

EN BANC

[G.R. Nos. 130078-82, October 04, 2002]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
MAXIMO DELMO Y ISLA, EDMUND DELMO Y VELASQUEZ,
FRANCISCO LAPIZ Y REYES, AND DANILO LAPIZ Y REYES,
ACCUSED-APPELLANTS.**

D E C I S I O N

QUISUMBING, J.:

On automatic review is the consolidated decision^[1] of the Regional Trial Court of Biñan, Laguna, Branch 24, dated March 20, 1997, in Criminal Cases Nos. 9453-B to 9456-B for murder and Criminal Case No. 9457-B for frustrated murder, which decreed as follows:

WHEREFORE, finding the accused **Maximo Delmo, Francisco “Kit” Lapiz and Edmon^[2] Delmo GUILTY** beyond reasonable doubt as principals in the crimes of murder on four (4) counts and frustrated murder on one (1) count, **they are hereby sentenced to suffer death penalty each** in Criminal Cases Nos. 9453-B to 9456-B for murder **and a penalty of *reclusion perpetua*** in Criminal Case No. 9457-B for frustrated murder, **with the accessory penalties set by law, to pay a civil indemnity in the amount of P50,000.00 each** in the murder cases and to pay jointly and severally actual damages in the total amount of **P426,458.34** to the legal heirs of the dead victims and Helen Grace Payumo.

Likewise, finding the accused **Danilo Lapiz GUILTY** beyond reasonable doubt **as accomplice** in the crimes of murder on four (4) counts and frustrated murder on One (1) count, (a) he is hereby **sentenced to suffer a penalty of *reclusion perpetua*** each in Criminal Cases Nos. 9453-B to 9456-B for murder, (b) and applying the Indeterminate Sentence Law, he is further sentenced to suffer **an indeterminate penalty ranging from six (6) years and one (1) day of *prision mayor* as minimum to twelve (12) years and one (1) day of *reclusion temporal* as maximum** in Criminal Case No. 9457-B for frustrated murder, with the accessory penalties set by law and **to pay jointly with the other accused actual damages in the total amount of P426,458.34** to the legal heirs of the dead victims and Helen Grace Payumo.

While the penalty of *reclusion perpetua* imposed against the accused Danilo Lapiz might be too harsh and cruel considering that he did not participate directly in the commission of the crimes of murder and frustrated murder, courts are not the forum to plead for sympathy. The duty of courts is to apply the law, disregarding their feeling of sympathy

or pity for an accused. *DURA LEX SED LEX*. The remedy is elsewhere—clemency from the executive or an amendment of the law by the legislative, but surely, at this point, this court can but apply the law. (*People v. Amigo*, G.R. No. 116719, January 18, 1996).

Let the complete records of these cases be forwarded to the Honorable Supreme Court within twenty (20) days but not earlier than fifteen (15) days after promulgation of this decision pursuant to Sec. 10, Rule 122 of the Rules of Court.

SO ORDERED.^[3]

These cases stemmed from the brutal slaying of several members of the family of Angelito Payumo at their residence in Sta. Rosa, Laguna. In the afternoon of September 9, 1995, the bodies of Angelito's estranged wife, Nancy Payumo, 40 years of age, her daughters Joanna Rose,^[4] 17 years of age, and Maria Angela,^[5] 15 years old, and son John Anton,^[6] 13 years old, were found lying in pools of blood inside their house. Nancy had been blindfolded, gagged, and hogtied. Joanna Rose was gagged and so was Maria Angela, whose feet were also tied. All had died from multiple stab wounds inflicted upon them early in the morning of September 9, 1995. Lying with them, unconscious from three stab wounds, likewise tied up, blindfolded, and gagged, was the youngest daughter, Helen Grace,^[7] 11 years of age. Prompt and able medical attention saved her from the fate of her mother and siblings. She was the only survivor of what local media bannered as the "Payumo Massacre."

The public outcry that ensued saw various law enforcement agencies rush to solve the murders. Acting on a tip received from an unnamed informant,^[8] elements of the Philippine National Police (PNP) brought in appellant Danilo Lapiz^[9] for questioning on September 16, 1995. Three days earlier, PNP investigators had already picked up appellant Francisco "Kit" Lapiz, the brother of Danilo, for questioning about the slayings.^[10] On September 17, 1995, appellants Edmund Delmo and Maximo Delmo (no relation to each other) were separately invited by the police for investigation regarding the massacre.^[11]

On September 18, 1995, while still in police custody, Danilo Lapiz made an extrajudicial confession naming the two Delmos and his elder brother Francisco "Kit" Lapiz as the culprits.^[12] As a result, the police filed on September 19, 1995 a complaint for murder, docketed as Criminal Case No. 7369,^[13] and another for frustrated murder, docketed as Criminal Case No. 7370,^[14] with the Municipal Trial Court (MTC) of Sta. Rosa, Laguna, against Maximo Delmo, Edmund Delmo, and Francisco Lapiz. That same day, MTC Judge Estanislao Belan, who was handling the preliminary investigation of the cases, ordered the detention of appellants.

On September 20, 1995, the police amended the complaints to include Danilo Lapiz, who refused to turn state witness.

On September 25, 1995, Danilo formally retracted his extrajudicial confession before the MTC judge. Danilo claimed that he had been tortured by the police into making a confession.

On the same day, Helen Grace Payumo recovered from coma at the Makati Medical Center. She was pronounced fit by her doctors for questioning by the investigators. Under questioning, she pointed to three teenagers, namely, Jessie "Jojo" Ramos, Allan Cruzata, and Bernabe Ibañez^[15] as the persons responsible for the slaying of her family. She picked out their photos^[16] from the 38 photographs shown her by the investigators and executed a sworn statement^[17] naming them as the authors of the crime and reciting their acts in detail.

On September 26, 1995, Judge Belan went to the Makati Medical Center and interviewed Helen Grace regarding her sworn statement.^[18] As a result, Judge Belan amended the complaints in Criminal Cases Nos. 7369-70, to include Ramos, Cruzata, and Ibañez as suspects.^[19]

On October 27, 1995, Judge Belan issued a resolution^[20] finding probable cause against all the six accused and forwarded his findings in Criminal cases Nos. 7369-70 to the Provincial Prosecutor of Laguna for review. The latter formed a panel of prosecutors to go over the findings of Judge Belan.

On November 22, 1995, the panel ordered a reinvestigation of the case.

On January 18, 1996, Helen Grace executed another sworn statement, this time retracting her accusations against Ramos, Cruzata, and Ibañez. Instead, she named Maximo Delmo, Edmund Delmo, and Francisco Lapis as the perpetrators of her family's slaying.^[21]

On February 27, 1996, the review panel dismissed the charges against Ramos, Cruzata, and Ibañez. It ordered the filing of charge sheets for multiple murder and frustrated murder against Maximo, Edmund, Francisco, and Danilo.

All the accusatory sheets for murder were similarly worded except for the names of the victims. Thus, in Criminal Case No. 9453-B, the information averred:

That on or about September 9, 1995, in the Municipality of Sta. Rosa, Province of Laguna, Philippines and within the jurisdiction of this Honorable Court, accused Maximo Delmo y Isla, Edmund Delmo y Velasquez, Francisco Lapis y Reyes and Danilo Lapis y Reyes, conspiring, confederating together and mutually helping one another, with intent to kill, while conveniently armed with a bladed weapon, sharp objects and wooden replica of [a] rifle with cruelty and treachery and taking advantage of superior strength, did then and there wilfully, unlawfully and feloniously attack, assault, hit and stab JOANA ROSE PAYUMO y IBARDOLAZA with the said weapon thereby inflicting her multiple stab wounds on the different parts of her body which directly caused her death to the damage and prejudice of her surviving heirs.

CONTRARY TO LAW.^[22]

The information in Criminal Case No. 9454-B charged appellants with the murder of John Anton Payumo.^[23] In Criminal Case No. 9455-B, appellants were charged with the murder of Maria Angela Payumo,^[24] and in Criminal Case No. 9456-B, the information accused appellants of the murder of Nancy Payumo.^[25]

In addition, appellants were likewise charged in Criminal Case No. 9457-B with the frustrated murder of Helen Grace in an information which reads:

That on or about September 9, 1995, in the Municipality of Sta. Rosa, Province of Laguna, Philippines and within the jurisdiction of this Honorable Court, accused Maximo Delmo y Isla, Edmund Delmo y Velasquez, Francisco Lapid y Reyes and Danilo Lapid y Reyes, conspiring, confederating together and mutually helping one another, with intent to kill, while conveniently armed with a bladed weapon, sharp objects and wooden replica of [a] rifle with cruelty and treachery and taking advantage of superior strength, did then and there wilfully, unlawfully and feloniously attack, assault, hit and stab HELEN GRACE "Sweet" PAYUMO y IBARDOLAZA with the said weapon thereby inflicting her wounds on the different parts of her body, thus performing all the acts of execution which would have produced the crime of murder as consequence, that nevertheless did not produce it by reason of cause independent of their will, that is, by the timely and able medical assistance rendered to Helen Grace Payumo y Ibardolaza, to her damage and prejudice.

x x x

CONTRARY TO LAW.^[26]

On arraignment, appellants pleaded "not guilty" to the charges. Trial then ensued.

The prosecution heavily relied upon the lone survivor's testimony. The Office of the Solicitor General (OSG) summed up the prosecution's version as follows:

Early in the morning of September 9, 1995, while 11-year-old Helen Grace "sweet" Payumo was sleeping inside her room at their house in Panorama Ville Subdivision, Dita, Sta. Rosa, Laguna, she was awakened by some noise in the living room. Her sister, Maan, who was sleeping with her, was also awakened. Despite Sweet's protestations, Maan went out of the room when they heard their other sister, Joan, screaming. Worried, Sweet also went out a little while after. There, she saw their mother, Nancy, lying beside the bathroom door, gagged, blindfolded, and hogtied. Standing beside her was appellant Maximo Delmo whom Sweet knew as "Tito Imoy," her father's friend. She also saw Edmund Delmo by the dining table guarding her Ate Maan who was lying on the floor. Another man, whom she did not recognize, (Later found to be Francisco Lapid) was kneeling and tying the hands of her brother, John Anton, who was lying face down near the T.V. set. Joan, on the other hand, was lying on the sofa, already blindfolded, gagged, and hogtied. When Francisco saw Sweet, he gagged and hogtied and blindfolded her with a soft and thin fabric "*malambot na manipis*." Then, the appellants entered the master's bedroom. When they came out a few minutes later, Sweet, Nancy, Joan and Maan were dragged to the same room by Maximo and Francisco. John Anton was left outside with Edmund.

Unnoticed by the appellants, Sweet's loosely tied blindfold slipped while she was being dragged into the room.

Although the lights in the room were off, Sweet, through the street lamppost light shining through the window, saw Maximo rummaging through the closets there.

It was then when Lapiz started stabbing all of them. *Doon na po kami pinagsasaksak*. Nancy was first, then Joan and Maan. Meanwhile, Sweet heard the screams of her Kuya John Anton from outside saying, "*Aray-aray, huwag na po.*" When it was her turn, Lapiz hit Sweet with a piece of wood on the face and legs. After that, he stabbed her at the left side of the neck, "*Dito po sa leeg (witness pointing to the left side of her neck).*" "*Bago po niya tanggalin, inikot-ikot pa po niya iyong patalim.*" Then, another thrust was made at the left waistline just above the hipbone. Extreme pain made her lose consciousness thereafter.

Early in the morning of September 9, 1995, Ellen Marjes, next door neighbor of the Payumos, heard a faint woman's voice coming from the Payumo residence saying, "*Diyos ko po, Diyos ko po.*" She did not hear the voice again. About 10:00 o'clock that same morning, Ellen's daughter, Maay, passed by the Payumo residence for Sweet on her way to St. Anne School where they were schoolmates. Failing to get a response after knocking and shouting for Sweet at their front door, Maay went on her way. A little while after, Ellen and her "El Shaddai" "sister" went next door to look for Nancy. Failing to see her or get a response, the two went back to Ellen's house and just decided to come back at 1:00 o'clock that afternoon. But at 1:00 o'clock, none responded from the Payumo house. Later, another of Nancy's friends, Neddy Banag, came to Ellen and asked where Nancy was. When Ellen and Neddy proceeded next door, they still got no answer. Worried, they fetched Coney Salazar and started calling at the Payumo residence. When nobody answered, Coney pushed one of the bedroom windows, parted the curtain and peeped inside. She saw bodies and thought "they were all asleep."

After knocking and calling some more without getting any answer, they called Homeowner Association President Willie Candelario. Candelario had the roof of the Payumo residence scaled. When the front door was opened, Coney was able to go into the house. Inside, she started shouting "*Patay na, patay na ang kumare ko.*" Candelario also entered and he saw the bloodied living room floor. Inside the master's bedroom, he saw Joan lying on the bed face down, Maan was lying on her right side on the cement floor, Nancy also on the floor at the side of the bed, all gagged, bound, bloodied, and lifeless. Then, he saw Sweet seated on the floor leaning on the wall and the corner of the cabinet. Although bloodied, she was still breathing. Together with Danilo Guevara, they rushed Sweet to the St. James Hospital about 500 meters away. (Citations omitted.)^[27]

Appellants raised the defense of denial and alibi. All claimed to be fall guys who merely framed by the investigators and prosecutors.

As to appellant Maximo Delmo, the trial court summed up his defense as follows:

...In a nutshell, he testified that he was at home on the date and time in question; that he went to the house of the Payumos in the afternoon of September 9 and assisted the NBI and police authorities in their