

## THIRD DIVISION

[ G.R. No. 124032, July 20, 1999 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
MONTGOMERY VIDAD Y ORTEGA, ACCUSED-APPELLANT.**

### D E C I S I O N

**ROMERO, J.:**

Before us is an appeal from a decision rendered by the Regional Trial Court of Zamboanga City, Branch 16, finding accused-appellant Montgomery Vidad y Ortega alias Ongie guilty beyond reasonable doubt of crime of murder. Ironically, the principal witness instead of herein accused-appellant, exhibits the sole motive for the commission of the crime.

Nomer Mandi alias Pering was stabbed and killed in the evening of September 28, 1995. Postmortem examination conducted by Dr. Rodolfo M. Valmoria, Chief of Medico-Legal Officer of the Philippine National Police p.P.s. Laboratory Service Regional Unit 9, Zamboanga City showed that the victim suffered the following injuries:

1. Lacerated wound, right forehead, 5.4 cm in its longest length. Further ocular examination revealed linear fracture of bone underneath.
2. Stabbed wounds, right supramammary region, 2.3 cm in length, non penetrating
3. Stabbed wounds, right supramammary region, close to the anterior midline 2 cm in length, penetrating right lung
4. Stabbed wounds, left suprascapular region and right infrascapular region, measuring 2 cm x 1.5 respectively, non-penetrating
5. Stabbed wound, right suprascapular region, measuring 1.5 cm in length, non-penetrating
6. Stabbed wound, right scapular region, measuring 1.8 cm, fracturing scapular bone, penetrating
7. Abrasion, right knee joint, just anterior.<sup>[1]</sup>

Rolando de la Torres alias Borlong, a passenger jeepney driver, testified that at around 10:00 o'clock p.m. to 10:45 o'clock p. m. of September 28, 1995, he was in his house in Falcatan Street, Tetuan, Zamboanga City drinking beer with Espiridion Bobilles alias Jungjung, herein accused-appellant, Montgomery Vidad alias Ongie, and an unidentified companion of the latter. At around 10:45 o'clock p.m., he

decided to go to the nearby shop of a welder named Roger Vicente to have the antenna of his radio welded. At about the same time, accused-appellant and his companion decided to go home leaving Bobilles behind.

Rolando de la Torres found Vicente watching television in a house near his welding shop. Vicente, however, told him that the antenna could not be welded. As de la Torres turned to leave, the deceased, Nomer Mandi alias Pering, who was also watching television nearby, followed him outside. It appears that the deceased had a previous misunderstanding with de la Torres whom he suspected to be involved in the disappearance of a car stereo. While the two were having a heated discussion on a dimly-lit road outside, Bobilles arrived and pacified them. Vicente, who witnessed the argument from a distance also approached the two. When he saw that the two men were already talking in a subdued manner with each other, he left and went home. At this point, accused-appellant Montgomery Vidad y Ortega alias Ongie, allegedly arrived and placed his arm on the shoulder of the deceased. He asked the deceased if he was angry with de la Torres and forthwith stabbed him twice on the chest. As the deceased tried to flee, accused-appellant locked him in an embrace and stabbed him several times at the back. De la Torres, in an effort to help the deceased, kicked the accused-appellant, after which the latter ran towards a bridge.

[2] The deceased was later taken to a hospital but all efforts to revive him were futile.

This story was corroborated by Bobilles who said that he was present when de la Torres and the deceased began arguing. He then approached the two men in order to pacify them. When the two shook hands, he turned his back on them to answer a call of nature. Suddenly, he heard the deceased utter the word "Agay." When he glanced back, he saw the accused-appellant stab the deceased from behind and then run away when de la Torres kicked him.[3]

The prosecution also presented Roger Vicente who testified that he was in the house of a neighbor, Medie Divino, at Falcatan Street, Tetuan, Zamboanga City watching television with the deceased on the night of September 28, 1995. Divino's house was a mere five meters away from Vicente's welding shop. While they were watching television, de la Torres approached Vicente to have an antenna welded. Since the antenna was made of aluminum and could not be welded, Vicente advised de la Torres to buy some necolyte. As de la Torres turned to leave, the deceased who was watching television nearby, followed him outside. The two men began to have a heated discussion, attracting the attention of Vicente and Divino who promptly stepped out of the house in time to see Bobilles approach the two men who were arguing. As Vicente and Divino hovered nearby, de la Torres and the deceased began to settle their differences. Vicente observed that Bobilles and de la Torres were wary of Divino who was of a larger build. Seeing that the problem was settled, Vicente and Divino proceeded to return to the latter's house to resume watching television. While on the way back, Vicente noticed two persons in a dark corner of the road, one of them wearing camouflage pants. Soon after, they heard a sound. As they rushed outside to investigate, they met the deceased staggering towards them exclaiming that he was pounced upon. Seeing that he was about to collapse, a companion of Vicente caught the deceased who was then trembling and supporting his wounded head.[4]

Herein accused-appellant, however, presents a different version of the story. He

alleges that on September 28, 1995, as he was in his house at Natividad Street, Tetuan, Zamboanga City, watching television from 7:00 o'clock p.m. to 8:00 o'clock p.m., de la Torres and Bobilles arrived. He knew the two men because he had just been hired as a substitute jeepney conductor of Bobilles who was de la Torres' regular conductor. Prior to the incident, accused-appellant had been working for de la Torres for less than a month. On the night in question, de la Torres and Bobilles invited him for a drink at the former's house which is about ten minutes away by jeep from accused-appellant's home. Also present in the house were the brother-in-law and the wife of de la Torres. At around 10:45 o'clock p.m., accused-appellant wanted to go home but the two men asked him to accompany them to the house of a certain Joel (later identified as Roger Vicente). Upon reaching the house, he was instructed by de la Torres to wait outside with Bobilles. De la Torres stayed inside the house for ten minutes and upon emerging therefrom, he was followed by the deceased who looked quite angry. Joel also followed the two men. Upon seeing Joel, Bobilles also approached the group. Accused-appellant was about fourteen (14) meters away from the group and could not hear what they were talking about although he could observe what was going on. When Joel left, Bobilles hit the deceased on the upper right forehead with a stone measuring around 4-1/2 inches in diameter. Accused-appellant being a stranger to the place, decided not to interfere and went home. The next day, he went to a nearby store to buy a cigarette when he was approached by someone who invited him to the police station.<sup>[5]</sup> At the police station, he was immediately detained and later charged with the murder of Nomer Mandy y Palaganas.

The trial court gave credence to the testimony of de la Torres and rendered a decision finding herein accused-appellant guilty beyond reasonable doubt of the crime of murder, the dispositive portion of which reads as follows:

"WHEREFORE, the court finds accused MONTGOMERY VIDAD Y ORTEGA alias Ongie GUILTY BEYOND REASONABLE DOUBT of the crime of MURDER, as principal, for the treacherous killing of NOMER MANDY y PALAGANAS, and in the absence of any mitigating or aggravating circumstance, sentences said accused to suffer the penalty of RECLUSION PERPETUA with the accessory penalties provided by law; to pay the heirs of the victim in the amount of P50,000 as indemnity for his death; P32,000 as actual damages and to pay the costs.

The accused shall be credited with the full period of his detention in the service of his sentence.

SO ORDERED."

It is a well-established principle that the findings of the trial court with respect to the credibility of the witnesses, are accorded great weight and respect, since it had the opportunity to observe the demeanor of the witnesses as they testified before the trial court unless they have been overlooked or misunderstood by the latter which, if considered, would materially affect the result of the case.<sup>[6]</sup>

In convicting the accused-appellant, the trial court placed much reliance on the testimony of the prosecution's star witness Rolando de la Torres who allegedly saw the entire stabbing incident. De la Torres testified that accused-appellant suddenly appeared, asked the deceased whether he was angry with De la Torres and then