

## TWENTIETH DIVISION

[ CA-G.R. CR.-H.C. NO. 01613, April 24, 2014 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
ALBERTO PETALINO ALIAS "LANIT", ACCUSED-APPELLANT.**

### DECISION

**HERNANDO, J:**

Before Us is an Appeal<sup>[1]</sup> from the Decision<sup>[2]</sup> dated January 24, 2013 rendered by the Regional Trial Court (RTC), Branch 35 of Iloilo City in Criminal Case No. 48928, finding accused-appellant Alberto Petalino *alias* "Lanit" guilty beyond reasonable doubt of the crime of Murder. The dispositive portion of the assailed Decision reads:

**WHEREFORE**, in the light of the foregoing, judgment is hereby rendered finding the accused, **ALBERTO PETALINO** Alias "Lanit" **GUILTY** beyond reasonable doubt of Murder defined and penalized under Article 248 of the Revised Penal Code. He is hereby sentenced to suffer the penalty of *Reclusion Perpetua* with all the accessory penalties provided for by law. As civil liability, he is ordered to indemnify the heirs of the victim, Johnny Nalangay, P75,000.00 as indemnity ex-delicto, P50,000.00 as moral damages, P30,000.00 as exemplary damages, and P25,000.00 as temperate damages.

The accused is entitled to full credit in the service of his sentence the preventive imprisonment he has undergone pursuant (to) Article 29 of the Revised Penal Code.

SO ORDERED.<sup>[3]</sup>

### **The Antecedents:**

Accused Alberto Petalino *alias* "Lanit" was charged with Murder in an Information<sup>[4]</sup> dated February 19, 1998, the accusatory portion of which states:

That on or about the 30<sup>th</sup> day of November, 1997 in the City of Iloilo, Philipines and within the jurisdiction of this Honorable Court, herein accused, armed with a knife, with treachery and evident premeditation, with a decided purposes to kill, did then and there wilfully, unlawfully and criminally stab, hit and wound Johnny Nalangay with the said knife, which the said accused was provided at the time, thereby causing upon the latter injuries on vital parts of his body which caused his death few hours thereafter.

CONTRARY TO LAW.

On August 31, 1998, the trial court issued an Order<sup>[5]</sup> archiving the record of the case in view of the fact that the accused had remained at large for more than six (6) months. Accused was only arrested on December 10, 2010 and when he was arraigned on February 4, 2011 in the Ilongo dialect which he knew and fully understood, he pleaded not guilty to the crime charged with assistance of his counsel.<sup>[6]</sup>

After the pre-trial stage was terminated<sup>[7]</sup>, trial on the merits ensued.

To establish the guilt of accused Amantillo, the prosecution presented two witnesses, namely, Franklin Bariquit and Jaime Nalangay.

### **Version of the Prosecution**

Eyewitness Franklin Bariquit recalled that on November 30, 1997 he attended a party with his friend, a certain Carlo, in *Barangay* Danao, Iznart Street, Iloilo City. There, he met and befriended Johnny Nalangay, the victim in this case.

At around 1:30 in the morning, he and the victim decided to leave. They then headed towards the YMCA where they intended to get their respective rides for home. Bariquit walked behind the victim when the two passed through a narrow alley towards Iznart St. While they were walking, Bariquit saw a person, whom he later identified as accused Alberto Petalino *alias* Lanit, walking towards them from the opposite direction. When accused had passed the victim, he suddenly turned towards him, grabbed his hair and without warning stabbed the victim in the back. The victim tried to run away, but he fell down after running a distance.

Thereafter, the accused and Bariquit confronted each other. The latter kicked the accused causing him to fall down and to drop his knife. Bariquit then ran away and proceeded to PO's Marketing which was located near the Bank of the Philippine Islands. After sensing that the accused was no longer chasing him, Bariquit went back to the alley where he last saw the victim. There, Bariquit found the victim lying on the ground, face down and bloodied all over. The victim managed to utter some words but became unconscious when he was taken to St. Paul's Hospital where he eventually died.

Jaime Nalangay, the father of the victim, testified that his son was only twenty (20) years old at the time of his untimely death. According to him, a police officer and his friend came over to their house and informed him that his son was stabbed. Thus, he went to the hospital but when he arrived there, he found his son dead. Nalangay alleged that he spent Php15,000.00 for the embalming of his son's remains and another Php10,000.00 for his burial although he could not present the receipts as he lost them. He also asserted that his son's death caused him so much pain which could never be quantified into monetary amount.

### **Version of the defense**

The defense interposed the defense of denial.

Accused Petalino testified in court to refute the accusations against him.

Accused narrated that on November 30, 1997 at around eleven o'clock in the evening, he was at his sister's store located in Valeria-Solis Street, Iloilo City helping his sister serve the customers. He left the store shortly later and headed home towards Valeria-Iznart Streets, Iloilo City. He entered a narrow alley along the way and met two persons. One of them, a certain Bariquit, called him "Lanit". At first, he did not reply as he did not know the two. When he was called the second time, he turned his back and accidentally bumped into another person that he later identified as the victim.

Accused apologized but the victim got angry and boxed him on his chest. Accused lost control and punched the victim back. Thereafter, the victim fell down, drew his knife and chased him. The victim then attempted to stab him but they wrestled and accused was able to get hold of the knife. Meanwhile, the victim's two other companions attempted to help. This prompted accused to run away as both were drunk. He was chased and so, he ran towards the interior portion of Valeria Street and proceeded inside his nipa hut.

During his cross-examination, accused averred that he was able to evade the stabbing blows because the victim was drunk and he was not. He did not know if the victim was wounded when he left the place. After the incident, he stayed in his nipa hut and went home to *Barangay* Sinikway, Lapuz. He was later imprisoned for another criminal case, that of alarm and scandal. Later still, he learned that he was likewise charged with the crime of Murder for allegedly killing the victim Johnny Nalangay.

On January 24, 2013, the trial court rendered its assailed Decision finding accused Alberto Petalino *alias* "Lanit" guilty beyond reasonable doubt for the crime of Murder. It appreciated the circumstance of treachery which qualified the killing to murder.

Hence, this appeal by accused-appellant anchored on the following assignment of errors, to wit:

**The Assigned Errors:**<sup>[8]</sup>

I.

THE TRIAL COURT ERRED IN CONVICTING THE ACCUSED-APPELLANT OF THE CRIME CHARGED DESPITE FAILURE OF THE PROSECUTION TO PROVE HIS GUILT BEYOND REASONABLE (DOUBT);

II.

THE TRIAL COURT ERRED IN APPRECIATING THE QUALIFYING CIRCUMSTANCE OF TREACHERY WHEN IT WAS NOT PROVEN BY THE PROSECUTION.

**The Court's Ruling:**

*The appeal is bereft of merit.*

Appellant argues that the prosecution failed to establish his guilt beyond reasonable doubt. He points out to the supposed several inconsistencies and discrepancies in

the testimony of prosecution witness, Franklin Baraquit, which purportedly made his testimony inherently incredible and unreliable.

This Court holds otherwise.

First and foremost, it should be emphasized that the prosecution witness, Franklin Baraquit, personally witnessed the commission of the crime. In court, he positively and categorically identified appellant as the one who stabbed and killed the victim. In clear, straightforward and vivid details, Baraquit recalled as to how the stabbing incident transpired, thus:

Q: And, can you tell us if there was any untoward incident that happened?

A: There was, ma'am.

Q: What was that incident?

A: When we were on our way home, Johnny was chased and stabbed by someone and I was at his back.

Q: And, who was that person stabbed Johnny?

A: Someone called Alberto Petalino alias "Lanit".

Q: And, if this Alberto Petalino is in court, will you be able to identify him?

A: Yes, ma'am.

Q: Can you point him to us, Mr. Witness?

INTERPRETER:

The witness stood up and approached the accused who was sitting on the accused's bench and when asked of his name he answered Alberto Petalino.

Q: You said that Johnny was stabbed by Alberto Petalino. In what portion of the body of Johnny was he stabbed?

A: On the left portion of his back.

Q: And, how far were you from Johnny and the accused when the stabbing took place?

A: More than ten (10) armslength, ma'am.

Q: And, can you demonstrate to us, Mr. witness, how the stabbing took place? May I request, your Honor please, the staff to represent the victim in the demonstration.

INTERPRETER:

The witness demonstrated how Alberto Petalino stabbed the victim by representing himself as the accused and Mr. Cabayao as the victim. Along the way they met each other and when he passed over the victim, he turned his body towards the victim and grabbed his hair using his right hand and stabbed him at his back using his left hand and the direction of the knife is towards the left portion of his body.

The foregoing evidently shows the culpability of appellant.

On the other hand, the purported inconsistent statements of Baraquit raised by appellant are not as serious and damaging as appellant insists they are. On the contrary, they refer only to minor or trivial matters which do not necessarily impair or taint the credibility of the witness and his testimony.

We stress that whether or not the witness and the victim actually came from a birthday party or any other party prior to the stabbing incident and/or whether or