

THIRD DIVISION

[G.R. No. 135026, February 15, 2002]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. NILO HERMO, ACCUSED-APPELLANT.

D E C I S I O N

VITUG, J.:

Nilo Hermo, Ariel Quinawayan and Nestor Golong were charged with the crime of Murder for the death of Tito Hermosura in an accusatory Information that read:

"That on or about the 9th day of June 1996, at nighttime which was purposely sought, at Barangay Soledad, Municipality of Villareal, Province of Samar, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating together and mutually helping and aiding one another, with deliberate intent to kill, with treachery and evident premeditation, and with abuse of superior strength, did then and there willfully, unlawfully and feloniously attack, assault, and stab several times one Tito Hermosura with sharp bolos with which the said accused had conveniently provided themselves for the purpose, thereby inflicting upon said Tito Hermosura, `Multiple contusion forehead; L-shaped incised wound, 1 1/2 inches, forehead, L; and multiple stab wounds in the different parts of his body,' which wounds directly caused his instantaneous death."^[1]

Nilo Hermo, herein accused-appellant, was arrested but the two other accused remained at large. Upon being arraigned, Nilo pled not guilty, and trial ensued.

The prosecution presented four witnesses, namely, lone eyewitness Jaime Hermosura, arresting officer SPO4 Pablo Teves, Manuel Galvez, and Froilan Ragay, the last two having testified to have seen appellant in the vicinity of the crime at or about the time of its commission.

Jaime Hermosura, the victim's brother, testified that on 09 June 1996, around eleven o'clock in the evening, he was at home in Barangay Soledad, Municipality of Villareal, Samar, drinking with his siblings and other guests on the occasion of the third death anniversary of his father. Jaime requested his younger brother, Tito Hermosura, to buy cigarettes for him at a nearby store. When Tito had failed to return after sometime, Jaime got worried and went out to look for him. While walking along the road, Jaime saw somebody being chased by two men. The man stumbled upon a pile of gravel and fell to the ground. By the fluorescent light of a lamp post, just fifteen meters away from the scene, Jaime soon recognized that the fallen person was his brother, Tito Hermosura, and that one of the persons chasing his brother was Nilo Hermo. Jaime recounted that just as Tito had stumbled, he was stabbed at the back by Nilo with a six-inch long knife locally known as "kutsilyo" and, forthwith, Nilo's companions took turns in likewise hitting Tito. Jaime could not

believe his eyes that anyone would do such a thing to his brother who was clubfooted and short-fingered. The fatal knife was finally embedded into the victim's back by his assailants. Jaime rushed to the house of Acting Chief of Police SPO4 Pablo Teves to ask for help.

SPO4 Pablo Teves declared that after being informed by Jaime Hermosura of the killing of Tito Hermosura, he formed a team of policemen which brought the victim's body back to the Hermosura residence. On the basis of the information furnished by Jaime Hermosura on the identity of the assailants, the team proceeded to go after the culprits and, for two days, police officers scoured the areas around barangays Salcedo, Pampang, Canmucat, Tomabe, Connant and Nagkaduha, all in the municipality of Villareal. In Barangay Nagkaduha, at least eight kilometers away from the crime scene, at around eleven o'clock on the evening of 11 June 1996, the police found and apprehended Nilo who was hiding behind the door of the house of Felimon Romano in the company of Nilo's father.

Defense witnesses Terencio Quinawayan and Emeterio Reposo, as well as accused Nilo Hermo himself, next took the witness stand. Terencio stated that on the date of the commission of the crime on 09 June 1996, he had sought the help of Nilo to bring Natividad Esponga's sick daughter, Rosalie, to the hospital. At that time, Nilo was drinking *tuba* in the house of Fernando Espadero. Nilo readily acceded and went with him to the house of Natividad Esponga in Barangay Canmucat. Emeterio Reposo corroborated the testimony of Terencio to the effect that Nilo was indeed in the house of Natividad Esponga watching over the ailing daughter of Natividad. In his own version, Nilo claimed that, on 09 June 1996, he was in the house of Natividad Esponga from seven o'clock in the evening until five o'clock in the morning of 10 June 1996. He said that Natividad's daughter, Rosalie, was very ill, and he, together with other neighbors, had stayed in Natividad's house playing cards while awaiting for transportation to bring Rosalie to the hospital.

The court *a quo* was not impressed by the asseverations of the defense witnesses. Giving weight to the testimony of the prosecution witnesses, the trial court convicted accused Nilo Hermo of the crime of murder and sentenced him to suffer the penalty of *reclusion perpetua* and to indemnify the heirs of Tito Hermosura in the amount of P50,000.00. The court adjudged:

"Wherefore, finding the accused Nilo Hermo having been found guilty beyond reasonable doubt of the crime of Murder, for the killing of said Tito Hermosura, but there being no other circumstance to consider except the provisions of the Indeterminate Sentence Law, he is hereby sentenced to suffer the penalty of reclusion perpetua; to indemnify the heirs of the deceased in the amount of P50,000.00 but without subsidiary imprisonment in case of insolvency; and to pay the costs of this case, if any."^[2]

Nilo Hermo interposed the present appeal, contending that the trial court had gravely erred in finding that the prosecution was able to establish his guilt beyond reasonable doubt. Appellant branded as being incredible the lone eyewitness account of Jaime Hermosura who, instead of immediately coming to the succor of his younger brother, tarried and, rather than seek the help of his other brothers, sought the assistance of the Chief of Police some distance away.