

SECOND DIVISION

[G.R. No. 141080, September 17, 2002]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ANECITO UNLAGADA Y SUANQUE A.K.A. "LAPAD," ACCUSED-
APPELLANT.**

D E C I S I O N

BELLOSILLO, J.:

For the murder of twenty-four-year old Danilo Laurel, ANECITO UNLAGADA y SUANQUE alias "*Lapad*" was charged and subsequently convicted by the court *a quo* and sentenced to *reclusion perpetua* and ordered to pay the heirs of the victim P100,000.00 as moral damages, P50,000.00 as temperate damages, and another P50,000.00 as exemplary damages.^[1]

On 27 January 1989 at around 9:00 o'clock in the evening Danilo Laurel left his house together with Edwin Selda, a visitor from Bacolod City, to attend a public dance at Rizal St., Mag-asawang Taytay, Hinigaran, Negros Occidental. Two (2) hours later, or around 11:00 o'clock that evening, Danilo asked Edwin to take a short break from dancing to attend to their personal necessities outside the dance hall. Once outside, they decided to have a drink and bought two (2) bottles of Gold Eagle beer at a nearby store.

Not long after, Danilo, halfway on his first bottle, left to look for a place to relieve himself. According to Edwin, he was only about three (3) meters from Danilo who was relieving himself when a short, dark bearded man walked past him, approached Danilo and stabbed him at the side. Danilo retaliated by striking his assailant with a half-filled bottle of beer. Almost simultaneously, a group of men numbering about seven (7), ganged up on Danilo and hit him with assorted weapons, i.e., bamboo poles, stones and pieces of wood. Edwin, who was petrified, could only watch helplessly as Danilo was being mauled and overpowered by his assailants. Danilo fell to the ground and died before he could be given any medical assistance.

Edwin Selda testified that on 29 January 1989 the police invited him to the Municipal Building of Hinigaran to give his statement regarding the killing incident and, if necessary, to confirm the identity of the suspect who was then in their custody. Thereat, he executed an affidavit and affirmed before the police authorities that the man under detention, whom he later identified as accused Anecito Unlagada, was the same man who stabbed his friend Danilo.

Dr. Rene Ortigas, surgical resident of the Corazon Locsin Montelibano Memorial Hospital, testified that the post-mortem examination showed that the victim sustained the following injuries: (a) an 8 cm. stab wound, 2nd intercostal space AAL right directed anteriorly, non-penetrating; (b) an 8 cm. stab wound, 4th intercostal MAL, directed postero-medially, non-penetrating; (c) an 8 cm. stab wound, 6th intercostal space, mid-clavicular line, directed postero-caudally, penetrating

diaphragm and right dome of liver causing massive hemorrhage, sequestered at right hemithorax and abdomen; (d) an 8 cm. stab wound, 6th intercostal space, mid-clavicular line left, directed postero-laterally, non-penetrating; (e) an 8 cm. lacerated wound, antero-lateral aspect right thigh; (f) a multiple contusion hematoma, postero-medial aspect left elbow; and, (g) a multilinear abrasion, zygomatic area left face. Dr. Ortigas opined that wound No. 3 proved to be the only fatal injury which lacerated the diaphragm and right dome of the liver resulting in massive hemorrhage.

The defense presented a different picture of the story. Guglielmo Laurel testified that on the evening of 27 January 1989 he was at the dance hall when he met accused Anecito Unlagada. He was all by himself. On the same occasion, according to Guglielmo he also met Danilo Laurel and three (3) other companions although only Edwin Selda was introduced to him. Soon after, Danilo and his friends left the dance hall to drink liquor. An hour or so later, Danilo's group returned to the dance hall. An altercation ensued when the gatekeeper refused them entry without a gate pass. From his vantage point of about forty (40) meters away, Guglielmo observed that a rumble erupted. From a distance, he saw a man, whom he later recognized as Danilo Laurel, fall to the ground. He however belied having seen the accused Anecito Unlagada anywhere near the scene of the crime. By his account, the melee broke up only when a policeman fired a warning shot in the air and the protagonists scampered away.

On cross-examination, however, Guglielmo Laurel asserted positively that accused Unlagada was inside the dance hall before, during and after the rumble, and stayed there even after a policeman fired a warning shot. This testimony of witness Guglielmo was corroborated by defense witnesses Jaime Umbiga and Mariano Salazar.

PO3 Jomarie Sarrosa narrated that at around 11:30 in the evening of 27 January 1989 he was inside his house entertaining some visitors when suddenly he heard frantic shouts, "fight, fight!" Answering the call of duty, he took his service pistol, went outside and fired a warning shot in the air to break up the fight that was going on some fifty (50) meters away. Instinctively, the protagonists broke up and scampered away. When he went near the place of the disturbance, he noticed a man with a deformed hand sprawled on the ground. He however clarified that he described the place as dark because there were no street lights.

PO3 Sarrosa lifted the prostrate body of the victim and asked a barangay tanod to stay with the victim as he would call a tricycle to seek emergency medical assistance. According to him, he caused the incident to be entered into the police blotter while Pfc. Tady and Cpl. Tañal investigated the killing incident. The investigators informed him the following morning that they already had a suspect by the name of "*Lapad*." He volunteered to look for the suspect since he knew him.

Accused Anecito Unlagada testifying in his defense, recounted that at around 10:00 o'clock in evening of 27 January 1989 while he was inside the dance hall, an altercation ensued near the gate between the gatekeeper and a group of four (4) individuals who, despite their disruptive behavior, were eventually allowed to get through the gate. At around 11:00 o'clock, a gunshot suddenly rang out. From the people around he learned that a rumble had taken place and that somebody was killed. But he came to learn the victim's identity only the following morning when he and a certain Lorenzo Patos were brought by a police officer to the Municipal