

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS.
GUILLERMO BONGO, RUPERTO CONTREDAS AND MANUEL
FRANCISCO, ACCUSED, RUPERTO CONTREDAS, ACCUSED AND
APPELLANT.**

G.R. No. L-26909. February 22, 1974

Ponente: AQUINO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/eb477355e4cd/>

AQUINO, J.:

This is an appeal of defendant Ruperto Contredas (or Contridas, not Contreras) from the decision of the Court of First Instance of Masbate, finding him and his co-accused, Guillermo Bongo, guilty of murder, sentencing each of them to reclusion perpetua and ordering them to indemnify the heirs of Marianito Dillamas (Dellamas) in the sum of six thousand pesos and to pay two-thirds of the costs. Bongo did not appeal. Defendant Manuel Francisco was acquitted on the ground of reasonable doubt (Criminal Case No. 5043).

Appellant Contredas has raised a jurisdictional issue. He contends that the trial court did not acquire jurisdiction over his person because the warrant for his arrest, issued by the municipal judge, was void. Contredas argues that the warrant was void because the judge did not comply with the requirements of section 87 of the Judiciary Law that, before issuing a warrant of arrest, he should first examine the witnesses personally and the examination should be under oath and "reduced to writing in the form of searching questions and answers".

The record shows that a police sergeant filed with the municipal court of Uson, Masbate (where the crime was committed) a complaint for murder against Contredas, Bongo and Francisco. The complaint was sworn to before Municipal Judge Jeremias A. Castro on April 22, 1965. It was supported by the typewritten statements (in the form of questions and answers) of Valentina Contado, Antonio Lobiano and Constanca Lobiano (Lubiano). The statements were taken by Police Corporal Jaime L. Sanchez, Jr. and sworn to before Judge Castro on April 22nd. Appended to the statements were the affidavit of Francisco, a sketch of the scene of the crime and a medical certificate.

The record does not show whether Judge Castro made an examination of the witnesses in the form of searching questions and answers. He issued a warrant of arrest on April 22nd for the apprehension of Contredas, Bongo and Francisco. Bongo and Francisco were arrested on April 22nd. Contredas was arrested on April 27th. They posted bail bonds. They were released on bail on May 10, 1965. They waived the preliminary investigation. The record was elevated to the Court of First Instance where, on May 27th, an information for murder was filed. The three accused were arraigned on October 11, 1965 with the assistance of counsel. They entered a plea of not guilty. They did not move to quash the information on the ground that the trial court had no jurisdiction over their persons.

Under those circumstances, it is evident that Contredas and his co-accused waived any defect in the preliminary examination or in the issuance of the warrant of arrest. They also waived the ground of lack of jurisdiction over their persons. (Sec. 10, Rule 117, Rules of Court; *Zacarias vs. Cruz*, L-25899, November 29, 1969, 30 SCRA 729;

Luna vs. Plaza, L-27511, November 29, 1968, 26 SCRA 310, 321). That point was not raised in the lower court. It was raised for the first time on appeal.

Notwithstanding the foregoing ruling, the Court reiterates, what it emphatically stated through Mr. Justice Zaldivar in the Luna case, that municipal judges should comply strictly with the aforementioned provisions of section 87 regarding the issuance of warrants of arrest. Section 87 was amended by Republic Act No. 3828, which took effect on June 22, 1963, in order to discourage the practice of municipal judges of simply relying on the affidavits accompanying a criminal complaint as the basis for issuing a warrant of arrest.

The other issue posed by appellant Contredas is factual. He contends that the trial court erred in finding that he conspired with Bongo to kill Dillamas. The issue has been simplified by the failure of Bongo to appeal. He thereby in effect admitted the truth of the testimony of Diolito Esmabe, the sole prosecution eyewitness, that he (Bongo), with Contredas as his companion, shot Dillamas on the night of April 15, 1965.

Before resolving that issue, the facts established by the prosecution should be stated.

At about seven o'clock in the evening of April 15, 1965 Esmabe was sitting at the doorway of the house of Dolores Contado, his mother-in-law, situated in Sitio Bagasbas, Barrio Badling, Uson, Masbate. On that occasion, he saw Bongo, a fifty-two year old farmer, walking hurriedly in a westerly direction. He was carrying a gun locally known as lantaka which was about two feet long. Following Bongo was Contredas, an illiterate fifty-six year old farmer. Both were residents of Sitio Bagasbas. Unknown to Bongo and Contredas, Esmabe followed them at a distance of five brazas, as they proceeded to the house of Valentina Contado, the sister-in-law of Contredas (he is married to her elder sister). They stopped in front of the door of the house which was near a coconut grove.

It was a moonlit-night. There was a full moon. There was light inside the house. The moonlight directly illumined the figures of Bongo and Contredas. Only Valentina and her son, Marianito Dillamas, a thirty-year old farmer, were in the house. He was leaning against the door, reading the Pasion, a book in the dialect about the Savior's life. Esmabe concealed himself behind a coconut tree which was about twenty meters from Valentina's house.

Because of the moonlight, he could see Bongo inserting the point of his gun through a wall of the house which was made of coconut singles. He saw Contredas behind Bongo, crouching on his knees, looking at the wall where Bongo, had inserted the gun (21 tsn March 9, 1966). After a short interval, an explosion shattered the stillness of the night. Immediately, Valentina Contado was heard, shouting: "Hoy, what happened to you". Then, she exclaimed: "My son was shot!" She was referring to Marianito.

After the shooting, Bongo and Contredas fled in the direction where Esmabe was hiding. Esmabe eluded them and returned to the house of his mother-in-law. He stayed there for a few minutes. Then, he returned to his own house. In the morning of the following day, April 16th, he reported the incident to the police investigators who had repaired to Valentina's house. Corporal Sanchez took his statement. It was sworn to before the municipal judge (Exh. B or 1).

Doctor Jose de Vera, the municipal health officer of Dimasalang and Uson, examined the body of Dillamas. He certified that the victim suffered a gunshot wound one and a half inches wide and one and a half inches long, "with bursting of the tissues tatooing in the contusion of the area", at the axillary region along the anterior axillary line, "perforating the thoracic cage going forward, upward, left". The wound was in the armpit. There was a "lacerated wound one inch long and one inch wide at the dorsal aspect of the left arm", meaning at the back of the left armpit. Death was caused by the internal bleeding.

The doctor testified that the "tatooing" around the wound implied that the gun was in contact with the victim's

flesh or was very close to it. The gunpowder caused the "tattooing". The burnt area had a circumference of around four inches. The two wounds could have been caused by one shot from a lantaka.

The gun used by Bongo in shooting Dillamas was the same lantaka which, according to Esmabe, was handled by Manuel Francisco in the latter's house in the afternoon prior to the killing. Contredas took it from a corner of the house. He is Francisco's father-in-law.

On that same night of April 15th, shortly after the killing of Dillamas, Manuel Francisco and his wife, Teresita Contredas (appellant's daughter), were bickering in the house of one Floro Laurel. Francisco reproved his wife by asking: "Why did you lend the gun to Father?" Teresita Contredas replied: "I did not lend that gun. Father got it only from the corner of the house."

It should be noted that Bongo and Contredas were neighbors of Valentina Contado. Contredas' house was about two hundred fifteen meters from Valentina's house (See sketch, page 7 of the Record).

What motivated the killing? According to Valentina, between Bongo and Dillamas there was ill-feeling because the latter had obligated himself to pay Bongo three hundred pesos. He was able to pay only forty-five pesos. They had a fight. Bongo suffered injuries in that encounter.

Bongo's version is that there was a prior incident wherein he was shot by Marianito Dillamas. He was hospitalized. He spent for his hospitalization. A criminal action was filed against Marianito. But later Jaime Dillamas, the brother of Marianito, became Bongo's son-in-law. Jaime pleaded with Bongo that the case be settled amicably. He agreed to a settlement. Marianito was supposed to pay him five hundred pesos but he paid only fifty pesos notwithstanding repeated demands. The trial court said that Bongo "had a very strong motive" for shooting Dillamas.

On the other hand, Valentina Contado testified that her son, Marianito Dillamas, was suspected of having caused the pregnancy of Contredas' daughter. He was charged with rape. The rape case was pending in the Court of First Instance of Masbate (27-28, 30 tsn May 24, 1966. See No. 7, Statement of Valentina Contado dated April 21, 1965, page 5 of the Record).

Under those facts, the trial court concluded that Bongo and Contredas conspired to kill Dillamas. Appellant Contredas assails the credibility of Esmabe by pointing to the contradictions in his testimony.

Those contradictions refer to minor details. They do not impair the main thrust of Esmabe's testimony that he saw Bongo carrying a gun, accompanied by Contredas; that Bongo inserted the point of the gun through the wall of Valentina Contado's house, while Contredas placed himself behind Bongo in a stooping position, and that, thereafter, there was an explosion and Dillamas sustained a mortal wound.

The inconsistencies of a witness on minor details usually do not destroy the probative value of his testimony because generally they may be due to an innocent mistake and not to deliberate falsehood (People vs. Limbo, 49 Phil. 94; 6 Moran's Comments on the Rules of Court, 1970 Edition, pages 138-9; People vs. Resayaga, L-23234, December 26, 1973).

Appellant's contention that no credence should be given to Esmabe's testimony cannot be sustained in the face of the fact that Bongo did not appeal. As already noted, that means that he acquiesced in the judgment of conviction which was based on Esmabe's testimony. That acquiescence was a confirmation of the veracity of the testimony which implicates Contredas in the killing of Dillamas.

It is relevant to mention that, after Valentina Contado had summoned her neighbors for help, she went to the house of appellant Contredas (Manong Pitong), her brother-in-law, to apprise him that Marianito Dillamas had

been shot. Contredas did not evince any reaction to that news. "He only stood there by the door, making no comment". Contredas' wife, the sister of Valentina Contado, on receiving intelligence of her nephew's death, "only stood at the balcony without making any comment, doing nothing" (32-33 tsn May 24, 1966).

Contredas said that, after being informed by Valentina Contado that Dillamas had been shot, he did not go to Valentina's house because he had just eaten his supper and so "he went to sleep".

Judge Pedro Singson Reyes observed that the failure of Contredas to do something when he was notified of the death of his wife's nephew "is a very strong indication" that he had a guilty conscience. His callous behavior was contrary to "Filipino-custom", especially considering that Valentina was a widow.

The claim of Contredas that he was in his house, eating supper, when Dillamas was killed, is an alibi that cannot prevail over the positive identification made by Esmabe. The assassination was consummated in a matter of minutes. Inasmuch as Contredas' house was only around two hundred fifteen meters from the scene of the crime, it was quite easy for him to go there, take part in the commission of the crime and return to his house.

However, there is no direct evidence that Bongo and Contredas conspired to kill Dillamas. His cooperation in the killing of Dillamas was not very indispensable. Bongo, who had his own score to settle with Dillamas, could have killed him without the assistance of Contredas.

"He who lends a murderer the dagger or pistol for executing the crime is accomplice in the crime, because he cooperates in its execution by a previous act, which, however, cannot be characterized as indispensable, for it is easily conceivable that, had he not lent the weapon, the murderer might have been able to secure it in some other way." (U.S. vs. Flores, 25, Phil. 595, 598 citing 1 Viada,Codigo Penal 370.)

Hence, appellant Contredas should be regarded as an accomplice and not a coprincipal (Art. 17, Revised Penal Code). The rule is that when there is a doubt as to whether a guilty participant in the killing has performed the role of a principal or that of an accomplice, "the court should favor the milder form of responsibility" (People vs. Tamayo, 44 Phil. 38, 54; People vs. Bantagan, 54 Phil. 834, 840; People vs. Lansang, 82 Phil. 662, 667; People vs. Raganit, 88 Phil. 467, 469; People vs. Templonuevo, 106 Phil. 1003, 1007; People vs. Ubina, 97 Phil. 515, 534; People vs. Tatlonghari, L-22094, March 28, 1969, 27 SCRA 726, 741).

Therefore, as to appellant Ruperto Contredas, the trial court's judgment should be modified. He is held liable as an accomplice in the murder of Dillamas, with dwelling as an aggravating circumstance. The penalty imposable on him should be taken from the maximum period of prision mayor maximum to reclusion temporal medium (Arts. 52, 64[3] and 248, Revised Penal Code). As he is entitled to an indeterminate sentence, the minimum range of the penalty should be taken from prision correccional maximum to prision mayor medium (See 3rd case of Table facing art. 61, Revised Penal Code).

WHEREFORE, appellant Contredas is sentenced to an indeterminate penalty of ten (10) years of prision mayor, as minimum, to seventeen (17) years of reclusion temporal, as maximum (See table in art. 76, Revised Penal Code) and to pay an indemnity of four thousand pesos to the heirs of Marianito Dillamas, that being his quota. He is subsidiarily liable for the indemnity of six thousand pesos imposed on Guillermo Bongo (Arts. 109 and 110, Revised Penal Code). He is liable for one-third of the costs.

SO ORDERED.

Zaldivar, (Chairman), Fernando, Antonio, and Fernandez, JJ., concur.
Barredo, J., took no part.

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.