

FIRST DIVISION

[G. R. No. 134757-58, August 04, 2000]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.,
REYNALDO LANGIT, ACCUSED-APPELLANT.**

DECISION

KAPUNAN, J.:

In instances where separate trials are held for each of the accused, are the findings of the first judge who heard the case and acquitted one or more co-accused, binding on the second judge who presided over the trial of the remaining accused? This is the primary issue sought to be resolved in the present appeal.

On 26 September 1995, an Information docketed as Criminal Case No. CR-9501109-D was filed before the Regional Trial Court of Dagupan City, Branch 41 charging accused-appellant Reynaldo Langit with the crime of Illegal Possession of Firearm and Ammunition,^[1] committed as follows:

That on or about July 23, 1995 at [B]arangay Lekep, [M]unicipality of San Fabian, [P]rovince of Pangasinan, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, did, then and there willfully, unlawfully and feloniously have in his possession, control and custody one (1) cal. .38 handgun w/out first securing the necessary permit/license to possess the same, which firearm was used in shooting to death Abelardo Velasquez.

Contrary to P.D. 1866 as amended.^[2]

Thereafter, on 2 October 1995, an Information for murder arising from the same incident that occurred on 23 July 1995 was filed against the same accused-appellant Reynaldo Langit, Diong Docusin and Patricio Clauna, also before the same Branch 41, docketed as Criminal Case No. CR-95-01115-D, to wit:

That on or about July 23, 1995 in the morning at [B]arangay Lekep, [M]unicipality of San Fabian, [P]rovince of Pangasinan, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, armed with stones and a cal. 38 handgun with intent to kill, treachery, evident premeditation and taking advantage of their superior strength, conspiring, confederating and mutually helping one another, did, then and there willfully, unlawfully and feloniously attack, hold club with stones and shoot Abelardo Velasquez, inflicting the following injuries:

Point of entry of bullet: 0.5 x 0.5 cm occipital area, R. with contusion collar 1 x 1 cm.

No point of exit

0.7 x 0.7 cm. point of entry of bullet, R occipital area of brain

superior imposed on a 2 x 2 cm location subdunal hemorrhage

Foreign body recovered within the brain tissue which caused his instantaneous death, to the damage and prejudice of his heirs.

CONTRARY to ART. 248 of the Revised Penal Code, as amended by R.A. 7659.^[3]

The three accused were not immediately arrested because they were at large. It was on 26 October 1995 that Diong Docusin was arrested at the San Carlos City General Hospital. After arraignment on 7 March 1996, where he pleaded not guilty, and trial, he was acquitted on 29 April 1996, by Judge Victor Llamas, Jr., for failure of the prosecution to establish his guilt beyond reasonable doubt. The dispositive portion of the decision reads:

WHEREFORE, for failure of the prosecution to prove the guilt of the accused beyond reasonable doubt, accused Diong Docusin is hereby acquitted of the crime charged in the information.

In the civil aspect of this case, judgment is hereby rendered ordering said accused to pay the heirs of the deceased an amount of P30,000.00 as compensation for the loss of life of the victim and temperate and moral damages in the amount of P30,000.00, plus attorney's fees in the amount of P20,000.00.

SO ORDERED.^[4]

On 15 May 1996, Patricio Clauna was arrested and, thereafter, arraigned and tried. In a decision, dated 9 August 1966, Judge Llamas also acquitted Patricio Clauna due to the failure of the prosecution to establish his guilt beyond reasonable doubt, the dispositive portion of which states:

WHEREFORE, for failure of the prosecution to prove the guilt of accused Patricio Clauna, he is hereby acquitted.

In the civil aspect of this case, judgment is hereby rendered holding accused liable for his contributory act resulting in the death of the above-named deceased so that he is hereby ordered to indemnify the heirs of said victim in the amount of P30,000.00 as compensation for loss of life; P30,000.00 as moral damages and P20,000.00 as attorney's fees.

SO ORDERED.^[5]

Subsequently, accused-appellant surrendered to Mayor Romulo Magliba of the Municipality of San Fabian, Pangasinan. When arraigned, accused-appellant, assisted by his counsel, pleaded not guilty to both informations and trial proceeded in due course. The cases against him were consolidated having arisen from the same incident and, as such, joint hearings were conducted.

The prosecution presented as its witnesses Prudencio Serote, Gemma Velasquez (the wife of the victim), SPO3 Romeo de Guzman and PO2 Francisco Castillo.

Prudencio Serote testified that in the morning of 23 July 1995, while plying his motorized tricycle along a road in Barangay Lekep, San Fabian, Pangasinan, he saw, from a distance of around 15 meters,^[6] Abelardo Velasquez struggling while being

held in one arm by Diong Docusin and by Patricio Clauna in the other arm.^[7] He then heard Patricio Clauna tell accused-appellant: "Apuram pare" (Hurry up).^[8] Thereupon, accused-appellant came out from the bamboo grooves, pointed his revolver at Velasquez and shot him on the head.^[9] After regaining his composure, Serote proceeded to the house of the victim to inform the latter's wife of what transpired.^[10] They then went to the scene where they saw the victim sprawled on the ground already dead.^[11]

Gemma Velasquez testified that she had known accused for a long time. Prior to the shooting of her husband, there was an incident where she was accosted by accused-appellant along a road. In that incident, accused-appellant embraced her, mashed her breast and pulled up her dress causing it to be torn. She struggled to free herself and was able to run away.^[12] Because of this incident, she filed a complaint for acts of lasciviousness against accused-appellant and, on the basis of which, the corresponding information against him was filed by the Provincial Prosecutor before the Municipal Circuit Trial Court of San Fabian.^[13]

Gemma Velasquez further testified that her husband left her with four children and that due to his death, she could not eat nor sleep and that she felt very sad.^[14] If her sufferings would be quantified, she was entitled to an amount of One Hundred Thousand Pesos (P100,000.00).^[15] For her husband's funeral, she incurred Sixteen Thousand One Hundred and Thirty Pesos (P16,130.00) in expenses.^[16] She further stated that when her husband died, he was only thirty-three (33) years old and that he earned an average of One Hundred Fifty Pesos (P150.00) a day as a carpenter.^[17] She paid her lawyer Fifty Thousand Pesos (P50,000.00), plus an additional Five Hundred Pesos (P500.00) for every hearing.^[18]

PO3 Francisco Castillo testified that he logged Entry No. 27 in the police blotter stating that at around ten o'clock in the morning of 23 July 1995, a radio message was received from Barangay Captain Lalata of Barangay Lekep that Abelardo Velasquez was shot by accused-appellant, Diong Docusin and Patricio Clauna.^[19] He also declared that two entries in the police blotter stated that the wife of accused-appellant, Evangeline Langit, went to the police station and requested to record in the blotter that her husband had voluntarily surrendered to Mayor Romulo Magliba.^[20] The police tried to verify the report but they were unable to do so as they could not locate nor contact Mayor Romulo Magliba.^[21]

SPO3 Romeo de Guzman testified that he is a member of the Philippine National Police assigned with the Firearms and Explosives Division.^[22] His function is to comply with subpoenas *duces tecum* issued by courts with regard to queries regarding gun licenses.^[23] As such, his duty is to verify from the records of their office whether a certain individual has been granted a license with respect to a particular firearm.^[24] In this regard, he identified the certification issued by his immediate superior to the effect that there is no record that accused-appellant is a licensed or registered holder of any type of firearm.^[25]

The prosecution tried to present as its witness Dr. Amelyn U. Ramos, the municipal health officer who performed the autopsy on Abelardo Velasquez and who rendered the corresponding autopsy report. Previously, she testified as a witness for the

prosecution at the trial of Diong Docusin and Patricio Clauna. However, at the trial of accused-appellant, Dr. Ramos begged to be excused because of her delicate pregnancy due to a threatened abortion. Her obstetrician advised her to refrain from leaving their house until such time that she delivered her baby.^[26] Because of this predicament, the prosecution contented itself with presenting her autopsy report in evidence, the existence of which the defense readily admitted. It should be noted at this point that, during the hearing of accused-appellant's application for bail, the prosecution filed with the trial court a manifestation that they were adopting the evidence already presented during the trials of Diong Docusin and Patricio Clauna as part of the prosecution's evidence against accused-appellant.^[27]

The defense presented three witnesses, accused-appellant himself, Antonio Ulanday and Trinidad Serote. Accused-appellant denied having killed Abelardo Velasquez.^[28] He explained that when the incident happened, he was at the house of Antonio Ulanday in Poblacion, San Fabian, helping the latter cement the side of his house.^[29] He stated that the distance between the house of Antonio Ulanday and the place where Abelardo Velasquez was killed is more than two (2) kilometers. He stayed from seven o'clock in the morning until seven o'clock in the evening at the house of Antonio Ulanday and that at no time did he leave the said house.^[30] He averred that a possible reason why he was being implicated in the killing of Abelardo Velasquez was because he had previously filed a case for frustrated murder against the victim.^[31] On cross-examination, accused-appellant admitted that the day after the subject incident, he and his family left San Fabian to go to Alcala, Pangasinan.^[32] He claimed that, at that time, he did not know that the police was looking for him.^[33] Occasionally, he would visit San Fabian and, thereafter, return to Alcala.^[34] During one of his visits to San Fabian in 1997, he learned that he was being made accountable for the death of Abelardo Velasquez but he did nothing about it since he had no knowledge about the said killing.^[35] With regard to his co-accused, he stated that he knew both of them since Diong Docusin is his cousin and Patricio Clauna is the godson of his father.^[36] He denied the assertion of the prosecution that his wife reported to the police that he had voluntarily surrendered to the mayor of San Fabian. He said that he never went to the mayor,^[37] although he admitted that he personally knew him.^[38]

Trinidad Serote declared that on 23 July 1995, she was harvesting rice together with her son, Prudencio Serote.^[39] They went to the rice field at around six-forty in the morning and finished their work at noontime.^[40] She further stated that Prudencio Serote never left the field from the time they went there until the time they finished their work.^[41] The distance of the rice field to the place where the incident happened is about one (1) kilometer. Upon being asked about her relationship with her son, Prudencio Serote, the witness alleged that as of 23 July 1995 he no longer lived with her^[42] due to a misunderstanding between Prudencio Serote and her other son, Loreto Serote, which resulted in the hacking of Loreto by Prudencio.

Antonio Ulanday testified that on 23 July 1995, accused-appellant was at his residence since the latter helped him cement the side of his house.^[43] He stated that accused-appellant went to his house at seven o'clock in the morning and had breakfast there.^[44] Thereafter, at eight o'clock, they proceeded to do their work.^[45] They finished at five o'clock in the afternoon but accused-appellant did not leave yet

since the witness let him have dinner at his house.^[46] In this regard, the witness claimed that accused-appellant never left his house the whole day of 23 July 1995.^[47] He also stated that the distance from his house to the place where the incident happened is two (2) kilometers.^[48]

After trial, the regional trial court, now presided by Judge Erna Falloran Aliposa who succeeded Judge Llamas, rendered its decision, dated 1 April 1998, finding accused-appellant guilty of aggravated illegal possession of firearm and murder. The dispositive portion reads:

PREMISES CONSIDERED, in Criminal Case No. 95-01109-D, the Court finds the accused Reynaldo Langit guilty beyond reasonable doubt of the crime of aggravated illegal possession of firearm punished under Section 1 of P.D. 1866, as amended and hereby sentences said accused to suffer the penalty of Reclusion Perpetua. In Criminal Case No. 95-01115-D, the Court finds the accused Reynaldo Langit guilty beyond reasonable doubt of the crime of Murder, punished under Article 248 of the Revised Penal Code, as amended by R.A. 7659, and hereby sentences him to suffer the penalty of Reclusion Perpetua.

The accused is further ordered to pay the heirs of the victim the amount of P50,000.00, as indemnity for his death, another amount of P50,000.00, as moral damages, and P16,130.00, for funeral expenses.

SO ORDERED.^[49]

Accused-appellant is now before us asserting that the trial court erred in:

- A.CONSIDERING THE SLUG ALLEGEDLY RECOVERED FROM THE BRAIN TISSUE OF THE VICTIM AS EVIDENCE (EXH. "B"), WHEN ITS PROBATIVE VALUE IS SUSPECT AS COMING FROM A POLLUTED SOURCE, WORTHLESS OF CONSIDERATION BY THIS HONORABLE COURT.
- B.GIVING MORE WEIGHT AND CREDENCE TO THE PERJURED TESTIMONY AND SWORN STATEMENT OF PROSECUTION WITNESS PRUDENCIO SEROTE IN CONTRAST WITH THE MORE POSITIVE AND STRAIGHTFORWARD MANNER OF TESTIFYING BY WITNESS TRINIDAD SEROTE.
- C.FAILING TO CONSIDER THE EVIDENCE PRESENTED BY APPELLANT WHICH TENDED TO PROVE THAT THE VICTIM WAS NOT EXACTLY A PEACEFUL INNOCENT PERSON, IN FACT HIS POLICE RECORD TENDED TO SHOW THAT HE WAS A POLICE CHARACTER IN THE COMMUNITY WITH CRIMINAL CASES, AND THAT ANYONE OF HIS VICTIMS IN THOSE CASES MAY HAVE DONE ABELARDO VELASQUEZ IN SWEET REVENGE OTHER THAN APPELLANT.^[50]

We shall first jointly discuss accused-appellant's second and third assignments of error which essentially focused on accused-appellant's argument for his acquittal on the basis of the prior findings of fact and appreciation of the evidence made by Judge Llamas in the cases of Diong Docusin and Patricio Clauna, since the same evidence was allegedly presented by the prosecution before the two judges in the three separate trials for the murder of Abelardo Velasquez. In support of this argument, accused-appellant quotes from the decision of Judge Llamas in the case of Diong Docusin in reference to the testimony of prosecution witness Prudencio Serote, to wit: