

THIRD DIVISION

[G.R. No. 121667, April 04, 1997]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ALMARIO "MARIO" SALVAME, ACCUSED-APPELLANT.
D E C I S I O N**

MELO, J.:

Circumstantial evidence points to accused-appellant Almario Salvame and Rogelio Lebano alias "Dencio" (still at large) as the killers of Daniel Libres. The victim was last seen alive in the company of these two accused persons. The next time he was seen by his wife he was dead with several stab wounds.

Salvame and Lebano were charged with murder in an Information reading as follows:

That on or about April 21, 1986, in the Municipality of New Corella, Province of Davao, Philippines, and within the jurisdiction of this Honorable Court, accused Mario Salvame, conspiring, confederating and mutually helping with Rogelio Lebano alias "Dencio", who is at large, with treachery and evident premeditation, with intent to kill, armed with a hunting knife, did then and there wilfully, unlawfully and feloniously attack, assault and stab one Daniel Libres, thereby inflicting upon him wounds which caused his death, and further causing actual, moral and compensatory damages to the heirs of the victim.

(p. 4, *Rollo*.)

After trial, the court *a quo* rendered a decision, disposing:

WHEREFORE, finding accused Almario or Mario Salvame guilty beyond reasonable doubt of Murder qualified by the aggravating circumstance of evident premeditation under Article 248 of the Revised Penal Code, he is hereby sentenced to suffer the prison term of Reclusion Perpetua, to suffer all the accessory penalties provided for by law and to pay the costs.

He is further ordered to indemnify the heirs of Daniel Libres in the amount of TWENTY-FIVE THOUSAND (P25,000.00) PESOS as moral damages.

The filing fees shall constitute a first lien on the judgment award.

The accused being a detention prisoner, he is hereby given full credit of his detention if he had agreed in writing to abide by the rules and regulations imposed upon convicted persons otherwise, he shall only be

credited with 4/5 of the period of such detention.

(pp. 16-17, *Rollo.*)

From said decision accused Salvame has interposed the instant appeal, anchoring his plea for reversal on his lone and catch-all assigned error that —

THE COURT A QUO ERRED IN NOT ACQUITTING THE ACCUSED-APPELLANT OF THE CRIME CHARGED IN THE INFORMATION.

(p. 32, *Rollo.*)

The facts of the case, as summarized by the Office of the Solicitor General and as borne out by the evidence, are as follows:

At about 7 o'clock in the morning of April 20, 1986, Rogelio Lebano, accompanied by appellant and a certain Ariel Acosta, was talking with Daniel Libres at the latter's yard situated at Barangay Cabidanan, New Corella, Davao, regarding a chainsaw which Lebano was selling to Libres (TSN, Sept. 27, 1993, pp. 5-6; TSN, June 3, 1993, p. 5).

Libres wanted to get the chainsaw on the same day, but Lebano objected because he could get the chainsaw only the next day (p. 6, *Ibid.*).

The following morning, Libres asked permission from his wife, prosecution witness Olimpia Libres, to get the chainsaw from Limbaan, also in New Corella, Davao. Since Libres was proceeding to Sitio Tagaytay, Barrio Cabidanan, New Corella, Olimpia and her father-in-law Eliodoro Libres, rode with Libres on a motorcycle driven by the latter (p. 6, *ibid.*).

Upon reaching Sitio Tagaytay, Olimpia and her father-in-law disembarked to wait for a vehicle coming from Sunlon, while Libres waited for appellant and Lebano. A vehicle arrived which had no passenger yet. Olimpia and her father-in-law boarded the vehicle which returned to Barrio Cabidanan to get more passengers. Libres remained at Sitio Tagaytay (p. 7, *ibid.*).

When the vehicle where Olimpia and her father-in-law were riding was already on its way to Tagum, Davao, it overtook at Suwawon the motorcycle driven by Libres, with appellant and Lebano as passengers (pp. 7-8, *Ibid.*). Thereafter, on that same day, Libres was found dead at Barrio Limbaan, New Corella, Davao, while appellant and Lebano were already missing (pp. 10-11, *Ibid.*).

The body of Libres was taken to Funeraria Padilla at National Highway, Tagum, Davao, where Dr. Alfredo Manungas, Municipal Health Officer of New Corella, conducted the postmortem examination. The result of the examination and the death certification of Libres showed that the immediate cause of death was shock; the antecedent cause was hemorrhage; and the underlying causes were: (1) multiple stab wounds,