

## THIRD DIVISION

[ G.R. No. 118653, September 23, 1996 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
MARCOS VILLEGAS, ACCUSED-APPELLANT.**

### **E C I S I O N**

**DAVIDE, JR., J.:**

Accused-appellant Marcos Villegas seeks the reversal of the decision<sup>[1]</sup> of 15 February 1994 of the Regional Trial Court (RTC) of Pasig, Branch 164, in Criminal Case No. 82088, finding him guilty beyond reasonable doubt of the crime of Murder and sentencing him to suffer the penalty of *reclusion perpetua*; to indemnify the heirs of the deceased the sum of P50,000.00; to reimburse the victim's mother for the funeral and sundry expenses; and to pay the costs. In the alternative, he prays for a modification of the decision that he be convicted only of homicide.

The accusatory portion of the information in Criminal Case No. 82088, filed on 2 May 1990, reads as follows:

That on or about the 18th day of December, 1989, in the Municipality of Pasig, Metro-Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, armed with a hunting knife, with intent to kill and with the attendant qualifying circumstances [sic] of treachery did, then and there willfully, unlawfully and feloniously stab with said deadly weapon one Lauro de Guzman y Manteza, hitting him on the left side of his body, thereby inflicting upon the latter stab wounds which directly caused his death.

CONTRARY TO LAW.<sup>[2]</sup>

The Order of Arrest of 9 May 1990<sup>[3]</sup> was returned with a notation that the accused had left his residence and that his whereabouts were unknown. In view thereof, the trial court ordered on 22 February 1991<sup>[4]</sup> that the case be archived until such time that the accused could be brought before the court for trial.

In a 1st Indorsement<sup>[5]</sup> dated 5 August 1993, P/Supt. Benjamin M. Go, Jr., informed the trial court that the order of arrest had been served upon the accused on even date, after he was arrested and detained on 2 August 1993 for violation of R.A. No. 6425, specifically, possession of dried marijuana leaves.<sup>[6]</sup>

At his arraignment on 22 September 1993, the accused entered a plea of not guilty.<sup>[7]</sup>

To establish its case, the prosecution presented three witnesses, namely, eyewitness Lorenzo Marcelo; Eleuteria de Guzman, the victim's mother; and Dr. Dario Gajardo,

who conducted the autopsy on the cadaver of the victim.

Lorenzo Marcelo declared that at around 11:30 p.m. of 18 December 1989, he was walking home from *Aling Nemy's* store near Orocan Street, Santolan, Pasig, Metro Manila. He was ahead of Lauro de Guzman, his neighbor, by three arm-lengths. They came from a dark alley and were headed towards a portion lit by a nearby MERALCO post located in front of the house of Benny Yang. Then suddenly, the accused darted from a small sidestreet or alley, approached Lauro from behind, and stabbed the latter once with a long weapon similar to a hunting knife, hitting Lauro on the left side of his back. The accused then ran away. Marcelo and a certain Dodong Yuson brought the victim to the hospital<sup>[8]</sup> where he died on 20 December 1989.<sup>[9]</sup>

Dr. Dario Gajardo, Medico-Legal Officer and Chief of the Integrated National Police (INP) Crime Laboratory Service, performed the autopsy upon request<sup>[10]</sup> of the Eastern Police District, Pasig Station, and with the consent of the victim's mother.<sup>[11]</sup> In his Medico-Legal Report,<sup>[12]</sup> Dr. Gajardo concluded that the cause of death was "cardio-respiratory arrest due to shock & hemorrhage secondary to stab wounds in the trunk." His findings were

- (1) healed abrasion, left mammary region ...
- (2) stab wound, left lumbar region ... directed posteriorwards and mediawards, lacerating the pancreas ...
- (3) stab wound, left lumbar region ... directed downwards, posteriorwards and mediawards, lacerating the intestine ...

On the witness stand, however, Dr. Gajardo declared that he found only one stab wound located "on the left thorax or the chest."<sup>[13]</sup> He further testified that the wound could have been caused by a pointed single-bladed weapon and that the assailant either came from the victim's left side or both the victim and his assailant were facing each other.<sup>[14]</sup>

Eleuteria de Guzman testified that she saw the accused only once prior to the death of her son, Lauro de Guzman. The latter was single and gainfully employed during his lifetime as a shoemaker and earned from P500.00 to P700.00 a week. She spent P10,000.00 in connection with Lauro's death.<sup>[15]</sup>

The accused raised the defenses of alibi and denial. He testified that on 18 December 1989, at around 11:30 p.m., he was plying his route as a tricycle driver in Santolan, Pasig. When he parked his tricycle in front of his house, he noticed a commotion about one lamp post away. Three persons, one whom he recognized as a certain Danny Bisaya, ran to him and asked him to bring them to Marcos Highway. He agreed. When he returned home, he learned that Lauro de Guzman was stabbed. He knew the victim, as they were together in a *cursillo* house in San Pedro, Laguna, but they were unable to speak with each other then.<sup>[16]</sup>

Adelo Tena corroborated the story of the accused.

On 15 February 1994, the trial court promulgated the decision appealed from finding the accused guilty beyond reasonable doubt of the crime charged. It passed upon

the credibility of eyewitness Marcelo vis-a-vis that of the accused and Tena, and gave full faith and credence to that of Marcelo. Despite the accused's claims, the trial court considered his "flight" as indicative of guilt in view of the inability to serve upon him the order of arrest, which resulted in the archiving of the case; and appreciated against him the qualifying circumstance of treachery.

The accused seasonably filed his Notice of Appeal.

In his Appellant's Brief, the accused asserts that the trial court erred (1) in giving weight and credence to the testimony of prosecution eyewitness Lorenzo Marcelo whose testimony is doubtful and contradictory, and (2) in holding that the crime charged was committed with the attendant qualifying circumstance of treachery.<sup>[17]</sup>

The accused invokes the presumption of innocence and contends that the quantum of evidence required for a conviction was not met through Marcelo's eyewitness account. Initially, the accused characterizes as improbable Marcelo's claim that the assailant stabbed the victim on the chest while the assailant came from behind the victim. Further, Marcelo made incredible statements, such as when he claimed that the alley from where the accused came from was dark, yet on cross-examination, Marcelo admitted that the place was only five armslengths away from the lamp post; and although he testified on cross-examination that he did not speak with the victim, yet, when confronted with his sworn statement, he admitted that he invited the victim to eat, but not to talk.

Anent the second error, the accused argues that assuming he killed the victim, treachery was not established, for (a) Marcelo's testimony shows that he could not have seen how the attack commenced since Marcelo was walking ahead of the victim; (b) it was highly probable that the victim could have seen the accused coming from the alley as the distance between the alley and the well-lit area was only between five to six meters; and (c) the location of the wound, i.e., on the victim's chest, when considered together with Dr. Gajardo's testimony that the victim and the assailant could have been facing each other, negate the presence of treachery.

In the Appellee's Brief filed by the Office of the Solicitor General, the People contend that the determination of the credibility of witnesses is left to the trial court that prosecution witness Marcelo was not compelled by any ill-motive, and that the alleged contradictions raised by the accused were but minor and frivolous and not connected with the main overt act in question. With respect to the finding of treachery, the People are in full accord with the trial court, but recommend that the accused be meted out the penalty of twenty-seven years of *reclusion perpetua* in view of the favorable provisions of R.A. No. 7659.

After a meticulous scrutiny and evaluation of the evidence, we find the imputed errors to be without merit.

It is not at all improbable that the injury sustained by the victim was inflicted by an assailant who approached the former from behind. One need not unduly stretch his imagination to infer that it could be done without much difficulty through the proper positioning of the hand wielding the weapon. We have no doubt whatsoever in our minds that prosecution witness Marcelo was at the scene of the crime and saw the victim and the accused. On this, the accused was unable to cast serious doubt;