

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. TIMOTEO ESCARLOS, ALIAS “TOMY,” APPELLANT.

G.R. No. 148912. September 10, 2003

Ponente: PANGANIBAN, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-148912/>

PANGANIBAN, J.:

By interposing self-defense, herein appellant admits authorship of the killing. Thus, shifted to him is the burden of proof showing that the killing was justified. Despite his failure to prove self-defense, he may be convicted only of homicide, not murder, because of the inability of the prosecution to establish any qualifying circumstance. Here, treachery is negated by the victim's awareness of the impending attack.

The Case

For automatic review before the Court is the May 29, 2001 Decision[1] of the Regional Trial Court (RTC) of Urdaneta, Pangasinan (Branch 46) in Criminal Case No. U-10792, finding appellant guilty of murder beyond reasonable doubt and sentencing him to death. The dispositive portion of the Decision reads as follows:

"WHEREFORE, JUDGMENT is hereby rendered CONVICTING beyond reasonable doubt accused Timoteo Escarlos of the crime of Murder and the Court sentences him to suffer the penalty of DEATH; he is likewise ordered to indemnify the heirs of Antonio Balisacan the sum of P28,650.00 as actual damages, the sum of P50,000.00 as moral damages and the further sum of P50,000.00 as exemplary damages.

"The Clerk of Court is hereby ordered to prepare the mittimus.

"The Jail Warden, Bureau of Jail Management and Penology (BJMP) Urdaneta District Jail, Urdaneta City, is hereby ordered to deliver the living body of Timoteo Escarlos to the National Bilibid Prisons, Muntinlupa City, immediately upon receipt of this Decision."[2]

The Information[3] dated August 29, 2000, charged appellant as follows:

"That on or about July 1, 2000, in the evening, at Barangay Dumanpot, Asingan, Pangasinan and within the jurisdiction of this Honorable Court, the above-named accused, armed with a sharp pointed bladed weapon, with deliberate intent to kill, treachery and evident premeditation, did then and there willfully, unlawfully and feloniously attack, assault, hold and stab from behind Brgy. Kgd. Antonio Balisacan, inflicting upon him the following injuries:

External Findings:

- Stab wound located below right clavicle measuring 3 inches length and 8 inches depth.
- Stab wound located at left armpit measuring 4 [inches] length and 6 inches depth.
- Stab wound located at mid lumbar area measuring 3 inches length and 4 inches depth
- Stab wound located between right first and second finger measuring 3 inches length.

Internal Findings:

- Cutting of the upper and lower lobe of the right lung.
- Cutting of the lower lobe of the left lung.

which injuries directly caused the death of said Brgy. Kgd. Antonio Balisacan, to the damage and prejudice of his heirs.

"Contrary to Art. 248, Revised Penal Code in relation to Republic Act No. 7659."[4]

During his arraignment on November 8, 2000, appellant, with the assistance of his counsel,[5] pleaded not guilty to the charge.[6] After trial in due course, he was found guilty by the lower court.

The Facts

Version of the Prosecution

The Office of the Solicitor General (OSG) narrates the factual version of the prosecution as follows:

"Around 9 o'clock in the evening of July 1, 2000, Antonio Balisacan went to the residence of Jaime Ulep in Domampot, Asingan, Pangasinan to attend a benefit dance which was near the place. In the benefit dance was his son Crisanto Balisacan, who attended the dance with his friends. Crisanto stood beside the emcee, Ceasario Escarlos, appellant's brother. While Ceasario was calling the victim, Antonio Balisacan, to come to the stage as he was a kagawad, Crisanto heard the people at his back shout `Ay!'. Five (5) to six (6) meters at his back, with the place [illuminated] by a 50 to 100 watts bulb, he saw appellant stab his father, Antonio, several times. Crisanto was momentarily shocked that he was not able to react. When appellant fled, Crisanto came to his senses and ran to Antonio. Antonio was still alive so he brought him to Urdaneta Sacred Heart Hospital where he expired a few minutes after arrival.

"Jesus Dismaya was also beside Ceasario when Antonio Balisacan's name was called. When he heard people shout, he turned around and saw from a distance of four (4) meters appellant stabbing Antonio four (4) times with a ten (10) inch-long knife. He then called Antonio's brother, [Marcelo] Balisacan.

"Within the vicinity was Antonio's brother, Marcelo Balisacan. He was in the Asingan-Urdaneta road, which was about fifteen (15) meters outside Ulep's yard when he heard people shout and run from the benefit dance. Wanting to know what was happening, he went to the benefit dance and saw that Antonio was stabbed. He went near Antonio, hugged him, and asked who stabbed him. He replied, `Tomy Escarlos.'

"Meanwhile around 9:30 of the same evening of July 1, 2000. SPO1 Patricio Badua was on duty. He received a phone call about a stabbing incident in a benefit dance in Domampot, Asingan, Pangasinan. When he went to the scene of the crime, the victim, Antonio Balisacan was already in the hospital and appellant had already fled. He later learn[ed] that Antonio died.

"Dr. Noemi Taganas conducted an autopsy on Antonio's body and found:

External Findings:

- Stab wound located below the right clavicle measuring 3 inches length (in) and 8 inches (in) depth.
- Stab wound located at left armpit measuring 4 inches length and 6 inches depth.
- Stab wound located at mid lumbar area measuring 3 inches length and 4 inches depth
- Stab wound located between right first and second finger measuring 3 inches length.

Internal Findings:

- Cutting of the upper and lower lobe of the right lung.
- Cutting of the lower lobe of the left lung.

"She later issued a death certificate. She stated in court that out of the four (4) stab wounds, Antonio's second stab wound was fatal because the lungs were penetrated.

"Dr. Ronald Bandonil, an NBI medico-legal officer confirmed Taganas' autopsy report. He also conducted an autopsy on the exhumed body of Antonio. In his autopsy he found that Antonio's first and second wounds were fatal as these caused his death due to hypovolemic shock or massive blood loss."[7] (Citations omitted)

Version of the Defense

Appellant, on the other hand, relates his version of the facts in this manner:

"On the night of July 1, 2000, accused TIMOTEO ESCARLOS together with Rexie Yabes, Fredo Ramos, Erwin Ramos, Rowena Alamigo and others were at the yard of Jaime Ulep, in Purok Inanama, Domanpot Asingan, Pangasinan watching a benefit dance sponsored by Mr. & Mrs. Organization. He was invited to buy lechon during the benefit dance.

"While thereat, Kgd. Antonio Balisacan who was then drunk, passed in front of accused and told him, 'You are here again to create trouble.' Accused was offended so he answered back saying 'Why do you say that to me when I am not doing any trouble here.' Antonio Balisacan told him, 'OKINNAM KETDI' (vulva of your Mother) and without warning boxed him. Timoteo was hit on the forehead, which left a scar on his forehead about an inch above the right eyebrow. He intended to box back but he noticed that the victim was pulling out a kitchen knife, so for fear of his life, he grabbed the weapon from Antonio Balisacan and used the knife in stabbing the latter who was hit at the side below the left armpit. He stabbed him twice and when the victim was about to fall down, he was able to hit him for the third time.

"The weapon that Timoteo was able to get from Antonio was a kitchen knife about 10 to 12 inches. Antonio drew the knife from his left side. Timoteo was able to get hold of the handle of the knife when he grappled for the same from the victim, by taking hold of the knife with his right hand and stabbed Antonio who was intending to stab him. Antonio was one (1) inch taller than accused.

"Timoteo's testimony was corroborated by an eyewitness, CESARIO ESCARLOS, the brother of Timoteo and president of the Mr. & Mrs. Association which sponsored the benefit dance on July 1, 2000.

"On the night of July 1, 2000, Cesario Escarlos was at the yard of Jaime Ulep. At about 9:00 o'clock in the evening of the said date, he saw his brother Timoteo Escarlos together with Dexie Yabis standing in a corner watching the dance. Several minutes later Kgd. Antonio Balisacan arrived and later on, while Cesario was on his way to urinate. He heard Antonio uttered to Timoteo 'ADDA CAYO MANEN NGA AGARAMED TI NILOLOCON.' While relieving himself, he heard both Timoteo and Antonio arguing and before he could get near and pacify them, he saw them wrestling with each other. Many people were around but nobody pacified them. Next minute he saw Antonio bloodied and lying on the ground. There were at least 100 people then and might have seen the incident. He noticed that Jesus Dismaya was there but the latter did not do anything. Cesario, after the incident only stayed there for 3 minutes because he was looking for his three year-old daughter. In the meantime, nobody touched the body of the victim."[8]

The Ruling of the Trial Court

The trial court believed that the prosecution's evidence was sufficient to convict appellant of murder qualified by treachery. It rejected his plea of self-defense, because there had been no unlawful aggression on the part of the victim.

"x x x. The established facts revealed that the victim was one of the persons who filed a case of malicious mischief against [appellant]. Said case was filed five (5) months before the instant case happened. To the mind of the Court, the accused only found a way of avenging what he felt towards the victim. He took advantage of that x x x particular time and place to let out his feelings in the presence of his barangay mates. Such hidden grudge by the accused against the victim, established the motive of the former.

x x x x x x x x

"The second element of self-defense is also lacking. The nature, location and the number of wounds inflicted on the victim belie and negate the accused[']s claim of self-defense. The post mortem findings of the autopsy report showed that the victim sustained four stab wounds.

"If there is any truth to the accused[']s claim of self-defense, he would not have stabbed him several times. [Worse,] the location of the wounds suggested that the accused was at the back of the victim when the wounds were inflicted. It is therefore evident from the conduct of the accused that he was determined to kill the victim and did not just act to defend himself. In view of the foregoing, it is no longer necessary to discuss the third element."[9]

Hence, this automatic review.[10]

The Issues

Appellant assigns the following alleged errors for our consideration:

"1.

The honorable trial court erred in appreciating treachery as a qualifying circumstance despite failure of the prosecution to prove its attendance.

"2.

The honorable trial court erred in not finding that the testimony of the supposed eyewitnesses for the prosecution as to the attendance of treachery is flawed and unworthy of belief.

"3.

The honorable trial court erred in not giving exculpatory weight to the theory of self-defense interpose[d] by the accused-appellant.

"4.

The honorable trial court committed a grave and serious error in not finding that the victim [was] the first to assault accused.

"5.

The honorable trial court erred in considering motive to establish the guilt of the accused.

"6.

The honorable court erred in convicting the accused-appellant of murder instead of acquitting him or at most convicting him of homicide."[11]

These issues boil down to four: (1) sufficiency of the prosecution's evidence, (2) viability of self-defense, (3) appreciation of treachery as a qualifying circumstance, and (4) propriety of the penalty and the damages imposed by the trial court.

The Court's Ruling

The appeal is partly meritorious.

First Issue:

Sufficiency of the Prosecution's Evidence

Although appellant did not directly raise the sufficiency of the prosecution's evidence as an issue, this Court nonetheless deliberated on it *motu proprio*, because an automatic appeal in a criminal action opens the whole case for review. Indeed, the strength of the prosecution's evidence must be passed upon, especially in cases in which the death penalty has been imposed by the trial court.[12] We have carefully examined the evidence for the prosecution and found that the fact of killing and the identity of the killer were duly established beyond reasonable doubt.

Prosecution Witness Crisanto Balisacan, son of the victim, testified on the stabbing incident, which had occurred during a benefit dance on that fateful night of July 1, 2000. The witness' testimony is as follows:

"COURT:

You go to the main point.

ATTY. VELASCO:

While there, did you observe or did you see if there was any unusual incident that took place?

A:

Yes, your Honor.

Q:

What was that unusual incident you have seen and observed?

A:

Stabbing incident, your Honor.

COURT:

Who was stabbed?

ATTY. VELASCO:

Who was the victim of that stabbing?

A:

My father.

Q:

Who stabbed him?

A:

Mr. Timoteo `Tomy' Escarlos, the accused in this case, your Honor.

Q:

Will you please focus your eyes within this Honorable Court and tell us whether the person you said who stabbed your father by the name of Timoteo Escarlos is in the premises of this Honorable Court?

A:

Yes, sir.

Q:

Will you please stand up and point to him?

A:

The first one, your Honor (Witness is pointing unto a person seated on the bench inside the courtroom, who, when his name was asked, he answered Timoteo Escarlos).

Q:

How long have you been acquainted with the accused Timoteo Escarlos?

A:

About ten years, your Honor.

Q:

He is also from Domampot?

A:

Yes, your Honor.

Q:

Considering that it is already about 9:20-9:30 o'clock in the evening when this stabbing incident took place, how can you be sure that it was Timoteo Escarlos who stabbed your father?

A:

There was x x x light, your Honor.

Q:

What kind of light are you trying to say?

A:

50-100 watts bulb.

x x x x x x x x

ATTY. VELASCO:

Did you see the spot where your father was actually stabbed?

A:

Yes, sir.

Q:

How far is this place where your father was stabbed in relation to the entrance of the dance arena.

A:

About 5 to 6 meters at my back, your Honor.

Q:

And at that distance, what happened next while you were watching?

A:

I heard shouting.

Q:

These shouting that you heard, where did they come from?

A:

From my back.

X X X X X X X X

COURT:

What is that shouting about?

ATTY. VELASCO:

You heard shoutin[g], according to you, what did you hear, if you know?

A:

About the incident.

COURT:

Tell [us] exactly what you heard[.]

A:

I heard shouting, `Ay!'

Q:

How many people shouted, `Ay'?

A:

Many, your Honor, because that was a benefit dance.

ATTY. VELASCO:

When you heard shoutin[g], what did you do, if any?

A:

I turned my head to my back.

Q:

When you focused your attention and sight at your back, what happened next?

A:

I saw stabbing. I saw my father stabbed by Timoteo Escarlos, your Honor."^[13] (Italics supplied)

Undoubtedly, the factual premises with regard to the killing and its commission by appellant are clear and undisputed. He did not at all deny the allegations against him and openly admitted that he had killed the victim. However, he interposes self-defense to seek his exoneration from criminal liability.

Second Issue:

Plea of Self-Defense

In pleading self-defense, appellant asserts that it was the victim who initially approached and assaulted him. Allegedly, the former had no choice but to defend himself under the circumstances. In his testimony before the trial court, he described the confrontation that had led to the fatal killing as follows:

"Q:

And while you were there at the yard of Jaime Ulep on that night of July 1, 2000 do you remember having seen the person of one Kgd. Antonio Balisacan?

A:

Yes, sir.

Q:

And did he see you also?

A:

Yes, sir.

Q:

And did you happen to see him?

A:

When he passed in front of me he uttered in a loud voice – 'you are here again to create trouble' (ADDA KA MANEN DITTOY NGA AGARAMID TI NILILOKO).

Q:

To whom did Antonio Balisacan utter these words?

A:

I, sir.

Q:

And you said it was uttered in a loud manner, how far were you when he uttered these words?

A:

More or less 3 to 4 meters, sir.

Q:

What did you say?

A:

I was offended, sir.

Q:

And do you know the physical appearance of Antonio Balisacan when he mentioned those words to you?

A:

As if he was drunk, sir.

Q:

What made you say that as if he was drunk?

A:

I smell his breath, sir.

Q:

How did you react later when Antonio Balisacan uttered those words to you?

A:

I said: 'Why do you say that to me when I am not doing any trouble here.'

Q:

By the way, when Antonio Balisacan said those words to you, were you doing anything that time?

A:

None, sir.

Q:

What happened later on when you answered Brgy. Kgd. Antonio Balisacan?

A:

He said: 'OKINNAM KETDI' (vulva of your mother) and then he boxed me, sir.

Q:

Were you hit?

A:

Yes, sir.

Q:

What part of your body was hit?

A:

This one on my forehead, sir. (Witness is pointing on his forehead).

Q:

Were you injured?

A:

Yes, sir.

Q:

What injury did you suffer?

A:

My forehead was injured (Witness is pointing a [to] a scar on his forehead about an inch at the right above the right eyecrow).

Q:

And what did you do after you were boxed by Antonio Balisacan?

A:

When I intend to box him I noticed that he withdrew a balisong and I tried to grab and used the balisong in stabbing, sir.

x x x x x x x x

COURT:

How many times did you stab him?

A:

Two times but when he was about to fall down I was able to hit him once for the third time, sir.

Q:

You said that he drew a knife, where did he draw the knife?

A:

At his left side, sir.

Q:

What kind of weapon did he draw?

A:

I sized it to be a kitchen knife, sir.

Q:

Could you tell the Honorable Court the length of that knife to include the handle?

A:

10 to 12 inches, sir.

Q:

And how did you grapple for the possession of that knife?

A:

I was able to hold the handle of the kitchen knife, sir.

x x x x x x x x

Q:

What prompted you to stab him considering that you already got hold [of] the knife from him?

A:

Yes, sir, because he intend[ed] to stab me, so, when I had possession of the knife I stabbed him, sir."^[14]
(Italics supplied)

We stress that when the accused invokes self-defense, the burden of proof is shifted from the prosecution to the defense. Thus, the latter assumes the responsibility of establishing this plea by clear and convincing evidence.^[15] Upon its shoulders rests the duty of proving, to the satisfaction of the trial court, the justifying circumstance of self-defense.^[16]

The implications of pleading self-defense insofar as the burden of proof is concerned was explained by the Court in *Macalino v. People*,^[17] from which we quote:

"In pleading self-defense, petitioner in effect admitted that he stabbed the victim. It was then incumbent upon him to prove that justifying circumstance to the satisfaction of the court, relying on the strength of his evidence and not on the weakness of the prosecution. The reason is that even if the prosecution evidence were weak, such could not be disbelieved after petitioner admitted the fact of stabbing the victim."^[18]

The accused who avers that the killing arose from an impulse of self-defense has the onus probandi of proving the elements thereof.^[19] The essential requisites of self-defense are the following: (1) unlawful aggression on the part of the victim; (2) reasonable necessity of the means employed to prevent or repel such aggression; and (3) lack of sufficient provocation on the part of the person resorting to self-defense.^[20] Verily, to invoke self-defense successfully, there must have been an unlawful and unprovoked attack that endangered the life of the accused, who was then forced to inflict severe wounds upon the assailant by employing reasonable means to resist the attack.^[21]

Unlawful Aggression on the Part of the Victim

In the present case, appellant claims that there was unlawful aggression on the part of the victim when the latter unceremoniously boxed him on the forehead in the heat of their argument. Appellant adds that he had initially thought of hitting back when he noticed that the victim was pulling out a kitchen knife. Hence, to save his life, the former grabbed the weapon and used it to stab the latter. Appellant insists that under the circumstances, he was legally justified in using the knife to ward off the unlawful aggression. For him to wait for the knife to be raised and to fall on him before acting to defend himself would be asking too much, he argues.

The contentions of appellant are untenable. While the victim may be said to have initiated the confrontation, we do not subscribe to the view that the former was subjected to an unlawful aggression within the legal meaning of the phrase.

The alleged assault did not come as a surprise, as it was preceded by a heated exchange of words between the two parties who had a history of animosity. Moreover, the alleged drawing of a knife by the victim could not have placed the life of appellant in imminent danger. The former might have done it only to threaten or intimidate the latter.

Unlawful aggression presupposes actual, sudden, unexpected or imminent danger -- not merely threatening and intimidating action.^[22] Uncertain, premature and speculative was the assertion of appellant that the victim was about to stab him, when the latter had merely drawn out his knife. There is aggression, only when the one attacked

faces real and immediate threat to one's life. The peril sought to be avoided must be imminent and actual, not just speculative.[23]

Even assuming *arguendo* that there was an altercation before the stabbing incident and that some danger did in fact exist, the imminence of that danger had already ceased the moment appellant disarmed the victim by wresting the knife from the latter. After the former had successfully seized it, there was no longer any unlawful aggression to speak of that would have necessitated the need to kill the latter. Hence, appellant became the unlawful aggressor when he stabbed the victim.[24]

When an unlawful aggression that has begun no longer exists, the one who resorts to self-defense has no right to kill or even to wound the former aggressor.[25] To be sure, when the present victim no longer persisted in his purpose or action to the extent that the object of his attack was no longer in peril, there was no more unlawful aggression that would warrant legal self-defense on the part of appellant.[26] Undoubtedly, the latter went beyond the call of self-preservation when he proceeded to inflict excessive, atrocious and fatal injuries on the latter, even when the allegedly unlawful aggression had already ceased.

Reasonable Necessity of the Means Employed to Prevent or Repel the Attack

Appellant argues that in the heat of the encounter, he was not in a position to calculate or determine the effects of his blows, and that it was nevertheless necessary for him to inflict them in order to save his own life.

As correctly held by the trial court, the nature, the number and the location of the wounds inflicted upon the victim were important indicia disproving self-defense.[27] The claim of appellant that only two of the four stab wounds were fatal is of no moment, inasmuch as the means he employed was glaringly disproportionate to the perceived unlawful aggression. He admitted in his testimony that he had stabbed the victim for the third time, even when the latter was about to fall.

The means employed by a person invoking self-defense must be reasonably commensurate to the nature and the extent of the attack sought to be averted, as held by the Court in *People v. Obordo*: [28]

"Even assuming *arguendo* that there was unlawful aggression on the part of the victim, accused-appellant likewise failed to prove that the means he employed to repel Homer's punch was reasonable. The means employed by the person invoking self-defense contemplates a rational equivalence between the means of attack and the defense. Accused-appellant claimed that the victim punched him and was trying to get something from his waist, so he (accused-appellant) stabbed the victim with his hunting knife. His act of immediately stabbing Homer and inflicting a wound on a vital part of the victim's body was unreasonable and unnecessary considering that, as alleged by accused-appellant himself, the victim used his bare fist in throwing a punch at him." [29]

Indeed, the means employed by a person resorting to self-defense must be rationally necessary to prevent or repel an unlawful aggression.[30]

Unlawful aggression is a *conditio sine qua non* for upholding the justifying circumstance of self-defense.[31] Unless the victim has committed unlawful aggression against the other, there can be no self-defense, complete or incomplete, on the part of the latter. If there is nothing to prevent or repel, the other two requisites of self-defense will have no basis.[32]

Third Issue: Appreciation of Qualifying Circumstances

The essence of treachery is the sudden and unexpected attack by an aggressor without the slightest provocation on the part of the victim, thus depriving the latter of any real chance to put up a defense, and thereby ensuring the commission of the attack without risk to the aggressor.[33] Treachery requires the concurrence of two conditions: (1) the employment of a means of execution that gives the person attacked no opportunity for self-defense or retaliation; and (2) the deliberate and conscious adoption of the means of execution.[34]

There is no treachery when the assault is preceded by a heated exchange of words between the accused and the victim; or when the victim is aware of the hostility of the assailant towards the former.[35]

In the instant case, the verbal and physical squabble prior to the attack proves that there was no treachery, and that the victim was aware of the imminent danger to his life.[36] Moreover, the prosecution failed to establish that appellant had deliberately adopted a treacherous mode of attack for the purpose of depriving the victim of a chance to fight or retreat.[37]

Certainly, the victim knew that his scuffle with appellant could eventually turn into a violent physical clash. The existence of a struggle before the fatal blows were inflicted on the victim clearly shows that he was forewarned of the impending attack, and that he was afforded the opportunity to put up a defense.[38] Indeed, a killing done at the spur of the moment is not treacherous. Moreover, any doubt as to the existence of treachery must be resolved in favor of the accused.[39]

In *People v. Cariño*,[40] we modified the trial court's decision and ruled that the crime committed was only homicide, because the qualifying circumstance of treachery had not been clearly established. Thus, the Court declared:

"However, we agree with the OSG's recommendation that appellant be held liable only for homicide, not murder. In this case, the qualifying circumstance of treachery was not conclusively established. For treachery to exist, the following requisites must be met: (1) that at the time of the attack, the victim was not in a position to defend himself; and (2) that the offender consciously adopted the particular means, method or form of attack employed by him. The facts show that Edmundo was placed on guard concerning a possible assault by Pedro. First, there was a heated argument between them at the place of the wake. Second, Edmundo was not unaware that he and Rolando were followed outside by appellant, who did not adopt any means to conceal himself or hide his intention of confronting Edmundo. Third, the abrasions and contusions on Edmundo's face show that Edmundo was able to put up a fight before he was fatally stabbed. These circumstances negate the existence of treachery in the commission of the offense." [41]

As in *People v. Cariño*, the Office of the Solicitor General recommended in this case that appellant be convicted of homicide only, inasmuch as the qualifying circumstance of treachery had not been sufficiently established.[42]

The trial court correctly ruled that the qualifying circumstance of evident premeditation was not present in the killing. Essentially, there is evident premeditation when the execution of a criminal act is preceded by cool thought and reflection upon the resolution to carry out a criminal intent within a space of time sufficient to arrive at a calm judgment.[43] Obviously, the acts of appellant in the present case can hardly be described as a product of reflective thought or deliberate planning towards a decisive resolve to kill the victim. On the contrary, the confrontation that escalated to a violent brawl was quite spontaneous, casual and incidental. Verily, the brutal killing was not the result of a previous plot or sinister design to end the life of the victim.

The elements of evident premeditation are as follows: (a) the time when the accused decided to commit the crime; (b) an overt act manifestly indicating that the accused clung to the determination to commit the crime; and (c) the lapse of a period of time, between the determination and the subsequent execution of the crime, sufficient to allow the accused an opportunity to reflect upon the consequences of the act.[44] As found by the trial court, the

prosecution failed to present sufficient evidence to establish any of the foregoing requisites. To be sure, when there is no showing how and when the plan to kill was decided or how much time had elapsed before the crime was carried out, there is no evident premeditation.[45]

In a criminal prosecution -- especially in cases involving the extreme penalty of death -- nothing but proof beyond reasonable doubt of every fact necessary to constitute the crime with which the accused is charged must be established.[46]

Fourth Issue:

Proper Penalty and Award of Damages

Under Article 249 of the Revised Penal Code, the penalty for homicide is reclusion temporal. There being neither mitigating nor aggravating circumstance, the appropriate penalty should be reclusion temporal in its medium period. Appellant is likewise entitled to the benefits of the Indeterminate Sentence Law.

The trial court awarded moral damages in the amount of P50,000, but failed to award P50,000 as civil indemnity for the death of the victim. Moral damages cannot be granted in the absence of proof therefor.[47] Unlike in rape cases, this type of award is not automatically given in murder or homicide. The prosecution was, however, able to prove actual damages in the sum of P28,650. The award of exemplary damages should be omitted considering that no aggravating circumstance was duly proven.[48]

WHEREFORE, the assailed Decision is MODIFIED. Appellant is held guilty of homicide and sentenced to eight (8) years and one (1) day of prison mayor medium, as minimum; to fourteen (14) years, eight (8) months and (1) day of reclusion temporal medium, as maximum. He shall also pay the heirs of the victim the amounts of P50,000 as civil indemnity and P28,650 as actual damages, consistent with prevailing jurisprudence.[49] The grant of moral and exemplary damages is DELETED. No costs.

SO ORDERED.

Davide, Jr., C.J., Bellosillo, Vitug, Quisumbing, Ynares-Santiago, Sandoval-Gutierrez, Carpio, Austria-Martinez, Corona, Carpio-Morales, and Callejo, Sr., JJ., concur.
Puno, and Azcuna, JJ., on official business.

[1] Rollo, pp.18-30. Penned by Judge Alicia B. Gonzalez-Decano.

[2] Assailed Decision, pp. 12-13; rollo, pp. 29-30.

[3] Rollo, pp. 6-7; signed by 2[nd] Assistant Provincial Prosecutor Restituto A. Dumlao Jr.

[4] Ibid.

[5] Atty. Joselino Viray.

[6] Records, Vol. I, p. 51.

[7] Appellee's Brief, pp. 5-8; rollo, pp. 133-136. Signed by acting Solicitor General Carlos N. Ortega and Associate Solicitor Ma. Almira M. Tomampos.

[8] Appellant's Brief, pp. 9-11; rollo, pp. 50-52. Signed by Atty. Joselino A. Viray.

[9] Assailed Decision, pp. 10-11; rollo, pp. 27-28.

[10] This case was deemed submitted for decision on September 13, 2002, upon receipt by this Court of the

Manifestation of appellant that he was no longer filing a Reply Brief. His Brief was filed earlier on February 20, 2002, while appellee's Brief was filed on June 11, 2002.

[11] Appellant's Brief, p. 2; rollo, p. 43. Original in upper case.

[12] *People v. De la Cruz*, GR No. 137405, September 27, 2002.

[13] TSN, January 24, 2001, pp. 8-11.

[14] TSN, March 27, 2001, pp. 4-7.

[15] *People v. Peralta*, 350 SCRA 198, January 24, 2001.

[16] *People v. Rabanal*, 349 SCRA 655, January 19, 2001.

[17] 340 SCRA 11, September 7, 2000.

[18] *Id.*, pp. 22-23, per De Leon Jr., J.

[19] *People v. Almazan*, 417 Phil. 697, September 17, 2001.

[20] *People v. Silvano*, 350 SCRA 650, January 31, 2001; *People v. Plazo*, 350 SCRA 433, January 29, 2001; *Roca v. Court of Appeals*, 350 SCRA 414, January 29, 2001.

[21] *People v. Sarmiento*, 357 SCRA 447, April 30, 2001.

[22] *People v. Rabanal*, *supra*.

[23] *People v. Damitan*, 371 SCRA 629, December 7, 2001.

[24] *People v. Calabroso*, 340 SCRA 332, September 14, 2000; *People v. Maalat*, 314 Phil. 200, July 8, 1997.

[25] *People v. Rabanal*, *supra*.

[26] *People v. Geneblazo*, 361, 414 Phil. 103, July 20, 2001.

[27] *People v. Ubaldo*, 367 SCRA 432, October 17, 2001; *People v. Basadre*, 352 SCRA 573, February 22, 2001; *People v. Silvano*, *supra*.

[28] GR No. 139528, May 9, 2002.

[29] *Id.*, p. 20, per Kapunan, J.

[30] *People v. Saul*, 372 SCRA 636, December 19, 2001.

[31] *People v. Camacho*, 411 Phil. 715, June 20, 2001.

[32] *People v. Flores*, 356 SCRA 332, April 4, 2001; *People v. Court of Appeals*, 352 SCRA 599, February 23, 2001; *Calim v. Court of Appeals*, 351 SCRA 559, February 13, 2001.

[33] *People v. Medios*, 371 SCRA 120, November 29, 2001.

[34] *People v. Figuracion*, 415 Phil. 12, August 10, 2001; *People v. Enriquez*, 357 SCRA 269, April 20, 2001; *People v. Galvez*, 355 SCRA 246, March 26, 2001.

[35] *People v. Reyes*, 368 SCRA 287, October 25, 2001.

[36] *People v. Mantes*, 368 SCRA 661, November 14, 2001.

- [37] *People v. Amba*, 365 SCRA 518, September 20, 2001.
- [38] *People v. Pajotal*, 368 SCRA 674, November 14, 2001.
- [39] *People v. Doctolero Sr.*, 415 Phil. 632, August 20, 2001.
- [40] 416 Phil. 276, August 28, 2001.
- [41] *Id.*, p. 287, per Quisumbing, J.
- [42] Appellee's Brief, p. 32; rollo, p. 160.
- [43] *People v. Uganap*, 358 SCRA 674, June 19, 2001.
- [44] *People v. Acojedo*, 369 SCRA 376, November 19, 2001.
- [45] *People v. Feliciano*, 365 SCRA 613, September 24, 2001.
- [46] *People v. Francisco*, 350 SCRA 55, January 22, 2001.
- [47] *People v. Villanueva*, GR No. 139177, August 11, 2003; *People v. Ibañez*, GR Nos. 133923-24, July 30, 2003.
- [48] *People v. Panabang*, GR Nos. 137514-15, January 16, 2002; *People v. Catubig*, 416 Phil. 102, August 23, 2001.
- [49] *People v. Panabang*, *supra*; *People v. Costales*, GR Nos. 141154-56, January 15, 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.