

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. (EMBAS) JOSE TIU, SANTOS AROCHA, RODOLFO LEAL – DECEASED, LUIS (LICAROS) DENOLAN, ACCUSED-APPELLANTS.

G.R. Nos. 75032-33. December 01, 1992

Ponente: CRUZ, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-nos-75032-33/>

CRUZ, J.:

As the carabao lowed in protest at the tugging rope, the killers struck. One of the victims dropped dead with a bullet in his spine while the other crawled to hide with his bloodied leg. The darkness soon engulfed the killers as they fled. But not before their faces were seen by the witnesses to the gory deed, by the light of the lamp and the moon and the stars.

On July 27, 1981, two informations for murder and frustrated murder were filed against Jose (Embas) Tiu, Santos Arocha, Rodolfo Leal and Luis Licaros Denolan, for the killing of Warlito Jumangpang and the wounding of his father, Otillo Jumangpang. The cases were docketed as Criminal Cases Nos. 2682 and 2675, respectively, in the Court of First Instance of Zamboanga del Norte, and by agreement of the parties jointly tried on the merits.

At their arraignment, all the accused pleaded "not guilty." On November 20, 1984, the trial court dismissed the case against Rodolfo Leal, who had died on July 9, 1984. On December 18, 1985, Judge Celso L. Conol rendered a joint decision,[1] the dispositive portion of which read as follows:

WHEREFORE, finding accused Jose Tiu, Santos Arocha, Rodolfo Leal and Luis Denolan, guilty beyond reasonable doubt of the crime of Murder in Criminal Case No. 2682, qualified by treachery and there being no other aggravating or mitigating circumstance present in the commission thereof, the Court hereby sentences the said accused to suffer the penalty of reclusion perpetua, with the accessories of the law, to indemnify the heirs of accused Warlito Jumangpang in the amount of P30,000.00, plus P10,000.00 as moral and exemplary damages without subsidiary imprisonment in case of insolvency and to pay the costs.

In Criminal Case No. 2675, accused Jose Tiu, Santos Arocha, Rodolfo Leal and Luis Denolan are, likewise, found guilty beyond reasonable doubt of the crime of Frustrated Murder, qualified by treachery, and there being no attendant aggravating or mitigating circumstance present in the commission thereof and applying the Indeterminate Sentence Law, are hereby sentenced to suffer an indeterminate penalty of imprisonment from SIX (6) YEARS and ONE (1) DAY of Prision Mayor, as minimum, to TWELVE (12) YEARS, FIVE (5) MONTHS and ELEVEN (11) DAYS of Reclusion Temporal, as maximum, to indemnify the offended party, Otillo Jumangpang, in the amount of P5,000.00 for actual damages, plus P10,000.00 for moral and exemplary damages, without subsidiary imprisonment in case of insolvency and to pay the costs.

SO ORDERED.

Negligently, the decision also convicted the deceased Rodolfo Leal.

Tiu, Arocha and Denolan all appealed. Tiu died on May 16, 1988, resulting in the dismissal of the case against him on November 28, 1988.

The prosecution presented three eyewitnesses, viz., Otillo Jumangpang, his wife Vivencia, and their daughter Lourdes. They testified that on April 30, 1981, at about 2:00 a.m., Otillo, who was sleeping with his wife Vivencia and their seven children, was awakened by a noise outside their house in Sitio Pigan, Barangay Disakan of the Municipality of Manukan, Zamboanga del Norte. With a flashlight, he saw that it was a carabao that was causing the noise. He told Warlito to tie the animal. Warlito had difficulty in doing so and asked his father to help him. Otillo went down. While he and Warlito were pulling the carabao, shots were fired from the direction of the road. Otillo was hit on the right ankle joint and fell down. He crawled towards the back of the house near the kitchen. While lying flat on the ground, he saw Embas Tiu, Santos Arocha, Rodolfo Leal, and Luis Licaros coming from the road.[2]

When the four men reached the front ladder of their house, they trained a flashlight on the body of Warlito, who was sprawled motionless on the ground.[3]

Santos Arocha and Rodolfo Leal proceeded to the back of the house and went upstairs. Otillo heard them ask his wife where he was. Silently, he crawled toward the bushes about 20 meters from their house. Santos and Rodolfo ordered Vivencia and the children to go down, past Embas Tiu and Luis Licaros who were standing near the rear ladder, carrying long firearms. Embas fired a warning shot and ordered them to lie flat on the ground. He asked them where Otillo was but everyone kept silent. They remained lying on the ground until 6:00 a.m. when they sensed that the men had left.[4]

Vivencia now called for Otillo who had lain hidden all the while. Seeing him wounded, she immediately took him to the hospital, together with Warlito, with the aid of neighbors. Warlito was already beyond help. The autopsy of his body revealed the cause of his death as "severed spinal cord secondary to fractured vertebral column secondary to gun shot wound." [5]

The defense presented three of the surviving accused who all pleaded alibi. They all testified that on the night of April 29, 1981, they were in the camp at Datagan, Disakan, Manukan, Zamboanga del Norte, together with several other persons (who were not presented in court).[6] Their testimonies were corroborated by their friend, Baro Magawa.[7]

Emiliano de los Reyes, who was the detachment commander-in-charge of the Civil Home Defense Force, testified that on April 30, 1981, up to the time he left, he received no report of abuses committed by the herein accused. He learned for the first time later that year that the accused had been charged with murder and frustrated murder. He conducted an investigation but found that there was no evidence to support the charges. He admitted, however, that the investigation was limited to interrogation of the accused. The family of the victim was not questioned. He also failed to present a copy of the investigation report, claiming it had been misplaced.[8]

Jose Andata, another defense witness, testified that while a member of the NPA, he attended a meeting held on April 30, 1981, in the house of a certain Ogis, where it was decided to liquidate Otillo for having cut down a narra tree in Commander Porsin's land without permission. That same afternoon, Jose, together with the groups of Commanders Porsin and Tirong, started for Otillo's place, which was about 7 hours walk from the house of Ogis. About 100 meters before they reached Otillo's house, Jose and the group of Tirong stopped and were ordered by Porsin to stand guard. Porsin's group then proceeded to Otillo's house and after a few minutes Jose heard many gunshots. Porsin later reported to Tirong that Otillo was able to escape.[9]

The attack which Jose claimed to have been made by the rebel group was, if it really happened, one day late. Jose said the rebels reached Otillo's place in the early morning of May 1, 1981, by which time, Warlito was already dead and Otillo severely wounded. They had been attacked hours before in the morning of April 30, 1981.

The four accused were no strangers to the three eyewitnesses, who knew them as CHDF members who used to pass by their house and ask for water.[10]

Lourdes and Vivencia identified Arocha and Leal as the persons who came up their house, which was lighted by a lamp or "tingkarol" on top of the sewing machine that night of April 29, 1981. The moon and the stars were also shining bright then.

Otillo recognized the four accused by the light from their flashlights and also of the moon and the stars.

The denials of the accused-appellants, corroborated only by their friend Magawa, cannot overthrow the positive and categorical testimony of the prosecution eyewitnesses, who have not been shown to have any malicious motive in testifying against them. Mere denial cannot prevail against the unequivocal declaration of credible witnesses testifying on affirmative matters as in the case at bar.

Alibi is also a weak defense and cannot stand against the positive identification of the accused-appellants. Moreover, they have not shown that it was impossible for them to have been present at Otillo's place when the shooting occurred, in view of the distance between that place and the place where they claimed to be that morning.

Explaining her delay in reporting the crime, Lourdes said that her grandfather went to the police of Manukan but was referred to the NBI. It is true that thirteen days elapsed from the time of the incident before they revealed the identities of the accused-appellants to the NBI. But that was because their statements were not immediately taken and they were asked to come back later.

The accused were known members of the notorious Civil Home Defense Force (which has since been disbanded for its record of violence). This was the reason for the natural reluctance of ordinary individuals to participate in litigations involving that organization. The failure of the prosecution witnesses to immediately report the malefactors to the police officers who investigated the shooting is not difficult to understand. Otillo and his family feared for their lives as the killers of Warlito were still at large and armed with the rifles they had used that morning.

There was conspiracy among the accused-appellants because they were moved by the same desire when they went to Otillo's house and shot him and his son Warlito. It is plain that they acted in concert when they executed the crimes they had agreed to commit.

We find that the trial court did not err in convicting Tiu, Arocha and Denolan.

The conviction of Rodolfo Leal, who died on July 9, 1984, before the promulgation of the decision on December 18, 1985, must be set aside as null and void ab initio.

The criminal liability of Jose Tiu was extinguished by his death on May 16, 1988, while his appeal was pending. However, his civil liability survived him and can be recovered against his estate.

Treachery qualified the killing of Warlito Jumangpang to murder, which was correctly punished with reclusion perpetua and all the accessory penalties.

But the shooting of Otillo, also attended by treachery, was only attempted murder because, although the intent to kill him was clearly established, he was shot only in the ankle. The doctrinal rule is that where the wound inflicted on the victim is not sufficient to cause his death, the accused not having performed all the acts of execution that would have brought it about, the crime is only attempted murder.[11]

Under Article 248 and Article 51 of the Revised Penal Code, the penalty for attempted murder is prison

correccional in its maximum period to prision mayor in its medium period. The medium period of this penalty should be the maximum under the Indeterminate Sentence Law, there being no aggravating or mitigating circumstance. One degree lower of the penalty for attempted murder is arresto mayor maximum to prision correccional medium. Thus, for attempted murder, the accused Santos Arocha and Luis Denolan are sentenced to suffer the indeterminate penalty of 4 months and 1 day of arresto mayor as minimum to 8 years of prision mayor as maximum.

The P30,000.00 indemnification for the heirs of Warlito Jumangpang should be increased to P50,000.00, consistent with the current policy of this Court.

The motive of the killing has not been shown, but that is not necessary in view of the clear identification of the killers. Still, one wonders what may have moved them to the gory deed that felled the father and killed his son as they tugged at the howling beast in the light of the moon and the stars.

WHEREFORE, the appealed decision is AFFIRMED as above modified, with costs against the accused-appellants. It is so ordered.

Padilla, Griño-Aquino, and Bellosillo, JJ., concur.

[1] Rollo, pp. 12-21.

[2] TSN, April 30, 1982; March 17, 1983; April 21, 1983.

[3] TSN, April 30, 1982, p. 4.

[4] TSN, April 21, 1983, p. 11; Records of Criminal Case No. 2682, pp. 4-5.

[5] Records of Criminal Case No. 2682, p. 3.

[6] TSN, June 20, 1984; July 19, 1984; July 23, 1985.

[7] TSN, December 6, 1983, p. 29.

[8] Ibid., p. 25.

[9] TSN, November 20, 1984, pp. 6-7, 10.

[10] TSN, April 21, 1983, p. 5.

[11] People v. Trinidad, 169 SCRA 51; citing People v. Garcia, 96 SCRA 497 and People v. Pilonas, 84 SCRA 167.

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.