

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. NGANO SUGAN, NGA BEN LATAM, FRANCING, GAGA LATAM, SALIGO KUYAN AND KAMISON AKOY, ACCUSED, GAGA LATAM, SALIGO KUYAN AND KAMISON AKOY, APP...**

*G.R. No. 192789. March 23, 2011*

Ponente: BRION, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-192789/>

---

**BRION, J.:**

We resolve in this Decision the appeal from the April 27, 2010 Decision[1] of the Court of Appeals (CA) in CA-G.R. CR-HC No. 00675-MIN. The CA affirmed the decision[2] of the Regional Trial Court (RTC), Branch 26, Surallah, South Cotabato, finding appellants Gaga Latam, Saligo Kuyan and Kamison Akoy guilty beyond reasonable doubt of robbery with homicide committed by a band,[3] and sentencing them to suffer the penalty of reclusion perpetua.

At around 6:45 p.m. of February 8, 1998, Gaga, Saligo, Ngano Sugan, Nga Ben Latam and one alias Francing, all armed with guns, entered Fortunato Delos Reyes' residence in Purok Roxas 1, Lamsugod, Surallah, South Cotabato, and declared a hold up. Kamison and Cosme Latam stayed outside and acted as lookouts.

Once inside, the armed men ordered Fortunato, his wife Thelma Delos Reyes, and their son Nestor Delos Reyes, to drop to the floor. The armed men inquired from them where the money and other valuables were hidden; thereafter, they took cash amounting to P10,000.00, personal belongings worth P5,000.00, and an air gun valued at P2,800.00. Ngano then brought Nestor outside the house, and shot him.[4]

Reggie Delos Reyes, another son of Fortunato and Thelma, ran to his parents' house when he heard the gunshot. When he arrived, Kamison and Cosme pointed a knife and a gun at him, respectively, and told him not to enter the house. Reggie then heard Nestor shout that he had been hit. Thereafter, all the seven (7) armed men left. Reggie rushed Nestor to the hospital, but the latter died due to multiple gunshot wounds.[5]

The prosecution charged the appellants and their companions with the special complex crime of robbery with homicide before the RTC.[6] Gaga, Saligo and Kamison all pleaded not guilty to the charge upon arraignment. Ngano, Nga Ben and alias Francing remain at large. Cosme died on July 23, 2000 while under detention.

The RTC, in its Decision of September 25, 2008, found the appellants guilty beyond reasonable doubt of robbery with homicide committed by a band, and sentenced them to suffer the penalty of reclusion perpetua. It also ordered them to pay the victim's heirs the amounts of P75,000.00 and P24,000.00 as civil indemnity and burial expenses, respectively; and P17,800.00 representing the value of the cash and other stolen items.

On appeal, the CA affirmed the RTC decision in toto. The CA held that Fortunato and Thelma positively identified the appellants as among the persons who robbed their house; Fortunato, in fact, saw Ngano shoot Nestor. Reggie corroborated their testimonies on material points.

The CA disregarded the appellants' defense of denial due to lack of corroboration. It, likewise, did not believe their alibi because they failed to prove that it was physically impossible for them to be at the crime scene.

We deny the appeal, but modify the designation of the offense and the amounts of the awarded indemnities.

There is robbery with homicide when a homicide is committed either by reason, or on occasion, of the robbery. To sustain a conviction for robbery with homicide, the prosecution must prove the following elements: (1) the taking of personal property belonging to another; (2) with intent to gain; (3) with the use of violence or intimidation against a person; and (4) on the occasion or by reason of the robbery, the crime of homicide, as used in its generic sense, was committed. A conviction requires certitude that the robbery is the main purpose and objective of the malefactor, and the killing is merely incidental to the robbery. The intent to rob must precede the taking of human life but the killing may occur before, during or after the robbery.[7]

In the present case, no doubt exists, based on the appellants' and their companions' actions that their overriding intention was to rob Fortunato's house. The following facts are established and undisputed: the armed men entered Fortunato's house and ordered its occupants to drop to the ground; they asked for the location of the money and other valuables; they took cash amounting to P10,000.00, personal belongings worth P5,000.00, and an air gun valued at P2,800.00.

While it was undisputed that only Ngano shot Nestor, the lower courts correctly found the appellants liable for robbery with homicide. Case law establishes that whenever homicide has been committed by reason of or on the occasion of the robbery, all those who took part as principals in the robbery will also be held guilty as principals of robbery with homicide although they did not take part in the homicide, unless it appears that they sought to prevent the killing.[8]

Conspiracy exists when two or more persons come to an agreement concerning the commission of a felony and decide to commit it. Conspiracy may be inferred from the acts of the accused - before, during and after the commission of the crime - which indubitably point to and are indicative of a joint purpose, concert of action and community of interest. For conspiracy to exist, it is not required that there be an agreement for an appreciable period prior to the occurrence of the offense; it is sufficient that at the time of its commission, the malefactors had the same purpose and were united in its execution.[9]

In the present case, the appellants and their companions clearly acted in conspiracy in committing the special complex crime charged. To recall, Gaga, Saligo, Ngano, Nga Ben and alias Francing entered Fortunato's house, while Kamison and Cosme acted as lookouts. While his companions were robbing the house, Ngano brought Nestor outside and shot him. Reggie rushed to the scene, but Kamison and Cosme prevented him from entering the house by pointing a knife and a gun at him, respectively. Thereafter, all the seven (7) armed men fled together.

The foregoing circumstances prove beyond reasonable doubt that the appellants acted in concert to attain a common purpose. The evidence does not show that any of the appellants sought to avert the killing of Nestor. In *People of the Philippines v. Nonoy Ebet*, [10] we ruled that once conspiracy is shown, the act of one is the act of all. The precise extent or modality of participation of each of them becomes secondary, since all the conspirators are principals.

As the lower courts did, we see no merit in the appellants' defenses of denial and alibi. Denial is a negative, self-serving evidence that cannot prevail over the positive and straightforward identification made by Fortunato, Thelma and Reggie. Alibi, too, is generally viewed with suspicion because of its inherent weakness and unreliability. In the present case, the defense failed to demonstrate by clear and convincing evidence that the appellants were so far away from the scene of the crime that it was physically impossible for them to have been at

the crime scene at the time of its commission.[11]

We, however, point out that the lower courts found the appellants guilty of robbery with homicide committed by a band. This is an erroneous denomination of the crime committed, as there is no crime of robbery with homicide committed by a band. If robbery with homicide is committed by a band, the indictable offense would still be denominated as robbery with homicide under Article 294(1) of the Revised Penal Code. The element of band would be appreciated as an ordinary aggravating circumstance.[12]

Under Article 294(1) of the Revised Penal Code, the crime of robbery with homicide carries the penalty of reclusion perpetua to death. Considering the presence of the aggravating circumstance of commission by a band, the proper imposable penalty would have been death, conformably with Article 63, paragraph 1 of the Penal Code. In view, however, of the enactment on June 24, 2006 of Republic Act No. 9346 which prohibits the imposition of the death penalty in the Philippines, the lower courts correctly imposed on the appellants the penalty of reclusion perpetua.

We award P75,000.00 as moral damages to the victim's heirs to conform with recent jurisprudence.[13] We further award P25,000.00 as temperate damages, in lieu of the proven burial expenses of a lesser amount.[14]

The existence of one aggravating circumstance also merits the grant of exemplary damages under Article 2230 of the New Civil Code. Pursuant to prevailing jurisprudence, we award P30,000.00 as exemplary damages to the victim's heirs.[15]

WHEREFORE, in light of all the foregoing, we AFFIRM the April 27, 2010 Decision of the Court of Appeals in CA-G.R. CR-HC No. 00675-MIN, with the following MODIFICATIONS:

- (1) the appellants are found guilty beyond reasonable doubt of the crime of ROBBERY WITH HOMICIDE;
- (2) the appellants are ORDERED to PAY, jointly and severally, the heirs of Nestor P75,000.00 and P30,000.00 as moral damages and exemplary damages, respectively; and
- (3) the appellants are ORDERED to PAY, jointly and severally, the heirs of Nestor P25,000.00 as temperate damages, in lieu of actual damages of a lesser amount.

**SO ORDERED.**

Carpio Morales, (Chairperson), Bersamin, Villarama, Jr., and Sereno, JJ., concur.

---

[1] Penned by Associate Justice Rodrigo F. Lim, Jr., and concurred in by Associate Justice Leoncia R. Dimagiba and Associate Justice Angelita A. Gacutan; rollo, pp. 3-18.

[2] Penned by Judge Roberto L. Ayco; CA rollo, pp. 31-47.

[3] Revised Penal Code, Article 294, par. 1:

ART. 294. Robbery with violence against or intimidation of persons - Penalties. - Any person guilty of robbery with the use of violence against or intimidation of any person shall suffer:

1. The penalty of reclusion perpetua to death, when by reason or on occasion of the robbery, the crime of homicide shall have been committed, or when the robbery shall have been accompanied by rape or intentional mutilation or arson.

[4] TSN, October 9, 2001, pp. 3-7; and TSN, October 30, 2001, pp. 6-11.

[5] TSN, September 30, 2003, pp. 10-16.

[6] Records, p. 1.

[7] See *People v. Dela Cruz*, G.R. No. 168173, 575 SCRA 412, 436.

[8] See *People v. Escote, Jr.*, G.R. No. 140756, April 4, 2003, 400 SCRA 603, 631.

[9] *People v. Musa*, G.R. No. 170472, July 3, 2009, 591 SCRA 619, 642.

[10] G.R. No. 181635, November 15, 2010.

[11] *Supra* note 9; see also *People v. Legaspi*, G.R. No. 117802, April 27, 2000, 331 SCRA 95, 113.

[12] See *People v. Reyes*, G.R. No. 120642, July 2, 1999, 309 SCRA 622, 637.

[13] *People v. Baron*, G.R. No. 185209, June 28, 2010; see also *People v. Villanueva, Jr.*, G.R. No. 187152, July 22, 2009, 593 SCRA 523, 548.

[14] See *People v. De Leon*, G.R. No. 179943, June 26, 2009, 591 SCRA 178, 203.

[15] *People v. Baron*, *supra* note 13.

**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.