

SECOND DIVISION

[G.R. No. 231765, August 24, 2020]

PO1 CARLO B. DELOS SANTOS,^[*] PETITIONER, VS. PEOPLE OF THE PHILIPPINES AND FLORANTON V. ONTOG, RESPONDENTS.

D E C I S I O N

INTING, J.:

Before the Court is a Petition for Review^[1] on *Certiorari* filed under Rule 45 of the Rules of Court assailing the Decision^[2] dated November 2, 2016 and the Resolution^[3] dated May 3, 2017 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 06947 which affirmed with modification the Decision dated March 18, 2014 of Branch 224, Regional Trial Court (RTC), Quezon City in Criminal Case No. Q-08-154512 that found Police Officer I Carlo B. Delos Santos (PO1 Delos Santos), among others, guilty beyond reasonable doubt of the crime of Murder.

The Antecedents

An Information for Murder was filed against PO1 Delos Santos, Salvador C. Galos (Galos), Danilo A. Arevalo (Arevalo), *Barangay* Captain Erlinda Arevalo (Brgy. Capt. Arevalo), Ronaldo "*Bahotog*" Almoete (Almoete), and three John Does as follows:

"That on or about March 7, 2007 at 7:35 o'clock in the evening thereof at Brgy. Baybay Dagat, Municipality of San Fernando, Province of Masbate, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, armed with guns, with intent to kill, evident premeditation, treachery, with superior strength and taking advantage of public position, conspiring, confederating and mutually helping one another, did then and there willfully, unlawfully and feloniously attack, assault and shoot one PIO V. ONTOG, JR., hitting him on different parts of his body which caused his death.

CONTRARY TO LAW."^[4]

Upon arraignment, PO1 Delos Santos pleaded not guilty to the crime as charged.^[5] The venue of the trial was then transferred from Branch 50, RTC, San Jacinto, Masbate to the RTC of Quezon City.

The facts of the case, as found by the CA, are as follows:

On March 7, 2009, at around 7:35 p.m., PO1 Ronald B. Medalla (PO1 Medalla), Pio V. Ontog, Jr. *alias* "Mata" (Pio), and Joseph Oliva (Oliva), a *barangay tanod*, went to the house of Brgy. Capt. Arevalo at *Sitio* Bacolod, *Baybay Dagat*, San Fernando, Masbate to talk about *Kagawad* Rustom Barroga (Kgd. Barroga). Upon approaching the house of Brgy. Capt. Arevalo, they saw accused Galos and Almoete having a

drinking spree with Brgy. Capt. Arevalo and the latter's husband, Danilo Arevalo (Danilo).^[6]

PO1 Medalla and Danilo were having a conversation when they heard Galos shout, "*bakit sino ka ba?*" Galos then pulled his .45 caliber gun and hit PO1 Medalla on his upper left lip with the butt of the gun. Pio tried to pacify the situation and uttered, "*tama na yan, maliit na bagay lang yan.*" PO1 Medalla tried to get a hold of Galos' gun, but Almoete pulled him back. At that point Galos poked his gun at PO1 Medalla, then aimed his gun at Pio, and fired it hitting the latter above his abdomen. Then, more gunshots were fired. Oliva saw Galos continuously fire his gun at Pio, who tried to hide behind a motorcycle. PO1 Medalla then saw Pio holding his chest. They heard Brgy. Capt. Arevalo shout, "*sige, barilin nyo na si 'Mata' (Pio) dahil matapang yan.*"^[7]

Oliva ran away towards the police station to report the incident, but PO1 Delos Santos and Rodolfo Pelones (Pelones), who were both in civilian clothing, prevented him. PO1 Delos Santos poked his M-14 rifle at Oliva and brought him inside a warehouse (*camalig*), owned by one Noli Arevalo (Noli) *alias* "Bullet", brother of Danilo. Pelones, who was also armed with an M-16 rifle, stayed on guard nearby.^[8]

PO1 Delos Santos allowed Oliva to leave the warehouse when two uniformed policemen passed by on their way to the crime scene. Oliva then proceeded to the police station. Since the gate was closed, he went instead to the adjacent house of Tony Uy and reported the incident to Marvie Bravo (Bravo), who was running for mayor against Mayor Helen Bunan (Mayor Bunan), Pio, Kgd. Barroga, and Oliva are leaders/supporters of Bravo, while the Arevalos were the leaders/supporters of Mayor Bunan.^[9]

Afterwards, Oliva returned to the crime scene where he saw PO1 Delos Santos with Pelones. He also saw the live-in partner of Pio, among others. He then assisted in the recovery of the body of Pio. They brought Pio to the hospital where Dr. Roger Lim declared Pio dead on arrival. Meanwhile, PO1 Medalla went to the police station to seek assistance and had the incident entered in the police blotter. He then proceeded to the hospital.^[10]

According to the prosecution's witnesses, the incident was politically motivated. They positively identified PO1 Delos Santos, who was known as Mayor Bunan's security escort. PO1 Medalla admitted that he wanted to fix things between Kgd. Barroga and Danilo as the latter prohibited Bravo's leaders/supporters from using the public road in front of the Arevalos' house.^[11]

On the other hand, the version of the defense, as found by the CA, is as follows:

On the fateful date, Galos was in Danilo's house to collect the payment for the fish he sold to the latter. There, he saw PO1 Medalla, who was with Pio, confront Danilo of the prohibition the latter imposed against Bravo's supporters. Thereafter, Pio tried to pacify the conflict. But PO1 Medalla was in a fury. He poked a gun at Danilo and then at Galos. At that instance, Galo grabbed the barrel of the gun, but PO1 Medalla pulled it causing him to almost fall to the ground face down. When PO1 Medalla stood up, Galos saw that the former's lips were already bleeding. PO1 Medalla then threatened to shoot Galos, but Pio tried to break the quarrel. Thereafter, Galos wrestled for the gun, pulled it upwards, and struggled for its possession from PO1 Medalla. In the process, the gun accidentally fired and hit Pio. Pio then ran away

leaving PO1 Medalla, who appeared stunned and still holding the gun. Danilo shouted at Galos to run away. Thus, Galos pushed aside PO1 Medalla, escaped towards Danilo's house, and heard and felt gunshots aimed towards the concrete behind him. Galos hid inside the house with Elvira Consegra.^[12]

A few minutes later, Galos saw PO3^[13] Roger Alindogan (PO3 Alindogan), who was armed with an armalite. Thereafter, SPO4 Centura arrived. Galos approached SPO4 Centura and the latter told Galos that PO1 Medalla reported him (Galos) as the one who shot Pio. Galos volunteered to go to the police station and there, he saw PO1 Medalla writing in the blotter book.^[14]

For his part, PO1 Delos Santos admitted that he was at the crime scene with his firearm slung on his back. However he denied preventing Oliva from reporting the incident to the police station. He testified that at that time, he was in the police station with five other police officers on duty when they heard a certain Gloria Cantojos shout for help. As a result, he and PO3 Alindogan readied their long issued firearms. The station chief then dispatched a team composed of six police officers to respond to the crime scene.^[15]

On the way to the crime scene, PO3 Alindogan and PO3 Recto made a stop to meet someone in a white t-shirt who PO1 Delos Santos later found out to be PO1 Medalla, a cousin of PO3 Alindogan. They then hurried to pursue Galos. Upon arriving at the crime scene, they cordoned the area; PO3 Alindogan and PO3 Recto, with the assistance of *barangay* officials, went inside the house to recover the injured Pio.^[16]

The other police officers instructed PO1 Delos Santos to secure a vehicle to transport Pio to the hospital. After which, they ordered PO1 Delos Santos to stay at the crime scene and await for the police investigator to conduct the investigation. PO1 Delos Santos recalled that at that time he saw Galos approach SPO4 Centura and heard SPO4 Centura tell Galos that they have been waiting for him for a while since PO1 Medalla pointed to Galos as the suspect. He, likewise, saw Galos and SPO4 Centura leave the area together.^[17]

Ruling of the RTC

In the Decision^[18] dated March 18, 2014, the RTC found PO1 Delos Santos, and his co-accused, guilty beyond reasonable doubt of the crime of Murder. The dispositive portion of the Decision reads:

WHEREFORE, premises considered, the accused, SALVADOR GALOS and PO1 CARLO DELOS SANTOS, are hereby found GUILTY beyond reasonable doubt of the crime of MURDER, defined and penalized under Article 248 of the Revised Penal Code, as amended, and they are hereby sentenced to each suffer the penalty of *RECLUSION PERPETUA* and to pay the heirs of PIO V. ONTOG, JR., the amounts of P50,000.00 as indemnity for his death; P25,000.00 as temperate damages; P50,000.00 exemplary damages; P50,000.00 as moral damages; and P20,000.00 as attorney's fees; and the costs.

SO ORDERED.^[19]

Aggrieved, PO1 Delos Santos appealed his conviction. On the other hand, the case against Galos was dismissed on account of his untimely demise.