

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. MARCOS PARAMIL Y CARURUCAN, DANILO DELA CRUZ Y VICENTE AND WILLIAM OSOTIO @ "IYOK"; ACCUSED-APPELLANT.**

*G.R. Nos. 128056-57. March 31, 2000*

Ponente: KAPUNAN, J.

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**KAPUNAN, J.:**

On automatic review is the decision of the Regional Trial Court of Tayug, Pangasinan, Branch 52, convicting the accused-appellants Marcos Paramil y Carurucan, Danilo dela Cruz y Vicente and William Osotio @ "Iyok" of Murder and Carnapping, and sentencing each of them to suffer the death penalty. The dispositive portion of the joint decision of Judge Pedro C. Cacho in Criminal Case Nos. T-1698 and T-1699 reads as follows:

WHEREFORE, based from the foregoing disquisitions, the Court finds all three (3) accused GUILTY of Murder beyond reasonable doubt with the aggravating circumstance of superior strength, hereby imposes upon each accused the death penalty, against (1) Marcos Paramil y Carurucan, (2) Danilo dela Cruz y Vicente, and (3) William Osotio @ Iyok in Crim. Case No. T-1698, entitled "People of the Philippines vs. Marcos Paramil y Carurucan, et al.," for Murder, and to pay the heirs of the deceased the sum of P50,000.00 as compensatory damages, P20,000.00 as actual and civil damages, and P35,000.00 as moral damages, and P20,000.00 as exemplary damages, payable jointly and severally among all accused, with cost de-officio.

Upon the other hand, in Crim. Case No. T-1699, entitled "People of the Philippines vs. Marcos Paramil y Carurucan, et al.," (Violation of Republic Act No. 6539 otherwise known as Anti-Carnapping Law of 1972) GUILTY of the crime charged beyond reasonable doubt and hereby imposes against all three (3) accused the death penalty, upon (1) Marcos Paramil y Carurucan, (2) Danilo dela Cruz, and (3) William Osotio @ Iyok.[1]

The conviction stemmed from the following informations:

**CRIMINAL CASE NO. T-1698**

That on or about the 7th day of June, 1995, at Brgy. Zamora, in the municipality of Tayug, Province of Pangasinan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused including John Doe @ Iyok whose identity has not been yet established, with intent to kill, armed with stone and firearm (Caliber .38-paltik), conspiring, confederating and helping one another, did then and there wilfully, unlawfully and feloniously hit and shoot one LITO IGNACIO on his head, causing the instantaneous death of said LITO IGNACIO, to the damage and prejudice of the heirs of LITO IGNACIO.

CONTRARY to Article 248 of the Revised Penal Code.[2]

**CRIMINAL CASE NO. T-1699**

That on or about the 7th day of June, 1995, in the municipality of Tayug, province of Pangasinan, Philippines and within the jurisdiction of this Honorable Court, the above-named accused including one John Doe @ Iyok whose identity has not been yet established, conspiring, confederating and helping one another, with intent to gain, by means of force and violence and without the consent of the owner, NELSON AQUINO, did then and

there wilfully, unlawfully and feloniously take and carry away one (1) YAMAHA RS Torque Induction, colored red with Plate No. AE-9931 with sidecar from its driver LITO IGNACIO, to the damage and prejudice of the owner, NELSON AQUINO.

CONTRARY to Republic Act 6529 otherwise known as Anti-Carnapping Law of 1972.[3]

During the arraignment on 20 September 1995, accused-appellants Danilo dela Cruz and William Osotio pleaded not guilty to the Murder charged in Criminal Case No. T-1698. Accused-appellant Marcos Paramil y Carurucan refused to make any plea so the trial court entered a plea of not guilty for him.[4] As regards the crime of carnapping in Criminal Case No. T-1699, all the accused-appellants pleaded not guilty to the crime charged.[5]

The facts of the case are not in dispute. We find the following summary of facts by the Solicitor General to be supported by the records:

On June 7, 1995 at around 6:00 o'clock in the morning, victim Lito Ignacio, a driver, went to the house of Nelson Aquino to get the tricycle he is going to drive. Ignacio had been the driver of Aquino for seven years. At 6:00 o'clock that evening, however, victim Ignacio failed to return the tricycle, as was the routine. Aquino, the owner of the tricycle, presumed that the tricycle was hired which probably accounted for Ignacio's failure to return the same.

At 7:00 o'clock in the following morning, Aquino was already worried, he then went out of his house in search of Ignacio and the tricycle. He asked the persons he presumed hired the services of Ignacio but to no avail. Nobody seems to know the whereabouts of Ignacio. Unsuccessful, Aquino decided to report the missing Ignacio and the tricycle to the police in Tayug, Pangasinan. There, he reported to Sgt. Cabanizas what had happened. Sgt. Cabanizas, however, informed him that they found a sidecar in San Quintin, Pangasinan. Hoping that the sidecar was his, Aquino together with Sgt. Cabanizas, went to San Quintin where they saw the sidecar of his tricycle. Captain Agustin, Chief of Police of San Quintin, informed him, however, that Ignacio was already dead because the sidecar has bloodstains on it.

On June 8, 1995, SPO3 Glicerio Manalo, the team leader of the Traffic Management Team 202, stationed at Dubinan West, Santiago, Isabela, together with his co-policemen, on a routine patrol along Daang Maharlika Highway, were able to flag down a Yamaha motorcycle driven by appellant Danilo dela Cruz. They flagged down said appellant because they noticed that instead of using the foot and hand brake to stop the motorcycle, appellant dela Cruz used his two feet to stop it. When investigated, appellant dela Cruz, was not able to show any papers evidencing ownership of the motorcycle or even a driver's license. Appellant likewise admitted that he and his two companions, who were waiting for him at Pantranco terminal in Santiago City, stole the motorcycle. Upon learning this, SPO3 Manalo and company, together with appellant dela Cruz proceeded to Pantranco Terminal where appellant dela Cruz pointed to his two other companions, appellants Paramil and Osotio. The team was able to arrest Paramil but not Osotio who escaped when he saw Paramil being arrested. Apparently, Osotio ran away and jumped off the Calao Bridge.

Meanwhile, despite the search conducted, policemen were not able to find Ignacio, until June 9 when Aquino heard from the DZBB Santiago, Isabela radio station a news that an RS motorcycle, which has the same plate and motor number as that of the vehicle he owned, was recovered in the possession of persons named Dela Cruz and Paramil who have no document to prove ownership of said vehicle or even a driver's license. Upon hearing this news, Aquino went to the Tayug Police Station and related the news to the policemen. That same day, however, Aquino was informed that the cadaver of the victim Ignacio was already found. The Medico-Legal Report indicates Ignacio's cause of death as massive intracranial hemorrhages resulting from gun shot wound penetrating the brain tissue with resulting skull fracture.

The following day, Aquino and a team of Tayug Policemen went to Santiago, Isabela where they found Aquino's motorcycle parked in front of the office of the Highway Patrol. There, he identified the motor vehicle as the one stolen from him. He even talked to appellants Paramil and dela Cruz and was able to retrieve

information regarding the incident. Appellants admitted that they were the ones who robbed the motor vehicle and who shot the victim Ignacio.

During the investigation conducted by the Santiago Police, and in response to the questions asked by Aquino about the incident, appellants confessed that they were the ones who carnapped the motor vehicle and killed victim Lito Ignacio. Appellants made the same admissions in their testimony in open court. They were united in admitting that it was on June 7, 1995 that they decided and planned to carnap a tricycle in Tayug, Pangasinan. On that fateful day of June 8, 1995, they hired the services of victim Lito Ignacio in Iris, Tayug, Pangasinan for P45.00. And when they reached Brgy. Camanokan they told the victim that they will take the tricycle from him. But victim Ignacio resisted, so they mauled the victim, shot him to death with a .38 caliber gun, and left him at Barangay Zamora. Paramil and Osotio then proceeded to Santiago, Isabela where they would wait for dela Cruz and sell the stolen motorcycle. But they were caught in Isabela.[6]

While they do not disown their culpability for stealing the tricycle and the killing of the driver, accused-appellants question the finding of the trial court that they committed the crime of murder in Criminal Case No. T-1698. They also assail the imposition of the penalty of death upon them in Criminal Case No. T-1699 for violation of the Anti-Carnapping Law. Accused-appellants contend that the crime committed in the first case is only homicide, not murder, while in the second case, the correct penalty should be reclusion perpetua not death. The following errors are raised in this appeal:

I

THE TRIAL COURT GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANTS GUILTY OF MURDER QUALIFIED BY TAKING ADVANTAGE OF SUPERIOR STRENGTH DESPITE THE FACT THAT IT IS NOT ALLEGED IN THE CRIMINAL INFORMATION.

II

THE TRIAL COURT GRAVELY ERRED IN APPRECIATING THE AGGRAVATING CIRCUMSTANCE OF TAKING ADVANTAGE OF SUPERIOR STRENGTH IN THE IMPOSITION OF THE PENALTY.

III

THE TRIAL COURT GRAVELY ERRED IN IMPOSING THE PENALTY OF DEATH ON ACCUSED-APPELLANTS FOR VIOLATION OF REPUBLIC ACT 6539, OTHERWISE KNOWN AS "ANTI-CARNAPPING LAW OF 1972." [7]

According to the trial court, the killing of the victim Lito Ignacio was attended by the aggravating circumstance of taking advantage of superior strength; hence, the court concluded that the crime committed by the accused-appellants is murder.[8] As correctly pointed out by the counsel for accused-appellants, however, an examination of the information will reveal that the qualifying circumstance of "advantage of superior strength" was not included in the information.[9] Consequently, the same cannot be used to qualify the killing to murder. Nonetheless, if proven during trial, said circumstance may be treated as generic aggravating to be considered in the imposition of the penalty. The aggravating circumstance of advantage of superior strength is appreciated whenever there is notorious inequality of forces between the victim and the aggressor, assuring a superiority of strength notoriously advantageous for the aggressor which is selected or taken advantage of by him in the commission of the crime. To take advantage of superior strength means to purposely use excessive force out of proportion to the means of defense available to the person attacked.[10]

The testimonies of the three accused-appellants as to the manner by which they attacked and killed the victim conclusively show the existence of abuse of superior strength.

Testimony of Danilo dela Cruz

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ATTY. VIADO:

Q:

Will you please tell this Honorable Court what was really your actual participation in the killing of Lito Ignacio?

A:.

I was near the tricycle standing, sir.

Q:

What were you doing then?

A:.

None, sir, I was just standing.

Q:

And when you are standing there, what happened, if any?

A:

That was the time when Paramil and Osotio was hitting Lito, sir.

Q:

What do you mean by hitting?

A:.

They were mauling him and struck him with stone, sir.

Q:

Who strucked (sic) him with stone?

A:

Bong Paramil, sir.

Q:

And what did Iyok Osotio do?

A:

He was the one who hit the victim with the gun, sir.

ATTY. VIADO:

Q:

Will you demonstrate how did Iyok hit the victim with the gun?

WITNESS:

A:

He hit Lito with the butt of the gun, sir.

Q:

What part of the body of Lito was hit if he was hit?

A:

In the neck, sir. (witness pointing his neck).

Q:

And all the while you did nothing?

A:

None, sir.

xxx.[11]

Testimony of William Osotio

xxx

PROS. BINCE:

Q:

You confirmed that you were the once (sic) who carnapped the tricycle and you were the one who killed Lito Ignacio?

A:

I admit that we carnapped the tricycle, but I did not kill Lito Ignacio, sir.

Q:

Who killed Lito Ignacio then?

A:

Bong Paramil, sir.

Q:

But you were present when Lito Ignacio was shot to death?

A:

Yes, sir.

Q:

You did not prevent Bong Paramil from killing Lito Ignacio?

A:

No more, sir, because I was inside the tricycle.

PROS. BINCE:

That will be all, your Honor.

COURT:

Q:

If you were inside the tricycle, where was Lito Ignacio then?

WITNESS:

A:

Inside, sir.

Q:

You sit beside him inside the tricycle?

A:

Yes, sir.[12]

Testimony of Marcos Paramil:

xxx

Q:

When you killed the driver, where were your companions William Osotio and Danilo dela Cruz?

A:

They were at the motorcycle, sir.

Q:

What were they doing?

A:

They were the ones who brought the motorcycle, sir.

Q:

Did they have any participation in the killing of the driver Lito Ignacio?

A:

At first, we were only two who hit him.

Q:

Who was the person?

A:

William Osotio.

Q:

And what did William Osotio do?

A:

He boxed Lito Ignacio.

Q:

What about Danilo dela Cruz, what did he do?

A:

He was standing, sir.

Q:

Did he utter any words?

A:

He did not say any, sir.

PROSECUTOR BINCE:

Q:

Who fired the fatal shot?

A:

I, sir.

Q:

Did the two accused William Osotio and Danilo dela Cruz bring that motorcycle to Cabangaran as what you have agreed upon?

A:

Yes, sir. CODES

x x x.[13]

Q:

And then what transpired when you reached the place in Camanokan where there were no residential houses?

A:

We got his motorcycle, sir.

Q:

What did he tell you when you told him to get his motorcycle?

A:

He resisted, sir.

Q:

How did he resist?

A:

He boxed, sir. Because we were three we helped each other to box him, sir.

Q:

Until the time, according to you, you shot him with that .38 caliber revolver?

A:

I poked him on his head when we loaded him on the tricycle, sir.

Q:

When you boxed him (Lito), is that right?

A:

Yes, sir.

Q:

What is the name of your companion who boxed him?

A:

William Osotio.

COURT:

Q:

And according to you you loaded him inside the tricycle, is that right?

A:

Yes, sir, we loaded Lito in the tricycle.

Q:

And it was inside the tricycle when you fired at him?

A:

I poked at him inside the tricycle, sir.

Q:

And you shot him there inside the tricycle?

A:

For a short period of time.

Q:

How long?

A:

About one (1) minute, sir.

Q:

Then you fired at him?

A:

Yes, sir.

Q:

How many times?

A:

Once.

Q:

And did he utter any word when you shot him?

A:

No more, sir.[14]

From the above testimonies, it is clear that the accused-appellants took advantage of their superior strength to kill the victim Lito Ignacio. While mere superiority in number is not necessarily indicative of abuse of superior strength, it was ineluctably shown that the accused-appellants took advantage of their collective strength in order to kill the victim by rendering him defenseless. The respective participation of accused-appellants Paramil and Ootio who were then armed with a gun and a stone in assaulting the unarmed victim is determinative of the fact that herein accused-appellants carefully planned and successfully executed the crime. Their combined strength could not simply have been overcome by the defenseless victim.[15] Clearly, the force used by herein accused-appellants was entirely out of proportion to whatever means of defense available to the victim. In fact, they themselves testified that they entered into a conspiracy to commit the crimes charged.

As correctly ruled by the trial court, there existed a conspiracy between the accused-appellants. In conspiracy, the act of one is the act of all.[16]

Neither can we accept the theory that the accused-appellants had no intention to commit so grave a wrong. According to them, they did not intend to kill the tricycle driver.[17] Contrary to their stance, the accused-appellants carefully planned the heist, armed themselves, and set out to do everything within their means to ensure the success of their plans. Thus, accused-appellant Danilo dela Cruz testified as follows:

PROS. BINCE:

Q:

What day was that when you met with your other fellow accused?

WITNESS:

A:

June 7, 1995, sir.

Q:

That was in the morning?

A:

Yes, sir.

Q:

While you met with each other at Brgy. Casalamagian, San Quintin, Pangasinan you talked about your plan to carnap a tricycle, am I correct?

A:

Yes, sir.

Q:

And you also talked that the tricycle which you will carnap will be brought to Isabela because there are interested person in Isabela, am I correct?

A:

Yes, sir.

Q:

During that occasion when you agreed to carnap a tricycle you know for a fact that that tricycle which you are going to carnap has driver, am I correct?

A:

Yes, sir.

Q:

And because you have to take forcibly that tricycle it is necessary and dispensable that you will have to use all necessary means even to harm the tricycle driver which you have to get and carnap, am I correct?

A:

Yes, sir.

Q:

And you were able to take the tricycle driven by Lito Ignacio on June 7, 1995, am I correct?

A:

Yes, sir.

Q:

And because Lito Ignacio resisted your taking of the tricycle it is necessary to disable the tricycle driver in the person of Lito Ignacio which you did actually, am I correct?

A:

Yes, sir.

ATTY. VIADO -

Before the Honorable Prosecutor continue with his cross examination may we point out, your Honor, that the witness testified that he did not have any participation in the killing.

COURT -

That is a matter of his defense but he is under cross and he is permitted enough leeway to do that.

PROS. BINCE -

Q:

When Marcos Paramil and Iyok Osotio mauled Lito Ignacio you did nothing, am I correct?

A:

None, sir.

Q:

As a matter of fact you kept silent?

A:

None, sir.

PROS. BINCE -

Q:

And further you did not prevent them from mauling Lito Ignacio?

A:

None, sir.

Q:

You agree that the two will maul Lito Ignacio?

A:

Because I was frightened, sir.

Q:

But after you were frightened you did nothing to prevent the two accused?

A:

None, sir.

x x x.[18]

Now for the appropriate penalties. The Solicitor General recommends that the accused-appellants be convicted under the penalty provided for in the last clause of Section 14 of the Anti-Carnapping Act, as amended by Section 20 of R.A. 7659, instead of the two separate penalties imposed by the trial court for the crimes of carnapping and murder.[19] Said Section 14 imposes the penalty of reclusion perpetua to death when the owner or the driver of the vehicle is killed or raped in the course of the commission of the carnapping or on the occasion thereof:

SEC. 14. Penalty for Carnapping. - Any person who is found guilty of carnapping, as this term is defined in Section Two of this Act, shall, irrespective of the value of motor vehicle taken, be punished by imprisonment for not less than fourteen years and eight months and not more than seventeen years and four months, when the carnapping is committed without violence or intimidation of persons or force upon things, and by

imprisonment for not less than seventeen years and four months and not more than thirty years, when the carnapping is committed by means of violence against or intimidation of any person, or force upon things; and the penalty of reclusion perpetua to death shall be imposed when the owner, driver or occupant of the carnapped motor vehicle is killed or raped in the course of the commission of the carnapping or on the occasion thereof. (Underscoring supplied.)

In support of his view that accused-appellants be convicted of qualified carnapping, instead of two separate crimes of murder and carnapping, the Solicitor General cites the case of *People vs. Mejia*,<sup>[20]</sup> where three (3) separate informations were filed against the accused therein for (a) murder, (b) frustrated murder, and (c) carnapping on the occasion of which the owner-driver of the vehicle was killed, allegedly in violation of R.A. 6539. There, the Court held that murder and frustrated murder were absorbed by the carnapping since:

In the original of Section 14 of R.A. No. 6539, the last clause reads as follows:

and the penalty of life imprisonment to death shall be imposed when the owner, driver or occupant of the carnapped vehicle is killed in the commission of the carnapping.(stressed supplied).

Three amendments have thus been made, viz: (1) the change of the penalty of life imprisonment to reclusion perpetua, (2) the inclusion of rape, and (3) the change of the phrase "in the commission of the carnapping" to "in the course of the commission of the carnapping or on the occasion thereof." The latter makes clear the intention of the law to make the offense a special complex crime, by way of analogy vis-à-vis paragraphs 1 to 4 of Article 294 of the Revised Penal Code on robbery with violence against or intimidation of persons. As such, the killing (or the rape) merely qualifies the crime of carnapping which for lack of specific nomenclature may be known as qualified carnapping or carnapping in an aggravated form. In short, considering the phraseology of the amended Section 14, the carnapping and the killing (or the rape) may be considered as a single or indivisible crime or a special complex crime which, however, is not covered by Article 48 of the Revised Penal Code.

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It follows then that the killing of the driver, Teofilo Landingin - whether it be homicide or murder - cannot be treated as a separate offense, x x x.<sup>[21]</sup>

One fact distinguishes the present case from the *Mejia* case. Unlike in *Mejia*, the information for carnapping in the case at bar does not allege that the driver was killed in the course of the commission of the carnapping or on the occasion thereof. The information in Criminal Case T-1699 only charged accused-appellants with carnapping under the second clause of Section 14, that is, the carnapping was allegedly committed "by means of force and violence."<sup>[22]</sup> To convict them under the last clause of Section 14 would violate their right to be informed of the nature of the charges against them. In *People vs. Legaspi*,<sup>[23]</sup> we held:

Appellants were charged with two separate informations, one for double murder (Criminal Case No. C-28760 [87]) and the other for violation of R.A. No. 6539 (Criminal Case No. C-28761 [87]). Their conviction can only be limited to the crime alleged or necessarily included in the allegations in the separate informations. What controls is the description of the offense, as alleged in the information (*Santos v. People*, 181 SCRA 487 [1990]). While the trial court can hold a joint trial of two or more criminal cases and can render a consolidated decision, it cannot convict the accused of a complex crime constitutive of the various crimes alleged in the two informations. Thus, the accused were deprived of their constitutional right to be informed of the nature and cause of the accusation against them (1987 Constitution, Art. III, Sec. 14 [2]).

Thus, in *People vs. Alex Pavida, et al.*,<sup>[24]</sup> where the accused were charged in two (2) separate informations with "Simple Carnapping" and Murder, the Court convicted them of these two separate crimes, and not "Carnapping in the Aggravated Form," although the facts showed that the accused-appellants killed the driver of the carnapped

vehicle in the commission of the carnapping. In the same manner, the accused-appellants herein can only be convicted of, and penalized for, the crimes with which they were charged or those necessarily included therein. Similarly, the death penalty imposed on the accused-appellants for the crime of carnapping cannot also be imposed because the killing of the driver of the carnapped motor vehicle was not alleged in the information. The crime alleged being only carnapping under the second clause of Section 14, the proper penalty to be imposed must not be more than seventeen years and four months and not more than thirty years. Applying the Indeterminate Sentence Law,[25] we hold that the proper penalty to be imposed on each of accused-appellants for carnapping is an indeterminate sentence of 17 years and 4 months, as minimum, to 30 years, as maximum. Now, with respect to the crime of murder, since the qualifying circumstance of abuse of superior strength was not alleged in the information, accused-appellants should be held liable only for the crime of homicide defined under Article 249 of the Revised Penal Code. In view of our finding, however, that the aggravating circumstance of abuse of superior strength attended the killing of the victim, the penalty of reclusion temporal provided under said article shall be imposed in its maximum period. Applying again the Indeterminate Sentence Law, accused-appellants' sentence shall be within the range of prision mayor, as minimum, and reclusion temporal in its maximum period, as maximum.

As regards the civil liability of the accused, the heirs of the deceased are entitled to an indemnity of P50,000.00.[26] It also appears that the prosecution and the defense agreed to the amount of P20,000.00 as actual damages as a result of which the widow's testimony was dispensed with.[27] Exemplary damages in the amount of P20,000.00 are also justified inasmuch as the homicide was committed with abuse of superior strength.[28] The award of moral damages is, however, unwarranted since there was no proof or admission to support the same.

The trial court omitted to award damages to the tricycle owner, Nestor Aquino. Aquino testified that he suffered actual damages consisting of P15,000.00 for the loss of the parts of his tricycle, and P1,100.00 for expenses incurred in traveling to Pampanga to identify the vehicle.[29]

WHEREFORE, the decision of the Regional Trial Court of Tayug, Pangasinan, Branch 52 in Criminal Case Nos. T-1698 and T-1699, is hereby MODIFIED as follows:

1. In Criminal Case No. T-1698 for murder, accused-appellants are found GUILTY of HOMICIDE attended by the aggravating circumstance of abuse of superior strength and are sentenced to suffer an indeterminate penalty of ten (10) years and one (1) day of prision mayor, as minimum, to twenty (20) years of reclusion temporal, as maximum. Accused-appellants are, likewise, ordered to pay the amount of P50,000.00 as indemnity to the heirs of the deceased, P20,000.00 as actual damages, and P20,000.00 as exemplary damages.

2. In Criminal Case No. T-1699 for carnapping, accused-appellants are sentenced to suffer an indeterminate sentence of seventeen (17) years and four (4) months, as minimum, to thirty (30) years, as maximum. Accused-appellants are, likewise, ordered to pay the amount of P16,100.00 as actual damages to private complainant Nelson Aquino.

### **SO ORDERED.**

Davide, Jr., C.J., Bellosillo, Melo, Puno, Vitug, Mendoza, Panganiban, Quisumbing, Purisima, Pardo, Buena, Gonzaga-Reyes, Ynares-Santiago, and De Leon, Jr., JJ., concur.

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[1] Records, Volume I, p. 296.

[2] Id., at 1.

[3] Records, Volume II, p. 1.

[4] Records, Volume I, pp. 31-32.

[5] Records, Volume II, pp. 30-31.

[6] Brief for Plaintiff-Appellee, Rollo, pp. 122-126.

[7] Brief for the Accused-Appellants, Rollo, pp. 34-35.

[8] Rollo, p. 45.

[9] Brief for Accused-Appellants, Rollo, pp. 59-60.

[10] *People v. Hayahay*, 279 SCRA 567 (1997)

[11] TSN, November 12, 1996, pp. 3-4.

[12] *Id.*, at 10-11. Emphasis ours.

[13] TSN, October 8, 1996, pp. 12-13. Emphasis ours.

[14] *Id.*, at 15-16.

[15] See *U.S. vs. Tandoc*, 40 Phil. 954 (1919-1920); *People vs. Caroz*, 68 Phil. 521 ; *People vs. Caoile*, 61 SCRA 73 (1974)

**[16] 292 SCRA 596, 621 (1998)**

[17] Rollo, p. 66.

[18] TSN, Nov. 12, 1996, pp. 5-6. Emphasis ours.

[19] Rollo, p. 136.

**[20] 275 SCRA 127 (1997)**

[21] *Id.*, at 152-153.

[22] See Note 3.

**[23] 246 SCRA 206 (1998)**

[24] G.R. Nos. 127125 & 138952, July 6, 1999.

[25] See Section 1, Act No. 4103.

[26] *People v. Durado, et al.*, G.R. No. 121669, December 23, 1999; *People v. Diaz*, G.R. No. 130210, December 8, 1999.

[27] Records, p. 118.

[28] Article 2230, Civil Code. In criminal offenses, exemplary damages as a part of the civil liability may be imposed when the crime was committed with one or more aggravating circumstances. Such damages are separate and distinct from fines and shall be paid to the offended party.

[29] TSN, November 17, 1995, pp. 20-21.

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