

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. GASPAR MINIAO CATUBIG, ACCUSED-APPELLANT.

G.R. No. 89732. January 31, 1992

Ponente: PARAS, J.

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PARAS, J.:

SECOND DIVISION

[G.R. No. 89732, January 31, 1992]

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. GASPAR MINIAO CATUBIG,
ACCUSED-APPELLANT.

DECISION

PARAS, J.:

On appeal before this Court is the June 28, 1989 judgment* of the Regional Trial Court, Ninth Judicial Region, Branch 18, Pagadian City, in Criminal Case No. 4012, finding the accused Gaspar Miniao Catubig guilty beyond reasonable doubt of the crime of Murder and sentencing the said accused to suffer the penalty of life imprisonment, to indemnify the aggrieved party in the sum of Forty Thousand Pesos (P40,000.00), and to pay the costs (Original Record, Decision, p. 284).

Appellant was charged in an amended information filed on November 12, 1986 by Assistant Fiscal Jose V. Carriaga which reads as follows:

"The undersigned 2nd Assistant Fiscal of Zamboanga del Sur, accuses Gaspar Miniao Catubig of the crime of Murder committed as follows:

That on February 25, 1983 at about 10:00 o'clock in the evening, more or less, at Poblacion Buug, Province of Zamboanga del Sur, Republic of the Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, who is a recidivist formerly charged before Branch I, now Branch VIII, Regional Trial Court, of Criminal Case No. 648 for Homicide, entitled "People of the Philippines versus Gaspar Catubig" in an Information duly filed by Provincial Fiscal Angel Babiera dated October 5, 1971 and convicted in a decision handed by Hon. Judge Melquiades S. Sucaldito dated July 29, 1974 to serve an indeterminate penalty of six months of Arresto Mayor in its maximum period as minimum to six years of prision coreccional in its maximum period as maximum, with intent to kill, with treachery and evident premeditation, did then and there willfully, unlawfully, and feloniously with the use of an ice pick did then and there stab one Victoriano Taytay, Jr., hitting him at his left breast below the nipple, through and through left arm and upper arm, which caused his death few hours thereafter.

Contrary to Article 248 of the Revised Penal Code in relation to Article 14 of the same Code, with aggravating circumstances of nighttime which was specifically sought by the accused to facilitate the commission of the

crime and the fact of being a Recidivist." (Rollo, pp. 4-5, Original Record, pp. 1-2).

Upon arraignment, accused Gaspar Catubig entered a plea of not guilty to the crime charged (Original Record, p. 33), after which trial on the merits ensued.

The prosecution presented the following witnesses, viz, Candido Catubay, Leonardo Sultan, Basilio Ambiran, Dr. Renato Pagusara, Candido Jaim and Pat. Teodoro Sumignan.

Candido Catubay, a farmer, resident of Barangay Guitom, Buug, Zamboanga del Sur and an eyewitness of the presecution, narrated that on February 25, 1983, at about 7:00 o'clock in the evening, he was at the periahan in Buug, betting on a game being played therein. At around 10:00 o'clock that evening, he became aware of a stabbing incident when he heard a person say, "Why did you stab me?" Upon hearing those words, he immediately turned around and saw a man he later identified as Gaspar Catubig, accused herein, stab Junior Victoriano Taytay, with an ice pick approximately six inches long including the handle. Being only at a distance of about one-and-a-half meters from the victim, he saw that the latter was hit on the lower and upper portion of the left nipple and also on the lower portion of the left arm. After having been stabbed twice, the victim folded his arms over his breast and walked slowly towards the house of Andot where he finally fell down. Meanwhile, the accused ran towards the gymnasium although there were no government authorities then except the CHDF members (Hearing of May 23, 1985; TSN, pp. 3-8).

On cross-examination, Catubay added that he saw his friend Victoriano Taytay stabbed twice successively by a man he did not know, wearing a blue T-shirt and sporting long, curly hair, a beard and a mustache. Catubay retreated, afraid that he might also be stabbed, then from a distance, stood and gazed at the victim as he fell down. Eventually, on March 4, 1985, Catubay went to the municipal jail of Buug upon the request of the victim's mother, to identify the assailant. He did so by pointing to the accused, whose name he later learned from a policeman to be Gaspar Catubig (Ibid; TSN, pp. 9-30).

Leonardo Sultan, a tobacco store owner and another eyewitness of the prosecution, testified that while he was also at the periahan on that fateful date and time, he heard the victim shout the words "Why do you want to stab me when I have no fault?" He was then more or less three meters away from the victim and he saw Gaspar Catubig stab the latter below the neck and the lower and upper arm. He also saw the bloody ice pick being pulled out from the body of the victim after which the accused walked towards the gymnasium. Sultan then corroborated Catubay's testimony as to the description of the icepick and the acts of the victim after he was stabbed. In addition, Sultan also declared that he knew both the victim and the accused prior to the incident and that he was able to see the foregoing events as there was light and moonlight illuminating the periahan. Sultan also confirmed the presence of another prosecution witness, Basilio Ambiran, at the periahan after the incident (Hearing of August 6, 1985; TSN, pp. 32-38).

When cross-examined, Sultan claimed that he was not investigated by the police in connection with the stabbing incident and that he did not tell anyone about it except when he was already called upon to testify in court. He said that it was Catubay who informed the victim's mother and the fiscal of his (Sultan's) presence during the incident. Further, he stated that he agreed to testify considering that he was present during the incident and because he pitied the victim's mother (Ibid; TSN, pp. 38-42).

Basilio Ambiran, a neighbor of the victim and apparently the prosecution's principal eyewitness, declared that he was betting on the jumping horse game at the periahan on the date and time in question when he saw the accused before the incident, with an ice pick being covered by his blue T-shirt. Two minutes later, the accused went near him at a distance of about one meter and he (Ambiran) became apprehensive thinking that the accused would stab him. Nevertheless, the accused turned to another direction, went around the groups of people and finally

approached the victim Victoriano Taytay, Jr. Using his left hand, the accused touched the left shoulder of the victim, who upon turning around, was immediately stabbed by the accused. The first thrust hit the victim on his left nipple, and Ambiran stated that there were spurts of blood when the ice pick was pulled out. The victim tried to parry several other stabs made by the accused after which he managed to say "Bay, why did you stab me when I have no fault?" The victim then walked towards the hospital of Dr. Pagusara but when he reached the store owned by Andot which was already near the hospital, the victim fell to the ground on his right knee. During this time, there were no government authorities except for the CHDF members who responded to the incident with a gun burst and then carried the victim to the hospital. The accused, in the meantime, fled towards the gymnasium. Ambiran stated that he witnessed everything because there was a full moon aside from the electric lights at the periahan. After the incident, he was investigated by the police authorities at the office of the station commander and then the accused was shown to him. Ambiran readily identified the accused as the assailant stressing that he will recognize the latter even after about two years. In addition, Ambiran confirmed the testimony of Catubay with respect to the appearance of the accused at the time of the incident as well as the description of the weapon as supplied by both Catubay and Sultan. (Hearing of April 8, 1986; TSN, pp. 45-56).

When Ambiran was cross-examined, he averred that from 1981-1982, he was a security guard at Zamboanga City. On February 24, 1983, he left for Buug intending to work as a palay dryer in a ricemill. The following day, February 25, 1983, he and Catubay, a former neighbor at Barangay Kabatan, Margosatubig, Zamboanga del Sur, took their snacks at the public market of Buug before proceeding to the periahan at around 7:00 o'clock in the evening. Sultan, the tobacco seller, arrived at almost 10:00 o'clock, just about in time to witness the stabbing incident. Afterwards, Ambiran left the periahan at around 10:45 o'clock and headed for home at Maganay, about three kilometers from the poblacion of Buug. He did not report the incident to the police and he stayed at Maganay until the end of that month. However, on February 28, 1983, he was able to talk to Manang Nena, the victim's mother, and he informed her that he was present during the incident. He said he pitied her son who was stabbed by a man he could identify even for many years albeit not by name but through the latter's physical features, adding that he often saw the assailant coming from Inimaco, apparently working thereat. Incidentally, Ambiran also knew that the victim also used to work at the Inimaco. Ambiran then asked Manang Nena to wait for his return as he would be leaving for Zamboanga City to get his things. He left Buug on March 1, 1983 and returned thereat on March 3, 1983. By then, the accused was already arrested and the police were already looking for him (Ambiran). On even date, he was brought to the police station for investigation along with several other persons including the barangay captain of Del Monte. He was asked to identify the assailant. The accused, then alone, was requested to face Ambiran who thereupon confirmed that the former was the assailant, stating that he (Ambiran) cannot forget the accused's long hair and mustache. Ambiran also stated that the accused's blue T-shirt and brown pants he was wearing at the confrontation wore the same clothes he was wearing during the incident (Hearing of April 8 and 9, 1986; TSN, pp. 56-96).

On further questions, Ambiran claimed that his statements were taken on February 28, 1983 by a policeman surnamed Sumignan while he was then at the house of the victim's mother. He said that his statements were taken by longhand and that he actually executed an affidavit on March 3, 1983 but as it was left unfinished, he signed and subscribed to the same on the next day, March 4, 1983 (Hearing of April 9, 1986; TSN, pp. 97-105).

Dr. Renato Pagusara, a medical practitioner in Buug, Zamboanga del Sur, testified that on February 23, 1983, he examined the body of Victoriano Taytay, Jr. who was already unconscious then and without pulse beat and respiration. He noticed two apparent deep stab wounds on the left arm and one on the left chest, about one to two inches below the nipple. According to the nature of the wounds, he postulated that the weapon that could have been used was a small knife with a sharp edge, an ice pick or an elongated instrument. After the examination, he declared that the victim was already dead, thus he issued a death certificate (Exhibit "A") stating therein that the

victim's death was caused by stab wounds and that he was already dead on arrival (DOA). The said certificate was also signed by the victim's mother as the informant.

On cross-examination, Dr. Pagusara stated that he did not conduct a post-mortem examination but he was able to locate the wounds when he undressed the victim. He also said that the wounds were about one centimeter in diameter. He further stated that the bleeding was minimal as wounds resulting from the penetration of a small instrument or an ice pick do not emit much blood but cause, however, massive internal bleeding (Hearing of August 25, 1986; TSN, pp. 110-115).

Casiano Jaim, the Barangay Captain of Del Monte, Buug, Zamboanga del Sur, testified that the victim's mother and Ambiran came to him for help in the arrest of the assailant who was identified by Ambiran as the accused. Subsequently, Jaim with three policemen arrested the accused and brought him to the office of the station commander on February 28, 1983. On March 3, 1983, Jaim confirmed that Ambiran was investigated by Pat. Sumignan. Furthermore, Jaim also disclosed to the court that he knew the accused had been imprisoned for killing a certain Rolly Rabago at Barangay Del Monte sometime in 1971 (Hearing of October 20, 1986 and November 17, 1986; TSN, pp. 117-130).

Pat. Teodoro Sumignan, a police investigator, simply corroborated Ambiran's testimony as to the dates of execution, signing and subscription of the latter's affidavit (Hearing of November 17, 1986; TSN, pp. 131-137).

The defense, on the other hand, interposes denial and alibi and presented the following witnesses:

Roman Bayobay, the barangay captain of Butong, Diplahan, Zamboanga del Sur, testified that upon the invitation of Gregoria Bellares on February 25, 1983, he and the accused went to the former's house at about 6:00 o'clock in the evening. Both of them were then requested to slaughter a carabao and a goat. Consequently, they did not leave the house until the task was finished at around 9:00 o'clock that night. Afterwards, he and the accused went to the second floor of Bellares' house and stayed thereat until they heard the news that a laborer of Zambuco had been stabbed. He and the accused asked permission from Bellares to go out and verify the incident and then they went to the Pagusara Hospital. A nurse there however, informed them that the victim was taken to the municipal building of Buug so they proceeded to the said place. Bayobay then stated that the accused touched the dead body of the victim which was eventually brought to the house of a cousin. Bayobay also declared that he and the accused helped not only in bringing the corpse to the said house but also in changing its clothes. Thereafter, he and the accused went back to Bellares house and then returned to Butong, Diplahan on February 26, 1983. On March 1, 1983, Bayobay said he was present when the accused was arrested by a policeman and the barangay captain of Del Monte (Jaim). Bayobay then followed the accused to the municipal jail but he (Bayobay) was not investigated by the police.

On cross-examination, Bayobay stated that the house of Gregorio Bellares was only a kilometer away from the poblacion of Buug but he did not know that there was a periahan in that area. Bayobay also said that he was not personally informed about the stabbing incident and that he only heard it from young boys whose names he can no longer recall. Significantly, Bayobay said that he was not aware who the victim was at the time he went out to verify the incident. However, when asked what made him so curious about the person who was stabbed, Bayobay claimed that it was because the victim was the battery charger of Zambuco. To yet another question, he replied that he learned that the victim was the battery charger of Zambuco when he was already at the municipal building of Buug. At the same place when the accused was arrested, Bayobay asked him (the accused) why he was jailed and the latter replied that he was brought there because the police wanted to ask something from him. In his testimony, Bayobay also disclosed that he used to work with the victim and the accused who was then a foreman (Hearing of May 16, 1988; TSN, pp. 143-172).

Gregorio Bellares, another defense witness, testified that on February 25, 1983, at around 11:00 o'clock in the evening, he learned about the stabbing incident from his daughter Conchita who heard about it while watching a beauty contest at the gymnasium, more or less three hundred meters away from his house. At that time, Bayobay and the accused were among his guests, thus confirming the former's testimony that Bellares invited them to help slaughter a carabao and a goat. Bellares testified that Bayobay and the accused arrived at about 6:00 o'clock in the evening and left his house with permission only after the stabbing incident was made known, adding that both did not come back while he stayed on with his other guests.

When cross-examined, Bellares stated that it was Bayobay who requested him to testify in court after the accused had been arrested. He also said that he knew neither the victim nor the accused whom he met only when Bayobay brought the latter to his house on that day. On further queries from the court, Bellares declared that he supervised the slaughtering of his carabao by Bayobay and a companion at the back of his house until it was done at 8:00 o'clock that night. Simultaneously, the accused, visible through the jalousies, was at the bathroom boiling water and cleaning the goat which he slaughtered with another companion. Bellares further testified that his brother, brother-in-law, Bayobay and the accused cooked food until 11:00 o'clock that evening (Hearing of September 5, 1988; TSN, pp. 180-193).

Gaspar Miniao Catubig, the accused, married, jobless, and a resident of Barangay Butong, Diplahan, Zamboanga del Sur, testified that on February 25, 1983, he was invited to the house of Gregorio Bellares apparently to help in the preparation of food as it was the eve of the town fiesta and Bellares' children just came from Manila. He arrived at the said house at about 6:00 o'clock in the evening, and there he met Bayobay who also requested to help, particularly in slaughtering a carabao while he (Catubig) slaughtered a goat. At about 11:00 o'clock in the evening, a commotion broke out when they all learned that somebody got killed. Catubig then left the house of Gregorio Bellares for the first time at around 12:00 midnight when he and Bayobay proceeded to the municipal building of Buug. He saw the victim inside the same building, lying on a table already dead. Upon the request of the victim's parents, he and Bayobay helped in bringing the corpse, along with the other men, to the house of the victim's mother, where he likewise helped in wiping the said corpse after it had been washed. Thereafter, he said he did nothing more. However, in another statement during his testimony, he said he also dressed the victim with clothes given by the mother. Catubig then left for home with Bayobay. After about two weeks, he was arrested without a warrant by the police, and he was told that they have something to talk about in the municipal building. Thereat, he was immediately placed in jail. Catubig asked why since he claimed that he had no fault but the police merely replied, "Just bear it Do." Catubig insists that he does not know any reason why he was charged considering that he had no differences with the victim who used to work under his supervision at Enemaco. He claims that they were friends and that he had no quarrel with either the victim or any of his relatives.

On cross-examination, Catubig averred that at the time the children of Bellares informed him about the killing incident, the work was finished and the food was already cooked. He said he immediately left to verify the incident with Bayobay, an old friend, as his sole companion. Catubig said he did not know that Taytay was the victim as in fact he was not aware then who the victim was. He and Bayobay went to the municipal building, about a kilometer from the house of Bellares but he (Catubig), was not subjected to interrogation then. Catubig stressed in his testimony that he helped in bringing the corpse to the house, undressed and wiped it and then changed its clothes, after which he left for home instead of returning to the house of Bellares at about 3:00 o'clock in the morning (Hearing of January 30, 1989; TSN, pp. 195-215).

On June 28, 1989, the trial court laid down its verdict, the decretal portion of which states:

"WHEREFORE, judgment is hereby rendered sentencing the accused, whose guilt has been proven beyond a reasonable doubt to life imprisonment and to be committed to Muntinlupa Penal Colony to serve his sentence

and to indemnify the aggrieved party in the sum of FORTY THOUSAND PESOS PHILIPPINE CURRENCY (P40,000.00), and the cost.

The bail posted by the accused is hereby ordered CANCELLED, and the accused be held for detention immediately.

SO ORDERED." (Original Record, p. 284).

Hence, the instant appeal.

Once again, the credibility of witnesses is at issue in the case at bar.

Catubig's counsel, in praying for a reversal of the trial court's decision, ascribes several infirmities in the evidence of the prosecution, one of which is the unreliability of Sultan's and Catubay's testimonies. He avers that Sultan was merely a substitute witness, that is, to replace Basilio Ambiran who was not presented by the prosecution to testify, presumably because Ambiran could not have identified the assailant as the incident happened at night and the place was then very crowded. Catubig's counsel also makes much of the fact that Sultan did not tell anyone about the incident, which conduct is allegedly not in the ordinary course of things. Catubay's testimony, on the other hand, is being discredited as it appears that he turned his back when the victim was already stabbed. It is thus inferred that Catubay did not actually see the accused stab the victim.

Additionally, Catubig's counsel argues that the defense has proved the presence of the accused at the house of Bellares at the time of the incident and that the accused's behavior after the incident negates responsibility for the crime lodged against him. Lastly, the ertswhile counsel postulates that the identity of the accused has not been sufficiently established, thus the inability of the prosecution to explain the motive for the killing is fatal to its cause.

A scrutiny of the records, however, clearly belie all these allegations. Firstly, Sultan is not a substitute witness. Basilio Ambiran who was supposedly replaced by Sultan, testified extensively as one of the prosecution's eyewitnesses on April 8 and 9, 1986 (TSN, pp. 45-105). He positively identified the accused as the one who stabbed the victim. Ambiran also declared that he witnessed the same as there was a full moon then aside from the electric lights which illuminated the area (TSN dated April 8, 1986, p. 52). With respect to Sultan's non-disclosure of the incident, it cannot be readily concluded that such is against the ordinary course of things. Witnessing a crime is an unusual and no less frightening experience which elicits different reactions from the witnesses. Thus, the Court ruled that there is no standard form of behavior when one is confronted with a shocking incident (People v. Radomes, G.R. No. L-68421, March 20, 1986, 141 SCRA 548; People v. Amoncio, G.R. No. L--49069, June 22, 1983, 122 SCRA 686). Likewise, it is not uncommon for a witness to a crime to show some reluctance about getting involved in a criminal case, as in fact the natural reticence of most people to get involved is of judicial notice (People v. Caraig, G.R. No. 91162, October 3, 1991; People v. Coronado, G.R. No. L-68932, October 28, 1986, 145 SCRA 250; People v. Pacabes, G.R. No. L-55417, June 24, 1985, 137 SCRA 158). Significantly, the Court has also ruled that the fear of an eyewitness when townmates are involved in the commission of a crime is understandable for they may provoke reprisals from the accused (People v. Sabellano, G.R. No. 93932-33, June 5, 1991; People v. Mandapat, G.R. No. 76953, April 22, 1991; People v. Rosario, G.R. No. L-46161, February 25, 1985, 134 SCRA 496). The silence then of Sultan by itself, will not detract from the credibility of his testimony.

Anent the contention that Catubay did not see the act of stabbing, the same is proved otherwise by the categorical answers of Catubay himself:

Q. And when you heard that person saying "Why did you stab me?", that was the time you looked back and

saw the deceased Victoriano Taytay, Jr.?

A. Yes Sir.

Q. And the stabbing was already done when you looked back?

A. I saw it twice.

Q. Why? You want to tell the court that Victoriano Taytay was stabbed many times?

A. Only three times. I saw the successive two stabbings because the victim has only three wounds.

(TSN, pp. 14-15 dated May 25, 1985) (Underscoring supplied).

It is at once apparent that Catubay missed only the first thrust of the accused but not the two successive stabs unmercifully inflicted upon the hapless victim. The commission of the gruesome crime was distinctly seen by Catubay from his distance of a mere one-and-a-half meters.

By and large, the testimonies of the prosecution witnesses were frank and straightforward. They have unanimously confirmed the identity of the accused as the perpetrator of the crime. Necessarily then, the accused's defense of alibi cannot prevail over the prosecution's position identification (*People v. Soriano*, G.R. No. 74783, April 22, 1991). Time and again, it has been ruled that the said defense is inherently weak, inconclusive and unreliable (*People v. Dela Cruz*, G.R. No. L-78470, March 11, 1988, 158 SCRA 537), thus the need for the most convincing evidence for it to be believed (*People v. Batac*, G.R. No. L-54500, January 29, 1988, 157 SCRA 508). In the case at bar, it is not contested that the accused was at the house of Bellares on February 25, 1983. Neither was his reason for being there in dispute. What is essentially emulated by the prosecution is the definite probability that the accused could have easily slipped away unnoticed considering that there were other visitors being attended to by Bellares as the host and that the house was barely a kilometer away from the poblacion of Buug where the periahan was situated. Indeed, it is not enough to prove that the accused was somewhere when the crime was committed but that he must likewise demonstrate that it was physically impossible for him to have been at the scene of the crime at the time of its commission (*People v. Carcedo*, G.R. No. L-48085, June 26, 1991; *People v. Catubig*, G.R. No. 71626, March 22, 1991; *People v. Baring*, G.R. No. 87017, July 20, 1990, 187 SCRA 629). Similarly, in view of the identification of the accused, proof of the motive for the killing becomes entirely irrelevant. As consistently ruled by the Court, such is essential only when there is doubt as to the identity of the culprit (*People v. Hassan*, G.R. No. L-68989, January 22, 1988, 157 SCRA 261), and the absence thereof does not preclude conviction when the crime and the participation of the accused therein are definitely established (*People v. Traya*, G.R. No. L-48065, January 29, 1987, 147 SCRA 381). Moreover, it has not been shown that there was an existing animosity between the accused and the witnesses sufficient to motivate or impel them to perjure themselves. There was therefore no reason for the witnesses to incriminate the accused than to tell the truth as they had witnessed it (*People v. Ballinas*, G.R. No. 93300, October 4, 1991).

Finally, the accused's behavior in bringing the corpse to the house of the mother as well as in changing its clothes is strongly asserted as not normally that of one who is responsible for killing a person. This may logically seem so. However, the Solicitor General counters with the following observation:

"Assistance extended to the deceased is not a valid defense as to be inconsistent with his guilt. His theory, if accepted, is tragic. Otherwise, all that the culprit will do, to exonerate himself after committing the crime, is to ingratiate with and assist the deceased and condole with the bereaved family to get away with his crime."

The Solicitor's comment appears to be persuasive and well-taken. Verily, it is not entirely impossible for someone who has already done the evil act of taking one's life, to do acts of seeming sympathy and not be sincere about it. In fact, in a very recent case, the Court has categorically ruled that attendance at the wake and burial does not detract from the role in killing a victim as it could have been a camouflage to evade detection of involvement in

the killing or to throw off suspicion from him (*People v. Ballinas*, supra).

In the light of the foregoing, there appears to be no cogent reason to disturb the findings of the trial court. The penalty it imposed, however, is erroneous. The crime of murder is defined and punished by the Revised Penal Code, and within the range of the penalty prescribed therefore, i.e., reclusion temporal maximum to death, is the penalty of reclusion perpetua. The Code does not prescribe the penalty of "life imprisonment" for any of the felonies therein defined, that penalty being invariably imposed for serious offenses penalized not by the Revised Penal Code but by special laws. Reclusion perpetua entails imprisonment for at least thirty (30) years after which the convict becomes eligible for pardon; it also carries with it accessory penalties, namely, perpetual special disqualification, etc. It is not the same as "life imprisonment" which, for one thing, does not carry with it any accessory penalty, and for another, does not appear to have any definite extent or duration (*People v. Baguio*, G.R. No. 76585, April 30, 1991). The proper penalty, therefore, as prescribed by the Revised Penal Code, should be Reclusion Perpetua and not life imprisonment. The civil indemnity should also be increased from P40,000.00 to P50,000.00 in conformity with our jurisprudence (*People v. Rodriguez*, G.R. No. 90255, January 23, 1991).

PREMISES CONSIDERED, subject to the above modification, the judgment appealed from is AFFIRMED.

SO ORDERED.

Melencio-Herrera, (Chairman), Padilla, Regalado, and Nocon, JJ., concur.

[*] Penned by Judge Fausto H. Imbing

On appeal before this Court is the June 28, 1989 judgment* of the Regional Trial Court, Ninth Judicial Region, Branch 18, Pagadian City, in Criminal Case No. 4012, finding the accused Gaspar Miniao Catubig guilty beyond reasonable doubt of the crime of Murder and sentencing the said accused to suffer the penalty of life imprisonment, to indemnify the aggrieved party in the sum of Forty Thousand Pesos (P40,000.00), and to pay the costs (Original Record, Decision, p. 284).

Appellant was charged in an amended information filed on November 12, 1986 by Assistant Fiscal Jose V. Carriaga which reads as follows:

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That on February 25, 1983 at about 10:00 o'clock in the evening, more or less, at Poblacion Buug, Province of Zamboanga del Sur, Republic of the Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, who is a recidivist formerly charged before Branch I, now Branch VIII, Regional Trial Court, of Criminal Case No. 648 for Homicide, entitled "People of the Philippines versus Gaspar Catubig" in an Information duly filed by Provincial Fiscal Angel Babiera dated October 5, 1971 and convicted in a decision handed by Hon. Judge Melquiades S. Sucaldito dated July 29, 1974 to serve an indeterminate penalty of six months of Arresto Mayor in its maximum period as minimum to six years of prision coreccional in its maximum period as maximum, with intent to kill, with treachery and evident premeditation, did then and there willfully, unlawfully, and feloniously with the use of an ice pick did then and there stab one Victoriano Taytay, Jr., hitting him at his left breast below the nipple, through and through left arm and upper arm, which caused his death few hours thereafter.

Contrary to Article 248 of the Revised Penal Code in relation to Article 14 of the same Code, with aggravating circumstances of nighttime which was specifically sought by the accused to facilitate the commission of the crime and the fact of being a Recidivist." (Rollo, pp. 4-5, Original Record, pp. 1-2).

Upon arraignment, accused Gaspar Catubig entered a plea of not guilty to the crime charged (Original Record, p.

33), after which trial on the merits ensued.

The prosecution presented the following witnesses, viz, Candido Catubay, Leonardo Sultan, Basilio Ambiran, Dr. Renato Pagusara, Candido Jaim and Pat. Teodoro Sumignan.

Candido Catubay, a farmer, resident of Barangay Guitom, Buug, Zamboanga del Sur and an eyewitness of the presecution, narrated that on February 25, 1983, at about 7:00 o'clock in the evening, he was at the periahan in Buug, betting on a game being played therein. At around 10:00 o'clock that evening, he became aware of a stabbing incident when he heard a person say, "Why did you stab me?" Upon hearing those words, he immediately turned around and saw a man he later identified as Gaspar Catubig, accused herein, stab Junior Victoriano Taytay, with an ice pick approximately six inches long including the handle. Being only at a distance of about one-and-a-half meters from the victim, he saw that the latter was hit on the lower and upper portion of the left nipple and also on the lower portion of the left arm. After having been stabbed twice, the victim folded his arms over his breast and walked slowly towards the house of Andot where he finally fell down. Meanwhile, the accused ran towards the gymnasium although there were no government authorities then except the CHDF members (Hearing of May 23, 1985; TSN, pp. 3-8).

On cross-examination, Catubay added that he saw his friend Victoriano Taytay stabbed twice successively by a man he did not know, wearing a blue T-shirt and sporting long, curly hair, a beard and a mustache. Catubay retreated, afraid that he might also be stabbed, then from a distance, stood and gazed at the victim as he fell down. Eventually, on March 4, 1985, Catubay went to the municipal jail of Buug upon the request of the victim's mother, to identify the assailant. He did so by pointing to the accused, whose name he later learned from a policeman to be Gaspar Catubig (Ibid; TSN, pp. 9-30).

Leonardo Sultan, a tobacco store owner and another eyewitness of the prosecution, testified that while he was also at the periahan on that fateful date and time, he heard the victim shout the words "Why do you want to stab me when I have no fault?" He was then more or less three meters away from the victim and he saw Gaspar Catubig stab the latter below the neck and the lower and upper arm. He also saw the bloody ice pick being pulled out from the body of the victim after which the accused walked towards the gymnasium. Sultan then corroborated Catubay's testimony as to the description of the icepick and the acts of the victim after he was stabbed. In addition, Sultan also declared that he knew both the victim and the accused prior to the incident and that he was able to see the foregoing events as there was light and moonlight illuminating the periahan. Sultan also confirmed the presence of another prosecution witness, Basilio Ambiran, at the periahan after the incident (Hearing of August 6, 1985; TSN, pp. 32-38).

When cross-examined, Sultan claimed that he was not investigated by the police in connection with the stabbing incident and that he did not tell anyone about it except when he was already called upon to testify in court. He said that it was Catubay who informed the victim's mother and the fiscal of his (Sultan's) presence during the incident. Further, he stated that he agreed to testify considering that he was present during the incident and because he pitied the victim's mother (Ibid; TSN, pp. 38-42).

Basilio Ambiran, a neighbor of the victim and apparently the prosecution's principal eyewitness, declared that he was betting on the jumping horse game at the periahan on the date and time in question when he saw the accused before the incident, with an ice pick being covered by his blue T-shirt. Two minutes later, the accused went near him at a distance of about one meter and he (Ambiran) became apprehensive thinking that the accused would stab him. Nevertheless, the accused turned to another direction, went around the groups of people and finally approached the victim Victoriano Taytay, Jr. Using his left hand, the accused touched the left shoulder of the victim, who upon turning around, was immediately stabbed by the accused. The first thrust hit the victim on his

left nipple, and Ambiran stated that there were spurts of blood when the ice pick was pulled out. The victim tried to parry several other stabs made by the accused after which he managed to say "Bay, why did you stab me when I have no fault?" The victim then walked towards the hospital of Dr. Pagusara but when he reached the store owned by Andot which was already near the hospital, the victim fell to the ground on his right knee. During this time, there were no government authorities except for the CHDF members who responded to the incident with a gun burst and then carried the victim to the hospital. The accused, in the meantime, fled towards the gymnasium. Ambiran stated that he witnessed everything because there was a full moon aside from the electric lights at the periahan. After the incident, he was investigated by the police authorities at the office of the station commander and then the accused was shown to him. Ambiran readily identified the accused as the assailant stressing that he will recognize the latter even after about two years. In addition, Ambiran confirmed the testimony of Catubay with respect to the appearance of the accused at the time of the incident as well as the description of the weapon as supplied by both Catubay and Sultan. (Hearing of April 8, 1986; TSN, pp. 45-56).

When Ambiran was cross-examined, he averred that from 1981-1982, he was a security guard at Zamboanga City. On February 24, 1983, he left for Buug intending to work as a palay dryer in a ricemill. The following day, February 25, 1983, he and Catubay, a former neighbor at Barangay Kabatan, Margosatubig, Zamboanga del Sur, took their snacks at the public market of Buug before proceeding to the periahan at around 7:00 o'clock in the evening. Sultan, the tobacco seller, arrived at almost 10:00 o'clock, just about in time to witness the stabbing incident. Afterwards, Ambiran left the periahan at around 10:45 o'clock and headed for home at Maganay, about three kilometers from the poblacion of Buug. He did not report the incident to the police and he stayed at Maganay until the end of that month. However, on February 28, 1983, he was able to talk to Manang Nena, the victim's mother, and he informed her that he was present during the incident. He said he pitied her son who was stabbed by a man he could identify even for many years albeit not by name but through the latter's physical features, adding that he often saw the assailant coming from Inimaco, apparently working thereat. Incidentally, Ambiran also knew that the victim also used to work at the Inimaco. Ambiran then asked Manang Nena to wait for his return as he would be leaving for Zamboanga City to get his things. He left Buug on March 1, 1983 and returned thereat on March 3, 1983. By then, the accused was already arrested and the police were already looking for him (Ambiran). On even date, he was brought to the police station for investigation along with several other persons including the barangay captain of Del Monte. He was asked to identify the assailant. The accused, then alone, was requested to face Ambiran who thereupon confirmed that the former was the assailant, stating that he (Ambiran) cannot forget the accused's long hair and mustache. Ambiran also stated that the accused's blue T-shirt and brown pants he was wearing at the confrontation wore the same clothes he was wearing during the incident (Hearing of April 8 and 9, 1986; TSN, pp. 56-96).

On further questions, Ambiran claimed that his statements were taken on February 28, 1983 by a policeman surnamed Sumignan while he was then at the house of the victim's mother. He said that his statements were taken by longhand and that he actually executed an affidavit on March 3, 1983 but as it was left unfinished, he signed and subscribed to the same on the next day, March 4, 1983 (Hearing of April 9, 1986; TSN, pp. 97-105).

Dr. Renato Pagusara, a medical practitioner in Buug, Zamboanga del Sur, testified that on February 23, 1983, he examined the body of Victoriano Taytay, Jr. who was already unconscious then and without pulse beat and respiration. He noticed two apparent deep stab wounds on the left arm and one on the left chest, about one to two inches below the nipple. According to the nature of the wounds, he postulated that the weapon that could have been used was a small knife with a sharp edge, an ice pick or an elongated instrument. After the examination, he declared that the victim was already dead, thus he issued a death certificate (Exhibit "A") stating therein that the victim's death was caused by stab wounds and that he was already dead on arrival (DOA). The said certificate was also signed by the victim's mother as the informant.

On cross-examination, Dr. Pagusara stated that he did not conduct a post-mortem examination but he was able to locate the wounds when he undressed the victim. He also said that the wounds were about one centimeter in diameter. He further stated that the bleeding was minimal as wounds resulting from the penetration of a small instrument or an ice pick do not emit much blood but cause, however, massive internal bleeding (Hearing of August 25, 1986; TSN, pp. 110-115).

Casiano Jaim, the Barangay Captain of Del Monte, Buug, Zamboanga del Sur, testified that the victim's mother and Ambiran came to him for help in the arrest of the assailant who was identified by Ambiran as the accused. Subsequently, Jaim with three policemen arrested the accused and brought him to the office of the station commander on February 28, 1983. On March 3, 1983, Jaim confirmed that Ambiran was investigated by Pat. Sumignan. Furthermore, Jaim also disclosed to the court that he knew the accused had been imprisoned for killing a certain Rolly Rabago at Barangay Del Monte sometime in 1971 (Hearing of October 20, 1986 and November 17, 1986; TSN, pp. 117-130).

Pat. Teodoro Sumignan, a police investigator, simply corroborated Ambiran's testimony as to the dates of execution, signing and subscription of the latter's affidavit (Hearing of November 17, 1986; TSN, pp. 131-137).

The defense, on the other hand, interposes denial and alibi and presented the following witnesses:

Roman Bayobay, the barangay captain of Butong, Diplahan, Zamboanga del Sur, testified that upon the invitation of Gregoria Bellares on February 25, 1983, he and the accused went to the former's house at about 6:00 o'clock in the evening. Both of them were then requested to slaughter a carabao and a goat. Consequently, they did not leave the house until the task was finished at around 9:00 o'clock that night. Afterwards, he and the accused went to the second floor of Bellares' house and stayed thereat until they heard the news that a laborer of Zambuco had been stabbed. He and the accused asked permission from Bellares to go out and verify the incident and then they went to the Pagusara Hospital. A nurse there however, informed them that the victim was taken to the municipal building of Buug so they proceeded to the said place. Bayobay then stated that the accused touched the dead body of the victim which was eventually brought to the house of a cousin. Bayobay also declared that he and the accused helped not only in bringing the corpse to the said house but also in changing its clothes. Thereafter, he and the accused went back to Bellares house and then returned to Butong, Diplahan on February 26, 1983. On March 1, 1983, Bayobay said he was present when the accused was arrested by a policeman and the barangay captain of Del Monte (Jaim). Bayobay then followed the accused to the municipal jail but he (Bayobay) was not investigated by the police.

On cross-examination, Bayobay stated that the house of Gregorio Bellares was only a kilometer away from the poblacion of Buug but he did not know that there was a periahan in that area. Bayobay also said that he was not personally informed about the stabbing incident and that he only heard it from young boys whose names he can no longer recall. Significantly, Bayobay said that he was not aware who the victim was at the time he went out to verify the incident. However, when asked what made him so curious about the person who was stabbed, Bayobay claimed that it was because the victim was the battery charger of Zambuco. To yet another question, he replied that he learned that the victim was the battery charger of Zambuco when he was already at the municipal building of Buug. At the same place when the accused was arrested, Bayobay asked him (the accused) why he was jailed and the latter replied that he was brought there because the police wanted to ask something from him. In his testimony, Bayobay also disclosed that he used to work with the victim and the accused who was then a foreman (Hearing of May 16, 1988; TSN, pp. 143-172).

Gregorio Bellares, another defense witness, testified that on February 25, 1983, at around 11:00 o'clock in the evening, he learned about the stabbing incident from his daughter Conchita who heard about it while watching a

beauty contest at the gymnasium, more or less three hundred meters away from his house. At that time, Bayobay and the accused were among his guests, thus confirming the former's testimony that Bellares invited them to help slaughter a carabao and a goat. Bellares testified that Bayobay and the accused arrived at about 6:00 o'clock in the evening and left his house with permission only after the stabbing incident was made known, adding that both did not come back while he stayed on with his other guests.

When cross-examined, Bellares stated that it was Bayobay who requested him to testify in court after the accused had been arrested. He also said that he knew neither the victim nor the accused whom he met only when Bayobay brought the latter to his house on that day. On further queries from the court, Bellares declared that he supervised the slaughtering of his carabao by Bayobay and a companion at the back of his house until it was done at 8:00 o'clock that night. Simultaneously, the accused, visible through the jalousies, was at the bathroom boiling water and cleaning the goat which he slaughtered with another companion. Bellares further testified that his brother, brother-in-law, Bayobay and the accused cooked food until 11:00 o'clock that evening (Hearing of September 5, 1988; TSN, pp. 180-193).

Gaspar Miniao Catubig, the accused, married, jobless, and a resident of Barangay Butong, Diplahan, Zamboanga del Sur, testified that on February 25, 1983, he was invited to the house of Gregorio Bellares apparently to help in the preparation of food as it was the eve of the town fiesta and Bellares' children just came from Manila. He arrived at the said house at about 6:00 o'clock in the evening, and there he met Bayobay who also requested to help, particularly in slaughtering a carabao while he (Catubig) slaughtered a goat. At about 11:00 o'clock in the evening, a commotion broke out when they all learned that somebody got killed. Catubig then left the house of Gregorio Bellares for the first time at around 12:00 midnight when he and Bayobay proceeded to the municipal building of Buug. He saw the victim inside the same building, lying on a table already dead. Upon the request of the victim's parents, he and Bayobay helped in bringing the corpse, along with the other men, to the house of the victim's mother, where he likewise helped in wiping the said corpse after it had been washed. Thereafter, he said he did nothing more. However, in another statement during his testimony, he said he also dressed the victim with clothes given by the mother. Catubig then left for home with Bayobay. After about two weeks, he was arrested without a warrant by the police, and he was told that they have something to talk about in the municipal building. Thereat, he was immediately placed in jail. Catubig asked why since he claimed that he had no fault but the police merely replied, "Just bear it Do." Catubig insists that he does not know any reason why he was charged considering that he had no differences with the victim who used to work under his supervision at Enemaco. He claims that they were friends and that he had no quarrel with either the victim or any of his relatives.

On cross-examination, Catubig averred that at the time the children of Bellares informed him about the killing incident, the work was finished and the food was already cooked. He said he immediately left to verify the incident with Bayobay, an old friend, as his sole companion. Catubig said he did not know that Taytay was the victim as in fact he was not aware then who the victim was. He and Bayobay went to the municipal building, about a kilometer from the house of Bellares but he (Catubig), was not subjected to interrogation then. Catubig stressed in his testimony that he helped in bringing the corpse to the house, undressed and wiped it and then changed its clothes, after which he left for home instead of returning to the house of Bellares at about 3:00 o'clock in the morning (Hearing of January 30, 1989; TSN, pp. 195-215).

On June 28, 1989, the trial court laid down its verdict, the decretal portion of which states:

"WHEREFORE, judgment is hereby rendered sentencing the accused, whose guilt has been proven beyond a reasonable doubt to life imprisonment and to be committed to Muntinlupa Penal Colony to serve his sentence and to indemnify the aggrieved party in the sum of FORTY THOUSAND PESOS PHILIPPINE CURRENCY (P40,000.00), and the cost.

The bail posted by the accused is hereby ordered CANCELLED, and the accused be held for detention immediately.

SO ORDERED." (Original Record, p. 284).

Hence, the instant appeal.

Once again, the credibility of witnesses is at issue in the case at bar.

Catubig's counsel, in praying for a reversal of the trial court's decision, ascribes several infirmities in the evidence of the prosecution, one of which is the unreliability of Sultan's and Catubay's testimonies. He avers that Sultan was merely a substitute witness, that is, to replace Basilio Ambiran who was not presented by the prosecution to testify, presumably because Ambiran could not have identified the assailant as the incident happened at night and the place was then very crowded. Catubig's counsel also makes much of the fact that Sultan did not tell anyone about the incident, which conduct is allegedly not in the ordinary course of things. Catubay's testimony, on the other hand, is being discredited as it appears that he turned his back when the victim was already stabbed. It is thus inferred that Catubay did not actually see the accused stab the victim.

Additionally, Catubig's counsel argues that the defense has proved the presence of the accused at the house of Bellares at the time of the incident and that the accused's behavior after the incident negates responsibility for the crime lodged against him. Lastly, the erstwhile counsel postulates that the identity of the accused has not been sufficiently established, thus the inability of the prosecution to explain the motive for the killing is fatal to its cause.

A scrutiny of the records, however, clearly belie all these allegations. Firstly, Sultan is not a substitute witness. Basilio Ambiran who was supposedly replaced by Sultan, testified extensively as one of the prosecution's eyewitnesses on April 8 and 9, 1986 (TSN, pp. 45-105). He positively identified the accused as the one who stabbed the victim. Ambiran also declared that he witnessed the same as there was a full moon then aside from the electric lights which illuminated the area (TSN dated April 8, 1986, p. 52). With respect to Sultan's non-disclosure of the incident, it cannot be readily concluded that such is against the ordinary course of things. Witnessing a crime is an unusual and no less frightening experience which elicits different reactions from the witnesses. Thus, the Court ruled that there is no standard form of behavior when one is confronted with a shocking incident (People v. Radomes, G.R. No. L-68421, March 20, 1986, 141 SCRA 548; People v. Amoncio, G.R. No. L-49069, June 22, 1983, 122 SCRA 686). Likewise, it is not uncommon for a witness to a crime to show some reluctance about getting involved in a criminal case, as in fact the natural reticence of most people to get involved is of judicial notice (People v. Caraig, G.R. No. 91162, October 3, 1991; People v. Coronado, G.R. No. L-68932, October 28, 1986, 145 SCRA 250; People v. Pacabes, G.R. No. L-55417, June 24, 1985, 137 SCRA 158). Significantly, the Court has also ruled that the fear of an eyewitness when townmates are involved in the commission of a crime is understandable for they may provoke reprisals from the accused (People v. Sabellano, G.R. No. 93932-33, June 5, 1991; People v. Mandapat, G.R. No. 76953, April 22, 1991; People v. Rosario, G.R. No. L-46161, February 25, 1985, 134 SCRA 496). The silence then of Sultan by itself, will not detract from the credibility of his testimony.

Anent the contention that Catubay did not see the act of stabbing, the same is proved otherwise by the categorical answers of Catubay himself:

Q. And when you heard that person saying "Why did you stab me?", that was the time you looked back and saw the deceased Victoriano Taytay, Jr.?

A. Yes Sir.

Q. And the stabbing was already done when you looked back?

A. I saw it twice.

Q. Why? You want to tell the court that Victoriano Taytay was stabbed many times?

A. Only three times. I saw the successive two stabbings because the victim has only three wounds.

(TSN, pp. 14-15 dated May 25, 1985) (Underscoring supplied).

It is at once apparent that Catubay missed only the first thrust of the accused but not the two successive stabs unmercifully inflicted upon the hapless victim. The commission of the gruesome crime was distinctly seen by Catubay from his distance of a mere one-and-a-half meters.

By and large, the testimonies of the prosecution witnesses were frank and straightforward. They have unanimously confirmed the identity of the accused as the perpetrator of the crime. Necessarily then, the accused's defense of alibi cannot prevail over the prosecution's position identification (*People v. Soriano*, G.R. No. 74783, April 22, 1991). Time and again, it has been ruled that the said defense is inherently weak, inconclusive and unreliable (*People v. Dela Cruz*, G.R. No. L-78470, March 11, 1988, 158 SCRA 537), thus the need for the most convincing evidence for it to be believed (*People v. Batac*, G.R. No. L-54500, January 29, 1988, 157 SCRA 508). In the case at bar, it is not contested that the accused was at the house of Bellares on February 25, 1983. Neither was his reason for being there in dispute. What is essentially emulated by the prosecution is the definite probability that the accused could have easily slipped away unnoticed considering that there were other visitors being attended to by Bellares as the host and that the house was barely a kilometer away from the poblacion of Buug where the periahan was situated. Indeed, it is not enough to prove that the accused was somewhere when the crime was committed but that he must likewise demonstrate that it was physically impossible for him to have been at the scene of the crime at the time of its commission (*People v. Carcedo*, G.R. No. L-48085, June 26, 1991; *People v. Catubig*, G.R. No. 71626, March 22, 1991; *People v. Baring*, G.R. No. 87017, July 20, 1990, 187 SCRA 629). Similarly, in view of the identification of the accused, proof of the motive for the killing becomes entirely irrelevant. As consistently ruled by the Court, such is essential only when there is doubt as to the identity of the culprit (*People v. Hassan*, G.R. No. L-68989, January 22, 1988, 157 SCRA 261), and the absence thereof does not preclude conviction when the crime and the participation of the accused therein are definitely established (*People v. Traya*, G.R. No. L-48065, January 29, 1987, 147 SCRA 381). Moreover, it has not been shown that there was an existing animosity between the accused and the witnesses sufficient to motivate or impel them to perjure themselves. There was therefore no reason for the witnesses to incriminate the accused than to tell the truth as they had witnessed it (*People v. Ballinas*, G.R. No. 93300, October 4, 1991).

Finally, the accused's behavior in bringing the corpse to the house of the mother as well as in changing its clothes is strongly asserted as not normally that of one who is responsible for killing a person. This may logically seem so. However, the Solicitor General counters with the following observation:

"Assistance extended to the deceased is not a valid defense as to be inconsistent with his guilt. His theory, if accepted, is tragic. Otherwise, all that the culprit will do, to exonerate himself after committing the crime, is to ingratiate with and assist the deceased and condole with the bereaved family to get away with his crime."

The Solicitor's comment appears to be persuasive and well-taken. Verily, it is not entirely impossible for someone who has already done the evil act of taking one's life, to do acts of seeming sympathy and not be sincere about it. In fact, in a very recent case, the Court has categorically ruled that attendance at the wake and burial does not detract from the role in killing a victim as it could have been a camouflage to evade detection of involvement in the killing or to throw off suspicion from him (*People v. Ballinas*, *supra*).

In the light of the foregoing, there appears to be no cogent reason to disturb the findings of the trial court. The

penalty it imposed, however, is erroneous. The crime of murder is defined and punished by the Revised Penal Code, and within the range of the penalty prescribed therefore, i.e., reclusion temporal maximum to death, is the penalty of reclusion perpetua. The Code does not prescribe the penalty of "life imprisonment" for any of the felonies therein defined, that penalty being invariably imposed for serious offenses penalized not by the Revised Penal Code but by special laws. Reclusion perpetua entails imprisonment for at least thirty (30) years after which the convict becomes eligible for pardon; it also carries with it accessory penalties, namely, perpetual special disqualification, etc. It is not the same as "life imprisonment" which, for one thing, does not carry with it any accessory penalty, and for another, does not appear to have any definite extent or duration (*People v. Baguio*, G.R. No. 76585, April 30, 1991). The proper penalty, therefore, as prescribed by the Revised Penal Code, should be Reclusion Perpetua and not life imprisonment. The civil indemnity should also be increased from P40,000.00 to P50,000.00 in conformity with our jurisprudence (*People v. Rodriguez*, G.R. No. 90255, January 23, 1991).

PREMISES CONSIDERED, subject to the above modification, the judgment appealed from is AFFIRMED.

SO ORDERED.

Melencio-Herrera, (Chairman), Padilla, Regalado, and Nocon, JJ., concur.

[*] Penned by Judge Fausto H. Imbing

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