

THIRD DIVISION

[G.R. No. 118335-36, June 19, 1997]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ROSELLER ALAS ALIAS "BAGONG" AND MANUEL APORBO,
ACCUSED-APPELLANTS.**

D E C I S I O N

PANGANIBAN, J.:

In affirming the conviction of appellants, this Court reiterates some well-entrenched doctrines: (1) the issue of credibility of witnesses is best left to the discretion of the trial court; and (2) the elements of conspiracy, like those of the crime charged, must be established beyond reasonable doubt.

In six consolidated criminal cases filed before the Regional Trial Court^[1] of Tandag, Surigao del Sur, Appellants Roseller Alas alias "Bagong" and Manuel Aporbo and Accused Santiago Isiang alias "Titi" and Rene Requierme were charged with multiple counts of murder. In Criminal Case Nos. 2052 and 2053, Appellants Alas and Aporbo were indicted for the killing of Spouses Fidel and Andresa Lagura; whereas in Criminal Case Nos. 2056, 2057, 2058 and 2059, Appellant Alas and Accused Isiang and Requierme were charged with the killing of Spouses Luciano and Maria Isiang, Susito Pajo Jasmin and Danny Malubay. This appeal, however, refers only to Criminal Case Nos. 2052 and 2053 where the two appellants were convicted of two counts of murder for which they were each sentenced to two terms of reclusion perpetua.

In Criminal Case No. 2052, Appellants Alas and Aporbo were charged with murder allegedly committed as follows:^[2]

"That on the 30th day of April, 1992, at about 10:00 o' clock in the evening, more or less, at Barangay Manlico, Cortes, Surigao del Sur, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused armed with a small bolo, locally known as 'Sundangay', and a piece of stick with sharpened arrow, locally known as 'Bidyo', conspiring, confederating and mutually helping one another, with intent to kill, treachery and evident premeditation, did, then and there, willfully, unlawfully and feloniously assault, attack and stab one Fidel Lagura, hitting and inflicting upon the latter, stab wound(s) on the different parts of his body to wit:

` - Stabbed (sic) wound at the back, 3 inches in length (sic), penetrating posterior chest cavity directed downwards and medially at Supra-Clavicular area right;

- Stabbed (sic) wound at the back, one inch in length (sic) bone deep with chip fracture of the tip scapula right;
- Incised wound 1.5 inches in length (sic), subcutaneous depth over the left knee;
- Two parallel stabbed (sic) wounds, one inch in length (sic) below the left nipple penetrating the anterior chest wall;
- Multiple incised wounds (5 Sites) 1 inch in length (sic), subcutaneous depth below the left nipple;
- Stabbed (sic) wound 1 inch in length (sic) penetrating; anterior axillary line at the level of the 6-7th ICS left;
- Incised wound: 1 inch in length (sic) subcutaneous depth; medial (sic) aspect left arm.

which wounds or injuries have caused the instantaneous death of said Fedil (sic) Lagura, to the damage and prejudice of his heirs in the following amounts:

P50,000.00 - as life indemnity to the victim;

P10,000.00 - as moral damages;

P10,000.00 - as exemplary damages.”

In Criminal Case No. 2053, the two appellants were likewise charged with murder, thus:^[3]

“That on the 30th day of April 1992, at about 10:00 o’ clock in the evening, more or less, at Barangay Manlico, Cortes, Surigao del Sur, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, armed with small bolo, locally known as ‘Sundangay’, and (a) piece of stick with sharpened arrow, locally known as ‘Bidyo’, conspiring, confederating and mutually helping one another, with intent to kill, treachery and evident premeditation, did, then and there, willfully, unlawfully and feloniously assault, attack and stab one Andresa Lagura, hitting and inflicting upon the latter, stab wounds on the different parts of her body to wit:

- Incised wound 1.5 inches in length (sic), subcutaneous depth deltoid area right;
- Incised wound at the head occipital area 3 inches in length with chip fracture of the skull;
- Multiple incised wounds around right arm (7 Sites) 1 inch in length subcutaneous depth;
- Multiple incised wounds (5 Sites) around left arm subcutaneous depth 1 inch in length;

- Superficial incised wounds 2 inches in length (R) elbow;
- Stabbed (sic) wound, 6 inches in length; approximately (sic) at the level of the 10- 11th ICS penetrating the posterior chest wall;
- 2 parallel stabbed (sic) wound 1 inch in length underneath the above described wound penetrating;
- Stabbed (sic) wound 1 inch in length muscle deep axillary area left;
- Multiple stabbed wounds (7 sites) 1 to 1.5 inches in length sporadically located at the back;
- 2 parallel stabbed (sic) wounds 1 inch in length underneath the nipple left penetrating;
- One punctured wound outer lower quadrant (L) breast;
- Multiple incised wounds (10 Sites 1 to 1.5 inches in length, subcutaneous depth anterior chest wall'

which wounds or injuries have caused the instantaneous death of said Andresa Lagura, to the damage and prejudice of her heirs in the following amounts:

P50,000.00 - as life indemnity of the victim;

10,000.00 - as moral damages;

10,000.00 - as exemplary damage(s)."

Only Appellants Alas and Aporbo were arrested. The other accused remained at large. Appellant Alas, duly assisted by counsel, was arraigned in all six cases filed against him; in each of them, he pleaded not guilty.^[4] Appellant Aporbo, assisted by the same counsel, was also arraigned in Criminal Case Nos. 2052 and 2053 and he likewise pleaded not guilty in each case.^[5] Joint trial of the six criminal cases ensued.

On September 12, 1994, the trial court rendered its Decision finding Appellants Alas and Aporbo guilty of killing Spouses Lagura in Criminal Case Nos. 2052 and 2053 but exonerating Appellant Alas in the four other criminal cases. The dispositive portion of the Decision reads:^[6]

"WHEREFORE, finding both accused Roseller Alas y Arasan alias 'Bagong' and Manuel Aporbo guilty beyond reasonable doubt of two separate offenses of Murder in Criminal Case(s) Nos. 2052 and 2053, and there being no modifying circumstance which attended the commission of said offenses, the Court hereby sentences each of them to suffer two separate penalties of Reclusion Perpetua, to jointly and severally pay the heirs of the deceased-victims, the spouses Fidel and Andresa Lagura, the sum of One Hundred Thousand (P100,000.00) Pesos as life indemnity,

and Twenty Thousand (P20,000.00) Pesos as moral damages, without subsidiary imprisonment in case of insolvency; and to pay the cost.

Being detained, both Accused are credited in the service of their respective sentences with the full term of their preventive imprisonment if they agreed in writing to abide by the same disciplinary rules imposed on convicted prisoners, otherwise four-fifths (4/5) thereof.

On ground of reasonable doubt, Accused Roseller Alas y Arasan alias 'Bagong' is acquitted in Criminal Case Nos. 2056, 2057, 2058 and 2059. He is also absolved from civil liability. Let the respective records of said cases be archived to be retrieved upon arrest of either accused Santiago Isiang alias 'Titi' or Rene Requirme (sic)."

Hence, this appeal.

The Facts

Version of the Prosecution

The trial court discussed the facts presented by the prosecution as follows:^[7]

"In Crim. Case Nos. 2052 and 2053, prosecution's evidence shows that in the evening of April 30, 1992, at about 10:00 o'clock, the spouses Fidel Lagura and Andresa Lagura, residents of Barangay Manlico, Cortes, Surigao del Sur, were on their way home. They came from the novena in the house of Santos Polinar, their neighbor who just passed away. Following them were prosecution witnesses Esterlito Laquinta and Vicente Guiduvia (sic), who also attended the novena and were likewise on their way home. As the Laguras were about to enter their house, accused Roseller Alas and Manuel Aporbo, who had waited for them from behind a coconut tree near their house, suddenly sprang up and stabbed them many times until they died on the spot. Early in the following morning Esterlito Laquinta and Vicente Guiduvia (sic) informed the deceased-victim's eldest son Danny Lagura of what happened to his parents. They also reported the incident to Barangay Captain Teodoro Bibat of Manlico.

As for the motive of the killing, Laquinta and Guiduvia (sic) testified that the two Accused were paid P6,000.00 by Soyna Villapañe, who suspected the deceased-victims of having practiced witchcraft ('gibarang') on her. Both Accused allegedly admitted this fact before the policeman who investigated them in the presence of Guiduvia (sic)."

Version of the Accused

Appellants Alas and Aporbo interposed the defense of alibi. The trial court narrated

the circumstances of the defense, thus:^[8]

"x x x. And on April 30, 1992 (the date of the incident alleged in Crim. Case Nos. 2052 and 2053), he (Roseller Alas) claimed that he was in Barangay Caromata, San Miguel, Surigao del Sur, in the company of Anastacio Bulilan, the Owner of the furniture shop in Tandag, where he was working as (a) helper. They left for Caromata in the afternoon of April 29, 1992 and went back to Tandag on May 1, 1992. He worked in the said furniture shop until his arrest on May 3, 1992. He denied participation in the killing of the spouses Fidel and Andresa Lagura.

He claimed that Esterlito Laquinta had a motive for testifying against him, because he had a quarrel with him in the first week of April, 1992. He told the following story: He accidentally met Laquinta at the Barangay Road of Manlico. On seeing him, Laquinta allegedly asked him: 'How is the famous NPA?' He answered: 'Fine, but I have already surrendered.' Laquinta then remarked: 'You have already surrendered but you have offended me', simultaneously pulling out from his waist a small bolo and (attempting to) stab him. He avoided the thrust and left hurriedly. Laquinta shouted at him calling him a coward and warned him that he (Laquinta) would take revenge.

He denied having executed an affidavit of confession and claimed that the signature attributed to him in Exhibit 'I' is (sic) not his. He further denied having confessed to Police Investigator Cesar Morales and of having written Exhibit 'A', claiming that his penmanship is (sic) the one found in Exhibits '1' and '2'.

On the other hand, accused Manuel Aporbo, co-accused of Roseller Alas in Crim. Case Nos. 2052 and 2053, claimed that in the evening of April 30, 1992, he was already in the capital town of Tandag. He left Manlico, together with Bonifacio Hontanosas, at about 2:30 in the afternoon, bound for Tandag, arriving there at 4:00 o' clock. They passed the night in Tandag and early the following morning at about 3:15, he left for Davao City on board the Bachelor Express Bus. He went to Davao to look for a job, but before he could get one, he was apprehended by the Police.

He denied involvement in the killing of the spouses Fidel and Andresa Lagura, with whom neither he nor his parents had any misunderstanding. Like Roseller Alas, he, too, was not in good terms with Esterlito Laquinta, as well as, with Vicente Guiduvia (sic), because he allegedly refused to join their group, which always had (a) drinking spree."

The Issues

Appellants Alas and Aporbo allege that the following errors were committed by the trial court: