

SECOND DIVISION

[G.R. No. 144343, July 07, 2004]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. RICSON PARRENO
Y ATIDO AND DELBERT QUINDO Y PLACENCIA, APPELLANTS.**

DECISION

CALLEJO, SR., J.:

This is an appeal from the Decision^[1] of the Regional Trial Court of Pasig City, Branch 156, in Criminal Case No. 113331-H, convicting the appellants Ricson Parreno and Delbert Quindo of murder under Article 248 of the Revised Penal Code, sentencing them to *reclusion perpetua* and ordering them to indemnify the heirs of Anthony Cruz in the amount of ₱50,000.00, and to pay ₱25,000.00 as actual damages and costs of the suit.

On November 10, 1997, an Information was filed charging the appellants with murder, worded as follows:

On or about November 2, 1997 in Pasig City and within the jurisdiction of this Honorable Court, the accused, conspiring and confederating together with 4 John Does, whose identities and present whereabouts are still unknown, armed with a deadly weapon, with intent to kill, with treachery and abuse of superior strength, did then and there willfully, unlawfully and feloniously stab one Anthony Cruz y Santos on his back, thereby causing [a] mortal wound which directly caused his immediate death.

Contrary to law.^[2]

The appellants pleaded not guilty to the charges.^[3] Trial forthwith ensued.

The Case For The Prosecution^[4]

Thirty-year-old Anthony Cruz was the eleventh child in a family of twelve. He resided with his elder sister, Zenaida Santos Cruz, at No. 32-D Katarungan St., Caniogan, Pasig City. He was an electrical engineering graduate,^[5] still single and was working as a cashier in a Mr. Quickie Repair Shop owned by his sister Zenaida. Anthony Cruz was receiving ₱6,000.00 as compensation,^[6] and usually worked from 10:00 a.m. to 7:00 p.m.^[7]

Twenty-year-old Simplicio Genova, Jr. and nineteen-year-old Frederick Sabangan were Anthony's neighbors and "gangmates." At around 12:30 a.m. of November 2, 1997, Simplicio and Frederick were with Anthony and two of their other friends, Agripino Santos and Ricardo Deocareza. They wanted to buy food from a nearby store. As they were walking in front of the Rizal High School in Katarungan Street,

they saw six persons on the other side of the street. Appellants Parreno and Quindo were in front, while the four other members of the group were right behind them. Appellant Quindo then challenged them to a fight.^[8]

Unsure if they were only speaking in jest, Frederick, Anthony and Simplicio looked at the six men before them, but did not recognize the latter. One of the men had a slingshot (*tirador*).^[9] Anthony said, "*Pabayaan na lang natin*," while Simplicio told the group, "*Hindi kami lalaban*."^[10] They turned and started to walk away, but when they saw that two male persons had started running after them, they also ran. Anthony and Simplicio ran ahead of their friends, towards an alley in Katarungan Street. Agripino followed. When Anthony noticed that Frederick and Ricardo had been left behind, he told Simplicio and Agripino to go back to where their two other companions were.^[11] Anthony had then gone a little further ahead.

Suddenly, Anthony was cornered by two persons. Outside an alley in Katarungan Street, four others also appeared from the nearby Rizal High School. Anthony was surrounded. Three of the men ran towards the school, while three others remained: appellant Parreno who was then wearing a white shirt, appellant Quindo who had on a blue shirt, and another who was wearing a red jacket.^[12] The three "circled" upon Anthony who was facing the man in the red jacket. Appellant Parreno, who was then standing behind Anthony, suddenly stabbed the latter with his right hand.

Simplicio, who was about ten meters away from the scene, saw all this, but in his shock, failed to recognize what weapon appellant Parreno used to stab his friend.^[13] The three culprits fled from the scene, and ran towards the direction of the Rizal High School.^[14]

In the meantime, Agripino, Ricardo and Frederick had re-traced their steps and turned back, taking a right turn going towards the other alley. Frederick then saw his wounded friend, as the three culprits were fleeing from the scene. Anthony slowly approached him and Simplicio and murmured, "*Pare, may tama ako*."^[15] Simplicio informed Anthony's elder brother of the incident. Simplicio, Agripino, Ricardo and Frederick then immediately boarded an owner-type vehicle and brought the wounded Anthony to the provincial hospital. Anthony died shortly after being wheeled into the emergency room.

PO1 Arnel Canonigo testified that the stabbing incident was referred to him at around 12:30 a.m. of November 2, 1997. He immediately proceeded to the Rizal Medical Center where the victim was brought for medical treatment. Upon his arrival, however, Dr. Loy Garcia, the attending physician, told him that the victim already died.^[16] PO1 Canonigo proceeded to interview the witnesses, after which a patrol car arrived to take the latter to the crime scene to identify the suspects. Two officers were then dispatched to proceed to the scene of the crime, along with the witnesses. PO1 Canonigo followed them. The officers had already invited four persons found inside the Rizal High School campus for questioning, and were brought to the Block V Station for investigation. With the assistance of PO3 Isuga, there was a "confrontation" among the four male persons who were brought in for questioning. Genova pointed to the appellants Parreno and Quindo as the culprits in the stabbing.^[17] After the appellants were apprised of their constitutional rights, PO1 Canonigo proceeded to take the statements of the witnesses, and prepared a

Referral Letter dated November 3, 1997.

Medico-Legal Officer Dr. Emmanuel Aranas of the Philippine National Police (PNP) Crime Laboratory SPD, Fort Bonifacio, Makati, conducted an autopsy^[18] of the victim's body. He made the following findings:

Fairly nourished, fairly developed male cadaver, in rigor mortis, with post mortem lividity at the dependent portions of the body. Conjunctivae are pale. Lips and nailbeds are cyanotic. There are surgical incisions at the chest.

TRUNK AND EXTREMITIES:

- (1) Multiple abrasions, right supraorbital region, measuring 7 by 3.5 cms., 4 cms. from the anterior midline.
- (2) Stab wound, left lumbar region, measuring 3 by 0.7 cms., 5 cms. from the posterior midline, 10 cms. deep, directed anteriorwards, upwards, and medialwards, thru the left intercostal space along the parvertebral line, piercing both lobes of the left lung
- (3) Abrasion, left knee, measuring 0.8 by 0.4 cms., 6 cms. medial to its midline.
- (4) Multiple linear abrasions, middle 3rd of the left leg, measuring 2.5 by 0.7 cms., 4 cms. medial to its anterior midline.

About 300 mls. of fluid and clotted blood recovered from the thoracic cavity.

Stomach contains ½ glassful of partially digested food particles.^[19]

Dr. Aranas also testified that the cause of the victim's death, the stab wound at the back, was about ten centimeters deep, and about three by 0.7 centimeters in size.^[20] However, the doctor could no longer identify the weapon used to stab the victim as the medical attendants "altered" the edges of the wound.^[21]

The victim's sister, Zenaida Santos Cruz, testified that they incurred funeral expenses in the amount of P25,000.00, and presented a receipt^[22] issued by the *Funeraria* Sta. Clara to prove the same. She also testified that she was not interested in money, but sought justice for her brother's death.^[23]

The Case For The Appellants

Sharon Quindo, appellant Quindo's sister, testified that she went to visit her brother in the Pasig City municipal jail and was able to talk to him. She also spoke to PO1 Canonigo, who told her that her brother said that Julius Sorongon was the one who stabbed the victim.^[24] PO1 Canonigo then went back to the crime scene, but failed

to find Sorongon. Sharon Quindo narrated that she knew Sorongon, as the latter was her *kababayan*, both of them being from Fontevedra, Negros Occidental.^[25] Sorongon and her brother were both laborers/workers at the Rizal High School.^[26]

PO3 Benjamin Isuga testified that he was with PO1 Canonigo when the latter investigated the stabbing incident. There had been reports that six persons were involved in the stabbing incident and went inside the premises of the Rizal High School. Simplicio Genova, Jr., one of the witnesses, was with them. They searched the place and proceeded to a room where the appellants, along with two others, were found drinking.^[27] According to Genova, the four men were among the six persons involved in the stabbing incident. The four informed them that the two others had already fled.^[28] PO3 Isuga did not see any blood on the bodies of the appellants or of the other two men.^[29]

Appellant Quindo testified that he had nothing to do with the killing of Anthony Cruz. In 1997, he was employed as a laborer of MC Valentin, the construction company in charge of the on-going work in the building.^[30] He also lived in the building at the time,^[31] but was a resident of St. Pascual Street, Manggahan, Fairview, Quezon City. He was still single.

Appellant Quindo admitted that he was at the Rizal High School Building on November 2, 1997, along with appellant Parreno, Julius Sorongon, Danny Castro, and other friends. However, he insisted that he did not know what happened to Anthony Cruz. He also stated that he could think of no reason why the witnesses for the prosecution would point to him as one of the perpetrators of the crime.

When the policemen arrived at about midnight of November 2, 1997, Julius Sorongon and Danny Castro were drinking, while the appellants were already lying in bed. Appellant Quindo was awakened as all four of them were invited for questioning. The appellant asked permission from their foreman. The police did not say why they were being invited for questioning. One civilian who was with the police went inside their room and inspected their pillows, blankets, and their cabinets. They were then taken to the headquarters in Rotonda, and, upon arriving, were asked to sit down. Thereafter, about fifteen persons came in, and the policemen kept asking them if there was "one among them." Frederick Sabangan went inside and sat in front of them, and suddenly punched appellant Quindo many times, as a consequence of which the latter suffered a black eye. Zenaida Cruz, the sister of the deceased, also slapped appellant Quindo.^[32] Frederick Sabangan then pointed to the appellants as the culprits.

After trial, the court rendered a decision, the dispositive portion of which reads:

Wherefore, the Court finds accused Ricson Parreno and Delbert Quindo GUILTY beyond reasonable doubt of the crime of Murder and hereby sentences them to suffer the penalty of reclusion perpetua and to pay the heirs of the victim the amount of ₱50,000.00 as indemnity, ₱25,000.00 as actual damages and COSTS of suit.

SO ORDERED.^[33]

The Present Appeal

On appeal, the appellants ascribed the following assignment of errors to the court *a quo*:

THE TRIAL COURT ERRED IN APPRECIATING ABUSE OF SUPERIOR STRENGTH AS A QUALIFYING CIRCUMSTANCE^[34]

THE TRIAL COURT ERRED IN APPRECIATING THE PRESENCE OF TREACHERY^[35]

THE TRIAL COURT ERRED IN PRONOUNCING THAT WHAT WAS FOUND ON THE PANT (sic) AND T-SHIRT OF PARENO (sic) WHEN THE POLICE CAME WAS BLOOD STAIN (sic).

THE TRIAL COURT ERRED IN SUSTAINING THE IDENTIFICATION OF THE ACCUSED DURING THE COMMISSION OF THE OFFENSE.^[36]

THE TRIAL COURT ERRED IN CONVICTING THE ACCUSED.^[37]

According to the appellants, the mere fact that their group was superior in number than that of the victim's, as testified to by the prosecution witnesses, does not mean that there was abuse of superior strength. Furthermore, the fact that the stab wound was found at the back of the victim does not necessarily mean that the killing was treacherous. The victim's group, in fact, challenged their (appellant's) group, who were seen with spears or *tirador*. As such, the victim was forewarned of the threat to his life, negating the presence of treachery as an aggravating circumstance.

The appellants further aver that the stains found on appellant Parreno's shirt were red paint stains, consistent with his claim that he was a painter. They also question the veracity of the identification made by the witnesses for the prosecution, contending that there was no evidence presented as to the sufficiency of the illumination at the place of the incident when the killing occurred, as well as the presence of obstruction between the location of the witnesses and the *situs criminis*. The appellants, likewise, question the veracity of the testimonies of the witnesses for the prosecution, and stated that the testimony of Frederick Sabangan conflicted with his sworn statement before the police.

For its part, the Solicitor General maintains that the appellants were positively identified by the two eyewitnesses whose credibility was not impaired, and that the alleged contradiction between the testimony of Frederick Sabangan and his sworn statement before the police was "imaginary." Finally, the prosecution was able to establish the guilt of the appellants beyond reasonable doubt.

The Court's Ruling

The appeal has no merit.

In questioning the veracity of the testimony of the prosecution witnesses, the appellants thereby assail the trial court's factual findings. It is well-settled that the findings of facts and the assessment of the credibility of witnesses is a matter best left to the trial court because of its unique position of having observed that elusive