

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. MARK ANTHONY YULO Y GALLO A.K.A. “TATA” AND MARK RYAN BUENO Y CORONA A.K.A. “NONOY”; ACCUSED-APPELLANTS.

G.R. No. 249859. July 06, 2022

Ponente: LOPEZ, J., J.

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LOPEZ, J., J.:

For Our resolution is the Appeal[1] under Rule 124 of the Revised Rules of Criminal Procedure seeking the reversal of the Decision[2] dated March 4, 2019 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 09490. In the assailed ruling, the CA affirmed the Decision[3] dated November 14, 2016 of the Regional Trial Court, Branch 72 of Antipolo City (RTC), which found Mark Anthony Yulo y Gallo a.k.a. "Tata" (Yulo) and Mark Ryan Bueno y Corona a.k.a. "Nonoy" (Bueno) guilty beyond reasonable doubt of murder, as defined and penalized by Article 248 of the Revised Penal Code (RPC).

The Antecedents

In the evening of January 2, 2005, Felix Sabasan y Magango (Felix) was stabbed multiple times outside his house in Sitio Culasisi, Brgy. San Luis, Antipolo City. Yulo and Bueno were identified as the suspects, and they were arrested in the early hours of January 3, 2005.[4] A search on their persons revealed a blood-stained ice pick in the possession of Yulo.[5] Subsequently, an Information for murder dated January 6, 2005 was filed against them, thus:

That on or about the 2[nd] day of January, in the City of Antipolo Philippines, and within the jurisdiction of this Honorable Court, the above--named accused, while armed with a bladed weapon, conspiring and confederating with one unidentified person whose true name, identity and whereabouts are still unknown[,] and mutually helping and aiding [one] another, with intent to kill, and with abuse of superior strength and treachery, did then and there willfully, unlawfully and feloniously attack, assault, stab with said bladed weapon one Felix Sabasan y Magango @ "Bochok," thereby inflicting upon the latter fatal wounds which directly caused his death.

CONTRARY TO LAW.[6]

Upon arraignment, Yulo and Bueno pleaded "not guilty." [7] During the pre-trial, the parties stipulated on the jurisdiction of the RTC, the identities of Yulo and Bueno, and the place and date of the incident.[8] Thereafter, trial commenced.

The prosecution presented four witnesses: Lucena Abayon[9] (Abayon), Nehemias Sabasan[10] (Sabasan), Cristy Cardinal[11] (Cardinal), and Police Chief Inspector Jose Arnel Marquez[12] (PCI Marquez). Their testimonies established that:

At around 11:30 in the evening on January 2, 2005, Abayon was inside her house at Sitio Culasisi, Brgy. San

Luis, Antipolo City when she heard someone shout "Pa!" Recognizing the voice as that of Felix, a neighbor and a fellow security guard at a nearby establishment, she went out to see what was going on. She was surprised to see Felix being chased by three men, two of whom she identified as Yulo and Bueno.[13] Since the area was illuminated by street lamps, she saw Felix stumble outside his house, allowing the men to catch up with him. When they did, Bueno and the third man held Felix in place while Yulo stabbed him.

Abayon rushed to Felix's house where she told his mother that she saw Yulo and Bueno stab Felix. Felix's family then asked her to help them report the incident at the police station in Cogeo, Antipolo City. Once Abayon gave her statement of the incident, the police officers went to the house of Bueno's employer where he was known to be staying. Yulo and Bueno were arrested shortly thereafter.[14]

For his part, Nehemias was at home at around 11:30 in the evening on that fateful night when he heard Felix shouting from outside. When he went out, he saw his son covered in blood. He also noticed that there were three men running away.[15] Shocked, Nehemias asked Felix who stabbed him, and Felix answered, "Tata Manukan and Nonoy." [16] Nehemias knew them because Tata Manukan (later identified as Yulo)[17] worked at a nearby poultry farm, while Nonoy (later identified as Bueno)[18] was the son of his kumpare.

With another neighbor's help, Nehemias brought Felix to the Bagong Nayon Community Hospital. On the way there, Felix expressed his fear that he was not going to survive, but Nehemias encouraged his son, who was also studying at the International College of Business and Accountancy while working as a security guard, to remain strong. Unfortunately, Felix passed away[19] while receiving treatment.

The medico-legal officer, PCI Marquez,[20] listed Felix's cause of death as "Stab wounds, trunk,"[21] which he explained could have been caused by coming in contact with a sharp and pointed object. Based on the wounds inflicted, PCI Marquez surmised that it was possible that more than one sharp--edged instrument was used in the attack. He also explained that out of the 11 stab wounds on his front and back, the ones on Felix's nape, neck and trunk were the fatal injuries.

Meanwhile, Cardinal, a neighbor of Felix and of Yulo and Bueno, narrated that she and her husband were at home that evening when Yulo arrived at around 11:00 in the evening to ask for a glass of water. After that, Yulo confided to her that he stabbed Felix.[22] When Cardinal dismissed his claim, Yulo left.

For their defense, Yulo[23] testified that at around the time that Felix was killed, he and Bueno were sleeping at the house of their employer. He was only awakened when someone kicked the door open and men with flashlights came in. With guns pointed at him and Bueno, the unidentified men ordered them to go with them to the police station. Overcome with fear, they went along peacefully. They were immediately detained when they arrived there. Yulo recalled that he advised Bueno, who was only 18 years old at the time, to call his mother. However, this request was not granted by the police officers.

Meanwhile, Bueno[24] testified that he knew Felix because they were close friends and had been neighbors since he was seven years old. Bueno narrated that on the night Felix was killed, he was at the barracks with Yulo. He was about to go to sleep when suddenly the door was kicked with much force that its lock broke. Around five to eight unidentified men then barged in and one of them ordered him and Yulo to go with them peacefully. He noticed that Nehemias was accompanying the men and he was surprised when Nehemias pointed at him and Yulo, and said, "Yan 'yung mga pumatay sa anak ko." [25]

Bueno recalled that they were brought to the police station for investigation before being transferred to the Antipolo City Jail. Bueno explained that he tried to ask permission to call his parents, but the police officers refused on the ground that they were only being investigated in connection with Felix's death. He then lamented

that he had no conflict with Felix before the latter died.

In a Decision[26] dated November 14, 2016, the RTC convicted Yulo and Bueno of murder. It reasoned that the prosecution was able to prove their guilt beyond reasonable doubt through the testimonies of Abayon and Cardinal. It likewise noted that Felix made a dying declaration to Nehemias as to the identity of his attackers. Thus, the RTC disposed as follows:

WHEREFORE, premises considered, [the] prosecution having proven the guilt of both accused beyond reasonable doubt, judgment is hereby rendered CONVICTING both the Accused for the crimes [sic] of MURDER. MARK ANTHONY YULO y GALLO and MARK RYAN BUENO y CORONA are hereby sentenced to suffer the penalty of RECLUSION PERPETUA and to solidarily indemnify the heirs of the victim: a) P50,000.00 in moral damages; b) P50,000.00 as civil indemnity; c) P25,000.00 as exemplary damages; d) P107,600.00 as actual damages; and, e) 1,872,000.00 as loss of earning capacity.

SO ORDERED.[27]

Aggrieved, Yulo and Bueno filed their Notice of Appeal[28] which was given due course. In the meantime, they were detained at the National Bilibid Prison (NBP) in Muntinlupa City.[29]

In a Decision[30] dated March 4, 2019, the CA upheld Yulo and Bueno's conviction on the ground that the prosecution was able to prove that it was them who killed Felix. It stated that the dying declaration made by Felix and the admission made by Yulo to Cardinal supported the finding of guilt. The CA also concurred with the RTC in ruling that the crime committed was murder since treachery and abuse of superior strength accompanied the commission of the crime. However, the CA increased the damages awarded to Felix's heirs pursuant to *People v. Jugueta*. [31] Thus:

WHEREFORE, the appeal is DENIED. The Decision dated 14 November 2016 of the Regional Trial Court, Fourth Judicial Region, Branch 72, Antipolo City in Criminal Case No. 05-29075 is AFFIRMED with MODIFICATION increasing the amounts of indemnity and damages to be imposed as follows: P100,000.00 as moral damages; P100,000.00 as exemplary damages; P100,000.00 as civil indemnity; Thus, accused--appellants Mark Anthony Yulo y Gallo and Mark Ryan Bueno y Corona are ordered to solidarily pay the following amounts: P100,000.00 as moral damages;. P100,000.00 as exemplary damages; P100,000.00 as civil indemnity; P107,600.00 as actual damages; and P1,872,000.00 as loss of earning capacity. All damages awarded shall earn interest at the rate of 6% per annum from the date of finality of this judgment until fully paid.

SO ORDERED.[32]

Arguing that both the RTC and the CA committed reversible errors in convicting them, Yulo and Bueno filed their Notice of Appeal[33] which was given due course by the CA.[34]

In a Resolution[35] dated November 27, 2019, the parties were required to submit their respective supplemental briefs. In separate manifestations,[36] the prosecution, through the Office of the Solicitor General (OSG), and the defense, through the Public Attorney's Office, manifested that they were no longer filing supplemental briefs.[37]

In their appeal before this Court, accused-appellants argued that the CA made a reversible error in finding them guilty of the offense charged. They contend that the testimony of Abayon should not have been given any weight since it was riddled with inconsistencies and they point to her illogical behavior of going home to change her clothes before informing Felix's family of the incident. They also question the credibility of Cardinal who said that Yulo arrived at her house at around 11:00 in the evening when the stabbing was supposed to happen about 30 minutes later. Finally, accused-appellants contest the findings of treachery and abuse of superior strength on the ground that these were not properly established.

Our Ruling

The appeal is bereft of merit.

Article 248 of the RPC, as amended, provides that:

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 of 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, by means of motor vehicles, or with the use of any other means involving great waste and ruin;
- On occasion of any calamities enumerated in the preceding paragraph, or of an earthquake, eruption of a volcano, destructive cyclone, epidemic, or any 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)

Thus, to successfully prosecute the crime of murder, the following elements must be present: 1) that a person was killed; 2) that the accused killed him/her; 3) that the killing was attended by any of the qualifying circumstances mentioned in Art. 248; and 4) that the killing is not parricide or infanticide.[38]

The records of the case establish that Felix died due to multiple stab wounds inflicted on different parts of his body (first element), and that the accused-appellants are not related to their victim (fourth element).

Accused-appellants were positively identified as the assailants

Accused-appellants have been proved with certainty by the prosecution as the ones who inflicted the mortal wounds (second element). Eyewitness Abayon clearly and categorically told the trial court that she saw accused-appellants and one John Doe[39] chase Felix, and that when they caught up with him, Bueno held him immobile while Yulo proceeded to stab Felix.[40] As the area was well illuminated, Abayon clearly saw the incident and she was able to identify the accused-appellants as those who attacked Felix. The CA noted the OSG's submission that:

x x x It should be noted that the place where the stabbing incident occurred is not "a remote barangay with no electric lighting in the surroundings," but a heavily guarded personal compound that had at least two residences and a guarded gate in close proximity.[41]

There is also no indication that Abayon had any malice or ill motive in naming the accused-appellants as Felix's killer. Even her act of going back home to change her clothes, while unusual, cannot be taken against her. Witnessing a crime is an unusual experience which elicits different reactions from witnesses and for which no clear-cut standard form of behavior can be drawn.[42] In *People v. Pigar*,[43] this Court enunciated that:

x x x suffice it to state that there could be no hard and fast gauge for measuring a person's reaction or behavior

when confronted with a startling, not to mention horrifying, occurrence, as in this case. Witnesses of startling occurrences react differently depending upon their situation and state of mind, and there is no standard form of human behavioral response when one is confronted with a strange, startling or frightful experience. The workings of the human mind placed under emotional stress are unpredictable, and people react differently to shocking stimulus - some may shout, some may faint, and others may be plunged into insensibility.[44]

The RTC and the CA also correctly gave credence to the testimony of Cardinal who testified that Yulo admitted to her that he killed Felix. This circumstance falls squarely as an admission against interest. In *BP Oil and Chemicals International Philippines, Inc. v. Total Distribution & Logistic Systems, Inc.*,[45] this Court ruled that:

x x x Admissions against interest are those made by a party to a litigation or by one in privity with or identified in legal interest with such party, and are admissible whether or not the declarant is available as a witness. An admission against interest is the best evidence that affords the greatest certainty of the facts in dispute, based on the presumption that no man would declare anything against himself unless such declaration is true. It is fair to presume that the declaration corresponds with the truth, and it is his fault if it does not. (Citations omitted)

Absent any showing of ill motive on the part of Cardinal to concoct a story implicating Yulo in the crime, We give her testimony credence for the simple fact that no person would knowingly and voluntarily confess to committing a crime if they were not its author.

The statements of Abayon and Cardinal are further bolstered by Felix's answer to Nehemias' question as to who stabbed him. Nehemias testified that when he asked Felix who attacked him, his son gave the name of accused--appellants without any hesitation.

In giving credence to Felix's statement, the RTC and the CA deemed his identification as a dying declaration which is an established exception to the hearsay rule under Rule 130 of the Revised Rules on Evidence, to wit:

SECTION 31. Dying declaration. — The declaration of a dying person, made under a consciousness of an impending death, may be received in a criminal case wherein his death is the subject of inquiry, as evidence of the cause and surrounding circumstances of such death.

In order to properly appreciate a statement as a dying declaration, this Court explained in *People v. Umapas*[46] that:

The rule is that, in order to make a dying declaration admissible, a fixed belief in inevitable and imminent death must be entered by the declarant. It is the belief in impending death and not the rapid succession of death in point of fact that renders the dying declaration admissible. It is not necessary that the approaching death be presaged by the personal feelings of the deceased. The test is whether the declarant has abandoned all hopes of survival and looked on death as certainly impending.[47]

The records are bereft of any indication that Felix harbored a "fixed belief of his inevitable and imminent death" at the time he identified Yulo and Bueno as his assailants. In fact, Nehemias stated that Felix expressed his fear that he was going to die while they were already on their way to the hospital. In *People v. Peña*,[48] where the victim positively identified his assailant prior to his death, this Court clarified that:

Granting that Pelagio, after giving his statement, later on realized that he was dying, his statement still can not be considered a dying declaration. The crucial factor to consider is the contemporaneity of the moment when the statement was made and the moment of the realization of death. The time the statement was being made must also be the time the victim was aware that he was dying.[49]

Perforce, Felix's statement cannot be admitted as a dying declaration. Nonetheless, Felix's statement may be admitted as part of *res gestae*. *Res gestae* comprises statements made by a person while a starting occurrence is taking place or immediately prior or subsequent thereto with respect to the circumstances thereof.[50] It has the

following elements: (1) the principal act, the *res gestae*, is a startling occurrence; (2) the statement was made before the declarant had time to contrive or devise; and (3) the statement concerns the occurrence in question and its immediate attending circumstances.[51]

All these elements are present in the instant case. First, the stabbing of Felix constituted a startling occurrence. Second, there was not enough time for him to contrive or devise a false accusation when he identified accused-appellants since it was only moments after the attack when his father asked him who stabbed him. Finally, the statement concerns the stabbing incident which led to the death of the declarant, Felix.

It is worth noting that while Yulo was identified as the one who stabbed Felix and from whom the blood-stained ice pick was recovered, Bueno is necessarily liable for the same crime albeit his participation was limited to holding the victim's arms, being a co-conspirator. Conspiracy is inferred from and established by the acts of the accused themselves when said acts point to a joint purpose and design, concerted action and community of interests.[52] In *People v. Campomanes*,[53] where only one of the accused-appellants therein actually inflicted the mortal wound, this Court elucidated that:

Conspiracy is present where the participants performed specific acts with such closeness and coordination as unmistakably to indicate a common purpose or design in bringing about the crime. Proof of a previous agreement to commit the crime need not be shown. Neither is it necessary that all the participants deliver the fatal blow, as the act of one is the act of all.

In the case before us, the fact that accused-appellant was not the one who stabbed the victim does not negate his participation in the conspiracy. Eyewitness Aureada saw accused-appellant holding the arms of the victim while the latter was being stabbed by accused Rosita Such positive act of the accused-appellant forms part of the concerted action to achieve the common intention and design to kill the victim. We have ruled in several cases that the act of holding the victim to render him immobile, or defenseless, thus enabling the other companions to consummate the dastardly act, constitutes an active participation in a conspiracy.[54]

Indeed, in conspiracy, the act of one is the act of all.[55] Conspiracy is the common design to commit a felony; it is not participation in all the details of the execution of the crime.[56] Thus, all those who participated in the commission of the crime, regardless of the precise extent or modality,[57] are collectively liable.[58] Based on his participation, it is clear that Bueno is equally liable as principal for the death of Felix.

Only abuse of superior strength attended the killing

While both the RTC and the CA found that treachery attended the killing, We find otherwise. Treachery is defined as the direct employment of means, methods, or forms in the execution of the crime against persons which tend directly and specially to insure its execution, without risk to the offender arising from the defense which the offended party might make.[59] The essence of treachery is that the attack is deliberate and without warning, done in a swift and unexpected way, affording the hapless, unarmed and unsuspecting victim no chance to resist or escape.[60] Jurisprudence has identified its elements as the following: (1) at the time of the attack, the victim was not in a position to defend himself; and (2) the accused consciously and deliberately adopted the particular means, methods, or forms of attack employed by them.[61]

In the instant case, it was when Felix fell down that accused-appellants were able to catch up with him and inflict bodily harm. The factual milieu of this case shows that there was a chase that occurred before Felix was caught by accused-appellants. Thus, it cannot be said that the victim had no chance to resist or escape, as he was initially able to escape from his assailants. Moreover, as astutely observed by Associate Justice Mario V. Lopez, the

method adopted by the accused-appellants was incidental to the victim tripping on the ground. They simply took advantage of the victim's fall.[62] It was this instance that allowed the accused-appellants to kill their victim and not because of a particular form of attack they have consciously and deliberately adopted.

Nonetheless, the manner of the commission of the crime clearly shows that the aggravating circumstance of abuse of superior strength attended the killing of Felix (third element). "This circumstance is present whenever there is inequality of force between the victim and the aggressor, assuming a situation of superiority of strength notoriously advantageous for the aggressor, and the latter takes advantage of it in the commission of the crime." [63] Further, in order to be appreciated, it must be shown that the assailants "combined forces in order to secure advantage from their superiority in strength." Here, accused-appellants teamed up to launch a simultaneous attack against the unarmed and defenseless Felix.[64] Based on the facts as narrated by the eyewitness, Felix was helpless against the coordinated attack against him by the accused-appellants, with Bueno and an unidentified third person ensuring his immobility while Yulo stabbed him 11 times. This showed their intent to overwhelm their victim with their superior force.

Penalty and damages

Pursuant to Art. 248 of the RPC, the penalty for murder is reclusion perpetua to death. In the absence of any mitigating or aggravating circumstance,[65] Article 63 of the RPC provides that the lesser penalty of reclusion perpetua shall be imposed.[66] Verily, both the RTC and the CA correctly sentenced accused-appellants to reclusion perpetua.

As to the award of actual damages, it is necessary to prove the actual amount of loss with a reasonable degree of certainty, premised upon competent proof and the best evidence obtainable by the injured party.[67] Since the prosecution submitted receipts to prove the actual amount of expenses incurred in the wake and burial of the victim, then the award of actual damages in the amount of P107,600.00 is upheld.[68]

The award for loss of earning capacity is likewise proper since the 20-year old victim was established to be gainfully employed[69] at the time of his death. Further, Article 2206 of the Civil Code expressly states that when death occurs as a result of a crime, the perpetrator shall be liable for the loss of the earning capacity of the deceased. Thus, the RTC, as affirmed by the CA, properly fixed his salary at the prevailing minimum wage of P300.00 per day.[70] Following the computation in *People v. Wahiman*, [71] the loss of earning capacity to be paid by Yulo and Bueno is P1,872,000.00, which is the same amount computed by the RTC.[72]

The amounts of moral and exemplary damages and civil indemnity, on the other hand, should be modified. The CA in this case imposed the awards of P100,000.00 as moral damages; P100,000.00 as exemplary damages; P100,000.00 as civil indemnity. These amounts, however, are imposed in cases where the penalty is death but reduced to reclusion perpetua[73] because of Republic Act No. 9346.[74] Here, the penalty imposed on accused-appellants is reclusion perpetua only. Hence, the proper amounts for damages should be P75,000.00 as civil indemnity, P75,000.00 as moral damages, and P75,000.00 as exemplary damages, regardless of the number of qualifying aggravating circumstances present.[75]

WHEREFORE, the instant appeal is DISMISSED. The Decision dated March 4, 2019 of the Court of Appeals in CA-G.R. CR-HC No. 09490 finding accused-appellants Mark Anthony Yulo y Gallo a.k.a. "Tata" and Mark Ryan Bueno y Corona aka. "Nonoy" GUILTY beyond reasonable doubt of the crime of murder is AFFIRMED with MODIFICATION.

Accused-appellants are SOLIDARILY ORDERED TO PAY the heirs of Felix Sabasan y Magango the amounts of P75,000.00 as civil indemnity, P75,000.00 as moral damages, and P75,000.00 as exemplary damages. These

amounts, along with the awards of P107,600.00 as actual damages and P1,872,000.00 as loss of earning capacity, are subject to interest at the legal rate of 6% per annum from the date of finality of this Decision until full payment.

SO ORDERED.

Leonen, SAJ. (Chairperson), Lazaro-Javier, M. Lopez, and Kho, Jr., JJ., concur.

[1] CA rollo, p. 166.

[2] Penned by Associate Justice Ronaldo Roberto B. Martin with Associate Justices Ramon M. Bato, Jr. and Ramon A. Cruz, concurring; rollo, pp. 3-16.

[3] Penned by Judge Ruth D. Cruz-Santos; CA rollo, pp. 44-50.

[4] Records, p. 4.

[5] Id.

[6] Id. at 1.

[7] Id. at 39.

[8] Id. at 49-51, 70.

[9] TSN, February 13, 2006; TSN, August 6, 2007.

[10] TSN, January 28, 2008; TSN, September 30, 2008.

[11] TSN, August 11, 2009.

[12] TSN, September 9, 2013.

[13] TSN, February 13, 2006, p. 9.

[14] CA Rollo, p. 45.

[15] Records, p. 5.

[16] Id. at 8.

[17] Id. at 10.

[18] Id.

[19] Certificate of Death, records, pp. 9-10.

[20] TSN, September 9, 2013.

[21] Id. at 10-11.

[22] TSN, August 22, 2009, p. 11.

[23] TSN, September 7, 2015.

[24] TSN, February 22, 2016.

[25] Id. at 16.

[26] CA rollo, pp. 44-50.

[27] Id. at 50.

[28] Records, p. 374.

[29] Id. at 375-376.

[30] Rollo, pp. 3-16.

[31] 738 Phil. 806 (2016).

[32] Rollo, p. 16.

[33] CA rollo, pp. 96-97.

[34] Id. at 100.

[35] Id. at 23-24.

[36] Id. at 26-28; 31-32.

[37] Id. at 36-37.

[38] *People v. Aquino*, 829 Phil. 477, 485 (2018), citing Luis B. Reyes, *The Revised Penal Code Criminal Code*, Book Two, 17[th] Ed., p. 496 (2008).

[39] Except for his inclusion in the Information, John Doe's participation in the crime was neither discussed nor established in the records of this case.

[40] TSN, February 13, 2005, pp. 11-14.

[41] Rollo, p. 13.

[42] *People v. Baltazar*, 405 Phil. 340, 351 (2001).

[43] G.R. No. 247658, February 17, 2020.

[44] Id. citing *People v. Bañez, et al.*, 770 Phil. 40, 46 (2015).

[45] 805 Phil. 244, 260-261 (2017); *Taghoy, et al. v. Sps. Tigol, Jr.*, 640 Phil. 385, 394 (2010).

[46] *People v. Umapas*, 807 Phil. 975 (2017).

[47] Id. at 986.

[48] 427 Phil. 129 (2002).

[49] Id. at 137. (Emphasis supplied).

[50] Section 42, Rule 130 of the Revised Rules of Court.

[51] *People v. Calinawan*, 805 Phil. 673, 682 (2017).

[52] *People v. Gerero, et al.*, 791 Phil. 618, 623 (2016).

[53] 426 Phil. 693 (2002).

[54] Id. at 702-703. (Citations omitted).

[55] *People v. Jesalva*, 811 Phil. 299, 308 (2017).

[56] *People v. Sarino*, 293 Phil. 239, 255 (1993).

[57] *People v. Jesalva*, supra at 308, citing *People v. Dollendo, et al.*, 679 Phil. 338, 349 (2012).

[58] *People v. Peralta, et al.*, 134 Phil. 703, 719 (1968).

[59] Paragraph 16, Article 14 of the Revised Penal Code.

[60] *People v. Las Pinas, et al.*, 739 Phil. 502, 524 (2014).

[61] *People v. Silvederio*, G.R. No. 239777, July 8, 2020, citing *People v. Racal*, 817 Phil. 665, 677-678 (2017).

[62] Letter dated June 28, 2022. See also *People v. Mazo*, 419 Phil. 750 (2001).

[63] *People v. Mat-an*, 826 Phil. 512, 526 (2018).

[64] *People v. Cañaveras*, 722 Phil. 259, 271 (2013).

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

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

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

2. When there are neither mitigating nor aggravating circumstances in the commission of the deed, the lesser penalty shall be applied.

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

4. When both mitigating and aggravating circumstances attended the commission of the act, the courts shall reasonably allow them to offset one another in consideration of their number and importance, for the purpose of applying the penalty in accordance with the preceding rules, according to the result of such compensation.)

[66] *People v. Manzano*, 827 Phil. 113, 143-144 (2018).

[67] *Lim v. Tan*, 801 Phil. 13, 23 (2016).

[68] Rollo, p. 15; records, pp. 313-320, 370.

[69] Records, p. 310.

[70] *People v. Wahiman*, (Concurring Opinion), 760 Phil. 368, 382-383 (2015), citing *People v. Dizon*, 378 Phil. 261, 278 (1999).

[71] Supra at 389; *Torreon v. Aparra*, 822 Phil. 561, 580 (2017).

[72] Records, p. 371.

[73] *People v. Jugueta*, 783 Phil. 806, 847 (2016).

[74] *An Act Prohibiting the Imposition of Death Penalty in the Philippines* (2006).

[75] People v. Pantoja, 821 Phil. 1052, 1069 (2017).

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