

## PEOPLE OF THE PHILIPPINES, APPELLEE, VS. DIONISIO SANTOS, APPELLANT.

*G.R. No. 127492. January 16, 2004*

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### TINGA, J.:

Appellant Dionisio Santos was charged with Murder, along with Emmanuel Santos, Emilio Santos and Elizabeth Santos-Guerrero, in an Information reading:

That on or about October 22, 1989, in the City of Manila, Philippines, the said accused, conspiring and confederating together and helping one another, with intent to kill, and by means of treachery and with the aid of armed men, did then and there willfully, unlawfully and feloniously, attack, assault, and use personal violence upon the person of VALENTINO A. GUEVARRA by then and there hacking and stabbing him with jungle bolos and samurais on the different parts of his body, thereby inflicting upon said Valentino A. Guevarra multiple hack and stab wounds which were the direct and immediate cause of his death thereafter.[1]

Of the four accused, only Dionisio Santos was arraigned and tried. Emmanuel Santos, Emilio Santos and Elizabeth Santos-Guerrero remain at large.

In the afternoon of October 22, 1989, Lucita Guevarra was walking towards Pepin Street to look for her son Valentino.[2] Earlier, someone came to her house asking for Valentino and Lucita volunteered to find him. She proceeded to Miguelin Street, which Valentino frequented but upon arriving there, she was told that her son was at Pepin Street.[3]

Some distance away from Pepin Street, Lucita saw his son with a companion standing on the corner of the street.[4] Suddenly, a samurai-wielding Dionisio Santos approached Valentino from behind and hacked him in his right thigh.[5] Lucita's eyes were focused on Valentino but several other persons were standing near her son, holding something.[6] Lucita tried to go to her son but suddenly felt dizzy.[7] Somebody held her from behind and told her not to go near Valentino anymore, assuring her that someone had already called the police.[8] A commotion had ensued and the person holding Lucita brought her home.[9] Lucita thought Valentino was still alive when she got home, only to be told later that her son was dead.[10]

About two or three meters away, Rodelio Dipana also witnessed the killing of his neighbor, Valentino Guevarra.[11] He said Valentino was walking with a certain Francisco along Laong-Laan and M. dela Fuente Streets in Sampaloc, Manila when two men alighted from a tricycle, one brandishing a samurai and the other, a bolo.[12] Dionisio Santos hacked Valentino from behind with his samurai, causing Valentino to fall on his hands.[13] Valentino crawled for a while but the man with the bolo started hacking him.[14]

Francisco tried to help Valentino, but caught the ire of the attackers.[15] Dionisio hacked Francisco, hitting him on his left hand.[16] Francisco then ran and boarded a passing jeep.[17]

Valentino was not as lucky. After Francisco fled, two other persons arrived, turned Valentino face up and stabbed him repeatedly.[18]

Another neighbor, Ernesto del Rosario, testified that Valentino was standing at the corner when he was hacked by the accused at the back and on the right leg.[19] Ernesto then rode to the residence of Lucita Guevarra and reported the incident to her.[20] Lucita then rushed to the scene of the hacking.[21]

As a result of the attack, Valentino sustained, aside from two abrasions, five stab wounds two of which were fatal, and five hack wounds of which three were fatal.[22] According to Dr. Florante Baltazar, former Chief of the Philippine National Police Crime Laboratory, National Capital Region, who conducted the autopsy on the victim, it is possible that, based on the wounds of the victim, more than one bladed weapon was involved.[23] A samurai could have been one of the weapons.[24]

Only accused Dionisio Santos testified for the defense.

The accused invoked alibi, claiming that when tragedy struck on October 22, 1989, he was in Balut, Tondo, where he worked as a plumber, far from the place of the killing.[25] He admitted, however, that he started work only on October 24, 1989, and returned to their house in Pepin Street, Sampaloc, Manila on October 29.[26] He claimed that prosecution witness Rodelio Dipana pointed to him because they once had a quarrel during a drinking spree.[27]

After trial, Dionisio was found guilty as charged. The dispositive portion of the trial court's decision states:

WHEREFORE, premises considered, accused Dionisio Santos is hereby found guilty beyond reasonable doubt of the crime of murder and is therefore sentenced to serve the penalty of Reclusion Perpetua, and to pay the family/heirs of victim Valentino A. Guevarra the amount of Fifty Thousand (P50,000.00) Pesos.

Atty. Viterbo Tagarda is awarded an honorarium of P1,000.00 as attorney's fees, subject to the availability of funds.

The case as against the other accused Emmanuel Santos, Emilio Santos and Elizabeth Santos-Guerrero is hereby ordered archived pending their arrest. In the meantime, issue alias warrants of arrest against the said three remaining accused.

SO ORDERED.[28]

There is ample evidence of the attack perpetrated by the appellant and his co-accused on the victim which led to the latter's death. Appellant, however, questions the credibility of the prosecution witnesses and their respective testimonies.

Appellant points out that after witnessing her son's hacking, Lucita Guevarra willingly accepted someone's offer to take her home. She did not call for help, or inform the authorities or anyone in her household of the incident. Appellant contends that Lucita's reaction is unnatural as a mother's instinct is to protect her young, even at the cost of her own life. To leave the scene of a crime while her son is being hacked to death without even attempting to save her child, appellant claims, is highly improbable. Moreover, not only did Lucita not help Valentino or shout for help, she did not even ascertain what happened to her son.

Appellant also cites an inconsistency between the testimonies of Lucita and the other prosecution witnesses. When asked what time the incident happened, Lucita mentioned noontime. The two other witnesses, however, testified that the incident occurred late in the afternoon.

Ernesto del Rosario also testified that immediately after seeing Valentino being hacked, Ernesto went to Valentino's house and informed Lucita of the incident. Appellant theorizes that only then did Lucita learn of her son's killing. Appellant concludes that Lucita could not have been present at the scene of the crime, and that she must have merely adopted as her own the account of others.

Contrary to appellant's claim, there is nothing improbable about Lucita Guevarra's testimony.

Lucita Guevarra's testimony shows that she did try to approach her son but could not do so because she was overcome by dizziness. It is not unusual for a sexagenarian mother to feel faintish upon seeing her son attacked. As the Solicitor General points out, Lucita was not in a position to help her son and, when she was led home, there was already a commotion over him.

Q

And after the first thrust was made hitting the thigh of your son, what did you see further?

A

At that time, I attempted to approach my son, but I felt dizzy and somebody held me from behind and told me not to approach my son anymore and he just called a mobile.

....

Q

When you became dizzy, who were with you?

A

There was this person who was assisting me.

Q

And what did he do to you when you felt dizzy?

A

That person wanted to bring me home, but because I felt really bad at that time and I noticed that there was already a commotion about my son and that person wanted to bring me home and I also wanted to approach my son, but that person wanted to bring me home instead.

Q

And then where were you brought?

A

I was brought at our house.[29]

As to the time of the incident, the claim that Lucita Guevarra categorically mentioned noontime is not borne by the evidence. She testified that the hacking happened about noontime, thus:

Q

And this happened about noontime?

A

Yes, sir.[30] [Underscoring supplied.]

The Solicitor General correctly observes that Lucita even testified that she was at home between noon and afternoon.

Q

On October 22, 1988, where were you then?

A

We were at our place.

Q

What time was that?

A

I cannot remember anymore the exact time but I am sure that it was between noon and afternoon.

Q

And what were you doing at that time?

A

I was just inside the house cleaning.[31]

In any case, the purported inconsistencies in the time of the killing are minor ones that bear little significance to the outcome of the case. Inconsistencies as to minor details and collateral matters do not affect the credibility of the witnesses nor the veracity of the weight of their testimonies.[32]

The fact that, immediately after the hacking, Ernesto del Rosario went to the victim's house and informed Lucita of the incident, does not lead to the conclusion that she was not present at the scene of the crime. It is entirely possible that a well-meaning person may inform another of an incident not knowing that the latter already had prior knowledge of the same.

Indeed, there is no reason why the victim's mother would fabricate a story to accuse an innocent person of such grave a crime. The natural interest of the witness, who is a relative of the victim in securing the convictions of the guilty would deter her from implicating a person other than the true culprit.[33] It is therefore highly unlikely for her to lie as to the identity of one of her son's assailants.

Moreover, the defense did not present any evidence of ill motive on the part of the victim's mother. In the absence of any evidence tending to question her motive and integrity, her testimony should be given full credit. The absence of improper or evil motive for a prosecution witness to make false imputations against the accused strengthens her credibility.[34]

Appellant next questions the ability of Rodelio Dipana to identify appellant as one of the perpetrators of the killing. Rodelio stated that he was not familiar with or he did not know any of the assailants. He did not mention having had a good look at any of the assailants. He did not even report the incident to the authorities. When asked how he could have known the name of the accused, the witness replied that he learned it from the victim's mother. Rodelio allegedly even misrepresented the time when he first identified appellant at the police precinct. Rodelio said that he identified appellant three days after the incident. Appellant, however, was apprehended only five (5) years after the commission of the crime.

Appellant's contentions have no merit. The Solicitor General rightly argues that neither law nor jurisprudence requires that a prosecution witness be familiar with the perpetrator of a crime for such witness to make a positive identification.[35] The evidence shows that Rodelio Dipana was able to observe the incident, as well as the perpetrators thereof, as he stood only two meters away from where it took place.[36]

It is true that Rodelio testified on cross-examination that Lucita asked him to identify Valentino's assailant after the latter was supposedly arrested three days after the incident when in fact appellant was arrested only after five years, in 1994. On re-direct examination, however, Rodelio clarified:

FISCAL CABANGON TO WITNESS:

Q:

When Virgilio (sic) Guevarra was killed[,] it took place on October 22, 1989. My question is, do you know when you were called by the mother to identify a person if you could recognize him if he could be part of the killing of Virgilio (sic) Guevarra, was that this year 1995 or last year 1994?

ATTY. TAGARDA:

Leading your honor.

COURT:

Sustained.

FISCAL CABANGON:

Q:

When was that? What year was that?

A:

1994.[37]

At any rate, the date when Rodelio identified appellant as one of the perpetrators of the attack is not crucial to the prosecution's case.

Appellant also claims that Ernesto del Rosario never identified appellant as Guevarra's killer. He merely mentioned that he saw the victim being hacked. The public prosecutor did not ask the witness to identify the supposed assailant.

The transcript of Ernesto's testimony, however, contains references to "the accused," who can be no other than appellant Dionisio Santos, the only person on trial. Thus:

Q:

When you saw the accused hacked (sic) Valentino Guevarra, was he with some other persons?

A:

He was with one person.

Q:

Did you recognize the weapon used?

A:

Samurai sir.

Q:

You said the accused hacked the victim at the back and the right leg, what did you do when you saw this?

A:

I ride to (sic) an owner type jeepney and I went home and told the mother of the victim.[38]

At all events, Ernesto's testimony is merely corroborative to those of Lucita's and Rodelio's and could have been dispensed with without weakening the prosecution's cause.

In the face of the prosecution witnesses' positive identification, the trial court correctly rejected appellant's alibi:

It has been said many times and it is only appropriate to be stated again that alibi is the weakest form of defense, and without concrete evidence to back up the alibi put up by the accused, the same cannot be given consideration at all.

. . . .

The alibi of [the] accused that he was not in the place of the crime on the date and time in question is self-serving with no one to corroborate, not even a family member, a friend, a co-worker in Balut or whoever contracted his services as plumber there.[39]

The defense of alibi may not be successfully invoked where the identity of the assailant has been established by witnesses.[40]

Furthermore, to establish alibi, the appellant must show that it was impossible for him to have been at the place where the crime was committed.[41] Appellant admitted that he started his work in Tondo only on October 24, 1989, without giving any reason why he had to go to his place of work two days before he even began work or if, at all, what he did in the two days in between. As the trial court noted, there was nothing that could have prevented him from going home in Sampaloc and be at the place of the crime in the evening of October 22, 1989.[42]

Appellant assails as contradictory the conclusions of Dr. Baltazar, who conducted the autopsy on the victim, and the testimonies of the eyewitnesses regarding the type of weapon appellant allegedly used to attack the victim. While the latter testified that appellant hacked the victim with a samurai, Dr. Baltazar supposedly stated that a samurai was used to stab him.

Appellant's claim is inaccurate for Dr. Baltazar did not rule out the possibility that a samurai was used in hacking the victim. The pertinent excerpts from his testimony read as follows:

Q

Doctor, from the nature of the penetrating stab wounds and hacking wounds sustained by the victim eventually causing his death, what could be the possible instruments used in inflicting such injuries?

A

As far as hacking wounds are concerned, it will be consistent with a bolo of the same size and as far as the stab wounds is (sic) concerned, it will be consistent with pointed and bladed instrument.

. . . .

Q

In layman's term (sic) doctor, what does it mean, what is that? May I withdraw that question? . . . Is it possible doctor as you have described that that particular instrument which have (sic) caused the several stab wounds would be commensurate to a samurai?

ATTY. TAGARDA:

Leading, your [H]onor.

FISCAL FALLER:

He is an expert witness, your [H]onor.

COURT:

May answer.

WITNESS:

Samurai may be used also in stabbing, that will be possible.[43]

Dr. Baltazar did not say that a samurai could only be used for hacking. Rather, what he said is that a samurai “may also be used for stabbing.”

From the evidence, it is clear that treachery attended the killing of the victim. Apart from Lucita Guevarra, Rodelio Dipana and Ernesto del Rosario who narrated the appellant’s and other accused’s sudden attack of the victim from behind.[44] Dr. Baltazar testified as to the nature of the victim wounds, thus:

Q

Dr. in your post mortem findings which is (sic) already been admitted, there are indicated several mentioned (sic) of external injury and internal injury thereon. Your [H]onor, before we proceed, may I move that this post mortem findings be mark (sic) as Exhibit “A” for the prosecution and the external injury and extension mentioned by bracketed and mark (sic) as Exhibit “A-1” and the cause of death multiple stab and hacking wounds be bracketed and mark (sic) as Exhibit “A-2” and the signature over the above the name Florante F. Baltazar be mark (sic) as Exhibit “A-3”. Dr. Baltazar, in Exhibit “A-1” wherein it is indicated the injury sustained by the victim and the cause of death as multiple stab and hacking wounds, is it possible doctor in layman’s term doctor, is it possible that this (sic) stab wounds could be found in all the parts of the body of the victim?

A

There were injuries located in front of the body and there were also injuries at the back.

Q

What about in the lower extremities of the body?

A

Can I have my drawing? There was (sic) also hacking wounds at the lower right extremities.

FISCAL FALLER:

Witness referring to Medico Legal sketch of the male person and may I request that this Medico Legal Sketch be mark (sic) as Exhibit “B” for the prosecution.

....

Q

Alright, doctor you said that it is possible that there would be three or more bladed weapons that could have been used, is that correct?

A

I told [you] before Ma'am that it will be more than one and it will be more than two.

Q

Is it possible doctor that the victim from the nature (sic) of the wounds that he sustained would have given a resistance of whatever time and nature?

A

Your [H]onor, the injuries of the extremities, the upper and lower extremities, we considered that defense wounds. In this particular case, your honor, there were injuries in the upper extremities and also in the lower extremities and also defense wounds.

INTERPRETER:

Witness referring to Exhibit "B."

Q

From the nature of the wound, would that be what you call defense wounds could be more or as we should be given extra effort to sustain in his defense, was there an exertion of extra effort?

COURT:

That is quite vague.

FISCAL FALLER:

What I mean to express is that, as the doctor had said, there were defense wounds. In the actual act of defending himself, is it possible that the victim could have really exerted too much effort in his defense?

COURT:

I don't think the doctor can say that.

COURT (to Witness):

Q

Can you?

A

What can I say is courage on the part of the deceased.

Q

There was courage to say the least?

A

Yes, sir.

....

COURT (to Witness):

Q

At the back, did you find any injury?

A

There were injuries at the back.

Q

Is it a fatal wound?

A

They were not fatal.

Q

So all fatal wounds where you found in this surface (sic) by the very nature of these so-called fatal wounds when inflicted, can a victim still offer so-called defenses like you found in defense wounds given a situation that the fatal wounds were inflicted first, can the victim still offer some resistance?

A

My findings, your honor, suggest that the fatal wound will be the last to be sustained by the victim, otherwise if this will be the first to be sustained, the victim cannot offer that courage to parry or to defend himself.

....

CROSS-EXAMINATION:

ATTY. TAGARDA:

Q

You said that this back portion of the injury sustained by the victim was more or less superficial?

A

It was not superficial but those were not fatal.

Q

In short, could this wound sustained by the victim be caused by his fall?

A

No, sir, these were hacking wounds, by falling, you cannot sustain hacking wounds.[45]

A sudden and unexpected attack under circumstances which render the victim unable to defend himself by reason of the suddenness and severity of the attack constitutes alevosia.[46] In the instant case, the attack on the victim was deliberate, sudden and unexpected. The victim was totally unaware of the impending attack, sustaining wounds on his back. All these indicate that the accused employed means and methods which tended directly and specially to insure the execution of the offense without risk to the offenders arising from the defense which the offended party might have made.[47]

At the time of the commission of the offense, Murder was punishable by reclusion temporal maximum to death.[48] As there are no mitigating or generic aggravating circumstance, the medium of the penalty, i.e., reclusion perpetua was correctly imposed.[49] While the heirs of the victim did not present evidence of actual damages, they are nonetheless entitled to an award of temperate damages in the amount of P25,000.00.[50]

Lucita Guevarra is entitled to moral damages in the amount of P50,000.00<sup>[51]</sup> for the mental anguish and serious anxiety she suffered.<sup>[52]</sup> Lucita testified that as she witnessed the attack against her son, she became dizzy and “felt really bad.”<sup>[53]</sup> Upon learning of her son’s death, she cried.<sup>[54]</sup>

In accordance with prevailing jurisprudence,<sup>[55]</sup> appellant is also liable to pay the heirs of the victim P50,000.00 as civil indemnity. Exemplary damages in the amount of P25,000.00 should also be awarded to said heirs because of the presence of the aggravating circumstance of treachery.<sup>[56]</sup>

WHEREFORE, the appealed judgment is AFFIRMED with MODIFICATION. Appellant Dionisio Santos is found GUILTY of the crime of Murder and is sentenced to suffer the penalty of reclusion perpetua. He is ordered to pay the heirs of the victim Valentino Guevarra the amounts of P50,000.00 as civil indemnity, P50,000.00 as moral damages, P25,000.00 as temperate damages, and P25,000.00 as exemplary damages.

**SO ORDERED.**

Puno, (Chairman), Quisumbing, Austria-Martinez, and Callejo, Sr., JJ., concur.

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[1] Records, p. 1.

[2] TSN, September 13, 1994, p. 3.

[3] Ibid.

[4] TSN, September 13, 1994, p. 4.

[5] Ibid.

[6] TSN, September 13, 1994, p. 5.

[7] Ibid.

[8] TSN, September 13, 1994, pp. 5-6.

[9] Id., at 6.

[10] Id., at 7.

[11] TSN, February 15, 1995, pp. 4-5.

[12] Id., at 2-3, 5.

[13] Id., at 5.

[14] Ibid.

[15] TSN, February 15, 1995, p. 6.

[16] Ibid.

[17] Ibid.

[18] Ibid.

[19] TSN, June 7, 1995, p. 3.

[20] Id., at 4.

[21] Ibid.

[22] TSN, August 29, 1995, p. 5.

[23] Id., at 6.

[24] Id., at 4.

[25] TSN, May 25, 1995, p. 2.

[26] Ibid.

[27] TSN, May 25, 1995, p. 4.

[28] Records, p. 193.

[29] TSN, September 13, 1994, pp. 5-6.

[30] Id., at 4. Underscoring supplied.

[31] Id., at 2-3.

[32] *People v. Amazan*, G.R. No. 136251, 138606-07, 16 January 2001, 349 SCRA 218; *People v. De Leon*, G.R. No. 129057, 22 January 2001, 350 SCRA 511; See also *People v. Givera*, G.R. No. 132159, 18 January 2001, 349 SCRA 513; *People v. Abundo*, G.R. No. 138233, 18 January 2001, 349 SCRA 577.

[33] *People v. Bagcal*, G.R. Nos. 107529-30, 29 January 2001, 350 SCRA 402.

[34] *People v. De la Piedra*, G.R. No. 128777, 24 January 2001, 350 SCRA 163.

[35] Rollo, p. 72, citing *People v. Bracamonte*, G.R. No. 95939, 17 June 1996, 257 SCRA 380.

[36] TSN, February 15, 1995, p. 3.

[37] TSN, May 16, 1995, p. 7.

[38] TSN, June 7, 1995, pp. 3-4.

[39] Records, p. 191.

[40] *People v. Manzano*, G.R. No. 138303, 26 November 2001, 370 SCRA 515; *People v. Medios*, G.R. Nos. 132066-67, 29 November 2001, 371 SCRA 120.

[41] *People v. Abundo*, G.R. No. 138233, 18 January 2001, 349 SCRA 577; *People v. Valdez*, G.R. No. 128105, 24 January 2001, 250 SCRA 189.

[42] Records, p. 191.

[43] TSN, August 29, 1995, p. 4.

[44] *Supra*, notes 4, 5, 12 and 19.

[45] TSN, August 29, 1995, pp. 3-4, 6-8.

[46] *People v. Basadre*, G.R. No. 131851, 22 February 2001, 352 SCRA 573.

[47] REVISED PENAL CODE, art. 14.16.

[48] Id., art. 248.

[49] Id., art. 64.3.

[50] People v. Delos Santos, G.R. No. 135919, 9 May 1993.

[51] People v. Caballero, G.R. Nos. 149028-30, 2 April 2003; People v. Galvez, G.R. No. 130397, 17 January 2002.

[52] NEW CIVIL CODE, art. 2217.

[53] TSN, September 13, 1994, p. 6.

[54] Id., at 7.

[55] People v. Callet, G.R. No. 153701, 9 May 2002; People v. Muñoz, G.R. No. 150030, 9 May 2003.

[56] NEW CIVIL CODE, art. 2230; People v. Catubig, G.R. No. 137842, 23 August 2001.

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