

FIRST DIVISION

[G.R. No. 120072, July 28, 1997]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
FLORENTINO MESA Y IGNACIO, ACCUSED-APPELLANT.**

D E C I S I O N

PADILLA, J.:

On 16 December 1991, Manuel Cambronero, a crew member of the F/B Canel, drowned at the sea somewhere off the coast of San Andres, Quezon Province. The prosecution claimed he was murdered. The defense maintained it was an accident. Two (2) eyewitnesses, Jojit Almoneda and Floro Tercio, positively identified the assailant as herein accused-appellant, Florentino Mesa. Tried and later convicted of murder by the Regional Trial Court of Lucena City.^[1] Florentino Mesa has appealed to this Court with the same disavowal – he did not stab Cambronero on the night of 16 December 1991, instead, Cambronero accidentally fell overboard from the FB Canel and drowned in the tempestous sea.

The information filed by city prosecutor Romeo A. Dato reads:

“The undersigned, City Prosecutor of the City of Lucena, accuses Florentino Mesa of the crime of Murder, defined and punished under Article 248 (,) of the Revised Penal Code, committed as follows:

That on or about the 16th day of December, 1991, in the City of Lucena, Province of Quezon, Philippines, and within the jurisdiction of his Honorable Court, the said accused, armed with a knife locally known as (29), with intent to kill, with evident premeditation and treachery, did then and there wil(l)fully, unlawfully and feloniously stab one Manuel Cambronero with said weapon, thereby inflicting upon the latter stab wound(s) which caused his death.

Contrary to law.

Lucena City, April 14, 1992.”^[2]

Upon arraignment, accused appellant pleaded not guilty and underwent trial. The prosecution presented four (4) witnesses. The defense rested on the sole testimony of the accused-appellant. On 18 July 1994, the court a quo rendered judgment, the dispositive part of which reads as follows:

“WHEREFORE, in view of the foregoing, this Court finds the accused Florentino Mesa guilty as principal beyond reasonable doubt of the crime of murder, qualified (by) treachery, and there being no modifying circumstances attendant, hereby sentences him to suffer the penalty of RECLUSION PERPETUA, and to indemnify the heirs of the deceased,

Manuel Cambronero, the amount of Fifty Thousand Pesos (P50,000.00) as death indemnity, and the sum of Forty Two Thousand Pesos (P42,000.00) for loss of earning capacity for the remaining years of life of the deceased, without [however,] subsidiary imprisonment in case of insolvency.”^[3]

The facts of the case are as follows:

Accused-appellant, Manuel Cambronero, Jojit Almoneda and Floro Tercio were all employees of Llamas Fishing Corporation (Llamas) which owned a fleet of fishing vessels in Quezon province. Cambronero and Almoneda were detailed as overseers or encargado of a supply boat named F/B Canel (Canel) which was piloted by Tercio. Accused-appellant, in turn, was a mechanic assigned to a fishing vessels named F/B Emma 8 (Emma).

On 16 December 1991, at around 5 p.m., Almoneda, Cambronero and Tercio, together with five other employees of Llamas, loaded crude oil and ice into the Canel at Barangay Dalahican in Lucena City and set sail to meet the Emma at sea. At around 9:45 p.m. the Canel reached the Emma which was then anchored somewhere off the coast of San Andres, Quezon. Tercio steered the Canel’s prow alongside the stern of the Emma. Thereafter, the Canel’s crew unloaded its cargo of banyeras and ice to the Emma while Cambronero supervised the transfer of fuel from the Canel into the empty fuel drums aboard the Emma.

Prosecution witness Jojit Almoneda testified that while he was pumping out the fuel from the Canel to the Emma, Cambronero went to untangle some ropes on the Canel’s deck. While Cambronero was stooping down, accused-appellant suddenly appeared from no where, and without any warning, approached Cambronero from behind, grabbed him at the back, and stabbed him twice with a veinte nueve. Cambronero lost his balance and fell overboard. Almoneda saw him clung to a lifeboat but soon lost grip as he struggled against the waves. Accused-appellants, still holding his fan knife, stood guard at the Canel’s prow as Cambronero slowly disappeared into the water. Accused-appellant then walked away and went inside the bridge of the Canel then later transferred to the Emma.^[4]

From the vantage point of the Canel’s Bridge, Tercio witnessed the same incident narrated by Jojit Almoneda.^[5] Like Almoneda , he was too shocked and frightened to react as accused appellant stood guard on the Canel’s prow, brandishing the veinte nueve he had used to stab Cambronero. Tercio recounted that accused-appellant later went inside the F/B Canel’s Bridge and said, “huwag kayong matakot, isa lang ang kailangan ko,”^[6] then hurriedly left the Canel and returned to the Emma.

There were no fishing nets aboard the Canel at that time. When the Emma’s crew heard what had happened to Cambronero, they lighted the area where Cambronero fell and cast their nets, hoping that Cambronero might still be alive. The Canel then disengage from the Emma to supply fuel to two (2) other Llamas' fishing boats while the Emma lifted anchor and continued searching for Cambronero’s body. The Emma reported the incident by radio to Llamas which immediately dispatched an order to its other fishing boats in the area to join the Emma in the search for Cambronero. Llamas fishing boats combed the sea for nine days^[7] but failed to recover any trace

of Cambronero's body.

The defense denied any foul play in the disappearance of Cambronero. According to accused-appellant, Cambronero accidentally slipped, fell overboard the Canel, and was drowned by the big waves. His version was as follows:

He (accused-appellant) was in charge of receiving the fuel to be delivered by the Canel to the Emma. Earlier that evening, he receive radio instructions from Llamas to expect (5) drums of fuel oil. However, the fuel delivered by the Canel amounted to only four and a half (4-1/2) drums, short of half a drum. Cambronero then asked him to sign a receipt for five (5) drums but he refused. Cambronero was insistent but he stood his ground. His obstinate refusal angered Cambronero who suddenly grabbed a shovel and swung it at him. Cambronero missed. As he retreated he was able to grab a shovel to defend himself. For some unexplained reason, Cambronero retreated backwards and in the process, Cambronero accidentally slipped and lost his balance.^[8] Cambronero fell overboard and accused-appellant reacted in the following manner:^[9]

Q: What happened to Manuel Cambronero when he fell to the sea .

A: I did not know anymore, sir.

Q: Now, when Manuel Cambronero fell to the sea and you were still aboard your boat, what did you do?

A: Nothing, sir.

Q: What do you mean by your answer nothing?

A: I did not see them approach[ed] him, sir.

Q: The crew of the Canel did not make any search immediately after Cambronero fell to the sea?

A: The Canel went away from F/B Emma, sir.

Q: And what did the crew of the F/B Emma do after Manuel Cambronero fell to the sea?

A: We lifted anchor and looked for him, sir.

Q: So the crew of the F/B Emma looked for Manuel Cambronero after you lifted the anchor?

ATTY. ABCEDE:

No , it was not he who searched, it was the others your honor.

ATTY. AMBAS:

Q: And the crew of the F/B Emma immediately rather did not find Manuel Cambronero?

A: I do not know, sir." (emphasis supplied)

Accused-appellant maintained that Jaime Malubay, a crew member of the Canel, also witnessed Cambronero's accidental fall into the sea but both he and Malubay were helpless in rescuing Cambronero who had already drifted far away from the Canel because of strong winds and rough waves. Accused-appellant reported the

incident to the captain of the Emma and resume work in the Emma's engine room while the other crew members searched for Cambronero.^[10]

Accused-appellant further claimed that he continued to work aboard the Emma up to 24 December 1991 after which he left Lucena and went to General Santos City, South Cotabato to visit his ailing mother. He told his wife to inform Llamas about his trip. He stayed in South Cotabato for about six months and came back to Manila on 22 July 1992. On 16 August 1992, he was served a warrant of arrest by the policemen from Mauban, Quezon in his house in Mandaluyong and brought to Mauban.^[11]

The trial court rejected accused-appellant's testimony and called it "an aftersought, a pure concoction," viz:

"On the other hand, the lone testimony of the accused as his own defense suffers from inherent improbability and appears to be an aftersought, a pure concoction. Besides, his theory of what happened between him and the victim Cambronero, is too hackneyed and trivial, a cause to have resulted to have a violent quarrel that nobody appears got hurt, yet it ended in horrifying loss of life for a man who is used to the sea caused by a minor slip overboard which the accused did nothing to try to help in his rescue. Then, what adds to the improbability of his lone and lonely claim is the bitter fact no one came at his side to corroborate and attest to the truth of what he declared, and even his own wife did not come forward to testify on matter he has insisted to have happened after he went ashore for his long and suspicious Christmas vacation on the pretext of visiting his ailing mother, somewhere out in the far south of the Philippine archipelago- at General Santos, Cotabato, fittingly to be considered, and aptly so, a criminal flight to avoid arrest and prosecution for what he had committed."^[12]

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It is hard to believe that the accused by just holding a shovel, Manuel Combronero would step backwards and feel scared, for which reason he fell down into the water below the prow of the boat. Ordinary human experience and promptings would not stir to anger a man just for refusal of another to sign a simple receipt for receiving such amount of fuel; unless of course there is running fued and bad blood between them, which none exists in this case. If it were true as he pretended the incident to have occurred, the other crew of both F/B Emma 8 and F/B Canel could have intervened in the dispute to calm them down, could have heard loud and verbal exchange of words and could have reported the cause to the manager or owner of the fishing corporation for this shortage of delivery of fuel if not checked could seriously affect the business of the employer. There was no fact on that direction that has been brought out to the court, at least to corroborate the accused, on how the incident arose and went on aboard on December 16, 1991. The Court, therefore, is not prepared to accept this kind of pretension advance by the accused, for this assertion reveals, it is pure fabrication and cannot stand against the positive testimonies of prosecution