

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS.
VICTORINO BORBANO, DEFENDANT AND APPELLANT.***G.R. No. L-37. May 25, 1946*

Ponente: DE JOYA,J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/b6635c640fb3/>**DE JOYA,J.:**

Defendant-appellant Tictorino Borbano was accused of homicide in an information filed in the Court of First Instance of Samar, charging that on March 8, 1945, in the municipality of Calbayog, province of Samar, said accused willfully, unlawfully and feloniously, without just motive and with the express purpose to kill one Leoncio Castellano, assaulted, attacked and, stabbed the latter with a knife, inflicting upon him a wound on the left chest which caused his death.

After the trial of the case, the defendant was found guilty of the crime charged and, on July 20, 1945, was sentenced to an indeterminate penalty, ranging from six (6) years and one (1) day of prisidn mayor as minimum, to fourteen (14) years and eight (8) months of reclusion temporal, as maximum, to the accessory penalties prescribed by law, to indemnify the heirs of the deceased in the sum of Two Thousand P2,000.00, and to pay the costs, at the same time giving him the benefit of one half (½) of the preventive imprisonment already From said decision, the defendant has appealed, alleging (1) that the trial court had erred in admitting the medical certificate, marked as Exhibit "A", which this signed by a certain Dr. Fred E. Spangler, who attended the deceased prior to his death, as part of the testimony of Dr. Irineo T. Ortiz; and (2) In finding said defendant guilty of the crime of homicide, notwithstanding he insufficiency of the evidence for the prosecution to establish his guilt, beyond reasonable doubt.

At the trial of the case, the prosecution presented three (3) eyewitnesses, namely, Gavino Layam, Demetrio Layam and Euataquia Jablon, mother of the deceased, as well as the testimony of two physicians, namely, Dr. Irineo T. Ortiz; and Dr. Anatolio Dasmariñas; and the documents marked as Exhibits A and B.

On the other hand, the defendant presented only one witness, namely, Teodosia Balolong, his wife, and his own testimony.

The witnesses for the prosecution have testified to the following facts:

That in the afternoon of March 8, 1945, the deceased Leoncio Castellano, Gavino Layam and Demetrio Layam, among others, were in the house of defendant-appellant Victorino Borbano, for the purpose of playing a certain game called "cara-cara" in the locality, and while there they also drank tuba; that defendant and one Fortunate Malabosa played the game, and the latter left, after having won; that defendant, who was drank at the time, became angry and seized a scythe and asked Leoncio Castellano if he was angry at him, for having killed Leon Sampligan, Leoncio's cousin; that on account of fear, Leoncio left the house of the accused, and ran to his (Leoncio's) mother's house, pursued by the defendant; that on reaching his mother's house, Leoncio Castellano armed himself with a piece of wood and told the accused that both of them should drop their respective weapons, but the accused refused to do it, and the two grappled for the possession of the scythe, axil the deceased succeeded

in seizing the scythe; that witness Gavino Layam tried to pacify the two, but instead of calming down, defendant started to go back to his house, evidently to get another weapon, and seeing that Demetrio Layam had a bolo tried to seize it, but due to the resistance offered by Demetrio, the accused could not take it; that defendant went back to his house and returned-with a bolo which the deceased again succeeded in taking away from him; but the accused, went back again to his house and got a fan knife, which he carried secretly, and then returned to the place where Leoncio Castellano was, and on seeing him put his left arm around the left shoulder of Leoncio, saying "We have no more quarrel; you may go home", or words to that effect. And Leoncio taking thus off guard, the accused all of a sudden stabbed him with his fan knife on the left side of the breast, inflicting upon him a wound three (3) centimeters deep, involving the left lung and the heart, which produced pneumonia, from which he died on March 15, 1945. The facts stated above have been substantially established by Gavino Layam, Demetrio Layam, Eustaquia Jablon, mother of the deceased, and Drs. Irineo T. Ortiz, and Anatolio Dasmarinas, who testified for the prosecution.

On the other hand, defendant and his wife testified that at about five (5:00 p.m.) o'clock in the afternoon of the day in question, while defendant was in his house holding a scythe and a receptacle for distilling tuba, Leoncio Castellano came and invited him to play; that defendant refused, saying that they were not adversaries and besides he did not know how to play; that on account of defendant's refusal to play, the deceased attempted to snatch away his scythe, and in the struggle for the possession of the scythe, the accused received wounds in the upper part of the abdomen, in the left forearm, and also at the base of the forefinger of the right hand; that not satisfied with this, the deceased insisted in going up the house of the accused to attack him that the accused tried to prevent him from doing so, pushing him down three (3) times from the stairway of the house, telling him at the same time to stop, as the accused was already wounded; that the deceased persisted in his attempt to go up the house, and to prevent him from doing so, the accused took his fan knife and wounded the deceased, who at the time was armed with a piece of wood with which he had been trying to give the accused a blow, and which the accused prevented with his fan knife; and that, after having been wounded, the deceased left the place running, and that when the incident happened, nobody was present as Gavino Layam and L. Demetrio Layam arrived afterwards. It also appears that defendant-appellant surrendered himself to the authorities immediately after the stabbing.

The facts stated above were testified to by the defendant himself and his wife Teodosia Balolong. No other witness was called to testify for the defense.

A cursory examination of the evidence submitted by the parties will readily show, among other things, (1) that, according to the accused and his wife, the whole incident took place in their house; whereas, according to the witnesses for the prosecution, although the incident began in the house of the accused, the greater part thereof took place in the yard of the house of the mother of the deceased; (2) that, according to the accused and his wife, the deceased had already been wounded, when Demetrio Layam and Gavino Layam arrived; but these two witnesses for the prosecution have flatly contradicted them; and (3) that the defendant himself, in his testimony given at the preliminary investigation, stated positively that Demetrio Layam, Gavino Layam, Teodosia Balolong and Eustaquia Jablon were present at the place when the deceased and himself fought.

After a careful consideration of the positive testimony given by the witnesses for the prosecution, which is in open contradiction with that given by the defendant and his wife, the learned trial judge, before whom all of said witnesses testified, and who had the opportunity to observe their conduct and demeanor on the witness stand, accepted as more reliable and trustworthy this evidence submitted by the prosecution.

Dr. Irineo T. Ortiz, government health officer in Calbayog, positively stated that the deceased died from pneumonia, as a consequence of the stab wound involving the left lung and heart of the deceased, which caused his death on March 9, 1945, as shown by the medical certificate issued by Major Fred E. Spangler, Medical

Corps, Army, who treated the deceased before his death, and had already left the province of Samar, at the time of trial of the case.

Gavino Layam and Bemetrio Layam, who have fully corroborated the testimony of Eustaquia Jablon, mother of the deceased, appear to be disinterested witnesses, and no reason has been advanced to show why they should have testified falsely against the accused; and their testimony should, therefore, be given full force and effect. The absence of evidence as to an improper motive actuating the principal witnesses for the prosecution strongly tends to sustain the conclusion that no such improper motive existed, and that their testimony is worthy of full faith and credit. (United States vs. Pajarillo, 19 Phil, 288; People vs. De Otero, 51 Phil. 202).

After an examination of the evidence, the Court considers more acceptable, coherent and reasonable the evidence adduced by the witnesses for the prosecutor than the testimony given by the accused and his wife; specially if we consider the fact that the principal-witnesses for the prosecution are disinterested witnesses, whereas those for the defense are biased. In "weighing contradictory declarations and statements, greater weight must generally be given to the positive testimony of the witnesses for the prosecution than to the denials of the defendant. (United vs. Bueno, 41 Phil. 447). And it has been repeatedly held that the Supreme Court would not disturb the findings of fact made by the trial court as to the credibility of witnesses, in view of their opportunity to observe the conduct and demeanor of the witnesses while testifying, and that their findings will generally be accepted and acted upon. (People vs. De Asis, 61 Phil. 384; People vs. Garcia, 63 Phil. 296; People vs. Masin, 64 Phil, 757). In the instant case, there is absolutely no cause or reason appearing in the record to warrant a departure from such findings, and they must therefore be fully accepted. (People vs. Istoris, 53 Phil, 91).

The claim of self-defense made by the accused is too flimsy and fantastic, and does not deserve serious consideration on the part of the Court. In a prosecution for homicide, in order that the defendant may be exempt from criminal responsibility, the degree of proof of the facts constituting the exemption, such as self-defense, must be sufficient, satisfactory and convincing. (United States vs. Mallari, 29 Phil. 14; U. 3, vs. Guendia, 37 Phil. 337).

The record shows that defendant-appellant surrendered to the authorities immediately after the incident, and it should be considered as a mitigating circumstance in his favor. On the other hand, it has also been sufficiently established that, in stabbing the deceased, defendant-appellant acted with treachery; and although, treachery has not been alleged either as a qualifying or aggravating circumstance in the information, inasmuch as it has been satisfactorily established, it may be properly considered as an aggravating circumstance, to compensate the mitigating circumstance abovementioned, (U. S. vs. Campo, 23 Phil. 369). In a criminal case, an appeal to the Supreme Court throws the whole case open for review, and it becomes the duty of the Court to correct such errors as may be found in the judgment appealed from, whether they are made the subjects of assignments of error or not. (People vs. Olfindo, 47 Phil. 1).

The admission of the medical certificate, marked as Exhibit "A", issued by Maj. Fred. E. Spangler, Of the Medical Corps, U. S. Army, is a nonprejudicial error. There is not the least doubt that deceased Leoncio Castellano died from the wound inflicted upon him by defendant-appellant, who must be held responsible for the natural consequences of his unlawful act. (United States vs. Escalona, 12 Phil, 54; United States vs. Baoit, 15 Phil. 338.)

In view of the foregoing, it is evident that the guilt of the defendant-appellant of the crime of homicide, as alleged in the information, has been sufficiently established by the evidence, beyond reasonable doubt; and there having concurred in the commission of the offense one mitigating circumstance and an aggravating circumstance, which compensate one another, the corresponding penalty should be imposed in its medium degree; and, in accordance with the provisions of section 1 of the Indeterminate Sentence Law (Act No. 4103), as amended, in connection

with those of Article 249 of the Revised Penal Code, defendant-appellant Victorino Borbano is, therefore, sentenced to an indeterminate penalty, ranging from eight (8) years and one (1) day of prision mayor as minimum, to fourteen (14) years, eight (8) months and one (1) day of reclusion temporal as maximum, with the accessory penalties prescribed by law, to indemnify the heirs of the deceased in the sum of P2,000.00, and to pay the costs. Defendant-appellant shall also be given the benefit of one-half (1/2) of the preventive imprisonment suffered by him. Thus modified, the decision appealed from is hereby affirmed.

Ozaeta, Perfecto, Hilado, and Bengzon, 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.