

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS.
VALENTIN CUSTODIO, ET AL., DEFENDANTS AND APPELLANTS.***G.R. No. L-7442. October 24, 1955*

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

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/4ee2f5feddfc/>**REYES, J.B.L., J.:**

Appellants, Valentin Custodio and his two brothers, Tomas and Silvestre, seek reversal of a judgment of the Court of First Instance of Quezon (Criminal Case No. 11464) sentencing them to reclusion perpetua with the opposite accessory penalties and costs, for the murder of one Melanio Balancio, and to pay jointly and severally, an Indemnity of P6,000 to the heirs of the deceased.

The evidence is that in the evening of February 22, 1953, the spouses Melanio Balancio and Ines Edovas were wakened by the bleating of a goat in the corral near their home in barrio Mangalang, Sariaya, Quezon. The husband stood up and, equipped with a flashlight, went down the rear stairway of the house, at the back porch (batalan). As he was descending, he was shot at from behind by someone below the house. As Balancio staggered on, more shots were fired at him from near a coconut tree standing a few meters north of the house, and he fell. Ines Edovas, the wife, upon hearing the shots, came from within the house with a gas (petroleum) lamp; she placed it on the porch railing and descended, only to find her husband sprawled on the ground and bleeding profusely. She wailed, "My God, why is this done to us," ("Dios ko, bakit kami ginanito") to which some one, whom she recognized as Valentin Custodio, was heard to reply, "That is what befits a bully" ("Yaan ang bagay sa barako"). Thereupon, Valentin was rejoined by his brothers Tomas and Silvestre, and the three, bearing firearms, went away. Ines Edovas shouted for help, but as no one came, she managed to drag her bleeding husband up their house. She then sped to the house of a neighbor, Maria Mindanao, and fetched her.

The deed was also witnessed by Antonio Goc, a brother-in-law of the deceased, whose curiosity while proceeding toward Meianio's house, was aroused by the bleating of a goat as he neared the corral. His view being impeded by the tall grass, Goc went around the corral toward the house; and from behind a tree a few meters west of it, he saw Valentin Custodio fired at Melanio Balancio as the latter descended the stairs, while another series of shots was fired by Silvestre Custodio a little later, from a point near another coconut tree north of the house. The third brother, Tomas Custodio, then arrived holding a goat by the leg; and afterwards, Valentin was heard to say "Patay na ang barako" (the bully is dead) as the wife of the deceased reached the scene. Apparently fearful of detection, Goc scurried away to his father-in-law's house; from there, accompanied by his wife, he returned to the residence of the deceased to furnish whatever help he could.

Neighbors began pouring in the Balancio house a short time after the shooting. Toward midnight, the wounded man recovered enough to tell his brother-in-law to have the Custodio brothers arrested as the ones answerable for what happened to him. This statement, given in gasps, was also heard by the wife. Shortly thereafter, Melanio Balancio died. The medical certificate is to the effect that he received six gunshot wounds; three bullets had coursed upward from the buttocks to the abdominal region; two more penetrated from the back to the chest; and a sixth grazed the right thigh (Exhibit ,A). The investigating officers found .45 caliber rifle shells on the ground,

five near the stairway, and the other elsewhere.

Upon instructions of the barrio lieutenant Juan Resurreccion, Antonio Goc reported the killing to the Chief of Police of Sariaya, who enlisted the help of the Constabulary. Sergeant Ernesto Jose" investigated the widow and the neighbors, and thereafter, search started for the Custodio brothers. The latter, however, voluntarily surrendered before arrest.

The appellants concentrate their attack primarily on the sufficiency of their identification, based on alleged inconsistencies and contradictions of the eyewitnesses, Ines Edovas and Antonio Goc; the improbability of their being able to recognize the culprits in the darkness; the seriousness of Balancio's wounds as allegedly precluding his ability to give an ante mortem statement. Lastly, they rely on the alibi testified to by the witnesses for the defense.

We find no improbability in the testimony of either the widow Edovas or Antonio Goc. The Custodios had been former neighbors of Balancio and his wife, in barrio Aratan, Sariaya, and hence their features were familiar to the latter; nor does the defense contest that Antonio Goc also knew the three brothers. As to the possibility of recognition, the Court below was satisfied that the moon and the lamp at the "batalan" furnished adequate illumination for it, considering that, as found by the Judge at the ocular inspection, the appellants were seen in an open space, and the surrounding trees lay. some 6 meters away from the spot where the appellants were identified. Counsel's plea that the recognition was rendered dubious by shadows cast by the trees and by the slats of the "batalan" flooring, disregards the fact that the attackers' positions must have changed from time to time, so that there is no denying the possibility of their features having been sufficiently revealed during the interval between the shooting and their departure. It is to be remembered also that the witnesses saw the culprits at close range—ten meters more or less, to judge from the evidence. That there was a clear moon, although in its quarter phase, is not denied.

While Edovas and Goc differed as to some details, the variations are compatible and do not affect their credibility, for they saw the occurrence from different angles. Indeed, it would be suspicious if their narrations had completely coincided.

Appellants lay much stress on the alleged failure of the widow to disclose immediately the identity of the killers to the barrio lieutenant, when the latter went to her house shortly after her husband had expired. But she cogently explained that her difference was due to her fear of reprisals from the armed killers, who might still be lurking near by shortly after the murder; on the other hand it is uncontroverted that she denounced the appellants the next day, to the Constabulary investigator, and also in her affidavit of February 25. Our jurisprudence reveals repeated instances of witnesses silenced by fear until the police authorities had intervened. As to the argument that if she or Goc had really revealed the identity of the killers to the Sariaya police, the constabulary would not have been called, nor would the latter have spent some six hours interrogating witnesses and looking for evidence, we find the contention based on the worthless assumption that investigators should be satisfied with the widow's statements, without taking pains to verify the truth thereof, or scrutinizing the scene of the crime. It is also significant in this connection that when the Chief of Police of Sariaya testified, the defense did not ask for his reasons in referring the case to the Constabulary authorities.

For the rest, it is needless to discuss at length whether Balancio could have survived his wounds long enough to make the ante mortem statement. The matter depends upon the vitality of the individual, for which no general rules can be laid. The dying declaration rests on the testimony of Edovas and Goc, who heard it, and the trial Court was satisfied of their reliability. The appellants have failed to show sufficient reasons to change that conclusion.

The deceased himself had previously revealed to constabulary sergeant Jose the motive for the crime, to wit, that he was suspected to have done away with one of the Custodio brothers. (Epifanio), shot in barrio Aratan in 1950. And none of the appellants denied their having possession of or access to rifles of the type used in shooting the deceased.

We find no adequate reason for reversing the trial court's disbelief in appellant's alibi. From the testimony of the defense witnesses, their memory appears riveted exclusively on the night of the crime, i.e., Sunday, February 22, when they claim to remember that Tomas and Silvestre Custodio were in Taysan, Batangas, at about eight in the evening; but the same witnesses professed inability to recall other dates or occasions in which they met said appellants. The lower court also noted the curious coincidence that appellant Tomas Custodio should go as far as Taysan, Batangas, to cut bamboos when he had other bamboo groves nearer home; and that he should have decided to do so on the very same day that his brother Silvestre likewise proceeded. to the same town, precisely on a date set for the holding of a baptismal party for a child of their brother Valentin, that by custom Tomas and Silvestre would be most interested in attending. We find that the alibi can not prevail over the positive testimony of the credible witnesses for the prosecution, who positively identified the accused as the locus of the crime (People vs. De Asis, 61 Phil. 389; People vs. Faltado, 84 Phil., 88; People vs. Mendoza, (84 Phil., 148; People vs. Jistiado, 94 Phil., 825; People vs. Fader, 94 Phil., 522).

The guilt of appellants having been established beyond reasonable doubt, there remains the question of the appropriate penalty. The lower court imposed the medium, to wit reclusion perpetua, on the theory that the murder was characterized by the presence of both alevosia (which also absorbed nocturnity) and premeditation, but with one of them compensated by the mitigating circumstance of voluntary surrender. In our opinion, however, it was error to consider that evident premeditation existed, merely on the basis of the conspiracy between the appellants herein.

Under normal conditions, where the act of conspiracy is directly established, with proof of the attendant deliberation and selection of the method, time, and means of executing the crime, the existence of evident premeditation can be taken for granted. In the case before us, however, no such evidence exist; the conspiracy is merely inferred from the acts of the accused in the perpetration of the crime. There is no proof how and when the plan to kill Melanio Balancio was hatched, or what time elapsed before it was carried out; we are, therefore, unable to determine if the appellants enjoyed "sufficient time between its inception and its fulfillment dispassionately to consider and accept the consequences." (cf. People vs. Bangug, 52 Phil. 91). In other words, there is no showing of the opportunity for reflection and the persistence in the criminal intent that characterize the aggravating circumstance of evident premeditation (People vs. Mendoza, 91 Phil., 58; People vs. Itturiaga, 47 Off. Gaz., (Supp. to No. 12) 166; People vs. Lasada, 70 Phil. 525).

Our view is supported by the Sentencia of the Tribunal Supremo of Spain, dated 19 October 1933, wherein, speaking of evident premeditation, it held:

"Considerando que—no concurre si el veredicto solo expresa que previo concierto de voluntades, se ejecuto el acuerdo, sin concretar el tiempo transcurrido y los actos de deliberacion, reiterados y persistentes, precedents a la ejecucion del delito, pues aquella circunstancia requiere que la determinacion del agente de perpetrar el delito concebido se haya formado por medio de un raciocinio pleno y reflexivo, de manera tal que revele un proposito preservante en su realizacion, debidamente exteriorizado y conocido."

It follows that while the crime committed by appellants is murder, qualified by treachery, their guilt is attenuated by voluntary surrender. Hence, the correct penalty is the minimum provided by law, which is reclusion temporal in its maximum degree (Article 248, R.P.C.), i.e. from 17 years, 4 months and one day to 20 years of imprisonment. Giving them the benefits of the Indeterminate Sentence Law (Act 4103, section 2), the appellants

should be and are hereby sentenced to not less than ten (10) years and one (1) day of prision mayor and not more than eighteen (18) years of reclusion temporal, plus the corresponding accessory penalties (People vs. Ducosin, 59 Phil. 109).

Modified as to the penalty, in the sense indicated, the judgment appealed from is otherwise affirmed. Costs against appellants. So ordered.

Paras, C.J., Bengzon, Padilla, Montemayor, Reyes, A., Jugo, Bautista Angelo, Labrador, and Concepcion, JJ., concur.

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.