

THIRD DIVISION

[G.R. No. 125967-70, May 05, 1999]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JUAN PANAGA AND PABLO PANAGA, ACCUSED-APPELLANTS.

DECISION

VITUG, J.:

On 12 January 1996, the Regional Trial Court, Branch 3, of Tuguegarao, Cagayan, rendered in Criminal Cases No. 661, No. 663, No. 664 and No. 665 a decision finding accused Pablo Panaga and Juan Panaga, father and son, guilty beyond reasonable doubt of the crime of murder in all the four criminal cases and imposing upon them the penalty of *RECLUSION PERPETUA* in each of said cases plus various civil liabilities; viz:

"WHEREFORE, finding the two accused Pablo Panaga and Juan Panaga guilty beyond all reasonable doubt of the crime of murder as defined and penalized by Art. 248 of the Revised Penal Code they are hereby sentenced to the following prison terms:

"1. In Criminal Case No. 661, Pablo Panaga and Juan Panaga are hereby sentenced each to *RECLUSION PERPETUA*.

"2. In Criminal Case No. 663, Pablo Panaga and Juan Panaga are hereby sentenced each to *RECLUSION PERPETUA*.

"3. In Criminal Case No. 664, Pablo Panaga and Juan Panaga are hereby sentenced each to *RECLUSION PERPETUA*.

"4. In Criminal Case No. 665, Pablo Panaga and Juan Panaga are hereby sentenced each to *RECLUSION PERPETUA*.

"In all the four (4) above criminal cases Pablo Panaga and Juan Panaga are hereby ordered to pay the following:

"1. In Criminal Case No. 661, to pay jointly the heirs of Jeofrey La Madrid the amount of P50,000.00 for the death of Jeofrey La Madrid;

"2. In Criminal Case No. 663, to pay jointly the heirs of Rolando Balisi the amount of P50,000.00 for the death of Rolando Balisi;

"3. In Criminal Case No. 664, to pay jointly Agustina Cagurungan the amount of P50,000.00, for the death of Pedro Cagurungan; and further to pay Agustina Cagurungan the amount of P31,000.00, for the actual and compensatory damages, P4,132,800.00 for loss of earnings;

"4. In Criminal Case No. 665, to pay jointly the heirs of Zaldy Binarao the amount of P50,000.00 for the death of Zaldy Binarao;

"5. P50,000.00 as moral damages in Criminal Case No. 664;

"6. P10,000.00 as attorney's fees; and

"7. Costs of suit."^[1]

The two accused were priorly indicted in four (4) separate informations for murder; to wit:

In Criminal Case No. 661 -

"That between 7:00 o'clock to 8:00 o'clock in the evening of November 9, 1991 in Brgy. Baliuag, Peñablanca, Cagayan, Philippines and within the investigative jurisdiction of this Honorable Court, above-named accused conspiring, confederating and mutually agreeing and helping one another, with intent to kill, evident premeditation, treachery and aggravated by nocturnity, did then and there willfully, unlawfully and feloniously attacked, assaulted and shot with the use of an M-16 armalite rifle one after the other the following victims, to wit: Pedro Cagurungan, Zaldy Binarao, Rolando Balisi alias Rolly, Jeofrey La Madrid alias Jojo all of Brgy. Baliuag, Peñablanca, Cagayan, inflicting upon the victims gunshot wounds which caused their instant death, as evidenced by a Post Mortem Cert and Death Certificate of the victims respectively, and also inflicting gunshot wound on Joemar Banag also of the same barangay which could have died as a consequence if not for the immediate attendance of a Physician as evidence on his Medical Certificate, which are all made an integral part of this complaint."^[2]

In Criminal Case No. 663 -

"That on or about November 9, 1991, in the Municipality of Peñablanca, Province of Cagayan, and within the jurisdiction of this Honorable Court, the said accused, Pablo Z. Panaga and Juan Panaga y Agub, armed with guns, conspiring together and helping each other with intent to kill, with evident premeditation and with treachery did then and there willfully, unlawfully and feloniously attack, assault and shoot one Rolando Balisi, inflicting upon him gunshot wounds on the different parts of his body which caused his death."^[3]

In Criminal Case No. 664 -

"That on or about November 9, 1991, in the Municipality of Peñablanca, Province of Cagayan, and within the jurisdiction of this Honorable Court, the said accused, Pablo Z. Panaga and Juan Panaga y Agub, armed with guns, conspiring together and helping each other with intent to kill, with evident premeditation and with treachery did then and there willfully, unlawfully and feloniously attack, assault and shoot one Pedro Cagurungan, inflicting upon him gunshot wounds on the different parts of his body which caused his death."^[4]

In Criminal Case No. 665 -

"That on or about November 9, 1991, in the Municipality of Peñablanca, Province of Cagayan, and within the jurisdiction of this Honorable Court, the said accused, Pablo Z. Panaga and Juan Panaga y Agub, armed with guns, conspiring together and helping each other with intent to kill, with evident premeditation and with treachery did then and there willfully, unlawfully and feloniously attack, assault and shoot one Zaldy Binarao, inflicting upon him gunshot wounds on the different parts of his body which caused his death."^[5]

When arraigned on 21 May 1993, both accused pleaded not guilty to all the above charges.

The Solicitor General detailed the facts, hereunder quoted, given by the prosecution during the trial that followed the arraignment.

"On November 9, 1991, at around six o'clock in the evening, Jomar Banag, Johnny Baquiran, Junior Agustin and Joefrey La Madrid arrived at the house of spouses Pedro Cagurungan and Agustina Cagurungan in Baliuag, Penablanca, Cagayan. They came to visit the helpers of the couple by the names of Sally Balisi and Zaldy Binarao whom they invited to a dance party in nearby Barangay Bical, Penablanca, Cagayan. The helpers however, rejected the invitation and instead played cards with them (pp. 27-28, TSN, August 23, 1993).

"Meanwhile, Agustina and Pedro Cagurungan started preparing food for supper when they heard their dogs barking. Agustina got a flashlight, switched it on and trained, it outside. Seeing nobody, she went back to her cooking. Afterwards her family and the two helpers took supper while the visitors continued playing cards. Then the barking of their dogs resumed (p. 29, TSN, August 23, 1993).

"Zaldy Binarao was the first one to finish eating. Agustina ordered him to see if their carabao was still tied outside their house adjacent to the kitchen, as she was worried because of the continuous barkings of the dogs. Binarao saw no one outside. But still curious, Agustina held a flashlight, turned it on and trained it on the east direction where the camarin of her father-in-law, Pablo Cagurungan, was located about eight (8) meters away. While in that position, Agustina heard a gunfire and saw Zaldy fall to the ground. Immediately, she told Pedro of the presence of some intruders (pp. 29-30, TSN, August 23, 1993).

"Agustina and Pedro ran to the sala of their house with their two children. When they noticed their other two children on top of the table, they returned and got them. Agustina did not notice where their visitors ran. While in the sala, Agustina heard rapid bursts of gunfire in the kitchen prompting them to transfer to the annex of the house (pp. 30-31, Ibid). The intruders also went to the annex of the house and tried to force open its door. Agustina and Pedro rushed back to the sala. The intruders also returned to the kitchen. Agustina noticed the intruders' movements

because of their flashlight. Then, the intruders went back to the main house, forcibly opened the door and went inside. Agustina and Pedro hid in one corner of their room in a sitting position. When Agustina stood beside the door of the room, she saw the intruders go to the kitchen. With their flashlight, the intruders saw her husband Pedro. They got him and brought him outside the house beside kitchen (pp. 30-33, TSN, Ibid.).

"Agustina recognized the faces of appellants Pablo and Juan Panaga when they got her husband because of the light coming from the kerosene lamp placed in the middle of the divider of the room where they were hiding. Pablo and Juan were wearing dark jackets and holding long firearms. Agustina also noticed the combat shoes of Pablo (pp. 30-33, TSN, August 23, 1993).

"Shortly after Pedro was brought outside the house by appellants, Agustina heard bursts of gunfire. When she proceeded to the scene, she saw Pedro lying prostrate with several gunshot wounds in his body. Pedro asked for a glass of water which she readily gave. After drinking the water, Pedro told her that 'Bondying' and 'Uncle Ifan' shot him. Agustina recognized 'Bondying' as Pablo Panaga and 'Ifan' as Juan Panaga (pp. 35-36, TSN, August 23, 1993).

"Later, Agustina found the dead body of Rolando Balisi at the 'azotea' of her father-in-law, Pablo Cagurungan. Joefrey La Madrid's body was likewise found inside their kitchen, and that of Zaldy Binarao outside their kitchen (pp. 37-38, TSN, August 23, 1993).

"On November 11, 1991, Dr. Mila Simangan, Municipal Health Officer of Solana, Cagayan, conducted a post mortem examination on the cadaver of Pedro Cagurungan and Rolando Balisi. Her examination revealed the following results:

"Pedro Cagurungan:

1. Gunshot wound located at the 5th and 6th rib;
2. gunshot wound located 5 cm. above the umbilicus;
3. gunshot wounds located 3 cm. above the umbilicus;
4. gunshot wound, 1 cm. above the iliac spine;
5. gunshot wound 2 cm. above the iliac spine;
6. gunshot wound located 4 cm. above the iliac spine.

Cause of death was internal hemorrhage due to gunshot wounds. (p. 17, Record)

"Rolando Balisi:

1. Gunshot wound penetrating the intercostal space;
2. Gunshot wound penetrating the intercostal space 5 cm. from midsternal line;
3. Gunshot wound located at the level of the 6th intercostal space;
4. Gunshot wound located at the tip of the 12th left rib.

Cause of death was internal hemorrhage due to gunshot wound. (p. 18, Record)

"Dr. Simanagan also issued death certificates of Pedro Cagurungan, Rolando Balisi, Zaldy Binarao and Joefrey La Madrid. The death certificate of Joefrey La Madrid was issued based on the information given by his father, Venerado La Madrid. Said death certificate states his cause of death as 'Cerebral Hemorrhage secondary to gunshot wounds.' On the other hand, the data appearing on the death certificate of Zaldy Binarao was sourced from Agustina. His cause of death was 'Internal Hemorrhage' secondary to gunshot wounds (pp. 19-22, Record)."[6]

The defense, represented by attorney Luis B. Donato, gave an account of its own submissions consisting mainly of denial and *alibi* on the part of the accused.

"ACCUSED Juan Panaga is a farmer, married to Dita Zilappo, and the father of ACCUSED Pablo Panaga. He was 70 years old at the time of the alleged commission of the offenses, and is a resident of Barangay Baliuag, Penablanca, Cagayan. ACCUSED Juan Panaga and his wife, Dita Zilappo, live all by themselves in said place as all their children, including ACCUSED Pablo Panaga, are residing in Barangay Nattapian, Solana, Cagayan.

"On November 9, 1991, ACCUSED Juan Panaga tended to his farm which is about 500 meters from their house. In view that he was sick, he went home after working in his farm. ACCUSED Juan Panaga was seen by his niece-in-law, Milagros Panaga and her husband, whose farm is north of the farm of the ACCUSED Juan Panaga.

"In the night of November 9, 1991, at around past 7:00 P.M., Milagros Panaga and her husband, went to visit ACCUSED Juan Panaga bringing with them vegetables for the Panaga couple.

"On their way home, they met 8 to 10 armed men believed to be elements of the New People's Army, and shortly upon arriving home, they heard gun reports. Later, they learned that four (4) people died, one of whom is the son of the barangay captain, whose residence is about a kilometer from the house of ACCUSED Juan Panaga.

"ACCUSED Pablo Panaga was an enlisted man, since April 1, 1982, of the Armed Forces of the Philippines under the Philippine Army with the rank of Corporal.

"He used to be assigned at the 54th Infantry Battalion, stationed at Flora, Kalinga-Apayao. On September 12, 1991, he was transferred to Kasibu, Nueva Viscaya and was assigned at the 4th Caggu Co., under the immediate supervision of Sgt. Uroa. Kasibu, Nueva Viscaya is about 200 kilometers from Tuguegarao, Cagayan.

"After marriage, ACCUSED Pablo Panaga resided in Barangay Nattapian, Solana, Cagayan.

"From November 1 to November 7, 1991, ACCUSED Pablo Panaga was at Barangay Nattapian, Solana, Cagayan, on a personal visit to his family with the approval of his immediate superior, Sgt. Uroa. After his visit to