

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. DANILO DEMATE AND PABLITO DEMATE, ACCUSED-APPELLANTS.

G.R. No. L-38960. March 30, 1982

Ponente: CONCEPCION JR., J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/3c4f1d095cd6/>

CONCEPCION JR., J.:

In the evening of December 23, 1970, at the house of the spouses Francisco Gellangao and Felisa Gellangao located in the Municipality of Carcar, Cebu, Francisco Gellangao and his hired-help Lucio Bucao were repeatedly stabbed and killed by three persons who subsequently broke open a wooden trunk and took away P300 in cash.[1]

After investigation by the authorities concerned, the corresponding information was filed against Danilo Demate, Pablito Demate, and Eduardo de la Cerna, on March 3, 1971, as follows:

"The undersigned accuses Danilo Demate, Pab-lito Demate and Eduardo de la Cerna of the crime of Robbery with Double Homicide, committed as follows:

"That on or about the 23rd day of December, 1970, in the evening, in the municipality of Carcar, province of Cebu, Philippines, and within the juris-diction of this Honorable Court, the above-named accused, conspiring and confederating with each other, with deliberate intent of gain and to kill, with the use of force upon thing and violence against person did, then and there wilfully, unlawfully and felon-iously break into the house of the spouses Francisco Gellangao and Felisa Gellangao and after gaining en-trance thereto had an altercation with the former regarding same amount of money as payment for oranges, which resulted in the attack and stabbing with sharp-pointed instrument of Francisco Gellangao and one Lucio Bucao, the latter a hired-help of the couple, which resulted in the death of the two shortly there-after; thereupon the accused, taking advantage of the situation, broke open a wooden trunk from which they took and carried away cash amounting to P300.00, more or less, to the damage and prejudice of the aforementioned spouses in the aforesaid sum.

"Contrary to law."[2]

After arraignment, plea of not guilty[3] and trial, the Court of First Instance of Cebu, Branch XV, rendered its Decision dated May 15, 1974, with dispositive portion as follows:

"FOR ALL THE FOREGOING, the Court finds the accused Danilo Demate and Pablito Demate guilty beyond reasonable doubt of the crime of Robbery with Double Homicide and in accordance with the provisions of Art. 294 of the Revised Penal Code, they are both sentenced to Reclusion Perpetua and to indemnify the heirs of the deceased Francisco Gellangao and Lucio Bucao the sum of P24,000.00 each and to pay the cost.

"Eduardo de la Cerna is acquitted for failure of the prosecution to prove his guilt beyond reasonable doubt.

"SO ORDERED."[4]

Both accused Danilo and Pablito, surnamed Demate, appealed the decision of conviction on June 17, 1974.[5]

The version of the prosecution is as follows:

In the morning of December 22, 1970, at about 8:00 o'clock, while Felisa Abellanida, wife of victim Francisco Gellangao, was on the road in Barrio Valencia, Carcar, Cebu, on her way to Cebu City to sell fruits, accused appellant Danilo Demate and his wife Sarya approached Felisa and offered to buy her four sacks of pomelos and bananas. Felisa told the couple that the fruits had already been promised to buyers in Cebu City. A few days before, Felisa sold her copra at the Valencia mar-ket place for more than P300, which money she kept inside a trunk in their house.[6]

At about 5:00 p.m. in the afternoon of December 23, 1970, Zoilo Gasalatan, 60 years old, resident of Barrio Valencia, was in the land of Pascual Barsinilla, gather-ing grass for his carabao. On his way home at about 6:00 p.m., he saw the accused Pablito Demate and Danilo Demate, with a companion, unknown to him at that time, coming down the house of Danilo Demate. The three passed by the cha-pel and proceeded to Barrio Valencia. Later, his neigh-bor Abundio Lapina told Gasalatan that the unknown companion of the two Demate brothers that afternoon was Eduardo de la Cerna. Zoilo knew the Demate brothers be-cause they were his neighbors.[7]

Pantaleon Tesoro, a farmer resident of Barrio Valen-cia, was recovering his carabao wallowing in a mudhole near the road in Barrio Valencia at about 6:00 p.m. of December 23, 1970, when he saw the appellants Danilo Demate and Pablito Demate, with a companion carrying a sack under his armpit, pass by near Pantaleon. He saw the three go to the house of victim Francisco Gellangao, located about 100 meters away from the mudhole. Tesoro knew very well Danilo and Pablito Demate as they were his neighbors. He did not know their companion at the time, although during the trial he identified that companion as Eduardo de la Cerna. The three men went up the house of victim Francisco Gellangao.[8]

Eyewitness Remigio Embradora, a 49 year old farmer resident of Barrio Valencia, attended the burial of the late Eleuteria Barritoa at about 11:00 a.m. of December 23, 1970, at the Carcar cemetery. At about 5:00 p.m. of that same afternoon, he left the house of the deceased Barritoa and went to the house of his brother-in-law Rufino Tangag where he was expected for dinner.[9] Embradora left the house of his brother-in-law at about 8:00 p.m. that night to go back to the house of the deceased Barritoa be-fore going home, as it was the local custom that those who attended the burial should pass once more by the house of the departed before going home.

As Embradora passed the house of his uncle Francisco Gellangao on his way to the house of the departed Barri-toa, he heard a voice crying for help coming from said house. Thinking that husband and wife might be quarel-ing, Remigio approached the house. He saw a light coming from a small opening where the house wall and the bamboo base of the floor met. He peeped through said wall.[10] Remigio saw his uncle victim Francisco Gellangao lying on the floor near the bedroom door, with the two accused Pablito Demate and Danilo Demate standing on both sides of victim Francisco Gellangao, each holding a bladed weapon.

From what Remigio saw, Danilo Demate appeared to be holding a sharp-pointed weapon, while Pablito Demate appeared to be holding a sharp-edged instrument locally called "flaminco".[11] Remigio also heard some noise coming from the kitchen, although he could not see from the hole the persons causing the noise but they sounded to Remigio as though there was a struggle in the kitchen.[12]

Embradora left the house of his uncle Francisco Gel-langao and hurriedly proceeded to the house of the deceased Eleuteria Barritoa. He did not tell anyone what he saw in-side the house of his uncle because he was afraid the two Demates might learn that he saw the incident.[13]

At about 11:00 p.m. of that same evening of December 23, 1970, Zoilo Gasalatan who saw the three accused earlier that afternoon, while resting in his house, heard the bark-ing of dogs outside. Because of rampant cases of theft of pigs and chickens at that time, he went down the house to check his carabao and other animals. While inspecting his carabao, pigs and chickens, Zoilo saw again the three accused Danilo Demate, Pablito Demate and

Eduardo de la Cerna pass by, carrying some pomelos. The Demates being his neighbors, Gasalatan did not mind them and instead went up his house.[14]

The following day, December 24, 1970, Felisa Abel-lanida returned home from Cebu City where she sold her fruits. When she arrived at their home at about 1:00 p.m. that afternoon, she was shocked to see her husband Francisco Gellangao and their houseboy Lucio Bucao sprawled on the floor already dead. Her husband's body was by their bedroom door, while Lucio Bucao's body was in the kitchen with intestines swelling all over. Their trunk had been opened and its contents scattered about. She looked for the more than P300 she had placed inside said trunk before she left for Cebu City and discovered that said money and a flashlight were missing. Felisa ran to the house of the barrio captain, but did not find him there. She proceeded to the house of the chief of police and asked him to go with her to their house in Barrio Valencia.[15]

Remigio Embradora who allegedly saw his uncle lying on the floor of his house between the two accused standing nearby the previous night, did not report what he knew because he feared the two Demate brothers. He revealed what he saw to his wife and brother because he trusted them to keep his secret. Later, during one of the evening novenas for the late Eleuteria Barrito, Embradora told the widow Felisa Abellanida what he saw in their house in the evening of December 23, 1970. Felisa Abel-lanida and the brother of Embradora told the authorities of Carcar what was told them by Embradora. The Carcar authorities arrested the three suspects. A week after their arrest, Embradora went to the police in Carcar and gave a written statement as to what he saw and heard in the evening of December 23, 1970.[16]

Dr. Manolito Quijano, municipal health officer of Carcar, Cebu, conducted the autopsy of the cadavers of deceased Francisco Gellangao and Lucio Bucao in the afternoon of December 24, 1970.[17]

The deceased Gellangao sustained 13 wounds and the cause of death were external and internal hemorrhages secondary to multiple stab and hacking wounds.[18] The deceased Lucio Bucao sustained 8 wounds and the cause of death were external and internal hemorrhage secondary to multiple stab and hacking wounds.[19]

Dr. Quijano declared that wounds nos. 1 and 7 of the deceased Francisco Gellangao had been inflicted by heavy splitting instrument, while wound no. 8 of said deceased as caused by a sharp pointed instrument.[20]

As to the deceased Lucio Bucao, wounds nos. 1 and 2 were inflicted by heavy and hard splitting instrument, while wounds nos. 3 and 4 were inflicted by a sharp pointed instrument and a fairly heavy instrument with sharp edges. The doctor opined that from the nature of the wounds sustained by both victims Gellangao and Bucao, they could have died almost instantaneously.[21] After the autopsy of the cadavers, Dr. Quijano issued the corresponding death certificates for the two victims.[22]

The entire defense put up by the accused consists mainly of denial and alibi. To sustain their theory, two of the accused, Danilo Demate and his younger brother, Pablito Demate, took the witness stand. They were corroborated by another defense witness, Rafael Rabaya, Jr., former Mayor of Talisay. Their testimony is to the effect that at about 4:00 o'clock in the afternoon of December 23, 1970, Danilo Demate and his wife together with Eduardo de la Cerna were in the house of the deceased Francisco Gellangao to pay for the balance of the purchase price of the pomelos which they previously bought on December 22, 1970 on a part-credit basis. After that the three proceeded to the market place in Valencia and from there took a bus for Cebu City. They were not however able to go through as the bus was only up to Tabunok. It was already 7:00 o'clock in the evening. From the bus stop they proceeded to the house of Mayor Rabaya to deliver the pomelos ordered by the Mayor's wife. Danilo and his wife stayed in the Mayor's house for the night while De la Cerna went home as he has his own house in Tabunok. At seven o'clock in the morning of the following day, December 24, Danilo and his wife returned home to Valencia. Upon arrival there Danilo heard the news that Gellangao and Bucao were stabbed to death.[23]

In the case of appellant Pablito Demate his claim, as corroborated by his brother, appellant Danilo, is that from 10:00 a.m. of December 23, 1970 up to the following day, he never left the house of his brother Danilo as he took care of the latter's children.[24]

The trial court anchored its judgment of conviction against the accused-appellants Demate brothers on the following reasoning:

"Be all that as it may, the defense of alibi which is easy to concoct, can not prevail over the clear and positive testimonies establishing the identity of the accused. Danilo Demate and Pablito Demate were positively identified by eyewitness Embradora and previous to that they were seen in the vicinity of the victim's house, proceeded towards it and finally entered the same. x x x. These were testified to by Pantaleon Tesoro and Zoilo Gasalatan. x x x."[25]

The only issue to be decided here is if the credibility of the narration of lone eyewitness Remigio Embradora can be considered sufficient to sustain the guilt of appellants beyond reasonable doubt.

Appellants assail the trial court's decision of conviction claiming that the testimony of witness Remigio Embradora is incredible, unbelievable and improbable, and that it is not sufficient to establish appellants' guilt beyond reasonable doubt.[26]

It is appellants' contention that Embradora's testimony suffers from inconsistencies regarding the location of the hole or opening through which he allegedly peeped and saw the appellants, each of them holding a bladed weapon, standing by the sides of the wounded Francisco Gellangao, who was lying on the floor of the house.[27] They also assail Embradora's testimony for his failure to promptly report to the authorities what he allegedly saw and heard inside the house of the victim on that occasion.[28]

Remigio Embradora clearly narrated how his attention was called by someone calling for help in the evening of December 23, 1970, coming from the house of the victim. His curiosity aroused, he observed light filtering through a hole or slit on the wall of said house. He peeped through said hole and he saw his uncle Francisco Gellangao lying wounded on the floor near the door of the bedroom and crying for help. Appellants Pablito Demate and Danilo Demate, each holding a sharp pointed and sharp edged bladed weapon, stood beside the victim who was crying for help. What Embradora saw naturally struck fear in his heart as he heard also some noise coming from the kitchen as though of persons struggling. Embradora proceeded to the house of the late Eleuteria Barritoa but told no one there about the incident, as he was afraid that the Demates might find out that he saw the bloody incident and go after him too.[29]

That observation made by witness Remigio Embradora on that occasion and his reaction may be reasonably considered as consistent with common experience, human behavior and natural course of events. Embradora never exaggerated in his testimony. He limited his testimony to what he actually saw, clearly indicating he was truthful in his narration.

There are no indications of glaring inconsistencies in the testimony of Embradora. If at all, such is only the result of inaccurate expressions or honest mistakes of observation. The hole where the light came from that evening on the wall of the house could be a hole or a slit from the flooring.[30] Embradora could not have committed a wrong identification of the appellants that night because the latter were his neighbors. Embradora, on the weapons he saw held by the appellants that night, never elaborated on what kinds of weapons they were, although they were observed as sharp-bladed weapons.

As to the failure of witness Embradora to immediately report what he saw on the night of December 23, 1970 in the house of the victim, his explanation of great fear that if the appellants knew him as a witness they might kill

him cannot be ignored. For that reason alone, his credibility cannot be doubted. Besides, Embradora told his secret to his wife and brother on the assumption that both would not reveal it. He also confided the secret to the widow of the victim. These persons were the ones who reported to the authorities who apprehended appellants.

We cannot ignore the trial court's finding that the testimonies of the prosecution witnesses in this case are clear, positive, straight-forward and devoid of signs of artificiality.[31]

Appellants admitted that they never had any differences with the prosecution witnesses, thus negating any improper motive from the prosecution witnesses to testify falsely against appellants. Their testimonies become more credible under the circumstances.

Even if witness Remigio Embradora is the nephew of the victim, that in itself will not diminish his credibility. Besides, his testimony is supported by the testimonies of Gasalatan and Tesoro who are not related to the victim.

By the chain of circumstances proven in this case there is but insignificant doubt that both appellants and a companion killed the victim and robbed the place on that night of December 23, 1970. Circumstantial evidence may be considered sufficient for conviction where the proven circumstances are consistent with one another, consistent with the conclusion that the accused is guilty, and in consistent with any other conclusion except that of guilt.[32]

The appellants' defense of alibi cannot prevail over the positive testimonies of the prosecution witnesses that appellants were present and were identified within the im-mediate vicinity of the crime on that occasion.

The issue of credibility of witnesses as decided by the trial court deserves great respect and is given great weight, considering that said Court is in a better position to decide said issue. After all, the Court heard the witnesses and observed their deportment and manner of testifying.

WHEREFORE, and upon recommendation by the Solicitor General, the Decision dated May 15, 1974, in Criminal Case No. CU-589, by the Court of First Instance of Cebu, Branch XV, convicting both appellants, being in accordance with law and the evidence, is hereby AFFIRMED in toto, with costs.

SO ORDERED. Barredo, (Chairman), Aquino, De Castro, and Escolin, JJ., concur. Abad Santos, J., on official leave. Erica J., although the death penalty should be imposed because of the circumstance of dwelling, he concurs in the result.

[1] pp. 3, 294-295, Original Record, Criminal Case No. CU-589, CFI, Cebu, Branch XV.

[2] pp. 35-36, Original Record.

[3] p. 46, Id.

[4] p. 301, Id.

[5] p. 314, Id.

[6] pp. 40-44, 50-55, t.s.n., Sept. 14, 1972; Investigation, pp. 13-15, Original Record.

[7] pp. 3, 5-8, 12-15, 16, 26, t.s.n., Sept. 14, 1972; Exh. 1-B, p. 23, Original Record.

[8] pp. 50-54, 56-73, t.s.n., July 3, 1972; Exhs. "F" and "I-1".

[9] pp. 5-6, 19-20, t.s.n., June 22, 1972; Exhs. "E" and "E-1".

[10] pp. 7-9, 14, 21-24, t.s.n., June 22, 1972; Exhs. "E" and "E-1".

- [11] pp. 9-15, 25-28, t.s.n., June 22, 1972; Exhs. "E" and "E-1".
- [12] pp. 15-16, t.s.n., June 22, 1973; Exhs. "E" and "E-1".
- [13] pp. 16, 24, 28-29, t.s.n., June 22, 1972; pp. 12, 26, 35-36, t.s.n., July 3, 1972; Exhs. "E" and "E-1".
- [14] pp. 9-10, 26-29, t.s.n., Sept. 14, 1972; Exh. "1-B".
- [15] pp. 13-16, Original Record.
- [16] Exhs. E, E-1; pp. 29, 31-32, 34-35, t.s.n., June 22, 1972; p. 13, t.s.n., July 3, 1972.
- [17] Exhs. A and B; pp. 13-14, t.s.n., June 22, 1972.
- [18] Exh. A, Folder of Exhibits.
- [19] Exh. B, Id.
- [20] Exh. A; pp. 5-8, t.s.n., June 22, 1972.
- [21] pp. 8-16, t.s.n., June 22, 1971.
- [22] Exhs. "C" and "D"; pp. 11-12, t.s.n., June 22, 1972.
- [23] p. 5, Decision; p. 298, Original Record.
- [24] pp. 14-15, 52, t.s.n., May 3, 1970; pp. 3-8, t.s.n., Oct. 15, 1973.
- [25] pp. 6-7, Decision, pp. 299-300, Original Record.
- [26] pp. 5-8, Appellants' Brief.
- [27] p. 6, Id.
- [28] pp. 6-7, Id.
- [29] pp. 5-16, 21-27, t.s.n., June 22, 1972; pp. 22-25, 27-28, 32-33, t.s.n., July 3, 1972; Exh. "E".
- [30] Exh. "E"; p. 23, t.s.n., June 22, 1972.
- [31] p. 300, Original Record.
- [32] People vs. Constante, 12 SCRA 653; People vs. Adnia, 2 SCRA 423.

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.