

EN BANC

[G.R. No. 134631, May 04, 2000]

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
BANDY REPOLLO AND TOMAS REPOLLO, ACCUSED-APPELLANTS.**

DECISION

VITUG, J.:

In an Information filed before the Regional Trial Court ("RTC") of Urdaneta, Pangasinan, Branch 46, accused Bandy Repollo and Tomas (a.k.a. Candido) Repollo were charged with murder for the killing of Alfredo C. Baybayan; *viz*:

"The undersigned accuses BANDY REPOLLO and TOMAS REPOLLO of the crime of MURDER, committed as follows:

"That on or about November 29, 1997 at barangay Nagsaag, San Manuel, Pangasinan and within the jurisdiction of this Honorable Court, the above-named accused, armed with a bladed weapon with intent to kill, treachery evident premeditation and taking advantage of superior strength, conspiring together, did then and there wilfully, unlawfully and feloniously held, embrace and stab Alfredo C. Baybayan, inflicting upon him the following injuries:

- Back-stab wound 2 cm in length penetrating at the left infra-scapular area.
- 2 stab wounds 2 ½ cm and 2 cm in length at the upper 3rd of the vertebra.

which caused the instantaneous death of said Alfredo C. Baybayan, to the damage and prejudice of his heirs.

"CONTRARY to Art. 248, Revised Penal Code, as amended by R.A. 7659."

[1]

The criminal complaint that initiated the prosecution of the case was filed by the Chief of Police of San Manuel, Pangasinan, on 16 December 1997 with the 7th Municipal Circuit Trial Court of Asingan-San Manuel, Pangasinan.

At the arraignment, the two accused pleaded not guilty, and trial thereupon ensued. Following the presentation of the evidence adduced by the prosecution and the defense, the trial court, in its decision of 02 July 1998, found both accused guilty beyond reasonable doubt of the crime with which they were charged and sentenced each of them to suffer the penalty of death. The trial court adjudged:

"WHEREFORE, JUDGMENT of CONVICTION beyond reasonable doubt is hereby rendered CONVICTING BANDY REPOLLO and TOMAS @ CANDIDO REPOLLO of the crime of MURDER, an offense defined and penalized under Article 248, Revised Penal Code in relation to Republic Act 7659 aggravated by treachery, the Court hereby sentences Bandy Repollo and Tomas @ Candido Repollo to suffer the penalty of DEATH to be implemented in the manner provided for by law. Ordering the accused to reimburse the heirs of Alfredo Baybayan to pay the sum of P64,700.00 as actual damages plus P50,000.00 for moral damages and P20,000.00 as exemplary damages.

"The Clerk of Court is hereby ordered to transmit the records of this case to the Honorable Supreme Court of the Philippines for automatic review, and to prepare the Mittimus immediately.

"The Warden, Bureau of Jail Management and Penology (BJMP) is hereby ordered to deliver the accused to the National Bilibid Prisons, Muntinlupa, Manila, with proper escort and security immediately.

"SO ORDERED."^[2]

The death penalty having been imposed, the case has been elevated to this Court for automatic review. In their brief, accused-appellants make the standard and general ascription that the trial court has erred in not acquitting them on the ground of the failure of the prosecution to establish their guilt beyond reasonable doubt and in not finding that they, in fact, have established a meritorious defense.

The evidence, culled from the records, consists mainly of the testimony of witnesses tendered, in one version, by the prosecution and, in another, by the defense.

For the Prosecution:

On 29 November 1997, at about nine o'clock in the evening, the victim Alfredo C. Baybayan, along with his wife Mercedes, attended the wake of the late Aurelia Ramos at the house of Councilor Loreto Ramos in Sitio Saringit. Among the several persons in attendance were Tomas and Bandy Repollo (herein appellants), Councilor Mario Faustino, Manuel Diaz and Virgilio Galamgam. After paying his last respects, Alfredo joined the group then playing the "Lucky Nine" card game. Behind Alfredo was Mercedes. Manuel watched the players a few meters away. Later in the game, Mario Faustino took a break from watching the game to relieve himself. Approximately four meters away from the place where the game was being held, Mario Faustino saw Tomas Repollo and Bandy Repollo reeking of liquor and appearing to be in wait for someone. When Mario came back, Alfredo got up and walked past his wife casually telling her that he would urinate. Mercedes noticed that Tomas and Bandy hastily went to follow her husband and then, from a distance of about three meters, she saw Tomas catch up with her husband and hold the latter's hands above elbow level. Forthwith, Bandy stabbed Alfredo thrice at the back. Just as Alfredo had slumped to the ground, Tomas and Bandy scampered away. Responding to the instant cries of Mercedes, Mario Faustino ran towards the same spot where Mario had seen Tomas and Bandy. Mario saw Alfredo dripping blood and apparently lifeless. Meanwhile, Virgilio Galamgam announced over the microphone that somebody had been stabbed causing the people at the wake to

panic and leave the place except for the close relatives of deceased Aurelia Ramos. Mercedes desperately attempted to revive her husband. The latter was brought to the Sacred Heart Hospital where he was pronounced "dead on arrival." Mario reported the incident to the police. In her statement, Mercedes pointed to Tomas and Bandy as being the assailants of her husband.^[3]

The next day, 30 November 1997, PO3 Dominador Urbiztondo, Jr., and PO3 Avelino Sandi of the Philippine National Police ("PNP") stationed at San Manuel, Pangasinan, repaired to the scene of the crime and found bloodstains on the premises. On the basis of the information given by Mario Faustino and Loreto Ramos, and with the help of Barangay Captain Marciano Alvarado, the two police officers interviewed Tomas and Bandy Repollo, Rogelio Alvarado and Marcial Alvarado. On 03 December 1997, in a follow-up investigation conducted by SPO1 Joselito Sagles in the house of Barangay Captain Marciano Alvarado, Tomas Repollo admitted having been at the wake when the stabbing incident occurred. Bandy, on the other hand, said that he did not leave his house that night.

Dr. Asuncion Tuvera, a rural health physician of San Manuel, Pangasinan, who conducted the autopsy on the body of the victim, found the latter to have suffered from three fatal stab wounds delivered from behind. In the autopsy report,^[4] as well as in the death certificate,^[5] Tuvera indicated the cause of death of Alfredo to be "cardio-respiratory arrest - severe internal hemorrhage."

For the Defense:

Lorenzo Paguyo testified as having been one among those present at the Ramos wake watching the "Lucky Nine" card game. He did not actually see the actual stabbing incident but just as he heard the announcement of Galamgam that somebody was stabbed, he saw Alfredo walking in a "zigzag manner" until he fell to the ground.^[6] He tarried for about 10 more minutes after Alfredo was brought to the hospital. Bandy Repollo and Tomas Repollo were still at the scene of the incident when he left.

Manuel Diaz stated that on the night of 29 November 1997, he went to the wake in the company of Tomas Repollo and Bandy Repollo. He watched the card game and beside him was Tomas Repollo. After about 15 minutes, Alfredo arrived and greeted him with a pat on his shoulder, followed by a hug. Alfredo joined the card game. He saw Bandy Repollo approach Tomas for some money to buy *balut* but Tomas ignored Bandy. Alfredo played the game for about 25 to 30 minutes and then left to urinate. Moments later, he heard an announcement made by Galamgam that someone had been stabbed. The victim turned out to be Alfredo Baybayan. Manuel did not see how the incident happened. The witness, in answer to the query of the Court, "Was it Bandy who stabbed him (Alfredo)," answered, "I am not sure sir;" and to the next question, what "about Tomas Repollo," the witness replied, "Tomas did not stab him because he was beside me, sir,"^[7]

Testifying in his defense, accused Tomas (Candido) Repollo admitted that he was at the Ramos wake on 29 November 1997, at seven o'clock in the evening, together with Alex Alvarado, Noel Alvarado, Rod Alvarado, Jose Alvarado, Bandy Repollo and Manuel Diaz. He saw Alfredo later come in, talk to and embrace Manuel Diaz, and then participate in the card game. After some minutes, Alfredo got up and left the

game. When Alfredo returned he was walking "as if drunk" until he fell to the ground. When Galamgam announced the stabbing incident, he was beside Manuel Diaz, and Bandy. He and Bandy went home afterwards at around ten o'clock that evening.

Bandy Repollo denied having stabbed Alfredo and had no idea who did it. He arrived at the place at eight o'clock in the evening, together with Candido Repollo, Marcial Alvarado, Alex Alvarado, Rogelio Alvarado, Jose Alvarado and Manuel Diaz. He was watching the card game about three meters away from the place where his uncle (Tomas) and Manuel Diaz were conversing. Moments after Alfredo had left the card game, he heard Pepe Galamgam announce over the microphone that somebody was stabbed. Alfredo was then seen walking awkwardly until he fell to the ground. The card players soon resumed the game which he, along with Tomas Repollo and Manuel Diaz, continued to watch. When the victim was brought out of the yard, he and his companions left for home.

Evaluating the foregoing evidence respectively offered by the prosecution and the defense, the trial court ruled against accused-appellants. Finding the latter both guilty beyond reasonable doubt of murder, aggravated by treachery, the court a quo, per its judgment aforequoted, imposed the penalty of death.

In arguing for their acquittal, accused-appellants assail the testimony of Mercedes Baybayan for being biased and uncorroborated and claim that the filing of murder charges against them is a mere "product of guesswork and not based on solid evidence." Insisting that Mercedes did not witness the stabbing of her husband, accused-appellants point out that Mario Faustino, who could have been in the best position to witness the incident, has failed to specifically implicate them to the crime.

The appeal basically boil down to the issue of credibility. Let it be said at the outset that the Court will not hesitate to superimpose its own judgment over that of the trial court in passing upon the credibility of witnesses if there should appear a clear case of misapprehension by the latter of significant facts or circumstances that, otherwise, can warrant a completely variant result.^[8] Bearing this possibility in mind, the Court has closely reviewed the records; unfortunately for the accused-appellants, it finds not enough justification to reject and reverse the assessment made by the trial court. The records, in fact, appear to adequately substantiate the findings of the trial court in holding that-

"Mercedes S. Baybayan, was clear and positive, unswerving and sure that she saw her husband (Alfredo) left the card game table in the wake of Aurelia Ramos at the house of Loreto Ramos at Brgy. Nagsaag, San Manuel, Pangasinan on November 29, 1997 at about 9:00 P.M. - followed by Bandy Repollo and Tomas @ Candido Repollo. Afterwards, Tomas held the two (2) hands of Baybayan above his elbow, thereafter, Bandy stabbed Alfredo Baybayan's back three (3) times hitting Alfredo which caused him to fall to the ground. Alfredo Baybayan died as a result of the three (3) stabbing blows that he sustained."^[9]

The failure of Mercedes to disclose right away to the police the identity of the malefactors could scarcely impair her credibility.^[10] She explained that her mind was still "much disturbed" after the stabbing to death of her husband; nonetheless,