

SECOND DIVISION

[G.R. No. 184172, May 08, 2009]

**THE PEOPLE OF THE PHILIPPINES, APPELLEE, VS. LUIS
ANTONIO GARCHITORENA, APPELLANT.**

R E S O L U T I O N

TINGA, J.:

On appeal is the 21 January 2008 Decision^[1] of the Court of Appeals in CA-G.R. CR-HC No. 00290 affirming the conviction of appellant Luis Antonio Garchitorena of the crime of parricide by the Regional Trial Court (RTC) of Quezon City.

The accusatory portion of the information reads:

Criminal Case No. Q-94720

That on or about the 16th day of [August 2000], in Quezon City, Philippines, the above-named accused, being then the legitimate husband of FLORDELIZA TABLA GARCHITORENA, with intent to kill, did then and there, [willfully], unlawfully and feloniously attack, assault and employ personal violence upon the person of said FLORDELIZA TABLA GARCHITORENA, his wife, by then and there shooting her with a gun, hitting her on the head, thereby inflicting upon her serious and mortal wound, which was the direct and immediate cause of her untimely death, to the damage and prejudice of the heirs of said FLORDELIZA TABLA GARCHITORENA.

Contrary to law.^[2]

Appellant entered a not guilty plea. Trial ensued.

The prosecution witnesses consists of PO3 Florencio Escobido, the police investigator who responded to the crime scene; P/Sr. Inspector Michael Maunahan, medico-legal officer of the Central Police District Crime Laboratory; P/Sr. Inspector Grace Eustaquio, forensic chemist; Marivic Bartolome, cousin of the victim; Rosario Tabla, mother of the victim and Dr. Edgar Savella, medico-legal officer of the NBI.

PO3 Escobido went to the house of appellant and the victim to investigate. He went inside the bedroom and found blood on the carpeted floor, a 9 mm. caliber pistol and two (2) live bullets. Appellant disclosed to PO3 Escobido that the spouses had an altercation and appellant suspected that his wife had an extramarital affair. Appellant then cocked his pistol twice, gave it to his wife, and told her "*kung guilty ka, ituloy mo.*" The victim allegedly took the gun, pointed it to her head and squeezed the trigger. PO3 Escobido requested a ballistic examination of the firearm.

^[3]

Capt. Maunahan conducted an autopsy on the victim. In the Medico-Legal Report No. M-078-00, it was found that the victim had sustained a gunshot wound and the point of entry was at the right temporal region, measuring 3x1.8 cm, 15 cm from anterior midline, 9cm from the vertex, directed slightly anteriorwards, downwards to the left, contusion collar superiorly 0.2cm, there is blackening of bullet tract from scalp up to inner table.^[4] In short, the entry of the bullet was on the right side of the victim's head and its trajectory was downward.

P/Sr. Inspector Eustaquio conducted the paraffin test, the findings of which indicates absence of powder nitrates on the hands of the victim.^[5]

Bartolome attested that the victim was left-handed while Table recounted that her daughter appeared to be in trouble days before her death and that the victim had intimated that she was fearful of her husband.^[6]

Dr. Savella also conducted an autopsy on the body of the victim and opined that is unnatural and unlikely that the victim's injury was self-inflicted.^[7]

Appellant and Aigel Camba (Camba) testified for the defense. Appellant gave a different account of the incident. He related that on 16 August 2000, the victim, his wife had been cleaning the bedroom carpet when she noticed a burnt hole in it.^[8] The victim accused-appellant of having caused the damage. They had a slight argument which apparently irked the victim. At that moment, appellant took his gun from under the pillow and was about to keep it inside the cabinet when the victim grabbed it from her. She reportedly uttered: "*Bago kita lokohin, magpapakamatay muna ako. Kaya kong magpapakamatay!*" Appellant snatched the gun back and cocked it twice to show the victim that it was loaded with bullets. Thereafter, appellant bent down to retrieve the two bullets which popped out from the gun when he saw the victim take the gun, pointed it to her head, said: "*Akala mo di ko kaya . . .*" and shot herself. Appellant quickly ran out of the room and shouted for help. ^[9]

Camba, a talent trained by the spouses, testified that after hearing a lone gunshot, she had heard appellant shout: "*Babe, bakit mo ginawa?*"^[10] Camba did not notice any quarrels between the couple.^[11]

On rebuttal, the prosecution presented Police Inspector Leonard Arban who claimed that appellant narrated a different story at the time he was under interrogation from what he stated in court.^[12]

On 26 April 2004, RTC rendered judgment convicting appellant of the crime of parricide. The trial court banked on circumstantial evidence to prove the guilt of appellant. The trial court disbelieved the defense of appellant that the victim had committed suicide on the ground that the testimony he gave before the police investigator and his open testimony in court are entirely and substantially inconsistent with each other. Likewise, his narration of the events was contrary to human experience.

The Court of Appeals affirmed the trial court's findings and sustained the judgment