

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. DEOGRACIAS JALON, ACCUSED-APPELLANT.

G.R. No. 93729. November 13, 1992

Ponente: REGALADO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-93729/>

REGALADO, J.:

Accused-appellant Deogracias Jalon was charged, together with one Tadios Magsalos, on August 8, 1986 in Criminal Case No. 6902 of the Regional Trial Court of Misamis Oriental, Branch 21, Cagayan de Oro City with the crime of murder allegedly committed as follows:

"That on or about 10:00 in the evening, more or less, of May 28, 1986, in the City of Cagayan de Oro, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with intent to kill, with treachery and evident premeditation, armed with a gun, which they were then conveniently provided of (sic), conspiring, confederating together and mutually helping one another, did then and there wilfully, unlawfully and feloniously attack, assault and shoot one Pelarito Abujan, hitting the latter's head and neck, thereby inflicting mortal wounds on the latter which were the direct and immediate cause of his death." [1]

Appellant was arrested on October 27, 1986 and when arraigned on November 26, 1986 with the assistance of counsel, entered a plea of not guilty.[2] His co-accused, Tadios Magsalos, who remained at large for some time, was eventually arrested and placed under detention on June 22, 1988.[3] He was never formally arraigned due to his poor health. On December 5, 1988, the murder charge as to Tadios Magsalos was dismissed on motion of the prosecution after a reinvestigation showed the lack of a prima facie case against him.[4] By then, trial on the merits had commenced with respect to appellant Jalon.[5]

The present case arose from the killing of Pelarito Abujan in Barangay Baikingon, Cagayan de Oro City. The victim died apparently of gunshot wounds in the forehead and neck which were inflicted on him on the night of May 28, 1986.[6] It appears, that the deceased was on his way to the dance hall of Barangay Baikingon when he was waylaid. Prosecution witness Allan Gamlot recalled that only he and Alexander Abujan were with the victim during the incident.[7] On the other hand, the other principal witness for the prosecution, Eddie Apus, said that the deceased was with other companions, namely, himself (Apus), Alexander Abujan, Allan Gamlot and a certain Mario Diamar.[8]

Both these witnesses related that they were passing by a banana plantation situated along the road to the dance hall when a shot suddenly rang out.[9] Pelarito Abujan, who, according to Apus, was walking ahead of the others with Gamlot, tried to investigate and went near the banana grove from where the shot came. At this juncture, a second shot rang out, after which the third shot followed. Pelarito Abujan then fell with his face downward.[10]

Shortly thereafter, Apus allegedly saw appellant and an unidentified companion, fleeing uphill after first emerging from the nearby banana plantation. The group proceeded to help the stricken Pelarito Abujan but they found him already dead. They then brought the body of the victim to his house in Baikingon and that same evening, Apus reported the incident to Police Corporal Eleuterio Cabigon at the Divisoria Bandstand in Cagayan de Oro City.

Cabigon and five other policemen went to the alleged residence of appellant at Baikingon to arrest him but they found it deserted with a lighted kerosene lamp upstairs.[11]

On his part, appellant interposed the defense of alibi. He vigorously maintained that he had no participation in the killing of Pelarito Abujan for he was then in the house of his employer, Engineer Romualdo Gaylo, at Dolores Tomas Street, Carmen, in Cagayan de Oro City.[12] Carmen is about twelve kilometers away from Baikingon.[13] He admitted that he had a house in Baikingon but left the place when he sold his house there in November, 1984.[14] He then transferred to Barangay Tagpangi and, in December, 1985, came to live in Carmen when he was hired by Engineer Gaylo as mason and watchman.[15]

His defense of alibi was amply corroborated by Gaylo who testified that appellant was indeed staying at his house on that night of May 28, 1986 since he was the watchman there. Gaylo also said that public utility vehicles usually stop plying the route between Baikingon and Carmen at around 5:00 or 6:00 P.M. and that it would take at least three hours to negotiate on foot the distance between these places.[16]

In its decision[17] dated May 31, 1989, the court a quo found appellant guilty on the basis of circumstantial evidence, of the crime of murder qualified by treachery and sentenced him to suffer the penalty of life imprisonment[18] together with all its accessory penalties, and to pay the heirs of the victim the amount of P30,000.00 as indemnity, without subsidiary imprisonment in case of insolvency, and to pay the costs.[19]

Appellant is now before us seeking the reversal of the judgment of conviction and faulting the court below of having erred (1) in finding him as the perpetrator of the crime charged and in not relying on the testimony of appellant and his corroborating witness; and (2) in holding that the circumstantial evidence presented by the prosecution is sufficient for his conviction.[20]

The assigned errors basically assail the trial court's favorable appreciation of the evidence adduced by the prosecution and its factual findings based thereon. On this point, the rule is that the findings of fact of the trial court are entitled to great weight and at times even finality, except in instances where the findings are not supported by the record or are not based on substantial evidence or where the same are grounded on speculations, surmises or conjectures.[21] Further, where the issue raised relates to the matter of credibility of a witness, the findings thereon of the trial court are accorded the highest degree of respect and will not generally be disturbed on appeal.[22] There would, however, be a deviation from this rule if it is shown that the trial judge has overlooked some material or substantial facts which, if considered, could alter or affect the result of the case.[23]

A thorough review of the records convinces us that the findings of the trial court herein complained of have no evidentiary support. Said court failed to take into account material and substantial inconsistencies and contradictions in the testimonies of the principal witnesses for the prosecution, Allan Gamlot and Eddie Apus, which to this Court are indubitably corrosive of their credibility. This necessarily sweeps away the strands in the web of circumstantial evidence proffered by the prosecution, which evidence the Solicitor General submits are the following:

- "1. Allan Gamlot and Eddie Apus categorically stated that they saw appellant, armed with a handgun, together with an unidentified companion emerge from the banana grove (sic) from where the shots rang out;
2. Appellant and his companion ran away after emerging from said banana grove (sic);
3. Appellant himself admitted that Pelarito Abujan killed the former's brother sometime in 1983. At best, it can rightfully be said that he had an axe to grind against the deceased;
4. Appellant's flight is a strong indication of guilt;

5. Luisito Ragmac's testimony on rebuttal to the effect that appellant boasted of having killed Pelarito Abujan. Luisito is the 'bilas' of appellant." [24]

A conviction may rest upon circumstantial evidence alone as direct evidence is not always necessary to prove the guilt of the accused [25] nor is it readily available. But the well-entrenched rule is that such evidence should be acted upon and weighed with extreme caution, particularly where, as in this case, the crime for which the accused stands to be convicted carries with it the highest imposable penalty of reclusion perpetua. [26] For such evidence to support a conviction, it is essential that (a) there must be more than one circumstance; (b) the facts from which the inferences are derived are proven; and (c) the combination of all the circumstances is such that there can be no doubt as to the guilt of the accused, thus warranting his conviction. [27] Earlier, in *People vs. Subano*, [28] the Court laid down the rule that -

"Before conviction can be had upon circumstantial evidence, the circumstances proved should constitute an unbroken chain which leads to one fair and reasonable conclusion pointing to the defendant, to the exclusion of all others, as the author of the crime."

As it was principally upon the testimonies of Allan Gamlot and Eddie Apus that the prosecution sought to incriminate appellant by circumstantial evidence, the unreliability of their respective testimonies cannot lead us to that fair and reasonable conclusion that appellant was the one who committed the crime charged.

In arriving at its judgment of conviction, the trial court opines that the following considerations were more than enough to show beyond doubt the guilt of appellant, to wit:

"Concededly, and as strongly stressed by the counsel for the accused in his memorandum, there was no eyewitness to the actual shooting. However, the government witnesses categorically declared that after they heard the two burst(s) of gunfire in the direction of the banana grooves (sic), Pelarito Abujan fell and not long after, the accused Deogracias Jalon was seen coming out from the banana grooves (sic) bringing with him a gun together with an unidentified companion. The accused was positively identified by two government witnesses who were present during the incident; that although it was night time they positively identified the accused because they were at a distance of only about fifty (50) meters and besides it was not very dark at that time and that they already knew Deogracias Jalon even before the incident; that immediately after the incident, they reported to the police station at the Divisoria Bandstand that they were ambushed that very night which resulted in the death of Pelarito Abujan and pointed to the accused as the author of the crime. In fact, Cpl. Cabigon accompanied the group back to Baikingon to effect the arrest of the accused but the accused was nowhere to be found.

x x x

"In the present case, the two (2) witnesses who were the companions of the deceased on that fateful evening positively identified the accused as he emerged from the banana grooves (sic) where the gun report came from, 30 seconds later, with an identified (sic) companion running towards the upper portion. x x x." [29]

However, a closer perusal of the record at hand and a careful analysis and calibration of the evidence presented in the court below would readily disclose facts contrary to its foregoing findings and which would conduce to a conclusion different from that in its assailed decision.

Key prosecution witness Allan Gamlot, a nephew of the victim, testified on direct examination that he and Alexander Abujan were walking to the dance hall with the deceased at about nine o'clock in the evening of that day when they were fired at. [30] At the sound of the third shot, he hit the ground for cover and saw the victim fall down. Immediately thereafter, he rose and went to look for Alexander Abujan who had apparently fled from the scene during the shooting. After locating Abujan, they went back to where the victim fell and, at this point, saw

appellant and a companion fleeing from the banana grove. Gamlot further recalled that both appellant and his companion were carrying firearms.[31]

When queried on cross-examination how much time it took him to locate Abujan, Gamlot replied "Quite a time." It had, in fact, taken him an hour to look for Alexander Abujan whom he found at the house of Linda Dablo. The latter's house was at a distance from the scene of the crime.[32] The intervening time of one hour during which Gamlot went to look for Abujan is highly significant for, in accordance with common experience and the natural order of things, the perpetrators would have instantly fled since nobody was left to attend to the fallen Pelarito Abujan and, consequently, they had all the opportunity to escape without anyone seeing them. It would certainly be absurd for them to have waited for one hour and then make a dash for elusion when Gamlot and Abujan were already back and thus risk being seen by the latter.

Irremissibly, therefore, the findings of the trial court are clearly at variance with and are not substantiated by the testimony of Allan Gamlot. Moreover, there is nothing in the record to show that the prosecution witnesses were at a distance of fifty meters from the felons. On the contrary, prosecution witness Eddie Apus reckoned that they were supposedly only about three meters away from where the shots were fired.[33] It puzzles us, therefore, why the trial court did not take these inconsistencies into account although it had apparently relied mainly on the eyewitness account of Apus.

But then, again, we have also carefully examined the transcripts of the testimony of Apus and we find that there are likewise equally disturbing aspects therein which seriously undermine his credibility and expose his statements to be of dubious veracity. Apus, a neighbor of the deceased, testified that at about eight o'clock in the evening of May 28, 1986, he was entertaining Mario Diamar in his house in Baikingon when Pelarito Abujan, Allan Gamlot and Alexander Abujan arrived for supper. They partook of some drinks and then decided after an hour to proceed to the Baikingon dance hall. Apus narrated that the victim and Allan Gamlot walked ahead of them followed by some two meters behind by himself (Apus), Alexander Abujan and Mario Diamar when the three gunshots successively rang out, with the last shot felling the victim. He further related that thirty seconds later, as they were lifting the body of the deceased, the rest of them saw appellant with a gun and a companion scampering from the nearby banana grove.[34]

On cross-examination, Apus stated that Allan Gamlot was the first to rush to the aid of Pelarito Abujan since he was walking ahead with the deceased, that at the height of the shooting Gamlot crawled just beside the latter and, immediately after the firing ceased, Gamlot then helped in lifting the body of the victim.[35] The foregoing statement of Apus plainly contradicts the account of Gamlot, as earlier noted, that immediately after the third shot he ran away to look for Alexander Abujan and they only came back after the lapse of one hour. Moreover, both prosecution witnesses likewise gave conflicting statements as to who was wielding a gun. While Apus asserted that only appellant had a gun with him,[36] Gamlot, on the other hand, said that both appellant and his companion were each armed with a firearm.[37] Parenthetically, we find it rather strange that appellant and his companion are supposed to have first displayed themselves openly to the companions of the victim and consequently be recognized by the latter, instead of running away through and under cover of the darkness of the banana plantation to avoid detection or recognition.

It is further significant that throughout his direct and cross-examination, Gamlot never made mention of Eddie Apus and Mario Diamar, or of the fact that they had gone to the house of Apus for supper and some drinks, or that Apus and Diamar had been with them on that fateful night. Logically, he would have disclosed to the court the aforementioned facts but it perplexes us that he did not. It is to be noted that Gamlot was presented as a witness ahead of Apus and he had executed a sworn statement regarding the incident on June 5, 1986, or a week after the slaying.[38]

In contrast, Eddie Apus, who was called to the witness stand on March 12, 1987, only came out into the open to narrate in court his version of the killing almost one year after the fact, and never gave nor executed an affidavit about the matter to the police authorities. When questioned on the reason for the delay, he simply explained that he decided to testify only on March 10, 1987 when he happened to converse with the wife of the deceased and learned that there was going to be a hearing two days later.[39] It is hard to believe that Apus came to know of the subsequent developments in the case only on March 10, 1987 considering that he was a neighbor of the deceased.

If, indeed, he was with the victim and the others when the incident took place, then it stands to reason that he would have at least reported the fact of his presence during the slaying and volunteered to testify as soon as the developments in the case warranted. And yet, in all these, he failed without any plausible reason at all and he has not even given a credible explanation therefor. In fact, Police Corporal Eleuterio Cabigon, to whom Apus allegedly reported the incident that night, categorically declared that it was not Apus but a certain Menello Cabanatuan, a "ronda tanod," who related to him what had occurred.[40]

In fine, all the foregoing considerations, particularly the inexplicable failure of Allan Gamlot to make mention in his testimony about Eddie Apus and the latter's belated presentation of himself in court, cannot but give rise to the deduction that Apus is a rehearsed witness whose testimony was contrived in order to create a believable case for the prosecution. This becomes more apparent in light of the fact that Gamlot had proved to be an unreliable witness for the prosecution, having earlier given conflicting and confusing answers to both the prosecution and the defense. Evidence to be believed must proceed not only from the mouth of a credible witness but the same must be credible in itself as when it conforms to the common experience and observation of mankind.[41] Here, we have irreconcilable and unexplained contradictions on vital points in the testimonies of the prosecution witnesses which necessarily disclose a weakness in the case for the prosecution and cast crucial doubt on the guilt of appellant.

Luisito Ragmac's testimony to the effect that appellant, for no reason at all, demonstrated to him how the latter killed the deceased, deserves no consideration, whatsoever, not only because of its inherent improbability but also because both of them, Ragmac and Jalon, have had serious misunderstandings and had been at odds for quite some time.[42] In fact, Ragmac admitted, at the time he testified, that he was not on good or talking terms with appellant because the latter had intimidated and threatened him during a quarrel right in the house of said witness.[43]

On the defense of appellant, it is true that alibi is one of the weakest defenses an accused can invoke and for it to be considered favorably, it must be shown that the accused was somewhere else when the crime was committed and that it was physically impossible for him to have been at the scene of the crime.[44] But it is likewise settled that in advancing its cause, the prosecution must rely on the strength of its own evidence and not on the weakness of the defense.[45] Furthermore, alibi as a defense assumes commensurate strength and significance where the evidence presented by the prosecution are unreliable and uncertain,[46] since it is not relieved of the onus probandi just because alibi is the defense invoked by the accused.

Also, as we have heretofore pointed out, when the accused puts up the defense of alibi, the court should not at once have a mental prejudice against him. For, taken in the light of all the evidence of record, it may be sufficient to acquit him, especially since every circumstance must be considered in favor of the presumption of innocence.[47] The fact that the evidence for the accused is presented to establish an alibi is not a circumstance to be regarded as unfavorable to him, nor is the failure to establish it a ground for suspicion, but the same must be considered in the light of the other evidence in the case.[48] There are situations where an accused can have no possible defense but alibi, as that could really be the truth as to his whereabouts at the time in question, and it may tilt the scales of justice in his favor especially when the evidence for the prosecution is contradictory and

improbable.

In the present case, aside from the intrinsic weakness of the testimonies of the prosecution witnesses, there is likewise a very serious doubt on the identification made of appellant as the culprit. The rule is that the identity of the offender, like the crime itself, must be proven beyond reasonable doubt,[49] and where the evidence of the prosecution is weak and unsatisfactory, and the identification of the accused is not reliable while the defense of alibi is adequately proved, the accused should be acquitted.[50] Here, not only are the testimonies of the prosecution witnesses who identified appellant demonstrably unreliable and vacillating, but Police Corporal Eleuterio Cabigon, himself a prosecution witness, testified that the person reported to their office as the killer, whose participation in the crime they investigated, and whose house they searched immediately after the incident was one Gaudencio Jalon, not the herein appellant Deogracias Jalon.[51]

WHEREFORE, on reasonable doubt, the judgment of the trial court is hereby REVERSED and SET ASIDE and accused?appellant is hereby ACQUITTED, with costs de oficio. His immediate release from custody is hereby ordered, unless he is otherwise detained for some other lawful cause.

SO ORDERED.

Feliciano, Nocon, and Campos, Jr., JJ., concur.
Narvasa, C.J., (Chairman), on leave.

[1] Original Record, 2.

[2] Ibid., 13.

[3] Ibid., 119.

[4] Ibid., 144.

[5] Ibid., 21.

[6] Ibid., 103; Exhibit "B".

[7] TSN, February 24, 1987, 5, 8.

[8] Ibid., March 12, 1987, 11.

[9] Ibid., February 24, 1987, 5; March 12, 1987, 12.

[10] Ibid., March 12, 1987, 12-13.

[11] Ibid., id., 13-17.

[12] Ibid., March 10, 1988, 44.

[13] Ibid., April 14, 1988, 73.

[14] Ibid., March 10, 1988, 51.

[15] Ibid., id., 46.

[16] Ibid., April 14, 1988, 62-63, 74.

[17] Per Judge Celso P. Largo.

- [18] The proper imposable penalty, under the Revised Penal Code, is reclusion perpetua (People vs. Literado, G.R. No. 77114, May 27, 1992).
- [19] Rollo, 46.
- [20] Brief for Accused-Appellant, 1; Rollo, 60.
- [21] People vs. Ponce, 197 SCRA 746 (1991).
- [22] People vs. Atilano, 204 SCRA 278 (1991); People vs. Uy, et al., 206 SCRA 270 (1992).
- [23] People vs. Pul-oc, 202 SCRA 179 (1991).
- [24] Brief for Plaintiff-Appellee, 11-12; Rollo, 106-107.
- [25] People vs. Tonog, Jr., et al., 205 SCRA 772 (1992).
- [26] People vs. Nicolas, et al., 204 SCRA 191 (1991).
- [27] People vs. Tonog, Jr., supra.
- [28] 73 Phil. 692 (1942).
- [29] Rollo, 42-43.
- [30] TSN, February 24, 1987, 5.
- [31] Ibid., id., 8-10.
- [32] Ibid., id., 14-15.
- [33] TSN, March 12, 1987, 22.
- [34] Ibid., id., 9-14.
- [35] Ibid., id., 19-22.
- [36] Ibid., id., 14.
- [37] Ibid., February 24, 1987, 10.
- [38] Original Record, 4; Exhibit "1".
- [39] TSN, March 12, 1987, 28.
- [40] TSN, January 28, 1988, 26.
- [41] People vs. Lim, 190 SCRA 706 (1990).
- [42] TSN, May 24, 1988, 36-38; TSN, June 13, 1988, 52-54.
- [43] Ibid., id., 21-24.
- [44] People vs. Bugho, 202 SCRA 164 (1992).
- [45] People vs. Mendoza, 203 SCRA 148 (1992).
- [46] People vs. Viray, et al., 202 SCRA 320 (1992).
- [47] People vs. Tabayoyong, et al., 104 SCRA 724 (1981); People vs. Castelo, 133 SCRA 667 (1984).

[48] *People vs. Gonzalez, et al.*, 50 Phil. 9 (1927); *People vs. Fraga, et al.*, 109 Phil. 241 (1960).

[49] *People vs. Beltran*, 61 SCRA 246 (1974); *People vs. Galvez, et al.*, 101 SCRA 544 (1980).

[50] See *Olondriz, Jr., et al. vs. People, et al.*, 152 SCRA 65 (1987).

[51] TSN, January 28, 1988, 4-7.

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.