

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
DANILO MANALO Y LATAG, VICENTE VILLAPANDO Y ROXAS,
ANTONIO FAJARDO Y CARINO AND JOSE MANALO Y LATAG,
ACCUSED-APPELLANTS.**

G.R. No. 107329. January 24, 1994

Ponente: PUNO, J.

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PUNO, J.:

Accused-appellants were charged with MURDER before the Regional Trial Court (Branch V)[1] of Lemery, Batangas. The amended information[2] dated December 20, 1983 reads:

"That on or about the 5th day of June, 1983, at about 1:30 o'clock in the morning, in Poblacion East, Municipality of Alitagtag, Province of Batangas, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused Danilo Manalo y Latag, Vicente Villapando y Roxas, and Jose Manalo y Latag, armed with a hunting knife, ice-pick and fan knife (balisong), respectively, together with their co-accused Antonio Fajardo y Carino who is (sic) holding the hands of the victim, conspiring and confederating together, acting in common accord and mutually helping one another, with treachery and evident premeditation, did then and there wilfully, unlawfully and feloniously attack, assault and stab suddenly and without warning one Edilberto Arguelles y Dadar, thereby inflicting upon the latter several stab wounds on the different parts of his body which directly caused his instantaneous death.

"That in the commission of the crime, the aggravating circumstance of abuse of superior strength was in attendant (sic)."

Upon arraignment, accused-appellants pleaded NOT GUILTY.[3] Hence, trial on the merits ensued.

These are the facts:

On June 5, 1983, at around 1:30 A.M., Rosana Balino[4] was in the poblacion of Alitagtag, Batangas. She was near the church, located along the highway, waiting for a ride to her hometown, Lemery. Patrolman Edilberto Arguelles, the victim, happened to be within the vicinity. Concerned with her safety as it was already late, Pat. Arguelles assured her that he would flag down a vehicle for her. She was made to sit on a bench of a store nearby. He, on the other hand, waited for a vehicle along the highway.

Later on, they saw a group of not less than four men coming. Pat. Arguelles warned her: "mag-ingat ka, tarantado ang mga ito." Pat. Arguelles then approached the group who, at that time, were lifting a wooden barricade on the street. He admonished them not to lift the barricade as vehicles would still pass by. The group left and proceeded to a store near the church. After awhile, Rosana told Pat. Arguelles that he could leave her alone. He did. She did not see where he went.[5]

Meanwhile, the four men left the store. They went past Rosana on their way to the right side of the church. Thereafter, Rosana heard one of them shout thrice: "putang-ina mo, lumabas ang duwag at matapang." Suddenly,

she saw Pat. Arguelles rushing to the street from nowhere. He fired a warning shot and approached the group. She heard him say: "sumusobra na kayo." Another shot was fired. She then saw Pat. Arguelles held the hand of a man. They fought on the ground as they were scuffling for something. She hid but Pat. Arguelles managed to tell her to fetch a policeman from the nearby municipal building. She hurriedly complied. At the municipal building she reported the on-going scrimmage to Patrolman Nestor Reyes.[6] On their way to the place of the incident, they met witness Crispin Badillo. He, too, witnessed the flurry. Crispin then told Rosana and Pat. Reyes that the victim was probably dead.

Prior to the incident, CRISPIN BADILLO, was with his friends at the store of "Ka Charing," located at the west side of the church of Alitagtag, Batangas. He went home at around 12:00 midnight. His house, which is just a few meters from the church, is also located along the highway.[7] He slept in his bedroom upstairs and tried to snatch some sleep.[8]

At around 1:30 A.M. of June 5, 1983, he heard a gunshot. He went to the door and peeped. He saw, from a distance of seven (7) meters,[9] accused Danilo Manalo, Jose Manalo, Vicente Villapando and Antonio Fajardo, ganging up on Pat. Arguelles who was already lying on the ground (along the highway). While they were grappling, three (3) successive shots were fired from the .45 caliber pistol held by Pat. Arguelles. Accused Antonio Fajardo tried to wrestle the pistol from Pat. Arguelles and then held the policeman's hand. At the same time, his co-accused Danilo Manalo, followed by Jose Manalo and Vicente Villapando, who were armed with a hunting knife, an ice pick and a fan knife (balisong), respectively, repeatedly stabbed the victim. Pat. Arguelles struggled. Nonetheless, the four accused were just too much for him to handle. Accused Fajardo succeeded in wrestling the gun away from Pat. Arguelles. After more or less ten (10) minutes, the accused fled. The bleeding Pat. Arguelles staggered towards the municipal building. He collapsed near the arch stone.

After the accused had fled, witness Crispin went to the municipal building nearby. Along the way, he met Pat. Nestor Reyes and Rosana Balino. They rushed to the scene and found the lifeless body of the victim sprawled on the ground.

Pat. Reyes and Corporal Felizardo Lucero, who also arrived at the scene, searched the area. They conducted an investigation. In the vicinity of the crime, they found a balisong stained with blood, a deformed lead slug, two (2) empty shells and a T-shirt, allegedly owned by Jose Manalo. The policemen also confiscated the T-shirt of Vicente Villapando which was stained with blood.

The body of the victim was subsequently brought to the National Bureau of Investigation (NBI) for autopsy. The postmortem findings[10] revealed that the victim died due to hemorrhage, secondary to multiple stab wounds of the body. The victim sustained eighteen (18) stab wounds in different parts of his body.[11]

Accused Danilo Manalo claimed self-defense. This is his story. At around 8:00 o'clock in the evening of June 4, 1983, he was with his brother Jose, and the other accused, viz: Antonio Fajardo, Vicente Villapando, and a certain Apolinario Balagat and Ruel Ilagan. They went to the residence of Julian Holgado in Brgy. Munlawin, Alitagtag. Danilo claimed that it was the birthday of Julian Holgado.[12] He ate supper and watched the festivities thereat. At 11:00 o'clock, they left the residence of Holgado. They traversed the highway enroute to their homes in Brgy. Sambi.

Around 1:30 in the early morning of June 5, 1983, they reached the poblacion of Alitagtag. Suddenly, Pat. Arguelles blocked Danilo's path and insisted on taking the latter to the municipal building. Danilo refused to go with him as he had not done anything wrong. Pat. Arguelles then held his hand and fired his gun twice. When he still refused, Pat. Arguelles aimed the gun at his head. Danilo then parried the gun and drew a balisong which he kept in his trousers. He stabbed Pat. Arguelles several times.[13] Thereafter, he went home and did not report to

the authorities. He was afraid of what the authorities might do to him. Danilo insisted that, at the time he stabbed the victim, all his companions had already scampered away.[14] He further alleged that Pat. Arguelles was mad at him because he used to defeat the policeman whenever they play mahjong.[15]

On cross-examination, Danilo alleged that they went to the house of Julian Holgado since it was the baptismal of the latter's daughter.[16] Upon reaching Brgy. Munlawin, they helped with the preparation of the food. They chopped chickens and pork meat. Later that evening, they attended the festivities.

At around 1:00 o'clock in the morning of June 5, 1983, they were walking along the highway towards the poblacion. He saw Pat. Arguelles who was with a lady companion. He was not aware of any reason why Pat. Arguelles accosted him. Prior to the incident, there were no ill-feelings between him and the victim.[17]

Accused Vicente Villapando, on the other hand, testified that they were in the residence of Julian Holgado as it was the baptismal of the latter's son. He was requested by Holgado to chop meat.[18] When they left Munlawin, they passed by Alitagtag where they chanced upon Pat. Arguelles. The policeman was in front of the church in Alitagtag. The latter accosted Danilo for no apparent reason. Thereafter, he heard a gunshot. Due to fear, he ran away and headed for home. He slept immediately and was not bothered as to what could have happened to his companion Danilo.[19] On cross-examination, he testified that he was the only one who helped in chopping meats. His companions merely engaged in conversation with each other.[20]

The other accused, Antonio and Jose, corroborated the testimonies of Vicente and Danilo. They both ran away upon hearing the gunshot.

After trial on the merits, the lower court, in its decision,[21] dated March 31, 1987, found all the accused guilty of Murder qualified by abuse of superior strength. Accused were then sentenced to suffer imprisonment from seventeen (17) years, four months and one (1) day to twenty (20) years, with all the accessory penalty as provided by law. They were, likewise, ordered to pay the heirs of the Edilberto Arguelles the sum of thirty thousand pesos (P30,000.00), as civil indemnity.

In view of the penalty imposed by the lower court, accused Jose Manalo, Vicente Villapando and Antonio Fajardo appealed to the Court of Appeals. The appellate court affirmed the factual findings of the lower court but modified the amount of civil indemnity and the penalty imposed. In its decision dated April 27, 1992, the accused were meted the penalty of reclusion perpetua, there being no aggravating or mitigating circumstance. The civil indemnity was increased to fifty thousand pesos (P50,000) in line with existing jurisprudence. In view of the penalty imposed, the appellate court certified the case to this Court for review.

We affirm the factual findings of the appellate court and the trial court.

It is a settled rule that the findings and conclusions of the trial court on the credibility of a witness deserves respect because it is in a better position to determine whether the witness was telling the truth or not, having observed the demeanor of the witness while testifying on the witness stand. In the case at bar, there is no cogent reason why we should not adhere to this rule.

Previous to the stabbing incident, Crispin had known the three (3) accused, namely, Danilo, Jose and Antonio, for quite a long time. All of them are residents of Alitagtag. He also came to know accused Antonio Fajardo a few weeks before the incident.

It was, also, not improbable for the eyewitness to recognize the accused during the flurry. The place of incident was well lighted at that time. Crispin testified as follows:

FISCAL MALABANAN:

Q:

Mr. witness, considering that it was early in the morning, 1:30 o'clock in the morning of June 5, 1983, how were you able to recognize that these were the persons who stabbed Edilberto Arguelles?

A:

I was able to identify the four (4) accused as the persons who stabbed Patrolman Arguelles on June 5, 1983 because the place of incident was illuminated coming from a nearby electric post and secondly, by the light coming from our house sir.

Q:

All in all, how many lights were there in the vicinity of your place?

A:

There were four (4) sources of lights illuminating the place sir.

Q:

Will you please mention these four (4) sources?

A:

The light coming from infront of our house, the light coming from the inside of our house and also the left side of our house, there was an electric post and the Police Outpost which was near the place of incident, it was also lighted by an electric bulb.

(TSN, March 7, 1984, pp. 13-14)

The testimonies of Crispin and Rosana, taken together, had completed the chain of events surrounding the slaying of Pat. Arguelles. These witnesses do not appear to be biased, not to mention that they were strangers to each other prior to the incident. They have no motive to concoct a false story against the accused.

The failure of Rosana to recognize the face of the men she saw that early morning of June 5, 1983, will not exculpate the accused-appellants. For one thing, accused-appellants never denied that they were the group alluded to by Rosana. More important, the positive identification of the accused by Crispin Badillo was enough to support the judgment of conviction. Truth is established not by the quantity of witnesses but by the quality of their testimonies.

Accused Danilo Manalo claims self-defense. In the light of the circumstances in field, we cannot consider said justifying circumstance in his favor. We also find it difficult to believe that he, alone, was responsible for the death of the victim.

The autopsy report of the NBI showed that the victim sustained eighteen (18) stab wounds. The medico-legal officer of NBI testified as follows:

Q:

In your report, you mentioned 18 stab wounds, can you tell the Court how many possible weapons have been used in inflicting the wounds?

A:

Considering the multiplicity of wounds and considering the differences in characters (sic) and measurements (sic) of the wounds, the probability is that more than one stabbing instrument were used.

xxx xxx xxx

Q:

You said it is possible that there could have been more than one instrument that has been used in view of the characters (sic) of the wounds?

A:

I think I answered most probably, it is probable, your honor.

Q:

So, by instrument, you must be referring to sharp pointed instrument?

A:

Yes sir and single bladed instrument sir.

(TSN, December 10, 1984, pp. 15, 17)

To be sure, Danilo did not act in self-defense when he stabbed the victim. Rosana testified that Pat. Arguelles, who rushed to the scene because the accused were being unruly, fired a warning shot. There was no evidence that said victim aimed the gun at Danilo other than the self-serving testimony of said accused and that of his co-accused. The lower court found this allegation of the accused-appellant incredible. We agree.

The number of the wounds sustained by the victim also negates Danilo's assertion of self-defense. Moreover, at the time Danilo's life was allegedly threatened by Pat. Arguelles, he had five (5) other companions, viz: Ruel Ilagan and Apolinario Balagat,[22] and co-accused Jose, Vicente and Antonio. Anyone of them could have easily proceeded to the police outpost for help. Surprisingly, they did not. They all fled.

We now determine whether the lower court and the appellate court correctly appreciated the qualifying circumstance of abuse of superior strength.

The circumstance of abuse of superior strength is not necessarily present by the mere fact that there were four assailants. The more important factor to consider is whether the assailants took advantage of their combined strength to consummate the offense.

Crispin Badillo testified as follows:

ATTY. MARQUEZ:

Q:

When according to you, Antonio Fajardo was trying to wrest the .45 caliber from the possession of the victim, from what point of time did you see him wrestling the gun from the victim?

A:

While Arguelles was being stabbed sir.

xxx xxx xxx.

Q:

Was he able to wrest the gun from the victim?

A:

Yes sir.

xxx xxx xxx.

Q:

At what point of time did you hear three (3) successive shots?

A:

I heard the three (3) successive shots in (sic) that time that Antonio Fajardo was wrestling the gun away from Arguelles and the three were stabbing the victim.

(TSN, March 7, 1984, pp. 85-86).

The above testimony showed that accused Antonio Fajardo was wrestling the gun away from the victim while the latter was being simultaneously stabbed by the three (3) accused. Crispin also testified that the victim was already in a lying position when he was stabbed. Considering the number of the accused-appellants and their bladed weapons, the gun of the victim failed to save his life. It was hardly of any factor. All things considered, we hold that the killing of Pat. Arguelles was qualified by abuse of superior strength.

WHEREFORE, premises considered, decision of the appellate court is AFFIRMED. Accused-appellants, Danilo Manalo, Jose Manalo, Vicente Villapando and Antonio Fajardo are meted the penalty of reclusion perpetua and are ordered to indemnify the heirs of Patrolman Edilberto Arguelles the sum of fifty thousand pesos (P50,000.00). With costs against accused-appellants. SO ORDERED.

Narvasa, C.J., (Chairman), Padilla, and Regalado, JJ., concur.
Nocon, J., on leave.

[1] Presided by Executive Judge Glicerio L. Cruz.

[2] Original records, pp. 133-134.

[3] See Order dated February 15, 1984, p. 141.

[4] Also known as "Susan."

[5] TSN, April 30, 1984, pp. 8-9.

[6] TSN, April 30, 1983, pp. 10-13.

[7] See Sketch marked as Exhibit "A"; Original records, p. 150.

[8] TSN, March 7, 1984, pp. 51-52.

[9] TSN, March 7, 1984, p. 59.

[10] See Exhibit "L"; Original records, pp. 43-45.

[11] TSN, December 10, 1984, p. 4.

[12] TSN, April 23, 1985, p. 7.

[13] TSN, April 23, 1985, pp. 17-18.

[14] TSN, April 23, 1985, pp. 10-22.

[15] TSN April 23, 1985, pp. 14-16.

[16] TSN, July 17, 1985, p. 5.

[17] TSN, July 17, 1985, p. 14.

[18] TSN, February 4, 1985, pp. 6-7.

[19] TSN, February 4, 1985, pp. 13-16; 19-20.

[20] TSN, February 18, 1985, p. 7.

[21] CA Rollo, p. 22.

[22] Balagat and Ilagan were dropped from the information because during the preliminary investigation, there were no evidence which would link them to the killing of Pat. Arguelles.

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