

SECOND DIVISION

[G.R. No. 135936, September 19, 2001]

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
GUALBERTO MIRADOR ALIAS "GOLING", JOHN DOE (AT LARGE),
PETER DOE (AT LARGE), ACCUSED. GUALBERTO MIRADOR,
ALIAS "GOLING", ACCUSED-APPELLANT.**

D E C I S I O N

MENDOZA, J.:

This is an appeal from the decision,^[1] dated May 20, 1998, of the Regional Trial Court, Branch 54, Alaminos, Pangasinan, finding accused-appellant Gualberto Mirador guilty of murder and sentencing him to suffer the penalty of *reclusion perpetua* and to pay the heirs of the victim, Rodrigo Nacario, the sum of P50,000.00 as indemnity and P14,500.00 as actual damages.

The information against accused-appellant, John Doe, and Peter Doe alleged —

That on or about 12:30 o'clock in the morning of May 19, 1995 at Sitio Sapatara Brgy. Viga, municipality of Agno, province of Pangasinan, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually helping one another, with intent to kill, with treachery and evident premeditation, did then and there wilfully, unlawfully and feloniously hack RODRIGO NACARIO several times inflicting upon him mortal hack wounds which caused his instantaneous death as a consequence, to the damage and prejudice of his heirs.^[2]

Accused-appellant pleaded not guilty to the crime charged, whereupon trial ensued.

The prosecution presented four witnesses, including the wife of the victim, Carmelita Nacario.

Carmelita testified that on May 19, 1995, she, her husband Rodrigo Nacario, and their son, who were sleeping in their house at Sitio Sapatara, Barangay Viga, Agno, Pangasinan, were awakened by the barking of dogs at about 12:30 in the morning. Rodrigo got up to see what it was. Returning to her side, he told her that he saw three persons crawling toward their house. He told Carmelita to ask for help from his parents, whose house was about 50 meters away. However, Rodrigo changed his mind and decided to ask for help himself. On his way to his parents' house, he was seized by three persons who held him and hit him. Carmelita, who was following, witnessed the attack as she was only seven meters away from him and the place was illuminated by the moon. She heard the victim remark: "*Sika gayam, pare*

Goling." ("So it is you, *pare Goling.*")

Carmelita said she shouted for help as her husband was dragged by accused-appellant and his two companions and struck several times with a bolo by accused-appellant. Carmelita said that accused-appellant and his companions fled after seriously wounding her husband. She said one of the assailants tried to come back, but she repelled him by hitting him with a brick.

After the assailants had gone, Carmelita ran to her husband and took him on her lap. When asked about the identity of the person who had seriously wounded him, the victim allegedly whispered it was Gualberto Mirador. Not long after, Rodrigo died. His lifeless body was taken to their house. Later, Barangay Kagawad Cesar Novero came and said he would report the incident to the police headquarters in Agno.^[3]

Carmelita Nacario submitted a receipt for P10,000.00 issued by Funeraria Medina for funeral services of the victim (Exh. F), another receipt for P500.00 issued by the Diocese of Alaminos as fee for the burial (Exh. G), and a handwritten list of the expenses allegedly incurred for the victim's wake and funeral expenses (Exh. E).^[4]

Leopoldo Nacario, the father of the victim, testified that at around 12:30 in the morning of May 19, 1995, he heard his daughter-in-law shouting for help. He immediately responded and saw Carmelita embracing the victim. When he inquired what had happened, Carmelita told him that accused-appellant Gualberto Mirador had hacked the victim. Barangay Kagawad Cesar Novero subsequently arrived and advised them not to move the body of the victim until the police authorities had arrived. He said Carmelita told SPO4 Arturo Navalta that Gualberto Mirador had hacked her husband.^[5]

SPO4 Arturo S. Navalta, of the Agno Police Station in Pangasinan, testified that at around 3:30 in the morning of May 19, 1995, he received report of the killing of Rodrigo Nacario. He and three other policemen went to the crime scene at around past 7 o'clock in the morning and saw the body of the victim. The victim sustained several hack wounds on his body. They recovered a bolo with bloodstains and two rubber sandals of different colors and sizes. However, the owners of the bolo and the rubber slippers were never identified.^[6]

Dr. Rodrigo Casiano, Jr., medical health officer of Agno, Pangasinan, conducted an autopsy on the victim on May 19, 1995, at around 8 o'clock in the morning, and submitted a medico-legal report (Exh. I) on the results thereof. He opined that the approximate time of death was around 1 o'clock in the morning. According to him, 13 wounds were inflicted on the different parts of the victim's body, to wit:

1. Lacerated wound 1 1/2 inches long, right frontal area of the head.
2. Incised wound 1 1/2 inches long, 3/4 inch deep along the upper right temporal area.
3. Incised wound 4 1/2 inches long, 1/4 inch deep along the right parietal area, cutting the ear horizontally.
4. Incised wound 3 1/4 inches long and 1/2 inch deep just below the right ear.

5. Incised wound 2 1/2 inches long, 1/2 inch deep along the right maxillary area.
6. Incised wound, gaping, 7 1/2 inches long along the right upper quadrant of the abdomen, extending up to the lateral side of the body and back.
7. Incised wound, gaping around 5 inches long, 1/2 inch width, 1 inch deep along the left temporal area of the head with open fracture.
8. Incised wound 2 1/2 inches long, 1 inch deep along the right submandibular area of the face.
9. Amputated left thumb and amputated left second finger.
10. Incised wound 2 1/2 inches long, 1/2 inch deep along the left parietal area of the head.
11. Incised wound 5 inches long 1/2 inch deep along the right upper scapular [e]nd of the back.
12. Incised wound 5 1/2 inches long, 3/4 inch deep along the mid-scapular area, right upper back.
13. Incised wound 2 1/4 inches long, 1/2 inch deep, right hand.^[7]

He further testified that wound nos. 2, 3, 4, 6, 7, and 8 were fatal and that wound nos. 9 and 10 were defensive wounds sustained while the victim was defending himself. Based on his findings, Dr. Casiano concluded that the victim was facing the assailant when the wounds were inflicted. The cause of death of the victim was hemorrhage.^[8]

The defense presented six witnesses,^[9] including accused-appellant, who interposed the defense of alibi.

Accused-appellant claimed that, at the time of the attack, he was making salt inside his warehouse located at Sitio Banog, Barangay Cato in the Municipality of Infanta, Pangasinan. He claimed he started work on May 18, 1995 at 8 o'clock in the morning. With him in the warehouse were Norbie Carbon and Sofronio Mirador. He had dinner around 7 o'clock in the evening and then went back to work until about 5 o'clock in the morning of the following day, May 19, 1995. He went to sleep that day at around 5:15 in the morning.^[10]

Accused-appellant's testimony was corroborated by two other saltmakers, namely, Norbie Carbon and Sofronio Mirador. Norbie Carbon was employed as saltmaker by Pedro Mirador, the brother of accused-appellant. Sofronio Mirador, the other saltmaker, is also a brother of accused-appellant. According to their testimonies, they made salt from 8 o'clock in the morning of May 18, 1995 until about 5 o'clock the following morning. During that time, accused-appellant was with them in the compound and never left.^[11]

Juan Birog, another witness for the defense, testified that he owned an agricultural land which accused-appellant tenanted for 17 years. He said accused-appellant surrendered the land, which is located in Alanipo, Burgos, Pangasinan, in 1994 and the victim Rodrigo Nacario became the new tenant. Juan Birog claimed that when he inquired from Carmelita whether she recognized her husband's assailant, she allegedly answered "No."^[12]

Rodrigo Cave was the last witness for the defense. He testified that accused-appellant started working on his land in Atel-batang, Infanta, Pangasinan as tenant in November 1992. He eventually sold the land to accused-appellant.^[13]

On May 20, 1998, the trial court rendered its decision, the dispositive portion of which reads:

WHEREFORE, in consideration of the foregoing and in the light of the evidence presented, the accused is declared GUILTY beyond reasonable doubt of the crime of Murder penalized under R.A. 7659 and he is sentenced to suffer a single indivisible penalty of Reclusion Perpetua.

The accused is ordered to indemnify the heirs of the deceased the sum of FIFTY THOUSAND PESOS (P50,000.00) plus actual damages proved in the sum of P14,500.00 consisting of the funeral expenses to include food and religious services.^[14]

Hence, this appeal. Accused-appellant contends:

- I. THAT THE HONORABLE TRIAL COURT GRAVELY ERRED IN GIVING RELIANCE AND TOO MUCH WEIGHT TO THE INCREDIBLE TESTIMONY OF CARMELITA NACARIO, WIFE OF THE DECEASED RODRIGO NACARIO.
- II. THAT THE HONORABLE TRIAL COURT LIKEWISE GRAVELY ERRED IN GIVING CREDENCE TO THE INCREDIBLE AND IRRECONCILABLE INCONSISTENT TESTIMONY OF LEOPOLDO NACARIO, FATHER OF THE DECEASED AND FATHER-IN-LAW OF THE ALLEGED EYEWITNESS CARMELITA NACARIO.
- III. THAT THE TRIAL COURT LIKEWISE GRAVELY ERRED IN HOLDING THAT THE DEMEANOR OF THE ALLEGED EYEWITNESS IS BEYOND ANY CLOUD OF DOUBT.
- IV. THAT THE HONORABLE TRIAL COURT FURTHER GRAVELY ERRED IN HOLDING THAT WITNESS CARMELITA NACARIO WAS UNDER THE STATE OF SHOCK FROM MAY 19, 1995 TO JUNE 13, 1995.
- V. THAT THE HONORABLE TRIAL COURT ALSO ERRED GRAVELY IN RELYING TOO MUCH ON THE WEAKNESS OF THE DEFENSE EVIDENCE, IT BEING MERELY AN ALIBI, AS ITS BASIS OF CONVICTION.
- VI. THAT THE TRIAL COURT ALSO ERRED IN NOT HOLDING THAT THE ACCUSED'S MOTIVE IN THE ALLEGED KILLING WAS WANTING.
- VII. THAT THE LOWER COURT FINALLY ERRED IN FINDING THE ACCUSED GUILTY AS CHARGED OF MURDER WHEN IN FACT THE

PROSECUTION FAILED TO PROVE HIS GUILT BEYOND REASONABLE
DOUBT.^[15]

After reviewing the records of this case, we find no basis for reversing the trial court's decision.

First. Accused-appellant questions the credibility of prosecution eyewitness Carmelita Nacario. He contends that Carmelita did not really know the identity of her husband's assailant as shown by the fact that she admitted she asked the victim who had attacked him.^[16]

This contention has no merit. Carmelita explained that she asked the victim who had hacked him to confirm her perception that accused-appellant was the assailant.^[17] Carmelita's relationship to the victim of the crime makes her testimony more credible as it would be unnatural for her to accuse somebody other than the real culprit.^[18]

Indeed, Carmelita was only seven meters away from her husband when the latter was attacked. The place where the crime was committed was illuminated by the moon.^[19] According to the Philippine Atmospheric Geophysical and Astronomical Services Administration (PAGASA), the moon at 12:30 a.m. of May 19, 1995 was 74% illuminated. This condition enabled Carmelita to recognize accused-appellant. Illumination provided by the moon and even by the stars is sufficient to identify the perpetrators of crimes.^[20] Indeed, she knew accused-appellant, who was their *kumpadre*.^[21] She heard the victim say, "*Sika gayam, pare Goling*," ("So it is you, *pare Goling*") as the victim recognized accused-appellant.^[22]

Accused-appellant makes much of the fact that it was only on June 13, 1995 that Carmelita Nacario executed an affidavit identifying accused-appellant as the person who killed her husband on May 19, 1995. As found by the trial court, however, the delay was satisfactorily explained by the fact that Carmelita was in shock after witnessing the gruesome killing of her husband.^[23] It has been held that delay in filing a criminal complaint does not impair the credibility of a witness if is satisfactorily explained.^[24] Well-entrenched is the rule that the trial court's assessment of the credibility of the witnesses is entitled to great respect in the absence of any indication that it has overlooked, misapprehended, or misapplied certain facts or circumstances of weight or substance, which if properly considered, would alter the result of the case.^[25] In this case, the trial court found the testimony of eyewitness Carmelita Nacario to be straightforward and persuasive insofar as identifying accused-appellant as the person who killed her husband.^[26]

Second. Accused-appellant alleges that the trial court erred in giving credence to the testimony of Leopoldo Nacario, whom he claims was biased. He says that contrary to Leopoldo's testimony, Carmelita never told Leopoldo who her husband's assailant was on the day of the incident.

The records, however, show that Carmelita testified that she could not remember if she told Leopoldo, when the latter arrived at the crime scene, that accused-