

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. PABLO F. EMOY ALIAS “BUTONG” AND DOMINADOR F. EMOY ALIAS “OYE”, ACCUSED-APPELLANTS.

G.R. No. 109760. September 27, 2000

Ponente: PARDO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-109760/>

PARDO, J.:

Accused Pablo F. Emoy alias “Butong” and Dominador F. Emoy alias “Oye” appeal from the decision of the Regional Trial Court, Branch 19, Isulan, Sultan Kudarat finding them guilty beyond reasonable doubt of robbery with multiple homicide and frustrated homicide, the decretal portion of which reads as follows:

“WHEREFORE, upon all the foregoing considerations, the Court finds the accused, Pablo Emoy and Dominador Emoy, individually guilty beyond reasonable doubt of the crime of Robbery with Homicide.

“ACCORDINGLY, the Court hereby sentences the accused Pablo Emoy and Dominador Emoy:

“1) to suffer the penalty of reclusion perpetua;

“2) to indemnify the private offended victim, Mario Jatico, the amount of P20,000.00, jointly and severally, as moral damages; and the amount of P15,000.00 as exemplary damages;

“3) to indemnify the heirs of each of the deceased victims, Dominador B. dela Cruz and Salvador D. Javerle, Jr., jointly and severally, the amount of P20,000.00 each, as moral damages; and the amount of P15,000.00 each, as exemplary damages; and the amount of P50,000.00 each, as indemnify for death of each of the said victims; and

“4) to pay the costs.

“IT IS SO ORDERED.” [1]

On August 16, 1991, Provincial Prosecutor Emmanuel S. De Peralta of Sultan Kudarat charged Pablo F. Emoy alias “Butong” and Dominador F. Emoy alias “Oye”, with robbery with multiple homicide and frustrated homicide, under the following information:

“That in the morning of April 30, 1991, at the Sitio Danu, Barangay Sabanal, Municipality of Kalamansig, Province of Sultan Kudarat, Philippines, and within the jurisdiction of this Honorable Court, the said accused, armed with firearms, in company with thirteen (13) unidentified fully armed men, conspiring, confederating together and mutually aiding one another, with intent to gain and by means of force and violence, did then and there, willfully, unlawfully and feloniously, take, carry away two (2) radio transceiver sets; One (1) armalite M203 Rifle belonging to M and S Logging company, Inc. with aggregate value of Ninety thousand pesos (P90,000.00), Philippine Currency to the damage and prejudice of the said owner in the aforementioned amount; that by reason or on the occasion of the robbery, the accused, with deliberate intent to kill, willfully, unlawfully and feloniously, attack, assault/ambush a service jeep Land Rover with Plate No. 659 which resulted to (sic) the deaths of Dominador De La Cruz, Salvador Jaberle and Jonathan Lanchico, and seriously

wounding Mario Jatico which ordinarily would cause his death, thus performing all the acts of execution which should have produced the crime of homicide as a consequence thereof, but which nevertheless did not produce it by reason of causes independent of the will of the accused, that is, by the timely and able medical assistance rendered to said Mario Jatico which prevented his death.

“CONTRARY TO LAW, particularly Article 294 of the Revised Penal Code of the Philippines, with the aggravating circumstance of treachery and by a band.

“Isulan, Sultan Kudarat, Philippines, August 16, 1991.”[2]

Upon arraignment, on September 5, 1991, accused pleaded not guilty.[3] Trial on the merits ensued.

On April 30, 1991, at around 10:30 in the morning, Melanio Lagasan[4] was at Km. 37, Sitio Sabanal, Kalamansig, Sultan Kudarat, looking for Amay Saway. Lagasan was walking along the road going towards the “poblacion” of Sabanal coming from Salangsang. He wanted to see Saway as the latter expressed interest in buying his carabao. While walking, Lagasan heard shots. Looking towards the direction of the shots, he saw a number of men from behind a pile of logs and using long firearms shooting at a service jeep land rover.[5] Lagasan was about forty (40) meters away from the ambush scene, and the assailants were about four (4) to five (5) meters away from the truck. Scared, Lagasan laid down on the ground. The service jeep land rover careened to the canal and came to a stop in a slanting position. Not to long after the firing ceased, accused Pablo F. Emoy alias “Butong” called out to his companions, among them accused Dominador F. Emoy alias “Oye”. Lagasan saw both accused armed with long firearms.[6]

Accused Pablo F. Emoy entered the truck from the rear and unloaded a sack while accused Dominador F. Emoy remained standing beside the truck. The rest of their companions stood guard. Fearing that accused and their companions might see him, Lagasan surreptitiously left the place by passing through the forest. The following day, Lagasan learned that among the victims of the ambush was Dominador de la Cruz, one of the passengers in the truck and the manager of the logging company. Two weeks later, Lagasan reported what he had witnessed to Commander Verman of the CAGU. Since the incident, Lagasan did not see accused again, until the day he testified in court.[7]

Mario Jatico, the driver of the service jeep land rover who survived the ambush testified that, on April 30, 1991, at around 10:00 in the morning, he was driving the service pick-up jeep of M and S Logging Company, at Barrio Salangsang on the way to the nursery. On board the jeep were Dominador de la Cruz, the resident manager, Salvador Divinagracia, “Dodong” Jaberlie, a concession guard, and two boys who hitched a ride.[8]

Nearing the vicinity of Km. 37, Jatico passed by a person who was walking along the road. After some thirty to forty meters, their vehicle was fired upon with rapid gunfire coming from the left side of the road. Jatico was hit on his head, left thigh and abdomen. When the jeep was hit, it careened to the right side of the road. Jatico heard a shout coming from behind the jeep, as if somebody was calling for someone. He peeped through the shattered rear windshield of the jeep and saw accused, who were armed with long guns, approaching the jeep. As the two neared the jeep, Jatico pretended to be dead. Soon thereafter, one of them started to ransack the contents of the jeep. One boarded the jeep, passed the loot consisting of two (2) radio transceivers, a sack of rice, another sack containing rice and fish and two (2) firearms, to the other person outside the jeep. After looting the jeep, accused and their companions left the place and fired a shot in the process. Later, reinforcement made up of guards of the M and S Logging Company arrived at the scene and brought Jatico to Poblacion Kamalig. Afterwards, he was brought to Cotabato and then Davao City for medical treatment.[9]

Captain Severino G. Felipe testified that he was the commanding Officer of 455th PC Company, whose area of responsibility includes the municipalities of Lebak, Kalamansig, and Palimbang. On April 30, 1991, his driver

notified him of the ambush that took place at Sitio Danu, Sabanal, Kalamansig, Sultan Kudarat. Upon being informed about the incident, Captain Felipe organized his men and proceeded to the place of the incident. They arrived thereat at around one o'clock in the afternoon of the same day. There they saw a land rover jeep with bloodstains. They also saw some fifty (50) empty bullet shells of armalite and carbine scattered about five (5) meters away from the jeep.[10]

Captain Felipe and his men conducted an on the spot investigation. He conferred with the officer-in-charge of the security force of M and S Logging Company present at the scene of the incident. He was informed that the radio transmitter and their firearms, one M-23 and a baby armalite were lost in the ambush. Captain Felipe came to know that the fatalities in the ambush were the M and S Logging Company Manager and his escorts.[11]

Upon further investigation, Captain Felipe and his men were able to gather three witnesses, namely: Pepito Muadas, Bawe Muadas and Milanio Lagasan. After the statements of the witnesses were taken by Sgt. Milquides Valencia and T/Sgt. Demisio Cabrera, on May 27, 1991, Captain Felipe filed a criminal complaint[12] with the First Municipal Circuit Trial Court of Lebak-Kalamansig, Sultan Kudarat against the accused Pablo F. Emoy alias "Butong" and Dominador F. Emoy alias "Oye", for robbery in band. A warrant for the arrest[13] of the accused was issued on June 14, 1991 by Judge Isaias P. De Peralta of the Municipal Circuit Trial Court, Lebak-Kalamansig, Sultan Kudarat. On June 17, 1991, accused signed a waiver of preliminary investigation,[14] and asked that the case be elevated to the Regional Trial Court, Branch 19, Isulan, Sultan Kudarat. On June 19, 1991, RTC Judge Isaias P. De Peralta issued an order[15] to forward the case to the Provincial Prosecutor, Isulan, Sultan Kudarat for the filing of an Information.

At the trial, accused put up the defense of alibi. Dominador F. Emoy claimed that on April 30, 1991, he was at home because his wife Isabel Emoy gave birth and that she was assisted by Sangama Paguirigan[16] and Cristina Paguirigan, who was a midwife. His wife gave birth at around 8:00 in the morning and after which he washed the dirty linens used during the birth of their child. It was around 11:00 o'clock when he finished washing the linens at a nearby spring.[17] To corroborate said statement of accused Dominador F. Emoy, Sangama Paguirigan testified that he was indeed at the house of Dominador F. Emoy together with his wife since April 29, 1991, because he was collecting money from Dominador F. Emoy. He and his wife stayed on up to the morning of April 30, 1991, because Isabel Emoy was having stomach pains and was in labor. Isabel Emoy gave birth at around 8:00 in the morning and they stayed on at the house of Dominador F. Emoy up to 11:00 in the morning of that day, April 30, 1991. Pablo F. Emoy, brother of Dominador F. Emoy, was at the house of Dominador on April 30, 1991.[18]

To bolster their alibi, Isabel Emoy, the wife of Dominador F. Emoy, testified that she gave birth to their child at around 8:30 in the morning of April 30, 1991, and it was her husband Dominador F. Emoy, Sangama Paguirigan and Cristina Paguirigan, a "hilot", who assisted her. They also presented the birth certificate of Mark Emoy, the child who was born on April 30, 1991. She further testified that her husband together with his brother Pablo Emoy was at their house at Midtodok, Salangsang, Lebak, Sultan Kudarat in the morning of April 30, 1991.[19]

The defense also presented Barangay Captain Tenorio Malvaran[20] of Salangsang, Lebak, Sultan Kudarat, who testified that prosecution witness Melanio Lagasan could not have seen the ambush incident at Km. 17, Sitio Danu, Barangay Salangsang, Sultan Kudarat on April 30, 1991, because he saw Melanio at around 10:30 in the morning at his house at Barangay Salangsang, while the jeep that Brgy. Capt. Malvaran was riding on passed by the house of Melanio Salangsang. He further provided information that the family of the Emoys and the Lagasan are relatives by affinity but were not in good terms because Melanio Lagasan attempted to get the land of the Emoy family and took advantage of the ignorance of the Emoy brothers, not being educated.

Dominador F. Emoy took the witness stand and testified that at the time of the ambush he was with his wife Isabel who was giving birth and his brother Pablo was at his farm holding a “pintakasi.” He further testified that he and his brother were arrested without any warrant on May 20, 1991, and a warrant was issued on June 14, 1991.

On January 29, 1993, the trial court rendered a decision, the dispositive portion of which is quoted in the opening paragraph of this opinion.

Hence, this appeal.[21]

The accused-appellants imputes the following errors to the trial court:

- The trial court failed to appreciate the unbiased testimony of defense witnesses Isabel Emoy, Dominador Emoy and Pablo Emoy;
- The trial court gave too much weight on the incredible testimonies of prosecution witnesses Mario Jatico, Melanio Lagasan and Captain Severino Felipe, despite inconsistencies in their statements;
- The trial court failed to consider that accused were illegally arrested; and
- The prosecution failed to prove beyond reasonable doubt the guilt of accused-appellants.[22]

Accused-appellants rely on alibi as their defense. And to support their claim, they presented several witnesses, namely; Isabel Emoy, Dominador Emoy, Pablo Emoy, Sanggama Paguirigan and Barangay Captain Tenorio Malvaran. A careful scrutiny of the testimonies of the witnesses reveals that they were replete with inconsistencies and unbelievable statements. Take for example the testimony of Isabel Emoy. She said that she gave birth on April 30, 1991, and her husband Dominador Emoy was present during the delivery of their child. Since they are “tirurays”, her husband by custom needed to be present during her delivery to wash the dirty linen used in giving birth. However, the baby was registered with the local civil registry only on August 5, 1991.[23]

She further testified that her husband was arrested while plowing the field.[24] However, Dominador F. Emoy testified that he was arrested at their house.[25]

To make things appear more credible, the witness Sanggama Paguirigan testified that he was with Isabel Emoy at the time the latter gave birth for his wife Cristina was a “hilot” and that he was at the house of accused starting in the morning of April 29, 1991, up to the morning of April 30, 1991 for he was collecting from Dominador the amount of P300.00 which the latter owed him. However, when he was asked by the court how he knew that it was April 30, 1991, he replied: “I do not know about that but I was told by the wife of Dominador that at that time when we visited them it was that date, month and year, sir.”[26] This statement does not deserve credence. Taken all together, the testimonies of Isabel Emoy and Sanggama Paguirigan are incredible.

The testimony of defense witness, Tenorio Malvaran, is another incredible tale. He testified that Melanio Lagasan could not be at the crime scene to witness the ambush because the latter was still at his house at around 10:30 in the morning of April 30, 1991. Tenorio Malvaran testified that:

“Q. On April 30, 1991 at around 10:30 A. M. do you remember where were you?

“A. In the morning of April 30, 1991, I went to Lebak and on the road I saw Melanio Lagasan standing near the house.

“Q. How far was Melanio Lagasan from you when you saw him?

“A. More or less 40 meters sir.”[27]

However, on cross-examination, Tenorio Malvaran was asked:

“Q. What time did you leave your house on April 30, 1991?

“A. At about 10:40, sir.”[28]

On further questioning by the trial court, Tenorio Malvaran revealed that he did not even know what day was April 30, 1991.[29] Also, his statements were inconsistent with one another. He stated that:

“Q. You mean that you do not know that an ambush incident involving employees of the M and S happened in a place within the barangay of Salangsang sometime on April 30, 1991?

A. I learned later of the incident when the two accused were already arrested sometime on May 20, 1991.”[30]

x x x

“Q. When did you came to know of the incident in question?

A. That was the time when I came from Lebak, That was on May 1, 1991, your honor.”[31]

“Alibis are generally considered with suspicion and are always received with caution, not only because they are inherently weak and unreliable, but also because they can easily be fabricated. Ergo, for alibi to serve as basis for acquittal, the accused must establish by clear and convincing evidence (a) his presence at another place at the time of the perpetration of the crime and (b) that it would be physically impossible for him to have been at the scene of the crime.”[32]

The accused-appellants advance the argument that the trial court put too much weight in the testimonies of Melanio Lagasan and Mario Jatico, even though there were inconsistencies in their statements. The alleged inconsistencies pointed out by the accused-appellants were the statements of Mario Jatico and Melanio Lagasan as to the direction from where the shots were fired. According to Melanio Lagasan, he saw accused-appellants with some other men firing their armalite rifles at the pick-up vehicle from behind the logs, whereas Mario Jatico said the shots were coming from the left rear side of the vehicle.

However, this disparity may be attributed to the different vantage points from which the witnesses observed the event. Melanio Lagasan was at the back of the pick-up vehicle, whereas Mario Jatico was at the driver’s wheel of the vehicle. Surely, their point of view and reference would vary. This is an inconsistency that is negligible and does not affect the veracity and truthfulness of the accounts of the eyewitnesses. The important portion of their testimonies is that they both identified accused-appellants Dominador F. Emoy and Pablo F. Emoy as the individuals who opened fire at the pick-up van.

We have held in a series of decisions that “not all inconsistency of a witness render the witness’ testimony unworthy of credence. Verily, inconsistencies on minor details reinforce rather than weaken credibility.”[33]

Also the defense failed to prove that the witnesses for the prosecution had ill motives against accused-appellants. Their allegation that Melanio Lagasan wanted them to be convicted so the latter could take their land was not substantiated. The defense failed to prove that Mario Jatico was animated by ill motives to testify against accused-appellants. “Where the defense fails to prove that witnesses are moved by improper motives, the presumption is that they were not so moved and their testimonies are therefore entitled to full weight and credit.”[34]

As to the allegation that accused were illegally arrested and therefore entitled to an acquittal, the claim is totally untenable. Such illegality of the arrest was cured after accused pleaded during the arraignment. The illegality of the arrest should have been raised before arraignment. We have held in a number of decisions that “the illegal arrest of an accused is not sufficient cause for setting aside a valid judgment rendered upon a sufficient complaint after trial free from error; such arrest does not negate the validity of the conviction of the accused. It is much too late in the day to complain about the warrantless arrest after a valid information had been filed, the accused

arraigned, trial commenced and completed and a judgment of conviction rendered against him.”[35]

In a last ditch effort to exculpate themselves, accused-appellants invoked the catch-all argument that their guilt had not been established beyond reasonable doubt. We are not convinced.

All the foregoing circumstances and testimonies point to one inescapable conclusion, that is, accused-appellants planned the robbery to attain which, they committed multiple homicide and frustrated homicide. Accused-appellants positioned themselves on the road and upon seeing the vehicle pass, opened fire on it and immediately looked for things to loot from the vehicle. Their actions indubitably prove that they were interested on what they can take from the vehicle. If their primary intention were to kill the passengers, they would have checked on the passengers if they were alive or dead. This was the reason why the driver Mario Jatico escaped the ambush alive. Their defense of alibi would not stand against their positive identification not only by one but by two eyewitnesses. “Positive identification, where categorical and consistent without any showing of ill-motive on the part of the eyewitnesses testifying on the matter, prevails over alibi and denial which, if not substantiated by clear and convincing evidence, are negative and self-serving evidence undeserving of weight in law.”[36]

WHEREFORE, the Court AFFIRMS the appealed decision finding accused-appellants Pablo F. Emoy alias “Butong” and Dominador F. Emoy alias “Oye” guilty beyond reasonable doubt of the special complex crime of robbery with homicide, defined and penalized under Article 294 (1) of the Revised Penal Code,[37] and sentencing each of them to reclusion perpetua, with MODIFICATION. In accordance with prevailing jurisprudence, the death indemnity for the heirs of each of the deceased victims is hereby increased to fifty thousand pesos (P50,000.00), and the award of moral damages is also increased to fifty thousand pesos (P50,000.00).[38]

With costs.

SO ORDERED.

Puno, Kapunan, and Ynares-Santiago, JJ., concur.

Davide, Jr., C.J., (Chairman), vote to convict them for three crimes of murder, frustrated murder, and theft.

[1] Judgment, Judge German M. Malcampo, presiding, RTC Record, pp. 88-116.

[2] RTC Record, Information, pp. 31-32.

[3] RTC Record, Certificate of Arraignment, p. 36.

[4] Also spelled as Milanio in some of the pleadings.

[5] Some of the witnesses call it van, pick-up, truck.

[6] TSN, February 18, 1992, pp. 6-7.

[7] TSN, February 18, 1992, pp. 8-11.

[8] TSN, February 20, 1992, p. 4-5.

[9] TSN, February 20, 1992, pp. 5-8.

[10] TSN, January 21, 1992, pp. 2-3.

[11] Ibid., pp. 3-4.

- [12] RTC Record, Criminal Complaint, p. 6.
- [13] Ibid., p. 7.
- [14] Ibid., p. 29.
- [15] Ibid., Order, p. 30.
- [16] Also spelled as Sanggama Pagilidan.
- [17] TSN, March 10, 1992, pp. 5-6.
- [18] TSN, March 10, 1992, pp. 3-4.
- [19] TSN, March 5, 1992, pp. 2-4.
- [20] Also spelled as Malbaran.
- [21] Notice of Appeal, Rollo, p. 48.
- [22] Appellants' Appeal Brief, Rollo, pp. 85-107, at p. 93.
- [23] Original Record, Certificate of Live Birth, Exhibit 1, p. 75.
- [24] TSN, March 5, 1992, p. 4.
- [25] Ibid., p. 14.
- [26] TSN, March 3, 1992, p. 3.
- [27] Ibid., p. 5.
- [28] Ibid., p. 8.
- [29] TSN, March 3, 1992, p. 9.
- [30] Ibid., p. 11.
- [31] Ibid., p.12.
- [32] People vs. Orlie Sultan and Salik Amino, G. R. No. 130594, July 5, 2000, citing People vs. Suelto, G. R. No. 126097, February 8, 2000.
- [33] People vs. Salvador Villar, G. R. No. 127572, January 19, 2000; See also People vs. del Prado, 110 Phil. 1034 [1960] ; People vs. Modelo, 35 SCRA 639 [1970] .
- [34] People vs. Orlie Sultan and Salik Amino, supra, Note 32, citing People vs. Galido, G. R. No. 128883, February 22, 2000.
- [35] People vs. Cabiles, 284 SCRA 199-217, 210 [1998] , citing People vs. Lopez, Jr., 245 SCRA 95 [1995]; People vs. Manzano, 248 SCRA 239 [1995] ; People vs. Timon, 281 SCRA 577-599, 597 [1997] .
- [36] People vs. Edison Arellano, G. R. No. 122477, June 30, 2000.
- [37] Before its amendment by R. A. No. 7659, on December 31, 1993.
- [38] People vs. Fegidero, G. R. No. 113446, August 4, 2000, citing People vs. Cotas, G. R. No. 132043, May 31, 2000.

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.