

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ELY CABILES (AT LARGE), ACCUSED. RUDY ESPARRAGUERRA AND ROGELIO ESPARRAGUERRA, ACCUSED-APPELLANTS.

G.R. No. 113785. September 14, 1995

Ponente: PUNO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-113785/>

PUNO, J.:

Rudy Esparraguerra, Rogelio Esparraguerra and Ely Cabiles were charged with Robbery with Homicide before the Regional Trial Court,[1] Branch L, of San Jacinto, Masbate. The Information[2] against them, dated October 1, 1991, reads:

"That on or about July 27, 1991, in the evening thereof, at Barangay Sowa, Municipality of San Fernando, Province of Masbate, Philippines, within the jurisdiction of this Honorable Court, the said accused confederating together and mutually helping one another with intent of (sic) gain, violence and intimidation upon person, did then and there willfully, unlawfully and feloniously demand money from one Violeta Angustia y Mitra, box and then hogtied her, with intent to kill, hack (her) with a bolo hitting her neck, thereby inflicting wound which directly caused her instantaneous death, willfully, unlawfully and feloniously take, steal and rob away cash (in the) amount of One Thousand (P1,000.00) Pesos, belonging to Violeta Angustia y Mitra, to the damage and prejudice of the latter in the amount aforementioned.

"That apart from the aforementioned aggravating circumstances, the following also concurrently attended in the commission of the crime; that the crime was committed in an uninhabited place; that it was committed with insult or in disregard on account of her sex.

"CONTRARY TO LAW."

Only accused Rudy and Rogelio Esparraguerra were arrested. They entered a plea of "not guilty"[3] and underwent trial. Ely Cabiles, on the other hand, remains at large.

The victim, Violeta Angustia, was a fish vendor. At the time of the incident, she was a resident of sitio Sowa in San Fernando, Masbate. Her house is about 200 meters away from the poblacion proper of barangay Sowa. Accused Ely Cabiles and Rogelio Esparraguerra (both accused reside in barangay Sowa) were her barriomates. The other accused, Rudy Esparraguerra, younger brother of Rogelio, resides in barangay Talisay (also in San Fernando, Masbate), which is about four (4) kilometers away from Violeta's house in sitio Sowa.

In essence, the prosecution[4] tried to establish the following facts:

On July 27, 1991, Violeta visited her daughter, Salvacion Almoguera, at the latter's house in Buenavista, San Fernando, Masbate. Violeta borrowed P1,000.00 cash from her daughter who readily gave the money to her. That same day, Violeta was to return to her house in sitio Sowa. At that time, she was allegedly tipsy. Concerned with her mother's safety, Salvacion decided to accompany her mother to sitio Sowa.[5]

Salvacion and Violeta left Buenavista at about 5:00 p.m. and trekked the trail leading towards Sowa. Along the

way, they had to occasionally stop because Violeta was getting weak.[6] Soon after, it became dark. It was, however, a moonlit night.

The two women passed the poblacion proper of barangay Sowa at approximately 7:30 p.m. Suddenly, accused-appellants Rogelio and Rudy Esparraguerra and their uncle and co-accused Ely Cabiles, appeared from nowhere and blocked the trail leading to sitio Sowa. Salvacion, who was only a few meters behind her mother, recognized the three (3) men. She knew all of them since childhood.[7]

Rogelio demanded money from Violeta saying, "Give me the money." Violeta refused. Her response infuriated Rogelio. He forcibly took the money from Violeta and boxed her shoulders. She lurched. Thereafter, Ely Cabiles approached Violeta and twisted her arms towards her back. While she was in that defenseless position, Rudy drew a bolo and hacked Violeta, hitting her neck (just below the chin) in the process.[8]

Salvacion was shocked by what transpired. Initially, she thought that the accused were only joking. During the hacking incident, she stood motionless at a distance of about two (2) meters behind her mother and about five (5) meters away from Rudy. Upon seeing the tragic fate of her mother, she came to her senses and ran back to her house in Buenavista. She immediately informed her husband of the incident. For fear that the three (3) men would harm her, Salvacion and her husband locked the doors and windows of their house.[9]

The news about the death of Violeta spread in barangay Sowa in the early morning of July 28, 1991. Soon after, people started to gather at the crime scene. Among those who came to view the victim's body was Reynaldo Capisnon, a resident of barangay Sowa.

Apparently, that fateful evening, at around 6:00 p.m., Reynaldo Capisnon encountered Ely Cabiles and the Esparraguerra brothers along the trail leading to barangay Sowa. Reynaldo was on his way home after working in his farm some 150 meters away from the crime scene. At that time, Reynaldo was carrying a bolo which he used in clearing his farm. For no apparent reason, Rogelio grabbed Reynaldo's bolo and attempted to hack him. Fortunately, Reynaldo managed to escape. He immediately went home. He did not inform his wife or the authorities of the incident.[10]

The following day (July 28), at around 7:00 a.m., Reynaldo was told by his neighbors that a dead body was recovered within the vicinity of barangay Sowa. Thereafter, Reynaldo and his neighbors proceeded to the crime scene. When they arrived, there was a crowd at the scene. Reynaldo viewed the victim's body. He also saw Salvacion Almoguera. She was holding a bolo stained with blood. Reynaldo immediately recognized the bolo as his because he himself made its handle and put a distinguishing mark thereon. He asked Salvacion to give it to him for safekeeping. She agreed.[11]

The victim's body was examined by Dr. Jesus Camposano, Rural Health Physician of Ticao District Hospital, in Masbate, on July 28, 1991. His postmortem examination revealed that the victim sustained, among others, contusion on her left shoulder and a 10-centimeter hacking wound in her neck which caused her death.[12]

Accused-appellants proffered the defense of denial and alibi. They claimed they were in their respective houses during the commission of the crime.

Rogelio Esparraguerra averred that he worked in the farm of Hilario Barruga from 7:00 a.m. until 4:00 p.m. of July 27, 1991. Thereafter, he went home and rested. He and his family had supper at 7:00 p.m. Rogelio claimed he did not see his younger brother Rudy nor his uncle Ely that evening. Rogelio and his wife slept at around 9:00 p.m.

The following day, at about 7:00 a.m., Rogelio again worked at Hilario's farm. Allegedly, Hilario hired him to

work in his farm from July 24, 1991, to July 28, 1991.

Rosevita Esparraguerra, wife of Rogelio, corroborated her husband's testimony. She claimed, further, that she learned of Violeta's death from her neighbors at around 8:00 a.m. of July 28, 1991. She and her neighbors went to the crime scene which was only about a kilometer from their house. According to Rosevita, she wanted to see Violeta's body because her father and Violeta were cousins. Rosevita denied having seen Salvacion Almoguera and Reynaldo Capisnon at the crime scene. However, she admitted that she stayed thereat only for a brief moment. She went home thereafter. She admitted that, prior to the incident, they never had any misunderstanding with the victim and her family.

For his part, Rudy Esparraguerra alleged that, during the hacking incident on July 27, 1991, he stayed home with his wife, Milagros, who was then four (4) months pregnant. Allegedly, she had a miscarriage that night.

Rudy alleged that, on July 27, 1991, at around 3:00 p.m., Milagros felt pain in her stomach. An hour later, she started to bleed. The bleeding became more profuse at 6:00 p.m. She then asked Rudy to fetch a hilot (comadrona). He left at once and returned home with the hilot, Adelina Baldeo, at around 6:30 p.m. Adelina attended to the needs of Milagros but failed to save the fetus.

That same evening, Rudy sought the help of spouses Felixberto Bartolay and Socorro Cabiles whose house is about ten (10) meters away from his house. Socorro is Rudy's mother, while Felixberto is his stepfather. Felixberto and Socorro went to Rudy's house at about 7:00 p.m.

While Adelina was attending to Milagros, Rudy, Felixberto and Socorro drank liquor. Adelina went home at 10:00 p.m. Felixberto and Socorro left an hour later.

Milagros Esparraguerra and Felixberto Bartolay corroborated Rudy's testimony.

To destroy the alibi put up by accused-appellants, the prosecution presented the testimonies of Hilario Barruga and Adelina Baldeo.

Hilario Barruga denied that Rogelio worked for him from July 24, 1991, until July 28, 1991. According to Hilario, Rogelio worked for him on July 14 and 15, 1991. Hilario allegedly encircled said calendar dates to help him remember the dates when he started planting his crops.

For her part, Adelina Baldeo confirmed that Milagros had a miscarriage sometime in July, 1991. However, she averred that the miscarriage happened on July 5, 1991, not July 27, 1991. In support of her allegation, Adelina submitted notebook containing the information relative to the child births she had attended to. Her testimony was corroborated by Imelda Almoguera, the supervising midwife of Adelina Baldeo.

After trial, accused-appellants were found guilty as charged by the court a quo. They were sentenced to reclusion perpetua and ordered to pay the heirs of the victim, Violeta Angustia, civil indemnity in the amount of P50,000.00.[13]

Hence, the appeal. Accused-appellants contend that:

THE TRIAL COURT ERRED IN CONVICTING THE ACCUSED-APPELLANT DESPITE FAILURE OF THE PROSECUTION TO PROVE THEIR GUILT BEYOND REASONABLE DOUBT.

We affirm the judgment of conviction.

Salvacion Almoguera positively identified accused-appellants as the culprits. She testified as follows:[14]

"PROSECUTOR RAPSING:

"Q:

At about 5:00 (P.M.) of July 27, 1991, do you remember where you were?

"A:

Yes, sir.

"Q:

Where were you?

"A:

I was walking with my late mother?

x x x x x x x x

"Q:

Where were you walking?

"A:

Going to Sitio Sowa.

x x x x x x x x

"Q:

Of San Fernando, Masbate?

"A:

Yes, sir.

"Q:

You said you were walking with your mother, who is your mother please?

"A:

Violeta Mitra Angustia.

"Q:

While walking with your mother, do you remember of any incident that took place?

"A:

Yes, sir.

x x x x x x x x

"A:

While I and my mother were walking, and upon arrival at Barangay Sowa, San Fernando, Masbate, all of a sudden this Rogelio, Rudy and Ely Cabiles appeared.

"Q:

You mean Ely Cabiles, Rudy Esparraguerra and Rogelio Esparraguerra, the accused in this case?

"A:

Yes, sir.

"Q:

And what happened thereafter?

"A:

One of the accused, Rogelio Esparraguerra, demanded the money of my mother saying, "Give me the money."

"Q:

And what did your mother do upon the demand of Rogelio with your mother's money?

"A:

She refused to give the money.

"Q:

And what happened after that?

"A:

Rogelio boxed my mother twice on both her shoulder.

"Q:

What happened next?

"A:

She was out balanced.

"Q:

You mean, your mother, Violeta?

"A:

Yes, sir.

"Q:

And what happened after?

"A:

Ely approached my mother and held her two hands behind her back.

"Q:

What happened?

"A:

Rudy pulled out his bolo and hacked my mother on her neck.

x x x x x x x x

"Q:

After your mother (was) hacked by Rudy Esparraguerra, what happened next.

"A:

Upon seeing that my mother was hacked by Rudy, I ran towards our house.

"COURT:

Do you remember what part of his body was hacked?

"A:

On the neck.

"Q:

On the left or right?

"A:

(Witness pointing to her upper throat below the chin).

x x x x x x x

"Q:

You said, Mrs. Witness, that after your mother Violeta was hacked at the neck by Rudy Esparraguerra, you ran away, where did you go?

"A:

To our house at Buenavista.

"Q:

Upon reaching your house, what did you do?

"A:

I and my husband closed the door and the windows of our house.

x x x x x x x

"Q:

And what happened to your mother after that?

"A:

She died."

Accused-appellants, however, find the prosecution's version of the crime at bar incredible. They aver that Salvacion's allegation -- that she was with her mother during the hacking incident -- does not inspire belief because it would be unwise for them as the alleged assailants, to leave her unharmed if, indeed, she had witnessed the incident. Further, accused-appellants fault Salvacion for her failure to report the crime to the authorities or seek help from her neighbors that same evening. Accused-appellants, therefore, insist that Salvacion was not around at the time of the incident.

We are not persuaded.

Accused-appellants' argument hinges on the credibility of Salvacion Almoguera as an eyewitness. It is settled that the findings of the trial court on the credibility of witnesses should not be disturbed because the latter is in a better position to decide the question, having observed the deportment of the witnesses and their manner of testifying during the trial, unless certain facts of value have been plainly overlooked which, if considered, might affect the outcome of the case.[15]

Indeed, the trial court's assessment on whose story should be believed goes beyond what the witnesses declare at the trial — a privilege which the appellate court does not usually enjoy. Absent any compelling reason to overturn the trial court's findings, the same must be respected. We adhere to this rule, especially since the court a quo observed that Salvacion testified in a forthright and direct manner.[16] Moreover, she mentioned the minutiae of the incident, indicating her sincerity and truthfulness in the narration of events.[17]

The probative value of Salvacion's testimony is not diminished by her failure to report the incident to the authorities that tragic evening. What she did after the killing of her mother was an act of self-preservation. At that time, she believed that accused-appellants had followed her. She testified thus:[18]

"PROSECUTOR RAPSING: (continuing)

"Q:

You testified, Mrs. Witness, that upon seeing Rudy hack the neck of your mother, you ran away and upon reaching your home, you and your husband closed the windows and the doors of your house, why, Mrs. Witness?

"(SALVACION):

"A:

Because I thought that they were following me.

"COURT:

"Q:

More or less what time was that?

"(WITNESS):

"A:

More or less 8:30 o'clock (sic) in the evening."

On cross-examination,[19] she further testified as follows:

"ATTY. BAILON:

"Q:

So we are now certain that the place of Buenavista is very much farther from the house of your mother to the place of the incident.

"(SALVACION):

"A:

Yes, sir.

"Q:

And you told us that when you saw the accused hack your mother, you ran to your house at Buenavista.

"A:

Yes, sir.

"Q:

Why did you run to your house at Buenavista which is very far, rather than (go to) the house of your mother which is very near?

"A:

Because they were guarding the place?

"Q:

Who were guarding the place?

"A:

The three accused, Rudy, Rogelio and Ely.

"Court:

"Q:

How did you know that?

"A:

Because the dogs were barking.

"Q:

Aside from that, why did you know that they were barking?

"A:

Because I was afraid that I might be killed by them and I don't want to be killed."

We are not convinced by accused-appellants that Salvacion would falsely accuse them of a very grave offense such as the case at bar. Considering her relationship with the victim she would be more interested in securing the conviction of the guilty, and that would deter her from implicating persons other than the culprits, otherwise, the latter would go free.[20]

Accused-appellants' defense of alibi is not worthy of belief. We have repeatedly ruled that alibi is a weak defense as it is easy to concoct and fabricate. It becomes weaker in the face of the positive identification of an accused by an eyewitness with no improper motive to falsely testify.[21]

More. It is not sufficient for an accused to allege that he was away from the scene of the crime at the time of its commission. He must also present clear and convincing proof that it is physically impossible for him to be at the locus criminis while the crime was in progress. That physical impossibility is not present in this case.[22] The records show that Rogelio's residence is about a kilometer away from the crime scene.[23] On the other hand,

Rudy's house in barangay Talisay is about four (4) kilometers away from the house of the victim in sitio Sowa.[24] As a fish vendor, Rudy peddled fish not only in Talisay but also in the other nearby barangays of San Fernando, Masbate, such as Buenavista and Sowa.[25] Thus, it was not physically impossible for both accused-appellants to be at the crime scene and commit the crime on July 27, 1991.

Accused-appellants also argue that, as per the testimony of Salvacion Almoguera, the main motive of the assailants was to rob the victim. Thus, they suggest that whoever killed the victim must have had previous knowledge that the victim was carrying cash at the time of the incident. In their case, no such evidence was adduced against them.

Jurisprudence tells us that the prosecution need not prove motive on the part of the accused when they have been positively identified as the perpetrators of the crime.[26] In robbery with homicide cases, the prosecution need only to prove these elements:[27] (a) the taking of personal property with violence or intimidation against persons; (b) that the property taken belongs to another; (c) the taking be done with *animo lucrandi*;^[28] and (d) on the occasion of the robbery or by reason thereof, homicide (used in its generic sense) was committed. These elements had been established by the prosecution when Salvacion testified in open court that accused-appellants, acting in unison, demanded money from her mother, forcibly took the same against her will and then hacked her to death.

We now come to the allegation in the information that the aggravating circumstances of disregard of sex and uninhabited place attended the commission of the crime.

Well settled is the rule that the aggravating circumstance that the crime was committed with insult or in disregard of the respect due the offended party on account of his rank, age or sex,[29] may be taken into account only in crimes against persons or honor, when in the commission of the crime, there is some insult or disrespect shown to rank, age or sex. It is not proper to consider this aggravating circumstance in crimes against property. Robbery with homicide is primarily a crime against property and not against persons. Homicide is a mere incident of the robbery, the latter being the main purpose and object of the criminal. It is thus erroneous to take this aggravating circumstance into account in robbery with homicide.[30]

As regards the aggravating circumstance of uninhabited place (*despoblado*), we have ruled that the term uninhabited place refers not to the distance of the nearest house to the *locus criminis*. The more important consideration is whether the place of commission affords a reasonable possibility for the victim to receive some help.[31] Further, before it could be appreciated against the accused, it must be established that solitude was purposely sought or taken advantage of to facilitate the commission of the crime.[32] We find that this circumstance was not satisfactorily proven in this case.

Robbery with homicide is punishable by two (2) indivisible penalties, reclusion perpetua to death. Since the alleged aggravating circumstances were not duly established, we agree with the court *a quo* that the lesser penalty of reclusion perpetua should be imposed against accused-appellants.[33]

IN VIEW WHEREOF, the assailed decision of the Regional Trial Court (Branch L) of San Jacinto, Masbate, in Criminal Case 453, finding accused-appellants ROGELIO ESPARRAGUERRA AND RUDY ESPARRAGUERRA guilty beyond reasonable doubt of the crime of Robbery With Homicide, is AFFIRMED. No costs.

SO ORDERED.

Narvasa, C.J., (Chairman), Regalado, Mendoza, and Francisco, JJ., concur.

[1] Presided by Judge Manuel S. Pecson.

[2] Rollo, p. 4.

[3] Certificate of Arraignment, dated February 4, 1992, Original Records, p. 20.

[4] The prosecution presented the following witnesses, viz: Salvacion Almoguera, the lone eyewitness and daughter of the victim; Dr. Jesus Camposano; Reynaldo Capisnon; and rebuttal witnesses Adelina Baldeo, Hilario Barruga and Imelda Almoguera.

[5] TSN, March 3, 1992, pp. 15-19.

[6] Ibid.

[7] Ibid, p. 11.

[8] TSN, March 3, 1992, pp. 6-7.

[9] Ibid, pp. 9-10, 27.

[10] TSN, April 8, 1992, pp. 3, 9, 18; Exhibit "E".

[11] Ibid, pp. 11-13, 23-24.

[12] TSN, April 7, 1992, pp. 131-141; see also Exhibit "B", Original Records, p. 64.

[13] Original Records, pp. 358, 366.

[14] TSN, March 3, 1992, pp. 5-9.

[15] People vs. Balanag, G.R. No. 103225, September 15, 1994, 236 SCRA 474.

[16] RTC Decision, dated February 2, 1993, p. 8.

[17] People v. Bañez, G.R. No. 95456, September 18, 1992, 214 SCRA 109.

[18] TSN, March 3, 1992, pp. 10-11.

[19] Ibid, pp. 26-27.

[20] People v. Pugal, G.R. No. 90637, October 29, 1992, 215 SCRA 247, 262; People v. Hasiron, G.R. No. 100797, October 15, 1992, 214 SCRA 586, 594.

[21] People vs. Javier, G.R. No. 104729, February 3, 1994, 229 SCRA 638.

[22] People vs. De la Cruz, G.R. No. 102063, January 20, 1993, 217 SCRA 263, 283, 293; People vs. Pugal, G.R. No. 90637, October 20, 1992, 215 SCRA 247, 263.

[23] TSN, August 4, 1992, p. 61.

[24] Ibid, p. 45.

[25] Ibid, pp. 47, 65.

[26] *People vs. Canceran*, G.R. No. 104866, January 31, 1994, 229 SCRA 581.

[27] See Articles 293 and 294, Revised Penal Code.

[28] Unless the contrary appears, *animo lucrandi* or intent to gain is presumed when one takes the property belonging to another against his will, whether force or violence was employed. The unlawful taking with violence or intimidation against the "owner" of the property being the natural and proper motive for the perpetration of the act (See *United States vs. Alabot*, No. 13052, October 4, 1918, 38 Phil 698, citing *United States vs. San Pedro*, 4 Phil 405).

[29] Article 14 (3) of the Revised Penal Code.

[30] *People vs. Ga*, G.R. No. 49831, June 27, 1992, 186 SCRA 790, 798; *People v. Collado*, 196 SCRA 519.

[31] *People vs. Desalisa*, G.R. No. 95262, January 4, 1994, 229 SCRA 35.

[32] Article 14 (6) of the Revised Penal Code.

[33] cf. Article 63 (2) of the Revised Penal Code. Parenthetically, even if the alleged aggravating circumstances had been established, the imposable penalty is still *reclusion perpetua* because death penalty cannot be imposed under Section 19 (1), Article III of the 1987 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.