

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. NICOLAS SERRANO, ET AL, ACCUSED, NICOLAS SERRANO, ALIAS KOLAS, AND TELESFORO ABELLADA, ALIAS PORONG, DEFENDANTS-APPELLANTS.

G.R. No. L-45382. May 13, 1985

Ponente: ESCOLIN, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/065363940809/>

ESCOLIN, J.:

In an information filed before the then Court of First Instance of Quezon, six [6] persons, namely: Nicolas Serrano, Tclesforo Abellada, Pablo Baldeo, Rodolfo Aguila, Rolando Aguila and Penion Armamento were charged with the crime of murder for the killing of Emilio Sualibio.

It appears that accused Pablo Baldeo, Rodolfo Aguila and Penion Armamento were never apprehended, while Rolando Aguila was later discharged from the information and utilized as state witness. Hence, only Nicolas Serrano and Telesforo Abellada were brought to trial.

In due course, Serrano and Abellada were found guilty as charged and sentenced to suffer the penalty of reclusion perpetua, to pay jointly and severally the heirs of Emilio Sualibio the sum of P15,000.00 as compensatory damages, and P5,000.00 as moral damages, and to pay the costs.

Both accused appealed the judgment of conviction. However, Nicolas Serrano subsequently filed a motion to withdraw his appeal and acting thereon, the Court dismissed said appeal. Hence, this decision will deal only with the appeal of Telesforo Abellada.

The version of the prosecution, culled from the composite testimonies of the victim's widow, Felicisima Dayaon, state witness Rolando Aguila, Dr. Winifredo Lucido and Nazario Bia, is summarized by the trial court as follows:

"xxx The accused Nicolas Serrano was the Barrio Captain of Barrio Maulawin, Calauag, Quezon and at the same time the overseer of Dona Enriqueta de Chavez at her hacienda in the same barrio. The other accused, Rolando Aguila, Telesforo Abellada, Pablo Baldeo and Penion Armamento were also residents of the same barrio of Calauag, Quezon. On the other hand, the victim Emilio Sualibio was a tenant of the hacienda and the barrio secretary of Barrio Maulawin.

"Sometime before the incident in question, Dofta Enriqueta de Chavez relieved Nicolas Serrano of his control over the warehouse of the hacienda by transferring the key of the warehouse to Emilio Sualibio, and Nicolas Serrano resented this. He suspected that Einilio Sualibio had discredited him before Doña Enriqueta de Chavez. Fearing that Emilio Sualibio may even report to Dona Enriqueta de Chavez the death of her carabao which may finally result in his ouster as overseer, he sought the help of the other accused. At his house on the evening of September 4, 1972, Nicolas Serrano bared his intention of liquidating Emilio Sualibio before Telesforo Abellada, Rolando Aguila, Pablo Baldeo and Penion Armamento. At about 3:00 o'clock the following morning, the group transferred to the house of Telesforo Abellada where the plan was finalized. At first, the plan was to kill Emilio Sualibio at his house. This was however abandoned for fear that the immediate

members of his family might be hurt, and so it was finally decided that Emilio Sualibio would be killed at sea. After the plan was finalized Rolando Aguila left for his house.

"At about 8:00 o'clock of the same morning, September 5, 1972, Nicolas Serrano fetched Rolando Aguila from his house and the two proceeded to the seashore where they were met by Tclesforo Abellada, Pablo Baldeo and Penion Armamento. The group boarded the motorboat of Nicolas Serrano and proceeded to the sea of Barrio Maulawin where Emilio Sualibio was then fishing as gathered by Pablo Baldeo from Felicisima Dayaon, the wife of Emilio Sualibio. Nicolas Serrano was at the helm of the boat.

"In the meantime, Emilio Sualibio was at the sea of Barrio Maulawin fishing alone. He was submerged at the water up his chest and was using a hook and line. Nazario Bia, riding on a row boat passed by and offered to buy some of the catch. Emilio Sualibio however could not sell any, so he just gave Nazario Bia some fish. When Nazario Bia was about a few meters away from Emilio Sualibio, the group of Nicolas Serrano arrived. Nazario Bia asked Nicolas Serrano if they would enter Angas River to which Nicolas Serrano answered they would not and so Nazario Bia continued rowing his banca.

"Nicolas Serrano then put out the engine of his motorboat and when they were about one meter away from Emilio Sualibio, Rolando Aguila and Penion Armamento jumped off the boat and started stabbing Emilio Sualibio. Emilio Sualibio called for help. Because of his call for help Nazario Bia looked back and was about to turn his boat toward then, but he was threatened not to do so by Nicolas Serrano. So he immediately proceeded to Angas River. Emilio Sualibio slumped down and died. Whereupon the two lifted his body to the motorboat. They then carried the body to the sea of Barrio Basiad, Camarines Norte and dumped it there. After which the group dispersed.

"Because her husband did not come home, the wife of Emilio Sualibio, Felicisima Dayaon, started looking for him. She was joined in the search by some of her barriomates until on September 8, 1972 at about 3:00 o'clock in the afternoon when they recovered the body of Emilio Sualibio at the sea of Barrio Basiad, Camarines Norte. Post Mortem examination conducted by Dr. Wenifredo Lucido showed 14 wounds on the body of the deceased. The body which was already in the early stage of decomposition, appeared whitish and was already bloated by about 30 percent. A rope attached to a big stone was tied around the waist of the victim. The victim died due to massive external and internal hemorrhages caused by incise and stab wounds."

Appellant Abellada admitted that he was present at every stage of the crime, i.e., from the time it was planned up to its consummation. He alleged, however, that he joined the conspirators under duress because Rolando Aguila threatened to kill him if he refused to do so.

Appellant's account of his participation is as follows: At about 4:00 in the morning of September 5, 1972, Rolando Aguila, Pablo Baldeo and Penion Armamento arrived at his house in Bo. Maulawin. At 6:00 that morning, they asked him to go with them. When he refused, Rolando got mad, held him on the collar, and threatened to kill him. Out of fear for his life, he joined them against his will. They walked toward the river bank where Nicolas Serrano was waiting in his motor boat. Then they boarded the motor boat and set out to the sea of Bo. Maulawin and there they saw Emilio Sualibio fishing with a hook and line while submerged in water up to his chest. As the boat approached Emilio, Serrano stopped the engine. Rolando Aguila and Penion Armamento immediately jumped off the boat, waded towards Sualibio who was about eight [8] meters away from the boat. Whereupon Rolando and Penion took turns in stabbing him with their "balisongs" Thereafter, the lifeless body of the victim was brought to the boat which the appellant, on orders of Rolando Aguila, held firmly so it would not move. After tying a big stone to the waist of the deceased, they proceeded to the open sea where they dumped the victim. Appellant further alleged that before he and his co-defendants parted company that day, Rolando Aguila warned him not to tell anybody about the incident, otherwise he would be the next one to be liquidated.

In this appeal, appellant seeks exemption from criminal liability on the theory that his participation in the offense

was made under the compulsion of an irresistible force and/or an uncontrollable fear of suffering an equal or greater injury.

The trial court rejected the appellant's defense and We find no reason to disturb its conclusions. Appellant testified that he joined the malefactors because he was coerced by Rolando Aguila to do so. But apart from his bare, self-serving assertion, the record is bereft of any evidence to corroborate and bolster his claim. Neither is there adequate proof to establish that the alleged duress was real and irresistible.

The Court sees no logical basis in the appellant's pretension that he was forced and intimidated by Rolando Aguila to join the gang in the execution of their misdeed. It should be noted that five [5] persons boarded the motor boat that set out to hunt for Emilio Sualibio in the morning of September 5, 1972. They were Rolando Aguila, Pablo Baldeo, Penion Armamento, Nicolas Serrano and the appellant himself. Undoubtedly, even without the appellant's participation, the plan to kill Sualibio could have been easily carried out by his four [4] companions. There was therefore no reason whatsoever for Rolando to have forced appellant to join them. As aptly noted by the trial court: Was Telesforo Abellada so indispensable that the pre-conceived plan to kill the victim could not have been carried out without him?

Appellant testified that when he refused to go with the gang, Rolando got mad, held him in the collar and threatened to kill him. There is no showing, however, that Rolando ever used a knife, bolo or a gun to back up his threat. Under the situation, the alleged threat can hardly be characterized as real and irresistible, since it could not have induced in the appellant a well-grounded fear for his life or limb. Before force or intimidation can be considered to be an irresistible one, it must produce such an effect upon an individual that, in spite of all resistance on his part, it reduces him to a mere instrument xxx who acts not only without will, but against his will.[1] It has also been held that "duress, force, fear or intimidation to be available as defense, must be present, imminent and impending, and of such a nature as to induce a well-grounded apprehension of death or serious bodily harm if the act is not done,"[2]

But even granting that appellant did join the group out of uncontrollable fear for his own life, he nevertheless had several opportunities, even before the crime was actually committed, of fleeing from his companions. He could have run away while they were walking from his house to the river bank where the motor boat was waiting. And he had the same opportunity to escape before the boat departed. The fact that he opted to stay on and cooperate with his co-accused renders his defense of duress untenable.

Upon the other hand, the record discloses that appellant voluntarily conspired with his co-accused in the cold-blooded murder of Emilio Sualibio. The nefarious design to liquidate the victim was first hatched at a meeting which appellant attended in the house of Nicolas Serrano. That plot was finalized at the very residence of the appellant in the morning of September 5, 1972. Then, pursuant to their pre-arranged plan, appellant and his companions Rolando Aguila, Pablo Baldeo and Penion Armamento proceeded to the river bank where Nicolas Serrano was waiting in a motor boat. From there they proceeded to the sea where the victim was fishing. After Aguila and Armamento had killed the victim with "balisongs" which were provided by Serrano and the appellant, the latter helped in bringing the body of the deceased into the boat. It further appears that appellant helped Pablo Baldeo dump the body of the victim into the sea. The conduct displayed by the appellant and his co-defendants before, during and after the commission of the crime reveals a pre-conceived plan and a concerted action on their part to liquidate Sualibio. Hence, while the evidence shows that the fatal injuries of the victim were inflicted only by Rolando Aguila and Penion Armamento, the appellant, as a co-conspirator, must be held equally guilty of the crime charged.

WHEREFORE, the decision appealed from is hereby affirmed with the modification that the amount awarded as

indemnity to the heirs of the deceased is hereby increased to P30,000.00. Costs against the appellant.

SO ORDERED

Makasiar (Chairman), Aquino, Abad Santos, and Cuevas, JJ., concur.
Conception, Jr, J., on leave.

[1] People vs Eticanal, 35 Phil. 205.

[2] 16 C.J. 91.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.