

FIRST DIVISION

[G.R. No. 128181, June 10, 1999]

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
BONIFACIO RADA AND ADRIANO SACDALAN, ACCUSED-
APPELLANTS.**

D E C I S I O N

MELO, J.:

Accused-appellants Bonifacio Rada and Adriano Sacdalan were charged with Multiple Murder before the Regional Trial Court of the Fourth Judicial Region (Branch 63, Calauag, Quezon) in an Information dated April 16, 1990, to wit:

That on or about the 19th day of September, 1989, at Barangay Vinas, Municipality of Calauag, Province of Quezon, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, armed with firearms of undetermined calibers, with intent to kill, with treachery and evident premeditation, conspiring and confederating together and mutually helping each other, did then and there wilfully, unlawfully and feloniously attack, assault and shoot with said firearms the following: Simeon Castillo, Isidro Castillo and Leonora Castillo, thereby inflicting upon them gunshot wounds on different parts of their bodies, which directly caused their death.

That the accused attacked and shot Simeon Castillo, Isidro Castillo, and Leonora Castillo suddenly and unexpectedly without giving them any opportunity to defend themselves or to escape.

(p. 18, Rollo.)

Pleas of not guilty having been entered, trial was undertaken, following which, the court *a quo* rendered the now appealed decision dated September 9, 1996, finding accused-appellants guilty of the crime of murder and disposing:

WHEREFORE, in the light of all the foregoing considerations, this Court finds accused Bonifacio Rada and Adriano Sacdalan guilty beyond reasonable doubt of the crime of MURDER qualified by treachery defined and penalized under Article 248 (par. 1) of the Revised Penal Code and hereby sentences said two accused to suffer the penalty of THREE(3) counts each of RECLUSION PERPETUA together with all of its accessories prescribed by law and to pay the heirs of the victim Simeon Castillo jointly and severally with the sum of FIFTY THOUSAND PESOS (P50,000.00); the heirs of the victims Isidro Castillo and Leonora Castillo jointly and severally the sum of ONE HUNDRED THOUSAND PESOS (P100,000.00) as civil indemnities without subsidiary imprisonment in case on insolvency plus costs of the suit.

The accused Bonifacio Rada and Adriano Sacdalan are to be credited of their preventive imprisonment if any and proper under Article 29 of the Revised Penal Code as amended by Republic Act No. 6127.

(p. 61, Rollo.)

The prosecution presented the following witnesses:

Dr. Winefredo Lucido, Municipal Health Officer of Calauag, Quezon, testified that he conducted a *post mortem* examination on the cadavers of Isidro Castillo and Simeon Castillo at about 9:30 o'clock in the morning of September 19, 1989.

His *post mortem* examination of Isidro Castillo revealed the following fatal injuries sustained by the victim:

Gunshot wound No. 1 with contusion collar at the hypogastric region 2 cms. below the umbilicus, directed posteriorly, penetrating the abdominal cavity with point of exit 3 cms. diameter at the left lumbar region.

The witness declared that said injuries resulted in massive hemorrhage which caused the victim's death (tsn, Nov. 5, 1990, pp. 6-13).

On the other hand, Dr. Lucido's autopsy of the cadaver of Simeon Castillo showed that the victim sustained five gunshot wounds:

1. Gunshot wound No. 1 with point of entrance of 1 cm. Diameter with contusion collar, at the right temporal region, directed medially, penetrating the cranial cavity, without point of exit.
2. Gunshot wound No. 2 with point of entrance of 1 cm. Diameter with contusion collar at the right intrascapular region directed anteriorly, penetrating the thoracic cavity without point of exit.
3. Gunshot wound No. 3 with point of entrance of 1 cm. Diameter with contusion collar at the right thigh, distal portion, lateral aspect, directed medially with point of exit of 6 cms. At the medial aspect, distal portion of the right thigh.
4. Gunshot wound No. 4 with point of entrance of 1 cm. Diameter with contusion collar, at the right axillary region, directed medially, penetrating the thoracic cavity without point of exit.
5. Gunshot wound No. 5, with point of entrance of 1 cm. Diameter, with contusion collar, at the right anterior chest level of the 3rd ICS, para-axillary line, directed medially, penetrating the thoracic cavity, without point of exit.

Dr. Lucido asserted that Simeon Castillo's cause of death was skull fracture and massive hemorrhage secondary to multiple gunshot wounds (tsn, Id., pp. 16-26).

Juanito Castillo, son of victims Isidro and Leonora Castillo, recalled that at about 1

o'clock in the morning of September 19, 1989, he was awakened by loud gunfire coming from the direction of his parents' house which is located some 100 meters away from his own house. Soon thereafter, his sister Milia, arrived informing him that their father Isidro and brother Simeon were already dead. He and his family then rushed to his parents' house. He embraced his wounded mother, Leonora, who told him that accused-appellants Rada and Sacdalan were the ones who entered their house and killed Isidro and Simeon. For fear of their lives, Juanito cautioned his relatives then present not to reveal the identities of the assailants. He then brought his mother to the hospital for medical treatment. On their way to the hospital, Leonora repeated to him the names of the perpetrators of the crime. Upon reaching the Lopez Memorial Hospital, he was informed that his mother would be needing blood for her operation. So, Juanito left for Lucena City and returned later with the needed blood only to find out that his mother had in the meantime died (tsn, Nov. 8, 1990, pp. 8-16).

Juanito likewise said that his parents were killed because they witnessed the earlier killing by accused-appellants of a neighbor, Alfredo Drez. He also declared that prior to the incident, accused-appellants, who were CAGU members, were always asking Simeon to reveal the whereabouts of Martin Villanueva, a brother-in-law, who is a member of the NPA (tsn, Id., pp. 18-19).

He further asserted that he did not report the matter to the local authorities for fear of retaliation from accused-appellants. Instead, the Castillos went to the Human Rights Commission office at Lucena City on September 26, 1989 where they filed the complaint against accused-appellants (tsn, Id., pp. 24-25).

Dr. Zadi Zaballero, a physician at the Magsabay Memorial District Hospital, testified that when he treated Leonora on September 19, 1989 at about 3 o'clock in the morning, Leonora was non-ambulatory and was suffering cardio-respiratory distress. Leonora sustained fatal wounds which directly caused her death, to wit: (1) gunshot wound, 3-point entry, sternum 0.5 cm. with contusion collar, no point of exit; (2) gunshot wound, point of entry 0.5 cm., axilla, right with contusion collar, no point of exit; (3) gunshot wound, point of entry 0.5 cm. 3rd intercostal space right midclavicular line with contusion collar, no point of exit; (4) avulsed skin and muscle 4.0 cm. distal 3rd left forearm, medial aspect, left (tsn, Nov. 20, 1990, pp. 5-11).

Zenaida Lopez Castillo, granddaughter of Isidro and Leonora Castillo, declared that at about 1 o'clock in the morning of September 19, 1989, while she was vacationing at her grandmother's house in Vinas, Calauag, Quezon, she was awakened by someone knocking and calling her aunt, Aida Castillo. Afterwards, Zenaida felt that somebody stoned the roof of her grandmother's house, one stone hitting the portion of the roof of the room where she slept and another one landing on the roof of her Tia Aida. Zenaida remained reclined and stood up only when she heard her uncle, Simeon Castillo, go out of his room and switch on the light at the balcony. Then, Zenaida heard several gunshots and saw her uncle Simeon fall down. Her aunt, Aida Castillo, rushed to her husband. Moments later, two armed men in fatigue uniforms, whom Zenaida identified as accused-appellants Bonifacio Rada and Adriano Sacdalan, entered their house. Zenaida, out of extreme fear, hid her face under a blanket. At this point, she heard her Tia Aida asking for mercy and she heard two more shots. Immediately after the shooting, Zenaida asked another aunt, Milia, to fetch her uncle Juanito Castillo. Upon arrival, Juanito embrace Leonora Castillo who told him that the culprits were accused-appellants Bonifacio Rada and Adriano

Sacdalan. Then, Zenaida recalled that her uncle warned her and other relatives present not to tell anyone who the assailants are. While on their way to the hospital for Leonora's treatment, Zenaida added that her grandmother repeatedly mentioned the names of accused-appellants (tsn, Nov. 22, 1990, pp. 6-16).

Aida Villanueva Castillo testified that at about 1 o'clock in the morning of September 19, 1989, she was awakened by someone knocking at their window and calling out her name. After two minutes, somebody stoned their house and she woke up her husband Simeon Castillo. Simeon turned on the light at the balcony of their house. He was about to reach the room of his parents when he was felled by gunshots fired from outside. Aida rushed to her husband who lay slumped near the door of his parents' room all bloodied and with a gunshot wound in the head. Afterwards, Aida saw Bonifacio Rada and Adriano Sacdalan enter their house pointing their guns at her husband. Aida, who was crying and cradling her husband, pleaded for accused-appellants to stop, saying, "Tama na, Tama na!" Aida alleged that both were wearing fatigue uniforms and were armed with long firearms (tsn, Jan. 14, 1991, pp. 5-13)

Accused-appellants are both known to Aida Castillo. Bonifacio Rada, a civilian volunteer of the CAFGU, is also a resident of Barangay Vinas, Calauag, Quezon while Adriano Sacdalan is a resident of Barangay Triumpo, Guinayangan, Quezon, a Councilman and also a CAFGU member (tsn, Id., pp. 13-14).

Aida Castillo confirmed to her brother-in-law Juanito that it was Bonifacio Rada and Adriano Sacdalan who entered their house and fired at the people therein. Aida recounted that Juanito said that the identities of the assailants should not then be divulged as they might return and kill them all (tsn, Id., p. 18).

The defense, on the other hand, presented its version through the following witnesses:

Sgt. Jolly Verde, a military non-commissioned officer, testified that at around 9 o'clock in the evening of September 18, 1989, he and other CAFGUs were resting in the house of Barangay Councilman Vio Tolentino at Bgy. Triumpo, which is two kilometers away from Bgy. Vinas. Among the CAFGUs with Sgt. Verde at that time were accused-appellants Bonifacio Rada and Adriano Sacdalan. At around 10 o'clock in the morning of September 19, 1989, they heard gunshots from the direction of Bgy. Vinas. They immediately proceeded to Bgy. Vinas to investigate. On the way, they met Epifanio Yamo from whom they inquired about the incident. Epifanio told them that the firing came from Bgy. Vinas. And still, on the way, they met two women, who when asked where they came from answered, "sa pinangyarihan" without mentioning any specific place (tsn, Feb. 18, 1992, pp. 20-31).

When the team finally arrived at the scene of the crime, Sgt. Verde found the three victims. He likewise saw Aida Castillo crying and asked her who the villains were but Aida Castillo said that she did not know. Sgt. Verde further averred that they did not find any empty shells inside the house but found M-16 empty shells outside the house. Failing to obtain information about the identities of the perpetrators of the crime, Sgt. Verde and his men decided to pursue the killers by following the footprints which led them to Bgy. Apad Taisan. However, they failed to overtake the killers (tsn Id., pp. 34-37).

Vio Tolentino, a barangay councilman of Bgy. Triumpo, Guinayangan, Quezon,