CRIMINAL LAW

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For the year 1961, the decisions of our Supreme Court in the field of criminal law followed closely its past principles and doctrines. Some cases were distinguished from the others but certainly no alterations were made in the penal jurisprudence of the country. Hence, this survey contains but a recitation of these reiterations, amplifications and distinctions. Laws and commentaries are discussed when necessary for a better understanding of the cases under consideration.

MOTIVE

Motive is not an essential element of a crime. But there are instances when proof of motive is necessary. It is important in cases where the identity of a person committing the crime is not certain or where his guilt or participation is not established by sufficient evidence.[1] Hence, in the case of *People v. Alban,*[2] the Supreme Court no longer looked into the question of motive since the accused had been identified by the deceased's wife and by the deceased, himself, in an *ante-mortem* statement.

In other instances, the Supreme Court noted the existence of motive as additional and further proof in finding the accused guilty of the charge brought against them. In *People v. Fausto,*[3] the motive which impelled the accused to kill the deceased was the latter's refusal to give a certification that the former was no longer insane and already capable to work. In *People v. Fetalvero and Cachola,*[4] the Court took into cognizance, the bad blood existing between the accused and the deceased as evidenced by the fact that both had figured in a previous stabbing affray. In *People v. Manigbas,*[5] the Court again placed importance to the fact that the accused and the deceased belong to different political parties and traced the cause of the killing to the rivalry caused by such division. In *People v. Lacson,*[6] the Court intimated that the accused, Governor Lacson of Negros Occidental, had a motive to order the killing of Moises Pa-

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[1] *U.S. v. McMann*, 4 Phil. 561; *People v. Bugayao*, G.R. No. L-11328, April 16, 1958.
[2] G.R. No. L-15203, March 29, 1961.
[3] G.R. No. L-16381, December 30, 1961.
[4] G.R. No. L-16234, April 26, 1961.
[5] G.R. No. L-10352-53, September 30, 1960.
[6] G.R. No. L-8186, February 13, 1961.

dilla as the latter refused the former's offer that he withdrew from the mayoralty race of Magallon. In *People v. Cadag,*[7] lack of motive to kill the deceased was one of the factors taken into account by the Court in ruling that the killing was not pre-arranged. And in *People v. Escalona,*[8] lack of motive did not prevent the Court from finding the accused guilty of murder. It declared that previous to the incident, the accused had been drinking and singing, obviously bereft already of a sober mind. In that condition, they could do anything for no reason at all.

DUTY OF COURT IN CASES OF EXCESSIVE PENALTIES

The second paragraph of Article 5 of the Revised Penal Code states: ". . . the Court shall submit to the Chief Executive, through the Department of Justice, such statement as may be deemed proper, without suspending the execution of the sentence, when a strict enforcement of the provisions of this Code would result in the imposition of a clearly excessive penalty, taking into consideration the degree of malice and the injury caused by the offense."

In the case of *People v. Cabral and Jaula,*[9] the accused were found guilty of the crime of kidnapping or serious illegal detention by the trial court. The crime was aggravated by the use of motor vehicle with no mitigating circumstance to offset it. Nevertheless, the maximum penalty, which is death, was not imposed because the trial court believed that it would be too severe taking into account the fact that the victim was released by the accused. *Held:* The proper penalty which is death should have been imposed. If the trial court believes that a strict enforcement of the provisions of the Penal Code would result in the imposition of a clearly excessive penalty, it may, pursuant to the provisions of article 5 of the Revised Penal Code, recommend to the Chief Executive, through the Secretary of Justice, the commutation of the penalty to *reclusion perpetua.* However, for lack of sufficient statutory number of votes, death penalty was not imposed in this case.

Hence, in the case of *People v. Mamalayan,*[10] the trial court, pursuant to this article, imposed to the accused-kidnappers, the suppreme penalty of death but at the same time recommended to the President that the same be commuted to life imprisonment inasmuch as the victim had been safely rescued and the ransom money was not delivered.

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[7] G.R. No. L-13830, May 31, 1961.
[8] G.R. No. L-13294, March 29, 1961.
[9] G.R. No. L-14045, October 2, 1961.
[10] G.R. No. L-11210, May 30, 1961.

SPECIAL LAW

Offenses which are or in the future may be punishable under special laws are not subject to the provisions of this Code. This Code shall be supplementary to such laws, unless the latter specially provide the contrary.[11] A special law is a penal law which punishes acts not defined and penalized by the Penal Code.[12] It is a statute enacted by the legislative branch, penal in character, which is not an amendment to the Revised Penal Code.[13]

The case of *People v. Rosario de Leon,*[14] involves a violation of a Central Bank circular. The accused was about to board a PAL plane bound to Hongkong when she was accosted by an agent of the Central Bank as to the amount of money in her possession. Accused claimed that she had only ₱100.00 in her person, but upon inspection ₱800.00 was found in her passport wallet, ₱700.00 sued at the bottom of her panties, and ₱1000.00 in each of her breast paddings. Accused did not have a permit to carry such amount of money. However, the case was dismissed without prejudice by the Supreme Court because the information failed to state that the accused has taken or is about to take out of the Philippines Philippine coins and notes in excess of the exempted amounts *without the necessary license issued by the Central Bank.* Nevertheless, the Court declared that the circular in question was in fact approved by the President of the Philippines and that having been issued to combat the exchange crisis, its operaton need not be expressly stated but is deemed co-extensive with the duration of such crisis. Likewise, it stated that the circular did not contravene the Articles of Agreement of the International Monetary Fund and was passed with the approval of the President of the United States as called for by the trade agreement of both countries.

JUSTIFYING CIRCUMSTANCES

For the claim of self-defense to prosper, the following circumstances must be present: (a) unlawful aggression; (b) reasonable necessity of the means employed to prevent or repel it; (c) lack of sufficient provocation on the part of the person defending himself.[15]

In a number of cases, the Supreme Court repeated the rule that this defense must be proved by clear, convincing and satisfactory evidence. It consistently denied credence to this justifying circum-

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[11] Article 10, RPC.
[12] *U.S. v. Serapio,* 23 Phil. 584.
[13] Reyes, Luis B., Criminal Law, Vol. 1, 82 (1958).
[14] G.R. No. L-13567-68, September 30, 1960
[15] Article 11, par. 1, RPC.

stance in cases where it was belied by the evidence on record, the testimony of witnesses, and other circumstances.[16]

In the case of *People v. Marciano Villegas*,[17] the Court once more laid down the factors to consider in determining the reasonability of the means employed to prevent or repel unlawful aggression: the nature and quality of the weapons used by the aggressor, his physical condition, character, size and those of the person defending himself, the place and occasion of the assault. The facts in this case reveal that the deceased, a 60-year old man, was the aggressor. Summoned by his son who believed that the accused herein were the ones stealing their chickens, deceased at once attacked Marciano Villegas with an iron pipe. Deceased's son tried to enter the fray but the two brothers of Marciano fought and drove him away with stones and canes. Meanwhile, Marciano was able to wrest away the pipe from the deceased and with it struck the latter to death. *Held:* The means employed by the accused to parry off the unlawful aggression is not reasonable. The victim was already 60 years old while the accused was only 36 and at the prime of manhood. Accused's taller stature, bigger build, and the presence of his two brothers precluded an impelling danger to his life.

In the case of *People v. Tengyao*,[18] the facts were as follows: Accused, a guard in the provincial jail of Bontoc, Mt. Province, was assigned to watch prisoner Pagarigan who had been told to cut grass for feed of the carabaos owned by the provincial government. After Pagarigan had cut some stalks of grass, he asked the accused for permission to defecate. Shortly thereafter, the accused noticed Pagarigan running away, ordered him to stop but to no avail. He fired a shot in the air and another one which misfired. As the prisoner jumped to the lower part of the rice paddies, accused fired again, hitting him on the leg. As the prisoner continued running, accused, at about a distance of 7 meters, fired once more, hitting the former at the back. Prosecuted for murder, accused interposed the defense of fulfillment of a duty as a provincial guard to prevent the escape of a prisoner. *Held:* The shooting was unjustified. The probability of escape was remote as the prisoner had already been hit on the thigh. Furthermore, the victim was running towards a steep cliff of 50 yards high. The victim had just 5 months to serve in jail and would not have thought of escaping. The accused could have recaptured the prisoner without the need of hitting the latter at the back.

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[16] *People v. Fetalvero, supra; People v. Escalona, supra; People v. Davis*, G.R. No. L-13337, February 16, 1961; *People v. Andia*, G.R. No. L-14862, May 31, 1961.

[17] G.R. No. L-16818, May 31, 1961.

[18] G.R. No. L-14675, November 29, 1961.

EXEMPTING CIRCUMSTANCES

Insanity—The legal presumption is that a person who commits a crime is in his right mind,[19] because the law presumes all acts and omissions punishable by law to be voluntary.[20] Hence, the burden of proving insanity rests upon the person alleging the same.[21] The primary question is: whether there has been presented, sufficient evidence, direct or circumstantial, to a degree that satisfies the judicial mind that the accused was insane at the time of the perpetration of the offense. To ascertain a person's mental condition at the time of the act, it is permissible to receive evidence of the condition of his mind at a reasonable period both before and after that time.[22]

In the case of *People v. Fausto*,[23] the Court refused to sustain the defense of insanity forwarded by the accused in a murder charge filed against him. It pointed to two indicia proving accused's sanity at the time of the commission of the crime: first, the signed statement made by the accused barely 3 hours after the incident wherein he narrated in detail how he planned to consummate the offense; second, accused was able to re-enact the crime a few hours after its commission. The Court did not give much weight to the confinement of the accused at the National Mental Hospital which happened a little over one year previous to the killing. The testimony of the doctors who attended to the accused during his confinement there established that his illness affected only his personality and not his brain. Besides, a confinement of three days is not sufficient to prove with certainty, mental derangement.

A PERSON OVER NINE YEARS OF AGE AND UNDER FIFTEEN UNLESS HE ACTED WITH DISCERNMENT

In the case of *People v. Surbida*,[24] the accused, a 14-year old child, pleaded guilty to the charge of homicide. Pursuant to Article 12 paragraph 3 of the RPC, he was ordered to be confined at the Welfareville. Subsequently, however, accused filed a motion for new trial on the ground that the lower court erred in not taking evidence to determine whether or not he had acted with discernment. *Held:* The Court dismissed this assignment of error citing the case of *People v. Nieto*,[25] where it was ruled that when a minor between nine and fifteen pleads guilty to an information alleging that the

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[19] *U.S. v. Guevara*, 27 Phil. 547; *U.S. v. Zamora*, 32 Phil. 218.
[20] Articles 1 and 4, RPC.
[21] *U.S. v. Martinez*, 34 Phil. 305; *U.S. v. Hontiveros*, 18 Phil. 62; *People v. Bascos*, 44 Phil. 204
[23] G.R. No. L-16381, December 30, 1961.
[24] G.R. No. L-15865, October 30, 1961.
[25] G.R. No. L-11965, April 30, 1958.

accused "with intent to kill, did then and there wilfully, criminally and feloniously" attack his victim, he may be convicted without the need of positive proof of his having acted with discernment. The above-quoted phrase signifies more than merely knowing the difference between right and wrong. It connotes that the accused killed with intention to kill and knowing that it is crime to kill not merely knowing it is wrong to kill.

Uncontrollable fear—In the case of *People v. Tengyao*,[26] accused also advanced as a defense, the exempting circumstance of uncontrollable fear. He declared that he was under the control of the prospect of an equal or greater injury, that is the certainty of imprisonment had the prisoner escaped. *Held:* Fear is without basis. The victim who was already shot on the thigh could not have escaped. He was also running towards a steep cliff.

MITIGATING CIRCUMSTANCES

Lack of intent to commit so grave a wrong—In the case of *People v. Yu*,[27] the accused was charged of raping Delia Abule, a girl 6 years of age. As the victim was shouting when the accused was raping her, the latter strangled the former to death. Accused pleaded guilty to the charge but made a reservation to prove the mitigating circumstance of lack of intent to commit so grave a wrong as that which resulted. Declared the Court: "Since intention partakes of the nature of a mental process, an internal act, it can as a general rule, be gathered from and determined only by the conduct and external acts of the offender and the results of the acts themselves. It is easy enough for the accused to say that he had no intention to do great harm. But he knew that the girl was very tender in age (6 years old), weak in body, helpless and defenseless. He did not only cover her mouth but choked her. The brute force employed contradicts the claim that he had no intention to kill the victim."

In the case of *People v. Mangahas*,[28] the Court considered the mitigating circumstance of lack of intent to commit so grave a wrong as part of obfuscation produced by the quarrel between the accused and his wife which resulted in the hanging of the latter.

However, in *People v. Tengyao*,[29] the accused was credited with this mitigating circumstance. The Court declared that the accused,

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[26] *Supra.*
[27] G.R. No. L-13780, January 28, 1961.
[28] G.R. No. L-13982, January 28, 1961.
[29] *Supra.*

a provincial guard, had no thought of shooting to kill the victim, an escaping prisoner in his charge. All he wanted to do was to prevent his escape.

AGGRAVATING CIRCUMSTANCES

Treachery (alevosia)—There is treachery when the offender commits any of the crimes against persons, employing means, methods, or forms in the execution thereof, which tend directly and specially to insure its execution, without risk to himself arising from the defense which the offended party might make.[30]

Consistent with this definition, the Supreme Court ruled the presence of treachery in the following case: *People v. Delfin,*[31] where the deceased was shot three times while he had both hands raised above his head in token of submission or surrender; *People v. Corpus,*[32] where the victim was shot while lying down on the floor; *People v. Oyco,*[33] where the accused hacked the deceased who was unarmed and totally blind; *People v. Davis,*[34] where the accused, without any word or warning, stabbed the deceased on a vital spot after intercepting the latter while walking along the road at midnight; *People v. Fausto,*[35] where the attack although frontal was sudden and unexpected; *People v. Andia,*[36] where the victim was held by the brothers of the accused when stabbed; *People v. Lacson,*[37] where the victim was shot at the back for several times. By and large, the Court appreciated this aggravating circumstance where the attack was sudden and unexpected thus giving no chance for the victim to defend himself.[38]

Contrariwise, the Court refused to take into account the presence of treachery where the accused did not make any preparation to kill the deceased in such a manner as to insure the commission of the crime or to make it impossible or hard for the person attacked to defend himself or retaliate. Hence, the Court ruled out treachery in the case of *People v. Tengyao,*[39] even though the victim, an escaping prisoner, was fired upon by the accused, while his back was turned; *People v. Saez,*[40] where the accused asked to identify him-

[30] Article 14, par. 6, RPC.
[31] G.R. Nos. L-15230, L-15979-81, July 31, 1961.
[32] G.R. No. L-10104, January 28, 1961.
[33] G.R. No. L-13815, September 26, 1961.
[34] G.R. No. L-13960, September 30, 1961.
[35] *Supra.*
[36] *Supra*
[37] *Supra.*
[38] *People v. Alban, supra; People v. Alido,* G.R. No. L-12449, March 29, 1961; *People v. Duenas.* G.R. No. L-15307, May 30, 1961; *People v. Beltran,* G.R. No. L-12406, June 30, 1961; *People v. Almirez,* G.R. Nos. L-16109-10, October 20, 1961; *People v. Cristobal,* G.R. No. L-13062, January 28, 1961; *People v. Teves,* G.R. No. L-11815, January 31, 1961.
[39] *Supra.*
[40] G.R. No. L-15771, March 29, 1961.

self first before firing; *People v. Cadag*,[41] where the killing was a spur of the moment decision as shown by the fact that at first the accused used only his fists in attacking the victim; *People v. Curambao*,[42] where the accused merely fired at the victim when his superior ordered him to do so.

On two occasions, the Court reiterated the doctrine that abuse of superior strength and nighttime may be absorbed in treachery.[43]

EVIDENT PREMEDITATION

The following circumstances must be shown in order to prove evident premeditation: (a) the time when the offender determined to commit the crime; (b) an act manifestly indicating that the culprit has clung to his determination; (c) a sufficient lapse of time between the determination and execution to allow him to reflect upon the consequence of his act.[44]

Where all these requisites are present, the Court invariably considered this aggravating circumstance. In some cases the Court did not take it into account either because of the lack of plan to kill, absence of a persistent criminal intent, or lack of sufficient time between the inception of the intention, and its fulfillment dispassionately to consider and accept the consequences.[45]

In the case of *People v. Villegas*,[46] no evident premeditation was found because the accused used merely stones to attack the victim.

Abuse of superior strength

To take advantage of superior strength means to use purposely excessive force out of proportion to the means of defense available to the person attacked.[47]

This was taken into account by the Court in a case,[48] where the conspirators were 6 in number, one armed with a revolver and another with a piece of wood; and in another case,[49] where a full grown man raped and killed a 6-year old girl.

This circumstance was taken into account by the Court mostly in cases of murder, homicide, and robbery where the accused had numerical superiority and/or used deadly weapons against victims who were helpless either because they were alone, unarmed, physi-

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[41] *Supra.*
[42] G.R. No. L-10557, January 28, 1961.
[43] *People v. Fetalvero, supra; People v. Escalona, supra.*
[44] Reyes, p. 229, *supra.*
[45] *People v. Arriojo*, G.R. No. L-14863, May 31, 1961; *People v. Cadag, supra; People v. Oyco, supra*
[46] G.R. No. L-16818, May 31, 1961.
[47] Reyes, p. 238, *supra*
[48] *People v. Ariojo, supra.*
[49] *People v. Yu, supra.*

cally incapacitated, or because they belong to the weaker sex. Always, the test is the disproportion of accused's strength and victims' weakness.[50]

That the act be committed with insult or in disregard of the respect due the offended party on account of his rank, age or sex.

In *People v. Bollena,*[51] the Court singled out this aggravating circumstance because the victim, a woman of 85 years, was lifted and dropped on the floor for three times in succession and then stabbed by the accused with a bolo. There was disregard of rank in the case of *People v. Andia,*[52] because the victim was a duly appointed policeman of the place where the crime happened.

OTHER AGGRAVATING CIRCUMSTANCES

In the celebrated case of *People v. Lacson,*[53] the Court held that the killing of Padilla was aggravated by the aid of armed men as the killers were armed to the teeth, abuse of official position as some of the accused occupied responsible positions in the government ranging from governor to mayor to chief of police, and unnecessary cruelty as the victim was made to suffer a long and terrible ordeal before finally being killed.

In most of the cases for robbery, the Court found the presence of the aggravating circumstance of dwelling, nighttime, and band. In said cases too, the accused were found having received rewards, making use of motor vehicles, disguise, armed men, and band.[54]

ALTERNATIVE CIRCUMSTANCES

Alternative circumstances are those which must be taken into account as aggravating or mitigating according to the nature and effects of the crime and the other conditions attending its commission. They are relationship, intoxication, and the degree of instruction and education of the offender.[55]

Lack of instruction—In the case of *People v. Amajul,*[56] the Court did not consider lack of instruction as a mitigating circumstance as the crime in question involved property. In *People v. Andia,*[57] it was used to offset the aggravating circumstance of disre-

[50] *People v. Selfaison, supra; People v. Lao, supra; People v. Fetalvero, supra; People v. Escalona, supra; People v. Aranchado,* G.R. No. L-13943, September 1961; *People v. Agarin,* G.R. No. L-12298, September 29, 1961.
[51] G.R. No. L-13415, December 30, 1961
[52] *Supra*
[53] *Supra.*
[54] *People v. Penaficl,* G.R. No. L-17669, December 30, 1961; *People v. Carunungan,* G.R. No. L-13293, September 30, 1961; *People v. Linde,* G.R. No. L-10358, January 28, 1961; *People v. Banaga,* G.R. No. L-14905, January 28, 1961
[55] Article 15, paragraph 1, RPC.
[56] *Supra.*
[57] *Supra*

gard of rank. In *People v. Tengyao*,[58] it was not considered as a mitigating circumstance in spite of the fact that the accused was unschooled, illiterate, and a member of the non-christian tribes. Said the Court: "Not illiteracy alone but also lack of sufficient intelligence are necessary to invoke this benefit." [59]

PERSONS CRIMINALLY LIABLE

Among the persons criminally liable for felonies are the principals. According to Article 17 of the Revised Penal Code, there are three classes of principals: (a) those who take a direct part in the execution of the act; (b) those who directly force or induce others to commit it; (c) those who cooperate in the commission of the offense by another act without which it would not have been accomplished.

Principals by direct participation—The principal by direct participation personally takes part in the execution of the act constituting the crime.[60] When two or more persons take a direct part in the crime both may be convicted as principals by direct participation. To so convict two or more persons, two requisites must be present: (a) that they participated in the criminal resolution; (b) that they carried out their plan and personally took part in its execution by acts which tend to the same end.[61]

There is participation in a criminal resolution either because there is conspiracy between or among the offenders or because there is unity of purpose and intention among the offenders in the commission of the crime charged.[62]

Conspiracy exists when two or more persons come to an agreement concerning the commission of a felony and decide to commit it.[63] To establish conspiracy, it is not essential that there be proofs as to the previous agreement and decision to commit the crime, it being sufficient that the malefactors shall have acted in concert pursuant to the same objective.[64] Where there is conspiracy, the act of one is the act of all. There is collective responsibility.[65] A conspirator should necessarily be liable for the acts of another conspirator even though such acts differ radically and substantially from that which they intended to commit.[66] However, a person in conspiracy

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[58] *Supra.*
[59] Citing *People v. Roxas*, G.R. No. L-6246, May 26, 1954; *People v. Semanada*, G.R. No. L-11861, May 26, 1958.
[60] Reyes, p. 279, *supra.*
[61] *People v. Ong Chiat Lay*, 60 Phil. 788; *People v. Tamayo*, 44 Phil. 38.
[62] Reyes, p. 280, *supra.*
[63] Article 8, paragraph 2, RPC.
[64] *People v. San Luis*, G.R. No. L-2365, May 1950.
[65] Reyes, p. 282, *supra.*
[66] *People v. Enriquez*, 58 Phil. 536.

with others, who had desisted before the crime was committed by the others, is not criminally liable.[67]

The second requisite respecting unity of criminal purpose and intention may be shown by circumstances attendant to each case.

As previously stated, a principal by direct participation must personally take part in executing the criminal plan to be carried out. This means that he must be at the scene of the commission of the crime personally taking part in its execution.[68] The case of *People v. Santos*,[69] has established an exception to this rule. It is a case where there was conspiracy to kidnap and kill the victim and only one of the conspirators kidnapped the victim, and after turning him over to his conspirators for execution, left the spot where the victim was killed. The one who kidnapped the victim was liable for murder committed by the others. The reason for the exception is that by kidnapping the victim he had already performed his part and the killing was done by his conspirators in pursuance of the conspiracy.

The decisions of the Supreme Court for the year 1961 adhered closely to these doctrines. In *People v. Cadag*,[70] conspiracy was established by the following evidence: all appellants were with the principal accused, Leonido Cadag, in accosting the deceased and his friends; they joined Cadag in encircling the deceased; they gave him encouragement by their armed presence and their urgings to kill the deceased; and together they left the scene of the crime.

In the case of *People v. Bollena*,[71] conspiracy was proved by the following facts: accused were together in going to the house where one of them killed the victim; they were together in carting away the trunk, object of the robbery; they were together ransacking the trunk when one of them got caught; to cap it all, Bollena, pleaded guilty for robbery but not for homicide in the JP court.

In the case of *People v. Tila-on, Agrava and Daza*,[72] the facts are as follows: The three accused came to the store-residence of the victim and pretended to buy some cigarettes. When the victim turned his back, Tila-on suddenly stabbed him. Almost simultaneously, Beltran gave the victim a second bolo thrust. Daza delivered the final thrust. *Held*—Guilty as principals by direct participation. That each knew of the criminal design of the other can be inferred from the circumstances of the assault, such as the arrival of the accused

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[67] *People v. Timbol*, G.R. Nos. L-47471-73, August 4, 1944.
[68] Reyes, p. 296, *supra*.
[69] 46 OG 6085; cited also in Reyes, p. 294, *supra*.
[70] *Supra*.
[71] *Supra*.
[72] *Supra*.

at the same time, their presence from the start and up to the consummation of the crime and most important of all, the fact that the malefactors acted in concert all throughout its commission pursuant to the same objective.

In *People v. Carunungan*,[73] the accused all carrying firearms went to the house of Vivas to extort money. Once inside the house, they started working for their objective and then suddenly, they started firing at Vivas who was showing signs of stubbornness. The latter returned the fire and was able to kill one of the robbers before finally dying. *Held*—There is conspiracy as there is a common design, understanding and agreement to rob the house of Vivas with the use of force if required. The killing was the offshoot of the plan to carry out the robbery. Simply because appellants did not take part in the killing, it cannot be inferred that they are not equally responsible therefor. Settled is the rule that when a homicide has been committed as a consequence or on occasion of a robbery, all those who took part as principals in the commission of the robbery will also be held guilty as principals in the commission of the robbery with homicide, although they did not take part in the homicide unless it clearly appears that they endeavored to prevent the homicide. Appellants' armed presence unquestionably gave encouragement and a sense of security to those who went up the house. The presence of empty carbine shells downstairs is indicative of the fact that they too fired shots and actively participated in the commission of the offense.

In the case of *People v. Clareit*,[74] it appears that while the family of Orencio Gardamon was taking their supper, a gun explosion was suddenly heard outside the house. Orencio was hit on the left side of the chest and died as a result thereof. As the members of the family scampered for safety, they saw the accused Alejandro and Teofilo Clareit standing by one side of the house, the former holding a gun. Previous to this, Alejandro had been convicted of arson for setting to fire the house of Orencio whom he thought improperly occupied part of the land of his father. Just lately, both brothers threatened to kill Orencio when the latter tried to build his house again on the same disputed land. The Court convicted the two as principals. It declared that the circumstances indicate that Teofilo conspired with Alejandro in the planning and execution of the crime. The disputed land belonged to their father, hence, the interest of one is just as much as the interest of the other.

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[73] G.R. No. L-13283, September 30, 1960.

[74] *Supra*.

In the case of *People v. Lao*,[75] the Court convicted appellant Padiamat as principal by direct participation. The victim here was ordered to be killed by Rosario Lao for acting as a mistress of the latter's husband. The killing was done by Padiamat and a certain Santos. Padiamat's statement that his only participation in the crime was helping Santos kidnap and bury the victim was not believed by the Court. If as Padiamat admits he received orders from Santos, it does not seem possible at all that he did not take part in the killing of the victim, the Court pointed out.

In the much publicized case of *People v. Lacson, et al.*,[76] the facts are as follows: The deceased Moises Padilla was the NP candidate for the mayorship of Magallon, Negros Occidental, in the elections of 1951. He refused to withdraw in favor of Gayona, the candidate of the LP and of Gov. Lacson. In a public meeting at Magallon on November 11, 1951, Lacson declared: "Padilla is a criminal. In order that Magallon would be peaceful, it should be better to eliminate Padilla." On the same occasion Mayor Manuel Ramos of La Castellana, said: "Padilla is a criminal. He even had my brother killed. . . . Now his time has come." Afterwards, they proceeded to take their supper where Lacson was again heard to say, "Padilla could not escape because after the elections, he would be arrested and manhandled and his buttocks skinned and vinegar poured on them and in that manner he will not last long." On November 12, the hunt for Padilla began. Padilla refused to escape in spite of the fact that he had been given a written warning by one of his friends that the men of Lacson were after his scalp. On November 15 at 2 a.m., Padilla and his companions were finally arrested by the special police of Lacson. Right then and there, they were maltreated. Their arrest was without any warrant because the complaint of sedition was filed only late in the morning of that day. The warrant of arrest was issued only at 10:30 a.m. and was never returned to court. Neither was Padilla ever returned to Court, after his arrest. The PC, under the leadership of Marcial Enriquez attempted to investigate the matter. When the latter approached Lacson for questioning the latter once more unfolded his plan about Padilla, declaring, that Padilla should be paraded around the street, manhandled, and then shot to death in a feigned attempt to escape. Meanwhile, Padilla was tortured in the various localities of Magallon, Isabela and La Castellana by guards and policemen especially Jabonete, Camalon, Tolentino, Alipalo, and Laos. On November 16, Padilla was taken away from the jail of La Castellana and was never seen alive

[75] *Supra*
[76] *Supra.*

thereafter. The next day, only the corpse was brought back to the municipality of Magallon by the same men. His body had 15 gunshot wounds, 11 of which entered at the back, and various wounds and contusions. *Held*—With respect to the appellants Jabonete, Camalon, Tolentino, and Alipalo, the Court declared that they should be found guilty as principals by direct participation. They acted in concert, from the arrest of Padilla up to the return of his cadaver according to a predetermined course of action. That there is no record on evidence to prove how Padilla was actually done away with is immaterial. Since there is conspiracy, it is not necessary to pinpoint who of them fired the fatal shots.[77] The Court dismissed the confession of Hijar wherein he alone owned the crime of shooting Padilla as unsatisfactory.

Principal by induction—One cannot be held guilty of having instigated the commission of the crime without first being shown that the crime was actually committed by the other.[78] There are two ways of becoming a principal by inducement: (a) by directly forcing another to commit a crime; (b) by inducing another to commit a crime.[79]

Again, there are two ways of directly forcing another to commit a crime: (a) by using irresistible force; (b) by using uncontrollable fear. In these cases, there is no conspiracy, not even a unity of criminal purpose and intention. The material executor is not criminally liable because of Article 12 paragraphs 5 and 6.[80]

Likewise, two requisites must concur with respect to the second method: (a) the inducement must be made directly with the intention of procuring the commission of the crime; (b) that such inducement be the determining cause of the commission of the crime by the material executor.[81] One can induce another to commit a crime by offering reward, price, or promise or by simply using words of inducement.[82]

In the case of *People v. Delfin*,[83] the Court convicted Hoc Seng as a principal by induction. A certain Renato and Eladio Delfin got into a quarrel with Francisco Ang and Sy Leng Ang because of the latter's refusal to serve beer. Eladio stabbed Francisco Ang while the latter was outboxing Renato. Right after the incident, Renato scurried home to the store-residence of Hoc Seng and narrated what happened. Hoc Seng handed his pistol to Renato with

[77] Citing *People v. Siaotong*, G.R. No. L-9242, March 29, 1957; *People v. Upao Moro*, G.R. No. L-6771, May 28, 1957.
[78] *People v. Ong Chiat Lay*, *supra*.
[79] Reyes, p. 296, *supra*.
[80] Reyes, p. 297, *supra*.
[81] *US v. Indiana*, 24 Phil. 203; *People v. Kiichi*, 61 Phil. 609.
[82] Reyes, p. 298, *supra*.
[83] G.R. Nos. L-15230, 15979-81, July 31, 1961.

the remark, "Here you shoot, kill anyone of them. I will be responsible for everything including your family." With the gun, Renato met the father of Ang and at point blank range shot and killed the latter. *Held*—Hoc Seng's remarks and delivery of the fatal gun were the determinant impulse that induced Renato to embark in the killing of Ang.

In *People v. Manigbas*,[84] accused was also adjudged guilty as principal by induction. It appears that Manigbas was the one who gathered all the other accused in this case and told them that Esteban de Guzman, then the chief of Police of Rosario, Batangas, must be liquidated because he was the one responsible for the conviction and sentence to double life imprisonment of their "boss" Isaac Parol. It was Manigbas who planned the details of the murder and it was to him that the other accused reported after the ambush was successfully perpetrated.

In *People v. Lao*,[85] the Court again pronounced the accused as a principal by induction for ordering the killing of the common law wife of her husband. The inducement was made by giving money to the executors of the crime.

In *People v. Lacson*,[86] accused Lacson was held to be a principal by induction for inciting and ordering the killing of Padilla who refused to give way to the former's candidate for the mayorship of Magallon. The killing was done by his special police.

ACCOMPLICES

Accomplices are those persons who, not being included in Article 17 cooperate in the execution of the offense by previous or simultaneous acts.[87] Three requisites must be shown to prove complicity: (a) community of design; that is, knowing the criminal design of the principal by direct participation, he concurs with the latter in his purpose; (b) he cooperates in the execution of the offense by previous simultaneous acts, with the intention of supplying material or moral aid in the execution of the crime in an efficacious way; (c) there must be a relation between the acts done by the principal and those attributed to the person charged as accomplice.[88]

In *People v. Arranchado*,[89] the Court again discussed the first element herein noted. The facts are as follows: While the victim Revilioso was walking alone, Sergio Arranchado, Miguel Arriesgado

[84] G.R. Nos. L-10352-53, September 30, 1961.
[85] *Supra*
[86] *Supra*
[87] Article 18, RPC
[88] Reyes, p. 308, *supra*.
[89] *Supra*.

and Jose Tuico suddenly pounced upon him. They delivered blows to Revilioso with pieces of wood until he crumpled down his knees. While in that position, Marceliano Arranchado, principal accused in this case, suddenly appeared and stabbed the victim with a dagger. That caused the death of the victim. *Held*—Appellants cannot be held guilty as co-principals since they did not take part in the killing itself, nor did they induce Marceliano to the crime, nor did they cooperate in the commission of the offense by another act without which it would not have been accomplished. Neither may appellants be held guilty as accomplices to the murder for the reason that it was not proved that they knew of the criminal design of the principal culprit at the time they were inflicting blows upon the deceased. The suddeness of the attack of Marceliano excludes any question of their cooperating in his homicidal attack. The crime committed by appellants is only that of slight physical injuries punishable under paragraph 2 of Article 266 of the RPC since there is no proof as to the period of the offended party's incapacity for labor or of the required medical attendance.

In *People v. Villegas*,[91] appellants Emigdio and Alfredo Villegas were convicted as accomplices since there is no evidence to prove that the stones they threw to the victim inflicted any mortal injury nor does it appear that they joined the principal accused in hitting the victim after the latter fell to the ground from the former's blows. There was no unity of purpose. Their acts could not be said as indispensable to the consumation of the offense.

In the case of *People v. Lacson*,[92] appellant Valencia was held guilty as an accomplice. The evidence points to the fact that on November 12, 1951, Valencia ordered his men "to go to Magallon and liquidate Padilla," led them but fortunately failed to find their quarry. Though he was aware of the intended crime, the evidence failed to establish that he had any share in the torture of Padilla or in taking him away on his last ride. Hence, he is only an accomplice, since he took no direct part in the murder or in the events immediately leading to it, nor were his previous actuations indispensable to its commission.

In the same case, three other persons, Ignacio Altea, Anatalio Vasquez, and Jesus Agreda were found guilty as accomplices. These three voluntarily subscribed affidavits in support of the false charge of sedition filed against Padilla knowing that it was untrue that a submachinegun had been found in the latter's possession. On some

[90] *Supra*
[91] *Supra*
[92] *Supra*

occasions, Altea also participated in the maltreatment of Padilla while Vasquez and Agreda acted as guards. They were convicted as accomplices only because their cooperation was in no way indispensable to the carrying out of the final offense.

In this case too, Mr. Justice Felix Angelo Bautista gave a dissenting opinion, concurred in by Justices Ricardo Paras, Cesar Bengzon, and Sabino Padilla, to the effect that the principal accused, Gov. Lacson, should be convicted only as an accomplice and not as a principal. He opined that Lacson should be responsible only to the extent of the orders he had given to his men. His instructions were only to arrest, manhandle, and *kill Padilla if he tried to escape.* This did not happen as Padilla never tried to escape. Hence, Lacson should be responsible as an accomplice only as he did not take steps to prevent the abuses of his men.

ACCESSORIES:

In the case of *People v. Amajul*,[93] one of the accused, Amdad, was convicted only as accessory after the fact pursuant to Article 19 of the RPC. The principal accused in this case were charged of robbery with homicide for waylaying the payroll jeepney of the Western Mindanao Lumber Co. and killing on the occasion thereof, one security guard and the driver of a PU passenger jeepney. Amdad, in his sworn statement, admitted having acquired knowledge of the commission of the ambuscade and in fact accepted ₱100.00 of the looted money. Found inside his house were the garand rifle used in the killing and the .45 caliber pistol which was taken away from the slain security guard. *Held*—Guilty as *encubridor* under Article 19 of the RPC that punishes, as accessories, those who having knowledge of the crime and without having participated therein, either as principals or accomplices, take part subsequent to its commission by profiting themselves from it or by concealing the effects or instruments of the crime.

COMPLEX CRIME

In the case of *People v. Remollino*,[94] the accused shot and killed at short intervals six persons successively. He was sentenced by the lower court to suffer the penalty of not less than 8 years *prision mayor* to not more than 8 years of *reclusion temporal* in each and everyone of the 3 homicidal acts but in no case to suffer more than the maximum penalty of 40 years as set forth under paragraph 4 of the RPC with indemnity. Hence, the Court refused to impose

[93] *Supra.*
[94] G.R. No. L-14008, September 30, 1960.

further penalties for the 3 other killings committed. Accused contends that Article 48 should apply to him. *Held*—Article 48 does not apply. Our jurisprudence is replete with precedents sustaining that acts, such as the one in the case at bar, should constitute separate crimes. It cannot be contended with any degree of plausibility that only one shot or a single act had killed the 6 victims. The Court refused to apply the doctrine enunciated in the *Lawas* case,[95] stating that the rule therein applies only to peculiar circumstances.

QUASI-RECIDIVISM

In the case of *People v. Peralta*,[96] accused, while serving their respective jail terms in Muntinglupa, committed murder against one of their fellow prisoners. The crime was attended by evident premeditation as a qualifying circumstance, treachery, voluntary plea of guilty, and quasi-recidivism as a special circumstance. Pursuant to Art. 160, the death penalty was imposed. Among others, counsel for the accused contends that the allegation of quasi-recidivism is ambiguous as it failed to state whether the offenses for which the defendants were serving sentence at the time of the commission of the offense charged were penalized by the RPC or by a special law. *Held*—It makes no difference for purposes of the effect of quasi-recidivism under Art. 160 of the RPC whether the crime for which an accused is serving sentence at the time of the commission of the offense charged falls under said Code or under a special law. Nonetheless, it was found that the accused were serving sentence for violation of the RPC.

TREASON

In the case of *People v. Cortez*,[97] the Supreme Court once more applied the rule regarding the necessity of having at least two witnesses to each overt act of treason. On one count, the accused was charged of being a member of the puppet Cebu Police Force and later on of the Bureau of Constabulary of the puppet Republic of the Philippines and of the Japanese Kempei Tai. As such, he participated in the apprehension of Filipino guerrillas and other prominent people in Cebu. Prosecution called on Diego Caniza, former chief of the secret service of Cebu during the Japanese occupation, who testified that during his 4-month incumbency, accused worked as undercover agent of the Kempei-Tai. Another witness, Lim Beng

[95] G.R. No. L-7618, June 30, 1955.
[96] G.R. No. L-15959, October 18, 1961.
[97] G.R. No. L-14712, April 29, 1961

Liong, identified two documents, Exhibits B and C, signed by the accused which are reports on the movements of certain persons under suspicion and surveillance. Another witness testified that he was forced by the accused to work at the Yate airfield wherein he and others made excavations for the Japanese. *Held*—Membership in the Kempei-tai was proved by the testimony of Caniza; the act of spying by Exhibits B and C; and that of securing labor to help in building Japanese defenses by the testimony of Lim. But while each of the above acts of helping the enemy is competent by itself, the three are not sufficient to satisfy the requirement that the evidence or testimonies of at least two witnesses must be to the same overt act. Nevertheless, accused was convicted of treason as another charge against him was properly proved.

REBELLION:

In the case of *People v. Agarin*,[98] the accused, together with two other HUKS, sought the victim in the latter's place at Victory Village. They wanted to take the victim for investigation suspecting that he was the one who informed the BCT regarding the presence of HUKS in Monito, Albay. As the victim made move to escape, accused and one of his companions, shot and killed the victim. *Held*—Citing among others, the case of *People v. Hernandez*,[99] the Court declared that since the killing was committed as a means to promote the subversive ends of the HUKS, accused are only guilty of simple rebellion.

In the case of *People v. Cruz*,[100] the doctrine enunciated in the Hernandez case was once more relied upon by the Court. The CFI of Rizal convicted Paterno and Benito Cruz of "rebellion with homicide", and Fermin Tolentino of "rebellion with arson, with murder and robbery." The penalty imposed was death. *Held*—Appellants are only guilty of simple rebellion inasmuch as the information alleges and the records show that the acts imputed to them were performed as a means to commit the crime of rebellion and in furtherance thereof. However, since Benito Cruz and Fermin Tolentino are HUK commanders, they fall under the first paragraph of Article 135 of the RPC whereas Paterno Cruz falls under the second paragraph thereof. The first two were sentenced to ten years of *prision mayor*, with accessory penalty as provided by law and to pay a fine of ₱10,000 each, while the latter was sentenced to six years, eight months and one day of *prision mayor* with the accessory penalty provided by law.

[98] G.R. No. L-12298, September 29, 1960.
[99] 52 OG 4612.
[100] G.R. No. L-11870, October 16, 1961.

MALVERSATION

In the case of *People v. Efren Miranda*,[101] it appears that the accused, postmaster of Cantillan, Surigao, was charged with the crime of malversation of public funds through falsification of public documents in that on five different occasions and dates, during the period from May 19, 1955 to February 29, 1956 the accused allegedly falsified and made alterations in his records of collections and payments and official cash books, to make it appear that more sums were paid out by him on telegraphic transfers and money orders to certain persons than those actually disbursed and then misappropriated and converted the difference to his own use and benefit, to the damage and prejudice of the government in the sum of ₱3,684.81. Accused moved to dismiss on the ground that within 24 hours after the discovery of the supposed malversations, he reimbursed or made good the missing amounts, thereby negating criminal intent and liability. The lower court sustained the argument and dismissed the case. *Held*—The case should not have been dismissed. Reimbursement relieved the accused only from civil liability not criminal liability. The Court distinguished the instant case from that of *People v. Gatmaitan*,[102] relied upon by the accused and the lower court. It declared that in the latter case, the Court of Appeals acquitted the accused not because he returned the money he was supposed to have misappropriated before criminal action was taken against him but before that Court found, on the whole of the evidence, that there was absolutely no criminal intent on the part of the accused, shown, among other things, by his voluntary return to the complainants of their money even before he was formally charged of the crime of estafa. Finally, the Court said that even assuming that the reimbursement made by the accused had extinguished his criminal liability he might have incurred for malversation, there is still the charge of falsification of public documents embodied in the same information. Even if the accused is able to show that he committed no malversation he may still be found guilty of the lesser offense of falsification of public documents, which is necessarily included in the complex crime of malversation through falsification of public documents charged in this case.

PARRICIDE

The facts in *People v. Mangahas*,[103] are as follows: Accused refused the request made by his wife that they attend the town fiesta

[101] G.R. No. L-16122, May 30, 1961.
[102] C.A.—G.R. No. L-14127-R, September 26, 1957.
[103] G.R. No. L-13982, January 28, 1961.

of San Miguel, Bulacan. As he was insulted by his wife, he gave her blows on different parts of the body. He left their house and after the lapse of some time he returned and saw his wife waiting with a bolo on hand. With a piece of bamboo, he fought his wife and later hanged her. *Held*—Accused was found guilty of parricide.

MURDER

The bulk of the Supreme Court decisions in criminal law for the year 1961 dealt with the crime of murder. However, no new doctrine was formulated as all the cases were decided in the light of old laws and jurisprudence. By and large, the Court qualified the crime to murder when the killing was committed with any of the following attendant circumstances: (a) with treachery, taking advantage of superior strength, with the aid of armed men, or employing means to weaken the defense, or of means or persons to insure or afford impunity (b) in consideration of a price, reward, or promise, (c) with evident premeditation.[104]

HOMICIDE

Any person who, not falling within the provisions of article 246, shall kill another without the attendance of any of the circumstances of the crime of murder, shall be deemed guilty of homicide. In two cases,[105] the Court declared that accused only committed homicide there being no treachery and in another four cases,[106] the Court again ruled out the existence of murder there being no evident premeditation.

KIDNAPPING

Any private individual who shall kidnap or detain another, or in any other manner deprive him of his liberty, shall suffer the penalty of *reclusion perpetua* to death if the person kidnapped or detained shall be a minor, female or a public officer. In *People v. Cabral*,[107] the person kidnapped was a female and her 3-year old son. The Court found the crime aggravated by the use of motor vehicle but for lack of sufficient statutory number of votes imposed only *reclusion perpetua*.

However, the death penalty will be imposed where the kidnapping or detention was committed for the purpose of extorting ran-

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[104] The cases involved are all cited in the discussion made on aggravating, mitigating, justifying, exempting, and alternative circumstances.
[105] *People v. Saez, supra; People v. Cadag, supra.*
[106] *People v. Ariojo, supra; People v. Delfin, supra; People v. Villegas, supra; People v. Cadag, supra*
[107] *Supra.*

som from the victim even if none of the circumstances mentioned in Article 267 of the RPC were present in the commission of the offense. And so, the death penalty was imposed against the accused in *People v. Mamalayan*,[108] because the victim, deprived of her liberty for 23 days, was kidnapped for the purpose of extorting ransom from her family.

ROBBERY

There is robbery when "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." [109] The penalty of from *reclusion perpetua* to death shall be imposed when by reason or on occasion of the robbery, the crime of homicide shall have been committed.[110] And if the robbery shall have been accompanied by rape, then the penalty shall be *reclusion temporal* in its medium period to *reclusion perpetua*.[111]

Attempted robbery with homicide—When by reason or on the occasion of an attempt or frustrated robbery a homicide is committed, the person guilty of such offenses shall be punished by *reclusion temporal* in its maximum period to *reclusion perpetua* unless the homicide committed shall deserve a higher penalty under the provisions of this Code.[112] The provision of this article is an exception to the rule lowering the penalty by one or two degrees in case of attempted or frustrated felony.[113] This is a special complex crime not governed by Art. 48 but by the special provisions of this article. Hence, in *People v. Carunungan*,[114] where there was only an attempted robbery because of the armed resistance of the victim that resulted to his death, the accused were sentenced to *reclusion perpetua* there being present the aggravating circumstances of nighttime, dwelling and band.

Liability in case of robbery with homicide—In *People v. Carunungan*,[115] the Court once more repeated the rule that whenever a homicide has been committed as a consequence or on the occasion of the robbery, all those who took part as principals in the commission of the robbery will also be held guilty as principals in the crime

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[108] *Supra*
[109] Article 293, RPC.
[110] Article 294, par. 1. *People v. Amajul, supra; People v. De la Cruz*, G.R. No. L-13974, August 31, 1961; *People v. Yu, supra; People v. Corpuz, supra; People v. Carunungan, supra; People v. Bollena, supra; People v. Ijad*, G.R. No. L-14456, October 31, 1961.
[111] Article 294, par. 2; *People v. Selfaison, supra; People v. Baniaga*, G.R. No. L-14915, January 28, 1961; *People v. Penafiel*, G.R. No. L-17669, Dec. 30, 1961; *People v. Castillo*, G.R. No. L-11793, May 19, 1961; *People v. Linde*, G.R. No. L-10358, Jan. 28, 1961.
[112] Art. 297, RPC.
[113] Reyes, p. 399, vol. II.
[114] *People v. Carunungan, supra.*
[115] *Supra*

of robbery with homicide, although they did not take part in the homicide, unless it clearly appears that they endeavored to prevent the homicide.

Robbery of cereals

In the case of *People v. Rada,*[116] the accused were charged in the CFI of Davao with the crime of robbery in an uninhabited place as defined and penalized under Article 302 of the RPC. The information alleged that they broke into the bodega of the victim and then stole 9 sacks of palay valued at ₱108.00. The accused moved to quash on the ground that the crime committed falls under Article 303 of the RPC, an offense which is within the original jurisdiction of the JP. The trial court sustained the motion to quash stating that the case falls under Article 303 since palay could be considered as cereal and since the amount involved does not exceed ₱250.00, the penalty is only *arresto mayor* in its medium period and therefore falls under the jurisdiction of the JP. The issue involved is whether palay can be considered as cereal within the meaning of Article 303. *Held*— The Court declared that palay is cereal. Citing the case of *People v. Mesias,*[117] it said that the translation of the Spanish words "semilla alimenticia" into the English word cereal is erroneous. Cereal simply means grains either of palay, wheat, corn, etc., whereas "semilla alimenticia" has a broader meaning inasmuch as "semilla" (seedling) is part of the fruit of the plant which produces it when it germinates under proper conditions. In cases of doubt in the interpretation of the RPC, the Spanish text shall prevail.[118] Hence, palay is cereal and is included in the term "semilla alimenticia" used in the Spanish text of the Revised Penal Code, as it is grain in its original state, and under proper conditions, can and will germinate into the plant that produces it. The Court did not take into account the distinction being offered by the Solicitor General between a seed and a seedling as such distinction is neither expressed nor apparent in the language of the law. Further it will lead into an inquiry of the intention of the owner and the person taking the thing.

ESTAFA

In the case of *People v. Mercado,*[119] a certain Martina Nebre wanted to sell her house in order to pay the accused. Accused convinced Miguela San Angel to buy the property, offering to furnish ₱1,000.00 of the selling price of ₱3,000.00 as the latter then did not

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[116] G.R. No. L-16988, December 30, 1961.
[117] 65 Phil. 267.
[118] *People v. Samonte,* G.R. No. L-36559, July 26, 1982.
[119] G.R. No. L-13337, February 16, 1961

have sufficient money. When the deed of sale was prepared, the name of the accused and not Miguela, appeared as vendee. Accused told Miguela that the title would be transferred to her upon payment of the ₱1,000.00 which she advanced. After obtaining the deed of sale in her favor, accused sold the house and the lot to another person for ₱3,000.00. *Held*—There is estafa because at the time the sale was made by the accused she no longer had any interest in the property. The money advanced by her had been paid by Miguela with interest.

In the case of *People v. Dichupa,*[120] the accused was charged in two separate informations with two offenses of estafa committed under section 315, subsection 1(b) of the RPC. In one, he was charged with having committed the offense during the period from January, 1955 to December, 1955 while he was president and warehouseman of the Pavia Farmers' Cooperative Marketing Association, whereas in the other, he was charged with the same offense for having committed similar acts in the same capacity during the period from January, 1956 to July, 1956, in the same municipality of Pavia, Iloilo. Accused moved to dismiss on the ground, among others, that the acts described in said informations constitute but one offense. The lower court invoking the case of *U.S. v. Paraiso,*[121] sustained the motion and dismissed the case. *Held*—The case should not be dismissed. The crimes committed do not constitute a single crime of estafa and were not committed in one continuous period. The acts were committed on two different occasions such that it cannot be said that they were done with one criminal intent. It cannot be pretended that when the accused disposed of such palay in January, 1955 he already had the criminal intent of disposing what was to be deposited in January 1956 to July 1956. The Court also distinguished the instant case from *U.S. v. Paraiso.*[122] In the latter case, acts which constitute different crimes were embodied in only one single information. In the instant case, they were spread out in separate informations.

BIGAMY

In the case of *People v. Archilla,*[123] Jose Luis Archilla and Alfreda Robles were charged with bigamy. The latter moved to dismiss on the ground that the information does not allege that her marriage to Jose Luis Archilla was her second and that the allegation that she knew that the first marriage of Archilla was still valid and

[120] G.R. Nos. L-16843-44, October 28, 1961.
[121] 5 Phil. 154.
[122] *Supra*
[123] G.R. No. L-15632, February 28, 1961.

subsisting is not sufficient statement of an offense. The case was dismissed by the lower court. *Held*—Dismissal is erroneous. The authorities are clear that accused can be prosecuted for bigamy even if the information does not allege that her marriage to her co-accused is her second marriage if it is averred that she married her co-accused knowing that the latter's former marriage is still valid and subsisting.[124]

SLANDER BY DEED

In the case of *People v. Delfin*,[125] the accused was found guilty of serious slander by deed. It was shown that the accused quarrelled with Sy Leng Hag as he was not served beer. A niece of the latter, Ang Piok Chuan, tried to intervene but was slapped by the accused in front of several customers.

In the case of *People v. Ramos*,[126] the information filed with the CFI for grave slander by deed reveal that the accused told the other party, "heto ang iyo, puta ka, malandi ka," and thereupon assaulted her. Another case for slight physical injury was filed with the JP of Peñaranda, Nueva Ecija. *Held*—This is not a case where several offenses arose from one single act. It can not be stated that there is only one act here because the act of inflicting physical injuries is dictinct and different from the act of uttering insulting remarks. Insult is an offense against honor, injury against person. The mere fact that these two offenses may have taken place on the same occasion, or that one preceded the other, both proceeding from the same impulse, does not make the two a single act or offense for one is certainly distinguishable from the other.

QUASI OFFENSES

In the case of *People v. Despavellador*,[127] accused, a driver of a passenger bus was charged with damage to property through reckless imprudence when he struck and sideswiped another passenger jeepney. The lower court found him guilty as charged and ordered him to pay ₱100.00 to the owner of the jeep and ₱85.00 to a passenger of the jeepney whose vegetables were destroyed. On appeal to the Court of Appeals, the case was remanded to the lower court for the latter to determine the extent of damages sustained by the jeepney as evidence thereto was not clear. When the case was called in the lower court for the reception of evidence, the witnesses for the

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[124] Citing Viada, Codigo Penal de 1870, p. 561; Francisco's Revised Penal Code, Annotated, p. 1515; Guevar's Commentaries on the Revised Penal Code, pp. 757-58.
[125] *Supra*.
[126] G.R. No. L-15958, May 31, 1961.
[127] G.R. No. L-13814, January 28, 1961.

government failed to show up. Hence, when the case was resubmitted for decision, the Court of Appeals found no evidence to establish damage to the jeep. *Held*—Failure of the prosecution to establish specifically the value of the damage sustained by the jeep is not an insurmountable obstacle to the imposition of the corresponding penalty for the third paragraph of Article 365 should apply.[128] Hence, the value of the damage in question should be at least ₱25.00.[129] Accused was sentenced to pay that amount.

[128] It states, "When the execution of the act covered by this article shall have resulted only in damage to property of another, the offender shall be punished by a fine ranging from an amount equal to the value of said damages to three times such value, but which shall in no case be less than twenty-five pesos.

[129] Citing *People v. Narvas*, G.R. No. L-14191, April 27, 1960; *People v. Rodriguez*, G.R. No. L-6300, April 20, 1954.