

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS.
ERNESTO DE LA VICTORIA, DEFENDANT AND APPELLANT.***G.R. No. L-30037. June 27, 1975*

Ponente: FERNANDO, J.

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As a result of a fatal stabbing incident, Ernesto de la Victoria was prosecuted for and convicted of the crime of murder, with reclusion perpetua as the penalty, the victim being one Monico de Guzman, who in his lifetime was himself accused of the killing of a certain Perfecto Atay. There was bad blood between the de Guzman and Atay families as a sister of the former was allegedly raped by a son of the latter, whose attention as a suitor apparently was not too welcome. The problem of the two young people did not prove insoluble; they got married, thus making the rape case moot and academic. Unfortunately, the ill feeling between the families continued; the atmosphere of mutual recrimination and resentment remained. That explained why the father of the groom met his death at the hands of the brother of the bride, himself to meet a similar fate from now appellant Ernesto de la Victoria, whose mother is a sister of the deceased Celestino Atay. That was the motive attributed for the sudden attack. The accused was identified as the person who plunged a dagger without warning on the chest of the hapless de Guzman, who soon thereafter expired. His defense was alibi, but the lower court was not convinced. On appeal, he would have this Tribunal reverse on the ground that the lower court ought to have accepted his version. A careful study of the records reveals that his efforts do not suffice for a reversal. Consequently, the appealed decision is affirmed.

As testified to by the prosecution, the accused Ernesto de la Victoria, at about 12:00 noon of January 8, 1968, approached from behind and suddenly stabbed on the chest the victim Monico de Guzman, who was standing while watching a group of persons playing a game of "dama" at a parking place near a barber shop in Ozamiz City.[1] The accused then immediately ran away from the place and headed for the seashore, the dagger left stuck on the body of victim.[2] He pulled it out, while walking away from the scene of the occurrence. Some persons rushed to aid him.[3] One of them, a policeman, Emiliano Ramos, asked him who the assailant was, but de Guzman could no longer talk as his mouth was full of blood. Instead he handed the dagger to the policeman.[4] It was the latter who placed him in a jeep to be taken to the Ozamiz City Emergency Hospital. He was administered immediate treatment by Dr. Angel Feliciano, but to no avail. He died twenty-five minutes past one in the afternoon of January 8, 1968. The cause of death was given as shock, secondary to stab wound, chest, lateral to the right nipple.[5] The accused was identified by a witness Epimaco Diamante as the person who approached Monico de Guzman from behind and stabbed the latter on the chest.[6] Sergeant Alfredo Flores of the Ozamiz City Police testified that when he took the accused to the police station, while riding on a tartanilla, he asked him why he did not surrender immediately; the answer was that he was afraid because the victim had a cousin who was a soldier in the constabulary. He added that the accused admitted to him that he was the one who stabbed Monico de Guzman.[7] Once they were at the police department, he turned over the accused to a certain Lieutenant Jose C. Procionos, the Chief of the Investigating Division of the Ozamiz City Police Department.[8] From him came the testimony that he questioned the accused, who readily owned up to the fact of stabbing

Monico de Guzman. Also present on that occasion were two other policemen. The admission, however, was not reduced to writing because the accused refused to sign a written statement without the assistance of a lawyer.[9] The widow of the victim, Francisca Vda. de Guzman explained the circumstances that led to the killing. It turned out that Antonia de Guzman, the younger sister of her deceased husband, was raped by Celestino Atay, son of Perfecto Atay, since deceased. Her husband then sent for Celestino, who refused to do his bidding and was reported to have said "Who is this Monico who sent for me? If we meet I will let him know who I am." That led to the filing of a complaint for rape with serious physical injuries against him in the Court of First Instance of Misamis Occidental. Then, on the first occasion when the victim and Perfecto Atay met each other at Barrio Sumirap, Monico de Guzman killed the latter. With this background, it was understandable according to her why there was no love lost between such families. At the time of his death, Monico de Guzman was the accused in a murder case in the Court of First Instance of Misamis Occidental for the killing of Perfecto Atay. His assailant, appellant de la Victoria, was the nephew of deceased Perfecto Atay, being the son of his sister.[10]

On the basis of the above facts, the judgment, as noted, was one of conviction for murder, *alevosia* being the qualifying circumstance. In this appeal, counsel for Ernesto de la Victoria contends that the lower court ought to have arrived at a different conclusion, its appraisal of the evidence leaving much to be desired. The other point called to our attention is that the defense of alibi ought to have been accepted. Again, as was made mention of, a careful study of the records fails to justify a reversal.

1. The appealed decision discloses the care with which the lower court evaluated the testimonies of the witnesses for both the prosecution and the defense. After a careful recital of the facts, it made clear why the judgment should be one of conviction. Thus: "From the evidence, the guilt of the accused has been sufficiently established. The eyewitness, Epimaco Diamante, clearly described how the accused committed the crime. The testimony of this witness rings with truth. The accused admitted to Lt. Procionos and Sgt. Flores that he was the one who stabbed Monico de Guzman. It has not been shown that Procionos and Flores who are members of the Ozamiz City Police Department have a motive to falsely testify against the accused. The motive to kill de Guzman is strong. The accused is the nephew of Perfecto Atay who was murdered by Monico de Guzman a few months before. The accused is residing at the seashore of Ozamiz City not far from the scene where Monico de Guzman was stabbed to death. The accused was present during the burial of his uncle, Perfecto Atay, who during lifetime helped the accused spend for his wedding. The evidence as a whole proves the guilt of the accused." [11] Such finding, in accordance with the prevailing doctrine, is entitled to great respect and deference. The weight accorded it, following the authoritative jural norm, overcomes any assertion to the contrary, unless proof relevant and persuasive is ignored or disregarded.[12] What was said by Justice Malcolm in *People vs. De Otero* [13] possesses relevance: "After everything is said and done, we come back, as we invariably do in cases of this nature, to a recognition of the rule that the Supreme Court will not interfere with the judgment of the trial court in passing on the credibility of the opposing witnesses, unless there appears in the record some fact or circumstance of weight and influence, which has been overlooked or the significance of which has been misinterpreted." [14] Such is not the case here.

2. There is still the defense of alibi to be considered. It is, to repeat, far from convincing. So the lower court decided, and we are in agreement. Appellant was placed on the stand by his counsel. The first question asked him was where he was on January 8, 1968. His answer: "I was on the other side of the bay to meet the fishermen and buy their fish caught." [15] The place was Manga, part of Kolambugan.[16] Then came a query as to when he left for Tabok on January 8, 1968. He replied: "Five o'clock dawn." [17] He affirmed he actually reached Manga.[18] The next point inquired into was how long he stayed there. This was his response: "I passed [the] night on January 8, 1968 in Manga. I was not able to go home because of the strong wind." [19] As to when he came back to Ozamiz City, he declared that it was on the ninth of January, the next day, at 9:30 in the morning.[20] There was

this leading question: "During the whole day of January 8, 1968, from the time you arrived at Manga up to the time you slept on the night of January 8, in Manga, did you stay all the time in Manga?"[21] The answer was as expected: "Yes, sir." [22] Another query of the same character: "Did you ever come back to Ozamiz City at any time on January 8, 1968?" [23] The reply was along the same line: "No, sir. I have not gone back to Ozamiz that day, January 8, 1968." [24]

Nobody else testified as to the fact that he was in Manga from the dawn of January 8, 1968 until the next day. Ordinarily, it is to be assumed that he did not keep to himself all day and that he must have been with some other people during that time. Surprisingly, no one could corroborate his assertion as to his staying in that particular place for more than twenty-four hours. The weakness of the defense of alibi is further emphasized by the fact that there was positive identification of his being the perpetrator of the crime. Under the circumstances, it becomes unavailing. So it has been the constant holding of this Court.[25] What is more, there was an additional obstacle to the defense relied upon by him. As was set forth in the able brief of the then Solicitor General, now Justice, Felix Antonio: "It has been held that to establish an alibi, the defendant must not only show that he was present at some other place about the time of the alleged crime, but also that he was at such other place for so long a time that it was impossible for him to have been at the place where the crime was committed, either before or after the time he was at such other place In the instant case, the distance between the place where the crime was committed and the place where appellant Ernesto de la Victoria claimed he was at the time of the commission of the crime, is only 15 minutes ride by pumpboat There was, therefore, no physical impossibility for accused-appellant to be at the scene of the crime at the time of its commission." [26] Such a submission finds support in a host of decisions.[27]

WHEREFORE, the appealed decision of November 27, 1968 is affirmed. Costs against appellant.

Makalintal, C.J., Barredo, Aquino, and Concepcion, Jr., JJ., concur.

Antonio, J., took no part.

[1] T.s.n., Session of May 22, 1968, 2-5.

[2] Ibid, 6.

[3] Ibid, Session of May 23, 1968, 24-25.

[4] Ibid, 24.

[5] Ibid, Session of June 24, 1968, 44-45.

[6] Ibid, Session of May 22, 1968, 2-6.

[7] Ibid, Session of May 23, 1968, 26-28.

[8] Ibid, 39.

[9] Ibid, 39-40.

[10] Ibid, Session of June 24, 1968, 47-51, 57.

[11] Decision, Annex to Brief for Accused-Appellant, 5-6.

[12] Among the recent cases may be mentioned: *People vs. Gumahin*; L-22357, Oct. 31, 1967, 21 SCRA 729; *People vs. Panganiban*, L-22476, Feb. 27, 1968, 22 SCRA 817; *People vs. Pelago*, L-24884, Aug. 31, 1968, 24

SCRA 1027; *People vs. Manos*, L--27791, Dec. 24, 1970, 36 SCRA 457; *People vs. Beraces*, L-25016, March 27, 1971, 38 SCRA 127; *People vs. Sabondal*, L-31129, Sept. 30, 1971, 41 SCRA 179; *People vs. Dramayo*, L-21325, Oct. 29, 1971, 42 SCRA 59; *People vs. Angcap*, L-28748, Feb. 29, 1972, 43 SCRA 438; *People vs. Carandang*, L-31012, Aug. 15, 1973, 52 SCRA 259.

[13] 51 Phil. 201 (1927).

[14] *Ibid*, 209.

[15] T.s.n., Session of September 2, 1968, 15.

[16] *Ibid*.

[17] *Ibid*.

[18] *Ibid*, 16.

[19] *Ibid*.

[20] *Ibid*.

[21] *Ibid*.

[22] *Ibid*.

[23] *Ibid*.

[24] *Ibid*, 17.

[25] To speak only of recent cases dating back to January, 1971: *People vs. Brioso*, L-28482, Jan. 30, 1971, 37 SCRA 336; *People vs. Esmael*, L-28533, Feb. 24, 1971, 37 SCRA 601; *People vs. Amit*, L-30102, Feb. 27, 1971, 37 SCRA 793; *People vs. Mercado*, L-30298, March 30, 1971, 38 SCRA 168; *People vs. Bagasala*, L-26182, May 31, 1971, 39 SCRA 236; *People vs. Cornelio*, L-1289, June 10, 1971, 39 SCRA 435; *People vs. Cuaton*, L-31570, Aug. 30, 1971, 40 SCRA 386; *People vs. Bartolay*, L-30610, Oct. 22, 1971, 42 SCRA 1; *People vs. Kipte*, L-26662, Oct. 30, 1971, 42 SCRA 199; *People vs. Herila*, L-32785, May 21, 1973, 51 SCRA 31; *People vs. Carandang*, L-31012, Aug. 15, 1973, 52 SCRA 259; *People vs. Dorico*, L-31568, Nov. 29, 1973, 54 SCRA 172; *People vs. Diaz*, L-24002, Jan. 21, 1974, 55 SCRA 178; *People vs. De la Cruz*, L-28810, March 27, 1974, 56 SCRA 84; *People vs. Entienza*, L-29215, March 27, 1974, 56 SCRA 107; *People vs. Genoguin*, L-23019, March 28, 1974, 56 SCRA 181; *People vs. Ybanez, Jr.* L-30421, March 28, 1974, 56 SCRA 210; *People vs. Dayag*, L-30619, March 29, 1974, 56 SCRA 439; *People vs. Cardenas*, L-29090, April 29, 1974, 56 SCRA 631; *People vs. Aquino*, L-27184, May 21, 1974, 57 SCRA 43; *People vs. Cortez*, L-31106, May 31, 1974, 57 SCRA 308; *People vs. Madera*, L-35133, May 31, 1974, 57 SCRA 349; *People vs. Abletes*, L-33304, July 31, 1974, 58 SCRA 241; *People vs. Salazar*, L-32858, Aug. 19, 1974, 58 SCRA 467; *People vs. Sangalang*, L-32914, Aug. 30, 1974, 58 SCRA 737; *People vs. Sudoy*, L-33572, Oct. 10, 1974, 60 SCRA 174; *People vs. Tumulip*, L-28451, Oct. 28, 1974, 60 SCRA 303; *People vs. Ancheta*, L-29581, Oct. 30, 1974, 60 SCRA 333; *People vs. Caoile*, L-31104, Nov. 15, 1974, 61 SCRA 73.

[26] Brief for the Appellee, 13.

[27] In the recently decided *People vs. Malilay*, L-27938, on April 22, 1975, twenty-one cases were cited. Subsequently, there were these other decisions: *People vs. Resayaga*, L-23234, Dec. 26, 1973, 54 SCRA 350; *People vs. Tamani*, L-22160, Jan. 21, 1974, 55 SCRA 153; *People vs. Diaz*, L-24002, Jan. 21, 1974, 55 SCRA 178; *People vs. Toralba*, L-29118, Feb. 28, 1974, 55 SCRA 697; *People vs. Dereje*, L-31155, April 22, 1974, 56

SCRA 554; People vs. Baylon, L-35785, May 29, 1974, 57 SCRA 114; People vs. Cortez, L-31106, May 31, 1974, 57 SCRA 308; People vs. Salazar, L-32858, Aug. 19, 1974, 58 SCRA 467; People vs. Clementer, L-33490, Aug. 30, 1974, 58 SCRA 742; People vs. Manangan, L-32733, Sept. 11, 1974, 59 SCRA 31; People vs. Ignacio, L-35494, Sept. 18, 1974, 60 SCRA 11; People vs. Ancheta, L-29581, Oct. 30, 1974, 60 SCRA 333.

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