

EN BANC

[G.R. Nos. 125180-81, April 22, 1998]

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. DENNIS DE GUZMAN, ACCUSED-APPELLANT.

D E C I S I O N

ROMERO, J.:

The Court is once again confronted with the dilemma of having to choose between the testimony of a mother and her teen-age son and that of the man they claim is responsible for the violent demise of their family's breadwinner and first-born son.

For the death of Ernesto Trilles and his son Edwin, accused-appellant Dennis de Guzman and two others who remain at large^[1] were charged with two counts of murder^[2] before the Regional Trial Court of Legazpi City on June 14, 1994, to wit:

"That on or about the 13th day of April, 1994, in the City of Legazpi, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, all armed with handguns, conspiring, confederating and mutually helping one another for a common purpose, did then and there wilfully, unlawfully and feloniously and with treachery and abuse of superior strength, shoot with a handgun one ERNESTO TRILLES,^[3] thereby inflicting upon the latter injuries which directly caused his death, to the damage and prejudice of his heirs.

CONTRARY TO LAW."

At the trial, the prosecution presented the testimonies of Rosita and Anthony Trilles to shed light on the incident. Their combined narration follows.

On the night of April 13, 1994, while Rosita was preparing supper in their modest home at Sitio Malangka, Taysan, Legazpi City, a young man whom she knew by face but whose name she did not know barged in through the kitchen door and shot her husband Ernesto in the head with a short firearm. As Ernesto lay sprawled on the kitchen floor, the man shot him again on the chest.^[4] The man, who was later identified as accused-appellant Dennis de Guzman, then faced the horrified oldest son and asked him if he was Edwin. When the latter said "yes," he too was shot and hit near the collar bone.^[5] Before he was shot, his uncle who was Rosita's brother, Loreto Aringo, was seen near the eaves of the house. Addressing him, Edwin pleaded for his life saying, "Tio, do not shoot me. I did not do anything wrong." Because Edwin had punched him the night before, Aringo ignored his nephew and even egged on the gunman, shouting, "*Anong tio-tio gadanon an* (What Tio, Tio, he should be killed)."^[6] Anthony, the other son of Rosita who was hiding under the table, heard his brother pleading with de Guzman, "Don't kill me Tio."^[7]

In a short while, Rosita fled and on her way out, espied her cousin, Adriano Casiban, standing near the kitchen door.^[8] Then she heard more gunshots, the same gunshots heard by Anthony who at the time was still under the table.^[9] Like his mother, he, too, was allowed to escape by his uncles and the man whose name he did not know but whom he knew was staying with his uncle Adriano. Rosita sought refuge at the house of her sister, Hedelyn Bandoquillo and spent the night there. This was confirmed by the latter, who testified as a rebuttal witness for the prosecution.^[10]

In the morning, Rosita reported the incident to Barrio Captain Nelson Aringo, another cousin, who accompanied her to the police headquarters. Mother and son failed to mention the names of Aringo and Casiban to the police during the investigation, and both declared at the time that the suspect was unknown or unidentified.^[11] When confronted later with these earlier statements, they explained that at the time of the incident, although they recognized the face of Dennis de Guzman, they were not aware of his identity, which is why they told the police that the suspect was unknown or unidentified.^[12] In her confusion, Rosita even said that it was Casiban who shot the boy. Later, she was not even sure if Casiban fired a gun or if he had a gun at all, because she was at the moment already running away.^[13]

Aringo and Casiban, having gone into hiding, only the defense of de Guzman was heard at the trial. Dennis de Guzman denied all the accusations against him and set up an alibi for his defense. He relied on the testimonies of four witnesses, all close friends of his family,^[14] to support his story that on the date and time of the occurrence, he was at a party at San Jose, Maslog, Legazpi City, which is about three kilometers from Taysan.^[15]

Dennis de Guzman claimed that he and his mother Adelina went to her hometown of San Jose, Maslog, Legazpi City on April 5, 1994, to visit his ailing grandmother. They stayed with his grandmother whose name he did not even know, and during his free time, he helped with some chores and played with friends like Charlie Padilla. On April 13, 1994, Charlie's mother Estelita, a childhood friend of Adelina's, celebrated her 52th birthday, and she decided to treat her town mates to a free dance. Charlie, Dennis, and her brothers, Felicito and Jerry Watiwat, helped in setting up the light and sound systems for the dance. They started at around 3:00 o'clock in the afternoon and finished by 6:30 p.m. After a dinner break at 7:00 o'clock, the two youngsters manned the music station until midnight.^[16] On cross-examination, de Guzman admitted that his mothers' sister Lolita was the wife of Adriano Casiban.^[17]

Hedelyn Bandoquillo was presented by the prosecution to debunk de Guzman's claim that he stayed with his grandmother when he was in the province. She said that on at least four occasions, she saw him at his uncle Adriano's house at Sitio Polot, Taysan, Legazpi City, which is about half a kilometer from Sitio Malangka and was sure he was staying there.^[18]

After trial on the merits, Judge Gregorio A. Consulta of the Regional Trial Court of Legazpi City, Branch 4, rendered judgment, the decretal portion of which reads thus:

"WHEREFORE, in the light of the foregoing findings and left no choice but to follow in complete obedience the stenosis of a rigorous law that in

spirit demands an eye for an eye, a tooth for a tooth, (LEX TALIONIS) after being convinced beyond a wisp of a doubt of the guilt of accused DENNIS DE GUZMAN, he is hereby sentenced to suffer in Criminal Case No. 6717 the penalty of

DEATH

and likewise to suffer in Criminal Case No. 6718 the penalty of

DEATH

and to indemnify Rosita Trilles and Anthony Trilles in the sum of P100,000.00 in each case.

With respect to Loreto Aringo and Adriano Casiban who are at large, let a complete reproduction by XEROX of the complete records of both cases be sent to the ARCHIVE, in lieu of the originals which are hereby ordered transmitted within twenty (20) days from promulgation to the Hon. Supreme Court on automatic review together with the person of DENNIS DE GUZMAN who shall be confined at the National Penitentiary in Muntinlupa, Metro Manila pending final resolution of such review.

Issue alias warrants for the arrest of Loreto Aringo and Adriano Casiban pursuant to existing circular on the matters and the cases shall be revived, insofar as they are concerned, upon their apprehension or of any of them.

The Clerk of Court is directed to provide the necessary expenses for the reproduction of the records by XEROX.

SO ORDERED."

In this automatic review, Dennis de Guzman argues that the trial court erred in appreciating the evidence and in concluding that he was positively identified by the prosecution witnesses.

After going through the records and evidence of this case, we are convinced that Dennis de Guzman was correctly convicted by the trial court for the death of Ernesto and Edwin Trilles.

Accused-appellant makes much of the failure of the eyewitnesses to give his name or even his description during the initial police investigation of the incident. When Rosita reported the shooting of her husband and son to the police in the morning of April 14, 1994, she stated that they were shot by an "unknown suspect," and made no mention of either her older brother Loreto Aringo or her cousin Adriano Casiban. ^[19] For his part, Anthony executed an affidavit dated April 19, 1994, referring to the assailant as an "unidentified man." He also did not implicate his uncles, Aringo or Casiban. ^[20]

The Court believes that the eyewitnesses to the crimes did identify accused-appellant as the man who shot the victims. In the first place, when they testified at the trial they positively pointed out to de Guzman as the malefactor. ^[21] Any doubt cast by their earlier statements was laid to rest when they were put on the witness