

## PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. MAXIMO HERNANDEZ Y DE GUZMAN, ACCUSED-APPELLANT.

*G.R. No. 130809. March 15, 2000*

Ponente: DE LEON, JR., J.

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### DE LEON, JR., J.:

Maximo Hernandez y de Guzman assails the decision of the Regional Trial Court (RTC) of Manila, Branch 37, convicting him beyond reasonable doubt of the crime of murder and sentencing him to suffer the penalty of reclusion perpetua.

The facts of the case as culled from the records are as follows:

On January 3, 1992, at around 4:45 o'clock in the afternoon, Patricia Malunas de la Cruz was in her house at 2422 M. Hizon St. Sta. Cruz, Manila, when a man known only as "Tambol" arrived. Tambol was looking for Edgardo Torres who happened to live in the same house with Patricia. Since Edgardo at that time was out somewhere at the corner of M. Hizon Street, Patricia had to fetch him. On their way home, they met Gerry Caniesa[1] with whom Edgardo had a previous argument, standing outside the door of an apartment, with two other companions, Ricardo and Orlando Soriano. Gerry summoned Edgardo but the latter, anxious to go home, only replied, "Tomorrow." Irked, Gerry demanded, "Ngayon na!" and swore "Fuck you!"

Piqued by Gerry's remarks, Edgardo entered the apartment but he was instantly beaten up by Gerry and four other men identified as Ricardo Soriano, Orlando Soriano, Meo Caniesa and Antonio Claudio. The men, armed with pieces of wood, took turns in mauling Edgardo. Meo, who was armed with a hammer and a bolo, hacked the foot of Edgardo twice. Then, Edgardo was thrown out of the apartment and left on the pavement, bleeding and almost unconscious.

Instead of helping the victim, accused-appellant, who happened to be standing outside of the apartment, held the two hands of Edgardo and violently pushed him causing the deceased to fall on his back. Accused-appellant then got a piece of wood about 2" x 3" in size to hit Edgardo's head, causing the victim's brain to spill out. Thereafter, accused-appellant fled on foot while the rest of the suspects hid.

Edgardo was loaded on a pushcart and brought to the Chinese General Hospital. He expired on the same night when he was admitted to the hospital. His family spent P22,250.00 for the hospital and funeral expenses.[2] The post mortem examination conducted on Edgardo by Dr. Manuel Lagonera, Medico-Legal Officer of the Western Police District-Philippine National Police (WPD-PNP) revealed the following findings:

#### External Findings:

- Abrasion, right supra-clavicular region, measuring 1.5 x 0.5 cms.
- Contusion, left posterior thorax, measuring 24 x 13 cms.
- Abrasion, left elbow, measuring 5 x 1 cms.

- Abrasion, distal 3rd, left posterior forearm, measuring 4 x 1 cms.
- Abrasion, right elbow, measuring 1 x 0.8 cms.
- Abrasion, right knee, measuring 2 x 1 cms.
- Hacking wound, middle 3rd right anterior lower leg, measuring 4.5 x 2 cms.
- Hacking wound, middle 3rd, left anterior lower leg, measuring 6 x 5 cms. Both hacking wounds lacerated the anterior muscles of the lower legs and fracturing the left tibia.
- Abrasion, right forehead, measuring 6 x 2 cms.
- Contusions, bluish in color, both upper eyelids.
- Abrasion, right zygomatic region, measuring 1.2 x 1 cms.
- Lacerated wound, vertex, measuring 3.2 x 1 cms.
- Lacerated wound, left parieto-temporal region, measuring 6 x .5 cms.
- Lacerated wound, back of the left ear, measuring 1 x 0.5 cms.
- Contusion, left occipital region, measuring 6 x 3 cms.

Internal Findings:

- There was massive sub-aponeurotic hemorrhage with depressed fracture of the left parieto-temporal bone and occipital bone.
- There was massive sub-arachnoid hemorrhage with contusion of the parieto-temporal lobes of the brain.
- Linear fractures of the anterior, middle cranial fossae extending up to sella turcica.
- Recovered from the stomach about ½ cup of thick brownish material and without alcoholic odor.

CAUSE OF DEATH: Blunt Head Injuries.[3]

Apart from the abrasions and multiple lacerations in the head which caused his death, there were hack wounds found on the legs of the deceased. Dr Lagonera, however, opined that the hack wounds were not fatal. He added that the lacerated wounds could have been caused by a blunt instrument.[4]

In the meantime, a security guard of the Chinese General Hospital called up the WPD to report that a victim of a clubbing incident along M. Hizon Street, Blumentritt Manila was admitted to the hospital. Some operatives of the WPD hurried to the reported place of the incident and managed to apprehend Orlando Serrano y Lapuz, Ricardo Serrano y Lapuz and Antonio Claude y Salvador. However, the three (3) men were released for insufficiency of evidence against them. Herein accused-appellant Max, Gerry and two other unidentified males who were also suspects, remained at large.[5]

Juanita Lacson, the aunt of the deceased and a resident of 2422 M. Hizon Street, Sta. Cruz, Manila, testified that the victim lived with her since he was thirteen (13) years old. On January 3, 1992, as she was leaving her house, she saw accused-appellant hit the deceased on the head with a piece of wood.[6] Nobody tried to pacify the persons clubbing the deceased since no one, except for Patricia, and Gerry Caniesa and his friends, were around.[7] While the others rushed the victim to the hospital, Juanita went to the police station and reported the incident. At the police station, she was advised by one Boy Encarnacion to formally lodge a complaint upon accused-appellant's arrest. Juanita explained that it took her more than a month to file her complaint because the

accused-appellant and the five other men went into hiding immediately after the said incident.[8]

On February 4, 1992, an Emilia Torres de Ramos of C-2, Capulong Highway Tondo, Manila called up the WPD to report that accused-appellant was roaming along the vicinity of M. Hizon Street in Blumentritt, Manila. Several operatives of the WPD were dispatched in response to the report and apprehended accused-appellant on the same day.

On February 7, 1992, the following information was filed against accused-appellant before the RTC of Manila, Branch 37.

That on or about January 3, 1992, in the City of Manila, Philippines, the said accused, conspiring and confederating together with other whose true names, identities and present whereabouts are still unknown, did then and there, wilfully, unlawfully and feloniously, with intent to kill and with treachery, evident premeditation and abuse of superior strength, attack, assault and use personal violence upon one Edgardo Torres y Lacson, by then and there clubbing him several times on the head with pieces of wood, thereby inflicting upon the latter mortal head injuries which were the direct and immediate cause of his death thereafter.

Contrary to law.[9]

Accused-appellant pleaded not guilty upon arraignment[10] and instead offered the following version of the story:

Accused-appellant is a resident of 2445 M. Hizon Street, Sta. Cruz, Manila. He was a vendor by profession and was appointed as Officer-in-Charge (OIC) of the Barangay Tanods in Barangay 365, Zone 37 in Sta. Cruz, Manila. As OIC of the barangay tanods, one of his duties and responsibilities is the maintenance of peace and order in the barangay. On January 3, 1992, at around 4:30 o'clock p.m., accused-appellant was about to leave for Sta. Mesa, Manila when a certain Amelia Estipular sought his help in pacifying the deceased who was chasing someone with a knife in a house nearby. Upon reaching the house, he saw Ric Serrano, Orland Serrano, Gerry Caniesa, a certain Mio and the deceased standing on the ground floor. The deceased then asked him, "Ano ang ginagawa ninyo dito?" When accused-appellant did not reply, the deceased pulled a "balisong" from his pocket and tried to stab him. Before he could inflict any harm on accused-appellant, Gerry Caniesa, struck the deceased several times. Thereafter, Gerry ran away. Accused-appellant tried to go after Gerry but failed to apprehend him since Gerry was holding a piece of wood.[11]

When accused-appellant returned, he saw the deceased being loaded on a pushcart before being brought to the hospital. The barangay chairman, Juanita Lacson and Patricia de la Cruz arrived. The accused-appellant did not report the incident to the Barangay Chairman because he was not asked to do so. He then decided to go home and did not bother to volunteer any information regarding the incident to the police.[12]

Accused-appellant's story is corroborated by his cousin and neighbor Danilo de Guzman. Danilo testified that at around 4:20 o'clock in the afternoon of January 3, 1994, he was in the house of Ric Serrano, in M. Hizon Street, Sta. Cruz, Manila. He was in the company of Ric, Ato, Meo and Orlan when he saw Gerry Caniesa being chased by the deceased "Togart". The deceased at that time was holding a bladed weapon. Gerry was the first to enter Serrano's house followed by Togart. Then there was some shouting heard. Later, he saw Togart leaving the house pacified by Ric. At this point, accused-appellant arrived. Accused-appellant asked Togart what happened but the latter tried to stab him. Suddenly, Gerry emerged from the house, got a piece of wood and hit the deceased four (4) to five (5) times. Orlan followed suit and hit the deceased three (3) times. Thereafter, Gerry together with Orlan fled.[13] Danilo was not able to give his statement to the police officers who arrived to investigate the case because they hastily left.[14] Danilo then proceeded to the police station where he was able to talk to a certain "Chico".[15] From the time of the incident up to the trial, he did not volunteer any information regarding the

gruesome killing of Edgardo Torres.[16]

Amelia Sandico Estipular, the sister of Antonio Claudio[17] who is one of the suspects in the killing of the victim, also corroborated accused-appellant's story. She said that Gerry Caniesa hit the deceased with a piece of wood several times on the head, thus causing his death. Amelia testified that she was in the store near the house of Ric Soriano[18] when she heard some shouting. It was then that she realized the deceased was pursuing Gerry inside said house. She approached the accused-appellant to help pacify the two men inasmuch as the accused-appellant was the Officer in Charge (OIC) of the Barangay Tanods. Accused-appellant then positioned himself at the door of Soriano's house but the deceased tried to stab him. When accused-appellant was able to parry the blow coming from the victim, he pushed the latter. At this point, Gerry Caniesa appeared and hit the victim with a piece of wood for about six (6) times. Amelia was not able to witness the subsequent events since a number of people came rushing to the scene. She heard, however, that the victim was later brought to the hospital.[19] Amelia did not volunteer to give any information to the police about the incident since nobody bothered to ask her about it. It was only after the arrest of accused-appellant that she decided to testify since she was the one who first asked the accused-appellant to pacify the deceased and Gerry who were having a heated argument on the fateful day of January 3, 1992.[20]

Finally, Amelia's brother, Antonio Claudio, testified that he was fixing the table in front of the house of a certain Trajano[21] when the deceased chased Gerry Caniesa inside the said house. The deceased was then armed with a fan knife. Sometime later, he later saw his sister, Amelia Estipular with accused-appellant.[22] He had no idea where the accused-appellant went after the incident. Antonio admitted that he was among those charged for the death of the deceased before the Regional Trial Court of Manila, Branch 31.[23] The case against him, however, was dismissed. It was only during the trial of the case against him that Antonio testified that it was in fact Gerry Caniesa who hit the deceased with a piece of wood causing the latter's death.[24]

The trial court did not give credence to the story of accused-appellant and on May 30, 1997, rendered a decision convicting him of the crime of murder, the dispositive portion of which reads as follows:

"WHEREFORE, the Court finds that the accused Maximo Hernandez y de Guzman guilty of the crime of murder. There being no aggravating or mitigating circumstances that attended the killing, he is hereby ordered to suffer the penalty of RECLUSION PERPETUA.

"Having been adjudged criminally liable, it follows that the above-named accused is likewise civilly liable (Article 100, Revised Penal code). The prosecution presented an itemized list of expenses incurred for the wake and burial of the victim, which was admitted by the defense, in the aggregate amount of P22,500.00 (Exhibits "K" to "K-6", inclusive).

"He is likewise ordered to indemnify the heirs of the victim the amount of P50,000.00 by way of moral damages (People of the Philippines vs. Leodegario Ramos, et. al. G.R. 110600, August 7, 1996)

"No pronouncement as to costs.

"SO ORDERED.[25]

Accused-appellant, in his appeal now contends that the lower court erred in giving credence to the testimonies of the witnesses for the prosecution.

Accused-appellant avers that the testimonies of the witnesses for the prosecution should not be accepted without reservation inasmuch as the witnesses executed affidavits implicating him in the crime a full month after the incident. He maintains that a month's delay in reporting the incident casts doubt on the truthfulness of their sworn statements.

Settled is the rule that in the absence of any fact or circumstance of weight and influence which has been overlooked or the significance of which has been misconstrued as to impeach the findings of the trial court, the appellate courts will not interfere with the trial court's findings on the credibility of the witnesses or set aside its judgment considering that it is in a better position to decide the question having heard the witnesses themselves during the trial.[26]

The fact that the witnesses executed their affidavits implicating the accused-appellant in the murder of the deceased does not detract from the truthfulness of their statements. Verily, it is settled that delay in divulging the names of the perpetrators of crimes, if sufficiently explained, does not impair the credibility of the witness and his testimony.[27]

In this case, Patricia explained that it took them a month after the incident to execute an affidavit because she thought that Juanita had already reported the matter to the police on the day of the incident.[28] Juanita, for her part, was of the belief that the report she made before the police was already sufficient.[29] Clearly, the delay in the reporting of the incident was satisfactorily explained.

Accused-appellant, however, insists that his name was never mentioned to the authorities during the investigation of the case and the witnesses only implicated him in the murder of the deceased because they want to extort money from him.

We are not convinced.

The advance information filed by PO3 Alfredo de la Rosa on January 3, 1992, the day of the incident, shows that accused-appellant had already been tagged as one of the suspects.[30] The fact that the witness who reported the incident to PO3 de la Rosa at that time was a certain Romeo de la Cruz and not Juanita Lacson, only bolsters the claim of the prosecution's witnesses that it was indeed accused-appellant Maximo Hernandez who delivered the fatal blow to the deceased.

Strangely, despite accused-appellant's claim that he was present at the scene of the crime only because he was asked by Amelia to pacify the deceased who was having a heated discussion with Gerry Caniesa, he never bothered to tell the Barangay Captain that it was Gerry Caniesa who mauled the deceased. Accused-appellant himself even admitted that when the barangay captain and Juanita arrived, he decided to just go home. It certainly is a trifle odd that an OIC of the barangay tanods, who is entrusted with the duty of preserving peace within the neighborhood, would not exert any effort to report the incident to his immediate superior, in this case, the Barangay Captain, for the flimsy reason that he was not asked to do so. Moreover, despite his admission that a number of people were present at the time of the clubbing incident, accused-appellant failed to present a single disinterested witness to corroborate his claim that it was indeed Gerry Caniesa who dealt the fatal blow to the deceased. Accused-appellant instead chose to present his cousin, Danilo de Guzman, Antonio Claude who was one of the suspects in the murder of the deceased, and Antonio's sister, Amelia Estipular to testify for him.

There is no argument that mere relationship to a party does not militate against the credibility of the witness.[31] However, the testimony of accused-appellant's cousin, Danilo, that he was not able to report to the police that it was Gerry who mauled the deceased since the policemen hastily left the place, is much too inane to merit credence. Considering the gravity of the crime that had been committed, it is unlikely that the investigators would have been so careless as to leave the place hastily without conducting an in-depth investigation of the case. Moreover, although Danilo testified that he reported the gruesome incident to a policeman named "Chico", Chico was never presented in court to corroborate this claim.

Amelia Estipular's testimony is no less implausible. While she claimed that she saw Gerry Caniesa hit the

deceased six (6) times with a piece of wood, she could not remember what specific part of the body of the deceased was hit by Gerry. She could not even say whether the deceased was standing up or lying down when he received several blows from Gerry.[32] Curiously, Amelia never executed a statement attesting to the innocence of accused-appellant despite the fact that she was the one who sought the help of accused-appellant in pacifying the deceased who was then having a heated argument with Caniesa. It was only during the trial of accused-appellant that she decided to testify for him.

The testimony of Antonio Claude that it was Gerry Caniesa who delivered the fatal blow to the deceased deserves scant consideration. It has not escaped our notice that in the case filed against Antonio before the RTC of Manila, Branch 31 and in which he was acquitted, he categorically denied having witnessed the entire incident leading to the death of Edgardo Torres.[33] Certainly, this casts doubt on the veracity of his statement vouching for the innocence of the accused-appellant.

The trial court correctly appreciated the attendance of treachery in the killing of the deceased. Treachery is present when the offender commits any of the crimes against person employing means, methods or forms in the execution thereof which tend directly and specially insures its execution, without risk to himself arising from the defense which the offended party might make. Not only was the deceased attacked in a sudden and unexpected manner from behind in the case at bar. He was assaulted when he was already almost unconscious. Clearly, at the time of the attack, the deceased was in no position to defend himself.

The trial court, however, erred in failing to award civil indemnity to the heirs of the deceased. Civil indemnity is automatically imposed upon accused without need of proof other than the fact of the commission of the offense. In line with existing jurisprudence, the sum of P50,000.00 as indemnity for the death of the victim must be awarded.[34]

WHEREFORE, the decision of the Regional Trial Court of Manila, Branch 37, convicting Maximo Hernandez y de Guzman of murder, thereby sentencing him to suffer the penalty of reclusion perpetua and to pay the heirs of Edgardo Torres the sum of P22,500.00 as actual damages and P50,000.00 as moral damages is AFFIRMED with the MODIFICATION that accused-appellant is ordered to pay the heirs of the deceased the additional sum of P50,000.00 by way of civil indemnity.

**SO ORDERED.**

Bellosillo, (Chairman), Mendoza, Quisumbing, and Buena, JJ., concur.

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[1] Spelled as Caniesa in the RTC decision although spelled as Cañesa in the TSN.

[2] Records, pp. 121 - 128.

[3] Records, p. 116.

[4] TSN, January 7, 1993, pp. 10-12.

[5] Records, pp. 117-118.

[6] TSN, August 20, 1992, pp. 6-10.

[7] TSN, October 6, 1992, pp. 15-17.

[8] TSN, October 6, 1992, pp. 18-23.

[9] Records, p. 1.

- [10] Records, p. 48.
- [11] TSN, February 24, 1994, pp. 5-14.
- [12] TSN, February 24, pp. 14-18.
- [13] TSN, December 7, 1993, pp. 5-15.
- [14] TSN, December 7, 1993, pp. 22-23.
- [15] TSN, December 7, 1993, pp. 25-26.
- [16] TSN, December 7, 1993, pp. 29-34.
- [17] Identified in the Advance Information as Antonio Claude. Records, p. 117.
- [18] Spelled in the Advance Information as Ric Serrano. Records, p. 117.
- [19] TSN, January 20, 1994, pp. 4-14.
- [20] TSN, January 20, 1994, pp. 28-34.
- [21] Presumably Serrano.
- [22] TSN, August 6, 1996, p. 18.
- [23] TSN, August 6, 1996, pp. 31-32; See also Decision of RTC, Branch 31, Manila in Crim Case No. 93119810 entitled, "People vs. Antonio Claudio alias "Ato Claudio" Mio Caasi and Gerry Cañza. Records, pp. 218-222.
- [24] TSN, August 6, 1996, p. 33.
- [25] Rollo, pp. 129-130.
- [26] People vs. Guiamil, 277 SCRA 658, 663 [1997].
- [27] People vs. Ompad, Jr. , 233 SCRA 62, 66 [1994].
- [28] TSN, August 13, 1992, pp. 38-39.
- [29] TSN, October 6, 1992, pp. 20-22.
- [30] Records, pp. 4-5; 117-118.
- [31] People vs. Abapo, 239 SCRA 373 [1994].
- [32] TSN, January 20, 1994, p. 12.
- [33] Records, p. 221.
- [34] People vs. Ebrada, 296 SCRA 353, 369 [1998].

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