

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
FREDDIE TULAGAN ALIAS “EDING”; VALENTIN DE
GUZMAN ALIAS “SATSOY”; ALIAS
“VICENTE”; RAMON MENDOZA, AND ROMEO
“ROMIE” MENDOZ...**

G.R. No. 68620. July 22, 1986

Ponente: NARVASA, J.

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NARVASA, J.:

On the night of May 19, 1979, at about 11 o'clock, Marlon Catungal, 19, died a violent death, succumbing to "Shock, due to severe hemorrhage, secondary to stab wound, anterior chest." (Exh. F-2). The fatal stab wound is described in the autopsy report[1], as follows:

" *** stab wound, elliptical in shape, 11/2 inches in length, located 1 inch from left para-sternal region at level of 5th intercostal space, directed upward, penetrating the upper portion of anterior lobe of left lung and the ascending portion of the aorta."

No one saw precisely how, where and when that single stab wound was inflicted, or by whom, but there seems to be no question -- both prosecution and defense agreeing on this point -- that the deceased was killed while attempting to flee from at least two men, identified as Freddie (or Eding) Tulagan and Valentin "Satsoy" de Guzman. The chase began at or near the public hall of Barangay Don Pedro, Malasiqui, Pangasinan, where a dance was being held on the occasion of the barrio fiesta, and ended, tragically for Catungal, at the porch (azotea) of the house of a certain Cesar Evangelista, some 300 meters away. The deceased appeared to have been carried, after he had been fatally stabbed, from the house of Evangelista to the shoulder of the provincial road about 10 meters away, where his corpse was later found by police investigators and barangay officials.

The only person with any claim to some sort of direct observation of the pursuit and its sanguinary ending is Bonifacio Ulanday, who gave a sworn statement before the Provincial Fiscal at Dagupan City on June 6, 1979[2] and later testified before the Trial Court.[3] His version of the sequence of events leading to the death of Marlon Catungal is as follows:

- The chase began at the dance hall, at about 10 o'clock p.m., after Marlon Catungal was accosted by Valentin de Guzman alias "Satsoy" and 3 other persons.
- Marlon Catungal ran away when he saw "Satsoy" receive a "balisong" about a foot long from one of his companions.
- In Ulanday's words: "Satsoy chased Marlon Catungal." "When Satsoy chased Marlon, his three other companions also chased Marlon." "I followed them to the direction where they proceeded." [4]
- Ulanday followed in such a way as to avoid being noticed by the pursuers, staying about 15 meters behind

them.[5]

- Ulanday "only lost sight of the four persons running after Marlon Catungal when said Marlon Catungal entered a certain yard"[6]; he "never saw (he 'did not witness') how the four allegedly overtook Marlon Catungal."[7]; he "did not see any person who stabbed or killed Marlon Catungal"[8].

- Ulanday "only saw four persons who lifted him and placed him in front of that big house", at which time Marlon was "motionless" and blood was oozing from the body of Marlon Catungal"[9]; what Ulanday said in his statement before the Provincial Fiscal[10] is:

"While I was running towards the North (following the pursuers) I saw Satsoy and his companions carrying the cadaver of Marlon Catungal from the azotea of a house located around ten meters away from the road to Bayambang." "They placed the cadaver of Marlon Catungal on the left side of the road from Malasiqui"[11].

On the basis of the above-mentioned sworn statement of Bonifacio Ulanday[12] and those of Barangay Captain Jose B. Macaraeg and his daughter, Natalia Macaraeg, an information was filed with the Circuit Criminal Court at Dagupan City, docketed as Criminal Case No. CCC-III-0432, charging Freddie Tulagan alias "Eding," Valentin de Guzman alias "Satsoy," Romie Mendoza and Ramon Mendoza with the crime of murder, allegedly committed as follows:

"That in the evening of May 19, 1979 in the barangay of Don Pedro, municipality of Malasiqui, province of Pangasinan, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and helping one another, with intent to kill, evident premeditation and taking advantage of their superior strength, did then and there wilfully, unlawfully and feloniously stab Marlon Catunggal when said Marlon Catunggal was held helpless and defenseless by accused Freddie Tulagan alias Eding, Ramon Mendoza and Romie Mendoza and Valentin de Guzman alias Satsoy alias Vicente, armed with a sharp pointed instrument delivered the fatal wound which resulted in the instantan-eous death of Marlo Catunggal."[13]

As may at once be perceived, there is no direct evidence to establish what is alleged in the underscored portion of the information: that "Satsoy" (Valentin de Guzman) stabbed Marlon Catungal while the latter was being held "helpless and defenseless" by the three (3) other accused. This Court has examined the record carefully, and neither before the Investigating Fiscals nor before the Trial Court was any proof adduced directly and positively demonstrating precisely how and by whom the single fatal wound was inflicted.

Of the four thus charged, only Romie Mendoza was arrested. Arraigned, he pleaded not guilty. After trial, he was found guilty of the offense charged by judgment promulgated on August 9, 1984, the dispositive portion of which reads:

"WHEREFORE, the Court finds the accused Romeo "Romie" Mendoza guilty beyond reason-able doubt, as principal of the crime of MURDER defined and penalized under Article 248 of the Revised Penal Code, and the commission of the offense having been attended by one generic aggravating circumstance without any mitigating circumstance, hereby sen-tence him to suffer the SUPREME PENALTY OF DEATH, to indemnify the heirs of the victim Marlon Catungal in the amount P30,000.00; P15,000.00 as moral damages; another P15,000.00 as exemplary damages; and reimburse them to amount of P1,500.00 for the wake plus P2,500.00 for the coffin and P1,200.00 for the tomb, and to pay the costs.

"Let this case be archived as against accused Freddie Tulagan, Valentin de Guzman alias Vicente alias Satsoy and Ramon Mendoza, without prejudice to its reinstatement as against said accused, upon their arrest and upon motion of the prosecution."

The case is now before this Court on automatic review.[14]

The decision under review lays stress on a statement attributed to one of the suspects, Vicente "Satsoy" de Guzman by prosecution witness Natalia Macaraeg, which the Trial Court deemed to be part of the res gestae or an "oral confession." Said the Court in this connection:

"Moreover, the testimony of the prosecution witness Natalia Macaraeg is clear that when she asked Vicente de Guzman, Freddie Tulagan and Romeo Mendoza what they did to her neighbor who is working with the PNR, accused Vicente de Guzman, while standing side by side with Freddie Tulagan and Romeo Mendoza told her that they killed Marlon Catungal, her neighbor, an employee of the Philippine National Railways. ***"

Actually -- and this is apparent from a reading of Natalia Macaraeg's testimony -- it was Vicente de Guzman who supposedly volunteered information, without initially having to be asked by Natalia.

"Q

What happened when these three persons you mentioned arrived in your store for the second time naked waist up?

A

Vicente de Guzman, alias Satsoy, told me that they ran after my neighbor Atchi Taling.

Q

What else if any?

A

Then I asked them, what did you do to him? Then they told me -- they ran after my neighbor who is working with the PNR.

Q

What did they answer you?

A

Vicente de Guzman told me that - we killed him." [15]

The Trial Court opined that:

"x x x. The statement made by accused Valentin de Guzman alias Satsoy *** is admissible against accused Romeo Mendoza as part of the res gestae. Section 36, Rule 130 provides that statements made by a person while a startling occurrence is taking place or immediately prior or subsequent thereto with respect to the circumstances thereof, may be given in evidence as part of the res gestae (Revised Rules of Court). Besides, the statement of Valentin de Guzman alias Vicente de Guzman *** partakes of an oral confession or part of the res gestae. The testimony of Natalia Macaraeg on his point is competent evidence. ***" [16]

This is error. That statement is not admissible as part of the res gestae; and considered as an oral confession, it is admissible only against Valentin de Guzman, not against any other person.

There is no evidence whatsoever that the statement attributed to Valentin de Guzman was made by him "immediately subsequent" to the startling occurrence which the Trial Court obviously had in mind: the slaying of Marlon Catungal. On the contrary, if account be taken of the claim of another prosecution witness, Bonifacio Ulanday, that he had followed the four persons pursuing the deceased for "almost one hour" [17], it would most

certainly have taken Valentin de Guzman and his companions that length of time to return from the crime scene to where the chase had started, or to Natalia's store. Natalia herself testified that the three (3) accused returned to her store at "about 10:30 PM," or after "more or less 1½ hours"[18]. More importantly, not every statement made on the occasion of a startling occurrence is admissible as part of the *res gestae*; only such are admissible as appear to have been involuntarily and spontaneously wrung from an observer by the shock or impact of the occurrence such that, as has aptly been said, it is the event speaking through the witness, not the witness speaking of the event.[19] The startling occurrence must produce so powerful an effect or influence on the observer as to extract from his lips some description of the event practically without being conscious of his utterance. There is no indication in the record that Valentin de Guzman was so affected when he made the statement in question under the circumstances related by Natalia Macaraeg. Indeed, it may reasonably be inferred from Natalia's testimony that he was in nowise agitated, stunned or shocked but was, on the contrary, calm, composed, in full possession of his faculties and fully aware of what he was doing and saying. His statement regarding the killing of Marlon Catungal is not admissible as part of the *res gestae*, contrary to the view of the court *a quo*.

Considered as an "oral confession," Valentin de Guzman's statement is, of course, admissible against him, but its use against others for any purpose is proscribed by the well known rule, *res inter alios acta*[20].

The Trial Court's use of Natalia Macaraeg's testimony regarding "Satsoy's" utterances, as part of the *res gestae*, must, therefore, be declared an error. Moreover, there are circumstances which preclude giving full credit to the testimony of Natalia Macaraeg, as will presently be discussed.

The Trial Court also considered as another incriminating circumstance the alleged failure of Romie Mendoza to deny "certain circumstances and pieces of evidence." According to the Court:

"Aside from the evidence that accused Romeo Mendoza, Freddie Tulagan and Valentin de Guzman chased Marlon Catungal at May 19, 1979 at around 9:00 o'clock in the evening, it was shown that upon the return of the three accused to the store at about 10:30 PM, Natalia Macaraeg noticed blood stains on their hands and bodies. These circumstances and pieces of evidence have not been denied by accused Romie Mendoza. These constitute conclusive and decisive evidence of the guilt of accused Romeo Mendoza as one of the authors of the death of Marlon Catungal"[21].

The above-quoted conclusion is completely contrary to the record. It is belied by the very decision itself, which in a later part states:

"Accused Romeo 'Romie' Mendoza DENIED the testimony of Bonifacio Ulanday that he was one of the persons who chased Marlon Catungal on the night of May 19, 1979. He claimed that Freddie Tulagan and Valentin de Guzman chased the person who passed by while he was at the store of Nenet Quribe. *** " (emphasis supplied)

And the inaccuracy of the Trial Court's declaration that Romeo Mendoza has also failed to deny Natalia Macaraeg's claim of his having appeared at her store, accompanied by Eding Tulagan and Satsoy de Guzman, is disclosed by the following testimony of said accused (Mendoza):

"Q

Witness for the prosecution Natalia Macaraeg testified that you went to her store with Freddie Tulagan and Valentin de Guzman, what do you say to that?

A

That is not true, sir.

Q

On that night of May 19, 1979, did you ever go to the store of Natalia Macaraeg?

A

No, sir."[22]

Again:

"Q

Will you please tell this Honorable Court why Natalia Macaraeg testified in the manner that she testified by alleging that you went to her store on the night of May 19, 1979 with your hands stained with blood?

A

We never went to the store of Natalia Macaraeg on the night of May 19, 1979."[23]

At any rate, the record also shows that Romie Mendoza did deny taking part in the pursuit of the deceased[24], and his coun-sel did present two (2) witnesses who substantiated his denial, namely: Victoriano Deldio[25] and Andres Nevado[26].

The Trial Court would refuse credence to Romie Mendoza's denial of having taken part in the chase of Marlon Catungal and considers "worth-stressing," as "an indication of guilt":

" *** the fact that despite the issuance of the warrant of arrest on September 14, 1979 (Exhibit 'H'), accused Romeo Mendoza was arrested only on November 5, 1981 (Exhibit 'L')."

The relevance and logic of the argument escape this Court. The mere lapse of two (2) years or so between the issuance of an order of arrest and the actual apprehension of its subject -- standing alone -- signifies nothing insofar as the guilt of person arrested and his denial of complicity in the crime charged are concerned. Such circumstance can just as plausibly suggest that the officers charged with serving the warrant exhibited less than a desirable diligence and concern in the performance of that duty as that the accused person sought to hide himself and evade arrest. To be sure, the record does show a written statement of the PC officer concerned, dated November 6, 1979, that the initial arrest order was "unserved" because "subjects accused can not be located in their given address"[27] and another report of the same officer, dated February 16, 1980, that "Valentin de Guzman alias Satsoy is now residing at Barangay Anamperez, Villasis, Pangasinan and his (3) co-accused was reportedly left in undisclosed place in Metro Manila (sic)"[28]; but these documents cannot, under the circumstances, be considered as adequate proof that Romie Mendoza did hide himself and otherwise deliberately eluded arrest. Indeed, the fact that he was ultimately arrested in Malasiqui, the municipality of his residence (as indicated by Exhibit L), is inconsistent with his having "reportedly" gone to live in an "undisclosed place in Metro Manila" and militates against the notion of his having gone into hiding.

Equally unacceptable to this Court is the Trial Court's conclusion, quoted hereunder, that the crime was attended with the qualifying circumstance of abuse of superior strength:

" ***. The qualifying circumstance of taking advantage of superior strength qualified the killing and raised it

to murder. Marlon Catungal was chased by accused Freddie Tulagan, Valentin de Guzman and Romeo Mendoza and one of the accused who was armed with a sharp pointed instrument, stabbed him, resulting in his (Marlon Catungal) death."

Given the fact, already stressed, that the victim's last moments are veiled in obscurity insofar as what evidence has been offered is concerned, there being no direct evidence of how the killing was done, no evidence of whether or not all the pursuers took part in the final assault or of what role each played therein, and no evidence of which of them inflicted the single fatal stab wound, and what the others were doing while the deceased was being stabbed, said conclusion, lacking any kind of support in the record, is nothing but pure and simple speculation.

Furthermore, as already intimated, certain relevant and significant considerations prevent this Court from giving full faith and credit to the evidence given by Natalia Macaraeg; and the same is true with respect to Bonifacio Ulanday.

Concerning Natalia Macaraeg, there is, for one thing, her singular omission to mention Valentin "Satoy" de Guzman's alleged admission that "we killed" Marlon Catungal in two (2) sworn statements that she gave to the investigating authorities: the first on May 21, 1979, two days after the slaying[29] and the second, on June 6, 1979.[30] Only when she took the stand three (3) years later on May 29, 1982 did she make that revelation. Her excuse, when confronted with said omission, that "If possible I do not like trouble"[31] is unconvincing. For if she feared retaliation, why give any statement at all, let alone two (2), both of which, even without mention of de Guzman's "confession," clearly implicated all the accused and put her in danger of reprisal at their hands? This inexplicable discrepancy raises grave doubts of Natalia's veracity.

Natalia's conduct on the night of the killing exhibits a curious mix of interest and apathy. When "Satoy" de Guzman "confessed" the killing to her, she became disturbed enough to send people to verify if in fact there had been such a killing and the victim was Marlon Catungal. But when her worst fears were confirmed, she did nothing, appeared to lose all interest in the affair. She did not even report the crime or what transpired at her store to her father, Barangay Captain Jose B. Macaraeg of the neighboring Barangay Pulong Sur, who received the news from other persons[32], although the victim was a neighbor and known to her.

Also by Natalia's account, Vicente "Satoy" de Guzman and his companions first appeared at her store only to announce their intention of going after the man or men who had chased de Guzman's father, and later returned, also only to proclaim -- perhaps "boast" would be the better word -- that their purpose had been accomplished. Why de Guzman and his companions should thus needlessly call attention to themselves and their crime impresses this Court as highly unnatural conduct, hardly to be expected of men whose normal instincts would be to conceal, rather than publicly declare, the plotting and execution of a killing. In this context, said account makes little sense and does not merit uncritical acceptance.

The evidence given by Bonifacio Ulanday is not noticeably better, and exhibits similar defects. The rather sparse account of the tragic event given in his sworn statement[33] acquires some embellishments in his recorded testimony which diminish, rather than enhance, his credibility. For example, in his sworn statement, those who accosted Marlon Catungal at the dance hall only "went near" him, but on the stand he declared that they suddenly seized Catungal and held him by both shoulders[34]. When Catungal managed to break away and run, only Ulanday, a stranger to the place, made bold to follow his pursuers, while the other on-lookers, as commotion ensued, merely stepped backwards"[35], obviously loath to involve themselves. Ulanday also testified that he was in Malasiqui on the night in question at the invitation of Barangay Captain Jose B. Macaraeg and even partook of supper at the latter's house before leaving for the Don Pedro auditorium with Marlon Catungal[36]. But Macaraeg remembers none of this. He never confirmed the alleged invitation and testified only that he saw Ulanday in front of the house of Benigno Catungal, Marlon's father, on the afternoon of May 19, 1979.

"Q

On May 19, 1979 in the afternoon, do you remember having seen this Bonifacio Ulanday?

A

Yes, sir.

Q

Where did you see him?

A

I saw him in Malasiqui, sir, Barangay Pulong Sur.

Q

Where in Malasiqui?

A

Barangay Pulong, sur.

Q

Where in Barangay Pulong did you see?

A

In front of the house of Benigno Catungal.

Q

Do you know why Mr. Ulanday was at Barangay Pulong at the house of Benigno, in front of Benigno Catungal?

A

I don't know, sir."[37]

Ulanday also claims long acquaintance, if not friendship, with the victim and his father, possibly to explain why he dared to follow Marlon Catungal's pursuers when no one else did so. But, strangely, after seeing Catungal lying by the roadside, apparently dead, at the end of the chase, he simply returned to the house of Jose B. Macaraeg, where he slept until 6:00 o'clock in the morning, at which hour he stole out of the house without even waking or taking leave of Macaraeg, his alleged host, and left for his home in San Fabian, Pangasinan[38]. He saw no cause to inform Catungal's family about the death of their son or to report that matter to Macaraeg. Worse still, he kept silent about what he knew until he chanced to meet Catungal's father in Dagupan City on June 3, 1979, two (2) weeks after the event[39].

The Court, therefore, cannot bring itself to accept the testimonial declarations of these two witnesses, which form the pillars of the prosecution's case, and this, particularly in view of the firm denials of the accused and the exculpatory testimony of Victoriano Deldio[40] and Andres Nevado[41], as to whom no clear motive or reason to subvert the truth to favor said accused has been shown.

No less than a man's life is at risk in this case. This Court cannot sanction its sacrifice except upon clear, strong and compelling evidence. The evidence against the accused does not strike the Court as being up to that standard. It is unimpressive and, as already shown, inadequate to command belief and support a conviction. Considered even in the best light, it might raise doubts as to the complete innocence of the accused; it does not exorcise reasonable doubts of his guilt.

WHEREFORE, the guilt of the accused Romeo ("Romie") Mendoza not having been proved beyond reasonable doubt, the decision under review is reversed and said accused is acquitted, with costs de officio.

SO ORDERED.

Teehankee, C.J., Feria, Yap, Fernan, Melencio-Herrera, Alampay, Gutierrez, Jr., Cruz, and Paras, JJ., concur.

[1] Exh. F.

[2] Exhs. E and E-1.

[3] On May 25 and 31, 1982.

[4] Exh. E-1; TSN, May 25, 1982, pp. 10-12.

[5] TSN, id., p. 12.

[6] TSN, id., p. 28.

[7] TSN, id., p. 29.

[8] TSN, id., p. 30.

[9] TSN, id., p. 14.

[10] Exh. E, E-1.

[11] Exh. E-1.

[12] Exh. E, E-1.

[13] Underscoring supplied.

[14] Sec. 9 of Rule 122, Rules of Court.

[15] TSN, March 29, 1982, p. 9.

[16] Underscoring supplied.

[17] TSN, May 25, 1982.

[18] TSN, March 29, 1982

[19] Vide Moran, Comments on the Rules, 1980 Ed., Vol. 5, pp. 348-349.

[20] Sec. 25 of Rule 130, Rules of Court.

[21] Underscoring supplied.

[22] TSN, October 11, 1982, p. 83; underscoring supplied.

- [23] TSN, id., p. 87, underscoring supplied.
- [24] TSN, October 11, 1982, p. 83.
- [25] TSN, November 15, 1982.
- [26] TSN, June 28, 1983.
- [27] Exhibit I.
- [28] Exhibit K.
- [29] Exhibit A.
- [30] Exhibit B.
- [31] TSN, May 29, 1982, p. 26
- [32] Exhibit D.
- [33] Exhibit E.
- [34] TSN, May 25, 1982, pp. 7-8.
- [35] TSN, id., p. 26.
- [36] Exhibit E; TSN, id., pp. 35-36.
- [37] TSN, March 30, 1982; underscoring supplied.
- [38] TSN, May 25, 1982, pp. 34-35.
- [39] Exhibit E.
- [40] TSN, November 15, 1982.
- [41] TSN, June 28, 1983.

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