

SECOND DIVISION

[G.R. No. 133445, February 27, 2003]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
DIONESIO SANTIAGO, JOHN DOE, RICHARD DOE, WILLIAM DOE,
AND PETER DOE, ACCUSED.**

DIONESIO SANTIAGO, ACCUSED-APPELLANT.

D E C I S I O N

CALLEJO, SR., J.:

Before this Court is an appeal from the decision^[1] of the Regional Trial Court of Cebu City, Branch 13, convicting accused-appellant Dionesio Santiago of double murder, imposing on him the penalty of *reclusion perpetua* for each count and ordering him to indemnify the heirs of the victims in the sum of P50,000.00.

The Charges

Accused-appellant was charged of double murder in one information which reads:

The undersigned Assistant Provincial Prosecutor accuses Dionesio Santiago, John Doe, Richard Doe, William Doe and Peter Doe of the crime of Double Murder, committed as follows:

That on or about the 31st day of December, 1993, in the Municipality of Culaso, Province of Antique, Republic of the Philippines, and within the jurisdiction of this Honorable Court, the above-named accused being then armed with a bolo and a knife, conspiring, confederating and mutually helping one another, with intent to kill, evident premeditation, taking advantage of superior strength and night time, did then and there, willfully, unlawfully and feloniously attack, assault (sic) and stab with said bolo and knife Egmedio Carigay and Myrna Samsona, thereby inflicting fatal wounds on the different parts of their bodies which caused their instantaneous (sic) death.

Contrary to the provisions of Article 248 of the Revised Penal Code.^[2]

Although he was charged of two crimes in one Information, accused-appellant did not file any motion to quash the same. During the arraignment, accused-appellant, assisted by counsel, entered a plea of Not Guilty.^[3]

The Antecedent Facts^[4]

Sometime in June 1993, Igmedio Carigay and accused-appellant, both residents of Barangay Batonan Sur, Culasi, Antique, had a quarrel over irrigation rights. They

hacked each other, and as a result, sustained injuries. However, they settled their differences at the Citizen Armed Forces Geographical Units (CAFGU) detachment in the presence of CAFGU agent Pepito Calauod. On December 29, 1993, at about 7:00 p.m., six months after the altercation between Igmedio and accused-appellant took place, Pepito passed by the house of accused-appellant and heard him swear: "*Indi matapos ang bulan nga dya, patyon ko si Igmedio Carigay.*" (Before this month ends, I'll kill Igmedio Carigay).

Two days later, or on December 31, 1993, at 5:30 p.m., Manuel Magsipoc, the brother-in-law of Igmedio, was at the latter's house to borrow a sack of palay. Manuel stayed for about an hour, then left for his home. While he was about fifty meters from the house of Igmedio, Manuel met a group of five men walking towards said house. Four of the men wore masks. The fifth, whom Manuel recognized as accused-appellant, did not. Accused-appellant was armed with a bolo in its scabbard. Manuel thought it odd that the companions of accused-appellant were wearing masks. Nevertheless, Manuel and accused-appellant greeted each other. Manuel continued on his way back home.

At around 8:00 p.m. that day, Bien Beloya was on his way to the house of Igmedio and the latter's live-in partner, Myrna Samsona, to partake of some food prepared by them for New Year's eve. Bien had carried a flashlight to illumine his way from his house to the house of Igmedio which was located in a farmland about two kilometers away from his house. Earlier, Igmedio and Myrna had invited Bien to spend New Year's eve with them and Bien had agreed. When Bien was about 20 meters from the house of the couple, near the fence thereof, he heard Myrna crying and pleading: "*Please don't kill us.*" Bien tarried by the fence, and heard accused-appellant saying: "*I will kill you all!*" Again, Myrna pleaded, saying: "*Please don't kill us.*" Accused-appellant and Bien knew each other very well. They used to fish at sea together. However, Bien had no idea why accused-appellant would threaten to kill Myrna.

Momentarily, Bien saw Igmedio running out of their house followed by accused-appellant and four other men. A petromax lamp lighted the house of Igmedio. Accused-appellant and his companions were armed with knives and bolos. Igmedio tripped and stumbled. Accused-appellant and his companions surrounded Igmedio and stabbed him. Bien stepped forward and hid behind a banana plant, about six arms length from where Igmedio was being stabbed. Bien was shocked by what he had just witnessed. Accused-appellant and his companions sensed the presence of Bien. Accused-appellant then said: "Who is that? Bien instinctively replied: "*I am Bien*" and simultaneously flashed his flashlight on accused-appellant and his companions. Bien fled as fast as he could towards the direction of the CAFGU detachment in Batonan Sur along the national highway. However, accused-appellant and his companions ran after Bien and blocked his way. The latter detoured, ran upstream towards the river of Tigbobolo and on towards his house.

At around 4:00 a.m. the next day, accused-appellant arrived in the house of Bien and told the latter to go to San Jose and stay there. Accused-appellant warned Bien that accused-appellant, and his companions will kill him if Bien refused to obey. Fearing for his life, Bien did as told and fled posthaste to San Jose where he stayed for a week. As his conscience bothered him, Bien decided to report the incident to Manuel, the brother-in-law of Igmedio.

When apprised on January 6, 1994 that Igmedio and Myrna were already dead, CAFGU agent Pepito went to the house of the couple and saw them sprawled in the yard of the house, their bodies already in a state of decomposition. He entered the house of the couple and saw *suman* and cooked chicken. The police took pictures of the cadavers of the victims.^[5]

When Manuel learned of the deaths of Igmedio and Myrna, he rushed to the house of the couple and saw their bodies with stab wounds. Their cadavers were already emitting foul odor.

On January 26, 1994, Dr. Roselyn Escantilla Babayen-on conducted an autopsy on the cadavers of Igmedio and Myrna. She prepared and signed two Medico-Legal Reports containing her findings, thus:

NAME: EGMEDIO (*sic*) CARIGAY

XXXXX

FINDINGS:

The embalmed body was seen in a supine position with his upper and lower extremities slightly flexed. Numerous maggots were seen all over the body and with a very foul odor. There is softening of the tissues in some portion particularly at the right upper chest and the face. Some of the bones of the face were prominent.

- #1. Stab wound, left anterior chest, 2.0 cm. in lengths, 4.0 cm. in depth, 13.0 cm. from the nipple line, at the level of the 3rd rib.
- #2. Stab wound, neck, left lateral area, 3.0 cm. in length (*sic*), 2.0 cm. in depth.
- #3. Stab wound, left shoulder, 2.0 cm. in length, 3.0 cm. from the shoulder joint, 1.5 cm. in depth.
- #4. Stab wound, left posterior chest, 2.1 cm. in length at the level of the 4th vertebra, mid-scapular line.
- #5. Stab wound, lower posterior chest, mid-vertebral line, 2.0 cm. in length, at the level of the 12th thoracic vertebra.
- #6. Stab wound, left lower chest, posterior area, 2.0 cm. in length, left paravertebral line.
- #7. Stab wound, left lumbar area, 3.0 cm. in length, 3.0 cm. from the midline at the level of the first lumbar vertebra.
- #8. Stab wound, right lumbar area, 2.3 cm. in length, at the level of the second lumbar vertebra, right paravertebral line.
- #9. Stab wound, right lumbar area, 2.2 cm. in length, at the level of the third lumbar vertebra, right paravertebral line.

XXXXX

CAUSE OF DEATH:

Hypovolemic shock secondary to severe hemorrhage secondary to multiple stab wounds." (**Exhibit "A"**).

xxx

NAME: MYRNA SAMSONA

xxxxxx

FINDINGS:

The embalmed body was in supine position with her upper and lower extremities slightly flexed. Numerous maggots were seen all over the body and with a very foul odor. There is softening of the tissues in some portion particularly in the face.

- #1. Stab wound, nape area, 2.0 cm. in length, 2.0 cm. in depth, at the level of the 7th cervical vertebra.
- #2. Stab wound, posterior chest, 2.0 in length, mid-vertebral area at the level of the 4th thoracic vertebra.
- #3. Stab wound, lower posterior chest, 2.0 cm. in length, mid-vertebral area at the level of the 12th thoracic vertebra.
- #4. Stab wound, left lumbar area, 2.2 cm. in length, at the level of the first lumbar area.
- #5. Stab wound, lumbar area, 2.1 cm. in length, mid-vertebral line at the level of the second lumbar vertebra.

xxxxxxx

CAUSE OF DEATH:

Hypovolemic shock secondary to severe hemorrhage secondary to multiple stab wounds." (**Exhibit "B"**).

Dr. Babayen-on testified that the stab wounds may have possibly been caused by a sharp object like knife or bolo or "talibong." It was also possible that the victims were killed by two or in more assailants. The victims had been dead more than 24 hours before the autopsy.

The Defense and Evidence of Accused-Appellant

Accused-appellant denied the charge. He testified that on December 31, 1993, at around 6:00 p.m., he arrived in the house of Arthur Alocilja which was located about a kilometer away from his house. He was requested by Arthur to slaughter a dog for the new year's celebration. He was assisted by Eliza Cadapan in cooking the food for the guests. Accused-appellant stayed at the house of Arthur for about five hours, and at around 11:00 p.m. he and Eliza went to see a video show at a nearby house owned by Arthur's mother. The testimony of accused-appellant was corroborated by Arthur and Eliza.

The Verdict of the Trial Court

On November 26, 1994, the trial court rendered a decision convicting accused-appellant of double murder, the decretal portion of which reads:

WHEREFORE, in view of the foregoing facts and circumstances, for the death of Igmedio Carigay and Myrna Samsona, this Court finds Dionisio Santiago, GUILTY beyond reasonable doubt, for the crime of Double Murder and hereby sentences him to suffer the penalty of RECLUSION PERPETUA for the death of Igmedio Carigay, likewise for him to suffer another penalty of Reclusion Perpetua for the death of Myrna Samsona, and to indemnify the heirs of victims Igmedio Carigay and Myrna Samsona in the amount of FIFTY THOUSAND PESOS (P50,000.00), Philippine Currency for each victims.^[6]

Assignment of Errors

Accused-appellant interposed an appeal contending that:

THE LOWER COURT ERRED IN FINDING THE ACCUSED GUILTY BEYOND REASONABLE DOUBT OF THE CRIME OF MURDER AS DEFINED AND PENALIZED UNDER ARTICLE 248 OF THE REVISED PENAL CODE AS AMENDED BY RA 7659.

The Verdict of this Court

Accused-appellant asserts that the prosecution failed to prove his guilt beyond reasonable doubt for the deaths of Igmedio and Myrna. He contends that the collective testimonies of Pepito and Manuel are incredible and hence, barren of probative weight. Accused-appellant argues that if indeed he was bent on killing Igmedio and Myrna, for sure, he should have worn a mask to conceal his identity. It was sheer foolhardiness that he did not. Accused-appellant further states that if Manuel met him and four other male persons, four of whom wore masks and all of whom were armed with knives and bolos, on his way to the house of Igmedio and Myrna, it is incredible that Manuel did not even try to prevent accused-appellant and his companions from going to the house of the victims and avert any physical harm to them. Equally barren of probative weight, accused-appellant insists, is the testimony of Bien that at a distance of 20 meters, he could hear Myrna pleading for mercy and accused-appellant threatening to kill the couple. Accused-appellant avers that he cannot be convicted of murder for the death of Myrna in view of the failure of the prosecution to present an eyewitness to the crime. He insists that it was impossible for Bien to have recognized the voice of accused-appellant because Bien was 20 meters away from the house of Igmedio. Even if Myrna and accused-appellant were shouting, the voice of accused-appellant would be different from his ordinary voice. In any event, accused-appellant contends, the prosecution failed to prove that he abused his superior strength in killing Igmedio and that he killed Myrna with treachery.

The contention of accused-appellant does not persuade the Court. At the heart of accused-appellant's submission is the credibility of Pepito, Manuel and Bien and the probative weight of their collective testimonies. In this case, the trial court gave credence and full probative weight to the collective testimonies of Pepito, Bien and Manuel, The Court has consistently held that the findings of facts of the trial court,