

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. HERMES B. SARMIENTO, RUDY SARMIENTO, AND LOLITA B. SARMIENTO, ACCUSED. HERMES B. SARMIENTO AND RUDY SARMIENTO, ACCUSED-APPELLA...

G.R. No. 126145. April 30, 2001

Ponente: PUNO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-126145/>

PUNO, J.:

Spouses Hermes B. Sarmiento and Lolita Sarmiento, and their son, Rudy Sarmiento, were charged before the Regional Trial Court of Virac, Catanduanes, with the crime of murder. The Information[1] against them reads:

"That on or about 3:00 o'clock in the afternoon on April 27, 1993, at barangay Bothoan, Caramoran, Catanduanes, Philippines, and within the jurisdiction of this Honorable Court, the above named accused, conspiring, confederating and mutually helping one another for a common purpose, that is to kill and with treachery and evident premeditation, did then and there, willfully, unlawfully and feloniously, attack, stab with the use of deadly weapons one Nilo Tablizo hitting him in (sic) several parts of his body which cause(d) his instantaneous death, to the damage and prejudice of the heirs of the said victim.

That this offense is aggravated by the use of superior strength.

ALL CONTRARY TO LAW."

The three pled not guilty when arraigned. Trial on the merits ensued.

The records show that on April 27, 1993, at about 3:00 p.m., Lorenzo Eustaquio was on his way to his farm in Bothoan, Caramoran. Walking about ten (10) meters ahead of him were the accused spouses, Hermes and Lolita Sarmiento, accused Rudy Sarmiento and his younger siblings, Ramil and Lorna.[2]

At about that time, the victim, Nilo Tablizo, his brother, Rodel Tablizo, and their cousin, John Aldave, were in Bothoan fixing a cart parked beside the road in front of the house of Jesus Villareal. When accused Hermes Sarmiento neared the victim, the former suddenly grabbed the collar of the victim's shirt and stabbed the latter. At the same time, accused Hermes Sarmiento told accused Rudy[3] Sarmiento to stab the victim. Accused Rudy Sarmiento lunged at the victim and stabbed the latter several times on the different parts of his body.[4] Although wounded, the victim managed to break free from the two accused. He wobbled towards a coconut plantation near the mountains and collapsed on the grassy ground, about ten (10) meters away from the place where he was initially attacked.[5]

Rodel Tablizo and John Aldave were about five (5) meters away from the victim when the stabbing incident took place. Rodel Tablizo pled for his brother's life, but the two accused chased him and Aldave. When the accused failed to catch up with Rodel Tablizo and Aldave, they again vented their wrath on the victim. They took turns in stabbing the victim before finally fleeing.[6] After the accused left, Rodel Tablizo returned to the crime scene. He found the victim already dead.[7]

At about 8:00 p.m, the victim was brought to the district hospital of Pandan. The medico-legal certificate[8] issued by the attending physician, Ma. Theresa Mariano, showed that the victim died due to hemorrhagic shock secondary to multiple stab wounds. The victim sustained eight (8) puncture wounds and four (4) incise wounds on the different parts of his body. Two (2) wounds inflicted on the victim's chest were fatal.[9]

It appears that before the stabbing incident, the missing carabao of the Tablizo was found in the possession of the Sarmientos. The Tablizo reported the matter to the authorities. The report allegedly infuriated accused Hermes Sarmiento. He threatened that one of the Tablizo would be killed.[10]

Perfecto Tablizo, the father of the victim, testified that he spent approximately P50,000.00 for the wake and burial of the victim and another P50,000.00 for the prosecution of the accused.

On the other hand, the defense evidence shows that on April 26, 1993, accused Hermes Sarmiento and his family attended the barangay fiesta of Balangonan, Pandan, Catanduanes. In the afternoon of the following day, April 27, they headed for home. Accused hired Eduardo Manabat's tricycle to take them to Tucao.[11] A certain Allan Alpon rode with them. When they reached Bothoan, Manabat asked his passengers to alight because his tricycle could no longer negotiate the rough road to Tucao. Accused Hermes Sarmiento and his family proceeded towards Tucao on foot while accused Rudy Sarmiento was left behind to settle their fare.[12]

As they were walking along the road in Bothoan, accused Hermes Sarmiento saw the Tablizo brothers and John Aldave in front of Jesus Villareal's house. The victim confronted accused Hermes Sarmiento about the barbed wire enclosing the ricefield that was being farmed by the latter. In the past, accused Lolita Sarmiento had caught the victim destroying the barbed wire. The victim wanted to know if accused Hermes Sarmiento was slighted by what he did. Accused Hermes Sarmiento claimed he was not angry, but he asked the victim why he destroyed the barbed wire. Irked, the victim called accused Hermes Sarmiento a cattle rustler. When the accused denied the charge, the victim retorted, "You're tough!" and boxed the accused twice. The accused fell on the ground and was helped by co-accused Lolita Sarmiento to get up. They sought refuge in the house of Jesus Villareal.[13] Ten (10) minutes later, accused Rudy Sarmiento came and told accused Hermes and Lolita Sarmiento that he accidentally stabbed the victim. They immediately left Bothoan.[14]

After trekking a distance of almost 100 meters, accused Hermes Sarmiento saw policeman Dandoy Azanza riding a motorcycle. He signaled Azanza to stop but was ignored. After walking for another 100 meters, accused again saw Azanza with policeman Alfredo Talan. He told them that his son had stabbed someone. The policemen took custody of accused Rudy Sarmiento.[15]

Accused Hermes Sarmiento denied ordering his son to stab the victim. Accused Lolita Sarmiento also denied that she gave the bladed instrument used by accused Rudy Sarmiento in stabbing the victim. She likewise denied that she ordered her son not to let the victim live.[16]

Accused Rudy Sarmiento who alone owned to the killing claimed that it was done in self-defense and in defense of his father. He testified that he merely ran to his father's succor. However, the victim boxed him, hitting his face. He retreated but the victim delivered another fist blow on his abdomen. The victim tried to hit him a third time but missed. In self-defense, he stabbed the victim on the chest using the knife in his pocket.

Still, the victim continued to advance towards him. He parried the continuing attack by the victim using his knife. After the victim collapsed on the ground, he went to the house of Jesus Villareal and informed his parents that he accidentally stabbed the victim. They immediately left and headed for home. Along the way, they met policeman Dandoy Azanza. They reported the stabbing incident to him.

Allan Alpon was a co-passenger of the accused in the afternoon of April 27, 1993. He corroborated the story that

the victim boxed accused Hermes Sarmiento on the head. Accused Lolita Sarmiento helped her husband Hermes get up, but the victim again boxed Hermes on the abdomen. When accused Rudy Sarmiento ran towards his father to help, the victim gave him a fist blow. Accused Rudy Sarmiento grappled with the victim and when they separated, blood oozed from the victim's chest.

Felipe Fernandez, Jr. claimed that in the afternoon of April 27, 1993, he was riding his motorcycle on his way to Pandan. He saw a "tall man" later identified as Nilo Tablizo, about 5'9" or 5'10" in height, box accused Hermes Sarmiento on the head and on the stomach. The "tall man" also boxed accused Rudy Sarmiento when the latter approached the former. He then saw accused Rudy Sarmiento stab the "tall man" on the chest. Shocked, he immediately went home.[17]

The prosecution presented Jesus Villareal as a rebuttal witness. He denied that accused Hermes Sarmiento and Lolita Sarmiento were in his house on April 27, 1993. However, he admitted that the commotion took place in front of his house. The victim is his relative.

Rebuttal witness Sonny Yuga testified that the victim was shorter than accused Hermes Sarmiento. He referred to an identification card of the victim showing his height was 5'4".

Another rebuttal witness was policeman Alfredo Talan of the Caramonan Municipal Jail. He testified that while accused Rudy Sarmiento was detained at the municipal jail, Rudy never told him that his parents did not participate in the stabbing incident.

On December 1, 1995, the trial court rendered its decision convicting accused Hermes and Rudy Sarmiento for Murder and acquitting Lolita Sarmiento on reasonable doubt. The trial court held:[18]

"The testimonies of Rodel Tablizo, Lorenzo Eustaquio and John Aldave, all eyewitnesses, clearly showed to the court the manner by which accused Hermes and Rudy Sarmiento stabbed to death Nilo Tablizo. The testimonies of these three eyewitnesses were in accord in showing to the court how Nilo Tablizo was killed from the inception of the attack by the two accused above-mentioned.

They testified that accused Hermes, upon seeing Nilo Tablizo beside the road in Bothoan, immediately approached him and from behind, collared Nilo Tablizo and stabbed Nilo on the chest. He shouted to his son Rudy to stab Nilo also and the two of them took turns in stabbing Nilo. They even continued stabbing Nilo who was already sprawled on the ground until he died.

Clearly, the prosecution was able to prove treachery to be attendant in the killing of Nilo Tablizo which qualified it to Murder. It was held in *People v. Literado* G.R. No. 77114 27 May 1992 and *People v. Tinampay* G.R. 80658 March 23, 1992 that 'Treachery is present when the offender commits any crime of the crimes against persons by 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.'

The attacks (sic) on Nilo Tablizo by Hermes and Rudy Sarmiento was sudden and unexpected that the former was not given a chance to defend himself as he was caught unaware.

The denial of accused Hermes Sarmiento that he was boxed by Nilo Tablizo and that he did not stab Nilo Tablizo does not wash or holds no water. Likewise, the claim and admission of Rudy Sarmiento that he was the only one who stabbed to death Nilo Tablizo was a desperate act to save the neck of his father Hermes. The three eyewitnesses' account of the killing of Nilo Tablizo could never be refuted by the denials of Hermes and Rudy Sarmiento. The motive behind the killing of Nilo Tablizo was about the loss of carabao of the Tablizo which was found in the possession of Hermes, and which was admitted by Hermes when he testified that he was called a cattle rustler by Nilo Tablizo.

The court doubted the testimonies of the other witnesses for the defense as some inconsistencies were noted by the court.

However, the court also doubted the claim of the prosecution that accused Lolita Sarmiento gave the knife to her son Rudy to stab Nilo. This is very unnatural for her as a mother to order her son to kill somebody and for a woman to be carrying a deadly weapon with her.

WHEREFORE, in view of the foregoing, the prosecution having proved the guilt of the accused Hermes and Rudy Sarmiento of the crime of Murder as charged in accordance with Article 248 of the Revised Penal Code, both are hereby sentenced to suffer the penalty of reclusion perpetua and to indemnify the heirs of Nilo Tablizo the amount of P100,000.00.

Accused Lolita Sarmiento is hereby acquitted on the ground of reasonable doubt as to her participation in the killing of Nilo Tablizo.

SO ORDERED."

The present appeal hinges on the following assignment of errors:

"I.

THE TRIAL COURT ERRED IN RULING THAT 'THE TESTIMONIES OF THESE THREE EYEWITNESSES (LORENZO EUSTAQUIO, RODEL TABLIZO AND JOHN ALDAVE) WERE IN ACCORD IN SHOWING TO THE COURT HOW NILO TABLIZO WAS KILLED FROM THE INCEPTION OF THE ATTACK BY THE TWO ACCUSED ABOVE-MENTIONED.'

II.

THE TRIAL COURT ERRED IN OMITTING TO ACQUIT THE ACCUSED-APPELLANTS BECAUSE THEIR GUILT WAS NOT PROVEN BEYOND REASONABLE DOUBT, THE TESTIMONIES OF LORENZO EUSTAQUIO AND JOHN ALDAVE BEING DIAMETRICALLY OPPOSED TO EACH OTHER, ASIDE FROM THEIR BEING INHERENTLY IMPOSSIBLE.

III.

THE TRIAL COURT ERRED IN FAILING TO RULE THAT THE KILLING WAS JUSTIFIED ON THE PART OF ACCUSED-APPELLANT RUDY B. SARMIENTO, AS THE LATTER ONLY DEFENDED HIS FATHER (HERMES) AND HIMSELF FROM THE CONTINUING UNLAWFUL AGGRESSION OF THE DECEASED."

We affirm the conviction with modification.

The issues involve calibration of the credibility of the witnesses. It is firmly settled that the findings of the trial court deserve the highest degree of respect and may be disregarded only where substantial errors have been committed or determinative facts have been overlooked and which otherwise would have dictated a different conclusion or verdict. We find no cogent reason to depart from this doctrine.

The evidence support the findings of the trial court. The three eyewitnesses positively pointed to appellant Hermes Sarmiento as the one who delivered the first stabbing blow on the victim. Thereafter, he asked appellant Rudy Sarmiento to likewise stab the victim. As both appellants were armed with bladed instruments, the presence of the victim's relatives at the scene did not matter. Indeed, they could only beg for the life of the victim. Their plea fell on deaf ears.

We do not doubt the credibility of the prosecution witnesses. There is no showing that they had any ill motive in imputing a grave offense to the appellants. On top of their testimonies, the eyewitness account of 17-year old

Rodel Tablizo cannot be doubted. He also narrated that appellant Hermes Sarmiento grabbed the collar of the victim's shirt and stabbed him. He begged for his brother's life in vain. They continued to stab the victim even when he was already fallen.[19] There is no reason to disbelieve Rodel Tablizo. A close relative of the victim, he is interested to see that his brother's assailants are meted justice.[20] Appellants contend that John Aldave and Lorenzo Eustaquio differed on the description of the length of the weapons used in killing the victim. Allegedly, they also disagreed on the location of the first wound inflicted on the victim. On the one hand, Lorenzo Eustaquio testified that appellant Hermes Sarmiento stabbed the victim on the chest.[21] On the other hand, John Aldave testified that said appellant delivered the first stabbing blow on the left side of the victim's body, just above the waistline below the armpit.[22] We agree with the Office of the Solicitor General that these inconsistencies are insufficient to exonerate the appellants. Testimonies of witnesses need only to corroborate each other in important and relevant details concerning the principal occurrence. Inconsequential and minor inconsistencies would not destroy their credibility. On the contrary, they even serve as badges of truth for, indeed, it is quite unnatural for two persons to recall and relate a particular occurrence in exactly the same way and in every minute detail.

Appellants' theory of self-defense and defense of a relative was rightly rejected by the trial court considering the number of wounds sustained by the victim. Per the medical report of Dr. Mariano, the victim suffered at least twelve (12) wounds, including the two fatal wounds on the chest. The intent to kill was obvious. Besides, the exempting circumstance of self-defense requires that there be a previous unlawful and unprovoked attack that placed the life of the accused in danger and forced him to inflict more or less severe wounds upon his assailant, employing therefore reasonable means to resist said attack.

In the case at bar, the defense failed to establish the element of unlawful aggression. On the contrary, it was proved that the victim was unaware of the impending attack on his life and that appellant Hermes Sarmiento initiated it. Even if we assume that the stabbing was preceded by a heated verbal exchange between the victim and one of the appellants, Hermes Sarmiento, followed by the alleged physical assault by the victim against the appellants, it was not shown that appellants' lives were put in real peril. Using a knife and inflicting several wounds on an unarmed victim to repel the latter's alleged aggression would not exonerate appellants. Thus, even if unlawful aggression was present, the appellants exceeded the limit of what was necessary to repel it.[23]

We have held in *People vs. Eslaban*,[24] that "for evidence to be believed, it must not only proceed from the mouth of a credible witness, it must be credible in itself such as the common experience and observation of mankind can approve as probable under the circumstances. x x x Courts are not required to believe that which they judicially know to be unnatural, unusual and improbable when tested by the rules which govern men of ordinary capacity and intelligence in a given matter."

This ruling applies to the case before us. We note that the victim was unarmed while appellants were the ones carrying bladed instruments. Yet, appellants claim the victim was the aggressor. Then the victim "attacked" appellants Hermes and Rudy Sarmiento with fist blows. Despite receiving a stab wound on the chest, the victim still boldly advanced towards appellant Rudy Sarmiento. Thus, appellant Rudy Sarmiento was allegedly constrained to deliver more stabbing blows on the victim. We find it totally unnatural and contrary to human experience that the victim would not retreat after sustaining several wounds, particularly those fatal stab wounds on the chest. Man's natural instinct is towards self-preservation.

We are also hardly convinced by the claim of appellant Hermes Sarmiento that he and his wife were already inside the house of Jesus Villareal during the stabbing incident. Jesus Villareal denied that said accused spouses sought refuge in his house. Moreover, the testimonies of appellants' own witnesses, Allan Alpon and Felipe Fernandez, Jr., placed appellant Hermes Sarmiento at the crime scene during the stabbing incident. In fact, Felipe Fernandez, Jr. testified that after he took a quick look at appellant Hermes Sarmiento, he focused his attention on

Rudy Sarmiento who, by then, was already stabbing the victim.

The Information alleges that evident meditation, treachery and abuse of superior strength attended the killing.

The trial court correctly did not consider evident premeditation as an aggravating circumstance as there was no proof of the following elements: (1) the time when the appellants decided to commit the crime; (2) an overt act showing that they had clung to their determination to commit the crime; and (3) the lapse of sufficient period of time between the decision and the execution of the crime to allow them to reflect upon the consequences of their act.[25]

We hold, however, that the crime was committed with treachery and abuse of superior strength. The victim was unaware of the attack as he was then repairing a cart. Even his relatives who were just a few meters from him did not expect the attack. It was so sudden and unexpected that the victim had no time to prepare for his defense.[26] As the victim was already wounded, appellant Hermes Sarmiento still told appellant Rudy Sarmiento to help him stab the victim. They then took turns in delivering more stabbing blows on the victim despite the fact that he was already slumped on the ground. It is clear that appellants employed means in killing the victim which ensured the execution of the crime without risk to themselves arising from the defense which the victim might take.[27] Clearly, treachery qualified the killing to murder. While abuse of superior strength is present, it is absorbed by treachery and cannot be appreciated as an independent aggravating circumstance.[28]

This killing was committed in April 1993 or before Republic Act No. 7659 took effect.[29] The prescribed penalty for murder at that time is reclusion temporal in the maximum period to death. The records do not show the presence of any mitigating or aggravating circumstance. The alleged voluntary surrender of appellant Rudy Sarmiento to the authorities was not spontaneous as required by law. The Sarmientos fled from the locus criminis shortly after the killing. Absent any aggravating or mitigating circumstance, the penalty should be reclusion perpetua, the medium period of the penalty under Article 248 of the Revised Penal Code.[30]

As for the civil liability, we affirm the award of P50,000.00 as indemnity for the death of Nilo Tablizo. However, as regards the award of P50,000.00 for the expenses for the wake and burial of the victim, we note that Perfecto Tablizo did not present any receipt to substantiate the same. It is settled that to justify the grant of actual damages, it is necessary to show the amount of actual loss with the best evidence obtainable.[31]

IN VIEW WHEREOF, we affirm the decision of the Regional Trial Court of Virac, Catanduanes, in Criminal Case No. 2015, finding appellants Hermes Sarmiento and Rudy Sarmiento guilty beyond reasonable doubt of the crime of Murder and sentencing them to suffer the penalty of reclusion perpetua. We also affirm the award of fifty thousand pesos (P50,000.00) as death indemnity. However, the award of P50,000 as actual damages is denied for lack of basis.

SO ORDERED.

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

[1] Rollo, p. 8.

[2] TSN, October 5, 1993, pp. 6, 13.

[3] Also referred to as "Laki."

[4] TSN, October 5, 1993, pp. 5-8.

[5] Id., p. 9.

- [6] TSN, October 5, 1993, pp. 10-11, 21-22; TSN, October 7, 1993, p. 9.
- [7] TSN, October 7, 1993, pp. 9, 12.
- [8] Exhibit "B", Original Records, pp. 2-3.
- [9] TSN, November 26, 1993, p. 28.
- [10] TSN, October 7, 1993, p. 13.
- [11] TSN, August 5, 1994, pp. 5-7.
- [12] TSN, July 5, 1994, pp. 7-8.
- [13] TSN, August 5, 1994, pp. 34-36.
- [14] *Id.*, pp. 9-12.
- [15] *Id.*, pp. 12-13.
- [16] *Id.*, pp. 15-16.
- [17] TSN, July 6, 1994, pp. 3-6.
- [18] Rollo, pp. 100-113.
- [19] TSN, October 7, 1993, pp. 7-9.
- [20] *People vs. Ronato*, 316 SCRA 433 (1999).
- [21] TSN, October 5, 1993, pp. 7-8.
- [22] TSN, April 13, 1994, pp. 19-20.
- [23] *Austria vs. Court of Appeals*, 273 SCRA 296 (1997).
- [24] 218 SCRA 534, 543-544 (1993), cited in *People vs. Vasquez*, 280 SCRA 160, 177-178 (1997).
- [25] *People vs. Villanueva*, 265 SCRA 506 (1996); *People vs. Sesbreño*, 314 SCRA 87, 114 (1999).
- [26] *People vs. Manuel*, 263 SCRA 49 (1996); *People vs. Fabrigas, Jr.*, 261 SCRA 436 (1996).
- [27] *People vs. Birayon, et al.*, G.R. No. 133787, November 29, 2000.
- [28] *People vs. Candare*, G.R. No. 129528, June 8, 2000.
- [29] R.A. 7659 took effect on December 31, 1993.
- [30] *People vs. Gailo*, 316 SCRA 733, 750 (1999).
- [31] *People vs. Navarro*, 297 SCRA 331, 353 (1998); *People vs. Chua*, 297 SCRA 229 (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.