

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROBERT CALICDAN Y LAZO ALIAS &#8220;DIEGO&#8221; AND FERNAN, ACCUSED-APPELLANT.**

*G.R. No. 73602. August 31, 1988*

Ponente: MELENCIO-HERRERA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-73602/>

---

**MELENCIO-HERRERA, J.:**

Convicted of the crime of Murder and sentenced to reclusion perpetua by the Regional Trial Court, Branch XXXIX of Pangasinan,[\*] accused-appellant Robert Calicdan y Lazo, has interposed this appeal.

The other accused by the name of Fernan remained at large and did not stand trial.

The prosecution version of the fatal incident runs thus:

On 19 September 1982, at about 3:00 P.M., the victim Reynaldo Cose and his wife, Irene, were resting on an improvised bed locally known as "papag," along the road near their house at Barangay Cabangaran, Umingan, Pangasinan. Pedro Lawan, riding on a bicycle, passed by them. Not long afterwards, husband and wife saw two men approaching them whom Irene recognized as the accused Robert Calicdan, and the other as one Fernan. Irene knew accused-appellant personally, having met him in the house of a relative, but who was then introduced to her as Roberto Collado. She also knew Fernan as he had previously visited their house when he was looking for her husband.

At a distance of about three (3) meters away, Irene greeted the two accused with a smile but, instead of returning the greeting, Fernan pulled out a gun wrapped in a sack. Seeing this the victim stood up and ran away. Fernan called out saying, "Huwag kang tumakbo" and fired at the victim but missed. The victim ran back and tried to wrest the gun away from Fernan. As he was doing so, accused-appellant drew his pistol and fired at the victim, hitting him and causing him to fall to the ground. While the victim was in that position, accused-appellant ordered Fernan to shoot the victim again. Fernan complied and shot the victim several more times. Seeing her husband so helpless, Irene remarked, "Ang lupit ninyo naman," to which they retorted, "Ang asawa mo ang nag tip sa amin." At that, accused-appellant and Fernan left.

Joselito Cose, son of the couple, also witnessed the incident. He testified that at the time of the occurrence, he was inside their house frying camote while his parents were outside the house conversing some thirty (30) meters away from him. Suddenly he heard three successive gunshots. He immediately went out of the house and saw his father, the victim, prostrate on his back and accused-appellant and Fernan standing over him. He tried to approach his father but Fernan pointed a carbine at him. So he moved back and hid. From his hiding place, he saw his father being shot on the face by Fernan. He then saw his mother embrace his father and say to the assailants, "Ang lupit ninyo naman." To which he heard Fernan reply, "Your husband was the one who tipped us to the authorities." Joselito also testified that prior to the incident, he had seen accused-appellant and Fernan in the company of the NPA and that they had killed his father for being a suspected informer.

After the assailants had left, mother and son went to the army barracks about two and a half (2 1/2) kilometers away and reported the shooting. One Lt. Edula responded and recovered empty shells at the scene of the crime (t.s.n., November 15, 1983, pp. 3-15).

The defense version, on the other hand, revolved around denial and alibi. The gist of accused-appellant's testimony was that since June, 1982, he was employed at Jona's Bakery at the Poblacion, Lupao, Nueva Ecija. His work thereat is that of "urnero" or cook. On the date of the incident, 19 September 1982, he was at the bakery cooking bread from 10:00 A.M. to 6:00 P.M. and never left the place. He declared that he was born in Lupao and had never been to Cabangaran, Umingan, Pangasinan, where the incident occurred. He denied having had anything to do with the killing, stating that he was not acquainted with anyone in the Cose family and knew of no reason why mother and son should testify against him. He further stated that he had never used an alias name especially the name "Roberto Collado" and that he did not know anyone by that name. He admitted, however, that Lupao, Nueva Ecija and Umingan, Pangasinan, are adjacent towns and that he only used to pass by Umingan when he went to Manaoag, Pangasinan, to hear mass (t.s.n., October 3, 1984, pp. 2-5).

Defense witnesses, Marianito Fariñas and Patrocinio Ganiban, corroborated accused-appellant's story. Thus, Fariñas testified that he owns a bakery and grocery at the Poblacion, Lupao, Nueva Ecija; that he had employed accused-appellant as a cook and stay-in laborer since June, 1982 to 31 October 1982 when he left because his mother had met an accident; that on 19 September 1982, accused-appellant never left his work and that the witness never saw him carrying any firearm.

Ganiban substantially declared that he had been a resident of Lupao, Nueva Ecija; that since 1974, he was employed at Jona's Bakery and Grocery; that accused-appellant was his co-worker thereat since June, 1982 to October 1982 when somebody fetched him because his mother met an accident on that date; that their hours of work were from 7:00 A.M. to 5:00 P.M.; that when they had nothing to do, they just stayed in the bakery, that they slept in their quarters, with iron grills, and nobody could get out; that on 19 September 1982, he and accused-appellant were in the bakery working; that he knew the latter to be a resident of Lupao, Nueva, Ecija; that he had heard of the place Cabangaran, Umingan, Pangasinan, but had not been there; that plying the route between the two places are jeepneys and tricycles; and that during the time that he and accused-appellant were together on 19 September 1982, the latter never asked for permission to go out.

The father of accused-appellant, Andres Calicdan, testified that in Balbalugan, Lupao, Nueva Ecija, he knew personally two persons by the names of Alberto Collado and Roberto Collado and that the latter is only known as Roberto Collado; that the latter is his neighbor but not a relative; and that Roberto Collado and Alberto Collado are not related to each other.

After evaluating the conflicting versions, the Trial Court tilted the balance in favor of the prosecution and pronounced accused-appellant guilty, sentenced him to reclusion perpetua, and to indemnify the heirs of the victim in the sum of P30,000.00 and P4,000.00 as actual damages.

Hence, this appeal, with the following Assignments of Error:

## "I

The trial Court erred in giving weight and credence to the testimonies of prosecution witnesses and in disregarding the theory of the defense.

## "II

The Trial Court erred in finding the accused-appellant guilty beyond reasonable doubt of the crime charged despite evidence to the contrary." (p. 1, Appellant's Brief)

The foregoing fail to impress us.

The entire theory of the defense revolves around accused-appellant's alibi as corroborated by his employer, Fariñas and co-worker, Ganiban. It is well-settled, however, that the defense of alibi, which is the weakest of all defenses, cannot prevail over positive identification of a perpetrator. Accused-appellant was convincingly identified by two prosecution witnesses, Irene and Joselito Cose, who knew him personally and to whom has been attributed no motive or reason to charge him falsely. The Trial Court did not disregard the defense theory, as contended. What it did was to weigh the positive assertions of the prosecution as against the bare denials of accused-appellant and it arrived at the conclusion that there was no sufficient reason to doubt or disbelieve the prosecution version of the incident.

Of note is the fact that accused-appellant and his witnesses admitted that Lupao, Nueva Ecija, where they are residents of, is adjacent to the town of Umingan, Pangasinan, where the fatal shooting took place. The distance between the two towns can be negotiated in fifteen (15) to twenty (20) minutes by vehicular means. Considering the availability of transportation between these two towns, it was not impossible, therefore, for accused-appellant to have been at the place of the commission of the crime at Barangay Cabangaran, Umingan, Pangasinan, at the time it was committed. It was an easy matter for him to have left his place of work and returned thereto after committing his nefarious deed, assuming that he was really working on that day.

Moreover, the defense posture that accused-appellant, single and twenty (22) years old, had never gone out during the period of his employment at the bakery and that he and his co-worker Ganiban merely confined themselves to their quarters, barricaded with iron grills, and located within the bakery itself, is contrary to ordinary human experience. That would have converted a place of work into a veritable prison cell.

The defense would also inject doubt into the veracity of Irene and Joselito Cose's testimony by contending that it took them one week to execute their sworn statements. This is understandable, however, as they had to attend to the burial of their kin. Besides, the evidence shows that immediately after the shooting, mother and son reported the incident to the proper authorities.

It may be that the killing took place in broad daylight. This factor alone, however, does not render the commission of the crime impossible. Irene and Joselito Cose had testified that they saw both accused in the company of armed men known to be NPAs, who it is known, choose not the time of day for liquidating their suspected informers.

In sum, we find no reason to disturb the findings of the Trial Court arrived at after a thorough examination of the facts. We find squarely applicable herein the doctrinal ruling that the findings of a Trial Court on the issue of credibility of witnesses are entitled to great weight and respect and will not be disturbed on appeal save under certain exceptions which we find absent in the case at bar (*People vs. Pelias Jones*, G. R. No. L-61165, 137 SCRA 166 [1985]).

The crime committed is Murder, qualified by treachery. The penalty of reclusion perpetua, however, will have to be modified.

Pursuant to Article 248 of the Revised Penal Code, the imposable penalty should be reclusion perpetua, as imposed by the Trial Court. However, with the abolition of capital punishment in the 1987 Constitution, the penalty for Murder is now reclusion temporal in its maximum period to reclusion perpetua. In the absence of any modifying circumstances, the penalty is imposable in its medium period, or from eighteen (18) years, eight (8) months and one (1) day to twenty (20) years.

For purposes of the Indeterminate Sentence Law, the range of the penalty next lower to that prescribed by the Revised Penal Code for the Offense is prision mayor in its maximum period to reclusion temporal in its medium

period, or, from ten (10) years and one (1) day to seventeen (17) years and four (4) months.

WHEREFORE, the judgment appealed from is hereby affirmed except as to the penalty, which is hereby modified to an indeterminate sentence of twelve (12) years of prision mayor, as minimum, to eighteen (18) years, eight (8) months and one (1) day of reclusion temporal, as maximum. Costs against accused-appellant Robert Calicdan y Lazo.

**SO ORDERED.**

Paras, Padilla, Sarmiento, and Regalado, JJ., concur.

---

[\*] Judge Cornelio W. Wasan, Sr., presiding.

**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.