

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
NORBERTO TANAMAN ALIAS LAMBER TANAMAN ALIAS LAMBERTO
TANAMAN, VICTORIANO SEBIAL, PEDRO BULOGBULOC, ALFREDO
BANAAG AND GLIC...**

G.R. No. 71768. July 28, 1987

Ponente: MELENCIO-HERRERA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-71768/>

MELENCIO-HERRERA, J.:

The fatal shooting of Sgt. Romulo Bazar of the Philippine Constabulary in the evening of October 1, 1982, at Barangay Lorenzo Tan, Tangub City, while on his way home carrying 2 sacks of rice bran on his head, led to the filing of an Information for Murder on December 8, 1982 before the then Court of First Instance of Misamis Occidental (Crim. Case No. OZ-1585), later transferred to the Regional Trial Court at Tangub City (Crim. Case No. TC-039), against Norberto Tanaman alias Lamber Tanaman, alias Lamberto Tanaman, Victoriano Sebial, Pedro Bulocbuloc, Alfredo Banaag, and Glicerio Banaag.

All the accused pleaded not guilty.

The prosecution evidence has been aptly summarized in the People's Brief as follows:

"On October 1, 1982 at or on about 8:30 p.m., Sgt. Romulo Bazar was shot while walking on his way home at Barangay Lorenzo Tan, Tangub City (p. 5, tsn, May 26, 1983). Although profusely bleeding he was able to knock on Ruben Roma's house, shouting for help (p. 11, id.). Enerio Langoyan heard the victim's cries and proceeded to Roma's house. There he saw the victim 'as if he was tired, and his breathing was graspy due to profuse bleeding' (p. 19, tsn, June 10, 1983). He was immediately rushed to the Tangub City Emergency Hospital. On their way thereto the victim said that it was appellant who shot him (pp. 19-20, id.)

"On even date, P/Lt. Osias Dumanjug, having received information about the shooting rushed to the hospital. There he questioned the victim albeit in critical condition. An ante-mortem statement was taken and in it, the victim identified Norberto Tanaman as his assailant. When asked whether he will live, the victim replied 'My wounds are serious and I am not sure (sic)'. (pp. 54 to 56, tsn, Sept. 20, 1983; Exhibit 'G').

"Considering the seriousness of his wounds, he was transferred to the Ozamis City Emergency Hospital for further operation. There he expired on October 3, 1982 (p. 78, tsn, December 6, 1983)."[1]

The victim's ante-mortem statement was taken by P/Lt. Osias Dumanjug in the hospital in the latter's own handwriting and in the Visayan dialect which, translated into English reads as follows:

"Q - Why are you here now in the hospital?

A - I was gunned down.

Q - Where did this happened? (sic) date and hour?

A - In barangay Lorenzo Tan, Tangub City at about 8:30 o'clock in the night on Oct. 1, 1982.

Q - How many persons fired at you?

A - There were four persons that gunned me.

Q - Do you know anyone of the four that fired their guns at you?

A - Yes, it is Lamber Tanaman who is from Lorenzo Tan, Tangub City.

Q - What was the reason why they gunned you down?

A - Because he favored Luis Sebial when his cow was lost.

Q - What do you feel about your wounds, will you be saved?

A - My wounds are serious and I have no chance (Translated during the trial as 'I am not sure' t.s.n., Sept. 20, 1983, p. 143).

Q - Where are your wounds and injuries of your body?

A - In my abdomen, at my back and in my breast.

Q - Do you know what kind of firearms were used in firing at you?

A - They were using 45 caliber.

Q - Do you have anything more to say and you will sign this?

A - No more, and I will sign.

(SGD) ROMULO BAZAR

Witnesses:

(SGD) FELIX CAMUNAY

MSGT PC

(SGD) SINFORIANA R. DEL CASTILLO, M.D."[2]

On the other hand, and as admitted in appellant's Brief, "the evidence for the defense consists chiefly of denial: that they were not responsible for the shooting and killing of the deceased, who was shot and killed by unknown assailants."[3]

After trial, the lower Court rendered judgment,* the dispositive part of which reads:

"WHEREFORE, premises considered, the Court finds defendant NORBERTO TANAMAN guilty and sentences him to RECLUSION PERPETUA, there being no aggravating and mitigating circumstances. As to the other accused VICTORIANO SEBIAL, PEDRO BULOGBULOC and ALFREDO BANAAG, GLICERIO BANAAG, the Court finds no sufficient evidence for their conviction and therefore, acquits them.

"The Court further orders accused NORBERTO TANAMAN to pay the heirs of victim the sum of P30,000.00.

"SO ORDERED."

The accused Norberto Tanaman (hereinafter referred to as Appellant) has interposed the present appeal with the following Assignments of Error:

"I

"The trial court erred in not holding that the ante-mortem statement, Exhibit 'G', is inadmissible in evidence.

"II

"The trial court erred in not holding that the deceased was shot and killed by unknown persons.

"III

"The trial court erred in not holding that the guilt of the accused-appellant has not been proven beyond reasonable doubt."

The resolution of this appeal hinges on the issue of admissibility of the ante-mortem statement of the victim. The defense argues against its admissibility on the ground that it was not made under consciousness of an impending death since the victim, in reply to the question "What do you feel about your wounds, will you be saved?" answered "my wounds are serious and I am not sure".

The submission is without merit. All the earmarks for the validity of a dying declaration are present, namely: (1) it must concern the cause and surrounding circumstances of the declarant's death; (2) at the time it was made the declarant was under a consciousness of an impending death; (3) the declarant was a competent witness; and (4) the declaration is offered in evidence in a criminal case for homicide, murder or parricide in which the declarant is the victim.[4]

It is true that, in response to a question whether he would survive, the victim replied that "he was not sure". However, for the validity of an ante-mortem statement, it is not indispensable that the declarant expressly state that he has lost all hope of recovery. It is sufficient that circumstances are such as to inevitably lead to the conclusion that at the time the declaration was made, the declarant would not expect to survive the injury from which he actually died.[5] The degree and seriousness of the wounds and the fact that death supervened thereafter constitute substantial evidence of the victim's consciousness of his impending death.[6]

The seriousness of the victim's condition is shown by the fact that he had suffered five (5) gunshot wounds, two (2) at the back, one (1) in the chest which was fatal as it involved the respiratory organ, one above the umbilicus, and the other on the right hip bone. The physician who examined him in the hospital testified that, upon admission, his blood pressure was 60/40 and that the patient was in a very serious condition.[7] In fact, the victim's condition necessitated his transfer from the Tangub City Emergency Hospital to the Ozamiz City Emergency Hospital for "further management". There he expired on October 3, 1982 or two (2) days after the incident.

In the case of *People vs. Reyes*[8] when the declarant therein was asked whether he believed he would die of his wounds, he answered "opo, seguro po." This Court held that although these words could mean that he might die but not that he would surely die, they could also mean that he was sure or certain of death. As they could mean both things, considering the seriousness of the declarant's wounds, eighteen (18) of them all told, which caused his death two (2) days later, it may be said that the declarant had expressed by those words, his belief that he was going to die. Similarly, in the case at bar, since the answer of the victim could be interpreted both ways, and considering the degree and gravity of his gunshot wounds followed by his death two (2) days later, it may be said that the words he had used and the circumstances mentioned, taken together, constitute substantial evidence of the victim's consciousness of his impending death.

There should be no question either about the veracity of the ante-mortem statement. P/Lt. Osias Dumanjug, the

Station Commander, who took the same was a disinterested witness. He described in detail the manner in which he had taken down the statement in his own handwriting, the questions he had propounded and the answers given by the victim, as well as the latter's identification of the Appellant. Sgt. Felix Camunay, also confirmed in open Court that he witnessed the taking of the dying declaration and saw the victim affix his signature. Considering that, as testified to by said witness, he was a "compadre" of Appellant[9] and that the latter was at one time an "asset" of the PC, and formerly a member of the INP, there is every reason to believe that he would not testify against Appellant if his testimony were not, in fact, the truth.

Besides, even if the victim's statement were not admissible as an ante-mortem declaration, it may still be considered as part of the *res gestae*, having been made immediately subsequent to a startling occurrence regarding the circumstances thereof, when the victim did not have time to contrive or devise a falsehood.[10] As such, it is also competent evidence to support conviction.

That Appellant was, in fact, identified by the victim is further shown by the fact that Appellant was picked up for interrogation early the following morning, as confirmed by the Appellant himself. Then, too, the "spot report" (Exhibit "M") prepared by the police on October 2, 1982, the day after the incident, also identified Appellant as one of the culprits, even though the first entry in the police blotter was that the victim was shot by four (4) unidentified armed men (Exhibit "L"). The victim's wife also testified that while her husband lay wounded in the hospital she asked him to write down on a piece of paper the name of his assailant and he wrote "Lamber Tanaman" in the presence of Fr. Rojo, who administered the last rites, Dra. Castillo, Felix Camunay, and some nurses.[11] The victim's handwriting was uneven and was not in a straight line but slanted downwards to the right (Exhibit "I"). Enerio Langoyan, a prosecution witness and a CHDF member, who helped bring the victim to the hospital in a motorcab, reaffirmed on cross-examination that the latter told him that "it was Lamberto Tanaman who shot me".[12] The victim's statement spontaneously made immediately after he was shot naming Appellant as the author of the aggression is legal evidence as part of the *res gestae*.

Another prosecution witness, Edgardo Manisan, testified that soon after he had heard gunshots, he saw all the accused, led by Appellant, running near his house (the witness'), with Victoriano Sebial carrying a sack;[13] that he overheard Tanaman say "he was hit" after which Appellant's companions laughed;[14] and that Appellant had threatened him during the hearing in the Municipal Court on October 13, 1982 with the words "pray that I will die in prison because if I will live, I will escape and will kill you all" for which reason he evacuated to Dumaguete for a while.[15] And while this witness is related to the victim that fact alone does not destroy a witness' credibility.[16]

Against this array of prosecution evidence, and the victim's ante-mortem statement being proof of identification of the aggressor, the defense contention that the victim was shot and killed by unknown persons is clearly wanting of credibility. Appellant's testimony that the victim pointed to him as the culprit because, while in the hospital, the victim wanted him to testify against his (the victim's) aunt, which he refused, neither rings with truth considering not only that such a request would have been farfetched, but also that the victim was in a very serious condition at the time and was in no position to make any such request besides the fact that Appellant averred that he was asked to so testify on October 3 when, as a matter of fact, the victim had already passed away on October 3, and the ante-mortem statement was taken on October 1.

The victim was shot from behind and the qualifying aggravating circumstance of treachery, therefore, existed. No other modifying circumstances may be appreciated as treachery absorbs nocturnity.

In fine, as against the mere denials of Appellant, the ante-mortem statement of the victim identifying his assailant, corroborated by other evidence on record, satisfy the test of moral certainty and point to the guilt of the accused

beyond reasonable doubt.

WHEREFORE, the judgment appealed from is hereby affirmed. Costs against accused-appellant Norberto Tanaman.

SO ORDERED.

Yap, (Chairman), Paras, Padilla, and Sarmiento, JJ., concur.

[1] Appellee's Brief, pp. 1-2, Rollo, p. 62.

[2] Exhibits "G", "G-2" and "G-3".

[3] Appellant's Brief, p. 3.

* Penned by Judge Isacio A. Pelaez.

[4] People vs. Saliling, L-27974, February 27, 1976, 69 SCRA 427.

[5] People vs. Ancasan, 53 Phil. 779, 781 [1928]; People vs. Serrano, 58 Phil. 669, 670 [1933].

[6] People vs. Obngayan, L-29201, January 31, 1974, 55 SCRA 465, 475-476.

[7] Exhibit "E", t.s.n., July 19, 1983, pp. 134-136.

[8] 52 Phil. 538 (1928).

[9] T.s.n., October 25, 1983, pp. 67-68.

[10] Section 36, Rule 130, Rules of Court; People vs. De Gracia, et al., L-21419, September 29, 1966, 18 SCRA 197, 205-206.

[11] T.s.n., December 6, 1983, p. 76.

[12] T.s.n., June 10, 1983, pp. 20 and 26.

[13] T.s.n., July 19, 1983, pp. 34-36.

[14] *ibid.*, p. 36.

[15] *ibid.*, pp. 38; 45.

[16] People vs. Libed, L-20431, June 23, 1965, 14 SCRA 410.

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.