

## EN BANC

[ G. R. NO. 170470, September 26, 2006 ]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. EDNA MALNGAN Y MAYO, APPELLANT.**

### DECISION

**CHICO-NAZARIO, J.:**

The Case

For review is the *Decision*<sup>[1]</sup> of the Court of Appeals in CA- G.R. CR HC No. 01139 promulgated on 2 September 2005, affirming with modification the *Judgment*<sup>[2]</sup> of the Regional Trial Court (RTC) of Manila, Branch 41, in Criminal Case No. 01-188424 promulgated on 13 October 2003, finding appellant Edna Malngan y Mayo (Edna) guilty beyond reasonable doubt of the crime of "Arson with Multiple Homicide or Arson resulting to the death of six (6) people," and sentencing her to suffer the penalty of death.

The Facts

As summarized<sup>[3]</sup> by the Court of Appeals, the antecedent facts are as follows:

From the personal account of Remigio Bernardo, the Barangay Chairman in the area, as well as the personal account of the pedicab driver named Rolando Gruta, it was at around 4:45 a.m. on January 2, 2001 when Remigio Bernardo and his tanods saw the accused-appellant EDNA, one hired as a housemaid by Roberto Separa, Sr., with her head turning in different directions, hurriedly leaving the house of her employer at No. 172 Moderna Street, Balut, Tondo, Manila. She was seen to have boarded a pedicab which was driven by a person later identified as Rolando Gruta. She was heard by the pedicab driver to have instructed that she be brought to Nipa Street, but upon her arrival there, she changed her mind and asked that she be brought instead to Balasan Street where she finally alighted, after paying for her fare.

Thirty minutes later, at around 5:15 a.m. Barangay Chairman Bernardo's group later discovered that a fire gutted the house of the employer of the housemaid. Barangay Chairman Bernardo and his tanods responded to the fire upon hearing shouts from the residents and thereafter, firemen from the Fire District 1-NCR arrived at the fire scene to contain the fire.

When Barangay Chairman Bernardo returned to the Barangay Hall, he received a report from pedicab driver Rolando Gruta, who was also a tanod, that shortly before the occurrence of the fire, he saw a woman (the housemaid) coming out of the house at No. 172 Moderna Street,

Balut, Tondo, Manila and he received a call from his wife telling him of a woman (the same housemaid) who was acting strangely and suspiciously on Balasan Street. Barangay Chairman Bernardo, Rolando Gruta and the other tanods proceeded to Balasan Street and found the woman who was later identified as the accused-appellant. After Rolando Gruta positively identified the woman as the same person who left No. 172 Moderna Street, Balut, Tondo, Manila, Barangay Chairman Bernardo and his tanods apprehended her and brought her to the Barangay Hall for investigation. At the Barangay Hall, Mercedita Mendoza, neighbor of Roberto Separa, Sr. and whose house was also burned, identified the woman as accused-appellant EDNA who was the housemaid of Roberto Separa, Sr. Upon inspection, a disposable lighter was found inside accused-appellant EDNA's bag. Thereafter, accused-appellant EDNA confessed to Barangay Chairman Bernardo in the presence of multitudes of angry residents outside the Barangay Hall that she set her employer's house on fire because she had not been paid her salary for about a year and that she wanted to go home to her province but her employer told her to just ride a broomstick in going home.

Accused-appellant EDNA was then turned over to arson investigators headed by S[F]04 Danilo Talusan, who brought her to the San Lazaro Fire Station in Sta. Cruz, Manila where she was further investigated and then detained.

When Mercedita Mendoza went to the San Lazaro Fire Station to give her sworn statement, she had the opportunity to ask accused-appellant EDNA at the latter's detention cell why she did the burning of her employer's house and accused-appellant EDNA replied that she set the house on fire because when she asked permission to go home to her province, the wife of her employer Roberto Separa, Sr., named Virginia Separa (sic) shouted at her: *"Sige umuwi ka, pagdating mo maputi ka na. Sumakay ka sa walis, pagdating mo maputi ka na"* (TSN, January 22, 2002, p.6) ("Go ahead, when you arrive your color would be fair already. Ride a broomstick, when you arrive your color would be fair already.") And when Mercedita Mendoza asked accused-appellant EDNA how she burned the house, accused-appellant EDNA told her: *"Naglukot ako ng maraming diyaryo, sinindihan ko ng disposable lighter at hinagis ko sa ibabaw ng lamesa sa loob ng bahay"* (TSN, January 22, 2002, p. 7.) ("I crumpled newspapers, lighted them with a disposable lighter and threw them on top of the table inside the house.")

When interviewed by Carmelita Valdez, a reporter of ABS-CBN Network, accused-appellant EDNA while under detention (sic) was heard by SFO4 (sic) Danilo Talusan as having admitted the crime and even narrated the manner how she accomplished it. SFO4 (sic) Danilo Talusan was able to hear the same confession, this time at his home, while watching the television program "True Crime" hosted by Gus Abelgas also of ABS-CBN Network.

The fire resulted in [the] destruction of the house of Roberto Separa, Sr. and other adjoining houses and the death of Roberto Separa, Sr. and

Virginia Separa together with their four (4) children, namely: Michael, Daphne, Priscilla and Roberto, Jr.

On 9 January 2001, an Information<sup>[4]</sup> was filed before the RTC of Manila, Branch 41, charging accused-appellant with the crime of *Arson with Multiple Homicide*. The case was docketed as Criminal Case No. 01-188424. The accusatory portion of said Information provides:

That on or about January 2, 2001, in the City of Manila, Philippines, the said accused, with intent to cause damage, did then and there willfully, unlawfully, feloniously and deliberately set fire upon the two-storey residential house of ROBERTO SEPARA and family mostly made of wooden materials located at No. 172 Moderna St., Balut, Tondo, this city, by lighting crumpled newspaper with the use of disposable lighter inside said house knowing the same to be an inhabited house and situated in a thickly populated place and as a consequence thereof a conflagration ensued and the said building, together with some seven (7) adjoining residential houses, were razed by fire; that by reason and on the occasion of the said fire, the following, namely,

1. Roberto Separa, Sr., 45 years of age
2. Virginia Separa y Mendoza, 40 years of age
3. Michael Separa, 24 years of age
4. Daphne Separa, 18 years of age
5. Priscilla Separa, 14 years of age
6. Roberto Separa, Jr., 11 years of age

sustained burn injuries which were the direct cause of their death immediately thereafter.<sup>[5]</sup>

When arraigned, accused-appellant with assistance of counsel *de officio*, pleaded<sup>[6]</sup> "Not Guilty" to the crime charged. Thereafter, trial ensued.<sup>[7]</sup>

The prosecution presented five (5) witnesses, namely, SPO4<sup>[8]</sup> Danilo Talusan, Rolando Gruta, Remigio Bernardo, Mercedita Mendoza and Rodolfo Movilla to establish its charge that accused-appellant Edna committed the crime of arson with multiple homicide.

SPO4 Danilo Talusan, arson investigator, testified that he was one of those who responded to the fire that occurred on 2 January 2001 and which started at No. 172 Moderna St., Balut, Tondo, Manila. He stated that the fire killed Roberto Separa, Sr. and all the other members of his family, namely his wife, Virginia, and his children, Michael, Daphne, Priscilla and Roberto, Jr.; the fire also destroyed their abode as well as six neighboring houses. He likewise testified that he twice heard accused-appellant - once while the latter was being interviewed by Carmelita Valdez, a reporter of ABS-CBN, and the other time when it was shown on channel 2 on television during the airing of the television program entitled "True Crime" hosted by Gus Abelgas - confess to having committed the crime charged, to wit:

Pros. Rebagay:

Based on your investigation, was there any occasion when the accused Edna Malngan admitted to the burning of the house of the Separa

Family?

x x x x

Witness:

Yes, sir.

Pros. Rebagay:

When was that?

A: On January 2 she was interviewed by the media, sir. The one who took the coverage was Carmelita Valdez of Channel 2, ABS-CBN. They have a footage that Edna admitted before them, sir.

Q: And where were you when Edna Malngan made that statement or admission to Carmelita Valdez of ABS-CBN?

A: I was at our office, sir.

Q: Was there any other occasion wherein the accused made another confession relative to the admission of the crime?

A: Yes, sir.

Q: When was that?

A: Last Friday, sir. It was shown in True Crime of Gus Abelgas. She was interviewed at the City Jail and she admitted that she was the one who authored the crime, sir.

Pros. Rebagay:

And where were you when that admission to Gus Abelgas was made?

A: I was in the house and I just saw it on tv, sir.

Q: What was that admission that you heard personally, when you were present, when the accused made the confession to Carmelita Valdez?

A: *"Naglukot po siya ng papel, sinidihan niya ng lighter at inilagay niya sa ibabaw ng mesa 'yung mga diyaryo at sinunog niya."*

x x x x

Q: Aside from that statement, was there any other statement made by the accused Edna Malngan?

A: Yes, sir. *"Kaya po niya nagawa 'yon galit po siya sa kanyang amo na si Virginia, hindi siya pinasuweldo at gusto na po niyang umuwi na (sic) ayaw siyang payagan. Nagsalita pa po sa kanya na, "Sumakay ka na lang sa walis. Pagbalik mo dito maputi ka na". (sic) "Yon po ang sinabi ng kanyang amo."*

Atty. Masweng:

That was a statement of an alleged dead person, your Honor.

Court:

*"Sabi ni Valdes, ha?"*

Pros. Rebagay:

*"Sabi ni Edna Malngan kay Carmelita Valdez,"* Your Honor.

Court:

*"Double hearsay na 'yon."*

Pros. Rebagay:

No, Your Honor, the witness was present, Your Honor, when that confession was made by the accused to Carmelita Valdez.<sup>[9]</sup>

Rolando Gruta, the pedicab driver and one of the barangay tanods in the area, testified:

Pros. Rebagay:

Mr. Witness, what is your profession?

A: Sidecar driver, sir.

Q: On January 2, 2001 at around 4:45 in the morning, do you recall where were (sic) you?

A: I was at the corner of Moderna Street, sir.

Pros. Rebagay:

And while you were at the corner of Moderna St., what happened if any, Mr. Witness?

A: I saw Edna coming out from the door of the house of Roberto Separa, sir.

Q: Do you know the number of the house of the Separa Family?

A: 172 Moderna St., Balut, Tondo, Manila, sir.

x x x x

Q: And you said you saw Edna coming out from the house of the Separa Family. How far is that house from the place where you were waiting at the corner of Moderna and Paulino Streets?

A: About three meters from Moderna and Paulino Streets where my pedicab was placed. My distance was about three meters, sir.

x x x x

Q: And how did you know that the house where Edna came out is that of