

FIRST DIVISION

[G.R. No. 137014, January 16, 2002]

ANTONIETO LABONG @ ONIET, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

D E C I S I O N

PARDO, J.:

The Case

Appeal *via* certiorari from the decision of the Court of Appeals^[1] affirming that of the trial court^[2] finding petitioner guilty beyond reasonable doubt of homicide and sentencing him to an indeterminate penalty of ten (10) years of *prision mayor* as minimum, to sixteen (16) years of *reclusion temporal*, as maximum, to indemnify the heirs of the deceased Raul Batulan in the amount of P50,000.00 and another P50,000.00 as moral damages^[3] and to pay the costs.

The Facts

The facts, as found by the Court of Appeals, are as follows:

"On the night of January 31, 1993, prosecution witness Judy Rom y Mancila was watching basketball at the basketball court in Sobrecaray, Barrio Obrero, Davao City when a commotion suddenly ensued. Approaching the site of the commotion, he saw accused-appellant Antonieto Labong holding a handgun and dragging the victim Raul Batulan with his right arm locked around the victim's neck. At the same instance, Antonieto's brothers Ferdinand and Aplonieto were pushing Batulan toward an abandoned CAFGU outpost a few meters away from the court. Being the Lupong Tagapayapa of the barangay, the witness approached the group and introduced himself as such. Appellant warned him not to interfere "as they were all members of the CSU." Appellant and his co-accused Ferdinand then pounded the victim's head with their handguns. It was at this instance that accused Aplonieto stabbed the victim several times in the stomach with the use of a Batangas knife. In spite of his injuries, the victim managed to get hold of a gun and fire the same.

The witness took cover and then he saw Aplonieto and Ferdinand help each other carry the appellant to bring the latter to a hospital on board a flagged public utility vehicle. After that, Judy Rom sought the help of neighbors and brought the dying victim to a hospital where he was pronounced dead on arrival.

"Medico Legal Officer Danilo Ledesma of the Davao City Health Office

conducted a post-mortem examination of the victim and submitted a necropsy report concluding that the latter died from "hemorrhage, severe, secondary to multiple stab wounds" (Exhibits A and B, pp. 31-32, Record).

"Only the accused-appellant was arrested, and he pleaded "not guilty" at the arraignment. Trial proper followed as to him alone because his two co-accused remain at large to this date.

"As expected, the accused-appellant's version of the incident is diametrically opposed to that of the prosecution. According to him, on the night of January 31, 1993, he was at the basketball court at Sobrecaray Street to watch a game between the Tago team led by his brother Ferdinand and the Lizada team. As the Lizada team failed to arrive, the accused together with his neighbors from the Tago team decided to bet in a shooting game. As accused Antonieto was participating in the shooting game, he joked that "since I cannot beat you in the shooting we might as well do it in boxing." Raul Batulan accepted his challenge and said, "let's fight". At first, the accused did not mind the victim but when the latter repeated the words let's fight, Antonieto approached Raul and explained that what he uttered was merely a joke, intended for his neighbors from the Tago team. The accused narrated that he went back to the court but the victim followed him so he introduced himself as Antonieto Labong alias Oniet, a member of the same barangay and extended his hand for a handshake but the victim resisted. The, the appellant went back to the court to shoot balls but he noticed that Raul was following him wherever he went. Oniet explained that he was really scared of Raul's behavior so he asked for a barangay captain or any barangay official to settle their differences; however, there was none and so he invited the victim to go to the Sta. Ana Station and to talk things over. As the appellant placed his arm around the victim's shoulder, the latter swung the former's right arm and immediately pulled a gun and fired two (2) successive shots hitting the accused at the left eyebrow, causing the latter to lose his consciousness. The rest of the accused's testimony concerns the injuries he suffered as a result of the gunshot wounds and the ordeal he underwent by reason thereof.

"Defense witness Maria Luisa Suico merely corroborated the testimony of the appellant. She testified that upon hearing two (2) successive gunshots, she saw Ferdinand Labong together with four (4) others rush toward the victim. Ferdinand grabbed Batulan's right arm, but the latter swung his arm at the former, and Ferdinand fell. Afterwards, the accused's four other companions ganged up on the victim and when the latter fell, one of them stabbed Raul and then the four ran away."

"On August 28, 1995, the court *a quo* rendered judgment with the following dispositive portion:

'WHEREFORE, this Court finds the accused Antonieto Labong, alias Oniet, guilty beyond reasonable doubt of the crime of homicide under Article 249 of the Revised Penal Code for the