

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. NADY MAGALLANO, JR. Y FLORES AND ROMEO TAPAR Y CASTRO, ACCUSED-APPELLANTS.**

*G.R. No. 220721. December 10, 2018*

Ponente: LEONEN, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-220721/>

---

**LEONEN, J.:**

"The essence of treachery is the swift and unexpected attack on the unarmed victim without the slightest provocation on his part." [1] For treachery to be appreciated as a qualifying circumstance, two (2) things must be proven: (1) that during the attack, the victim could not have defended himself or herself from the offender; and (2) that the offender deliberately chose a form of attack which would render him or her immune from risk or retaliation by the victim. [2]

For this Court's resolution is an Ordinary Appeal from the December 12, 2014 Decision [3] of the Court of Appeals in CA-G.R. CR-HC No. 06160, which affirmed the conviction of Nady F. Magallano, Jr. (Magallano) and Romeo C. Tapar (Tapar) for the crime of murder.

In an Information, Magallano and Tapar were charged with murder punished under Article 248 of the Revised Penal Code:

The undersigned Asst. Provincial Prosecutor accuses Nady Magallano [Jr.] y Flores and Romeo Tapar y Castro of the crime of murder, penalized under the provisions of Art. 248 of the Revised Penal Code, as amended by RA 7659, committed as follows:

That on or about the 1[st] day of October 2005, in the municipality of San Miguel, province of Bulacan, Philippines and within the jurisdiction of this Honorable Court, the [abovenamed] accused, armed with a hard object and bladed weapon and with intent to kill one [1] Ronnie Batongbakal with evident premeditation[,] treachery[,] and conspiring with each other, did then and there willfully, unlawfully, and feloniously attack[,] assault, hit with a hard object[,] and stab with the said bladed weapon they were then provided (sic) the said Ronnie Batongbakal, hitting the latter in different parts of his body, thereby inflicting upon him serious physical injuries which directly caused his death.

Contrary to law. [4]

Magallano and Tapar, assisted by counsel, pleaded not guilty to the crime charged against them. Pre-trial and trial soon followed. [5]

The prosecution presented three (3) witnesses: (1) Rogelio Batongbakal (Rogelio); (2) Dr. Edgar S. Ernie (Dr. Ernie); and (3) Miguel Angelo Pineda, Jr. (Pineda). [6]

Pineda testified that at around 1:00 a.m. of October 1, 2005, he was at home sleeping beside his wife when loud voices outside roused him from sleep. He then heard a woman shout, "Romy, bakit mo s[i]ya sinasaktan, inaano ba kayo[?]" [7]

Pineda peeked through his window and saw two (2) men, whom he later identified as Magallano and Tapar, ganging up on Ronnie Batongbakal (Batongbakal), who was by then lying on the ground. He testified that he saw Magallano repeatedly strike Batongbakal with a "dos por dos," while Tapar watched.[8]

As Magallano was hitting Batongbakal, a woman suddenly bolted from the fray. Magallano and Tapar then jumped inside a tricycle and chased the woman. By then, a still-conscious Batongbakal began to crawl slowly towards a gate.[9]

Magallano and Tapar returned after a few minutes carrying several stones, each about a volleyball's size. Magallano threw the stones on Batongbakal's head and body, while Tapar prevented him from crawling away.[10]

Pineda attested that he wanted to help Batongbakal, but his wife stopped him out of fear. He then shouted at Magallano and Tapar, but his wife covered his mouth to muffle his voice. However, Magallano and Tapar still heard him, so they stopped attacking Batongbakal, loaded him into the tricycle, and sped off towards Poblacion.[11]

Pineda testified that he knew Magallano and Tapar since they both worked at the nearby National Food Authority warehouse. He also stated that the street outside their house, where Batongbakal was mauled, was well-lit by a streetlight, and that there was a second streetlight near his house.[12]

Pineda explained that he did not immediately give his statement to the police officers because the day after the incident, he was informed by a police officer that a woman had already given her statement; thus, his statement was no longer needed.[13]

The prosecution dispensed with the testimony of Rogelio, Batongbakal's father, after both parties stipulated that before his death, Batongbakal worked as a tricycle driver and earned around P200.00 to P300.00 per day. They also stipulated that Rogelio spent P60,000.00 on his son's wake and funeral expenses.[14]

The prosecution also dispensed with the testimony of Dr. Ernie, a Municipal Health Officer of San Miguel, Bulacan, who was presented as an expert witness. Both parties stipulated that Dr. Ernie examined Batongbakal and signed his Postmortem Certificate. They also stipulated that Dr. Ernie concluded that Batongbakal died due to a skull fracture caused by a heavy blow to the head, and that he had multiple stab wounds.[15]

For its part, the defense presented the testimonies of Tapar and Magallano, and their employers, Edgar Valdez and Monette Valdez.[16] Lourdes Bonus was also presented as a witness, but her testimony was stricken out for lack of cross-examination.[17]

Tapar testified that he worked the whole day of September 30, 2005 and went home directly after his shift, arriving at his house in Sta. Rita, San Miguel, Bulacan at around 5:10 p.m. He rested, ate dinner, and fell asleep at about 10:00 p.m.[18]

At about 6:30a.m. the following day, Tapar claimed that police officers woke him up, saying a certain Cristina accused him of killing someone. They then ordered him to come with them to the municipal hall.[19]

There, Tapar repeatedly proclaimed his innocence, but nobody believed him and he was beaten up. The police officers pressed him to tell them where he threw the victim's body, but he denied doing this, let alone killing anybody.[20]

Tapar admitted knowing Magallano since they both worked at the National Food Authority, but denied being with him in the early morning of October 1, 2005 since he was home at that time and the night before.[21]

For his part, Magallano testified that on October 1, 2005, he was at Tyson Plant in Barangay Guyong, Sta. Maria,

Bulacan with his brother and their helper, waiting for their truck to be loaded with feeds. While he was at Tyson Plant, Nardo Varilla Santos (Nardo), the brother of his former common-law wife Cristina Santos (Santos), borrowed money because he supposedly ran into an accident with Batongbakal. Magallano gave money to Nardo, who then hurriedly left for Lucena City.[22]

On July 3, 2006, while Magallano was sleeping at a garage in Sta. Maria, Bulacan, two (2) police officers shot him on his thigh. They said that Santos pointed to him as Batongbakal's killer. They brought him to the police station for questioning and treated his gunshot wound.[23]

During trial, Magallano denied knowing Batongbakal, much more killing him. He claimed that Santos falsely accused him of murder to get back at him since he had custody of their three (3) children. However, he could not explain why Pineda would point to him as Batongbakal's killer.[24]

Both Edgar Valdez and Monet Valdez testified that Magallano worked as their truck driver at the time of the incident. However, they both admitted that they could not remember if Magallano was deployed to deliver cargo on October 1, 2005.[25]

In its May 3, 2013 Decision,[26] the Regional Trial Court found Magallano and Tapar guilty of murder. They were sentenced to suffer the penalty of reclusion perpetua and were ordered to indemnify Batongbakal's heirs.

The Regional Trial Court gave much weight to Pineda's testimony pointing to Magallano and Tapar as Batongbakal's killers. It found Pineda's testimony to be "straightforward, credible[,] and consistent." [27] Additionally, the Regional Trial Court found that his testimony was backed by the medico-legal officer's findings on the location of Batongbakal's injuries. Moreover, it found no improper motive on Pineda's part that would motivate him to concoct tales against them.[28]

The dispositive portion of the Regional Trial Court May 3, 2013 Decision read:

WHEREFORE, the foregoing considered, this Court hereby finds accused Nady Magallano[, Jr.] y Flores and Romeo Tapar y Castro GUILTY of the crime of Murder penalized under the provisions of Art. 248 of the Revised Penal Code. Accordingly, they are hereby sentenced to suffer the penalty of RECLUSION PERPETUA and to indemnify the heirs of Ronnie Batongbakal: a. P75,000.00 as civil indemnity for his death; b. P50,000.00 as moral damages; and c. P60,000.00 representing the funeral and burial expenses incurred by the family.

In the service of their sentence, accused who are detention prisoners shall be credited with the entire period they have undergone preventive imprisonment.

SO ORDERED.[29] (Emphasis in the original)

Magallano[30] and Tapar[31] filed separate Appeal Briefs before the Court of Appeals.

In his Appeal Brief, Magallano dwelt on the supposed inconsistencies[32] in Pineda's testimony. He insinuated that the prosecution, after failing to produce its principal witness, belatedly brought Pineda as a witness and merely manufactured his testimony.[33] He further posited that the prosecution failed to prove the elements of murder, particularly treachery and conspiracy.[34]

Tapar also stressed in his Appeal Brief that Pineda's testimony contained "serious inconsistencies and contradictions[.]"[35] He pointed out that Pineda's late revelation to police investigators that he witnessed the attack on Batongbakal was contrary to human nature, since the natural tendency is to immediately disclose what one knew.[36]

For its part, the Office of the Solicitor General[37] maintained that the prosecution proved beyond reasonable

doubt that Magallano and Tapar conspired to kill and actually killed Batongbakal.[38] It emphasized that the Regional Trial Court's ruling that Pineda was a credible witness should be respected by the Court of Appeals since it was the trial court that personally observed Pimentel's demeanor as a witness. It further pointed out that the supposed inconsistencies adverted to by Magallano and Tapar focused on collateral matters that had no bearing on the nature of the offense.[39]

The Office of the Solicitor General also underscored that Pineda's failure to immediately execute a sworn testimony did not detract from his credibility. It likewise stated that Magallano and Tapar failed to allege that Pineda had an improper motive to testify against them.[40]

In its December 12, 2014 Decision,[41] the Court of Appeals upheld the findings of the Regional Trial Court.

The Court of Appeals gave much weight to the Regional Trial Court's assessment of Pineda's testimony, justifying that the trial court had a front-row seat in observing him and his demeanor while testifying. Hence, it "can be expected to determine, with reasonable discretion, whose testimony to accept and which witness to disbelieve." [42]

As for Pineda's late submission of his sworn statement and failure to aid the victim, the Court of Appeals again concurred with the Regional Trial Court's ruling, and affirmed that different people react differently. Moreover, it held that there was no standard response to a strange or frightening experience such as witnessing a murder. It pointed out that since Pineda explained his delay in reporting the crime to law enforcers, he remained a credible witness.[43]

Moreover, the Court of Appeals stated that Magallano and Tapar's defense of denial and alibi crumbled in light of Pineda's categorical and straightforward testimony pointing to them as Batongbakal's killers.[44]

The Court of Appeals further upheld the Regional Trial Court's findings that Magallano and Tapar conspired to kill Batongbakal, and that treachery attended his killing.[45]

The dispositive portion of the Court of Appeals Decision read:

WHEREFORE, premises considered, the appeal is DENIED. The Decision dated 3 May 2013 of the Regional Trial Court of Malolos[,] Bulacan, Branch 78 in Criminal Case No. 89-M-2006 is hereby AFFIRMED with MODIFICATIONS in so far as exemplary damages in the amount of P30,000.00 is AWARDED. All damages awarded herein shall earn interest at the rate of 6% per annum from date of finality of this Decision until fully paid.

SO ORDERED.[46] (Emphasis in the original)

On January 12, 2015, Magallano and Tapar filed a Notice of Appeal.[47]

On October 21, 2015, the Court of Appeals elevated the case records to this Court.[48]

This Court, in its December 9, 2015 Resolution,[49] noted the records forwarded by the Court of Appeals. It required accused-appellants Nady F. Magallano, Jr. and Romeo C. Tapar, and plaintiff-appellee People of the Philippines, through the Office of the Solicitor General, to submit their supplemental briefs. Both parties manifested that they would no longer file supplemental briefs.[50]

The sole issue for this Court's resolution is whether or not the prosecution proved accused-appellants' guilt for murder beyond reasonable doubt.

## I

Trial courts have the advantage of personally scrutinizing the conduct and attitude of witnesses when giving their testimonies. Thus, "assignment of values to the testimony of a witness is virtually left, almost entirely, to the trial court which has the opportunity to observe the demeanor of the witness on the stand." [51] Due to their unique position, the trial courts' factual findings and appreciation of the witnesses' testimonies are given much respect, moreso when their conclusions are affirmed by the Court of Appeals. [52] Factual findings of trial courts will only be disturbed on appeal if it is convincingly shown that they "overlooked, misapprehended, or misapplied any fact or circumstance of weight and substance." [53]

Here, the Regional Trial Court and the Court of Appeals both found Pineda to be a credible and reliable witness, thus:

The straightforward, credible[,] and consistent testimony of eyewitness Miguel Angelo Pineda[, Jr.] also proves with certainty that both accused Nady Magallano and Romeo Tapar were the ones responsible for the crime. He was able to narrate in minute details how the crime transpired and the respective participation of the accused. Also, his testimony is reinforced by the findings of the medico[-]legal officer relative to the location of the injuries sustained by the victim resulting in his death. Finally, there was no showing that the witness was impelled by any improper motive to implicate upon the accused the commission of the crime. [54]

Accused-appellants assail Pineda's credibility as a witness because his actions during and after the incident supposedly went against human nature. Moreover, they assert that his testimony was riddled with inconsistencies.

Accused-appellants are mistaken.

This Court has consistently held that there is no standard form of behavior when confronted by a shocking incident. [55] It must be recalled that it was very early in the morning when Pineda was roused from sleep by a screaming woman outside his house. He peered out of his window and saw two (2) men ganging up on a third man who was by then lying helplessly on the ground. Pineda testified that he wanted to help the victim, but his wife, understandably, refused to let him out of their house in fear of a similar harm befalling him. In *People v. Del Prado*: [56]

There is no standard form of human behavioral response when confronted with a frightful experience. Not every witness to a crime can be expected to act reasonably and conformably with the expectations of mankind, because witnessing a crime is an unusual experience that elicit[s] different reactions from witnesses, and for which no clear-cut, standard form of behavior can be drawn. In the case at bar, it was not even unusual for Hudo's unarmed companions to refrain from risking their lives to defend him when the assailants were brandishing a foot-long knife, a baseball bat[,], and a 6x8 - inch stone. [57] (Citations omitted)

Likewise, Pineda's delay in reporting the incident or making a statement before the police, when adequately explained, neither impairs his credibility as a witness nor destroys the probative value of his testimony. [58] Further, "there is no rule that the suspect in a crime should be hurriedly named by a witness." [59]

Here, Pineda testified that the day after the victim was killed, a police investigator told him that a woman had already executed a sworn statement, and was willing to testify against accused-appellants. Hence, there was no need for him to execute a similar statement. The lower courts found this as a satisfactory explanation for Pineda's failure to immediately file his sworn statement with the police. This Court sees no reason to reverse their findings.

As for the supposed inconsistencies in Pineda's testimony, *People v. Nelmidia, et al.* [60] explained, "An inconsistency, which has nothing to do with the elements of a crime, is not a ground to reverse a conviction." [61] The Court of Appeals thus held:

As to the imputed inconsistencies in Pineda's testimony, they refer only to minor if not inconsequential or trivial matters which do not impair the credibility of Pineda. In fact, it even signifies that he was neither coached nor was lying on the witness stand. What commands greater importance is that there is no inconsistency in Pineda's complete and vivid narration as far as the principal occurrence and positive identification of accused-appellants as the victim's assailants.[62]

## II

Murder is committed when a person is killed under any of the circumstances enumerated under Article 248 of the Revised Penal Code, as amended:[63]

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:

1. With treachery, taking advantage of superior strength, with the aid of armed men, or employing means to weaken the defense or of means or persons to insure or afford impunity.
2. In consideration of a price, reward or promise.
3. 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.
4. 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.
5. With evident premeditation.
6. With cruelty, by deliberately and inhumanly augmenting the suffering of the victim, or outraging or scoffing at his person or corpse.

To sustain a conviction under Article 248 of the Revised Penal Code, the prosecution must prove the following beyond reasonable doubt: (1) that a person was killed; (2) that the accused-appellants killed the victim; (3) that the killing was not parricide or infanticide; and (4) that the killing was attended by any of the qualifying circumstances under Article 248.

A few hours after Pineda saw accused-appellants pound Batongbakal with rocks, then cart his body away on their tricycle, the victim's lifeless body was found floating on a creek in Barangay Bielat, San Miguel, Bulacan.[64] The prosecution likewise proved the lack of relationship between the victim and accused-appellants, which satisfies the first and third elements of a conviction under Article 248.

The lower courts both found that the victim's killing was attended by treachery and conspiracy. Article 14(16) of the Revised Penal Code defines treachery:

ARTICLE 14. Aggravating Circumstances. - The following are aggravating circumstances:

....

16. That the act be committed with treachery (alevosia).

There is treachery when the offender commits any of the crimes against the person, employing means, methods, or forms in the execution thereof which tend directly and specially to insure its execution, without risk to himself arising from the defense which the offended party might make. (Emphasis in the original)

The Court of Appeals found that treachery attended Batongbakal's killing because accused-appellants continued to hit him even when he was defenseless and unable to strike back. It held:

In this case, records show that when the victim was already on the ground, appellant Magallano who deliberately armed himself with a piece of wood continued to hit and maul the victim. At this juncture, the victim, being completely helpless and unarmed[,] certainly had no effective opportunity to defend himself and to strike back at his assailant.

Moreover, when the victim was already crawling, appellants further pursued the victim by throwing and hitting the latter with big stones and if only to ensure the success of their criminal design, appellant Tapar also cornered the victim to prevent him from crawling. Clearly, from all indications, appellants consciously and deliberately adopted their mode of attack to ensure the accomplishment of their criminal objective without risk to themselves which the victim might make.[65]

The Court of Appeals is mistaken.

In *People v. Abadies*,[66] this Court held that "[t]he essence of treachery is the swift and unexpected attack on the unarmed victim without the slightest provocation on his part." [67] It further provided that two (2) conditions must be established by the prosecution for a killing to be properly qualified by treachery to murder: "(1) that at the time of the attack, the victim was not in a position to defend himself[;] and (2) that the offender consciously adopted the particular means, method[,], or form of attack employed by him." [68]

The prosecution failed to show the presence of treachery as a qualifying circumstance. Pineda's testimony began when accused-appellants were in the middle of mauling the victim, and there was no testimony to prove that the victim did not provoke them or expect their attack. The prosecution did not present evidence that would show that accused-appellants reflected on and decided on the form of their attack to secure an unfair advantage over the victim.[69] Even when accused-appellants returned after chasing the screaming woman and hit the crawling victim with rocks, treachery is still absent. This is because the second attack was not a surprise, as shown by the victim's attempt to go back to the safety of his own house.

*People v. Tigle* [70] stated that for treachery to qualify a killing to murder, it must be present at the inception of the attack:

For treachery to be appreciated, it must exist at the inception of the attack, and if absent and the attack continues, even if present at the subsequent stage, treachery is not a qualifying or generic aggravating circumstance. The prosecution must adduce conclusive proof as to the manner in which the altercation started and resulted in the death of the victim. If the prosecution fails to discharge its burden, the crime committed is homicide and not murder.[71] (Emphasis supplied, citation omitted)

The prosecution thus only proved that accused-appellants committed homicide, not murder. Nonetheless, the conspiracy between accused- appellants was proven beyond reasonable doubt.

Article 8 of the Revised Penal Code provides that "[a] conspiracy exists when two (2) or more persons come to an agreement concerning the commission of a felony and decide to commit it." Conspiracy may be proven by direct or circumstantial evidence that show a "common design or purpose" [72] to commit the crime.

In upholding the Regional Trial Court's finding of a conspiracy between accused-appellants, the Court of Appeals noted their concerted and overt acts as evidence of their common purpose to kill and dispose of the victim's body:

In the case at bar, conspiracy was manifestly shown through the concerted and overt acts of appellants which demonstrated their actual cooperation in the pursuit of a common purpose and design. The trial court correctly observed that conspiracy consisted the following acts of accused- appellants: (1) while Magallano was hitting

the victim with a [dos por dos], Tapar was watching them; (2) they both chased Cristina Varilla; (3) they both returned and continued mauling the victim; [4] Magallano threw stones at the victim while Tapar cornered the victim to prevent him from crawling; [5] they helped each other in loading the victim into the tricycle; and [6] Magallano drove the tricycle while Tapar stayed with the victim inside the tricycle as they fled from the crime scene." [73] (Citation omitted)

Article 249 of the Revised Penal Code provides a penalty of reclusion temporal for the crime of homicide:

ARTICLE 249. Homicide. -Any person who, not falling within the provisions of Article 246 shall kill another without the attendance of any of the circumstances enumerated in the next preceding article, shall be deemed guilty of homicide and be punished by reclusion temporal. (Emphasis in the original)

In computing the applicable penalty for crimes, the Indeterminate Sentence Law provides:

SEC. 1. Hereafter, in imposing a prison sentence for an offense punished by the Revised Penal Code, or its amendments, the court shall sentence the accused to an indeterminate sentence the maximum term of which shall be that which, in view of the attending circumstances, could be properly imposed under the rules of the said Code, and to a minimum which shall be within the range of the penalty next lower to that prescribed by the Code for the offense; and if the offense is punished by any other law, the court shall sentence the accused to an indeterminate sentence, the maximum term of which shall not exceed the maximum fixed by said law and the minimum shall not be less than the minimum term prescribed by the same. (Emphasis supplied)

Hence, the range of penalty [74] imposable on accused-appellants is six (6) years and one (1) day to 12 years of prision mayor, as minimum, to 12 years and one (1) day to 20 years of reclusion temporal, as maximum. With the absence of any mitigating or aggravating circumstance, the penalty should be imposed in its medium period. [75] Thus, accused-appellants are sentenced to an indeterminate penalty of imprisonment ranging from 12 years of prision mayor, as minimum, to 17 years and four (4) months of reclusion temporal, as maximum.

As to the award of damages, this Court upholds the award of P60,000.00, representing the funeral and burial expenses incurred by the victim's heirs, as actual damages. However, the award of P75,000.00 as civil indemnity ex delicto is modified to P50,000.00, while the award of P50,000.00 as moral damages is upheld in line with prevailing jurisprudence. [76] Despite the lack of any aggravating circumstance, the award of P50,000.00 as exemplary damages is merited by the circumstances of the case to deter similarly reprehensible and outrageous conduct. [77]

WHEREFORE, the December 12, 2014 Decision of the Court of Appeals is MODIFIED. Accused-appellants Nady F. Magallano, Jr. and Romeo C. Tapar are found GUILTY beyond reasonable doubt of the crime of homicide under Article 249 of the Revised Penal Code.

As the crime was not attended by either mitigating or aggravating circumstances, accused-appellants are SENTENCED to suffer the indeterminate penalty of imprisonment of twelve (12) years of prision mayor, as minimum, to seventeen (17) years and four (4) months of reclusion temporal, as maximum. The period of their preventive imprisonment shall be credited in their favor if they have given their written conformity to abide by the disciplinary rules on convicted prisoners under Article 29 of the Revised Penal Code, as amended. [78]

Accused-appellants are, likewise, ORDERED to solidarily indemnify the heirs of Ronnie Batongbakal: (1) Sixty Thousand Pesos (P60,000.00) as actual damages; (2) Fifty Thousand Pesos (P50,000.00) as civil indemnity ex delicto; (3) Fifty Thousand Pesos (P50,000.00) as moral damages; and (4) Fifty Thousand Pesos (P50,000.00) as exemplary damages. All damages awarded shall be subject to the rate of six percent (6%) per annum from the finality of this Decision until its full satisfaction. [79]

**SO ORDERED.**

Peralta (Chairperson), Gesmundo, J. Reyes, Jr., and Hernando, JJ., concur.

---

[1] *People v. Abadies*, 436 Phil. 98, 105 (2002) [Per J. Ynares-Santiago, En Banc].

[2] REV. PEN. CODE, art. 248.

[3] Rollo, pp. 2-15. The Decision was penned by Associate Justice Carmelita Salandanan-Manahan and concurred in by Associate Justices Japar B. Dimaampao and Elihu A. Ybañez of the Twelfth Division, Court of Appeals, Manila.

[4] CA rollo, p. 61, RTC Decision.

[5] Rollo, p. 3.

[6] *Id.* at 4 and CA rollo, pp. 61-63.

[7] CA rollo, p. 62.

[8] *Id.*

[9] *Id.* at 62.

[10] *Id.*

[11] *Id.*

[12] *Id.*

[13] *Id.*

[14] *Id.* at 61-62.

[15] *Id.* at 62.

[16] *Id.* at 63. Monette is sometimes spelled "Monet."

[17] *Id.* at 66.

[18] *Id.* at 63.

[19] *Id.* at 63-64.

[20] *Id.* at 64.

[21] *Id.*

[22] *Id.*

[23] *Id.* at 64-65.

[24] *Id.* at 65.

[25] *Id.*

[26] *Id.* at 61-69. The Decision, in the case docketed as Crim. Case No. 89-M-2006, was penned by Judge Gregorio S. Sampaga of the Regional Trial Court Branch 78, Malolos, Bulacan.

- [27] Id. at 66.
- [28] Id. at 66-67.
- [29] Id. at 69.
- [30] Id. at 18-31.
- [31] Id. at 46-60.
- [32] Id. at 22-23.
- [33] Id. at 23-25.
- [34] Id. at 25-26.
- [35] Id. at 53.
- [36] Id. at 53-56.
- [37] Id. at 78-95.
- [38] Id. at 85-88.
- [39] Id. at 85-86.
- [40] Id. at 87-88.
- [41] Rollo, pp. 2-15.
- [42] Id. at 9.
- [43] Id. at 11.
- [44] Id. at 11-12.
- [45] Id. at 12-14.
- [46] Id. at 15.
- [47] Id. at 16-18.
- [48] Id. at 1.
- [49] Id. at 21-22.
- [50] Id. at 23-27 and 28-32.
- [51] *People v. Harovilla*, 436 Phil. 287, 293 (2002) [Per J. Ynares-Santiago, First Division].
- [52] *People v. Musa, et al.*, 609 Phil. 396, 410 (2009) [Per J. Brion, Second Division].
- [53] *People v. De Jesus, et al.*, 695 Phil. 114, 122 (2012) [Per J. Brion, Second Division].
- [54] CA rollo, pp. 66-67.
- [55] *People v. Amoncio, et al.*, 207 Phil. 591, 597-598 (1983) [Per J. Gutierrez, Jr., First Division]; *People v. Radomes*, 225 Phil. 480, 488 (1986) [Per J. Gutierrez, Jr., First Division]; *People v. Fuertes*, 299 Phil. 285, 296 (1994) [Per J. Regalado, Second Division]; *People v. Del Prado*, 618 Phil. 674, 682 (2009) [Per J. Chico-Nazario, Third Division].

[56] 618 Phil. 674 (2009) [Per J. Chico-Nazario, Third Division].

[57] Id. at 682.

[58] *People v. Bihag, Jr.*, 396 Phil. 289, 297 (2000) [Per J. Quisumbing, En Banc].

[59] Id.

[60] 694 Phil. 529 (2012) [Per J. Perez, En Banc].

[61] Id. at 559.

[62] Rollo, pp. 10-11.

[63] Republic Act No. 7659 (1993), sec. 6.

[64] CA rollo, p. 66.

[65] Rollo, pp. 13-14.

[66] 436 Phil. 98 (2002) [Per J. Ynares-Santiago, En Banc].

[67] Id. at 105.

[68] Id.

[69] *Cirera v. People*, 739 Phil. 25, 45 (2014) [Per J. Leonen, Third Division].

[70] 465 Phil. 368 (2004) [Per J. Carpio, En Banc].

[71] Id. at 382.

[72] *Preferred Home Specialties, Inc. v. Court of Appeals (Seventh Div.)*, 514 Phil. 574, 601 (2005) [Per J. Callejo, Sr., Second Division].

[73] Rollo, pp. 12-13.

[74] REV. PEN. CODE, art. 76 provides:

ARTICLE 76. Legal Period of Duration of Divisible Penalties. - The legal period of duration of divisible penalties shall be considered as divided into three parts, forming three periods, the minimum, the medium, and the maximum in the manner shown in the following table:

....

[75] REV. PEN. CODE, art. 64 provides:

ARTICLE 64. Rules for the Application of Penalties Which Contain Three Periods. - In cases in which the penalties prescribed by law contain three periods, whether it be a single divisible penalty or composed of three different penalties, each one of which forms a period in accordance with the provisions of articles 76 and 77, the courts shall observe for the application of the penalty the following rules, according to whether there are or are not mitigating or aggravating circumstances:

- When there are neither aggravating nor mitigating circumstances, they shall impose the penalty prescribed by law in its medium period.

[76] *People v. Jugueta*, 783 Phil. 806, 852 (2016) [Per J. Peralta, En Banc].

[77] *Id.* at 832.

[78] Republic Act No. 6127 (1970), sec. 1.

[79] *Nacar v. Gallery Frames*, 716 Phil. 267 (2013) [Per J. Peralta, En Banc].

**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.