

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. FLORENCIO ESTILLORE Y RABINA, ACCUSED-APPELLANT.

G.R. No. 68459. March 04, 1986

Ponente: MELENCIO-HERRERA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-68459/>

MELENCIO-HERRERA, J.:

Accused-appellant, Florencio Estillore y Rabina, seeks a reversal of the judgment of the Regional Trial Court, Branch IV, Bohol (in Criminal Case No. 3480), convicting him of Murder, qualified by evident premeditation, and sentencing him to reclusion perpetua.

The version of the prosecution is built principally on the testimonies of Heracleo Daradar and Sgt. Ireneo Ulgaran, which have been summarized as follows:

"At about past 5:00 o'clock in the afternoon of June 6, 1983, Heracleo Daradar was seated inside the Alud-Vera Store belonging to Aludio Daradar (Heracleo's father) located at the corner of Torralba and Jacinto Streets, Tagbilaran City, reading Bulletin Today. While he was reading the newspaper, a man later identified as the late Restituto Adlao Gabato entered the store, got the newspaper from the small table nearby and read the same. He was standing with his feet spread about one foot apart, just a meter from and opposite Heracleo Daradar. About three (3) minutes later, appellant Florencio Estillore came in and approached the victim Gabato from behind. Looking intently at the face of the victim, appellant immediately stabbed him at the right side of his stomach with a fan knife locally known as 'Batangas knife' (Exhibit 'A'). Although seriously wounded, the victim picked up the small table and shielded him-self with the same. Appellant took the weighing scale hanging inside the Daradar store (Exhibit 'B') and then hurled the same at the victim but missed. The weighing scale crashed itself against the small table instead. Afterward, appellant hurriedly left the store and ran towards the direction of the MB Liner Terminal (tsn, pp. 8-12, October 3, 1983). A lady bystander shouted for assistance. The shouting caught the attention of Sgt. Ireneo Ulgaran of Tagbilaran City Integrated National Police (INP), who was then on tour of duty as Assistant Traffic Officer, Sgt. Ulgaran was then more or less about 70 meters from the crime scene. While within a distance of about 20-25 meters, Sgt. Ulgaran saw appellant holding a knife running along Torralba Street towards the direction of Parras (sic) Street. Sgt. Ulgaran gave chase and commanded him to stop and surrender. Appellant stopped and threw his bloodied knife. Upon demand, appellant surrendered to Sgt. Ulgaran. After hand-cuffing him, Sgt. Ulgaran brought appellant along to the police station. Sgt. Ulgaran turned over appellant together with the Batangas knife used in stabbing the victim to Police Corporal Villa (tsn, pp. 2-7, October 3, 1983).

Restituto Adlao Gabato died of hypovolemic shock, irreversible infra abdominal bleeding due to stab wound, right hypochondriac region (Exhibit 'D', p. 2, Folder of Exhibits; tsn., pp. 14-16, October 4, 1983)."[1]

For his part, appellant interposed self-defense.[2] He testified that a few days prior to the stabbing incident, the victim had asked him for P20.00; that because of his refusal, the victim tried to box him, which he evaded by scampering away to the bus of which he is a bus conductor; that in the evening prior to the day of the stabbing, the

victim boarded his bus and told him "you are up to the cemetery only"[3]; that the following day, or the day of the stabbing incident, he entered the Alud-Vera store to buy rice; the victim, who happened to be there blocked his way so that appellant was prompted to ask "is that what you repay me for my being good to you?"[4]; that the deceased, instead of answering him, lifted a small table near-by and tried to smash the same against him; that they wrestled with each other and due to the victim's strength, appellant decided to draw his knife and stab the victim.

Appellant presented no other testimony to corroborate his claim of self-defense.

According credence to the prosecution's version and rejecting that of the defense, the Court a quo promulgated judgment with the following decretal portion:

"WHEREFORE, finding the accused guilty beyond doubt of the crime of murder with the mitigating circumstance of voluntary surrender but offset by the generic aggravating circumstance of treachery, the Court hereby sentences him to reclusion perpetua and to pay the costs. He is also ordered to pay the heirs of Restituto Adlao (sic) indemnity of P12,000.00 and actual damages in the amount of P6,760.00."

Appellant now challenges the findings of the Trial Court that the crime was qualified by evident premeditation and was attended by the generic aggravating circumstance of treachery but rejecting the mitigating circumstance of plea of guilty.

1. Upon the facts and circumstances, we agree that evident premeditation was not established. To properly appreciate such circumstance, it is necessary to prove: (1) the time when the offender determined to commit the crime; (2) an act manifestly indicating that the culprit had clung to his determination; and (3) a sufficient interval of time between the determination and the execution of the crime to allow him to reflect upon the consequences of his acts.[5]

None of these requisites are present herein. The evidence on record fails to disclose any specific time when appellant definitely resolved to stab the deceased. Correlatively, neither was there any act manifestly indicating that appellant had clung to any previous resolution of assaulting the deceased.

That appellant was forearmed with a knife on that fateful day was satisfactorily explained by him when he said that, as a bus conductor, he used to carry it with him for his own defense.

2. Contrary to the posture of the defense, however, treachery was successfully proven. The concurrence of the two conditions necessary for treachery to exist are present in this case, namely: (1) the employment of means, method or manner of execution which would ensure the offender's safety from any defense or retaliatory act on the part of the offended party; and (2) such means, method or manner of execution was deliberately or consciously chosen by the offender.[6] Appellant came from behind the victim, who was reading a newspaper, looked closely at the victim's face and then suddenly stabbed the victim once at the stomach thus giving the victim no time to prepare for his defense. The victim's act of trying to shield himself with a small table came already after the stabbing. It was impossible for the victim to flee or make defense before appellant delivered the fatal blow.

As treachery, however, was not alleged in the Information but just proven at the trial, the same can only be considered as a generic aggravating circumstance to be appreciated in imposing the penalty.[7]

3. Finally, appellant assails the Trial Court for not appreciating the plea of guilty to the lesser offense of Homicide as a mitigating circumstance. Nowhere in the records, however, is there a showing of a plea of guilty whether prior to or after the presentation of evidence by the prosecution or at any stage of the proceedings. No error was committed by the Trial Court, therefore, in not appreciating any mitigating circumstance other than voluntary surrender.

With the qualifying circumstance of evident premeditation discarded, the crime committed is Homicide. The generic aggravating circumstance of treachery being offset by the mitigating circumstance of voluntary surrender, the penalty is imposable in its medium period.

WHEREFORE, the judgment appealed from is hereby modi-fied in that the Court finds the accused-appellant, Florencio Estillo y Rabina, guilty beyond reasonable doubt of the crime of Homicide and hereby sentences him to an indetermi-nate penalty of eight (8) years and one (1) day of prision mayor, as minimum, to fourteen (14) years, eight (8) months and one (1) day of reclusion temporal, as maximum. The civil indemnity awarded to the heirs of the victim, Restituto Adlao Gabato, is raised from P12,000.00 to P30,000.00. With costs against accused-appellant.

SO ORDERED.

Teehankee, (Chairman), Plana, Gutierrez, Jr., De la Fuente, and Patajo, JJ., concur.

[1] Appellee's Brief, pp. 3-5.

[2] T.s.n., March 27, 1984, p. 8.

[3] *ibid.*, pp. 3-4.

[4] *ibid.*, pp. 4-5.

[5] *People vs. Gravino*, 122 SCRA 123 (1983); *People vs. Guiapar*, 129 SCRA 539 (1984); *People vs. Lorenzo*, 132 SCRA 17 (1984), and other cases.

[6] *People vs. Ramo*, 132 SCRA 174 (1984).

[7] *People vs. Butler*, 120 SCRA 281 (1983), citing *People vs. Martinez Godinez*, 106 Phil. 597, 606 (1959).

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.