

## SECOND DIVISION

[ G.R. No. 123149, March 27, 2001 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
CORNELIO CABUG, ACCUSED-APPELLANT.**

### D E C I S I O N

**MENDOZA, J.:**

This is an appeal from the decision<sup>[1]</sup> of the Regional Trial Court, Branch 36, General Santos City, finding accused-appellant Cornelio Cabug guilty of the crime of parricide and sentencing him to suffer the penalty of *reclusion perpetua* with the accessory penalties provided by law and ordering him to pay P70,000.00 to the children of the deceased as indemnity.

The information against accused-appellant alleged <sup>3</sup>/<sub>4</sub>

That on or about 11:30 o'clock in the evening of August 15, 1992, at Roca Subdivision, Apopong, General Santos City, Philippines, within the jurisdiction of this Honorable Court, said accused willfully, unlawfully and feloniously, with intent to kill and with evident premeditation and treachery, armed with a hammer and a screw driver, attack, assault, strike, hit, and stab Liwanag Cabug, with whom he was united in lawful wedlock, who sustained wounds and injuries on her head and other parts of her body which resulted [in] her death.

CONTRARY TO LAW.<sup>[2]</sup>

The case was originally assigned to the Regional Trial Court, Branch 23, General Santos City presided over by Judge Jose L. Orlino, who, after hearing six (6) prosecution witnesses, inhibited himself from further consideration of the case. The case was reraffled to the RTC, Branch 36, presided over by Judge Apolinario F. Estoque. However, after hearing the testimonies of three (3) defense witnesses, Judge Estoque was re-assigned to Butuan City. Judge Teodoro A. Dizon then took over the case.

The prosecution presented eight (8) witnesses, namely, Nestor Lopeña, Cynthia Isla, Luzviminda Roca, Charlito Isla, Lealyn Cabug, Dr. Benjamin Pagarigan, SPO3 Bernard Rafanan, Luzviminda Roca, and Alexander Sarabia, whose testimonies are summarized below:

Accused-appellant Cornelio Cabug, then 37 years old, is the husband<sup>[3]</sup> of the deceased Liwanag Roca Cabug, 32 years old at the time of her death. They have three children, Lealyn, Wilfred, and Grace, aged 14, 9, and 2, respectively at the time material to this case. The Cabug family lived in Roca Subdivision, Apopong, General Santos City. Cynthia Isla, a niece of the deceased, lived with them.

On August 15, 1992, at around 11:30 p.m., while asleep in the room which she shared with Lealyn, Cynthia was awakened by the cries of her aunt from the adjacent room, asking her for help. Cynthia woke Lealyn up. They knocked on the door, but nobody answered it. They tried to open it, but it was locked.<sup>[4]</sup>

While Lealyn stayed behind, Cynthia ran to the house, 75 to 80 meters away, of Florita Roca, mother of the deceased, shouting "*Lola, Auntie Minda, si Auntie Liwanag ug si Nong Cornelio nag-away na sab.*" ("*Lola, Auntie Minda, Auntie Liwanag and Nong Cornelio are quarreling again.*")<sup>[5]</sup> Florita Roca lost no time. She went with Cynthia to the house of the Cabug spouses. Luzviminda Roca, a sister of the deceased who lived with Florita Roca, went back to bed.<sup>[6]</sup>

Cynthia said that when they arrived at the house she could hear the deceased saying, "*Nay, sakit, nay.*" ("*Ma, it's painful, Ma.*") She said she went out to the front porch, pulled a table, and placed it below the high window which overlooked the room of the Cabug spouses. She stepped on the table and peeped through the small window. The room was lighted by a 20-watt fluorescent light. Cynthia saw blood in the room and accused-appellant sitting on the floor beside the bed, his head between his bended knees which he grasped with his hands. She also saw Grace Cabug lying on the bed, sucking her thumb. Cynthia said she did not see the deceased from her perch.

Cynthia went back to the house of Florita Roca to fetch Luzviminda Roca, shouting, "*Auntie Minda, na-ay dugo.*" ("*Auntie Minda, there is blood.*")<sup>[7]</sup> This time, Luzviminda Roca got up from her bed and went with Cynthia.<sup>[8]</sup>

Upon reaching the house of the Cabug spouses, Luzviminda went to the door of the master's bedroom and kicked it open. They found accused-appellant and the deceased lying bloodied on the floor.<sup>[9]</sup> Lealyn, who was behind Luzviminda at this time, also saw the same.<sup>[10]</sup> Horrified, Luzviminda shouted, "*Unsa mo, nagpatyanay na mo?*" ("*What is happening to you? You are already killing each other!*") Accused-appellant kicked the door shut. Luzviminda then shouted for help.<sup>[11]</sup>

Cynthia ran to the bunkhouse of the carpenters, 50 meters away, for help. One of the carpenters, Nestor Lopeña, went with her. Upon reaching the house of the Cabug spouses, Nestor peeped through the window of the master's bedroom. Nestor testified that he saw the deceased lying bloodied on the floor face down with the accused-appellant's head near the right thigh of his wife. Grace Cabug was sitting on the bed.<sup>[12]</sup>

Charlito Isla, *a.k.a* *Bulilit*, was also summoned from another bunkhouse. He likewise found the master's bedroom locked, but through the high window, he saw the accused-appellant inside the room lying on the floor on his back, arms pressed against the door while his legs were pressed against the bed.<sup>[13]</sup> He, Nestor, and Charlito kicked the door and pushed it with their bodies until the lock was broken and the door was detached from its hinges.<sup>[14]</sup>

They found the victim on the floor lying face down in a pool of blood, as accused-appellant staggered to move towards a corner of the room. Grace Cabug was sitting

on the bed.<sup>[15]</sup> Nestor said he asked accused-appellant, "Why did you do this?," to which the latter allegedly answered, "Engineer is the cause." Nestor testified that he found a hammer and a screwdriver near the body of the victim.<sup>[16]</sup>

Charlito and Nestor carried the body of Liwanag Roca Cabug outside the house and loaded it into the vehicle of one Engineer de Guzman which was parked near the house of the Cabug spouses.<sup>[17]</sup> According to Cynthia Isla, the engineer, who is a business partner of the deceased, usually parked his car near their house.<sup>[18]</sup> Luzviminda Roca, on the other hand, testified that the vacant space near the house of her sister, the deceased, served as a parking lot since the bunkhouse where the engineer stayed whenever he was in the subdivision did not have a parking space.<sup>[19]</sup>

Charlito testified that when they took the deceased to the hospital, the latter was still breathing although her condition was serious.<sup>[20]</sup> Accused-appellant was left inside the room of their house because he refused to be brought to the hospital. Later on, however, he was persuaded by one Saturnino Aragoncillo to go to the hospital after the latter's repeated assurances of protection.<sup>[21]</sup>

The certificate of death (Exh. D)<sup>[22]</sup> of the deceased, prepared by Dr. Benjamin Pagarigan, stated:

#### Cause of Death

Immediate Cause:	a.	Hypovolemic Shock 2 <sup>o</sup>
Antecedent Cause:	b.	Multiple Hacking Wounds
Underlying Cause:	c.	Multiple Fracture with Brain Evisceration

#### Other significant conditions contributing to death:

(Tempo-frontal occipital), puncture wound  
right buccal sec. to trauma

Dr. Gervacio Posadas, city health officer of General Santos City, conducted a postmortem examination on the deceased. His report (Exh. E) stated:

1. Contused laceration - right upper eyelid, 5 cm. by 2 cm. deep;
2. Contused laceration - with depressed fracture, 5 cm. by 1 cm. by 1.5 cm. deep left eyebrow;
3. Depressed fracture - right parietal area, 7.2 cm. in circumference;
4. Contused laceration - 10 cm. by 2.5 cm., scalp deep, left occipito-mastoid area;
5. Contused laceration - 9 in number, 3.7 cm. by 1.5 cm., scalp deep, scattered over right

& left parietal area, 5 are sutured;

- Note:
1. Patient was admitted in St. Elizabeth hospital for 2 hrs. and given treatment by Dr. Pagarigan;
  2. presence I.V. open method (cut down) right leg lower 3rd with plaster;
  3. I.V. site with plaster right wrist joint.

Cause of Death: Death was due to shock, hemorrhage, fracture of head, multiple.<sup>[23]</sup>

Accused-appellant testified in his own behalf. He testified that when he arrived home from a birthday party on the night of August 15, 1992, he was hit on the head and rendered unconscious. When he regained consciousness he found himself already in the hospital. He could not remember talking with anyone from the time he was clubbed up to the time he regained consciousness. He also denied quarreling with his wife on that fateful night. When asked if he knew who clubbed him, the counsel of accused-appellant objected as this was not taken up in the direct examination. The court sustained the objection, and there were no more questions propounded to accused-appellant.<sup>[24]</sup>

Saturnino Aragoncillo, a neighbor, testified for the defense. He said that at around 1 o' clock in the morning of August 16, 1992, he was fetched from his house by three men who told him that something happened in the Cabug residence and his help was needed. When he went to the house of the Cabug family, he observed that the door to the master's bedroom showed no signs of being forcibly opened, while the bed was in disarray and there was blood in the ceiling. Accused-appellant was lying on the floor, bloodied as if dead. There was a bloodstained sack under the television set inside the room and a hammer which was also bloodstained. Aragoncillo then checked the pulse of the accused-appellant and upon finding him still alive, tried to wake him up. He testified that when accused-appellant came to, he asked, "Where is Neneng?," referring to the deceased. Aragoncillo answered that he did not know and told accused-appellant that he needed to be brought to the hospital. The latter initially refused because someone might kill him outside, but later agreed to be treated in the hospital.<sup>[25]</sup> Aragoncillo took him to General Santos Doctor's Hospital where he was treated for "open connect fracture of frontal wound."<sup>[26]</sup>

Aragoncillo testified that three days later, he visited accused-appellant in the hospital. Accused-appellant told him that he had been clubbed on the forehead as a result of which he lost consciousness and did not wake up until he was brought to the hospital. This matter was not formally reported to the police by Aragoncillo. He said that he only told a certain policeman, Aniando Lendio, about the incident, but he does not know whether the report was entered in the police blotter. He never bothered to formally report the matter to the police, explaining that it was not his job to do so and that he also had to keep his identity secret as he is a government employee holding a highly sensitive and highly confidential position. He said he waited for the police investigators to question him, and since no one approached him, he kept quiet about the incident and only talked about it when he was

subpoenaed to testify in court.<sup>[27]</sup>

Two other defense witnesses were presented. Dr. Mario Y. Dideles testified on the injuries sustained by the accused-appellant.<sup>[28]</sup> On the other hand, SPO3 Lolita Basbas presented the police blotter with an entry regarding the death of the deceased on the night of August 15, 1992.<sup>[29]</sup>

The prosecution then presented four rebuttal witnesses to refute the testimony of accused-appellant that (1) the police did not make any investigation on the incident, (2) the door to the bedroom of the Cabug spouses showed no signs of having been forcibly opened, and (3) accused-appellant told a certain Alexander Sarabia that he was clubbed in the head and lost consciousness that night.

SPO3 Bernard Rafanan testified that he conducted the investigation of the incident in the afternoon of August 16, 1992. When he took pictures of the crime scene, he noticed that the master's bedroom no longer had a door. He also visited accused-appellant in the hospital to ask him questions regarding the incident. He only accomplished this the next day when he was permitted by the doctors to see accused-appellant. During his visit, SPO3 Rafanan said that he learned from accused-appellant that on that fateful night, he quarreled with the deceased because he suspected the latter and her business partner, a certain Engineer de Guzman, of having an affair. The fight allegedly got emotional, and accused-appellant used the hammer and screwdriver against his wife. Realizing that he had killed his wife, accused-appellant allegedly hit himself on the head with the hammer in order to kill himself. SPO3 Rafanan said that after hearing this, he did not ask further questions, thinking that at that point, accused-appellant needed the assistance of counsel.<sup>[30]</sup>

Luzviminda Roca was again presented as a witness to deny the allegation of Saturnino Aragoncillo that she threatened him the day after he testified for the defense.<sup>[31]</sup> Alexander Sarabia of the Philippine National Police in General Santos City, on the other hand, denied that accused-appellant told him that he (accused-appellant) had been hit on the head that night.<sup>[32]</sup> Eduardo Lopeña was the last witness to refute the observation of Aragoncillo that the door to the master's bedroom of the Cabug house was intact.<sup>[33]</sup>

The defense presented two witnesses in sur-rebuttal. The two, however, did not refute anything said by the prosecution witnesses but instead corroborated their testimonies in rebuttal. Roque Paye, the police officer who stood guard in the hospital while the accused-appellant was confined, confirmed that SPO3 Rafanan visited the accused-appellant. Presented for the second time, Saturnino Aragoncillo admitted that he did not actually understand what Luzviminda Roca had told him after he gave his testimony in court. He thus retracted his prior claim that Luzviminda Roca had threatened him.

After considering the evidence of the parties, the trial court rendered judgment finding accused-appellant guilty of parricide. The dispositive portion of its decision reads:

WHEREFORE, the Court finds the accused GUILTY beyond reasonable doubt of the crime of Parricide and hereby sentences him to suffer the