

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
ENECITO VILLASON, MAXIMO VILLASON, ANTONIO CASER, AND  
SATURNINO CERUELA, ACCUSED, ANTONIO CASER AND SATURNINO  
CERUELA, DEF...**

*G.R. No. L-38208. July 30, 1982*

Ponente: RELOVA, J.

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**RELOVA, J.:**

About 2:00 in the afternoon of January 10, 1973, brothers Mariano, Benito and Fermin, all surnamed Tello, and Ernesto Pagarán were on their way home after they had collected from Barangay Captain Basilio Barcus of Barangay Capalayan, Surigao City, the payment of the fish which they had caught on the night of January 9, 1973.

They were walking along the bank of Capalayan river when Antonio Caser, Saturnino Ceruela, Enecito Villason and Maximo Villason who were on the other side of the bank shouted at the Tello brothers and challenged them to a bolo fight. Pagarán answered that they are not there to fight and they continued to walk away. Caser and his group, however, crossed the river and overtook the Tello group in front of the house of Donata Gibertas. Mariano Tello ran and hid behind a flower plant, while Ernesto Pagarán and Benito Tello ran towards the banana plants. Fermin Tello was able to pick up a stick following which he faced Enecito Villason who at the time was already holding his bolo. The two, Fermin and Enecito, were sparring with each other when Maximo Villason, who was then at the side of Fermin, thrust a small bolo on the side of Fermin. Antonio Caser and Saturnino Ceruela then went behind Fermin and held his hands forcing him to drop his stick. Enecito Villason hacked Fermin's right face near the right eye. Caser and Ceruela then pushed Fermin towards Enecito Villason who again boloed him at the right occipital region of the head. Fermin fell down as Enecito thrust his bolo at his stomach. At this juncture, Mariano Tello, armed with a stick, ran to help his brother, Fermin, and hit Enecito at the chest. Enecito retreated but Maximo Villason struck Mariano Tello's arm causing him to lose hold of his stick. Maximo again hacked Mariano's back, followed by another thrust from Enecito hitting Mariano's lower back. Ceruela and Caser were at the time standing nearby.

Mariano ran towards the direction of his house and, upon seeing Benito Tello and Ernesto Pagarán, asked for help. The two brought Mariano to the Surigao Provincial Hospital in Surigao City. A little later, Patrolman Alejandro Jose arrived and questioned Mariano who identified Maximo Villason, Enecito Villason, Antonio Caser and Saturnino Ceruela as the assailants of his brother Fermin; and identified Maximo Villason as the one who stabbed him.

Mariano was treated by Dr. Mediatrix Geraldino who testified, among others, that the victim would have died were it not for the timely medical attendance given him.

On the other hand, Fermin, though weakened by bolo wounds, managed to stand up and walked, holding his intestines, towards the house of Juan Rojo. He was able to reach the stairs of the house when he fell down. He was

taken by the Rojos for medical treatment in Surigao City but he died on the way.

For the death of Fermin Tello, Enecito Villason, Maximo Villason, Antonio Caser and Saturnino Ceruela were charged with Murder (Criminal Case No. 291); and for the injuries sustained by Mariano Tello, the same defendants were charged in a separate information for Frustrated Murder (Criminal Case No. 292).

Appellant Saturnino Ceruela testified that on January 10, 1973 he and Antonio Caser planted rice at the ricefield of Eugenio Figuracion in a place near the Capalayan River of Barangay Capalayan. They, with several others, finished the planting at about 1:00 in the afternoon and were paid for their work. After dividing the money among themselves, they parted and took their separate ways home, except Enecito Villason, Saturnino Ceruela and Antonio Caser because their shares were in one bill and this delayed them in dividing the money. After getting their respective shares, Ceruela and Caser were on their way home when they heard a woman's voice: "Watch out Cito because Fermin Tello is bringing a stick." Turning his face, he saw Fermin on the other side of the bank running to the direction of Enecito Villason and striking the latter with a stick. He and Caser were at a distance of about 40 meters. They did not do anything and, instead, went on their way. He denied having anything to do with the fight and claimed that the testimonies of prosecution witnesses against them were false.

The testimony of Saturnino Ceruela was corroborated by Heradio Arrienza who testified that he saw Ceruela and Caser at about 2:00 in the afternoon of January 10, 1973 coming from the lower portion of the river. He was fencing his house when he witnessed the fight between Fermin and Mariano Tello on the one hand, and Enecito Villason on the other. At the time Ceruela and Caser had already passed his house.

Appellant Antonio Caser did not take the witness stand and merely adopted the evidence of Saturnino Ceruela and the Villasons.

After trial, in the Murder case (Criminal Case No. 291), the court found "the accused, ENECITO VILLASON, MAXIMO VILLASON, ANTONIO CASER and SATURNINO CERUELA, GUILTY, beyond reasonable doubt as principals for the crime of MURDER as defined in Article 248 of the Revised Penal Code and there being no mitigating or aggravating circumstances, hereby imposed upon MAXIMO VILLASON, SATURNINO CERUELA and ANTONIO CASER, the penalty of RECLUSION PERPETUA with the accessories provided for by law. Granting in favor of ENECITO VILLASON the mitigating circumstance of voluntary surrender, he is hereby sentenced to suffer an indeterminate sentence of TWELVE (12) YEARS of Prison Mayor as Minimum to TWENTY (20) YEARS of Reclusion Temporal, as Maximum, with the accessory penalties thereof. All the above-named accused are further ordered to jointly and severally indemnify the heirs of the deceased Fermin Tello in the sum of P12,000.00 and to pay the proportionate costs."

In Criminal Case No. 292, the court found the "accused ENECITO VILLASON and MAXIMO VILLASON, GUILTY as principals for the crime of Attempted Homicide as defined in Article 249 in relation to Article 6 of the Revised Penal Code, and there being no mitigating or aggravating circumstances, hereby sentences the accused MAXIMO VILLASON to suffer an indeterminate penalty of SIX (6) MONTHS of Arresto Mayor as minimum to FOUR (4) YEARS of Prison Correctional as maximum; with the accessory penalties thereof; Granting in favor of ENECITO VILLASON the mitigating circumstance of voluntary surrender, he is hereby sentenced to suffer an indeterminate penalty of SIX (6) MONTHS of Arresto Mayor as minimum to THREE (3) YEARS of Prison Correctional, as maximum. Both accused shall pay the proportionate costs. On grounds of reasonable doubt, accused SATURNINO CERUELA and ANTONIO CASER are hereby ACQUITTED. The bolo and its scabbard (Exhibit E, E-1) are declared forfeited in favor of the government."

From the aforesaid judgment of conviction in Criminal Case No. 291, Antonio Caser and Saturnino Ceruela appealed. Enecito Villason and Maximo Villason did not appeal from the judgment of conviction in both cases.

The trial court in convicting appellants Saturnino Ceruela and Antonio Caser said:

"The defense of alibi interposed by accused Maximo Villason, Saturnine Ceruela and Antonio Caser cannot pre-vail over the positive testimonies of the witnesses for the prosecution positively pointing to their presence and participation in the stabbing incident. The Court does not believe the testimony of the brothers Maximo and Enecito Villason that after the stabbing they met each other and that Maximo as a rural policeman held Enecito by the shoulder and brought the latter with bolo in hand to the barrio captain. There is no reason for Maximo to hold his own brother by the shoulder and bring him to the barrio captain for precisely Enecito was supposed to be on his way already to the barrio captain. The more logical conduct in such a situation if the Rural Policeman was really acting as such, would be to immediately get hold of the bolo used in the stabbing instead of just holding the latter by the shoulder and letting him carry his un-sheathed bolo.

"The attempt by accused Enecito Villason to assume full responsibility for the death and injuries of Fermin Tello and Mariano Tello, respectively, is fatally infirmed by his own unreliability.

"The nature, number and locations of the wounds of the deceased, the unexplained non-presentation of the latter's supposed bolo, the lack of any motive for the deceased to assault the accused and the superficial injuries of the accused on the other hand, belie and negates Enecito Villason's plea of self-defense. While admitting that upon his surrender he gave a statement to PC Sgt. Josol (Exh. H). He repudiated portions thereof which though exculpatory were not in accord with his testimony in Court alleging that Sgt. Josol placed the same thereon because the latter was in a hurry to go home and threatened to maul him if he will not agree thereto. This is unbelievable for the portions rejected by him were in fact favorable to him; while the portions admitted as having been voluntarily given by him wherein he admitted that he has some prior resentment against the Tello brothers is inculpatory and seriously contradicts his testimony in Court that he has no grudge against the said brothers (Exh. H-2). He likewise admitted that he never told the PC that Fermin Tello had a bolo and that he was only trying to defend himself from the same. In fact this pretense of his is belied by defense witness Heradio Arrienza who declared on cross-examination that the deceased has no bolo but only a stake. Neither did he tell the PC that he met his brother Maximo Villason. The foregoing infirmities in his statement leads this Court to no other conclusion than that both narratives before the PC as well as before this Court were last minute concoctions to save the three other accused from criminal responsibility, but in the process he has enmeshed himself in a net of irreconcilable contradictions rendering himself totally underserving of credit. His attempt to exonerate his co-accused by acknowledging that he alone stabbed the deceased should therefore be as it is hereby rejected (People vs. De Gracia 18 SCRA 197).

"Accused Saturnino Ceruela and Antonio Caser's efforts to extricate themselves are likewise intrinsically weak. Apart from their positive identification specially by Melodia Barcus, their defense of alibi which is the weakest defense could not be said to have been corroborated by reliable witnesses. Heradio Arrienza declared that at the time of the stabbing incident, accused Caser and Ceruela were already about 100 meters therefrom at a spot from which they could not even see what was happening. He was seriously contradicted however by Saturnino Ceruela who declared that they were only about 40 meters from the scene of the stabbing and was able to witness what transpired. But what makes Saturnino Ceruela's testimony more unworthy of belief is his pretense that after witnessing the incident, he just went home, worked, ate his supper and slept and after waking up he again resumed his work without mentioning to anybody what he witnessed. The fact is he was apprehended and investigated at the Surigao City Police Department on the same day January 10, 1973 in connection with the aforementioned stabbing incident. Caser on the other hand was not even bold enough to testify on his alibi.

"In fine, after an over-all view of the evidence as a whole, the Court finds little difficulty in accepting the version of the prosecution and rejecting that of the defense."

In their appeal, appellants Ceruela and Caser claim that the trial court erred:

"I

"x x x in giving full credit to the prosecution evidence of identity of the alleged malefactors, based as it is on a very tenuous thread.

"II

"x x x in convicting the accused on evidence that is uncertain and indulging in conjectures.

"III

"x x x in disregarding the defense of alibi.

"IV

"x x x in not acquitting the accused appellants in this case on grounds of reasonable doubt."

The four assigned errors take issue with the trial court's finding that herein appellants participated in the killing of Fermin Tello.

From the evidence presented the following circumstances indicate conspiracy: (1) the four defendants were together when one of them challenged the Tello group who were at the opposite bank of the river to a bolo fight; (2) all the four defendants crossed the river and went to the direction of the Tello group; (3) when Fermin Tello and Enecito Villason were facing each other, Maximo Villason went beside Fermin and thrust his bolo at the latter; (4) appellants Ceruela and Caser held Fermin from behind as the latter was hacked by Enecito; (5) Ceruela and Caser then pushed Fermin toward Enecito who again hacked him; and (6) Maximo Villason gave a bolo thrust at Fermin following which Enecito again hacked Fermin at the right arm and then at his stomach.

From the acts of the defendants, it is inferable that they had an agreement concerning the commission of the crime and had decided to commit it. Their acts indicate concerted action thereby establishing conspiracy when the criminal act of one is the act of all. There is then no necessity of direct evidence to establish conspiracy.

"Conspiracy to exist does not require an agreement for an appreciable period prior to the occurrence; from the legal point of view, conspiracy exists if, at the time of the commission of the offense, the accused had the same purpose and were united in its execution. (People vs. Villanueva, 5 SCRA 672; People vs. Castro, 11 SCRA 699; People vs. Tiongson, 12 SCRA 402; People vs. Estrada, 22 SCRA 111; People vs. Fontillas, 23 SCRA 74; People vs. Magcamit, 27 SCRA 450; People vs. Pagaduan, 29 SCRA 54.)"

The trial judge who had the opportunity of observing the demeanor of the witnesses who testified said in his decision: "Particularly impressive is the natural, candid and straightforward testimony of Melodia Barcus, a 14-year old girl positively pointing to all the four accused as the participants in the stabbing of the deceased." Hereunder is the testimony of Melodia:

"Q While on your way home Melodia, was there anything unusual that you witnessed?

A Yes, sir.

Q What was this unusual incident?

A I saw Enecito Villason, Maximo Villason, Antonio Caser and Saturnino Ceruela across the bank of the river.

Q And where were you at the time you saw these four persons you named?

A At the fence of the house of Eugenio Figuracion.

Q Now, when you saw these four persons across the river, what else did you see or hear if any?

A Saturnino Ceruela shouted 'Let's have a bolo fight, Bay.'[1]

x x x x x x x x

Q Approximately, how far were you from the place where the four persons whom you saw where you heard the shout?

A Twenty five.

COURT:

Q Twenty five what?

A Twenty five meters, sir.

FISCAL PANTEJO:

Q From the place where you were to the place where you saw these persons was there anything that could obstruct your view?

A None, sir.[2]

x x x x x x x x

Q To whom were these words of Saturnino Ceruela directed when Saturnino Ceruela said 'Bono' or 'Let's have a bolo fight, Bay?'

A To Fermin Tello, Benito Tello, Mariano Tello and Ernesto Pagaran, it was addressed to them.

Q Where were these four men these Fermin Tello, Ernesto Pagaran, Benito Tello and Mariano Tello at the time Saturnino Ceruela shouted 'Let's have a bolo fight, Bay?'

A On the other side of the river.

Q Now after Saturnino Ceruela shouted 'Let's have a bolo fight, Bay,' what else happened if any?

A Ernesto Pagaran answered that, 'Our purpose is not to fight with you, therefore we are not going to fight with you.'

Q After Ernesto Pagaran answered that, 'It is not our intention to fight' what else happened?

A They continued walking.

COURT:

Q Who continued walking?

A Ernesto Pagaran, Fermin Tello, Benito Tello, and Mariano Tello.

Q While this group of Fermin Tello continued walking, do you know what else happened?

A Enecito Villason, Maximo Villason, Antonio Caser and Saturnino Ceruela crossed the river.[3]

x x x x x x x x

"FISCAL PANTEJO:

Q While Fermin Tello was parrying with Enecito what else happened?

A Immediately Antonio Caser and Saturnino Ceruela went behind Fermin Tello.

Q And after Saturnino Ceruela and Antonio Caser went behind Fermin Tello what happened next?

A He took hold of both hands of Fermin Tello. (Witness demonstrating each other arms.)

Q After the hands of Fermin Tello were held by Antonio Caser and Saturnino Ceruela what happened next?

A Enecito immediately stabbed Fermin on his face. (Witness demonstrating by pointing to the right side of her face.)

Q After that what happened?

A He was able to lose hold of his stick.

Q Then what happened next?

A When he lost control of his stick he was holding Antonio Caser and Saturnino Ceruela immediately pushed Fermin Tello.

Q Then what happened next?

A Enecito Villason stabbed Fermin Tello at the back of his head above the nape.

Q Fermin Tello was stabbed at the back of his head what else happened?

A Maximo stabbed Fermin at the back.

Q Then what happened next?

A Enecito again hacked Fermin at his right arm.

Q Then what happened after that?

A When Fermin Tello fell down facing towards the ground he was able to roll and face up and Enecito Villason stabbed Fermin Tello on his stomach. (Witness pointing to the middle part of her stomach.)(4]

x x x x x x x x

Q What about Enecito Villason, Maximo Villason, Antonio Caser and Saturnino Ceruela, to where did they go?

A They went to the barrio."(5]

Likewise, there is the testimony of Mariano Tello who gave his statement to the police immediately after the incident when he had not the time to reflect or conjure, naming the appellants as among the assailants. His statement is in the nature of a *res gestae* which deserves great weight specially at the time when he (Mariano) himself was under the throes of death as a result of the wounds which he sustained. His mere relationship with Fermin is not sufficient to deny the stamp of credence on his testimony. Thus, Mariano Tello testified:

"Q What was that unusual incident?

A We heard Saturnino Ceruela shouted across the river saying 'Let's have a bolo fight.' (Witness demonstrating by waving his right hand.)

x x x x x x x x

Q Who were the companions of Saturnino Ceruela, if he had any at the time he shouted 'Let's have a bolo fight'?

A I saw Enecito Villason, Maximo Villason and Antonio Caser.

Q Where were they located in relation to you when Saturnino Ceruela shouted 'Let's have a fight, Bay?' Where

were they?

A Across the river.[6]

x x x x x x x x

Q After you heard the shout from Saturnino Ceruela 'Let's have a bolo fight' what else happen?

A We were walking leisurely.

Q Did you not answer the challenge of Saturnino Ceruela?

A Ernesto Pagarán answered that 'We are not here for a bolo fight.'

Q After Ernesto Pagarán answered that, what did you do?

A We went away or walk away.

Q What happen after you proceeded or walk away?

A We were overtaken by Enecito Villason, Antonio Caser and Saturnino Ceruela.[7]

x x x x x x x x

Q Now after you were overtaken, what did you do?

A We scampered.

Q And where did you go?

A I was able to hide behind a flower plant.[8]

x x x x x x x x

Q And then what happened after Enecito Villason hacked the right side of the face of Fermin Tello?

A Immediately Antonio Caser and Satur-nino Ceruela pushed.

Q Whom did Antonio and Saturnino push?

A Fermin Tello.

Q After Fermin Tello was pushed by Antonio and Saturnino, what else happened if any?

A Enecito Villason again hacked Fermin Tello at the back of his head. (Witness pointing that portion above his nape.)[9]

Appellants' evidence of alibi is weak and cannot prevail over the testimonies of prosecution witnesses who have positively and properly identified them. It is basic and well-entrenched that in the face of positive identification, the defense of alibi sharply loses its credibility; that where there is no evidence, and nothing to indicate, that the principal witnesses for the prosecution were actuated by improper motives, the presumption is that they were not and their testimonies are entitled to full faith and credit. (People vs. Arāja 105 SCRA 13). To establish alibi, the accused must not only show that they, were present at some other place at about the time of the alleged crime, but also that they were at such other place for so long a time that it was impossible for them to have been at the place where the crime was committed, either before, during or after the time they were at such other place. (People vs. Muñoz, L-38016, September 10, 1981).

WHEREFORE, the decision appealed from is hereby **AFFIRMED**, with costs against the appellants.

**SO ORDERED.**

Teehankee, (Chairman), Makasiar, Melencio-Herrera, Plana, Vasquez, and Gutierrez, Jr., JJ., concur.

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[1] TSN, pp. 46-47, March 20, 1973 hearing.

[2] TSN, p. 48, March 20, 1973 hearing

[3] TSN, pp. 49-50, March 20, 1973 hearing.

[4] TSN, pp. 54-56, March 20, 1973 hearing.

[5] TSN, p. 58, March 20, 1973 hearing.

[6] TSN, pp. 17-18, March 20, 1973 hearing.

[7] TSN, pp. 20-21, March 20, 1973 hearing.

[8] TSN, pp. 21-22, March 20, 1973 hearing.

[9] TSN, pp. 25-26, March 20, 1973 hearing.

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