phil. 398 (1905).
- [27] *Ibid.*, citing *People vs. Medrano*, 122 SCRA 586 (1983); *People vs. Vallente*, 144 SCRA 459 (1986).
- [28] Per Resolutions adopted on June 17, 1988, July 7, 1988, and further amended by Administrative Circular No. 12-94, August 16, 1994.
- [29] *Supra*, note 27.
- [30] See Reyes, *The Revised Penal Code*, Bk. I, 1998 ed., p. 919, citing *People vs. Biador*, 55 O.G. 6384.
- [31] *People vs. Cayabyab*, 274 SCRA 387, 404 (1997).

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