

## THIRD DIVISION

[ G.R. No. 117401, October 01, 1998 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
BERNARDO QUIDATO, JR., ACCUSED-APPELLANT.**

### DECISION

**ROMERO, J.:**

Before us is an appeal from the judgment of the Regional Trial Court of Davao, Branch 4, dated March 2, 1994, finding accused-appellant Bernardo Quidato, Jr. guilty of the crime of parricide.

On January 17, 1989, accused-appellant was charged with the crime of parricide before the Regional Trial Court of Davao. The information reads as follows:

The undersigned accuses BERNARDO QUIDATO, JR. of the crime of Parricide under Article 246 of the Revised Penal Code, committed as follows:

That on or about September 17, 1988, in the Municipality of Kaputian, Province of Davao, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually helping with Reynaldo Malita and Eddie Malita, who are charged for (sic) Murder in a separate information, did then and there wilfully, unlawfully and criminally, with the use of a bolo and an iron bar, assault, hack and stab his father, Bernardo Quidato, Sr., on the different parts of his body, thereby inflicting upon him wounds which caused his death, and further causing actual, moral and compensatory damage to the heirs of the victim.

Contrary to law.<sup>[1]</sup>

Accused-appellant's case was tried jointly with the murder case filed against his co-accused, Reynaldo Malita and Eddie Malita who, however, withdrew their "not guilty" plea during the trial and were accordingly sentenced. Thus, only accused-appellant's case was tried on the merits.

The prosecution, in offering its version of the facts, presented as its witnesses accused-appellant's brother Leo Quidato, appellant's wife Gina Quidato, as well as Patrolman Lucrecio Mara. Likewise, the prosecution offered in evidence affidavits containing the extra-judicial confessions of Eddie Malita and Reynaldo Malita. The two brothers were, however, not presented by the prosecution on the witness stand. Instead, it presented Atty. Jonathan Jocom to prove that the two were assisted by counsel when they made their confessions. Similarly, the prosecution presented MTC Judge George Omelio who attested to the due and voluntary execution of the sworn statements by the Malita brothers.

Based on the foregoing pieces of evidence, the prosecution's version of the facts is as follows:

Bernardo Quidato, Sr. was the father of accused-appellant Bernardo Quidato, Jr. and Leo Quidato. Being a widower, Bernardo lived alone in his house at Sitio Libod, Brgy. Tagbaobo, Kaputian, Davao. He owned sixteen hectares of coconut land in the area.

On September 16, 1988, Bernardo, accompanied by his son, herein accused-appellant, and two hired hands, Reynaldo Malita and Eddie Malita, went to Davao City to sell 41 sacks of copra. After selling the copra, Bernardo paid the Malita brothers for their labor, who thereafter left. Bernardo and accused-appellant went back to Sitio Libod that same day.<sup>[2]</sup>

According to Gina Quidato, on the evening of the next day, September 17, 1988, accused-appellant and the Malita brothers were drinking tuba at their house. She overheard the trio planning to go to her father-in-law's house to get money from the latter. She had no idea, however, as to what later transpired because she had fallen asleep before 10:00 p.m.<sup>[3]</sup> Accused-appellant objected to Gina Quidato's testimony on the ground that the same was prohibited by the marital disqualification rule found in Section 22 of Rule 130 of the Rules of Court.<sup>[4]</sup> The judge, acknowledging the applicability of the so-called rule, allowed said testimony only against accused-appellant's co-accused, Reynaldo and Eddie.

As adverted to earlier, the Malita brothers confessed to their participation in the crime, executing affidavits detailing how Bernardo was killed. Their version shows that Eddie had been living with accused-appellant for the past four years. At around 6:00 p.m. of September 17, 1988, accused-appellant asked Reynaldo to come to the former's house to discuss an important matter. Upon Reynaldo's arrival at accused-appellant's house, he saw that his brother Eddie was already there. They started drinking beer. The Malita brothers alleged that it was at this juncture that accused-appellant proposed that they rob and kill his father. They went to Bernardo's house only at 10:00 p.m., after the rain had stopped. Reynaldo brought along a bolo. Upon reaching the house, accused-appellant knocked on the door, asking his father to let them in. When Bernardo opened the door, Eddie rushed in and knocked the old man down. Reynaldo then hacked Bernardo on the nape and neck. Accused-appellant and Eddie ransacked Bernardo's aparador looking for money but they found none; so, the three of them left.

The body of Bernardo was discovered the next day by accused-appellant's son, who had gone there to call his Lolo for breakfast. The cause of death, as stated in Bernardo's death certificate was "hypovolemic shock secondary to fatal hacking wound on the posterior neck area."<sup>[5]</sup>

On September 27, 1988, Leo Quidato confronted his brother regarding the incident and learned that Reynaldo and Eddie Malita were the ones responsible for Bernardo's death. The two were promptly arrested by the police. Aside from arresting the latter two, however, the police also arrested accused-appellant.

On September 29, 1988, the Malita brothers were interrogated by Patrolman Lucrecio Mara at the Kaputian Police Station. When Mara apprised them of their constitutional rights, including their right to counsel, they signified their intent to

confess even in the absence of counsel. Aware that the same would be useless if given in the absence of counsel, Mara took down the testimony of the two but refrained from requiring the latter to sign their affidavits. Instead, he escorted the Malita brothers to Davao City and presented them, along with their unsigned affidavits, to a CLAO (now PAO) lawyer, Jonathan Jocom.<sup>[6]</sup>

Informed of the situation, Atty. Jocom conferred with Reynaldo and Eddie, again advising the two of their constitutional rights. The CLAO lawyer explained the contents of the affidavits, in *Visayan*, to the Malita brothers, who affirmed the veracity and voluntary execution of the same. Only then did Reynaldo and Eddie affix their signatures on the affidavits.<sup>[7]</sup>

In his defense, accused-appellant denied the allegations of the Malita brothers. He claimed that the Malita brothers were not at his house on the evening of September 17, 1988. They, however, passed by his house at around 10:00 p.m. and asked him to come with them to his father's house, threatening him with harm if he refused. Out of fear, he led the way to Bernardo's house and even knocked on the latter's door until Bernardo opened the same. In the ensuing commotion, he scampered away, but in his confusion, reached his house only at around 11:00 p.m., although the same was only about one hundred fifty meters away from Bernardo's house. He did not call for help. Eddie arrived a while later. Accused-appellant claimed not to have seen the actual killing, having run away earlier. He, however, admitted finding a bolo, encrusted with blood, at his house. He turned the same over to his brother, who, in turn, surrendered the same to the police. Accused-appellant did not feel uneasy having Eddie around even if he knew of the latter's participation in the crime.<sup>[8]</sup>

After due trial, the court *a quo* rendered the following judgment:

WHEREFORE, IN THE LIGHT OF THE FOREGOING, the court finds the accused, Bernardo Quidato, Jr., guilty beyond reasonable doubt as a co-principal in the offense of Parricide which falls under Article 246 (of the Revised Penal Code), for the death of his father, Bernardo Quidato, Sr., and accordingly, is hereby sentenced by this court to suffer the penalty of RECLUSION PERPETUA, with all the accessory penalties provided by law and to indemnify the other heirs of Bernardo Quidato, Sr., the amount of P50,000.00, in accordance with current case doctrines of the Supreme Court, and to pay the costs.

SO ORDERED.<sup>[9]</sup>

From the aforesaid judgment of conviction, appellant interposed the present appeal, assigning the following errors:

1. THE TRIAL COURT ERRED IN GIVING CREDENCE TO THE EXTRAJUDICIAL CONFESSIONS OF REYNALDO MALITA (EXH. C) AND EDDIE MALITA (EXH. D) IN CLEAR VIOLATION OF THE CONSTITUTIONAL RIGHTS OF THE ACCUSED-APPELLANT TO CONFRONT WITNESSES.
2. THE TRIAL COURT ERRED IN FINDING (THE) EXISTENCE OF CONSPIRACY IN THE CASE AT BAR.