

SECOND DIVISION

[G.R. No. 106580, January 20, 1997]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. HENRY VILLANUEVA, ACCUSED-APPELLANT.

D E C I S I O N

ROMERO, J.:

Appellant Henry Villanueva was charged with the crime of Robbery with Homicide together with Robert Manuel (who did not appeal) and Ben Gingco, in an information which reads:

"That on or about the 5th day of August, 1986, in the Municipality of Gapan, Province of Nueva Ecija, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with the intent to gain and intent to kill, conspiring and confederating together and mutually aiding one another, armed with a bladed instrument, did then and there, wilfully, unlawfully and feloniously enter the house of one EMILIO MARCELO, through one of the windows of said house and once inside, by means of force, threat and violence upon person, stabbed said Emilio Marcelo, causing his death, and thereafter took, stole and carried away one television set, one wrist watch (Seiko 5), one ring, with a total value of EIGHTEEN THOUSAND PESOS (P18,000.00), including cash money amounting to ONE HUNDRED TEN PESOS (P110.00), owned by and belonging to said Emilio Marcelo, taken against his will and without his consent, to the damage and prejudice of the heirs of said Emilio Marcelo in an amount that maybe awarded to them under the Civil Code of the Philippines."

Appellant Henry Villanueva, Jr. ("Jun") and his co-accused Robert Manuel who were the only ones apprehended were arraigned on April 7, 1988 and both entered a plea of Not Guilty. The other accused, Ben Gingco, remains at large.

The prosecution's evidence shows that on August 6, 1986 at about 7:00 in the morning, Ricardo Labios' neighbor informed him that a commotion was going on in the house of his (Labios) first cousin Emilio (Miling) Marcelo.^[1] Forthwith, Labios went to the Marcelo house and finding the door closed, used a ladder to gain entry thereto through an open window, whereupon he found the victim, Emilio Marcelo, "bathed in his own blood" and no longer moving.^[2] As he had been in the house several times before, Labios noticed that a refrigerator, a colored T.V. set, a black and white T.V. set and jewelries were missing.

On November 11, 1986, appellant and Robert Manuel were apprehended and

interrogated by the police of Gapan, Nueva Ecija.^[3] Robert Manuel executed a sworn statement admitting his participation in the commission of the crime, declaring:

T Ano naman ang dahilan at hinuli ka ng mga pulis Gapan?

S Ako po ay nakasama sa pagnanakaw at pagkapatay kay Miling Marcelo sa barangay San Lorenzo, Gapan, Nueva Ecija noong ika-5 ng Agosto, 1986.

T Ano naman ang iyong kinalaman o kaalaman mo tungkol sa pagkamatay ni Miling Marcelo?

S Ako po at si Ben Gingco at Jun Villanueva ay nagpunta sa bahay ni Miling Marcelo para magnakaw lang po.

T Noong makaakyat kayo sa bahay at makapasok saan nyo nakita si Miling Marcelo?

S Nakita po namin nakahiga sa loob ng kuwarto at noong kami po ay papasok na ay nagbangon si Miling Marcelo lumabas ng kwarto at sinindihan ang ilaw pagkatapos po ay pumasok na kami ng kuwarto at pinahalughog na po sa akin ni Jun Villanueva ang isang aparador at ng ako ay naghahalughog biglang bumukas ang pinto ng kuwarto at nakita ko na lang na biglang sinaksak ni Jun Villanueva si Miling Marcelo.

T Gaano ka ba kalayo kay Miling Marcelo ng saksakin ni Jun Villanueva?

S Malapit lang po (witness pointing to a corner with a distance of 3 meters more or less).

T Noong makita mong masaksak si Miling Marcelo ano ang iyong ginawa?

S Napatayo na lang po ako pagkat di ko akalain na sasaksakin ni Jun Villanueva si Miling Marcelo pagkat ang usapan namin ay hindi papatayin.

T Ilan beses ba sinaksak ni Jun Villanueva si Miling Marcelo?

S Isang beses po ang nakita ko sapagkat nakakubli ako sa pinto na binuksan na pintuan ng kuwarto po at sila ay napasok sa may salas kaya hindi ko po nakita kung ilang saksak po.

T Pagkatapos na makita mong sinaksak ni Jun Villanueva si Miling Marcelo ano ang ginawa mo ?

S Sumigaw po si Ben Gingco na 'Robert tarana' kaya ang ginawa ko nanaog na ako at sa bintana rin na aking

inakyatan ako nagdaan at pagkatapos po pumunta ako sa may puno ng buko at noong ako po ay bumababa nakita ko si Miling Marcelo na nakadapa sa may salas.

T Bakit ngayon ay nagsasabi ka na kayo nila Jun Villanueva at Ben Ginco ang siyang nagnakaw kay Miling Marcelo?

S Hindi na po ako natatakot pagkat nahuli na po si Jun Villanueva at ang ikinatatakot ko po ay baka kung ano ang gawin niya at mga kasama niya sa pamilya ko at iyon po ang madalas na ipinanakot sa akin ni Jun Villanueva.

Appellant likewise admitted his participation in the commission of the crime in his own sworn statement.^[4]

On June 22, 1992, the trial court rendered a decision, the dispositive portion of which states:

"WHEREFORE, premises considered, the court finds the accused Robert Manuel and Henry Villanueva, Jr. guilty beyond reasonable doubt of the crime of Robbery with Homicide as charged in the information and they are hereby sentenced to suffer life imprisonment with the accessory penalties provided for by law. The said accused are further ordered to pay jointly and severally the heirs of the deceased Emilio Marcelo the sum of Eighteen Thousand One Hundred Ten (P18,110.00) Pesos, the value of the property stolen or taken from the house of the victim; to indemnify the heirs of Emilio Marcelo the sum of Thirty Thousand (P30,000.00) Pesos by way of damages; and to pay the costs of suit.

SO ORDERED."

In arriving at its decision, the trial court relied on the testimonies of the following witnesses: Police Lt. Col. Demetrio de la Cruz, Ricardo Labios, Atty. Noel Santiano, Dr. Felicidad Atacador, Lourdes Labios Mojica and Reynaldo Audar.

Lt. Col. Demetrio de la Cruz testified that he requested the presence of Atty. Noel Santiano on November 11, 1986 because he was going to take the statement of Robert Manuel. He identified the said statement given by Robert Manuel in the presence of his counsel, Atty. Santiano, and verified that Manuel had been advised that he had the constitutional right to remain silent before he was interrogated. De la Cruz also said that they were able to recover the portable T.V. set and the ring in Cauayan, Isabela after appellant Jun Villanueva pointed to the persons to whom he entrusted the items.^[5]

Atty. Santiano testified that on November 11, 1986, he assisted a detained prisoner by the name of Robert Manuel, informing him of his rights under the Constitution and his right to remain silent. He was also present during Manuel's interrogation and heard the questions propounded to him and his answers thereto. After the written statement of Robert Manuel was finished, he read the same and asked Manuel if he could read. When Manuel answered "yes," Atty. Santiano gave him the statement to