

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. FRANCISCO BELLO, EULOGIO SAN JUAN AND FLORENCIO MANGUBAT, DEFENDANTS-APPELLANTS.***G.R. No. L-31226. September 30, 1982*

Ponente: BARREDO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/797e1773a451/>**BARREDO, J.:**

Automatic review of the sentences of death imposed upon accused Francisco Bello and Eulogio San Juan, together with the appeal of the third accused Florencio Mangubat who was found guilty as accomplice and sentenced to an indeterminate prison term of ten (10) years and one (1) day of prision mayor, as minimum, to seventeen (17) years, four months and one (1) day of reclusion temporal, for robbery with homicide.

The counterstatement of facts of the People's brief, which substantially echoes the findings and conclusions of the trial court, regarding the manner in which the offense for which the accused now before Us were convicted was allegedly committed-robbery with homicide-is stated as follows:

"Rosita Katapusan and Elena Bello were waitresses of the Jet Snack Restaurant located at the Manila International Airport which is owned by Mr. Wong Shee Yuen and his wife Wong Ley Shee (p. 3, t.s.n., Sept. 9, 1966; pp. 3, 4, t.s.n., Oct. 5, 1966).

"At about 12:30 o'clock noon on October 8, 1965, Rosita Katapusan and Elena Bello were at the Jet Snack Restaurant attending to some customers while Mrs. Wong Ley Shee was then in charge of the cash register because Leticia Wong, her daughter-in-law was on leave from her employment as cashier (pp. 4, 5, t.s.n., Sept. 9, 1966; pp. 5, 6, t.s.n., Oct. 5, 1966). While Rosita Katapusan and Elena Bello were attending to their work, appellants Francisco Bello and Eulogio San Juan, agents of the Bureau of Internal Revenue, entered the restaurant and approached Mrs. Wong Ley Shee who was then eating her lunch (pp. 7, 8, t.s.n., Oct. 5, 1966). Upon approaching the counter of Mrs. Wong, appellants Bello and San Juan started looking for blue seal cigarettes below the cash register (pp. 8, 9, t.s.n., Oct. 5, 1966). After conducting a thorough search of the counter and cabinets, the appellants appeared to have found a paper bag containing one box of cigars, 12 packs of blue seal cigarettes and 10 sticks of blue seal cigarettes (pp. 10, 11, t.s.n., Ibid.; Exhs. '2', '2-A', '2-B', '2-C', '2-H', '2-II' to '2-L'). Thereafter, they confronted Mrs. Wong as to why she was concealing blue seal cigarettes in her cabinet and the latter answered that she does not know anything about them (pp. 10, 11, t.s.n., Ibid.). Appellant Bello then told Mrs. Wong in a loud voice that they would take her to the Bureau of Internal Revenue for investigation (p. 11, t.s.n., Ibid.). Upon hearing these words, Mrs. Wong apprehensively uttered the following words in Tagalog, 'Wag ninyo ako dalhin. Ako'y mayroon sakit hindi marunong bumasa, hindi marunong sulat, ikaw intay aking anak si Jr. Wong' (p. 12, t.s.n., Ibid.). Notwithstanding the request of Mrs. Wong, appellant Bello, pulled Mrs. Wong with his two hands towards him, which force was resisted by the latter who then further requested that she be allowed to finish her noon meal; which request was granted by appellant Bello but then the latter told her to hurry up (p. 13, t.s.n., Sept. 9, 1966). Mrs. Wong proceeded to eat, but because of her great nervousness she could not swallow her food anymore and it kept dropping from her mouth (p. 14, t.s.n., Ibid.). Appellant Bello then commanded Mrs. Wong, 'We better go now. Tayo na, nagaartista ka lamang', and at the same time pulled Mrs. Wong again. However, all his efforts were in vain

because Mrs. Wong became very weak and she had to lean on Rosita Katapusan who was then at her back (pp. 15, 16, t.s.n., Ibid.). Rosita Katapusan then called for her other companions for assistance and together they brought Mrs. Wong to the kitchen of the restaurant where she collapsed and became unconscious (pp. 21, 22, t.s.n., Oct. 5, 1966).

"In the meantime, Elena Bello had called up by phone Wong, Jr. and told him to come right away at the restaurant. Somebody also called for the doctor on duty at the airport (p. 16, t.s.n., Sept. 9, 1966). In response to the emergency call, Dr. Isidro Villanueva, the physician on duty at the Manila International Airport, arrived at the Jet Snack Restaurant. Upon entering the eatery, he saw Mrs. Wong sitting on a chair inside the kitchen and in a state of shock (pp. 6, 7, t.s.n., Nov. 9, 1966). He examined the patient and then gave her an injection of coromin. He also gave her a sedative because she was nervous and afraid and advised her relatives to let Mrs. Wong rest for awhile and then to bring her to the hospital for further treatment (p. 13, t.s.n., Ibid.). At about 4:00 o'clock in the afternoon of October 8, 1965, Mrs. Wong was brought to the San Juan de Dios Hospital where she died the following day (p. 64, t.s.n., Nov. 9, 1966).

"Dr. Ernesto G. Brion, Medico Legal Officer of the National Bureau of Investigation autopsied the body of the deceased and according to his findings, the cause of death is due to cerebral hemor-rhage, right secondary to sclerosis of cerebral vessels on account of a terseemotion like fear or fright causing the blood pressure to increase (pp. 9, 10, t.s.n., Jan. 30, 1967; Exhs. 'I' and 'I-1').

"Meanwhile, on October 8, 1965, between 1:30 o'clock to 2:00 o'clock p.m., Wong See Yuen, Jr. was in the market (p. 8, t.s.n., May 15, 1967). After making his purchases, he went straight to the Jet Snack Restaurant. Upon arriving thereat, he was met by appellants Bello, San Juan and Mangubat who introduced themselves as BIR agents (pp. 8, 9, t.s.n., Ibid.). Wong, Jr. then asked them what they wanted and they replied that they were arresting his mother because they found 'blue seal' cigarettes in the restaurant (pp. 13, 14, 15, t.s.n., Ibid.). Wong, Jr. then asked appellant Bello where his mother was and the latter answered that she was in the kitchen (p. 16, t.s.n., Ibid.). Wong, Jr. then proceeded to the kitchen of the restaurant where he saw his mother perspiring, pale and 'as if she was dead' (p. 17, t.s.n., Ibid.). He asked his mother what happened, and she answered that she was pulled by one of the arresting officers and so she became frightened and collapsed (p. 20, t.s.n., Ibid.).

While Wong, Jr. was still talking with his mother, somebody outside shouted at Wong, Jr. who turned out to be appellant San Juan telling him the following words, 'Jun, dalian mo na, magsasara na ang oficina' (p. 27, t.s.n., Ibid.). On hearing these words, Wong, Jr. went out and talked to the three appellants (p. 27, t.s.n., Ibid.). Appellant Bello then told Wong, Jr. that if his mother cannot go with them, they will bring him instead to which remark Wong, Jr. asked Bello why he was going to be brought to the BIR office since he did not do anything wrong (p. 34, t.s.n., Ibid.). At this juncture, appellant San Juan pulled Wong, Jr. and then brought him to the taxicab parked in front of the restaurant (p. 35, t.s.n., Ibid.). When Wong, Jr. was about to board the taxicab, his wife, Leticia Wong, who was standing at the door of the restaurant, decided to join her husband (p. 35, t.s.n., Ibid.).

"In the taxicab, appellant San Juan who was sitting beside Wong, Jr. said, 'Let us fix this,' which he followed by another remark, 'Just give P5 ,000.00 and everything will be settled'. After this remark of San Juan, appellant Bello butted in, ' Sigue, magbigay ka na' (pp. 39, 40, 41, t.s.n., Ibid.). Appellant Mangubat who was seated at the front seat, however, remained silent (p. 42, t.s.n., Ibid.).

"When the taxicab reached Roxas Boulevard and as it was approaching the 'ABS' studio and the 'Bar BQ Plaza', appellant San Juan proposed a reduction of the amount of P5,000.00 to P4,000.00, saying 'You can give P4,000.00 because that is chicken feed to you' (pp. 42, 44, t.s.n., Ibid.). In spite of the reduction of the amount, however, Wong, Jr. did not say a word that prompted appellant San Juan to threaten him with deportation, saying 'If you are caught even with one stick of blue seal cigarette you can be deported' (pp. 45, 46, t.s.n.,

Ibid.). Upon hearing the threatening remarks uttered by appellant San Juan, Wong, Jr. got frightened, it dawned upon him that he was still a Chinese citizen and that his mother was a natu-ralized Filipino citizen. Wong, Jr. made a counter offer of P1,000.00 which amount however was refused by appellant Bello because the latter had already allegedly phoned their 'chief' and the latter already knew the amount to be given (p. 48, t.s.n., Ibid.). As the taxicab was nearing the Aristocrat Restaurant, Wong, Jr. requested the appellants to allow him to take his lunch because he had not yet eaten but then appellants suggested to Wong, Jr. the Mandarin Restaurant (pp. 49, 50, t.s.n., Ibid.). Upon arriving at the Mandarin Restaurant, all of them went up to the second floor and ordered individually their food (p. 51, t.s.n., Ibid.). While they were eating, the appellants kept on mentioning to Wong, Jr. that he should give them P4,000.00 to which proposal Wong, Jr. replied that he could only afford P1,000.00 (pp. 52, 53, t.s.n., Ibid.). Later, appellant Bello stood up and went to another table occupied by five persons who were also agents from the Bureau of Internal Revenue (pp. 55, 56, t.s.n., Ibid.). After a few minutes, appellant Bello returned to his table and informed Wong, Jr. that he is reducing the amount of P4 ,000.00 to P3,000.00. The proposal was again refused by Wong, Jr. who told Bello that he had only P1,000.00, but if they like, he would borrow some money to add to his P1,000.00 (pp. 57, 58, t.s.n., Ibid.). The appellants did not agree to this proposal of Wong, Jr. Finally, appellant Bello reduced the amount they were asking from P3 ,000.00 to P2,500.00. Very much worried about his mother, Wong, Jr. finally agreed (pp. 57, 58, 59, t.s.n., Ibid.). Before they left the Mandarin Restaurant, appellant Bello took out from his pocket a booklet stamped 'BIR' and then asked Wong, Jr. to sign his name which the latter refused because Bello was covering the top portion of the receipt (pp. 60, 61, t.s.n., Ibid.). When Wong, Jr. refused to sign the receipt, appellant Bello said to him 'You could sign any name' and so Wong, Jr. signed the receipt by the name 'Mario Uy' just to comply with Bello 's request (p. 62, t.s.n., Ibid.).

"From the Mandarin Restaurant, the appellants together with Wong, Jr. and his wife boarded a taxicab and proceeded to Lepanto-Recto streets where Wong, Jr. contacted his uncle, Hui Why, from whom he was able to borrow P500.00 (pp. 63, 64, t.s.n., Ibid.). From the house of Wong, Jr.'s uncle they again boarded a taxicab and went to Wong, Jr.'s house located at Baltao Subdivision to get additional money (p. 64, t.s.n., Ibid.). Upon arriving at the Baltao Subdivision, the appellants decided not to go to the house of Wong, Jr. and instead alighted at a gas station near the house of the latter where they waited (p. 65, t.s.n., Ibid.). In his house, Wong, Jr. got an additional P2 ,000.00 and then returned to the gas station together with his wife where the appellants were waiting (p. 65, t.s.n., Ibid.). When Wong, Jr. and wife arrived at the gas station, he handed the P2 ,500.00 wrapped in a napkin to appellant San Juan. The latter however refused to accept the same and said, 'I'll accept inside the taxi,' and so they all went inside the taxicab (p. 67, t.s.n., Ibid.). Inside the taxicab Leticia Wong handed the bundle to appellant Bello who after counting the money said, ' Kulang' to which Leticia Wong answered, 'Please recount, it is P2 ,500.00' (p. 68, t.s.n., Ibid.) After appellant Bello recounted the money, he informed his companions that the money is exactly P2 ,500.00 (p. 68, t.s.n., Ibid.). Thereafter, Leticia Wong who was in the family way pleaded to appellant Bello that a little amount be given to her for her delivery which the latter did (p. 69, t.s.n., Ibid.). Much later, appellants told Wong, Jr. and his wife that they will drop them at the La Perla Cigar & Cigarette Factory in Parañaque. Arriving thereat, the latter alighted and then took another taxicab and proceeded to the Jet Snack Restaurant (pp. 69, 70, t.s.n., Ibid.)." (Pp. 3-11, People's Brief.)

The foregoing narration readily leaves the impression that from several points of view, this case is rather a peculiar one, even if generally, the incident as a whole is as familiar as the common occurrence wherein an officer of the law finds himself confronted with a situation for which he has to answer to the authorities for charges of either abuse of his position or for bribery, mulcting, extortion, etc., which the person he has apprehended hurls against him. Here a woman who was being taken for investigation by the accused Internal Revenue Officers for illegal possession or sale of "blue seal" cigars and cigarettes in the restaurant then under her care, died of cerebral hemorrhage the day after the incident, allegedly "on account of a terse emotion like fear or fright causing (her) blood pressure to increase". And after the woman apparently collapsed and was being medically attended to, her son and daughter-in-law arrived and were the ones taken instead. And for having allegedly asked money from the couple, under threat of deportation, they now stand charged not only with robbery but for robbery with homicide.

Strangely, neither in the above counterstatement of facts nor even in the information filed against the accused is any definite reference made to an important controversial matter, which His Honor, the learned trial judge, considered as the initial step taken by the accused in committing the crime for which he sentenced two of them to death, namely, robbery with homicide, and, that is, whether or not the said accused Internal Revenue agents did or did not plant the so-called blue seal cigars and cigarettes in the premises of the Jet Snack Restaurant, then located somewhere at the Manila International Airport Terminal owned by Wong See Yuen and his wife, Leticia Wong. Needless to state, the sale of "blue seals" is prohibited.

This point is particularly significant because on its determination depends the vital element of the offense here in question, which is, whether the accused, as Internal Revenue agents, acted, at least at the outset, when they allegedly tried to take the old Mrs. Wong Ley Shee to their office for investigation, in the due performance of their duty, or, illegally.

In this regard, His Honor held:

"One issue, raised by the conflicting versions developed in the evidence presented, as shown above, by the Prosecution and by the Defense, is whether or not the articles in question were really concealed articles found in the Jet Snack Restaurant or were articles merely planted there by the accused. Because this issue has such an overbearing importance which will significantly affect the outcome of the case, this Court has very carefully considered it, and has examined meticulously the evidence and the facts and circumstances of the case.

"Certain points and circumstances cannot be overlooked. These are –

"(1) It is to be admitted that the Jet Snack Restaurant, doing business in an international airport, is very much open to the public. More than this, it is open and very conveniently accessible to police authorities and Government agents. For 24 hours, depending on arrivals and departures of planes, present at the MIA are MIA police, Customs police, NBI agents, CIS agents, Immigration agents, and other agents whose presence is necessary in connection with problems usually met at international airports. As a matter of fact, there are various Government offices housed within the Manila International Airport. Under this condition, it is improbable that the Jet Snack Restaurant, so prominently and conspicuously located by the entrance of the MIA, would be utilized as a distributing cell for "blue seal" cigarettes.

"(2) From the testimony of accused Mangubat, it would appear that he did not encounter the slightest difficulty in locating the "blue seal" cigars and cigarettes, allegedly concealed in the Jet Snack Restaurant. This, according to him was so because Wong Ley Shee presented no hindrance at all to his searches and because the articles were so easily found. Accused Mangubat stated that he found "blue seal" articles inside the left shelves, inside the right shelves, in the cash register (one pack), in the shelves under the cash register, AND, OF ALL PLACES, in the display or show window or case (escaparate), open to the view of the general public, that is, to any one who need not even enter the restaurant to eat. If it were true that such "blue seal" articles were in fact concealed in the Jet Snack Restaurant, then, they would have been concealed in a more careful and more prudent way. It is contrary to common sense to keep "contraband" articles in the way accused Mangubat described, the way they were "concealed." In this connection, the reasonable conclusion is that when accused Bello and San Juan were ransacking the premises, as testified to by two Prosecution witnesses, they were then planting the evidence, that is, the "blue seal" cigars and cigarettes which accused Mangubat would later on "discover."

"(3) As already stated above, the "blue seal" cigars and cigarettes were allegedly found, not only in one particular place but in many places; in the shelves to the left, in the shelves to the right, in the cash register, in the shelves under the cash register, and in the show case or display window. The contraband character which attaches to "blue seal" articles would demand extra precaution, if not extreme care, in the way they should be concealed. Prudence would dictate that they should be stored collectively in one place, secreted from the public, known only and accessible only to a numbered few who would, when necessary, have the authority to

get the required quantity of "blue seal" articles from the cache. But, from the testimony of accused Mangubat, it would appear that "blue seal" cigars and cigarettes were literally scattered around the Jet Snack Restaurant. This likewise is against common sense. No reasonable mind will believe it, not unless the articles were hurriedly planted in these several places. Here again, the reasonable conclusion is that accused Bello and San Juan, when they were ransacking the Jet Snack Restaurant premises, as testified to by two Prosecution witnesses, were then planting the evidence, that is, the "blue seal" articles which later on accused Mangubat would unearth.

"(4) The amount of the "blue seal" cigars and cigarettes allegedly found concealed in the Jet Snack Restaurant is admittedly very small. The evidence of the Defense has very clearly disclosed that the total amount of taxes due these articles amounted only to P12.68. To be precise, the "seizure" consisted of 1 box of cigars, 12 packs of cigarettes, and 10 STICKS of cigarettes. Why should the Jet Snack Restaurant, a thriving business concern, engage in such petty scale in the business of 'blue seal' cigarettes? Certainly, the little profit that the Jet Snack Restaurant would obtain from the sale of such small quantity of "blue seal" cigars and cigarettes would not compensate for the loss in case of discovery and seizure proceeding by the Government authorities. The discredit in name of the owner and the restaurant itself could destroy the business. Moreover, the financial loss in 'fixing' any case against it would not be insignificant. As already shown above, the amount originally being extorted to fix the case against the Jet Snack Restaurant was P5 ,000.00 which amount was finally reduced, after much haggling, to P2,500.00. This amount of P2 ,500.00 compared with the tax due of P12.68 makes ridiculous the claim of the Defense that the Jet Snack Restaurant was in the 'blue seal' business. As a thriving restaurant business, the Jet Snack Restaurant, if it ever would enter into this 'blue seal' venture, would do so in a reasonably large scale, providing security against the loss to its restaurant business, which may be total, and to its financial losses should it find it necessary to 'fix' any case against it. Here, again, the reasonable conclusion is that the quantity of the 'SEIZED' cigars and cigarettes was small because these articles were indeed planted evidence. It would be most difficult to plant evidence in big quantities.

"(5) As already stated above, the Jet Snack Restaurant is doing business in an international airport. This special circumstance will determine or dictate the class of people that will patronize its business. Its clientele therefore consists or will consist of outgoing and incoming passengers and those relatives and friends sending them off or welcoming them back. Consequently, this clientele keeps on changing insofar as the travellers are concerned. Viewed in this light, certain results must be admitted. Outgoing passengers will not be buying at the Jet Snack Restaurant 'blue seal' cigars and cigarettes. These articles are plentiful abroad. Incoming passengers are allowed to bring in certain amount of cigarettes tax free. For this reason and because their first concern will be to meet welcoming relatives and friends, these incoming passengers will not excuse themselves and proceed to the Jet Snack Restaurant to provide themselves with 'blue seal' cigarettes. Such a situation would not happen in real life because it is unrealistic. The same can be said of the relatives and friends of these travelers. These relatives and friends perhaps the first time to go to the MIA, would not go to the Jet Snack Restaurant and demand for 'blue seal' cigarettes. How would they know that 'blue seal' cigars and cigarettes would be available there? For to patronize a store dealing in 'blue seal' cigars and cigarettes, more than one casual purchase thereat is necessary. From all these considerations, it cannot be denied that it would verily be a losing and unwise proposition for the Jet Snack Restaurant to engage, at much troublesome risk, in the business of 'blue seal' cigars and cigarettes. This is so because it does business in an international airport where the buying patrons will not buy 'blue seal' cigars and cigarettes.

"The ideal big scale dealer in 'blue seal' cigars and cigarettes should be one with a big bodega or suitable building located in a place not frequented by Government authorities and the public. The ideal small scale dealer in 'blue seal' cigars and cigarettes is the street vendor or peddler. The Jet Snack Restaurant is neither of these.

"(6) The husband of Wong Ley Shee and the father of Wong See Yuen had served in Malacañan under past Presidents. He owns the Jet Snack Restaurant. His character, to prove the improbability that the Jet Snack

Restaurant would deal in 'blue seal' cigars and cigarettes, was not put in issue. The Court, however, considered the age and physical condition of his wife, the now deceased Wong Ley Shee. She was then fifty-six years old, and, as the Defense would picture her, she was a sickly woman on October 8, 1965. It thus becomes improbable that the Jet Snack Restaurant would have engaged in 'blue seal' cigars and cigarettes business and would have placed the same under the charge of this woman, as apparently the Jet Snack Restaurant was placed under her charge on October 8, 1965. This, again, renders incredible the claim of accused Mangubat that he found 'blue seal' cigars and cigarettes concealed in the Jet Snack Restaurant on October 8, 1965. More than this, her age and physical condition, then, made easy for accused Bello and San Juan to plant the evidence. Wong Ley Shee was in the Jet Snack Restaurant alone on October 8, 1965, unassisted by Wong See Yuen or Leticia Wong. The waitresses and the other members of the personnel were too busy to go to her aid.

"(7) One very striking admission by the Defense is the fact that the 'seized' cigars and cigarettes were not marked for identification when they were 'confiscated' allegedly at the Jet Snack Restaurant on October 8, 1965. It is the view of the Court that preserving the identity and integrity of the seized articles in any investigation is as important as preserving available fingerprint marks for absolutely correct identification. Correct identification of the articles involved in seizure proceedings is indispensable. If the accused had really seized the articles from the Jet Snack Restaurant on October 8, 1965, then accused Bello, the leader of the team, should have had any responsible person initial on the outer coverings of the packs of cigarettes and of the box of cigars, and on the paper that should have been used to wrap the loose 10 sticks of cigarettes. The Jet Snack Restaurant has denied possession of the 'blue seal' cigars and cigarettes in question. Who can now be sure that these 'blue seal' cigars and cigarettes were the very ones allegedly 'seized' from the Jet Snack Restaurant? While it is true that the Bureau of Internal Revenue has taken follow-up steps on the report made by accused Bello on these 'seized' articles, this did not improve the situation, for the defense is still there - that these articles were not found at the Jet Snack Restaurant. Under the situation, no one can deny the force of the argument that if the accused, Bello and San Juan, did not in fact plant but found the contraband 'blue seal' articles in the Jet Snack Restaurant on October 8, 1965, then the owner or possessor thereof should have been directed by accused Bello, the head of the team, to initial the same, for the protection of all concerned. The indication is very clear that no such 'blue seal' articles were found concealed at the Jet Snack Restaurant on October 8, 1965.

"(8) Finally, one detail might be mentioned, pointing to the absence of concealed 'blue seal' cigars and cigarettes in the Jet Snack Restaurant on October 8, 1965. This is the fact that accused San Juan, who was allegedly assigned by accused Bello to stay outside the restaurant and watch for people coming out of the restaurant carrying cigars and cigarettes, reported in the negative. It is to be recalled that the three allegedly arrived at the MIA at 11:00 in the morning and, upon arrival, at once began to surveil the place. According to accused Bello, there were many customers that made serving immediately the letter of authority quite improper. Notwithstanding the presence of many customers, accused San Juan saw no one carrying cartoons or packs of cigarettes. This is a persuasive indication that on that date there was no concealed 'blue seal' cigars and cigarettes at the Jet Snack Restaurant, and those seized by the accused were planted evidence.

"Any one of the foregoing circumstances discussed above gives a fair and open mind enough ground to doubt the veracity of the claim of the accused that the 'seized' articles, consisting of 'blue seal' cigars and cigarettes, were found concealed in the Jet Snack Restaurant. Had there been only one or fewer number of these circumstances, the Court would have then favored the accused, considering that they are public servants sworn to faithfully discharge their functions, and that, in fairness, more circumstances are surely needed to find these public servants guilty of a most lowly and contemptible act, that of planting evidence to falsely charge others and thereby financially enrich themselves. But the presence of all the foregoing circumstances above discussed, when their combined effect is considered and evaluated, directs a finding that the 'blue seal' cigars and cigarettes were in fact articles planted by accused Bello and San Juan to serve as incriminating evidence against the Jet Snack Restaurant and Wong Ley Shee and Wong See Yuen." (Pp. 151-160, Appellants' Brief.)

And counsel for the People briefly argues on the same point thus:

"From the testimony of Rosita Katapusan and Elena Bello who were employed as waitresses at the Jet Snack Restaurant, the prosecution was able to establish that appellants Francisco Bello and Eulogio San Juan arrived at the said restaurant at about 12:30 o'clock noon on October 8, 1965; that appellant Bello asked for a glass of water from Rosita Katapusan who was then busy serving the other customers; that after giving Bello a glass of water, he approached Mrs. Wong who was then at the counter eating her lunch; that appellant Bello introduced himself to Mrs. Wong as an agent of the Bureau of Internal Revenue followed by appellant San Juan who likewise introduced himself; that after introducing themselves as BIR agents, appellants Bello and San Juan started ransacking the cabinets and shelves of the counter for blue seal cigarettes; that after appellants had searched the counter for about two minutes, they showed a paper bag to Mrs. Wong containing one box of cigars, 12 packs of cigarettes and 10 sticks of cigarettes; that after showing the said bag to Mrs. Wong, the appellants then forced Mrs. Wong to go with them at their office but Mrs. Wong refused and told them that she had nothing to do with the said bag and said, 'Wag ninyo ako dalhin. Ako'y mayroon sakit, hindi marunong bumasa, hindi marunong sumulat ikaw intay aking anak si Jr. Wong'; and that notwithstanding her plea, the appellants insisted on taking her until she got so frightened and then collapsed later (pp. 3--19, t.s.n., Sept. 9, 1966; pp. 3-14, t.s.n., Oct. 5, 1966).

"It should be noted that the seized cigars and cigarettes were not marked for identification when they were confiscated. If the appellants had really seized the said articles from the Jet Snack Restaurant on October 8, 1965, the leader of the team, appellant Bello, should have marked the articles for identification and their owner or possessor should have been directed to initial the same for the protection of all concerned. The failure of the appellants to comply with this procedure which should be well-known to them as BIR agents clearly show that no such blue seal articles were found at the Jet Snack Restaurant and that the said articles seized by the appellants were planted evidence." (Pp. 12-13, People's Brief.)

We are not persuaded that the above arguments can sufficiently be held to overcome the presumption of regularity in the performance by the accused of their official duty as Internal Revenue agents. Notably, neither of the two prosecution witnesses, Rosita Katapusan and Elena Bello has been shown to have denied the existence of blue seal cigars and cigarettes in the store before the arrival of the accused at the store.

The following testimony of Mr. Wong himself can hardly support the conclusions of the trial court:

"Q - You said that if you will not go with them they will go back to your mother. Whom did they want to get to the BIR, you or your mother?

A - At first they wanted to get my mother and because she was in a critical condition they took me instead.

Q - Mr. Wong, how did you come to know that they wanted to get your mother to the BIR office?

A - Because when I arrived in the restaurant, they introduced themselves to me. And they told me that they found blue seal cigarettes in the store.

Q - When they told you that, did you verify the truth of what they told you that they found blue seal cigarettes in your store?

A - They showed me cigarettes in a paper bag.

Q - Did you ask somebody in the store if what the BIR people told you is true that they found blue seal cigarettes in your store?

A - No, I did not ask. ( tsn, July 31, 1967, pp. 4-5)

xxx xxx xxx

Q - Do you know where the BIR men allegedly took those blue seal cigarettes?

A - No, sir.

Q - Even after the incident you never came to know where they got it?

FISCAL:

The answer would be hearsay, Your Honor.

COURT:

Answer:

A - No, sir.

ATTY. DULAY:

Q - Did it not occur to you to investigate if actually they found those blue seal cigarettes in the restaurant or the place where they got those blue seal cigarettes?

A - No, sir." (Pp. 58-60, Appellant's Brief)

On redirect examination, the witness tried to explain that he did not make any inquiry as to the veracity of the charge of the accused that they found blue seal cigar and cigarettes in their store. He declared:

"Q - In the cross examination you said that you did not bother to investigate where the BIR men allegedly confiscated the cigarettes from your store. Will you tell this Honorable Court the reason why you did not bother to investigate?

A - When they introduce themselves when I arrived I asked for my mother and they told me that she was in the kitchen. So that I proceeded to the kitchen.

Q - Did you at anytime ask the accused where they found that cigarette.

A - No, sir.

Q - Why?

A - Because my mother was already in a critical condition." (Page 63, Appellant's Brief)

Such excuse, however, if somehow reasonable, does not explain why even after the incident, Mr. Wong did not attempt at all to clear up the matter of whether or not there were really blue seal cigars and cigarettes in their store, which, incidentally, is now shown to have been ever denied by him categorically. His testimony was simply that:

"Q - Even after this incident happened you did not even afford to verify the representation made by the BIR men to you that they found blue seal cigarettes in your restaurant?

A - No, sir. ( tsn, July 31, 1967, pp. 9-10.)" (Page 60, Appellant's Brief)

The main argument of the prosecution that the cigars and cigarettes were not properly marked for identification cannot hold water in the face of Mr. Wong's own testimony that he did sign the name "Mario Uy" on what he referred to as a receipt, albeit he alleged that he did so because he was forced by accused Bello and San Juan. He testified on this point thus:

"A - They did not agree.

Q - When the accused did not agree, what happened next?

A - They did not agree and I increased it to P2 ,000.00, but they still did not agree.

Q - Finally, how much?

A - P2 ,500.00. ( tsn, May 15, 1967, pp. 57-58.)

xxx xxx xxx

Q - How do you know that the three accused would not release you unless you give the amount of P2 ,500?

A - Because they demanded P2 ,500.00 from me and if I will not give they will not release me.

Q - Now, when you finally agreed because, according to you, you were forced to do so to give the amount of P2 ,500.00, what happened next?

A - Bello took a booklet from his pocket with a stamp of Republic of the Philippines, Bureau of Internal Revenue.

Q - Will you please tell us, if you know, the reason why Mr. Bello took out that booklet?

A - I do not know the reason, sir, but they forced me to sign.

Q - To sign where?

A - The receipt.

Q - Who forced you to affix your signature in the receipt?

A - San Juan and Bello, sir.

Q - Will you please tell us how you were forced by Bello and San Juan to sign that receipt?

A - They held my hand and they asked me to sign my name in the receipt.

Q - Did you sign that receipt?

A - At first, I did not sign because they were covering the top portion of the receipt.

Q - Who was covering the top portion of that receipt?

A - Bello, sir.

Q - How about Mangubat?

A - He was just sitting.

Q - How about San Juan?

A - San Juan lent me his ball pen. What happened next?

A - I told them, why should I affix my signature when I do not know that and, according to them, "you could sign any name."

Q - Did you finally sign the receipt?

A - I signed the receipt by the name Mario Uy. ( tsn, May 15, 1967, pp. 59-62)" (Pp. 54-56, Appellant's Brief)

Certainly, that "receipt" could not have been for the P2 ,500.00. It must have been an acknowledgment that the "blue seals" were found in their store. And in this connection, the record shows that the corresponding report of the discovery of "blue seals" was made by accused Bello to his office and superiors, which although admitted in

evidence were considered by His Honor as self-serving.

Coming now to the seven "points and circumstances" relied upon by His Honor as proof of the "planting" of the "blue seals" in question, one cannot but immediately note that they are mainly based on conjectures rather than hard facts.

Points (1) and (5) consider it improbable that in such a place where Jet-Snack Restaurant was situated, the Manila International Airport Terminal, could hardly be one where "blue seal" business would be indulged in. According to His Honor, "MIA police, customs police, NBI agents, CIS agents, immigration agents and other agents (government) whose presence is necessary thereat naturally frequent it", thus implying thereby that discovery of such an illegal business therein would be the easiest thing to happen. Upon the other hand, His Honor also figured out that since those coming from abroad would have a lot of "blue seals" with them anyway, neither the incoming passengers nor those who would meet them could be potential clientele of that kind of business.

We feel, however, that as conjectures, they do not necessarily lead to the conclusion of His Honor. Precisely, "blue seals" should be found in greater abundance and should be more available in such a strategic place and, if one may conjecture differently from His Honor, anyone found in possession of "blue seals" thereat can always get away with the explanation that he got it as "pasalubong" from a passenger from abroad.

The case with which accused Mangubat found the "blue seals" in question and the several scattered places where they were placed, "even in the display or show window of the store" constitute the second and third arguments of His Honor. We are not inclined to believe that accused were as naive as to have failed to have considered those points themselves, were there really a conspiracy or plot to "plant" evidence against the store owners. As Internal Revenue agents, We must assume they knew or ought to have known that the finding of "blue seals" in just one inconspicuous place in the restaurant would suffice. Their having been found in different places could only be explained by the Wong's, and precisely because the husband of the older Mrs. Wong had worked in Malacañang (point 6 of the decision) might have given his son some feeling of safety, or, perhaps immunity, what with the dropping of names and connections (friends and acquaintances of his father) he could resort to, and so, he might have felt he could be a little indiscreet.

In point (7) the trial court reasoned out that because San Juan who allegedly remained outside precisely to "surveil" the people going in and out of the restaurant did not see anyone with "blue seals" for practically two hours, necessarily, it follows that no such "blue seal" business was being done there. This point deserves scant consideration, being a veritable non-sequitur. It has not been proven that San Juan searched anyone of those customers. How could he have been sure they had no "blue seals" with them?

Lastly, His Honor considered the small quantity of "blue seals" seized by the accused as indicative of "planting". As far as His Honor could conceive, the Jet-Snack Restaurant, "a thriving business concern", would deal in "blue seals" business only in a big way, hence the discovery of only a small quantity thereof, the taxes on which would have been no more than P12.68, proves that such discovered "blue seals" could not have been part of the business therein. But, as We see it, who knows that what were discovered were all that there were in that restaurant? Besides, the "blue seal" business is not a one-day affair. How much the restaurant had then and had been selling before October 8, 1965, can only be surmised. Withal, it is a matter of public knowledge that generally, the Chinese content themselves with small profit and, as far as "blue seals" were concerned, they were more daring than Filipinos.

Our conclusion, therefore, is that accused did not "plant" the "blue seals" herein involved. They were armed with a warrant authorizing the search of the Jet Snack Restaurant, which indicates that there must have been intelligence reports of an on-going business of "blue seals" thereat. Withal, it is an admitted fact that accused

Mangubat was a neophyte in the Bureau of Internal Revenue, having gained employment therein barely three months before the incident in question. It is difficult to believe that within such a short time, he could be trusted to take part in a conspiracy such as that pretended by the prosecution in this case. If there was indeed a "planting" of evidence by either Bello or San Juan, Mangubat must have been an innocent instrument in the alleged scheme of his two superiors. It is improbable that he would gamble a bright future in such venture. Thus, with the risk of his squealing on them being perilously probable, We are more inclined to believe that the theory of the prosecution that the "blue seals" found in the Jet Snack Restaurant were planted is remote, the evidence tending to prove the same being insufficient to pass the test of being proof beyond reasonable doubt.

Now, with the vital issue of "planting" settled, the death of Mrs. Wong Ley Shee cannot be attributed in any legal sense to any homicidal act on the part of the accused. Even the principle that an accused is liable for any other result of the criminal purpose of his act cannot be applied to them, for the simple reason that in insisting that Mrs. Wong should go with them for investigation in their office, even assuming accused Bello did somehow forcefully pull her and hurried her in eating her lunch, they were only doing what their duty called for. This, of course, is not saying that the accused Bello did not overdo what was warranted by the situation. Even persons caught in *fragrante delicto* must be treated humanly, absent any violent resistance or any indication of possible danger to the life or limb of the apprehending officer.

Now, even viewing the incident differently, and assuming *arguendo* that there was "planting" of the "blue seals" by the accused, it was actually more the fact that Mrs. Wong was already a hypertensive patient and her state of mind when the accused tried to investigate her must have caused her death. If there were in fact no "blue seals" in the premises under her charge, mere pretensions of the accused Bello and San Juan should not have caused her to worry so much as to suffer a stroke and die the day after.

The trial court underscored that she was an old and sickly woman, but such impression seems to Us a little exaggerated. A woman, 56 years of age as the evidence shows Mrs. Wong was, cannot by reasonable standards, be considered as old as His Honor had to be emphatic about; and as far as her hypertension was concerned, it could not have been as apparent as to be known at sight of her by the accused. To Our mind, the more reasonable probability, is that her state of fear and nervousness was due precisely to the fact that the "blue seals" were really found by the accused in the restaurant.

However, as regards the charge of extortion or robbery, We agree with the prosecution and the trial court that the same has been proven beyond reasonable doubt insofar as the accused Bello and San Juan are concerned. However, We cannot find substantial evidence in the record to connect accused Mangubat with the apparent conspiracy of his two companions. That he was somehow present and perhaps within hearing distance when Bello and San Juan, on the one hand, and the young Mr. Wong and his wife, on the other, were haggling about money is not enough evidence to link him to the intention of his companion. Such circumstance, without more, does not necessarily point to actual knowledge and participation by him in what his companions were after.

Likewise, We affirm the holding of the trial court that the said two accused committed the robbery with the aggravating circumstance of abuse of their respective official positions.

In conclusion, it is Our considered opinion that the trial court erred in attributing the death of Mrs. Wong Ley Shee to the accused herein. Her unfortunate death the day after the incident might have been due to shock resulting from her hypertensive condition, but there was no unlawful act on the part of the accused that should have given rise to her apprehensiveness and nervous state, as already discussed above, and, therefore, We have serious, not only reasonable doubt that legal responsibility could be pinned on herein accused for her death. In short, none of the herein accused can be held guilty of homicide.

To be clearer, with reference to the extortion or robbery, it is Our holding that the same was a distinct and separate offense committed by the accused Bello and San Juan, unrelated to the death of Mrs. Wong. Verily, there was robbery, but not robbery with homicide.

The trial court found as also sufficiently proven the other two aggravating circumstances alleged in the information: (1) disregard of age and sex of Mrs. Wong Ley Shee; and (2) employment of fraud, craft and disguise. In view, however, of Our conclusion above regarding the circumstances surrounding the death of Mrs. Wong and that there was no "planting" of "blue seals", contrary to His Honor's finding, it results that these two circumstances should be disregarded. The trial court found that Mrs. Wong was the victim of homicide, albeit the accused did not intend to commit such a grave offense and considered this circumstance merely as mitigating. Needless to say, with Our view of the case such holding has become irrelevant.

ACCORDINGLY, the accused Florencio Mangubat is hereby acquitted, but the accused Francisco Bello and Eulogio San Juan are hereby found guilty beyond reasonable doubt of robbery thru intimidation, with Mr. Wong See Yuen and his wife Leticia as victims in the amount of P2,400.00, with the aggravating circumstance of abuse of their respective official positions, and they are hereby individually sentenced to suffer the penalty of four (4) years of prision correccional as minimum, to ten (10) years, as maximum and to indemnify the spouses Wong See Yuen and Leticia Wong in the sum of Two Thousand Four Hundred (P2,400.00) Pesos, with the corresponding accessory penalties of the law. Accused Bello and San Juan are also ordered to share the payment of the costs half and half.

Makasiar, Concepcion, Jr., Guerrero, Abad Santos, De Castro, Melencio-Herrera, Plana, Escolin, Vasquez, and Relova, JJ., concur.

Fernando, C.J., Teehankee, Aquino, and Gutierrez, Jr., JJ., no part.

**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.