

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ALEX PANIDA, ERNESTO ECLERA, AND ALEX HORA, ACCUSED-APPELLANTS.

G.R. Nos. 127125 & 138952. July 06, 1999

Ponente: MENDOZA, J.

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MENDOZA, J.:

Accused-appellants were charged with the slaying of a tricycle driver and the taking of his vehicle on April 11, 1994 in two informations filed with the Regional Trial Court of Pangasinan.

The information for the crime of carnapping charges:[1]

That on or about the 11th day of April, 1994 at Poblacion, municipality of Asingan, province of Pangasinan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and helping one another with intent to gain, did then and there wilfully and unlawfully and feloniously take, steal and carry away one (1) motorcycle (Suzuki), bearing Plate No. 2N-13220-92, Motor No. GP 100278040 and Chassis No. Spg-100 UN-110614, worth P57,000.00 belonging to Sylvia Eclera without her knowledge and consent, thereafter, said accused brought said motorcycle to Agoo, La Union and mortgaged it to Romulo de Vera in the amount of P4,000.00, to the damage and prejudice of the said owner in the aforestated amount of P57,000.00.

CONTRARY to Republic Act No. 6539 in relation to Art. 19 of the Revised Penal Code.

That charging the crime of murder reads:[2]

That on or about the 11th day of April, 1994 at barangay Lomboy, municipality of San Manuel, province of Pangasinan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and helping one another, with intent to kill, with treachery and evident premeditation, abuse of superior strength and armed with knives and stone, did then and there willfully, unlawfully and feloniously attack, assault and stab one ANDRES ILDEFONSO, inflicting upon him fatal wounds in the different parts of his body which directly caused his instantaneous death, to the damage and prejudice of his heirs.

CONTRARY to Art. 248 of the Revised Penal Code.

The case for carnapping was originally tried before Branch 38 of the Regional Trial Court at Lingayen, Pangasinan. The case was later transferred to Branch 47 of the same court at Urdaneta.[3]

On the other hand, the case for murder was assigned to Branch 46 of the court, also at Urdaneta. On motion of accused-appellants, the case was consolidated with the carnapping case pending before Branch 47 of the Regional Trial Court of Urdaneta.[4]

Accused-appellants, who had pleaded not guilty to the charge of carnapping when the case was still pending in Branch 38 at Lingayen, likewise pleaded not guilty to the charge of murder. Thereafter, the two cases were jointly

tried.[5]

At the initial presentation of evidence by the prosecution relative to the carnapping case before Branch 38 at Lingayen, Pangasinan, three witnesses testified for the prosecution. Their testimonies are summarized in the following portion of the decision of the trial court:

1) ROCKY ECLERA, 16 years old, a resident of San Vicente West, Asingan, Pangasinan, testified that on 11 April 1994 at about 7:00 A.M., while he and the accused ALEX HORA, ALEX PANIDA and ERNESTO ECLERA were at the Poblacion of Asingan, Pangasinan, ALEX HORA invited the group to go to San Manuel, Pangasinan. They took a motorized tricycle for their ride from Asingan to San Manuel. It was driven by ANDRES ILDEFONSO.

Somewhere in Barangay Lomboy, San Manuel, a more or less deserted place, accused ALEX HORA ordered the tricycle driver to stop the vehicle. Suddenly and unexpectedly ALEX HORA repeatedly stabbed the tricycle driver with the use of a knife. Afterwards when the driver appears to be still alive, hit the head of the driver with stone. Thereafter, Alex Hora called the witness and the others, and they boarded the same tricycle with Alex Hora as the driver.

They proceeded to the irrigation dike at Macalong, Urdaneta, Pangasinan. At such place, ALEX HORA, with the help of ALEX PANIDA and ERNESTO ECLERA detached the sidecar. After the sidecar was detached, they (all four of them) boarded the motorcycle and went to Balite, Tarlac.

They stayed at Tarlac for three days and three nights. On the third day, upon his urging, he was accompanied by accused ALEX PANIDA to Urdaneta, Pangasinan. At Urdaneta, he parted ways with Alex Panida.

Accused ALEX HORA and ERNESTO ECLERA were left behind at Tarlac.

In connection with the cases, he remembered having executed a sworn statement given at the police station at Asingan, Pangasinan. He identified a xerox copy of the same and admitted having signed the statement (EXHIBITS "D", and "D-1", the same exhibit was marked in evidence by the accused as EXHIBIT "1").

He identified pictures of a motorcycle and a sidecar. The pictures admittedly show the motorcycle stolen and the sidecar that was detached.

2) ROMULO DE VERA, 38 years old, market vendor, married and a resident of San Nicolas, Agoo, La Union, testified that on May 2, 1994, he saw accused ALEX HORA with VIOLETA BAUTISTA talking with his uncle, Alfredo Gali. The latter informed him that Alex Hora and Violeta Bautista were mortgaging to him a motorcycle, but he does not have money. So Alex Hora and Violeta Bautista pleaded that he instead take the mortgage. The two were badly in need of money. He agreed.

The motorcycle allegedly was first mortgaged to one Mariano Kuan, a resident of San Nicolas Central, Agoo, La Union for P2,000.00. So what they did was to first pay Mariano Kuan the mortgage obligation of P2,000.00. He gave ALEX HORA another P2,000.00, as he was willing to give P4,000.00 only for the mortgage.

He and ALEX HORA executed a mortgage document notarized by Arturo dela Rosa. Alex Hora signed for the registered owner Gilbert Eclera because the latter was allegedly arrested at Dagupan City, precisely it was for this predicament that they needed the money.

On May 22, 1994, police officers from Asingan, Pangasinan accompanied by a police officer from Agoo, went to his place looking for a motorcycle which was allegedly lost. He admitted that the motorcycle that they were looking for was in his possession. It was brought to the police station of Agoo. Thereat, he signed a document known as RECEIPT OF CONFISCATION.

3) ALFREDO GALI, 64 years old, married, retired government employee, and a resident of San Nicolas Norte,

Agoo, La Union, testified that on 02 May 1994, ALEX HORA and Violeta Bautista went to his residence and offered to mortgage a motorcycle. Since he did not have money at that time, when he saw his nephew Romulo de Vera passed by, he called him and informed him of the purpose of Alex Hora and Violeta Bautista. He asked if Romulo had money. The latter answered in the affirmative. So they went to a notary public. At the office of the Notary Public, ALEX HORA and ROMULO DE VERA signed a mortgage document. He was there to witness the mortgage. He saw the parties signed the document. (Citations omitted)

The prosecution wanted to present Rocky Eclera[6] as witness also in the murder case, but he could not be served with subpoena. Despite an order issued by the trial court for his arrest, the prosecution was not able to present him as witness.[7] For this reason, the prosecution simply adopted the testimony of Rocky Eclera in Criminal Case No. U-8202 (carnapping) as its evidence in the murder case. The defense did not object.[8] The prosecution then presented two additional witnesses, whose testimonies are set forth in the trial court's decision, thus:[9]

The other witness presented by the prosecution with respect to the carnapping case was SYLVIA ECLERA, 38 years old, married and a resident of Poblacion, Asingan, Pangasinan. She testified that she is the owner of a Suzuki motorcycle with Plate No. 2N-13220-92. The vehicle was registered in the name of her husband Gilbert Eclera.

At about 10:00 P.M., on 11 April 1994, she received a report from Investigator Sonaco of the PNP Asingan that her tricycle driver was missing. PNP Asingan was informed by PNP Urdaneta that a sidecar was located at Macalong, Urdaneta. PNP Asingan sought the help of PNP Urdaneta. With the help of the PNP Urdaneta, they were brought to Macalong, Urdaneta, where the sidecar of the tricycle was located. The motorcycle was missing.

On the following day, they located the dead body of the driver of the tricycle at Lomboy, San Manuel, Pangasinan. The cadaver of the driver was taken by Funeraria Mercado to Asingan Municipal Cemetery. The name of the driver was ANDRES ILDEFONSO.

On 18 May 1994 she was informed by PNP Asingan that her motorcycle was in Agoo, La Union. Together with some elements of PNP Asingan, they proceeded to Agoo, La Union. The motorcycle was in the possession of one Romulo de Vera. The latter claimed that the motorcycle was mortgaged to him by one Alex Hora, one of the accused in these cases. This Romulo de Vera showed her a written mortgage contract or Salda in Ilocano, which was the same as Exh. "A". For the recovery of the motorcycle, she was asked to sign a receipt by Romulo de Vera.

In connection with the funeral and church services of her deceased driver, she spent about P20,650.00. She also spent about P5,000.00 in connection with the recovery of the motorcycle. She was deprived of the use of her tricycle for more than one year. She received a daily income from the operation of the vehicles in the amount of P100.00. The motorcycle was bought for P43,000.00 and the cost of the sidecar was P14,000.00.

DR. LEONARDO GUERRERO, the Rural Health Officer of the Municipality of Asingan was presented as witness to testify on the Medico-Legal Autopsy Report relative to the autopsy he conducted on the deceased ANDRES ILDEFONSO. The defense in respect to the offer of his testimony, admitted the same. Accordingly, his testimony was dispensed with. (Citations omitted)

Thereafter, the prosecution offered its documentary exhibits to which the defense did not interpose any objection.[10] Accordingly, all exhibits of the prosecution were admitted for the purpose for which they were offered and as part of the testimonies of the witnesses who identified them.[11] Among the documentary evidence was Exhibit D which is a sworn statement given by Rocky Eclera to the police of Asingan on May 20, 1994, in which he pointed to all of the accused-appellants as the ones who killed the tricycle driver, Andres Ildefonso, and took his vehicle.

Accused-appellants Alex Panida and Ernesto Eclera testified in their defense. They likewise presented Rocky Eclera who had previously testified for the prosecution. Their testimonies are summarized in the trial court's decision as follows:[12]

ROCKY ECLERA substantially testified that on 11 April 1994 while he and the accused, namely, ALEX PANIDA, ALEX HORA and ERNESTO ECLERA were at the Poblacion of Asingan to attend the town fiesta, accused ALEX HORA invited them to go to San Manuel, Pangasinan to attend the birthday of one of his friends. When he asked where in San Miguel, Alex Hora just responded, "just come with me and I'll take care of our ride."

They took a tricycle at the parking area in Poblacion, Asingan for their ride to San Manuel. He, Alex Panida and Ernesto Eclera rode inside the cab, while Alex Hora sat at the rear of the tricycle driver.

On their way to San Manuel, they again asked Alex Hora where they were going, but the latter just said they will go to the house of his friend who is celebrating his birthday.

After passing the town proper of San Manuel, and when they were near the slope of the mountain, and while the tricycle was still running, Alex Hora suddenly stabbed the driver with the use of a knife. When the tricycle stopped, the witness ran away. The other accused, Alex Panida and Ernesto Eclera tried to pacify Alex Hora, but the latter faced them menacingly with his knife.

The tricycle driver uttered pleading words like no more sir ("Saanen Apo" in the Ilocano dialect). Thereafter, Alex Hora pulled the prostrate body of the driver at the slope of the mountain. Then he hit the head of the driver with a big stone. The stone was as big as a man's head.

All the time that the driver was being stabbed and then hit with a stone, the other accused, Alex Panida and Ernesto Eclera were inside the tricycle. They did not inflict any blow to the driver. On the other hand, the witness ran to the mountain and hid himself.

After the killing of the driver, Alex Hora called his companions to board the tricycle as they will proceed to his best friend in Tarlac. Witness did not know the place.

They went to the irrigation dike site at Urdaneta, where Alex Hora detached the side car of the tricycle. Alex Hora alone detached the side car as nobody helped him. Thereafter, all four of them proceeded to Tarlac at the residence of Alex Hora's friend.

They stayed there for three days. Then he asked Alex Panida to accompany him home, Alex Panida accompanied him up to Urdaneta. They took a mini bus as ride to Urdaneta. At Urdaneta, he proceeded home to Asingan, while Alex Panida told him that he will watch a movie in Urdaneta. Alex Hora and Ernesto Eclera were left at Tarlac.

He was subsequently arrested at Sison, Pangasinan by police officers of Asingan Police Department, he was investigated. His statement was taken, which he signed. His statement was written in English, which he did not understand. The contents of his statement were not translated in Ilocano dialect by the police investigator. He was never informed of his constitutional rights. His parents or relatives were not informed when he was investigated and when his statement was taken. The statement was marked as EXHIBIT "1".

He was confined for about eight (8) weeks at the municipal jail of Asingan.

He admitted having testified before the Court in Lingayen, Pangasinan in connection with the carnapping case.

Accused ERNESTO ECLERA, 21 years old, single, student and resident of San Vicente West, Asingan, Pangasinan testified that on 11 April 1994, he, Rocky Eclera and his co-accused Alex Hora and Alex Panida were at the Poblacion of Asingan. They were there to attend the town fiesta. While there, Alex Hora invited the group to proceed to San Manuel to attend a drinking spree at his friend's place. While they were in San

Manuel, they asked Alex Hora where they were going and he just said: "Just keep quiet and I will tell you later."

They were not able to reach the place of Alex Hora's friend because Alex Hora stabbed the tricycle driver. They got off the tricycle to pacify Alex Hora but he faced them menacingly. They tried to grab his hand, but Alex Hora shouted don't intervene if you don't want to be involved like this man I am killing. They even told Alex Hora: "Don't stab him," "Have mercy on him," but Alex Hora told them not to interfere.

Alex Hora used a FAN KNIFE, or a knife locally known as balisong, and one ice-pick in stabbing the driver many times.

After the killing of the driver, they were invited by Alex Hora to go to Urdaneta. They rode on the same tricycle. They reached Consolacion, Urdaneta, where Alex Hora detached the side car of the tricycle. After detaching the side car, again Alex Hora told them to board the motorcycle and they proceeded to Tarlac. The four of them went to Tarlac on board the detached motorcycle with Alex Hora as the driver.

They stayed with an uncle of Alex Hora in San Miguel, Tarlac. They stayed there for three days and three nights. On the third day, Rocky Eclera and Alex Panida returned to Urdaneta. While he proceeded to Manila. Alex Hora was left at San Miguel, Tarlac with the motorcycle. Before parting for Manila, he was warned by Alex Hora not to divulge that he killed the tricycle driver.

Accused ALEX PANIDA, 23 years old, single, farmer and resident of San Vicente West, Asingan, Pangasinan testified that on 11 April 1994 at about 7:00 A.M., he was with Rocky Eclera and his co-accused Alex Hora and Ernesto Eclera at the town proper of Asingan to attend the town fiesta. While they were there, accused Alex Hora invited them to go to San Manuel at the place of his friend. They took a tricycle and proceeded to San Manuel. He, Ernesto Eclera and Rocky Eclera were seated inside the cab, while Alex Hora rode at the rear of the tricycle driver. They were not able to reach the place of Alex Hora's friend in San Manuel because Alex Hora stabbed the tricycle driver many times with the use of a knife about seven inches in length. While Alex Hora was stabbing the driver, witness asked Alex Hora why was he stabbing the driver, but Hora told him to leave him alone. Ernesto Eclera also told Alex Hora: "Don't do that to him." Rocky Eclera on the other hand ran near the slope of the mountain. When Alex Hora repeatedly stabbed the driver, the tricycle was still running.

After the stabbing incident, Alex Hora ordered them to ride on the tricycle and they proceeded to the irrigation dike at Urdaneta. At that place, Alex Hora detached the side car of the tricycle. He alone did the detaching. After the side car was detached, they proceeded to sitio Balite at Tarlac, Tarlac. They rode on the motorcycle that was detached. Alex Hora was the driver. They stayed there for three days and three nights.

On the third day, he asked permission from Alex Hora that Rocky Eclera already wanted to go home. Alex Hora warned them not to squeal on what happened, otherwise, he will kill them all. He accompanied Rocky Eclera back to Urdaneta, where he parted ways with Rocky Eclera. He proceeded to a friend's house to borrow some money as fare in going to Baguio. Alex Hora and Ernesto Eclera were left at Tarlac. He did not return anymore to Tarlac. He eventually saw them at the Provincial Jail in Lingayen, Pangasinan. (Citations omitted)

For his part, accused-appellant Hora presented SPO2 Romeo Mababa and Vice Mayor Guillermo Piso as his witnesses. He also testified in his behalf. Their testimonies are as follows:[13]

Accused ALEX HORA, 26 years old, construction worker, married and resident of San Vicente West, Asingan, Pangasinan testifying for his defense stated that in the evening of 10 April 1994, he, together with Alex Panida, Ernesto Eclera and Rocky Eclera were at the town proper of Asingan strolling. They stayed there the whole night.

On the following day, 11 April 1994 at about 7:00 A.M., Alex Panida invited him to go with them, referring to the other companions of Alex Panida, to Lomboy, San Manuel. They will go to Alex Panida's aunt thereat.

Alex Panida will hire the tricycle of his aunt, Sylvia Eclera. Alex Panida was able to hire the tricycle of her aunt Sylvia Eclera which they used for ride in going to Lomboy, San Manuel. They reached the residence of his auntie at Lomboy, San Manuel. Alex Panida and Ernesto Eclera alighted and went to the house of Alex Panida's aunt. When Alex Panida returned, he approached the tricycle driver and poked a knife against the latter. Suddenly he stabbed the driver.

After Alex Panida stabbed the driver, witness and the other two companions, Rocky Eclera and Ernesto Eclera ran towards the slope of the mountain. Alex Panida yelled and shouted at them to help him. He threatened them to help him. If they will not help him (PANIDA), he will kill them. When they returned to the tricycle, they saw the driver face down and already dead.

When he saw that the driver was already dead, he was shocked and cannot move. He fainted and lost consciousness. His companions boarded him on the tricycle. He was awakened by Alex Panida when they reached the town proper of Binalonan, Pangasinan.

They proceeded to the irrigation dike at Urdaneta where they detached the side car of the tricycle. It was Alex Panida who detached the side car. He and the others only helped the former. After the side car was detached, they rode on the motorcycle and they proceeded to Balite, Tarlac at the residence of Alex Panida's uncle. Alex Panida drove the motorcycle.

They stayed there for three days and three nights. While they were sleeping, Alex Panida told his uncle that he and Rocky Eclera will just go out. When he inquired from Panida's uncle the latter told them that Panida used the motorcycle in going back to PMA-Bagui.

Afterwards, he and Ernesto Eclera also parted ways. He returned home to Asingan, while Ernesto Eclera went to Magalang, Pampanga to borrow money from his uncle there for his fare to Manila.

Four days after he returned from Tarlac, Alex Panida dropped by his residence and invited him to go to Agoo, La Union so that they will mortgage the motorcycle as Alex Panida was badly in need of money.

He was able to mortgage the motorcycle with one Romulo de Vera for P4,000.00. However, the P2,000.00 was first given to Mariano Huan who was the first mortgagee of the motorcycle and the balance of P2,000.00 was given to him.

....

SPO2 ROMEO MABABA, a member of the Philippine National Police of Asingan, Pangasinan testified that he was the same SPO2 Romeo Mababa who took the statement of ROCKY ECLERA on May 20, 1994. When he took the statement of Rocky Eclera he informed him of his constitutional rights and explained to him his rights. When his statement was taken his father and the vice mayor of the municipality of Asingan were present.

After he took the statement of Rocky Eclera, he translated same in the Ilocano dialect which he fully understood. Thereafter, he signed his statement. Then he brought him to Judge Suller of the Municipal Circuit Court of Asingan, before whom Eclera took his oath in respect to his statement.

GUILLERMO PISO, the vice-mayor of the municipality of Asingan, testified that together with police elements of the municipality of Asingan, they arrested ROCKY ECLERA and ALEX PANIDA somewhere in La Union in connection with the death of Andres Ildefonso, a relative.

After their arrest, they were brought to Asingan. At the Asingan Police Department, Rocky Eclera was investigated and he voluntarily gave a sworn statement. During the taking of Rocky Eclera's sworn statement, he was present. So also was Rocky Eclera's father. When he was informed of his constitutional rights, Eclera said that he was not interested. He merely asked that his father be present. So his father was fetched. His father advised him to tell the truth.

The police investigator translated his statement written in English to Ilocano. After his statement was translated, he signed the same.

It was the parents of Alex Panida who informed the Asingan PNP of the whereabouts of ALEX PANIDA and ROCKY ECLERA. (Citations omitted)

After the defense finished presenting its evidence, the prosecution presented Dr. Leonardo Guerrero, the rural health officer of Asingan, as rebuttal witness. He testified that[14]-

he was the one who conducted autopsy on the deceased ANDRES ILDEFONSO. He committed an honest mistake in his Medico-Legal Autopsy Report. The lacerated wounds should be incised wounds.

There were about 44[15] stab wounds and several incised wounds inflicted on the deceased. These could have been caused possibly by several persons, with the use of different weapons. (Citations omitted)

On August 23, 1996, the trial court rendered its decision[16] finding all accused-appellants guilty beyond reasonable doubt of carnapping and murder. The dispositive portion of its decisions reads:[17]

WHEREFORE, premises considered, judgment is hereby rendered as follows:

IN CRIMINAL CASE NO. U-8202

a) Finding the accused ALEX PANIDA, ERNESTO ECLERA and ALEX HORA GUILTY beyond reasonable doubt of the crime of CARNAPPING under R.A. 6539, the Court sentences them to suffer imprisonment of SEVENTEEN (17) YEARS;

b) Ordering the accused to pay jointly and severally spouses GILBERT and SYLVIA ECLERA the sum of P20,650.00 representing burial and funeral expenses incurred by them in connection with the death of their driver of the motorized tricycle; the sum of P5,000.00 representing expenses incurred in the recovery of the motorcycle and side car; and to pay the costs.

IN CRIMINAL CASE NO. U-8203

a) Finding the accused ALEX PANIDA, ERNESTO ECLERA and ALEX HORA GUILTY beyond reasonable doubt of the crime of MURDER with the generic aggravating circumstance of cruelty, the Court sentences them to suffer the penalty of DEATH;

b) Ordering the accused to pay jointly and severally the heirs of ANDRES ILDEFONSO P50,000.00 as indemnity and the additional sum of P50,000.00 as moral damages and to pay the costs.

SO ORDERED.

Hence, this appeal.

Accused-appellants Panida and Ernesto Eclera contend:[18]

- THE TRIAL COURT ERRED IN CONVICTING ALEX PANIDA AND ERNESTO ECLERA, INSTEAD OF ACQUITTING THEM IN BOTH CRIMES OF MURDER AND CARNAPPING, FOR NON-COMPLICITY.

- AT BEST, THE PROSECUTION EVIDENCE IS SHORT OF THE QUANTUM OF PROOF BEYOND REASONABLE DOUBT.

- ASSUMING GUILT ARGUENDO, APPELLANTS PANIDA AND ECLERA ARE LIABLE ONLY AS ACCESSORIES FOR CARNAPPING AND HOMICIDE, NOT MURDER.

Accused-appellant Hora, on the other hand, contends:[19]

- THE TRIAL COURT ERRED IN GIVING FULL WEIGHT AND CREDENCE TO THE INCONSISTENT

AND CONFLICTING TESTIMONIES OF ROCKY ECLERA IN HIS SWORN STATEMENT AND THOSE TESTIFIED TO BY HIM DURING THE TRIAL.

- THE TRIAL COURT ERRED IN FINDING ACCUSED-APPELLANT ALEX HORA GUILTY BEYOND REASONABLE DOUBT OF THE CRIMES OF CARNAPPING AND MURDER BASED SOLELY ON THE CONFLICTING TESTIMONIES OF ROCKY ECLERA.

Participation of Accused-Appellants in the Commission of the Crimes

Accused-appellants Alex Panida and Ernesto Eclera cite the testimony of Rocky Eclera that Alex Hora alone hired the tricycle to go to San Manuel, he alone stabbed its driver, and he alone detached the sidecar from the motorcycle in Urdaneta. They make capital of the fact that Rocky categorically stated that they did not have any part in detaching the sidecar and in killing the victim but, on the contrary, even tried to stop Hora from committing the crimes.[20]

Accused-appellant Hora, on the other hand, questions the reliability of Rocky Eclera's testimonies and sworn statement[21] which he claims are inconsistent and conflicting.[22] Hora points out the following:[23]

(1) Rocky Eclera testified in his testimony in the carnapping case that Alex Hora asked the driver to stop the tricycle, then he repeatedly stabbed the driver. (TSN, Nov. 15, 1994, pp. 4, 10). While in his testimony for the defense of accused Alex Panida and Ernesto Eclera, accused Alex Hora repeatedly stabbed the driver while the tricycle was still running. (TSN, February 12, 1996, p. 13).

(2) In the carnapping case, accused-appellant Alex, with the help of Panida and Ernesto Eclera, detached the side car of the motorcycle (TSN, Nov. 15, 1994, p. 5) while in his testimony for the defense, it was only Alex Hora who detached the side car (TSN, Feb. 12, 1996, p. 23).

(3) In his testimony during the stabbing of the driver by Alex Hora, the other co-accused alighted from the tricycle and tried to pacify Alex Hora (TSN, Nov. 15, 1994, p. 10) while in his testimony for the defense, at the time that Alex Hora was stabbing the driver, the two co-accused were inside the tricycle (TSN, 12 February 1994, pp. 17-19).

(4) In his testimony for the defense of accused Panida and Eclera, Rocky Eclera recanted his implication of the said two co-accused in the killing of the tricycle driver in his sworn statement given to the Asingan PNP and pointed to accused-appellant Alex Hora as the only solely responsible for the crimes committed.

Moreover, he claims that his account of what happened on April 11, 1994 is more credible than that of accused-appellants Panida and Ernesto Eclera and witness Rocky Eclera.[24]

Thus, put simply, accused-appellants Alex Panida and Ernesto Eclera, on the one hand, and accused-appellant Alex Hora, on the other, accuse each other of the crimes. They do not claim that other persons were involved. Neither is there any dispute as to the relevant facts. On the contrary, all of them agree that --

- They were together in the morning of April 11, 1994, immediately prior to the commission of the crimes.[25]
- They all rode on the tricycle driven by the victim to go to San Manuel where the latter was killed.[26]
- The victim was stabbed several times as the autopsy report states.[27]
- They were all present when the victim was stabbed; no one else was with them.[28]
- After the stabbing, all of them rode on the tricycle to go to Urdaneta where the sidecar was detached.[29]
- After the sidecar had been detached, they all rode on the motorcycle to go to Tarlac where they stayed together

for three (3) more days.[30]

· Not one of accused-appellants reported the matter to the police.[31]

Accused-appellant Hora tries to extricate himself by claiming that he did not know what the others (Alex Panida and Ernesto Eclera) were planning to do and that he was so shocked he fainted at the sight of Andres Ildefonso being killed. However, he could have escaped from the two. Instead, he stayed with them for three more days after the commission of the crimes. Even more telling is the fact that he was the one who mortgaged the very motorcycle taken from the victim, which he admits.[32]

On the other hand, accused-appellants Panida and Ernesto Eclera claim it was accused-appellant Hora who alone killed the victim and detached the sidecar from the motorcycle.[33] However, when asked why they did not leave accused-appellant Hora if they did really not agree with what he did despite opportunities to do so, the two merely claimed it was because they were scared.[34] This is incredible as the two of them, with Rocky Eclera, could have easily overpowered accused-appellant Hora. At the very least, they could have escaped from him. After all, there is no showing that accused-appellant Hora guarded them every minute of the day. Accused-appellant Panida in fact admitted they were free to go to any place during the time they were together after the killing.[35]

Moreover, if Ernesto Eclera were to be believed, accused-appellant Hora used two kinds of weapons in stabbing the victim 43 times. This is not, however, likely. That three men inflicted 43 stab wounds with the use of more than one weapon is more plausible than that only one person inflicted such wounds with two different weapons.

Nor does the claim of accused-appellants Panida and Ernesto Eclera that accused-appellant Hora alone detached the sidecar[36] inspire belief. It is not easy to detach a sidecar alone. Moreover, a specific tool is needed in order to unscrew the bolts holding the sidecar to the motorcycle, which cannot be assumed that the victim Andres Ildefonso would normally carry around with him on a normal day while plying his route.

It is apparent that the respective versions of accused-appellants have only one purpose, to escape liability by laying the blame on the other. Considering the relevant facts, the ineluctable conclusion is that all of accused-appellants are guilty of the two crimes. Indeed, in his statement given earlier to the police, the eyewitness Rocky Eclera named all accused-appellants as the perpetrators of the crimes. It is noteworthy that this statement was presented in evidence not only by the prosecution (Exh. D) but also by all of the accused-appellants (Exh. 1). The statement, which was made under oath, reads in full:

PRELIMINARY :

Mr. Rocky Eclera, I would like to inform you that you were being investigated for your involvement in a commission of a crime. I would like also to inform you that under the New Constitution, you have the right to remain silent, the right of the assistance of a counsel of your own choice and that all statement you give in this investigation will be used in your favor and for against you in any Court of justice in the Philippines. Is this clearly understood by you?

ANSWER : Yes, sir.

QUESTION : Mr. Rocky Eclera, after having been informed of your rights under the New Constitution, do you still wish to be investigated?

ANSWER : Yes, sir.

QUESTION : Do you still need the assistance of a counsel of your own choice?

ANSWER : No more, sir.

QUESTION : Mr. Rocky Eclera, if you can not afford to have a counsel the government will provide you a counsel?

ANSWER : No more, sir.

QUESTION : Do you likewise need the presence of your relatives, your father, mother, brother or any trusted relatives of yours to be present in this investigation?

ANSWER : Yes, sir, I want my father.

QUESTION : Now that your father was here, are you now ready to give your statement voluntarily in this investigation?

ANSWER : Yes, sir.

01. Q - If so, please state your name, age and other personal circumstances?

A - I am Rocky Eclera y Layos, 16 years old, single, jobless and a resident of Brgy San Vicente, Asingan, Pangasinan, sir.

02. Q -

Do you know why are you being investigated in this Investigation Office of the Asingan Police Station, Asingan, Pangasinan this 20th day of May, 1994?

A -

Yes, sir.

03. Q - What is the reason why you are being investigated by this office?

A - For being one of the four suspects in the carnapping of a motorized tricycle and the death of the driver, sir.

04. Q - You have stated above that you are one of the four suspects of the incident, can you state the names of the three?

A - Yes, sir.

05. Q - Who are they?

A - They are, Alex Panida, Alex Hora and Ernesto Eclera, sir.

06. Q - When and where did you carnapped the motorized tricycle killed the driver?

A -

On April 11, 1994 at about 7:00 o'clock in the morning at Poblacion West, Asingan, Pangasinan and the driver was being brought to a certain barangay in San Manuel, Pangasinan where he was being killed.

07. Q - You have stated a while ago that the incident was happened on 11 of April 1994, can [you] state briefly how it happened?

A -

Yes, sir. This is the way. On April 11, 1994 at about 7:00 o'clock in the morning, Alex Panida, Alex Hora, Ernesto Eclera and I were at Poblacion West, Asingan, Pangasinan near the Police Outpost waiting for a ride going home. A few minutes later a Suzuki motorized tricycle arrived and we hired it and we proceeded at a certain barangay of San Manuel, Pangasinan which I do not know. When we arrived at the place, Ernesto Eclera pointed out his knife against the driver and stabbed the driver many times. Then Alex Panida and Alex Hora alighted from the tricycle also both armed with a knife and the two stabbed the driver for many times also until the driver fell on the ground and when they noticed that the driver was still alive, Alex Hora took a big piece of stone and hit the head of the driver then Alex Panida and Alex Hora [p]ulled the body of the driver and put it on the slope of the mountain.

08. Q - Do you know the driver of the motorized tricycle?

A - Yes, sir it was Andres Ildefonso.

09. Q - Do you also know the owner of the motorized tricycle?

A - Yes, sir it was Mrs. Sylvia Eclera.

10. Q - After knowing that the driver was already lifeless and was put on the slope of the mountain, what did you do next?

A -

We boarded on the tricycle and proceeded to Urdaneta at Brgy. Macalong wherein Alex Panida, Alex Hora and Ernesto Eclera detached the sidecar and abandoned it near the irrigation dike.

11. Q - Then where did you go?

A - We proceeded to Tarlac with the motorcycle, sir.

12. Q -

When you were in Tarlac, what happen[ed] next if any?

A - Alex Panida drove the motorcycle and returned me at Brgy. San Vicente West, Asingan, Pangasinan, sir.

13. Q - So, Ernesto Eclera and Alex Hora left behind in Tarlac?

A - Yes, sir.

14. Q -

Now, do you know if Alex Panida return in Tarlac?

A - Yes, sir.

15. Q - Do you also know where Alex Panida, Alex Hora and Ernesto Eclera brought the motorcycle?

A - I do not know anymore, sir.

16. Q - I have no more questions to ask, can you say more?

A - No more for the present time, sir.

7. Q - 1 Are you willing to sign your statement and also willing to testify in Court?

A - Yes, sir.[37]

When he testified in court, first as witness for the prosecution and later as witness for accused-appellants Alex Panida and Ernesto Eclera, Rocky Eclera reiterated all the relevant points in this sworn statement, to wit:

- that all three accused-appellants and himself were together prior to the commission of the crime[38]
- that they were all present when the victim was stabbed and no one else was there[39]
- that they all rode the tricycle again after the stabbing[40]
- that all three accused-appellants took part in detaching the sidecar[41]
- that they stayed together for three days after the crimes were committed going from place to place.[42]

The only part of the statement which Rocky Eclera retracted was that naming all accused-appellants as the perpetrators of the crimes. In his testimony in court, he pointed to accused-appellant Hora alone as the one who committed the two crimes. However, there are reasons for giving his sworn statement weight and believing that what he said in his sworn statement was the truth $\frac{3}{4}$ not what he stated in court $\frac{3}{4}$ as to who were guilty of the crimes. The reasons are:

First. Rocky Eclera claims that his statement was actually made by SPO2 Mababa; that it was not translated to him (Rocky Eclera) in Ilocano; and that he was not informed of his constitutional rights. SPO2 Mababa, however, denied this and likewise pointed out that Rocky Eclera was actually accompanied to the police station by his father and Vice Mayor Guillermo Piso of the Municipality of Asingan.[43] Rocky's father in fact urged Rocky to

tell the truth according to Vice Mayor Piso.[44] Vice Mayor Piso himself also debunked Rocky's claims that he did not make the statement in question and that he was simply asked to sign it without first having it explained to him in the Ilocano dialect.[45]

With respect to the claim that Eclera's statement was obtained by the police without giving him the Miranda warnings,[46] suffice it to say that the statement, as quoted above, shows that he was warned of his rights. At all events, the reliance on Art. III, §12 of the Constitution is baseless since the statement is not being used against the person who made it. It is not in fact a confession of guilt on Rocky's part.

Indeed, there is nothing in the record to show that Rocky ever complained against policemen who allegedly coerced him to give the sworn statement in question or in any way violated his constitutional rights when he appeared before Judge Suller of the Municipal Circuit Trial Court of Asingan to swear to his statement. Neither does Rocky claim that policemen had ill-motive to implicate accused-appellants Panida and Ernesto Eclera.

Second. The sworn statement was in fact offered in evidence not just by the prosecution as its Exhibit D, but also by all accused-appellants as their Exhibit 1. Moreover, the affiant, Rocky Eclera, was presented as witness by both prosecution and the defense.[47] A sworn statement is hearsay only when the affiant is not presented in court.[48] Both sides had opportunity to cross-examine Rocky Eclera. The defense presented Rocky to dispute his own statement, but the trial court, in a well-reasoned decision, supported by evidence on record,[49] found Rocky's retraction to be without merit. The determination of the credibility of witnesses is a task best left to trial courts, given their unparalleled opportunity for observation of the deportment of witnesses on the stand. For this reason, their findings are accorded great respect in the absence of any compelling reasons for concluding otherwise.[50]

Third. Rocky Eclera tried to retract his statement naming all of accused-appellants as the culprits by pointing to accused-appellant Hora alone as the guilty party, because accused-appellants Alex Panida and Ernesto Eclera are his relatives. Rocky's father and Ernesto's father are cousins, while Alex Panida's mother and Rocky's father are likewise cousins.[51] Rocky Eclera also testified that he is closer to accused-appellants Panida and Ernesto Eclera and that he only recently met accused-appellant Hora.[52]

This explains why Rocky Eclera refused to testify for the prosecution in the murder case after once testifying in the carjacking case. As the trial court noted:[53]

The Court observes that when presented as witness for the accused ALEX PANIDA and ERNESTO ECLERA, Rocky Eclera evinced hesitancy in his answers. He generalized his denials as to inculpatory matters respecting accused ALEX PANIDA and ERNESTO ECLERA as due to his being confused and frightened.

This witness comparatively, was the youngest of the group. He was only 16 years old when he testified in Lingayen, Pangasinan before Branch 38. After more than one year, he was presented anew not as witness for the prosecution, but as witness for the defense.

His recantation was not unexpected, considering his reticence and recalcitrance to testify for the State. In fact, during the time that he testified recanting his testimony in Court as well as his damaging and inculpatory declarations in his sworn statement against the other accused Alex Panida and Ernesto Eclera, he oftenly stammered, pondering with difficulty his recantation.

In recanting having stated that accused Alex Panida and Ernesto Eclera helped detached the side car of the motorcycle as declared in Court, he wants to ascribe falsification in court proceedings. He claims that the testimony was never made.

The ease with which he ascribes falsification in so far as his cousins are concerned, but with steadfastness in so far as accused ALEX HORA is concerned, reveals he is being manipulated to pollute the truth inceptually

disclosed by him in his Sworn Statement.

Fourth. A witness' prior inconsistent statement can be used to impeach his credibility, but the converse does not necessarily follow. Retractions are disfavored in law. As this Court held in *People v. Ubiña*:^[54]

The theory of the defense that Francisco's previous testimony is false, as he subsequently declared it to be so, is as illogical as it is dangerous. Merely because a witness says that what he had declared is false and that what he now says is true, is not sufficient ground for concluding that the previous testimony is false. No such reasoning has ever crystallized into a rule of credibility. The rule is that a witness may be impeached by a previous contradictory statement; not that a previous statement is presumed to be false merely because the witness now says that the same is not true. The jurisprudence of this Court has always been otherwise, i.e. that contradictory testimony given subsequently does not necessarily discredit the previous testimony if the contradictions are satisfactorily explained. We have also held that if a previous confession of an accused were to be rejected simply because the latter subsequently makes another confession, all that an accused would do to acquit himself would be to make another confession out of harmony with the previous one. Similarly, it would be a dangerous rule for courts to reject testimonies solemnly taken before courts of justice simply because the witnesses who had given them later on change their mind for one reason or another, for such rule would make solemn trials a mockery and place the investigation of truth at the mercy of unscrupulous witnesses. If Francisco says that when he testified for the prosecution he was paid P700, what can prevent the court from presuming that subsequently he testified for the defense because the defendants also paid him to testify for them? The rule should be that a testimony solely given in court should not be lightly set aside and that before this can be done, both the previous testimony and the subsequent one be carefully compared, the circumstances under which each given carefully scrutinized, the reasons or motives for the change carefully scrutinized - in other words, all the expedients devised by man to determine the credibility of witnesses should be utilized to determine which of the contradictory testimonies represents the truth. (Citations omitted)

Fifth. Rocky Eclera's testimony is basically the same as his sworn statement. His testimony that only accused-appellant Hora is guilty can be disregarded and his statement that actually all three accused-appellants committed the crimes believed. For courts may believe one part of the testimony of a witness and disbelieve another part because courts are not required to accept or reject the whole testimony of a particular witness.^[55]

In the present case, the particular circumstances enumerated above convince us that Rocky's claim that all three accused-appellants participated in the commission of the crimes as embodied in his sworn statement is the truth and is the more credible. Coupled with admissions by accused-appellants themselves which corroborate and dovetail with Rocky's sworn statement and testimony in relevant aspects, including the elements of the crimes, they fully justify the trial court in giving much weight to Rocky's story in his sworn statement.

The Existence of Conspiracy

The evidence on record indeed indicates, as the trial court correctly found, that there was conspiracy in the case at bar.

Conspiracy need not be proved by direct evidence and may be inferred from the conduct of all the accused before, during, and after the commission of the crime.^[56] In the present cases, the totality of the evidence shows that: accused-appellants together took the tricycle driven by the victim; they were all present at the time of the killing and the taking of the tricycle; the victim was stabbed several times and they were all there when it happened; after the killing, all of the accused-appellants rode the tricycle to Urdaneta and then to Tarlac, and stayed together for three days; all of them took part in detaching the sidecar from the motorcycle; all three accused-appellants stabbed the victim; and the victim suffered 43 stab wounds suggesting they were inflicted by more than one person. Clearly, the inevitable conclusion is that accused-appellants acted in concert.

Conspiracy being present, all of accused-appellants are liable for the crimes in these cases. For where there is conspiracy, evidence as to who among the accused rendered the fatal blow is not necessary. All conspirators are liable as co-principals regardless of the intent and the character of their participation, because the act of one is the act of all.[57]

It remains to determine whether the prosecution has proven all the elements of both crimes in order to justify conviction of accused-appellants.

Liability of Accused-Appellants for Murder

Art. 248 of the Revised Penal Code in part provides:

Any person who, not falling within the provisions of Art. 246 [parricide], shall kill another, shall be guilty of murder and shall be punished by reclusion perpetua to death if committed with any of the following attendant circumstances:

1. With treachery, taking advantage of superior strength, with the aid of armed men, or employing means to weaken the defense or of means or persons to insure or afford impunity.

...

6. With cruelty, by deliberately and inhumanly augmenting the suffering of the victim, or outraging or scoffing at his person or corpse.

The trial court found all of accused-appellants guilty of murder. Indeed, there is no doubt that the unlawful killing of the victim in the present case has been proven. The autopsy report shows that the victim suffered 43 stab wounds and that as a result he died. Accused-appellants themselves and witness Rocky Eclera admitted that the victim was stabbed several times and hit on the head with a big stone to finish him off. They all admit that the body was pulled towards the mountain immediately thereafter. They likewise admit that the victim was merely bringing them to their destination and was caught by surprise when stabbed. There was no claim of self-defense or accident. Thus, the only question to be determined is whether such killing can be considered murder. Accused-appellants Panida and Ernesto Eclera contend that it is homicide, though without specifying the reason why, while the trial court maintains it is murder in view of the qualifying circumstance of treachery.

To appreciate treachery, two conditions must be present, to wit: (1) the employment of means of execution that give the person attacked no opportunity to defend himself or to retaliate and (2) the means of execution were deliberately or consciously adopted.[58]

In these cases, there is no question that the means of execution employed by accused-appellants was such that the victim had no opportunity to defend himself. The victim was unsuspecting; as far as he was concerned, he was merely taking passengers from one place to another. He was stabbed with suddenness and from behind, leaving him totally defenseless. All these, coupled with the fact that the victim was unarmed and had no opportunity to defend himself, indubitably demonstrate the treacherous nature of the attack.

As regards the second requisite, the following facts lead us to no other conclusion than that accused-appellants consciously adopted a mode which would ensure the realization of their purpose without danger to themselves: accused-appellants were already carrying weapons when they rode the tricycle; the victim was first stabbed from behind while he was sitting on the tricycle and thus already wounded and disoriented before he was attacked by all the rest; all three accused-appellants attacked him; he was stabbed 43 times; they continued stabbing him even as he was defenseless and begging for his life; lastly, the victim was stabbed on different parts of his body. Accused-appellants could not have inflicted so many wounds and on different parts of the victim's body had they

not consciously adopted such manner of attack. The manner in which the victim was killed and the aforementioned external manifestations of accused-appellants clearly show that they consciously and deliberately adopted the particular method or form of attack to insure the accomplishment of their purpose.[59]

However, we do not agree with the trial court that the killing was committed with cruelty. The trial court considered the number of wounds and the final blow to the head as basis for its finding. But the number of wounds is not a test for determining whether cruelty is present. The test is whether the accused deliberately and sadistically augmented the victim's suffering. Consequently, there must be proof that the victim was made to agonize before he was killed.[60] Here, there is no such proof of cruelty.

Accused-Appellants' Liability for Carnapping

Under R.A. No. 6539, as amended, carnapping is defined as "the taking, with intent to gain, of a motor vehicle belonging to another without the latter's consent, or by means of violence against or intimidation of persons or by using force upon things."

In the case at bar, the prosecution has proven through the testimonies of Sylvia Eclera, Rocky Eclera, and accused-appellants themselves that accused-appellants took the tricycle of Sylvia Eclera. Although only accused-appellant Hora appears to have mortgaged the motorcycle, the intent to gain on the part of all the accused-appellants can be inferred from the unlawful taking of tricycle by them. Moreover, it has been held that it is enough that the other accused intended that any one of them should benefit from the taking.[61]

Accused-Appellants' Liability for Damages

In Criminal Case No. U-8202 for carnapping, the trial court ordered accused-appellants to pay the spouses Eclera P20,650.00 representing burial and funeral expenses and P5,000.00 representing expenses incurred in the recovery of the motorcycle and the sidecar.

The evidence in the record fully supports the award of damages concerning these items.[62]

In Criminal Case No. U-8203 for murder, the trial court correctly awarded the heirs of the victim P50,000.00 as indemnity.[63] When death occurs as a result of a crime, the heirs of the deceased are entitled to the amount of P50,000.00 as indemnity for the death of the victim without need of any evidence or proof of damages. The trial court likewise appropriately awarded P50,000.00 as moral damages to the heirs of the victim.[64]

In addition, the evidence in the record sufficiently establishes the basis for an award of unearned income to the heirs of the victim.[65] The employer of the victim testified that the latter's monthly income is P3,000.00.[66] The autopsy report[67] shows that the victim was 43 years old at the time of his death. The deceased's unearned income is as follows:[68]

net

gross

living expenses

earning

(x) = life expectancy x

annual

less

(50% of gross

capacity

income

annual income)

$$x = 2(80-43) \times [36,000-18,000]$$

3

$$= 24.67 \times 18,000$$

$$= \text{P}444,060.00$$

The Appropriate Penalties

In view of our finding that the aggravating circumstance of cruelty does not exist, the penalty imposed by the trial court must be reduced to reclusion perpetua.[69] As for the penalty imposed on the accused-appellants for the crime of carnapping, the trial court erred in imposing a straight penalty of 17 years. Under the Indeterminate Sentence Law, if the offense is punished by a special law, the court shall sentence the accused to an indeterminate penalty, the maximum term of which shall not exceed the maximum fixed by said law and the minimum term shall not be less than the minimum prescribed by the same.[70] Thus, the penalty imposed must be a range.

The charge being simple carnapping, the imposable penalty is imprisonment for not less than 14 years and 8 months and not more than 17 years and 4 months.[71] There can be no suppletory effect of the rules for the application of penalties under the Revised Penal Code or by other relevant statutory provisions based on, or applicable only to, the rules for felonies under the Code. While it is true that the penalty of 14 years and 8 months

to 17 years and 4 months is virtually equivalent to the duration of the medium period of reclusion temporal, such technical term under the Revised Penal Code is not given to that penalty for carnapping. Besides, the other penalties for carnapping attended by the qualifying circumstances stated in the law do not correspond to those in the Code. The rules on penalties in the Code, therefore, cannot suppletorily apply to Republic Act No. 6539 and special laws of the same formulation.[72] For this reason, we hold that the proper penalty to be imposed on each of accused-appellants is an indeterminate sentence of 14 years and 8 months, as minimum, to 17 years and 4 months, as maximum.

WHEREFORE, the decision of the Regional Trial Court of Urdaneta, Pangasinan, Branch 47 in Criminal Case Nos. U-8202 and U-8203 is AFFIRMED with the following MODIFICATIONS:

- In Criminal Case No. U-8202, accused-appellants are sentenced to suffer an indeterminate sentence of 14 years and 8 months, as minimum, to 17 years and 4 months, as maximum.
- In Criminal Case No. U-8203, accused-appellants' sentence is reduced to reclusion perpetua.
- In Criminal Case No. U-8203, accused-appellants are ordered to pay the heirs of the victim the amount of P444,060.00 as unearned income.

SO ORDERED.

Davide, Jr., C.J., Bellosillo, Melo, Puno, Vitug, Kapunan, Panganiban, Quisumbing, Purisima, Pardo, Buena, Gonzaga-Reyes, and Ynares-Santiago, JJ., concur.
Romero, J., abroad on official business.

[1] Records of the carnapping case, p. 2.

[2] Records of the murder case, p. 2.

[3] Rollo, p. 30; Decision, p. 2.

[4] Id., p. 31; Id., p. 3.

[5] Id., pp. 31-33; Id., pp. 3-5.

[6] Although it was alleged that he had been discharged so that he could be used as a state witness when the case was still in Branch 38 at Lingayen, no order showing this fact could be found in the records. In fact, the informations for carnapping and murder did not include him as an accused.

[7] Rollo, p. 33; Decision, p. 5.

[8] Id., pp. 33-34; Id., pp. 5-6.

[9] Id., pp. 34-35; Id., pp. 6-7.

[10] Records of the carnapping case, p. 132.

[11] Order dated January 12, 1996; Records of the carnapping case, p. 133.

[12] Records of the murder case, pp. 175-178; Decision, pp. 7-10.

[13] Id., pp. 178-181; Id., pp. 10-13.

[14] Rollo, p. 40; Decision, p. 13.

- [15] There were actually 43 stab wounds accounted for in the autopsy report.
- [16] Rollo, pp. 29-57.
- [17] Id., pp. 56-57.
- [18] Id., p. 85.
- [19] Id., p. 159.
- [20] Rollo, pp. 119-122; Appellee's Brief.
- [21] According to SPO 2 Mababa, Rocky Eclera, accompanied by his father and Vice Mayor Piso, went to the police station on May 20, 1994 and Rocky executed a sworn statement. SPO2 Mababa said he informed Rocky Eclera of his constitutional rights and that he was being investigated because he was one of the suspects in a carnapping case and the killing of Andres Ildefonso. Rocky Eclera, when asked whether he still wanted to testify, said he did. He was asked if he wanted the assistance of counsel but he said there was no need.
- [22] Rollo, p. 167.
- [23] Id., pp. 167-168.
- [24] Id., pp. 168-169.
- [25] TSN of Ernesto Eclera, p. 4; March 20, 1996; TSN of Panida, pp. 3-4, March 27, 1996; TSN of Hora, pp. 9-10, May 8, 1996.
- [26] Id., pp. 4-11; Id., pp. 4-7; Id., pp. 3-5.
- [27] Id., pp. 7-8; Id., p. 6; Id., pp. 4-5.
- [28] Id., pp. 5-11; Id., pp. 5-7; Id., pp. 4-5.
- [29] Id., p. 11-12; Id., pp. 11-12; Id., pp. 6, 22-24.
- [30] Id., pp. 12-14; Id., pp. 12-13; Id., pp. 6-7.
- [31] Id., pp. 24-27; Id., p. 32; Id., p. 9.
- [32] TSN, pp. 8-14, May 20, 1996.
- [33] Rollo, pp. 119-120.
- [34] TSN of Ernesto Eclera, pp. 22-24, March 20, 1996; TSN of Alex Panida, pp. 31-32, March 27, 1996 and April 15, 1996.
- [35] TSN, p. 6, April 15, 1996.
- [36] TSN of Ernesto Eclera, p. 22, March 20, 1996; TSN of Alex Panida, pp. 5-6, April 15, 1996.
- [37] Records of the carnapping case, pp. 21-22.
- [38] TSN, p. 12, Nov. 15, 1994; TSN, p. 10, Feb. 12, 1996.
- [39] Id., pp. 3-4, 10-11; Id., pp. 13-17.
- [40] Id., pp. 4-5; Id., pp. 20-21.
- [41] This point was actually affirmed by Rocky Eclera during his testimony for the prosecution in the earlier

hearing on the carjacking case. He tried to change this by claiming that accused-appellant Hora alone detached the sidecar during his testimony for accused-appellants Panida and Ernesto Eclera on the murder case. TSN, p. 5, Nov. 15, 1994.

[42] TSN, pp. 5-6, Nov. 15, 1994; TSN, pp. 23-25, Feb. 12, 1996.

[43] TSN of SPO2 Mababa, pp. 4-15, June 3, 1996.

[44] TSN of Vice-Mayor Guillermo Piso, p. 8, June 17, 1996.

[45] TSN, pp. 1-26, June 17, 1996.

[46] The "Miranda Warnings" are a shorthand term for the rights of persons under custodial investigation as provided in Art. III, §12 of the Constitution, which reads:

(1) Any person under investigation for the commission of an offense shall have the right to be informed of his right to remain silent and to have competent and independent counsel preferably of his own choice. If the person cannot afford the services of counsel, he must be provided with one. These rights cannot be waived except in writing and in the presence of counsel.

(2) No torture, force, violence, threat, intimidation, or any other means which vitiate the free will shall be used against him. Secret detention places, solitary, incommunicado, or other similar forms of detention are prohibited.

(3) Any confession or admission obtained in violation of this or Section 17 hereof shall be inadmissible in evidence against him.

(4) The law shall provide for penal and civil sanctions for violations of this section as well as compensation to and rehabilitation of victims of torture or similar practices, and their families. (Emphasis added)

[47] TSN, pp. 1-14, Nov. 15, 1994; TSN, pp. 1-42, Feb. 12, 1996; TSN, pp. 1-26, Feb. 21, 1996; TSN, pp. 1-19, March 6, 1996.

[48] *Molina v. People*, 259 SCRA 138 (1996).

[49] *Rollo*, pp. 195-196; *Decision*, pp. 23-24.

[50] See *People v. Quitlong*, G.R. No. 121562, July 10, 1998.

[51] TSN of Rocky Eclera, p. 34, Feb. 12, 1996; TSN of Ernesto Eclera, p. 27, March 20, 1996; TSN of Alex Panida, p. 18, March 27, 1996.

[52] TSN, p. 34, Feb. 12, 1996.

[53] *Rollo*, pp. 195-196; *Decision*, pp. 23-24.

[54] 97 Phil. 515, 525-526 (1955).

[55] *People v. Dulay*, 217 SCRA 103 (1993).

[56] *People v. Alcantara*, 254 SCRA 384 (1996).

[57] *People v. Salison, Jr.*, 253 SCRA 758 (1996).

[58] *People v. Azugue*, 268 SCRA 711 (1997).

[59] *People v. Gatchalian*, G.R. No. 90301, December 10, 1998.

- [60] *People v. Domantay*, G.R. No. 130612, May 11, 1999.
- [61] See *Venturina v. Sandiganbayan*, 193 SCRA 40 (1991).
- [62] *TSN of Sylvia Eclera*, pp. 9-24, Nov. 15, 1995.
- [63] *People v. Espanola*, 271 SCRA 689 (1997).
- [64] See *People v. Payot*, G.R. No. 119352, June 8, 1999; *People v. Robles*, G.R. No. 124300, March 25, 1999.
- [65] See *People v. Gutierrez*, G.R. No. 116281, February 8, 1999; *Pantranco North Express, Inc. v. Baesa*, 179 SCRA 384 (1989).
- [66] *TSN of Sylvia Eclera*, pp. 20-21, Nov. 15, 1995.
- [67] Records of the murder case, pp. 163-165.
- [68] *People v. Gutierrez*, *supra*.
- [69] Revised Penal Code, Art. 248.
- [70] Act. No. 4103, §1.
- [71] R.A. No. 6539, §14, as amended.
- [72] *People v. Simon*, 234 SCRA 555 (1994).

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