

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ALEJANDRO DE LA CRUZ, ET AL., DEFENDANTS, ALEJANDRO DE LA
CRUZ, EMMANUEL TORRES AND NICOLAS ARCEO, JR.,
DEFENDANTS-APPELLANTS.**

G.R. No. L-4532. May 26, 1952

Ponente: PARAS, C.J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/caa317c0b960/>

PARAS, C.J.:

The defendants, Alejandro de la Cruz, Emmanuel Torres and Nicolas Arceo, Jr., were charged in the Court of First Instance of Cebu with the crime of frustrated robbery with double homicide and less serious physical injuries. The defendant Emmanuel Torres moved for and was granted a separate trial. The court convicted the three defendants of attempted robbery with double homicide and less serious physical injuries, with the aggravating circumstances of nocturnity and the use of firearms, and sentenced each of them to suffer an indeterminate penalty of from 12 years of prision mayor to 20 years of reclusion temporal, to idemnify jointly and severally the heirs of Timoteo Patigayon and Gaudiosa Patigayon in the amount of 22,000.00 each, plus the costs. From this judgment said defendants-appealed. The Court of Appeals to which the case was originally elevated, certified the same to this Court on the ground that the appellants should have been sentenced to reclusion perpetua.

The evidence for the prosecution, given credence by the trial court, tends to show that at about 9:30 o'clock in the evening of Octofoer 11, 1948, Perfecto Villaban, while going to the house of Celestino Patigayon in sitio Pit-us, barrio of Capasanan, City of Cebu, was accosted by the appellants. Emmanuel Torres held the right arm of Perfecto, pointing a pistol at his back, while Alejandro de la Cruz and Nicolas Arceo, Jr. ordered Perfecto to proceed to the house of Celestino. Upon reaching the house of Celestino, Perfecto announced the presence of the appellants, and asked for help. Celestino was then at the veranda of his house. When the appellants reached the place with Perfecto, Emmanuel kicked Perfecto and, pointing his pistol at Celestino, asked the latter for his money. Upon Celestino's denial that he had money, Emmanuel made reference to Celestino's war damage payment. Celestino still refused to produce the money, whereupon Emmanuel slapped and kicked him. Celestino fell and cried for help. His brother Timoteo Patigayon, who was then in a room, attempted to give aid to Celestino, but Alejandro and Nicolas faced and kicked him. Timoteo fell. After going to the kitchen, Timoteo returned with a bolo. A struggle followed between Alejandro and Timoteo, during which Alejandro fired three shots, the first hitting Timoteo in the abdomen, and the last hitting Gaudiosa Patigayon, daughter of Celestino, on the left side of her. body, and Benita Ople de Patigayon, wife of Celestino, on her left leg. Emmanuel also fired at Celestino who was not however hit, because Celestino was able to sway the hand of Emmanuel. Thereafter, appellants sped away.

In the same evening, Celestino Patigayon reported the incident to the police station at Talamban, Cebu City, informing policeman Tomas Tariman that Emmanuel, his neighbor, was one of the malefactors and that, although he could not name the other two, he could identify them upon sight. Policemen Tomas Tariman, Ignacio Famador

and Jesus Tudtud thereupon proceeded to the house of Celestino where they found Timoteo, Gaudiosa, and Benita wounded. These three were taken by policemen Tariman and Tudtud to the hospital. Timoteo died on the way, while Gaudiosa died in the hospital. Benita recovered after medical treatment which lasted for about 30 days.

In the meantime, policeman Ignacio Famador, who was left behind, watched the house of Emmanuel, noted that its inmates were uneasy, and heard someone ask for medicine. This led the policeman to stay and observe further, specially because he was previously informed that one/of the malefactors was wounded. At about 6:00 o'clock in the morning of October 12, 1948, Ignacio Famador, together with policeman Tomas Tariman who had then returned, saw Nicolas Arceo, Jr. coming down from the house of Emmanuel Torres. When Nicolas was informed that the two victims Timoteo and Gaudiosa in the house of Celestino had died, he became nervous, a reaction that caused the policemen to arrest him. Emmanuel was called from his house by the policemen, and when Tariman held him by the shoulder, Emmanuel said: "I have no wound". The policemen, however, noted blood stains on the right side of Emmanuel's pants and on the front part of his shoes. Emmanuel and Nicolas were then taken to the police station and investigated by policemen Tomas Tariman and Pedro Senoria. In the course of the investigation, the two confessed that they went to the house of Celestino on the night of October 11, 1948; that Alejandro de la Cruz was concealed by them thirty meters away from the house of Emmanuel that the pistol used in the crime was in the possession of the sister of Emmanuel's wife. As a matter of fact, the policemen, guided by Nicolas, found Alejandro with a wound, and recovered the pistol from the sister-in-law of Emmanuel. On October 13, 1948, the appellants in separate written confessions admitted their presence in the house of Celestino on the night in question, for the purpose of robbing the money which Celestino received in payment of his war damage claim.

The evidence for appellant Alejandro de la Cruz tends to show that on October 10, 1948, he and his co-appellants Passed the night in Cebu City in the house of a friend of Emmanuel. At about 7:00 o'clock in the evening of October 11, 1948, they left Cebu City for the home of Emmanuel. On the way, Emmanuel invited Alejandro and Nicolas to attend a "novena" in a certain house. Alejandro and Nicolas found no people in the house, but Alejandro and Emmanuel went therein, Alejandro staying in the balcony and Nicolas remaining downstairs. Emmanuel conversed with someone in Cebu Visayan dialect which Alejandro did not understand. Emmanuel then asked Alejandro to return the former's pistol, after which Alejandro received a blow on the ear and fell. Alejandro was given another blow, and he felt that he was dying. Thereupon he ran away and heard three pistol shots.

The evidence for appellant Nicolas Arceo, Jr. tends to show that on October 11, 1948, he and his co-appellants enjoyed themselves in Cebu City. In the evening of October 11, 1948, upon the request of Emmanuel, they left for their home in a truck. On the way, Emmanuel suggested that they attend a "novena" in a certain house belonging to a neighbor of Emmanuel. Nicolas agreed to the proposition, hoping to buy mangoes from people that he would meet. Although there were no people in the house, Emmanuel and Alejandro went therein, while Nicolas remained (townstairs, wanting to go to the place of Emmanuel. Nicolas saw Emmanuel converse with an inmate of the house in Visayan dialect. Subsequently Nicolas heard a shot. He thereupon ran to the house of Emmanuel. Upon reaching the latter's place, he saw Alejandro following him.

The evidence for appellant Emmanuel Torres tends to show that in the evening of October 11, 1948, the appellants boarded a truck in Cebu City bound for Pit-us. On the way, the appellants found that the truck could not proceed, as the brook between Cebu and Pit-us was overflowed. The appellants left the truck and proceeded on foot. Along the way, Nicolas told Emmanuel that he intended to go to the house of Celestino Patigayon, in view of information that Celestino had mangoes for sale. Emmanuel objected but Nicolas insisted. Emmanuel announced that he could not go with Nicolas and Alejandro to the house of Celestino because his child was ill. Nicolas then intimated that he and Alejandro would go. Emmanuel then left for his home, but hardly had he gone

away for five or ten minutes when he heard three gun shots. Before long, Alejandro and Nicolas returned to the house of Emmanuel.

Noting that Alejandro was wounded, Emmanuel asked Nicolas what happened, and the latter replied that an altercation took place between him and Nicolas. Emmanuel, suspecting that Nicolas had not told the truth, took hold of the pistol which Nicolas placed on the table, and upon threat of death, Emmanuel was able to get a confession from Nicolas to the effect that Alejandro was wounded by a bolo in the house of Celestino and Alejandro shot three persons in said house.

After a careful review of the record, we are convinced that the trial court correctly convicted the appellants. The testimony of Perfecto Villaban, Celestino Patigayon and Benita Ople de Patigayon, all eyewitnesses, is positive and we have found no reason for altering the findings of the trial judge who was able to observe their demeanor during the trial. Said eyewitnesses were not proven to have had any reason for testifying falsely against the appellants. The latter's identity cannot be doubted, since Emmanuel Torres was a neighbor of Celestino Patigayon, and when the appellants came into the house, there were still lights.

Neither can there be doubt as to the motive of the crime, because it is an established fact that Celestino Patigayon had received in the morning of October 11, 1948, the payment of his war damage claim. That robbery was intended by the appellants is confirmed, furthermore, by the separate oral admissions of the appellants when they were investigated by the police authorities and by their written confessions made on October 13, 1948 and sworn to before Judge Filomeno Ibañez of the Municipal Court of Cebu. It is noteworthy that, except appellant Nicolas Arceo, Jr. who tried to demonstrate that he executed his confession because of the promise of policeman Pedro Senoria that the latter would help him, the other two appellants made no attempt to deny the facts contained in their confessions or to allege that these were involuntary. Even Nicolas did not try to impugn the truth of his confession in connection with the robbery in the house of Celestino Patigayon.

It is also significant that, even under the theory of the appellants, the fact remains that they were together on the day previous to October 11, 1948, and in the evening of this latter date; that they were present in or around the Premises of Celestino Patigayon during said evening although each appellant merely tried to exculpate himself and incriminate the others. Their admitted presence lends support to the theory of the prosecution, especially in view of the positive testimony of the three eyewitnesses. There is, moreover, the undeniable fact that Alejandro de la Cruz was found wounded at the place indicated by his co-appellants—in the bushes near the house of Emmanuel Torres,—and that the pistol used by Alejandro was recovered from the sister-in-law of Emmanuel Torres.

The trial court found the appellants guilty of attempted robbery with double homicide and less serious physical injuries, although Alejandro de la Cruz alone fired the fatal shots, for the reason that all conspired in the robbery. This finding is correct. Apart from their separate confessions that their purpose was robbery, the following circumstances have been correctly found by the trial court as indicating appellants' community of purpose:

- (1) The appellants boarded the same truck in going to Pit-us, Talamban, from the City of Cebu, and alighted at the same time on the road leading to the house of Celestino Patigayon.
- (2) The appellants were seen together by Perfecto Villaban before Emmanuel Torres caught and held Perfecto by the arm.
- (3) While Emmanuel was holding Perfecto by the arm and pressing his pistol against the back of Perfecto, Alejandro de la Cruz and Nicolas Arceo, Jr. were close behind and ordered Perfecto to proceed to Celestino's house. '
- (4) After Celestino shouted at his brother Timoteo for help, after he was kicked by Emmanuel in the verafida,

Alejandro and Nicolas confronted and kicked Timoteo as the latter attempted to help Celestino, although in the struggle Timoteo succeeded in wounding Alejandro.

(5) Immediately after Alejandro fired shots, and seeing the resistance of the inmates of the house, the appellants rushed away.

(6) The appellants proceeded towards the same direction, that is, the house of Emmanuel where the wounds of Alejandro were treated.

(7) His co-appellants hid Alejandro behind the bushes not far from the house of Emmanuel obviously to avoid discovery by the police authorities.

(8) The pistol used by Alejandro was found in the possession of Emmanuel's sister-in-law.

"Whenever a homicide has been committed as a consequence or on the occasion of a robbery, all those who took part as principals in the commission of the robbery will also be held guilty as principals in the complex crime of robbery with homicide, although they did not actually take part in the homicide, unless it clearly appeared that they endeavored to prevent the homicide." (People vs. Bautista, 49 Phil. 389, 396, citing U. S. vs. Macalalad, 9 Phil. 1.)

The alleged inconsistencies of the principal witnesses for the prosecution, pointed out by counsel for the appellants, refer to unimportant details and cannot negative or destroy the combined weight of their testimony as to the essential acts of the appellants.

The trial court, in sentencing the appellants to the penalty hereinbefore mentioned, took into account the aggravating circumstances of nocturnity and the use of firearm, and held that "the penalty of the more serious crime should therefore be imposed in its maximum period," citing article 294, paragraph 1, and article 249, in relation to article 48, of the Revised Penal Code. As correctly pointed out by the Solicitor General, the crime of attempted robbery with double homicide and less serious physical injuries is penalized, under article 297 of the Revised Penal Code, by reclusion temporal in its maximum period to reclusion perpetua, which should be imposed in its maximum period, in view of the aggravating circumstances of nocturnity and dwelling, without any mitigating circumstance.

It being understood, therefore, that the appellants are each sentenced to reclusion perpetua the appealed judgment is in all other respects affirmed. So ordered with costs against the appellants.

Feria, Pablo, Bengzon, Tuason, Montemayor, Bautista Angelo, and Labrador, 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.