

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. VIVENCIO CATLI, DEFENDANT AND APPELLANT.

G.R. No. L-11641. November 29, 1962

Ponente: BENGZON, C.J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/d6a8fede122b/>

BENGZON, C.J.:

This case began with an information against Vivencio Catli charging that sometime in May 1948, in Tiaong, Quezon Province, he inflicted mortal injuries upon Vidal Saludo, assisted by two others still at large. Aggravating circumstances of treachery, superior strength and means to weaken the defense were cited.

After trial, the court of first instance of Quezon adjudged him guilty of murder, and sentenced him to suffer life imprisonment with the accessories, to indemnify Saludo's heirs in the sum of P6,000.00 sans subsidiary imprisonment, and to defray the costs.

Insisting on his innocence, the accused seasonably appealed, raising here these material points: (a) substantial variance between the allegations and the proof, because while the information indicated three persons as authors of the crime, the prosecution's evidence showed there were more; (b) delay of seven years in the prosecution of the crime; (c) the testimonies of the State witnesses are evidently fabricated.

The people's evidence discloses that on May 6, 1943, Vidal Saludo, then barrio lieutenant of Bucal, Tiaong, was living with his wife, Fausta Mercado, their children and a 14-year old godson Francisco Lopez, in a house located in said barrio. At about 7:00 a.m. of said day, several armed men headed by appellant Vivencio Catli inquired from Fausta Mercado the whereabouts of her husband, and upon being informed that the latter was upstairs, Catli went up and requested Vidal Saludo to accompany him to look for Benito Tenorio who had strayed from the appellant's group; yielding to this request, Saludo joined the appellant's band iwhich proceeded westward; Saludo was then wearing rubber shoes, white polo shirt and fatigue pants. And that was the last time his family saw him.

At around 11:00 o'clock of that same morning, Marcelo Verano, who was pasturing his carabao in the northern part of barrio Bucal, heard someone groaning; out of curiosity, he proceeded to the place whence the sounds had come, cautiously peered through some bushes and espied appellant beating Vidal Saludo with a rice pestle, in the presence of armed companions, one of whom remarked: "That is enough Babing, he is already dead;" seized With fear, Verano left the place but refrained from disclosing to others what he had observed, because he surmised that appellant and his men were Huks.

At about 2:00 p.m. of the same day, Diego Martija, then a member of the rural council of Bucal, met Maria Saludo who sobbingly told him that her brother Vidal had been taken by the Huks led by appellant; she begged his help to locate Vidal, and after some hesitation, Martija responded by asking a neighbor, Leoncio Manimtim to accompany him to search for Vidal. The pair followed the trail Vidal was last seen to have taken, making inquiries from people who may have seen Saludo's group; the search ended near the Capanglao river; en route, the two, Martija and Manimtim discovered some drops of blood. As they approached the river, the two found a newly dug grave covered with coconut leaves; they brushed off the leaves only to find a castorillo hat which they

recognized as one Vidal Saludo was wont to wear. Replacing the coconut leaves, the two left for their respective homes, but refrained from revealing their findings to the authorities, for fear of the Huks.

Years after or in 1951, Diego Martija was appointed barrio lieutenant of Bucal but he was not provided with firearms; then on March 22, 1955, he was named chief of the civilian commando unit of the same barrio and was given a gun. Emboldened by the possession of such weapon and encouraged by the government campaign against the dissidents, Martija sometime in December, 1955, reported to the police chief of Tiaong what he knew about Vidal Saludo's killing. On December 5, 1955, the police chief with some PC soldiers exhumed the remains of Vidal Saludo; inside the grave, which he pointed out, they found bones of a human skeleton and a pair of soles of rubber shoes. The bones were gathered in an army sack, shipped to the NBI in Manila for medico-legal examination, and following such examination, Dr. Jesus D. Crisostomo, medico-legal officer submitted an osteological report with the conclusion that:

"1.

Those bony remains are human in origin.

2.

They belong to only one individual.

3.

That the set of bones belongs to a male individual.

4.

That this individual has a stature of approximately 165.812 cms. (5 feet-5 inches) plus or minus.

5.

That the probable age of time of death of this individual may lie between 35 and 45 years.

6.

That no cause of death can be assigned or given in this particular individual, as the submitted and assorted bones

as a set does not show any sign of antemortem injury.

7.

That considering the moderately advanced postmortem disintegration of the bones submitted (sorted and non-sorted), the probable length of time that may have already elapsed after burial may be placed between five (5) and ten (10) years."

Appellants defense revolves around an alibi. He testified that in 1946, he lived in the house of Arcadio Exconde in barrio Quipot, Tiaong; that in March 1948, he moved to barrio "Sta. Clara, Sto. Tomas, Batangas, residing in the house of Elena Jaurigue, sister of Gorgonia, the girl he was courting; that following an old native custom, he stayed in Sta. Clara performing such chores as drawing water and clearing the coffee farm in the service of the woman, object of his affections; that he never left Sta. Clara until July 1948 when, having ostensibly won the girl's favor, he and his bride-to-be departed for barrio Quipot, Tiaong, where they resided in peace and contentment. He recounts that on April 6, 1951, five men lured him from his house at night and after leading him some five meters away, they stabbed him repeatedly and then left him for dead; that fifteen days after, he recovered from his wounds at the government hospital of San Pablo City and then he moved to Unisan, Quezon for fear of his assailants; that on April 11, 1955, he executed an affidavit before Agent No. 43 of the National Bureau of Investigation regarding the attempt on his life, naming as his assailants Tomas Magwari, Hilarion Gutierrez, Pedro Mangubat, Eusebio Orense and another person whom he failed to recognize and especially pointing to Mayor Punzalan of Tiaong as the instigator of the crime; that on July 1, 1955, he executed another affidavit concerning the same incident before Jose B. Tuason, deputy clerk of the CFI of Quezon and on the basis of the two affidavits, a complaint for frustrated murder filed by appellant before the assistant fiscal of Quezon was investigated. Appellant also averred that while his complaint was pending investigation, Mayor Punzalan sent an emissary, Avelino by name, requesting him (appellant) to withdraw his complaint in exchange for P3,000.00 and an appointment as a caminero; that appellant spurned the offer and instead, on September 1, 1955, he executed another affidavit before the same NBI Agent No. 43 elaborating on his first affidavit; that on December 5, 1955, the police chief of Tiaong directed the exhumation of Saludo's remains; that on December 13, 1955, the same officer fetched Fausta Mercado from barrio Bangcalat, Tanauan, Batangas and took her to Tiaong where she subscribed to a statement naming the appellant as the murderer of her husband Vidal Saludo; and that the complaint against him was trumped up at the instigation of Mayor Punzalan because of his refusal to withdraw his complaint against the mayor and the latter's henchmen.

Appellant's alibi, besides being inherently weak, sounds unconvincing and ineffectual. His claim that he resided in his sister-in-law's (Elena Jaurigue) house at barrio Sta. Elena, Sto. Tomas, Batangas between March and July 1948, by no means erases the possibility that he was in barrio Bucal, Tiaong on May 6, 1948, when the victim, Vidal Saludo was murdered. Elena Jaurigue herself declared that the distance between the two barrios was short and could be negotiated by bus in half an hour. Although she tried hard to corroborate appellant's alibi by insisting that the latter did not leave barrio Sta. Elena even once during the five months of his stay thereat, her testimony does not ring true. She said it was impossible for appellant to leave her house without her knowledge; because her home was a one-room affair where appellant kept his clothes and that this room was under lock, the key to which she always kept. But this situation does not rule out appellant's chance to slip out of the premises unnoticed by Elena, because precisely he was locked out; and since he was purportedly rendering manual chores, he performed

had to be dressed and leave the house once in a while, such as appellant would stay confined in only one place. Withal, it is hard to believe that an able-bodied laborer for a prolonged and continuous period.

As against appellant's alibi, there is the positive identification made of him by Marcelo Verano who peered through the bushes and saw him clubbing Vidal Saludo with a rice pestle; and the testimony of the victim's wife pointing to appellant as the leader of the band that took her husband away. All these render appellant's alibi, unavailing.[1]

In connection with the variance between the number of persons alleged in the information and the number of persons cited by the witnesses as having participated in the crime, it is enough to state that such variance is not material. Appellant was properly identified in both the information and in the testimonial evidence of the witnesses; he was fully aware of the nature and cause of the accusation; and he failed to object seasonably in the trial to the testimonial allegation that there were some other persons involved in the crime. And it is the rule in this jurisdiction that a "variance between the allegations of the information and the evidence offered by the prosecution in support thereof, does not of itself entitle the accused to an acquittal." [2] More, it is within the prosecution officer's discretion to determine what persons appear to be responsible for the commission of an offense; and if for lack of knowledge or mistake or any other reason, he fails to include the names of one or more criminals in an information, such persons will not be relieved of penal liability; nor will the accused who have been charged with the offense, be permitted to escape punishment merely because it develops in the course of the trial that there were other guilty participants in the crime.[3]

Appellant ascribes unreasonableness in the delay between the supposed commission of the offense in 1948 to its prosecution in 1956. It appears, however, that the silence of the witnesses, particularly of Martija, Verano and Fausta Mercado was satisfactorily explained: they feared Huk reprisals. Indeed before these witnesses disclosed the facts to the authorities, dissident bands asking for "binalut" or wrappers with food had been foraging in the barrios and intimidating the residents. The insecurity of the life in the barrio is illustrated by appellant's claim that he was stabbed and left for dead on April 6, 1951 when he refused to give his firearm to six persons.

Appellant lastly asserts that the charge against him was trumped up and the witness's testimonies fabricated. He claims that he was stabbed on April 6, 1951 upon orders of Mayor Punzalan; that as a consequence, he filed a complaint for frustrated murder against the Mayor and his five henchmen; and for his refusal to withdraw the charge, the mayor caused the instant case to be filed against him.

Appellant's claim lacks merit. His written statement (Exh. H, p. 190 record) of April 7, 1951, when he still had no opportunity to contrive, reveals that he failed to recognize his assailants. This statement entitled "Ante-Mortem" bears the appellant's thumbmark and is witnessed by his own brother-in-law, Simon Jaurigue. Subsequently, on April 11, 1951, five days after he was stabbed, appellant executed an affidavit before Agent No. 43 of the NBI and this time, he named Hilarion Gutierrez, Tomas Magwari, Pedro Mangubat and Eustaquio Orense as his attackers; he also claimed having overheard Gutierrez mutter: "Ang sabi ni Mayor (PUNZALAN) ay huag ng barilin at saksakin na lamang" (Exh. 6, pp. 178-179, Record). In the same statement, however, appellant stated that one Brigido Balmes aided him shortly after he was wounded; but in the trial, Balmes testifying as a rebuttal witness for the State declared that appellant had told him that five persons had attacked and stabbed him near a mango tree but that he (appellant) was unable to recognize his attackers.

In fine, we feel that the evidence on hand sufficiently establishes appellant's guilt beyond reasonable doubt.

Wherefore, the judgment of conviction must be upheld; and there being no question as to the penalty imposed upon this appellant, the appealed decision is affirmed in toto with costs. So ordered.

Padilla, Bautista Angelo, Labrador, Concepcion, Reyes, J. B. L., Barrera, Paredes, Dizon, Regala, and Makalintal, JJ., concur.

[1] *People vs. Estacio, et al.*, 106 Phil., 981; *People vs. Sedenio*, G.R. No. L-6372, April 29, 1954.

[2] *U.S. vs. Stataoa Bungaoil*, 34 Phil. 837; citing *U.S. vs. Dichao*, 27 Phil. 421, and *Ledbetter vs. U.S.*, 170 US 606, 42 L. ed.

[3] *U.S. vs. Abanzado*, 37 Phil. 658.

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.