

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
BUENAVENTURA BATIDOR ALIAS “TORA,”
ACCUSED-APPELLANT.**

G.R. No. 126027. February 18, 1999

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

In rejecting this appeal, the Court reiterates the well-settled doctrine that the credible testimony of a single trustworthy witness is sufficient to convict the accused, even on a charge of murder.

The Case

On April 4, 1995, an Information[1] was filed before the Regional Trial Court of Mati, Davao Oriental, charging Buenaventura Batidor @ "Tora" with murder allegedly committed as follows:

"That on or about January 2, 1995, in the Municipality of Mati, Province of Davao Oriental, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, armed with a gun, with treachery and evident premeditation and with intent to kill, did then and there wilfully, unlawfully and feloniously attack, assault and shoot with said weapon one Donato Asis, thereby inflicting upon the latter wounds which caused his death."[2]

On July 11, 1995, Appellant Batidor, assisted by his counsel Alejandro Aquino, entered a plea of not guilty.[3] Trial on the merits ensued. The trial court promulgated its assailed eleven-page Decision dated April 30, 1996, the dispositive portion[4] of which reads:

"WHEREFORE, the Court finds the accused Buenaventura alias "Tora" Batidor guilty beyond reasonable doubt of the crime of [m]urder defined and penalized under Article 248 of the Revised Penal Code, as amended, and hereby sentences him to suffer the penalty of RECLUSION PERPETUA with the accessory penalties provided by law, to indemnify the heirs of the victim Donato Asis the sum of fifty thousand pesos (P50,000.00), without subsidiary imprisonment in case of insolvency, and to pay the costs of the proceedings."[5]

Hence, this appeal direct to this Court in view of the penalty imposed.[6]

The Facts

According to the Prosecution

The prosecution presented two witnesses: Maria Lourdes Asis, the widow of the deceased Donato Asis; and Blenvenido Pagutlan, a neighbor of the victim.

The trial court summarized the facts presented by the prosecution as follows:

"The first prosecution witness, Bienvenido Pagutlan xxx declared that [o]n the morning of January 3, 1995, while he was working in the yard of his house located along the road at Sitio Wisdom, Barangay Tagbinonga,

Mati, Davao Oriental, two persons, namely, Tora Batidor, the herein accused, and Edgar Conlabong passed by; that he told them, "Bro. our neighbor is already dead [--] "Atoy" (referring to Donato Asis, victim herein); that Tora Batidor said "Yes, he is dead" ("patay lagi") [and] that he (witness) was surprised upon hearing these words from the accused; that Donato Asis is a resident of Sitio Cabuyao, also of Barangay Tagbinonga; and that he knows the herein accused.

"The second prosecution witness Maria Lourdes Asis, widow, housekeeper and residing at Barangay Tagbinonga, Mati, Davao Oriental, declared that the deceased Donato Asis was her husband, [and that] they hav[e] four children xxx that on the evening of January 2, 1995, she and her husband Donato were taking supper in their house situated at Sitio Cabuyao, Tagbinonga, Mati, Davao Oriental; that their children were already asleep; that at about 7:30 in the evening while she and her husband Donato were facing each other eating on the table, she heard [a] gunburst after having three spoonful[s]; that upon hearing the gunshot she turned her face to the wall where the shot came from, and that her husband fell down bathed in his own blood; that she saw the accused Tora Batidor through the railing in the kitchen; that she kept on crying and asked for help and she heard the noise of the pig placed underneath the house; that her brothers-in-law, namely: Ruel, Edwin and Francisco, all surnamed Asis, arrived and also the CVO, Noel Mating, Carling Manlabian and Boy Gumbang, and the purok president, Abundio Pandasal, arrived; that she fainted ; that the barangay captain said because it was already nighttime, he advised her to wait till morning and the following morning, the incident was reported by her in-laws to the authorities; that at about 10:00 o' clock in the morning of January 3, 1995, the dead body of her husband was brought to the funeral parlor in Mati and that a certificate of death (Exh. "A") was issued evidencing the death of her husband.

"Witness further testified that she [knew] the accused Tora Batidor because he is the brother of her "Bilas" Lydia, who was married to Ricardo Asis, brother of her husband Donato Asis."[7]

According to the Defense

The defense posited the theory of denial and alibi, presenting as witnesses appellant himself, Buenaventura Batidor alias "Tora," and SPO2 Rolando Santiago, the police officer tasked to investigate the shooting incident.

The trial court summarized the defense evidence as follows:

"The accused Buenaventura "alias Tora" Batidor, 25 years old, single, farmer and residing at Sitio Doles, Barangay Tagbinonga, denied the charges and declared that he was a resident of Barangay Tagbinonga, having been born there, living with his mother at Sitio Doles; that on the evening of January 2, 1995, he was at Sitio Doles with his brother Dominador Batidor, which is about one (1) kilometer away from Barangay Tagbinonga; that Sitio Cabuyao, the residence of the victim herein, is about six (6) kilometers from the poblacion of Tagbinonga and that [the distance] from Cabuyao to Doles is about seven (7) kilometers; [on the] that evening of January 2, 1995, he was at the house of his brother at Sitio Doles; that he went to bed at about 8:00 o' clock in the evening having had supper at about 6:00 o'clock and between 6:00 [and] 8:00 in the evening, he was playing guitar with his nephew; that he woke up [o]n the morning at about 5:30 of January 3, 1995, took his breakfast but left the house at 10:00 o' clock in the morning, going to Tagbinonga to the house of his elder brother Victorino, located at Sitio Wisdom; that before reaching the house of Victorino, he passed by the house of Serapina Batasi, located at lower Doles before reaching Wisdom; that his companion was his nephew Edgar Conlabong; that at Wisdom, he met prosecution witness Bienvenido Pagutlan who told him that there was an incident at Sitio Cabuyao and accused answered him, yes, there [was]; and that Donato Asis was shot at Sitio Cabuyao; that he answered "patay lagi" in the presence of Edgar Canlabong; that he came to know of the incident from Serapina Batasi who told them about it; that from the house of Bienvenido, he proceeded to the house of his brother and arrived at Wisdom at 11:00 o' clock in the morning and stayed there until the evening; that on January 4, 1995, he left the house of Victorino at about 9:00 o' clock in the morning, and proceeded to Mapantad, Mati, Davao Oriental, to the house of Lydia Batidor, his sister, and the widow of the late Ricardo Asis, the elder brother of Donato Asis; that he has been staying at Mapantad attending to the children of his sister Lydia and Ricardo but he celebrated his New Year at Tagbinonga; and that at about 11:00 o' clock on

January 12, 1995, he was picked up by the police in the house of [his] sister Lydia, and brought to the Mati Police Station where he was detained until the present.

"Defense presented witness SPO2 Rolando Santiago who declared that he was an investigator of the Mati Police and he met the accused in his office on January 12, 1995, having been turned over to the police station by PO3 Cadungong, detachment commander of Tagbinonga, as one of the suspects in the killing of Donato Asis; that as Investigator he proceeded to the house of the victim Donato Asis in Sitio Cabuyao, Tagbinonga, [o]n the morning of January 3, 1995, together with SPO4 Romeo Balugo and PO2 Tahore to investigate the incident resulting in the death of Donato Asis; that arriv[ing] thereat, he saw only Maria Lourdes Asis and [her] children crying, and he asked Maria Lourdes who killed her husband but Maria Lourdes did not answer; that he conducted the investigation about thirty (30) minutes and thereafter submitted the spot report, and further investigation was conducted [after being] delegated to PO3 Cadungong.

"In addition, accused presented Exh. "1" - excerpts of the police blotter; "2" [-] Compliance with the Motion to Dismiss and preliminary examination in C.C. 7489; "2-A" to "2-C".[8]

In his seven-page Brief,[9] Appellant Batidor denied that he was responsible for the death of Donato Asis and presented the following facts:

"On the evening of January 2, 1995, at around 7:30 o' clock, victim Donato Asis was shot to death in their house at Cabuyao, Tagbinonga, Mati, Davao Oriental, while taking supper on the table with his wife, Ma. Lourdes Asis, while their children were already asleep. After the incident on [the] same evening, some relatives and barangay officials arrived, but it was only on the following day (Jan. 3, 1995 at around 10:00 o' clock) that the dead body was brought to the funeral parlor of Mati, Davao Oriental. It was also on January 3, 1995 that SPO2 Rolando Santiago and his men went to the scene of the incident to investigate the same. For the period of January 3, 1995 to January 12, 1995, records in the police station show that four to five persons were arrested as suspects for the death of Donato Asis. Accused was not among them. It was only on January 12, 1995 that accused was unlawfully arrested, and thereafter, charged before the court."[10]

Ruling of the Trial Court

In finding the appellant guilty of murder, the court a quo gave full faith and credence to the testimony of the victim's wife in this wise:

quot;The Court, after a conscientious evaluation of the categorical testimony of the widow Maria Lourdes Asis, is fully convinced and morally certain that it is accused herein who shot the deceased Donato Asis in the manner testified to by said witnesses.

"Maria Lourdes Asis, the widow, having positively and categorically identified the accused as the malefactor negates the necessity for establishing motive for the killing of the victim. No evidence has been adduced that her testimony [was] motivated by ill will or any other dubious cause. Hence, she falls within the doctrine repeatedly laid down that the fact that the principal witness [was] the victim's wife even [lent] credence to her testimony. Her natural interest in securing the conviction of the guilty would deter her from implicating persons other than the culprits, for otherwise the latter would thereby gain immunity (People vs. Vilialobos, et. al., 209 SCRA 304). That relationship does not ipso facto impair the credibility of the witness. (People v. Tinampay, et. al. 207 SCRA 405)."[11]

That Maria Lourdes Asis had identified the appellant as the culprit only after ten days since the killing of her husband was of no moment, as the lower court was satisfied with her explanation.

"On the witness stand, the widow Maria Lourdes Asis reiterated and affirmed under long and rigorous cross-examination that it was the accused Tora Batidor whom she saw shoot her husband. She explained that she was not able to reveal to the police on January 3, 1995 the identity of the culprit because of her state of mind.[12]

xxx xxx xxx

"It has been held that the lapse of a considerable length of time before a witness comes forward to reveal the identity of the assailant does not taint the credibility of the witness and her testimony. In *People vs. Dominguez, et. al.* (217 SCRA 170), the court explained the settled doctrine that delay on the part of witnesses in informing the authorities of what they know about the occurrence of a crime will not, by itself, affect their credibility where such delay is satisfactorily explained.

"In the case at bar, the failure of the widow to reveal to investigator Santiago on January 3, 1995 the day after the incident, has been explained by her. Such explanation is indeed understandable. She reiterated however that on January 4, she already revealed to Santiago but was advised to bury first her husband as she was then rattled." [13]

The Assigned Errors

Appellant Batidor assigns the following errors to the trial court:

- "1. That the trial court erred in giving credence to the testimony of Ma. Lourdes Asis;
- "2. That the trial court erred in convicting the accused despite the uncorroborated testimony of Ma. Lourdes Asis;
- "3. That the trial court erred in disregarding the testimony of Accused Tora Batidor;
- "4. That the court erred in disregarding the testimony of Defense Witness SPO2 Rolando Santiago." [14]

This Court believes that the resolution of this appeal hinges on the credibility of the victim's widow, Maria Lourdes Asis, upon whose testimony Appellant Batidor was convicted. This will be discussed as the first issue, while the sufficiency of the evidence for the prosecution will be dealt with as the second.

The Court's Ruling

The appeal is devoid of merit.

First Issue:

Credibility of Witnesses

Well-entrenched is the rule that findings of the trial court as to the credibility of witnesses are accorded great weight, even finality, on appeal, unless the trial court has failed to appreciate certain facts and circumstances which, if taken into account, would materially affect the result of the case. Having had the opportunity to personally observe and analyze their demeanor and manner of testifying, the trial judge is in a better position to pass judgment on their credibility. [15] After a meticulous scrutiny of the records of the present case, this Court finds no reason to differ from the conclusions of the trial court or to ascribe errors to its factual findings.

Appellant Batidor contends that the trial court should not have given credence to the testimony of Maria Lourdes Asis identifying him as the assailant. Arguing that this witness' testimony was "contrary to common experience and human nature," he points to the fact that it took her ten days to reveal his identity as the assailant of her husband, despite the opportunity to do so earlier, as well as the arrest of several suspects whom she had named as having had some misunderstanding with her husband regarding their land. [16] Appellant finds it odd that while the widow had furnished police investigators their names when she was questioned a day after her husband's death, she was not able to reveal the identity of her husband's killer on the same occasion. This, appellant asserts, was an indication that there was "uncertainty in the identification of the culprit, contrary to the allegation of the widow that she knew the accused as the one who shot her husband to death." [17]

True, the appellant was identified by the victim's widow only ten days after her husband's death. Likewise, both

her testimony and that of SPO2 Rolando Santiago indicate that while the latter questioned her on January 3, 1995, she did not reveal who was responsible for her husband's death; yet, she gave out the names of the persons with whom her husband had had some discord.

The foregoing circumstances, however, do not negate the subsequent identification of the appellant as the assailant of Donato Asis. That Maria Lourdes did not reveal appellant's identity to SPO2 Santiago on January 3, 1995, or to anyone at all, was due mainly to her mental and emotional state at that time. Indeed, the aforementioned police officer averred that Mrs. Asis, on said date, was quite hysterical. SPO2 Santiago testified thus:[18]

"Q Who were present when you arrived in the house?

A The wife of Donato Asis.

Q Aside from her?

A The children.

Q

Were there adults?

A It was only Maria Lourdes Asis and her children who were crying.

xxx xxx xxx

Q When was the first time Maria Lourdes Asis went to the police station?

A January 3, 1995.

Q Did you not ask the victim's widow to describe the suspect?

A

I did not, because she was hysterical.

xxx xxx xxx"

Her discomfiture and incoherence were understandable, considering that she had just tragically lost her husband. This circumstance should not be taken against her. Furthermore, it has been held that the lapse of a considerable length of time before a witness comes forward to reveal the identity of the assailant does not taint the credibility of the witness and his testimony, especially when, as in the present case, there were valid reasons for such delay.

In her affidavit and on the witness stand, Mrs. Asis' identification of the appellant was resolute, as can be gleaned

from her testimony:

"xxx xxx xxx

Q While you were eating, can you tell this Honorable Court what unusual incident xxx took place in your house?

A Yes, sir.

Q Can you tell this Honorable Court what was that unusual incident?

A

At 7:30 in the evening, I was eating, together with my husband, [we were] facing each other and after I ha[d] taken three spoonfuls, I heard a shot and when I turned my face to the wall where the shot came from, I saw Batidor and I saw my husband [fall] down, already bathed in his own blood.

xxx xxx xxx

Q And you also [mentioned] that you [heard] a gunburst from the walls of your kitchen, can you tell this Honorable Court of what materials were your walls made?

A The walling is made up of bamboo slits and there are railings, half of it.

Q You said you saw this Tora, where did you see this Tora Batidor?

A I saw him through the railings of the kitchen.

xxx xxx xxx

Q Is it not that at that time, it was dark, how were you able to identify him?

A Because there was a light in our sala.

xxx xxx xxx [19]

The widow was able to identify the appellant because right after her husband was shot, she saw, through the bamboo railings of their kitchen, the appellant holding a gun. She saw him because she was facing her husband, Donato, at the dinner table, which was about a meter away from the railings. There was a gasera between them, and another one in their sala,[20] which was adjacent to their kitchen. In other words, the circumstances were such that she could see whoever was behind her husband, especially right after the latter had fallen to the ground.

The assertion of Mrs. Asis that she saw the appellant through the spaces between the bamboo railings was further

bolstered by SPO2 Santiago, who testified that the table where the victim was seated when he was shot was near the wall where the gunshots emanated,[21] and that there was a big hole in that wall, thereby enabling a person inside the house to see anyone outside.[22]

True, a scrutiny of the transcript of stenographic notes would reveal seemingly inconsistent statements from Mrs. Asis, but these are minor details that do not at all affect the essence of her testimony -- that it was Appellant Batidor who had shot her husband.

That the witness was the wife of the accused does not automatically impair her credibility, for as the Court has held, "Mere relationship of a witness to the victim does not automatically impair his credibility and render his testimony less worthy of credence where no improper motive can be ascribed to him for testifying. Rather, the witness' relationship to the victim, far from rendering his testimony biased, would even make it more credible as it would be unnatural for a relative who is interested in seeking justice for the deceased to accuse somebody other than the real culprit." [23]

Second Issue:

Sufficiency of Prosecution Evidence

It is axiomatic that in criminal cases, the prosecution has to prove the guilt of the accused beyond reasonable doubt. Indeed, by constitutional fiat, the burden of proof falls on the prosecution.[24] Thus, a finding of guilt must rest on the strength of the prosecution's own evidence, and not on the weakness or absence of evidence for the defense.[25]

We hold that the prosecution has proven the guilt of Appellant Batidor with moral certainty. The People's case against the appellant is anchored on the testimony of his widow, Maria Lourdes Asis, who identified him as the killer. All things considered, her testimony was credible and guileless, enough to sustain a judgment of conviction. For indeed, the testimony of a single witness, if positive and credible, is sufficient to convict the appellant, even in a murder charge.[26]

Alibi as a Defense

Appellant firmly denies the charge against him, insisting that he was in another place at the time of its commission. The Court has consistently held that the defense of alibi is considered with suspicion and always received with caution, not only because it is inherently weak and unreliable, but also because it can be fabricated easily. For such defense to prosper, it must be convincing enough to preclude any doubt about the physical impossibility of the presence of the accused at the locus criminis or its immediate vicinity at the time of the incident.[27] In the present case, Sitio Doles, the place where appellant claimed to have been at the time of the killing, was just a kilometer away from the scene of the crime. Also, jurisprudence teaches that alibi cannot prevail over the positive identification of the appellant by a credible witness who has no motive to testify falsely.[28]

The Crime

The crime committed was murder. As alleged in the Information, the killing of Donato Asis was qualified by treachery. Treachery exists when any of the crimes against persons is committed with the employment of means, methods or forms that tend directly and especially to insure its execution, such that the offender faces no risk that may arise from the defense which the offended party might make.[29] In the present case, it is obvious that the victim was caught off guard by the unexpected attack of the appellant -- he was eating supper with his wife when he was shot from behind; he had no inkling of the fate that would befall him; and there was no way he could have defended himself from appellant's treacherous attack.

However, the prosecution was not able to prove evident premeditation. It is settled that for this circumstance to be appreciated, there must be proof, as clear as that of the killing, of the following elements: (1) the time when the offender determined to commit the crime, (2) an act manifestly indicating that he clung to his determination, and (3) a sufficient lapse of time between determination and execution to allow himself time to reflect upon the consequences of his act.[30] None of these elements was proven.

The award of P50,000 indemnity ex delicto is consistent with current jurisprudence[31] and should be affirmed.

WHEREFORE, the appeal is hereby DENIED and the assailed Decision is AFFIRMED. Costs against appellant.

SO ORDERED

Romero, (Chairman), Vitug, Purisima, and Gonzaga-Reyes, JJ., concur.

[1] Dated April 3, 1995 and signed by Prosecutor II Pableo B. Baldoza.

[2] Rollo, p. 7.

[3] Records, p. 39.

[4] Penned by Judge Ricardo M. Berba, records, p. 157; rollo, p. 26.

[5] Decision, p. 11; rollo, p. 26.

[6] Appellant Batidor filed his Notice of Appeal through Atty. Alejandro Aquino on May 9, 1996; records, p. 159. The case was deemed submitted for decision upon receipt by the Court of appellant's Reply Brief on October 9, 1998.

[7] Decision, pp. 2-3; rollo, pp. 17-18.

[8] Ibid., pp. 4-6; rollo, pp. 19-21; records, pp. 127-129.

[9] The Appellant's Brief, received by the Court on December 1, 1997, was signed by Atty. Alejandro A. Aquino.

[10] Appellant's Brief, pp. 3-4; rollo, pp. 47-48.

[11] Decision, pp. 10-11; rollo, pp. 25-26; records, pp. 133-134.

[12] Ibid., p. 7; rollo, p. 22; records, p. 130.

[13] Ibid., pp. 9-10; rollo, pp. 24-25; records, pp. 132-133.

[14] Appellant's Brief, p. 1; rollo, p. 45.

[15] People v. Sabalones et al., GR No. 123485, August 31, 1998; People v. Molina et al., GR Nos. 115835-36, July 22, 1998; People v. Oliano, GR No. 119013, March 6, 1998; People v. Apongan, 270 SCRA 713, April 4, 1997; People v. Obzunar, 265 SCRA 547, December 16, 1996; People v. Polangco, 251 SCRA 503, December 26, 1995; People v. Dayson, 242 SCRA 125, March 2, 1995.

[16] Appellant's Brief, pp. 4-6; rollo, pp. 48-50.

[17] Ibid.

[18] TSN, January 17, 1996, pp. 6-8.

[19] Direct Examination of Maria Lourdes Asis. TSN, November 7, 1995.

[20] In *People v. Reoveros*, 247 SCRA 629, August 23, 1995, the Court upheld the testimony of the victim's widow, who was the only eyewitness to her husband's killing, debunking appellant's contention that the witness could not have seen him through the small opening of the side door. The Court, through Mr. Justice Regalado, said: "It was established by the prosecution and uncontroverted by the defense that the witness lighted an additional gasera, aside from that which was already lit and being used by them at the time, to enable her to clearly see the callers of her husband. Furthermore, the distance between the witness and appellant was only two meters, making it easy for her to clearly see him and perceive his movements."

[21] TSN, January 17, 1996, p. 27.

[22] *Ibid.*

[23] *People v. Añonuevo*, 262 SCRA 22, September 18, 1996, per Panganiban, J. See also *People v. Daraman*, GR No. 126046, August 7, 1998.

[24] *People v. Bato*, GR No. 113804, January 16, 1998.

[25] *People v. Llaguno*, GR No. 91262, January 28, 1998.

[26] *People v. Navarro*, GR No. 129566, October 7, 1998.

[27] *People v. Tulop et al.*, GR No. 124829, April 21, 1998; *People v. Balano*, 272 SCRA 782, May 29, 1997.

[28] *People v. Pallarco*, GR No. 119971, March 26, 1998; *People v. Mendoza*, 254 SCRA 61, February 23, 1996; *People v. Jose*, 250 SCRA 319, November 24, 1995.

[29] *People v. Navarro*, *supra*.

[30] *People v. Sumalpong, et al.*, GR No. 124705, January 20, 1998.

[31] *People v. Quitlong*, GR. No. 121562, July 10, 1998; *People v. Lagarteja*, GR No. 127095, June 22, 1998; *People v. Marollano*, GR No. 105004, July 24, 1997; and *People v. Caballes*, GR No. 102723-24, June 19, 1997.

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