

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROLANDO TALINGDAN @ BOYET, RAYMUNDO TIERRA @ REMY, AND ALCETO TALLEDO @ ASING, ACCUSED. ALCETO TALLEDO @ ASING, AND ROLANDO TA...

G.R. No. 94339. November 09, 1990

Ponente: GUTIERREZ, JR., J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-94339/>

GUTIERREZ, JR., J.:

In the information filed with the than Court of First Instance of Abra Rolando Talingdan (alias Boyet), Raymundo Tierra (alias Remy) and Alceto Talledo (alias Asing) were charged with the crime of murder committed as follows:

"That on or about the 2nd day of August, 1975, in Cabaruan, Dolores, Abra, and within the jurisdiction of this Honorable Court, the three above-named accused, conspiring and confederating with each other and helping one another, did then and there, wilfully, unlawfully and feloniously, with treachery and taking advantage of nighttime, shoot and kill Bernardino Biniegas." (Rollo, p. 6)

After trial, the lower court rendered judgment finding the three accused guilty of the crime charged. The dispositive portion of the decision reads as follows:

"WHEREFORE, judgment is hereby rendered that there being a prima facie case beyond reasonable doubt that the accused are guilty of the crime of murder as charged they are hereby sentenced to suffer the penalty of reclusion temporal in its maximum period to death as defined under Article 248 of the Revised Penal Code or a period of SEVENTEEN (17) YEARS and ONE (1) DAY as minimum to TWENTY (20) YEARS as maximum by applying the Indeterminate Sentence Law and to indemnify the heirs of the late Bernardino Biniegas in the sum of TWELVE THOUSAND (P12,000.00) PESOS, without subsidiary imprisonment in case of insolvency and to pay the cost.

"In case of appeal, the bailbond fixed without any reduction for each of the accused is P40,000.00." (CA-Record, p. 37)

Thereafter, the three accused elevated their case to the Court of Appeals.

On October 12, 1978, the Court of Appeals issued a resolution certifying the case to the Supreme Court for final determination considering that in the court's opinion, the imposable penalty is reclusion perpetua.

On October 27, 1985, Raymundo Tierra, one of the accused, filed a motion to withdraw his appeal which was granted by the Second Division of the Supreme Court in a resolution dated November 25, 1985.

On November 7, 1988, the Supreme Court resolved to return the case to the Court of Appeals for proper disposition pursuant to the court's ruling in *People v. Daniel*, (86 SCRA 511, 540 [1978]).

Finally on July 23, 1990, the Court of Appeals made its own findings and affirmed the conviction of the

appellants. It then certified this case to the Supreme Court for final determination.

As to how the crime was committed, and the events immediately preceding and following the commission thereof, the prosecution's version is presented in the People's Brief as follows:

"On August 2, 1975, between 7:30 to 8:30 p.m. in Cabaruan, Dolores, Province of Abra, the victim Bernardino Biniegas a member of the police force of that town and his wife, Adelina, were inside their house conversing with each other. As they were about to sleep they heard a voice calling 'Pari pari.' Consequently, the victim stood up, peeped through a slit in the window and saw four persons. His wife then asked him who were the persons outside and the victim identified them as Leonico Talingdan and accused-appellants Rolando Talingdan, Raymundo Tierra, and Alceto Talledo. Thereafter, the victim pushed the window and was met by a volley of shots inflicting wounds on him. As the victim fell, his wife went to his aid. The victim told his wife that the aforementioned persons were the ones who fired at him (pp. 81-84, tsn, May 11, 1976)

"Meanwhile, Honorata Biniegas, the victim's mother who was living in the next house, upon hearing the shots, went down her house and saw the appellants and a fourth man who, henceforth, ran away from the scene of the crime. Appellants Talingdan and Tierra were armed with rifles (pp. 147-151, 154, tsn, June 14, 1976). Thereafter, the victim's neighbor came to his aid and brought him to a place called Talogtog. Later, the mayor and others arrived at Talogtog, loaded the victim in their jeep and brought him to the Abra Provincial Hospital for treatment (pp. 101-102, tsn, May 11, 1976).

"At the hospital, at about 3:00 a.m. of the following day (August 3, 1975), PC CIC Josefino Valencia arrived and took the ante-mortem statement of the victim identifying appellants and Leonico Talingdan as the perpetrators (pp. 4-10, tsn, December 11, 1975) the contents of which are as follows:

1. Q - What's your name?

A - Bernardino Biniegas, sir.

2. Q - What happened to you?

A - I was shot, sir.

3. Q - Who shot you?

A - Asing Barbosa, Boyet Talingdan, Remie Tierra and Leonico Talingdan, were the ones I saw, sir.

4. Q - Why did they shoot you?

A - Because of a criminal suit they wanted to be settled, sir.

5. Q - What gun did they use?

A - Carbine, sir.

6. Q - At what time did they shoot you?

A - At 8:00 p.m. on the 2nd day of August, 1975, sir.

7. Q - How are you feeling now?

A - Very critical, sir.

8. Q - Can you sign your statement?

A - No, sir.

BLOOD

THUMBMARK OF PAT. BINIEGAS

(Record, p. 10, Exh. "A" - Translation)

"As a result of the above shooting, the victim suffered the following injuries which subsequently caused his death on August 3, 1975 at about 11:00 p.m.:

"This is to certify that Mr./Mrs./Miss PATROLMAN BERNARDINO BINIEGAS Male/Female 26 years of DOLORES, ABRA was examined/treated in this Hospital from/on 8/2/75 at 11:00 p.m., 19__ to __ for the following:

- Circular wound 8th intercostals space left, parasternal line, directed posteriorly upward, thru and thru. Wound of entrance measures 1/2 inch in diameter; wound of exit - 1 x 1 inch in diameter, infra scapular region, left.
- Circular wound, lumbar region left about 2 inches above the anterior superior iliac spine, non-penetrating directed posteriorly downward. Wound of entrance measures 5 mm. in diameter; wound of exit - measures 1/2 inch in diameter, about 2 inches posterior to the wound of entrance.
- Circular wound, wrist, exterior aspect radial side, penetrating the bone of the index finger. Wound of entrance - measures 5 mm. diameter; wound of exit - measures 7 mm. in diameter.

Exploratory Laparotomy Findings:

- Perforating wound, stomach thru and thru measuring 1 1/2 x 1 1/2 inch in diameter;
- Lacerated wound involving the left lobe of liver and anterior surface of the spleen.
- Perforating injury diaphragm inferior portion right about 1 1/2 inch in diameter.
- Fracture costo?chondral junction 9th rib. left.

Note: Distal portion of fractured ribs perforated the superior aspect of diaphragm, left.

Cause of Death:

- Irreversible shock, secondary to gunshot wound involving the diaphragm stomach, spleen and liver. (Record, p. 3, Exhibit "G")

"Previous to the incident, the victim, who was a member of the police force of Dolores, Abra was investigating a case involving a theft of large cattle where the appellants were the suspects. The appellants were then persuading the victim to drop the case or settle the matter amicably but the latter refused to accede to their demands (p. 54, tsn., January 21, 1976; pp. 99-101, tsn., May 11, 1976, p. 158-161, tsn., June 14, 1976).

"At the scene of the crime the investigators found eleven shells of a .30 caliber carbine on the ground, around four meters from the house of the victim, and immediately below the window where he had peeped. They also found bullet holes on the said window and at the adjoining wall (p. 14, tsn., December 11, 1975, p. 12-14, tsn., January 19, 1976)." (People's Brief, pp. 3-7)

In their appeal, the appellants made the following assignment of errors:

I

"THE TRIAL COURT ERRED IN HOLDING THAT THE ACCUSED-APPELLANTS ARE THE AUTHORS OF THE CRIME.

II

THE TRIAL COURT ERRED IN NOT GIVING FAITH AND CREDIT TO THE TESTIMONIES OF THE ACCUSED AND THEIR WITNESS.

III

THE TRIAL COURT ERRED IN NOT ACQUITTING THE ACCUSED-APPELLANTS." (Rollo, pp. 151-152)

We agree with the Court of Appeals that the appellants are indeed guilty beyond reasonable doubt of the crime charged. They were identified as two of the perpetrators of the crime through the dying declaration of the victim, Bernardino Biniegas and the testimonies of PC CIC Josefino Valencia, Adelina Biniegas, the victim's wife and Honorata Biniegas, the victim's mother.

The Court of Appeals correctly ruled that the dying declaration of the victim, Bernardino Biniegas is admissible in evidence. A dying declaration is made by a person under a consciousness impending death concerning the cause and circumstances of the injury from which he thereafter dies. The requisites for its admissibility are as follows:

- 1) that the declaration must concern the cause and surrounding circumstances of the declarant's death;
- 2) that at the time the declaration was made, the declarant was under a consciousness of an impending death;
- 3) that the declarant is competent as a witness;
- 4) that the declaration is offered in a criminal case for homicide, murder or parricide, in which the declarant is the victim. (Section 31, Rule 130, Rules of Court)

In the case at bar, the requisites were all satisfied. When Bernardino Biniegas made his statement, he was still in full possession of his mental faculties, although he was then weak due to his wounds. He declared with clarity and certainty that he was shot with a carbine by Asing Barbosa, Boyet Talingdan, Remie Tierra and Leonico Talingdan because of a criminal case his assailants wanted him to drop.

Asing Barbosa is the same Alceto Talledo alias "Asing", one of the appellants in this case and Boyet Talingdan is none other than Rolando Talingdan, the other appellant.

When asked how he was feeling, Biniegas replied that he was very critical which just shows that he was conscious of the fact that his death, which occurred a day after, was imminent.

The contention that Bernardino Biniegas' statement is worthless since he can no longer be cross-examined was sufficiently answered by the Court of Appeals. A dying declaration is an exception to the constitutional right of an accused to confront and cross examine the witness against him. It is admissible being one of the exceptions to the rule excluding hearsay evidence on grounds of necessity and trustworthiness.

PC CIC Josefino Valencia who conducted the investigation of the shooting incident was the one who took the ante-mortem statement of Bernardino Biniegas. He testified that the victim was already in serious condition when his statement was taken. He then requested Dr. Herminio B. Venus and Estrella Damian, two of the people who were present when Biniegas made his dying declaration to sign the statement as witnesses.

Adelina Biniegas, wife of the victim testified that her husband revealed to her the identities of his assailants. The pertinent portions of her testimony are as follows:

"A For the length of time that we have been conversing with my husband that night, there was somebody who

uttered, 'pari, pari' from the ground under the floor of the house, sir and my husband having heard the voice stood up and went to peep thru a space created by the bamboo split and after having peeped thru, he said, 'they are Remy, Boyet, Asing and Leonico Talingdan,' he said.

Q And after your husband has said those words to you, what transpired next, if any?

A He again peeped looking thru the window shutter and after that, that was the time when a gun detonated, sir. A gun detonation occurred.

Q How did your husband open your window?

A He did not open, sir. He merely pushed it like this. (The witness demonstrating an act of pushing forward with her left hand, putting the shutter forward).

Q And the moment your husband has opened your window by pushing forward-upward with his left hand, what transpired next?

A That was the time there was a gun detonation; that guns were fired and after the firing, he fell and lost his balance and fell to the place where we were lying down already wounded.

Q And when your husband fell already wounded, what did you do?

A At that Moment I asked repeatedly, 'Who are those who are those,' I said and he said, 'they are Remy, Boyet, Arcing and Leonico.'" (Rollo, pp. 159-160)

The appellants contend that her testimony should not be given credence since she did not personally see them in the act of shooting. In refutation, the Court of Appeals explained that the statements made by the victim to his wife are part of the *res gestae* which is another exception to the hearsay rule. The victim's revelation of the identities of the appellants as the ones who called him was made before and subsequent to the shooting incident. (*People v. Roca*, 162 SCRA 696 [1988]). Its admissibility is beyond question. The wife's testimony is therefore worthy of belief. Honorata Biniegas the victim's mother also testified that she recognized three of the four assailants on the night of the shooting as she testified, to wit:

"Q On the night of August 2, 1975, between the hour of 7:30 and 8:30 where were you?

A I was in our house, sir.

Q While you were in you house at that hour, do you recall if there was anything unusual that happened?

A There was, sir.

Q Will you please tell the Honorable Court what is that unusual incident that happened on that night of August 2, 1975?

A I heard gun reports and on the second time that I heard gun reports, I went down our house.

Q From what direction did you hear the gun reports coming from in relation to your house?

A According to my hearing, the gun detonations took place in front of the house of my son, Bernardino, sir.

Q Now, upon hearing the gun detonation coming from the direction of the house of Bernardino Biniegas, what did you do?

A I took the light and match and walked towards the house of Bernardino Biniegas and while I was walking I saw that there was also a lamp on the window of Bernardino Biniegas and where were persons that were lighted by that lamp, sir.

Q When you saw that there were persons lighted by that lamp in the house of Bernardino Biniegas, what did you do with the match and the light that you were then holding?

INTERPRETER

The witness answered the questions of the Fiscal without first being interpreted and the answer was:

A I lighted the lamp and the lamp that I lighted is a kerozene lamp which is made of a bottle and had a wick.

Q After you have lighted that lamp which is made of bottle with a wick as you said, what did you do next?

A I ran to the place along side the window where there were persons, sir.

Q And what happened or what did you do when you were at that place near the window?

A I saw that there were four male persons, one of whom was under the acacia tree; two were just under the window of the house and the one was under the house, sir.

Q Now, you mentioned four male persons that you saw after you lighted your lamp. Were you able to recognize any of these four persons?

ATTY. BLANCO

We object, very leading, Your Honor.

COURT

Next question.

FISCAL PAREDES

Q Now, do you know who were.....

COURT

Q Who was that person under the acacia tree if you recognized him really?

A I was not able to recognize the person under the acacia tree because he ran away, sir. The other three were the ones I was able to recognize.

FISCAL PAREDES

Q And who are these three persons you said whom you were able to recognize?

A Rolando Talingdan, Remy Tierra and Asing Talledo, sir. They are the ones whom I recognized.

Q Now, you mentioned three persons and three names and you mentioned Rolando Talingdan. Where was Rolando Talingdan when you saw him?

A He was on the place just below the window of the house of Bernardino Biniegas but at that time they were already attempting to run away, sir.

Q How about Reynaldo Tierra alias Remy Tierra, where was he at the time you saw him?

A He was near the post of the house of Bernardino Biniegas under the house, sir.

Q How about Alceto Talledo alias 'Asing Talledo, where was he at the time you saw him?

A He was with Talingdan sir. He was there side by side with Talingdan.

Q You mean Rolando Talingdan?

A Yes, sir.

Q Now, when you saw and recognized these four male persons you mentioned and you named, how far were you from them?

A Maybe five meters or more, sir.

Q And how were you able to recognize these three persons at that distance?

A I lighted the bottle and after having lighted it, I did like this. (The witness raises her right hand as if raising a lamp) and upon raising the lamp like this, I saw their figures and I saw their faces, that is why I recognized them, sir." (Rollo, pp. 160-164)

The witness was very certain on direct and cross-examinations that she recognized three of the four assailants as she identified them to be Rolando Talingdan, Remy Tierra, and Asing Talledo. She was not very sure of the fourth man but this uncertainty is not enough to overthrow her whole testimony.

On the other hand, the defenses presented by the appellants are weak as against the clear and positive identification made by the prosecution witnesses as the perpetrators of the crime. (People v. Pineda, 157 SCRA 71 [1988]).

The main thrust of the defense of the appellants is alibi.

Appellant Talledo claimed that he was in the house of Honorata Timbuga in Kinalaba, Dolores, Abra from 7:30 to 8:00 o'clock that night listening to a radio program "Crisanta". Thereafter, he went to a dance nearby and stayed there until 11:00 o'clock. He declared that after the dance, he went home in the company of Danila Barber and Mazareno Talledo and slept in his house until 6:00 o'clock the following morning. Appellant Talingdan, meanwhile alleged that from 7:00 to 9:00 o'clock in the evening of August 2, 1975, he and Raymundo Tierra were in the house of Mr. and Mrs. Modesto Alcantara in Talogtog, Dolores, Abra listening to the radio program "Crisanta" together with Purisimo Vilorio and Flomio Valera.

Alibi is a defense easily fabricated. These places where appellants claimed to have been at the time of the commission of the crime were only about 2 to 3 kilometers from the scene thereof. The appellants failed to demonstrate or present clear and convincing evidence that it was physically impossible for them to proceed to the place of the commission of the crime, commit the crime and immediately return thereafter. The distance from the place where the appellant was allegedly at the time of the incident to the place where the incident happened does not certainly preclude that the appellants committed the crime. (People v. Melicor, 160 SCRA 580 [1988]). The appellants' alibi can not overcome the dying declaration of the victim and the positive testimonies of the prosecution witnesses. (People v. Orongan, 168 SCRA 586 [1988]; People v. Garcia 141 SCRA 336 [1986])

Moreover, the defense also presented NBI chemist Rolando Vitug who testified that the paraffin test results of his laboratory examination on the persons of the appellants, were found to be negative. This finding, however, is not conclusive to show that a person has not fired a gun. As pointed out by the Court of Appeals, it is possible for a person to fire a gun and yet be negative for the presence of nitrates, as when firing while wearing gloves or by washing the hands afterwards, (People v. Roallos 113 SCRA 584 [1982])

The Court of Appeals correctly appreciated the presence of the aggravating circumstances of conspiracy and treachery.

There is no doubt that from the circumstances of the case, appellants Talingdan and Talledo, together with Tierra

and a fourth man acted in concert pursuant to the same criminal objective. The prosecution clearly established that all these four men went to the victim's house at nighttime. Talingdan and Talledo posted themselves below the house of Biniegas, Tierra near the post of the house and the fourth man, under a nearby acacia tree, acting as look out. After Tierra and Talingdan shot Bernardino Biniegas, all the four fled toward the same direction. There was deliberate, sudden and unexpected attack on the person of Bernardino Biniegas who merely responded to the call of Tierra. And when the victim pushed the window, he was immediately met by a volley of shots. Bernardino Biniegas had no opportunity whatsoever to defend himself or repel the assault.

The trial court correctly convicted the appellants but erred in the imposition of the penalty. The Court of Appeals then made the following corrections:

"xxx[U]nder Article 248 of the Revised Penal Code, murder is punishable by reclusion temporal in its maximum period to death. The imposable penalty which has three periods, namely, minimum (reclusion temporal), medium (reclusion perpetua) and the maximum (death), makes Article 64 of the Revised Penal Code applicable. In this case, the prosecution was able to establish the qualifying aggravating circumstances of treachery and abuse of superior strength and the ordinary aggravating circumstance of nighttime. However, abuse of superior strength and nighttime or nocturnity are absorbed by treachery. (People v. dela Cruz, 147 SCRA 359) In the absence of any mitigating circumstance, the imposable penalty should be reclusion perpetua, the medium period of the penalty pursuant to Article 64 of the Revised Penal Code." (Rollo, p. 166)

WHEREFORE, the appealed judgment of the trial court as certified by the Court of Appeals is MODIFIED. The appellants, are found GUILTY beyond reasonable doubt of the crime of murder and are hereby SENTENCED to SUFFER the penalty of reclusion perpetua and to indemnify the heirs of the late Bernardino Biniegas. In accordance with recent decisions of this Court (see People v. Alegria, G.R. No. 86455, September 14, 1990; People v. Sazon, G.R. No. 89684, September 18, 1990), the civil indemnity is increased from P12,000.00 to P50,000.00.

SO ORDERED.

Fernan, C.J., (Chairman), and Bidin, JJ., concur.
Feliciano, J., on leave.

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.