

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. CRISOLOGO EMPACIS, ACCUSED-APPELLANT.

G.R. No. 95756. May 14, 1993

Ponente: NARVASA, C.J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-95756/>

NARVASA, C.J.:

In the Regional Trial Court of Cebu City,[1] five men, namely: Crisologo Empacis, Romualdo Langomez, Zacarias Solis, Carlito Antiga, and Bebe Antiga, were indicted for the crime of robbery with homicide under Article 294 (1), in relation to Article 296, of the Revised Penal Code.[2] The indictment reads as follows:

“That on the 16th day of September, 1986 at 9:00 o'clock in the evening, more or less, in Barangay Kanguha, Municipality of dumanjug, Province of Debu *** (said) accused, all armed with carbines and bladed weapoins, conspiring, confederating and mutually helping one another, with evident premeditation and intent to kill, treacherously attack, assault and use personal violence upon FIDEL SAROMINES by stabbing him on different parts of his body and as a result of which FIDEL SAROMINES died; that on the occasion of the said killing, in pursuance of their conspiracy, ** (the) accused did then and there wilfully, unlawfully and feloniously, and by means of violence, with intent to gain and against the will of FIDEL SAROMINES, TAKE, STEAL AND CARRY AWAY the sum of TWELVE THOUSAND (P12,000.00) PESOS, Philippine Currency, belonging to the latter.

That the crime was committed by a band, all the accused being armed with carbines and bladed weapons (Article 296, RPC).

IN VIOLATION of and contrary to ARTICLE 294 paragraph 1 of the Revised Penal Code.”

All the accused, except Romualdo Langomez, were thereafter taken into custody. Langomez disappeared, and was never apprehended and brought to trial.[3] In due course, the other accused were arraigned and tried.

Sometime in December, 1987, during the trial, Carlito Antiga died from a gunshot wound.[4]

The trial eventuated in a verdict of conviction against Crisologo Empacis, and of acquittal as regards Zacarias Solis and Bebe Antiga. The Trial Court's judgment, dated October 24, 1989, made the following final disposition:[5]

"WHEREFORE, the Court finds the accused Crisologo Empacis guilty of robbery with homicide as defined and penalized under Article 294 (1) of the Revised Penal Code, and considering the attendance of the four generic aggravating circumstances of dwelling, nighttime, craft or fraud and superior strength, not offset by any mitigating or extenuating circumstance, hereby sentences the said accused Crisologo Empacis to the supreme penalty of death. In view of the fact, however, that the death penalty has been abolished by Section 19 (1), Article III of the 1987 Constitution,[6] the accused Crisologo Empacis is hereby sentenced to reclusion perpetua, to suffer the accessory penalties prescribed by law and to pay the heirs of Fidel Saromines the amount of THIRTY THOUSAND PESOS (P30,000.00) by way of death indemnity, without subsidiary imprisonment in case of insolvency in view of the principal penalty. He shall also pay the costs of these proceedings.

The accused Crisologo Empacis is hereby immediately ordered arrested and held in the custody of the law pending appeal or review of this decision, should the accused wish to appeal from or take up on review this decision.

The other two accused Zacarias or Caring Solis and Bebe Antiga are hereby acquitted of the charges against them, their guilt not having been proved beyond a reasonable doubt.

Let a bench warrant issue against the fifth accused in this case, Romualdo a.k.a. Maldo Langomez so that he can be brought to court to be dealt with accordingly."

The Trial Court accorded superior credit to the evidence of the prosecution in so far as it established Empacis' direct participation in the felony charged, to wit: the testimony of the widow of the victim, Camila Saromines; of their son, Peter Saromines; and of a neighbor, Balbino Bulak, which the Court found to be corroborated inter alia by the Post Mortem Report dated September 17, 1986 of the Rural Health Physician at Dumanjug, Cebu (Dr. Octavio Ortiz), and even by the testimony of accused Crisologo Empacis himself.[7]

Following is the story narrated to the Trial Court by the Government witnesses.

At about 9 o'clock on the night of September 16, 1986, as Fidel Saromines and his wife, Camila, were about to close their small store, located in their house at Kanguha, Dumanjug, Cebu, two men came and asked to buy some sardines and rice. They were Romualdo (or Maldo) Langomez and Crisologo Empacis. Camila served them and they proceeded to make a meal of the rice and sardines.

After they finished eating, Romualdo told Fidel to sell him cigarettes. As Fidel was handing over the cigarettes, Romualdo announced a "hold-up" and commanded Fidel to give up his money. As it happened, Fidel then had P12,000.00 in his house, wrapped in cellophane. This he started to give to Romualdo but as the latter was taking hold of the packet, Fidel suddenly decided to fight to keep his money. A struggle followed in the course of which. Romualdo stabbed Fidel about three times. Crisologo joined in and with his own knife also stabbed Fidel. At this time, gunshots were heard outside of the house; and a neighbor of the Saromineses, Balbino Bulak, recognized one of those doing the shooting as a certain Carlito Antiga.[8] A voice was heard from below saying, "Stab him!"[9] to which Langomez replied, "I already stabbed (him)."[10]

From his little sister's room, Fidel's thirteen-year old son, Peter, saw his father fighting for his life with Romualdo and Crisologo Empacis. Heeding his father's cry, "Peter, help me!" (Suportahe ko, Peter!). Peter took hold of a "pinuti" (a long bolo), and rushed to his father's defense. He struck out at Crisologo and inflicted two wounds on him, one at the right shoulder, and the other, in the neck. Romualdo and Crisologo jumped out of the house and fled, with the sound of Peter's defiant shout trailing them, "Come back, if you are brave!"

Peter then turned to his wounded father, but found him already dead from his injuries. The post-mortem examination conducted by Dr. Octavio Ortiz, Rural Health Physician, disclosed four (4) stab wounds on the deceased, all in the upper back. Two of these, which penetrated the lungs and heart, were fatal.[11]

Crisologo Empacis repaired to the clinic of Dr. Eustaquio Deiparine at the poblacion of Sibonga, Cebu, for treatment of the wounds inflicted on him by Peter, arriving there between 10 and 11 o'clock that same night. The doctor found Crisologo's wounds -- described by him as a "(hacking) wound on the right side of the neck and the right shoulder" -- "so serious" as to require further treatment, even after they had been sutured. Dr. Deiparine asked Crisologo how he had come by these wounds. Crisologo said that at around 6 to 7 o'clock that evening, near the Papan Market, he was assaulted without warning by a young man, who injured him with a bolo.

Police officers came to Dr. Deiparine's clinic the following morning, looking for a man who might have been treated for wounds from a bladed weapon. They were directed to the public market where they came upon

Crisologo, taking breakfast. They arrested him and brought him to the Dumanjug INP Station. There, Crisologo was interrogated by the Station Commander, P/Pfc. Rogelio Abrea, and gave a sworn statement.

Crisologo was later brought to Municipal Judge Gerardo Gestopa, before whom he took oath on his affidavit. Before administering the oath, the Judge had a law graduate, one Victor Esguerra, called to assist Crisologo and verify if he had voluntarily executed his sworn statement.

The three (3) accused all took the witness stand in their defense,[12] and gave stories different from that of the prosecution witnesses.

Empacis confirmed the facts established by the prosecution witnesses, up to a point. He admitted that he and Romualdo Langomez had indeed gone to the store of Fidel Saromines on the night in question, and had there partaken of a meal of sardines and rice. He also acknowledged that after taking their supper, Romualdo Langomez had gone upstairs to buy some cigarettes from Fidel, and it was there that moments later, he saw Romualdo and Fidel grappling with each other. He denies having joined Romualdo in attacking Fidel. He claims that when he saw Romualdo pull out a knife, he tried to stop Romualdo from using the knife on his adversary; that nonetheless, Romualdo succeeded in stabbing Fidel twice; that a teen-age boy came with a bolo and lashed out at Romualdo but the latter was not hit because he pulled him to one side, and instead it was he (Empacis) who was struck at the right side of the neck; that he then ran away towards his barrio and from there he was brought by his neighbors to the clinic of Dr. Deiparine; that he was arrested by the police the following morning; that while being investigated at the municipal hall of Dumanjug, he told the investigator he wished to avail of the assistance of counsel but his request went unheeded; and that while being interrogated, some policemen were inflicting pain on him by squeezing his injured back in order to force him to admit his participation in the robbery-homicide at Kanguha, Dumanjug.[13]

The other two accused, Zacarias Solis and Bebe Antiga, denied any participation whatever in the crime. They were both absolved by the Trial Court, which agreed with them that the prosecution had indeed failed to clearly and positively prove their complicity in the offense.[14]

The Court *a quo* rejected (quite correctly, it may be said) the sworn statement purportedly executed by Empacis on September 17, 1986, offered by the prosecution, condemning it as "null and void, ** offensive to Art. III, Section 20, of the New Constitution and the teachings of the Supreme Court **." [15] It ruled however that the other proofs of the prosecution overwhelmingly demonstrated Crisologo Empacis' guilt of the crime charged, and accordingly entered a judgment of conviction against him. It ruled that Empacis had committed the offense in conspiracy with Romualdo Langomez (who was then and to this day remains at large); that both of them knew Fidel to be in possession of a sizable amount of money at the time, and their concerted acts proved their agreement to rob Fidel and if necessary, kill him. It also ruled that the crime was attended by several aggravating circumstances, i.e., having been perpetrated (a) "in the dwelling of the offended party ** (the latter not having) given provocation," [16] (b) "in the nighttime;" [17] (c) with employment of "craft or fraud;" [18] and (d) with advantage being taken of superior strength. [19]

From this judgment Empacis has appealed to this Court. His basic thesis is that the evidence of the prosecution does not actually prove his guilt of the felony of which he is accused beyond reasonable doubt.

A painstaking review of the record fails to reveal to this Court any error on the part of the Trial Court of sufficient gravity to justify reversal or modification of its verdict. This Court is unable to perceive any reason to doubt the veracity of the testimony of the victim's widow and son respecting the identity of Romualdo Langomez and Crisologo Empacis as the persons who attacked and killed Fidel Saromines in their effort to make off with the latter's money amounting to P12,000.00, and the acts individually done by Romualdo and Crisologo in pursuance

of their common nefarious objective. Indeed, the narrative of the widow and son is, as already pointed out, confirmed for the most part by the testimony of Crisologo Empacis himself. The latter's attempt to exculpate himself, by portraying himself as a frustrated protector of Fidel Saromines, cannot be taken at face value, as against the more credible declarations of the victim's widow and son, specially considering that Crisologo's credit as a witness has been gravely enfeebled by his having obviously lied to the physician treating him, as regards the cause of his injuries.[20]

The Court has been cited to no plausible cause for Fidel's widow and son to testify falsely against Crisologo if it be true, as the latter insinuates, that either they had not seen the actual killing or, having witnessed it, had seen Crisologo actually try to stop Romualdo from stabbing Fidel. No reason exists, therefore, to disbelieve them.[21] The fact that the victim's son, Peter, had to correct his statement on direct examination that Romualdo Langomez stabbed his father five (5) times, declaring, on cross-examination, that in truth Romualdo stabbed his father only about three times while Crisologo Empacis stabbed the victim once -- of which the appellant seeks to make capital -- is not sufficient warrant to reject and discard Peter's evidence. The discrepancy is at best a minor one, not at all destructive of Peter's credibility as an unrehearsed witness. This Court agrees that the Trial Court has correctly assessed the credit that should be accorded to the evidence of the prosecution witnesses.

This Court also agrees that conspiracy is adequately proven by the evidence. Langomez and Crisologo Empacis came to Fidel's store late at night, acting as bona fide customers. Immediately after finishing their supper, they demanded the delivery to them of Fidel's money, of which they evidently had prior knowledge, Crisologo lending silent support to his companion's order for Fidel to turn over the money to them; they helped each other wrest the money away from Fidel and subdue him by deadly knife thrusts: Romualdo stabbing Fidel thrice, Crisologo, once; they had obviously arranged for shots to be fired from outside Fidel's store as a means of frightening Fidel to submit to their demand; and they fled from the scene, together. They acted in concert, helping and cooperating with one another (and others) by simultaneous acts, evidently in pursuit of a common objective.[22]

The aggravating circumstance of craft or fraud[23] was properly appreciated against Empacis. He and Romualdo pretended to be bona fide customers of the victim's store and on this pretext gained entry into the latter's store and later, into another part of his dwelling. This Court has held stratagems and ruses of this sort to constitute the aggravating circumstance of fraud or craft, e.g.: where the accused -?

- a) pretended to be constabulary soldiers and by that ploy gained entry into the residence of their prey whom they thereafter robbed and killed;[24]
- b) pretended to be needful of medical treatment, and through this artifice, entered the house of the victim whom they thereupon robbed and killed;[25]
- c) pretended to be wayfarers who had lost their way and by this means gained entry into a house, in which they then perpetrated the crime of robbery with homicide;[26]
- d) pretended to be a customer wanting to buy a bottle of wine;[27]
- e) pretended to be co-passengers of the victim in a public utility vehicle;[28]
- f) posed as customers wishing to buy cigarettes; and as being thirsty, asking for drink of water[29]

The Court also agrees that nighttime was properly appreciated as an aggravating circumstance against the accused. To be sure, nighttime is not per se aggravating.[30] It must be shown that nocturnity was deliberately and purposely sought to facilitate, or that it actually facilitated, the commission of the crime.[31] In the case at bar, the lateness of the hour no doubt precluded the presence of other customers who could have deterred the

felons, or come to the aid of the victim. All things considered, there is adequate showing that nocturnity was deliberately sought by the robbers and did in reality facilitate the perpetration of the felony.

For the aggravating circumstance of superior strength to be deemed present in a case, it does not suffice to prove superiority in number on the part of the malefactors;^[32] it must appear that they purposely employed excessive force, force out of proportion to the means of defense available to the person attacked.^[33] In this case, the evidence shows that Empacis helped his co-accused by also stabbing the victim; he and his companion took advantage of their combined strength and their bladed weapons to overcome their unarmed victim and assure the success of their felonious design to make off with his money.

That the crime was "committed in the dwelling of the offended party, ** the latter ** not (having) given provocation," was also correctly appreciated as an aggravating circumstance.^[34]

This Court thus sees no cause to deviate from the established axiom that the factual findings of the Trial Court are accorded the highest respect on appeal, if not indeed regarded as conclusive, absent any persuasive showing that material facts have been overlooked or ignored which might otherwise dictate a different verdict.^[35]

The Court a quo sentenced Crisologo Empacis to pay the heirs of Fidel Saromines in the amount of Thirty Thousand Pesos (P30,000.00) "by way of death indemnity." Pursuant to prevailing case law,^[36] this indemnity must be increased to Fifty Thousand Pesos (P50,000.00). On the other hand, despite the evidence given by Fidel Saromines' widow establishing the forcible taking from her husband of the amount of P12,000.00 by Crisologo and Romualdo,^[37] the Trial Court somehow omitted to require the return of said stolen money, as required by law.^[38]

WHEREFORE, with the modification that the indemnity for death payable to the heirs of Saromines is increased to P50,000.00 and restitution of the amount of P12,000.00 shall be made by the accused, jointly and severally, the Decision of the Trial Court subject of this appeal is hereby AFFIRMED.

IT IS SO ORDERED.

Padilla, Regalado, and Nocon, JJ., concur.

[1] Branch 14

[2] The case was docketed as Criminal Case No. CBU-9567

[3] Rollo, p. 22

[4] Original record, p. 262

[5] Rollo, pp. 31-32

[6] Italics supplied. The italicized clause is incorrect. The cited constitutional provision did not "abolish" the death penalty. It simply declared that it shall NOT be imposed "unless, for compelling reasons involving heinous crimes, the Congress hereafter provides for it."

[7] Rollo, pp. 22-27

[8] Carlito died during the trial. SEE p. 2, supra, and footnote 8 infra.

[9] TSN, Aug. 10, 1987, p. 18

[10] Id., p. 19

[11] Id., pp. 22-24; Original record, p. 6

[12] As aforesated, the fourth, Carlito Antigua, died a violent death during the trial; and the fifth suspect, Romualdo Langomez, has remained, and to this day remains, at large.

[13] Rollo, pp. 24-25

[14] Id., p. 26

[15] The Trial Court cited *People v. Pascual*, 109 SCRA 197; *Morales v. Enrile*, 121 SCRA 538; *People v. Galit*, 135 SCRA 465; *People v. Duhan*, 142 SCRA 100; *People v. Opida*, 142 SCRA 295

[16] Par. 3, ART. 14, Revised Penal Code

[17] Par. 6, id.

[18] Par. 14, id.

[19] Par. 15, id.

[20] SEE footnote 9 and related text, *supra*

[21] SEE *Peo. v. Dimaano*, June 15, 1992, citing *Peo. v. Gonzales*, 182 SCRA 393 (1990)

[22] SEE *Peo. v. Benitez*, 202 SCRA 478; *Peo. v. Penones*, 200 SCRA 624; *Peo. v. Palino*, 183 SCRA 680; *Peo. v. Alitao*, 194 SCRA 120

[23] Par. 14, ART. 14, RPC

[24] *Peo. v. Saquing*, 30 SCRA 961 (SEE *Aquino*, the Revised Penal Code. 1988 ed., Vol. I, p. 374

[25] *Peo. v. Casalme*, 101 Phil. 1249

[26] *Peo. v. Saulog*, 74 Phil. 527

[27] *Peo. v. Bundal*, 3 Phil. 89

[28] *Peo. v. Vallente*, 144 SCRA 495

[29] *Peo v. Napili*, 85 Phil. 521

[30] *Peo v. Serante*, 152 SCRA 570

[31] *Peo. v. Palon*, 127 SCRA 529, 539 (1984), citing *Peo. v. Garcia*, 94 SCRA 14

[32] *Peo. v. Maloloy-on*, 189 SCRA 250 [1988]

[33] *Peo v Carpio*, 191 SCRA 108 [1990] citing *Peo v. Cabato*, 160 SCRA 101

[34] *Aquino*, The Revised Penal Code, 1976 ed., Vol. 1, p. 289, citing *Valdez*, 64 Phil. 860; *Pinca*, 114 Phil. 498

[35] SEE, e.g., *Peo. v. Bravo*, 180 SCRA 694, 699-700 (1989); *Peo. v. Alitao*, 194 SCRA 120, 126-127 (1991) *Peo. v. Manantan*, 196 SCRA 128, 131 (1991); *Peo. v. Tugbo*, 196 SCRA 133, 137 (1991)

[36] SEE, e.g., *Peo. v. Soriano*, 196 SCRA 123; *Peo. v. Sison*, 189 SCRA 643; *Peo. v. Sazon*, 189 SCRA 700; *Peo. v. Baguio*, 196 SCRA 459

[37] TSN, May 29, 1987, pp. 9-12, 17

[38] ART. 104, Revised Penal Code; SEE Aquino, Revised Penal Code [Anno.], 1987 ed., p. 842

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.