

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS.
DATU DIMA BINASING, SULTAN SINAEIMBO BINASING, AROYOD
SAM, PANAYAMAN UMAL, KAMANTIS DAOROGEN, AND BADTEKEN
KABONG, DEF...**

G.R. No. L-4837. April 28, 1956

Ponente: CONCEPCION, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/df5968a5f917/>

CONCEPCION, J.:

This is an appeal taken by the defendants from a decision of the Court of First Instance of Cotabato, presided over by Hon. Juan A. Sarenas, Judge, convicting them of the crime of murder, with which they are charged, and sentencing them to life imprisonment, with the accessory penalties provided by law, and to, jointly and severally, indemnify the heirs of the deceased, Serafin Paeheco, in the sum of P6,000', as well as to pay the costs.

It is not disputed that on June 6, 1950, at about 3:00 p.m., defendants Datu Dima Binasing, Sultan Sinarimbo Binasing, Panayaman Umal, Aroyod Sali, Kamantis Daorogen, and Badteken Kabong, went together to the house of Atty. Serafin Paeheco, in the town of Cotabato, Cotabato, ;and that, as a consequence of a blow given, on that occasion, by Umal, with a piece of wood, Pacheco sustained, among other injuries, a fracture in the occipital region, with laceration of the brain, which produced his death soon thereafter. This appeal hinges upon the circumstances surrounding¹ the occurrence, the participation therein of each one of the defendants, and their respective liability in connection therewith. What the prosecution and the defense tried to prove in the lower court are set forth in the decision thereof, from which we quote:

"At the hearing of this case, the evidence for the prosecution disclosed that in the afternoon of June 6, 1950, Sultan Sinarimbo Binasing, accompanied by several moros, among whom were Datu Diraa Binasing, Aroyod Sali, Panayaman Umal, Kamantis Daorogen and Badteken Kabong, arrived at the house of Attorney Serafin E. Pacheco. When Attorney Pacheco saw Sultan Sinarimbo enter his office, he greeted the latter in the following manner: 'Hello, Datu Sinarimbo, what can I do for you? Sultan Sinarimbo answered the greeting, saying: 'Ah, yes, Datu, you said I am a datu in Cotabato, but not in Malagaquit.' Sultan Sinarimbo said these words in an angry ' manner.

"Upon invitation of Attorney Pacheco, Sultan Sinarimbo seated on a chair beside the desk or table of Attorney Pacheco. Datu Dima Binasing; also took a chair. Their companions when they entered the office of Attorney Pacheco stood in different places of the office, Badteken Kabong behind the chair where Attorney Pacheco was seated, three moros at the door of the office, and the rest at the end of the table of Attorney Pacheco,

"Sultan Sinarimbo told Attorney Pacheco that in the morning of that day, June 6, 1956, while in the office of the Governor, two Christians informed him that. Attorney Pacheco said that Sultan Sinarimbo was a datu in Cotabato, but not in Malagaquit, Attorney Pacheco wanted to make an explanation, but he could not do so because a Christian Piscoy entered the office. Attorney Pacheco upon seeing the Christian Piscoy asked him what he had been telling Sultan Sinarimbo. Suddenly, Datu Dima Binasing held with his left hand the right hand of Attorney Pacheco asking him to swear. Attorney Pacheco refused to do so for the reason that he had

never said those words When Attorney Pacheco refused to swear, Datu Dima hit 'him with his fist on the right eye and Attorney Pacheco fell unconscious on the¹ back of his chair. Suddenly, Badteken Kabong grabbed and squeezed the neck of Attorney Pacheco causing his tongue to come out from the mouth. Then the other companions of Sultan Sinarimbo, among them Aroyod Sali, Panayaman Umal and Kamantis Daorogen, rushed and helped in mauling Attorney Pacheco. Sultan Sinarimbo folded his arms across his breast and "when the accused Aroyod Sali, Panayaman, Umal, Kamantis Daorogen and Badteken Kabong¹ saw that sign, they dragged Attorney Pacheco outside of the office. Attorney Pacheco could hardly stand up. So Aroyod Sali and Badteken Kabong held him up, to stand on his feet, and in that precise moment Sultan Sinarimbo again gave the sign, folding" his arms across his breast, and Panayaman Umal, holding a piece of wood, hit Attorney Pacheco on the back of his head,

"Attorney Pacheco fell on the canal in front of his office A commotion ensued and because of the noise, Gorgonio Riego de Dios came out of his office, which was only a few meters away from the office of Attorney Pacheco, and saw the Jatter sprawled on the canal. Gorgonio Riego de Dios then called for the pick-up of the Cotabato Light and Power Co., of which he was the Manager, and the body of Attorney Pacheco was loaded in said pick-up and brought to the hospital where he expired.

"According to the testimony of Dr, Quitco, the cause of death of Attorney Pacheco was 'Depressed fracture, occiput with laceration of brain.'

"All the accused, with the exception of Kamantis Daorog-en and Badteken Kabong, testified as witnesses.

"Sultan Sinarimbo said that when he went to the office of Attorney Pacheco in that afternoon of June 6, 1956, his intention was to look for one moro Talib who, according¹ to information he received, was in the office of Attorney Pacheco. Said Moro Talib and a Christian had some trouble over a piece of land and he was asked by the Provincial Secretary to help settle the case. But such testimony merits little credit because it was not corroborated by either the Provincial Secretary, Talib or the 'Christian'

"Sultan Sinarimbo further testified that he asked for Moro Talib and, Attorney Pacheco said that he had just left. The Christian, who was then in the office of Attorney Pacheco, said that Talib left because he was told by Attorney Pacheco to do so. A hot discussion took place between Attorney Pacheco and said Christian. As Attorney Pacheco was pointing his finger at the face of the Christian, Datu Dima Binasing approached and held the right hand of Attorney Pacheco. The latter struck the hand of Datu Dima Binasing and a fight arose between them. Sultan Sinarimbo, according to him, held Datu Dima in order to separate him from Attorney Pacheco, but the latter continued hitting Datu Dima Binasing, Panayaman Umal entered and held Attorney Pacheco, but Mrs. Pacheco approached and started hitting Datu Dima. When Sultan Sinarimbo called for somebody to take away Mrs. Pacheco, Aroyod Sali came in. Sultan Sinarimbo brought Dima Binasing out of the office of Attorney Pacheco and told the moros referring to Panayaman Umal and Aroyod Sali) also to leave the place. He testified furthermore that while he and Datu Dima were walking in front or near the Rizal monument, about 70 meters, north of the office of Attorney Pacheco, he heard noises coming! from the direction of his office, and looking¹ back he saw several people in front of the office. He, did not know what had happened to Attorney Pacheco after he and his brother Datu Dima Binasing¹ had left.

"The accused Datu Dima Binasing narrated practically the same story that was narrated by Sultan Sinarimbo.

"The accused Panayaman Umal admitted having struck with that. piece of wood, Exhibit 'A', Attorney Pacheco, but not, according¹ to him, for the purpose of killing him, but only for making him unconscious because he was afraid that Attorney Pacheco would be able to get the kitchen knife that his wife was then bringing for him.

"The accused Aroyod Sali, testifying in his behalf said that he did not squeeze the neck of Attorney Pacheco, ho held his body, but during the struggle, his arms slid on the neck of Attorney Pacheco.

"The other two accused Kamantis Daorogen and Badtekon Kabong did not take the witness stand."

His Honor, the Trial Judge believed the theory of the prosecution and gave no credence to that of the defense, and, finding that the offense had been committed with the modifying circumstances of evident premeditation, abuse of superior strength, and, dwelling, held the defendants guilty of murder as charged, and sentenced them as above stated. Counsel for the appellants now maintain that defendants Sultan Sinarimbo Binasing, Datu Dima Binasing, Aroyod 'Sali, Kamantis Daorogen and Badteken Kabong deserve an acquittal, and that the penalty for appellant Panayaman Umal should be reduced. Although agreeable to the acquittal of Sultan Sinarimbo Binasing, Aroyod Sali and Kamantis Daorogen, the prosecution prays, in its brief, that the appealed decision be affirmed, as regards defendants Panayaman Umal, and that appellants Datu Dima Binasing and Badteken Kabong be convicted, respectively, of slight physical injuries and maltreatment, and sentenced accordingly. This is due to the fact that, although holding that its witnesses had stated substantially the truth, the prosecution now believes that certain phases of the testimony of some of them are not reliable and that conspiracy has not been duly established. Upon the other hand, appellants insist that their story about the occurrence should be accepted in its entirety. Hence, the first question for determination is; which one of the two versions merits credence?

To our mind, it is clear, not only that the lower court had correctly taken the evidence for the prosecution on its face value, but, also, that the theory of the defense is inherently incredible. Apart from being in consonance with the ordinary course of events, the former is bolstered up by the following facts, among others: (1) Sultan Sinarimbo Binasing evidently resented a statement, imputed to Pacheco to the effect that said appellant was a Datu in Cotabato, but not in Malagaquit; (2) Sinarimbo repaired to the office-residence of Pacheco for the purpose of demanding an explanation; (3) Sinarimbo brought with him his brother, Datu Dima Binasing and their followers, the other appellants, aside from—according to the prosecution—several unidentified moros; (4) Dima forcibly raised the right hand of Pacheco and bade him to deny, under oath, the aforementioned statement, which Pacheco refused to do; (5) Dima admittedly gave fist blows to Pacheco; (6) Pacheco sustained a contusion with hematoma (black eye) on the right eye; and (7) the fatal blow was given by Umal to Pacheco on the back of the head, at the occipital region.

We cannot believe that Pacheco boxed Dima when the latter demanded that the former deny under oath the derogatory statement imputed to him, as testified to by the witnesses for the defense. Pacheco was less than 5 feet in height. He was so small and weak that he could hardly reach, with his hands, the head of Dima Binasing, and upon the first blow given by the latter, he (Pacheco) fell, practically unconscious, upon his (Pacheco's) chair. Besides there is competent evidence that Pacheco was peaceful by nature and the record amply shows that, throughout the incident in question, his attitude was defensive or apologetic. Indeed, Pacheco had no other alternative, for, aside from being small, weak and unarmed, he was no match against the six (6) appellants herein, and, according to the evidence for the prosecution, their unidentified moro companions. Lastly, immediately after the occurrence Sinarimbo said (Exhibit D, pp. 142-143, Record) that Pacheco was mad, not at appellants, but at the Christians who imputed to him the statement above mentioned. It is highly improbable, therefore, that Pacheco would have used violence against any of the appellant herein.

Similarly unworthy of credence is the latter's testimony to the effect that Sinarimbo took hold of Dima and brought him out of the place; that they were already far away therefrom when they noticed therein a commotion, resulting, evidently, from the fatal blow given by Umal to Pacheco; and that they did not know then the cause of said commotion, because of the distance separating them from the scene of the occurrence and because, at that time, they did not care to inquire about it. Considering, however, that the whole incident was due to Pacheco's alleged statement belittling Sinarimbo's authority, neither Sinarimbo nor Dima would have been indifferent to the altercation that—according to the evidence for the defense—ensued between Pacheco and Umal, when the first two

appellants (Dima and Sinarimbo) allegedly departed from Paeheco's office-house. Their natural interest in the case would have, at least, impelled Dima and Sinarimbo to stay nearby, not only to know the outcome of the incident, but, also, to lend help to Umal, if he should be in need therefor. The artificiality of appellants' version becomes even more evident when we consider that each and everyone of them were arrested by the police at the very scene of the crime, upon, the request of Mrs. Pacheco, who pointed to them as the assailants of her husband, and that the record does not disclose—for appellants did not even try to prove—that any of them had then denied, or otherwise challenged, the truth of Mrs. Pacheco's imputation. In fact, at the investigation conducted by the peace officers immediately after the apprehension of appellants herein, Sinarimbo admitted that he was still present when Umal took hold of the lethal piece of wood Exhibit A, which is over 3 inches in diameter and 1 meter in length. Hence, the evidence for the defense has only achieved to establish the lack of veracity of its witnesses.

The prosecution, however, states, in its brief, that conspiracy has not been proven and that, consequently, each defendant should be responsible only for his individual acts, because: (1) Sinarimbo brought with him a son about 10 to 12 years of age; (2) Sinarimbo was on friendly terms with Pacheco, and had given him several cases, prior to June 6, 1950; (3) appellants were not armed; (4) upon investigation by the police, Mrs. Pacheco and her son Rodolfo, did not state, either that two (2) of appellants herein were holding Pacheco, when he was hit by Umal or shortly before, or that Sinarimbo had folded his arms upon his breast, to indicate to his followers, the other appellants herein, that the time had come to kill Pacheco, and (5) this act of Sinarimbo is, at any rate, inadequate to establish conspiracy.

The conclusion drawn therefrom by the prosecution is untenable. Although the presence of Sinarimbo's child, and the fact that appellants were unarmed may indicate lack of evident premeditation on their part, these circumstances and others, already adverted to, do not necessarily negate the existence of conspiracy, for the same does not require necessarily an agreement for an appreciable time prior to the occurrence. From the legal viewpoint, conspiracy exists if, at the time of the commission of the offense, the accused had the same purpose and were united in its execution. (U. S. vs. Ancheta, et al., 1 Phil., 165; U. S. vs. Santos, et al., 2 Phil., 453; People vs. Mandagay and Taquiawan, 46 Phil., 838; People vs. Agbuya, et al., 57 Phil., 238; People vs. Ibañez, 77 Phil., 664; People vs. Macabuhay, et al., 83 Phil., 464; People vs. San Luis, 86 Phil., 485.)

In the case at bar, the evidence of record shows beyond doubt that each and everyone of the defendants had, at the time of the occurrence, a single objective and that their acts, on said occasion, tended immediately and directly to the accomplishment thereof, namely, to secure a confirmation or denial of Pacheco's alleged statement relative to Sinarimbo's lack of authority to act as a Datu in Malagaquit, and to chastise Pacheco if he made such statement or failed to deny it. The fact that it was not Sultan Sinarimbo, but Datu Dima Binasing who began to use force against Pacheco, in demand of confirmation or denial of said statement, which was regarded derogatory to Sinarimbo, then present; that, as Pacheco fell upon his chair, stunned, if not unconscious, upon receipt of the fist blow given by Dima Binasing, appellant Badteken Kabong threw Pacheco to the floor and pressed his neck against it; that, almost simultaneously, the other appellants and companions of Sinarimbo rained blows upon Pacheco; that Sinarimbo then folded his arms across his breast thus sanctioning, with his authority, and encouraging the acts of his followers—whereupon the latter dragged Pacheco outside the house; and that Umal then struck him on the occipital region with the piece of wood Exhibit A these acts put together—show beyond doubt that appellants were united in their purpose and in carrying the same into effect. In short, conspiracy has been established by the prosecution.

The presence of Sinarimbo's child, when viewed in the light of the past behaviour of our moros, does not necessarily justify the inference now made by the prosecution. It is not unusual for these non Christians to have with them, on occasions of gravest danger, the immediate members of their family, regardless of their age or sex.

Thus, Moro cottas, taken by assault by the armed forces of the government, have often, if not generally, disclosed the presence of women and children, some of them killed either' in the cross-fire or fighting with the heads of their respective families., What is more, there have been cases of families completely wiped out by the homicidal act of the members of another family, including—among the victims, as well as among the assailants—women and children, ranging between the ages of 10 to 15 years. Only recently, a prominent moro, against whom the Government had waged a long, costly and bloody campaign, surrendered to the authorities with a kid in his arms. At any rate, the very evidence for the defense shows that the statement imputed to Pacheco did not come to the knowledge of Sinarimbo until shortly before the occurrence, when he and his co-defendants, with his aforementioned child, were in the Provincial Building of Cotabato; that, thereupon, the decision was made to proceed to Pacheco's place; that before reaching the same the child could no longer be taken to his home; and that Pacheco¹ could not possibly hurt the child, the latter being accompanied, by at least, the¹ six (6) appellants herein. In fact, Sinarimbo did not have to take part materially in the attack upon Pacheco and was never in danger of being harmed.

Neither do we attach any importance to the failure of Mrs. Pacheco and her son Rodolfo to state to the authorities, who investigated them on June 6, 1950, that Sinarimbo had signaled his co-defendants by crossing his arms over his breast, before Pacheco was dragged out of his office dwelling, and that Pacheco was then held by two (2) of the appellants herein. It should be noted that the investigation took place immediately after the body of Pacheco was picked up unconscious near the door of his house and brought to the hospital for treatment. Pacheco was then hovering between life and death. In all probability, his wife and son suspected it, and, consequently, were anxious to finish their testimony and go to the hospital, where they, in fact, arrived after Pacheco's death. It is thus understandable that their respective statements on said occasion were limited to the main features of the incident in question, and did not give the details aforementioned. Moreover, it appears that the pertinent part of said statements were given in response to a single question urging them to "tell the court" what transpired during the occurrence, and that, thereupon, said witnesses narrated their story, involving the use of scores of words, without interruption. They were not asked any specific question that could have elicited the details in dispute. However, they said that "others" had "dragged" Pacheco out of the house, thus intimating that several persons had held him before the fatal blow was struck.

After going over the record carefully we must state, also, that the testimony of Mrs. Pacheco and, particularly, that of her 10-year old son Rodolfo—who despite his youth, declared in a simple, but clear and straight forward manner—has impressed us with their candidness and veracity; that, conversely, a reading of the testimony of the witnesses for the defense readily gives the opposite effect; that said witnesses for the prosecution were substantially corroborated by Gorgonio Diego de Dids, who was at the door of his (De Dios) house, 3 or 4 meters away from that of Pacheco. when he was hit by the fatal blow near its door; and that the veracity of Gulam Sanguan—who, after corroborating substantially the testimony of Mrs. Pacheco and Rodolfo Pacheco, turned hostile to the prosecution and favored Dima Binasing and Sinarinibo Binasing—is open to serious doubts.

In short, we are of the opinion and so hold that 'there was conspiracy among appellants herein; that each one of them is responsible for the acts performed by the others in pursuance of their conspiracy; that they are guilty of murder, qualified by abuse of superior strength; and that no modifying circumstance having been sufficiently established, the penalty for said offense has been properly imposed in its medium period. Wherefore, the decision appealed from is hereby affirmed, in toto, with costs against the defendants-appellants. It is so ordered.

Paras, G. J., Bengzon, Montemayor, Reyes, A., Jugo, Reyes, J. B. L., and Endencia, 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.