

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
PANTALEON BERBAL (DECEASED), ANACLETO BERBAL AND
RESTITUTO JUANITE, ACCUSED-APPELLANTS.**

G.R. No. 71527. August 10, 1989

Ponente: MELENCIO-HERRERA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-71527/>

MELENCIO-HERRERA, J.:

Originally, this case was elevated to this Court for automatic review by reason of the death penalty imposed on accused-appellants, Anacleto Berbal and Restituto Juanite, for the crime of Murder, by the Regional Trial Court at Dapa, Surigao del Norte, Branch XXXI, in its Criminal Case No. 538.

Considering that, pursuant to Section 19(1), Article III of the 1987 Constitution, the death sentence has been automatically commuted to reclusion perpetua, the Court required accused-appellants to file a written manifestation stating whether or not they wished to continue with the case as an appealed case.

It appears that accused, Pantaleon Berbal, died on 25 March 1983 and that the Trial Court had dismissed the case as against him. As to accused Restituto Juanite, who had absconded after having entered a plea of Not Guilty, the Trial Court deferred the promulgation of his sentence until after his arrest.

On 2 July 1987, accused-appellant, Anacleto Berbal, manifested that he wished to continue with this case as an appealed case. Briefs were respectively filed by the parties, and this case was calendared for deliberation on 20 July 1989 before the Court en banc, which resolved to refer it to this Division.

The facts for the prosecution follow:

On 28 December 1982, Cristina Basul, a 58-year old woman, was stabbed to death at her home at Barangay San Roque, Socorro, Surigao del Norte. She sustained 25 stab wounds. Living with her at the time were her granddaughter, Dolores, nine years of age, and her two grandsons, Arnel, a Grade I student, younger than Dolores (t.s.n., September 22, 1983, p. 24), and Dondon, who was even younger than Arnel (ibid., p. 25). Only Dolores witnessed the stabbing incident. She recounted:

"Q - What were you doing that time of 8:00 o'clock in the evening on December 28, 1982 together with your companions?

A - We were already asleep and what I notice (sic) was the noise.

Q - What was the noise about?

A - I heard the moaning of mother (sic) and the kicking of her feet on the mat.

Q - What did you do upon noticing the said moaning of your grandmother?

A - I just pretended to sleep and I heard Anacleto Berbal said 'Kadlit na to'.

Q - Who said 'kadlit na to?'

A - That Anacleto Berbal.

Q - What is 'kadlit na to?'

A - You light the match.

Q - Then immediately after you heard that voice, what happened?

A - Then I opened my eyes and what I saw was Anacleto Berbal and Restituto Juanite.

Q - Can you explain why you saw these two persons?

A - I saw Anacleto Berbal kept (sic) on stabbing or 'nagluba-luba' in the local dialect to (sic) Nanay Cristina.

A - How about Restituto Juanite, what did he do while Anacleto Berbal was stabbing Nanay Cristina?

A - He was holding a match that he had lighted.

x x x x x

Q - How far was Restituto Juanite from Anacleto Berbal when he was holding that lighted match?

A - They were only standing abreast.

Q - How about your Nanay Cristina, where was she in relation to Anacleto Berbal when Anacleto Berbal was stabbing her?

A - Very near only.

Q - What was the position of this Nanay Cristina?

A - She was lying on one side.

Q - This Anacleto Berbal, do you know him personally.

A - Yes, sir.

Q - How long have you known him?

A - It is quite a very long time already, sir.

Q - If he is in the court room, can you identify him?

x x x x x

Q - And, have you seen this Anacleto Berbal many times before December 28, 1982?

A - Yes, sir. I often saw him.

Q - Where?

A - There in barangay San Roque, Socorro, Surigao del Norte.

Q - How about Restituto Juanite, do you know him?

A - Yes, sir, I know him also.

x x x x x

Q - How long have you known him?

A - While I was yet a child I knew him already.

Q - Do you know where was Restituto Juanite residing that time?

A - Yes, sir, there at Barangay San Roque, Socorro, Surigao del Norte." (t.s.n., September 22, 1983 pp. 9-15)

Upon further inquiry as regards the persons she saw in her grandmother's room that night, she declared:

"Q - Only Anacleto Berbal and Restituto Juanite were there when you saw the killing of your Nanay Cristina, is this correct?

A - Yes, your Honor.

Q - There were no other persons that you saw at the time when your Nanay Cristina was stabbed?

A - None, your Honor.

Q - But it was Anacleto Berbal who did the stabbing, is this correct?

A - Yes, your Honor.

Q - And Restituto's participation was only the lighting of these matches, is this correct?

A - Yes, your Honor." (ibid., p. 22)

As to whether or not she saw the weapon used in stabbing her grandmother, she stated:

"Q - Have you seen the weapon used in the stabbing of your Nanay Cristina?

A - Yes, your Honor, it was a sharp pointed bolo.

Q - Will you demonstrate, how long was that bolo that you saw?

A - I could not demonstrate, your Honor, because their light was put off later on." (ibid.)

On cross-examination, Dolores Basul was asked as to why and how she was able to recognize her grandmother's attacker and she declared as follows:

Q - Now that evening during the stabbing of your Nanay Cristina, where was your Nanay Cristina sleeping?

A - At the bedroom already, your Honor.

Q - That house of your Nanay Cristina, how many rooms were there?

A - Only two (2).

Q - Now, in the room where your Nanay Cristina was sleeping who was sleeping with your Nanay Cristina during the stabbing?

A - She was alone (sic) herself.

Q - How about you where (sic) you slept in that place, when you said that you slept near the bench?

A - Yes, your Honor.

Q - This place where you slept near the bench was this in the sala or in another bedroom?

A - At the sala of the house where we used to sleep.

Q - This room where your Nanay Cristina was sleeping had a door also?

A - Yes, your Honor.

Q - Was there a shutter to this door of the room of your Nanay Cristina?

A - None, sir, not even a curtain.

Q - You mean to tell the court that there was no shutter, is this correct?

A - Yes, your Honor.

x x x x x x

Q - Now this place where you slept near the bench of your sala, how far to the door where your Nanay Cristina slept?

A - From where I was sleeping to the door of the room was 4 meters.

Q - This door of your Nanay Cristina's bedroom, how wide is this?

A - Witness demonstrated right in the witness stand about 3 feet wide.

Q - Now this door was opened and your Nanay Cristina was visible from the place where you were sleeping?

A - Yes, your Honor." (t.s.n., September 22, 1983 pp. 46-48)

x x x x x x

Q - Now according to you, you saw Anacleto Berbal stabbed your Nanay Cristina because you pretended to be sleeping. Do you remember having said that?

A - Yes, sir.

Q - And when Anacleto Berbal did this high act, there was no more light inside the room of your Nanay Cristina?

A - Yes, sir.

Q - All right, now, how did you happen to recognize Anacleto Berbal who stabbed your Nanay Cristina when you were 4-meters away from the room where she was sleeping?

A - Because Restituto Juanite lighted the match and I opened my eyes and I saw Restituto Juanite and Anacleto Berbal, the two of them.

Q - Where was Restituto Juanite when he lighted this match?

A - There at the side of Anacleto Berbal." (t.s.n., September 22, 1983, pp. 60-61)

x x x x x x

Q - And where was your Nanay Cristina sleeping inside the room on the bed or just on the floor?

A - On the floor.

Q - So there was no bed therefore?

A - None, sir.

Q - And, according to you the door of the room was just opposite where you were sleeping?

A - Yes, sir.

Q - And the width of the door as you demonstrated is wide as this?

A - Yes, sir.

Q - Now considering that the width of the door of the room is as long as that would it be alright if I will tell you that this is supposed to be the floor of your Nanay Cristina because of the same width?

A - Yes, sir.

Q - Now since they are exactly opposite each other, could you tell us where does this Nanay Cristina use to sleep. In your side, in this side or in the center of the door?

A - At the center.

Q - You mean just right where the stenographer is sitting?

A - Yes, sir.

Q - All right now according to you these Anacleto Berbal and Restituto Juanite went directly to the room of your Nanay Cristina and there was no light in the sala. Will you tell the Court, how you were able to identify that the person who entered and went to the room of your Nanay Cristina were Anacleto Berbal and Restituto Juanite when there was no light?

A - When they entered the house Anacleto Berbal said 'kadlit na to' or you light the match 'to' which is referring to Restituto Juanite.

Q - Were you already awakened during that time?

A - Yes, sir.

Q - Now what was your feeling or what was your reaction when you noticed that the intruders got inside the house?

A - I kept pretending myself asleep.

COURT:

Q - Why did you pretend to sleep?

A - Because I just observe of (sic) what they will be doing.

Q - But you were not frightened, is this correct?

A - I was afraid.

Q - Then, because you were frightened, how did you feel?

A - I could not move and I could not even shout because of fear.

Q - But your eyes were closed, is this correct?

A - Yes, I kept pretending to be asleep.

Q - You did not open your eyes, is this correct?

A - When Anacleto Berbal said 'kadlit na to' or you light the match, what I saw were Anacleto Berbal and Restituto Juanite." (t.s.n., September 22, 1983, pp. 85-89)

To corroborate Dolores' testimony, the prosecution presented Buenaventura Tandayag, who declared that in the

evening of 28 December 1982, at his house in the quay at San Roque, accused-appellants, Anacleto Berbal and Restituto Juanite, inquired from him whether he was going to Sitio Sabang, which was a neighboring town about one kilometer away. He replied in the affirmative as he needed to buy petroleum for his lamp. Thereafter, at around 11:00 o'clock that same evening, the three of them left San Roque for Sabang, riding in his (the witness') "baroto." When asked whether they had any conversation en route, he replied:

"Q - What did he say?

A - He said: "that mother or Auntie Cristina would die as I "lupaluba", I stabbed her."

x x x x x

Q - After Anacleto Berbal commented, what did you do?

A - I just did not make a reply that time as I was afraid" (t.s.n., January 11, 1984, pp. 9-10).

And as to whether Anacleto Berbal was bringing something, Buenaventura said:

"Q - Do you remember if Anacleto Berbal was bringing something in his possession in going to Sabang?

A - Yes, sir.

Q - What did he bring?

A - What he brought with him was his jacket and that sundangay, about one foot and a half, about 14 inches long"

Q - Where did he place that bolo?

A - He just held it.

Q - Without his scabbard?

A - There was a scabbard.

Q - You mean the bolo was placed in the scabbard?

A - Yes, sir" (ibid., p. 10).

For his part, Anacleto Berbal denied that he was the assailant contending that he and Rodrigo Maturan left San Roque at around 3:30 P.M. on 28 December 1982 for Barrio Sabang arriving thereat at around 5:00 P.M. Then they pulled out to sea to go fishing and returned only in the morning of the following day (t.s.n., March 28, 1984, pp. 11-12). Maturan corroborated this testimony (t.s.n., November 27, 1984, pp. 3-4, & 6).

The Trial Court rejected the defense of denial and alibi and meted out a judgment of conviction, thus:

"WHEREFORE, viewed in the light of the foregoing, the Court finds Anacleto Berbal and Restituto Juanite guilty beyond reasonable doubt of the crime of MURDER as defined and penalized under Art. 248 of the Revised Penal Code. With three (3) generic aggravating circumstances of 'nighttime', 'dwelling' and 'disregard of age and sex' without any mitigating circumstance, Anacleto Berbal and Restituto Berbal are hereby sentenced each to suffer the penalty of DEATH for the murder of Cristina B. Basul. The said accused are further ordered, jointly and severally to indemnify the heirs of the victim the amount of twelve thousand (P12,000.00) Pesos; and another (P6,000.00) Pesos for actual and incidental expenses incurred due to the death of the victim; plus Five Thousand (P5,000.00) Pesos as moral and exemplary damages without subsidiary imprisonment in case of insolvency. Finally, said accused shall suffer the accessory penalties imposed by law and to pay the costs.

"For reasons that Restituto Juanite is still at large, the promulgation of his sentence is deferred until he is arrested. Concomitantly, let arrest orders be issued against Restituto Juanite; the warrants of arrest be coursed through the Provincial Commander of Surigao del Norte and the National Bureau of Investigation (NBI), Region X, Cagayan de Oro City and Metro Manila.

"The bonds posted for the temporary liberty of Anacleto Berbal is hereby ordered CANCELLED and the pertinent papers, if any, shall be returned to the bondsmen.

"Let the records of this case be forwarded to the Supreme Court of the Philippines, Metro Manila, for automatic review of the case." (Decision, pp. 30-31, Rollo, pp. 45-46)

Assailing the aforesaid judgment, Anacleto Berbal maintains that the lower Court erred in:

"(1) not ruling that the guilt of defendant-appellant has not been proven beyond reasonable doubt; (2) ruling that the crime was aggravated by nocturnity; and (3) ruling that the crime was aggravated by disregard of the respect due the victim because of her age and sex." (Appellants' Brief, p. 1, Rollo, p. 113)

The first assigned error zeroes in on the alleged inherent incredibility and hopelessly contradictory testimony of the nine-year old granddaughter of the victim, Dolores.

On this score, the Trial Court had this to say:

"Being a minor when she took the witness stand, her competency was duly shown; coupled by the spontaneous and straight-forward manner she recounted the details of the incident but with neglige inconsistencies, the court found her testimony credible - pointing to Anacleto Berbal and Restituto Juanite as killers of the victim. In spite the rigid and lengthy cross-examination, she stood firm on her version unconfused. x x x

x x x x x x

"The narration of facts by Dolores Basul with detailed clarity pinpointing to Anacleto Berbal as the person who inflicted the stab injuries in conspiracy with Restituto Juanite remained untoppled upon being cross-examined lengthily. Her demeanor while recounting details of the incident generated discernible message of truth worthy of credence. x x x " (Decision, pp. 19-20; Rollo, pp. 36-37)

We have gone over the transcript of Dolores' testimony meticulously and agree with the assessment made by the Trial Court.

Appellant claims that if it be true that Dolores really saw her grandmother murdered, it is incredible that she would have done nothing; that she would have just gone back to sleep and waited till the next morning before going to the house of her aunt, which was 100 to 200 meters away to inform her of the tragedy instead of going immediately to the house of their nearest neighbor, which is only 25 to 30 meters away (t.s.n., September 22, 1983, pp. 26; 80).

We find nothing incredible in Dolores' foregoing actuations. On the contrary, for a child of her age, she showed good judgment. It should be recalled that, aside from her grandmother, her only companions in the house were her first cousins, two boys who were younger than she, and who were both fast asleep. To have gone out of the house immediately by herself in the darkness of night would have been risky on her part besides the fact that she was "afraid". She judiciously waited till early dawn, although it was really still dark that she had to light the lamp in their sala, woke her cousins up, and together they proceeded to their aunt's house. Although a neighbor did live nearer their place, there was no assurance that the same assistance and concern as that of a blood relative would be extended to them. That she took no positive action immediately after the incident but went back to sleep is neither strange for, as testified to by her, she could neither move nor shout because of fear (t.s.n., September 22, 1983, p. 88). She had sensed that with all the stabbings her grandmother had received, she was already dead.

"Q - You did not bother to find out in the room of your Nanay Cristina what happened to her but you just went back to sleep?

A - I just went back to sleep as I could not move and I could not shout because of fear" (t.s.n., Sept. 22, 1983, p. 121)

Appellant Berbal further claims that Dolores involved herself in serious contradictions when she declared three times that she was awakened by the kicking of the door by Anacleto (t.s.n., September 22, 1983, pp. 55, 64 & 79); while twice, she also stated that it was the moaning of Cristina that awakened her (ibid., pp. 9 & 10). Hence, it is argued, if it was her grandmother's moaning that awakened her, Dolores could not have seen the stabbing because the latter preceded the former in point of time.

The contradiction is more apparent than real. Dolores woke up when the door was kicked open by Anacleto Berbal but did not bother to stand up because she had already seen a person.

"Q - You did not bother to stand up and find out what was his purpose in kicking your door?

A - I did not stand up because I saw already a person" (t.s.n., Sept. 22, 1983, p. 56).

When that happened, she pretended to be asleep.

"Q - And, you were awakened when that door was opened because you were just near the door?

A - Yes (witness demonstrated by closing her eyes pretending that she was slept (sic)." (ibid. p.55)

In other words, when Anacleto Berbal kicked the door open, she was already awakened but pretended to be asleep. She then saw Anacleto Berbal enter her grandmother's room and heard him instruct Restituto Juanite to light a match after which she saw Anacleto stab her grandmother and heard her moan and kick her feet on the mat. Dolores was, therefore, awakened when the door was kicked open and remained awake since then and throughout the stabbing although she pretended to be asleep.

"Q - In other words, when your Nanay Cristina was moaning you were already awakened earlier because of the kicking of the door by Anacleto Berbal?

A - Yes, your Honor, as I pretended to be asleep." (t.s.n., September 22, 1983, pp. 66-67)

The crucial point is that Dolores witnessed the stabbing. She had a direct view as she was lying down opposite the door of her grandmother's bedroom - (t.s.n., September 22, 1983, p. 85), which was open and had neither shutter nor curtain (ibid., p. 47). The truthfulness of her testimony can also be gauged by the fact that she accurately stated that her grandmother was lying on her side, crosswise on her mat on the floor, when she was stabbed several times by Anacleto. This was confirmed by the testimony of the public health nurse who conducted an examination on the body of the deceased and found multiple stab wounds at her back (t.s.n., March 8, 1984, pp. 7-9), by the photographs depicting the stab wounds on her back (Exhibits "C", "C-3", "C-4" and "C-5"), and by the death certificate (Exhibit "B") of Cristina Basul stating that she died of shock secondary to severe internal hemorrhage due to multiple stab (25) wounds.

The veracity of her testimony is further shown by her statement that the door of their house was unlocked, which was confirmed in the Affidavit of accused-appellant Restituto Juanite executed on 22 January 1983 (p. 10, Original Record). That she was not prone to exaggerate either, is shown by her declaration that she could not demonstrate the length of the bolo used by Anacleto as "they (Anacleto and Restituto) had put off the light." (t.s.n., September 22, 1983, p. 22)

Her identification of accused-appellants is likewise very credible. Anacleto Berbal and Restituto Juanite were no

strangers to her (t.s.n., September 22, 1983, p. 14). Anacleto, being a relative of her grandmother (t.s.n., March 28, 1985, p. 14) used to visit the latter at her house (t.s.n., September 22, 1983, p. 115). In fact, when questioned if Anacleto was her friend, she replied in the affirmative (ibid., p. 118). That the lighted match, therefore, illumined only a small area will not affect her recognition of Anacleto and Restituto since she knew them well.

There being nothing in her testimony nor from the records to indicate that Dolores was actuated by improper motives, her declarations are entitled to full faith and credit (People vs. Boholst, L-73008, July 23, 1987, 152 SCRA 263). Neither can we believe, as claimed by the defense, that Dolores was just a coached witness. It would have been difficult for a child of such tender years to have been merely taught to give all the details that she had narrated and to have withstood a long and grueling cross examination if she had not, in fact, witnessed the brutal incident.

Appellant's defense of alibi cannot prevail over the positive identification made of him by prosecution witness, Dolores Basul, aside from the fact that he failed to prove that it was physically impossible for him to have returned from his fishing trip and to have been at the situs of the crime at the time it was committed.

Moreover, disproving Anacleto's claim that he was out fishing, and could not have been at San Roque, the scene of the crime, was the testimony of prosecution witness, Buenaventura Tandayag, who declared that at around 11:00 o'clock P.M. on 28 December 1982, Anacleto Berbal and Restituto Juanite rode on his banca from San Roque to go to Sitio Sabang where he intended to buy petroleum. In other words, they were at San Roque where the crime took place that evening. Notwithstanding that Pantaleon Berbal was Tandayag's brother-in-law and Restituto Juanite's father was Tandayag's "compadre", Tandayag still testified the way he did.

We come now to the modifying circumstances accompanying the commission of the crime. The aggravating circumstance of nighttime was correctly appreciated by the Trial Court, contrary to the second assignment of error. It is self-evident that it was sought by appellant to facilitate the commission of the offense, when all the members of the household were asleep. The fact that Restituto Juanite lit a matchstick does not negate the presence of said aggravating circumstance. Thus, in People vs. Rogelio Soriano, et al. (L-32244, June 24, 1983, 122 SCRA 740), this Court rejected the contention that nocturnity could not be appreciated because flashlights were used.

We agree with the defense, however, when it claims in its third assigned error, that the aggravating circumstance of disregard of the respect due the victim on account of her age, 58 years old at the time of the commission of the crime, is not present. The prosecution failed to show that the accused had deliberately intended to offend or insult her age (People vs. Diaz, L-24002, January 21, 1974, 55 SCRA 178).

Nor can we appreciate the aggravating circumstance of disregard of the respect due the victim on account of her sex. It has not been shown that Appellant had particularly intended to cast insult or commit disrespect to the sex of the victim (People vs. Brana, L-29210, October 31, 1969, 30 SCRA 307). In one case where lesiones were inflicted by the defendant on his prospective mother-in-law, abuse of superiority was considered aggravating but not disregard of sex (United States vs. Juan Escobar, 1 Phil. 200, cited in the Revised Penal Code, Book I, Aquino, p. 290).

Abuse of superior strength which was alleged in the Information, must, indeed, be appreciated in the case at bar. Appellant and Restituto Juanite purposely used excessive force out of proportion to the means of defense available to the person attacked. The 58-year old victim herein was attacked while she was asleep. Although only one of them was armed, the presence of the other served to ensure the accomplishment of their felonious act. An attack made by a man with a deadly weapon upon an unarmed and defenseless woman constitutes the circumstance of abuse of that superiority which his sex and the weapon used in the act afforded him, and by

means of which the woman was overcome and rendered unable to defend herself, and perhaps not even able to escape from the savage attack of her aggressor (U.S. vs. Consuelo, 13 Phil. 612 (1909); People vs. Quesada, 62 Phil. 446 (1935)).

With the qualifying circumstance of abuse of superior strength, and the aggravating circumstances of nocturnity and dwelling, without any mitigating circumstances, the supreme penalty is, indeed, imposable. However, considering the provisions of Article III, Section 19, paragraph (1) of the 1987 Constitution, and the majority ruling in People vs. Millora, L-38968-70, February 9, 1989,[1] the penalty should be reduced to reclusion perpetua.

The indemnity to be paid to the heirs of the victim should be increased to P30,000.00 consistent with prevailing jurisprudence.

WHEREFORE, the judgment of conviction of the accused Anacleto Berbal and Restituto Juanite, is hereby AFFIRMED, with the modifications that the penalty is reduced to reclusion perpetua and the civil indemnity increased to P30,000.00. Proportionate costs against the accused, Anacleto Berbal and Restituto Juanite.

SO ORDERED.

Paras, Padilla, Sarmiento, and Regalado, JJ., concur.

[1] Subject to the dissents in that case.

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.