

SECOND DIVISION

[G.R. Nos. 137982-85, January 13, 2003]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
SATURNINO TUPPAL, ACCUSED-APPELLANT.**

DECISION

QUISUMBING, J.:

On appeal is the joint decision^[1] of the Regional Trial Court (RTC) of Ilagan, Isabela, Branch 16, dated March 12, 1999, in Criminal Cases Nos. 1967-1970, finding appellant Saturnino Tuppal guilty of robbery with homicide and sentencing him to *reclusion perpetua*.

Appellant's conviction stemmed from charges filed on August 21, 1992, by the Provincial Prosecutor of Isabela, as follows:

**Criminal Case No. 1967
For: MURDER**

That on or about the 22nd day of December, 1989, in the municipality of Reina Mercedes, province of Isabela, Philippines, and within the jurisdiction of this Honorable Court, the said accused, conspiring, confederating together and helping one another, with evident premeditation and treachery, did then and there, willfully, unlawfully and feloniously with intent to kill and without any just motive assault, attack and shoot with a firearm one Bartolo Atuan, inflicting upon him a gunshot wound at the back level of the lowest portion of the heart, which directly caused his death due to cardiac arrest.

CONTRARY TO LAW.^[2]

**Criminal Case No. 1968
For: FRUSTRATED MURDER**

That on or about the 22nd day of December, 1989, in the municipality of Reina Mercedes, province of Isabela, Philippines, and within the jurisdiction of this Honorable Court, the said accused conspiring, confederating together and helping one another, with evident premeditation and treachery, did then and there, willfully, unlawfully and feloniously, with intent to kill suddenly and unexpectedly and without giving [her] chance to defend [herself] and with utter disregard to the fairer sex, assault, attack and shoot for several times with a cal. 45 and a gauge 12 shotgun and short firearms, one FLORFINA SOLITO, inflicting upon her, multiple gunshot wounds on the different parts of her body and right arm, which injuries would ordinarily cause the death of the said

FLORFINA SOLITO, thus, performing all the acts of execution which should have produced the crime of Murder as a consequence, but nevertheless, did not produce it by reason of causes, independent of their will, that is, by the timely and able medical assistance rendered to the aforesaid FLORFINA SOLITO, which prevented her death.

CONTRARY TO LAW.^[3]

Criminal Case No. 1969
For: ATTEMPTED MURDER

That on or about the 22nd day of December, 1989, in the municipality of Reina Mercedes, province of Isabela, Philippines, and within the jurisdiction of this Honorable Court, the said accused conspiring, confederating together and helping one another, with evident premeditation and treachery, did then and there, willfully, unlawfully and feloniously, with intent to kill suddenly and unexpectedly and without giving him chance to defend himself assault, attack, try and attempt to kill one BONIFACIO SOLITO, by then and there pointing towards him a gauge 12 shotgun and squeezing its trigger, thereby commencing the crime of Murder directly by overt acts, and that, if the accused did not accomplish their unlawful purpose, it was not of their own voluntary desistance but because the said shotgun which was pointed towards him, jammed and did not explode.

CONTRARY TO LAW.^[4]

Criminal Case No. 1970
For: ROBBERY

That on or about the 22nd day of December, 1989, in the municipality of Reina Mercedes, province of Isabela, Philippines, and within the jurisdiction of this Honorable Court, the said accused, conspiring, confederating together and helping one another, with intent to gain and by means of violence and intimidation against the person of FLORFINA SOLITO that is, by shooting her for several times with a caliber .45 pistol and a gauge .12 shotgun and short firearms, did then and there willfully, unlawfully, and feloniously, take, steal and carry away cash money in the amount of P2,500.00 belonging to the latter, against her will and consent, to the damage and prejudice of the said FLORFINA SOLITO in the aforesaid amount of P2,500.00.

CONTRARY TO LAW.^[5]

Appellant remained at large for almost nine (9) years after the filing of the aforesaid cases. It was only on March 5, 1998 that appellant was arrested in Cainta, Rizal and in connection with another case for robbery.

On July 29, 1998, appellant was arraigned. Assisted by counsel, he pleaded not guilty^[6] to the charges. The cases were then consolidated and trial ensued.

The prosecution's evidence established that:

On the evening of December 22, 1989, the spouses Bonifacio and Florfina Solito and their four-year-old child, Efren, attended the wedding of Florfina's younger sister, Loida Atuan, at Barangay Banguro^[7], Reina Mercedes, Isabela. At about 11:30 P.M., the Solitos accompanied by Bartolo Atuan, Jr., Florfina's 26-year-old brother, left the wedding reception. They had barely traveled some 300 meters away and were in front of the house of Felix Sacang, when they were waylaid by appellant and his four companions, now the co-accused, namely: Danilo, Pedro, Ben and Marcelo, all surnamed Tuppal. After Ben Tuppal announced a heist, Danilo Tuppal immediately ran off with Florfina's handbag containing P2,500.00 in cash. Appellant then shot Florfina with a short firearm, hitting her in the abdomen. Bartolo Atuan, Jr., tried to shield Florfina from further harm but Marcelo Tuppal then shot Bartolo, killing him on the spot.^[8]

Florfina took advantage of the situation and scurried towards a nearby banana plantation. The malefactors gave pursuit and continued to fire at her hitting her further at the buttocks and in the arm.^[9] She pretended to be dead and fell to the ground. The ploy worked because she heard accused Pedro Tuppal say, "Let us go, she is already dead."^[10]

In the meantime, upon hearing the gunshots, Bonifacio Solito and his son Efren scampered towards the house of Felix Sacang. Co-accused Ben Tuppal ran after both father and son. He aimed the gun at them, but the gun jammed and did not fire.^[11]

After the malefactors fled, Florfina was brought to the Isabela Provincial Hospital where Dr. Leonides Melendres administered emergency treatment. At the trial, Dr. Melendres testified that Florfina sustained three gunshot wounds, two of which could have been fatal had there been no medical treatment.^[12]

Dr. Antonio Salvador, who autopsied the cadaver of Bartolo Atuan, Jr., recovered a metallic slug from the victim's heart.^[13]

Florfina Solito, on direct examination, testified that appellant's brother and co-accused, Pedro Tuppal and another brother, Cornelio, had previously robbed her store. This robbery is the subject of a separate case still pending in the trial court of Reina Mercedes.^[14]

In the present cases, appellant raised the defense of denial and alibi. He claimed that at the time of the incident, he was residing in Taytay, Rizal working as a passenger jeepney driver, plying the Vito Cruz Street to España Blvd. route in Metro Manila. Appellant further testified that he had been a passenger jeepney driver for the last three (3) years, staying permanently in Metro Manila. According to him, the only instance he went to Banguro, Reina Mercedes, Isabela, was during his brother Cornelio's wake in 1989. To corroborate his defense of alibi, appellant presented his friend and employer, Vicente Garcia, Jr., in court.^[15]

On March 12, 1999, the trial court found the appellant guilty. The dispositive portion of its decision reads:

WHEREFORE, the prosecution having established the guilt of accused **SATURNINO TUPPAL** beyond reasonable doubt as principal of the proper offense of Robbery with Homicide, all the other charges having been merged in said offense, defined and penalized under par. 1 of Article 294, Revised Penal Code, with one aggravating circumstance, that of nocturnity, without any mitigating circumstance to offset the same, the court hereby sentences the accused to suffer the penalty of **Reclusion Perpetua**, with all the accessory penalties provided for by law; to indemnify the heirs of Bartolo Atuan, Jr. the sum of Ph 50,000.00 following prevailing jurisprudence and an additional sum of Ph 20,000.00 as actual and compensatory damages plus moral damages in the sum of Ph 200,000.00 and exemplary damage[s] in the sum of Ph 50,000.00; to pay to Florfina Solito the sum of Ph 2,500.00 which the accused forcibly took from her and Ph 60,000.00 for actual and compensatory damage; and, to pay the costs.

SO ORDERED.^[16]

Hence, this appeal. Before us, appellant prays for the reversal of the trial court's judgment. He imputes to the court *a quo* the following errors:

I.

THE LOWER COURT, REGIONAL TRIAL COURT, BRANCH 16, SECOND JUDICIAL REGION, ILAGAN, ISABELA, ERRED IN CONVICTING THE ACCUSED OF THE ABOVE-ENTITLED CASES ON MARCH 12, 1999 OF THE PENALTY OF RECLUSION PERPETUA WITH THE ACCESSORY PENALTIES PROVIDED BY LAW, TO INDEMNIFY THE HEIRS OF BARTOLO ATUAN, JR. THE SUM OF PH. 50,000.00 FOLLOWING PREVAILING JURISPRUDENCE AND AN ADDITIONAL SUM OF PH. 20,000.00 AS ACTUAL AND COMPENSATORY DAMAGES PLUS MORAL DAMAGES IN THE SUM OF PH. 200,000 AND EXEMPLARY DAMAGES IN THE SUM OF PH. 50,000; TO PAY FLORFINA SOLITO THE SUM OF PH. 2,500.00 WHICH THE ACCUSED FORCIBLY TOOK FROM HER AND PH. 60,000.00 FOR ACTUAL AND EXEMPLARY DAMAGES; AND TO PAY THE COSTS.

II

THE COURT ERRED IN STATING THAT THERE WAS CONSPIRACY BY THE MALEFACTORS IN THEIR INTENTION TO ROB FLORFINA SOLITO.^[17]

This appeal hinges on the issue of whether the evidence now on record is sufficient to hold appellant Saturnino Tuppal guilty beyond reasonable doubt of the crime of robbery with homicide under Article 294 (1) of the Revised Penal Code.^[18]

Appellant challenges the credibility of the prosecution witnesses. Appellant contends that the conflicting testimonies of the spouses Florfina and Bonifacio Solito cast reasonable doubt as to his complicity in the crime charged.

For the appellee, the Office of the Solicitor General states that the trial court committed no error in giving full faith and credence to the testimonies of prosecution witnesses who positively identified Saturnino Tuppal as one of the