

## FIRST DIVISION

[ G.R. No. 124572, November 20, 2000 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. CIRILO OPOSCULO, JR. ALIAS "BONG", JAIME BARIL ALIAS "METONG", WILFREDO BARACAS ALIAS "ADIONG," ACCUSED-APPELLANTS.**

### 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, Pangasinan, Branch 54, Alaminos convicting accused Cirilo Oposculo alias "Bong", Jaime Baril alias "Metong" and Wilfredo Baracas alias "Adiong" of murder and sentencing each of them to *reclusion perpetua* and to pay P100,000.00 as moral damages and P50,000.00 as civil indemnity.

On February 7, 1991, 4th Assistant Prosecutor Serapio C. Bravo of Pangasinan filed with the Regional Trial Court, Pangasinan, Alaminos an information<sup>[2]</sup> charging accused and one Ernesto Fernandez, Sr., with murder, committed as follows:

"That on or about October 13, 1990, in the evening, at Barangay Alos, municipality of Alaminos, province of Pangasinan, Republic of the Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually helping one another, with intent to kill, taking advantage of superior strength, with treachery and evident premeditation, did then and there, willfully, unlawfully and feloniously hack and stab GLORITO AQUINO with a bladed weapon (knife), inflicting upon him injuries, to wit:

- Lacerated wound on the parieto-temporal region left side, obliquely with a 2-1/2" (6.35 cm), in length.
- Abrasion on the right nasal side.
- Penetrating stab wound about 1" (2.54 cm) in length, located on the supero-medial aspect of the right nipple, obliquely in direction, 4th RIS going medially toward the heart, penetrating the medial aspect of the right middle lobe, causing massive bleeding inside the cavity.
- Stab wound shallow, non-penetrating, horizontally about 2" (5.1 cm) located 1" (2.54 cm) infero-lateral of the left nipple, hitting the 5th rib.

- Stab wound about 1-1/2 (3.81 cm) in length, horizontally located 3-1/2" (8.9 cm) from the thoracic vertebrae.
- Second stab wound located below & laterally from the first stab wound on the same side about 5" (12 cm) from the first lumbar vertebrae.
- Left-hand-presence of abrasion on each knuckle on the dorsal aspect.
- Punctured wound on the medial aspect of the right middle lobe which caused the death of GLORITO AQUINO as a consequence, to the damage and prejudice of his heirs.

CONTRARY to Article 248 of the Revised Penal Code."

On June 17, 1991, at the arraignment, accused pleaded not guilty to the crime charged.<sup>[3]</sup> Trial thus ensued.

The facts are as follows:

At around 5:00 p.m. of October 13, 1990, Glorito Aquino and his nephew Henry Cuevas arrived at a birthday party hosted by the Reyes family at Alos, Alaminos, Pangasinan.

Two hours later, or at around 7:00 p.m., they decided to leave and walked their way towards the house of Glorito which was more than a kilometer away.

As they were nearing the church, two persons, one was tall and thin and the other was shorter, came out of the church gate and talked to Glorito, who invited the two to walk with them. However, these two persons went back to the gate.

Moments later, Glorito and Henry stopped at a store owned by accused Ernesto Fernandez, Sr. to buy cigarettes. Five persons were drinking in front of the store. The two persons at the church gate then arrived. Glorito asked them why they did not walk with him and his nephew earlier. Accused Cirilo answered that they did not recognize him. As Glorito and accused Cirilo kept discussion on that issue, accused Ernesto went out of his store and held the hands of Glorito behind the latter's back. Accused Cirilo then went in front of Glorito and pulled out something from his waist. The five persons drinking stood up and mauled Glorito. Then accused Cirilo lunged at Glorito who shouted at his nephew Henry to run because he (Glorito) was hit.

Henry scampered for safety but after running about thirty (30) to forty (40) meters from the store, he looked back and saw Glorito running away and falling to the ground soon thereafter. Henry approached Glorito and attempted to bring him to the hospital, but Glorito was dead. So Henry rushed to Glorito's house to inform the latter's wife, Milagros Bulseco, of her husband's death.<sup>[4]</sup>

PNP SPO4 Victor Abarra, a cousin and neighbor of the victim Glorito, testified that at around 7:00 p.m. of October 13, 1990, he heard Glorito's wife and Henry Cuevas crying inside her house. He went to her house where he learned from Henry that

accused Cirilo Oposculo stabbed Glorito. Victor Abarra then proceeded to the store of accused Ernesto and found the dead body of Glorito fifty (50) meters away from the store. He noticed bloodstains on the bamboo slots of the store.

Later in the evening, policemen arrived at the scene to investigate the incident. Senior Police Inspector Abarra called accused Ernesto from the latter's house and asked who the attackers of Glorito were. Accused Ernesto, pale and holding both his hands, replied that Glorito's assailants were accused Cirilo, Wilfredo Baracas and Jaime Baril.<sup>[5]</sup>

On his part, accused Cirilo interposed the defense of denial. He claimed that at around 7:00 p.m. of October 13, 1990, he was about to come out of the gate of Alos church when he noticed Glorito and Henry passing by. As accused Cirilo was walking, Henry who was walking just behind him touched his shoulders. Frightened as it appeared that Glorito and Henry were drunk, accused Cirilo hurried back to the church gate. He then went to the store of accused Ernesto to buy cigarettes. While he was at the store, accused Cirilo heard Glorito loudly complaining why he ran away. Glorito asked accused Cirilo five times why he ran away. Accused Cirilo apologized to Glorito. At this juncture, accused Ernesto went out of his store to pacify Glorito. Glorito then picked up a bottle of beer under the table where five persons were drinking at the time. Accused Cirilo continued apologizing to Glorito while accused Ernesto tried to intervene. As Glorito stepped sideward ready to hit accused Cirilo with the beer bottle, the latter ran away toward the church. Five meters away from the store, accused Cirilo heard bottles breaking and saw the five persons drinking thereat chasing Glorito. He never knew who killed Glorito.<sup>[6]</sup>

Accused Ernesto essentially corroborated accused Cirilo's testimony. He claimed that around 7:30 p.m. of October 13, 1990, five persons came to his store and drank beer. Shortly, Glorito arrived with Henry. Both appeared drunk. When accused Cirilo was buying cigarettes, Glorito confronted him and repeatedly asked why he ran away when they met near the church earlier. Accused Cirilo kept apologizing to Glorito. Accused Ernesto went out of his store to pacify an angry Glorito upon seeing that the latter was brandishing a beer bottle at accused Cirilo. Glorito then threw the bottle, splinters of which hit the persons drinking who thereafter chased Glorito. Accused Ernesto denied embracing Glorito from behind, and claimed that he approached Glorito merely to prevent the latter from harming accused Cirilo. Accused Ernesto recalled having identified accused Jaime Baril and Wilfredo Baracas to the police investigators as the companions of accused Cirilo at the time of the incident. He also said that he did not know who stabbed Glorito.<sup>[7]</sup>

On the other hand, accused Wilfredo Baracas put up an *alibi*. He claimed that he slept at around 7:00 p.m. of October 13, 1990 in the house of his parents which is just 400 meters away from the Alos church, after coming from the ricefield and taking supper at around 6:30 p.m. He woke up at 5:00 a.m. the next day, October 14, 1990, and went to church at around 6:30 a.m. He knew accused Cirilo and Wilfredo since the two were his fellow members at a church organization. Both accused Cirilo and Wilfredo were also in the church that morning.

At around 7:30 a.m., Henry and some policemen arrived at the church. The policemen asked Henry if anyone among accused Cirilo, Jaime and Wilfredo was involved in Glorito's killing. Henry answered none of the three was involved.