

## THIRD DIVISION

[ G. R. No. 133438, January 16, 2002 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
WILSON LAB-EO, ACCUSED-APPELLANT.**

### D E C I S I O N

**CARPIO, J.:**

An Information to be sufficient must contain all the elements required by the Rules on Criminal Procedure. In the crime of murder, the qualifying circumstance raising the killing to the category of murder must be specifically alleged in the Information. The Information is sufficient as long as the qualifying circumstance is recited in the Information, regardless of whether designated as aggravating or qualifying, or whether written separately in another paragraph or lumped together with the general averments in a single paragraph.

#### The Case

Before this Court is an appeal from the Decision<sup>[1]</sup> of the Regional Trial Court, First Judicial Region, Branch 35, Bontoc, Mountain Province, convicting the appellant Wilson Lab-eo of the crime of murder. The appellant postulates that he should only be convicted of the lesser crime of homicide.

#### The Charge

The appellant was indicted for murder under Article 248 of the Revised Penal Code, as amended by RA No. 7659, under the following Information<sup>[2]</sup>:

"That on or about October 21, 1996, at the Barangay Hall, Poblacion, Tadian, Mountain Province, and within the jurisdiction of this Honorable Court, the above-named accused with intent to kill and with the use of a sharp knife, did then and there willfully, unlawfully and feloniously attack, assault, strike and stab Segundina Cay-no with a well-honed and pointed knife and thereby inflicting a mortal stab wound upon the victim as reflected in that medico-legal certificate, to wit:

Stab wound infrascapular area left, penetrating with massive hemathorax, which caused the death of the victim thereafter.

That the aggravating circumstances of evident premeditation, treachery, abuse of superior strength and craft attended the commission of the offense.

Contrary to law."

## **Arraignment and Plea**

When arraigned on June 19, 1997, the appellant, duly assisted by his counsel, entered a plea of not guilty. Thereafter, trial on the merits ensued.

## **The Trial**

The prosecution presented the oral testimonies of the following: (1) Nancy Gaoan, Julie Dang-la and Nelson Apyoten, eyewitnesses to the actual stabbing of Segundina Cay-no; (2) Jerry Cay-no, son of the deceased; (3) Police Officers Leonardo Cea and Angelito Beddy who were in-charge of the investigation of the stabbing incident; and (4) Drs. Elizabeth Tican and Milagros Inhumang, the attending physicians at the Luis Hora Memorial Hospital where the deceased was brought. For its part, the defense presented the appellant himself as well as Inspector Eleuterio Camtugan and Mrs. Gantula Latap, as witnesses.

## **Version of the Prosecution**

The Office of the Solicitor General summarized the facts of the prosecution as follows:

"Segundina Cayno was engaged in the business of selling rummage goods. Early in the morning of October 21, 1996, her son, Jerry Cayno, went to the "dap-ayan" or barangay hall, in front of the Tadian Public Market at Tadian, Mountain Province, to display the goods for sale while his mother was still at their boarding house. After displaying the goods, Segundina arrived and took over while he proceeded to their new boarding house to do some cleaning (TSN, July 16, 1997, pp. 3-15, 28).

At about 9 o'clock that morning, Nancy Gaoan and Julie Dangla went to see Segundina to be massaged by the latter ("hilot") (TSN, July 16, 1997, p. 3; TSN, July 29, 1997, p. 68).

At about 11:20 a.m., Nelson Apyoten arrived in order to wait for a ride going to Masla. He saw Nancy and Segundina and sat with them while waiting for his ride (TSN, July 30, 1997, pp. 2-4).

Before noontime, while Nancy and Julie were plucking the white hair strands of Segundina, appellant Wilson Lab-eo arrived and approached his aunt, Segundina. Upon seeing him, Nancy went to a distance of about 2 meters while Julie was still near Segundina. Appellant sat down in front of his aunt and uttered something to her in a very soft voice. Nancy did not hear what he said because of her distance from them while Julie could not make out the conversation because of the sound coming from a running motor engine. What they only heard was Segundina's answer which was uttered in a loud angry voice "koma-an ka tay baka mahigh bloodac" ("you get out because I might suffer high blood). They saw appellant leave (TSN, July 16, 1997, pp. 8-9, 16, 19; TSN, July 29, 1997, pp. 72, 78-79).

When appellant left, Nancy and Julie were looking at some of the clothes being sold by Segundina (TSN, July 29, 1997, p. 72).

In the meantime, appellant proceeded to the market place, which was just about 5 meters away. Thereat, he saw at the butcher's shop of a certain Gaskiw, a 15-inch knife with a 9-inch blade with a width of 1 inch at its widest and 1 cm. at its point. He took it and right away returned to the "dap-ayan" (TSN, September 11, 1997, p. 4).

When appellant returned about 3-5 minutes after, Segundina was sitting on a low rattan stool. In front of her were Nancy and Julie, as she was showing to them how to repair and put garter on the pants Nancy had bought for her child. Engrossed, they did not notice appellant's return, especially Segundina who had her back to appellant. When Julie saw appellant approach Segundina from the back, Julie thought that he would just box his aunt because she did not see the knife, which was wrapped in his blue jacket. Then appellant suddenly made a thrusting motion and he stabbed Segundina on the left portion of her back. He then ran away leaving the knife at the victim's back with the jacket he had covered it with, hanging by the knife's handle. The entire length of the knife's 9-inch blade had penetrated the victim's body. Upon seeing that Segundina was stabbed, Julie removed the knife with the jacket from the victim's back and placed them down on the pavement while Nancy, Nelson and the other people who saw the incident shouted for help (TSN, July 16, 1997, pp. 4, 6-8, 11, 20, 24-26; TSN, July 29, 1997, pp. 72, 76, 80-81, 83-84; TSN, July 30, 1997, pp. 5-6, 21).

Seeing that appellant had ran in the direction of the Municipal Hall, Nelson, together with one Mario Talicwad, and some other people, went after him to find out if he was going to the police station. They saw him enter the office of Inspector Leonardo Cea, the then Chief of Police of Tadian Police Station. Upon his surrender, the police authorities took custody of him. The fact of his surrender was entered in the police blotter as Entry # 21, page 86. Because of the report of the stabbing incident, Police Officer Angelito Beddy proceeded to the crime scene. Thereat, he recovered the knife wrapped with the jacket, which bore a hole as the knife pierced it (TSN, July 30, 1997, p. 6; TSN, July 29, 1997, p. 58, 60-64; TSN, September 9, 1997, pp. 1-2; TSN, July 17, 1997, pp. 42-44).

In the meantime, Julie had ran towards the boarding house where Segundina was staying and she informed the latter's son, Jerry, of what happened to his mother. When they returned to the "dap-ayan", they saw Segundina aboard the Dolidoan Trans enroute to the Luis Hora Memorial Hospital in Abatan, Bauko, Mountain Province. Hence, Jerry, along with Nelson and some other people, packed the dry goods Segundina was selling and thereafter followed his mother to the hospital (TSN, July 16, 1997, p. 29-30; TSN, July 29, 1997, p. 73; TSN, July 30, 1997, pp. 6-7; TSN, August 26, 1997, p. 99).

Upon her admission at the Luis Hora Hospital, she was attended by Dr. Milagros B. Inhumang. The latter found that the victim had a 2.5 cm stab wound at her back, left scapula, which penetrated the left lung. X-ray revealed that she had suffered massive bleeding in the thorax cavity.

Before she could be transferred to the Baguio General Hospital for more specialized treatment, Segundina died in the morning of the following day (October 22, 1996). The cause of death was determined to be "hypovolomic shock secondary to massive hemorrhage" (TSN, July 31, 1997, pp. 92-93; TSN, August 26, 1997, pp. 100-106)." [3]

### **Version of the Accused**

The appellant does not deny stabbing Segundina Cay-no. However, he maintains that neither treachery nor evident premeditation attended the commission of the crime. The appellant contends that the crime committed should only be homicide and not murder.

Stripped of the details that led to the actual stabbing of the deceased, the appellant's version of the incident is similar to that of the prosecution. The appellant recounted the incident in this wise:

"Appellant Wilson Lab-eo testified that on October 21, 1996, at Dap-ayan, Tadian, Mountain Province, he was teasing Segundina Cayno that he be her baggage boy of the clothes that she was vending. Segundina got mad and berated herein accused in front of many people. She told accused to go away because she does not want to see his face there. The accused felt so bad and left the place. Humiliated, he returned to where Segundina was selling clothes and then and there stabbed her at the back with a knife. Thereafter, he surrendered to the Chief of Police (TSN, Decision, pp. 5-6)." [4]

### **The Trial Court's Ruling**

After evaluating the testimonies of the witnesses, together with the object evidence presented, the trial court found the appellant guilty of the crime of murder in its Decision<sup>[5]</sup> dated January 16, 1998. The dispositive portion of the Decision reads:

"WHEREFORE, the accused Wilson Lab-eo having been found guilty of the crime of Murder as charged and defined and penalized under Article 248 of the Revised Penal Code beyond reasonable doubt, he is hereby sentenced to suffer the penalty of *reclusion perpetua* and to indemnify the heirs of the victim Segundina Cay-no in the amount of P50,000 in consonance with the current case law and policy in death indemnity; to pay the victim the actual expenses that the said heirs incurred relative to the death of the same victim in the total sum of ONE HUNDRED TWENTY FIVE THOUSAND FIVE HUNDRED (P125,500.00) PESOS, Philippine currency; and to pay the cost of this suit.

SO ORDERED."

### **The Issues**

In this appeal, appellant Wilson Lab-eo asks this Court to declare him guilty of the crime of homicide instead of murder as found by the lower court. The appellant assigns as errors the following:

I.

THE LOWER COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT OF MURDER.

II.

THE LOWER COURT GRAVELY ERRED IN FINDING THAT THE QUALIFYING CIRCUMSTANCE OF TREACHERY IS ATTENDANT IN THE CASE AT BAR.

III.

THE LOWER COURT GRAVELY ERRED IN NOT FINDING THAT THE MITIGATING CIRCUMSTANCE OF PASSION AND OBFUSCATION AND SUFFICIENT PROVOCATION ATTENDED THE COMMISSION OF THE CRIME CHARGED.

IV.

GRANTING THAT THE ACCUSED-APPELLANT IS GUILTY OF THE CRIME CHARGED, THE LOWER COURT FAILED TO APPLY THE INDETERMINATE SENTENCE LAW. [6]

### **The Court's Ruling**

We affirm the conviction of appellant Wilson Lab-eo for the crime of murder.

In the first assigned error, the appellant faults the lower court for finding him guilty of murder even when the Information, as written, could only have charged him with the crime of homicide. The appellant points out that although the Information<sup>[7]</sup> is captioned as murder, the allegations in the body of the Information are constitutive only of the elements of the crime of homicide.

The Information, as written, consists of two paragraphs. The first paragraph contains the allegations of the date, time, place, the acts constituting the offense, and the name of the victim. Written in a separate paragraph are the "aggravating circumstances" of evident premeditation, treachery, abuse of superior strength and craft, alleged as attending the commission of the crime. The appellant insists that the circumstances enumerated in the second paragraph should be considered merely as generic aggravating circumstances, not qualifying circumstances, for two reasons. First, the circumstances are not part of the recital of facts constituting the offense as charged in the first paragraph. Second, the circumstances are designated merely as generic aggravating circumstances.

The arguments of the appellant find no basis in law.

The Information was correctly captioned as one for murder since the Information actually recited the qualifying circumstances that attended the commission of the crime. Article 248 of the Revised Penal Code, as amended by RA No. 7659, provides: