

SECOND DIVISION

[G.R. No. 111292, July 20, 2000]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE,
VS. DOMINADOR GUILLERMO, RODOLFO DELA CRUZ, ROMULO
DELA CRUZ, JOHN DOE, PETER DOE, JAMES DOE AND RICHARD
DOE, ACCUSED-APPELLANTS.**

DECISION

BUENA, J.:

Before us on automatic review is the case for murder arising from the senseless killing of one Samson Cristobal. The dispositive portion of the decision dated June 22, 1993 of the Regional Trial Court, 2nd Judicial Region Branch 32, Cabarroguis, Province of Quirino in Criminal Case No. 847 is as follows:

"WHEREFORE, the judgment is hereby rendered finding the accused Dominador Guillermo, Rodolfo dela Cruz, and Romulo dela Cruz guilty beyond reasonable doubt of the crime of murder defined and penalized under Article 248 of the Revised Penal Code qualified by treachery convicting each of the accused to suffer reclusion perpetua with all the accessory penalties provided by law and to indemnify the heirs of the victim Sammy Cristobal in the amount of Fifty Thousand (Php 50,000.00) Pesos without subsidiary imprisonment in case of insolvency. The detention of the accused is hereby fully credited in their favor in accordance with Article 29, of the Revised Penal Code as amended by Republic Act 2167.

SO ORDERED."^[1]

The antecedents upon which the decision under review was based are as follows:

On January 9, 1991 at about 9:00 o' clock in the evening at Manglad, Maddela, Quirino Province, a drinking spree was held at the house of Jerry Cristobal in celebration of his son's birthday.^[2] Among the visitors who attended the affair were the deceased Samson Cristobal, Renato Marquez, and accused-appellants Rodolfo dela Cruz and Dominador Guillermo.^[3]

During the affair, Renato Marquez and Samson Cristobal had an altercation.^[4] Renato boxed Samson on the face.^[5] In turn, Samson took hold of Renato's hand and they grappled.^[6] This prompted Renato to ask accused-appellant Dominador Guillermo for help.^[7] Accused-appellant Dominador ran to the succor of Renato and stabbed Samson.^[8] Accused-appellant Rodolfo dela Cruz also joined the fray by throwing a gas lamp and hitting Samson with a guitar.^[9] Thereafter, the group dispersed.^[10] Then came accused-appellant Romulo dela Cruz looking for Renato

and threatening to kill the Cristobals if they do not bring out Renato. Teresita Cristobal prevailed upon accused-appellant Romulo and said that Renato had already left for home.^[11]

Brandishing clubs and bladed weapons, Romulo dela Cruz, together with the other accused-appellants, roamed around Jerry Cristobal's house.^[12] Thus, Jerry waited for the accused-appellants to leave before deciding to bring Samson to the hospital and have the latter's profusely bleeding leg treated.^[13] On their way, about five meters from Jerry's house, Jerry went back to get a flashlight leaving Joel and Samson by the road.^[14]

On the road, Joel and Samson were met by accused-appellants Dominador Guillermo, Rodolfo dela Cruz and Romulo dela Cruz.^[15] Upon seeing the group, Samson advised Joel to run for safety.^[16] Joel heeded the advice and ran for cover behind some guava trees.^[17] After losing sight of Joel, Renato and the accused-appellants went back for Samson. Renato was the first to stab Samson followed by accused-appellants Rodolfo and Romulo dela Cruz.^[18] Accused-appellant Dominador Guillermo clubbed Samson after Renato stabbed him.^[19] From his hiding place, Joel was able to witness the incident with the illumination from the flashlights of the accused-appellants.^[20]

After the incident, Joel went home and reported the matter to his mother and to his brother Jerry.^[21] Joel, together with Jerry, went to the place where Samson was attacked but failed to find the latter.^[22] Samson's body was seen floating in the Cagayan River three days thereafter.^[23]

On March 13, 1991, Renato Marquez together with accused-appellants Dominador Guillermo, Rodolfo dela Cruz and Romulo dela Cruz and four (4) John Does were charged with Murder before the court *a quo* in an information which reads:

"That on or about 9:00 o'clock in the evening of January 9, 1991, in barangay Manglad, Municipality of Maddela, Province of Quirino, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually helping one another, with intent to kill, treachery and evident premeditation, and armed with sharp bladed and pointed instruments and pieces of wood, did then and there willfully, unlawfully and feloniously stab, hack assault and maul, Samson Cristobal, hitting the latter to the different parts of his body which caused his instantaneous death.

"That the following aggravating circumstances attended the commission of the crime of murder to wit:

"1.....That the accused took advantage of the superior strength; and

"2.....That the accused took advantage of the darkness to insure impunity and facilitate the commission of their heinous deed;

CONTRARY TO LAW."^[24]

While accused-appellants Dominador Guillermo, Rodolfo dela Cruz and Romulo dela Cruz were at-large, trial proceeded against Renato Marquez.^[25] In its decision, dated August 8, 1991, the court *a quo* acquitted Renato Marquez.^[26] Thereafter, the three accused-appellants were apprehended and the case against them revived.^[27]

Upon arraignment on October 29, 1992, accused-appellants Dominador Guillermo, Romulo dela Cruz and Rodolfo dela Cruz entered a plea of not guilty to the offense charged.^[28]

In disclaiming liability, accused-appellants denied the offense charged and interposed their respective alibi. Dominador Guillermo claimed that he was in his house at the time of the incident.^[29] Rodolfo dela Cruz claimed that he assisted Renato Marquez to the hospital and stayed there the whole night.^[30] On the other hand, Romulo dela Cruz insisted that he was in their house that fateful night.^[31]

After trial on the merits, accused-appellants were found guilty as charged and were sentenced accordingly. Separate appeals were filed by Dominador Guillermo and the Dela Cruz' brothers, thus:

ASSIGNMENT OF ERRORS
(Accused-appellant Dominador Guillermo)

"-I-

THE LOWER COURT ERRED IN HOLDING THAT `THE EVIDENCE OF THE PROSECUTION HAS OVERCOME THE CONSTITUTIONAL PRESUMPTION OF INNOCENCE AND ESTABLISHED THE GUILT OF THE ACCUSED DOMINADOR GUILLERMO BEYOND REASONABLE DOUBT.

"-II-

THE LOWER COURT'S FACTUAL FINDING OF TREACHERY IS DEVOID OF EVIDENTIARY BASIS, AND IS INCONSISTENT WITH THE PROSECUTION'S EVIDENCE. IT THUS ERRED IN SUSTAINING THE CHARGE OF MURDER AS DEFINED AND PENALIZED UNDER ARTICLE 248 OF THE REVISED PENAL CODE DESPITE THE ABSENCE OF EVIDENCE SUPPORTING THE AVERRED QUALIFYING CIRCUMSTANCES OF TREACHERY AND EVIDENT PREMEDITATION.

"-III-

THE LOWER COURT ERRED IN HOLDING THAT THERE WAS CONSPIRACY AMONG THE ACCUSED IN THE COMMISSION OF THE ALLEGED CRIME DESPITE THE ABSENCE OF ANY SUPPORTING EVIDENCE."^[32]

ASSIGNMENT OF ERRORS
(Accused-appellants Romulo and Rodolfo dela Cruz)

"-I-

THE TRIAL COURT ERRED IN APPRECIATING THE TESTIMONY OF THE ALLEGED EYE-WITNESS JOEL CRISTOBAL WHICH IS PALPABLY INCREDIBLE AND COULD NOT EVEN PASS THE TEST OF REASON.

"-II-

THE TRIAL COURT ERRED IN CONVICTING THE ACCUSED-APPELLANTS RODOLFO DELA CRUZ AND ROMULO DELA CRUZ DESPITE FAILURE OF THE PROSECUTION TO PROVE THEIR GUILT BEYOND REASONABLE DOUBT."^[33]

In essence, the appeal of Dominador Guillermo on one hand, and Romulo and Rodolfo dela Cruz on the other, are anchored on the credibility of the lone prosecution eyewitness Joel Cristobal. Since Joel's testimony will determine the outcome of this case, the same is challenged in Guillermo's first assigned error, and the dela Cruzes' first and second assigned errors.

We find for accused-appellants.

Joel's testimony is indeed self-contradictory. The more glaring inconsistencies that we cannot simply overlook are set below.

At the start of Joel's cross examination, he testified that he was not yet sleeping when the altercation between accused-appellant Dominador Guillermo and the deceased Samson Cristobal started,^[34] and that he already knew that Samson was stabbed before he went to sleep.^[35] In fact, he saw how accused-appellant Dominador Guillermo stab Samson.^[36] Towards the end of his cross examination however, Joel changed his story and claimed that he was already sleeping when the first incident happened.^[37] This shows the unreliability of the first witness. He cannot even decide whether or not he was awake during the first incident. The lapse in memory, when it comes to things the witness ought to know, instills disbelief.^[38]

On direct examination, Joel said that while he was sleeping in his own house he was awakened by his brother Jerry Cristobal in order to bring the wounded Samson Cristobal to the hospital.^[39] Under cross examination, however, Joel testified that he was then sleeping in his brother Jerry's house.^[40] Again the unreliability of the witness is manifested here, casting serious doubts on his credibility.

Next, Joel narrated that he only slept for an hour after the first incident,^[41] and yet he subsequently testified that he slept from 7:30 pm to 10:00 pm that fateful evening.^[42] While the discrepancy as regards time is often disregarded, we cannot do so in this case for the fatal incident purportedly happened at around 9:00 pm - clearly within the time Joel was allegedly asleep.

Aside from being self-contradictory, Joel's testimony does not also jibe with the testimonies of the other prosecution witnesses. According to Joel, Samson's body was fished out from the Cagayan River the day after the incident.^[43] After further inquiry, he clarified that they saw Samson's body on January 10, 1991.^[44] On the other hand, Jerry Cristobal disclosed that they were able to recover Samson's body