

THE PEOPLE OF THE PHILIPPINES, APPELLEE, VS. LEO BARRIGA (AT LARGE), REYNALDO BARRIGA ALIAS “BAHO-BAHO,” PETER DOE, PAUL DOE AND RICHARD DOE, APPELLANTS.

G.R. No. 178545 [Formerly G.R. No. 135972]. September 29, 2008

Ponente: TINGA, J.

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TINGA, J.:

The prosecution charged appellant Reynaldo Barriga and four others with murder for the killing of Eduardo Villabrille (Eduardo).[1] Only appellant was arrested and tried before the trial court[2] after pleading not guilty upon arraignment.[3]

The prosecution, on the other hand, presented Helen Casuya (Helen), Rogelio Sucuaji (Rogelio), Felixberta Villabrille (Felixberta) and Crisanta Magallano (Crisanta) as witnesses. Rogelio, Crisanta and Felixberta testified on the facts prior to and after the killing of Eduardo, which showed that appellant actively participated in planning the murder and in addition, they corroborated Helen's account of the incident. Felixberta also testified on the matter of damages. On the other hand, the defense introduced appellant himself, Natividad Barriga (Natividad), Efinito Wahing (Efinito) and SPO2 Henry Bustamante as witnesses.

The prosecution's evidence established the following facts:

On 10 March 1995, appellant and an old man went to see Helen, the common-law wife and fiancée of Eduardo, at her house, seemingly to inquire about a lot for sale owned by a certain Miss Rosal. After talking with Miss Rosal, appellant asked Helen for the location of Eduardo's house, to which she answered "the first house with color yellow." [4]

On 20 March 1995, Crisanta saw appellant going over the fence of her house and peeping through the jalousy window to spy on Eduardo, who was then watching television in her house.[5]

On 23 March 1995, at around five o'clock in the morning, riding on his bicycle, Eduardo proceeded to his mother's house to pasture his cows and water his newly planted mangoes. After a while, Helen heard four successive gunshots coming from the direction of the house of Eduardo's uncle, Cecilio Villabrille, which was about 40 meters away from her house.[6] She hurriedly went out and saw Eduardo being chased by three persons armed with short firearms.[7] Helen recognized one of the pursuers as Leo Barriga (Leo), the brother of appellant, for they used to play together in his house during their school days.[8] She saw Eduardo jump over a fence and fall on the ground. Then Leo approached Eduardo, poked a gun at his head, and fired.[9] She heard Leo tell his companions that Eduardo was already dead. Appellant picked up the three assailants in his motorcycle.[10]

Helen approached Eduardo, and saw that he was barely alive so she shouted for help. Eduardo's relatives came and brought him to the hospital. Eduardo died the next day.[11]

In the early morning of the same day, Crisanta saw three of the assailants near the Civilian Voluntary Organization (CVO) outpost looking at Eduardo's house some 200 meters away.[12] The three persons then left

the CVO outpost. Rogelio saw appellant driving the motorcycle which carried the other four assailants. They passed by his house which was only about 100 meters from the crime scene. He saw appellant drop three of his passengers in a place about 50 meters from his house, while one passenger stayed on in the motorcycle with appellant.[13]

Rogelio witnessed how Eduardo was gunned down by the three assailants, who were later picked up by appellant on the same motorcycle.[14] He approached Eduardo while Helen was cradling him, and he saw that Eduardo was then barely alive. Afterward, he went to the police station and reported the incident.[15]

After hearing the gunshots, Crisanta ran from her house to the house of Barangay Captain Roberto Lansaderas to report the incident. However, she did not proceed anymore for she saw him talking with appellant and the latter's companion.[16] She returned to her house, and sometime thereafter she saw appellant and his companion pass behind her house on a motorcycle going to the direction of the crime scene. Later, she saw the same motorcycle carrying appellant and his companion pass by her house again, this time carrying the three persons she saw earlier in the CVO outpost.[17] The three persons were carrying firearms, and she heard one of them shout "finish, patay na, mobalik pa mi naa pa mi kohaon." [18]

Felixberta, the mother of Eduardo, also saw the motorcycle pass by her house in the morning of 23 March 1995. She recognized appellant as the driver but she did not know his four passengers. When they passed by, they were staring at her house as if looking for something.

Appellant, in his defense, denied his participation and that of his brother Leo in the killing of Eduardo. In the same breath, he claimed that he was only forced at gunpoint to drive the four assailants to and from the crime scene. He also belied the participation of Leo in the crime by setting up an alibi that the latter was in Barangay Mahayag, Alicia, Bohol on 23 March 1995. The other defense witnesses tried to corroborate his testimony.

According to appellant, he was waiting for passengers at the wharf of Babak, Panabo, Davao del Norte in the morning of 23 March 1995. Four persons hired him to take them to Peñaplata. They traveled for about 15 to 20 minutes, and then stopped near the house of ex-barangay captain Villabrille. Three of his passengers alighted and walked toward the direction of the houses in the vicinity. He was told to wait for them. Together with the fourth passenger who was left behind, they proceeded to the house of Barangay Captain Lansaderas' sister which is only around 200 meters from where he dropped the other three passengers. He bought a cigarette and had a conversation with Barangay Captain Lansaderas.[19] When they left, his lone passenger then poked a pistol to his back. Appellant saw people running but he did not hear any gunshot. He then saw the three persons running toward them. The three persons boarded appellant's motorcycle. The passengers told appellant to bring them anywhere so he brought them to Mata-mata, which is still within Babak. As they disembarked, they told him to report the incident to the municipal hall.[20] He then reported the shooting to Sgt. Panfilo Casas (Casas) of the Peñaplata Police Station. Casas informed appellant that his motorcycle had to be impounded since he used it in transporting the four other assailants.[21] Appellant's lawyer was able to secure the release of the motorcycle from the police the following day.[22]

Appellant denied that his brother Leo was one of the assailants in the killing of Eduardo.[23] And that the last time he saw his brother was in 1989.[24]

Appellant's mother, Natividad, testified that in the early morning of 23 March 1995 appellant brought her to Babak.[25] It was only on her return in the afternoon that she learned of the killing of Eduardo by assailants who were transported by appellant, and the impounding of appellant's motorcycle.[26] Natividad further testified that her son Leo was in Alicia, Bohol on 23 March 1995.[27]

The defense attempted to cast doubt on the credibility of Helen's testimony. They presented Efinite, the Barangay Captain of Mahayag, Alicia, Bohol, to corroborate their testimony that Leo was in Alicia, Bohol on 23 March 1995. Efinite testified that he talked with Leo on 23 March 1995 and assigned him to decorate the stage for a religious rite to be held in the afternoon of 24 March 1995.[28] He testified that in the morning of 24 March 1995 Leo was attending a recognition rite in their municipality's high school. Efinite even presented a picture showing Leo pin a ribbon on his wife's nephew, a certain Miguel "Joel" Galope, Jr.[29]

SPO2 Bustamante testified that he learned about the killing of Eduardo through the police blotter when he reported to work at around eight o'clock in the morning of 23 March 1995.[30] The entry in the police blotter was made and signed by appellant when he reported the shooting.[31]

The Regional Trial Court (RTC) found appellant guilty of the crime of murder[32] and sentenced him to reclusion perpetua in a decision dated 13 February 1998.[33] The RTC held that two eyewitnesses pointed to appellant as a co-conspirator who guided the other four accused to the scene of the crime. Appellant went back to the crime scene after the shooting of Eduardo to pick up his three companions and brought them to a safe place. It further found credence in the prosecution's evidence that showed appellant spying or monitoring Eduardo even prior to 23 March 1995. His report of the incident to the police was merely a cover-up to draw suspicion away from him in the elaborate plan to kill Eduardo. Moreover, the defense had not ascribed ill motives on Helen's positive identification of appellant and his brother Leo in the killing of Eduardo. The RTC did not give credence to appellant's claim that a gun was pointed at his back while he waited for the three other assailants. It found such claim incredible, uncorroborated, and a mere afterthought for appellant did not even report such threat to the police when he went there to report the incident. The RTC found that the killing was qualified by abuse of superior strength and treachery since Eduardo was shot when he fell down. Despite being a ruse, the RTC gave appellant the benefit of the mitigating circumstance of voluntary surrender to the police and sentenced him to reclusion perpetua and not the maximum penalty of death.[34]

The RTC denied appellant's motion for reconsideration in an order dated 25 May 1998.[35] Appellant filed a notice of appeal to this Court.[36] On 30 August 2004, the Court issued a Resolution[37] transferring the case to the Court of Appeals for intermediate review.[38]

The Court of Appeals[39] affirmed the decision of the RTC. The appellate court gave credence to the testimony of Helen when she explained that she did not immediately report the incident and identify Leo as one of the assailants because she was still in shock. Further, it found that the alleged inconsistencies in Helen's testimony are minor and inconsequential. It noted that the conviction of appellant did not rest on Helen's testimony alone. There was substantial corroboration on material points by prosecution witnesses Rogelio, Crisanta, and Felixberta. No ill motive was ascribed to the prosecution witnesses who testified as to the participation of appellant and his brother Leo to the murder of Eduardo.[40]

The appellate court, however, held that the qualifying circumstance of treachery was not clearly established as no witness was presented to show how the shooting was done. But it found that evident premeditation attended the killing of Eduardo, as shown by the following circumstances: (1) the appellant's act of assessing, that is, asking where the house of the deceased is located and in surreptitiously peeping through the deceased's house days before the incident; (2) the fact that the incident happened at 5:30 a.m. of 23 March 1995; (3) the assailants arrived at the scene of the crime together, fully armed and immediately proceeded to attack the deceased; and (4) the assailants left the scene of the crime at the same time.[41]

The case is again before us for our final disposition. Appellant had assigned three (3) errors in his appeal initially passed upon by the Court of Appeals, to wit: whether the RTC erred in declaring him as a co-conspirator of his

brother Leo; whether the RTC erred in finding him guilty of murder just because he drove the vehicle carrying the other assailants, and; assuming arguendo that he is guilty, he is only guilty of homicide.[42]

The Court affirms the appellant's conviction. There is no cogent reason to disturb the finding of guilt made by the RTC and affirmed by the Court of Appeals.

Jurisprudence is settled that findings of fact of the trial court command great weight and respect unless patent inconsistencies are ignored or where the conclusions reached are clearly unsupported by evidence.[43] But these exceptions are unavailing in this case.

As support for the first and second issues, appellant attempted to impeach the credibility of Helen's testimony by pointing to alleged inconsistencies.[44] Moreover, appellant tried to put in issue the fact that it took Helen two weeks or until 6 April 1995, after Eduardo's burial, to report the incident and pinpoint Leo as one of the assailants.[45]

It is a well-settled rule that the evaluation of the testimonies of witnesses by the trial court is received on appeal with the highest respect because such court has the direct opportunity to observe the witnesses on the stand and determine if they are telling the truth or not.[46] We see no reason to deviate from this rule.

A review of the records of this case shows that the RTC did not err in giving credence to the testimonies of the prosecution's witnesses. The testimony of Helen does not suffer from any serious and material contradictions that can detract her credibility. The Court finds Helen's testimony credible as it is replete with details and corroborated on material points by the other prosecution witnesses, who were equally credible. Helen, who saw the shooting of Eduardo, was very categorical and frank in her testimony. She identified Leo as the man who shot Eduardo, and appellant as the one who drove the get away vehicle of the four assailants. The Court has held that inconsistencies and discrepancies in the testimony referring to minor details, and not on the basic aspects of the crime, do not impair the witness' credibility.[47] These inconsistencies even tend to strengthen, rather than weaken, the credibility of witnesses as they negate any suspicion of a rehearsed testimony.[48]

The defense also failed to impute any ill-motive on the prosecution's witnesses which would discredit their testimony on the events leading to Eduardo's killing. Absent any reason or motive for a prosecution witness to perjure, the logical conclusion is that no such motive exists and his testimony is thus worthy of full faith and credit.[49]

The RTC and the Court of Appeals correctly gave credence to Helen's explanation on the two-week delay in reporting the identity of the assailants in the killing of Eduardo. It is understandable that she was still reeling from extreme shock and grief due to the unexpected and gruesome death of Eduardo. In *People v. Lapay*, [50] we held that "delay in revealing the names of the malefactors does not, by itself, impair the credibility of the prosecution witnesses and their testimonies." Time and again, this Court has ruled that "the nondisclosure by the witness to the police officers of [accused-appellant's] identity immediately after the occurrence of the crime is not entirely against human experience." [51] It is already of judicial notice that family members of victims of violent crimes react to an unnatural occurrence in diverse ways. Some, if they have any information about the incident, would waste no time in telling the police everything they know. Others would rather choose, or are forced, to clam up and refuse to divulge any information they may possess. And then, there are the majority of family members who would first hesitate before they reveal what they know.[52]

The RTC, as affirmed by the Court of Appeals, correctly held that the existence of conspiracy between appellant and the four other assailants was established beyond reasonable doubt by the prosecution.[53] Appellant took a direct part in the killing of Eduardo. His guilt is not merely based on circumstantial evidence. There is no question

that he acted as the driver of the vehicle that took the four assailants to and from the crime scene. He even conducted reconnaissance on Eduardo prior to 23 March 1995. The RTC correctly dismissed appellant's claim that a gun was pointed at his back while he waited for the three other assailants as being incredible and uncorroborated. Such claim was a mere afterthought; he did not even report such threat to the police when he went there to report the incident.

All told, the Court finds no reason to reverse the ruling of the RTC and the Court of Appeals insofar as the crime was committed by the accused. What remains to be determined is the propriety of the penalty imposed on appellant in relation to the third issue raised.

The Court of Appeals correctly appreciated the testimonies of the prosecution's witnesses which showed the existence of evident premeditation in Eduardo's killing.[54] The essence of evident premeditation is that the execution of the criminal act is preceded by cool thought and reflection upon the resolution to carry out the criminal intent within a space of time sufficient to arrive at a calm judgment.[55]

The Court of Appeals correctly held that the qualifying circumstance of treachery was not clearly established since none of the witnesses saw how the shooting was started. For treachery to be appreciated, it must be present and seen by the witness right at the inception of the attack.[56] Where no particulars are known as to how the killing began, its perpetration with treachery cannot merely be supposed.[57]

Abuse of superior strength cannot likewise be appreciated for it was not alleged in the information.[58] Even if alleged, it cannot qualify the killing of Eduardo. In *People v. Flores*,[59] this Court pointed out that this aggravating circumstance necessitates the showing of the relative disparity in physical characteristics, usually translating into the age, gender, the physical size and the strength of the aggressor and the victim. There is no proof that assailants utilized any notorious inequality to their advantage. In other words, mere superiority in number is not enough to constitute superior strength.[60]

However, both the RTC and the Court of Appeals failed to appreciate the qualifying circumstance of the commission of the crime with the aid of armed men. The information alleged that the accused were "armed with short firearms." There is ample evidence on record establishing the presence of this circumstance. Under paragraph 1, Article 248 of the Revised Penal Code, "the aid of armed men" qualifies a killing to murder. Since treachery was not proven beyond reasonable doubt, the qualifying circumstance of killing "with the aid of armed men" could not be absorbed in treachery.[61]

The RTC erred in considering voluntary surrender as a mitigating circumstance[62] in favor of appellant. Appellant did not surrender to the police; he was arrested pursuant to a warrant of arrest as testified to by defense witness SPO2 Bustamante.[63]

The rule is that when more than one qualifying circumstances is proven, the others must be considered as generic aggravating.[64] The qualifying circumstance of "with the aid of armed men" serves in this case as a generic aggravating circumstance, meriting the imposition of the penalty of death in the absence of any mitigating circumstance.[65] However, pursuant to Republic Act No. 9346[66] which prohibits the imposition of the death penalty, the Court can only impose reclusion perpetua, which will be in lieu of the death penalty.

As to damages, the Court finds that the civil indemnity should be increased to P75,000.00.[67] The award of civil indemnity may be granted without any need of proof other than the death of the victim.[68]

The award of P13,700.00 actual damages for funeral and medical expenses was properly supported by receipts and documents evidencing the same, which were presented before the RTC, as required by Article 2199 of the Civil Code.[69]

However, in accordance with jurisprudence, the Court has to award temperate damages in the amount of P25,000.00 in lieu of the actual damages of a lesser amount.[70] As explained in *People v. Werba*,[71] to rule otherwise would be anomalous and unfair because the victim's heirs who tried but succeeded in proving actual damages of an amount less than P25,000.00 would be in a worse situation than those who might have presented no receipts at all but would now be entitled to P25,000.00 temperate damages.

Though not awarded by the RTC, the victim's heirs are entitled to moral damages amounting to P50,000.00, pursuant to existing jurisprudence.[72] An award of moral damages is fair and just even though the prosecution did not present any proof, apart from the fact of death of the victim and the culpability of the accused. On the other hand, the Court has no basis to award damages for the loss of earning capacity of Eduardo because the prosecution failed to introduce any evidence on this matter.

In addition, exemplary damages in the amount of P25,000.00 should be awarded considering the attendance of the aggravating circumstance of evident premeditation that qualified the killing to murder, and the qualifying circumstance of "with the aid of armed men" that serves as generic aggravating circumstance.[73]

WHEREFORE, the decision of the Regional Trial Court in Criminal Case No. 95-81 finding appellant guilty beyond reasonable doubt of the crime of murder and sentencing him and sentencing him to reclusion perpetua is **AFFIRMED** with the **MODIFICATIONS** that the civil indemnity be increased to P75,000.00 and that appellant shall pay the heirs of Eduardo Villabrille moral damages of P50,000.00, temperate damages of P25,000.00 and exemplary damages of P25,000.00. Costs against appellant.

SO ORDERED.

Quisumbing, (Chairperson), Carpio-Morales, Velasco, Jr., and Brion, JJ., concur.

[1]CA rollo, p. 4. The information reads:

That on or about March 23,1995, in the Municipality of Samal, Province of Davao, Philippines, and within the jurisdiction of this Honorable Court, accused Reynaldo Barriga, in conspiracy with Leo Barriga, Peter Doe, Paul Doe and Richard Doe, who are at large, with treachery and evident premeditation, with intent to kill and armed with short firearms, did then and there willfully, unlawfully and feloniously attack, assault and shoot one Eduardo G. Villabrille, thereby inflicting upon him wounds which caused his death and further causing actual, moral and compensatory damages to the heirs of the victim.

CONTRARY TO LAW.

[2] Record, p. 22.

[3] Id. at 29.

[4]TSN, 6 February 1996, pp. 23-24.

[5]TSN, 12 August 1996, pp. 18-19.

[6] TSN, 6 February 1996, pp. 16-17.

[7]Id. at 17-18.

[8] TSN, 6 March 1996, p. 11.

[9] Id. at 12.

[10]TSN, 6 February 1996, pp. 22-23.

[11] Id. at 2-5.

[12] TSN, 12 August 1996, pp. 8-10.

[13] TSN, 19 March 1996, pp. 16-17.

[14]Id. at 18-20.

[15] Id. at 21-22.

[16]TSN, 12 August 1996, pp. 11-14.

[17]Id. at 15-17.

[18] Id. at 17. Translated as "He is dead; we will be come back, we will just get something."

[19]TSN, 10 February 1997, pp. 4-6.

[20]Id. at 7-8.

[21]Id. at 9.

[22] Id. at 12-13.

[23]Id. at 13-14.

[24] Id. at 18-19.

[25] TSN, 17 March 1997, p. 3.

[26]Id. at 4-6.

[27] TSN, 16 July 1997, pp. 12-13.

[28] TSN, 25 June 1997, pp. 7, 10.

[29] Id. at 10-12.

[30] TSN, 19 August 1997, pp. 5-6.

[31]Id. at 7-8.

[32] ART. 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:

- With treachery, taking advantage of superior strength, with the aid of armed men, or employing means to weaken the defense or means or persons to insure or afford impunity.
- In consideration of a price, reward or promise.
- By means of inundation, fire, poison, explosion, shipwreck, stranding of a vessel, derailment or assault upon a railroad, fall of an airship, or by means of motor vehicles, or with the use of any other means involving great waste and ruin.
- On occasion of any of the calamities enumerated in the preceding paragraph, or of an earthquake, eruption of a volcano, destructive cyclone, epidemic or other public calamity.

- With evident premeditation.

- With cruelty, by deliberately and inhumanly augmenting the suffering of the victim, or outraging or scoffing at his person or corpse. (Emphasis supplied)

[33]CA rollo, pp. 38-39. Branch 34, Panabo, Davao. The dispositive portion of the decision penned by Judge Gregorio Palabrica reads:

WHEREFORE, the Court finds, REYNALDO BARRIGA guilty with having committed the crime of MURDER, beyond reasonable doubt and hereby sentences him to suffer the penalty of RECLUSION PERPETUA.

He is further ordered to pay the heirs of EDUARDO VILLABRILLE the sum of THIRTEEN THOUSAND SEVEN HUNDRED (P13,700.00) PESOS as damages, plus FIFTY THOUSAND (P50,000.00) PESOS as indemnity of [sic] the victim's death.

SO ORDERED.

[34]Id. at 36-38.

[35] Records, pp. 133-135.

[36] Id. at 136.

[37]Pursuant to the case of *People v. Efren Mateo*, G.R. Nos. 147678-87, 7 July 2004, 433 SCRA 640, 656.

[38] CA rollo, pp. 220-221.

[39] Id. at 244. Penned by Associate Justice Sixto Marella, Jr. and concurred in by Associate Justices Edgardo Camello and Mario Lopez. The dispositive portion reads:

WHEREFORE, the Decision appealed from is affirmed in toto.

SO ORDERED.

[40] CA rollo, pp. 239-240.

[41] Id. at 242-243.

[42]Id. at p. 102.

[43]*People v. Quinevista Jr.*, 314 Phil. 540, 547 (1995), citing *People v. Gumahin*, No. L-22357, 31 October 1967, 21 SCRA 729.

[44] CA rollo, pp. 118-119.

[45] Id. at 114-118.

[46]*People v. Baccay*, 348 Phil. 322, 330 (1998). See also *People v. Bolivar, et al.*, 405 Phil. 55, 70 (2001), citing *People v. Rosario*, G.R. No. 122769, 3 August 2000, 337 SCRA 169; *People v. Baltazar*, 405 Phil. 340 (2001); and *People v. Mayor Sanchez*, 419 Phil. 808 (2001)..

[47]*People v. Salamat*, G.R. No. 103295, 20 August 1993, 225 SCRA 499, 507, citing *People v. Dulay*, G.R. No. 92600, 18 January 1993.

[48] *People v. Utinas*, G.R. No. 105832, 22 December 1994, 239 SCRA 362, 370, citing *People v. Bautista*, G.R. No. 102618, 12 October 1993, 227 SCRA 182; *People v. Custodio*, G.R. No. 96230, 27 May 1991, 197 SCRA

538.

[49] *People v. Mendoza*, 388 Phil. 279, 288 (2000), citing *People v. Acaya*, G.R. No. 108381, 7 March 2000, citing *People v. Rada*, G.R. No. 128181, 10 June 1999, p. 15 and *People v. Aguinas*, G.R. No. 121993, 12 September 1997, 279 SCRA 52, 65. See also *People v. Benito*, 363 Phil. 90, 98 (1999).

[50] 358 Phil. 541, 558 (1998), citing *People v. Rosario*, 246 SCRA 658, 667, July 18, 1995; *People v. Ompad, Jr.*, 233 SCRA 62, 66, June 10, 1994; and *People v. Rosario*, 134 SCRA 497, 509, February 25, 1985.

[51] *People v. Malimit*, 332 Phil. 190, 199 (1996), citing *People v. Pacabes*, 137 SCRA 158 (1985); See also *People v. Danico*, 208 SCRA 472 (1992), and *People v. Caraig*, 202 SCRA 357 (1991).

[52] *People v. Cortezano*, 425 Phil. 696, 713 (2002).

[53] CA rollo, p. 38. See *Fernandez v. People*, 395 Phil. 478, 502 (2000), citing *People v. Gomez*, 270 SCRA 432, 443 (1997); *People v. Viernes*, 262 SCRA 655, 657 (1996). See also *People v. Medina*, 354 Phil. 447, 458 (1998); *People v. Ponce*, 395 Phil. 563, 572 (2000), citing *Pecho v. People*, 262 SCRA 518, 531 (1996), citing *People v. De Roxas*, 241 SCRA 369 (1995); *People v. Tami*, 244 SCRA 1, 22 (1995) citing *People v. De Roxas*, 241 SCRA 369 (1995), *People v. Peralta*, 25 SCRA 759 (1968).

[54] CA rollo, pp. 242-243. See Note 41.

[55] *People v. Uganap, et al.*, 411 Phil. 320, 335 (2001); citing *People v. Bibat*, 290 SCRA 27 (1998). See also *People v. Reyes*, 350 Phil. 683, 696, 697 (1998); *People v. Galvez*, 407 Phil. 541, 560 (2001), citing *People v. Orculla*, G.R. No. 132350, 5 July 2000, 335 SCRA 129. See also *People v. Torres, Jr.* 400 Phil. 1332, 1347 (2000); *People v. Sgt. Magno*, 379 Phil. 537, 555 (2000); *People v. Tan*, 373 Phil. 190 (1999); *People v. Silvestre*, 366 Phil. 527 (1999); *People v. Gatchalian*, 360 Phil. 178 (1998); *People v. Villamor*, 354 Phil. 396 (1998); *People v. Timblor*, 348 Phil. 847 (1998).

[56] *People v. Leal*, 411 Phil. 465, 479 (2001), citing *People v. Sambulan*, G.R. No. 112972, 24 April 1998, 289 SCRA 500, 515; *People v. Amanmangpang*, 291 SCRA 638, 653, July 2, 1998; *People v. Bautista*, 312 SCRA 214, 235, August 11, 1999; *People v. Sioc, Jr.*, 319 SCRA 12, 22, November 24, 1999; *People v. Maldo*, 307 SCRA 424, 440-441, May 19, 1999. See also *People v. Bahenting*, 363 Phil. 181, 191 (1999). See also *People v. Mantung*, 369 Phil. 1085, 1101 (1999); *People v. Borreros*, 366 Phil. 360, 373-374 (1999).

[57] *People v. Leal*, *supra*, citing *People v. Borreros*, 306 SCRA 680, 693, May 5, 1999; *People v. Silvestre*, 307 SCRA 68; 89-90, May 12, 1999.

[58] RULES OF COURT, Rule 110 Section 8.

[59] 408 Phil. 447, 463-464 (2001).

[60] *People v. Galapin*, 355 Phil. 212, 231 (1998), citing *People v. Castor*, 216 SCRA 410, 421 (1992). See also *People v. Nicholas*, 422 Phil. 53, 69-70 (2001). See also *People v. Samudio, et al.*, 406 Phil. 318, citing *People v. Buluran*, G.R. No. 113940, 15 February 2000, 325 SCRA 476, 487-488, citing *People v. Plantilla*, 304 SCRA 339 (1999).

[61] *People v. Torrefiel*, 326 Phil. 388, 399-400 (1996); *People v. Amondina*, G.R. No. 75295, 17 March 1993, 220 SCRA 6, 11; *People v. Mori*, Nos. L-23511-12, 31 January 1974, 55 SCRA 382, 403. See also *People v. Sespeñe, et al.*, 102 Phil. 199 (1957); *United States v. Domingo and Dolor*, 18 Phil. 250 (1911).

[62] Article 13(7), Revised Penal Code. See *People v. Lee*, G.R. No. 66848, 20 December 1991, 204 SCRA 900, 911, citing *People v. Lingatong*, 181 SCRA 424; *People v. Ablao*, 183 SCRA 658. See also *People v. Tismo*, G.R.

No. 44773, 4 December 1991, 204 SCRA 535, 558-559; *People v. Devaras*, G.R. No. 48009, 3 February 1992, 205 SCRA 676, 694; *People v. Gomez*, G.R. No. 10914, 17 August 1994, 235 SCRA 444.

[63]TSN, 19 August 1997, pp. 11-14.

[64] *People v. Reynes*, 423 Phil. 363, 384 (2001), citing *People v. Danico*, 208 SCRA 472 (1992).

[65]ART. 63. Rules for the application of indivisible penalties.â€- x x x x 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:

- When in the commission of the deed there is present only one aggravating circumstance, the greater penalty shall be applied.

x x x x

[66]SEC. 2. In lieu of the death penalty, the following shall be imposed:

(a) the penalty of reclusion perpetua, when the law violated makes use of the nomenclature of the penalties of the Revised Penal Code; or

(b) the penalty of life imprisonment, when the law violated does not make use of the nomenclature of the penalties of the Revised Penal Code.

Pursuant to the same law, appellant shall not be eligible for parole under Act No. 4103, otherwise known as the Indeterminate Sentence Law.

[67] *People v. Tubongbanua*, G.R. No. 171271, 31 August 2006, 500 SCRA 727, 742-743; *People v. Bangcado*, 399 Phil. 768, 792 (2000). See also *People v. Amion*, 405 Phil. 917, 934 (2001), *People v. Court of Appeals*, 405 Phil. 247, 269 (2001), citing *People v. Ariel Pedrosos y Ciabo*, G.R. No. 125120, July 19, 2000; *People v. Go-od*, 387 Phil. 628 (2000); *People v. Rosalino Flores*, 385 Phil. 159 (2000); *People v. Mindanao*, 390 Phil. 510 (2000); *People v. Quijon*, 382 Phil. 339 (2000); *People v. Buluran*, 382 Phil. 364 (2000).

[68] *People v. Concepcion*, 409 Phil. 173, 189 (2001); citing *People v. De Vera*, 312 SCRA 640 (1999).

[69] ART. 2199. Except as provided by law or by stipulation, one is entitled to an adequate compensation only for such pecuniary loss suffered by him as he has duly proved. Such compensation is referred to as actual or compensatory damages.

[70] *People v. Werba*, G.R. No. 144599, June 9, 2004, 431 SCRA 482; citing *People v. Villanueva*, G.R. No. 139177, August 11, 2003, 408 SCRA 571.

[71] *Id.* at 499.

[72] *People v. Cortez*, 401 Phil. 886, 905 (2000). See also *People v. Ortiz*, 413 Phil. 592, 617 (2001); *People v. Dela Cruz*, 402 Phil. 138, 151, (2001).

[73]*People v. PO3 Roxas*, 457 Phil. 566, 579 (2003), citing *People v. Catubig*, G.R. No. 137842, 23 August 2001. See also *People v. Bergante*, 350 Phil. 275, 292-293 (1998); *People v. Reyes*, 350 Phil. 683, 699 (1998).

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