

## THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. GUILLERMO BELLO, DEFENDANT-APPELLANT.

*G.R. No. L-18792. February 28, 1964*

Ponente: REYES, J.B.L., J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/b45829965b93/>

---

### REYES, J.B.L., J.:

Appeal from a judgment of the Court of First Instance of Quezon in its Criminal Case No. 592-G, for murder. The information filed against the accused alleged four (4) aggravating circumstances, namely: treachery, evident premeditation, night-time, and superior strength, the trial court made a finding of "treachery, evident premeditation and in cold blood and without any provocation"; however, the dispositive portion of the appealed decision states as follows:

" \* \* \* , the Court finds the accused Guillermo Bello guilty beyond reasonable doubt of the crime of murder defined and punished by Article 248 of the Revised Penal Code with the aggravating circumstances of (1) night time, (2) abuse of confidence and obvious ungratefulness (3) superior strength off-set only by his surrender to the authorities and hereby sentences him to DIE by electrocution in the manner provided by law ordering his heirs, after his death, to indemnify the heirs of the deceased Alicia Cervantes in the sum of P3,000.00, with costs."

The record bears out, the Office of the Solicitor-General does not challenge, and the counsel de officio agrees with, and adopts, the following findings of fact of the trial court:

"From the evidence adduced at the hearing of the case, it has been established to the satisfaction of the Court (1) that on September 17, 1954 the accused Guillermo Bello, a widower, who at that time was about 54 years of age took a young<sup>1</sup> peasant lady named Alicia Cervantes, about 24 years old, as his common-law wife; (2) that from that day they lived together apparently in blissful harmony as man and wife without the benefit of marriage. bearing-, however no child. \* \* \*; (3) that on May 15, 1958, the accused who had no means of substantial livelihood except that of making "kaingin" and who apparently was then, in financial straits induced Alicia Cervantes to accept an employment as entertainer in a bar and restaurant establishment known as Maring's Place situated at the corner of Aguinaldo and Bonifacio Streets, Gumaca, Quezon; (4) that Alicia Cervantes entered the service of Marine's Place on that day as a public hostess; (5) that the accused being infatuated with his young bride used to watch her movements in Maring's Place everyday; (6) that on May 15 he saw Alicia enter the Gumaca theater in Gumaca with a man whom the accused found later was caressing his common-law wife inside the movie house; (7) that being in love with her he took her out from the movie house and warned her to be more discreet in her personal conduct in Gumaca; (8) that Alicia Cervantes continued to serve at Maring's Place as a public hostess; (9) that on May 20, 1958, at 3:00 p.m. the accused went to Maring's Place to ask for some money from Alicia; (10) that Maring, the owner of the Place, and Alicia refused to give money, Maring telling him to forget Alicia completely because he was already an old man, an invalid besides and should stop bothering Alicia; (11) that having failed to obtain financial assistance from his paramour, the accused left the place somewhat despondent and went home passing Bonifacio Street; (12) that on his way home he met the brothers Justo Marasigan ,and Luis Marasigan who greeted the accused, Luis saying to his brother Justo the following: 'So this is the man whose wife is being used by Maring for white slave trade'; (13)

that these remarks of Luis Marasigan naturally brought grief to the accused, to drown which he sought Paty's place in Gumaca where he drank 5 glasses of tuba; (14) that from Paty's place he went to Realistic Studio which is in front of Maring's Place and from there watched the movements of Alicia; (15) that at about 9:00 o'clock that night he entered Maring's Place and without much ado held Alicia from behind with his left hand in the manner of a boa strangulating its prey and with his right hand stabbed Alicia several times with a balisong; (16) that seeing Alicia fallen on the ground and believing her to be mortally wounded, he fled and went to the municipal building and there surrendered himself to the police of Gumaca."

Both the prosecution and the defense also agree that the crime committed is not murder but only homicide, but they disagree in the qualifying or aggravating and mitigating circumstances. The prosecution holds that the crime is homicide, aggravated by abuse of superior strength, but off-set by voluntary surrender. On the other hand, the defense maintains that the accused is entitled to the additional mitigating circumstance of passion and obfuscation. The trial court held a different conclusion, as earlier stated.

While it cannot be denied that Alicia was stabbed at the back, the wound was but a part and continuation of the aggression. The four (4) stab wounds (the 3 others were in the breast, hypogastric region, and in the left wrist-as shown in the certificate of the Municipal Health Officer) were inflicted indiscriminately, without regard as to which portion of her body was the subject of attack. The trial court itself found that the stab in the back was inflicted as Alicia was running away. For this reason, treachery cannot be imputed (*Peo. vs. Cañete*, 44 Phil. 478).

Evident premeditation was, likewise, not established. The accused had been carrying a balisong with him for a long time as a precaution against drunkards, and without any present plan or intent to use it against his common-law wife. That he watched her movements daily manifested his jealous character, but there is no evidence that from this jealousy sprouted a plan to snuff out her life.

The evidence does not show, either, any superior strength on the part of the accused, and, not possessing it, he could not take advantage of it. True that he was armed with a balisong, but he was old and baldado (invalid), while Alicia was in the prime of her youth, and not infirm. The facts are not sufficient to draw a comparison of their relative strength. Possession of a balisong gives an aggressor a formidable advantage over the unarmed victim, but the physique of the aggressor ought also to be considered. At any rate, taking into account the emotional excitement of the accused, it is not clearly shown that there was "intencion deliberada de prevalerse de la superioridad 6 aproyecharae intencionadamente de la misma" (*Sent. TS. 5 Oct. 1906*), i.e., deliberate intent to take advantage of superior strength.

The crime was committed at night-time, but the accused did not seek or take advantage of it the better to accomplish his purpose. In fact, Maring's Place was bright and well lighted; hence, the circumstance did not aggravate the crime. (*U.S. vs. Ramos, et al.*, 2 Phil. 434; *U. S. vs. Bonete*, 40 Phil. 958).

We can not understand how the trial court came to couple the crime with the aggravating circumstance of abuse of confidence and obvious ungratefulness. There is nothing to show that the assailant and his common-law wife reposed in one another any special confidence that would be abused, or any gratitude owed by one to the other that ought to be respected, and which would bear any retaliation, or connection, with the crime committed. None is inferable from the fact that the accused was much older than his victim, or that he was penniless while she was able to earn a living and occasionally gave him money, since both lived together as husband and wife. Neither is it shown that the accused took advantage of any such special confidence in order to carry out the crime.

Since the aggravating circumstances of treachery, evident premeditation, and abuse of superior strength, which could have qualified the crime as murder, were not present, and since the generic aggravating circumstances of night-time and abuse of confidence and obvious ungratefulness have not been established, the accused can only

be liable for homicide.

Both defense and prosecution agree that accused-appellant is entitled to the benefit of the mitigating circumstance of voluntary surrender to the authorities. The remaining area of conflict is reduced to whether the accused may lay claim to a second mitigating circumstance, that of having acted on a provocation sufficiently strong to cause passion and obfuscation. The defense submits that accused is so entitled, because the deceased's flat rejection of petitioner's entreaties for her to quit her calling as a hostess and return to their former relation, aggravated by her sneering statement that the accused was penniless and invalid (*baldado*), provoked the appellant, as he testified, into losing his head and stabbing the deceased. The state disputes the claim primarily on the strength of the rule that Mission and obfuscation can not be considered when "arising from vicious, unworthy and immoral passions" (*U.S. vs. Hicks*, 14 Phil. 217).

We are inclined to agree with the defense, having due regard to the circumstances disclosed by the record. It will be recalled that the lower court found that the accused had previously reproved the deceased for allowing herself to be caressed by a stranger. Her loose conduct was forcibly driven home to the accused by Marasigan's remark on the very day of the crime that the accused was the husband "whose wife was being used by Maring for purposes of prostitution", a remark that so deeply wounded the appellant's feelings that he was driven to consume a large amount of wine (*tuba*) before visiting Alicia (the deceased) to plead with her to leave her work. Alicia's insulting refusal to renew her liaison with the accused, therefore, was not motivated by any desire to lead a chaste life henceforth, but showed her determination to pursue a lucrative profession that permitted her to distribute her favors indiscriminately. We can not see how the accused's insistence that she live with him again, and his rage at her rejection of the proposal, can be properly qualified as arising from immoral and unworthy passions. Even without benefit of wedlock, a monogamous liaison appears morally of a higher level than gainful promiscuity.

WHEREFORE, the appealed decision should be, and hereby is, modified. This Court finds the accused-appellant, Guillermo Bello, guilty beyond reasonable doubt of the crime of homicide, attended by two (2) mitigating circumstances: (a) passion and obfuscation, and (b) voluntary surrender; and, therefore, imposes upon him an indeterminate sentence ranging from a minimum of six (6) years and one (1) day of prision mayor to a maximum of ten (10) years of prision mayor; orders him also to personally indemnify the heirs of Alicia Cervantes in the amount of P6,000.00, and to pay the costs. So ordered.

Bengzon, C. J., Padilla, Bautista Angelo, Labrador, Concepción, Barrera, Paredes, Dizon, Regala and Makalintal, JJ., concur.

**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.