PAT. EDGARDO HERRERA Y BALTORIBIO AND PAT. REDENTOR MARIANO Y ANTONIO, PETITIONERS, VS. HONORABLE SANDIGANBAYAN AND PEOPLE OF THE PHILIPPINES, RESPONDENTS.

G.R. Nos. 119660-61. February 13, 2009

Ponente: AZCUNA, J.

Read online (full-text search, related cases, audio case brief): https://batas.org/library/g-r-nos-119660-61/

AZCUNA, J.:

Petitioners Pat. Edgardo Herrera y Baltoribio and Pat. Redentor Mariano y Antonio, together with the other accused, Pat. Roberto Barrera and Pat. Rodolfo Alcalde, all members of the Parañaque Police Station, were charged with two (2) counts of murder, for ther killing of Shi Shu Yang and George Go y Tan, before public respondent Sandiganbayan in Criminal Case Nos. 16674 and 16675.

The original informations, both dated December 4, 1990, against the petitioners and two other accused alleged:

> In Criminal Case No. 16674:
>
> That on or about the 28[th] day of December, 1989 in the Municipality of [Parañaque], Metro Manila, Philippines, and within the jurisdiction of this Honorable Court, the abovenamed accused who were then public officers, being then members of the Parañaque Police Force, and armed with guns, and conspiring and confederating and mutually helping and aiding one another, with intent to kill and with treachery and by taking advantage of their public positions as members of the Parañaque Police Force, then and there willfully, unlawfully and feloniously shoot one SHI SHU YANG on the different parts of his body, thereby inflicting serious and mortal wounds upon said victim, which were the direct and immediate cause of his death, to the damage and prejudice of the heirs of said victim, in such amount as may be awarded to them under the provision of the Civil Code of the Philippines.
>
> CONTRARY TO LAW.[1]
>
> In Criminal Case No. 16675:
>
> That on or about the 28[th] day of December, 1989 in the Municipality of Parañaque, Metro Manila, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused who were then public officers, being then members of the Parañaque Police Force, armed with guns, conspiring and confederating and mutually helping and aiding one another, with intent to kill and with treachery and by taking advantage of their public positions as members of the Parañaque Police Force, did then and there willfully, unlawfully and feloniously shoot one GEORGE GO Y TAN on the different parts of his body, thereby inflicting serious and mortal wounds upon said victim, which were the direct and immediate cause of his death, to the damage and prejudice of the heirs of said victim, in such amount as may be awarded to them under the provision of the Civil Code of the Philippines.
>
> CONTRARY TO LAW.[2]

On March 18, 1992, petitioners and the other accused were arraigned but they pleaded not guilty. Petitioners then filed a joint petition for bail raising the issue of lack of jurisdiction on the ground that the prosecution failed to

allege in the informations that the crimes were committed by the petitioners "in relation to their office" citing the case of Bartolome v. People.[3] On March 18, 1992, public respondent Sandiganbayan ordered the amendment of the informations and stated that the evidence adduced during the pre-trial of the case and the hearing on the petition for bail shall be deemed automatically reproduced as evidence during the trial of the case on the merits.

The amended informations, both dated July 15, 1992, against the petitioners and the two accused alleged:

> In Criminal Case No. 16674:
>
> That on or about the 28[th] day of December, 1989 in the Municipality of Parañaque, Metro Manila, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused who were then public officers being then members of the Parañaque Police Force and armed with guns, and conspiring and confederating and mutually helping and aiding one another, committing the offense in relation to their public position or office, with intent to kill and with treachery and by taking advantage of their public positions as members of the Parañaque Police Force, then and there willfully, unlawfully and feloniously shoot one SHI SHU YANG on the different parts of his body, thereby inflicting serious and mortal wounds upon said victim, which were the direct and immediate cause of his death, to the damage and prejudice of the heirs of said victim, in such amount as may be awarded to them under the provision of the Civil Code of the Philippines.
>
> CONTRARY TO LAW.[4]
>
> In Criminal Case No. 16675:
>
> That on or about the 28[th] day of December, 1989 in the Municipality of Parañaque, Metro Manila, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused who were then public officers being then members of the Parañaque Police Force and armed with guns, and conspiring and confederating and mutually helping and aiding one another, committing the offense in relation to their public position or office, with intent to kill and with treachery and by taking advantage of their public positions as members of the Parañaque Police Force, then and there willfully, unlawfully and feloniously shoot one GEORGE GO Y TAN on the different parts of his body, thereby inflicting serious and mortal wounds upon said victim, which were the direct and immediate cause of his death, to the damage and prejudice of the heirs of said victim, in such amount as may be awarded to them under the provision of the Civil Code of the Philippines.
>
> CONTRARY TO LAW.[5]

Arraigned anew on September 18, 1992, petitioners Herrera and Mariano entered their pleas of not guilty[6] and withdrew their objections to the issue of lack of jurisdiction of public respondent Sandiganbayan over the case and moved that the proceedings and evidence presented during their petition for bail be adopted in toto. The two other accused, Barrera[7] and Alcalde, remained at large.

During the pre-trial on March 30, 1993, the parties stipulated that during the commission of the crimes, the petitioners were public officers. Whereupon, the cases were consolidated and a joint trial on the merits ensued.

The prosecution's evidence consisted of the following:

Reynaldo Ong was the manager of Chow Chow Restaurant which was owned by Spouses George Go, one of the victims, and Edna Ong Go, located at 5 Country Homes Commercial Center, Dr. A. Santos Avenue, Parañaque, Metro Manila. Ong was the younger brother of Edna Go. At about 4:00 am of December 28, 1989, Ong heard two explosions. He proceeded to the third floor of the restaurant to check on what had happened and as he looked down, he saw accused Pat. Roberto Barrera and his friend lighting firecrackers at the back of restaurant. Ong descended the stairs toward the ground floor of the restaurant where he saw the victims George Go and Shi Shu Yang. George Go asked for some firecrackers from him and proceeded to the kitchen to light the firecrackers.

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

From a distance outside the restaurant, accused Barrera shouted, "Pare, meron pa ba?" (asking if there are still firecrackers) to which George Go responded, "Marami pa." ("There are still plenty.") After George Go responded in the affirmative, accused Barrera went to the restaurant armed with a .38 caliber pistol tucked in his waist. George Go then went upstairs, took his .45 caliber pistol from an attache case, tucked it in his waist, and went back to the kitchen. Moments later, accused Barrera approached George Go, introduced himself as a Parañaque policeman, and disarmed him (George Go) of his licensed .45 caliber pistol. Barrera then shouted at his (Barrera's) companion, a policeman, who was upstairs, "Ilabas mo iyong mahaba" (ordering the companion to bring out the long firearm) while commanding George Go to come out as he had went to the parking lot to hide there. Ong pleaded with Barrera and told him that George Go would surface only if Barrera would not shoot him. As soon as George Go emerged from the parking lot, Barrera said, "Tarantado kang Chekwa ka, ako yung nagbigay sa iyo ng sobre" (uttering invective upon the victim with the use of the pejorative term for Chinese as he referred to his Christmas solicitation from the victim who gave him twenty pesos (P20) and two t-shirts). George Go was quiet. Barrera also demanded that George Go present the license of his firearm which the latter readily showed. Barrera then told George Go that he would bring the firearm to the police station for verification. He then called the police station informing them that he had just disarmed George Go.[8]

At about 6:00 a.m. of that same day, George Go and his Taiwanese friend, the victim Shi Shu Yang, were brought to the Parañaque Police Station. Reynaldo Ong proceeded, but went back to the house to inform Edna Go, wife of George Go, to go to the police station. When she arrived at the police station, Edna Go saw her husband, who was making a telephone call, and Shi Shu Yang. She heard Barrera demanding George Go to produce his license to carry a firearm. Barrera also told George Go to undergo medical examination, but the latter refused. Thus, Barrera, together with the petitioners and accused Alcalde, shoved George Go to the wall and made him and Shi Shu Yang ride a police car waiting nearby. They took the victims to the Parañaque Community Hospital for medical examination. Thereafter, the two were brought to Timothy Street along Multinational Village where they were shot to death.[9]

Edna Go also testified that George Go was an agent of Stanley Work Sales and operator of Chow Chow Restaurant. She said she had spent for the wake and funeral of her husband and, estimated the expenses for the wake to be at around P10,000 as she was not able to keep the receipts. However, she presented the receipt issued by La Funeraria Paz amounting to P11,500 as expenses for the casket and funeral services. She stated that she was in a state of shock and became frightened upon learning of the death of her husband.[10]

Cristina Winterhalter y Siscar, a resident of nearby Saint Anthony Street, witnessed the killing of the two victims with the use of a pair of binoculars lent to her by a neighbor, as she viewed it from a distance of about 80 to 90 meters. She testified that at around 11:00 a.m. of December 28, 1989, she was standing by the window, waiting for her daughter and an Italian neighbor to come home, when she noticed a Ford Fiera patrol van, with "Parañaque Police Mobile" appearing on both sides, parked along Timothy Street. From a distance of between 80 to 90 meters, she saw seven persons inside the van, two seated in front while five stayed at the back. When the van was parked, she saw two men alight from the backseat, one was in civilian clothes (referring to Pat. Alcalde) and one in police uniform and carrying a rifle (referring to Pat. Barrera). They were followed by George Go and an unidentified man in black shirt. They took out Shi Shu Yang who was seated at the back. The one seated at the passenger side was petitioner Herrera while petitioner Mariano was the one driving the van. Petitioner Mariano went to the front area of the van and wrote something on a piece of paper. Pat Barrera hit George Go on the face and, together with petitioner Mariano, they fired about 20 successive shots at the victim. They also kicked Shi Shu Yang and fired about four times. Petitioner Herrera also fired at the victims lying on the pavement. They placed the bodies of the victims inside the van and headed for Fortunate Village. Winterhalter and a neighbor went to the crime scene and found bloodstains on the pavement, a set of dentures, and a pair of eyeglasses. Later, she

executed a sworn statement before the NBI to narrate what she witnessed. A diagram (Exhibits "L" and "L-1") was made to give a clearer picture of the location of her house and that of the crime scene. [11]

Dr. Roberto Garcia, Medico Legal Officer of the National Bureau of Investigation (NBI), conducted an autopsy on the body of George Go at around 5:30 p.m. of December 28, 1989 at the Rizal Funeral Homes, Pasay City. The Autopsy Report No. 89-4195 (Exhibit "A") showed that George Go sustained eight (8) fatal gunshot wounds on his jaw, chest, abdomen, and arms, as follows: gunshot wound no. 1 had entry point (4 by 61/2 centimeters) on the right jaw with exit point (1.8 by 1.5 centimeters) on the left forehead; gunshot wound no. 2 had entry point (0.6 by 1 centimeters) on the upper left chest right with exit point (1.8 by 1.5 centimeters in diameter) on the upper left back; gunshot wound no. 3 had entry point (0.6 by 0.8 centimeters) below the left collar bone with exit point (3.2 by 2.8 centimeters) on the upper right back; gunshot wound no. 4 had entry point (0.5 by 0.7 centimeters) on the upper right chest with exit point (4 by 2.8 centimeters) on upper right back; gunshot wound no. 5 had entry point (0.7 by 1.3 centimeters) on the upper right abdomen with exit point (1.5 by 1.3 centimeters) on the upper right back; gunshot wound no. 6 had entry point (0.5 by 0.8 centimeters) on the abdomen area which was just above the navel with exit point (2.6 by 1.9 centimeters in diameter) on the lower right back; gunshot wound no. 7 had entry point (0.6 by 0.8 centimeters) on the lower left abdomen with exit point on the lower right (2.6 by 1.9 centimeters) on the lower right back; and gunshot wound no. 8 had entry point (0.5 by 0.7 centimeters) on the left arm with exit point (1.8 by 1.6 centimeters) on the left arm. He estimated that the probable distance from the muzzle of the gun to the victim was about an armslength of 24 inches. He prepared a diagram (Exhibit "B") indicating the different gunshot wounds sustained by the victim and issued a Certificate of Post-Mortem Examination (Exhibit "C"). With the trajectory of the bullet, he said that it was possible that after the first shot was fired, the victim assumed a kneeling position or was lying on the pavement as the assailant continued to fire the successive shots. The body of the victim was later identified by Edna Go, wife of George Go.

At around 7:00 p.m., Dr. Garcia also conducted an autopsy on the body of Shi Shu Yang in the said funeral parlor. The Autopsy Report No. 89-4196 (Exhibit "D") indicated that Shi Shu Yang sustained three gunshot wounds. He made a diagram (Exhibit "E") identifying the locations of the gunshot wounds and, likewise, issued a Certificate of Post-Mortem Examination (Exhibit "F"). Illustrating a distance of about 24 inches, the entry point of gunshot wound no. 1 was at the back of the head of the victim with no exit point as the deformed bullet was lodged therein. `The entry point of gunshot wound no. 2 was on the left side of the neck of the victim (0.6 by 0.8 centimeters) and exit point on the right side of the neck (1.2 by 1 centimeter in cross diameter). He concluded that the assailant must have been at the left of the victim when the shot was fired. As for gunshot wound no. 3, the distance between the muzzle of the gun and the right arm could have been more than 24 inches and that the assailant was at the oblique front right of the victim.[12]

Edwin Purificando, Senior Forensic Chemist of the NBI, examined the blood type of the victims, as follows, blood type "B" for George Go per Biology Report No. B-89-2490 (Exhibit "M-2") and blood type "A" for Shi Shu Yang per Biology Report No. B-89-2491 (Exhibit "M-1"). He also analyzed the specimen of the blood obtained by the NBI Duty Chemists, Aida Pascual and Bella Arriola, from the pavement located along Timothy Avenue, called "blood scraping" as shown Biology Examination Report No. B-89-2498 (Exhibit "M"), and found that it only yielded blood type "B" which matched with the blood type of George Go. He repeated the blood scraping procedure and no evidence of blood type "A" was found Biology Examination Report No. B-90-15 (Exhibit "N" and "N-1").[13]

Aida Veloria Magsipoc, Supervising Forensic Chemist of the NBI, testified that on December 28, 1989, acting upon the requests for paraffin test (Exhibit "I" and "I-1") by P/Cpl. Glen Tiongson and P/Cpl Jose Suarez, respectively, she conducted the diphenylamine-paraffin tests on the dorsal of the left and right hands of the

victims and per Chemistry Report No. C-89-1605 for George Go (Exhibit "H") and Chemistry Report No. C-89-1606 for Shi Shu Yang (Exhibit "H-1"), they were found negative of nitrates which proved that the victims never fired a gun.[14]

Teodoro Ubia y Janeo, a Medical Technologist of the NBI, took pictures of the cadaver of George Go (Exhibits "K to K-4") and an unidentified person, later known to be, Shi Shu Yang (Exhibits "J to J-2") to show the different locations where the victims were shot.[15]

Atty. Leoncio Evangelista, an agent of the NBI, conducted investigation on the killing incident.

On the other hand, the evidence for the defense, are as follows:

Rodolfo Ver y Foronda, Fingerprint Examiner II of the NBI, presented the following documents relative to the shooting incident that resulted in the death of the two victims, to wit; Progress Report dated December 28, 1989 (Exhibits "1" and "1-a"); Initial Investigation Report signed by Col. Rogelio Pureza (Exhibit "2"); Request for Paraffin Test dated December 28, 1989 (Exhibit "3"); Sworn Statements of Pat Barrera, petitioner Mariano, Pat. Alcalde, and petitioner Herrera (Exhibits "4," "4-a," "5," "5-a," "6," "6-a," "7," and "7-a"); photocopies of a picture of the Parañaque Police van No. 102 (Exhibits "8," "8-a" to "8-g") and a Certification issued by Capt. Abraham Gatchillano dated January 5, 1990 (Exhibits "9" and "9-a").[16]

Col. Rogelio Pureza y Abutan, PNP District Director of the NPD, CAMANABA testified that he approved the Progress Report dated December 28, 1989 (Exhibits "1" and "1-a") of Rodolfo Ver. The report addressed to the Regional Commander (Exhibit 11) was based on the investigation conducted on petitioners Herrera and Mariano, Pat. Alcalde, Pat. Barrera, and Edwin Maquinay, and the report of the investigator on the case. He narrated that at about noontime of December 28, 1989, Edna Go came to his office requesting Col. Pureza for assistance with regard to her husband's case, but he told her to await for the outcome of the investigation as the cases for Illegal Possession of Firearms and Resisting Arrest were already filed with the Prosecutor's Office and it would be inappropriate for him to intercede in the case. While he was talking with Go, SPO4 Ticzon called to inform him about a shooting incident involving the husband of Go. Since he was not sure if George Go was already dead when the call came in, he did not relay the information to Go. Thereafter, he came to know that George Go was brought to the Parañaque Community Hospital by petitioners and accused Barrera and Alcalde, together with one Shi Shu Yang. As a result of the investigation conducted, he and the other police officers filed a case for homicide against two of their policemen based on the evaluation report of their investigator. He turned over the petitioners and the accused to the NBI for investigation. The two (2) reports stated that one of the victims was carrying a caliber 45 firearm and that said firearm was forwarded to the PCCI laboratory for verification and also for the purpose of determining if it was previously involved in a crime and to the Firearms and Explosive Unit for the issuance of a certification as to the veracity of its license.[17]

SPO4 Glenn Fuentes Ticson testified that on December 28, 1989, he was assigned as Duty Investigator at the CID, Parañaque Police Station and, as such, was tasked to investigate criminal cases referred to him by their Desk Officer or immediate supervisor. On December 28, 1989, Cpl. Antonio Batola, Duty Officer, reported to him about a shooting incident and that the victims were already brought to the Parañaque Community Hospital. He and Pat. Oscar dela Cruz immediately proceeded to the said hospital and upon arrival, the hospital personnel informed them that the victims were pronounced dead on arrival. The victims were identified through their identification cards. The bodies of the victims sustained multiple gunshot wounds and were bathed in blood. When he was informed that the victims were brought by four (4) policemen, he interviewed two (2) of them (accused Barrera and Alcalde) and they admitted having shot the victims but claimed self-defense. He called up their Station Commander informing him about the shooting incident involving Parañaque policemen. He retrieved

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

the service firearms belonging to the two accused and proceeded to the scene of the crime past noon. The people within the vicinity told him that while they did not see the actual shooting incident, they heard successive gunshots. The patrol van used by the petitioners and the two accused suspects was left in the hospital and, later brought to the police station. Ticzon declared further that after the incident, he instructed his co-investigator to get the statement of the wife of the victim George Go at the Chow Chow restaurant. Prior to the shooting incident, he was informed that George Go was previously arrested by accused Barrera in connection with a case for Illegal Possession of Firearms. He was familiar with the people in Timothy street to avoid traffic in going to the police headquarters. On the same day of the shooting incident, he requested the NBI to conduct an autopsy on the cadaver of the victims. Thereafter, he prepared two (2) reports which he submitted to Col. Pureza at about 9:00 o'clock pm. of December 28, 1989. The pictures of the police van used in transporting the deceased to the hospital were taken at about 3:00 0'clock p.m. at the police station but he had nothing to do with the taking of those pictures. The extent of his investigation with respect to the shooting incident from the beginning to the end and before the case was turned over to the NBI are all included in Exhibit 1. upon arrival at the police headquarters coming from the scene of the crime, he reported to Col. Pureza. Before the turn-over of the case to the NBI, Col. Pureza assigned Pat. De la Cruz and Pat. Octavio to assist him in the investigation of the incident. As head investigator, his duties include any request for autopsy and paraffin tests but he did not recommend that paraffin test be conducted upon the two victims. Before the turn-over of this case to the NBI, he did not gather the firearms involved in this case for ballistic examination. The Cal. 45 firearm recovered from George Go was in the custody of Col. Pureza which was turned over by Pfc. Biong but he does not know if Col. Pureza signed any receipt for said firearm. He only saw the serial no. of said firearm, which was tampered, in the office of Col. Pureza in the afternoon of December 28, 1989.[18]

SPO3 Gil Labay y Cantor declared that on January 8, 1990, he was assigned at the Physical Identification Division of the PNP Crime Laboratory at Camp Crame, Quezon City and among his duties was to perform macro-etching on firearms and motor vehicles. On January 8, 1990, he examined one (1) Cal. 45 bearing serial no. 198842 (Exhibit "16"). His findings showed that there were signs of filing and grinding on the metal surface where the serial no. is located. His examination was based upon the letter-request of the Station Commander of the Parañaque police station (Exhibit "17"). Said request was received by their duty officer but they did not retain a copy of the receipt that was issued to the requesting party. He does not know if said firearm was first submitted to the PC Crime Laboratory and said firearm was received by one Pat. Bustillo (Exhibit "18-a"). the serial number of the firearm was tampered and he did not see the original serial number of the said firearm. In the course of his examination, he could not determine the approximate period of time when the allege.d tempering of the firearm was made because of the super-imposition of the number. He did not verify from the Firearms and Explosive Unit whether the firearm was licensed or not.[19]

Testifying in his defense, petitioner Redentor Mariano declared that on December 28, 1181, he was connected with the Parañaque Police Station and assigned with the Mobile Patrol Division, with his tour of duty being from 6:00 o'clock p.m. to 6:00 o'clock a.m. At about 5:30 o'clock a.m. in the morning of December 28, 1181, he received a radio message from their radio operator to proceed to the police head quarters to assist accused Barrera in bringing persons for medical examination. Upon arrival at the police headquarters, accused Alcalde and Barrera alighted from the mobile patrol van while he stayed inside the mobile car. At about 10:30 o'clock a.m. of the same day, accused Alcalde, Barrera, Herrera and himself brought two persons to the Parañaque Community Hospital. In going to the said hospital, they passed through Fortunate Village and Multinational Village and, upon arrival at the hospital, accused Alcalde and Barrera accompanied the two persons. At about 11:00 o'clock a.m., on their way back to the Parañaque police station, he heard accused Alcalde saying "George, ano ka ba, bitiwan mo ang baril mo" and not long after, he heard successive shots. When he looked back, he saw George Go grappling for the

possession of a firearm with accused Alcalde. He stopped the van and alighted in order to pacify what was happening inside the van but he heard again successive shots and thereafter, he saw the two Chinese nationals fall inside the van bathed with blood. He told his companions to bring the victims to the hospital and later informed their Chief of Police about the incident. Upon arrival at the hospital, he told his companions to request the hospital personnel to get the two dead persons inside the van. After the incident, he was investigated and his statement was taken.[20]

On cross-examination, he declared that the reason why the two Chinese nationals were brought to the hospital in the morning of December 28, 1181 for medical examination was because he learned that there was a case filed against George Go. In going to the hospital, he was in front of the van just besides the driver, while accused Alcalde, Barrera, George Go and the latter's companion were at the back. He and the driver were both armed with cal. 38 while accused Alcalde was armed with M-16 armalite rifle and accused Barrera was armed with a Cal. 38. While inside the van, George Go was handcuffed while his companion was not. Accused Alcalde and Barrera were seated fronting the two Chinese nationals. The distance from the seat where accused Alcalde and Barrera were seated to the seat where the two victims were seated would be more or less 2 feet but there was a gap between the knees of the passengers seated which was about 12 inches. From the time he heard the first shot up to the time the police van stopped, they had traveled more or less 5 to 10 meters. He was shocked when he heard the first shot and when he looked back, he saw George Go trying to grab the firearm of the accused Alcalde by holding the butt and almost the muzzle of the firearm. He did not see the finger of accused Alcalde on the trigger guard of his firearm immediately after he heard the series of shots because the incident happened too fast. While at the police headquarters, he asked accused Alcalde and Barrera what happened and they told him that George Go tried to grab the firearm of accused Alcalde but he was not able to ask them who shot George Go.[21]

In the morning of December 21, 1181, they were submitted for paraffin tests at the PNP Crime Laboratory and with respect to him, the findings was negative but he does not know what was the result of the findings with respect to accused Barrera and Alcalde. They left the hospital before 1:00 o'clock p.m. and it was only a matter of minutes before they reached Multinational village. The investigator did not take photographs at the scene of the incident at that time. in the night of march 3, 1111, Mrs. Edna Go came to see him at Camp Bicutan and asked him why the other policemen did not see her when in fact an agreement that the case be settled before the NAPOLCOM had been reached.

Dr. Frederick Singson y Soliven, Resident Physician of the Parañaque Community Hospital testified that on December 28, 1181, he examined George Go and found out that the latter was positive for alcohol breath but no signs of physical injuries. At about 11:45 a.m. of the same day, George Go was brought back to the hospital with six gunshot wounds and was declared dead on arrival (Exhibit 11-a). He also treated accused Herrera on the same day and found out that said patient was negative of alcohol breath and had a linear abrasion which was 1 cm. in size (Exhibit 20-a). He was not the one who prepared the entries in Exhibit 11-a and there was no initial of the person who made the handwritten notations therein. George Go was brought to the hospital by the policemen and one of them was accused Herrera but he did not ask the policemen the purpose why George Go was to be examined. He did not take the blood chemistry of George Go to determine whether alcohol existed in his blood. He admitted that he was not the one who wrote the notations of the dorsal portion of Exhibit 20. The first portion of the medical report of George Go was written by Dr. Bautista and the lower portion was written by him (Exhibit x and y). According to accused Herrera, the abrasion inflicted on his neck was due to an alleged scuffle with somebody but said injury could also be self-inflicted.[22]

SPO2 Armand Octavio, a member of the Parañaque police Station testified that on December 28, 1181, he was instructed to take the statement of accused Barrera (Exhibit 21, 21-a and 21-b). He also received an investigation

report from the office of the Investigation Division signed by SPO3 Ticzon and Col. Pureza. Aside from these reports, he was also furnished a certification from the Firearms and Explosive Unit and an investigation report regarding the charge for Illegal Possession of Firearms against accused George Go.[23]

Testifying in his defense, petitioner Edgardo Herrera declared that he had been a member of the Parañaque Police Station. On December 28, 1181, he reported at the police headquarters and his tour of duty was from 6:00 o'clock p.m. to 6:00 o'clock a.m. and his companions were accused Mariano and Alcalde. At about 6:00 o'clock a.m. of December 28, 1181, they received a radio message from their headquarters, directing them to report to the Chief of Police. Upon arrival at the police headquarters, their Desk Officer ordered them to bring a certain George Go to the Parañaque Community Hospital for medical examination. Before George Go was brought to the hospital, he was very unruly at the police headquarters and refused to be brought to the hospital. On their way to the hospital, they took Sucat road and proceeded towards Fortunata Village and then to Multinational Village to avoid traffic jams. After the examination of George Go, they brought him back to the police headquarters but upon reaching Timothy Street in Multinational Village, a shooting incident happened. While he was at the steering wheel, he heard accused Alcalde saying "George, bitiwan mo ang baril ko" and not long after, he heard a gunshot. He looked back and when he saw that the muzzle of an Armalite rifle was almost at his back, he tried to parry it but it went off successive shots. He immediately jumped out of the vehicle and pulled out his firearm and saw the two Chinese nationals already lying on the floor of the police van. He immediately drove the police van and brought the victims back to the Parañaque Community Hospital. After the incident, he was investigated and his statement was taken (Exhibits 7 and 7-a). He was also subjected to paraffin tests and the result was negative.[24]

On cross-examination, he declared that he did not see who placed handcuffs on the hands of George Go but when he saw the latter seated at the back of the police van, he was not handcuffed. Before they brought George Go to the hospital, he saw Go's wife who was insisting to go with them but George Go did not allow her and, instead, he took along his Taiwanese friend, one Shi Shu Yang. Apart from George Go and Shi Shu Yang, there were four (4) of them who boarded the police van and alighted at the hospital but did not go back with them to the police headquarters. All of them, except Maquinay, were armed. Being the driver of the police van for almost a year, he was familiar with the different roads coming from the police station to the Parañaque Community Hospital. In fact, there are two routes in going to the said hospital, one of which is Dr. Santos Avenue up to Sucat road and other is thru Fortunata Village and then to Multinational Village. There are houses and business establishments along Dr. Santos Ave. while there are few houses and unfinished structures along Timothy Street in Multinational Village. He was the one who decided to take Multinational Village in going back to the police headquarters to avoid traffic. The road leading to Fortunata Village is not a bumpy road. In fact, he can reach the police station from the hospital if he passes thru Multinational Village without passing thru Timothy Street. He claimed that George Go and Shi Shu Yang were not forced to go down by accused Barrera and Alcalde from the police van when it passed thru Timothy Street. After hearing the gunshots, he stopped the vehicle. When they went back to the scene of the crime, he saw blood dripping and blood stains on the sidewalk.[25]

On December 13, 1994, public respondent Sandiganbayan[26] convicted each of the petitioners of two (2) counts of murder. The dispositive portion of its Decision reads as follows:

> WHEREFORE, after joint trial on the merits in the above-numbered cases, judgment is hereby rendered in the following:
>
> - In Crim. Case No. 16674 -- accused Edgardo Herrera y [B]altoribio and Redentor Mariano y Antonio are hereby found guilty beyond reasonable doubt as co-principals in the offense of Murder, as defined and penalized by Article 248 of the Revised Penal Code, qualified by treachery and with the generic aggravating circumstance of taking advantage of their public positions, abuse of superior strength, in band and use of a

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

motor vehicle, without any mitigating circumstance in offset, and each of the accused is hereby sentenced to suffer the penalty of reclusion perpetuain said case, with the accessory penalties of imposed by law; to indemnify, jointly and severally, the heirs of the late George Go in the amounts of P11,500.00 as actual damages, plus P500,000.00 in the form of unrealized earnings and income.

- In Crim. Case No. 16675 -- accused Edgardo Herrera y [B]altoribio and Redentor Mariano y Antonio are herby found GUILTY beyond reasonable doubt as co-principals in the offense of Murder, defined and penalized by Article 248 of the Revised Penal Code, qualified by treachery and with the generic aggravating circumstance of taking advantage of their public positions, abuse of superior strength, in band and use of a motor vehicle, without any mitigating circumstance in offset, and each of the accused is hereby sentenced to suffer the penalty of reclusion perpetua in said case, with the accessory penalties of [i]mposed by law; to indemnify, jointly and severally, the heirs of the late Shi Shu Yang in the amounts of P50,000.00;

- Both accused to pay their proportionate share of the costs of these actions. [27]

On March 28, 1995, public respondent Sandiganbayan denied petitioners' joint motion for reconsideration. On April 3, 1995, petitioner Herrrera filed a notice of appeal and thereafter on May 30, 1995, together with petitioner Mariano, he filed a petition for review on certiorari with this Court alleging the following grounds:

- THE RESPONDENT SANDIGANBAYAN ERRED IN CONVICTING THE PETITIONERS FOR MURDER UNDER THE AMENDED INFORMATIONS;

- THE RESPONDENT SANDIGANBAYAN ERRED IN REFUSING TO ALLOW THE PETITIONERS TO CONDUCT FURTHER CROSS EXAMINATION ON PROSECUTION WITNESS WINTERHALTER;

- THE RESPONDENT SANDIGANBAYAN ERRED IN NOT FINDING AND CONCLUDING THAT THE TESTIMONY OF ALLEGED EYEWITNESS WINTERHALTER WAS WANTING IN CREDIBILITY;

- THE RESPONDENT SANDIGANBAYAN ERRED IN NOT FINDING AND CONCLUDING THAT PROSECUTION WITNESS NBI MEDICO-LEGAL OFFICER AND HIS REAL EVIDENCE SUPPORT THE THEORY OF THE DEFENSE;

- THE RESPONDENT SANDIGANBAYAN ERRED IN NOT FINDING AND CONCLUDING THAT THERE WAS TOTAL ABSENCE OF EVIDENCE TO SUPPORT CONSPIRACY;

- THE RESPONDENT SANDIGANBAYAN ERRED IN NOT FINDING AND CONCLUDING THAT THE PETITIONERS ARE ENTITLED TO THE PRESUMPTION OF REGULARITY IN THE PERFORMANCE OF OFFICIAL ACTS; AND

- THE RESPONDENT SANDIGANBAYAN ERRED IN NOT FINDING AND CONCLUDING THAT THE EVIDENCE OF THE PROSECUTION FAILED TO ESTABLISH THE GUILT OF THE PETITIONERS BEYOND REASONABLE DOUBT.

The Court affirms the conviction.

First. Petitioners insist that respondent Sandiganbayan erred in convicting them for the crime of murder under the amended informations as they had earlier been arraigned under the original informations for murder and their rearraignment under the amended informations placed them in double jeopardy.

The rule on double jeopardy does not apply. Public respondent Sandiganbayan ordered the amendment of the informations and made it of record that the evidence adduced during the pre-trial of the case and the hearing on the petition for bail shall be deemed automatically reproduced as evidence during the trial of the case on the merits. Double jeopardy did not attach by virtue of petitioner's plea of not guilty under the amended information.

Study hands-free: podcast-style lessons with read-along highlighting - batas.org

For a claim of double jeopardy to prosper, the following requisites must concur: (1) there is a complaint or information or other formal charge sufficient in form and substance to sustain a conviction; (2) the same is filed before a court of competent jurisdiction; (3) there is a valid arraignment or plea to the charges; and (4) the accused is convicted or acquitted or the case is otherwise dismissed or terminated without his express consent.[28]

In the present case, petitioners and the other accused pleaded not guilty to the original informations. Thereafter, at the instance of the petitioners, through a joint petition for bail, they raised the issue of lack of jurisdiction on the ground that the prosecution failed to allege in the informations that the crimes were committed "in relation to their office." On the same day, respondent court ordered the amendment of the informations accordingly. Thus, the first requirement for double jeopardy to attach, that is, that the informations against the petitioners were valid, has not been complied with.

Likewise, the fourth element was lacking. Petitioners cannot be validly convicted on the basis of the original information as the prosecution failed to allege in the informations that the crimes were committed "in relation to their office." Petitioners were thus not placed in danger of being convicted when they entered their plea of not guilty to the insufficient information. Moreover, there was no dismissal or termination of the case against petitioners.

Furthermore, it was well-within the power of public respondent Sandiganbayan to order the amendment of the information under Section 4, Rule 117 of the Rules on Criminal Procedure which states that if the motion to quash is based on an alleged defect of the complaint or information which can be cured by amendment, the court shall order that an amendment be made. If it is based on the ground that the facts charged do not constitute an offense, the prosecution shall be given by the court an opportunity to correct the defect by amendment. The motion shall be granted if the prosecution fails to make the amendment, or the complaint or information still suffers from the same defect despite the amendment.

Second. Petitioners make much of the fact the public respondent Sandiganbayan should have allowed their counsel to conduct further cross-examination on prosecution witness Winterhalter.

Rule 132, Section 6 of the Revised Rules on Evidence provides that upon the termination of the direct examination, the witness may be cross-examined by the adverse party as to any matter stated in the direct examination, or connected therewith, with sufficient fullness and freedom to test his accuracy and truthfulness and freedom from interest or bias or the reverse, and to elicit all important facts bearing upon the issue. The cross-examination of a witness is a right of a party against whom he is called. Article III, Section 14(2) of the Constitution states that the accused shall have the right to meet the witnesses face to face. Rule 115, Section 1(f) of the Revised Rules of Criminal Procedure also states that, in all criminal prosecutions, the accused shall have the right to confront and cross-examine the witnesses against him. Indeed, petitioners' counsel has conducted an extensive cross-examination of witness Winterhalter on the scheduled dates of hearing. Petitioners, therefore, cannot claim there has been any procedural infirmity in the proceedings.

Moreover, the trial court has the power to direct the course of the trial either to shorten or to extend the direct or cross examination of a counsel. Under Rule 133, Section 6 of the Revised Rules on Evidence, the court may stop the introduction of further testimony upon any particular point when the evidence upon it is already so full that more witnesses to the same point cannot be reasonably expected to be additionally persuasive. But this power should be exercised with caution. Thus, it is within the prerogative of the trial court to determine when to terminate the presentation of the evidence of the prosecution or the defense.

Third. Petitioners' attempt to destroy the credibility of prosecution witness Winterhalter fails. The trial court had the opportunity to observe first-hand the demeanor and deportment of the witnesses, and, therefore, its findings

that the witnesses for the prosecution are to be believed over those of the defense are entitled to great weight. Winterhalter recognized the petitioners as the ones who cooperated with Pat. Barrera in killing the victims. She saw the events unfolding with the use of her binoculars 80-90 meters away. She established the identity of the petitioners as the companions of Pat. Barrera when he effected the killing. It has been ruled that findings of fact of the trial court on credibility of witnesses should be accorded the highest respect. The Court has refrained from interfering with the judgment of the trial court in passing on the credibility of witnesses unless there appears on record some fact or circumstance of weight and influence which has been overlooked or the significance of which as been misapprehended or misinterpreted. None exists in this case.

After the incident, Winterhalter's neighbor, who was also a foreigner, has been receiving death threats. She herself has been getting death threats too, yet she voluntarily testified in order to shed light on the commission of the crime. In fact, she did not even know the two victims. Indeed, where there is nothing to indicate that a witness was moved by improper motives, his positive and categorical declarations on the witness stand, made under solemn oath, should be given full faith and credence. It has not been shown that Winterhalter has any reason to falsely implicate petitioners.

Winterhalter narrated that Pat. Barrera and Pat. Alcalde, together with petitioners, were responsible for the death of the victims. This was confirmed by the post mortem report prepared by Dr. Roberto Garcia, medico legal officer of the NBI, showing the gunshot wounds on the different parts of the victims' body.

Fourth. Petitioners would persuade the Court that the testimony of the NBI-Medico Legal Officer, a prosecution witness, supports the theory of the defense that they acted in self-defense.

This argument cannot stand. By invoking the justifying circumstance of self-defense, petitioners assume the onus of proving: (1) unlawful aggression; (2) reasonable necessity of the means employed to prevent or repel the unlawful aggression; and (3) lack of sufficient provocation on the part of the person defending himself. Petitioners failed to discharge this burden.

To proceed with the argument that there was unlawful aggression by the two deceased who tried to get the pistol tucked in the waist of one of the police officers, petitioners should prove that they used reasonable means in repelling the aggression. Considering that both deceased where handcuffed and unarmed and had restricted movements, it could only mean that the perceived threat to petitioners' lives were not sufficiently serious, in which case they were not justified in shooting the hapless victims who were unarmed. Petitioners could have simply subdued the two victims in a manner as to engage them in a fight without necessarily killing them. Moreover, the autopsy reports showing the extent of the wounds sustained by George Go and Shi Shu Yang tend to discredit the version of the defense.

Fifth. Petitioners assert that there was total absence of evidence to support the theory that conspiracy attended the commission of the crime.

Conspiracy can be inferred from the acts of the accused which clearly manifest a concurrence of wills, a common intent or design to commit a crime. The familiar rule in conspiracy is that when two or more persons agree or conspire to commit a crime, each is responsible, when the conspiracy is proven, for all the acts of the others, done in furtherance of the conspiracy.[29] In this case, petitioner Herrera drove the vehicle along Timothy Street to a place which was less conspicuous to passersby. There, Pat. Alcalde, Pat. Barrera, and petitioner Mariano brought out the two victims from the back portion of the van in order to perpetuate the killing. Petitioner Mariano alighted from the right front seat of the van and stood beside Pat. Alcalde and Pat. Barrera who began shooting the victims. According to Winterhalter, petitioner Mariano even appeared to be writing something on a sheet of paper immediately before the shooting, although it cannot be determined with certainty as to whether he was making an

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

inquiry or merely noting the names of the victims. While it was Pat. Barrera who actually shot the two victims, the evidence showed a common design on the part of both petitioners as they did not do anything to prevent him from killing the victims, thus, indicative of the fact that they are in unison with the criminal design of the Pat. Barrera. Petitioner Herrera alighted form the van without doing anything to prevent the killing, and worse, after the killing took place along the street, petitioner Herrera even helped carry the two victims into the van while petitioner Mariano, the driver, remained in the vehicle during the incident. Consequently, applying the rule that the act of one is the act of all, petitioners are thus as guilty as Pat. Barrera and Pat. Alcalde. In fact, conspiracy need not be established by direct evidence but may be inferred from the surrounding circumstances.

Sixth. Intertwined with their argument that they were acting in self-defense, petitioners want this Court to appreciate the presumption of regularity in the performance of their official acts.

This contention has no merit. In order to consider the defense of fulfillment of a duty, it must be shown that: (1) the accused acted in the performance of a duty or in the lawful exercise of a right or office; and (2) the injury caused or the offense committed is the necessary consequence of the due performance of duty or the lawful exercise of a right or office.[30] There was no showing that petitioners should resort to inflicting injuries and even to the extent of killing the victims as there was no resistance at all from them when they were apprehended. The two victims were handcuffed and unarmed while the petitioners and the other police officers were armed with pistols and a rifle. Aida Veloria Magsipoc, Supervising Forensic Chemist of the NBI, per Chemistry Report No. C-89-1606, conducted the paraffin test on George Go and Shi Shu Yang which yielded negative results, thus showing that the victims never fired a gun and were totally defenseless in the face of the fully armed police officers.

Petitioners anchor their argument that they merely acted in self-defense. This contention has no merit. The accused who invokes self-defense thereby admits having killed the victim, and the burden of evidence is shifted on him to prove, with clear and convincing evidence, the confluence of the following essential elements: (1) unlawful aggression; (2) reasonable necessity of the means employed to prevent or repel it; and (3) lack of sufficient provocation on the part of the person defending himself.[31]

Moreover, the nature and number of wounds inflicted by the accused are constantly and unremittingly considered as important indicia which disprove a plea of self-defense or defense of stranger because they demonstrate a determined effort to kill the victim and not just defend oneself.[32] The victims were repeatedly shot at close range and on vital parts of their bodies, thus indicia that the police officers really intended to kill them. Clearly, the presumption of regularity in the performance of official duties on the part of the petitioners and the other police officers does not apply.

Seventh. Petitioners maintain that the prosecution failed to establish their guilt beyond reasonable doubt.

On the contrary, the killing of the two victims was proved to have been committed with the qualifying circumstance of treachery. The essence of treachery is a deliberate and sudden attack, affording the hapless, unarmed and unsuspecting victim no chance to resist or to escape. Frontal attack can be treacherous when it is sudden and unexpected and the victim is unarmed. What is decisive is that the execution of the attack made it impossible for the victim to defend himself/herself or to retaliate.[33]

The records are extant on the findings of respondent Sandiganbayan that when petitioner Herrera drove the patrol car along Timothy Street to an practically deserted area and isolated from traffice and pedestrians, Pat. Alcalde, Pat. Barrera, and petitioner Mariano brought out the two victims from the back portion of the patrol car in order to eventually salvage them which showed that all the police officers had a community of criminal design. Petitioner Mariano mad the pretense of writing down something prior to the shooting incident. It would appear that he was

faking an alleged interrogation or trying to get the name of Shi Shu Yang, whose identity was not immediately known, yet the fact remains that he did not do anything to prevent the killing and even helped in loading the body of George Go inside the patrol car.

Clearly, the elements of murder have been proven: 1). that the two victims were killed; 2). that petitioners and the two other accused killed the victims; 3). that the killing was attended by the qualifying circumstance of treachery committed by the petitioners and the two other accused who conspired together in killing the victims; and 4). that the killing was not parricide or infanticide.

Eighth. Public respondent Sandiganbayan did not grant any award of damages in favor of the heirs of Shi Shu Yang and George Go y Tan. When death occurs due to a crime, the following damages may be awarded: (1) civil indemnity ex delicto for the death of the victim; (2) actual or compensatory damages; (3) moral damages; (4) exemplary damages; and (5) temperate damages.[34]

Civil indemnity is mandatory and granted to the heirs of the victim without need of proof other than the commission of the crime. Under prevailing jurisprudence, the award of P50,000 to the heirs of the victims as civil indemnity is in order.[35] In cases of murder and homicide, moral damages may be awarded without need of allegation and proof of the emotional suffering of the heirs, other than the death of the victim, since the emotional wounds from the vicious killing of the victims cannot be denied. Thus, the award of P50,000 is proper.[36]

As to the award of actual damages, Edna Go testified that she incurred funeral expenses of P11,500. Moreover, the award of exemplary damages of P25,000 is proper since the qualifying circumstance of treachery attended the killing of the victims. Article 2230 of the Civil Code allows the award of exemplary damages as part of the civil liability when the crime was committed with one or more aggravating circumstances. The term aggravating circumstance as used therein should be construed in its generic sense since it did not specify otherwise.[37]

WHEREFORE, the petition is DENIED for lack of showing that public respondent Sandiganbayan committed any reversible error. The Decision of public respondent Sandiganbayan, dated December 13, 1994, finding petitioners Pat. Eduardo Herrera y Baltoribio and Pat. Redentor Mariano y Antonio guilty beyond reasonable doubt as co-principals for two (2) counts of murder and sentencing each of them to suffer the penalty of reclusion perpetua with the accessory penalties of civil interdiction during the time of their sentence and perpetual absolute disqualification for public office is AFFIRMED WITH MODIFICATION. Additionally, petitioners are ORDERED to pay the heirs of Shi Shu Yang and George Go y Tan each in the amount of P50,000 as civil indemnity, P50,000 as moral damages, P11,500 for actual damages, and P25,000 as exemplary damages. Costs against the petitioners.

SO ORDERED.

Puno, C.J., (Chairperson), Carpio, Corona, and Leonardo-De Casrto, JJ., concur.

---

[1] Records, Vol. 2, p. 6.

[2] Id. , 8.

[3] G.R. No. L-64548, July 7, 1986, 142 SCRA 459. In this case, therein accused, Rolando Bartolome y Perez, Senior Labor Regulation Officer and Chief of the Labor Regulations Section, and Elino Coronel y Santos, Labor Regulation Officer, both of the Ministry of Labor (now Department of Labor and Employment [DOLE]), were charged with the crime of falsification of official document penalized under Article 171, paragraph 4 of the Revised Penal Code (i.e., Bartolome made untruthful statements in his Personal Data Sheet [Civil Service Form

No. 212] by making it appear that he was a 4[th] Year AB student at the Far Eastern University (FEU) and that he had taken and passed the "Career Service (Professional) Qualifying Examination" on May 2, 1976 in Manila even if his rating was 73.35%). The Court declared the proceedings in the Sandiganbayan to be null and void ab initio on the ground that said court had no jurisdiction over the case. It explained that there was no showing that the alleged falsification was committed by therein accused, if at all, as a consequence of, and while they were discharging, official functions. The information set forth therein did not allege that there was an intimate connection between the discharge of official duties and the commission of the offense. Therefore, since the alleged falsification was not an offense committed in relation to the office of the accused, it did not come under the jurisdiction of the Sandiganbayan.

[4] Records, Vol. 2, p. 1.

[5] Records, Vol. 2, p. 4.

[6] Records, Vol. I, pp. 105-106.

[7] Pat. Roberto Barrera was later apprehended and trial of the case against him proceeded. In a Decision dated January 15, 2004, the Sandiganbayan convicted him of two counts of murder and sentenced him to suffer the penalty of reclusion perpetua and to pay civil indemnity and damages. The dispositive portion of the decision reads:

WHEREFORE, judgment is hereby rendered in the following:

> (1) In Crim. Case No. 16674, the Court finds the accused Pat. Roberto Barrera guilty beyond reasonable doubt of the crime of murder defined in and penalized by Article 248 of the Revised Penal Code, as amended, and hereby sentences him to suffer the penalty of reclusion perpetua with the accessory penalties of civil interdiction during the time of his sentence and perpetual absolute disqualification for public office.
>
> (2) In Crim. Case No. 16675, the Court finds the accused Pat. Roberto Barrera guilty beyond reasonable doubt of the crime of murder defined in and penalized by Article 248 of the Revised Penal Code, as amended, and hereby sentences him to suffer the penalty of reclusion perpetua with the accessory penalties of civil interdiction during the time of his sentence and perpetual absolute disqualification for public office.
>
> Accused Barrera is further ordered to pay the legal heirs of George Go and Shi Shu Yang the amount of fifty thousand pesos (P50,000.00) each for moral damages and fifty thousand pesos (P50,000.00) each as indemnity for death; and, to pay eleven thousand five hundred pesos (P11,500.00) as actual damages and one million four hundred thirty three thousand four hundred eighteen pesos (P1,433,418.00) for loss of earnings to the heirs of George Go.
>
> The period within which the accused Roberto Barrera was detained at the City Jail shall be credited to him in full as long as he agrees in writing to abide by and follow strictly the rules and regulations of the said institution.
>
> Costs against the accused.
>
> SO ORDERED. (Rollo, pp. 273-274).

Per records of the case, while accused Barrera filed a notice of appeal, no further pleading was thereafter filed.

[8] TSN (Reynaldo Ong), July 14, 1993, pp. 3-19.

[9] TSN (Edna Go), June 10, 1992, pp. 4-22.

[10] TSN (Edna Go), March 31, 1993, pp. 4-10.

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

[11] TSN (Cristina Winterhalter), April 3, 1992, pp. 2-36.

[12] TSN (Dr. Roberto Garcia), March 25, 1992, pp. 3-41.

[13] TSN , April 3, 1992, pp. 37-46.

[14] TSN, April 1, 1992, pp. 4-18.

[15] TSN, April 1, 1992, pp. 18-25.

[16] TSN (Rodolfo Ver), September 29, 1993, pp. 12.

[17] TSN, September 29, 1993, pp. 14-18.

[18] TSN, September 30, 1993, pp. 4-19.

[19] TSN, October 27, 1993, pp. 4- 11.

[20] TSN, January 12, 1994, pp. 3-11.

[21] TSN, January 12, 1994, pp. 12-36.

[22] TSN, April 15, 1994, pp. 3- 14.

[23] TSN, April 15, 1994, pp. 15-21.

[24] TSN, April 15, 1994, pp. 22-30.

[25] TSN, April 15, 1994, pp. 31-47.

[26] Per Justice Romeo M. Escareal (Chairman, Second Division) and concurred in by Justice Augusto M. Amores and Justice Minita Chico-Nazario, now an Associate Justice of this Court.

[27] Rollo, pp. 92-93.

[28] Amadore v. Romulo, 466 SCRA 397 (2005); Lasoy v. Zenarosa, 455 SCRA 360 (2005).

[29] People v. Masagnay, 431 SCRA 572 (2004).

[30] Angcaco v. People, G.R. No. 146664, February 28, 2002, 378 SCRA 297.

[31] People v. De los Reyes, 430 SCRA 166.

[32] Cabanlig v. Sandiganbayan, 464 SCRA 324.

[33] People v. Tolentino, G.R. No. 176385, February 26, 2008.

[34] People v. Beltran, Jr., G.R. No. 168051, September 27, 2006, 503 SCRA 715.

[35] Santos v. People, G.R. No. 173282, March 4, 2008.

[36] People v. Villa, G.R. No. 179278, March 28, 2008.

[37] People v. Eling, G.R. No. 178546, April 30, 2008.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at https://batas.org

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.