

FIRST DIVISION

[G.R. NO. 173478, July 12, 2007]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
DOMINADOR D. SURONGON, ACCUSED-APPELLANT.**

D E C I S I O N

GARCIA, J.:

Under consideration is this appeal by Dominador D. Surongon from the decision^[1] dated January 19, 2006 of the Court of Appeals (CA) in *CA-G.R. CR-HC No. 00372*, affirming, with modification, an earlier decision^[2] of the Regional Trial Court (RTC) of Antipolo City, Branch 73, which found appellant guilty beyond reasonable doubt of the crime of Murder for the death of one Allan Viduya y Cabidog and sentenced him to *reclusion perpetua*.

The case

On June 24, 1998, in the RTC of Antipolo City, an Information^[3] for Murder was filed against herein appellant Dominador D. Surongon. Docketed in the same court as Criminal Case No. 98-15057 and raffled to Branch 73 thereof, the Information alleges:

That on or about March 22, 1998 at about 4:00 o'clock in the afternoon, in the City of Antipolo, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, while armed with a double bladed weapon, with intent to kill, acting with evident premeditation and treachery, did then and there willfully, unlawfully and feloniously attack, assault and stab one Allan Viduya y Cabidog with said bladed weapon on his back, thereby inflicting upon the latter mortal stab wounds which directly caused his death.

Contrary to law.

Arraigned on July 26, 2000, appellant, assisted by counsel, entered a plea of "Not Guilty."^[4] After a brief pre-trial, trial on the merits ensued, in the course of which the prosecution presented in evidence the testimonies of Sonny Campita and Ernie Manatlaog, alleged eyewitnesses to the stabbing incident; that of Dr. Ma. Cristina Freyra, medico legal officer of the Crime Laboratory Section, Eastern Police District, who autopsied the victim's cadaver; and of Guadalupe Viduya, mother of the victim who testified on the civil aspect of the case.

For its part, the defense rested its case with the lone testimony of appellant himself.

The evidence

It is disputed that at the time of his violent death on March 22, 1998, Allan Viduya was only 15 years old and a second-year high school student.

The prosecution's evidence tend to establish that at about 4:00 p.m. of March 22, 1998, Allan was watching a basketball game at Upper Gumamela, Barangay Sta. Cruz, Antipolo City. With him at the time were his friends Sonny Campita and Ernie Manatlaog. While the three (3) were watching the game, appellant arrived, walked in front of and around them, and later positioned himself behind them. From that position, appellant stabbed Allan twice at the latter's back using a knife of about a foot long. After stabbing Allan, appellant fled running but was chased by Ernie and the other friends of Allan namely, Manny and Smart, who failed to catch up with him. Fallen, Allan managed to stand up, tried to pull the knife at his back and told Sonny Campita, "*Pare, tulungan mo ako, sinaksak ako.*" Thereupon, Sonny hailed a tricycle and brought Allan to the Padilla Hospital in Cogeo, Antipolo City, where the wounded Allan was pronounced dead on arrival. Meanwhile, upon the request of the Antipolo Police Station, Dr. Ma. Cristina Freyra, medico-legal officer of the Eastern Police District, performed an autopsy on Allan's body. The doctor testified that Allan died of hemorrhage as a result of a stab wound at his back. She found two (2) stab wounds on Allan's back, one of which was fatal as it penetrated the lungs, pulmonary artery and the thoracic aorta. She opined that the instrument used in inflicting the wounds on Allan was a single bladed weapon and that, based on the location of the wounds, the assailant was at the back by the extreme left side of the victim during the attack. She added that it was possible that the victim was not aware of the impending attack because of the absence of any defense wound in his body.

Allan's mother, Guadalupe Viduya, declared that for Allan's wake and burial, the family spent about P69,000.00 but could not present the receipts therefor because she threw them away. In tears, she stated that for the death of her 15-year old son who was her youngest, she suffered extreme mental anguish and sleepless nights.

Denial and alibi are appellant's main pleas in exculpation. Thus, testifying in his own behalf, appellant vehemently denied the accusation against him and claimed that on March 22, 1998, he was at the house of his cousin Oscar at Sitio Tabing Ilog, Bagong Nagon, Cogeo, Antipolo City having a drinking spree with Oscar and a certain Kuya Nonoy from 2:00 p.m. up to 5:00 p.m. of said date. After the three of them consumed two and a half bottles of gin, he fell asleep at the house of his cousin Oscar and woke up at about 5:00 a.m. of the following day. Upon waking up the next morning, he prepared for his trip to Baguio where he worked as a construction worker. Accompanied by his brother, he took the 8:00 a.m. bus for Baguio. He returned back to Cogeo, Antipolo City after a week. Upon his return, he learned that he was being accused of killing Allan and because of fear that he may be wrongfully arrested, he went to the province where he was arrested on May 11, 2000, or more than two (2) years from the time the stabbing incident happened.

He admitted having a common-law wife in Sitio Gumamela, Barangay Sta. Cruz, Antipolo City but added that he visited her only every Saturday evening. When asked how long a time it would take him to reach Sitio Gumamela from Sitio Tabing Ilog, appellant answered more than half an hour by passenger jeepney.

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The trial court's decision

In a decision^[5] dated July 1, 2004, the trial court found Surongon guilty beyond reasonable doubt of the crime of Murder, qualified by treachery, and accordingly sentenced him to suffer the penalty of *reclusion perpetua*, thus:

WHEREFORE, accused DOMINADOR SURONGAN is hereby found guilty beyond reasonable doubt, and is hereby sentenced to suffer the penalty of *Reclusion Perpetua*.

SO ORDERED.

Therefrom, Surongon went on appeal to the CA on the lone assigned error that the trial court gravely erred in convicting him despite the failure of the prosecution to prove his guilt beyond reasonable doubt.

In the herein assailed decision dated January 19, 2006, the appellate court affirmed the trial court's judgment of conviction but modified it by awarding civil indemnity and moral and exemplary damages to the heirs of the victim. We quote the *fallo* of the CA decision:

WHEREFORE, premises considered, appeal is hereby **DISMISSED** and the assailed July 1, 2004 Decision of the RTC of Antipolo City, Branch 73, is hereby **AFFIRMED** with **MODIFICATION** that accused-appellant Dominador Surongon y Del Valio is ordered to pay the heirs of the victim, Allan Viduya, P50,000.00 as civil indemnity, P50,000.00 as moral damages, and P25,000.00 as exemplary damages.

Pursuant to Section 13(c), Rule 124 of the 2000 Rules of Criminal Procedure as amended by A.M. No. 00-5-03-SC dated September 28, 2004, which became effective on October 15, 2004, this judgment of the Court of Appeals may be appealed to the Supreme Court by notice of appeal filed with the Clerk of Court of the Court of Appeals.

SO ORDERED.

In view of the *Notice of Appeal*^[6] interposed by appellant from the aforementioned decision of the appellate court, the entire record of the case was forwarded to this Court. In its Resolution^[7] of September 20, 2006, the Court required the parties to simultaneously file their respective supplemental briefs, if they so desire. In their separate manifestations, the parties waived the filing of supplemental briefs and instead stand by their respective Briefs before the CA.

We thus take it that appellant's present recourse is anchored on his same submission *a quo* that his guilt for the crime of murder for the death of Allan Viduya on that fateful afternoon of March 22, 1998 has not been established by proof beyond reasonable doubt.