

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. DOMINGO ALPAPARA, PEDRO ALPAPARA, ALDEN PAYA AND MARIO BICUNA, APPELLANTS.

G.R. No. 180421. October 30, 2009

Ponente: QUISUMBING, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-180421/>

QUISUMBING, J.:

This is an appeal from the Decision[1] of the Court of Appeals in CA-G.R. CR-HC No. 00294, dated February 15, 2007, which affirmed in toto the decision[2] of the Regional Trial Court (RTC) of Quezon City, Branch 81, dated March 15, 2004 in Criminal Case No. Q-99-86307. The RTC had found appellants Domingo Alpapara, Pedro Alpapara, Alden Paya and Mario Bicuna guilty of murder beyond reasonable doubt.

On June 29, 1998, Domingo Alpapara, Pedro Alpapara, Alden Paya, Mario Bicuna and Nelson Guzman were charged with murder in an Information, the accusatory portion of which reads:

That on or about the 13[th] day of January 1998 at more or less 7:00 o'clock in the evening at Barangay Talin-Talin, Municipality of Libon, Province of Albay, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating and mutually aiding one another [to] achieve a common goal, that is to kill GOMEZ RELORCASA, did then and there, with malice aforethought and with deliberate intent to take the life of the latter, willfully, unlawfully and feloniously, with the qualifying circumstances of treachery (alevosia), evident premeditation and with the aid of armed men, attacked, assaulted and fired upon Gomez Relorcasa with firearms, hitting and inflicting gunshot wounds upon the latter on the different and vital parts of his body, as evidenced by the Medico-Legal Report of Dr. Ma. Cristina U. Orbesom, mortally and fatally wounding him and thereby causing the direct and immediate death of Gomez Relorcasa, to the damage and prejudice of his legal heirs.

That the commission of this felony was attended with the aggravating circumstance of dwelling, the victim not having given any provocation.

ACTS CONTRARY TO LAW.[3]

The present case originated from Branch 13 of the Ligao, Albay RTC and was docketed as Criminal Case No. 3703. On arraignment, all the accused, except Nelson Guzman who was at large, pleaded not guilty.

On October 7, 1998, Atty. Manuel C. Relorcasa, the private prosecutor in this case, filed a Motion[4] with the Supreme Court to change the venue of trial from the RTC in Ligao, Albay to an RTC in Pasig City, Quezon City or Metro Manila. The witnesses were allegedly receiving death threats from the accused, who were known hatchet men of politicians in Albay. On July 27, 1999, we issued a Resolution[5] granting the said motion and transferring the venue of trial to Quezon City. The case was eventually raffled to Branch 81 of the RTC of Quezon City and docketed as Criminal Case No. Q-99-86307. Trial on the merits thereafter ensued.

The prosecution's account of the incident is as follows:

On January 13, 1998, at around 7:00 p.m., while Joey Bobis and Gomez Relorcasa were having a chat at the

latter's home, the two heard thuds from stones being thrown at the roof. This was followed by a derisive call for Gomez to come out of the house in these words: "Gomez, kung matapang ka[,] lumabas ka." [6] Shortly thereafter, three men armed with revolvers, and who were later identified by witnesses as the appellants Domingo Alpapara, Pedro Alpapara and Alden Paya, stormed into Gomez's house. Pedro grabbed Gomez by the right shoulder while Alden pinned down his left hand. Then, Domingo shot Gomez at the back followed by Pedro who shot Gomez at the right temple. As Gomez collapsed to the floor, Alden fired upward and warned those present not to testify to what happened. Present at the scene were Gomez's sister, Gavina Mata; his children, Mary Rose and Julius; and his friend, Romeo Buitizon.

Domingo, Pedro and Alden dashed outside to join their companions who threatened to hack the witnesses with bolos. The three took off in a passenger jeep driven by appellant Mario Bicuna. Thereafter, Gomez's companions brought him to the hospital where he was pronounced dead on arrival. The Medico-Legal Report[7] dated January 14, 1998, disclosed the cause of his death as hemorrhagic shock secondary to organ damage secondary to gunshot wound. On even date, Joey Bobis and Barangay Chairman Sofronio Mata filed an entry in the blotter with the police.

For their part, the appellants allege the following facts:

In the evening of January 13, 1998, the Alpapara brothers spotted Alden scuttling for cover in Domingo's yard as Joey hurled a stone and a bottle of gin at him. Before long, Gomez, who was drunk at the time started shouting invectives at the three. This led to a heated argument between Domingo and Gomez, but Pedro appealed for Gomez to just come back and talk the next day when he would already be sober.

Afterward, three gunshots echoed from Gomez's house. Upon hearing this, Domingo immediately closed his store while Pedro and Alden made their way home.

From his house, Alden heard Mary Rose crying for help from her aunt Gavina Mata, exclaiming "Tulungan ninyo si papa, nabaril siya ng sarili niyang baril." But Alden ignored her call for help and stayed home for the night.

Concurrently, defense witness Marilou Mata came upon Mary Rose and Julius who were screaming for help, saying "Si papa may tama, si Joy kasi." Marilou also saw Gomez being carried away on a chair by their neighbors.

About that time, Pedro reached his house and roused Mario from sleep. The two left in a passenger jeep driven by Mario. As they passed by Domingo's house, the latter flagged them and hitched a ride along with his wife Zenaida. They dropped off Zenaida at the house of Cesario Alpapara, Pedro and Domingo's brother, in Polangui, Albay before reporting the shooting incident to the Libon Police.

Following trial, the Quezon City RTC, Branch 81, found Domingo Alpapara, Pedro Alpapara, Alden Paya and Mario Bicuna guilty beyond reasonable doubt of murder for the death of Gomez Relorcasa. In a Decision dated March 15, 2004, the court a quo held that the killing of Gomez was attended by the qualifying circumstance of treachery and was carried out by appellants in conspiracy with one another. Hence, it disposed of the case in this wise:

WHEREFORE, premises considered, the Court finds accused DOMINGO ALPAPARA, PEDRO ALPAPARA, ALD[E]N PAYA and [MARIO] BICUNA guilty beyond reasonable doubt of the crime of Murder, qualified by treachery, defined and penalized under Article 248 of the Revised Penal Code as amended, and applying the provisions of the said Code, hereby sentences them to Reclusion Perpetua, with all the accessory penalties by law and pay the heirs of the late Gomez Relorcasa jointly and severally the amounts of Fifty Thousand Pesos (P50,000.00) as indemnity for the death of the victim, Twenty Thousand Pesos (P20,000.00) as actual damages and Fifty Thousand Pesos (P50,000.00) as moral damages.

x x x x

SO ORDERED.[8]

On appeal, the Court of Appeals affirmed in toto the RTC ruling. It gave credence to the positive identification by the witnesses of the appellants as the assailants of Gomez. It also ruled that treachery was sufficiently shown in the swift manner by which the appellants attacked the victim.

Before this Court, the appellants pose the following issues for our resolution:

I.

WHETHER OR NOT THE TRIAL COURT ERRED IN FINDING THE ACCUSED GUILTY BEYOND REASONABLE DOUBT OF THE CRIME OF MURDER;

II.

WHETHER OR NOT THE TRIAL COURT ERRED IN GIVING FAVORABLE CONSIDERATION [TO THE] ALLEGED EYEWITNESS TESTIMONIES OF PROSECUTION WITNESSES;

III.

WHETHER OR NOT THE TRIAL COURT ERRED IN NOT CONSIDERING THE DISCREPANCY BETWEEN THE PHYSICAL EVIDENCE PRESENTED BY THE DEFENSE AND THE ALLEGED EYEWITNESS TESTIMONIES PRESENTED BY THE PROSECUTION;

IV.

WHETHER OR NOT THE TRIAL COURT ERRED IN FINDING THAT THERE WAS TREACHERY;

V.

WHETHER OR NOT THE TRIAL COURT ERRED IN NOT APPRECIATING THE TESTIMONIAL EVIDENCE OF THE ACCUSED AND DEFENSE WITNESSES, INCLUDING THE TESTIMONY OF ROMEO BUITIZON.[9]

Essentially, the issues for resolution are: (1) Did the Court of Appeals err in convicting the appellants of the offense charged? and (2) Did treachery attend the killing?

On March 26, 2008, the Court issued a Resolution[10] which required the parties to file their respective supplementary briefs, within 30 days from notice, if they so desire. The parties, however, filed separate manifestations adopting the arguments raised in their appellate briefs.

Primarily, appellants assail the credibility of the prosecution witnesses Joey Bobis, Gavina Mata and Mary Rose Relorcasa. They contend that their testimonies were rehearsed since the witnesses were able to accurately recount the details of the shooting, specifically, which part of Gomez's body the appellants held; the order in which he was shot; and the number and names of appellants' companions. In contrast, appellants highlight the same witnesses' failure to recall certain facts on cross-examination. Mary Rose could not remember the color of the guns the appellants used on the victim and what her companions did right after the shooting. Gavina, for her part, gave conflicting versions of what she did immediately after the appellants left. Appellants further question the integrity of Gavina's testimony in view of the political rivalry between her husband, Barangay Captain Sofronio Mata, and the Alpararas. Appellants likewise contend it is unworthy of belief that they would kill the victim in the presence of his relatives and friends as claimed by the witnesses for the prosecution.

In addition, the appellants fault the appellate court for disregarding the testimonies of the defense witnesses. They

draw attention to the disparity between the physical evidence and the prosecution's account of the shooting incident. Police Investigator SPO4 Vicente Ricafranca found four 9 mm. cartridge cases in Gomez's backyard. Prosecution witnesses testified, however, that only three shots were fired, all inside the victim's house. Notably, witness Joey Bobis specifically identified appellants' guns as .38 caliber pistols.

Lastly, the appellants contest the Court of Appeals' finding of treachery. They reason that the altercation between Domingo and Gomez provided the latter with sufficient warning of the impending danger.

The Office of the Solicitor General (OSG), for the State, rebuts the appellants' attempt to discredit the prosecution witnesses. It argues that the inconsistencies in the witnesses' testimonies were insignificant and did not undermine the identification of the appellants as the killers of Gomez. The OSG maintains that it was not at all unlikely for Gavina and Joey to recognize the appellants' companions since the place was illuminated by a kerosene lamp.

Taking into consideration the evidence in this case, both for the prosecution as well as the defense, we are convinced beyond any shadow of doubt that appellants are guilty of murder as charged.

Article 248[11] of the Revised Penal Code defines and penalizes the offense of murder as qualified by treachery. There is treachery when in killing the victim, the malefactors deliberately and consciously adopted means, methods, or manner of execution to ensure their safety from any defensive or retaliatory action on the part of the victim.[12]

The factual finding of the Court of Appeals shows that appellants Domingo, Pedro and Alden barged into Gomez's house and restrained his arms before Domingo shot him at the back. As the victim was falling over, Pedro fired a bullet through his right temple. This finding is supported by the Medico-Legal Report prepared by Dr. Ma. Cristina U. Orbesom, the Municipal Health Officer-Rural Health Unit of Libon, Albay, as follows:

External Examination:

- = cadaver in rigor mortis state
- = skin tattooing, brownish in color, 4 x 1 cm., forehead, 1 cm. above the eyebrow, R.
- = gunshot wound of entrance, circular, 1 x 1 cm. lumbar area, R

Internal Examination:

- = foul-smelling visceral organs, with 4 cupsful of blood in the abdominal cavity
- = bullet found lodged in the epigastric area, in-between the skin and the adipose tissues, 6.5 cm[.] below the xiphoid process
- = hemorrhagic mesentery
- = perforated large mesocolon, kidney, R

Cause of Death: Hemorrhagic Shock [Secondary] to Organ Damage [Secondary] to Gunshot Wound (Emphasis supplied.)

The large circular entrance wound at the back sustained by Gomez is consistent with the prosecution witnesses' account that he was shot at close range.[13] The skin tattooing above his right eyebrow, which is dense and of limited dimension and spread,[14] likewise, confirms that he was fired at from short range[15] as he was falling to the ground. This finding belies the testimony of defense witness Romeo Buitizon that after Gomez let off two shots upward, he heard "another shot coming from a dark place"[16] which eventually hit Gomez. The nature and position of Gomez's wound are also incongruent with appellant Alden Paya's claim that he heard the victim's daughter call for help as her father was shot by his own gun.[17]

Despite these findings, appellants deny that the killing was attended by treachery inasmuch as the shooting was

preceded by an argument between Domingo and Gomez. Hence, they contend that Gomez was forewarned of the forthcoming peril.

This argument fails to persuade us.

True, on numerous occasions, we have held that where a killing was preceded by an argument or quarrel, then the qualifying circumstance of treachery can no longer be appreciated since the victim could be said to have been forewarned and could anticipate aggression from the assailants.[18] What is decisive in treachery, however, is that the execution of the attack made it impossible for the victim to defend himself or retaliate.[19]

Here, the unarmed Gomez was pinioned by appellants Pedro and Alden before Domingo dealt him a fatal blow at the back. Clearly, the victim had no opportunity to parry the attack. Further, there was a lapse of time between the argument and the shooting since Domingo went back inside his store after the confrontation between him and the victim. At this point, the prior hostility had ceased and the latter had no more reason to anticipate further aggression from Domingo.

Apart from treachery, in our view, the manner by which the appellants killed Gomez clearly demonstrates a conspiracy, thereby making each of them equally liable for the offense.[20] There is conspiracy when two or more persons come to an agreement concerning the commission of a felony and decide to commit it.[21] To establish the existence of conspiracy, direct proof is not essential.[22] Conspiracy may be inferred from the acts of the accused before, during and after the commission of the crime which indubitably point to and are indicative of a joint purpose, concert of action and community of interest.[23]

In this case, each of the accused performed acts which contributed to the execution of the crime.[24] Domingo, Pedro and Alden armed themselves with guns and forcibly entered the victim's home. Pedro held Gomez by the shoulder while Alden pinned down his left hand. Then, Domingo shot him at the back. The sum of all the circumstances in this case points to no other conclusion than that these three appellants (Pedro, Alden and Domingo) were moved by a single objective -- to kill Gomez Relorcasa.

However, the same conclusion cannot include appellant Mario Bicuna. Although the latter does not deny having driven the three cited appellants to Polangui and Libon in Albay, the prosecution has not shown beyond peradventure of doubt that he knew of his co-appellants' design to kill Gomez. Neither can we hold him liable as an accessory for helping the escape of the appellants under Paragraph 3,[25] Article 19 of the Revised Penal Code. Said provision punishes an accessory who harbors, conceals or assists in the escape of a principal of the crime of murder. For one, appellant Domingo Alpapara reported the shooting incident to the Libon Police.[26] Moreover, the Return[27] of the warrant for the arrest of the appellants indicates that they voluntarily surrendered to the authorities. These circumstances rule out any inference that appellants intended to escape when they boarded the jeep driven by Bicuna after the shooting.

The rest of the issues raised by the appellants delve on the appreciation of evidence by the appellate court. At the risk of sounding trite, we reiterate that the assessment of the credibility of witnesses and their testimonies is a matter best undertaken by the trial court because of its unique opportunity to observe the witnesses firsthand and to note their demeanor, conduct and attitude under cross examination. The trial court's findings on such matters, when affirmed by the appellate court, are binding and conclusive on this Court, unless it is shown that the court a quo has plainly overlooked substantial facts which, if considered, might affect the result of the case.[28]

In this case, both the RTC and the Court of Appeals gave weight to the candid and forthright identification by the prosecution witnesses of the appellants as the authors of the murder. Rightly so, since the place was adequately lighted by a kerosene lamp and the witnesses were sufficiently familiar with the appellants who were their

neighbors. Appellants' contention that the victim's daughter and sister attributed the murder to them because of political rivalry and pending lawsuits between Domingo Alpapara and the victim cannot stand scrutiny. The Court has consistently held that relatives of a victim would not avenge the death of their kin by blaming it on persons whom they know to be innocent.[29] This is because the relatives, more than anybody else, would be concerned with obtaining justice for the victim by the felons being brought to face the law.[30]

In an attempt to impugn the credibility of the prosecution witnesses, the appellants magnify certain discrepancies in their testimonies. They stress that Gavina at first stated that she immediately went to Gomez's aid after the appellants left. But later, when asked how she was able to recognize the latter's companions at the gate, she said that she peeped through the window before rushing to help Gomez. Also, they stress that Joey testified that the appellants used caliber .38 guns but the empty shells retrieved by the police outside the victim's house were for a 9 mm. pistol. Additionally, Mary Rose could not remember the color of the guns used by the appellants.

Even so, we have held time and again that witnesses cannot be expected to give a flawless testimony all the time. Indeed, even the most candid witness often makes mistakes and falls into confused statements, at times. Far from eroding the effectiveness of their testimonial evidence, such lapses could instead constitute signs of veracity.[31] The victim's house is a nipa hut of modest size. In all likelihood, Gavina was able to catch a glimpse of the appellants' companions through the open window or door as she was approaching the victim's body. Also, it is worth noting that while the 9 mm. cartridges were found at Gomez's yard, the shooting took place inside his home. Besides, the Firearms Identification Report[32] did not conclusively establish the caliber of the gun used to shoot the victim because the bullet extracted from his body was deformed. More importantly, witness Joey Bobis cannot be expected to identify with certainty the caliber of the guns used absent any proof that he is a gun expert.

Prescinding from the foregoing facts and circumstances, we affirm the penalty imposed by the Court of Appeals upon the appellants except as regards Mario Bicuna who must be acquitted. With the advent of Republic Act No. 9346,[33] the penalty for murder is now reclusion perpetua, without possibility of parole under the Indeterminate Sentence Law.[34]

Likewise, we sustain the award of moral damages to the heirs of Gomez Relorcasa in the amount of P50,000. However, the award of civil indemnity must be modified in accordance with prevailing jurisprudence[35] which fixes the amount of indemnity at P75,000. Also, instead of actual damages proven[36] in the amount of P20,000, the court shall award temperate damages of P25,000 in accord with *People v. Villanueva* where the Court held:

When the actual damages proven by receipts during the trial amounts to less than P25,000, as in this case, the award of temperate damages for P25,000 is justified in lieu of the actual damages of a lesser amount. Conversely, if the amount of actual damages proven exceeds P25,000, then temperate damages may no longer be awarded; actual damages based on the receipts presented during trial should instead be granted.[37]

WHEREFORE, the instant appeal is **PARTLY GRANTED**. Appellant Mario Bicuna is **ACQUITTED** because of insufficient evidence concerning the charge against him. The Decision dated February 15, 2007 of the Court of Appeals in CA-G.R. CR-HC No. 00294 is **AFFIRMED** insofar as it convicted Domingo Alpapara, Pedro Alpapara and Alden Paya of murder beyond reasonable doubt. The award of moral damages at P50,000 to the heirs of Gomez Relorcasa is also **SUSTAINED**. The amount of civil indemnity, however, is **MODIFIED** to P75,000 in accordance with prevailing jurisprudence, and temperate damages of P25,000 is awarded in lieu of actual damages.

SO ORDERED.

Carpio,[*] Chico-Nazario,**] Brion, and Abad, JJ., concur.

[*] Additional member per Special Order No. 757.

**] Additional member per Special Order No. 759.

[1] Rollo, pp. 2-13. Penned by Associate Justice Ramon M. Bato, Jr., with Associate Justices Remedios A. Salazar-Fernando and Jose C. Mendoza concurring.

[2] CA rollo, pp. 90-104. Penned by Judge Ma. Theresa L. Dela Torre -Yadao.

[3] Records, p. 104.

[4] Id. at 145-146.

[5] Id. at 210.

[6] TSN, March 21, 2000, p. 4.

[7] Records, p. 13.

[8] CA rollo, p. 104.

[9] Id. at 67.

[10] Rollo, pp. 17-18.

[11] ART. 248. Murder. -- Any person who, not falling within the provisions of Article 246, shall kill another, shall be guilty of murder and shall be punished by reclusion perpetua to death if committed with any of the following attendant circumstances:

1. With treachery, taking advantage of superior strength, with the aid of armed men, or employing means to weaken the defense or of means or persons to insure or afford impunity.

x x x x

[12] People v. Aviles, G.R. No. 172967, December 19, 2007, 541 SCRA 265, 276.

[13] P. Solis, Legal Medicine, 357 (1987).

[14] Records, Exhibits "J," and "J-1," p. 380.

[15] P. Solis, Legal Medicine, supra.

[16] TSN, July 12, 2001, p. 6.

[17] TSN, December 4, 2001, p. 6.

[18] People v. Buluran, G.R. No. 113940, February 15, 2000, 325 SCRA 476, 487.

[19] People v. Almedilla, G.R. No. 150590, August 21, 2003, 409 SCRA 428, 432.

[20] People v. Listerio, G.R. No. 122099, July 5, 2000, 335 SCRA 40, 60.

[21] Revised Penal Code,

ART. 8. Conspiracy and proposal to commit felony. -- Conspiracy and proposal to commit felony are punishable only in the cases in which the law specially provides a penalty therefor.

A conspiracy exists when two or more persons come to an agreement concerning the commission of a felony and decide to commit it.

There is proposal when the person who has decided to commit a felony proposes its execution to some other person or persons.

[22] *People v. Listerio*, supra at 58 citing *People v. Canoy*, G.R. Nos. 122510-11, March 17, 2000, 328 SCRA 385, 399; *People v. Geguira*, G.R. No. 130769, March 13, 2000, 328 SCRA 11, 32-33.

[23] *People v. Listerio*, supra at 57-58.

[24] *Id.* at 58-59.

[25] ART. 19. Accessories. - Accessories are those who, having knowledge of the commission of the crime, and without having participated therein, either as principals or accomplices, take part subsequent to its commission in any of the following manners:

x x x x

3. By harboring, concealing, or assisting in the escape of the principal of the crime, provided the accessory acts with abuse of his public functions or whenever the author of the crime is guilty of treason, parricide, murder, or an attempt to take the life of the Chief Executive, or is known to be habitually guilty of some other crime.

[26] Records, Exhibit "4," p. 546.

[27] Records, Exhibit "E," p. 34.

[28] *People v. Segobre*, G.R. No. 169877, February 14, 2008, 545 SCRA 341, 347-348.

[29] *People v. Barreta*, G.R. No. 120367, October 16, 2000, 343 SCRA 199, 209.

[30] *People v. Listerio*, supra note 20, at 56-57.

[31] *People v. Ranin, Jr.*, G.R. No. 173023, June 25, 2008, 555 SCRA 297, 305-306.

[32] Records, Exhibit "6," p. 548.

[33] An Act Prohibiting the Imposition of the Death Penalty in the Philippines, approved on June 24, 2006.

[34] An Act to Provide an Indeterminate Sentence and Parole for all Persons Convicted of Certain Crimes by the Courts of the Philippine Islands; To Create a Board of Indeterminate Sentence and to Provide Funds Therefor; and for Other Purposes (Act No. 4103, as Amended), approved and effective on December 5, 1933.

[35] *People v. Ranin, Jr.*, supra at 312.

[36] Records, Exhibit "C," p. 371.

[37] *People v. Villanueva*, G.R. No. 139177, August 11, 2003, 408 SCRA 571, 581-582.

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.