PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JUANITO CANTONJOS @ BONG (AT LARGE), HERLINO MORTEL BALAG Y CANTONJOS; AND ERNESTO ARAÑAS @ JAPONG (ACQUITTED), ACCUSED-APPELL...

G.R. No. 136748. November 21, 2001

Ponente: PUNO, J.

Read online (full-text search, related cases, audio case brief): https://batas.org/library/g-r-no-136748/

PUNO, J.:

Not content to simply take away the life of the victim, Rogelio Alcantara, the accused Balag and Cantonjos, in utter disregard of human life and disrespect for the human body, stabbed the victim at least fifty times to ensure a painful and gruesome death.

An information was filed against the accused Juanito Cantonjos @ Bong, Herlino Mortel Balag y Cantonjos, and Ernesto Arañas @ Japong, viz:

> "The undersigned Assistant Provincial Prosecutor accuses JUANITO CANTONJOS @ BONG, HERLINO MORTEL BALAG Y CANTONJOS and ERNESTO ARAÑAS @ JAPONG with the crime of MURDER, committed as follows:
>
> That on or about the 16th day of November, 1997 at Rosario Institute Compound, Municipality of Rosario, Province of Cavite, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with intent to kill, being then armed with bladed weapons and ice-pick, conspiring, confederating together and mutually helping and aiding one another, with treachery and. evident premeditation and taking advantage of their superior strength, did, then and there, wilfully, unlawfully and feloniously attack, assault and stab with the said weapons one ROGELIO ALCANTARA y JIMENEZ inflicting stab wounds on the different vital parts of his body which caused his subsequent death, to the damage and prejudice of his heirs.
>
> CONTRARY TO LAW."

Both accused Balag and Arañas pleaded not guilty. Accused Cantonjos has remained at-large. Trial proceeded only against Balag and Arañas.

Joselito Bolon was the prosecution's principal witness. He is a native of Masbate but lived in Tagaytay. He went to Rosario, Cavite for the first time on November 15, 1997 to meet the accused Juanito Cantonjos. Bolon had previously met Cantonjos in Tagaytay and the latter had agreed to teach him how to drive a tricycle so he could earn a living. Cantonjos was a driver of one of the tricycles of the victim, Rogelio Alcantara. He told Bolon that when he learns how to drive, he could also drive one of Alcantara's tricycles.

When Bolon arrived in Rosario, Cavite on November 15, 1997, he stayed in the house of his cousin, Jimmy Olaje. At around 11:00 a.m. the following day, Bolon met Cantonjos at the parking area for tricycles. Cantonjos then brought him to a wedding party in Rosario and stayed there until nighttime. Rogelio Alcantara was also at the party. Cantonjos and his companions drank liquor, but Bolon did not. Bolon saw and heard Cantonjos and Rogelio

Alcantara argue about the latter's tricycle which Cantonjos was driving. When the argument was already heated, Cantonjos left the place driving a tricycle and brought with him Bolon and a person whom the latter did not know. Cantonjos was still sober enough to drive. Bolon was behind Cantonjos in the driver's seat while the other person was inside the tricycle. The group went to the accused Balag's residence and Cantonjos" invited Balag to come along. Balag obliged, and the four of them went to the house of Jimmy Olaje. When they arrived at the latter's residence, Cantonjos and Balag borrowed a bolo from Olaje, to no avail. Without Bolon knowing where they were headed, Cantonjos drove the tricycle to Rosario Institute. Bolon insisted that Cantonjos already teach him how to drive' a tricycle as it was getting late. Cantonjos assured him that he would, and told him that it was in fact better to learn how to drive at night as people were no longer out in the streets.

The group arrived at Rosario Institute before 8:00 p.m. Cantonjos parked the tricycle at a sidestreet and told Bolon to stay behind as he and accused Balag were going somewhere else. Bolon stayed in the tricycle while the other unidentified man stood at a distance from the tricycle, outside the gate of the Rosario Institute. Bolon saw Cantonjos and Balag enter the gate of Rosario Institute. Cantonjos pulled out an icepick from the waist of his pants. After some time, Cantonjos and Balag came out running from the Rosario Institute with bloodied hands. Cantonjos told Bolon that they (Cantonjos and Balag) killed Rogelio Alcantara and warned him to keep silent and "Bahala ka sa buhay mo" if he would report the matter to anybody. Cantonjos also told Bolon that he was wounded by Balag's fan knife when he was trying to stop Balag from further stabbing Rogelio Alcantara.

After the stabbing incident, the group left the Rosario Institute on board the tricycle driven by Cantonjos. The latter returned the tricycle to its owner and thereafter, the group walked to the house of a certain Henry where Cantonjos lived. Henry was also a native of Masbate and a cousin of Olaje. Bolon spent the night there as the group did not want him to leave for fear that he might report the killing to the police. He was warned not to reveal what happened, otherwise Cantonjos and Balag would kill him. At about 5:00 in the morning the following day, November 17, 1997, Cantonjos drove Henry's tricycle and plied his route. Bolon, on the other hand, went back to Olaje's house then headed back to Tagaytay and talked to his wife about the killing of Rogelio Alcantara. On November 21, 1997, Bolon's wife went to Rosario, Cavite and learned that Bolon was implicated in the crime. That same day, he went to his cousin's place in Rosario, Cavite to clear his name. The following day, he went to the family of the victim and told them what happened on the night of November 16, 1997. Together, the victim's family and Bolon went to the municipal hail and approached a certain Officer Gregorio Gener. The latter investigated Bolon who gave a sworn statement narrating the killing incident.

Bolon had known the accused Cantonjos for a long time as the latter's sister is the wife of his brother. He also knew the accused Balag as the latter is his townmate and the nephew of Cantonjos. Bolon, Cantonjos, and Balag are all natives of Masbate. Bolon, however, does not know the accused Arañas.[1]

Maria Caridad Alcantara, daughter-in-law of the deceased Rogelio Alcantara, also testified. At around 7:00 p.m. of November 16, 1997, she was at home in Rosario, Cavite, putting her child to sleep. Rogelio Alcantara then arrived, very angry. He had taken liquor at a wedding party from where he came. He asked Caridad, "Anak, nasaan ang baril ko?" He got his gun and immediately left. Worried about her father-in-law, Caridad went upstairs and told her mother-in-law to follow her father-in-law. She obliged and followed Rogelio up to a store, but did not proceed as she thought that her husband brought his tricycle and just plied his route. But Caridad was still worried, so she went to Rosario Institute to check if her father-in-law really plied his route or went to Rosario Institute for his tour of duty as a security guard. Upon arriving at the institute, she saw her father-in-law's tricycle, normally driven by Arañas, parked outside the institute. She entered through the gate and saw Arañas standing beside the folding bed where her father-in-law was lying down. She was about seven to eight meters away from Arañas. She thought that the latter was just giving her father-in-law his boundary so she went home at

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

about 8:00 p.m. When she got home, she went to bed. She was later roused from slumber by her crying husband. She asked her husband why he was crying and he replied that his father was stabbed to death. She awakened her brother-in-law, Russel, and broke to him the news.

Caridad and Russet proceeded to Rosario Institute and arrived there at past 10:00 p.m. The tricycle driven by Arañas was no longer there. She went inside the institute and saw the lifeless body of her father-in-law and some investigators. The investigator asked her if she knew the drivers of her father-in-law's four tricycles. Replying in the affirmative, the investigator asked her to look for Rogelio's missing tricycle, if there was any. As she went out of the institute, she saw along an alley one of her father's tricycles, parked near the house of Arañas. She went back to the institute and informed one of the investigators that one of the tricycles was parked along the first alley outside of the institute. Caridad accompanied the investigators to the tricycle and the investigators knocked at the door of Arañas' house. The policemen talked to Arañas and the other residents in the house. Meantime, Caridad and some companions looked for the other tricycle drivers of the deceased Rogelio. Caridad's group brought a certain Lando to the police station. At the station, Caridad saw Arañas' wife. The policemen informed her group that they already talked to Arañas and that he had already gone home.

Caridad personally knew the accused Cantonjos as he was a driver of the deceased Rogelio Alcantara. She knew that the latter and Cantonjos had a misunderstanding at a wedding party. With respect to Arañas, however, she was not aware of any bad blood between him and her father-in-law.[2]

Emerito Alcantara, like Rogelio Alcantara, was a company security guard at the Rosario Institute. At about 7:30 in the evening of November 16, 1997, he went to the Rosario Institute and stayed inside the canteen to rest as there was a ceiling fan there. He talked with Adelia, the canteen manager, but after a while, Adelia left him alone and watched TV inside her bedroom in the canteen where she also lived. Rogelio Alcantara was supposed to be the guard on duty at that time, his tour of duty being from 4:00 in the afternoon to 12:00 midnight. Emerito's tour of duty was next to Rogelio's, i.e., from 12:00 midnight to 7:00 in the morning. Emerito, however, normally arrives at the Rosario Institute at 7:30 in the evening to rest and then relieves Rogelio from duty at 12:00 midnight.

Shortly after Emerito arrived at the Rosario Institute at about 7:30 in the evening of November 16, 1997, Rogelio also arrived in a tricycle. He appeared to have taken some liquor. He took his post and sat on his folding bed. About five minutes after Rogelio arrived, the accused Ernesto Arañas, whom he personally knew since childhood, entered the Rosario Institute compound. Two other men followed Arañas, the accused Juan Cantonjos and another man whom Emerito did not know. He later learned, upon inquiry, that the third man was the accused Balag. At about 8:40 p.m., Emerito heard noise and looked towards the place from where it came. He saw the three accused stabbing Rogelio who was then lying on his folding bed. Arañas was near Rogelio's head, Balag was by the victim's side, while Cantonjos was sitting on top of the victim. Emerito clearly saw the stabbing incident as it took place in a well-lighted area, about five arms' length from the canteen where he was. Emerito was terrified by what he saw, thus he rushed home on his bicycle to tell Rogelio's sister, Alicia Alcantara, that Rogelio had been killed. The accused were still stabbing Rogelio when Emerito left the place. He passed by the Rosario police station but did not report the incident to the police as he was afraid that if he did so, he would be killed next. From Alicia's house, he went home and stayed there until 12:00 midnight when it was time for his duty at the Rosario Institute. When he arrived at the institute, he saw Rogelio's bloodstained folding bed. He kept mum about the stabbing incident until he was so moved by pity for his deceased nephew that he mustered enough courage and executed on November 22, 1997 a written statement narrating the killing incident. He identified pictures of the bloodied victim lying on his broken folding bed.

Emerito had known Balag, Cantonjos, and Arañas for a long time as they were drivers of Rogelio's tricycles.

Balag and Cantonjos had even slept beside him. In one part of his testimony, however, he stated that it was the first time he saw Balag on the night of November 16, 1997. On cross-examination, he clarified that he had known Balag by face for some time as he (Balag) had been Rogelio's driver for two months prior to Rogelio's death. In those two months, Balag used to sleep at night at the Rosario Institute, thus, contrary to his initial testimony, he stated that he had seen Balag several times prior to November 16, 1997. But he (Emerito) did not know Balag's name even until Rogelio was fatally stabbed. Emerito surmised that the three accused killed Rogelio for firing them from their jobs as drivers of Rogelio's tricycles because they would sometimes fail to remit their boundary or would cause the tricycles to break down.[3]

On November 16, 1997, Alicia Alcantara, sister of Rogelio Alcantara, was at home in Silangan II, Rosario, Cavite. At about 8:40 in the evening, her uncle Emerito Alcantara arrived in her house. He was nervous and he reported to her that her brother Rogelio Alcantara was killed. She immediately dressed up and with her son headed to the Rosario Institute in Abueg, Rosario, Cavite where the victim worked as a security guard. Emerito was left behind as he was not feeling well. When Alicia arrived at the institute, she saw her brother's broken folding bed and belongings scattered on the bloodied cement floor. She proceeded to Funeraria Samson where she saw her brother's corpse with multiple stab wounds. During her brother's wake, she found out from Joselito Bolon the identities of her brother's assailants. According to her, Rogelio's wife spent P18,000.00 for the funeral service[4] and P69,000.00 for the wake of the victim.[5] At the time of his death, he was earning about P4,000.00 a month.[6]

SPO4 Gregorio B. Gener also took the witness stand. He is a member of the PNP and he investigated the killing of Rogelio Alcantara. On November 16, 1997, he was assigned as a duty investigator at the Rosario Municipal Police Station in Rosario, Cavite. At about 10:00 p.m. that night, a certain Rex Asigurado of Rosario Institute went to the station informing them that the security guard of Rosario Institute was bathing in his own blood. Gener, and two other policemen on night duty, SPO3 Apostol and SPO1 Mercado, and their official photographer, Oliver De Guzman, immediately responded and proceeded to Rosario Institute. The investigating team arrived there at about 10:00 p.m. and saw the lifeless Rogelio Alcantara lying down on a folding bed. They found a gun under his pillow and took a picture of it. They investigated the vicinity, searching for a suspect. They were able to talk to Caridad Alcantara who told them that Rogelio Alcantara's tricycles were missing. The team looked for the tricycles and found one near the residence of Arañas at around 11:00 p.m. They tried to talk to Arañas in his residence, but his wife told him that he was not home.

The following morning, Gener's companion saw Cantonjos plying his route. He invited him and Arañas to the police station for an interview. The two denied involvement in the killing of Rogelio Alcantara. During the interview, Gener noticed that Cantonjos' right thumb was wounded. When inquired about the cause of the wound, Cantonjos explained that he sustained it while repairing his tricycle. After the investigation, the two were released for lack of evidence linking them to the killing. Subsequently, however, witnesses Joselito Bolon and Emerito Alcantara surfaced and narrated the stabbing incident. Emerito broke his silence only after seven days from the killing because he was afraid. After reinvestigation, Arañas was arrested in Rosario and Balag was arrested in his home province of Masbate. Cantonjos has remained at large.[7]

Dr. Jocelyn Dignos, Rural Health Physician of the Rural Health Unit of Rosario, Cavite, took the witness stand. On November 20, 1997, she examined the body of the deceased, Rogelio Alcantara, which sustained about 50 stab wounds. She issued a death certificate,[8] indicating therein that Rogelio's cause of death was "irreversible shock due to massive hemorrhage and multiple stab wounds, internal and external, head and body." She opined that the wounds could have been inflicted by at least two weapons, a long, pointed and rounded one which could be an ice pick or screw driver and a sharp knife because some wounds were clean, 3/4 inches in width and about

one foot long. She testified that some of the stab wounds inflicted with an ice pick as well as some of the stab wounds caused by a knife were fatal. She also surmised that there was more than one assailant based on the number and location of the wounds.[9]

The accused Balag took the witness stand. He is a native of Masbate, but has been residing with his parents in Rosario, Cavite since 1996. He is the nephew of his co-accused Cantonjos. From 1996 to 1997, Balag worked in a rice store in Rosario Municipal Market in Salinas. In 1996, he also worked as a tricycle driver of the deceased Rogelio Alcantara. The latter owned three tricycles. Before he started driving for Alcantara, Balag's uncle, co-accused Cantonjos, was already driving one of Alcantara's tricycles. After driving for Alcantara for four months, Balag asked his permission to resign as his earnings were not sufficient for his domestic expenses. Alcantara agreed and did not get angry with Balag. Thereafter, a certain Arnel employed Balag in his rice store and as a tricycle driver. Balag worked in the store until November 7, 1997.

On November 8, 1997, Balag went home on a boat to Masbate with his live-in partner, Lita Balag, to spend the new year there. Balag claims that on the night of November 16, 1997, he was in their residence in Mubo, Masbate. Balag and his partner planned to go back to Rosario, Cavite after the new year, but never got to do so as Balag's mother requested him to attend to their coconuts and copra business in Masbate. Sometime after new year, Balag was arrested in Masbate. Thereupon, his uncle who was a policeman took from Balag his boat tickets for his trip home to Masbate on November 8, 1997 supposedly to show them to the authorities. Balag never got to retrieve the tickets from his uncle as he (Balag) was hurriedly brought to Manila upon being arrested. Aside from this, his policeman uncle, whom he claims to have been bribed by the private complainant, was one of those who arrested him and brought him to Manila even if he knew that he was in Masbate a week before the killing incident.

Balag knows the prosecution's principal witness, Joselito Bolon, as their fathers are first cousins and Bolon is also a native of Masbate. He met Bolon in 1992 in Masbate, but never saw him again there nor in Rosario, Cavite when they were both residing there. He did not have any quarrel with Bolon prior to the latter's testifying against him. He also knew Jimmy Olaje as he is also from Masbate, but denied meeting him on November 16, 1997. Balag also denied having been with the accused Cantonjos and Arañas on the night of November 16, 1997 and having killed Rogelio Alcantara. According to him, he did not even know Arañas.[10]

The trial court acquitted accused Ernesto Arañas alias Japong and convicted accused Herlino Balag, viz:

> "WHEREFORE, in view of all the foregoing considerations, this court hereby renders judgment as follows:
>
> 1) Accused Ernesto Arañas alias Japong is hereby acquitted on ground of reasonable doubt;
>
> 2) Accused Herlino Balag alias Mortel is hereby found guilty beyond reasonable doubt of the crime of murder as charged in (sic) Information, qualified by treachery and aggravated by evident premeditation and scoffing or outraging at the corpse of the victim, and accordingly hereby sentences him to suffer the supreme penalty of death, and is hereby ordered to pay the heirs of the victim Rogelio Alcantara the amount of P50,000.00 as death indemnity; and the amount of P87,000.00 as actual damages."

Hence, this automatic review with the lone assignment of error, viz:

> "THE TRIAL COURT GRAVELY ERRED IN FINDING THAT THE IDENTITY OF THE ACCUSED-APPELLANT AS ONE OF THE AUTHORS OF THE CRIME CHARGED HAS BEEN ESTABLISHED BEYOND REASONABLE DOUBT."

In ascertaining the facts regarding the brutal killing of Rogelio Alcantara on the night of November 16, 1997, the trial court relied mainly on the testimony of Joselito Bolon. It discarded the testimony of the lone eyewitness,

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

Emerito Alcantara, as it found several parts of his testimony incredulous, thus rendering suspect his credibility. We find no cogent reason to disturb this finding of the trial court. It is axiomatic that the credibility of witnesses and their testimonies is best left to the discretion of the trial court which, unlike a review court, observed the demeanor and conduct of witnesses while testifying and thus was in a better position to asses their capacity for truth.[11]

Nevertheless, even without direct evidence, there is sufficient circumstantial evidence to establish the guilt of the accused Balag beyond reasonable doubt. Conviction may be had even on the basis of circumstantial evidence provided three requisites concur: (1) there is more than one circumstance; (2) the facts from which the inferences are derived are proven; and (3) the combination of all the circumstances is such as to produce a conviction beyond reasonable doubt.[12] To our mind, the following circumstances, taken together, lead to no other conclusion than that the accused Balag was one of the perpetrators of Rogelio Alcantara's gruesome slay:

> 1. On November 16, 1997, Cantonjos and Rogelio Alcantara were at a wedding party and had a heated argument regarding Rogelio's tricycle which Alcantara was driving.
>
> 2. In the middle of the heated argument, Cantonjos left the party on a tricycle, tagging along Bolon and another identified man. The group then fetched the accused Balag from his house.
>
> 3. The group thereafter proceeded to the house of Jimmy Olaje where Cantonjos and Balag borrowed a bolo, but to no avail.
>
> 4. Before 8:00 p.m. that night, Cantonjos' group arrived at the Rosario Institute. Cantonjos and Balag went inside the institute, while Bolon and another unidentified man were left outside of the institute upon Cantonjos' instructions.
>
> 5. As Cantonjos entered the institute's gate, he pulled out an icepick from the waist of his pants.
>
> 6. Sometime after Cantonjos and Balag went inside the Rosario Institute, they came out running with bloodied hands.
>
> 7. Cantonjos exclaimed that they (he and Balag) killed Rogelio Alcantara and that Balag cut Cantonjos' right thumb with his fan knife when Cantonjos tried to stop him from further stabbing Rogelio. Cantonjos threatened Bolon that he and Balag would kill him if he reported the killing to anybody.
>
> 8. Dr. Jocelyn Dignos, the physician who examined the body of the deceased, Rogelio Alcantara, found about 50 stab wounds on Rogelio's body. She opined that the wounds could have been inflicted by at least two weapons, a long, pointed and rounded one which could be an ice pick or screw driver and a sharp knife because some wounds were clean, 3/4 inches in width and about one foot long. Some of the stab wounds inflicted by a knife and others inflicted by a weapon like an icepick were fatal. She surmised that there was more than one assailant based on the number and location of the wounds. The cause of Rogelio's death was "irreversible shock due to massive hemorrhage and multiple stab wounds, internal and external, head and body."

Apart from the above circumstantial evidence, the accused Balag's guilt beyond reasonable doubt is also supported by Cantonjos' statements when they came out of the Rosario Institute. Cantonjos told Bolon that they (Cantonjos and Balag) killed Rogelio Alcantara and that Balag cut him with his (Balag's) fan knife when Cantonjos tried to stop him from further stabbing Rogelio. These declarations form part of the res gestae. Res gestae utterances refer to those exclamations and statements made by either the participants, victims, or spectators to a crime immediately before, during, or after the commission of the crime, when the circumstances are such that the statements were made as a spontaneous reaction or utterance inspired by the excitement of the occasion and there was no opportunity for the declarant to deliberate and to fabricate a false statement.[13] A declaration is

deemed part of the res gestae and thus admissible in evidence as an exception to the hearsay rule when the following requisites concur: (1) the principal act, the res gestae, is a startling occurrence; (2) the statements were made before the declarant had time to contrive or devise; and (3) the statements must concern the occurrence in question and its immediately attending circumstances.[14] All these requisites are fulfilled by Cantonjos' statements. The principal act, the brutal stabbing of Rogelio Alcantara, was a startling occurrence. The statements were made shortly after the accused Cantonjos and Balag came out of the Rosario Institute running and with bloodied hands. The statements concern the circumstances surrounding the stabbing of Rogelio Alcantara.

That there was conspiracy between the accused Cantonjos and Balag is clear from the circumstantial evidence presented. To establish conspiracy, direct proof is not essential as conspiracy may be inferred from the conduct of the accused before, during and after the commission of the crime, showing that they had acted with a common purpose and design.[15] The accused Cantonjos and Balag were united in their purpose to kill Rogelio Alcantara as shown by the following circumstances: (1) the two went inside the Rosario Institute together; (2) they came out of the institute running together with bloodied hands; (3) the accused Cantonjos exclaimed that they (Cantonjos and Balag) killed Rogelio Alcantara; (4) the accused Balag, with his fan knife, cut Cantonjos on his right thumb when the latter was trying to stop him from further stabbing Rogelio Alcantara; (5) some of the stab wounds caused by a knife and a weapon like an ice pick which Cantonjos pulled out from the waist of his pants as he entered the Rosario Institute were inflicted On vital parts of the body and were thus fatal. With conspiracy, it is immaterial who between accused Cantonjos and Balag held what weapon and inflicted which wound upon the victim. In conspiracy, the act of one is the act of all.[16]

We give short shrift to accused's defense of alibi. He claims that he could not possibly have been at the scene of the crime on November 16, 1997 as he was in Masbate at that time. Apart from his own testimony, however, there is no other evidence to support his claim and we thus reject the same. Well-settled is the rule that alibi is the weakest defense not only because of its inherent weakness and unreliability, but also because it is easy to fabricate. As a general rule, it is rejected when the accused is positively identified by a witness.[17]

We come now to the modifying circumstances attending the killing of the hapless victim. The trial court appreciated treachery as the circumstance qualifying the killing to murder. We disagree. Treachery exists when the following facts are proved: (1) the employment of means of execution that gives the person attacked no opportunity to defend himself or to retaliate; and (2) the deliberate and conscious adoption of the means of execution.[18] Where treachery is alleged, the manner of attack must be proved. Without any particulars on the manner in which the aggression commenced or how the act which resulted in the victim's death unfolded, treachery cannot be appreciated.[19] Circumstances qualifying criminal responsibility cannot rest on mere conjectures, no matter how reasonable or probable, but must be based on facts of unquestionable existence.[20] In the instant case, there is a dearth of evidence with respect to the manner by which the accused Balag and Cantonjos stabbed Rogelio Alcantara to death. Contrary to the prosecution's position, treachery cannot be presumed from the mere fact that Rogelio was found dead lying on his folding bed and must therefore have been sleeping when he was attacked.[21]

The trial court was also in error in appreciating the aggravating circumstance of evident premeditation. In order that evident premeditation may be appreciated, the prosecution must show: (1) the time when the offender determined to commit the crime; (2) an act manifestly indicating that the culprit had clung to his determination; and (3) a sufficient interval of time between the determination or conception and the execution of the crime that would be sufficient to allow him to reflect upon the consequence of his act and to allow his conscience to overcome the resolution of his will if he desired to hearken to its warnings.[22] The prosecution in the instant case, however, has failed to show when the plan to kill Rogelio was hatched and that sufficient time had elapsed

between that time and the execution of the plan on November 16, 1997 so as to allow the accused Balag and Cantonjos to reflect upon the consequences of their acts. Mere presumptions and inferences, no matter how logical and probable they might be, would not suffice to establish evident premeditation.[23]

Abuse of superior strength cannot likewise be appreciated even if there were at least two assailants as superiority in number vis-a-vis that of the victim does not of itself warrant a finding of abuse of superior strength. There must exist proof that the attackers deliberately took advantage of their superior strength,[24] but the prosecution in the instant case has not adduced such evidence.

Neither can we appreciate scoffing or outraging at the corpse of the victim as this was not alleged in the information.[25]

Anent the damages, the trial court was correct in ordering the accused to pay the heirs of the victim P50,000.00 as civil indemnity. Additionally, the accused is ordered to pay the victim's heirs P50,000.00 as moral damages in accord with prevailing jurisprudence.[26] We reduce the award of actual damages of P87,000.00 to P18,000.00 as only this amount is supported by the evidence on record.

IN VIEW WHEREOF, the impugned decision is MODIFIED. The accused-appellant is found guilty of Homicide and sentenced to suffer the indeterminate sentence of twelve (12) years of prision mayor as minimum and seventeen (17) years and four (4) months of reclusion temporal as maximum, and to pay P50,000.00 as civil indemnity, P50,000.00 as moral damages, and P18,000.00 as actual damages. Costs against the accused-appellant.

SO ORDERED.

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

---

[1] TSN, Joselito Bolon, May 25, 1998, pp. 3-71.

[2] TSN, Maria Caridad Alcantara, June 1, 1998, pp. 4-42.

[3] TSN, Emerito Alcantara, May 18, 1998, pp. 21-99; Exhibit "G", Original Records, p. 4.

[4] Exhibit "B", Original Records, p. 67.

[5] Exhibit "C", handwritten list of expenses, Original Records, p. 68.

[6] TSN, Alicia Alcantara, May 18, 1998, pp. 8-18; 101-108.

[7] TSN, Gregorio Gener, June 1, 1998, pp. 46-71.

[8] Exhibit "I".

[9] TSN, Dr. Jocelyn Dignos, June 16, 1998, pp. 4-18.

[10] TSN, Herlino Balag, August 11, 1998, pp. 4-29.

[11] People v. Mendoza, G.R. No. 134004, December 15, 2000, citing People v. Pacina, G.R. No. 123150, August 16, 2000.

[12] People v. Lopez, 313 SCRA 114 (1999), citing Section 4, Rule 133, Revised Rules on Evidence and People v. Rivera, G.R. No. 117471, 295 SCRA 99; People v. Quitorio, et al., 285 SCRA 196 (1998); People v. Berroya, 283 SCRA 111 (1997); People v. Abrera, 283 SCRA 1 (1997); People v. Doro, 282 SCRA 1 (1997); People v.

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

Dabbay, 277 SCRA 432 (1997); People v. Bonola, 274 SCRA 238 (1997); People v. Grefaldia, 273 SCRA 591 (1997); People v. Constante, 12 SCRA 653 (1964).

[13] People v. Mansueto, 336 SCRA 715 (2000), citing People v. Manhuyod, Jr., 290 SCRA 257, 272 (1998).

[14] People v. Manegdeg, 316 SCRA 689 (1999), citing People v. Maguikay, 237 SCRA 587 (1994).

[15] People v. Mansueto, supra note 13, citing People v. Quilaton, G.R. No. 131835, February 3, 2000, 324 SCRA 670, citing People v. Sumalpong, 284 SCRA 464 (1998).

[16] People v. Carugal, 341 SCRA 319 (2000).

[17] People v. Apostol, G.R. Nos. 123267-68, December 9, 1999, citing People v. Roger Vaynaco, G.R. No. 126286, March 22, 1999.

[18] People v. Albacin, 340 SCRA 249 (2000), citing People v. Aquino, G.R. No. 128887, January 20, 2000, citing People v. Hubilla, 252 SCRA 471, 481 (1996).

[19] People v. Rios, 333 SCRA 823 (2000), citing People v. Nalangan, 336 Phil. 970, 975 (1997).

[20] People v. Lopez, supra note 12, citing People v. Rapanut, 263 SCRA 515.

[21] Rollo, pp. 127-128; Appellee’s Brief, pp. 25-26.

[22] People v. De La Tongga, 336 SCRA 687 (2000), citing People v. Manzano, 58 SCRA 250 (1974), citing U.S. v. Gil, 13 Phil. 530; People v. Fuentesuela, 73 Phil. 553 (1942).

[23] People v. Peñaflorida, 313 SCRA 563 (1999), citing People v. Villanueva, 265 SCRA 216, 226 (1996).

[24] Id., citing People v. Castor, 216 SCRA 410, 421 (1992).

[25] People v. Gano, G.R. No. 134373, February 28, 2001, citing Rule 110, Secs. 8 and 10 of the Revised Rules of Criminal Procedure effective December 1, 2000.

[26] People v. Panado, et al., G.R. No. 133439, December 26, 2000.

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.