

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
LAURO CARIÑO Y GUILLERMO, VIRGILIO DIAZ AND JOHN DOE
ALIAS “BALINGIT” (AT LARGE), ACCUSED-APPELLANTS.**

G.R. No. 73876. September 26, 1988

Ponente: PARAS, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-73876/>

PARAS, J.:

Accused-appellants Lauro Cariño, Virgilio Diaz and a certain Balingit who remains at large were charged with the crime of Robbery with Homicide and Frustrated Homicide in an information reading as follows:

"That on or about the 29th day of September, 1980, in Quezon City, Philippines, the above-named accused, conspiring together, without any justifiable cause and with intent to kill, did, then and there, willfully, unlawfully and feloniously, attack, assault and employ personal violence upon the persons of Lolito Talisic y Meller and Melencio Talisic y Meller, by then and there stabbing and hacking them with a kitchen knife and a bolo, thereby inflicting serious and mortal injuries upon the said Lolito Talisic y Meller which caused his untimely death, and further caused serious and mortal injuries to Melencio Talisic y Meller, which could have caused the crime of homicide but, nevertheless, did not produce it by reason of the timely intervention of medical treatment; that on the occasion of said killing and infliction of physical injuries, said accused, conspiring together, with intent of gain and by means of force upon things, stole, robbed and carried away cash money in different denominations amounting to P5,000.00, and assorted used wristwatches, valued at P3,000.00, or a total of P8,000.00, Philippine Currency, belonging to Melencio Talisic y Meller ---- to the damage and prejudice of the heirs of deceased victim Lolito Talisic y Meller, and likewise to the damage and prejudice of said Melencio Talisic y Meller in the aforementioned amount of P8,000.00, and in such other amount as may be awarded them under the provisions of our existing laws.

"Contrary to law." (p. 4, Rollo)

Upon arraignment, both Cariño and Diaz pleaded "not guilty" to the crime charged.

During trial, the lower court considered the two conflicting versions of the statement of facts summarized hereinbelow:

"The prosecution's evidence tends to prove: On September 29, 1980, at about 4:30 p.m., while Lolito Talisic was tending their store at 1312 Muñoz Avenue, Tandang Sora, Quezon City, accused Cariño and Diaz and one Balingit (at large), who were armed with knives, stoned the store and attacked Lolito Talisic. Rosalia Talisic, who was cooking at the time near the store, upon seeing what happened, called for her husband, Melencio Talisic, to help Lolito. Melencio rushed to the scene and tried to pacify the protagonists. When he placed his arms on the shoulders of Diaz, Balingit suddenly stabbed Melencio at the back with a knife, thereby wounding Melencio. After being stabbed, Melencio got a bolo from the kitchen of his house, but Diaz grabbed it from him, and he (Melencio) ran to a room in his store. Diaz then entered the room and, upon seeing Melencio, he hacked him 4 times on the head, wounding Melencio and causing him to fall to the floor, bleeding. Lolito tried to run away from the store, but he was met (intercepted) on the way by Cariño, who stabbed him on the chest, causing him to fall to the ground, dead. Diaz then hacked (destroyed) the showcase of Melencio's watches and

took away 50 pieces of watches worth P3,000.00 and P5,000.00 of cash money from a drawer in the store. While he was doing this, his companions and co-conspirators Cariño and Balingit waited for him outside the store. After wrapping the watches with his T-shirt, Diaz and his companions Cariño and Balingit hurriedly fled from the crime scene.

"Melencio's wife (Rosalia), eyewitness to the incident, called for help and a barangay tanod came and helped her bring Melencio to the Quezon City General Hospital where he was treated and confined for about a week.

"Lolito, who was killed, was buried and about P2,000.00 was spent for his burial expenses.

"Rosalinda Inisa, Ricardo Sibay, and Rosalia Talisic (wife of Melencio Talisic), eyewitness to the incident, corroborated the testimony of Melencio Talisic (victim) in its material points.

"Dr. Bienvenido Muñoz, of the NBI, who autopsied the cadaver of Lolito Talisic at Rey Memorial Homes, on September 30, 1980, issued an 'Autopsy Report' (Exh. B), with these 'Postmortem Findings':

'Pallor, conjunctivae and integument, marked and generalized.

'Contused abrasions: malar region, right, 2.0 x 3.0 cms.; shoulder, right, posterior aspect, 5.0 x 7.0 cms. back, right side, level of 10th rib, 3.0 x 4.0 cms.

'Wound, lacerated, scalp, occipital region, left, 3.5 cms.

'Wound, stab, curvilinear, convexity upward, edges clean-cut, one extremity sharp, the other extremity blunt, located at the chest, anterior aspect, level of 5th intercostal space left, 10.5 cms. from anterior median line; directed backward, upward and medially, penetrating the left thoracic cavity thru the 5th intercostal space, perforating the pericardial sac and then the apex of the heart with an approximate depth of 14.0 cms.

Hemopericardium - 250 cc.

Hemothorax, left - 1,000 cc.

Brain and other visceral organs, markedly pale.

Heart chambers, almost empty.

Stomach - full with partly digested rice and other food particles.'

and declared that the cause of death was 'stab wound on the chest.' (Exh. B-5). He also prepared an anatomical sketch (Exh. C) of the victim, showing the location of the wounds of said victim. Dr. Muñoz also issued a 'Toxicology Report' (Exh. D), which yielded negative results re presence of alcohol in the victim's blood (Exh. D-1). He declared that the stab wound on the anterior chest wall 'penetrated the heart,' causing 'massive hemorrhage,' and it must have been inflicted by a sharp-pointed, single-bladed weapon like a knife or balisong, frontally.

"Dr. Tito Sambilayan, of the Quezon City General Hospital, who attended to and treated Melencio Talisic, issued a 'Medico-Legal Certificate' (Exh. A), which reads:

MEDICO-LEGAL CERTIFICATE

April 14, 1981

TO WHOM IT MAY CONCERN:

'This is to certify that Melencio E. Talisic, 48 years old and presently residing at 1313 D. Muñoz Ave., Q.C. has been/was confined/treated in this hospital under my medical care, from/on 9-29-80 to 10-6-80 with the following injuries:

Findings: Stab wound, back (L), lacerated wound, 4 cm, parietal area.

'The injuries will incapacitate or require medical attendance for thirty (30) days under normal conditions

barring complications and deeper involvement.

Disposition: Admitted

This certificate is issued upon the request of patient to be used for _____ purpose.

(SGD.) ILLEGIBLE MD

Attending Physician

(Medico-Legal Officer)'

He declared that he treated Melencio for a lacerated wound at the right vascular area and a stab wound at the back (left), for about a week. He performed a clausteracostomy (insertion of a chest tube into the chest) on Melencio, in order to alleviate difficulty of breathing, as his lung was injured. The wounds or injuries sustained by the victim must have been caused by a sharp and pointed instrument (knife). Without treatment, it would have taken about a month for the wounds to heal.

"Prior to the incident, Melencio Talisic was earning about P80.00 a day, but due to his injuries he was unable to earn the same, as he always felt dizzy. He spent more than P7,000.00 for his hospitalization and medical expenses.

"The defense evidence, on the other hand, tends to prove: Accused Lauro Cariño, declared that on September 29, 1980, at about 3:00 p.m., he went to the office of DM Transit, with his wife and child, to collect the payment for his sick leave, as a mechanic in said company. As they failed to get the money, they went home at about 4:30 p.m. On the way, he met a person who was walking in zigzag manner, who fell in front of him. When he was about to look at the face of said person, he was suddenly stabbed by Ricardo Sibay. When he saw blood oozing from the left side of his body, he went to the Mt. Banaue Hospital, in Quezon City, where he was treated. He then went to Police Precinct I, Quezon City, to report the incident. He knows Melencio Talisic, as he frequently eats at his canteen, near DM Transit. At the police station, the police informed him he was a suspect in the killing of Lolito Talisic and wounding of Melencio Talisic, and he was detained since then. He denied having hacked Melencio Talisic on the head.

"Accused Virgilio Diaz, on the other hand, stated that on September 29, 1980, at about 4:00 p.m., he was taking a snack at the store of Melencio Talisic. After taking his snack, he went in front of the store waiting for a ride. While there, he saw Melencio attack Balingit. Melencio told him (Diaz) not to intervene. When he told Melencio 'that's enough,' Melencio stabbed him, but he was not hit, although he fell to the ground while trying to parry the blow. Then he saw Balingit stoning Melencio's store. He kept quiet and after Melencio and Balingit had left, he fled from the scene and went home. He denied having stabbed and killed Lolito Talisic." (pp. 26-29, Rollo)

After due trial, the Court rendered judgment[1] with the following dispositive portion:

"WHEREFORE, the Court finds both accused Lauro Cariño y Guillermo and Virgilio Diaz, guilty of the crimes of robbery with homicide (killing) of Lolito Talisic and frustrated homicide (frustrated killing of Melencio Talisic) and pursuant to Art. 294(1) of the Revised Penal Code hereby sentences each of them to suffer the penalty of reclusion perpetua, to indemnify the heirs of the deceased Lolito Talisic in the sum of P12,000.00 and the victim Melencio Talisic in the sum of P14,000.00 (for hospitalization) and loss of income for 1 year, and to pay the costs, without subsidiary imprisonment in case of insolvency, less the period of the preventive imprisonment of accused Virgilio Diaz (detained pending trial).

"Let this case be archived as against accused Balingit (at large), subject to reinstatement upon his arrest and upon motion of the prosecution.

"SO ORDERED." (pp. 30-31, Rollo)

From said judgment, accused Virgilio Diaz's assigns the following errors:

- THE TRIAL COURT ERRED IN NOT ACQUITTING THE ACCUSED UPON REASONABLE DOUBT AS TO THEIR GUILT.
- THE TRIAL COURT ERRED IN FINDING THAT THE ACCUSED COMMITTED THE CRIMES OF ROBBERY WITH HOMICIDE AND FRUSTRATED HOMICIDE; (p. 4, Brief for Appellant Virgilio Diaz)

while accused Lauro Cariño assigns the following errors:

I

THE TRIAL COURT ERRED IN CONSIDERING THAT THERE WAS CONSPIRACY IN KILLING LOLITO TALISIC AND WOUNDING MELENCIO TALISIC AND ROBBERY;

II

THAT ROBBERY WITH HOMICIDE AND FRUSTRATED HOMICIDE WAS ESTABLISHED BY PROOF BEYOND REASONABLE DOUBT; AND

III

DENYING ACCUSED LAURO CARIÑO'S ACQUITTAL. (p. 4, Brief for Appellant Cariño)

The interrelated errors assigned by both accused will be considered jointly.

It is the contention of accused-appellant Cariño that conspiracy has not been established in the case at bar. Appellant made reference to the failure of the trial court to consider the sworn statements of Jenny Arceo, Ricardo Sibay and victim Melencio Talisic which contradicted the finding of conspiracy. We find such argument meritless. A perusal of the entire records of the case shows that the defense did not formally offer in evidence such sworn statements and evidence not formally offered cannot be considered by the court. The trial court only considered what was formally offered to it. From the testimonies of the prosecution's witnesses, the trial court established that the three accused acted in concert and with a common design and purpose as shown by their simultaneous arrival at the scene of the crime, mutually helping one another in the killing of Lolito Talisic and in the stabbing of Melencio Talisic and in the robbing of the store and by their simultaneous flight from the scene of the crime.

In further support of his argument, appellant Cariño cited the case of *People vs. Marco* (83 SCRA 338). Such claim holds no water. There is no parallelism between the case at bar and the *Marco* case because in the latter, We ruled out the presence of conspiracy in view of the fact that the assault was successive.

Appellant Lauro Cariño also averred that the trial court committed grave error in not giving weight to the statement of co-accused Diaz confirming the absence of the accused Cariño at the time when the incident started. Again, We cannot sustain such argument. A cursory reading of the testimony reveals that Diaz did not actually and categorically state that Lauro Cariño was not at the scene of the crime. Witness was merely silent on this point. Such silence did not negate Cariño's presence at the scene of the crime especially when the latter was positively identified as the malefactor by prosecution witness and the victim himself, Melencio Talisic.

Appellant Virgilio Diaz contends that the lower court's findings of facts are so riddled with inconsistencies that his guilt has not been proved beyond reasonable doubt. The inconsistencies pointed out, such as who stabbed whom first and the sequence of events narrated by them, are matters which are trivial and need not impair the credibility of the prosecution's witnesses especially when such testimonies were corroborated on material points in establishing that a crime was committed by the appellants.

Finally, appellant contends that the lower court erred in holding that the offense committed by them was the special complex crime of Robbery with Homicide and Frustrated Homicide. The crime designated as Robbery with Homicide is defined under Art. 294 par. (1) of the Revised Penal Code. In order to sustain a conviction for the crime of robbery with homicide, it is necessary that the robbery itself be proven as conclusively as any other essential element of a crime (*People vs. Pacala*, 58 SCRA 370) and that the homicide shall have been committed by reason or on occasion of the robbery. There is robbery with homicide when there is a direct relation, an intimate connection between the robbery and the killing, whether the killing be prior or subsequent to the robbery or whether both crimes be committed at the same time (*People vs. Hernandez*, 46 Phil. 48). In the case at bar, the series of overt acts executed by the accused, in their totality, show that the intent of the accused was not only vengeance but also robbery. After failing to get credit from Lolito Talisic, whom they stabbed out of anger, they turned their ire on Melencio Talisic whom they had no grievance against Melencio had already retreated into the store when the second set of injuries (back wounds) he sustained were inflicted by appellant Virgilio Diaz. The accused could have, if their sole intent was to appease their grievance against Lolito, escaped after fatally stabbing the latter and wounding Melencio outside the store.

We find, however, as correctly observed by the prosecution, that the lower court erred in designating the crime as Robbery with Homicide and Frustrated Homicide. There is no crime of Robbery with Frustrated Homicide. The term "Homicide" in paragraph 1, Art. 294 is to be understood in its generic sense. It includes murder and slight physical injuries committed during the occasion of the robbery which crimes are merged in the crime of robbery with homicide as defined in paragraph 1 of Article 294 of the Revised Penal Code (*People vs. Saquing*, 30 SCRA 834).

WHEREFORE, premises considered the judgment appealed from is hereby **AFFIRMED** with **MODIFICATION** as to the civil liability for the death of the victim Lolito Talisic which should be increased to Thirty Thousand Pesos (P30,000.00).

SO ORDERED.

Melencio-Herrera, (Chairperson), Padilla, Sarmiento, and Regalado, JJ., concur.

[1] Penned by Judge Willelmo C. Fortun.

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.