

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. LAWRENCE PONCIANO Y SABOLAN, DEFENDANT-APPELLANT.

G.R. No. 86453. December 05, 1991

Ponente: GUTIERREZ, JR., J.

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GUTIERREZ, JR., J.:

This is an appeal from the decision of the Regional Trial Court, Branch 171, Valenzuela, Metro Manila, the dispositive portion of which reads:

"WHEREFORE, the Court finds the guilt beyond reasonable doubt, accused Lawrence Ponciano y Sabolan is hereby sentenced to suffer the penalty of RECLUSION PERPETUA on Three (3) counts and to pay the costs.

"The accused is hereby ordered to pay the legal heirs of Ricardo Rivera and Alicia Rivera the sum of P13,230.00 and the legal heirs of Regina Villanueva the amount of P10,000.00 representing the expenses for the funeral, burial and wake and to indemnify the legal heirs of Ricardo Rivera, Alicia Rivera and Regina Villanueva, the sum of Thirty Thousand Pesos (P30,000.00) for each (People v. dela Fuente, G.R. No. 63251-52, Dec. 29, 1983).

"The stolen articles/items having been recovered, their return to the lawful owner is hereby ordered." (Rollo, p. 30)

The information filed against the appellant states:

"That on or about the 29th day of July, 1986, in the municipality of Valenzuela, Metro Manila, Philippines, and within the jurisdiction of this Honorable Court, the abovenamed accused, did then and there wilfully, unlawfully and feloniously, with intent of gain and by means of force and violence and while armed with a bladed instrument, take, rob and carry away with him the following: one (1) Sony Betamax with remote control worth 1,600.00 (Saudi Rials), one (1) transformer worth 300 (Saudi Rials), one (1) Rewinder worth 150.00 (Saudi Rials) all belonging to Alejandro Rivera, herein represented by Rowena Fernandez and two (2) wrist watch worth 400.00 (Saudi Rials) belonging to Ricardo Rivera and Alicia Rivera, to the damage and prejudice of its owners in the total amounts of Saudi Rials 2,050.00 and Saudi Rials 400.00 or their equivalent in Philippine pesos; That during the commission of the crime of robbery and/or by reason/on occasion thereof, the above-named accused did then and there wilfully, unlawfully and feloniously stab and assault Regina Villanueva, Ricardo Rivera and Alicia Rivera with the bladed weapon he was provided inflicting on them physical injuries which directly resulted in their death." (Records, pp. 1-2)

The prosecution evidence upon which the trial court based its finding of guilt beyond reasonable doubt is as follows:

"Eulogio Sanchez, 25 years old, single, jobless and residing at Balangcas, Valenzuela, Metro Manila, substantially testified that in the evening of July 29, 1986, he and the accused were in the house of Carding Rivera (deceased Ricardo Rivera) located at Balangcas, Valenzuela, Metro Manila, drinking beer; that he felt (sic) asleep and when someone woke him up, he saw Lotlot on the floor near his feet wounded and asking him to help bring her to the hospital; that he tried to lift her but he cannot carry her because he was heavily drunk;

that he asked the help of one Zosimo Mendiola; that he called for police assistance at the Polo sub-station; that due to his drunkenness he could not go with the police to the scene of the incident so he went home and slept; that he do (sic) not know Lotlot (Alicia Rivera) was wounded; that it was only Lotlot that he saw wounded; that when he woke up, he saw the accused standing in the kitchen holding a knife; that the person depicted in Exhibit B is Reding (Ricardo) Rivera; that Rading was killed that same evening; that he did not see the actual killing; that he felt asleep in the sala, that Rolando Silvestre, the accused and Rading (Ricardo) Rivera were drinking when he fell asleep; that the wounded girl Lotlot woke him up and asked him for help; that he cannot lift her so he called Zosing Mendiola; that the person depicted on Exhibit F is Rolando Silvestre one of the persons with whom they had drinking session; that they partook a long neck bottle of White Castle Whisky and a Tanduay.

"On cross-examination, he said he fell asleep between 11:00 and 12:00 o'clock midnight; that before he fell asleep, Rolando Silvestre, the accused and Rading Rivera were viewing a Betamax film and were talking to each other; that he did not notice any heated discussion between them.

"On additional direct, he identified his written statement given before the police investigator; he likewise identified the knife he mentioned during the police investigation.

"On recross-examination, he said that it was the same knife the accused was holding when he saw him in the kitchen.

"Rowena Fernandez-Rivera substantially testified that she was residing at Balangcas, Valenzuela, Metro Manila, together with her late husband Ricardo Rivera, his niece Alicia and her mother-in-law Brigida Rivera; that in the evening of July 29, 1986, the accused together with her husband, Eulogio Sanchez, and Orlando Silvestre were having a drinking session in their house; that Alicia entered their room and asked her why was it that my husband Ricardo was already lying down; that she answered Alicia that he might be very drunk; that she and Alicia went downstairs to advise the accused and companions to go home; that the accused do (sic) not want to leave so they forced him to go home; that the accused took out a bladed instrument, approached her and Alicia and brandished the weapon at them; that Eulogio Sanchez was then sitting at the main door and Orlando Silvestre was standing by the window looking outside; that the accused lunged at Alicia; that she ran and went to her mother-in-law's room and kept herself inside the room; that she heard Alicia was asking for help; that she did not come out of the room; that he heard a voice coming from the room where her husband was saying 'Pare'; that he heard moaning sound from the room; that she came out the room when the policemen arrived; that the policemen presented to her the accused; that when she went downstairs, she noticed that their things inside the house were not in proper places; that her husband was sprawled on the bed with a piece of wood on one side of the body; that their Sony Betamax set, the transformer, the rewinder and the remote control were all placed on the side of a table; that the policemen told her that Alicia is already dead; that her husband was also dead; that she noticed the wristwatch of her husband was missing; that the Betamax set was on the side of a round table about 7 to 8 steps away from its original place; that the wristwatch of her husband and Alicia's watch were recovered from the Fiscal's Office in Malolos, Bulacan; that the two wristwatches were valued 400 Saudi rials, the Betamax set cost 600.00 Saudi rials and the transformer cost 300.00 Saudi rials while the rewinder is 150 Saudi rials; that she saw Alicia again when her body was brought home for vigil; that while she was inside the room of her mother-in-law, she heard shouts coming from outside; that after one hour stay inside the room, policemen came and knocked; that when the person knocking on the door identified himself as policeman, she opened the door; that there were three policemen, one of them was Pat. Orig; that the policemen informed her and her mother-in-law that Alicia alias Lotlot, Regina and Ricardo were killed; that Regina is a friend of Alicia; that Ricardo and Alicia are uncle and niece; that they went out the room and peeped inside her and her husband's room; that she saw her husband lying and bloodied; that she saw Regina lying on the sale also spattered with blood; that Rowena's photograph was taken in the emergency room of the hospital; that the person depicted lying on the cemented steps of the house is Alicia Rivera; that they were already dead; that the Betamax set, transformer, rewinder and the remote control were originally placed

on the sala; that she saw these items at the side of the round table after the incident; that they belong to her brother-in-law Alejandro Rivera; that the conversion of one Saudi rial is equivalent to P5.00; that her husband Ricardo was engaged in buy and sell business; that he earns P100.00 and sometimes P200.00 a day; that he gave to her all his earnings; that she felt painful experience upon his death; that her sister-in-law Amelita and her brother-in-law Alex Rivera spent for the funeral expenses of her husband; that Amelita spent for the funeral of Alicia Rivera; that her husband was 33 years old and Alicia was 19 years old when they died; that Regina was 25 years old; that she gave her written statement the following morning; that the small knife was the same knife used by the accused in poking at her and Alicia; that the accused took the knife from his left waist.

"On cross-examination, she said that the accused, Eulogio Sanchez and Orlando Silvestre are friends of her husband; that she do (sic) not know whether they have (sic) misunderstanding before the incident; that they have drank a long neck bottle of White Castle and one flat bottle; that they started drinking at around 8:00 o'clock in the evening; that she was already inside their bedroom when they arrived; that her husband went up and asked her to prepare coffee for him; that when she returned to their room, her husband was already sleeping; that the accused asked her to wake her husband up but he cannot be awakened; that Alicia went upstairs; that she and Alicia went downstairs to request the accused and the two companions to leave and go home; that the accused and Eulogio Sanchez were in the sala while Orlando Silvestre was outside the house; that they were all drunk; that she ran upstairs and locked herself inside her mother-in-law's room when the accused chased her with a knife.

"Amelita Rivera substantially testified that Ricardo is her brother and Alicia is her niece; that Alicia is the daughter of her brother Reynaldo; that she spent for the funeral and burial of Ricardo and Alicia; that she spent P11,730.00 for the funeral, burial and wake for the two (Exhs. J, J-1, J-2, K, K-1 and K-2) for the brass name for the tombs (Exh. D) and the mass (Exh. M).

"Benjamin Rivera substantially testified that he is the brother of Ricardo and Alicia is his niece; that he also spent P1,000.00 for their funeral and wake.

"Valenzuela Pat. Ildefonso Orig, Jr. substantially testified that in the early morning of July 29, 1986, he was at Polo sub-station; that he received report of the stabbing incident at Balangcas, Valenzuela, Metro Manila, from the barangay chairman of Balangcas; that they responded and went to the place of the incident; that they found the accused in the terrace of the house of the victim; that he asked the accused to surrender and he did; that he appeared to be high on drugs or highly intoxicated; that he was holding a stainless kitchen knife before he surrendered; that they found the victim Ricardo Rivera lying on the bed bloodied; that there (sic) stab wounds on his body; that they found the two other victims at the back of the house, one was already dead while the other (Dina) was still alive and caused her to be brought to the hospital; that Pfc. Chua frisked the accused and found in his possession two wristwatches, a lady's watch and a man's wristwatch and the push button of the Betamax machine.

"Orlando Silvestre substantially testified that he has been residing at Balangcas, Valenzuela, Metro Manila, since birth; that in the evening on July 29, 1986, he, Eulogio Sanchez, the accused and Carding Rivera were in the latter's house and had a drinking session; that the accused invited him to a drinking session; that he thought they will drink in the house of the accused, but they went to the house of Carding instead; that Carding was drunk and the accused accompanied him to his room; that he urinated outside the house; that after he had urinated, the accused called him and showed him the room of Carding and said, 'Look, he (Carding) is already dead'; that when he looked inside the room he saw that Carding was already dead; that the accused was holding a knife stained with blood; that on his way out he saw Lotlot and noticed her to have stab wounds; that Lotlot suddenly fell down; that he tried to lift her but the accused admonished him not to touch her or else he will attack him; that he ran away; that the accused had bloodstains on the upper portion of his pants; that he proceeded to the house of barangay chairman of the place but he was out; that he went to the house of one Sosing; that he fetched the police mobile patrol and he went with the mobile patrol to the scene of the incident;

that upon reaching the place, they saw the accused outside the house holding a knife.

"On cross-examination, he testified that they started drinking between 11:00 and 12:00 midnight; that he do (sic) not know if there was misunderstanding between Carding (Ricardo) Rivera and the accused; that the accused accompanied Carding to the room before 12:00 midnight; that the accused called him upstairs and showed him the lifeless body of Carding.

"Susana Torres-Villanueva substantially testified that victim Regina Villanueva is her daughter; that she died on July 29, 1986; that in the early morning of July 30, 1986 a policeman came and informed her of her daughter's death; that they went to the place of incident at Balangcas, Valenzuela, Metro Manila, but her daughter was already in the hospital; that they went to Polo Emergency Hospital but was told that Regina was in the morgue; that they went to the municipal building and saw the accused; that they proceeded to the Funeraria Popular; that her daughter was buried on August 3, 1986 at the San Bartolome Parish cemetery at Malabon, Metro Manila; that she spent the sum of P10,000.00 for the wake and funeral of Regina; that she paid P1,500.00 for embalming, P3,800.00 for the coffin (Exh. O), P1,200.00 for the niche, P700.00 for the washout of the niche, P250.00 for the band, P2,398.00 for four days wake; that she paid P300.00 to the San Bartolome Parish Church (Exh. P); that she prepared the list of expenses (Exh. Q); that she had heart breaking experience because of the loss of a daughter; that Regina is single and is 25 years old at the time of her death; that Regina is not working; that she was just living with her married sister and helping the latter in the household chores.

"On cross-examination; she said that she learned of her daughter's death from the police officer named Willy; that she was informed that the accused killed her daughter.

"Dr. Rodolfo Lezondra, NBI medico-legal officer, substantially testified that he conducted autopsy on the cadavers of Alicia Rivera, Regina Villanueva and Ricardo Rivera on July 30, 1986 at Funeraria Popular; that he prepared the autopsy reports on the post-mortem examination on the cadaver of Alicia Rivera (Exhs. R, R-1 to R-4), the post-mortem examination on the cadaver of Regina Villanueva (Exhs. T, T-1 to T-2), the post-mortem examination on the cadaver of Ricardo Rivera (Exhs. V, V-1 to V-5), and the sketches of the human body showing the location of the injuries, sketch of the human body re: Alicia Rivera (Exhs. S and S-1), sketch of the human body re: Regina Villanueva (Exhs. U and U-1), sketch of the human body for the examination conducted on the body of Ricardo Rivera (Exhs. W and W-1); that the injuries sustained by Alicia Rivera was contused abrasion on several parts of the body, incised wound on the base of the neck and on the left forearm, five stab wounds located on the right chest, left chest, upper front portion of the left shoulder and on the abdomen; that the cause of death was hemorrhage, secondary to multiple stab wounds, chest, abdomen and left arm; that the injuries found in the body of Regina Villanueva are contused abrasion on several parts of the body, two stab wounds on the left chest and in the abdomen; that the cause of death was hemorrhage, secondary to stab wounds, chest and abdomen; that the injuries found on Ricardo Rivera's body was incised wound on the left side of the neck, right side of the neck and back portion left arm, nine stab wounds; that the victim was lying down and the assailant was standing; that the cause of death was hemorrhage, secondary to multiple stab wounds, neck, chest and abdomen; that the instrument used was a single bladed knife such as a kitchen knife." (Rollo, pp. 21-26)

The appellant's defense on the other hand is as follows:

"Accused Lawrence Ponciano, 29 years old, single, detention prisoner and residing at Balangcas, Valenzuela, Metro Manila, substantially testified that on July 29, 1986 at around 11:30 in the evening, he, Carding (Ricardo) Rivera, Dante and Odie were in the residence of Ricardo Rivera; that they have drinking session; that they drank whisky; that after drinking for about two hours, he became drunk and was under the influence of drugs; that he do (sic) not know what happened afterwards; that before they drank liquor he took plenty of blue max or tribo thrill tablets; that he has been taking drugs prior to July 29, 1986; that he do not have misunderstanding with Ricardo Rivera nor with Regina Villanueva.

"On cross-examination, he said they are paying Ricardo Rivera for the liquor; that on July 29, 1986, Eulogio

Sanchez paid for the drinks; that they have been in the house of Ricardo Rivera several times before July 29, 1986; that they went there in group; that he has been taking drugs about two months before the incident; that he took drugs and drank liquor at the same time before July 29, 1986; that no untoward incident happened on that occasion; that he did not feel anything wrong with him; that on July 29, 1986, they drank in the sala of the house of Ricardo Rivera; they consumed one long neck bottle and one flat bottle of liquor; that after drinking, he felt sleepy, he went out to the garage and slept; that he do not know what happened anymore; that he was awakened by the police officer that arrested him; that he noticed his pants was covered with blood; that every time he drank liquor and took the drugs, he felt drowsy and felt (sic) asleep; that on previous occasion he was able to go home; that he knows that taking drugs is illegal and bad to the health." (Rollo, pp. 26-27)

The appellant raises the following assignment of errors, to wit:

I

THE COURT A QUO ERRED IN FINDING THE ACCUSED GUILTY BEYOND REASONABLE DOUBT OF THE CRIME OF ROBBERY WITH MULTIPLE HOMICIDE.

II

ASSUMING ARGUENDO THAT THE ACCUSED IS GUILTY AS CHARGED, THE COURT A QUO ERRED IN IMPOSING UPON HIM THE PENALTY OF RECLUSION PERPETUA ON THREE (3) COUNTS. (Appellant's Brief, p. 1)

The appellant contends that the evidence presented by the prosecution is not sufficient to convict him of the crime of robbery with multiple homicide. He alleges that there is no evidence of the taking of the wristwatches, the Betamax machine and its accessories. In fact, the Betamax machine and its accessories were still in the house but were only moved from their usual setting. As to the wristwatches, he states that the testimony of Pat. Orig who related to the court that Pfc. Chua frisked him and found two wristwatches and the push button controls of the Betamax machine, is hearsay evidence as Orig had no personal knowledge of said fact as he was not the one who frisked the appellant. The appellant likewise, alleges that there is no evidence linking him to the killing as no one actually saw him kill the victims.

These allegations must fail.

But before we discuss the assigned errors, we would like to comment on the crime charged. The designation of the crime as robbery with multiple homicide is incorrect. Assuming that a complex crime was committed, it should be categorized as robbery with homicide regardless of the number of persons killed by reason or on occasion of the robbery (People v. Maranion, G.R. No. 90672-73, July 18, 1991; People v. Nunag, G.R. No. 92570, April 22, 1991)

The taking of the wristwatches and the remote control gadget of the Betamax machine has been established by the testimony of Orig. The appellant was caught red-handed in possession of the wristwatches, belonging to the victims Ricardo and Alicia Rivera, and the remote control of the Betamax machine. Such testimony of Orig is not hearsay as Orig was personally present when Pfc. Chua frisked the appellant and found the aforementioned articles in the appellant's possession. He had personal knowledge of the frisking and the items found on the appellant; therefore, his testimony cannot be categorized as hearsay evidence.

Because the appellant was caught in possession of the stolen property, he is presumed to be the taker in the absence of satisfactory explanation of his possession. This is in accordance with Rule 131 Section 3 (j) of the Revised Rules on Evidence (Rule 131, Section 5 (j) of the Rules of Court) which states:

"That a person found in possession of a thing taken in the doing of a recent wrongful act is the taker and the doer of the whole act; otherwise, that things which a person possesses, or exercises acts of ownership over, are owned by him."

In the case at bar, the appellant did not offer any explanation as to the property found on him.

With regards to the killing, although it is true that there was no eyewitness to the actual killing of the victims, there are several circumstances, which when pieced together will lead to a definite conclusion that the appellant actually perpetrated the killing. These circumstances pointing clearly to the guilt of the appellant are: (1) the prosecution witnesses placed the appellant at the scene of the crime; he, himself, testified that he was there, (2) Sanchez and Orig, saw the appellant with a knife (3) Fernandez-Rivera stated that the appellant took out a bladed instrument, approached her and Alicia and brandished the weapon at them. She also saw the appellant lunge at Alicia (4) Silvestre saw Ricardo Rivera already dead, saw the appellant holding a knife stained with blood and saw that the appellant had bloodstains on the upper portion of his pants. The appellant admitted on cross-examination that his pants were covered with blood. Silvestre also stated that the appellant admonished him not to touch Alicia.

Direct evidence of the appellant's participation in the actual stabbing is not necessary when circumstantial evidence sufficiently establishes that fact. (People v. Santito, Jr., G.R. No. 91628, August 22, 1991 citing People v. Roa, 167 SCRA 116, 122 [1988]) Circumstantial evidence is sufficient for conviction if (1) there is more than one circumstance; (b) the facts from which the inferences are derived are proven; and (c) the combination of all the circumstances is such as to produce a conviction beyond reasonable doubt. (Rule 133, Section 4, Revised Rules on Evidence; formerly Rule 133, Section 5, Rules of Court) All the aforementioned requisites are present in the instant case.

From the foregoing, the records show beyond reasonable doubt that the appellant killed the three victims and took the wristwatches and the remote control of the Betamax machine. The facts, however, are not adequate to convict the appellant of the crime of robbery with homicide. To sustain a conviction for this special complex crime, the original criminal design of the culprit must be robbery and the homicide is perpetrated with a view to the consummation of the robbery, by reason or on the occasion of the robbery (People v. Manalang, 170 SCRA 149, 162 [1989]). The intent to commit robbery must precede the taking of human life (People v. Luna, 58 SCRA 198, 208 [1974]). The records must show conclusively that the homicide was committed for the purpose of robbing the victim because a mere presumption of such fact is not sufficient to sustain a conviction for robo con homicidio. When a person is charged with robbery, the intent to rob must be proven. (See People v. Lanseta, 95 SCRA 166, 176 [1980]).

In the case at bar, the requisite criminal design to rob was not duly proven. There was no showing of the appellant's intention, determined by his acts, prior to, contemporaneous with and subsequent to the commission of the crime, to commit robbery. (See People v. Guiapar, 129 SCRA 539, 553 [1984]) The appellant's actuations do not show his intention to commit robbery. The appellant was a friend of one of the victims, Ricardo Rivera. What started as a drinking spree among friends ended in a killing spree by the appellant. The appellant himself admitted that he was drunk and under the influence of drugs. That robbery was his purpose does not appear to be a logical deduction. It is more logical to infer that the taking of the wristwatches was just an afterthought by the appellant after he had killed his three victims. To constitute robbery with homicide, there should be a direct relation, an intimate connection between the robbery and the killing-whether the latter be prior or subsequent to the former, or whether both crimes were committed at the same time. (People v. Verdad, 122 SCRA 239, 244 [1983] citing People v. Hernandez, 46 Phil. 48 [1924]). In the case at bar, the direct relation or intimate connection between the robbery and the killing was not established.

We, therefore, follow the rule laid down in *People v. Manalang*, *supra*, to wit:

"We already had several occasions to hold that if the original design was not to commit robbery but that the idea of taking the personal property of another with intent to gain came to the mind of the offender after the homicide only as an afterthought or as a minor incident in the homicide, the criminal acts should be viewed as constituting two distinct offenses and not as a single complex crime; the crimes would be either homicide or murder, as the case may be, and theft. (*People v. Atanacio*, et al., No. L-11844, November 29, 1960, 110 Phil. 1032; *People v. Elizaga*, 86 Phil. 364 [1950]; *People v. Glore*, 87 Phil. 739 [1950])"

Following this rule, the appellant is thus, convicted of three (3) separate crimes of homicide and another offense of theft. Notwithstanding that the information charged the appellant with robbery with multiple homicide, it is a well settled rule that when two or more offenses are charged in a single complaint or information, and the accused fails to object before trial, the Court may convict the accused of as many offenses as are charged and proved, and impose on him the penalty for each and every one of them, setting out the findings of fact and law in each case. (*People v. Manalang*, *supra*) As the allegations in the information determine what offense is charged, the appellant may be convicted of each homicide as alleged and proved and of theft as alleged and proved. Each separate homicide and the crime of theft have been proved.

The aggravating circumstances of dwelling and abuse of confidence or obvious ungratefulness are appreciated in the killing of Ricardo Rivera. Ricardo Rivera was killed in his own home (See *People v. Cuyo*, G.R. No. 76211, April 30, 1991) by the appellant who was a guest of the deceased. (*People v. Lobetania*, 116 SCRA 297, 302, [1982]).

As to the circumstance of intoxication, there is no doubt that the appellant was drunk. This alternative circumstance cannot be considered mitigating as the appellant, aside from his self-serving testimony that he could not remember anything, has failed to prove that the liquor he drank impaired his mental faculties and that his drinking was not habitual or subsequent to the plan to commit the felony. (*People v. Serenio*, 179 SCRA 379, 383 [1989]) In fact, it should be considered as an aggravating circumstance since it was admitted by the appellant himself that he had been drinking liquor for a long time (TSN, March 2, 1988, p. 7) and he took part in at least 10 drinking sessions held in Ricardo Rivera's house (TSN, March 2, 1988, p. 5) He further stated that he tried to stop drinking liquor but he went back to his old habit. (TSN, March 2, 1988, p. 11) He was even drinking after this July 29, 1986 incident. (TSN, March 2, 1988, p. 12) Not only was the appellant drunk, but he testified that it was his habit to take prohibited drugs while drinking liquor. (TSN, March 2, 1988, p. 6) On the night in question, he admitted to have taken an estimate of 15 pieces of bluemax tablets and an undetermined amount of "exponie" tablets. (TSN, March 2, 1988, pp. 13-14)

WHEREFORE, the decision appealed from is hereby MODIFIED and appellant Lawrence Ponciano y Sabolan is hereby:

(1) found guilty of the separate offense of homicide for the death of Ricardo Rivera aggravated by dwelling, abuse of confidence or obvious ungratefulness, and intoxication in accordance with Article 249, in relation to Article 64 (6) of the Revised Penal Code and applying the Indeterminate Sentence Law, sentenced to an indeterminate penalty of ten (10) years and one (1) day to twenty (20) years and to indemnify the heirs of Ricardo Rivera the amount of P50,000.00;

(2) found guilty of the separate offense of homicide for the death of Alicia Rivera aggravated by intoxication in accordance with Article 249, in relation to Article 64 (3) of the Revised Penal Code and applying the Indeterminate Sentence Law, sentenced to an indeterminate penalty of ten (10) years and one (1) day to twenty (20) years and to indemnify the heirs of Alicia Rivera the amount of P50,000.00 and the heirs of Alicia Rivera and

Ricardo Rivera the amount of P13,230.00 representing expenses for funeral, burial and wake;

(3) found guilty of the separate offense of homicide for the death of Regina Villanueva aggravated by intoxication in accordance with Article 249, in relation to Article 64 (3) of the Revised Penal Code and applying the Indeterminate Sentence Law, sentenced to an indeterminate penalty of ten (10) years and one (1) day to twenty (20) years and to indemnify the heirs of Regina Villanueva the amount of P50,000.00 as death indemnity and P10,000.00 representing expenses for funeral, burial and wake;

(4) found guilty of the separate offense of theft in accordance with Article 309 (3) of the Revised Penal Code and applying the Indeterminate Sentence Law, sentenced to an indeterminate penalty of two (2) months and one (1) day to two (2) years and ten (10) months. The stolen items having been recovered, their return to the lawful owner is hereby ordered.

SO ORDERED.

Bidin, Davide, Jr., and Romero, JJ., concur.

Fernan, C.J., (Chairman), on leave.

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