

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROGELIO FRANCISCO, BALDOMINO FRANCISCO AND JOHN DOE AND PETER DOE, ACCUSED-APPELLANTS.

G.R. No. 106097. July 21, 1994

Ponente: CRUZ, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-106097/>

CRUZ, J.:

No less than a miracle could have saved Demetrio de la Cruz as he lay sprawled on the ground with blood still oozing from his head. He was dead, of course. There had been no miracle to stanch the blood that inexorably drained his life on the spot where he had fallen.

Subsequent police investigation pointed to four men as his killers, namely, Rogelio Francisco, Baldomino Francisco, Johnny Claro, and Boyet Francisco. All of them were charged with murder[1] but only the first two could be tried as the other two were (and are presumably still) at large. After trial, Rogelio Francisco and Baldomino Francisco were convicted by the trial judge, who sentenced them to reclusion perpetua and to pay civil damages.[2]

They are now on appeal before this Court and claim that the trial judge relied erroneously on the evidence of the prosecution.

The killing occurred on February 23, 1990, at about 8:00 p.m., at Barangay Muson, San Jose del Monte, Bulacan. The prosecution and the defense naturally had conflicting versions of the incident, both of which, as the Court finds, are flawed with several noticeable inconsistencies.

The evidence for the prosecution tended to show that in the afternoon of the said date, the appellants and their co-accused planned to murder De la Cruz, who had earlier incurred their ire when, as barangay tanod, he berated them for being drunk and disorderly. The plan was to lure him to the ricefield, where they could maul and kill him. To this end, they would create a commotion outside De la Cruz's house, causing their intended victim to come out and scold them again. They would then gang up on him until he pursued them to the ricefield where he was to be slain.

Enrique Antonio testified that in the afternoon of February 23, 1990, he and Rogelio Francisco went to the house of Baldomino Francisco, where they, together with Johnny Claro and Boyet Francisco drank gin. It was there that he heard them plotting to kill De la Cruz. He saw them later make the disturbance in front of the victim's house and then maul De la Cruz, who was able to break free and run to his house to get his carbine. The accused lay in wait in the ricefield, where they expected De la Cruz to follow. When he appeared, Rogelio Francisco hacked him in the head with a big bolo (called a "halabas"). Johnny Claro wrested the rifle from him and hit him twice as he lay on the ground. Baldomino Francisco and Boyet Francisco then kicked the victim's body several times before all four of them scampered away.[3]

Antonio claimed he saw the killing as he hid behind a tree. He did not intervene because he was afraid of the

accused. He did not report to the police until after four days, for the same reason and also because he said he did not know the barangay chairman.[4]

Alvina de la Cruz, the victim's widow, declared under oath that she saw from her window all four accused attack her husband after making loud noises in front of their house. All of them were intoxicated. She also heard Rogelio Francisco tell his companions to "hurry up, for sure that person will follow us," referring to her husband. She said the resentment of the accused for her husband's acts as barangay tanod was the motive for his killing.[5]

Rico Mateo was the tanod Alvina called to follow her husband when he went in pursuit of his attackers. This witness said that upon reaching the ricefield, he switched on his high-powered flashlight and saw Rogelio Francisco hack De la Cruz in the head, to be followed by Johnny Claro, who shot the victim twice in the head when he was prostrate on the ground. Mateo reported the killing to the police that same night.[6]

Dr. Juanito Sacdalan, who conducted the autopsy, testified that the victim sustained two gunshot wounds and one lacerated wound in the head that caused his death. The victim also had abrasions in the face.[7]

Police Corporal Dante Evangelista investigated the case and found the halabas, on the handle of which he imprinted his initials for identification. The victim's carbine was never recovered.[8]

The defense had a different story to tell through both Baldomino Francisco and Rogelio Francisco. They were corroborated by Rogelio's wife, Liberty Francisco, and their son Rogelio, Jr.

Baldomino swore that prior to the killing, he and his co-accused, together with Enrique Antonio, were passing by the house of De la Cruz when the latter attacked him. He had made a joke about "balut na bakal" that annoyed De la Cruz, who kicked him in the stomach. Baldomino fell to the ground and De la Cruz continued kicking him and then began to strangle him. Rogelio came to his rescue and tried to pry loose De la Cruz's fingers from Baldomino's neck. De la Cruz then turned on him and also tried to strangle him. Abruptly, De la Cruz released Rogelio and ran to his house, saying he would get his gun. All four of them then fled in fright. On his way home, Baldomino heard the two gunshots that killed De la Cruz.[9]

Rogelio Francisco said that they did have a drinking session in his house in the afternoon of February 23, 1990. When they ran out of gin, they consumed a case of beer and then went out to buy another one. It was on their way back that he saw Baldomino being attacked by De la Cruz, whom he and his companions tried to appease. When De la Cruz ran to his house to get his gun, he and his four companions fled. He heard the gunshots when he was already in his house and told his wife that his companions had already been shot. Minutes later, he saw Johnny Claro running toward him and carrying a gun. Claro told him to come along with him and he obeyed because Claro told him he had killed De la Cruz and he was afraid Claro would also shoot him.[10]

Rogelio, Jr. sought to corroborate but instead contradicted his father's statement that he was home when he heard the shots. The son said his father was out at the time. The boy's testimony may be discarded because he admitted that he was coached by his mother on the testimony he was to give.[11]

The mother, Liberty, sought to exculpate her husband and pointed to Johnny Claro as the killer who admitted his crime to her.[12]

There are weak points in the evidence of both sides, but we find that the evidence for the prosecution far outweighs that of the defense. We are not unmindful of the argument that Enrique Antonio could not have seen every single detail of the attack on De la Cruz in the unlit ricefield at eight o'clock in the evening and that he might have testified for the prosecution to save his own skin (as he might otherwise have also been prosecuted). We also wonder how the killers could not have noticed Federico Mateo, who claimed to be watching them from a

distance of 25 meters with a high-powered flashlight, and why they did not come after him to silence him as a potential eyewitness.

On the other hand, the bare denials of the accused are none-too-convincing either, in light particularly of the events that preceded the killing and their admitted intoxication on that occasion. Their corroborating witnesses have not helped but in fact have even prejudiced them. Rogelio's assertion that he was forced by Johnny Claro to go with him is unbelievable, as unbelievable as the son who contradicted him and the wife who coached the boy on what to say at the trial. Baldomino's tale of the victim's attack on him while he was with four other companions, and his pitiful cries for mercy, have not moved this Court. All told, we find that the prosecution has adequately proved its case against the appellants and established beyond the whisper of a doubt their participation in the killing.

We are satisfied that there was indeed a conspiracy between the four accused that was decided upon during their drinking session in Rogelio's house and carried out as planned in the ricefield that same night. A conspiracy exists when two or more persons come to an agreement concerning the commission of a felony and decide to commit it.[13] From the time they created a commotion in front of De la Cruz's house until the time they killed him in the ricefield, it is plain that the accused were acting in concert to carry out their common plot.

But we are not prepared to accept the qualifying circumstances alleged in the information.

It is our view that there was no evident premeditation as this circumstance requires the concurrence of three requisites, to wit: 1) the time when the offender determined to commit the crime; 2) an act manifestly indicating that the culprit has clung to his determination; and 3) a sufficient lapse of time between the determination and execution, to allow him to reflect upon the consequence of his act.[14] The third requisite is missing in this case because it does not appear that the accused had sufficient time (and even the mental capacity, considering their intoxication) to reflect on the nature and consequences of the crime they were planning.

Neither was there alevosia, which exists, according to the Revised Penal Code, "when the offender commits any of the crimes against the person, employing means, methods, or forms in the execution thereof which tend directly and specially to insure its execution, without risk to himself arising from the defense which the offended party might make." [15]

There is no question that De la Cruz was aware of the danger he was facing as he pursued the accused with his rifle. That was the reason he was carrying the shotgun, which he ran to his house to get after he was manhandled by the accused. When Baldomino stepped from behind the tree and hacked him with the bolo, De la Cruz was not really so much surprised as merely out-manuevered. In fact, everyone was on the alert at the time, each waiting for the planned encounter, including De la Cruz. At any rate, it cannot be said that the accused employed means or tactics to insure the execution of their plan without risk to themselves from any act the pursuing and armed De la Cruz might take.

Finally, we also discount the allegation of abuse of superiority. The mere fact that there were four assailants against the lone victim does not signify abuse of superior strength. It must actually be shown that superiority was indeed abused, but there is no such showing here. On the contrary, the evidence shows that De la Cruz was felled by the very first hack made by Baldomino Francisco, making the victim virtually defenseless and dying from that lone blow. There was no need for the other accused to assist in subduing or overcoming him. To appreciate abuse of superiority, according to *People v. Flores*, [16] what should be considered is not that there were three, four or more assailants of one victim but whether the aggressors took advantage of their combined strength in order to consummate the offense.

The consequence of these findings is that as the killing was not attended by any of the circumstances qualifying it to murder, the accused must be found guilty of homicide only. The penalty for this offense is reclusion temporal, which in the case at bar must be applied in its medium period, there being no aggravating or mitigating circumstances. Under the Indeterminate Sentence Law, the reduced penalty must be from reclusion temporal medium, as maximum, to anywhere within the range of the penalty next lower in degree to reclusion temporal, to wit, prision mayor, as minimum.

We find that the decision of the trial judge is unduly long, consisting of no less than 16 legal-size single-spaced pages. Fifteen of these are devoted to a virtually word-for-word summary of the testimonies of all the witnesses, without any effort to separate the chaff from the grain. What is worse is that the findings of the judge are confined to two short paragraphs on the last page, and there is hardly any effort to explain such opinion or to support it with law or jurisprudence.

This is not the way to write a decision. As we said in an earlier case,[17] judges should learn to summarize, to synthesize, to simplify. More important, judges should judge. In this case, the trial judge barely complied with the constitutional requirement that the factual and legal basis of the decision should be clearly and distinctly expressed therein.[18]

WHEREFORE, the conviction of the appellants is AFFIRMED but for the crime of homicide only and not murder, and their penalty is reduced to from 12 years of prision mayor as minimum, to 17 years of reclusion temporal, as maximum. All monetary awards are also affirmed except for the moral damages, which are disallowed. Costs against the appellants.

SO ORDERED.

Davide, Jr., Quiason, and Kapunan, JJ., concur.
Bellosillo, J., on official leave.

[1] Records, p. 1.

[2] Decision penned by Judge Felipe N. Villajuan, Jr., RTC, Region III, Branch 14, Malolos, Bulacan, Nov. 20, 1991; Rollo, p. 87.

[3] TSN, Sept. 5, 1990, pp. 4-15.

[4] Ibid., pp. 12-13, 17.

[5] TSN, January 7, 1991, pp. 123-124; Exh. "A," Records, p. 63.

[6] TSN, September 12, 1990, pp. 58-62.

[7] TSN, October 17, 1990, pp. 97-100.

[8] TSN, November 17, 1990, pp. 109-112.

[9] TSN, February 6, 1991, pp. 147-156; 158-159.

[10] TSN, February 11, 1991, pp. 178-187.

[11] TSN, February 25, 1991, pp. 207-214.

[12] TSN, March 20, 1991, p. 225.

[13] Article 8, Revised Penal Code.

[14] People v. Balatucan, 206 SCRA 81.

[15] Article 14(16), Revised Penal Code.

[16] 112 SCRA 10.

[17] People v. Amondina, 220 SCRA 6.

[18] Art. VIII, Sec. 14, Constitution.

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.