

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. FELIX VENTURA Y QUINDOY AND ARANTE FLORES Y VENTURA, APPELLANTS.

G.R. Nos. 148145-46. July 05, 2004

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-nos-148145-46/>

PER CURIAM:

On automatic appeal[1] before this Court is the Decision of the Regional Trial Court of Negros Occidental, Branch 50, finding appellants Felix Ventura (Ventura) and Arante Flores (Flores) guilty beyond reasonable doubt of Murder in Criminal Case No. 00-20692 and Attempted Murder in Criminal Case No. 00-20693.

The accusatory portion of the Information for Murder in Criminal Case No. 00-20692 reads as follows:

That on or about the 23[rd] day of February, 2000 in the City of Bacolod, Philippines, and within the jurisdiction of this Honorable Court, the herein accused, conspiring, confederating and acting in concert, without any justifiable cause or motive, with intent to kill and by means of treachery and evident premeditation, accused Felix Q. Ventura armed with a .38 Caliber Home-made Revolver and Arante V. Flores armed with a bladed weapon, and by taking advantage of their superior strength, did, then and there willfully, unlawfully and feloniously assault, attack and stab with bladed weapon one Aileen Bocateja y Peruelo, thereby inflicting upon the person of the latter the following wounds, to wit:-Cardio respiratory arrest
-Hemothorax
-stab wounds

which wounds were the direct and immediate cause of the death of said victim, to the damage and prejudice of the heirs of the latter.

That the crime was committed with the aggravating circumstances of dwelling, night time and with the use of an unlicensed firearm.

Act contrary to law.[2] (Emphasis supplied)

The accusatory portion of the Information for Frustrated Murder in Criminal Case No. 00-20693 reads as follows:

That on or about the 23[rd] day of February, 2000 in the City of Bacolod, Philippines, and within the jurisdiction of this Honorable Court, the herein accused, conspiring, confederating and mutually helping each other, without any justifiable cause or motive, accused Felix Q. Ventura armed with a .38 Caliber Homemade Revolver and Arante Flores y Ventura armed with a bladed weapon, with intent to kill and by means of treachery and evident premeditation, and abuse of superior strength, did, then and there willfully, unlawfully and feloniously assault, attack and stab with said bladed weapon one Jaime Bocateja, thereby causing upon of the latter the following wounds, to wit:-multiple stab wounds
-#1 Posterior axillary area right
-#2 Posterior axillary area left with minimal hemothorax
-lacerated wound right parietal area

OPERATION PERFORMED:

-Exploration of wound right parietal for removal of foreign body

thus performing all the acts of execution which would have produced the crime of murder as a consequence, but which nevertheless, did not produce it by reason of some cause or accident independent of the will of the perpetrator, that is, due to the timely and able medical assistance, which saved the life of the victim and the victim was able to escape.

That the crime was committed with the aggravating circumstances of dwelling, night time, and with the use of an unlicensed firearm.

Act contrary to law.[3] (Emphasis supplied)

When arraigned, appellants pleaded not guilty to both charges.[4] The two criminal cases were consolidated following which they were jointly tried.[5]

The spouses Jaime and Aileen Bocateja were, in the early hours of February 23, 2000, fast asleep in their room on the ground floor of their two-storey house at Alunan-Yulo in Bacolod City, Negros Occidental. The room had a glass wall with a glass sliding door which was closed but not locked. The kitchen light was open, as was the light in the adjoining room where the couple's young children, Jummylin and Janine, were sleeping. Their niece, Aileen Bocateja, and Jaime's elder daughter, Rizza Mae, were asleep in their rooms on the second floor.[6]

At around 2:00 a.m.,[7] Jaime was roused from his sleep by appellant Ventura who, together with his nephew appellant Flores, had stealthily entered the couple's room after they gained entry into the house by cutting a hole in the kitchen door.

As established by the testimonial and object evidence for the prosecution, the following transpired thereafter:

Appellant Ventura pointed a revolver at Jaime's face, announced a hold-up, hit Jaime on the head with the gun and asked him for his keys. [8]

When appellant Ventura struck him again, Jaime called out for help and tried to grab the revolver. The two men then struggled for possession of the gun. As Jaime almost succeeded in wresting possession of the gun from him, appellant Flores shouted to appellant Ventura to stab Jaime. Using the knife he was carrying, appellant Flores stabbed Jaime three times. Jaime thereupon released the gun, threw a nearby plastic stool at the jalousy glass window causing it to break and cried out for help.[9]

In the meantime, Aileen who had been awakened, began shouting for help as she saw her husband in mortal danger. Appellant Flores stabbed her, however, with his knife, and although Aileen tried to defend herself with an electric cord, appellant Flores continued stabbing her.[10]

Awakened by the commotion, Aileen descended the stairs and saw the knife wielding appellant Flores whom she recognized as a former employee of the butcher shop of the Bocataje spouses. Pleading with appellant Flores not to harm her, Aileen ran back upstairs into Rizza Mae's room, and the two called to their neighbors for help.[11]

Appellants Ventura and Flores thereupon fled the Bocateja house,[12] bringing nothing with them.[13]

Soon members of the Central Investigation Unit (CIU) of the Philippine National Police (PNP) arrived in response to a flash report.[14] Some of the police officers took the spouses to the Western Visayas Regional Hospital,[15] while other elements of the CIU team intercepted appellants Ventura and Flores who were being pursued by neighbors of the spouses at the corner of Araneta-Yulo. Recovered from appellant Ventura was a .38 caliber revolver with five (5) live bullets, and from appellant Flores a blood stained knife[16] measuring 14½ inches from

tip to handle with a 10-inch blade.[17]

Shortly after their arrest, appellants were interviewed by reporters from Bombo Radio to whom they admitted responsibility for stabbing Jaime and Aileen. In response to questions from the reporters, appellant Ventura explained that he suspected his wife was carrying on an affair with Jaime.[18]

In the ocular inspection of the Bocateja residence, the CIU team found the spouses' room in disarray, with some cabinets opened and blood splattered all over the floor, the bed and the ceiling. [19]

Aileen eventually died in the hospital on the same day of the commission of the crime.[20] Dr. Luis Gamboa, City Health Officer of Bacolod City who conducted the autopsy of her body, found that she suffered a hack wound on her face and four stab wounds on her body, three at the chest and one at the back of the right shoulder, all caused by a sharp bladed instrument, such as the knife recovered from appellant Flores. One of the stab wounds penetrated Aileen's chest near the left nipple, the intercoastal space and the middle of her right lung causing internal hemorrhage and ultimately resulting in her death.[21]

Jaime who was hospitalized for a total of six days, was treated by Dr. Jose Jocson,[22] who certified that he sustained the following non-lethal injuries: [23]

Multiple Stab Wounds

#1 Posterior Axillary Area Right

#2 Posterior Axillary Area Left with Minimal Hemothorax

Lacerated Wound Right Parietal Area[24]

From the evidence for the defense consisting of the testimonies of appellants Ventura and Flores and Primitiva Empirado, the following version is culled:

Four days after February 13, 2000 when appellant Ventura arrived in Negros Occidental from Manila where he had been working as a security guard,[25] he noticed that his wife, Johanna, who had previously been employed as a house helper of the Bocateja spouses, was wearing a new ring. When he confronted her, she said that it came from Jaime who was courting her, and that it was because Jaime's wife, Aileen, had discovered their illicit relationship that she had been dismissed from the Bocateja household. Incensed at the revelation, he slapped his wife whereupon she left the conjugal home.[26]

On February 22, 2000, Johanna returned to the conjugal home in Barangay Alegria, Municipality of Murcia, Negros Occidental to get her things. After a verbal confrontation with her husband, she left to find work in Kabankalan, Negros Occidental. This was the last time that Johanna and appellant Ventura saw each other.[27]

That same day, appellant Flores visited his uncle-appellant Ventura. The two spoke at length and appellant Flores, who had previously worked for a day at the meat shop of the Bocateja spouses, confirmed that Johanna and Jaime were having an affair.[28]

Since appellant Flores knew where the Bocateja spouses lived, appellant Ventura asked him to go with him to their residence so he could confront Jaime about his affair with Johanna.[29]

Appellants, armed with an unlicensed revolver and a knife, thus repaired to the Bocateja residence still on the same day, February 22, 2000, arriving there at around 11:00 p.m. They were not able to immediately enter the premises, however. After boring a hole through the kitchen door with the knife, appellants entered the Bocateja residence at 2:00 a.m. of the next day, February 23, 2000.[30]

Once inside, appellants entered the room of the Bocateja spouses through the unlocked sliding door. Appellant Ventura woke Jaime up, confronted him and told him to stop his relationship with Johanna. Jaime fought back,

and he and appellant Ventura grappled for possession of the latter's gun.[31]

Soon after, Aileen woke up, screamed for help, and began throwing things at appellant Flores whom she attempted to strangle with an electrical extension cord. Unable to breathe, appellant Ventura stabbed Aileen twice with his knife. And seeing that Jaime had wrested control of the gun from appellant Ventura, appellant Flores also stabbed Jaime.[32]

Since appellants had not intended to kill Aileen or stab Jaime, they fled in the course of which Jaime began shooting at them with a 9 mm pistol. Appellants were eventually intercepted by policemen who placed them under arrest.[33]

Interviewed by the media after his arrest, appellant Ventura stressed that he just wanted to confront Jaime about the latter's relationship with appellant's wife, Johanna.[34]

By the appealed Decision of December 15, 2000, the trial court disposed as follows:

FOR ALL THE FOREGOING, the Court finds the accused FELIX VENTURA y QUINDOY and ARANTE FLORES y VENTURA GUILTY beyond reasonable doubt as Principals by Direct Participation of the crime of ATTEMPTED MURDER as alleged in Criminal Information No. 00-20693 with the aggravating circumstances of evident premeditation, dwelling, nighttime and the breaking of door to gain entrance to the house and with no mitigating circumstance. Accordingly, they are sentenced to suffer the penalty of Reclusion Temporal in its maximum period. Applying the Indeterminate Sentence Law, they shall serve a prison term of from Eight (8) years of Prison Mayor as Minimum to Eighteen (18) years of Reclusion Temporal as Maximum.

The Court also finds the two (2) above-named accused GUILTY as Principal[s] by Direct participation for the crime of Murder as alleged in Criminal Information No. 00-20692 qualified by abuse of superior strength. The aggravating circumstances of dwelling, nighttime and by the breaking of a door are present in the commission of the crime. There is no mitigating circumstance. The accused, therefore, are meted the Supreme penalty of DEATH.

By way of civil liability, the accused are solidarily ordered to pay the heirs of Aileen Bocoteja the sum of P50,000.00 as death indemnity. The accused are likewise held solidarily liable to pay Jaime Bocateja the sum of P100,000.00 as moral damages and the sum of P20,000.00 as exemplary damages.[35] (Emphasis supplied)

In their Brief,[36] appellants contend that the trial court erred (1) in convicting them despite the failure of the prosecution to prove their guilt beyond reasonable doubt; (2) in considering abuse of superior strength as a qualifying circumstance in Criminal Case No. 00-20892; (3) in considering evident premeditation as a qualifying circumstance in Criminal Case No. 00-20893; and (4) in considering the aggravating circumstances of breaking of door and nocturnity in both cases.[37]

Appellants argue that, at most, they can only be convicted of attempted homicide for the stabbing of Jaime and homicide for the fatal stabbing of Aileen.[38]

From a considered review of the records and applicable jurisprudence, the instant appeal fails.

The essence of evident premeditation is that the execution of the criminal act must be preceded by cool thought and reflection upon the resolution to carry out the criminal intent during a space of time sufficient to arrive at a calm judgment.[39] For it to be appreciated, the following must be proven beyond reasonable doubt: (1) the time when the accused determined to commit the crime; (2) an act manifestly indicating that the accused clung to his determination; and (3) sufficient lapse of time between such determination and execution to allow him to reflect upon the circumstances of his act.[40]

By appellants' argument, even if appellant Ventura became jealous when he learned of the illicit affair between his wife and Jaime, it is not, by itself, sufficient proof that he determined to kill the latter; that with Jaime's testimony that appellant had announced a "hold-up," they, at most, intended to rob, but not kill the spouses; that their only purpose was to confront Jaime regarding his supposed affair with appellant Ventura's wife, Johanna; and that if they had truly intended to kill Jaime, then appellant Ventura would not have bothered to awaken him, but would just have shot him in his sleep.

These assertions run counter to the established facts and are debunked by appellants' own admissions.

Appellants admittedly arrived at the Bocateja residence at 11:00 p.m. and surreptitiously entered therein at 2:00 a.m. At that time, the surrounding premises were decidedly dark, and all the members of the household were fast asleep. Armed with a gun and a knife, they proceeded directly to the bedroom of the spouses, where appellant Ventura woke up Jaime. These actuations are not of those seeking parley, but instead betray an unmistakable intention to kill, not merely confront, Jaime.

Indeed, when pressed during cross-examination to explain why he chose to "confront" Jaime under the foregoing circumstances, appellant Ventura became evasive and did not give a clear answer:

Q Mr. Witness, you said that your purpose in going to the house of Jaime was only

to confront him. My question is, why is it that you went there at 11:00 o'clock in the evening and not in the morning so that you will have all the opportunity to confront him?

A Because at that time, I was not on my proper frame of mind.

Q Why, is it not a fact that as early as February 17, 2000, you were already told by your wife that there was that relationship with Jaime Bocateja and your wife?

A Yes, sir.

Q Why did you not immediately confront Mr. Bocateja after that day or February 17?

WITNESS:

A On that day, I don't know Jaime Bocateja.

x x x

ATTY. ORTIZ:

Q On February 22. So that you did not ask your wife where the place of Jaime Bocateja was at that time you were by him on February 22, 2000?

A Johanna did not tell me the place of Jaime Bocateja.

Q Why did you not ask her where the house is, at that time?

A What she told me was that, she is working in Bacolod City.

Q Mr. Witness, you had from February 17 to 22, a number of days to

confront Mr. Jaime Bocateja. Did you not confront your wife or perhaps ask her about the place or where this Jaime Bocateja was at that time and have the intention to confront him, if that was really your intention to confront him?

WITNESS:

A No, I did not ask her because we had a confrontation and the next day,

February 17, she left.

Q Of course, when you arrived at the house of the Bocateja [spouses] at 11:00

o'clock in the evening, you were armed at that time, is that right, you and your companion, Arante Flores?

A Yes, sir.

Q What was that weapon at that time?

A .38 caliber revolver.

x x x

ATTY. ORTIZ:

Q Mr. Witness, if your intention was only to confront Mr. Jaime Bocateja,

why is it that you did not wait or you did not come to that place earlier so that at that time, Jaime Bocateja was still awake or perhaps waited until the next day?

COURT:

Already answered. He said that he was not at the proper frame of his mind.[41] (Emphasis supplied)

Cross-examined on the same point, appellant Flores was equally evasive, but eventually revealed that the timing and method of entry were purposely chosen to avoid detection by either the Bocateja family or their neighbors:

Q You arrived in the house of Bocateja at about 11:00 o'clock is that right?

A Yes, sir.

Q And your purpose in going to the house of Bocateja was only to confront Jaime

Bocateja about his relationship with Johanna is that right?

A Yes, sir.

ATTY. ORTIZ:

Q Why did you wait Mr. Witness why did you and the other accused Felix

Ventura wait for three (3) hours for you to confront him in his house?

WITNESS:

A Because we were not able to enter the door right away because the door could not be opened.

Q My question Mr. Witness, is this you ate your supper at Libertad market

at about 8:00 o'clock why did you not go to the house of Jaime Bocateja at 9:00 o'clock immediately after supper? At that time when the members of the family were yet awake?

A We stayed at Burgos market and then from Burgos to Libertad we only walk and from Libertad to the house of Bocateja.

ATTY. ORTIZ:

Q You will admit Mr. Witness at the time you left your place at Brgy.

Alegria you were already armed, is that right?

WITNESS:

A Yes, sir.

Q Your uncle Felix Ventura was armed with [a] .38 caliber revolver, is that right?

A Yes, sir.

Q And you were also armed with a bladed weapon is that correct?

A Yes, sir.

Q Why do you have to bring this weapon Mr. Witness?

A We brought this weapon just to frighten Jaime Bocateja during [the] confrontation.

ATTY. ORTIZ:

Q Are you saying Mr. Witness if your purpose was only to confront him you have to bring this [sic] weapons?

WITNESS:

A Yes, sir.

Q When you arrived at the house of Jaime Bocateja about 11:00 o'clock. . . by the way when did you arrive at the house of Jaime Bocateja?

A 11:00 in the evening.

Q Of course you did not anymore knock at the door Mr. Witness?

A No, sir.

Q Or you did not also call any member of the family to open [the door for] you, is that right?

WITNESS:

A No, sir.

ATTY. ORTIZ:

Q As a matter of fact you only broke the gate Mr. Witness in order to enter the compound of the Bocateja family?

A We scaled over the gate.

Q And why do you have Mr. Witness to go over the fence and open a hole at the kitchen for you to confront Mr. Jaime Bocateja if that was your purpose?

A The purpose of my uncle was just to confront Jaime.

Q And when you confront, are you saying that you cannot any more knock at the door, perhaps call any member of the family inside the house?

WITNESS:

A No, sir.

ATTY. ORTIZ:

Q Why Mr. Witness, Why?

A We did not call or knock at the person inside the house because it will make noise or calls and alarm to the neighbors.[42] (Emphasis and underscoring supplied)

To be sure, all the elements of evident premeditation were clearly established from the lips of appellants themselves. Thus, on clarificatory questioning by the trial court, appellant Ventura testified:

COURT:

Q I recall that you left Murcia [at] 4:00 o'clock. Is that morning or afternoon?

A I left Murcia at 4:00 o'clock in the afternoon.

Q 4:00 o'clock from Alegria then to Alangilan, then to Bacolod, is that correct?

A Yes, sir.

Q From Alangilan to Bacolod, what mode of transportation did you make?

A From Alegria to Alangilan, we only hiked and then from Alangilan to Bacolod we took the passenger jeepney.

Q From Alegria to Alangilan, how long did it take you to walk? How many kilometers?

A Four (4) kilometers.

Q And, I assume that while you were walking, you were talking with Arante Flores, your nephew, about the plans to go to the house of Jaime Bocateja?

A Yes, sir.

COURT:

Q By the way, what did you do at Alangilan?

A I went there because my clothes were at my sister's house.

Q So, what time did you arrive in [Bacolod]?

A We arrived here in [Bacolod] late in the evening.

Q I assume that you disembarked at Burgos Market?

A Yes, sir.

Q And you just walked from Burgos Market to Libertad Baybay to the house of Jaime Bocateja?

A Yes, sir.

Q It took you about thirty (30) [minutes] to one (1) hour, more or less?

A More than one (1) hour.

Q And during this time, you were talking again with Arante Flores [about]

the course of action that you will take once a confrontation takes place with Jaime Bocateja?

WITNESS:

A Yes, I asked him the location of 3rd Road since I do not know the house of Jaime Bocateja.

COURT:

Q I assume that the front main door of the house was close[d] at that time, correct?

A Yes, sir.

Q You scaled that door, the front main door of the gate?

A Yes, sir, we scaled the gate.

Q You were not able to open it but you simply scaled, you went over?

A Yes, sir.

Q And you said yet, you destroyed the main door of the house. Can you tell the Court, how did you destroy the main door of the house?

A No, the kitchen door, sir.

COURT:

Q How were you able to destroy it?

WITNESS:

A We used the knife in unlocking the door. We made a hole.

Q You made a hole and with the use of your hand, you were able to unlock the inside lock because of the hole?

A Yes, sir.

Q And I assume that it took you twenty (20) – thirty (30) minutes to make that hole?

A Yes, sir.[43] (Emphasis supplied)

The immediately foregoing narration was echoed by appellant Flores who gave the following testimony on direct examination:

ATTY. JACILDO:

Q So from Brgy. Alegria where did you proceed?

WITNESS:

A We proceeded to Brgy. Alangilan.

Q This Brgy. Alegria how far is it from Brgy. Alangilan?

A The distance between Brgy. Alegria to Brgy. Alangilan is about three (3) kilometers.

Q So, what means of transportation did you used in going to Alangilan?

A We walked in going to Alangilan.

Q When you arrived at Brgy. Alangilan what did you do?

WITNESS:

A We went to our aunt's house.

ATTY. JACILDO:

Q From Alangilan where did you proceed?

A In Alangilan, we stayed at the house of my aunt and then we proceeded to

Bacolod.

Q So what time did you arrived [sic] in Bacolod?

A 8:00 o'clock in the evening.

Q When you arrived in Bacolod, what did you do?

A We ate our supper at Libertad Market.

Q After eating your dinner at Libertad, what did you do?

A After eating our supper, we proceeded to the house of Jaime Bocateja.

ATTY. JACILDO:

Q What time did you arrived [sic] at the house of Jaime?

WITNESS:

A 11:00 o'clock in the evening.

Q When you arrived at the house of Jaime, what did you do?

A We enter[ed] the gate of their house.

Q Please continue?

A Then, we opened the door.

Q And then?

A We reach[ed] [the Bocateja residence] at around 11:00 o'clock and we

tried to open the door but we could not open the door immediately. We made a hole so that we can get in the house. We entered the house at about 2:00 o'clock in the morning the following day.[44] (Emphasis supplied)

Undoubtedly, the accounts of appellants evince not only their resolve to kill Jaime, but the calm and methodical manner by which they sought to carry out his murder. As pointed out by the Solicitor General, unless shown to be customary,[45] appellants' act of arming themselves with a gun and a knife constitutes direct evidence of a careful and deliberate plan to carry out a killing. Consider the following ruling of this Court in *People v. Samolde*:[46]

As stated earlier, accused-appellant and Armando Andres tried to borrow Cabalin's tear gas gun. This attempt by the accused-appellant and his co-accused to arm themselves prior to the commission of the crime constitutes direct evidence that the killing of Feliciano Nepomuceno had been planned with care and executed with utmost deliberation. From the time the two agreed to commit the crime to the time of the killing itself, sufficient time had lapsed for them to desist from their criminal plan had they wanted to. Instead, they clung to their determination and went ahead with their nefarious plan. x x x[47] (Emphasis supplied)

From the time appellants left Murcia, Negros Occidental, after they had resolved to go to confront Jaime, to the time they entered the Bocateja residence in Bacolod City, ten hours had elapsed – sufficient for appellants to dispassionately reflect on the consequences of their actions and allow for their conscience and better judgment to overcome the resolution of their will and desist from carrying out their evil scheme, if only they had desired to hearken to such warnings. In spite of this, appellants evidently clung to their determination to kill Jaime.

That evident premeditation was established through the testimonies of appellants and not by those of the prosecution witnesses is of no moment. While appellants could not have been compelled to be witnesses against themselves,[48] they waived this right by voluntarily taking the witness stand. Consequently, they were subject to

cross-examination on matters covered by their direct examination.[49] Their admissions before the trial court constitute relevant and competent evidence which the trial court correctly appreciated against them. [50]

Although he admitted stabbing Jaime, appellant Flores sought to justify his actions by claiming that he was impelled by the need to prevent Jaime from shooting his uncle, appellant Ventura. This pretense does not impress.

To successfully claim that he acted in defense of a relative, the accused must prove the concurrence of the following requisites: (1) unlawful aggression on the part of the person killed or injured; (2) reasonable necessity of the means employed to prevent or repel the unlawful aggression; and (3) the person defending the relative had no part in provoking the assailant, should any provocation have been given by the relative attacked.[51] Of these, the requisite of “unlawful aggression” is primary and indispensable without which defense of relative, whether complete or otherwise, cannot be validly invoked.[52]

Not one of the foregoing requisites of defense of a relative is present. From all accounts, it was appellants who initiated the unlawful aggression, and it was the victim Jaime who acted in self defense. Hence, neither the justifying circumstance of defense of a relative[53] nor the special mitigating circumstance of incomplete defense of a relative[54] may be appreciated in appellant Flores’ favor.

While appellant Ventura did not directly participate in the stabbing of Jaime, the trial court correctly held both appellants collectively liable for the attempt on the latter’s life since they were shown to have acted in conspiracy with each other.

There is a conspiracy when two or more persons come to an agreement concerning the commission of a felony and decide to commit it.[55] Where conspiracy has been adequately proven, as in these cases, all the conspirators are liable as co-principals regardless of the extent and character of their participation because, in contemplation of law, the act of one is the act of all.[56]

By stabbing Jaime Bocateja pursuant to their pre-conceived plot, appellants commenced the commission of murder directly by overt acts. Despite their efforts, however, they failed to inflict a mortal wound on Jaime, hence, their liability only for attempted murder.[57]

With respect to the death of Aileen, the trial court found both appellants guilty of murder qualified not by evident premeditation but by taking advantage of superior strength, [58] to wit:

The killing of Aileen Bocateja is qualified by the aggravating circumstance of abuse of superior strength. The accused Arante Flores who delivered the stabbing blow is big and strong, standing about five feet and six (5’6”) inches tall. His weapon was a 14 inch dagger. Aileen Bocateja [stood] only about five (5’0”) feet tall. The disparity of their strength is enormous.[59] (Emphasis supplied)

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.[60] The appreciation of this aggravating circumstance depends on the age, size and strength of the parties, and is considered whenever there is a notorious inequality of forces between the victim and the aggressor, assuming a superiority of strength notoriously advantageous to the aggressor, which is selected or taken advantage of by him in the commission of the crime.[61]

Appellants “agree with the trial court that accused-appellant Arante Flores is taller, and probably stronger than the victim Aileen Bocateja because of their difference in sex as well as the fact that the accused appellant Flores was armed at that time x x x.”[62] Nevertheless, they argue that Aileen’s death was not attended by abuse of superior strength since: (1) though ultimately unsuccessful, she was able to put up a defense against appellant Flores; and (2) the prosecution failed to show that appellant Flores deliberately took advantage of the disparity in their size and sex in order to facilitate the commission of the crime.

Unlike in treachery, where the victim is not given the opportunity to defend himself or repel the aggression,[63] taking advantage of superior strength does not mean that the victim was completely defenseless. Abuse of superiority is determined by the excess of the aggressor's natural strength over that of the victim, considering the momentary position of both and the employment of means weakening the defense, although not annulling it.[64] Hence, the fact that Aileen attempted to fend off the attack on her and her husband by throwing nearby objects, such as an electric cord, at appellant Flores does not automatically negate the possibility that the latter was able to take advantage of his superior strength.

On the contrary, this Court in a very long line of cases has consistently held that an attack made by a man with a deadly weapon upon an unarmed and defenseless woman constitutes the circumstance of abuse of that superiority which his sex and the weapon used in the act afforded him, and from which the woman was unable to defend herself.[65] Thus, in *People v. Molas*,[66] where the accused was convicted of murder for stabbing to death two women and an eight year old boy, this Court discoursed:

While treachery was not appreciated as a qualifying circumstance against Molas, the killing of the three victims was raised to murder by the presence of the qualifying circumstance of abuse of superior strength. There was abuse of superior strength when Molas inflicted several mortal wounds upon Soledad. Molas, besides being younger and stronger, was armed with a weapon which he used in seriously wounding her. That circumstance was also present when he hacked eight-year old Abelaro and also Dulcesima who, besides being a woman of lesser strength was unarmed.[67] (Emphasis supplied)

And in the more recent case of *People v. Loreto*,[68] this Court opined:

The contention of accused-appellant is barren of merit. Article 14, paragraph 15 of the Revised Penal Code provides that a crime against persons is aggravated by the accused taking advantage of superior strength. There are no fixed and invariable rules regarding abuse of superior strength or employing means to weaken the defense of the victim. Superiority does not always mean numerical superiority. Abuse of superiority depends upon the relative strength of the aggressor vis-à-vis the victim. There is abuse of superior strength even if there is only one malefactor and one victim. Abuse of superiority is determined by the excess of the aggressor's natural strength over that of the victim, considering the position of both and the employment of means to weaken the defense, although not annulling it. The aggressor must have advantage of his natural strength to insure the commission of the crime. In this case, accused-appellant was armed with a knife and used the same in repeatedly stabbing Leah, a young wisp of a girl, no less than eighteen times after overtaking her in the sala of Dan's house. Irrefragably, then, accused-appellant abused his superior strength in stabbing Leah. In a case of early vintage [*People v. Guzman*, supra. at 1127], the Court held that: There is nothing to the argument that the accused was erroneously convicted of murder. An attack made by a man with a deadly weapon upon an unarmed and defenseless woman constitutes the circumstance of abuse of that superiority which his sex and the weapon used in the act afforded him, and from which the woman was unable to defend herself (*U.S. vs. Camiloy*, 36 Phil. 757; *U.S. vs. Consuelo*, 13 Phil. 612; *People vs. Quesada*, 62 Phil. 446). The circumstance of abuse of superior strength was, therefore, correctly appreciated by the trial court, as qualifying the offense as murder.[69] (Emphasis supplied; citations omitted)

By deliberately employing a deadly weapon against Aileen, appellant Flores clearly took advantage of the superiority which his strength, sex and weapon gave him over his unarmed victim.

As for appellant Flores' claim of self-defense, it cannot be sustained. As in defense of a relative, one claiming self defense must prove by clear and convincing evidence[70] both unlawful aggression on the part of the person killed or injured and reasonable necessity of the means employed to prevent or repel the unlawful aggression. As a third requisite, he must also prove lack of sufficient provocation on his part.[71] None of these requisites was shown to be present. As expounded by the trial court:

Arante declared that Aileen panicked and screamed and was hitting him with an extension cord so he stabbed her. Arante was suggesting that had Aileen remained cool, composed and friendly, she would not have died.

This perverted reasoning need not detain the Court. There was an on-going aggression being committed inside her house and within the confines of her room, hence, Aileen's actuations were perfectly just and legitimate.[72]

As adverted to earlier, the trial court, citing *People v. Dueno*,^[73] did not consider evident premeditation as having aggravated the killing of Aileen since she was not the intended victim of appellants' conspiracy. Upon further scrutiny, however, this Court finds that this aggravating circumstance should have been appreciated in connection with Aileen's murder. Jurisprudence is to the effect that evident premeditation may be considered as present, even if a person other than the intended victim was killed, if it is shown that the conspirators were determined to kill not only the intended victim but also anyone who may help him put a violent resistance.^[74]

Here, it was established that upon seeing her husband being attacked by appellants, Aileen immediately called for help and hurled objects at appellant Flores. And it was because of this passionate defense of her husband that appellant Flores hacked at her face and stabbed her four times. These factual circumstances are analogous to those in *People v. Belga*,^[75] where this Court had occasion to state that:

While it would seem that the main target of the malefactors were Alberto and Arlene Rose, this does not negative the presence of evident premeditation on the physical assault on the person of Raymundo Roque. We have established jurisprudence to the effect that evident premeditation may be considered as present, even if a person other than the intended victim was killed (or wounded, as in this case), if it is shown that the conspirators were determined to kill not only the intended victim but also anyone who may help him put a violent resistance. Here, Raymundo Roque provided such violent resistance against the conspirators, giving the latter no choice but to eliminate him from their path.^[76] (Emphasis and underscoring supplied, citations omitted)

Thus, while appellants' original objective may have only been the killing of Jaime, the trial court correctly held both of them responsible for the murder of Aileen. Co-conspirators are liable for such other crimes which could be foreseen and are the natural and logical consequences of the conspiracy.^[77] In *Pring, et al. v. Court of Appeals*,^[78] this Court held:

While the acts done by the petitioners herein vary from those of their co-accused, there is no question that they were all prompted and linked by a common desire to assault and retaliate against the group of Loreto Navarro. Thus, they must share equal liability for all the acts done by the participants in such a felonious undertaking. While petitioners herein, Rogelio Pring and Alberto (Roberto) Roxas, on their part, had ganged up Jesus Yumol who belonged to the group of their adversaries by hitting the latter with a bench and a piece of wood, and that it was a certain David Ravago who stabbed the deceased Loreto Navarro, nevertheless, it is a rule that conspirators would necessarily be liable also for the acts of the other conspirators unless such acts differ radically or substantially from that which they intended to commit (*People vs. Enriquez*, 58 Phil. 536; *People vs. Rosario*, 68 Phil. 720).

The pronouncements made by this Court in the aforecited case of *People vs. Enriquez*, still serve as the governing rule that should be applied to the case at bar. In the said case, this Court stated:

"x x x x x x x x

'We are of the opinion that this contention is not tenable. The accused had undoubtedly conspired to do grave personal injury to the deceased, and now that the injuries actually inflicted have resulted in death, they cannot escape from the legal effect of their acts on the ground that one of the wounds was inflicted in a different way from that which had been intended. x x x x x x x x.

‘As has been said by the Supreme Court of the United States, ‘If a number of persons agree to commit, and enter upon the commission of the crime which will probably endanger human life such as robbery, all of them are responsible for the death of a person that ensues as a consequence.’ (Boyd vs. U.S., 142 U.S. 450; 35 Law. ed. 1077). In United States vs. Patten, the court said: ‘Conspirators who join in a criminal attack on a defenseless man with dangerous weapons, knock him down, and when he tries to escape, pursue him with increased numbers, and continue the assault, are liable for manslaughter when the victim is killed by a knife wound inflicted by one of the them during the beating, although in the beginning they did not contemplate the use of a knife.’ (42 Appeals, D.C., 239)”

Although during the incident in question the aggression committed by the petitioners herein was directed against the other members of the group of Loreto Navarro and not on the deceased, this would not relieve them from the consequence of the acts jointly done by another member of the petitioners’ group who stabbed the deceased Loreto Navarro.[79] (Emphasis supplied, citations omitted)

And in the more recent case of *People v. Bisda, et al.*, [80] this Court held:

Each conspirator is responsible for everything done by his confederates which follows incidentally in the execution of a common design as one of its probable and natural consequences even though it was not intended as part of the original design. Responsibility of a conspirator is not confined to the accomplishment of a particular purpose of conspiracy but extends to collateral acts and offenses incident to and growing out of the purpose intended. Conspirators are held to have intended the consequences of their acts and by purposely engaging in conspiracy which necessarily and directly produces a prohibited result, they are, in contemplation of law, chargeable with intending that result. Conspirators are necessarily liable for the acts of another conspirator unless such act differs radically and substantively from that which they intended to commit. As Judge Learned Hand put it in *United States v. Andolscheck*, "when a conspirator embarks upon a criminal venture of indefinite outline, he takes his chances as to its content and membership, so be it that they fall within the common purposes as he understands them." (Emphasis supplied; citations omitted)

Indeed, since they deliberately planned to attack Jaime in the sanctity of his bedroom where his wife Aileen was also sleeping, appellants cannot now claim that the latter’s violent resistance was an unforeseen circumstance. Hence, neither of them can escape accountability for the tragic consequences of their actions.

In determining appellants’ criminal liability, the trial court appreciated the generic aggravating circumstances of dwelling,[81] nighttime[82] and breaking of door[83] in connection with both crimes.

Dwelling is considered aggravating because of the sanctity of privacy that the law accords to human abode.[84] Thus, it has been said that the commission of the crime in another’s dwelling shows greater perversity in the accused and produces greater alarm.[85] Here, dwelling was correctly appreciated since the crimes were committed in the place of abode of the victims who had not given immediate provocation.[86]

Upon the other hand, as pointed out by both appellants and the Solicitor General, the breaking of a door was not alleged in either of the two informations. Thus, the same cannot be appreciated against appellants. On this point, this Court’s discussion in *People v. Legaspi*, [87] quoted in the Solicitor General’s Brief, is instructive:

Nonetheless, it is to be noted that the appreciation by the trial court of the aggravating circumstances of dwelling and nighttime, despite the non-allegation thereof in the Information, resulted in the imposition of the supreme penalty of death upon accused-appellant. In *People v. Gallego* (G.R. No. 130603, 338 SCRA 21, August 15, 2000), We had occasion to rule thus: “In *People v. Albert* (251 SCRA 136, 1995), we admonished courts to proceed with more care where the possible punishment is in its severest form – death – because the execution of such a sentence is irrevocable. Any decision authorizing the State to take life must be as error-free as possible, hence it is the bounden duty of the Court to exercise extreme caution in reviewing the parties’ evidence. Safeguards designed to reduce to a minimum, if not eliminate the grain of human fault ought not to

be ignored in a case involving the imposition of capital punishment for an erroneous conviction ‘will leave a lasting stain in our escutcheon of justice.’ The accused must thence be afforded every opportunity to present his defense on an aggravating circumstance that would spell the difference between life and death in order for the Court to properly ‘exercise extreme caution in reviewing the parties’ evidence.’ This, the accused can do only if he is appraised of the aggravating circumstance raising the penalty imposable upon him to death. Such aggravating circumstance must be alleged in the information, otherwise the Court cannot appreciate it. The death sentence being irrevocable, we cannot allow the decision to take away life to hinge on the inadvertence or keenness of the accused in predicting what aggravating circumstance will be appreciated against him.

x x x

The principle above-enunciated is applicable to the case at bar. Consequently, we hold that due to their non-allegation in the Information for rape filed against accused-appellant, the aggravating circumstances of nighttime and dwelling cannot be considered in raising the penalty imposable upon accused-appellant from reclusion perpetua to death.

x x x

It is to be noted carefully that the rule on generic aggravating circumstances has now been formalized in the Revised Rules of Criminal procedure, which took effect on December 1, 2000. Section 8 of Rule 110 now provides that:

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.

Likewise, Section 9 of the same Rule provides:

Sec. 9. Cause of the accusation. – The acts or omission 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.[88] (Emphasis supplied)

Appellants and the Solicitor General also argue that nocturnity should not have been considered since Jaime himself testified that their bedroom was well-lit and there was light coming from the kitchen and the adjoining bedroom of their children.[89]

In determining nocturnity, two tests are employed in the alternative: (1) the objective test, under which nighttime is aggravating because the darkness facilitated the commission of the offense; and (2) the subjective test, under which nighttime is aggravating because the darkness was purposely sought by the offender.[90] Applying these tests to the established factual circumstances, this Court concludes that nocturnity was correctly appreciated in connection with both crimes.

While the bedroom where the crimes occurred was well-lit, the evidence shows that, in furtherance of their murderous intent, appellants deliberately took advantage of nighttime, as well as the fact that the household members were asleep, in order to gain entry into the Bocateja residence. Indeed, their own testimony indicates that while they were already outside the Bocateja house at around 11:00 p.m., they purposely waited until 2:00 a.m. before breaking into the residence so as not to call the attention of the Bocatejas and/or their neighbors. It is thus clear that appellants deliberately took advantage of the darkness of the night, not to mention the fact that the Bocatejas were fast asleep, to conceal their actions and to facilitate and insure that their entry into the victims’

home would be undetected.

No mitigating circumstances are present to offset the foregoing aggravating circumstances. While the trial Court noted that appellants were apparently motivated by their belief that Johanna and Jaime were carrying on an illicit relationship, to wit:

The accused presented evidence to prove that Jaime Bocateja and Johanna Ventura, wife of the accused Felix Ventura, were maintaining an illicit relationship. The evidence on this point is principally hearsay – the alleged admissions made by Johanna of the relationship. There is no doubt, however, that the accused Ventura believes that [his] wife and Jaime Bocateja are clandestine lovers. It is fairly reasonable, in the absence of any evidence to the contrary, that it is Ventura's belief of this illicit relationship which prompted him to confront Jaime Bocateja,[91]

it nevertheless ruled out passion or obfuscation[92] or immediate vindication of a grave offense[93] as mitigating circumstances.

While jealousy may give rise to passion or obfuscation,[94] for the appreciation of this mitigating circumstance it is necessary that the act which produced the obfuscation was not far removed from the commission of the crime by a considerable length of time, during which the perpetrator might recover his normal equanimity.[95] In the same vein, while "immediate" vindication should be construed as "proximate" vindication in accordance with the controlling Spanish text[96] of the Revised Penal Code, still this mitigating circumstance cannot be considered where sufficient time elapsed for the accused to regain his composure.[97]

In these cases, appellant Ventura's suspicions were aroused as early as February 17, almost a week before the stabbing incidents on February 23, when he first confronted his wife about her ring. Moreover, as previously noted, ten hours had elapsed from the time appellants left Murcia, Negros Occidental, weapons in hand, to the time they entered the Bocateja residence in Bacolod City. Within that period appellant Ventura had opportunity to change his clothes at a relatives' house in a neighboring barangay and both appellants were able to take their dinner at the Burgos Market in Bacolod City. They even waited three hours outside the Bocateja residence before carrying out their plan. Without question, sufficient time had passed for appellants' emotions to cool and for them to recover their equanimity.

In fine, for stabbing Jaime, appellants are guilty beyond reasonable doubt of attempted murder qualified by evident premeditation with the aggravating circumstances of dwelling and nighttime. However, as pointed out by the Solicitor General, the trial court erred in imposing the sentence of Eight (8) Years of prision mayor as minimum to Eighteen (18) Years of reclusion temporal as maximum.

Article 51 of the Revised Penal Code provides that a penalty two degrees lower than that prescribed for the consummated penalty shall be imposed upon the principals in an attempted felony. Under Article 248 of the Revised Penal Code, as amended by Republic Act No. 7659, the penalty for murder is reclusion perpetua to death. The penalty two degrees lower is prision mayor.[98] Applying Section 1 of Act No. 4103,[99] as amended, otherwise known as the Indeterminate Sentence Law, and considering the presence of two aggravating circumstances, the proper imposable penalty falls within the range of prision mayor in its maximum period (from Ten (10) Years and One (1) Day to Twelve (12) Years) as maximum and prision correccional (from Six (6) Months and One (1) Day to Six (6) Years) as minimum. Accordingly, this Court hereby sentences appellants to an indeterminate penalty of Six (6) Years of prision correccional as minimum to Twelve (12) Years of prision mayor as maximum.

For fatally stabbing Aileen, appellants are guilty beyond reasonable doubt of murder qualified by abuse of superior strength with the aggravating circumstances of evident premeditation, dwelling and nighttime. As already

noted, the penalty for murder is reclusion perpetua to death. Article 63 of the Revised Penal Code provides that when the law prescribes two indivisible penalties, the greater penalty shall be imposed when, in the commission of the deed, one aggravating circumstance is present. Consequently, the trial court's imposition of the supreme penalty of death must be sustained.

Three members of the Court maintain their adherence to the separate opinions expressed in *People vs. Echegaray*[100] that Republic Act No. 7659, insofar as it prescribes the penalty of death, is unconstitutional; nevertheless they submit to the ruling of the majority that the law is constitutional and that the death penalty should accordingly be imposed.

As regards the civil liability of the appellants, the award of the trial court is hereby modified as follows: In Criminal Case No. 00-20692, the award of P50,000.00 to the heirs of Aileen as civil indemnity for her death is sustained, the commission of the crime by appellants having been duly proven.[101] The award of moral damages to her heirs is likewise proper considering that the prosecution presented adequate proof that they suffered mental anguish and wounded feelings.[102] However, the amount of moral damages awarded by the trial court is hereby reduced from P100,000.00 to P50,000.00 in line with current jurisprudence.[103] It should be borne in mind that the purpose for such award is to compensate the heirs of the victim for the injuries to their feelings and not to enrich them.[104]

The award of exemplary damages should be increased from P20,000.00 to P25,000.00. Such award is proper in view of the presence of aggravating circumstances.[105] Furthermore, considering that counsel for appellants admitted that the heirs of Aileen incurred funeral expenses of P100,000.00[106] and such admission has not been shown to have been made through palpable mistake, the same should be awarded as actual damages.[107]

In Criminal Case No. 00-20692, the trial court did not grant Jaime's claim for P20,000.00 in actual damages for hospitalization expenses since he failed to present any receipts to substantiate the same. Nonetheless, in light of the fact that Jaime was actually hospitalized and operated upon, this Court deems it prudent to award P20,000.00 as temperate damages.[108] Moreover, Jaime is also entitled to moral damages in accordance with Article 2219, paragraph 2 of the Civil Code, which this Court hereby awards in the amount of P25,000.00.[109] Finally, exemplary damages of P25,000.00 are also in order considering that the crime was attended by two aggravating circumstances.[110]

WHEREFORE, the judgment in Criminal Case No. 00-20693 is hereby **AFFIRMED** with **MODIFICATION**. Appellants Felix Ventura and Arante Flores are found **GUILTY** beyond reasonable doubt of the crime of attempted murder qualified by evident premeditation with the aggravating circumstances of dwelling and nighttime and are hereby sentenced to an indeterminate penalty of Six (6) Years of Prision Correccional as minimum to Twelve (12) Years of Prision Mayor as maximum.

Appellants are solidarily **ORDERED** to pay the victim, Jaime Bocateja, the amounts of: (a) Twenty Thousand Pesos (P20,000.00) as temperate damages; (b) Twenty Five Thousand Pesos (P25,000.00) as moral damages; and (c) Twenty Five Thousand Pesos (P25,000.00) as exemplary damages.

The judgment in Criminal Case No. 00-20692 is likewise **AFFIRMED** with **MODIFICATION**. Appellants Felix Ventura and Arante Flores are found **GUILTY** beyond reasonable doubt of murder qualified by abuse of superior strength with the aggravating circumstances of evident premeditation, dwelling and nighttime and are **SENTENCED** to the supreme penalty of **DEATH**.

Appellants are solidarily **ORDERED** to pay the heirs of Aileen Bocateja the amounts of: (a) Fifty Thousand Pesos (P50,000.00) as civil indemnity; (b) One Hundred Thousand Pesos (P100,000.00) as actual damages; (c) Fifty

Thousand Pesos (P50,000.00) as moral damages; and (d) Twenty Five Thousand Pesos (P25,000.00) as exemplary damages.

Upon the finality of this Decision, and pursuant to Art. 83 of the Revised Penal Code, as amended by Sec. 25 of R.A. No. 7659, let the records of the cases be immediately forwarded to the President of the Philippines for the exercise, at her discretion, of her power to pardon appellants Felix Ventura and Arante Flores.

SO ORDERED.

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

-
- [1] Rules of Court, Rule 122, secs. 3 and 10.
- [2] Records at 1.
- [3] Id. at 33.
- [4] Id. at 21 and 58.
- [5] Id. at 51-52, 58.
- [6] Transcript of Stenographic Notes (TSN), June 16, 2000 at 9-16.
- [7] Id. at 18-19.
- [8] Id. at 10, 13-14, 19, 61-62.
- [9] Id. at 19-27.
- [10] Id. at 20, 27-28, 63-67.
- [11] TSN, May 22, 2000 at 13-21, 28-29.
- [12] TSN, June 16, 2000 at 28.
- [13] Id. at 55.
- [14] TSN, June 7, 2000 at 53.
- [15] TSN, June 16, 2000 at 29-30.
- [16] TSN, June 7, 2000 at 53-59, 72, 82-83.
- [17] TSN, May 22, 2000 at 27.
- [18] TSN, June 7, 2000 at 83-84.
- [19] Id. at 61-65.
- [20] TSN, June 16, 2000 at 30; Exhibit "J," Records at 86.
- [21] TSN, June 7, 2000 at 16-23, 25-28, 31-32.
- [22] TSN, June 16, 2000 at 30-34.
- [23] TSN, July 3, 2000 at 7-13.

- [24] Exhibit "K," Records at 87.
- [25] TSN, August 21, 2000 at 6.
- [26] Id. at 10-13.
- [27] Id. at 7-9
- [28] TSN, August 21, 2000 at 14-15; TSN, September 8, 2000 at 6-8, 39-40.
- [29] Id. at 15-16; Id. at 10-11.
- [30] Id. at 16-17, 28-30, 47-48; Id. at 12-14, 22-26, 32-34.
- [31] Id. at 16-19; Id. at 15-16.
- [32] Id. at 19; Id. at 16-19, 28-32, 34-38.
- [33] Id. at 19-22; Id. at 19-20.
- [34] TSN, August 21, 2000 at 48-49.
- [35] Rollo at 44-45.
- [36] Id. at 66-89.
- [37] Id. at 68-69.
- [38] Id. at 81.
- [39] *People v. Durante*, 53 Phil. 363, 369 (1929); *People v. Escabarte*, 158 SCRA 602, 612 (1988); *People v. Escarlos*, G.R. No. 148912, September 10, 2003; *People v. Sayaboc, et al.*, G.R. No. 147201, January 15, 2004.
- [40] *People v. Requito*, 188 SCRA 571, 577 (1990); *People v. Valdez*, 304 SCRA 611, 626 (1999) *People v. Kinok*, 368 SCRA 510, 521 (2001); *People v. Manlansing*, 378 SCRA 685, 701 (2002).
- [41] TSN, August 21, 2000, at 26-31.
- [42] TSN, September 8, 2000, at 22-27.
- [43] TSN, August 21, 2000, at 45-48.
- [44] TSN, September 8, 2000, at 12-14.
- [45] *People v. Guillermo*, 302 SCRA 257, 273-324 (1999) citing: *People v. Diokno*, 63 Phil. 601 (1936).

[46] 336 SCRA 632 (2000).

- [47] Id. at 653; vide: *U.S. v. Cornejo*, 28 Phil. 457, 461 (1914); *People v. Bautista*, 65 SCRA 460, 470 (1975); *People v. Tampus*, 96 SCRA 624, 633 (1980).
- [48] CONST. art. III, sec. 17.
- [49] RULES OF COURT, Rule 115, sec. 1, par. (d).
- [50] RULES OF COURT, Rule 129, sec. 4; *U.S. v. Ching Po*, 23 Phil. 578, 583 (1912); *People v. Hernane*, 75 Phil 554, 558 (1945); *People v. De los Santos*, 150 SCRA 311, 320 (1987); *Rodillas v. Sandiganbayan*, 161 SCRA 347, 352 (1988); *Ke Cuison v. Court of Appeals*, 227 SCRA 391, 398 (1993); *People v. Samolde*, *supra* at

651; *People v. Tiu Won Chua*, G.R. No. 149878, July 1, 2003.

[51] *People v. Agapinay*, 186 SCRA 812, 823 (1990); *People v. Eduarte*, 187 SCRA 291, 295 (1990); *People v. Bausing*, 199 SCRA 355, 361 (1991); *Roca v. Court of Appeals*, 350 SCRA 414, 422 (2001).

[52] *U.S. v. Carrero*, 9 Phil. 544 (1908); *People v. Cañete*, 175 SCRA 111 (1989); *People v. Delgado*, 182 SCRA 343 (1990); *People v. Agapinay*, supra; *De Luna v. Court of Appeals*, 244 SCRA 758, 763 (1995); *People v. Francisco*, 330 SCRA 497, 504 (2000); *Roca v. Court of Appeals*, supra.

[53] Revised Penal Code, art. 11, par. 2.

[54] Revised Penal Code, art. 69.

[55] Revised Penal Code, art. 8.

[56] *People v. Loreno*, 130 SCRA 311, 324 (1984); *People v. Tamba*, 147 SCRA 427 (1987); *People v. De la Cruz*, 183 SCRA 763, 778 (1990); *People v. Alvarez*, 201 SCRA 364, 380 (1991); *People v. Azugue*, 268 SCRA 711, 724-725 (1997); *People v. Maldo*, 307 SCRA 424, 436 (1999); *People v. Drew*, 371 SCRA 279, 293 (2001).

[57] Vide: Revised Penal Code, art. 248 in relation to art. 6.

[58] Revised Penal Code, art. 248, par. 1.

[59] Rollo at 39.

[60] *People v. Cabiling*, 74 SCRA 285, 304 (1976); *People v. Sarabia*, 96 SCRA 714, 719-720 (1980); *People v. Cabato*, 160 SCRA 98, 110 (1988); *People v. Carpio*, 191 SCRA 108, 119 (1990); *People v. Moka*, 196 SCRA 378, 387 (1991); *People v. De Leon*, 320 SCRA 495, 505 (1999).

[61] *People v. Cabiling*, supra at 303; *People v. Carpio*, supra at 119 (1990); *People v. Cabato*, supra at 110 (1988); *People v. Moka*, supra at 387; *People v. De Leon*, supra at 505.

[62] Rollo at 84.

[63] Vide: *People v. Rey*, 172 SCRA 149, 158 (1989); *People v. Tiozon*, 198 SCRA 368, 387 (1991); *People v. Narit*, 197 SCRA 334, 351 (1991).

[64] *People v. Loreto*, 398 SCRA 448, 462 (2003); vide: I R.C. Aquino and C. Griño-Aquino, *The Revised Penal Code 387-388* (1997); Decision of the Supreme Court of Spain of March 6, 1928 cited in the dissenting opinion of Justice Diaz in *People v. Diokno, et al.*, 63 Phil. 601, 614 (1936).

[65] *U.S. v. Consuelo*, 13 Phil. 612, 614 (1909); *People v. Quesada*, 62 Phil. 446, 450 (1935); *People v. Guzman*, 107 Phil. 1122, 1127 (1960); *People v. Braña*, 30 SCRA 307, 315 (1969); *People v. Amoto*, 111 SCRA 39, 46 (1982); *People v. Alcartado*, 261 SCRA 291, 300 (1996); *People v. Espina*, 326 SCRA 753, 764-765 (2000); *People v. Amazan, et al.*, 349 SCRA 218, 236 (2001); *People v. Barcelon, Jr.*, 389 SCRA 556, 567 (2002).

[66] 218 SCRA 473 (1993).

[67] Id. at 481-482.

[68] Supra.

[69] Id. at 462-463.

[70] *People v. Ardisa*, 55 SCRA 245, 254 (1974); *People v. Siazon*, 189 SCRA 700, 704 (1990); *People v.*

Mendoza, 327 SCRA 695, 704-705 (2000); *People v. Francisco*, 330 SCRA 497, 503 (2000).

[71] Revised Penal Code, art. 11, par.1; vide: *People v. Cañete*, supra at 116 (1989); *People v. Uribe*, 182 SCRA 624, 630-631 (1990); *People v. Mana-ay*, 345 SCRA 213, 230 (2000).

[72] Rollo at 37-38.

[73] 90 SCRA 23 (1979).

[74] *People v. Ubiña*, 97 Phil. 515, 535-536 (1955).citing *People vs. Timbol*, et al., G. R. Nos. 47471-47473, August 4, 1944.

[75] 258 SCRA 583 (1996).

[76] Id. at 602.

[77] F.D. Regalado, CRIMINAL LAW CONSPECTUS 38 (2003); vide: *People v. Enriquez*, 58 Phil. 536, 542-543 (1933); *People v. Del Rosario*, 68 Phil. 720 (1939).

[78] 138 SCRA 185 (1985).

[79] Id. at 190-191.

[80] G.R. No. 140895, July 17, 2003; vide: *People v. Pagalasan*, et al., G.R. Nos. 131926 & 138991, June 18, 2003.

[81] Revised Penal Code, art. 14, par. 3.

[82] Id. par. 6.

[83] Id. par. 19.

[84] *People v. Belo*, 299 SCRA 654, 667 (1998).

[85] *People v. Parazo*, 272 SCRA 512, 524 (1997).

[86] Revised Penal Code, art. 14, par. 3; vide: *People v. Manegdeg*, 316 SCRA 689, 837 (1999); *People v. Rios*, 333 SCRA 823, 837 (2000).

[87] 357 SCRA 234 (2001)

[88] Id. at 245-247.

[89] TSN, June 16, 2000 at 14-15.

[90] *People v. Lomerio*, 326 SCRA 530, 551 (2000) citing *People v. Parazo*, 272 SCRA 512 (1997); vide: *People v. Garcia*, 94 SCRA 14 (1979); *People v. Palon*, 127 SCRA 529 (1984).

[91] Rollo at 41.

[92] Revised Penal Code, art. 13, par. 6.

[93] Id. par. 5.

[94] *People v. Marasigan*, 70 Phil. 583 (1940); *People v. Mui*, 117 SCRA 696, 709 (1982).

[95] *People v. Alanguilang*, 52 Phil. 663; *People v. Gervacio*, G.R. No. L-21965, Aug. 30, 1968; *People v.*

Gravino, 122 SCRA 123, 134 (1983); *People v. Sicat*, 213 SCRA 603, 610; *People v. Feliciano*, 365 SCRA 613, 630-631 (2001).

[96] “la de haber ejecutado en vindicacion proxima de una ofensa grave.”

[97] *People v. Palabrica*, 357 SCRA 533, 543 (2001); *People v. Sambulan*, 289 SCRA 500, 518 (1998) citing *People v. Santos*, 255 SCRA 309 (1996); *People v. Pajares*, 210 SCRA 237 (1992); *People v. Benito*, 74 SCRA 271 (1976); *People v. Palabrica*, 357 SCRA 533, 543 (2001).

[98] Revised Penal Code, art. 61 in relation to art. 71.

[99] SEC. 1. Hereinafter, in imposing a prison sentence for an offense punished by the Revised Penal Code, or its amendments, the court shall sentence the accused to an indeterminate sentence the maximum term of which shall be that which, in view of the attending circumstances, could be properly imposed under the rules of the said Code, and the minimum which shall be within the range of the penalty next lower to that prescribed by the Code for the offense; and if the offense is punished by any other law, the court shall sentence the accused to an indeterminate sentence, the maximum term of which shall not exceed the maximum fixed by said law and the minimum shall not be less than the minimum term prescribed by the same. (Emphasis supplied)

[100] 267 SCRA 682 (1997).

[101] *People v. Guillermo*, G.R. No. 147786, January 20, 2004; *People v. Factao*, G.R. No. 125966, January 13, 2004 citing *People v. Narca*, 339 SCRA 76, 85 (2000); *People v. Villamor*, 284 SCRA 184, 198 (1998).

[102] TSN, June 16, 2000 at 38.

[103] *People v. Malinao*, G.R. No. 128148, February 16, 2004; vide *People v. Panado*, 348 SCRA 679, 690 (2000).

[104] *People v. Hormina*, G.R. No. 144383, January 16, 2004 citing: *People v. Obosa*, 380 SCRA 22, 35 (2002).

[105] *People v. Factao*, supra, vide *People v. Mangompit*, 353 SCRA 833, 853 (2000).

[106] TSN, June 16, 2000 at 39.

[107] *People v. Bautista*, G.R. No. 139530, February 27, 2004 citing *People v. Bolinget, et al.*, G.R. Nos. 137949-52, December 11, 2003 and *People v. Arellano*, 334 SCRA 775 (2000).

[108] *People v. Flores*, G.R. Nos. 143435-36, November 28, 2003 citing *People v. Abrazaldo*, 397 SCRA 137, 149 (2003).

[109] *People v. Darilay*, G.R. Nos. 139751-52. January 26, 2004.

[110] Ibid.

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.