

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RICARDO JANAIRO Y BACOMO, ACCUSED-APPELLANT.

G.R. No. 129254. July 22, 1999

Ponente: PANGANIBAN, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-129254/>

PANGANIBAN, J.:

When self-defense is invoked, the accused must establish clearly and convincingly all of the following: 1) unlawful aggression on the part of the victim, 2) reasonable necessity for the means employed to prevent or repel it, and 3) no sufficient provocation on the part of the defendant. Having admitted responsibility for the killing, the accused has the burden of proving the foregoing elements. Self-defense collapses upon failure to discharge this burden.

The Case

Ricardo Janairo appeals the December 12, 1996 Decision[1] of the Regional Trial Court (Branch 49) of Puerto Princesa City, which convicted him of homicide and sentenced him to reclusion perpetua.

On November 13, 1992, an Information[2] was filed charging appellant with murder allegedly committed as follows:

"That on or about the 24th day of October, 1992, in the afternoon, at the Palawan State College [PSC] Compound, Barangay Tiniguiban, Puerto Princesa City, Philippines, and within the jurisdiction of this Honorable Court, the said accused, with treachery and evident premeditation, with intent to kill and while armed with a deadly weapon, did then and there willfully, unlawfully and feloniously assault, attack and stab one Bencibeis[3] Aguilar, thereby inflicting upon the latter [a stab] wound on the chest, which was the direct and immediate cause of his death." [4]

Upon his arraignment on November 27, 1992, appellant entered a plea of not guilty.[5] Thereafter, Counsel de Parte Perfecto de los Reyes filed a Motion for Reconsideration[6] praying for reinvestigation, insisting that the charge should be changed to homicide. During the pre-trial on January 11, 1992, the lower court denied this Motion. Subsequently, the assistant city prosecutor filed a Motion to downgrade the crime charged from murder to homicide. Noting the conformity of the wife of the deceased, the court a quo issued an Order amending the Information by crossing out the phrase "with treachery and evident premeditation." [7] Arraigned again[8] on April 13, 1993, appellant pleaded "not guilty." Trial ensued. Thereafter, the lower court promulgated its assailed Decision,[9] the dispositive part of which reads:

"WHEREFORE, premises considered, the Court finds that the [p]rosecution has proven Ricardo Janairo guilty beyond reasonable doubt of the crime of [h]omicide and sentences him to suffer the penalty of RECLUSION PERPETUA with all its accessory penalties and to pay the heirs of Bencibeis Aguilar actual damages in the amount of P39,789.26 and P50,000.00 as compensation for the death of Bencibeis Aguilar." [10]

Hence, this appeal.[11]

The Facts

Version of the Prosecution

In its Brief,[12] the prosecution presents its version of the facts of the case in this wise:

"At about four o'clock in the afternoon of October 24, 1992[,] Bencebeis `Pakay' Aguilar was walking towards his house inside the PSC Compound, Puerto Princesa City. Ricardo Janairo was walking towards Aguilar. When the two met at a certain point near Aguilar's house, Janairo suddenly stabbed Aguilar with a blade and immediately ran away.

"Aguilar managed to walk to his house where he fell in front of the stairs. He was brought to the hospital in San Pedro but he [eventually] died of the mortal wounds he sustained. The blade entered through the anterior left chest penetrating the heart.

"Previous to said incident, the two men had figured in an altercation. Janairo had asked permission from Aguilar, who was the guard on duty at the PSC gate, if he could bring a tricycle inside the compound. The request was denied by the latter. An exchange of words followed and ended with Janairo making a threat: `Babalikan ka namin.'"[13] (citations omitted)

Version of the Defense

On the other hand, the Appellant's Brief[14] narrates the facts in the following manner:

"The case arose out of an incident which transpired on October 24, 1992 while accused was on his way out of the PSC Compound, where the accused met Bencebeis Aguilar. Bencebeis Aguilar berated Ricardo Janairo by calling the latter `son of a bitch, you are a brat'.

"Mr. Aguilar, by his words and facial expression, was drunk[.] This triggered an altercation between the two. For as testified by witness Elma Denalo,[15] at about 4:00 o'clock in the afternoon of October 24, 1992, while she and Dina Mediodia were passing by [the] PSC compound, they saw two persons having an altercation as their action and tone of their voice [showed]. Elma Denalo came to know that the bigger one was Pakay Aguilar and the small one Ricardo Janairo. They were having an altercation facing each other. When Elma Denalo and companion were more or less 1 1/2 meters near the two persons having an altercation, she saw the two grapple for the possession of the knife.

"Ricardo Janairo testified that Bencebeis Aguilar likewise stabbed him with a knife, but he was able to parry the same. Thereafter, they both grappled for the possession of the knife. Ricardo Janairo was holding the hand of Bencebeis Aguilar and the latter likewise. Thereafter, Ricardo Janairo fell on top of Mr. Bencebeis Aguilar. After [that], the former stood up as did the latter[.]

"It was when the two of them fell that Bencebeis Aguilar was wounded. And afterwards, Ricardo Janairo stood up. Bencebeis Aguilar did likewise[.] after which, the latter again stabbed the former.

"Fortunately, Ricardo Janairo was not hit[.] Bencebeis Aguilar was drunk, as per his acts, voice and physical appearance[.] Had Ricardo Janairo wanted to kill Bencebeis Aguilar, he could have done it while the latter was down on the ground. Ricardo Janairo ran away after the second stab because he was afraid to be wounded and, because he had no intention to kill Bencebeis Aguilar[.]"[16] (citations omitted)

Ruling of the Trial Court

The lower court pointed out that the "more crucial issue is whether or not the stabbing was intentional." In convicting appellant, the trial court ratiocinated as follows:

"Examining the evidence for both parties, the Court finds [the p]rosecution evidence to be the more credible. The occurrence of the fight is [actually] not inconsistent with [p]rosecution's version of the event, because it [was] not improbable that before Janairo was actually able to stab Aguilar, they had grappled for possession of the knife. At any rate, Aguilar must have put up some resistance, which constituted the fight witnessed by [d]efense witnesses. The more plausible flow of events then, was that, upon encountering each other along the

path, both accused and victim had an exchange of words which led [the] accused to draw a knife and stab the victim after the scuffle. The testimony of the accused is evasive and inconsistent. At first, he testified that after he and Aguilar had fallen to the ground, Aguilar got up and tried to stab him again, prompting him to run away. He claimed that at the time he ran away, he did not know that Aguilar had been wounded. Yet, he later testified that when arrested by authorities, he protested because he 'had no intention to kill' Aguilar which could only [im]ply that he knew that Aguilar had been wounded. In fact, he knew enough to recall that when he fell on top of Aguilar, the blade of the knife was facing towards Aguilar.

"The testimony of Elma Denaco, the only witness who claims to have seen Aguilar produce the knife which eventually killed him, ha[d] its share of improbabilities. By her own account, when she and her companion saw accused and Aguilar grappling for the knife, they ran away through the PSC gate. Apparently, they did not bother to report the violent incident to the police, or even to the security guards [at] the PSC gate where they passed going home. Then, when she learned that Janairo was accused of killing Aguilar, she immediately went to have her statement taken by Atty. Perfecto de los Reyes. She was told to return in December to have her statement taken. The witness provides no explanation for her apparent reluctance to report the incident to the police authorities, which would have been the more natural course of action, considering the violent and serious nature of the incident.

"Given the evasiveness and improbability contained in defense witness testimonies, [the p]rosecution has presented the clearer and more credible case. Between the [p]rosecution eye-witnesses who [were] disinterested and [did] not stand to gain or lose by Janairo's conviction, and the accused himself, it [was] the former who would probably give the more accurate version of the incident." [17] (citations omitted)

The Issues

Appellant raises the following issues:

"The lower court erred:

- In holding that the accused stabbed the victim intentionally;
- In not holding that the accused stabbed the victim in self-defense;
- In upholding the validity of the proceedings, when at one point in time, the accused was assisted by a lawyer who was an American citizen;
- In imposing the penalty of reclusion perpetua upon the accused." [18]

The main issue is whether or not he proved the elements of self-defense.

The Court's Ruling

The appeal is partially granted. The trial court correctly convicted appellant of homicide, but erred in sentencing him to reclusion perpetua.

Preliminary Issues:

Validity of Court Proceedings

The Information

After the arraignment on November 27, 1992, the Information was amended. The charge was "down grad[ed]" [19] from murder to homicide, and the phrase "with treachery and evident premeditation" was crossed out from the Information. Without questioning the amendment, appellant entered a plea of not guilty. Under Rule 110 of the Rules of Court, however, only formal amendments are allowed after the arraignment of the accused.

"SEC. 14. Amendment. --- The information or complaint may be amended, in substance or form, without leave of court, at any time before the accused pleads; and thereafter and during the trial as to all matters of form, by

leave and at the discretion of the court, when the same can be done without prejudice to the rights of the accused.

xxx xxx xxx" (emphasis supplied)

By implication, amendments as to substance are precluded after the accused has entered a plea.[20] The amendment made here was undoubtedly a matter of substance, for the nature of the crime was altered from murder to homicide. Nonetheless, the Court sustains the validity of the proceedings.

Section 14, Rule 110 of the Rules of Court, does not bar substantial amendments that are beneficial to the accused. Consistent with the constitutionally enshrined rights to be informed of the nature of charges and to be accorded due process, the rule aims to protect the accused from prejudicial machinations that change the game midstream.[21] In this case, the amendment benefited[22] the appellant. The amendment did not prejudice him or deprive him of defenses available before the amendment.[23]

Moreover, appellant not merely consented to the amendment; in fact, he sought it. Indeed, the defense counsel had filed a Motion for Reinvestigation, praying that the charge of murder be changed to homicide. "Objection to the amendment of an information or complaint must be raised at the time the amendment is made[;] otherwise [appellant's] silence would be deemed consent on his part to the amendment." [24]

Right to Counsel

Appellant contends that he was deprived of his right to counsel, arguing that he was represented by Atty. de los Reyes, who was an American citizen with no authority from the Supreme Court to practice law. He was in fact prohibited by the court a quo from appearing before it.[25]

We disagree. It should be noted that the appellant was present when the lower court issued its Order prohibiting Atty. de los Reyes from appearing before the court. Appellant, however, insisted on being represented by the said counsel. As pointed out by the Office of the Solicitor General, appellant "took full advantage of the one year gap between the hearing held on May 19, 1995 and the last hearing held on March 1, 1994, banking on the short memory of the court and the fact that: 1) at the time this case was heard on May 19, 1995, a new judge had been assigned to RTC Branch 49, Judge Panfilo Salva and, 2) Atty. Vigonte of the PAO was no longer the counsel assigned to this case." [26]

More important, appellant was not prejudiced in any way by his own disregard of the court Order. In all stages of this case, he was represented by counsel either de parte or de oficio. When he was arraigned again under the Amended Information, he was assisted by Counsel de Oficio Atty. Reynaldo Vigonte. During the trial that followed, the said lawyer continued defending him. In any event, all the pieces of evidence presented by the defense were considered by the lower court.

Because the appellant was neither prejudiced nor deprived of his right to counsel, there is no basis to invalidate the proceedings below.

Main Issue:

Self-Defense

Invoking self-defense is admitting authorship of the killing. Hence, the burden of proof shifts to the accused, who must establish with clear and convincing evidence all of these elements of the justifying circumstance:[27] (1) unlawful aggression on the part of the victim, (2) reasonable necessity of the means employed to prevent or repel it, and (3) lack of sufficient provocation on the part of the person resorting to self-defense.[28]

Herein appellant, however, failed to demonstrate the foregoing elements clearly and convincingly.[29] As the

lower court observed, the testimonies of the defense witnesses were improbable, inconsistent and unworthy of belief.

Appellant presented Defense Witnesses Dina Mediodia and Elena Denaco to establish unlawful aggression on the part of Bencebeis Aguilar.[30] Elena testified that she was with her first cousin Dina when she saw the appellant and the victim "grappling" for the knife that the victim had allegedly drawn after a heated discussion.[31] But this was contradicted by Dina, who clearly stated that after they saw the deceased draw a knife, both of them immediately ran away without knowing what transpired afterwards.[32]

Assuming arguendo that these witnesses indeed saw the victim pull out a knife, this fact alone did not establish unlawful aggression, since the victim was not shown to have used the deadly weapon to attack the appellant.[33] Unlawful aggression refers to an attack or material aggression, an offensive act positively showing the intent of the aggressor to cause injury.[34] It presupposes an actual, sudden and unexpected attack, or an imminent danger thereof, not merely a threatening or an intimidating attitude.[35] These, the two witnesses failed to demonstrate.

Moreover, the testimonies of these defense witnesses were far from convincing. They claimed that, after the incident, they executed a statement before Atty. de los Reyes because they wanted to help the appellant. Elena admitted, however, that despite their knowledge that a case had been filed before the fiscal, neither she nor Dina submitted any affidavit to help the appellant during the preliminary investigation.[36] This was improbable, because Elena and appellant's family were neighbors at the time, and the latter's mother was a friend.[37]

Even the testimonies of Defense Witnesses Percival Lesias and Sylvio Bacaser did not help establish unlawful aggression. Lesias merely stated that he saw two individuals quarreling. Bacaser, on the other hand, testified that he saw two individuals who seemed to be "embracing each other," after which both fell down. Thereupon, the one with a smaller build stood up and ran away, while the one with a bigger build remained on the ground.[38] Neither testified that he had seen Bencebeis Aguilar attack appellant with a knife.

The only point clearly established by these four defense witnesses was that there was a scuffle. But our conclusion remains unaffected. As clarified by the court a quo, "Aguilar must have put up some resistance, which constituted the fight witnessed by the defense witnesses." [39]

Appellant's testimony, on the other hand, was characterized by the trial court as "evasive and inconsistent." [40] During cross-examination, he testified that he did not drink during the christening of his nephew on that fateful day, October 24, 1992.[41] Later on, he retracted and admitted that he did drink during the celebration.[42] He also stated that after he fell on top of the victim while struggling for the knife, both of them stood up and Aguilar tried to stab him again.[43] On cross-examination, he contradicted himself by testifying that the victim was still lying on the ground when the latter tried to stab him again.[44] His assertion -- that after he fell on top of the deceased, both of them stood up and Aguilar tried to stab him again -- was also belied by the testimony of Defense Witness Sylvio Bacaser who stated that the victim remained lying down.[45]

Moreover, his testimony was contrary to the evidence in this case. He tried in vain to show that he was threatened with a gun by the allegedly drunk Aguilar.[46] But his testimony was not corroborated by any witness; equally important, no gun was recovered from the crime scene. Likewise, the testimonies of Prosecution Witnesses Johanna dela Cruz, Ricardo dela Cruz, Estrella Aguilar and Crisostomo Arenio all clearly showed that the victim did not have a gun.

When the appellant was asked to demonstrate how he managed to parry and twist the knife towards the victim without injuring himself, his reenactment and subsequent testimony showed that the wound was in the stomach area; that is, the lower abdomen.[47] He testified thus:

"ATTY. DE LOS REYES:

Q

You stated a while ago that you were blocked by the victim and that he tried to stab you and you parr[i]ed it and you grappled for the possession of the weapon[.] [W]ill you please demonstrate by going down the witness stand.

COURT:

All right, for this purpose we will make the Court Interpreter xxx ac[t] as the victim.

(WITNESS going down the witness stand)

COURT INTERPRETER:

[(]At this juncture, the witness [went] down and showed to the Court how he was blocked, stabbed by the victim and [how] he parr[i]ed and grappled for the possession of the knife and the Court Interpreter acted as the victim as the witness demonstrated xxx how he was blocked and how he parried the stab and how he gr[a]ppled[,] [the] witness about side by side [with] the victim on the right side of the victim[.] He was held by the victim by his left hand and [i]n that position the witness parr[i]ed with his right hand[,] parrying the left hand of the victim[.] And after parrying then he stabbed me [appellant] and after stabbing me I parried the stab by holding his hand and twist[ing] [it.] [I]n twisting the hand[,] the point of the knife was pointed to the victim then [I] pushed him and we fell down on the ground.

ATTY DE LOS REYES:

(to witness)

Q When you fell down to the ground, how about the knife[,] did it strike the victim or not?

A Yes sir.

COURT

(to witness)

Q That knife wounded the victim?

A Yes your Honor.

ATTY DE LOS REYES

(to witness)

Q Then you f[e]ll down already and you were at the top as you said?

A Yes sir.

Q What did you do next?

A I stood up, sir.

Q What did you do after standing up?

A Bencebeis Aguilar stood up and also stabbed me.

Q Were you hit?

A No, sir.

Q What did you do when you were not hit?

A I ran away, sir.

COURT:

I just want this clarified.

(to witness)

Q [W]hat part of the stomach of the victim was hit by the knife?

A I am not certain in what part of the stomach of the victim[,] the mere fact that when both of us fell down to the ground. [sic]

Q But you are sure that the [wound] was somewhere within the stomach [area,] but you were not sure where it hit?

A Yes your Honor." (emphasis supplied)

The foregoing testimony is belied by the physical evidence showing that the wound was located in the upper part of the chest area as clearly shown by the testimony of Dr. Manuel R. Bilog, who conducted the autopsy on Aguilar.[48] It was also unlikely that appellant, without sustaining any injury, managed to parry several knife attacks, and subsequently to wrest and twist the same towards the victim.[49]

Appellant's claim is further negated by his flight from the scene of the crime.[50] In fact, he admitted that he had not even considered surrendering to the police.[51] If his claim of self-defense were true, he should have immediately reported the incident to the proper authorities[52] instead of running around for an hour and then staying inside his parents' house while the authorities were already looking for him. Our jurisprudence has

repeatedly taught that flight is an indication of guilt.[53] The inevitable conclusion from all the foregoing is that appellant stabbed the victim with the intention of killing him.

Indeed, "[a] plea of self-defense cannot be justifiably appreciated, where it is not only uncorroborated by independent and competent evidence, but also extremely doubtful by itself." [54] The doubt engendered by the assertions of the appellant is amplified by his claim that he did not "intentionally" stab Aguilar. This vacillation invariably shows the weakness of his defense.[55] All in all, appellant failed to establish with clear and convincing evidence the existence of unlawful aggression. Without unlawful aggression, there can be no self-defense.

Accident

The appellant also maintained before the lower court that the stabbing of the victim was merely an accident; that is, it was not intentional. It must be stressed that the accused has the burden of proving the elements of this exempting circumstance. He must show the following with clear and convincing evidence: 1) he was performing a lawful act with due care, 2) the injury caused was by a mere accident, and 3) he had no fault or intention of causing the injury.[56] None of these was supported by the evidence on record. As has been noted by the Court, "the failure of the accused to prove self-defense belies his claim that he was performing a lawful act" - one of the essential elements of the exempting circumstance of accident.[57]

Sufficiency of Prosecution Evidence

We agree with the lower court that the evidence for the prosecution establishes the culpability of the appellant. Two disinterested eyewitnesses, Ricardo dela Cruz and Johanna dela Cruz, testified that when the appellant met Aguilar near the PSC gate while the latter was headed towards his house, the former stabbed Aguilar then ran away towards Barangay Sandiwa.

Ricardo dela Cruz testified:[58]

"Q

While this Bencibeis Aguilar was going home on that afternoon of October 24, 1992, kindly tell the Honorable Court if there was any unusual incident happened that particular time and date?

A There was Ma'am.

Q Will you kindly tell the Honorable Court what was that?

A He met this Ricardo Janairo.

Q Will you kindly tell the Honorable Court xxx where this Ricardo Janairo ca[m]e from before he met this Bencibeis Aguilar as you said?

A Yes, Ma'am.

Q Where then [did] this Ricardo Janairo c[o]me from?

A [From] the house of his father.

Q You mean to impress [sic] that the father of Ricardo Janairo was also residing at the PSC Compound at Puerto Princesa City?

A Yes, Ma'am.

Q You made mention of this Ricardo Janairo. If this person is inside the courtroom, will you be able to point [to] him?

A Yes, Ma'am.

Q Kindly look inside the courtroom and point to the person whom you know as Ricardo Janairo?

INTERPRETER:

The man pointed to by the witness when asked his name identified himself as Ricardo Janairo.

PROSECUTOR:

x x x x x x x x

Q When this Ricardo Janairo met B(e)ncibeis Aguilar do you know what happened, if any?

A When this Ricardo Janairo and Bencibeis Aguilar met with each other, this Ricardo Janairo immediately stabbed this Bencibeis Aguilar and after stabbing he ran away.

x x x x x x x x

Q Can you tell the Honorable Court how many thrust[s were] made by Ricardo Janairo to Bencibeis Aguilar?

A Only one, Ma'am.

Q Do you know if Bencibeis Aguilar [was] hit?

A Yes, Ma'am.

Q And do you know what happened to Bencibeis Aguilar after he was hit by the one thrust made by Ricardo (J)anairo?

A Yes, Ma'am.

Q What happened?

A [He was s]till walking towards home but he fell down just in front of their stairs.

Q And you were at the time near the stairs of your house?

A Yes, Ma'am.

Q And do you know [to] what direction this Ricardo Janairo ran away?

A I do not know what direction but he ran towards PSC.

Q And when this Bencibeis Aguilar as you said fell down near the front of the house, what if any did you do?

A I went to the wife and informed her that her husband fell down in front of their stairs.

Johanna dela Cruz corroborated the foregoing. Pertinent portions of her testimony are reproduced hereunder:[59]

"Q And where is your home located?

A Inside the PSC Compound.

Q On October 24, 1992, do you remember of any unusual incident that happened?

A Yes sir.

Q And what was that unusual incident, Madam Witness?

A He immediately stabbed Mr. Pakay Aguilar.

Q When you said `he', who stabbed Mr. Aguilar?

A

Ricardo Janairo.

Q This Aguilar, do you know him by any xxx name other than Mr. Pakay?

A That is the only name by which I know him.

Q You mentioned that person xxx Ricardo Janairo, as the one who stabbed Mr. Aguilar[;] do you know this Ricardo Janairo?

A Yes sir.

Q If you were ask[ed] to point him out, would you be able to identify him?

A Yes sir.

INTERPRETER:

The man pointed to by the witness when asked his name identified himself as Ricardo Janairo.

Q You said that Ricardo Janairo stabbed Mr. Aguilar, when for the first time you saw Ricardo Janairo?

xxx xxx xxx

Q

Now, Madam Witness, you said Ricardo Janairo stabbed Mr. Aguilar[;] in relation to where you [are] sitting now, where [was] the position of Ricardo Janairo at the time of the stabbing?

xxx xxx xxx

A He was approaching Mr. Pakay.

Q Could you tell us if the accused was running or walking towards Mr. Aguilar?

xxx xxx xxx

A Just walking.

Q How many seconds did it take for Ricardo Janairo to stab Mr. Aguilar?

A He immediately stabbed Mr. Aguilar.

Q What happened after Ricardo Janairo stabbed Mr. Aguilar?

A He ran away.

Q Who ran away, Mr. Witness?

A Ricardo Janairo."

Appellant failed to show ill motive or any other reason why the Court should disbelieve the testimonies of the prosecution eyewitnesses.[60] Clearly, there is proof beyond reasonable doubt that appellant, without any justification, did stab the victim.

Penalty

Article 249[61] of the Revised Penal Code penalizes homicide with reclusion temporal. Though it correctly found appellant guilty of this crime, the lower court erroneously imposed reclusion perpetua on him. Interestingly, both appellant and appellee agree that the penalty must be modified. Since no mitigating or aggravating circumstance was proven, the proper penalty shall be imposed in its medium period. Additionally, appellant is entitled to the benefits of the Indeterminate Sentence Law.

Damages

One last point. To establish the civil liability of appellant, the prosecution duly proved the following:

- One thousand, one hundred thirty-nine pesos and twenty-six centavos (P1,139.26) as medical expenses paid to the Palawan Adventist Hospital
- Twelve thousand pesos (P12,000) paid to the Sampaton Funeral Parlor
- Ten thousand, three hundred and sixty pesos (P10,360) for the expenses during the wake
- Sixteen thousand pesos (P16,000) paid to the Puerto Princesa Memorial Park
- Five pesos (P5) paid to the city government of Puerto Princesa

Thus, the total amount of actual damages is thirty-nine thousand five hundred four pesos and twenty-six centavos (P39,504.26), not thirty-nine thousand, seven hundred eighty-nine pesos and twenty-six centavos (P39,789.26) as computed by the trial court.

We also grant the amount of fifty thousand pesos (P50,000) by way of indemnity ex delicto to the heirs of the victim.[62] Because the wife of the deceased testified that she suffered sadness, anxiety and sleepless nights due to the sudden demise of her husband,[63] we also allow thirty thousand pesos (P30,000) as moral damages.

WHEREFORE, the appealed Decision finding appellant GUILTY of homicide is partially AFFIRMED, with the following MODIFICATIONS: (a) he is hereby sentenced to eight (8) 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; and (b) he is ordered to pay thirty-nine thousand, five hundred four pesos and twenty-six centavos (P39,504.26) as actual damages, fifty thousand pesos (P50,000) as indemnity ex delicto, and thirty thousand pesos (P30,000) as moral damages. No costs.

SO ORDERED.

Romero, (Chairman), Vitug, Purisima, and Gonzaga-Reyes, JJ., concur.

[1] The case was heard by Judge Sabas R. Acosta until the appellant had finished with his direct testimony. Judge Panfilo S. Salva, the ponente, heard the case starting from appellant's cross-examination until the Decision was rendered.

[2][2] Records, p. 1.

[3] Also spelled "Bencebeis" in the records.

[4] Records, p. 1.

[5] Assisted by Counsel de Oficio Reynaldo Vigonte of the Public Attorney's Office (PAO); records, p. 11.

[6] Records, pp. 16-17.

[7] The assistant city prosecutor crossed out the said phrase and signed beside the correction. The wife of the victim also signed the said rectification.

[8] Assisted by Counsel de Oficio Reynaldo Vigonte.

[9] Records, pp. 135-140; rollo, pp. 22-27.

[10] Decision, p. 6; records, p. 147.

[11] Although the penalty imposed was reclusion perpetua, the Notice of Appeal, dated December 19, 1996 (records, p. 150), was erroneously addressed to the Court of Appeals. Likewise, Judge Panfilo S. Salva directed the clerk of court to transmit the records to the CA instead of the Supreme Court. However, the RTC Clerk of Court, Ma. Rowena P. Socrates, forwarded the records to this Court on April 21, 1997 (rollo, p. 2). The case was deemed submitted for resolution on October 16, 1998, upon receipt by this Court of the Appellee's Brief. The filing of a reply brief was deemed waived, as none was filed within the reglementary period.

[12] Signed by Solicitor General Ricardo P. Galvez, Asst. Sol. Gen. Pio C. Guerrero and Associate Sol. Marsha C. Recon.

[13] Appellee's Brief, pp. 4-5; rollo, pp. 76-77.

[14] Signed by Atty. Joshua U. Bolusa; rollo, pp. 41-52.

[15] "Denaco" in the TSN.

[16] Appellant's Brief, pp. 1-3; rollo, pp. 41-43.

[17] Decision, pp. 5-6; rollo, pp. 26-27.

[18] Appellant's Brief, p. 1; rollo, p. 41.

[19] Order dated February 9, 1993; records, p. 23.

[20] Francisco, Criminal Procedure, 1996 ed., pp. 85-86.

[21] See *People v. Opemia*, 98 Phil 698, March 26, 1956.

[22] See *Caparas v. Gonzales*, 7 SCRA 182, January 31, 1963.

[23] Francisco, Criminal Procedure, 1996 ed., p. 89.

[24] *Ibid.*, p. 102.

[25] Order dated March 30, 1993, records, p. 38.

[26] Appellee's Brief, p. 8; rollo, p. 80.

[27] *People v. Albao*, 287 SCRA 129, 143, March 6, 1998; *People v. De la Cruz*, 291 SCRA 164, 180, June 26, 1998; *People v. Borreros*, GR No. 125185, May 5, 1999; *People v. Dorado*, GR No. 12224811, February 11, 1999; *People v. Vermudez*, GR No. 119464, January 28, 1999; *People v. Umadhay*, GR No. 119544, August 8, 1998.

[28] Art. 11 (1), Revised Penal Code.

[29] See *People v. Vermudez*, supra; *People v. Timblor*, 285 SCRA 64, January 27, 1998.

[30] See *People v. De la Cruz*, 291 SCRA 164, June 26, 1998.

[31] TSN, October 12, 1993, pp. 4-5; records, pp. 80-81.

[32] TSN, October 5, 1993, p. 6; records, p. 70.

[33] See *People v. Ebrada*, GR No. 122774, September 25, 1998.

[34] See *U.S. v. Guy-sayco*, 13 Phil 292, March 25, 1909.

[35] See *People v. Cario*, 288 SCRA 404, March 31, 1998; *People v. Ignacio*, 270 SCRA 445, March 26, 1997.

[36] *Ibid.*, pp. 11-12; pp. 87-88.

[37] TSN, October 12, 1993, p. 7; records, p. 83.

[38] TSN, July 3, 1995, pp. 3-7; records, pp. 151-155.

[39] Decision, p. 5; rollo, p. 26.

[40] *Ibid.*

[41] TSN, May 22, 1995, pp. 5-6; records, pp. 112-113.

[42] *Ibid.*, p. 18; records, p. 125.

[43] TSN, December 14, 1993, p. 7; records, p. 102.

[44] TSN, May 22, 1995, p. 22; records, p. 129.

[45] TSN, July 3, 1995, p. 7; records, p. 155.

[46] On cross-examination, appellant testified thus:

"Q And what else did you say, Mr. witness?

A He [Bencebeis Aguilar] said "[B]akit anong gusto mo, pakainin kita noong bala o paputukin ko ang ulo mo[?]"

(TSN, May 22, 1995, p. 9; records, p. 116)

[47] TSN, May 22, 1995, pp. 27-29; records, pp. 134-136.

[48] TSN, September 7, 1993, p. 6; records, p. 39.

[49] *People v. Albao*, 287 SCRA 129, March 6, 1998.

[50] See *People v. Dorado*, GR No. 122248, February 11, 1999; *People v. Umadhay*, GR No. 119544, August 3, 1998; *People v. Angeles*, 275 SCRA 19, July 1, 1997.

[51] TSN, May 22, 1995, p. 26; records, p. 133.

[52] See *People v. Ebrada*, GR No. 122774, September 25, 1998.

[53] See *People v. Angeles*, supra.

[54] *People v. De la Cruz*, 291 SCRA 164, 181, June 2, 1998, per Panganiban, J. (citations omitted)

[55] See *People v. Boniao*, 217 SCRA 653, January 27, 1993.

[56] Art. 12 (4), Revised Penal Code.

[57] *People v. Cario*, 288 SCRA 404, 418, March 31, 1998, per Davide Jr., J. (now CJ).

[58] TSN, September 21, 1993, pp. 3-6; records, pp. 55-58.

[59] TSN, June 15, 1993, pp. 5-9.

[60] See *People v. Hubilla Jr.*, 252 SCRA 471, January 29, 1996.

[61]"ART. 249. Homicide. - Any person who, not falling within the provisions of Article 246, shall kill another without the attendance of any of the circumstances enumerated in the next preceding article, shall be deemed guilty of homicide and be punished by reclusion temporal."

[62] See *People v. Vermudez*, GR No. 119464, January 28, 1999.

[63] TSN, August 10, 1993, p. 10; records, p. 33. See *People v. Robles*, GR No. 124300, March 25, 1999.63

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.