

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ALBERTO M. RODRIGUEZ, ACCUSED-APPELLANT.

G.R. No. 90255. January 23, 1991

Ponente: MELENCIO-HERRERA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-90255/>

MELENCIO-HERRERA, J.:

Accused, Alberto M. Rodriguez, was convicted by the Regional Trial Court of Pasig, Metro Manila, Branch 156, sitting as Special Criminal Court,[1] of the crime of Murder and sentenced to suffer the penalty of reclusion perpetua. He now seeks a reversal of said judgment.

At around six o'clock in the morning of December 19, 1987, the dead body of Reynaldo Osal, 20 years old, a security guard, was found lying dead by the roadside at Morgan St., Phase I, Rancho Estate Subdivision, Barangay Concepcion, Marikina. The body bore a gunshot wound on the head. It was when the victim's aunt, Leticia Osal, executed a written sworn statement (Exhs. A & A-1) implicating the accused, Alberto Rodriguez, as the culprit, that the accused was arrested and thereafter charged with Murder.

In substance, the testimonies of the following persons, among others, were presented by the prosecution:

Leticia Osal – the aunt of the victim, testified that the accused and the victim were once her tricycle drivers. Upon discovery by the victim that she was carrying on an illicit relationship with the accused, she sold all her tricycles after which both the accused and the victim left her place. The accused looked for another tricycle to drive while the victim was employed as one of the three security guards at the Rancho Estate Subdivision.

On December 18, 1987, at around 9:30 in the evening, Leticia was at the house of the accused chatting with the latter's wife, who was her friend. A little later, she requested the accused to take her home. Along the way, the accused informed her of his intention to talk to her nephew, the victim, who was then guarding Gate 4 of the Rancho Estate Subdivision at Champagnat Street. Upon being summoned by her, Reynaldo went out of his post and it was then when the accused suddenly held Reynaldo by the arms and dragged him to a darker portion of the area, about twenty meters away from her. At that point in time she could not see them any more because of the darkness. Subsequently, she heard a gunshot coming from the direction where the two had proceeded. Frightened, she immediately went home. It was the following day when she learned of the death of her nephew.

Paquito Pelaria – a jeepney driver, residing at Milagrosa Village, Antipolo, Rizal. He declared that while driving home on December 18, 1987 at around 10:00 in the evening along Molave St., Rancho Estate Subdivision, he saw, through the light of his vehicle, a half-naked man being pulled and pacified by a woman who was shouting "Huwag, huwag!." That man, however, released himself from her hold and proceeded towards Gate 4 of the subdivision where he saw a security guard. When shown pictures of the victim (Exhs. F-1, F-4, F-6 & F-9), he identified the latter as the person guarding said gate that night. Continuing, the witness narrated that instead of passing through Gate 4, since the man and the woman were in the middle of Champagnat Street, he passed through the Marist School. When he returned using the same route, he saw the man, now wearing a T-shirt, and the woman sitting beside him on a gutter and talking to each other at the corner of Molave Street. On being

presented with a line-up when he executed his sworn statement and also during the trial, he positively identified the accused as the man he was referring to. During the trial, he also identified Leticia as the woman in the company of the man that evening.

Amado Perez – also a security guard at the same subdivision, a close friend, compadre and roommate of the victim, testified that the latter, prior to his death, had related to him his knowledge of the illicit relationship between the accused and his aunt. On one occasion, the victim even told him about threats to kill him should he divulge the secret. On December 18, 1987, they had the same shift, from 6:00 p.m. to 6:00 a.m.. The victim proceeded to Gate 4 located at Champagnat Street while he stayed at his post at Colt Street. At around 9:00 in the evening, he noticed that the victim was not around, having failed to appear at the main gate after closing the gates as was usually done. He tried to look for the victim in the area but failed to locate him. The next day, he learned of his friend's death. He also testified that each security guard was given a .38 caliber service gun.

Rogelio Colangan – another security guard at the Rancho Estate Subdivision, corroborated Perez's testimony.

Patrolman Efren Jota – the police investigator, arrived at the conclusion that the victim was dragged to the place where his dead body was found a half kilometer away from Gate 4 because the shoes were off the victim's feet.

Dr. Desiderio A. Moraleda – the medico-legal officer who conducted the necropsy examination on the victim's body, testified that the cause of the victim's death was "hemorrhagic shock as a result of gunshot wound on the head." He discovered two injuries consisting of an abrasion on the forehead and a gunshot wound on the left side of the forehead, which lacerated the brain and fractured the skull. A .38 caliber slug (Exh. M) was recovered embedded at the back of the victim's head. He found no gunpowder burns around the entrance wound nor was there any sign of struggle on the victim's body.

For the defense, it tried to recall Leticia Osal to the stand as its own witness but when it appeared to the Court a quo that she was making untruthful statements, she was barred from testifying further. She attempted to recant her previous testimony as a prosecution witness by denying that she and the accused ever went to the Rancho Estate Subdivision on that fateful night or that she was involved in any illicit relationship with the accused.

The defense also tried to establish alibi through the testimonies of several witnesses, namely:

Rosalia de Guzman – who declared that on December 18, 1987, she was at the house of the accused purposely to seek financial help from the latter's wife. There she saw Leticia Osal, Isabelita Magpayo and Oscar Magpayo. The latter was outside the house helping the accused repair his tricycle. She left the house at round 11:00 in the evening together with Leticia Osal.

Oscar Magpayo – a neighbor of the accused testified that on the night of December 18, 1987, he assisted the accused in repairing the latter's tricycle from 7:00 to about 11:00 in the evening. When he left, the accused was still repairing his tricycle.

Isabelita Magpayo – the wife of Oscar Magpayo, corroborated Rosalia's testimony that she was at the house of the accused on the night in question from 7:00 until 11:00 when she and her husband left ahead of Leticia Osal and Rosalia de Guzman.

After evaluating the conflicting evidence before it, and largely on the basis of circumstantial evidence since there was no witness to the actual occurrence, the Trial Court meted out conviction after appreciating the qualifying circumstance of evident premeditation and the generic aggravating circumstance of nocturnity, sentenced the accused to reclusion perpetua, and ordered him to indemnify the heirs of Reynaldo Osal in the amount of P30,000.00, to pay the sum of P7,000.00 as expenses incident to the burial, and the further sum of P10,000.00 as

moral damages.

This appeal faults the Trial Court:

"1.

x x x in giving credence to the testimony of Leticia Osal and in not allowing her to recant her earlier testimony.

"2.

x x x in giving credence to the testimony of prosecution witness Paquito Pelaria.

"3.

x x x in appreciating the facts of the case.

"4.

x x x in convicting the accused despite the failure of the prosecution to prove his guilt with moral certainty."

We find that credence was properly given to Leticia's testimony for the prosecution rather than to her recanted declarations for the defense. Her testimony that she and the accused had gone to the crime scene is corroborated by another prosecution witness. Paquito Pelaria, when the latter positively identified the accused and Leticia as the ones he saw near Gate 4 in the evening of December 18, 1987. Further, Leticia's testimony that the accused had dragged the victim to the site of the crime was also affirmed by Patrolman Efren Jota's declaration that the victim was, indeed, dragged since the latter's shoes were found removed from his feet (TSN, March 23, 1988, p. 17). Too, her testimony regarding the place where the victim was dragged approximates the site where the body was found (TSN, July 4, 1988, p. 3; Exh. I-1). There is sufficient evidence, therefore, to buttress Leticia's testimony for the prosecution compared to her bare denials for the defense.

The accused further maintains that the Trial Court committed grave injustice when it prevented Leticia from retracting her earlier testimony as a prosecution witness. What actually transpired, however, was that she was recalled and allowed to testify for the defense but was cut short by the Trial Court because of her "untruthful statements." Note should be taken of the fact that the recall of a witness is discretionary with a Trial Court. It was in the exercise of that discretion that the Trial Court barred her from continuing further with her testimony for the defense as in the mind of said Court, her untruthful statements were prejudicial to the interests of justice. Actually, however, the defense has no cause to complain for Leticia's testimony was recorded; her retraction was evident; and in the last analysis, the Trial Court gave no credence thereto, in the light of other testimonial evidence. The rule remains that a testimony solemnly given in Court should not be lightly set aside and that before this can be done, both the previous testimony and the subsequent one should be carefully compared. This task the Trial Court had aptly discharged.

The attacks of the defense against the credibility of prosecution witness, Paquito Pelaria, are similarly without merit. It avers that said witness could not have passed through Gate 4 of the Rancho Estate Subdivision because the gates close at 9:00 P.M. Paquito did not state, however, that he passed through Gate 4 the night of the incident. What he testified to was that since the street leading to the gate was blocked by the accused and Leticia, he could not drive through and instead took another street (TSN, pp. 6-7, November 10, 1988). Thus, whether or not said

Gate 4 was closed at the time of the incident is of no vital significance.

But the defense further submits that Paquito's testimony to the effect that the accused and Leticia were blocking the street and that he saw them approximately half an hour later conversing near the scene of the crime, is contrary to human experience. That is not necessarily so. Leticia's act in trying to hold back the accused from inflicting harm on her nephew is understandable. That it happened in a public street is neither improbable. Incidents like this are not of uncommon occurrence. That the accused and Leticia were seen by Paquito seated on a gutter conversing approximately half an hour later neither affects the latter's credibility as the two could have been so overcome themselves that they sat limp in disbelief. It can not be construed therefrom that they had intentionally lingered in the vicinity of the crime scene, thereby proving the accused's innocence.

The admission by Paquito that he did not actually see the victim that night neither affects his credibility. As satisfactorily explained by him, he used to see the victim guarding Gate 4 prior to December 17, 1987 whenever he customarily passed through the same, such that when shown pictures of the victim, he readily identified the latter as the person usually guarding that post.

No error can thus be attributed to the Trial Court in its appreciation of the facts of the case. Its findings and conclusions are duly supported by the evidence on record. The defense of alibi presented by the accused can not be made to prevail over Leticia's own declaration that they had gone to the Rancho Estate Subdivision, and Paquito's affirmative identification, particularly considering that the latter was an impartial witness who has not been shown to have had any cause for testifying against the accused. The same can not be said of the defense witnesses. Moreover, the accused has failed to demonstrate by evidence that it was physically impossible for him to have been at the situs of the crime at the time of the incident.

While the records reveal that there was no eyewitness to the actual killing, the circumstantial evidence attendant and relied upon by the Trial Court is sufficient for conviction. There is more than one circumstance. The facts from which the inferences are derived are proven. The combination of all circumstances is such as to produce a conviction beyond reasonable doubt (Rule 133, Section 4, Rules of Court [1964]).

The judgment of the Court *a quo*, however, has to be modified in so far as it holds that the circumstances of evident premeditation and nocturnity are present. No direct and positive evidence has been shown as to the time when accused conceived to kill his victim. It is even doubtful whether there was a predetermined intent to kill. When he decided to see the victim his purpose was merely to talk to him. He was unarmed as he sallied forth.

Neither is there any convincing showing that the accused had purposely sought nighttime in order to facilitate the commission of the crime or to prevent its discovery or to evade his capture.

Under the circumstances, and as recommended by the Solicitor General, the accused can be convicted only of Homicide, punishable by reclusion temporal, in its medium period, absent any modifying circumstances.

WHEREFORE, modifying the judgment of the Court *a quo*, the accused, Alberto A. Rodriguez, is hereby sentenced to suffer an indeterminate penalty of eight (8) years and one (1) day of prision mayor, as minimum, to fourteen (14) years, eight (8) months and one (1) day of reclusion temporal, as maximum; to indemnify the heirs of the victim in the amount of P50,000.00 consonant with recent case law; to pay the sum of P7,000.00 as expenses incident to the burial of the victim; and to pay the costs.

SO ORDERED.

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

[1] Presided by Judge Martin S. Villarama, Jr.

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.