

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ELEZE GALAPIN AND ERNESTO BEIRA, JR., ACCUSED-APPELLANTS.*G.R. No. 124215. July 31, 1998*Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-124215/>**DAVIDE, JR., J:**

To answer for the death of Roberto Pillora on 30 January 1994 due to a stab wound, accused-appellants Elezer Galapin (hereafter ELEZER) and Ernesto Biera, Jr. (hereafter ERNESTO) were charged with homicide in a complaint[1] filed by the Chief of Police of Himamaylan, Negros Occidental, on 2 February 1994, with the Municipal Trial Court (MTC) of Himamaylan, Negros Occidental. The complaint was later amended to charge them with murder due to the “qualifying circumstances of alevosia, evident premeditation, taking advantage of superior strength and employing means to weaken the defense or means or persons to insure or afford impunity.”[2]

After appropriate proceedings and a finding of probable cause, the MTC forwarded the record of the case to the Office of the Provincial Prosecutor which, on 13 April 1994, filed an information[3] before the Regional Trial Court (RTC) of Himamaylan, Negros Occidental (docketed as Criminal Case No. 653) charging ELEZER and ERNESTO with murder in that:

[O]n or about the 30th day of January, 1994, in the Municipality of Himamaylan, Province of Negros Occidental, Philippines, and within the jurisdiction of the Honorable Court, the above-named accused, armed with a bladed weapon, conspiring, confederating and mutually helping each other, with evident premeditation and treachery and with intent to kill, did then and there, wilfully, unlawfully and feloniously attack, assault and stab one ROBERTO PILLORA y RAFEL, thereby inflicting injuries upon the body of the latter which caused the death of said victim.

ELEZER and ERNESTO each entered a plea of not guilty upon their arraignment[4] on 4 May 1994.

The prosecution’s evidence in chief consisted mainly of the testimonies of Regemer Gutierrez, a 9-year old grade III student at the time of the incident, a nephew of the victim Roberto Pillora (hereafter ROBERTO) and resident of Rockcrusher, Barangay IV, Himamaylan, Negros Occidental; Lydia Pillora, the wife of ROBERTO; Pio Cabrillos, a friend of ROBERTO and Dr. Medardo Estanda.[5] Their testimonies established the following facts:

At about 8:30 p.m. of 30 January 1994, Regemer Gutierrez was gathering empty bottles at the store of Paquito Aloro located at Rockcrusher, Barangay IV, Himamaylan, Negros Occidental. From where he was situated, he saw Paquito Aloro, Regemer’s uncle ROBERTO, ELEZER and ERNESTO inside the store. Regemer was only two and a half meters away from them and he saw them clearly because of the electric lights both inside and outside the store. ELEZER and ERNESTO were seated beside each other drinking Añejo Rhum 65 with ROBERTO, while Paquito, who was seated beside ROBERTO, did not drink but was conversing with the others. ELEZER and ROBERTO, while still seated, then had an argument; they exchanged words, but Regemer could not hear them clearly. Later, Paquito went outside the store to answer “the call of nature.” At this juncture, as ROBERTO stood up to leave, ELEZER and ERNESTO likewise stood up. ERNESTO stood behind ROBERTO, held his hands then pulled down his jacket, which made ROBERTO kneel down on the ground. ELEZER then

stabbed ROBERTO at the chest with a fan knife, after which, ELEZER and ERNESTO ran away. Regemer went home and told his mother about the stabbing incident.[6] While he was on the witness stand, Regemer positively identified ELEZER and ERNESTO,[7] the fan knife used by ELEZER and the jacket worn by ROBERTO during the incident.[8]

At the time of the incident, Lydia Pillora, ROBERTO's wife, was at home, watching television with her grandson. She heard Elsa Gantalao, a neighbor, shout that ROBERTO had been stabbed at the store of Paquito. Lydia immediately ran towards the store where she saw ROBERTO in a "kneeling position while his head was leaning on the bench" and "his two hands being tied by a jacket." She then cradled ROBERTO, noticed the blood on his body and cried for help. Thereupon, Pio Cabrillos, Francisco Gantalao, Paquito Aloro and many others arrived. They loaded ROBERTO in a tricycle and brought him to the Governor Valeriano M. Gatuslao Memorial Hospital where he was declared "dead on arrival." [9]

Lydia further disclosed that the family of ELEZER had a score to settle with ROBERTO; in fact, ROBERTO had told her that he had received threats from ELEZER's family. The conflict began sometime in 1983 when Abner Galapin, a brother of ELEZER, hacked ROBERTO with a bolo injuring the latter's shoulder. ROBERTO thus had to be confined in a hospital for three months. Subsequently, in the evening of 11 May 1987, Alex Galapin, also a brother of ELEZER, stoned the store of Lydia, leading to a criminal complaint for malicious mischief being filed against Alex before the MTC of Himamaylan, Negros Occidental and docketed therein as Criminal Case No. 458. While on 1 June 1987, an encounter took place between Rolly, the son of ROBERTO and Lydia, on one hand, and Abner and Alex Galapin, on the other. As a consequence, Rolly was charged with less serious physical injuries in Criminal Case No. 464, of the MTC of Himamaylan.[10] Criminal Cases Nos. 458 and 464, however, were subsequently dismissed.[11] In closing, Lydia declared that she suffered sorrow and pain because of the untimely death of her husband ROBERTO.[12]

Pio Cabrillos corroborated the testimony of Lydia as to the ill-motive which moved ELEZER to kill ROBERTO. Pio further testified that he was among those who rushed to the scene of the crime after his wife Estelita informed him of what had happened to ROBERTO. Near the store of Paquito, Pio saw ROBERTO in a kneeling position, drenched with blood, and with hands at his back tied with a "maong" jacket. Pio, Francisco, Lydia and Estelita then loaded ROBERTO in a tricycle and brought him to the hospital. However, ROBERTO was declared dead on arrival at the hospital.[13]

Dr. Medardo S. Estanda, of the Rural Health Unit of Himamaylan, Negros Occidental, whose qualifications as a medico-legal officer were admitted by the defense, performed an autopsy on the cadaver of ROBERTO on 31 January 1994. Estanda found a slanted lesion above ROBERTO's right nipple; that ROBERTO died of a stab wound caused by a single bladed weapon; and that the blow was delivered while the assailant was either in front or behind ROBERTO.[14] Estanda's Necropsy Report[15] disclosed the following findings:

Postmortem Findings:

Pale integuments and nailbeds.

Lesion 1 -- Wound, stab; 5.5 cm. long, 12.0 cm. deep; oriented medially, downward, and posteriorly; located at the right upper anterior chest, 4th right intercostal space 5.0 cm. from the anterior midline; blunt superior edge located laterally, 132.0 cm. from right heel; sharp inferior edge located medially, 130.5 cm. from right heel; causing communication to the right pleural cavity; right lung slightly collapsed; right pleural cavity filled with 500 ml. of blood and few blood clots; through and through the mediastinum; hitting portion of the arch of aorta 1.0 cm. from the left ventricle; creating an inverted V-shaped laceration, 3.5 cm. long; mediastinum filled with 500 ml. of blood and blood clots.

Cause of Death: Traumatic Shock Secondary to Internal Hemorrhage Caused by Physical Injury (Stab Wound).

The witnesses for the defense were ELEZER, ERNESTO, Jose Flores, Claudio Galapin and Mely Ardeña.

Expectedly, ELEZER had another version of the incident. At about 8:30 p.m. of 30 January 1994, ELEZER was drinking “whisky” with Paquito at the latter’s store in Rockcrusher, Himamaylan, Negros Occidental. Later, ROBERTO arrived and joined them. When ELEZER was about to leave and while Paquito was urinating outside the store, ROBERTO remarked to ELEZER: “You are too young to rest,” to which, ELEZER answered: “You are saying bad words.” As ROBERTO stood up and pulled out a “Batangas knife,” ELEZER likewise stood up and grabbed ROBERTO. As both of them were struggling, the knife fell to the ground. ELEZER somehow got hold of the knife and stabbed ROBERTO with it. Regemer Gutierrez was nowhere near the scene of the incident. ELEZER ran home where he told ERNESTO, Claudio Galapin and a niece about the incident. ELEZER then followed Claudio’s advice to surrender to the police.[16]

On his part, ERNESTO, a brother-in-law of ELEZER and a resident of Hacienda Ballesteros, Caradio-an, Himamaylan, Negros Occidental, testified that at about 7:00 p.m. of 30 January 1994, he and Jose Flores were dining in the store of Mely, which was approximately sixty meters from the house of Claudio. They left the store at 7:30 p.m., more or less, and went to the house of Claudio in Rockcrusher, Himamaylan. Later, ELEZER arrived and told them that he had stabbed ROBERTO. They convinced ELEZER to surrender to the authorities. In the morning of 31 January 1994, despite his objection, ERNESTO was detained by the police officers.[17]

Jose Flores corroborated the alibi of ERNESTO and added that Michael, Jose’s son, told Jose that ELEZER stabbed ROBERTO.[18]

Claudio Galapin corroborated the testimony of ELEZER and ERNESTO.[19]

Mely Ardeña, an operator of a “carinderia” at Rockcrusher, Barangay IV, Himamaylan, Negros Occidental, testified that at about 8:30 p.m. of 30 January 1994, she was at the kitchen of her “carinderia” facing the store of Paquito. While hanging a rug, her attention was drawn to an argument between ELEZER and ROBERTO taking place at the store of Paquito. She then witnessed ELEZER stab ROBERTO. Mely called Elsa, a neighbor, to summon the wife of ROBERTO. Mely also went to Pio Cabrillos to ask for assistance. Thereupon, Pio and many others carried ROBERTO outside the store.[20] Mely insisted that only ELEZER and ROBERTO were present during the incident, and refuted the testimony of Regemer that after the incident, the latter inquired from her about the circumstances pertaining to the death of ROBERTO.[21]

In a decision[22] promulgated on 31 October 1995, the trial court convicted ELEZER and ERNESTO of murder and rendered judgment as follows:

WHEREFORE, in view of the foregoing consideration[s] and observations, the Court finds the two accused, Elezer Galapin and Ernesto Beira, Jr., guilty beyond reasonable doubt of the crime of MURDER qualified by treachery and taking advantage of superior strength attendant in the commission of the crime and, therefore, they are hereby sentenced to suffer the penalty of life imprisonment.

The Court hereby orders the two accused, Elezer Galapin and Ernesto Beira, Jr., to solidarily indemnify the family of the victim in the amount of P250,000.00 without subsidiary imprisonment in case of insolvency.

The trial court gave weight and credit to the evidence of the prosecution, describing Regemer’s testimony as having been given “in a straightforward manner and in accord with the findings of the medico-legal officer,” moreover, it found no proof whatsoever that this boy of tender age falsified his testimony or was ill-motivated in testifying against ELEZER and ERNESTO. It rejected ELEZER’s claim of self-defense, thus:

The narration by the accused of the stabbing incident which resulted [in] the death of [ROBERTO] is unworthy

of consideration. The findings of the Medico-Legal Officer Dr. Medardo S. Estanda, Rural Health Physician, clearly shows that ROBERTO, sustained one (1) fatal stab wound at the right upper anterior chest. There [were] neither bruises nor scratches found on [ROBERTO's] body to indicate that the stabbing incident was preceded by physical struggle for possession of the knife. The ease with which the accused was able to wrestle possession of the knife is not supported by evidence. The accused did not adduce evidence to prove his superiority over [ROBERTO] with regards [sic] to his fighting prowess and physical built compared to [ROBERTO]. Evidence to be worthy of credit must not only proceed from a credible source but must, in addition, be credible in itself (People vs. Marti, 193 SCRA 57).

xxx

The remark of the deceased, "you are too young to rest" followed by the pulling out of a knife, even if true, constitutes oral threat and a mere threatening stance or posture. They [did] not constitute unlawful aggression on the part of [ROBERTO], because unlawful aggression refers to an attack that has actually broken out or materialized or at the very least is clearly imminent; it cannot consist [of] oral threats or a merely threatening stance or posture (People vs. Tac-an, 182 SCRA 601).

In self-defense, the presence of the requisite of unlawful aggression is indispensable. Its absence, as in this case, is fatal to the accused's defense because in the absence of the primordial element of unlawful aggression, self-defense, complete or incomplete, cannot be appreciated (People vs. Nulla, 153 SCRA 471).[23]

The trial court also rejected ERNESTO's defense of alibi because he failed to prove that he was somewhere else when the crime was committed and that it was physically impossible for him to have been at the scene of the crime at the time it was committed.[24] On this point, it held:

As testified to by witness Jose Flores and corroborated by Mely Ardeña, they were at the latter's "carinderia" eating sea foods [sic] after which they left at around 7:00 o'clock in the evening of January 30, 1994 and proceeded to the house of Claudio Galapin, the father-in-law of the accused Ernesto Beira, Jr. Although Jose Flores accompanied Ernesto Beira, Jr. to the house of the latter's father-in-law, he did not stay in said house as he immediately left and proceeded to his house and stayed thereat. In other words, he did not know what the accused, Ernesto Beira, Jr., was doing during the intervening period after he (Jose Flores) left the house of Claudio Galapin. Considering that the distance from Claudio Galapin's house to the store of Paquito Aloro is only sixty (60) meters, the accused [could] walk and reach the store within minutes. There [was] no physical impossibility for him (ERNESTO Beira, Jr.) to be there at said place when the stabbing incident happened. Under these circumstances, the defense of alibi will not prosper because it must be shown that it was physically impossible for the accused to be present at the crime scene or [in] the vicinity thereof, at the approximate time the crime was committed. (Manalaysay vs. Court of Appeals, 172 SCRA 99).[25]

ELEZER and ERNESTO seasonably appealed to us, and in their Brief for the Appellants, contend that the trial court erred in: (a) disregarding in toto their exculpatory evidence; (b) holding that conspiracy attended the commission of the crime; and (c) convicting them of the crime of murder.

After obtaining five extensions of time to file the Appellee's Brief, the Office of the Solicitor General (OSG) finally filed the same on 25 September 1997. The OSG prays we affirm the conviction with a modification as to the penalty, which should be, in accordance with People v. Baculi,[26] reclusion perpetua instead of life imprisonment.

We resolve the assigned errors in seriatim.

In the first assigned error, ELEZER and ERNESTO assert that the trial court should not have given full credence to the testimony of Regemer Gutierrez as he was biased on account of ROBERTO being Regemer's uncle. ELEZER also insists that he should be acquitted on ground of self-defense; concretely, he was a victim of

unlawful aggression as the deceased “was armed with a fan knife and tried to stab him” with it. On the other hand, ERNESTO avers that he was not at the scene of the crime when the crime was committed and the fact that he did not flee despite of an opportunity to do so further proves his innocence.

We are not convinced.

Relationship per se does not give rise to a presumption of bias or ulterior motive, nor does it ipso facto impair the credibility or tarnish the testimony of a witness. We have held that the natural interest of witnesses who are relatives of the victim in securing the conviction of the guilty would deter them from implicating persons other than the culprits for, otherwise, the latter would thereby go unpunished. A witness’ relationship to a victim of a crime, far from rendering his testimony biased, even makes it more credible as it would be unnatural for a relative who is interested in vindicating the crime to accuse somebody other than the real culprit.[27] We have further ruled that there is absolutely nothing in this jurisdiction which disqualifies a person from testifying in a criminal case in which a relative is involved, if the former was really at the scene of the crime and witnessed the execution of the criminal act.[28]

The trial court likewise did not hesitate to believe Regemer’s testimony. It is a rule deeply embedded in our jurisdiction that when the issue is one of credibility of witnesses, we will not generally disturb the finding of the trial court, considering that the latter is in a better position to decide the question, having heard the witnesses themselves and observed their deportment and manner of testifying during the trial, unless it has plainly overlooked certain facts of substance and value that, if considered, might affect the result of the case.[29] After a meticulous review of Regemer’s testimony, we find no compelling reason to set aside the trial court’s evaluation.

ELEZER’s claim of self-defense does not persuade us. The rule is that when self-defense is invoked, the burden of evidence shifts to the accused to show that the killing was justified and that he incurred no criminal liability therefor. In so doing, he must rely on the strength of his evidence and not on the weakness of the prosecution’s evidence, for, even if the latter were weak, it may not be disbelieved after his open admission of responsibility for the killing. Here, ELEZER failed to present proof of the existence of the three requisites of self-defense, to wit: (1) unlawful aggression on the part of ROBERTO; (2) reasonable necessity of the means employed to prevent or repel it; and (3) lack of sufficient provocation on the part of the person defending himself. Of these three requisites, unlawful aggression is the most essential for, without it, self-defense cannot exist.[30]

On the basis of ELEZER’s testimony, no unlawful aggression on the part of ROBERTO was proven. We gathered therefrom that in the course of the altercation between him and ROBERTO, the latter “stood up and pulled out a Batangas knife.” However, on cross-examination, ELEZER openly admitted that the knife held by the deceased was still closed. ELEZER and ROBERTO then allegedly grappled for possession of the knife, which fell to the ground. ELEZER then picked it up and stabbed the deceased. Plainly, there was no unlawful aggression from ROBERTO.

Unlawful aggression contemplates an actual, sudden and unexpected attack, or imminent danger thereof, and not merely a threatening or intimidating attitude; there has to exist a real danger to the life or personal safety of the person claiming self-defense.[31] Nothing of the sort could reasonably be said of the actuations of ROBERTO. At most, he merely displayed a threatening or intimidating attitude. Besides, the knife had already fallen to the ground and there is no evidence that the deceased tried to regain possession of it. Hence, even assuming ex gratia that initially there was unlawful aggression from ROBERTO, the same had already ceased and ended. ELEZER thus became the aggressor when he thereafter picked up the knife and then stabbed the deceased.

The defense of ERNESTO is alibi. However, we have ruled time and again that alibi is a weak defense for it is easy to concoct and fabricate. It cannot prevail and is worthless in the face of the positive identification of the

accused by credible witnesses.[32] For alibi to prosper, it is not enough to prove that the accused was somewhere else when the crime was committed, but that he must also demonstrate that it was physically impossible for him to have been at the scene of the crime at the time of its commission.[33] In this case, ERNESTO was positively identified by prosecution witness Regemer Gutierrez to have been at the scene of the crime when it was being committed and to have participated in its commission. Worse, ERNESTO made no attempt to prove that the place where he claimed to be was so far removed from the scene of the crime so as to have rendered it physically impossible for him to have been at the latter place at the time the crime was committed. On the contrary, defense witness Mely Ardeña, in whose carinderia ERNESTO and one Jose Flores were eating “talaba” in the evening of 30 January 1994, admitted on cross-examination that her carinderia was only “more than five extended-arms length” from the store of Paquito Aloro where ROBERTO was stabbed by ELEZER;[34] and that ERNESTO and Jose Flores left her store at 7:00 p.m. that evening.[35]

As to ERNESTO’s claim that his innocence was bolstered by the fact that he did not flee after commission of the crime despite the opportunity to do so, suffice it to state that while in several cases we have declared that flight evidences guilt and a guilty conscience, that it strongly indicates a guilty mind, or betrays the existence of a guilty conscience, it does not necessarily follow that he who does not flee is innocent.[36]

Anent the second assigned error, ELEZER and ERNESTO claim that conspiracy cannot be established because: (1) ROBERTO sustained only one stab wound, thus there must have been only one culprit; (2) the meeting by the parties was casual, accidental and unexpected; and (3) the “maong” jacket worn by the deceased, a vital piece of evidence that linked ERNESTO to the commission of the crime, was not turned over to the authorities and surfaced only during trial.

There is conspiracy when two or more persons come to an agreement concerning the commission of a felony and decide to commit it. Conspiracy, in order to exist, does not require an agreement for an appreciable period prior to the commission of the crime; it exists if, at the time of the commission of the offense, the accused had the same purpose and were united in its execution. Thus, direct proof of a previous agreement to commit a crime is not necessary. Conspiracy may be deduced from the mode and manner by which the offense was perpetrated, or inferred from acts of the accused themselves when such point to a joint purpose and design, concerted action and community of interest.[37]

There is no evidence in this case that ELEZER and ERNESTO conspired to kill ROBERTO. The fact alone that ERNESTO pulled down the jacket of ROBERTO when the latter stood to leave for home, cannot support a conclusion that he shared in the criminal intent of ELEZER to stab and kill ROBERTO or that ERNESTO knew what ELEZER was about to do. It cannot, however, be disputed that when ROBERTO’s jacket was pulled down, he was deprived of the use of his hands to ward off any attack on his person. As such, ERNESTO may be held liable as an accomplice. Article 18 of the Revised Penal Code defines an accomplice as a person who, not being included in Article 17 of the Code, cooperates in the execution of the offense by previous or simultaneous acts. Article 17 enumerates who are considered principals in the commission of a crime, namely: (1) those who take a direct part in the execution of the act; (2) those who directly force or induce others to commit it; and (3) those who cooperate in the commission of the offense by another act without which it would not have been accomplished.

As regards the third assigned error, ELEZER and ERNESTO claim that “crime here should have been homicide instead of murder.” On this score we agree with them.

It is settled that mere superiority in number is not enough to constitute superior strength; there must exist proof of deliberate intent to take advantage of the same.[38] The prosecution had no evidence in this regard.

Neither are we convinced that treachery was proven. Here, we have ELEZER, ERNESTO and the victim ROBERTO having a drinking spree with the first two seated on one side of a table and the latter seated on the opposite side. Regemer testified on cross-examination that the stabbing was preceded by an argument between ELEZER and the victim, thus:

Q

Before Roberto Pillora was stabbed by Eleizer Galapin, was there any exchanged [sic] of words between them?

A

Yes, sir, they were arguing with each other.

Q

And when you said “they”, you are referring to Galapin and Pillora?

A

Yes, sir.

Q

And when they were arguing with each other, was Galapin standing or still sitting?

A

He was still sitting.

Q

What about Pillora, was he standing or sitting?

A

He was sitting.

Q

And there was a table between them while in the course of the argument?

A

Yes, sir.

Q

During the time that they were arguing, how far was Eleizer Galapin from Roberto Pillora?

A

About one (1) meter; they were facing each other.

Q

And while they were arguing, where was Ernesto Beira at that time?

A

They were sitting beside each other.

Q

Was Paquito Aloro also there at the time of the argument?

A

Yes, sir.

Q

What were they arguing about?

A

I did not hear.

Q

And because you did not hear what they were arguing [about], how did you come to know that these two were arguing?

ATTY. TAN:

That is irrelative [sic], your Honor, he was two (2) meters away from the persons involved.

COURT:

Witness may answer.

A

They were conversing each other.

Q

And you could hear them clearly because when you said they were conversing, they were doing it in a low tone?

A

Yes, sir.[39]

Clearly then, the victim was forewarned of impending danger. Under the law, there is treachery 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.[40] For treachery to be present, two conditions must concur: (1) the employment of means, methods or forms of execution that gives the person attacked no opportunity to defend himself or to retaliate; and (2) that said means, method or forms of execution were deliberately and consciously adopted.[41] There is here a paucity of evidence as to both. As regards the first, the argument between ELEZER and the victim before the stabbing was sufficient warning to the victim that the situation would escalate into something more serious. As to the second, the evidence is not sufficient to show that ELEZER deliberately or consciously adopted the means or method of execution. The decision to stab the victim could have been but a product of impulsiveness or the heat of the moment provoked by the argument, hence, it was unlikely that he deliberated on the means to carry out his decision. That ELEZER had a knife with him does not warrant the conclusion that he had earlier planned to kill the victim.

Accordingly, ELEZER may only be held liable for homicide. The penalty prescribed for homicide under Article

249 of the Revised Penal Code is reclusion temporal. Since he voluntarily surrendered, he is entitled to the mitigating circumstance of voluntary surrender under paragraph 7 of Article 13 of the Revised Penal Code and, as no aggravating circumstance was proven, then pursuant to Article 64(2) of the Revised Penal Code, the penalty in its minimum period may be imposed. Since he is, as well, entitled to the benefits of the Indeterminate Sentence Law, an indeterminate penalty with a minimum which may be within the range of the penalty next lower than that prescribed by law and a maximum which shall be that prescribed by law taking into account the modifying circumstance, may be imposed on him. Specifically, the indeterminate penalty of eight (8) years of prision mayor minimum as minimum to fourteen (14) years and eight (8) months of reclusion temporal minimum as maximum may thus be imposed on ELEZER.

We turn now to the penalty for ERNESTO. The penalty for an accomplice in the crime of homicide is prision mayor pursuant to Article 52 of the Revised Penal Code. No aggravating circumstance was established, and ERNESTO failed to prove any mitigating circumstance. Following Article 64(1) of the Revised Penal Code, the penalty imposable on him is prision mayor in its medium period. He is, as well, entitled to the benefits of the Indeterminate Sentence Law. Accordingly, he can be sentenced to an indeterminate penalty with a minimum within the penalty next lower in degree than that prescribed for the accomplice in homicide and a maximum which is that prescribed by law. Thus, an indeterminate penalty ranging from four (4) years and two (2) months of prision correccional medium as minimum to ten (10) years of prision mayor medium as maximum may be imposed on him.

As to the civil liability, we find no basis for the award of P250,000.00. The heirs of Roberto Pillora are, however, entitled to civil indemnity for Roberto's death in the amount of P50,000.00 as fixed by current case law. And since his widow, Lydia Pillora, testified that she suffered sorrow and pain due to the untimely death of Roberto, she is likewise entitled to moral damages under Articles 2217 and 2219 of the Civil Code, which we hereby fix at P25,000.00.

One final note. The trial court imposed the penalty of life imprisonment instead of reclusion perpetua which the Revised Penal Code prescribes. It must have been of the impression that reclusion perpetua and life imprisonment are synonymous. They are entirely different from each other and we have admonished judges not to mistake one for the other.[42]

IN VIEW OF THE FOREGOING, judgment is hereby rendered modifying the judgment appealed from. As MODIFIED, the accused-appellants ELEZER GALAPIN and ERNESTO BEIRA, JR. are found guilty beyond reasonable doubt as principal and accomplice, respectively, of the crime of homicide as defined and penalized under Article 249 of the Revised Penal Code. Accused-appellant ELEZER GALAPIN is sentenced to suffer an indeterminate penalty ranging from EIGHT (8) years of prision mayor minimum as minimum to FOURTEEN (14) years and EIGHT (8) months of reclusion temporal minimum as maximum, with all accessory penalties; while accused-appellant ERNESTO BEIRA, JR. is sentenced to suffer an indeterminate penalty ranging from FOUR (4) years and TWO (2) months of prision correccional medium as minimum to TEN (10) years of prision mayor medium as maximum, with all accessory penalties. Both are likewise ordered to pay, jointly and severally, the heirs of Roberto Pillora the sum of FIFTY THOUSAND PESOS (P50,000.00) as civil indemnity for the latter's death, and to the widow, Lydia Pillora, the sum of TWENTY-FIVE THOUSAND PESOS (P25,000.00) as moral damages.

In the service of their sentence, accused-appellants shall be credited with the full time of their preventive detention if they have agreed voluntarily and in writing to abide by the same disciplinary rules imposed upon convicted prisoners pursuant to Article 29 of the Revised Penal Code.

Costs against accused-appellants.

SO ORDERED.

Bellosillo, Vitug, Panganiban, and Quisumbing, JJ., concur.

[1] Original Record (OR), Criminal Case No. 973, 1.

[2] Id, 17.

[3] OR, 52.

[4] Id., 60.

[5] Other witnesses were Police Officers Nelson Castillo, Lupercio Golez, Jr., Jeremias Padilla and Rafael Segovia, who testified as to their investigation of the incident and the entry in the police blotter that the victim's assailants were ELEZER and ERNESTO.

[6] TSN, 23 June 1994, 3-10, 13-27.

[7] Id., 5, 27-28.

[8] Id., 11-12.

[9] TSN, 22 August 1994, 4-11.

[10] TSN, 22 August 1994, 11-16, 26-29.

[11] Id., 25.

[12] Id., 17.

[13] TSN, 15 August 1994, 4-16.

[14] TSN, 1 December 1994, 3-4, 7-12.

[15] Exhibits "J-3," "J-4;" OR, 126.

[16] TSN, 2 June 1995, 5-12.

[17] TSN, 16 May 1995, 2-10, 20-22.

[18] TSN, 10 April 1995, 5-8, 12-14.

[19] Id., 16-20, 31-33.

[20] TSN, 17 March 1995, 11-16, 42-44, 47.

[21] Id., 16-19, 38-41.

[22] OR, 208-227; Rollo, 23-43. Per Judge Jose Y. Aguirre, Jr.

[23] OR, 222 et seq.; Rollo, 37-39.

[24] Citing *People v. Urquia, Jr.*, 203 SCRA 735 [1991].

[25] OR, 225-226; Rollo, 41-42.

[26] 246 SCRA 756 [1995].

[27] *People v. Enciso*, 223 SCRA 675,686 [1993]; *People v. Veinte*, 225 SCRA 361, 368-369 [1993].

[28] *People v. dela Cruz*, 207 SCRA 632, 643 [1992].

[29] *People v. Pascual*, 208 SCRA 393, 399 [1992]; *People v. De la Cruz*, 217 SCRA 283, 290 [1993]; *People v. Pamor*, 237 SCRA 462, 471 [1994]; *People v. Malunes*, 247 SCRA 317, 324 [1995].

[30] *People v. Ybeas*, 213 SCRA 793, 801 [1992]; *People v. Silvestre*, 244 SCRA 479, 490-491[1995]; *People v. Balamban*, 264 SCRA 619, 630 [1996].

[31] *People v. Boniao*, 217 SCRA 653, 667 [1993]; *People v. Talingting*, G.R. No. 107747, 20 October 1997.

[32] *People v. Lee*, 204 SCRA 900, 910 [1991]; *People v. Buka*, 205 SCRA 567, 584 [1992]; *People v. Kyamko*, 222 SCRA 183, 194 [1993].

[33] *People v. Penillos*, 205 SCRA 546, 560 [1992]; *People v. Casinillo*, 213 SCRA 777, 791 [1992]; *People v. Florida*, 214 SCRA 227, 239[1992].

[34] TSN, 17 March 1995, 34.

[35] *Id.*, 28.

[36] *People v. Enciso*, 223 SCRA 675, 688 [1993]; *People v. Amania*, 248 SCRA 486, 493 [1995]; *People v. Bionat*, G.R. No. 121778, 4 September 1997.

[37] *People v. Silvestre*, 244 SCRA 479, 493 [1995]; *People v. Hubilla*, 252 SCRA 471, 480 [1996].

[38] *People v. Castor*, 216 SCRA 410, 421 [1992].

[39] TSN, 23 June 1994, 18-20.

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

[41] *People v. dela Cruz*, 207 SCRA 632, 650 [1992]; *People v. Garcia*, 209 SCRA 164, 178 [1992]; *People v. Ybeas*, 213 SCRA 793, 805 [1992].

[42] *People v. Penillos*, 205 SCRA 546 [1992].

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.