

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. EDDIE LACHICA (AT-LARGE), ARIEL ROLLON, AND ERROL ROLLON, ACCUSED,*G.R. No. 131915. September 03, 2003*

Ponente: CALLEJO, SR., J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-131915/>**CALLEJO, SR., J.:**

Before the Court is the appeal of appellant Errol Rollon from the Decision[1] of the Regional Trial Court of Romblon, Branch 81, convicting him of murder and sentencing him to suffer the penalty of reclusion perpetua; and ordering him to pay to the heirs of the victim P50,000.

The Evidence of the Prosecution[2]

In the evening of September 24, 1995, some residents of Sitio Sapang Palay, Barangay Pili, San Fernando, Romblon, attended the wake of Palmeta Rollon. Among those paying their last respects were Ariel Rollon, Edgar Perez, Alejandro Rogero and his older brother Melchor Rogero. Ariel and Edgar were already tipsy, having had a drinking spree in celebration of the birthday of Ariel's son. After a while, Ariel and Edgar decided to go home. On their way, they saw Kagawad Jose Rafol, who was then fixing a rundown water pipe. For no apparent reason, Edgar boxed Jose. When the latter tried to retaliate, Ariel, who was close behind, moved in to aid his friend. At that juncture, Kagawad Thomas Rios who was on his way to the wake, intervened and pacified the protagonists. However, Jose's son, Dixon, arrived and punched Edgar who fell to the ground. Ariel fled to call for reinforcements. After an hour and a half, Ariel, on board a tricycle driven by his brother Errol Rollon, and armed with a bolo, returned to the wake. With them were Eddie Lachica and Salvador Romano, who were each armed with guns. They were followed closely on foot by Ariel and Errol's father Felipe Rollon, their youngest brother, Filjun Rollon, and Francisco Rabino.

After the tricycle pulled over the roadside, Errol immediately alighted and boxed Jose. A fisticuffs ensued. Jose's other son, Dicky, arrived, pacified Errol and his father and brought the latter home.

Errol broke a bottle of gin on the pavement. Eddie followed suit, firing his gun into the air. Errol and his companions pursued Jose and Dicky to their house and pelted it. When an occupant of the house screamed for help, Errol and his group retreated and went back to where the wake was being held. When Ariel saw Kapitan Tito Royo, he attempted to hack the latter with his bolo, but the bolo hit the wooden pole which Filjun used to strike Tito. Tito managed to evade the blow, and dove under the table. He then fled to his house, which was about 50 meters away. A commotion ensued.

In the meantime, Felipe and his sons Errol and Ariel, with Eddie Lachica, Salvador Romano, Danilo Perez and Francisco Rabino, all boarded the tricycle and went after Tito. As they reached the gate of Tito's house, they chanced upon Alejandro and Melchor. The two were on their way home from the wake and were just waiting for their younger brother Isidro who got separated from them during the commotion. Errol alighted from the tricycle and greeted Alejandro and Melchor, waving his left hand. Alejandro likewise waved his hand saying, "Pre, waya kita (Friend, there is nothing between us)." Errol curtly retorted, "Way a ka diyan (You have nothing here)." Errol

blocked Alejandro and Melchor's way. Ariel vented his ire on Alejandro and hacked the latter on his left arm. Alejandro retaliated and boxed Ariel, who fell to the ground. Errol then joined the fray, but was held at bay by Alejandro. Eddie suddenly shot Alejandro, who fell prostrate to the ground. In the meantime, Melchor could not help his brother because Francisco had his gun aimed at the latter. Errol then shot Alejandro two more times on the head and on his body. Ariel, for his part, then hacked the hapless Alejandro with his bolo. Melchor somehow managed to sneak out without being noticed and ran for dear life to the house of Thomas Rios. When Melchor was already inside the house, he heard someone shout, "Patay na ina! (Kill him!)." Melchor heard another gunshot. He peeped through a hole and saw the dead body of his brother, Alejandro, being run over by the tricycle driven by Errol. Melchor could only watch in horror and grief. He could not do anything more for his brother.

The malefactors then left the crime scene. Melchor stepped outside and rushed towards his brother, who was soaked in his own blood. He cried out for help and a handful of people came. Melchor proceeded to the police station to report the incident but was waylaid by an unidentified person who chased him. He doubled back and took a shortcut home.

Police authorities arrived at the scene of the crime and investigated the incident. They learned that Errol and Ariel were among the malefactors. The next morning, SPO4 Ramon Rutor, Chief of Police, PNP San Fernando, Romblon, arrived at the Sibuyan District Hospital in Cajidiocan, Romblon, where Errol and Ariel were treated for their injuries. Ariel surrendered to SPO4 Rutor a bolo which was allegedly used by Alejandro to attack him and his brother.

Dr. Leticia V. Chan, the Municipal Health Officer of San Fernando, Romblon, conducted an autopsy on the cadaver of the victim. She prepared and signed a Postmortem Examination Report, as follows:

Findings

- [G]unshot wound of entry ½ cm. in diameter located at the forehead just above the left eyebrow directed posteriorwards.
- [B]lood coming out from the left ear.
- [C]ontused upper and lower left eyelids.
- [G]unshot wound of entrance, circular, ½ cm. in diameter with contusion collar and located at the midaxillary area around 6 inches from the armpit directed towards the right side.
- [S]uperficial somewhat elongated gunshot wound also ½ cm. in diameter with contusion collar on one side and located at the outer aspect of the midportion of the left forearm.
- [S]omewhat oval gunshot wound of entry ½ cm. in diameter located at the left iliac area directed obliquely downwards, posteriorwards towards the midline.
- [C]ircular gunshot wound of entry ½ cm. in diameter with uniform contusion collar located at the midanterior aspect of the right thigh directed posteriorwards.
- [H]orizontal gaping incised wound 4 inches long located at the upper outer aspect of the right arm.
- [A]nother same wound 3 inches long below it.
- [A]nother same wound 2.5 inches long below no. 9.
- [S]uperficial gaping wound 2.5 inches long cutting the margin of the left ear extending behind wounding the scalp.

- [F]our superficial linear incisions below it measuring 1.5", 1.7", 1" and 3" long.
- [T]en inches long superficial linear incised wound extending from the midback below the nuchal area to the upper posterior portion of the right arm.
- [S]uperficial linear incised wound 1.5 inches long at the right shoulder above no. 13.
- [S]uperficial linear incised wound 4.5 inches long at the right arm above no. 13.
- [P]artially amputated left thumb.
- [A]brasion 6 inches long 3 inches wide located at the anterolateral aspect of the left leg.
- [A]brasion - - right knee.
- [A]nother wide abrasion at the postero-lateral aspect of the right arm, elbow and forearm.
- [A]brasion-buttock.

Cause of death: Internal hemorrhage sec. to gunshot wounds of the head, chest and abdomen.[3]

Melchor and Thomas executed their respective sworn statements on the incident.

After the requisite preliminary investigation, an Information was filed against Ariel and Errol Rollon, and Eddie Lachica. The accusatory portion of the Information reads:

UNDERSIGNED accuses EDDIE LACHICA, ARIEL ROLLON and ERROL ROLLON of the heinous crime of "Murder" as penalized under Republic Act No. 7659, committed as follows:

That on or about the 24[th] day of September 1995, at around 10:30 o'clock in the evening, [S]itio Sapang Palay, [B]arangay Pili, [M]unicipality of San Fernando, [P]rovince of Romblon, Philippines, and within the jurisdiction of this Honorable Court, the said accused, with intent to kill, conspiring, confederating and mutually helping one another, did then and there, by means of treachery, taking advantage of their superior strength and with cruelty, by deliberately and inhumanly augmenting the suffering of the victim, or outraging or scoffing at his person or corpse, willfully, unlawfully and feloniously attack, assault, strike with a bolo and shoot with firearms, one ALEJANDRO ROGERO, inflicting upon the latter multiple mortal injuries in different parts of his body which were the direct and immediate cause of his death.

Contrary to law.[4]

When arraigned, Errol and Ariel assisted by counsel, pleaded not guilty to the charge. Eddie Lachica remained at large. Trial on the merits thereafter ensued.

The Evidence of the Accused

Ariel denied the charge. He testified that he and Edgar were at the wake but decided to go home at around 9:00 p.m. Edgar accidentally ran into Kagawad Jose Rafol who was coming from the opposite direction. Jose confronted and accused Edgar of boxing him. Edgar denied the charge. Ariel joined in and asked Edgar to apologize, but the latter refused, insisting that he did not punch Jose. Suddenly, Jose's son, Dixon came rushing in at the scene and boxed Edgar. Ariel wanted to help his friend, but Thomas arrived and ran after him. Fortunately, he was too fast for Thomas. Ariel then armed himself with a wooden pole and returned to rescue Edgar but when he reached the place where he left his friend, the latter was nowhere to be found.

Meanwhile, somewhere in the feeder road, at about 10:00 p.m., Felipe, with his two sons Errol and Filjun, were on their way to the wake on board a tricycle. They came upon Eddie Lachica who was also on his way to the wake. They invited Eddie to ride with them and Eddie acceded.[5]

Errol parked the tricycle at the roadside near the place where the wake was being held. As Errol alighted from the tricycle, Jose suddenly boxed him. A fistfight between the two ensued. Jose's other son, Dicky, intervened and pulled his father away from the fight.

In the meantime, Ariel, who was looking for his friend Edgar, caught sight of their tricycle and decided to return to the wake. On his way, Tito accosted Ariel and berated the latter for creating trouble in the community. Ariel, who was already hot under the collar, struck Tito with the pole he was carrying but failed to hit Tito. The latter retreated and sought help from Alejandro and Melchor Rogero who were then playing tong-its (a card game) at the wake. Thereafter, Tito, Alejandro and Melchor left and proceeded to Tito's house.

Subsequently, Felipe ordered his sons, including Eddie, to board the tricycle and leave for home. As they boarded the tricycle, Thomas, armed with a long bolo, arrived and attacked Felipe and his companions. Eddie drew his gun and fired a warning shot in the air. This scared Thomas who hurriedly backed off.

As they made their way through the feeder road en route to home, Eddie, Felipe and the latter's sons noticed Alejandro armed with a bolo, standing in the middle of the road in front of Tito's house. Alejandro's shirt was wrapped around his head. As the tricycle steadily approached Alejandro, Errol slackened its speed and repeatedly blew its horn for Alejandro to get out of the way. Alejandro refused to move. Errol alighted from the tricycle and talked to Alejandro. While Errol was asking Alejandro to let them pass, Renoso, son of Tito, told Alejandro to hack Errol, "Lab-a na (Hack now)."

Alejandro then hacked Errol but the latter eluded the blow. Errol's upper left arm was hit. He shouted for help. Eddie responded, left the tricycle and immediately rushed to Errol's aid. Eddie placed himself between Alejandro and Errol to prevent them from hurting each other. However, Alejandro refused to be pacified and attacked Eddie. The latter fired his gun, hitting Alejandro. Undaunted, Alejandro continued to attack Eddie. The latter slipped backwards and fired three more successive shots at Alejandro. Eddie then came closer to the victim, who lay prostrate on the ground, picked up the latter's bolo and repeatedly hacked Alejandro.

Errol then proceeded to the Sibuyan District Hospital in Cajidiocan, Romblon, for the treatment of his injury. As Alejandro's cadaver blocked the road, Ariel and his father Felipe lifted the wheel of the sidecar so that the tricycle could pass over the body of the victim. But before Ariel could board the tricycle, somebody from Tito's compound fired a shotgun at him. Ariel was hit and cried for help. Errol forthwith boarded Ariel on the tricycle and drove towards the hospital. Dr. Fermin Fatalla attended to Errol and Ariel. Eddie left the crime scene, leaving behind the bolo he used to hack Alejandro. Errol and Ariel were confined in the hospital for five days.

The morning after the incident, SPO4 Ramon Rutor arrived in the hospital. Ariel surrendered the bolo to him, claiming that it was the weapon used by the victim to attack him and Errol.

After due proceedings, the trial court rendered judgment finding Ariel and Errol guilty beyond reasonable doubt of the crime charged. The trial court disbelieved the appellants' denials and assertion that Eddie Lachica alone killed the victim.

Both accused interposed their appeal from the decision of the trial court. In their brief, the appellants alleged the following:

ASSIGNMENT OF ERRORS

FIRST ASSIGNMENT OF ERROR: The lower court [erred] in failing to closely and objectively appreciate the evidence of plea of self-defense interposed by the defense in connection with the death of Alejandro Rogero.

SECOND ASSIGNMENT OF ERROR: The lower court gravely erred in giving credence to the testimonies of the witnesses for the prosecution which are tainted with inconsistencies and are contrary to human experience and human conduct.

THIRD ASSIGNMENT OF ERROR: The lower court [erred] in failing to give full faith and credit to the testimonies of the witnesses for the defense.[6]

On September 2, 1998, Ariel Rollon died due to cardio-respiratory arrest while detained at the Romblon Provincial Jail. On January 27, 1999, we resolved to dismiss the case. Hence, only the appeal of appellant Errol Rollon is left for our determination.[7]

The appellant asserts that the trial court erred in not finding that Eddie Lachica alone killed the victim and that he did not inflict any injury on the victim at all. He also contends that Melchor's testimony is incredible and runs counter with the common experience and observation of mankind. The appellant argues that under the said circumstances, it was unnatural for Melchor not to lift a finger to save the life of his sibling Alejandro. Melchor's natural reaction should have been to help his brother or seek the aid of the nearest neighbor to help stop the assault on his brother.

The appellant likewise insists that Kagawad Thomas Rios is a biased witness, being the brother of Carmen Rios, Ariel's estranged wife, whom Ariel left for another woman in Manila. Additionally, he averred that Thomas and the rest of the kagawads of Barangay Pili had an axe to grind against him because sometime in the past, he blew the whistle on them for payroll padding.

Finally, the appellant asserts that the prosecution failed to prove that he had any ill motive to kill Alejandro.

The appeal is barren of merit.

The threshold issue is whether or not the trial court erred in giving credence and probative weight to the testimonies of the prosecution witnesses while disbelieving that of the appellant.

Well-settled is the rule that the findings of facts and assessment of credibility of witnesses is a matter best left to the trial court because of its unique position of having observed that elusive and incommunicable evidence of the witnesses' deportment on the stand while testifying, which opportunity is denied to the appellate courts. Only the trial judge can observe the furtive glance, blush of conscious shame, hesitation, flippant or sneering tone, calmness, sigh, or the scant or full realization of an oath – all of which are useful aids for an accurate determination of a witness' honesty and sincerity. The trial court's findings are accorded finality, unless there appears in the record some fact or circumstance of weight which the lower court may have overlooked, misunderstood or misappreciated, and which, if properly considered, would alter the result of the case.

The rationale for this doctrine, as explained in *People vs. Cayabyab*[8] is that the trial judge is able to detect that sometimes thin line between fact and prevarication that will determine the guilt and innocence of the accused. That line may not be discernible from a mere reading of the impersonal record by the reviewing court. The record will not reveal those tell-tale signs that will affirm the truth or expose the contrivance, like the angry flush of an insistent assertion; or the sudden pallor of a discovered lie; or the tremulous mutter of a reluctant answer; or the forthright tone of a ready reply. The record will not show if the eyes have darted in evasion, or looked down in confession, or gazed steadily with a serenity that has nothing to distort or conceal. The record will not show if tears were shed in anger, or in shame, or in remembered pain, or in feigned innocence. Only the judge trying the case can see all these and on the basis of his observations arrive at an informed and reasoned verdict.[9]

The denial of the appellant of the crime charged cannot prevail over the positive declarations of the prosecution witnesses that he and his cohorts killed the victim. Like the defense of alibi, a denial is inherently weak and

crumbles in the light of positive declarations of truthful witnesses who testified on affirmative matters that the appellant was at the scene of the incident and was one of the victim's assailants.[10] Moreover, denial, being a negative defense, must be substantiated by clear and convincing evidence. Otherwise, it would merit no weight in law and cannot be given greater evidentiary value over the testimony of credible witnesses who testified on affirmative matters.[11] The denial offered by the appellant is not only inherently weak, it lacked a strong corroboration. Indeed, even if the defense of denial is supported by the testimony of friends of the appellant, it deserves the barest consideration.[12]

In this case, Melchor and Thomas witnessed at close range the macabre and gory killing of the victim by the appellant and his cohorts. Melchor, the victim's brother, testified, thus:

PROS. SY continuing:

Q

Where were you when your brother Alejandro Rogero was killed by the accused?

A

I was in that place.[13]

...

Q

Who was your companion or companions by the gate of barangay captain Royo?

A

My younger sibling.

Q

Who is that younger sibling who was with you?

A

Alejandro Rogero.

Q

Now, why were you and your brother Alejandro standing by that gate?

A

We were waiting for our another (sic) younger sibling so we would go home together.

Q

Why, where was your other sibling?

A

I did not know where he was hiding.

Q

Why should your brother hide?

A

Because there was a trouble which happened at the wake.[14]

...

Q

Now, you said that at 10:30 in the evening you and Alejandro were standing by the gate of Kapitan Royo, while doing that what happened?

A

They, Errol Rollon riding at the tricycle arrived.

Q

Alright, who were riding on that tricycle?

A

Ariel Rollon, Errol Rollon, Eddie Lachica, Felipe Rollon, Salvador Romano, Danilo Perez, Francisco Rabino.[15]

...

Q

Now, when the tricycle arrived with those persons in it, what happened?

A

Errol alighted and waived his hand to my younger brother (witness demonstrating by raising his left hand and waived).[16]

...

Q

And what did your younger brother do?

A

He also waived.

Q

Did you hear any exchange from them if there was any?

A

Yes, sir.

Q

What did you hear?

A

I heard from my younger brother "Pre, waya kita" meaning "Pare, there is nothing between us."

Q

How about Errol, did Errol reply to that?

A

Yes, sir.

Q

What did he say?

A

Errol said: "Waya ka diyan," meaning "You have nothing there."

Q

So when you and your brother heard that, what did you do?

A

We left.

Q

And what happened?

A

Ariel chased us.

Q

And what did he do?

A

He said: "Ikay pa?" meaning "You also?" and simultaneously hacked.

Q

Now, what was that Ariel was holding?

A

Bolo.

Q

And who was hacked by Ariel?

A

My younger brother Alejandro.

Q

And where was your brother hit?

A

Here (witness is demonstrating by slicing with his right hand his upper left arm).

Q

After that, what happened next?

A

My brother fought back.

Q

And what did your brother do?

A

He boxed Errol and Ariel.

Q

And what happened to Ariel?

A

Ariel was thrown back.

Q

How about Errol?

A

He fell down.

Q

So after that, what did your brother do?

A

He was standing watching them before he was shot.

Q

Who shot him?

A

Eddie Lachica.

Q

How far was Eddie Lachica when he shot your brother Alejandro?

A

From here to that wall. (Witness is pointing to the opposite wall from the witness stand measured at 5.3 meters).

Q

And what happened to your brother when he was shot by Eddie Lachica?

A

He turned around twice then fell down.

Q

How about you, what did you do while your brother was fighting back Errol and Ariel?

A

I was standing because I was afraid.

...

Q

So after Eddie Lachica shot your brother, what else happened?

A

Errol stood up and shot again my younger brother.

Q

How many times?

A

Twice.

COURT:

Q

Who shot him twice?

A

Errol.[17]

...

Q

And how about Ariel, what did Ariel do?

A

He hacked and hacked my younger brother.

Q

When Errol shot your younger brother, what was the position of your younger brother?

A

Lying on his back.

Q

When Ariel hacked and hacked your brother, what was the position of your younger brother?

A

He was lying on his side.[18]

...

Q

At that point when your brother was being hacked and hacked by Ariel, where were you?

A

I was at the front of the house of Tomas.

Q

After that, what did you do?

A

I ran away going to the house of Manong Thomas. I knocked.

Q

And was the house opened for you?

A

Yes, sir.

Q

By whom?

A

His daughter Thelma Relox (sic).

Q

And so, what did you do?

A

I was standing inside when I heard "Patay na ina!" meaning "Kill him!"

Q

Who said that?

A

I do not know because I was already inside.

Q

And what else did you hear while you were inside?

A

I heard another shot.

Q

After that, what else happened?

A

I peeped through the hole and I looked outside.

Q

And what did you see?

A

I saw they ran over the body of my younger brother with the tricycle.

Q

How many times did they run over with the tricycle the body of your brother?

A

I saw it twice.

Q

So what did you do after that?

A

No more (sic), I just cried.

Q

And what else did you do?

A

That is all. I cried because I pitied my younger brother.[19]

Melchor's testimony was corroborated by Kagawad Thomas Rios, to wit:

PROS. SY

Q

So after that, what have you observed?

A

They met in front of the gate of the house of [the] Kapitan, the brothers Melchor and Alejandro Rogero.

Q

And so, when they met the brothers Melchor and Alejandro in front of the gate of the house of the Kapitan, what happened?

A

Alejandro waived his right hand to Errol.

Q

Did Errol respond to that way?

A

Errol also waived his hand while Alejandro said, "Errol, Pare wala kita," meaning "Pare, there's nothing between us." Errol answered waiving his hand, you have nothing to do with it.

Q

After that, what happened?

A

Ariel shouted, "Ikaw pa!" meaning, "You also!" and simultaneously hacked Alejandro.

Q

Where was Alejandro with reference to Ariel when Ariel hacked Alejandro?

A

Ariel was [at] the back of Alejandro.

Q

And where was Alejandro hit when he was hacked by Ariel?

A

Left shoulder.

Q

So, what happened after that?

A

When Alejandro was hacked by Ariel, Alejandro fought back, then Ariel and Errol ganged up on Alejandro.

Q

Where was Melchor at that time, the brother?

A

They were there together.

Q

How about Melchor, what was he doing when his brother Alejandro was hacked and being ganged up by Ariel and Errol?

A

He just stood as if in shock.

Q

How about you, what did you do?

A

I did not do anything because I might be hit also.

Q

So, what happened to Alejandro?

A

When he boxed Errol, Errol fell down.

Q

And after that, what happened next?

A

When Errol fell down, Eddie Lachica shot Alejandro.

Q

Where was Alejandro hit?

A

I do not know where he was hit but Alejandro fell.

Q

After Alejandro fell, what happened?

A

When Errol stood up, he also pulled out a gun which is short and shot Alejandro who was on the ground twice.

Q

After that, what else have you observed?

A

Errol rode on the tricycle and ran over Alejandro, pinned down Alejandro with the tricycle.[20]

The two witnesses pointed to and identified the appellant as one of the assailants:

PROS. SY:

Q

How about Errol Rollon, do you know him?

A

Yes, sir.

Q

If he is in the courtroom, will you please point to him?

A

(Witness is pointing to a man who when asked his name answered Errol Rollon).[21]

Thomas Rios testified as follows:

PROS. SY :

Q-

How about Errol Rollon, do you know him?

A-

Yes, sir.[22]

...

Q-

If Errol Rollon is in the courtroom, will you be able to point him?

A-

Yes, sir. (Witness pointing to the accused Errol Rollon who was sitting on the bench and when asked about his name, answered Errol Rollon).[23]

More importantly, the autopsy conducted by Dr. Leticia V. Chan on September 25, 1995, corroborated the testimony of the witnesses, that the appellant and his group shot and hacked the victim. The physical evidence shows that the victim sustained a total of no less than 20 wounds – 5 gunshot wounds and 11 incised wounds on different parts of his body, a partially amputated thumb and several abrasions. In contrast, the appellant did not suffer any major injuries, except for the minor cut on his left arm which was inflicted by his late brother Ariel when the appellant's group ganged up on the victim to finish him off. It is difficult to believe that Alejandro could, all by his lonesome, initiate the attack on the appellant and his six cohorts who were each armed with bolos and handguns. Even if Alejandro was, as claimed by the appellant, armed with a bolo, he was at the mercy of the appellant and his six cohorts. The claim, therefore, of the appellant that Alejandro single-handedly attacked them is weak and flimsy.

Physical evidence is evidence of the highest order. It speaks more eloquently than a hundred witnesses.[24] In the case at bar, the physical evidence, consistent with the testimonies of the prosecution witnesses, established the appellant's culpability beyond reasonable doubt.

Melchor cannot be faulted for not helping his brother even as the latter was shot and boloed to death. This is so because Francisco Rabino pointed his gun at Melchor, thus immobilizing the latter. As testified to by Melchor:

Q

When Eddie Lachica shot your brother, where were you?

A

I was near the house of Tomas Relox (sic).

Q

So, why did you go there?

A

Because I moved backward because something was aimed at me.

Q

What was that that was (sic) aimed at you?

A

Gun.

Q

And who was aiming that gun at you?

A

Francisco Rabino.[25]

Melchor cannot be blamed for opting to stay put. He would be risking his own life if he tried to help his brother. Case law has it that no standard form of behavioral response could be expected from anyone, when confronted with a strange, startling or frightful occurrence.[26] Melchor was apparently terrified by what he saw, and fear has been known to render people immobile and helpless particularly, such as here, in life and death situations.[27] This is a normal reaction in such a situation. Any person faced with such an overwhelming opposition would sufficiently be cowed by fear or at least compelled to act in a manner aimed at self-preservation. It is a fact of life that different people react differently to the same types of situations.[28]

The relationship of a witness to the victim, far from rendering his testimony biased, would even render it more credible as it would be unnatural for a relative who is interested in vindicating the crime to accuse somebody other than the real culprit.[29] The appellant did not adduce any evidence to show that Melchor had ulterior motives in testifying falsely against him or mendaciously implicating him, if indeed he was not involved in the killing.

Unavailing is the appellant's imputation of ill-motives against Kagawad Thomas Rios. Kagawad Thomas' testimony cannot be discredited on these bases alone, as indeed, the appellant failed to prove that these alleged ill-motives reached such an intensity as to cause the good kagawad to falsely attribute a crime so serious as murder to the appellant.

Unavailing, too, is the appellant's argument that he deserves an acquittal simply because the prosecution failed to prove any motive for him to commit the crime. It must be stressed that motive is a state of one's mind which others cannot discern. It is not an element of the crime, and as such does not have to be proved.[30] In fact, lack

of motive for committing a crime does not preclude conviction. It is judicial knowledge that persons have been killed or assaulted for no reason at all.[31] More importantly, the lack of motive on the part of the appellant is of no consequence, in view of his positive identification by the witnesses, because motive assumes significance only where there is no showing of who the perpetrator of the crime was.[32] Verily –

Positive identification where categorical and consistent and without any showing of ill motive on the part of the eyewitness testifying on the matter prevails over a denial which, if not substantiated by clear and convincing evidence is negative and self-serving evidence undeserving of weight in law. They cannot be given greater evidentiary value over the testimony of credible witnesses who testify on affirmative matters.[33]

Settled is the rule that where there is no evidence and nothing to indicate that the principal witnesses for the prosecution were actuated by improper motive, the presumption is that they were not so actuated and their testimonies are entitled to full faith and credit.[34] Moreover, the weight of the testimony of witnesses is not impaired nor in anyway affected by their relationship to the victim when there is no showing of improper motive on their part.[35]

The Crime Committed by the Appellant

We agree with the trial court that the appellant is guilty of murder under Article 248 of the Revised Penal Code, as amended by Republic Act No. 7659, qualified by abuse of superior strength as alleged in the Information. To take advantage of superior strength is to purposely use excessive force, out of proportion to the means of defense available to the person attacked.[36] In the case at bar, there was a clear and gross disparity of strength between the unarmed victim and the four armed assailants - three of whom were armed with firearms. The victim gave no provocation and was in fact already backing off when he was attacked.

The Proper Penalty for the Crime

The appellant's use of a firearm to consummate the crime cannot, however, be considered as a special aggravating circumstance because there was no such allegation in the Information that the appellant had no license to possess the firearm, as mandated by Section 9, Rule 110 of the Rules of Criminal Procedure.[37] The lack of a license to possess firearms is an essential element of the crime of violation of P.D. No. 1866, as amended by Republic Act No. 8294, whether as an independent crime or as an aggravating circumstance in murder or homicide.[38] Hence, such circumstance cannot aggravate the crime of murder and the penalty therefor; otherwise, the appellant would be deprived of his right to be informed of the nature of the charge against him. Although the crime was committed before the effectivity of the said Rule, the same should be applied retroactively as it would be favorable to the appellant.[39]

Under Article 248 of the Revised Penal Code, as amended by Republic Act No. 7659, murder is punishable by reclusion perpetua to death. With no generic or special aggravating circumstances and one generic mitigating circumstance of voluntary surrender, the penalty imposable on the appellant, in accordance with Article 63(3) of the Revised Penal Code, should be the minimum period, which is reclusion perpetua.

Civil Liabilities of the Appellant

Conformably to recent jurisprudence, we sustain the amount of P50,000 for civil indemnity. Article 2206 of the Civil Code provides that when death occurs as a result of a crime, the heirs of the deceased are entitled to be indemnified without need of any proof thereof.[40]

We cannot award moral damages in the absence of proof of mental or physical suffering on the part of the heirs of the victim.[41]

As to actual damages, while Melchor Rogero testified that they incurred burial and other expenses resulting from the death of Alejandro, no competent evidence was presented to prove his claim. Under Article 2199 of the Civil Code, a party is entitled to compensation only for such pecuniary loss suffered by him as he has duly proved. Only substantiated and proven expenses, or those that appear to have been genuinely incurred in connection with the death, wake or burial of the victim will be recognized in court.[42] However, under Article 2224 of the same Code, temperate damages may be recovered when the court finds that some pecuniary loss has been suffered but its amount cannot, from the nature of the case, be proved with certainty. In the present case, the heirs of Alejandro clearly incurred funeral and burial expenses. Hence, we find that the amount of P7,500[43] by way of temperate damages is justified.

In the same vein, loss of earning capacity cannot be awarded to the victim's heirs in the absence of competent proof thereof. While Melchor testified on the victim's income, the same could not serve as a basis for lost earnings. Indemnification for loss of earning capacity partakes of the nature of actual damages which must be duly proven; and a self-serving statement, being unreliable, is not enough. For lost income to be recovered, there must be an unbiased proof of the deceased's average, not just gross, income.[44]

Additionally, given the attendance of the qualifying circumstance of abuse of superior strength, the award of exemplary damages in the amount of P25,000 to the heirs of the victim[45] in accordance with Article 2230 of the Civil Code, is in order.[46]

WHEREFORE, the appealed decision of the Regional Trial Court of Romblon, Branch 81, finding appellant Errol Rollon guilty beyond reasonable doubt of murder is hereby **AFFIRMED**. The civil aspect of the case is **MODIFIED** to read: The appellant is hereby **ORDERED** to pay the heirs of the victim Alejandro Rogero the amounts of P50,000 as civil indemnity; P7,500 as temperate damages; and P25,000 as exemplary damages. Costs against the appellant.

SO ORDERED.

Bellosillo, (Chairman), Quisumbing, Austria-Martinez, and Tinga, JJ., concur.

[1] Penned by Judge Placido C. Marquez.

[2] The prosecution presented Melchor Rogero, Thomas Rios, Dr. Leticia V. Chan, and SPO4 Ramon Rutor.

[3] Records, p. 50.

[4] *Id.*, p. 1.

[5] TSN, 8 October 1996, pp. 3-4.

[6] Appellants Brief, p. 1; Rollo, p. 65.

[7] *Id.*, pp. 91-92.

[8] 274 SCRA 387 (1997).

[9] *People v. Estorco*, 331 SCRA 38 (2000).

[10] *People v. Abdul*, 310 SCRA 246 (1999).

[11] *People v. Tumaob, Jr.*, 291 SCRA 133 (1998).

- [12] *People v. Gamiao*, 240 SCRA 254 (1995).
- [13] TSN, 16 April 1996, p. 3.
- [14] *Id.*, pp. 4-5.
- [15] *Id.*, p. 6.
- [16] *Id.*, p. 7.
- [17] *Id.*, pp. 8-10.
- [18] *Id.*, p. 10.
- [19] *Id.*, pp. 10-11.
- [20] TSN, 26 February 1996, pp. 9-11.
- [21] TSN, 16 April 1996, pp. 3-4 (Melchor Rogero).
- [22] TSN, 26 February 1996, p. 3.
- [23] *Id.*, pp. 3-4.
- [24] *People v. Silvano*, 350 SCRA 650 (2001).
- [25] TSN, 16 February 1996, p. 9.
- [26] *People vs. Talaboc*, 326 Phil. 451 (1996).
- [27] *People vs. Conde*, 330 SCRA 645 (2000).
- [28] *People vs. Realon*, 99 SCRA 422 (1980).
- [29] *People vs. Batidor*, 303 SCRA 335 (1999).
- [30] *People vs. Rabutin*, 272 SCRA 197 (1997).
- [31] *People vs. Cabodoc*, 263 SCRA 187 (1996).
- [32] *People v. Padlan*, 290 SCRA 388 (1998).
- [33] *People v. Caisip*, 290 SCRA 451 (1998).
- [34] *People v. Abdul*, *supra*.
- [35] *People v. Carpio*, 282 SCRA 23 (1997).
- [36] *People v. Bautista*, 331 SCRA 170 (2000).
- [37] Sec. 9. Cause of the Accusation. — The acts or omissions complained of as constituting the offense and the qualifying and aggravating circumstances must be stated in ordinary and concise language and not necessarily in the language used in the statute but in terms sufficient to enable a person of common understanding to know what offense is being charged as well as its qualifying and aggravating circumstances and for the Court to pronounce judgment.
- [38] *People v. Adame*, 346 SCRA 373 (2000).
- [39] *People v. Gallego*, 338 SCRA 21 (2000).

[40] People v. Villegas, G.R. No. 138782, September 27, 2002.

[41] People v. Abut, G.R. No. 137601, April 24, 2003.

[42] People v. Bonifacio, G.R. No. 133799, February 5, 2002.

[43] The amount claimed by the heirs is only P7,500.00 (TSN, 16 April 1996, p. 14).

[44] People v. Rabanal, G.R. No. 146687, August 22, 2002.

[45] People v. Catubig, 363 SCRA 621 (2001).

[46] ARTICLE 2230. In criminal offenses, exemplary damages as a part of the civil liability may be imposed when the crime was committed with one or more aggravating circumstances. Such damages are separate and distinct from fines and shall be paid to the offended party.

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.