

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. BONIFACIO ALIBEN, DIOSDADO NICOLAS AND RONNIE NICOLAS, ACCUSED-APPELLANTS.

G.R. No. 140404. February 27, 2003

Ponente: AZCUNA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-140404/>

AZCUNA, J.:

Before us is an appeal from the Decision[1] of the Regional Trial Court, Fifth Judicial Region, Branch 63, Calabanga, Camarines Sur, in Criminal Case No. RTC '98-236 (Cal), finding appellants Bonifacio Aliben, Diosdado Nicolas and Ronnie Nicolas guilty beyond reasonable doubt of the crime of Murder and sentencing them to suffer the penalty of reclusion perpetua.

The Information[2] filed against appellants reads:

That on or about 6:00 o'clock in the evening of the 5[th] day of October, 1997, at Bgy. Siba-o, Calabanga, Camarines Sur, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with intent to kill and while armed with a bolo and pieces of wood, conspiring, confederating and mutually helping one another, with treachery and abuse of superior strength, did then and there willfully, unlawfully and feloniously attack, beat, stab and employ personal violence upon Juanito P. Bongon, Sr., the latter thereby sustaining wounds which caused his death, to the damage and prejudice of his heirs.

ACTS CONTRARY TO LAW.

When arraigned on April 28, 1998, appellants pleaded not guilty.[3]

During the hearing of the petition for bail filed by appellants, the prosecution and the defense presented all their witnesses. After the bail hearing, the respective counsel for the different parties manifested their agreement that the case be decided on the merits since they had presented all their witnesses. The trial court thus considered the case submitted for decision.

The Prosecution's Evidence

Romeo Barsaga, a mat vendor and a resident of Bacacay, Albay, testified that on October 5, 1997, he was in the house of the victim Juanito Bongon, Sr. in Siba-o, Calabanga, Camarines Sur, bringing with him mats for sale. Juanito Bongon, Sr. was in charge of delivering the mats. Barsaga had been in Siba-o several times for the same purpose and would stay in the residence of Juanito Bongon, Sr. for about three days until he received the proceeds of the sale.[4]

At around 6:00 o'clock in the evening of the said date, Barsaga went out to buy cigarettes at the store near the house of Floserfida "Puring" Fabricante. Before he could reach the store, he saw, at a distance of seven (7) meters, three (3) persons hitting Juanito Bongon, Sr. on the head with pieces of wood and a bolo. He recognized the faces of the assailants, but did not know their names. Nevertheless, in court, Barsaga pointed at the man whom he saw strike the victim with a bolo who identified himself as Bonifacio Aliben. Barsaga also pointed at the two

persons whom he saw hit the victim with pieces of wood and they identified themselves as Ronnie Nicolas and Diosdado Nicolas. Barsaga declared that he recognized the faces of the assailants because he saw them often at the store whenever he was in Siba-o.[5]

Barsaga watched the incident for about four (4) minutes. While Aliben was hacking the victim, Diosdado Nicolas and Ronnie Nicolas were at the back of the victim. The witness demonstrated the position of the victim while he was being attacked by appellants by bowing his head, bending his body towards the ground with his two hands in front of his chest. Barsaga could not remember how many times Aliben hacked the victim and did not see which part of the victim's body was hit. [6]

Barsaga further testified that he got scared after witnessing the incident, so he returned to the house of the victim. He narrated what he witnessed to the mother of the victim and a child who were the only ones present during that time. The following day, he went home to Bacacay because his mats were already sold. He learned that Juanito Bongon, Sr. was already dead from the relatives of the victim in Bacacay.[7]

Floserfida Fabricante, sister of the victim, testified that at around 6:00 o'clock in the evening of October 5, 1997, she was in her residence. She heard a noise that sounded as though someone was being mauled. She went outside the house and saw Bonifacio "Pacio" Aliben hacking a person with a bolo, while Diosdado "Dado" Nicolas and Ronnie Nicolas were also hitting the same person with a piece of wood many times. She saw Aliben hack the victim once on the upper right side of the head, just above the forehead. She did not recognize the victim because he was already lying down. She was about ten (10) meters away from the assailants.[8]

After witnessing the incident, Fabricante went inside her house and drank water because she was scared. After a while, Josefa Bongon arrived and asked Fabricante if she knew the whereabouts of her husband Juanito Bongon, Sr. Fabricante replied that she did not know. She informed Josefa Bongon that a person was mauled outside her house and told her to inquire about it. Josefa Bongon and her son went to the place of the incident. Afterwards, Fabricante heard Josefa shouting for help. The following day, October 6, 1997, Fabricante learned that Juanito Bongon, Sr. was already dead.[9]

Juanito Bongon, Jr., the victim's son and a padyak[10] (tricycle) driver, testified that at around 6:00 o'clock in the evening of October 5, 1997, he was in Siba-o, Calabanga, Camarines Sur, driving his padyak. He was taking two passengers, Raquel Seguenza and Dalia Requinta, to their respective residences in Siba-o. After his two passengers had alighted from the padyak, Bongon, Jr. made a U-turn to proceed to the town proper of Siba-o at which instance he saw appellant Bonifacio Aliben holding a 24-inch-bolo stained with blood. Rommel Cabiles then approached Bongon, Jr. and told him that a person was mauled. Wanting to help the victim, Bongon, Jr. drove to the place of the incident, which was about five (5) meters away from the house of Ester Nicolas in Siba-o. Bongon, Jr. saw the victim lying with his face down on the ground, still moaning. He carried the victim and placed him inside his padyak. After he turned on the motor and the lights of the padyak, he recognized the victim to be his father, Juanito Bongon, Sr. He immediately asked his father who mauled him. His father answered Dado and Ronnie, and was about to say more, but his serious physical condition prevented him from doing so. By this time, the mother and brother of Bongon, Jr. had arrived. They rushed the victim to the Bicol Regional Hospital where he was declared dead on arrival.[11]

Josefa Bongon ("Josefa" for brevity), wife of the victim, testified that at around 6:00 o'clock in the evening of October 5, 1997, she left the house leaving behind her mother-in-law, her youngest son and Romeo Barsaga. On her way to their other house in Siba-o, she saw people running around. She was not able to reach their other house because Dado Nicolas suddenly appeared and was about to bump her. Dado Nicolas was running fast, away from the direction where the incident happened. Josefa was then looking for her husband. She saw Pepito Seguenza

who told her that he did not see her husband. She immediately proceeded back to their house. While she was about three arms length away from their house, she saw her son carrying the body of her husband, which he placed inside his padyak.[12]

Moreover, Josefa testified that while her husband was on board the padyak, her son Jojo asked her husband who mauled him. Her husband uttered the names Dado and Ronnie, and was about to say something more, but he was already choking. The only persons she knew in their barangay with the names Dado and Ronnie were Dado Nicolas and Ronnie Nicolas. They brought her husband to the Regional Hospital, but her husband was already dead.[13]

Josefa testified that they spent P13,000.00 for the funeral services.[14] She borrowed money from the cooperative to defray the funeral expenses of her husband. They also sold their carabao and pig.[15]

Josefa declared that she was deeply affected by the death of her husband and could not sleep, and that she still missed him.[16]

Dalia Requinta testified that at around 6:00 o'clock in the evening of October 5, 1997, she was on her way home on board a padyak together with co-passenger Raquel Seguenza. As Raquel Seguenza was about to alight, the padyak slowly turned to the right and its headlight focused on the hand of appellant Bonifacio Aliben who was holding a 17-inch-bolo stained with blood. Aliben was one (1) meter away from the padyak and was walking toward the direction of his residence. She knew the appellants because they resided in the same barangay.[17]

Pepito Seguenza corroborated the testimony of Dalia Requinta. He testified that at around 6:00 o'clock in the evening of October 5, 1997, he was in his house drinking with a visitor. While drinking, he noticed that there was a commotion outside his house. He went out and while going outside their front yard, he saw appellant Bonifacio Aliben walking fast with a bloodstained bolo in his hand. He saw that Aliben's bolo was bloody because the headlight of a "motor" lighted Aliben's hand. Aliben was walking toward the direction of his residence. Seguenza went to the road, and after a while, Mrs. Bongon and her son, Juanito Bongon, Jr. arrived riding in a padyak. Mrs. Bongon was shouting for help, so Seguenza boarded the padyak and went with them to bring the victim Juanito Bongon, Sr. to the hospital.[18]

Dr. Rey Millena, municipal health officer of Calabanga, Camarines Sur, conducted the autopsy of the body of the victim. He testified that he found no sign of physical injuries at the upper and lower extremities of the victim's body. The injuries were more or less concentrated on the head and face.[19]

His Necropsy Report[20] contained the following findings:

External Findings

-

height, 159 cms.

-

rigor mortis complete.

-

post-mortem lividity found at the back, dull red to purplish in color.

-

negative sign of relevant physical injury at the upper and lower extremities, chest, abdomen, and back.

-

contusion from fronto-temporal area of head, extending to right side of face, down to antero-lateral of right side of neck, measuring about 19 cms. x 8 cms.; with superficial laceration 1.5 cms., horizontal, right side neck; with [abrasion] 1.0 cms. x 2 cms. at the right cheekbone; with linear laceration 1.0 cms., horizontal, from lateral canthus of right eyelids.

-

contusion of right eyelids, with linear laceration 3 cms. along the upper eyelid.

-

contusion and depression of whole right forehead extending to the upper-medial-half of left forehead; with linear laceration 1.8 cms., oblique towards the medial, just 2 cms. above right eyebrow; with linear laceration 2 cms., vertical, lower extremity 4 cms. above left eyebrow, corresponding to the end/edge of contusion at left forehead. Marked depression from right eye upwards measures 10 cms.; depression from anterior-upper part of right ear to medial-upper-half of left forehead (the vertical laceration of 2 cms.) measures 21 cms.

-

incised wound, 7 cms., slightly oblique towards the front (edges clean-cut, presence of cut hairs along the wound), with notching = lacerated wound 1.5 cms. from upper edge or lip of the incised wound and 2.5 cms. from the upper extremity of the incised wound; splinter of fractured bone protrudes from the wound and presence of blood coming out.

Internal Findings

-

fracture of right and left parietal bone and fractures at the point of the right pterion; comminuted fractures, variable in sizes and shapes, of right frontal bone extending to the upper-medial-half of left. From right supra-orbital ridge of frontal towards the back of head and up to the edge of the fracture of right parietal bone measures 17 cms..

-

comminuted fractures left parietal bone, near the vertex, largest splinter is triangular in shape with base posterior and apex anterior.

-

[meninges] lacerated and anterior brain tissues crashed and displaced posteriorly.

-

fracture of zygomatic process of mastoid and part of zygomatic bone, right.

-

fracture of mandible, right.

CAUSE OF DEATH: CARDIO-RESPIRATORY ARREST DUE TO COMMUNUTED SKULL FRACTURES, SECONDARY TO TRAUMATIC FORCE, HEAD.

Dr. Millena testified that the first internal finding was caused by a blunt force which produced comminuted fractures, variable in sizes and shapes, of the right frontal bone extending to the upper-medial-half of the left. He

explained that “comminuted fracture” means splintering or fragmentation of the skull bone. Fragmentation of the bone was concentrated at the right frontal of the right side of the forehead. [21]

The second internal finding showed that the victim sustained “comminuted fractures left parietal bone, near the vertex.” Dr. Millena explained that the parietal bone was near the vertex or top of the skull.[22]

The third internal finding showed that the meninges or the protective covering of the brain was lacerated and the anterior brain tissues were crushed and displaced posteriorly. This is in relation to the pressure exerted in the first internal finding.[23]

Dr. Millena also found that the victim sustained a fracture on his right cheekbone and the right side of his lower jaw.[24]

Dr. Millena opined that the internal injuries were caused by a blunt instrument. He also found an incised wound, seven (7) centimeters long, at the right side of the victim’s head, which may have been caused by a sharp-edged instrument. Hence, Dr. Millena concluded that more than one instrument was used in inflicting the injuries sustained by the victim.[25]

Dr. Millena declared that the injuries sustained by the victim were fatal injuries. The injuries immediately caused cardio-respiratory arrest due to comminuted skull fractures which caused the victim’s death.[26]

On cross-examination, Dr. Millena testified that the most fatal injuries sustained by the victim were those on the right side of his forehead corresponding to the first internal finding. It was possible that said injuries were caused by three hits of a blunt instrument on the “right part of the head, left upper parietal part of the head.” Dr. Millena opined that after infliction of said injuries, the victim could no longer talk and would immediately die.[27]

SPO1 Carlito Capricho testified that on October 5, 1997, he was the duty investigator and temporary desk officer at the Police Station of Calabanga. At around 9:30 o’clock in the evening, he recorded in the police blotter (Exhibit C) that he and SPO4 Leonardo Argamosa had investigated a homicide case which happened in Barangay Siba-o, Calabanga at about 6:30 o’clock in the evening of said date where a certain Juanito Bongon y Pabiles was found dead with injuries on different parts of his body.[28]

At around 11:15 o’clock in the evening of the same date, SPO1 Tarala, a member of the Calabanga Police Station, Barangay Captain William Sanchez of Siba-o and Ronnie Nicolas arrived at the police station. Ronnie Nicolas had earlier surrendered to Barangay Captain Sanchez. SPO1 Capricho entered in the police blotter, as an addendum to his previous entry, that Ronnie Nicolas voluntarily surrendered to their station and reported that while he was inside their house, the victim Juanito Bongon, Sr. stoned their house; that when he was about to confront the victim, the latter who was armed with a bladed weapon chased him, which prompted him to strike the victim with a piece of wood several times. According to Ronnie Nicolas, the piece of wood that he used to strike the victim was the temporary block of the door of their residence.[29]

Glenda Sancha, daughter of the victim, testified on the funeral, burial and other expenses incurred in connection with the death of the victim in the total sum of P18,918.00, which were supported by receipts.[30]

The Defense’s Evidence

Appellant Ronnie Nicolas (“Ronnie” for brevity), 23 years old, single, a farmer, testified that at around 6:30 o’clock in the evening of October 5, 1997, he was inside their house located in Siba-o, Calabanga, Camarines Sur. Rommel Cabiles, Dennis Florendo and he were watching the group of Victorino Bernal, Allan Cabiles, Generoso San Jose and Edgar Florendo play tong-its (a game of cards). Dante Nicolas, Junior Nicolas, Bobby Quiñones and Ponciano Alcantara were also playing tong-its inside their house. Bonifacio Aliben, Diosdado

Nicolas and Junior Godoy were watching this other group play.[31]

While Ronnie was watching the game, somebody threw small stones with soil at the place where the Bernal group was playing, and Victorio Bernal was hit on the forehead. Then another stone was thrown which landed on top of the table used by said group. They then all went out.[32]

Ronnie looked for the person who threw the stones in their backyard and found Juanito Bongon, Sr. hiding behind a coconut tree. Bongon, Sr. stabbed Ronnie three (3) times with a balisong, but he was not hit. Ronnie moved backward, then Bongon, Sr. pursued him. Ronnie was able to get hold of a piece of wood and hit Bongon, Sr., who was facing him, on the left temple causing Bongon, Sr. to fall down. Ronnie lost control of himself and did not know if he continued hitting Bongon, Sr. When Bongon, Sr. was silent, Ronnie left him.[33]

Ronnie proceeded to the house of William Sanchez, barangay captain of Siba-o, to surrender himself. He was accompanied by Bonifacio Aliben and Dante Nicolas. He narrated the incident to Barangay Captain Sanchez who is his relative by affinity. He also surrendered to Sanchez the piece of wood he used in hitting Bongon, Sr. Sanchez then went to the Calabanga Police Station, after which Sanchez with Police Officer Ramon Tarala and Diosdado Nicolas went to fetch Ronnie from the latter's house in Siba-o. They brought him to the Municipal Hall of Calabanga where he was investigated and then imprisoned.[34]

Ronnie denied that Diosdado Nicolas and Bonifacio Aliben helped him in striking Bongon, Sr., and stated that he was the only one involved in the incident. Diosdado Nicolas is his brother, while Bonifacio Aliben is his friend.[35]

Appellant Diosdado Nicolas ("Diosdado" for brevity), 29 years old, married, a laborer, denied that he participated in the killing of Juanito Bongon, Sr. He testified that at around 6:30 o'clock in the evening of October 5, 1997, he was in the store of his mother. Bonifacio Aliben, Solomon Godoy, Jr. and he were watching Ponciano Alcantara, Dante Nicolas, Fabi Quiñones and Pedro Nicolas, Jr. play tong-its. Another group of players, including Victorio Bernal, was also playing tong-its, while Ramil Cabiles, Dennis Florendo and Ronnie Nicolas were only watching them play. While Diosdado was watching the game, someone threw soil with little sand, hitting Victorio Bernal on the left side of his forehead and on his left shoulder. Then a stone was thrown that landed on top of the table where the game was being played. They all stood up and went out of the house. Victorio Bernal told Diosdado to inform his mother about the incident. Diosdado ran to their house in Iraya, Siba-o, Calabanga, Camarines Sur and informed his mother about the stoning incident, then returned to his own house. After twenty minutes, Diosdado returned to his mother's house and asked his mother if Ronnie, who lived there, already went home. His mother responded in the negative. Diosdado went back to their store, but Ronnie was not there. He went to the house of the barangay captain and found Ronnie there. He asked Ronnie why he had not gone home, but Ronnie did not answer. The barangay captain asked Diosdado to accompany him to the police station to report the incident. From the police station, they were accompanied by Police Officer Ramon Tarala to fetch Ronnie from his mother's house in Iraya. They brought Ronnie to the police station where he was investigated and then placed in a room. Diosdado slept on a bench and went home the following morning with the barangay captain.[36]

Appellant Bonifacio Aliben, 41, married, a farmer, testified that at around 6:30 o'clock in the evening of October 5, 1997, he was in the store of Ester Nicolas. Diosdado Nicolas, Junior Godoy and he were watching Dante Nicolas, Ponciano Alcantara and Bobby Quiñones play tong-its. Another group of persons, including Victorio Bernal, was also playing tong-its, while Dennis Florendo, Rommel Cabiles and Ronnie Nicolas were only watching the game. Suddenly, someone threw soil which hit Victorio Bernal on the forehead. Then a stone was thrown which landed on the table where the game was being played. All of them went out. Aliben went in front of the store and no longer knew where his companions went. He, together with Dante Nicolas, stayed in front of the

store for about twenty (20) minutes doing nothing. Then Ronnie passed by and asked to be accompanied to the barangay captain. Ronnie did not tell them why they were going to the barangay captain. They only learned that Ronnie hit Juanito Bongon, Sr. with a piece of wood when Ronnie narrated the incident to the barangay captain. After the barangay captain investigated Ronnie about the incident, Aliben went home, while Ronnie was left behind.[37]

Bonifacio Aliben denied that he participated in the killing of Juanito Bongon, Sr. and claimed that it was only Ronnie who killed him. He also denied the allegations of the prosecution witnesses that he was seen walking briskly towards his home carrying a bloodstained bolo at around 6:30 o'clock in the evening of October 5, 1995, stating that it was Ronnie whom they saw.[38]

Victorio Bernal corroborated the testimonies of appellants. He testified that at around 6:30 o'clock in the evening of October 5, 1997, while he was playing tong-its in the store of Ester Nicolas, somebody threw a small stone with soil which hit him on the head. Then a bigger stone was thrown which fell on top of their table. Everyone in the store went out. When Bernal reached the door, he heard a voice say, "The person is here." He looked at the direction where the voice came from and saw Juanito Bongon, Sr. standing at the back of the house and holding a bladed weapon or "lanceta." Bernal got scared and immediately fled. The following morning, he heard that Juanito Bongon, Sr. was already dead.[39]

Solomon Godoy, Jr. also corroborated appellants' testimonies. He testified that at around 6:30 o'clock in the evening of October 5, 1997, he was in the house of Ester Nicolas. Bonifacio Aliben, Diosdado Nicolas and he were watching the group of Dante Nicolas play tong-its. While he was watching the game, somebody threw small stones with soil which hit Victorio Bernal, a member of the other group of players, on the forehead. Then another stone was thrown at the other group, so they all went out. While Godoy, Jr. was standing on the side of the road for a few minutes, he heard the name of Juanito Bongon, Sr. He also heard a commotion but he did not bother to investigate it because he got scared and went directly home.[40]

William Sanchez, barangay captain of Siba-o, Calabanga, Camarines Sur, testified that at about 6:30 o'clock in the evening of October 5, 1997, while he was in his house watching television, Ronnie Nicolas, Bonifacio Aliben and Dante Nicolas entered his house. Ronnie reported to him that Juanito Bongon, Sr. was already dead and admitted that he killed him. After asking Ronnie questions, Sanchez went out of the house to look for a tanod because he intended to go to the place of the incident. Unable to find a tanod, he returned to his house with the intention of surrendering Ronnie. Sanchez and Diosdado Nicolas went to the Calabanga Police Station and reported the incident to Police Officer Ramon Tarala. Police Officer Tarala went with them to Siba-o to fetch Ronnie from the latter's house. Thereafter, they brought Ronnie to the police station where he was investigated and then imprisoned.[41]

Sanchez further testified that on the next day, October 6, 1997, Ester Nicolas, the mother of Ronnie, surrendered to him the balisong (a bladed weapon) which they allegedly found at the place of the incident. On the same day, he immediately turned over to the Calabanga Police Station the said balisong, together with the 2x2 piece of wood that Ronnie surrendered to him in the evening of October 5, 1997. Sanchez told the desk officer that the piece of wood was used by Ronnie in hitting the Bongon, Sr. and that the knife was allegedly used by Bongon, Sr. in attempting to stab Ronnie.[42]

On cross-examination, Sanchez admitted that he is a relative by affinity of appellants Diosdado Nicolas and Ronnie because their mother is the sister of his wife.[43]

SPO1 Dante Sta. Rosa, a member of the Philippine National Police ("PNP" for brevity), Calabanga, Camarines Sur, produced in court the balisong[44] and the piece of wood[45] which were allegedly turned over to the PNP,

Calabanga on October 6, 1997 by Sanchez through SPO1 Leopoldo Talle. He testified that the investigator on duty turned over to him said pieces of evidence when they were surrendered.[46]

On cross-examination, SPO1 Sta. Rosa admitted that SPO1 Leopoldo Talle delivered to him the piece of wood and the balisong on October 8, 1997 after the turnover of said evidence was entered in the police blotter as Entry No. 1020 dated October 8, 1997 by SPO1 Talle. It was the custom in their office, he said, that whenever evidence was received in a particular case, it was recorded on the date it was received.[47]

Rebuttal Evidence

The prosecution presented as rebuttal witness SPO1 Leopoldo Talle who testified that on October 8, 1997, he was the acting desk officer of the Calabanga Police Station. On said date, he received a piece of wood[48] measuring about 1 x 2 x 5 inches and one balisong knife[49] measuring about eight and three-fourths (8 $\frac{3}{4}$) inches long. He recorded his receipt of said evidence in the Police Blotter as Entry No. 1020 dated October 8, 1997 at 10:30 a.m.[50]

The Trial Court's Ruling

The trial court gave credence to the testimonies of prosecution eyewitnesses Ramon Barsaga and Floserfida Fabricante who positively identified appellants Ronnie Nicolas, Diosdado "Dado" Nicolas and Bonifacio Aliben as the assailants responsible for the victim's death. Said court stated that their testimonies were corroborated by Dalia Requinta and Pepito Seguenza who saw Aliben walking with a bloodstained bolo in his hand on the date and at the time of the incident. The court also admitted in evidence the dying declaration of the victim Juanito Bongon, Sr. naming Dado and Ronnie as his assailants. It found no ulterior motive on the part of Juanito Bongon, Jr. and Josefa Bongon to fabricate the declaration of the victim. The court ruled that the positive testimonies of the prosecution witnesses prevailed over the denial and alibi of appellants Diosdado Nicolas and Bonifacio Aliben.

The trial court rejected the theory of self-defense of appellant Ronnie Nicolas because the latter continued hitting the victim after he had immobilized him by hitting him on the head. Moreover, Dr. Rey Millena found that there was more than one instrument used against the victim and the numerous injuries sustained by the victim were fatal injuries that negated self-defense.

Further, the trial court ruled that conspiracy and abuse of superior strength were present in the commission of the crime. It considered voluntary surrender in favor of appellant Ronnie Nicolas.

The trial court pronounced judgment, thus:

WHEREFORE, in view of the foregoing, the prosecution having proved the guilt of the accused beyond reasonable doubt and having prove[d] conspiracy, accused are hereby found guilty of murder. There being no aggravating nor mitigating circumstances, accused Diosdado Nicolas and Bonifacio Aliben are hereby sentenced to suffer the penalty of RECLUSION PERPETUA. Accused Ronnie Nicolas, after taking into consideration the mitigating circumstance of voluntary surrender, is hereby sentenced to suffer the penalty of RECLUSION PERPETUA. Likewise, they are ordered to jointly and severally indemnify the heirs of victim Juanito Bongon, Sr. the amount of P50,000.00 for his death; moral damages in the amount of P30,000.00; P18,918.05 as actual damages; and to pay the costs.

SO ORDERED.[51]

Appellants thereafter moved for a new trial on the ground of newly discovered evidence. They prayed that the supposed witness of the prosecution, Rommel Cabiles, be allowed to testify for the defense since he was recanting his sworn statement which was used as a supporting affidavit of the criminal complaint. The trial court denied said motion on the ground that the sworn statement attached to the motion did not constitute new evidence and

merely corroborated the testimony of appellant Ronnie Nicolas. Appellants' motion for reconsideration was likewise denied.

Hence, this appeal.

Appellants ascribe to the trial court the following errors:

- THE LOWER COURT ERRED IN RULING THAT THE ACCUSED WERE POSITIVELY IDENTIFIED ON THE BASES OF THE BIASED AND INCREDIBLE TESTIMONIES OF THE ALLEGED EYEWITNESSES, NAMELY ROMEO BARSAGA AND FLOSERFIDA FABRICANTE, THE FRIEND AND THE SISTER OF THE VICTIM, RESPECTIVELY.
- THE LOWER COURT ERRED IN CONSIDERING THE DYING DECLARATION OF THE VICTIM JUANITO BONGON, SR. ON THE BASIS OF THE FABRICATED AND INCONSISTENT TESTIMONIES OF JUANITO BONGON, JR., AND JOSEFA BONGON, THE SON AND WIFE OF THE VICTIM, RESPECTIVELY, DESPITE THE TESTIMONY OF DR. REY MILLENA THAT THE VICTIM COULD HAVE IMMEDIATELY DIED AND THAT THERE WAS NO POSSIBILITY FOR THE VICTIM TO TALK AFTER HE SUSTAINED THE FATAL INJURIES.
- THE LOWER COURT ERRED IN RULING THAT THERE WAS MORE THAN ONE INSTRUMENT USED IN ATTACKING THE VICTIM BECAUSE OF THE SINGLE INCISED WOUND FOUND ON THE HEAD OF THE VICTIM.
- THE LOWER COURT ERRED IN RULING THAT THERE WAS CONSPIRACY AMONG THE ACCUSED IN ATTACKING THE VICTIM, INSPITE OF THE DECLARATION OF ACCUSED NICOLAS THAT IT WAS ONLY [HE] WHO KILLED THE VICTIM IN SELF-DEFENSE.
- THE LOWER COURT ERRED IN DISREGARDING THE THEORY OF SELF-DEFENSE PUT UP BY ACCUSED RONNIE NICOLAS.
- THE LOWER COURT ERRED WHEN IT CONVICTED ALL THE ACCUSED BASED ON THE ALLEGED CORROBORATIVE TESTIMONIES OF THE PROSECUTION'S WITNESSES AND TOTALLY DISREGARDING THE [ACCUSED'S] TESTIMONIES AND [THOSE] OF THEIR WITNESSES.[52]

The Court's Ruling

First Issue: Credibility of the Prosecution Witnesses

Appellants contend that the trial court erred in ruling that they were positively identified based on the testimonies of prosecution eyewitnesses Romeo Barsaga and Floserfida Fabricante who were not credible witnesses.

Appellants assert that the testimony of Romeo Barsaga, a friend of the victim, was not credible. First, Barsaga was just seven (7) meters away from the place of the incident, but he did nothing except watch his friend being beaten up. Second, Barsaga neither shouted nor sought assistance. Third, he did not report the incident to any member of the family except to the victim's mother and a Grade One boy who were not capable of responding to the incident. Barsaga could not even name the victim's mother and the boy although he had stayed in the victim's house on several occasions. Fourth, Barsaga went home to Bacacay, Albay after the incident instead of rendering assistance to the victim's family or inquiring about the condition of his friend.

Appellants' contention is not tenable.

Different people react differently to an unusual event, and there is no standard form of behavior when an individual witnesses something so shocking or gruesome as murder especially if the assailant is near.[53]

Reluctance to get involved in the criminal incident is not an unnatural reaction of some individuals.[54]

Barsaga testified that he got scared after witnessing appellants attack the victim, Juanito Bongon, Sr.[55] Thus, he returned to the victim's house where he was then staying and immediately informed the victim's mother and a certain boy about what he had witnessed.[56] The wife and children of the victim were not around then and he later learned that they brought the victim to the hospital.[57] The reaction of Barsaga upon witnessing the incident and Barsaga's failure to state the names of the victim's mother and the boy to whom he narrated the incident pertain to collateral matters, which do not touch upon the commission of the crime itself and do not detract from the positive identification of appellants as the assailants, and therefore do not affect the substance, veracity or weight of his testimony.[58] The fact that Barsaga went home the day after the incident, knowing that the victim was already in the hospital, in no way impairs his credibility.

Appellants further question the credibility of Barsaga because he testified that the victim was repeatedly hacked by appellant Bonifacio Aliben with a bolo, but could not tell how many times the victim was hacked and which part his body was hit. Also noteworthy, they claim, is the fact that there was also only one (1) incised wound found on the victim's head, despite Barsaga's testimony that the victim was hacked repeatedly.

As the Solicitor General stated, it has been held that eyewitnesses to a horrifying event cannot be expected to be completely accurate in picturing to the court all that had transpired and every detail of what they had seen or heard.[59] Although Barsaga testified that he could not give an estimate of the number of times Aliben hacked the victim, this is not sufficient to cast doubt on the testimony of Barsaga that he saw the appellants hit the victim on the head with pieces of wood and a bolo. From a distance of seven (7) meters, Barsaga recognized the faces of appellants as he often saw them at the store whenever he was in Siba-o.[60] Although there was only one incised wound found on the victim's head, this is not inconsistent with several blows having been made with said bolo, since a bolo has dull sides and not all blows find their target.

Appellants argued that it was quite impossible that Floserfida Fabricante, the victim's sister, who witnessed the incident from a distance of only ten (10) meters, failed to recognize that the victim was her brother.

Appellants may have been unaware or unmindful of Fabricante's explanation that she did not recognize that the victim was her brother because when she saw him being mauled, he was already lying down on the ground,[61] which we find to be satisfactory.

Appellants also contend that the testimony of Fabricante that they allegedly concentrated their attack on the head of the victim was incredible. They insist that the normal tendency of attackers is to hit the victim in whatever part of the body is exposed to them. Hence, it was unthinkable that Ronnie Nicolas and Diosdado Nicolas would be hitting the head of the victim with a piece of wood simultaneously, while Aliben was likewise hacking the head of the victim.

The Solicitor General correctly countered that there is no such "normal tendency" in attacking a victim, as a malefactor could attack his victim in any part of the body he chooses and in any manner he pleases. There is no standard manner or form of executing a criminal design. Significantly, Dr. Rey Millena, who autopsied the body of the victim, testified that he found no sign of physical injuries at the upper and lower extremities of the victim's body.[62] He found that the injuries were more or less concentrated on the head and face.[63] Dr. Millena's findings, therefore, supported the testimony of Fabricante that the appellants concentrated their attack on the victim's head.

Appellants also point out the alleged inconsistent testimonies of Barsaga and Fabricante. Barsaga allegedly testified that he was going to the store of Puring to buy cigarettes when he saw the incident, while Fabricante,

whose nickname was Puring, testified that she was not operating a store.

We found no inconsistency in their statements. The transcript of stenographic notes shows that Barsaga testified that he was going to the store near the house of Floserfida “Puring” Fabricante to buy cigarettes when he witnessed the incident.[64] Hence, Fabricante consistently testified that she was not operating a store.

Appellants also contend that Barsaga testified that he saw Aliben hack the victim several times, but Fabricante testified that she saw Aliben hack the victim only once.

It has been held that a witness testifying about the same nerve-wracking event can hardly be expected to be correct in every detail and consistent with other witnesses in every respect, considering the inevitability of differences in perception, recollection, viewpoint or impressions, as well as in their physical, mental, emotional and psychological states at the time of the reception and recall of such impressions.[65] After all, no two persons are alike in powers of observation and recall.[66] Total recall or perfect symmetry is not required as long as witnesses concur on material points.[67] Notably, both Barsaga and Fabricante positively identified appellants as the assailants of the victim and they testified in a straightforward manner. Since there is no evidence that these principal witnesses for the prosecution were actuated by improper motive, their testimonies are entitled to full faith and credit.[68]

Further, it is a well-settled doctrine that findings of trial courts on the credibility of witnesses deserve a high degree of respect. Having observed the deportment of witnesses during the trial, the trial judge is in a better position to determine the issue of credibility; thus, his findings will not be disturbed on appeal in the absence of any clear showing that he overlooked, misunderstood or misapplied some facts or circumstances of weight and substance that could have altered the conviction of appellants.[69] We have carefully reviewed the records of this case and found no reason to disturb the findings of the trial court.

Second Issue: Dying Declaration

Appellants would fault the trial court for considering the dying declaration of the victim which they alleged was based on the fabricated and the inconsistent testimonies of Juanito Bongon, Jr. and Josefa Bongon. They point to the contradictory testimonies of Juanito Bongon, Jr. and Josefa Bongon as to the exact instance when the victim gave his dying declaration and on the manner the victim was retrieved from the place of the incident.

Appellants contend that Juanito Bongon, Jr. testified that it was only after he started the engine of the motorized padyak which turned on its lights that he was able to recognize that the victim he placed on his padyak was his father. It was at this juncture when he asked his father who his assailants were and that his father answered Dado and Ronnie. Appellants argue that Juanito Bongon, Jr. never testified that the dying declaration of his father was made in the presence of his mother Josefa Bongon. However, Josefa Bongon testified that she was present and heard the dying declaration of her husband. Josefa Bongon also declared that her husband gave his dying declaration to her son before the motorized padyak was started, which is inconsistent with the testimony of Juanito Bongon, Jr.

The transcript of stenographic notes shows otherwise. Juanito Bongon, Jr. testified on cross-examination that his mother Josefa Bongon and his brother arrived when he placed the body of his father inside his padyak.[70] This was before he turned on the motor and the lights of his padyak, which enabled him to recognize the victim to be his father. It was only when Bongon, Jr. recognized that the victim was his father that he elicited his father’s dying declaration. Hence, the testimonies of Juanito Bongon, Jr. and Josefa Bongon were consistent on her presence when the victim gave his dying declaration.

Although Josefa Bongon testified that her son Juanito Bongon, Jr. asked his father who mauled him before he

started his padyak, which differs from her son's testimony, said inconsistency refers to a minor detail which does not impair the essential integrity of the prosecution's evidence as a whole or detract from the witnesses' testimonies that the victim gave a dying declaration naming Dado and Ronnie as his assailants.[71] On the contrary, said inconsistency tends to strengthen the credibility of the prosecution witnesses because it erases the suspicion of a rehearsed testimony.[72]

The allegations of appellants that there were inconsistencies in the testimonies of Fabricante and Josefa Bongon regarding the manner the victim was retrieved from the place of the incident likewise refer to minor details and collateral matters, which do not touch upon the commission of the crime itself or detract from the positive identification of the appellants as the assailants.[73] Therefore, the alleged inconsistencies do not affect the substance of the prosecution witnesses' declarations, their veracity, or the weight of their testimonies.[74]

Appellants also contend that based on the testimonies of the prosecution witnesses, the victim was already dead when he was found, so he could not have uttered his dying declaration. This conclusion was allegedly supported by Dr. Rey Millena who testified that based on the fatal injuries sustained by the victim, there was no possibility for the victim to talk because his injuries would cause his immediate death. Hence, appellants insist that it was error for the trial court to consider the alleged dying declaration of the victim.

We are not persuaded.

According to the trial court, although the doctor testified that based on his post-mortem examination, the victim could have died immediately after sustaining the injuries on the right side of his head, Josefa Bongon and Juanito Bongon, Jr. however testified that the victim remained alive for a few seconds.[75] Bongon, Jr. testified that when he saw the victim, he was still alive, moaning.[76] After he carried the victim to his padyak, the victim was able to reply to his question as to the identity of his assailants by uttering the names Dado and Ronnie.[77] The victim was about to say more but his serious physical condition prevented him from doing so.[78]

We agree with the Solicitor General that there is no evidence or any indication showing that a dubious reason or improper motive impelled Juanito Bongon, Jr. to make a false testimony; thus, his testimony deserves full faith and credence. It would be unnatural for the victim's relatives to commit an injustice by taking the witness stand and imputing the crime to innocent persons and not to those who were actually responsible therefor.[79] Hence, the trial court did not err when it believed the testimonies of Josefa Bongon and Juanito Bongon, Jr. that Juanito Bongon, Sr. was able to name his assailants before he died.

For a dying declaration to be admissible in evidence, the following requisites must concur: (1) the dying declaration must concern the cause and surrounding circumstances of the declarant's death; (2) at the time of making his declaration, the declarant was under a consciousness of impending death; (3) the declarant must have been competent to testify as a witness; and (4) the declaration was offered in a criminal case for homicide, murder or parricide in which the declarant was the victim.[80]

These requisites are present in the case at bar. The injuries sustained by the victim were serious enough to make the declarant conscious of impending death, which in fact occurred even before he reached the hospital. His declaration, which identified his assailants, referred to the cause of his death. The declarant was competent to testify as a witness if he had been called upon to give testimony in court. The declarant's dying declaration was offered in this case wherein he is the victim. Having satisfied all the aforementioned requisites, the trial court did not err in admitting in evidence the victim's dying declaration. A dying declaration is an exception to the hearsay rule, because of its necessity and trustworthiness:[81] Necessity, because the declarant's death makes it impossible for him to take the witness stand; and trustworthiness, because when a person is at the point of death, every motive for falsehood is silenced and the mind is induced by the most powerful consideration to speak the

truth.[82]

Third Issue: The number of weapons used to commit the crime

Appellants next contend that the trial court erred in ruling that more than one instrument was used in attacking the victim.

We disagree.

Dr. Millena, who conducted the autopsy of the body of the victim, testified that the victim's internal injuries, consisting of fractures on the head and the face, were caused by a blunt instrument, while the incised wound on the right side of the victim's head may have been caused by a sharp-edged instrument.[83] Hence, the trial court correctly ruled that more than one instrument was used in inflicting the injuries sustained by the victim, which was supported by the findings of Dr. Millena.[84]

Fourth Issue: Presence of Conspiracy

Appellants also contend that the trial court erred in ruling that there was conspiracy among them in the commission of the crime.

The contention is without merit.

Conspiracy exists when two or more persons come to an agreement concerning the commission of a felony and decide to commit it.[85] In the absence of direct proof of conspiracy, it may be deduced from the mode, method and manner by which the offense was perpetrated, or inferred from the acts of the accused themselves when such acts point to a joint purpose and design, concerted action and community of interest.[86]

In the case at bar, prosecution eyewitnesses Barsaga and Fabricante testified that they saw appellants help each other in attacking the victim. Appellant Bonifacio Aliben was striking the victim with a bolo, while appellants Ronnie Nicolas and Diosdado Nicolas were hitting him with a piece of wood.[87] Their concerted action showed unity of purpose to harm the victim. As noted by the Solicitor General, not one of the three appellants prevented the attack on the victim nor did any of them do anything to discontinue the commission of the crime. The trial court also noted that prior to the incident, appellants admitted that they were together inside the store of Ester Nicolas. Considering these circumstances, the trial court correctly ruled that there was conspiracy among the appellants. Where conspiracy is established, the act of one is the act of all.[88] All the conspirators are liable as co-principals.[89]

Appellants further contend that the testimonies of Requinta and Seguenza that they saw Aliben carrying a bloodstained bolo was contrary to human experience. The normal actuation of an assailant, they argue, is to hide his weapon and not brandish the same before the public. We agree with the Solicitor General that the alleged actuation of Aliben is not contrary to human experience, considering the number of incidents where criminals, particularly of late, boldly execute their evil design and walk away in public.

Fifth Issue: Self-defense

Appellants fault the trial court for discrediting the claim of Ronnie Nicolas that he killed the victim in self-defense.

When the accused invokes self-defense, it becomes incumbent upon him to prove by clear and convincing evidence that he indeed acted in defense of himself.[90] Self-defense as a justifying circumstance is present when the following concur: (1) unlawful aggression; (2) reasonable necessity of the means employed to repel or prevent it; and (3) lack of sufficient provocation on the part of the person defending himself.[91]

Appellant Ronnie Nicolas contends that unlawful aggression came from the victim with no provocation on his part. He testified that while he was looking in their backyard for the person who threw the stones into their store, he found the victim Juanito Bongon, Sr. hiding behind a coconut tree.[92] It was Bongon, Sr. who attacked him first by stabbing him three (3) times with a balisong, but he was not hit.[93] He moved backward, then Bongon, Sr. pursued him.[94] He was able to get hold of a piece of wood and hit Bongon, Sr. on his left temple causing Bongon, Sr. to fall down.[95] He lost control of himself and he did not know if he continued hitting the victim.[96] When the victim was silent, he left him.[97]

The testimony of Ronnie Nicolas shows that the victim, who allegedly attacked him first, was immobilized when he hit the victim with a piece of wood on the temple causing the victim to fall down. At that point, the alleged unlawful aggression of the victim ceased. Yet, Ronnie continued hitting the victim until the latter was “silent,” which already manifested intent to kill. The Necropsy Report[98] showed that the victim sustained an incised wound on the right side of the victim’s head[99] and several fractures, as well as, three (3) contusions with lacerations and abrasions on the head and face. Dr. Millena testified that the injuries sustained by the victim on the head were fatal.[100] The nature, number and location of the wounds sustained by the victim belie the assertion of self-defense since the gravity of said wounds is indicative of a determined effort to kill and not just to defend.[101]

Moreover, as earlier mentioned, Dr. Millena testified that more than one instrument was used in inflicting the injuries sustained by the victim.[102] The fractures on the head were caused by a blunt instrument,[103] while the incised wound may have been caused by a sharp-edged instrument.[104] This led the trial court to conclude that the injuries inflicted were caused by more than one person and with two kinds of weapons.[105]

Considering the foregoing and the positive testimonies of Barsaga and Fabricante identifying the three appellants as the assailants of the victim, we agree with the trial court that Ronnie Nicolas’ declaration that he killed the victim in self-defense cannot be given credence.

Sixth Issue: Defense of Denial and Alibi

Appellants assert that the trial court erred in convicting Diosdado Nicolas and Bonifacio Aliben because they have clearly established that they did not participate in killing the victim.

Diosdado Nicolas and Bonifacio Aliben put up the defense of denial and alibi. The defense of denial, like alibi, is considered with suspicion and is always received with caution, not only because it is inherently weak and unreliable, but also because it can be fabricated easily.[106]

For alibi to be given weight, the accused must prove not only that he was somewhere else when the crime was committed, but also that he was so far away that it was physically impossible for him to be present at the scene of the crime or its immediate vicinity at the time of its commission.[107]

Aliben’s alibi was that after someone threw a stone into the store of Ester Nicolas, he went out of the store.[108] Then he merely stood in front of the store for twenty (20) minutes doing nothing.[109] He even testified on cross-examination that he was then with Dante Nicolas before Ronnie Nicolas passed by and asked them to accompany him to the house of the barangay captain, which was inconsistent with the testimony of Diosdado Nicolas.[110]

Diosdado Nicolas testified that after someone threw a stone into the store of his mother, he immediately went to his mother’s residence in Iraya to inform his mother about what happened, and then returned to his own house.[111] After twenty minutes, he went back to his mother’s house where Ronnie lived and asked his mother if Ronnie was already home.[112] When his mother responded in the negative, he returned to their store, but

Ronnie was not there.[113] He then went to the house of the barangay captain where he found Ronnie.[114]

Despite the different versions of their testimonies, it is evident that appellants Bonifacio Aliben and Diosdado Nicolas were very near the place of the incident at the time the victim was killed. The victim was killed only about five (5) meters away from the store of Ester Nicolas.[115] At that time, Aliben was in front of the said store, while Diosdado Nicolas was within Barangay Siba-o, if not in the vicinity of his mother's store. Ronnie Nicolas admitted killing the victim, but Diosdado Nicolas and Bonifacio Aliben denied participation. The trial court held that it was impossible to believe that while they were at the store, they had no knowledge of what was going on.[116] Appellants Diosdado Nicolas and Bonifacio Aliben failed to satisfy the requirement of alibi that it was physically impossible for them to be present at the scene of the crime or its immediate vicinity at the time of its commission.

Furthermore, it is well settled that positive identification, where categorical and consistent and not attended by any showing of ill motive on the part of the eyewitnesses testifying on the matter, prevails over alibi and denial which, if not substantiated by clear and convincing evidence, are negative and self-serving evidence undeserving weight in law.[117] Hence, the defense of denial and alibi cannot prosper in the light of the positive identification by eyewitnesses Ramon Barsaga and Floserfida Fabricante that appellants were the perpetrators of the crime.[118]

Taking advantage of superior strength

We agree with the trial court that the killing was attended by the aggravating circumstance of taking advantage of superior strength which was alleged in the Information. Superiority in number does not necessarily amount to the aggravating circumstance of taking advantage of superior strength.[119] It is necessary to show that the aggressors cooperated in such a way as to secure advantage from their superiority in strength.[120] There must be proof of the relative physical strength of the aggressors and the assaulted party or proof that the accused simultaneously assaulted the deceased.[121] The circumstance of taking advantage of superior strength depends on the age, size and strength of the parties.[122] It is considered whenever there is a notorious inequality of forces between the victim and the aggressor, assessing a superiority of strength notoriously advantageous for the aggressor which is selected or taken advantage of by him in the commission of the offense.[123]

The trial court correctly ruled that taking advantage of superior strength was present, thus:

In the instant case, the 3 accused were all armed. Ronnie Nicolas and Diosdado Nicolas were armed with a piece of wood while Bonifacio Aliben was armed with a bolo and they helped one another in assaulting the victim who was alone. Furthermore, the victim at the time of his death was 52 years old while appellant Ronnie Nicolas at the time of the incident was 23 years old; Diosdado Nicolas was 29 years old and Bonifacio Aliben was 41 years old. There is a wide gap of the age between the victim and the accused, showing that the victim was much older than the three (3) accused who are younger and physically stronger.[124]

The attendant circumstance of taking advantage of superior strength qualifies the killing to murder under Article 248 of the Revised Penal Code:

ART. 248. Murder.-- Any person who, not falling within the provisions of Article 246 shall kill another, shall be guilty of murder and shall be punished by reclusion perpetua to death, if committed with any of the following circumstances:

- With treachery, taking advantage of superior strength, with the aid of armed men, or employing means to weaken the defense or of means or persons to insure or afford impunity. x x x

The Penalty

Murder is punishable by reclusion perpetua to death. The voluntary surrender of Ronnie Nicolas to the barangay

captain immediately after the incident is a mitigating circumstance. Under Article 63 (3) of the Revised Penal Code, when the commission of the act is attended by some mitigating circumstances and there is no aggravating circumstance, the lesser penalty shall be applied. On the other hand, no mitigating or aggravating circumstance may be considered against appellants Bonifacio Aliben and Diosdado Nicolas. Under Article 63 (2) of the Revised Penal Code, when there are neither mitigating nor aggravating circumstances in the commission of the deed, the lesser penalty shall be applied.

Hence, the trial court correctly imposed upon the appellants the lesser penalty for the offense, which is reclusion perpetua.

Damages

The trial court correctly awarded to the heirs of the victim actual damages in the amount of Eighteen Thousand Nine Hundred Eighteen Pesos and Five Centavos (P18,918.05), which was supported by receipts.[125]

The trial court also correctly awarded to the heirs of the victim civil indemnity in the amount of P50,000.00, which needs no proof other than that of the death of the victim.[126]

Finally, the trial court correctly awarded moral damages to the heirs of the victim as the victim's wife testified that she suffered mental anguish as a result of her husband's death. However, the amount of P30,000.00 it awarded should be increased to P50,000.00, in accordance with prevailing jurisprudence.[127] An award of P25,000.00 for exemplary damages should also be added.

WHEREFORE, the assailed Decision of the Regional Trial Court, Fifth Judicial Region, Branch 63, Calabanga, Camarines Sur, in Criminal Case No. RTC '98-236 (Cal), finding appellants Ronnie Nicolas, Diosdado Nicolas and Bonifacio Aliben GUILTY beyond reasonable doubt of the crime of murder and sentencing them to suffer the penalty of reclusion perpetua is hereby AFFIRMED. Appellants are ordered jointly and severally to pay the heirs of the victim, Juanito P. Bongon, Sr., civil indemnity in the amount of Fifty Thousand Pesos (P50,000.00); actual damages in the amount of Eighteen Thousand Nine Hundred Eighteen Pesos and Five Centavos (P18,918.05); moral damages in the amount of Fifty Thousand Pesos (P50,000.00), and exemplary damages in the amount of Twenty Five Thousand Pesos (P25,000.00). Costs de officio.

SO ORDERED.

Davide, Jr., C.J. (Chairman), Vitug, and Carpio, JJ., concur.
Ynares-Santiago, J., on leave.

[1] Rollo, pp. 39-67.

[2] Records, p. 1.

[3] Records, p. 41.

[4] TSN, June 19, 1998, pp. 28-29.

[5] TSN, June 19, 1998, pp. 27-31.

[6] TSN, June 19, 1998, pp. 32-33, 52-53.

[7] TSN, June 19, 1998, pp. 33-35.

[8] TSN, June 24, 1998, pp. 3-6, 12-13.

- [9] TSN, June 24, 1998, pp. 3-8.
- [10] Also spelled “padjak” in the TSN.
- [11] TSN, May 26, 1998, pp. 1-9, 12-16.
- [12] TSN, August 28, 1998, pp. 2-5, 20.
- [13] TSN, August 28, 1998, pp. 5-6.
- [14] Exhibits “D and D-1,” Records, pp. 85-86.
- [15] TSN, August 28, 1998, pp. 7-8.
- [16] TSN, August 28, 1998, p. 8.
- [17] TSN, June 19, 1998, pp. 2-8.
- [18] TSN, June 19, 1998, pp. 13-17.
- [19] TSN, August 11, 1998, pp. 4, 11.
- [20] Exhibit “B,” Records, p. 11.
- [21] TSN, August 11, 1998, pp. 8-9.
- [22] Ibid.
- [23] TSN, August 11, 1998, p. 10.
- [24] TSN, August 11, 1998, p. 11.
- [25] TSN, August 11, 1998, pp. 11-13.
- [26] TSN, August 11, 1998, pp. 11-12.
- [27] TSN, August 11, 1998, pp. 16-18.
- [28] TSN, August 14, 1998, p. 3.
- [29] TSN, August 14, 1998, pp. 4-8.
- [30] TSN, August 28, 1998, p. 6; Rollo, p. 67.
- [31] TSN, November 6, 1998, pp. 3-4.
- [32] TSN, November 6, 1998, pp. 5-6.
- [33] TSN, November 6, 1998, pp. 7-9.
- [34] TSN, November 6, 1998, pp. 9-12, 27, 29.
- [35] TSN, November 6, 1998, pp. 2-3, 13.
- [36] TSN, December 2, 1998, pp. 3-12.
- [37] TSN, November 4, 1998, pp. 12-21.
- [38] TSN, November 4, 1998, pp. 17-18.
- [39] TSN, October 20, 1998, pp. 14-18.

- [40] TSN, November 9, 1998, pp. 5-6, 11.
- [41] TSN, November 24, 1998, pp. 6-10, 20, 22, 26.
- [42] TSN, November 24, 1998, pp. 11, 31-32, 39.
- [43] TSN, November 24, 1998, p. 12.
- [44] Exhibit 3, TSN, December 4, 1998. p. 4.
- [45] Exhibit 2, TSN, December 4, 1998, p. 4.
- [46] TSN, December 4, 1998, pp. 3-4.
- [47] TSN, December 4, 1998, pp. 4, 8, 11.
- [48] Exhibit 2, TSN, January 13, 1999, p. 4.
- [49] Exhibit 3, TSN, January 13, 1999, p. 5.
- [50] TSN, January 13, 1999, pp. 3-4.
- [51] Rollo, pp. 66-67.
- [52] Rollo, pp. 99-100.
- [53] *People v. Naredo*, 276 SCRA 489, 496 (1997).
- [54] *Ibid.*
- [55] TSN, June 19, 1998, p. 33.
- [56] TSN, June 19, 1998, pp. 33-34.
- [57] TSN, June 19, 1998, p. 34.
- [58] *People v. Irinea*, 164 SCRA 121, 127 (1988).
- [59] *People v. Bihison*, 308 SCRA 510, 517 (1999).
- [60] TSN, June 19, 1998, pp. 30-31.
- [61] TSN, June 24, 1998, pp. 6, 13.
- [62] TSN, August 11, 1998, p. 7.
- [63] *Ibid.*
- [64] TSN, June 19, 1998, p. 29.
- [65] *People v. Mamalayan*, 280 SCRA 748, 761 (1997).
- [66] *Ibid.*
- [67] *Ibid.*
- [68] *People v. Legaspi*, 331 SCRA 95, 115 (2000).
- [69] *Espano v. Court of Appeals*, 288 SCRA 558, 563 (1998).
- [70] TSN, May 26, 1998, p. 16.

- [71] *People v. Conde*, 252 SCRA 681, 691 (1996).
- [72] *Ibid.*
- [73] *People v. Irinea*, *supra*.
- [74] *Ibid.*
- [75] *Rollo*, p. 59.
- [76] *TSN*, May 26, 1998, p. 14.
- [77] *TSN*, May 26, 1998, p. 7; August 28, 1998, p. 5.
- [78] *Ibid.*
- [79] *People v. Legaspi*, *supra*.
- [80] *People v. Norrudin*, G.R. No. 129053, January 25, 2002, citing *People v. Tañeza*, 334 SCRA 30, 43 (2000).
- [81] *People v. De Leon*, G.R. No. 144052, March 6, 2002.
- [82] *Id.*
- [83] *TSN*, August 11, 1998, pp. 11-12.
- [84] *TSN*, August 11, 1998, p. 13.
- [85] *People v. Fuertes*, 326 SCRA 382, 407 (2000).
- [86] *People v. Dacibar*, 325 SCRA 725, 743 (2000).
- [87] *TSN*, June 19, 1998, pp. 30-31; June 24, 1998, pp. 4-5, 9.
- [88] *People v. Pablo*, 349 SCRA 79, 96 (2001).
- [89] *Ibid.*
- [90] *Jacobo v. Court of Appeals*, 270 SCRA 270, 282 (1997).
- [91] *Escato v. Court of Appeals*, 278 SCRA 752, 755 (1997); *People v. Tobias*, 267 SCRA 229, 255 (1997); *People v. Alib*, 322 SCRA 93, 99 (2000).
- [92] *TSN*, November 6, 1998, p. 7.
- [93] *TSN*, November 6, 1998, pp. 7-8.
- [94] *TSN*, November 6, 1998, p. 8.
- [95] *Ibid.*
- [96] *TSN*, November 6, 1998, p. 9.
- [97] *Ibid.*
- [98] Exhibit "B," *Records*, p. 11.
- [99] *TSN*, August 11, 1998, p. 12.
- [100] *TSN*, August 11, 1998, p. 11.

- [101] *People v. Baniel*, 275 SCRA 472, 482 (1997).
- [102] TSN, August 11, 1998, p. 13.
- [103] TSN, August 11, 1998, p. 11.
- [104] TSN, August 11, 1998, p. 12.
- [105] Rollo, p. 61.
- [106] *People v. Viñalon, et al.*, G.R. No. 135542, July 18, 2002, citing *People v. Batidor*, 303 SCRA 335, 350 (1999).
- [107] *People v. Alib*, *supra* at 100; *People v. Juan*, 322 SCRA 598, 616 (2000); *People v. Rendoque*, 322 SCRA 622, 636 (2000).
- [108] TSN, December 4, 1998, p. 16.
- [109] *Ibid*.
- [110] TSN, December 4, 1998, p. 19.
- [111] TSN, December 2, 1998, p. 7.
- [112] TSN, December 2, 1998, p. 8.
- [113] *Ibid*.
- [114] TSN, December 2, 1998, pp. 8-9.
- [115] TSN, May 26, 1998, p. 16.
- [116] Rollo, p. 61.
- [117] *People v. Galano*, 327 SCRA 462, 474 (2000).
- [118] *People v. Rendoque*, *supra*.
- [119] *People v. Pablo*, *supra* at 98, citing *People v. Casey*, 103 SCRA 21, 34 (1981).
- [120] *Ibid*.
- [121] *Ibid*.
- [122] *People v. Bongadillo*, 234 SCRA 233, 245 (1994).
- [123] *Ibid*.
- [124] Rollo, p. 65.
- [125] Records, Exhibits “D-D-2,” pp. 85-87; Exhibits “E-E-2,” pp. 88-90; Exhibit “F,” p. 91; Exhibit “G,” p. 92.
- [126] *People v. Abadies*, G.R. No. 135975, August 14, 2002.
- [127] *People v. Domingo*, G.R. No. 143660, June 5, 2002; *People v. Dela Cruz*, G.R. No. 139970, June 6, 2002.

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.