

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RICARDO DELA CRUZ ALIAS PAWID, MANUEL DELA CRUZ ALIAS PAWID, DANILO DELA CRUZ AND JOHN DOE ALIAS HENRY BALINTAWAK AND ORLANDO ...

G.R. No. 125936. February 23, 2000

Ponente: PARDO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-125936/>

PARDO, J.:

The case before the Court is an appeal taken by Ricardo Dela Cruz alias Pawid from the decision of the Regional Trial Court, Branch 20, Malolos, Bulacan[1] convicting him of robbery with homicide and sentencing him to reclusion perpetua and to indemnify the heirs of the victim Glicerio Cruz in the amount of fifty thousand pesos (P50,000.00) as civil indemnity for the death of the victim, fifty seven thousand eighty five pesos (P57,085.00) as reimbursement of funeral expenses, and twenty five thousand (P25,000.00) as moral damages.[2]

On August 18, 1993, Assistant Provincial Prosecutor Rita M. Gammad of Malolos, Bulacan (assigned to Branch 20) filed with the Regional Trial Court, Malolos, Bulacan an information reading:

"The undersigned Asst. Provincial Prosecutor accuses Ricardo dela Cruz alias Pawid, Manuel dela Cruz alias Pawid, Danilo dela Cruz and one John Doe alias Henry Balintawak, as Principals, and Orlando Padilla y Mendoza, as accessory-after-the-fact, of the crime of robbery with homicide, penalized under the provisions of Art. 294, par. 1 of the Revised Penal Code, committed as follows:

That on or about the 11[th] day of May 1993, in the municipality of Bocaue, province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the said accused Ricardo dela Cruz alias Pawid, Manuel dela Cruz alias Pawid, Danilo dela Cruz and one alias Henry Balintawak, as principals, conspiring and helping one another, did then and there willfully, unlawfully and feloniously, with intent of gain and by means of force, violence and intimidation of person, take, rob and carry away with them one (1) Yamaha RS motorcycle bearing plate no. CZ-2932 with side-car valued at P30,000.00 driven and owned by Glicerio Cruz; that by reason or on the occasion of the said robbery and for the purpose of enabling them to take, rob and carry away the said motorcycle with sidecar, the herein accused in furtherance of their conspiracy and with evident premeditation and treachery and taking advantage of their superior strength, did then and there willfully, unlawfully and feloniously attack, assault and stab with bladed instruments said Glicerio Cruz, driver of the said Yamaha RS motorcycle, thereby inflicting upon him serious physical injuries which directly caused his death; That the said accused Orlando Padilla y Mendoza, without having participated in the said crime either as principal or accomplice, but having knowledge of the commission of the said crime, did then and there willfully, unlawfully and feloniously take part subsequent to its commission by harboring, concealing and assisting in the escape of said accused alias Henry Balintawak.

CONTRARY TO LAW."[3]

At the arraignment on September 13, 1993, accused Ricardo dela Cruz, Manuel dela Cruz, and Orlando Padilla y Mendoza pleaded not guilty.[4] Danilo dela Cruz and John Doe alias Henry Balintawak remained at large. Trial

on the merits ensued.

The facts are as follows:

On May 11, 1993, at around 8:00 in the evening, part-time tricycle driver Glicerio Cruz left his house in Bocaue, Bulacan on board his tricycle, a Yamaha motorcycle with stainless sidecar marked "Porsche" at the back, for another day's work of plying his route.

At around 10:00 in the same evening, George Taylan who was standing near a gate along Bolina St., Lolomboy, Bocaue, Bulacan noticed a stainless tricycle marked "Porsche" speeding past him driven by accused John Doe alias Henry Balintawak. Following closely behind was another tricycle, with accused Danilo dela Cruz driving and accused Ricardo dela Cruz riding in the passenger car. Taylan recognized the second tricycle as the one owned by accused Ricardo dela Cruz.

Moments later, the three accused stopped in front of the house of co-accused Manuel dela Cruz and called him to get a tool box.[5] Afterwards, all the accused headed towards the field a few meters away from the house of accused Manuel dela Cruz. Curious as to what the men were up to, Taylan followed them to the field.

From a distance of fifty meters, Taylan witnessed the four accused dismantling the sidecar of the tricycle marked "Porsche". The scene was illuminated by a flashlight brought by accused John Doe alias Henry Balintawak. The dismantling process took twenty minutes.[6] Subsequently, accused John Doe alias Henry Balintawak rode the motorcycle, minus the sidecar, towards the road opposite Bolina St., while the three other accused rode the tricycle of accused Ricardo dela Cruz and headed down Bolina Street. The dismantled sidecar was left in the field.

On the same night, at around 10:00 in the evening, a policeman knocked at the door of Yolanda Cruz' house and informed her that her husband, wearing white t-shirt, maong pants and white shoes, and carrying a driver's license bearing the name of Glicerio Cruz, was found dead. Yolanda requested her children to go to the Dra. Yanga Hospital, as directed by the policeman, to identify the body. They confirmed that the deceased was indeed Glicerio Cruz.

The next day, on May 12, 1993, Dr. Rosauro Villarama, municipal physician of Angat, Bulacan conducted a post mortem examination of the deceased Glicerio Cruz, and reported that the deceased sustained seven lacerated wounds, two stab wounds, contusions with hematoma, abrasions, fractured skull and fractured ribs.[7] Dr. Villarama concluded that the cause of death consisted of cerebral hemorrhage due to multiple fracture of the skull, traumatic injury, anterior chest wall, left, with injury to left pleura, and multiple stab wounds.[8]

On May 31, 1993, several policemen brought George Taylan into custody for questioning in relation to the reported robbery with homicide that transpired on May 11, 1993. George Taylan executed a sworn statement, giving the names of the persons whom he witnessed dismantling the stolen tricycle. He knew accused Ricardo dela Cruz because the latter collected house rentals from him. He was also familiar with accused John Doe alias Henry Balintawak since the latter would sometimes stay in the same house he was renting from Ricardo dela Cruz.

By virtue of Taylan's sworn statement, policemen formed a team to search for the missing motorcycle of deceased Glicerio Cruz and to apprehend the suspects in the commission of the crime. Subsequently, policemen arrested accused Ricardo dela Cruz, who was plying his tricycle along the streets of Lolomboy, Bocaue, Bulacan. Upon questioning, accused Ricardo dela Cruz admitted that he knew where the stolen motorcycle was located and accompanied the policemen to Tarlac.[9] The motorcycle, already in a cannibalized state, was recovered and thereafter turned over to Yolanda Cruz, wife of deceased owner. Policemen were able to apprehend accused Manuel dela Cruz, but they failed to locate accused John Doe alias Henry Balintawak and Danilo dela Cruz.

On his part, accused Ricardo dela Cruz alleged that on May 11, 1993, he was in Barangay Capihan, Tarlac, Tarlac in the house of his parents-in-law, taking care of his children the entire day.[10] He emphasized that he was a pastor of the Iglesia ng Diyos kay Kristo Jesus and incapable of being involved in a robbery and killing.

According to Ricardo, on May 14, 1993, he visited his brother Manuel in Bocaue, Bulacan to collect house rentals. Manuel then asked Ricardo to sell a motorcycle entrusted to him by Henry Balintawak, owner of the motorcycle, who would provide its registration documents at a later time.[11] Ricardo agreed to help sell the motorcycle, for a percentage of the proceeds of the sale. He then brought the motorcycle to Tarlac and dismantled it for repairs in order to sell it at a better price.[12] He returned to Bocaue, Bulacan five days later to procure the registration papers of the motorcycle. He failed to obtain the documents and left the next day for Tarlac.

On October 13, 1995, after due trial, the trial court rendered decision,[13] the dispositive portion of which reads:

"WHEREFORE, in the light of the foregoing, the Court finds that:

"(a) RICARDO DELA CRUZ is guilty beyond reasonable doubt of the crime of robbery with homicide under Art. 294, par. 1 of the Revised Penal Code and is sentenced to suffer the penalty of reclusion perpetua and to indemnify the heirs of the victim Glicerio Cruz, the following sum of money:

"1. P50,000.00 as civil indemnity for the death of the victim;

"2. P57,085.00 for funeral expenses;

"3. P25,000.00 for moral damages.

"(b) MANUEL DELA CRUZ is found guilty as an accessory to the crime of simple robbery and is sentenced to an indeterminate prison term of four (4) years, two (2) months and one (1) day to six (6) years, the maximum period of prison correccional, in view of the aggravating circumstance of nighttime.

"(c) ORLANDO PADILLA, for failure of the prosecution to prove the guilt of the accused as an accessory-after-the-fact, accused is hereby ACQUITTED of the crime charged in the Information.

"As regards the other accused Danilo dela Cruz and John Doe alias Henry Balintawak, who are still at large, let standing warrant of arrest be issued against them furnishing a copy thereof the Director of NBI, the Director General Camp Crame, and the Station Commanders of Bocaue, Bulacan and Tarlac, Tarlac, for their information and appropriate action."

"SO ORDERED.

"Malolos, Bulacan, October 13, 1995.

"AMADO M. CALDERON

"Acting Presiding Judge"[14]

Hence, this appeal filed by Ricardo dela Cruz.[15]

Accused-appellant Ricardo dela Cruz insisted that he was in Tarlac on May 11, 1993, the night when the crime was committed, and not in Bulacan as testified to by prosecution witness George Taylan. He also alleged that George Taylan had a motive to testify falsely against him, since Taylan was in arrears for house rentals and in danger of being evicted by accused-appellant.

Alibi is considered with suspicion and received with caution, not only because it is inherently weak and unreliable but also because it is easily fabricated and concocted. It is incumbent upon accused to prove that he was at another place when the felony 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.[16] In this case, accused-appellant failed to substantiate his claim that he was not in Bulacan at the time of the commission of the crime. No other witness or evidence pointed to the fact

that he was in Tarlac on the night in question.

Furthermore, the defenses of alibi and denial are discredited because of the positive identification of the accused by a credible witness.[17] Prosecution witness George Taylan testified that he saw accused-appellant Ricardo dela Cruz in Bocaue, Bulacan as one of those who detached the sidecar of the tricycle of deceased Glicerio Cruz on the night of May 11, 1993. Despite accused-appellant's efforts to discredit the testimony of George Taylan, the trial court gave credence to his testimony. We find no reason to overturn the assessment of the trial court.

Moreover, the fact that the stolen motorcycle was found in the possession of accused-appellant created the disputable presumption that he stole the same.[18] If a person is found in possession of stolen goods after the commission of the crime, that person is called upon to give an explanation for his possession.[19]

It was undisputed that the motorcycle found in the possession of accused-appellant Ricardo dela Cruz belonged to the deceased Glicerio Cruz. In an attempt to explain his possession of the stolen motorcycle, accused-appellant contended that the motorcycle had been entrusted to him by his brother to sell. We find such explanation implausible under the circumstances of this case. Firstly, he did not have its registration documents in order to complete any sale of such motorcycle. Also, if he intended to sell the motorcycle, he did not adequately explain the necessity of dismantling the motorcycle, since it was in good operational condition, as he was able to bring it to Tarlac. Thus, accused-appellant failed to overcome the presumption that he stole the motorcycle.

Contrary to the ruling of the trial court, there is no convincing proof that force, violence or intimidation characterized the taking of the motorcycle. Prosecution witness George Taylan stated that he saw accused-appellant with three other persons dismantling a tricycle. His testimony did not mention the manner in which the motor vehicle was taken from its owner, Glicerio Cruz. In the absence of proof that accused-appellant took the motorcycle by force, violence or intimidation, a charge of robbery cannot be sustained. Thus, the crime committed is qualified theft, not robbery.

Regarding the charge of homicide imputed to accused-appellant, we find no causal connection between accused-appellant and the death of Glicerio Cruz.

The decision of the trial court showed that accused-appellant was convicted of robbery with homicide based on the following circumstances:

- Glicerio Cruz was last seen alive at around 8:00 in the evening of May 11, 1993.
- At around 10:00 that evening, the wife of Glicerio Cruz was informed that her husband was found dead and his tricycle missing;
- At around 10:00 of that same night, George Taylan saw accused-appellant with three other persons dismantling the sidecar of the tricycle of deceased Glicerio Cruz;
- The missing motorcycle was in the possession of accused-appellant;
- Accused-appellant admitted that he dismantled the motorcycle in order to sell it at a better price.

From the circumstances above, no direct evidence established a link between the death of Glicerio Cruz and accused-appellant Ricardo dela Cruz, even if there was evidence of a killing. For circumstantial evidence to be sufficient for conviction, the following requisites must be met: (a) there is more than one circumstance; (b) the facts from which the inferences are derived are proven; and (c) the combination of all the circumstances is such as to produce a conviction beyond reasonable doubt.[20]

In this case, witness George Taylan testified that he saw accused-appellant dismantling the tricycle, not to the fact

that he saw accused-appellant killing Glicerio Cruz. Taylan even admitted that he only heard of Glicerio Cruz's death the day after the incident.[21] There was no mention as to where the body was found or whether any of the accused was seen with the deceased shortly before his death. Since no conspiracy was proven to exist in this case, the perpetrator of the homicide needed to be identified. Thus, the circumstances did not constitute an unbroken chain leading to one fair and reasonable conclusion which pointed to accused-appellant, to the exclusion of all others, as the person guilty of the homicide.[22]

In his appellee's brief,[23] the Solicitor General invoked the presumption laid down in *People vs. Kagui Malasugui* that: "In the absence of an explanation of how one has come into the possession of stolen effects belonging to a person wounded and treacherously killed, he must necessarily be considered the author of the aggression and death of said person and of the robbery committed on him." [24] However, we find this presumption to be inapplicable under the circumstances of this case.

In *Kagui Malasugui*, the victim of the robbery with homicide was able to identify his attacker shortly before his death and there were pieces of concrete evidence, such as footprint marks and a bloodstained club found near the place where the victim was wounded, which were traced to accused-appellant Malasugui. In the present case, however, no such evidence can be culled from the records which can pinpoint accused-appellant as the author of the killing. No identification was extracted from any of the prosecution witnesses or from the deceased before his death naming accused-appellant Ricardo dela Cruz as the one who inflicted the fatal blows. Thus, the *Malasugui* case is not applicable to the present case.

The Court deplores the fact that an innocent person lost his life in a most tragic manner. In criminal cases, it is the prosecution's duty to prove each and every element of the crime charged in the information to warrant a finding of guilt for the said crime or of any other crime proved necessarily included therein.[25] In this case, the evidence is insufficient to support conviction for robbery with homicide, the crime charged. Neither robbery nor homicide was proved. However, the prosecution's evidence proved the commission of qualified theft, sufficiently included in the allegations of the information.[26] The property stolen is a motor vehicle, hence, accused-appellant may be convicted of qualified theft, not robbery with homicide.[27]

We now discuss the penalty to be imposed. Under Article 310 in relation to Article 309 (1) of the Revised Penal Code, qualified theft shall be punished by the penalty next higher by two degrees than those specified in simple theft. Article 309 (1) provides that if the value of the thing stolen is more than P12,000.00 pesos but does not exceed P22,000.00 pesos, the penalty of prision mayor in its minimum and medium periods shall be imposed. If the value of the thing stolen exceeds the latter amount, the penalty shall be the maximum period of the one prescribed, and one year for each additional ten thousand pesos, but the total of the penalty which may be imposed shall not exceed twenty years.[28]

In this case, the stolen property is a Yamaha RS motorcycle bearing plate no. CZ-2932 with sidecar valued at P30,000.00.[29] Since this value remains undisputed, we accept this amount for the purpose of determining the imposable penalty. In simple theft, such amount carries the corresponding penalty of prision mayor in its minimum and medium periods to be imposed in the maximum period.[30] Considering that the penalty for qualified theft is two degrees higher than that provided for simple theft, the penalty of prision mayor in its minimum and medium periods must be raised by two degrees. Thus, the penalty prescribed for the offense committed of qualified theft of motor vehicle is reclusion temporal in its medium and maximum periods to be imposed in its maximum period.

Applying the Indeterminate Sentence Law, the minimum of the indeterminate penalty shall be anywhere within the range of the penalty next lower in degree to that prescribed for the offense, without first considering any

modifying circumstance attendant to the commission of the crime.[31] Since the penalty prescribed by law is reclusion temporal medium and maximum, the penalty next lower would be prision mayor in its maximum period to reclusion temporal in its minimum period.[32] Thus, the minimum of the indeterminate sentence shall be anywhere within ten (10) years and one (1) day to fourteen (14) years and eight (8) months.

The maximum of the indeterminate penalty is that which, taking into consideration the attending circumstances, could be properly imposed under the Revised Penal Code. Since the amount involved in the present case exceeds P22,000.00, this should be taken as analogous to modifying circumstances in the imposition of the maximum term of the full indeterminate sentence, not in the initial determination of the indeterminate penalty.[33] Thus, the maximum term of the indeterminate penalty in this case is the maximum period of reclusion temporal medium and maximum, which ranges from eighteen (18) years, two (2) months, and twenty one (21) days to twenty (20) years, as computed pursuant to Article 65, in relation to Article 64 of the Revised Penal Code.[34]

WHEREFORE, the appealed decision is hereby MODIFIED. The Court finds accused-appellant Ricardo dela Cruz guilty beyond reasonable doubt of qualified theft defined and penalized under Article 310 in relation to Article 309 (1) of the Revised Penal Code involving the amount of P30,000.00 and hereby sentences him to the indeterminate penalty of ten (10) years and one (1) day of prision mayor, as minimum, to eighteen (18) years, two (2) months, and twenty one (21) days of reclusion temporal, as maximum; to indemnify the heirs of the offended party in the amount of P30,000.00 without subsidiary imprisonment in case of insolvency and to pay the costs. The award of civil indemnity, moral damages, and for funeral expenses is hereby deleted.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Puno, Kapunan, and Ynares-Santiago, JJ., concur.

[1] Rollo, RTC Decision, pp. 26-35.

[2] In Criminal Case No. 2341-M-93, Decision, dated October 13, 1995, Judge Amado M. Calderon, Acting Presiding Judge, Rollo, pp. 26-35.

[3] Information, Original Record, pp. 2-3.

[4] Order, dated September 13, 1993, Original Record, p. 13.

[5] TSN, June 20, 1994, pp. 32-40.

[6] Ibid.

[7] See Post-Mortem Examination Report, Folder of Exhibits, pp. 14-16.

[8] Ibid., p. 16.

[9] TSN, March 23, 1994, p. 4.

[10] TSN, November 11, 1994, pp. 3-17.

[11] TSN, May 17, 1995, pp. 10-18.

[12] TSN, May 24, 1995, pp. 4-6; November 18, 1994, pp. 14-15.

[13] RTC Record, pp. 280-289.

[14] Decision, RTC Record, pp. 288-289.

- [15] Notice of Appeal, dated March 8, 1996, RTC Record, p. 338.
- [16] *People vs. Cawaling*, 293 SCRA 267 (1998).
- [17] *People vs. Ballesteros*, 285 SCRA 438 (1998); *People vs. Siguin*, 299 SCRA 124 (1998).
- [18] *People vs. Alhambra*, 233 SCRA 604 (1994).
- [19] *Ibid.*, at p. 613.
- [20] Section 4, Rule 133 of the Revised Rules of Court.
- [21] TSN, January 20, 1994, p. 37.
- [22] *People vs. Adofina*, 239 SCRA 67 (1994).
- [23] Appellee's Brief, Rollo, p. 136.
- [24] *People vs. Kagui Malasugui*, 63 Phil. 230 (1936).
- [25] *People vs. Lopez*, G. R. No. 131151, August 25, 1999.
- [26] *People vs. Gungon*, 287 SCRA 618, 642 (1998).
- [27] *People vs. Basao*, G. R. No. 128286, July 20, 1999; *People vs. Salazar*, 277 SCRA 67 (1997).
- [28] Article 309 (1), Revised Penal Code.
- [29] See Information, Rollo, pp. 10-11.
- [30] Article 309 (1), Revised Penal Code.
- [31] Section 1, Indeterminate Sentence Law; *People vs. Gonzalez*, 73 Phil. 549 (1942).
- [32] Article 61, Revised Penal Code; *Nizurtado vs. Sandiganbayan*, 239 SCRA 33 (1994); *People vs. Gonzalez*, *supra*.
- [33] *People vs. Gabres*, 267 SCRA 581, 596 (1997).
- [34] *People vs. Saley*, 291 SCRA 723, 753-754 (1998).

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.