

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
RAMON SALIPDAN AND RAFAEL MAGLENTE,
ACCUSED-APPELLANTS.**

G.R. No. 134129. May 10, 2001

Ponente: VITUG, J.

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VITUG, J.:

Although their motive might never be fully known, the assailants who took the life of Antonio Abergas must have undeniably harbored ferocious wrath for the victim. When relatives and friends came to take the body of the deceased, they found that he had been dragged from where he was killed, his bullet-riddled corpse propped atop a large "suyod" (rake) in a macabre position. A large hack wound at the neck almost severed the head from the torso.

According to Leticia Depillo, an eyewitness, it was about nine o'clock in the morning of 09 November 1994 when the dreadful incident took place. She was in the house of her brother Antonio Abergas at Sitio Malbog, barangay Nagbalaye, Sta. Catalina, Negros Oriental. Antonio and his wife, Maria Abergas, had earlier requested the witness to baby-sit their three-year old son while the couple were busy with the farm work. Maria was gathering the family's share of the corn harvest from a hut approximately 300 meters away from the house, and Antonio was attending to his newly planted peanuts. Antonio's peanut patch was located approximately 20 meters away from the house in full view from its balcony. While Antonio was watering his crops, Leticia, holding the baby, was standing at the balcony. From this vantage point, Leticia saw accused-appellants Ramon Salipdan and Rafael Maglente, both of whom she described as being virtually "inseparable" companions, walking one after the other towards her brother. When the two men came to about two meters from Antonio, Salipdan pulled out a caliber .38 pistol from his waist and forthwith shot the unsuspecting victim at the back. Just as the first shot was fired, Antonio slumped to the ground. Salipdan fired two more shots at the fallen victim. Maglente stood behind Salipdan while the latter was firing his gun. Salipdan and Maglente then proceeded to carry their victim towards a big rake, some fifteen meters away. While Maglente held the hands and the head of the victim, Salipdan took the bolo from the victim's waist and struck it at the victim's neck. Appalled at the gruesome sight, Leticia Depillo shouted; "What have you done to Tito Antonio?" By the time the neighbors responded to her cries, Salipdan and Maglente had already fled the scene.

When the widow of the victim, Maria Abergas, reached home, she saw Depillo, who was by then beside her fallen brother, jumping wildly and shouting that Ramon Salipdan and Rafael Maglente had shot Antonio. Beside her sister-in-law were neighbors Yolito Porio and a certain Epifania.

Antonio Abergas left behind a pregnant wife and three children aged 12, 7 and 4 years.

The autopsy showed that the victim had sustained three gunshot wounds - the first at the back, the second below the distal mammary portion of the clavicle along the lateral line, anterior right, and the third below the mammary gland along the mammary line at the level of the sixth rib. The presence of powder burns revealed all three to be

bullet entrance wounds. Subsequent exhumation disclosed that the bullet trajectory had fractured the fourth, fifth, and sixth ribs. A hack wound at the neck extended from the left lateral to the right side of the neck, cutting the esophagus, the trachea, and the blood vessels. Recovered from the chest cavity was a lead bullet with markings "AA" on its base.

According to SPO1 Wenefredo Nalam Jumandron and SPO2 Antero Bigay of the Sta. Catalina Police Station, Ramon Salipdan, accompanied by a certain Jose Lacpao, surrendered immediately after the incident. On the same occasion, Salipdan also relinquished to police custody the two weapons - a homemade pistolized shotgun and a long bolo. Salipdan claimed that he had come into possession of the gun while trying to wrest it from the victim in self-defense.

On 27 March 1995, an information was filed against Ramon Salipdan and Rafael Maglente charging them with the killing of Antonio Abergas; it read:

"That on November 9, 1994, at about 9:00 o'clock in the morning, at Sitio Malbog, Barangay Nagbalaye, Sta. Catalina, Negros Oriental, Philippines, and within the jurisdiction of this Honorable Court, the herein accused, conspiring and confederating with each other, with intent to kill and with treachery, did then and there willfully, unlawfully, and feloniously ATTACK and ASSAULT one Antonio Abergas with a handgun and a bladed weapon, with which accused Ramon Salipdan and Rafael Maglente were respectively armed and provided, thus inflicting upon said Antonio Abergas various injuries and thereby causing his immediate death, to the damage and prejudice of his heirs."[1]

At the trial, following the arraignment, the account given to the court a quo by the lone eyewitness, Leticia Depillo, was clear and unwavering -

"Q Now, at this point in time kindly tell this Court if you know of any untoward incident that occurred?

"A While Antonio Abergas was watering the plants, Ramon Salipdan and Rafael Maglente were walking towards him.

"Q When you first saw Ramon Salipdan and Rafael Maglente walking towards Antonio Abergas, how far were they from Antonio Abergas?

"A More or less three fathoms away from Antonio Abergas.

"Q How far was Rafael Maglente from Ramon Salipdan when you first saw them?

"A They were near each other. They were walking one after the other.

"Q Who was ahead of whom?

"A Ramon Salipdan.

"Q So, what happened next?

"A When he got near to Antonio, Ramon Salipdan pulled out a caliber .38 from his waist and shot Antonio.

"Q How far was Ramon Salipdan from Antonio Abergas when Salipdan shot Abergas?

"A From where I am sitting to that chair.

(witness indicating a distance of about 1 1/2 fathoms)

"COURT

The law says that you should use metric. You use meters, not fathoms.

"FISCAL ROCAMORA:

Two (2) meters, your Honor.

"Q Now, where was Antonio Abergas facing at that time that he was shot by Ramon Salipdan?

"WITNESS:

"A His back was facing our house.

"Q In relation to Ramon Salipdan, where was he facing?

"A His back was facing Ramon Salipdan when Salipdan shot Antonio.

"Q How many times did Ramon Salipdan shoot Antonio Abergas?

"A At the first shot, he was hit at the back (witness touching his right clavicular area), the second and the third shots, I do not know because he already fell down.

"Q Are you trying to impress upon this Honorable Court that Antonio Abergas was shot for the second and the third time while he was already lying down?

"A At the first shot, he was hit at the back and the third shot, he fell down already.

"Q At the time when he was first shot, was he standing up or sitting down?

"A He was sitting down.

"Q At the time that he was shot for the second time where was he facing?

"A At the second shot he turned a little bit to the right because he was already hit here (witness demonstrating by turning her body a little to the right and at the same time touching the base of her neck).

"Q In relation to Ramon Salipdan, where was Antonio Abergas facing when he was shot for the second time?

"A He was facing sideways towards Salipdan.

"Q Now, which side was near Ramon Salipdan, left or right?

"A The right.

"Q So, what was your reaction when you saw this incident?

"A I shouted.

"Q And what did Ramon Salipdan and Rafael Maglente do?

"A After the falling down, Ramon Salipdan was holding the feet while Rafael Maglente was holding the two hands and the head.

"Q And what did they do?

"A They carried him towards the big rake and placed him on top of the big rake.

"FISCAL ROCAMORA:

May we just request, your Honor, that the term, `suyod', be placed on record in quotation marks.

"Q How far was this big rake or `suyod' from the place where Antonio Abergas first fell when he was shot?

"WITNESS:

"A More or less fifteen (15) meters.

"Q And you said that they placed him on this `suyod' or large rake and what did they do after that?

"A They took the bolo from the waist of my older brother and he struck it at the neck of Antonio.

"FISCAL ROCAMORA:

May we just request that the word `wiktan' be placed on record in quotation marks, your Honor.

"Q While Ramon Salipdan was doing this, taking the bolo from the waist of your brother and striking your brother at the neck with it, what was Rafael Maglente doing?

"A The left hand of Rafael was holding the two hands of Antonio while the right hand was holding the head.

"Q Now, where was Ramon Salipdan when he struck Antonio Abergas with the bolo in relation to Antonio Abergas, his left or right?

"A The right side.

"Q So, how did he strike or hit Antonio Abergas with the bolo?

"A He took the bolo and he struck it on the neck.

(witness demonstrating, using her right arm, making a striking movement swinging it from left to right)

"Q Now, how about at the time that Ramon Salipdan shot Antonio Abergas three times, what was Rafael Maglente doing?

"A He was behind Ramon Salipdan.

"Q So, what did you do after you saw this act of Ramon Salipdan in striking your brother with the bolo?

"A I shouted and said, `What are you doing to Tito Antonio?'

"Q And what did Ramon Salipdan and Rafael Maglente do after that?

"A They ran away.

"Q And how about you, what did you do?

"A I just shouted and asked for help from my neighbors because they ran away."[2]

On 09 May 1998, the Regional Trial Court, Branch 37, of Dumaguete City, rejected the version given by the defense and found both Ramon Salipdan and Rafael Maglente guilty beyond reasonable doubt of the crime of murder. The trial court held:

"WHEREFORE, all the foregoing considered, judgment is hereby rendered finding accused Ramon Salipdan and Rafael Maglente guilty beyond reasonable doubt of the crime of murder as charged in the Information and hereby sentences each of them to the penalty of reclusion perpetua, to jointly and severally indemnify the heirs of the victim Antonio Abergas, the amount of P50,000.00, without subsidiary imprisonment however, in case of insolvency and to pay their proportionate share of the costs."[3]

The two convicted accused filed their separate appeals before this Court, both assailing the factual evaluation made by the trial court of the evidence presented to it.

In maintaining his claim of self-defense, accused-appellant Salipdan would insist that it was the victim who unlawfully tried to kill him, and that the hack wound he inflicted on the latter was made to protect himself. He

allegedly was cutting hagonoy and other bushes when the victim first made a surprise appearance, pointed a gun at his forehead, and said - "I will kill you, Gaw." [4] With both arms raised in surrender, accused-appellant knelt down, and inquired what his fault was. Abergas did not answer, repeating instead his warning - "I will kill you 'Gaw,'" and forthwith fired the gun. Salipdan warded the firearm, and the two men fell to the ground, grappling for its possession. At one point, Salipdan overpowered the deceased, pushed him aside and unsheathed his bolo. With one swift move, the bolo hit its mark at the victim's neck. The hold of the now wounded victim over his gun loosened. Salipdan then proceeded to pick up the weapon and walked away.

"Q What happened next while you were cutting the hagonoy and bushes, Mr. witness?

"A While I was cutting the bushes, a person from behind made a sound.

"Q Who was the person responsible in making the sound, Mr. witness?

"A When I looked back, I saw Antonio Abergas.

"Q And what was Antonio Abergas doing, Mr. witness?

"A He pointed a gun at me.

"Q You said, Mr. witness, that the victim Antonio Abergas pointed a gun at you, can you tell this Honorable Court what . . . are you familiar with guns, Mr. witness?

"A I know it was a gun but I am not familiar with guns.

"Q Can you tell this Honorable Court, Mr. witness, how the victim Antonio Abergas was holding the gun?

"A I can tell.

"Q How did the victim Antonio Abergas hold the gun, Mr. witness?

"A This way. (witness demonstrating by raising both his hands and somewhat like holding something with his two hands)

"Q Seeing that the victim Antonio Abergas was pointing it at you, Mr. witness, what did you do?

"A I raised by hands.

"Q By the way, Mr. witness, you were saying earlier in your testimony that you were cutting the hagonoy during that time when you turned around, were you still holding the bolo you were using in cutting hagonoy?

"A I placed it in the sheath.

"Q By the way, Mr. witness, what was the distance between you and Antonio Abergas when you mentioned that Antonio Abergas pointed a gun at you?

"A Less than a fathom.

"Q What did you do next, Mr. witness, after you have returned your bolo to the sheath of your bolo?

"A I kneeled down and asked him what was my fault.

"Q And what did the victim Antonio Abergas reply, Mr. witness, if there was any?

"A When I kneeled down he immediately fired a shot on the ground.

"Q Where did the victim Antonio Abergas fire the shot was it at your left or at your right, Mr. witness?

"A At the left side.

"Q After the victim Antonio Abergas fired the shot, what did you do next, Mr. witness?

"A He pointed the gun at my forehead and simultaneously saying, 'I am going to kill you, Gaw.'

"Q Why was Antonio Abergas calling you 'Gaw,' Mr. witness?

"A Because his wife is my first cousin.

"Q Can you tell this Honorable Court why the wife of Antonio Abergas is your first cousin, Mr. witness, will you kindly explain to this Court?

"A I can tell.

"Q Can you tell this Honorable Court, Mr. witness, why?

"A I can tell because her mother and my father are brother and sister.

"Q Will you kindly repeat your answer, Mr. witness?

"A The mother of Maria and my father are sister and brother.

"Q You said, Mr. witness, that after firing the shot at you . . . your left side when you were kneeling, he thrust the gun and pointed the gun at your forehead, what did you do next, Mr. witness?

"FISCAL ROCAMORA:

Your Honor please, the witness did not say that he thrust the gun. The witness merely said he pointed the gun at his forehead.

"ATTY. BALBUENA:

I think there was an answer, your Honor, that after the victim thrust the gun he pointed it at him. In fact, the witness when he answered the question made a gesture of thrusting the gun, your Honor.

"FISCAL ROCAMORA:

But that was not on record, your Honor. What was on record was --- after he fired that gun, he pointed the same again on his forehead and said, 'I will kill you, Gaw.'

"COURT:

'He pointed again'? Will you read again the answer of the witness. (Stenographer is now reading back the previous questions and answers)

He pointed the gun at his forehead.

"ATTY. BALBUENA:

Yes, your Honor.

"Q After the victim Antonio Abergas pointed the gun at your forehead, Mr. witness, what did you do?

"WITNESS:

"A I tried to ward off the gun away from my body.

"Q What hand were you using, Mr. witness, to ward off the gun from your body?

"A The left hand.

"Q Are you left-handed or right-handed, Mr. witness?

"A Right-handed.

"Q When you ward off the gun from your body, Mr. witness, what happened next?

"A We were grappling over the gun.

"Q What happened, Mr. witness, while you were grappling with the gun?

"A While we were grappling with the gun, the gun fired.

"Q And after the gun was fired, Mr. witness, what happened next?

"A We still kept on grappling over the gun.

"Q You said, you, together with the victim Antonio Abergas, continuously grappled with the gun, what happened next, Mr. witness?

"A While we were grappling over the gun I overpowered him and I was able to push him aside and at the same time had the opportunity to draw my bolo and struck him.

"Q When you had that opportunity to strike the victim Antonio Abergas, how far was Antonio Abergas from you, Mr. witness?

"A From where I am sitting to where you are situated.

(witness is pointing to the Interpreter, which has a distance of one (1) meter)

"Q Do you want to tell this Honorable Court, Mr. witness, that when you took the bolo from the sheath which was in your hand . . . in your person, were you still holding the gun or the gun was already released Mr. witness?

"A I was able to release it immediately because I pushed it aside.

"Q You said earlier, Mr. witness, that you struck the victim Antonio Abergas, where did you strike the victim Antonio Abergas?

"A As what I have seen, it was at his neck that I hit him.

"Q When Mr. Abergas was hit at the neck, Mr. witness, what happened next?

"A He was able to release the gun and he fell down.

"Q And when the victim Antonio Abergas fell down, Mr. witness, what did you do next?

"A I picked up the gun and walked away."[5]

Accused-appellant Salipdan testified to having immediately proceeded to the 57th Infantry Battalion Army, stationed five kilometers away or a five-hour walk from the place of the incident, in order to surrender. Upon reaching the detachment, the commander was not present; thus, Salipdan, accompanied by a CAFGU member, instead went to see Jose Lacpao, the barangay captain. Lacpao, in turn, brought Salipdan to the police authorities before whom the latter surrendered his bolo and the gun. All this time, Salipdan claimed, he did not know where his co-accused Rafael Maglente was. When asked what could have motivated Abergas into attacking him, Salipdan speculated that it could have been because of their land dispute.

Accused-appellant Rafael Maglente, in his case, raised the defense of denial, claiming that he had no participation at all in the killing of the deceased. He corroborated the narrative of his co-accused. According to him, he was

plowing the farm of Ramon Salipdan when deceased Antonio Abergas pointed a gun at Ramon. Except for them, the area, covered by meter-high grassweeds, was totally deserted. Maglente could not recall the particular make of the weapon; all he could remember was that the same was "short." Fearing for his life, and not wanting to get embroiled in what he thought was obviously going to be a violent encounter between Antonio Abergas and Ramon Salipdan, Maglente hid himself and then hurriedly left. He was already on his way home when he heard the gunshots seconds later. He had no idea who fired the weapon.

"Q And at that distance were you able to observe anything unusual?

"A I have noticed that Antonio Abergas pointed a gun at Ramon Salipdan.

"Q You said that Antonio Abergas pointed a gun at Ramon Salipdan, could you describe this gun which you said Antonio Abergas pointed at Ramon Salipdan?

"A I did not notice what kind of gun was that.

"Q When you saw that Antonio Abergas pointed a gun at Ramon Salipdan, please tell the Court what happened next?

"A I hid myself.

"Q Where did you hide?

"A I hid myself behind the grasses.

"Q When you were hiding were you able to notice anything unusual while you were hiding?

"A I have heard gunshots.

"Q And how many gunshots did you hear if you can remember?

"A I could not remember how many gunshots were fired but there were several shots that I heard that were fired.

"Q After hearing the gunshots, please tell the Court what you did?

"A I went home because I was scared.

"Q And did you know what happened to Antonio Abergas as well as Ramon Salipdan?

"A I did not know anymore.

"ATTY. TIZON:

That is all for the witness."[6]

A claim of self-defense reverses the order of the burden of proof in the rules of evidence. The onus of showing that the employment of force by the accused has been borne by the necessity of the circumstances then present falls on the party who invokes this justifying circumstance.[7] Forming the core to this defense is the burden of showing that the initial unlawful aggression has originated from the victim and that the employment of force against the aggressor has been made in response to the exigencies of the situation.

In the instant case, the rules would require that accused-appellants Ramon Salipdan and Rafael Maglente prove, to the satisfaction of the court, a plausible justification for the fatal wounds inflicted on the deceased and, corollarily, demolish the contrary version of the lone eyewitness, Leticia Depillo, for the prosecution. In an attempt to destroy the credibility of Depillo, the defense has placed the brother of accused-appellant Salipdan, Macario Salipdan, and

a neighbor, Rogelio Nalam, at the witness stand.

Macario Salipdan testified that on the morning of 09 November 1994, about nine o'clock, he was harvesting mongo beans at his farm. Helping him in the harvest were seven other people, mostly relatives and neighbors, among whom was Leticia Depillo. While picking mongo beans, the harvesters heard two gunshots apparently fired nearby. Alarmed, the group hurriedly dispersed, but not before first going to the house of Macario Salipdan to divide the produce among them. While thus engaged, they heard shouts informing them that Ramon Salipdan had killed somebody.

Rogelio Nalam testified that on the morning of 09 November 1994, he was helping, along with Leticia Depillo and ten other people, in the mongo harvest. At about nine o'clock, the task was finished. After dividing the yield among them, the group decided to go home. On his way home, he heard an unidentified woman shout - "Help, help, help, because Ramon killed Antonio." Nalam said that when he heard the shouts, he did not see Leticia Depillo around.

Both accounts of Macario Salipdan and Rogelio Nalam would appear to be contrary to human nature, improbable at best. One would wonder how the group of mongo harvesters could still be all level-headed to calmly go to Macario's house and divide the produce among them in the face of an obviously tragic encounter just nearby. It was not shown that Depillo uninterruptedly stayed with the group of harvesters. The absence of clear and positive evidence that Depillo could not have witnessed the grisly incident, her claim of having seen the event as it so unfolded would be difficult to discard. Accused-appellant Salipdan himself admitted that the place where the violent encounter took place could be seen from the balcony of the Abergas residence, the same spot where Depillo claimed to have been standing when the incident occurred.

The defense would point to supposed incongruences in the statement of Leticia Depillo. First, the distance between the Abergas house and the scene of the crime was calculated by the witness at the trial to be 200 meters; the same witness, however, estimated the same distance to be 8 meters during preliminary investigation and 30 meters before the police authorities. Second, Depillo, during preliminary investigation, narrated that accused-appellant Rafael Maglente was carrying a farm tool when he approached Abergas. On cross-examination, however, the witness contradicted her earlier statement by saying that Maglente was merely standing and was not carrying anything with him. Third, in her sworn statement, Depillo said that the first two shots hit the victim at the back and the third shot hit her brother at the neck. On direct examination, however, the same witness categorically stated that the first shot hit Abergas at the back. When inquired about the second and third shots, witness said that she was no longer certain because by that time, the victim had already fallen to the ground.

The supposed inconsistencies, notwithstanding, the whole testimony of Leticia Depillo cannot be said to be incredulous. The discrepancies pointed out bear more on trivial details than on substance. An average person in the state of stupefaction upon witnessing a horrible event, particularly involving a loved one, is not expected to recall with absolute clarity everything that has happened after the lapse of a considerable period. It is in recognition of this inevitable frailty of the human memory that courts generally view the testimony of a witness, which may vary on its finer points, to in fact bear the earmarks of credibility.[8] Conversely, it is this same principle which inclines the courts to view with suspicion statements which are too unflinchingly consistent to an extent of closely approximating the appearance of being contrived and rehearsed.

Physical evidence testified to by Bonifacio B. Ayag, an expert witness from the National Bureau of Investigation (NBI) would belie the theory of self-defense. Ayag testified that the deformed slug recovered from the deceased was a caliber .38 lead bullet fired from a paltik firearm caliber .38. Upon being shown the weapon, which Salipdan had claimed to have recovered from the deceased Abergas, the expert witness stated that the recovered

bullet, on the basis of its irregular lance and groove, could not have been possibly fired from the same crude pistolized shotgun termed as "pugakhang" in the dialect. NBI Ballistician Bonifacio B. Ayag explained.

"Q So your main conclusion based on the marks in the bullet that that was a `paltik'?"

"A Yes, your Honor.

"Q Why, what is your basis in saying that it is a `paltik'?"

"A Now, the lance and groove, your Honor, are irregular, the right plane. Right plane consists of lance and grooves, irregular, so most of the paltik firearms their lance and grooves are irregular.

"Q Will not firearms which are not `paltik' also commit similar kind of rifle mark?"

"A No, the markings, your Honor, are well defined.

"x x x x x x x x

"Q Is it possible that that slug would have been fired from this gun?"

"WITNESS:

May I request to this Honorable Court to examine the firearm?"

"COURT:

Go ahead.

"WITNESS:

"A No, not possible.

"COURT:

Make it of record that the witness is referring to a pistolized shotgun.

"WITNESS:

We call that `pugakhang', I think, in a layman language.

"FISCAL ROCAMORA:

Which is already marked as exhibit `G' for the prosecution, your Honor.

"COURT:

"Q The slug did not come from this gun?"

"A Did not come from this.

"Q This kind is a caliber .38 . . . (interrupted)

"A No, probably this is a Gauge 12.

"FISCAL ROCAMORA:

One last question, your Honor.

"COURT:

Go ahead.

"FISCAL ROCAMORA:

"Q Is it possible to fire this gun twice without cracking the same?

"A No, only one. Single action only. One load and then fire and then tug again to release the empty shell and then load.

"FISCAL ROCAMORA:

That is all, your Honor.

"COURT:

"Q All right, a caliber .38 bullet cannot be inserted here and fired it from the gun?

"A Not possible, your Honor, the diameter of the barrel is very big.

"ATTY. BALBUENA:

Your Honor, . . .

"COURT:

Go ahead.

"ATTY. BALBUENA:

"Q In a shotgun gauge or barrel of a shotgun, is it not possible to place a .38 caliber lead bullet?

"A No, that's impossible.[9]

The incompatibility between the gun allegedly used to kill the deceased and the recovered cartridge would point to a grimmer scenario - that accused-appellant Ramon Salipdan shot the deceased with another gun, an automatic one-load revolver compatible with the recovered slug, and in an attempt to create a situation consistent with his plea of self-defense, he took possession of a crude handmade gun and presented it to be the murder weapon.

In crimes involving ballistics, giving primary importance to physical evidence is a natural recourse in crimes involving the use of guns. A trigger-man who pumps a bullet into the body of his victim, releases a chunk of concrete evidence. A gun-barrel deeply imprints on every bullet fired from it characteristic markings peculiar to that gun and that gun alone. These markings are infallible for identification purposes similar to fingerprint. The subtle differences enable an expert to tell not only the caliber but also the manufacturer of ammunition, the kind of weapon from which it is fired and, if recovered, the gun itself.[10]

The factual circumstances heretofore narrated have clearly established the guilt of accused-appellants for which they were indicted. Treachery attended the killing. Acting together in evident conspiracy, the two accused-appellants, surprised the unsuspecting victim, shot him from behind, affording him with no opportunity to defend himself, carried his body some fifteen meters away, took his bolo and, with it, struck his neck almost severing it. The crime committed was murder punishable, under Article 248 of the Revised Penal Code, as amended by R.A. 7659, absent any mitigating or aggravating circumstance, by reclusion perpetua which the trial court thus correctly imposed. The civil indemnity of P50,000.00 awarded to the heirs of the victim was justified.

WHEREFORE, the decision of the court a quo is AFFIRMED. Costs against accused-appellants.

SO ORDERED.

Melo (Chairman), Panganiban, Gonzaga-Reyes, and Sandoval-Gutierrez, JJ., concur.

[1] Rollo, p. 4.

[2] TSN, Leticia Depillo, 06 July 1995, pp. 7-12.

[3] Rollo, p. 25.

[4] "Gaw" is the contraction for the Visayan word ig-agaw which means cousin in the dialect; Salipdan and Maria Abergas, the wife of the victim, being first cousins.

[5] TSN, Ramon Salipdan, 22 October 1997, pp. 9-13.

[6] TSN, Rafael Maglente, 14 May 1997, pp. 8-9.

[7] People vs. Nuestro, 240 SCRA 221.

[8] People vs. Apolonia, 235 SCRA 124; People vs. Pomayo, 235 SCRA 226.

[9] TSN, Bonifacio B. Ayag, 07 January 1998, pp. 31-34.

[10] R. J. Francisco, Evidence, Rules 128-134 (1993 Edition) p. 359, citing Robinson, "Science Catches the Criminal."

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