

FIRST DIVISION

[G.R. No. 171735, April 16, 2009]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. ALEJO OBLIGADO
Y MAGDARAOG, APPELLANT.**

D E C I S I O N

CORONA, J.:

Appellant Alejo Obligado y Magdaraog was charged with murder in the Regional Trial Court (RTC) of Iriga, Branch 35^[1] under the following Information:

That on or about 7:45 [p.m.] of March 12, 2000, in Barangay de la Fe, Buhi, Camarines Sur, Philippines, and within the jurisdiction of the Honorable Court, [appellant] did then and there, willfully, unlawfully and feloniously, with intent to kill and with treachery, to [e]nsure execution, attack, assault and use personal violence upon one FELIX OLIVEROS y RAÑADA, that is--while armed with a bolo and coming from behind the victim, who was then unaware and defenseless of the impending attack, [appellant] first held tightly the victim's hair and immediately thereafter, suddenly, unexpectedly slashed the victim's neck with his bolo, causing [his] death, to the damage and prejudice of [his] heirs.

CONTRARY TO LAW.^[2]

Appellant pleaded not guilty upon arraignment.

During trial, the victim's cousin and prosecution eye-witness Roberto Bagaporo testified that he and the victim along with several others^[3] were having a drinking spree in front of his residence in the evening of March 12, 2000. They were later joined by appellant.

As Bagaporo prepared the videoke machine, he heard the victim call out, "*Pinsan!*" (Cousin!) He then turned around and saw appellant standing behind the victim. Appellant grabbed the victim's hair with his left hand and, with his right, pulled out a bolo from underneath his shirt and slashed the victim's neck. He then pushed the victim (who fell face down on the pavement) and walked away.

Senior Police Officer (SPO)⁴ Jimmy Jose of the Philippine National Police (PNP) Buhi station testified that, around 8:20 p.m. on March 12, 2000, an unidentified *barangay kagawad* reported a hacking incident in Barangay de la Fe. He, along with several other police officers, immediately went to the area and found the victim lying face-down in front of Bagaporo's house.

Dr. Breandovin Saez, municipal health officer of Buhi, testified that he conducted a post-mortem examination of the victim. The victim suffered two incised wounds, one

on his right cheek and another on his neck area (extending from the left anterior neck to the right posterior neck). Dr. Saez said that the second wound was fatal because it was deep enough to cut the carotid artery and cause massive hemorrhage. Furthermore, based on the size and position of the wound, he opined that the assailant intentionally slashed the victim's neck from behind using a small bolo with a length of not more than one foot.

Lastly, the victim's widow, Gloria Oliveros testified that her husband earned at least P5,000 per month as a driver. She also presented a receipt from the funeral parlor amounting to P15,000 and an itemized list of expenses incurred during the wake amounting to P12,000.

For his defense, appellant asserted that he accidentally killed the victim. While they were drinking, the victim approached and confided to him that he had a problem but did not say what his problem was. Appellant gave the victim a drink. To his surprise, the victim allegedly pulled out his bolo from its scabbard. Afraid of what could happen, appellant tried to wrest the bolo but the victim resisted. It was while grappling for possession of the bolo that the victim was fatally slashed in the neck.

Apolinario Manaog corroborated appellant's testimony. He basically stated that it was the victim who wielded the bolo and that he (the victim) and appellant wrestled for its possession.

The defense also presented SPO4 David Sarto, police community officer of the PNP Buhi station. According to SPO4 Sarto, he and his fellow police officers were ordered to arrest appellant on March 13, 2000. They met appellant while traversing the lone footpath leading to his residence. Appellant surrendered his person and the bolo.

Based on the size and nature of the victim's wounds, the RTC concluded that the killing was intentional. Moreover, because appellant slashed the victim's neck from behind, the latter had no opportunity to defend himself. Hence, the trial court appreciated the qualifying circumstance of treachery. In a decision dated February 28, 2001, the RTC found appellant guilty beyond reasonable doubt of the crime of murder: [4]

WHEREFORE, finding [appellant] ALEJO OBLIGADO y MAGDARAOG guilty of murder beyond reasonable doubt as defined and penalized in Article 248 of the Revised Penal Code, he is sentenced to suffer the penalty of *reclusion perpetua* and to pay indemnity in the amount of P50,000; actual damages of P27,000; moral and exemplary damages of P50,000 and to pay the cost of suit.

On intermediate appellate review, [5] the Court of Appeals (CA) affirmed the guilt of the appellant but modified the civil liabilities imposed by the RTC. Because SPO4 Sarto testified that appellant intimated a desire to surrender, the appellate court appreciated the mitigating circumstance of voluntary surrender. Thus, it deleted the award of exemplary damages and instead ordered appellant to pay moral damages in the amount of P50,000. [6]

We affirm appellant's guilt.

The evidence of the prosecution established beyond reasonable doubt that the