

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS.
MAXIMO OGAPAY, AGRIPINO BUCOL, AND ENRIQUE VILLAMERO,
DEFENDANTS, AGRIPINO BUCOL AND ENRIQUE VILLAMERO,
DEFENDANTS AND...**

G.R. No. L-28566. August 21, 1975

Ponente: FERNANDO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/b12309895955/>

FERNANDO, J.:

There are indications in this appeal from a judgment of conviction for the crime of murder that the offense is traceable to the bitterness arising from a dispute over a lot, landgrabbing being alleged, as well as resentment on the part of the accused, now appellant Enrique Villamero, against the victim, Wenceslao Larano, his own godson, for the latter's failure to support his candidate for the office of congressman in the 1965 elections. The other appellant, Agripino Bucol, is a son-in-law. So is the other accused, Maximo Ogapay, who pleaded guilty as well as surrendered voluntarily and was sentenced to suffer an indeterminate penalty ranging from ten years of prison mayor to seventeen years of reclusion temporal. He did not appeal. The other two accused, who were sentenced to reclusion perpetua, elevated the case to this Court. They would sustain their plea for a reversal by the invocation of the constitutional presumption of innocence^[1] their guilt not having been shown beyond reasonable doubt. A careful study of the evidence fails to lend sufficient support to such a contention. We have to affirm.

It was shown by the evidence for the prosecution that the three accused on the morning of May 15, 1966 went to the market at Montol, Ozamis City where they saw Wenceslao Larano against whom apparently Villamaro had a grudge. Later in the afternoon of the same day, while on the way back to their places of residence at barrio Guimad, Ozamis City, they stopped at the Minsubong Creek in barrio Guingona, Ozamis City. There they waited for the victim. He was accompanied by his brother, Aniano and one Magdaleno Villamero. When he made his appearance he was ambushed by the three accused, Maximo Ogapay stabbing him with a hunting knife and hitting him below the right nipple. Larano hit him with his fist, as a result of which Ogapay fell down. Then he asked the three why he was being assaulted. It was at that stage when Villamero ordered his two co-accused to finish the job. Bucol then stabbed Larano on his right forearm. With the victim lying prone on the ground, the three ran away. His brother, Aniano, was unable to be of any help as he was stunned by the event, the attack being so sudden. He and Magdaleno Villamero carried the wounded body of Wenceslao to the house of Juanito Villamero, where he died shortly after arrival. In the post-mortem examination of the body of Wenceslao Larano by Dr. Adolfo S. Murallon, there was a finding of two stab wounds, one about two (2) inches long and three (3) inches deep, below the right nipple cutting a rib and hitting the liver, and the other, about 1/2 inch long and one (1) inch deep at the upper third of the right arm. The motive attributed to the accused was that while the victim was the godson of Enrique Villamero, still the relationship was far from harmonious as the accused Villamero grabbed the land of the victim's grandfather and titled it in his name. Larano retaliated by blacking an attempted mortgage thereon and bringing back his grandfather from Davao. Moreover, the accused resented the victim's failure to vote for his candidate, William Chiongbian, supporting instead his rival for the congressional position.

The lower court, as noted at the outset, found all the accused guilty and imposed on each the respective sentence corresponding to his participation in the offense. As the accused Ogapay pleaded guilty and surrendered voluntarily, the penalty meted out was lighter than the reclusion perpetua to be suffered by the other two, appellants Bucol and Villamero. In the exhaustive decision of the lower court, there was a full and objective discussion of the evidence for the defense.[2] In the brief submitted, however, counsel for appellants ignored what was testified to by his client. Brief submitted, however, counsel, counsel for appellants ignored what was testified to by his clients to counteract the evidence for the prosecution. Perhaps the fact that alibi was the ground for exculpation had much to do with his approach. At any rate, as noted, reliance was placed on the constitutional presumption of innocence. It is to be admitted that there was commendable effort to destroy the probative value of the testimony for the prosecution. It does not, however, as mentioned at the outset, suffice for a reversal.

1. Essentially, what is sought by counsel is to have this Tribunal disregard the finding of facts of the lower court. Considering the adjudicated cases, that is not an easy thing to do. The prevailing state of authoritative precedents stresses the considerable discretion vested in the trial court to determine which of the conflicting versions is to be lent credence. This excerpt from *People v. Manos*,[3] a 1970 decision, possesses relevance: "What was said in *People v. Gumahin* finds application in the present case. Thus: 'The findings of the lower court embodied in a well-written decision cannot only stand the test of the most rigid scrutiny but also has in its favor the well-settled principle that as far as credibility is concerned, the findings of the lower court which had the opportunity to see, hear and observe the witnesses testify and to weigh their testimonies will be accorded the highest degree of respect by this Tribunal.' *People v. Tila-on* and *People vs. Lumayag* were cited in support of the *Gumahin* opinion. Thus: 'As this Court stated in *People v. Tila-on*: "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." To the same effect: "Appellate courts as a rule desist from disturbing the findings of the trial court on the credibility of witnesses, for the latter is in a better position to appreciate the same, having seen and heard the witnesses themselves and observed their behavior and manner of testifying during the trial. We find no reason to depart from this settled practice, since it has not been shown that the trial court has overlooked certain facts of substance and value that, if considered, might affect the result of the case."'[4]

2. It is to be admitted, as noted in *People v. Macaraeg*,[5] that such a doctrine cannot rise above the constitutional presumption of innocence, which can only be overcome if the proof of guilt is beyond reasonable doubt. So it must be if deference be paid to what the fundamental law ordains. Where, however, as in this case, the decision appealed can survive the test of a rigorous scrutiny, it cannot be said that the standard of proof beyond reasonable doubt was not met. There was the motive and there was the opportunity. The three accused, a father and the two sons-in-law, were bound by the strongest ties of kinship. The unity that binds a Filipino family is a phenomenon that has not gone unnoticed. There is here an instance of feud intensified by the allegation that a godfather would go so far as to deprive the family of an infant of a parcel of land, with the added circumstance that the latter himself was not amenable to the pleas of the former to support a candidate. When the moment of truth came, the probabilities do seem to point to all three accused being bound by a unity of purpose in putting in execution a criminal design. Nor is it unusual, under the circumstances, if only one of them would own up to the offense, thus proving once again his strong sense of filial attachment, his sacrifice made worthwhile by his father-in-law taking care of his family. To repeat, the presumption of innocence cannot avail.

3. It would follow likewise that the objection to the finding of conspiracy between appellant Villamero and his two sons-in-law, appellant Bucol and the accused Ogapay, had much to support it. Reference to the well-settled principle, as to when a conspiracy exists will indicate why, considering the above facts, with emphasis on all three

being at the scene of the crime and with the aggression on the victim being sudden, the imputation of an erroneous appraisal on this point by the lower court lacks merit. In the recent case of *People v. Malilay*,^[6] this excerpt from *People v. Pudpud*^[7] concerning the applicable doctrine on conspiracy was cited: "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 Chief Justice Bengzon, there is 'a chain of circumstances' to that effect, then conspiracy has been established. If such be the case then, 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*."^[8]

4. That is about all. The allegation assigned as reversible error, that the lower court should not have influenced the prosecutor in determining whether an affidavit should be introduced in evidence is on its face quite insubstantial, if not downright flimsy. There was nothing to prevent the defense from making use of the affidavit if it were so minded. Nothing is clearer than that the finding of guilt was based on conscientious and diligent study of the evidence of record, demonstrating with moral certainty that the offense of murder was indeed committed with the three accused being culpable. It may not be amiss though as a reminder to trial judges that while their participation in the conduct of the proceedings aimed at expediting judicial business and ascertaining the truth is not per se objectionable, they should take care lest the extent thereof may give the impression of unduly aiding a fiscal to prove the case, even if at times such an attitude is not unwarranted when the state is represented by one who would undoubtedly benefit from a certain amount of guidance from more experienced hands.

WHEREFORE, the appeal of Agripino Bucol and Enrique Villamero is hereby found to be without merit and the decision of the lower court of August 16, 1967, finding them guilty of the crime of murder and sentencing them to the penalty of reclusion perpetua with the accessory penalties of the law, is hereby affirmed, with the modification that the indemnity payable to the heirs of the deceased Wenceslao Larano should be in the sum of P12,000.00. No costs.

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

Barredo, J., took no part.

Antonio, J., is on official leave.

[1] According to Article IV, Section 19 of the Constitution: "In all criminal prosecutions, the accused shall be presumed innocent until the contrary is proved, * * *."

[2] L-Decision, Appendix A, Brief for Appellants, 47-52.

[3] L-27791, December 24, 1970, 36 SCRA 457.

[4] Ibid, 460-461. *People v. Gumahin* is reported in 21 SCRA 729 (1967); *People v. Tila-on* in 2 SCRA 653 (1961) and *People v. Lumayag* in 13 SCRA 502 (1965).

[5] L-32806, October 23, 1973, 53 SCRA 285.

[6] L-27938, April 22, 1975, 63 SCRA 420.

[7] L-26731, June 30, 1971, 39 SCRA 618.

[8] Ibid 624-625. Magcomot is reported in 13 Phil. 386. The decision of Chief Justice Bengzon is *People v. Villanueva*, L-12687, July 31, 1962, 5 SCRA 672. *United States vs. Maza* is reported in 5 Phil. 346. The other cases that may be mentioned are *People v. Abrina*, 102 Phil. 695(1957) *People v. Izon*, 104 Phil. 690 (1958); *People v. Monroy*, 104 Phil. 653; *People v. Indic*, L18071, Jan. 31, 1964, 10 SCRA 130; *People v. Castro*, L-17465, Aug. 31, 1964, 11 SCRA 699; *People v. Estrada*, L-26103, Jan. 17, 1968, 22 SCRA 111; *People v. Capito*, L-24466, March 19, 1968, 22 SCRA 1130; *People v. Fontillas*, L-25298, April 16, 1968, 23 SCRA 74; *People v. Magcamit*, L-25555, March 28, 1969, 27 SCRA 450; *People v. Tapitan*, L-21492, April 25, 1969, 27 SCRA 959.

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.