

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. CRISTOTO LAPAZ ALIAS TOTONG, JOHNSON BARLESO AND PAULINO LAPAZ, JR., DEFENDANTS, CRISTOTO LAPAZ ALIAS TOTONG, DEFENDANT-APPELL...

G.R. No. 68898. March 31, 1989

Ponente: GANCAYCO, J.

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GANCAYCO, J.:

In the evening of April 14, 1984, Eulalia Cabunag, a 70-year old woman who was living alone, was beaten to death by three men at Barangay Katipunan, Carmen, Bohol. One of them was discharged as a state witness; the second pleaded guilty and the third pleaded not guilty so he underwent a trial. Thereafter, both were found guilty and sentenced to death. Said verdict is now before this Court on appeal.

Appellant Johnson Barleso used to stay in the house of said victim, Eulalia Cabunag as his common-law wife was the niece of the latter. They transferred to the house of Aurelio Gaudicos, son-in-law of Eulalia, when Eulalia called Barleso a thief in the presence of many people. Apparently, Barleso resented the remark.

Paulino Lapaz, Jr. was then in his parent's house in the same barangay when he was fetched by his uncle, herein appellant Cristoto Lapaz, to go to the house of Barleso. Thereat, Barleso proposed to Cristoto in the presence of Paulino that they kill Eulalia. Cristoto agreed. He asked Paulino to buy a bottle of "kulafu" wine which he drank to embolden himself. Thereafter the three proceeded to the house of the victim who was living alone. Cristoto carried a rounded piece of wood[1] which was given to him by Barleso, while Barleso also carried another piece of wood[2] and a bolo.

Upon their arrival in the house of the victim, Barleso left the bolo behind a post beneath the house. He then removed a plywood covering an opening on the wall beneath the victim's stove. The three then entered the house, one after the other through said opening. Paulino stayed in the kitchen, while Barleso and Cristoto proceeded to the sala where they helped one another in beating the victim with the pieces of wood they brought with them until the latter slumped on the floor.

Barleso ordered Paulino to get the bolo which he left beneath the house. When Paulino handed the bolo to Barleso, the victim suddenly shouted for help even as she was already lying on the floor. Frightened, the three panicked and jumped one after the other through the same opening through which they entered the house, leaving behind the two pieces of wood which Barleso and Cristoto used. Paulino and Barleso proceeded to the latter's house while Cristoto proceeded to the house of Paulino's parents.

As Aurelio Gaudicos heard a thudding sound and a shout for help coming from the direction of the victim's house, he ran towards said house and hid behind the coconut tree near the kitchen. From there he saw the three men, Paulino, Barleso, and Cristoto hurriedly leaving the house of the victim. Gaudicos immediately returned home and ordered someone to fetch the police.

When the policemen led by the Integrated National Police station commander of Carmen, Bohol arrived, they were met by Gaudicos who led them to the house of the victim. There they saw the victim bathed in her own blood at the sala still alive but she could no longer talk. She was brought to the Simeon Toribio Memorial Hospital at the poblacion. Gaudicos confided to the police investigating team the identity of the three persons he saw leaving the victim's house immediately after the incident.

Paulino was spotted by the policeman mixing with the crowd in the vicinity of the victim's house so he was invited for questioning in the house of his father where Cristoto Lapaz was found. In the course of the questioning, the station commander noticed the blood stains on the t-shirt of Cristoto. The two suspects were brought to the police station where the station commander also noticed bloodstains on the pants of Paulino.[3] Upon initial inquiry, Paulino readily admitted his participation in the commission of the crime. Cristoto also admitted his complicity but he pointed to Barleso as the one who struck the victim with the piece of wood. Barleso was picked up at dawn the following day at the hospital where he accompanied the victim. At the initial stage of the investigation, he denied any participation. However, he eventually admitted his guilt.

On April 14, 1984, the police conducted a thorough investigation. Barleso executed a sworn statement admitting his participation in the commission of the crime.[4] During the preliminary examination conducted by Judge Francisco Escano of the Municipal Circuit Court of Carmen, Butuan on April 27, 1984, he admitted having inflicted the injuries on the victim.[5]

The victim died of the injuries the following day in the hospital. Aside from the certificate of death that was issued,[6] a post-mortem certificate was also issued by Dr. Elizabeth Cabagnet. The said physician stated her findings in connection with the autopsy conducted of the victim, as follows:

" x x x " Cardio-respiratory arrest sec. to multiple lacerated wounds, Face, Frontal; Parietal and occipital areas
Multiple contusions, Face, lateral side of neck (left) and shoulder area (left)."[7]

Thus, an information for murder was filed by the provincial fiscal of Bohol against said three suspects in the Regional Trial Court of Bohol.

Upon arraignment of the three accused on July 3, 1984, they entered a plea of not guilty. They were assisted by their respective counsels. When the case was set for trial on the merits on July 25, 1984, counsel for the accused Cristoto Lapaz informed the trial court that he would like to change his plea of not guilty to that of guilty. The trial court inquired from the accused if he confirms the manifestation of his counsel and he answered in the affirmative. Thereafter, said accused was re-arraigned whereupon he pleaded guilty to the crime charged against him. The trial court again asked the accused whether he confirms the manifestation of his lawyer that he was changing his previous plea of not guilty to that of guilty considering that the crime charged is a capital offense and the answer of the accused was still in the affirmative. The trial court also asked him whether he understood fully well the explanation of his lawyer as to the nature of the charges against him and the consequences of his plea of guilty to the crime charged. The answer of the accused was also in the affirmative. At this juncture, his counsel invoked two mitigating circumstances in favor of the accused, to wit: (1) voluntary plea of guilty; and (2) voluntary surrender. The fiscal did not offer any objection to the appreciation of the mitigating circumstance of voluntary plea of guilty but he submitted to the sound discretion of the trial court the appreciation of the second mitigating circumstance of voluntary surrender. He informed the trial court that the accused was apprehended a few minutes after the commission of the offense and was in the custody of the police before the filing of the complaint.

The trial court required the prosecution to present Dr. Elizabeth Cabagnet in order to determine the extent of injuries suffered by the victim. On August 17, 1984 a decision was promulgated by the trial court convicting the

accused Cristoto Lapaz alias "Toto" of the crime of murder. Considering the two aggravating circumstances charged in the information, namely: (1) disregard of the respect due to the offended party on account of her age and sex and (2) the crime having been committed in the dwelling place of the offended party without the latter having given provocation, and which is offset by one mitigating circumstance of voluntary plea of guilty, the accused was sentenced to suffer the penalty of death and to indemnify the heirs of Eulalia Cabunag in the amount of P12,000.00 with subsidiary imprisonment in case of insolvency and to pay the costs of the proceedings.

Meanwhile, the trial proceeded as against appellant Barleso and Paulino Lapaz, Jr. The fiscal filed a motion to discharge the accused Paulino as a state witness with the conformity of the said accused. This was granted by the trial court. After the trial on the merits, a decision was rendered by the trial court on February 28, 1985 finding the accused Barleso guilty of the crime of murder, with three aggravating circumstances, namely: (a) disregard of sex and age of the victim; (b) committed at the dwelling place of the victim; and (c) committed at nighttime and by gaining access to the victim's dwelling through an opening not intended for egress; i.e., through a hole made by the accused, without any mitigating circumstance to offset the same. The trial court imposed on him the penalty of death, to indemnify the heirs of the victim in the amount of P12,000.00, and required him to pay the heirs of the victim the actual damage of P10,000.00 without subsidiary imprisonment in case of insolvency, and to pay the costs of the proceedings.

Both cases were elevated to this Court on automatic review.

The accused Johnson Barleso with the assistance of counsel de oficio asked for a reversal or modification of the judgment based on the following assignment of errors:

"I

THE TRIAL COURT ERRED IN NOT DECLARING THAT CRISTOTO LAPAZ WAS ALONE RESPONSIBLE FOR THE DEATH OF EULALIA CABUNAG.

II

THE TRIAL COURT ERRED IN NOT HOLDING THAT APPELLANT JOHNSON BARLESO WAS, IF AT ALL, MERELY AN ACCOMPLICE OF CRISTOTO LAPAZ.

III

THE TRIAL COURT ERRED IN NOT DISREGARDING THE SELF-EXCULPATORY TESTIMONY OF PAULINO LAPAZ, JR.

IV

THE TRIAL COURT ERRED IN NOT DECLARING AS INADMISSIBLE IN EVIDENCE THE RESPECTIVE SWORN STATEMENTS OF APPELLANT JOHNSON BARLESO EXECUTED AT THE POLICE STATION AND DURING HIS PRELIMINARY EXAMINATION (EXHIBITS "B" AND "F"), FOR VIOLATION OF THIS APPELLANT'S MIRANDA RIGHTS.

V

THE TRIAL COURT ERRED IN HOLDING THAT THE CIRCUMSTANCES OF TREACHERY AND EVIDENT PREMEDITATION ATTENDED THE KILLING OF EULALIA CABUNAG.

VI

THE TRIAL COURT ERRED IN HOLDING THAT THE KILLING OF EULALIA CABUNAG WAS ATTENDED BY THE AGGRAVATING CIRCUMSTANCES OF - (A) DISREGARD OF SEX AND AGE, AND (8) NIGHTTIME.

VII

THE TRIAL COURT ERRED IN NOT CREDITING APPELLANT JOHNSON BARLESO WITH THE ALTERNATIVE MITIGATING CIRCUMSTANCE OF LACK OF INSTRUCTION.

VII

THE TRIAL COURT ERRED IN IMPOSING THE PENALTY OF DEATH UPON APPELLANT BARLESO."^[8]

Likewise, with the assistance of his counsel, the accused Cristoto Lapaz filed a brief assailing his conviction on the following grounds:

"I

THE TRIAL COURT FAILED TO OBSERVE THE DEGREE OF CARE WHICH THIS HONORABLE SUPREME COURT HAS PRESCRIBED FOR A VALID ADMISSION OF A PLEA OF GUILTY BY AN ACCUSED, ESPECIALLY WHERE THE COMMISSION OF A CAPITAL OFFENSE IS CHARGED AS IN THE PRESENT CASE AND IN IMPOSING THE DEATH PENALTY WITHOUT TAKING EVIDENCE INDEPENDENT OF HIS PLEA OF GUILTY.

II

THE TRIAL COURT ERRED IN APPRECIATING THE QUALIFYING CIRCUMSTANCES OF EVIDENT PREMEDITATION, TREACHERY AND SUPERIOR STRENGTH AND THE RECORDS ALSO DO NOT ADEQUATELY SUPPORT THE EXISTENCE OF THESE QUALIFYING CIRCUMSTANCES.

III

THE TRIAL COURT ERRED IN APPRECIATING THE GENERIC AGGRAVATING CIRCUMSTANCES TO WIT: (1) DISREGARD RESPECT DUE THE OFFENDED PARTY ON ACCOUNT OF HER SEX AND AGE; AND (2) THE CRIME HAVING BEEN COMMITTED IN THE DWELLING PLACE OF THE OFFENDED PARTY WITHOUT THE LATTER HAVING GIVEN PROVOCATION.

IV

THE TRIAL COURT ERRED IN NOT CONSIDERING THE MITIGATING CIRCUMSTANCE OF LACK OF INSTRUCTION.

V

THE TRIAL COURT ERRED IN IMPOSING THE DEATH PENALTY ON THE ACCUSED-APPELLANT CRISTOTO LAPAZ."^[9]

With the abolition of the death penalty under the present Constitution,^[10] there is no more automatic review of cases of this nature. These cases are thus treated as on ordinary appeal.

First, the Court takes into account the appeal of appellant Johnson Barleso. Barleso stresses the fact that his co-accused Cristoto Lapaz, who took the witness stand as his witness, admitted having killed the victim Eulalia Cabunag on the evening of April 14, 1984 and that Although Barleso and Paulino Lapaz Jr. were with him then, he did not see Barleso participate in the beating of the victim. Barleso testified that at that critical moment, he was at the kitchen of the victim's house and that he went with Cristoto and Paulino because Cristoto threatened him with a hunting knife. While Barleso admitted that his relationship with the victim was not cordial, he alleges that his anger never developed into such hatred as to inspire him to kill the victim. He contends that his mere presence on the occasion of the killing does not prove conspiracy inasmuch as he did not take a direct part in the beating of the victim and that he did not directly force or induce Cristoto to commit the same. He argues that if at all, his participation was merely that of an accomplice in that knowing of the criminal design of Cristoto he still accompanied said assailant to the place of the victim and that his presence at the scene of the crime was not indispensable to the commission of the same.[11]

The Court is not persuaded. Paulino Lapaz, Jr., who was discharged as a state witness, categorically testified that he was present when Barleso and Cristoto Lapaz agreed on that evening to the victim; that he was asked by Cristoto to buy "kulafu" wine which Cristoto drank; that Cristoto brought a piece of wood, while Barleso brought a piece of wood and a bolo with him; that Barleso left his bolo underneath the house of the victim; that Cristoto entered through an opening in the house followed by Barleso and himself; that Cristoto and Barleso beat the victim, who was then alone, by using the pieces of wood they had brought along; that after the victim slumped down to the floor, Barleso commanded him to get his bolo, and so he got it and handed it to Barleso; that the victim shouted for help; that they were frightened; and that the all got out of the house and fled.

The testimony of Cristoto Lapaz tending to exculpate appellant Barleso is not worthy of any credence. Barleso does not deny that he had a standing grudge against the victim for calling him a thief in the presence of many persons. He felt so disgraced that he and his wife moved out of the house of the victim. It must be because of such hatred that he persuaded Cristoto to join him in killing the victim.

Barleso assailed the discharge of Paulino as a state witness on the ground that such discharge is improvident. Barleso alleges that Paulino was more guilty than himself. The evidence does not support the stance of appellant. Be that as it may, the discharge of Paulino as state witness cannot be faulted as long as he is not the most guilty.[12]

The admission in evidence of the sworn statements of appellant Barleso executed at the police station and during his preliminary examination is also questioned by appellant. The Court finds it unnecessary to dwell on the issue considering that the evidence on record is more than adequate to generate appellant's conviction of the offense charged against him without considering the said sworn statements.[13]

Contrary to the allegation of the appellant Barleso, the commission of the offense with treachery and evident premeditation has been established by the prosecution. The appellant nurtured a grudge and planned the killing of the victim. He invited his two companions to help him execute his plan to beat the victim to death with pieces of wood in the middle of the night insuring the killing of the victim without risk to himself arising from the defense which the offended party might make. The presence of treachery is clear.[14]

It was also established that previous to the incident, the victim called appellant Barleso a thief in the presence of other people, and that appellant and his family transferred to another house inasmuch as he could no longer bear the insults hurled at him by the victim. The appellant's resentment culminated in the evening of April 14, 1984 when as above-related he persuaded his two co-accused to join him in killing the victim, which they accomplished. Sufficient time, therefore, had elapsed from the time the appellant conceived the commission of the

crime until the execution thereof. Obviously, evident premeditation attended the commission of the crime.[15]

By the same token, the assigned error as to the two aggravating circumstances is not well taken. While it may be true that nighttime is absorbed in the aggravating circumstance of treachery, the aggravating circumstance of disregard of sex and age cannot be similarly absorbed. Treachery refers to the manner of the commission of the crime. Disregard of sex and age pertains to the relationship of the victim, who is a 70-year old woman, and the appellant who is young man, 27 years old, at the time of the commission of the offense.

The Court also takes note of the presence of the aggravating circumstance of dwelling and that the crime was committed after an unlawful entry.

The mere lack of instruction or illiteracy of the appellant cannot be considered as a mitigating circumstance. One does not have to be educated or intelligent to be able to know that it is unlawful to take the life of another person even if it is to redress a wrong committed against him.

The conviction of appellant Barleso by the trial court must be upheld.

Now to the appeal of Cristoto Lapaz. The main thrust of his appeal is that the trial court failed to observe the degree of care prescribed in imposing the death penalty upon a plea of guilty by an accused charged with the commission of a capital offense, citing *People vs. Padilla*, [16] The appellant contends that the trial court failed to explain to him the nature of the charge against him, especially the aggravating circumstances attending the commission of the offense and that the trial court did not propound any question to him regarding said circumstances so as to leave no room for doubt as to the possibility of his misunderstanding the nature and gravity of the charge to which he was pleading guilty. He argues that he was not advised as to the meaning and effect of the technical language in the information in qualifying the acts constituting the offense.[17]

The appellant also cites *People vs. Formentera*, [18] where this Court observed that the casual remark of the trial judge that the penalty to be imposed is "reclusion perpetua to death" without specifically and categorically informing the accused of the imposable penalty, and the averment of several aggravating circumstances in the information, thus provide cogent reason to conclude that the accused did not fully comprehend the consequences of his plea. He asserts that the trial court should have called witnesses for the purpose of establishing his guilt and culpability not only to satisfy the trial judge, but also to aid the Supreme Court in determining whether the accused really and truly understood and comprehended the meaning and the full consequences of his plea.[19]

The record of the proceedings relevant to this issue is as follows:

"ATTY BAGAIPPO, JR.:

Your Honor, please, one of the accused in this case Cristoto Lapaz alias Toto intimated to me that he is changing his plea of not guilty, your Honor. We therefore request that he be re-arraigned on the Information, your Honor.

"COURT (to accused Cristoto Lapaz):

"Q Your lawyer, Cristoto Lapaz, Atty. Fortunato Bagaipo, Jr. manifested to the Court that you are going to change your plea from your previous plea of not guilty to that of guilty. Do you confirm to this fact as manifested by your lawyer?

"ACCUSED CRISTOTO LAPAZ:

"Yes, your Honor, that is correct.

"COURT (to Court Interpreter):

All right, re-arraign accused Cristoto Lapaz alias Totong.

(At this juncture, the court interpreter is reading the information to accused Cristoto Lapaz)

"COURT:

"Q Cristoto Lapaz, this is your correct name?

"ACCUSED CRISTOTO LAPAZ:

"A: Yes, your Honor.

"COURT:

"Q Do you understand the Information read to you and translated to you in the Cebu Visayan dialect?

"ACCUSED CRISTOTO LAPAZ:

"A Yes, your Honor.

"COURT:

"Q What plea do you enter?

"ACCUSED CRISTOTO LAPAZ:

"A Guilty, your Honor.

"COURT:

"Q You are charged of a capital offense. Did your lawyer explain to you the nature of the offense which is punishable from life to death?

"ACCUSED CRISTOTO LAPAZ:

"A Yes, your Honor.

"COURT:

"Q What is your highest educational attainment?

"ACCUSED CRISTOTO LAPAZ:

"A: I am an illiterate, your Honor.

"COURT:

"Q And you understood the explanation of your lawyer very well about your change of plea?

"ACCUSED CRISTOTO LAPAZ:

"A Yes, your Honor, I was made to understand by my lawyer.

"COURT:

Order.

"When this case was called for trial this morning, Asst. Prov. Fiscal Pablo R. Magdoza appeared for the prosecution, accused Cristoto Lapaz alias Totong and Paulino Lapaz Junior appeared assisted by their counsel, Atty. Fortunato Bagaipo, Jr. while accused Johnson Barleso appeared assisted by his counsel, Atty. Alexander H. Lim.

"Atty. Bagaipo, Jr. manifested to the Court that his client Cristoto Lapaz (alias) Totong would like to change his previous plea of not guilty to that of guilty and that is why accused Cristoto Lapaz (alias) Totong was called by the Court whether he would confirm the manifestation of his counsel and the answer of accused Cristoto Lapaz (alias) Totong as (sic) in the affirmative. Thereafter, accused Cristoto Lapaz (alias) Totong pleaded guilty to the crime charged. The Court asked again said accused whether he would confirm the manifestation of his lawyer that he has to change his previous plea of not guilty to that of guilty considering that the crime charged is a capital offense and the answer was still in the affirmative. The Court further asked said accused whether he understood very well the explanation of his lawyer as to the consequences of his plea of guilty to the crime charged and the answer of the accused was in the affirmative.

"At this juncture, Atty. Bagaipo, Jr. invoked two (2) mitigating circumstances to be appreciated in favor of his client-accused Cristoto Lapaz (alias) Totong, namely: a) voluntary plea of guilty and b) voluntary surrender. Fiscal Magdoza, on other hand, did not offer any objection to the appreciation of the mitigating circumstance of voluntary plea of guilty in favor of accused Cristoto Lapaz (alias) Totong (inasmuch as he) was apprehended (a) few minutes after he committed the crime and he was in the (sic) police custody before the filing of the complaint.

"Promulgation of sentence upon accused Cristoto Lapaz alias Totong is held in abeyance until all prosecution witnesses shall have testified against the rest of the accused.

"SO ORDERED.

"Given in open Court, Tagbilaran City, July 25, 1984.

(SGD.) ANDRES S. NAMOCCATCAT

J u d g e"[20]

The first witness who testified for the prosecution was Dr. Elizabeth Cabagnet, resident physician of Simeon Toribio Memorial Hospital. After her testimony, the trial court ruled that it was satisfied with the testimony of the doctor. The trial court also considered the evidence against appellant sufficient. The proceedings were to continue only insofar as the two other accused were concerned. On August 17, 1984, the trial court rendered its decision finding appellant Cristoto Lapaz guilty of the crime of murder.

In disputing the argument of the appellant, the Solicitor General states that the trial court did its duty of assuring that the appellant understood his act, the nature of the charges filed against him and the character of the punishment provided for by law before it is imposed,[21] and that the information was read to him translated into the Visayan dialect which the appellant understood.

The record shows that appellant was informed by the trial court that upon a plea of guilty he could be imposed the penalty of life imprisonment to death. It is likewise true that the trial court was informed that the appellant was illiterate. The presiding judge verified anew if he understood the charges against him and if his lawyer explained the consequences of the plea to him. The accused confirmed his plea of guilty. Thereafter, the trial court required the presentation of evidence for the prosecution but after the doctor testified as to the multiple injuries inflicted on the deceased with the use of a blunt instrument, the trial court considered the case against appellant submitted and rendered its decision.

The Court agrees with the protestations of the appellant that the trial court did not take pains in explaining to him the nature and character of the offense charged against him, the consequences of the plea of guilty and the meaning and effect of the aggravating and mitigating circumstances so as to insure that the appellant fully understood the consequences of his plea of guilty.

However, considering that in the same proceedings the trial continued as against the two other accused, where one was discharged as a state witness and the other remained for trial, and in the process the accused-appellant Cristoto even testified as a witness for his co-appellant Johnson Barleso, the Court is not persuaded that the arraignment of said appellant on a plea of guilty was improvidently undertaken. Appellant Cristoto Lapaz testified in court and categorically admitted that he was the one who beat the victim to death. He asserted that his two other co-accused did not participate in the killing. He admitted that he drank “kulafu” wine in order to embolden himself to commit the offense. His admissions were made freely and voluntarily even after he had been sentenced to death by the trial court. He related having committed the offense at the dwelling of the offended party at night attended by treachery and qualified by evident premeditation without regard to the sex and age of the offended party. The Court can take judicial notice of this testimony of the appellant in court and of the other evidence adduced during the trial in the resolution of his appeal. It appears that the trial court committed no error in accepting the voluntary plea of guilty of appellant in this case and in imposing the corresponding penalty thereafter. Appellant fully understood the consequences of his plea.

The guilt of both appellants Johnson Barleso and Cristoto Lapaz is sufficiently established. Accordingly, this Court affirms the judgment of conviction rendered by the trial court. However, considering that the 1987 Constitution does not allow the imposition of the death penalty, the penalty which should be and is hereby imposed on the appellants is reclusion perpetua, and the indemnity that each of them should be required to pay to the heirs of the deceased is set at P30,000.00.

WHEREFORE, with the above modification as to the penalty and indemnity, the judgment appealed from in these cases is hereby **AFFIRMED** in all other respects, with costs against appellants.

SO ORDERED.

Narvasa, (Chairman), Cruz, Griño-Aquino, and Medialdea, JJ., concur.

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- [1] Exhibit B.
 - [2] Exhibit G.
 - [3] Exhibits E and E-1.
 - [4] Exhibit B.
 - [5] Exhibit F; TSN, August 22, 1984, pages 22 to 23.
 - [6] Exhibit A.
 - [7] Page 170, Rollo, G.R. No. 70445.
 - [8] Page 149, Rollo, G.R. No 70445.
 - [9] Page 76, Rollo, G.R. No. 68898.
 - [10] Section 19(1), Article III, 1987 Constitution.
 - [11] Citing *People vs. Niera*, 96 SCRA 1 (1980).
 - [12] Section 9(d), Rule 190, Rules of Court.
 - [13] Exhibits B and F.

[14] Art. 14(16), Revised Penal Code.

[15] Art. 14(13), Revised Penal Code; *People vs. Carillo*, 77 Phil. 572 (1946); *People vs. Diva*, G.R. No. L-22946, April 29, 1968.

[16] 138 SCRA 513 (1985).

[17] Citing *People vs. Duaban*, 92 SCRA 743 (1979).

[18] 130 SCRA 114 (1984).

[19] *People vs. Serna*, 130 SCRA 550 (1984), citing *People vs. Gonzalez*, 92 SCRA 527 (1979).

[20] TSN, July 25, 1984, pages 1 to 4.

[21] Citing *People vs. Tiongson*, 130 SCRA 614 (1984).

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