

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.SANTIAGO
PADAO Y ELCAMEL ALIAS “SUNNY”,;
ACCUSED-APPELLANT.**

G.R. No. 104400. January 28, 1997

Ponente: TORRES, JR., J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-104400/>

TORRES, JR., J.:

Assailed in this appeal is the decision of the Regional Trial Court, Branch 7, Dipolog City, Zamboanga del Norte, dated January 30, 1992, convicting the accused-appellant Santiago Padao alias "Sunny" of the crime of murder, and sentencing him to suffer the penalty of Reclusion Perpetua and to indemnify the heirs of the deceased in the sum of P50,000.[1

On February 29, 1988, accused-appellant was indicted for the crime of murder qualified by treachery and evident premeditation, with the aggravating circumstance of recidivism, for the killing of Perlito Jarmin in an information, viz.:

"That in the evening, on or about the 4th day of February, 1988, in Sitio Mantutugas, Barangay Sulangon, City of Dapitan, within the jurisdiction of this Honorable Court, the above-named accused, armed with a bolo and stones, with intent to kill by means of treachery and evident premeditation, did then and there willfully, unlawfully and feloniously attack, assault, stone, and stab several times one, PERLITO JARMIN y Bayron, hitting him in different vital parts of his body which caused his instantaneous death. That as a result of the criminal acts of the accused, the heirs of the deceased suffered the following damages, to wit:

1. Loss of earning capacity

P12,000.00

2. Moral damages

10,000.00

3. Death Indemnity

30,000.00

TOTAL

P52,000.00

CONTRARY TO LAW, with the aggravating circumstances [sic] of recidivism, accused having been previously convicted by final judgment before the City Court of Dapitan (now MTCC) on the following crimes, to wit:

1. Criminal Case No. 13087, for Slight Physical Injuries, convicted on June 6, 1973;
2. Criminal Case No. 13223, for Resistance; and
3. Criminal Case No. 13224, for Disturbance of Public Order, convicted on March 12, 1975;
4. Criminal Case No. 13536, for Slight Physical Injuries, convicted on January 31, 1978.

City of Dapitan, February 29, 1988." [2]

Upon arraignment, accused-appellant pleaded not guilty. Trial on the merits ensued which found the accused guilty of the crime charged. The trial court's summary of the facts is as follows:

"Arnulfo Lacay, 51 years of age, and a resident of Mantutugas, Sulangon, testified that at about 8:00 o'clock on the night of February 4, 1988, while lying down for a rest, waiting for supper that his wife was then preparing, he heard somebody calling for help about thirty meters away from his house.

For four times he heard the call sounding, "Noy Nulfo, Tabangi ko" (Noy Nulfo, help me), and it kept on nearing. His wife and children got scared, and scampered away. He too was scared, but he got a kerosene lamp, proceeded to the door only to meet the man whom he recognized as- Perlito Jarmin. The man was weak, his face bruised, and his body was soaked with blood. He helped him lay his body on the ground near the rock, as the former fell off from his position. When asked what happened to him, Perlito answered that he was stabbed by Sunny (referring to Santiago Padao, accused). Hearing other voices of two persons coming nearer them (t.s.n., Lago,. May 30, 1988, p. 3), he decided to leave Perlito and proceeded to the house of the barangay captain to report the incident. Along the way, he notified some of his neighbors that "Perlito is in their house that he might be dead already."

It took him time to see the barangay captain, as the wife informed him that the latter was not in their house but in the Sulangon market. Having met the barangay captain in the market, the two then proceeded to the Dapitan Police Station to report the incident.

Reacting to the report that same. evening, a team of policemen was dispatched to the scene of the crime. The investigation was conducted. Meanwhile, people were already gathered in the area, bringing with them torches and lamps thus illuminating the same. Perlito Jarmin was already dead. There were multiple stab wounds on his body, spurts of blood were found by the walls of the house, a bolo stained with blood was found near the house post, while the kerosene lamp was broken and found about 1.5 meters from the deceased. (Exh. B.)

After the probe, the police team brought the dead body to the house of the deceased, in turn notifying the wife about it. From there, they proceeded to the house of Sunny, called for him of which the wife appeared informing them that Sunny was sleeping inside. Having found nothing from Sunny, they proceeded to the house of Alonzo Elumbaring, and then to the house of Adam Esmade, where the Lacay family took refuge. The time was then eleven in the evening, and the group returned to the Police Station. Arnulfo Lacay passed the night at Adam Esmade's house, his cousin, together with his family.

xxx xxx xxx

The widow of the deceased, Irene Ramoga, also testified for the prosecution. For one thing she claimed that Sunny and Perlito were not in good terms.

On May 18, 1989, Ronald Lacay testified. He is 13 years of age and the son of Arnulfo Lacay. He revealed that like his mother and the rest of the Lacay household, he heard Perlito's call for help, that all of them scampered away, except him, as he jump out of the window, and hid himself downstairs under the house. Though scared he peeped through the killing incident. He saw his father help Perlito get a better position near the rock on the ground. He heard his father ask about what happened but he couldn't figure out the answer. Why he could identify Perlito, he reasoned out that he is familiar with the man because he is their friend and neighbor, and he was then illuminated by the kerosene lamp and the shining moon. He was only about 5 meters away from the two, and when his father left Perlito, he could still hear him cry for help. "Tabang, Noy Nulfo, tabang Nang Sayo." (Help Noy Nulfo, Help Nang Sayo!) Suddenly, Sunny came to the picture, saying "Unsay Tabang, Noy Nulfo" (What help, Noy Nulfo!), threw the kerosene lamp right away, and crushed something many times to Perlito's body, until no sound could be heard anymore from the former. He claimed that he could identify Sunny for the same reasons that he could identify Perlito. He was so frightened that he went to the house of Adam Esmade, his father's cousin. In his affidavit (dated February 11, 1988), he swore to the details of what he saw. It was then followed by another affidavit (dated February 15, 1988) where he singled out Sunny, and this he maintained during the direct and cross-examination.

On February 5, 1988, Dr. Artemio Nielo, City Health Officer of Dapitan City, conducted the Post Mortem Examination [3] on the victim's body, the result revealed the following:

"1. Rigor mortis was present and complete.

"2. Stab wound, horizontal, about 4 cm. long, directed backwards and upwards at an angle of 30 degrees from the horizontal plane, located at the 6th intercostal space, mammary line.

"3. Stab wound, diagonal with the lower left tip about 10 degrees below the horizontal plane, 4 cm. long, located about 5 cm. below the xiphoid process at the midline, with a portion of the perforated stomach sticking out.

"4. Stab wound, vertical, about 4 cm. long, located about 1½ cm. below wound # 2, and about 2 cm. from the midline, with a portion of the transverse colon sticking out.

"5. Stab wound, horizontal, 4 cm. long, located 2 cm. below wound #3 and 1 cm. left of the midline with a portion of the momentum and small intestines sticking out.

"6. Stab wound, slanting inwards, through and through about 3 cm. long located on the medial aspect of the right forearm, about 2 cm. from the wrist. The cut ends of the tissues were directed towards the tip of the wound.

"7. Stab wound, horizontal, 1½ cm. long, located at the level of the 6th rib, midscapularline, hitting the left scapula.

"8. Stab wound, 1 cm. long, located about 1 cm. below wound #6 and hitting the scapula. "Cause of death: cardiac arrest due to multiple stab wounds." (Exh. C, p. 73)

xxx xxx xxx

The accused's main defense was alibi. His wife Wenifreda Padoo corroborated his testimony and testified that accused was already asleep on the night the crime took place.

On January 30, 1992, the court a quo rendered the assailed decision, thus:

"WHEREFORE, this Court finds accused Santiago Padoo y Elcamel guilty of murder, within the bounds of moral certainty. He is hereby sentenced to reclusion perpetua, including the accessory penalties, with credit to

his detention, to such extent as determined, and to indemnify the heirs of the deceased the sum of P50,000.00 and costs.

IT IS SO ORDERED." [4]

On appeal, accused-appellant interposes six (6) assignment of errors, to wit :

1. IN FAILING TO APPRECIATE, CONSIDER OR OTHERWISE HOLD AGAINST THE PROSECUTION ITS FAILURE OR OMISSION TO PRESENT IN EVIDENCE THE BOLO, STONE AND BROKEN PIECES OF BOTTLE THE ACCUSED IS CHARGED WITH HAVING ARMED HIMSELF WITH IN ATTACKING, ASSAULTING, STONING AND STABBING THE VICTIM, THUS MAKING THE RULE OPERATIVE THAT EVIDENCED SUPPRESSED IS ADVERSE TO THE PROSECUTION IF PRESENTED;
2. IN FINDING THAT THE ACCUSED IS THE "UNIDENTIFIED ASSAILANT" RESPONSIBLE FOR THE DEATH OF THE VICTIM;
3. IN HOLDING THAT TREACHERY ATTENDED THE COMMISSION OF THE OFFENSE AND QUALIFIED THE KILLING FROM PLAIN HOMICIDE TO MURDER, AGGRAVATED BY RECIDIVISM;
4. IN GIVING CREDENCE TO THE TESTIMONY OF RONALD LACAY, WHO NOT PLACED UNDER OATH WHEN HE TESTIFIED, EXPRESSLY ADMITTED IN OPEN COURT THAT HIS AFFIDAVIT OF FEBRUARY 11, 1988, WAS NOT TRUE, AS IT WAS HIS SECOND AFFIDAVIT DATED FEBRUARY 15, 1988 THAT CONTAINS THE TRUTH;
5. IN NOT FINDING THAT ACCUSED IS BEING FRAMED-UP BY ARNULFO LACAY, WHO TO EXCULPATE HIMSELF FROM CRIMINAL RESPONSIBILITY, HAD TO IMPUTE THE CRIMINAL ACT TO THE ACCUSED, A POLICE CHARACTER IN THE COMMUNITY WITH A STRING OF CRIMINAL CONVICTIONS FOR VERY SLIGHT OFFENSES; AND
6. IN FINDING THE ACCUSED GUILTY OF THE CRIME CHARGE WITHIN THE BOUNDS OF MORAL CERTAINTY DESPITE LACK OF PROOF BEYOND REASONABLE DOUBT.

Appellant contends that the prosecution failed to overcome the constitutional presumption of innocence in the absence of positive evidence, direct or circumstantial that would warrant his conviction. Appellant alleged that the prosecution's witnesses presented inconsistent affidavits and the delay in revealing the identity of the accused would indicate that they were merely concocted. Appellant likewise argued that the testimony of the eyewitness Ronald Lacay was not under oath and that treachery is absent to qualify the crime as murder.

We find the appeal bereft of merit.

It appears on record that the evidence for the prosecution hinges on the testimony of two witnesses, Arnulfo Lacay and his son, Ronald Lacay. Both witnesses testified that they heard the victim asking for help, to wit:

Q

Were you able to recognize this person?

A

Yes, sir.

Q

Who was this person?

A

Perlito Jarmin.

Q

What did you notice of the body of Perlito Jarmin at the time you saw him near your house?

A

He was soaked of his blood and there was bruise on his face.

Q

What did Perlito Jarmin do at this juncture when you were already out in the house bringing a lamp?

A

When he recognized me, he seated and lay down.

Q

You mean he lay on the ground?

A

Yes, sir.

Q

When he was already on the ground, what did you do?

A

I approached and went near him, and elevated himself and asked what happened to you?

Q

Did Perlito Jarmin answer you?

A

Yes, sir.

Q

What did he answer you?

A:

That he was stabbed by Sunny." [5]

Concededly, the statement of the victim Perlito Jarmin is admissible in evidence as a dying declaration. The Court in a number of cases [6] had consistently upheld the admissibility of a dying declaration, the requisites of which are present in the case at bar:

1. That death is imminent and the declarant is conscious of that fact;
2. That the declaration refers to the cause and surrounding circumstances of such death;

3. That the declaration relates to facts which the victim is competent to testify to;
4. That the declarant thereafter dies; and
5. That the declaration is offered in a criminal case wherein the declarant's death is the subject of inquiry.

Appellant was clearly identified by the victim himself in his dying declaration given to Arnulfo Lacay. On this, the trial court stated that —

"Subsequently, the Court also considers the instance when Perlito told Arnulfo that he was stabbed by Sunny. Under Rule 130, Sec. 31, of the Rules of Court, as an exception to the hearsay rule, that evidence can be admitted as a dying declaration. It appears that Perlito, in great pain suffering from the multiple wounds inflicted on his body, bleeding and weakening, probably apprehensive all the way that his injuries might prove fatal, identified the accused as his assailant (People vs. Mision, 194 SCRA 432). The Court believes that Perlito's statement as declared by him to Arnulfo, is entitled to credence and constitutes sufficient basis that he had positively identified his assailant. On the basis of the serious nature of Perlito's wounds, as would engender a belief on his part that he would not survive therefrom, especially were he died an hour thereafter, his declaration will be deemed as having been made under the consciousness of imminent death. (People vs. Arajo, L-24789, June 29, 1981 and other cases cited in Regalado, F., Remedial Law Compendium, 1985 edition, p. 826).[7]

Secondly, prosecution eyewitness Ronald Lacay, testifying under oath [8] declared:

Q:

When your father left to the house of Samuel Bayron, what did you notice?

A:

Perlito Jarmin again shouted for help

Q:

How did he shout?

A:

'Tabang Manoy Nulfo', which means help Manong Nulfo. 'Help Nang Sayo.'

Q:

Who is this Nulfo?

A:

My father.

Q:

Who is this Sanyo? [sic]

A:

She is my mother.

Q:

When Perlito Jarmin shouted for help, what did you observe?

A:

Somebody approached and said saying: "Unsay Tabang Manoy Nulfo."

Q:

Did you recognize who was that person who remarked "Unsay tabang Manoy Nulfo"?

A:

Yes, sir.

Q:

Who was that man?

A:

Santiago Padoa.

Q:

Why were you able to recognize him?

A:

Because he was illuminated by the lamparilla.

Q:

How far was he from the kerosene lamp when you recognized him?

A:

More or less one meter.

Q:

Now, when Santiago Padoa was about one meter from Perlito Jarmin, after saying "Unsay tabang Noy Nulfo", what did Santiago Padoa do?

A:

He crushed the kerosene lamp to the stone.

Q:

What happened to the kerosene lamp?

A:

It was broken.

Q:

And what did you observe after he got nearer to the body of Perlito Jarmin?

A:

He crushed something many times to the body.

Q:

Who crushed many times to the body of Perlito Jarmin?

A:

Sunny Padao.

Q:

Why were you able to observe when the kerosene lamp was crushed or broken?

A:

He was illuminated by the moonlight.

Q:

Are you familiar with Santiago Padao?

A:

Yes, sir.

Q:

Why?

A:

Because we are neighbors."[9]

Appellant further avers that the failure of the prosecution to present the bolo, stone and broken pieces of bottles which the accused is charged of having armed himself with in attacking, assaulting, stoning and stabbing the victim, would lead to the conclusion that evidence suppressed is adverse to the prosecution if presented. We do not agree. The non-presentation of these items by the prosecution is not fatal because of the positive identification of the eyewitness Ronald Lacay. This is further corroborated by the dying declaration of the victim as testified to by Arnulfo Lacay. These are not essential, and need not be presented, as they are not indispensable evidence to prove murder. The absence thereof, does not negate the occurrence of the murder nor lessen the credibility of the witnesses. The trial court's findings were based on the direct positive and categorical assertions made by the witnesses as regards the material occurrences. [10] In case of murder or homicide, it is not necessary to recover the body of the victim or show where it can be found. It is enough that the death and the criminal agency causing death is proven. [11]

Anent the inconsistent affidavits executed by the eyewitnesses, the same deserves scant consideration. It has been held that discrepancies between the statements of the affiant and those made by him on the witness stand do not necessarily discredit him since ex-parte affidavits are generally incomplete. [12] Affidavits are generally subordinated in importance to open court declarations because the former are often executed when an affiant's mental faculties are not in such a state as to afford him a fair opportunity of narrating in full the incident which has transpired. [13] Moreover, testimonial evidence carries more weight than affidavits. [14]

Further, appellant argues that there is delay in revealing the identity of the accused which destroys the case of the prosecution. This is improbable. The belated disclosure of the identity of the accused was satisfactorily explained by the testimony of the eyewitness Ronald Lacay, viz.:

"xxx

Q: Why were you investigated again?

A: Because I told them the truth.

Q: How about in the first affidavit, did you tell them the truth?

A: I did not. Because I was afraid of the reprisal of Santiago Padoa." [15]

Delay of witness in reporting to police authorities the crime he had witnessed, when adequately explained, does not impair the witness' credibility, neither will it render his testimony biased, nor will it destroy its probative value. [16] The initial reluctance of witnesses to volunteer information about a criminal case and their unwillingness to be involved in criminal investigations due to fear of reprisal are common and judicially declared not to affect credibility. [17] Fear of reprisal not only from the accused but from the members of his family as well is a valid excuse for the momentary reticence of the victim and prosecution witnesses. [18] In the same way, the belated disclosure of minor Ronald Lacay as to the identity of the accused was adequately explained as his fear was overwhelming at that time.

More importantly, appellant's defense of denial, "framed-up" and alibi are all inherently or most frequently, weak defenses commonly rejected by trial courts. [19] Settled is the rule that the defenses of alibi and frame-up are easily fabricated but hard to prove. [20] Denial is a self-serving negative evidence that cannot be given greater weight than the declaration of credible witnesses who testified on affirmative matters. [21] Suffice it to state, appellant utterly failed to prove by convincing evidence that he was framed-up and that it was physically impossible for him to be at the scene of the crime at the time it was perpetuated. The records show that the house of Arnulfo Lacay (crime scene) was only about 30 to 50 meters from that of Sunny Padoa's, more or less the same distance from that of Alonso Elumbaring's [22], a distance that a mature man in reasonable health can traverse in minutes. [23] The trial court was correct in not giving credence to the defense.

Appellant alleged that treachery is absent because there is no proof as to how the killing started and the assailant's use of means to ensure the commission of the crime. We are not persuaded. Treachery is apparent in the case at bar. All indications show, the mode of attack was consciously and deliberately adopted by the accused to ensure the accomplishment of his criminal objective. [24] The Post-Mortem report disproved the absence of treachery. The deceased, soaked in his own blood, defenseless, and calling for help, weakened and dying, was still attacked, thus employing means to insure or afford impunity. [25] Eyewitness Ronald Lacay testified that he saw Sunny strike something on the victim. The trial court gave weight to Ronald Lacay's positive identification, and arrived at an inference that it was Sunny who inflicted the last blow which took away the last sound of life from Perlito. [26] Considering the prosecution's evidence on record, we find on balance that it was able to establish beyond reasonable doubt the culpability of accused-appellant for having committed the crime of murder. In *People vs. Asoy*, [27] we stated, viz:

"It is a fundamental legal aphorism that the conclusions of the trial judge on the credibility of witnesses command great respect and consideration especially when the conclusions are supported by the evidence on record, and will not ordinarily be disturbed or interfered with. The only exception to the rule is when the trial court plainly overlooked certain facts and circumstances of weight and influence which, if considered, will materially alter the result. Such exception does not exist in the case at bench."

ACCORDINGLY, the decision appealed from dated January 30, 1992, is hereby **AFFIRMED** in toto and the appeal is hereby **DISMISSED**.

SO ORDERED.

Regalado, (Chairman), Romero, Puno, and Mendoza, JJ., concur.

[1] Judgment, p. 109-126, Record.

- [2] Information, p. 1, Rollo.
- [3] Records, p. 51.
- [4] Judgment, p. 126, Records.
- [5] TSN, May 30, 1988, p. 5
- [6] People vs. Molas, 218 SCRA 473; People vs. Apolinario, 223 SCRA 94; People vs. Israel, 231 SCRA 155; People vs. Apa-ap, Jr., 235 SCRA 468.
- [7] Judgment, rollo, p. 26.
- [8] Records, Minutes, May 18, 1989, p. 34
- [9] TSN, May 19, 1989, pp. 3-4
- [10] People vs. Dupali, 230 SCRA 62.
- [11] People vs. Roluna, 231 SCRA 446.
- [12] People vs. Sarellana, 233 SCRA 31
- [13] People vs. Empleo, 226 SCRA 454.
- [14] People vs. Matildo, 230 SCRA 635.
- [15] TSN, Ronald Lacay, May 19, 1989, p. 9.
- [16] People vs. Mandapat, 196 SCRA 157.
- [17] People vs. Israel, 231 SCRA 155.
- [18] People vs. Junio, 237 SCRA 826.
- [19] People vs. Evangelista, 235 SCRA 247.
- [20] People vs. Lucero, 229 SCRA 1.
- [21] People vs. Carizo, 233 SCRA 687.
- [22] TSN, April 29, 1989.
- [23] TSN July 4, 1991. p. 5.
- [24] People vs. Ocana 229 SCRA 341.
- [25] Judgment, Rollo, p. 31.
- [26] Judgment, Rollo, p. 25.
- [27] G.R. No. 109764. December 29, 1995.

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.