

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
GERONIMO SURBAN, RUBEN SURBAN, JAVIER SURBAN, NESTOR  
SURBAN, MANUEL SURBAN, PABLITO BUELLA, ORLANDO SURBAN,  
ELEUTERIO SURB...**

*G.R. Nos. L-37518-19. June 29, 1983*

Ponente: DE CASTRO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/031193ee7b2f/>

---

**DE CASTRO, J.:**

These are two cases for murder filed under two separate informations, one for the killing of Gregorio Gesmundo (Criminal Case No. 174), and the other, for the death of Gil Gesmundo (Criminal Case No. 175) both of the Court of First Instance of Catanduanes.

In Criminal Case No. 174 (G.R. No. L-37518) the accused are Geronimo Surban, Ruben Surban, Javier Surban, Nestor Surban, Manuel Surban, Pablo Buella and Orlando Surban. In Criminal Case No. 175 (G.R. No. L-37519), the accused are Geronimo Surban, Ruben Surban, Fausto Surban, Eleuterio Surban, Nestor Surban, Javier Surban, Pablito Buella, Cecilio Surban, Honesto Surban and Orlando Surban.

After joint trial of the two aforementioned cases, the trial court rendered judgment, the dispositive portion of which reads:

"WHEREFORE, the seven (7) accused GERONIMO SURBAN, RUBEN SURBAN, JAVIER SURBAN, NESTOR SURBAN, MANUEL SURBAN, PABLO (PABLITO) BUELLA and ORLANDO SURBAN in Criminal Case No. 174, are hereby sentenced to suffer the penalty of reclusion perpetua, to indemnify the heirs of the deceased Gregorio Gesmundo the sum of P12,000.00 and to pay consequential damages in the sum of P1,840.25 which is one-half of the total expenses incurred in connection with the deaths of said Gregorio Gesmundo and Gil Gesmundo, jointly and severally.

"In Criminal Case No. 175, the accused GERONIMO SURBAN, RUBEN SURBAN and ELEUTERIO SURBAN, are hereby sentenced to suffer imprisonment of reclusion perpetua, to indemnify the heirs of the deceased Gil Gesmundo the sum of P12,000.00 and to pay the consequential damages in the sum of P1,840.25 which is the other half of the total expenses incurred, in connection with the deaths of Gregorio and Gil Gesmundo. The herein accused Fausto Surban, Nestor Surban, Javier Surban, Pablo (Pablito) Buella, Cecilio Subion, Honesto Surban and Orlando Surban, the Court finds them NOT GUILTY on the ground of reasonable doubt and do declares them acquitted of the charge.

"Each of the convicted accused shall pay the costs in the joint trial of these cases pro-rata."[1]

All the convicted accused appealed from the judgment. However, on a joint manifestation of Ruben Surban and Geronimo Surban filed on September 28, 1978, their appeal was withdrawn, by Resolution of this Court dated October 9, 1978[2] leaving only six appellants.

The evidence of the prosecution sought to prove the following facts, as quoted from its brief:

"On July 22, 1972 at about 6:30 o'clock in the evening, Gregorio Gesmundo was inside the house of Soledad Vallespin in Bo. Codon, Municipality of San Andres, Catanduanes. While Gregorio Gesmundo was playing the radio-phono, Soledad Vallespin, who was in the porch of her house, saw appellants Manuel Surban, Pablo Buella and Javier Surban near the fence of her house. After about two (2) minutes, Gregorio Gesmundo went down the house but when he reached the yard, he was accosted by Manuel Surban, who was holding a piece of wood, Pablo Buella, who held a piece of stone in his right hand, and Javier Surban, holding an ice pick. Manuel challenged Gregorio to a fight which the latter refused. (t.s.n., pp. 118-119, Molod). As the three (3) aforementioned appellants surrounded Gregorio, Bo. Captain Zoilo Bitome, who had been informed by his sister that 'there are people quarreling outside' (p. 223, t.s.n., hearing of December 12, 1972), arrived and tried to pacify the Surbans, on one hand, by placing himself in the middle of the protagonists. Bitome told Gregorio to go home and the latter heeded. (t.s.n., p. 141, id.). However, a few minutes after Gregorio left her yard, Soledad Vallespin saw the other appellants Geronimo Surban, Nestor Surban, Orlando Surban and Ruben Surban chasing Gregorio. She saw Geronimo carrying a bolo while Ruben had a small, sharp-pointed bolo locally called 'palas'. Manuel Surban, Pablo Buella and Javier Surban, the three (3) appellants who were in the yard of Soledad Vallespin, joined in the pursuit of Gregorio towards the health center. (t.s.n., pp. 122, 125, 127, 148, Molod) Bitome shouted at the Surbans to stop but appellants did not heed him so he went to the house of Pat. Edgar Samodio, of the San Andres Police force, who resided in the same Bo. Codon to ask his help. Failing to see Pat. Samodio in his house, Bitome proceeded towards the health center to follow the route taken by Gregorio Gesmundo and the pursuing Surbans. However, upon nearing the patio of the Church, he saw the oncoming group of the appellants and he took cover in order to avoid encountering them. He heard Ruben say that 'the devil Gregorio is now dead'. (t.s.n., pp. 240-241, id.)

"What transpired during the time that Bo. Captain Bitome went to elicit the assistance of Pat. Samodio was related by prosecution eyewitness Arturo Nazareno who testified that: At about 7:00 o'clock p.m. in the same evening of July 22, 1972, he was in his house in Codon taking care of his little daughter when he heard the plea of Gregorio Gesmundo: 'Please stop. Help me, I will be killed.' (t.s.n., pp. 391-392, Molod). He went down to the gate of his fence and he saw a person being pursued by a group. When he was already beside the fence, he recognized Gregorio Gesmundo as the one person being pursued by the group of Geronimo, Orlando, Manuel, Nestor, Ruben, Javier, all surnamed Surban, and Pablo Buella. He saw Geronimo Surban catch up with Gregorio and immediately struck the buttocks of Gregorio with the bolo Geronimo was holding. As a result of the blow, Gregorio slumped and while in a kneeling position he said 'Manong Imong (Geronimo), I cannot fight you because we are relatives.' To this plea of Gregorio, appellant Geronimo Surban answered. 'What relatives? It has been our plan to kill you and your father'. (t.s.n., pp. 393, 401-402, Molod) After saying this, Ruben Surban came forward and stabbed Gregorio at the stomach with a sharp pointed bolo, followed by Pablo Buella and Orlando Surban who hit Gregorio with stones. Thereafter, appellant Manuel Surban hit Gregorio with a piece of wood. Gregorio fell flat on his back whereupon Geronimo again struck the victim's back after which Javier Surban and Ruben Surban, both carrying sharp instruments, took turns in striking Gregorio. Then witness Nazareno heard Ruben say, 'Papa, let us go, he is dead' and thereupon the Surbans left, heading towards Fidel Surban's house. (t.s.n., 394, et sq., p. 403, Molod).

"Arturo Nazareno went near Gregorio who asked Nazareno to take him to a doctor. While on his way to fetch a car, Nazareno met Bo. Captain Bitome who told Nazareno that he (Bitome) would take care of taking Gregorio to the hospital (t.s.n., pp. 403-404, Molod).

"In the meanwhile, at about 7:30 of the same evening of July 22, 1972, Elias Nazareno was seated on the bamboo fence of his house opposite the residence of Manuel Surban when he saw Felisa Surban running in the street towards the house of Gil Gesmundo located along the same street. A few minutes later, Felisa returned walking with Gil Gesmundo and his wife Felicitas (t.s.n., pp. 476-477, Molod). When Gil was about ten (10) meters from where Elias Nazareno was sitting, Eleuterio Surban and Ruben Surban, both carrying bolos, met the Gesmundo spouses. Gil Gesmundo asked Eleuterio and Ruben what happened but neither Eleuterio nor Ruben replied to query of Gil. In the same moment, Geronimo Surban, holding a long bolo, suddenly went

behind Gil Gesmundo while the latter was facing Eleuterio and Ruben and from behind, Geronimo Surban struck Gil Gesmundo hitting the latter's head (t.s.n., pp. 477-478, Molod). Gil fell towards Eleuterio who moved back a few steps and struck at the staggering Gil hitting the latter at the back. Gil continued to fall towards Ruben who likewise evaded the fall and stabbed Gil on the right chest with a small sharp pointed bolo (t.s.n., p. 479, Molod). Thereupon, Elias Nazareno heard Fidel Surban say 'Go ahead, kill that person with the wise head' and immediately Fausto Surban, Javier Surban, Orlando Surban, Nestor Surban and Honorato Surban rushed out from the gate of Fidel Surban's house and took turns in striking at the fallen Gil Gesmundo. Fausto inflicted a wound with his bolo followed by Javier with an ice pick, Orlando with a bolo, Nestor with another ice pick and Honesto also with a bolo (t.s.n., pp. 482-489, Molod). A little later, three (3) others namely: Cecilio Subion, Pablo Buella and Alejo Surban arrived and upon seeing the prostrate Gil, took turns in hacing the latter. Cecilio struck Gil at the right side of the body while Pablo Buella also boloed Gil several times. When Ruben Surban said: 'He seems still alive' the group again rushed towards the fallen Gil and struck the latter with their weapons (t.s.n., pp. 490-491, Molod).

"Thereafter, Fidel Surban and the others left and only Geronimo Surban remained brandishing his bolo and shouting: 'If anybody is aggrieved or in sympathy with Gil Gesmundo they better come out because I'm going to cut them into pieces.' (t.s.n., p. 493, Molod) and: 'It has been our plan for quite a time to kill these persons.'

"Both Gregorio and Gil Gesmundo were taken to the hospital where they were pronounced dead on arrival. Two (2) doctors, namely Dr. Tomasa Surban and Dr. Sabiniano Ramos, conducted an autopsy on the bodies of Gregorio and Gil Gesmundo (t.s.n., pp. 14, 666-667, Molod).

"For ready reference and perusal, we reproduce hereunder the autopsy reports of the aforesaid physicians:

NAME — GIL GESMUNDO

Age — 50 years

Address — San Andres, Cat. Occ. Mun. Councilor

Civil Status — Married

Date exam. July 23, 1972 Time 7:30 a.m.

#### AUTOPSY REPORT

- Fairly built cadaver weighing 150 lbs. m o 1, height—5'4" m o 1, with rig. mort.
- Wound lacerated, penetrating skull temporal and back of ear, right, fracture, 5" length 4" deep; lacerated wound sever occipital region about 4" length and 2" deep cutting the scalp and exposing skull; lacerated wound over parietal region of head about 3" length, 2" deep exposing skull and cutting scalp.
- Lacerated wounds (4) over the chest ranging from 2" to 4" in length over the chest left and right.
- Stab wound penetrating about 1.5" in length and 6" deep severing liver and lungs, right.
- Stab wound penetrating about 1.5" in length and 6" deep severing liver and lungs, right.
- Non-penetrating wound over the lumber spinal cord 1.5 deep, 2" in length.
- Wound lacerated over the shoulder, right, 3" in length and 2" deep.
- Lacerated wound, stab wound penetrating below scapular region, left, 2" in length and 2" deep.
- Lacerated wound, severing the shoulder bone, 1.3" in length and 2" deep.
- Stab wound, dorsal portion, shoulder, 1.3" length 2" deep.
- Stab wound severing the lateral portion of the patellar bone, 2" length and 3" deep.

- Abrasions and hematomas over the forehead.
- Wound lacerated, palm, 1.3" length and 0.5" deep.
- Lacerated wound over infrascapular region, 1.5" length and 2" deep.
- Stab wound over the scapular region, right 2" deep 2" length.
- Wound lacerated below scapular region, right, 4" length, 0.5" deep.
- Abrasions and hematomas over the cheek, right.
- Lacerated wound over the deltoid muscle, right, 4" length 3" deep.
- Lacerated wound over the middle portion of back about 7" length, 0.5" deep.
- Lacerated wound over the upper portion of chest which is superficial.
- Wound lacerated, forearm, right, palmar region, 1.5" length, 0.5" deep.

#### CAUSE OF DEATH:

- Loss of blood due to massive hemorrhage
- Fracture of skull
- Penetrating wound over liver and lungs
- Penetrating wound severing kidney, right and large intestines

SABENIANO A. RAMOS, MD

Mun. Health Officer"

(Exhibit "E", p. 122, record of Crim. Case No. 174)

#### "AUTOPSY REPORT

'Name of Patient: GIL GESMUNDO

Date exam. July 22, 1972 Time: 11:15 pm

#### FINDINGS:

Body not rigid; death estimated at less than 3 hours prior to exam. Face bloody so with other parts of the body.

#### Head:

- Left temporo-parietal area incised wound 11 cm x 2 cm cutting thru the scalp and skull from the lateral side of the left eyebrow; brain exposed and intact.
- Left parietal area, chopped scalp oval shaped 7 x 5; skull visible; scalp over said area missing.
- Occipital area, 8 incised wounds crossing one another, shortest 10 cm; longest 16 cm cutting thru scalp, skull and brain.

#### Upper Ext.

#### Left:

- Left deltoid area, incised wound 9 x 3 x 4.5 cutting a piece of the greater tubercle of the humerus (bone) 2 x 2

cm.

- Left palm, incised wound, 8 x 1.5 x 2.5 cm.

Right:

- Right deltoid, incised wound 11 cm x 2 cm x 6.5 cm.

- Right forearm, proximal 3rd, palmar side, incised wound 3 cm x 1 cm x 1 cm.

Chest:

- Left inframammary, 1.5 bel. nipple, incised wound across left chest 13 cm x 2.5 cm x 3 cm cutting thru the muscle.

- Medial to and 2 cm below No. 1 chest wound, another lacerated wound 6 cm x 1.8 cm x 1.5 cm.

- Left supramammary, 4.5 above the nipple, incised wound 5.5 cm x 2 cm x 1.5 cm.

- Medial to and 1.5 above No. 3 chest wound, another incised wound 6 cm x 1.8 cm x 1.5 cm above chest wounds through skin and muscles only.

- Right inframammary 3 cm below and 1.5 cm lateral to nipple, punctured wound 3 cm wide and 6.5 deep thru chest cavity and lung tissue.

Back:

- Left infrascapular, incised wound 11 cm x 1.5 cm x 2 cm cutting thru portion of rib.

- Superficial incised wound 8 cm long across from medial side of No. 1 Back wound.

- Superficial incised wound across at mid-portion of No. 1 back wound 15 cm long.

- Right infrascapular incised wound 8 cm x 1 cm x 1 cm.

- Right scapular incised wound 10 cm x 2.5 cm x 2 cm.

- Right costovertebral angle, punctured wound 3 cm wide slanting downwards 10 cm deep thru the muscles.

- Across to the vertebral area from No. 6 wound incised wound 9 cm x 1 cm x 1 cm.

- Incised wound 4 cm x 1 cm x 3 cm, 2 above No. 7 wound.

- 13 cm. above right superior anterior iliac spine, punctured wound 8 cm deep, 3 cm wide.

Lower Extremities:

- Lateral to right knee, punctured wound 5 cm deep. 2.5 cm wide at entrance.

Cause of death:

Hemorrhage, internal and external due to multiple wounds.

TOMASA S. SURBAN, MD

OIC"

(Exhibit "S", p. 6, record of Crim. Case No. 175)

"AUTOPSY REPORT

Name of Patient — GREGORIO GESMUNDO

Date examined — July 22, 1972

Time: 9:45 p.m.

FINDINGS:

. .Body still warm; death estimated less than 1 hour prior to examination. Body bloody with sand all over.

Head

- Forehead, incised wound across, vertical 1.5 cm x 0.5 cm cutting thru skin and subcutaneous tissue.
- Incised wound from right corner mouth, 2.5 cm long cutting thru skin.
- Superficial incised wound across neck, front, 10 cm long.

Upper Extremities: Right

- Wrist, incised wound, 4.5 cm x 2 cm x 1 cm.
- 4 cm proximal to No. 1 incised wound 8 cm x 3 cm. x 2 cm cutting thru ulna (bone), blood vessels and nerves.
- 8.5 cm proximal to No. 2, incised wound 11 cm x 5 cm. x 3 cm.
- Deltoid region, superficial incised wound 8 cm long.

Upper Extremities: Left

- Palm, incised wound 5.5 cm x 2 cm x 1.5 cm cutting thru pharyngeal bones.
- Terminal phalanx, 4th finger cut with small piece of skin attached to proximal portion.
- Base of thumb, incised wound 2.3 cm x 1.2 cm x 0.8 cm.
- 2.5 cm distal to elbow, incised wound 11 cm x 6 cm x 3 cm cutting thru radius and ulna (bones), blood vessels and nerves.
- Across deltoid muscle, incised wound 8 cm x 3 cm x 2 cm.

Chest:

- 7 cm below and 7 cm lateral to right nipple, incised wound 3 cm x 1.5 cm x 1 cm.

Back:

- Between the scapulae, horizontal incised wound 7 cm x 3 cm 1.5 cm.
- Left costovertebral angle, incised wound 3.5 cm x 1.8 cm x 1.5 cm.
- Right gluteus, incised wound across horizontally 11 cm x 4.5 cm x 6.8 cm.

Abdomen:

- 13 cm above right anterior superior iliac spine, stab wound 5.5 cm wide with 10 cm of large intestine protruding.
- Superficial incised wound 10 cm long 2 cm above abdominal stab wound.

Cause of death: Hemorrhage, interior and exterior, due to multiple wounds.

TOMASA S. SURBAN MD

OIC"

(Exhibit "R")

"AUTOPSY REPORT

Name of Patient — GREGORIO GESMUNDO

Age — 24 years

Civil Status: Single

Address: San Andres, Cat. Occ.

Date Examined: July 23, 1972

Time: 8:30 a.m.

FINDINGS:

- Fairly built cadaver weighing about 112 lbs. more or less; Height: 5' 2", more or less, with Rigor mt.
- Stab wound penetrating, 3" wide severing liver, right and lungs, right about 6" deep.
- Stab wound penetrating, severing small intestines coming out, 2" wide, 6" deep, left kidney penetrated.
- Lacerated with 2.5" below nipple, left, about 2" length, 1" deep.
- Lacerated wound over left side of body, about 4" length, 1" deep. non penetrating.

(No. #6)

- Wound lacerated over elbow about 4" length, 4" deep, and 4" deep, fracturing elbow left.
- Wound lacerated 4" below elbow, right, about 3" length, 3" deep, fracturing elbow, right.
- Wound lacerated 2" below the scapular region.
- Wounds lacerated over hand left, severing last finger, almost separated.
- Stab wound over the throat.
- Wound lacerated over the palm, left, about 2" length 0.5" deep, severing phalangeal bones.
- Wound lacerated over the lower portion of thumb, left, about 1" length and 0.5" deep.
- Wound lacerated over deltoid muscle 0.2" deep, 4" length.
- Lacerated wound over the wrist, right, about 1.5" length, 0.5" deep.
- Lacerated wound over the chest, lateral side of nipple, right, about 1" length, 0.2" deep.
- Lacerated wound over the middle portion of back about 1" length, 0.2" deep.
- Lacerated wound over the gluteal region, right about 5" length, 2" deep.
- Lacerated wound over the middle portion of abdomen about 0.1" deep and 5" length.

## CAUSE OF DEATH:

- Loss of blood due to massive hemorrhage.
- Wound stab, penetrating liver and lungs, lungs, right.
- Wound stab, penetrating kidney, right severing small intestines.
- Wound stab, penetrating throat."<sup>[3]</sup>

Appellants dispute the finding of conspiracy against them, and would insist on their denial of any participation in the killing or any act connected therewith, having pleaded the defense of alibi. The trial court, however, correctly refused to give credence to said defense, in the light of their having been positively identified by state witnesses without improper motive to falsely implicate them, as having actually participated in the two killings in the manner already above narrated. The different kinds of wounds inflicted by not just the weapons the two self-confessed killers were armed with attest to not just the said self-confessed killers having taken part in the commission of the crimes charged.

Thus, appellants would brand the testimony of state witnesses Soledad Vallespin, Zoilo Bitome, the barrio captain, and Arturo Nazareno as contradictory and incredible. They do so in their attempt to exculpate themselves with their defense of alibi, the testimony of said witnesses having pointed to them as among those who had taken actual part in the gruesome slaying of the two defenseless victims.

In assailing the credibility of the state witnesses, appellants, unfortunately, are up against a formidable wall protective of the validity of the findings of the trial court. The well-established doctrine is that findings of trial court relative to the credibility of the testimony of the witnesses, as well as of the witnesses themselves, are entitled to high respect, and, therefore, generally sustained by the appellate court. The only exception arises when it could be shown that the trial judge has overlooked or misinterpreted any fact or circumstance of weight and value as to impeach his findings or call for a different finding.<sup>[4]</sup> No such showing has been made by appellants, as demonstrated convincingly by the Solicitor General who refuted appellants' arguments intended to show the incredibility, for being allegedly contradictory and improbable, of the testimony of the three eyewitnesses for the prosecution named above, in a manner We can do no better than to quote from his brief were it not for the fact that to do this would unduly lengthen this decision. Suffice it to say that We are convinced from the discussion in appellee's brief of the alleged contradictions, inconsistencies or improbabilities in the testimonies of the state witnesses that all these are either non-existent or that they refer to details of no consequence that they could not affect the integrity of said testimonies.

The alleged error of the trial court in not allowing the defense counsel, on cross examining the state witness Arturo Nazareno, to test the latter's credibility by making said witness draw a sketch of his own, the trial court directing instead that the sketch already prepared by the Chief of Police be utilized for that purpose, is no error at all, or at best, a non-prejudicial error which requires no further discussions it being obvious that the trial judge had not abused his discretion which is his to exercise in the control of the proceedings. This is evident from the witness' admission that he is "not good in making a sketch" and requested to be allowed to use the sketch made by the Chief of Police.

With reference to the qualifying circumstance of treachery as found to have attended the two killings, appellants limit their discussion thereof only as regards the slaying of Gregorio Gesmundo. We sustain the trial court's finding it being clear from the evidence that all the accused, with manifest abuse of superior strength, deliberately resorted to as a way of insuring the execution of the crime without risk to themselves arising from the defense the offended party might make.<sup>[5]</sup>

From the first moment Gregorio came in contact with three of the accused who were all armed, it was evident that said accused deliberately and consciously adopted means and ways of committing the crimes without risk to themselves. By their number and arms, they made it futile for their intended victim to even attempt to make any kind of defense. This becomes more evident when account is taken that four other accused had positioned themselves as to spring upon Gregorio at the very moment of their own choosing, when surprise and suddenness would be factors in their favor, prompting Gregorio to run for his life. However, chased by his determined killers all armed while he was not, the initial blow was inflicted from behind which felled him. In such defenseless position, all accused inflicted injuries as if in a spree of unblinded violence. The numerousness of wounds, including stab wounds which they deny having been found on autopsy, but it is so shown by the autopsy report (Exhibit "A"),<sup>[6]</sup> attest to this well-planned slaying that precluded any form of, or attempt at, defense on the part of the hapless victim.

It is also the well-coordinated manner by which the first group of three that challenged the victim to a fight, followed by the chasing of Gregorio by the other group of four that made the trial court conclude in its decision that the latter group were "notified" to prepare for the killing, which appellants contend is not supported by the records, as so also is the statement of the trial court that the group of four accused: Geronimo, Ruben, Nestor and Orlando, all surnamed Surban, posted themselves near the corner street close to the house of Castor Suplit to prevent Gregorio's possible escape. It might be true that there is no positive evidence of the supposed "notice" or the intention "to prevent the possible escape of Gregorio", but from the facts as clearly established by the evidence, the trial court drew its above conclusions which appellants assail as baseless in their attempt to show that the two stages of the killing incident of Gregorio were separate incidents and mere chance encounters.

We cannot sustain appellants in their above contention, obviously to destroy the finding of conspiracy and treachery. It is all too clear from the evidence that the plan was first to provoke Gregorio to a fight, the challenge to be hurled by the first group of three accused, and should an encounter ensue, the other group of four was near at hand ready to pounce on their solitary and overpowered victim from unsuspected vantage point. If this is not how it happened it is because the challenge made by the first group of three was not accepted by Gregorio realizing the situation posed tremendous odds against him, and also because of the timely intervention of the barrio captain. Nevertheless, as they were determined to execute their plan to kill Gregorio, once the latter was within their sight from their strategically determined position, they sprang from behind Gregorio who naturally ran away but chased and overtaken by his assailants who thereupon inflicted numerous wounds and injuries that caused almost instantaneous death.

Further attempting to discredit the credibility of state witnesses Elias Nazareno and Felicisima Gesmundo, appellants seized upon the observation of the trial court that said witnesses had exaggerated their testimonies, thus refusing to accept portions thereof, prompting appellants to invoke the doctrine of *falsus in uno, falsus in omnibus*. They also brand these witnesses as biased, the first, being a tenant of the Gesmundos and the second, mother of the deceased Gregorio Gesmundo.

Relationship has been held not to necessarily affect credibility by reason of bias. The testimony of an interested witness should not be rejected on the ground of bias alone; it must be judged on its own merits, and if not destroyed by either evidence on record, it may be relied upon.<sup>[7]</sup> Obviously, the court *a quo* felt a strong reluctance to convict an entire family, inclining itself, out of compassion, to exclude particularly the younger members, as shown by how it acquitted seven of the accused in Criminal Case No. 175, after convicting some of them in Criminal Case No. 174. We are inclined to agree, however, with the Solicitor General in his submission that the testimonies of prosecution witnesses Elias Nazareno and Felicisima Gesmundo do not suffer from any flaw or infirmity that would detract from the credibility of their entire testimony.

Consequently, the doctrine of *falsus in uno, falsus in omnibus* finds no basis for application, in the instant case if only upon consideration of the trend of modern jurisprudence holding that the testimony of a witness may be believed in part and disbelieved in part, depending upon the corroborative evidence and the probabilities and improbabilities of the case.[8] On this score, what appellants attempted to show as improbable in how some of the wounds were inflicted by some of the accused on Gil Gesmundo, particularly Ruben Surban and Eleuterio Surban, was clearly demonstrated to be not only probable but was actual.[9]

It is stressed by appellants that according to Dr. Tomasa Surban, the assailant was standing in front of the victim on receiving the fatal injury. In disputing this contention, the state counsels point to the presence of other head wounds one of which could have been inflicted from behind, as so testified by Nazareno.

Coming now to the defense of alibi as pleaded by appellants, aside from what has already been pointed out that by their having been positively identified as among those who inflicted injuries on the victims, their supposed whereabouts at the time of the commission of the crime, were such that it was all too possible—by all means not impossible, as is required of a legally effective defense of alibi—for them to be present at the place and time of the two slayings. By these circumstances, this alibi is rendered simply puerile and futile.

We are thus constrained to hold on the question of credibility upon which rests entirely the determination of appellants' guilt or innocence, that on the whole, the state witnesses deserve credence and belief in their testimony. Such was the finding of the trial court as against the witnesses of the defense, including the appellants. In obedience to a long line of decisions according the highest degree of respect for trial court findings on matter of credibility, this Court finds no reason to depart from so well established rule and doctrine.

WHEREFORE, We affirm the decision appealed from, being in accordance with law and the evidence, insofar as herein remaining appellants, after the withdrawal of the appeal of Ruben Surban and Geronimo Surban are concerned. Proportionate costs against all the appellants.

### **SO ORDERED.**

Makasiar (Chairman), Aquino, Concepcion Jr., Guerrero, Abad Santos and Escolin, JJ., concur.

---

[1] pp. 45-46, Decision, pp. 69-70, Rollo.

[2] p. 156, Rollo.

[3] pp. 5-20, Appellee's Brief, p. 132, Rollo.

[4] *People vs. Abboc, et al*, 53 SCRA 54; *People vs. Geronimo*, 53 SCRA 246; *People vs. Balmaceda* 87 SCRA 94; *People vs. Ancheta*, 60 SCRA 333; *People vs. Espejo*, 36 SCRA 400.

[5] *People vs. Curiano*, L-15256-57, October 31, 1963; 9 SCRA 324; *People vs. Pantoja*, L-18793, October 11, 1968, 25 SCRA 468; *People vs. Acabado*, L-26104, January 31, 1969, 26 SCRA 727; *People vs. Vacal*, L-20913, February 27, 1968, 27 SCRA 25; *People vs. Magcamit*, L-25555, March 28, 1969, 27 SCRA 450; *People vs. Vicente*, L-26141, May 21, 1969, 28 SCRA 247.

[6] p. 118, Record of Exhibits.

[7] *Carandang vs. Cabatuando, et al.*, 53 SCRA 383; *U.S. vs. Pagaduan*, 37 Phil. 90; *U.S. vs. Marte*, 27 Phil. 134.

[8] *Wigmore*, Sections 1009-1015, p. 674; 35 SCRA C.J.S. 736.

[9] pp. 78-79, Appellee's Brief.

**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.