

## THIRD DIVISION

[ G.R. No. 139576, September 02, 2002 ]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. ROGER OR  
ROGELIO PUEDAN, APPELLANT.**

### D E C I S I O N

**PANGANIBAN, J.:**

By invoking the defense of surprising his spouse in the very act of sexual intercourse with the victim, the accused admits authorship of the killing. Having waived his constitutional right to be presumed faultless, he now bears the burden of proving his innocence. Furthermore, his flight negates his self-righteous proclamation of being the victim of *in flagrante* adultery. Indeed, if what he claims is true, he should have reported the incident to the authorities immediately, instead of hiding from them for over three years.

#### The Case

Rogelio Puedan appeals the June 16, 1999 Decision<sup>[1]</sup> of the Regional Trial Court (RTC) of the City of Malaybalay (Branch 8) in Criminal Case No. 7482-95, finding him guilty of murder and sentencing him to *reclusion perpetua*, as follows:

"WHEREFORE, judgment is hereby rendered finding accused Rogelio Puedan guilty beyond reasonable doubt of murder qualified by treachery. In the absence of any other aggravating and/or a mitigating circumstance, accused is hereby sentenced to suffer the penalty of reclusion perpetua, and to indemnify the heirs of his victim Florencio Ilar the sum of P50,000.00."<sup>[2]</sup>

The Information<sup>[3]</sup> dated June 20, 1995, charged appellant in these words:

"That on or about the 21st day of February, 1995, in the morning, at Purok 2, [B]arangay Paitan, Municipality of Quezon, [P]rovince of Bukidnon, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with intent to kill [and] by means of treachery and evident premeditation, armed with a sharp bladed instrument (flamingo), did then and there wilfully, unlawfully and criminally attack, assault and stab FLORENCIO ILAR, hitting and inflicting upon the latter the following, to wit:

- Multiple stab wounds

which caused the instant[an]eous death of FLORENCIO ILAR, to the damage and prejudice of the legal heirs of FLORENCIO ILAR in such amount as may be allowed by law."<sup>[4]</sup>

Upon his arraignment on June 9, 1998,<sup>[5]</sup> appellant, assisted by his counsel,<sup>[6]</sup> pleaded not guilty. After trial in due course, the court *a quo* rendered the assailed Decision.

## The Facts

### Version of the Prosecution

In its Brief,<sup>[7]</sup> the Office of the Solicitor General (OSG) presents the prosecution's version of the facts as follows:

"In the morning of February 21, 1995, Florencio Ilar, accompanied by his six-year old grandson, Reymark Anthony Ilar, went to the house of Luceno Tulo to buy a piglet.

"Luceno Tulo was fashioning out a mortar (for pounding palay) near his house when Florencio and his grandson arrived.

"Florencio told Luceno that he wanted to buy a piglet from him.

"Appellant Roger Puedan suddenly arrived and stabbed Florencio five (5) times, first in the abdomen, with a sharp, pointed knife locally known as 'plamingco'. Terrified of what he witnessed, Luceno fled towards the house of his neighbor. Young Reymark ran back to his parents' house and told his mother, Erlinda Ilar, what transpired.

"Erlinda Ilar ran swiftly to Luceno's place but Florencio was already dead when she arrived. Florencio was bathed in his own blood and lying by the side of the rice paddy.

"The body of Florencio Ilar remained where it had fallen until the arrival of the police later that day."<sup>[8]</sup> (Citations omitted)

### Version of the Defense

Appellant contends that he deserves acquittal, because the killing falls under the exceptional circumstance referred to in Article 247 of the Revised Penal Code. He claims to have surprised his spouse whom he had caught in the act of committing sexual intercourse with another person. Appellant narrates his version of the facts in the following manner:

"The defense had a different version of the incident that led to the death of Florencio Ilar. To lay the basis of the questionable character of the deceased[,], [t]he defense presented the testimony of **JENNEFER NADELA**, who claimed that she was once a househelp in the residence of the Ilars'. During her stay, which lasted only from July 1 to July 30, 1992, the deceased used to fondle her private parts against her will. The deceased likewise proposed an amorous relationship with her, in exchange for some money, which she declined.

"Corroborative of the testimony of Nadela, anent the character of the deceased, was the testimony of witness VINESA QUINTERO. Quintero's father and the deceased were drinking buddies. Sometime in December 1982, when she took her vacation at her parent's house, her father and Florencio Ilar had a drinking session. When the duo were through

drinking, she washed the drinking glasses of their kitchen. Florencio Ilar, however, followed her inside the kitchen and without warning embraced and kissed her. Ilar then proposed that they go outside in exchange for some amount of money. She declined the proposition. The incident was repeated during the next weekend when her father and Ilar had another drinking session. The witness likewise averred that she heard one of Florencio Ilar's daughter-in-law, Erlinda, confiding to her mother that Florencio Ilar was a sex maniac, who was bent on molesting her.

"**LEAH PUEDAN**, the wife of the accused, admitted having an illicit relationship with the deceased, Florencio Ilar. The illicit relationship had been going on for two years and was known in their barangay, except her husband. On February 21, 1995, at about 8:00 o'clock in the morning, Florencio Ilar came to their house, while she was breastfeeding her child, and was looking for her husband, Roger Puedan. When she retorted that Roger was out putting the carabao in a shade, Florencio then suggested that they have a quick sexual intercourse, and ordered her to remove her skirt and panty, while also undressing himself. While they were having sex, Roger suddenly appeared and was stunned by what he saw. Roger then struck Florencio with his bolo and the two men grappled with each other. She then gathered her young child and ran away from the house.

"Accused **ROGER PUEDAN**, testifying on his behalf, averred that Florencio Ilar was one of the patrons in the ricefields [where] he works. As such patron, Florencio usually [brought] him wine and '**pulutan**' which they partook at his house. On February 21, 1995, at around 8:00 o'clock in the morning, he brought his carabao to a shade. Upon his return, he heard some noises emanating from their bedroom. His curiosity aroused, he went inside the room and found the already undressed Florencio having sexual intercourse with his wife. Shaken and dumbfounded by the revelation, he shouted invectives upon the copulating pair and found a bolo to stab them. The first thrust was parried by Florencio, who grappled for the bolo and wrestled with him. As they wrestled with each other, they fell to the ground, and his hand was freed from the grip of Florencio. He then stabbed Florencio and hit him on the stomach. He then proceeded upstairs in search of his wife, who had already fled."<sup>[9]</sup> (Citations omitted)

### Ruling of the Trial Court

The RTC opined that the prosecution witnesses "were straightforward and candid in relating the incident."<sup>[10]</sup> Moreover, "[n]o motive has been shown, and the court did not find any, why they would fabricate a story."<sup>[11]</sup> They were able to establish the fact that appellant suddenly stabbed Florencio Ilar, who was then buying a piglet outside Luceno Tulo's house.

One of the investigating policemen, SPO4 Antonio B. Inihao, testified that they found Florencio's body slumped lifeless on a rice paddy near Tulo's house. This fact, according to the trial court, belied the claim of appellant that it was outside his house where he had killed Florencio. The body remained where it had fallen, unmoved and untouched, until the policemen arrived a few hours later. It was properly clad in a shirt and a pair of buttoned pants. Had appellant really surprised his wife having sexual intercourse with him, Florencio would not have had the

opportunity to put on and button up his pants, parry the immediate bolo thrust of appellant then grapple with him.

Appellant thereafter fled and was finally arrested on March 16, 1998, or about three years after the killing. The trial court observed that his flight was a strong indication of his guilt.

Conformably, the RTC overruled the contention of appellant that the killing should be treated under Article 247 of the Revised Penal Code. It further said that treachery qualified the killing to murder.

Hence, this appeal.<sup>[12]</sup>

### Issues

In his Brief, appellant raises the following alleged errors for our consideration:

“I

The court *a quo* gravely erred in finding accused-appellant, Roger or Rogelio Puedan, guilty beyond reasonable doubt of the offense charged.

“II

The court *a quo* gravely erred in finding the accused guilty of the crime of murder despite the clear failure of the prosecution to establish the particulars leading to the stabbing incident.”<sup>[13]</sup>

In short, appellant argues that (1) Article 247 of the Revised Penal Code should be applied in his favor, and (2) treachery should not be appreciated as a qualifying circumstance.

### The Court’s Ruling

The appeal has no merit.

### First Issue

#### Exceptional Circumstance

By raising Article 247 of the Revised Penal Code as his defense, appellant admits that he killed the victim. This provision reads as follows:

“ART. 247. *Death or physical injuries inflicted under exceptional circumstances.* – Any legally married person who, having surprised his spouse in the act of committing sexual intercourse with another person, shall kill any of them or both of them in the act or immediately thereafter, or shall inflict upon them any serious physical injury, shall suffer the penalty of destierro. x x x”

By invoking this defense, appellant waives his right to the constitutional presumption of innocence and bears the burden of proving the following:

“1. That a legally married person (or a parent) surprises his spouse (or his daughter, under 18 years of age and living with him), in the act of committing sexual intercourse with another person.

"2. That he or she kills any or both of them or inflicts upon any or both of them any serious physical injury in the act or immediately thereafter.

"3. That he has not promoted or facilitated the prostitution of his wife (or daughter) or that he or she has not consented to the infidelity of the other spouse."<sup>[14]</sup>

To satisfy this burden, appellant must prove that he actually surprised his wife and Florencio *in flagrante delicto*, and that he killed the man during or immediately thereafter. However, all that appellant established was Florencio's promiscuity, which was inconsequential to the killing. What is important is that his version of the stabbing incident is diametrically opposed to the convincing accounts of Prosecution Witnesses Luceno Tulo, Reymark Anthony Ilar, Erlinda Ilar and Policeman Inihao.

Appellant assails the credibility of the prosecution witnesses by alleging that Tulo was not at the crime scene when the stabbing occurred. Without elaborating on the particulars that led to the incident, appellant claims that Reymark and Erlinda merely underscored the fact that Florencio had been stabbed. Thus, appellant argues that these witnesses were not able to contradict his defense.

Well-settled is the rule that the evaluation of the credibility of witnesses and their testimonies is best undertaken by the trial court, because it had the opportunity to observe them firsthand and to note their demeanor and conduct on the witness stand. For this reason, its findings on such matters, absent any arbitrariness or oversight of facts or circumstances of weight and substance, are final and conclusive upon this Court and will not to be disturbed on appeal.<sup>[15]</sup>

In this case, the RTC found the prosecution witnesses to be credible and convincing. It observed that Tulo, Reymark and Erlinda were candid and straightforward in relating their versions of the stabbing incident. Tulo narrated that he was outside his house fashioning a mortar when Florencio -- accompanied by his then five-year-old grandson, Reymark -- arrived in order to buy a piglet. Standing about a meter away, Tulo recounted that appellant suddenly appeared and stabbed Florencio on the abdomen with a knife. Tulo testified thus:

"Q Yes, you said that Roger Puedan stabbed Florencio Ilar, did you see him [stab] Florencio Ilar?

A That was the time when I turned my head as I was making a mortar.

Q You mean, that was the time you saw Puedan [stab] Ilar?

A Yes.

Q Now, at the time you were making a mortar, where was this incident [happening], at your front, at your back or at your side?

A On my side. (Witness referring to his right side).

Q How far were you [from] them when this incident happened?

A Just more than a meter.

COURT: (to witness)