

EN BANC

[G.R. No. 130531, May 27, 2004]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. MICHAEL SIMON,
FROILAN REYES Y LACSON @ OLAN, ELY TONGOL Y
DEMAPENDEN AND JOHN DOES, APPELLANTS.**

D E C I S I O N

SANDOVAL-GUTIERREZ, J.:

For automatic review is the Decision^[1] dated May 21, 1997 of the Regional Trial Court, Branch 172, Valenzuela, Metro Manila, in Criminal Case No.3989-V-94, finding appellants Froilan Reyes y Lacson @ Olan and Michael Simon guilty of murder and imposing upon them the supreme penalty of death.

Appellants were charged in an Amended Information which reads:

“That on or about the 19th day of February 1994, in Valenzuela, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating with one another, without any justifiable cause, with intent to kill, with treachery and evident premeditation and taking advantage of their superior strength during night time, did then and there willfully, unlawfully and feloniously slap, punch, kick on the different parts of his body, tie his hands, hit with the piece of wood the head, hit the chest and head with a caliber .45 revolver and strangle to death with a piece of wire the neck of one, ANGELITO MANIAOL, thereby inflicting upon the latter serious physical injuries, which injuries ultimately caused the victim’s death.

“Contrary to law.”^[2]

Out of the five accused in the Amended Information, only appellants Froilan Reyes and Michael Simon were tried before the court a quo. The others have remained at large.

Upon being arraigned on May 29, 1996, both appellants pleaded “not guilty.”^[3]

The prosecution presented as its witnesses the following: Lenita Ibañez-Dominguez; Severino Dominguez; Ely Tongol; Celedonio Espital; Nida Espital, girlfriend of the victim; Esther Maniaol, mother of the victim; Crispin Bajado, and Dr. Maximo Reyes. Their testimonies established the following:

At around 12:30 in the morning of February 19, 1994, Lenita Dominguez, a balut vendor, and her daughter went home at 4447 BCL Homes Compound, Gen. T. de Leon, Independence St., Valenzuela, Metro Manila. However, **appellant Froilan Reyes**, who was unexpectedly guarding the gate, prevented them from entering the

compound. He gave her a "tip" that SPO4 Loreto Rodriguez instructed him not to allow anybody to enter because someone would be killed inside.^[4] She did not say anything. Unmindful of his warning, she and her daughter proceeded to their place. In front of her store, about 4 meters away, she saw appellant Michael Simon together with Dominador Atienza, Hermie Atienza, Noel Simon, Bobot Abesamis, Ronald Malit, Ping Oñate, Junel Bunao and Ely Tongol engaged in a drinking spree. Lenita knows them being her neighbors in the same compound. Then to her surprise, she saw SPO4 Loreto Rodriguez hit with a .45 caliber gun the forehead of the victim, Angelito Maniaol alias "Marlo".^[5] This caused the victim to run towards the house of his girlfriend, Nida Espital, located in the same compound. **The group followed him.** Then **appellant Michael Simon**, Ely Tongol, Hermie Atienza and Dominador Atienza **attacked him with fistblows.**^[6] Noel Simon tied his hands behind his back with an *alambre*.^[7] Then they brought him back to the place where they were drinking. Ping Oñate and Hermie Atienza kicked him, while Tongol, Abesamis and Dominador Atienza boxed him. SPO4 Rodriguez hit him again with a *dos por dos and a gun*.^[8] At this point, Noel Simon and Dominador Atienza held the victim. Bunao then tied his mouth with a handkerchief.^[9] Immediately, appellant Michael Simon, Ronald Malit, Junel Bunao, and Ely Tongol started hurting him with lighted cigarette butts ("*pinagpapaso ng sigarilyo*"). During the "burning session," the others were laughing.^[10] **The victim was already so weak, making an unintelligible sound ("umuungol"). Blood was oozing from his mouth and nose.**^[11] Lenita observed that the "*maong*" pants of appellant Michael Simon and Noel Simon had blood stains. Thereafter, Noel Simon and Dominador Atienza brought the victim inside the garage of Crispin Bajado.^[12] The latter saw what happened to the victim inside the garage. There, Noel Simon hit the victim's head 3 times with a piece of wood. SPO4 Rodriguez also hit the victim's head with a revolver and strangled him with an "*alambre*". Appellant Michael Simon pummeled him with kicks. Then the group tied a nylon cord around his neck.^[13]

During all those times, **appellant Froilan Reyes** stayed at the gate, warning the people not to enter the compound. At about 1:05 A.M., Nida Espital, the victim's girlfriend, together with her sister and the latter's classmate arrived.^[14] Despite **appellant Reyes' warning,**^[15] Nida and her companies managed to get inside the compound. Appellant Reyes followed them.^[16]

At that time, SPO4 Rodriguez wanted to take the **victim, whose body and face were already covered with blood,** outside the gate of Bajado.^[17] Hence, he ordered Noel Simon and Dominador Atienza to board him in Ping Oñate's Nissan Sentra car with Plate No. PRT – 346, parked in front of Lenita's house.^[18] However, the plan did not push through because they saw Nida and her two companions coming from the gate.^[19] SPO4 Rodriguez signaled Noel Simon and Dominador Atienza to bring the victim's body to a hidden place. So the two pulled back the **very weak and dying**^[20] **victim** inside Bajado's gate.^[21]

Nonetheless, once inside the compound, Nida saw the bloody victim already dead, with hands tied behind his back. His legs were apart and something was stuck in his mouth. Also, a wire was tied around his neck. His head was wounded and full of blood, his body had numerous burns and his chest appeared to have been hit

several times.^[22] She started shouting but SPO4 Rodriguez pacified her. Nida noticed that his hands, shirt and brown shorts were stained with blood.^[23]

Celedonio Espital, brother of Nida, also a resident of BCL Homes, corroborated the testimony of Lenita.^[24] **He identified appellants Simon^[25] and Reyes in court.^[26]** He added that he saw both **appellants and others carrying the victim and were trying to board him in a gray colored^[27] car.** SPO4 Rodriguez's shirt had bloodstains. There were also drops of blood on his feet and hands.^[28] After he instructed his brother Benjie to fetch Esther, the victim's mother, the police investigators arrived.

Meanwhile, Esther rushed to the scene of the crime and saw the dead body of the victim sprawled in Bajado's garage. She spent P70,750.00 for the wake and burial of her son as shown by a list of expenses (Exhibit "Q"). She and her family suffered "mental anguish and shock" that cannot be quantified in terms of money.

An autopsy was conducted by Dr. Maximo Reyes of the National Bureau of Investigation on February 19, 1994. His Postmortem Findings are as follows:

"Cyanosis, lips and fingernailbeds.

Hemorrhage, meningeal; epidural and subarachnoidal, extensive. Contused abrasions, 3.0 x 8.0 cm., area of face, left, 3.0 x 10.0 cm., area of chest, left; 2.0 x 3.0 cm., left, deltoid area; 1.0 x 4.0 cm., left hypechendrinc area, 4.0 x 10.0 cm., left iliac region; 3.0 x 4.0 cm., left knee; 7.0 x 18.0 cm., area of right leg, anterior aspect; 4.0 x 10.0 cm., area of shoulder, left; 1.0 x 2.0 cm., left suprascapuler area; 1.0 x 3.0 cm., left infrascapular area, 3.0 x 5.0 cm., right lumbar area, 4.0 x 16.0 cm., area of the forearm, right, posterior aspect.

Ligature marked, total length of 12.0 cm. extending from anterior aspect of left side of neck down to the lateral aspect with a diameter of 0.1 to 0.8 cm., the widest.

Hematomas, periorbital, 2.0 x 4.0 cm., right; 2.0 x 5.0 cm. left; interstitial, scalp from left parieto-occipital to vertex and right, parieto-occipital.

Lacerated wounds, sucus membrane of both upper and lower lips, left parietal area, 3.0 cm.

Fracture, linear, left, parieto-occipital bone.

Heart and all other internal organs are congested.

Stomach, ¼ filled with brownish fluid.

CAUSE OF DEATH: Traumatic Head Injury."^[29]

Appellants Michael Simon and Froilan Reyes raised the defenses of denial and alibi.

Appellant **Michael Simon**, also a resident of BCL at the time of the incident, testified that on February 18, 1994, at around 8:00 o'clock in the evening, he was watching T.V. at home with his parents and his two brothers. After dinner, he went to Tatang's place which was 6 to 8 houses away from their residence.^[30] Then he went to Ely's place, located 3 houses away, to attend his birthday party.^[31] Appellant drank a bottle of beer and thereafter went home with his brother Noel at around 10:30 p.m.^[32] When he woke up at 6 o'clock the following day, several policemen from Valenzuela were looking for him. They brought him to the Valenzuela Police Headquarters and later, to the NBI. He denied having participated in the killing.^[33] Lenita testified against him because she was in need of money and wanted to be entitled to the cash benefits given under the Witness Protection Program of the government. Also, she was motivated by hatred in testifying against him because his family did not tolerate her illicit relationship with his brother Noel. **Nelia Simon**, mother of appellant, corroborated his testimony.

Appellant **Froilan Reyes** testified that on February 18, 1994, he was working as a stay-in caretaker in the shop of Alex Bajado (father of Crispin Bajado) located at Tamaraw Hills, Marulas, Valenzuela, Metro Manila. At around 6:00 o'clock in the evening, Alex Bajado instructed him to get the two boxes of fasteners the former left in the car compartment of Crispin Bajado at BCL Homes Compound. So he went to the place together with a certain Popoy, arriving there at 8:00 o'clock that same evening. Crispin was then sleeping. It took them only twenty minutes to get the fasteners, then they immediately returned to the shop on board a tricycle. After dinner, they played cards for a while and slept.^[34]

Antonio Sarmiento, testifying for appellant Reyes, declared that spouses Severino and Lenita Dominguez used to borrow money from him from 1987 to 1995;^[35] and that the spouses have abandoned their residence in the BCL Homes Compound.

On May 21, 1997, the trial court rendered its Decision convicting both appellants of murder defined and penalized under Article 248 of the Revised Penal Code, thus:

"WHEREFORE, judgment is hereby rendered finding accused MICHAEL SIMON and FROILAN REYES y LACSON @ Olan guilty beyond reasonable doubt and as principal of the crime of murder as defined and penalized under Article 248 of the Revised Penal Code, as amended by Republic Act 7659, attended by the aggravating circumstance of cruelty with no mitigating circumstance to offset the same, and hereby sentences each of them to suffer the supreme penalty of death. Both accused Michael Simon and Froilan Reyes y Lacson @ Olan are further sentenced, jointly and severally, to pay the heirs of victim Angelito Maniaol the amount of P70,750.00 as actual damages, the amount of P50,000.00 as indemnity for the death of Angelito Maniaol, and the amount of P250,000.00 as moral damages, plus the cost of suit.

x x x

"SO ORDERED."^[36]

Hence, this appeal.

Appellant Reyes, in his Appellant's Brief, raised the following assignments of error:

"I

THE LOWER COURT SERIOUSLY ERRED IN GIVING CREDIT TO THE BELATED, DOUBTFUL AND EXAGGERATED TESTIMONIES OF THE PROSECUTION WITNESSES

II

THE LOWER COURT SERIOUSLY ERRED IN DISREGARDING THE POSITIVE AND CLEAR EVIDENCE OF THE HEREIN APPELLANT

III

THE LOWER COURT SERIOUSLY ERRED AND GRAVELY ABUSED ITS DISCRETION IN CONVICTING THE HEREIN ACCUSED-APPELLANT."^[37]

Appellant Simon ascribed to the trial court the following errors:

"I

THE LOWER COURT SERIOUSLY ERRED IN CONSIDERING THE BELATED, HIGHLY DOUBTFUL AND EXAGGERATED TESTIMONIES OF THE PROSECUTION WITNESSES

II

THE LOWER COURT SERIOUSLY ERRED IN DISREGARDING THE DIRECT AND CLEAR EVIDENCE OF THE HEREIN APELLANT

III

THE LOWER COURT SERIOUSLY ERRED AND GRAVELY ABUSED ITS DISCRETION IN CONVICTING THE HEREIN ACCUSED-APPELLANT."^[38]

Appellants Reyes and Simon contend that the prosecution failed to prove their guilt beyond reasonable doubt because its witness, Lenita Dominguez, is not credible. She only appeared and testified after a year from the filing of the Information.

The Solicitor General counters that Lenita, an eyewitness, was telling the truth. In fact, she was unequivocal and categorical in her narration. More importantly, appellants were positively identified by the prosecution witnesses, hence, the latter's testimony cannot be simply discredited by appellants' mere denial and alibi.

The assigned errors basically involve a determination of the credibility of the prosecution witnesses.

I. Credibility of prosecution witnesses

Settled is the rule that when it comes to credibility of witnesses, appellate courts generally do not overturn the findings of trial courts. The latter are in a best position