



Republic of the Philippines  
Supreme Court  
Manila

THIRD DIVISION

PEOPLE OF THE  
PHILIPPINES,

Plaintiff-Appellee,

G.R. No. 192250

Present:

- versus -

VELASCO, JR., J., *Chairperson*,  
PERALTA,  
MENDOZA,  
REYES,\* and  
PERLAS-BERNABE, JJ.

HERMOGENES DE GUZMAN  
@ Mong,

Accused-Appellant.

Promulgated:

11 July 2012

*Mendoza*

X-----X

DECISION

**MENDOZA, J.:**

This is an appeal from the February 9, 2010 Decision<sup>1</sup> of the Court of Appeals (CA) in CA-G.R. CR-HC No. 03458, which affirmed the May 2, 2008 Decision<sup>2</sup> of the Regional Trial Court, Branch 45, San Jose, Occidental Mindoro (RTC), in Criminal Case No. R-5285, finding accused Hermogenes De Guzman @ Mong (*De Guzman*) guilty beyond reasonable doubt of the crime of Murder defined and penalized under Article 248 of the Revised Penal Code and sentencing him to suffer the penalty of *reclusion perpetua*.

\* Designated Acting Member in lieu of Associate Justice Roberto A. Abad, per Special Order No. 1244 dated June 26, 2012.

<sup>1</sup> Penned by Associate Justice Arcangelita M. Romilla-Lontok with Associate Justice Ricardo R. Rosario and Associate Justice Priscilla J. Baltazar-Padilla, concurring; *rollo*, pp. 2-11.

<sup>2</sup> Penned by Judge Jose S. Jacinto, Jr.; records. pp. 148-153.

### **THE FACTS**

De Guzman was charged with the crime of Murder in the Information,<sup>3</sup> dated November 12, 2002, the accusatory portion of which reads:

That on or about the 20<sup>th</sup> day of April, 2002 at around 11:00 o'clock in the evening, in Brgy. San Francisco, Municipality of Sablayan, Province of Occidental Mindoro, Philippines and within the jurisdiction of this Honorable Court, the accused being then armed with a sharp bladed instrument, with intent to kill, with treachery, did then and there willfully, unlawfully and feloniously attack, assault and stab with the said weapon one Noriel Rosales Urieta, thereby inflicting upon the latter serious wounds which caused his untimely death.

CONTRARY TO LAW.

When arraigned, De Guzman entered a plea of “Not Guilty”<sup>4</sup> to the offense charged. After pre-trial was terminated, trial on the merits ensued. The prosecution presented the testimonies of Ignacio Flores (*Flores*), the childhood friend of victim Noriel Urieta (*Urieta*) and the purported eyewitness to the stabbing incident; Dr. Ma. Socorro Ragos (*Ragos*), who conducted a post-mortem examination on the cadaver of the victim; and Gina Urieta (*Gina*), the wife of the victim. The defense, on the other hand, presented the lone testimony of De Guzman.

### **The Version of the Prosecution**

The version of the prosecution is succinctly summarized by the Office of the Solicitor General (*OSG*) in its Brief<sup>5</sup> as follows:

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<sup>3</sup> Id. at 1.

<sup>4</sup> Id. at 26.

<sup>5</sup> CA *rollo*, pp. 55-72.

On April 20, 2002 at around 11:00 o'clock in the evening, Noriel Urieta was in Brgy. Francisco, Sablayan, Occidental Mindoro along with Ignacio Flores. They were drinking in the amusement area.

When they were about to leave the premises, appellant suddenly approached them and without any provocation, suddenly stabbed Noriel Urieta with a knife on his left chest.

After the first blow, the victim was already kneeling down and appellant proceeded to stab him three (3) more times.

Appellant thereafter ran away.

Ignacio Flores called out for help and one Elmer Honato arrived to give them aid and bring the victim to a secure place and thereafter proceeded to call for help.

He waited for Elmer Honato to arrive but he did not return anymore. With the condition of the victim uncertain and as he was afraid, he decided to leave the victim and go home.

Two days later, Police Officer Gamba, together with the father of Noriel Urieta and Gina Urieta, the wife of Noriel Urieta, went to the house of Ignacio Flores in order to get the sworn statement as to the facts that happened in this case. They were able to do so.

Subsequently, an arrest on the person of Hermogenes de Guzman was made.

The Office of the Provincial Prosecutor then filed the appropriate charges thereafter.<sup>6</sup>

### **The Version of the Defense**

In his Brief,<sup>7</sup> De Guzman denied the charge against him and presented his version of the events:

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<sup>6</sup> Id. at 60-62.

<sup>7</sup> Id. at 25-41.

On the evening of April 21, 2002, Hermogenes De Guzman joined a drinking spree at the house of a relative at barangay San Francisco. He was there from 8:00 o'clock in the morning until 12:00 o'clock midnight, when he went home with his wife.

The following day, he was drying palay when his wife informed him that police officers were looking for him. He approached and inquired from the officers what was the reason. He was told to go with them to the municipal hall for questioning. Thereat, he was incarcerated because of his alleged involvement in a stabbing incident.

De Guzman does not personally know the victim, his wife, nor the supposed eyewitness, Ignacio Flores. He (De Guzman) was not with Urieta when the former had a drinking spree. He denied having stabbed and killed Urieta.<sup>8</sup>

### **The RTC Ruling**

On May 2, 2008, the RTC rendered judgment finding that the prosecution was able to establish with certitude, through the credible testimony of prosecution witness Flores, that De Guzman stabbed and killed Urieta on that fateful night of April 20, 2002. The RTC rejected the unsubstantiated defense of alibi proffered by De Guzman in the face of the positive identification of Flores pointing him as the perpetrator of the crime. It held that treachery attended the commission of the crime which qualified the killing to murder. The RTC adjudged:

**WHEREFORE, this Court finds the accused HERMOGENES DE GUZMAN alias "Mong" GUILTY beyond reasonable doubt of the crime of Murder defined and penalized under Article 248 of the Revised Penal Code and with neither aggravating nor mitigating circumstance and in line with the mandate of Republic Act No. 9346, hereby imposes the penalty of Reclusion Perpetua.**

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<sup>8</sup> Id. at 31-32.

Also, this Court hereby orders the said accused to PAY the surviving heirs of the victim the following:

- 1) The sum of ₱50,000.00 as civil indemnity ex-delicto;
- 2) The sum of ₱38,000.00 as actual damages;
- 3) The sum of ₱50,000.00 as moral damages; and
- 4) The costs of this suit.

The said accused is hereby credited of his total duration of preventive imprisonment in the service of his imposed imprisonment.

SO ORDERED.<sup>9</sup>

### **The CA Decision**

On appeal, the CA affirmed the judgment of conviction of De Guzman holding that his guilt for the crime of murder was proven beyond reasonable doubt by the prosecution's evidence. The CA added that the facts established by the unwavering testimony of eyewitness Flores could not be displaced by the empty denials and self-serving alibi of De Guzman. It sustained the RTC in appreciating the presence of the qualifying circumstance of treachery which elevated the killing to Murder. The dispositive portion of the February 9, 2010 Decision reads:

WHEREFORE, premises considered, the appeal is hereby DISMISSED. The decision of Branch 45, Regional Trial Court of San Jose, Occidental, Mindoro in Criminal Case No. R-5285 is hereby AFFIRMED.

SO ORDERED.<sup>10</sup>

On February 18, 2010, De Guzman filed a Notice of Appeal,<sup>11</sup> which was given due course by the CA in its March 3, 2010 Minute Resolution.<sup>12</sup>

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<sup>9</sup> Records p. 153.

<sup>10</sup> CA rollo p. 87.

<sup>11</sup> Id. at 88-89.

<sup>12</sup> Id. at 91.

On July 2, 2010, this Court issued a resolution<sup>13</sup> notifying the parties that they could file their respective supplemental briefs, if they so desire, within thirty days from notice. Both parties manifested that they would no longer file supplemental briefs.

## THE ISSUES

Insisting his innocence, De Guzman imputes to the RTC the following errors:

### I

**THE TRIAL COURT GRAVELY ERRED IN GIVING FULL CREDENCE TO THE INCONSISTENT AND DOUBTFUL TESTIMONY OF THE PROSECUTION'S EYEWITNESS.**

### II

**THE TRIAL COURT GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY BEYOND REASONABLE DOUBT OF MURDER DESPITE THE EYEWITNESS' FAILURE TO POSITIVELY IDENTIFY THE FORMER.**

### III

**THE TRIAL COURT GRAVELY ERRED IN FINDING THAT TREACHERY ATTENDED THE SUBJECT KILLING.<sup>14</sup>**

De Guzman argues that the evidence for the prosecution did not meet that quantum of proof necessary to convict him of the crime charged. The testimony of Flores was riddled with inconsistencies and contradictions which tend to erode his credibility and raise doubt on the veracity of the prosecution evidence. It was highly improbable for Flores to clearly identify the assailant considering that the stabbing incident took place suddenly and quickly at 11:00 o'clock in the evening in a remote barangay with no good

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<sup>13</sup> *Rollo*, pp. 17-18.

<sup>14</sup> *CA rollo*, p. 27.

source of illumination. The prosecution miserably failed to show any ill motive on his part that could have possibly impelled him to commit the crime. Since the prosecution's case is weak, his defense of alibi assumes importance and can effectively negate his criminal liability. Finally, De Guzman asserts that even granting *arguendo*, that he indeed stabbed Urieta, he cannot be convicted of murder because the prosecution failed to establish the presence of the qualifying circumstance of treachery.

For the prosecution, the OSG urges this Court to affirm *in toto* the challenged decision for failure of De Guzman to show that the RTC committed any error in rendering a judgment of conviction. It contends that the narration of Flores regarding the bloody assault on Urieta had clearly established the *corpus delicti* of the crime which rendered inconsequential the alleged inconsistencies in his testimony. It is of the position that eyewitness Flores testified in clear and unequivocal terms as to the identity of the author of the crime. Lastly, it posits that treachery was alleged and duly proved by the prosecution during the trial and, hence, the conviction of De Guzman for murder was correct.

### **THE COURT'S RULING**

The crucial issue in this case is the sufficiency of evidence to convict De Guzman. More particularly, the Court has to inquire whether there had been sufficient identification of De Guzman as the perpetrator of the crime.

In every criminal case, the task of the prosecution is always two-fold, that is, (1) to prove beyond reasonable doubt the commission of the crime charged; and (2) to establish with the same quantum of proof the identity of the person or persons responsible therefor, because, even if the commission

of the crime is a given, there can be no conviction without the identity of the malefactor being likewise clearly ascertained.<sup>15</sup>

Although it is entrenched in this jurisdiction that findings of the trial court on the credibility of the witnesses are accorded great weight and respect because it had ample opportunity to observe the demeanor of the declarants at the witness stand, this rule admits exceptions. The saving instance is said to be when a fact or circumstance of weight and influence has been overlooked, or its significance misconstrued by the trial court sufficient to harbor serious misgivings on its conclusions.<sup>16</sup>

After a painstaking review of the records and the transcripts of stenographic notes of the testimonies of the witnesses, the Court is not convinced with moral certainty that De Guzman committed the crime charged. Reasonable doubt bothers the conscience. With a cloud of doubt continuously hovering, the mind cannot rest easy.

The case for the prosecution was woven basically on the testimony of Flores, who claimed to be a childhood friend of Urieta.<sup>17</sup> This alleged eyewitness recounted that on April 20, 2002, at around 11:00 o'clock in the evening, he and Urieta were drinking beer at a store near a “peryahan” in Barangay Francisco, Sablayan, Occidental Mindoro; that after they had finished their third bottle of beer, they decided to leave their table; that when Urieta was about to stand up, De Guzman suddenly appeared from nowhere and stabbed Urieta using a knife with a red handle, without any reason or provocation; that the stab blow landed on the left breast of Urieta and caused him to fall down; that while in a kneeling position, De Guzman stabbed him three more times; that Flores cried for help but no one came to their aid; and that thereafter, De Guzman ran away.

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<sup>15</sup> *People v. Bacalso*, 395 Phil. 192, 199 (2000).

<sup>16</sup> *Id.*

<sup>17</sup> *CA rollo*, pp. 44 and 79.



Flores claimed that a certain Elmer Honato (*Honato*) came and brought Urieta to the corner of the street; that Honato then went to the barangay hall allegedly to look for a physician who would attend to the seriously injured Urieta; that he waited for Honato but sensing that the latter would no longer return, he hurriedly went home leaving Urieta alone on the ground; and that he did not know whether Urieta was still alive when he left him.

Flores testified that he was just a meter (an arm's length) away from Urieta when the latter was stabbed by De Guzman; that the light of the "moron" coming from the "peryahan" illuminated the table where they were drinking, enabling him to see the face of the perpetrator whom he identified to be De Guzman; that two (2) days after the stabbing incident, Police Officer Gamba, Gina and Urieta's father came to his house; that he then executed a sworn statement before a police officer narrating his accounts of the stabbing incident which led to the death of Urieta; that he did not know De Guzman and it was on the night of the stabbing incident that he first saw him; and that he came to know of the name of De Guzman from the policemen.

A nexus of logically related circumstances, however, rendered the testimony of Flores as highly suspect. His testimony is laden with improbabilities that detract from his credibility. The totality of the evidence for the prosecution leaves much to be desired. Somehow, the Court cannot help but entertain serious doubts on the veracity of the malefactor's identity. It is almost as if it was merely contrived to pin criminal culpability upon De Guzman.

*First*, the condition of visibility at the time of the stabbing incident did not favor the witness Flores, as it did not lend credence to his testimony. The incident took place during nighttime at 11:00 o'clock in a remote barangay with no electric lighting in the surroundings and the only source of light then was the illumination of a “moron” coming from a “perumahan.” Apart from the testimony of Flores, no other competent and corroborative evidence was adduced to settle this question of visibility and lighting condition as well as to confirm that indeed the light of the “moron” was existent and adequate for purposes of identification on the night of the incident. The Court observes that in his *Sinumpaang Salaysay*,<sup>18</sup> Flores stated that the “moron (de gas)” was just on the *table* where they were drinking which was contrary to what he had testified in court.

The distance of the “moron” in the “perumahan” from the site of the stabbing incident was not disclosed either. It could have helped determine if the place was well illuminated. It is important to note that illumination or brightness diffuses as the distance from the source increases. Moreover, it is clear from the records that the stabbing incident was so swift for ample observation and Flores, who had three bottles of beer, was admittedly very afraid so much so that all he did was to cry for help. Under these circumstances, the Court finds the positive identification of De Guzman by Flores hazy.

In *People v. Faustino*,<sup>19</sup> the Court stated that the identification of an accused by an eyewitness is a vital piece of evidence and most decisive of the success or failure of the case for the prosecution. In the case at bench, however, the inconclusive and unreliable identification by Flores of De Guzman as the culprit failed to break the barrier of proof beyond reasonable doubt.

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<sup>18</sup> Records, pp. 11-12.

<sup>19</sup> 394 Phil. 236, 259 (2000).

*Second*, Flores' story, that a certain Honato came to their aid and brought the seriously wounded Urieta to the corner of the street but left thereafter supposedly to seek a physician at the barangay hall, simply does not make sense. It appears strange that Honato should proceed to the barangay hall to look for a doctor when natural instinct and reason would dictate that he and Flores should have brought Urieta straight to the hospital for the immediate medical treatment of his wounds. It appears even stranger that this Honato was not presented in court to corroborate the testimony of Flores. Besides, can one really find a physician at the barangay hall at that late hour of the night?

His story about Honato being nebulous, the Court doubts if Flores ever shouted for help at all. If he really did, many people in the “perumahan” would have surely come to their aid. Indeed, if he was a childhood friend, he would not have second thoughts in bringing Urieta to the hospital himself. As he merely abandoned his dying friend, one cannot help but harbor a suspicion.

Furthermore, the reaction of Flores, in hurriedly going home and leaving Urieta alone to die, was unnatural and contrary to common human experience. The seemingly apathetic behavior displayed by Flores in leaving Urieta without even checking his condition to see if he was still breathing and his failure to report the matter to the police or at least inform the victim's family about what happened on the same night were highly inconsistent with the natural/common reaction of one who had just witnessed the stabbing of his childhood friend. The Court cannot accept a story that defies reason and leaves much to the imagination. The failure of Flores to lend a touch of realism to his tale leads to the conclusion that he was either withholding an incriminating information or was not telling the truth.

The time-honored test in determining the value of the testimony of a witness is its compatibility with human knowledge, observation and common experience of man.<sup>20</sup> Thus, whatever is repugnant to the standards of human knowledge, observation and experience becomes incredible and must lie outside judicial cognizance. Consistently, the Court has ruled that evidence to be believed must proceed not only from the mouth of a credible witness but must be credible in itself as to hurdle the test of conformity with the knowledge and common experience of mankind.<sup>21</sup> In the case at bench, the testimony of Flores, the lone eyewitness of the prosecution does not bear the earmarks of truth and, hence, not credible.

*Third*, the Court finds disturbing how the police officers were able to identify De Guzman as the killer of Urieta. It is undisputed that on the day following the stabbing incident, De Guzman was invited by the police officers to the municipal hall, was informed by them that he was a suspect in the commission of a crime and then placed behind bars. De Guzman testified, to wit:

Atty. Jennifer Garcia  
(On Direct Examination)

Q: The following day, what did you do?

A: I was drying our palay, sir.

Q: While drying your palay, do you know if there was anything that happened?

A: My wife arrived, sir.

Q: When your wife arrived what happened?

A: According to her I was being looked by some policemen, sir.

Q: Why are these policemen were looking at you?

A: Because according to them they are going to ask something from me, sir.

Q: After knowing that some policemen are looking for you, what did you do then?

A: I was the one who approached them, sir.

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<sup>20</sup> *Ocampo v. People*, G.R. No. 163705, July 30, 2007, 528 SCRA 547, 560.

<sup>21</sup> *Zapatos v. People*, 457 Phil. 969, 985 (2003).

Q: Where did you approach them?

A: I asked them why they are looking for me, sir.

Q: Did they told you why they are looking for you?

A: They are inviting me to go with them in the Municipal Hall, sir.

Q: For what purpose they are asking you to come with them in the Municipal Hall?

A: According to them they are going to ask something from me, sir.

Q: Did you reach the Municipal Hall?

A: Yes, sir.

Q: While in the Municipal Hall, what happened?

A: I was incarcerated, sir.

Q: Did you come to know from them why you are incarcerated?

A: They said that I was involved in a stabbing incident, sir.<sup>22</sup>

Also, on April 21, 2002, Gina, the wife of the victim, executed her Sinumpaang Salaysay<sup>23</sup> wherein she declared, among others, that she came to know the identity and the name of the assailant from the police officers. Thus:

T: Kung ikaw ay nasa inyong bahay sa bukid naroroon kagabi ng maganap ang pananaksak ni HERMOGENES DE GUZMAN alias "Mong" sa iyong asawa, papaano mong nalaman na itong si HERMOGENES DE GUZMAN nga ang may kagagawan ng pananaksak sa iyong asawa, gayong wala ka naman kagabi sa lugar ng pinangyarihan?

S: Napag-alaman ko po sa mga Pulis na sumurender na ang sumaksak sa aking asawa kaya't ako nga ay pumunta dito at ipinagtanong ko ang kanyang pangalan sa mga Pulis kaya ko siya nakilala at napag-alamang siya nga ang sumaksak sa aking asawang si Noriel.

During the trial, Gina stated the same thing as she testified, to wit:

Asst. Pros. Dante V. Ramirez  
(On Direct Examination)

Q: Who was the person who killed your husband?

A: Hermogenes de Guzman, sir.<sup>24</sup>

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<sup>22</sup> TSN, dated July 17, 2007, pp. 3-4.

<sup>23</sup> Records, p. 10.

<sup>24</sup> TSN, dated October 12, 2005, p. 8.

## COURT

Q: You mentioned a while ago that when you were asked who killed your husband, you answered Hermogenes de Guzman, how did you come to know the killer of your husband?

A: I came to know from the Police Officer, Your Honor.

Q: Have you known Hermogenes de Guzman before the death of your husband??

A: No, Your Honor.

Q: You came to know him only upon the death of your husband?

A: Yes, Your Honor.

Q: Do you know any reason why Hermogenes de Guzman killed your husband?

A: I do not know any reason, Your Honor.<sup>25</sup>

Two days after the incident in question or on April 22, 2002, Flores executed his Sinumpaang Salaysay and gave his account of the stabbing incident only because Police Officer Gamba together with the father and the wife of Urieta came to his house.<sup>26</sup> Even so, nowhere in the record does it show that Flores gave the police officers a description of the physical features and attributes of the assailant. During the trial, he admitted that he did not know De Guzman or his name at the time of the stabbing incident.

Thus:

Atty. Jennifer Garcia  
(On Cross-Examination)

Q: How about accused, did you know him personally?

A: I only saw him on that night when he stabbed Noriel Urieta and I only learned his name from the Police Officer.<sup>27</sup>

The foregoing sequence of events clearly reveals that the police officers had already a suspect, De Guzman, in the killing of Urieta, even before Flores could give his statement and despite the absence of any description from Flores himself as to how the culprit looked like. Curiously, no police officer was called to the witness stand to shed light on the matter.

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<sup>25</sup> Id. at 12-13.

<sup>26</sup> TSN, dated August 25, 2004, p. 10.

<sup>27</sup> Id. at 14.

This gray area in the case of the prosecution is fatal to its cause and casts serious doubt on the veracity and credibility of its evidence.

The Court is likewise puzzled as to how the prosecution came into possession of the alleged murder weapon marked as Exhibit "B." During the trial, a knife with a red handle was shown to Flores who specifically identified it to be the same bladed weapon used by De Guzman in stabbing Urieta. The information, however, as to who recovered that knife, and from whom it was seized remained a mystery. At any rate, considering the visibility condition and other attending circumstances on the night of the stabbing incident, the Court indeed doubts how Flores could have positively identified the murder weapon.

Lastly, it has not been shown that De Guzman had any motive for killing Urieta. The brutal and gruesome attack on Urieta, who sustained two stab wounds on the chest, a stab wound along the waist area which hit the liver, and a stab wound on the elbow, clearly manifested the intention of the perpetrator to purposely bring death upon the victim. There was no evidence, however, that De Guzman carried a grudge or had an axe to grind against the victim or his family, or even knew the victim at all. Prosecution witnesses Flores and Gina even attested that they did not know of any reason why De Guzman killed Urieta.

Generally, the motive of the accused in a criminal case is immaterial and does not have to be proven. Proof of the same, however, becomes relevant and essential when, as in this case, the identity of the assailant is in question.<sup>28</sup> In *People v. Vidad*,<sup>29</sup> the Court said:

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<sup>28</sup> *People v. Garcia*, 390 Phil. 519, 528 (2000).

<sup>29</sup> 369 Phil. 954, 965 (1999), citing *US v. Carlos*, 15 Phil. 47 (1910).

It is true that it is not indispensable to conviction for murder that the particular motive for taking the life of a human being shall be established at the trial, and that in general when the commission of a crime is clearly proven, conviction may and should follow even where the reason for its commission is unknown; but in many criminal cases, one of the most important aids in completing the proof of the commission of the crime by the accused is the introduction of evidence disclosing the motive which tempted the mind to indulge in the criminal act. (Underscoring ours)

In light of the weakness in the prosecution's case, the alibi of De Guzman assumes credence and importance. While alibi is a weak defense and the rule is that it must be proved to the satisfaction of the court, the said rule has never been intended to change the burden of proof in criminal cases. Otherwise, an absurd situation will arise wherein the accused is put in a more difficult position where the prosecution evidence is vague and weak as in the present case.<sup>30</sup> The burden of proof still lies in the prosecution to establish that De Guzman was responsible for the killing.

It is oft-repeated that a finding of guilt must rest on the evidence of the prosecution not on the weakness or even absence of evidence for the defense. Thus, it is required that every circumstance favoring the innocence of the accused must be duly taken into account. The proof against him must survive the test of reason and the strongest suspicion must not be permitted to sway judgment.<sup>31</sup> In the case at bench, the evidence for the prosecution was unable to pass the exacting test of moral certainty that the law demands. In *People v. Fernandez*,<sup>32</sup> this Court has aptly said:

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<sup>30</sup> *People v. Caverte*, 385 Phil. 849, 873 (2000).

<sup>31</sup> *People v. Mejia*, 341 Phil. 118, 145 (2002).

<sup>32</sup> 434 Phil. 435, 455 (2002).

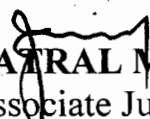


It is better to liberate a guilty man than to unjustly keep in prison one whose guilt has not been proved by the required quantum of evidence. Hence, despite the Court's support of ardent crusaders waging all-out war against felons on the loose, when the People's evidence fails to prove indubitably the accused's authorship of the crime of which they stand accused, it is the Court's duty -- and the accused's right -- to proclaim their innocence. Acquittal, therefore, is in order.

**WHEREFORE**, the appeal is **GRANTED**. The February 9, 2010 Decision of the Court of Appeals in CA-G.R. CR-H.C. No. 03458 is hereby **REVERSED** and **SET ASIDE**. Accused Hermogenes De Guzman is hereby **ACQUITTED** of the crime charged against him and ordered immediately **RELEASED** from custody, unless he is being held for some other lawful cause.

The Director of the Bureau of Corrections is **ORDERED** to forthwith implement this decision and to **INFORM** this Court, within five (5) days from receipt hereof, of the date when De Guzman was actually released from confinement.

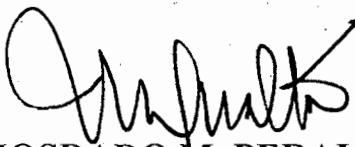
**SO ORDERED.**


  
**JOSE CAÑAL MENDOZA**  
Associate Justice


WE CONCUR:

**PRESBITERO J. VELASCO, JR.**

Associate Justice  
Chairperson


  
**DIOSDADO M. PERALTA**  
Associate Justice

  
**BIENVENIDO L. REYES**  
Associate Justice

  
**ESTELA M. PERLAS-BERNABE**  
Associate Justice

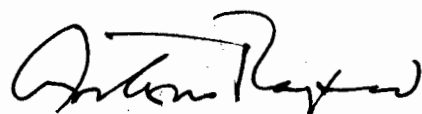
**ATTESTATION**

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

  
**PRESBITERO J. VELASCO, JR.**  
Associate Justice  
Chairperson, Third Division

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

  
**ANTONIO T. CARPIO**  
Senior Associate Justice  
(Per Section 12, R.A. No. 296,  
The Judiciary Act of 1948, as amended)