

## THIRD DIVISION

[ G.R. No. 215319, October 21, 2015 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
APOLONIO BABOR @ "JULITO", ACCUSED-APPELLANT.**

### DECISION

**VILLARAMA, JR., J.:**

On appeal is the July 4, 2014 Decision<sup>[1]</sup> of the Court of Appeals (CA) in CA-G.R. CEB CR HC No. 01618 convicting accused-appellant Apolonio "Julito" Babor of murder.

We state the antecedents as summarized by the CA<sup>[2]</sup>:

In an Information<sup>[3]</sup> dated 14 April 2005, accused-appellant was charged with Murder, the accusatory portion of which reads as follows:

"That at about 10:00 o'clock in the evening of January 25, 2005 at Sitio M[o]logpolog, Barangay Nalundan, Bindoy, Negros Oriental, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused with intent to kill, evident premeditation and treachery, and then and there willfully, unlawfully and feloniously attack, assault and hack many times one Bartolome Amahit with the use of long bolo "pinuti" with which the accused was then armed and provided, thereby inflicting the following injuries, thus:

1. (+) hacking wound, oblique, 11 cm x 4 cm, muscle deep, proximal 3<sup>rd</sup>, posterolateral aspect, left leg.
2. Abrasion, 1 x 1 cm, medial 3<sup>rd</sup>, posterior aspect, right forearm.
3. (+) hacking wound, 4x2 cm, oblique, right preauricular area.
4. (+) hacking wound, 9x3 cm, oblique penetrating the skull bone, right temporal area.
5. (+) hacking wound, 11 x 7.5 cm, circular, exposing the brain and blood vessels, coronal area.

which injuries caused the instantaneous death of the victim.

To the damage and prejudice of the heirs of the victim

Bartolome Amahit.

CONTRARY TO Article 248 of the Revised Penal Code."

When arraigned on 27 June 2005, accused-appellant, duly assisted by counsel, pleaded "not guilty" to the crime charged. Pre-trial was then set and after the same was concluded, trial on the merits ensued with both parties presenting their respective evidence.

### **Version of the Prosecution**

The prosecution presented Marife Babor and Dr. Leah [Brun]-Salvatierra<sup>[4]</sup> as witnesses.

Marife Babor testified, in substance, that she is the wife of accused-appellant Apolonio "Julito" Babor. On 25 January 2005, she and her husband (accused-appellant) went to her parents' house in Sitio M[o]logpolog, Nalundan, Bindoy, [Negros Oriental]. At about 8:00 o'clock in the evening, accused-appellant asked permission from Marife Babor that he will go to his father's house, to which the latter consented. After the accused-appellant left, Marife went to sleep together with her parents and her six-year-old son. All of them slept in one room. At about 10[:00] o'clock in the evening, Marife was awakened by noise coming from the door. So she lighted a kerosene lamp and it was then that she saw her husband (accused-appellant) bringing a bolo. She approached him but then, the accused-appellant stooped down and hacked her left foot. Immediately thereafter, accused-appellant hacked her father, Bartolome Amahit, who was still asleep[,] hitting his head. Upon being hit, Bartolome squatted and then fell down lying. While Bartolome was lying down, accused-appellant continued hacking him[,] hitting Bartolome's face and arm after which the accused-appellant left the house through the door. Marife knew that it was the accused-appellant who hacked her father and inflicted [a] wound on her because the accused-appellant was her husband and the place was illuminated by the kerosene lamp. Marife and her mother shouted for help but nobody came. As Marife was already wounded and her father already dead, she and her mother proceeded to Bindoy Hospital to have her wounded foot treated.

Dr. Leah [Brun]-Salvatierra, on the other hand, testified on the post-mortem examination she conducted on Bartolome Amahit's body on 26 January 2005. She said that when she conducted the examination, Bartolome Amahit's body was already in the state of rigor mortis. She reduced her findings into writing as follows:

1. (+) hacking wound, oblique, 11 cm x 4 cm, muscle deep, proximal 3<sup>rd</sup>, posterolateral aspect, left leg.
2. Abrasion, 1 x 1 cm, medial 3<sup>rd</sup>, posterior aspect, right forearm.
3. (+) hacking wound, 4 x 2 cm, oblique, right preauricular area.

4. (+) hacking wound, 9 x 3 cm, oblique penetrating the skull bone, right temporal area.
5. (+) hacking wound, 11 x 7.5 cm, circular, exposing the brain and blood vessels, coronal area.

Dr. [Brun-]Salvatierra explained that except wound number 2, which is an abrasion, all the four wounds were caused by a sharp bladed instrument like a bolo, and that wounds numbers (sic) 1, 4 and 5 are fatal. The victim died due to hemorrhagic shock secondary to multiple hacking wounds. During her cross-examination, counsel for the defense asked if it would be possible that wound number 2 may be caused by a struggle and if wounds numbers (sic) 3, 4 and 5 may be caused while the victim was standing and facing the assailant. Dr. [Brun-]Salvatierra answered in the affirmative.

### **Version of the Defense**

Accused-appellant was presented as the lone witness for the defense. He testified that his name is Julito Babor and that the prosecution gave the wrong name (Apolonio) in filing the instant case. However, since accused-appellant admitted during the pre-trial his identity as Apolonio Babor, the Court allowed the prosecution to amend the information to reflect the other name of the [accused-appellant] also known as Julito.

Accused-appellant Apolonio a.k.a. "Julito" Babor denied killing his father-in-law and testified as to what happened on the night of 25 January 2005. According to him, he and his wife, Marife, went to the house of his parents-in-law to spend the night there as the following day they will go to Abaca to sell a carabao. At about 10:00 o'clock in the evening while they were sleeping, he woke up because somebody was trying to open the door. With that, he went near the door but then he was hacked. Upon being hit, and without waking up his wife and parents-in-law, he jumped out of the window. While he was running, somebody stoned him twice hitting his head and buttocks but he did not shout for help because he was already injured. Because it was very dark, he went inside the sugarcane field and hid until about 6:00 o'clock in the morning that he came out of the field, (sic) While walking, he met one of his uncles, who assisted him to go to Cabcanan and from there he was brought to the hospital for treatment. At the hospital, his father visited him but he was not informed of what befell his father-in-law until he was discharged and his father brought him to jail. In jail, he was informed by the police officers that his father-in-law was killed and he was the suspect.

### **The Ruling of the RTC**

On 22 February 2013, the trial court rendered a decision<sup>[5]</sup> convicting the accused-appellant of the crime of murder. The trial court gave weight to the testimony of Marife that it was her husband (accused-appellant) who killed her father and that the same was qualified by treachery since the victim (Bartolome Amahit) was sleeping when he was hacked by the accused-appellant. The Court noted that the accused-appellant's jealousy

and ire over his father-in-law might have prompted him to commit the crime. More importantly, the [c]ourt underscored that Marife's testimony deserves consideration since she has no motive to falsely testify against her husband whom she positively identified. On the other hand, the trial court finds (sic) the accused-appellant's defense of denial as flimsy saying that if it was true that he was hacked inside the house of his parents-in-law, he could have shouted for help and not just jumped out of the window and ran inside the sugarcane field. It also finds (sic) the accused-appellant's account of the incident including how he was injured as hazy. The trial court then reminded that denial, like alibi, if not substantiated by clear and convincing evidence, is negative and self-serving evidence bearing no weight in law.

The Regional Trial Court (RTC) ruled:

WHEREFORE, premises considered, accused APOLONIO A.K.A. "JULITO" BABOR is hereby found GUILTY beyond reasonable doubt of the crime of Murder and is hereby sentenced to *Reclusion Perpetua* and to indemnify the heirs of the victim the amount of P50,000.00 for the loss of the life of Bartolome Amahit and P100,000.00 as moral damages without subsidiary imprisonment in case of insolvency.

SO ORDERED.<sup>[6]</sup>

Accused-appellant appealed the RTC Decision. The CA affirmed the RTC ruling that the testimony of accused-appellant's wife was sufficient to establish the crime of murder. The CA rejected the argument of accused-appellant that the medical findings indicate that the victim Bartolome Amahit (Bartolome) was stabbed while he was standing, contrary to Marife Babor's (Marife) narration that the victim was hacked while sleeping. The CA pointed out that Dr. Brun-Salvatierra only alluded to the possibility of the victim being hacked while standing. The CA likewise disregarded the contention of accused-appellant that his guilt was not proved because his motive was not established. The CA held that motive is not an element of murder. The *fallo* of the CA Decision reads:

**WHEREFORE**, premises considered, the instant appeal is DENIED. The Decision dated 22 February 2013 of the Regional Trial Court, Branch 45, Bais City, finding accused-appellant Apolonio Babory Balasabas a.k.a. "Julito Babor" guilty beyond reasonable doubt of Murder and sentencing him to suffer the penalty of *reclusion perpetua*, is hereby AFFIRMED with MODIFICATION in that in addition to the civil liability of P50,000.00 and moral damages of P100,000.00, the accused-appellant is hereby ordered to pay the heirs of the victim exemplary damages in the amount of P30,000.00, all of which awards shall bear interest of 6% from the finality of this decision.

**SO ORDERED.**<sup>[7]</sup>

Hence, this appeal.

The issue to be resolved is whether the guilt of accused-appellant was proven beyond reasonable doubt.