

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. SERGIO JOROLAN Y FAJARDO, ACCUSED-APPELLANT.

G.R. Nos. 142683-84. June 23, 2003

Ponente: QUISUMBING, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-nos-142683-84/>

QUISUMBING, J.:

On automatic review is the decision[1] dated November 22, 1999 of the Regional Trial Court of Marikina City, Branch 272, in Criminal Cases Nos. 97-2158-MK and 97-2159-MK. In the first case, appellant Sergio Jorolan was found guilty of murder and sentenced to suffer the penalty of death. In the second case, he was found guilty of homicide and sentenced to imprisonment ranging from twelve (12) years of prision mayor as minimum to twenty (20) years of reclusion temporal as maximum.

His convictions and sentences stemmed from two informations dated November 22, 1997. In the first, he was charged of murder, as follows:

That on or about the 19[th] day of November, 1997, in the City of Marikina, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, armed with a gun, with intent to kill, and with treachery and taking advantage of his superior strength, did then and there willfully, unlawfully and feloniously attack, assault and shot (sic) one Leonil Jimenez y Pitalio on his trunk, thereby causing the latter to sustain gunshot wound which directly caused his death.

CONTRARY TO LAW.[2]

In the second information, he was charged of rape with homicide, as follows:

That on or about the 19[th] day of November, 1997, in the City of Marikina, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, armed with a gun and by means of force, violence and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge with Rodelyn Roxas @ "Lenlen" against her will and consent; and that by reason on (sic) the occasion of the said rape, the above-named accused while armed with the said weapon, with intent to kill, did then and there willfully, unlawfully and feloniously attack, assault and shot (sic) Rodelyn Roxas @ "Lenlen" on her trunk, thereby causing the latter to sustain gunshot wound which directly caused her death.

CONTRARY TO LAW.[3]

Among the facts,[4] found by the trial court, are the antecedents to the filing of cases against herein appellant, Sergio Jorolan:

The spouses Joselito and Sherryl Jimenez live at 90 Apitong St., Villa Cristina Subdivision, Marikina Heights, Marikina City, Metro Manila. Living with them were Leonil Jimenez, 12 years old,[5] student and a younger brother of Joselito Jimenez; Rodelyn Roxas, a 15-year old maid; and the accused Sergio Jorolan, 19 years old, single, and store helper of the Jimenez spouses.

On November 19, 1997, at about 2:00 p.m., while the Jimenez spouses and Leonil were away, Rodelyn was shot

to death. Thereafter, when Leonil returned home at about 2:15 p.m. of that same fateful day, he was brought to the comfort room where he was shot twice in the head which caused his instant death.

Alarmed when nobody answered their phone despite repeated calls, Sherryl Jimenez and Salvador Padre, the family driver, rushed to the area at about 4:00 p.m. They found Sergio in the living room lying on a wooden sofa with his mouth, arms and feet loosely tied with pieces of cloth. They further observed that an electric fan was blowing on him and that he used a stuffed toy as pillow.

They discovered that Rodelyn and Leonil were already dead while Sergio survived with a penetrating gunshot wound on the upper right side of his chest. The 9mm pistol of Joselito was found on the floor near where Sergio was lying. Everything inside the house was normal and all things were intact, including the cabinet where the gun of Joselito was kept.

Sergio was brought to the hospital for treatment. On the following day, because of his extrajudicial confession, suspicious utterances and inconsistent statements, Sergio was suspected of being the author of the crime and was subjected to paraffin test where both of his hands were found positive for gunpowder nitrates. As a consequence of these leads, pointing Sergio as the author of the crime, the instant cases were filed against him in court.

Upon arraignment, appellant Sergio Jorolan pleaded not guilty. Thereafter, joint trial of the cases ensued.

The first witness for the prosecution was P/Insp. MA. LUISA DAVID, a forensic chemical officer of the Physical Sciences Division, Crime Laboratory, Camp Crame, Quezon City, who performed the paraffin test on Sergio while the latter was being treated at the Amang Rodriguez Medical Center.[6] She testified that the paraffin cast taken from both hands of Sergio tested positive for gunpowder nitrates.[7] On cross-examination, she stated that it was possible for a person who did not fire a gun, but who was actually shot at, to likewise test positive for gunpowder nitrates.[8] However, on redirect examination, she testified that if person A is within one (1) meter distance from person B, and person A fired a shot at person B, person B would also test positive for gunpowder nitrates, but not specifically on the hands.[9]

The next witness, SHERRYL JIMENEZ, testified that on November 19, 1997 at around 4:30 p.m., she arrived with driver Salvador Padre at their house at 90 Apitong St., Villa Cristina Subdivision, Marikina Heights, Marikina City, Metro Manila.[10] She testified that everything in the house was in order.[11] She also testified that she found Sergio in the living room with a cloth placed on top of his mouth and with his arms loosely tied placed on top of his chest.[12] She further testified that Sergio looked as if he was only sleeping and so she proceeded to the bedroom, whereupon she saw that the comfort room was open and that somebody was lying on the floor of the comfort room. Terrified, she immediately ran outside.[13] She said she asked Salvador, who was then waiting inside the vehicle, to verify what happened.[14]

The prosecution next presented SALVADOR PADRE, the driver, who testified that on November 19, 1997 at around 4:00 p.m., he drove Sherryl to her house at 90 Apitong St., Villa Cristina Subdivision, Marikina Heights.[15] He said that Sherryl went inside the house while he waited inside the vehicle, but soon thereafter he saw her running towards the vehicle.[16] According to him, Sherryl told him that something happened in the house so she asked him to look inside to see.[17] He testified that when he entered the house, he saw Sergio lying down with his feet tied to the narra chair and hands tied across his chest.[18] He said that he thought Sergio was sleeping.[19] He also testified that after seeing Sergio, he did not go further inside the house because he became frightened.[20]

The next prosecution witness was CHERRY DUMDUM, Sherryl's sister, who testified that on November 20, 1997, from 9:30 a.m. to 1:00 p.m., she was at the hospital where Sergio was being treated.[21] She testified that at

that time, she already knew that Sergio was the suspect so in order to trap him, she told him to get well because he and Leonil would both testify on what happened.[22] She testified that upon hearing this, Sergio said that it was impossible for Leonil to be alive because he was hit in the head. She then made him believe that Leonil's brain was not damaged and told him that as soon as Leonil got well, the two of them could testify against their assailants.[23] She testified that Sergio then uttered that he wished he had died.[24] She also testified that in the afternoon of November 19, 1997, until about 12 midnight, she stayed at the house of her mother at 19 Narra St., Marikina Heights, Marikina City, where three policemen were posted because they were receiving threat calls.[25]

The next witness was FELICIDAD DESAMIRO, a helper in the business of Sherryl's family. She testified that on November 20, 1997, from 8:00 a.m. to 7:00 p.m., she stayed at the Amang Rodriguez Medical Center to watch over Sergio.[26] At around 2:00 p.m., when she had a chance to talk with Sergio, knowing him to be the suspect, she told him that Leonil was alive, to see how he would react.[27] She testified that upon learning Leonil was still alive, Sergio pointed out that Leonil sustained two wounds in the head and asked her how it could be possible that he was still alive.[28]

The last witness for prosecution was SPO3 JAIME GAMUEDA, a police officer assigned in the criminal investigation division of the Marikina Police. He testified that he conducted an ocular inspection at the scene of the crime at around 5:00 p.m. of November 19, 1997.[29] He said that he found the lifeless bodies of Leonil and Rodelyn soaked in blood in the comfort room and bedroom, respectively.[30] He also testified that he found empty shells of bullets and a gun lying in the living room.[31]

The defense presented appellant Sergio Jorolan himself. He testified that in the afternoon of November 19, 1997, he was at his employer's house located at 90 Apitong St., Villa Cristina Subdivision, Marikina Heights, Marikina City. He was sleeping in the living room but he was awakened when a man tried to tie his mouth.[32] He further testified that he then saw that there were two (2) men inside the house looking for Jun Jimenez and Lito Jimenez for a wrong supposedly done by the two against the intruders.[33] They allegedly searched the house for valuables and asked him for jewelry or cash amounting to P30,000.00.[34] He also testified that for his failure to heed their demand, they boxed and mauled him several times.[35] He testified further that when Rodelyn tried to run, she was shot dead at the back by one of the intruders using the gun of Joselito, which he claimed the intruder found while searching for valuables.[36] Thereafter, according to Sergio, when Leonil entered the gate, the intruders waited for him to go in, whereupon, he was immediately brought to the comfort room.[37] He testified that he then heard two (2) shots from the comfort room.[38] He stated that he saw how Rodelyn was actually shot, but did not see how Leonil was shot.[39] Sergio finally averred that after he was tied to the sofa, the man who shot Rodelyn and Leonil also shot him on his upper right chest.[40]

The prosecution did not present any evidence to prove the alleged rape. Records show that the medico-legal officer, who physically examined the corpse of Rodelyn, could not be located after he resigned from the PNP crime laboratory. Consequently, the medico-legal documents in his personal possession were never presented in court.

On November 22, 1999, the trial court convicted appellant as follows:

WHEREFORE, foregoing premises considered, finding the accused Sergio Jorolan y Fajardo GUILTY beyond reasonable doubt of the crimes as charged against him, judgment is hereby rendered as follows:

1) As to Criminal Case docketed as no. 97-2158-MK, to suffer the penalty of DEATH by lethal injection for the killing of Leonil Jimenez the court having appreciated the aggravating circumstances of treachery and use of unlicensed firearm and to indemnify the heirs of the victim the amount of P50,000.00 and to pay the amount of P30,000.00 as moral damages;

2) As to Criminal Case docketed as no. 97-2159-MK, to suffer the penalty of imprisonment ranging from TWELVE (12) YEARS of prison mayor as minimum to TWENTY (20) YEARS of reclusion temporal as maximum, for the killing of Rodelyn Roxas with the use of unlicensed firearm and to indemnify the heirs of the latter the amount of P50,000.00 and to pay the amount of P30,000.00 as moral damages.

SO ORDERED.[41]

Hence, this review. In his brief, appellant assigns the following errors for our consideration:

I

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT NOTWITHSTANDING THE INSUFFICIENCY OF CIRCUMSTANTIAL EVIDENCE PRESENTED BY THE PROSECUTION.

II

THE TRIAL COURT GRAVELY ERRED IN OVERLOOKING THE RIGHT OF THE ACCUSED TO BE PRESUMED INNOCENT UNTIL THE CONTRARY IS PROVED BEYOND REASONABLE DOUBT.[42]

Appellant points out that the trial court disregarded the categorical declaration of Cherry Dumdung that some people were threatening the Jimenez family moments after the killings. Appellant argues that if indeed he committed the crimes and then attempted to kill himself to hide everything, why should there be people threatening the Jimenez family right after the incident? Appellant claims that said threats prove that the Jimenez family had a conflict with a particular group and appellant insists that he was also a victim of said conflict. Appellant dismisses as baseless his supposed suicide attempt after the alleged commission of the crimes. Appellant reasons that it is unbelievable for one to be able to tie his own hands and feet after having shot himself on the chest.

Appellant further asserts that if indeed he committed the offenses charged against him, he would have escaped immediately after the consummation of the alleged crimes, considering that he had the facilities to do so. For one, he said he had the keys to the car and motorcycles of the Jimenez spouses. Second, he enjoyed the trust and confidence of their neighbors because they knew him as a trusted helper of the Jimenez spouses. But appellant insists he did not escape; moreover, he was rendered unconscious after being shot by the malefactors.

For the appellee, the Office of the Solicitor General (OSG) argues that contrary to appellant's claims, he was convicted on the basis of adequate circumstantial evidence. The OSG stresses that the circumstances relied upon by the trial court constituted an unbroken chain, which led to one fair and reasonable conclusion pointing to appellant as the author of the crimes charged. The OSG adds that while the prosecution witnesses did not see the actual commission of the crimes by appellant, direct evidence is not the only basis on which his guilt may be predicated. The OSG points out that appellant's guilt may also be established through circumstantial evidence, which suffices for conviction so long as the requisites therefor are present.

The main issue for our resolution is whether or not the prosecution's evidence suffices to convict appellant of two crimes, murder and homicide, beyond reasonable doubt.

Admittedly, no direct evidence was presented by the prosecution in these cases to prove the guilt of appellant beyond reasonable doubt. As pointed out by the OSG, however, prosecution evidence sufficient for conviction need not be direct. Circumstantial evidence may suffice as long as the requisites therefor are satisfied. Section 4, Rule 133 of the Revised Rules of Court provides:

Sec. 4. Circumstantial evidence, when sufficient. — Circumstantial evidence is sufficient for conviction if:

(a) There is more than one circumstance;

(b) The facts from which the inferences are derived are proven; and

(c) The combination of all the circumstances is such as to produce a conviction beyond reasonable doubt.

Circumstantial evidence is defined as that which proves a fact or series of facts from which the facts in issue may be established by inference.[43]

Such evidence is founded on experience and observed facts establishing a connection between the proven facts and the facts sought to be proved.[44]

In this case, the testimonies of the witnesses presented in court sufficiently establish the following facts:[45]

- 1) That Leonil, Rodelyn, and Sergio all suffered gunshot wounds;
- 2) But while Sergio survived, Leonil and Rodelyn died and were found in the comfort room and bedroom, respectively;
- 3) That the gun used in the killing was owned by Joselito Jimenez, the owner of the house where the crime was committed;
- 4) That the gun was found near the spot where Sergio was lying;
- 5) That everything in the house was intact except for the gun, which had been taken from the cabinet where it was kept, contradicting Sergio's statement that the house was ransacked by the two (2) men who killed Leonil and Rodelyn in search of valuables;
- 6) That there was no sign or evidence of contusion presented by Sergio as a result of the boxing and mauling allegedly inflicted on him by the two (2) men, whom he pointed to as the authors of the crime, except for a medical certificate for the gunshot wound he suffered; and
- 7) That both of his hands were positive of gunpowder nitrates.

These circumstances found by the trial court point to appellant's guilt, and contradict his claim of innocence.

One point, however, needs to be re-examined. The trial court concluded that appellant's statements, "It's impossible for Leonil to survive because he was shot twice in the head,"[46] and "I wish I had died,"[47] constitute *res gestae* as they were made spontaneously and immediately as soon as he regained consciousness after the startling event comprising two deaths. On this point, we are unable to concur with the trial court's conclusion.

Res gestae refers to statements made by the participants, victims, or spectators to a crime immediately before, during, or after the commission of the crime.[48] Such statements are a spontaneous reaction or utterance inspired by the excitement of the occasion without any opportunity for the declarant to fabricate a false statement.[49] The rule in *res gestae* applies when the testimony of the witness who heard the declarant complies with the following requisites: (1) that the principal act, the *res gestae*, be a startling occurrence; (2) the statements were made before the declarant had the time to contrive or devise a falsehood; and (3) that the statements must concern the occurrence in question and its immediate attending circumstances.[50]

An important consideration is whether there intervened between the occurrence and the statement any circumstance calculated to divert the mind of the declarant, and thus restore his mental balance and afford opportunity for deliberation. His statement then cannot be regarded as unreflected and instinctive, and is not admissible as part of the *res gestae*. An example is where he had been talking about matters other than the occurrence in question or directed his attention to other matters.[51]

We find that the cited statements, attributed to appellant, cannot be considered as part of the *res gestae*. His

utterances were made over 24 hours after the incident occurred. Within that span of time the following already happened as testified to by prosecution witnesses:

- The appellant fabricated a scenario at the crime scene to make it look as if he was a victim;
- He was brought to the hospital where he was interviewed by the media;^[52]
- He made those statements only after he was questioned by the two prosecution witnesses and only after the false impression was made upon him that the victim was still alive.

Nevertheless, there remains on record sufficient circumstantial evidence against the appellant, showing beyond reasonable doubt that he is guilty of killing the victims. Aside from those already appreciated by the trial court in its decision, numbering seven in all, which we also found fully established, two circumstances further show appellant's scheme to hide his guilt. His feet and mouth were loosely tied, falsely making it appear that intruders had tied him. Contrary to his testimony that his hands were tied to the armrest of the narra chair, when he was found by eyewitnesses his hands were across his chest.^[53]

The fact that, as appellant says, he did not take flight from the scene of the crime when he had the means and the opportunity to do so, does not indicate innocence per se. Different people react differently to a given type of situation, and there is no standard form of behavioral response when one is confronted with a strange, startling or frightful experience.^[54] We said in *People v. Ocampo*^[55] that flight from the scene of the crime shows guilt, but it is equally true that culprits have become bolder by returning to the scene of the crime to feign innocence.

Appellant's defense contends that it is unbelievable for one suffering a gunshot wound on the upper right chest to be able to tie his own self. But as already observed, appellant's feet and hands were tied loosely, not tightly. As testified to by witness Sherryl Jimenez, the material used for tying were only pieces of cloth. Though wounded, he appeared to be just sleeping when found, with a piece of cloth stuck inside his mouth.

Reliance by the defense on Cherry Dumdum's direct testimony pertaining to the threat calls made at her mother's house, as a basis of sowing reasonable doubt regarding his guilt, is misplaced. Even if admitted as true, the calls were made to the house of Sherryl's mother, at 19 Narra St., Marikina Heights, not to the house of the Jimenez couple, where the incident took place, at 90 Apitong St., Villa Cristina Subdivision, Marikina Heights. The threats were directed to Sherryl's mother, but it could not be ascertained whether they were intended for the Jimenez family. The calls could also constitute independent but irrelevant events, of no pertinence to the present case. To link the threat calls to the killings that took place at the Jimenez residence, and then utilize them for appellant's defense, lacks clear basis and is of doubtful value.

In brief, the Court is convinced and so concurs in the conclusion reached by the trial court that the circumstantial evidence presented by prosecution sustains the charges against appellant. When circumstantial evidence constitutes an unbroken chain of natural and rational circumstances corroborating each other, it cannot be overcome by doubtful evidence submitted by the opposing party.^[56] That appellant is the malefactor responsible for the death of Leonil Jimenez and of Rodelyn Roxas has been sufficiently proved by the prosecution.

That treachery attended the killing of Leonil Jimenez, qualifying the crime to murder, as alleged in the information and found by the trial court, deserves our concurrence also. Records show that Leonil was only 12 years old at the time he was killed.^[57] We have stated that the killing of minor children who, because of their tender age, could not be expected to put up a defense, is considered attended with treachery even if the manner of attack is not shown.^[58] In *People v. Ganohon*^[59] we deemed as attended with treachery the killing of a 12-year-old child. Similarly, in *People v. Abuyen*,^[60] we ruled that the killing of a 13-year-old child is, in itself, treacherous. In both cases, we qualified the killings as murder. In this particular case, treachery indubitably

qualified the killing of Leonil Jimenez, a 12-year-old child, as murder.

However, we cannot sustain the finding of the trial court that the aggravating circumstance of use of unlicensed firearm attended both killings. Pursuant to Sections 8 and 9, Rule 110 of the Revised Rules of Criminal Procedure,[61] promulgated December 1, 2000, the information should state not only the designation of the offense and the acts and omissions constituting it but shall also specify its qualifying and aggravating circumstances.

We note that the special aggravating circumstance of use of unlicensed firearm was not alleged in the two (2) informations filed against appellant. Both informations merely alleged that appellant was "armed with a gun". They did not allege that the firearm used was unlicensed. Thus, we cannot appreciate the cited aggravating circumstance.[62] Being favorable to appellant, Section 8 should be applied retroactively, though the offense was committed on November 19, 1997.

In fine, for the death of Leonil Jimenez, we find appellant guilty beyond reasonable doubt of murder. This offense is punishable by reclusion perpetua to death under Article 248 of the Revised Penal Code.[63]

Considering the absence of any modifying circumstance in the commission of murder, the lesser penalty of reclusion perpetua should be imposed on appellant in accordance with Article 63 of the Code.[64]

We also find appellant guilty of homicide, for the killing of Rodelyn Roxas, punishable with reclusion temporal under Article 249 of the Revised Penal Code.[65]

There being neither mitigating nor aggravating circumstance in the commission of homicide, the penalty of reclusion temporal is imposable in the medium period, pursuant to Article 64 of the Revised Penal Code.[66] Thus, after applying the Indeterminate Sentence Law, appellant's sentence for homicide should be the indeterminate penalty of six (6) years and one (1) day of prision mayor, as minimum, to fourteen (14) years, eight (8) months and one (1) day of reclusion temporal medium, as maximum.

Finally, on the award of damages. The award of P50,000 as civil indemnity for the death of each victim, is in accord with prevailing jurisprudence.[67] The amount of P50,000 as moral damages for the death of each victim should also be awarded without need of further proof.[68]

WHEREFORE, the decision of the Regional Trial Court of Marikina City, Branch 272, in Criminal Case Nos. 97-2158-MK and 97-2159-MK, is hereby MODIFIED. Appellant SERGIO JOROLAN is found GUILTY of

(1) MURDER in Criminal Case No. 97-2158-MK and accordingly sentenced to reclusion perpetua; and

(2) HOMICIDE in Criminal Case No. 97-2159-MK and sentenced to suffer the indeterminate penalty of six (6) years and one (1) day of prision mayor, as minimum, to fourteen (14) years, eight (8) months and one (1) day of reclusion temporal medium, as maximum.

Appellant is also ordered to pay the heirs of each victim the amount of P50,000.00 as civil indemnity and another sum of P50,000.00 as moral damages, together with the costs.

SO ORDERED.

Davide, Jr., C.J., Bellosillo, Puno, Vitug, Panganiban, Ynares-Santiago, Sandoval-Gutierrez, Carpio, Corona, Carpio-Morales, Callejo, Sr., and Azcuna, JJ., concur.

Austria-Martinez, J., on official leave.

- [1] Rollo, pp. 16-46.
- [2] Id. at 4.
- [3] Id. at 6.
- [4] Id. at 17-18.
- [5] Records, p. 38.
- [6] TSN, 26 May 1998, pp. 2-3; 13-15; Records, p. 21.
- [7] Id. at 23.
- [8] Id. at 29-31.
- [9] Id. at 34.
- [10] TSN, 19 January 1999, pp. 8-9.
- [11] Id. at 12.
- [12] Id at 13-14.
- [13] Id. at 18.
- [14] Id. at 20.
- [15] Id. at 45-46.
- [16] Id. at 49.
- [17] Id. at 51.
- [18] Id. at 52.
- [19] Ibid.
- [20] Id. at 54-55.
- [21] TSN, 29 March 1999, pp. 29-31.
- [22] Id. at 34-35.
- [23] Id. at 37-38.
- [24] Id. at 38.
- [25] Id. at 21-22.
- [26] TSN, 29 March 1999, pp. 81-83.
- [27] Id. at 83-84.
- [28] Id. at 85.
- [29] TSN, 24 May 1999, p. 5.
- [30] Id. at 6.
- [31] Id. at 8-9.

[32] TSN, 29 June 1999, pp. 12-13.

[33] Id. at 14.

[34] Id. at 16.

[35] Id. at 16-17.

[36] Id. at 19.

[37] Id. at 20.

[38] Ibid.

[39] Id. at 54.

[40] Id. at 19-23.

[41] Rollo, pp. 45-46.

[42] Id. at 66.

[43] *People v. Mansueto*, G.R. No. 135196, 31 July 2000, 336 SCRA 715, 729 citing *People v. Rondero*, G.R. No. 125687, 9 December 1999, 320 SCRA 383, 396.

[44] Ibid.

[45] Rollo, pp. 41-42.

[46] *Supra*, note 28.

[47] Id. at 38.

[48] *People v. Manhuyod, Jr.*, G.R. No. 124676, 20 May 1998, 290 SCRA 257, 271-272.

[49] Id. at 272.

[50] Id. at 273.

[51] Francisco, *The Revised Rules of Court in The Philippines*, Evidence Volume VII Part I, 1997 Ed., p. 605 quoting 32 *Corpus Juris Secundum* 52.

[52] See TSN, March 29, 1999 p. 77.

[53] See TSN, January 19, 1999, pp. 14, 52.

[54] *People v. Lapiz*, G.R. No. 129239, 5 September 2000, 339 SCRA 655, 664.

[55] G.R. No. 80262, 1 September 1993, 226 SCRA 1, 11.

[56] *People v. Umayam*, G.R. No. 134572, 18 April 2002, p. 8.

[57] *Supra*, note 5.

[58] *People v. Samus*, G.R. Nos. 135957-58, 17 September 2002, p. 26; *People v. Sitchon*, G.R. No. 134362, 27 February 2002, p. 9.

[59] G.R. Nos. 746070-74, 30 April 1991, 196 SCRA 431.

[60] G.R. No. 77285, 4 September 1992, 213 SCRA 569.

[61] SEC. 8. Designation of the offense. — The complaint or information shall state the designation of the offense given by the statute, aver the acts or omissions constituting the offense, and specify its qualifying and aggravating circumstances. If there is no designation of the offense, reference shall be made to the section or subsection of the statute punishing it.

SEC. 9. Cause of the accusation. — The acts or omissions complained of as constituting the offense and the qualifying and aggravating circumstances must be stated in ordinary and concise language and not necessarily in the language used in the statute but in terms sufficient to enable a person of common understanding to know what offense is being charged as well as its qualifying and aggravating circumstances and for the court to pronounce judgment.

[62] See *People v. Dan Ave*, G.R. Nos. 137274-75, 18 October 2002, pp. 26-27.

[63] ART. 248. Murder. — Any person who, not falling within the provisions of Article 246, 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; xxx

[64] ART. 63. Rules for the application of indivisible penalties. — In all cases in which the law prescribes a single indivisible penalty, it shall be applied by the courts regardless of any mitigating or aggravating circumstances that may have attended the commission of the deed.

In all cases in which the law prescribes a penalty composed of two indivisible penalties. The following rules shall be observed in the application thereof:

1. When in the commission of the deed there is present only one aggravating circumstance, the greater penalty shall be applied.
2. When there are neither mitigating nor aggravating circumstances in the commission of the deed, the lesser penalty shall be applied. xxx

[65] ART. 249. Homicide. — Any person who, not falling within the provisions of Article 246, shall kill another without the attendance of any of the circumstances enumerated in the next preceding article, shall be deemed guilty of homicide and be punished by reclusion temporal.

[66] ART. 64. Rules for the application of penalties which contain three periods. — In cases in which the penalties prescribed by law contain three periods, whether it be a single divisible penalty or composed of three different penalties, each one of which forms a period in accordance with the provisions of Articles 76 and 77, the court shall observe for the application of the penalty the following rules, according to whether there are or are no mitigating or aggravating circumstances:

- When there are neither aggravating nor mitigating circumstances, they shall impose the penalty prescribed by law in its medium period. xxx

[67] *People v. Avendaño*, G.R. No. 137406, 28 January 2003, p. 23.

[68] *People v. Llanda*, G.R. No. 133386, 27 November 2002, p. 13.

ABOUT BATAS.ORG

Study smarter at BATAS.org

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

The complete Philippine law library - free for everyone.

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

Audio case-brief lectures.

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

Bar review built on the science of memory.

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

The full law-school curriculum.

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

Mock exams that tell you where you stand.

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

A study planner that keeps you on pace.

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

Start free at <https://batas.org>

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

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

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