

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. VERIATO MOLINA, RUBEN MOLINA, GREGORIO GAJAS, CASIMIRO (A.K.A. “QUINTIN”) CASTILLO, JESUS ARIOLA, “JOHN DOE,” “RICHARD DOE,” “...

G.R. Nos. 115835-36. July 22, 1998

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

While affirming the conviction of accused-appellants for the murder of the late Mayor Bonifacio Uy, the Court applies in their favor Republic Act No. 8294,[1] which amended PD No. 1866. Under the new law, the use of an unlicensed weapon in the commission of homicide or murder is considered simply as an aggravating circumstance and no longer a separate offense. Thus, said law effectively modified our ruling in *People vs. Quijada*,[2] in which we held that the use of an unlicensed firearm in a killing results in two separate crimes -- one, for the aggravated form of illegal possession of firearm and, two, for homicide or murder.

The Case

A shooting incident, reportedly between two political factions, resulted in the death of a town mayor, a Sangguniang Bayan member and two others; and the wounding of at least six other persons. This was the subject of the two Informations filed by Senior State Prosecutor Nilo C. Mariano before the Regional Trial Court of Ilagan, Isabela, against Veriato Molina, Ruben Molina, Gregorio Gajas, Casimiro Castillo, Jesus Ariola and four “Does.”

The first Information,[3] dated January 31, 1990, charged the above accused with multiple murder and multiple frustrated murder[4] allegedly committed as follows:

“That on or about the evening of August 14, 1989, at Barangay San Antonio, Municipality of Ilagan, Province of Isabela, a place within the jurisdiction of this Honorable Court, aforementioned persons, conspiring, confederating and mutually helping one another, wilfully, unlawfully and feloniously, with intent to kill, treachery, abuse of superiority, and with the aid of armed men, and of nocturnity, did then and there assault and shoot Mayor Bonifacio Uy, Municipal Councilor (Sangguniang Bayan Member) Antonio Manaligod, Jaime Vargas, and Policarpio Estrada, with a cal. 38 revolver, cal. 30 garand rifle, and armalite rifles (M-14s and M-16s), thus inflicting gunshot wounds on vital parts of their heads and bodies, back and front, which caused their deaths as a consequence, and the serious wounding of MANUEL MARIANO, ANDRES FIGAROLA, MOISES DE LA CRUZ and WILMA ACIERTO, on the vital parts of their bodies, which ordinarily would cause their deaths, thus performing all the acts of execution which should have produced the crime of [m]ultiple [m]urder as a consequence thereof, but which, nevertheless, did not produce it by reason of causes independent of their will, that is, by the timely medical care rendered to Manuel Mariano, Andres Figarola, Moises de la Cruz, and Wilma Acierto, which prevented their deaths. In the case of Mayor Bonifacio Uy, even when dead or in the throes of death, he was still stabbed with a bladed weapon by said group, sustaining stab wounds at his back and abdomen resulting in the evisceration of the intestines[;] said acts were

no longer necessary but were manifestations of cruelty and/or outraging or scoffing at his person or corpse.”

The other Information,[5] bearing the same date, charged the same accused with illegal possession and carrying of firearms and ammunitions outside their respective residences,[6] as narrated below:

“That on or about the evening of August 14, 1989, at Barangay San Antonio, Municipality of Ilagan, Province of Isabela, and within the jurisdiction of this Honorable Court, aforementioned persons, conspiring, and confederating with one another, had in their respective possessions the following firearms, to wit: Veriato Molina - an M-14 armalite rifle; Ruben Molina - a cal. 38 revolver; Gregorio Gajas, Casimiro Castillo and Jesus Ariola - M-16 armalite rifles; and John Doe, Richard Doe, Michael Doe, and Mark Doe - M-16 armalite rifles and a cal. 30 garand rifle, which were loaded with their corresponding ammunitions, without the necessary license and/or authority to possess and carry the said firearms and ammunitions outside their residence issued by the corresponding government authorities, and which they used in the shooting and killing of Mayor Bonifacio Uy, Municipal Councilor (Sanggunian Member) Antonio Manaligod, Jaime Vargas, and Policarpio Estrada, and the serious wounding of Manuel Mariano, Andres Figarola, Moises de la Cruz, and Wilma Acierto with intent to kill, treachery, abuse of superiority and with the aid of armed men and of nocturnity.”

Subsequently, the widows of the deceased victims filed with this Court a petition for transfer of venue.[7] They feared that the accused, who were political leaders of the provincial governor, would use such connection to influence the trial of the case. Said petition was favorably granted.[8] The Regional Trial Court of Pasay City, Branch 108, was assigned to continue with the joint trial of the cases. In a Decision[9] promulgated on June 3, 1994, the charges were disposed by the court a quo as follows:[10]

“WHEREFORE, considering all the foregoing, judgment is hereby rendered as follows:

A. FOR CRIMINAL LIABILITY

1. Acquitting accused Gregorio Gajas, Casimiro (a.k.a. ‘Quintin’) Castillo, and Jesus Ariola for failure of the prosecution to prove the case against them beyond reasonable doubt, in both cases.
2. In Criminal Case No. 1287 for [m]ultiple [m]urder and [f]rustrated [m]urder, finding accused Ruben Molina and Veriato Molina guilty beyond reasonable doubt of [m]ultiple [m]urder for the death of the following: Mayor Bonifacio Uy, Councilor Antonio Manaligod, Civilian Security Officer Policarpio Estrada and Civilian Security Officer Jaime Vargas, and [f]rustrated [m]urder for the serious wounding of Andres Figarola, and sentencing them each to four (4) [r]eclusion [p]erpetua for the death of the four victims; [f]or [f]rustrated [m]urder committed on Andres Figarola, the two accused are sentenced to serve imprisonment of SIX (6) YEARS, ONE (1) MONTH and ELEVEN (11) DAYS to EIGHT (8) YEARS and TWENTY (20) DAYS of [p]rison [m]ayor.
3. In Criminal Case No. 1288 for [i]llegal [p]ossession of [f]irearm and [a]mmunition, this crime not having been absorbed by the earlier offense considering that illegal possession is covered by a special law while murder is a crime under the Revised Penal Code, Ruben Molina and Veriato Molina are both found guilty beyond reasonable doubt and sentenced to suffer a straight penalty of SEVENTEEN (17) YEARS, FOUR (4) MONTHS AND ONE (1) DAY of reclusion temporal.
4. There being four (4) perpetual penalties to be served by Ruben Molina and Veriato Molina, the maximum simultaneous service of sentence of each accused shall in no case exceed forty (40) years. (Article 70, RPC as amended by CA 217, threefold rule.)
5. The preventive imprisonment at Pasay City Jail [of] the two accused Ruben Molina and Veriato Molina shall be deductible.

B. FOR THE CIVIL LIABILITY

The death of the victims having been established beyond doubt as the result of the shooting, a wrongful act of the accused who conspired, all the widows are entitled to damages for the death of their respective husbands.

For MERCEDES QUA UY

She is entitled to receive P50,000.00 as indemnity for the death of her husband, Mayor Bonifacio Uy. She is likewise entitled to moral damages as his death was established beyond doubt as the result of shooting by the accused. The moral damages covers wounded feelings, mental anguish, moral shock which are the proximate result of the wrongful act or omission of accused (Art. 2217, Civil Code) and moral damages is assessed in the amount of P1,000,000.00, considering the [m]ayor's rank and the high regard the community has for him.

For COUNCILOR ANTONIO MANALIGOD, his widow or his heir is entitled to receive the amount of P50,000.00 as indemnity for the death of the councilor, and P500,000.00 as moral damages.

For Mrs. ANGELITA ESTRADA and Mrs. SALVACION VARGAS, widows of the two civilian security agents of Mayor Bonifacio Uy, the amount of P50,000.00 each for the death of their respective husbands. Each of the widows is also entitled to receive as moral damages from the accused the amount of P250,000.00.

All the widows/heirs are also entitled to P15,000.00 each as funeral expenses, all of the victims having been buried in Isabela.

For ANDRES FIGAROLA

Both accused, Ruben Molina and Veriato Molina shall solidarily be liable to Andres Figarola in the amount of P50,000.00 moral damages and P50,000.00 exemplary damages.

Both accused to pay costs of suit.

The two accused, Ruben Molina and Veriato Molina, were charged with [m]ultiple [m]urder which are capital offenses. They were allowed to bail out after the prosecution submitted the motion to bail with no sufficient evidence yet proving that their guilt [was] strong, such that this Court ruled in favor of accused's temporary liberty conditioned on the posting of a bond in the amount of P150,000.00 each, in cash. Now that a conviction has been rendered finding them both guilty beyond reasonable doubt of the charge of [m]ultiple [m]urder, they are no longer entitled to bail as a matter of right.

'The basic governing principle on the right of the accused to bail is laid down in Section 3 of Rule 114 of the 1985 Rules on Criminal Procedure, as amended, which provides:

'Sec. 3. Bail, a matter of right; exception. -- All persons in custody shall before final conviction, be entitled to bail as a matter of right, except those charged with a capital offense or an offense which, under the law at the time of its commission and at the time of the application for bail, is punishable by reclusion perpetua, when the evidence of guilt is strong.'

'Pursuant to the aforecited provision, an accused who is charged with a capital offense or an offense punishable by reclusion perpetua, shall no longer be entitled to bail as a matter of right even if he appeals the case to this Court since his conviction clearly imports that the evidence of his guilt of the offense charged is strong.'

'Accused Belarmino Divina was convicted by the Regional Trial Court of the crime of murder which is an offense punishable by reclusion perpetua. Pursuant to SC Administrative Circular No. 2-92, he is no longer entitled to bail even if he appeals to us since his conviction clearly imports that the evidence of his guilt is strong.' (People vs. Divina, SCRA 221, p. 223, April 7, 1993.)

The Jail Warden, Pasay City Jail, is now directed to detain the two and to deliver them to the Bureau of Correction immediately with escorts.”

The Facts Version of the Prosecution

Evidence for the prosecution consists of testimonies of seventeen witnesses and nearly forty principal exhibits. Part of the trial court’s summary of the facts reads:

“ROLANDO DREZA testified that as one of the civilian security officers of the deceased/victim Mayor Bonifacio Uy, he reported for work on August 14, 1989 at 7:00 in the morning. He was in the office when the Mayor received an invitation to administer the oath of the new officers of the Parents-Teachers Association at the Agro Industrial School in Barangay San Antonio, Ilagan, Isabela. The [m]ayor consented and left the office at 11:00 o’clock a.m. with Councilor Antonio Manaligod, DILG Officer Potenciano Tabije and four (4) civilian security men -- Policarpio Estrada, Rolando Dreza, Rodolfo Bunagan and Jaime Vargas. They had lunch upon arrival at the school. Later, at 3:00 o’clock p.m., the program started right in front of the school and this lasted [until] 5:00 o’clock p.m., followed by some socializing and food and drink session, singing and guitar playing. They ended at about 10:30 o’clock p.m. Barangay Captain Veriato Molina invited the Mayor to a funeral wake in the house of Ventura Hernandez, about 200 meters from the school. Mayor Uy obliged, and with Councilor Manaligod, Mr. Tabije, Barangay Capt. Molina and other officials of the PTA, followed by the Mayor’s civilian security men, proceeded to the wake, walking. Their vehicle, the NISSAN 4 x 4, was attended to by Bunagan.

When the [m]ayor and Barangay Captain Veriato Molina arrived, Ruben Molina (another accused and uncle of Veriato) was already there. He and the [m]ayor greeted each other before the [m]ayor entered the house where the body of the girl was lying in state. When he came out, he (the [m]ayor) joined Ruben Molina. The two conversed[;] Dreza heard Ruben Molina’s remark: ‘Pare, ang saya-saya ninyo sa eskwelahan’, and the [m]ayor’s answer, ‘Ikaw kasi, wala ka roon’. Dreza also heard ‘Wala na bang natira’ from Ruben (which Dreza assumed refer[red] to the drinks). To this the [m]ayor replied, ‘If you want, let’s buy some more’ (in Tagalog) but Ruben assured he [would] take care, requested Veriato to buy. Veriato left and returned 30-40 minutes later, with bottles. Veriato was seen whispering to Ruben before leaving the place.

Ruben opened the bottle, took one shot, followed by the [m]ayor who also took one shot. The conversation grew heated, but Dreza opined it was because they (Ruben and the [m]ayor) had a previous standing grudge against each other.

The further questions and answers, in the direct examination conducted by Private Prosecutor Mario Ongkiko on [W]itness Rolando Dreza on January 8, 1992, follows:

(TSN, January 8, 1992, pp. 47-48.)”

‘Atty.Ongkiko:

Q

And when the conversation became heated will you describe to the Honorable Court the events that eventually followed?

A

I heard Ruben Molina uttered to Mayor Uy, in Ilocano, ‘Ukinam (Putang Ina mo).

Q

And what was the reaction of Mayor Uy?

A

Mayor Uy reacted immediately and he threw a kick at Ruben Molina.

Q

And do you know if Ruben Molina was hit?

A

I did not know if he was hit or not.

Q

And what happened after Mayor Uy threw a kick at Ruben Molina?

A

When I saw that, I brought the [m]ayor away from Ruben Molina.

Q

And what happened next?

A

When I was leading Mayor Uy away from Ruben Molina, that was the time when I saw Bgy. Captain Veriato Molina approached [sic] with a gun ('baril').

Q

My question is, do you know what kind of gun Bgy. Captain Molina was carrying?

A

Yes, sir.

Q

What was it?

A

It was an M-14 folded, sir.

Q

And what happened when Bgy. Capt. Molina approached with a folded M-14, did he utter any word or words?

A

What I heard was, Bgy. Capt. Molina uttered, 'Papatayin ko kayo'.

Q

Was this in Tagalog or in Ilocano?

A

It was in Tagalog.

Q

And after you heard Bgy. Capt. Molina uttered those words, what happened?

A

Tumakbo po ako.

Q

And did you hear anything while you were running?

A

That was when I heard many shots.

Q

Do you know or did you see anyone firing any of those shots?

A

I only saw Bgy. Capt. Veriato Molina firing shots.

(TSN, Jan. 8, 1992, pp. 35 to 36)

Atty. Ongkiko:

Q

And do you recall what happened after you heard shots?

A

After I heard the gun fire, I saw Mayor Uy clutching a post already weak ('mahinang-mahina na'), and I concluded that he was hit.

(TSN, p. 37, Jan. 8, 1992)

Atty. Ongkiko:

Q

And when you saw the [m]ayor in a reclining position, his feet moving, what else did you see or notice?

A

Then I saw Bgy. Capt. Veriato Molina returned [sic] and again open fire at the [m]ayor.

Q

Do you know what weapon did Bgy. Capt. Molina use this time?

A

He was using the same M-14 folded.'

Clarified by Fiscal Vibandor when he asked additional direct examination:

'Fiscal Vibandor:

Q

Mr. Witness, you said that you saw accused Veriato Molina holding a firearm, and it was an M-14 firearm?

A

Yes, sir.

Q

Why do you know that the accused was holding an M-14 firearm?

A

Because I used to be with the [m]ilitary[;] that is why I know this type of firearm.

Q

And will you describe before this Court how long that firearm [was] which the accused was carrying at that time?

A

If it is folded, it is about this long.

(Witness indicating a length of about 2 feet).

Q

And have you seen the magazine of this M-14 firearm?

A

Yes, sir, short magazine.

Q

And how long is the big magazine?

A

The usual is a 20-round magazine, sir.

Q And at the time that you saw the accused Veriato Molina, holding this type of firearm, do you recall the color of the firearm he was carrying at that time?

A It was camouflage green.'

mony was substantially corroborated by two other prosecution witnesses, Rodolfo Bunagan[11] and Andres Figarola.[12] The latter -- whose left leg was wounded during the assault and later amputated -- added that, upon realizing he had been shot, he took off his belt and tied it around his wounded leg. We quote this relevant portion of his testimony:

“Q.

After you tied the tourniquet [sic] what happened next?

A.

After I tied the tourniquet [sic] I looked around [and] the shooting has [sic] stopped. That was when I saw Veriato Molina approached [sic] Mayor Uy with a long firearm.

Q.

Was there any exchange of words between Mayor Uy and Veriato Molina?

A.

When Mayor Uy saw Veriato Molina approaching, Mayor Uy uttered three (3) times in Ilocano ‘Madi kon’ which means in Tagalog ‘Ayoko na’.

Q.

And what was the reply of Veriato Molina, if any?

A.

‘Gurgurik ti bagim’ which means in Tagalog ‘Dudurugin ko ang katawan mo’.

Atty. Ongkiko:

Q.

And what happened next after Veriato Molina uttered th[ese] words?

A.

Then I heard that Veriato Molina shot him with an automatic rifle in 2 burst[s].

Q.

What did you do when you heard th[ese] 2 burst[s] of gun fire?

A.

I immediately hid my face because I was afraid that I [might] be involved again.

Q.

And after th[ese] 2 burst[s], what else transpired if any?

A.

Afterwards, I saw and I heard Ruben Molina address Veriato Molina in Ilocano ‘Siguradom nga patay [isuna sakbay mo nga] panawan’ which means in [T]agalog ‘Bago mo iwanan, siguraduhin mong patay’.”[13]

The prosecution evidence is further narrated by the trial court as follows:

“After failure of NBI CAVRO to do its job, the head of the NBI Manila team, Agent Pedro Rivera brought his NCR team members: Agent Ruel Lasala, Agent Villacarte, an NBI photographer, an NBI driver and [A]gent Samuel Gumba to Isabela on August 28, 1989. In the morning of August 29, 1989, they went to the PC Headquarters to request for assistance in the investigation. Col. Clyde Fernandez assigned one Lt. Borromeo to assist the NBI Manila team x x x. The team submitted its report consisting of 11 pages (Exhs. ‘O’ to ‘O-10’) with annexes (Exhs. ‘O-11’ and ‘O-12’) to Regional Director Atty. Salvador Ranin.

NBI Ilagan received the recovered empty shells. Turned over to NBI Manila, the same were given to Ballistics for examination, with request (Exh. ‘P’).

Agent Pedro Rivera made it clear before the Court during the trial that they were not able to interview any one of the suspects because when a request was coursed to the provincial commander of Isabela to turnover the suspect Barangay Captain Veriato Molina who was then in his custody, to NBI Manila team, the PC Commander, Clyde Fernandez, refused. Fernandez told the NBI team they will turnover [sic] the person of Veriato Molina under a court Order of Arrest.”[14]

Other witnesses presented by the prosecution were: (1) NBI Ballistic Examiner Brandeis C. Flores,[15] who identified his three-page Ballistic Examination Report (Exh. R); (2) PO2 Ovidio Prudencio[16] of PNP, Calamagui 1st, Ilagan, Isabela, who assisted in the preparation of the sketch of the crime scene; (3) Pat. Renato Galapon,[17] also of PNP Ilagan, who conducted an investigation right after the incident and prepared the sketch indicating the positions of the fatalities and of the firearms and empty shells recovered therefrom; (4) Daniel Cuevas,[18] a photographer requested by the police to take pictures of the crime scene; (5) Dr. Ruben Angobung,[19] who performed an autopsy on the body of the late mayor; (6) the widows[20] of the deceased victims (Mayor Uy, Vargas and Estrada), who all related how their families experienced shock and grief over the brutal incident, and how they managed to survive it; (7) Councilor Manaligod's son[21] who testified on the income of his late father; and (8) Sangguniang Bayan Member Adelaida Almachar,[22] who testified on the possible political motive behind the slay of the late mayor.

The trial court dispensed with other prosecution witnesses after both parties agreed in open court on some admissions and stipulations.[23] These witnesses included: (1) Peter Lao, the photographer who took the pictures (Exhs. A to D) of the deceased mayor immediately after his death; (2) Dr. Conrado Gabriel who conducted the post mortem examinations (Exhs. H to J) on the deceased victims except Mayor Uy; and (3) Edwin Purificando, the forensic chemist who prepared a biological report (Exh. K).

Version of the Defense

The defense initially moved for leave to file a demurrer to evidence[24] which, however, was denied by the trial court. It later presented a total of seventeen witnesses, including seven physicians who testified on medical findings on the injuries sustained by appellants, four witnesses before the actual shoot-out, two investigating officers, one alleged eyewitness, the two accused-appellants, and a government employee who testified on the pendency of an administrative complaint for illegal possession of firearms against the late Mayor Uy.

The facts were recounted by the defense in this manner:[25]

"On August 14, 1989, after attending, as inducting officer-guest speaker, the induction of officers of the Parents Teachers Association of Isabela which started noontime with a luncheon and ended at 5:30 p.m., followed by a drinking session which lasted up to about 10:30 p.m., Ilagan, Isabela Mayor Bonifacio Uy, together with [M]unicipal [C]ouncilor Antonio Manaligod, the mayor's three bodyguards, namely Jaime Vargas, Policarpio Estrada and Rolando Dreza, DILG officer Potenciano Tabije, [b]arangay [c]aptain of Centro San Antonio, Veriato Molina and others walked to the house of Ventura Hernandez which was about 200 meters away from the school to attend the wake of Hernandez' deceased daughter Michelle. Another bodyguard of the mayor, Rodolfo Bunagan, drove the mayor's Nissan pick-up to the [sic] Hernandez' residence.

On reaching Hernandez' house, the mayor greeted Ruben Molina, herein accused-appellant, who was then seated, along with others, between Hernandez' house and that of the latter's brother-in-law Jerome Rivero. The mayor then went inside the house to view the remains of the deceased after which he went out and joined Ruben Molina.

While outside, the mayor and Ruben Molina drank liquor in the course of which, though they started with cordiality, they later engaged in a heated argument which arose from the mayor's accusation that Ruben's jeep was the vehicle used by the killers of his (mayor's) aunt and that Ruben's act in the previous elections was suspect. One Moises de la Cruz, a pastor of the Iglesia ni Cristo, tried to pacify the mayor by suggesting that he change the topic, he (de la Cruz) having become aware that people around were apprehensive and some had in fact started leaving.

As the mayor repeatedly accused Ruben Molina, the latter suggested that he bring the matter to court drawing

the mayor to say “Ukinam”, and [to] kick Ruben who fell down. Not long after, shooting occurred and when it ended, the mayor, the councilor and two of the mayor’s bodyguards, namely, Policarpio Estrada and Jaime Vargas, were dead while the following were wounded: Ruben Molina, who had [a] gunshot wound below his left knee, and Veriato Molina, a nephew of Ruben (Ruben and Veriato’s father being brothers), who had ‘thru and thru’ gunshot wound at his right thigh.”

Defense Witness Moises de la Cruz, who had been physically injured during the affray, was initially one of the private complainants in the Information for multiple murder and multiple frustrated murder, but he later testified for the defense instead. He affirmed his sworn statement (Exh. 1) taken by the NBI during the investigation it had conducted in its office in Ilagan. He related therein, and likewise in court, the antecedents of the shoot-out,[26] an account which was substantially the same as the narrations of the prosecution eyewitnesses and the appellants. He added during his cross-examination that, while seeking cover after the initial gunfire left him wounded, he continued to hear gunshots within the wake premises and saw Barangay Captain Veriato Molina holding a long firearm.[27]

Five other witnesses were presented by the defense, but none of them gave any direct account of how the shooting incident unfolded and transpired. They all admitted that they had left the crime scene prior to the shoot-out.[28]

Ruling of the Trial Court

From the evidence on record, the court a quo concluded that “conspiracy definitely existed” between Appellants Ruben and Veriato Molina. “All their further acts after the shooting and the circumstances that obtained, at their instance, are clear evidence of guilt and [are the] doings of guilty minds. Moreover, the two connived to conceal the offense instead of revealing [it], to negate rather than cooperate.”[29]

The trial court further concluded that the crime committed was multiple murder and frustrated murder qualified by treachery, abuse of superior strength and use of armed men. That the intention of accused-appellants was to kill the mayor and his bodyguards, including the councilor, was deduced by the trial judge from the statement reportedly made by Appellant Veriato Molina: “Papatayin ko kayo.” The collective pronoun “kayo” was used instead of its singular form, which Veriato could have used had he meant to kill the mayor only.

The lower court also found both accused-appellants guilty of illegal possession of firearms and ammunitions. Evidence recovered from the crime scene included a Smith and Wesson revolver (.38 caliber), bearing SN (Serial Number) C617376, and six spent shells which were found by the NBI to have been fired from the aforementioned revolver. The Firearms and Explosives Unit in Camp Crame, Quezon City, certified that said revolver had been issued to Veriato Molina of Amulung, Cagayan; and that Ruben Molina was likewise a licensed holder of a registered revolver, Orohm Caliber .22, with SN 232904. Neither appellant, however, had a permit to carry any firearm outside his residence.[30]

With respect to the other individuals charged together with the Molinas, the court a quo sadly noted that none of the prosecution witnesses -- vital and corroborative -- ever mentioned as present, during that fateful incident, the names of Accused Gregorio Gajas, Casimiro Castillo and Jesus Ariola. During the cross-examination of Defense Witness Oscar Malana, Private Prosecutor Ongkiko attempted to establish the participation of these three accused, but in vain.[31] Thus, their acquittal.

Upon conviction by the trial court, Veriato and his uncle Ruben, both surnamed Molina, filed through counsel[32] their Notice of Appeal[33] direct to this Court.

Assignment of Errors

In their 57-page Brief,[34] appellants assign the following errors:

“A. On the Multiple Murder and Multiple Frustrated Murder Cases

I

The trial court erred in finding that prosecution witnesses, ‘particularly Figarola, Bunagan and Dresla [sic] positively identified Ruben and Veriato as two of those who held guns (a caliber .38 Smith & Wesson for Ruben and an M-14 folded for Veriato) and who shot Mayor Bonifacio Uy and others’.

II

The trial court erred in finding that ‘the long firearm which Veriato was holding was used to kill the victims’.

III

Even assuming arguendo that Accused-appellant Veriato Molina fired a shot at the mayor, the trial court erred in finding him liable for his (mayor’s) death and the death and [the] wounding of the others.

IV

Even assuming arguendo that Accused-appellant Veriato Molina fired at the mayor, the trial court erred in finding that treachery attended the shooting.

V

Even assuming arguendo that Accused-appellant Veriato Molina fired at the mayor, the trial court erred in not appreciating self-defense and/or defense of a relative to free him of any liability.

VI

Even assuming arguendo that Accused-appellant Veriato Molina committed the acts attributed to him, the trial court erred in finding Accused-appellant Ruben Molina to have conspired in the commission thereof.

VII

The trial court erred in convicting accused-appellants of the crimes charged despite failure to prove their guilt beyond reasonable doubt.

B. On the Illegal Possession of Firearms Case

I

The trial court erred in finding accused-appellants guilty of illegal possession of firearms.”[35]

In their 45-page Supplemental Brief,[36] appellants also submit the following issues for our resolution:

“I

The trial court gravely erred in rendering a decision against the accused-appellants without the cold neutrality of a disinterested trial judge; hence, her decision is absolutely null and void for lack of basic due process.

II.

The trial court gravely erred in convicting the accused[-] appellants and in not acquitting them for lack of proof beyond reasonable doubt.

III.

The trial court gravely erred in appreciating the qualifying circumstances of treachery, abuse of superior strength and aid of armed men.

IV.

The trial court gravely erred in sentencing the accused-appellants for the crime of illegal possession of firearms.

V.

The trial court gravely erred in holding the accused-appellants liable for damages to the widows of the victims.”[37]

For clarity and simplicity, the related issues raised in appellants’ main and supplemental briefs will be discussed jointly. In fine, there are seven principal issues, namely:

1. Credibility of prosecution witnesses
2. Sufficiency of prosecution evidence
3. Attendance of the qualifying circumstances of treachery, abuse of superior strength, and aid of armed men
4. Presence of self-defense
5. Presence of conspiracy
6. Sufficiency of evidence for illegal possession and carrying of firearms
7. Liability for damages

The Court’s Ruling

The appeal is partly meritorious. Appellants are guilty of murder aggravated by illegal possession/carrying of firearms, for the killing of Mayor Uy only but not of the other alleged victims.

Preliminary Issue: Alleged Lack of Due Process

Appellants, in their Supplemental Brief, bewail the alleged bias of the trial judge against them. Quite antithetically, appellants, while seeking nullification of the assailed Decision, do not pray for a new trial. They believe that the records are sufficient for this Court “to render a valid verdict of acquittal.”

However, appellants fail to substantiate their allegations of bias and prejudice against the trial judge. The latter’s occasional allusion to the criminal proclivity of accused-appellants cannot by itself warrant the nullification of her entire decision. As will be discussed in more detail below, we find that the judge’s conclusions and judgment were objective and backed by sufficient evidence.

First Issue: Credibility of Prosecution Witnesses

Appellants impugn the credibility of Prosecution Eyewitnesses Rodolfo Bunagan, Rolando Dreza and Andres Figarola. They claim that the first two were bodyguards of the late Mayor Uy and, therefore, their loyalty obviously remained with him. They allege that Figarola’s testimony has been described by the trial court, in its resolution of the Motion for Bail, as “lack[ing] the necessary details required of an eyewitness account of the shooting incident”;^[38] and yet, they continue, the judge became “inconsistent” and “manifest of bias” when, in her final resolution of the case, she made a sudden turnabout by giving credence to the same testimony. We are not persuaded.

The mere fact that Witnesses Bunagan and Dreza served as security aides of the late Mayor Uy does not by itself destroy their credibility. At the time they testified in court, years had passed since the killing of the late mayor;

and the defense has not given any basis for its claim that said witnesses' unwavering loyalty remained steadfast to the extent that they lied under oath. Other than their having been bodyguards of the late mayor, no evidence appears on record indicating that Bunagan and Dreza were also politically motivated to testify against the political adversaries of their former boss.

As regards Witness Figarola, the fact alone that the trial court found his testimony to be insufficient to justify a denial of appellants' motion for bail, which was actually granted, does not preclude a subsequent conclusion that said testimony is credible when taken in conjunction with other evidence on record. As the solicitor general[39] points out, the court's earlier finding categorically stated that Figarola's testimony -- taken for the mere purpose of determining the weight of prosecution evidence for the purpose of bail -- by itself lacked the necessary details. There was nothing wrong, however, in appreciating the same testimony later, when it turned out to be substantially corroborated by other credible witnesses.

Hence, in the instant case we find no reason to disturb the well-settled rule that the trial court's evaluation and assessment of the credibility of witnesses deserve high respect. Having personally heard and observed them when they testified, the judge, vis-à-vis the reviewing magistrate, is in a better position to pass judgment on their trustworthiness. Thus, his or her findings and conclusions are binding upon this Court in the absence of a clear showing of arbitrariness or palpable error.[40] As the trial judge in the present case perceived, the prosecution witnesses "testified coherently, without reservation or fear. They are reliably credible witnesses entitled to be believed by the Court."

Second Issue: Sufficiency of Evidence for Multiple Murder and Frustrated Murder

Appellants contend that the prosecution's evidence is not sufficient to override the constitutional presumption of their innocence; neither does it prove their guilt beyond reasonable doubt.

We carefully reviewed the testimonies of the prosecution witnesses, who were perceived to be credible, and found that their accounts of the shooting incident corroborated one another on material points. In any event, based on the declarations in court of both prosecution and defense eyewitnesses, there is no real dispute on the antecedents leading to the initial burst of gunfire. As to the actual participation of appellants, Rodolfo Bunagan related thus:

"ATTY. ONGKIKO:

Q:

And what happened next when Ruben Molina was off-balanced?

A:

I came near Ruben Molina to help him. When I saw Ruben Molina dr[a]w something from his waist ...

ATTY. ONGKIKO:

(butt-in)

I will follow it up.

Q:

Did you see what Ruben Molina was drawing from his waist?

TTY. BLANES:

A (Objecting)

It was already answered -- something.

COURT:

That is vague. We know very well that 'something' is not identifiable. If that is an objection, that is [overruled].

ATTY. ONGKIKO:

Q:

Did you see what Ruben Molina was drawing from his waist?

A:

Yes, sir.

Q:

What was it?

A:

It was a gun, sir.

Q:

Will you tell the Honorable Court what kind of gun was it?

A:

A revolver, sir.

x x x x x x x x

Q:

Now, when you saw Ruben Molina dr[a]w a revolver from his waist, what did you do?

A:

I moved backward, sir.

Q:

And when you moved backward, what did you see or what did you notice?

A:

I saw Veriato Molina with an M-14 firearm, sir.

Q:

And when you saw Veriato Molina with an M-14, tell the Honorable Court what happened.

A:

Immediately thereafter, I hear[d] shots ('nagkaputukan'). Some were single, some were automatic.

x x x x x x x x

Q:

All right. Incidentally, when you saw Veriato Molina with an M-14, will you demonstrate to the Court how [he was] holding it when he was approaching Mayor Uy and Ruben Molina.

(At this juncture, witness is demonstrating).

ATTY. ONGKIKO:

Holding the Mayor at the level of his breast in a pointing position.

x x x x x x x x

COURT:

Q:

To what direction?

A:

It was pointed to Mayor Uy.

ATTY. ONGKIKO:

Q:

Did you hear Veriato Molina utter any statement before you heard the shots?

A:

Before the shots, I did not hear any words.

Q:

All right. And when the shooting started, what did you do?

A:

I was rattled and took cover.”[style="color: rgb(255, 0, 0);">[41]]

“Q:

Before you went out [of] the gate, will you tell this Honorable Court whether Veriato Molina was anywhere around?

A:

I saw Veriato [go] back to the place of Mayor Uy.

Q:

What did he do?

A:

Binaril po’.

Q:

How many shots did Veriato Molina fire?

A:

I do not know, sir. I just heard the shots.

Q:

And to whom were the shots directed?

A:

To Mayor Uy, sir.”[42]

Rolando Dreza substantially corroborated Bunagan’s account in this manner:

“Q:

And when the conversation became heated, will you describe to the Honorable Court the events that eventually followed.

A:

I heard Ruben Molina [utter] to Mayor Uy, in Ilocano, ‘Ukinam’ (Putang Ina mo).

Q:

And what was the reaction of Mayor Uy?

A:

Mayor Uy reacted immediately and he threw a kick at Ruben Molina.

Q:

And do you know if Ruben Molina was hit?

A:

I did not know if he was hit or not.

Q:

And what happened after Mayor Uy threw a kick at Ruben Molina?

A:

When I saw that, I brought the Mayor away from Ruben Molina.

Q:

And what happened next?

A:

When I was leading Mayor Uy away from Ruben Molina, that was the time when I saw Bgy. Capt. Veriato Molina approached [sic] with a gun (‘baril’).

Q:

My question is, do you know what kind of gun Bgy. Capt. Molina was carrying?

A:

Yes, sir.

Q:

What was it?

A:

It was an M-14 folded, sir.

Q:

And what happened when Bgy. Capt. Molina [approach] with a folded M-14, did he utter any word or words?

A:

What I heard was, Bgy. Capt. Molina uttered, 'Papatayin ko kayo'.

Q:

Was this in Tagalog or in Ilocano?

A:

It was in Tagalog.

Q:

And after you heard Bgy. Capt. Molina [utter] these words, what happened?

A:

'Tumakbo po ako.'

x x x x x x x x

Q:

And did you hear anything while you were running?

A:

That was when I heard many shots.

Q:

Do you know or did you see anyone firing any of those shots?

A:

I only saw Bgy. Capt. Veriato Molina firing shots.

Q:

To whom were the shots directed?

A:

I did not notice, sir, because there were a lot of people already running in panic.

Q:

And do you recall what happened after you heard [the] shots?

A:

After I heard the gun fire, I saw Mayor Uy clutching a post already weak ('mahinang-mahina na'), and I concluded that he was hit.

x x x x x x x x

Q:

And when you saw the Mayor in a reclining position, x x x what else did you see or notice?

A:

Then I saw Bgy. Capt. Veriato Molina [return] and again, open [fire] at the Mayor.

Q:

Do you know what weapon did Bgy. Capt. Molina use this time?

A:

He was using the same M-14 folded.”[43]

So did Andres Figarola corroborate Bunagan’s testimony, when he testified as follows:

“ATTY. ONGKIKO:

Mr. Figarola, when the shooting took place involving Bonifacio Uy[,] will you tell this Court where were you?

A:

That time I was inside the furniture shop and playing [cards].

Q:

How far was Mayor Bonifacio Uy from you or from your group?

A:

About 7 meters distance more or less.

ATTY. ONGKIKO:

And from the time of [sic] the shooting started what was Bonifacio Uy doing?

A:

Mayor Uy was in the presence of Molina’s group and they were in a heated discussions [sic]. While Councilor Tony Manaligod and his companions were pacifying the group.

Q:

And what happened then?

A:

I saw Veriato Molina [leave] the place and when he came back he was already carrying a gun.

x x x x x x x x

Q:

And after Veriato Molina returned with a long FAS[,] what happened next?

A:

He pointed his long gun to Mayor Uy and uttered 'Babarilin ko kayo'.

Q:

Was Veriato Molina speaking in Tagalog or [an]other dialect?

A:

In [T]agalog, po.

Q:

And what happened next?

A:

After that I heard one single shot and we stood up and the table was there and then I heard successive shots.

Q:

And when you stood up from the table[,] where did you go?

A:

I [had] merely taken 3 steps and I stumble[d] and after a few moments I was hit.

x x x x x x x x

Q:

After you tie[d] your turnequet [sic] what happened next?

A:

After I tie[d] the turnequet I look[ed] around because the shooting ha[d] stop[ped]. That was when I saw Veriato Molina [approach] Mayor Uy with a long firearm.

Q:

Was there any exchange of words between Mayor Uy and Veriato Molina?

A:

When Mayor Uy saw Veriato Molina approaching, Mayor Uy uttered three (3) times in Ilocano 'Madi kon' which means in Tagalog 'Ayoko na'.

Q:

And what was the reply of Veriato Molina if any?

A:

‘Gurgurik ti bagim’ which means in [T]agalog ‘Dudurugin ko ang katawan mo’.

Q:

And what happened next after Veriato Molina uttered [these] words?

A:

Then I heard that [sic] Veriato Molina shoot him with automatic rifle in 2 burst[s].”[44]

When cross-examined, Defense Witness Moises de la Cruz could not deny the fact that Appellant Veriato Molina was armed, as shown by this part of his testimony:

“Atty. Ongkiko:

Is it not correct to understand, that when you were seeking cover, these shots were coming from one direction or it [was] coming [from] all direction[s]?

A:

The shots came from the place of commotion, it [was] from the place of the incident.

Q:

Did you see anyone holding any gun whether [a] long or [a] short gun during the time that you heard the firing?

A:

There was, sir.

Q:

Who was the one holding the gun whether [a] [l]ong or [a] short gun during that firing?

A:

It was Captain Veriato Molina, sir.

Q:

Captain Veriato Molina was holding what kind of gun? Was it [a] long or [a] short gun?

A:

It was a long gun.”[45]

Considering the above eyewitness accounts, Appellant Veriato Molina cannot deny his felonious deed. He was positively seen pointing an M-14 rifle at Mayor Uy and, while in that position, he was heard spewing upon his very victim the exact words of his ill design to snuff out the life of the latter. Almost simultaneously, he fired at the mayor. Chaos within the premises ensued, followed by successive bursts of gunfire. Veriato himself was shot on his right leg. Yet, upon seeing the mayor still alive, though barely, Veriato -- doubtless determined to end the mayor’s life -- approached and fired his automatic weapon two more times upon his unarmed victim, despite the latter’s pleas of surrender.[46]

Witness Rodolfo Bunagan also saw Appellant Ruben Molina draw a revolver from his waist after being kicked by

Mayor Uy. Although he was not seen actually aiming his gun at the mayor or anyone else in particular, he was unmistakably heard to have impelled his co-appellant to make sure that the mayor was dead.[47]

It is a legal truism that positive and forthright declarations of prosecution witnesses are worthier of credence than the self-serving denials of accused-appellants.[48]

The contemptible, heartless and savage conduct of both appellants verily deserves condemnation and the full imposition of the penalty that the law provides. Not even the alleged unruly conduct of the inebriated mayor justifies or mitigates appellants' felonious acts.

Worth further noting are the actuations of Appellant Veriato immediately after the shooting incident. According to him, after summoning somebody to get a vehicle in which he could take his injured uncle to the hospital and, after bringing his uncle in a jeep driven by a certain Alex Tumaliwan to the Isabela Provincial Hospital, he himself left at once and proceeded to a neighboring town -- Cauayan, Isabela, which was another hour[49] away -- to seek medical treatment for his own injuries.[50] He then proceeded to the provincial governor to relate what had just transpired at Barangay San Antonio, Ilagan, Isabela. Strangely thereafter, upon learning that Mayor Uy had expired during the affray, Appellant Veriato, upon the advice of the governor, voluntarily sought protective custody at the PNP Provincial Director's Office.[51]

If Appellant Veriato, as he claims, had no hand at all in the shooting incident, why did he immediately and voluntarily seek protective custody from the police, simply upon learning of the mayor's death during said occasion? At that time, he was not even a suspect. Neither were there, as yet, police reports implicating him in the affray. Why would Appellant Veriato think that his mere presence during the incident was reason enough for him to request police protection? Furthermore, while in the custody of the PNP, he refused to give a statement regarding the incident. His actuations were glaringly inconsistent with innocence.

Moreover, although both appellants suffered injuries during the same shooting incident, they did not file any complaint at all in any forum against those whom they believed were responsible therefor.

Considering all the foregoing, the Court believes beyond reasonable doubt that Appellants Veriato Molina and Ruben Molina are responsible for the killing of Bonifacio Uy.

As regards the death and the wounding of the other victims, the Court has scoured the entire records but found no evidence to hold either of the Molinas culpable therefor. While the witnesses clearly established the culpability of the accused-appellants for the death of Mayor Uy, they failed to do the same with regard to the complicity of the two in the other felonies. None testified that either or both of appellants shot any of the other victims, or that they fired their weapons indiscriminately so as to be held responsible for all the consequences of their acts.

Rather, it is apparent that there were other people within the premises who likewise participated in the shoot-out. But whether these unidentified persons conspired with appellants was not positively proven. Furthermore, it appears that at least one of the late mayor's security aides was armed with a revolver, which had been used earlier by the mayor when he proposed to play Russian roulette with Appellant Ruben Molina. It is also a fact that both appellants sustained physical injuries, bolstering the probability that there was an exchange of gunfire between the two camps.

On reasonable doubt, both appellants are acquitted of the killing of Antonio Manaligod, Policarpio Estrada and Jaime Vargas; and the wounding of Andres Figarola.

Third Issue: Attendance of Treachery,
Abuse of Superior Strength and Aid of Armed Men

In convicting accused-appellants of multiple murder and frustrated murder, the trial court ruled that the crimes were “qualified by treachery, abuse of superior strength and use of armed men.” But, as the appellants note, the said court did not explain its basis for appreciating the last two circumstances. Indeed, the records of the case do not contain evidence sufficient to conclude that appellants took advantage of excessive force notoriously out of proportion to the means of defense available to the persons attacked.[52] Neither is there enough evidence to support, beyond reasonable doubt, a finding that appellants had purposely sought and used the aid of armed men in attacking their victim. It is a settled rule that the circumstances qualifying a killing to murder must be proven as indubitably as the crime itself.[53]

As regards treachery, the trial court found that the “attacks were sudden and unexpected to insure accomplishment.” Alevosia is present when the offenders employ means, methods or forms in the execution of a criminal act which tend directly and specially to insure its execution without risk to themselves arising from the defense which the offended party might make.[54] The essence of treachery is the suddenness and unexpectedness of the attack which, done without provocation, gives the victim no opportunity to defend himself.[55]

At first glance, the circumstances immediately preceding the shoot-out seem to negate the presence of treachery. Quite evident in the records is the fact that the victim, Bonifacio Uy, who was drunk at the time and in a sardonic predisposition, engaged Appellant Ruben Molina in a heated argument, accusing him of complicity in the killing of a relative. The drunk mayor even asked for a grenade which he threatened to detonate in the premises. When no one gave him any, he took a gun from one of his bodyguards and proposed to Appellant Ruben that they play Russian roulette. Said appellant, still unprovoked at the time, calmly refused. Then the victim shouted invectives at Ruben and even kicked him. All in all, the victim’s acts, done in the presence of several people who knew him and Ruben, constituted provocation sufficient to make the latter’s blood boil. Within hearing and seeing distance was Ruben’s nephew Veriato who, in all likelihood, also heard the threats and accusations hurled at his uncle, as well as witnessed the foul deeds done to him. A reprisal from Ruben or his nephew was, therefore, not unexpected.

However, the subsequent acts of accused-appellants were definitely treacherous. After the initial shot, Appellant Veriato, despite seeing his helpless victim on his last legs and pleading to be spared of any more shooting, still cold bloodedly fired his automatic rifle at the unarmed mayor. The victim was already defenseless when Veriato attacked him the second time. Treachery may also be appreciated even when the victim was warned of danger or initially assaulted frontally, but was attacked again after being rendered helpless and had no means to defend himself or to retaliate.[56]

Fourth Issue:

No Self-Defense or Defense of Relative

It is quite belated for appellants to plead self-defense and defense of a relative at the present stage of the proceedings against them. The Court has carefully examined the records and found no such allegation advanced by accused-appellants before the lower court.

Well-settled is the rule that, in pleading self-defense, appellants necessarily admit having shot and killed their victim. It is then incumbent upon them to prove that justifying circumstance to the satisfaction of the court, relying on the strength of their evidence and not on the weakness of the prosecution’s. The reason is that even if prosecution evidence were weak, such could not be disbelieved after appellants had already admitted the killing.[57]

Moreover, in alleging that the killing arose from an impulse to defend oneself or one’s kin, the onus probandi

rests upon accused-appellants to prove by clear and convincing evidence the elements thereof: that there was unlawful aggression on the part of the victim, that there was reasonable necessity for the means employed to prevent or repel it, and that there was lack of sufficient provocation on the part of the defendant.[58] These the appellants miserably failed to prove.

Fifth Issue:

Conspiracy Present

As earlier discussed, we find the concerted acts of Appellants Veriato and Ruben Molina to be indubitable indications of criminal conspiracy. Appellants' agreed plan to slay Mayor Uy need not be proven to show conspiracy. Their express agreement and decision to commit the crime need not be affirmatively proven either.[59] Their joint action sufficiently points to a common design[60] -- to end the life of their erstwhile political adversary.

As the witnesses positively stated in court, Appellant Veriato shot the victim with an automatic rifle. Not satisfied with merely wounding his prey, he went closer and even verbalized his intent to kill the mayor, who was already on the verge of death and pleading for his life. At the same time, Appellant Ruben goaded him to make sure that the mayor perished. Ruben's armed presence and verbal incitement bared his complicity.[61] No further proof is necessary to confirm appellants' criminal collusion.

Sixth Issue:Illegal Possession of Firearms

In crimes involving illegal possession of firearms, the prosecution has the burden of proving the elements thereof: (1) the existence of the subject firearm and (2) the fact that the accused, who owned or possessed the firearm, did not have the corresponding license or permit to possess or carry the same outside his residence.[62]

Both elements have been indubitably proven by the prosecution. Witnesses categorically stated that both appellants held firearms during the incident -- Veriato, an M-14; and Ruben, a handgun. Recovered from the scene of the crime were a revolver,[63] which was later confirmed as registered in the name of Appellant Veriato Molina,[64] and spent shells[65] expelled from it as well as from other high-caliber weapons. Neither of the appellants, though both registered owners of handguns, was legally authorized to carry such gun outside his residence, according to a certification issued by the PNP Firearms and Explosives Unit.[66] Neither was Appellant Veriato authorized to possess an M-14 rifle, the weapon he used in killing Bonifacio Uy. Obviously, the use of an M-14 rifle was unauthorized because this weapon cannot be licensed in favor of, nor carried by, private individuals. With these pieces of evidence, appellants should be held liable for violation of Sec. 1[67] of PD 1866. Under our ruling in *People vs. Quijada*, violation of PD 1866 is an offense distinct from murder;[68] appellants should perforce be culpable for two separate offenses, as ruled by the trial court.

Fortunately for appellants, however, RA 8294 has now amended the said decree and considers the use of an unlicensed firearm simply as an aggravating circumstance in murder or homicide,[69] and not as a separate offense. The intent of Congress to treat as a single offense the illegal possession of firearm and the commission of murder or homicide with the use of such unlicensed firearm is clear from the following deliberations of the Senate during the process of amending Senate Bill No. 1148:

"Senator Drilon. On line 18, we propose to retain the original provision of law which says, 'If homicide or murder is committed with the use of the unlicensed firearm.' And in order that we can shorten the paragraph, we would suggest and move that the use of the unlicensed firearm be considered as an aggravating circumstance rather than imposing another period which may not be in consonance with the Revised Penal Code.

So that if I may read the paragraph in order that it can be understood, may I propose an amendment to lines 18 to 22 to read as follows: 'If homicide or murder is committed with the use of the unlicensed firearm, SUCH USE OF AN UNLICENSED FIREARM SHALL BE CONSIDERED AS AN AGGRAVATING CIRCUMSTANCE.'

x x x x x x x x

Senator Santiago. Mr. President.

The President. With the permission of the two gentlemen, Senator Santiago is recognized.

Senator Santiago. Will the principal author allow me as coauthor to take the [f]loor to explain, for the information of our colleagues, the stand taken by the Supreme Court on the question of whether aggravated illegal possession is a complex or a compound offense. May I have the [f]loor?

Senator Revilla. Yes, Mr. President.

Senator Santiago. Thank you.

In 1995, the Supreme Court held that when the crime of killing another person is committed with the use of an unlicensed firearm, the ruling in the case of *People vs. Barros* was that the crime should only be illegal possession of firearm in its aggravated form. But in the later case, in May 1996, in the case of *People vs. Evangelista*, the court apparently took another position and ruled that when a person is killed with the use of an unlicensed firearm, it is possible to file two separate information[s] -- one for murder and one for illegal possession of firearms.

In other words, in two successive years, the Supreme Court issued two different ways of treating the problem. The first is to treat it as one crime alone in the aggravated form, and the second is to treat it as two separate crimes.

So at this point, the Senate has a choice on whether we shall follow the 1995 or the 1996 ruling. The proposal of the gentleman, as a proposed amendment, is to use the 1995 ruling and to consider the offense as only one offense but an aggravated form. That could be acceptable also to this coauthor.

The Presiding Officer [Sen. Flavio.] So, do I take it that the amendment is accepted?

Senator Revilla. Yes, it is accepted, Mr. President.

The Presiding Officer [Sen. Flavio.] Thank you. Is there any objection to the amendment? [Silence] There being none, the amendment is approved."^[70]

Although the explanation of the legal implication of the Drilon amendment may not have been very precise, such modification, as approved and carried in the final version enacted as RA 8294, is unequivocal in language and meaning. The use of an unlicensed firearm in a killing is now merely an aggravating circumstance in the crime of murder or homicide.^[71] This is clear from the very wordings of the third paragraph of Section 1 of RA 8294, which reads:

"If homicide or murder is committed with the use of an unlicensed firearm, such use of an unlicensed firearm shall be considered as an aggravating circumstance."

Furthermore, the preceding paragraphs, also in Section 1, state that the penalties for illegal possession of firearms shall be imposed "provided that no other crime is committed." In other words, where murder or homicide was committed, the separate penalty for illegal possession shall no longer be meted out since it becomes merely a special aggravating circumstance.

This statutory amendment may have been an offshoot of our remarks in *People vs. Tac-an*[72] and *People vs. Quijada*: [73]

“Neither is the second paragraph of Section 1 meant to punish homicide or murder with death if either crime is committed with the use of an unlicensed firearm, i.e., to consider such use merely as a qualifying circumstance and not as an offense. That could not have been the intention of the lawmaker because the term ‘penalty’ in the subject provision is obviously meant to be the penalty for illegal possession of firearm and not the penalty for homicide or murder. We explicitly stated in *Tac-an*:

There is no law which renders the use of an unlicensed firearm as an aggravating circumstance in homicide or murder. Under an information charging homicide or murder, the fact that the death weapon was an unlicensed firearm cannot be used to increase the penalty for the second offense of homicide or murder to death (or reclusion perpetua under the 1987 Constitution). The essential point is that the unlicensed character or condition of the instrument used in destroying human life or committing some other crime, is not included in the inventory of aggravating circumstances set out in Article 14 of the Revised Penal Code.

A law may, of course, be enacted making the use of an unlicensed firearm as a qualifying circumstance.”

Moreover, unlicensed firearm no longer simply means a firearm without a license duly issued by lawful authority. The scope of the term has been expanded in Sec. 5 of RA 8294:

“SEC. 5. Coverage of the Term Unlicensed Firearm. -- The term unlicensed firearm shall include:

- 1) firearms with expired license, or
- 2) unauthorized use of licensed firearm in the commission of the crime.”

Thus, the unauthorized use of a weapon which has been duly licensed in the name of its owner/possessor may still aggravate the resultant crime. In the case at bar, although appellants may have been issued their respective licenses to possess firearms, their carrying of such weapons outside their residences and their unauthorized use thereof in the killing of Bonifacio Uy may be appreciated as an aggravating circumstance in imposing the proper penalty for murder.

All in all, appellants may be held liable only for murder with the special aggravating circumstance of using unlicensed firearms. Nevertheless, the death penalty cannot be imposed upon appellants, since the killing occurred in August 1989, when the imposition of the capital penalty was still proscribed by the Constitution.

Seventh Issue: Damages

The Court affirms the grant of indemnity and moral damages to the family of the late Mayor Bonifacio Uy. His widow amply attested to the proximate effects of his violent death: moral shock, mental anguish and emotional suffering experienced by her and her children.[74] However, we find the moral damages granted by the court a quo excessive. Thus, the Court, in the exercise of its discretion, reduces the same to P200,000.

WHEREFORE, the appeal is PARTLY GRANTED. Appellants Veriato Molina and Ruben Molina are found GUILTY of MURDER for the death of Bonifacio Uy with the special aggravating circumstance of using unlicensed firearms, and are each sentenced to reclusion perpetua and to pay, jointly and severally, P50,000 as indemnity and P200,000 as moral damages to the heirs of Bonifacio Uy.

For the deaths of Antonio Manaligod, Policarpio Estrada and Jaime Vargas, and for the wounding of Andres Figarola, both appellants are ACQUITTED on reasonable doubt.

SO ORDERED.

Narvasa, C.J., Regalado, Davide, Jr., Romero, Bellosillo, Melo, Puno, Vitug, Kapunan, Mendoza, Martinez, Quisumbing, and Purisima, JJ., concur.

[1] Approved on June 6, 1997; published in the Malaya on June 21, 1997; and took effect on July 7, 1997.

[2] 259 SCRA 191, July 24, 1996.

[3] Rollo, pp. 16-18; records, Vol. I, pp. 76-77.

[4] Docketed as Criminal Case No. 1287.

[5] Records, Vol. I, pp. 79-80.

[6] Docketed as Criminal Case No. 1288.

[7] Records, Vol. I, pp. 82-86.

[8] Resolution dated August 2, 1990 in AM No. 90-3-713-RTC.

[9] Penned by Judge Priscilla C. Mijares; Rollo, pp. 39-73.

[10] Assailed Decision, pp. 33-35; Rollo, pp. 71-73.

[11] TSN, June 3, 1992, pp. 26-52.

[12] TSN, January 3, 1992, pp. 19-23; records, Vol. I, pp. 207-211.

[13] Assailed Decision, pp. 9-10, quoting from TSN, January 3, 1992, pp. 24-25; Rollo, pp. 47-48.

[14] Ibid., pp. 10-11; Rollo, pp. 48-49.

[15] TSN, January 8, 1992, pp. 5-16.

[16] TSN, June 8, 1992, pp. 61-66, 70-73.

[17] TSN, June 10, 1992, pp. 4-25.

[18] Ibid., pp. 57-59.

[19] TSN, July 13, 1992, pp. 6-23.

[20] TSN, June 3, 1992, pp. 9-14, 18-21; July 13, 1992, pp. 68-73.

[21] TSN, August 17, 1992, pp. 3-4.

[22] TSN, July 13, 1992, pp. 38-54.

[23] TSN, December 20, 1991, pp. 5-33.

[24] Records, Vol. I, pp. 494-502.

Brief for Accused-Appellants, pp. 5-8.[25]

[26] TSN, April 30, 1993, pp. 61-69; June 7, 1993, pp. 4-37.

[27] TSN, June 7, 1993, pp. 46-51.

[28] TSN, March 29, 1993 (Wilfredo Cabral), p. 27; April 29, 1993 (Miguel Rodriguez), pp. 64-67; July 12, 1993 (Mario Magudang), pp. 40-42 and (Oscar Malana) pp. 64-65.

[29] Assailed Decision, p. 22; Rollo, p. 60. (Underscoring found in the original.)

[30] Assailed Decision, pp. 29-32; Rollo, pp. 67-70.

[31] Ibid., pp. 21-22; Rollo, pp. 59-60.

[32] Initially, the accused were represented by Atty. Antonio P. Coronel with Atty. Fred Henry V. Marallag as collaborating counsel. Due to his suspension by this Court from the practice of law, Atty. Coronel withdrew his services and was substituted by Atty. Prospero A. Crescini.

[33] This case was deemed submitted for decision upon the Court's receipt on September 17, 1996, of the confirmation of the confinement of Appellant Ruben Molina. (Appellant Veriato Molina's confinement was confirmed earlier, on July 17, 1996.)

[34] Rollo, pp. 131 et seq. The Brief was signed by appellants' new counsel, Atty. Lucas C. Carpio Jr.

[35] Appellants' Brief, *ibid.*, pp. 8-10. (All caps in the original.)

[36] Rollo, pp. 225-268; submitted by appellants' former counsel, Atty. Crescini, who reentered his appearance on January 6, 1995.

[37] Supplemental Brief, pp. 1-2. (All caps in the original.)

[38] RTC Order dated March 16, 1992, p. 3; records, Vol. I, p. 318.

[39] Comment (on the Supplemental Brief), p. 3; Rollo, p. 292.

[40] *People vs. Dinglasan*, 267 SCRA 26, January 28, 1997; *People vs. Ramos*, 260 SCRA 402, August 7, 1996; *People vs. Amaro*, 235 SCRA 8, August 4, 1994; *People vs. Bongadillo*, 234 SCRA 233, July 20, 1994.

[41] TSN, June 3, 1992, pp. 41-43.

[42] Ibid., p. 46.

[43] TSN, January 8, 1992, pp. 35-38.

[44] TSN, January 3, 1991, pp. 21-24.

[45] TSN, June 7, 1993, pp. 50-51.

[46] "Madi kon, madi kon, madi kon" (TSN {Andres Figarola} January 3, 1991, p. 24), translated into the Tagalog as "Ayoko na, ayoko na, ayoko na." In English, it means, "Enough, enough, enough."

[47] TSN (Andres Figarola), January 3, 1991, p. 25.

[48] *People vs. Ortaleza*, 258 SCRA 201, July 5, 1996; *People vs. Abrenica*, 252 SCRA 54, January 18, 1996.

[49] TSN, August 20, 1993, p. 62.

[50] TSN, August 16, 1993, pp. 49-50.

[51] Ibid., pp. 53, 65-68.

[52] *People vs. Ruelan*, 231 SCRA 650, 662, April 19, 1994; *People vs. Padilla*, 233 SCRA 46, 60, June 10, 1994; *People vs. Bongadillo*, *supra*.

[53] *People vs. Briones*, 219 SCRA 134, 146, February 19, 1993, citing *People vs. Vicente*, 141 SCRA 347.

[54] Art. 14, No. 16, Revised Penal Code; *People vs. Saliling*, 249 SCRA 185, October 10, 1995.

[55] *Ibid.*, citing *People vs. Boniao*, 217 SCRA 653, 671, January 27, 1993; *People vs. Cabodoc*, 263 SCRA 187, 203, October 15, 1996; *People vs. Parangan*, 231 SCRA 682, 691, April 22, 1994.

[56] *People vs. Dulos*, 237 SCRA 141, 150, September 26, 1994; *People vs. Landicho*, 258 SCRA 1, 28, July 3, 1996; *People vs. Tobias*, 267 SCRA 229, 255, January 30, 1997.

[57] *People vs. Deunida*, 231 SCRA 520, 531, March 28, 1994.

[58] Art. 11(1), Revised Penal Code; *People vs. Lualhati*, 234 SCRA 325, 331, July 21, 1994; *People vs. Deunida*, *ibid.*

[59] *People vs. Leangsiri*, 252 SCRA 213, January 24, 1996; *People vs. Salison Jr.*, 253 SCRA 758, February 20, 1996; *People vs. Obzunar*, 265 SCRA 547.

[60] *People vs. Hubilla Jr.*, 252 SCRA 471, January 24, 1996.

[61] *Ibid.*

[62] *People vs. Lualhati*, *supra*; *People vs. Solayao*, 262 SCRA 255, September 20, 1996.

[63] Exh. "S".

[64] Exh. "V".

[65] Exh. "ES-1" to "ES-6".

[66] Exh. "V".

[67] "SECTION 1. Unlawful Manufacture, Sale, Acquisition, Disposition or Possession of Firearms or Ammunition or Instruments Used or Intended to be Used in the Manufacture of Firearms or Ammunition. The penalty of reclusion temporal in its maximum period to reclusion perpetua shall be imposed upon any person who shall unlawfully manufacture, deal in, acquire, dispose, or possess any firearm, part of firearm, ammunition or machinery, tool or instrument used or intended to be used in the manufacture of any firearm or ammunition.

If homicide or murder is committed with the use of an unlicensed firearm, the penalty of death shall be imposed.

xxx xxx xxx

The penalty of prision mayor shall be imposed upon any person who shall carry any licensed firearm outside his residence without legal authority therefor."

[68] 259 SCRA 191, 232, July 24, 1996, per Davide Jr., J. Cf. *People vs. Pimentel*, GR No. 100210, April 1, 1998.

[69] § 1 of PD 1866, as amended by RA 8294, now reads:

"Section 1. Unlawful Manufacture, Sale, Acquisition, Disposition or Possession of Firearms or Ammunition or Instruments Used or Intended to be Used in the Manufacture of Firearms or Ammunition. -- The penalty of prision correccional in its maximum period and a fine of not less than Fifteen Thousand pesos (P15,000) shall be imposed upon any person who shall unlawfully manufacture, deal in, acquire, dispose, or possess any low powered firearm, such as rimfire handgun, .380 or .32 and other firearm of similar firepower, part of firearm, ammunition, or machinery, tool or instrument used or intended to be used in the manufacture of any firearm or ammunition; Provided, That no other crime was committed.

The penalty of prision mayor in its minimum period and a fine of Thirty Thousand pesos (P30,000) shall be imposed if the firearm is classified as high powered firearm which includes those with bores bigger in diameter than .38 caliber and 9 millimeter such as caliber .40, .41, .44, .45 and also lesser calibered firearms but considered powerful such as caliber .357 and caliber .22 center-fire magnum and other firearms with firing capability of full automatic and by burst of two or three; Provided, however, That no other crime was committed by the person arrested.

If homicide or murder is committed with the use of an unlicensed firearm, such use of an unlicensed firearm shall be considered as an aggravating circumstance.

If the violation of this Section is in furtherance of or incident to, or in connection with the crime of rebellion or insurrection, sedition, or attempted coup d'état, such violation shall be absorbed as an element of the crime of rebellion, or insurrection, sedition or attempted coup d'état.

The same penalty shall be imposed upon the owner, president, manager, director or other responsible officer of any public or private firm, company, corporation or entity, who shall willfully or knowingly allow any of the firearms owned by such firm, company, corporation or entity to be used by any person or persons found guilty of violating the provisions of the preceding paragraphs or willfully or knowingly allow any of them to use unlicensed firearms or firearms without any legal authority to be carried outside of their residence in the course of their employment.

The penalty of arresto mayor shall be imposed upon any person who shall carry any licensed firearm outside his residence without legal authority therefor.” (Underscoring supplied.)

[70] Transcript of the Senate deliberations held on December 19, 1996, pp. 43-44.

[71] People vs. Bergante, GR Nos. 120369-70, February 27, 1998, per Davide, Jr., J.

[72] 182 SCRA 601, February 26, 1990, per Feliciano, J.

[73] Supra, pp. 232-233.

[74] Art. 2217, in conjunction with Art. 2219 (a), of the Civil Code.

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