

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ALFREDO CEMPRON, ACCUSED-APPELLANT.

G.R. No. 66324. July 06, 1990

Ponente: PARAS, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-66324/>

PARAS, J.:

This is an appeal interposed by accused Alfredo Cempron who was convicted of the crime of Murder by the Regional Trial Court of Bohol,[1] Branch 3, for stabbing to death one Gregorio Gudelusao on November 1, 1982. The dispositive portion of the trial court's decision reads:

"WHEREFORE, in view of the foregoing considerations, judgment is hereby rendered finding accused Alfredo Cempron guilty beyond reasonable doubt of the crime of Murder penalized under Articles No. 248 of the Revised Penal Code and there being no aggravating circumstance nor mitigating circumstance alleged in the information, the Court hereby sentences accused Alfredo Cempron to suffer the penalty of imprisonment of Reclusion Perpetua to its full extent which shall not exceed 30 years, together with all the accessory penalties thereto attached and provided by law; and to indemnify the heirs of Gregorio Gudelusao the amount of P12,000.00; P3,205.00 actual damages; P7,000.00 moral damages; all Philippine Currency, without subsidiary imprisonment in case of insolvency pursuant to and in accordance of Article 39 of the Revised Penal Code as amended by Republic Act No. 5465 and to pay the costs of the proceedings.

"It appearing from the record that the accused voluntarily surrendered on November 1, 1982 in the Inabanga police authorities and was confined at the Inabanga Municipal Jail since then and was transferred to the Bohol Rehabilitation Center, Tagbilaran City on January 3, 1983 and had been under preventive imprisonment since then and until at present and it appearing from the record that he reduced into writing his conformity and intention to abide by the rules and regulations applicable to convicts, is given 4/5 credit of his preventive imprisonment at the Inabanga Municipal Jail and full credit of his preventive imprisonment that he had already undergone at the Bohol Rehabilitation Center since January 3, 1983 and until at present, pursuant to and in accordance with the provisions of Republic Act No. 6127.

"The weapon marked Exhibit A is ordered confiscated in favor of the government." (pp. 9-10, Judgment; pp. 162-163, Rollo)

The facts as summarized by the Solicitor General are as follows:

"At or about 3:30 o'clock in the afternoon of November 1982 (tsn, March 24, 1983, p. 2; tsn, May 19, 1983, p. 26), Gregorio Gudelusao was in a cockpit in Cogon, Inabanga, Bohol, where cockfights were currently going on (tsn, May 19, 1983, p. 26). Gudelusao was a 'mananari', or a person who placed gaffs on fighting cocks (ibid.).

"As Gudelusao was squatting on the ground counting money consisting of bets of different persons (id; tsn, March 24, 1983, p. 2), appellant suddenly came from behind him (tsn, May 19, 1983, p. 26; March 24, 1983, p. 2; August 8, 1983, p. 34) holding a fighting cock on the left hand with a knife (Exh. A) concealed beneath the wings of the cock (tsn, August 8, 1983, p. 35). Thereafter, appellant successively stabbed Gudelusao who was totally unprepared for the attack (tsn, March 24, 1983, p. 4; tsn, May 19, 1983, p. 27). After being stabbed

several times, Gudelusao fell to the ground (tsn, May 19, 1983, p. 27), with his intestines already exposed (ibid., p. 28). Meanwhile, appellant ran away still holding his knife (Exh. A) (id; tsn, March 24, 1983, pp. 4-5).

"Thereafter, Humberto Gudelusao a brother of the victim, rushed the latter to the Clarin Emergency Hospital. Later, Gudelusao was transferred to the Bohol General Hospital (tsn, March 24, 1983, p. 5; tsn, May 19, 1983, p. 28) where Dr. David Indino treated the victim (tsn, May 19, 1983, p. 16). Unfortunately, however, Gudelusao died at about 8:30 o'clock that same evening due to massive blood loss (ibid., p. 17). Dr. Indino executed a Certificate of Death (Exh. C) attesting to Gudelusao's death (id., pp. 17-18).

"At about 7:00 o'clock in the evening of the same day, appellant voluntarily surrendered to Agripino Lofranco, a Barangay Officer of Luyo, Inabanga, Bohol, and the knife (Exh. A) he used in stabbing Gudelusao (tsn, June 6, 1983, pp. 1-3). Thereafter, Lofranco and a certain Patrolman Torreon brought appellant to the police station (ibid., pp. 3-5). They gave the knife (Exh. A) to the Administrative Officer for safe-keeping (id., p. 9).

"Patrolman Torreon entered the stabbing incident in the police blotter (Exh. B) (id., p. 3-4).

"It is undisputed that appellant is responsible for Gregorio Gudelusao's death. By this appeal, however, appellant maintains that the prosecution failed to establish, by positive evidence, circumstances which qualify the criminal act to Murder. He avers that he stabbed Gudelusao merely in self-defense. Hence, or he should be convicted merely of Homicide, and not Murder, as found by the trial court." (pp. 3-6, Brief for the plaintiff-appellee, p. 170, Rollo)

The trial court's decision convicting appellant Cempron of Murder was premised on the qualifying circumstance of Treachery. For alevosia or treachery to be appreciated as an aggravating or qualifying circumstance, the offender should have employed means, methods or forms in the execution of the crime which tended directly and specifically to insure its execution without any risk to himself arising from the defense which the offended party might make.[2]

On his part, Alfredo Cempron testified that

"On November 1, 1982, at about 12:00 o'clock noon, he was already at the cockpit to bet. The cockfight had started at 11:00 o'clock in the morning. He bet once only and he won. The deceased received his (accused's) bet of P10.00, the former being the collector ('tenedor'). The deceased was a gaffer and at the same time, a bet collector. After winning, he asked the money he won from the deceased. But the deceased said to him, "You did not give anything to me." He insisted in asking the amount that he won. The deceased got angry and boxed him hitting him in the abdomen. It was 1:00 o'clock in the afternoon when he was boxed by the deceased. He felt the pain and walked away. The deceased is robust and a big man while he is very thin and weak. Thereafter, he went towards the nearby restaurant and got a kitchen knife for self-protection. Then, he proceeded to the deceased reiterating his demand for the bet that he had allegedly won. The deceased got something from his pocket and the accused thought that it was the money he won. But it turned out to be a "tari" (gaff). The deceased told him that this ("tari") will be the one he would give the accused. Then, the deceased thrust that gaff towards his body. Fortunately, he was able to evade said thrust. He got his knife and thrust it against the deceased's body. There were many persons when he stabbed the deceased. He stabbed the deceased only in self-defense. He did not stab the deceased while the latter was squatting. He did not stab the deceased from behind. He did not stab the deceased because the latter testified before the Fiscal that he (accused) gave his knife to one Catalino Luga to kill the son of Luz Gudito. He stabbed the deceased just once in the left abdomen. After stabbing the deceased, he ran towards the barangay councilman of Luyo in order to surrender. He did not surrender directly to the police for fear of being mauled. He has no other case."

(pp. 148-149, Rollo)

In the case at bar, the records show that the deceased was inside the cockpit and in a squatting position counting the bettors' money when suddenly, appellant, holding a knife which was concealed under a cock's wing, and while

passing behind the deceased, stabbed the latter on different parts of the body. These facts are clearly established by the testimonies of Humberto Gudelusao and Severina Gudez in open court, thus:

FISCAL MENDOZA:

Q. While you were at the cockpit at Cogon, Inabanga, Bohol, on November 1, 1982, at 3:30 in the afternoon, did you witness an unusual incident?

HUMBERTO GUDELUSAO:

A. Yes, sir, there was.

Q. Will you state and tell the Honorable Court what was that unusual incident about?

A. While my younger brother Gregorio Gudelusao was squatting on the ground counting the money, immediately Alfredo Cempron came near bringing with him a cock and immediately went near to my younger brother, Gregorio Gudelusao, and stabbed him.

COURT:

Make it appear on record that the witness was demonstrating by squatting near the testifical chair. Proceed.

FISCAL MENDOZA:

Q. Who was squatting at that time as you have demonstrated before this Honorable Court?

A. Gregorio Gudelusao.

Q. While Gregorio Gudelusao was squatting on the ground, what was he doing?

A. He was counting the money.

x x x

Q. While your brother, Gregorio Gudelusao, was counting money as bet in that cockpit as he was the 'tenedor', where was accused Alfredo Cempron when you said he stabbed your brother?

A. He was behind Gregorio Gudelusao.

Q. What was the position of Alfredo Cempron, was he sitting or standing?

A. He was standing. (The witness was standing up for the witness was called to demonstrate before the Court).

Q. Let us make this clear. You, as accused Alfredo Cempron, and Mr. Ursino Apalisok (clerk in the Clerk of Court's Office, Br. III) as your brother, Gregorio Gudelusao, counting the money. Please demonstrate or show to the Honorable Court how Alfredo Cempron stabbed your brother, Gregorio Gudelusao?

A. Witness standing behind Mr. Ursino Apalisok with the use of his right hand demonstrating by stabbing the left breast. With the use of his right hand in the act of stabbing the left side of the breast of Ursino Apalisok.

COURT:

The right hand of witness Humberto Gudelusao in illustrating the stabbing was over the left shoulder of Ursino Apalisok. Proceed.

Q. Before Alfredo Cempron stabbed your brother as you have illustrated, where did he come from?

A. From behind Gregorio Gudelusao.

Q. How did Alfredo Cempron approach the back portion of Gregorio Gudelusao? In what manner?

A. He maneuvered behind the back of my brother, Gregorio Gudelusao.

Q. And how far were you to accused Alfredo Cempron at the time he stabbed your brother?

A. Five (5) meters away.

Q. Was there a previous exchange of words between Alfredo Cempron and Gregorio Gudelusao before Alfredo Cempron came behind Gregorio Gudelusao and stabbed him?

A. None, sir.

Q. What was used by Alfredo Cempron in stabbing Gregorio Gudelusao?

A. A knife (kutsillo).

Q. Did you see clearly the knife used in stabbing your brother, Gregorio Gudelusao?

A. Yes, sir.

Q. You demonstrated that Alfredo Cempron used his right hand in stabbing Gregorio Gudelusao. Now, Do you know where Alfredo Cempron placed that knife used in stabbing Gregorio Gudelusao before he stabbed Gregorio Gudelusao?

A. Beneath the wing of the cock that he was bringing.

Q. How did Alfredo Cempron bring the cock? Will you demonstrate that in the Court?

A. The witness demonstrated that the cock was brought by Alfredo Cempron under his left armpit.

Q. How did Alfredo Cempron get the knife from behind the wings of the cock before he stabbed Gregorio Gudelusao?

A. Alfredo Cempron got the knife, hidden beneath the wings of the cock with the use of his right hand and got it and immediately stabbed Gregorio Gudelusao. And at that time the cock was dropped to the ground.

Q. Was Gregorio Gudelusao able to defend himself when he was stabbed by Alfredo Cempron on his left breast?

A. No, sir.

Q. Why?

A. He was unaware of the stabbing.

Q. How do you know that he was unaware.

A. Because he was counting the money at the time he was stabbed.

Q. While your brother was still squatting counting money, how many times did Alfredo Cempron stab your brother Gregorio Gudelusao?

A. Four times, sir, while squatting and counting the money.

x x x

(tsn, March 24, 1983, pp. 2 4)

Severina Gudez also testified as follows:

FISCAL MACDOZA:

Q. While you were in the cockpit in the afternoon of November 1, 1982, was there any unusual incident that happened?

SEVERINA GUDEZ:

A. Yes, sir, there was.

Q. What was the unusual incident about?

A. My husband was stabbed by Fredo.

Q. Who is this Fredo who stabbed your husband?

A. Fredo Cempron was angry with my husband.

Q. This Fredo Cempron whom you said stabbed your husband, is he the same Alfredo Cempron who is the accused on this case?

A. Yes, sir.

x x x

Q. What was the position of your husband at the time he was stabbed by Alfredo Cempron?

A. He was squatting.

Q. Why was he squatting?

A. He was writing on the ground in order to compute the amount of the win.

Q. Will you illustrate and show to this Honorable Court the position of your husband while he was squatting and making the writings on the ground when he was computing the amount to be given to the winner and the owner of the cockpit?

A. Witness squatting on the floor with the use of her right hand writing on the floor.

Q. It appears that your left hand is closed. Tell the Honorable Court what your husband was doing at that time with his left hand.

A. Money was on his left hand.

Q. That money was for whom?

A. To be given to the winners, sir.

Q. What was used by your husband in making the computation on the ground?

A. Finger, sir.

x x x

Q. You said your husband was stabbed by Alfredo Cempron while your husband was squatting on the ground. Now, How did Alfredo Cempron approach your husband before he stabbed your husband?

A. The Court interpreter acts as the victim. Witness standing behind the right shoulder of the victim with the use of the right hand in thrusting with her closed fist over the left shoulder and hitting the lower abdomen of the victim.

Q. Where did Alfredo Cempron get a weapon in stabbing your husband?

A. It was hidden in his armpit covered with wing of his fighting cock he was bringing along.

Q. After your husband was stabbed twice he was still squatting, what did he do?

A. He fell to the ground with face up.”

(tsn, May 19, 1983, pp. 26-27)

The foregoing appears that the mode of attack adopted by appellant insured the accomplishment of his purpose without risk to himself. The trial court therefore correctly applied the qualifying circumstance of treachery.

Appellant alleges that the trial court erred in imposing the penalty of reclusion perpetua.

He is correct. The trial court failed to consider one (1) mitigating circumstance, that is, voluntary surrender.

Prosecution witness Agripino Lofranco, a barangay official in the place of the stabbing incident, positively testified that in the same evening of said incident appellant purposely went to him and sought his help in surrendering to the police authorities and he actually turned over appellant to them. In fact, the trial court made this finding: "The testimony of Agripino Lofranco for the prosecution was also given weight and credence by this Court that Alfredo Cempron surrendered to him after the stabbing incident and delivered to him the weapon marked Exhibit A." (p. 161, Rollo) Consequently, appellant should be credited the mitigating circumstance of "voluntary surrender."

The penalty for murder is reclusion temporal maximum to death. Considering the mitigating circumstance of voluntary surrender, the impossible penalty would be the minimum period of the penalty provided for by law which has a range of 17 years 4 months and 1 day to 20 years. In crimes punishable with death or life imprisonment provided the resulting penalty, after considering the attending circumstances, is reclusion temporal or less, the Indeterminate Sentence Law applies. (Aquino, 1 Revised Penal Code 724, 1987 edition).

Applying the provisions of the Indeterminate Sentence Law, the minimum range of the indeterminate sentence is 10 years 1 day to 17 years 4 months and the maximum range is 17 years 4 months 1 day to 20 years.

PREMISES CONSIDERED, the decision appealed from is hereby MODIFIED as follows: Alfredo Cempron is guilty beyond reasonable doubt of the crime of murder, but the penalty, applying the indeterminate sentence law, to be imposed shall be from ten (10) years and one (1) day of prision mayor to eighteen (18) years and one (1) day of reclusion temporal as maximum and the indemnity is increased to thirty thousand pesos (P30,000.00) in line with the prevailing jurisprudence.

SO ORDERED.

Melencio-Herrera, (Chairman), Padilla, Sarmiento, and Regalado, JJ., concur.

[1] Penned by Judge Andres S. Namocatcat.

[2] People v. Bacho, G.R. No. 66645, March 29, 1989.

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.