

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. LUIS CATALINO Y ARNISTO, DEFENDANT-APPELLANT.

G.R. No. L-25403. March 15, 1968

Ponente: ANGELES, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/442ddbfb6e8/>

ANGELES, J.:

A review of Criminal Case No. 1542 of the Court of First Instance of Aklan, entitled "The People of the Philippines, plaintiff, vs. Luis Catalino Y Ar-nisto, accused", wherein the trial court, in its de-cision dated October 15, 1965, found the accused guilty of the crime of murder for the killing of his brother-in-law, Raymundo Gregorio y Severino, and imposed upon him the supreme penalty of Death.

The accused, Luis Catalino, was prosecuted in the lower court for the killing of Raymundo Gregorio on June 2, 1961, under an information for murder, committed with the qualifying circumstances of evi-dent premeditation and treachery, and attended by the aggravating circumstances of nighttime, dwelling and relationship. He stood trial under a plea of "not guilty".

To prove the People's case, the prosecution presented at the trial five witnesses: Dr. Federico Lose, the rural health officer of Altavas, Aklan, who conducted the autopsy of the body of the victim; Ma-ria Catalino, the widow of the deceased and sister of the accused; Jose Maravilla, the victim's landlord in-to whose house the latter was first brought in a dying condition immediately after the incident; Consolacion Gregorio, common-law wife of the accused and sister of the victim; and Andres Pador, Chief of Police of Altavas, Aklan, who conducted the investigation of the crime. The background facts of the case culled from their testimonies are the following:

The rain had just stopped at about 7:00 o'clock on the night of June 2, 1961, in barrio Tibiao, Altavas, Aklan. In their house situated on top of a hill, Raymundo Gregorio and his wife, Maria Gregorio, were squatting side by side on the kitchen floor under the light of a kerosene lamp on the "banggerahan" facing them. They were drinking "tuba" and munching on roast-ed corn as their "sumsuman" while their children were preparing for bed in another portion of the house. The floor of the kitchen was made of bamboo slats, one inch in width, nailed about one centimeter apart. Sud-denly, Raymundo jerked his body, saying "Ne, I was thrust by somebody." Raymundo stood, his trousers, loosened or slashed by the thrust, dropped to the floor; and Maria saw her husband clutching a wound in his abdomen from which his intestines were coming out. Instinctively, Maria took hold of the kerosene lamp on the "banggerahan", opened the bamboo slats door of the kitchen, and looked downstairs. From where she stood, Maria saw a man about two brazas away from her, moving quickly away from the house with his back to-wards her. With the aid of the light coming from the kerosene lamp she was carrying, Maria recognized the man as her brother, the accused Luis Catalino, at whom she shouted "Manong Luis, you come up and kill all of us", before he finally disappeared in the dark. The wounded husband had moved to the sale when the wife returned to him. She wrapped his body with a blanket, and at Raymundo's bidding, Maria started beating a hallow bamboo gong to summon help. A few neighbors soon answered the call for aid, and the wounded husband was carried to the house of his land?lord about 300 meters away, in a hammock. Raymundo Gregorio pleaded to his landlord to give him aid, but the latter, seeing the seriousness of his condi-tion, advised the wife to

take her husband to town. Raymundo did not reach town, however, for on the way, at the house of one Procopio Macario, he expired that same evening. Maria Gregorio then instructed her son and the barrio lieutenant of the place to report the matter to the authorities in town, and to inform their relatives of her husband's death. Still later, the body of the victim was taken to the town where it was autopsied by Dr. Federico Loza, the rural health officer of Altavas, Aklan.

The medical officer found on the body of the victim an incised wound about two (2) inches in length in the infra-umbilical region, one inch below the umbilicus, from which wound portions of the small intestines were coming, presenting multiple incisions including the mesentery. Vertically aligned with, and about an inch below this wound was a second one which was superficial. In the necropsy report, the doctor described the first wound as fatal, in consequence of which death resulted from internal hemorrhage; and in his testimony before the court, he opined that the wound could have been caused by a bladed or double bladed instrument like a bolo or talibong, for the edges of the wound were all clean-cut. Judging from the vertically aligned positions of the two wounds, he ventured further to say that the two wounds could have been caused by a single thrust.

That morning following the night of the incident, people from the place came to view the remains of Raymundo Gregorio at the house of Procopio Macario where the cadaver lay in state. Among the first relatives to arrive was the father of the widow. The accused arrived a little later, then left shortly thereafter. It was then that the widow told the police officers present that it was her brother Luis Catalino, who killed her husband. At about noon time that very same day, Luis Catalino was arrested and brought to town for investigation.

Five days after the commission of the crime, the Chief of Police of Altavas conducted a re-enactment of the crime with the consent of Luis Catalino who denied being the author of the crime. The chief of police and the accused, along with two other policemen, two PC soldiers, and the widow of the deceased were all present at the scene of the incident for purposes of said re-enactment. Upon examination of the ground under the house of the victim, the chief of police found three (3) footprints, left and right, which were apparently made by one without shoes. He asked the accused to fit his feet in said footprints which the accused did after some reluctance; and the chief of police found that they tallied, heels and toes. Thereafter, at about the same time that the incident took place on the night of the killing, the chief of police ordered the widow to go up the house with the PC soldiers. After closing the door of the kitchen, he asked one of his policemen to change clothes with that of the accused and ordered them to go under the house. At a given signal, the PC soldiers asked the widow to open the door of the kitchen and look out. At that precise time, the policeman and the accused were also required to walk out at a distance of about six meters, and the widow correctly pointed to the accused as the man he saw there on the night of the killing. Thus, the chief of police filed the corresponding complaint against Luis Catalino.

The evidence for the prosecution further shows that there had been a long standing feud between the accused on the one hand, and the deceased and his widow on the other hand. The controversy related to a disagreement between the widow and the accused in respect of the shares of the property of their parents who were both still living which had been previously assigned to each of them; the portion assigned to the widow and worked upon by the deceased during his lifetime had been planted to coconuts, while the portion assigned to the accused remained barren or cogonal. The accused expressed a desire that a part of the produce of the widow's land should be given to him which the deceased never did. The disagreement between the accused and his sister was recently further aggravated by the fact that the common law wife of the accused (sister of the deceased) had abandoned him since April, 1961, and the accused believed that it was the deceased who had given her money and prompted her to leave their home. And although the last serious quarrel between the accused and the deceased occurred more than ten(10) years before the killing of the deceased, on June 2, 1961, they had another altercation barely three days before the night of the killing. The accused drew his bolo on that occasion, but the

deceased ran to town. On the latter part of that same day the accused chanced to meet his own common-law wife and the wife of the deceased together in the house of a certain Ciocoro where Luis Catalino warned his sister (wife of the deceased) to be careful because something may happen in a few days.

For his defense, Luis Catalino presented evidence tending to show that on June 2, 1961, he was in his son-in-law's caingin weeding the plants from morning until the afternoon. Returning to his son-in-law's house late in the afternoon, he prepared their food for that evening because his grandson was sick and his daughter had to attend to him. Still later, he pound-ed about ten gantas of palay which he later placed in a buri bag. They ate supper at about 8:00 that evening. He slept in the house of his son-in-law where he has been staying since his common-law wife left him in the the month of April. He was still asleep when in the following morning, he was awakened by his son-in-law who informed him that his brother-in-law has been killed the night before. And upon learning that the deceased lay in state in the house of Procopio Maca-rio, he lost no time in going there to see the remains of the deceased.

The defense also presented evidence to show that some other persons and not the accused have committed the crime imputed to Luis Catalino. The extra-judicial confessions of Rodrigo Tulio and Federico Layson taken by a PC investigator and sworn to before the Deputy Clerk of Court were produced in court to show that they have voluntarily owned the killing of Ray-mundo Gregorio. Much to the surprise of the defense, however, when these alleged killers were placed on the witness stand, they repudicated their alleged confessions and declared that they were detained in the provincial jail on a complaint for cattle rustling, and that they knew nothing about the killing of Raymundo Gregorio. They admitted having signed the affidavits containing their admissions of the killing, but claimed that they only signed the same because they were manhandled by detention prisoners, and the accused in the provincial jail and, out of fear, were forced to admit the killing of which they were totally ignorant. They expressly denied before the court the truth of the statements they had previously signed.

Upon these facts, the trial court found the accused guilty as charged, and as aforesaid, sentenced the accused to the penalty of death, and to indemnify the heirs of the deceased the sum of P6,000.00.

We find two main issues which must be resolved before we may sustain the conviction of herein appellants in the lower court:

- (1) Whether or not the identification made by the widow of the accused as the man she saw running away from their house on the night of the killing of her husband, is worthy of belief; and
- (2) Whether or not the trial court was right in disregarding the extra-judicial confessions of the two detention prisoners presented by the accused to prove his innocence.

We shall, therefore, consider the various points discussed by herein appellant in his brief with those issues foremost in our mind.

Appellant vigorously assails the credence and weight placed by the trial judge upon the testimony of the widow of the deceased, on which the lower court apparently gave full reliance in rendering the judgment of conviction under appeal. He brands as incredible and improbable the story told by the said widow before the court: Thus, that after the deceased had jerked his body, telling her –“Ne, I was thrust by somebody”, and she saw him clutching at his wounded abdomen out of which his intestines were billowing out, said widow would immediately grab the kerosene lamp from their “banggerahan”, open the door of the kitchen and look out into the darkness and survey the scene outside the house; that she not only saw a man two brazas away moving quickly from the house, but also recognized that man whose back was turned against her to be the herein appellant; that she shouted at him “Manong Luis, you come up here and kill all of us”; and that only after he disappeared completely into the

darkness did she finally turn back to her wounded husband to give him succor. In a word, appellant disputes the credibility of the said witness.

We find no substantial merit to herein appellant's claim that the above testimony is incredible. Time after time, this Court has declared that the matter of assigning values to declarations at the witness stand is best and most competently performed or carried out by the trial judge because the latter, unlike appellate magistrates, can weight such testimony in the light of the declarant's demeanor, conduct and attitude at the trial.[1] And as far as credibility and veracity of witnesses are concerned, the conclusions of lower courts command great weight and respect,[2] for their proximate contact with those who take to the witness stand, places them in a more competent position to discriminate between the true and the false.[3] Of course, these rules admit of exceptions, as when patent inconsistencies in the statements of witnesses are ignored by the lower court, or when the conclusion arrived at is clearly unsupported by evidence; but the existence of any of such exceptions had not been shown in this case. We find no cogent reason, therefore, to disturb the reliance place by the trial court upon the testimony referred to by herein appellant.

Appellant contends, that the way the widow had reacted to the tenseness of the situation she found herself in on that fateful night of the killing of her husband, is opposed to ordinary human experience - too unnatural to be believable - for the more natural thing for her to do immediately after seeing the gaping wound in the abdomen of her husband, his intestines coming out of said wound, would be to rush to his side, to think of her husband's safety above all else, or to immediately shout for help and seek the aid of her neighbors. Appellant, therefore, imputes bad motive on the part of the widow and suggests, that her identification of the accused as the man she saw that evening was born out of her consuming hatred for him. The suggestion should be denied. The widow, perhaps, had not acted the way we would normally expect a woman to do under the circumstances, but considering the nervous condition she must have found herself under the situation that evening, it is equally probable that she acted under stress without knowing what to do best under the circumstances. It is not difficult to demonstrate the fact that different people will react in various ways when placed under stress, and the circumstance that the widow had acted in another way that to others might appear unnatural is no argument to the proposition that what she did was impossible. What is clear from the testimony of the said widow is the fact that she recognized the man she saw that evening to be her brother, appellant herein, that is why she shouted at him to "come up here and kill all of us." The widow acted at the time under a nervous excitement, without time to reflect; and we cannot subscribe to the suggestion that she could have been influenced by any evil motive against herein appellant.

But appellant would insist that for the widow to have seen and recognized a man in the dark outside their house after staying for sometime in the kitchen facing a lamp, is opposed to common knowledge of human experience to be worthy of reasonable belief. Thus, he frames his argument in the following wise: "This woman must be possessed of an uncanny eyesight. After staying for sometime in the kitchen, facing a lamp, and suddenly looking out into the darkness, she not only recognized a man running away but was also able to positively identify that man. This, we believe, is incredible in itself because it is contrary to ordinary human experience. How many times have we experienced stepping out of the street into the darkness of a moviehouse and bump into chairs and persons, for we fail to see them? Much less could we recognize persons, although within an arm's length, in such cases. That is the ordinary human experience. Maria Gregorio's experience does not fall within this realm; it is, thus, not deserving belief." We are not impressed with this argument either. Obviously, appellant herein overlooks the fact, also supported by ordinary human experience, that one may easily find his way through in a dark moviehouse, may recognize persons not too far away from him, with the aid of a dimly lighted flashlight of an usher or the light of a match stick. There can be no parity, therefore, between the situation of the widow when she looked out in the dark that fateful evening and the blinding darkness inside a moviehouse described by herein

appellant, for the simple reason that the widow looked outside the door of the kitchen that night with the aid of the light from her lamp. Maria Gregorio testified that the wick of the kerosene lamp she carried is as big as her pointer finger, and its flame was about four (4) inches in length.[4] Although she first stated that the wind blew inside the house when she opened the door of the kitchen,[5] she later qualified her state-ment by explaining that there was no wind that eve-ning, that it was calm because the rain had just stopped.[6] She described the floor of the house where she stood to be less than five (5) feet above the ground,[7] and from there she saw the man down-stairs, about two brazas away from her, moving quick-ly away from the house;[8] and although he was not facing her,[9] she recognized him to be her brother (Manong Luis), the herein appellant.[10] She testi-fied further, that upon seeing him there, she told him, "Manong Luis, you come up and kill all of us." [11] We are convinced that with the size of the flame of the lamp she was holding at the time, and within the distance she saw the man downstairs, it was really possible for the widow to have recognized her own brother as the man she saw that evening; otherwise, she would not have told him "to come up and kill all of us", if she was not sure, having no time to re-flect, that he was her own brother.

Appellant next argues that the lower court er-red in finding that he had sufficient motive for killing his brother-in-law, the deceased Raymundo Gregorio. He points out the fact that while his sister, the widow of the deceased, had testified about a quarrel they had over the inheritance of their par-ents some ten years ago, she also admitted that said quarrel had long been settled between them by their own parents who were both still living. He contends further that neither would the alleged separation between him and his common-law wife, sister of the deceased, be a sufficient motive for him to commit the crime because they have in fact been separated no less than three (3) times during the more than twenty-five(25) years that they have been living to-gether, and although she has recently abandoned him and left for Iloilo, she returned to Altavas, never-theless, on May 28, about a week before the commis-sion of the crime on June 2, 1961.

This argument should be rejected. We believe the trial court did not err in finding sufficient motive on the part of herein appellant to commit the murder of which he stands convicted. There is abund-ant evidence on record that barely three (3) days be-fore the killing, the quarrel between herein appel-lant and the deceased had been renewed where the for-mer drew his bolo and chased the latter; and later on that very same day, a Tuesday before the Friday when the killing occurred, herein appellant, upon meeting by chance the wife of the deceased and his own com-mon-law wife together in the house of a certain Ciocoro warned his sister "to be careful, because in a few days something will happen.[12] It has likewise been shown that herein appellant had suspected that his common-law wife received money from her elder brother, the deceased, who induced her to separate from him and leave him for good. This suspicion, according to the common-law wife, drove him mad; he called her a traitor, and would want to kill her and her brother, the deceased;[13] that is why she had left and finally decided to leave him. It is clear, therefore, that whether it be the quarrel over the inheritance of their parents or the suspicion of herein appellant that the deceased was the cause of his separation from his common-law wife which led to the commission of the crime, the indubitable fact that stands out in the record is the existence of bad blood between herein appellant and the deceased before the demise of the latter; and We are convinced that either of the above-mentioned causes could be a suf-ficient motive on the part of herein appellant for the killing of his brother-in-law.

Neither do We find incredible the testimony of the Chief of Police of Altavas, Aklan, that the foot-prints he found under the house of the deceased were similar in size to those of herein appellant. While it is true that the said footprints were discovered five days after the killing and were then no longer fresh, he explained that the ground where the foot-prints were found was wet because it is the place where water from the kitchen spreads or settles. It would hence be safe to surmise that said part of the ground under the house will be soft and footprints thereon will be well-defined. The circumstance that it had been raining then in Altavas for the last five days as pointed to

by herein appellant could not have affected the footprints because, as testified to by the chief of police, that part of the ground under the house was not exposed to rain-fall; and neither was said part of the ground affected by the flow of water from the kitchen, for the house had been vacated by the family of the deceased after the killing on June 2, 1961.[14] The footprints aforesaid, were therefore preserved, which enabled the chief of police to ascertain the similarity in size of the footprints and the feet of herein appellant after asking the latter to insert or superimpose his feet into said footprints.[15] The evidence alone, of course, is not conclusive of the fact that the said footprints were those of herein appellant, but it tends to show in some reasonable degree that someone whose feet are of said sizes had been there; and since herein appellant had been positively identified by the widow to be the person she saw running away from the scene of the crime on the night of the killing, the circumstances point strongly to herein appellant as the one who left said footprints.

Finally, We are convinced that the defenses of alibi and projection offered by herein appellant do not merit any serious consideration. It has been clearly established by the evidence, both for the prosecution and for the appellant, that the houses of the deceased and that of Dioscoro Macario where herein appellant lives since he was abandoned by his common-law wife, are only about two (2) or two and a half (2-1/2) kilometers apart,[16] and there is a trail connecting the two houses.[17] It was then not really impossible for herein appellant to be at the scene of the crime at about 7:00 o'clock on the night of the killing, in spite of the claim that he was at Dioscoro's house preparing food for supper and pounding palay at the time,[18] and did not leave the house after his arrival at about 5:00 o'clock that afternoon from the "kaingin" of his son-in-law.[19] Moreover, the defense of alibi here will not prosper on account of the positive identification of herein appellant by an eyewitness that he was seen at the scene of the crime.[20]

Coming to the defense of projection, appellant vigorously maintains that it was error on the part of the trial court to have concluded that the extra-judicial confessions of Rodrigo Tulio and Felipe Leyson owning the killing of Raymundo Gregorio were not made freely and voluntarily. He relies heavily upon the testimony in court of the Deputy Clerk of Court before whom the above-named detention prisoners in the provincial jail of Aklan subscribed to their confessions to the effect, that he first read the questions and answers in their respective affidavits and translated them to Rodrigo Tulio and Felipe Leyson in their native dialect which they understood,[21] after which Rodrigo Tulio willingly signed his name,[22] while Felipe Leyson voluntarily affixed his thumb mark also;[23] that no complaint whatsoever was made at the time by either Rodrigo Tulio,[24] or Felipe Leyson,[25] before they signed and affixed their names and thumb marks on their respective confessions. It is also pointed out that a PC officer had testified that he personally conducted and recorded the confessions of the above-named detention prisoners;[26] that there were other PC soldiers present when he conducted the said investigation;[27] and that no force, threat, intimidation or promise of any reward was made upon them at the time.[28] The voluntariness of the confessions, according to herein appellant is further sustained by the testimony of the provincial warden to the effect that he was not aware of any manhandling of said prisoners while they were under his custody;[29] that he had brought along Rodrigo Tulio and Felipe Leyson to the PC headquarters at Tuliols own behest, because he confided to him that they had a hand in the killing of Raymundo Gregorio;[30] and that as he was present during the investigation, he knew for a fact that said detention prisoners were not manhandled by the PC during the investigation.[31] The bone of appellant's contention, therefore, is that the said confessions were made freely and voluntarily, and should have been admitted by the trial court in exculpation of herein appellant.

The argument merits no serious consideration.

There are clear signs in the record showing that the alleged confessions were not made freely and voluntarily. Both Rodrigo Tulio and Federico Leyson were presented in court for the defense of herein appellant, but they

turned hostile to his cause. Leyson testified that he had never committed the crime; that he only admitted the crime because he was badly beaten in jail by other prisoners and was then out of his mind.[32] Rodrigo Tulio, on the other hand, complained that on the very day of his arrest at Jamindan, Aklan, for reasons unknown to him, the PC soldier who arrested him, hit him at the back three (3) times with the butt of his gun.[33] He was first delivered to the municipal jail of Jamindan, then transferred to the PC head-quarters at Loctungan where he received further torture.[34] From there, he was taken to the municipal jail of Altavas, and still later to the provincial jail of Aklan, where herein appellant, also a detention prisoner there at the time, beat him several times, warning him that if he will not admit the killing of Raymundo Gregorio at the investigation at the PC headquarters, he will kill him upon his return to the provincial jail.[35] He testified further that his right eyebrow had been shed as a matter of fact due to such manhandling before he was taken to the PC headquarters at Buswang where the confession took place.[36] There is a showing that such manhandling really took place, for even the Deputy Clerk of Court who testified for the defense, admitted that when the prepared statement of Rodrigo Tulio was taken to him for ratification, Tulio "was weak, that even in signing the papers, it took him time in signing and even the voice when I asked him, he just nod his head, sometimes he said yes"; that "he noticed in his face, a slight contusion and he was weak,"[37] while Felipe Leyson "was also weak and had a black eye at the time." [38] The PC sergeant who conducted the investigation and took the statements of said detention prisoners also admitted that when he fetched Tulio from the provincial jail "he had bruises on his right face which was somewhat swollen." [39] And so with the provincial warden who testified that when Felipe Leyson was first brought to the provincial jail, he already "had sore eyes." [40] There is also a glaring discrepancy between the testimony of the provincial warden and the PC sergeant who took the testimony of said detention prisoners. While the sergeant claimed that he conducted the investigation of said detention prisoners at the behest of the Chief of Police of Altavas before whom one Presentacion Tulio had lodged a complaint for theft of large cattle, and he had taken said prisoners from the provincial jail to investigate them in connection therewith; and that he only happened to inquire from them about the killing of Raymundo Gregorio because the Chief of Police of Altavas also made mention to him regarding the said killing, the provincial warden, on the other hand, claimed that without being asked, Rodrigo Tulio made a statement to him of his desire to confess about his involvement in the killing of Raymundo Gregorio, that is why he suggested that they go to the PC headquarters where he may make his confession.[41] And the Court sees no reason why the Chief of Police had to indorse the complaint of Presentacion Tulio against said prisoners to the PC headquarters for further investigation of the alleged theft of large cattle, when it is admitted, by the PC sergeant himself who conducted the investigation that at the time he took the statements of said prisoners, the corresponding complaint had been filed by the Chief of Police in the Municipal Court of Altavas, which remitted the case to the Court of First Instance.[42] Such facts and circumstances altogether convince the Court that the trial court was right in holding that the extra-judicial confessions of Rodrigo Tulio and Felipe Leyson relied upon by herein appellant were not made by them freely and voluntarily.

But even if we were to assume that the said confessions were made freely and voluntarily, which is not a fact, as earlier shown, we still have to reckon the question of admissibility of such confessions as substantive evidence. The Rules provide that the declaration of an accused expressly acknowledging his guilt of the offense charged, may be given in evidence against him,[43] but this would seem to exclude the confession of a third person for or against him. The said Rules provide further that a declaration of a person against his interest may be used against third persons,[44] but such provision would not be applicable to this case either, even if we were to consider the confessions under consideration as a declaration against interest and the State as a third person, because it is a further requirement that before a declaration against interest may be admissible, it must be shown that the declarant is either deceased, outside of the Philippines, or unable to testify, which is not true here. Thus, the rule that as long as the declarant is available as a witness, his extra-judicial statement should not be heard. This is in

accord with the weight of authority in American jurisprudence which holds that a confession on the part of a third person tending to exculpate an accused, is not admissible in evidence where the confession does not constitute a part of the *res gestae*, the reason given by the courts for excluding such evidence is that it is hearsay.[45] We recall that this question of admissibility of such kind of confession was once raised in issue here where this Tribunal did not reach any accord on the matter,[46] but even if We were to follow the opinion of the three (3) members of the Court there that such kind of evidence is admissible, We would still find the conclusion reached by the trial court legally sustainable. For ultimately, its value would depend upon the weight given or assigned to it by the trial court. Here, the lower court did not believe the statement in the alleged confessions of Rodrigo Tulio and Felipe Leyson that they used a spear made of bamboo in killing Raymundo Gregorio due to the improbability of causing, with such kind of weapon, the incised clean-cut wound found by the medical officer on the body of the deceased, and We find no reasonable basis upon the evidence of record to disturb that conclusion.

The finding of the lower court that the crime was committed with treachery may not be seriously disputed. By suddenly attacking the victim from under the house, the assailant had employed a means in the execution of the crime which tend directly and specially to insure its execution without risk to himself arising from the defense which the offended party might make. The aggravating circumstance of nighttime, however, may no longer be separately considered, the same being included in the qualifying circumstance of treachery.[47] The reason for this rule is that nighttime forms part of the peculiar treacherous means and manner adopted to insure the execution of the crime.[48] But the lower court was right in considering the aggravating circumstance of dwelling which is applicable even if it be shown that the perpetrator of the crime never entered the house where the victim was at the time of the attack.[49] There being no mitigating circumstance to off-set the aggravating circumstance of dwelling, the penalty imposed by law should be imposed in its maximum period.

WHEREFORE, the writer of this opinion believes that the lower court was right in sentencing the herein appellant to the supreme penalty of death; but for lack of the necessary number of votes among the members of the court to sustain the death sentence, the penalty of reclusion perpetua is hereby imposed. Decision appealed from is affirmed in all other respects, with costs against herein appellant.

Reyes, Acting C.J., Dizon, Makalintal, Bengzon, Zaldivar, Sanchez, Castro, and Fernando, JJ., concur.
Concepcion, C.J., on leave.

[1] *People v. Refuerzo*, 82 Phil. 576; *People v. Federico*, G.R. No. L-1512, May 12, 1949; *People v. Aguipo*, G.R. No. L-12128, July 31, 1958; *People v. Romawak*, G.R. No. L-19644, October 31, 1964; *People v. Secapuri, et al.*, G.R. No. L-17518-19, February 28, 1966.

[2] *People v. Evaristo*, G.R. No. L-14520, Feb. 26, 1965; *People v. Lumayog*, G.R. No. L-19142, March 31, 1965; *People v. Castro*, G.R. No. L-21449, June 30, 1967.

[3] *People v. Constante*, G.R. No. L-14639, Dec. 28, 1964; *People v. Berdida, et al.*, G.R. No. L-20183 June 30, 1966; *People v. Estrada*, G.R. No. L-26103, January 17, 1968.

[4] *Tsn, Gonzales*, p. 47.

[5] *Id.*

[6] *Tsn, Gonzales*, p. 56.

[7] “ “ p. 30.

[8] “ “ p. 49.

- [9] “ “ p. 49-50.
- [10] “ “ p. 20-21.
- [11] “ “ p. 25.
- [12] Tsn, Gonzales, pp. 27, 79-80, 91.
- [13] Tsn, Gonzales, pp. 79, 93.
- [14] Tsn, Fadullon, pp. 12-13.
- [15] " " pp. 13-14.
- [16] " Gonzales, p. 115; Isberto, p. 27.
- [17] " Policarpio, p. 9.
- [18] " Gonzales, p. 104.
- [19] Tsn, Gonzales, p. 104.
- [20] U.S. v. Oxiles, 29 Phil. 587; U.S. v. Pascua, 1 Phil. 631; People v. Secapuri, et al., supra; See also People v. Estrada, supra, and cases cited therein.
- [21] Tsn, Fadullon, pp. 27-28, 35-36.
- [22] “ “ p. 31.
- [23] “ “ p. 35.
- [24] “ “ p. 31.
- [25] “ “ p. 39.
- [26] “ Isberto, p. 2-3.
- [27] “ “ p. 4-5.
- [28] “ “ p. 8.
- [29] “ Gonzales, p. 154.
- [30] Tsn, Gonzales, pp. 155, 160.
- [31] " “ p. 156.
- [32] " “ p. 148.
- [33] " Isberto, p. 33-34.
- [34] " “ p. 35.
- [35] " “ p. 44-45, 50.
- [36] " “ p. 51.
- [37] Tsn, Fadullon, p. 30.
- [38] " “ p. 40.

[39] " Isberto, p. 13.

[40] " Gonzales, p. 157.

[41] See, Tsn, Isberto, pp. 1-5; 12-13; 18-19; Tsn, Gonzales, pp. 154-155.

[42] Tsn, Isberto, pp. 23-24.

[43] Sec. 29, Rule 130, Rules of Court.

[44] Sec. 32, Rule 130, " "

[45] See, Francisco, Rules of Court (Evidence) p. 324.

[46] See, People v. Toledo & Holgado, 51 Phil. 825.

[47] People v. Sespeñe, et al., 102 Phil. 199.

[48] People v. Pardo, 79 Phil. 568; People v. Corpus, et al., G.R. No. L-12718, February 24, 1960.

[49] People v. Bautista, 79 Phil. 652; See, also People v. Ambis, 68 Phil. 635.

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.