

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
FRANCISCO ESCABARTE ALIAS BOY ESCABARTE, GREGORIO
SYGACO ALIAS KORAK, AND LAURO TOME,
ACCUSED-APPELLANTS.**

G.R. No. L-42964. March 14, 1988

Ponente: GANCAYCO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/18c5c63005af/>

GANCAYCO, J.:

In an information that was filed by the First Assistant Provincial Fiscal in the Court, of First Instance of Misamis Occidental, Francisco Escabarte, alias Boy Escabarte, Gregorio Sygaco alias Korak, Lauro Tome and Silas Paredes were charged of the crime of robbery with homicide penalized under Article 294, par. 1 of the Revised Penal Code allegedly committed as follows:[1]

"That on or about the 31st day of May, 1973, in barrio Kausuagan, Municipality of Plaridel, province of Misamis Occidental, Philippines, and within the jurisdiction of this Honorable Court, the said accused, conspiring and confederating together with still unidentified masterminds in their common intent to rob and kill so as to eliminate the leader of a group of land claimants, and taking advantage of the nighttime and of their superior number and strength, did then and there break the window of the house of Anselmo Rollorata so as to gain entrance therein by a way not intended for the purpose, and once inside the same, willfully, unlawfully, feloniously and treacherously shot the said Anselmo Rollorata at the back, thus killing him shortly thereafter, and then forthwith, willfully, unlawfully and feloniously and with intent of gain and against the consent of the owners thereof, took and carried away the following personal properties: (1) Cash money amounting to P1,200.00; (2) a .22 caliber rifle valued at P300.00; (3) a wrist watch costing P280.00; (4) a flashlight valued at P19.50 - all belonging to the deceased Anselmo Rollorata and his family - to the damage and prejudice of said owners in the total sum of P1,799.50.

Contrary to law with the following aggravating circumstances: (1) That the crime was committed with evident premeditation; (2) Advantage taken by the culprits of their superior strength with the use of firearms; (3) by a band; (4) after an unlawful entry through the window; (5) in the dwelling of the victim; and (6) with treachery."

After arraignment wherein all the accused pleaded not guilty, the trial on the merits proceeded. The case was dismissed as to accused Silas Paredes for insufficiency of evidence upon motion of the fiscal.

On November 3, 1975, a decision was rendered, the dispositive part of which reads as follows:

"IN VIEW OF THE FOREGOING CONSIDERATIONS, the Court finds the accused Francisco Escabarte alias Boy Escabarte, Gregorio Sygaco alias Junior Korak and Lauro Tome guilty beyond reasonable doubt of the complex crime of robbery with homicide as charged, and each accused is hereby sentenced to undergo the penalty of RECLUSION PERPETUA; to indemnify the heirs of the victim, Anselmo Rollorata, in the amount of P12,000.00; the amount of P1,767.50 the cash money and value of the articles stolen which were unrecovered, in both instances, jointly and severally; to suffer the accessories of the law and to pay their proportionate share of the costs."

Not satisfied therewith, said accused interposed this appeal alleging that the trial court committed the following assigned errors:

"The lower court erred:

- IN GIVING FULL CREDENCE TO THE TESTIMONY OF PROSECUTION EYEWITNESSES, JUANA ROLLORATA AND HER SON, RICARDO ROLLORATA;
- IN REJECTING OUTRIGHTLY, THE DEFENSE OF THE ACCUSED;
- IN ADMITTING IN EVIDENCE THE EXTRA-JUDICIAL CONFESSION OF ONE OF THE ACCUSED, LAURO TOME; and
- IN FINDING THE ACCUSED GUILTY BEYOND REASONABLE DOUBT OF THE CRIME CHARGED."

The facts of the case as found by the court a quo are as follows:

"The gist of the prosecution's evidence disclose that on the night of May 31, 1973, at barrio Kausuagan, municipality of Plaridel, Misamis Occidental, the house of Anselmo Rollorata was entered forcibly by the accused herein who gained entrance into the house through the ground floor window by breaking the panes at about 12:30 midnight. Inside the house sleeping were Anselmo Rollorata, the victim, his wife Juana Rollorata, their son Ricardo Rollorata, the couple's father and mother and other children. Anselmo Rollorata and his son Ricardo slept together in one room of the house. About the time stated, Juana Rollorata and Ricardo Rollorata heard someone from outside the house calling: 'Nong! Nong!' (referring to Anselmo Rollorata). The unknown persons further stated that there was a letter from his lawyer, Atty. Alberto Dulalas. The wife, Juana Rollorata, apprehensive of what might befall on her husband, called out that her husband was in the ricefield and could not be located. But despite her answer, the robbers namely: Francisco Escabarte alias Boy Escabarte, Gregorio Sygaco alias Junior Korak, Lauro Tome and Silas Paredes broke the window panes and entered one after the other through the window opening. These four (4) persons are personally known by the inmates of the house. Accused Francisco Escabarte carried a pistol, Lauro Tome had a gun, Gregorio Sygaco was with a pistol. The wife Juana Rollorata, coming out from her room, recognized the four persons by the light of the improvised lamp in front of the door of her room. Once inside the house, the accused immediately proceeded to the room where Anselmo Rollorata and his son Ricardo, a 10-year old boy, were sleeping. Francisco Escabarte forcibly pulled out Anselmo Rollorata with Lauro Tome and Gregoria Sygaco on each side of Rollorata and brought him to the kitchen. The small boy Ricardo Rollorata, unnoticed, followed them and in the kitchen he saw his father and the robbers. The small boy hid in the kitchen under a rectangular table. The accused in going to the kitchen were provided with two flashlights which they used in finding their way to the kitchen. In the kitchen Anselmo Rollorata was made to kneel on the floor and was shot at the back by the accused Francisco Escabarte causing his death. The small boy Ricardo witnessed the actual shooting and killing of his father undetected. After the shooting the accused left through the kitchen door.

The widow Juana Rollorata stated that she knows personally accused Francisco Escabarte alias Boy Escabarte, Gregorio Sygaco alias Junior Korak and Lauro Tome even before the killing of her husband. Their son Ricardo confirmed and corroborated this and Ricardo further stated that he saw the accused enter the room forcibly and grabbed the rifle which his father brought out and wanted to use in defending himself inside the room and then forced him to go out of the room passing through the living room then thru the pantry to the kitchen where he was shot to death.

The testimony of the prosecution witness further states that a rifle was taken by the robbers which was valued at P300.00, the family flashlight worth P19.50, wrist watch valued at P250.00 and P1,200.00 in cash which were all missing after the incident.

The deceased Anselmo Rollorata sustained an injury described in Exhibit 'A' issued by Dr. Jose S. Conde,

Junior Resident Physician, who made an autopsy report, to wit:

'An Autopsy was done on the dead body of one, ANSELMO ROLLORATA, 46 years old, of Kausuagan, Plaridel, Misamis Occidental at 10:20 A.M., May 31, 1973.

The victim is 5 feet 3 inches in length, muscular in built, and with a curly hair.

The wound of entrance is at 3 inches from the vertebral line and 2 inches from the right infrascapular angle, (Posterior chest). The bullet was recovered at the left mid-axillary line (Lateral Chest, left.). There were two (2) small superficial circular and semi-circular wounds at the right axillary region (inferior aspect.)'

The report is amplified by a sketch drawn by the said physician showing the location of the gun shot wound which sketch is marked as Exhibit 'C' for the prosecution.

In the course of the proceedings, a motion was filed by the Provincial Fiscal on August 4, 1975 for the dismissal of the case against Silas Parades after the prosecution had rested its case on the ground of insufficiency of evidence, which motion was granted by this Court in its order of August 4, 1975.

Judge Pacito G. Mutia, Municipal Judge of Plaridel, Misamis Occidental, testified on the admission of the accused Lauro Tome found on page 9 of the records of this case marked as Exhibit 'N', and Exhibit 'N-1', the translation. Deputy Clerk of Court Pablita P. Bacayo testified on the admission of the same record marked as Exhibit 'M' and its translation as Exhibit 'M-1'."

Under the first and second assigned errors, the appellants raised the issue of credibility of the witnesses assailing the testimony of prosecution witnesses Juana Rollorata and her son Ricardo Rollorata and asserting that it is their defense that should be relied upon by the court.

The too well-known rule is that the matter of credibility of the witnesses is addressed to the sound discretion of the trial court because of its superior advantage in observing their conduct and demeanor while testifying and its finding shall not be disturbed on appeal unless some facts or circumstances may have been overlooked that may otherwise affect the result of the case.

The appellants point out the following alleged inconsistencies in the testimony of prosecution witnesses Juana Rollorata and her son Ricardo:

1)

While they both identified the appellants, Juana declared she saw four while Ricardo stated that he saw only three of the appellants. At the time of the incident Ricardo was in the room with his father Anselmo so that Ricardo must have seen only three of the intruders as the fourth one did not enter their room nor went with the three other appellants to the kitchen. Moreover, Ricardo's attention was focused on the three appellants who dragged his father out of the room and brought him to the kitchen where he was shot.

2)

It is asserted that while Juana testified that one was out of her room and was standing in the sala by the door leading to her room when three of the appellants came in through the window to the sala, Ricardo stated that he was in another room and was peeping thru the curtain when he saw said persons barged thru the window to the sala but he did not see his mother nor did he know where she was then. Ricardo being at a different vantage position must not have seen his mother who was then at the sala standing by the door. Moreover, Ricardo's attention was directed towards the persons who came in from the window after breaking the glass of thealousies.

3)

It is then averred that Juana in her affidavit stated she saw her husband surrounded by the appellants holding a .22 caliber rifle but on the witness stand she declared she did not see the rifle when the victim was pulled out of his room. Juana must have seen Anselmo with the rifle while he was still in the bedroom but when he was pulled out of the room Escabarte grabbed the rifle from him.

4)

It is also stressed that while Juana testified that only Escabarte and the unknown fourth man were armed Ricardo stated that all the three appellants were armed. As the attention of Juana was towards the identity of the appellants during the incident it is not surprising if she did not notice whether the other appellants were armed.

Certain alleged improbabilities in the testimony of the said witnesses are also listed down by the appellants.

a)

It is alleged that Juana's testimony is unnatural in that after having heard the call of appellants outside her house and after she heard the smashing of the glasses of the window and the persons entered the house so that she was scared, she still had the nerve to put down the lamp outside the door of her room for the purpose of recognizing the faces of the appellants. If she put down the lamp she was then holding at the door of her room it must be because she was then scared. Otherwise she could have remained holding the same to identify the appellants.

b)

Appellants contend that considering that Juana knew the appellants for more than a year it is improbable that appellants would have committed the crime without wearing any mask to conceal their identity or put out the light of the lamp. The appellants obviously choose to commit the offense at midnight so that their identity can be covered by the darkness. If they failed to put out the lamp it must be due to recklessness or their excitement. It is said there is no perfect crime.

c)

Appellants argue that it is improbable for Juana to have seen burns around the undershirt of the victim when she could not even read her affidavit because of old age. At the time she testified Juana was only 43 years old.[2] The burns around the undershirt of the victim are certainly visible with the naked eye.

d)

Appellants allege that it defies the imagination that Ricardo could have seen Escabarte holding a piece of wood and later he said, using the handle of a gun which is colored reddish, in breaking the window which he saw by the light of the flashlight brought by the appellants. Precisely Ricardo recognized even the color of the handle of the gun because of the flash of the flashlight of the appellants on the gun. Moreover, there was then a lamp in the sala which illuminated the place.

e)

Further it is pointed out that Ricardo's testimony that the victim was shot at close range while he was lying on his right side is improbable. Dr. Conde declared that the wound must have been inflicted while lying down on his left side or standing up and of the absence of powder burns from the vicinity of the wound belying the claim of Ricardo that the victim was shot at close range.

Dr. Conde testified that when the body of the victim was brought to him at 4:20 o'clock in the morning it was difficult to see the powder burns then and he did not examine the body closely for such powder burns.[3]

Moreover, the possible position of the victim when he was shot as testified to by Dr. Conde did not preclude the probability that the victim may have been shot while lying on his right side.

Special emphasis is made by the appellants on the testimony of the former Chief of Police Edgardo Muriedas of Plaridel, Misamis Occidental, who testified that when he confronted the children of the deceased they stated that they could not recognize the assailants but later they pinpointed appellants and when they were asked why they replied appellants were the enemies of their father. Muriedas also stated that when he asked Juana about the identity of the killers of her husband she told him she could not identify them. Said testimony of Muriedas is placed into serious doubt considering that immediately thereafter he proceeded to the house of the appellant Tome, picked him up for investigation and secured his written extrajudicial confession. There is no entry in the police blotter to corroborate this statement of the Chief of Police.[4]

The defense of alibi of the appellants must fall in the face of their positive identification by the prosecution witnesses.[5] In this connection the Court reproduces with approval the disquisition of the court a quo as follows:

"Accused defense is alibi, alleging that they were all physically elsewhere during the commission of the crime imputed to them.

In resume, the alibi of accused Francisco Escabarte is that he was in the town of Sapang Dalaga, Misamis Occidental at about 12:30 early dawn of May 31, 1973, confirmed and corroborated by his witnesses Sgt. Malindang of the local Philippine Constabulary and Mayor Reno Yap of that town, which town is twenty-four (24) kilometers away from the site of the killing of Anselmo Rollorata at Kausuagan, Plaridel, Misamis Occidental. The road between these two towns is first class asphalt road; that of accused Gregorio Sygaco is that he was asleep in the house of Atty. Luisito Villanueva after having brought Mayor Lorenzo de Guzman, who was drunk, to the Mayor's house in the poblacion of Calamba, Misamis Occidental. His alibi is supported by the testimonies of Atty. Villanueva and De Guzman; and that of accused Lauro Tome was that he was asleep in his house in barrio Kausuagan, the victim Rollorata's residence, together with members of his own family. No other person confirmed or supported accused Tome's alibi.

The distance between the place where the said three accused were does not obviate the possibility that during the killing these three accused Escabarte, Sygaco and Tome could have gone with each other to the house of Anselmo Rollorata at Kausuagan barrio and killed him.

Our Supreme Court has held:

"The defense of alibi was rejected because the distance between the place of the crime and the place where the accused allegedly was at the time, was only sixty kilometers and could be negotiated by car in a little more than an hour." (People vs. Pingol, Vol. 33 SCRA, p. 74).

And on the defense of alibi, the same Court has laid down this settled and oft quoted jurisprudence:

"No jurisprudence in criminal case is more settled than the rule that alibi is the weakest of all defenses and that the same should be rejected when the identity of the accused had been sufficiently and positively established by eyewitnesses to the crime. Alibi is easy to concoct and difficult to prove. For alibi to prosper, it is not

enough that defendant was somewhere else when the crime was committed. He must demonstrate that it was physically impossible for him to have been at the scene of the crime at that time.' (Vol. 22, p. 112)

The accused defense, therefore, deserve scant consideration.

The positive identification of the herein accused by the wife Juana Rollorata and the boy son Ricardo Rollorata has not been destroyed by the defense of alibi set up by the accused herein. The mere embellished declarations of the defense witnesses who are close to the accused cannot overcome the positive identification made by Juana Rollorata and Ricardo Rollorata who were steadfast in their identification of all of the accused in this case.

The Court is convinced of the truth and sincerity of the eye-witnesses, the widow Juana Rollorata, and her young son Ricardo Rollorata, and thereby gives full credit to their testimonies."

Under the third assigned error, the appellants question the admissibility of the extrajudicial confession of appellant Tome. They alleged that the same was taken and thereafter was sworn before Judge Mutia without the assistance of a lawyer. Moreover, it is averred that Tome was manhandled and threatened into making the said statement.

The Court finds and so holds that even without said extrajudicial confession the evidence of the prosecution is amply sufficient to generate the conviction of the appellants for the offense charged.

The foregoing discussion renders the fourth and last assignment of error untenable.

The crime committed by the appellants is the special complex crime of robbery with homicide penalized under Article 294 of the Revised Penal Code with the penalty of reclusion perpetua to death.

In the information it is alleged that the appellants committed the offense with the aggravating circumstances of: (1) evident premeditation; (2) advantage taken by the culprits of their superior strength; (3) with the use of firearm; (4) by a band after unlawful entry into the windows (5) in the dwelling of the offended party, and (6) with treachery.

Contrary to the finding of the court a quo that these aggravating circumstances have not been proven, the Court holds otherwise.

Evident premeditation has been fully established. This is related in the counter-statement of facts of the Solicitor General as to the antecedents prior to the incident.

"On May 15, 1973, Marcelo Lumacang saw Escabarte, one of the accused herein, together with Alen Cais, Cano Cais and Franklin Bukatot armed with long guns, waiting for Anselmo Rollorata (p. 11, tsn, Jan. 29, 1975). They told Lumacang not to proceed to the latter's ricefield because he might be hit by stray bullets, considering that the ricefields of Anselmo and Lumacang are adjacent to each other (p. 113, tsn, Jan. 29, 1975). So, Lumacang immediately reported the matter to the son of Anselmo (p. 113, tsn, Jan. 29, 1975). Whereupon, Anselmo's son ran to the ricefield of his father and warned him of the impending danger which prompted the latter to go home immediately (p. 97, tsn, June 21, 1974). When he arrived home, he was very much afraid and was very pale (p. 97, tsn, June 2, 1974). He informed his wife that Escabarte and others were waiting to ambush him (p. 98, tsn, June 21, 1974).

Two weeks thereafter, in the morning of May 30, 1973, the fence of the ricefield being worked by the Rolloratas was destroyed by Alen Cais, Nonoy Adavan and some policemen (p. 9, tsn, June 21, 1974). Juana Rollorata, wife of Anselmo Rollorata, tried to stop them, but she was told that if they do not vacate the said land, they would all be killed (p. 99, tsn, June 21, 1974). The conflict arose from the petition filed by Anselmo for the release of the land situated in Kausuagan, Plaridel, Misamis Occidental which is opposed by the Guibincans and the Decenas, the in-laws of accused Escabarte (pp. 90-91, 108, tsn, June 21, 1974). Accused

Lauro Tome, on the other hand, used to go with the Guibincans while Sugaco was a close friend of accused Escabarte (p. 92, tsn, June 21, 1974)."

After midnight of May 31, 1973 the incident in question transpired when appellants killed Anselmo and robbed the family of some personal belongings.

The commission of the crime was premeditated and reflected upon by the appellants and was preceded by cool thought and a reflection on the part of the appellants with the resolution to carry out the criminal intent during a span of time sufficient to arrive at the hour of judgment.[6] The aggravating circumstance of the commission of the crime by a band has also been established it appearing that there were more than three armed malefactors who acted together in the commission of the offense.[7] It is an aggravating circumstance in the crime of robbery with homicide.[8]

Of course, the aggravating circumstance of taking advantage of their superior strength and with the use of firearms is absorbed by the generic aggravating circumstance of the commission of the offense by a band. By the same token the aggravating circumstance of unlawful entry through the window and dwelling are absorbed in the crime of robbery.[9] The commission of the offense thru treachery has been shown it having been committed at nighttime under circumstances and employing means or forms thereof which tend directly and specially to insure its execution, without risk to the appellants arising from the defense which, the offended party might make.[10]

Considering that the commission of the offense was attended by several aggravating circumstances the maximum penalty of death should be imposed.[11] Unfortunately, under the present Constitution the death penalty has been abolished.[12]

However, the indemnity to the heirs of the victim should be increased to P30,000.00.

WHEREFORE, with the above modification of the indemnity the decision appealed from is AFFIRMED in all other respect with costs against the appellants.

SO ORDERED.

Teehankee, C.J., Narvasa, Cruz, and Griño-Aquino, JJ., concur.

[1] Accused Gregorio Sygaco died while confined at the Provincial Reformatory Jail of Misamis Occidental, as per statement on page 7 of Appellants' Brief, p. 110, Rollo.

[2] Page 48, TSN, June 20, 1974.

[3] Pages 17-18, TSN, Dec. 10, 1973.

[4] 187 TSN, Sept. 2, 1975.

[5] People vs. Cruz, 142 SCRA 668; People vs. Pacada, Sr., 142 SCRA 427; People vs. de las Pinas, 141 SCRA 379; People vs. Lopes, 141 SCRA 385; People vs. Valentino, 141 SCRA 397; People vs. Garcia, 141 SCRA 336.

[6] People vs. Durante, 313 Phil. 363; People vs. Carino, 77 Phil. 579.

[7] U.S. vs. Mendegorin, 1 Phil. 658; U.S. vs. Melegrito, 11 Phil. 229; People vs. Pakah, 81 Phil. 426.

[8] People vs. Samajar, 53 Phil. 689; People vs. Uday, 85 Phil. 503.

[9] Article 299, Revised Penal Code.

[10] Article 14, Subsection 16, Revised Penal Code; People vs. Mole, 81 Phil. 58; People vs. Redona, 87 Phil. 743.

[11] Article 62, Revised Penal Code.

[12] Article 3, Section 19, 1987 Constitution.

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.