

## FIRST DIVISION

[ G.R. No. 119058, March 13, 1997 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
ERLINDA VILLARAN Y FERNANDEZ, ACCUSED-APPELLANT.**

### D E C I S I O N

**BELLOSILLO , J.:**

ERLINDA VILLARAN y FERNANDEZ was found guilty of murder and sentenced to reclusion perpetua. She was also ordered to indemnify the heirs of the victim in the amount of P50,000.00.<sup>[1]</sup>

The Information charged that in the evening of 10 October 1990 in Olongapo City the accused, with intent to kill, feloniously induced one Danilo C. Ong, her live-in partner, to eat pan de sal containing sodium cyanide, a poisonous substance, which caused his death.<sup>[2]</sup>

There was no eyewitness, nay, not a scintilla of proof, to the alleged inducement of Danilo by Erlinda to eat the "poisoned" bread. The prosecution relied mainly on circumstantial evidence to establish her guilt.

Through the testimonies of Francisco Ong, Richard Patilano and Felicisima Francisco the prosecution tried to establish that on 10 October 1990, at about nine-thirty in the evening, Pat. Francisco Ong, younger brother of Danilo, was relaxing in his house when the accused Erlinda Villaran appeared and informed him that his brother was ill. Erlinda narrated to him that she was awakened when Danilo arrived from work that evening. Since it was rather late she simply advised him to lie down and sleep. Shortly thereafter she was surprised to see Danilo frothing, shivering. Francisco asked why she did not rush Danilo to the hospital and she replied that she could not carry him. When Francisco further asked why she did not seek help from her neighbors instead of going all the way to his house, which was rather far, she answered that her neighbors were reluctant and uncooperative.

Francisco then accompanied Erlinda back to her house where Danilo was. He checked the pulse of Danilo. There was hardly any pulsebeat. With the help of Alfredo Lugto, a neighbor, they brought Danilo to the hospital.

While in the emergency room a doctor asked Erlinda whether Danilo ate or took anything. She replied that she did not see him take anything. As first aid was being administered to Danilo his dentures were removed by Francisco upon request of one of the doctors. Francisco claimed that he smelled a strong and distinct odor from the dentures and recalled smelling something strikingly similar back at the house of Danilo and Erlinda.

Francisco claimed that Erlinda acted strangely at the hospital. According to him, it

was odd for Erlinda to remain outside the hospital all the while that Danilo was in the emergency room, seemingly unaffected by the seriousness of his condition. Moreover, when Danilo died some thirty (30) minutes after, she initially refused to keep watch over his body so that Francisco could leave and notify his other brothers and sisters of Danilo's demise, although she relented upon Francisco's insistence.

On their way home to get clothes for Danilo, Francisco asked Erlinda whether his brother had eaten or taken anything before going to sleep that evening, as he believed that Danilo could not have died without having taken something toxic. Erlinda told him later that she saw a big bag of pan de sal on top of their table.

Upon reaching the house of the live-in partners, Francisco immediately proceeded to the sink where he saw the bag of bread mentioned by Erlinda. He sniffed the bread and, according to him, he noted the same pungent odor he sensed when he removed the dentures of Danilo. Francisco then brought the pan de sal to Dr. Richard Patilano, medico-legal officer of the Olongapo City General Hospital, who advised him to have the bread examined by the NBI. The following day, forensic chemist Felicisima Francisco of the NBI conducted a laboratory examination of the pan de sal. The examination revealed traces of sodium cyanide.<sup>[3]</sup>

Meanwhile, the cadaver of Danilo was autopsied by Dr. Richard Patilano. Samples of the pan de sal were taken to the NBI which found that they contained sodium cyanide.<sup>[4]</sup> From the particles of the pan de sal recovered from the victim's body, Dr. Patilano ascertained the cause of death to be chemical poisoning.<sup>[5]</sup> The results of both tests confirmed the conclusion of Dr. Patilano.<sup>[6]</sup>

Pat. Francisco Ong also testified that the last time he talked to Danilo was in the morning of the day he died. On that occasion Danilo confided to him that he had several quarrels with Erlinda because of her forthcoming tryst with her negro boyfriend who was supposed to arrive shortly.

Testifying in her defense Erlinda, without detracting much from the facts presented by the prosecution, gave a more detailed account of what happened that night. She said she was asleep when she was awakened by some noise coming from the lavatory. She sat on her bed and waited for a while. A few minutes later, Danilo came out from the lavatory. He asked her where Jimmy Ong was. She told Danilo that she had in fact fallen asleep waiting for Jimmy but he did not arrive. Jimmy is a nephew of Danilo who was living with them. Then Danilo told her that he would just lie down where Jimmy usually slept, which was not far from where Erlinda was.

After some five (5) minutes, Erlinda heard moans emanating from the direction of Danilo. She did not mind the moaning at first. But he continued. It was only then that she moved closer to Danilo. She found the latter already unconscious. She tried to revive him. She switched on the light. She saw Danilo soaking wet and perspiring profusely. She ran out of the house to seek help but no one responded including their landlord. When she noticed the tricycle of Alfredo Lugto parked in front of his house she knocked at the door, opened it and went straight inside. But her plea for assistance was met with a blank stare, an unconcerned attitude from the Lugto household. She returned home and found Danilo momentarily regaining consciousness. She repeated her appeal to Lugto, even just to call Danilo's brother Francisco, but sensing Alfredo's reluctance she decided to go directly to Francisco.

At Francisco's residence, Erlinda explained to Francisco the condition of his brother. Hurriedly, Erlinda returned to her house together with Francisco. Shocked to see Danilo almost lifeless, Francisco started shouting, "shit, shit," as Erlinda went straight to the lavatory to urinate. They then brought Danilo to the Olongapo City General Hospital. Erlinda stayed outside the emergency room and prayed. She was uneasy; her knees were trembling. Then Francisco told her that Danilo was dead.

Erlinda denied that there was any feud between her and Danilo and that she was slapped by Danilo during a supposed pot session, as claimed by Francisco. She asserted that everything was fine with her and Danilo and so was her relationship with his brothers and sisters.

The crux of the controversy is whether the evidence of the prosecution - which was mainly circumstantial - was sufficient to support the conviction of accused-appellant. She contends that the trial court erred in convicting her of murder on the basis merely of circumstantial evidence since the prosecution failed to satisfy all the requisites for conviction based thereon.<sup>[7]</sup>

We agree with Erlinda; hence, we acquit her. Circumstantial evidence to warrant conviction must constitute an unbroken chain of events that can lead reasonably to the conclusion pointing to the accused, to the exclusion of all others, as the author of the crime,<sup>[8]</sup> i.e., the circumstances proved must be congruent with each other, consistent with the hypothesis of guilt of the accused, and at the same time inconsistent with any other hypothesis except that of guilt.<sup>[9]</sup> Logically it is here - where the evidence is purely inferential - that there should be an even greater need than usual to apply with vigor the rules that the prosecution cannot depend on the weakness of the defense and that any conviction must rest on nothing less than a moral certainty on the guilt of the accused.<sup>[10]</sup> Likewise, it is also in the absence of direct evidence indubitably showing that accused-appellant was the perpetrator of the killing that motive becomes important.<sup>[11]</sup>

Significantly, a key element in the web of circumstantial evidence is motive, which the prosecution vainly tried to establish.<sup>[12]</sup> The trial court merely relied on the testimony of Francisco Ong in deducing that the reason for the killing of Danilo was that he stood in the way of the relationship of accused-appellant and her boyfriend. But whatever testimony given in open court by Francisco Ong regarding the quarrels between accused-appellant and Danilo could only be hearsay hence inadmissible in evidence -

Q: Mr. Ong, when was the last time you saw your brother alive?

A: In the morning of October 10, 1980.

COURT:

Q: What particular time in the morning?

A: Around ten to eleven o'clock in the morning of October 10.

x x x x

ATTY. DE DIOS:

Q: What was the topic of your conversation?

A: He told me he had a problem and that he had a quarrel with Erlinda Villaran because I heard that the negro boyfriend of Erlinda Villaran will (sic) be coming.

x x x x

ATTY. DE DIOS:

Q: You said you saw your brother in the morning of October 10 between ten to eleven o'clock, you said you saw your brother and you said he had a problem, did he tell you what was his problem about?

x x x x

A: Yes, Ma'am, he told me that for the past few days, they had altercations because Erlinda's negro boyfriend will (sic) be coming

x x x x

Q: Do you know if there was any occasion wherein your brother and Erlinda quarreled in your presence?

x x x x

COURT:

Alright, witness may answer.

A: In my presence, no Ma'am. But I was informed by my brother personally that he caught Erlinda Villaran having a pot session.<sup>[13]</sup>

Apparently, the alleged altercation between appellant and the deceased that was intended to provide the motive was at best secondhand evidence, hence worthless. What was proved was the colloquy between Francisco and the deceased, not the fact that an argument took place between the latter and the accused. When evidence is based on what was supposedly told the witness, the same is without any evidentiary weight being patently hearsay.<sup>[14]</sup>

In reaching its verdict, the trial court considered various circumstantial evidence culled almost entirely from the testimony of the deceased's brother Francisco Ong, and from which the motive behind the crime was apparently inferred. These circumstances, reiterated by the prosecution in its Appellee's Brief, are (a) that Danilo died of poisoning as a result of having eaten pan de sal containing sodium cyanide which was found on the table in the kitchen of appellant and the victim; (b) that at the time the poisoning occurred only appellant and the deceased were in the house; (c) that the victim was a tricycle driver who had no quarrel with his fellow tricycle drivers nor with his neighbors, thereby ruling out any motive to kill him on the part of any third party; (d) that prior to the poisoning, appellant and the victim had been quarrelling very often because of the supposed arrival of her negro boyfriend; (e) that when the victim's mouth was already frothing appellant did