

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ORLANDO DINAMLING FERNANDO DINAMLING, JACINTO LINNAM
AND JOSE DINAMMAN, ACCUSED-APPELLANTS.**

G.R. No. 134605. March 12, 2002

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-134605/>

PER CURIAM:

For automatic review is the decision of the Regional Trial Court (RTC) of Santiago City, Branch 35[1] Finding accused-appellants Orlando Dinamling, Fernando Dinamling, Jacinto Linnam and Jose Dinamman guilty beyond reasonable doubt of the crime of “Robbery with Double Homicide” and sentencing them all to suffer the death penalty.

Accused-appellants were charged in an information[2] reading:

That on or about the 8[th] day of June, 1995, in the municipality of Cordon, province of Isabela, Philippines, and within the jurisdiction of this Honorable Court, the said accused, conspiring, confederating together and helping one another, all armed with assorted firearms, did then and there, willfully, unlawfully and feloniously, with intent to gain and by means of violence and intimidation against person, take, steal and bring away cash money in the amount of P1,500.00, two (2) rims [of] champion cigarette valued at P108.00; one (1) dozen [cans of] youngs town sardines valued at P96.00 and one (1) pack of Juicy fruit bubble gum valued at P50.00, all with a total amount of P1,75.00 [sic] and all belonging to Charlie Pajarillo, without his will and consent, to the damage and prejudice of the said owner, in the aforesaid total amount of P1,75400 [sic].

That on the occasions, and by reasons of the said robbery, the said accused, in pursuance of their conspiracy, and to enable them to take, steal and carry away the said cash, money and dry goods, did then and there, willfully, unlawfully and feloniously, with intent to kill and without any just motive, assault, attack and shoot the persons of Deogracias Acosta and Roger Malalay who are them (sic) present in the scene, inflicting upon them the gunshot wounds on their heads which directly caused their deaths.

CONTRARY TO LAW.

Upon arraignment[3] on September 13, 1995, all accused-appellants pleaded not guilty to the above charges. Trial ensued thereafter.

Seven witnesses were presented by the prosecution, namely: Marilyn Pajarillo, Charlie Pajarillo, Rosemarie Malalay, Dr. Rufino Tagorda, Erlinda Acosta, Mary Grace Costales and Violeta Malalay.

On June 8, 1995, at around 5:00 in the afternoon, Marilyn Pajarillo was in their house lying down in bed with her 2-year old daughter. Seated beside her was eleven-year old Rosemarie Malalay, who was waiting for her father Rogelio. Rogelio was then in the patio, outside the house, drinking gin with Marilyn’s husband Charlie Pajarillo and Deogracias Acosta.

Suddenly, a man entered their house and poked a long gun at Marilyn’s forehead. The man, who was subsequently identified as accused-appellant Orlando Dinamling, ordered her to lie prone on the ground. Marilyn

merely sat down. Another man with a short firearm entered their sari-sari store, searched their belongings and took some of their merchandise. Marilyn recognized the man's face but she did not know his name. In court, Marilyn identified the man as accused-appellant Jose Dinamman.

The two men ordered Marilyn to go out of the house. Marilyn obeyed. Outside, she saw two other men poking guns at the heads of Rogelio Malalay and Deogracias Acosta, who were then lying prostrate on the ground. Marilyn was ordered to walk and not to look back. After a while, she heard two gunshots. Marilyn tried to look back to see what happened, but the men with her ordered her to continue walking. She was brought near the house of her neighbor, Arsenio Balaoy, where she saw Arsenio and Pablito Bimmangon. The men told Arsenio and Pablito not to interfere.

One of the men told Marilyn they would kill her but Marilyn pleaded for mercy. Luckily, they freed her.

When Marilyn returned to their house, she found the bloodied but lifeless bodies of Deogracias Acosta and Rogelio Malalay lying on the ground. Immediately, she sought the help of her neighbors who in turn called the police.

According to Marilyn, the men who entered their house took more or less P1,500.00 in cash representing her sales, two (2) rims of Champion cigarettes worth P108.00, one (1) dozen cans of Youngstown sardines worth P96.00 and one (1) pack of Juicy Fruit chewing gum worth P50.00. She knew what articles were taken because she had just purchased those items that day.[4]

Rosemarie Malalay, 13 at the time of her testimony, corroborated Marilyn's account. On June 8, 1995, at around 5:00 in the afternoon, Rosemarie was in Marilyn's house seated beside the canteen door. Rosemarie was waiting for her father Roger Malalay, who was outside the house drinking gin with Marilyn's husband Charlie and Deogracias Acosta. Suddenly, she heard someone yell "dapa." One of the malefactors then entered the canteen through the door. He rushed to where Marilyn was and ordered her, "Dapa!" Rosemarie was then three (3) meters away from Marilyn.

The man who entered wore his black bonnet like a hat, leaving the face uncovered. The man was clad in fatigue shirt and pants. Rosemarie recognized the man who entered the canteen as Orlando Dinamling, who she said often passed by their house. Three other men guarded those who were outside drinking.

While the armed man talked to Marilyn, Rosemarie left surreptitiously. The men did not notice Rosemarie run home. Later in the evening, at around 8:00, Rosemarie learned of her father's death.[5]

Charlie Pajarillo, Marilyn's husband, testified that at around 5:00 p.m. on June 8, 1995, he was conversing with his wife when Roger Malalay and Deogracias Acosta arrived at their house, bringing with them a bottle of gin.

At around 7:00 later that evening, four armed persons barged into their house. Accused-appellant Orlando Dinamling was armed with a long firearm. Accused-appellant Fernando Dinamling carried a similar firearm. Another man carried a short gun while the last man also had a long one.

Charlie was able to identify by name accused-appellants Orlando Dinamling and Fernando Dinamling for he often saw the two at Sitio Delinquento. He did not know the names of accused-appellants Jose Dinamman and Jacinto Linam but he pointed to them in court as the other two perpetrators. Except for the time when the two were in their house on June 8, 1995, it was only in court that he had seen them.

Orlando ordered them to lie down facing the ground. Out of fear, they obeyed. Orlando started to tie up Charlie, Roger and Deogracias as the other three accused entered the house. Charlie was not able to see what was happening inside but he could hear his wife pleading for the men to just get what they want and not to hurt them.

As Deogracias Acosta's hands were being tied, Charlie found the chance to stand up and run. One of the men fired at Charlie but he managed to evade the shot by running in zigzag fashion, his hands still tied behind his back. Charlie proceeded to the house of his neighbor, Inciong Mamaclay, who untied him. Charlie told Inciong about the four armed men who barged into their home. He said that, as he ran, he heard two gunshots coming from their house. He feared that Roger and Deogracias were dead.

Together with Inciong Mamaclay, Erning Valdez and other purok officials, Charlie returned to the crime scene, where they saw the bloodied corpses of Roger Malalay and Deogracias Acosta on the ground. Charlie immediately looked for his wife and shouted her name twice. His wife soon appeared from west of their house. She told Charlie that the four men brought her along with them but that they let her go after she pleaded for mercy.

The incident was immediately reported to the police, who conducted an investigation.[6]

Dr. Rufino M. Tagorda, Municipal Health Officer of Cordon, Isabela, conducted the autopsy on the bodies of Roger Malalay and Deogracias Acosta.[7] Dr. Tagorda found that Roger Malalay suffered:

- 1) gunshot wound of entry: Temple, left, one inch above ear, left
- 2) gunshot wound of exit: right eye[8]

Deogracias Acosta, on the other hand, sustained the following injuries:

- 1) gunshot wound of entry: Occiput, midline
- 2) gunshot wound of exit: one inch above and one inch behind left ear with brain tissues coming out.[9]

Dr. Tagorda surmised that Roger Malalay's assailant was positioned behind the victim's left side as the entry wound was found at his left temple. Deogracias Acosta's killer was also behind him but to the right. Both victims were probably standing when shot.[10]

On the civil aspect, Erlinda Acosta, the widow of Deogracias Acosta, testified that her husband Deogracias was a carpenter who earned P200.00 a day.[11]

Mary Grace Costales came home from Malaysia to attend her father Deogracias Acosta's burial. She presented the plane ticket[12] costing Malaysian \$1,221.00, equivalent to P12,000.00, local currency.[13] She also submitted the following receipts representing expenses incidental to her travel:

- Exhibit "H," dated June 24, 1995, issued by the OWWA-Medicare, for P900.00.
- Exhibit "I," dated June 26, 1995, issued by the Philippine Overseas Employment Agency, for P100.00.
- Exhibit "J," dated June 26, 1995, issued by the Philippine Prudential Life Insurance Company, Inc. for P204.00 as insurance premium.
- Exhibit "K," dated June 26, 1996, issued by the Government Service Insurance System for P 198.50 as insurance premium.

Deogracias Acosta's wake was held at the Carbonnel Funeral Homes. The coffin and funeral services cost P9,000.00.[14] The family purchased a burial lot from the Catholic Church. Receipts dated June 15, 1995[15] and June 19, 1995[16] representing burial fees for P150.00 and P350.00, respectively, were offered as evidence.

Violeta Malalay, the widow of the deceased Rogelio Malalay, testified that Lina Naval, the employer of her husband, paid P20,00.00 for the services of the Carbonnel Funeral Homes, where the victim's wake was held. Her husband was 40 years old when he died and earned P1,000.00 a month as an employee of Lina Naval Enterprises.

She also testified that she knows all four accused-appellants, because they are neighbors who frequented their place. Fernando Dinamling is, in fact, their compadre.[17]

Accused-appellants interposed denial and alibi as their defense.

Accused-appellant Orlando Dinamling testified that on June 8, 1995, he was at his house resting with his brother-in-law. Orlando was tired because he had just finished fertilizing the cornfield. He stayed in the house the whole night.

The following morning, or on June 9, 1995, Orlando, together with his brother-in-law, his brother Marlon and his father Dionisio went to Cordon, Isabela to answer the summons of Vice-Mayor Dumlao concerning a problem with their lot. On their way to Cordon, Isabela, they were arrested and brought to jail. Orlando was later transferred to Santiago City for paraffin tests, the result of which turned out to be negative.[18]

Accused-appellant Fernando Dinamling, 28, testified that on June 8, 1995, he stayed all day and night in his house at Bimmangon, Quirino, Isabela with his children. The following morning, Fernando, his father Dionisio and brothers Orlando and Marlon went to Cordon, Isabela to comply with the summons[19] of Vice-Mayor Dumlao. Jacinto Linnam also joined them. On their way to the municipal hall, they were apprehended by the police and brought to the municipal jail. He denied knowing Deogracias Acosta and Roger Malalay. He denied having any knowledge of the crime.[20]

Jane Dinamling, the wife of accused-appellant Orlando Dinamling, corroborated her husband's account. She testified that her husband is a farmer, their two-hectare farm located at Bimmangon, Quirino, Cordon, Isabela, about one kilometer from their house. On June 8, 1995, her husband fertilized the cornfield and arrived home at 4:00 in the afternoon. By then, Orlando's brother-in-law, accused-appellant Jose Dinamman, had just arrived at their house from Dullao, Lagawe, Ifugao. Jose brought his child De Guzman Dinamman, a Grade 1 pupil, to Wigan. Jose stayed with them the whole night.

The following morning, Jose accompanied Orlando to Cordon, Isabela, to comply with a summons from Vice-Mayor Dumlao requesting Orlando for a dialogue on June 9, 1995 at 9:00 a.m. at the Municipal Hall. The dialogue involved the lot where they were staying. Orlando's father Dionisio and brother Marlon went with them. Jane learned that on their way to Cordon, her husband were apprehended and brought to the municipal jail. On the same day, police officers searched their house but no firearm was recovered. They also searched the house of her brother-in-law but the search did not yield any evidence.

Jane admitted that their family sometimes bought their grocery from the Pajarillo's sari-sari store. They also passed by the Malalays' and the Pajarillos' houses in going to the house of her brother-in-law, accused-appellant Fernando Dinamling.[21]

The defense also presented Arsenio Balaoy, a neighbor of the Pajarillos. At around 6:00 or 7:00 in the evening of June 8, 1995, Arsenio, who had just come from the fields, was resting outside his house. A visitor, Pablito Bimmangon, came to ask him if he could borrow Arsenio's trailer. Arsenio then heard gunshots. After a while, they heard someone crossing the yard talking loudly in Ilocano. It was the voice of a woman, probably one of their neighbors, pleading for mercy. Two men were with the woman and another two were farther back. Arsenio was not able to recognize the men, who were wearing bonnets. He heard the men loudly warn that nobody should interfere. Arsenio walked closer but the men repeated their warning and pointed their guns at him and Pablito. The two quickly returned to Arsenio's house.

Arsenio said he did not recognize any of the men's voices. He testified that he was familiar with all of the voices of accused-appellants, who were often his companions. None of the voices he heard that night were those of

accused-appellants.[22]

Accused-appellants Jacinto Linnam and Jose Dinamman did not testify.

On June 15, 1998, the trial court rendered a judgment of conviction, the dispositive portion of which reads:

WHEREFORE, the Court finds all the accused namely: Orlando Dinamling, Fernando Dinamling, Jacinto Linnam and Jose Dinamman, guilty beyond reasonable doubt of the crime of Robbery with double Homicide, defined and penalized under Article 294, paragraph 1 of the Revised Penal Code as amended by Republic Act 7659, sentences them the penalty of DEATH. They are ordered to pay jointly and solidarily the following: (1) To pay the sum of P200,000.00 each, for the heirs of Deogracias Acosta and Roger Malalay; (2) To pay the sum of P50,000.00 each, to the heirs of Deogracias Acosta and Roger Malalay; (3) To pay the sum of P756,000.00 as actual damages and the sum of P50,000.00, as burial and incidental expenses to the heirs of Deogracias Acosta; and to (4) To pay the sum of P79,500.00 as actual damages and the sum of P20,000.00 as burial and incidental expenses to the heirs of Roger Malalay.

SO ORDERED.[23]

Accused-appellants now contend that:

I

THE TRIAL COURT ERRED IN CONVICTING ACCUSED-APPELLANT WITH THE CRIME OF ROBBERY WITH HOMICIDE DESPITE FAILURE OF THE PROSECUTION TO PROVE THEIR GUILT BEYOND REASONABLE DOUBT.

II

ASSUMING ARGUENDO THAT ACCUSED-APPELLANTS WERE GUILTY OF ROBBERY, THE TRIAL COURT ERRED IN FINDING THAT HOMICIDE WAS COMMITTED ON THE OCCASION THEREOF.[24]

The first issue involves the sufficiency of the evidence of the prosecution to warrant conviction. The question being factual and evidentiary, the credibility of witnesses assumes extreme importance.

Full faith and credence is accorded to the positive identification made by spouses Charlie and Marilyn Pajarillo. Jurisprudence recognizes that victims of criminal violence have a penchant for seeing the faces and features of their attackers and remembering them.[25] The most natural reaction of victims of violence is to strive to see the appearance of the perpetrators of the crime and observe the manner in which the crime was committed.[26] The witnesses need not know the names of the accused as long as they recognize their faces.[27] What is important is that the witnesses are positive as to the perpetrators' physical identification from the witnesses' own personal knowledge.[28]

Accused-appellants failed to establish any ill motive that impelled the prosecution witnesses to falsely accuse them of committing the crime. Where there is no evidence to show any dubious reason or improper motive why a prosecution witness would testify falsely against an accused or falsely implicate him in a heinous crime, the testimony is worthy of full faith and credit.[29]

The testimonies of the prosecution witness thus established beyond reasonable doubt the elements of robbery with homicide, namely: (1) the taking of personal property is committed with violence or intimidation against persons; (2) the property taken belongs to another; (3) the taking is done with animus lucrandi; and (4) by reason of the robbery or on the occasion thereof, homicide is committed.[30]

Accused-appellants employed violence and intimidation against persons to consummate their criminal intent of

taking away for personal gain the money and merchandise belonging to the spouses Pajarillo. As soon as they arrived, they immediately yelled “dapa” and one of them quickly tied up Charlie, Deogracias and Roger while the other armed malefactors entered the house and ransacked the Pajarillos’ belongings. Accused-appellants brandished their guns while divesting their victims of their money and property. The killing of Roger Malalay and Deogracias Acosta occurred on the occasion of the robbery.

Accused-appellants have not offered any defense other than alibi and denial.

The defense of alibi is inherently weak and cannot prevail over the positive identification of the accused-appellants as the offenders.[31] Besides, to establish alibi the accused must show that it was physically impossible for them to be at the locus criminis or its immediate vicinity when the crime was perpetrated.[32] Accused-appellants failed to adduce any evidence that it was physically impossible for them to be present at the place where the crime was committed at that time it happened. Notably, their houses at Bimmangon, Cordon, Isabela are not very far from the house of the Pajarillos, which is also located in the same sitio. It would not have taken a long time for accused-appellants to travel from one place to the other.

Accused-appellants vehemently denied any knowledge or participation in the commission of the crime. Like alibi, denial is negative and self-serving evidence that does not deserve as much weight in law as positive and affirmative testimony.[33] Moreover, when the evidence for the prosecution convincingly connects the crime and the culprits, the probative value of the denial is negligible.[34]

Defense witness Arsenio Balaoy declared that the voices he heard were not those of accused-appellants. However, such negative evidence cannot prevail over the affirmative testimony of the prosecution witnesses who positively identified the accused-appellants. Significantly, Arsenio Balaoy did not see the faces of any of the perpetrators.

That accused-appellants allegedly did not exhibit “the slightest apprehension in going to the office of Vice Mayor Dumlao the following day ... [in spite] of the fact that the Municipal Building where the office of the Vice Mayor is located beside the police station”[35] does not diminish the weight of the evidence against them. For accused-appellants not to comply with the summons of the Vice-Mayor would have aroused suspicions of their complicity in the freshly committed crime.

It is also contended that “no evidence was adduced to prove the culpability of the accused-appellants for the victim[s]’ death[s].”[36] On the contrary, however, the following circumstances indubitably point to accused-appellants as the perpetrators of the killing of Roger Malalay and Deogracias Acosta:

- Immediately after the men arrived, they ordered Charlie, Deogracias and Roger to lie prone on the ground. They shouted “dapa” and one of them tied up the three.
- When Marilyn was ordered to go out of the house, she saw the other two accused poking their guns on the heads of Roger and Deogracias who were lying prostrate on the ground.
- Charlie and Marilyn both heard two gunshots. Charlie heard them while running from the crime scene, while Marilyn heard them when she was being led by the two accused away from their house.
- The accused-appellants were last seen aiming their guns on the heads of the victims. Only a short time elapsed before gunshots were fired.
- When Charlie and Marilyn returned to their house, they found the lifeless bodies of Deogracias and Roger who died as a result of gunshot wounds.
- Qualitative examination conducted on both hands of Fernando Dinamling and the right hand of Jacinto Linnam yielded positive for gunpowder residue (nitrates).[37]

The means and opportunity to inflict the fatal wounds, therefore, can be attributed only to accused-appellants to the exclusion of all others.

Accused-appellants' crime is robbery with homicide. The trial court's denomination of the offense as "robbery with double homicide" is erroneous. It is settled that regardless of the number of homicides committed, the crime should still be denominated as robbery with homicide. The number of persons killed is immaterial and does not increase the penalty prescribed by Article 294 of the Revised Penal Code.[38] Stated differently, the homicides or murders and physical injuries, irrespective of their numbers, committed on the occasion or by reason of the robbery are merged in the composite crime of robbery with homicide.[39]

Conspiracy was adequately established. For conspiracy to exist, it is not required that there be an agreement for an appreciable period prior to the occurrence. It is sufficient that at the time of the commission of the offense the accused had the same purpose and were united in its execution. The agreement to commit a crime may be gleaned from the mode and manner of the commission of the offense or inferred from the acts of the accused which point to a joint purpose and design, concerted action, and community of intent.[40] So long as the acts of the conspirators are characterized by unity of purpose, intent and design in order to effect a common unlawful objective, conspiracy exists, as such fact may be inferred from the coordinated acts and movements of the co-conspirators.[41] The accused-appellants' acts, taken together, show that they were united in the execution of their criminal act.

It is settled that whenever homicide has been committed as a consequence of or on the occasion of the robbery, all those who took part as principals in the robbery will also be held guilty as principals of the special complex crime of robbery with homicide, although they did not actually take part in the homicide, unless it appears that they endeavored to prevent the homicide.[42] There is no proof that any of the accused-appellants tried to prevent the killing of Roger Malalay and Deogracias Acosta.

The trial court correctly appreciated band as an aggravating circumstance. Whenever more than three armed malefactors shall have acted together in the commission of an offense, it shall be deemed to have been committed by a band.[43] All four accused-appellants were armed, three with long firearms and the other with a short one. They all took part in the commission of the robbery with homicide, poking their guns at their victims' heads, tying them up, ransacking the house, and killing the two victims.

The crime of robbery with homicide is punishable by reclusion perpetua to death.[44] Article 63 of the Revised Penal Code provides that in cases in which the law prescribes a penalty composed of two indivisible penalties and there is only one aggravating circumstance, the greater penalty shall be applied - in this case, the death penalty.[45]

Every person criminally liable for a person is also civilly liable.[46] The civil liability includes restitution, reparation of the damage caused and indemnification for consequential damages.[47]

The restitution of the thing itself must be made whenever possible.[48] Thus, accused-appellants are obliged to return the cash in the amount of P1,500.00 they had taken from the house of the Pajarillos, as well as the merchandise they obtained, namely, the two (2) rims of Champion cigarettes worth P108.00, the one (1) dozen cans of Youngstown's sardines worth P96.00 and the pack of Juicy Fruit chewing gum worth P50.00. Should this no longer be possible, accused-appellants shall pay the Pajarillos the amount of P1,500.00 and the value of said merchandise.[49]

Indemnification for consequential damages shall include not only those caused the injured party, but also those suffered by his family by reason of the crime.[50]

Considering that the crime was committed under circumstances which justify the imposition of the death penalty, the amount of indemnity for the death of the victim is P75,000.00[51] which shall be paid to the heirs of each victim.

Accused-appellants are also liable for the loss of the earning capacity of each of the deceased to be paid to the heirs of the latter.[52] The formula for computing the deceased's loss of earning capacity is as follows:[53]

Net earning capacity = life expectancy[54] x (gross annual income less living expenses[55])

In the case at bar, Deogracias Acosta was fifty-nine (59) years of age at the time of his death, earning P200.00/day with a gross annual income of P73,000.00. Under the said formula, his loss of earning capacity amounts to P511,000.00 since:

2 (80-59)

net earning capacity =

x (P73,000 - P36,500)

3

=

14

x P36,500

= P511,000.00

Applying the same formula with respect to Roger Malalay, who was forty (40) years old at the time of his death and was earning P1,000.00 a month, his loss of earning capacity amounts to:

2 (80-40)

net earning capacity =

x (P12,000 - P6,000)

3

=

26.66

x P6,000

= P160,000.00

In crimes, the defendants are liable for all damages which are the natural and probable consequences of the act or omission complained of. It is not necessary that such damages have been foreseen or could have reasonably been foreseen by the defendant.[56] Accused-appellants are, therefore, liable for the funeral and burial expenses incurred by the Acosta family as evidenced by Exhibits “L,” “M” and “N” in the total amount of P9,500.00. They are also liable for the expenses incurred by Mary Grace Costales, who had to come home from Malaysia for her father’s burial. The expenses are evidenced by Exhibits “F” and “H” to “K” in the total amount of P13,402.50.

The family of victim Rogelio Malalay are not entitled to compensatory damages for funeral and burial expenses since these were shouldered by the deceased’s employer.

The spouse, legitimate and illegitimate descendants and ascendants of the deceased may also demand moral damages for mental anguish by reason of the death of the deceased.[57] Mrs. Erlinda Acosta, the widow of Deogracias, testified that upon being informed of her husband’s death, she went “out of [her] mind” and had to be taken to the Javonillo Hospital in Central Cordon, Isabela. Because of the medication administered to her, she recovered her normal senses only a week after her husband was buried.[58] Clearly, she suffered mental anguish as a result of her husband’s death, entitling her to moral damages in the amount of P50,000.00.[59]

Exemplary damages as part of the civil liability may be imposed when the crime was committed with one or more aggravating circumstances.[60] There is in this case one aggravating circumstance, the robbery with homicide having been committed by a band. Accordingly, accused-appellants are ordered to pay the amount of P10,000.00[61] to the Pajarillo spouses, and P10,000.00 each to the heirs of Deogracias Acosta and the heirs of Roger Malalay.

WHEREFORE, accused-appellants are found guilty of Robbery with Homicide, defined and punished by Article 294 of the Revised Penal Code, and are each sentenced to suffer the death penalty.

Accused-appellants are ordered:

A. To return to spouses Charlie and Marilyn Pajarillo the items they took from the spouses’ residence, namely:

- (1) cash in the amount of P1,500.00;
- (2) two (2) rims of Champion cigarettes worth P108.00;
- (3) one (1) dozen cans of Youngstown’s sardines worth P96.00; and
- (4) one (1) pack of Juicy Fruit chewing gum worth P50.00.

Should restitution be no longer possible, accused-appellants shall pay in solidum to the said spouses Pajarillo the amount of P1,500.00 and the value of said merchandise.

They are also ordered to pay in solidum said spouses the amount of P10,000.00 as exemplary damages.

B. To pay in solidum the heirs of Deogracias Acosta the following amounts:

- (1) P75,000.00 as death indemnity;
- (2) P511,000.00 for loss of the deceased’s earning capacity;
- (3) P9,500.00 for funeral and burial expenses; and
- (4) P10,000.00 as exemplary damages.

In addition, accused-appellants are ordered to pay Erlinda Acosta P50,000.00 as moral damages and Mary Grace Costales the amount of P13,402.50 as travel expenses.

C. To pay in solidum the heirs of Roger Malalay the following amounts:

- (1) P75,000.00 as death indemnity;
- (2) P160,000.00 for loss of the deceased's earning capacity; and
- (3) P10,000.00 as exemplary damages.

In accordance with Section 25 of R.A. No. 7659, amending Article 83 of the Revised Penal Code, upon the finality of this decision, let the records of this case be forthwith forwarded to the President of the Philippines for the possible exercise of the pardoning power.

SO ORDERED.

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

[1] Presided by Judge Demetrio D. Calimag, Jr.

[2] Records, pp. 1-2.

[3] Id., at 65, 67-68.

[4] TSN, November 14, 1995, pp. 4-37.

[5] TSN, June 6, 1996, pp. 3-13.

[6] TSN, November 15, 1995, pp. 3-32.

[7] TSN, July 3, 1996, pp. 2-3.

[8] Exh. "D."

[9] Exh. "E."

[10] TSN, July 3, 1996, pp. 6-8.

[11] TSN, March 21, 1996, pp. 3-12.

[12] Exhibit "F."

[13] TSN, May 7, 1996, pp. 2-10.

[14] Exhibit "N."

[15] Exhibit "M."

[16] Exhibit "L."

[17] TSN, May 7, 1996, pp. 13-20.

[18] TSN, November 5, 1996, pp. 25-33; TSN, March 25, 1997, pp. 4-6.

[19] Exhibit "4."

[20] TSN, March 25, 1997, pp. 7-14; TSN, October 15, 1997, pp. 2-7.

- [21] TSN, August 14, 1996, pp. 3-21; TSN, March 25, 1997, pp. 15-19.
- [22] TSN, November 15, 1996, pp. 2-24.
- [23] Rollo, pp. 36-37.
- [24] Id., at 85.
- [25] *People v. Tagalimot*, 282 SCRA 231 (1997).
- [26] *People v. Pulusan*, 290 SCRA 353 (1998).
- [27] *People v. Evangelista*, 282 SCRA 37 (1997).
- [28] *People v. Tejero*, 308 SCRA 660 (1999).
- [29] *People v. Ferrer*, 295 SCRA 190 (1998); *People v. Abrecinoz*, 281 SCRA 59 (1997).
- [30] *People vs. Tidula*, 292 SCRA 596 (1998).
- [31] *People v. Maguad*, 287 SCRA 535 (1998).
- [32] *People v. Cabebe*, 290 SCRA 543 (1998).
- [33] *People v. De la Cruz*, 298 SCRA 36 (1998).
- [34] *People v. Fabro*, 277 SCRA 19 (1997).
- [35] Rollo, p. 93.
- [36] Ibid.
- [37] Records, p. 47.
- [38] *People v. Pulusan*, *supra*
- [39] *People v. Pedroso*, 115 SCRA 599 (1982).
- [40] *People v. Sequiño*, 264 SCRA 79 (1996).
- [41] *People v. Narca*, 275 SCRA 696 (1997).
- [42] *People v. Nang*, 289 SCRA 16 (1998).

[43] REVISED PENAL CODE, ART. 14 (6).

- [44] Id., ART. 294.
- [45] Three members of the Court, although maintaining their adherence to the separate opinions expressed in *People vs. Echagaray* (267 SCRA 682 [1997]) that R.A. No. 7659, insofar as it prescribes the penalty of death, is unconstitutional, nevertheless submit to the ruling of the majority that the law is constitutional and that the death penalty should accordingly be imposed.
- [46] Id., ART. 100.
- [47] Id., ART. 104.
- [48] Id., ART. 105.

[49] Id., ART. 106.

[50] Id., ART. 107.

[51] People vs. Torejos, 326 SCRA 75 (2000).

[52] Id., ART. 2206 (1).

[53] People v. Gutierrez, 302 SCRA 643 (1999).

[54] Life expectancy is based on the American Expectancy Table of Mortality and is computed using the formula, $\frac{2}{3} \times (80 - \text{age of the deceased at the time of death})$.

[55] In the absence of proof, living expenses is estimated to be 50% of gross annual income. (People vs. Aspiras, 330 SCRA 479 [2000].)

[56] CIVIL CODE, ART. 2202.

[57] Id., ART. 2206 (3).

[58] TSN, March 21, 1996, pp. 4-8.

[59] People v. Faco, 314 SCRA 505 (1999); People v. Leonor, 305 SCRA 285 (1999).

[60] CIVIL CODE, ART. 2230.

[61] People v. Robles, 333 SCRA 107 (2000); People v. Faco, supra; People v. Daraman, 294 SCRA 27 (1998).

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.