

## SECOND DIVISION

[ G.R. Nos. 117267-117310, August 22, 1996 ]

**GENEROSO N. SUBAYCO, ALFREDO T. ALCALDE, AND ELEUTERIO O. IBAÑEZ, PETITIONERS, VS. SANDIGANBAYAN AND PEOPLE OF THE PHILIPPINES, RESPONDENTS.**

### D E C I S I O N

**PUNO, J.:**

The year was 1985, the month, September. The Marcos government was fast sliding into its sunset days. Yet, it was again set to celebrate with pomp, September 21, the day it proclaimed martial law some thirteen (13) years ago. The people, however, were not in the mood to be joyous. They planned massive public protests in different parts of the country. One of the biggest protest rallies was blueprinted as a **Welga ng Bayan** at Escalante, Negros Occidental. It ended in tragedy which will not easily recede in the mist of our history. **Twenty (20) demonstrators were shot dead and twenty-four (24) others were wounded by the military and para-military forces of the Marcos government.** Of several persons charged with various counts of murder and frustrated murder, **only three (3) were convicted** -- Generoso N. Subayco, Alfredo T. Alcalde and Eleuterio O. Ibañez were convicted by the respondent **Sandiganbayan**. They now come to this Court insisting on their innocence and pleading to be set free. We deny their petition and we warn our military and police authorities that they cannot shoot people who are exercising their right to peacefully assemble and petition the government for redress of grievance.<sup>[1]</sup>

As aforestated, twenty (20) demonstrators were killed and twenty-four (24) others were seriously wounded by gunshots during the **Welga ng Bayan** held on September 20, 1985 at Escalante, Negros Occidental. Twenty (20) counts of Murder and twenty-four (24) counts of Frustrated Murder<sup>[2]</sup> were filed with respondent **Sandiganbayan** against those allegedly responsible for the death and injuries of the victims. Charged were several civilian government officials, personnel from the Philippine Constabulary and the Integrated National Police, and from the para-military group Civilian Home Defense Force (CHDF), namely:

1. Ex-Mayor Braulio P. Lumayno,
2. Ex-Governor Armando C. Gustilo,<sup>[3]</sup>
3. Danilo "Nonoy" Jimenez,
4. Capt. Modesto E. Sanson, Jr.,
5. CIC Alfredo T. Alcalde,
6. CIC Eleuterio O. Ibañez,
7. C2C Rufino L. Lerado,
8. C2C Carlos L. Santiago,
9. T/Sgt. Generoso N. Subayco,
10. S/Sgt. Quirino L. Amar,

11. Sgt. Rolando A. Braña,
12. P/Capt. Rafael C. Jugan,
13. P/Pfc. Mariano C. Juarez, Jr.,
14. P/Pfc. Alfonso Birao,
15. P/Pfc. Wilfredo Carreon,
16. P/Pfc. Rogelio Peña,
17. P/Pfc. Iluminado D. Guillen,
18. Pat. Ludovico Cajurao,
19. Pat. Luisito T. Magalona,
20. Pat. Alex Francisco M. Liguaton,
21. Pat. Porfirio Q. Sypongco,
22. Pat. Prudencio M. Panagsagan,
23. Pat. Danilo P. Antones,
24. Pat. Elmer Sinadjan,
25. Pat. Grant L. Batomalaque,
26. Pat. Lino F. Mercado,
27. F/Cpl. Casimiro Pandongan,
28. Fmn. Gene Legaspina,
29. Fmn. Giomar D. Gale,
30. Fmn. Edwin T. Gustilo,
31. Fmn. Joel B. Rosal,
32. Chdf Teddy Magtubo,
33. Chdf Elias Torias,
34. Chdf Jose "Boy" Parcon,
35. Chdf Jeremias Villanueva,
36. Chdf Dante P. Diaz,
37. Chdf Amador O. Villa,
38. Chdf Antonio A. Cañete,
39. Chdf Jimmy Mayordomo,
40. Chdf Jerry L. Espinosa,
41. Chdf Francisco A. Morante,
42. Chdf Bernie C. Muñoz,
43. Chdf Ernesto V. Olaera,
44. Chdf Dione L. Sesbreno, and
45. Chdf Alfredo A. Quinatagcan alias Pidong Bagis.

All of the accused were part of the police-military group which undertook the dispersal operation during the rally.

Only twenty-eight (28) of the above accused were arrested and tried as the others remained at large. **The twenty-eight (28) were all members of the Philippine Constabulary and the Integrated National Police, viz:**

1. Modesto Sanson,
2. Alfredo Alcalde,
3. Eleuterio Ibañez,
4. Rufino Lerado,
5. Carlos Santiago,
6. Generoso Subayco,
7. Quirino Amar,
8. Rolando Braña,
9. Rafael Jugan,

10. Mariano Juarez,
11. Alfonso Birao,
12. Wilfredo Carreon
13. Rogelio Peña,
14. Iluminado Guillen,
15. Ludovico Cajurao,
16. Luisito Magalona,
17. Alex Francisco Liguaton,
18. Porfirio Sypongco,
19. Prudencio Panagsagan,
20. Danilo Antones,
21. Elmer Sinadjan,
22. Grant Batomalaque,
23. Casimiro Pandongan,
24. Gene Legaspina,
25. Socrates Jarina,
26. Giomar Gale,
27. Edwin Gustilo, and
28. Joel Rosal.

**Upon conclusion of the trial, respondent court acquitted all the accused except petitioners Alfredo Alcalde, Eleuterio Ibañez and Generoso Subayco.**  
The dispositive portion of the Decision held:

WHEREFORE, for all the foregoing, the Court finds the evidence against the following accused to be insufficient to establish their liability in the instant charges and therefore ACQUITS them in all the herein cases:

1. Modesto Sanson
2. Rufino Leado
3. Carlos Santiago
4. Quirino Amar
5. Rolando Braña
6. Rafael Jugan
7. Mariano Juarez
8. Alfonso Birao
9. Wilfredo Carreon
10. Rogelio Peña
11. Iluminado Guillen
12. Ludivico Cajurao
13. Luisito Magalona
14. Alex Francisco Liguaton
15. Porfirio Sypongco
16. Prudencio Panagsagan
17. Danilo Antones
18. Elmer Sinadjan
19. Grant Batomalaque
20. Casimiro Pandongan
21. Gene Legaspina
22. Socrates Jarina
23. Giomar Gale
24. Edwin Gustilo

25. Joel Rosal, and
26. Francisco Morante.

**The same evidence, however, has established the guilt beyond reasonable doubt of the following accused who stood trial:**

- 1. Alfredo Alcalde**
- 2. Eleuterio Ibañez, and**
- 3. Generoso Subayco**

**and the Court hereby renders judgment CONVICTING them and imposing upon them the corresponding penalties, to wit:**

**A. FOR MURDER** in the following Criminal Cases:

- of Rodolfo Montealto in No. 12063
- of Claro Monares in No. 12064
- of Edgardo Salili in No. 12065
- of William Alegre in No. 12066
- of Rovená Franco in No. 12067
- of Cesar Tejones in No. 12067
- of Juvely Jaravelo in No. 12070
- of Rodney Demigilio in No. 12071
- of Manuel Tan in No. 12072
- of Michael Dayanan in No. 12073
- of Maria Luz Mondejar in No. 12074
- of Aniano Ornopia in No. 12076
- of Nenita Orot in No. 12077
- of Johnny Suarez in No. 12078
- of Ronilo Sta. Ana in No. 12080
- of Angelina Lape in No. 12081

1) imprisonment for an indeterminate period ranging from a minimum of seventeen (17) years and one (1) day of reclusion temporal to a maximum of reclusion perpetua for EACH of the above sixteen cases;

2) to jointly pay indemnity to the heirs for the death of the above mentioned victims at P50,000.00 for each victim, or a total of P800,000.00;

3) to jointly pay moral damages to the heirs of the above victims at P20,000.00 for each victim of a total of P320,000.00;

**B. FOR FRUSTRATED MURDER** for the injuries sustained under the following Criminal Cases:

- No. 12039 by Buenaventura Jaravelo
- No. 12041 by Alejandro Bocabal
- No. 12042 by Elias Hermogenes
- No. 12046 by Luvimin Leones
- No. 12047 by Gloven Gabrido

- No. 12051 by Henry Sernal
- No. 12053 by Virginita Mabuyao
- No. 12059 by Federico Dogomeo
- No. 12060 by Wenefreda Loquinario
- No. 12062 by Luzviminda Gemola

1) imprisonment for an indeterminate period ranging from a minimum of eight (8) years and one (1) day of prision mayor to a maximum of fourteen (14) years, ten (10) months and twenty (20) days of reclusion temporal for EACH of the above ten (10) cases;

2) to jointly pay actual damages incurred only by the following victims, as follows:

Alejandro Bocabal (No. 12040) - P800.00

Luzminda Gemola (No. 12062) - P700.00

or a total of P1,500.00; no other damage having been actually proven at trial;

3) to jointly pay moral damages to the following victims:

Buenaventura Jaravelo (No.12039) - P10,000.00

Alejandro Bocabal (No. 12040) - P10,000.00

Elias Hermogenes (No. 12042) - P10,000.00

Luvimin Leones (No. 12046) - P10,000.00

Gloven Gabrido (No. 12047) - P10,000.00

Henry Sernal (No. 12051) - P10,000.00

Virginita Mabuyao (No. 12053) - P10,000.00

Federico Dogomeo (No. 12059) - P15,000.00

Wenefrida Loquinario (No. 12060) - P15,000.00

Luzminda Gemola (No. 12062) - P10,000.00

or a total of P110,000.00.

**C. FOR ATTEMPTED MURDER** for the injuries sustained under the following Criminal Cases:

No. 12041 - of Celso Saburdo

No. 12043 - of Eduardo Latosa

No. 12044 - of Nelly Artajo

No. 12045 - of Renato Tapel

No. 12048 - of Joel Quiamco

No. 12049 - of Magdalena Hemola

No. 12050 - of Lucia Ravanes

No. 12052 - of Ernesto Caro

No. 12054 - of Renato Saratobias

No. 12055 - of Elisa Zarraga

No. 12056 - of Julio Iwayan

No. 12057 - of Nelson Cabahug

No. 12058 - of Felix Almonia

No. 12061 - of Abundia Cara-at-Petrano