

SECOND DIVISION

[G.R. No. 118936, February 09, 1998]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
LORENZO ASIS Y GONZALES & ROMEO MENDOZA Y SANTOS,
ACCUSED-APPELLANTS.**

D E C I S I O N

PUNO, J.:

On June 19, 1991, LORENZO ASIS y GONZALES alias Allan, ROMEO MENDOZA y SANTOS alias Romy, ATANACIO CARINO y CRUZ alias Taning, and EMELITA MENDOZA alias Emy were charged with MURDER before Branch 12 of the Regional Trial Court of Malolos, Bulacan. The four accused pleaded not guilty to the following information^[1]:

"That on or about the 4th day of June 1991, in the Municipality of San Rafael, Province of Bulacan, Philippines and within the jurisdiction of this Honorable Court, the abovenamed accused, armed with fan knives and with intent to kill one Ernesto Maningas y Sarengo, conspiring, confederating together and mutually helping one another, with evident premeditation, treachery and abuse of superior strength did then and there willfully, unlawfully and feloniously attack, assault and stab with the same fan knives, the said Ernesto Maningas y Sarengo, hitting the latter on the different parts of his body, thereby inflicting on the latter serious physical injuries which directly caused his death.

CONTRARY TO LAW."

Emelita Mendoza was later excluded from the charge when no probable cause was found to exist against her.^[2] Trial proceeded against the three remaining accused.

The prosecution established that at about 8:00 p.m. on June 4, 1991, Ernesto Maningas went to ply his usual trade as a tricycle driver. The next morning, his dead body with twenty three (23) stab wounds was found in Bgy. Pinakpinakan, San Rafael, Bulacan, near an irrigation dike. A kitchen knife, with a detached handle was found 1 1/2 meters away from his body. A blood-stained bamboo, about two meters long with a five-inch nail attached to its end was also found 2 1/2 meters away from his body. Carlito Villanca, the barangay captain of Pinakpinakan, reported the incident to the San Rafael Police Headquarters. The victim's body was brought to the Municipal Hall where the Municipal Health Officer found the cause of death as hemorrhage due to multiple stab wounds.^[3]

On the morning of June 7, 1991, Pat. Asher Villegas, Cpl. Romeo Galvez and Pfc. Eddie Urbano of the San Rafael Police Headquarters and some members of the Citizen Armed Forces Geographical Unit (CAFGU) picked up accused Lorenzo Asis from his residence. He fitted the description of one of two men who arrived at the farmhouse of Rolando dela Cruz in Bgy. Caingin, San Rafael, Bulacan, wearing blood-

stained clothes.^[4] Witness Dela Cruz declared that at 9:30 in the morning of June 5, 1991, Rolando Mendoza, a resident of Bgy. Caingin with an unidentified companion came at his house and asked for food.^[5] He noticed that Mendoza had a wound on his left arm while his companion had a swollen right hand and bite marks on the left shoulder. When he inquired what happened to them, Mendoza said they figured in a fight in Barangay Pinakpinakan the night before. The two left after eating and while walking by the road were spotted by CAFGU soldiers. The soldiers went after the two but failed to apprehend them.

On the night of June 7, 1991, Dela Cruz went to the police station and identified Asis as Mendoza's companion.^[6]

On June 8, 1991, accused Asis executed a written statement before Pat. Villegas where he declared that he and Mendoza were hired by Atanacio Carino to kill Maningas for the sum of ₱3,000.00. He identified the broken knife found at the scene of the crime as the weapon used by Mendoza in killing the victim.^[7] Carino was arrested but Mendoza was able to flee after learning that policemen were looking for him. He was eventually captured on July 5, 1991 in Dingalan, Aurora, Province.^[8]

Prosecution witness, Gilbert de Guzman, a tricycle driver, declared that he last saw the victim alive on June 4, 1991 at the tricycle station near his house in Barangay Sampaloc, some twelve (12) kilometers away from Barangay Pinakpinakan. On that day, at about 8:30 p.m., he saw the victim drive his tricycle towards Bgy. Pinakpinakan with accused Asis and Mendoza on board. He was with Kristina, his sister-in-law, waiting for a ride home. When they saw the victim, Kristina motioned for him to stop. The victim slowed down and promised to pick up Kristina later. The victim failed to return.^[9]

Conсорcia Maningas, the victim's widow, testified on the motive for the killing. She declared that her mother is the plaintiff in a case before the Department of Agrarian Reform Adjudication Board (DARAB) for the recovery of a piece of land in the possession of Barangay Captain Carlito Villanca.^[10] She averred that before her husband was killed he had a heated argument with Villanca. At the time of the victim's death, accused Carino was the one cultivating the disputed land.

Accused Asis and Mendoza denied killing the victim and offered an alibi. They alleged that on June 4, 1991, after buying something from the Baliwag Public Market, they headed home at about 7:30 p.m. They reached Mendoza's house at about 8:30 p.m.

Tricycle driver Mario Bernardino buttressed their alibi. He testified that on June 4, 1991, the two accused rode on his tricycle. He deposited them in front of Mendoza's house at about 8:30 in the evening. He also declared that before the two accused got inside his tricycle, he noticed three men board the tricycle of the victim.^[11]

The two accused also alleged that the victim's widow implicated them when they refused to involve Barangay Captain Carlito Villanca in the crime. According to accused Asis, he was offered ₱30,000.00 by the victim's widow to testify against Villanca.^[12]

For his part, accused Carino filed a demurrer to evidence. He alleged that the only evidence against him is the extrajudicial admission of the accused Asis which was executed without the assistance of counsel, and hence, inadmissible.

On November 7, 1994, the trial court **convicted accused Asis and Mendoza of murder** and **acquitted accused Carino** in a decision^[13] containing the following dispositive portion:

"WHEREFORE, finding both accused Lorenzo Asis y Gonzales and Romeo Mendoza y Santos guilty beyond reasonable doubt as principals by direct participation of (sic) the crime of murder as charged in the information, there being no generic aggravating or mitigating circumstances considered, each of said accused is hereby sentenced to suffer the penalty of *reclusion perpetua*, to indemnify jointly and severally the heirs of victim-deceased Ernesto Maningas y Sarengo in the amount of ₱50,000.00, ₱16,000.00 incurred for funeral expenses (Exh. "J") as actual damages, another ₱50,000.00 as moral damages and the further amount of ₱20,000.00 for and as attorney's fees due to the private prosecution in this case, the latter two (2) amounts subject to the corresponding filing fees as a first lien, and to pay the costs of proceedings.

"In the service of their sentence each of the aforementioned accused who have undergone preventive imprisonment as detention prisoners shall be credited with the full time during which they have undergone such preventive imprisonment, pursuant to Art. 29 of the Revised Penal Code.

"For lack of sufficient evidence against him, thus creating in the mind reasonable doubt as to his guilt alleged in the information, accused Atanacio Carino y Cruz is hereby acquitted and this case dismissed insofar as he is concerned. Emelita Mendoza who is also named as an accused in the information but has not actually been prosecuted in this case, is considered excluded from the charge.

"Let copies of this decision be furnished the prosecution, both public and private, the private complainant, all the accused and their respective counsel, and the Provincial Jail Warden of Bulacan.

"SO ORDERED."

On November 28, 1994, accused Asis and Mendoza, through counsel, filed their Notice of Appeal.^[14] In their Brief, appellants assigned the following errors committed by the trial court:

"I

"THE HONORABLE COURT ERRED IN CONVICTING THE ACCUSED/APPELLANTS DESPITE THE FAILURE OF THE PROSECUTION TO ESTABLISH THE GUILT OF THE ACCUSED BEYOND REASONABLE DOUBT.

"II

"THE HONORABLE COURT ERRED IN IMPOSING THE PENALTY OF RECLUSION PERPETUA DESPITE THE FAILURE OF THE PROSECUTION TO SHOW THE EXISTENCE OF ANY CIRCUMSTANCE THAT MAY QUALIFY THE KILLING TO MURDER.

"III

"THE HONORABLE COURT ERRED IN NOT CONSIDERING VOLUNTARY SURRENDER OF ACCUSED/APPELLANT ROMEO MENDOZA AS MITIGATING CIRCUMSTANCES."^[15]