

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. HERMAN D. BATO @ HERMAN AND JACINTO D. BATO @ MEO, ACCUSED-APPELLANTS.

G.R. No. 127843. December 15, 2000

Ponente: PARDO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-127843/>

PARDO, J.:

"Wine is a mocker and beer a brawler; whoever is led astray by them is not wise."

Proverbs 20: 1

What is before the Court is an appeal of Jacinto D. Bato and Herman D. Bato from the decision of the Regional Trial Court, Southern Leyte, Maasin[1] finding them guilty beyond reasonable doubt of murder, sentencing them to reclusion perpetua and to pay the victim, the heirs of Reynaldo Sescon indemnity of fifty thousand pesos (P50,000.00), funeral expenses of two thousand four hundred and four pesos (P2,404.00), and costs.

The Facts

It was the time of the town fiesta. On August 16, 1995, at around six o'clock in the morning, prosecution witness Rogelio Conato (hereinafter referred to as "Rogelio"), the victim, Reynaldo Sescon (hereinafter referred to as "Reynaldo") and others were having breakfast in the house of Gabriel Bulac in Barangay Pansil, Malitbog, Southern Leyte.

After eating, Reynaldo left Bulac's house and went to the house of Carlos Cadayona.[2]

Reynaldo and the two brothers Jacinto and Herman were at the balcony of the house of Cadayona drinking Tanduay Rum. Reynaldo called out to Rogelio and invited him to join them. They stayed in the balcony, laughing, talking and drinking.[3] They had been drinking since the evening before and were drunk.[4]

While they were drinking, Jacinto suddenly struck Reynaldo with an almost empty Tanduay Rum bottle. Herman then told his brother, Jacinto that they might as well kill Reynaldo. Immediately after Herman uttered the words, "Patyon ta ni" ("We will kill him"), he stabbed Reynaldo on his left breast.[5]

After seeing Herman stab Reynaldo, Rogelio became frightened and ran away.[6] Prosecution witness Virgilia Cadayona saw Herman stab Reynaldo twice.

As a result of the stab wounds, Reynaldo died that same morning.

The next day, in the morning of August 16, 1995, Dr. Eva Jesus C. Arligue, Municipal Health Officer of Malitbog, Southern Leyte conducted a post-mortem examination on the body of Reynaldo.[7] Dr. Arligue prepared a post mortem report, the contents of which[8] are reproduced in the information quoted below.[9]

Dr. Arligue also testified that Reynaldo,[10]

xxx

"died of massive bleeding due to the severance of the blood vessels particularly the pulmonary artery and the bronchial arteries because this pulmonary artery is a direct branch of your left ventricle from the heart and this is a major blood vessel and this was cut, causing severe bleeding."

xxx

On October 3, 1995, Provincial Prosecutor Andres G. Yu, Jr., filed with the Regional Trial Court, Southern Leyte an information against Herman and Jacinto, for murder to wit:[11]

"That on the 16[th] day of August 1995, at about 6:00 o'clock in the morning, more or less, at barangay Pansil, in the municipality of Malitbog, province of Southern Leyte, Philippines, and within the jurisdiction of this Honorable Court, the above named accused, with intent to kill, treachery and evident premeditation, conspiring, confederating and mutually helping each other, did then and there willfully, unlawfully and feloniously attack, assault, stab and hit one Reynaldo Sescon with the use of a sharp pointed knife and one long neck bottle of Five Years Old Tanduay Rhum, which the accused had provided themselves for the purpose, thereby inflicting upon the victim mortal wounds on the different parts of his body, to wit:

"PHYSICAL FINDINGS:

"1. Lacerated wound one (1) inch length at the left zygomatico-frontal area penetrating the subcutaneous tissue.

"2. Stab wound at the 1st intercostal space one and a half (sic) (1 1/2) inches length cutting the following:

"A. 2nd rib and the accompanying veins, arteries and nerves.

"B. The (3) lobes of the right lung and the accompanying bronchial arteries and also the pulmonary artery.

"C. The diaphragm and the upper lobe of the liver.

"3. Stab wound at the epigastric area (3) three inches in length lacerating the stomach."

"which wounds caused the death if (sic) the victim to the damage and prejudice of said victim, his heirs and of social order (sic).

"CONTRARY TO LAW."

On November 8, 1995, upon arraignment, Herman and Jacinto separately pleaded "not guilty." [12]

Trial ensued, with the prosecution presenting four (4) witnesses, namely, Dr. Eva Jesusa C. Arligue, Rogelio Conato, Virgilia Cadayona and Rosario Vda. de Sescon. The witnesses for the defense were accused-appellants themselves. [13]

On October 28, 1996, the trial court rendered a decision convicting Herman and Jacinto, thus: [14]

"WHEREFORE, THE FOREGOING CONSIDERED, this Court renders judgment finding both brothers accused JACINTO BATO alias "Meo" and HERMAN BATO GUILTY beyond reasonable doubt of the crime charged, and SENTENCES each of them to the penalty of RECLUSION PERPETUA, and to pay the costs.

"Civily, both accused are SOLIDARILY liable to the heirs of victim Reynaldo Sescon represented by mother Rosario Sescon, in the following amounts: P50,000.00 as death indemnity and P2,404.00 as funeral expenses.

"SO ORDERED."

On October 30, 1996, Herman and Jacinto filed their joint notice of appeal. [15]

On October 17, 1997, the Court resolved to accept their appeal. [16]

The Issues

There are four issues raised. First, whether or not there was conspiracy in the commission of the offense. Second, whether or not treachery qualified the killing to murder. Third, whether or not the evidence of the prosecution was consistent and credible. Last, whether or not Herman and Jacinto could claim the privileged mitigating circumstance of "incomplete self-defense." [17]

We discuss these issues seriatim.

The Court's Ruling

First, conspiracy. We do not find the existence of conspiracy. There is no evidence that Jacinto and Herman agreed to kill Reynaldo and decided to commit it. [18]

It is true that conspiracy need not be proven by direct evidence. [19] It can be shown by the conduct of accused-appellants, before, during and after the commission of the crime. In conspiracy, the act of one is the act of all. [20] Conspiracy is present when one concurs with the criminal design of another, indicated by the performance of an overt act leading to the crime committed. Conspiracy may be deduced from the mode and manner in which the offense was perpetrated. It may be inferred from the acts of the accused, evincing a joint or common purpose and design, concerted action or community of interest. [21] Conspiracy is not present in the case at bar.

True, Herman uttered the words, "Patyon ta ni" ("We will kill him"), [22] but he alone carried out his declared purpose by stabbing Reynaldo twice. There is no showing that Jacinto concurred with Herman's intent to kill Reynaldo. Jacinto's act of hitting Reynaldo with a Tanduay bottle came first. [23] There is no evidence that when Jacinto hit Reynaldo with the Tanduay bottle, there was already a pre-existing plan to kill him. In fact, the group appeared to be in a friendly mood, laughing and talking.

At most, we find that Jacinto's participation in Reynaldo's killing was that of an accomplice. The Revised Penal Code [24] defines an accomplice as one "who, not being included in Article 17, [25] cooperate(s) in the execution of the offense by previous or simultaneous acts (underscoring ours)." An accomplice is one who cooperates by an act not indispensable in the commission of the crime, meaning, that without such act, the crime would still be committed by the culprit.

The blow that Jacinto inflicted on Reynaldo [26] was not fatal or mortal. It was not the proximate cause of his death. The post-mortem examination confirms this. However, it is undeniable that such blow facilitated Herman's act of stabbing Reynaldo twice.

It is the lack of complete evidence of conspiracy that creates doubt as to whether Jacinto acted as a principal or as an accomplice. Given this, we resolve the question in his favor of the lesser form of responsibility. Accordingly, accused-appellant Jacinto D. Bato must be convicted as an accomplice to the murder of Reynaldo Sescon. [27]

Second, treachery. The crime committed was murder because the killing was attended by the qualifying circumstance of treachery. Treachery exists when the accused employs means, methods and forms which directly and specially ensure its execution, without risk to himself arising from the defense which the offended party might make. [28] Like the crime itself, treachery must be proven beyond reasonable doubt. [29]

Herman stabbed Reynaldo after he was hit on the head with a bottle of Tanduay Rum. At this point, Reynaldo was distracted, hurt and helpless.

Reynaldo was caught by surprise and unaware of the fatal attack that befell him. At the time he was killed, Reynaldo was not engaged in any altercation with the two brothers as to put him on guard. In fact, the three

seemed to be in a friendly mood, talking and conversing with each other.[30]

When Reynaldo was stabbed, he was in a defenseless position, seated on the stairs. In fact, before he was stabbed, he raised both his hands and said to Herman, "Don't do that bay!"[31] The fact that his hands were raised, as if in surrender, indicates that he was not armed to defend himself at that time.

In *People v. Feloteo*,[32] this Court held that treachery was present when there was a sudden attack against the unarmed victim, who was then in a "jovial mood" having just come from a drinking spree.

We have held that there is treachery if at the time of the fatal attack, the victim was unaware that such would befall him and if during that crucial moment, he was not given an opportunity to defend himself or retaliate.[33] Given the facts, we cannot lessen the conviction to homicide.[34]

Third, prosecution's evidence credible. We find Rogelio's testimony credible. Rogelio stated that at the time of the stabbing, he did not notice any altercation or heated argument between Jacinto, Herman and Reynaldo.[35] In fact, they were laughing, talking, right in the middle of a conversation,[36] telling funny stories[37] and drinking before the stabbing occurred.[38]

We find no error in the way the trial court gave more weight to the prosecution's evidence. The settled rule is that the trial court's assessment of the credibility of witnesses is entitled to respect.[39] The rule is such because it was the trial court that had the opportunity to observe the witnesses' manner of testifying, their furtive glances, calmness, sighs or the full or scant realization of their oaths.[40] Without any showing that the trial court overlooked material facts or gravely abused its discretion, we find no compelling reason to interfere with its assessment of the credibility of eyewitnesses.[41]

Fourth, self defense, complete or incomplete. Accused-appellants claim self-defense. The trial court rejected this claim. According to the trial court, accused-appellants did not discharge the burden of proving by clear and convincing evidence that the killing was justified. They did not prove that Reynaldo was the unlawful aggressor.[42] We sustain the ruling of the trial court. In the absence of unlawful aggression on the part of the victim, there can be no self-defense, complete or incomplete.[43]

Finally, we can not consider the alternative circumstance of intoxication in favor of the accused-appellants.

The fact that the brothers, accused-appellants, were drunk at the time cannot be appreciated for or against them. Article 15 of the Revised Penal Code states:

"Art. 15. Their concept - Alternative circumstances are those which must be taken into consideration as aggravating or mitigating according to the nature and effects of the crime and other conditions attending its commission. They are the relationship, intoxication and the degree of instruction and education of the offender.

xxx

"The intoxication of the offender shall be taken into consideration as a mitigating circumstance when the offender has committed a felony in a state of intoxication, if the same is not habitual or subsequent to the plan to commit said felony but when the intoxication is habitual or intentional, it shall be considered as an aggravating circumstance."

The records do not show whether Jacinto and Herman's intoxication was habitual, intentional or subsequent to the plan to commit the felony. Thus, it is a circumstance that we shall disregard. We cannot make assumptions at this point.[44]

Given that the trial court made findings of fact which we cannot disturb absent a showing of grave abuse,[45] we find it justified to reject accused-appellant's assignment of errors.

The penalty

The penalty for murder under Article 248 of the Revised Penal Code is reclusion perpetua to death. There being no aggravating or mitigating circumstance that attended the killing, the proper imposable penalty is reclusion perpetua. We affirm the penalty as to accused-appellant Herman D. Bato.

Article 52 of the Revised Penal Code provides that "The penalty next lower in degree than that prescribed by law for the consummated felony shall be imposed upon the accomplices in the commission of a consummated felony."

Thus, the penalty imposable on accused Jacinto D. Bato is a penalty next lower in degree to that imposed on Herman. Jacinto is also entitled to the benefits of the Indeterminate Sentence Law. For murder, the penalty next lower in degree is reclusion temporal. There being no aggravating nor mitigating circumstances, the penalty shall be reclusion temporal medium.[46] Applying the Indeterminate Sentence Law, Jacinto D. Bato is, therefore, meted out the penalty of six (6) years and one (1) day of prision mayor as minimum to fourteen (14) years, eight (8) months and one (1) day of reclusion temporal, as maximum.

Damages to be Awarded

We affirm the trial court's award of fifty thousand pesos (P50,000.00) as civil indemnity for death. This can be awarded without need of proof other than the death of the victim.[47] The award is automatically granted upon proof of commission of the offense.[48]

We find that the trial court erred in not granting moral damages to the heirs of Reynaldo. Moral damages in the amount of fifty thousand pesos (P50,000.00) must be awarded.[49] Reynaldo's mother testified that when she learned about his death, she "kept on crying" and felt lonely.[50]

We also find erroneous the grant of two thousand four hundred and four pesos (P2,404.00) to cover funeral expenses. The claim is not supported by any receipt. The "itemized list of estimated expenses" presented by Reynaldo's mother[51] is at best self-serving. Every pecuniary loss must be established by credible evidence, before it may be awarded.[52]

The Fallo

WHEREFORE, the decision of the Regional Trial Court, Southern Leyte, Maasin, Branch 24 in Criminal Case No. 1872, is **AFFIRMED** with **MODIFICATION**.

Accused-appellant Jacinto D. Bato is found guilty beyond reasonable doubt as an **ACCOMPLICE** in the crime of **MURDER**, defined and punished under Article 248 of the Revised Penal Code, and is sentenced to an indeterminate penalty of six (6) years and one (1) day of prision mayor, as minimum, to fourteen (14) years, eight (8) months and one (1) day of reclusion temporal, as maximum.

Accused-appellant, Herman D. Bato, is found guilty beyond reasonable doubt as **PRINCIPAL** in the crime of **MURDER**, defined and penalized under Article 248 of the Revised Penal Code, and in the absence of any modifying circumstance, is sentenced to reclusion perpetua with all the accessory penalties of the law.

As accomplice Jacinto D. Bato is sentenced to pay jointly and severally with Herman D. Bato the heirs of the deceased Reynaldo Sescon one-half of the following:

- (1) Moral damages in the amount of fifty thousand pesos (P50,000.00); and
- (2) Civil indemnity in the amount of fifty thousand pesos (P50,000.00).

The accused-appellants are each held solidarily liable for the other half of the damages, in case of the other's

insolvency.

The award of actual damages for funeral expenses is DELETED.

Costs against accused-appellants.

SO ORDERED.

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

[1] In Criminal Case No. 1872, dated October 28, 1996, Judge Leandro T. Loyao, Jr., presiding.

[2] TSN, March 7, 1996, p. 6.

[3] Ibid, pp. 6-10.

[4] Ibid, pp. 17-18.

[5] Ibid., pp. 11-13.

[6] Ibid., pp. 12-15.

[7] Rollo, p. 15; TSN, January 17, 1996, pp. 5-6.

[8] "PHYSICAL FINDINGS: 1. Lacerated wound one (1) inch length at the left zygomatico-frontal area penetrating the subcutaneous tissue; 2. Stab wound at the 1st intercostal space one and a half (sic) (1 1/2) inches length cutting the following: A. 2nd rib and the accompanying veins, arteries and nerves; B. The (3) lobes of the right lung and the accompanying bronchial arteries and also the pulmonary artery; C. The diaphragm and the upper lobe of the liver; 3. Stab wound at the epigastric area (3) three inches in length lacerating the stomach."

[9] Rollo, pp. 5-6.

[10] TSN, January 17, 1996, p. 9.

[11] Rollo, pp. 5-6.

[12] Trial Court Record, p. 36.

[13] Rollo, p. 15.

[14] Rollo, p. 19.

[15] Rollo, p. 20.

[16] Rollo, p. 22.

[17] Rollo, pp. 35-36.

[18] Article 8, Revised Penal Code. "xxx A conspiracy exists when two or more persons come to an agreement concerning the commission of a felony and decide to commit it. xxx"

[19] People v. Ricafranca, G. R. Nos. 124384-86, January 28, 2000.

[20] People v. Malapayon, G. R. Nos. 111734-35, June 16, 2000.

[21] People v. Francisco, G. R. Nos. 118573-74, May 31, 2000.

[22] TSN, March 7, 1996, pp. 11-13.

[23] Ibid., pp. 13-18.

[24] Article 18, Revised Penal Code.

[25] Art. 17. Principals - The following are considered principals: (1) Those who take a direct part in the execution of the act; (2) Those who directly force or induce others to commit it; (3) Those who cooperate in the commission of the offense by another act without which it would not have been accomplished.

[26] Hitting Reynaldo with a Tanduay bottle on the left eyebrow.

[27] People v. Ragundiaz, G. R. No. 124977, June 22, 2000.

[28] Art. 14 (16), Revised Penal Code; People v. Formanes, G. R. No. 115687, February 17, 2000; People v. Mindanao, G. R. No. 123095, July 6, 2000; People v. Taliman, G. R. No. 109143, October 11, 2000.

[29] People v. Adoc, G. R. No. 132079, April 12, 2000.

[30] TSN, June 17, 1996, p. 9.

[31] Ibid., p. 14.

[32] 353 Phil. 68, 75 (1998).

[33] People v. Mindanao, supra, Note 28.

[34] Ibid.

[35] TSN, March 7, 1996, p. 11.

[36] Ibid., p. 24.

[37] Ibid., p. 20.

[38] Ibid., pp. 6-10.

[39] People v. Juntilla, 314 SCRA 568 (1999); People v. Antonio, G. R. No. 128149, July 24, 2000; People v. Oliva, G. R. No. 122110, September 26, 2000.

[40] People v. Antonio, supra, Note 39; People v. Gonzales, G. R. No. 138402, August 18, 2000.

[41] People v. Macaliag, G. R. No. 130655, August 6, 2000.

[42] Rollo, pp. 17-18.

[43] People v. Deopante, 331 Phil. 998, 1018 [1996].

[44] People v. Tambis, 311 SCRA 430, 441 (1999).

[45] People v. Macaliag, supra, Note 41.

[46] People v. Ragundiaz, supra, Note 27.

[47] People v. Baluran, G. R. No. 113940, February 15, 2000; People v. Tolibas, G. R. No. 103506, February 15, 2000; People v. Mindanao, supra, Note 28; People v. Taliman, supra, Note 28.

[48] People v. Obello, 348 Phil. 88, 106 (1998).

[49] *People v. Ereno*, G. R. No. 124706, February 22, 2000.

[50] TSN, August 8, 1996, p. 5.

[51] *Ibid.*, pp. 4-5.

[52] *People v. Sol*, 338 Phil. 896, 911 (1997); *People v. Canasares*, G. R. No. 123102, February 29, 2000; *People v. Enguito*, G. R. No. 128812, February 28, 2000; *People v. Mindanao*, *supra*, Note 28; *People v. Taliman*, *supra*, Note 28.

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.