

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROGER MONTILLA, CARLITO DELA ROSA AND RICAREDO DELA ROSA, ACCUSED-APPELLANTS.

G.R. No. 95048. July 03, 1992

Ponente: PARAS, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-95048/>

PARAS, J.:

Appellants Roger Montilla and Carlito dela Rosa together with Ricaredo dela Rosa, were charged with murder before the Regional Trial Court of Masbate, Fifth Judicial Region, Branch XLIV, Masbate, Masbate. The information reads as follows:

"That on or about June 21, 1988, in the afternoon thereof, at Barangay Madancalan, Municipality of Baleno, Province of Masbate, within the jurisdiction of this Court, the said accused confederating together and helping one another, with intent to kill, evident premeditation, treachery and superiority of strength did then and there willfully, unlawfully and feloniously attack, assault, hack and stab with a bolo Eusebio Rosero y Alamag, hitting the latter on the different parts of the body, thereby inflicting wounds which directly caused his instantaneous death." (p. 15, Rollo)

Upon arraignment, appellants pleaded not guilty. Hence, the case proceeded to trial.

To prove the case, the prosecution witnesses narrated the circumstances surrounding the commission of the crime as follows:

In the afternoon of June 21, 1988, the victim Eusebio Rosero, Sr., together with Dino Altitche and Juanito Zaragoza, were resting at the seashore of Sitio Asinan, Barangay Madancalan, Baleno, Masbate, when accused Ricaredo dela Rosa arrived. Ricaredo dela Rosa and the victim conversed. In the course of their conversation, the victim stabbed Ricaredo dela Rosa (pp. 5-6, TSN, May 23, 1989).

After this incident, both of them ran away and Dino Altitche entered the picture by trying to pacify them. Ricardo dela Rosa went to the house of Juanito Zaragoza while Eusebio Rosero, Sr. ran to the house of Dino Altitche and closed the door (p. 7, TSN, May 23, 1989). Appellants Roger Montilla and Carlito dela Rosa, armed with bolos, went to the house of Dino Altitche and waited for the victim to come out (p. 9 Ibid).

As the victim was coming out, appellants threw stones at him. When the victim was hit, he lost his hold of the door, enabling appellants to close in on him (p. 20, TSN, May 32, 1989). Appellants then stabbed and hacked the victim to death. (p. 20 Ibid.).

According to the wife of the victim, that afternoon of June 21, 1988, while she was in their house at Asinan, Madancalan, Baleno, Masbate, the three (3) accused helped one another in hacking her husband. Ricaredo dela Rosa hit her husband on the breast, Carlito dela Rosa on the armpit, while Roger Montilla hacked and stoned her husband, all finding their mark, causing Eusebio Rosero, Sr. to fall inside the house of Dino Altitche.

According to her, she was only four (4) meters away, but when asked by the court the point which is of the same

distance or place where she saw her husband fall, it was 15 meters. She was in the porch of her house and she could see what was happening when her husband ran away, then by the accused. While Eusebio Rosero, Sr. was able to barricade himself inside the house of Dino Altitche, these accused were able to pass through the window of said house and they were able to enter, and after entering, they ganged up upon the victim.

Pat. dela Rosa is the cousin of all the accused and after he was informed of the quarrel by Dino Altitche, he proceeded to the place mentioned where the quarrel was, and, on arrival he saw Roger Montilla holding the bolo and shouting that he was the one who killed Eusebio Rosero, Sr. He peacefully surrendered to him.

When he asked the accused why he hacked Eusebio Rosero, Sr., he said that he was angry at what he did to his dog. Previous to this incident, it was brought out during the trial that Eusebio Rosero, Jr. got the dog of Roger Montilla and butchered it.

As for the doctor, she testified as to the wounds suffered by the victim. There were five (5) wounds in all, but according to the doctor, the most fatal of all is wound No. 3 which was caused by a sharp bladed instrument for it penetrated the heart and lungs.

The defense witnesses presented their own version, thus:

According to Ricaredo dela Rosa, that afternoon of June 21, 1988, at Asinan, Madancalan, Baleno, Masbate, there was a quarrel between Roger Montilla and Eusebio Rosero, Sr. caused by the dog that was taken by Eusebio Rosero, Jr., but was not returned. During the quarrel, Roger Montilla slapped Eusebio Rosero, Jr. who, after being slapped ran towards their house and returned with a bolo challenging Montilla to a fight. At the same time, Ricaredo dela Rosa was trying to pacify Roger Montilla and Eusebio Rosero, Jr.

While Ricaredo dela Rosa was standing, Eusebio Rosero, Sr., appeared, also with a bolo in his hand. Thinking that he has not done anything wrong against the Roseros, he just stood there telling Eusebio Rosero, Jr. and Roger Montilla to stop. However, when Eusebio Rosero, Sr. reached him, Eusebio Rosero, Sr. immediately hacked Ricaredo dela Rosa, hitting him on the left shoulder in the process. Surprised as to what happened, Ricaredo dela Rosa shouted at Eusebio Rosero, Sr. why he was hacking him, but instead of answering he continued to hack him, so Ricaredo dela Rosa ran away going to his house. After that he closed his door and windows and did not know what happened next. After a few moments when he opened his house, he learned that Eusebio Rosero, Sr. was killed by Roger Montilla. According to him, he does not know how this happened because he was inside his house which was closed, for his wife was scared.

As for accused-appellant Carlito dela Rosa, he stated that he was not present during the incident at Asinan, Madancalan, Baleno, Masbate during that afternoon of June 21, 1988. He was at Magdalena, Baleno, Masbate, and only learned that his brother was hacked and what he did was to go to the place as informed to verify and finally saw his brother. He asked his brother as to who hacked him and he answered that it was Eusebio Rosero, Sr. When he tried to look for Eusebio Rosero, Sr., he was told that the latter was already dead. So what he did was to bring his brother to town for medical treatment.

As for accused-appellant Roger Montilla, that afternoon of June 21, 1988, he was at his house. At the time, Eusebio Rosero, Jr. came to him and he confronted him as to where his dog was, but instead of being answered civilly, Eusebio Rosero, Jr. got angry, so he slapped Eusebio Rosero, Jr. Then Ricaredo dela Rosa came near to pacify them and after being pacified Eusebio Rosero, Jr. returned to his house and then came back, challenging Montilla to a fight. The older Rosero now appeared with a bolo in his hand.

Roger Montilla now went inside his house, leaving the Roseros outside. Later on, believing that they were no longer there, he went out to go to the house of Ricaredo dela Rosa. But instead of reaching the house of Ricaredo

del Rosa, he was met on the way by Eusebio Rosero, Sr. who hacked him. He was slightly wounded on the right eyebrow, as shown in the medical certificate. Because of that, he fell and when Eusebio Rosero, Sr. approached him, he scooped up some sand and threw it at the face of Eusebio Rosero, Sr., hitting him on the eyes which temporarily blinded him and it was at this moment that he got hold of the bolo of his assailant and there was a scuffle. Roger Montilla was holding the handle of the bolo, while Eusebio Rosero, Sr. was holding the duel end of the blade. They pulled back the bolo in order to have possession and in the course of the struggle, Rosero, Sr. was able to get hold of the sharp end of the bolo and wounded his hands. According to him, during the scuffle, he did not know whether Eusebio Rosero, Sr. was hit by the point of the bolo.

After weighing the evidence adduced both testimonial and documentary, the trial court disposed of the case in a decision dated January 25, 1990, the dispositive portion of which reads:

"WHEREFORE, finding accused CARLITO DELA ROSA to be guilty of HOMICIDE beyond reasonable doubt and ROGER MONTILLA to be guilty beyond reasonable doubt of the crime of MURDER with aggravating circumstance of superiority of strength, ROGER MONTILLA is hereby sentenced to suffer the penalty of RECLUSION PERPETUA to be served at the National Penitentiary; CARLITO DELA ROSA is hereby sentenced to suffer the penalty after considering the aggravating circumstance of superiority of strength and the indeterminate sentence law to prison correccional in its maximum period to prison mayor in its minimum period that is FOUR (4) YEARS, TWO (2) MONTHS and ONE (1) DAY to EIGHT (8) YEARS.

"They are further ordered to pay the heirs of the victim in the amount of P30,000.00 PRO RATA or in solidum.

"As for RICAREDO DELA ROSA, he is hereby ACQUITTED of the crime of murder for he was only provoked and it was through that provocation that he had to do something in order to retaliate for the wounds he suffered from the hands of the victim.

"SO ORDERED." (pp. 24-25, Rollo)

From the aforesaid decision appellants assigned the following errors:

I

THAT HONORABLE COURT A QUO ERRED IN GIVING CREDENCE TO THE TESTIMONIES GIVEN BY THE WITNESSES FOR THE PROSECUTION NOTWITHSTANDING THEIR GLARING INCONSISTENCIES, THEREBY COMMITTING GROSS AND SERIOUS MISAPPREHENSION OF THE FACTS INVOLVED IN THE CASE.

II

THAT DECISION OF THE HONORABLE COURT A QUO IS WITHOUT ANY LEGAL BASIS, IN FACT AND IN LAW.

Apparently, the resolution of the issues raised by the appellants before this Court hinges on the credibility of the testimony of the prosecution and defense witnesses. In this respect, it is firmly settled that the findings of the trial court are given weight and the highest degree of respect by the appellate court (*People v. Caraig*, G.R. No. 91162, October 3, 1991) and may be disregarded only where substantial errors have been committed or determinative facts have been overlooked and which otherwise would have dictated a different conclusion or verdict. In the instant case it does not appear to the court that the trial court committed any error in extending superior credit to evidence adduced by the people.

Moreover, after having admitted killing the victim, appellant Montilla still anchors his defense on alleged inconsistencies in the testimonies of the prosecution witnesses. The settled rule is that an accused who interposes

self-defense must prove every element of this defense in order to avoid criminal liability for the killing or injury of the victim (*People v. Rey*, 172 SCRA 149). He must prove self-defense beyond reasonable doubt (*People v. Urbizondo*, 132 SCRA 268).

In the instant case, instead of proving self-defense with his own evidence, appellant Montilla simply chips away at the evidence of the prosecution by pointing out alleged inconsistencies in the testimonies of the prosecution witnesses. But despite his effort, the fact still stands out that he inflicted injuries on the victim without any justification, causing his death. His conviction must therefore stand (*People v. Plandez*, 132 SCRA 69).

On the other hand, appellant Carlito dela Rosa claims that he was not at the scene of the crime in Sitio Asinan, Barrio Madancalan, Baleno, Masbate when the victim was hacked to death. He was allegedly in Barrio Magdalena in the same town (p. 2, TSN, June 21, 1989).

But this pretense of appellant Carlito dela Rosa was belied by the positive and clear testimony of prosecution witness Veronica Rosero, who was inside her house which is near the house of Altiche.

"Q. While you were in your house at that particular date, what incident...unusual incident have you noticed that took place?

A. What happened to my husband is that they killed him.

Q. Who killed your husband?

A. Ricaredo dela Rosa, Carlito dela Rosa and Roger Montilla.

Q. The three (3) accused in this case?

A. Yes, sir.

COURT:

Q. How did they kill your husband?

A. They helped one another in killing my husband.

BARSAGA

(continuing)

Q. Were you present when these three (3) accused helped each other in killing your husband?

BRAVO

A. Leading, your honor.

BARSAGA

Q. Why were you able to say that it was these 3 accused whom you have just mentioned who killed your husband?

A. Because they were the ones who went there and have bolos.

COURT

Q. And what happened?

A. They stabbed and hacked.

Q. And who hacked?

A. Ricaredo dela Rosa.

Q. Only?

A. Ricaredo dela Rosa was one of those who hacked.

Q. Roger Montilla also hacked?

A. Yes, your Honor.

Q. And who made the stabbing?

A. Carlito dela Rosa

Q. Only?

A. Yes, your Honor, and the 2 of them hacked.

COURT

Q. In what part of the body of your husband was he hit?

A. On the armpit.

Q. Only?

A. And also on the left shoulder as demonstrated by the witness." (pp. 18--20, TSN, May 23, 1989 Underscoring supplied.)

Appellant Carlito dela Rosa was also identified by the victim in his antemortem statement heard by prosecution witnesses Dino Altitche and Veronica Rosero.

DINO ALTITCHE'S TESTIMONY

"COURT

Q. When you arrived after returning with the policeman was the door of your house already opened?

A. Yes, your Honor.

BARSAGA

x x x x x

Q. Was he able to talk to the victim in this case?

A. Yes, sir, he was able to talk to . . . he was able to utter 2 words.

Q. Did you hear it?

A. Yes, sir, because I was inside the house.

Q. What did he say?

A. When the policeman asked "who stabbed you" he was able to answer "Carlito de la Rosa and his companions." (pp. 12-13, TSN, May 23, 1989 (Underscoring supplied.)

VERONICA ROSERO'S TESTIMONY

“Q. Who was that policeman?

A. Rolecto dela Rosa.

Q. And when this Pat. dela Rosa was investigating where were you?

A. I was there, I went inside.

Q. And what did you observe from the investigation of Pat. Dela Rosa?

A. When Pat. Dela Rosa arrived he was still alive.

Q. Who was still alive?

A. Eusebio Rosero, he was still investigated by the policeman.

Q. And what was the investigation about?

A. He was asked by the policeman "who stabbed you" and he answered that it was Carlito dela Rosa.

Q. What else?

A. And he also answered that they were many and then he died."

(p. 22, TSN, May 23, 1989, underscoring supplied)

Based on the foregoing, evidence consisting of the positive identification of Carlito dela Rosa as one of those who inflicted injuries on the victim and the antemortem declaration of the victim has established beyond any shadow of doubt the guilt of the accused appellant Carlito dela Rosa.

As this Court has articulated, the defense of alibi is certainly unavailing where there is affirmative evidence of the presence of the accused at the scene of the crime at the time of the commission, if not his positive identification as the perpetrator of the offense, as well as where there is an antemortem statement of the victim received in evidence either as a dying declaration or as part of the *res gestae* (*People v. Baguio*, 196 SCRA 459).

An antemortem statement is an evidence of the highest order (*People v. Almeda*, 124 SCRA 491). At the treshhold of death, all thoughts of fabricating lies are stilled. The utterance of a victim made immediately after sustaining serious injuries may be considered so-to-speak as pure emanations of the stabbing and hacking incident or the incident speaking through the victim.

Appellants in their last-ditch effort to absolve themselves from liability, sought to allege inconsistencies in the testimonies of the prosecution witnesses which merely refer to trivial matters and do not discredit their credibility. But assuming that the alleged inconsistencies do exist, they refer to mere collateral matters and not to the vital fact that appellants hacked and stabbed the victim after they had cornered him in the house of Dino Altitche.

This Court has recognized the fact that persons witnessing an unfolding crime may not recall the sequence of the incidents in exactly the same way. Persons react differently to a similar situation (*People v. Damian*, 127 SCRA 507). What is important is that these persons corroborate each other on material facts, although not on trivial or collateral matters.

Coming now to the respective liabilities of the appellants, We find that both accused-appellants Montilla and Carlito dela Rosa should be convicted only of homicide.

Among the circumstances that can qualify an act of killing another as murder is “taking advantage of superior

strength (par. 1, Art. 248, Revised Penal Code). For numerical superiority to constitute superior strength, it must be shown that the culprits took advantage of their superior number in killing the victims.

In this case, the victim was first stoned at the doorway of the house of Dino Altitche. When he was hit, he lost his hold on the doorknob, enabling appellants to close in on him and stab him with their bolos. Under these circumstances, the superior strength of appellants was not necessary for the killing of the victim. The stoning of the victim had rendered him somewhat helpless, thus making it easy for appellants to stab him.

Since Montilla and Carlito dela Rosa hacked and stabbed the victim under the same circumstances, their guilt must necessarily be of the same character.

WHEREFORE, on the basis of the foregoing premises, the judgment appealed from is hereby **AFFIRMED**, but with modification as to the conviction of appellant Montilla from murder to homicide only. Appellants Montilla and Carlito dela Rosa are hereby sentenced to an indeterminate penalty of imprisonment from Twelve (12) Years of prision mayor as minimum to Seventeen (17) Years and four (4) months of reclusion temporal as maximum. The civil indemnity awarded by the trial court is hereby increased from P30,000.00 to P50,000.00 in accordance with existing jurisprudence (*People v. Sison*, 189 SCRA 643).

SO ORDERED.

Narvasa, C.J., (Chairman), Padilla, Regalado, and Nocon, JJ., concur.

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.