

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. BETHOVEN LIZADA AND RICHARD MONAHAN, ACCUSED, BETHOVEN LIZADA, APPELLANT.

G.R. No. 97226. August 30, 1993

Ponente: PADILLA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-97226/>

PADILLA, J.:

Bethoven Lizada and Richard Monahan were charged with the crime of Murder in an Information dated 23 January 1984, committed as follows:

"That on or about 8:30 o'clock in the evening of October 19, 1983 at Brgy. Najus-an, Mambusao, Capiz, Philippines, within the jurisdiction of this Court, accused BETHOVEN LIZADA, conspiring, confederating and acting in common accord with his co-accused RICHARD MONAHAN with evident premeditation, treachery, taking advantage of superior strength, nighttime, dwelling and cruelty, did then and there wilfully, unlawfully assault and bolo one ROBERTO LIPARDO, inflicting numerous bolo and incised wounds in different parts of his body which caused his death thereafter.

That due to the death of ROBERTO LIPARDO, his heirs suffered and are entitled to a death indemnity in the amount of at least P12,000.00; indemnity for the loss of his earning capacity; and moral damages for mental anguish.

CONTRARY TO LAW."[1]

Both accused pleaded not guilty but accused Richard Monahan, thru counsel, later manifested that he would withdraw his plea of not guilty and pleaded guilty to the lesser offense of homicide.

After trial, the Regional Trial Court of Capiz, Branch 21 rendered a decision dated 10 December 1990 the dispositive part of which reads:

"Wherefore, the Court finds the accused Richard Monahan guilty beyond reasonable doubt of the lesser offense of Homicide punished in Article 249 of the Revised Penal Code and hereby sentences him to suffer the indeterminate prison term of EIGHT (8) YEARS and ONE (1) DAY of prison mayor as minimum to FOURTEEN (14) YEARS of reclusion temporal as maximum.

This Court finds accused Bethoven Lizada GUILTY beyond reasonable doubt of the crime of Murder as charged and hereby sentences him to suffer the penalty of RECLUSION PERPETUA.

In addition, both accused are ordered to indemnify the heirs of the victim, Roberto Lipardo, in the sum of P30,000.00 for the latter's death, P20,000.00 as actual damages; and P100,000.00 as moral damages, without subsidiary imprisonment in case of insolvency, and to pay the costs. This civil liability is joint and solidary (several).

Both accused are ordered confined at the New Bilibid Prison, Muntinlupa, Rizal, upon finality of judgment.

SO ORDERED."[2]

Only Bethoven Lizada appealed; the judgment has thus become final with respect to his co-accused Richard Monahan. The following errors are assigned to the trial court:

"x x x IN FINDING ACCUSED-APPELLANT GUILTY OF THE CRIME CHARGED WHEN THE EVIDENCE PRESENTED BY THE PROSECUTION IS WEAK AND REPLETE WITH IMPROBABILITIES WHICH FAILED TO OVERCOME THE CONSTITUTIONAL PRESUMPTION OF INNOCENCE OF THE ACCUSED-APPELLANT.

x x x IN FINDING THAT THE KILLING OF ROBERTO LIPARDO WAS ATTENDED BY TREACHERY AND AGGRAVATED BY CRUELTY WHEN THE EVIDENCE PRESENTED BY THE PROSECUTION FAILED TO ESTABLISH THE QUALIFYING CIRCUMSTANCE OF TREACHERY AND/OR THE AGGRAVATING CIRCUMSTANCE OF CRUELTY."[3]

The facts establish that at about 8:00 o'clock in the evening of 19 October 1983, at Barangay Najus-an, Mambusao, Capiz, the victim Roberto Lipardo sustained seventeen (17) hack-wounds which caused his death.

Three (3) eyewitnesses, Lester Cahugom, Percival Fuentes and Lito Opanto, positively identified the two (2) accused as the perpetrators of the crime.

Cahugom testified that at about 8:00 o'clock in the evening of 19 October 1983, he was with Lacreo Lumbania and Percival Fuentes at the latter's house when they heard a gunshot coming from the fruit farm of the victim, Roberto Lipardo. They immediately went out to investigate and since he took a short cut, he got to Lipardo's property ahead of the two. He then saw the two (2) accused, Bethoven Lizada and Richard Monahan, hacking Lipardo with bolos while the latter was lying on his back on the ground.

Fuentes, having taken a longer route in going to Lipardo's house, testified that he met the mother of the accused Lizada, Ludivina (Bening) Lizada who told him that her son was having an argument with Roberto Lipardo after which he (Fuentes) headed towards the latter's house and he saw from a distance of about ten (10) meters the two (2) accused holding bolos. The two (2) accused immediately fled upon seeing Fuentes and Cahugom. The lifeless body of Roberto Lipardo was found at the spot where the two (2) accused had stood.

A third eyewitness, Lito Opanto, testified that at around 8:00 o'clock in the evening of 19 October 1983, he was on his way home, when he heard a loud voice saying, "Roberto, where are you? We will kill you!" Upon hearing this, he hid behind the bamboo groves from where he later saw the two (2) accused, Lizada and Monahan, going towards Lipardo's hut. He heard Bethoven Lizada say, "Lolo Roberto, why do you say that we are the ones stealing your lanzones?" to which Lipardo answered, "I do not impute anything to you." After the brief exchange of words, Opanto saw Lizada fire a shot at Lipardo but it was Monahan who was hit.

The witnesses for the defense attempted to prove that the appellant Lizada was sleeping in his house when the killing took place.

Richard Monahan, who pleaded guilty to the lesser offense of homicide, testified that it was the victim, Roberto Lipardo who shot him and it was he alone who hacked the victim to death.

Ludivina Lizada, Bethoven's mother and Leonila Celestial both testified that at about 8:00 o'clock in the evening of 19 October 1983, the accused Bethoven Lizada was at the Lizada residence and never left that night.

Bethoven Lizada testified that he was already asleep when the incident happened and he was awakened when Percival Fuentes, Lester Cahugom and Lacing Lumbania started shouting, throwing stones at the house and demanding that they let Richard Monahan out of the house.

The Court takes special notice of the fact that four (4) different judges presided over the hearings in this case and

that Judge Julius L. Abela, who rendered the decision convicting the accused only heard the testimonies of Bethoven Lizada, Leonila Celestial and the rebuttal witness, Police Lt. Lamberto Arceno. In the case of *People vs. Escalante*[4] we held that the rule that the findings of the trial court on the credibility of witnesses are to be accorded great weight does not apply when the judge who rendered the decision was not the one who heard the witnesses. The constitutional presumption of innocence and the peculiar circumstances in this case compelled us to carefully scrutinize the testimonies of each of the witnesses to be able to determine whether or not guilt has been proved beyond reasonable doubt.

In cases where the courts have no basis by which to gauge the credibility of the witnesses, the need to carefully determine whether the prosecution has successfully presented a case which clearly and with moral certainty establishes the guilt of the accused is of the utmost importance. A judgment of conviction should not be rendered in cases where the evidence presented gives rise to two (2) probabilities, one consistent with guilt and another with the innocence of the accused.[5] *Tutius semper est errare acquietando quam in puniendo* - It is always safer to err in acquitting than in punishing.

In the case at bar, no less than three (3) eyewitnesses pointed to both of the accused, Richard Monahan and appellant Bethoven Lizada, as the assailants of the victim, Roberto Lipardo. The testimonies of the three (3) were clear, straightforward and unshaken during cross-examination.

On the other hand, the defense interposed denial and alibi to absolve accused-appellant Bethoven Lizada. In *People vs. Alterado, Jr.*[6] the Court held that the defense of alibi was futile because, aside from its inherent weakness, the perpetrators were positively identified and the distance between the scene of the crime and the alleged location of the accused-appellant did not make it impossible for the latter to have committed the offense. In the case at bar, no less than the accused-appellant admitted that the crime scene was less than two hundred (200) meters away from his house where he allegedly was sleeping at the time of the incident.[7]

A careful examination of the records of this case shows no evidence and nothing to indicate that the three (3) eyewitnesses for the prosecution had any improper motive to falsely impute an offense as serious as murder on accused-appellant, Bethoven Lizada. The presumption therefore is that the testimonies of the three (3) witnesses are true and are entitled to full faith and credit.[8] Nothing in the testimonies of the three (3) eyewitnesses indicate any motive except to tell the truth and to aid in the administration of justice. All the three (3) eyewitnesses positively and independently identified the two (2) accused to be the murderers. The Court finds no reason to reverse the judgment of conviction against Bethoven Lizada.

While the qualifying circumstance of treachery was not sufficiently established, the trial court committed no error in convicting the accused-appellant of murder. The information alleged abuse of superior strength in the commission of the offense. The victim, Roberto Lipardo, was an unarmed sixty four (64) year old man while both accused were in their thirties and armed. Clearly, the qualifying circumstance of abuse of superior strength attended the killing and thus the offense is murder, described in and penalized under Article 248 of the Revised Penal Code.

WHEREFORE, with the modification that the indemnity for the victim's death is increased from Thirty Thousand Pesos (P30,000.00) to Fifty Thousand Pesos (P50,000.00) following the recent rulings of this Court, the appealed decision is hereby AFFIRMED, with costs against the appellant.

SO ORDERED.

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

[1] Rollo, p. 14

[2] Rollo, pp. 40-41

[3] Rollo, p. 92

[4] G.R. No. L-37147, 22 August 1984, 131 SCRA 237

[5] Borromeo vs. Court of Appeals, G.R. No. L-39253, 24 August 1984, 131 SCRA 318

[6] G.R. Nos. 79039-41, 27 October 1989, 178 SCRA 722

[7] TSN, 30 October 1989, p. 6

[8] People vs. Simon, G.R. No. 56925, 21 May 1992, 209 SCRA 148

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.