

EN BANC

[G.R. No. 137280, March 13, 2002]

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
PABLO TABLON Y CENIZA, ACCUSED-APPELLANT.**

D E C I S I O N

PER CURIAM:

Only the putrid smell of decaying flesh gave away what lay hidden beneath the tall "*tigbao*" grass that abound the vacant lot at the back of the Ormoc District Hospital ("ODH"). On 16 August 1996, curious residents of Ormoc parted the foliage to reveal a corpse in an advanced state of decomposition. It was lying down, its panties and *maong* pants were at the ankle joints, its thighs drawn lateralward, the legs flexed halfway towards the body, exposing the external genitalia.^[1] Dr. Rogelio Marson, who conducted the autopsy, approximated that death had occurred about two weeks earlier. A single one-centimeter long wound was found at the right chest. Fly larvae, which had eaten away most of the internal organs and distinguishing facial features, already putrefied the corpse almost beyond recognition. It was just the clothing recovered nearby that subsequently confirmed the hapless deceased to be the missing Angelina Abapo.

According to Concordia, the mother of the victim of an apparent foul play, the 22-year old Angelina left their house at Sitio Hagnayaon, Kananga, Leyte, on 06 August 1996 to get a pair of pants from her sister's house at Barangay Margen. Angelina never returned home. Concordia spent the next five days looking for her daughter and even had the latter's disappearance announced over the radio. The mother's tense wait finally ended when she heard a radio report that a dead body had been found near the ODH. Although Concordia was not able to see and identify Angelina's corpse as it was already wrapped in cellophane when she arrived, the shoes and the pair of pants recovered alongside it, which she then attested were owned by the deceased, ascertained that the body was indeed that of her missing daughter.

The identity of the body now established, subsequent investigation pointed to Pablo Tablon y Ceniza, a 30-year old farm worker residing at Sitio Nayog, Brgy. Lao, Ormoc City, as being the culprit. On 22 August 1996, the following Information was filed against Tablon -

"That on or about the 6th day of August 1996, at around 10:00 o'clock in the evening, at Brgy. Cogon, Ormoc City, and within the jurisdiction of this Honorable Court, the above-named accused PABLO TABLON y CENIZA alias 'Abloy', by means of violence and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge of the victim herein ANGELINA ABAPO y Pepito, against her will; that on the occasion of the said rape and for the purpose of enabling himself to have carnal knowledge of herein victim, did then and there willfully, unlawfully

and feloniously, with abuse of superior strength and with intent to kill, attack, assault and use personal violence upon said ANGELINA ABAPO y PEPITO, thereby inflicting upon her mortal wounds which caused her death. Autopsy report is hereto attached.

"In violation of Article 335 in relation to Article 249 of the Revised Penal Code and R.A. 7659."^[2]

With Angelina Abapo forever silenced, no one would know for certain what exactly happened on 06 August 1996, the date when she was last seen alive except for Pablo Tablon himself, who, upon his capture, executed a sworn statement before the arresting authorities admitting that while bedeviled with lust and drunkenness, he stabbed the girl to deter her vigorous resistance against his carnal advances, and after having sated his bestial appetites, he found her to be already dead. During the trial however, appellant changed his stance. While still admitting his responsibility for the death of the deceased, he would contend, however, that the killing was in self-defense.

In his testimony before the court *a quo*, Tablon narrated that he first met the deceased at the bus terminal a year before, in 1995, on a Valentine's Day. The girl allegedly approached him and asked him for a cigarette. Romance instantly blossomed between the pair who spent the day strolling at the plaza. That very night, they slept together at a lodging house at San Pablo Street. The two never saw each other again until more than a year later, on that fateful 06th day of August 1996, when Tablon while on board a bus returning to Ormoc City from Tacloban chanced upon Angelina who was also riding the same passenger bus. Upon their arrival at the Ormoc terminal, the two, who had by then renewed their acquaintance, went to a place near the Ormoc District Hospital to see Angelina's friend named Joe Baga. When they reached the place, Angelina found Baga and his son partaking of *tuba*. Angelina joined them but Tablon declined their offer of the alcoholic brew because he preferred *Tanduay*. At eleven o'clock in the evening, Joe Baga and his son went inside the house to retire for the night. Left alone with Angelina, Tablon decided to drink *Tanduay* and beer with her. After a while, Boy Ceniza, who was working at a building fronting the ODH, joined them. By about 11:30 p.m., Angelina was already lying down on the bench while he and Ceniza continued with their drinks. At midnight, he and Ceniza called it a day and proceeded to a place rented by Ceniza, located approximately 15 meters away, where the two men, after finishing off the half-filled Tanduay bottle, finally went to bed.

Tablon and Ceniza were already asleep when somebody had suddenly opened the door shutter, which was left unlocked. Owing to the total darkness, Tablon failed to recognize who it was. Something hit his palms. He tried to parry the next blows and while groping in the darkness, he was able to seize the piece of wood and the Batangas knife held by the still unidentified intruder. After wrenching the piece of wood and the Batangas knife, he squeezed the arm and grabbed the neck of the intruder and forthwith delivered a stab blow just below the latter's breast. Ceniza, who was beside him, asked, "Gaw, why did you (do) that?" Tablon dragged the person out of the house. It was only then that he recognized the intruder to be Angelina Abapo. The girl was hardly breathing. He carried her in his arms, intending to bring her to the nearby hospital but, after a while, he panicked, dropped her to the ground and covered her up. Hurriedly, he went to the nearby river to wash his

bloody clothes and then draped them over a rock to dry. He then leaned against the rock until he fell asleep. Waking up, he left and took his breakfast at the terminal before boarding a fishing boat bound for Tarok, Albuera, Leyte. Two weeks later, on 21 August 1995, the authorities captured him in Binug, Isabel, Leyte.

Tablon discredited the earlier statement he executed before the authorities and testified that upon his arrest, seven men, including one Edgar Vasquez, manhandled him to force him to admit not only to the homicide but likewise to the rape of Angelina Abapo. The next day, he said, somebody forced him to sign a document, which he was not allowed to read. He wanted to avail himself of the services of a private lawyer but the police insisted that a certain Atty. Paul Oliver instead handle his case. Atty. Oliver was not around when he signed the document. The second time he saw Atty. Oliver was when the latter talked him into admitting the accusation against him and to sign his confession. It was only the result of coercion and maltreatment that he was constrained to affix his signature thereon.

After trial, the Regional Trial Court, Branch 35 of Ormoc City, found the accused guilty beyond reasonable doubt of the crime of Rape with Homicide and meted the supreme penalty of death -

"WHEREFORE, after careful examination and evaluation of the foregoing facts and the evidence so far adduced in trial, the prosecution having ably established and proved the elements of the crime, the Court finds the accused Pablo Tablon y Ceniza GUILTY beyond reasonable doubt of the crime of Rape with Homicide, and pursuant to Article 335 of the Revised Penal Code as amended by Section 11, R.A. 7659, hereby sentences him with the penalty of DEATH.

"The Court also penalizes the accused to pay the offended party the sum of P50,000.00 as indemnity."^[3]

In this automatic review of his case before this Court, appellant raises the following assignment of errors -

"I.

"THE COURT OF ORIGIN HAS COMMITTED AN ERROR IN NOT ABSOLVING AND EXCULPATING ACCUSED-APPELLANT PABLO TABLON DUE TO THE JUSTIFYING CIRCUMSTANCE OF SELF-DEFENSE PURSUANT TO ARTICLE 11 OF THE REVISED PENAL CODE.

"II.

"THE COURT A QUO HAS ERRED IN CONVICTING PABLO TABLON FOR THE COMPLEX CRIME OF RAPE WITH HOMICIDE WHEN THERE WAS INSUFFICIENT EVIDENCE TO PROVE THE COMMISSION OF SEXUAL ASSAULT AGAINST THE DECEASED.

"III.

"THE TRIAL COURT HAS COMMITTED AN ERROR IN CONSIDERING THE

EXTRAJUDICIAL CONFESSION ALLEGEDLY MADE BY PABLO TABLON AS
VOLUNTARY.”^[4]

Appellant acknowledged having killed Angelina Abapo in both the extrajudicial confession he executed before the police authorities and his testimony before the trial court, although, in the latter, appellant subsequently made a stark departure from his previous declaration by denying having likewise raped Angelina. He had killed her, he claimed, not to restrain her efforts to ward off his lustful advances as was so stated in his signed statement before the authorities, but to defend himself. In this second version, Angelina Abapo was recreated from being the hapless victim of appellant’s savage lechery to being the belligerent assailant. He would now have the Court believe that while he and Ceniza were sleeping, Angelina, armed with a Batangas knife and a piece of wood on each hand, suddenly attacked him. Professedly, it was to repel her assault that appellant was constrained to stab her. Owing to the pitch-dark surroundings, he asseverated not to have recognized the intruder, Angelina, until it was too late.

It is a well-settled rule that when an accused admits to killing his victim and advances the defense of self-defense, the burden of proof that the act has been justified shifts upon him. Thus, it is incumbent upon him to establish all three circumstances that would constitute that lawful defense, i.e., *first*, unlawful aggression, *second*, reasonable necessity of the means employed to repel it, and *third*, lack of sufficient provocation on the part of the person defending himself.^[5]

A perusal of the testimony of appellant during the trial would reveal his story to be shot with inconsistencies, leaving more questions than answers. How could the deceased, who was allegedly armed with a Batangas knife and a piece of wood, have seen the appellant, let alone actually hit him, given the dark setting? Appellant, strangely enough, failed to advance any motivation on the part of the victim or reason for the sudden display of aggressive behavior. He swore that he and Angelina were lovers, having engaged in physical intimacies in the past, shared company, and partaken of dinner and drinks just hours before; yet, he would have the Court accept the idea that Angelina would make an unexplainable, abrupt, and vicious attempt on his life. Appellant’s account of the means with which Angelina made her attack, i.e., by wielding a Batangas knife on one hand and a piece of wood on the other, would itself invite skepticism.

The fact of rape itself, *albeit* subsequently disputed, was explicit in the extrajudicial confession executed by appellant before the authorities immediately following his arrest -

“Q. You have said earlier that you were invited for questioning in connection with the death of Angelina Abapo, do you have knowledge of said death?

“A. Yes, sir. I killed her.

“Q. Why are you telling me all this?

“A. Because it is the truth and it was not intentional.

- "Q. What do you mean by 'not intentional'?
- "A I accidentally killed her out of drunkenness and lustfulness.
- "Q. Could you tell in detail, what really transpired?
- "A. Yes sir. In the afternoon of August 6, 1996, I met Angelina Abapo whom I have known for only about a week ago in front of the store of Jose Endino which is adjacent to the Ormoc District Hospital. She was then on her way to Brgy. Margen, Ormoc City. I was still at the said store when she returned at about 6:00 o'clock in the evening of that same day. I then invited her to a drinking spree and when she conceded, I immediately ordered bottles of Red Horse Beer for her and a Tanduay Rum for me at the store of Jose Endino. Our drinking bout lasted until 10:00 o'clock of that evening of August 6, 1996.
- "Q. What happened next?
- "A. Knowing that she has no place to sleep, I invited her to sleep with me in my hut at the back of Jose Endino's store and she accepted. When we were already lying down inside the said nipa hut, I started to make love to her. At first, she was submissive but when I was already full of lust, she suddenly turned hostile and evaded me by running out of the hut. So I followed her and when I caught up with her, I tried to wrestle her down into the grassy lot but this time, she got hold of a piece of wood and struck me with it, hitting my both arms as I parried. Bedeviled by lust and drunkenness, I pulled out my Batangas knife, and stabbed her on the body and as she was already down into the grassy lot, I outrightly pulled down her maong pants and panty and raped her. It was only after that sexual intercourse that I came to learn that Angelina Abapo was already dead.
- "Q. What did you do then?
- "A. I tried to calm myself down and thought of a way to defy it. I then left the crime scene and went back to Jose Endino's store and slept above the bench outside. On the following day, I stayed out of sight but remained nearby and on the 8th day of August 1996, I finally left for Brgy. Tarok, Albueria, Leyte and joined the fishing crew of the fishing boat christened 'Rosela' which is being captained by a man known to me as Roman."^[6]

The foregoing confession was corroborated by the opinion of Dr. Marson that the cadaver found on the grassy lot was a victim of sexual molestation. He testified: