

THIRD DIVISION

[G.R. No. 106102, October 29, 1999]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ARMANDO SARABIA, ACCUSED-APPELLANT.**

DECISION

PURISIMA, J.:

Appeal from the Decision dated May 4, 1992, handed down by Branch 45 of the Regional Trial Court of Bacolod City in Criminal Case No. 10201, finding appellant Armando Sarabia guilty beyond reasonable doubt of the crime of murder and sentencing him thus:

"WHEREFORE, premises considered, the Court finds the accused guilty beyond reasonable (sic) doubt of the charge of MURDER, qualified by treachery, and hereby sentences him to suffer the penalty of reclusion perpetua with the accessory penalty provided for by law; to pay Fifty Thousand Pesos (P50,000.00) as death indemnity; and to pay the costs.

As to the civil aspect, this Court awards P15,000.00 for moral damages, P29,700 for actual damages; P180,000.00 for loss of income of Edward Liza; P10,000.00 for attorney's fees and P300.00 per court appearance.

Filed on May 7, 1991 by Provincial Prosecutor Reynaldo M. Nolido, the Information indicting appellant Armando Sarabia, alleges:

"That on or about the 16th day of March, 1991, in the Municipality of Murcia, Province of Negros Occidental, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, armed with a bladed weapon, with evident premeditation and treachery and with intent to kill, did then and there wilfully (sic), unlawfully and feloniously attack, assault and hack one EDWARD LIZA, thereby inflicting multiple injuries upon his body which caused his death.

Contrary to law."^[1]

With the appellant entering a negative plea upon arraignment, with the assistance of counsel, on August 6, 1991, trial ensued, with the prosecution presenting Joelouie Dolorosa, Pfc. Jose Laboyo, Dr. Emmanuel Bando, Raul Villanueva and the victim's father, Rolando Liza, as its witnesses.

For the defense, Rogelio Onate and appellant Armando Sarabia took the witness stand.

As summarized in the Appellee's Brief, the facts sued upon by the People are as follows:

"The prosecution's case, as well as the trial court's conviction of appellant, is primarily anchored on the testimony of eyewitness Joelouie Dolorosa, a cable tender of the Victorias Milling Company's Murcia Transloading Station and a resident of New Barrio Central, Victorias, Negros Occidental.

Dolorosa testified that on March 16, 1991, he was working at the Murcia Transloading Station at Hda. Josefa, Brgy. Blumentritt, Murcia, Negros Occidental (Tsn, Aug. 22, 1991, p. 7). With him were Raul Villanueva and Edward Liza, who had similar tours of duty for that day, i.e., from 7:00 p.m. to 7:00 a.m. (*id.*, p. 9). Liza was the office clerk in that transloading station.

Around 11:00 o'clock in the evening, while Dolorosa and Liza were inside the office of the transloading station, appellant suddenly barged into the room with a bolo ("ginunting") in his hand. Without warning, appellant hacked the unsuspecting Liza twice, once on the head and once on the neck (*id.*, pp. 12-14). Fearing for his life, Dolorosa instinctively rushed outside the office and hid himself at the nearest refuge he could think of --- an old, enclosed cane car used for stockpiling sugar (*ibid.*). This car was the favorite resting place of employees in that transloading station. When Dolorosa went inside the car, he saw Raul Villanueva there together with about four (4) other employees (Tsn, Oct. 3, 1991, pp. 38-40). Immediately, he narrated to Villanueva what happened. As they were about to leave the car, they saw the appellant, still clutching a bolo and shouting "Who are the others?" (Tsn, Aug. 22, 1991, pp. 15-16). Thus, they decided to stay in the car for some time. While they were inside, they saw appellant being accosted by a certain Junior, the station's overseer (*id.*, p. 18). The overseer brought appellant to the Municipal Hall and it was only then that Dolorosa and company got out of the car. They went back to the station office.

At the time the entire incident happened, the transloading station was well-lighted. Around five (5) or six (6) powerful search lights surrounded the station and were in full operation (*id.*, pp. 16-17).

Inside the station office, Dolorosa and Villanueva saw Liza dead and covered with blood. Liza's neck was almost severed. They saw a hacked wound on the left portion of Liza's neck measuring about three (3) to four (4) inches in length (*id.*, p. 36). Without touching the corpse, Dolorosa and Villanueva contacted the Victorias Milling Company by radio and reported the incident. Then, policemen arrived at the scene, followed by an investigator and photographer from the Victorias Milling Company. Rolando Liza, father of the deceased - victim, also arrived at the station (*id.*, pp. 19-22). Photographs were taken of Liza's corpse and the interior of the station office. All these were identified by Dolorosa in open court.

Thereafter, Liza's corpse was loaded on a truck and taken to the Alisbo Funeral parlor (*id.*, p. 33).

The Post-mortem Certificate issued by Dr. Emmanuel Bando, Murcia's Rural Health Physician who autopsied Edward Liza's cadaver on March 17, 1991, enumerated the following injuries:

Wound No. 1, hacked wound, 8 inches long, left forehead, with chip fracture of the skull; wound No. 2, hacked wound 3 inches long, left face, 1/2 inch deep area of the cheekbone; wound No. 3, hacked wound, 5 inches long, left temporal head, with chip fracture of the skull; wound No. 4, hacked wound, neck, left side, 9 inches long, cutting blood vessels and muscles, trachea esophagus, chip fracture of the cervical vertebrae; wound No. 5, hacked wound, left postero-part of the neck 4 inches long cutting blood vessels, muscles, chip fracture of the cervical bone; wound No. 6, stabbed wound, 3 inches wide, penetrating the left chest 1 1/2 inches from the left nipple, at the level of the 2nd and 3rd ribs, anterolateral at the side of the left nipple, injuring the lobe of the left lung; wound No. 7, contusion, right forearm; wound No. 8, hacked wound, 5 inches long, 1 1/2 inches deep, back right side, cutting part of the scapular bone (Tsn, Oct. 3, 1991, pp. 11-13; emphasis supplied).

Dr. Bando indicated the cause of Liza's death to be cardio-respiratory arrest due to multiple hack wounds and stab wound (*id.*, p. 13). He testified further that the deceased-victim's wounds were caused mainly by a sharp and pointed instrument, probably a bolo or "ginunting" (*id.*, pp. 13-19). In his expert opinion, the position of the assailant, at the time of the attack, could have been at the left side of or directly behind the victim (*id.*, pp. 28-31)."[2]

Assisted by the Public Attorney's Office, appellant placed reliance on self-defense and theorized:

"xxx while he was in the house of their overseer together with his co-worker Rogelio Onate, Edward Liza, his kumpadre, arrived and invited him to have a drink at MUCH office at around 10 to 11:00 o'clock in the evening as the latter's officemate would be attending a dance. He accepted the invitation. When he arrived at and entered the MUCH office, Liza was alone drinking. Looking surprised of his arrival, Liza asked "what will you do here (sic)?" Before, he could answer, Liza got hold of the 'ginunting" and poised to hack the victim. To protect himself, he boxed Liza at his stomach causing the latter to fall to the ground and to release the bolo. He picked up the bolo and hacked Liza hitting him on the head and on the neck.

Had he not hit Liza, he would have been dead by now.

Joelouie Dolorosa was not present at the MUCH office at that time. (TSN., November 28, 1991, pp. 3-36).

Rogelio Onate testified that he is a laborer at MUCH Transloading Station. He had known accused Sarabia for about three to four years being likewise a resident of Hacienda Josefa. He had also known victim Edward Liza for almost three years. Accused and the victim were kumpadres.

At around 9 p. m. of March 16, 1991, he was at the store of the overseer drinking Pilsen as it was pay day and a Saturday. Armando Sarabia was also there, standing by the side of the store and asking from the overseer the computation of his indebtedness. Victim Edward Liza was in front of MUCH office, six to eight meters away. Edward Liza arrived and told Sarabia to go with him to the office. Liza went back to the office. After Sarabia had the computation of his indebtedness, or after about 15 minutes, he went to the MUCH office at the invitation of Liza. As it was