

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. MAMERTO DULAY, APPELLANT.*G.R. N. 174775. October 11, 2007*

Ponente: CARPIO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/52be7d77d6a5/>**CARPIO, J.:**

Before the Court is an appeal from the 30 June 2006 Decision[1] of the Court of Appeals in CA-G.R. CR-H.C. No. 00486.

Mamerto Dulay (appellant) and his co-accused Diosdado Camat (Camat), John Laurean (Laurean), Rogelio Campos, Ibot Campos, Henry Caoile (Caoile), Serafin Dulay (Dulay), and Junior Lopez (Lopez) were charged with (1) Murder with the Use of Unlicensed Firearms docketed as Criminal Case No. U-10498[2] for the death of Elmer Hidalgo; (2) Murder with the Use of Unlicensed Firearms docketed as Criminal Case No. U-10499[3] for the death of Marcelina Hidalgo; and (3) Frustrated Murder docketed as Criminal Case No. U-10502[4] for the attempt against the life of Pedro Hidalgo. Camat, Caoile, and Lopez remained at large. Appellant and the other accused entered their pleas of not guilty to the charges.

On 3 November 1999, at around 3:00 p.m., in Barangay Anis, Laoac, Pangasinan, Corazon Domingo, Ricardo, Pedro, Juanito, Abelardo, Anastacio, Lydia, Aurelio, Marcelina, and Elmer, all surnamed Hidalgo, were sitting on a bench in front of the house of Juanito. They were conversing when the motorcycle driven by Rogelio Campos passed by. On the third time, a certain Pilo Cabingas was backriding on the motorcycle. Shortly thereafter, shots were heard and the witnesses saw all of the accused firing long and short firearms at the direction of those sitting on the bench. The witnesses positively identified appellant and Camat as the ones holding long firearms while the other accused as the ones holding short firearms. As a result of the shooting incident, Marcelina and Elmer Hidalgo were killed while Juanito and Pedro Hidalgo were wounded.

All the accused denied the charges against them. Appellant alleged that at the time of the incident, he was at the place of his brother Maximo Dulay at Salcedo, Ilocos Sur. He was borrowing money for his wife's placement fee. Appellant alleged that, together with Bong De Guia and Marcos Suyat, he helped his brother dry "palay" from 12:00 noon to 5:00 p.m.

The Regional Trial Court of Urdaneta City, Pangasinan, Branch 46 (trial court) acquitted Laurean, Rogelio Campos, Ibot Campos, and Dulay. However, the trial court found appellant guilty beyond reasonable doubt of the charges against him. The dispositive portion of the trial court's Decision[5] reads:

WHEREFORE, JUDGMENT is hereby rendered:

- In CRIM. CASE NO. U-10499, CONVICTING beyond reasonable doubt MAMERTO DULAY of the crime of Murder with the Use of Unlicensed Firearm and the Court sentences him to suffer the penalty of DEATH to be implemented in the manner as provided for by law; the Court, likewise, orders him to indemnify the heirs of Marcelina Hidalgo the sum of P75,000.00, as moral damages; P50,000.00 as exemplary damages plus P22,000.00 as actual damages.

Accused Ibot Campos, Rogelio Campos, Serafin Dulay and John Laurean are hereby ACQUITTED for failure of the prosecution to prove their guilt beyond reasonable doubt.

- In CRIM. CASE NO. U-10498, CONVICTING beyond reasonable doubt MAMERTO DULAY of the crime of Murder with the Use of Unlicensed Firearm and the Court sentences him to suffer the penalty of DEATH to be implemented in the manner as provided for by law; the Court, likewise, orders him to indemnify the heirs of Elmer Hidalgo the sum of P75,000.00 as moral damages and the further sum of P50,000.00 as exemplary damages;

Accused Ibot Campos, Rogelio Campos, Serafin Dulay and John Laurean are hereby ACQUITTED for failure of the prosecution to prove their guilt beyond reasonable doubt.

- In CRIM. CASE NO. U-10502, CONVICTING beyond reasonable doubt MAMERTO DULAY of the crime of Frustrated Murder and the Court sentences him to suffer an imprisonment of ten years and one day of Prison Mayor as minimum to twenty years of Reclusion Temporal as maximum; the Court, likewise, orders him to indemnify the heirs of Pedro Hidalgo the sum of P50,000.00 as moral damages and the further sum of P20,000.00 as exemplary damages.

Accused Ibot Campos, Rogelio Campos, Serafin Dulay and John Laurean are ACQUITTED for failure of the prosecution to prove their guilt beyond reasonable doubt.

The Clerk of Court is hereby ordered to prepare the mitimus and to transmit the complete records of Criminal Cases Nos. U-10498 and U-10499 to the Honorable Supreme Court of the Philippines for automatic review immediately.

The jail Warden, Bureau of Jail Management and Penology (BJMP), Urdaneta District Jail, Urdaneta City is hereby ordered to deliver the living person of Mamerto Dulay to the National Bilibid Prison, Muntinlupa City, immediately upon receipt of this Decision.

On the other hand, the Jail Warden, Bureau of Jail Management and Penology, Urdaneta District Jail, Urdaneta City, is hereby ordered to release from detention the living persons of Ibot Campos, Rogelio Campos, Serafin Dulay and John Laurean immediately upon receipt of this Decision, unless they are being detained for another lawful cause/s.

Let alias warrants of arrest be issued against Diosdado Camat, Henry Caoile and Junior Lopez for their apprehension.

SO ORDERED.[6]

The records of the cases were forwarded to this Court for automatic review and docketed as G.R. Nos. 148880-82. In a Resolution dated 1 December 2004,[7] the cases were transferred to the Court of Appeals pursuant to the Decision of this Court in *People v. Mateo*.^[8] In its 30 June 2006 Decision, the Court of Appeals affirmed the trial court's Decision.

Hence, the appeal before this Court.

The main issue is whether appellant's guilt was proven beyond reasonable doubt.

The appeal has no merit.

Appellant argues that he was convicted based on contradictory and improbable testimonies of prosecution witnesses. He argues that it was improbable for the witnesses to look at the faces of the persons firing at them when they were more concerned with taking cover for their safety. Appellant further argues that since his supposed co-conspirators were acquitted, he should also be acquitted since they were alleged to have conspired to

commit the crimes charged.

We do not agree. A few discrepancies and inconsistencies in the testimonies of witnesses referring to minor details do not impair their credibility.[9] Minor inconsistencies even tend to strengthen the credibility of a witness because they discount the possibility that the testimony was rehearsed.[10] As regards the actuations of the witnesses at the time of the incident, it is settled that there is simply no standard form of behavioral response that can be expected from anyone when confronted with a strange, startling, or frightful occurrence.[11]

We agree with the Court of Appeals that we may no longer review the acquittal of the other accused. A verdict of acquittal is immediately final.[12] However, the acquittal of his co-accused does not necessarily benefit appellant. In *People v. Uganap*, [13] appellant questioned the trial court's decision which convicted him alone of murder and acquitted the rest of the accused. The Court ruled that appellant may not invoke the acquittal of the other conspirators to merit the reversal of his conviction.[14] The Court declared:

There is nothing irregular with the acquittal of one of the supposed co-conspirators and the conviction of another. Generally, conspiracy is only a means by which a crime is committed as the mere act of conspiring is not by itself punishable. Hence, it does not follow that one person alone cannot be convicted when there is a finding of conspiracy. As long as the acquittal of a co-conspirator does not remove the basis of a charge of conspiracy, one defendant may be found guilty of the offense.[15]

We also reject appellant's defense of alibi. Positive identification, where categorical, consistent, and not attended by any showing of ill motive on the part of the witnesses testifying on the matter, prevails over alibi and denial which, if not substantiated by clear and convincing evidence, are negative and self-serving evidence undeserving weight in law.[16]

Appellant also argues that the trial court erred in appreciating against him the aggravating circumstances of treachery and use of unlicensed firearm.

There is treachery when the offender commits any of the crimes against persons, employing means, methods, or forms in their execution, without risk to himself arising from the defenses which the offended party might make.[17] The essence of treachery is the unexpected and sudden attack on the victim which renders him unable and unprepared to defend himself due to the suddenness and severity of the attack.[18] In this case, the victims were conversing in front of the house of Juanito Hidalgo when they were suddenly fired upon. They had no way of knowing that the attack would be made and they had no opportunity to defend themselves. Hence, both the trial court and the Court of Appeals correctly appreciated the aggravating circumstance of treachery.

The existence of the firearm can be established by testimony, even without the presentation of the firearm.[19] It was established that Elmer and Marcelina Hidalgo died of, and Pedro Hidalgo sustained, gunshot wounds. The ballistic examination of the slugs recovered from the place of the incident showed that they were fired from a .30 carbine rifle and a .38 caliber firearm. The prosecution witnesses positively identified appellant as one of those who were holding a long firearm. It was established that appellant was not a licensed firearm holder. Hence, the trial court and the Court of Appeals likewise correctly appreciated the use of unlicensed firearm as an aggravating circumstance.

Pursuant to Republic Act No. 9346,[20] we modify the penalty imposed on appellant in Criminal Case Nos. U-10499 and U-10498 from death to reclusion perpetua without eligibility for parole.

When death occurs as a result of a crime, the heirs of the deceased are entitled to such amount as indemnity for death without need of any evidence or proof of damages.[21] Consistent with recent jurisprudence, we award the heirs of Marcelina Hidalgo P50,000 and the heirs of Elmer Hidalgo P50,000 as indemnity for their deaths.[22]

However, we reduce the award of moral damages from P75,000 to P50,000 and the award of exemplary damages from P50,000 to P25,000.[23]

In Criminal Case No. U-10502, appellant was found guilty beyond reasonable doubt of frustrated murder. Under Article 50 of the Revised Penal Code, the penalty next lower in degree than that prescribed by law for the consummated felony shall be imposed upon the principal in a frustrated felony. Hence, the penalty imposable upon appellant for frustrated murder is reclusion temporal. Applying the Indeterminate Sentence Law and considering the attendant aggravating circumstances, the penalty imposed by the trial court falls within the range of the proper imposable penalty of prision mayor (6 years and 1 day to 12 years) to reclusion temporal in its maximum period (17 years, 4 months and 1 day to 20 years). However, the trial court erroneously awarded damages to the heirs of Pedro Hidalgo instead of to the victim himself. We reduce the award of moral damages from P50,000 to P25,000 and increase the award of exemplary damages from P20,000 to P25,000.[24]

WHEREFORE, we AFFIRM the 30 June 2006 Decision of the Court of Appeals in CA-G.R. CR-H.C. No. 00486 with MODIFICATION.

In Criminal Case No. U-10499, appellant Mamerto Dulay is found GUILTY beyond reasonable doubt of the crime of Murder with the Use of Unlicensed Firearm and is SENTENCED to suffer the penalty of reclusion perpetua without eligibility for parole. He is ORDERED to pay the heirs of Marcelina Hidalgo the sum of P50,000 as indemnity for death, P50,000 as moral damages, P25,000 as exemplary damages, and P22,000 as actual damages.

In Criminal Case No. U-10498, appellant Mamerto Dulay is found GUILTY beyond reasonable doubt of the crime of Murder with the Use of Unlicensed Firearm and is SENTENCED to suffer the penalty of reclusion perpetua without eligibility for parole. He is ORDERED to pay the heirs of Elmer Hidalgo the sum of P50,000 as indemnity for death, P50,000 as moral damages, and P25,000 as exemplary damages.

In Criminal Case No. U-10502, appellant Mamerto Dulay is found GUILTY beyond reasonable doubt of the crime of Frustrated Murder and is SENTENCED to suffer the indeterminate penalty of ten years and one day of prision mayor as minimum to twenty years of reclusion temporal as maximum. He is ORDERED to pay Pedro Hidalgo the sum of P25,000 as moral damages and P25,000 as exemplary damages.

SO ORDERED.

Puno, C.J., Quisumbing, Ynares-Santiago, Sandoval-Gutierrez, Austria-Martinez, Corona, Carpio-Morales, Azcuna, Tinga, Chico-Nazario, Garcia, Velasco, Jr., and Reyes, JJ., concur.
Nachura, J., no part.

[1] Rollo, pp. 3-22. Penned by Associate Justice Hakim S. Abdulwahid with Associate Justices Andres B. Reyes, Jr. and Estela M. Perlas-Bernabe, concurring.

[2] CA rollo, pp. 14-16.

[3] Id. at 17-19.

[4] Rollo, p. 6. No copy of the Information was attached to the rollo but it was recited in the Court of Appeals' Decision.

[5] CA rollo, pp. 56-76. Penned by Judge Modesto C. Juanson.

[6] Id. at 74-76.

- [7] Rollo, p. 213.
- [8] G.R. Nos. 147678-87, 7 July 2004, 433 SCRA 640.
- [9] Mamangun v. People, G.R. No. 149152, 2 February 2007, 514 SCRA 44.
- [10] Id.
- [11] People v. Dulanas, G.R. No. 159058, 3 May 2006, 489 SCRA 58.
- [12] People v. Court of Appeals, G.R. No. 159261, 21 February 2007.
- [13] G.R. No. 130605, 19 June 2001, 358 SCRA 674.
- [14] Id. at 684.
- [15] Id., citing People v. Arlalejo, G.R. No. 127841, 16 June 2000, 333 SCRA 604.
- [16] People v. Barcino, Jr., 467 Phil. 709 (2004).
- [17] People v. Piliin, G.R. No. 172966, 8 February 2007, 515 SCRA 207.
- [18] Id.
- [19] People v. Malinao, 467 Phil. 432 (2004).
- [20] An Act Prohibiting the Imposition of Death Penalty in the Philippines. Approved on 24 June 2006.
- [21] Cabuslay v. People, G.R. No. 129875, 30 September 2005, 471 SCRA 241.
- [22] Supra note 17.
- [23] Id.
- [24] Martinez v. Court of Appeals, G.R. No. 168827, 13 April 2007.

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.