

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VÍ. PEDRO ALCANTARA ALIAS PANTOCOY, ENRIQUE CAGSAWA AND MANUEL GUINTO, DEFENDANTS, PEDRO ALCANTARA ALIAS PANTOCOY, DEFENDANT-A...

G.R. No. L-26867. June 30, 1970

Ponente: RUIZ CASTRO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/21516a2c4fa7/>

RUIZ CASTRO, J.:

This appeal was interposed by Pedro Alcantara from the decision of the Court of First Instance of Samar (Branch IV-Catarman) in its criminal case C-1089, adjudging him guilty of the crime of murder. The dispositive part thereof reads as follows:

"WHEREFORE, accused Pedro Alcantara alias Pantocoy is hereby found guilty beyond reasonable doubt of the crime of murder, and there being proven the aggravating circumstance of taking advantage of superior strength without any mitigating circumstance to offset the same, sentences him to DEATH, to indemnify the heirs of Felipe Avendaño the sum of P6,000.00 and to pay the costs."

The information which charges Pedro Alcantara alias Pantocoy, Enrique Cagsawa and Manuel Guinto, with the murder of Felipe Avendaño, recites:

"That on or about the 29th day of June, 1963, in the evening, in the Home Economics Building within the school premises at Bo. Enriqueta, Lavezares, Samar, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, armed with deadly weapons, conspiring, confederating together and mutually helping one another, with intent to kill, evident premeditation and treachery and taking advantage of their superiority in strength and number, and without any justifiable cause, did, then and there, wilfully, unlawfully and feloniously attack, assault and stab one Felipe Avendaño with said weapons, which the herein accused had provided themselves for the purpose, thereby inflicting upon said Felipe Avendaño two mortal stab wounds, one at the back of the head and the other at the back on the left scapula, which mortal wounds caused the instantaneous death of the latter."

Cagsawa and Guinto being still at large, the trial proceeded with respect only to Alcantara

The version of the prosecution was unfolded by prosecution witnesses Carlos Avendaño, Lydia Avendaño. Antonio Mártires and Dr. Arturo Dubongco

Carlos Avendaño, son of the deceased, testified that in the evening of June 29, 1963, he was at a window of the home economics building located in barrio Enriqueta, Lavezares, Samar, watching a benefit dance going on inside the said building. His sister, Lydia Avendaño, was also outside, near another window. Felipe Avendaño, their father, after dancing for sometime, went near a window located close to the door of the building and fanned himself. About a fathom away to the rear of his father and two arms' length away from Carlos were three persons standing at a Japanese bamboo grove, namely, Manuel Guinto, Pedro Alcantara and Enrique Cagsawa. All of a

sudden, his father was attacked from behind by these men. Manuel Guinto first slashed his father at the back of the head with a bolo locally known as "kinogon." Almost simultaneously his father was stabbed in the back by Alcantara with a bolo known locally as "menasbad." Carlos knows Alcantara well because the latter was a resident of barrio Enriqueta, Lavezares, Samar. Enrique Cagsawa was poised to strike his father, but Lydia Avendaño shouted "Enough!" and the three (Alcantara, Guinto and Cagsawa) fled. Then Carlos rushed to his father, who forthwith told him that he was slashed by Pedro Alcantara and Manuel Guinto, and bade him fetch his mother. When later he and his mother arrived, they found the victim already dead.

Lydia Avendaño's testimony corroborated that of her brother.

Antonio Mártires, sanitary' inspector of Lavezares, Samar, testified that on June 30, 1963, while he was in the población of Lavezares, Samar, he was summoned to examine the wounds sustained by Felipe Avendaño. He certified to the following injuries:

"a. Stab wound at the back of the head at least 5-112 inches in length.

"b. Stab wound at the back on the left scapula at least 3 inches in length."

Dr. Arturo Dubongco, resident physician of the Northern Samar General Hospital, testified that the first wound, made by a bladed instrument, caused death by reason of hemorrhage, but that the second wound would not cause death unless complications set in.

The version of the defense was adduced through the declarations of Pedro Alcantara, Ignacio Gabion, Dr. Leovigildo Mijares, Jr., and Primo Cupido.

Testifying in his own behalf, Alcantara declared that on June 26 and 27, 1963, he was at sitio Bay-ang, barrio Enriqueta, Samar, gathering coconuts. He and a companion, Ignacio Gabion, were then making copra. He climbed 20 coconuts on the first day, and 30 coconuts on the second. At around 3:00 p.m. of the second day, he fell face downward from a coconut tree because he slipped from a notch around four meters high. He was able to reach his house only with the help of Ignacio Gabion who carried him up to his house located in sitio Baysay, barrio Enriqueta, Lavezares, Samar. The next day, June 28, he was loaded by his elder sister, Bonifacia Alcantara, in a bus belonging to Vicente Balasolla, and taken to Catarman, Samar, where he stayed in the house of another sister, Lucila, who told him to rest while she called for Dr. Leovigildo Mijares to treat him. They left sitio Baysay at around 8:00 a.m. and reached Catarman at about 11:00 a.m. At around 6:00 p.m. of June 28, Dr. Leovigildo Mijares, Jr. arrived and examined his body, and thereafter gave him three tablets to be taken in the morning, noon and evening. Dr. Mijares returned to his sister's house in the evening (about 6:00) of the next day, June 29, and inquired about the pains in his chest and in his right and left hips. Informed that the pains were still bothering him, Dr. Mijares again gave him three tablets, and told him that if the pains would not subside, he (the doctor) would bring him to the hospital. The doctor did not tarry long in his sister's house. Alcantara was in the house of his sister, Lucila, during the whole day of June 29. On June 30, he was brought by his sister to the hospital where he stayed for four days, after which he returned to his sister's house. After three more days in Catarman, he went home to Lavezares where, upon arrival, he was arrested by a policeman and brought to the chief of police of Lavezares for investigation and regarding the death of Felipe Avendaño. He disclaimed any knowledge of the killing and expressed surprise why he was accused thereof. He knows the other accused Manuel Guinto and Enrique Cagsawa, and also Lydia and Carlos Avendaño, the children of the deceased, but he does not know why the latter two implicated him. Before the death of Felipe Avendaño, there had arisen no trouble, nor did any ill-feeling exist, between him and the former.

Ignacio Gabion's testimony corroborated that of Alcantara with respect to their making of copra and his fall from

a coconut tree

Dr. Leovigildo Mijares, Jr. testified on the medical treatment of the accused and the latter's confinement at the Northern Samar General Hospital in connection with which he issued medical certificates, Exhibits 2 and 3

Primo Cupido stated that in the evening of June 29, he was in barrio Enriqueta, Lavezares, Samar, watching the benefit dance at the home economics building. At that time he was the barrio lieutenant. Sometime during the dance, because people suddenly scampered away from the place, he looked around and found Felipe Avendaño wounded and lying face down by the door of the schoolhouse. When he asked Avendaño what happened to him, the latter could not make reply. Then as Cupido withdrew to the center of the hall, Felipe Avendaño stood up to lean on the wall of the schoolhouse but fell down after 2 or 3 seconds. He tried to question the deceased once more, but when the latter failed to answer, he informed the relatives about the incident. When he first saw the fallen Felipe Avendaño, he did not see Carlos or Lydia Avendaño beside the deceased. He saw them beside their father only when he was already dead. The people around denied any knowledge of the incident. When he asked Lydia if she saw who attacked her father, the latter said she was not sure. He was unable to investigate Carlos Avendaño because he was continuously crying at the side of his father. He notified the chief of police of Lavezares, Samar, about the incident. On cross-examination, he declared that Felipe Avendaño was once accused of killing one Donato Ligua, a cousin of the witness, but that the deceased escaped prosecution because the case was amicably settled.

1. The appellant puts squarely in issue the credibility of Carlos Avendaño and Lydia Avendaño, the two eyewitnesses for the prosecution, averring that their declarations, aside from being biased because they are children of the deceased, are not entitled to credit by reason of material inconsistencies.

His controversion of Carlos Avendaño's testimony that his father, the deceased, told him that he was slashed by Manuel Guinto and Pedro Alcantara and bade him fetch his mother, is based on the testimony of Dr. Dubongco that because of the nature of the wound sustained by the deceased at the back of his head which is 5-1/2 inches long, it is possible that the speech center of the brain was impaired, causing the deceased to lose his power of speech. Significantly, although Dubongco testified on the length of the wound, he was silent on the matter of the depth thereof. He based his theory of the possibility of brain injury only on the length of the wound. It is, however, entirely probable that even if the wound was 5-1/2 inches long, it was not deep enough to crack the skull and cause brain injury. Or if there was such injury, it was not so severe as immediately to deprive the deceased of the power of speech. In fact, Primo Cupido, himself a witness for the defense, testified that Felipe Avendaño, after he had fallen to the ground, yet succeeded in standing up and leaning on the wall of the schoolhouse for about 2 or 3 seconds. It is not a matter of conjecture that it takes a great deal more of effort to rise from a prone position than to speak. At any rate, this testimony cannot prevail over the direct, unwavering and positive testimony of Carlos Avendaño that when he rushed to his father's side after the latter collapsed, the latter identified his assailants to him and bade him fetch his mother. Carlos and Lydia Avendaño, who at the time of the trial were 13 and 18 years of age, respectively, had no reason to perjure themselves. No motive has been shown for them to testify falsely against the appellant; in fact the latter admitted that he does not know of any reason why they should accuse him of such a grievous crime. Moreover, the presence of these two witnesses at the time and in the general vicinity of the incident has not been impugned and in fact was even corroborated by the defense witness Primo Cupido.

To be sure, Cupido testified that when he arrived at the spot where Felipe Avendaño fell, Carlos was not yet there; that when he interrogated the deceased he was already speechless; and that when he asked Lydia Avendaño who attacked her father, she allegedly answered that she was not sure. In short, the defense presented Cupido to cast serious doubt on the identification made of the assailants. But assuming his declarations to be essentially true, still, his testimony is not only reconcilable with that of the prosecution witnesses; it is in fact corroborative

thereof. It will be remembered that Carlos, at the time of the assault, was nearer to his father than Cupido. Thus, when Carlos went to the side of his father, Cupido was yet at the dance hall. When Cupido arrived, therefore, Carlos had already left to fetch his mother at his father's behest. After a short while Carlos Avendaño arrived with his mother. Verily, Carlos Avendaño's mother, who was admittedly not present at the dance, would not have repaired without delay to the scene of the killing had Carlos not seen what had earlier happened and had been ordered by his father to fetch his mother.

The appellant points to allegedly "significant" inconsistencies in Lydia's testimony, to wit: (1) whereas in her affidavit executed before the chief of police of Lavezares, Samar, she stated that she saw her father hacked twice by Pedro Alcantara, in her direct testimony in open court she stated that her father was slashed first by Manuel Guinto at the back of the head and then by Pedro Alcantara; and (2) whereas in the same affidavit she mentioned that while she was crying after her father fell to the floor her brother Carlos arrived and also cried, on cross-examination she declared that Carlos reached their father's side ahead of her. However, these inconsistencies or discrepancies are evidently trivial and "may justifiably be overlooked because it is not infrequent that a witness may, without design, inaccurately narrate certain facts arising from extraordinary occurrences. As Moore on Facts, 1098, has said, an affidavit, 'being taken ex parte, is almost always incomplete and often inaccurate, sometimes from partial suggestion, and sometimes from want of suggestion and inquiries, without the aid of which the witness may be unable to recall the connected collateral circumstances necessary for the correction of the first suggestion of his memory and for his accurate recollection of all that belongs to the subject.'"[1] We must consider, too, the psychological stress which burdened Lydia Avendaño when she appeared and executed the affidavit before the chief of police of Lavezares, Samar, only three days after she witnessed the slaying of her father. This was a deeply traumatic experience which necessarily affected her equanimity.

With respect to Cupido's averment that when he asked Lydia Avendaño who killed her father she answered that she was not sure, the reticence of Lydia can be explained by the fact that Cupido's cousin, Donato Ligua, was a slay victim at the hands of her father. For this crime, the deceased Avendaño was not convicted because the case was amicably settled. It was reasonable for Lydia to have assumed that Cupido entertained a grudge against the deceased and his children because of this incident.

At all events, we are convinced, after a searching analysis and scrutiny of the testimony of Lydia Avendaño vis-a-vis her affidavit, that the contradictions in her declarations are trivia which cannot be ascribed to an insidious attempt to distort the truth. It is a truism that the most candid witness oftentimes commits mistakes and incurs inconsistencies in his declarations, but such honest lapses do not necessarily impair his intrinsic credibility. Far from being evidence of falsehood they could justifiably be regarded as a demonstration of good faith and, in this case before us, a confirmation of the fact that Lydia Avendaño was not a rehearsed witness.[2]

That Carlos and Lydia Avendaño were son and daughter, respectively, of the deceased, does not suffice to discredit them. On the contrary, "their natural interest in securing the conviction of his killers would deter them from implicating persons other than the culprits, for, otherwise, the latter would thereby gain immunity." [3]

Indeed, we note that Carlos and Lydia appear to be persons who bore absolutely no ill-feeling toward the accused; the record does not disclose any untoward motive which could have induced them to perjure themselves in a prosecution for a heinous crime. The accused himself admits this absence of motive on the part of the witnesses.

It has been correctly held that when there is no showing of improper motive on the part of witnesses for testifying against the accused, the fact that they are related to the victim does not render their clear and positive testimony less worthy of full faith and credit.[4]

2. Further, the appellant argues that since the evidence shows that the wound allegedly inflicted by him was

merely superficial and would ordinarily have healed in seven days and that the prosecution presented nothing to prove the existence of conspiracy among Pedro Alcantara, Manuel Guinto and Enrique Cagsawa, the liability of each of the accused is therefore merely individual, and thus he should be convicted only of slight physical injuries.

It must be stated that the information charged Pedro Alcantara, Manuel Guinto and Enrique Cagsawa with "conspiring, confederating together and mutually helping one another" in assaulting and stabbing to death Felipe Avendaño.

Article 8 of the Revised Penal Code provides that conspiracy exists when two or more persons come to an agreement concerning the commission of a felony and decide to commit it. The agreement of which the law speaks is not limited to one which is written or otherwise expressly or directly made prior to the commission of the crime.[5] It is not necessary that the malefactors, for an appreciable time prior to the commission of the crime, had actually come together and agreed in express terms to pursue a common design.[6] For conspiracy to exist, it is enough that at the time the offense was committed, the participants had the same purpose and were united in its execution, as may be inferred from the attendant circumstances.[7] To establish conspiracy, it is not necessary to prove previous agreement to commit a crime if there be proof that the malefactors have acted in concert and in pursuance of the same objective.[8] This Court has repeatedly ruled that conspiracy may be inferred from the acts of the accused themselves when such point to a joint purpose and design.[9] Their actions must be judged not by what they say, for what men do is the best index of their intention.[10] Thus, this Court has ruled in a similar milieu:

"Although there is no direct proof of conspiracy between the appellants, the simultaneous presence of both at the scene of the crime, the shot fired by appellant Timoteo Cruz, immediately after Valencia had been shot by Felipe de la Cruz, and the circumstance that forthwith thereafter the latter boarded the former's car, which was there ready for the get away, leave no room for doubt as to the existence of unity of action and purpose between them." (People v. Cruz, et al., L-15369, April 26, 1962)

While conspiracy to commit a crime must be established by positive evidence, direct proof is not essential, since by its nature it is planned in utmost secrecy. Consequently, competent and convincing circumstantial evidence will suffice to establish it [11]

In this case before us, although there is no direct evidence on the existence of conspiracy among Pedro Alcantara, Manuel Guinto and Enrique Cagsawa, still, the evidence unmistakably points to the fact that the three were at the Japanese bamboo grove; that they stabbed the deceased in rapid succession, Cagsawa being unable to deliver his intended blow only because Lydia, the daughter of the deceased, shouted "Enough!" and that when Lydia thus shouted, they all fled together. The foregoing convincingly demonstrates that the three accused acted in concert and in pursuance of the same objectives, joint purpose and design, that is, to kill the deceased. And since in a conspiracy, the act of the conspirators becomes the act of all, responsibility for the act will be borne equally by all regardless of the degree of their respective participation in the execution of the act.[12] Once an express or implied conspiracy is proved, all of the conspirators are liable as co-principals regardless of the extent and character of their respective active participation in the commission of the crime or crimes perpetrated in furtherance of the conspiracy because in contemplation of law the act of one is the act of all.[13] The foregoing rule is anchored on the sound principle that "when two or more persons unite to accomplish a criminal object, whether through the physical volition of one, or all, proceeding severally or collectively, each individual whose evil will actively contributes to the wrong-doing is in law responsible for the whole, the same as though performed by himself alone." [14] Thus, although it is axiomatic that no one is liable of acts other than his own, "when two or more persons agree or conspire to commit a crime, each is responsible for all the acts of the others,

done in furtherance of the agreement or conspiracy." [15]

3. The appellant's main defense in exculpation is alibi. It must be stressed at the outset that alibi is one of the weakest defenses that can be resorted to by an accused, [16] especially if there is direct testimony of an eyewitness duly corroborated by that of another, [17] not only because it is inherently weak and unreliable but also because of the ease of fabricating evidence of alibi and the difficulty of checking or rebutting it. [18] Thus, we held in *People v. Estrada*, [19] that — "No jurisprudence in criminal cases 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 has been sufficiently and positively established by eyewitnesses to the crime. Such should be the rule, for as a defense, alibi is easy to concoct, and difficult to disprove. And for alibi to prosper, it is not enough to prove that the defendant was somewhere else when the crime was committed, but he must, likewise, demonstrate that it was physically impossible for him to have been at the scene of the crime at the time." And in cases of positive identification of the culprit by reliable witnesses, the defense of alibi must be established by "full, clear and satisfactory evidence" [20] or by evidence which reasonably satisfies the court of the truth of such defense. [21]

We address ourselves therefore to the question of whether Alcantara has established his defense of alibi by "full, clear and satisfactory evidence."

The defense of alibi is, basically, an attempt to show that the defendant was at some other place when the crime was committed for such length of time that it was impossible for him to have been at the place where the crime was committed either before or after the time he was at such other place; [22] or that the distance is such as to preclude the possibility and probability for the accused to be at the scene of the crime at the time it was committed; [23] or that it would have been physically impossible for the accused by reason of illness or impaired physical condition to be at the place where the crime was committed. [24] Thus, the following major factors are to be considered in weighing the merits and demerits of an alibi: distance, [25] the time and available means of travel, [26] the physical fitness of the accused for travel, [27] and the ability of the accused to finance a trip to the scene of the crime. [28]

According to the appellant, on June 26 and 27, 1963 he was in sitio Bay-ang, barrio Enriqueta, Lavezares, gathering coconuts, as he and a companion, Ignacio Gabion, were then making copra. He climbed 20 coconut trees on the first day, and 30 coconut trees on the next, before he fell from a height of about four meters. He averred that he had been suffering from lumbar rheumatism for a considerable time and that Dr. Leovigildo Mijares had been treating him, although he hastened to add that he had become well one year prior to June 1963. It is doubtful that one who has been suffering from this ailment for an appreciable period of time, can climb 20 coconut trees on one day, and then climb another 30 coconut trees on the next, especially in the face of the categorical assertion of Dr. Mijares that lumbar rheumatism recurs and cannot be completely cured. Thus, that he did actually climb 50 coconut trees in two days as he claimed, is placed in serious doubt. More than this, it is quite strange that although he stated that after he fell face down from the coconut tree he had to be carried up to his house by Ignacio Gabion because he could not walk, and had to be loaded in a bus bound for Catarman by his sister, Bonifacio Alcantara — apparently in an attempt to show that he was in great pain — he did not seek immediate admission to the hospital. He entered the hospital only on the third day after he arrived in Catarman, that is, on June 30, the day after the deceased was killed. Moreover, his testimony that he fell from a coconut tree loses its credibility in the face of the contradicting testimony of his own witness, Dr. Mijares, to the effect that it was only when he entered the hospital on June 30 that he revealed his having fallen from a coconut tree. Is it not strange, if it was really true that he fell from a coconut tree, that he should fail to inform his doctor thereof on the very first day that the latter visited and treated him? Then again he testified that on June 28 he was treated for pains in the chest and in the right and left hips, and that when he was asked on June 29 by Dr. Mijares about the

said pains, he answered that his chest and hips were still painful. Dr. Mijares, however, testified that on those days he merely complained of severe lumbar pains — not chest pains or pains in the right and left hips — and informed the former that he could not walk. In fact, the medical certificate (Exh. 2) issued by Dr. Mijares merely certifies to his being "x x x examined x x x for Lumbar Rheumatism last June 28 and June 29/63." It was only when he was already in the hospital that he complained to Dr. Mijares about chest pains although, significantly, fluoroscopy did not reveal any fracture. Thus the medical certificate (Exh. 3) states that he was confined at the Northern Samar General Hospital "from June 30 to July 3, 1963 for sprain chest." Moreover, whether he was in such a serious condition that he could not walk, is disputable because Dr. Mijares testified that the appellant's complaints were subjective symptoms, that he (the doctor) could not really be sure that the appellant was in a serious condition but was merely informed by the latter that he could not walk. In Mijares' own words, as to his complaint that he was having lumbar pains, the appellant "could still move and walk around," but Mijares merely advised him to have complete rest. In short, the doctor, without further bother, took the appellant's word at its face value that he was suffering from lumbar rheumatism, was in serious condition and could not walk.

The integrated testimony of Dr. Mijares should be accorded full credit, not because it incidentally served to point up the essential falsity of the testimony of the appellant, but principally because although he was the appellant's own witness he turned out to be impartial, intent solely, as we see it, on correctly apprising the trial court of the true occurrences and events in which he became directly involved.

Against the backdrop of the foregoing inconsistencies in the testimony of the appellant and his witnesses, it is entirely reasonable to conclude that the appellant went through all the trouble of going to Catarman and being treated for alleged lumbar rheumatism on June 28 and 29 at the house of his sister by Dr. Mijares and of being hospitalized for alleged chest sprain from June 30 to July 3 at the Northern Samar General Hospital, to conceal his participation in the slaying of Felipe Avendaño. In fine, he was laying down the groundwork of his defense of alibi.

Finally, his defense of alibi must be rejected because of the possibility of easy access from Catarman to Lavezares. Although the evidence shows that the first trip by bus from Catarman to Allen, which passes barrio Enriqueta, leaves Catarman at 4:00 a.m., the next at about 8:00 a.m., and the last between 1:00 and 2:00 p.m., and that the distance between Catarman and barrio Enriqueta is about 32 kilometers negotiable in 3 to 4 hours, still, this does not discount the possibility that the accused could have rented a motor vehicle and left for barrio Enriqueta after 6:00 p.m. on June 29, 1963, after Dr. Mijares had paid him a visit and given him tablets to take (he admits that Dr. Mijares visited him at around 6:00 p.m. on June 29, and stayed for only a short time), arrived in barrio Enriqueta a little past 10:00 p.m., committed the crime charged, and returned to Catarman. All told, the evidence is not full, not clear and not satisfactory that he was physically unfit for travel,[29] and that he could not afford to finance a trip to the scene of the crime,[30] being the owner of a coconut plantation.[31] Thus, contrary to the appellant's allegations, it was not physically impossible for him to have participated in the commission of the offense charged.

At to the possible motive of the appellant in killing the deceased or in participating therein, the evidence reveals that two days before the killing, the deceased came upon Cagsawa gathering coconuts from his (the deceased's) plantation, and effectively prevented him from doing so. This prompted Cagsawa to challenge the deceased to a fight, but the latter ran away. The appellant is the first cousin of his co-accused Enrique Cagsawa, the latter's father and the appellant's mother being brother and sister. It is not therefore far-fetched that the appellant's involvement in the killing on the night of June 29 was in all likelihood an aftermath of the heated incident that transpired two days before.

At all events, "the defense of alibi is an issue of fact that hinges on credibility; the credibility of an alibi depends

so much on the credibility of the witnesses who seek to establish it; and in this respect, the relative weight which the trial judge assigns to the testimony of said witnesses must, unless patently and clearly inconsistent with the evidence on record, be accepted. For, as is well recognized, his proximate contact with those who take the witness chair places him, compared to appellate justices, in the more competent position to discriminate between the true and the false." (People v. Estrada, L-26103, Jan. 17, 1968, 22 SCRA 111, citing People v. Constante, L-14639, Dec. 28, 1964; and People v. Berdida, et al., L-20183, June 30, 1966) The conclusions of fact reached by a trial judge should be accorded great weight because he is in a better position than the appellate court to observe the behavior of the witnesses and evaluate their credibility.[32]

Considering that Felipe Avendaño sustained two wounds which were inflicted from behind in rapid succession by the appellant and his co-accused Manuel Guinto who were armed with bolos, whereas Felipe had none, we agree with the lower court that the appellant and his co-accused took advantage of superior strength and acted with treachery — the latter absorbing the circumstance of abuse of superior strength — and that, accordingly, the felony committed is murder.[33] However, because there was no modifying circumstance attendant, the lower court should have imposed the prescribed penalty in its medium period, i.e., *reclusión perpetua*. [34] Pursuant to our ruling in People v. Pantoja, L-18793, Oct. 11, 1968, the indemnity the appellant must pay should be increased to P12,000.

ACCORDINGLY, with the modifications (1) that the sentence imposed is hereby reduced to *reclusión perpetua*, and (2) that the indemnity that the appellant must pay to the heirs of the deceased is hereby increased to P 12,000, the decision appealed from is affirmed, with costs against the appellant

Concepcion, C.J., Reyes, J.B.L., Dizon, Makalintal, Zaldivar, Fernando and Teehankee, JJ., concur.

Barredo, J., did not take part.

Villamor, J., is on leave.

[1] People v. Cabiltes, L-18010, Sept. 25, 1968, 25 SCRA 112.

[2] People v. Cabiltes, *supra*.

[3] People v. Gutierrez, et al., L-25372, Nov. 29, 1968, 26 SCRA 143, citing People v. Libed, L-20431, June 23, 1965; People v. Tagaro, L-18518, Jan. 31, 1963; People v. Guillermo, 86 Phil. 396.

[4] People v. Ricaplaza, L-25856, April 29, 1968, 22 SCRA 374; People v. Malulos, L-16568, July 29, 1968, 24 SCRA 133.

[5] People v. Ging Sam, 94 Phil. 139.

[6] People v. Carbonell, 48 Phil. 868; People v. Ging Sam, *supra*.

[7] People v. Gaiduque, L-10133, July 31, 1958.

[8] People v. Estrada, L-26013, Jan. 17, 1968, 22 SCRA 111, citing People v. San Luis, 86 Phil. 485.

[9] People v. Estrada, *supra*, citing People v. Upao-Moro, L-6771, May 28, 1957 and cases cited therein.

[10] People v. Estrada, *supra*, citing People v. Bautista, 49 Phil 389 385- 396.

[11] People v. Peralta, L-19069, Oct. 29, 1958, 25 SCRA 759, citing People v. Carbonell, 48 Phil. 868; People v. Cadag, L-13830, May 31, 1961; People v. Romualdez, 57 Phil. 148.

- [12] *People v. Patricio*, 79 Phil. 227; *People v. Dana*, 83 Phil. 252; *People v. Barsamin*, 88 Phil. 292; *People v. Abrina*, 102 Phil. 695.
- [13] *People v. Peralta, et al.*, L-19069, Oct 29, 1968; 25 SCRA 759, citing *U.S. v. Ramos*, 2 Phil. 434; *U.S. v. Maza*, 5 Phil. 346; *U.S. v. Grant and Kennedy*, 18 Phil. 122; *U.S. v. Ipil*, 27 Phil. 530 and cases cited therein.
- [14] *People v. Peralta, et al.*, supra; *People v. Bannaisan*, 49 Phil. 423; *U.S. v. Maza*, supra.
- [15] *People v. Peralta, et al.*, supra; *U.S. v. Grant*, supra.
- [16] *People v. De la Cruz*, 76 Phil. 601.
- [17] *U.S. v. Hudieras*, 27 Phil. 45; *People v. Cabantug*, 49 Phil. 482; *People v. Medina*, 59 Phil. 330; *People v. De la Cruz*, supra.
- [18] *People v. Medina*, 71 Phil. 383; *People v. Rafallo*, 86 Phil. 22.
- [19] L-26103, Jan. 17, 1968, 22 SCRA 111.
- [20] *US v. Pascua*, 1 Phil. 631; *U.S. v. Oxiles*, 29 Phil. 587; *People v. Limbo*, 49 Phil. 94; *People v. Pili*, 51 Phil. 965; *U.S. v. Badilla*, 48 Phil. 718; *People v. De la Cruz*, 76 Phil. 601; *People v. Repillion*, 79 Phil. 404.
- [21] *People v. De Guzman*, 70 Phil. 23; *People v. Dizon*, 76 Phil. 265.
- [22] *U.S. v. Oxiles*, supra; *People v. De la Cruz*, 76 Phil. 601; *People v. Battulayan*, L-2567, Sept. 30, 1950.
- [23] *People v. Palamos*, 49 Phil. 601, 604-605; *People v. Ronda*, 82 Phil. 414, 417; *People v. Ubaldo*, 81 Phil. 232; *People v. Figueroa*, 82 Phil. 559; *People v. Manabat*, 100 Phil. 603; *People v. Divinagracia*, L-10611, March 13, 1959; *People v. Andam*, L-11383, April 30, 1958; *People v. Saladino*, L-11063, May 23, 1958.
- [24] *U.S. v. Limbo*, 49 Phil. 94 192; *U.S. v. Lasada*, 18 Phil. 90; *U.S. v. Roque*, 11 Phil. 422; *People v. Battulayan*, supra.
- [25] *U.S. v. Oxiles*, supra.
- [26] *People v. Aparato*, 80 Phil. 199.
- [27] *U.S. v. Lasada*, supra; *U.S. v. Limbo*, supra.
- [28] *People v. Masilungan*, L-9733, Sept. 30, 1958.
- [29] See *U.S. v. Lasada*, supra, and *U.S. v. Limbo*, v.
- [30] *People v. Masilungan*, supra.
- [31] Tsn, July 11, 1966, pp. 3-4.
- [32] *People v. Gutierrez*, L-25372, Nov. 29, 1968, citing *People v. Akiran*, L-18760, Sept. 29, 1966; *People v. Inguito*, L-20183, June 30, 1966; *People v. Secapuri*, L-17518-19, Feb. 28, 1966; *People v. A. Dayday*, L-20806-07, Aug. 14, 1965; see also *People v. Alcantara*, L-16832, Nov. 18, 1967, 21 SCRA 906, and *People v. Gumahin*, L-22357, Oct. 31, 1967, 21 SCRA 729.
- [33] *People v. Gutierrez*, L-25382, Nov. 29, 1968, citing *People v. Verzo*, L-22517, Dec. 26, 1967; *People v. Bersamin*, 88 Phil. 292; and *People v. Olgado*, L-4406. March 31. 1952.
- [34] *People v. Gutierrez, et al.*, supra.

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.