

FIRST DIVISION

[G.R. No. 182522, March 07, 2012]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. NOEL
T. ADALLOM, ACCUSED-APPELLANT.**

D E C I S I O N

LEONARDO-DE CASTRO, J.:

This is a review on appeal of the Decision^[1] dated July 31, 2007 of the Court of Appeals in CA-G.R. CR.-H.C. No. 00365, which affirmed *in toto* the Decision^[2] dated December 15, 2003 by the Regional Trial Court (RTC), Branch 76, Quezon City, in Criminal Case Nos. Q-01-105875 and Q-01-105877, finding accused-appellant Noel T. Adallom guilty beyond reasonable doubt of the crimes of murder and attempted murder.

Accused-appellant was originally charged with two (2) counts of murder and one (1) count of attempted murder under the following Informations:

Criminal Case No. Q-01-105875

That on or about the 28th day of October 2001, in Quezon City, Philippines, the above-named accused, conspiring, confederating with two other persons whose true names and other personal circumstances have not as yet been ascertained and mutually helping one another, did then and there willfully, unlawfully and feloniously, with intent to kill, qualified with evident premeditation and treachery, taking advantage of superior strength, assault, attack and employ personal violence upon the person of DANILO VILLAREAL y ESPIRAS by then and there shooting him with the use of a firearm hitting him on the different parts of his body, thereby inflicting upon him serious and mortal gunshot wounds which were the direct and immediate cause of his untimely death, to the damage and prejudice of the heirs of said Danilo Villareal y Espiras.^[3]

Criminal Case No. Q-01-105876

That on or about the 28th day of October 2001, in Quezon City, Philippines, the above-named accused, conspiring, confederating with two other persons whose true names and other personal circumstances have not as yet been ascertained and mutually helping one another, did then and there willfully, unlawfully and feloniously, with intent to kill, qualified with evident premeditation and treachery, taking advantage of superior strength, assault, attack and employ personal violence upon the person of ROMMEL HINA by then and there shooting him with the use of a firearm hitting the latter on the head, thereby inflicting upon him

serious and mortal gunshot wound which was the direct and immediate cause of his untimely death, to the damage and prejudice of the heirs of said Rommel Hina.^[4]

Criminal Case No. Q-01-105877

That on or about the 28th day of October ^[2001], in Quezon City, Philippines, the above-named accused, conspiring, confederating with two other persons whose true names and identities have not as yet been ascertained and mutually helping one another, with intent to kill, qualified with evident premeditation, treachery and taking advantage of superior strength, did then and there willfully, unlawfully and feloniously commence the commission of the crime of murder directly by overt acts, by then and there shooting one BABELITO E. VILLAREAL with the use of a firearm but said accused were not able to perform all the acts of execution which should produce the crime of murder by reason of some cause or accident other than their own spontaneous desistance, that is complainant was able to ran away, to the damage and prejudice of the said offended party.^[5]

When arraigned on January 15, 2002, accused-appellant pleaded not guilty to the charges against him.^[6]

At the pre-trial conference on January 29, 2002, the parties stipulated only as to the deaths of Danilo Villareal (Danilo) and Rommel Hina (Rommel).^[7]

Thereafter, trial ensued.

The prosecution presented four witnesses, namely: Babelito Villareal (Babelito),^[8] Danilo's brother who survived the shooting; Janita Villareal (Janita),^[9] Danilo's wife; Dr. Joselito Rodrigo (Joselito),^[10] the Chief Medico Legal of the Philippine National Police (PNP) Crime Laboratory who examined Danilo's cadaver; and Diorito Coronas, Jr. (Diorito),^[11] who was present at the time and place of the shooting.

Below are the testimonies of Babelito and Diorito as summarized by the RTC:

Prosecution witness **Babelito Villareal**, a construction worker and residing at 120 Senatorial Road, Barangay Batasan Hills, Quezon City, testified that he was with his brother, Danilo, and Rommel Hina, a neighbor, towards midnight of October 27, 2001 in front of the store of his sister, Nanieta. His house was just across the street. They were drinking beer but ran out of it. Danilo asked Rommel Hina to buy cigarettes from a nearby store because their sister's store was already closed. When Hina returned, they stayed in the same place. Babelito had his back against the wall fronting the road while he was facing his brother's back. Hina was on his right side. Soon a tricycle with its lights out and its engine turned off, arrived. It was still moving because the road was on a downward slope. He saw Noel Adallom alight from the sidecar. Adallom was with Johnwayne Lindawan and a tricycle driver.

After Adallom alighted, he fired his carbine. There was a successive burst of gunfire and Adallom was saying, "Ano? Ano?" His brother went down and Rommel Hina was moaning. The tricycle came from his left side. When Adallom fired his gun, Danilo turned his head and tried to run but he was hit at the back. He himself, when he saw the gunfire just closed his eyes and leaned against the wall and turned his head to the right and moved his leg downward just waiting for what would happen next. When his brother and Rommel fell, the firing stopped and when he turned his head, he noticed that Adallom upon seeing him alive, again fired successive shots and then he heard, "tak-tak." The gun must have jammed then he heard another burst of gunfire, "rat-tat-tat." He sought cover beside a vehicle and ran. He showed some pictures and pointed to the place he testified on (see Exhibit A). There were bullet marks shown in the pictures (Exhibit B). He ran to an alley and then he went back to Senatorial Road where the incident happened and saw people milling around. His brother was already dead while Rommel Hina was rushed to the hospital. Noel Adallom, a long time resident of their place is the cousin of the husband of his sister while Johnwayne Lindawan is the son of his brother-in-law. During the wake of his brother, he saw Johnwayne with a new haircut. Adallom also had a new haircut. They used to have long hair prior to the incident. Both of them were sporting army cut. He tried to watch Adallom's movements. He saw him fixing the gate of his house and when he could not take it anymore he told Jeanette, the wife of his brother Danilo Villareal, that what Adallom was doing was very insulting. He did not give any statement to the police because there was still the wake and he wanted to consult Jeanette who was very confused. He knows that it is hard to fight an Ifugao. After the funeral, he told his siblings about the incident. They decided to have Adallom arrested. His Ate Jeanette went to Station 6 but the police were not cooperative and he was losing heart. On November 19, 2001, he saw Adallom alight in front of his house. He asked his siblings to go to the barangay hall while he waited for Adallom because he might leave. When the barangay people came, they picked him up and informed him about the complaint against him. Adallom was detained at the barangay hall and taken at Station 6. Babelito executed a *sinumpaang salaysay* marked Exhibit C.

On cross examination, among others, he said that Adallom's house is just near the eskinita. The following day when he saw Adallom sporting a new haircut, he tried to keep track of his movements. He did that for several days. He was shown a sketch marked as Exhibit D for the prosecution and said, the house of his sister was along Senatorial Road at the corner of an alley in Avocado Street. After Adallom alighted from the tricycle, he positioned himself before he fired the shots. When Babelito returned to the scene of the incident, he instructed some people to bring Rommel Hina to the hospital. He saw Agustin Adallom and Anderson Tuguinay that night. He saw Adallom's wife by the gate of their house. He did not see Noel Adallom after the incident. The police investigators came to the scene and he went with them to the Criminal Investigation Unit. The investigator was Lawa-Lawa. When he was about to give a statement at the Criminal Investigation Unit, Nathaniel Hina, the father of Rommel appeared and he was telling a different story. Nathaniel was a usual drinking companion of Noel Adallom. Immediately prior to the

incident, Rommel's father was coming down from the tricycle with some companions, the *barkada* of Noel Adallom, he passed by the eskinita and took a look at them. That was before the tricycle with Adallom as passenger passed by. At the police precinct Rommel's father was saying that it was another Ifugao, a certain Hubert who was responsible for the shooting. Because of this incident with the father of Rommel, he did not give a statement. He reiterated that he saw his brother hit as he was slowly moving his head and then he closed his eyes. After the first burst of gunfire it stopped for a while. When the gunman saw him, he raised his gun again and pointed it at him then he heard, "*pak.*" It did not fire then he heard successive shots. He saw Adallom with the carbine only that night but he knew that his family has a carbine. He was shown a photograph marked Exhibit 2 depicting the wall of his sister Nanette's store marked as Exhibits A and B. There were no chairs in front of the store even when they were drinking. He was there first before Danilo and Rommel arrived. There were also two women who came thirty (30) minutes prior to the incident Danilo and Rommel had been drinking in front of his house. When they arrived, they gave him a bottle of beer to drink. And then, Danilo asked Rommel to buy cigarettes at Anderson's store. The father of Rommel arrived and stared at them, just as Rommel arrived. He knows that Nathaniel gave a statement at the police station. Although in his affidavit he also mentioned Johnwayne Lindawan, the police have not arrested him. Lindawan also alighted from the back of the tricycle driver and he stood by the side of the road. He could not identify the tricycle driver.

Diorito Coronas, Jr., a billiard player by profession, usually played at the billiard hall near the house of Noel Adallom in Sarep Street on the right side going up the road. On October 28, 2001, about midnight, he was at the videoke bar, his usual hang out in Sitio 6 going towards Talanay. While there, he heard gunfire so he immediately went near a parked vehicle in front of the videoke bar. When he tried to investigate, he saw three persons fall to the ground (*Bumulagta noong pinagbabaril*). Two of them were already down and the third one stood up and ran even as the gunman continued firing. He identified the man who ran away as Babelito Villareal (Samboy). It was Noel Adallom whom he saw carrying the firearm which he described as a little less than 2 feet, shooting the three men. He saw Adallom's companion and a third one who was manning the tricycle. The place of the incident was well lighted but from where he was standing, the light came only from the videoke bar. Then he noticed a yellow tricycle without any plate number moving toward his direction while the two other guys went to the opposite direction going upward. When he saw that they left, he immediately approached the two men lying down. He identified one of them as Rommel who was still moaning. He became apprehensive that someone might see him and his family might be involved. He ran toward his house. He identified three sets of pictures marked Exhibits A and B. He pointed to the place where the three guys who were shot at were positioned.

On cross examination, Coronas identified the owner of the videoke bar as Anderson Tuguinay.^[12]

Janita, when she took the witness stand, detailed the expenses incurred for the funeral and burial of her husband, Danilo.

Dr. Joselito reported that as a result of his autopsy examination of Danilo's body, he had determined that Danilo died from hemorrhagic shock due to multiple gunshot wounds. There were six gunshot wounds in Danilo's trunk and lower extremities. All points of entry were at Danilo's back. There were five exit wounds at the front portion of Danilo's body while one slug was recovered in Danilo's liver. Dr. Joselito submitted the recovered slug for ballistic examination. Dr. Joselito further elaborated on his findings during his cross-examination:

On cross examination, among others, he stated that the autopsy was conducted on October 28, 2001 at around 11:30 a.m. The abrasion on the victim's right acromial region was caused by friction of the skin on a rough hard surface. Gunshot wound no. 1 was directed anteriorwards, upwards and lateralwards meaning it came from the back, traveled upwards from the center towards the sides. Its point of entry was 10 cm. from the posterior midline while the point of exit was 20 cm. from the posterior midline. The point of entry of gunshot wound No. 2 (depicted as POE No. 1 in Exhibit J) is 4 cm. from the posterior midline and exited 6 cm. from the anterior midline. The bullet traversed from the rear to the front going to the right side of the cadaver. The third gunshot wound's point of entry is at the right infrascapular region and exited also on the right side of the chest but more towards the outer portion. The fourth gunshot wound's point of entry is on the left side, back to front, lateralwards meaning from center or near the center towards the most outer part of the left side of the body. The entrance and exit wound were on the same level. It is superficial wound meaning it did not enter the peritoneal cavity. The fifth gunshot wound was directed anteriorwards, downwards and medialwards. Anteriorward means from the back, it is noted downwards towards the foot while medialwards is towards the center. The sixth and final gunshot wound was sustained at the right buttocks directed anteriorwards, upwards and lateralwards, meaning from the back upwards going to the head and lateralwards, meaning from the center to the outer side of the cadaver. Since the entrance wounds were at the back of the cadaver, assuming the victim was not moving, the assailant or muzzle of the gun was at the back of the victim. Except for the fourth gunshot wound which entered and exited at the same level and the fifth gunshot wound which was downwards, all the other gunshot wounds were directed upwards. If the victim was in a sitting position at the time he sustained the wounds with an upward trajectory, he would probably be in a ducking position, hence the upward trajectory. If the victim was stationary at the time he was shot, it is possible the assailant was moving but the most probable explanation for the differences in the level of the points of entry in relation to the points of exit of the wounds is that the victim moved as a result of the force of the bullet that entered his body. The slug that he extracted from the cadaver of the victim was from a .30 caliber firearm based on the report of the ballistician.^[13]