

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROMEO FUSTER, VIVENCIO FUSTER – DECEASED, JAIME HALLIG – AT LARGE, DEFENDANTS. ROMEO FUSTER, DEFENDANT-APPELLANT.

G.R. No. 82588. December 04, 1989

Ponente: GANCAYCO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-82588/>

GANCAYCO, J.:

Romeo Fuster, Jaime Hallig, and Vicencio Fuster were charged with the crime of murder in an Information dated December 8, 1980 filed by Fiscal Jose L. Madrid in the Regional Trial Court of Sorsogon that reads as follows:

"That on or about the 31st day of March, 1980, at around 7:00 o'clock in the evening, at Baranday Bariis, Municipality of Matnog, Province of Sorsogon, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating and mutually helping one another being then armed with a piece of wood, a knife and a bolo, with intent to kill, did then and there willfully, unlawfully and feloniously with treachery and evident premeditation strike, stab and hack one RICO GARRA inflicting upon the latter the following injuries to wit:

- Wound stab (sic) - 1/2" in length with a depth of 2 1/2" one inch below and medial to the left nipple.
- Wound, incised, one inch in length with a depth of 2", two and one-half inches below the shoulder, right and two inches away from the spinal column at the back.
- Hematoma, behind the auricle, right 2" x 2" in diameter.
- Wound, incised at the middle and forefingers, left 1/2" in length.
- Wound, incised at the middle and right fingers, right 1/2" in length.

which injuries caused the instant death of said RICO GARRA to the damage and prejudice of his legal heirs.

"That in the commission of the offense the aggravating circumstances of superior strength and nighttime deliberately sought and which facilitated the commission of the crime were present.

"CONTRARY TO LAW."[1]

Upon arraignment on March 24, 1981, each of the three (3) accused pleaded "not guilty." Thereafter, Jaime Hallig jumped bail. His bailbond was confiscated and forfeited, and he has not been recaptured. On April 8, 1985, during the trial of the criminal case, accused Vivencio Fuster died in another stabbing incident. The case against him was dropped.

After trial on the merits, the trial court rendered its judgment on July 20, 1987[2] in Criminal Case No. 022, with dispositive portion as follows:

"WHEREFORE, the court finds the accused Romeo Fuster and Jaime Hallig guilty beyond reasonable doubt

for the crime of Murder as charged with the attending aggravating circumstances of superior strength and nighttime and hereby sentences both of them to suffer the penalty of reclusion perpetua and to jointly and severally indemnify Remedios Garra surviving spouse of Rico Garra the sum of P30,000.00 as compensatory damages and to pay the costs.

Further, this court orders their arrest and detention at the Sorsogon Provincial Jail until final disposition of their case by the proper appellate court in case of appeal.

SO ORDERED."[3]

Accused Romeo Fuster brought this appeal and assigns the following errors on the part of the trial court -

"I

THE LOWER COURT ERRED IN NOT GIVING CREDENCE TO THE DEFENSE WITNESSES TESTIMONIES BARANGAY CAPTAIN JOSE FRENCILLO AND PAT. ALEJO GURIMBAO (SIC).

II

THE LOWER COURT ERRED IN GIVING CREDENCE TO THE TESTIMONY OF THE PROSECUTION WITNESS SANTIAGO GALAROSA (SIC) WHICH IS NOT CORROBORATED.

III

THE LOWER COURT ERRED IN FINDING THAT ACCUSED-APPELLANT ROMEO FUSTER IS GUILTY OF MURDER BEYOND REASONABLE DOUBT."[4]

The facts as found by the trial court and culled by the Solicitor General, are as follows:

"At about 7:00 o'clock in the evening of March 31, 1980, coming from Santiago Galarosa's house in Naburacan, Matnog, Galarosa and the deceased victim Rico Garra crossed the creek in going to Bariis, Matnog to buy viand and cigarettes. Naburacan is about 30 meters away from Bariis (pp. 4-5, 15-16, TSN, June 9, 1981; pp. 5 & 9, TSN, December 7, 1983).

Upon reaching Bariis, Santiago and Rico met the three (3) accused at the bank of the creek. Santiago noticed the three were drunk and armed; Romeo Fuster with a 'punyal' (dagger); Vivencio Fuster with a bolo; and Jaime Hallig with a piece of wood, a meter long (pp. 5-6, TSN, June 9, 1981).

Right there and then, Romeo boxed Santiago, hitting him on the left eye. Thereafter, the three (3) accused ganged up on him and battered him with fist blows - Jaime hitting him on the right temple; Vivencio, on his mouth and both sides of the body, successively (pp. 6-7, TSN, June 9, 1981).

It was at this instance that Rico, now deceased, tried to pacify and separate them. But he was prevented from doing so. Jaime suddenly struck him with the piece of wood hitting him above his right ear, which made him fall to the ground (pp. 7-8, TSN, June 9, 1981).

While on the ground, Romeo mercilessly stabbed Rico at the back. Begging for their mercy, all Rico could mutter was 'please spare my life, padi,' addressing the same to Vivencio who, at the time was clutching his bolo ready to strike him (pp. 8-9, TSN, June 9, 1981).

Vivencio, however, heedlessly and despite the plea, hacked the deceased with his bolo. Hopelessly trying to parry the bolo with his right hand, Rico repeatedly begged, 'please spare me padi,' turning his face upward (p. 9, TSN, June 9, 1981).

Instantaneously, Romeo lunged his 'punyal' and stabbed Rico near his left nipple. Rico groaned. Believing him

already dead, Santiago fled to escape from the three (3) accused. He ran towards the creek and swam to go home (pp. 9-10, TSN, June 9, 1981; p. 10, TSN, December 7, 1983).

The following morning, i.e. April 1, 1980, Santiago reported the killing incident to Barangay Councilor Teodoro Fortes (of Naburacan) whom he requested to fetch the police. A statement was given to the police on the same day but was signed much later as he had to attend to the funeral and interment of the deceased. Said Statement was subscribed by Santiago before Judge Eugenio Guan, Jr., in Matnog after the same was read to him and by him (pp. 10, 13-15, TSN, June 9, 1981; pp. 10-11, TSN, December 7, 1983).

Police officer Daniel Garbida investigated the scene of the crime and saw the body of the victim lying flat, face down. Several stab wounds were found on the body, one particularly on the stomach (pp. 3-5, TSN, June 6, 1984).

Medico-legal necropsy report of Dra. Virginia Ramos, Municipal Health Officer of Matnog, Sorsogon, found the following injuries, sustained by Rico Garra, to wit -

- Stab wound, 1 1/2" in length with a depth of 2 1/2" one inch below and medial to the left nipple;
- Wound, incised, one inch in length with a depth of 2", two and one-half inches below the shoulder, right and two inches away from the spinal column at the back;
- Hematoma, behind the auricle, right 2" x 2" in diameter;
- Wound, incised at the middle and right fingers, right 1/2" in length

which injuries caused his instant death [pp. 5-6, TSN, March 7, 1984, Exhibits] (pp. 1-2, Decision, Records)."[5]

The version of the defense is as follows:

"First witness for the accused, was the Barangay Captain Jose Frencillo, of Barangay Bariis, Matnog, Sorsogon, Philippines. He declared, that on March 31, 1980 at around 8:00 o'clock in the evening, a certain person by the name of Vivencio Fuster came and surrendered to him and further asked the said Barangay Captain to accompany him to the town of Matnog, because he (Vivencio Fuster) stabbed somebody and when asked, who was the person stabbed, Vivencio Fuster told him, that he was Rico Garra. So the Barangay Captain accompanied the assailant-Vivencio Fuster to the town and rode on a motorcycle and upon reaching the town he surrendered to the Police authority and the Police Officer on duty blotted the incident, and Vivencio Fuster surrendered the bolo, after which the Barangay Captain went home.

Accused-Romeo Fuster was the second witness for his defense. He declared that he has no participation in the killing of RICO GARRA. Romeo Fuster testified, that on the night of March 31, 1980, his father-Vivencio Fuster came and narrated that the latter was surprisingly attacked by Rico Garra and was able to parry the first thrust and was able to get a piece of wood and used it in striking the bolo in the hands of Rico Garra eventually causing the bolo to fall from the hands of the latter;

Another witness for the accused, Alfredo Gavarra testified that on the night of March 31, 1980, he went to visit Romeo Fuster to give money in payment for the nipa he bought and have a drink for a while and on his way home to Barangay Manjumlad, he met Vivencio Fuster with a bolo and told him that he killed Rico Garra; and

The last witness was the member of the Integrated National Police of Matnog, Patrolman Alejo Gurimbao, that he was on duty on March 31, 1980, when Vivencio Fuster reported the incident accompanied by Bariis Barangay Captain Jose Frencillo which was blotted as Entry No. 140 dated March 31, 1980 by Patrolman Rostrum Garduque, the jailer of Matnog Police Department."[6]

The appeal is without merit.

The main thrust of appellant's argument is that the trial court committed a mistake in not giving credence to the testimonies of barangay captain Jose Frencillo and Pat. Alejo Gurimbao who testified that the deceased co-accused Vivencio Fuster allegedly confessed to them that he alone stabbed Rico Garra.

This alleged confession, aside from being difficult to believe, may be admissible against Vivencio Fuster only but not against nor in favor of his son, Romeo Fuster. It is an obvious attempt of a father to protect his son. Said confession, if at all made, appears to be an afterthought designed to free his son, appellant Romeo Fuster, and his son-in-law, Jaime Hallig who jumped bail.

To Us, such parental concern to protect his sons from being objects of prosecution and his parental sentiment are understandable, but not believable.[7]

The alleged declaration of Vivencio Fuster is pure hearsay when testified to by the two defense witnesses. When appellant testified on May 28, 1985 that it was only his father who killed Rico Garra, his father was already dead, as he died on April 8, 1985. This evidence is not credible.[8]

Moreover, while Vivencio Fuster allegedly admitted stabbing the victim, he never said he alone killed him. Indeed, he never denied the participation of appellant or Hallig.

Appellant's alibi that he was asleep when the crime happened is not credibly acceptable. His house was only 100 arms length from the place of the crime, and his own witness Alfredo Bavarra declared that he left his house at around 6:00 p.m. that day bound for Barangay Boy Bariis to pay accused Romeo Fuster for the nipa he purchased, and he stayed for sometime with appellant to drink gin with him.

Neither can the Court believe the testimony of appellant that he went back to sleep after the alleged narration of his father that the latter killed the victim.[9] A son would naturally be concerned for his father's plight and would not have gone back to sleep without difficulty.

Santiago Galarosa, the lone prosecution eyewitness, positively identified the appellant as the assailant of the deceased. He asserted that the appellant hacked and stabbed the victim to death. This witness could not have committed a mistake on his positive identification of appellant because he knew appellant for around 20 years, and at the time of the incident the moon was full and shining brightly without a cloud in the sky.[10]

Santiago Galarosa's testimony is not contradicted by the statement of the widow of the victim, Remedios Garra, that the victim was alone when he left his residence on that evening of March 31, 1980, because she did not see him anymore after he left the house, and she came to hear about his death the following morning from the police.

This eyewitness reported the incident the next morning as he himself had to swim across the river and the place of the barangay captain was quite far.[11] He did not report the matter to the victim's wife.

The death certificate of the victim and the notes entered therein issued by the doctor after her external examination of the body cannot be questioned because the defense offered no objection to its admissibility. The death of the victim and the cause of death had been sufficiently established as confirmed by the witnesses of both the prosecution and the defense. The failure to present the doctor who examined the victim is of no moment. The corpus delicti had been adequately established.

The direct and positive identification of the appellant by prosecution eyewitness Santiago Galarosa overturns the alibi of the appellant, and establishes by evidence beyond reasonable doubt the guilt of the appellant. Their testimonial evidence, considered credible by the trial court, is fully supported by material evidence on the death and cause of death of the victim.

The Court agrees with the reliance by the trial court on the testimony of eyewitness Santiago Galarosa, thus:

"From the facts thus established from the testimonies of the various witnesses presented, there is no doubt to the mind of the court that the prosecution has proven the guilt of the accused beyond reasonable doubt. All the 3 accused were identified by the prosecution eye-witness Santiago Galarosa as having participated in the killing of Rico Garra and there is no mistake as to their identity as he knew the accused for more or less 20 years. His testimony as to what actually happened was clear, positive, straight-forward and devoid of signs of artificiality. Even his declarations as to the wounds suffered by the deceased are corroborated and confirmed in the medical findings of the doctor. Despite his lengthy cross-examination, his testimony remained unshaken. The defense has not made any showing that this witness was prejudiced against any of the accused. It is very improbable that said witness would impute to the accused the commission of such a grave offense as murder if it was not true that they were not guilty thereof. (p. 6, Judgment, Criminal Case 022).[12]

WHEREFORE and by reason of the foregoing, the judgment of conviction is affirmed in toto, with costs against appellant.

SO ORDERED.

Narvasa, (Chairman), Griño-Aquino, and Medialdea, JJ., concur.
Cruz, J., on leave.

[1] Pages 79 to 80, Rollo.

[2] Regional Trial Court, Fifth Judicial Region, Branch 55, Irosin, Sorsogon, Judge Senecio O. Ortile.

[3] Page 67, Rollo.

[4] Pages 81 to 82, Rollo.

[5] Pages 82 to 85, Rollo.

[6] Page 44, Rollo.

[7] People vs. Cunanan, et al., 19 SCRA 769 (1967); People vs. Martinez, 42 Phil. 85 (1921).

[8] Page 7, Decision.

[9] Pages 6 to 7, Judgment.

[10] Page 16, TSN, June 9, 1981.

[11] Page 10, TSN, December 7, 1983.

[12] Page 96, Rollo.

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.