

SECOND DIVISION

[G.R. No. 116794, June 23, 2000]

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
HENRY FLORES Y TANDOG ALIAS "TOTO", ACCUSED-APPELLANT.**

D E C I S I O N

DE LEON, JR., J.:

Before us on appeal is the Decision^[1] of the Regional Trial Court of Caloocan City, Branch 120, in Criminal Case No. C-45737 convicting herein appellant Henry T. Flores alias "Toto" of the crime of murder.

The appellant is charged with the crime of murder as defined and penalized under Article 248 of the Revised Penal Code in an information which reads:

"That on or about the 13th day of July 1993, in Kaloocan City, Metro Manila and within the jurisdiction of the Honorable Court, the above-named accused, without any justifiable cause, with deliberate intent to kill with treachery and evident premeditation, did then and there wilfully, unlawfully and feloniously stab one NICANOR DOCTOLERO y SON with the use of a knife on the left side of his body, resulting to the death of the latter.

CONTRARY TO LAW."

Upon being arraigned on January 19, 1994, the appellant, assisted by counsel, pleaded "Not guilty." Thereafter, trial on the merits ensued.

It appears from the evidence adduced by the prosecution that on July 13, 1993 at around 9:30 o'clock in the evening, private complainant Corazon Doctolero was tending her store beside their house in Barrio Libis, Baesa, Kaloocan City, when she heard her husband, Nicanor Doctolero, shout "Akina ang kutsilyo, Son, sinaksak ako ni Toto", apparently referring to herein appellant Henry Flores. Nicanor was only two (2) arms length away from their store and was then watching bingo games when he was stabbed by appellant Toto. Corazon immediately looked out from the window of her store and saw that Toto was armed with a knife and was embracing her husband from behind. Toto attempted to stab Nicanor for the second time but the latter was able to parry the thrust. Toto ran away after he was kicked by Nicanor.^[2]

Nicanor sustained a stab wound at the back on the left side of his body. He was initially brought to the Kaloocan General Hospital for treatment but was later on transferred to the Jose Reyes Memorial Hospital where he died six (6) days later. Corazon stated that she spent P8,000.00 representing hospital expenses, P12,000.00 for the wake and P10,000.00 for the burial of her husband.^[3]

Corazon disclosed that Toto is her brother-in-law.^[4] She alleged that Toto felt very envious toward her husband inasmuch as the latter was well-liked by his parents-in-law, a treatment denied to the appellant.^[5]

Dr. Ludivino J. Lagat, M.D., medico-legal specialist of the N.B.I., conducted the post mortem examination on the body of the victim, Nicanor Doctolero. The Autopsy Report No. N-93-1742^[6] dated July 19, 1993 which was prepared by Dr. Lagat and approved by Dr. Prospero A. Cabanayan, M.D., Chief, N.B.I. Medico-Legal Division, shows the following findings:

Cyanosis, lips and nailbeds.

Cut down, 2.5 cm., right arm.

Surgical incision: 3.0 cms., 6th intercostal space, anterior axillary line, left; 24.0 cm., abdomen, mid-line infected; 5.0 cm., left lower quadrant, abdomen.

Bedsore; 3.0 x 2.0 cm., right buttocks; 2.0 x 2.0 cm., in the back.

Stab wound, 2.0 cm., modified by healing, back, left posterior axillary line, 15.5 cm., from the posterior median line, level of the 10th intercostal space, directed forward, downward and medially, involving the soft tissues, diaphragm, to the peritoneal cavity, then to the spleen and stomach., thru and thru all sutured; with a depth of 15.0 cm.

Lungs: dull external surface, with pleural adhesion liver like consistency.

Cut sections show grayish white consolidation.

Intestines, massive adhesion.

Other visceral organs, congested.

Stomach, empty.

Cause of Death: Hypostatic Pneumonia.

Dr. Ludivino Lagat testified that the victim sustained a fatal stab wound at the back on the left side of his body that damaged his diaphragm, stomach and spleen. Without timely medical treatment, the victim would have died within the date of the incident. Dr. Lagat observed massive adhesion in the victim's intestine due to infection. The immediate cause of death of the victim is hypostatic pneumonia brought about by prolonged bed rest and complications due to the stab wound.^[7]

Appellant Henry Flores, alyas Toto, denied any liability for the crime of murder charged in the information and interposed the defense of alibi. He testified that he went to the house of his cousin, a certain Ate Sina, in Bagong Silang, Kaloocan City, about two (2) weeks before July 13, 1993; and while he was there, he helped his cousin in her canteen. On July 13, 1993, he did not leave Bagong Silang and he worked in the canteen until 10:00 o'clock in the evening. He later learned that he was implicated in the crime charged when he returned to his house in Barrio Libis, Kaloocan City.^[8]

Toto claimed that he and the victim, Nicanor Doctolero, who was his "bilas", were best of friends. However, he did not have harmonious relations with the family of his wife, Nancy Dolosa, for the reason that, according to them, he was jobless.^[9]

After analyzing the evidence, the trial court rendered its decision, the dispositive portion of which, reads:

"WHEREFORE, the prosecution evidence having established the guilt of the accused beyond reasonable doubt, the Court hereby imposes the penalty of *reclusion perpetua*, as provided under Article 248 of the Revised Penal Code, and for the accused to indemnify the heirs of the victim the sum of P50,000.00 for the death of Nicanor Doctolero and the sum of P30,000.00 for actual expenses incurred for the hospitalization, wake and burial.

SO ORDERED."^[10]

In his appeal, appellant Henry Flores raised the following assignment of errors:

I

THE TRIAL COURT GRAVELY ERRED IN GIVING FULL WEIGHT AND CREDENCE TO THE INCONSISTENT, CONFLICTING AND UNCORROBORATED TESTIMONY OF THE PRIVATE COMPLAINANT.

II

THE TRIAL COURT GRAVELY ERRED IN CONVICTING ACCUSED-APPELLANT OF MURDER DESPITE FAILURE OF THE PROSECUTION TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.

III

THE TRIAL COURT GRAVELY ERRED IN APPRECIATING THE QUALIFYING CIRCUMSTANCE OF TREACHERY DESPITE FAILURE OF THE PROSECUTION TO PROVE ITS ATTENDANCE.

After a thorough review of the evidence on record, this Court finds the evidence in this case sufficient to establish the liability of the appellant, Henry Flores, alias Toto, beyond reasonable doubt, for the death of Nicanor Doctolero. It is settled that the testimony of a single witness, if credible and positive, is sufficient to produce a conviction.^[11] Nicanor's wife, Corazon, positively identified the appellant as the person who was embracing her husband from behind when she looked out from the window of her store. Her attention was previously caught by Nicanor who asked her to give him (Nicanor) a knife inasmuch as the appellant has stabbed him. Corazon witnessed the appellant while in the act of delivering the second blow, with a knife, to her husband but which was parried by the latter. The appellant ran only after he was kicked by the victim.

The trial court correctly found the testimony of Corazon to be more credible than that of the appellant. Corazon could not have been mistaken as to the identity of the appellant, who is her brother-in-law, as the attacker of her husband. Corazon was merely two (2) arms length away from the appellant and her husband during the stabbing incident which happened near their store where a bingo game was purportedly being held.

On the other hand, the appellant interposed the defense of alibi. He claimed that he was helping his cousin Sina in her canteen in Bagong Silang Kaloocan City on the