

EN BANC

[G.R. No. 137518, March 06, 2002]

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
EDITHO SUYUM AND PEDRO OCANIA, ACCUSED-APPELLANTS.**

DECISION

MENDOZA, J.:

This case is here on automatic review of the decision^[1] dated January 15, 1999 of the Regional Trial Court, Branch 259, Parañaque City, finding accused-appellants Editho Suyum and Pedro Ocania guilty of the crime of murder and sentencing each of them to suffer the penalty of death and to indemnify the heirs of Rommel Ampo in the amount of P50,000.00, P23,000.00 for funeral expenses, P50,000.00 as moral damages, and P50,000.00 as exemplary damages.

The information against accused-appellants charged —

That on or about the 12th day of January 1997 in the Municipality of Parañaque, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating together and both of them actually helping and aiding one another, with intent to kill, treachery and evident premeditation, did then and there willfully, unlawfully and feloniously attack, assault and stab one Rommel Ampo, thereby inflicting upon the latter serious and mortal stab wound which caused his death.

CONTRARY TO LAW.^[2]

Accused-appellants pleaded not guilty to the charge, whereupon they were tried.

Five witnesses, namely, Glenda Serna Ampo, the victim's sister, Edgar Luid and Darlindo Coyno, who claimed to have witnessed the incident, Dr. Eduardo Tan Vargas, who conducted an autopsy on the victim's body, and PO3 Mateo Interia, who investigated the incident, testified for the prosecution. Their testimonies are as follows:

Glenda Serna Ampo identified both accused-appellants in court. She testified that on January 12, 1997, at around 3 o'clock in the afternoon, while she was with her niece in the latter's house on Aratiles Street, her brother-in-law told her of a killing nearby. Accordingly, she went out to find out about the incident. On her way to the place of the incident, she met accused-appellant Editho Suyum, who was carrying a bloodstained bladed weapon approximately two feet long, with blood on his hand. Upon reaching the scene, Glenda said she saw her brother Rommel Ampo lying in a pool of his own blood on the ground. Glenda called for policemen and, with their help, brought the body of her brother Rommel to Funeraria Malaya. She further

testified that she and her family spent P12,500.00 for the funeral of Rommel, P5,000.00 for food during the wake, and P5,000.00 for carpentry, electricity, and transportation expenses.^[3]

Edgar Luid, a construction worker and a resident of Aratiles Street, Parañaque, also identified both accused-appellants. He said that he witnessed the killing of Rommel on January 12, 1997, at around 2:30 p.m. He claimed that he and the victim Ampo were having drinks in his (Luid's) house on Aratiles Street when accused-appellants Suyum and Pedro Ocania, alias "Kiti-Kiti" approached them. Suyum was armed with a bolo about two feet long. Sensing trouble, as Suyum was approaching them with his bolo raised above his head, Luid said he shouted at Ampo to run. Luid himself fled to a rest room about 13 meters from the place where they were drinking.

After a few minutes, Luid came out of his hiding place and went to a nearby house from where he saw accused-appellant Ocania holding Ampo's hands at the back. Suyum hacked Ampo, hitting him on the left side of the neck, as a result of which Ampo fell on his knees. Suyum then stabbed Ampo on the left shoulder. When Ampo fell to the ground, Luid said he saw Suyum place an "x" mark on Ampo's face, using the tip of the bolo for this purpose, after which accused-appellants fled.^[4]

Darlindo Coyno, a resident of Aratiles Street, also identified accused-appellants as the perpetrators of the crime. He testified that on January 12, 1997, at around 3 o'clock in the afternoon, while he was at the billiard hall on Aratiles Street, he noticed accused-appellant Suyum brandishing a bolo and Ocania a knife. He saw the two approach the victim Ampo, who was standing in front of a bakery. Suyum struck Ampo with his bolo, hitting him on the left side of the neck. Ocania, who was standing on the right side of the victim, was accidentally hit on the back by Suyum. As Ampo fell on his knees, Suyum again stabbed him, hitting him on the left shoulder. Suyum then placed an "x" mark on the left side of Ampo's face with the use of his bolo and then he and Ocania left.^[5]

Dr. Eduardo Tan Vargas, medico-legal specialist, conducted the postmortem examination on the body of Rommel Ampo. He issued Autopsy Report No. N-97-88 dated January 12, 1997 (Exhibit J).^[6] He testified that Ampo sustained six incised wounds on the face and one stab wound on the upper portion of the chest, which was the fatal wound, all of which could have possibly been inflicted with a bolo. Dr. Vargas stated that the assailant could have been within an arm's length of the victim, who could have been kneeling down when he was stabbed.^[7]

PO3 Mateo Interia testified that he was the officer who investigated a case regarding a stabbing incident which occurred in the afternoon of January 12, 1997. He took Luid's statement and prepared a report, dated January 14, 1997, (Exhibit L)^[8] of his investigation.

For its part, the defense presented as witnesses accused-appellants Editho Suyum and Pedro Ocania, as well as Isidro Refuerzo and Antonio Manlapaz, eyewitnesses, and Dr. Renato Borja.

Accused-appellant Editho Suyum testified that in the afternoon of January 12, 1997, at around 3 o'clock, he and accused-appellant Pedro Ocania were having drinks with the victim Ampo in the house of Mario Cameron on Aratiles Street. They started

drinking at 11 o'clock in the morning. Edgar Luid passed by at around 2 o'clock in the afternoon, but left at around 2:30 p.m. Suyum claimed that after consuming several bottles of gin, the victim Ampo complained that there was no "*pulutan*." Suyum was irked and he berated Ampo, telling him to go and look for "*pulutan*" himself. According to Suyum, Ampo left, but returned moments later with a bolo around 14 inches long. Suyum said that Ampo stabbed Ocania on the back and then turned to attack him, but he (Suyum) was able to parry the blow. Ampo and Suyum then grappled for the bolo, in the course of which Ampo slipped and fell on his knees. Suyum claimed that he accidentally stabbed Ampo with the bolo.^[9]

For his part, accused-appellant Pedro Ocania corroborated Suyum's testimony. He claimed that Ampo struck him with a bolo, hitting him on the back. Wounded, Ocania said he ran away. As he looked back, he saw Suyum and Ampo fighting for possession of the bolo. He claimed that Ampo slipped and was accidentally stabbed on his left shoulder. Ocania said he then proceeded to the barangay outpost to seek help. The barangay police arrived 15 minutes later and took him to the Medical Center.^[10]

Isidro Refuerzo, brother-in-law of accused Suyum, testified that on the date in question, after coming from the basketball court, he saw accused-appellants with an unidentified companion having a drinking session on Aratiles Street. Then, Ampo came out of nowhere and stabbed Ocania at the back with a bolo. Ampo also tried to hit Suyum with his bolo, but the latter was able to evade the blow. Ampo and Suyum then fought for the possession of the bolo. Upon seeing this, Refuerzo said, he left.^[11]

The defense likewise presented Antonio Manlapaz, a fellow worker of Suyum. He claimed that he was on his way to Aratiles Street to look for Suyum to ask him to take his place as a barker as he (Manlapaz) was not feeling well. Manlapaz said he saw Suyum with Ocania and another person having drinks. Then, all of a sudden a male person came out from an alley brandishing a bolo and stabbed Ocania on the back. Ocania fled from the scene, leaving Suyum and the unidentified person as they were locked in combat. He claimed he saw Ampo slip, as a result of which Suyum accidentally hit him with the bolo on the left chest.^[12]

Dr. Renato Borja testified that on the said afternoon, he treated accused-appellant Pedro Ocania for hack wounds on the back, one 5 centimeters long and the other about 2 centimeters long. He stated that the wounds could have been caused by a bladed weapon about one foot long, and that the victim could have been hit from behind. He treated accused-appellant Suyum, who suffered an abrasion at the left index finger, a laceration at the right index finger, and a lacerated wound at the right middle finger, which could have been caused by a sharp bladed weapon.^[13]

On January 15, 1999, the trial court rendered a decision and found accused-appellants guilty of murder with the qualifying aggravating circumstance of treachery and the generic aggravating circumstance of abuse of superior strength. However, it found the aggravating circumstance of evident premeditation not to have been sufficiently established. The dispositive portion of its decision reads:

WHEREFORE, PREMISES CONSIDERED, finding both accused Editho Suyum and Pedro Ocania GUILTY beyond reasonable doubt for the crime

of Murder as defined and penalized under Art. 248 of the RPC as amended by RA 7659 with the qualifying aggravating circumstance of treachery and a generic aggravating circumstance of abuse of superior strength and there being no mitigating circumstance to offset the aggravating circumstance present and proved in the case at bar, both accused Editho Suyum and Pedro Ocania are hereby sentenced to the penalty of death by lethal injection and to indemnify the heirs of the victim Rommel Ampo the amount of P50,000.00 each in line with existing jurisprudence; P23,000.00 each for funeral expenses; P50,000.00 each as moral damages, and P50,000.00 each as exemplary damages.^[14]

Hence, this appeal. Accused-appellants contend that —

- I. THE TRIAL COURT ERRED IN GIVING CREDENCE TO THE INCONSISTENT TESTIMONIES OF THE PROSECUTION WITNESSES.
- II. THE TRIAL COURT ERRED IN NOT GIVING CREDENCE TO THE CLAIM OF SELF-DEFENSE OF THE ACCUSED-APPELLANT, EDITHO SUYUM.
- III. THE TRIAL COURT ERRED IN CONVICTING THE ACCUSED-APPELLANT, PEDRO OCANIA, OF THE CRIME OF MURDER WHEN HIS GUILT WAS NOT PROVEN BEYOND REASONABLE DOUBT.
- IV. THE TRIAL COURT ERRED IN IMPOSING THE SUPREME PENALTY OF DEATH WHEN THE QUALIFYING CIRCUMSTANCE OF TREACHERY AND AGGRAVATING CIRCUMSTANCE OF ABUSE OF SUPERIOR STRENGTH WERE NOT PROVEN BEYOND REASONABLE DOUBT.
- V. THE TRIAL COURT ERRED IN NOT TAKING INTO CONSIDERATION THE ATTENDANT MITIGATING CIRCUMSTANCE OF VOLUNTARY SURRENDER.^[15]

The appeal has no merit.

First. Accused-appellants contend that the testimonies of Edgar Luid and Darlino Coyno were inconsistent on many points and, for this reason, should not have been given credence by the trial court. Their alleged inconsistencies relate to the following: (a) the location of the victim at the time he was assaulted; (b) his companion; (c) the weapon used in attacking the victim; (d) the participation of Pedro Ocania in assaulting the victim; and (e) the stab and hack wounds inflicted by accused-appellants upon the victim.

The alleged inconsistencies are more speculative than real and can be explained. The inconsistencies as to the location of the victim at the time of the assault and the companion of the victim are the result of Luid and Coyno observing the incident from different places and stages. Luid testified as to the moment prior to the attack as well as the initial stage of the attack, while Coyno witnessed a part of the incident after Luid had fled. Hence, Coyno did not see Luid, who was the companion of the victim, when the latter was attacked by accused-appellants.

As to the weapon held by Ocania, it is probable for Luid's and Coyno's testimonies

not to coincide since, according to Luid, when he saw Ocania, the latter was walking behind Suyum as the two approached the victim. It is possible that Luid's view of Ocania was obstructed by Suyum and so he did not see whether Ocania was also armed. Not only that, Luid said that his attention was actually on Suyum, who was carrying a bolo and approaching them menacingly. This also explains the alleged inconsistency regarding the participation of Ocania.

Indeed, the fact that the statements of the two prosecution witnesses differ on some minor details does not in any way affect their credibility. For persons who witness an event may perceive it from different points of reference. For this reason, they may have different accounts of how the incident took place. Indeed, we cannot expect the testimonies of witnesses to a crime to be consistent in all respects because different persons have different impressions and recollections of the same incident. What is important is that their testimonies reinforce each other on the essential facts and that their versions corroborate and substantially coincide with each other to make a consistent and coherent whole.^[16]

Moreover, what is significant is that the trial court had the opportunity to observe the demeanor of the prosecution witnesses and found them to be truthful and worthy of credence.^[17] The determination of credibility of witnesses is properly the function of the trial court considering its vantage position in observing their demeanor and deportment on the witness stand. Hence, its findings with respect to the credibility of witnesses and their testimonies are entitled to great respect, and even finality, unless such findings are arbitrary or facts and circumstances of weight and influence have been overlooked, misunderstood, or misapplied by the trial judge which, if considered, would affect the outcome of the case.^[18]

The defense also points out an inconsistency regarding the stab and hack wounds suffered by the victim. Accused-appellants claim that while Luid and Coyno testified that Ampo was struck by Suyum twice, once on the left side of the neck and another on the left shoulder, and that afterwards Suyum placed an "x" mark on the victim's face, Dr. Vargas, who conducted the postmortem examination, found six incised wounds and only one hack wound.

The records will, however, show that these testimonies are not really contradictory. Dr. Vargas on cross-examination stated:^[19]

Q: You said in your autopsy report that there were three incised wounds measuring 4.0 cms., 2.0 cms., and 2.0 cms. So far as the left ear?

A: Yes, sir.

Q: And those three wounds were located where?

A: In front of the ear.

Q: The other three?

A: Yes. One is going downward, that is vertically located and the other one is horizontally located and the other one is at the ambivular area, left side.