

**[ G.R. No. 149988, August 14, 2009 ]**

**RAMIE VALENZUELA, PETITIONER, VS. PEOPLE OF THE  
PHILIPPINES, RESPONDENT.**

**D E C I S I O N**

**BRION, J.:**

Petitioner Ramie Valenzuela (*petitioner*) seeks, in this petition for review on *certiorari*,<sup>[1]</sup> to reverse the Court of Appeals (CA) decision and resolution dated June 18, 2001 and September 10, 2001, respectively, in CA-G.R. CR No. 20533, that affirmed with modification the decision of the Regional Trial Court (RTC), Branch 38, Lingayen, Pangasinan, dated November 21, 1996, convicting the petitioner with the crime of attempted murder.

Petitioner and his brother, Hermie Valenzuela (*Hermie*), were charged with the crime of frustrated murder, allegedly committed as follows:

That on or about the 20<sup>th</sup> day of February 1996, in the evening, in *Barangay* Maniboc, municipality of Lingayen, province of Pangasinan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, armed with a sharp pointed, bladed instrument, with intent to kill, taking advantage of their superior strength, conspiring, confederating and mutually helping one another, did then and there willfully, unlawfully and feloniously attack, assault and stab Gregorio P. Cruz, inflicting upon him the following:

- Stab wound 1 cm flank area left, 3 cm. depth
- Stab wound 1 cm flank area left, 3 cm. depth

the accused having thus performed all the acts of execution which would have produced the crime of murder as a consequence but nevertheless did not produce it by reason of causes independent of the will of the accused, that is, the timely medical assistance afforded to Gregorio P. Cruz which prevented his death, to his damage and prejudice.<sup>[2]</sup>

We summarized below the facts based on the records before us.

Petitioner and the victim, Gregorio P. Cruz (*Gregorio*), both lived in *Barangay* Maniboc, Lingayen, Pangasinan. In the early evening of February 20, 1996, Gregorio and his companion, Rogelio Bernal (*Rogelio*), went to the house of *Barangay* Captain Aurora dela Cruz to talk with Pepito, the latter's husband. While at the dela Cruz home, Gregorio, Rogelio and Pepito drank liquor (*Fundador*).

Based on the prosecution's account of the events, at around 10:00 o'clock of that

same evening, Gregorio and Rogelio left the dela Cruz residence and headed for home after their "drinking spree" with Pepito dela Cruz. While they were walking along the *barangay* road and were near the Valenzuelas' residence/*sari-sari* store, the petitioner and his brother Hermie suddenly appeared from behind them. The petitioner held the shoulders of Gregorio while Hermie stabbed Gregorio twice at the left side of his back. Immediately thereafter, Hermie ran to the direction of the Valenzuelas' house some 10 meters away.

After the stabbing, Gregorio was brought to the clinic of one Dr. Casipit who administered emergency treatment on the stab wounds. He was transferred the following day to the Pangasinan Provincial Hospital (now Gov. Teofilo Sison Memorial Hospital) for further treatment. *Per* the medical findings of Dr. Antonio Rivera (*Dr. Rivera*), attending physician and Medical Officer III of the said hospital, Gregorio suffered the following wounds:

- Stab wound 1 cm flank area left, 3 cm depth;
- Stab wound 1 cm flank area left, 3 cm depth.

**The wounds were found not to be fatal, as no vital organ was affected.** Gregorio was discharged after one week of confinement.

On March 13, 1996, SPO II Jimmy B. Melchor of the Lingayen Police Station filed before the Municipal Trial Court of Lingayen, Pangasinan a criminal complaint for **frustrated murder** against the petitioner and Hermie. Finding probable cause, the court issued a warrant for their arrest and forwarded the records of the case to the Office of the Provincial Prosecutor of Pangasinan for the filing of the appropriate Information.<sup>[3]</sup> On May 16, 1996, an Information was filed before the RTC of Lingayen, Pangasinan, charging the two accused with frustrated murder.

Trial of the case proceeded solely with respect to the petitioner as his brother and co-accused, Hermie, was then, and still is, at large.

The prosecution presented Dr. Rivera of the Pangasinan Provincial Hospital who explained his medical findings on the injuries Gregorio sustained. He said that the 2 one-centimeter long wounds, both three-centimeter deep, were not fatal as no vital organ was affected.

The prosecution likewise presented Rogelio who declared that on the night of February 20, 1996, he accompanied Gregorio to the house of their *Barangay* Captain to talk to the latter's husband, Pepito dela Cruz; they drank as they talked with Pepito. As they headed for home while passing by the Valenzuelas' house/*sari-sari* store, the petitioner suddenly appeared from behind and held Gregorio, while Hermie stabbed the victim. Rogelio was able to positively identify the petitioner and Hermie as Gregorio's assailants, as the scene of the crime was well-lighted, illuminated by a streetlight from a nearby electric post.

After the stabbing, the two assailants ran towards their house, and Rogelio took Gregorio initially to the house of *Barangay* Captain dela Cruz, and then to the clinic of a certain Dr. Casipit for emergency treatment. Thereafter, he took Gregorio to the Pangasinan Provincial Hospital in Dagupan City because the wounds appeared to be

"serious." Rogelio claimed that Hermie used an 8-inch long knife.

The victim, Gregorio, likewise testified for the prosecution. He declared that he was the Chief *Barangay Tanod* of their place and that he knew the two accused because they were residents of his *barangay*. The rest of his testimony was similar to Rogelio's.

The petitioner, after pleading not guilty to the charge, presented his defenses of denial and alibi. He claimed that on the night of February 20, 1996, he was at home together with his uncle, his sister, his sister's friend, and his parents. Earlier that night, he claimed that he read the Bible, ate dinner with his family and guests, then watched television. At around 10:00 o'clock that evening, they heard somebody shouting from the outside; his parents, however, prevented him from going out of the house for fear that he might get into trouble.

The petitioner claimed he was being implicated in the stabbing incident because he had a previous altercation with the victim, Gregorio, when the latter apprehended his other brother, Rommel Valenzuela. He further surmised that Gregorio could have mistaken him for his brother, Willy, with whom he shares physical similarities and who, he claimed, was one of the assailants in the stabbing incident. Witnesses Nestor Cerezo (*Nestor*) and Rhodora Manzano (*Rhodora*) supported the petitioner's defense of alibi.

Nestor testified that he is a businessman and a resident of Dagupan City. He claimed that the petitioner is his nephew, as the petitioner's maternal aunt, Josefina Campos, is his common-law partner. He stated that on February 20, 1996, he went to the Valenzuelas' house to collect payment on a debt owed him by the parents of the accused. Since he arrived after dark, the parents of the accused prevailed on him to dine and spend the night with them.

At about 10:00 o'clock that night, while he was talking with the petitioner and the latter's father (Rosauro), they heard a commotion outside the house. He and Rosauro went out and saw several persons talking. They learned from their inquiry that Hermie had stabbed Gregorio. Nestor claimed that all this time, the petitioner was inside the house because his father had prevented him from going out.

Rhodora also testified for the defense. She declared under oath that she is a friend of Annie Valenzuela, the younger sister of the accused. On February 20, 1996, Annie invited her to sleep in their house. They had dinner at about 6:30 pm, ahead of the other members of the household who were then in conversation with another visitor, whom she later learned to be Nestor. At about 9:45 pm, while she and Annie were manning the Valenzuelas' store, Willy Valenzuela arrived and joined the group singing and playing the guitar in front of the store; Hermie was among those in the group.

At around 10:00 pm, she noticed Gregorio and Rogelio walking past the store; both appeared drunk as they were walking aimlessly. As they walked, the two momentarily stopped and stared at the group in front of the Valenzuelas' store before proceeding to another *sari-sari* store nearby. She then heard Gregorio shout "vulva of your mother, Valenzuela" three times; Rogelio tried to pacify him. Thereafter, she saw Hermie approach Gregorio to confront him. In a blur, she witnessed Gregorio hit Hermie on the left side of the face. Hermie retreated to his

house but came back and stabbed Gregorio at the left side of his back. She noticed that Willy then held the arms of Gregorio in an attempt to mollify the latter; Gregorio responded by hitting Willy on the head. At this point, she heard Willy advise Gregorio to go away to avoid further trouble; instead of heeding the advice, Gregorio threw a fist blow at Hermie, who dodged the blow and stabbed Gregorio a second time.

Right after the stabbing, she saw Hermie run to the direction of the Valenzuelas' house, while Gregorio and Rogelio proceeded to the house of *Barangay* Captain Dela Cruz. She categorically declared that the petitioner had no participation in the incident, as only the petitioner's brothers, Willy and Hermie, were at the scene of the crime.

After trial on the merits, the trial court rendered its decision<sup>[4]</sup> of November 21, 1996, convicting the petitioner of **frustrated murder**. The trial court found that the petitioner's defense of alibi had insufficient evidentiary support and must yield to the positive identification by the prosecution witness, Rogelio. The dispositive portion of the lower court's decision reads:

WHEREFORE, in the light of all the foregoing considerations, the court finds and holds the accused, Ramie Valenzuela, guilty beyond reasonable doubt of the crime of Frustrated Murder as charged in the information filed against him, pursuant to law, taking into account the provision[s] of Article 250 of the Revised Penal Code and the Indeterminate Sentence Law in his favor, hereby sentences said accused to suffer the indeterminate penalty of four (4) years and two (2) months of prision correccional as minimum to eight (8) years and one (1) day of prision mayor as maximum and to pay the costs of the suit. x x x

In appreciating the qualifying circumstance of abuse of superior strength, the trial court explained:

The information filed against the accused alleges that the two accused took advantage of their superior strength in attacking and assaulting the offended party with sharp pointed, bladed instrument twice on the left side of the back. Abuse of superior strength is determined by the excess of the aggressors natural strength over that of the victim's, considering the momentary positions of both parties and the employment of means weakening the defense of the victim, although not annulling it. Thus, there is abuse of superior strength in the case where four persons attacked an unarmed victim (People v. Garcia, 94 SCRA 14) or where six persons inflicted injuries on the victim (People v. Gonzales).

The petitioner appealed to the CA. In its decision of June 18, 2001, the appellate court affirmed with modification the trial court's decision; it held that the crime committed was attempted murder since the wounds inflicted were not fatal. The *fallo* of the CA decision reads: