

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
AGRIPINO FONTANOSA, ET AL., DEFENDANTS, CRISPULO GILVERO,
SILVERIO CAÑETE, AQUILINO BACANG, GENOVEVO BARRO, MAURO
BACANG, ...**

G.R. No. 19421. May 29, 1967

Ponente: CASTRO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-19421/>

CASTRO, J.:

In an amended information filed with the Court of First Instance of Davao on February 26, 1958, Agripino Fontanosa, Silverio Cañete, Crispulo Gilvero, Aquilino Bacang, Teodosio Umpoc, Genovevo Barro, Mauro Bacang, Alfredo Cabardo, Martin Cabardo, Macario Matas and Celso Lape were charged with murder for the killing of Danilo Doneza, committed, according to the indictment, as follows:

"That on or about December 13, 1957, in the Municipality of Bansalan, Province of Davao, Philip-pines, and within the jurisdiction of this Court, the above-mentioned accused, conspiring together and helping one another, with treachery and evident premeditation, armed with rifles and sharp cutting instruments and with intent to kill, did then and there wilfully, unlawfully and criminally attack, assault and shoot one Danilo Doneza with the said firearms thereby inflicting upon him a gunshot wound which caused his death.

"The commission of the foregoing offense was attended by the aggravating circumstances of (1) superior strength, (2) use of firearms, (3) promise of a reward and (4) nighttime, the accused having purposely sought it to facilitate its commission."

After due trial, the lower court found all the accused, except Agripino Fontanosa, who was acquitted, and Teodosio Umpok, who is at large, guilty of murder qualified by treachery, and there being no modifying circumstances present, sentenced them to reclusion perpetua to indemnify jointly and severally the heirs of the deceased, Danilo Doneza, in the sum of P6,000, and to pay the costs proportionately.

From this judgment, appeal was taken by the defendants to the Court of Appeals. However, because the penalty imposed by the trial court is reclusion perpetua, the case was elevated to this Court for review.

This case involves a lessee of public forest land and a group of squatters. Evidence for the prosecution disclosed that Romulo Ramos is the lessee of 960 hectares of public forest land in the sitio of Daeg, barrio of Bala, municipality of Bansalan, Davao. Subsequently, he converted the leased land into a ranch on which he constructed two ranch houses for his cowhands, one on the lower part of the ranch, called Ranch House No. 1, and the other on the upper part thereof, known as Ranch House No. 2. In the latter lived Jose Tirol, Roberto Tirol, Julian Daroy, and the deceased, Danilo Doneza, all cowhands of Ramos.

At about ten o'clock in the evening of December 13, 1957, while the occupants of Ranch House No. 2 were asleep, there came a succession of shots from the eastern side of the house. Awakened, the cowhands took cover and flat on the floor, not budging from their prone positions until early in the morning when they found one of

their companions, Danilo Doneza, wounded near the left ear. On that same morning of December 14, 1957, Doneza was brought to a certain Dr. Villamin for treatment and thence to Dr. Caños in Digos, Davao. However, due to the gravity of the wound, he was finally taken to the Brokenshire Memorial Hospital in Davao City where he died on December 20, 1957.

In the meantime, the municipal police of Bansalan and the 72nd PC Company stationed in Davao City were informed of the incident. Immediately, they proceeded to the ranch of Ramos to investigate. They found Ranch House No. 2 riddled with bullets, and empty rifle shells scattered 30 to 50 meters away from the house. In the farm of the appellant Mauro Bacang, a poncho raincoat containing assorted paraphernalia, including live ammunition and two Enfield rifles, was discovered. In the house of Celso Lape was found another rifle.

Pfc. Tuvilla of the 72nd PC Company conducted an investigation. With the exception of those of Celso Lape, the appellants' declarations were reduced to writing. In their writ-ten statements, they admitted participation in the attack on Ranch House No. 2 on the night of December 13, 1957. These statements were subsequently signed and acknowledged by the appellants before Special Counsel Roque M. Barnes of the office of the Provincial Fiscal of Davao.

In this appeal, the appellants make the following assignments of error:

- "1. The lower court erred in assuming jurisdiction to try the case.
- "2. The lower court erred in not giving weight to the medical certificates issued to the defendants-appellants, marked as exhibits 14, 14-A, 14-B, 14-C, 14-D, 15-A, 15-B and 15-C.
- "3. The lower court erred in failing to recognize the fact that there was no motive on the part of the defendants-appellants to kill or hurt the deceased, Danilo Doneza.
- "4. The lower court erred in finding that the alleged extra-judicial confessions made by the defendants-appellants, separately marked as exhibits 'E', 'F', 'G', 'H', and 'I' were not obtained through violence, maltreatment and intimidation.
- "5. The lower court erred in giving much weight to the alleged extra-judicial confessions executed by defendants-appellants, since the prosecution failed to corroborate the same with evidence of corpus delicti."

Upon the first issue, the appellants maintain that the crime was not committed in Daeg, Davao, as urged by the prosecution, but in Dapok, Cotabato, by reason of which the case should have been tried in the Court of First Instance of Cotabato.

We find no merit in this contention. Pasture Land Lease Agreement No. 173 (exh. V-1), issued in the name of Romulo Ramos, shows that the 960 hectares of public forest land leased to him are located in the sitio of Daeg, barrio of Bala, municipality of Bansalan, Davao. The sketch of the land attached to said Agreements (exh. V) clearly indicates that Ranch House No. 2 is within the area leased to Ramos. Following section 38, Rule 130 of the Rules of Court, these official entries in the records of the Bureau of Forestry are considered prima facie evidence of the facts therein stated, that is, that the land on which Ranch House No. 2 stands is within the province of Davao. To overcome this presumption, the evidence must be clear and convincing (*U.S. vs. Que Ping*, 40 Phil. 17, 19), and in the absence of other competent evidence to overthrow the same, the entries must be taken and accepted as conclusive (*Intestate Estate of Tenorio*, 40 O.G. 1253, 1257; *Gaas vs. Fortich*, 54 Phil. 196, 203). The appellants' evidence failed in this regard and, consequently, the trial court be held to have had jurisdiction to try this case.

The other assigned errors being interrelated, we shall consider them together.

The case for the prosecution is anchored mainly on the extra-judicial confessions made by the appellants. With the exception of Agripino Fontanosa who did not make any confession, Teodosio Umpok who was not apprehended and is still at large, and Celso Lape whose verbal confession was not reduced to writing, the appellants signed written statements relating to great detail their participation in the attack on Ranch House No. 2. These statements disclose that at about four o'clock in the afternoon of December 13, 1957, Agripino Fontanosa went to the house of Mauro Bacang at sitio Laya, Tacul Bansalan, Davao to persuade the latter and the other appellants who were then staying with him (i.e., Silverio Cañete, Aquilino Bacang, Genovevo Barro, Macario Matas and Crispulo Gilvero) to attack Ranch House No. 2 that evening; that the appellants acceded to the proposal, although they initially objected, after having been promised land of their own should they be successful in their mission; that after supper that evening, the aforementioned appellants left the house of Bacang to carry out their criminal plan; that Mauro Bacang and Saverio Cañete were armed with long-barreled guns while the rest carried bolos; that they dropped by the house of Agripino Fontanosa to inform him that they were already on their way; that they met Teodosio Umpok in the house of Fontanosa armed with a carbine furnished by the latter; that, thereafter they picked up Martin Cabardo, Alfredo Cabardo and Celso Lape who were to guide them to the ranch house and to their places of deployment; that upon arrival in the vicinity of Ranch House No. 2, the defendants deployed themselves, and Mauro Bacang, Silverio Cañete, Teodosio Umpok and Celso Lape started firing at it; that the whole episode took place between eleven o'clock and twelve midnight with the gunfire lasting for about thirty minutes; that, after the shooting, they dispersed, the group of Mauro Bacang stopping by Fontanosa's place once more to inform the latter of the outcome of their mission; that Teodosio Umpok returned the carbine of Fontanosa while Mauro Bacang hid his gun and that of Silverio Cañete upon arrival at the former's house.

While admitting the authenticity of their signatures on the extra-judicial confessions, the appellants deny their voluntariness and veracity, alleging that they were procured through force, violence, duress and intimidation. Specifically, they testified that the PC soldiers under Capt. Bucoy of the 72nd PC Company maltreated them, inflicting bruises injuries contusions and wounds, on their bodies. As proof of the injuries they sustained, they presented medical certificates made out by Dr. Marcial S. Santos and Dr. Dominador F. Mendoza of the Davao General Hospital. This pretense of the appellants does not deserve belief. Except for the medical certificates issued to Genovevo Barro and Crispulo Gilvero which attest to the presence of unhealed wounds on their bodies, the rest merely reveal findings of scars, abrasions, discolorations and complaints of pain. The appellants claim that this was because the medical examination was conducted only on January 6, 1958, or eighteen days after their confinement in the PC barracks at Davao City where the alleged maltreatment took place. Note must, however, be taken of the fact that the counsel for the accused in the lower court had been these wounds as early as December 23, 1957. Nevertheless, they were not brought to the immediate attention of a physician for proper examination. As the lower court observed in its decision:

"If the accused were still suffering from injuries and the injuries were visible on their bodies on December 23, 1957, when their lawyer, Atty. Buagas, saw them at the Provincial Warden's Office, there was no sufficient reason why Atty. Buagas, did not at once or the next day took (sic) them to the hospital for medical examination. The excuse that there was lack of guards at the Provincial Jail is not convincing. Even granting arguendo that there was lack of guards and no definite time could be ascertained as to when a guard could be available Atty. Buagas would have taken a doctor to the Provincial Jail to examine physically the accused before the injuries healed. Atty. Buagas would not wait until January 6, 1958, considering that the accused told him that they were forced to make confessions. When the accused were finally examined on January 6, 1958, they were able to show only healed wounds, scratches or mere complaints of pain which a doctor can not verify."

As for the wound of Genovevo Barro, described in his medical certificate as "contusion, xyphoid process", the examining physician testified on cross-examination by the fiscal that it was apparently inflicted only three days

before his physical examination. A similar disclosure was made with respect to the unhealed wound of Crispulo Gilvero. The said wound, described as "partially healed multiple posterior elbow joint, right", must have been caused five or six days only prior to the doctor's examination. Further testimony by the examining physicians brought out the fact that the appellants' scars and wounds are of a superficial nature and could have been self-inflicted.

The appellant's claim that they were coerced, intimidated and brow-beaten into affixing their thumbmarks and signatures on their extra-judicial confessions before Special Counsel Roque M. Barnes of the Provincial Fiscal's Office is belied by the evidence on record.

Fiscal Barnes testified that after the PC soldiers brought the accused to his office, they left the room at his request, leaving him alone with the accused; that Jose C. Adao, a clerk of his office, translated the contents of the affidavits into Visayan, which is understood by all the accused; that the latter affirmed the truth of their declarations; that he asked the accused if they had anything more to add to their written statements and they answered in the negative; that they voluntarily affixed their signatures and thumbmarks to their respective affidavits after which he received their oaths; and that he did not see or notice any injuries or signs of maltreatment on the bodies of the accused when they were brought to him. Adao corroborated the foregoing testimony. He declared that a PC soldier brought the accused to the fiscal's office sometime in December, 1957; that he translated the contents of the affidavits into the Visayan dialect; that the affiants voluntarily signed their respective written declarations in his presence; and that he did not see or notice any injuries on the bodies of the accused.

The Constabulary officers and soldiers were no less categorical in their denial of the appellants' claim of maltreatment. Capt. Antonio A. Bucoy, head of the squad that was sent to investigate the shooting in Daeg, testified on rebuttal that he did not order the accused exposed to the sun or in any way maltreated. Likewise, Pfc. Tuvilla, PC investigator, testified that he did not lay hands on the appellants and neither did he threaten to ill-treat them if they did not sign their respective affidavits. Other PC soldiers, namely, Benigno Ordinario, Clemente Layaguin, Generoso Espantaleon and Cesar Buit, corroborated the testimony of Pfc. Tuvilla. Moreover, the testimony of Lorenzo Ozam, a guard at the Davao Provincial Jail, militates against the appellants' allegation of having been subjected to third-degree methods. He related that he saw the appellants when they were admitted to the provincial jail on December 23, 1957 but he did not see any injuries on their faces and bodies after they removed their clothes for inspection.

The appellants assail the veracity of the extra-judicial confessions by putting up the defense of alibi. The evidence for Mauro Bacang, Silverio Cañete, Crispulo Gilvero, Genovevo Barro and Aquilino Bacang tended to establish their presence in Pikit, Cotabato on the night of December 13, 1957. Macario Matas on the other hand, was allegedly in the house of a certain Remegio Diana, a school teacher residing at Padada, Davao, on that fateful night. A similar defense was raised by Alfredo and Martin Cabardo, who tried to show they were in their house in Upper Patolangan, a part of M'lang, Cotabato, and Celso Lape, who asserted that he was in his farm at Dapok, M'lang, Cotabato when the incident at the Ramos ranch happened.

After a careful examination and dispassionate evaluation of the evidence on hand, we find that the appellants' defense of alibi lacks that plausibility sufficient to convince us of their innocence. Bearing in mind the oft-repeated ruling of this Court that alibi is a weak defense for it is easy to manufacture (People vs. Badilla, 48 Phil. 718, 731; People vs. de Asis, 61 Phil. 384, 389; People vs. Japitana and Santos, 77 Phil. 175, 180; People vs. Estacio G.R. No. L-11430, January 30, 1960) and considering, too, the existence of the extra-judicial confessions, which on their faces and as corroborated by other evidence, bespeak the true sequence of events, we find the appellants' evidence proffered to shore up their defense of alibi not convincing.

The alibi of Mauro Bacang and his aforementioned companions finds apparent support in the testimony of Roque Dandan, a preacher of the United Church of Christ in the Philippines who testified that Mauro Bacang and his friends dropped at his house at Kanapulo, Bansalan, Davao on December 7, 1957 on their way to Pikit, Cotabato, and again on December 14, 1957 on their way home from Pikit. As proof thereof, he presented a notebook (exh. BB) which contains a list of the persons who ate in his house on various occasions. A close and careful examination of the notebook and its contents, however, fails to give credence to his testimony.

It is an old composition notebook with frayed edges, the first eight pages of which contain references to biblical passages and what appears to be notes on proposed sermons. The so-called list of visitors who ate in his house starts on the bottom third of the eighth page with the entry of August 2 to 5, 1956 and ends on the last line of the next page with the entry of December 5, 1958. Except for the last two pages, the rest of the notebook is blank. Mauro Bacang and his friends are listed down as visitors on December 7 and 14, 1957 while the former alone is listed down on December 16 and 18, 1957.

The notebook acquires significance because of the fact that its existence was brought out only on cross-examination by the fiscal. It was produced in evidence only after Dandan was asked to bring it to court. If the entries therein were accepted as true then Bacang's alibi assumes an aura of credibility. However, this Court cannot rely on this piece of evidence. While the entries were written in pencil and supposedly at various dates, yet there appears no variation in the strokes nor in the shading of the pencil lines. Furthermore, while the list of visitors is written in pencil, the rest of the notations and entries in the notebook are in ink. Moreover, the circumstance under which this notebook was produced is a bit puzzling. Considering that Dandan is a principal witness for the defense and that all along he had been in possession of this important piece of evidence, isn't it strange that he should make known its existence only after the prosecution began asking him why he could remember his dates so well? Wouldn't it be more logical to expect the defense to present this evidence on direct examination, considering that Dandan is their witness? We have examined the record on this point and our doubts have not been erased by the witness' answers to the probing questions of the lower court. Consequently, we find ourselves with the court a quo in disbelieving Dandan's testimony.

Neither can we accord credit to the testimony of the other witnesses for Mauro Bacang. Vicente Fontanosa, who was contacted allegedly by Bacang in Pikit and who testified that the latter was with him on the night of December 13, 1957 at Ely's Cafe, is the son of Agripino Fontanosa, one of the accused, and the counsel for the squatters on the ranch of Ramos. Elena Fontilla, the owner of Ely's Cafe in Pikit, remembers too much for a woman who keeps a refreshment parlor frequented by numerous persons. She remembers the dates of events long past and of no moment at all when they happened---feats of memory equally displayed by the other witnesses for Bacang and his companions. Coincidence, too, seems to play an important role in the defense of Bacang. Odon Romero's testimony that Mauro Bacang and his friends were with him at Ely's Cafe on the night of December 13, 1957, celebrating the death anniversary of his father, does not deserve serious consideration. As the lower court observed:

"It was a strange coincidence that Odon Romero happened to be in the house of Vicente Fontanosa when Mauro Bacang and his companions went there and that Odon Romero celebrated the death anniversary of his father on December 13, 1957 at Ely's Cafe and Mauro Bacang and his inseparable companions looked for Vicente Fontanosa, found him at Ely's Cafe, and were invited by Odon Romero to join in the celebration."

As for the alibi of Macario Matas, we find that it is supported only by the testimony of Remegio Diana, who is his brother-in-law, and by Rosaleo Nadela, who admitted that he was reminded only by Diana of the date when he met Matas, i.e., December 13, 1957. Celso Lape's alibi was not corroborated by any witness. The same is true with the alibi of Martin Cabardo. In the case of Alfredo Cabardo, only the testimony of his father, Julio Cabardo,

corroborates his alibi. These testimonies are inadequate to support the de-fense of alibi which must be proved by "positive, clear and satisfactory evidence" (U.S. vs. Olais, 36 Phil. 828, 829)

The defense attempts to dilute the strength of the pro-prosecution's case by picturing it as one huge conspiracy among the Constabulary soldiers, the Provincial Fiscal's Office and Romulo Ramos against the eleven accused. The strands in this supposed web, of intrigue and machinations are formed by evidence for the defense that the wound sustained by Danilo Do-neza was caused not by a bullet but by a protruding nail which pierced Doneza near the left ear as he sought cover during the shooting; by assertions that Doneza died of respiratory complications and not as a result of a gunshot wound; by the testimony of hardly credible witnesses identifying the rifles marked as Exhibits C, D and J as belonging not to the accused but to the cowboys of Ramos; by the insinuation of Crispiniano Jorgio, one of the defense witnesses that those who fired at Ranch House No. 2 were Ilocanos and Moros, based on his having allegedly heard and seen several persons pass near his house after the shooting speaking in Ilocano and wearing hats and turbans; and by the attempt to establish as a fact that Ramos bribed the PC to implicate the accused in the killing of Danilo Doneza. Unfortunately for the appellants, the web they constructed cannot bear the weight of the prosecution's evidence.

Dr. Asuncion Paraan, who performed the autopsy on the body of Doneza twenty-four hours after his death, testified that she found an external wound below the left ear lobe, "possibly an entrance wound of a gunshot". The bullet (which was never found on autopsy) traveled six inches into the neck, fracturing the cervical vertebrae and resulting in the severance of the spinal cord which was the immediate cause of death. The appellants' contention that Doneza died because of respiratory complications is hardly supported by the evidence on hand.

In this connection, their assertion that there is no evi-dence of corpus delicti is not borne out by the foregoing statement of Dr. Paraan and by the testimonies of Jose Tirol and Ju-lian Daroy, who were sleeping beside the deceased on the night of December 13, 1957, that Doneza sustained the wound which caused his death during the shooting incident at Ranch House No. 2. It hardly needs reiteration that in murder, the fact of death is the corpus delicti (People vs. Garcia, et al., 99 Phil., 381; 54 ff. Gaz., 336, 338). The rule stated in section 3, Rule 133 of the Rules of Court simply means that there must be some proof, aside from an extra-judicial confession, to show that the crime has been committed (People vs. Mamaril, et al., 45 Off. Gaz., 3431, 3434).

While the prosecution may have relied on the extra-judicial confessions of the appellants as their primary weapon to secure conviction, yet they have not been lacking in other evidence to corroborate the same. Aside from the evidence that the victim died of a gunshot wound, a witness for the prosecution placed three of the accused within the immediate vicinity of the scene of the crime just a few hours before the incident in question. Felix Tolin, a laborer of Agripino Fontanosa, identified Mauro Bacang, Teodosio Umpok and Silverio Cañete as among those who came to the house of Fontanosa on the night of December 13, 1957. The other four who remained in the dark were not identified by him. He further testified that he saw the three carrying rifles and that after about ten minutes they all left, heading for the east side of Ranch House No. 2. Although he saw them talking with Fontanosa, he did not hear their conversation. It is noteworthy that the number of persons who visited Fontanosa that evening corresponds with the number given in the extra-judicial confessions of the appellants.

There appears no reason to doubt or disbelieve the testimony of Tolin. The appellants themselves admit that there is no ill-feeling between them and Felix Tolin and that the latter did not have any reason to testify falsely against them. A similar admission was made by the appellants with respect to the other witnesses for the prosecution. While most of the witnesses for the defense are either close relatives or associates of the accused, those for the prosecution are mostly disinterested persons.

One other corroborative fact refers to the rifles used in the shooting. The extra-judicial confessions of the

appellants are definite about the number of guns used in the attack on Ranch House No. 2 and their respective owners or keepers. Mauro Bacang, Silverio Cañete, Celso Lape and Teodosio Umpok each had a rifle. That of Lape was later taken from him by the Constabulary soldiers under Capt. Bucoy while the two rifles hidden by Bacang were found by the PC in his farm. Although they denied ownership of the rifles during the trial, their denials are not supported by any other evidence and are, in fact, contradicted by their own admissions to the PC soldiers assigned to look for the guns.

Finally, the appellants assail the alleged failure of the lower court to recognize the fact that there was no motive on their part to kill Danilo Doneza. This assertion is patently without merit. The appellants' very own statements before Pfc. Tuvilla reveal that they agreed to attack Ranch House No. 2 on the promise of Agripino Fontanosa that they will be given land of their own should they be successful in attacking the ranch. The entire incident was prompted by the land conflict between Fontanosa, the alleged leader of the squatters, and Ramos, the owner of the ranch. As Mauro Bacang stated in his extra-judicial confession (exh. I), Agripino Fontanosa ordered the shooting of Ranch House No. 2:

"Because of the land conflict between Dr. Ramos, and by reason of which, he wanted the cowboys of Dr. Ramos killed so that Dr. Ramos will give up ranching and he (Agripino Fontanosa) will occupy and cultivate the area of the ranch with his men."

No clearer exposition of the motives of the appellants could have been made.

ACCORDINGLY, the judgment appealed from is hereby affirmed, at appellants' proportionate cost.

Concepcion, C.J., Reyes, J.B.L., Dizon, Regala, Makalintal, Bengzon, J.P., Zaldivar, and Sanchez, JJ., concur.

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.