

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. FRANCISCO (PAQUITO) DANICO Y MALLARI, ACCUSED-APPELLANT.

G.R. No. 95554. May 07, 1992

Ponente: PARAS, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-95554/>

PARAS, J.:

This is an appeal from the February 10, 1988 decision[1] of the Regional Trial Court, National Capital Judicial Region, Branch 124, Caloocan City, in Criminal Case No. C-21004, finding the accused Francisco Danico y Mallari guilty beyond reasonable doubt of the crime of Murder qualified by treachery and evident premeditation as defined and penalized in Article 248 of the Revised Penal Code, imposing upon him the penalty of THIRTY (30) YEARS of RECLUSION PERPETUA and ordering him to indemnify the heirs of Rolando Ledoma y Serrano in the sum of P30,000.00, without subsidiary imprisonment in case of insolvency and to pay the costs. (Original Record, Decision, p. 189, Rollo, p. 22).

The appellant was charged in an Information filed by Assistant City Fiscal Romeo C. Victorino of Caloocan City, Metro Manila on August 12, 1983, which reads:

"The undersigned Assistant City Fiscal accuses FRANCISCO (PAQUITO) DANICO y MALLARI of the crime of MURDER, committed as follows:

"That on or about the 9th day of July, 1983 in Caloocan City, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused with deliberate intent to kill, with treachery and evident premeditation, did then and there willfully, unlawfully and feloniously attack, assault and stab with a bladed instrument on the vital parts of his body one Rolando Ledoma y Serrano, thereby inflicting upon the latter serious physical injuries, which injuries caused the victim's instantaneous death.

"CONTRARY TO LAW." (Rollo, p. 6; Original Records, p. 2).

Inasmuch as from the issuance of the warrant of his arrest on August 25, 1983, the accused remained at-large, an order was issued on June 17, 1986 to place the record of the case in the archives. Eventually, at midnight of March 8, 1987 (July 8, according to the accused), the accused was arrested (Original Record, p. 8: TSN, December 23, 1987, p. 4). Upon arraignment, the accused Francisco Danico entered a plea of not guilty to the crime charged (Original Record, p. 14).

At the trial of the case, the prosecution presented the following witnesses:

Ramon Ledoma - Twenty-three years old, married, resident of Tambakan St., Maypajo, Caloocan City, and a brother of the victim Rolando Ledoma. Ramon testified that on July 9, 1983 at about 4:30 in the afternoon he was at home cooking when the accused Francisco Danico, whom he knew by the name "Tainga", arrived. At that time his brother Rolando had a lady visitor. Danico and Rolando talked and, after a while, Danico invited Rolando to accompany the lady visitor to the corner of Maypajo. After his brother and the accused had left together with the lady visitor, he (witness) went to the sari-sari store of Mang Eddie, their neighbor, to buy santol. Amy, another

neighbor, came running and told him that his brother was being stabbed by "Boy Tainga". Upon hearing that information, he ran towards San Marcos St. and saw that "Tainga" was stabbing his brother. "Tainga" was stooping and making several thrusts on his brother who was already lying down on the ground with his face upward. "Tainga" and his brother were near each other ("magkadikit").

Ramon saw Danico stab his brother once with a "balisong". His brother could not fight back because he was already lying on the ground unconscious.

He also claimed that when he saw Danico stabbing his brother, he picked up a stone and threw it at Danico but the latter was not hit. Danico ran towards the direction of their house in Isla San Juan. Immediately after Danico had run away, he approached his brother and at the same time shouted for help. The people around did not help him anymore because they told him that his brother was already dead. He left his brother and called his sister on the phone. When his sister arrived, the policemen who were there got the body of his brother and brought him to Funeraria Popular.

Ramon further testified that before July 9, 1983 or five days prior to the stabbing incident, his brother and Danico had a misunderstanding because one of the "barkada" of the accused had vexed the wife of his brother Rolando. Danico went to their house to ask for a "despensa" from his brother. On that very same day, Danico bought a rooster from the victim Rolando. The rooster, without the knowledge of Danico, had been stolen by Jun and Dodong, the "barkada" of his brother Rolando. Two days after, "Tainga" hang around in their place. He (witness) did not know that Danico had some ill feelings against his brother Rolando but it turned out that the rooster Danico had bought from Rolando belonged to a policeman. When Danico asked his brother who was the true owner of the rooster that he bought, the latter answered that Dodong and Jun merely requested him to hide it (TSN, Hearing of September 18, 1987, pp. 2-10).

P/Sgt. Manuel Buenaobra - Connected with the Station Investigation Division of the Caloocan Police Station; Sgt. Buenaobra declared that on July 9, 1983 he investigated the victim's mother, Mrs. Anita Serrano Vda. de Ledoma, and the brother, Ramon Ledoma. In the course of his investigation he found out that the case was murder because of the presence of treachery. He also learned that the culprit was one by the name of Paquito Danico. On July 21, 1983, he referred the case to the fiscal's office.

He further testified that on July 9, 1983 at around 6:00 o'clock in the afternoon, upon the instruction of the Chief of Investigation of Caloocan City, he and the station photographer went to the scene of the crime. When they arrived there he saw a member of the mobile division dispersing the people milling around the dead body. He saw the victim lying on the ground. They called up the funeral parlor which later took the victim to the NBI for autopsy. Meanwhile, the photographer took pictures of the deceased (TSN, Hearing of October 9, 1987, pp. 23-28).

On cross-examination, he testified that it was their practice or standard procedure that the statement of the witnesses would only be taken down after the accused had been apprehended although spot report on the case would be made immediately. The statement he took from Ramon Ledoma was in the form of question and answer while the statement of Mrs. Anita Serrano Vda. Ledoma was in the form of an affidavit, or a sort of narration because there was nothing important to ask and she was not present at the time of the incident. She merely represented the victim in the prosecution of the case (TSN, Ibid, pp. 29-30).

Dr. Albert Reyes - Medical Officer of the NBI, Manila, he stated that he conducted the post-mortem examination on the cadaver of one Rolando Ledoma y Serrano at the morgue of Funeraria Popular in Rizal Avenue, Manila at 3:00 o'clock in the morning of July 10, 1983. He reported on the following findings:

"Pallor, generalized.

"Abrasions, back, right side, 5.0 x 4.0 cm.; end left side, 4.0 x 3.0 cm.

"Wounds, incised; shoulder, right, 8.0 cm.; palm, left hand, 3.0 cm., index-finger, left, palmar aspect, 1.0 cm., ring finger, left, palmar aspect, 1.0 cm.

"Wounds, stab elliptical in shapes, edges clean cut, with sizes ranging from 9.0 cm. to 3.5 cm., all having a sharp and an opposite contused extremities, sixteen (16) in number, two (2) located at the neck, left side, lateral aspect, seven (7) at the anterior chest wall, three (3) at the right side, four (4) at the right side, four (4) at the anterior abdominal wall, one (1) at the right side, and three (3) at the left side, three (3) at the back, one (1) at the left side, and two (2) at the right side, involving the skin and underlying soft tissues, the left ventricle of the heart, the upper lobe of the left lung and the upper and lower lobes of the right lung, the right lobe of the liver, the left kidney and the small intestines, with approximate depths varying from 4.5 cm. to 12.0 cm.

"Hemopericardium, about 80 c.c.

"Hemothorax, right, about 800 c.c., and left, about 900 c.c.

"Hemoperitoneum, about 500 c.c.

"Heart Chambers, practically empty.

"Strain and other visceral organs, pale.

"Stomach, approximately half-filled with moderately digested rice and other food particles.

"CAUSE OF DEATH: Hemorrhage, severe, secondary to multiple stab wounds." (Original Exhibits, p. 14).

During the examination, he found that of the sixteen stab wounds, five were fatal and they involved the heart, the lungs, the liver and the intestines.

The fatal wounds on the front side of the body were stab wound No. IX which penetrated and perforated the heart; stab wound No. IV which perforated the upper lobe of the right lung and stab wound No. XIII which cut through the small intestine. The fatal two stab wounds at the back were stab wound No. XIV which penetrated and perforated the lower lobe of the right lung and stab wound No. XVI which perforated the kidney.

The instrument used in inflicting these stab wounds was a sharp-pointed, single-bladed instrument or weapon. The characteristics of the stab wounds were the same so that it was possible that only one weapon was used. However, because of the number of wounds, he could not rule out the possibility that more than one weapon was used. If more than one weapon was used, they should all have the same characteristics: single-bladed and sharp-pointed. The abrasions on the back, right and left sides of the body showed that they were produced either by the victim's falling down or he was hit at the back. The cause of death was internal hemorrhage, severe, secondary to multiple stab wounds (TSN, Hearing of December 9, 1987, pp. 43).

Anita Serrano Vda. de Ledoma - The mother of the victim. She testified only on the civil aspect of the case. She came to know of the death of her son when she was told about it after doing her laundry work on July 9, 1983. She spent the total amount of P12,000.00 for her son's wake, funeral and other burial expenses (TSN, Hearing of November 9, 1987, pp. 48-50).

Aileen Orlins - An ambulant peddler, residing at San Marcos St. She testified that on July 9, 1983, at about 4:30 to 5:00 in the afternoon, she was in the market at Maypajo buying things. On her way home, and while passing through Isla San Juan, she witnessed an unusual incident. She saw Francisco Danico stabbing Rolando Ledoma at the corner of San Marcos St. and Isla San Juan in Caloocan City. She was approximately four (4) meters away from them. She saw Danico stab Rolando three times, on the right back portion, on the right midrib and on the left

portion below the left "bosom". The victim was standing when the accused stabbed him from behind. The victim was trying to resist the stabs of the accused but the latter managed to stab Rolando and the latter fell down ("bumulagta"). She did not see anymore what happened next because she ran out of the street and proceeded home.

She knew the victim because he was her neighbor at San Marcos St. Her house was only four (4) houses away from the deceased who also knew the accused, as the latter usually went to the house of the victim. Francisco Danico was well-known in their place as "Paquito" or "Tainga."

She also testified that she was not able to report the matter to the police because she was peddling and she had no time to do it. She was requested by the heirs of the deceased to testify in order that she could tell the truth about the incident that she had witnessed (TSN, Hearing of November 13, 1987, pp. 52-57).

On cross-examination, she testified that she did not relate the incident to anyone except to her mother because she was afraid of Tainga's vengeance but she admitted that when she narrated what she witnessed to her mother, some of their neighbors were present. (Ibid., pp. 60-61).

The theory of the defense consists of denial and alibi. The defendant himself was the only witness.

Francisco Danico, who was engaged in the selling of souvenir items, testified that on July 9, 1983 at about 4:30 in the afternoon, he was in Binakayan, Cavite, peddling. He was there from 9:00 o'clock in the morning to 6:00 o'clock in the afternoon. He arrived home at 8:00 o'clock in the evening.

He claimed that his real name is Francisco Danico and not Paquito Danico, the name appearing in the information originally filed in this case. To prove his identity as Francisco Danico he submitted his birth certificate, marriage contract, voter's affidavit, residence certificates for the years 1984-85 and a certification purportedly issued by the barangay captain of Isla San Juan. In all these documents his name appeared as "Francisco Danico y Mallari".

He denied that he was the same person answering by the name of "Paquito Danico y Mallari" in the warrant of arrest issued by Judge Baylen on August 25, 1983 and neither was he the same "Paquito Danico y Mallari" mentioned in the return of the warrant made by the City Warden of Caloocan City.

He further claimed that he came to know about this case in the early morning of July 8, 1987, on his way home, after buying "balut" eggs at the corner of J.P. Rizal St. and Maypajo, Caloocan City when two policemen apprehended him and forcibly boarded him on a vehicle. He denied having bought any rooster from the deceased Rolando Ledoma, adding that he knew Ledoma by face only. Sometime in 1982, when he played basketball at Tambakan, Ledoma was one of the spectators. The reason why Ramon Ledoma testified against him was because one of his "barkada" boxed the wife of the victim, Rolando Ledoma (TSN, Hearing of December 23, 1987, pp. 64-70).

On February 10, 1988, the trial court rendered its decision, the decretal portion of which reads as follows:

"WHEREFORE, this Court finds the herein accused FRANCISCO DANICO y MALLARI, GUILTY beyond reasonable doubt of the crime of MURDER qualified by treachery and evident premeditation, as defined and penalized in Article 248 of the Revised Penal Code, and is hereby sentenced by this Court to THIRTY (30) YEARS of Reclusion Perpetua; and to indemnify the heirs of the deceased in the sum of P30,000.00, without subsidiary imprisonment in case of insolvency.

"With costs against the accused.

"After promulgation, let copy of this Decision be furnished the Hon. Supreme Court of the Philippines, thru the Hon. Court of Administrator, Padre Faura, Manila.

"SO ORDERED." (Rollo, pp. 22-23, Original Record, pp. 189-190).

Hence this appeal with the accused-appellant raising the following assignments of error:

I

THE TRIAL COURT ERRED IN NOT HOLDING THAT THE TESTIMONY OF RAMON LEDOMA THAT HE ACTUALLY SAW THE APPELLANT STABBING HIS BROTHER, IS INHERENTLY IMPROBABLE.

II

THE TRIAL COURT ERRED IN NOT HOLDING THAT THE DELAY OF RAMON LEDOMA IN GIVING HIS STATEMENT CAST SERIOUS DOUBT AS TO HIS MOTIVE.

III

THE TRIAL COURT ERRED IN GIVING CREDENCE TO THE TESTIMONY OF AILEEN ORLINS DESPITE THE FACT THAT SHE ADMITTED THAT SHE WAS MERELY REQUESTED BY THE MOTHER OF THE VICTIM TO TESTIFY AFTER A CERTAIN AMELIA DELA CRUZ REFUSED TO TESTIFY.

IV

THE TRIAL COURT ERRED IN NOT HOLDING THAT THE PROSECUTION SUPPRESSED THE SO-CALLED 'SPOT REPORT' AND THE PHOTOGRAPHS OF THE VICTIM AND THAT THERE ARISES A PRESUMPTION THAT IF THESE WERE PRESENTED, THEY WILL BE ADVERSE TO THE CASE OF THE PROSECUTION

V

THE TRIAL COURT ERRED IN NOT HOLDING THAT THERE IS NO SUFFICIENT EVIDENCE TO PROVE THAT THE CRIME COMMITTED WAS MURDER.

VI

THE TRIAL COURT ERRED IN NOT GIVING CREDENCE TO THE DEFENSE OF ALIBI SET UP BY THE APPELLANT DESPITE THE FACT THAT THE EVIDENCE OF GUILT IS WEAK, DOUBTFUL, UNCONVINCING, UNRELIABLE AND UNSATISFACTORY.

Danico, in praying for a reversal of the trial court's decision, ascribes several infirmities in the evidence of the prosecution, one of which is the unreability of Ramon Ledoma's and Aileen Orlins' testimonies. He avers that Aileen Orlins was just requested by the mother of the victim to testify only after a certain Amelia dela Cruz, a supposed witness for the prosecution, had refused to testify despite her having been subpoenaed. Orlins allegedly did not report to the police what she had narrated in court as in fact, it was only in court that she revealed to the authorities for the first time what she claimed she had witnessed. The appellant contends that her being merely a pinch-hitter for another witness should have cautioned the trial court to receive her testimony with care. On the other hand, the appellant discredits. Ramon Ledoma's, testimony, as his claim that he saw Danico stabbing his brother who was then already slumped on the ground is not supported by evidence. The appellant contends that the record will reveal that when Ramon arrived at the scene of the incident, there were already many persons milling around and he had to push his way through in order to get near his brother.

A scrutiny of the records, however, clearly belies all these allegations. Firstly, Orlins was not a substitute witness although she was initially reluctant to testify for fear of reprisal. Orlins' non-disclosure of the incident to the police immediately after its occurrence is not against the ordinary course of things. It is entirely human and quite understandable and should not detract from her testimonial credit (*People v. Bustarde*, 182 SCRA 554 [1990]). Witnessing a crime is an unusual and no less frightening experience which elicits different reactions from the witnesses. There is no standard form of behavior when one is confronted with a shocking incident (*People v. Radomes*, 141, SCRA 548 [1986]). Thus, it is not uncommon for a witness to a crime to show some reluctance about getting involved in a criminal case, as in fact the natural reticence of most people to get involved is of judicial notice (*People v. Caraig*, G.R. No. 91162, October 3, 1991). This is especially true when townmates are involved in the commission of a crime. Witnesses are usually afraid for they might provoke reprisals from the accused (*People v. Sabellano*, 198 SCRA 196; 1991).

The initial silence then of Orlins, will not detract from the credibility of her testimony. No evil motive has been proved against her that would prompt her to falsely testify against appellant (*People v. Noguerras*, 181 SCRA 19; 1990) nor was there any reason for Orlins to incriminate appellant other than to tell the truth as she had witnessed it (*People v. Ballinas*, G.R. No. 93300, October 4, 1991).

Orlins positively identified the appellant as the one who stabbed the victim. This indubitably proved that appellant was the same person charged in the information. That he was identified therein by a different name is of no moment. Orlin's testimony that appellant was well-known in their place as Paquito or Tainga was unrebutted by the defense. Thus, even if Ramon Ledoma is to be disbelieved in his testimony that he saw the accused stab his brother, it is still very clear that appellant was positively identified by witness Orlins. Her sole testimony, being credible and positive, and as it satisfied the court as to the guilt of the accused beyond reasonable doubt, is sufficient to convict (*People v. Javier*, 182 SCRA 830 [1990]).

The defense of alibi cannot prevail over the prosecution witnesses' positive identification and the absence of persuasive evidence showing the physical impossibility of the appellant's being at the scene of the crime at the time of its commission (*People v. Soriano*, 196 SCRA 123 [1991]; *People v. Carcedo*, 198 SCRA 503 [1991]). The said defense being inherently weak, inconclusive and unreliable (*People v. Dela Cruz*, 158 SCRA 537 [1988]), there is a need for the most convincing evidence for it to be believed (*People v. Batac*, 157 SCRA 508; 1988). In the case at bar, the appellant tried to prove that when the crime was committed, he was in Binakayan, Cavite selling souvenir items. His testimony, however, is self-serving as it is entirely uncorroborated. Indeed, it is not enough to prove that the accused was somewhere else when the crime was committed but, as earlier stated, he must demonstrate that he could not have been in Caloocan City when the crime was committed.

In view of the positive identification of the accused, proof of the motive for the killing becomes entirely irrelevant, for, as consistently held by the Court, such is essential only when there is doubt as to the identity of the culprit (*People v. Hassan*, 157 SCRA 261 [1988]). The absence of proof of motive does not preclude conviction when the crime and the participation of the accused therein are definitely established (*People v. Traya*, 147 SCRA 381 [1987]).

The contention of the appellant that the prosecution suppressed the so-called 'spot report' and the photographs of the victim, is based on the opinion of witness Dr. Alberto Reyes, supervising medical officer of the NBI, that there could be more than one instrument or weapon used and that it was also possible that there were more than one assailant. This contention is untenable. In his brief, the Solicitor General correctly stated that the prosecution was under no obligation to submit either the "spot report" or photographs of the victim. If the appellant thought that the "spot report" and photographs could serve his cause, there was nothing to prevent him from requiring their production in court so that he could offer them as his own evidence. No such effort was taken. Nonetheless,

even if such evidence is presented, the same would at best be corroborative or cumulative (People v. Andiza, 164 SCRA 642 [1988]; People v. Maghanoy, 180 SCRA 111 [1989]; People v. Vocente, 188 SCRA 100 [1990]). Hence, its non-presentation would not have affected the prosecution's theory.

Treachery has been proven beyond reasonable doubt. Prosecution witness Aileen Orlins testified that the accused was behind the victim when the former stabbed the latter. This testimony is consistent with the findings of Dr. Alberto Reyes that there were three (3) stab wounds at the back of the deceased, two of which were both fatal, perforating as they did the lower lobe of the right lung and the kidney. The deceased was totally unaware and unprepared when he was stabbed at the back. He could not have anticipated the murderous designs of the accused because they were even together when they left his house. The appellant's suggestion that he and the deceased should accompany the latter's lady visitor to where she would take a ride was a deceitful scheme on the part of the accused to assure the attack on his unsuspecting prey. There is treachery when the offender adopts means, methods or forms in the execution of the felony which insures its commission without risk to himself arising from any defense which the offended party might take (People v. Ramil Balatucan and three (3) John Does, G.R. No. 93805-06, February 7, 1992).

The killing was also perpetrated with evident premeditation. Having known from its policeman-owner that the rooster he had bought from Rolando Ledoma was a stolen one, appellant frequented the latter's house. Undoubtedly, murder was in his heart. He was just biding for time and looking for a place to execute it. And he did this in the afternoon of July 9, 1983, at the corner of San Marcos and Isla San Juan, Maypajo, Caloocan City. The sixteen (16) stab wounds found on the different parts of the body of the deceased are signs of the rage that the appellant nurtured and of his planned and premeditated determination to finish off the latter.

The Court has consistently held that for evident premeditation to be appreciated against an accused, the following requisites must be established: (1) the time when the offender determined to commit the crime; (2) an act manifestly indicating that the offender had clung to his determination; and (3) the lapse of an interval of time between determination to commit the crime and the execution thereof, sufficient to allow the offender to reflect upon the consequences of his act (*supra*). These requisites have been proven in the instant case.

Since both treachery and evident premeditation have been proven beyond reasonable doubt, only one of them should be regarded as qualifying and the other circumstance should be considered as generic aggravating (Aquino, *The Revised Penal Code*, Vol. II, 1987 ed., p. 532 citing People v. Labai, 17 Phil. 240 [1910]). Under Art. 248 of the Revised Penal Code, murder is punishable by the penalty of reclusion temporal in its maximum period to death. There being one generic aggravating circumstance, the correct penalty should be death (Art. 64(3), Revised Penal Code) but in view of the abolition of the death penalty by the 1987 Constitution, the proper penalty is reclusion perpetua. The civil indemnity should be increased from P30,000.00 to P50,000.00 in conformity with recent jurisprudence (People v. Jose Buligon, Jose Nicolas, et al., G.R. No. 94338, February 4, 1992).

PREMISES CONSIDERED, the decision appealed from is AFFIRMED subject to the modification that the civil indemnity is increased to P50,000.00.

SO ORDERED.

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

Melencio-Herrera, (Chairman), J., subject to my dissent in People v. Muñoz, ebat., G.R. Nos. L-38968-70, Feb 9, 1980, 170 SCRA 107

[1] Penned by Judge Cancio C. Garcia

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.