

## EN BANC

[ G.R. No. 129051, July 28, 1999 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROMEO MOLINA Y FLORES, ACCUSED-APPELLANT.**

### DECISION

**ROMERO, J.:**

The present case is one for murder brought before us on automatic review, the capital punishment of death having been imposed by the trial court. Accused-appellant, Romeo Molina, was indicted for the crime of murder allegedly committed as follows:

"That on or about the 14th day of July, 1995 at barangay D' Alarcio, municipality of Laoac, province of Pangasinan and within the jurisdiction of this Honorable Court, the said accused, with intent to kill and with treachery, did then and there wilfully, unlawfully and feloniously attack, hit and stab DOMINGO FLORES with the use of a stone and knife, inflicting to said victim the following injuries:

EXTERNAL FINDINGS:

- Contusion + lacerated wound 0.5 cm. over the left eyebrow
- Contusion + lacerated wound V-shape over the right parieto temporal area
- Contusion + lacerated wound over the occipital area
- Deep lacerated wound 2 cm. over the ant. neck area
- (+) Subcutaneous emphysema base cervical area

INTERNAL FINDINGS:

- Depressed Fracture over the occipital bone with minimal bleeding
- Linear fracture over the right parieto temporal bone

which injuries being mortal caused the death of said Domingo Flores to the damage and prejudice of his heirs.

CONTRARY to Article 248, Revised Penal Code."<sup>[1]</sup>

On arraignment, accused-appellant with the assistance of counsel entered a plea of not guilty and after trial, Judge Joven F. Costales of Branch 45 Regional Trial Court of Urdaneta, Pangasinan rendered the decision<sup>[2]</sup> now under review, the decretal portion of which reads:

"WHEREFORE, in view of all the foregoing, this Court finds the accused ROMEO MOLINA y Flores GUILTY beyond reasonable doubt of the crime of MURDER defined and penalized under Republic Act No. 7659 otherwise

known as the Heinous Crime Law, the offense having been committed with the attendant aggravating circumstance of dwelling and hereby sentences him with the ultimum supplicium of DEATH to be executed pursuant to Republic Act No. 8177 known as the Lethal Injection Law and to pay the heirs of the victim DOMINGO FLORES in the amount of P50,000.00 as indemnity; P40,000.00 as actual damages; P200,000.00 as moral damages; 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."<sup>[3]</sup>

The facts, as culled from the evidence of the prosecution are as follows:

On July 14, 1995, at around 10:00 o'clock in the evening, Domingo Flores was asleep in his house in D'Alarcio, Laoac, Pangasinan. His daughter, Melanie, who was then listening to the radio, was the only one in the household still awake at that time. Hearing a sound, she saw accused-appellant, her father's cousin, barging in through the kitchen door and going straight to her father's room. She peeped through a curtain and saw accused-appellant hitting her sleeping father on the head with a stone the size of a fist and afterwards stabbing him in the neck and eyebrow with a knife. She was able to recognize her uncle as her father's assailant because there was a lamp near her father's head at the time of the attack. Afraid that she too would be harmed, Melanie did not immediately come to her father's aid and instead watched as accused-appellant made good his escape. It was only after Molina had left that she hastened to call her grandfather, Eufrosinio Flores, who lived nearby.<sup>[4]</sup> Responding to Melanie's cries, Eufrosinio found his son on the bed soaked in his own blood. As Eufrosinio lifted his son onto his lap, Domingo, fatally wounded and bleeding, told his father that it was his "insan" Romy who stabbed him. Hours later, Domingo died from his injuries while being transferred to another hospital.<sup>[5]</sup> Post-mortem findings revealed that the cause of his death was severe intracranial bleeding secondary to skull fracture and blood loss due to a stab wound on the neck.<sup>[6]</sup>

On his part, Molina interposed the defense of alibi to exculpate himself from liability. According to him, on July 14, 1995, he left his house in Cabilaoan, Laoac, Pangasinan at around three o'clock in the afternoon to borrow the plow of his uncle, Martin Molina, who lived in Manaoag, Pangasinan. When he was returning home after getting the plow, he met the victim Domingo Flores and Orlando Fernandez. Suddenly and without any provocation, the two who appeared drunk at the time, took turns mauling him. Thereafter, he hailed a tricycle and told the driver to take him to the Don Amadeo Perez, Sr. Memorial Hospital in Urdaneta, Pangasinan where his injuries were cleaned and treated. The attending physician, Dr. Noel Obedoza, recommended that Molina be confined but the latter refused, saying he had no money.

According to the accused-appellant, he stayed in the hospital waiting area up to eleven o'clock in the evening of July 14, 1995 until a nursing attendant in the said hospital, Alejandro Duyag, took pity on him and brought him to the latter's house

where he spent the night. Molina claimed that he has since stayed with Duyag for about a month as he did not want to go home for fear that his attackers would harm him again. During his stay with Duyag, he worked for the latter as farm helper. Accused-appellant further denied having had anything to do with the death of Domingo Flores, claiming that he only learned of the killing more than a month later. He likewise said that prior to July 14, 1995, there was no bad blood between him and the victim. In fact, he said, Domingo was like a father to him and he saw no reason why the victim's family would make any false accusations against him.<sup>[7]</sup>

To corroborate the foregoing testimony of the accused-appellant, the defense presented Dr. Noel Obedoza<sup>[8]</sup> and Alejandro Duyag, Sr.<sup>[9]</sup> Moreover, the policeman who prepared the investigation report based on the police blotter entry regarding the killing of Domingo Flores and the investigating officer assigned to the case were likewise called as witnesses to establish certain inconsistencies in the initial statements of Melanie and Eufresinio.<sup>[10]</sup>

Article 248 of the Revised Penal Code as amended by Republic Act No. 7659 states that:

"Art. 248. Murder. - Any person who, not falling within the provisions of Article 246 shall kill another, shall be guilty of murder and shall be punished by *reclusion perpetua* to death if committed with any of the following attendant circumstances:

1. With treachery, taking advantage of superior strength, with the aid of armed men, or employing means to weaken the defense or of means or persons to insure or afford impunity.

xxx."

In the case at bar, the identity of Domingo Flores' killer is not unknown. The records show that accused-appellant was positively identified as the assailant, not only by Domingo's daughter Melanie, who witnesses the stabbing, but also by the victim himself while the latter was in the throes of death.

The requisites for the admissibility of dying declaration have already been established in a long line of cases. Thus, in the case at bar, the victim's ante-mortem statement is entitled to much probative weight since it has been proven that: (1) at the time the declaration was made, death was imminent and the declarant was conscious of that fact; (2) the declaration refers to the cause and surrounding circumstances of such death; (3) the declaration relates to facts which the victim was competent to testify to; (4) the declarant thereafter died; and (5) the declaration is offered in a criminal case wherein the declarant's death is the subject of the inquiry.

Indeed, a dying declaration is entitled to the highest credence because no person who knows of his impending death would make a careless and false accusation. Thus, it has been held that when a person is at the point of death, every motive of falsehood is silenced and the mind is induced by the most powerful consideration to speak the truth.<sup>[11]</sup>

Accused-appellant attempted to exculpate himself from liability by pointing out