

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. WILFREDO PAGSANJAN ALIAS WILLY, ACCUSED-APPELLANT.

G.R. No. 95125. May 12, 1993

Ponente: NARVASA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-95125/>

NARVASA, J.:

Wilfredo Pagsanjan (alias "Willy"), at one time a member of the police force of Valenzuela, Bulacan, was charged with the crime of murder under an information filed by the Provincial Fiscal of Bulacan dated February 26, 1987. The information alleged that on January 13, 1987, in Valenzuela, Metro Manila, Wilfredo, "with abuse of superior strength, treachery and evident premeditation and with intent to kill ** , did then and there wilfully, unlawfully and feloniously attack, assault and shoot ** Marcelo M. de Leon with a firearm thereby inflicting on the latter mortal physical injuries which directly caused his death."

Assisted by counsel de parte, Wilfredo entered a plea of not guilty on arraignment and was thereafter tried. He was convicted by judgment promulgated on June 22, 1990, which contained the following dispositive part, to wit:

"WHEREFORE, finding the accused Wilfredo Pagsanjan alias 'Willy' guilty beyond reasonable doubt of the crime charged, the Court hereby sentences him to suffer the penalty of RECLUSION PERPETUA and to pay the costs.

The accused is hereby sentenced to pay the heirs of Marcelo de Leon the sum of P48,000.00 for funeral services, the sum of P144,000.00 for the burial lot, and another amount of P10,000.00 for expenses during the wake. He is also ordered to indemnify the heirs of victim the sum of P30,000.00 (People vs. dela Fuente, G.R. No. 62351-52, December 29, 1983)."

Wilfredo's counsel moved for reconsideration contending that his client had been denied due process because by the Trial Court's refusal to grant him an extension counted from his receipt of the transcript of stenographic notes, he had been constrained to prepare and submit the memorandum in the defendant's behalf without said transcript of stenographic notes and "with haste." He also moved for the Judge's inhibition. Both motions were denied. The Court ruled (a) that "(m)emorandum is not part of the trial, it is the evidence adduced during the trial that has to be considered and evaluated by the Court;" and (b) as regards the motion for inhibition, that since the decision in the case had already been promulgated, his inhibition would be tantamount to "allowing a court of equal jurisdiction to review the decision of co-equal court."

The accused did not thereafter file a notice of appeal. Nevertheless, the records of the case were transmitted to this Court on instructions of the Trial Court which evidently entertained the notion that because the accused had been sentenced to reclusion perpetua, he was "entitled to an automatic appeal to the Honorable Supreme Court." [1] The notion is erroneous.

As this Court has already stressed in other cases, [2] the constitutional proscription on the imposition of the death penalty, [3] has eliminated the automatic review by the Supreme Court, theretofore existing, of "cases where the death penalty is imposed." [4] Hence, as the law now stands, in criminal cases, an appeal may be taken to the

Supreme Court from the Regional Trial Court in only one of two ways: (a) the filing of a notice of appeal -- in those cases where the latter imposes the sentence of reclusion perpetua, regardless of the questions to be raised on appeal, whether purely legal, or legal and factual;^[5] or (b) the filing of a petition for review on certiorari under Rule 45^[6] -- where the penalty imposed is not reclusion perpetua, but the appeal would involve only questions of law.^[7] It was therefore necessary for the accused, Wilfredo Pagsanjan, to file a notice of appeal within fifteen (15) days from promulgation of judgment of conviction to initiate an appeal. Since no such notice of appeal was filed, no appeal was ever perfected, and it was clearly error for the Trial Court to send up the records of the case to this Court.

The failure of Pagsanjan or his counsel to file a notice of appeal within the time appointed should ordinarily have brought about finality of the verdict of conviction. The Court is however loath to declare Wilfredo's right of appeal to have been lost through the common misapprehension of both his lawyer and the Trial Court. It is not unreasonable to suppose that Wilfredo was misled by the Court's statement in its Order of August 2, 1990 that he was "entitled to an automatic appeal to the Honorable Supreme Court." There is moreover on record a handwritten letter of Wilfredo dated March 14, 1991, addressed to former Chief Justice Marcelo B. Fernan,^[8] in which he proclaims his innocence, puts in serious doubt the sincerity and quality of the defense put up by his lawyer in his behalf, and contends that he had been made "a victim of a well-coordinated conspiracy between and among the police investigators, the Judge, some court employees, and to some extent the defense lawyer ** ." To the letter, he also attached a typewritten document containing arguments for his acquittal,^[9] a copy of which he claims to have submitted to his counsel, "Atty. Ricardo Valmonte" but which arguments, according to him, were "not included in ** (the memorandum submitted in his behalf) due to reasons known only to ** (his) lawyer."^[10] Under these circumstances, the Court feels that a review of the case, taking account of all of the appellant's proffered arguments, would be more consonant with the ends of justice. That it now undertakes.

Not unexpectedly, the versions given by the prosecution and the defense of the material occurrences, are widely divergent. Following is the narration of the facts, culled from the prosecution's proofs -- consisting of the testimony of (a) the victim's wife, Angelina del Rosario de Leon; (b) P/Sgt. Ponciano M. Casili of the Valenzuela Police Force; (c) Senior Medico-Legal Officer Orlando Salvador, of the National Bureau of Investigation; (d) P/Sgt. Loreto Rodriguez, and (e) a former police officer, Avelino Francisco, as well as seven empty shells found at the scene of the crime, various documents and photographs.

Marcelo de Leon was living with his wife, Angelina del Rosario, at No. 42 Tamaraw Hills, Valenzuela. At the time of his death on January 13, 1987, he was the President and General Manager of their business known as "Villamaria Subdivision" and a member of various civic, religious and sports organizations. The spouses owned apartment dwellings which they let out to different persons. One of these was a 10-door apartment building at the back of their residence, a unit of which, numbered 6, was occupied by Carmen Reyes and her "live-in partner" or common-law husband, Wilfredo Pagsanjan. At the time of the incident, they had been leasing the place for about ten (10) years.

That 10-door apartment building was in process of undergoing renovation and repairs on January 13, 1987. Prior to commencement of the work, the de Leon Spouses had sent written notices for the vacation of the premises to all the tenants. One such notice was given to Carmen Reyes' mother, who was also staying at said Unit No. 6, but who, however, refused to acknowledge receipt thereof. What the de Leons did was to verbally reiterate their demand to vacate to Carmen Reyes and her mother. But Carmen refused to leave the place. She simply said she was looking for another place to transfer. She even rejected the de Leons' offer of another apartment dwelling, protesting that the rental was too high for her considering that her common-law husband, Wilfredo, had been dismissed from his job as a policeman.

In the morning of that day, January 13, 1987, at around 8:30 o'clock, Angelina de Leon was standing in front of Unit No. 7 of the apartment building, sweeping the yard and supervising the work being done by the carpenters. Her husband, Marcelo, was in the second floor of Unit No. 8, in turn supervising the workers in that area.

Angelina saw Wilfredo Pagsanjan enter the apartment tenants' gate carrying what looked like cardboard box, about one meter long and a foot wide. He went into Unit No. 6 and stayed inside for some time. Angelina also saw her husband, Marcelo, come down from apartment No. 8 and go to apartment No. 1.

After a while Angelina heard successive gunshots from the place where her husband had gone. She turned towards that direction. She saw her husband, Marcelo, lying on his back on top of a pushcart which happened to be there, his feet dangling from one end. She also saw Wilfredo Pagsanjan, bent slightly forward, with a long firearm pointed towards Marcelo. Before the shooting, she had heard no altercation or exchange of words between Wilfredo and her husband. Her husband had no gun or other weapon on his person, and she observed no other individual with any firearm in that place. Angelina started to run to her husband but was stopped by the carpenters who brought her inside her home. She used her radio communications system to seek help. According to her, her husband's death wrought a great change in her life; she was not herself for much of the time; she became fearful of her life and could not eat nor sleep not only because of her grief but also because she began to receive calls that she would be the next victim.

The post-mortem examination disclosed that Marcelo de Leon died from several gunshot wounds, any one of which was fatal and would cause death within an hour, and that his wounds were compatible with the number of empty shells recovered at the scene of the crime.

Police Sergeant Ponciano M. Casili, officer-in-charge of the Investigation Section of the Valenzuela Police Station, received a telephone call from a certain Edgar of Tamaraw Hills, Marulas, Valenzuela, advising of a shooting in the apartment compound of Marcelo de Leon. He forthwith proceeded to the place, together with his assistant, and the Chief of the Follow-Up Section. They came upon the lifeless body of Marcelo de Leon on a pushcart, with several gunshot wounds in the face and head. Casili had the body brought to the Fatima Hospital and then interrogated the persons at the scene. The victim's wife, Angelina de Leon, was hysterical and was unable to give a narration of the shooting beyond saying that she had seen Wilfredo carrying a long object. Casili took down the statements of two of the workers in the apartment building, Fernando Pangan and Gualberto Rivera, Jr. and had them sworn to before MTC Judge Serapio. Casili's companion, Pat. Salonga, took down the statement of another person, Orlando Caparas, a carpenter. Casili collected seven (7) empty shells of an Armalite M-16 rifle at the scene of the crime.

Casili later went back to the de Leons' house but was there informed by former Barangay Captain Amang de Guzman that Mrs. de Leon could not be questioned. He then prepared a "General Alarm Report" for the apprehension of the suspect, Wilfredo Pagsanjan -- a former policeman who had been dismissed for cause from the police force but had afterwards succeeded in having himself employed in the Civil Security Unit in the Office of the Mayor, assigned to the Office of the Chief of the SID (Silid Siyasatan), Valenzuela Police Station, which was the position he was holding on January 13, 1987.

Casili looked for Wilfredo in several places: at the apartment of his "live-in partner," Carmen Reyes; at the police headquarters; at the house of Wilfredo's father at Barangay Central and that of his grandmother at Bagbag, Novaliches; at the house of Wilfredo's former "live-in partner," Erlinda. Wilfredo could not be found in any of said houses. Other police officers searched for Wilfredo in the house of his uncle at Sta. Maria, Bulacan, in that of his mother, at the CID District, as well as in the houses of some of his known friends at Dama de Noche, Marulas. Wilfredo could not be found in any of said places either. In fact, Wilfredo was not seen or heard from from

January 13, 1987 until more than two and a half years later, on July 11, 1989, at which time, accompanied by a certain Atty. Valenzuela, he surrendered to the authorities.

In its turn, the defense presented two witnesses: Valenzuela Police Lieutenant Francisco Rodriguez, and Carmencita Reyes.

Lt. Rodriguez identified the telegraphic report and the letter to the NBI of Sgt. Casili in both of which Casili describes the killer as an "unidentified" person; this, notwithstanding that he had already spoken to the victim's widow, Mrs. de Leon, and the latter had supposedly identified the assailant as Wilfredo (Willy) Pagsanjan.

For her part, Carmen Reyes, the appellant's common-law wife, asserted that Wilfredo was not in the apartment building at all when the shooting of Marcelo de Leon took place; in fact he had not been to that place for a week because they had quarreled over Wilfredo's having slapped her child by her first husband. She declared that at the time of the shooting, she was in her apartment taking coffee. She however ignored the shots, and only went out after two minutes to see what had happened. She heard someone carying out to Mrs. de Leon that her husband had been shot, and saw Mrs. de Leon attempting to go out of the gate but being pulled back by her son. She saw Marcelo de Leon sprawled on a pushcart. When some police officers arrived, she went back into her apartment. Not long afterwards, P/Lt. Rodriguez knocked at her door and asked for Wilfredo Pagsanjan so that he could help in the investigation, Wilfredo being, according to Carmencita, quite experienced or skilled in this sort of work. She told Pat. Rodriguez Wilfredo was not in. When Rodriguez seemed skeptical, Carmencita even asked him to search her house, which Rodriguez did, together with Sgt. Casili. Carmencita saw Wilfredo a month after the incident at his house in Meycauayan and told him he was a suspect in the killing of Marcelo de Leon, and although the latter wished to surrender himself at the time, he was advised against doing so by a certain Pat. Mario Capangyarihan because Mrs. de Leon had allegedly paid someone P150,000.00 to kill him.

Wilfredo Pagsanjan did not choose to testify in his behalf.

In this Court, appellant Pagsanjan prays for reversal of the verdict against him, ascribing the following errors to the Trial Court, to wit:

- 1) in failing to consider his memorandum prior to promulgating judgment of conviction;
- 2) in accepting the prosecution's version of the facts and rejecting appellant's; and
- 3) in convicting him of murder instead of homicide only, and failing to appreciate in his favor the mitigating circumstance of voluntary surrender.

After a meticulous review of the record, this Court is constrained to agree with the Trial Court's assessment of the evidence, and to hold that the appellant's guilt of the crime charged has indeed been established by proof beyond reasonable doubt.

Pagsanjan was positively identified by the victim's widow, Angelina de Leon, as the person who had passed through the gate of the apartments' tenants, bearing what seemed to be a cardboard box and had gone into into Unit No. 6 where he stayed for a while. He was also identified by Ms. de Leon as the man who, after successive gunshots had rung out, had a long firearm pointed towards her husband then lying on his back on top of a pushcart. The evidence also establishes that Pagsanjan had in fact been residing in one of the de Leons' apartments, leased by his common-law wife, Carmen Reyes; that Carmen had refused to vacate her unit despite having been asked to do so by the de Leons, circumstances which led the Trial Court to opine that "the motive of appellant in killing the victim was to get even with the latter for ejecting his live-in partner." [11]

There, too, is the intriguing fact of Pagsanjan's flight from the scene of the crime and disappearance from his

usual residence and haunts for some two and a half (2 1/2) years. Considering that he was once a police officer himself -- and at the time of the shooting was employed in the Civil Security Unit in the Office of the Mayor, assigned to the Office of the Chief of the SID (Silid Siyasatan), Valenzuela Police Station -- and therefore well acquainted, perhaps even on intimate or close terms, with some of the other policemen investigating the case, as well generally as with other people involved in law enforcement, his hiding himself for such a long period of time makes no sense unless it be in the context of his inability to exculpate himself.

Appellant Pagsanjan never having taken the witness stand, no direct confutation or personal explanation on his part of the foregoing circumstances is thus found in the record, which circumstances, taken together, irresistibly point to his having killed Marcelo de Leon.

However, the Trial Court's ruling that the qualifying circumstance of treachery should be appreciated against appellant Pagsanjan cannot be accepted. No one, not even Ms. Angelina de Leon, the lone eyewitness, saw the actual shooting by the appellant of Marcelo de Leon. Ms. de Leon's testimony is that after hearing several shots, she saw her husband lying on his back on a pushcart and the appellant leaning forward with a rifle pointed towards Marcelo de Leon. She did not see what transpired immediately before the shooting. It does not therefore seem possible to this Court to draw the conclusion that appellant Pagsanjan shot his victim suddenly and without warning, without according the latter any opportunity to make any defense against the assault on his person, thus ensuring the commission of the crime without risk to the offender.

Neither does it seem possible to appreciate, as the Trial Court did, the aggravating circumstance of evident premeditation against Pagsanjan. There is no evidence of when Pagsanjan was made aware of the de Leons' intentions to evict the former's paramour from her apartment -- which allegedly caused resentment in the appellant and gave rise to a motive for the killing -- thus making it impossible to determine if sufficient time had elapsed between the acquisition of that knowledge and the actual killing for the accused to meditate and reflect on his intent and to desist therefrom.[12]

What all the foregoing imports is that in the state of the evidence it is possible to find appellant Pagsanjan guilty only of the crime of homicide, without the attendance of aggravating or mitigating circumstance. The mitigating circumstance of voluntary surrender cannot, as appellant pleads, be considered in his favor. He did not surrender voluntarily. It took two (2) years and five (5) months after the issuance of warrant of arrest against him, before he surrendered. If he finally gave himself up, it was not to save the State the time and effort of searching for him, but because he had gotten tired of the life of a fugitive, or seen no other reasonable alternative to continued absence from his home and constant evasion of police officers.

Pagsanjan's claim that the Trial Court proceeded to assess the evidence and render judgment without giving his counsel sufficient time to read the transcripts of stenographic notes, said counsel having been thus constrained to file a "hastily prepared" memorandum, did not result in substantial injury to his rights in the premises.

This Court declines to declare erroneous the Trial Court's ruling (a) that a "(m)emorandum is not part of the trial, it is the evidence adduced during the trial that has to be considered and evaluated by the Court;" and (b) as regards the motion for inhibition, that since the decision in the case had already been promulgated, his inhibition would be tantamount to "allowing a court of equal jurisdiction to review the decision of co-equal court." As to appellant's claim of irregularity of conduct by his counsel in his defense, he may if he wishes file the appropriate administrative complaint against the lawyer; in any case, the points he claims were ignored by his counsel, have been considered by this Court in the resolution of his appeal.

In fine, the decision of the Court a quo in so far as it rules that the evidence establishes beyond reasonable doubt that appellant Pagsanjan did indeed shoot and kill Marcelo de Leon and that the killing caused damages to the

latter's widow in the amounts set out in the judgment, must be affirmed. The crime committed however is homicide, not murder. The indemnity required to be paid by the appellant to his victim's heirs must be increased to P50,000.00 conformably to standing case law.

WHEREFORE, the appellant Wilfredo Pagsanjan @ "Willy" is found GUILTY beyond reasonable doubt of the felony of homicide and, there being neither aggravating nor mitigating circumstances, is hereby SENTENCED to suffer the indeterminate penalty of seventeen (17) years and four (4) months of reclusion temporal, as maximum, ten (10) years of prision mayor, as minimum; to pay the heirs of the victim, de Leon damages of the character and in the amounts set out in the judgment of the Trial Court, viz.: "P48,000.00 for funeral services, * * P144,000.00 for the burial lot, and * * P10,000.00 for expenses during the wake," as well as the sum of P50,000.00 as indemnity for death.

SO ORDERED.

Padilla, Regalado, and Nocon, JJ., concur.

[1] Rollo, p. 110: Order, August 2, 1990

[2] SEE Anacleto Murillo v. Rodolfo Consul, UDK-9748, March 1, 1990, 183 SCRA, pp. xi to xviii, and cases therein cited; SEE also, Circular No. 2-90 dated March 9, 1990 issued on the basis of Murillo

[3] SEC. 19 (1), ART. III, 1987 Constitution, pertinently reading: " ** Neither shall death penalty be imposed, unless, for compelling reasons involving heinous crimes, the Congress hereafter provides for it. Any death penalty already imposed shall be reduced to reclusion perpetua."

[4] Sec. 3 (e), in relation to Sec. 10, Rule 122, Rules of Court, as amended

[5] Sec. 3 (a) and (c), Rule 122, Rules of Court, in relation to SEC. 5 (2) (d), ART. VIII of the 1987 Constitution decreeing that the Supreme Court has exclusive jurisdiction to "(r)evise, reverse, modify, or affirm on appeal or certiorari, as the law or the Rules of Court may provide, final judgments and orders of lower courts in (among others) ** (a)ll criminal cases in which the penalty imposed is reclusion perpetua or higher."

[6] SEC. 3 (d), Rule 122, Rules of Court

[7] SEC. 5 (2) (e), ART. VIII of the Constitution -- "All cases in which only an error or question of law is involved." N.B. If the appeal would raise issues of fact, the appeal should be to the Court of Appeals, as also, if the case has been decided by the Regional Trial Court in the exercise of its appellate jurisdiction over cases appealed from Municipal Trial Courts (in municipalities, cities or circuits), in which event the appeal would be, not by mere notice of appeal, but by the filing of a petition for review.

[8] Rollo, pp. 56-59

[9] Id., pp. 93-99

[10] Id., p. 99

[11] Rollo, p. 146

[12] SEE Aquino, The Revised Penal Code, 1976 ed., Vol. 1, pp. 326 et seq.

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.