

THE PEOPLE OF THE PHILIPPINE ISLANDS, PLAINTIFF AND APPELLEE, VS. GABINO ABELLERA, DEFENDANT AND APPELLANT.*G.R. No. 23533. August 01, 1925*

Ponente: STREET, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-23533/>**STREET, J.:**

This appeal has been brought to reverse a judgment of the Court of First Instance of the subprovince of Benguet, Mountain Province, finding the appellant, Gabino Abellera, guilty of the offence of homicide, and sentencing him to undergo imprisonment for fourteen years, eight months and one day, reclusion temporal, to indemnify the heirs of the deceased, one Day-ag, in the amount of P500, and to pay the costs.

Prior to the homicide which gave rise to this prosecution the appellant, Gabino Abellera, was caretaker and foreman at the mansion house in Baguio. Among the persons employed under his supervision were two Igorot gardeners named Day-ag and Caoili. In the afternoon of October 7, 1924, these two laborers had been working in the garden near the house, but it rained and they took refuge in the part of the house where Day-ag had quarters. When the shower had passed Caoili returned at once to work, but Day-ag remained behind, saying that he wanted to fix his calapiao, a covering of woven leaves for protection from rain. Caoili worked for a few minutes and heard the 4.30 whistle. At about this time he saw the appellant Abellera emerge from a room of the mansion house and start in the direction where Caoili was working; but upon seeing Caoili he turned back and went towards the stables where the appellant had his own quarters.

Meantime Day-ag had not come out, and at about 5 Caoili ceased work and took his tools to leave them in the place where Day-ag slept. Upon coming to this place Caoili noticed that Day-ag was not there and he passed on calling aloud to him. Presently Caoili heard groans, and fearing that something had gone wrong, he went out and called to Abellera to come, as Day-ag was groaning. Abellera asked what was the matter, and upon being informed, told Caoili to call two fellow-laborers Paoil and Martin and go with them to Day-ag as he himself (Abellera) wished to finish eating. Caoili went to find Paoil and Martin and as the three were preparing to enter the appellant called to them to wait, saying that all would go together. The three then waited for the appellant, and when he came the four approached Day-ag's room together, the appellant being in front. The appellant pushed open the door and asked what was the matter. But no answer was returned and Day-ag only groaned. The appellant then went out, telling the other three to stay outside where they then were until he (Abellera) could go into the house and telephone for the police. While Abellera was absent upon this errand Paoil, contrary to his instructions, entered the room and asked Day-ag who stabbed him. Upon this Day-ag opened his eyes and said: "Gabino," referring to the appellant, Gabino Abellera. This was heard by the other two companions standing at the door.

After telephoning for the police the appellant was seen to be unsettled and uneasy, running from place to place in the premises, as if in search of the person who might have committed the deed.

The sergeant of police, accompanied by two others, presently arrived, and they were joined later by the chief of

police. Upon examining the injured person he was found to have a number of cuts in the abdomen and three in the neck. His weakness was very marked, and owing to the fact that the windpipe had been perforated it was almost impossible for him to talk. Upon being again asked by the sergeant who stabbed him, he pointed to Gabino Abellera who was then present as the guilty person.

The chief of police then caused the appellant to be sent out of the room, and Caoili and Martin were brought in. These were presented in turn to Day-ag and he was asked if either of them had stabbed him. He moved his head negatively to these questions and the appellant was again brought in. Meanwhile attention having been drawn to the condition of Day-ag's throat a cloth was tied around his neck to prevent the escape of air, as he attempted to talk. With this assistance he was enabled to articulate words, and in reply to further questioning as to who had stabbed him he pointed to Gabino Abellera and pronounced his name "Gabino." The chief of police then ordered Abellera to go up to Day-ag and ask him who stabbed him and upon this being done Day-ag said: "You." A bolo was then seen at Day-ag's side. It was picked up by one of the police officers and Day-ag was asked whose bolo that was. Day-ag replied that it was the bolo with which the appellant had stabbed him in the abdomen and throat, and he said that after stabbing him the appellant had put the bolo at his side and run away.

Day-ag was then taken to the hospital where he was treated, but he died in a day or two as a result of the wounds which had been inflicted upon him. In the course of the first evening the justice of the peace of Baguio visited Day-ag and told him that he might die and that it was desirable to have the truth. In response to the questions then directed to him Day-ag again said that the appellant, Gabino Abellera, was the person who stabbed him and indicated that the cause of enmity was the belief on the part of the appellant that Day-ag had informed the city engineer that the appellant was improperly being visited by a woman at the mansion house.

Again, in the operating room of the hospital Day-ag repeatedly said in the presence of various persons, including the provincial fiscal, that it was Gabino who had assaulted him, and the motive was again asserted to be that the appellant blamed Day-ag as the one who reported to the district engineer that a woman had visited the appellant at the mansion house.

Caoili and Paoil both testified that a few days before the crime was committed the appellant came where the two were engaged and began to sharpen his knife on a grindstone. At the same time he admonished them that if he should find out which one of them it was who was giving information to the district engineer he would kill him; and on the same occasion the accused said that he had dismissed one Dimalig, who had been the predecessor of Day-ag as gardener, because Dimalig had talked out.

The conviction of the appellant in the court below rests mainly upon the weight attributed by the trial court to the repeated statements of Day-ag that the appellant was the guilty person; and we may observe that apart from those declarations the proof would be insufficient to sustain the conviction.

Upon a careful review of the evidence we are unable to entertain a doubt that Day-ag spoke truthfully in denouncing this appellant as his slayer. The appellant undoubtedly had an opportunity to commit the deed, and Day-ag pointed him out as the slayer from the beginning. In this story he never wavered. The district engineer testified that he had never obtained information from Day-ag or any other person prior to the date of this crime that the appellant had improperly received a woman at the mansion house; and if the commission of the crime was due to malice engendered by this belief, the appellant had probably been in error.

We may observe that the testimony of the Igorot Caoili is in our opinion entitled to weight. He says that he had no malice against the appellant, and that in fact the appellant was married to a kinswoman of Caoili. It is difficult to believe that either this witness or Paoil has testified falsely, and it is still more difficult to believe that Day-ag would have falsely imputed the crime to the appellant if the latter were innocent.

An attempt was made on the part of the appellant's lawyer to destroy the weight of Day-ag's declaration by reason of the fact that Day-ag was an Igorot, and therefore a pagan. It is generally accepted that Igorrotes have no belief in a possible future life or in a doctrine of future rewards and punishment. It is urged that this circumstance destroys the weight of Day-ag's statements. Admitting, however, that this circumstance may be entitled to some weight as reflecting on the value of Day-ag's statements, it does not have the effect of rendering such statements inadmissible, and his declarations were properly admitted in evidence as competent proof against the accused. From the facts connected with Day-ag's condition at the time he made these repeated statements, we have no doubt that he appreciated the fact that his death was near at hand and the statements referred to are entitled to the weight usually attributed to dying declarations.

Evidence of the good character of the appellant was introduced in the lower court, and it appears that he was esteemed by those who knew him as a competent and reliable man. This consideration, however, is not sufficient to raise a reasonable doubt upon the point of the commission of the homicide, and no error was in our opinion committed by the trial court. The penalty, we note, is in accordance with law.

The judgment will therefore be affirmed, and it is so ordered, with costs against the appellant.

Avanceña, C. J., Johnson, Malcolm, Villamor, and Johns, 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.