

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ALFREDO SALVADOR, ET AL., ACCUSED, ALFREDO SALVADOR, ACCUSED-APPELLANT.

G.R. No. 101215. July 30, 1993

Ponente: BIDIN, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-101215/>

BIDIN, J.:

Appellant Alfredo Salvador and co-accused Joey Adap, Augusto Alimurong, Jimmy Agustin and Armin Aladdin were charged before the Regional Trial Court, Fourth Judicial Region, Branch 23, Trece Martires City with the crime of Murder in an information allegedly committed as follows:

“That on or about October 14, 1984, in the Municipality of Gen. Trias, Province of Cavite, Philip-pines and within the jurisdiction of this Honorable Court, the aforesaid accused, conspiring together, acting jointly and assisting one another, with intent to kill, with treachery and evident premeditation, did then and there, willfully, unlawfully and feloniously, assault and attack Orlando Grepo with the use of a piece of wood commonly known as ‘dos por dos’, hallow (sic) block, fist and foot blows causing the victim to suffer injuries on his head and other parts of his body, resulting to his death, to the damage and prejudice of the heirs of Orlando Grepo.

“The aggravating circumstances of nighttime and abuse of superior strength were present in the commis-sion of the offense.

“CONTRARY TO LAW.”

Only Alfredo Salvador was apprehended by the Cavite INP Command while his co-accused have remained at large (Ibid., p. 34). Upon arraignment, Salvador pleaded not guilty to the offense charged. After trial, judgment was rendered convicting appellant Salvador, the decretal portion of which reads:

“WHEREFORE, this Court finds accused Alfredo Salvador GUILTY beyond reasonable doubt of the crime of Murder and sentences him to suffer the penalty of Life Imprisonment; to indemnify the heirs of Orlando Grepo in the amount of P30,000.00 without subsidiary imprisonment in case of insolvency; and to pay the costs.

“SO ORDERED.”

Records disclose that at around 9:30 in the evening of October 14, 1984, prosecution witness Joel Duran was walking with Alberto Villablanca on their way home from Bahay-Kubo in the town plaza of Gen. Trias, Cavite. Along Prinza Street, they saw from a distance of about six meters, Orlando Grepo being mauled by five persons. Through the light of the electric lamp post and the vehicles passing by, Joel recognized these assailants as Joey Adap, Alfredo Salvador, Jimmy Agustin, Augusto Alimurong and Armin Aladdin.

The sheer number of assailants deterred Joel and Alberto from helping their childhood friend Orlando. The five attackers were boxing Orlando and when he fell with his face to the ground, they kicked him. Then Joey Adap hit Orlando with a “dos por dos” (piece of wood) and Alfredo Salvador dropped a hollow block on his back. Joel and

Alberto shouted for help and upon seeing them, the assailants ran away. Councilor Leonardo Gozo, who responded to Joel's shouts for help, assisted Joel and Alberto in bringing Orlando to the hospital in Pinagkatipunan (TSN, August 25, 1984, pp. 4-9; 21-23).

Orlando was brought to the Medicare Community Hospital in Gen. Trias where Dr. Charito Maldos Gozo attended to him. Dr. Gozo found him to be a "walking patient" but aside from his bruises and contusions, Orlando was complaining of a headache (TSN, January 29, 1987, pp. 4; 8-13). In the medical certificate she issued on October 15, 1984; Dr. Gozo stated that 17-year-old Orlando Grepo had contusion, hematoma and abrasion on the 4th intercostal lateral side left, another contusion on the right temporal parietal area and a third contusion and hematoma on the occipital region. Dr. Gozo diagnosed that the healing period for these injuries would last from nine to fourteen days "barring complications" (Exh. F). A neighbor of Orlando, Dr. Gozo knew that during the two-week period after she treated him, Orlando was complaining of severe headache and "off and on" fever (TSN, January 29, 1987, p. 13).

On November 4, 1984, Grepo was brought to the clinic of Dr. Jocelyn Tirol Dignos in Rosario, Cavite. Grepo was perspiring a lot and had cold, clammy skin specially on his left extremities. He had rolling eyeballs and was in an unconscious shock-like state. Since he had high-grade fever running to 42.2 degrees Centigrade, he stayed in Dr. Dignos' clinic for only two hours (TSN, September 26, 1986, p. 5). In the medical certificate she issued, Dr. Dignos also stated that Grepo had convulsive seizures and that he had "meningo-encephalitis of undetermined origin" (Exh. D).

According to Dr. Dignos, said diagnosis was actually made by Dr. Ovillo, a specialist to whom she referred Grepo as the victim was showing signs and symptoms of brain damage. Because they were not aware that Orlando had been a victim of a mauling incident two weeks ago and there was then an epidemic of typhoid fever, they entertained typhoid as Grepo's possible ailment (TSN, September 26, 1986, pp. 7-9). But upon learning of the mauling incident, they diagnosed Grepo's ailment as "meningo encephalitis secondary to trauma" (Ibid., p. 15). Moreover, they learned that Dr. Apostol of Gen. Trias, Cavite had given Grepo two grams of chloro ampenicol per day and therefore, if the ailment was really typhoid, Grepo's fever would have then subsided (Ibid., pp. 15-16). They would have conducted more tests but since Grepo had become bluish and had difficulty in breathing, they decided to have him transferred to the Manila Medical Center (Ibid., p. 17) where the victim finally expired on November 5, 1984 (TSN, April 23, 1987, p. 3).

As aforesaid, the trial court rendered a judgment of conviction against Salvador specifically finding him to be "one of those instrumental in inflicting the fatal wounds which resulted in the death of Orlando Grepo."

Appellant claims that he was with his family at home watching television at the time the mauling incident took place. His alibi was corroborated by his sister, Edita Santores, who testified that appellant watched TV until 10:00 p.m. and immediately went to bed thereafter.

Previous to his testimony in open court, however, appellant executed an affidavit stating that at around 9:00 o'clock in the evening of October 14, 1984, he was walking from school with his friend Willy Buclatin when they saw Orlando Grepo walking with three persons and when they reached Prinza St., there was a melee ("bigla na lamang nagkagulo").

The Court is therefore presented with two contradictory statements of the accused. One involving alibi and the other which is practically denial.

Aggrieved by the decision, Salvador interposed this appeal making the following assignment of errors:

I

“THE COURT A QUO ERRED IN NOT GIVING CREDENCE TO THE EVIDENCE PRESENTED BY THE DEFENSE.

II

“THE COURT A QUO ERRED IN NOT ACQUITTING THE ACCUSED-APPELLANT ON THE GROUND OF INSUFFICIENCY OF EVIDENCE OF THE PROSECUTION.” (Appellant’s Brief, p. 1)

A finding of sufficiency of the evidence to establish guilt by proof beyond reasonable doubt is one of fact. As such, its review by the appellate court must be guided by the principle that, unless arbitrary or without sufficient basis, the findings of the trial court on questions of fact are accorded the highest respect on appeal if not regarded as conclusive (*People vs. Alitao*, 194 SCRA 120 [1991]; *People vs. Millarpe*, 134 SCRA 555 [1985]; *People vs. Lopez*, 132 SCRA 188 [1984]). In the same manner, the credibility of witnesses is the province of the trial court who is in a better position to examine real evidence as well as observe the demeanor of the witnesses (*People vs. Lardizabal*, 204 SCRA 320 [1991]; *People vs. Vinas*, 202 SCRA 720 [1991]). After a review of the records, We find no reason to depart from these principles in the instant appeal.

Anchored on denial and alibi, the defense had not overcome the prosecution’s solid proof beyond reasonable doubt of appellant’s complicity in the fatal mauling of Orlando Grepo. In the first place, the defense had not shown that it was physically impossible for Salvador to be at the scene of the crime at the time it was committed (*People vs. Bicog* 187 SCRA 556 [1990]; *People vs. Pio Cantuba*, 183 SCRA 289 [1990]; *People vs. Tamayo*, 183 SCRA 375 [1990]; *People vs. Andres*, 155 SCRA 290 [1987]; *People vs. Ornoza*, 151 SCRA 495 [1987]; *People vs. Tuando*, 150 SCRA 8 [1987]; *People vs. Petil*, 149 SCRA 92 [1987]). While Salvador was on the witness stand, the defense counsel understandably did not ask him about the distance of the scene of the crime from the Salvador residence where he was allegedly watching TV. Neither had the prosecution ferreted this information from Salvador on cross-examination. For her part, all that Edita Santores could say was that the scene of the crime was “far from us” when asked by the prosecution if the distance between the two places was about fifty meters (TSN, September 30, 1987, p. 12). Considering, however, that appellant Salvador was himself a resident of Prinza St. (TSN, August 28, 1987, p. 2) where the crime occurred, his alibi must fail. Alibi is unconvincing when the distance from the place where the accused was and the scene of the crime can be negotiated within minutes (*People vs. Marmita, Jr.*, 180 SCRA 723 [1989]).

But what sealed appellant’s conviction is the fact that he was recognized by Joel Duran as one of the five persons who ganged up on Grepo. Denial and alibi cannot prevail over the prosecution witness’ positive identification of the accused as a perpetrator of the crime (*Collado vs. IAC*, 206 SCRA 207 [1992]; *People vs. Bocatcat, Sr.*, 188 SCRA 175 [1990]; *People vs. Cirilo, Jr.*, 156 SCRA 397 [1987]; *People vs. Danes*, 131 SCRA 286 [1984]; *People vs. Cortez*, 57 SCRA 308 [1974]; *People vs. Esmael*, 37 SCRA 601 [1971]). Worth noting is the fact that the defense did not even try to discredit prosecution witness Joel Duran whose damaging testimony was the principal foundation of the prosecution theory. Unsullied, Duran’s testimony must therefore be given its due weight and credit.

However, one other aspect of the crime which the defense, even in the instant appeal, has failed to argue in favor of appellant is the fact that appellant had been charged with and convicted of, the crime of murder for the killing of Orlando Grepo. Art. 248 of the Revised Penal Code provides that to be liable for murder, an accused must be proven to have committed the killing of another person under the attendant circumstances specified therein. Of these circumstances, the information alleges treachery and evident premeditation to qualify the the killing to murder.

It is unfortunate that the trial court failed to discuss the presence or absence of these qualifying circumstances. However, from the evidence on record, treachery cannot be appreciated. Sole eyewitness Joel Duran testified that while he and Alberto Villablanca were walking along Prinza Street, they saw Grepo being mauled by five persons. While Duran may have witnessed the incident in progress, he did not testify as to how it began. As the Court held in *People vs. Tiozon* (198 SCRA 368 [1991]), treachery cannot be considered where the lone witness did not see the commencement of the assault. The importance of such testimony cannot be overemphasized considering that treachery cannot be presumed nor established from mere suppositions.

In the same manner, evident premeditation cannot be appreciated to qualify the killing to murder in the absence of direct evidence of the planning and preparation to kill or when the plan was conceived (*People vs. Wenceslao*, 212 SCRA 560 [1992]). Thus, in the absence of any qualifying circumstance, the crime committed is homicide under Art. 249 of the Revised Penal Code and not murder.

As to aggravating circumstances, the information alleges nighttime and abuse of superior strength. To be appreciated as an aggravating circumstance, there must be a convincing showing that the accused had purposely sought nighttime in order to facilitate the commission of the crime or to prevent its discovery or to evade the culprits' capture (*People vs. Rodriguez*, 193 SCRA 231 [1991]). There is, however, no proof at all, much more a convincing one, to warrant appreciation of nighttime as an aggravating circumstance.

Abuse of superior strength, a qualifying circumstance in murder, was alleged in the information as an aggravating circumstance only.* Mere numerical superiority does not always mean abuse of superiority to qualify the killing to murder.

Appellant is liable for the crime even if he had not intended to kill Orlando Grepo. This is because he participated in the concerted effort of mauling the victim, which was proven beyond reasonable doubt, in furtherance of a common design to inflict physical harm on Grepo. But where the attack is not treacherous as there is no proof as to how the attack commenced, the fact that there are four assailants would constitute abuse of superiority (*Aquino*, *The Revised Penal Code*, Vol. I, 1987 ed., p. 377, citing, among others, *U.S. vs. Banagale*, 24 Phil. 69 [1913]). Thus, the homicide committed in this case is attended by the aggravating circumstance of abuse of superiority as five persons mauled the unarmed and defenseless victim Orlando Grepo (*People vs. Ocimar*, 212 SCRA 646 [1992]).

Art. 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 essential requisites of Art. 4 are: (a) that an intentional felony has been committed, and (b) that the wrong done to the aggrieved party be the direct, natural and logical consequence of the felony committed by the offender (*People vs. Iligan*, 191 SCRA 643, 651 [1990] citing *People vs. Mananquil*, 132 SCRA 196, 207 [1984]). All these requisites are present in this case. The intentional felony was the mauling of Grepo and, in the case of appellant, his dropping of the hollow block on the fallen and hapless victim. The latter's death had been the direct, natural and logical consequence of the felony as shown by the evidence provided by the doctors who testified for the prosecution.

Under Art. 249 of the Revised Penal Code, homicide is punishable by reclusion temporal. In view of the presence of the aggravating circumstance of abuse of superior strength, which is not offset by any mitigating circumstance, the penalty shall be imposed in its maximum period (Art. 64(3), Revised Penal Code). Parenthetically, the lower court erroneously imposed the penalty of "life imprisonment" for murder. The proper penalty for murder under Art. 248 is reclusion perpetua and not "life imprisonment." The need to apply the correct penalty is dictated by the fact that in appropriate cases, a penalty under the Revised Penal Code carries with it accessory penalties (See: *People vs. Cruda*, 212 SCRA 125 [1992]).

Hence, the appropriate penalty prescribed by law for the crime of homicide in the case at bar is the maximum period of reclusion temporal which is 17 years, 4 months and 1 day to 20 years. Applying the Indeterminate Sentence Law, the imposable penalty is ten (10) years and one (1) day of prision mayor maximum as minimum, to seventeen (17) years, four (4) months and one (1) day of reclusion temporal as maximum.

WHEREFORE, the decision appealed from is hereby MODIFIED to the extent that appellant Alfredo Salvador is hereby declared guilty of the crime of homicide and is hereby ordered to suffer the indeterminate sentence of ten (10) years and one (1) day of prision mayor as minimum to seventeen (17) years, four (4) months and one (1) day of reclusion temporal as maximum. The civil indemnity is hereby increased to P50,000.00 in line with current jurisprudence.

SO ORDERED.

Feliciano, (Chairman), Romero, Melo, and Vitug, JJ., concur.

* Actual title

* If not alleged as a qualifying circumstance, abuse of superior strength would be treated as a generic aggravating circumstance if proven at the trial (Aquino, *The Revised Penal Code*, Vol. I, 1987 ed., p. 376 citing *People vs. Acusar*, 82 Phil. 490 [1948] and *People vs. Peje*, 99 Phil. 1052 [1956]).

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.