

SECOND DIVISION

[G.R. No. 115946, April 24, 1998]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ALVIN NIALDA Y LUGO, ACCUSED-APPELLANT.

D E C I S I O N

MENDOZA, J.:

This is an appeal from the decision^[1] dated March 11, 1994 of the Regional Trial Court of Cavite (Branch 18 in Tagaytay City), the dispositive portion of which reads:

WHEREFORE, the Court finds the accused ALVIN NIALDA Y LUGO GUILTY beyond reasonable doubt as principal of the crime of Murder, as this felony is defined and penalized by the provisions of Article 248, par. (1) of the Revised Penal Code and there being no modifying circumstances proven to either aggravate or mitigate his liability, hereby sentences said accused to suffer a penalty of RECLUSION PERPETUA (Life imprisonment); to pay to the heirs of the deceased Bayani Digma the following sums of money: P55,000.00 as actual damages, P50,000.00, by way of indemnity for the latter's death; P25,000.00, as moral damages, and P25,000.00 as exemplary damages; and to pay the costs.

The background of this case is as follows:

In an information,^[2] dated May 7, 1993, the Assistant Provincial Prosecutor alleged:

That on or about the 7th day of September 1992, at Barangay Kabulusan, Municipality of Gen. E. Aguinaldo, province of Cavite, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with intent to kill, being then armed with a bolo, with treachery and evident premeditation and taking advantage of his superior strength, did, then and there, wilfully, unlawfully and feloniously, attack, assault and hack the person of Bayani R. Digma inflicting upon him mortal wound which caused his subsequent death, to the damage and prejudice of his legal heirs.

CONTRARY TO LAW.

Accused-appellant pleaded not guilty, whereupon trial commenced. First to testify as witness for the prosecution was SPO2 Mario Rolle, of the General Aguinaldo Police in Cavite. He testified^[3] that in the evening of September 7, 1992 following report of a stabbing incident in Barangay Castaños Cerca (actually at Barangay Kabulusan), he and SPO1 Evangelista and SPO Renato Castillo went to the place to investigate. They arrived at the scene at around 9:00 p.m. and found the victim, Bayani Digma, seriously wounded. They took him aboard a mobile car to the Alfonso Doctors Hospital. SPO2 Rolle said he noticed that Bayani Digma could "speak a little," but he

(Rolle) was nonetheless able to ask Digma, "*Sino ang tumaga sa iyo at ano ang pangalan?*" (What is the name of the person who stabbed you?)" According to SPO2 Rolle, Digma answered, "Alvin Visaya." ("Alvin Visaya" is the description of accused-appellant.) Rolle put in writing^[4] Digma's answers to his questions. Digma then signed the statement by affixing his right thumbmark with the use of his blood. The statement was introduced in evidence as Exh. A and his thumbmark as Exh. A-1. Barangay Captain Aligio Malimban and SPO Renato Castillo acted as witnesses to the execution of the statement.

Bayani Digma was later transferred to the De La Salle University Medical Center (UMC) in Dasmariñas, Cavite because of inadequate facilities at the Alfonso Doctors Hospital. Digma was treated at the UMC by Dr. Renato C. Ocampo, who found Digma to have suffered seven hacking wounds on the chest, in the neck, and in the right arm as well as several abrasions.^[5] Dr. Ocampo opined that the wounds had been caused by a sharp instrument, "probably" a bolo or a knife. Dr. Ocampo said he found Bayani Digma to be in very serious condition.^[6] In fact, Digma died at 2:30 a.m. Dr. Ocampo executed the death certificate^[7] which stated that "the patient died of shock from the blood loss because of the injury to the heart which was brought about by the hacking wound in the chest."^[8]

Next to testify for the prosecution was Rolando Raymundo, a farmer who was residing in Kabulusan, General Aguinaldo, Cavite.^[9] He said he knew the victim because they had been neighbors, while he had known accused-appellant for one year. Rolando testified that he, his brother Jose, accused-appellant, and Bayani Digma had a drinking session in the house of a certain Boy Gloriani in Barangay Kabulusan. They started their drinking session at 2:00 p.m., although Bayani Digma did not arrive until around 2:30 p.m. The drinking session lasted for around three hours. The four then left Boy Gloriani's house together. On the way, Rolando dropped by a store to buy bread and sugar. Accused-appellant and Bayani Digma waited for him outside. The group then proceeded towards Rolando's house. This was at around 7:00 p.m. Accused-appellant and Bayani Digma walked side by side, with accused-appellant to the right of Bayani Digma. Rolando followed 7-8 meters behind the two. Rolando said that all of a sudden he saw accused-appellant strike Bayani Digma at the back of the neck with a bolo, and continued hacking even after his victim had already fallen down. According to Rolando, he saw how the incident happened because of the light of the moon and the light from the electric post "not too far away." In a written statement^[10] Rolando gave to the police, dated September 8, 1992, Rolando said that accused-appellant stopped hacking Bayani Digma only after the latter had been rendered immobile on the road ("*Noong pong gulong na sa ka[I]sada si Bayani na hindi kumikilos ay kusa siyang tumigil*"). Rolando and Jose were afraid that accused-appellant might turn on them. Rolando went to the poblacion to report the incident to the police.

The victim's mother Charlita Rogel Digma also testified.^[11] She said she was able to talk to her son at the Alfonso Doctors Hospital and was allegedly told, "Mother, Alvin Nialda hacked me. *Malapit na akong mamatay* (I am dying)." She also testified that her son complained that his feet were numb and that he was nervous. Charlita believed that the hacking was due to a quarrel between accused-appellant and her son back in 1990. She said accused-appellant had intended to stab Bayani Digma but instead hit Digma's brother. The matter however was amicably settled at the barangay proceedings, considering that Alvin Nialda was married to Charlita's first

cousin. According to Charlita, the family spent a total of ₱55,000.00 “more or less” for Bayani Digma’s hospital and funeral expenses.

Accused-appellant was the sole witness in his behalf.^[12] His defense was alibi. He claimed that at the time of the stabbing, he was in the house of his in-laws in Barangay Castaños Cerca. He denied being with the Raymundo brothers and the victim in the drinking session held in Boy Gloriani’s house (which was estimated by accused-appellant to be 3 kilometers away from his in-laws’ house) on September 7, 1995. Accused-appellant testified that he usually went to the house of his in-laws every night with his daughter whenever his wife was working in Manila. On September 7, 1995, he arrived home from work at around 6 p.m. He left the house, located in the poblacion of General Aguinaldo, together with his daughter at “more or less” 7 p.m. to go to his in-laws’ place. That evening, he was arrested and put in the municipal jail where he spent the night with Rolando and Jose Raymundo. According to accused-appellant, he talked with Rolando Raymundo and was told by Rolando, “*Makakalabas rin kami maya-maya, ikaw talaga ang makukulong* (We will be able to get out of jail in a little while. You are really the one who will be imprisoned),” because they had money to buy their freedom.

On March 11, 1994, the court rendered its decision, the dispositive portion of which is quoted in this decision. Hence, this appeal. Accused-appellant contends:^[13]

I.

THAT THE TRIAL COURT ERRED IN CONVICTING THE ACCUSED-APPELLANT NOTWITHSTANDING THAT HIS GUILT HAS NOT BEEN PROVEN BEYOND REASONABLE DOUBT.

II.

ASSUMING THAT THE GUILT OF THE ACCUSED-APPELLANT HAS BEEN PROVEN BEYOND REASONABLE DOUBT, THE TRIAL COURT ERRED IN APPRECIATING TREACHERY AS PURPOSELY EMPLOYED BY THE ACCUSED-APPELLANT TO COMMIT THE ALLEGED CRIME IN THE INFORMATION.

First. The requisites for a dying declaration under Rule 130, §37, are (a) the statement or declaration must concern the crime and the surrounding circumstances of the declarant’s death; (b) at the time it was made, the declarant was under a consciousness of an impending death; (c) the declarant was competent as a witness; and (d) the declaration is offered in a criminal case for homicide, murder, or parricide in which the decedent is the victim.^[14] These requisites are present in this case. First, Bayani Digma’s statements concern the circumstances of his death, as he identified by name his assailant and described the manner in which he had sustained his wounds. Second, he made his declarations under consciousness of an impending death as he told his mother, Charlita Rogel Digma, “*Malapit na akong mamatay* (I am dying).” Third, there is no question he was competent to be a witness. And fourth, his dying declarations were offered in a criminal prosecution for murder of which he was the victim.

Accused-appellant contends, however, that Bayani Digma “might have been influence[d] by the passion of anger and vengeance against the accused-[appellant] arising from their previous quarrel wherein according to the testimony of the

victim's mother Charlita R. Digma accused-appellant had unsuccessfully attempted to stab the victim."

That quarrel took place in 1990, two years prior to the stabbing, and, according to Charlita R. Digma, the same had already been amicably settled. As a matter of fact, Bayani Digma did not file charges against accused-appellant. Whatever anger the deceased might have borne against accused-appellant could have been revived only by any aggression accused-appellant might have committed on September 7, 1992.

Indeed, dying declarations are "made in extremity, when the party is at the point of death and when every hope of this world is gone; when every motive to falsehood is silenced and the mind is induced by the most powerful considerations to speak the truth. A situation so solemn and so awful as to be considered by the law as creating an obligation equal to that which is imposed by a positive oath in a court of justice."

[15]

Accused-appellant doubts whether the dying declarations were made at all, claiming that SPO2 Mario Rolle's account is "not credible and doubtful." As we have so often held, appellate courts rely on the assessment of the credibility of witnesses by trial courts, considering their opportunity for observing the demeanor of witnesses when they testify.[16] In this case, the trial court found Rolle's testimony to be credible, and we find no reason not to give its determination full faith and credit. Indeed, if SPO2 Rolle did not immediately question accused-appellant it was because his chief concern was to get the victim to the hospital as soon as possible. There is no inconsistency between this claim and his other claim that he talked to Bayani Digma later at the Alfonso Doctors Hospital because by then professional medical help was already available. Rolle testified that he had asked the attending physician if he could talk to the victim.[17]

Charlita Digma's testimony is similarly worthy of credence for being the victim's mother. No reason has been shown why she should testify falsely against accused-appellant. Apparently, she had no other interest than to have her son's killer brought to justice.[18]

Still it is doubted whether Bayani Digma really gave a statement to SPO2 Mario Rolle and his mother because according to Dr. Renato Ocampo, Digma was comatose upon arrival at the University Medical Center. As already noted, however, Digma made the declarations earlier at the Alfonso Doctors Hospital, when he could still talk. Moreover, even Dr. Ocampo admitted he could not say with certainty whether Digma could not have talked to anyone before he expired. For indeed while seriously wounded, Digma did not lapse into coma immediately.[19] He died about five and a half hours after he had been stabbed.[20]

Finally, accused-appellant says that the attending physician at the Alfonso Doctors Hospital should have been presented in court and made to testify on the condition of the victim when the latter was in that hospital. The defense could have asked the court to order the physician to appear at the trial. But the defense did not.

Second. It is contended that Rolando's claim that accused-appellant and Bayani Digma were standing side by side when accused-appellant suddenly attacked Digma is contradicted by his later testimony that he saw the victim parrying the bolo blows of accused-appellant, thus indicating that the protagonists were facing each other.