

FIRST DIVISION

[G.R. No. 157669, April 14, 2004]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. JUAN ALCANTARA
AND ONE ALIAS AYING, ACCUSED, JUAN ALCANTARA
APPELLANT.**

D E C I S I O N

YNARES-SATIAGO, J.:

This is an appeal from the decision^[1] dated September 26, 2002, of the Regional Trial Court of Davao City, Branch 15, convicting appellant Juan Alcantara of the crime of robbery with homicide, sentencing him to suffer the penalty of *reclusion perpetua*, and ordering him to pay the parents of the victim, Liza Cabaral, P50,000.00 as civil indemnity and P57,000.00 for hospitalization, funeral and burial expenses.

Appellant, together with another individual known only as alias "Aying," was charged with the crime of robbery with homicide under Article 294 of the Revised Penal Code, as amended by Republic Act No. 7659. The Information alleged:

That on or about March 7, 1998, in the City of Davao, Philippines, and within the jurisdiction of this honorable court, the above-mentioned accused Juan Alcantara armed with a bladed weapon, conspiring and confederating together with his co-accused one Alias Aying, with intent to gain and by means of force, violence and intimidation, willfully, unlawfully and feloniously took and carted away the waist bag containing cash of P5,450.00 belonging to one Liza Cabaral who was then asleep and willfully, unlawfully and feloniously stabbed the said victim, at which juncture Alias Aying divested Liza Cabaral of her wristwatch, which injuries consisted of:

"STAB WOUND OF THE CHEST"

which caused her death.

CONTRARY TO LAW.^[2]

Only the appellant was arrested. The other suspect, alias Aying, remains at large. Upon arraignment, appellant pleaded not guilty. During the trial, the prosecution's lone eyewitness, Leonila Quimada, testified as follows:

In the early morning of March 7, 1998, Leonila was by her fruit stand near the Mercury Drug store along Bankerohan market in Davao City when she heard noise coming from a nearby stand. From a distance of an arm's length, Leonila saw appellant trying to take the waist bag of the victim Liza Cabaral. Liza resisted and

grappled with appellant for possession of the waist bag which led appellant to stab Liza on her thigh. Thereafter, appellant again stabbed Liza on the chest, inflicting the fatal blow. Leonila shouted for help when she saw Liza slumped on the pavement. Appellant immediately fled, leaving Liza's waist bag behind. Appellant's companion, alias Aying, suddenly appeared and took Liza's wristwatch before fleeing. Leonila, with the help of a certain Yoyong, rushed Liza to the Davao Doctor's Hospital where Liza was pronounced dead on arrival.^[3]

On cross-examination, Leonila testified that neither she nor her husband is related to the victim and her family. She had known appellant for about six years since he also worked at the Bankerohan market, although she was unsure of his exact occupation. She visited appellant at Camp Domingo when she learned of his arrest. When asked whether it was true that she was surprised to see appellant as the person arrested for the crime, she replied "*He was the one.*"^[4] She executed a supplemental affidavit^[5] dated April 17, 1998 wherein she implicated a certain Jun Panal in the crime. She saw Panal talking to appellant and alias Aying minutes before the incident happened. She failed to name him in her previous affidavit because she was then in a state of shock.^[6]

Dr. Samuel Cruz, who conducted the autopsy of the victim on March 11, 1998, testified that Liza had three stab wounds: two stab wounds on the chest and one stab wound on the left thigh. He surmised that these wounds were inflicted by a sharp, pointed, double-sided instrument. However, he could not categorically determine the position of the victim at the time the wounds were inflicted.

The victim's mother, Diosdada Quimada Cabaral, testified that she and her family were overcome with sadness on the death of her daughter. They spent more than P53,000.00 in hospital and funeral expenses. She presented a receipt^[7] issued by Patalinghug Funeral Homes evidencing the funeral expenses as well as an Estimate of Expenses^[8] which included the hospital expenses^[9] paid for in advance by Norma Quimada.^[10]

The defense presented as its first witness PO3 Mindalito Salvar who testified that he was the officer on duty at the San Pedro Police Station on the early morning of March 7, 1998. Having received a report of a stabbing incident, he and two other policemen on duty proceeded to investigate the incident. At the Davao Doctor's Hospital, they questioned prosecution witness Leonila Quimada. PO3 Salvar testified that as per record of the incident in the police blotter, the perpetrator of the crime was stated to be "an unidentified male person aged 20 to 25 years old."^[11]

Elmer Isonza, a former barangay captain of Piapi in Davao City, testified that in March 1998, he held a series of consultation meetings with friends and prospective supporters to assess his chances should he run for public office as a city councilor. On March 6, 1998, he had a meeting with several people, including appellant and his spouse, which lasted from 7:00 in the evening until 2:00 in the morning of March 7, 1998. After said meeting, Kagawad Antonio Lo invited the group which included the Alcantara spouses to eat barbeque at Magallanes Street where they stayed until around 3:00 in the morning.^[12]

Atty. Dominador Sunga, Sr., counsel of record of appellant, testified on the

circumstances surrounding his meeting with prosecution witness Leonila and the victim's mother Diosdada. He testified that when he was engaged by appellant's mother to handle the case, he immediately proceeded to investigate and review the records. During his visit to appellant, who was then detained at Camp Domingo Leonor in Davao City, the latter informed him that Leonila and the victim's mother Diosdada visited him. Appellant recounted to Atty. Sunga that during said visit Leonila appeared surprised at the sight of him, stepped back and without saying a word left the premises. This prompted Atty. Sunga to visit Leonila and Diosdada in Matan-ao in Davao del Sur where he was accompanied by appellant's mother Librada, uncle Cenon and aunt Aquilina. According to Atty. Sunga, when he met Leonila at the victim's family's house, he asked her about her visit to appellant. Leonila purportedly admitted that her surprise at seeing appellant was due to the fact that he was not the person she had in mind. Atty. Sunga offered to prepare a Supplemental Affidavit^[13] stating these details and Leonila agreed to sign it before the City Prosecutor in Davao City. Atty. Sunga further added that the atmosphere during the meeting was very cordial and that the victim's family even prepared snacks and made them watch the video of the victim's burial. However, when the Supplemental Affidavit was ready, Leonila changed her mind about signing it and maintained the involvement of appellant in the crime. Leonila then filed cases of grave coercion and grave threats against Atty. Sunga and his companions to Matan-ao for allegedly forcing her to sign the affidavit and threatening to send her to prison if she does not do so. Atty. Sunga and his companions were subsequently acquitted by the trial court of the charges.^[14]

Cenon Amargo, uncle of appellant, corroborated the testimony of Atty. Sunga on what transpired when the latter met Leonila and the victim's mother Diosdada. He testified that he was present when Leonila confirmed that she was surprised when she went to visit appellant in jail since he was not the person she had in mind. He also testified as to the subsequent refusal of Leonila to sign the Supplemental Affidavit prepared by Atty. Sunga which excluded appellant.^[15]

Appellant likewise testified and interposed the defense of alibi. According to him, on March 6, 1998, he and his wife attended a consultation meeting organized by then Barangay Captain Elmer Isonza. He attended the meeting since his wife's family were friends of Isonza. The meeting lasted until about 2:00 in the morning of March 7, 1998. After the meeting, Kagawad Antonio Lo, who was also present, invited their group to a barbeque place in Magallanes Street. Appellant and his wife accepted the invitation and they were able to go home at around 3:00 the same morning. Appellant also testified that he was arrested about a year later and detained at Camp Domingo Leonor. A few days after his arrest, prosecution witness Leonila and the victim's mother Diosdada, visited him in jail. Appellant said that Leonila was taken aback upon seeing him and when he asked her why he was included in the charge, Leonila allegedly replied "*why is it that you are that way, after taking marijuana, you have tripping.*" Appellant stated that he knows Leonila by face only as she is a fruit vendor in Bankerohan though he has heard other people call her "*Nanay Mila.*" Appellant also testified that his mother related to him the details regarding their trip to Matan-ao to talk to Leonila and Diosdada. He stated that according to his mother, Leonila initially agreed to go to Davao City to sign the affidavit before the prosecutor but later refused because she was advised by her lawyer that the case against appellant's co-accused will become weak if appellant was released.^[16]

On cross-examination, appellant testified that he has worked in the area of Bankerohan for about eight years as a vendor of vegetables to different stalls. However, he did not know the victim personally and merely heard about the incident from other people. Neither did he know Leonila by name though he stated that he knew her by face and that it is possible that Leonila also knew him by face.^[17]

On September 26, 2002, the Regional Trial Court rendered its decision, the dispositive portion of which states :

Wherefore, the prosecution having proven the guilt of the accused beyond reasonable doubt, Juan Alcantara is hereby sentenced to **Reclusion Perpetua** and shall pay Mr. and Mrs. Luminoso and Diosdada Quimada Cabaral the following sums:

1. Fifty thousand pesos (P50,000.00) for the death of Liza Cabaral, the daughter, and
2. Fifty-seven thousand pesos (P57,000.00) for the hospitalization, funeral and burial expenses.

SO ORDERED.^[18]

Appellant filed a motion for reconsideration which was denied for lack of merit.

Hence this appeal raising the following errors:

I.

THE LOWER COURT ERRED IN ITS RULING THAT WITNESS FOR THE PROSECUTION, LEONILA QUIMADA, IS A CREDIBLE WITNESS.

II.

THE LOWER COURT ERRED IN NOT GIVING CREDENCE TO THE TESTIMONY OF ATTY. DOMINADOR G. SUNGA, SR.

The appeal lacks merit.

Appellant questions the credibility and the trial court's reliance upon the testimony of prosecution witness Leonila Quimada. Appellant points out that Leonila failed to identify the person who stabbed the victim and merely described him as being between 20 to 25 years old. Appellant also questions how Leonila came to name three persons as the perpetrators of the crime in the two affidavits she executed when initially, she identified no one during her interview with the police as shown by the entries in the police blotter. More importantly, appellant reiterates the alleged admission made by Leonila to his counsel Atty. Sunga that she made a mistake in naming appellant as the person who stabbed the victim Liza Cabaral.

It is true that Leonila was not able to name appellant when she was first asked by the police at the hospital regarding the identity of the assailant. This fact alone, however, does not erode Leonila's credibility considering the circumstances attending the inquiry. It must be noted that Leonila was questioned by the police