

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS.
BRAULIO BERSALONA, ET AL., DEFENDANTS. BRAULIO BERSALONA
AND MARCELO VALLECERA, DEFENDANTS AND APPELLANTS.**

G.R. No. L-12236. April 28, 1961

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/8253cf0f97fd/>

PER CURIAM:

Appeal from a judgment of the Court of First Instance of Bohol, Hon. Hipolito Alo, presiding, finding appellants Braulio Bersalona and Marcelo Vallecera guilty of the crime of murder with the attendance of five aggravating circumstances, and sentencing each of them to suffer the penalty of death, to indemnify jointly and severally the heirs of the deceased in the amount of P6,000.00, and to pay the costs at the rate of one-third each.

The information charges the appellants and one Eleuterio Rajas with the crime of murder upon the person of one Francisco Bersalona, with the aggravating circumstances of evident premeditation, treachery, superior strength, disregard to age and relationship and uninhabited place. Before the presentation of the evidence, upon petition by the Provincial Fiscal, the charge against the accused Rajas was dismissed, in order that he may be utilized as state witness. Thereafter, a separate trial was held, with the understanding that the evidence for the prosecution be considered taken in a joint trial.

The facts as proved by the evidence submitted by the prosecution are as follows: The victim of the crime is Francisco Bersalona, who, on or before February, 1955, was a resident of the barrio of Tambo, Municipality of Mabini, Bohol. He was a veteran discharged from the United States Army on June 13, 1919, joined the organized defense volunteers of Oahu, Hawaii in 1942, and discharged therefrom in July, 1945. Thereafter he found employment with the California Packing Corporation. While in the service of this Company, he had an accident for which he suffered physical injuries, as a result of which he stopped working. This was on August 11, 1950. He received some money by virtue of an insurance policy issued in his favor as a worker in the California Packing Corporation. He came back to the Philippines around the year 1954 and lived with his younger brother, the appellant herein Braulio Bersalona.

On or about March 29, 1955, the body of Francisco Bersalona was found on the seashore in the barrio of Tambo, Mabini, Bohol. The corpse was lying flat on the shore face down. The body was found by one Nicolas Jamen, who thereupon informed Braulio Bersalona and Eleuterio Rajas thereof. The place where the corpse was found was about 2 kilometers from the place of Braulio Bersalona, and the body was found at about 3:00 in the afternoon. Jamen informed Braulio of the finding of the corpse and thereupon Braulio and Eleuterio Rajas proceeded to the place where it was found. Braulio and Eleuterio then went to town to inform the *teniente del barrio* about the corpse, and so the mayor, the sanitary inspector and a physician went to the place where the body was found and inspected it. After the inspection, the body was brought to the house of Braulio Bersalona at about 10:00 in the evening.

The findings of the physician who examined the corpse are that the cause of death is unknown; that the death could not have been due to drowning because the stomach was not filled with water. She found hematoma behind

the neck, although she did not state this in the certificate of death which she made, Exhibit "4", as no autopsy was made.

The body was interred as usual and thereafter the properties left by him were divided among his heirs who were his brothers and sisters. On July 17, 1956, one Candido Misiona executed an affidavit before the Justice of the Peace of Mabini, Bohol, wherein he made the following statement:

"* * * Not long after I heard a sudden harsh voice of Nong Boliong coming behind me saying: 'Here comes at last the person whom my bolo is intended for.' Then when I turned my face back I saw the holo of Nong Boliong already unsheathed and he stabbed me saying: 'You will be the next to Nong Kikoy,' but I was able to roll down and ran away." (Exhibit "R-1")

The prosecution has not proved how the State began to suspect that the appellants herein are responsible for the death of Francisco Bersalona. However, Abraham Bersalona, nephew of the deceased, testified that three days after the death of Francisco Bersalona, he visited his uncle, the appellant Braulio Bersalona, to inquire about the possible reasons for the death of Francisco, and that Braulio told him that he was drowned. Then he proceeded to inquire about the papers left by him, like a mortgage over several coconut trees in favor of the deceased, but the appellant did not disclose that he had such papers. However, on the anniversary of the death of Francisco, when many of the relatives were present, Braulio surrendered the papers, Exhibits "L" and "L-1" to "L-21" which were the papers of the deceased. Aside from this, Braulio also delivered Exhibit "C", which is the last will and testament of Francisco Bersalona. After Braulio showed the will, by virtue of which Francisco left all his properties to Braulio, Abraham brought it to the Chief of Police, with the request that the same be studied, Abraham believing that the death must have arisen from what is contained in said will. At this time, however, the Constabulary had already begun making inquiries about the cause of death.

The facts testified to by Rajas are as follows: In the middle of the month, of February, 1955, Braulio, his father-in-law, came to see him while he was watching his plants in the field, and told him that the will of Francisco Bersalona had already been executed; that in said will the latter's brothers and sisters were to have no participation whatsoever in Francisco's properties, which will all go to Braulio; and that he would see Marcelo Vallecera. Braulio's plan then was to choke Francisco to death. Thereafter Braulio went to Marcelo Vallecera for help in executing his plan. Marcelo's land was mortgaged to Francisco and Braulio promised him that upon Francisco's death Braulio would release the mortgage and cancel the indebtedness. On the following day, while Rajas was again in his field, Braulio and Marcelo came and disclosed to him their plan to waylay Francisco and choke the latter.

The first attempt was made on the last Friday of February, when Francisco left Tambo for the poblacion by boat. But it so happened that Francisco then had a companion. The second attempt was on the first Friday of March, but again nothing happened, as it was market day and Francisco had gone to the poblacion with another person by the name of Jamen.

On March 27, 1955, Braulio went to Rajas to inform him that his brother was going to town to mail some letters. The following day, March 28, Francisco left for the town. After he was gone, Braulio went to Marcelo to inform him of this fact. At about 8:00 in the morning the three, Braulio, Marcelo and Eleuterio went to the shore at Tambo and they saw Francisco going to town alone, so they agreed to come back in the afternoon. At about 2:00 in the afternoon, they came back to the seashore, then rode in the baroto of Braulio. As they paddled into the sea, they saw the boat of Francisco, with the latter as sole occupant. When their boat had approached that of Francisco, Braulio asked Francisco if he had money, but the latter answered he had none. By this time the two boats were close to each other and thereupon Braulio crawled to the boat of Francisco, followed by Marcelo. Francisco was then sitting in his boat, with his feet inside the boat. Thereupon Braulio, with his feet dangling, rode on the body

of Francisco, while Mareelo stayed behind Francisco holding the latter's hands together at his (Francisco) back. Eraulio choked Francisco to death with his bare hands, and when Francisco expired, Braulio took his ring, pants, fountain pen and money. After this, he and Marcelo lifted the dead body of Francisco and dumped it into the sea. Then Braulio left, walking in the mangrove swamps, while Eleuterio and Marcelo paddled home. The murder took place away from the shore, so that nobody was in sight.

On the cross-examination of Eleuterio Rajas, it was suggested that on March 28, 1955, Eleuterio's wife had delivered, so that he stayed at home to take care of her, but Eleuterio insisted that his wife had delivered long before that date. On being asked on the supposed wounds on the forehead of Francisco, the witness explained that it may have been caused by the rubbing of the face against the mangroves.

The Justice of the Peace of Mabini, Bohol, Dionisio J. Calibo, also testified in court to the effect that he took the declarations of Braulio, Exhibit "F", in the course of the preliminary investigation, directing questions to him and the latter answering the questions; that the questions asked by him were almost the same as those asked in an affidavit of Braulio notarized before the Clerk of Court on July 23, 1956, Exhibit "G", the reason for the similarity being that he used this affidavit as a guide in asking the questions. He also declared that the affidavit was in the form of questions and answers, the Acting Chief of Police taking down the questions and answers on a typewriter. On cross-examination, he declared that when the accused was questioned, he did not ask to be assisted by a lawyer, although the witness had apprised him of his right to have counsel.

With respect to Marcelo Vallecera, the Justice of the Peace declared that when the case was called for preliminary investigation both Vallecera and Rajas pleaded guilty while Braulio pleaded not guilty, and as they had already executed their affidavits before the Clerk of Court, he decided to take down their declarations again as part of the preliminary investigation; that "Vallecera and Rajas were not assisted by counsel as they did not ask for that right, notwithstanding the fact that they were advised thereof. Witness further said he asked questions and wrote down the answers, following Vallecera's affidavit executed before the Clerk of Court. Being cross-examined he said there was no record of the plea of guilt of Vallecera, but his declaration, Exhibit "H".

The prosecution also introduced in evidence the affidavits of the accused, Exhibits "G" and "P" (of Braulio Bersalona), Exhibit "I" (of Marcelo Vallecera). The Clerk of Court testified that on July 26, 1956, Braulio Bersalona was brought before him, accompanied by two Constabulary soldiers, who asked him that the affidavits of Bersalona and Vallecera be signed and sworn to before him. Before Exhibit "G" was signed, the Clerk of Court showed it to Braulio and read to him the contents thereof. Braulio said he understood the contents of the affidavit, and then signed it in the presence of two witnesses, who also signed the same.

As regards Exhibit "I", affidavit of Vallecera the Clerk also testified that the affidavit was already prepared when it was brought to him; that he read the same to Vallecera, who afterwards admitted the same to be correct; that thereafter Vallecera signed the affidavit before him in the presence of two witnesses who thereafter also signed the same.

The Clerk also testified that Exhibit "P", another affidavit of Braulio, was signed before him on August 9, 1956. He also read the affidavit, which was in the form of question and answer and after reading it to Braulio, the latter admitted that the statements are true and correct, and thereafter Braulio and his witnesses signed said affidavit.

In the decision of the lower court, the substance of the above exhibits are stated, and are as follows:

"Exhibit 'G' (Bersalona).—That on March 28, 1955, at 2:00 in the afternoon, he went to meet his elder brother Francisco Bersalona coming from the Poblacion of Mabini; that it was Marcelo Vallecera and Eleuterio Rajas who helped each other to choke to death the deceased; that he did not help in this attack, although it was their purpose to kill the deceased, because he pitied the latter; that Marcelo Vallecera killed the deceased because

the latter refused to lend him money; that he took part in this conspiracy due perhaps to the fact that Rajas was his son-in-law; that Vallecera and Rajas took from the body of the deceased the amount of P10.00, which both divided equally; and that he found in the boat of the deceased the key of the latter's trunk."

"Exhibit 'P' (Bersalona).—That in the month of February, 1955, Atty. Nicanor Vallecera, nephew of his wife, suggested to the deceased that a document be drawn instituting him (Braulio) as his sole heir; that three days after, Atty. Vallecera prepared the document which was signed by the deceased Francisco Bersalona and by the witnesses; that after the execution of the document, Atty. Vallecera told him (Braulio) to kill immediately the deceased; that Atty. Vallecera told him that, as a lawyer, he would take the responsibility, if there would be a complaint; that after the deceased had been killed, he did not meet again Atty. Vallecera; that he gave Atty. Vallecera P100.00 as advance payment; that after the deceased had been killed, he gave Vallecera, the accused herein, the six coconut trees which the latter had mortgaged to the deceased for the sum P65.00; that he also gave to his son-in-law Rajas his share of P20.00."

"Exhibit 'I' (Vallecera).—That on March 28, 1955 at 2:00 in the afternoon, he was taken by force by Braulio Bersalona and Rajas in order to meet the deceased coming from Poblacion of Mabini, Bohol; that they rode on the boat of Braulio; that when they arrived at the seashore of Bacood, Tambo, Mabini, Bohol, they saw the deceased riding alone in his boat; that when they were near the deceased Braulio told him: 'You jump to it, Rad'; that because he was paid, he jumped followed by Rajas and Braulio; that when they were in the boat of the deceased the three of them held the deceased and choked him to death; that Braulio took the money of the deceased from his pocket that he was paid P65.00 for his help, representing the value of his six coconut trees which was the subject of mortgage."

Braulio Bersalona declared that all the testimonies presented against him are false; that his affidavit, Exhibit "G" was secured by the Philippine Constabulary by means of force, having been beaten into signing said affidavit; that Rajas had a grudge against him because a parcel of land owned in common by them had not been transferred to Rajas; that his brother Lucio also declared against him because of envy, the deceased having chosen to live with him rather than with Braulio. He also declared that on March 28, 1955, he did free and voluntary work in the school house of Tambo, Mabini, Bohol, from 9:00 to 12:00 in the morning and from 1:00 to 4:00 in the afternoon. Regarding the affidavit supposedly exacted from him by force, he named a Constabulary soldier, Barreda, as author of the beating. This soldier was not presented as a witness for the reason that he was studying in Manila and it was inconvenient for him to be brought to Bohol for the trial. However, the prosecution introduced one Pacomio Galve, who was present at the taking of the affidavit and who denied the supposed beating and asserted instead that the statements contained in the affidavit were voluntarily made.

Evidence was also submitted by Bersalona tending to show that the deceased may have been drowned in a squall, because a witness testified that there was such a squall on the day when the death took place. Another witness declared that there was foam in the mouth of the deceased and that his hands were closed with some sand clutched in his palms. These evidence, however, are insufficient to overcome the declaration of the physician who stated that death by drowning could not have taken place. The supposed death by drowning is also contradicted by the declaration (Exhibit "G") of the accused Braulio Bersalona himself, when he stated that the deceased was choked to death, although by his colleagues. Attempts were also made to discredit the witness Rajas by another witness, who declared that Rajas had told him that the accused Bersalona did not kill the deceased, but that if (Rajas) be given the liberty he would say that the accused Bersalona did actually kill the deceased. But this witness admitted having been convicted three times for theft, and was then serving the last conviction.

Marcelo Vallecera also denied the charge and the supposed payment to him for helping in the conspiracy, Claiming that on the day of the death of Francisco, he and his wife were in their field cleaning their tobacco plantation and that the affidavit signed by him, Exhibit "I", was secured by the Constabulary by means of

compulsion. There was, however, no witness who testified on his alibi other than his own daughter, and his claim that his affidavit was secured through force and compulsion was belied by the testimony of the Clerk of Court that he signed the same voluntarily before said Clerk, and by that of the Justice of the Peace who also testified to his statement during the preliminary investigation.

We have read and studied the testimony of Rajas, and we find it to be direct, positive, coherent and inherently truthful. The testimony that he gave in court is exactly the same as that he gave in his affidavit, Exhibit "I". The story about the origin of the conspiracy tallies with the fact of the execution of the will and the apparent greediness of Braulio. After having choked Francisco, Braulio took possession of all the valuables that the deceased had in his body, including his very pants. These facts show that Braulio was possessed of a greediness that knew no bounds, which would not respect the age of, or his relationship to, his victim, or the favor received from the latter in instituting him as his universal heir.

After a consideration of all the evidence, we are fully convinced that the deceased was killed in the manner described by the witness Rajas, that is, by being choked to death by the accused Braulio Bersalona while Marcelo Vallecera, his co-accused, held his (deceased) hands at the back. We also find it to have been conclusively shown at the trial that the cause that impelled the killing was the execution of the will of Francisco Bersalona on February 3, 1955; that it was Braulio who induced Marcelo Vallecera and Eleuterio Rajas in the conspiracy to kill the deceased; and that the motive of Braulio was to be able to take immediate possession of the properties to be left by his elder brother, the deceased herein. We also find that Marcelo Vallecera joined in the conspiracy because of his desire to free himself of an indebtedness of P65.00 contracted in favor of the deceased, which obligation Braulio promised to cancel. As for Rajas, he must have followed Braulio because the latter was his father-in-law, in whose house he and his wife were living.

The trial court found five aggravating circumstances to have been proved, namely evident premeditation, uninhabited place, disregard of due respect to the deceased on account of his old age, the victim was Braulio Bersalona's own brother, and the obvious ungratefulness of the latter. It found no mitigating circumstance. We declare that this finding is correct. It is to be noted, however, that two of the aggravating circumstancea, that of relationship and ungratefulness, are applicable to Braulio Bersalona alone and not to his co-accused Marcelo Vallecera.

In view of his apparent perversity, we do not hesitate to affirm the imposition of the supreme penalty of death upon the accused Braulio Bersalona. But as to his co-accused Marcelo Vallecera, there is no sufficient number of votes among the members of the Court to support the imposition of said penalty. The penalty to be imposed upon Marcelo Vallecera should, therefore, be reduced to *reclusión perpetua*.

Wherefore, with the above modification of the penalty, the judgment appealed from is hereby affirmed, with costs.

Bengzon, C.J., Padilla, Bautista Angelo, Labrador, Concepcion, Reyes, J.B.L., Barrera, Paredes, and Dizon, 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.