

SECOND DIVISION

[G.R. Nos. 84332-33, May 08, 1996]

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
REYNALDO EVANGELISTA, ACCUSED-APPELLANT.**

DECISION

MENDOZA, J.:

On January 1, 1985, when Priscilla Arceo^[1] and her children arrived home at 15 Libis Gochico, Caloocan City at 10:30 p.m. from the Luneta, her husband Efren was having an altercation with accused-appellant Reynaldo (Regie/Reggie) Evangelista, the latter's brother-in-law Armando Perez, and a certain Tito Santos. In the investigation conducted by then Pfc. Paulino Batarina, it was shown that a certain Hipolito was also with the accused-appellant at the time of the incident.^[2] Priscilla asked Armando Perez what the matter was, to which the latter replied that she had nothing to worry about but just to tell her husband to repair the damage he had caused to a house. The house referred to was the house of accused-appellant's mother, who was then away, in the province.^[3] Accused-appellant was angry at Efren Arceo because the latter had destroyed a part of the house of accused-appellant's mother. The records do not show for what reason or by what authority Efren did this. Neither was accused-appellant aware of any reason.^[4]

As Efren was destroying the house with a bolo, the accused-appellant and his brother-in-law tried to stop him by throwing stones at him and after he had left accused-appellant and his brother-in-law followed him to his house and hurled stones at his house.^[5] It was at that point that Priscilla arrived.

The next day, two barangay officials saw Priscilla and asked her and her husband to go to the barangay headquarters for a meeting with the other party concerning the incident. On their way to the barangay headquarters, Priscilla and her husband met accused-appellant who upon seeing Efren started cursing him. Accused-appellant told Efren to fix the house he had destroyed or else something would happen to him.^[6]

Accused-appellant did not attend the barangay conference. Only Armando Perez and his wife did. Priscilla and Efren therefore left and went instead to visit relatives in Tondo. They returned home at around 9:30 p.m. and retired to bed shortly thereafter. At around 12:00 p.m., Priscilla was awakened by a loud explosion which turned out to be a gunshot. She looked out of the window to find what it was about and saw a man running away. Turning to her husband and holding her face against his cheeks, Priscilla felt something wet with her fingers. She saw her husband covered with blood, his skull open and his brains spilling out.^[7] Efren Arceo died before reaching the hospital.

An investigation pointed to accused-appellant Reynaldo Evangelista as the assailant. An information for the murder of Efren Arceo (Criminal Case No. C-23861) and another one for violation of P.D. No. 1866 Illegal Possession of Firearms (Criminal Case No. C-23862) were filed against him with the Regional Trial Court of Caloocan City. Accused-appellant pleaded not guilty to both charges, whereupon he was tried.

The prosecution presented six witnesses, namely, Priscilla Arceo; Dr. Bienvenido Muñoz, the medico-legal officer who conducted the autopsy; Honorato Flores, NBI Supervising Ballistician; Pfc. Paulino Batarina, investigating officer; Pat. Carlos Ladia; and Luis Sakdalan, a cigarette vendor.

Pfc. Batarina testified that the house of Efren and Priscilla was a bungalow and that the window of the bedroom was just three (3) feet above the ground. The bed of the victim was close to the window and was placed perpendicular to it. Priscilla and her husband Efren slept with their heads near the window. The window had wooden grills four (4) inches apart and it was easy to insert a hand between the grills. Anyone standing outside the window could see who was sleeping on the bed.^[8]

Dr. Bienvenido Muñoz testified that Efren died of a gunshot wound.^[9] He recovered a slug inside the victim's cranial cavity and later submitted it to the NBI for examination.^[10]

The ballistics expert, Honorato Flores, testified that the bullet was fired from the firearm (a homemade gun called paltik) recovered from the accused-appellant. His report, contained the following:

FINDINGS-CONCLUSION:

Comparative examination made between evidence bullet marked "EA" and the test bullets fired from the submitted Paltik Pistol marked "PTB" revealed that they possess similar individual characteristic markings; said evidence bullet was fired through the barrel of this particular firearm.

The transcript of stenographic notes of the testimonies of Pat. Ladia and Luis Sakdalan are not in the records of this case. An order for the retaking of their testimonies was issued by this Court, however, Pat. Ladia and Luis Sakdalan could no longer be located. But the records contain Pat. Ladia's affidavit in which he said that accused-appellant had confessed to the commission of the crime. Ladia also gave the circumstances surrounding such admission.^[11] In addition, the trial court's decision contains a summary of the testimonies of Pat. Ladia and Luis Sakdalan, to wit:^[12]

On January 7, 1985 police investigator Carlos Ladia, Jr. apprehended the accused Reynaldo Evangelista. At first, he denied participation in the killing of the deceased. But later on he confided to Ladia that his conscience bothered him because the victim happened to be his friend. Ladia then asked him where the gun he used in the killing was and the accused said he had entrusted it to a friend at Marcela Street. So accompanied by another policeman, Renato Guevarra, Ladia and the

accused proceeded to Marcela Street where they looked for a certain "Wiwit" or Luis Sakdalan, a cigarette vendor. The accused asked Sakdalan to get the gun from a friend whose name was not disclosed. Sakdalan hesitated to do the errand at first but when assured that he would not be involved in the case he consented. Sakdalan left and about twenty minutes later came back with a firearm wrapped in a plastic. The gun turned out to be a paltik armalite-type pistol, caliber. 223. (Exh. "C").

Priscilla Arceo pointed to accused-appellant Reynaldo Evangelista as the man she saw running away after the explosion. She stated that even if she saw the assailant with only his back turned on her, she was certain that it was accused-appellant because she had known him for a long time, accused-appellant having been their former neighbor. Her testimony on this point is as follows:^[13]

Q.

You relayed that your husband died at around twelve midnight how did you find out your husband is dead, how did you come to know that your husband was dead?

A I heard a loud explosion coming from the outside through our window and I saw a person, a man, about to go away, sir.

Q Did you come to know who that man was?

A I only noticed his body contour, sir.

Q From what you observed it?

A Yes, sir.

Q Who?

A Redgie, sir.

Q How far were you from him when you noticed him?

A The distance from our house until the other house, sir.
Around four meters, sir.

x x x x x x x x x

Q And when you looked through the window what did you expect to see at that time?

A Nothing, sir.

Q And from your testimony you saw the contours or appearance of a man?

A Yes, sir.

Q In other words, 'it is like a silhouette of a person?

A I just saw the whole body of a person, sir.

Q And the silhouette or contour of a person was it frontal or on the back or dorsal?

A Back parts, sir.

Q And upon further questioning by the prosecutor you conclude the person being have the silhouette is the one who shot your husband?

A Yes, sir.

FISCAL FARAON:

- I object to the words silhouette.
- A** It was a shape of a person, sir.
- Q** Frontal or backward when you mentioned it refers to a shape of a person?
- A** Backwards, sir.
- Q** Now, you mentioned or you testified that the shape of a person belonged to the accused Reynaldo Evangelista, why do you say that?
- A** Because I have known him for a long time already, sir.
- Q** So what, if you have known him for a longtime, why did you conclude that silhouette from?
- A** Because if you know somebody even from behind you can recognize him, sir.

Accused-appellant had an alibi. He claimed that on January 2, 1985, at around 12:00 p.m., he was at a wake, playing sakla and that he stayed there until 2:00 a.m. of January 3. He said his presence there could be confirmed by people who played *sakla* with him.^[14] Accused-appellant was supposed to present a witness, Severino Biasong, to attest to his presence at the wake, but the witness failed to testify. When questioned as to the identity of the person who died and as to the person who owned the house, accused-appellant said he did not know who the dead man was and who owned the house, as he went there only to play sakla.^[15]

The Regional Trial Court of Caloocan City, Branch 130, found the accused guilty of murder and aggravated illegal possession of firearm under P.D. No. 1866, §1 par. 2. The dispositive portion of its decision, dated April 23, 1986,^[16] reads:

IN VIEW OF THE FOREGOING CONSIDERATIONS, the Court finds the accused Reynaldo Evangelista guilty beyond reasonable doubt of the crimes charged and hereby sentences him as follows:

In Criminal Case No. C-23861, for murder, to suffer the indivisible penalty of reclusion perpetua and to indemnify the heirs of the deceased Efren Arceo y Marcos in the sum of FIFTEEN THOUSAND PESOS (P15,000) as compensatory damages and another THIRTY THOUSAND PESOS (P30,000) as civil indemnity.

In Criminal Case No. C-23862, for illegal possession of firearm, to suffer the supreme penalty of death.

Costs against the accused in both cases.

The case came up to this Court on automatic review. Meanwhile the 1987 Constitution took effect, prohibiting the imposition of the death penalty except in cases involving heinous crimes determined by Congress.^[17] As a result, the death sentence on the accused-appellant was automatically reduced to reclusion perpetua.^[18] The accused-appellant was asked to inform the Court if he wanted to pursue his

appeal and, if so, to file his appellant's brief. Accused-appellant indicated he did, submitting for this purpose his appeal brief. He assigns as errors the following:[19]

I. THE TRIAL COURT GRAVELY ERRED IN FINDING MUCH WEIGHT AND CREDENCE ON THE EVIDENCE PRESENTED BY THE PROSECUTION.

II. THE TRIAL COURT GRAVELY ERRED IN FINDING HEREIN ACCUSED-APPELLANT GUILTY BEYOND REASONABLE DOUBT OF THE CRIMES OF MURDER AND ILLEGAL POSSESSION OF FIREARM CHARGED IN TWO SEPARATE INFORMATIONS.

I. In G.R. No. 84332, several reasons exist which show beyond reasonable doubt that accused-appellant is guilty of murder.

First, there was sufficient identification of accused-appellant by the widow, Priscilla Arceo. Priscilla was positive that accused-appellant was the one who had shot her husband even though he saw only the back part and the body contour of the assailant, because she had known accused-appellant for a long time and she was familiar with him.[20] At the time she saw him, accused-appellant was only four meters away. There was sufficient illumination from a lamppost six meters away from Priscilla's house. Thus, Priscilla testified:[21]

Q The distance according to you to the silhouette that you saw depicting the body shape of a person was about four meters away?

A Yes, sir.

Q That would be same yard to that window?

A Yes, sir.

Q And the time was midnight?

A Yes, sir.

Q During that time was it dark, very dark, light or very bright?

A It was not so dark because there is a light coming from the lamppost, sir.

Q How far is that from the lamppost or silhouette?

A Six meters away, sir.

Q From the lamppost, because of that you will be able to recognize, did you shout to the person?

A No, sir.

Q And how long did that person stay in that place?

A He just disappeared to that distance, sir.

Q How long did you see him there up to the time he disappeared?

A Just a minute, sir.

Q For one minute there and before he ran away?

A Yes, sir.

Q When you watched that silhouette for one minute what was that silhouette doing for that one minute?