

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
URBANO DAMASO, DEFENDANT-APPELLANT.***G. R. No. L-22553. November 24, 1966*

Ponente: CONCEPCION, C.J.

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Defendant Urbano Damaso seeks the reversal of a decision of the Court of First Instance of Tarlac, convicting him of the crime of parricide and sentencing him to life imprisonment, with the accessory penalties prescribed by law, and to indemnify the heirs of Raymunda Pascua in the sum of P6, 000, without subsidiary imprisonment in case of insolvency, as well as to pay the costs.

Appellant Urbano Damaso was married to Raymunda Pascua, who admittedly died, in her house, in the barrio of San Agustin, municipality of Victoria, Tarlac, in the evening of February 10 to 11, 1959, in consequence of four (4) stab wounds in the thorax, on the left side of the mammary line, aside from several injuries sustained in other parts of the body, The only question for determination in this case is the identity of the culprit.

The main direct evidence for the prosecution consists of the testimony of Antonio Valdoz, who was about seven (7) years of age, at the time of the occurrence. Antonio's mother is Consolacion Pascua, a sister of the deceased Raymunda Pascua, with whom Antonio lived because she was childless. He testified that Raymunda Pascua was crying when appellant returned home late in the evening of February 10 to 11, 1959; that, soon thereafter, the spouses quarreled with each other; that, in the course of the quarrel, appellant held Raymunda by the neck, and then wounded her several times with a scythe; that, subsequently, appellant put off the lamp and then left; and that, overcome with fear, Antonio Valdoz, likewise, left appellant's house and went to that of his aunt Magdalena Damaso, whom he told that Raymunda was dead already, but Magdalena bade him to sleep, which he did.

The theory of the defense is to the effect that, from 8:00 p. on February 10, 1959, to 5:00 a.m., the next morning, appellant in the house of his brother, Macario Damaso, about a kilometer away from the scene of the occurrence, helping butcher, slice and cook a pig and two goats, which were served during a party to celebrate the baptism of Macario's children, which took place later, on February 11, 1959; that, when appellant reached his house, at about 6:00 a.m., he found his wife dead, with the injuries adverted to above; and that, sometime later, that same morning, he noticed that the P200, in cash, he and his wife kept at the foot of a cardboard, were missing.

In addition to his testimony, appellant introduced the testimonies of Escolastica Gadia and Feliciano Cordova, as regards his presence in the house of his brother Macario, in the evening of February 10 to 11, 1959. Through the testimony of Magdalena Damaso, he, likewise, tried to prove that Antonio Valdoz could not have witnessed the killing of Raymunda Pascua, because Antonio had spent said evening in her (Magdalena's) house.

The lower court gave no credence to these witnesses for the defense, and accepted the version of the prosecution. Hence, the judgment appealed from. Upon a review of the record, we find no plausible reason to interfere with the findings of fact and the conclusions reached by His Honor, the trial Judge, who was in a better position than we are to pass upon the veracity of the opposing witnesses.

Indeed, Antonio Valdoz had, admittedly, no possible motive to falsely incriminate appellant herein. What is more, the former owed gratitude to the latter for having, in effect, adopted and treated him as his own son. Besides, the house of Macario Damaso was only a kilometer away from that of herein appellant, who could have slipped away from Macario's house and gone to his (appellant's) own house, sometime after midnight, and then, after committing the crime charged, returned to the house of Macario, to mingle with those helping in the preparations for the forthcoming baptismal party, and thus bolster up his alibi. Then, too, it is not unlikely that appellant returned home earlier than he would have us believe, and then committed said crime, in the manner testified to by Antonio Valdoz.

More important, still, is the fact that his (Antonio's) testimony has been corroborated by a number of circumstances, about which there can be no doubt. Thus, for instance, he left appellant's house in the evening of the occurrence, and spent part of it in another house. Antonio testified that he did so because of the fear generated by the commission, in his presence, of the crime charged. In fact, when he went to Magdalena's house said evening, he told her that Raymunda Pascua was dead already. This testimony was, in turn, confirmed by the fact that, upon seeing his mother the next morning - while she was proceeding to appellant's house, but before either she or he had reached the same - Antonio embraced her and said, weeping: "My Aunt Andang (Raymunda's nickname) is dead; my uncle Banong (appellant's nickname) killed her."

Soon, later, that same morning, Pat. Pacheco of the local police force, who investigated the occurrence, noticed that Antonio Valdoz was not in appellant's house and located him in that of his natural parents, Alfredo Valdoz and Consolacion Pascua. As Pacheco inquired about the reason for his presence in the latter's house, Antonio Valdoz replied: "I am afraid to go back to the house" of appellant and his deceased wife. Pacheco asked for the reason of his fear, whereupon Antonio replied that "Tatang Banong" had killed "Nanang Andang." When Pacheco and Patrolman Custodio, thereafter, brought him to appellant's house, Antonio began to cry and told them that he was afraid. Prompted to explain what he was afraid of, the boy answered: "Tatang co Banong patay na Nanang co Andang. " Urged to- describe how appellant had killed his wife, Antonio answered: "dugsol, dugsol, dugsol, Nanang," meaning that he "stabbed, and stabbed and stabbed, auntie." As he searched appellant's house Pacheco found tucked into one of its walls a wet bolo or scythe (Exh. C) with blood stains near the ring around the base of the blade. Upon seeing the scythe, Antonio said: "That is the instrument. That is the instrument with which my uncle stabbed my Aunt."

This, in substance, was reiterated by Antonio in an affidavit made that same date, before the justice of the peace of Victoria, Tarlac, and at the preliminary investigation conducted the next day. He similarly testified before Judge Bernabe Aquino - who presided over the lower court, when this case was first heard in 1961 - and, later, in 1963 - upon Judge Aquino's retirement - before his successor in office.

Again, Cipriano Pascua, father of the deceased, testified that, sometime before the occurrence, he had overheard appellant and his wife quarreling in their house, which was only six (6) meters away from his own dwelling; that, the argument between said couple was due to the illicit relations of appellant with his cousin and neighbor, Magdalena Damaso; and that, on January 8, 1959, Raymunda Pascua reported to her father that, three (3) days before, she had caught appellant having carnal relations with Magdalena, in the latter's house, and that they threatened to kill her (Raymunda) if she did not stop "broadcasting" their affair.

In addition, the records disclose inter alia, the following circumstances, indicating that the theory of the prosecution is substantially true, and that the evidence for the defense merits no credence, namely:

1. An echymosis on the anterior left forearm of the deceased, indicating that she had struggled with her assailant, was confirmed by a scratch on appellant's left forearm, which he tried to explain by saying that it had been caused

by the pig slaughtered in the house of his brother Macario;

2. Clotted spots of blood were found on the left pocket of his polo shirt and on the portion of his trousers corresponding to his left thigh and left leg. Admittedly, the blood was that of the deceased, although appellant would have us believe that it was due to the fact that, upon finding her dead, he lifted her body and brought it to the living room of their house. However, said spots were caused by the spurting blood of a person still alive or who was dying, according to the unimpeached testimony of Dr. Briones, the municipal health officer of Victoria;

3. Appellant did not report the death of his wife either to the authorities or even to his father-in-law, Cipriano Pascua, whose house was only a few meters away from that of appellant. In fact, when Cipriano expressed the wish to have the death of his daughter investigated, appellant objected thereto, saying: "Why should you ask for the investigation when she is already dead?"

4. The scythe with which Raymunda had been wounded, according to Antonio Valdoz, was found washed - although still with traces of human blood - and tucked in a wall of appellant's house.

5. By testifying that, soon after he had found his wife dead, he noticed the disappearance of P200, appellant sought to insinuate that robbery was the motive for her assassination. However, he had never mentioned the alleged loss of said amount to the peace officers who investigated him.

6. The witnesses for the defense, namely, Escolastica Gadia, Feliciano Cordova and Magdalena Damaso, were appellant's cousin-in-law, brother-in-law and cousin, respectively, apart from the fact that their testimony are contradictory in many respects. It may not be amiss to note, moreover, that Magdalena is the alleged mistress of appellant herein, who, likewise, tried to deny his relationship with Gadia and Cordova.

Being in accordance with the facts and the law, the decision appealed from should be, as it is hereby, affirmed, with costs against the appellant.

IT IS SO ORDERED.

Reyes, J. B. L., Barrera, Dizon, Regala, Makalintal, Bengzon, J. P., Zaldivar, Sanchez, and Ruiz Castro, JJ., concur.

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