

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
EUFEMIO CAPARAS Y PAEZ AND PATRICIO DIAMSAY Y GREGORIO,
DEFENDANTS-APPELLANTS.**

G.R. No. L-47411. February 20, 1981

Ponente: DE CASTRO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/f6fe8d26edf7/>

DE CASTRO, J.:

Patricio Diamsay y Gregorio and Eufemio Caparas y Paez were charged in the Court of First Instance of Nueva Ecija (Branch IV, Guimba) with, and convicted of murder, under the facts, as proved by the evidence of the prosecution, narrated in the People's brief as follows:

"This is the tragic story of two first cousins, accused Eufemio Caparas and the deceased Simeon Paez, one of whom planned the killing of the other because of conflicts over proprietary rights.

"The story began in 1967 when accused Eufemio Caparas, his sister Perpetua and his uncle Pedro Paez, father of the deceased Simeon Paez, purchased from the Cebreros several parcels of agricultural lands in Quezon, Nueva Ecija, with an aggregate area of seventy hectares (p. 6, t.s.n., February 13, 1974). Perpetua Caparas and Pedro Paez each bought ten hectares while Eufemio Caparas paid for fifty hectares (p. 7, id.). Since the lots were covered by several titles, Eufemio Caparas requested that all the lots be titled in his name alone so that after the subdivision of the whole parcel, each of them would have portions contiguous to each other (pp. 7-8, id.). Everyone agreed to the proposal and everything went along fine. From 1967 to 1970, Pedro Paez and his sons Simeon and Pablo tilled their ten-hectare share of the land. On the latter date, the tenants of the lots filed leasehold petitions with the Court of Agrarian Relations. As a result, Eufemio Caparas proposed to Pedro Paez that they sell the land to the government under the Land Reform Program at P5,000.00 per hectare and he would give Pedro Paez the amount of P23,000.00 (pp. 8-9, id.). Sensing that they would be prejudiced because the proceeds of the sale of the ten-hectare land tilled by them should be P50,000.00, the Paezes refused to agree to the proposal of Caparas. Hot words ensued between Eufemio Caparas and his cousin Simeon Paez, the latter blurting out that 'what you are doing to us is not helping us but it is defrauding us.' (pp. 9-11, id.). From then on, relationship between the Caparas and the Paezes became strained. In April 1970, Caparas removed Pedro Paez as overseer of his landholdings in Quezon, Nueva Ecija a position which he held from 1967, and replaced him by accused Patricio Diamsay.

"In June 1970, Eufemio Caparas had a portion of the land tilled by the Paezes plowed, Simeon Paez refused to allow encroachment; he also had it plowed and planted; Patricio Diamsay arrived, and with a gun he sent away the planters (p. 12, id.).

"Because Caparas was his nephew and Simeon, his son, Pedro Paez wanted to have the case settled amicably. He therefore had his uncle Atty. Pablo Paez called for a conference (p. 13, id.). The conference did not take place because Caparas was not at home. However, Atty. Pablo Paez assured Pedro Paez and his family that he would talk to Caparas and that they should just leave the matter to him (p. 14, id.).

"On January 27, 1971, Lydia Posadas, wife of Pedro's son Pablo, arrived at the house of Pedro Paez, in Quezon (p. 15, id.). She was very pale. She reported to Pedro Paez that while she was gleaning loose grains from the haystack, she heard a plan of Caparas to have Simeon killed (pp. 15-16, id.) Since earlier he had received a letter from his uncle Atty. Paez saying that the latter together with Eufemio Caparas and Zaragoza mayor Francisco Ramirez, would arrive on February 6, to settle the case. Pedro Paez told her daughter-in-law not to mention what she heard to Simeon because matters might get worse. Pedro Paez further told her daughter-in-law, 'you just say that I am calling all you to town' (pp. 16-17, id.). Pablo Paez and his wife Lydia and Simeon Paez went to stay with Pedro Paez and the Paez family residence in the town of Quezon. Simeon's wife, however, did not join them because she had just delivered (p. 18, id.).

"In the afternoon of February 4, 1971, there was a report that the newly born child of Simeon was sick and the watchers could not sleep taking care of him, so Simeon left town and went to Sitio Puten to see his son. Since Simeon did not return to town that night, Pedro Paez sent his son Pablo to Sitio Puten to fetch Simeon (pp. 18-19, id.).

"In the early morning of the following day, February 5, 1971, Pablo Paez in compliance with his father's order went to Sitio Puten to fetch his brother Simeon (p. 4, t.s.n., November 20, 1973). Upon arrival, Pablo told Simeon that he was sent by their father to fetch him and that he (Simeon) must go home to town right away and if possible, to take his wife and his family along. Simeon agreed to bring with him his family but he told Pablo that he would just fill his 'Sibura' with gasoline (p. 5, id.). When Simeon was about to fill his vehicle with gasoline, somebody called him from the street. Simeon looked at the direction where the voice came from and he saw Patricio Diamsay holding a gun. Whereupon Simeon said, 'You have a gun,' to which Patricio Diamsay answered, 'Yes, I am going to kill you.' Immediately after uttering his reply, Patricio Diamsay fired his shotgun at Simeon (p. 6, id.).

"After Patricio Diamsay had shot Simeon, Pablo, who was about nine meters away from Diamsay, ran out to call for a tricycle. When Diamsay saw Pablo, the former fired at the latter. Pablo was not hit because he was able to hide behind an acacia tree. Instead, two pigs at his back were hit and killed by the bullets from Diamsay's shotgun (p. 7, id.). Diamsay tried to shoot Pablo when he peeped behind the tree. Luckily, Diamsay's gun jammed so Pablo ran away and hid in the house of Hilario Julian (pp. 7-8, id.).

"As a result of the shooting, Simeon Paez suffered bullet wounds in the chest and armpit which caused his death (p. 9, id.; Exhs. A & B; (pp. 6-7, t.s.n., June 2, 1973).

"The shotgun used by Patricio Diamsay in shooting Simeon Paez belonged to Eufemio Caparas (pp. 11-12, t.s.n., November 20, 1973; pp. 37-38, t.s.n., July 30, 1974." (pp. 3-7, People's Brief; p. 216, Rollo)

The dispositive portion of the judgment, which has been appealed direct to this Court reads:

"WHEREFORE, finding both the accused GUILTY beyond reasonable doubt of the crime of murder as charged in the information, the Court sentences Eufemio Caparas y Paez to suffer the penalty of reclusion perpetua and Patricio Diamsay y Gregorio, taking into consideration the mitigating circumstance of voluntary surrender in his favor, the indeterminate penalty of seventeen (17) years four (4) months and one (1) day to twenty (20) years of reclusion temporal. The accused are likewise sentenced to suffer the accessories provided for by law to pay jointly and severally the heirs of Simeon Paez in the sum of P12,000.00, and to pay the costs." (pp. 2-3, Id.)

The first assignment of error of appellants relates to the rejection by the court a quo of the plea of self-defense of appellant Diamsay. While the second relates to the finding of conspiracy by said court by virtue of which appellant Caparas was also convicted for the killing of the victim.

The self-defense testimony of appellant Diamsay is to the effect that: In February 1971 he was the overseer of appellant Caparas of the latter's lands located at Puten, Sta. Rita, Quezon, Nueva Ecija, having been such overseer since 1970, taking over from Pedro Paez, father of the victim, Simeon Paez, causing ill-feeling on the part of the Paezes against him, as revealed by their provoking him to a fight on many occasions, specially when they were armed with clubs. In the evening of February 4, 1971, he was in the house of appellant Caparas at Puten, Sta. Rita, having been guarding the water pump, and left at 7:00 in the morning of February 5, 1971 for his house which was about 3 kilometers away, and had to pass by the house of Hilario Julian, father-in-law of Simeon Paez. While he was on the road in front of Julian's house, Simeon Paez who was holding a gun, with his brother, Pablo Paez who was holding a bolo, blocked his way. Appellant Diamsay was more or less 3 meters from the brothers when he first saw them. Raising his gun, a .45 caliber pistol, Simeon Paez said: "Ticio get ready; this is your time," and as he saw the action and heard the words of Simeon, he shot first at the latter, and after this, Pablo tried to hack him with the bolo, so he fired again in the air and Pablo ran away. After the incident, he went to town and surrendered to the police.

On his own admission then, appellant Diamsay killed Simeon Paez. He thus shifted to him the burden of proving the justifying circumstance he has invoked, that of self-defense, which he must discharge with clear and convincing evidence,[1] and may not rely merely on the weakness of the evidence of the prosecution to gain acquittal.[2]

The first element of self-defense is unlawful aggression on the part of the deceased. From the state evidence, the appellant is clearly the aggressor. According to Pablo Paez, admittedly an eye-witness to the incident, it was appellant who, upon hearing Simeon remark: "You have a gun," answered: "Yes, I am going to kill you," and instantly fired his shotgun at Simeon.[3] Clearly in contrast to this testimony of Pablo Paez is that of appellant who declared that it was Simeon who said: "Ticio get ready, this is your time." As to which of the opposing testimony should be believed would furnish the key to knowing who the real aggressor was.

It has been sufficiently proven that Diamsay was under order by appellant Caparas to do away with Simeon. The testimony of prosecution witness Laureano Salvador reveals that in a meeting in the middle of January, 1971, at the house of one Carlos Gregorio, in which he, the two appellants and Carlos Gregorio were present, it was agreed that Simeon Paez should be killed, appellant Caparas ordering this witness (Laureano Salvador) Carlos Gregorio and appellant Diamsay to perform the killing, Salvador having been even offered P5,000.00 for the job because the land held by Simeon is the very land he would give to Laureano Salvador to till. Diamsay, therefore, when he passed by the house of the victim's father-in-law, armed with a shotgun, already had homicidal intent, obviously aware of the presence of Simeon Paez in the house, and so he called for him in order to accomplish his evil

purpose. The quickness with which he fired his gun would indicate that he had prepared it for instant firing, to insure accomplishment of his mission without risk to himself from an attack the intended victim might possibly make against him.

On the other hand, as a mere overseer, Diamsay could not have aroused such intense resentment on the part of Simeon Paez as to be driven to the urge, or even just to entertain an intent, to kill Diamsay as the latter had pictured Simeon Paez with his entirely uncorroborated testimony.

Appellant Diamsay's testimony is of itself extremely doubtful, if not wholly incredible. If as he claimed, Simeon was armed with a .45 caliber pistol and his brother Pablo with a bolo, mention of this fact to the policeman, who investigated him upon his surrender, Sgt. Ernesto Ramos, should have been made, instead of telling the police investigator that he shot Simeon Paez because the latter boxed him.[4] The daringly aggressive stance allegedly shown by Simeon Paez to him can neither be believed with the undisputed fact that Diamsay was armed with a shotgun, a more effective weapon for distance-firing than a pistol, as in fact, the State witness Hipolito Supena, the tricycle driver who brought Diamsay to town to surrender, testified that he saw Diamsay fire at Simeon from a distance of 15 meters. This witness testified further that Diamsay told him, when asked about the shooting, that his gun merely accidentally went off. According to Sgt. Ramos, the shooting also took place inside the yard of the house of Simeon's father-in-law,[5] not on the road as was the testimony of Diamsay. Clearly, the testimony of these two State witnesses is more deserving of credence than appellant Diamsay's testimony which had not a bit of corroboration.

Likewise, even assuming that Simeon was armed with a pistol, he could not have been as daringly aggressive, as if he was certain of killing Diamsay with such weapon. His adversary was armed with a shotgun that could be used to kill him from a safer distance. It is thus incredible that seeing his adversary with a shotgun, Simeon Paez would tell the former to get ready, as is the story of appellant Diamsay in making out his plea of self-defense, instead of firing at once and catch his intended victim unprepared.

That appellant's act was not merely defensive is shown when he also fired at Pablo Paez after shooting down Simeon, as clearly attested to by the killing of two pigs behind Pablo, hit by appellant Diamsay's firing at Pablo who was not hit because he hid behind an acacia tree. When the shotgun jammed, Pablo ran into the safety of the house of Julian Hilarion.

Appellant Diamsay's profession of lack of motive to kill Simeon Paez, so much stressed by him to bolster his plea of self-defense, cannot be believed in the face of the evidence of a previous agreement to kill the victim in which he had definite orders from his employer, appellant Caparas, similar to what the State witness Laureano Salvador received, with an offer of monetary reward, and by Carlos Gregorio who later was killed, evidently to silence him and prevent him from becoming a witness to the conspiracy against Simeon Paez' life. In any case, motive is not essential to conviction for murder where the identity of the culprit is not in doubt.[6]

The second assignment of error relative to the finding of the court a quo of the existence of conspiracy is evidently intended for the sole benefit of appellant Caparas who would have to be acquitted if no conspiracy existed to involve him in the killing with equal liability as the actual killer, his co-appellant Diamsay.

The most damaging testimony against appellant Caparas is that of Laureano Salvador. It would actually make him a principal by inducement. Conspiracy would thus be proven by direct evidence. With the same effect is the testimony of Lydia Posadas who allegedly heard Caparas and Diamsay talking on how to kill Simeon Paez by provoking him into a quarrel.

The testimony of Laureano Salvador is sought to be totally discarded by appellants on the ground that this witness

was not fully cross-examined by the defense counsel. It appears, however, that the witness was not fully cross-examined not because of the fault of the prosecution, for the witness, although unable to be present on three previous hearings, subsequently appeared, ready to be cross-examined. But defense counsel asked for postponement which the court denied and declared a waiver on the part of the defense to further cross-examine the witness. At any rate, this witness had already been cross-examined on the material facts testified to. The case relied upon by appellants in their effort to discard Laureano Salvador's whole testimony - *Ortigas vs. Lufthansa Airlines*, 64 SCRA 610-611 - is thus not applicable because there, the witness disappeared and was never cross-examined even partly.

The testimony of Lydia Posadas was, likewise, sought to be impugned with the testimony of her sister, Priscilla, who denied having been with her at the haystack where, unseen by appellants, they are supposed to have heard said appellants plot the killing of Simeon Paez.

How the appellants or the defense got to have Priscilla Posadas testify in their favor and so contrary to the testimony of her sister who earlier categorically declared in court having gone to the haystack where Diamsay's palay was threshed and while there, heard of appellants' sinister design to kill Simeon Paez, is hard to imagine. Lydia Posadas declared in Court on July 14, 1973 while Priscilla Posadas took the stand on March 27, 1974. Between these dates, as the cliché goes, much water has gone under the bridge. There is every possibility for overtures to have taken place by way of saving appellant Caparas at least, who is after all, closely related to the victim and the Paezes, from complicity. For if the two sisters were made to jointly execute a false affidavit by Pedro Paez, Priscilla could at least have been prevailed upon not to take the stand just so her sister Lydia would not be unmasked as a liar. If she took the stand as a defense witness, it must have been because the Paezes, realizing what a terrible fate would befall a close relative, appellant Caparas, who could have soothed their aggrieved feelings with more than just an empty supplication for pity, were induced to save Caparas from the grave punishment that he would suffer for the serious offense with which he was charged.

At any rate, a keen sense of perception of human feelings and behaviour persuades Us that as between the conflicting testimonies of the two sisters, the testimony of Lydia against appellant Caparas is the real truth. The two sisters jointly executed on February 9, 1971 their affidavit shortly after the killing on February 5, 1971, after the body of the deceased had been interred on February 7, 1971, at the instance of Pedro Paez, father of Simeon. If this was manufactured evidence, Pedro Paez would have known better than to involve two persons to testify falsely where one would have served the same purpose with less risk of the falsehood being discovered.

Moreover, Priscilla merely testified that she did not go with her sister Lydia to the haystack on January 27, 1971. This is a mere negative testimony that does not necessarily disprove the fact that Lydia went there without Priscilla knowing it - a case of a negative testimony yielding to a positive one.[7]

Conspiracy having been satisfactorily established, appellant, Caparas is equally liable as appellant Diamsay, the actual perpetrator of the dastardly killing, which was qualified into murder by evident premeditation which is inherent in the conspiracy herein duly proven. This qualifying circumstance alleged in the information was sufficiently proven by the testimony of Laureano Salvador and Lydia Posadas, both credible witnesses, the former being particularly so, as he had absolutely no motive to testify falsely against appellants, specially against appellant Caparas, who offered to give him land to till, as he was seeking to obtain from said appellant. His testimony is also against his own interest, as it tends to implicate him as one of the conspirators, and is, therefore, of immense weight and value as evidence.[8]

WHEREFORE, We find the appealed judgment to be in accordance with law and the evidence except only as to the minimum of the penalty imposed on appellant Diamsay which should be reduced to 17 years of reclusion

temporal, to comply with the provisions of the Indeterminate Sentence Law. Voluntary surrender of appellant Diamsay was properly appreciated in his favor to justify the lesser penalty imposed upon him than that imposed on appellant Caparas. Accordingly, the judgment appealed from, modified as herein indicated, is hereby affirmed, with costs.

SO ORDERED.

Barredo, (Chairman), Aquino, Concepcion, Jr., and Abad Santos, JJ., concur.

[1] People vs. Buenbrazo 26 SCRA 324; People vs. Verzola, 80 SCRA 600; People vs. Boholst-Caballero, 61 SCRA 180; People vs. Perez, 56 SCRA 603; People vs. Dorico, 54 SCRA 172; People vs. Ardisa, 55 SCRA 245; People vs. Dorico, supra; People vs. Talaboc, Jr., 30 SCRA 87.

[2] Id.

[3] page 6, t.s.n., November 30, 1973.

[4] p. 3, t. s. n., February 12, 1974.

[5] pp. 1-4, Id.

[6] People vs. Guba, 42 SCRA 109; People vs. Herila, 51 SCRA 31; People vs. Sales, 44 SCRA 489; People vs. Dorico, 54 SCRA 172; People vs. Madera, 57 SCRA 349.

[7] 23 Corpus Juris pp. 42-43.

[8] In re Grove, 110 Me., 169, 480, 87 A. 40.

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.