

**PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS.  
DEMETRIO SALES, ACCUSED AND APPELLANT.***G.R. No. L-29340. April 27, 1972*

Ponente: REYES, J.B.L., J.

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Appeal from the decision of the Court of First Instance of Agusan (in Crim. Case No. 3025), finding accused Demetrio Sales guilty of murder, and sentencing him to suffer life imprisonment and to indemnify the heirs of the late Ciriaco Betonio in the amount of P6,000.00.

It appears from the records that in the morning of November 19, 1964, Ciriaco Betonio, a farmer residing in barrio Doña Rosario, Tubay, Agusan, was found dead in his house. For Betonio's death, his neighbor Demetrio Sales was investigated by the police, and on January 12, 1965, an information for murder was filed against him in the Court of First Instance of Agusan by the First Assistant Provincial Fiscal. As the accused then could no longer be found in Tubay, an order for his arrest was issued by the court. Sales was not finally brought into police custody until January 11, 1967. Arraigned thereafter, the accused entered a plea of not guilty.

The prosecution presented as one of its witnesses Alberto Limocon, who testified that on November 18, 1964, he was working as houseboy for Ciriaco Betonio. At about 4 o'clock in the afternoon of that day, he was seated near the doorway of the house when Demetrio Sales arrived, carrying a black club about 25-1/2 inches long. The visitor asked for his "Pare Acoy", referring to Ciriaco, and when the witness answered that Ciriaco was asleep in the room, Sales went inside and struck Alberto's sleeping employer with the club.[1]

Seeing Demetrio strike Ciriaco, the startled witness asked, "What is that, Nong?" To this query, Demetrio retorted, "Are you going to defend him (because) I will also kill you." On hearing this, the witness ran down to a camote field, taking along with him Sinforosa Pacatang (a housemaid), Magdalena (the blind aunt of Ciriaco's wife), and Daylinda (Ciriaco's daughter). Demetrio shouted after them that he would kill them if they would report to anybody what they saw. When night fell, they left the field and sought shelter from the first house that they saw. The house turned out to be Demetrio's and they discovered this only when Demetrio arrived at about midnight.[2]

The following morning, November 19, 1964, witness Alberto Limocon went back to Ciriaco's house and found him already dead, with blood coming out of the right side of the forehead. He also saw that a tree had fallen on the house. He then returned to the house of Demetrio and asked him and other neighbors for help to get Ciriaco's body. It was already about 3 o'clock in the afternoon when the body of the deceased was moved from the collapsed house and brought to the Doña Rosario airport, and finally buried in the Sta. Ana cemetery. Even after the burial of his employer, the witness and his companions remained in the house of the accused, staying there until the customary nine-days prayers for the dead were over. Then, Ciriaco's wife (who arrived from Leyte) came and brought them to the house of Ciriaco's mother in Calibunan, Cabadbaran, also in Agusan.[3]

This witness stated that while they were in Demetrio's house, he did not tell anybody about what he knew of the

death of Ciriaco because of fear inspired by threats of the accused. He only revealed the incident to Ciriaco's wife and later to the barrio captain of Calibunan and to Ciriaco's younger brother, when they were already in the home of the victim's mother.[4]

On cross-examination, Limocon declared that when he and his companions discovered that the house where they sought shelter belonged to Demetrio, they wanted to leave, but the latter persuaded them to stay. Because of that, they "trusted" him and remained there until after the nine days' prayers for the dead were over.[5]

Sinforosa Pacatang, who worked for Ciriaco Betonio as housemaid, testified that in the afternoon of November 18, 1964, while she was cooking in the house, Demetrio Sales appeared and asked for his "Pare Acoy". Informed that Ciriaco was sleeping, Demetrio entered the room and clubbed the former with a piece of wood locally known as "bahi." [6] As she went to the door, she heard Demetrio Sales threaten to club Alberto also when Alberto inquired what was happening. So, she grabbed Daylinda (the dead man's daughter) who was then asleep in the sala, and together with Alberto and the old woman Magdalena, they ran and hid in the camote field.[7] Demetrio shouted after them, "watch out, if you will tell anybody I will kill you." [8] Later, they looked for a house where they could take shelter. They saw a lighted house, went up, and were admitted by a woman. They only learned that the house was owned by Demetrio Sales when Demetrio came in the evening. She likewise corroborated the declaration of Alberto Limocon that they stayed in Demetrio's house until the prayers for the dead were completed, then they moved to the house of Ciriaco's mother in Calibunan, Cabadbaran.[9] It was there that she revealed what she knew of the death of her employer to the latter's wife, mother, and brother.[10]

This witness testified that she saw the clubbing of the deceased by the accused because the wall of the bedroom where Ciriaco was sleeping was made of split wood laths and there were gaps between the strips.[11]

Tomas Betonio, brother of the deceased, testified that Alberto Limocon and Sinforosa Pacatang related to him how his brother was clubbed by Demetrio Sales when the two were already in Calibunan; that he visited his late brother's house and saw that a tree had really destroyed the roof, but the tree did not even touch the ground.[12]

Ceferino Y. Cunanan, medico-legal officer of the NBI, affirmed on the witness stand the contents of his exhumation report on the cadaver of Ciriaco Betonio (Exh. B), which showed that the deceased had sustained multiple fractures of the parietal bone, right, as well as of the sphenoidal and temporal bones, left, frontal, parietal, with extensions to the base of the skull and, palate. He testified that these injuries could have been inflicted by the physical blow of a blunt instrument in the direction of the head and slightly on the right side of the victim,[13] the force producing the fractures not only on the parietal bone, right, but even on the left portion of the skull. This fact indicated that the blow was delivered while the victim was lying on a hard surface.[14]

On cross-examination, defense counsel elicited an admission from the witness that the injuries on the head and contusions on the chest of the deceased could have been caused also by a falling beam of the house when it was hit by the fallen tree, or by a falling tree with branches of 3 inches in diameter.[15]

For the defense, Gaudencio Enso, a farmer working in the hacienda Soriano with the deceased and the accused, testified that on November 19, 1964, Alberto Limocon came to his house asking for help, because their house was destroyed by a falling tree and Ciriaco Betonio had died that he saw the body of Ciriaco pinned under the house smashed by the tree[16] that he saw Sinforosa Pacalang on the same day, and she told him that she herself was hurt when the tree fell on their house.[17]

He admitted on cross examination that Demetrio Sales was his friend, and Sales requested him to testify in the case. This witness declared having seen Demetrio in his residence from the date the death of Ciriaco happened up to Demetrio's arrest by the P.C. (in 1967).[18]

Conrado Enso, also a farmer and neighbor of Ciriaco Betonio, declared that at about 8 o'clock in the morning of November 19, 1964, Alberto Limocon came to his house informing him that a tree fell on their house and that "Mano Acoy (Ciriaco Betonio) was pinned under the house." Alberto asked for help to get Ciriaco out of the house. At about 11 o'clock, he went to the Betonio residence and found Ciriaco's body under the wreckage of the dwelling; that to get to the place where the deceased was, Alberto Limocon had to destroy the roofing of the house. This witness also stated that Demetrio never left his residence; that he saw Demetrio plowing his field in 1966.[19]

Anacleto Luison, Jr., former chief of police of Tubay, Agusan, testifying for the defense, declared that after he had viewed the body of the deceased in the airport, he proceeded to the latter's place of residence.[20] He found that the house was damaged by the tree that fell on it; the tree destroyed the roof and walls but not the floor of the house.[21] After Demetrio was released from temporary confinement in the municipal jail in December, 1964, he was not able to contact him (Demetrio) anymore.[22]

Alfredo Soilo, the overseer of the hacienda where the deceased and the accused worked, took the witness stand and stated that in the morning of that day when there was a typhoon (November 19, 1964), Alberto Limocon saw him and reported that the house of Ciriaco Betonio collapsed when it was hit by a falling tree, and that Ciriaco was killed. At about 3 o'clock in the afternoon, Alberto returned to ask him where they could put the corpse, so he sent for the barrio lieutenant and some men under his supervision, and they went to the house of Ciriaco. He saw that the house was destroyed and it could no longer be used for habitation.[23] He sent Demetrio Sales for a sled and carabao; then, they placed the corpse in the sled and brought it near the airport where it was placed inside the warehouse. Thereafter, they went to Tubay to report the incident to the chief of police and the municipal doctor.

Witness declared that he could not understand why Alberto Limocon and Sinforosa Pacatang testified against Demetrio Sales, considering that these two had stayed in the house of Demetrio even after the incident.[24]

Accused Demetrio Sales, for his part, declared that in the morning of November 19, 1964, Alberto Limocon came to his house and informed him that their house was hit by a falling tree and his Manoy Acoy was killed. Alberto requested him to go to their house, but he refused because he could not leave his family as the wall of their house had also been blown away by the wind. When Alberto left, Daylinda, Sinforosa, and Magdalena came, and asked that they be allowed to stay in his house,[25] to which request he acceded.

In the afternoon, Alberto returned, requested him once more to go with him to their house because his Manoy was already dead. Again, he refused because his house was partly destroyed by the typhoon and he could not leave his family. But he suggested that Alberto should see the encargado (Alfredo Soilo). Soilo soon came and asked him to bring his sled and carabao, and they went to Ciriaco's house. When they arrived, the body was already brought out of the house.[26] He loaded the corpse on the sled, brought it to the landing field and placed it in the bodega. Then he went home.[27]

In answer to the question of the cross-examining fiscal, the accused declared that after he was released by the chief of police in December, 1964, he went to Carmen where his wife was staying;[28] that when he left for Carmen, he knew there was already a case filed against him (by the provincial fiscal).[29]

Based on the foregoing evidence, decision was rendered on June 20, 1968, the trial court finding the accused guilty of murder as charged. Consequently, he was sentenced to suffer life imprisonment with all the accessory penalties of the law, to indemnify the heirs of the deceased in the sum of P6,000.00, and to pay the costs. In returning the judgment of conviction, the trial judge disregarded the declarations of defense witness Alfredo (Godofredo) Soilo, whose evasive answers and demeanor "detract(s) heavily from his credibility", as well as those of Luison and the Enso father and son, the testimonies of said witnesses, together with the defense of alibi put up

by the accused, being held insufficient to overcome the assertions of Alberto Limocon and Sinforosa Pacatang that Ciriaco Betonio was clubbed by the accused, while sleeping, hours before Ciriaco was found dead with fractured skull.

In praying for the review and reversal of the decision, the accused now claims that the lower court erred –

1. In giving credence to the version and testimonies of the prosecution witnesses;
2. In applying against the accused his brief stay in Carmen after his release;
3. In failing to appreciate the testimonies of Gaudencio Enso and Conrado Enso; and
4. In finding the accused guilty beyond reasonable doubt of the crime of murder.

Clearly, the issues being raised by herein accused--appellant hinge on credibility of witnesses, and the settled, long-standing rule on the matter is for the appellate tribunal to give due respect to the assessment of the facts made by the lower court,[30] said court having had the opportunity, not only of receiving the evidence, but also of observing the conduct and demeanor of the witnesses while testifying.[31] And, this rule is not to be overturned unless there is a showing that in making the disputed factual findings, the trial court had overlooked or failed to consider certain facts of weight and importance that could have materially affected the conclusion reached in the case.[32]

The lower Court's analysis of the defense evidence is as follows:

"The conflicting prosecution and defense evidence give rise to two principal questions: Did Ciriaco Betonio die fortuitously or was he killed by the hands of the accused? So far as the accused, he would exculpate himself by an alibi: he never left his house the whole day of November 18, 1964, and the whole morning of November 19, 1964. By his witnesses, he offers an alternative solution: Betonio was killed because a tree fell on his house and was crushed either by a fallen tree or by destroyed materials of the house. Godofredo Suylo, the defense witness who sought to develop this hypothesis, did not explain whether it was the fallen tree or a falling beam or some such material which hit Betonio. All he could say was he saw a tree had fallen on Betonio's house which was therefore, no longer livable. On the contrary, he swore before Fiscal Famador on December 17, 1964 he did not go up the house of Betonio when he helped fetch the latter's corpse (Exh. E-5) and Betonio's bed was then still intact (Exh. E-6). His attempt in open court, to explain this categorical statement appears to be a mere afterthought. In fact, his evasive manner on the stand and his demeanor detracts heavily from his credibility. In fact also, the last defense witness, Anacleto Luison, Jr., then Chief of Police of Tubay, Agusan stated the fallen tree touched neither the ground nor the floor of Betonio's house. He saw the fallen tree resting on a hardwood girt of the house. Even at that time, he must have already been apprehensive about the suspicious circumstances surrounding Betonio's death. He had to secure an affidavit from Betonio's young daughter whereby the latter assumed responsibility for her father's burial. Very little weight, if at all, can be given to the testimony of Gaudencio and Conrado Enso, father and son, who brazenly lied when they declared the accused never left his residence in Tubay from the date of the incident up to the time of his arrest. By his own admission, the accused left Tubay in late December, 1964 for Carmen (several towns away) and stayed there until his arrest in Cabadbaran in January, 1967."

Appellant has not successfully rebutted the foregoing conclusions of the trial Judge. In this appeal, he points to alleged falsities and inconsistencies in the testimonies of prosecution witnesses Alberto Limocon and Sinforosa Pacatang to support his prayer for a reversal of the judgment of the court below. For example, it was charged as unnatural Sinforosa's declaration that the wall separating the room where the deceased was sleeping in the afternoon of November 18, 1964, and the place where witness was cooking and where Alberto was seated, was made of strips of wood with spaces between each piece, which construction made it possible for them to see what happened inside that room. According to appellant, it was not natural that a room intended to provide privacy to

its user would be so built.

There is nothing unbelievable in the testimony of the witness. Having served the Betonio household for about 8 months,[33] she was in a position to describe the construction of the house. On the other hand, the defense presented only Gaudencio Enso, a neighbor who was not shown to have full and accurate knowledge of the Betonio residence and whose testimony was discredited by the trial court, to show that the partition or wall of the room would not enable anybody outside to see whatever is taking place inside said room. Furthermore, it may be mentioned that according to witness Sinforosa Pacatang, the women of the household – the witness, Ciriaco's own daughter, and the old woman Magdalena - used to sleep only in one side of the sala, with the houseboy Alberto sleeping on the other side of the same room. In other words, the house must be small and must have been built without much concern for the privacy of its inmates.

As regard the alleged inconsistencies between the witnesses' testimonies and their statements made before the trial, as to the number of days they stayed in the house of accused and the time when the accused arrived in the evening of November 18, 1964, those are discrepancies on minor details that do not detract at all from their credibility.[34] For it is not at all infrequent for people who underwent an extraordinary experience as did the witnesses in this case, to miscalculate time and commit errors in remembering days. Nothing can also be made out of the stay of Alberto, Sinforosa, Magdalena and Daylinda in the house of the accused. The state of mind of those four people that afternoon can easily be imagined. Their father and employer was left behind in their home either dying or dead; it was dark and raining, they were hungry and alone. The group was led by Alberto Limocon who was then only 15 years old; Sinforosa was also 15; the old woman Magdalena is blind, and Daylinda is suffering from a certain defect (it does not exactly appear from the record whether it is physical or mental).[35] Any house that would provide them shelter would be welcome. So that when Demetrio told them to stay and with his threat to kill them if they told anybody what they had seen (ante, p. 317), they naturally did so for several days, and without telling anyone what they saw in their house. After all, they had nobody to turn to, and they left their home unable to bring anything along with them. In their simple minds, the two househelps might have thought it best to keep their body and soul together by keeping their mouth shut. But as soon as they got to Cabadbaran and away from appellant, they revealed what they knew of the incident.

Appellant's act of providing shelter and food to those four people or the saying of prayers for Ciriaco does not necessarily prove his innocence of the offense charged. His support of the members of the deceased's household was not disinterested, but motivated by his desire to keep them under his vigilance and control, lest they reveal the truth before his victim was buried and the traces of his crime obliterated. In essence, the defense hinges on the fact that witness Limocon told the neighbors that his master had been pinned by a fallen tree and died. But under the watchful eye of the accused and while within his reach, Limocon could hardly be expected to denounce the accused as a murderer.

It is true that no motive was shown why the accused-appellant would want Ciriaco Betonio dead. But motive assumes pertinence only when there is doubt as to the identity of the culprit; it is not essential for conviction where the perpetrator of the offense is known or has been identified.[36] In this case, Alberto Limocon and Sinforosa Pacatang who had no reason to perjure, positively declared that Demetrio Sales delivered a blow or blows on Ciriaco Betonio while the latter was sleeping, a version corroborated eloquently by the injuries found on the body of the deceased, and the latter expired due to such injuries.

Consequently, the lower Court's decision finding the accused guilty of the crime charged, must be affirmed. There being no mitigating nor aggravating circumstances proved in the case, the imposition of the penalty therefor in its medium period or life imprisonment, was proper. Following the ruling of this Court,[37] however, the indemnity awarded to the heirs of the deceased Ciriaco Betonio payable by the accused-appellant should be raised to

P12,000.00.

As thus modified, the decision appealed from is affirmed, with costs against the appellant.

Makalintal, Zaldivar, Castro, Fernando, Barredo, and Makasiar, JJ., concur.

Teehankee and Antonio, JJ., did not take part.

Concepcion, C.J., on official leave of absence.

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[1] pp. 3-4, 6-7, t.s.n., hearing of October 23, 1967.

[2] p. 10, t.s.n., id.

[3] pp. 12-15, id.

[4] p. 15, id.

[5] p. 31, t.s.n., hearing of October 27, 1967.

[6] p. 25, t.s.n., hearing of September 7, 1967.

[7] p. 26, t.s.n., hearing of September 7, 1967.

[8] p. 27, id.

[9] p. 28, t.s.n., hearing of November 16, 1967.

[10] p. 29, id.

[11] p. 34, id.

[12] p. 40, t.s.n., hearing of October 27, 1967.

[13] p. 13, t.s.n., hearing of September 7, 1967.

[14] p. 14, id.

[15] p. 20, id.

[16] pp. 53-54, t.s.n., hearing of March 19, 1968.

[17] p. 54, id.

[18] p. 60, id.

[19] p. 66, id.

[20] p. 67, t.s.n., hearing of April 3, 1968.

[21] p. 74, id.

[22] p. 72, id.

[23] p. 45, t.s.n., hearing of December 5, 1967.

[24] p. 43, id.

[25] pp. 56-57, t.s.n., hearing of December 6, 1967.

[26] pp. 58-59, id.

[27] p. 60, id.

[28] p. 65, id.

[29] p. 67, id.

[30] People vs. Antonio, L-25845, Aug. 25, 1970, 34 SCRA 401; People vs. Bayongan, L-23658, April 26, 1967, 23 SCRA 237; People vs. Guevarra, L-24371, April 16, 1968, 23 SCRA 58; People vs. Diva, L-22946, April 29, 1968, 23 SCRA 332; People vs. Vinas, L-21756, Oct. 28, 1968, 25 SCRA 682; People vs. Sarangan, L-21757, Nov. 26, 1968, 26 SCRA 21; People vs. Pereto, L-20894, Dec. 29, 1967, 21 SCRA 1468; People vs. Alcantara, L-16832, Nov. 18, 1967, 21 SCRA 906.

[31] People vs. Pasiona, L-18295, Feb. 28, 1966, 16 SCRA 212; People vs. Pelago, L-24884, Aug. 31, 1968, 24 SCRA 1027; People vs. Ricaplaza, L-25856, April 29, 1968, 23 SCRA 374, and others.

[32] People vs. Dorado, L-23464, Oct. 31, 1969, 30 SCRA 53.

[33] p. 30, t.s.n., hearing of November 16, 1967.

[34] People vs. Verzo, L-22517, Dec. 26, 1967, 21 SCRA 1403; People vs. Gensola, L-24491, Sept. 30, 1969, 29 SCRA 483; also People vs. Vinas, L-21756, Oct. 28, 1968, 25 SCRA 682; People vs. Alcantara, L-26867, June 30, 1970, 33 SCRA 812.

[35] p. 75, t.s.n., hearing of April 3, 1968.

[36] People vs. Villalba, L-17243, Aug. 23, 1966, 17 SCRA 948, citing People vs. Raquel, L-17401, Nov. 28, 1964, 12 SCRA 441; People vs. Tagaro, L-18518, Jan. 31, 1963, 7 SCRA 187.

[37] People vs. Pantoja, L-18793, Oct. 11, 1968, 25 SCRA 468; People vs. Gutierrez, L-25372, Nov. 29, 1968, 26 SCRA 143; People vs. Buenbrazo, L-27852, Nov. 29, 1968, 26 SCRA 324; People vs. Acabado, L-26104, Jan. 31, 1969, 26 SCRA 727; People vs. Nabual, L-27758, July 14, 1969, 28 SCRA 747, and others.

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