

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RAUL SANDOVAL AND PAULINO PAT, ACCUSED. PAULINO PAT, ACCUSED-APPELLANT.*G.R. Nos. 95353-54. March 07, 1996*

Ponente: ROMERO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-nos-95353-54/>**ROMERO, J.:**

Paulino Pat seeks the reversal of the May 18, 1990 decision[1] of the Regional Trial Court of Cebu City, Branch 7, convicting him and Raul Sandoval of the special complex crime of robbery with homicide under Article 294 of the Revised Penal Code and highway robbery as defined under Presidential Decree No. 532, hereinafter to be known as P.D. No. 532. Said decision also imposed on him the penalty of reclusion perpetua and the indemnification of the heirs of Franklin Baguio in the amount of P30,000, for robbery with homicide, and the indeterminate penalty of imprisonment for twelve (12) years and one (1) day to twelve (12) years, ten (10) months and one (1) day, for highway robbery (Criminal Cases Nos. CBU-8728 & CBU-8732).

These criminal cases were spawned by an incident occurring at around 1:30 in the early morning of May 31, 1986, in Cebu City. The prosecution proved that at that time, a group of young men composed of Romeo Laurente, Franklin Baguio, Amelito Undalok, Dirk Padilla, Erwin Tabaque and Nemesio Dakay, together with a young woman named Judith Pabular, had decided to spend the night in the house of Dakay after attending an amateur singing contest in Pasil. Four of them, headed by Dakay, walked ahead to the latter's house while Laurente, Baguio and Undalok lagged behind. They then took their snacks at the Balaga store.

While walking along the street, Undalok noticed by the light of the mercury lamp of the electric post two persons whom he later identified as Raul Sandoval and Paulino Pat, following them about a fathom away.[2] Panicking, the three walked faster but Sandoval and Pat told them not to run. Although they nevertheless walked faster, the two overtook them. Hastily Sandoval went through Baguio's pocket. Pat, who was armed with a hunting knife, frisked Laurente and divested him of his wallet and wrist watch.

Pat then joined Sandoval who was with Baguio. Pat was around a foot away from Sandoval when he obstructed Undalok's view. Baguio offered his wristwatch to Sandoval but the latter kept on searching Baguio's pocket. However, Baguio covered one of his pockets with his hands so that his wallet could not be taken.[3] At this juncture, Laurente walked slowly away and then broke into a run. Undalok started retreating to follow Laurente, when he saw Sandoval stab Baguio in the chest with a knife by a downward thrusting of his right hand, sending the latter staggering back.[4]

Subsequently, when Baguio was autopsied by Dr. Jesus P. Cerna, medico-legal officer of the PC-INP Metrodiscom, the latter found that he sustained two abrasions each on the right elbow and on the left leg, and two stab wounds: one on the left side of the chest which penetrated the thoracic cavity and incised the upper lobe of the left lung, and another on the right chest which incised the right lung.[5] The victim died of severe hemorrhage secondary to stab wounds.[6]

On June 5, 1986, Undalok went to the police station where, after giving his statement to the police,[7] he was made to peep inside a room with a policeman and Sandoval inside. He then pointed to Sandoval as one of the perpetrators of the crimes.[8] Later, the police brought Pat inside the same room. Undalok was asked by the police whether Pat was Sandoval's companion, which fact he confirmed.[9]

As a result of the identification of Sandoval And Pat as the authors of the crimes, the following informations were filed against them on June 6, 1986:

Criminal Case No. CBU-8728 for robbery with homicide -

"That on or about the 31st day of May, 1986, at about 1:30 o'clock dawn, in the City of Cebu, Philippines, and within the jurisdiction of this Honorable Court, the said accused armed with a knife, conniving and confederating together and mutually helping each other, with deliberate intent, with intent of gain and by means of intimidation upon person, to wit: by pointing a knife at one Franklin Baguio and ordering him to yield his wallet and upon refusal of said Franklin Baguio to yield his wallet, said accused stabbed said Franklin Baguio, thereby inflicting upon him the following physical injuries:

"HEMORRHAGE, ACUTE, SEVERE SECONDARY TO STAB WOUNDS, CHEST, ANTERIOR ASPECT"

as a consequence of which said Franklin Baguio died instantaneously.

CONTRARY TO LAW."

Criminal Case No. CBU-8732 for violation of P.D. 532"

"That on or about the 31st day of May, 1986, at about 1:30 o'clock dawn, in the City of Cebu, Philippines, and within the jurisdiction of this Honorable Court, the said accused, armed with a knife, conniving and confederating together and mutually helping each other, with deliberate intent, with intent of gain and by means of violence and intimidation upon persons, to wit: by threatening one Romeo Laurente with said knife and without the consent of said Romeo Laurente, did then and there take, steal and carry away the following:

one (1) wristwatch

one (1) wallet

Cash in the amount of P 10.00

valued in all at P7 10.00, while the latter was walking along A. Lopez St., a public highway, to the damage and prejudice of the latter in the amount aforesated.

CONTRARY TO LAW."

When arraigned, accused Sandoval and Pat pleaded not guilty to the charges. At the trial, the prosecution presented the foregoing version of the commission of the crimes based on the testimonies of three witnesses: Undalok, Dr. Cerna and Saturnino Baguio.

The defense, on the other hand, contended that another person or group of persons perpetrated the crimes, interposing denial and alibi. Thus, while defense witness Vicente Cana, a member of the San Nicolas Police Sub-station who was on duty at dawn of May 31, 1986, admitted that Pat and Sandoval were "picked up right" on the day,[10] he affirmed that there were "so many suspects" and one of them was a certain "Roland." [11] Cpl. Liberato P. Lozano added that Pat and Sandoval could not have been picked up on May 31, 1986 as it was only from June 1 to June 5 or 6 that the police began "simultaneous(ly) picking up suspects." [12]

Enrique Restauero, a barangay tanod, testified that at early dawn of May 31, 1986, he was on his way home after conducting a roving patrol when, at a distance of 200 meters, he saw a person being stabbed.[13] From that distance, he noticed that the assailant had a "flat nose and x x x high cheek bones." [14] Notably, the defense

counsel himself elicited from Restauro the fact that he "only heard that that person was stabbed." [15] He also heard from people gathered in the area that the assailant was one Roland Sobrevilla, who was notoriously known as a violent person.

For his part, Virgilio Nacion, a driver-mechanic, testified that he was then repairing the carburetor of his taxicab when he saw a homosexual being stabbed. The two assailants, whom he could identify if he sees them, ran away when the barangay police and people arrived. One of the assailants even asked him for a ride on his cab but he declined, saying that it was still out of order. He, too, heard from people around that a certain "Roland" was the culprit. He admitted having known Pat and Sandoval as they were his neighbors, clearly implying that they could not have been the felons.

Like Nacion, Wifredo Gonzaga testified that he knew Pat and Sandoval and, without going into specifics, declared that he knew where the two were at the time of the commission of the crimes. [16]

To buttress its theory that they did not commit the crimes, the defense presented Manuel Gatis, the father of Wilfredo Gatis or Gates who was a "police character" known by the aliases "Allan," "Roland" and "Tawilwil Ninja." [17] According to Manuel Gatis, at around 2:30 o'clock in the morning of May 31, 1986, Wifredo arrived at their home in A. Lopez St., Cebu City, with two companions. He overheard one of them ask the other why he stabbed a person. The other person replied that he stabbed their victim because of his refusal to surrender his watch and wallet. [18] Manuel clarified that it was his son, Wilfredo or Tawilwil, who said that he killed the hardheaded victim. [19] However, Tawilwil was himself killed by policemen in a shootout on March 11, 1989. [20]

Bruno Zafra, erstwhile chief investigator at the San Nicolas Police Sub-station on May 31, 1986, supported the defense theory by testifying that although it was Cpl. Aballe who was the duty investigator, he was at the police station when a homosexual ("bayot") who was being investigated, named a certain "Roland" and two unidentified persons as the suspects in the crimes, and revealed that the scene of the crime was dark because the bulb at the electric post was busted. [21]

Having shifted the blame on others, the defense presented the accused to prove their respective alibis. Raul Sandoval, a 27-year-old laborer at the Seaman Trade Center who resided in 35 A. Lopez St., Cebu City, claimed that in the evening of May 31, 1989, he slept with his friend Paulino Pat to help the latter in his rice-and-assorted-goods store. He clarified that he slept with Pat that Saturday night. When told that the crime for which he was being accused transpired early in the morning of May 31, 1986, he denied having participated therein, asserting that at that time, he was sleeping with his friend, Pat. [22]

Sandoval admitted having learned of the crimes on Sunday morning and that he was investigated by the police on June 5, 1986. He denied that at the police station, someone had pointed him out as the person responsible for the crimes. He was made to "pose and turn around" in order that the police could verify that "the persons who killed the homosexual was of the same build as me and had curly hair." [23]

On cross-examination, Sandoval admitted that the last time he slept in Pat's house was when he was arrested, adding that he had slept there for seven nights before May 31. [24] He also admitted that the Balaga Store was about thirty (30) meters away from the house of his relatives with whom he was staying and that Pat's house was around twenty (20) meters away from his relatives' house and about fifty (50) meters away from the Balaga store. [25] He claimed having learned of the involvement of Tawilwil in the crimes but he did not report the matter to the police because of fear of retaliation from Tawilwil and because he "had no authority to tell." [26]

Paulino Pat gave the same address as Sandoval's - 35 A. Lopez St. According to Pat, he was in his store at said address, sleeping with Sandoval, when the crimes occurred. Sandoval went to his store at around 8:30 o'clock in

the evening of May 30, 1986. Upon waking up at 5:00 o'clock in the morning of May 31, he opened his store. From then on until around 11:00 o'clock in the morning of June 5, 1986, he was in the store.

Pat claimed that neither he nor Sandoval was known by the nicknames "Roland" or "Alan." [27] He admitted that the distance between his house and that of Sandoval was sixty (60) meters and that between his store and Balaga's Store was also sixty (60) meters, while that between Sandoval's house and Balaga's Store was 120 meters. [28] He also admitted that in the evening of May 30, 1986 until dawn the following day, A. Lopez was well-lighted. During that night, while Sandoval was his guest, he did not offer him anything, not even beer. After talking about Sandoval's girlfriends, they slept at around 8:30 p.m. [29]

From what Pat heard about the crime, Tawilwil, whom he only knew by face, was involved. It was Tawilwil's father who used to pass by his store, who approached him and volunteered to testify. Neither had he met nor known Amelito Undalok and therefore, he could not possibly have had any misunderstanding with him. [30]

On May 18, 1990, the trial court rendered its Decision, the dispositive portion of which reads:

"WHEREFORE "

In Criminal Case No. CBU-8728 - finding accused RAUL SANDOVAL and PAULINO PAT guilty beyond reasonable doubt of the crime of Robbery with Homicide, each of them is hereby sentenced to suffer reclusion perpetua, to indemnify the heirs of the deceased Franklin Baguio the sum of Thirty Thousand (P30,000.00) Pesos, and to pay the costs.

In Criminal Case No. CBU-8732 - finding accused RAUL SANDOVAL and PAULINO PAT guilty beyond reasonable doubt of the crime of Highway Robbery, each is hereby sentenced to an imprisonment of from Twelve (12) Years and One (1) Day to Twelve (12) Years, Ten (10) Months and Twenty (20) Days, and to pay the costs.

SO ORDERED."

The two accused filed a common notice of appeal. [31] On June 6, 1989, Pat was ordered released from detention upon filing a cash bond in the amount of P20,000.00. [32] On the other hand counsel, for Sandoval filed a manifestation and motion stating that he was availing of the provision of the new Rules on Criminal Procedure that the original bail bond shall continue to be considered as such until the final determination of the case, and praying that should said manifestation not be favorably considered, that he be given a 30-day period within which to put up an appeal bond. [33] On June 11, 1990, the trial court gave Sandoval until June 20, 1990 within which to post an appeal bond. [34]

On June 15, 1990, counsel for Sandoval filed a motion stating that, upon receipt of the Order of June 11, 1990, he called up the Seaman Trade Center where Sandoval worked and learned that Sandoval "ha(d) been absent the last few days," and praying that said Order be served on Sandoval himself. [35] Granting said prayer, the court tried to serve the Order on him but it turned out that Sandoval had resigned from the Seaman Trade Center a month before. [36] Consequently, the private prosecutor filed an ex-parte manifestation and motion stating that in all probability, Sandoval would evade service of his sentence and prayed for the issuance of a warrant for his arrest. [37] Accordingly, on July 9, 1990, the trial court ordered the issuance of a warrant of arrest against Sandoval. [38] Thereafter, a new counsel appeared for Pat with his conformity [39] and his former counsel, Atty. Gregorio Escasinas, withdrew his appearance. [40]

Hence, the instant appeal of Paulino Pat raising the following as errors of the trial court: (a) appellant should have been charged only with the complex crime of robbery with homicide and imposed only the penalty of reclusion perpetua plus indemnity and costs; (b) motive should have been established because both accused were gainfully

employed; (c) the testimony of Amelito Undalok was unreliable because it was full of fallacies, contradictions and biases; and (d) accused should be acquitted due to reasonable doubt.

In contending that only the crime of robbery with homicide should have been charged, appellant reasons out that "the other charge is already absorbed and the penalty to be imposed should be in the maximum" of Art. 294 of the Revised Penal Code.[41]

It is basic in criminal procedure that an accused may be charged with as many crimes as defined in our penal laws even if these arose from one incident. Thus, where a single act is directed against one person but said act constitutes a violation of two or more entirely distinct and unrelated provisions of law, or by a special law and the Revised Penal Code, the prosecution against one is not an obstacle to the prosecution of the other.[42] Such crimes should be alleged in separate informations pursuant to Section 13, Rule 110 of the Rules of Court which provides that a complaint or information "must charge but one offense, except only in those cases in which existing laws prescribe a single punishment for various offenses."

In this case, the fiscal or prosecutor, upon whose direction and control the filing of criminal cases rests, pursuant to Section 5 of Rule 110,[43] exercised his discretion and determined that appellant and Sandoval violated two distinct penal laws in robbing Laurente and Baguio, and killing the latter on a city street. Indeed, because the City Fiscal considered the two accused to have been in conspiracy, he charged them both with the complex crime of robbery with homicide as defined and penalized under Article 294 of the Revised Penal Code with respect to the robbing and killing of Baguio and, in a separate information, also charged them with violation of P.D. No. 532, the 1974 law against highway robbery, as regards the robbing of Laurente. The informations filed, however, indicate that the filing by the fiscal of two separate charges was impelled by the fact that in the same incident, there were two victims.

This Court finds, however, that only the crime of simple robbery, not violation of P.D. No. 532, should have been charged in Criminal Case No. CBU-8732 regarding the robbing of Laurente. In *People v. Puno*,[44] the Court explicitly held that P.D. No. 532 is a modification of Articles 306 and 307 on brigandage[45] which is committed by more than three persons. According to the late Chief Justice Ramon C. Aquino, as it is committed by a *cuadrilla*, brigandage is "sometimes confounded with the *robo en cuadrilla* in Art. 295 of the same Code." [46] The clear implication is that the number of offenders, as well as the frequency with which they perpetrate robbery, may determine whether a crime is simple robbery or highway robbery as defined in P.D. No. 532.[47]

Thus, in the *Puno* case, the Court explained that P.D. No. 532 treats of "highway robbery/brigandage" or "indiscriminate highway robbery" and, therefore, (I)f the purpose is only a particular robbery, the crime is only robbery, or robbery in band if there are at least four armed participants." [48] Citing the perambular clauses of P.D. No. 532,[49] the Court said:

"Indeed, it is hard to conceive of how a single act of robbery against a particular person chosen by the accused as their specific victim could be considered as committed on the 'innocent and defenseless inhabitants who travel from one place to another,' and which single act of depredation would be capable of 'stunting the economic and social progress of the people' as to be considered 'among the highest forms of lawlessness condemned by the penal statutes of all countries,' and would accordingly constitute an obstacle 'to the economic, social, educational and community progress of the people,' such that said isolated act would constitute the highway robbery or brigandage contemplated and punished in said decree.

This would be an exaggeration bordering on the ridiculous." [50]

From the information in Criminal Case No. CBU-8732, it is apparent that violation of P.D. No. 532 was charged simply because the crimes transpired while the victim, Romeo Laurente, "was walking along A. Lopez St., a

public highway." In this regard, in the same Puno case, the Court said:

"Erroneous advertence is nevertheless made by the court below to the fact that the crime of robbery committed by appellants should be covered by the amendatory decree just because it was committed on a highway. Aside from what has already been stressed regarding the absence of the requisite elements which thereby necessarily puts the offense charged outside the purview and intendment of that presidential issuance, it would be absurd to adopt a literal interpretation that any unlawful taking of property committed on our highways would be covered thereby. It is an elementary rule of statutory construction that the spirit or intent of the law should not be subordinated to the letter thereof. Trite as it may appear, we have perforce to stress the elementary caveat that he who considers merely the letter of an instrument goes but skin deep into its meaning, and the fundamental rule that criminal justice inclines in favor of the milder form of liability in case of doubt.

If the mere fact that the offense charged was committed on a highway would be the determinant for the application of Presidential Decree No. 532, it would not be far-fetched to expect mischievous, if not absurd, effects on the corpus of our substantive criminal law. While we eschew resort to a *reductio ad absurdum* line of reasoning, we apprehend that the aforestated theory adopted by the trial court falls far short of the desideratum in the interpretation of laws, that is, to avoid absurdities and conflicts x x x." [51]

Prescinding from the Court's elucidation on the crime of highway robbery under P.D. No. 532, the unavoidable conclusion is that, while the information in Criminal Case No. CBU-8732 is for violation of P.D. No. 532, appellant may only be held liable for simple robbery as defined in Article 293 considering that it alleges facts which correspond to the elements of the latter crime. We need not belabor the rule that in interpreting an information, what controls is not the designation but the description of the offense charged. [52]

The elements of robbery as defined in Article 293 [53] of the Revised Penal Code are the following: (a) that there be personal property belonging to another; (b) that there is unlawful taking of that property; (c) that the taking is with intent to gain; and (d) that there is violence against or intimidation of persons or force upon things. [54] These elements alleged in the information are present in Criminal Case No. CBU-8732. A wristwatch and a wallet valued at P710.00 belonging to Romeo Laurente were proven beyond reasonable doubt to have been taken by appellant by intimidating the victim with a hunting knife. Appellant's intent to gain or *animo lucrandi* is presumed in the allegation, duly proven, that the appellant appropriated to himself the things taken. [55]

With respect to Criminal Case No. CBU-8728, this Court cannot agree with the lower court that appellant and Sandoval committed robbery with homicide. By the testimonial account of eyewitness Undalok, Baguio was killed by Sandoval because he resisted the latter's efforts at searching his pockets. Undoubtedly, as shown by their overt acts, the intent of both Sandoval and appellant was to rob Franklin Baguio. However, under the same account of the said eyewitness, it is not clear whether appellant or Sandoval succeeded in taking Baguio's wallet. What has been indubitably proven is that Sandoval stabbed Baguio to death because of the latter's refusal to surrender his wallet. Worth emphasizing is the fact that even the information does not allege that Sandoval succeeded in taking Baguio's wallet. It merely alleges that Sandoval pointed a knife at Baguio, ordered the latter "to yield his wallet and upon refusal of said Franklin Baguio to yield his wallet, said accused stabbed" Baguio resulting in injuries which caused his death. Moreover, not even the victim's father, Saturnino Baguio, had testified that any personal item was missing from the body of his son. While it was conclusively proven by their overt acts that their intention was to rob Baguio, it was not shown that Baguio's wallet was taken. From the evidence presented, the crime committed was attempted robbery with homicide.

Since only Sandoval stabbed Baguio and committed the crime of homicide, appellant may be held responsible therefor only upon proof beyond reasonable doubt of conspiracy between them. In a long line of cases, the Court has held that when homicide is committed as a consequence of or on the occasion of the robbery, all those who took part as principals in the robbery will also be held guilty as principals of the special complex crime of robbery

with homicide although they did not actually take part in the homicide, unless it clearly appears that they endeavored to prevent the homicide.[56] In the case at bench, appellant showed unity of purpose with Sandoval in attempting to rob Baguio when, even after he had taken Laurente's wristwatch and wallet, he still searched Baguio with a clear purpose of asporting personal property from him. Having conspired with Sandoval in the attempt to rob Baguio, appellant may not escape liability for the resulting homicide because he was not shown to have prevented its commission.

In an attempt at exoneration, appellant contends that he can not be convicted of the crimes charged because he had no motive to commit them, considering that he had a means of livelihood and that, by the nature of the crimes committed, only young drug addicts with a string of criminal records could have perpetrated them. As this Court has time and again held, proof of motive is not indispensable to conviction[57] especially if the accused has been positively identified by an eyewitness[58] and his participation therein has been definitely established.[59] Ordinary human experience shows that even a normal person who is perceived by others to have no reason at all to commit a crime may, in fact, commit an act violative of the law and be held liable therefor, as long as he is identified beyond reasonable doubt as the perpetrator of the crime.

What is pivotal in this case is the credibility of the sole eyewitness to the crimes, Amelito Undalok. The jurisprudentially-embedded rule in this regard is that when the issue of credibility of a witness is concerned, appellate courts will generally not disturb the findings of the trial court.[60] In this case, notwithstanding his gruelling eight days at the witness stand which were punctuated by snide remarks on his sexuality by defense counsel,[61] Undalok remained unswerving about his story and, according to the trial court, "maintained his frank and open manner (and) straightforward declaration"[62] on appellant's culpability.

Appellant's contention that Undalok's testimony should not merit credence because of certain inconsistencies therein deserves scant consideration, it appearing that such "inconsistencies" concerned minor details.[63] Moreover, the absence of evidence to show any improper motive why Undalok should testify falsely against appellant and implicate him in such grave crimes, indicates that there is no such motive and that his testimony is worthy of full faith and credit.[64]

Parenthetically, appellant's identity as one of the perpetrators of the crimes is bolstered by the affidavit of Romeo Laurente[65] which corroborates Undalok's positive identification of appellant. While said affidavit was not offered by the prosecution as an exhibit, and Laurente himself was not presented as a witness, the sole testimony of Undalok on appellant's identity and culpability, being clear and straightforward and found worthy of credence by the trial court, suffices to convict.[66] Laurente's affidavit and testimony would have served no more purpose than to corroborate Undalok's testimony.[67]

Appellant's complicity in the crimes having been established beyond reasonable doubt, in Criminal Case No. CBU-8728 for attempted robbery with homicide under Art. 297, he shall serve the indeterminate penalty within the range of prision mayor in its maximum period and reclusion temporal in its maximum period in the absence of mitigating or aggravating circumstances,[68] and indemnify the heirs of Franklin Baguio in accordance with law. In Criminal Case No. CBU-8732 for the crime of robbery under Arts. 293 and 294(5) of the Revised Penal Code where no aggravating and mitigating circumstances likewise attended its commission, he shall be imposed the indeterminate sentence within the range of prision correccional in its medium period and prision mayor in its minimum period.

WHEREFORE, the Decision of Branch 7 of the Regional Trial Court of Cebu City in Criminal Case Nos. CBU-8728 and CBU-8732 is hereby modified. Appellant Paulino Pat is hereby found guilty of the following crimes and imposed the corresponding penalties:

(a) In Criminal Case No. CBU-8728, he is convicted of the crime of attempted robbery with homicide for which he shall suffer the indeterminate penalty of ten (10) years and one (1) day of prision mayor maximum, as minimum, to eighteen (18) years, eight (8) months and one day (1) of reclusion temporal maximum, as maximum penalty.

(b) In Criminal Case No. CBU-8732, he is convicted of the crime of simple robbery and accordingly imposed the indeterminate sentence of four (4) years of prision correccional medium, as minimum, to eight (8) years of prision mayor minimum, as maximum penalty and shall reimburse Romeo Laurente the amount of seven hundred ten pesos (P710.00).

The indemnity for the death of Franklin Baguio is hereby increased from P30,000.00 to P50,000.00.

Service of these sentences shall be in accordance with Art. 70 of the Revised Penal Code.

A copy of this Decision shall be served upon the Philippine National Police and the National Bureau of Investigation to immediately effect the arrest of Raul Sandoval so that he may serve the penalties imposed upon him by law.

Costs against accused-appellant Paulino Pat.

SO ORDERED.

Regalado (Chairman), Puno, and Mendoza, JJ., concur.

[1] Penned by Judge Leonardo B. Canares.

[2] TSN, September 23, 1986, p. 7.

[3] Ibid., pp. 22-23.

[4] Id., pp. 11-14.

[5] TSN, October 18, 1988, pp. 5-6.

[6] Exhs. "C" and "E".

[7] Exh. "A".

[8] TSN, July 20, 1987, pp. 9-10.

[9] TSN, October 5, 1987, p. 10.

[10] TSN, February 6, 1989, p.4.

[11] Ibid., p. 6.

[12] TSN, February 7, 1989, p. 5.

[13] TSN, April 5, 1989, p. 2.

[14] Ibid., p. 6.

[15] Id., p. 3. Defense counsel was Atty. Gregorio Escasinas.

[16] TSN, May 22, 1989, p. 4.

[17] TSN, September 6, 1989, pp. 3-4.

- [18] TSN, September 5, 1989, pp. 2-3.
- [19] TSN, September 6, 1989, p. 5.
- [20] TSN, September 5, 1989, p. 4.
- [21] TSN, April 3, 1990, p. 4.
- [22] TSN, December 12, 1989, pp. 4-5.
- [23] Ibid., p. 7.
- [24] Id., pp. 11-12.
- [25] Id., p. 15.
- [26] TSN, February 21, 1990, p. 8.
- [27] Ibid., p. 5.
- [28] TSN, March 21, 1990, pp. 3-5.
- [29] Ibid., pp. 7-8.
- [30] Id., pp. 14-19.
- [31] Record, p. 458.
- [32] Ibid., p. 461.
- [33] Id., p. 462.
- [34] Id., p. 463.
- [35] Id., p. 467.
- [36] Id., p. 468.
- [37] Id., p. 469.
- [38] Id., p. 471.
- [39] Id., p. 474.
- [40] Id., p. 476.
- [41] Appellant's Brief, p. 3.
- [42] *People v. Tiozon*, G.R. No. 89823, June 19, 1991, 198 SCRA 368, 379 citing *People v. Doriguez*, L-24444-45, July 29, 1968, 24 SCRA 163,171.
- [43] *People v. Vergara*, G.R. Nos. 101557-58, April 28, 1993,221 SCRA 560,568.
- [44] G.R. No. 97471, February 17, 1993,219 SCRA 85.
- [45] Ibid., at p. 96. Art. 306 of the Revised Penal Code states: "Who are brigands; Penalty. When more than three armed persons form a band of robbers for the purpose of committing robbery in the highway, or kidnapping persons for the purpose of extortion or to obtain ransom, or for any other purpose to be attained by means of force and violence, they shall be deemed highway robbers or brigands."

Person found guilty of this offense shall be punished by prision mayor in its medium period to reclusion temporal in its minimum period if the act or acts committed by them are not punishable by higher penalties, in which case, they shall suffer such higher penalties.

If any of the arms carried by any of said persons be an unlicensed firearm, it shall be presumed that said persons are highway robbers or brigands, and in case of conviction the penalty shall be imposed in the maximum period."

Art. 307 of the Code defines aiding and abetting a band of brigands.

[46] AQUINO, THE REVISED PENAL CODE, Vol. III, 1988 ed., p. 170.

[47] In cases charging violation of P.D. No. 532 which were decided prior to the promulgation of the Decision in the Puno case, the offenders were six (6) in *People v. Ocimar* (G.R. No. 94555, August 17, 1992, 212 SCRA 646) and five (5) in *People v. Nebreja* (G.R. No. 92447, October 17, 1991, 203 SCRA 45). However, in *People v. Chanas* (G.R. No. 90802, August 4, 1992, 212 SCRA 65), only two (2) persons were convicted of said crime while in the 1981 case of *People v. Matilla* (G.R. No. 53570, July 24, 1981, 105 SCRA 768), the only one (1) accused was convicted thereof.

[48] *Ibid.*, at p.97.

[49] "WHEREAS, reports from law-enforcement agencies reveal that lawless elements are still committing acts of depredations upon the persons and properties of innocent and defenseless inhabitants who travel from one place to another, thereby disturbing the peace, order and tranquility of the nation and stunting the economic and social progress of the people;

WHEREAS, such acts of depredations constitute either piracy or highway robbery/brigandage which are among the highest forms of lawlessness condemned by the penal statutes of all countries; and

WHEREAS, it is imperative that said lawless elements be discouraged from perpetrating such acts of depredations by imposing heavy penalty on the offenders, with the end in view of eliminating all obstacles to the economic, social, educational and community progress of the people";

[50] *People v. Puno*, *supra*, at p. 98.

[51] *Ibid.*, p. 99.

[52] *People v. Aczon*, G.R.No. 93029, August 10, 1993, 225 SCRA 237; *Avecilla v. People*, G.R. No. 46370, June 2, 1992, 209 SCRA 466.

[53] "ART. 293. Who are guilty of robbery. - Any person who, with intent to gain, shall take any personal property belonging to another, by means of violence against or intimidation of any person or using force upon anything, shall be guilty of robbery."

[54] *People v. Puloc*, G.R. No. 92631, September 30, 1991, 202 SCRA 179, 185.

[55] AQUINO, *supra*, at p. 99.

[56] *People v. Macam*, G.R. Nos. 91011-12, November 24, 1994, 238 SCRA 306, 317 citing *People v. Veloso*, L-32900, February 25, 1982, 112 SCRA 173; *People v. Bautista*, 49 Phil. 389 (1926) and *U.S. v. Macalalad*, 9 Phil. 1(1907). See also: *People v. Escosio*, G.R. No. 101742, March 25, 1993, 220 SCRA 475; *People v. De la Cruz*, G.R. No. 102063, January 20, 1993, 217 SCRA 283.

[57] *People v. Cadag*, G.R. No. 93899, May 8, 1992, 208 SCRA 781.

[58] People v. Villalobos, G.R. No. 71526, May 27, 1992, 209 SCRA 304.

[59] People v. Caranzo, G.R. No. 76743, May 22, 1992, 209 SCRA 232.

[60] People v. Flores, G.R. No. 80914, April 6, 1995, 243 SCRA 374; People v. Pama, G.R. Nos. 90297-98, December 11, 1992, 216 SCRA 385.

[61] TSN, October 17, 1986, p. 4, 13; November 11, 1987, pp. 3-5.

[62] Decision, p. 13.

[63] People v. Jacolo, G.R. No. 94470, December 16, 1992, 216 SCRA 631.

[64] People v. Villanueva, G.R. No. 95851, March 1, 1995, 242 SCRA 47; People v. Pama, *supra*.

[65] Record, p. 4.

[66] People v. De Roxas, G.R. No. 106783, February 15, 1995, 241 SCRA 369.

[67] See: People v. Lorenzo, G.R. No. 110107, January 26, 1995, 240 SCRA 624, 638 where the Court held that "(t)he presumption laid down in Section 3(e), Rule 131 of the Rules of Court that 'evidence wilfully suppressed would be adverse if produced' does not apply when the testimony of the witness not produced would only be corroborative, or when the said witness is available to the defense because then the evidence would have the same weight against one party as against the other."

[68] People v. Alay-ay, G.R. No. 94310, June 30, 1993, 224 SCRA 62, 74.

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