

## SECOND DIVISION

[ G.R. No. 141259, July 18, 2003 ]

**THE PEOPLE OF THE PHILIPPINES, APPELLEE, VS. LAMBERTINO PRIETO, APPELLANT.**

### DECISION

**CALLEJO, SR., J.:**

This is an appeal from the Decision<sup>[1]</sup> of the Regional Trial Court (RTC) of Danao City, Branch 25, convicting appellant Lambertino Prieto of murder, sentencing him to *reclusion perpetua* and directing him to indemnify the heirs of the victim Geraldo Prieto in the amount of P75,000.00.

On July 7, 1995, an Information was filed with the RTC, charging Lambertino with murder:

That on or about July 4, 1995 at 9 o'clock in the evening more or less, in Sibacan, Danao city [*sic*], Philippines, and within the jurisdiction of this Honorable Court, the above-named accused conspiring and confederating together with the other three persons whoes [*sic*] identities are at present still unknown, with intent to kill and treachery, did then and there willfully, unlawfully and feloniously suddenly and unexpectedly stab Geraldo Prieto with the use of stainless knife several times thereby inflicting upon him - stab wounds in the abdomen of protusion [*sic*] of small intestine umentum - causing his death minutes later.

CONTRARY TO LAW.<sup>[2]</sup>

The accused was arrested on July 25, 1995. On January 19, 1996, with the assistance of counsel, he was duly arraigned of the charge and entered a plea of not guilty.<sup>[3]</sup>

#### **The Evidence of the Prosecution<sup>[4]</sup>**

The Spouses Geraldo and Dulcesima Prieto and their sixteen-year- old daughter Liliosa resided in their farm at Sitio Titip, Barangay Sibacan, Danao City. The couple cultivated mango trees, bananas and cassava. About thirty meters away from their house lived Geraldo's nephew, accused Lambertino (Bentong) Prieto, the son of Ciriaco Prieto, Geraldo's first cousin. The accused frequented his uncle's house and had drinking sprees with the latter. Since 1992, he had been residing with his mother Dolores Prieto at Lapu-lapu corner Bonifacio Street, Danao City, but also maintained a house near his farm. Once a week, the accused went to his farm to work in the fields.

By the end of June 1995, the Prieto spouses were able to sell the produce from their

farm and earned P40,000. They kept the amount in their house. On July 2, 1995, Dulcesima was working in their farm. The accused, on the other hand, was spraying the mango trees in his farm. He inquired from Dulcesima what she was doing, and the latter replied that she was just weeding grasses.

At 7:00 p.m., of July 4, 1995, Geraldo and Dulcesima were sleeping in their bedroom, on the ground floor of their house. Liliosa was sleeping in her bedroom upstairs. The sala was lit by a kerosene lamp placed on a wrought iron stand about three feet high, and a meter away from the door of the couple's bedroom. Before they slept, they dimmed the light of the kerosene lamp. Outside, it was raining hard.

At about 9:00 p.m., the couple were awakened by someone calling: "*Tay, tay, abli, kay mopalit kog lamas!*" (Tay, tay, open, I want to buy spices!).<sup>[5]</sup> Dulcesima recognized the voice of the accused. She also heard their dogs barking. Dulcesima cautioned her husband not to open the door because it was the accused calling. Geraldo ignored his wife's warning and went out of the bedroom. Dulcesima was barely a meter behind her husband. To her left was the kerosene lamp.

Geraldo forthwith unbolted the door. Dulcesima was shocked when she saw the accused, armed with a stainless knife. A white handkerchief was tied on the lower part of his face, covering his mouth. Before Dulcesima could utter a word, the accused barged through the door and stabbed Geraldo on the abdomen and the lower part of the chest. Geraldo fell to the floor. The accused faced Dulcesima and punched her on the face. Another male person followed Lambertino into the house while two more persons stood outside the door. Dulcesima tried to pull the bolo placed on the wall of the house from its scabbard to defend herself. The handkerchief covering the face of the accused fell from his face. Dulcesima was able to confirm that, indeed, the assailant of her husband was the accused.<sup>[6]</sup>

In a belated attempt to hide his identity, the accused kicked the chair on which the kerosene lamp was placed. The lamp fell to the floor. The accused then attempted to get Dulcesima's earrings but failed to do so. Dulcesima shouted for help: "*Ay tabang kamo mga silingan kay gitulis kami!*" (Hay, neighbors help us because we are being robbed).<sup>[7]</sup> The accused and his cohort forthwith exited from the house through one of the windows, leaving Geraldo sprawled on the floor, mortally wounded, and Dulcesima trembling with fear. Meanwhile, Toribia, the couple's neighbor, heard Dulcesima's cries for help, and herself shouted: *Tabangan nato his Dulce ug Geraldo kay gisaka sila ug mga tawo* (Let us help Dulce and Geraldo because there are persons intruding into their house).<sup>[8]</sup> She thereafter ran to the house of her nephew Francisco Ejolen, who in turn rushed to the Prieto residence.

Felix Capuno lived about sixty meters away from the Prieto's. He was resting in his house that fateful night when he heard his neighbor Toribia shouting: *Felix, tabangan ta si Geraldo ug Dulce kay gisaka sila ug mga tawo* (Let us help Geraldo and Dulce because there are persons who intruded into their house).<sup>[9]</sup> Felix took his flashlight, and together with his son Romulo, rushed to Geraldo's house. When they were about five arm's length away from the place, Felix saw two persons jumping through the window, one after the other. With his flashlight focused on the intruders, Felix recognized the accused as the second man. Felix stood still as he observed the accused and saw that he was armed with a knife. When Felix saw

Dulcesima coming out of the house holding a kerosene lamp, he called her and rushed to the house to help. Felix saw Geraldo sprawled on the floor, his hands bloodied, covering the wounds he sustained in the abdomen.

For his part, Romulo rushed to the house of Uldarico Esteros, which was about ten meters away. Uldarico had died and was lying in state. A *pamuhat* was being held in his house. Romulo informed Angelino Prieto, Geraldo's nephew, and Pepito Prieto, Geraldo's son, that Geraldo had just been stabbed. Pepito and Angelino rushed to the scene of the crime, and saw Felix Capuno, Francisco Ejolen, and other neighbors already in the house.

Angelino and about ten others made a hammock out of a blanket and bamboo poles. Geraldo was gingerly carried on the make-shift stretcher to the Danao General Hospital. Dulcesima went with the group carrying with her the clothes of her husband. During the trip, blood oozed from Geraldo's wounds, his nose and his face, visibly weakening him. However, he managed to tell Angelino and Dulcesima that he was stabbed and nearly robbed by the accused. Geraldo died before they could reach the hospital.<sup>[10]</sup>

On July 5, 1995, Dr. Jose Arturo Allego, the Assistant City Health Officer of Danao City, performed an autopsy on the cadaver of the victim and submitted a postmortem certificate on his autopsy containing the following findings:

- (1) Stab wound in the left antero-lateral portion of the chest; pre-axillary area & 12 cm. from the left nipple.
  - 6 cm in length [*sic*] & 0.5 cm in width
  - 0.5 cm. in depth
- (2) Stab wound in the abdomen & located 3 cm. from the umbilicus
  - 5 cm. in length
  - 2.5 cm. in width
  - protrusion + [*sic*] of the small intestine omentum

Cause of Death:

Internal Hemorrhage 2° to Stab wound in the abdomen with protrusion [*sic*] of the small intestine & omentum.<sup>[11]</sup>

On July 6, 1995, Dulcesima gave a sworn statement to SPO1 Manuel M. Buot of the Danao City Police Station where she identified the accused as the assailant of her husband.<sup>[12]</sup>

### **The Evidence of the Accused<sup>[13]</sup>**

The accused denied killing his uncle Geraldo. He stated that when Geraldo was stabbed to death, he was at the house of Atty. Exuperio Gonzales, a retired Clerk of Court of the RTC, at Villa Socorro, Danao City, about thirty kilometers away from Sibacan. He adduced evidence that in the afternoon of July 4, 1995, he left their house at the corner of Bonifacio and Lapulapu Streets to make a chicken cage for Atty. Gonzales. He passed by the New Danao Public Market where he saw his aunt Angeles Matugas, who had just alighted from a passenger jeepney coming from her house in Sacsac, Asturias, Cebu, about twenty kilometers away from Danao City.

She asked the accused where he was going and the latter replied that he was on his way to the house of Atty. Gonzales. They agreed to meet later in the evening in the house of the accused. He arrived in the house of Atty. Gonzales at 5:00 p.m. and worked until 10:00 p.m. When he finished the chicken cage, he left and boarded a *tri-sicad* driven by Manuel Dayon. When he got home, Angeles was waiting for him. The accused told his aunt that he arrived late because he had to finish the chicken cage for Atty. Gonzales. He was arrested on September 6, 1995.<sup>[14]</sup>

The accused further testified that he and the Prieto spouses were not in good terms. Sometime in 1992, the couple tied their farm animals near his farm, and consequently, close to a hundred corn plants were eaten. He admonished the couple, but did not report the incident to the barangay officials.<sup>[15]</sup>

He also had differences with Angelino, Geraldo's nephew. Sometime in April 1993, he mortgaged his land to Angelino for P8,000 but when he was paying his debt, Angelino refused to accept the amount insisting that his debt was P10,000. He sold his property to Lucio Perez who in turn redeemed the property from Angelino in the amount of P8,000.<sup>[16]</sup>

The accused also had differences with Felix Capuno. In February 1993, Felix tied his carabao to a mango tree in the accused's farm. Consequently, the carabao ate the leaves of one of the mango trees in the farm of the accused, destroying a branch thereof.<sup>[17]</sup>

Manuel Dayon, a *tri-sicad* driver, testified that at 9:00 p.m. of July 4, 1995, the accused boarded his *tri-sicad* near the house of Atty. Gonzales. They talked along the way, and the accused told him that he was working late because Atty. Gonzales wanted his chicken cage finished. He brought the accused to the corner of Bonifacio and Lapu-lapu Streets.<sup>[18]</sup> Dolores Prieto, the mother of the accused, told him on the same day that the latter had been charged for the killing of Geraldo.<sup>[19]</sup>

Francisco Ejolen testified that Geraldo and his mother were cousins. In the evening of July 4, 1995, it was raining hard and the area in the neighborhood was flooded. It was so dark that one could hardly see through the rain. Toribia Prieto, Francisco's aunt, arrived in his house and asked for help because the Prieto spouses were being robbed. He and Toribia rushed to Geraldo's house and saw him wounded on the solar plexus. He did not see any other person in the house. Pepito, Geraldo's son, arrived later followed by Felix Capuno and other neighbors. Francisco asked Dulcesima what happened and she replied that she could not identify the culprit because he was wearing a mask. When he asked Geraldo, the latter made a similar reply - - he was robbed but because it was dark and the culprit was wearing a mask, he could not identify the latter.<sup>[20]</sup>

Dolores testified that on July 4, 1995, her son, the accused, left their house at 5:00 p.m. He was on his way to the house of Atty. Gonzales to construct a chicken cage and brought along with him a saw and a hammer. He arrived home at 10:00 p.m. that same night.<sup>[21]</sup> At 5:00 a.m. of July 5, 1992, policemen arrived at their house looking for her son, but were unable to arrest him.<sup>[22]</sup>

On August 11, 1999, the trial court rendered judgment convicting the accused of murder, the decretal portion of which reads:

WHEREFORE, for proof beyond reasonable doubt, the Court finds accused Lambertino Prieto GUILTY for the crime of Murder as charged. The Court, therefore, hereby sentences accused to suffer the penalty of reclusion perpetua.

Accused is further ordered to indemnify the heirs of the victim the sum of P75,000.00.

SO ORDERED.<sup>[23]</sup>

The trial court gave credence and full probative weight to the testimonies of Dulcesima, Angelino and Felix.

The accused, now the appellant, appealed from the decision. He contends that the prosecution failed to prove beyond reasonable doubt that he killed the victim and that the trial court erred in rejecting his defense of alibi.

The appellant avers that the trial court erred in giving credence and probative weight to Dulcesima's testimony. It was impossible for her to have identified the appellant as her husband's assailant because (a) there was a heavy downpour that night and it was pitch black; (b) the assailant was masked and the kerosene lamp carried by the victim gave little illumination to the interior of the house; (c) the handkerchief masking the face of the assailant could not have fallen down from his face unless Dulcesima pulled it down. Even if the assailant had been unmasked, Dulcesima could not have seen the faces of the appellant and his cohort as they were jumping out of the window because the area of the stabbing was in total darkness; (d) it was incredible that the appellant would ask the couple to open the door to their house for the purpose of buying spices when in fact the Prietos were not selling them; (e) Geraldo and Dulcesima did not reveal to Francisco and Felix the assailant's identity when the two arrived at the victim's house; and (f) the testimony that the victim was stabbed only once is belied by the physical evidence. Equally incredible is the testimony of Felix that when he was on his way to the house of Geraldo, he saw the appellant and his cohort jumping out of the window. By the time Felix arrived at the scene, the assailant and his cohort must have been far away from Geraldo's house, given the lapse of time between Dulcesima's shouting for help and the arrival of Felix and his son Romulo.

The ruminations of the appellant are bereft of merit. By arguing that the prosecution failed to prove that he was the assailant, the appellant thereby assails the credibility of Dulcesima and Felix, the probative weight of their testimonies, the findings of the trial court, as well as its conclusions based on the said findings. However, it has been the constant ruling of this Court that the findings of facts of the trial court, its conclusions anchored on the said findings, its calibration of the testimonial evidence of the parties and the probative weight thereof, are accorded by the appellate court high respect, if not conclusive effect precisely because of its unique advantage of being able to observe and monitor, at close range, the demeanor, conduct and deportment of the witnesses as they testify, unless the trial court ignored, misconstrued, or misinterpreted facts and circumstances of substance which, if considered, would alter the outcome of the case.<sup>[24]</sup>