

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RESTY SILVA, RODOLFO SANDANGO, ALIAS “DUPONG” AND JUN-JUN FLORES, ACCUSED-APPELLANTS.*G.R. No. 140871. August 08, 2002*Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-140871/>**PER CURIAM:**

For automatic review is the decision dated October 27, 1999 of the Regional Trial Court of Baler, Aurora, Branch 66, finding herein accused-appellants Resty Silva and Rodolfo Sandangao guilty beyond reasonable doubt of the crimes of murder and attempted murder and imposing on them the maximum penalty of death for the murder of Manuel Cerialles and an indeterminate penalty of six years prision correccional as minimum to twelve (12) years prision mayor as maximum for the attempted murder of Edmundo Cerialles.

In an Amended Information dated September 23, 1996, herein accused-appellants were charged with the crimes of murder and attempted murder committed as follows:

That on September 3, 1996 at around 10:00 o'clock in the evening, purposely sought to better accomplish their criminal design, at Sitio Diaboyo, Barangay Ditumabo, San Luis, Aurora, Philippines, and within the jurisdiction of this Honorable Court, the said accused, conspiring and confederating together and helping one another, with intent to kill and with treachery and evident premeditation and use of superior strength, did then and there willfully, unlawfully and feloniously attack, assault and use personal violence upon the person of one Manuel Cerialles after abducting him and his brother Edmund Cerialles and while his feet were both tied with a rope and his hands tied at his back, by stabbing and beheading him causing his instantaneous death; that the accused also commenced the commission of the crime of murder upon the person of Edmund Cerialles directly by overt acts by also tying his two feet and his hands at his back with intent to kill, but the said accused did not perform all the acts of execution which should have produced the crime of Murder as a consequence, by reason of causes other than their own spontaneous desistance, that is, said Edmund Cerialles was able to escape while the accused were about to kill his brother Manuel Cerialles.

CONTRARY TO LAW.[1]

On arraignment, accused-appellants Resty Silva and Rodolfo Sandangao both pleaded “not guilty” to the offense charged. Accused Jun-Jun Flores, however, remained at large. The case then proceeded to trial.

The prosecution presented the testimonies of Edmundo Cerialles; police officers Maximo Galope, Antonio Mendigoren, Eligio Fernandez, and Waldo Andrada; Andres Macatiag; Agapito Regalado; and Dr. Maria Pura Valenzuela-Uy.

As summarized in the People’s Brief, Edmundo Cerialles testified as follows:

On September 3, 1996, around 8:30 p.m., Edmundo Cerialles, passed by his brother Manuel’s house at Diaboyo, Ditumabo, San Luis, Aurora. There, he saw Boy Tagalarion, Jimmy Tagalarion, Marlon Flores, Mardie Alejandro, a certain Onoy, and Pogi Salvador. Some of these men were playing a card game known as “tong-its” while the others were merely watching the game. Suddenly three men arrived. One pointed an

armalite gun to all those present and ordered them to lie on their stomach. Another ordered brothers Edmundo and Manuel to get out of the house. (TSN, February 26, 1998, pp. 2-3)

As soon as they were out, they were made to lie face down. Upon the orders of a person whom Edmundo later recognized as appellant Resty Silva, he and his brother were tied by two armed men whom he also recognized later as Rodolfo Sandangao, also known as Dupong and Jun-jun Flores. Thereafter, they walked towards the highway. An incoming vehicle light enabled Edmundo to recognize Sandangao at this point. They hid and continued walking after the vehicle left. Since Edmundo and Manuel were tied together, they walked side by side. It was at this point that Edmundo whispered to his brother that he recognized Sandangao to be their childhood neighbor. Although there were houses along the way, the brothers were prevented from asking help because they were threatened with bodily harm by the three men. When they reached a coconut plantation owned by a certain Almonte, appellant Silva cut his T-shirt and stuck some of its portion to Edmundo's mouth. It was removed later by appellant Silva after being assured that they would not fight back. As they continued walking, they reached the plantation of a certain Henyo who happened to be Edmundo's godfather. Edmundo tried to convince their abductors to kill them there and not to bring them away anymore. Jun-jun Flores was about to stab him but his brother Manuel begged Flores not to do it. (Ibid, p. 3-5)

Upon reaching Lucing Guerrero's coconut plantation, they were made to sit on a hollow block. It was at this point where appellant Resty Silva focused a flashlight on himself. He then asked the brothers if they knew their abductors. When he and Manuel positively answered, appellant Silva retorted "Papano yan Dupong, kilala pala tayo, obligado na nating patayin." (TSN dated February 25, 1998, p. 10)

Edmundo was thereafter separated from Manuel. He was brought twenty meters away from Manuel by Sandangao and herein appellant while Flores was left to take care of Manuel. After appellant Sandangao tied his feet, appellant left them. He then pleaded to Sandangao to set him free and promised to forget the incident. But Sandangao refused. After which, Sandangao left him. He then tried to free himself jumping away from where he was until he fell into a hole. While there, he tried to untie his hands and feet till he heard the scream of Manuel followed by sound akin to the cutting of a tree. When Edmundo was already untying his feet he was given a warning to come out or they would kill Manuel if he failed. He slowly stuck out his head from the hole and failing to see the three men, he ran away fast until he reached the place of his godfather Andres Macatiag (Ibid pp. 10-11). The latter advised him to spend the night in his house. Around 5'o clock in the morning of September 4, 1996, Macatiag went to Edmundo's house to verify the condition of the latter's family. Seeing that they were unharmed, he returned to his house and related the matter to Edmundo. Later that day, the headless body of Manuel was found. Macatiag proceeded where the body was found. He saw that the feet were still tied (TSN, April 29, 1998, p. 6). When policemen Galope, Andrada and Mendigoren arrived, Edmundo went with them to see the body of Manuel which he was able to identify because of the clothes he was wearing. Several days after the beheading incident the missing head of the victim Manuel Ceriales was found at Baler, Aurora (TSN, February 25, 1998, p. 11).[2]

Witness Andres Macatiag corroborated Edmundo's testimony. He alleged that he was in his house around ten o'clock in the evening of September 3, 1996, when his godson Edmundo Ceriales arrived. The latter was shaking and could hardly speak and his right hand and foot were tied. The only words Edmundo uttered at that time were, "yong familia ko ang baka pag-uwian ng tinakasan ko." Not knowing what to do, Macatiag sought the help of a certain Danny Bihasa, a barangay councilman. However, he was told that there were no more barangay tanods at that time so he went home. It was only then that Edmundo was able to fully relate to Macatiag what happened.[3]

Edmundo told him that he and his brother Manuel were abducted by Resty Silva, Rodolfo Sandangao and Jun-jun Flores and brought to the plantation of Querijero. When Silva learned that the Ceriales brothers recognized them, he uttered, "Kung ganon, patayin na ito dahil kilala tayo." Edmundo was brought by Silva and "Dupong" (referring to accused-appellant Sandangao) several meters away from Manuel who was guarded by accused Flores. While Dupong was tying UP Edmundo's feet, Silva joined Flores and Manuel. Edmundo begged Dupong

to untie him but the latter refused. After a while, Dupong joined Silva and Flores, so Edmundo tried to escape by jumping into a hole. He was able to loosen the ties in his hands and feet. While inside the hole, he heard shouts from his brother Manuel so he ran as fast as he could until he reached Macatiag's house.[4]

After hearing Edmundo's story, Macatiag asked him to spend the night in his house. The following morning, Macatiag left to inquire if Edmundo's family was safe. Upon seeing that they were not harmed, he went back home to tell Edmundo. Macatiag and Edmundo then proceeded to the place of the incident and saw that there were already a lot of people gathered in the area. Edmundo, accompanied by several persons, went to fetch the police who then brought the headless body to a detachment in Diaboyo.[5]

Witness Agapito Regalado averred that around eight thirty in the evening of September 3, 1996, he was playing "tong-its" in the house of victim Manuel Cerialles with several other people when a man carrying a long firearm suddenly arrived and ordered them to stop the game. The man then commanded Manuel and Edmundo Cerialles to come out while the rest were made to lie face down. When the armed man and the Cerialles brothers were already outside, witness heard somebody say, "gapusin." After a while, Regalado and the others went out but the armed man and the Cerialles brothers were already gone.[6]

The following day, Macatiag summoned Regalado to his house. Edmundo was there and requested them to look for his brother Manuel in the land of Lucing Querijero. Regalado fetched barangay councilman Danilo Bihasa and together with Edmundo and Macatiag, they proceeded to Querijero's property where they found Manuel's headless body. Regalado identified the body as that of Manuel's because of the shorts the latter was wearing the night before. They called the police and summoned a certain Dr. Valenzuela to autopsy the body.[7]

On rebuttal, Regalado testified that he saw accused-appellant Resty Silva twice in Barangay Ditumabo. The first time was during in the last week of August 1996 at the house of a certain Belo Reyes in Sitio Diaboyo. The second time was around ten o'clock in the morning of September 3, 1996, in Purok Bagong Silang, Brgy. Ditumabo in the house of one Manang Tunay Esperancilla.[8]

SPO4 Maximo Galope, police investigator on duty at San Luis, Aurora, narrated that around eight thirty in the morning of September 4, 1996, a barangay tanod arrived in the police station and reported that the body of Manuel Cerialles was found dead. The police then formed a team composed of witness, SPO4 Antonio Mendigoren, SPO3 Andrada, SPO3 Eligio Fernandez and several other police officers. They proceeded to the crime scene to investigate and saw a body lying on its stomach. Both hands were tied behind the back and the head was severed. Edmundo Cerialles identified the body as that of his brother Manuel. They brought the body to the roadside and summoned Dr. Pura Valenzuela-Uy who conducted the autopsy.[9] Upon information from Edmundo that the perpetrators were a certain Resty Silva, Jun-jun Flores and Rodolfo Sandangao, they proceeded to the house of the latter but did not find Sandangao. He was later found hiding in a hut at a citrus plantation. Upon seeing Sandangao, Edmundo asked him, "bakit ganon ang ginawa mo?" Sandangao was brought to the police headquarters in San Luis. A few days after, the police received a report that the head of Manuel Cerialles was found.[10]

SPO4 Antonio Mendigoren, OIC police commander at San Luis PNP, corroborated the testimony of SPO4 Galope and testified that at around eight thirty in the morning of September 4, 1996, councilman Bihasa of Brgy. Ditumabo reported that a certain Manuel Cerialles was abducted and found in the copra kiln of a certain Lucing Querijero. A police team was formed and, together with barangay officials and Edmundo Cerialles, they proceeded to the place of the incident. They saw a headless body with hands and feet tied with a rope. The body was identified by Edmundo as that of his brother Manuel. Using an improvised stretcher, they brought the body down the roadside where a certain Dr. Uy conducted an autopsy.[11] The police, together with Edmundo, proceeded to

the house of one of the suspects, Rodolfo Sandangao who was apprehended and brought to the police station. In coordination with the police officers in Baler, the head of Manuel Cerialles was recovered five days after. Accused-appellant Resty Silva was thereafter arrested in Cabanatuan City through the help of the Nueva Ecija police. Accused-appellant Jun-Jun Flores, however, managed to escape.[12]

The prosecution also presented SPO3 Eligio Fernandez and SPO3 Waldo Andrada as witnesses but the defense agreed to stipulate that their testimonies merely corroborate the testimonies of SPO4 Galope and Mendigoren in connection with the investigation and arrest of accused-appellant Sandangao, the identification of accused-appellant Silva and the recovery of the headless body of Manuel Cerialles.[13]

Finally, Dr. Maria Pura Valenzuela-Uy, rural health physician of San Luis, Aurora, testified that around eleven thirty in the morning of September 4, 1999, she was summoned to conduct a medico-legal examination on the cadaver of the victim Manuel Cerialles inside a barangay station in Sitio Diaboyo. The decapitated body was already in a state of rigor mortis. Both hands and feet were tied by a black rope and the body bore shallow stab wounds over the left shoulder and in the epigastric area. Dr. Uy concluded that the cause of death was hyperbolic shock secondary to decapitation and at the time of examination, the victim might have already been dead for more than ten (10) hours.[14]

The evidence for the defense, on the other hand consisted of the testimonies of accused-appellants Resty Silva and Rodolfo Sandangao; Cipriano de Francisca; Ricardo Silva; and Bernardito Alzona.

Accused-appellant Rodolfo Sandangao alleged that around eight thirty in the evening of September 3, 1996, he was at home with his family in Brgy. Ditumabo, San Luis, Aurora when Jun-jun Flores and a man carrying an armalite gun arrived. He was ordered at gunpoint to accompany them to the house of Manuel Cerialles under threat that his family would be killed if he did not cooperate. Upon reaching Manuel's house, Flores and the armed man ordered everyone to lie face down. The Cerialles brothers were then asked to come out. When Edmundo and Manuel were already outside, Flores ordered him (Sandangao) to tie them. They proceeded to the land owned by Lucing Querijero where Edmundo and Manuel were separated. He was ordered by the armed man to guard Edmundo and to tie his feet. When Edmundo managed to escape, Sandangao also ran away towards Nestor Aguila's citrus plantation. Manuel Cerialles was left in the coconut plantation of Querijero with Flores and the armed man. Sandangao spent the night inside a hut because he was too afraid to go home.[15] The following morning, the owner of the plantation arrived and asked him to gather coconuts. While he was working, the police officers arrived asking him to point to them the location of the head of Manuel Cerialles. He denied that he knew anything about the incident so he was brought to the police station. He claimed that he did not recognize the man carrying the gun that night and met accused-appellant Silva for the first time when the latter was incarcerated.[16]

Accused-appellant Resty Silva also denied the charges against him. He claimed that on the night of the incident, he was in the house of his brother Ricardo Silva in the compound of the National Mental Hospital in Mandaluyong City playing "tong-its" with security guards Alsona and Cifriano.[17] From May 1996 to September 3, 1996, he had no occasion to be in San Luis, Aurora because he was staying with his brother in Mandaluyong who worked as a security guard in the said hospital.[18] He was about to return to San Luis when he was arrested in Cabanatuan City. He was brought to the Aurora Provincial Jail where he met accused-appellant Sandangao for the first time.[19] He denied the accusations against him and claimed that he did not know the Cerialles brothers and the other two accused, Flores and Sandangao.[20]

Ricardo Silva, brother of accused-appellant Resty Silva, testified that he and his family resided inside the compound of the National Mental Hospital in Mandaluyong City where he worked as a security guard. From May

1996 to March 1997, Resty was staying with them. His brother went home only during harvest time. On September 3, 1996, Resty was playing “tong-its” in his (witness) house in Mandaluyong together with two other security guards, de Francisca and Alzona, from seven o’clock in the evening until midnight.[21]

Cipriano de Francisca, security guard at the National Center for Mental Health in Mandaluyong City, claimed that on September 3, 1996, he was playing “tong-its” with accused-appellant Resty Silva and another guard named Alzona. The game lasted from seven o’clock in the evening until around midnight.[22] This was corroborated by defense witness Bernardito Alzona.[23]

Finally, witness Josephine Sunico, neighbor of a certain Esperancilla, testified that in the morning of the incident, September 3, 1996, there was no game of “tong-its” being played in the house of Esperancilla and neither witness Regalado nor accused-appellant Silva were in the said house.[24]

On October 27, 1999, the trial court rendered a decision convicting accused-appellants of the crimes of murder and attempted murder, the dispositive portion of which reads:

WHEREFORE, premises considered, the Court finds accused Resty Silva and Rodolfo Sandangao alias “Dupong” GUILTY beyond reasonable doubt of the crime of murder for the death of Manuel Cerialles qualified by evident premeditation and considering the aggravating circumstances of treachery and nighttime without any mitigating circumstance to offset the same hereby sentences each of them to the maximum penalty of death and likewise, this Court finds Resty Silva and Rodolfo Sandangao alis “Dupong” GUILTY beyond reasonable doubt of the crime of attempted murder for the attempt in the life of Edmundo Cerialles qualified by evident premeditation and considering the aggravating circumstances of treachery and nighttime without any mitigating circumstance to offset the same hereby sentences each of them to an indeterminate penalty ranging from six (6) years of prision correccional as minimum to twelve (12) years of prision mayor as maximum; to pay proportionately the heirs of Manuel Cerialles the sum of P50,000.00 as civil liability; and to pay the costs.

SO ORDERED.[25]

By reason of the imposition of the death penalty, the case is now before us on automatic review. Accused-appellant Resty Silva raised the following errors in his Brief:

THE TRIAL COURT ERRED IN GIVING CREDENCE TO THE TESTIMONY OF MAIN PROSECUTION WITNESS EDMUNDO CERIALES THAT IS CONTRARY TO COMMON KNOWLEDGE AND HUMAN EXPERIENCE AND TO THE TESTIMONY OF OTHER PROSECUTION WITNESSES THAT WERE TAINTED WITH UNCERTAINTIES AND IMPROBABILITIES AND IN REJECTING ACCUSED-APPELLANT RESTY SILVA’S DEFENSE OF DENIAL AND ALIBI SHOWING HIS PRESENCE AT ANOTHER PLACE AT THE TIME OF THE PERPETRATION OF THE OFFENSE AND DEMONSTRATING THAT IT WAS PHYSICALLY IMPOSSIBLE FOR HIM TO BE AT THE SCENE OF THE CRIME.

THE TRIAL COURT ERRED IN FINDING THAT ACCUSED- APPELLANT SILVA CONSPIRED WITH THE OTHER ACCUSED IN ABDUCTING THE CERIALES BROTHERS AND KILLING ONE OF THEM.

THE TRIAL COURT ERRED IN FINDING THAT THE KILLING OF THE VICTIM WAS ATTENDED BY THE QUALIFYING CIRCUMSTANCE OF EVIDENT PREMEDITATION.

THE TRIAL COURT ERRED IN HOLDING THAT THE KILLING OF THE VICTIM WAS ATTENDED BY THE AGGRAVATING CIRCUMSTANCES OF TREACHERY AND NOCTURNITY.

THE TRIAL COURT ERRED IMPOSING (SIC) ON ACCUSED-APPELLANT THE PENALTY OF DEATH DESPITE THAT ASIDE FROM HIS NON-INVOLVEMENT IN THE COMMISSION OF THE CRIME, THE LAW HAS NOT YET COMPLIED WITH THE REQUIREMENT OF PUBLICATION IN A

NATIONAL NEWSPAPER OF GENERAL CIRCULATION FOR EFFECTIVITY.

THE TRIAL COURT ERRED IN FINDING ACCUSED-APPELLANT SILVA LIABLE FOR ATTEMPTED MURDER WHERE THE PROSECUTION EVIDENCE MERELY INDICATES THAT MANUEL CERIALES WAS TIED.

Accused-appellant Rodolfo Sandangao, on the other hand, alleged that:

THE LOWER COURT ERRED IN CONVICTING ACCUSED-APPELLANT RODOLFO SANDANGAO BASED ONLY ON THE LONE TESTIMONY OF THE COMPLAINING WITNESS WITHOUT TAKING INTO CONSIDERATION THE PROVISION OF ARTICLE 12, PARAGRAH 5 OF THE REVISED PENAL CODE, AS THE DEFENSE OF RODOLFO SANDANGAO WHICH ENTITLED HIM TO AN ACQUITTAL.

It is a well-settled rule that findings of fact of trial courts are entitled to great weight and generally should not be disturbed on appeal unless substantial facts and circumstances have been overlooked, which if properly considered, would alter the result of the case.[26] After a careful review of the records of the present case, the Court is convinced that the trial court was correct in its findings and conclusion.

Edmundo Ceriales' testimony as to what transpired on the night of September 3, 1996 is clear, positive and categorical:

Q On Sept. 3, 1996 at around 8:30 p.m., do you recall where were you?

A I was in the house of my elder brother Manuel Ceriales at Diaboyo, Ditumabu, sir.

Q Where was your brother then?

A He was there, sir.

Q Where there any other persons present there then?

A We were 9 in all in that house; they were Boy Tagalario, Jimmy Tagalario, Jimboy Tagalario, Marlon Flores, Mardie Alejandro, a certain Onoy, Pogi Salvador and the 2 of us brothers.

xxx

Q While you were in the house of Manuel Ceriales watching those who were gambling, do you recall any unusual incident that happened?

A There was; a gun was pointed to us and I and my brother Manuel were ordered to go out; I was not able to recognize them then very well because they ordered to extinguish the light.

Q Where were the persons located when the gun was pointed at you?

A By the door, sir.

Q What kind of gun was pointed at you?

A Armalite, sir.

xxx

Q What did you do when you heard that the one pointed the gun at you ordered you to get out of the house?

A Since and I and my brother were ordered to get out, we went out.

Q When you went out, what happened?

A We were made to lie face down, outside the house.

Q What happened next?

A We were tied by Dupong upon order of Resty Silva.

Q Where were you tied?

A The arms, sir. (Witness placed his 2 arms behind his back.)

Q Who between you were tied?

A Both of us were tied at the same time; the one who was tying my brother was Jun-jun Flores.

Q What happened next when you were tied?

A I asked them to get my bolo which was tied in a cavern around my waist and Dupong took it.

Q Why did you let him took your bolo?

A Since I could not use it anymore.

Q After you and your brother were tied and your bolo was taken from you, what happened?

A We walked towards the highway and we were lighted by incoming vehicle; that was when I recognized Dupong; then we ran towards a place where there were plenty of bamboo and when the vehicle passed, we came out from where we hid.

Q After that, what happened next?

A We walked along the highway and in the highway, there was light again so I was able to recognize him.

Q How about the 2?

A They were quite far away from us; I was not able to recognize the other 2 very well.

Q How were you walking?

A The 2 of us were almost ahead side by side since we were tied.

Q What was used in tying your hands?

A A rope, sir.

Q What happened next when you were walking?

A I whispered to my brother that it was Dupong.

Q What happened next?

A We went inside a coconut plantation from the highway; while we were there. Resty Silva sliced my t-shirt which he stucked (sic) in my mouth which he later removed because I told him I would not be fighting back anyway.

xxx

Q What happened next?

A We continued walking until we reached the coconut plantation of my Ninong Henyo; I told them to kill me there and not to bring us far away anymore. I was about to be stabbed by Jun-jun but he was stopped by my elder brother.

Q What happened next?

A We continued walking until we reached the place where the killing was done.

Q What kind of land was that?

A Still coconut plantation owned by Lucing Guerrero; it is not Querijero but Guerrero.

Q What happened next?

A We were made to sit on a hollow block which is quite low.

Q Why was hollow block present there?

A There was a house there that was abandoned.

Q What happened next?

A The 3 of them faced us and Resty Silva asked me do you know us and we brothers answered we have recognized you for quite a long time.

Q What was Resty doing then?

A He flashed the flashed light (sic) on his face and the faces of his other 2 companions.

Q What happened next?

A He said, “papano yan Dupong, kilala pala tayo; obligado na nating patayin.”

Q When Resty uttered that, what happened next?

A We were separated; the ties binding us together was removed.

Q What happened next?

A I was brought away from my elder brother about 20 meters away. The one who came with me were Dupong and Resty while Jun-jun Flores was left with my elder brother. That was the time my two feet were tied by Dupong.

Q What happened next?

A Resty left me but Dupong stayed with me.

Q What happened next?

A I begged Dupong to release me and I will forget everything.

Q What was his reaction?

A He said he could not do anything as he might be blamed.

Q What happened next?

A After that, he left me; so I thought of jumping away and so I jumped and jumped. In so doing I happened to fall in a hole.

Q What happened when you jumped away?

A I heard as if they were cutting a tree?

Q What happened next?

A After that I heard a scream.

Q Do you know who was screaming?

A I recognized it was the voice of my elder brother.

Q What did you do?

A I heard another shout saying that if I will not come out, they will kill my brother; that was when I was untying my feet. Then I put out slowly my head from the hole trying to see if there were still people around.

xxx

Q How long have you heard your brother screaming?

A When I ran away and I was already far away, I heard another shout.

Q Where did you proceed when you ran away?

A To my Ninong Andres Macatiag, sir.

Q What happened at the place of your Ninong?

A They did not allow me to go out from the house. I related to them the incident and I told them the names of the persons I recognized. Then, I slept in the house of my Ninong Andres Macatiag.

xxx

Q What did you do that morning?

A I asked my godfather to go to my family and he went there. After that, he called the barangay tanod and councilman. I told them where we were brought and asked them to look for my brother if he was still alive. I did not go with them.

Q What happened next?

A They came back and said that he was already dead and headless; they reported it to the police.

Q What happened next when they reported it to the police?

A The policemen arrived and I went with them to see the body of my brother.

xxx

Q How were you able to identify the headless body of your brother.

A Because of the clothes he was wearing when the incident happened.[27]

The facts as related by Edmundo, who was a direct witness to the crime, being a victim himself, and as corroborated by the other witnesses, clearly established the crimes of murder and attempted murder.

Article 248 of the Revised Penal Code, as amended by R.A. 7659 defines the crime of murder as follows:

xxx 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 attendant circumstances:

1. 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.

2.

xxx

3. With evident premeditation.

xxx

Whenever a killing is attended with any of the circumstances enumerated in Article 248, such killing is qualified to murder.

Evidence shows that the qualifying circumstance of evident premeditation attended the killing of Manuel Cerialles. There is evident premeditation when the following elements are present: (1) the time when the accused determined to commit the crime, (2) an act manifestly indicating that the accused clung to that determination, and (3) a lapse of time between the determination and the execution sufficient to allow the accused to reflect upon the consequences of the act.[28]

To establish evident premeditation, it must be shown that there was a period sufficient to afford full opportunity for meditation and reflection, a time adequate to allow the conscience to overcome the resolution of the will, as well as outward acts showing the intent to kill.[29] It must appear not only that the accused decided to commit the crime prior to the moment of its execution but also that this decision was the result of meditation, calculation, reflection, or persistent attempt.[30]

Accused-appellants deliberately planned to kill the Cerialles brothers. They arrived at the house of Manuel Cerialles in the evening of September 3, 1996 purposely armed with an armalite, bolo and rope. They ordered the

Ceriales brothers to come out while the other persons inside the house were told to lie face down. They abducted the brothers, tied them up and brought them to an isolated place several kilometers away where the brothers were questioned about a misunderstanding between the victim Manuel and the father of accused Flores over a parcel of land. This dispute apparently provided the motive for the crime and engendered the plan. From the time that the brothers were abducted from their house until they reached the isolated plantation of a certain Querijero several kilometers away, accused-appellants had sufficient time to reflect upon the consequences of their act but they persisted in their determination to commit the crime. While in that isolated place, they separated the brothers from each other in an apparent plan to kill them consecutively. Manuel Cerialles was stabbed and decapitated. The same fate would have met Edmundo Cerialles were he not able to escape. These acts of accused-appellants were manifestly deliberate, calculated and carefully planned leading to the inevitable conclusion that the crime was premeditated.

The killing of Manuel Cerialles was also characterized by treachery. There is treachery when there is (1) the employment of means of execution that gives the person attacked no opportunity to defend himself or retaliate; and (2) the deliberate and conscious adoption of the means of execution.[31] The essence of treachery is the sudden and unexpected attack by an aggressor on an unsuspecting victim, depriving the latter of any real chance to defend himself, thereby ensuring its commission without risk to the aggressor and without the slightest provocation on the part of the victim.[32]

The Cerialles brothers were innocently playing “tong-its” inside their house when accused-appellants suddenly arrived. The suddenness of their arrival in the middle of the night while the victims were playing a card game, ensured that the victims could be taken without difficulty to an isolated place several kilometers away and killed there. The fact that accused-appellants arrived armed with an armalite gun, a bolo, a rope and a flashlight showed that they deliberately and consciously adopted the means of execution. The act of tying up both hands and feet of the victims with a rope ensured the killing and deprived the victims of any chance to defend themselves.

By and of itself, nighttime is not an aggravating circumstance, however, it becomes aggravating only when: (1) it is especially sought by the offender; or (2) it is taken advantage of by him; or (3) it facilitates the commission of the crime by ensuring the offender’s immunity from capture.[33] In this case, the trial court correctly appreciated nighttime as aggravating considering that nighttime facilitated the abduction of the Cerialles brothers, the killing of Manuel Cerialles and the attempt to kill Edmundo Cerialles. Evidence shows that accused-appellants took advantage of the darkness to successfully consummate their plans. The fact that they brought with them a flashlight clearly shows that they intended to commit the crime in darkness.

Clearly, in the present case, the killing of Manuel Cerialles by decapitation was characterized by treachery and evidently premeditated qualifying such killing to murder. The fact that the Cerialles brothers were taken together, tied up and brought to an isolated place point to no other conclusion than that accused-appellants intended to kill not only Manuel but also Edmundo. Indeed, the latter would have likewise been stabbed and decapitated had he not been able to escape. The fact that accused-appellants were not able to kill Edmundo was not by reason of their own spontaneous desistance but due to Edmundo’s miraculous escape; hence, they are also liable for the attempted murder of Edmundo.[34]

Accused-appellant Resty Silva denied his participation in the abduction of the Cerialles brothers and the killing of Manuel. He insisted that he was at his brother Ricardo’s house in Mandaluyong City on the day of the incident. He attempted to bolster his claim by presenting as witnesses his brother Ricardo and two security guards who were allegedly playing “tong-its” with him from seven o’clock in the evening until midnight of September 3, 1996.

We have repeatedly stressed that in order for alibi to prosper, the accused must prove not only that he was at some other place at the time of the commission of the crime, but also that it was physically impossible for him to be at the locus delicti or within its immediate vicinity.[35] By its nature, alibi is the weakest of all defenses as it is easy to fabricate and difficult to disprove, and it is practically worthless in the face of positive identification.[36] A positive identification of the accused, where categorical and consistent and without any showing of ill motive on the part of the eyewitness testifying on the matter, prevails over mere alibi and denial.[37]

Edmundo Cerialles positively identified accused-appellant as one of their abductors. In fact, accused-appellant Silva himself revealed his identity to Edmundo and Manuel by flashing a flashlight upon his face and asking the brothers if they recognize him and the other two abductors:

Q What happened next?

A We were made to sit on a hollow block which is quite low.

Q Why was hollow block present there?

A There was a house there that was abandoned.

Q What happened next?

A The 3 of them faced us and Resty Silva asked me do you know us and we brothers answered we have recognized you for quite a long time.

Q What was Resty doing then?

A He flashed the flashed light (sic) on his face and the faces of his other 2 companions.[38]

As between accused-appellant Silva's alibi and the positive testimony of Edmundo identifying him as one of the perpetrators of the crime, the latter must prevail.[39]

Accused-appellant Sandangao, on the other hand, sought to evade criminal liability by alleging that he was threatened by accused Flores and an unidentified armed man at gunpoint to accompany them to the house of Manuel Cerialles. He claims that the two threatened to kill his family if he refused to go with them and did not comply with their orders.

Indeed, Article 12 of the Revised Penal Code exempts a person from criminal liability if he acts under the compulsion of an irresistible force, or under the impulse of an uncontrollable fear of equal or greater injury, because such person does not act with freedom.[40] Accused-appellant Sandangao, however, failed to sufficiently prove his claim of irresistible force. The positive and categorical testimony of Edmundo Cerialles clearly established his participation in the crime. Edmundo testified that Sandangao and Flores tied his hands and that of his brother Manuel before proceeding to Querijero's plantation. Sandangao was also the one who tied Edmundo's feet upon reaching the property of Querijero. Edmundo never testified that Sandangao committed those acts upon order of accused-appellant Silva or Flores. Neither did he state that Sandangao was threatened at gunpoint by the two. When the Cerialles brothers identified them, accused-appellant Silva even told Sandangao, "Papano yan Dupong, kilala pala tayo, obligado na nating patayin." This statement of accused-appellant Silva clearly implies Sandangao's participation in the crime. Moreover, when Sandangao was left alone to guard Edmundo, the latter begged him to be set free but Sandangao refused.

Sandangao's claim is also belied by his conduct after the incident. He claimed that like Edmundo Cerialles he managed to escape from Flores and the armed man. However, instead of reporting to the police, he tried to flee and hid in the hut of a certain Nestor Aguila until he was apprehended by the police. While he was in detention, he did not report to the police that he was threatened at gunpoint by Flores and the armed man to accompany them. When asked why he did not make such a report, his reason was merely that he was never asked by the police.[41]

The evidence on record thus positively established that accused-appellants Silva, Sandangao and Flores conspired to abduct and kill the Cerialles brothers. Their acts of going to Manuel's house together at night armed with an armalite, bladed weapons and rope, tying up the Cerialles brothers, abducting them and bringing them to an isolated place and decapitating Manuel, these acts taken together manifest a unity of purpose and a common design to kill the two brothers. We have ruled that conspiracy exists when two or more persons come to an agreement concerning the commission of a felony and decide to commit it.[42] Where the acts of the accused collectively and individually demonstrate the existence of a common design towards the accomplishment of the same unlawful purpose, conspiracy is evident, and all the perpetrators will be liable as principals.[43] In this case, conspiracy among accused-appellants were sufficiently born and proven by evidence.

Art. 248 of the Revised Penal Code, as amended by RA 7659, prescribes the penalty of reclusion perpetua to death for the crime of murder. Considering the qualifying circumstance of evident premeditation and the presence of two aggravating circumstances of treachery and nighttime without any mitigating circumstance, the trial court correctly imposed the maximum penalty of death as prescribed under Art. 63[44] for the murder of Manuel Cerialles. The penalty of an indeterminate sentence ranging from six (6) years prision correccional as minimum to twelve (12) years of prision mayor as maximum imposed by the trial court for the attempted murder of Edmundo Cerialles is likewise affirmed.

Finally, in keeping with recent jurisprudence,[45] in addition to civil indemnity of P50,000.00, we hereby impose the additional amount of P50,000.00 as moral damages without need of proof for the death of the victim Manuel Cerialles.

Three (3) members of this Court maintain their position that R.A. No. 7659, insofar as it prescribes the death penalty is unconstitutional. Nevertheless, they submit to the ruling of the majority that the said law is not unconstitutional and that the death penalty should be imposed in this case.

WHEREFORE, the decision appealed from is hereby AFFIRMED. In accordance with Article 83 of the Revised Penal Code, as amended by Section 25 of R.A. 7659, upon finality of this decision, let the record of this case be forwarded to the Office of the President for possible exercise of clemency and pardoning power.

SO ORDERED.

Davide, Jr., C.J., Bellosillo, Puno, Vitug, Kapunan, Mendoza, Panganiban, Quisumbing, Ynares-Santiago, Sandoval-Gutierrez, Carpio, Austria-Martinez, and Corona, JJ., concur.

[1] Records, p. 11.

[2] Rollo, pp. 132-136 (Consolidated Brief of the Solicitor General, pp. 3-7).

[3] TSN, April 29, 1998, pp. 3-4.

[4] Id., at 4-6.

[5] Id.

[6] Id., at 12-14.

[7] Id., at 15.

[8] TSN, June 21, 1999, pp. 2-4.

[9] TSN, March 5, 1997, pp. 3-5.

[10] Id., at 5, 7-9.

[11] TSN, February 25, 1998, pp. 2-3.

[12] Id., at 3-5

[13] Id., at 7-8.

- [14] TSN, April 30, 1998, pp.2-3.
- [15] TSN, June 9, 1998, pp. 3-6.
- [16] Id., at 6-7.
- [17] TSN, September 30, 1998, pp. 2-4.
- [18] Id., at 3-4.
- [19] Id.
- [20] Id., at 5-6.
- [21] TSN, January 21, 1999, pp. 8-10.
- [22] Id., at 2-3.
- [23] TSN, January 22, 1999, pp. 1-2.
- [24] TSN, July 14, 1999, pp. 2-4.
- [25] Rollo, p. 43 (Decision of the Regional Trial Court, p. 17).
- [26] *People vs. Pulusan*, 290 SCRA 353 (1998); *People vs. Andres*, 296 SCRA 318 (1998); *People vs. Baccay*, 284 SCRA 296 (1998); *People vs. Sumalpong*, 284 SCRA 464 (1998).
- [27] *Supra*, Note 11, pp. 8-11.
- [28] *People vs. Realin*, 301 SCRA 495 (1999); *People vs. Gutierrez, Jr.*, 302 SCRA 643 (1999); *People vs. Manes*, 303 SCRA 231 (1999).
- [29] *People vs. Tabones*, 304 SCRA 781 (1999).
- [30] *People vs. Eribal*, 305 SCRA 341 (1999).
- [31] *People vs. Piamonte*, 303 SCRA 577 (1999); *People vs. Mahinay*, 304 SCRA 767 (1999); *People vs. Rebamontan*, 305 SCRA 609 (1999).
- [32] *People vs. Vermudez*, 302 SCRA 276 (1999); *People vs. Espiritu*, 302 SCRA 533 (1999); *People vs. Tabones*, 304 SCRA 781 (1999).
- [33] *People vs. Monsayac*, 307 SCRA 560 (1999); *People vs. Bermas*, 309 SCRA 741 (1999).
- [34] Art. 6 (RPC) - x x x There is an attempt when the offender commences the commission of a felony directly by overt acts, and does not perform all the acts of execution which should produce the felony by reason of some cause or accident other than his own spontaneous desistance.
- [35] *People vs. Platilla*, 304 SCRA 781 (1999).
- [36] *People vs. Pedres*, 306 SCRA 579 (1999); *People vs. Monsayac*, 307 SCRA 560 (1999); *People vs. Velasco*, 307 SCRA 684 (1999).
- [37] *People vs. Francisco*, 317 SCRA 114 (1999); *People vs. Banela*, 301 SCRA 84 (1999); *People vs. Oliver*, 303 SCRA 72 (1999).
- [38] *Supra*, Note 11, p. 10.
- [39] *People vs. Guarin*, 317 SCRA 234 (1999).
- [40] *People vs. del Rosario*, 305 SCRA 740 (1999).
- [41] TSN, June 10, 1998, p.3.
- [42] *People vs. Recones*, 310 SCRA 809 (1999); *People vs. Patalin, Jr.*, 311 SCRA 186 (1999); *People vs. Perez*, 313 SCRA 544 (1999).
- [43] *People vs. Antonio*, 303 SCRA 414 (1999).
- [44] Art. 63 of the Revised Penal Code provides that in cases where the law prescribes a penalty composed of two indivisible penalties, the ff. rule must be observed:
1. When in the commission of the deed there is present only one aggravating circumstance, the greater penalty shall be applied.xxx
- [45] *People vs. Ortiz*, G.R. No. 133814, July 17, 2001 citing the cases of *People vs. Uldarico Panado*, et al. and *People vs. Carlito Cortez*.

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.