

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RUBEN MANALO, DEFENDANT-APPELLANT.

G.R. No. 55177. February 27, 1987

Ponente: FELICIANO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-55177/>

FELICIANO, J.:

The judgment of the former Circuit Criminal Court of Rizal in Criminal Case No. CCC-VII-2505 finding Ruben Manalo guilty of murder and imposing the death penalty, is before us on automatic review.

The record discloses that in the morning of 23 May 1977, appellant Ruben Manalo, a prisoner serving sentence in the National Bilibid Prison, was at the visiting area of the prison waiting for transfer to the San Ramon Penal Colony. Alfredo de la Cruz, Jolly Hilario and Reynaldo Cariso, all convicted prisoners serving their respective sentences, were similarly waiting in the same visiting area for transfer to the same penal colony. While at the visiting area, appellant engaged another convict in a betting game called "honkiang", after which appellant and dela Cruz indulged in speculation concerning their prospective life in the penal colony. During this conversation, appellant attacked dela Cruz with a knife, inflicting two fatal stabwounds on the latter's back. Immediately after the stabbing, appellant voluntarily surrendered to the prison authorities and handed over the fan knife (balisong) he used in killing dela Cruz.

Immediately after the killing and the appellant's surrender, the appellant was investigated by the prison authorities. During this investigation, Ruben Manalo readily admitted verbally having stabbed the victim and nonchalantly advised that the fan knife he used had been bought by him for P25.00 a month ago and had been concealed inside his right rubber shoe and so was not discovered by the prison guard who had searched him before entering the Visiting Shed.

The investigation also revealed that the victim was a member of the BCJ (Batang City Jail) gang from prison Dormitory 3-D while Ruben Manalo is a member of the Sigue-sigue Sputnik gang from prison Dormitory 2-B. These two gangs have had a serious, ongoing feud for a long time, which had recently been aggravated by the fatal stabbing of a member of the Sigue-sigue Sputnik gang by members of the BCJ gang.

On 6 February 1978, Ruben Manalo was charged with murder in an information which read as follows:

"That on or about the 23rd day of May 1977 in the municipality of Muntinlupa, and within the jurisdiction of this Honorable Court, the above-named accused, who is a convict confined and serving his sentence in the new Bilibid Prison by virtue of final judgment rendered against him by courts of competent jurisdiction, with intent to kill, evident premeditation and treachery did then and there willfully, unlawfully and feloniously attack, assault and stab with a bladed weapon one Alfredo dela Cruz, also a covict, thereby inflicting upon him stab wounds on the vital parts of his body which directly caused his death.

Contrary to law, with the aggravating circumstance of quasi-recidivism, the accused having committed the offense while serving his sentence in the New Bilibid Prison."

Upon arraignment, and with the assistance of counsel, appellant pleaded guilty. The trial court nonetheless ordered the mandatory presentation of evidence. After trial, in a decision dated 7 December 1978, the trial court concluded that the killing of Alfredo dela Cruz by Ruben Manalo had been attended by treachery and evident premeditation and aggravated by quasi-recidivism. The dispositive portion of the judgment read:

"DAHIL SA GAYON, dahil sa kusang loob na pag-amin nang kasalanan nang nasasakdal sa paglabag sa Artikulo 248 nang Binagong Kodigo Penal na naayon sa sakdal, napatunayan nang Hukumang ito na siya ay nagkasala at siya ay hinahatulan nang parusang KAMATAYAN. Pagbabayaran din niya ang mga tagapagmana nang nasawi nang halagang P12,000.00 at P10,000.00 bayad pinsalang moral, P10,000.00 bayad pinsalang di dapat pamarisan at ang gastos ng usaping ito.

IPINAGUUTOS."

In his brief, appellant does not question the finding of the trial court that he had killed Alfredo dela Cruz. Instead, the appellant assigns two distinct errors:

- (1) the proceedings in the trial court were null and void since certain constitutional rights of the appellant had been disregarded therein; and
- (2) the trial court erred in finding that the killing of dela Cruz had been attended by the qualifying circumstances of evident premeditation and treachery.

In respect of the first assigned error, it is the contention of the appellant that he was deprived of his constitutional right to due process, to be presumed innocent until the contrary is proved, to an impartial trial and to counsel, by reason of the lower court's partiality, bias and lack of objectivity during the trial. The appellant urges that since the trial court was not an impartial tribunal, all the proceedings before it should be set aside as null and void.

Appellant maintains that lack of impartiality and of objectivity on the part of the trial judge was clearly shown when he intervened in the cross-examination of Dr. Virgilio Hernale (the physician who had carried out the autopsy of the victim dela Cruz) and of Jolly Hilario, both being witnesses for the prosecution. Upon termination of the cross-examination of Dr. Hernale by defense counsel, the trial judge raised the following questions which Dr. Hernale answered in the following manner:

"COURT

—

Did you find any defense (sic) wounds?

A

—

No sir.

COURT

—

The wound is located at the back?

A

—

Yes sir.

COURT

—

You mean to say he was attacked treacherously?

A

—

It is possible.

COURT

—

He was attacked without giving a chance to defend himself?

A

—

It is possible.

xxx

xxx

x x x"[1]

At the subsequent hearing, during the cross-examination of Jolly Hilario by defense counsel, the trial court intervened once more in the following manner:

"COURT

—

The fact remains that Alfredo de la Cruz was not armed?

A

—

Yes, your Honor.

COURT

—

And he was stabbed suddenly by Ruben Manalo?

A

—

Yes, your Honor.

COURT

—

Alfredo de la Cruz was not able to parry any stab blow by Ruben Manalo?

A

—

No, your Honor.

xxx

xxx

x x x

;

"COURT

—

To what gang do you belong?

A

—

To the Batang City Jail, your Honor.

COURT

—

Where were you operating before when you were not yet sentenced by the court?

A

—

In Manila.

COURT

—

In what part of Manila?

A

—

In Quiapo, your Honor.

COURT

—

And as matter of fact, in your area of operation the enemy of your gang are the Sputniks of which Ruben Manalo is a member?

A

—

They were enemies, your Honor.

COURT

—

So much so that if you have enemies outside the jail, it follows that you will have enemies inside the prison walls?

A

—

Yes, your Honor.

COURT

—

So much so that the members of the Sputniks usually kill the members belonging to the Batang City Jail gang?

A

—

Yes, your Honor.

COURT

—

And in the same manner, vice versa, members of Batang City Jail gang will kill any member of the Sputniks?

A

—

Yes.

COURT

—

And the mode of killing is by treachery and will not give any chance to the victim to defend himself?

A

—

Yes, your Honor.

COURT

—

That is also true to your gang?

A

—

Yes, your honor.

COURT

—

And each gang usually attacks the weak ones especially so when they have no arms?

A

—

Yes, your honor.

COURT

—

Proceed.

xxx

xxx

x x x"[2]

The appellant claims that the above interventions of the trial court show that, at the very outset, the judge had already concluded that appellant was guilty of murder and had resolved to convict him; that the trial court had

functioned "both as judge and prosecutor" asking questions of witnesses "calculated to establish treachery, premeditation and motive"; that the questions raised by the trial court were exceptionable ones, being "leading, misleading, called for opinions or were objectionable on the ground of the witness' incompetence"; and that therefore, appellant "never had a fair chance".[3]

We are not persuaded by the appellant's contention. As long ago as 1915, this Court held that:

"A severe examination by a trial judge of some of the witnesses for the defense in an effort to develop the truth and to get at the real facts affords no justification for a charge in counsel's brief on appeal that he has assisted the prosecution with an evident desire to secure a conviction, or that he had intimidated the witnesses for the defense. We have had occasion to hold (U.S. vs. Hudieres, 27 Phil. Rep., 45) that it is not only the right but oftentimes the duty of a trial judge to examine witnesses when it appears to be necessary for the elucidation of the record. Under the system of legal procedure in vogue in this jurisdiction, where the trial court is judge of both the law and the facts, it is oftentimes expedient or necessary in the due and faithful administration of justice for the presiding judge in the exercise of a sound discretion to reexamine a witness in order that his judgment when rendered may rest upon a full and clear understanding of the facts."[4]

We must accord to a trial judge reasonable leeway in putting such questions to witnesses as may be essential to elicit relevant facts and to make the record speak the truth. In such an effort, a judge may examine or cross-examine a witness. He may seek to draw out relevant and material testimony though that testimony may tend to support or rebut the position taken by one or the other party. In the first instance, the Court has pointed out, "the extent to which such examination may be conducted rests in the discretion of the judge, the exercise of which will not be controlled unless his discretion has clearly been abused to the prejudice of either party".[5] In the present case, we do not believe that the trial judge transgressed the permissible limits of judicial inquiry. It appears to us that the judge merely sought to clarify to himself whether or not treachery and evident premeditation had indeed attended the killing of Alfredo dela Cruz, as alleged by the prosecution. All that the questions propounded by the judge indicates to us is that he was not particularly skillful in cross-examination and that he found it difficult to operationalize words which themselves imported conclusions. Finally, we would note that the questions posed by the trial judge, quoted above, did not ultimately impose any prejudice upon the appellant, for reasons that will become clear shortly. The questions raised by the trial judge sought to draw forth answers which did not relate to whether or not the appellant had in fact killed dela Cruz. The appellant had not only entered an intelligent and valid plea of guilty; that he had killed his fellow convict dela Cruz was established by independent and overwhelming evidence.

The appellant also claims that he was denied his constitutional right to counsel. The appellant admits that he was assisted by counsel de oficio from the time of arraignment and throughout the trial of the case. Appellant, however, deplores the fact that several different counsel de oficio assisted him during the different hearings held in his case. Atty. Galvan appeared for Manalo at the arraignment and at the second and sixth hearings; Atty. Sardillo assisted him during the first and the third hearings; at the fourth and fifth hearings, Manalo was represented by Atty. Agoot. At the fifth hearing, the appellant claims, the prosecution was already "mid-stream" in its direct examination of the prosecution witness of whom 27 questions had already been asked, when the prosecution suddenly commented that "I think there is no lawyer for the accused [present]". The trial court forthwith appointed Atty. Agoot there physically present as counsel de oficio (apparently forgetting that he had already been appointed counsel de oficio and had acted as such, at the previous [fourth] hearing) and thereupon proceeded with the trial of the case.

Appellant raises the entertaining, if rhetorical, question of how ably his counsel de oficio could defend him since they were "playing musical chairs — hearing after hearing".[6] Thus, the appellant asserts that his right to counsel

was "but a sham", that by appointing multiple counsel de oficio the trial court did not effectively provide him with the assistance and protection required by the Constitution.[7]

The appellant's argument is novel and interesting but, once more, we are not persuaded that there has here been a deprivation of a constitutional right which requires annulment of all the proceedings before the trial court. We do not believe that the fact that a particular counsel de oficio did not or could not consistently appear in all the hearings of the case, is effectively a denial of the right to counsel, especially so where, as in the instant case, there is no showing that the several appointed counsel de oficio in any way neglected to perform their duties to the appellant and to the trial court and that the defense had suffered in any substantial sense therefrom. Fairness to the several counsel de oficio requires us to note the record which reveals that each of them had conscientiously performed their duties in assisting the appellant and protecting his interest by, for instance, making the necessary objections in a timely manner during the examination of the prosecution witnesses to test their credibility and freedom from bias or evil motive.[8] Contrary to the suggestion of the appellant, Atty. Agoot was not entitled to a recess of two days to prepare to defend the appellant after Atty. Agoot was re-appointed counsel de oficio at the fifth hearing. That lawyer had previously been designated counsel de oficio during the preceding (fourth) hearing.[9] Both the appellant and the court had therefore the right to expect that that counsel de oficio was familiar with the facts of the appellant's case and that he had prepared himself for the fifth hearing since his prior appointment as counsel de oficio had not been revoked by the trial court. In point of fact, his designation once more as counsel de oficio during the fifth hearing was totally unnecessary. In any case, Rule 116, Section 5 of the Rules of Court gives the trial judge discretion to shorten or extend the time given to an attorney de oficio to prepare his defense.

We turn to the appellant's second assignment of error: that relating to the finding of the lower court that the killing of convict dela Cruz was attended by the qualifying circumstances of evident premeditation and treachery. We note at once that the Solicitor General has concurred with the view taken by the appellant on this point.

The lower court had found that dela Cruz was sleeping when attacked by Ruben Manalo (citing, in this connection, the Necropsy Report)[10] and thus, concluded that treachery was present. The Solicitor General, however, concedes that there was absolutely no evidence in the record to show that dela Cruz was stabbed while asleep.[11] The Necropsy Report only described the injuries and the cause of death of the victim. No statement is found there that the victim was asleep at the time of the stabbing. Neither the physician who carried out the autopsy and prepared the Necropsy Report nor the two eyewitnesses to the stabbing had testified that the fatal wounds had been administered while the victim was asleep. On the contrary, both eyewitnesses to the killing explicitly stated that the appellant had stabbed dela Cruz while the two were conversing with each other.[12]

Treachery cannot be presumed. It must be proven as conclusively as the act of killing itself. The fact that the fatal wounds were found at the back of the deceased does not, by itself, compel a finding of treachery. Such a finding must be based on some positive proof and not be merely an inference drawn more or less logically from hypothetical facts. This Court has ruled that the suddenness of an attack is not, of itself, enough to constitute treachery when the method of killing does not positively show that the assailant thereby knowingly intended to ensure the accomplishment of his purpose without risk to himself from any defense which the victim might put up.[13] In other words, to sustain a finding of treachery, the means, method or form of attack must be shown to have been deliberately adopted by the appellant.[14] There was no such showing here. On the contrary, the evidence indicated that the killing of dela Cruz was not pre-planned by the appellant and that the decision to kill was an impulse of the moment. Appellant was in the visiting area with dela Cruz not because the appellant had deliberately planned to be there at the same time as dela Cruz. Rather, appellant was there because he, along with others, had been chosen by the prison authorities for transfer to the penal colony. Thus, appellant found himself

with dela Cruz that morning by accident and not by design. Further, dela Cruz was stabbed while lying on a table, engaged in a conversation with the appellant. Appellant could not have foreseen that dela Cruz would lie down on a table and present such an attractive victim; thus, the resolve to stab him while dela Cruz was in a prone position, must have been taken impulsively. Finally, if the appellant had planned the killing, the probability was that he would not have planned to carry it out in broad daylight while dela Cruz's gangmates and dormitory mates (Hilario and Cariso) were close by.

The Solicitor General has also agreed with the appellant that the trial court's finding of evident premeditation was erroneous because of lack of support in the record. The Solicitor General said:

"[To show evident premeditation] it is necessary to establish (a) the time when the offender determined to commit the crime, (b) a notorious act manifestly indicating that he has clung to his determination, and (c) a sufficient lapse of time between the determination and the execution, to allow him to reflect upon the consequences of his act. (Padilla, Criminal Law, 1979 ed., p. 449).

None of these requisites was proven in the case at bar. The evidence presented at the trial was limited to events that transpired immediately prior, during and after the attack. No one testified on any incident that occurred an hour or more before the attack. Hence, there is no proof on (a) when appellant resolved to kill the victim, (b) what external acts demonstrated that he stuck to his resolution and (c) whether he had sufficient time to reflect upon the consequences of his act.

In fact, there is no evidence to show that appellant and de la Cruz knew each other prior to the killing. They belonged to different gangs, were assigned to different brigades and lived in different dormitories. Prosecution witnesses Hilario and Cariso, who were gangmates, dorm-mates and close friends of de la Cruz, did not know appellant's name. Thus, it is highly probable that appellant was not even acquainted with de la Cruz and so there was no reason for appellant to resolve before hand to kill de la Cruz. The qualifying circumstance of premeditation may be properly taken into account only when the intention to kill has been planned in the mind of the offender and carefully meditated. It is not enough that it arose at the moment of the aggression, as in the present case.

In the absence of clear proof of any circumstance that would qualify as murder the killing of the deceased, we submit that appellant committed no more than homicide."^[15]

We agree with the Solicitor General.

WHEREFORE, the decision of the lower court is modified and Ruben Manalo is found guilty beyond reasonable doubt of the crime of homicide for which, in view of the presence of the special aggravating circumstance of quasi-recidivism under Article 160 of the Revised Penal Code, the correct imposable penalty is reclusion temporal in its maximum period. Applying the Indeterminate Sentence Law, Ruben Manalo is hereby sentenced to an indeterminate penalty of ten (10) years and one (1) day of prision mayor as a minimum and seventeen (17) years, four (4) months and one (1) day of reclusion temporal as a maximum. The civil indemnity due to the heirs of Alfredo dela Cruz is increased to Thirty Thousand Pesos (P30,000.00). The balance of the judgment of the lower court is **AFFIRMED**.

SO ORDERED.

Yap, (Chairman), Narvasa, Gancayco, and Sarmiento, JJ., concur.

Melencio-Herrera, J., see dissenting opinion.

Cruz, J., see separate opinion.

-
- [1] TSN, 9 February 1978, pp. 4-5.
- [2] TSN, 22 November 1978, pp. 19-20.
- [3] Brief for the Appellant, p. 8.
- [4] US v. Lim Tiu, 31 Phil. 504 at 506 (1915); Also: People v. Moreno, 83 Phil. 286 (1949); and People v. Largo, G.R. No. L-4913 (28 August 1956) (unpublished).
- [5] People v. Serna, G.R. No. L-7845 (27 February 1957) (unpublished).
- [6] Brief for the Appellant, p. 11.
- [7] Id., p. 11-12.
- [8] TSN, 22 November 1978, pp. 7-22; 9 February 1978, pp. 4-5; 10 February 1978, pp. 7-12; 15 February 1978, pp. 2-5; 17 February 1978, pp. 3-4; 7 December 1978, pp. 3-4.
- [9] TSN, 17 February 1978, pp. 1-5.
- [10] Exhibit "A", Original Record, p. 65.
- [11] Brief for the Appellee, p. 9.
- [12] Salaysay of Jolly Hilario and Reynaldo Cariso, Exhibits "E" and "F", Original Record, pp. 71-72.
- [13] People v. Carsano, 95 SCRA 146 (1980); People v. Cabiling, 74 SCRA 185 (1976); People v. Satone, 74 SCRA 106 (1976).
- [14] People v. Bongo, 55 SCRA 547 (1974).
- [15] Brief for the Appellee, pp. 16-18.
-

SEPARATE OPINION

CRUZ, J.:

While concurring in the conviction based upon the plea of guilty made by the accused-appellant, I must express misgivings over the manner he was accorded his right to counsel, which is one of the most important rights of the accused under the Constitution.

So important is this right that the first duty of the court before even arraigning the accused is to ascertain whether or not he is assisted by counsel and, if not, to give him a chance to retain counsel de parte or, if he cannot, to appoint counsel de oficio for him. No less importantly, the court must see to it that the counsel de oficio shall not merely make the motions in defense of the accused but must exert all efforts for the protection of his client's rights with the same sincerity and spirit as when he is acting as counsel de parte.

The records of this case show that no counsel de oficio was appointed for the defendant on a permanent basis, that is, for the entire duration of the case. On the contrary, new counsel de oficio was appointed for each hearing, when and as it was held, the choice presumably falling on whoever was available in the courtroom at the time. Thus, one lawyer was appointed for the arraignment and the second and sixth hearings; a second for the first and third hearings; and a third for the fourth and fifth hearings, belatedly at that during the fifth hearing, when it was

noticed after some time that the defendant had no counsel.

Such tentative, ad hoc and impromptu appointments of counsel de officio could not have provided the defendant-appellant with the adequate representation he was entitled to for the protection of his rights. The several counsel de officio tapped for the nonce apparently acted extempore only, without the motivation of a considered strategy or a long-range theory of the case. As a result, lacking continuity, cohesiveness and direction, the defense became pro forma and predictably ineffective, to the prejudice of the accused-appellant. I do not think this is the kind of protection envisioned in the Bill of Rights when it unequivocally assures the accused that he shall have the right to be heard by himself and counsel.

DISSENTING

MELENCIO-HERRERA, J.,

It is my view that teachery attended the commission of the crime. The victim was stabbed while lying on his back on a table conversing with appellant, unarmed. He was unaware of appellant's criminal intention; he was stabbed all of a sudden, without warning; he was full unprepared at the time of the attack and was in no position to defend himself. The fact that the killing was not pre-planned did not make the offense any less treacherous. Admittedly, appellant was "attracted" by the prone position of the victim. Thereupon, he consciously employed a mode of attack which tended directly and specifically to insure his criminal objective without risk to himself arising from any defense which the offended party might have made.

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.