

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. MARVIN TORRES Y HERNANDEZ AND ROSENDO SALAS ALIAS BOVET AKHRO (AT-LARGE) ACCUSED-APPELLANTS.*G.R. No. 76711. September 26, 1988*

Ponente: MELENCIO-HERRERA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-76711/>**MELENCIO-HERRERA, J.:**

Accused-appellant Marvin Torres appeals from the Decision of the Regional Trial Court of Pasay City, Branch CXII,[*] promulgated on 9 October 1986, convicting him of Robbery with Homicide and Frustrated Homicide and sentencing him to reclusion perpetua and to indemnify the heirs of one of the victims, Erwin Alcantara, in the sum of P63,500.00. The case against his co-accused, Rosendo Salas, was ordered archived owing to the fact that he was still at-large but only after a Warrant for his arrest was again issued.

The designated offense in the Amended Information[1] was that of "Violation of P.D. No. 532 (Anti-Highway Robbery)" but considering that the facts described therein unmistakably constituted the crime of Robbery with Homicide and Frustrated Homicide, the Court a quo convicted the accused of the latter offense pursuant to the well-settled rule that it is not the technical name given by the Fiscal in the title of the Information that determines the character of the crime but the facts alleged in the body of the Information.

The prosecution, through its principal witness, Herminio Nacum, himself a victim, narrated the event as follows: On November 21, 1983 at around 7:00 p.m., Herminio Nacum, a bicycle mechanic, went to Ventanilla Street, Pasay City, on his bicycle to practice carolling with some friends which lasted until 11:00 p.m. (TSN, Feb. 13, 1984, pp. 2-3).

On his way home along Gamban Extension, Nacum met Erwin Alcantara who was on his way to buy "pandesal." The latter asked Nacum to accompany him. They rode on the bicycle in tandem to the bakery located at Vergel corner Cabrera Streets but found the bakery closed (TSN, Feb. 13, 1984, pp. 3-4).

On their way home two men, who happened to be accused-appellant and Rosendo Salas, waved to them. They approached the two and Alcantara started talking to accused-appellant. Alcantara got off the bicycle while Nacum went slightly ahead of him. After a few seconds Nacum heard accused-appellant challenging Alcantara to a fist fight with the words: "Pare, gaano ka ba kalaki; magsukatan o magsuntokan na laang tayo" (TSN, Feb. 13, 1984, p. 5). Almost simultaneously the accused-appellant pulled out his knife and pointed it at Alcantara at the same time telling his companion, Rosendo Salas, "bunutan mo na iyan" (TSN, Feb. 13, 1984, pp. 4-6).

Salas followed the bidding and Nacum was suddenly stabbed on his left shoulder by Salas. Erwin Alcantara was also being stabbed by accused-appellant. Salas again made another thrust on the left side of Nacum's body and accused-appellant grabbed his (Nacum's) wrist watch, a Seiko valued at P700.00 (TSN, Feb. 13, 1984, pp. 6-7). Nacum and Alcantara ran away leaving the bicycle behind. After running a short distance, Nacum looked back and saw that appellant and his companion had left so he went back to get his bicycle.

Upon reaching his house in Gamban Street, Nocum asked a certain Tony Salonga to bring them to the Pasay City General Hospital but when they reached the hospital they were told to go to the Ospital ng Maynila which did not admit them either because of lack of x-ray (TSN, Feb. 13, 1984, pp. 8-9).

Nocum and Alcantara were rushed to the Philippine General Hospital (PGH) where Nocum was operated on and was confined for five days (TSN, Feb. 13, 1984, p. 9). However, Alcantara died in the hospital (TSN, Feb. 13, 1984, p. 13). He suffered two stab wounds on the chest and right shoulder and stab wounds at the back (TSN, Oct. 4, 1984, p. 4). Nocum gave his statement to Pfc. Isagani Ilas of Pasay City Police Station who was sent to the PGH to investigate. Accused-appellant, who was picked up in connection with another robbery case, was with the policeman. From among several people in the hospital, Nocum pointed to accused-appellant as the one who had grabbed his watch. It appears that it was Sgt. San Agustin who had apprehended accused-appellant and recovered from him the stolen watch (TSN, Nov. 9, 1984, p. 12). Accused-appellant also admitted having sold Alcantara's watch to Recelita Tute (TSN, March 6, 1986, p. 9.).

Controverting the foregoing is the defense version of the incident synthesized in appellant's Brief, thus:

"Sometime November 21, 1983 together with Rosendo Salas while on their way home, they encountered (sic) a quarrel with a certain Carlos (sic) Nocurn and Erwin Alcantara, (page 3, t.s.n. of March 6, 1986 hearing). He said that while walking home, they were shouted at by Erwin Alcantara, (saying, 'hoy, hoy'). When they refused to mind them, the two followed them and block (sic) their way with the use of a bicycle with a sidecar. Then Erwin Alcantara stoned them (pages 4 and 5, t.s.n. of March 6, 1986). When confronted, he (Alcantara) asked them why he (Torres) stared at him ('Masama ang tingin mo sa akin'). Suddenly, Alcantara removed his belt followed by Nocum and whipped them (page 5, t.s.n. of March 6, 1986). Rosendo Salas was hit by Nocum for three (3) times with his belt. While Nocum was hitting Salas, accused Torres was holding Alcantara. Suddenly, Salas pulled a knife and stabbed Nocum (page 6, t.s.n. of March 6, 1985). After stabbing Nocum, Salas stabbed Alcantara, who fell to the ground (page 7, t.s.n. of March 6, 1986). He then held Alcantara (sic) to prevent him from further stabbing Alcantara. Thereafter, they ran leaving Nocum and Alcantara behind (page 8, t.s.n. of March 6, 1986). This witness denied having stabbed Erwin Alcantara by claiming that it was Rosendo Salas who did it. As regards the watch, he claimed that while he was holding Alcantara, he got hold of his left hand and when released got hold of the wrist watch." (pp. 5-6, Brief for the Accused-Appellant)

After evaluation of the evidence, the Trial Court convicted the accused, Marvin Torres, and sentenced him to reclusion perpetua, hence, this appeal, concentrated around the following assigned errors:

- That the Trial Court erred in giving faith and credence to the incredible and unbelievable testimony of Herminio Nocum.
- That the Trial Court erred in giving weight and consideration to the unverified statement of Aurora Torres (marked Exhibit 'E').
- That the Trial Court erred in not giving weight and consideration to the defense raised by accused Marvin Torres.
- That conspiracy was not proven as a fact.
- That granting that accused Torres committed the acts complained of, the Trial Court erred in finding him guilty of Robbery with Homicide and Frustrated Homicide instead of the separate offense of Homicide and Theft.
- That the Trial Court erred in finding the accused guilty of the said crime in the absence of evidence proving his guilt beyond reasonable doubt." (p. A, Brief for the Accused-Appellant)

We shall consider the foregoing assignments in seriatim.

- The credibility of the lone prosecution witness, Herminio Nocum, is assailed for being uncorroborated. It is well-settled, however, that the testimony of a single witness, if credible and positive, and if it satisfies the Court beyond reasonable doubt, is sufficient to convict. The absence of corroborating testimony will not affect credibility. Witnesses are weighed, not numbered. No motive has been attributed to Nocum as to why he should testify falsely against accused-appellant.

The inconsistencies pointed out in Nocum's testimony have been explained and are of a minor nature insufficient to affect his credibility. Thus, the name of the bakery to which he and deceased Alcantara had gone to is not at all crucial besides the fact that he explained that the Atang Bakery is the same as the Trinity Bakery. Also, whether or not he saw two persons waving at them has no direct bearing on the crime itself. Nocum also explained, however, that when, on direct examination, he stated that he did not see two persons waving, he meant that he did not see them initially but saw them only after Alcantara had pointed them to him.

We find nothing "incredible" nor "unbelievable" in Nocum's testimony. His account of the incident was exactly as it happened. That accused-appellant and Nocum did not know each other personally would not render unbelievable that accused-appellant would call Nocum and Alcantara as the latter two passed by. Considering the nature of the crime, personal acquaintance plays no significance. In robbery, would-be victims need not be known to the malefactors. In fact, the latter generally choose people unknown to render identification difficult.

- In the unverified statement of Aurora Torres (sister or cousin of accused-appellant) she declared that "the knife used in stabbing Alcantara was given to her by accused-appellant with the instruction to return the same to a certain Jun Bautista from whom accused-appellant borrowed it earlier that night of November 21, 1983." The defense assails this statement since Aurora was not called to the witness stand. That detail was disclosed, however, to the police officer who conducted the investigation in the course of the performance of his official functions and was considered part of his testimony and of the police report. Besides, accused-appellant himself admitted that he and Salas had borrowed the knife from "one of my barkada" the night before the incident (TSN, April 1, 1986, p. 3.). At any rate, the Trial Court merely referred to Torres' statement and by no means relied on it, there being other more incriminating evidence to support its verdict of guilt.

- The Trial Court did consider the defense raised by accused-appellant but considered it unreliable. Accused-appellant insisted that it was Salas who stabbed both Nocum and Alcantara. This posture is most convenient indeed, since Salas has remained at-large and can neither deny nor confirm. However, as the Trial Court found, the prosecution version is the more credible. As has often been held, the findings of the Trial Court on the credibility of witnesses are entitled to greatest respect and will not be disturbed on appeal save for certain exceptions, which are absent herein. Moreover, Nocum's testimony that he was stabbed twice first on the left shoulder and then on the left side of the body (TSN, Feb. 13, 1984, pp. 6, 7) is borne out by his scars which were exhibited to the Court, and were confirmed by the physician who treated him in the hospital, compared to accused-appellant, who testified that Nocum was stabbed only once by Salas. With Nocum's positive testimony supported by physical evidence, it must prevail over the denials by accused-appellant. Furthermore, accused-appellant further owned having grabbed Alcantara's watch (TSN, April 24, 1986, p. 6) and having sold it to one Recelita Tute (TSN, April 1, 1986, p. 2). This confirms, at the very least, the fact of robbery.

- From the facts of the case, it is clear that accused-appellant and Salas had acted in concert in assaulting, stabbing, and robbing Nocum and Alcantara of their wrist watches. Accused-appellant admitted that he and Salas had borrowed the fatal weapon the night before the incident (TSN, April 24, 1986, p. 3). The following night they were together again carrying the knife with them although they claimed that it was for security reasons. They were loitering around in the vicinity of the crime at an unholy hour ready to challenge anyone to a fight and to divest their victims of belongings. Each one of them stabbed their respective victims and

succeeded in grabbing their individual watches. Two days after the incident, Salas gave accused-appellant Alcantara's watch, which accused-appellant sold (TSN, April 24, 1986, p. 7). There can be no question then about the existence of conspiracy between them.

- Under the attendant circumstances, accused-appellant cannot be held guilty of the separate offenses of Homicide and Theft. Conspiracy having been proven, the act of one is the act of all. The specific participation of each conspirator need not be pinpointed. The plan to commit robbery and its eventual commission by accused-appellant and Salas is beyond question. That Homicide and Frustrated Homicide were committed on the occasion of the robbery is neither debatable.

- All told, the conclusion is inevitable that the guilt of accused-appellant has been proven beyond reasonable doubt. It was not necessary for witness and victim Nocum to have seen the actual act of stabbing by accused-appellant of the deceased Alcantara. The combined circumstances that Nocum saw accused-appellant with the knife, the weapon that the latter admittedly borrowed the night before; that accused-appellant told Salas "bunutan mo na yan" after which Salas, using his own weapon, pre-occupied himself with stabbing Nocum; that when Nocum heard a moan, he looked back and saw Alcantara holding his face and his wound at the back (TSN, Feb. 13, 1984, p. 7); and that only Alcantara and accused-appellant were at Nocum's back at the precise moment that Alcantara was being stabbed - all point to no other conclusion but that it was accused-appellant who had stabbed Alcantara, while Salas was stabbing Nocum.

WHEREFORE, the appealed judgment is hereby **AFFIRMED**. With costs against accused-appellant, Marvin Torres.

SO ORDERED.

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

[*] Presided over by Judge Baltazar R. Dizon.

[1] The undersigned Assistant City Fiscal accuses MARVIN TORRES y HERNANDEZ and ROSENDO SALAS ALIAS "BOYET AKHRO" of the crime of VIOLATION OF P.D. 532 otherwise known as the ANTI-HIGHWAY ROBBERY LAW, committed as follows

That on or about the 21st day of November , 1983 in Pasay City, Metro-Manila, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, MARVIN TORRES y HERNANDEZ and ROSENDO SALAS ALIAS "BOYET AKHRO" conspiring and confederating together and mutually helping one another, with intent of gain and by means of force and violence employed upon persons, did then and there wilfully, unlawfully and feloniously take, steal and rob from HERMINIO M. NOCUM the latter's wrist watch valued at P700.00, to the damage and prejudice of the latter in the amount of P700.00; that during the occasion of the robbery, without justifiable cause and with deliberate intent to kill on the part of the herein accused, and in order to consummate their overt acts, did then and there wilfully, unlawfully and feloniously attack, assault and stab ERWIN ALCANTARA y REYES for several times, on the vital parts of the latter's body, and as a result thereof, ERWIN ALCANTARA y REYES sustained serious injuries which caused his subsequent death; that also as a result thereof HERMINIO NOCUM y MEJOS sustained serious physical injuries on the vital parts of his body inflicted by the herein accused, all with the use of a bladed weapon the accused were then provided with, thus performing all the acts of execution which would produce the felony of Homicide as a consequence thereof but which, nevertheless did not produce it by reason of causes independent of the will of said accused, that is due to the timely able and efficient medical attendance rendered HERMINIO NOCUM y MEJOS in the Philippine General Hospital.

Contrary to Law.” (p. 55, Original Record)

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.