# THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. LAZARO CLARIÑO, CONSTANTINO CLARIÑO, REYNALDO CLARIÑO, DANILO CLARIÑO, MARIANO COPE (AT LARGE), AGUINALDO CLARIÑO, (AT LAR...

*G.R. No. 134634. July 31, 2001*

Ponente: MENDOZA, J.

Read online (full-text search, related cases, audio case brief): https://batas.org/library/g-r-no-134634/

**MENDOZA, J.:**

This is an appeal from a decision,[1] dated May 27, 1998, of the Regional Trial Court, Branch 15, Tabaco, Albay, finding accused-appellants Lazaro Clariño, Constantino Clariño, Reynaldo Clariño, and Danilo Clariño guilty of murder and sentencing each of them to suffer the penalty of reclusion perpetua and to indemnify the heirs of Jose Brosas in the amount of P50,000.00.

Accused-appellants, together with four other co-accused, Mariano Cope, Jr., Aguinaldo Clariño, Quirico Clariño, Jr., and Avelino Cobeta, all of whom were at large, were charged under the following information -

> That on or about 11:00 o'clock in the evening of September 9, 1995 at Sitio Sto. Cristo, Barangay Naga, Municipality of Tiwi, Province of Albay, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused conspiring, confederating and mutually helping one another, with intent to kill and with treachery, evident premeditation, taking advantage of superior strength and nighttime, did then and there willfully, unlawfully and feloniously attack, stab, and hack for several times one Jose Brosas with their boloes while the latter was asleep in a makeshift hut (Payag and/or Tugod) where he stripped abaca, that caused his instantaneous death, to the damage and prejudice of his heirs.[2]

Accused-appellants pleaded not guilty to the charge against them, whereupon they were tried.

The prosecution presented three witnesses, namely, Rodolfo Consulta, an eyewitness, Dr. Leonides B. Cruel, who conducted the autopsy on the victim's body, and Zenaida Balgemino, the victim's sister. Their testimonies are as follows:

Rodolfo Consulta testified that at around 5 o'clock in the afternoon of September 9, 1995, he went to catch some bats in Sitio Sto. Cristo, Barangay Cale because the full moon made it a good time to do so. While looking for a suitable tree from which to catch bats, Consulta saw the victim, Jose Brosas, whom he had known for some time. Brosas was stripping abaca in a makeshift hut owned by Domingo Cotara.

The hut where Brosas worked had no walls[3] and was about two by three meters in length and three meters high. It was surrounded by moderate vegetation since it was just beside an abaca plantation.[4] Inside the hut was an elevation about one meter high where one can strip abaca or lie down to rest.In front was a tabog tree about four meters tall which Consulta found suitable for catching bats.

At around 6 o'clock in the evening of that day, Consulta climbed up the tabog tree to wait for the bats. From the tree he could see the victim stripping abaca inside the hut. Later, he saw Brosas retire on the elevation in the hut

and cover himself with a blanket.[5]

At around 11 o'clock that evening, Consulta saw inside the hut eight men, whom he readily recognized as the accused Lazaro Clariño, Constantino Clariño, Reynaldo Clariño, Danilo Clariño, Aguinaldo Clariño, Mariano Cope, Quirico Clariño, Jr., and Avelino Cobeta. Illumination was provided by a full moon and the flashlights carried by four of the men. The eight men were armed with bolos and, in the case of some of them, with pointed bamboos.[6] Except for Avelino Cobeta, who lived in a different barangay in their municipality, Consulta and all the Clariños were residents of the same barangay in the municipality of Tiwi, Albay.

According to Consulta, Constantino Clariño struck Brosas with his bolo while Brosas was asleep. Constantino was followed by the others who pounced on Brosas, each one inflicting on him stab or hack wounds. No struggle took place as the victim simply fell to the ground. The accused then left. Upon seeing the assailants gone, Consulta climbed down from the tabog tree and ran towards his house. The following morning, September 10, 1995, he reported the matter to Barangay Tanod Amando Cope. However, he did not identify the culprits[7] because of fear. On December 16, 1996, or 15 months after the incident, he told the police everything he knew about the crime.[8]

In the afternoon of September 10, 1995, Domingo Cotara reported to the police that Jose Brosas was missing.[9] The day before, he had allowed the victim to use his hut. Domingo Cotara, Amando Cope, and two other companions went to Sitio Sto. Cristo to look for Brosas, but they could not find him. However, they found a blanket under the makeshift bed in the hut where Brosas had slept the night before. It was bloodstained and riddled with holes and rents caused by a sharp instrument. They did not touch the blanket and continued to search for Brosas in the vicinity, but no trace of the victim could be found.[10] The next day, at around 7 o'clock in the morning, the victim's sister, Zenaida Balgemino, together with her husband and Amando Cope, went to Sitio Sto. Cristo to verify reports that Brosas had gone. But they too failed to find the victim there. What they did was to take the blanket earlier found by Cope and his companions and give it to the Tiwi police.[11]

In the afternoon of September 11, 1995, the decomposing body of Brosas was found buried in the mud around 150 meters away from the hut where he worked.[12] Dr. Leonides B. Cruel, who examined the body of Jose Brosas, made a report containing the following findings:

> FINDINGS:
>
> - Wound, hacked, head, frontal, temporo-parietal area, running across, measuring 4" long, gaping, breaking the skull, and exposing the brain tissues.
>
> - Wound, stab, neck, right base, lateral, posterior to the right mandibular angle, 2" wide and 2" deep.
>
> - Wound, hacked, left arm, anterior, 4" long, severing the muscle tissues and blood vessels.
>
> - Wound, hacked, right forearm, anterior, measuring 2" long, 2" deep and cutting muscles and blood vessels.
>
> - Wound, hacked, left leg, anterior, just below the left knee, cutting the muscle, bones and blood vessels, almost cutting the whole extremity.
>
> - Wound, hacked, just below wound No. 5, about 2" below, cutting the muscles, bones and blood vessels.
>
> - Wound, hacked, left hand, completely cutting the fingers to their bases, sparing the thumb.
>
> - Wound, hacked, right leg, anterior, just below the right knee, almost completely cutting the whole extremity.
>
> CAUSE OF DEATH ...
>
> hemorrhage, external and internal secondary to stab and hack wounds.[13]


*Bar review courses, mock exams and a study planner that keeps you on pace - batas.org*

As Dr. Cruel found the body in a state of decomposition, he estimated that Jose Brosas must have died two days prior to the examination. Without excluding the possibility that wound nos. 2 and 5 could have been inflicted while both the assailant and the victim were standing, Dr. Cruel opined that Brosas was attacked while he was in a lying position, as indicated by the slant of his wounds. Dr. Cruel also concluded that the wounds were caused by a sharp instrument, probably a bolo. But, unless the bolo used had a pointed end, the wounds could not have been caused by a single assailant using only a single instrument. A single assailant could have inflicted the wounds only if he used at least two different weapons, such as a pointed sharp instrument and a sharp instrument with a blunt end. Wound nos. 1, 2, 5, 6, and 8 were deemed to be fatal. Wound no. 1 could have caused Brosas to suffer from an "automatic blackout" if it was the first to be inflicted. The multiplicity of the wounds Brosas sustained caused severe blood loss which led to his death.[14]

Aside from the testimony of its witnesses, the prosecution presented in evidence the record of Domingo Cotara's report on the disappearance of Jose Brosas (Exh. A), the postmortem examination report of Dr. Leonides B. Cruel (Exh. B), the sworn statement of Rodolfo Consulta (Exh. C), the blanket found inside the makeshift hut (Exh. D), and the sworn statement of Zenaida Balgemino (Exh. E).

For the defense, Amando Cope, a barangay tanod, Ernesto Diaz, and accused-appellants testified.

Accused-appellants denied involvement in the crime. Accused-appellant Lazaro Clariño testified that on the night of September 9, 1995, his wife and the other accused-appellants, who are their children, attended the novena prayers held at the house of his sister, Elena Bornalo. Clariño stated that the novena prayers were for his brother-in-law, Lino Bornalo, who died on September 2, 1995. Lino Bornalo was buried on September 6, 1995,[15] but the nightly novena prayers continued even after his burial. Lazaro Clariño testified that his family was in charge of taking care of those who joined the novena on that particular night.[16]

For their part, accused-appellants Constantino, Reynaldo, and Danilo testified that they were all in the house of their aunt, Elena Bornalo, helping in the food preparations for those attending the novena. They claimed that they stayed in their aunt's house until the morning of September 10, 1995.[17]

Ernesto Diaz corroborated accused-appellants' claim that the four were in their aunt's house on the night of September 9, 1995. Diaz said he attended the novena prayers on that particular evening and stayed in Elena Bornalo's house from 7 o'clock in the evening until 1 o'clock in the morning of the next day. Diaz testified that he saw accused-appellants attending to the needs of the visitors and later watching the card game. He was certain that none of the accused-appellants left the house while he was there because he saw all of them within the premises of Elena Bornalo's house. He in fact asked one of them to accompany him when he was about to leave at around 1 o'clock in the morning of September 10, 1995.[18]

Accused-appellants Lazaro and Constantino Clariño claimed that Rodolfo Consulta, the principal witness for the prosecution, was merely being used by Rodolfo Condat to impute on them the killing of Brosas, accused-appellants' relative. Lazaro testified that on at least two occasions in the past, members of the Condat family maliciously accused his sons of some crimes. He said that security guards in a drilling site in Catanduanes, all surnamed Condats, accused one of his sons of stealing from the storehouse. On another occasion, a nephew of Rodolfo Condat was suspected of killing a student, but Rodolfo Condat pointed to one of Lazaro's sons and even had the latter investigated by the NBI.[19]

Accused-appellant Constantino testified that on the night of August 3, 1995, Domingo Condat, Marcelo Condat, Salvador Condat, and the victim Jose Brosas went to their house demanding to see him. As Constantino refused to see them, his father, Lazaro, came out instead. Brosas and the Condats took Lazaro to a secluded place in well site no. 10, Tiwi, bound him up, and detained him there until midnight. For this reason, Lazaro filed a criminal

complaint for illegal detention against the Condats and Brosas. Despite the harassment, according to Lazaro and Constantino, they did not hold any grudge against the victim Jose Brosas because the latter allowed Lazaro to go home that same night.[20]

The parties agreed to dispense with the testimony of PNP evidence custodian, SPO1 Alfredo Sona, to whom Balgemino gave the blanket found inside the makeshift hut where Brosas had been last seen alive.

For its part, the defense adopted as part of its documentary evidence the sworn statement of Zenaida Balgemino (Exh. 1), the postmortem examination report of Dr. Cruel (Exh. 2), and the death certificate of Eleno Bornalo (Exh. 3).

On May 27, 1998, the trial court rendered a decision, the dispositive portion of which reads:

> WHEREFORE, judgment is hereby rendered finding accused REYNALDO CLARIÑO, DANILO CLARIÑO, CONSTANTINO CLARIÑO and LAZARO CLARIÑO guilty beyond reasonable doubt of the crime of MURDER (Viol. of Art. 248 of the Revised Penal Code) and hereby sentences each one of them to suffer the penalty of imprisonment of reclusion perpetua and to jointly and severally indemnify the heirs of Jose Brosas the amount of P50,000.00 as civil liability.
>
> Issue an alias warrant for the arrest of accused Mariano Cope, Aguinaldo Clariño, Quirico Clariño, Jr. and Avelino Cobeta @ "Cuela" who are still at-large.
>
> In the meantime, let the records of this case with respect to the four above-mentioned accused who are at large be sent to the archives pending their arrest.[21]

Hence, this appeal. Accused-appellants assail the trial court's decision on the following grounds-

> - THAT THE DECISION OF THE HONORABLE TRIAL COURT IS PRACTICALLY AT WAR WITH THE EVIDENCE PRESENTED;
>
> - THAT THE DECISION OF THE HONORABLE TRIAL COURT IS BASED ON A PERJURED TESTIMONY;
>
> - THAT THE APPEALED DECISION WAS ISSUED BY THE HONORABLE TRIAL COURT WITH GRAVE ABUSE OF ITS JUDICIAL DISCRETION AMOUNTING TO EXCESS AND LACK OF JURISDICTION.[22]

Accused-appellants' contentions are without merit.

First. Accused-appellants question the credibility of Rodolfo Consulta as a principal witness and his recollection of the events surrounding the death of Brosas. They claim that Consulta was merely instigated by Rodolfo Condat to implicate them in the crime because of a long-standing grudge held by the Condats against accused-appellants. It is incredible, they argue, for Consulta to choose the particular tabog tree near the hut where Brosas was killed in order to catch bats when there were other tabog trees closer to his house. Moreover, Consulta could not have seen what happened inside the hut because the hut was covered by a roof and Consulta himself said there was no light inside it. His testimony is insufficient to establish that they were the assailants he saw on the night of September 9, 1995 inside the makeshift hut. It does not prove that Brosas was the person attacked on that occasion because Brosas' body was found 150 meters away from the hut. The improbability of Consulta's testimony, they say, is underscored by his own testimony that the hut was just about 2 by 3 meters in area and there would be no room for the eight alleged assailants to all get inside the hut in attacking the victim. Finally, accused-appellants argue that the attack could not have taken an hour, as claimed by Consulta, "otherwise, it would be unimaginable [what would have] happened to Brosas."[23]


Turn this case into an audio lecture - facts, issues, ruling and doctrine - at batas.org

There is no dispute that the moon was full on the night in question. According to the Philippine Atmospheric Geophysical and Astronomical Services Administration (PAGASA), the moon at 11 a.m. of September 9, 1995 was 100% illuminated going on a southeast direction at an altitude of 70 degrees. This means that the moon on that particular night in Tiwi, Albay was shining at its fullest in a slanting or diagonal direction. Considering that Consulta was only one meter above the hut and was not positioned directly above it, there can be little doubt that he really saw what transpired therein. Although Consulta stated that there was no light inside the hut when the victim was pounced upon by his assailants,[24] this does not mean that it was so dark inside that he could not have seen the killing. The full moon gave illumination and some of the malefactors carried flashlights which showed some of their faces. They were all known to the witness. We have held that the illumination from the moon, and even from the stars, is fair and sufficient to identify perpetrators of crimes.[25] This is so even if the witness was 6½ to 15 meters away from the crime scene hiding in the bushes.[26] In another case,[27] we held that a witness could identify persons known to him even if the distance between him and the scene of the crime was about 40 to 45 meters. There is, therefore, nothing improbable in Consulta's detailed description of the events of September 9, 1995 and his identification of accused-appellants.

As between a negative assertion and a positive one, the latter is understandably and justifiably given more weight under the rules on evidence.[28] Consequently, the burden of showing that Consulta could not have witnessed the incident inside the hut is on the defense. As accused-appellants failed to discharge this burden, we are constrained to uphold the prosecution's evidence on this point.

Furthermore, there was an interval of more or less 16 hours[29] between the time Consulta left the crime scene and the time a search for his body began. It was thus probable that the body was taken from the hut and dumped in a place 150 meters away to prevent its discovery. Indeed, aside from the disappearance of Jose Brosas, there was no other killing which took place in Sitio Sto. Cristo, Barangay Cale reported within that week.

Nor was it physically impossible for eight individuals to get inside the hut in attacking the victim. The records show that the hut had no walls or partitions and could thus easily allow eight to nine persons to get inside.[30]

Neither is Consulta's claim that the attack lasted for an hour incredible. His error in estimating the time the attack lasted does not take away the fact that he saw the assault of accused-appellants on the victim. In any event, inconsistencies on negligible details, such as the one raised by accused-appellants, do not destroy the veracity of the testimony.[31]

Nor does the 15-month delay in Consulta's reporting of the incident to the police destroy his credibility as a witness and the probative value of his testimony. Fear of reprisal, death threats, and even a natural reluctance to be involved in a criminal case have been accepted as adequate explanations for the delay in reporting crimes.[32]

We are not convinced by the denial of defense witness Amando Cope that Consulta informed him in the morning of September 10, 1995 about the killing of Jose Brosas. Amando Cope is a first cousin of accused Mariano Cope.[33] Except for the former's denial of Consulta's claim on this point, no credible evidence was presented by the defense to show that Consulta merely concocted his testimony.

As for accused-appellants' claim that Consulta was simply made to testify by Rodolfo Condat, because the latter bore against accused-appellants a grudge, there is nothing in the evidence to show why Consulta should do the bidding of others. There being no proof of Consulta's motive to falsely testify against accused-appellants, the logical conclusion is that he was not so motivated and his testimony is worthy of full faith and credit.[34] That Consulta's testimony identifying accused-appellants as the killers of Brosas is consistent and credible is evident from the following:

Q


Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

Now, Mr. witness on September 9, 1995 about 11:00 in the evening, could you recall where were you?

A

Yes, sir.

Q

Where were you then?

A

I was catching bats.

Q

Where were you catching bats?

A

Just to the east of our residence.

Q

What is the name of that place Sitio barangay and Municipality of that place?

A

Still within the sitio of Sto. Cristo.

Q

What barangay?

A

Cale, Tiwi, Albay.

Q

While you were then catching bats on September 9, 1995 at around 11:00 o'clock in the evening, could you tell us if you witnessed any unusual incident?

A

I saw the incident.

Q

What incident did you witness?

A

They hacked Jose Brosas.

Q

You said they hacked Jose Brosas, who hacked Jose Brosas?

A

Lazaro Clariño, Constantino Clariño, Avelino Cobeta, Danny Clariño, Mariano Cope, Jr., Quirico Clariño, Jr.,

Avelino Cobeta alias [Cuela].

Q

How far where you from the place where all the accused hacked Jose Brosas?

A

More or less 10 meters.

Q

Could you describe that distance of ten (10) meters from where you were sitting now?

(witness points to the door of the sala of the courtroom which is about more or less 10 meters).

Q

By the way, you made mention of Jose Brosas, do you know this Jose Brosas before that hacking incident?

A

Yes, sir.

Q

Why do you know him?

A

When I was still residing in Panal we usually met each other.

Q

How long have you met this Jose Brosas?

A

For a long time already.

Q

Tell us why you were able to recognize that it was Jose Brosas who was hacked at that time?

A

I was able to recognize him because I was near where he was stripping abaca.

Q

Who was that stripping abaca?

A

Jose Brosas.

Q

What time did you go to the place where you are catching bats on September 9, 1995?

A

I proceeded to that place about 5:00 in the afternoon.

Q

And when you arrived at the place where you were catching bats, were you able to see this Jose Brosas?

A

Yes, sir.

Q

What was he doing then?

A

He was stripping abaca.

Q

Were you able to talk to him?

A

Yes, sir.

Q

Now, you stated that Jose Brosas was hacked by the accused at 11:00 in the evening, how were you able to recognize Jose Brosas that evening when it was nighttime?

A

The moon was shining bright.

Q

Can you tell us in what face was the moon there?

A

It was already full moon.

Q

You said you saw Jose Brosas hacked by the accused, could you tell the Hon. Court, how many persons hacked Jose Brosas?

ATTY. MADRILEJOS:

Already answered. He named all the accused.

COURT:

Q

Other than the accused, did you see any other person?

A


*Bar review courses, mock exams and a study planner that keeps you on pace - batas.org*

No more, sir.

PROSECUTOR BERANGO:

Q

Was the place where Jose Brosas hacked lighted with anything aside from the moon?

A

None, sir.

Q

How about the accused, were the accused carrying any light then?

A

Yes, sir.

Q

What kind of light, did they carry?

A

Flashlight.

Q

How many of them carried flashlight?

A

Four (4).

Q

Could you tell the court, who were these four (4) who carried flashlight?

A

I could not identify these four (4) persons carrying flashlight.

Q

Were the flashlight illuminated?

A

Yes, sir.

Q

Now, you said the accused hacked Jose Brosas, could you tell the court, what instrument were used by the accused in hacking Jose Brosas?

A

They all used bolos.

Q

Now, when Jose Brosas was initially hacked during the first hacking motion by one of the accused, in what position then was Jose Brosas?

A

He was asleep inside the stripping hut.

Q

And was Jose Brosas able to depend [sic] himself in any manner when he was being hacked?

A

No, because he was sleeping.

Q

Do you know if there was anybody aside from Jose Brosas inside that hut when he was hacked?

A

No, only the eight (8) of them.

Q

Now, could you tell the Hon. Court who among the accused was the first one who hacked Jose Brosas?

A

Yes, sir.

Q

Who was the first one who hacked Jose Brosas?

A

Constantino Clariño.

Q

After Constantino Clariño, could you tell the Hon. Court who was the second one who hacked Jose Brosas?

A

After Constantino Clariño they all hacked the victim.[35]

The testimony of a witness, giving the details of an incident that cannot easily be fabricated, deserves credence for it indicates sincerity and truthfulness in the narration of events.[36] It acquires greater weight and credence when, as in this case, it coincides with the physical evidence.[37]

Indeed, accused-appellants' attempt to impute ill motive on the part of Consulta reveal their own resentment towards the victim, as the trial court observed. Although proof as to the motive of the accused is not essential when there is direct testimony regarding the commission of the offense, motive may nevertheless aid in establishing their guilt.[38] In this case, accused-appellants gave proof of their motive for killing Jose Brosas.

Accused-appellants question the admission in evidence by the trial court of the blanket (Exh. D) because of the lack of laboratory examination to show that the stains on it were bloodstains.[39] But it was not really necessary for the prosecution to present the blanket in evidence to prove the culpability of accused-appellants.

Accused-appellants were positively identified as the killers by an eyewitness who knew them well. It is not denied that on the night in question there was a full moon and the hut was well lit. We have more than once ruled that the presentation and identification of the weapon used are not indispensable to prove the guilt of the accused.[40] It would be absurd to impose a stricter rule for the admissibility of the blanket in this case.

Finally, it must be stressed that the assessment made by the trial court of the evidence is entitled to great respect and, absent strong justification to the contrary, it will not be disturbed on appeal. This, for the familiar good reason that the trial court had opportunity denied an appellate court to observe the demeanor of the witnesses on the stand under questioning.[41]

Second. Accused-appellants raise the defense of denial and alibi. For this purpose, they rely on the following testimony of Ernesto Diaz:

> Questions by the Court.
>
> Q
>
> Mr. Witness on the night of September you witnessed that monte game being played during the wake of Lino Bornalo?
>
> A
>
> Yes, sir.
>
> Q
>
> And will the court get you right when the court will say that you were engrossed in watching the game?
>
> A
>
> Yes sir I was there and observed the game.
>
> Q
>
> How long in your estimate did it take you witnessing the game?
>
> A
>
> I could not estimate the time because when I left the game was still ongoing.
>
> Q
>
> Before the monte game, before you watched the monte game you saw four (4) accused present is that correct?
>
> A
>
> Yes sir.
>
> Q
>
> And what particular place in the house of Lino Bornalo did you see the accused?
>
> A
>
> I just did not see them in a particular place, they were walking about in the house sir, one of them was even watching the monte game, I just did not take notice.
>
> Q


*Bar review courses, mock exams and a study planner that keeps you on pace - batas.org*

And because they were walking about, going to and fro within the premises, you have no way of knowing whether one of them left or the last of them left, you have no way of knowing?

A

Well I was there I observed that they did not leave the place.

Q

You can tell this because while you were attending to the monte game you were also looking at them?

A

Yes sir I could see that they were walking about the place.

Q

So you or rather could you give us the reason why you were paying attention to these four (4) accused?

A

That is what I observed from them.

Q

Were they walking together or separate?

A

They were not walking together[,] some of them were sitting and talking with some people.

Q

And on that night of September 9 while you left you were positive that they were still there?

A

Yes sir when I left they were still there.

Q

You can say this because before you left you saw to it that they were still there and you verify [sic] that they were still there?

A

Yes sir.

Q

Can you tell the court why?

A

Because I even asked some of them to come with me in going home that's the reason why I was able to say that I have my attention on them and I was sure that they were still there when I left.

Q

Who in particular did you ask to join in going home?

A

(INTERPRETER)

At this point witness is trying to be sure as to whom he invited when he said he invited one of them, however, he could not now remember who among the four (4) accused whom [sic] he invited in going home [sic].[42]

However, the place where they claimed to be at the time of the incident is just six (6) kilometers from the scene of the crime and the distance can be negotiated in only two (2) hours by foot.[43] Accused-appellants have not shown that it was physically impossible for them to be at the scene of the crime at the time of its commission. In any event, alibi is an inherently weak defense, and it should be rejected when, as in this case, the identity of the accused is sufficiently established by the prosecution.[44]

Third. The lower court correctly appreciated the circumstance of treachery since the victim was asleep at the time of the assault.[45] The essence of treachery is the sudden and unexpected attack by an aggressor of an unsuspecting victim, depriving the latter of any real chance to defend himself and thereby insuring its commission without risk to the aggressor.[46]

However, abuse of superior strength cannot be appreciated because it is absorbed in treachery.[47] There was no basis either for the trial court to appreciate evident premeditation because there is no proof of the planning and preparation to kill Brosas or when such plan was conceived.[48] Nor was it proper to appreciate nighttime. It has not been shown that the malefactors especially sought nighttime to ensure the commission of the crime, for the fact is that the place of the crime was illuminated by the bright moonlight.[49]

The trial court's award of civil indemnity to the heirs of Brosas in the amount of P50,000.00 is consistent with current case law.[50] In addition, they should also be awarded moral damages amounting to P50,000.00 which needs no proof, the conviction of the accused for the crime being sufficient to justify the award of the same.[51]

WHEREFORE, the decision of the Regional Trial Court, Branch 15, Tabaco, Albay, finding accused-appellants Lazaro Clariño, Constantino Clariño, Danilo Clariño, and Reynaldo Clariño guilty of murder and sentencing each of them to reclusion perpetua, is AFFIRMED with the MODIFICATION that an additional amount of P50,000.00 is awarded to the heirs of Jose Brosas as moral damages.

**SO ORDERED.**

Bellosillo, (Chairman), Quisumbing, and De Leon, Jr., JJ., concur.
Buena, J., abroad, on official business.

---

[1] Per Judge Arnulfo B. Cabredo.

[2] Records, p. 59.

[3] Id., pp. 63-64.

[4] TSN (Rodolfo Consulta), pp. 7-8, 13, 26, Oct. 4, 1997; TSN (Zenaida Balgemino), p. 13, Jan. 6, 1998.

[5] TSN (Rodolfo Consulta), p. 20, Dec. 4, 1997; TSN, pp. 33-36, Dec. 5, 1997.

[6] TSN (Rodolfo Consulta), pp. 3-11, 25, Dec. 4, 1997.

[7] Id., pp. 10-14.

[8] Records, pp. 4-5.

[9] Id., p. 111.

[10] TSN (Amando Cope), pp. 14-21, Jan. 22, 1998.

[11] Records, p. 111.

[12] TSN, pp. 9-10, Jan. 22, 1998.

[13] Records, p. 10.

[14] TSN (Leonides Cruel) , pp. 6-25, Oct. 14, 1997.

[15] Records, p. 130.

[16] TSN (Lazaro Clariño), pp. 4-7, Jan. 28, 1998.

[17] TSN (Constantino Clariño), pp. 4-7, March 24, 1998; TSN (Reynaldo Clariño), pp. 4-5, April 20, 1998; TSN (Danilo Clariño), pp. 4-6, 9-13, April 28, 1998.

[18] TSN (Ernesto Diaz), pp. 4-30, Feb. 10, 1998.

[19] TSN (Lazaro Clariño), pp. 9-10, Jan. 28, 1998; TSN (Constantino Clariño), pp. 7-8, March 24, 1998.

[20] TSN (Constantino Clariño), pp. 8-12, 27-28, March 24, 1998.

[21] RTC Decision, p. 11; Rollo, p. 34.

[22] Appellants' Brief, p. 6.

[23] Id., pp. 9-11.

[24] TSN (Rodolfo Consulta), p. 36, Dec. 5, 1997.

[25] People v. Lopez, 312 SCRA 684 (1999) citing People v. Pueblas, 127 SCRA 746 (1984), People v. Oliano, 287 SCRA 158 (1988), and People v. Vacal, 27 SCRA 24 (1969).

[26] Arceño v. People, 256 SCRA 569 (1996).

[27] People v. De la Cruz, G.R. No. 118967, July 14, 2000 citing People v. Castillo, 331 SCRA 156 (2000).

[28] People v. Danao, 253 SCRA 146 (1996).

[29] TSN (Amando Cope), p. 2, Jan. 22, 1998; TSN (Roldolfo Consulta), p. 27, Dec. 4, 1997.

[30] Records, pp. 63-64.

[31] People v. Mahinay, 304 SCRA 767 (1999).

[32] People v. Hilot, G.R. No. 129532, Oct. 5, 2000.

[33] RTC Decision, p. 5; Rollo, p. 28.

[34] People v. Sioc, 319 SCRA 12 (1999); People v. Pija, 245 SCRA 80 citing People v. Nostabata, 218 SCRA 657.

[35] TSN, pp. 10-11, Dec. 4, 1997.

[36] People v. Espinosa, 228 SCRA 143 (1993); People v. Banez, 214 SCRA 109 (1992).

[37] People v. Molina, 213 SCRA 52 (1992).


*Bar review courses, mock exams and a study planner that keeps you on pace - batas.org*

[38] People v. Bautista, 331 SCRA 170 (2000); United States v. Carlos, 15 Phil. 47 (1910).

[39] Appellants' Brief, pp. 8-9.

[40] People v. Atrejenio, 310 SCRA 229 (1999); People v. Sumaoy, 263 SCRA 460 (1996).

[41] See, e.g., People v. Baula, G.R. No. 132671, Nov. 15, 2000; People v. Sullano, 331 SCRA 649 (2000).

[42] TSN (Ernesto Diaz), pp. 27-29, Feb. 10, 1998 (emphasis added).

[43] TSN (Lazaro Clariño), p. 12, Jan. 16, 1998.

[44] People v. Hilot, supra.

[45] People v. Barquilla, 249 SCRA 197 (1995).

[46] People v. Vermudez, 302 SCRA 276 (1999).

[47] People v. Naag, 322 SCRA 716, 739 (2000); People v. Valdez, 304 SCRA 611, 627 (1999).

[48] People v. Naag, supra.

[49] Id.; People v. Bato, 21 SCRA 1445 (1967).

[50] E.g., People v. Arrojado, G.R. No. 130492, Jan. 31, 2001; People v. De la Tongga, G.R. No. 133246, July 31, 2001.

[51] People v. Cortez, G.R. No. 131924, Dec. 26, 2000.

© 2026 batas.org · Philippine Bar Review & Law-School Companion

*Study hands-free: podcast-style lessons with read-along highlighting - batas.org*

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.