

CONRADO CANO Y SAMPANG, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

G.R. No. 155258. October 07, 2003

Ponente: YNARES-SANTIAGO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-155258/>

YNARES-SANTIAGO, J.:

The primordial issue to be resolved in this petition for certiorari is whether or not petitioner killed his brother in self-defense.

Petitioner Conrado Cano y Sampang and his deceased brother Orlando Cano were rivals in the Rush ID Photo business and had booths along the sidewalk of Rizal Avenue, Sta. Cruz, Manila fronting the Philippine Trust Bank and Uniwide Sales Department Store. The fateful altercation which culminated in the fatal stabbing of Orlando Cano stemmed out of this rivalry, particularly the incident where Conrado took the business permit from the booth of Orlando without his permission thus incurring the latter's ire.

The prosecution's version of what transpired as summarized in the People's brief[1] shows that in the morning of May 31, 1993, at about 7:00 o'clock, the victim Orlando Cano arrived at the Rush ID Booth of petitioner located below the LRT line in Rizal Avenue, Sta. Cruz, Manila. The victim asked David Olivario, an employee of petitioner, where the latter was. The victim angrily said that petitioner was pakialamero. He also said, "Putang ina niya! Why did he Xerox our permit." Since petitioner had not yet arrived, the victim returned to his own Rush ID booth located several meters away.[2]

Later, at about 9:30 a.m., petitioner arrived at his Rush ID booth. After giving supplies to Olivario, petitioner said he was going to the City Hall. He faced the mirror and started to comb his hair. The victim suddenly arrived and held petitioner on the shoulders and turned him around. The victim asked him, "Anong gusto mong mangyari?" Accused did not answer.[3]

The victim tried to stab petitioner with a balisong but the latter was able to run and lock himself inside the dark room inside his booth. The victim followed him and tried to open the door of the dark room and shouted, "Lumabas ka diyan! Putang ina mo, papatayin kita!" Petitioner did not come out. The victim tried to force the door open by kicking it and stabbed the door with his balisong. The door of the dark room suddenly opened and petitioner emerged carrying a pair of scissors. The victim and petitioner struck at each other. During the scuffle, the scissors fell from petitioner's hand. He then grabbed the knife of the victim who, in turn, picked up the scissors. They again attacked each other.[4]

The victim fell and his wife rushed to his side. Petitioner fled from the scene. The victim's wife asked for assistance from the people in the vicinity. The victim was then loaded on a jeep and was rushed to a hospital, but he was dead on arrival.[5]

The autopsy report submitted by the medico-legal officer of the Western Police District, Dr. Manuel Lagonera, shows that the victim sustained at least thirty (30) stab wounds, six (6) of which were fatal.[6] On the other hand,

petitioner suffered only an incised wound on the right hand measuring six (6) cm., which required less than nine (9) days of treatment.

Petitioner had a different account of what transpired. He testified that on May 31, 1993 at around 9:30 a.m. he went to his Rush ID booth in front of the Philtrust Bank to deliver supplies to his photographer, David Olivario.[7] After handing over said supplies to Olivario, petitioner intended to go to the Manila City Hall to apply for a business permit.[8]

Petitioner's earlier application for a permit was denied.[9] He sought a reconsideration from the city officials and argued that his brother was issued a similar permit. In order to prove his point, he borrowed the permit of his brother from his nephew, Wilson Reyes, to have it machine copied.[10] After doing so, petitioner returned it.[11] The victim apparently resented this because petitioner was informed by David Olivario that Gloria Cano later went to petitioner's stall angrily inquiring why they got the permit.[12]

As petitioner was combing his hair and preparing to leave for the Manila City Hall, the victim, Orlando, suddenly appeared from behind, grabbed him by the left shoulder and jerked him around so that they were face to face.[13] As they stood face to face, Orlando menacingly said, "Anong gusto mong mangyari?"[14] Petitioner noticed Orlando holding a balisong, and he ran to the dark room of his stall.[15]

The victim pursued him and tried to force open the locked dark room door by kicking it and stabbing it with the fan knife.[16] He kept shouting, "Get out of there! Pakialamero ka! Get out of there and I will kill you!"[17] The door suddenly gave way and, as it opened, the victim charged at petitioner, but he was able to evade the attack. Snatching a pair of scissors nearby, petitioner retaliated but the scissors fell from his grasp because it was parried by the victim.[18] Petitioner then grabbed the hand of the victim holding the balisong and they grappled to gain possession thereof. He eventually wrested control of the knife and as he stood momentarily, the victim picked up the scissors and again lunged at him.[19]

With nowhere to go, petitioner was forced to defend himself from the onslaught of the victim who was armed with the nine-inch long pair of pointed scissors.[20] No bystanders tried to pacify them as they engaged in their deadly struggle for almost two (2) minutes. Suddenly, the victim collapsed and fell bloodied to the floor.[21]

Petitioner stooped to lift his brother up, intending to bring him to the hospital. However, he was hit by the victim's wife with a chair. Then, she started shouting, "Holdupper!"[22] Petitioner was forced to flee from the scene for fear of being lynched by the people who had gathered around armed with clubs. The people pursued him but when he saw a policeman coming in his direction, he threw the balisong away and raised his hands in surrender.[23] He was then brought to the police precinct and later to the hospital for treatment of his injuries.[24]

Petitioner was charged with Homicide in an Information[25] which alleges -

That on or about May 31, 1993, in the City of Manila, Philippines, the said accused, with intent to kill, did then and there willfully, unlawfully and feloniously attack, assault and use personal violence upon one ORLANDO CANO y SAMPANG, by then and there stabbing the latter on the different parts of his body, thereby inflicting upon the said ORLANDO CANO Y SAMPANG mortal and fatal wounds which were the direct and immediate cause of his death thereafter.

Contrary to law.

The case was docketed as Criminal Case No. 93-121668 and filed with the Regional Trial Court of Manila, Branch 31.

Upon arraignment, petitioner pleaded not guilty to the offense charged. The case thereupon proceeded to trial.

After trial, the court a quo rendered judgment[26] finding petitioner guilty beyond reasonable doubt of the crime and sentencing him to serve an imprisonment of seventeen (17) years, four (4) months and one (1) day of reclusion temporal and to indemnify the heirs of the deceased P50,000.00 plus costs.

Petitioner interposed an appeal to the Court of Appeals, where it was docketed as CA-G.R. CR No. 19254.

During the pendency of the appeal,[27] Gloria Cano, the widow of the victim, executed a Sinumpaang Salaysay[28] stating, among others, that petitioner merely acted in self-defense and that she was withdrawing the charge against him. This sworn statement became the basis of an Urgent Motion for New Trial[29] on the ground of newly discovered evidence filed by counsel for petitioner.

This motion for new trial was, however, denied by the Court of Appeals in a Resolution dated March 19, 1998.[30]

The appellate court subsequently rendered judgment affirming petitioner's conviction but modifying the penalty to an indeterminate sentence of imprisonment ranging from nine (9) years and one (1) day of prision mayor, as minimum, to fourteen (14) years and eight (8) months of reclusion temporal, as maximum. Petitioner was likewise ordered to pay the heirs of the victim actual damages of P24,605.75; P50,000.00 as moral damages and another P50,000.00 as civil indemnity ex delicto plus costs.[31]

Preliminarily, the Solicitor General argues that the petition raises merely factual issues, such as whether or not petitioner is entitled to the justifying circumstance of self-defense and the mitigating circumstance of provocation or threat and voluntary surrender. These issues, says the Solicitor, are not proper for a petition for review under Rule 45 of the Rules of Civil Procedure.

Concededly, those who seek to avail of the remedies provided by the rules must adhere to the requirements thereof, failure of which the right to do so is lost. It is, however, equally settled that rules of procedure are not to be applied in a very rigid, technical sense and are used only to help secure substantial justice. If a technical and rigid enforcement of the rules is made, their aim would be defeated.[32] They should be liberally construed so that litigants can have ample opportunity to prove their claims and thus prevent a denial of justice due to technicalities.[33]

Therefore, we shall proceed to resolve the issue of whether or not petitioner is entitled to invoke the justifying circumstance of self-defense, considering that what is at stake is not merely his liberty, but also the distinct possibility that he will bear the stigma of a convicted felon and be consigned to the fate of being a social pariah for the rest of his life.

As can be seen from the foregoing, the prosecution and the defense have diametrically opposed factual versions of what transpired immediately preceding the killing. Our task is to determine which of them is the truth. In resolving such conflict, dealing as it does with the credibility of witnesses, the usual rule is for us to respect the findings of the trial court considering that it was in a better position to decide the question, having heard the witnesses themselves and having observed their deportment and manner of testifying during trial.[34] Nonetheless, this rule is circumscribed by well-established exceptions.[35]

In the case at bar, the record shows circumstances of weight and influence which have been overlooked, or the significance of which has been misinterpreted, that if considered would affect the result of the case.[36]

For self-defense to prosper, petitioner must prove by clear and convincing evidence the following elements: (1) unlawful aggression on the part of the victim; (2) reasonable necessity of the means employed to prevent or repel it; and (3) lack of sufficient provocation on the part of the person defending himself.[37] Although all the three

elements must concur, self-defense must rest firstly on proof of unlawful aggression on the part of the victim. If no unlawful aggression has been proved, no self-defense may be successfully pleaded, whether complete or incomplete.[38] In other words in self-defense, unlawful aggression is a primordial element. It presupposes an actual, sudden and unexpected attack or imminent danger on the life and limb of a person - not a mere threatening or intimidating attitude - but most importantly, at the time the defensive action was taken against the aggressor.[39]

In the case at bar, there are several material circumstances which were ignored by both the court a quo and the appellate tribunal.

First, contrary to the findings of both the appellate and trial courts, there are facts extant on record which clearly shows that it was an armed victim who initially attacked the petitioner with a balisong. Petitioner testified on the assault thus:

Atty. Ferrer:

What happened after that when Orlando Cano grabbed you and came face to face with him?

A.

I answered him none but he was in a menacing position with his hands around something and I suddenly ran away.

Q.

What was that something in the hands of Orlando Cano that made you run away?

A.

Balisong "29," Sir.

Atty. Ferrer:

And where did you run to?

A.

I went inside my booth because that is the only place I can run to.

Q.

And what happened inside your booth, if any?

A.

He also ran after me and then when I was inside we were having a tug of war of the doorknob which I tried to close and which he tried to open.

Q.

What happened after that?

A.

But I was able to close the door but he kept on kicking the door that I turned deaf.

Q.

What else happened, if any?

A.

While he was kicking, he was also stabbing the door with the "29" (balisong) he was holding.

Q.

And you said you heard the thudding of the door making noise, what happened if any?

A.

He kept on shouting, "Get out of there! Pakialamero ka!" "Get out of there and I will kill you."

Q.

What did you do did you go out?

A.

While he was shouting I did not notice that the door was not completely closed because the lock went on and the door suddenly opened.

Q.

What happened after the door got open?

A.

When the door opened he again rushed me, stabbed and I was able to evade it.

Atty. Ferrer:

What else happened?

Witness:

A.

I was able to grab a scissors and that was the time I retaliated.

Q.

Who owned this scissors?

A.

That scissors was mine because it is used in cutting paper.

Q.

Now, you said you retaliated after grabbing a pair of scissors where did you retaliate?

A.

I was about to retaliate in the door of the room because the room was very small.

Q.

Where you able to retaliate?

A.

No, sir, I was not able to retaliate because the scissors fell when he was able to parry it.

Q.

What happened after that, after that piece of scissors fell from your hold?

A.

I took hold of his hand holding the "balisong" and we had a scuffle to get hold or possession of the "balisong."

Q.

What happened after the scuffling for the "balisong"?

A.

After one (1) minute I was able to grab possession of the "balisong."

Q.

What happened after that?

A.

When I was able to get hold of the "balisong" I just remained standing and I just . . .

Q.

What else happened?

A.

He was able to pick up the scissors that I dropped and he again launched [himself] at me [with] the scissors.

Q.

What did you do, if any?

A.

That was the time when my mind was confused and I don't have any place to go and I tried to defend myself and we fought each other.

Atty. Ferrer :

And at the time when you said you fought each other, Orlando Cano was holding the scissors and you were holding the "balisong," correct?

A.

Yes, sir.[40]

David Olivario, who was five meters away and saw what transpired, corroborated petitioner's account.[41] He remained steadfast and unwavering on cross-examination despite intense grilling by the prosecution[42] and further clarificatory questioning from the trial court itself.[43]

Second, the physical evidence is more in accord with petitioner's version of what transpired, specifically his assertion that it was the victim who was armed and persisted in his attack on the petitioner even though the latter locked himself inside the dark room of his stall to protect himself. The findings of Police Investigator SPO3 Julian

Z. Bustamante contained in his Advance Information Report[44] discloses that "[H]oles were observed at the door near the door lock of suspect's rush ID photo booth apparently made by a hard pointed instrument..."[45] Aside from stating that a fan knife and a pair of scissors which both yielded positive results for traces of human blood were recovered, the report went further to note that the "bloodied scissor were (sic) recovered in front of suspect's rush ID photo booth door." [46]

The foregoing entries of the Advance Information Report, particularly that referring to the location of the bloodied scissors, supports petitioner's claim that when he could no longer avoid the unlawful aggression of the victim, he was compelled to grab at the instrument inside the booth to defend himself. However, the scissors fell from his grasp, thus forcing him to desperately grapple for possession of the fan knife.

Third, circumstances prior to the fatal incident shows that it was the victim who purposely sought to confront the petitioner because the latter had his business permit machine copied without his permission. Maria Cano, an aunt of the victim and petitioner, testified thus:

Q:

And Orlando Cano, did he tell you any reason why he was waiting for Conrado Cano [at] that particular morning?

A:

Because he was very angry and said that there will be an encounter between them.

Atty. Ferrer:

What did you do, if any?

Witness:

A:

You brothers you should calm down because you are brothers.

Q:

By the way what was the reason why, if you know why, Orlando told you that "sila'y magtutuos," quoting your own words?

A:

Orlando Cano is mad because Conrado Cano got Orlando's business permit and had it xeroxed and after xeroxing it and he returned the permit of Orlando Cano.

Q:

Could you tell us how Orlando Cano uttered those words "magtutuos..."?

A:

Orlando Cano told me this is the day when we will have a confrontation and at this juncture, I even tapped [his] right pocket, I did not see what was there but I saw the handle.

x x x x x x x x

Q:

As the aunt of the two (2) what was your reaction when Orlando told you that?

A:

I told, Orlando, calm down because you are brothers and if something bad that will happen (sic) your mother will suffer because of the incident.

Atty. Ferrer:

And what was the reaction of Orlando, if any, after you said those words of advice?

A:

Orlando Cano answered me, well, shall I remain silent and will not utter any word at all?

Q:

And was that that (sic) word confined to Orlando?

A: No, Sir, because I also advised Gloria.

Q

And what was the advise you gave Gloria?

A:

I told Gloria because the only one who can prevent this incident is you because Orlando is your husband.

Q:

And what was the reaction, if any of Gloria Cano?

A:

Gloria told me, there is nothing I can do because they are brothers and they are responsible for their own lives.

Q:

What else happened, if any?

A:

That was the time I bid goodbye.[47]

(emphasis and italics supplied)

Fourth, the record reveals that while indeed numerous wounds were sustained by the victim, the Medico-Legal Officer who conducted the autopsy admitted that of the thirty-five (35) wounds supposedly inflicted, thirty-three (33) were scratches and contusions while only six (6) were penetrating or stab wounds.[48] As regards the finding that petitioner suffered only one hand wound, it should be stressed that the superficiality of the nature of the wounds inflicted on the accused does not, per se, negate self-defense. Indeed, to prove self-defense, the actual wounding of the person defending himself is not necessary. It is sufficient that the aggression be attempted so as to give rise to the right to prevent it.[49] The act of a person armed with a bladed weapon pursuing another constitutes unlawful aggression because it signifies the pursuer's intent to commit an assault with this weapon.[50]

The particular circumstances which confronted the petitioner at the time of the incident condoned the means he employed to protect his life. It must be remembered that the measure of rational necessity is to be found in the situation as it appeared to petitioner at the time when the blow was struck. The law does not require that he should mete out his blows in such manner that upon a calm and deliberate review of the incident it will not appear that he

exceeded the precise limits of what was absolutely necessary to put his antagonist hors de combat, or that he struck one blow more than was absolutely necessary to save his own life; or that he failed to hold his hand so as to avoid inflicting a fatal wound where a less severe stroke might have served the purpose. Under such conditions, an accused cannot be expected to reflect coolly nor wait after each blow to determine the effects thereof.[51]

. . . the reasonableness of the means employed to repel an actual and positive aggression should not be gauged by the standards that the mind of a judge, seated in a swivel chair in a comfortable office, free from care and unperturbed in his security, may coolly and dispassionately set down. The judge must place himself in the position of the object of the aggression or his defender and consider his feelings, his reactions to the events or circumstances. It is easy for one to state that the object of the aggression or his defender could have taken such action, adopted such remedy, or resorted to other means. But the defendant has no time for cool deliberation, no equanimity of mind to find the most reasonable action, remedy or means to. He must act from impulse, without time for deliberation. The reasonableness of the means employed must be gauged by the defender's hopes and sincere beliefs, not by the judge's.[52]

Fifth, there was lack of sufficient provocation on the part of petitioner. When the law speaks of provocation either as a mitigating circumstance or as an essential element of self-defense, it requires that the same be sufficient or proportionate to the act committed and that it be adequate to arouse one to its commission. It is not enough that the provocative act be unreasonable or annoying.[53] This third requisite of self-defense is present: (1) when no provocation at all was given to the aggressor; (2) when, even if provocation was given, it was not sufficient; (3) when even if the provocation was sufficient, it was not given by the person defending himself; or (4) when even if a provocation was given by the person defending himself, it was not proximate and immediate to the act of aggression.[54]

Petitioner borrowed the permit of the victim and had it photocopied without the latter's permission two (2) days before the incident.[55] The victim and his wife resented this. However, this can hardly be considered a provocation sufficient to merit so deadly an assault with a bladed weapon. Moreover, the act was neither immediate nor proximate.[56] What, in fact, appears on record is the bellicose temperament of the victim and his spouse who, despite the advice of their Aunt Maria Cano to calm down, still persisted in confronting petitioner. When the question is raised who between the accused and the offended party gave provocation, the circumstances of subjective, objective and social character may be considered in reaching a definite conclusion.[57] Thus an accused, to prove provocation in connection with his plea of self-defense, may show that the victim, as in this case, had a quarrelsome and irascible disposition.[58]

Sixth, two other notable circumstances on record tend to show that petitioner was impelled by the instinct of self-preservation rather than the murderous urge of one bent on killing. The first is when petitioner was able to wrest the balisong from the victim, he never took advantage of the opportunity to attack his already weaponless brother. Rather, he stood still and was forced to act only when the victim picked up the scissors and lunged at him again.[59] The second instance is when the victim fell. Had petitioner been actuated by homicidal intentions, he would have persisted in his attack on his prostrate brother. He did nothing of the sort. He, in fact, intended to lift the victim up and bring him to the hospital but the sudden appearance of the victim's wife who hit him with a chair forced him to flee. Moreover, armed people were attracted by the shouts of the victim's wife and had gathered and started pursuing him.[60]

Seventh, while the general policy is for the courts not to attach any persuasive evidentiary value to the affidavit of retraction of the victim's widow, such sworn statement acquires a weightier and more decisive evidentiary consideration when taken in conjunction with the other prevailing facts in this case. Thus, it has oft been said that where inculpatory facts and circumstances are susceptible of two or more interpretations, one of which is consistent with the innocence of the accused while the others may be compatible with a finding of guilt, the Court

must acquit the accused because the evidence does not fulfill the test of moral certainty required for conviction.[61]

All told, evidence shows that petitioner acted in lawful self-defense. Hence, his act of killing the victim was attended by a justifying circumstance, for which no criminal and civil liability can attach.[62] Article 11 (1) of the Revised Penal Code expressly provides that anyone who acts in lawful self-defense does not incur any criminal liability. Likewise, petitioner is not civilly liable for his lawful act. The only instance when a person who commits a crime with the attendance of a justifying circumstance incurs civil liability is when he, in order to avoid an evil or injury, does an act which causes damage to another, pursuant to subdivision 4 of Article 11 of the Revised Penal Code.[63] Otherwise stated, if a person charged with homicide successfully pleads self-defense, his acquittal by reason thereof will extinguish his civil liability.[64]

WHEREFORE, in view of all the foregoing, the judgment appealed from is REVERSED and SET ASIDE. Petitioner Conrado Cano y Sampang is ACQUITTED of the crime charged against him and his immediate release from custody is ordered unless there is another cause for his continued detention.

Costs de oficio.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Vitug, Carpio, and Azcuna, JJ., concur.

[1] Rollo, pp. 73-76.

[2] TSN, 18 February 1994, pp. 3-6, 10.

[3] Id., pp. 14, 15; 16 May 1994, pp. 3-5.

[4] Id., pp. 15, 16; 28 February 1994, pp. 3-5.

[5] TSN, 2 August 1993, p. 5; 28 February 1994, pp. 5, 6.

[6] Record, pp. 59-62; Exhibit F.

[7] Id.

[8] Id., p. 4.

[9] Id., p. 14.

[10] Id., p. 15.

[11] Id.

[12] Id., p. 16.

[13] Id., pp. 4-5.

[14] Id., p. 5.

[15] Id., pp. 5-6.

[16] Id., p. 6.

[17] Id.

[18] Id., p. 7.

[19] Id., pp. 7-8.

[20] Id., pp. 8-9.

[21] Id., p. 9.

[22] Id., p. 10.

[23] Id.

[24] Id., pp. 10-11.

[25] Rollo, p. 25.

[26] Id., pp. 58-64; penned by Judge Regino T. Veridiano II.

[27] Docketed as CA-G.R. CR No. 19254 entitled *People v. Conrado Cano y Sampang*.

[28] Rollo, p. 100.

[29] Id., p. 103.

[30] Id., p. 118.

[31] Id., p. 138; penned by Associate Justice Renato C. Dacudao, concurred in by Associate Justices Ruben T. Reyes and Mariano C. Del Castillo.

[32] *Director of Lands v. CA*, 363 Phil. 117 [1999].

[33] *Cometa v. CA*, 361 Phil. 383 [1999].

[34] *People v. Atilano Gilbero*, G.R. No. 142005, 23 January 2002, citing *People v. Cura*, 240 SCRA 234 [1999]; *People v. Aquino*, 284 SCRA 369 [1998].

[35] Factual findings of the trial court are entitled to great weight on appeal except when: (1) the inference made is manifestly mistaken, absurd or impossible; (2) there is grave abuse of discretion; (3) the finding is grounded entirely on speculations, surmises or conjectures; (4) the judgment is based on misapprehension of facts; (5) the findings are conflicting; (6) the court in making its findings, went beyond the issues of the case and the same is contrary to the admissions of the contending parties; (7) the findings of the Court of Appeals are contrary to those of the trial court; (8) the findings of fact are conclusions without citation of specific evidence on which they are based; (9) when the court manifestly overlooked certain relevant facts not disputed by the parties and which if properly considered would justify a different conclusion; and (10) when the findings are premised on absence of evidence and are contradicted by the evidence on record. (*Golangco v. CA*, 283 SCRA 493 [1997]). See also *People v. Gulion*, G.R. No. 141183, 18 January 2001, 349 SCRA 610, 620-621, citing *People v. Dizon*, 336 SCRA 54, 61 [2000].

[36] *Solinap v. Locsin*, G.R. No. 146737, 10 December 2001, 371 SCRA 711; see also *People v. Samson, et al.*, G.R. No. 133437, 16 November 2001, p.11, citing *People v. Dizon*, 309 SCRA 669, 687 [1999]; *People v. Batidor*, 303 SCRA 335, 345 [1999] and *People v. Dinglasan*, 267 SCRA 26, 39 [1997]; see also *People v. Arrojado*, G.R. No. 130492, 31 January 2001, 350 SCRA 679, 691.

[37] *People v. Galvez*, G.R. No. 130397, 17 January 2002.

[38] *People v. Dela Cruz*, G.R. No. 139970, 6 June 2002.

- [39] *People v. Galvez*, supra.
- [40] TSN, 16 May 1994, pp. 3-8.
- [41] TSN, 18 February 1994, pp. 14-16; 28 February 1994, pp. 3-5.
- [42] TSN, 21 March 1994, pp. 34-54.
- [43] *Id.*, pp. 54-56.
- [44] Exhibit H; Record, pp. 63-64.
- [45] Record, p. 64.
- [46] *Id.*
- [47] TSN, 22 April 1994, pp. 3-7.
- [48] TSN, 27 August 1993, p. 3.
- [49] Aquino R.C., Revised Penal Code, 1997 ed., Vol. I, p. 139.
- [50] *Id.*
- [51] Aquino R.C., Revised Penal Code, supra, pp. 147-148, citing *People v. Espina*, CA 49 O.G. 983; *People v. Del Pilar*, CA 44 O.G. 596 and *U.S. v. Macasaet*, 35 Phil. 229 [1916].
- [52] *People v. Fajardo*, CA-G.R. No. 4679, 30 June 1950, 6 Velayo's Digest 115.
- [53] Aquino R.C., supra, p. 116, citing *People v. Dolfo*, CA 46 O.G. 1621.
- [54] Reyes L.B., The Revised Penal Code, Vol. I, 14th Revised Edition (1998), pp. 179-180.
- [55] TSN, 16 August 1994, pp. 14-16; 1 February 1994, pp. 7-10.
- [56] *U.S. v. Laurel*, 22 Phil. 252 [1912].
- [57] *People v. Sotelo*, 55 Phil. 396 [1931].
- [58] *People v. Babiera*, 52 Phil. 97, 110 [1928].
- [59] TSN, 16 May 1994, pp. 7-8, 30-31.
- [60] *Id.*, pp. 9-10.
- [61] *People v. Danilo Abino y Advincula*, G.R. No. 137288, 11 December 2001, citing *People v. Solis*, G.R. No. 138986, 20 January 2001, citing *People v. Ale*, 145 SCRA 50 [1986]; *People v. Malbog*, 342 SCRA 620 [2000]; *People v. Sevilla*, 339 SCRA 625 [2000].
- [62] *Frias v. People*, 245 Phil. 1, 14 [1984].
- [63] Revised Penal Code, Article 101.
- [64] *Marcia, et al. v. Court of Appeals*, 205 Phil. 147, 157 [1983].

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.