

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. ANTONIO TOLING Y ROVERO AND JOSE TOLING Y ROVERO, DEFENDANTS AND APPELLANTS.

G.R. No. L-27097. January 17, 1975

Ponente: AQUINO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/f2aa525d3f19/>

AQUINO, J.:

Antonio Toling and Jose Toling, brothers, appealed from the decision of the Court of First Instance of Laguna, finding them guilty of multiple murder and attempted murder, sentencing them to death and ordering them to indemnify each set of heirs of (1) Teresita B. Escanan, (2) Antonio B. Mabisa, (3) Isabelo S. Dando, (4) Elena B. Erminio, (5) Modesta R. Brondial, (6) Isabel Felices and (7) Teodoro F. Bautista in the sum of P6,000 and to pay Amanda Mapa the sum of P500 (Criminal Case No. SC-966). The judgment of conviction was based on the following facts:

Antonio Toling and Jose Toling, twins, both married, are natives of Barrio Nenita which is about eighteen (or nine) kilometers away from Mondragon, Northern Samar. They are illiterate farmers tilling their own lands. They were forty-eight years old in 1966. Antonio is one hour older than Jose. Being twins, they look alike very much. However, Antonio has a distinguishing cut in his left ear (44 tsn Jan. 14, 1966).

Antonio's daughter, Leonora, was working in Manila as a laundrywoman since September, 1964. Jose's three children, one girl and two boys, had stayed in Manila also since 1964.

Antonio decided to go to Manila after receiving a letter from Leonora telling him that she would give him money. To have money for his expenses, Antonio killed a pig and sold the meat to Jose's wife for sixty pesos. Jose decided to go with Antonio in order to see his children. He was able to raise eighty-five pesos for his expenses.

On January 6, 1965, with a bayong containing their pants and shirts, the twins left Barrio Nenita and took a bus to Allen. From there, they took a launch to Matnog, Sorsogon. From Matnog, they went to Daraga, Albay on board an Alatco bus, and from Daraga, they rode on the train, arriving at the Paco railroad station in Manila at about seven o'clock in the morning of January 8th. It was their first trip to the big city.

At the Paco station, the twins took a jeepney which brought them to Tondo. By means of a letter which Aniano Espenola, a labor-recruiter, had given them, they were able to locate an employment agency where they learned the address of the Eng Heng Glassware. Antonio's daughter was working in that store. Accompanied by Juan, an employee of the agency, they proceeded to her employer's establishment. Leonora gave her father fifty pesos. Sencio Rubis, Antonio's grandson, gave him thirty pesos. Antonio placed the eighty pesos in the right pocket of his pants. It was then noontime.

Jose was not able to find any of his children in the city. The twins returned to the agency where they ate their lunch at Juan's expense. From the agency, Juan took the twins to the Tutuban railroad station that same day, January 8th, for their homeward trip.

After buying their tickets, they boarded the night Bicol express train at about five o'clock in the afternoon. The train left at six o'clock that evening.

The twins were in coach No. 9 which was the third from the rear of the dining car. The coach had one row of two-passenger seats and another row of three-passenger seats. Each seat faced an opposite seat. An aisle separated the two rows. The brothers were seated side by side on the fourth three-passenger seat from the rear, facing the back door. Jose was seated between Antonio, who was near the window, and a three-year old boy. Beside the boy was a woman breast-feeding her baby who was near the aisle. That woman was Corazon Bernal. There were more than one hundred twenty passengers in the coach. Some passengers were standing on the aisle.

Sitting on the third seat and facing the brothers were two men and an old woman who was sleeping with her head resting on the back of the seat (Exh. 2). On the two-passenger seat across the aisle in line with the seat where the brothers were sitting, there were seated a fat woman, who was near the window, and one Cipriano Reganet who was on her left. On the opposite seat were seated a woman, her daughter and Amanda Mapa with an eight-month old baby. They were in front of Reganet.

Two chico vendors entered the coach when the train stopped at Cabuyao, Laguna. The brothers bought some chicos which they put aside. The vendors alighted when the train started moving. It was around eight o'clock in the evening.

Not long after the train had resumed its regular speed, Antonio stood up and with a pair of scissors (Exh. B) stabbed the man sitting directly in front of him. The victim stood up but soon collapsed on his seat.

For his part, Jose stabbed with a knife (Exh. A) the sleeping old woman who was seated opposite him. She was not able to get up anymore.[1]

Upon seeing what was happening, Amanda Mapa, with her baby, attempted to leave her seat, but before she could escape Jose stabbed her, hitting her on her right hand with which she was supporting her child (Exh. D-2). The blade entered the dorsal side and passed through the palm. Fortunately, the child was not injured. Most of the passengers scurried away for safety but the twins, who had run amuck, stabbed everyone whom they encountered inside the coach.[2]

Among the passengers in the third coach was Constabulary Sergeant Vicente Z. Rayel, a train escort who, on that occasion, was not on duty. He was taking his wife and children to Calauag, Quezon. He was going to the dining car to drink coffee when someone informed him that there was a stabbing inside the coach where he had come from. He immediately proceeded to return to coach No. 9. Upon reaching coach No. 8, he saw a dead man sprawled on the floor near the toilet. At a distance of around nine meters, he saw a man on the platform separating coaches Nos. 8 and 9, holding a knife between the thumb and index finger of his right hand, with its blade pointed outward. He shouted to the man that he (Rayel) was a Constabularyman and a person in authority and Rayel ordered him to lay down his knife (Exh. A) upon the count of three, or he would be shot.

Instead of obeying, the man changed his hold on the knife by clutching it between his palm and little finger (with the blade pointed inward) and, in a suicidal impulse, stabbed himself on his left breast. He slowly sank to the floor and was prostrate thereon. Near the platform where he had fallen, Rayel saw another man holding a pair of scissors (Exh. B). He retreated to the steps near the platform when he saw Rayel armed with a pistol.

Rayel learned from his wife that the man sitting opposite her was stabbed to death.

Constabulary Sergeant Vicente Aldea was also in the train. He was in the dining car when he received the information that there were killings in the third coach. He immediately went there and while at the rear of the

coach he met Mrs. Mapa who was wounded. He saw Antonio stabbing with his scissors two women and a small girl and a woman who was later identified as Teresita B. Escanan (Exh. I to I-3). Antonio was not wounded. Those victims were prostrate on the seats of the coach and on the aisle.

Aldea shouted at Antonio to surrender but the latter made a thrust at him with the scissors. When Antonio was about to stab another person, Aldea stood on a seat and repeatedly struck Antonio on the head with the butt of his pistol, knocking him down. Aldea then jumped and stepped on Antonio's buttocks and wrested the scissors away from him. Antonio offered resistance despite the blows administered to him.

When the train arrived at the Calamba station, four Constabulary soldiers escorted the twins from the train and turned them over to the custody of the Calamba police. Sergeant Rayel took down their names. The bloodstained scissors and knife were turned over to the Constabulary Criminal Investigation Service (CIS).

Some of the victims were found dead in the coach while others were picked up along the railroad tracks between Cabuyao and Calamba. Those who were still alive were brought to different hospitals for first-aid treatment. The dead numbering twelve in all were brought to Funeraria Quiogue, the official morgue of the National Bureau of Investigation (NBI) in Manila, where their cadavers were autopsied (Exh. C to C-11). A Constabulary photographer took some pictures of the victims (Exh. G to I-2, J-1 and J-2).

Of the twelve persons who perished, eight, whose bodies were found in the train, died from stab wounds, namely:

- Isabel Felices, 60 housewife, Ginlajon, Sorsogon.
- Antonio B. Mabisa, 28, married, laborer, Guinayangan, Quezon.
- Isabelo S. Dando, 45, married, Paracale, Camarines Norte.
- Susana C. Hernandez, 46, married, housekeeper, Jose Panganiban, Camarines Norte.
- Teodoro F. Bautista, 72, married, Nawasa employee, San Juan, Rizal.
- Modesta R. Brondial, 58, married, housekeeper, Legaspi City.
- Elena B. Erminio, 10 student, 12 Liberty Avenue, Cubao, Quezon City and
- Teresita B. Escanan, 25, housemaid, 66 Menlo Street, Pasay City (Exh. C to C-3, C-7, C-8, C-9, C-11, L to L-2, N to N-2, O to O-2, P to P-2, Q to Q-2, R to R-2 and T to T-2).

Four dead persons were found near the railroad tracks. Apparently, they jumped from the moving train to avoid being killed. They were:

- Timoteo U. Dimaano, 53, married, carpenter, Miguelin, Sampaloc Manila.
- Miguel C. Oriarte, 45, married, Dalagan Lopez, Quezon.
- Salvador A. Maqueda, 52, married, farmer, Lopez, Quezon and
- Shirley A. Valenciano, 27, married, housekeeper, 657-D Jorge Street, Pasay City (Exh. C-4, C-5, C-6, C-10, J, J-1, J-2, K to K-2, M to M-3 and S to S-2).

Among the injured were Lucila Pantoja, Baby X, Mrs. X, Mrs. Amanda Mapa-Dizon. Brigida Sarmiento-Palma, Cipriano Reganet and Corazon Bernal-Astrolavio (Exh. D to D- 5), Mrs. Astrolavio supposedly died later (43 tsn January 14, 1966).

Mrs. Mapa declared that because of the stab wound inflicted upon her right hand by Jose Toling, she was first brought to the Calamba Emergency Hospital. Later, she was transferred to the hospital of the Philippine National

Railways at Caloocan City where she was confined for thirteen days free of charge. As a result of her injury, she was not able to engage in her occupation of selling fish for one month, thereby losing an expected earning of one hundred fifty pesos. When she ran for safety with her child, she lost clothing materials valued at three hundred pesos aside from two hundred pesos cash in a paper bag which was lost.

The case was investigated by the Criminal Investigation Service of the Second Constabulary Zone headquarters at Camp Vicente Lim, Canlubang, Laguna. On January 9, 1965 Constabulary investigators took down the statements of Mrs. Mapa-Dizon, Cipriano Reganet, Corazon Bernal, Brigida de Sarmiento and Sergeant Aldea. On that date, the statements of the Toling brothers were taken at the North General Hospital. Sergeant Rayel also gave a statement.

Antonio Toling told the investigators that while in the train he was stabbed by a person "from the station" who wanted to get his money. He retaliated by stabbing his assailant. He said that he stabbed somebody "who might have died and others that might not". He clarified that in the train four persons were asking money from him. He stabbed one of them. "It was a holdup".

He revealed that after stabbing the person who wanted to rob him, he stabbed other persons because, inasmuch as he "was already bound to die", he wanted "to kill everybody" (Exh. X or 8, 49 tsn Sept. 3, 1965).

Jose Toling, in his statement, said that he was wounded because he was stabbed by a person "from Camarines" who was taking his money. He retaliated by stabbing his assailant with the scissors. He said that he stabbed two persons who were demanding money from him and who were armed with knives and iron bars.

When Jose Toling was informed that several persons died due to the stabbing, he commented that everybody was trying "to kill each other" (Exh. 1-A).

According to Jose Toling, two persons grabbed the scissors in his pocket and stabbed him in the back with the scissors and then escaped. Antonio allegedly pulled out the scissors from his back, gave them to him and told him to avenge himself with the scissors.

On January 20, 1965 a Constabulary sergeant filed against the Toling brothers in the municipal court of Cabuyao, Laguna a criminal complaint for multiple murder and multiple frustrated murder. Through counsel, the accused waived the second stage of the preliminary investigation. The case was elevated to the Court of First Instance of Laguna where the Provincial Fiscal on March 10, 1965 filed against the Toling brothers an information for multiple murder (nine victims), multiple frustrated murders (six victims) and triple homicide (as to three persons who died after jumping from the running train to avoid being stabbed).

At the arraignment, the accused, assisted by their counsel de oficio pleaded not guilty. After trial, Judge Arsenio Nañawa rendered the judgment of conviction already mentioned. The Toling brothers appealed.

In this appeal, appellants' counsel de oficio assails the credibility of the prosecution witnesses, argues that the appellants acted in self-defense and contends, in the alternative, that their criminal liability was only for two homicides and for physical injuries.

According to the evidence for the defense (as distinguished from appellants' statements, Exhibits 1 and 8), when the Toling twins were at the Tutuban Railroad Station in the afternoon of January 8, 1965, Antonio went to the ticket counter to buy tickets for himself and Jose. To pay for the tickets, he took out his money from the right pocket of his pants and later put back the remainder in the same pocket. The two brothers noticed that four men at some distance from them were allegedly observing them, whispering among themselves and making signs. The twins suspected that the four men harbored evil intentions towards them.

When the twins boarded the train, the four men followed them. They were facing the twins. They were talking in a low voice. The twins sat on a two-passenger seat facing the front door of the coach, the window being on the right of Antonio and Jose being to his left. Two of the four men, whom they were suspecting of having evil intentions towards them, sat on the seat facing them, while the other two seated themselves behind them. Some old women were near them. When the train was already running, the man sitting near the aisle allegedly stood up, approached Antonio and pointed a balisong knife at his throat while the other man who was sitting near the window and who was holding also a balisong knife attempted to pick Antonio's right pocket, threatening him with death if he would not hand over the money. Antonio answered that he would give only one-half of his money provided the man would not hurt him, adding that his (Antonio's) place was still very far.

When Antonio felt some pain in his throat, he suddenly drew out his hunting knife or small bolo (eight inches long including the handle) from the back pocket of his pants and stabbed the man with it, causing him to fall to the floor with his balisong. He also stabbed the man who was picking his pocket. Antonio identified the two men whom he had stabbed as those shown in the photographs of Antonio B. Mabisa (Exh. L-1 and L-2 or 5-A and 5-B) and Isabelo S. Dando (Exh. N-1 and N-2 or 7-A and 7-B). While Antonio was stabbing the second man, another person from behind allegedly stabbed him on the forehead, causing him to lose consciousness and to fall on the floor (Antonio has two scars on his forehead and a scar on his chest and left forearm, 85 87 tsn). He regained consciousness when two Constabulary soldiers raised him. His money was gone.

Seeing his brother in a serious condition, Jose stabbed with the scissors the man who had wounded his brother. Jose hit the man in the abdomen. Jose was stabbed in the back by somebody. Jose stabbed also that assailant in the middle part of the abdomen, inflicting a deep wound.

However, Jose did not see what happened to the two men whom he had stabbed because he was already weak. He fell down and became unconscious. He identified Exhibit A as the knife used by Antonio and Exhibit B as the scissors which he himself had used. He recovered consciousness when a Constabulary soldier brought him out of the train.

The brothers presented Doctor Leonardo del Rosario, a physician of the North General Hospital who treated them during the early hours of January 9, 1965 and who testified that he found the following injuries on Antonio Toling:

"Wound, incised, 1-1/4 inches (sutured), frontal, right; 3-1/2 inches each, mid-frontal (wound on the forehead) and

"Wound, stabbed, 3/4 inch, 1 inch medial to anterior axillary line, level of 3rd ICS, right, penetrating thoracic cavity" (chest wound) (Exh. 11).

and on Jose Toling a stab wound, one inch long on the paravertebral level of the fifth rib on the left, penetrating the thoracic cavity (Exh. 10). The wound was on the spinal column in line with the armpit or "about one inch from the midline to the left" (113 tsn). The twins were discharged from the hospital on January 17th.

The trial court, in its endeavor to ascertain the motive for the twin's rampageous behavior, which resulted in the macabre deaths of several innocent persons, made the following observations:

"What could be the reason or motive that actuated the accused to run amuck? It appears that the accused travelled long over land and sea spending their hard-earned money and suffering privations, even to the extent of forgoing their breakfast, only to receive as recompense with respect to Antonio the meager sum of P50 from his daughter and P30 from his grandson and with respect to Jose to receive nothing at all from any of his three children whom he could not locate in Manila.

"It also appears that the accused, who are twins are queerly alike, a fact which could easily invite some people to stare or gaze at them and wonder at their very close resemblance. Like some persons who easily get angry when stared at, however, the accused, when stared at by the persons in front of them, immediately suspected them as having evil intention towards them (accused).

"To the mind of the Court, therefore, it is despondency on the part of the accused coupled with their unfounded suspicion of evil intention on the part of those who happened to stare at them that broke the limit of their self-control and actuated them to run amuck."

We surmise that to the captive spectators in coach No. 9 the spectacle of middle-aged rustic twins, whom, in the limited space of the coach, their co-passengers had no choice but to notice and gaze at, was a novelty. Through some telepathic or extra-sensory perception the twins must have sensed that their co-passengers were talking about them in whispers and making depreciatory remarks or jokes about their humble persons. In their parochial minds, they might have entertained the notion or suspicion that their male companions, taking advantage of their ignorance and naivete, might victimize them by stealing their little money. Hence, they became hostile to their co-passengers. Their pent-up hostility erupted into violence and murderous fury.

A painstaking examination of the evidence leads to the conclusion that the trial court and the prosecution witnesses confounded one twin for the other. Such a confusion was unavoidable because the twins, according to a Constabulary investigator, are "very identical". Thus, on the witness stand CIS Sergeants Alfredo C. Orbase and Liberato Tamundong, after pointing to the twins, refused to take the risk of identifying who was Antonio and who was Jose. They confessed that they might be mistaken in making such a specific identification (28 tsn September 3, 1965; 32 tsn November 5, 1965).

In our opinion, to ascertain who is Antonio and who is Jose, the reliable guides would be their sworn statements (Exh. 1 and 8), executed one day after the killing, their own testimonies and the medical certificates (Exh. 10 and 11). Those parts of the evidence reveal that the one who was armed with the knife was Antonio and the one who was armed with the scissors was Jose. The prosecution witnesses and the trial court assumed that Antonio was armed with the scissors (Exh. B) and Jose was armed with the knife (Exh. A). That assumption is erroneous.

In his statement and testimony, Antonio declared that he was armed with a knife, while Jose declared that he was armed with the scissors which Antonio had purchased at the Tutuban station, before he boarded the train and which he gave to Jose because the latter is a barber whose old pair of scissors was already rusty. As thus clarified, the person whom Sergeant Rayel espied as having attempted to commit suicide on the platform of the train by stabbing himself on the chest would be Antonio (not Jose). That conclusion is confirmed by the medical certificate, Exhibit 11, wherein it is attested that Antonio had a wound in the chest. And the person whom Sergeant Aldea subdued after the former had stabbed several persons with a pair of scissors (not with a knife) was Jose and not Antonio. That fact is contained in his statement of January 9, 1965 (p. 9, Record).

The mistake of the prosecution witnesses in taking Antonio for Jose and vice-versa does not detract from their credibility. The controlling fact is that those witnesses confirmed the admission of the twins that they stabbed several passengers.

Appellants' counsel based his arguments on the summaries of the evidence found in the trial court's decision. He argues that the testimonies of Sergeants Rayel and Aldea are contradictory but he does not particularize on the supposed contradictions.

The testimonies of the two witnesses do not cancel each other. The main point of Rayel's testimony is that he saw one of the twins stabbing himself in the chest and apparently trying to commit suicide. Aldea's testimony is that he knocked down the other twin, disabled him and prevented him from committing other killings.

It may be admitted that Rayel's testimony that Aldea took the knife of Jose Toling was not corroborated by Aldea. Neither did Aldea testify that Antonio was near Jose on the platform of the train. Those discrepancies do not render Rayel and Aldea unworthy of belief. They signify that Aldea and Rayel did not give rehearsed testimonies or did not compare notes.

Where, as in this case, the events transpired in rapid succession in the coach of the train and it was nighttime, it is not surprising that Rayel and Aldea would not give identical testimonies (See 6 Moran's Comments on the Rules of Court, 1970 Ed. 139-140; *People vs. Resayaga*, L-23234, December 26, 1973, 54 SCRA 350). There is no doubt that Aldea and Rayel witnessed some of the acts of the twins but they did not observe the same events and their powers of perception and recollection are not the same.

Appellants' counsel assails the testimony of Mrs. Mapa. He contends that no one corroborated her testimony that one of the twins stabbed a man and a sleeping woman sitting on the seat opposite the seat occupied by the twins. The truth is that Mrs. Mapa's testimony was confirmed by the necropsy reports and by the twins themselves who admitted that they stabbed some persons.

On the other hand, the defense failed to prove that persons, other than the twins, could have inflicted the stab wounds. There is no doubt as to the corpus delicti. And there can be no doubt that the twins, from their own admissions (Exh. 1 and 8) and their testimonies, not to mention the testimonies of Rayel, Aldea, Mrs. Mapa and the CIS investigators, were the authors of the killings.

Apparently, because there was no doubt on the twins' culpability, since they were caught in flagrante delicto, the CIS investigators did not bother to get the statements of the other passengers in Coach No. 9. It is probable that no one actually saw the acts of the twins from beginning to end because everyone in Coach No. 9 was trying to leave it in order to save his life. The ensuing commotion and confusion prevented the passengers from having a full personal knowledge of how the twins consummated all the killings.

On the other hand, the twins' theory of self-defense is highly incredible. In that crowded coach No. 9, which was lighted, it was improbable that two or more persons could have held up the twins without being readily perceived by the other passengers. The twins would have made an outcry had there really been an attempt to rob them. The injuries, which they sustained, could be attributed to the blows which the other passengers inflicted on them to stop their murderous rampage.

Appellants' view is that they should be held liable only for two homicides, because they admittedly killed Antonio B. Mabisa and Isabelo S. Dando, and for physical injuries because they did not deny that Jose Toling stabbed Mrs. Mapa. We have to reject that view.

Confronted as we are with the grave task of passing judgment on the aberrant behavior of two yokels from the Samar hinterland, who reached manhood without coming into contact with the mainstream of civilization in urban areas, we exercised utmost care and solicitude in reviewing the evidence. We are convinced that the record conclusively establishes appellants' responsibility for the eight killings.

To the seven dead persons whose heirs should be indemnified, according to the trial court, because they died due to stab wounds, should be added the name of Susana C. Hernandez (Exh. P, P-1 and P-2). The omission of her name in the trial court's judgment was probably due to inadvertence.

According to the necropsy reports, four persons, namely, Shirley A. Valenciano, Salvador A. Maqueda, Miguel C. Oriarte and Timoteo U. Dimaano, died due to multiple traumatic injuries consisting of abrasions, contusions, lacerations and fractures on the head, body and extremities (Exh. J to J-2, K to K-2, M to M-2 and S to S-2).

The conjecture is that they jumped from the moving train to avoid being killed but in so doing they met their untimely and horrible deaths. The trial court did not adjudge them as victims whose heirs should be indemnified. As to three of them, the information charges that the accused committed homicide. The trial court dismissed that charge for lack of evidence.

No one testified that those four victims jumped from the train. Had the necropsy reports been reinforced by testimony showing that the proximate cause of their deaths was the violent and murderous conduct of the twins, then the latter would be criminally responsible for their deaths.

Article 4 of the Revised Penal Code provides that "criminal liability shall be incurred by any person committing a felony (delito) although the wrongful act done be different from that which he intended". The presumption is that "a person intends the ordinary consequences of his voluntary act" (Sec. 5[c] Rule 131, Rules of Court).

The rule is that "if a man creates in another man's mind an immediate sense of danger which causes such person to try to escape, and in so doing he injures himself, the person who creates such a state of mind is responsible for the injuries which result" (Reg. vs. Halliday, 61 L. T. Rep. [N.S.] 701, cited in U.S. vs. Valdez, 41 Phil. 497, 500).

Following that rule, it was held that "if a person against whom a criminal assault is directed reasonably believes himself to be in danger of death or great bodily harm and in order to escape jumps into the water, impelled by the instinct of self-preservation, the assailant is responsible for homicide in case death results by drowning" (Syllabus, U.S. vs. Valdez, supra. See People vs. Buhay, 79 Phil. 371.).

The absence of eyewitness-testimony as to the jumping from the train of the four victims already named precludes the imputation of criminal responsibility to the appellants for the ghastly deaths of the said victims.

The same observation applies to the injuries suffered by the other victims. The charge of multiple frustrated murder based on the injuries suffered by Cipriano Pantoja, Dinna Nosal, Corazon Bernal and Brigida Sarmiento (Exh. D, D-3 to D-5) was dismissed by the trial court for lack of evidence. Unlike Mrs. Mapa, the offended parties involved did not testify on the injuries inflicted on them.

The eight killings and the attempted killing should be treated as separate crimes of murder and attempted murder qualified by treachery (alevosia) Art. 14 [16] Revised Penal Code). The unexpected, surprise assaults perpetrated by the twins upon their co-passengers, who did not anticipate that the twins would act like juramentados and who were unable to defend themselves (even if some of them might have had weapons on their persons) was a mode of execution that insured the consummation of the twins' diabolical objective to butcher their co-passengers. The conduct of the twins evinced conspiracy and community of design.

The eight killings and the attempted murder were perpetrated by means of different acts. Hence, they cannot be regarded as constituting a complex crime under article 48 of the Revised Penal Code which refers to cases where "a single act constitutes two or more grave felonies, or when an offense is a necessary means for committing the other".

As noted by Cuello Calon, the so-called "concurso formal o ideal de delitos reviste dos formas: (a) cuando un solo hecho constituye dos o mas delitos (el llamado delito compuesto); (b) cuando uno de ellos sea medio necesario para cometer otro (el llamado delito complejo). (1 Derecho Penal, 12th Ed. 650).

On the other hand, "en el concurso real de delitos", the rule, when there is "acumulacion material de las penas", is that "si son varios los resultados, si son varias las acciones, esta conforme con la logica y con la justicia que el agente soporte la carga de cada uno de los delitos" (Ibid, p. 652, People vs. Mori, L-23511, January 31, 1974, 55 SCRA 382, 403).

The twins are liable for eight (8) murders and one attempted murder. (See *People vs. Salazar*, 105 Phil. 1058 where the accused Moro, who ran amuck, killed sixteen persons and wounded others, was convicted of sixteen separate murders, one frustrated murder and two attempted murders; *People vs. Mortero*, 108 Phil. 31, the Panampunan massacre case, where six defendants were convicted of fourteen separate murders; *People vs. Remollino*, 109 Phil. 607, where a person who fired successively at six victims was convicted of six separate homicides; *U.S. Beecham*, 15 Phil. 272, involving four murders; *People vs. Macaso*, 85 Phil. 819, 828, involving eleven murders; *U.S. vs. Jamad*, 37 Phil. 305; *U.S. vs. Balaba*, 37 Phil. 260, 271. Contra: *People vs. Cabrera*, 43 Phil. 82, 102-103; *People vs. Floresca*, 99 Phil. 1044; *People vs. Sakam*, 61 Phil. 27; *People vs. Lawas*, 97 Phil. 975; *People vs. Manantan*, 94 Phil. 831; *People vs. Umali*, 96 Phil. 185; *People vs. Cu Unjieng*, 61 Phil. 236; *People vs. Peñas*, 66 Phil. 682; *People vs. De Leon*, 49 Phil. 437, where the crimes committed by means of separate acts were held to be complex on the theory that they were the product of a single criminal impulse or intent).

As no generic mitigating and aggravating circumstances were proven in this case, the penalty for murder should be imposed in its medium period or reclusion perpetua (Arts. 64 [1] and 248, Revised Penal Code. The death penalty imposed by the trial court was not warranted.

A separate penalty for attempted murder should be imposed on the appellants. No modifying circumstances can be appreciated in the attempted murder case.

WHEREFORE, the trial court's judgment is modified by setting aside the death sentence. Defendants-appellants Antonio Toling and Jose Toling are found guilty, as coprincipals of eight (8) separate murders and one attempted murder. Each one of them is sentenced to eight (8) reclusion perpetuas for the eight murders and to an indeterminate penalty of one (1) year of prision correccional as minimum to six (6) years and one (1) day of prision mayor as maximum for the attempted murder and to pay solidarity an indemnity of P12,000 to each set of heirs of the seven victims named in the dispositive part of the trial court's decision and of the eighth victim, Susana C. Hernandez, or a total indemnity of P96,000, and an indemnity of P500 to Amanda Mapa. In the service of the penalties, the forty-year limit fixed in the penultimate paragraph of article 70 of the Revised Penal Code should be observed. Costs against the appellants.

SO ORDERED.

Makalintal, C.J., Castro, Fernando, Teehankee, Barredo, Esguerra, Fernandez, and Muñoz Palma, JJ., concur.

Makasiar, J., took no part.

Antonio, J., concurs in a separate opinion.

[1] That initial stabbing was described by Corazon Bernal-Astrolavio in her statement dated January 9, 1965 in this manner (page 16 of the Record):

"4. T: May nasaksihan ba kayong hindi pangkaraniwang pangyayari na naganap nang gabing iyon at kung mayroon maaari ba ninyong maisalaysay sa maikli ngunit maliwanag na pananalita?

"S: Mayruon po. Nakaupo ako nuon sa bandang hulihan nang tren. Nagpapasuso ako nuon nang aking anak nang biglang nagkagulo. Iyong katabi kong lalaki namay katandaan na ay biglang sinaksak iyong kaharap kong babae sa upuan. Nabuwal iyong kanyang sinaksak, at ako naman ay nagtatakbo na data ko iyong dalawa kong anak. Sumiksik kami doon sa may kubeta nang tren na nang mangyari iyon ay lumalakad. Hindi ko alam na iyong aking kanan sintido ay nagdurugo. Nang tahimik na ay dinala kami sa ospital sa Calamba at doon ay ginamot ako roon.

"5. T: Sinabi ninyo na nang biglang magkagulo samantalang lumalakad ang tren ay iyong katabi ninyong lalaki na may katandaan na ay biglang sinaksak iyong kaharap ninyong babae sa upuan, nakita ba ninyo kung ano ang ipinanaksak nang lalaking ito?

"S: Hindi ko na po napansin dahil sa aking takot."

[2] Mrs. Mapa's statement (Exh. E) reads:

"4. T: Sino po ang sumaksak sa inyo?

S: Iyon pong lalaking mataas na payat na bisaya. Hindi ko po kilala pero kung makikita ko ay makikilala, ko. Ito pong sumaksak sa akin na ito ay dinala rin sa ospital sa Calamba, Laguna. Nauna po lamang ako at nakita kong siya ang isinunod na may saksak din.

5. T: Bakit naman ninyo namukhaan itong sumaksak sa inyong ito?

S: Kahelera po namin iyan sa upuan.

6. T: Maaari po ba ninyong maisalaysay sa maikli ngunit maliwanag na pananalita ang buong pangyayaring inyong nasaksihan?

S: Opo. Nagpapasuso ako nuon nang aking anak, nang waling ano-ano ay nakita ko na lamang iyong nakasaksak sa akin na biglang tumayo so kanyang kinauupuan at biglang sinaksak iyong kaharap niyang sa upuan na babae na natutulog. Itong katabi nang nanaksak na ito ay tumayo rin at nanaksak din ng nanaksak at ang lahat nang makitang tao ay hiahabol at sinasaksak. Bata, matanda ay sinasaksak nang dalawang ito at madaanan. Nang bigla kong tayo ay natamaan iyong aking kanang kamay nang kabig niya nang saksak. Nagtuloy ako so kubet sa tren at doon ako sumiksik. Nang payapa na ang lahat ay dinala ako sa Calamba sa ospital doon, at ako'y ginamot nang pangunang lunas.

7. T: Itong katabi na lalaking sinasabi ninyong nanaksak din ay kung makita ninyong muli ay makikilala pa ninyo?

S: Makikilala ko rin po. Magkahawig po sila nang nakasaksak sa akin."

The statement of Cipriano Reganet who was wounded (Exh. D-4) in a way corroborates Mrs. Mapa's statement. Reganet's statement reads in part as follows (Exh. F):

"3. T: Maaari po ba ninyong masabi kung bakit kayo naririto ngayon sa PNR Hospital dito sa Caloocan City?

S: Dahil po sa mga saksak na tinamo ko nang magkaroon nang gulo sa loob nang tren kagabing humigit kumulang sa mga alas nueve (9:00 P.M.) petcha 8 nitong Enero 1965.

4. T: Sino po ang sumaksak sa inyo kung inyong nakikilala?

S: Hindi ko po alam ang pangalan pero namumukhaan ko kung ihaharap sa akin. Ang sumaksak po sa akin ay iyong kasama ko sa ambulancia na nagdala sa amin dito sa ospital na ito.

5. T: Bakit naman ninyo natiyak na ang sumaksak sa inyo ay iyong kasama ninyo sa ambulancia na nagdala sa inyo sa ospital na ito?

S: Malapit po lamang ang kanyang inuupuan sa aking inuupuan sa loob nang tren kaya namukhaan ko siya.

6. T: Ilan beses kayong sinaksak nang taong ito?

S: Dalawang beses po.

7. T: Saan-saan panig nang katawan kayo nagtamo nang saksak?

S: Sa aking noo at sa kanang kamay nang sangahin ko ang kanyang pangalawang saksak.

8. T: Bakit po naman kayo sinaksak nang taong ito?

S: Hindi ko po alam. Primero nanaksak siya sa kanyang kaharap sa upuan at saksak nang saksak sa mga taong kanyang makita.

9. T: Ilan ang nakita ninyong nananaksak?

S: Dalawa po ng magkatabi na magkahawig ang mukha.

10. T: Nang mangyari po ba ito ay tumatakbo ang tren?

S: Tumatakbo po.

11. T: Papaano kayo nakaligtas?

S: Tumakbo po ako at kumabit sa rampa at nang medyo tahimik na balak kong magbalik sa loob nang tren. Nakita ko na maraming sugatan at sa wari ko ay patay na. Sa mga nakita ko sa loob nang tren ay iyong sumaksak sa akin, na nakasandal at nang makita ako ay tinanganan iyong kanyang panaksak at tinangka akong habulin. Tumakbo ako at tumalon sa lupa. Sa pagtalon kong iyon ay napinsala ang aking kaliwang balikat.

12. T: Ano po ang ipinanaksak sa inyo?

S: Para pong punyal na ang haba ay kumulang humigit sa isang dangkal."

Mrs. Brigida Sarmiento-Palma, who was also wounded (Exh. D-3) executed a statement which reads in part as follows (page 20, Record):

"4. T: Maaari po ba ninyong maisalaysay sa maikli ngunit maliwanag na pananalita ang buong pangyayari?

S: Opo, Nakaupo po ako nuon kaharap papuntang Bicol. Walang ano-ano ay bigla na lamang nakita ko na may sinaksak at pagkatapos nakita ko na lahat nang makita babae o lalaki at sinasaksak. Nang ako'y tumayo para tumakbo ay nilapitan ako at ako naman ang sinaksak. Sumigaw ako at humingi nang saklolo at nakiusap sa isang tao na tagpan nang tualya iyong tinamo kong saksak sa kaliwang puson na tumama sa buto. Makalipas ang ilang sandali ay dinala na ako sa ospital.

5. T: Nakikilala ba ninyo iyong sumaksak sa inyo?

S: Kilala ko po sa mukha at kasama ko pa kahapon nang dalhin ako sa ospital na ito.

6. T: Ilan po itong nakita ninyong nanaksak?

S: Dalawa po sila na magkahawig ang mukha."

CONCURRING OPINION

ANTONIO, J.:

The case at bar is typical of the cases wherein courts have to sift through the maze of facts, ascertain the probable motives of an aberrant criminal behaviour and apply the standards of mental responsibility which, in the court's judgment, demonstrates the criminal responsibility of the offender. In recent years, so much has been written on the standards of mental responsibility.

The greatest difference of opinion among courts and commentators has centered about the legal "tests" of insanity, or the degree of mental unsoundness which must be shown to excuse a defendant from criminal responsibility.

Under Article 12, Section 1, of the Revised Penal Code, an imbecile or an insane person is exempt from criminal liability, unless the latter has acted during a lucid interval. Formigones[1] posited the view that in order that a person could be regarded as imbecile so as to be exempt from criminal responsibility, he must be deprived completely of reason or discernment and freedom of the will at the time of committing the crime. In this case, the Court quoted with approval the decisions of the Supreme Court of Spain and made the following observation, thus:

"The Supreme Court of Spain held that in order that this exempting circumstances may be taken into account, it is necessary that there be a complete deprivation of intelligence in committing the act, that is, that the accused be deprived of reason; that there be no responsibility for his own acts; that he acts without the least discernment; that there be a complete absence of the power to discern, or that there be a total deprivation of freedom of the will. For this reason, it was held that the imbecility or insanity at the time of the commission of the act should absolutely deprive a person of intelligence or freedom of will, because mere abnormality of his mental faculties does not exclude imputability.

'The Supreme Court of Spain likewise held that deaf-muteness cannot be equalled to imbecility or insanity.

'The allegation of insanity or imbecility must be clearly proved. Without positive evidence that the defendant had previously lost his reason or was demented, a few moments prior to or during the perpetration of the crime, it will be presumed that he was in a normal condition. Acts penalized by law are always reputed to be voluntary and it is improper to conclude that a person acted unconsciously, in order to relieve him from liability, on the basis of his mental condition, unless his insanity and absence of will are proved.'

"As to the strange behaviour of the accused during his confinement, assuming that it was not feigned to stimulate insanity, it may be attributed either to his being feeble-minded or eccentric, or to a morbid mental condition produced by remorse at having killed his wife. From the case of *United States vs. Vaquilar* (27 Phil. 88), we quote the following syllabus:

'Testimony of eye-witnesses to a parricide, which goes no further than to indicate that the accused was moved by a wayward or hysterical burst of anger or passion, and other testimony to the effect that, while in confinement awaiting trial, defendant acted absentmindedly at times, is not sufficient to establish the defense of insanity. The conduct of the defendant while in confinement appears to have been due to a morbid mental condition produced by remorse.'

"After a careful study of the record, we are convinced that the appellant is not an imbecile. According to the evidence, during his marriage of about 16 years, he has not done anything or conducted himself in anyway so as to warrant an opinion that he was or is an imbecile. He regularly and dutifully cultivated his farm, raised five children, and supported his family and even maintained in school his children of school age, with the fruits of his work. Occasionally, as a side line he made copra. And a man who could feel the pangs of jealousy and take violent measures to the extent of killing his wife whom he suspected of being unfaithful to him, in the belief that in doing so he was vindicating his honor, could hardly be regarded as an imbecile. Whether or not his suspicions were justified, is of little or no import. The fact is that he believed her faithless."

In some jurisdiction, the rule has been stated, thus: "A person is not criminally responsible for an offense if at the time it is committed he is mentally unsound as to lack (1) knowledge that the act is wrong, or (2) x x x will power enough to resist the impulse to commit it." [2]

The first part of the rule embodies the so-called "right and wrong test", while the second part the "irresistible impulse test."

Typical of the first is the rule enunciated in the case *M'Naghten*, which remained in full flower from 1843 until

1954. In M'Naghten, to establish a defense on the ground of insanity "it must be clearly proven that, at the time of committing the act, the party accused was laboring under such defect of reason, from disease of the mind, as not to know the nature and quality of the act he was doing, or if he did know it that he did not know he was doing what was wrong." [3]

According to Weihofen, this rule was amplified with the explanations that: (a) "The knowledge of right and wrong referred to means with respect to the very act charged, rather than in the abstract; (b) It also refers not merely to legal right and wrong, but rather (or also?) to moral right and wrong." [4]

Some courts, however, hold that this right and wrong test is not sufficient in all cases, and that "a person who knew he was committing an act which was morally wrong and prohibited by law may, nevertheless, be excused from responsibility if he lacked the power of conscious volition and inhibition (freedom of will) to resist the impulse to commit it." [5] The courts permitting irresistible impulse as a defense to crime, however, are of the view that the impulse which the law recognizes must be the product of mental disease, and not merely the uncontrollable passion or fury of a sane man. The legal basis of the Irresistible Impulse doctrine, is that "freedom of will" is essential to criminal responsibility. The fundamental rule evolved by the great galaxy of scholastics on Christian philosophy is that "responsibility for moral error or crime must be based upon the possession of the three basic moral faculties, will, memory and understanding." [6]

The M'Naghten rule, however, was criticized by psychiatrists who felt incapable of giving expert testimony in terms of the language of M'Naghten. By modern standards, the language of the early tests is primitive. The rule was faulted because it has several serious deficiencies which stem principally from its narrow scope. "The true vice of M'Naghten," according to Judge Kaufman, "is x x x that the ultimate decider — the judge or the jury — will be deprived of information vital of their final judgment. For whatever the social climate of Victorian England, today's complex and sophisticated society will not be satisfied with simplistic decisions, based solely upon a man's ability to 'know' right from wrong. It is in this respect that the vast strides made in public awareness and acceptance of psychiatry and psychiatric methods may even be more significant than the scientific developments which gave rise to them. Few areas of modern American culture — from the personnel offices of our giant corporations to the pages of our mass-circulation magazines — have been untouched by the psychiatric revolution. In this setting, a test which depends vitally on notions already discredited when M'Naghten was adopted can no longer be blandly accepted as representing the 'moral sense of the community.' To continue to apply such medically discarded concepts would be to follow a negative approach which is the result of a holdover of long outmoded attitudes rather than a policy decision grounded in reason or science." [7]

Under the circumstances, the decision in *Durham vs. United States* [8] was a significant contribution, in that it called for a judicial reassessment of the notions too long held uncritically on the standards of mental responsibility. In *Durham*, the opinion of Judge Bazelon that a defendant is not criminally responsible "if his unlawful act was the product of mental disease or mental defect" evolved a realistic standard. "The new test entirely eliminated the 'right-wrong' dichotomy, and hence interred the overriding emphasis on the cognitive element of the personality which had for so long plagued M'Naghten. The fetters upon expert testimony were removed and psychiatrists were permitted and indeed encouraged to provide all relevant medical information for the common sense application of judge or jury. Finally, *Durham* ended to a large degree the 'professional perjury' decried by psychiatrists — the 'juggling' of legal standards. x x x Too often, the unrealistic dogma of M'Naghten had compelled expert witnesses to 'stretch' its requirements to 'hard cases'; sympathetic to the plight of a defendant who was not, in fairness, responsible for his conduct, psychiatrists had found it necessary to testify that the accused did not know his act was 'wrong' even when the defendant's words belied this conclusion. . . . The most significant criticism of *Durham*, however, is that it fails to give the fact-finder any standard by which to

measure the competence of the accused." [9]

A year before Durham, the American Law Institute commenced an exhaustive study with the aid of suggestions from many scholars and finally adopted its proposal in 1962 as a part of the Model Penal Code. They stated the new rule, thus:

"(1) A person is not responsible for criminal conduct if at the time of such conduct as a result of mental disease or defect he lacks substantial capacity either to appreciate the criminality of his conduct or to conform his conduct to the requirements of law.

"(2) The term 'mental disease or defect' do not include an abnormality manifested only by repeated criminal or otherwise anti-social conduct." [10]

This formulation provides the judge with a workable standard in terms comprehensible to layman. The rule encourages the production of full psychiatric data and information at the trial, and thus enable the court to remove from the pale of criminal sanctions precisely those who are, in no meaningful sense, responsible for their actions. This Model Penal Code formulation views the mind as a "unified entity and recognizes that mental disease or defect may impair its functioning in numerous ways. The rule, moreover, reflects awareness that from the perspective of psychiatry absolutes are ephemeral and gradations are inevitable." [11] In avoiding the misunderstanding inherent in the indiscriminate use of Durham, this new formulation has achieved wide acceptance.

The relevance of the foregoing observations is that in this case, efforts should have been exerted to ascertain whether or not the appellants' conduct was the result of a mental disease or defect, since the thin line between criminal responsibility and irresponsibility may not always be clearly visible.

Considering, however, that the law must proceed on the assumption that man, generally, has a qualified freedom of will, and that any individual who has a substantial capacity for choice should be subject to its sanctions, I join my brethren in concurring with the main opinion for the reasons stated.

[1] People vs. Formigones, 87 Phil., 658.

[2] Weihofen, Insanity as a Defense in Criminal Law, 1933 ed., p. 15.

[3] Ibid., p. 28.

[4] Ibid.

[5] Ibid., p. 44.

[6] State vs. Noel, 133 Atl. 274.

[7] United States vs. Freeman, 357 F. 2d. 606 (1966).

[8] 214 F. 2d 862, 45 ALR 2d. 1430.

[9] United States vs. Freeman, supra, p. 621.

[10] United States vs. Chamiler, 393 F. 2d. 920 (1968).

[11] United States vs. Freeman, supra, p. 622.

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.