

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
LEODEGARIO RAMOS, WILLY ANOVA AND NILO ALFARO, ACCUSED,
LEODEGARIO RAMOS AND NILO ALFARO, ACCUSED-APPELLANTS.**

G.R. No. 110600. August 07, 1996

Ponente: PADILLA, J.

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PADILLA, J.:

In Criminal Case No. Z-445 before the Regional Trial Court Branch 44 Mamburao, Occidental Mindoro, accused-appellants Leodegario Ramos and Nilo Alfaro together with Willy Anova, who remains at large, were charged with the crime of murder, allegedly committed as follows:

"That on or about the 26th day of December 1987 at about 6:00 o'clock in the evening at sitio Palanipan, Barangay Barahan, municipality of Sta. Cruz, province of Occidental Mindoro, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with intent to kill, with treachery and taking advantage of superior strength, armed with deadly weapons (bolo and balisong) conspiring, confederating and helping one another, did then and there willfully, unlawfully, and feloniously attack, assault and hack with said weapons one BIENVENIDO DELA CRUZ, thereby inflicting upon the latter fatal wounds which have been the cause of his direct and immediate death." [1]

When arraigned, accused-appellants pleaded "Not Guilty." [2] Thereafter, trial on the merits ensued wherein the prosecution and the defense adduced their respective evidence.

The trial court summarized the evidence for the prosecution as follows:

"Delia Fetalver, Nelia Denila, Leonora de la Cruz, and Dr. Rodolfo Jovellano testified for the prosecution.

Nelia Denila, principal witness for the prosecution, declared that at about 6:00 o'clock in the evening of December 26, 1987, she and Roberto were inside the yard of Lucero Iniego at sitio Palanipan, Barahan, Sta Cruz, Occidental Mindoro preparing to leave for Barahan when she saw Leodegario Ramos walking with his hand around the shoulder of Bienvenido de la Cruz, together with his two (2) companions; that upon seeing the four, she as well as her son Roberto concealed by the side of a tree for she got afraid because of their loud voices, then she saw Bienvenido de la Cruz being stabbed by Leodegario while Willy Anova was holding the former; that Nilo Alfaro also drew his knife and stabbed Bienvenido dela Cruz who was hit; that Willy Anova similarly unsheathed his bolo and hacked Bienvenido dela Cruz who was hit on his left face, causing the latter to fall on a prone position; that after Bievenido fell to the ground, he was hacked anew on the shoulder; that Oding Ramos then grabbed the bolo from Willy Anova and the former eventually hacked Bienvenido de la Cruz, and finally the malefactors left the scene by crossing An-an River towards the direction of Dayap; that after the culprits had left, she and Roberto went back to their hut at Palanipan; the following morning she ultimately proceeded to Barahan (t.s.n. pp. 8-12, October 24, 1988).

Delia Fetalver told the Court that at about 10:00 o'clock in the morning of December 26, 1987, the three (3) accused went to her house at Barahan, Sta. Cruz, Occidental Mindoro looking for her brother Danny (Danilo) because the latter separated from his wife Thelma Ramos who is the sister of Leodegario Ramos. Willy and

Leodegario were both carrying a bolo while Nilo was carrying a knife. Unable to find Danny, they went to the house of her brother Ben and her cousin Delia. Duenas for the same purpose. When they failed to find Danny, Leodegario got Danny's bicycle from Ben's house and left a message that they would wait for Danny at his house. (t.s.n. - pp. 11-21, August 15, 1988)

The following morning at about 8:00 o'clock, December 27, 1987, Barangay Captain Sergio Telebrico informed her that her father, Bievenido de la Cruz, was found dead at Palanipan, Barahan, Sta. Cruz, Occidental Mindoro. After seeking the help of Rolly Pajayon, they proceeded to the place where they saw her dead father. She went back to Barahan to report the matter to her mother who directed her son and son-in-law to go to Sta. Cruz to inform the authorities about the death of their father (t.s.n - pp. 21-24, Ibid).

Leonora de la Cruz testified that at about 6:00 o'clock in the evening of December 26, 1987, Leodegario Ramos, Willy Anova and Nilo Alfaro went to her house looking for her son Danilo as well as her husband Bienvenido de la Cruz. She told the trio that Danilo is not around, but her husband is at the side of the river getting some camote which was eaten by wild pigs. After receiving negative replies to their queries, the group left and as they were leaving, Bievenido arrived and when informed that the trio were looking for him, Bienvenido called for them but (they) made no response. Hence, Bievenido followed and approached the three. Leodegario then placed his hand on the shoulder of Bienvenido and the four of them walked away towards Lucero (Leoncio) Iniego's place. Bievenido failed to return the whole night of December 26. However, the following day about 8:00 A.M., she saw her deceased husband at An-an river (t.s.n. - pp. 6-10, Nov. 24, 1988).

Dr. Rodolfo Jovellano testified relative to the examination he conducted on the remains of Bienvenido de la Cruz and his findings were indicated in the Medico-Legal Certificate (Exhibit "B")."[3]

The defense on the other hand presented accused-appellants Leodegario Ramos and Nilo Alfaro, their respective wives, Elsita Ramos and Cristina Alfaro, Desabilita Dawis and Raymundo Regudo.

Leodegario testified that in the afternoon of 26 December 1987, he was inside his residence at Barahan, Sta. Cruz, Occidental Mindoro helping his wife do the cooking. He denied having anything to do with the death of the victim and he testified that he was even surprised to know that he was being linked to the killing.[4]

Elsita Ramos corroborated her husband's testimony.[5]

Nilo Alfaro testified that he was busy the whole day of 26 December 1987 cooking native delicacies to be served during the baptism of his two (2) children the next day. He likewise denied any participation in or knowledge of the crime committed.[6]

Cristina Alfaro confirmed Nilo's innocence of the offense charged.[7]

Desabilita Dawis, a local quack doctor (albularia) testified that at around 5:30 o'clock in the afternoon of 26 December 1987, she was inside the house of Nelia Denila treating the latter as she was suffering from a swollen neck. She stated that she stayed with Nelia until about 7:00 o'clock in the evening thus, making it impossible for the latter to have witnessed the commission of the crime.[8]

Raymundo Regudo's testimony relates only to the good character of the accused-appellant Leodegario Ramos.[9]

After trial, the court a quo rendered a decision dated 17 August 1989, the dispositive portion of which reads as follows:

"WHEREFORE, finding the accused LEODEGARIO RAMOS and NILO ALFARO guilty beyond reasonable doubt of the crime of Murder, qualified by treachery, defined and penalized under Article 248 of the Revised Penal Code, the Court hereby sentences each of them to an indeterminate penalty of TWELVE (12) YEARS and ONE (1) DAY as minimum to TWENTY (20) YEARS of reclusion temporal as maximum, and to jointly

indemnify the heirs of Bievenido de la Cruz the sum of P30,000.00.

SO ORDERED."[10]

On appeal to the Court of Appeals, the judgment appealed from was modified as follows:

"Considering our above findings, We recommend that the appealed decision of the lower court in Criminal Case No. Z-445 should be MODIFIED insofar as increasing the imposable penalty to the accused-appellants for the crime of Murder to Reclusion Perpetua, as well as the death indemnity due to the heirs of the victim from P30,000 to P50,000 in accordance with prevailing jurisprudence. The rest of the decision can be AFFIRMED in all respects, with costs against accused-appellants.

Given Our said findings and recommendation in this appealed case for the imposition of the maximum penalty of Reclusion Perpetua to accused-appellants, this Court without entering judgment, hereby certifies this case to the Honorable Supreme Court for automatic review and this Court's Division Clerk is hereby directed to elevate the entire record of this case to the Supreme Court (People v. Cruz, 203 SCRA 682)."[11]

The case is thus before this Court with accused-appellants raising only one issue namely:

"WHETHER OR NOT THE EVIDENCE ADDUCED BY THE PROSECUTION HAS ESTABLISHED PROOF BEYOND REASONABLE DOUBT OF THE CRIME OF MURDER AND AGGRAVATING CIRCUMSTANCES AS TO JUSTIFY THE IMPOSITION OF THE SEVERE PENALTY OF RECLUSION PERPETUA"[12]

The time-honored rule in this jurisdiction is that findings of trial courts on credibility of witnesses deserve respect as they had occasion to observe the deportment of witnesses during trial.[13]

In the present case, appellants argue that the trial court erred in giving credence to the testimony of Nelia Denila who was allegedly biased against the accused having admitted that her testimony was motivated by the wish to seek revenge for the mauling of her son by the accused.[14] Accused-appellants argue that the testimony of Desabilita Dawis that she was treating Denila on the date and time of the incident making it impossible for the latter to have witnessed the commission of the crime should have prevailed since Dawis had no motive to give false testimony.[15]

We are not persuaded by the ratiocinations of accused-appellants absent a clear showing that the trial court erred in giving more weight to the testimony of Denila over that of Dawis. The mere fact that Nelia Denila admitted wanting to avenge the mauling of her son does not prove that she fabricated the story of her being witness to the crime committed. In fact her honesty in admitting to having a grudge against the accused-appellants should be considered in her favor. Moreover, as correctly observed by the trial court:

"Nelia Denila gave a vivid and detailed account of how the accused attacked and killed the victim with their bolos and knife. Such account of the incident can only be made by [a] witness who was actually present at the scene during the commission of the offense. Moreover, the testimony of Denila as regards the manner the victim was attacked by the accused and the weapons used by the latter dovetailed with the nature and character of the wounds found on the victim by Dr. Jovellano described as follows:

1. Wound hacked 15 cm. left side of the face;
2. Wound stabbed 1.0 cm. 6th ICS anterior axillary line right side;
3. Wound stabbed 5.0 cm. 7th ICS anterior axillary line left side;
4. Wound stabbed 5.0 cm. 7th ICS mid axillary line left side;
5. Hacked wound nape area almost the head from the body;

6. Hacked wound 1 foot extending from the nape down to the shoulder area left."[16]

The testimony of Denila is consistent with and corroborated by the testimonies of Leonora dela Cruz and Delia Fetalver, the victim's wife and daughter respectively, who testified that as early as ten o'clock in the morning of 26 December 1987 the accused-appellants together with accused Willy Anova were looking for Danilo, the victim's son because Danilo had recently separated from his wife Thelma who was accused Leodegario Ramos' sister. Delia further testified that all the accused were carrying bladed weapons when they went to her house looking for Danilo while Leonora testified that the accused were specifically looking for Danilo and the victim in the evening when the latter was killed. Moreover, the victim was last seen by Leonora talking to the three (3) accused while walking towards a certain Lucero (Leoncio) Iniego's place which was in the immediate vicinity where the victim's body was found on 27 December 1987.

In *People v. Jacolo*[17] the Court ruled that the testimony of a witness should normally be accepted especially when the witness is the victim or his near relative because these witnesses usually strive to remember the face of the assailants.

We see no reason to depart from the above stated rule and consequently we uphold the testimonies of the two (2) relatives of the victim.

On the issue of whether or not the crime committed can be qualified to murder, it cannot be disputed that the killing was attended by abuse of superior strength since all three (3) were armed with bladed weapons. The victim was unarmed. The killing is thus murder under Article 248 of the Revised Penal Code.

Against the positive testimonies of the prosecution witnesses, accused-appellants posit their respective alibis.

Jurisprudence is settled that the defense of alibi can prevail only if it is shown that it was physically impossible for the accused to have been at the scene of the crime at the time of its commission. Such proof is absent in this case since accused-appellants admit being in Sta. Cruz, Occidental Mindoro on 26 December 1987.

All told, the Court finds no compelling reason to disturb the trial court's appreciation of the testimony of the witnesses in this case.

WHEREFORE, based on the foregoing, the decision of the trial court, as modified by the Court of Appeals, finding accused-appellants Leodegario Ramos and Nilo Alfaro guilty of MURDER is hereby AFFIRMED. They are thus sentenced to each suffer the penalty of reclusion perpetua and to indemnify jointly the heirs of the victim in the sum of Fifty Thousand Pesos (P50,000.00).

SO ORDERED.

Vitug, Kapunan, and Hermosisima, Jr., JJ., concur.
Bellosillo, J., on official leave.

[1] Original Record, p. 3.

[2] Ibid. p. 104.

[3] Rollo, pp. 11-12

[4] TSN., 25 January 1989, pp. 23-26.

[5] TSN., 25 January 1989, pp. 4-9.

[6] TSN., 14 February 1989, pp. 3-8.

[7] TSN., 27 January 1989.

[8] TSN., 13 February 1989, pp. 4-11.

[9] TSN., 14 February 1989, pp. 15-18.

[10] Penned by Judge Niovadi M. Marin.

[11] Decision dated 16 June 1993 penned by Justice Lourdes K. Tayao-Jaguros with Justices Gloria C. Paras and Luis L. Victor concurring.

[12] Rollo, p. 116.

[13] *People v. Ramos*, G.R. No. 104497, 18 January 1995, 240 SCRA 191.

[14] Rollo, pp. 117-121.

[15] Rollo, pp. 123-124.

[16] Trial court decision; Rollo, p. 49.

[17] G.R. No. 94470, 16 December 1992, 216 SCRA 631.

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