

## SECOND DIVISION

[ G.R. No. 173791, April 07, 2009 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. PABLO AMODIA, ACCUSED-APPELLANT.**

### DECISION

**BRION, J.:**

We review in this appeal the decision of the Court of Appeals<sup>[1]</sup> (CA) affirming with modification the decision of the Regional Trial Court (RTC), Branch 38, Makati City in Criminal Case No. 97-289. The RTC found the accused-appellant Pablo Amodia (*Pablo*) guilty *beyond reasonable doubt* of the crime of *murder* and sentenced him to suffer the penalty of *reclusion perpetua* and to pay the corresponding civil liabilities to the heirs of the victim.

Pablo was indicted, together with three other accused, under the

following Information:<sup>[2]</sup>

That on or about the 26<sup>th</sup> day of November 1996, in the City of Makati, Philippines, a place within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating together and mutually helping and aiding one another, while armed with a piece of wood and bladed weapon, taking advantage of their superior strength [*sic*] and employing means to weaken the defense, did then and there, willfully, unlawfully and feloniously attack, assault and employ personal violence upon one FELIX OLANDRIA y BERGAÑO, by beating him on the head with a piece of wood and stabbing him repeatedly on the different parts of his body, thereby inflicting upon him mortal/fatal stab wounds which directly caused his death.

CONTRARY TO LAW.<sup>[3]</sup>

The Information, dated February 21, 1997, was filed with the court on February 28, 1997.

Pablo was arrested on June 5, 1998 and was thereafter prosecuted. The other accused remained at large.<sup>[4]</sup> Pablo moved to quash the Information on the ground of mistaken identity and the staleness of the warrant of arrest issued on March 4, 1997. The RTC denied his motion.<sup>[5]</sup>

Pablo entered a plea of "not guilty" to the charge when arraigned on August 3, 1998.<sup>[6]</sup>

## **The Prosecution's Version**

The prosecution presented evidence, both documentary<sup>[7]</sup> and testimonial,<sup>[8]</sup> to establish that Pablo was one of the four assailants who, by their concerted efforts, killed Felix Olandria y Bergaño (*victim*).<sup>[9]</sup> Acting together, they hit him on the head and stabbed him.

The records show that Romildo Ceno (*Romildo*) was a resident of Zone 17, Pembo, Makati City and lived in the house of Freda Elnar (*Freda*).<sup>[10]</sup> At around 12:05 a.m. of November 26, 1996, he, Mario Bitco (*Mario*),<sup>[11]</sup> and Freda were talking and watching television at their house<sup>[12]</sup> when he heard a noise coming somewhere below the C-5 bridge, located some forty (40) to fifty (50) meters away from their house; he also heard somebody shout "*may away doon*."<sup>[13]</sup> Curious, he and Mario went to the bridge<sup>[14]</sup> and saw five persons whom he identified as the victim, Pablo, Arnold Partosa (*Arnold*), George Palacio (*George*),<sup>[15]</sup> and Damaso Amodia (*Damaso*). He knew these men; the victim was his neighbor, while Pablo, Arnold, George and Damaso were residents of Scorpion Street, Zone 17 Pembo, Makati City.<sup>[16]</sup>

When Romildo was about three arms-length away from the place of the commotion, then illuminated by light coming from a Meralco post located some five (5) to six (6) meters from the scene, he saw the victim being held on his right hand by Pablo, while the other hand was held by Arnold.<sup>[17]</sup> George was positioned at the victim's back and clubbed the victim on the head; Damaso was in front of the victim and stabbed him three times.<sup>[18]</sup>

Luther Caberte (*Luther*), who happened to be passing by the C-5 Bridge at the time, also saw what happened. He testified that he saw men fighting under the C-5 Bridge which was illuminated by a light coming from a lamppost located some ten (10) meters away.<sup>[19]</sup> From his vantage point (about 15 meters away from the fight), he saw Pablo, Damaso, George and Arnold ganging up (*pinagtulung-tulungan*) on the victim.<sup>[20]</sup> He saw Pablo holding the victim's hand while Damaso was stabbing him. He also confirmed that George was positioned behind the victim.<sup>[21]</sup> He personally knew both Pablo and the victim; they have been neighbors since 1986.<sup>[22]</sup>

Both eyewitnesses left the scene after the stabbing; Romildo was chased away by George and Damaso, while Luther went home immediately. Both were shaken and shocked with what they had seen.<sup>[23]</sup>

At 3:00 a.m. of the same day, the CID Homicide received a report of an unidentified body found in a road along Comembo Bridge, *Barangay Pembo*.<sup>[24]</sup> SPO2 Romeo Ubana (*SPO2 Ubana*), a police investigator assigned to the CID Homicide, and a police photographer went to the place and saw the body of a dead male person with three stab wounds whom they subsequently identified as the victim.<sup>[25]</sup> He prepared a *Final Investigation Report* of the incident.<sup>[26]</sup>

After the spot investigation, the victim's body was taken to the Veronica Memorial Chapel where Dr. Antonio Bertido (*Dr. Bertido*), a National Bureau of Investigation

(NBI) Medico Legal Officer, subjected it to a *post-mortem examination*.<sup>[27]</sup> The autopsy yielded the following findings:

Pallor, intergument and nailbeds.

Stab wounds.

1. Elongated 4.5. cms. Edges are clean cut, medial border is sharp, lateral border is blunt. Located at the chest, anterior, left side, 6.0 cms. From the anterior median line. Directed backwards, upwards and medially involving the skin and underlying soft tissues, into the thoracic cavity, perforating the pericardial sac, into the pericardial cavity, penetrating the heart with an approximate depth of 10.0 cms.
2. Elongated, 3.5 cms edges are clean cut, medial border is blunt, lateral border is sharp. Located at the anterior abdominal wall, left side, 6.5 cms. From the anterior median line. Directed backwards, upwards and medially involving the skin and underlying soft tissues, perforating the stomach with an approximate depth of 14.0 cms.
3. Elongated, 3.0 cms, edges are clean-cut, medial border is blunt, lateral border is sharp. Located at the anterior abdominal wall, right side. 2.0 cms. From the anterior median line. Directed backwards, upwards and laterally involving the skin and underlying soft tissues, penetrating the head of the pancreas with an approximate depth of 12.0 cms.<sup>[28]</sup>

Dr. Bertido stated that the victim was stabbed three times on the body by a *single-bladed sharp-pointed instrument*.<sup>[29]</sup> Through the use of an anatomic diagram, Dr. Bertido showed that the victim was stabbed on his left chest and over his right and left abdominals.<sup>[30]</sup> He also stated that of the three stab wounds, the wound on the victim's chest was the most fatal because it was near his heart, while the other wounds involved the victim's stomach and pancreas.<sup>[31]</sup> Dr. Bertido declared that no other wound, aside from the three stab wounds, was found on the victim's body.<sup>[32]</sup> He later on executed a *Certificate of Post-Mortem Examination* showing the cause of death as *hemorrhage, secondary to stab wounds*.<sup>[33]</sup>

Dr. Bertido admitted that while he could not specifically determine the position of the victim at the time he was stabbed, he was certain that the stab wounds were inflicted when the victim and his assailant were facing each other.<sup>[34]</sup> He also disclosed that the sizes of the wounds were different from each other.<sup>[35]</sup>

The prosecution also presented Claudio Olandria,<sup>[36]</sup> the victim's father, who took the witness stand and testified on the expenses that he and his family incurred by reason of his son's death.

### **The Defense's Version**

The defense relied on the defense of *alibi*, submitting testimonial and documentary

evidence<sup>[37]</sup> to support Pablo's claim that he was in another place at the time of the stabbing.

Pablo averred that his name is Pablito Amodia and stated that at the time of the incident, he lived in the house of Elma Amodia Romero (*Elma*), his sister, located at Zone 13, Ilocos Street, *Barangay* Rizal, Makati City.<sup>[38]</sup> He has lived there since 1994. He claimed that he was at home in the evening of November 25, 1996, until the early morning of the next day.<sup>[39]</sup> At around 10:00 of that evening, his brother - Elias Amodia (*Elias*) - who lived next door, awakened him<sup>[40]</sup> and told him that his (Elias') wife, then pregnant, had started having labor pains.<sup>[41]</sup> He went back to sleep only to be awakened by Elias at past 12:00 midnight. Elias then requested him to take care of his house.<sup>[42]</sup>

Pablo related that it was at this time that Damaso (another brother), George, Arnold, and another person he did not know, came to Elma's house.<sup>[43]</sup> He noticed that Damaso was in a hurry and was packing his clothes; the latter told him that they (Damaso and his companions) encountered trouble.<sup>[44]</sup> Damaso and his companions left past midnight; on the other hand, he went to Elias' house to take care of the latter's children, while Elias and his wife went to a lying-in clinic.<sup>[45]</sup> While at Elias' house, Elma visited him to check on him and the children.<sup>[46]</sup> He stayed there until 9:00 a.m. of November 26, 1996 when he went back to Elma's house; he went to school later in the day.<sup>[47]</sup>

Pablo also alleged that it was only after returning from school that he came to know of the victim's death; he only knew the victim by name and even went to the victim's wake the first night.<sup>[48]</sup>

He further alleged that he stopped schooling for lack of funds and went to Zamboanga del Norte in January 1997.<sup>[49]</sup> He went back to Manila on May 22, 1998 to continue his education, but was arrested on June 5, 1998.<sup>[50]</sup>

Elma and Elias corroborated Pablo's story.<sup>[51]</sup> Elma stated that Pablo lived with her in their brother's house together with her husband, their children, and Damaso.<sup>[52]</sup> She added that Damaso told her that they were in trouble (*atraso*) because of a fight, and that he and his companions were on their way to Cebu.<sup>[53]</sup> Elma declared that Pablo was with her when Damaso came to the house to pack his clothes.<sup>[54]</sup> Pablo and Damaso left at 12:30, but for different destinations.<sup>[55]</sup> She knew that Pablo went to Elias' house because she went to check on him and the children around 1 a.m. and then again at 2 a.m.<sup>[56]</sup> Elias' wife gave birth to a baby girl at 2:50 p.m. of November 26, 1996.<sup>[57]</sup>

After some prodding, Elma admitted that she knew that cases have been filed against Pablo and Damaso as early as December 1996.<sup>[58]</sup> The defense thereafter rested its case.

### **Prosecution's Rebuttal Evidence**

The prosecution presented Amelita Sagarino, a resident of Scorpion Street, Zone 17 since 1989, as a rebuttal witness.<sup>[59]</sup> She testified that she knew the victim and the accused who were all her neighbors.<sup>[60]</sup> She stated that she served food at the victim's wake from seven in the evening up to six in the morning and that she never saw Pablo there.<sup>[61]</sup> She also heard from her neighbors that the people responsible for the victim's death were *George, Arnold, Damaso, Pabling and Pablito Amodia*.<sup>[62]</sup> She clarified that Pabling and Pablito Amodia are one and the same person.<sup>[63]</sup>

Subsequently, she stated that Pablito Amodia also attended the wake of the victim.<sup>[64]</sup>

### **Ruling of the RTC**

The RTC convicted Pablo of *murder* after finding sufficient evidence of his identity, role in the crime as principal by direct participation, and conspiracy between him and the other accused who used their superior strength to weaken the victim. The RTC relied on the testimonies of eyewitnesses Romildo and Luther, the autopsy results conducted on the body of the victim, and the lack of physical impossibility on the part of Pablo to be at the crime scene. The dispositive portion of the RTC decision reads:

WHEREFORE, the Court finds accused Pablo guilty of having committed the crime of murder as principal by conspiracy. Considering that there are no aggravating or mitigating circumstances attendant to the commission of the crime, pursuant to Article 64 (1) of the Revised Penal Code, accused is sentenced to suffer imprisonment of *reclusion perpetua*. He is further sentence to pay the heirs of the deceased Felix Olandria the amount of P50,000.00 as moral damages and to reimburse said heirs of the amount of P23,568.00 for expenses incurred for the funeral service, burial and incidental expenses.

SO ORDERED.<sup>[65]</sup>

### **Ruling of the CA**

On appeal, the CA agreed with the RTC's findings and affirmed Pablo's conviction.<sup>[66]</sup> The CA, however, corrected the RTC's ruling on the applicable provision of the Revised Penal Code, as amended (*Code*), and modified the award of actual damages, as follows:

**WHEREFORE**, premises considered, the appeal is hereby **DENIED**. The assailed Decision dated July 19, 1999 is hereby **AFFIRMED with MODIFICATION**. Appellant is hereby sentenced to suffer the penalty of *reclusion perpetua* in accordance with *Rule 63(2)* of the *Revised Penal Code*. He is likewise ordered to pay the heirs of the victim, P23,268.00, as actual damages, P50,000 as civil indemnity and P25,000.00, as exemplary damages, in addition to the award of P50,000.00 as moral damages.

**SO ORDERED.**