

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS.
RAYMUNDO DE VILLA, DEFENDANT AND APPELLANT.***G.R. No. L-19114. March 18, 1966*

Ponente: DIZON, J.

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After trial upon a plea of not guilty, the court rendered judgment finding appellant guilty, beyond reasonable doubt, of murder, with treachery as the aggravating circumstance and without any mitigating circumstance to offset the same. Thus he was sentenced to suffer the penalty of reclusion perpetua, with all the accessory penalties provided by law, to indemnify the heirs of the deceased in the amount of P6,000.00, and to pay the costs. Hence the present appeal.

The information filed in the lower court charged appellant with murder committed as follows:

"That on or about the 29th day of July, 1959, in the Municipality of Talisay, Province of Batangas, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, armed with a long firearm, with the deliberate intent to kill one Bonifacio Umandal @ Ben by means of treachery and with evident premeditation, did assault and fire shots with the said firearm at the said Bonifacio Umandal @ Ben, suddenly and without warning, the accused thus employing means and methods in the execution of the crime which tended directly and especially to insure its execution without risk to himself arising from the defense which the offended party might make; that as a result thereof, the accused succeeded in inflicting multiple gunshot wounds in the different parts of the body of the said Bonifacio Umandal @ Ben, causing profuse internal and external hemorrhage, which directly caused his death."

The prosecution evidence shows that at about 6:30 o'clock in the morning of July 29, 1959, a BTCO bus, driven by Modesto Malabanan, left Barrio Bayuyuñgan, Talisay, Batangas, bound for the town of Lemery of the same province. Upon arriving at sitio Ticub of Barrio Bayuyuñgan, the driver was forced to stop the bus as tree branches were laid across the road. The conductor of the bus, Bonifacio Umandal, got off, together with one Agripino Reyes and another passenger, to remove the obstructions. As they were thus engaged, successive gunshots were heard. Malabanan, thinking that it was a hold-up, looked at the direction from where the shots came—about five meters away—and he saw appellant facing him carbine in hand. Likewise he saw Umandal drop to the ground. Thereafter, appellant challenged the male occupants of the bus to come down, but as nobody did, he ran away. Malabanan - the driver of the bus - alighted therefrom and found the conductor dead.

Reyes, one of the men who helped pick the fallen branches, left immediately to report the incident to the local authorities. Arriving shortly, a PC unit headed by Francisco Bedua of the 36th PC detachment at Nasugbu, Batangas, found Umandal dead with empty shells of a carbine in the place where the shots were fired. But the authorities finally apprehended appellant only on August 12, 1959. In a statement sworn to before the Justice of the Peace of Nasugbu, Batangas, he admitted having shot the deceased Umandal in sitio Ticub, Bayuyuñgan, Talisay, indicating the place where he had hidden the murder weapon. The empty shells and the recovered firearm were forwarded to the CIS laboratory at Camp Crame, Quezon City, for ballistic examination. In the opinion of

ballistic expert Capt. José G. Fernandez, the four empty shells were fired from the chamber of the carbine under examination.

Appellant now claims that his confession (Exhibit A) was not made voluntarily, as shown by the fact that it was made at night time. This self-serving contention can not prevail over the fact that the confession is fully corroborated by the testimony of prosecution witnesses Malabanan and Reyes to the effect that both saw appellant holding a carbine five meters away from the bus and in the direction from which the successive gun shots came, and that he was the one who dared the male occupants of the bus to come down and face him. These two witnesses knew appellant personally and could not have been mistaken as to his identity. Moreover, the record discloses no fact or circumstance showing any unfair motive on their part to testify falsely against him.

It must be borne in mind likewise that in said confession appellant indicated the precise place where he had hidden the carbine used by him in committing the offense, and the weapon was actually found thereat. To this must be added the circumstance that, according to uncontradicted prosecution evidence, the empty shells found near the body of the deceased were fired from the said weapon.

Appellant also claims that the trial court erred in finding that the fatal wounds sustained by the deceased were caused by the shots fired from the carbine mentioned in his confession. Suffice it to say in this connection that, according to Dr. Garcia, who testified for the prosecution, the death of the deceased was due to the bullet wounds caused by the shots fired from appellant's carbine.

Appellant also relies upon an alibi, but his testimony in support thereof can not prevail over the positive testimony of the prosecution witnesses already mentioned above, and the confession Exhibit A. His alibi becomes all the more untenable, in the light of the circumstance that his house was not far from the place where the crime was committed, thus making it entirely possible for him to have been at the scene of the crime at the time it was committed, and to have returned to his home immediately thereafter.

In view of all the foregoing, We find that the decision appealed from is in accordance with law and the evidence. Therefore, the same is hereby affirmed, with costs.

Bengzon, C.J., Bautista Angelo, Concepcion, Reyes, J. B. L., Barrera, Regala, Makalintal, Bengzon, J. P., Zaldivar, and Sanchez, JJ., concur.

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