

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JAIME CARPO, OSCAR IBAO, WARLITO IBAO AND ROCHE IBAO, ACCUSED-APPELLANTS.*G.R. No. 132676. April 04, 2001*Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-132676/>**PER CURIAM:**

The accused might as well have borrowed the famous line of Shakespeare - "How this world is given to lying!"[1] - when they impute error to the trial court for relying on the testimony of a single witness in convicting them of multiple murder complexed with attempted murder for the death of Florentino Dulay, Norwela Dulay and Nissan Dulay, and the wounding of Noemi Dulay.[2]

The challenged testimony of witness Ruben Meriales follows:[3] On 25 August 1996 at about 8:00 o'clock in the evening while he was watching television with his family his dogs barked. His mother who was apprehensive that their cow might be stolen prodded him to check the disturbance. To allay her fears he stood up, took his flashlight and trudged the unpaved path towards his cow that was tied to a mango tree. Then the noise grew louder thus arousing his suspicion that something was really wrong. After transferring his cow nearer to his house, he went inside the kitchen, stood atop the concrete washbasin, hid himself behind the bamboo slats and peeped outside to observe. The darkness helped conceal him from outside view while the light from the two (2) bulbs positioned at about three (3) meters from where he stood filtered through the slats and illumined the surroundings. There was also moon in the sky.

A few minutes later, he saw barangay captain Jaime Carpo together with Warlito Ibao suspiciously stooping near his barn. He knew Jaime and Warlito very well. Jaime was his uncle and Warlito lived in his neighborhood. Warlito's son Roche was also there; he was standing by the mango tree. They were all looking in the direction of Florentino Dulay's house which was about a meter to the south from where he was. He also saw Oscar Ibao, another son of Warlito, striding towards Dulay's hut. As soon as he reached the hut Oscar lifted the sawali mat near the wall and hurled something inside. Oscar then scurried off towards the nearby creek with Roche following him. Seconds later, a loud explosion shook the entire neighborhood and Teresita Dulay's screams broke into the night.

Ruben Meriales, rushed outside. He ran towards Florentino's hut but was deterred by darkness. He returned home to take his flashlight and raced back to lend aid to Teresita. Inside the hut he was stunned by the terrifying gore that greeted him - a bloodied Florentino cradled in the arms of his weeping widow, Norwela and Nissan lying side by side on a cot both doused in blood, and a motionless Norma whose head was oozing with blood.

Realizing the exigency of the situation, he left the crime scene to borrow the jeepney of Brgy. Kagawad Edgardo Marquez for the hapless victims. The neighbors milling around at once gave up hope on Florentino so that only Norwela, Nissan and Noemi were loaded in the jeepney and rushed to the Eastern Pangasinan District Hospital. On their way, Norwela who had injuries on her chest and lower appendage died. Nissan who was five (5) years old and the youngest of the victims died later due to "shock from pains" caused by the shrapnel wounds in her left

shoulder, abdomen and lower extremities.[4] Noemi luckily survived. Her attending physician, Dr. Emiliano Subido, testified that Noemi was semi-conscious and vomiting although ambulatory at the time he examined her. But due to the seriousness of her wounds and the hospital's lack of facilities she was taken to another hospital in Dagupan City.[5]

In the course of their investigation, the policemen questioned the people who might have witnessed the carnage. Fearful however that the culprits would return, Ruben Meriales refused to give any statement but intimated to Police Officer Guillermo Osio that he would go to the police station after the burial.

On 4 September 1996, or a week later, Ruben kept his promise and went to the police station where he gave his statement to Police Officer Osio. He named Jaime Carpo, Warlito Ibao, Oscar Ibao and Roche Ibao as the perpetrators of the crime. He further said that Florentino was killed because he was about to testify against Roche Ibao for the murder of his brother Delfin Meriales.[6]

On 3 October 1996, solely on the basis of Ruben's testimony, a criminal complaint for the murder of Florentino Dulay and his two (2) daughters Norwela, and Nissan as well as the frustrated murder of his daughter Noemi was filed against Jaime Carpo, Warlito Ibao, Oscar Ibao and Roche Ibao. Warrants for their immediate arrest were issued by the municipal circuit trial court.

On 25 October 1996 Jaime Carpo was taken into custody by the police, while Roche Ibao eluded arrest until 9 December 1996 when he was apprehended by police officers in La Union. With Roche's arrest, Oscar and Warlito realized the futility of hiding and surrendered themselves to the National Bureau of Investigation (NBI) in La Union.

At the trial, the prosecution presented Ruben, Noemi, Dr. Rosalina O. Victorio, Dr. Emiliano Subido and Police Officers Virgilio dela Cruz, Jovencio Tapac and Guillermo Osio as witnesses.

Police Officer Osio testified that on the night of 25 August 1996 after receiving a report of an explosion in Brgy. Baligayan, he together with Police Officers Julius Aurora, Ricardo Lugares and Jovencio Tapac immediately responded. They were able to gather several grenade shrapnels and a grenade shifting lever from the crime scene. He spoke with the weeping Teresita Dulay who told him that she suspected the accused of having perpetrated the assault. He likewise conferred with Ruben Meriales who named the same set of suspects and who promised to give his statement to the police after the funeral.

After speaking with Teresita and Ruben, he summoned his colleagues to go with him to Warlito Ibao's house which was just across the road. Warlito's house was dark and its front door was locked. He called out but there was no answer. They then proceeded to Oscar's house which was also padlocked and unoccupied. He went to Roche's house and peeped inside before they left.[7] Against their positive identification by Ruben, the four (4) accused interposed alibi claiming that they were somewhere else when the Dulay hut was blasted. They likewise assailed Ruben's testimony for being a fabrication and insisted that he lied to get back at them because Roche was a suspect in the killing of his brother Delfin Meriales. Jaime and his wife Veronica Carpo were one in testifying that in the evening of 25 August 1995 Jaime was at home in Brgy. Libsong, a hundred and fifty (150) meters away from the house of the Dulays in Brgy. Baligayan. When he heard the loud explosion, he summoned his tanods to check whether the blast happened within their barangay. When he learned that the explosion occurred in the adjoining Brgy. Baligayan, he went home to sleep. Brgy. Baligayan is separated from his barangay by a creek and could be reached in ten (10) minutes. However, on the night of the incident, the creek was neck deep such that one had to make a detour through a mountainous route for about thirty (30) minutes to reach Brgy. Baligayan.[8]

Jaime testified that Ruben implicated him because the latter was angry at him. Ruben's grudge supposedly started

when Jaime sided with the Ibaos in the murder case instituted by the Merialeses against Roche for the death of Delfin Meriales. As a matter of fact on 10 December 1996 while he was incarcerated at the Balungao District Jail, Ruben supposedly visited him asking his forgiveness for having named him as one of the perpetrators of the crime. Ruben subsequently pleaded with him to reveal the names of those responsible but when he claimed ignorance, Ruben left in a huff.

Warlito, Oscar and Roche Ibao testified that on the night of the explosion their family was having a farewell party for the family's only girl Maribel Ibao who was leaving for Hongkong. They heard the blast but they did not bother to check. They denied having heard the police officers call for them an hour after the explosion. Roche further asserted that he did not have a house in Brgy. Baligayan as reported because he lived with his parents-in-law in Brgy. Libsong. However, on the night of the blast, he slept at his parents' house as all of his siblings and their families were there. He only learned of the bloodbath the following morning when they went home to his in-laws. His wife Jovelyn corroborated his testimony in the same manner that Remedios supported the story of her husband Warlito.[9]

In convicting Jaime Carpo, Warlito Ibao, Oscar Ibao and Roche Ibao of the multiple murder of Florentino, Norwela and Nissan Dulay and the attempted murder of Noemi Dulay the trial Court gave full credit to the testimony of Ruben.[10] It accepted his straightforward testimony and ruled that "at no instance throughout the twin testimonies of Meriales did the Court notice a twitch of falsehood on his lips." [11] Accordingly, in accordance with Sec. 6, RA 7659, and Art. 48 of The Revised Penal Code the trial court imposed upon all of the accused the supreme penalty of death and ordered them to solidarily indemnify the heirs of the deceased as well as Noemi Dulay in the amount of P600,000.00.[12]

Forthwith, the case was elevated to this Court for automatic review. After the filing of briefs, the accused filed an Addendum to Appellant's Brief urging that the favorable results of their lie detector tests with the NBI be admitted into the records.[13]

A lie detector test is based on the theory that an individual will undergo physiological changes, capable of being monitored by sensors attached to his body, when he is not telling the truth. The Court does not put credit and faith on the result of a lie detector test inasmuch as it has not been accepted by the scientific community as an accurate means of ascertaining truth or deception.[14]

The explosion by means of a hand grenade on the night of 25 August 1996 resulting in the death of Florentino, Norwela and Nissan Dulay and in the wounding of Noemi Dulay is an admitted fact. The identity of the perpetrators, as tenaciously questioned by the accused, depends upon the credibility of Ruben Meriales.

In this appeal, accused-appellants challenge the veracity of the testimony of Ruben Meriales primarily on two (2) grounds: first, Ruben's testimony in court is different from and is contradictory to his affidavit of 4 October 1996; and second, Ruben is not a disinterested witness because he has a grudge against the Ibaos. Consistent with giving due deference to the observations of the trial court on credibility of witnesses, we agree with the court a quo when it believed Ruben Meriales more than the defense witnesses.[15] Indeed, the trial court is best equipped to make an assessment of witnesses, and its factual findings are generally not disturbed on appeal unless it has overlooked, misunderstood or disregarded important facts,[16] which is not true in the present case.

The twin arguments therefore raised by accused-appellants against the testimony of Ruben Meriales are devoid of merit. A scrutiny of the records reveals that his testimony is not inconsistent with his affidavit of 4 October 1996 inasmuch as the former merely supplied the details of the event which the latter failed to disclose. But assuming that there was any inconsistency, it is settled that whenever an affidavit contradicts a testimony given in court the latter commands greater respect.[17] Such inconsistency is unimportant and would not even discredit a fallible

witness.[18] The mere fact that Ruben admitted harboring resentment against the Ibaos for the murder of his brother Delfin does not confirm that he fabricated his story. His frankness in admitting his resentment against the Ibaos should even be considered in his favor.[19] There is likewise nothing unnatural in Ruben's attitude of concealing himself behind the kitchen wall instead of warning the Dulays of the looming danger to their lives. It is a well-known fact that persons react differently to different situations - there may be some who will respond violently to an impending danger while there may be others who will simply assume a cravenly demeanor. In this case, Ruben was ruled by his fear rather than by his reason, but for this alone, his credibility should not be doubted.

Apropos Jaime's imputation that Ruben had admitted to him while in jail that he lied in his testimony, we find this accusation farcical as nothing was ever offered in support thereof. The lone corroborative testimony, which was that of Roche, does not inspire belief since Roche himself admitted overhearing the conversation while Jaime together with other prisoners was constructing a hut outside of his cell at about three (3) meters away. As correctly hinted by the prosecution, the noise generated by the construction made it unlikely for Roche to hear conversations three (3) meters away.[20]

The defense proffered by the accused is alibi. But this is futile. By his own admission, Jaime was only a hundred and fifty (150) meters away from the scene of the crime. In fact, it would only take him thirty (30) minutes, at the most, to be at the place of the Dulays.

More so for the Ibaos who acknowledged that they were having a party just a stone's throw away from the crime scene at the time of the explosion. Curiously though, if they were indeed reveling inside their house on that fateful night, then we cannot comprehend why they did not go out to investigate after hearing the blast. Besides, it was rather strange for the Ibaos not to have joined their neighbors who had instantaneously milled outside to view the mayhem. Their conduct indeed betrayed them.

Further, the immediate flight and tarriance of the Ibaos to La Union until Roche's arrest cannot but demonstrate their guilt and desire to evade prosecution.[21]

The trial court also correctly ruled that accused-appellants conspired in perpetrating the offense charged. From the detailed account of Ruben, Jaime and Warlito positioned themselves near the hay barn while Roche casually stood by the mango tree. As observed by the trial court, the presence of Jaime, Warlito and Roche inescapably gave encouragement and a sense of security to Oscar, the group's preceptor. Surely, the latter was emboldened to commit the crime knowing that his co-conspirators were not far behind.

Under the doctrine enunciated in *People v. Tayo*,[22] the crime committed may otherwise be more appropriately denominated as murder qualified by explosion rather than by treachery. However, since it was treachery that is alleged in the Information and appreciated by the trial court, the explosion of the grenade which resulted in the death of Florentino, Norwela and Nissan, and the wounding of Noemi can only be multiple murder complexed with attempted murder.[23] The crime committed against Noemi Dulay was correctly denominated by the trial court as attempted murder considering that none of her injuries was fatal. Her attending physician even made conflicting statements in the assessment of her wounds, to wit: although he said that Noemi could have died from the shrapnel wound in her head, he specifically ruled out the possibility of "intercerebral hemorrhage"[24] and despite the seriousness of the possible complications of her injuries she would suffer from physical incapacity for only ten (10) to fourteen (14) days.

As none of her wounds was severe as to cause her death, accused-appellants not having performed all the acts of execution that would have brought it about, the crime is only attempted murder.[25]

Since the three (3) murders and attempted murder were produced by a single act, namely, the explosion caused by the hurling of a grenade into the bedroom of the Dulays, the case comes under Art. 48 of The Revised Penal Code on complex crimes. Article 48 provides that the penalty for the more serious crime, which in the present case is reclusion perpetua to death, should be applied in its maximum period. As the crime was complexed, the death penalty was properly imposed by the trial court.

At this point, we take exception to the court a quo's award of damages in the "negotiated amount of P600,00.00." It appears that under the auspices of the trial court counsel for the defense entered into an oral compromise with the public prosecutor, which was subsequently ratified by the private complainant, limiting the amount of civil liability to P600,000.00. We note the discourse between the court and the counsel for both parties regarding the award.

PROS. CORPUZ: x x x x (W)e would like to enter into stipulation the civil aspect of the case.

COURT: Are the accused confident that they could be acquitted in this case? Atty Sanglay?

ATTY. SANGLAY: I think so, your Honor.

COURT: What about Atty. Rafael?

ATTY. RAFAEL: We are confident, your Honor.

COURT: All right. So you can easily stipulate. First of all, how much do you want Fiscal?

PROS. CORPUZ: P1,282,740.00, your Honor x x x x

COURT: x x x x Agree gentlemen of the defense?

ATTY. SANGLAY: P600,000.00, your Honor.

COURT: Do you agree Fiscal?

PROS. CORPUZ: Yes, your Honor.

COURT: All right so P600,000.00 is the agreed liquidated amount in case of conviction without necessarily having to interpret this stipulation as admission of guilt on the part of any of the accused. All right so we will dispense with the testimony on the civil aspect x x x x

COURT: x x x x Are you the private complainant in this case?

TERESITA DULAY: Yes, sir.

COURT: If the accused get convicted and I will hold them severally liable for you of damages in the liquidated sum of P600,000.00 as agreed upon by the counsel, will you be satisfied? x x x x

TERESITA: Yes, sir.

COURT: So let that be of record. Will you sign the note so that there will be evidence.

(At this juncture private complainant Teresita Dulay affixed her signature at the bottom right margin of the stenographic notes page 2 hereof).[26]

Article 1878 of the Civil Code and Sec. 23 of Rule 138 of the Rules of Court set forth the attorney's power to compromise. Under Art. 1878 of the Civil Code, a special power of attorney is necessary "to compromise, to submit questions to arbitration, to renounce the right to appeal from a judgment, to waive objections to the venue of an action or to abandon a prescription already acquired." On the other hand, Sec. 23, Rule 138 of the Rules of

Court provides, "(a)ttorneys have authority to bind their clients in any case by any agreement in relation thereto made in writing, and in taking appeal, and in all matters of ordinary judicial procedure, but they cannot, without special authority, compromise their clients' litigation or receive anything in discharge of their clients' claims but the full amount in cash."

The requirements under both provisions are met when there is a clear mandate expressly given, by the principal to his lawyer specifically authorizing the performance of an act.[27] It has not escaped our attention that in the present case counsel for both parties had no special power of attorney from their clients to enter into a compromise. However, insofar as Teresita was concerned, she was apprised of the agreement and in fact had signed her name as instructed by the court, thereby tacitly ratifying the same. As for accused-appellants, the aforecited dialogue between the court and counsel does not show that they were ever consulted regarding the proposed settlement. In the absence of a special power of attorney given by accused-appellants to their counsel, the latter can neither bind nor compromise his clients' civil liability. Consequently, since Atty. Sanglay and Atty. Rafael had no specific power to compromise the civil liability of all accused-appellants, its approval by the trial court which did not take the precautionary measures to ensure the protection of the right of accused-appellants not to be deprived of their property without due process of law, could not legalize it. For being violative of existing law and jurisprudence, the settlement should not be given force and effect.

In light of the foregoing, the award of damages must be set aside and a new one entered with all the circumstances of the case in mind. For the death of Florentino, Norwela and Nissan Dulay, civil indemnity at P50,000.00 each or a total amount of P50,000.00 is awarded to their heirs. This is in addition to the award of moral damages at an aggregate amount of P150,000.00 for their emotional and mental anguish. With respect to Noemi, an indemnity of P30,000.00 would be just and proper. All taken, an award of P330,000.00 is granted.

Four (4) members of the Court maintain their position that RA 7659, insofar as it prescribes the death penalty, is unconstitutional; nevertheless they submit to the ruling of the Court, by a majority vote, that the law is constitutional and that the death penalty should be accordingly imposed.

WHEREFORE, the assailed Decision of the trial court finding accused-appellants JAIME CARPO, OSCAR IBAO, WARLITO IBAO and ROCHE IBAO GUILTY of the complex crime of multiple murder with attempted murder and sentencing them to the supreme penalty of death is AFFIRMED with the MODIFICATION that they are ordered to pay the heirs of the deceased Florentino, Norwela and Nissan, all surnamed Dulay, P50,000.00 as death indemnity and P50,000.00 as moral damages for each death or an aggregate amount of P300,00.00. In addition, accused-appellants are ordered to pay Noemi Dulay P30,000.00 as indemnity for her attempted murder. Costs against accused- appellants.

In accordance with Sec. 25 of RA 7659, amending Art. 83 of The Revised Penal Code, upon finality of this Decision, let the records of this case be forthwith forwarded to the Office of the President for possible exercise of executive clemency or pardoning power.

SO ORDERED.

Davide, Jr., C.J., Bellosillo, Melo, Puno, Vitug, Kapunan, Mendoza, Panganiban, Quisumbing, Pardo, Buena, Gonzaga-Reyes, Ynares-Santiago, De Leon, Jr. and Sandoval-Gutierrez, JJ., concur.

[1] From the Shakespearean tragedy "Henry IV".

[2] Decision penned by Judge Ulysses Raciles Butuyan, RTC-Br. 51, Tayug, Pangasinan; Rollo, pp. 33-86.

- [3] TSN, 14 February 1997, pp. 1-83; id., 15 April 1997, pp. 257-290.
- [4] Exh. "D;" Original Records, p. 15.
- [5] TSN, 24 March 1997, pp. 193-201.
- [6] Exh. "A;" Original Records, pp. 21-22.
- [7] TSN, 19 March 1997, pp. 177-179.
- [8] TSN, 23 September and 1 October 1997, pp. 443-467; id., 2 October 1997, pp. 479-494.
- [9] TSN, 18 August 1997, pp. 361-382; id, 22 July 1997, pp. 385-404; id, 4 and 16 September 1997, pp. 408-440; id., 21 and 28 July 1997, pp. 338-357; id., 14 July 1997, pp. 313-335.
- [10] In convicting the accused of the attempted murder of Noemi Dulay the trial court held that the prosecution failed to sufficiently substantiate the charge of frustrated murder; Rollo, p. 85.
- [11] Rollo, p. 83.
- [12] See Note 2.
- [13] The lie detector reports state that when accused-appellants answered "NO" to a series of questions related to the incident the "polygrams revealed (they had) no specific reactions indicative (of) deception;" Rollo, pp. 210-217.
- [14] People v. Reanzares, G.R. No. 130656, 29 June 2000; People v. Adoviso, G.R. Nos. 116196-97, 23 June 1999, 309 SCRA 1.
- [15] According to the trial court, "It was not Meriales who lied on the witness stand; it was the Ibaos and the Carpos who did;" Rollo, p. 84.
- [16] People v. Hernandez, G.R. No. 130809, 15 March 2000; People v. Dizon, G.R. Nos. 126044-45, 2 July 1999, 309 SCRA 669; People v. Merino, G.R. No. 132329, 17 December 1999, 321 SCRA 199.
- [17] People v. Geguirra, G.R. No. 130769, 13 March 2000; People v. Antonio, G.R. No. 128900, 14 July 2000.
- [18] People v. Quinanola, G.R. No. 126148, 5 May 1999, 306 SCRA 710; People v. Ablog, G.R. No. 124005, 28 June 1999, 309 SCRA 222.
- [19] People v. Ramos, G.R. No. 110600, 7 August 1996, 260 SCRA 402.
- [20] TSN, 2 October 1997, pp. 475-476.
- [21] People v. Penaso, G.R. No. 121980, 23 February 2000; People v. Mendoza, G.R. No. 128890, 31 May 2000; People v. Surila, G.R. No. 129164, 24 July 2000.
- [22] G.R. No. 52798, 19 February 1986, 141 SCRA 393.
- [23] As the victims were sleeping when the grenade was suddenly thrown into their bedroom, they were not given a chance to defend themselves or repel the assault. Obviously, the assault was done without any risk to any of the accused arising from the defense which the victims may make.
- [24] Exh. "F," Medical Certificate, p. 8.
- [25] People v. Reducan, G.R. Nos. 126094-95, 21 January 1999, 301 SCRA 516; People v. Trinidad, G.R. Nos. 79123-25, 9 January 1989, 169 SCRA 51; People v. Garcia, No. L- 40106, 13 March 1980, 96 SCRA 497; People

v. Pilonos, G.R. Nos. 32754-55, 21 July 1978, 84 SCRA 167.

[26] TSN, 14 February 1997, pp. 2-3.

[27] Lim Pin v. Liao Tan, 200 Phil. 685 (1982).

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