

## EN BANC

[ G.R. No. 127663, March 11, 1999 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
ROLANDO VALDEZ, ACCUSED APPELLANT.**

### DECISION

**MELO, J.:**

Accused-appellant Rolando Valdez seeks reversal of the judgment of conviction promulgated by Branch 45 of the Regional Trial Court of the First Judicial Region stationed in Urdaneta, Pangasinan, on October 24, 1996 sentencing him to death for the complex crime of Multiple Murder with double Frustrated Murder, and likewise separately sentencing him to suffer the prison term of *reclusion perpetua* for the crime of Illegal Possession of Firearms and Ammunitions (Presidential Decree No. 1866).

The information against accused-appellant, Bernard Castro, and one John Doe for the complex crime of Multiple Murder with Double Frustrated Murder charged:

That on or about 8:30 o'clock in the evening of September 17, 1995, at Sitio Cabaoangan, barangay Nalsian, municipality of Manaoag, province of Pangasinan, and within and jurisdiction of this Honorable Court, the said accused conspiring, confederating and mutually helping one another with intent to kill, and each armed with caliber .30 carbines did then and there wilfully, unlawfully and feloniously, with evident premeditation, abuse of superior strength and treachery, simultaneously attacked and fired their caliber .30 carbines at Ramon Garcia, Jr., Jean Marie Garcia, Willy Acosta, Sandra Montano, William Montano and Randy Tibule while they were on board a tricycle, on their way to a dance party, hitting them in the different parts of their bodies which caused the instantaneous death of Ramon Garcia, Jr., Jean Marie Garcia, Willy Acosta and Sandra Montano, to the damage and prejudice of their respective heirs, and inflicting fatal injuries to William Montano and Randy Tibule, in the different parts of their bodies, having thus performed all the acts which would have produced the crime of murder with respect to both but which did not by reason of causes independent of the will of the accused, namely, the able and timely medical assistance given the said victims William Montano and Randy Tibule, which prevented their death.

Contrary to Article 248 in Relation to Article 48 and Article 6 of the RPC.

(pp. 1-2, Record of Crim. Case No. U-8747)

The Information for Illegal Possession of Firearms and Ammunitions pertinently averred:

That on or about 8:30 o'clock in the evening of September 17, 1995 at Sitio Cabaoangan, Barangay Nalsian, Municipality of Manaoag, province of Pangasinan and within and jurisdiction of this Honorable Court, the said accused, did then and there wilfully, unlawfully and feloniously, have in his possession, custody and control, a firearm, to wit: Caliber .30 carbine without first having secured the proper license thereof from the authorities and which he used in committing the offense of multiple murder and double frustrated murder.

Contrary to Presidential Decree 1866.

(p. 1, Record of Crim. Case No. U-8749)

The inculpatory facts adduced by the prosecution during trial are succinctly summarized in the People's brief as follows:

On September 17, 1995, at around 8:00 in the evening, William Montano (16 years old), Randy Tibule (17 years old), Jean Marie Garcia, Willie Acosta, Sandra Montano and Ramon Garcia, Jr., were at the house of Randy Tibule in Manaoag, Pangasinan. They were discussing how to go to the wedding party of Jean Marie's cousin in Sitio Cabaoangan (TSN June 11, 1996, pp. 7-8; June 18, 1996, pp. 23-24).

After discussion, they rode in the tricycle driven by Ramon Garcia going to Cabaoangan. Behind Garcia were Tibule and Willie. Jean was seated inside the side car with Sandra and William Montano (TSN June 11, 1996, pp. 7-11; TSN June 18, 1996, pp. 23-25).

After making a turn along the barangay road leading to Sitio Cabaoangan, they met appellant Rolando Valdez and his companions who were armed with guns. The tricycle's headlight flashed on their faces. Without warning, they pointed their guns and fired at Montano's group. Thereafter, after uttering the words, "nataydan, mapan tayon" (They are already dead. Let us go), Valdez and companions left (TSN June 11, 1996, pp. 11-14).

The shooting incident left Ramon Garcia, Jean Marie Garcia, Sandra Montano and Willie Acosta dead (TSN June 11, 1996, pp. 14-16). They sustained the following injuries:

Jean Marie Garcia:

- gunshot wound .5 cm. in diameter, 1 inch lateral of the nipple right through and through trajectory the middle lobe of the lungs, rt ventricle of the heart, middle lobe of the lung, left with point of exit 1 inch in diameter 1 inch lateral of the nipple, left.

(Exhibit B)

Ramon Garcia:

- gunshot wound, .5 cm. diameter point of entrance ear canal thru and

thru trajecting the skull brain substance with point of exit temporal area right.

- Another gunshot wound .5 cm. in diameter point of entrance anterior axillary line left at the nipple trajecting the lung (left) heart ventricle and lung (right) with point of exit 1 cm. in diameter, 1 inch lateral the nipple right.

(Exhibit C)

Sandra Montano:

- gunshot wound .6 cm. in diameter, point of entrance at the temporal area left, penetrating the skin, skull minigas, brain substance (right) (temporal regis) where the slug lodge.

(Exhibit D)

Willie Acosta:

- gunshot wound, .5 cm. in diameter below costal arch point of entrance trajecting the upper 3<sup>rd</sup> of the stomach thru and thru trajecting the upper third of the stomach of thoracic vein with the point of exit 1 cm. in diameter at the level of the 7<sup>th</sup> thoracic vertebrae.

(Exhibit E)

On the other hand, William Montano and Randy Tibule survived the attack. They suffered serious gunshot injuries that could have caused their death were it not for the timely medical attention given them (TSN July 3, 1996, p. 6). Montano sustained several gunshot wounds on the left arm, two on the left upper back, another on the left shoulder and middle right finger (TSN June 25, 1996, p. 608). Tibule sustained two gunshot wounds, one at the fifth upper quadrant (stomach) and the other at the left periumbelical (TSN July 3, 1996, pp. 7-8).

(pp. 215-219, Rollo.)

In its decision dated October 24, 1996, the trial court rendered a judgment of conviction in the two cases, finding and disposing:

IN CRIMINAL CASE NO. U-8747: --

the accused ROLANDO VALDEZ y LIPURDA, GUILTY beyond reasonable doubt of the crime of MULTIPLE MURDER WITH DOUBLE FRUSTRATED MURDER defined and penalized under Republic Act No. 7659 otherwise known as the Heinous Crime Law, the offense having been a complex crime the penalty of which is in the maximum, and with the attendant aggravating circumstances of evident premeditation and abuse of superior strength, hereby sentences him the ultimum supplicum of DEATH to be executed pursuant to Republic Act No. 8177 known as the Lethal Injection Law, to pay the heirs of the deceased RAMON GARCIA,

JR., WILLIE ACOSTA, JEMARIE GARCIA and SANDRA MONTANO and RANDY TIBULE, as follows:

1). To the heirs of the deceased Ramon Garcia, jr.:

- a) P 50,000 as indemnity
- b) P 52,116.00 as actual damages
- c) P 500,000.00 as moral damages

2). To the heirs of the deceased WILLIE ACOSTA"

- a) P 50,000 as indemnity
- b) P 26,358.00 as actual damages
- c) P 500,000.00 as moral damages

3) To the heirs of the deceased JEMARIE GARCIA:

- a) P 50,000 as indemnity
- b) P 500,000.00 as moral damages

4) To the heirs of the deceased Sandra Montano:

- a) P 50,000 as indemnity
- b) P 48,269.80 as actual damages
- c) P 500,000.00 as moral damages

5) To the victim WILLIAM MONTANO:

- a) P 39,133.92 as actual damages
- b) P 100,000.00 as moral damages

6) To the victim RANDY TIBULE:

- a) P 36,233.65 as actual damages
- b) P 100,000.00 as moral damages

and to pay the costs.

WITH RESPECT TO CRIMINAL CASE NO. U-8749: --

the accused ROLANDO VALDEZ y LIPURDA GUILTY beyond reasonable doubt of the crime of ILLEGAL POSSESSION OF FIREARM AND AMMUNITIONS (Presidential Decree No. 1866) and hereby sentences him

to suffer imprisonment of RECLUSION PERPETUA and to pay the costs.

Finally, it is said: "Dura lex, sed lex," translated as: "The law is harsh, but that is the law!"

SO ORDERED.

(pp. 180-181, Rollo.)

Hence, the instant review, with accused-appellant anchoring his plea for reversal on the following assigned errors:

- I. THE TRIAL COURT ERRED FAILING TO CONSIDER THE MATERIAL, SUBSTANTIAL, IMPORTANT AND SIGNIFICANT, DISCREPANCIES IN THE AFFIDAVITS OF PROSECUTION WITNESSES AND THEIR TESTIMONIES IN COURT;
- II. THE TRIAL COURT ERRED IN UPHOLDING THE RECANTATIONS OF PROSECUTION WITNESSES;
- III. THE TRIAL COURT ERRED IN FAILING TO CONSIDER THE SERIOUS DOUBTS ON THE IDENTITY OF ACCUSED, ROLANDO VALDEZ AS THE GUNMAN;
- IV. THE TRIAL COURT ERRED IN FAILING TO CONSIDER MOTIVE ON THE PART OF BERNARDO CASTRO TO FIRE AT, AS HE ACTUALLY FIRED AT THE OCCUPANTS OF MOTORIZED TRICYCLE;
- V. THE TRIAL COURT ERRED IN FAILING TO APPRECIATE AGAINST THE PROSECUTION ITS DELIBERATE FAILURE TO PRESENT THE POLICE INVESTIGATORS WHO INVESTIGATED THE INCIDENT AND IT WAS THE DEFENSE WHICH PRESENTED SAID POLICE INVESTIGATORS;
- VI. THE TRIAL COURT ERRED IN DECLARING THAT ACCUSED ROLANDO VALDEZ DID NOT DENY THE ACCUSATION AGAINST HIM FOR VIOLATION OF P.D. 1866 BECAUSE HE DID NOT ALLEGEDLY TOUCHED IT IN HIS MEMORANDUM.

(pp. 106-107, Rollo)

After a painstaking review of the record and a deliberate consideration of the arguments of accused-appellant, the Court does not find enough basis to reverse.

Accused-appellant claims that the trial court erred in failing to consider what he says are material, substantial, important and significant discrepancies between the affidavits of prosecution witnesses and their testimonies in court. Accused-appellant points to the Statement of William Montano, taken by SPO1 Mario Suratos on September 20, 1995 (Exhibit 1: p. 238, Record), and the Statement taken on September 24, 1995 (Exhibit 4: p. 291, Record), both in Villaflor Hospital, Dagupan City where William Montano specifically named Bernard Castro as the person who flagged down the motorized tricycle he and the other victims were riding. This, he claims, is inconsistent with his testimony during the trial where he stated: