

THIRD DIVISION

[G.R. NO. 172184, July 10, 2007]

**NESTOR B. DECASA, PETITIONER, VS. THE HONORABLE COURT
OF APPEALS AND THE PEOPLE OF THE PHILIPPINES
RESPONDENTS.**

DECISION

CHICO-NAZARIO, J.:

In this Petition for *Certiorari* under Rule 65 of the Revised Rules of Court,^[1] petitioner Nestor B. Decasa prays for the reversal of the Decision dated 26 April 2005^[2] and Resolution dated 23 February 2006^[3] of the Court of Appeals in CA-G.R. CR No. 23072, affirming with modification the Decision dated 21 August 1998^[4] of the Regional Trial Court (RTC), Branch 50, Loay, Bohol, in Criminal Case No. 8006, finding petitioner guilty beyond reasonable doubt of the crime of homicide.

On 31 July 1995, petitioner was indicted in an Information for homicide allegedly committed as follows:

That on or about 29th day of August, 1992, in the municipality of Bilar, province of Bohol, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with intent to kill and without justifiable cause, did then and there willfully, unlawfully and feloniously assault, attack, strike and/or stab with the use of a sharp-bladed, sharp-pointed weapon one Teodoro Luzano thereby inflicting injuries on the vital parts of the victim's body causing his untimely death; to the damage and prejudice of the heirs of the victim in the amount to be proved during the trial.

Acts committed contrary to the provisions of Article 249 of the Revised Penal Code as amended.^[5]

When arraigned on 22 December 1992, petitioner pleaded "Not Guilty" to the charge. Thereafter, trial on the merits ensued.

The testimonies of all the prosecution witnesses^[6] and the first five witnesses for the defense^[7] were heard before Judge Achilles Melicor (Judge Melicor) of RTC, Branch 4, Tagbilaran City. Subsequently, the instant case was re-raffled to RTC, Branch 50, Loay, Bohol, presided by Judge Dionisio R. Calibo Jr. (Judge Calibo) after Judge Melicor inhibited himself from deciding the same case. Thus, only the testimony of petitioner was heard by Judge Calibo.^[8]

The factual antecedents as viewed by the prosecution are summarized in the Comment dated 19 July 2006 of the Office of the Solicitor General,^[9] to wit:

1. On August 29, 1992, at around 8 o'clock in the evening, Rogelio Boco was gathering tuba from a coconut tree located near a canal at Riverside, Bilar, Bohol, when he chanced upon petitioner Nestor Decasa and Teodoro Luzano arguing heatedly about water [for their respective ricefields].
2. From a distance of about five (5) meters and as a bright moon illuminated the area, Rogelio Boco saw petitioner Nestor Decasa hack Teodoro at the back portion of the latter's neck and again on the forehead near the eyebrow. Teodoro fell down.
3. After the incident, Rogelio went home. Early the next morning, he went to the same place to gather tuba. There, he saw Teodoro's corpse lying near a coconut tree.
4. Rogelio summoned his neighbors to witness what he saw. He was investigated and thereafter executed an affidavit before the MCTC of Bilar, Bohol.
5. Dr. Maria Nenita Tumanda, Rural Health Physician of Batuan, Bohol conducted a post-mortem examination on the body of Teodoro Luzano and issued a Post-Mortem Report (Exhibit A) and Death Certificate (Exhibit B) with the following findings:

"The cause of the death was hypovolemic shock secondary to hemorrhage due to multiple wounds on the head, chest, and extremities, which could have been caused by a sharp-edged and pointed instrument, like a bolo. The immediate cause of death was cardiopulmonary arrest."

Petitioner vehemently denied the foregoing accusations. He disclaimed any liability for the death of Teodoro Luzano (Teodoro). The compendium of his defenses and arguments is contained in the RTC Decision dated 21 August 1998, *viz*:

The last witness for the defense was accused Nestor Decasa himself, 30 years old, college level, and a resident of Riverside, Bilar, Bohol. He testified that he executed a counter affidavit in this case.

He has been staying in the house of his parents-in-law, Bernardino and Francisca Llano Macalolot after getting married to their daughter Luz on May 16, 1991. Before he got married, he resided at Quezon, Bilar which is more than one kilometer away from Riverside, Bilar.

It is not true that he killed Teodoro Luzano. In the afternoon of August 29, 1992, he was making hollow blocks together with his younger brother, Domingo, at the site where his house was supposed to be constructed, about 100 meters from the house of his parents-in-law. They worked up to 5:00 o'clock in the afternoon, after which they went home. At around 6:30 in the evening, he ate his supper together with his

parents-in-law, his wife, his two brothers-in-law, and Sally Canono, an (sic) herbal doctor. After eating supper, he and his wife Luz went inside their bedroom and prayed. They slept at 10:00 o'clock in the evening and woke up at 4:20 o'clock dawn to listen to the radio program of Rev. Al Galo until 5:00 o'clock in the morning.

Throughout the entire night of August 29, 1992, there was no time that he went out of his bedroom. After the radio program of Rev. Al Galo, he went back to his work at the same construction site. He started working on the hollow blocks together with his brother at 6:00 o'clock in the early morning of August 30, 1992 up to 7:30 in the morning when they ate their breakfast. After eating, he went back to work. While working again, he heard news that Teodoro Luzano was killed. Upon hearing the news, they took a look at the dead body and then went back to work. There were many people when they viewed the cadaver of the late Teodoro Luzano. On that same day, Sunday, August 30, 1992, his brother-in-law Jaime was arrested.

Rogelio Boco's testimony that in the evening of August 29, 1992 he heard him and the late Teodoro Luzano quarrelling over the source of water for their respective ricefields, is not true, because on that evening of August 29, 1992, he was at home. He never had any quarrel or misunderstanding with Teodoro because they do not have the same source of water.

He is a tenant of a ricefield owned by the late Judge Espiritu which source of water is called "Bogwak." The source of water of Teodoro's ricefield is the Logarita Spring. Logarita Spring and Bogwak are two different sources of water. It is Rogelio Boco who has a ricefield near that of Teodoro which also gets water from Logarita Spring. Rogelio is also tilling another ricefield (owned by somebody from Dauis) which is near his ricefield and has its source of water from Bogwak. It is not true that there was a time before August 30, 1992, that he uttered threatening words against the person Teodoro Luzano. It is also not true that the moon on August 29, 1992 was full because a calendar for August 1992 (Exhibit "3") shows that August 28, 1992, onwards, is not a full moon.

As a farmer, he worked on a piece of land located at Riverside, Bilar, Bohol. He worked on that piece of land even before he got married in 1991 and while he was still residing at Quezon, Bilar. He was also working on a farmland in Quezon, Bilar, but he stopped working on that land sometime in 1990 when he was about to get married. The land which he is working on at Riverside is owned by the late Judge Ricardo Espiritu. Before he went to Maramag, Bukidnon, he was able to work on that land already, and when he came back to Bohol, he resumed working on the same land. While in Maramag, it was his grandfather who worked on it. He inherited the tenancy.

The land he is working on at Riverside is about one-half hectare. The water source which fed the ricefield is Bogwak. The water source called Bogwak is a certain area on the ground where water comes out from underneath. However, Bogwak is not the only source of water in that

area. There are many ricefields in Barangay Riverside which are cultivated by other persons, and which are adjacent to each other. These fields are irrigated by the Logarita Spring which comes from the forest.

Bogwak is about 500 meters away from Logarita.^[10]

After consideration of the respective evidence of the prosecution and defense in a trial proper, the RTC rendered a Decision on 21 August 1998, convicting the petitioner of homicide under Article 249 of the Revised Penal Code. The RTC gave more credence to the prosecution's version of the facts as narrated by eyewitness Rogelio M. Boco (Rogelio). Rogelio testified that on 29 August 1992, at a distance of five meters, he heard the petitioner and Teodoro arguing about the source of water for their respective ricefields and then saw petitioner subsequently hacking Teodoro. The RTC also affirmed the corroborative testimonies of five other prosecution witnesses namely, Dr. Maria Nenita D. Tumanda (Dr. Tumanda), Francisca O. Boco, Alona L. Dordas (Alona), Josefina M. Luzano (Josefina) and Fermin Tabel (Fermin). The gist of their testimonies is as follows:

Dr. Tumanda examined the corpse of Teodoro. According to her findings, Teodoro's death was caused by "hypovolemic shock secondary to hemorrhage due to multiple wounds on the head, chest, and extremities, which could have been caused by a sharp-edged and pointed instrument, like a bolo. The immediate cause of death was cardio-pulmonary arrest." Francisca Boco is the wife of Rogelio. She testified that on 29 August 1992, at about 7:30 in the evening, she passed by the house of petitioner's parents-in-law where the petitioner was also staying. She saw the petitioner go out of the said house and proceed towards the water-gate/irrigation opening which was four to five meters from the place where the incident took place. When she went home at about 9:30 in the evening, she again saw the petitioner coming from the ricefield and walking fast towards his parents-in-law's house.

Alona was the daughter of Teodoro. On 29 August 1992, at about 7:30 in the evening, she and her eight-year-old brother delivered food to Teodoro at the latter's ricefield located at Riverside, Bilar, Bohol. While she and her brother were at the ricefield, petitioner passed by. They greeted him "good evening" but the petitioner ignored them. Afterwards, Teodoro told her and her younger brother to go home because he would guard the source of water in the irrigation opening as the owners of the other ricefields might steal the water by opening the water-gate to allow the water to pass through. Alona also recalled that there was one time when the petitioner passed by their house and told their mother, Josefina, to advise the hard-headed Teodoro. Petitioner warned them that sooner or later he would crush Teodoro's head. Josefina was the wife of Teodoro. She alleged that on 7 July 1992, petitioner and Teodoro had an altercation regarding the water for their respective ricefields and that in the first week of August 1992, petitioner passed by their house and told her to restrain Teodoro from being hard-headed; otherwise he would break his head.

In his rebuttal testimony, Fermin claimed that he used to work on a riceland at Riverside, Biliran, owned by a certain Juan Item; that in 1992, Bernardino Macalolot (petitioner's father-in-law) and petitioner began working on the said riceland; and that the said riceland and the riceland of Teodoro had the same source of water called "Bogwak."

Pathetically, the RTC did not find worthy the testimonies of the defense witnesses

namely, petitioner; Municipal Circuit Trial Court (MCTC)-Sevilla, Bohol, Judge Felina D. Vaño (Judge Vaño); Luz Decasa (Luz); Jaime Macalolot (Jaime); Francisca Macalolot, Aquilino Decasa (Aquilino); and Loreto Quilas, Sr. (Loreto). Their collective court statements are as follows:

Petitioner insists that he has nothing to do with the death of Teodoro. Petitioner asserts that he had dinner with his wife, Luz, and the latter's relatives on the evening of 29 August 1992; that he and Luz listened to a radio program and thereafter prayed and slept; and that he did not go out of the house throughout the entire night of 29 August 1992. Judge Vaño was the administering officer for the affidavit executed by Rogelio. She averred that she had thoroughly examined Rogelio as to whether the latter clearly understood all his statements in the said affidavit. Luz, Jaime (petitioner's brother-in-law), and Francisca (petitioner's mother-in-law) testified, in essence, that petitioner did not kill Teodoro; that they had dinner with the petitioner on the evening of 29 August 1992; that after dinner, petitioner and Luz listened to a radio program and thereafter prayed and slept; that they did not see petitioner go out of the house throughout the entire night of 29 August 1992; that there was no feud between petitioner and Teodoro; that Rogelio and Teodoro had the same source of water for their respective ricefields; that Rogelio and Teodoro had a quarrel regarding such source of water; and by reason of the said conflict, Rogelio filed a complaint against petitioner in the *barangay* hall, a complaint which was, however, subsequently settled.

Aquilino (uncle of petitioner) testified that Rogelio had a ricefield which was very near the ricefield of Teodoro, and that these ricefields had the same source of water called "Logarita." Loreto was a barangay councilman in Riverside, Biliran. He claimed that on 10 June 1992, he settled a dispute between petitioner and Rogelio as regards their source of water for their respective ricefields. He also presented a document evincing such settlement.

The RTC completely rejected petitioner's defense of alibi and held that overall, the testimonies of the prosecution witnesses pointed to the accused as the guilty party. In closing, the RTC held:

WHEREFORE, premises considered, the court finds accused Nestor Decasa alias Toto guilty beyond reasonable doubt of the crime of Homicide and, in the absence of mitigating or aggravating circumstances, hereby sentences him to an indeterminate penalty of EIGHT YEARS AND ONE DAY TO SEVENTEEN YEARS and FOUR MONTHS. The accused is further ordered to indemnify the heirs of the victim Fifty Thousand (P50,000.00) Pesos as death indemnity and Twenty Five Thousand (P25,000.00) Pesos in actual damages.^[11]

Aggrieved, the petitioner filed an appeal with the Court of Appeals. On 26 April 2005, the appellate court promulgated its Decision affirming with modification the assailed RTC Decision.^[12] The modification pertains to petitioner's period of imprisonment as provided under the Indeterminate Sentence Law. The decretal portion of the appellate court's decision reads:

WHEREFORE, the instant Appeal is hereby DISMISSED, and the assailed Decision of the Regional Trial Court, 7th Judicial Region, Branch 50, Loay, Bohol, in Criminal Case No. 8006 is AFFIRMED with modification as