

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. ROLANDO CABINAN, APPELLANT.

G.R. NO. 176158. March 27, 2007

Ponente: YNARES-SANTIAGO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-176158/>

YNARES-SANTIAGO, J.:

Appellant Rolando Cabinan was charged with the crime of Murder in an Information[1] that reads:

That on or about the 13th day of December, 2000 in the municipality of Norzagaray, province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, armed with a pill box and with intent to kill one Eleuterio Lucas, did then and there willfully, unlawfully and feloniously, with evident premeditation and treachery, attack, assault, and throw pill box on the said Eleuterio Lucas, hitting the latter on the head thereby inflicting serious physical injuries which directly caused his death.

Contrary to law.

When arraigned on June 15, 2001, appellant pleaded not guilty[2] and trial on the merits ensued.

The facts:

On December 13, 2000, between 9:00 o'clock and 10:00 o'clock in the evening, victim Eleuterio Lucas was having a drinking spree at his residence in upper Bigte, Norzagaray, Bulacan with a group that included his brother, his bestfriend and Orlando Cabinan, brother of the accused-appellant. A commotion broke out after an altercation ensued between Eleuterio's bestfriend and Orlando Cabinan. Eleuterio tried to pacify them. Orlando then left the place and went to a nearby billiard hall where his brother, accused-appellant Rolando Cabinan, was playing billiards. Orlando told the accused-appellant about the fight and immediately, the two (2) brothers proceeded to the house of Eleuterio.

When the Cabinan brothers reached Eleuterio's house, Orlando had a fistfight with one of the guests of victim Eleuterio. Eleuterio again tried to diffuse the fight, but accused-appellant Rolando threw the bottle of gin he was holding, hitting Eleuterio on the head. The bottle exploded due to the impact. Accused-appellant ran away after the explosion. Victim Eleuterio, on the other hand, was rushed to the hospital, but because of the injuries he sustained, he still died at the East Avenue Medical Center in Quezon City.

Dr. Ivan Richard A. Viray, a medico-legal officer, conducted the autopsy on the cadaver of Eleuterio. Medico-legal Report No. MA-403-2000 embodying the results of his examination states that the cause of the victim's death is "intracranial hemorrhage as a result of a blast injury, head."

Only the accused-appellant testified for his defense. He alleged that on December 13, 2000, he was playing billiards at a billiard hall in Liwasan, Norzagaray, Bulacan when his brother Orlando, together with Roberto Policarpio, sought his help because of a mauling incident in Bigte. Immediately, they proceeded to the place of the incident and upon reaching the place, Roberto and Eleuterio engaged into a fistfight. Accused-appellant then saw a bottle of gin on the ground, picked up the bottle, and then threw it to the fighting duo. To his surprise, the bottle exploded. He then ran away from the scene of the fight.[3]

On June 26, 2004, the Regional Trial Court of Malolos, Bulacan, Branch 11, rendered judgment,[4] the dispositive portion of which reads:

WHEREFORE, this Court finds the accused, Rolando Cabinan, GUILTY beyond reasonable doubt of Murder under Art. 248 of the Revised Penal Code, as amended and hereby sentences him to suffer the penalty of Reclusion Perpetua and to pay the heirs of the deceased the following sums of money, to wit:

- P60,000.00 as civil indemnity;
- P50,000.00 as moral damages;
- P60,000.00 as actual damages.

SO ORDERED.[5]

On appeal, the Court of Appeals affirmed with modification the Decision of the trial court, thus:

WHEREFORE, premises considered, the assailed decision of the Regional Trial Court, Branch 11 of Malolos, Bulacan is hereby AFFIRMED with MODIFICATION in that in lieu of the awards made by the trial court in favor of the heirs of victim Eleuterio Lucas, accused-appellant is ordered to pay the heirs of the victim the following amounts:

- (a) P50,000.00 as civil indemnity;
- (b) P50,000.00 as moral damages;
- (c) P25,000.00 as temperate damages.

SO ORDERED.[6]

Hence, this appeal.

Appellant prays for the reversal of his conviction alleging that the prosecution failed to prove his guilt beyond reasonable doubt. He claims he had no intention of killing the victim when he threw the gin bottle at him; that he wanted to diffuse the fight between Roberto and Eleuterio hence he threw the bottle, unaware that it contained explosives; that the testimonies of prosecution witnesses were inconsistent in that Roberto Policarpio testified he was playing billiards with appellant before Eleuterio died, while the wife of the victim, Maribel Lucas, testified that Policarpio was with the group of her husband.

The appeal lacks merit.

The trial court's factual findings are conclusive and binding upon appellate courts unless some facts or circumstances of weight and substance have been overlooked, misapprehended or misinterpreted.[7] In the instant case, we find no reason to disturb the findings of the trial court.

The prosecution witnesses positively identified appellant as the killer of Eleuterio. There was no indication that they were impelled by ill motives in their narration of the incident and in identifying appellant. Where there is nothing to indicate that a witness was actuated by improper motives on the witness stand, his/her positive declarations made under solemn oath deserve full faith and credence.[8]

Although Policarpio testified that he was together with the appellant before the victim was killed, which testimony allegedly runs contrary to the declaration of Maribel that Policarpio and the victim were together before the incident, the same is only a minor inconsistency which does not detract from the fact that it was appellant who killed Eleuterio. Besides, witnesses cannot be expected to give a flawless testimony all the time. This is even more true if they are called to testify on details of a harrowing and frightening event which unfolded before their eyes.[9] Thus, even if witnesses may have erred in some aspects of their testimonies, the same do not necessarily

impair their testimonies nor corrode their credibility.[10]

Appellant's claim that he did not intend to kill Eleuterio deserves scant consideration. The weapon used and the direction to which it was aimed, coupled with the location of the wound which is at the back of the head, unmistakably show an intent to kill.[11] If appellant simply wanted to stop the two from fighting, he should have thrown the bottle elsewhere and not aimed it towards the head of the victim. We likewise find it incredible for appellant not to know that the bottle contained explosives. It is highly improbable that such explosive material was left lying around in the premises. We thus agree with the trial court's finding:

Accused himself admitted having thrown the explosive bottle albeit disclaiming knowledge of its contents and that it was specifically directed at the deceased, as according to him, it was merely his intention to pacify Policarpio and the deceased who were then exchanging fist blows. This Court finds this excuse of the accused flimsy because of the following considerations, to wit:

- Accused came to the scene of the incident at the instance of his brother who summoned him at the billiard hall with the information that the deceased and his group had mauled him. In other words, accused did not materialize at the scene by accident. Instead, he went there purposely to help his brother, hence, the bottle was already in his possession at the time not that he merely picked it up at random on the street;
- Had it been true that he was merely after the pacification of the two (2) protagonists, Policarpio and the deceased, he could have resorted to peaceful means by shouting at them or dousing them with water not threw a bottle with a deadly contents at them;
- A bottle filled with explosives would surely look different from an ordinary bottle. This Court, needless to state, finds the disclaimer of the accused, as aforestated, a mere afterthought on his part to save himself from the consequences of his criminal act.[12]

The Court of Appeals likewise found that:

[T]he accused-appellant used a "home-made bomb" to kill victim Eleuterio. His knowledge that the bottle was an explosive and his intent to kill the victim can be reasonably deduced from the means and manner by which the attack was made. As per the prosecution witnesses' testimonies, accused-appellant deliberately positioned himself at the back of the victim before throwing the bottle and hitting the victim on the head. Death can be presumed from the use of the improvised bomb, considering the intensive damage that normally results from such weapon. True enough, Eleuterio died due to the degree of injuries he sustained. It is thus clear that accused-appellant really intended to cause the death of the victim rather than to simply quell the fight between Orlando and Eleuterio.

Accused-appellant's claim that he did not know that the bottle of gin was actually an explosive fails to persuade. He admitted having been at the scene of the crime because his brother sought his help after a mauling incident in Liwasan, Norzagaray. Evidently, he went to the crime scene purposely to take vengeance for his brother. If he really wanted to stop a duel he witnessed when he arrived there, then he could have resorted to peaceful and reasonable means to achieve this purpose. The circumstances that, first, the bottle of gin thrown against the victim turned out to be an explosive, and second, the victim was hit exactly in the head are clear indicators of the malicious intent of the accused-appellant.[13]

We agree with the trial court that appellant is guilty of murder. Appellant's attack was treacherous; it was sudden and made from behind, catching the victim unaware and unable to defend himself, thus:

Treachery attended the killing of the deceased. The attack was not only from behind but was also sudden, unexpected, without warning and without giving the victim an opportunity to defend himself or repel the aggression, as in fact, the deceased did not sense any danger that he would be assaulted by the accused as there was no grudge or misunderstanding between them.[14]

Treachery under paragraph 16 of Article 14 of the Revised Penal Code is defined as the deliberate employment of means, methods, or forms in the execution of a crime against persons which tend directly and specially to insure its execution, without risk to the offender arising from the defense which the intended victim might raise. For treachery to be present, two conditions must concur: (a) the employment of means of execution which would ensure the safety of the offender from defensive and retaliatory acts of the victim, giving the victim no opportunity to defend himself; and (b) the means, method and manner of the execution were deliberately and consciously adopted by the offender.[15]

The heirs of the victim are entitled to the amount of P50,000.00 as civil indemnity, which is mandatory and is granted without need of any evidence or proof of damages other than the commission of the crime.[16] They are likewise entitled to the award of moral damages in view of the violent death of the victim and the resultant grief of his family.

The award of actual damages was without basis as the heirs of the victim failed to submit documentary evidence to substantiate their claim. In lieu thereof, temperate damages, in the amount of P25,000.00, must be awarded considering that it was established that Eleuterio's family incurred expenses for his hospitalization and burial.[17]

Finally, exemplary damages should also have been awarded to the heirs of the victim since the qualifying circumstance of treachery was established by the prosecution. If a crime is committed with an aggravating circumstance, either qualifying or generic, an award of P25,000.00 as exemplary damages is justified under Article 2230 of the New Civil Code.[18] This kind of damage is intended to serve as a deterrent to serious wrongdoings, and as a vindication of undue sufferings and wanton invasion of the rights of an injured or a punishment for those guilty of outrageous conduct.[19]

WHEREFORE, the Decision of the Court of Appeals dated September 21, 2006, affirming with modification the decision of the Regional Trial Court of Malolos, Bulacan, Branch 11, finding appellant Rolando Cabinan guilty beyond reasonable doubt of the crime of Murder and sentencing him to suffer the penalty of reclusion perpetua and to indemnify the heirs of the deceased, Eleuterio Lucas, the sum of Fifty Thousand Pesos (P50,000.00) as civil indemnity ex delicto, Fifty Thousand Pesos (P50,000.00) as moral damages, Twenty-Five Thousand Pesos (P25,000.00) as temperate damages, is **AFFIRMED** with **MODIFICATION** that appellant is further ordered to **PAY** Twenty Five Thousand Pesos (P25,000.00) as exemplary damages.

SO ORDERED.

Austria-Martinez, Callejo, Sr., Chico-Nazario, and Nachura, JJ., concur.

[1] Records, p. 1; Criminal Case No. 1339-M-2001.

[2] Id. at 10.

[3] CA rollo, p. 84.

[4] Records, pp. 156-158; penned by Judge Basilio R. Gabo, Jr.

[5] Id. at 158.

[6] CA rollo, p. 87.

[7] *Astorga v. People*, 459 Phil. 140, 152 (2003).

[8] *Marturillas v. People*, G.R. No. 163217, April 18, 2006, 487 SCRA 273, 302.

- [9] People v. Aguila, G.R. No. 171017, December 6, 2006, SC E-Library.
- [10] Ferrer v. People, G.R. No. 143487, February 22, 2006, 483 SCRA 31, 44.
- [11] People v. Balderas, 342 Phil. 435, 452 (1997).
- [12] Records, pp. 157-158.
- [13] CA rollo, p. 86.
- [14] Records, p. 158.
- [15] People v. Malabago, 333 Phil. 20, 34 (1996).
- [16] Nueva España v. People, G.R. No. 163351, June 21, 2005, 460 SCRA 547, 555-556.
- [17] People v. Abatayo, G.R. No. 139456, July 7, 2004, 433 SCRA 562, 581.
- [18] CIVIL CODE, Art. 2230: In criminal offenses, exemplary damages as a part of the civil liability may be imposed when the crime was committed with one or more aggravating circumstance. Such damages are separate and distinct from fines and shall be paid to the offended party.
- [19] People v. Aguila, supra note 9.

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.