

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ANTONIO ALONZO, RENATO HERNANDO, ROLANDO GAÑO AND JUAN
VILLOSILLO ALIAS “ILOCANO”;
DEFENDANTS-APPELLANTS.**

G.R. No. L-32163. October 19, 1976

Ponente: FERNANDO, J.

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FERNANDO, J.:

The difficulty confronting the four appellants, who were accused, tried and thereafter convicted of the crime of murder for having stabbed and killed a certain Wilfredo Flores, in securing a reversal of such decision is not lessened by their counsel limiting himself to filing a brief of six pages. What is worse, his statement of the facts on which certainly he would predicate an acquittal is curt, to the point of non-existence. It reads in full: "In the evening of April 29, 1966, one Wilfredo Flores alias 'Willie Flores' was stabbed twice by person or persons unknown in front of the Orchid Refreshment and the Victory Lumber at the Poblacion of Balanga, Bataan and as a result thereof died on the spot. A criminal complaint for murder was charged against the herein four (4) defendants-appellants although all of them denied involvement of the charge as they alleged to have been at other places during the time the alleged incident happened." [1] That is all, and to say that there is hardly anything on which appellants may pin their hopes for acquittal is to run the risk of being accused of exaggeration. At any rate, if there be affirmance of the lower court judgment, the basis is not the failing of counsel but the evidence of record, which this Court has carefully studied.

In its fourteen-page decision, the lower court first considered the evidence for the prosecution: "The evidence of the State shows that between the hours of four and five o'clock in the afternoon of April 29, 1966, while Sebastian Estember and his friend, Ernie Santos, both boothblacks, were shinning shoes in front of Farmacia Reyes in the town of Balanga, four persons came and inquired for the house of Willie or Wilfredo Flores, the deceased in this case. These four persons were identified by the prosecution witnesses as Antonio Alonzo, Renato Hernando, Rolando Gaño and Juan Villosillo, all accused herein. Moments later, Willie Flores arrived and the four persons disappeared. Willie took a seat and conversed with Sebastian Estember. The latter told Willie that four persons were looking for him, but Willie answered to just leave them alone. Thereupon, Sebastian excused himself and pretended to leave, but actually he went to see Willie's mother and told her that four persons were looking for Willie. The mother requested Sebastian to tell Willie to come home. There-upon Sebastian returned to the Farmacia Reyes where Willie was and told him that his mother wanted him to come home. Willie stood up and started to go home with Sebastian accompanying him. On the way Sebastian dropped by a store to buy cigarettes while Willie proceeded on his way. Soon thereafter Sebastian followed Willie and while they were on the road in front of the Orchid Refreshment and the Victory Lumber, four persons, who earlier were looking for Willie, came from a curve near the lumber yard and ganged [sic] up on Willie. One of the four, pointed to in open court by Sebastian Estember as the accused Antonio Alonzo, stabbed Willie while he was ganged [sic] up by the three other accused herein. Wilfredo Flores died on the spot. The autopsy report made by Dr. Melanio T. Banzon, the

municipal health officer of Balanga, indicates that death was due to loss of blood caused by the two stab wounds inflicted upon the victim. * * *." [2]

It then discussed the evidence for the appellants: "The accused would want this Court to believe that in the evening in question, they were at some other place at about the precise time the crime was committed in Balanga, Bataan. Thus the accused Juan Villosillo testified that during the whole day of April 29, 1966, he was out from six o'clock in the morning harvesting peanuts in the field of Jose Vasquez in Niyugan, a barrio of Balanga, and he did not return home to Cupang until about seven o'clock in the evening. He introduced as witnesses Carmelita Diwa and Eufemia Zabala who claimed to have spent the day in the peanut plantation at Niyugan together with the accused Juan Villosillo. The accused Rolando Gaño testified that at about five o'clock in the afternoon of April 29, 1966, he went to Nagwaling, a barrio of Pilar, where he has been guarding a bulldozer for a week prior to April 29, 1966, from five o'clock in the afternoon to six o'clock in the morning; that he took a Thames jeepney from Balanga driven by Armando Angeles with Rodolfo Izon as the conductor; that he got off the jeepney at Nagwaling in front of the Naval irrigation, then from there he walked about three minutes to a place where he was guarding a bulldozer; that after giving the food which he brought along to the operators of the bulldozer, he requested them to sleep near the bulldozer because he was going back to Balanga to see the show; that he returned to the place where he could get a Balanga bound transportation after the sun had already set; that he rode on the Thames jeepney of Dado and reached Balanga when the people in the church were already reciting the rosary; that when the jeep in which he was riding parked at the Caltex gasoline station to refuel, he saw many people converged in front of the Orchid Refresh-ment Parlor; that he learned that a person was stabbed. Accused denied having met prosecution witness Sebastian Estember at five o'clock that afternoon of April 29, 1966, and denied having known the whereabouts of his co-accused on that date and hour. The accused introduced the testimony of Francisco Reyes, who claimed to have met the said accused in barrio Nagwaling at about 6:30 o'clock in the evening of April 29, 1966, and the accused left Nagwaling at about 7:15 o'clock that same evening in a jeep driven by Dado in going home to Balanga. The accused Renato Hernando testified that on April 29, 1966, he and his father went to their farm in Maulang, about three kilometers from Cupang where he is living; that upon reaching their farm, they proceeded to the mountains to the source of the water for the purpose of opening the dikes to water their field; that from the source of the water they arrived back in their farm at twilight, and after checking the flow of the water and after mending the fences broken by the stray animals, they set out to go home to Cupang; and that they arrived home at about midnight. The accused presented his father, Fernando Hernando, who corroborated his testimony. The accused Antonio Alonzo testified that in the morning of April 29, 1966, he was in the field in sitio Lupang Tagalog, a part of Pilar, Bataan, about two kilometers to the Balanga-Bagac road; that he stayed in his farm up to April 30, 1966; that at about five o'clock in the afternoon of April 29, 1966, he went up to the dam from where the water was being distributed to different fields, because he was looking for Baltazar Pizarro, the water master, to ask for water; that Baltazar Pizarro told him to be patient because the water [was] being used by other farmers; that they waited for a certain Mariano Gallardo, but when the latter arrived and informed him that the water could not reach his farm because it is still being used by other farmers, he went back to his hut. The accused Antonio Alonzo presented three witnesses in the persons of Baltazar Madriaga, Mariano Gallardo and Nicanor Pizarro, all irrigation gate keepers of the Pilar Irrigation System, who testified as to having met and seen the accused Antonio Alonzo between seven and eight o'clock in the evening of April 29, 1966, irrigating his field in sitio Lupang Tagalog. They declared, however, that prior to seven o'clock that evening, they [had] not seen, nor knew of the whereabouts of the said accused." [3]

After carefully appraising the proof submitted by both the prosecution and the defense, the lower court upheld the theory of the prosecution and rejected the defense of alibi in these words: "Upon the whole of the evidence, the Court finds that the defense of alibi set up by each of the accused cannot prevail over the positive testimony of the

prosecution witnesses. They knew the accused and saw them ganged [sic] up on the deceased Wilfredo Flores, and thereupon, the accused Antonio Alonzo stabbed the victim. And as the Court has observed, not a single witness for the defense had testified on the motive, remote or proximate, of the witnesses for the state in testifying against the accused and in implicating them in the perpetration of so serious a crime as that of murder." [4] It likewise noted the following circumstance: "In the present case, the identity of the accused herein as the authors of the killing is well proven. Moreover, the record is replete with circumstances which would as much as intimate a strong motive on the part of the accused Antonio Alonzo to kill Wilfredo Flores. As heretofore shown, the deceased was suspected of having stabbed Rufino Alonzo, younger brother of the accused Antonio Alonzo in the evening of April 28, 1966. * * * Parenthetically, there is no competent evidence to prove that Wilfredo Flores really stabbed Rufino Alonzo. Pat. Bienvenido Laus testified for the defense that when he investigated Rufino Alonzo in the hospital immediately after the stabbing incident in the evening of April 28, 1966, Rufino Alonzo declared to him that he (Rufino) did not know his assailant. * * *." [5]

It thus found the appellants guilty of the crime of murder, alevosia having qualified the offense. They were each sentenced to reclusion perpetua and to indemnify the heirs in the amount of P6, 000. As noted at the outset, there is nothing in the record that would justify a reversal. At the most, there should be a modification in the amount of the indemnity due the heirs of the deceased.

1. While counsel for appellants imputed three errors to the lower court, he discussed them jointly, devoting less than three pages to demonstrating the alleged deficiencies in the appealed decision. It is readily discernible then why such an effort, if it could be called that, was marked by futility. He would indict the lower court for relying entirely on and accepting fully the evidence for the prosecution ignoring that of the defense. That charge is without foundation. A few pages back, there were excerpts cited to show how far the lower court had gone in analyzing carefully the testimony offered on behalf of the appellants. Certainly, the principle of respect for the finding of facts of the lower court, reiterated in a number of cases, calls for application. As set forth anew in July of this year in *People v. Berame*: [6] "This is a case, therefore, where the trial court, after hearing and observing the witnesses testify, and weighing what was said by them, did choose to believe the prosecution rather than the defense. For such a finding to be overturned, there must be a showing that it did overlook a material fact or circumstance or did misinterpret its significance. What was said in *People v. Tila-on* comes to mind: 'Finally, the rule is now firmly established to the point of becoming elementary in this jurisdiction and elsewhere that where there is an irreconcilable conflict in the testimony of witnesses, the appellate court will not disturb the findings of the trial court when the evidence of the successful party, considered by itself, is adequate to sustain the judgment appealed from.' " [7]

2. Much less had the lower court laid itself open to the accusation of disregarding the evidence for the defense. It is true it found "the alibi of the accused far from convincing." [8] It proceeded though in four subsequent pages to explain why. [9] Clearly then, the imputation is baseless. That was more than just paying fealty to another doctrine of consequence that has stood the test of time and circumstance. It was first announced in *People v. Badilla*, [10] a 1926 decision. According to Justice Ostrand, the ponente: "Neither is the failure of the court to make specific findings of fact in regard to the defenses of alibi reversible error. Such defenses are frequently relied on in criminal cases, but oral evidence tending to prove alibi is so easily manufactured and usually so unreliable that it can rarely be given credence. The evidence with which alibi is sought to be established in this case is of the usual order and we do not think the trial judge greatly erred in failing to discuss it at length." [11] It must be noted anew that in this case the lower court carefully considered the defense of alibi before rejecting it. Later cases have followed such an approach and expressly referred to the *Badilla* ruling. [12] One of its latest formulations came from the pen of Justice J.B.L. Reyes in *People v. Corpuz*: [13] "This defense of alibi cannot be given much credence. By a long line of decisions, it has been held that, in order to prosper, alibi must be clearly established

and must not leave any room for doubting its accuracy, plausibility and verity." [14]

It cannot be denied that to so view the matter in all cases and without exception may prove unjust to an accused, whose sole defense, in accordance with what did transpire, was his being absent and thus not in a position to commit the offense. That is why there is much to be said for an equally well-settled principle that removes the taint of possible arbitrariness to the principle that to rely on such an assertion to bolster one's plea of innocence is inherently suspect. Reference may thus be made to *United States v. Roque*, [15] a 1908 decision, the first leading case. Rightly, it predicates the weakness of such a defense when there is positive identification. Twice in the ponencia of Justice Torres, mention was made of the accused being recognized "with rare unanimity by five eyewitnesses to the perpetration. * * *." [16] The circumstance that a credible witness could point to the accused as having participated in a criminal act has since then been considered by this Court as more than sufficient to discredit such an attempt to escape conviction. [17] As was so well put in *People v. Niem* [18] by the then Justice, later Chief Justice, Paras: "The appellants were rightly convicted. The defense of alibi vigorously set up by their counsel is not convincing. It cannot prevail over the positive testimony of the offended parties, * * * [19] To the same effect is the pronouncement in *People v. Santos* [20] by Justice Perfecto that "it cannot overcome the straightforward testimonies of the witnesses for the prosecution who identified [the accused] * * *." [21] The doctrine as restated almost fifty years later by another Justice Torres, a son of the former jurist cited, in *People v. Bondoc*: [22] "This Court has ruled time and again that a defense of alibi * * * cannot prevail over the explicit and positive identification of [the witnesses for the prosecution]." [23]

3. Counsel for appellants assigned as the second error allegedly committed by the lower court its finding that conspiracy was shown. Considering the proven facts of records, it would clearly appear that there is a misapprehension of the legal concept of conspiracy. Respect for past decisions ought to have cautioned against the imputation of such a failing. There is relevance to this excerpt from the latest case of *People v. Manlangit*: [24] "According to *People v. Pudpud*: 'A conspiracy in the statutory language "exists when two or more persons come to an agreement concerning the commission of a felony and decide to commit it." The objective then on the part of the conspirators is to perform an act or omission punishable by law. What is required is assent to the perpetration of such a misdeed. That must be their intent. There is need, in the language of Justice Mapa in the early leading case of *United States v. Magcomot*, a 1909 decision, for "concurrence of wills" or "unity of action and purpose." The usual phraseology employed in many of the later cases is "common and joint purpose and design." At times, reference is made to "previous concert of criminal design." Its manifestation could be shown by "united and concerted action." Thus, a conspiracy need not be proved by direct evidence; it may be deduced from the mode and manner in which the offense was perpetrated. The conditions attending its commission and the acts executed may be indicative of a common design to accomplish a criminal purpose and objective. If, to use the apt words of Justice Bengzon [in *People v. Villanueva*], there is "a chain of circumstances" to that effect, then conspiracy has been established. If such be the case, the act of one is the act of all the others involved and each is to be held to the same degree of liability as the others. So it has been our constant ruling from the 1905 decision of *United States v. Maza*.' To paraphrase the opinion of Justice Concepcion, as set forth in the latest case in point, *People v. Pajenado*, conspiracy may be inferred from conduct that makes evident a community of design." [25] To be more specific, what was stated by Justice Aquino in a case also decided this year, *People v. Saliling*, [26] is quite apropos: "The lower court found that there was conspiracy among the four malefactors. The record supports that finding. The four accused were together in the yard of Argenio's house when Jumadiao called him and deceived him as to their purpose of awakening him at three o'clock in the morning. They were together when they rushed inside Argenio's house. As if implementing a previously rehearsed plan, two of them assaulted Argenio, the third took the money, and the fourth stood guard. They left the house together after they had accomplished their malevolent mission. Not to be overlooked is the circumstance that the four appellants were linked to each

other by friendship or some sort of relationship." [27]

4. The last error assigned would attribute to the lower court a wrong characterization of the offense, the contention being that homicide and not murder, if at all, was the crime committed. All that needs to be said is that it takes a certain degree of temerity to make such an assertion considering that as found by the lower court in accordance with what appears to be an agreed plan, appellants, acting in concert, assaulted the deceased, the accused Antonio Alonzo inflicting the stab wound that caused his death on the spot. It was evident then that the qualifying circumstances of alevosia was more than duly proved. The requirement that it be demonstrated "as conclusively as the act itself," as set forth by Justice Mapa as far back as 1905, in the case of *United States v. Perdon*, [28] was fully satisfied. What possible defense could a lone helpless victim avail himself against the determined onslaught of four adults intent on their nefarious deed? To ask the question is to answer it. Again, no such error as that imputed to the lower court was committed.

WHEREFORE, the decision of June 16, 1969, finding appellants guilty beyond reasonable doubt of the crime of murder and sentencing them to reclusion perpetua, is affirmed with the sole modification that they are jointly and severally ordered to indemnify the heirs of the deceased Wilfredo Flores in the amount of P12, 000.00.

Barredo, Antonio, Aquino, and Concepcion, Jr., JJ., concur.

[1] Brief for the Accused-Appellants, 2.

[2] Decision, 1-2.

[3] Ibid, 2-5.

[4] Ibid, 9.

[5] Ibid, 12-13

[6] L-27606, July 30, 1976.

[7] Ibid. *People v. Tila-on*, a 1961 decision, is reported in 112 Phil. 546, with Justice J.B.L. Reyes as ponente. The excerpt cited is found at page 550. Twelve recent cases were cited, starting from *People v. Gumahin*, L-22357, Oct. 31, 1967, 21 SCRA 729 to *People v. Payao*, L-29364, Nov. 21, 1975, 68 SCRA 70.

[8] Decision, 5.

[9] Ibid, 5-9.

[10] 48 Phil. 718.

[11] Ibid, 731.

[12] Cf. *People v. De Asis*, 61 Phil. 384 (1935); *People v. Cinco*, 67 Phil. 196 (1939); *People v. De Guzman*, 70 Phil. 23 (1940); *People v. Morados*, 70 Phil. 558 (1940); *People v. Medina*, 71 Phil. 383 (1941); *People v. Japitana*, 77 Phil. 175 (1946); *People v. Imson*, 80 Phil. 284 (1948); *People v. Alfaro*, 83 Phil. 85 (1949); *People v. Ballocanag*, 83 Phil. 573 (1949); *People v. Napili*, 85 Phil. 521 (1950); *People v. Pineda*, 86 Phil. 266 (1950); *People v. Villaroya*, 101 Phil. 1061 (1957); *People v. Masilungan*, 104 Phil. 621 (1958); *People v. Ambahang*, 108 Phil. 325 (1960); *People v. Urita*, 108 Phil. 741 (1960); *People v. De Leon*, 108 Phil. 800 (1960).

[13] 107 Phil. 44 (1960).

[15] Phil. 422.

[16] Ibid, 426, 427.

[17] Cf. *United States v. Ambrosio*, 17 Phil. 295 (1910); *United States v. Lasada*, 18 Phil. 90 (1910); *United States v. Oracion*, 18 Phil. 530 (1911); *United States v. Bañagale*, 24 Phil. 69 (1913); *United States v. Garcia*, 26 Phil. 289 (1913); *United States v. Hudieres*, 27 Phil. 45 (1914); *United States v. Lumanlan*, 31 Phil. 486 (1915); *People v. Badilla*, 48 Phil. 718 (1926); *People v. Cabantug*, 49 Phil. 482 (1926); *People v. Layos*, 60 Phil. 224 (1934); *People v. de Asis*, 61 Phil. 384 (1935); *People v. Cinco*, 67 Phil. 196 (1939); *People v. Caroz*, 68 Phil. 521 (1939); *People v. de Guzman*, 70 Phil. 23 (1940); *People v. Morados*, 70 Phil. 558; *People v. Medina*, 71 Phil. 383 (1941); *People v. Timbang*, 74 Phil. 295 (1943).

[18] 75 Phil. 668 (1946).

[19] Ibid, 670. Cf. *People v. Japitana*, 77 Phil. 175 (1946).

[20] 82 Phil. 167 (1948).

[21] Ibid, 169-170. Cf. *People v. Dedal*, 82 Phil. 203 (1948); *People v. Gallego*, 82 Phil. 335 (1948); *People v. Ronda*, 82 Phil. 414 (1948); *People v. Castillo*, 82 Phil. 420 (1948); *People v. Canastre*, 82 Phil. 480 (1948); *People v. Ballocanag*, 83 Phil. 569 (1949); *People v. Meriales*, 84 Phil. 18 (1949); *People v. Faltado*, 84 Phil. 89 (1949); *People v. Abalos*, 84 Phil. 771 (1949).

[22] 85 Phil. 545.

[23] Ibid, 549. Cf. *People v. Dy Too*, 86 Phil. 146 (1950); *People v. Elizaga*, 86 Phil. 364 (1950); *People v. Buran-sing*, 88 Phil. 363 (1951); *People v. Mallabo*, 89 Phil. 288 (1951); *People v. Sasota*, 91 Phil. 111 (1952); *People v. Avila*, 92 Phil. 805 (1953); *People v. Dacanay*, 92 Phil. 872 (1953); *People v. Baysa*, 92 Phil. 1008 (1953); *People v. Jistiado*, 94 Phil. 825 (1954); *People v. Venegas*, 95 Phil. 209 (1954); *People v. Samaniego*, 95 Phil. 218 (1954); *Buyco v. People*, 95 Phil. 453 (1954); *People v. Umali*, 99 Phil. 36 (1956); *People v. Arpon*, 100 Phil. 765 (1957); *People v. Villaroya*, 101 Phil. 1061 (1957); *People v. Paunil*, 103 Phil. 804 (1958); *People v. Gordon*, 104 Phil. 371 (1958); *People v. Divinagracia*, 105 Phil. 281 (1959); *People v. Caisip*, 105 Phil. 1180 (1959); *People v. Barroso*, 106 Phil. 177 (1959); *People v. Estacio*, 106 Phil. 981 (1960); *People v. Guzman*, 107 Phil. 1122 (1960); *People v. Sabuero*, 108 Phil. 74 (1960); *People v. Moro Ambahang*, 108 Phil. 325 (1960); *People v. Urita*, 108 Phil. 730 (1960); *People v. de Leon*, 108 Phil. 800 (1960); *People v. Carunungan*, 109 Phil. 534 (1960); *People v. Necesito*, 109 Phil. 563 (1960); *People v. Guarnes*, 110 Phil. 379 (1960); *People v. Corpuz*, 110 Phil. 633 (1961); *People v. Linde*, 110 Phil. 637 (1961).

[24] L-32993, September 28, 1976.

[25] Ibid. *People v. Pudpud*, L-26731, June 30, 1971 is reported in 39 SCRA 618; *Maza* in 5 Phil. 346; *Magcomot* in 13 Phil. 386; *Villanueva*, L-12687, July 31, 1962, in 5 SCRA 672. Cf. *People v. Ogapay*, L-28566, Aug. 21, 1975, 66 SCRA 209.

[26] L-27974, February 27, 1976, 69 SCRA 427.

[27] Ibid, 443.

[28] 4 Phil. 141. Cf. *People v. Abril*, 51 Phil. 670 (1928).

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