

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLATE, VS. COLUMBANO ONA Y ONA, ACCUSED-APPELLANT.

Ponente: CARANDANG, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/cf606ea66008/>

CARANDANG, J.:

This is an appeal from the Decision dated September 14, 2011 rendered by the Regional Trial Court of Pallocan West, Batangas City in Criminal Case No. 9240 , the dispositive portion of which reads:

“WHEREFORE, in the light of the foregoing and the qualifying circumstance of treachery and the special aggravating circumstance of use of an unlicensed firearm having been established, the crime committed by the accused is MURDER in accordance with Article 248 of the Revised Penal Code as amended by Republic Act 7659 which imposes the penalty of death. In view however of the passage of RA 9346, prohibiting the imposition of death penalty in the Philippines, accused Columbano Ona y Ona is hereby sentenced to the penalty of reclusion perpetua.

Accused is likewise ordered to pay the heirs of the victim Leonardo Lobos the following:

- P168,542.00 as actual or compensatory damages;
- P720,000.00 as indemnity for loss of earning capacity;
- P75,000.00 as civil indemnity for the death of the victim;
- P75,000.00 as moral damages; and
- P30,000.00 as exemplary damages.

Accused preventive imprisonment shall be credited in the service of his sentence.

Let a Commitment Order issue for the transfer of accused detention from the Provincial Jail, Brgy. Cuta, Batangas City to the National Penitentiary/Bilibid Prisons Muntinlupa City, Metro Manila.

SO ORDERED.”[1]

An Information dated October 29, 1997 charged accused-appellant of Murder committed in the following manner, to wit:

“That on or about the 24[th] day of August, 1997 at about 8:15 o'clock in the evening, at Sitio Abra, Barangay Banay-Banay 2[nd], Municipality of San Jose, Province of Batangas, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, armed with a cal. 45 pistol, an unlicensed firearm, with intent

to kill, with treachery and evident premeditation and without any justifiable cause, did then and there wilfully, unlawfully and feloniously attack, assault and shoot with the said firearm one Leonardo Lobos, thereby inflicting upon the latter gunshot wounds on the different parts of his body, which directly caused his death.

Contrary to law.”[2]

Facts:

Version of the Prosecution:

On the night of August 24, 1997, Barangay Captain Leonardo Lobos, together with two of his Barangay Councilors went on patrol at Sitio Abra, San Jose, Batangas riding a red Volkswagen car owned by the barangay. Councilor Melchor Laroza drove the car while Lobos was sitting at the front passenger seat and Councilor Victor Maravilla was sitting alone at the back. When they reached the church at Sitio Abra, Laroza slowed down at the curve intending to turn right when a man suddenly appeared from the grassy area and began firing at them. Captain Lobos shouted “Si Banong!” and then slumped in his seat leaning towards Laroza. Laroza felt that he too was hit so that he drove fast towards the direction of Mary Mediatrix Hospital in Lipa City where he and Captain Lobos were treated for their wounds[3]. Lobos was operated upon by Dr. Fernando L. Tabora because of the severity of his wounds. Laroza's wound was only superficial thus he was discharged after treatment. However, Lobos, who according to Dr. Tabora sustained 14 gunshot wounds[4], did not survive and died the next day.

The incident was reported by the hospital guard to the police station. The police headed by SPO2 Luisito Limbo proceeded to the scene of the crime and conducted an investigation. Then the police went to Mary Mediatrix Hospital and interviewed Laroza and Maravilla from whom they learned that the assailant was Columbano Ona also known as “Banong”. Limbo also took pictures of the car with blood on the front passenger seat clearly shown.[5] Another police team headed by SPO1 Ramon V. Makalintal proceeded to the house of Columbano Ona to arrest him but the latter was not there. They were able to talk only to the wife of Ona. Ona went into hiding.[6]

Maravilla believes that the motive behind the shooting is the altercation between the deceased Lobos and Columbano Ona during a wake about two months before the shooting incident. Lobos told him about the said altercation.[7]

Ona was arrested at Barangay Sampaguita, San Antonio, Quezon on February 1, 2004 by virtue of a warrant of arrest.[8]

During the trial of the case, the prosecution presented proof that Columbano Ona was not a licensed firearm holder. However, the prosecution was not able to produce the gun used in the shooting incident.

Version of the Defense:

Columbano Ona admitted that he came to know about the shooting incident from his wife and that the police came to their house looking for him immediately after the shooting incident. His defense was that he was in another place at the time of the incident because he was working as a caretaker of fighting cocks owned by Barangay Captain Ponciano Magtibay of Barangay Sampaguita, San Antonio Quezon; that he only comes home once a month to give his salary of P3,000.00 to his wife.[9] This claim was corroborated by Magtibay who testified that Ona had been working for him as caretaker of his fowls since June 15, 1997.[10]

The trial court convicted Columbano Ona of Murder in the assailed Decision dated September 14, 2011. The court junked the defense of denial and alibi as inherently weak defenses. The court a quo also concluded that killing was attended by treachery as the manner of attack gave no opportunity to the victim to defend himself and the execution was deliberately and consciously adopted.[11]

In this appeal, accused-appellant assails the said decision and claims that his guilt was not proved beyond reasonable doubt for the following reasons:

First, the prosecution witness Laroza claims that he was seated beside the deceased Lobos but he did not really see the face of the assailant and relied only on the words of Lobos that it was “Banong” who was shooting at them, hence there was no clear and positive identification of the accused-appellant by the witnesses. Laroza admitted that were it not for the information coming from the deceased Lobos, Laroza would not know the identity of the assailant. As for Maravilla, he could not have seen the assailant because he immediately ducked his head when he heard the shots fired.

Second, the prosecution merely showed a suspicion of accused-appellant's responsibility for the crime, failing to prove his guilt beyond a shadow of doubt.

Third, while the defense of alibi is weak, the better rule is that the prosecution must rely on the strength of its own evidence and not on the weakness of the defense.[12]

Was the conviction of accused-appellant proper?

This Court's Ruling

We hold that the prosecution was able to establish the guilt of the accused-appellant beyond reasonable doubt.

From the testimony of Melchor Laroza, the identity of the assailant was established beyond reasonable doubt. Laroza was seated beside Lobos in front of the car when the assailant opened fire from the right side of the car. Although admittedly Laroza did not see the face of the assailant, Lobos himself was able to shout that it was “Banong” who was shooting at them. The identification of accused-appellant was positively made by the deceased during the occurrence of a remarkable event wherein the declarant was conscious of an impending death. This is a situation falling under the exception of the hearsay rule: dying declaration.

The sworn statement[13] of Laroza which he affirmed during his testimony in open court relates the events that transpired on the evening of August 24, 1997 to wit:

“Pabalik na kami noon nina Kapitan Lobos at Konsehal Victor, pagsapit namin duon sa kanto na malapit sa simbahan ng Sitio Abra at liliko pakanan, biglang lumabas sa sukalan sa gawing kanan ng kalsada itong si Columbano Ona at agad kaming pinaputukan ng hawak nyang maigsing baril habang sya ay mabilis na lumalapit. Nagsalita si Kapitang Panding Lobos ng “Si Banong!”at pagkatapos ay tumumba sya sa akin palibhasa ay sa unahang upuan sya nakaupo at bahagya ko syang itinulak para ako ay makapagkambyo at ang sabi sa akin ni Kapitang Panding ay may tama daw sya pagkatapos na sya ay umungol. Xxx”[14]

Such declaration is admissible in evidence under Section 37, Rule 130 of the Rules of Court which states:

“Sec. 37. Dying Declaration.- The declaration of a dying person made under the consciousness of an impending death, maybe received in any case wherein his death is the subject of inquiry, as evidence of the cause and surrounding circumstances of such death.”

There is no doubt that when Lobos uttered the words “Si Banong!”, he was already shot because after his utterance he slumped sideways towards Laroza and made guttural sounds “umungol”. This confirms the fact that at that time, Lobos was aware of the seriousness of his wounds as in fact he died the following day. A dying person is not expected to lie about the identity of his assailant, when every motive to falsehood is silenced and the mind is induced by the most powerful considerations to speak the truth[15], thus his declaration is considered trustworthy.

In any case, the utterance of Lobos as testified to by Laroza may also be considered as part of the res gestae

under Section 42 of Rule 130, which states:

“Sec. 42. Part of the Res Gestate.- Statements made by a person while a startling occurrence is taking place or immediately prior or subsequent thereto with respect to the circumstances thereof, maybe given in evidence as part of the res gestate. So also statements accompanying an equivocal act material to the issue and giving it a legal significance, maybe received as part of the res gestate.”

When Lobos shouted “Si Banong”, it was a spontaneous utterance where Lobos had no time to devise a falsehood. The utterance was made during the occurrence of a startling event which was the shooting directed at Lobos and his companions. The utterance relates to the startling event. These factors satisfy the requirements for the admission of the spontaneous statement made by Lobos and related by Laroza in his testimony.[16]

“The admissibility of a spontaneous statement is anchored on the theory that the statement was uttered under circumstances where the opportunity to fabricate is absent. The statement is a reflex action rather than a deliberate act, instinctive rather than deliberate. Thus the declaration was made under conditions suggestive of the truth. Accordingly, the basis for the excited utterance exception to the hearsay rule is that the perceived event produces nervous excitement, making fabrications about that event unlikely.”[17]

The accused-appellant admitted to knowing about the shooting incident thru his wife and that the police were looking for him after the incident. He also admitted that he knew he was a suspect in the killing of Lobos, however he did nothing to clear his name. In fact he did not report to the police despite knowing that he was being sought by the police in connection with the killing of Lobos. He went into hiding for more than six years until he was finally caught and arrested in February 2004. It is human nature that flight is an indication of guilt. Proverbially speaking, a guilty man fleeth when no man pursueth while the innocent is as bold as the lion. There was no reason for accused-appellant to ignore the fact that he was wanted by the police for the shooting of Lobos unless he was guilty thereof. There was no attempt by accused-appellant to clear his name despite the lapse of time. His defense of denial and alibi cannot stand against the positive identification by Lobos who was at the point of death when he uttered his statement “Si Banong” and which statement was related by Laroza in his testimony in court. Accused-appellant's guilt was therefore proved beyond reasonable doubt.

WE likewise hold that the trial court correctly appreciated treachery in the case at bar which qualifies the killing into Murder.

Article 248 of the Revised Penal Code provides:

“Article 248. Murder.- Any person who, not falling within the provisions of Article 346, shall kill another shall be guilty of Murder and shall be punished by reclusion perpetua, to death if committed with any of the following attendant circumstances:

- With treachery, taking advantage of superior strength, with the aid of armed men, or employing means to weaken the defense, or of means or persons to ensure or afford impunity;

- xxxx”

It was duly established during trial that the shooting of Lobos was done in a swift, sudden attack when the car wherein Lobos and the others were riding, slowed down intending to turn right. Assailant suddenly appeared from the dark, grassy area and began firing at Lobos who was sitting in the front passenger seat, unarmed and helpless and without any means to defend himself or repel the attack. The Supreme Court in a catena of cases described treachery as a sudden and unexpected attack, thus:

“A sudden and unexpected attack under circumstances which renders the victim unable to defend himself by

reason of the suddenness and severity of the attack constitutes alevosia.”[18]

“The essence of treachery is the sudden unexpected and unforeseen attack on the person of the victim without the slightest provocation on the part of the latter.”[19]

In the case at bar, it is uncontroverted that the shooting of Lobos and his companion was sudden, unexpected and unprovoked by the deceased Lobos. Hence, treachery is present, qualifying the killing of Lobos into murder.

Murder is punishable by reclusion perpetua to death under Article 248 of the Revised Penal Code. The trial court correctly appreciated the special aggravating circumstance of use of unlicensed firearm. While the gun used by accused-appellant was not recovered, its existence was duly proved through testimonial and physical evidence, to wit:

- witness Laroza testified that he saw accused-appellant holding a short firearm which the latter used to shoot the victim.[20]
- The victim died from gunshot wounds as testified to by Dr. Tabora.[21]
- The slug recovered from the body of the victim.[22]
- Pictures of the volkswagen where the victim was riding when he was shot, showing bullet holes and blood pool[23]

In *People vs. Camat*[24], the guns used in the massacre of the victims were not recovered. The Supreme Court declared:

” Xxx. The evidence indicates that none of the firearms used in the November 3, 1999 massacre were ever recovered and presented in the trial court. Nevertheless, there is jurisprudence which states that the existence of the firearm can be established by testimony, even without the presentation of the firearm. The testimony of the prosecution witnesses had established that the appellant Camat used a long firearm of unknown make and caliber to shoot his victims, but that would still be insufficient to attribute to his felonious act the qualifying circumstance of use of unlicensed firearm in light of jurisprudence which asserts that in order for the same to be considered, adequate proof, such as written or testimonial evidence, must be presented showing that the appellant was not a licensed firearm holder.”

In the same vein, the Supreme Court in *People vs. De Leon*[25] citing the case of Camat, ruled:

“In another case, this Court ruled that, the existence of the firearm can be established by testimony, even without the presentation of the firearm. Xxx, it was established that Elmer and Marcelina Hidalgo died of, and Pedro Hidalgo sustained, gunshot wounds. The ballistic examination of the slugs recovered from the place of the incident showed that they were fired from a .30 caliber rifle and a .38 caliber firearm. The prosecution witnesses positively identified appellant therein as one of those who were holding a long firearm. It was also established that the same appellant was not a licensed firearm holder. Hence this Court ruled that the trial court and the CA correctly appreciated the use of unlicensed firearm as an aggravating circumstance.”

In both the aforecited cases, the Supreme Court decreed that in order to appreciate the use of an unlicensed firearm as special aggravating circumstance, the fact that the accused did not hold a license to own or carry a firearm must be established.

In the case at bar, the prosecution established the fact that the accused-appellant did not hold a license to own or carry a firearm. The certification issued by the PNP (Exhibit “J”) certified that accused-appellant is not a licensed firearm holder. Following the Supreme Court decisions in *People vs. Camat*[26] and *People vs. De Leon*[27], the use of an unlicensed firearm maybe proved by testimonial evidence which consist of the testimony of prosecution

witnesses that they saw the accused holding the gun used in the commission of the crime, and by documentary evidence which consists of the certification by the PNP that the accused-appellant is not a licensed firearm holder. The special aggravating circumstance of use of an unlicensed firearm was thus duly proven in the present case justifying the imposition of the extreme penalty of death.

In the advent of Republic Act No. 9346 which took effect on June 29, 2006, the imposition of the death penalty is prohibited.

In the case of *People vs. Abon*,²⁸ the Supreme Court declared:

“Also affecting the rules on appeal is the enactment of Republic Act No. 9346 or An Act Prohibiting the Imposition of the Death Penalty in the Philippines, which took effect on June 29, 2006. Under Section 2 of RA 9346, the imposition of the death penalty is prohibited, and in lieu thereof, it imposes the penalty of reclusion perpetua, when the law violated makes use of the nomenclature of the penalties of the Revised Penal Code (RPC); or life imprisonment, when the law violated does not make use of the nomenclature of the penalties of the RPC. Consequently, in the provisions of the Rules of Court on appeals, death penalty cases are no longer operational.” (Underlining supplied)

Under Section 13 (c), Rule 124 of the Rules of Court, “in cases where the Court of Appeals imposes reclusion perpetua, life imprisonment or a lesser penalty, it shall render and enter judgment imposing such penalty. The judgment maybe appealed to the Supreme Court by notice of appeal filed wit the Court of Appeals.”

WHEREFORE, in view of the foregoing, the Decision of the RTC appealed from is hereby AFFIRMED.

SO ORDERED.

C E R T I F I C A T I O N

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

Gonzales-Sison and Sorongon, JJ., concur.

[1] Rollo, at 52-58

[2] Records, at 1

[3] TSN, May 20, 2009 (Melchor Laroza)

[4] TSN, February 13, 2006 (Dr. Fernando Tabora)

[5] TSN, May 3, 2007 (SPO2 Luisito Limbo)

[6] TSN, March 28, 2006 (SPO1 Ramon V. Makalintal)

[7] TSN, November 25, 2008 (Victor Maravilla)

[8] SN, September 8, 2009 (PO3 Nelson Mercado)

[9] TSN, November 11, 2010 (Columbano Ona)

[10] TSN, September 8, 2009 (Ponciano Magtibay)

[11] See Note 1

[12] Appellant's Brief, Rollo, at 36-49

[13] Exhibit B

[14] TSN, May 20, 2009 pp. 12-13

[15] People vs. Cerilla, 539 SCRA 251 (as cited in Evidence: The Bar Lectures Series, Williard B. Riano, 2009 ed.)

[16] Talidano vs. Falcon Maritime & Allied Services, Inc. GR No. 172031, July 14, 2008

[17] Moregan vs. Foretich, Ca4 Va, 846 F2d 941 cited in 29 Am. Jur 29 865. cited in Evidence: The Bar Lectures Series by Williard Riano, 2009 ed. , pp. 378-379

[18] People vs. Santos, 420 SCRA 37

[19] People vs. Hermina, 420 SCRA 102

[20] TSN, May 20, 2009, pp. 12-13

[21] TSN, February 13, 2006; Exhibit "G" and "H"

[22] Exhibit L-1

[23] Exhibits F, F-1 to 5

[24] GR No. 188612, July 30, 2012

[25] GR No. 179943, July 26, 2009

[26] GR No. 188612, July 30, 2012

[27] GR No. 179943, July 26, 2009

[28] GR No. 169245, February 15, 2008

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.