

## FIRST DIVISION

[ G.R. No. 119621, May 12, 2000 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
ROMULO AVILLANA Y CATASCAN, ACCUSED-APPELLANT.**

### D E C I S I O N

**PARDO, J.:**

The case is an appeal from the decision<sup>[1]</sup> of the Regional Trial Court, Branch 121, Kalookan City convicting accused Romulo Avillana y Catascan of murder and sentencing him to *reclusion perpetua* and to pay P54,000.00 as actual and compensatory damages, P50,000.00 as civil indemnity and another P50,000.00 as moral damages.

On February 3, 1993, Assistant City Prosecutor Bagis S. Ismael filed with the Regional Trial Court, Kalookan, Branch 121 an information charging accused with murder, committed as follows:

"That on or about the 19th day of May, 1992 in Kal. City, MM., Philippines and within the jurisdiction of this Honorable Court, the above-named accused, without any justifiable cause, with intent to kill, with treachery and evident premeditation, did then and there wilfully, unlawfully and feloniously attack and stab with a bladed weapon one ANDRESITO SINSORO Y PABILONA, hitting the latter on (sic) his right chest, thereby inflicting upon said victim serious physical injuries, which injuries caused the latter's instantaneous death.

"Contrary to law."<sup>[2]</sup>

On February 15, 1993, upon arraignment, accused pleaded not guilty to the crime charged.<sup>[3]</sup> Trial ensued accordingly.

The facts are as follows:

Between 10:00 and 11:00 in the evening of May 19, 1992, Andresito Sinsoro, Arnold Fabello and one Romeo Cabigting were walking side by side in front of the Star Elementary School, Phase 3, Bagong Silang, Caloocan City waiting for a jeepney to bring them home, after attending a party hosted by their friend Kuya Amang. Suddenly, accused approached from behind the trio, took an extra step forward, then stabbed Andresito in his chest with an 8 inch-long knife. Romeo Cabigting held Andresito to break the latter's fall. Accused then turned his ire on Romeo Cabigting who let go of the wounded Andresito and ran for his life. Arnold Fabello also made a hurried escape when accused was going to attack him next. He (Fabello) took a tricycle and went to Andresito's wife, Conchita Sinsoro, to inform her of what happened to her husband. Conchita Sinsoro and her nephew immediately went to

the Tala Hospital where Andresito was brought. But at around 1 a.m. of the next day (May 20, 1992), Conchita Sinsoro went to Arnold Fabello's house to inform him that Andresito was dead. They proceeded to the Bagong Silang Police Detachment that very same ungodly hour to report Andresito's death.<sup>[4]</sup>

In his defense, accused narrated an alibi.<sup>[5]</sup> He claimed that from 7:30 a.m. to 5:00 p.m. of May 19, 1992, he was doing repair jobs on the windows and roofing of his aunt's house at 240 Road 1, Pag-asa, Quezon City which he began to undertake on May 18, 1992. Accused left Pag-asa after 5:00 p.m., arrived at his house in Phase II, Bagong Silang, Kalookan City at around 7:30 in the evening and slept. He went out of his house between 10 p.m. and 11:00 p.m. to buy cooking oil and bananas for the next day's breakfast. Upon reaching a nearby store owned by Barangay Tanod Laurencio Jovillano, accused was approached by an inebriated Eddie Cuevas and became the object of the latter's drunken ire ("kinursunada"). In the brewing tension between accused and Eddie Cuevas, Jose Tabingo and Barangay Tanod Laurencio Jovillano arrived and pacified the two (2) protagonists. Jose Tabingo invited accused to his house where the latter stayed until 5:00 in the morning of the next day (May 20, 1992). Accused returned to his house, ate breakfast and then left for his aunt's house at Pag-asa, Quezon City to continue his repair job. He stayed there until May 23, 1992.

Accused-appellant's *alibi* was corroborated by Jose Tabingo<sup>[6]</sup> and Barangay Tanod Laurencio Jovillano.<sup>[7]</sup>

The trial court gave credence to the prosecution's version of the circumstances surrounding Andresito's death, and appreciated the aggravating circumstance of treachery against accused. On November 9, 1994, the trial court rendered decision, the decretal portion of which reads:

"WHEREFORE, in view of the foregoing considerations, the Court finds accused ROMULO AVILLANA Y CATASCAN GUILTY beyond reasonable doubt of the crime of Murder and sentences him to suffer the penalty of RECLUSION PERPETUA, to pay the sum of FIFTY FOUR THOUSAND (P54,000.00) PESOS as actual and compensatory damages, to indemnify the heirs of the victim the sum of FIFTY THOUSAND (P50,000.00) PESOS and another sum of FIFTY THOUSAND (P50,000.00) PESOS as moral damages. With Costs.

"SO ORDERED."<sup>[8]</sup>

Hence, this appeal.

Asserting his innocence, accused-appellant submits that his guilt has not been proven beyond reasonable doubt. The issue boils down to credibility of witnesses.

The defense presented three (3) witnesses to refute the testimony of sole prosecution eyewitness Arnold Fabello. We examined the transcript of Arnold Fabello's testimony and found that it indeed remained consistent and straightforward even during cross-examination. The trial court did not err in giving full credence to Arnold Fabello's testimony. It is well-settled that witnesses are to be weighed, not numbered, such that the testimony of a single, trustworthy and credible witness