

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. WILSON LAB-EO, ACCUSED-APPELLANT.

G.R. No. 133438. January 16, 2002

Ponente: CARPIO, J.

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CARPIO, J.:

An Information to be sufficient must contain all the elements required by the Rules on Criminal Procedure. In the crime of murder, the qualifying circumstance raising the killing to the category of murder must be specifically alleged in the Information. The Information is sufficient as long as the qualifying circumstance is recited in the Information, regardless of whether designated as aggravating or qualifying, or whether written separately in another paragraph or lumped together with the general averments in a single paragraph.

The Case

Before this Court is an appeal from the Decision[1] of the Regional Trial Court, First Judicial Region, Branch 35, Bontoc, Mountain Province, convicting the appellant Wilson Lab-eo of the crime of murder. The appellant postulates that he should only be convicted of the lesser crime of homicide.

The Charge

The appellant was indicted for murder under Article 248 of the Revised Penal Code, as amended by RA No. 7659, under the following Information[2]:

“That on or about October 21, 1996, at the Barangay Hall, Poblacion, Tadian, Mountain Province, and within the jurisdiction of this Honorable Court, the above-named accused with intent to kill and with the use of a sharp knife, did then and there willfully, unlawfully and feloniously attack, assault, strike and stab Segundina Cay-no with a well-honed and pointed knife and thereby inflicting a mortal stab wound upon the victim as reflected in that medico-legal certificate, to wit:

Stab wound infrascapular area left, penetrating with massive hemathorax, which caused the death of the victim thereafter.

That the aggravating circumstances of evident premeditation, treachery, abuse of superior strength and craft attended the commission of the offense.

Contrary to law.”

Arraignment and Plea

When arraigned on June 19, 1997, the appellant, duly assisted by his counsel, entered a plea of not guilty. Thereafter, trial on the merits ensued.

The Trial

The prosecution presented the oral testimonies of the following: (1) Nancy Gaoan, Julie Dang-la and Nelson

Apyoten, eyewitnesses to the actual stabbing of Segundina Cay-no; (2) Jerry Cay-no, son of the deceased; (3) Police Officers Leonardo Cea and Angelito Beddy who were in-charge of the investigation of the stabbing incident; and (4) Drs. Elizabeth Tican and Milagros Inhumang, the attending physicians at the Luis Hora Memorial Hospital where the deceased was brought. For its part, the defense presented the appellant himself as well as Inspector Eleuterio Camtugan and Mrs. Gantula Latap, as witnesses.

Version of the Prosecution

The Office of the Solicitor General summarized the facts of the prosecution as follows:

“Segundina Cayno was engaged in the business of selling rummage goods. Early in the morning of October 21, 1996, her son, Jerry Cayno, went to the “dap-ayan” or barangay hall, in front of the Tadian Public Market at Tadian, Mountain Province, to display the goods for sale while his mother was still at their boarding house. After displaying the goods, Segundina arrived and took over while he proceeded to their new boarding house to do some cleaning (TSN, July 16, 1997, pp. 3-15, 28).

At about 9 o’clock that morning, Nancy Gaoan and Julie Dangla went to see Segundina to be massaged by the latter (“hilot”) (TSN, July 16, 1997, p. 3; TSN, July 29, 1997, p. 68).

At about 11:20 a.m., Nelson Apyoten arrived in order to wait for a ride going to Masla. He saw Nancy and Segundina and sat with them while waiting for his ride (TSN, July 30, 1997, pp. 2-4).

Before noontime, while Nancy and Julie were plucking the white hair strands of Segundina, appellant Wilson Lab-eo arrived and approached his aunt, Segundina. Upon seeing him, Nancy went to a distance of about 2 meters while Julie was still near Segundina. Appellant sat down in front of his aunt and uttered something to her in a very soft voice. Nancy did not hear what he said because of her distance from them while Julie could not make out the conversation because of the sound coming from a running motor engine. What they only heard was Segundina’s answer which was uttered in a loud angry voice “koma-an ka tay baka mahigh bloodac” (“you get out because I might suffer high blood). They saw appellant leave (TSN, July 16, 1997, pp. 8-9, 16, 19; TSN, July 29, 1997, pp. 72, 78-79).

When appellant left, Nancy and Julie were looking at some of the clothes being sold by Segundina (TSN, July 29, 1997, p. 72).

In the meantime, appellant proceeded to the market place, which was just about 5 meters away. Thereat, he saw at the butcher’s shop of a certain Gaskiw, a 15-inch knife with a 9-inch blade with a width of 1 inch at its widest and 1 cm. at its point. He took it and right away returned to the “dap-ayan” (TSN, September 11, 1997, p. 4).

When appellant returned about 3-5 minutes after, Segundina was sitting on a low rattan stool. In front of her were Nancy and Julie, as she was showing to them how to repair and put garter on the pants Nancy had bought for her child. Engrossed, they did not notice appellant’s return, especially Segundina who had her back to appellant. When Julie saw appellant approach Segundina from the back, Julie thought that he would just box his aunt because she did not see the knife, which was wrapped in his blue jacket. Then appellant suddenly made a thrusting motion and he stabbed Segundina on the left portion of her back. He then ran away leaving the knife at the victim’s back with the jacket he had covered it with, hanging by the knife’s handle. The entire length of the knife’s 9-inch blade had penetrated the victim’s body. Upon seeing that Segundina was stabbed, Julie removed the knife with the jacket from the victim’s back and placed them down on the pavement while Nancy, Nelson and the other people who saw the incident shouted for help (TSN, July 16, 1997, pp. 4, 6-8, 11, 20, 24-26; TSN, July 29, 1997, pp. 72, 76, 80-81, 83-84; TSN, July 30, 1997, pp. 5-6, 21).

Seeing that appellant had ran in the direction of the Municipal Hall, Nelson, together with one Mario Talicwad, and some other people, went after him to find out if he was going to the police station. They saw him enter the

office of Inspector Leonardo Cea, the then Chief of Police of Tadian Police Station. Upon his surrender, the police authorities took custody of him. The fact of his surrender was entered in the police blotter as Entry # 21, page 86. Because of the report of the stabbing incident, Police Officer Angelito Beddy proceeded to the crime scene. Thereat, he recovered the knife wrapped with the jacket, which bore a hole as the knife pierced it (TSN, July 30, 1997, p. 6; TSN, July 29, 1997, p. 58, 60-64; TSN, September 9, 1997, pp. 1-2; TSN, July 17, 1997, pp. 42-44).

In the meantime, Julie had ran towards the boarding house where Segundina was staying and she informed the latter's son, Jerry, of what happened to his mother. When they returned to the "dap-ayan", they saw Segundina aboard the Dolidoan Trans enroute to the Luis Hora Memorial Hospital in Abatan, Bauko, Mountain Province. Hence, Jerry, along with Nelson and some other people, packed the dry goods Segundina was selling and thereafter followed his mother to the hospital (TSN, July 16, 1997, p. 29-30; TSN, July 29, 1997, p. 73; TSN, July 30, 1997, pp. 6-7; TSN, August 26, 1997, p. 99).

Upon her admission at the Luis Hora Hospital, she was attended by Dr. Milagros B. Inhumang. The latter found that the victim had a 2.5 cm stab wound at her back, left scapula, which penetrated the left lung. X-ray revealed that she had suffered massive bleeding in the thorax cavity. Before she could be transferred to the Baguio General Hospital for more specialized treatment, Segundina died in the morning of the following day (October 22, 1996). The cause of death was determined to be "hypovolomic shock secondary to massive hemorrhage" (TSN, July 31, 1997, pp. 92-93; TSN, August 26, 1997, pp. 100-106)." [3]

Version of the Accused

The appellant does not deny stabbing Segundina Cay-no. However, he maintains that neither treachery nor evident premeditation attended the commission of the crime. The appellant contends that the crime committed should only be homicide and not murder.

Stripped of the details that led to the actual stabbing of the deceased, the appellant's version of the incident is similar to that of the prosecution. The appellant recounted the incident in this wise:

"Appellant Wilson Lab-eo testified that on October 21, 1996, at Dap-ayan, Tadian, Mountain Province, he was teasing Segundina Cayno that he be her baggage boy of the clothes that she was vending. Segundina got mad and berated herein accused in front of many people. She told accused to go away because she does not want to see his face there. The accused felt so bad and left the place. Humiliated, he returned to where Segundina was selling clothes and then and there stabbed her at the back with a knife. Thereafter, he surrendered to the Chief of Police (TSN, Decision, pp. 5-6)." [4]

The Trial Court's Ruling

After evaluating the testimonies of the witnesses, together with the object evidence presented, the trial court found the appellant guilty of the crime of murder in its Decision[5] dated January 16, 1998. The dispositive portion of the Decision reads:

"WHEREFORE, the accused Wilson Lab-eo having been found guilty of the crime of Murder as charged and defined and penalized under Article 248 of the Revised Penal Code beyond reasonable doubt, he is hereby sentenced to suffer the penalty of reclusion perpetua and to indemnify the heirs of the victim Segundina Cay-no in the amount of P50,000 in consonance with the current case law and policy in death indemnity; to pay the victim the actual expenses that the said heirs incurred relative to the death of the same victim in the total sum of ONE HUNDRED TWENTY FIVE THOUSAND FIVE HUNDRED (P125,500.00) PESOS, Philippine currency; and to pay the cost of this suit.

SO ORDERED."

The Issues

In this appeal, appellant Wilson Lab-eo asks this Court to declare him guilty of the crime of homicide instead of murder as found by the lower court. The appellant assigns as errors the following:

I.

THE LOWER COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT OF MURDER.

II.

THE LOWER COURT GRAVELY ERRED IN FINDING THAT THE QUALIFYING CIRCUMSTANCE OF TREACHERY IS ATTENDANT IN THE CASE AT BAR.

III.

THE LOWER COURT GRAVELY ERRED IN NOT FINDING THAT THE MITIGATING CIRCUMSTANCE OF PASSION AND OBFUSCATION AND SUFFICIENT PROVOCATION ATTENDED THE COMMISSION OF THE CRIME CHARGED.

IV.

GRANTING THAT THE ACCUSED-APPELLANT IS GUILTY OF THE CRIME CHARGED, THE LOWER COURT FAILED TO APPLY THE INDETERMINATE SENTENCE LAW. [6]

The Court's Ruling

We affirm the conviction of appellant Wilson Lab-eo for the crime of murder.

In the first assigned error, the appellant faults the lower court for finding him guilty of murder even when the Information, as written, could only have charged him with the crime of homicide. The appellant points out that although the Information[7] is captioned as murder, the allegations in the body of the Information are constitutive only of the elements of the crime of homicide.

The Information, as written, consists of two paragraphs. The first paragraph contains the allegations of the date, time, place, the acts constituting the offense, and the name of the victim. Written in a separate paragraph are the "aggravating circumstances" of evident premeditation, treachery, abuse of superior strength and craft, alleged as attending the commission of the crime. The appellant insists that the circumstances enumerated in the second paragraph should be considered merely as generic aggravating circumstances, not qualifying circumstances, for two reasons. First, the circumstances are not part of the recital of facts constituting the offense as charged in the first paragraph. Second, the circumstances are designated merely as generic aggravating circumstances.

The arguments of the appellant find no basis in law.

The Information was correctly captioned as one for murder since the Information actually recited the qualifying circumstances that attended the commission of the crime. Article 248 of the Revised Penal Code, as amended by RA No. 7659, provides:

"Article 248. Murder. - Any person who, not falling within the provision of Article 246, shall kill another, shall be guilty of Murder and shall be punished by reclusion perpetua to death if committed with any of the following attendant circumstances:

- With treachery, taking advantage of superior strength, with the aid of armed men, or employing means to weaken the defense, or of means or persons to insure or afford impunity;

xxx

- With evident premeditation;

xxx.” (Emphasis supplied)

The fact that the qualifying circumstances were recited in the second paragraph and not in the first paragraph of the Information, as commonly done, is a matter of form or style for which the prosecution should not be faulted. That the Provincial Prosecutor decided to write the Information differently did not impair its sufficiency. Nothing in the law prohibits the prosecutor from adopting such a form or style. As long as the requirements of the law are observed, the Information will pass judicial scrutiny.

The prosecution is correct in its argument that although the recital of facts constituting the crime charged was contained in two separate paragraphs, the two must be “read in (their) entirety and not just truncated portions thereof.”[8] The Information is not just the first, second or third paragraph of the prosecutor’s sworn accusation taken individually or separately, but all the allegations made therein taken together in their entirety.

The fact that the circumstances were described as “aggravating” instead of “qualifying” does not take the Information out of the purview of Article 248 of the Revised Penal Code. Article 248 does not use the word “qualifying” or “aggravating” in enumerating the circumstances that raise a killing to the category of murder. Article 248 merely refers to the enumerated circumstances as the “attendant circumstances.” In the instant case, the Information specifically alleges that evident premeditation, treachery, and abuse of superior strength “attended the commission of the offense.” This is more than sufficient to comply with the requirements of Article 248. Well-settled is the rule that when evident premeditation, treachery, or abuse of superior strength is present and alleged in the Information, it qualifies the killing and raises it to the category of murder.[9]

Moreover, there are four kinds of aggravating circumstances, namely: (1) generic or those that can generally apply to all crimes; (2) specific or those that apply only to particular crimes; (3) qualifying or those that change the nature of the crime; and (4) inherent or those that must of necessity accompany the commission of the crime.[10] Thus, except for scoffing at the victim’s corpse, all the qualifying circumstances enumerated in Article 248 of the Revised Penal Code are also aggravating circumstances because they are likewise found in Article 14 of the same Code enumerating the aggravating circumstances.[11]

The rule on sufficiency of information is found in Section 6, Rule 110 of the 1985 Rules on Criminal Procedure.[12] This was the applicable rule at the time of the commission of the crime. Section 6 of Rule 110 states:

SEC. 6. Sufficiency of Information - A complaint or information is sufficient if it states the name of the accused; the designation of the offense given by the statute; the acts or omissions complained of as constituting the offense; the name of the offended party; the approximate date of the commission of the offense; and the place where the offense was committed.

When an offense is committed by more than one person, all of them shall be included in the complaint or information. (6a)

Under Section 6, the Information is sufficient if it contains the full name of the accused, the designation of the offense given by the statute, the acts or omissions constituting the offense, the name of the offended party, the approximate date, and the place of the offense. The Information in this case complied with these conditions.[13] The Information included the specific allegation that the “aggravating circumstances of evident premeditation, treachery, abuse of superior strength and craft attended the commission of the offense.”[14] With the allegation of these aggravating circumstances, the first three of which qualify the killing to murder, the Information correctly

used murder as the proper designation given by law pursuant to Article 248 of the Revised Penal Code.

The test of sufficiency of Information is whether it enables a person of common understanding to know the charge against him, and the court to render judgment properly.[15] The rule is that qualifying circumstances must be properly pleaded in the Information in order not to violate the accused's constitutional right to be properly informed of the nature and cause of the accusation against him.[16] The purpose is to allow the accused to fully prepare for his defense, precluding surprises during the trial. Significantly, the appellant never claimed that he was deprived of his right to be fully apprised of the nature of the charges against him because of the style or form adopted in the Information.

The New Rules on Criminal Procedure, which took effect on December 1, 2000, re-enacted verbatim Section 6, Rule 110 of the old Rules on sufficiency of the Information. Sections 8 and 9, Rule 110[17] of the new Rules, moreover, now require that both the qualifying and aggravating circumstances must be specifically alleged in the Information to be appreciated as such. Under the old Rules, only the qualifying circumstances were required to be alleged in the Information, and aggravating circumstances, even if not alleged, could still be appreciated, except in cases where an aggravating circumstance would result in the imposition of the death penalty.[18] In any event, even if Sections 8 and 9, Rule 110 of the new Rules, which are more favorable to the accused, are applied to this case, the Information for murder against the appellant would still remain sufficient and valid. Three of the circumstances enumerated in Article 248 of the Revised Penal Code raising a killing to murder are specifically alleged in the Information in this case, satisfying Sections 8 and 9 of Rule 110 of the new Rules.

On the second assigned error, the appellant argues that treachery was not employed in the stabbing of the victim. However, the prosecution counters that treachery attended the commission of the crime because the appellant stabbed the victim from behind, without warning and without an opportunity to defend herself.

We hold that treachery[19] attended the stabbing of the victim Segundina Cay-no.

As a rule, a sudden attack by the assailant, whether frontally or from behind, is treachery if he deliberately adopted such mode of attack with the purpose of depriving the victim of a chance to either fight or retreat.[20]

To constitute treachery, two conditions must concur: (1) the employment of means of execution which tend directly and specially to insure the accomplishment of the crime without risk to the assailant arising from the defense the victim might make; and (2) a deliberate or conscious adoption of the means of execution.[21] When a victim is unexpectedly attacked from behind, depriving him of any opportunity to defend himself, undeniably there is *alevosia*. [22] The essence of treachery is that the attack is deliberate and without warning, done in a swift and unexpected manner, affording the hapless, unarmed and unsuspecting victim no chance to resist or escape.[23]

In this case, the victim was stabbed, undoubtedly from behind. Dr. Milagros Inhumang, the physician who attended to the victim at the time of the incident, testified that the wound inflicted on the victim was found at the back, left side portion.[24] The testimonies of the prosecution witnesses substantiate this medical finding. The appellant was behind the victim when he stabbed her. Nancy Gaoan, a 26-year old farmer, resident of Kayan, Tadian, Mountain Province, and an eyewitness to the stabbing of the victim, testified:

“Q.

While you were at the market on that day having hilot do you remember of any unusual incident that happened?

A.

There is sir.

Q.

And what is that incident, madam witness?

A.

They stabbed Mrs. Segundina Cayno.

Q.

Who stabbed Mrs. Segundina Cayno?

A.

Wilson Labeo sir.

Q.

When Wilson Labeo stabbed Segundina Cayno, where were you?

A.

I was facing both of them.

Q.

And about how far were you from them?

A.

About one meter away.

Q.

And what part of the body of Segundina Cayno was stabbed?

A.

At her back sir.

Q.

You said that you were in front of Segundina Cayno when she was stabbed, where did this Wilson Labeo come from?

A.

From the back of Mrs. Segundina Cayno.

Q.

And you said Madam Witness, that the accused Wilson Labeo stabbed Segundina Cayno at her back, did you see with what weapon he stabbed Segundina Cayno?

A.

Knife, sir.”[25]

Based on the foregoing, it was established that the appellant emerged from behind the victim when he stabbed her. Furthermore, not only did the appellant deliberately attack from behind, he did it without any warning to the victim. The appellant executed the assault in a manner that left the victim defenseless and without any opportunity to even escape or flee, at the same time avoiding risk to himself from any defense the victim might make.

The fact that the appellant used a very sharp butcher’s knife, 15 inches long with a 9-inch blade,[26] shows that the appellant had chosen well his weapon of attack. The deadly nature of the weapon used, the traitorous manner of the assault, and the location of the wound inflicted upon the victim, conjointly demonstrate a deliberate and determined assault with intent to kill.[27]

We also affirm the lower court’s finding that abuse of superior strength was absorbed in treachery.[28]

Likewise, the lower court correctly held that craft was absorbed in treachery as shown by the fact that the appellant hid the knife under his jacket to prevent the victim from seeing it and from being alerted of an impending assault. Craft may be absorbed in treachery if it is deliberately adopted as the means, method or form for the treacherous strategy.[29] It may co-exist independently from treachery only when both circumstances are adopted for different purposes in the commission of the crime.[30] In this case, craft could not be appreciated independently from treachery because the appellant deliberately utilized it as a means of accomplishing his treacherous plan. The appellant made sure that the knife he was carrying was totally unseen by the victim and the people around her, thereby giving the victim no forewarning and leaving her utterly defenseless.

In his third assigned error, the appellant argues for the appreciation of the mitigating circumstances of passion and obfuscation, as well as of sufficient provocation, in his favor. There is no justification for this.

In order to be entitled to the mitigating circumstance of passion and obfuscation, the following elements should concur: (1) there should be an act both unlawful and sufficient to produce such condition of mind; (2) the act which produced the obfuscation was not far removed from the commission of the crime by a considerable length of time, during which the perpetrator might recover his normal equanimity.[31]

For a person to be motivated by passion and obfuscation, there must first exist an unlawful act that would naturally produce an impulse sufficient to overcome reason and self-control.[32] There is passionate obfuscation when the crime is committed due to an uncontrollable burst of passion provoked by prior unjust or improper acts, or due to a legitimate stimulus so powerful as to overcome reason.[33] In asking the appellant to leave, the victim did not do anything unlawful. There is an absolute lack of proof that the appellant was utterly humiliated by the victim’s utterance. Nor was it shown that the victim made that remark in an insulting and repugnant manner. The victim’s utterance was not the stimulus required by jurisprudence to be so overwhelming as to overcome reason and self-restraint.

Neither was the mitigating circumstance of sufficient provocation by the victim proven. From the testimonies of witnesses, it was shown that it was in fact the appellant who provoked the victim. All the witnesses testified that when the appellant initially approached the victim, he said something to her that prompted the latter to raise her voice at him.

Moreover, this Court has held that the provocation sufficient to mitigate an offense must be proportionate to the gravity of the retaliatory act.[34] In *People vs. Leonor*[35], this Court rejected the plea of the accused that a push and “bad words” justified retaliation with a knife, the provocation being insufficient to deserve the benefit of the mitigating circumstance of prior provocation by the offended party.[36] In this case, the victim merely shouted at the appellant and asked him to leave. Stabbing her to death could hardly be proportionate in gravity to her act of shouting, no matter how loud.

There is, however, the mitigating circumstance of voluntary surrender duly proven during the trial which must be considered in favor of the accused. It was established that shortly after the incident, the appellant went to the municipal hall and surrendered to the authorities. This fact was admitted by Inspector Cea, Chief of Police of the Tadian Police Station, to whom the appellant voluntarily surrendered on the day of the incident.[37]

Treachery attended the stabbing of Segundina Cay-no, thereby qualifying the killing to murder which is punishable by reclusion perpetua to death[38]. However, with the mitigating circumstance of voluntary surrender, the lower of the two indivisible penalties of reclusion perpetua and death shall be meted out in accordance with Article 63[39] of the Revised Penal Code. Consequently, for the murder of Segundina Cay-no, the appellant shall suffer the penalty of reclusion perpetua.

As his final assigned error, the appellant would also fault the lower court for its failure to apply to him the Indeterminate Sentence Law.

The Indeterminate Sentence Law[40] is not applicable in this case. Section 2 of the Indeterminate Sentence Law states that it shall not apply to persons convicted of offenses punishable by death or life imprisonment. In the case of *People vs. Aquino*[41], this Court held that the appellant could not avail of the benefits of the Indeterminate Sentence Law because this law does not apply to persons convicted of offenses punishable with reclusion perpetua.

As civil indemnity for the death of Segundina Cay-no, the accused shall pay the amount of P50,000 to the victim’s heirs. Consistent with settled rule, the amount is awarded without need of proof other than the commission of the crime[42] and the consequent death of the victim.

An appeal in a criminal proceeding throws the whole case open for review and it becomes the duty of this Court to correct any error in the appealed judgment, whether it is made the subject of an assignment of error or not.[43] Therefore, we modify the award of P125,500.00 as actual damages made by the lower court and instead reduce it to P82,500.00. To seek recovery of actual damages, it is necessary to prove the actual amount of loss with a reasonable degree of certainty, premised upon competent proof and on the best evidence obtainable.[44] Since all the receipts presented in evidence add up to only P82,500.00, then only this reduced amount shall be awarded. We also award P50,000.00 as moral damages for the wounded feelings and moral shock[45] of the heirs, as testified to by Jerry Cay-no, son of the deceased.

WHEREFORE, the appealed decision convicting WILSON LAB-EO of the crime of murder and sentencing him to suffer the penalty of RECLUSION PERPETUA is hereby AFFIRMED, with the MODIFICATION that appellant is ordered to pay the heirs of Segundina Cay-no P50,000.00 as civil indemnity, P82,500.00 as actual damages, and P50,000.00 as moral damages.

SO ORDERED.

Melo, (Chairman), Vitug, Panganiban, and Sandoval-Gutierrez, JJ., concur.

- [1] Penned by Judge Manuel B. Bragado.
- [2] Rollo, p. 6.
- [3] Rollo, pp. 110-116.
- [4] Rollo, pp. 67-68.
- [5] Rollo, p. 20.
- [6] Rollo, pp. 68, 72-73.
- [7] Supra, see note 2.
- [8] Rollo, p. 117.
- [9] People vs. Diaz, 320 SCRA 168 (1999); People vs. Cawaling, 293 SCRA 267 (1998).
- [10] Luis B. Reyes, REVISED PENAL CODE, Book One, p. 317 (2001).
- [11] Luis B. Reyes, REVISED PENAL CODE, Book Two, p. 464 (2001).
- [12] The New Rules on Criminal Procedure re-enacted verbatim Section 6 of Rule 110.
- [13] Supra, see note 2.
- [14] Ibid.
- [15] Jumawan vs. Eviota, 234 SCRA 524 (1994).
- [16] People vs. Sala, 311 SCRA 301 (1999).
- [17] Sections 8 and 9 of Rule 110 of the New Rules on Criminal Procedure state:
- SEC. 8. Designation of the Offense – The complaint or information shall state the designation of the offense given by the statute, aver the acts or omissions constituting the offense, and specify its qualifying and aggravating circumstances. If there is no designation of the offense, reference shall be made to the section or subsection of the statute punishing it. (8a) (Emphasis supplied)
- SEC. 9. Cause of the Accusation - The acts or omissions complained of as constituting the offense and the qualifying and aggravating circumstances must be stated in ordinary and concise language xxx. (Emphasis supplied)
- [18] People vs. Legaspi, G.R. No. 136164-65, April 20, 2001; People vs. Perez, G.R. No. 133695, February 28, 2001.
- [19] Article 14. Aggravating Circumstances - The following are aggravating circumstances:
- xxx
- That the act be committed with treachery (alevosia). There is treachery when the offender commits any of the crimes against the person, employing means, methods or forms in the execution thereof which tend directly and specially to insure its execution, without risk to himself arising from the defense which the offended party might make.
- xxx.
- [20] People vs. Real, 242 SCRA 671 (1995).

[21] *People vs. Serzo*, 274 SCRA 553 (1997); *People vs. Velaga, Jr.*, 199 SCRA 518 (1991); *People vs. Lacao, Sr.*, 201 SCRA 317 (1991).

[22] *Ingles vs. People*, 269 SCRA 122 (1997).

[23] *People vs. dela Cruz*, 291 SCRA 164 (1998).

[24] TSN, August 26, 1997, p. 100.

[25] TSN, July 16, 1997, pp. 3-4.

[26] TSN, July 16, 1997, p. 11.

[27] *People vs. Sancholes*, 271 SCRA 527 (1997); *People vs. Plasencia*, 249 SCRA 674 (1995).

[28] *People vs. Valdez*, 304 SCRA 611(1999).

[29] *People vs. Sakam*, 61 Phil 27 (1934).

[30] *Ibid.*

[31] *People vs. Javier*, 311 SCRA 576 (1999).

[32] Ramon C. Aquino, *THE REVISED PENAL CODE*, 1997 ed., vol. 1, p. 271.

[33] *People vs. Lobino*, 317 SCRA 606 (1999).

[34] *People vs. Leonor*, 305 SCRA 285 (1999).

[35] *Ibid.*

[36] *Ibid.*

[37] TSN, July 29, 1997, p. 60.

[38] Article 248. Murder - Any person who, not falling within the provisions of Article 246, shall kill another, shall be guilty of murder and shall be punished by reclusion perpetua to death if committed with any of the following attendant circumstances:

xxx.

[39] Article 63. Rules for the application of indivisible penalties - In all cases in which the law prescribes a single indivisible penalty, it shall be applied by the courts regardless of any mitigating or aggravating circumstances that may have attended the commission of the deed.

In all cases in which the law prescribes a penalty composed of two indivisible penalties the following rules shall be observed in the application thereof:

xxx

- When the commission of the act is attended by some mitigating circumstances and there is no aggravating circumstance, the lesser penalty shall be applied.

xxx.

[40] Act No. 4103 as amended by Act No. 4225.

[41] 284 SCRA 369 (1998).

[42] People vs. Adoc, 330 SCRA 626 (2000); People vs. Solis, 291 SCRA 529 (1998).

[43] People vs. Juachon, 319 SCRA 761 (1999).

[44] People vs. Oliano, 287 SCRA 158 (1998).

[45] People vs. Aguilar, 292 SCRA 349 (1998).

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