

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ALBERTO (BERTING) ALMARIO, HECTOR & ZENON SAMONTE, ISAGANI SACOP, BRUNO ABLAO, AND FRANCISCO BALDEMECA, DEFENDANTS, ALBERTO (B...

G.R. No. 69374. March 16, 1989

Ponente: CORTES, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-69374/>

CORTES, J.:

On March 2, 1981, an information was filed against Alberto (Berting) Almario, Zenon Samonte, Hector Samonte, Bruno Ablao, Francisco Baldemeca and Isagani Sacop for the crime of murder committed as follows:

That on or about March 6, 1979, in the Municipality of Lumban, Province of Laguna and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually helping with (sic) each other with treachery and evident premeditation did, then and there, wilfully, unlawfully and feloniously and with intent to kill, attack, assault and shot (sic) at one ELEUTERIO B. BELEN with an unlicensed firearms (sic) thereby inflicting upon the latter serious and mortal gunshot wounds on the (sic) different parts of his body which immediately caused his death, to the damage and prejudice of ELEUTERIO B. BELEN and his heirs. [Original Record, p. 1.]

Sometime in July 1980, they were arrested and detained by the military pursuant to Arrest, Search and Seizure Order (ASSO) Nos. 4837 and 4857. In a Charge Sheet dated December 16, 1980 they were charged with violating General Order Nos. 6 and 7 in relation to Pres. Dec. No. 9* and Art. 248 of the Revised Penal Code, specifically, Illegal Possession of Firearm with Murder.

Accused Francisco Baldemeca escaped from his detention at the 224th PC Headquarters on February 10, 1981. Bruno Ablao died of old age on March 20, 1981. The remaining four (4) accused, when arraigned, pleaded not guilty.

The antecedent facts of this case are as follows:

On March 6, 1979, at around 7:30 in the morning, in Barangay Primera Parang, Lumban, Laguna, tricycle drivers Danilo Ramos and Arthur Ballesteros were waiting for passengers. At about the same time, Danilo Ramos saw Lt. Eleutorio Belen, Chief of Police of Paete, Laguna, standing across the road waiting for a jeepney ride going to Baybay. He was carrying his .38 caliber service pistol although, at that time, he was in civilian clothes.

Suddenly, Danilo Ramos heard more or less five (5) successive gunshots. When he looked to where the shots came from, he saw Alberto (Berting) Almario shoot Eleutorio Belen twice, hitting the victim in the cheek. Danilo Ramos proceeded to his house to report the incident he had just witnessed to his aunt, Esperanza Abed, who is a sister-in-law of the victim, and to the younger son of the deceased. Together, they returned to the scene of the crime.

At the time the incident occurred, Pfc. Teodoro Abadier, a member of the Integrated National Police, was at his

house, approximately four hundred (400) meters distant from the crime scene, when he suddenly heard a shot. He immediately went down his house and asked a tricycle driver passing by what had happened and was informed that Lt. Eleuterio Belen had been shot. Pfc. Abadier immediately got his service firearm and proceeded to the scene of the crime where he saw many people milling around the body of the victim. Danilo Ramos then approached him and informed him about the killing of the victim by Alberto Almario. Given this information, Pfc. Abadier, accompanied by other police officers, proceeded to the house of Alberto Almario but could not find him. Thereafter, Pfc. Abadier returned to the police headquarters and took the statement of Danilo Ramos. It was during this investigation that the name of Arthur Ballesteros was mentioned as another possible eyewitness. Pfc. Abadier, accompanied by Danilo Ramos, went to see Arthur Ballesteros, who, however, denied having witnessed the killing of Eleuterio Belen.

In the meantime, the body of the victim was examined by the municipal health officer of Lumban, Dr. Rogelio Javan. He found seven (7) gunshot wounds in various parts of the body of Eleuterio Belen. He concluded that the victim died as a result of severe hemorrhage and brain damage secondary to gunshot wounds [Exh. "A", pp. 1-3.]

On September 2, 1980 after his arrest, Alberto Almario was investigated by a group of policemen composed of Lt. William Coronado-INP, Sgt. Victor Malabanan, Sgt. Laureano, Sgt. Luzaran, Sgt. Sernat, and Sgt. Garcia. It was in the course of this investigation that he made an extra-judicial confession (Exh. "D") admitting his guilt for the killing of Eleuterio Belen.

On November 5, 1984, the Regional Trial Court of Laguna rendered judgment the dispositive portion of which reads:

WHEREFORE, the Court finds ALBERTO (BERTING) ALMARIO of Lumban, Laguna guilty beyond reasonable doubt of the crime of MURDER as charged in the information with the aggravating circumstance of disregard due the deceased on account of his rank as Police Station Commander of Paete, Laguna and hereby sentences him to suffer the penalty of DEATH; to pay the heirs of Eleuterio Belen the sum of P50,000.00 as actual and compensatory damages, and P100,000.00 for moral damages without subsidiary imprisonment in case of insolvency, with the accessory penalties provided for by law and to pay the costs.

Accused HECTOR SAMONTE, ZENON SAMONTE and ISAGANI SACOP are acquitted of the crime of MURDER for lack of evidence against them.

SO ORDERED. [Rollo, p. 29.]

Defendant Alberto Almario appealed to this Court. In a letter dated April 20, 1988 the Court inquired from appellant if he wished to continue with his appeal in view of the automatic commutation of his death sentence to reclusion perpetua by virtue of Sec. 19(1), Art. III of the 1987 Constitution [Rollo, p. 137.] In his letter-answer Almario manifested his desire to continue with his appeal [Rollo, p. 138.]

In his brief, appellant assigns the following errors:

I. THE HONORABLE LOWER COURT ERRED IN ADMITTING EXHIBIT D, THE EXTRA-JUDICIAL STATEMENT OF THE ACCUSED DESPITE THE FACT THAT IT WAS EXTRACTED FROM HIM IN VIOLATION OF HIS CONSTITUTIONAL RIGHT.

II. THE HONORABLE LOWER COURT ERRED IN REJECTING THE DEFENSE OF THE ACCUSED.

III. THE HONORABLE LOWER COURT ERRED IN CONVICTING THE ACCUSED AND IMPOSING THE DEATH PENALTY. [Rollo, pp. 61-62.]

I. Taken together, the following evidence supports appellant's contention that his extrajudicial confession was

obtained from him in violation of Sec. 20, Art. IV of the 1973 Constitution (Secs. 17 and 12, Art. III of the 1987 Constitution)**:

Firstly, that appellant was physically mauled and coerced to make his extrajudicial confession is borne by the record [TSN, June 25, 1984, pp. 8-13; Sept. 18, 1981, pp. 5, 13-14.] Buttredding appellant's claim is the fact that he immediately reported the force and violence employed on him in two instances, namely: (1) at the summary preliminary investigation conducted by the Constabulary Judge Advocate's office on September 17, 1980 [Original Record, pp. 55-56]; and, (2) when he filed a complaint for maltreatment with the Ministry of National Defense against the policemen who abused him [TSN, Sept. 18, 1981, pp. 40-41.]

Moreover, that appellant was brought to the house of Judge Ragaza, the officer who administered his oath, located in Kalayaan, Laguna and outside his jurisdiction as municipal judge of Sta. Cruz, Laguna, on September 3, 1980 between 3:00 and 4:00 o'clock in the morning [TSN, Sept. 18, 1982, pp. 3, 12] casts serious doubt on the voluntary execution of his extrajudicial confession.

And secondly, appellant was not informed that in case he can not afford the services of his own counsel, one would be provided him for free [People v. Pascual, Jr., G.R. No. 53403, November 12, 1981, 109 SCRA 197.] Neither was it conveyed to him that if, at any time during the interrogation, he would wish the assistance of counsel, the interrogation would cease until an attorney is present [People v. Lasac, G.R. No. 64508, March 19, 1987, 148 SCRA 624.]

Further, the advice given to appellant by the police investigators was a mere repetition of the Constitutional safeguards read to the accused in a perfunctory manner and is less than full compliance with the mandate of meaningful recitation of Constitutional rights [See People v. Nicandro, G.R. No. 59378, February 11, 1986, 141 SCRA 289, 298.] This requirement finds greater relevance in this case where appellant finished only Grade VI [TSN, June 25, 1984, p. 6], and is, in all probability, "not adequately educated to understand fairly and fully the significance of his constitutional rights to silence and to counsel" [People v. Ramos, G.R. No. 59318, May 16, 1983, 122 SCRA 312, 321.]

Accordingly, the guarantees and requirements of Sec. 20, Art. IV of the 1973 Constitution not having been complied with, the Court holds that the appellant's extrajudicial confession is inadmissible.

II. Having rejected the appellant's extrajudicial confession, the Court has to determine whether the evidence on record supports a finding that he is guilty beyond reasonable doubt of the killing of Eleuterio Belen.

After carefully sifting the evidence and considering the arguments of the People and the appellant, the Court is of the opinion, and so holds, that his guilt has been proven beyond reasonable doubt. He had been positively identified as the perpetrator of the crime by prosecution witness Danilo Ramos [TSN, July 30, 1981, pp. 21-22.] The latter was only ten (10) meters away from the scene of the crime. He actually saw appellant shoot the victim twice with a .45 caliber gun, hitting the latter in the right cheek [TSN, July 30, 1981, pp. 4-6.] That the victim sustained gunshot wounds at the cheek was confirmed by Dr. Javan who conducted the autopsy on the body of the victim. And according to Dr. Javan, the wounds sustained by the victim in his cheek and neck were fatal, involving the brain and part of the cervical vertebra and could have caused his instantaneous death [TSN, May 19, 1981, pp. 5-6, 8.]

As against this positive identification of a prosecution witness, appellant's defense of alibi cannot stand. This Court has consistently stated that for the defense of alibi to prosper, it must be established by clear and convincing evidence that the accused was at some other place for such a period of time as to negate his presence at the time and place the crime was committed [People v. Cruz, G.R. No. 66805, July 9, 1986, 142 SCRA 576; People v.

Pacada, Jr., G.R. Nos. L-44444-45, July 7, 1986, 142 SCRA 427; People v. Coronado, G.R. No. 68932, October 28, 1986, 145 SCRA 250.] Here, the distance between Tondo, Manila, where appellant claims he was at the time the killing occurred, and Lumban, Laguna, where the crime was committed, is only one and a half hour drive by car [TSN, June 25, 1984, p. 41], and can easily be reached by one who, like him, drives a taxi [TSN, June 25, 1984, p. 4.]

To further add to his defense, Almario maintains that the testimony of key prosecution witness Danilo Ramos should not be given credence because (1) "he did not actually see when the victim was fired at" [Rollo, p. 69]; (2) instead of proceeding to the police outpost only 50 meters away from where he was standing, he opted to take a longer route and report the incident to the victims relatives; and, (3) when cross-examined, he tried to implicate Francisco Baldemeca but could not thereafter reconcile this with a statement earlier executed by him wherein he made no mention having seen the latter participate in the shooting of Eleuterio Belen.

A close examination of the record of this case would refute the first point raised by appellant. Danilo Ramos did not testify that he did not see Belen being shot. He merely stated that he was not able to witness when the victim was first shot at. His testimony reads:

Q Did you see actually the first shot fired at the chief of Police?

A No, sir,

Q You did not see?

FISCAL BAUTISTA:

Already answered.

COURT:

Sustained.

ATTY. DELOS REYES:

Q You did not see when the chief of police was fired shots (sic) at by the accused?

A I did not, sir.

Q According to you you saw that the chief of police was hit on the right cheek, is that correct?

WITNESS:

A Yes, sir.

ATTY. DELOS REYES:

Q Was that the first or the second or the third shot?

FISCAL BAUTISTA:

Misleading, Your Honor.

COURT:

Reform the question.

ATTY. DELOS REYES:

Q According to you, you did not see the first shot. What shot was that when you saw the chief of police was hit

on the right cheek?

A Before they ran away, sir. [TSN, July 30, 1981, pp. 27-28.]

That Danilo Ramos chose to report the killing to Belen's family first does not detract from the credibility of his testimony. People react differently to startling incidents [People v. Radomes, G.R. No. 68421, March 20, 1986, 141 SCRA 548.] In the instant case, Ramos immediately informed the relatives of the deceased about the killing, instead of going straight to the police. However, upon his return to the scene of the crime, he approached a policeman, Pfc. Abadier, and told him what he witnessed. On the same day, he gave his statement to the police [TSN, March 19, 1982, pp. 7-8, 10.] No unnatural or suspicious behavior could therefore be imputed to Ramos.

Ramos' statement implicating Baldemeca in the killing of Eleuterio Belen would not absolve appellant. Irrespective of Baldemeca's participation in the crime, appellant has been established to be the assailant not once, but thrice, by Ramos (1) when he gave a statement to Pfc. Abadier on March 6, 1979 [Original Record, pp. 18-19], (2) in the "summary examination" conducted by the municipal circuit judge on May 16, 1979 [Original Record, p. 24], and, (3) when he testified in court [TSN, July 30, 1981, pp. 4-5].

To further discredit Danilo Ramos' testimony, appellant makes much of his occupation and relationship with the victim. The witness' source of livelihood as a "kristo" in the cockpit in no way detracts from his credibility as a witness. And his relationship with the victim, who is his cousin [TSN, July 30, 1981, p. 6], far from rendering his testimony biased, is credible for it would be unnatural for a relative who is interested in vindicating the crime to accuse somebody other than the real culprit [People v. Marciales, G. R. No. 61961, October 18, 1988.]

III. In the information filed against Almario he was charged with the crime of murder qualified by the circumstances of treachery and evident premeditation. The trial court concluded that these circumstances attended the killing of the victim along with the aggravating circumstance of disregard due the deceased on account of his rank as police station commander of Paete, Laguna [Rollo, p. 29.]

This Court has stated that "[t]he circumstances qualifying or aggravating the act of killing a human being must be proved in an evident and incontestable manner, mere presumptions or deductions from hypothetical facts not being sufficient to consider them justified" (People v. Tiongson, G.R. Nos. L-35123-24, July 25, 1984, 130 SCRA 614, 620.)

In the case at bar, no proof was adduced relative to (1) the time when the appellant determine to commit the crimes; (2) an act manifestly indicating that he has clung to his determination; and, (3) sufficient lapse of time between determination and execution to allow him to reflect upon the consequences of his act [People v. Camilet, G.R. No. 70392, June 30, 1986, 142 SCRA 402] as would indicate that the aggravating circumstance of evident premeditation attended the killing of Eleuterio Belen.

The evidence on record, however, proves that treachery attended the commission of the crime. The victim was standing, waiting for a jeepney ride when he was suddenly and without any warning gunned down by the appellant. He sustained seven (7) gunshot wounds, four (4) of them fatal [TSN, May 19, 1981, p. 8.] The sequence of events happened very fast that, although appellant frontally attacked him at a distance of more or less only two meters [TSN, July 30, 1981, p. 6], Eleuterio Belen was not even able to draw his gun and defend himself [See People v. Pedro, G.R. No. L-18997, January 31, 1966, 16 SCRA 57; People v. Magdueno, G.R. No. 68699, September 22, 1986, 144 SCRA 210.] These facts only prove that appellant "committed the crime employing means, methods, or forms in the execution thereof which tend directly to insure its execution, without risk to himself arising from the defense which the offended party might make" [Art. 14 (16), Revised Penal Code.]

The evidence on record is bereft of proof that appellant intended to disregard the respect due the offended party

on account of his rank as Chief of Police [People v. Talay, G.R. No. L-24852, November 28, 1980, 101 SCRA 332.]

Hence, the crime committed by appellant is murder with no aggravating circumstance.

IV. Art. 2206 of the Civil Code enumerates the damages recoverable for death caused by a crime as: (a) civil indemnity; and in addition, (b) loss of earning capacity of the deceased payable to the heirs of the victim; (c) support for a period not exceeding five (5) years payable to a recipient who is not an heir called to the decedent's inheritance by succession; and, (d) moral damages for mental anguish by reason of the death of the deceased due his spouse, legitimate and illegitimate descendants and ascendants.

The civil indemnity for death is fixed at P30,000.00. The other damages, however, "are still subject to the determination of the court based on the evidence presented" [Brinas v. People, G.R. No. L-30309, November 25, 1983, 125 SCRA 687, 696.]

The trial court's decision is silent as to the civil indemnity that should have been awarded to the heirs Eleuterio Belen. Accordingly, appellant should be ordered to pay them the amount of P30,000.00.

The trial court, however, awarded in favor of the heirs of the victim the amounts of P50,000.00 as actual and compensatory damages and P100,000.00 as moral damages. However, the certification presented by the prosecution with respect to the actual expenses incurred by the family of the victim [Exh. "F"] is not the proof required by law in proving actual damages. It was presented in lieu of the receipts showing the actual expenses but it was signed by the station commander of Lumban and a policewoman, who are not the competent parties to attest to its correctness. Accordingly, the trial court's award of actual damages should be deleted. Further, the award of P100,000.00 moral damages is excessive and should be reduced to P10,000.00.

The penalty for the crime of murder is reclusion temporal maximum to death. Since the crime has not been attended by any aggravating or mitigating circumstance, the penalty shall be applied in its medium period which, in view of this Court's pronouncement in the case of People v. Munoz [G.R. Nos. L-38968-70, February 9, 1989] is reclusion perpetua.

WHEREFORE, appellant having been found guilty beyond reasonable doubt of the crime of murder without any aggravating circumstance, he is hereby sentenced to reclusion perpetua. He is further ordered to pay the heirs of the deceased P30,000.00 as indemnity and P10,000.00 as moral damages.

SO ORDERED.

Fernan, C.J., Gutierrez, Jr., and Bidin, JJ, concur.
Feliciano, J., on leave.

* General Order No. 6, promulgated on Sept. 22, 1972, prohibits any unauthorized person from keeping, possessing or carrying outside of his residence any firearm. General order No. 7, promulgated on September 23, 1972, enumerates the persons allowed to carry firearms. Pres. Dec. No. 9, promulgated on Oct. 2, 1972, declares the violation of General Order Nos. 6 and 7 to be unlawful and provides penalties therefor.

** SEC. 20. No person shall be compelled to be a witness against himself. Any person under investigation for the commission of an offense shall have the right to remain silent and to counsel, and to be informed of such right. No force, violence, threat, intimidation, or any other means which vitiates the free will shall be used against him. Any confession obtained in violation of this section shall be inadmissible in evidence.

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.