

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. REX BERGANTE, RODITO BERGANTE, AND LEO BERGANTE, ACCUSED-APPELLANTS.

G.R. Nos. 120369-70. February 27, 1998

Ponente: DAVIDE, JR., J.

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DAVIDE, JR., J.:

Accused-appellants Rex, Rodito, and Leo, all surnamed Bergante, were charged with the crime of murder in Criminal Case No. 86-6371 and with the crime of illegal possession of firearms in Criminal Case No. 86-6548, which were consolidated and jointly tried before Branch 49 of the Regional Trial Court of Palawan sitting in Puerto Princesa.

The evidence for the prosecution was summarized by the Office of the Solicitor General in the Appellee's Brief, thus:

In the afternoon of February 14, 1986, the victim Donato Genanda, Sr. was in a rice mill situated in Barangay Bato, Taytay, Palawan (pp. 10, 21, TSN, April 21, 1987). He was in the company of Renato Estrella who helped in having his palay milled (pp. 11, 20-22, *ibid.*) Appellant Rodito Bergante arrived there to buy rice from the victim (p. 11, *ibid.*).

After the victim had given appellant Rodito a ganta of rice and the milling finished, Estrella left ahead for home (p. 23, *Ibid.*). Then the victim who rode on his carabao left followed by appellant Rodito (p. 23, *ibid.*). After negotiating a certain distance, Estrella looked back and saw the victim and appellant Rodito conversing in front of the house of one Marvin Famine (p. 24, *ibid.*). Estrella returned to find out what seemed to be the problem between the victim and appellant Rodito (p. 24, *ibid.*). It turned out that the two were discussing about Rodito's cow which was destroying the victim's palay (p. 24, *ibid.*). The victim suggested that Rodito should tie his cow (p. 24, *ibid.*).

After a while, the victim and Estrella left together on their way home (p. 25, *ibid.*). Appellant Rodito also left (*Ibid.*). After negotiating a distance of about 65 meters, Rodito met his brothers Rex and Leo on the way (p. 28, *ibid.*).

When the victim and Estrella reached a distance of about 10 meters away from the house of one Jesus Genanda, they saw the three (3) appellants, who had taken a shortcut, waiting in front of said house (p. 28, *ibid.*). At once, Estrella warned the victim: "Ninong watch out, they are waiting for you" (pp. 5, 29, *ibid.*). The victim merely retorted: "Why should I be afraid of them, I have not done anything wrong" (p. 6, *ibid.*). Having sensed that the three (3) appellants are [sic] out to waylay them, Estrella fearfully hid behind the bushes. (p. 6, *ibid.*; p. 20, TSN August 26, 1987). He watched what happened thereafter from the hiding place (*Ibid.*).

The victim went on his way. Upon reaching the place where the three (3) appellants were situated, appellant Rex suddenly shot the victim at the abdominal area (p. 6, *ibid.*). The victim fell from his carabao. Appellant Rodito got a piece of bakawan (mangrove) and hit the victim on the head (*Ibid.*). Almost simultaneously, appellant Leo grabbed the bolo of the victim and with it pierced (tinusok) the latter's eyes (p.7, *ibid.*).

The victim was lying prostrate on the ground face up and still groaning when the three (3) appellants fled towards the direction of their house (p. 9, *ibid.*). On the way home, they met their father, Restituto Bergante, who inquired: *Te napatay nyo na* (p. 9, *ibid.*).

When Donato Genanda, Jr., son of the victim, was informed by Renato Estrella that his father had been attacked by the Bergante brothers, he immediately ran to the place of the incident (p. 18, Oct. 27, 1987). There, he saw his father lying flat on the ground [with] blood oozing from his forehead and face, a wound at the left side of his body, and one eye protruding, as if it had been pierced by a sharp instrument (p. 19, *ibid.*). His father who was still conscious told his son Donato that it was appellant Rex who shot him followed by Rodito who clubbed him and Leo who had pierced his eyes (p. 19, *ibid.*).

Donato Genanda Jr., lost no time in bringing his father to the Hospital on board a jeep (p. 23, *ibid.*). While inside the jeep, and again in the hospital, his father kept repeating that it was the three (3) appellants who had attacked him (pp. 24-25, *ibid.*). The victim stayed in the hospital for about 24 hours before he died (p. 26, *ibid.*).

Sgt. Juan Oscillada of the Philippine Constabulary conducted the investigation of the case upon instruction of the Provincial Commander (pp. 3-4, TSN, April 21, 1987). After the complaint was filed against the four (4) [sic] appellants and warrant of arrest was issued to effect their arrest, he was able to arrest the four [sic] appellants (pp. 6-7, *ibid.*) When he arrested appellant Rex Bergante, he was able to recover from him a Revolver Cal. 32 with Serial No. 497826 (Exhibit “B”) with two (2) empty shells (Exhibits “C” and “C-1”).

A verification from the Firearm and Explosive Unit, Camp Crame, shows the four (4) [sic] appellants are not licensed firearms holders of any caliber (Exhibit “J”).[1]

The Autopsy Report signed by Dr. Nestor A. Reyes reveals the following findings:

1. Body embalmed by formalin.
2. Abrasions multiple forehead left.
3. Abrasions, multiple 1 cm. lateral to the outer angle of the left eye.
4. Wound sutured lower eyelid involving the skin and subcutaneous tissue, left.
5. Ruptured eyeball left.
6. Gunshot wound, with contusion collar 1/2 cm. diameter, 1 cm. above the superior iliac spine with a downward and medial direction perforating the small and large intestine with the bullet embedding in the perennial muscle.
7. Stab wound sutured umbilical area, right, 2 cm. diameter with multiple perforation of the intestines, mesentery urinary bladder and liver.[2]

The accused-appellants, on the other hand, put up alibi for their exculpation. Rodito Bergante testified that at 7:00 a.m. of 14 February 1986, he went to his land in Sitio Cugon, Bato, to “make kaingin”; he stayed there the whole day and went home to Barangay Bato at 6:00 p.m.[3] Leo Bergante declared that at about 4:00 p.m. of that same day, he was in his house in Barangay Bato and that from 4:30 to 5:30 p.m. he was in the rice mill of one Marvin Pamines to buy the rice bran of Rosario Laurella.[4] Rex Bergante testified that on that fateful day, he met Salvador Mijares on his way to Bato. When they were already there, they heard a gunshot and saw Donato Genanda, Sr., lying flat on the ground.[5]

The appellants also presented other witnesses. One Rosario Laurella corroborated the testimony of Leo Bergante.[6] Remedios Lagan sought to discredit the testimony of Renato Estrella by testifying that Renato were

actually in Poblacion Taytay and not in Barangay Bato in the afternoon of 14 February 1986 because they were together in a pumpboat headed from Barangay Bato to Taytay in the morning of that day and went back to Bato the following day only.[7] Filomeno Sunga sought to discredit Faderanga's claim of witnessing the incident by testifying that in the afternoon of 14 February 1986, he was on board a jeep going to Liminangcong and saw Ildefonso Faderanga on board another jeep bound for Roxas. However, upon interrogation by the court, as well as on cross-examination, he declared that it was about 7:00 a.m. while the jeep was in Barangay Bato when he saw Faderanga. On redirect examination, he opined that Roxas was about three hours travel from Barangay Bato.[8]

On the strength of the testimonies of the witnesses for the prosecution and of the victim's dying declaration, the trial court, in its decision of 26 December 1994,[9] convicted all the three appellants of murder and sentenced them to suffer the penalty of reclusion perpetua and to pay the heirs of the victim in the sum of P80,000 as actual damages and P100,000 as moral and exemplary damages, plus costs. It also convicted appellant Rex Bergante of illegal possession of firearms and sentenced him to suffer 18 years of imprisonment. The trial court ratiocinated in this manner:

There is no doubt that Donato Genanda, Sr. sustained wounds on that day which included a gunshot wound in the abdominal area, abrasions on the forehead and outer angle of his left eye, and a ruptured left eyeball (Autopsy Report, Exh. "I"; and Certificate of Death with certification, Exh. "H"). Eyewitnesses have positively identified Rex, Rodito and Leo Bergante as the persons who attacked the victim on that afternoon. Witnesses saw Rex shoot the victim on the abdominal area, Rodito hit him on the head with a mangrove branch, and Leo pierced his left eye with his bolo. These acts attributed to the accused are consistent with the wounds sustained by the victim. True, accused have presented their own alibis, supported by testimonies of their own witnesses. However, aside from the fact that the testimonies of the prosecution witnesses positively identifying accused are clear, convincing and consistent, the alibi evidence of accused is overcome by ante-mortem statement of the victim which categorically identified the accused as the perpetrators of the crime. Donato Genanda Jr. and Rodolfo Gallego have testified that the old man repeatedly stated that it was Rex Bergante who had shot him, Rodito who had mauled him and Leo who had pierced his eye, up to the time when he was in the hospital where he expired the next day.

"Bare denial of guilt is insufficient to overcome positive testimony on the culpability of the accused." (People vs. De Guzman, 194 SCRA 618).

"Greater weight is given to the positive testimony of prosecution witnesses than to accused-appellant's denial." (People vs. Alerta, Jr., 198 SCRA 656).

"The defense of alibi cannot overcome the dying declaration of the victim and the testimonies of the prosecution witnesses." (People vs. Clamor, 198 SCRA 642).

The statement of the victim as to the acts perpetrated by accused qualify as dying declarations since it concern[ed] the cause and surrounding circumstances of the declarant's death; at the time the declaration was made, the extent of his wounds manifested a consciousness of his impending death; he [was] competent as a witness; and the declaration [was] offered in a criminal case in which the killing is qualified to murder (Article 248, Revised Penal Code). Treachery was manifested by the fact that the three accused, acting in concert, waylaid the victim and suddenly and simultaneously attacked him, all using weapons, while the victim was alone and defenseless. Moments before the attack, accused Rodito Bergante had conversed with the victim as if the attack was farthest from his mind.

As to the charge of illegal possession of firearms, the court finds that only Rex Bergante has been shown to be in possession of the shot gun without license or authority to possess firearms. The gun was recovered only from him. At the time of his arrest, he was not in the company of his brothers. There is no showing that Leo and Rodito Bergante had any unlicensed firearms in their possession to make them similarly culpable for

violation of P.D. No. 1866.

The appellants seasonably interposed this appeal from the judgment of conviction. They urge us to acquit them because the lower court erred (a) in not finding that there existed no conspiracy and (b) in considering the statement of the victim as dying declaration.

In their argument in support thereof, the appellants assail the admission by the trial court of the dying declaration of the victim as testified to by Donato Genanda, Jr. They claim that the dying declaration was “made under the suggestion of improper influence,” was impressed with ill-motive on the decedent’s part, and did not overcome the required burden of proof.

We disagree. The essential requisites for the admission of a dying declaration under Section 37 of Rule 130 of the Rules of Court are as follows:

- (a) The declaration must concern the cause and surrounding circumstances of the declarant’s death;
- (b) At the time the declaration was made, the declarant was under the consciousness of an impending death;
- (c) The declarant is competent as a witness; and
- (d) The declaration is offered in a criminal case for homicide, murder, or parricide in which the declarant is a victim.[10]

The trial court correctly held the dying declaration of Donato Genanda, Sr., as admissible. The declaration pointed to the manner the declarant was attacked, which undoubtedly referred to the first requisite. There can as well be no doubt that Donato was under the consciousness of death by reason of the gravity of the injuries he sustained, which caused his death some hours later. That Donato was a competent witness was best shown by his conduct before the incident and after he was attacked. No evidence was submitted that he was incompetent to act as a witness. Finally, Donato’s declaration was offered in a case for murder in which he was the victim.

In any event, the declaration of Donato Genanda, Sr., may also be admitted as part of the *res gestae* under Section 42 of Rule 130 of the Rules of Court. Furthermore, even if such declaration be disregarded, the testimonies of eyewitnesses Renato Estrella and Ildefonso Faderanga established beyond doubt that Rex Bergante shot Donato with a firearm, that Rodito Bergante clubbed the latter with a piece of mangrove, and that Leo Bergante pierced the victim’s eye with the tip of a bolo. The following is the testimony on direct examination of Renato Estrella:

ATTY. MARCAIDA:

(to witness)

Q While you were hiding in the bushes at the corner of the house of Jesus Genanga, what if any did happen?

A I saw that the three simultaneously attacked the old man, and this Rex Bergante shot the old man.

Q Who is this old man that you are referring to?

A Donato Genanda, Sr., Sir.

Q And what happened when Rex Bergante shot Donato Genanda, Sr.?

A Donato Genanda Sr. fell from the carabao where he was riding.

Q What happened when he fell from the carabao?

A When Donato Genanda Sr. fell from the carabao, Rodito Bergante got a piece of “bakawan” and hit him and clubbed him on the head.

Q And was the old man hit when he was clubbed by Rodito Bergante with that piece of bakawan?

A Yes, Sir.

Q How many times was he hit by that bakawan?

A Only once, Sir.

Q Where was he hit?

A (as witness pointed the left side of the forehead)

Q And how about this Leo Bergante and Rex Bergante, where were they at that time?

A Leo got the bolo of the old man and (tinusok) pinch[ed] the eyes of the old man, Sir.

Q Was the old man hit in the eye?

A Yes, Sir.

Q How many times was the old man hit at the eye?

A Only once, Sir.

COURT:

Which eye, the left or right?

A Left eye your Honor.

ATTY. MARCAIDA:

(to witness)

Q What part of the bolo hit the eye of the old man?

A The tip of the bolo, Sir.

Q Was that bolo pointed?

A Yes, Sir.[11]

Ildefonso Faderanga also testified on direct examination as follows:

ATTY. MARCAIDA:

Q Going back to the incident you see [sic] regarding the killing of Donato Genanda, Sr., do you know the participation of each of the accused?

A Yes, Sir.

Q Will you please tell the Court the participation of each of the accused?

A As far as I witnessed Rodito Bergante was holding a bakawan, Leo Bergante was holding a bolo and Rex Bergante was holding a short, I think as I saw it was a gun.

Q And do you know, on the basis [of what] you have seen, what Rodito Bergante did to this piece of wood he was holding?

A He was the one who hit the old man.

Q Who is this old man?

A Donato Genanda, Sr., Sir.

Q About this Leo Bergante, what was his participation?

A He was the one who stabbed the old man.

Q And do you know where the old man was hit?

A Yes, Sir.

Q Where was the old man Donato Genanda hit?

A Near the eye, Sir.

Q And how about this Rex Bergante, do you know what he did to the gun he was holding?

A Yes, Sir.

Q What did he do to that firearm?

A He was the one who shot Donato Genanda, Sr.[12]

The appellants likewise question the credibility of Renato Estrella in that if he were really near the scene of the crime he would not have let the victim proceed; or he would have helped the latter or, at least, called for help. Furthermore, the testimony of Remedios Lagan placed Renato in Taytay, Palawan, approximately 100 kilometers from the crime scene.

We agree with the Solicitor General that Renato Estrella's testimony is credible even if he failed to react in the way the appellants claim to be normal given the situation. Renato's explanation that he was afraid that he would suffer the same fate as Donato Genanda, Sr., sufficiently clears his testimony. Moreover, we have held that not every witness to a crime can be expected to act reasonably and conformably to the expectation of mankind. Human nature teaches us that people may react differently to the same situation. One person's spontaneous or unthinking or even instinctive response to a horrid and repulsive stimulus may be aggression, while another's may be cold indifference.[13]

The testimony of Remedios Lagan placing Renato Estrella somewhere else and not near the scene of the crime at the time of its commission is unconvincing. Moreover, Renato's presence in Barangay Bato was confirmed not less by the testimony of Donato Genanda, Jr., that it was Renato who first notified him of his father's predicament. If Renato were not at the scene of the crime, he would not have rushed himself to notify Donato Genanda, Jr., of the incident.

Anent the testimony of Filomeno Sunga, the same did not categorically establish that prosecution witness Ildefonso Faderanga was not in Bato when the incident in question occurred.

At any rate, no ill-motive was shown to discredit Renato Estrella and Ildefonso Faderanga. It is well-settled that where there is nothing to indicate that the principal witnesses for the prosecution were actuated by improper motive, the presumption is that they were not so actuated and their testimonies are entitled to full faith and credit.[14]

Appellants' claim that Donato Genanda, Sr., could have been shot by another person from atop a carabao considering the downward position of the bullet hardly persuades. It was proved with moral certainty that Rex Bergante shot the victim and that the latter sustained a gunshot wound.

The proffered alibi of the appellants cannot stand scrutiny against their positive identification by the victim himself as well as by the witnesses for the prosecution.

The existence of conspiracy is undeniable. By the successive acts of shooting by Rex, clubbing by Rodito, and piercing of the victim's eye by Leo, all of the appellants are deemed to have agreed to commit the crime of murder. Each of their contributory acts without any semblance of desistance reflected their resolution to commit the said crime.[15] From a legal standpoint, there is conspiracy if at the time of the commission of the offense the appellants had the same purpose and were united in its execution.[16] Direct proof of previous agreement to commit a crime is not necessary. Conspiracy may be deduced from the mode and manner in which the offense was perpetrated, or inferred from the acts of the appellants themselves when such acts point to a joint purpose and design, concerted action, and community of intent.[17] Where conspiracy is established, the act of one is the act of all.[18]

The generic aggravating circumstances of (1) disregard of the respect due the offended party on account of age, and (2) cruelty[19] attended the commission of the crime. The offended party was nearly seventy-one years old at the time he was killed, while the appellants were in their twenties.[20] Even after the victim was shot by Rex and hit on the head with a piece of mangrove by Rodito, Leo pierced the victim's eye with a bolo. The latter injury was unnecessary and was inflicted to deliberately and inhumanly augment the sufferings of the old man.

The penalty for murder at the time it was committed was reclusion temporal maximum to death under Article 248[21] of the Revised Penal Code. With the two generic aggravating circumstances, the imposable penalty should have been death pursuant to Article 64 of the Revised Penal Code. In view, however, of the constitutional ban against death penalty under Section 19(1), Article III of the Constitution, only the penalty of reclusion perpetua may be imposed.

As to the case of illegal possession of firearms against appellant Rex Bergante, the trial court correctly found him guilty thereof. The essential requisites for the commission of such crime are (1) the existence of the subject firearm and (2) the fact that the accused who owned or possessed the firearm does not have the license to possess the same. The caliber .32 gun with serial number 497826 (Exh. "B") used by Rex in shooting Donato Genanda, Sr., was surrendered by him to the Philippine Constabulary and was duly received.[22] It was established that Rex was not licensed to carry a firearm[23] and that the firearm used by him was unlicensed. A violation of P.D. No. 1866 was thus established beyond doubt.

The violation of P.D. No. 1866 should have been punished separately conformably with our ruling in *People v. Quijada*. [24] Nevertheless, fortunately for appellant Rex Bergante, P.D. No. 1866 was recently amended by Republic Act No. 8294, otherwise known as "An Act Amending the Provisions of Presidential Decree No. 1866, as Amended." The third paragraph of Section 1 of said Act provides that "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." In short, only one offense should be punished, viz., either homicide or murder, and the use of the unlicensed firearm should only be considered as an aggravating circumstance. Being favorable to Rex Bergante, this provision may be given retroactive effect pursuant to Article 22 of the Revised Penal Code, he not being a habitual criminal.

The aggravating circumstance of "use of an unlicensed firearm" shall then be appreciated against Rex Bergante which, by itself, warrants the imposition of death penalty pursuant to Article 64(3) of the Revised Penal Code. However, in view of the aforementioned constitutional prohibition under Section 19(1) of Article III of the Constitution, only the penalty of reclusion perpetua may be imposed. In point of law then, three generic aggravating circumstances should be appreciated against appellant Rex Bergante.

And now on the award of damages. In Criminal Case No. 86-6371 the trial court ordered the appellants to pay the heirs of the late Donato Genanda, Sr., in the amount of P80,000 as actual damages and P100,000 as moral and exemplary damages. These awards stand modification. The victim's widow, Leonora Genanda, declared that she spent more or less P12,000 for the wake; P16,000 for "transporting the body"; P24,000 for fares in going to and from the court for the hearing of the cases; P20,000 for attorney's fees; P2,000 for her lawyer's travel expenses; and P8,000 for her lawyer's appearance fees. The aggregate of these is P82,000. The recovery of attorney's fees in the concept of actual or compensatory damage is allowed under the circumstances provided for in Article 2208 of the Civil Code, one of which is when the court deems it just and equitable that attorney's fees and expenses of litigation should be recovered. The award should, therefore, be increased to P82,000.

The trial court should have specified how much of the P100,000 was for moral damages and how much was for exemplary damages. These damages are distinct from each other. Moral damages are governed by Articles 2217 to 2220, inclusive, of the Civil Code; while exemplary damages are governed by Articles 2229 to 2235 thereof.

Moral damages include physical suffering, mental anguish, fright, serious anxiety, besmirched reputation, wounded feelings, moral shock, social humiliation, and similar injury. Under Article 2206(3) the spouse, and the legitimate and illegitimate descendants and ascendants of the deceased may demand moral damages for mental anguish by reason of the death of the deceased resulting from a crime.

In the instant case, Leonora Genanda, then 70 years old when she testified,[25] declared that because of her husband's death, she "suffered very much," had sleepless nights, and could not eat. The victim's son, Donato Genanda, Jr., did not testify on the moral damages he might have suffered. Hence, only the victim's widow may be entitled to moral damages, and an award of P25,000 would be adequate.

As to exemplary damages, the same may be granted in criminal cases as part of the civil liability if the crime was committed with one or more aggravating circumstances. As stated earlier, more than one generic aggravating circumstance attended the killing of Donato Genanda, Sr. An award of P25,000 as exemplary damages in favor of the heirs of the victim is in order.

The trial court erred in not awarding in favor of the victim's heirs civil indemnity under Article 2206 of the Civil Code, which current jurisprudence has fixed at P50,000.

IN VIEW WHEREOF, the assailed decision of Branch 49 of the Regional Trial Court of Palawan in Criminal Case No. 86-6371 convicting REX BERGANTE, RODITO BERGANTE, and LEO BERGANTE of the crime of murder and sentencing each of them to suffer the penalty of reclusion perpetua is hereby AFFIRMED, subject to the modification that the said accused are hereby ORDERED to pay, jointly and severally, (1) the heirs of Donato Genanda, Sr., in the sum of P50,000 as indemnity and P25,000 as exemplary damages; and (2) Leonora Genanda, in the sum of P25,000 as moral damages. The decision in Criminal Case No. 86-6548 for violation of P.D. No. 1866 is SET ASIDE, and appellant REX BERGANTE is ACQUITTED thereof.

Costs against the accused-appellants.

SO ORDERED.

Bellosillo, Vitug, Panganiban, and Quisumbing, JJ., concur.

[1] Brief for the Appellee, 4-8.

[2] Exhibit "I," OR, Criminal Case No. 86-6548, 196.

- [3] TSN, 21 October 1992, 3-4.
- [4] TSN, 20 January 1993, 3-4.
- [5] TSN, 25 March 1993, 4-5.
- [6] TSN, 27 August 1990, 3-4.
- [7] TSN, 24 July 1992, 4-5.
- [8] TSN, 24 March 1993, 4-10.
- [9] OR, Crim. Case No. 86-6371, 378-387; Rollo, 74-83. Per Judge Eustaquio Z. Gacott, Jr.
- [10] Section 37, Rule 130, Rules of Court; 5 Manuel V. Moran, Comments on the Rules of Court 294 (1980).
- [11] TSN, 21 April 1987, 6-7.
- [12] TSN, 28 October 1987, 5-6.
- [13] *People v. Kyamko*, 222 SCRA 183, 192 [1993].
- [14] *People v. Jumamoy*, 221 SCRA 333, 344 [1993]; *People v. Estrellanes*, 239 SCRA 235, 248 [1994]; *People v. Hubilla*, 252 SCRA 471, 478-479 [1996].
- [15] *People v. Cordova*, 224 SCRA 319 [1993].
- [16] *People v. Canillo*, 236 SCRA 22, 41 [1994]. See *People v. Hubilla*, supra note 14 at 481.
- [17] *People v. Pama*, 216 SCRA 385, 401 [1992]; *People v. Buntan Sr.*, 221 SCRA 421, 428-429 [1993]; *People v. Canillo*, supra.
- [18] *People v. Pama*, supra; *People v. Rostata*, 218 SCRA 657, 678 [1993].
- [19] Article 14, paragraphs 3 and 21, respectively, of the Revised Penal Code.
- [20] Rex Bergante was 23, for he was 30 when he testified (TSN, 25 March 1993, 2); Rodito Bergante was 33 when he testified (TSN, 21 October 1992, 3); and Leo Bergante was 32 when he testified (TSN, 20 January 1993, 3). The incident took place on 14 February 1986.
- [21] As amended by R.A. No. 7659, which took effect on 31 December 1993 (*People v. Simon*, 234 SCRA 555 [1994], the penalty for murder is reclusion perpetua to death.
- [22] Exhibit "A," OR, 86-6371, 188.
- [23] Exhibit "J," OR, 187.
- [24] 259 SCRA 191 [1996], reiterating cases before *People v. Barros*, 245 SCRA 312 [1995].
- [25] TSN, 10 May 1988, 3.

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