

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. VICENTE ANDAYA, DEFENDANT-APPELLANT.

G.R. No. 63862. July 31, 1987

Ponente: CORTES, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-63862/>

CORTES, J.:

The defendant-appellant, Vicente Andaya, was charged with the murder of Teresita Cervantes in an information which reads:

That on or about March 3, 1980, in the morning thereof, at Barangay Kinamaligan, Municipality of Masbate, Province of Masbate, Philippines, within the jurisdiction of this court, the said accused with intent to kill, evident premeditation and treachery did then and there willfully, unlawfully and feloniously attack, assault and hack several times one Teresita Cervantes, hitting the latter on the head, thereby inflicting wounds which directly caused her instantaneous death.

Contrary to law.

Andaya pleaded "NOT GUILTY" but the court a quo after trial rendered judgment finding him guilty beyond reasonable doubt of the crime of murder and imposed the death penalty. Hence, this automatic review. The dispositive portion of the decision is as follows:

WHEREFORE, PREMISES CONSIDERED, the Court finds accused Vicente Andaya GUILTY beyond reasonable doubt of the crime of murder qualified by treachery and aggravated by the circumstance of an uninhabited place, without any mitigating circumstance to offset the same, therefore, hereby sentences him to the supreme penalty of death; to indemnify the heirs of the late Teresita Cervantes the amount of P12,000.00 as compensatory damages, and to pay the costs of the suit.

In view of the nature of the penalty imposed by the Court, the record of this case is hereby ordered forwarded to the Supreme Court of the Philippines, Manila for automatic review.

SO ORDERED.

The case for the prosecution rests on the positive identification of the defendant-appellant by witnesses Edna Ternal and Francisco Masamoc. The latter testified to having seen the crime actually committed. The defense relies on alibi.

The decision appealed from, takes into account the conflicting versions of the prosecution and of the defense as to what happened on the morning of March 3, 1980. It clearly indicates the facts and law on which the decision is based, thus:

* * *

A perusal of the conflicting versions of the prosecution and that of the defense show that accused's alibi is feeble and flimsy. Prosecution witness, Francisco Masamoc positively identified accused Vicente Andaya as the assailant of the deceased Teresita Cervantes. He saw Vicente Andaya armed with bolo, chasing the victim

and upon overtaking her, he hacked the victim. As a result of the hacking, she died. Thereafter, Vicente Andaya ran to the creek. Francisco Masamoc immediately reported the incident to the parents of the victim. Significantly, this testimony of Francisco Masamoc was the subject of a perfect corroboration by a young barrio girl, Edna Ternal who in her testimony said that while she was going down the trail of barrio Kinamaligan, Masbate, Masbate, she saw accused Vicente Andaya and Teresita Cervantes going the hill of Kinamaligan. Teresita Cervantes was ahead, followed by the accused who was then carrying a bolo tucked on his waist. Edna Ternal testified that accused Vicente Andaya was behind Teresita Cervantes while they were going down the trail. In this connection, Dr. Emilio Quemi declared that the incised wound of the victim, about four inches long at the posterior base of the neck could have been inflicted while the assailant was behind the victim. The evidence on record is bereft of any known motive why these witnesses should falsely testify against the accused or of any special interest in accused's conviction, thus, their testimonies deserve weight and credence.

Accused Vicente Andaya pleaded the defense of alibi. He maintains that in the early morning of March 3, 1980, he was in the house of his parents-in-law at barrio Kinamaligan, Masbate, Masbate. And from said house he went to his place of work in the coconut plantation of Carlito Saut also located in the same barrio, arriving thereat about 8:00 A.M. on said date. At about past 8:00 A.M. he started gathering coconuts until 11:00 A.M. Cecilio Labastida corroborated accused's claim that at about 7:00 A.M. on March 3, 1980, he was in the house of his father-in-law, Crispulo Labastida. Cecilio stayed there for almost two (2) hours where he also saw Edna Ternal in the same house. He declared however that Vicente Andaya went uphill of barrio Kinamaligan at around past 7:00 A.M. on the same day. Jose Saut likewise attempted to corroborate Vicente Andaya's alibi. He testified that in the early morning of March 3, 1980, he went to the house of his nephew, Carlito Saut in the hill of barrio Kinamaligan, Masbate, Masbate to borrow money. On his way, he met Vicente Andaya. So they went together in going to the house of Carlito Saut and arrived thereto about past 8:00 A.M. After resting for a while, Vicente Andaya started gathering coconuts from past 8:00 A.M. up to 11:00 A.M.

It is significant to note that Cecilio Labastida is not an impartial witness as he is Vicente Andaya's brother-in-law, therefore his testimony is tainted with bias. At any rate, he admitted that at around 7:00 A.M. on March 3, 1980, Vicente Andaya actually left the house of his father-in-law and went up the hill of barrio Kinamaligan, Masbate, Masbate, the place where the victim was killed. Similarly, Jose Saut could not be a disinterested witness because he is the uncle of Carlito Saut, the owner of the coconut plantation where Vicente Andaya was gathering coconuts. But, even granting that the alibi presented by the accused and his witnesses is to be admitted, the fact remains that the place where Teresita Cervantes was killed and the place where accused was allegedly gathering coconuts on March 3, 1980 is only around 500 meters away, therefore, it was not physically impossible for the accused to have been at the place where the crime was committed, either before or after the time he was in the place of his work in the plantation of Carlito Saut. In this connection, it has been held that "to establish an alibi, a defendant must not only show that he was present at some other place about the time of the alleged crime, but also that he was at such other place for so long a time that it was impossible for him to have been at the place where the crime was committed, either before or after the time he was at such other place. (People v. Palomas, 49 Phil. 501; People v. Angeles, 92 SCRA 432; People v. Alcantara, 33 SCRA 812) In another case the Supreme Court refused to believe appellants' defense of alibi as the plantation where he was allegedly working on the day in question was only about six hundred yards away from the scene of the crime, and it was not impossible for them to leave their place of work. (People v. Niem, et al., L-8634, 75 Phil. 668; People v. Gamboa, et al. L-8634, October 18, 1954) But apart from the foregoing weakness which inheres in the alibi invoked by the accused, his inability to exculpate from the fact that the prosecution eyewitness, Francisco Masamoc positively and categorically identified Vicente Andaya as the perpetrator of the crime and Edna Ternal substantially corroborated his version of the incident. The positive identification of the accused as the author of the crime by said witnesses is beyond doubt, hence the alibi of Vicente Andaya cannot stand against it. The unchallenged rule in this jurisdiction is that the defense of alibi is worthless in the face of positive identification by prosecution witnesses pointing to the accused as *particeps criminis*." (People v. Dela Cruz, 97 SCRA 385)

In the instant case, the crime was correctly characterized by the prosecutor as murder. Accused Vicente Andaya made a deliberate and sudden attack with his bolo on the unarmed victim, Teresita Cervantes after she was chased and overtaken by said accused. Dr. Emilio Quemi who examined the deceased, said that the incised wound of the victim, about four inches long at the posterior base of the neck could have been inflicted while the assailant was behind the victim, thus, corroborating the testimonies of prosecution eyewitnesses Francisco Masamoc and Edna Ternal that the accused herein was behind the victim during the incident. Accused resorted to a mode of assault which insured the consumation (sic) of the killing without any risk to himself arising from any defense which the victim could have made. Hence, alevosia qualifies the killing as murder. But the evidence on record also shows that the victim was killed on top of the hill of barrio Kinamaligan, Masbate, Masbate, an uninhabited place which is far from human habitation, the nearest house being about 1/2 kilometer away and the place of the killing was obviously sought and chosen by the accused to avoid detection and preclude interference with the commission of the murder or giving assistance to the victim. Thereby, uninhabited place aggravates the penalty. And there being no mitigating circumstance present, the death penalty must be imposed to the accused. The accused in this case victimized a young barrio girl living at the top of the hill of barrio Kinamaligan, Masbate, Masbate. Clearly, the accused is a criminal with anti-social proclivities against which society has the need, if not the right, to defend itself. The imposition of the supreme penalty to him is not only justified by the facts of the case, but is required as a measure of social defense. To spare his life is to endanger the lives of many more other innocent persons. For him justice cannot be tempered with mercy; the law must be applied to its full force and to its full extent.

* * *

As counsel for the defendant-appellant the Citizens Legal Assistance Office (CLAO) assigns the following errors:

I

THE COURT A QUO GRAVELY ERRED IN RELYING ON THE TESTIMONY OF FRANCISCO MASAMOC AS THE ALLEGED EYE-WITNESS TO THE CRIME INSPITE (sic) OF HIS CONTRADICTORY STATEMENTS.

II

THE TRIAL COURT ERRED IN CONVICTING THE ACCUSED-APPELLANT ON MERE CIRCUMSTANTIAL EVIDENCE. [Rollo, p. 29].

This Court finds no merit in the appeal.

The defense challenges the credibility of the witness Francisco Masamoc pointing out discrepancies in his statements in the affidavit executed before the police authorities and those made on the witness stand. In the affidavit the witness did not say anything about having seen the defendant-appellant hack the victim while he testified at the trial to having seen the act done. However, the witness explaining his omission, on cross-examination stated that the affidavit was prepared by a policeman at the municipal building who asked and typed the questions together with the answers.

In previous cases this Court has ruled on the issues of contradictions made by witnesses for the prosecution in statements in their affidavits and on the witness stand. [People v. Tan, 89 Phil. 337 (1951), People v. Pacala, L-26647, August 15, 1974, 58 SCRA 370].

In People v. Tan [at p. 341], the Court dealt with the issue, thus:

. . . As aptly pointed out by the Solicitor General, the contradictions, if any, may be explained by the fact that an "affidavit * * * will not always disclose the whole facts, and will oftentimes and without design incorrectly

describe, without the deponent detecting it, some of the occurrences, narrated * * * " (2 Moore on Facts, 1098) and "being taken ex parte, is almost always incomplete and often inaccurate, sometimes from partial suggestions, and sometimes from the want of suggestions and inquiries, without the aid of which the witness may be unable to recall the connected collateral circumstances necessary for the correction of the first suggestions of his memory, and for his accurate recollection of all that belongs to the subject . . ."

Another discrepancy in the testimony of the principal witness Masamoc pointed out by the defense refers to Masamoc's purpose in going to the poblacion on the morning of March 3, 1980. This is minor, is satisfactorily explained and does not affect the credibility of the witness.

The defense assigns as error the conviction of the defendant-appellant on "mere circumstantial evidences."

The prosecution presented Francisco Masamoc as eyewitness to the dastardly act of the defendant-appellant. Masamoc testified that he saw Vicente Andaya armed with a bolo chasing the victim, and that upon overtaking her, Andaya hacked the victim. The court a quo who heard the testimony of Masamoc and observed him during the trial gave full credence to his account of what happened. Masamoc's act of immediately reporting what he saw to the parents of the victim supports the veracity of his account of the event. Furthermore, the schoolgirl Edna Ternal's testimony that she met the victim closely followed by the accused-appellant carrying a bolo tucked on his waist, as they were going down the trail, corroborates Masamoc's testimony. Further corroboration was made in findings of the medical doctor that the most fatal wounds of the victim were located on the mandible and at the back of the neck, which could have been caused by a sharp edged instrument wielded by the assailant positioned behind the victim.

The court a quo committed no error in rejecting alibi as a defense against the positive identification of the defendant-appellant as the perpetrator of the crime. As the trial court noted the witnesses presented for the defense were not impartial witnesses and even if they were, the place where the defendant-appellant was supposed to be at the time the murder was committed was only about 500 meters away from the scene of the crime.

However, the Court agrees with the Solicitor General, that although the offense was committed in an uninhabited place, the record does not show that the defendant-appellant actually sought the solitude of the place to better attain his purpose. For this reason this aggravating circumstance should not be considered against the defendant-appellant [People v. Luneta, et al., 79 Phil. 815 (1948), People v. Deguia, et al., 88 Phil. 520 (1951), U.S. v. Vitug, 17 Phil. 1 (1910)]. With neither aggravating nor mitigating circumstance, the proper penalty, therefore, would be reclusion perpetua not death. Even without this factor, under the 1987 Constitution [Art. III, Sec. 19(1)] the modification of the penalty imposed by the trial court would in any event have to be modified to reclusion perpetua.

WHEREFORE, the appealed decision finding the defendant-appellant guilty of murder beyond reasonable doubt is hereby MODIFIED to reduce the penalty of death to reclusion perpetua, and to increase the amount of indemnity to be paid the heirs of Teresita Cervantes to P30,000.00.

SO ORDERED.

Teehankee, C.J., Yap, Fernan, Narvasa, Melencio-Herrera, Gutierrez, Jr., Cruz, Paras, Feliciano, Gancayco, Padilla, Bidin, and Sarmiento, 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.