

SECOND DIVISION

[G.R. No. 146436, September 30, 2002]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
PAQUITO CARIÑO, RONALDO CARIÑO (ACQUITTED) AND
ROLANDO CARIÑO (DECEASED), ACCUSED. PAQUITO CARIÑO,
ACCUSED-APPELLANT.**

D E C I S I O N

BELLOSILLO, J.:

This is an appeal from the Decision of the court a quo finding accused-appellant Paquito Cariño guilty of murder and imposing upon him the penalty of *reclusion perpetua* and to pay the heirs of Rolly Dispo P75,000.00 as civil indemnity.^[1]

Paquito, Rolando, and Ronaldo, all surnamed Cariño, were initially charged with murder for the killing of Rolly Dispo. During the pendency of the case, however, Rolando died leaving behind Paquito and Ronaldo to answer for the crime.

On 12 April 1996 at eight o'clock in the evening, Mario Dispo was on his way to the *periyahan* in Poro Dewey, Bolinao, Pangasinan, when he noticed Paquito Cariño walking behind him. When Paquito caught up with Mario, he invited the latter to accompany him to the Puericulture Center inside Dewey Elementary School, to which Mario agreed. When they reached the place, Paquito instructed Mario to wait for him while he went off somewhere. Mario heeded Paquito's instructions but some thirty (30) minutes later he got tired of waiting, so he retraced the path taken by Paquito to look for him. Then from a distance of some fifteen (15) meters Mario saw Paquito, Ronaldo and Rolando standing before the waiting shed, the latter two holding on to the arms of Rolly Dispo, a cousin of Mario, who was seemingly asleep on a bench. Suddenly, Paquito stabbed Rolly several times. Mario clearly saw what happened as the waiting shed was illumined by a fluorescent bulb seven (7) paces away from where Paquito was. Shocked and frightened, Mario ran towards the *periyahan* from where he headed home, purportedly, to sleep his fears away. That same night, Rolly's mother discovered his body at the waiting shed when she went looking for him.

Dr. Vicente Cacho Jr. who autopsied the body of Rolly found that he sustained five (5) stab wounds four (4) of which were fatal as they were located along his chest and upper abdomen.

During the wake, Mario disclosed to Felimon Dispo, father of the victim, what he had witnessed. Felimon counseled Mario to keep his silence until after Rolly's burial, to which the latter agreed. On 18 April 1996, Mario reported the matter to the police.

Reynaldo Dispo, brother of the victim, surmised that revenge was the motive behind the killing. Reynaldo related that at around eight o'clock in the evening of 11 April 1996, or a day before Rolly was killed, he was lounging at the basketball court located at the town plaza when people approached him with news that his brother

Rolly and Ronaldo Cariño featured in a fight. Moments later, Ronaldo charged towards Reynaldo and pushed him. In retaliation, Reynaldo struck Ronaldo on the head with a bottle of beer grande. Ronaldo retreated but threatened to kill Reynaldo and Rolly if he would see them the next day.

Testifying in his behalf, Paquito averred that he was at home on the eve of 12 April 1996. He claimed to know the real culprits as he actually witnessed the stabbing incident. He narrated that when he was on his way to his mother's house located near the school he saw Jay Carsula and Jomar Torio stab Rolly Dispo. He was so frightened that he ran away. The day after the incident Carsula visited him in his house and warned him not to implicate them in the crime. On 15 April 1996 he left for Malunay, Quezon, where he was engaged in the buying-and-selling of *daing*. While there, he sent a letter to his wife Linda telling her that he knew who killed Rolly Dispo but cautioned her from disclosing it to anybody so as not to endanger their lives. Linda admitted that she received the letter and stood by the innocence of her husband.

Ronaldo Cariño did not take the witness stand. Instead, his mother Teresita Cariño testified that Ronaldo was at home on the night of the incident. She insisted that Mario Dispo was lying as he could not have witnessed the stabbing on 12 April 1996 since she, her husband Rolando, and Ronaldo, saw him sleeping at the balcony of his house when they passed by.

The trial court believed the testimony of Mario Dispo insofar as he saw Paquito stab the victim but doubted its veracity with regard to the presence of Ronaldo and Rolando at the crime scene and supposedly each holding the arms of Rolly. The court below surmised that the state of drunkenness of the victim did not require their participation in the crime. Thus, the trial court found only Paquito Cariño guilty of the crime charged, sentenced him to reclusion perpetua and ordered him to pay P75,000.00 as civil indemnity. The court however acquitted Ronaldo Cariño on the ground of reasonable doubt and dismissed the case as against Rolando Cariño in view of his demise during the pendency of the case and prior to the promulgation of the court's decision.

Accused-appellant Paquito Cariño now asserts that the prosecution has failed to establish his guilt beyond reasonable doubt. He points to the failure of the prosecution to present the doctor who autopsied the body and his corresponding medico-legal report showing the wounds sustained by the victim. Accused-appellant insists that his invitation for Mario to accompany him to the Puericulture Center discounts his participation in the crime and belies any intention to commit it since it would be foolhardy to invite someone to witness a crime, especially if he is related to the intended victim.

Accused-appellant also argues that Mario could not have witnessed the incident since it occurred at eight o'clock and not eight-thirty in the evening, within the school campus and not at the Puericulture Center. He claims that Mario vacillated in the identity of the assailants saying at one time that it was only Paquito, and at other times, saying it was all three (3) of them - Paquito, Rolando and Ronaldo. He contends that Mario is a first cousin of the victim, hence, a biased witness. Lastly, he claims that he deserves an acquittal for the reason that Ronaldo, who in fact had the motive to kill Rolly Dispo, was acquitted.