

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ADRONICO GREGORIO AND RICARDO GREGORIO, DEFENDANTS-APPELLANTS.

G.R. Nos. 109614-15. March 29, 1996

Ponente: KAPUNAN, J.

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KAPUNAN, J.:

The instant appeal seeks the reversal of the joint decision of the Regional Trial Court of Bacolod City, Branch 43, rendered on April 20, 1992, in Criminal Cases Nos. 428 and 6307 finding both appellants guilty beyond reasonable doubt of the crime of murder.

The facts of the case as established by the evidence for the prosecution are faithfully summarized in the People's brief, to wit:

Around 8:00 o'clock in the evening of May 7, 1986, Carlos Catorse together with his fifteen year old son Romeo Catorse arrived at the house (the house is composed of two storeys) of appellant Adronico Gregorio at Sitio Bug-as, Barangay Sta. Cruz, Murcia, Negros Occidental, to attend the wake of the latter's grandson (TSN March 24, 1987, pp. 3-4).

When Carlos and his son arrived, there were already people attending the wake. Jovito Nicavera, Marcelo Lo and Adronico were conversing downstairs while upstairs, some were playing 'pusoy' (russian poker), among them were Jerry Nicavera, Renato Calabas, 'Tunggak,' (son of Adronico) and Ricardo Gregorio (brother and co-appellant of Adronico). Kibitzing and at times betting in the game were John Villarosa, Remolito Calabas, Carmelo Alubaga and Crispin Calalas (I.D., pp. 5; TSN, May 30, 1989, pp. 12-13).

Persons attending the wake were requested by appellant Adronico to deposit with him any weapon in their possession for safekeeping so as to avoid trouble. Complying therewith, Carlos Catorse handed over his 'samurai,' John Villarosa and Remolito Calalas, their respective knives, to Adronico (TSN, May 30, 1989, pp. 16-19; TSN, November 14, 1989, pp. 22-23).

Around 1:00 o'clock in the morning of May 8, 1986, while the game of 'pusoy' was still in progress, appellant Ricardo, in a very loud voice, reprimanded 'Tunggak' from (sic) peeping at the cards of other players. In response, 'Tunggak' stood up and also in a very loud voice ordered the game stopped (TSN, May 30, 1989, pp. 25-27; TSN, November 14, 1987, pp. 45-50).

Overhearing the incident, Adronico ordered Tunggak downstairs and right there and then Adronico scolded and boxed him (Tunggak) several times (TSN, May 30, 1989, pp. 27-30; TSN, November 14, 1989, pp. 51-55).

While Adronico was severely beating Tunggak, Carlos Catorse approached and begged Adronico from further hurting his son so as not to put him to shame before the crowd. Carlos was in this act of pacifying the matter between the father and son when suddenly appellant Ricardo stealthily stabbed Carlos from behind with a 'samurai' (the same samurai deposited by Carlos to Adronico) and thereafter hacked and stabbed him several times more in different parts of his body: Right after Carlos fell to the ground, Adronico, for his part, repeatedly hacked the victim with a bolo. (TSN, May 30, 1989, pp. 30-31; November 14, 1989, pp. 57-65).

Terrified, Romeo Catorse, son of Carlos Catorse, ran out of the house. Jovito Nicavera also tried to get out of the house but Adronico hacked him instead with a bolo hitting his left shoulder. Marcelo Lo tried to help his uncle Jovito but Ricardo, with the same 'samurai' used against Carlos hacked him on his forearm. Adronico immediately followed and using a bolo hacked Marcelo on the nape. Although wounded, Marcelo was able to run out of the house but Adronico ran after and overtook him. Adronico then hacked him again. When Ricardo followed the two, the visitors attending the wake scampered out of the house (TSN, May 30, 1989, pp. 44-56; TSN, November 14, 1989, pp. 66-77).

Later, Romeo Catorse together with his sister and younger brother returned to the house of Adronico where they found their father lying prostrate and dead. Nobody was around. Later on, the family of Jovito Nicavera arrived and brought the latter to a hospital in Bacolod (TSN, March 24, 1987, pp. 8-10).

Around 9:00 o'clock of the same morning of May 8, 1987, police authorities arrived at Adronico's place to investigate the killing incident. The bodies of Carlos Catorse and Marcelo Lo were found inside the house and at the yard of Adronico, respectively (TSN, November 14, 1989, pp. 76-78). The investigation revealed that appellants Adronico and Ricardo fled to Sitio Anangge, Barangay Buenavista, Murcia, Negros Occidental, about 4 kilometers away from the situs of the crime. The authorities pursued and succeeded in apprehending the appellants. Appellants were thereafter brought and investigated at Murcia Police Headquarters (TSN, April 5, 1991, pp. 9-10).

The post-mortem examination on the cadaver of the victims reveals that Carlos Catorse sustained twelve hack and four stab wounds while Marcelo Lo sustained six hack wounds. Both victims died of cardio respiratory arrest due to multiple wounds (Exhibits 'A', 'B', 'C' & 'D').[1]

Accordingly, an information for the murder of Carlos Catorse was filed against Adronico Gregorio and Ricardo Gregorio before the Regional Trial Court of Negros Occidental, Branch LXII, Bago City. The indictment, docketed as Criminal Case No. 428, reads:

That on or about the 8th day of May 1986, in the Municipality of Murcia, Province of Negros Occidental, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, armed with a 'samurai' and a bolo, conspiring, confederating and mutually helping each other, with evident premeditation and treachery, and with intent to kill, did then and there, willfully, unlawfully and feloniously attack, assault, stab and hack one, CARLOS CATORSE y APELYEDO, thereby inflicting multiple stab and hack wounds upon the body of the latter, which caused the death of said victim.

CONTRARY TO LAW.[2]

Upon arraignment, both accused entered separate pleas of "not guilty." [3]

Another information for the murder of Marcelo Lo was instituted against Adronico Gregorio, this time, before the Regional Trial Court of Negros Occidental, Branch 43, Bacolod City. Docketed as Criminal Case No. 6307, the accusatory portion of the information reads:

That on or about the 8th day of May, 1986, in the Municipality of Murcia, Province of Negros Occidental, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, armed with a bladed weapon, with intent to kill, with evident premeditation and treachery, did then and there, willfully, unlawfully and feloniously attack, assault and hack one MARCELO LO Y NICA VERA, thereby inflicting multiple injuries upon the body of the latter which caused the death of the said victim.

CONTRARY TO LAW.[4]

On arraignment, Adronico Gregorio entered a plea of "not guilty" to the offense charged.[5]

Later, the two cases were consolidated and tried jointly by the Regional Trial Court of Negros Occidental,

Bacolod City, Branch 43.

On April 20, 1992 as aforestated, the trial court rendered a joint decision, the dispositive portion of which reads:

WHEREFORE, premises considered, the Court finds and so holds the two (2) accused Adronico Gregorio and Ricardo Gregorio 'GUILTY' beyond reasonable doubt as principals of having committed the crime of Murder in Crim. Case No. 428 and hereby sentences each to life imprisonment and to solidarily indemnify the heirs of Carlos Catorse the sum of THIRTY THOUSAND (P30,000.00) PESOS with no subsidiary imprisonment in case of insolvency.

In Crim. Case No. 6307 (2292) (sic) the Court finds the same Adronico Gregorio 'GUILTY' beyond reasonable doubt of having committed Murder and hereby sentences him to another life imprisonment and to indemnify the heirs of Marcelo Lo the sum of THIRTY THOUSAND (P30,000.00) PESOS with no subsidiary imprisonment in case of insolvency.

Further, the two (2) accused shall be credited with the full term of their preventive confinement.

No cost.

SO ORDERED.[6]

Hence, this appeal.

In their brief, appellants raised the following errors, to wit:

I

THE TRIAL COURT GRAVELY ERRED IN GIVING WEIGHT AND CREDENCE TO THE THEORY OF THE PROSECUTION AND IN DISREGARDING THAT OF THE DEFENSE.

II

THE TRIAL COURT GRAVELY ERRED IN REJECTING APPELLANTS' DEFENSE OF SELF-DEFENSE.

III

THE TRIAL COURT GRAVELY ERRED IN FINDING THAT THERE EXIST CONSPIRACY AND TREACHERY IN THE CASE AT BAR.

IV

THE TRIAL COURT GRAVELY ERRED IN FINDING BOTH THE ACCUSED GUILTY BEYOND REASONABLE DOUBT OF THE CRIME OF MURDER.[7]

However, before the Office of the Solicitor General could file its Appellee's Brief, appellant Ricardo Gregorio died on December 12, 1993. Consequently, his criminal liability as well as his civil liability based solely thereon is extinguished.[8] Evidently, this appeal will proceed only with respect to appellant Adronico Gregorio.

After a careful perusal and evaluation of the case, this court is not inclined to disturb the findings and conclusion of the court below, there being no cogent reason therefor. For, aside from the well-settled rule that the factual findings of the trial judge who had the opportunity to observe the demeanor of the witnesses and assess their credibility is entitled to the highest degree of respect,[9] there appears to be no strong reason to depart from the said doctrine since the decision is fully supported by the evidence on record.

Appellant Adronico Gregorio interposed self-defense to exculpate himself from criminal liability. However, the

trial court, skeptic of the said plea, rejected the same, reasoning that appellant failed to establish self-defense by clear and convincing evidence. We agree. In numerous cases decided by this Court, the guiding jurisprudential principle has always been that when an accused invokes the justifying circumstance of self-defense, the burden of proof is shifted to him to prove the elements of that claim; otherwise, having admitted the killing, conviction is inescapable.[10] Concomitantly, he must rely on the strength of his own evidence and not on the weakness of the prosecution.[11] Having admitted the killing, appellant has to justify his taking of a life by the exacting standards of the law.

It is axiomatic that for self-defense to prosper, the following requisites must concur: (1) there must be unlawful aggression by the victim; (2) that the means employed to prevent or repel such aggression were reasonable; and (3) that there was lack of sufficient provocation on the part of the person defending himself.[12]

In the case at bench, appellant's claim of self-defense must fail. For one, the physical evidence tells us a different story. Dr. Emmanuel Boado, the medico-legal officer who conducted the autopsy on the cadavers of Carlos Catorse and Marcelo Lo, submitted the following post-mortem reports and attested to the veracity and authenticity of the same, thus:

Cadaver of Carlos Catorse:

EXTERNAL FINDINGS:

1. Hack wound 5 inches long, left temporal going backward with chip fractured (sic) of the skull.
2. Hack wound 8 inches long, from the base of the left Nose, going backward below the left ear.
3. Hack wound 7 inches long, neck left side going backward with complete chip fractured (sic) of the fourth vertebrae cutting blood vessels.
4. Stab wound 2 inches wide, 4 inches deep anterior abdomen, below the 10th rib, left side.
5. Stab wound 1 1/2 inches wide, 4 inches deep at the side of the navel left.
6. Hack wound, base of the palm, 3 inches long posterior side, cutting bones.
7. Hack wound, cutting left small finger.
8. Hack wound, 3 inches long upper 3rd right forearm running anteroposteriorly, chip fracture of bones.
9. Hack wound left shoulder back 4 inches long going downward with chip fracture of the shoulder joint.
10. Hack wound 5 inches long posteriorly left joint with chip fracture of the bones.
11. Hack wound 3 inches long posteriorly forearm below the elbow joint chip fracture of the bones.
12. Hack wound 3 inches long middle 3rd forearm, posterior surface, with chip fracture of the bones.
13. Stab wound 4 inches wide left back level of the 11th rib, back side through and through of the level of 12th rib right.
14. Hack wound 2 1/2 inches long with chip fracture of the 11th lobar vertebrae.
15. Hack wound middle right arm posterior side 4 inches long with chip fracture of bone.
16. Stab wound 1 inch wide hitting the vertebral bones, 5th thoracic vertebrae.

INTERNAL FINDINGS:

1. Stab wound, liver, large intestine, small intestine

2. Massive abdominal bleeding.

CAUSE OF DEATH:

Cardio Respiratory Arrest due to Multiple hack and Stab wounds.[13]

Cadaver of Marcelo Lo:

EXTERNAL FINDINGS:

1. Hack wound 6 inches long left temporal area going occiput, chip fracture skull.

2. Hack wound, left face going back ward base of the skull, brain tissue coming out, with chip fracture of the skull.

3. Hack wound, right 4 inches long right back cutting the scapular bones.

4. Hack wound 6 inches long, with chip fracture of the Vertebrae bones.

5. Hack wound 4 inches long cutting the 1st thoracic rib; scapular bones.

6. Hack wound 4 inches long, below the left scapular bones, cutting ribs.

INTERNAL FINDINGS:

1. Cerebral Hemorrhage, Massive

2. Thoracic Hemorrhage, Massive

CAUSE OF DEATH:

Cardio Respiratory Arrest due to multiple hack wounds.[14]

If Adronico Gregorio and Ricardo Gregorio stabbed Carlos Catorse and Marcelo Lo merely to defend themselves, it certainly defies reason why they had to inflict sixteen stab wounds on Carlos and six on Marcelo. The location, number and gravity of the wounds inflicted on the victims belie the appellants' contention that they acted in self-defense.[15] The rube is settled that the nature and extent of the wounds inflicted on a victim negate an accused's claim of self-defense.[16]

The futility of invoking self-defense is likewise revealed in the testimonies of accused Ricardo Gregorio and appellant Adronico Gregorio. Ricardo Gregorio testified that at around 9:00 o'clock in the evening of May 7, 1986, Carlos Catorse suddenly kicked, from the outside, the front door of the house of Adronico, then ran towards Eduardo (nephew of Ricardo) and boxed the latter; that he intervened to pacify Carlos but the latter drew his "samurai" and attempted to attack him and Eduardo; that he grappled for possession of the "samurai" and was able to turn its point back to Carlos who was hit in the stomach and then fell on the ground; and thereafter he left the victim, then went home.[17]

On his part, appellant Adronico Gregorio declared that at the same time his son, Eduardo, and brother, Ricardo, were being attacked by Carlos, he was in the kitchen preparing food for the people attending the wake of his grandson; that suddenly Marcelo Lo and Jovito Nicavera destroyed the bamboo walls of his kitchen, entered threat and assaulted him; that Marcelo attacked him with a bolo but he was able to parry the latter's hand and the bolo instead landed and struck the wooden rail of the kitchen sink; that Jovito in turn pointed a gun at him but

without wasting time, he dislodged the bolo from the wooden rail of the sink and slashed Jovito's hand; that because of the injury sustained, Jovito dropped the gun and ran out of the house; that he turned to Marcelo and struck him with a bolo until the latter fell outside of the kitchen; and that he never knew what happened next to Marcelo until the following morning when he learned that the latter died.[18]

Not only are the foregoing declarations incredible and incredulous but are innately false and fatuous.

By making said allegations, appellant and deceased accused would want to impress upon this Court that both were able to inflict only a single stab wound on deceased Carlos Catorse and Marcelo Lo. Curiously, however, none of their empty claims could explain the physical evidence and findings of the autopsy reports that Carlos Catorse sustained a total of 16 hack and stab wounds while Marcelo Lo, 6 mortal hack wounds.[19] Moreover, the prosecution witnesses were unanimous in their declaration that it was the appellant and his brother Ricardo who started the skirmish. There was no unlawful aggression on the part of Carlos Catorse who only wanted to help pacify Adronico nor on Marcelo Lo's part, who was only trying to flee from the melee when he was attacked and hacked to death. Likewise extant from the records is the absence of any act on the part of the victims giving sufficient provocation for the attack.

Likewise telling is the fact that appellant and his brother fled from their homes soon after the incident instead of reporting the matter to the police. Their flight negates self-defense and indicates guilt.[20] As we have repeatedly held, flight evidences guilt and a guilty conscience; the same strongly indicates a guilty mind and betrays the existence of a guilty conscience.[21]

Appellant also challenges the court a quo's finding that there was conspiracy between him and his brother Ricardo. Conspiracy exists when two or more persons come to an agreement concerning the commission of a felony and decide to commit it.[22] However, direct proof is not essential to prove conspiracy,[23] as it may be deduced from the mode and manner in which the offense was perpetrated, or inferred from the acts of the accused.[24] Where the acts of the accused collectively and individually demonstrate the existence of a common design towards the accomplishment of the same unlawful purpose, conspiracy is evident, and regardless of the fact, the perpetrators will be liable as principals.[25]

In the case at bench, although there is no proof as to a previous agreement by the assailants to commit the crime charged, conspiracy is evident from the manner of its perpetration.[26] After Ricardo lunged at Carlos with a samurai from behind several times, Adronico attacked him in turn with a bolo. Likewise, appellants successively hacked Marcelo using the weapons they used against Carlos. The incident happened in split seconds, so to speak. Under the circumstances, it is evident that Adronico and Ricardo acted in unison and cooperated with each other towards the accomplishment of a common felonious objective. In *People v. Regalario*[27] cited in *People v. Lopez*,[28] we held:

An indicium of conspiracy is when the acts of the accused are aimed at the same object, one performing one part and another performing another part so as to complete it with a view to the attainment of the same object, and their acts though apparently independent were in fact concerted and cooperative, indicating closeness of personal association, concerted action and concurrence of sentiments. The evidence need not establish the actual agreement which shows the pre-conceived plan, motive, interest, or purpose in the commission of the crime; conspiracy is shown by the coordinated acts of the assailants.[29]

Certainly, there was conspiracy between the brothers Adronico and Ricardo, and it was not necessary to prove a previous agreement to commit the crime since from their overt acts, it was clear that they acted in concert in the pursuit of their unlawful design or common goal which was to kill the victims.[30]

We agree with the trial court that the aggravating circumstance of treachery (*alevosia*) may be appreciated against

the appellants. Treachery exists when an offender commits any of the crimes against persons, employing means, methods or forms in the execution thereof which tend to directly and specially insure its execution, without risk to himself arising from the defense which the offended party might make.[31] In this case, it was clearly established that Ricardo stealthily stabbed Carlos from behind, and repeatedly hacked him in different parts of his body, with a "samurai." As Carlos fell to the ground, Adronico followed suit, repeatedly hacking the victim with a bolo. Though the assault upon Marcelo was preceded by appellants' assault upon Carlos and Jovito, the incident happened in a span of seconds only. Terrified by what he witnessed, Jovito Nicavera tried to run out of the house but Adronico hacked him instead. Instinctively, Marcelo Lo came to help his uncle Jovito but Ricardo followed by Adronico hacked him using the same samurai and bolo they used against Carlos. Defenseless and severely wounded Marcelo tried to run but Adronico finished him off by more mortal hacks. From all indications, the mode of attack adopted by the appellant and his brother qualifies the killing to murder as the same rendered the victims who were unarmed at that time defenseless and helpless, without any opportunity to defend themselves from their assailants' unreasonable and unexpected assault. The attack was sudden and was specially employed by the assailants to insure the execution of the said crime without risk to themselves arising from the defense which the victims might make.

Indeed, the use against Carlos Catorse and Marcelo Lo of the "samurai" and "bolo," both deadly weapons, the traitorous manner in which they were assaulted, and the number of wounds inflicted on them, all demonstrate a deliberate, determined assault with intent to kill. Appellant is guilty of murder.

Some last notes. The fallo of the assailed decision sentences the appellant to suffer the penalty of "life imprisonment" and to indemnify the heirs of Carlos Catorse and Marcelo Lo the sum of P30,000.00 each. The correct penalty, however, should be reclusion perpetua in accordance with Article 248 of the Revised Penal Code. As we have held time and again, life imprisonment and reclusion perpetua are different and distinct from each other. In *People v. Ruelan*,[32] we outlined the distinction thusly:

As noted from the dispositive portion of the assailed decision, the trial court imposed the penalty of 'life imprisonment' for the crime of murder. Evidently, the said court failed to appreciate the substantial difference between Reclusion Perpetua under the Revised Penal Code and Life Imprisonment when imposed as a penalty by special law. These two penalties are different and distinct from each other. Hence, we would like to reiterate our admonition in the case of *People v. Penillos*, likewise quoted under Administrative Circular No. 6-A-92 amending Administrative Circular No. 6-92 dated October 12, 1992 re: the correct application of the penalties of reclusion perpetua and life imprisonment, thus:

As noted from the dispositive portion of the challenged decision, the trial court imposed the penalty of 'reclusion perpetua or life imprisonment.' Evidently, it considered the latter as the English translation of the former, which is not the case. Both are different and distinct penalties. In the recent case of *People v. Baguio*, this Court held:

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.

As early as 1948, in *People vs. Mobe*, reiterated in *People vs. Pilonas*, and in the concurring opinion of Justice Ramon Aquino in *People vs. Sumadac*, this Court already made it clear that reclusion perpetua, is not the same as imprisonment for life or life imprisonment. Every judge should take note of the distinction and this Court expects that, henceforth, no trial judge should mistake one for the other.[33]

Finally, conformably with the stated policy of this Court and pursuant to *People v. Sison*[34] the civil indemnity for the death of a victim is increased to P50,000.00. Consequently, the heirs of Carlos Catorse and Marcelo Lo are entitled to P50,000.00 each.

WHEREFORE, except for the modification that appellant Adronico Gregorio is to suffer the penalty of reclusion perpetua and to indemnify the heirs of Carlos Catorse and Marcelo Lo the sum of P50,000.00 each, the judgment appealed from is hereby **AFFIRMED** in all respects. As aforesated, the death of Ricardo Gregorio extinguished both his criminal and civil liability arising from said crime.

SO ORDERED.

Padilla (Chairman), Bellosillo, Vitug, and Hermosisima, Jr., JJ., concur.

[1] Appellee's Brief, pp. 2-7; Rollo, pp. 99-104.

[2] Original Records of Criminal Case No. 428, p. 14.

[3] *Id.*, at 24.

[4] Original Records of Criminal Case No. 6307, p. 22.

[5] *Id.*, at 28.

[6] Decision, pp. 10-11; Original Records, pp. 243-244.

[7] Appellants' Brief, p. 1; Rollo, p. 46.

[8] Pursuant to the doctrine laid down in *People v. Bayotas*, 236 SCRA 239 [1994], it was held that upon the death of the accused pending appeal of his conviction, the criminal action against him is extinguished inasmuch as there is no longer a defendant to stand as the accused; the civil action instituted therein for recovery of civil liability *ex delicto* is *ipso facto* extinguished, grounded as it were on the criminal action.

[9] *People v. Rene Nuestro*, G.R. No. 11 1288, January 18, 1995; *People v. Castillon*, 217 SCRA 76 [1993]; *People v. Carraig*, 202 SCRA 357 [1991].

[10] *People v. Salazar*, 221 SCRA 170 [1993].

[11] *People v. Decena*, 235 SCRA 67 [1994]; *People v. Caras*, 234 SCRA 199 [1994]; *People v. Uribe*, 182 SCRA 624 [1990].

[12] *People v. Eliseo Morin*, G.R. No. 101794, February 24, 1995; *People v. Flores*, 237 SCRA 653 [1994]; *People v. Boniao*, 217 SCRA 653 [1993].

[13] Exhibit "A"; Original Records of Criminal Case No. 428, p.7.

[14] Exhibit "C"; Original Records of Criminal Case No. 6307, p. 6.

[15] *People v. Tanduyan*, 236 SCRA 433 [1994]; *People v. Boniao*, 217 SCRA 653 [1992].

[16] *People v. Layam*, 234 SCRA 424 [1994]; *People v. Amania*, 220 SCRA 347 [1993].

[17] TSN, December 17, 1990, pp. 25-30.

[18] TSN, December 17, 1990, pp. 44-50.

[19] See Notes 13 and 14, *supra*.

[20] *People v. Manuhan*, 133 SCRA 11 [1984].

[21] *People v. Leonardo Lopez*, G.R. No. 104662, June 16, 1995; *Anciro v. People*, 228 SCRA 629 [1993]; *People v. Martmado*, 214 SCRA 712 [1992]; *People v. Garcia*, 209 SCRA 164 [1992].

[22] *People v. Taguba*, 229 SCRA 188 [1994].

[23] *People v. Lug-aw*, 229 SCRA 308 [1994].

[24] *People v. Canillo*, 236 SCRA 22 [1994].

[25] *People v. Carizo*, 233 SCRA 687 [1994].

[26] *People v. Rodico*, G.R. No. 107101, October 16, 1995; *People v. Penones*, 200 SCRA 624 [1991]; *People v. Talay*, 101 SCRA 332 [1980].

[27] 220 SCRA 368 [1993].

[28] G.R. No. 112448, October 30, 1995.

[29] See Note 28, *supra*, pp. 383-384.

[30] *People v. Amaguin*, 229 SCRA 166 [1994].

[31] Article 16 of the Revised Penal Code.

[32] 231 SCRA 650 [1994].

[33] *Id.*, at 663-664.

[34] 189 SCRA 643(1990).

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