

## THIRD DIVISION

[ G.R. No. 101829, August 21, 1997 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
BONIFACIO ZAMORA, FELIX SALADAR, JULIO ALVARINO,  
RODOLFO JASA, AS PRINCIPALS; AND WILFREDO BARRIOS, AS  
ACCESSORY, ACCUSED, BONIFACIO ZAMORA, ACCUSED-  
APPELLANT.**

### DECISION

**PANGANIBAN, J.:**

This Court finds occasion to reiterate the rule that positive and categorical declarations of eyewitnesses identifying the accused are given greater weight in evidence than the defenses of denial and alibi. Perfect congruence in the witnesses' testimonies is not required or expected, as long as their narrations concur on material points.

#### Statement of the Case

On July 8, 1987, Accused-appellant Bonifacio Zamora, along with four (4) others (three as co-principals and one as accessory) was charged by Asst. Provincial Fiscal Jorge D. Zerrudo before the Regional Trial Court, Branch 18, of Midsayap, Cotabato in an Information<sup>[1]</sup> which reads:

"That on or about September 20, 1984, in the evening, at Barangay Bual Sur, Municipality of Midsayap, Province of Cotabato, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused Bonifacio Zamora, Felix Saladar, and Julio Alvarino and Rodolfo Jasa, who are still at large, armed with bolos, with intent to kill, with treachery and evident premeditation, conspiring, confederating and mutually helping each other, did then and there willfully, unlawfully and feloniously attack, assault and hack MANDATU LUNTAYAN, SR., thereby hitting him several times on the different parts of his body, which hack wounds caused the instantaneous death of MANDATU LUNTAYAN, SR.

"That a day after the killing of Mandatu Luntayan, Sr., Wilfredo Barrios, Barangay Captain of Bual Sur, Midsayap, Cotabato, assured complainant and relatives of her husband that he would surrender respondents Julio Alvarino and Rodolfo Jasa, but instead of surrendering them to the authorities, with evident abuse of his public function, harbored and concealed said respondents Alvarino and Jasa, thereby facilitating and ensuring the escape of said Julio Alvarino and Rodolfo Jasa."

Assisted by Atty. Visitacion Lavarias, Appellant Zamora and one of his co-accused, Felix Saladar, entered a plea of not guilty during the arraignment.<sup>[2]</sup> Accused Alvarino, Jasa and Barrios remained at large.

A separate trial<sup>[3]</sup> was held for Appellant Zamora for the reason that Saladar, who contracted leprosy, was declared unfit for trial.<sup>[4]</sup>

After due trial, the court a quo rendered its Decision<sup>[5]</sup> convicting accused-appellant of the crime of murder. The dispositive portion thereof reads:

"WHEREFORE, the Court finds the accused, Bonifacio Zamora, guilty beyond reasonable doubt of the crime of Murder, defined and penalized under Article 248 of the Revised Penal Code, and the Court hereby sentences said accused to suffer the penalty of reclusion perpetua with costs.

"Bonifacio Zamora is directed to indemnify the heirs of his victim the amount of Fifty Thousand Pesos (P50,000) for the death of Mandatu Luntayan, Sr. and the amount of Ten Thousand (P10,000.00) Pesos as moral damages, or a total indemnity of Sixty Thousand Pesos (P60,000.00)."<sup>[6]</sup>

### **The Facts**

#### **Version of the Prosecution**

The evidence for the prosecution consisted of: (1) the testimonies of Lucila Luntayan and Mandatu Luntayan, Jr., wife and son, respectively, of the victim, and Dr. Renato Sara as an expert witness; and (2) the sworn statement of Lucila and the medical and the death certificates of the victim issued by Dr. Sara. The trial court summarized the facts as presented by the prosecution as follows:

"It appears that the family of Mandatu Luntayan, Sr. resides at Bual Sur, Midsayap, Cotabato. In the evening of September 20, 1984, his wife, Lucila Luntayan, three (3) sons and two (2) daughters, were in their house at Bual Sur. They were waiting for Mandatu Luntayan, Sr. who went to the Poblacion of Midsayap. Past six o'clock that evening, the residents of the house of Mandatu heard the arrival of a tricycle along the Barangay Road near Mandatu's house. Mandatu Luntayan, Jr. looked outside their house towards where he heard the tricycle stop. He saw his father, Mandatu Luntayan, Sr. being hacked by some people. Lucila and Mandatu, Jr. went out of their house to verify what was happening to Mandatu, Sr. They brought with them a flashlight. The place where the hacking took place along the Barangay road is about ten meters to their house. They had their flashlight focused on their father who was being hacked by three (3) persons. Mandatu, Sr. was bathe with blood. When they got nearer, they recognized the three persons hacking Mandatu, Sr. to be Julio Alvarino, Bonifacio Zamora and Felix Saladar. The Luntayan

family has known the three, Alvarino, Zamora and Saladar, because they have been neighbors at Bual Sur for more than five (5) years already. Lucila and Mandatu, Jr. readily identified Bonifacio Zamora in court as one of the three men who hacked Mandatu, Sr. to death that evening of September 20, 1984. Mandatu, Sr. fell to the ground and the three men continued hacking him. Mandatu, Jr. approached his father but Bonifacio Zamora hacked him. Mandatu, Jr. was not hit because he was able to evade the hacking of Zamora by moving backward. Lucila shouted and the three men fled into the darkness. Lucila and Mandatu, Jr. went to Mandatu, Sr. who was still on the ground. They assisted Mandatu, Sr. and brought him to their house. In their house, Mandatu, Sr. told them that he was hacked by Pareng Julio, Boning and Felix. Mandatu, Sr. was serious and they loaded him on a Ford Fiera and brought him to Dr. Renato Sara's clinic at Poblacion, Midsayap, Cotabato."<sup>[7]</sup>

From the examination made by Dr. Sara, it appears that the deceased suffered seven hack wounds, more specifically:

"= Hacked wound from the left cheek to the left pinna, cutting of [sic] the left ear.

= Hacked wound, from the left lower jaw to the left side of the neck about seven inch[es].

= Hacked wound, left lower eyelid.

= Hacked wound, left knee, cutting all the potelia about five inch vertically.

= Hacked wound, left leg, just below to the knee about three inch[es] in length.

= Hacked wound, right leg, upper 3rd lateral aspect about five inch[es]

= Hacked wound, left side of the back, about 3 inches and 2 inch[es] in length."<sup>[8]</sup>

The cause of death of Luntayan, Sr. was "massive loss of blood secondary to hack wounds."<sup>[9]</sup>

### **Version of the Defense**

The defense presented Emma Andan, a relative by affinity of Appellant Bonifacio Zamora; Aurelia Zamora, appellant's mother; and Appellant Zamora himself. The defense of appellant, consisting mainly of alibi, was summarized by the court a quo as follows:

"The defense of alibi of Bonifacio Zamora shows that at about 6:40 o'clock in the evening of September 20, 1984, he was in the house of his brother, Edilberto Zamora, at Bual Sur, Midsayap, Cotabato, listening to a radio program. His house and the house of his brother Edilberto are near each other. Also in the house of Edilberto are Luzviminda Zamora, Bonifacio's wife, Emma Andan, another neighbor, and Edilberto and his children. Aurelia Zamora, their mother, was not there when Bonifacio and

his wife arrived. Aurelia was in Poblacion, Midsayap and was expected to arrive anytime. While they were listening to the radio program, Aurelia arrived and reported that Mandatu Luntayan, Sr. was killed. Edilberto and Emma Andan immediately went down the house and proceeded to the place where Mandatu, Sr. was killed. Bonifacio did not go with them and continued listening to the radio. He heard the shouts of a woman but did not mind them for he was used to hear shouts in their neighborhood. Near the place of the incident, Edilberto and Emma met Julio Alvarino who was holding a short bolo. They had some conversation. Edilberto and Emma saw Mandatu, Sr. being carried by his wife, Lucila, and son Mandatu, Jr. to his house. Mandatu, Sr. was still alive as they could hear him talk. After a short time, they saw Mandatu, Sr. brought to Poblacion, Midsayap for treatment. Edilberto and Emma did not go inside the house of Mandatu, Sr. They did not talk with Lucila or any of Mandatu Sr.'s family. After the Ford Fiera left for Midsayap, they also left and went home.”<sup>[10]</sup>

Accused Zamora further averred that he had no quarrel or misunderstanding with the Luntayan family. He knew no reason why the victim's wife and son accused him of participating in the killing. He surmised that the only possible motive was his intervention in a previous quarrel between his first cousin Manolito Almanares and Mandatu, Sr., during which the latter hacked Manolito.<sup>[11]</sup>

### **The Trial Court's Ruling**

The court a quo gave full credence to the testimonies of the victims' wife and son identifying accused-appellant as one of the assailants who fatally hacked Mandatu, Sr. It disposed of Zamora's alibi this wise:

“The house of Edilberto Zamora where Bonifacio Zamora claims to be at the time of the killing of Mandatu, Sr. is only about 100 meters from the scene of the crime. In a matter of two to three minutes, the distance could be easily reached. His pretense that he was listening to a radio program and not present at the scene of the incident is too shallow a reason to believe. He cannot even remember the radio program he was listening to.”<sup>[12]</sup>

The trial court also found that the killing was attended by treachery, thus qualifying it to murder.

### **Assignment of Errors**

The accused-appellant seeks either a reversal or a modification of the assailed Decision of the trial court by alleging that:

#### **I**

“The court a quo erred in convicting the accused-appellant of the crime charged despite failure of the prosecution to establish his guilt by proof beyond reasonable

doubt.

## II

"Assuming arguendo that accused-appellant Bonifacio Zamora is guilty, he should have been convicted only of homicide."<sup>[13]</sup>

### **This Court's Ruling**

The appeal is partly meritorious. The Court finds Appellant Zamora guilty only of homicide, not murder.

### **First Issue: Sufficiency of Prosecution Evidence**

Appellant submits that the evidence of the prosecution is not sufficient to convict him of the crime of murder. He argues that: (1) the testimonies and sworn statements of the prosecution witnesses are inconsistent on material points, thus, not worthy of full faith and credit; and (2) since the evidence presented is weak, the defense of alibi cannot be disregarded.<sup>[14]</sup>

The inconsistencies alleged by the appellant -- as to (1) the number of people the witnesses initially saw at the place of the incident, (2) who between the victim's wife and son was holding the flashlight, and (3) the position of the victim at the time the witnesses approached -- are minor details which do not destroy the verity of the prosecution witnesses' testimonies.

Minor inconsistencies in the testimonies of witnesses are negligible. Antithetically, they serve to strengthen the witnesses' credibility and are taken as badges of truth rather than as indicia of falsehood. Variance in testimonies substantially erases suspicion that they have been rehearsed.<sup>[15]</sup> Moreover, a response to a question is not to be isolated in relation to other queries and answers thereto. Well-settled is the rule that testimonies must be taken in their entirety.<sup>[16]</sup>

In the case at hand, the eyewitnesses who saw the gruesome killing of their loved one cannot each be expected to recall completely every minute detail of the incident. Different persons have different reflexes which may produce varying reactions, impressions, perceptions and recollections. Their physical, mental, emotional and psychological conditions may also affect their recall of the details of the incident. No two individuals are alike in terms of powers of observation and recollection.<sup>[17]</sup> Each may give a different account of what transpired. One testimony may be replete with details not found in the other. But taken as a whole, the versions must concur on material points.

Significant in the testimonies of both Lucila and Mandatu, Jr. is that both of them positively attested to having actually seen Alvarino, Saladar and Zamora hack the victim; that the three assailants used bolos; that Zamora also attempted to hack Mandatu, Jr. when the latter tried to get near his father; and that all the accused ran away after Lucila shouted for help.