

THIRD DIVISION

[G.R. No. 112984, November 14, 1996]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
CRESENCIO DE GRACIA AND BONIFACIO DE GRACIA, ACCUSED-
APPELLANTS.**

D E C I S I O N

FRANCISCO, J.:

On February 19, 1992, Crispin Almazan died as a result of the injuries inflicted on his person. The Autopsy Report (Exhibit F-3) contains the post mortem findings: " (1) Compound fracture nasal bone possibly caused by a blunt instrument; (2) Stab wound on the right side of the neck caused by sharp edged object with pointed tip; (3) Stab wound on the right nasolabial fold caused by sharp edge instrument with pointed tip; (4) Stab wound on the left side of the neck caused by pointed sharp edge instrument; (5) Stab wound on the left chest, mid-clavicular line (second intercostal space); (6) Stab wound on the left chest below the shoulder bone (sub-clavicular area)."^[1]

In an Information dated April 10, 1992, the brothers Cresencio De Gracia, Dalmacio de Gracia and Bonifacio de Gracia were charged with the crime of murder, the accusatory pleading averring substantially as follows:

"That on or about the 19th day of February 1992, in the Municipality of Cuyapo, Province of Nueva Viscaya, Republic of the Philippines and within the jurisdiction of this Honorable Court, the above-named accused armed with a bladed weapon with intent to kill, with evident premeditation, treachery and taking advantage of their superior strength, conspiring, confederating and helping with one another, did then and there, wilfully, unlawfully, criminally and feloniously attack assault, stab and hack one Crispin Almazan hitting his throat and face, thereby inflicting upon him multiple hack-stab wounds which directly caused his instantaneous death.

CONTRARY TO LAW."^[2]

Upon arraignment, the accused, with the exception of Dalmacio de Gracia who is at large, pleaded "not guilty" and the case accordingly proceeded to trial. Thereafter, judgment was rendered finding Cresencio and **Bonifacio** de Gracia guilty as charged and sentenced "to suffer the penalty of reclusion perpetua" . . . and "to indemnify, jointly and severally, the heirs of the deceased Crispin Almazan in the sum of P50,000.00 as moral damages, and the total sum of P29,250.00 as actual damages and expenses, without subsidiary imprisonment in case of insolvency, and to pay the costs."^[3]

Accused-appellants now seek the reversal of their conviction based on the following assignment of errors:

"I

THE TRIAL COURT ERRED IN CONVICTING THE ACCUSED-APPELLANTS CRESENCIO DE GRACIA AND BONIFACIO DE GRACIA, JR. ON THE BASIS OF THE PROSECUTION WITNESSES' INCONSISTENT AND IMPROBABLE TESTIMONIES.

II

THE TRIAL COURT ERRED IN NOT GIVING EXCULPATORY WEIGHT ON ACCUSED-APPELLANTS' IMPUTATION OF MOTIVE UPON THE VICTIM AND THE LATTER'S RELATIVES WHO TESTIFIED FOR THE PROSECUTION.

III

THE TRIAL COURT ERRED IN NOT ACQUITTING ACCUSED-APPELLANTS ON THE GROUND OF SELF-DEFENSE AND DEFENSE OF RELATIVE.

IV

THE TRIAL COURT ERRED IN NOT CREDITING ACCUSED-APPELLANT BONIFACIO DE GRACIA, JR. WITH THE MITIGATING CIRCUMSTANCE OF VOLUNTARY SURRENDER AND, CONSEQUENTLY, IN NOT APPLYING THE BENEFITS OF THE INDETERMINATE SENTENCE LAW IN THE IMPOSITION OF THE PENALTY."^[4]

The pertinent antecedents of the case, aptly narrated in the People's brief and duly supported by the evidence on record, are as follows:

"On February 19, 1992 at around 7:00 in the evening, Anita Almazan was at her yard in front of her house in Barangay Cuyapo, Nueva Ecija when she saw brothers Cresencio, Dalmacio and Bonifacio De Gracia hurling invectives against the Almasan family. Soon, her brother-in-law, 70 year old Crispin Almasan, went out of his house toward the yard but was met by the De Gracias. As they came closer, Crispin said, "My sons, why is it that when you are drunk or have taken intoxicating liquor, you used to utter unsavory words against us? You better behave (Annac co, apay aya nga no mabartec kayo ket pagsasawan yo came. Agtal na cayo man)."Vulva of your mother, Almasan" (Okihna yo nga Almazan), Cresencio blurted out as he hooked Crispin's neck with a bamboo (bayog) in his hand. Almost simultaneously, Bonifacio (a.k.a. Junior De Gracia) stabbed Crispin with a sharp pointed bolo about a foot long causing the latter to fall to the ground. Bonifacio followed with blow. Dalmacio took his turn and hit Crispin twice on the right shoulder with a spear (poka). The De Gracias pulled (pinarungguyod) Crispin toward the door of their house where they took turns in stabbing him. Thereafter, the three fled (TSN, July 3, 1992, pp. 2-4, August 4, 1992, pp. 3-4). Upon seeing this, Anita Almazan, who was exactly opposite the crime site, shouted for help. She approached the lifeless bloodsoaked body of the victim and saw the wounds inflicted by appellants.

"Meantime, Aries Almazan, who also witnessed the commission of the crime while guarding his tomatoes on the field about 10 meters away, ran to their house and told the people therein about the fatal incident.

"SPO1 Amado Cabanas, SPO1 Dominador Lozano, and SPO3 Carlito Dumandan, all of Cuyapo Police Station, immediately responded upon receipt of information from Barangay councilman Benedicto and the victim's daughter Lita Almazan. After investigation, SPO3 Dumandan prepared an Investigation Report which he submitted to Chief Investigator Felix Jacoba (Exh. "A"). Recovered from the crime site were a blood-stained 50 inches long spear, about 1 1/2 inches in diameter with iron blade pointed end about 10 inches long, a foot long chisel and a leather scabbard about 10 inches long. SPO3 Dumandan also photographed the victim where they found him (TSN Aug. 28, 1992, pp. 9-10). Anita Almazan executed a sworn statement describing the commission of the crime by appellants (Exh. "D").

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"The victim's brothers and sisters shared in the expenses during the wake which amounted to P24,250.00 (TSN, Oct. 6, 1992, pp. 2-4; Exh. "G")."^[5]

Appellants lay stress on the apparent contradiction between the testimony of the prosecution witnesses Aries Almazan and Anita Almazan as to the location of the incident and the weapons used on the assault. Thus, they point out that while Anita testified that she saw appellants meet Crispin at the latter's house, and the weapon used was a spear, Aries, on the other hand, claimed that Crispin was met by appellants at the ricefield and the weapon used was a bolo. We are not persuaded. Prosecution witnesses Aries and Anita viewed the incident from different locations and angles, hence the variation in their perceptions. The discrepancy as to the place where the appellants met the victim is negligible considering that Crispin's yard was part of the rice field. Similarly, the disparity as to the kind of the weapon used is insignificant in the face of the declaration of Aries that Bonifacio stabbed Crispin with a bolo and Dalmacio with a spear,^[6] while Bonifacio admitted using a spear and chisel.^[7] Furthermore, the autopsy report is emphatic that the injuries suffered by Crispin resulting to his death were caused by "sharp edged object with pointed tip" and "pointed sharp edge instrument". Both a spear and a bolo fall under the description "pointed sharp edged instrument". In the whole, the alleged inconsistencies are inconsequential. The witnesses testifying on the same event do not have to be consistent in every detail as differences in recollection or viewpoints or impressions are inevitable. Total recall or perfect symmetry is not required for as long as the witnesses concur on material points, slight differences in their remembrance of the details do not reflect on the essential veracity of their testimony.^[8] Indeed, "if rights were to be lost merely because witnesses, while agreeing on the essential fact, fail to testify harmoniously to all the particulars, in a very large proportion of cases involving wrongs to be redressed the law would fail to furnish a remedy. Hence, variations in the testimony of witnesses on the same side in respect of minor, collateral, or incidental matters do not usually impair the weight of their united testimony to the prominent facts."^[9]