

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. ANACITO OPURAN, APPELLANT.

G.R. Nos. 147674-75. March 17, 2004

Ponente: DAVIDE JR., C.J.

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DAVIDE JR., C.J.:

Appellant Anacito Opuran was charged with two counts of murder before the Regional Trial Court of Catbalogan, Samar, Branch 29, for the death of Demetrio Patrimonio, Jr., and Allan Dacles under separate informations, the accusatory portions of which respectively read:

Criminal Case No. 4693

That on or about November 19, 1998, at nighttime, at Km. 1, South Road, Municipality of Catbalogan, Province of Samar, Philippines, and within the jurisdiction of this Honorable Court, said accused, with deliberate intent to kill and treachery, did, then and there willfully, unlawfully, and feloniously attack, assault and stab Demetrio Patrimonio, Jr., with the use of a bladed weapon (5" long from tip to handle with scabbard), thereby inflicting upon the victim fatal stab wounds on the back of his body, which wounds resulted to his instantaneous death.

All contrary to law, and with attendant qualifying circumstance of treachery.[1]

Criminal Case No. 4703

That on or about November 19, 1998, at nighttime, at Purok 3, Barangay 7, Municipality of Catbalogan, Province of Samar, Philippines, and within the jurisdiction of this Honorable Court, said accused, with deliberate intent to kill, with treachery, did, then and there, willfully, unlawfully and feloniously attack, assault and stab one Allan Dacles, who was lying on the bench, with the use of a bladed weapon, locally known as 'pisao,' thereby inflicting upon the victim fatal stab wounds on the different parts of his body, which wounds resulted to his instantaneous death.

All contrary to law, and with attendant qualifying circumstance of treachery.[2]

After Anacito entered a plea of not guilty at his arraignment, trial ensued.[3]

The evidence for the prosecution discloses that on 19 November 1998, at about 6:30 p.m., prosecution witness Bambi Herrera was studying his lessons inside his house. His brother and a certain Jason Masbang were outside sitting side by side with each other on a plastic chair; opposite them was Allan Dacles, who was lying on a bench.[4]

Moments later, Jason barged into Bambi's house, shouting: "There's a long-haired man!" Bambi stood up and looked through the open door. He saw appellant Anacito Opuran stab Allan on the chest with a knife while the latter appeared to be trying to stand up from the bench. Although Allan had several stab wounds on different parts of his body, he managed to stand up and run inside Bambi's house, with Anacito chasing him. Bambi immediately locked the door from the inside to prevent Anacito from entering. But the latter tried to force the

door open by thrusting a knife at the door shutter. He also threw stones at the door. After a short while, Anacito left.[5]

With Anacito gone, Bambi went out to ask the aid of his neighbors so he could bring Allan to the hospital. He saw Anacito's two brothers and asked for their assistance. But one of them merely said: "Never mind because he [referring to Anacito] is mentally imbalanced." [6] As nobody from among his neighbors responded to his plea for help, Bambi carried Allan on his shoulders and dragged him to the lower portion of the neighborhood. Several persons, who were having a drinking session, helped Bambi bring Allan to the hospital. Allan, however, died about fifteen minutes later.[7]

At about 7:45 p.m. of the same day, prosecution witness Tomas Bacsal, Jr., of Barangay San Pablo, Catbalogan, Samar, was in the house of Demetrio Patrimonio, Sr., seeking medical advice from the latter's wife. While there, Tomas heard a commotion outside. He looked out from the balcony and saw people running. He learned that Anacito had stabbed somebody.[8]

After about fifteen minutes, while Tomas was on his way home, he saw Demetrio Patrimonio, Jr. He likewise noticed Anacito hiding in a dark place. When Demetrio Jr. reached the national highway, near the so-called "lover's lane," Anacito emerged from his hiding place and stabbed Demetrio Jr. with a knife about three to four times.[9]

Tomas immediately ran to the house of the Demetrios to inform them of what he had just witnessed. He then saw Demetrio Jr. running towards his parents' house, but the latter did not make it because he collapsed near the fence. Tomas also caught sight of Anacito running towards the direction of the house of the Opurans. Meanwhile, Demetrio Jr. was brought by his parents to the Samar Provincial Hospital, where he died the following day.[10]

Dr. Angel Tan, Medical Specialist II of the Samar Provincial Hospital, conducted an autopsy on the cadavers of Allan and Demetrio Jr. He found five stab wounds on Allan's body, one of which was fatal because it affected the upper lobe of the right lung and bronchial vessel.[11] Demetrio Jr. sustained four stab wounds and died of pulmonary failure due to hypovolemia from external and internal hemorrhage.[12]

For its part, the defense presented, as its first witness, the appellant himself, Anacito Opuran. He declared that on the evening of 19 November 1998, he was resting in their house in Canlapwas, another barangay in Catbalogan, Samar. He never went out that night. While he was sleeping at about 8:30 p.m., eight policemen entered his house, pointed their guns at him, and arrested him. He was brought to the police station and detained there until the following morning. He denied being present at the place and time of the stabbing incidents. He admitted knowing Demetrio Jr. as a distant relative and friend whom he had not quarreled with. As for Allan, he never knew him. He had no misunderstanding with prosecution witness Bambi Herrera. He asserted that the accusations against him were fabricated because he was envied and lowly regarded by his accusers.[13]

Subsequent hearings were postponed owing principally to the failure of the defense to present witnesses. Then on 16 February 2000, the defense moved for the suspension of the hearing on the following grounds: (1) on 10 January 2000, upon motion of the defense, the trial court issued an Order authorizing the psychiatric examination of Anacito; (2) in consonance with that Order, Anacito underwent a psychiatric examination on 26 January 2000 conducted by Dr. Angel P. Tan; (3) Dr. Tan issued a Medical Certificate dated 26 January 2000 stating that Anacito had a "normal" mental status on that date but was "suffering from some degree of Mental Aberration," which required further psychiatric evaluation at Tacloban City.[14]

The trial court thus ordered a deferment of the hearing and granted the motion for the psychiatric examination of Anacito at the Eastern Visayas Regional Medical Center (EVRMC), Tacloban City.[15]

On 3 August 2000, the trial court received the Medical Report of Dr. Lyn Verona, physician-psychiatrist of the EVRMC, on the psychiatric examination she conducted on Anacito. At the resumption of the hearings on 20 November 2000, Dr. Verona testified that she examined Anacito three times through interviews. From her interview with Anacito's sister, Remedios Opuran Manjeron, she learned of Anacito's psychiatric history of "inability to sleep and talking irrelevantly." She found that Anacito had a psychotic disorder characterized by flight of ideas and auditory hallucinations. She confirmed her medical findings that Anacito was psychotic before and during the commission of the crime and even up to the present so that he could not stand trial and would need treatment and monthly check-up. Her diagnosis was that Anacito was suffering from schizophrenia.[16]

Remedios Opuran Manjeron testified that she brought his brother Anacito to the National Center for Mental Health (NCMH), Mandaluyong, in 1986 because Anacito had difficulty sleeping and was talking "irrelevantly." [17] Anacito was treated as an out-patient, and was prescribed thorazine and evadyne.[18] They stayed in Manila for one month. In 1989, they returned to the NCMH, and Anacito was prescribed the same medicine. Since they could not afford to stay long in Manila for follow-up treatments, Remedios requested that her brother be treated in Catbalogan. Dr. Belmonte of the NCMH, however, referred them to the EVRMC. Sometime in 1990, Remedios accompanied Anacito to the EVRMC for examination. A certain Dra. Peregrino prescribed an injectable medicine. But it was a certain Dr. Estrada of the NCMH who came to Catbalogan to administer the medicine in that same year. Since then until the year 2000, Anacito did not take any medicine, nor was he subjected to examination or treatment.[19]

Anacito's other sibling, Francisco Opuran, testified that at about 6:00 p.m. of 19 November 1998, he heard a loud voice outside their house. Anacito heard also the loud voices and then went out. When Francisco went out to verify, he did not see anything. A few minutes later he saw Anacito at the corner of the street carrying a knife. He surmised that Anacito had committed a crime, and so he hugged him. Anacito struggled to free himself, but Francisco brought him to Remedios' house. Before the incident, he observed Anacito to be "sometimes laughing, shouting, and uttering bad words, and sometimes silent." [20]

In its decision[21] of 23 January 2001, the trial court found Anacito guilty of murder for the death of Demetrio Patrimonio, Jr., and homicide for the death of Allan Dacles. It decreed:

WHEREFORE, the Court Finds Anacito Opuran y Balibalita GUILTY beyond reasonable doubt of the crimes specified hereunder, to wit:

Murder, in Criminal Case No. 4693, and sentences him to the penalty of reclusion perpetua, to indemnify the heirs of Demetrio Patrimonio, Jr. in the amount of P50,000.00 plus P43,500.00 by way of actual damages, and to pay the costs; and

Homicide, in Criminal Case No. 4703, and, applying the Indeterminate Sentence Law, sentences him to suffer an imprisonment ranging from ten (10) years of prision mayor, as minimum, to seventeen (17) years and four (4) months of reclusion temporal, as maximum to indemnify the heirs of Allan Dacles in the amount of P50,000.00 plus P10,000.00 for burial expenses and to pay the costs.

Anacito seasonably appealed to us from the decision attributing to the trial court grave error in disregarding the exempting circumstance of insanity.[22] He contends that he was suffering from a psychotic disorder and was, therefore, completely deprived of intelligence when he stabbed the victims. Even assuming in gratis argumenti that he is criminally liable, he is entitled to the mitigating circumstance under paragraph 9, Article 13 of the Revised Penal Code, which is "illness as would diminish the exercise of the willpower of the offender without however depriving him of the consciousness of his acts." He likewise maintains that since treachery was not specifically alleged in the Information as a qualifying circumstance, he cannot be convicted of murder for the death of Demetrio Jr.

The Office of the Solicitor General (OSG) disagrees and avers that Anacito failed to establish with the required proof his defense of insanity or his claim of the mitigating circumstance of diminished willpower. The mental state of Anacito, as testified to by Dr. Verona, corresponds to the period after the stabbing incidents. Further, Dr. Verona was certain that Anacito was not grossly insane, but she was uncertain that Anacito was “unconscious” at the time he stabbed the two victims. The OSG also argues that treachery was duly alleged and proved by the prosecution and should, therefore, be treated as a qualifying circumstance in the killing of Demetrio Jr.

We agree with the OSG and affirm the trial court’s judgment.

In the determination of the culpability of every criminal actor, voluntariness is an essential element. Without it, the imputation of criminal responsibility and the imposition of the corresponding penalty cannot be legally sanctioned. The human mind is an entity, and understanding it is not purely an intellectual process but is dependent to a large degree upon emotional and psychological appreciation. A man’s act is presumed voluntary.[23] It is improper to assume the contrary, i.e. that acts were done unconsciously,[24] for the moral and legal presumption is that every person is presumed to be of sound mind,[25] or that freedom and intelligence constitute the normal condition of a person.[26] Thus, the presumption under Article 800 of the Civil Code is that everyone is sane. This presumption, however, may be overthrown by evidence of insanity, which under Article 12(1) of the Revised Penal Code exempts a person from criminal liability.[27]

He who pleads the exempting circumstance of insanity bears the burden of proving it,[28] for insanity as a defense is in the nature of confession and avoidance.[29] An accused invoking insanity admits to have committed the crime but claims that he is not guilty because he is insane. The testimony or proof of an accused’s insanity must, however, relate to the time immediately preceding or coetaneous with the commission of the offense with which he is charged.[30] It is, therefore, incumbent upon accused’s counsel to prove that his client was not in his right mind or was under the influence of a sudden attack of insanity immediately before or at the time he executed the act attributed to him.[31]

Since insanity is a condition of the mind, it is not susceptible of the usual means of proof. As no man can know what is going on in the mind of another, the state or condition of a person’s mind can only be measured and judged by his behavior.[32] Thus, the vagaries of the mind can only be known by outward acts, by means of which we read the thoughts, motives, and emotions of a person, and then determine whether the acts conform to the practice of people of sound mind.[33]

Insanity is evinced by a deranged and perverted condition of the mental faculties which is manifested in language and conduct.[34] However, not every aberration of the mind or mental deficiency constitutes insanity.[35] As consistently held by us, “A man may act crazy, but it does not necessarily and conclusively prove that he is legally so.”[36] Thus, we had previously decreed as insufficient or inconclusive proof of insanity certain strange behavior, such as, taking 120 cubic centimeters of cough syrup and consuming three sticks of marijuana before raping the victim;[37] slurping the victim’s blood and attempting to commit suicide after stabbing him;[38] crying, swimming in the river with clothes on, and jumping off a jeepney.[39]

The stringent standard established in *People v. Formigones* [40] requires that there be a complete deprivation of intelligence in committing the act, i.e., the accused acted without the least discernment because of a complete absence of the power to discern or a total deprivation of the will.

In *People v. Rafanan, Jr.*, [41] we analyzed the *Formigones* standard into two distinguishable tests: (a) the test of cognition — whether there was a “complete deprivation of intelligence in committing the criminal act” and (b) the test of volition — whether there was a “total deprivation of freedom of the will.” We observed that our case law shows common reliance on the test of cognition, rather than on the test of volition, and has failed to turn up any

case where an accused is exempted on the sole ground that he was totally deprived of the freedom of the will, i.e., without an accompanying “complete deprivation of intelligence.” This is expected, since a person’s volition naturally reaches out only towards that which is represented as desirable by his intelligence, whether that intelligence be diseased or healthy.[42]

Establishing the insanity of an accused often requires opinion testimony which may be given by a witness who is intimately acquainted with the accused; has rational basis to conclude that the accused was insane based on his own perception; or is qualified as an expert, such as a psychiatrist.[43]

Let us examine the evidence offered to support Anacito’s defense of insanity. The appellant points to the testimony of prosecution witness Bambi Herrera that Anacito was a silent man who would sharply stare at the lady boarders a few days before the stabbing incident, and would wear Barong Tagalog and long pants when there was no occasion requiring a formal attire. The appellant also highlights that the testimony of prosecution witness Tomas Bacsal, Jr., that there was a 15-minute time interval between the two stabbing incidents shows that the stabbing spree was without any known motive.[44]

The testimonial evidence of the defense also attempted to prove the alleged behavioral oddity of Anacito two to three days prior to the killing. His sister Remedios noticed that his eyes were reddish and that he was angry with her.[45] His brother Francisco also observed that he (Anacito) would sometimes talk to himself, laugh, shout, and utter bad words, and , at times, he was just quiet.[46] Also relied upon by the appellant are the testimony of Remedios on his psychiatric history and the expert testimony of the EVRMC psychiatrist, Dr. Verona.

A careful scrutiny of the records, however, indicates that Anacito failed to prove by clear and convincing evidence the defense of insanity. For one thing, it was only Bambi’s personal perception that there was no reason or occasion for Anacito to wear Barong Tagalog. Tested against the stringent criterion for insanity to be exempting, such deportment of Anacito, his occasional silence, and his acts of laughing, talking to himself, staring sharply, and stabbing his victims within a 15-minute interval are not sufficient proof that he was insane immediately before or at the time he committed the crimes. Such unusual behavior may be considered as mere abnormality of the mental faculties, which will not exclude imputability.[47]

Anacito’s psychiatric history likewise fails to meet the stringent yardstick established by case law. What it shows is that Anacito was prescribed thorazine and evadyne, and later an injectable medicine to remedy “his lack of sleep and noisiness.” As the trial court noted, it was never shown that these drugs were for a mental illness that deprived Anacito of reason. Further, Anacito was just an out-patient at the NCMH, EVRMC, and Samar Provincial Hospital. While Remedios claimed that she requested the confinement of Anacito and that the doctors did not refuse her, the fact remains that Anacito was never confined in a mental institution. Although Dr. Verona testified that there was a recommendation for Anacito’s confinement, there was no indication in the records as to when the recommendation was made, who made the recommendation, and the reason for the recommendation.[48]

At any rate, in *People v. Legaspi*,[49] we discarded the confinement of the accused at the NCMH prior to the incident in question to be by itself proof of his insanity, there being no proof that he was adjudged insane by the institute. Applying this principle to Anacito’s case, we find another cogent reason to reject his plea of insanity.

The records are likewise clear that Anacito was not subjected to treatment from 1991 until 1999. While Remedios insisted that the medicine prescribed for Anacito ran out of stock allegedly in 1990, there was no proof that Anacito needed the medicine during that period. In fact, there was no intimation that he needed the medicine prior to the stabbing incident. She bought medicine for Anacito only in April 2000 because he was “again noisy in the jail.”[50] It seems that it was only after the stabbing incident, when he was in jail, that his symptoms reappeared.

Moreover, as found by the trial court, the results of Dr. Verona's examinations on Anacito were based on incomplete or insufficient facts.[51] For one thing, she admitted to have examined Anacito for only three sessions lasting one to two hours each.[52] Her one-page medical report[53] reads in part:

Patient came in accompanied by policemen and sister. He was fairly kempt in appearance, wearing blue shirt and pants. Mesomorphic, dark complexion with earring on the left ear. Had flight of ideas, with auditory hallucination, "kabastosan," "kanan yawa." He further said his sleep was "minanok" and complained of occasional headache. He had no delusion. Judgment and insight fair. Fair impulse control.

Comments:

From the foregoing interviews and examinations, it is determined that the patient has a psychiatric disorder. It is most likely that the patient is psychotic before and during the commission of the crime. He is presently psychotic and cannot stand trial. He would need treatment and monthly check-up.

We observe that Dr. Verona's conclusions have no supporting medical bases or data. She failed to demonstrate how she arrived at her conclusions. She failed to show her method of testing.[54] Further, she did not have Anacito's complete behavioral and psychiatric history. On the witness stand, she mentioned that Anacito could not distinguish right from wrong, but she was not certain that he was not conscious of killing his victims in 1998. She also declared that Anacito had a diagnostic case of schizophrenia, but stated in the next breath that Anacito was not grossly insane.[55]

Truly, there is nothing that can be discerned from Dr. Verona's short psychiatric evaluation report and her testimony that Anacito's judgment and mental faculties were totally impaired as to warrant a conclusion that his mental condition in 1998 when he killed his victims was the same in 2000 when he was psychiatrically examined. The most that we can conclude is that her findings refer to the period after the stabbing accident and, hence, would prove Anacito's mental condition only for said time. It could be that Anacito was insane at the time he was examined by Dr. Verona. But, in all probability, insanity could have been contracted during the period of his detention pending trial. He was without contact with friends and relatives most of the time. He was perhaps troubled by his conscience, by the realization of the gravity of his offenses, or by the thought of a bleak future for him. The confluence of these circumstances may have conspired to disrupt his mental equilibrium.

It must be stressed that an inquiry into the mental state of an accused should relate to the period immediately before or at the precise moment of the commission of the act which is the subject of the inquiry.[56] His mental condition after that crucial period or during the trial is inconsequential for purposes of determining his criminal liability.[57]

Interestingly, Anacito failed to raise insanity at the earliest opportunity. He invoked it for the first time in the year 2000 and only after he had already testified on his defenses of alibi and denial. It has been held that the invocation of denial and alibi as defenses indicates that the accused was in full control of his mental faculties.[58] Additionally, the trial judge observed that, during the hearings, Anacito was attentive, well-behaved, and responsive to the questions propounded to him. Thus, the shift in theory from denial and alibi to a plea of insanity, made apparently after the appellant realized the futility of his earlier defenses, is a clear indication that insanity is a mere concoction[59] or an afterthought.[60] In any event, Anacito failed to establish by convincing evidence his alleged insanity at the time he killed Demetrio Jr. and Allan Dacles. He is thus presumed sane, and we are constrained to affirm his conviction.[61]

We likewise reject the alternative plea of Anacito that he be credited with the mitigating circumstance of diminished willpower. In the cases where we credited this mitigating circumstance after rejecting a plea of insanity, it was clear from the records that the accused had been suffering from a chronic mental disease that

affected his intelligence and willpower for quite a number of years prior to the commission of the act he was being held for.[62] The situation does not exist in the cases at bar. It was only in 2000 that Anacito was diagnosed as “psychotic” with flight of ideas and auditory hallucinations and was found to be schizophrenic. There is nothing on record that he had these symptoms the previous years or at the time he stabbed the victim. Curiously, Dr. Verona did not make a diagnosis of schizophrenia in her report, only at the witness stand.

We agree with the trial court that treachery cannot be appreciated as far as the killing of Allan is concerned because the sole eyewitness did not see the commencement of the assault.[63] For treachery to be considered, it must be present and seen by the witness right at the inception of the attack. Where no particulars are known as to how the killing began, the perpetration with treachery cannot be supposed.[64]

Treachery was correctly appreciated in the killing of Demetrio Jr. Anacito was lying in wait for his victim in a dark place at the national highway. When Demetrio Jr. reached the “lover’s lane,” Anacito emerged from his hiding place and stabbed the former several times. Anacito’s attack came without warning; it was deliberate and unexpected, affording the hapless, unarmed, and unsuspecting victim no opportunity to resist or defend himself.[65]

We do not find merit in appellant’s contention that he cannot be convicted of murder for the death of Demetrio Jr. because treachery was not alleged with “specificity” as a qualifying circumstance in the information. Such contention is belied by the information itself, which alleged: “All contrary to law, and with the attendant qualifying circumstance of treachery.” In any event, even after the recent amendments to the Rules of Criminal Procedure, qualifying circumstances need not be preceded by descriptive words such as qualifying or qualified by to properly qualify an offense.[66]

We, therefore, sustain the penalty imposed by the trial court on Anacito. For the crime of murder, which is punishable by reclusion perpetua to death, he was correctly sentenced to suffer reclusion perpetua, the lower of the two indivisible penalties, since there was no other aggravating circumstance attending the commission of the crime. For the crime of homicide, which is punishable by reclusion temporal, he may be sentenced to an indeterminate penalty whose minimum is within the range of prision mayor and whose maximum is within the range of reclusion temporal in its medium period, there being no modifying circumstances.

Coming now to the matter of damages. While Demetrio Sr. testified that he spent P43,500 for the wake and burial of his son, only P11,945[67] is substantiated by receipts. Hence, in lieu of actual damages we shall award to Demetrio Jr.’s heirs temperate damages[68] of P25,000[69] conformably with current jurisprudence.[70]

As to the burial expenses for Allan, his father Alfredo Dacles testified that he spent P10,000. However, he failed to present receipts to substantiate his claim. Nevertheless, we also grant temperate damages in the amount of P10,000 on the ground that it was reasonable to expect that the family of the victim incurred expenses for the coffin, wake, and burial.

The award of civil indemnity of P50,000 for the respective heirs of Demetrio Jr. and Allan is affirmed in line with recent jurisprudence.[71] Civil indemnity is mandatory and is granted to the heirs of the victim without need of proof other than the commission of the crime.[2]

Apart from the civil indemnity, we shall award in favor of the heirs of each victim moral damages in the amount of P50,000 consistent with controlling case law.[73] Moral damages are awarded despite the absence of proof of mental and emotional suffering of the victim’s heirs. As borne out by human nature and experience, a violent death invariably and necessarily brings about emotional pain and anguish on the part of the victim’s family.[74]

We shall also award in favor of the heirs of Demetrio Jr. exemplary damages in the amount of P25,000 in view of

the presence of the qualifying aggravating circumstance of treachery.[75]

Thus, Anacito shall indemnify the heirs of Demetrio Patrimonio, Jr., damages in the total amount of P161,945 and the heirs of Allan damages in the total amount of P110,000.

WHEREFORE, we AFFIRM, with modifications as to the damages, the Decision of the Regional Trial Court of Catbalogan, Samar, Branch 29, finding appellant Anacito Opuran guilty of the crimes of murder in Criminal Case No. 4693 and homicide in Criminal Case No. 4703, and sentencing him to suffer reclusion perpetua and an indeterminate penalty of ten (10) years of prision mayor, as minimum, to seventeen (17) years and four (4) months of reclusion temporal, as maximum, respectively. Apart from the P50,000 civil indemnity, he is ordered to pay (1) the heirs of Demetrio Patrimonio, Jr., in the amounts of (a) P50,000 as moral damages; (b) P25,000 as temperate damages; and (c) P25,000 as exemplary damages, or a total of P150,000; and (2) the heirs of Allan Dacles in the amounts of (a) P50,000 as moral damages; and (b) P10,000 as temperate damages, or a total of P110,000.

Costs de oficio.

SO ORDERED.

Ynares-Santiago, Carpio, and Azcuna, JJ., concur.

Panganiban, J., on official leave.

[1] Original Record (OR), Vol. I, 1; Rollo, 14.

[2] OR, Vol. II, 1; Rollo, 16.

[3] TSN, 11 May 1999, 2-3.

[4] Id., 13-14.

[5] Id., 14-17; TSN, 12 May 1999, 6-7, 14-16.

[6] TSN, 12 May 1999, 2-3;

[7] Id., 3-5.

[8] Id., 30-32.

[9] Id., 32-36.

[10] Id., 42-44.

[11] Exhibit "E," Folder of Exhibits for the Prosecution, Criminal Case No. 4703, 2; TSN, 21 June 1999, 6-7.

[2] Exhs. "B" and "C," Folder of Exhibits for the Prosecution, Criminal Case No. 4693, 2-3; TSN, 21 June 1999, 3-10.

[13] TSN, 8 September 1999, 6-16.

[14] OR, Vol. II, 28-36.

[15] OR, Vol. II, 37.

[16] TSN, 20 November 2000, 3-21.

[17] TSN, 11 December 2000, 4-5.

[18] Id., 6-7, 15; Exh. "1."

[19] TSN, 11 December 2000, 9-11, 15-17, 20-22.

[20] TSN, 16 January 2001, 7-9.

[21] OR, Vol. I, 54-55; Rollo, 37-38.

[22] Rollo, 89-106.

[23] U.S. v. Gloria, 3 Phil. 333 (1904); People v. Talavera, G.R. No. 139967, 19 July 2001, 361 SCRA 433.

[24] U.S. v. Guevara, 27 Phil. 547 (1914); People v. Tagasa, 68 Phil. 147 (1939); People v. Cruz, 109 Phil. 288 (1960); People v. Aldemita, G.R. Nos. L-55033-34, 13 November 1986, 145 SCRA 451; People v. Antonio, G.R. No. 144266, 27 November 2002.

[25] People v. Bascos, 44 Phil. 204 (1922); People v. Morales, G.R. No. L-44096, 20 April 1983, 121 SCRA 426.

[26] People v. Sia Teb Ban, 54 Phil. 52 (1929).

[27] People v. Renegado, G.R. No. L-27031, 31 May 1974, 57 SCRA 275.

[28] People v. Pambid, G.R. No. 124453, 15 March 2000, 328 SCRA 158; See also People v. So, G.R. No. 104664, 28 August 1995, 247 SCRA 708; People v. Tabugoca, G.R. No. 125334, 28 January 1998, 285 SCRA 312; People v. Condino, G.R. No. 130945, 19 November 2001, 369 SCRA 325.

[29] People v. Ambal, G.R. No. L-52688, 17 October 1980, 100 SCRA 325; People v. Danao, G.R. No. 96832, 19 November 1992, 215 SCRA 795; People v. Bañez, G.R. No. 125849 20 January 1999, 301 SCRA 248; People v. Yam-id, 368 Phil. 131 (1999).

[30] People v. Aquino, G.R. No. 87084, 27 June 1990, 186 SCRA 851, 861; See also People v. Diaz, G.R. No. 130210, 8 December 1999, 320 SCRA 168; People v. Domingo, G.R. No. 138453, 29 May 2002, 382 SCRA 581.

[31] People v. Austria, G.R. Nos. 111517-19, 31 July 1996, 260 SCRA 106.

[32] People v. Madarang, G.R. No. 132319, 12 May 2000, 332 SCRA 99.

[33] People v. Bonoan; 64 Phil 87, 93 (1937); People v. Dungo, G.R. No. 89420, 31 July 1991, 199 SCRA 860; People v. Valledor, G.R. No. 129291, 3 July 2002, 383 SCRA 653, 660-661.

[34] People v. Villa, G.R. No. 129899, 27 April 2000, 331 SCRA 142.

[35] People v. Medina, G.R. No. 113691, 6 February 1998, 286 SCRA 44; People v. Magallano, No. L-32978, 30 October 1980, 100 SCRA 570.

[36] People v. Valledor, supra note 33; People v. So, supra note 28; People v. Ambal, supra note 29.

[37] People v. Aquino, supra note 30, at 863.

[38] People v. Yam-id, supra note 29.

[39] People v. Valledor, supra note 33, at 661.

[40] 87 Phil. 658 (1950). See also People v. Ambal, supra note 29; People v. Renegado, supra note 27; People v. Cruz, supra note 24.

- [41] G.R. No. 54135, 21 November 1991, 204 SCRA 65.
- [42] See also *People v. Medina*, supra note 35.
- [43] *People v. Madarang*, supra note 32.
- [44] Rollo, 99-103; See TSN, 12 May 1999, 9-10.
- [45] TSN, 11 December 2000, 11.
- [46] TSN, 16 January 2001, 7.
- [47] *People v. Madarang*, supra note 32; *People v. Estrada*, G.R. No. 130487, 19 June 2000, 333 SCRA 699; *People v. Formigones*, supra note 40.
- [48] TSN, 20 November 2000, 24.
- [49] *People v. Legaspi*, G.R. Nos. 136164-65, 20 April 2001, 357 SCRA 234. See *People v. Guardo*, No. L-42965, 3 December 1987, 156 SCRA 152.
- [50] TSN, 11 December 2000, 22.
- [51] *People v. Villa*, supra note 34.
- [52] TSN, 20 November 2000, 21.
- [53] Exh. “1,” Folder of Exhibits for the Defense, 1.
- [54] *People v. Villa*, supra note 34; *People v. Medina*, supra note 35.
- [55] TSN, 20 November 2000, 11, 20-21.
- [56] *People v. Aquino*, supra note 30, at 861.
- [57] *People v. Villa*, supra note 34; *People v. Valledor*, supra note 33.
- [58] *People v. Ocfemia*, G.R. No. 126135, 25 October 2000, 344 SCRA 315.
- [59] *People v. Amamangpang*, G. R. No. 108491, 2 July 1998, 291 SCRA 638; *People v. Pambid*, supra note 28; *People v. Ocfemia*, supra.
- [60] *People v. Mengote*, G.R. No. 130491, 25 March 1999, 305 SCRA 380.
- [61] *People v. Robiños*, G.R. No. 138453, 29 May 2002, 382 SCRA 581.
- [62] *People v. Puno*, G. R. No. L- 33211, 29 June 1981, 105 SCRA 151; *People v. Antonio*, supra note 24; *People v. Rafanan*, supra note 41.
- [63] *People v. Ancheta*, G.R. Nos. 138306-07, 21 December 2001, 372 SCRA 753.
- [64] *People vs. Sayaboc*, G.R. No. 147201, 15 January 2004.
- [65] *People v. Quinicio*, G.R. No. 142430, 13 September 2001, 365 SCRA 252.
- [66] *People v. Aquino*, G.R. Nos. 144340-42, 6 August 2002, 386 SCRA 391; *People v. Sayaboc*, supra note 64.
- [67] Exhs. “G” and “H,” Folder of Exhibits for the Prosecution, Crim. Case No. 4703, 4-5.
- [68] Art. 2224, Civil Code, which provides: “Temperate or moderate damages, which are more than nominal but

less than compensatory damages, may be recovered when the court finds that some pecuniary loss has been suffered but its amount cannot, from the nature of the case, be proved with certainty.”

[69] Art. 2225, Civil Code, which provides: “Temperate damages must be reasonable under the circumstances.”

[70] *People v. Baño*, G.R. No. 148710, 15 January 2004.

[71] *People v. Panida*, G.R. Nos. 127125 and 138952, 6 July 1999, 310 SCRA 66, 98; *People v. Bonito*, G.R. No. 128002, 10 October 2000, 342 SCRA 405, 428; *People v. Rabanal*, G.R. 146687, 22 August 2002, 387 SCRA 685; *People v. Belaong*, G.R. No. 138615, 18 September 2002, 389 SCRA 337.

[72] *People v. Manlansing*, G. R. Nos. 131736-37, 11 March 2002, 378 SCRA 685.

[73] *People v. Pardia*, 412 Phil. 456 (2001); *People v. Ereño*, G.R. No. 124706, 22 February 2000, 326 SCRA 157, 169; *People v. Rabanal*, G.R. No. 146687, 22 August 2002, 387 SCRA 685.

[74] *People v. Panado*, G.R. No. 133439, 26 December 2000, 348 SCRA 679, 691; *People v. Caraig*, G.R. Nos. 116224-27, 28 March 2003; *People v. Mallari*, G.R. No. 145993, 17 June 2003; *People v. Baño*, *supra* note 70.

[75] *People v. Mallari*, G.R. No. 145993, 17 June 2003; *People v. Manansala*, G.R. No. 147149, 9 July 2003.

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