

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS.
CUNIGUNDA BOHOLST-CABALLERO, ACCUSED AND APPELLANT.***G.R. No. L-23249. November 25, 1974*

Ponente: MUNOZ PALMA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/2b502ddea62b/>**MUNOZ PALMA, J.:**

Convicted for having killed her husband, Cunigunda Boholst-Caballero seeks a reversal of the judgment of the Court of First Instance of Ormoc City finding her guilty of PARRICIDE and sentencing her "to suffer an indeterminate imprisonment of from EIGHT (8) YEARS and ONE (1) DAY of prison mayor in its medium period, as the minimum, to FOURTEEN (14) YEARS, EIGHT (8) MONTHS and ONE (1) DAY of reclusion temporal in its medium period as the maximum; to indemnify the heirs of Francisco Caballero in the sum of SIX THOUSAND PESOS (P6,000.00) without subsidiary imprisonment in case of insolvency, and to pay the costs", and prays for an acquittal based on her plea of self-defense.[1]

The Solicitor General however asks for the affirmance of the appealed decision predicated on the following testimonial and documentary evidence presented by the prosecution before the trial court:

Cunigunda Boholst and Francisco Caballero, both at the age of twenty, were married on June 7, 1956, at a ceremony solemnized by the parish priest of the Roman Catholic Church in Ormoc City.[2] The marriage was not a happy one and before the end of the year 1957 the couple separated. Late in the evening of January 2, 1958, Francisco Caballero and two companions, namely, Ignacio Barabad and Kakong Sacay, drank "tuba" in a certain house in barrio Ipil, Ormoc City. At about midnight, Francisco Caballero and his companions proceeded home. On the way, they saw Francisco's wife, Cunigunda standing at the corner of the yard of Igmedio Barabad. Cunigunda called Francisco and when the latter approached her, Cunigunda suddenly stabbed Francisco with a knife marked by the prosecution as its Exhibit C. Francisco called for help to his two companions who upon seeing that Francisco was wounded, brought him to the St. Jude Hospital.[3] Dr. Cesar Samson, owner of the hospital, personally attended to the victim and found a "punctured wound on the left lumbar region measuring 1 inch externally" (Exhibit B). First aid was given, but because there was a need for blood transfusion and the facilities of the hospital were inadequate to provide the necessary treatment, Dr. Samson suggested that the patient be transported to Cebu City.[4] In the meantime, Cunigunda Caballero had gone to the Police Department of Ormoc City, surrendered to desk sergeant Restituto Mariveles and informed the latter that she stabbed her husband.[5] While Francisco Caballero was confined at the hospital, he was interrogated by Patrolman Francisco Covero concerning the identity of his assailant and he pointed to his wife Cunigunda. The questions propounded by Pat. Covero and the answers given by the victim were written down in a piece of paper on which the victim affixed his thumbmark (Exhibit D) in the presence of his brother, Cresencio Caballero, and another policeman, Francisco Tomada.[6] On January 4, 1958, Francisco Caballero was brought to Cebu City on board the "MV Ormoc" but the trip proved futile because the victim died at noontime of the same day from the stab wound sustained by him.[7]

Appellant, on the other hand, pleads that We discard the proof adduced by the prosecution and believe instead

what she declared before the trial judge briefly summarized as follows:

After her marriage to Francisco Caballero on June 7, 1956, appellant lived with her husband in the house of her parents in barrio Ipil, Ormoc City, and their marriage, although not a harmonious one, was blessed with a daughter; her married life was marked by frequent quarrels caused by her husband's "gambling, drinking, and serenading", and there were times when he maltreated and beat her; after more than a year she and her husband transferred to a house of their own, but a month had hardly passed when Francisco left her and her child, and she had to go back to live with her parents who bore the burden of supporting her and her child; in the month of November, 1957, her daughter became sick and she went to her husband and asked for some help for her sick child but he drove her away and said "I don't care if you all would die"; in the evening of January 2, 1958, she went out carolling with her friend, Crispina Barabad, and several men who played the musical instruments; at about 12:00 o'clock midnight they divided the proceeds of the carolling in the house of Crispina Barabad, after which she went home, but before she could leave the vicinity of the house of Crispina, she met her husband, Francisco, who upon seeing her, held her by the collar of her dress and asked her: "Where have you been prostituting? You are a son of a bitch."; she replied: "What is your business. Anyway you have already left us. You have nothing to do with us"; upon hearing these words Francisco retorted: "What do you mean by saying I have nothing to do with you. I will kill you all, I will kill you all"; Francisco then held her by the hair, slapped her face until her nose bled, and pushed her towards the ground; to keep herself from falling she held on to his waist and as she did so her right hand grasped the knife tucked inside the belt line on the left side of his body; because her husband continued to push her down she fell on her back to the ground; her husband then knelt over her, held her neck, and choked her saying: "Now is the time I can do whatever I want. I will kill you"; because she had "no other recourse" as she was being choked, she pulled out the knife of her husband and thrust it at him hitting the left side of his body near the "belt line" just above his left thigh; when she finally released herself from the hold of her husband she ran home and on the way she threw the knife; in the morning of January 3, she went to town, surrendered to the police, and presented the torn and blood-stained dress worn by her on the night of the incident (see Exhibit I); Pat. Cabral then accompanied her to look for the weapon but because they could not find it the policeman advised her to get any knife, and she did, and she gave a knife to the desk sergeant which is the knife now marked as Exhibit C for the prosecution.[8]

The sole question thus presented in this appeal is: did appellant stab her husband in the legitimate defense of her person?

The law on self-defense embodied in any penal system in the civilized world finds justification in man's natural instinct to protect, repel, and save his person or rights from impending danger or peril; it is based on that impulse of self-preservation born to man and part of his nature as a human being. Thus, in the words of the Romans of ancient history: *Quod quisque ob tutelam corporis sui fecerit, jure suo fecisse existimetur*.^[9] To the Classicists in penal law, lawful defense is grounded on the impossibility on the part of the State to avoid a present unjust aggression and protect a person unlawfully attacked, and therefore it is inconceivable for the State to require that the innocent succumb to an unlawful aggression without resistance; while to the Positivists, lawful defense is an exercise of a right, an act of social justice done to repel the attack of an aggressor.^[10]

Our law on self-defense is found in Art. 11 of the Revised Penal Code which provides:

"ART. 11. Justifying circumstances. — The following do not incur any criminal liability:

"1. Anyone who acts in defense of his person or rights, provided that the following circumstances concur:

"First. Unlawful aggression;

"Second. Reasonable necessity of the means employed to prevent or repel it;

"Third. Lack of sufficient provocation on the part of the person defending himself."

xxx xxx xxx

As part of this law is the settled jurisprudence that he who seeks justification for his act must prove by clear and convincing evidence the presence of the aforecited circumstances, the rationale being that having admitted the wounding or killing of his adversary which is a felony, he is to be held criminally liable for the crime unless he establishes to the satisfaction of the court the fact of legitimate self-defense.[11]

In this case of Cunigunda Caballero, the trial court did not find her evidence clear and convincing, and gave these reasons for its conclusion: a) appellant's testimony is inherently improbable as brought out by her demonstration of the incident in question during the trial of the case; b) there was no wound or injury on appellant's body treated by any physician; c) appellant's insistence that the weapon used by her was a Moro hunting knife and not Exh. C is incredible; d) she gave contradictory statements concerning the report made by her to the police authorities that she was choked by her husband; and e) her husband's abandonment of her and her child afforded the motive behind appellant's attack.[12]

We are constrained, however, to disagree with the court a quo and depart from the rule that appellate courts will generally not disturb the findings of the trial court on facts testified to by the witnesses.

An examination of the record discloses that the trial judge overlooked and did not give due importance to one piece of evidence which more than the testimony of any witness eloquently confirms the narration of appellant on how she happened to stab her husband on that unfortunate night. We refer to the location of the wound inflicted on the victim.

Appellant's account of that fatal occurrence as given in her direct testimony follows:

"Q

At that precise time when you were going home to the place of your parents, did any unusual incident occur?

A

Yes, sir.

Q

What was it?

A

At the time when I went down from the house of Crispina Barabad, when I reached near the banana hill, my husband held me.

Q.

What happened when your husband, Francisco Caballero, held you?

A

He asked me from where did I prostitute myself.

Q

What did you answer?

A

I answered that I did not go (on) prostituting. I told him that I was only forced to accompany with the carolling in order to earn money for our child.

Q

What part of your body did your husband, Francisco Caballero, hold you?

A

He held me at the collar of my dress. (Witness holding the right portion of the collar of her dress.)

Q

After you answered Francisco, what did he do?

A

He said 'Where have you been prostituting? You are a son of a bitch.' Then I told him 'What is your business. Anyway you have already left us. You have nothing to do with us.'

Q

When Francisco heard these words, what did he do?

A

Francisco said 'What do you mean by saying I have nothing to do with you. I will kill you all. I will kill you all.'

Q

And then, what happened?

A

He held my hair and slapped my face twice. Then I staggered and my nose was bleeding.

Q

Do you mean to say that blood flowed out of your nose?

A

Yes, sir.

Q

After you were slapped twice and your nose begun to bleed, what happened next?

A

He held the front part of my dress just below the collar and pushed me towards the ground.

Q

While your husband was holding your dress below the neck and tried to push you down, what did you do?

A

I held a part of his body in order that I would not fall to the ground.

Q

And then what happened?

A

Because I struggled hard in order that I would not fall to the ground, I held his belt and that was the time I got hold of a weapon along his belt line.

Q

After that what happened?

A

He shoved my hands upward and pushed me to the ground and that was the time my hands were released. He was choking me.

Q

When you said your hands were released, was that before or after you were choked by Francisco Caballero?

A

At that time when I was about to fall to the ground that was the time I released my hands.

Q

When you were almost fallen to the ground, where were the hands of Francisco Caballero?

A

On my hair.

Q

You mean to say the two hands of Francisco Caballero?

A

One of his hands was holding my hair. The other hand pushed me.

COURT:

Q

What hand was holding your hair?

A

His right hand was holding my hair while his left hand pushed me.

ATTORNEY GARCIA:

Q

When you were fallen to the ground what happened?

A

While I lay prostrate on the ground and believing that I have no other recourse, while his left hand was holding my neck, I was able to take hold of the weapon from his belt line and I thrust it to him.

Q

What was this weapon which you were able to get from his belt line?

A

It was a hunting knife." (tsn. pp. 53-55, witness Cunigunda Caballero)

On cross-examination, appellant was asked by the private prosecutor to show her position when she stabbed her husband and she did, and although the stenographic notes on that demonstration are very sketchy which We quote:

"Q

Please demonstrate to this Court when you made the thrust to your husband?

A

When I took hold of the hunting knife I made the thrust in this manner. (Witness held the ruler with her right hand and kneeled on the floor)" (tsn. p. 67, *ibid*)

still We can get a clear picture of what appellant must have done, from the questions and answers immediately following the above-quoted portion of the transcript, viz:

"Q

You want to make us understand that when you thrust the weapon to the body of your husband you were lying down flat to the ground?

A

I was lying flat on the ground face upward. I was a little bit inclined because I tried to struggle trying to get away from the hold of my husband.

Q

You want to make us understand that your back was touching the ground when you made the thrust to your husband?

A

Yes, sir.

COURT:

Q

Where were you kneeled by your husband?

A

On my right thigh." (ibid; italics supplied)

Thus, with her husband kneeling over her as she lay on her back on the ground and his hand choking her neck, appellant, as she said, had no other recourse but to pull out the knife inserted at the left side of her husband's belt and plunge it at his body hitting the left back portion just below the waist, described by the attending physician, Dr. Cesar Samson, as the left lumbar region. The fact that the blow landed in the vicinity from where the knife was drawn is a strong indication of the truth of appellant's testimony, for as she lay on the ground with her husband bent over her it was quite natural for her right hand to get hold of the knife tucked in the left side of the man's belt and thrust it at that section of the body nearest to her hand at the moment.

We do not agree with the trial judge's observation that as demonstrated by the accused it was physically impossible for her to get hold of the weapon because the two knees of her husband were on her right thigh "which would have forced her to put her right elbow towards the ground" (see p. 9 of Decision), for even if it were true that the two knees of Francisco were on his wife's right thigh, however, there is nothing in the record to show that the right arm of the accused was held, pinned down or rendered immobile, or that she pressed her elbow to the ground, as conjectured by the trial judge, in such a manner that she could not reach for the knife. On the contrary, as indicated earlier, accused testified and so demonstrated that she was lying flat on her back, her husband kneeling over her and her right arm free to pull out the knife and strike with it.

The trial judge also referred to a demonstration made by appellant of that portion of her testimony when she was held by the hair and pushed down to the ground, and His Honor commented that "(S)he could not be falling to the ground, as shown to the Court by her, considering the fact that the pushing was to and fro as shown in her demonstration." (p. 8, Decision) The trial judge, however, failed to consider that it is humanly impossible to have an exact and accurate reproduction or reenactment of an occurrence especially if it involves the participation of

persons other than the very protagonists of the incident being reenacted. In this particular instance appellant was asked by the private prosecutor to show how she was pushed down by her husband, and her demonstration is described in the stenographic transcript as follows:

"Q

Please demonstrate to this Court the position of your husband and you while your husband held your hair.

A

He did this way. (Witness held the hair of the Court Interpreter with his left hand and his right hand held the right shoulder of the Interpreter and pulled the Interpreter to and fro. The Interpreter represented as the accused and the accused as the deceased.)

Q

Where were your two hands?

A

My two hands held his waist line." (tsn. p. 66, witness Cunigunda Caballero; italics supplied)

In that demonstration, accused represented the victim while she in turn was impersonated by the court interpreter, and so it was difficult if not impossible for the two to give an accurate reenactment considering that the accused assumed a role not hers during the actual incident and the court interpreter played a part which was not truly his. At any rate, the accused showed how one hand of her husband held her hair while the other pushed her down by the shoulder, and to portray how she in turn struggled and tried to push back her husband to keep herself from falling, she "pulled the interpreter (representing the accused) to and fro." The fact is that Francisco succeeded in forcing appellant down to the ground as portrayed by the latter when, following the foregoing demonstration, she was asked by the private prosecutor to show how she stabbed her husband — a matter which is discussed in pages 8 and 9 of this Decision.

It is this particular location of the wound sustained by the victim which strongly militates against the credibility of the lone prosecution witness, Ignacio Barabad. This witness declared that on that night when husband and wife met on the road, Cunigunda called Francisco and when the latter was near, she immediately stabbed him. If that were true, that is, husband and wife were standing face to face at a distance of one-half meter when the stabbing occurred (tsn. p. 11, witness Ignacio Barabad), it would have been more natural and probable for the weapon to have been directed towards the front part of the body of the victim such as his abdomen or chest, rather than at his back, left side, just above the left thigh.

In cases such as the one now before Us where there are directly conflicting versions of the incident object of the accusation, the Court in its search for the truth perforce has to look for some facts or circumstances which can be used as valuable aids in evaluating the probability or improbability of a testimony, for after all the element of probability is always involved in weighing testimonial evidence,[13] so much so that when a court as a judicial fact-finder pronounces judgment that a set of facts constitute the true happening it does so not of its own personal knowledge but as the result of an evaluating process of the probability or improbability of a fact sought to be proved.

Thus, in *People vs. Aquino*, L-32390, December 28, 1973, a decision of the First Division of this Court penned by Chief Justice Querube C. Makalintal, the plea of self-defense of the accused-appellant was sustained on the basis

of certain "physical and objective circumstances" which proved to be of "decisive importance" in ascertaining the veracity of the plea of self-defense, to wit: the location of the wound on the right side of the throat and right arm of the deceased, the direction of the trajectories of the bullets fired by the accused, the discovery of bloodstains at the driver's seat, the finding of the dagger and scabbard of the deceased, and so on.[14]

In the case of appellant Cunigunda Caballero, We find the location of the fatal wound as a valuable circumstance which confirms the plea of self-defense.

Another, is the lack of motive of appellant in attacking and killing her husband on that particular night of January 2. Although it is the general rule that the presence of motive in the killing of a person is not indispensable to a conviction especially where the identity of the assailant is duly established by other competent evidence or is not disputed, as in this case, nonetheless, the absence of such motive is important in ascertaining the truth as between two antagonistic theories or versions of the killing.[15]

We disagree with the statement of the court a quo that appellant's motive for killing her husband was his abandonment of her and his failure to support her and her child. While appellant admitted in the course of her testimony that her marriage was not a happy one, that she and her husband separated in the month of October, 1957, and since then she and her child lived with her parents who supported them, nevertheless she declared that notwithstanding their separation she still loved her husband (tsn. p. 59, cross-examination of appellant). As a matter of fact, appellant had been living with her parents for several months prior to the incident in question and appeared resigned to her fate. Furthermore, there is no record of any event which occurred immediately prior to January 2 which could have aroused her feelings to such a degree as to drive her to plan and carry out the killing of her husband.

On the other hand, it was Francisco Caballero who had a reason for attacking his wife, Cunigunda. Meeting his wife unexpectedly at past midnight on the road, Francisco reacted angrily, and suspecting that she was out for some bad purpose he held her by the collar of her dress and said: "Where have you been prostituting? You are a son of a bitch." This was followed by a slapping on the face until Cunigunda's nose bled, pulling of her hair, pushing her down to the ground, and strangling her — all of which constituted the unlawful aggression against which appellant had to defend herself.

Next to appellant's lack of motive for killing her husband, is her conduct shortly after the occurrence. As soon as the sun was up that morning of January 3 (the stabbing occurred past midnight of January 2), Cunigunda went to the city and presented herself at the police headquarters where she reported that she stabbed her husband and surrendered the blood-stained dress she wore that night. On this point, the trial judge stated that appellant made contradictory statements in her testimony concerning the report made by her to the police authorities, for while at the start she declared that she did not report the "choking by her husband", she later changed her testimony and stated that she did relate that fact. (p. 10, Decision)

We have gone over the stenographic transcript of the testimony of appellant on direct examination and nowhere is there a positive and direct statement of hers that she did not report that she was choked by her husband. What the trial judge asked of appellant was whether or not she told the police about the fist mark on her face and her answer was "No, sir, I forgot." (tsn. p. 55, supra) And on appellant's cross-examination, there was no question propounded and therefore there was no answer given on the subject-matter of appellant's report to the police concerning the incident except for the following:

"COURT:

Q

Did you show that dress to the police authorities the following day?

A

I was not able to wear that, Your Honor, because it was torn out.

Q

You did not bring that to the police authorities?

A

I showed it to the police authorities, and they told me to keep it, but not to touch it." (Tsn. p. 65, *ibid*)

We do not see, therefore, the alleged contradiction in appellant's testimony which was singled out by His Honor as one of his reasons for discrediting her plea of self-defense.

That appellant made it clear to the police that she stabbed her husband because he attacked her is confirmed by no less than the prosecution witness, Patrolman Restituto Mariveles, who was on duty at the desk when appellant arrived at the police headquarters. This witness on cross-examination declared:

"Q

And she also told you that on that night previous to the incident her husband Francisco Caballero beat her up, is that right?

A

She told me that she was met on the way by her husband immediately after carolling and she was manhandled by her husband and when she was struggling to get loose from her husband she happened to take hold of a knife that was placed under the belt of her husband and because she was already half conscious she did not know that she was able to thrust said knife to the stomach of her husband." (tsn. p. 23, witness R. Mariveles)

It is indeed regrettable that the statements made by appellant to the police upon her surrender were not taken down in writing to serve as a faithful and reliable account of her report, nevertheless, We are satisfied by the fact, which is not disputed, that of her own accord appellant went to the police authorities early in the morning of January 3, informed policeman Mariveles that she stabbed her husband because he manhandled her which rendered her "half-conscious", and brought and showed the dress she wore during the incident which was torn by the collar and with blood stains due to the bleeding of her nose. Another policeman, Joventino de Leon, who at the time was property custodian of the Ormoc City police, corroborated appellant's testimony concerning the dress marked Exhibit 1 for the defense. (tsn. p. 70 witness J. de Leon) If there was no clear and positive statement in appellant's testimony either on direct or cross-examination that she informed the police that she was choked by her husband, it was because, as We noted, no question was propounded to her on that point.

While We are on this subject of appellant's surrender, mention is to be made of the knife marked as Exhibit C for the prosecution. In her testimony, appellant stated that Exhibit C was not the knife actually used by her in stabbing her husband because the true weapon was her husband's Moro hunting knife with a blade of around six

inches which she threw away immediately after the incident; that when she was asked by Pat. Mariveles to look for the weapon and she could not find it, she was advised by policeman Cabral who helped her in the search to get any knife and surrender it to the desk officer and so she took the knife Exhibit C and presented it to Pat. Mariveles. (tsn. appellant pp. 56-57, 60) This testimony of appellant was taken against her by the court a quo which held that her declaration could not have been true. We find however no strong reason for disbelieving the accused on this point. Appellant does not deny that she turned over Exhibit C to Pat. Mariveles as the knife with which she stabbed her husband but she claims that she did so upon advise of another policeman, Pat. Cabral, and it is quite significant that the latter was not called upon by the prosecution to refute such declaration. There is sincerity in appellant's attempt to rectify a misstatement made by her to Pat. Mariveles and We are inclined to believe and in fact We do believe that the fatal weapon must have had indeed a blade of around six inches as stated by appellant for it to penetrate through the left lumbar region to the victim's large intestine and cause the discharge of fecal matter. (tsn. Dr. C. Samson, p. 6)

All the elements of self-defense are indeed present in the instant case.

The element of unlawful aggression has been clearly established as pointed out above.

The second element, that is, reasonable necessity for the means employed is likewise present. Here we have a woman who being strangled and choked by a furious aggressor and rendered almost unconscious by the strong pressure on her throat had no other recourse but to get hold of any weapon within her reach to save herself from impending death. Early jurisprudence of this Court has followed the principle that the reasonable necessity of the means employed in self-defense does not depend upon the harm done but rests upon the imminent danger of such injury. (U.S. vs. Paras, 1907, 9 Phil. 367, citing Decision of Dec. 22, 1887) And so the fact that there was no visible injury caused on the body of the appellant which necessitated medical attention, a circumstance noted by the trial court, is no ground for discrediting self-defense; what is vital is that there was imminent peril to appellant's life caused by the unlawful aggression of her husband. The knife tucked in her husband's belt afforded appellant the only reasonable means with which she could free and save herself from being strangled and choked to death. What this Court expressed in the case of *People vs. Lara*, 1925, 48 Phil. 153, 160, is very true and applicable to the situation now before Us, and We quote:

"It should be borne in mind that in emergencies of this kind human nature does not act upon processes of formal reason but in obedience to the instinct of self-preservation; and when it is apparent, as in this case, that a person has reasonably acted upon this instinct, it is the duty of the courts to sanction the act and to hold the actor irresponsible in law for the consequences." [16]

Equally relevant is the time-honored principle: *Necessitas Non habet legem*. Necessity knows no law.

The third element of self-defense is lack of sufficient provocation on the part of the person defending himself. Provocation is sufficient when it is proportionate to the aggression, that is, adequate enough to impel one to attack the person claiming self-defense.[17] Undoubtedly appellant herein did not give sufficient provocation to warrant the aggression or attack on her person by her husband, Francisco. While it was understandable for Francisco to be angry at his wife for finding her on the road in the middle of the night, however, he was not justified in inflicting bodily punishment with an intent to kill by choking his wife's throat. All that appellant did was to provoke an imaginary commission of a wrong in the mind of her husband, which is not a sufficient provocation under the law of self-defense. Upon being confronted by her husband for being out late at night, accused gave a valid excuse that she went carolling with some friends to earn some money for their child. January 2 was indeed within the Christmas season during which by tradition people carol from house to house and receive monetary gifts in a Christian spirit of goodwill. The deceased therefore should have given some consideration to his wife's excuse before jumping to conclusions and taking the extreme measure of attempting to kill his wife.

IN VIEW OF THE ABOVE CONSIDERATIONS, We find that accused-appellant acted in the legitimate defense of her person, and We accordingly set aside the judgment of conviction and ACQUIT her with costs de oficio.

SO ORDERED.

Makalintal, C.J., Teehankee, Makasiar, and Esguerra, JJ., concur.

Castro, J., is on leave.

[1] This appeal was originally elevated to the Court of Appeals; however, in a Resolution promulgated on May 7, 1964, it forwarded the case to this Court on the ground that the penalty for the crime committed by the accused is reclusion perpetua.

[2] Marriage contract marked Exhibit G.

[3] T.s.n. March 19, 1958, pp. 3-7, witness Ignacio Barabad.

[4] T.s.n. April 18, 1958, pp. 2-7, witness Dr. Cesar Samson.

[5] T.s.n. June 24, 1958, pp. 16-17, witness Restituto Mariveles.

[6] T.s.n. June 24, 1958, pp. 28, 32, witness Covero; t.s.n. June 24, 1958, pp. 54-62, 67, witness Tomada; t.s.n. pp. 72-73 witness Cresencio Caballero.

[7] See death certificate marked Exhibit H.

[8] T.s.n. August 12, 1958, pp. 58-68, witness Cunigunda Caballero.

[9] See 1 Viada, 172, 5th edition. "That which anyone should do for the safety of his own person is to be adjudged as having been done justly in his own favor." (Writer's translation).

[10] Guillermo B. Guevara's Penal Science and Philippine Criminal Law, 1974 ed. p. 82, citing: Pessina, par. 73; Carrara, par. 291; and Calón, Derecho Penal, 292.

[11] U.S. vs. Coronel, 30 Phil. 112; People vs. Cruz, 53 Phil. 635; People vs. Ansoyon, 75 Phil. 772; People vs. Davis, L-13337, Feb. 16, 1961, 1 SCRA 473; People vs. Solana, L-13967, Sept. 29, 1962, 6 SCRA 60; People vs. Mendoza, L-16392, January 30, 1965, 13 SCRA 11; People vs. Talaboc, L-25004, October 31, 1969, 30 SCRA 87; People vs. Ordiales, L-30956, November 23, 1971, 42 SCRA 238; People vs. Tingson, L-31228, October 24, 1972, 47 SCRA 243; People vs. Llamera, L-21604-5-6, May 25, 1973, 51 SCRA 48.

[12] Pp. 7-9. Decision found in pp. 267-269, original record.

[13] Underhill's Criminal Evidence, 5th edition, Vol. 1, pp. 2-3, cited in Francisco's Evidence, Vol. VII, Part 1, p. 68.

[14] See also People vs. Maliwanag, et al., L-30302, August 14, 1974 (1st Division).

[15] Peoples vs. Zamora, 59 Phil. 568; People vs. Ramponit, 62 Phil. 284; People vs. Divinagracia, 105 Phil. 281; People vs. Ester Murray, 105 Phil. 591; People vs. Macabenta, 106 Phil. 77.

[16] See also People vs. Encomienda, No. L-26750 August 18, 1972, 46 SCRA p. 522.

[17] Guevara's supra p. 89, citing Decision of Supreme Court of Spain, February 20, 1893, 50 Jur. Crim. 166-168; Padilla's Criminal Law, Book I, 1971 ed., p. 197.

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.