

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. WILFREDO RIGLOS Y RAMOS AND LAMBERTO RIGLOS, ACCUSED.*G.R. No. 134763. September 04, 2000*Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-134763/>**PER CURIAM:**

Before us on automatic review is the Decision[1] dated July 6, 1998 of the Regional Trial Court of Urdaneta, Pangasinan, Branch 49, in Criminal Case No. U-8520, convicting accused-appellant Wilfredo Riglos y Ramos of murder with the aggravating circumstances of abuse of superior strength and dwelling and sentencing him to suffer the supreme penalty of death.

The antecedent facts are the following:

On May 23, 1995, at about 6:30 p.m., spouses Camilo and Adelina Valdez were sitting and facing each other at the terrace of their house at Sitio Bantog, Sto. Domingo, San Miquel, Pangasinan, as was their usual habit.[2] At that particular time, Jerry Valdez, their youngest son, was under an acacia tree, about seven meters away from their house, making a toy called "shatong". From that acacia tree Jerry had a clear view of the terrace, as it was still bright enough for him to see his parents.[3]

In a little while, accused Lamberto Riglos, a relative of the Valdez family, arrived. Lamberto asked money from Camilo in order to buy a bottle of gin. Camilo refused, and instead, told him to go home as it was already getting late. Adelina also told Lamberto to go home because his wife was waiting for him. Suddenly, Lamberto slapped Camilo on the face several times, which caused the latter to push Lamberto away. Lamberto then pulled Camilo's hand and the latter fell to the ground. Adelina rushed to her husband's side and helped him enter the main door of the house. Swiftly, Lamberto drew a .38 caliber gun from his waist and shot Camilo. The first shot, however, missed Camilo and hit the wall. Camilo, who was behind the door peeped and asked "What is my fault my son?"[4] Lamberto fired a second shot hitting Camilo on the chest. Adelina shouted for help, but nobody came. Camilo managed to slowly enter the house and proceed to their room while Lamberto just stayed at the terrace.[5]

After the first shot, accused-appellant Wilfredo, who was at a neighbor's house proceeded to the residence of Camilo and Adelina. On his way to the Valdez's house, he passed Jerry Valdez under the acacia tree. Upon seeing Jerry crying over what he had witnessed, Wilfredo hit him with his left hand, as his right hand was holding a gun.[6] Then Wilfredo went to where Lamberto was and said: "Let us get inside and kill him, brother." [7] The two entered the house and went to the bedroom. Upon seeing the wounded Camilo sitting on the bed, Lamberto and Wilfredo shot him several times.[8] Adelina ran to get some help and reported the incident to the Barangay Tanod and to Dominador Sevilleja, the Barangay Captain. When Adelina returned home, the Riglos brothers were no longer there. She saw her husband already dead, lying face down on the floor in a pool of blood.[9]

The killing incident was reported by Barangay Captain Sevilleja to the police authorities. At about 8:30 p.m. on the same day, Chief Inspector Ruben Egipto and SP02 Eduardo Bangi, together with several other policemen, responded and proceeded to the scene of the crime.[10] Thereat, they saw the victim and recovered three (3) .38 caliber slugs on the floor, near the victim's body.[11] Upon learning of the identity of the two assailants from

Adelina Valdez, they immediately searched for the Riglos brothers, but they had already fled, bringing with them the guns they used.[12] The police entered the incident in the police blotter as Entry No. 5143, page 611 dated May 23, 1995.[13]

On June 29, 1995, Assistant Provincial Prosecutor Jorito C. Peralta filed with the Regional Trial Court (RTC) in Urdaneta an Information charging the brothers Lamberto Riglos and Wilfredo Riglos with murder, committed as follows:

That on or about the 23rd day of May 1995 at barangay Sto. Domingo, Municipality of San Miguel, province of Pangasinan and within the jurisdiction of this Honorable Court, the said accused conspiring and confederating with one another, with intent to kill and by means of treachery and taking advantage of superior strength, did then and there willfully, unlawfully and feloniously attack and shoot one CAMELO[14] VALDEZ y FELIPE, with the use of an [sic] unlicensed firearms which each were then armed, hitting the said victim with multiple gunshot wound [sic] which were the direct and immediate cause of his death, to the damage and prejudice of his heirs.

Contrary to Article 248, Revised Penal Code.[15]

Only accused-appellant Wilfredo Riglos was brought to trial as his brother and co-accused, Lamberto, had evaded arrest and remained at large. Duly arraigned on February 12, 1997, accused-appellant pleaded "Not Guilty".[16]

Dr. Asuncion Tuvera, the Municipal Health Officer of San Miguel, Pangasinan, conducted an autopsy on the cadaver of the victim. She found three (3) gunshot wounds, two (2) of which measured about 0.5 cm. (point of entry), adjacent to each other, at the left medico-lateral part of the chest just four (4) inches above the left nipple, and the third gunshot wound at the left anterior axillary at the level of the 7th intercostal space, about 0.5 cm. in diameter, which penetrated up to the ribs. At the back, along the vertebral area, two (2) wounds (point of exit) were also found, with one (1) bullet remaining inside the victim's body. She also testified that the victim suffered laceration of the middle lobe of the left lung and lacerated wound on the left kidney; that based on the trajectory of the bullets, the victim and his assailants were facing each other with a distance of approximately six (6) meters between them. Dr. Tuvera determined the cause of death as cardiac arrest secondary to internal hemorrhage secondary to multiple gunshot wounds on the chest and at the back.[17]

Testifying on his behalf, accused-appellant Wilfredo Riglos interposed the defenses of denial and alibi. Accused-appellant claimed that on May 23, 1995, he together with his brother and co-accused, Lamberto, went to Barangay Lambot, San Miguel, Pangasinan to cut lumber. After work and on their way home, they stopped at Sitio Bantog, San Miguel, Pangasinan to fetch his 7-year old daughter who was in the house of Ambong Costes, his brother-in-law. They reached the Costes' residence at about 5:00 o'clock in the afternoon. While there, Alfredo Dulay, a neighbor of Costes, asked them to fix the post of his ampalaya plants. As compensation, Dulay offered them two (2) bottles of San Miguel gin which they finished at around 5:30 in the afternoon. Lamberto did not join the group in their drinking session. Lamberto, together with Dulay, left the group after he drank three (3) shots of gin.[18]

Suddenly, Wilfredo heard Adelina Valdez, shouting from the door of their house about 17 meters away from Costes' place saying "Berto, Berto do not kill your uncle," then he heard two gun shots. He did not bother to investigate because his daughter who was frightened embraced him and told him that they go home to Sta. Catalina. On his way home to Sta. Catalina, he rode in a vehicle driven by Tamaacder and passed by the house of his uncle, Camilo. He heard people crying and shouting inside the house, but he did not bother to drop by and verify what had happened because he was nervous.[19] The next day, he heard that his brother had killed somebody. He had not seen his brother since then.[20]

Alfredo Dulay corroborated the testimony of accused-appellant. In addition, he testified that after he drank 3 shots of San Miguel gin, he and Lamberto, left the group and proceeded to the house of the victim, Camilo. Camilo was sitting at the terrace of his house, already drunk. Camilo offered them one bottle of Beer Grande, which they drank. During their drinking session, Camilo and Lamberto had an argument. Dulay heard Camilo saying to Lamberto "vulva of your mother." Because of this utterance, Lamberto asked Camilo if he could also retaliate by saying bad words and the victim answered that it is alright because Lamberto is his nephew. In a little while, Camilo said to his wife, "You bring out" and upon hearing those words, Dulay and Lamberto ran outside the house. Dulay proceeded to his house while Lamberto ran towards the south. After that incident, Dulay stayed inside his house until the arrival of Adelina Valdez, who was hysterical and crying, informing him that her husband had died.[21] On that evening, Dulay attended the wake of Camilo and heard that Lamberto was the latter's assailant.[22]

On July 6, 1998, the RTC rendered its decision, convicting accused-appellant of the crime of murder and sentencing him, thus:

WHEREFORE, in view of all the foregoing, the Court finds the accused, WILFREDO RIGLOS y RAMOS, GUILTY beyond reasonable doubt of the crime of MURDER defined and penalized under Republic Act No. 7659 otherwise known as the Heinous Crime Law, the offense having been committed with the attendant aggravating circumstances of abuse of superior strength and dwelling, hereby sentences him the ultimatum supplicium of DEATH to be executed pursuant to Republic Act No. 8177 known as the Lethal Injection Law, to pay the heirs of the victim, CAMILO VALDEZ, in the amount of P50,000.00 as indemnity; P30,000.00 as actual damages; P200,000.00 as moral damages; and to pay the costs.

Finally, it is said : "Dura Lex, sed lex," translated as : "The law is harsh, but that is the law."

In the meantime, let a warrant of arrest be issued for the accused LAMBERTO RIGLOS y RAMOS apprehension, said warrant of arrest to be served by the National Bureau of Investigation (NBI), Criminal Investigation Group (CIG) and the Philippine National Police of Binalonan, Pangasinan.

Accused-appellant raised the following assignment of errors, to wit:

I

THE TRIAL COURT ERRED IN FINDING THAT THE CRIME OF MURDER WAS QUALIFIED BY TREACHERY.

II

THE TRIAL COURT ERRED IN APPRECIATING THE QUALIFYING CIRCUMSTANCE OF ABUSE OF SUPERIOR STRENGTH AGAINST THE ACCUSED.

III

THE TRIAL COURT ERRED IN METING OUT THE DEATH PENALTY AGAINST THE ACCUSED.

In his brief, accused-appellant Wilfredo Riglos prays for the modification of his conviction from murder to homicide. He contends that the qualifying circumstances of treachery and abuse of superior strength did not attend the commission of the crime.[23]

It is jurisprudentially settled that as a general rule, this Court will not interfere with the judgment of the trial court in the appreciation of evidence and credibility of witnesses for it is only the trial court that has the foremost opportunity to observe, weigh and assess these matters. Only when it is evident in the records that some facts or circumstances of weight and influence have been overlooked by the trial court which, if considered, would affect

the result, will this Court act otherwise.[24]

In the present case, this Court is fully convinced that the trial court correctly concluded in finding accused-appellant guilty of murder. This is true even if the trial judge appears to have relied substantially on the testimonies of the victim's wife and her 13-year-old son. Not an iota of contradiction or inconsistency taints their statements. The fact that they are the blood kin of the victim do not give rise to the presumption of bias or ulterior motive, or ipso facto impair their credibility or tarnish their testimony. Even if the prosecution witnesses are the wife and son of the victim as in the case at bench, it may not be lightly presumed that they would callously violate their conscience to avenge the death of a dear one by blaming it on persons whom they know to be innocent thereof,[25] especially when they accuse their own relatives as in the case at bench.

Prosecution witness Adelina, wife of victim Camilo, positively identified accused-appellant as one of the perpetrators of the fatal shooting. She clearly narrated on the witness stand the extent of accused-appellant's participation in the incident. She categorically testified that accused-appellant, upon arriving at their house uttered these bone-chilling words to his co-accused and brother Lamberto "Let us get inside and kill him, brother." Then the Riglos brothers entered the house, and while at the door of the bedroom shot the defenseless and wounded Camilo several times. Adelina testified during cross-examination thus:

Q

You also stated during the direct examination that after the first gun shot the brother of Lamberto Riglos by the name of Wilfredo Riglos arrived, what did Wilfredo Riglos do upon reaching your house?

A

Wilfredo Riglos passed by my son who was under the acacia tree and he boxed the right cheek of my son and kicked him, sir.

Q

Where were you when Wilfredo Riglos boxed and kicked your son?

A

I was in the terrace, sir.

Q

That incident of Wilfredo Riglos boxing your son occurred after your husband was already hit, Madam Witness?

A

Yes, sir.

Q

What did you do upon seeing that Wilfredo Riglos was boxing your son?

A

I only shouted, sir.

Q

You did not come to the succor of your son?

A

No, sir.

Q

What did you tell Wilfredo Riglos upon seeing that your son was being boxed by Wilfredo, Madam witness?

A

I was not able to say anything, sir.

Q

After Wilfredo Riglos boxed your son, what happened next?

A

He went inside my house, sir.

Q

After that what happened next, Madam witness?

A

Wilfredo said, "let us get inside, Manong and let us kill him".

Q

Where were you when Wilfredo Riglos was telling that to his brother, Lamberto Riglos?

A

I was just there in the terrace, sir.

Q

Upon hearing that Madam witness, what did you do?

A

I shouted for help, sir.

Q

Did anybody come to help you?

A

None, sir.

Q

After you heard Wilfredo Riglos said to his brother to get inside and kill you (sic) husband, what happened next?

A

I ran away towards the east, sir.

COURT

You mean to say you left your husband?

A

Yes, because I went to report the matter to the barangay tanod, sir.

Q

You said, Madam Witness, that after you heard Wilfredo Riglos told [sic] his brother Lamberto Riglos to get inside and kill your husband you ran away towards the east?

A

Yes, sir.

Q

In that case, you did not see if Wilfredo and Lamberto Riglos entered your house?

A

I saw them, sir.

Q

Did you not say a while ago that you ran away when you heard Wilfredo Riglos said let us get inside and kill him?

A

Yes, sir.

ATTY. ARENAS

I am through with the witness, Your Honor.

COURT

Any re-direct?

xxx xxx xxx

PROS. VILLARIN

(On re-direct)

Q

You said that you ran after you heard Wilfredo said, let us get inside and kill him but you also said that you saw the two (2) entered your house, how is that, Madam witness? How did you see them entered if you ran away?

A

They were already inside when I ran, sir.

Q

Before you run [sic] away did you hear any shots?

A

Yes, sir.

Q

How many shots if you could still remember?

A

I could not recall but I heard, sir.

Q

Was it more than two shots?

A

Yes, sir.

Q

Before you run [sic] away you said that Wilfredo Riglos said to his brother let us get inside and kill him, could you still remember if Wilfredo [sic] holding anything?

A

Yes, sir.

Q

What was that?

A

A gun, sir.

PROS. VILLARIN:

That will be all, Your Honor.

COURT

You mean to say Wilfredo Riglos also has a gun?

A

Yes, each one of them has a gun, sir.

COURT

Tell the court what gun is that, is it long or short?
(Witness indicating 10 inches)

Any re-cross?

ATTY. ARENAS

(On re-cross)

Q

You said while you were running you heard shots, where were you when you heard those shots?

A

I had just left, sir.[26]

Jerry, son of the victim Camilo corroborated the testimony of Adelina on material points. His testimony is quoted as follows:

ATTY. ARENAS:

When Wilfredo Riglos arrived, Mr. Witness you stated that when he passed by you crying under the acacia tree, he hit you, what did you do, Mr. Witness when Wilfredo Riglos hit you?

A

I ran away, sir.

Q

At what point in time did Wilfredo Riglos arrived?

A

When my father was already shot, sir.

Q

You mean to say that it was after the second shot when Wilfredo Riglos hit you, you ran away, where did you proceed, Mr. Witness?

A

I went towards the east, sir.

Q

What particular place did you proceed?

A

In my Uncle Ric's house, sir.

Q

When you ran away, Mr. Witness you did not ... May I withdraw the question, Your Honor. You stated Mr. Witness that after you were hit you ran away, so that when Wilfredo Riglos arrived at your house you did not anymore hear what he told to his brother, Lamberto Riglos?

A

I still heard, sir.

Q

But did you not say a while ago that after you were hit by Wilfredo Riglos you ran away?

A

I ran slowly, sir.

Q

What was the exact words of Wilfredo Riglos to his brother, Lamberto Riglos, Mr. Witness?

A

"Let us get inside and kill him", sir.

Q

You mean to say while you were running you heard what Wilfredo Riglos told to his brother, Lamberto Riglos?

A

Yes, because Wilfredo said it in a very loud voice, sir.

Q

Where was Lamberto Riglos when Wilfredo Riglos told that?

A

Lamberto Riglos was beside the balcony, sir.

Q

You mean to tell us that after Lamberto Riglos fired the second shot he still stayed beside your house?

A

It was then that Wilfredo Riglos was arriving, sir.

ATTY ARENAS

I was asking where was Lamberto Riglos at the time he fired the second shot?

A

He was at the balcony, sir.

Q

How about your father, where was your father after the second shot was made by Lamberto Riglos?

A

He was inside our house, sir.

Q

Did you see if he was hit by the second shot made by Lamberto Riglos?

A

Yes, because I saw blood coming out, sir.

Q

You mean to tell us, Mr. Witness, while you were under the acacia tree you see what was going on inside your house?

A

A I could see them at the balcony, sir.

xxx xxx xxx

ATTY. ARENAS

(On re-cross)

Mister witness, you said that you heard shots inside your house while you were running, where were you already when you heard the shots?

A

I was under the acacia tree but I was running, sir.

Q

You also stated a while ago that when Wilfredo Riglos arrived you saw him holding a gun, what hand was he holding that gun with?

(Witness indicating his right arm)

A

Could you demonstrate the manner when he was holding the gun when he arrived and saw him?

(Witness raised his right arm up to the level of his ear).

Q

When you saw Wilfredo Riglos holding a gun, Mr. Witness, did you not ran away?

A

Not yet because when he passed by me, he kicked and boxed me, sir.

Q

What hand did he use in hitting you, Mr. Witness?

A

His left hand, sir.

Q

How about the other hand, what was the other hand doing?

A

He was holding a gun, Sir.[27]

In contrast to the foregoing positive declaration by Adelina and Gerry, accused-appellant relied merely on the defenses of denial and alibi, both of which are inherently weak. For the defense of alibi to prosper, it must be sufficiently convincing as to preclude any doubt as to the physical impossibility of the accused-appellant's being present at the locus criminis or its immediate vicinity at the time of the incident.[28] It was established that immediately before the incident, accused-appellant was in the house of a certain Costes which was only about 17 to 20 meters away from the house of the victim. A positive identification of the accused-appellant made by an eyewitness prevails over the defenses of denial and alibi. In the present case, accused-appellant was positively identified by Adelina and Gerry who were present when the incident occurred.[29]

As to the contention of accused-appellant that the qualifying circumstances of treachery and abuse of superior strength are absent, since the act of aggression was preceded by a violent quarrel between Lamberto Riglos and victim, Camilo Valdez, this Court finds the same untenable.

In the instant case, there are two stages of the act of aggression committed against the victim. The first one was preceded by a heated argument when the victim refused to give money to accused Lamberto, which led the latter to shoot the victim on the chest. The aggression against the victim, Camilo, had already ceased when after the second shot that hit him on the chest, he slowly retreated to the bedroom in their house.

However, the subsequent act was definitely treacherous. Upon the arrival of accused-appellant Wilfredo, he uttered these words to Lamberto, "Let us get inside and kill him, brother", and then they immediately went inside the victim's house, and at the entrance of the door leading to the couple's bedroom, they saw the wounded Camilo sitting on the bed and shot him several times. The attack was a total surprise to the victim as he did not expect any from accused-appellant Wilfredo with whom he had no quarrel. Furthermore, the suddenness of the attack made it impossible for the victim to defend himself. The victim was totally defenseless when both accused attacked him. Treachery is to be appreciated even when the victim was warned of danger or initially assaulted frontally, but was attacked again after being rendered helpless and had no means to defend himself or to retaliate. Thus, treachery or alevosia clearly attended the killing of the victim, Camilo Valdez, because the accused employed means, methods or forms in the commission of the crime which tend directly and specially to insure its execution, without risk to themselves arising from any defense which the victim might have made.[30]

As to abuse of superior strength, the same has been proven to attend the killing of Camilo Valdez. Settled is the

rule that abuse of superior strength is present whenever there is inequality of forces between the victim and the aggressor, assuming a situation of superiority of strength notoriously advantageous for the aggressor and selected or taken advantage of by him in the commission of the crime.[31] In this case, Wilfredo and Lamberto, both in the prime of their youth, were each armed with a gun when they suddenly attacked the victim, Camilo, a 58-year-old man already bleeding from a previous gunshot wound on his chest earlier inflicted by Lamberto. Plainly, there was great disparity between the relative strength of the two accused and their victim.

However, this Court finds that the trial court erred in considering the aggravating circumstance of abuse of superior strength. Where treachery qualifies the crime of murder, it absorbs abuse of superior strength and the latter cannot be appreciated even as a generic aggravating circumstance.[32]

With respect to the generic aggravating circumstance of dwelling, the same was properly appreciated by the trial court, considering that Wilfredo purposely entered the victim's house with the intention to kill him.[33] Dwelling is considered aggravating primarily because of the sanctity of privacy the law accords to human abode. "He who goes to another's house to hurt him or do him wrong is more guilty than he who offends him elsewhere." [34]

All the foregoing considered, the trial court did not err in convicting the accused-appellant of the crime of murder. Article 248 of the Revised Penal Code, as amended, provides that any person who shall kill another, shall be guilty of murder and shall be punished by reclusion perpetua to death if committed with the attendant circumstance of treachery. Pursuant to Article 63 of the Revised Penal Code[35], the imposable penalty, in view of the presence of the aggravating circumstance of dwelling, shall be the supreme penalty of death for the killing of Camilo Valdez.

With regard to the civil indemnity ex delicto awarded by the trial court, the sum of P50,000.00 granted to the heirs of the deceased is proper since civil indemnity is automatically granted to the heirs of the victim without need of proof other than the commission of the crime. [36] The amount of P200,000.00 for moral damages which the trial court awarded is excessive considering the purpose for making such an award, which is to compensate the heirs for injury to their feelings and not to enrich them. An award of P50,000.00 would be adequate for the purpose.[37] Actual damages cannot be awarded since the records show that the prosecution failed to substantiate the bare testimony of the widow, Adelina Valdez that she incurred the amount of P30,000.00 for funeral expenses. The court can only grant actual damages for such expenses if they are supported by receipts.[38] However, an award of P50,000.00 as exemplary damages is justified under Article 2230 of the New Civil Code considering that the aggravating circumstance of dwelling attended the commission of the crime.[39]

Four (4) Justices of the Court however continue to maintain the unconstitutionality of RA No.7659 insofar as it prescribes the death penalty; nevertheless, they submit to the ruling of the majority to the effect that the law is constitutional and that the death penalty can be lawfully imposed in the case at bar.

WHEREFORE, the appealed decision of the Regional Trial Court of Urdaneta, Pangasinan (Branch 49) in Criminal Case No. U-8520 dated July 6, 1998 imposing the death penalty on the accused-appellant Wilfredo Riglos y Ramos for the crime of murder is hereby AFFIRMED with the MODIFICATION that the said crime of murder was aggravated by the circumstance of dwelling alone, and that the accused-appellant is ordered to pay the heirs of the victim, Camilo Valdez, the amounts of P50,000.00 as moral damages, P50,000.00 for exemplary damages, and P50,000.00 as civil indemnity ex delicto.

In accordance with Sec. 25 of the RA 7659, amending Art. 83 of the Revised Penal Code, upon the finality of this Decision, let the records of this case be forthwith forwarded to His Excellency, the President of the Philippines, for the possible exercise of his pardoning power. Costs against accused appellant.

SO ORDERED.

Davide, Jr., C.J., Bellosillo, Melo, Puno, Vitug, Kapunan, Mendoza, Panganiban, Quisumbing, Purisima, Pardo, Buena, Gonzaga-Reyes, Ynares-Santiago, and De Leon, Jr., JJ., concur.

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- [1] Penned by Judge Joven F. Costales; Rollo, pp. 21-59.
- [2] TSN, July 7, 1997, pp. 3-5.
- [3] TSN, August 5, 1997, pp. 4, 11.
- [4] Id., p. 34.
- [5] TSN, July 7, 1997, p. 7.
- [6] TSN, August 5, 1997, pp. 17, 25-26.
- [7] TSN, August 5, 1997, p. 9.
- [8] Id., p. 10.
- [9] TSN, July 7, 1997, pp. 10-11.
- [10] TSN, October 8, 1997, p. 6.
- [11] TSN, September 15, 1997, p. 7.
- [12] Id., p. 9.
- [13] TSN, September 15, 1997, p. 4.
- [14] Should be Camilo Valdez as per Death Certificate; Original Record, p. 7.
- [15] Original Record, p. 1.
- [16] Original Record, p. 59.
- [17] TSN, September 3, 1997, pp. 2-3, 6-10, 15-16.
- [18] TSN, June 15, 1998, pp. 4-5, 7, 9.
- [19] TSN, June 15, 1998, pp. 26-27.
- [20] Id., pp. 10-13.
- [21] TSN, June 22, 1998, pp. 24-26, 28.
- [22] Id., pp. 9-10.
- [23] Records, pp. 83-97.
- [24] People v. Tanoy, G.R. No. 115692, May 12, 2000; People v. Repollo, G.R. No. 134631, May 4, 2000; People v. Gaviola, G.R. No. 126125, March 9, 2000; People v. Galedo, G.R. No. 128883, February 22, 2000.
- [25] People v. Castillo, G.R. No. 130188, April 27, 2000; People v. Catampongan, G.R. No. 131732, November 19, 1999; People v. Basco, G.R. No. 129732, November 19, 1999.
- [26] TSN, August 5, 1997, pp. 36-40.

[27] TSN, August 5, 1997, pp. 17-19, 25-26.

[28] *People v. Monieva*, G.R. No. 123912, June 8, 2000; *People v. Maguad*, 287 SCRA 535 [1998].

[29] *People v. Abdul*, 310 SCRA 246, 264-265 [1999].

[30] *People v. Molina*, 292 SCRA 742, 776 [1998].

[31] *People v. Asis*, 286 SCRA 64, 74 [1998] ; *People v. Daquipil*, 240 SCRA 314, 332-333 [1995].

[32] *People v. Go-od*, G.R. No. 134505, May 9, 2000; *People v. Estorca*, G.R. No. 111941, April 27, 2000;

[33] Article 14(5) of the Revised Penal Code provides that where the crime was committed in the dwelling of the offended party and the latter has not given any provocation, the same is considered an aggravating circumstance.

[34] *People v. Paraiso*, G.R. No. 127840, November 29, 1999.

[35] Article 63, second par. Of the Revised Penal Code, provides that “[I]n all cases in which the law prescribes a penalty composed of two indivisible penalties, the following rules shall be observed in the application thereof: 1. [w]hen in the commission of the deed there is present one aggravating circumstance, the greater penalty shall be applied.”

[36] *People v. Dimailig*, G.R. No. 120170, May 31, 2000; *People v. Tolibas*, G.R. No. 103506, February 15, 2000.

[37] *People v. Gutierrez*, 302 SCRA 643, 668 [1999] ; *Baliwag Transit, Inc. v. Court of Appeals*, 262 SCRA 230, 235 [1996] ; *Supra*.

[38] *People v. Go-od*, G.R. No. 134505, May 9, 2000; *People v. Gutierrez*, 268 SCRA 643, 666[1999].

[39] *People v. Rios*, G.R. No. 132632, July 19, 2000.

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