

## THIRD DIVISION

**[ G.R. No. 140512, September 13, 2001 ]**

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. PETER PELERAS AND MELITO CALZA, ACCUSED-APPELLANTS.**

### DECISION

**GONZAGA-REYES, J.:**

Peter Peleras and Melito Calza were charged with MURDER for the death of Nicasio Araos in an Information<sup>[1]</sup> which reads:

"That on or about September 1, 1996, in the afternoon at Brgy. Catuday, municipality of Bolinao, province of Pangasinan, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually helping each other, with intent to kill, with treachery and evident premeditation and taking advantage of superior strength, did then and there wilfully, unlawfully and feloniously attack, club and hack Nicasio Araos with a piece of wood and a bolo, inflicting upon him the following:

-Compound fracture of the left temporo frontal bone, left maxillary bone and adjoining structures with displacement of the face to the right.

-Incised wound about 6 x 1½ inches located at the right upper part of anterior chest perpendicular to the right clavicle.

-Incised wound about 2 inch x 1 inch located at the right shoulder

which caused his untimely death as a consequence, to the damage and prejudice of the heirs of Nicasio Araos.

CONTRARY to Art. 248 of the Revised Penal Code.

Alaminos Pangasinan, February 6, 1997."

Upon their arraignment on March 13, 1997, both accused, duly assisted by counsel, pleaded not guilty to the crime charged.<sup>[2]</sup>

The prosecution's evidence shows that at around six o'clock in the evening of August 31, 1996, witness Exequel Robanillo was having a drinking session with Elmer Conde, together with the two accused, Peter Peleras and Melito Calza, at the latter's house located at Brgy. Catuday, Bolinao, Pangasinan.<sup>[3]</sup> While they were drinking gin, accused Melito Calza uttered that his blood boils everytime he would see their

overseer and paymaster, Nicasio Araos, and that he wanted to kill the old man (referring to Araos).<sup>[4]</sup> It appears that Calza was angered when his men were removed from the farm owned by Jose Tan and he was replaced by Nicasio Araos as caretaker of the farm in August 1996.<sup>[5]</sup> The group finished drinking at around 9:00 in the evening.

On September 1, 1996, at around seven o'clock in the morning, Xandy Araos together with his father, Nicasio Araos, left their house at Dagupan City to buy a goat at Brgy. Catuday, Bolinao, Pangasinan.<sup>[6]</sup> Both went to the house of barangay captain Jess Ramirez, but they failed to buy a goat; thus, Nicasio Araos told his son Xandy that the former would proceed to his workplace in the farm and Xandy would just wait thereat. Xandy then proceeded to Barangay Paraging after which he went to the farm and waited for his father who failed to come back. At 9:30 p.m., Xandy went to the barangay captain and reported that his father was missing.<sup>[7]</sup> Xandy then went home to Dagupan to inform his mother.

On the same day, September 1, 1996, at around 10 o'clock in the morning, witness Marcelo Gonzaga was invited by accused Peleras to drink gin with him together with accused Melito Calza at the latter's house where both accused lived.<sup>[8]</sup> While they were drinking, Gonzaga saw the vehicle of an old man whom he did not know (whom he later learned to be Nicasio Araos) pass by.<sup>[9]</sup> At around two or three o'clock in the afternoon, accused Peleras and Calza invited Gonzaga to the farm where both accused worked, which was just half a kilometer away from the house of accused Calza.<sup>[10]</sup> Upon reaching the farm, Gonzaga saw an old man with gray hair (Araos) standing near a small nipa hut.<sup>[11]</sup> When accused Peleras saw Araos, he (Peleras) covered his face with a face towel and pulled out a piece of wood about one (1) meter long from a wooden fence and went near Araos.<sup>[12]</sup> Suddenly, Peleras, clubbed Araos with the piece of wood on the latter's lower back portion. Araos then ran toward the north with accused Peleras chasing him, but the latter was not able to overtake him. Araos was then met by accused Melito Calza.<sup>[13]</sup> Araos retreated and picked up a piece of wood, struck back at Peleras hitting the latter on the head. Araos tried to flee but he fell down, whereupon accused Peleras clubbed him with a piece of wood while Calza hacked him with a bolo. Witness Gonzaga, who was just standing about thirty (30) meters away from Araos, turned around because he was afraid and left hurriedly.

Dr. Juan Celeste, Municipal Health Officer of Bolinao, Pangasinan, conducted the autopsy on the cadaver of Nicasio Araos with the following findings: (1) body in an advanced state of decomposition; (2) Compound fracture of the left temporo frontal bone, left maxillary bone and adjoining structures with displacement of the face to the right; (3) Incised wound about 6x1½ inches located at the right upper part of anterior chest perpendicular to the right clavicle; (4) Incised wound about 2 inc. x 1 inch located at the right shoulder. He testified that injury number 2 was fatal and caused by a blunt instrument such as a piece of wood while injuries numbers 3 and 4 were caused by a sharp bladed instrument such as a bolo.<sup>[14]</sup>

Accused Melito Calza interposed the defense of alibi. He testified that on September 1, 1996, at around 9 o'clock in the morning, he, together with his wife and three (3) stepchildren, went to the land owned by Mr. Joe Tan to cut trees to be made into charcoal. They worked until 3:00 p.m., after which, they all went to his (accused

Calza's) nearby farm where they constructed a fence, finished working at 5:00 p.m. and then went home.<sup>[15]</sup> Calza's alibi was corroborated by his wife, Delia Calza, stepson Geodel Conde, step daughter Maritess Conde and nephew Edmund Peleras.

For his defense, accused Peter Peleras denied having committed the crime and pointed to witness Marcelo Gonzaga as the assailant of Nicasio Araos. He testified that on September 1, 1996, after his co-accused Calza and his wife left at around 8:00 a.m. to go to the ricefield, Marcelo Gonzaga came to his house with a bottle of gin and invited him for a drink.<sup>[16]</sup> While they were drinking, victim Nicasio Araos and Elmer Conde arrived riding in a jeep. When Gonzaga saw Araos, the former told Peleras that the old man (Araos) embarrassed him when he did not let him ride in his jeep saying that his jeep was not a passenger jeep.<sup>[17]</sup> After Araos and Conde left, Peleras was asked by Gonzaga to accompany the latter to Araos as Gonzaga wanted to talk to him. Peleras acceded and led Gonzaga to the farm where Araos worked. Gonzaga then picked up a piece of wood and immediately clubbed Araos, who was standing near the nipa hut, and who struck back at Gonzaga with a piece of wood.<sup>[18]</sup> While the two were fighting, he (Peleras) tried to pacify them but he was hit by Araos on the left portion of his head.<sup>[19]</sup> Gonzaga continued to club Araos until the latter fell down. Then Gonzaga and Peleras proceeded to the former's house where Gonzaga treated Peleras' wound. They took their lunch together and after a while Peleras went home to accused Calza's house at around 2:30 p.m.<sup>[20]</sup> and got one hundred pesos from accused Calza, and then returned to Gonzaga's house where he was given an additional sum of one hundred sixty pesos for his fare to Isabela.

On August 27, 1999, the Regional Trial Court, First Judicial Region, Special Court, Branch 54, Alaminos Pangasinan, rendered its decision<sup>[21]</sup> finding accused Peter Peleras and Melito Calza guilty of Murder, sentencing them to suffer the penalty of reclusion perpetua, and ordering the accused to pay jointly and severally the sum of TWO HUNDRED FIFTY THOUSAND PESOS (P250,000.00) for moral damages and another sum of SEVENTY FIVE THOUSAND NINE HUNDRED SEVENTY THREE and SIXTY FIVE CENTAVOS (P75,973.65) as actual damages.

The trial court found the denial and alibi interposed by accused Peter Peleras and Melito Calza respectively to be weak, and cannot stand against the strong and positive identification of prosecution witness Marcelo Gonzaga who testified on their presence at the crime scene. The court observed that accused Melito Calza failed to prove the impossibility for him to be at the crime scene considering that the distance between the forest, where they were allegedly cutting trees, and the hut where the crime was committed could be negotiated by a fifteen (15) to twenty (20) minutes walk. It also found that the accusation of accused Calza that witness Gonzaga was his "karibal" in the courtship of Delia Calza did not establish a sufficient ill motive on the part of Gonzaga to testify against him. As to accused Peleras' submission that it was not he who clubbed victim Araos but witness Gonzaga whom he allegedly accompanied to the farm, the court noted that the testimony of Peleras was unreliable when compared to Gonzaga's testimony which was very natural, convincing and credible. The trial court concluded that accused Peleras testimony was unbelievable considering that after the incident happened on September 1, 1996, he was nowhere to be found as he fled to Isabela. The court found the existence of conspiracy in the commission of the crime. It also found that

treachery qualified the killing to murder since the attack made by Peleras against Araos was so sudden and unexpected and the victim was not in a position to offer an effective defense, i.e. the victim who was standing near the hut did not know of an impending attack on his person; when Araos ran toward the north, he was met by accused Calza and when Araos ran downhill and fell, he was clubbed by Peleras and hacked by Calza to death.

Hence, this appeal.

Accused-appellants allege that the trial court erred in giving full weight and credence to the testimonies of prosecution witnesses Marcelo Gonzaga and Exequel Robanillo and in totally disregarding their defense of alibi and denial.

Appellants contend that their conviction was based not on the strength of the prosecution's evidence but on the weakness of the defense; that the great portion of the appealed decision dwelt mainly on the rationalization of the trial court in disregarding the evidence for the defense without stating why it gave more credence to the testimonies of the prosecution witnesses particularly Marcelo Gonzaga and Exequel Robanillo.

It bears emphasis that where the issue is one of credibility of witnesses, the appellate court will generally not disturb the findings of the trial court unless some facts and circumstances may have been overlooked that may otherwise affect the result of the case.<sup>[22]</sup> For it is the peculiar province of the trial court to determine the credibility of the witness because of its superior advantage in observing the conduct and demeanor of the witness while testifying.<sup>[23]</sup>

Prosecution witness Gonzaga positively identified accused-appellants Peter Peleras and Melito Calza as the killers of Nicasio Araos. We find no cogent reason to set aside the trial court's evaluation of the testimony of Gonzaga as worthy of credence, as it was supported by the records. His testimony in the direct examination is as follows:<sup>[24]</sup>

"PROS. RABINA:

Q: Now, when you arrived at the place wherein the two accused invited you and that there was a man there, where is that person whom you saw when you arrived at that place was at the time?

A: He was near south of the hut, sir.

Q: By the way, how big is that nipa hut wherein you saw that old man with white hair?

A: Very small hut, sir.

Q: By the way, how far is the old man from that nipa hut when you saw him? How many meters, to be exact, was he away from that nipa hut?

A: (Witness pointing to a place inside the court-room).

PROS. RABINA:

About four meters away, your honor.

COURT:

Four meters?

PROS. RABINA:

Yes.

Q: And what was the old man doing when you saw him at that distance from the nipa hut?

A: He was standing, sir.

Q: Immediately after that, what happened, if any?

A: Peter Peleras went near the old man, sir, and he covered his face.

Q: And what did Peter Peleras use in covering his face?

A: A towel, sir.

Q: And what else did Peter Peleras do, if any, before he went near to the victim Nicasio Araos?

A: He pulled a piece of wood, sir.

Q: And from where did Peter Peleras pull that piece of wood?

A: From the fence of the plant, sir.

Q: And can you tell the Honorable Court how big is that piece of wood which Peter Peleras pulled before going to the place where that old man was standing?

COURT:

Witness demonstrating the diameter at one and one-half inches.

ATTY. CARIÑO:

We agree, your Honor.

PROS. RABINA:

Q: And how long was that piece of wood that Peter Peleras pulled from, that was pulled by him?

A: (Witness demonstrating the length of the wood).

COURT:

One meter, more or less.

PROS. RABINA:

One meter, more or less, yes.

Q: And do you know what Peter Peleras did with that piece of wood which he pulled and then, went near that old man?

A: He used that in clubbing the old man, sir.

Q: And do you know what part of the body of the old man was hit when Peter Peleras clubbed him with that piece of wood?

A: (Witness demonstrating and pointed to the lower portion of his back).

Q: And how many times did Peter Peleras, club the lower portion of the nape of that old man?

A: He clubbed once and then, after that, the old man ran towards the north, sir.

Q: And what did Peter Peleras do after Araos ran towards the north?

A: He chased him, sir.

Q: And was Peter Peleras able to overtake that old man?

A: When Peter Peleras chased the old man, going north direction, he was not able to overtake him but Melito Calsa met him, sir. Melito Calsa met the old man, that is why the old man returned back, proceeding to the west, going downhill.

Q: And what happened after that, when the old man returned, went downhill and proceeded to the west?

A: The old man also got a piece of wood, sir.

Q: And what did the old man do with that piece of wood he