

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. GIL PARICA Y NACE @ “GIL,” RODRIGO ILANO Y ENRIQUEZ @ “RODING,” BENJAMIN NABOYA Y ORANES @ “BEN” OR “BENG BENG,” MARIANITO FLO...

G.R. No. 80611. April 21, 1995

Ponente: FELICIANO, J.

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FELICIANO, J.:

Rodrigo Ilano, Marianito Florendo and Alberto Alonzo appeal from a decision of the Regional Trial Court, Branch 106 of Quezon City finding them and two (2) others — Gil Parica and Benjamin Naboya — guilty beyond reasonable doubt of robbery with homicide.

The Information filed against the five (5) accused read as follows:

"That on or about the 9th day of June, 1985, in Quezon City, Metro Manila, Philippines, the above-named accused, conspiring together, confederating with and mutually helping one another, with intent to gain, by means of violence against and/or intimidation of person, did then and there, wilfully, unlawfully and feloniously rob NARCISO DECENA y CARLET and MILAGROS UY y LOPEZ, in the manner as follows: on the date and in the place aforementioned, said accused, pursuant to their conspiracy, at night time, approached the said victims who were then walking along the pedestrian lane of Quezon Avenue, this City, more specifically at the vicinity between the Park and Wildlife Compound and the Hospital ng Kabataan and at the point of knives robbed and divested them of their wristwatches, wallets (the value of which is still undetermined) and cash in the amount of P250.00, Philippine Currency; after which said accused, with intent to kill and without justifiable cause, conspiring together, confederating with and mutually helping one another, attacked, assaulted and employed personal violence upon NARCISO DECENA Y CARLET, by then and there stabbing him with knives on the different parts of his body, thereby inflicting upon him serious and mortal wounds which were the direct and immediate cause of his untimely death, to the damage and prejudice of the heirs of the said victim in such amount as may be awarded to them under the provisions of the Civil Code of the Philippines.

Contrary to Law."[1]

At arraignment, the five (5) accused entered a plea of not guilty. During the pendency of the trial, Parica and Naboya escaped from detention. The trial court considered them as having waived the right to testify in their own defense. Nonetheless, Parica's defense counsel filed a manifestation that Parica was adopting as his own the evidence presented by his co-accused.

After trial, the court a quo rendered judgment convicting the five (5) accused of robbery with homicide:

"WHEREFORE, the court finds all the five accused - Gil Parica, Rodrigo Ilano, Benjamin Naboya, Marianito Florendo and Alberto Alonzo - guilty beyond reasonable doubt of robbery with homicide, and hereby imposes the penalty of reclusion perpetua. Further, the accused shall pay to the heirs of the victim Narciso Decena the

sum of P40,000.00 as damages for death; and to private complainant Milagros Uy the sum of P800.00 representing the value of clothing, watch and cash that they took from her.

Issue alias warrants of arrest against the accused who escaped from detention:

1. Gil Parica Infanta, Quezon or Julieta Ilano's Buko Stand cor. Quezon Avenue and BIR Lane, Quezon City
2. Benjamin Naboya, Tacloban City, Leyte or 137 North Edsa, Quezon City

Send copies of the warrants to the NBI Director and the PC Commanding General, with the Annotation that the accused has been sentenced to reclusion perpetua.

It is so ordered."[2]

The trial court's findings of fact are graphically narrated in its decision:

"In 1985, the victim Narciso Decena was able to secure a passport for overseas employment (Exh. B). He expected that he would be leaving abroad soon. To discuss their impending separation, he invited his girlfriend Milagros Uy for a walk at the Ninoy Aquino Park in Quezon City.

On 9 June 1985 at 3:30 p.m., the couple arrived at the park. They stayed there until about 6:51 p.m.

They decided to leave for home. They planned to take a bus ride at EDSA, on the route going to Monumento. They walked out of the gate on Quezon Avenue. They turned right and walked toward EDSA.

They were walking on the pedestrian lane at the edge of the park, across the street from the Lung Center. The area was lighted by the passing headlights, and by the big bulbs from the lampposts standing around the Lung Center and at the traffic island which divides Quezon Avenue. They were about seven feet from the row of lampposts.

They saw a group of five men walking toward them. The strangers looked as if they were up to no good. Uy thought that the men looked like holduppers.

Uy whispered to her boyfriend: 'Boy, mukhanq makasalubong natin. Halika, urong na tayo.' Decena tacitly agreed with his girlfriend. But as the couple moved to turn back, the men suddenly ran toward them.

The couple faced their assailants. The five men divided into two groups. One group consisted of the mastermind Alberto Alonzo and Rodrigo Ilano. The other group consisted of the remaining three accused, Gil Parica, Benjamin Naboya and Marianito Florendo.

The group consisting of Alonzo and Ilano ran to Uy. Ilano pulled her by the collar of her blouse. Alonzo held her right arm. Both men dragged her away from Decena. One man held an icepick against her side, while another man held a balisong against her abdomen.

Uy was paralyzed with fear. She watched terrified as the other group of three men surrounded her boyfriend Decena. On their demand, Uy saw Decena take out his wallet. Decena made the mistake of trying to resist the robbers. Decena dropped his wallet and took a swing at two of the holduppers, Florendo and Naboya.

At this time, both Florendo and Naboya stood in front of Decena. Parica stood at Decena's back.

As the horror-stricken girlfriend watched, the three men simultaneously stabbed Decena. Florendo held an icepick about a foot long. He stabbed Decena several times in the neck.

Naboya held a hunting knife, about 6 inches long. He stabbed Decena about three times in the abdomen.

Parica also held a hunting knife, about a foot long. He stabbed Decena several times in the back and on the chest.

After the conspirators had finished stabbing their victim, they pushed him in the canalbed nearby. Apparently, he fell into the canalbed in a sitting position.

Instinctively, Uy moved to help her boyfriend. Her two captors, Alonzo and Ilano prevented her. One of them said: 'Putang-ina mo, Punta ka sa banda roon.' Uy in her terrified state was still able to plead: 'Divos ko, maawa po kayo sa akin. Huwag ninyo ako patayin at si Boy,' and she cried out to Decena not to resist, but to surrender everything the robbers wanted. She was in a state of shock.

Ilano ordered her to strip, so she removed her pants and blouse. The pants cost P250.00 and the blouse P150.00. The robbers ordered her to surrender her wallet and her watch. The wallet cost P5.00 and contained cash of P52.00. Her Alba Lady's wristwatch cost P350.00. Alonzo slung her clothes on his shoulder.

After Uy had surrendered all that she had on her person, Ilano turned to his colleagues in crime and asked: 'Pare, anong gagawin natin dito, sa babaing ito.' Another robber said: 'Sigue na, pare, pakawalan mo na, nakuha na naman natin anq gusto natin kunin.' A third robber said: 'Pare, nakaisa tayo.'

At this, all the robbers laughed in unison. They ordered Uy to remain in the dark spot where they had assigned her. So she waited until they walked off into the darkness and were some distance away. As soon as she felt they were gone, she ran toward her boyfriend.

The half-crazed, half-naked woman ran in the night in the direction of the park. She met a couple. She cried: 'Parang awa na po ninyo, saklolohan po ninyo ako.'

Astonished and frightened, the couple at first retreated from the wild woman. But Uy pleaded 'Huwag kayong matakot sa akin, na hold-up kami.' At this, the couple took pity on Uy. The man took off his jacket and Uy wore it. Then the three of them hurried toward the park.

They reached a store where they found a crowd. Uy begged the crowd for help. Somebody gave her a towel to cover herself. Several men armed themselves with lead pipes. They followed Uy to the canalbed where Decena lay.

When they found Decena, his pulse was still beating. They took him to the Lung Center across the street. However, the doctors pronounced him dead at 810 p.m., as shown in the case record (Exh. F).

That same evening, the police sent a letter request to the PCCL for autopsy examination (Exh. J). The police were able to locate the victim's mother, Sulpicia Decena. She gave her written consent to the autopsy (Exh. K).

The prosecution witness, Col. Desiderio Moraleda of the PCCL, issued his medico-legal report (Exh. I). The findings included: six stab wounds in the nape and neck; one stab wound in the right mammary region; five stab wounds in the scapula regions; one stab wound in the lumbar region; and an abrasion in the left arm. In sum, Decena suffered thirteen wounds.

The conclusion of the medico-legal report states (Exh. I-3); 'Cause of death is cardio-respiratory arrest due to shock and hemorrhage, secondary to multiple stab wounds of the body.'

Uy was confined at the Lung Center for shock. The prosecution witness, the police investigator Pat. Herman Peralta tried to take her statement that evening, but desisted because of her extreme distress. Instead, Pat. Peralta went to the scene of the crime. He was able to recover the victim's I.D. and sunglasses. He returned to the headquarters. The police gave out an alarm at about 10:00 p.m.

The next day, 10 June 1985, Pat. Peralta returned to the scene of the crime. By diligent sleuthing, he was able to unearth contacts who gave him confidential information leading to the identity of the suspects.

On 13 June 1985, Pat. Peralta received a break in the investigation. A confidential informant told him that the suspects habitually converged at a buko stand at the corner of Quezon Avenue and BIR Lane.

The investigator immediately fetched Uy at the wake of her boyfriend at La Funeraria Rey on Roosevelt Avenue, Quezon City. At 1:05 p.m. Pat. Peralta took her sworn statement (Exh. E). In Question and Answer No. 13, she gave respective descriptions of: the robber who wielded the icepick; the robber who wielded the balisong, and the robber who stabbed Decena.

The police team included the prosecution witnesses Pats. Herman Peralta, Edgardo Eleda, Joel Sioson and Alfredo Dizon. The team requested Uy to ride with them, so that they could pick up the suspects at the buko stand.

As soon as they approached the suspects, Uy gave out a scream and almost went into hysterics. She recognized them instantaneously. There were six persons in group, consisting of the five accused and Ponciano Enriquez.

Pat. Dizon confiscated a hunting knife from Parica (Exh. B). Then the police placed all six under arrest and took them to the headquarters.

Uy grew thoroughly hysterical. The police asked her to pick out the suspects through a one-way mirror. Because she was hysterical and traumatized, Uy was unable to pick out Alonzo, Florendo and Naboya. So the police released Alonzo and Florendo.

The police ordered the remaining suspects to join a line-up. Uy was still in a state of hysteria. In the line-up she picked out Parica and Ilano, as well as Enriquez. Then she executed a sworn supplemental statement where she identified the three as robbers (Exh. I-Ilano).

Television crews managed to get wind of the impending confrontation. The crews filmed Uy as she rushed to the suspects and started slapping them.

After midnight, i.e. 14 June 1985 at dawn, the police took the sworn statements of Parica (Exh. A) and Ilano (Exh. C). The two statements constitute extrajudicial confessions. But they were without the benefit of counsel. Hence, when the prosecution offered them in evidence, this court excluded Exhibits A and C.

The same day, 14 June 1985, Uy returned to the precinct. By this time, she had struggled to calm herself and search her memory. She took a second look at Enriquez and told the police that he was not one of the robbers. She mistook Enriquez for the suspect Florendo. She told the police that on second thought, she was convinced that the robbers included Alonzo, Florendo and Naboya. Hence, the police rearrested Alonzo and Florendo.

Of the five accused, two - Gil Parica and Benjamin Naboya - escaped from detention and waived the right to testify in their defense. The remaining three accused - Rodrigo Ilano, Marianito Florendo and Alberto Alonzo - separately raised the defense of alibi."^[3]

Appellants Alonzo, Florendo and Ilano now come to this Court assailing their conviction in the trial court. In their separate appellants' briefs, they raise their respective assignments of errors. All these alleged errors may be subsumed under their basic contention that the trial court had erred in not giving credence to the defense of alibi when Milagros Uy, the sole prosecution eyewitness, failed to identify them positively as the perpetrators of the crime charged.^[4] Consequently, they contend, the trial court erred in not acquitting them on grounds of reasonable doubt.^[5]

Upon careful scrutiny of the entire record of the case, this Court finds that, contrary to appellants' claims, Milagros Uy positively identified them as the robbers who also killed Narciso Decena and that their guilt was proved beyond reasonable doubt.

In impugning Milagros' identification of them as the malefactors, the appellants seek to capitalize on the errors made by her during the police line-up conducted on 13 June 1985. She initially pointed out Ponciano Enriquez together with Parica and Ilano, but cleared Alonzo, Florendo and Naboya. However, several hours later, at early morning of 14 June 1985, Milagros cleared Enriquez and pointed to Alonzo, Florendo and Naboya,[6] as forming part of the band of robbers who killed Narciso.

The Court considers that the initial errors committed by Milagros at the police line-up must be viewed in the context of the deeply traumatic experience to which she had been subjected just five (5) days earlier. At the time that she was asked to confront the accused, she had barely undergone treatment for shock.[7] Understandably, she was not yet in full control of herself. This is evident from her reaction upon seeing them. She became hysterical. Television crews present at the precinct at that time even managed to film Milagros in the act of slapping three (3) of the accused.[8] In her state, she could not be expected immediately to identify them without hesitation, especially as the five (5) accused were total strangers to her until the dreadful night when Narciso was stabbed to death.

The trial court said:

"It took Uy only a few hours i.e. from the evening of 13 June 1985 to early dawn of 14 June 1985, to settle the question of whether Alonzo, Florendo and Naboya were among the robbers. The short span of time that took her to fix her memory, indicates that she did not change her mind capriciously or at will. The brevity of the period indicates that she made a conscientious effort to search her memory. She identified the other three after serious effort to overcome her emotional distress."[9]

At any rate, any initial hesitation she had in pointing to all of the five (5) accused were resolved by the time Milagros positively identified each of the accused when she testified in open court during the trial. This is part of the testimony of Milagros Uy during direct examination:

"Q:

Now, among the two men whom you said collared you or made haltak, can you recognize one or two of them?

A:

Yes.

Q:

If they are present in court now, will you please point to one or two of them?

A:

Yes.

Q:

Please do so.

A:

(Witness pointing to two persons whom upon being asked answered by the name of Alberto Alonzo and Rodrigo Ilano.)

x x x x x x x x

Q:

You said there were five men who accosted you on that date and time. Have you identified Alberto Alonzo and Rodrigo Ilano as the one who pulled you and held you by the arm? What about the three malefactors, what did they do if any?

A:

They were the ones who held Boy.

Q:

You mean to tell the three others?

A:

Yes.

Q:

Would you be able to recognize these three malefactors if they are present in court?

A:

Yes. (Witness pointing to three persons and upon being identified answered by the name of Benjamin Naboya, Marianito Florendo and Gil Parica.)"[10] (Underscoring supplied)

Her testimony was consistent and categorical. The fact that Milagros initially committed some mistakes in the police line-up does not significantly detract from her credibility as a witness and the reliability of her memory.

In his appellant's brief,[11] Alonzo claims that Milagros twice failed to identify him, that is, in both the first and second police line-ups. The record does not support this contention. Milagros testified that she returned to the precinct on 14 June 1985 and another police line-up was conducted on that day. It was during this second police line-up that Alonzo was identified by Milagros as one of the malefactors.[12]

The appellants also put in issue apparently inconsistent statements made by Milagros in her sworn statement taken by the police on the same day that the first police line-up was held and in her testimony in court. Milagros narrated in her sworn statement of 13 June 1985 that the victim Narciso Decena had boxed one of his assailants on the face.[13] However, during her testimony in court, she stated that Decena had kicked Florendo.[14] She had also described Alonzo, one of the accused who held her, as 5'2" in height.[15] Appellant Alonzo actually stands 5'11" tall.

The Court believes that the above inconsistencies are not material in nature. In the words of the trial court, "they are within the normal limits of tolerable human error taking into particular consideration the traumatic [circumstances] of the crime." [16] As earlier noted, on the early dawn of 14 June 1988 the day after the police line-up was conducted and Milagros' sworn statement was taken, she was not in the proper state of mind and emotion accurately to recall every detail of what had transpired on 9 June 1985.

Sworn statements executed before police officers and commonly typed up by the police themselves are frequently incomplete and may contain data which may in varying degrees be inconsistent with the facts narrated by the witnesses to said officers. For this reason, courts have generally brushed aside as inconsequential, inconsistencies in the sworn statement of a witness and her testimony, so long as these relate only to minor or reconcilable matters.[17]

The appellants contend that the scene of the crime was not sufficiently illuminated so that Milagros could not

have seen clearly the faces of the assailants. This contention was expressly rejected by the trial judge. The crime was committed at around 7:00 in the evening along Quezon Avenue, a busy thoroughfare in Quezon City. In prior cases, this Court has found illumination from kerosene lamps[18] and flashlights[19] sufficient to permit identification of the accused as the wrongdoer. Thus, there is in principle no reason to overturn the explicit finding of the trial court that the illumination from the mercury lights on the traffic island, as well as from the headlights of vehicles passing along Quezon Avenue, was sufficient to afford identification of the accused. Milagros came face to face with the assailants. She was, therefore, in a position to see their faces.

In the light of the foregoing, we agree with the trial court that the appellants had failed to discredit the positive identification made by Milagros of the five (5) accused. It follows that their defense of alibi must fail.

In the case of Florendo and Ilano, both claimed that they were manning the buko stand at the corner of Quezon Avenue and Agham Road the whole day of 9 June 1985 and went to their respective homes in the evening.[20] The buko stand or stall was just a few meters away from the scene of the crime.[21] Clearly, that distance did not render it impossible for the two (2) accused to be at the scene of the crime. It is well-settled that the defense of alibi must preclude the possibility that the accused could have been physically present at the place of the crime or its vicinity at or about the time of its commission.[22] The alibi of Florendo and Ilano failed to meet this test.

For his part, Alonzo claimed that on 9 June 1985, he was at 1860 Kahilum, Pandacan to attend a cousin's birthday celebration. He testified that he had stayed there from 10:00 in the morning until 11:30 in the evening.[23] His testimony was corroborated by his mother. This alibi cannot be sustained; the defense of alibi is commonly regarded as weak if it is sought to be established wholly or mainly by the accused himself or his relatives.[24] The familiar doctrine is that the defense of alibi cannot prevail over positive identification of the accused by the prosecution witnesses.[25]

Finally, appellants insist that this Court should take cognizance of the fact that they did not flee the day after the commission of the crime. In fact they were found by the police congregating around the buko stand. They claim that "the wicked fleeth but the innocent is as bold as the lion." [26] There is, however, no law or principle holding that non-flight, by itself, is proof, let alone conclusive proof of innocence.[27] Much like the defense of alibi, the defense of non-flight cannot prevail in the light of the positive identification of the appellants by Milagros.

It is also the contention of appellant Alonzo that having dissuaded his co-accused from inflicting any further harm upon Milagros, he should now be allowed to disclaim any participation in the conspiracy. He quoted from the testimony of Milagros Uy to show that he had prevented greater injury upon her:

"Q:

What was said after that if there was anything said after that?

A:

Somebody said, 'pare, patayin na lang natin.'

Q:

Did they do anything after they said that to you?

A:

They held my panty and pushed my arms.

Q:

What happened after that?

A:

Alberto Alonzo said, 'pare, huwag na lang kasi nakuha na natin ang gusto natin.' "[28] (Underscoring supplied)

The basic difficulty with this contention is that by the time Alonzo had persuaded his co-accused to let Milagros go, they had already divested Milagros and Narciso of their belongings, stabbed the latter repeatedly (thirteen [13] times) and thrown his body in a nearby canal. The crime of robbery with homicide had been consummated. By that time, in the words of the Court in *People v. Punzalan*,^[29] "there was no longer a conspiracy to be repudiated nor an unlawful killing which could have been prevented since the conspiracy and the killing had already materialized. The locus penitentiae, i.e. appellants' opportunity to purge himself of criminal liability, had already passed."

The Information charged conspiracy among the five (5) accused. To establish conspiracy, it is not indispensable that direct proof be adduced to establish an explicit prior agreement to commit the felony. Conspiracy is commonly shown by acts and circumstances from which may be logically inferred the existence of a common design among the accused to commit the crime charged.^[30] In the instant case, the acts of the five (5) accused, i.e., rushing together toward the couple; forcibly detaining them, and divesting them of their belongings; two (2) of them restraining Milagros while the other three (3) surrounded Narciso; the three (3) simultaneously stabbing away at Narciso, amply showed concerted action and the existence of a common design among them.

The general principle is that where conspiracy is shown, the precise extent of participation of each accused in the felony is secondary and the act of one may be imputed to all the conspirators. In specific respect of robbery with homicide, the applicable rule is that whenever homicide has been committed as a consequence of or on occasion of the robbery, all those who took part as principals in the robbery will also be held guilty as principals of the special complex crime of robbery with homicide although they may not actually have taken part in the homicide.^[31]

The Revised Penal Code classifies robbery with homicide as a special complex crime punishable by reclusion perpetua to death.^[32] However, at the time of the killing of Narciso Decena, the imposition of the death penalty was as yet prohibited by the 1987 Constitution. Accordingly, the penalty of reclusion perpetua alone is imposable regardless of any mitigating or aggravating circumstances that may have attended the commission of the crime.^[33] However, the civil indemnity of P40,000.00 to the heirs of Decena for his death should be increased to P50,000.00 in line with the recent jurisprudence of this Courts.^[34]

WHEREFORE, the appealed decision of the trial court is **AFFIRMED** in toto, with the sole modification that the civil indemnity to the heirs of Decena is hereby **INCREASED** to P50,000.00.

SO ORDERED.

Romero, Melo, Vitug, and Francisco, JJ., concur.

[1] Information, pp. 1-2; Rollo, pp. 6-7.

[2] RTC Decision, pp. 3-5; Rollo, pp. 30-33.

[3] *Id.*, pp. 2-5; Rollo, pp. 30-33.

[4] Appellant's Brief for Ilano, p. 1; Rollo, p. 145. Appellant's Brief for Florendo, p. 1; Rollo, p. 202. Appellant's Brief for Alonzo, p. 1; Rollo, p. 251.

[5] Id.

[6] Id., pp. 7-9; Rollo, pp. 151-153. Appellant's Brief for Florendo, pp. 6-7; Rollo, pp. 207-208. Appellant's Brief for Alonzo, p. 10; Rollo, p. 260.

[7] TSN, testimony of Milagros Uy, 26 November 1985, p. 33.

[8] RTC Decision, p. 5; Rollo, p. 33.

[9] Id., p. 7; Rollo, p. 35.

[10] TSN, testimony of Milagros Uy, 26 November 1985, pp. 9-10.

[11] Atty. Puhawan's Brief for Appellant Alonzo, p. 11; Rollo, p. 242.

[12] TSN, Testimony of Milagros Uy, 26 November 1985, p. 43.

[13] Exhibit "I," Folder of Exhibits; p. 9.

[14] TSN, retaking of testimony of Milagros Uy, 26 March 1990, p. 11.

[15] Exhibit "I-B," Folder of Exhibits, p. 10.

[16] RTC Decision, p. 8; Rollo, p. 36.

[17] *People vs. Maongco*, 230 SCRA 562 (1994).

[18] *People vs. Penillos*, 205 SCRA 546 (1992).

[19] *People vs. Loste*, 210 SCRA 614 (1992).

[20] TSN, retaking of testimony of Florendo, 3 May 1991, p. 15. TSN, retaking of testimony of Ilano, 4 October 1991, p. 4.

[21] RTC Decision, p. 6; Rollo, p. 34.

[22] *People vs. Oracoy*, 224 SCRA 759 (1993); *People vs. Manero*, 218 SCRA 85 (1993); *People vs. Cabuang*, 217 SCRA 675 (1993); *People vs. Lacao*, 201 SCRA 317 (1993).

[23] TSN, testimony of Alberto Alonzo, 3 May 1991, pp. 5-6.

[24] *People vs. Waggay*, 218 SCRA 742 (1993); *People vs. Solis*, 195 SCRA 465 (1991); *People vs. Beringuel*, 192 SCRA 561 (1990); *People vs. Somera*, 173 SCRA 684 (1989).

[25] *People vs. Armada, Jr.*, 225 SCRA 644 (1993); *People vs. Vergara*, 221 SCRA 611 (1993); *People vs. Divina*, 221 SCRA 543 (1993); *People vs. Sadiangbayan*, 220 SCRA 551 (1993); *People vs. Dominguez*, 217 SCRA 17 (1993).

[26] *U.S. vs. Alegado*, 25 PR 510 (1913).

[27] *People vs. Desalisa*, 229 SCRA 35 (1994); *People vs. Magtuloy*, 224 SCRA 253 (1993); *People vs. Hangdaan*, 201 SCRA 568 (1991).

[28] TSN, retaking of testimony of Milagros Uy, 26 March 1990, p. 12.

[29] 203 SCRA 364 (1991).

[30] *People vs. Dural*, 223 SCRA 201 (1993); *People vs. Empacis*, 222 SCRA 93 (1993); *People vs. Escosio*, 220 SCRA 475 (1993); *People vs. Tapic*, 220 SCRA 190 (1993); *People vs. Cadevida*, 219 SCRA 218 (1993).

[31] *People vs. Calegan*, 233 SCRA 539 (1994); *People vs. Yabut*, 226 SCRA 715 (1993); *People vs. Lascuna*, 225 SCRA 386 (1993); *People vs. Pugal*, 215 SCRA 247 (1992); *People vs. Hasiron*, 214 SCRA 586 (1992).

[32] Paragraph 1, Article 294, Revised Penal Code.

[33] Paragraph 1, Article 63, Revised Penal Code; *People vs. Yabut*, 226 SCRA 715 (1993).

[34] See *People vs. Sison*, 189 SCRA 643 (1990).

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