

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RODOLFO LAGARIO, ANECITO SAYONG, RODRIGO ENCISO AND THREE JOHN DOES, ACCUSED, RODOLFO LAGARIO, ANECITO SAYONG AND RODRIGO ENCI...

G.R. No. 92000. July 05, 1993

Ponente: DAVIDE, JR., J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-92000/>

DAVIDE, JR., J.:

This is an appeal from the decision of Branch 15 of the Regional Trial Court (RTC) of Leyte in Criminal Case No. Bn-2049[1] which found the appellants guilty of the crime of robbery with homicide as defined and penalized in Article 294 of the Revised Penal Code and sentenced them:

"x x x to LIFE IMPRISONMENT each and to pay jointly and severally Leonides Lagario and/or the heirs of deceased Meliton Lagario the sum of Three Thousand Twenty Eight Pesos (P3,028.00), representing the cash and value of the articles they robbed and the amount of Thirty Thousand Pesos (P30,000.00) for the death of Meliton Lagario. Costs against them." [2]

The decision, dated 23 October 1989, was promulgated on 22 November 1989. Notices of appeal were filed by appellants Anecito (or Aniceto) Sayong and Rodrigo Enciso on 27 November 1989 and by appellant Rodolfo Lagario on 7 December 1989.[3] However, Lagario filed a motion to withdraw his appeal which we granted in the Resolution of 25 November 1991,[4] while appellant Anecito Sayong died on 28 February 1992.[5] This decision then is limited to the appeal of Rodrigo Enciso.

The prosecution of this case was commenced by the filing on 25 August 1982 of a criminal complaint for "robbery with parricide and attempted parricide" against the accused in the Municipal Trial Court of Burauen, Leyte.[6] In due course, the records were forwarded to the Office of the Provincial Fiscal of Leyte which on 9 September 1983 filed an Information[7] with Branch 15 of the RTC of Leyte charging the accused with the crime of robbery with homicide, committed in Esperanza, Burauen, Leyte on 30 July 1982.

The three "John Does" have not been arrested up to the present.

After the appellants had each pleaded not guilty upon arraignment, trial on the merits was held on various dates. The witnesses presented by the prosecution were Dr. Dionisio Conde, P/Cpl. Eliseo Regorosa, Fidel Martola, Romeo Lagario and Leonides Lagario. The witnesses presented by the defense were Romeo Maca, Dalmacio Culas, Soledad Lagario, Policeman Rodolfo Inghoy, Manuel Villegas, Cesario Lopez, Rodolfo Lagario, Rodrigo Enciso, Rogelio Valle and Anecito Sayong.

The evidence for the prosecution is summarized in the Brief for the Appellee, which we hereby adopt, it being fully supported by the trial court's findings and the transcripts of the stenographic notes of the testimonies of the prosecution witnesses.

"At around six o'clock in the evening of July 30, 1982, Leonides Lagario, Meliton Lagario and their three (3)

grandsons Rodolfo, Jr., Romeo and Roger, all surnamed Lagario, were preparing for supper in their house located in Barangay Esperanza, Barauen, Leyte. Momentarily, they were perturbed by the incessant barking of their dogs. To find out what was agitating the animals, Romeo Lagario and his grandmother Leonides looked out through their window. Romeo saw six (6) men outside three of whom he recognized, namely: Rodolfo Lagario, the very son of Leonides, whom Romeo calls 'Tatay Rudy,' Aniceto Sayong alias 'Sitoy', and Rodrigo Enciso alias 'Luding', herein appellant.

Immediately, three (3) of the six men rushed to the door of the house and demanded that it be opened. When the residents refused, appellant Enciso proceeded to the kitchen door while Aniceto Sayong and an unidentified companion rammed the main door. Aniceto Sayong and his companion eventually gained entry through a hole on the door. Both malefactors were armed with bolos. Aniceto Sayong was recognized by Leonides Lagario because the light was on.

Once inside, Sayong attacked and hacked Meliton Lagario's right arm, completely severing it. He continued to hack his victim on the forehead, and then on the left hand causing Meliton's left thumb, ring finger and index finger to fly off. He delivered the final blow on the victim's chest.

Thereafter, appellant Rodrigo Enciso, bound the hands and feet of Leonides Lagario, dragged her alongside her dead husband's body and then hit her with a gun. He asked her where she kept the money. Both Sayong and appellant Enciso took turns in hitting Leonides. Finally, Leonides, pointed to the trunk as the place where the money was kept. After taking the money from the trunk, both malefactors demanded more. Leonides, however, heard the voice of her son, Rodolfo Lagario, who from outside the house uttered these words 'You come down, anyway my father is dead.' Hearing this, the malefactors left.

Subsequently, Leonides' grandchildren untied her and helped her walk over to the house of her daughter, Erlinda. As a result of the beating inflicted on her, she suffered numerous injuries including deafness in one of her ears.

Shortly thereafter, the police arrived and investigated the incident."^[8]

On the other hand, appellant Rodrigo Enciso relies on his defense of alibi. His testimony is condensed by the trial court in this manner:

"The testimony of accused Rodrigo Enciso is in corroboration with his witnesses more particularly with witness Romeo Maca that they, in company with Rodolfo Udtuhan, Federico Juan, Jr., Antonio Crebillo and Arturo Crebillo, were, at about six o'clock in the evening of July 30, 1982, in the house of his brother Clemente Enciso at Barangay Malabca, Burauen, Leyte attending the barangay fiesta therein. That he, in company with his companions, slaughtered the pig of his brother which was finished at about 6:30 o'clock in the evening of same date. They ate their supper and have (sic) a drinking spree of tuba until about 12:00 o'clock midnight when they decided to go back to Barangay Balorinay, Burauen, Leyte by hiking and arriving at the latter barangay at about 1:30 o'clock in the morning of July 31, 1982."^[9]

The nine-page Brief for Appellants Anecito Sayong and Rodrigo Enciso,^[10] which was filed only on 5 November 1993 by Attorneys Wilfredo S. Oledan and Bonifacio Matol (after having obtained several extensions of time to file the Brief and after having been fined for their unsatisfactory explanation of their failure to timely file the Brief),^[11] contains the following assignment of errors:

"I. THAT THE HONORABLE COURT A QUO ERRED IN GIVING CREDENCE TO THE INHERENTLY WEAK TESTIMONY OF THE PROSECUTION WITNESSES.

II. THAT THE HONORABLE COURT A QUO ERRED IN NOT GIVING CREDENCE TO THE TESTIMONY OF APPELLANTS AND THEIR WITNESSES.

III. THAT THE HONORABLE COURT A QUO ERRED IN CONVICTING APPELLANTS."^[12]

The main argument in support thereof is appellant Enciso's contention that the decision of the trial court is "a critical analysis and centered more on the weakness of the evidence submitted by appellants and accused rather than a discussion on, and of, the strength of the evidence of the prosecution." [13] He then proceeds to cite the fact that the trial court failed to mention, even in passing, the testimony of prosecution witness Pat. Regorosa whose investigation report of the incident did not mention the identities of the assailants; and the testimony of prosecution witness Soledad Lagario, daughter of the victim Meliton Lagario, that when she asked her mother, Leonides Lagario and her nephew, Romeo Lagario, whether they recognized the perpetrators, they answered that they did not.

Appellant Enciso admits that alibi is a weak, if not the weakest, defense in a criminal case. Nevertheless, he submits that the rule is settled that conviction of the accused must be had on the basis of the strength of the prosecution's evidence and not on the weakness of that of the defense.

The issue, therefore, revolves upon the findings of fact of the trial court which, in turn, depend largely on the credibility of witnesses. The trial court made the following observations and findings:

"The prosecution witnesses particularly the survivor of this unfortunate incident Leonides Lagario y Baldevia and Romeo Lagario pointed to Aniceto Sayong and Rodrigo Enciso and Rodolfo Lagario, one of the sons of Leonides Lagario and uncle of Romeo Lagario, as the perpetrators of the crime. To these accusing fingers of the two prosecution witnesses, the above-named accused persons put up the defense of alibi that accused Rodrigo Enciso and Aniceto Sayong were in Barangay Malabca, Burauen, Leyte attending the fiesta therein at about 6:00 o'clock in the early evening of July 30, 1982 when the incident was taking place in Barangay Esperanza, Burauen, Leyte. Accused Rodrigo Enciso alleged that at the time the incident was taking place, he was in the house of his brother Clemente Enciso helping the latter in the preparation of the viand with his companions among whom (sic) Romeo Maca. Moreover, he admitted that Barangay Malabca and Barangay Esparanza all of Burauen, Leyte, have a distance of about thirteen (13) kilometers and connected by a road and can be negotiated even by a motorcycle or by a truck. x x x

x x x

x x x Now, did Leonides Baldevia Lagario and Romeo Lagario positively identify Anecito Sayong and Rodrigo Enciso since it was already about 6:30 o'clock in the evening of July 30, 1982? The answer is yes. On cross-examination she testified:

'Q While you were lying down your face touching the floor, you could see what was happening during this duration?

A I was able to see them because the light (is) was still switch on.

Q When you were told to (lay) lie down was your husband already dead?

A My husband (is) was already dead.

Q When you were facing downward, the two thousand was already taken (getting in) from the trunk by Enciso?

A It was already taken.

Q Who took the two thousand pesos, you said Enciso?

A Rodrigo Enciso x x x

Q On July 30, 1982, anytime did you see Enciso?

A He is a good friend (barkada) and compadre of my son and also Anecito Sayong.'

From the foregoing, it is clear that at the time the robbery was taking place the light was still switch on which could [only] mean an electric light because when we say switch on and off it means an electric light and not petromax or gas lamp. It likewise shows that the sum of Two Thousand Pesos (P2,000.00) was taken from the trunk and its also shows that Mrs. Leonides Lagario knew Rodrigo Enciso and Anecito Sayong even before July 30, 1982 because they were friends and compadre of her son accused Rodolfo Lagario.

They were likewise at the time of the incident positively identified by the grandson of Leonides Lagario named Romeo Lagario who was only seven (7) years old at the time and even called them by their nicknames. On direct examination he testified:

'Q How many of the six persons did you recognize?

A I recognized three of them.

Q Will you please name them to the court?

A Tatay Rudy, Sitoy and Ludring.'

This Tatay Rudy is accused Rodolfo Lagario his uncle, Sitoy is accused Anecito Sayong and Ludring is accused Rodrigo Enciso whom he recognized when they were still in the yard of their house. That immediately after the incident while they were in the house of Erlinda (Linday) Lagario he also told the policemen about the identities of the three accused. This came out during the cross?examination upon this young witness:

'Q When you were already in the house of Linday Lagario did you know who arrived in the house?

A Yes, sir.

Q Do you know if you can still remember the names of the policemen?

A I do not know.

Q Were the policemen able to talk to you?

A Yes, sir.

Q You were investigated by the police officers?

A Yes, sir.

Q And you told the police officers that it was Rodolfo Lagario, Anecito Sayong and Rodrigo Enciso who allegedly robbed your grandparents?

A Yes, sir.'

From the foregoing, it is also clear that young Romeo Lagario immediately told the police officers of the identity of the accused persons. But from the prosecution's evidence accused Rodolfo Lagario did not come up the house as it was only accused Anecito Sayong and Rodrigo Enciso and one not recognized who came up the house. On direct examination this Romeo Lagario stated:

'Q After they have gathered these things you mentioned including the money, what did they do?

A Somebody from outside said 'is the old man already dead so we will go.'

Q Did you recognize whose voice was that from the outside?

A Yes, sir.

Q Whose voice was that?

A The voice of Tatay Rudy.

Q After your Tatay Rudy said those words, what did the persons inside the house do, these Sitoy and Ludring?

A They went down.'

Likewise on the direct examination on Mrs. Leonides Lagario she stated:

'Q After Rodrigo Enciso was able to get money in the trunk, what did he do?

A He pulled me again inside my room and placed some rags inside my mouth.

Q Then what happened next?

A He continued on punishing me.'

And on Court's clarificatory questionings she stated:

'Q After he got the P2,000.00 pesos, what did he do?

A He placed rags inside my mouth.

Q After placing rags inside your mouth, what else if any happened?

A I heard my son saying you come down already anyway my father is already dead.'"[14]

It is settled that when the issue of credibility of witnesses is involved, appellate courts will generally not disturb the findings of the trial court considering that the latter is in a better position to decide the question, having heard the witnesses themselves and observed their deportment and manner of testifying during the trial, unless certain facts of value have been plainly overlooked which, if considered, might affect the result of the case.[15] Sixty-five years ago, this Court ruled:

"After everything is said and done, we come back, as we invariably do in cases of this nature, to a recognition of the rule that the Supreme Court will not interfere with the judgment of the trial court in passing on the credibility of the opposing witnesses, unless there appears in the record some fact or circumstance of weight and influence, which has been overlooked or the significance of which has been misinterpreted."[16]

The exception to the rule is not found in the instant case. We sustain the trial court's finding that appellant Enciso was positively identified as one of the malefactors. Having been positively identified, his defense of alibi cannot prosper.[17] Conspiracy among them was established beyond a doubt.

Even if Enciso was not shown to have inflicted any injury upon the victim Meliton Lagario, he is still equally liable for the victim's death which happened on the occasion of the robbery.

The crime committed, as correctly ruled by the trial court, is robbery with homicide under the first paragraph of Article 294 of the Revised Penal Code. The penalty prescribed therein is reclusion perpetua to death.

The generic aggravating circumstance of dwelling,[18] although not specifically alleged in the information, was duly proved without objection on the part of the accused. In robbery with homicide, dwelling may be properly appreciated as an aggravating circumstance.[19] Dwelling is not inherent in the crime of robbery with violence or intimidation against persons because such crime can be committed without violating or scaling the domicile of the victim.[20]

Taking into account the aggravating circumstance of dwelling, the penalty imposable would have been death pursuant to the first paragraph of Article 63 of the Revised Penal Code. In view, however, of the first paragraph of Section 19, Article III of the 1987 Constitution, which prohibits the imposition of the death penalty, the penalty

which must be imposed is reclusion perpetua. The trial court imposed the penalty of life imprisonment. We have pronounced in a number of cases that the penalty of reclusion perpetua is not the same as life imprisonment for the latter does not carry with accessory penalties and does not have a definite duration.[21] We reiterate our earlier advice that trial courts should be careful in using the correct designation of penalties prescribed by the Revised Penal Code or by special laws to avoid misunderstanding as to their scope and consequences.[22]

In conformity with the current policy of this court, the indemnity for the death of Meliton Lagario should be increased from P30,000.00 to P50,000.00.

Since the accused Anecito Sayong died pending appeal and before final judgment in the criminal case, his liability as to the personal and pecuniary penalties (i.e., fines and costs) was consequently extinguished.[23] However, his civil liability, as distinguished from his criminal liability for fines and costs, subsists and is chargeable against his estate.[24]

IN VIEW OF ALL THE FOREGOING, judgment is hereby rendered DISMISSING for lack of merit the appeal of appellant RODRIGO ENCISO and AFFIRMING the assailed decision of Branch 15 of the Regional Trial Court of Leyte in Criminal Case No. Bn-2049 subject to the modifications indicated herein. As modified, the penalty should be RECLUSION PERPETUA instead of life imprisonment and the indemnity for the death of Meliton Lagario is hereby increased to P50,000.00.

The estate of Anecito Sayong is hereby held jointly and severally liable to the heirs of Meliton Lagario in the amount of P53,028.00. The said estate is ordered to pay the heirs of Meliton Lagario the amount which may be demanded by the latter by virtue of this judgment; however, said estate shall have a right of action against Rodolfo Lagario and Rodrigo Enciso for the amount of their respective shares.

Costs against appellant Rodrigo Enciso.

SO ORDERED.

Feliciano, (Chairman), Bidin, Romero, and Melo, JJ., concur.

[1] Original Records (OR), 768-782; Rollo, 45-59. Per Judge Nunilon P. Buedron.

[2] Id., 782; Id., 59.

[3] OR, 785, 793.

[4] Rollo, 92, 122.

[5] Id., 131-135, 142-144, 171.

[6] OR, op. cit., 6-7.

[7] Id., 1-2.

[8] Rollo, 222-225. References to the transcripts of stenographic notes are omitted.

[9] OR, 774; Rollo, 51.

[10] This should be treated as a brief for Rodrigo Enciso only in view of the prior death of Anecito Sayong, a fact which his counsel knew from the previous pleadings and resolutions of this Court.

[11] Rollo, 147, 177, 197.

[12] Id., 191.

[13] OR, 191-192.

[14] OR, 777, 779-781; Rollo, 54; 56-58.

[15] People vs. Simon, 209 SCRA 148 [1992] and the cases cited at footnote no. 12.

[16] People vs. De Otero, 51 Phil. 201 [1927].

[17] People vs. Mercado, 97 SCRA 232 [1980]; People vs. Clores, 184 SCRA 638 [1990]; People vs. Arceo, 187 SCRA 265 [1990]; People vs. Beringuel, 192 SCRA 561 [1990].

[18] Article 14(3), Revised Penal Code.

[19] AQUINO, RC., The Revised Penal Code, vol. 1, 1987 ed., 323, citing People vs. Saquing, 30 SCRA 834 [1969]; People vs. Pinca, 114 Phil. 498 [1962] and People vs. Mongado, 28 SCRA 642 [1969].

[20] Id.

[21] People vs. Baguio, 196 SCRA 459 [1991]; People vs. Ramos, 203 SCRA 237 [1991]; People vs. Penillos, 205 SCRA 546 [1992].

[22] People vs. Carpio, 207 SCRA 569 [1992], citing People vs. Ansing, 196 SCRA 374 [1991]; People vs. Dekingco, 189 SCRA 512 [1990] and People vs. Manalansan, 189 SCRA 619 [1990].

[23] Article 89(1), Revised Penal Code.

[24] People vs. Badeo, 204 SCRA 122 [1991]. See also, Torrijos vs. Court of Appeals, 67 SCRA 394 [1975]; People vs. Sendaydiego, 81 SCRA 120 [1978]; People vs. Pancho, 145 SCRA 323 [1986] and Petralba vs. Sandiganbayan, 200 SCRA 644 [1991].

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.