

THIRD DIVISION

[G.R. No. 101312, January 28, 1997]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ROBERT DINGLASAN Y MANGINO @ OBET, REYNALDO TAPIA Y
SORAO, AND MANOLO BONGALOS @ MANOLO, ACCUSED,
ROBERT DINGLASAN Y MANGINO @ OBET, ACCUSED-APPELLANT.**

D E C I S I O N

PANGANIBAN, J.:

Accused-appellant ultimately relies on the defense of alibi in his bid for acquittal but fails to observe the settled doctrines and requirements laid down by this Court for its plausible application.

This is an appeal from the Decision^[1] dated July 15, 1991 of the Regional Trial Court of Pasig, Metro Manila, National Capital Judicial Region, Branch 164,^[2] in Criminal Case No. 83931, convicting accused Robert Dinglasan y Mangino of the crime of murder and sentencing him to suffer the penalty of reclusion perpetua, to indemnify the heirs of the victim Efren Lasona in the amount of P50,000.00, to reimburse the funeral expenses incurred by his mother in the sum of P12,000.00, and to pay the costs.^[3]

The Information^[4] dated September 6, 1990 was filed by 4th Assistant Provincial Prosecutor Amelia A. Fabros against the appellant charging him as follows:

"That on or about the 5th day of September, 1990 in the Municipality of Pasig, Metro-Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating together with Reynaldo Tapia y Sorao, Manolo Bongalos @ Manolo and alyas 'Jetlee' who are still at large and mutually helping and aiding one another, armed with double bladed weapon, with intent to kill and with evident premeditation and treachery, did, then and there wilfully (sic), unlawfully and feloniously stab with said double bladed weapon one Efren Lasona y Ajero, hitting him on different parts of his body, thereby inflicting upon the latter multiple stab wounds which directly caused his death.

CONTRARY TO LAW."

Arraigned on October 10, 1990, the accused assisted by counsel de oficio Ramon Aldea, pleaded not guilty to the charge.^[5] Pre-trial was deemed waived and trial ensued in the normal course.

An Amended Information to include the names of the other accused who were at large, namely Reynaldo Tapia y Sorao and Manolo Bongalos @ Manolo was admitted by the trial court, per its order dated October 29, 1990.

The Facts

According to the Prosecution

The prosecution presented four witnesses: (1) Dr. Maximo Reyes, who testified on the results of the autopsy, (2) Rolando Quintanilla and (3) Rosario Santos, who gave their eyewitness account of the stabbing, and (4) Luciana Lasona, the mother of the victim, who testified as to the amount of the latter's lost income and funeral expenses.

The facts as culled by the trial court from their testimonies during trial are as follows:

"The second witness presented by the prosecution was Rolando Quintanilla.

He testified that at around 5:00 in the afternoon of September 5, 1990, he was at the corner of Camia St., Rosario, Pasig, Metro Manila conversing with Efren Lasona during which Robert Dinglasan, Manolo Bongalos, Reynaldo Tapia and a certain 'Jetlee' arrived. When Efren Lasona alighted from the tricycle that they were on, Manolo Bongalos and 'Jetlee' blocked his way. Suddenly, Reynaldo Tapia and Manolo Bongalos repeatedly stabbed Efren Lasona. The accused Robert Dinglasan placed his arms around Efren Lasona while 'Jetlee' participated by aiming his 'pana' at him when he was about to render assistance to Efren Lasona so he ran away and sought for help.

That he has known the accused Robert Dinglasan for quite a time because he usually frequented their place.

This witness identified the accused in court.

That he also knows Manolo Bongalos because his house is adjacent to that of Robert Dinglasan. 'Jetlee' is a member of their group (barkada).

That the present whereabouts of 'Jetlee', Tapia and Bongalos are not known to him.

On cross-examination, he stated that he was with Efren Lasona in the tricycle at the corner of Camia St. sometime on September 5, 1990 at around 5:00 in the afternoon. When Lasona alighted from the tricycle, some persons blocked his path. They were then face to face. It was Efren Lasona who first alighted from the tricycle and this was the moment when the arrow (pana) was aimed at him.

That he saw the actual stabbing and the stabbing instrument was stained with blood. Thereafter, he sought for help.

That he was about two (2) arms' length away from where Lasona was stabbed. It was Robert Dinglasan, Manolo Bongalos, Reynaldo Tapia and 'Jetlee' who blocked the way of Efren Lasona.

On clarificatory questions from the Court, this witness stated that "Jetlee" was holding a 'pana' and the other three (3) were also armed.

That he saw the accused Robert Dinglasan holding or embracing Efren Lasona. Bongalos and Tapia had bladed weapons and they used them in stabbing Efren Lasona.

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The fourth witness presented by the prosecution was one Rosario Santos.^[6]

She testified that at around 5:00 in the afternoon of September 5, 1990, she was near a bakery in Camia St., Jabson Site, Rosario, Pasig, metro Manila. She witnessed the killing of herein Efren Lasona by the herein accused.

She identified Robert Dinglasan in court.

That the accused held the victim by his hands. The accused embraced the victim and repeatedly stabbed him.

That three (3) persons stabbed the victim. Robert Dinglasan did not stab the victim but just embraced him. When the victim was being stabbed, the latter could no longer move.

That the victim was stabbed several times. She was only half a meter away from the place of the incident.

That at first, Robert Dinglasan held the victim by the hand but the victim was able to set himself free. When Dinglasan was able to get hold of the victim again, this time the hands of the victim were held at his back.

Counsel for the accused and the private prosecutor stipulated that the witness executed an affidavit before the Eastern Police District because when the witness was confronted with the document, she manifested that she had poor eyesight.

On cross-examination, this witness stated that she suffered a stroke before September 1990. That she could still walk on her own.

That she was about 11 1/2 meters away from the scene of the incident. However she stated also that she was about one and a half meters away from the scene of the incident.

That she was alone and standing when she witnessed the stabbing. She did not notice the raiment (sic) of the accused was wearing at the time as well as the others who stabbed the victim. She was at the bakery for sometime when she witnessed the incident. She did not see how the victim as well as the assailants arrived near the bakery. She was in a state of shock.

That the accused held the victim while three other persons stabbed the victim.

That the victim is known to her because Efren Lasona's mother is her friend.

That the mother of the victim did not ask her to testify in this case.

That the accused held the victim with his hands at the back.

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The third witness presented by the prosecution was Dr. Maximo Reyes, a medico-legal officer of the National Bureau of Investigation (NBI).^[7]

He testified that on September 5, 1990, he conducted an autopsy on the cadaver of the deceased Efren Lasona y Ajero. In the Post-Mortem Findings, the deceased was found to have suffered all in all eleven (11) stab wounds, four (4) of which were located on the right portion of the chest and were all fatal. The size of the wounds are 2.5 to 2.6 cms.

That there was tremendous loss of blood and oxygen.

That some stab wounds severed the upper lobe of the left lung and the right ventricle of the heart which are bloody organs. Others were located on the middle third of the left arm. These involved skin and soft tissues.

That the wounds were caused by a sharp pointed single-bladed instrument. It could be three or more sharp bladed instruments that could have been used in the stabbing. Under normal conditions, the wounds were inflicted by those fronting the victim. It is possible that more than one person inflicted these wounds.

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That even if medical attendance was given this victim, he would not have survived just the same. The death could have been instantaneous as all the stab wounds were fatal.

On cross-examination, he stated that the height of the victim was about 5'7" or 5'8". He did not take the weight of the victim. The victim was of medium built and was not robust.

That the accused and the victim would more or less be of the same height.

That the accused is of medium-size built.

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That he could not tell what was the first injury inflicted. The first wound was not penetrating because the instrument used hit the sternal area near the chest. There were two stab wounds between the first and second intercostal spaces. The direction was towards the center of the chest. Under normal conditions, the assailant and the victim were standing and facing one another with the assailant more towards the left of the victim.

That four (4) stab wounds were located on the left side of the chest and other four (4) stab wounds were on the right side of the chest. That the death was not instantaneous because the victim has to fall until exhausted and respiratory depression will follow.

That there was a stab wound at the back which perforated the kidney of the victim. It could have been inflicted by way of a thrusting or swinging motion. It could be presumed that the assailant was behind and to the left of the victim. This wound at the back was also fatal. It could have been caused by another almost identical weapon.

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The first witness presented by the prosecution was Luciana Lasona.^[8]

She testified that Efren Lasona was her son. Her son was stabbed to death.

That her son would have gone to Canada had he lived because of the telegram her son received after his death. Her son would have received a monthly salary of \$600.00 had he not died.

That she spent P12,000.00 for the casket and funeral services of her son as evidenced by the receipt issued by St. Claire Funeral Homes as well as P4,000.00 for the tomb but the receipt got lost. During the wake, the amount of P4,000.00 was also spent by her but she has no receipts to show for it and P1,000.00 for the hiring of jeepneys used during the burial of his son but such was also unreceipted for.

On cross-examination, this witness stated that she did not ask for even a piece of paper to show proof of some of her expenses but only the provisional receipt of P12,000.00 was received by her."

Version of the Defense

After the prosecution rested, the defense filed a Demurrer to Evidence dated April 15, 1991 which however was denied by the trial court in an undated order but filed as part of the Records on pages 87 to 88.

In contrast to the prosecution's theory that the victim was killed with treachery by the accused-appellant acting in conspiracy with three other persons, the defense claims that the appellant was not at the crime scene but was selling barbecue with someone somewhere else. The defense presented five witnesses, to wit: the accused himself, his co-vendor of barbecue Alfredo Bongalos, a tricycle driver Orlando Camañero, the arresting officer Patrolman Edilberto Sanchez, and Leonida Sy. The version of the defense as summarized by the trial court a quo from the testimonies of the witnesses presented by the defense is as follows:

"The first witness presented by the defense was one Alfredo Bongalos.^[9]

He testified that he is a barbecue vendor since 1986 in Life Homes Subdivision