Supreme Court E-Library

"This defense is an equitable one and does not concern itself with the character of the defendant's title, but only with whether or not by reason of the plaintiff's long inaction or inexcusable neglect he should be barred from asserting this claim at all, because to allow him to do so would be inequitable and unjust to the defendant. x x x"

WHEREFORE, the petition is hereby GRANTED. The questioned resolution of the Court of Appeals is REVERSED and SET ASIDE and a NEW ONE is ENTERED ordering the respondent to execute the necessary deed of conveyance covering Lot No. 5517 in favor of the petitioners. The temporary restraining order issued in this case is made PERMANENT.

SO ORDERED.

Feria (Chairman), Fernan, Alampay, and *Paras, JJ.*, concur.

EN BANC

[G.R. Nos. 55033-34. November 13, 1986]

THE PEOPLE OF THE PHILIPPINES, *plaintiff-appellee, vs.* **RENATO ALDEMITA y MALIHAN,** *defendant-appellant.*

SYLLABUS

CRIMINAL LAW; MURDER AND FRUSTRATED MURDER; EXEMPTING CIRCUMSTANCE; PLEA OF INSANITY; MAY BE CONSIDERED AS A DEFENSE.— The Trial Court adjudged the appellant sane at the time he committed the acts charged, and the record discloses no good or sufficient reason to disturb that finding. In considering the plea of insanity as a defense in a prosecution for crime, the starting premise is that the law presumes all persons to be of sound mind or otherwise stated, the law presumes all acts to be voluntary, and that it is

Supreme Court E-Library

improper to presume that acts were done unconsciously. Insanity being the exception, rather than the rule, in the human condition, "x x x the moral and legal presumption is that freedom and intelligence constitute the normal condition of a person x x x" and that "x x x a felonious or criminal act (*delito doloso*) x x x (has) been done with deliberate intent, that is, with freedom, intelligence and malice. x x x" Whoever, therefore, invokes insanity as a defense has the burden of proving its existence. Another basic premise is that the inquiry into the mental condition of an accused who pleads insanity as an exempting circumstance must relate to the time preceding, or coetaneous with, the commission of the offense with which he is charged. The evidence (of mental condition), it has been held "x x x must refer to the time preceding the act under prosecution or to the very moment of its execution."

2. **ID.; ID.; ID.; WHAT CONSTITUTE INSANITY IN LAW, EXPLAINED.**— As to what constitutes insanity in law, this Court has consistently hewed to the old, but still valid, parameters established in rulings of the Supreme Court of Spain interpreting paragraph 1, Article 8, of the old Penal Code of Spain from which Article 12 of our Revised Penal Code on this exempting circumstance is copied. In *People vs. Renegado*, (57 SCRA 275, 286) it was held that: "In the eyes of the law, insanity exists when there is a complete deprivation of intelligence in committing act (sic), that is, the accused is deprived of reason, he acts without the least discernment because there is a complete absence of the power to discern, or that there is a total deprivation of freedom of the will, mere abnormality of the mental faculties will not exclude imputability. The *onus probandi* rests upon who invokes insanity as an exempting circumstances and he must prove it by clear and positive evidence."

3. **REMEDIAL LAW; EVIDENCE; SCHIZOPHRENIC CHARACTER OF ACCUSED AS A DEFENSE REJECTED, PERIOD OF INQUIRY OF MENTAL STATE OF ACCUSED MUST RELATE TO THE TIME TRANSPIRING IMMEDIATELY PRECEDING AND/OR AT THE VERY MOMENT OF THE ACT CHARGED.**— The appellant has not successfully discharged the burden of overcoming the presumption that he committed the acts for which he was prosecuted and convicted freely, knowingly and intelligently. His evidence fails to confute the clear and positive indicia that

Supreme Court E-Library

immediately before and during the commission of said acts, as well as afterwards, said appellant was in full possession of his mental faculties. That during his confinement in the National Mental Hospital the appellant may have been found certifiably schizophrenic does not detract from the persuasive character of the evidence of normality implicit in his conduct and actions immediately before, during and after the attack on Viardo and Yambao. As already pointed out, it is settled principle that in cases such as this, the period to which an inquiry into the mental state of the accused should be directed is that transpiring immediately before and/or at the very moment of the act or acts under prosecution. Considering that, as ruled in the cases already cited, insanity, in law, exists when, among other things, "x x x there is a complete deprivation of intelligence x x x," the statement of one of the expert witnesses presented by the defense, Dr. Carlos Vicente, that schizophrenia is not accompanied by loss of intelligence makes it highly doubtful that the appellant could be deemed legally insane when he committed the acts charged, even if it is conceded — though it has not been shown to the satisfaction of the Court — that he was then already suffering from said mental disorder. *People vs. Puno, supra,* where schizophrenia was pleaded in defense to a murder charge, records far more erratic and bizarre behavior on the part of the accused prior to and very soon after the commission of the offense than is imputed to the appellant here. In addition, said accused had been referred to a psychiatrist for treatment *ten times* in the four years prior to the date of the killing. This Court nonetheless rejected the defense of insanity, citing *Formigones, Renegado* and the other leading cases on the subject already adverted to. There is no reason to reach a different conclusion here.

4. **CRIMINAL LAW; MURDER; PRESENCE OF TREACHERY AND AGGRAVATED BY ABUSE OF SUPERIOR STRENGTH; PENALTY IMPOSABLE.—** The Trial Court correctly assessed both offenses as qualified by treachery and aggravated by abuse of superior strength without any offsetting circumstances. In accordance with ruling jurisprudence, in the murder case the civil indemnity imposed should be raised from P12.000.00 to P30.000.00 and the other damages awarded, while running into seven figures, should be maintained as correctly computed on the basis of the undisputed evidence. The death

Supreme Court E-Library

penalty imposed in said case, however, is not affirmed, for lack of the necessary votes.

APPEARANCES OF COUNSEL

The Solicitor General for plaintiff-appellee.
Edward O. Rafael for defendant-appellant.

DECISION

NARVASA, *J.*:

The judgment of the former Circuit Criminal Court of Manila in Criminal Cases Nos. CCC-VI-2253 and CCC-VI-2254 finding Renato Aldemita y Malihan guilty beyond reasonable doubt of murder and frustrated murder is before this Court on automatic review in view of the death penalty meted out in the first case. The dispositive portion of the judgment reads:

"WHEREFORE, the accused Renato Aldemita y Malihan is hereby found: (1) in Criminal Case No. CCC-VI-2253, guilty beyond reasonable doubt of the crime of murder qualified by treachery, and there being proved the aggravating circumstances of abuse of superior strength, evident premeditation, disregard of respect due the offended party on account of her rank, and cruelty, without any mitigating circumstance to offset the same, the Court hereby sentences him to DEATH; to indemnify the heirs of the deceased Erlinda Viardo in the following sums: P12,000.00 for the death of the latter, P1,376,550.00 for Erlinda Viardo's loss of earning capacity, the sum of P50,000.00 by way of moral damages, and the sum of P20,000.00 by way of exemplary damages; and to pay the costs; (2) in Criminal Case No. CCC-VI-2254, guilty beyond reasonable doubt of the crime of frustrated murder, also qualified by treachery and attended by the aggravating circumstance of abuse of superior strength, without any mitigating circumstance to offset the same, the Court hereby sentences him to suffer an indeterminate penalty ranging from 10 years and 1 day of *prision mayor*, as minimum, to 17 years, 4 months and 1 day of *reclusion temporal*, as maximum; to indemnify Angelita Yambao, the offended party, in the sum of P587.28, representing her expenses at the Manila Medical Center, P10,000.00 by way of moral damages, and P5,000.00 by way of exemplary damages; and to pay the costs."[1]

[1] Pp. 158-159, Original Record, Vol. II.

Supreme Court E-Library

Appellant Aldemita does not deny authorship of the crimes of which he stands convicted nor the factual circumstances attending their commission as found by the Trial Court. The sole plea he makes is that he was insane at the time he committed them, hence cannot be held liable therefor.

From the undisputed findings of the Trial Court, it appears that the deceased victim, Erlinda Viardo, was at the time of her slaying managing partner of the accounting firm of Carlos Valdez and Company. Angelita Yambao was her secretary and appellant Aldemita was an employee of the same firm whose duties were those of liaison officer on BIR matters.

In the afternoon of March 5, 1976, Viardo arrived at her office in the company's premises at 1130 Perez Street in Paco, Manila, at about half past two o'clock. She conferred in her room with Yambao for some time and then the latter stepped out briefly to get some files. Upon Yambao's return to Viardo's room and while she and Viardo were engaged in discussion, Aldemita entered the room, locking the door behind him. He was carrying an object wrapped in a newspaper, which turned out to be a jungle bolo, and with which, without further ado, he attacked Yambao, hitting and wounding her in the left hand and on the head. He then turned his deadly ministrations on Viardo and started hacking her with the bolo, at which point Yambao saw and seized the chance to flee. She opened the door and ran to a room in the second floor of the building where she locked herself in.

Maria Trinidad Ochoa Francisco, another secretary assigned to Viardo, whose desk was located outside Viardo's room about two feet from the door, had seen Aldemita enter the room carrying an object about two feet long wrapped in a newspaper. She had then heard the shouts of Yambao and Viardo and ran to a guard for help. As she and the guard were returning to the scene, they met Yambao, whose hands and back were stained with blood and who blurted out that Viardo was being harmed ("Si Viardo, sinasaktan sinasaktan.").

Ricarte Corpus, Viardo's driver, had seen people scampering out of the offices and promptly hied himself to Viardo's room.

Supreme Court E-Library

From a distance of about four paces away from the room, he saw Aldemita through the open door hacking away at Viardo. He entered the room and tried to pacify Aldemita, but the latter turned on him and tried to strike him, missing him, however. Corpus then ran to call a policeman, but was told that someone had already done that. When police officers arrived, they and Corpus tried to open the door of Viardo's room, but found it locked. Aldemita opened the door only when he was convinced by the police that he would not be harmed; then he walked out of the room and gave himself up.

Viardo's lifeless blood-soaked body was found lying face down at the southwest corner of the room, which was in complete disarray. Aldemita, having been handcuffed and led to a sofa, began talking about the incident, telling one of the policemen that he had long planned the killing and had purchased the bolo with which he had done it three days before. At police headquarters, however, he said he had bought the bolo three weeks previously. No written statement was taken from him because he wanted to wait for his lawyer before giving one, and when the latter arrived, he advised Aldemita against doing so.[2]

Post-mortem examination of the body of Viardo disclosed that she had sustained fourteen (14) incised wounds and eleven (11) stab wounds. The medico-legal officer who performed the examination later testified that death could have occurred from any one of the three wounds described in his necropsy report[3] as follows:

"Wounds, incised:

x x x x x x x x x

(9) 15.0 cm. long, extending from approximately the right anterolateral aspect of the neck, upward and posteriorly, parallel with the inferior border of the jaw, ending at the right mastoid region, involving the skin and underlying soft

[2] Pp. 141-145, Original Record, Vol. II.

[3] Exhibit "D", pp. 186-188, Original Record, Vol. I.

Supreme Court E-Library

tissues, and cutting, among other things, the platysma and sternocliedomastoid muscles, the external and internal carotid arteries, the superficial and internal jugular veins, smaller arteries, veins and nerves, fracturing the transverse process of the 4th cervical vertebra;

x x x x x x x x x

Wounds, stab:

x x x x x x x x x

(9) 5.0 cm. long, spindle shaped, edges cleancut, infrascapular region, right, 8.5 cm. from posterior median line, oriented obliquely upward and medially, upper medial extremity contused, lower lateral extremity sharp, directed forward, downward, and medially, involving the skin and underlying soft tissues, into the right thoracic cavity, passing thru the 9th interspace, penetrating the lower lobe of the right lung, with an approximate depth of 8.5 cm.

x x x x x x x x x

(11) 5.0 cm. long, spindle shaped edges cleancut, posterior aspect, lumbar region, left side, 8.0 cm. from the posterior median line, oriented almost vertically, upper extremity contused, lower extremity sharp, directed forward, slightly downward, and medially, involving the skin and underlying soft tissues, into the abdominal cavity, penetrating the left kidney, with an approximate depth of 8.5 cm.

x x x x x x x x x."

Angelita Yambao was confined for three days at the Manila Medical Center, where she was treated for a lacerated head wound, a wound in the left hand and abrasions on the left arm.[4]

While he was charged with murder and frustrated murder within three days after the incident, Aldemita was brought to trial only some two years later. In the interim, he was confined and placed under observation in the National Mental Hospital, having been committed to said institution by order of the Trial

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[4] Pp. 6-11, TSN, March 22, 1979; Exhibit "Q-6", p. 230, Original Record, Vol. I.

Supreme Court E-Library

Court issued on March 11, 1976 on motion of his counsel. An initial report on his mental or psychiatric condition attested that said appellant:

"x x x (i)s found suffering from a mental disorder called schizophrenia, manifested by withdrawal symptoms, behavioral oddities, dulling of the affect and mental inacessibility.

He is presently still psychotic or insane and needs further hospitalization and treatment. He cannot yet stand trial in court."[5]

Subsequent reports periodically submitted to the Trial Court over the next two years or so[6] indicated that said condition remained essentially unchanged until March 8, 1976 when it was certified that he had improved sufficiently to be able to stand trial.[7]

Appellant's defense of insanity is anchored on those reports; the professional opinions given on the stand by Dr. Carlos Vicente and Dr. Arturo Nerit of the National Mental Hospital, who had had him under observation during his confinement in that institution, that he was already mentally sick at the time he committed the acts charged;[8] the testimony of Ms. Nolie Uy, a social worker in the National Mental Hospital, who declared that she had conducted an anamnesis (social case history) of the appellant and found that he had an only sister who had been confined in the same institution for psychosis for 23 years, and that six of his maternal cousins and a maternal grandmother had histories of mental illness;[9] and the testimony of appellant's wife, Lucrecia, about his disturbed and confused state in late February, 1976 brought about by the meddling of relatives in family affairs having to do with the partition of their father's property.[10]

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[5] Exhibits "2", "3", pp. 12, 13, *Id.*

[6] Exhibits "4", "8", "8-a", "8-b", "9-a", "9-b" and "10-a", pp. 26, 34, 35, 36, 48, 49 and 5, *Id.*

[7] Exhibits "12" and "12-a", pp. 61, 62, *Id.*

[8] P. 22, TSN, October 26, 1979; p. 45. TSN, February 15, 1980.

[9] Pp. 4, 8-15, TSN, June 4, 1979.

[10] Pp. 4-27, TSN, July 20, 1979.

Supreme Court E-Library

Said evidence notwithstanding, the Trial Court adjudged the appellant sane at the time he committed the acts charged, and the record discloses no good or sufficient reason to disturb that finding.

In considering the plea of insanity as a defense in a prosecution for crime, the starting premise is that the law presumes all persons to be of sound mind[11] or otherwise stated, the law presumes all acts to be voluntary, and that it is improper to presume that acts were done unconsciously.[12] Insanity being the exception, rather than the rule, in the human condition "x x x the moral and legal presumption is that freedom and intelligence constitute the normal condition of a person x x x" and that "x x x a felonious or criminal act (delito doloso) x x x (has) been done with deliberate intent, that is, with freedom, intelligence and malice. x x x"[13] Whoever, therefore, invokes insanity as a defense has the burden of proving its existence.[14] Another basic premise is that the inquiry into the mental condition of an accused who pleads insanity as an exempting circumstance must relate to the time preceding, or coetaneous with, the commission of the offense with which he is charged. The evidence (of mental condition), it has been held, "x x x must refer to the time preceding the act under prosecution or to the very moment of its execution."[15] In the same vein:

"Without positive proof that the defendant had lost his reason or was demented, a few moments prior to or during the perpetration of the crime, it will be presumed that he was in a normal condition."[16]

"A defendant in a criminal case, who interposes the defense of mental capacity, has the burden of establishing that fact, meaning

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[11] Art. 800, Civil Code; *U.S. vs. Martinez,* 34 Phil. 305, 308.

[12] *People vs. Cruz*, 109 Phil. 288, 292; *People vs. Tagasa*, 68 Phil. 147, 153; *U.S. vs. Guevara*, 27 Phil. 547.

[13] *People vs. Renegado*, 57 SCRA 275, 286.

[14] *Id.*; also *U.S. vs. Zamora*, 32 Phil. 218; *People vs. Bascos*, 44 Phil. 204.

[15] *U.S. vs. Guevara, supra; People vs. Puno,* 105 SCRA 151, 158-160.

[16] *U.S. vs. Hontiveros Carmona*, 18 Phil. 62.

Supreme Court E-Library

that he was insane at the very moment when the crime was committed."[17]

As to what constitutes insanity in law, this Court has consistently hewed to the old, but still valid, parameters established in rulings of the Supreme Court of Spain interpreting paragraph 1, Article 8, of the old Penal Code of Spain from which Article 12 of our Revised Penal Code on this exempting circumstance is copied. In *People vs. Formigones*,[18] the following passage from Guevara's Commentaries on the Revised Penal Code, 4th ed., pp. 42-43, was quoted with approval:

"The Supreme Court of Spain held that in order that this exempting circumstance may be taken into account, it is necessary that there be a complete deprivation of intelligence in committing the act, that is, that the accused be deprived of reason; that there be no responsibility for his own acts; that he acts without the least discernment; that there is a complete absence of the power to discern, or that there be a total deprivation of freedom of the will. For this reason, it was held that the imbecility or insanity at the time of the commission of the act should absolutely deprive a person of intelligence or freedom of will, because mere abnormality of his mental faculties does not exclude imputability.[19]

x x x x x x x x x

The allegation of insanity or imbecility must be clearly proved. Without positive evidence that the defendant had previously lost his reason or was demented, a few moments prior to or during the perpetration of the crime, it will be presumed that he was in a normal condition. Acts penalized by law are always reputed to be voluntary, and it is improper to conclude that a person acted unconsciously, in order to relieve him from liability, on the basis of his mental condition, unless his insanity and absence of will are proved."

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[17] *People vs. Bascos, supra.*

[18] 87 Phil. 658, 661.

[19] The decisions of the Spanish Supreme Court referred to are those of November 21, 1891, 47 Jur. Crim. 413 and April 20, 1911, 86 Jur. Crim. 94, 97.

Supreme Court E-Library

A line of later cases, notable among them, *People vs. Cruz, supra, People vs. Renegado, supra, People vs. Ambal,*[20] and *People vs. Magallano,*[21] reaffirmed adherence to the ruling in *Formigones.* Typical of these is *Renegado*, where it was held that:

"In the eyes of the law, insanity exists when there is a complete deprivation of intelligence in committing act (sic), that is, the accused is deprived of reason, he acts without the least discernment because there is a complete absence of the power to discern, or that there is a total deprivation of freedom of the will, mere abnormality of the mental faculties will not exclude imputability. The *onus probandi* rests upon who invokes insanity as an exempting circumstances and he must prove it by clear and positive evidence."

The appellant has not successfully discharged the burden of overcoming the presumption that he committed the acts for which he was prosecuted and convicted freely, knowingly and intelligently. His evidence fails to confute the following clear and positive indicia that immediately before and during the commission of said acts, as well as afterwards, said appellant was in full possession of his mental faculties:

1) after lunch on March 5, 1976 and until about half an hour before the incident, the appellant had played two or three games of chess with Lorenzo Javier, a fellow employee; chess is a game requiring a high degree of intellectual prowess, concentration, analytical skill, what is called "combinative" ability and the acuity to anticipate and counter the opponent's replies to one's moves;[22]

2) a few minutes before he barged into Viardo's room and attacked his victims, he was seen by one of them, Angelita Yambao, and another secretary, Ma. Trinidad Ochoa Francisco, checking the company log book for his assignment, which fact demonstrates that he was clearly aware of and at least normally diligent in attending to his duties;[23]

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[20] 100 SCRA 325.

[21] 100 SCRA 570.

[22] Pp. 6-10, TSN, July 7, 1980.

[23] Pp. 9-10, TSN, September 25, 1978; p. 64, TSN, August 4, 1978.

Supreme Court E-Library

3) he craftily wrapped his weapon in a newspaper to avoid arousing suspicion of his murderous intent;[24]

4) he took care to lock the door of Viardo's room before starting his attack, the natural and — it must be presumed — the intended consequence of which was to trap his victims inside and delay, if not prevent, efforts to succor them, in a word, to insure the unimpeded consummation of his deadly purpose;[25]

5) after violently rebuffing the efforts of Ricarte Corpus, Viardo's driver, to pacify him and make him desist from further attacking Viardo, he locked the door again, which once more foiled any attempt to come to the aid of said deceased, assuming that she was not then already beyond help;[26]

6) in quietly coming out of the room and submitting to arrest after he was assured that he would not be harmed, he showed that he had not lost the power of discernment or reasoning as well as self-possession in a crisis situation;[27]

7) when investigated, he declined to give any statement without the presence of his lawyer, thus evincing knowledge and awareness of his constitutional rights.[28]

These are not the acts or reactions of a madman. They bespeak an intelligently functioning mind, purposive and calculated thinking, even craft and guile.

That during his confinement in the National Mental Hospital the appellant may have been found certifiably schizophrenic does not detract from the persuasive character of the evidence of normality implicit in his conduct and actions immediately before, during and after the attack on Viardo and Yambao. As already pointed out, it is settled principle that in cases such as this, the period to which an inquiry into the mental state of the accused should be directed is that transpiring immediately before and/or at the very moment of the act or acts under prosecution.

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[24] P. 54, TSN, August 4, 1978; p. 11, TSN, September 25, 1978.

[25] P. 54, TSN, August 4, 1978.

[26] Pp. 34-35, TSN, September 25, 1978.

[27] Pp. 9-11, TSN, September 29, 1978.

[28] Pp. 51-52, 58-59, TSN, September 25, 1978.

Supreme Court E-Library

Considering that, as ruled in the cases already cited, insanity, in law, exists when, among other things, "x x x there is a complete deprivation of intelligence x x x," the statement of one of the expert witnesses presented by the defense, Dr. Carlos Vicente, that schizophrenia is not accompanied by loss of intelligence[29] makes it highly doubtful that the appellant could be deemed legally insane when he committed the acts charged, even if it is conceded — though it has not been shown to the satisfaction of the Court — that he was then already suffering from said mental disorder.

People vs. Puno, supra, where schizophrenia was pleaded in defense to a murder charge, records far more erratic and bizarre behavior on the part of the accused prior to and very soon after the commission of the offense than is imputed to the appellant here. In addition, said accused had been referred to a psychiatrist for treatment *ten times* in the four years prior to the date of the killing. This Court nonetheless rejected the defense of insanity, citing *Formigones, Renegado* and the other leading cases on the subject already adverted to. There is no reason to reach a different conclusion here.

The Trial Court correctly assessed both offenses as qualified by treachery and aggravated by abuse of superior strength without any offsetting circumstances. In accordance with ruling jurisprudence, in the murder case the civil indemnity imposed should be raised from P12,000.00 to P30,000.00 and the other damages awarded, while running into seven figures, should be maintained as correctly computed on the basis of the undisputed evidence.[30] The death penalty imposed in said case, however, is not affirmed, for lack of the necessary votes.

WHEREFORE, modified only to increase the civil indemnity in the murder case to P30,000.00 and to reduce the penalty imposed therein from death to *reclusion perpetua*, the judgment

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[29] P. 67, TSN, July 23, 1979.

[30] As to civil indemnity, *People vs. De la Fuente*, 126 SCRA 518; *People vs. Atanacio*, 128 SCRA 22: *People vs. Centeno,* 130 SCRA 198; and as to other damages, *Villa Rey Transit vs. Court of Appeals*, 21 SCRA 511; *Davila vs. Philippine Air Lines*, 49 SCRA 497.

Supreme Court E-Library

under review, being otherwise free from error, is affirmed in all other respects, with costs *de oficio*.

SO ORDERED.

Teehankee, C.J., Feria, Yap, Fernan, Melencio-Herrera, Alampay, Gutierrez, Jr., Cruz , and *Paras, JJ.*, concur.

Feliciano, J., is on leave.

SECOND DIVISION

[G.R. Nos. 62654-58. November 13, 1986]

PEOPLE OF THE PHILIPPINES, *plaintiff-appellee, vs.* **RAMON DAGANGON, VEDASTO LAGAPA, MARIA LAGAPA, ONCIANG LAGAPA, JUANITO PETALINO, PEDRO ELLANA JR., ONE alias "DANNY", ONE alias "GORIO," ONE alias "RAMON (ATA) MAMPINTUAN, CANDIDA MADELO, ANTONIO ALIGATO, and ONE alias "BENITO (ATA),"** *accused-appellants.*

SYLLABUS

1. **CRIMINAL LAW; EXEMPTING CIRCUMSTANCES; DEFENSE OF ACTING UNDER AN IMPULSE OF UNCONTROLLABLE FEAR OF AN EQUAL OR GREATER INJURY; FEAR MUST BE REAL, IMMINENT OR REASONABLE.** — The claim of appellant "ata" that he acted under the impulse of an uncontrollable fear of an equal or greater injury is not supported by the evidence. Fear in order to be a valid defense, should be based on a real, imminent or reasonable fear for one's life or limb (*People vs. Abanes*, 73 SCRA 44).