

## SEVENTEENTH DIVISION

[ CA-G.R. CR NO. 34908, November 05, 2014 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. NOEL BITENIO Y YUMUL, ACCUSED-APPELLANT.**

### DECISION

**BARRIOS, M. M., J.:**

On appeal is the Decision<sup>[1]</sup> dated 19 March 2012 of the Regional Trial Court, Branch 41 of Manila, finding accused-appellant<sup>[2]</sup> guilty of the crime of homicide. The dispositive portion reads:

x x x

*"Wherefore, the prosecution having established the guilt of the accused beyond reasonable doubt, his conviction of the crime of Homicide punishable under Article 249 of the Revised Penal Code is hereby pronounced.*

*Accordingly, he is sentenced to suffer the penalty of reclusion temporal, imposed in its medium period, ranging from 14 years, 8 months and one day to 15 years, six months and 19 days as minimum to 15 years, 6 months and 20 days to 16 years, 5 months and 9 days as maximum.*

*Further, he is directed to indemnify the heirs of the victim in the sum of P75,000.00, consistent with settled jurisprudence. However, no civil and moral damages can be awarded for want of basis.*

*SO ORDERED."*

x x x

### **The Facts of the Case**

The Information<sup>[3]</sup> charged accused-appellant with the crime of homicide committed as follows:

x x x

*"That on or about January 5, 2007, in the City of Manila, Philippines, the said accused, did then and there willfully, unlawfully and feloniously with*

*intent to kill, attack, assault and use personal violence upon one ROWENA SANTOS Y INTENCION by then and there hacking and stabbing the latter on the different parts of her body with a small samurai and butcher's knife, thereby inflicting upon the latter hack/stab wounds which were the direct and immediate cause of his (sic) death thereafter.*

CONTRARY TO LAW."

X X X

When arraigned, accused-appellant pleaded not guilty.<sup>[4]</sup> Pre-trial was terminated due to his failure to appear despite notice.<sup>[5]</sup> Trial on the merits then ensued.

The prosecution witnesses were: Barangay Kagawad Carlos Bitenio, who is accused-appellant's relative; Barangay Chairman Alfredo Calonsag, Jr. of Barangay 601, Sta. Mesa, Manila; Mary Ann Chico of the Manila City Civil Registrar; case investigator SPO2 Edmundo Cabal; medico-legal officer Dr. Romeo T. Salen of the Manila Police District Crime Laboratory and evidence custodian SPO1 Ronaldo Samson. These witnesses identified the documentary and object evidence<sup>[6]</sup>, namely: the booking sheet and arrest report; letter-referral to the Manila City Prosecutor and the advance information by the Manila Police District-Crime Against Persons Section; the request for and the result of the autopsy; certification of identification and consent for autopsy; Medico-Legal Report No. M-2007-07; the handwritten sworn statement dated 07 January 2007 of Barangay Kagawad Carlos Bitenio; the victim's death certificate; and the accused-appellant's blood-stained shirt.

The prosecution's evidence disclose that in the early morning of 05 January 2007, Barangay Kagawad Carlos Bitenio (Bitenio) was summoned by accused-appellant to the latter's residence situated at No. 1664 Ilang-Ilang Street, Sta. Mesa, Manila. When he reached the place, he saw appellant seated and looking sad. At appellant's prodding, he went inside and saw a dead person lying face down in a pool of blood in the kitchen. Kagawad Bitenio immediately went to the house of the Barangay Chairman Alfredo Calonsag, Jr. (Calonsag) to report the incident.

Chairman Calonsag then instructed his wife to call the police and immediately went to the scene. When he arrived at the scene, he saw appellant seated outside his house with wounds in his hands and his t-shirt splattered with blood.<sup>[7]</sup> The things inside the house were in disarray and the dead woman was sprawled in the kitchen.

At around 1:25 A.M. of 05 January 2007, SPO2 Edmundo Cabal (SPO2 Cabal) received a phone call from SPO2 Candelaria of Police Station 8 to respond to the incident. Upon arrival, SPO2 Cabal and a team of Scene of the Crime Operatives (SOCO) saw the corpse of a bloodied woman lying face down on the cemented floor of appellant's house. SOCO Team Leader, Chief Inspector Oscar Mojica, recovered a small samurai and a butcher's knife at the scene. SPO2 Cabal interrogated several persons but no one could give him a good account of the incident, but they later received information that the victim was the live-in partner of accused-appellant whose name is Rowena Santos y Intencion.