

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. NARCISO RAMOS Y MATIAS, RAMON SAN ROQUE Y DELA CRUZ, EULALIA SAN ROQUE DE FRANCISCO Y DELA CRUZ ALIAS LALING, WILLIAM RAMOS ALIAS WILFRE...**

*G.R. No. 135204. April 14, 2004*

Ponente: SANDOVAL-GUTIERREZ, J.

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**SANDOVAL-GUTIERREZ, J.:**

Appeal by Eulalia San Roque de Francisco y dela Cruz from the Decision[1] dated April 24, 1998 of the Regional Trial Court, Branch 122, Caloocan City, in Criminal Case No. C-46010, declaring her guilty beyond reasonable doubt of the crime of murder and sentencing her to suffer the penalty of reclusion perpetua. She was also adjudged to pay the heirs of the victim, P50,000.00 as civil indemnity.

The Information[2] dated December 14, 1993 filed against appellant and her co-accused Narciso Ramos y Matias alias “Narcing”, Ramon San Roque y dela Cruz, Wilfredo Ramos and three (3) other John Does is quoted as follows:

“That on or about the 11[th] day of February 1993 in Kalookan City, Metro Manila, and within the jurisdiction of this Honorable Court, the above named accused, with deliberate intent to kill, conspiring together and mutually helping one another, with treachery, evident premeditation and abuse of superior strength, did then and there willfully, unlawfully and feloniously tie up on a santol tree, stab, shoot and burn one WILLIAM LOMIDA, resulting to the death of the latter.”

“CONTRARY TO LAW.”

Upon arraignment on December 15, 1994, appellant, assisted by counsel, pleaded not guilty to the crime charged.

The case against Wilfredo Ramos was provisionally dismissed. The other accused, Narciso Ramos and Ramon San Roque, have remained at large.

During the trial, the prosecution presented the following witnesses: Bernie Ambal, Saturnino Rivera, Mariano Lomida and NBI Special Investigator Laurence M. Nidera. Their testimonies, woven together, established the following facts:

On February 11, 1993 at around 7:00 o’clock in the evening, Bernie Ambal was standing outside his store at 168 De Paro St., Caloocan City. Narciso Ramos, Ramon San Roque and three (3) others passed by. They proceeded to the house of William Lomida and appellant, who were then live-in partners. Narciso and Ramon stood by the door, while one of their companions, holding an armalite, positioned himself behind Narciso. Their other companion, armed with a pistol, stayed on the street, and the third one, also armed with a pistol, went to the backyard. At a distance of ten (10) meters away, Ambal saw Narciso pulling out his .45 caliber pistol and knocking at the door. Appellant then opened the door and Ramon went inside.

Soon thereafter, William and appellant, accompanied by Narciso, Ramon, and three (3) others left the house. As they were passing by the store, Ramon stopped and borrowed Ambal's jacket. At that instance, William suddenly held his arm and whispered, "Samahan mo naman ako, baka kung ano ang gawin sa akin ng mga ito, tuta barkada mo naman si Ramon." But Ambal was scared and hesitant. William then requested him to look for Saturnino Rivera.

The group headed to Narciso's house, about ½ kilometer away from Ambal's store. Unknown to them, Ambal trailed behind. Hiding himself behind a tree fifteen meters away, Ambal saw one of their companions poking his armalite at William. Then, they tied William to a santol tree. He was pleading to appellant, but she simply turned her back. Ramon stabbed William twice at the stomach with a 29" bladed knife. Then Narciso shot William five to seven times with his .45 caliber pistol. When William was already dead, Ramon and Wilfredo Ramos untied his body and brought it to a dumpsite (of used tires) twenty five meters away. There they placed William's body atop a pile of rubber tires. Ramon poured gasoline on his body and set it on fire. Appellant and the others were closely watching. After thirty minutes, appellant and the men left. Ambal immediately reported the incident to Saturnino Rivera. They proceeded to the dumpsite where they saw the charred body. According to Ambal, Ramon, appellant and Narciso's sister are brother and sisters.

Saturnino Rivera declared on the witness stand that he considered William his best friend. William and appellant frequently quarreled and sometimes, he maltreated her. Saturnino corroborated Ambal's testimony that they went to the scene of the crime and saw the charred body of William; and that they reported the gruesome incident to the NBI.

Mariano Lomida testified that on February 19, 1993, or eight days after the incident, appellant suddenly arrived in Atimonan, Quezon looking for William. She told Mariano that William left their house on February 9, 1993 without her knowledge. She borrowed P3,000.00 from him (Mariano) with a promise to pay on March 27, 1993. But since then, he never saw her again. Mariano further testified that due to the death of his son, he suffered wounded feelings.

Special Investigator Laurence M. Nidera of the NBI Anti-Organized Crime Division conducted the investigation. He took the statements of Bernie Ambal, Saturnino Rivera and Mariano Lomida. Upon the arrest of appellant and Narciso Ramos by the Capital Command (CAPCOM) of the Philippine National Police, they were turned over to the NBI.

After the prosecution rested its case, appellant filed a demurrer to evidence but was denied. Meanwhile, appellant jumped bail. On the basis of the evidence presented by the prosecution, the case was submitted for decision.

On April 24, 1998, the trial court rendered a Decision, the dispositive portion of which reads:

"WHEREFORE, judgment is hereby rendered, finding the accused Eulalia San Roque de Francisco y dela Cruz alias 'Laling' GUILTY beyond reasonable doubt of the crime of murder as charged in the Information and hereby sentences her to suffer the penalty of reclusion perpetua with accessory penalties as provided by the law and to indemnify the heirs of the victim in the sum of P50,000.00.

"SO ORDERED."[3]

Appellant appeared during the promulgation of the Decision.

In her brief, appellant raised the following assignments of error:

"I

"THE TRIAL COURT ERRED IN HOLDING THAT THE ACCUSED EULALIA SAN ROQUE DE

FRANCISCO Y DELA CRUZ alias LALING CONSPIRED AND CONFEDERATED WITH HER CO-ACCUSED IN PERPETRATING THE CRIME OF MURDER, WHEN THE FACT OF SUCH CONSPIRACY HAS NOT BEEN SATISFACTORILY PROVEN TO EXIST BEYOND REASONABLE DOUBT DURING THE TRIAL OF THE CASE.

“II

“THE TRIAL COURT ERRED IN DECIDING THE CASE AGAINST THE ACCUSED-APPELLANT DESPITE THE WEAK EVIDENCE OF THE PROSECUTION, CONSIDERING THAT THE PROSECUTION HAS FAILED TO PROVE ALL THE NECESSARY ELEMENTS OF THE CRIME AND THE CORPUS DELICTI.

“III

“THE TRIAL COURT ERRED IN HOLDING THE ACCUSED GUILTY OF THE CRIME OF MURDER BY THE MERE FACT THAT SHE FAILED TO APPEAR AFTER THE CASE WAS REVIVED SUCH FAILURE HAVING BEEN APPRECIATED BY THE TRIAL COURT AS A CLEAR INDICATION OF HER GUILT.

“IV

“THE TRIAL COURT COMMITTED AN ERROR IN FINDING THE ACCUSED GUILTY OF THE CRIME OF MURDER ON THE BASIS ALONE OF THE TESTIMONY OF THE SOLE WITNESS IN THIS CASE, WITHOUT BEING SUPPORTED THEREBY BY CONVINCING EVIDENCE.”

We shall discuss the above assignments of error jointly.

Article 248 of the Revised Penal Code, as amended, provides:

“ART. 248. Murder. – Any person who, not falling within the provisions of Article 246 shall kill another, shall be guilty of murder and shall be punished by reclusion temporal,[4] in its maximum period to death, if committed with any of the following attendant circumstances:

- With treachery, taking advantage of superior strength, with the aim of armed men, or employing means to weaken the defense or of means or persons to insure or afford impunity.
- In consideration of a price, reward or promise.
- By means of inundation, fire, poison, explosion, shipwreck, stranding of a vessel, derailment or assault upon a railroad, fall of an airship, or by means of motor vehicles, or with the use of any other means involving great waste and ruin.
- On occasion of any of the calamities enumerated in the preceding paragraph, or of an earthquake, eruption of a volcano, destructive cyclone, epidemic or other public calamity.
- With evident premeditation.
- With cruelty, by deliberately and inhumanly augmenting the suffering of the victim, or outraging or scoffing at his person or corpse.”

In convicting the appellant of murder, the trial court gave full faith and credence to the testimony of prosecution lone eyewitness, Bernie Ambal. An extract from his testimony is quoted hereunder:

**“DIRECT EXAMINATION BY PROS. MANAQUIL:**

X X X

**Q**

And in the evening of that date, could you recall at about 7:00 in the evening of February 11, 1993, if there was any unusual incident that happened?

**A**

Yes, sir.

**Q**

Will you please tell us what was that unusual incident all about that you observed and noticed?

**A**

Narciso Ramos, Ramon San Roque and three men of Narciso Ramos got the victim and Eulalia San Roque was also with the group.

Court:

**Q**

Who was taken?

**A**

The victim, your Honor.

**Q**

What is the name of the victim?

**A**

William Lomida was taken by these people.

Pros. Mananquil:

**Q**

From where the accused picked up by these people?

**A**

Lomida was taken from the house where Eulalia San Roque and William Lomida were living.

**Q**

William Lomida is the victim in this case. Now, how is he related to Eulalia San Roque?

**A**

They are not married. They are live-in partners.

**Q**

Now, how far from the store where this house of William Lomida and Eulalia San Roque is located?

**A**

More or less, ten meters away.

**Q**

Is it located in front of the store, on the left side or at the back of the store?

**A**

The house of Eulalia is alongside of our house.

**Q**

What part of your store where you were at the time you saw these people picked up Lomida?

**A**

I was outside the store standing.

**Q**

After the accused picked up the victim, what happened or where did they go?

**A**

William Lomida, the victim, was brought to the house of Narciso Ramos.

x x x

Court:

x x x

**Q**

So the persons whom you saw got Lomida were Narciso Ramos, Ramon San Roque, William Ramos alias Wilfredo Ramos and three men of Narciso Ramos and Eulalia San Roque?

**A**

Yes, your Honor.

x x x

Pros. Mananquil:

**Q**

Now, you said that the accused brought William Lomida to the house of Narciso Ramos. How far is this house of Narciso Ramos located in relation to the store, your store?

**A**

About half kilometer away.

x x x

**Q**

Now, when the victim was brought to the house of Narciso Ramos, what happened next?

**A**

The victim was tied to a santol tree.

**Q**

Where is this santol tree where the victim Lomida was tied? How far is this from the house of Narciso Ramos?

Court:

**Q**

Who tied the victim?

**A**

Ramon San Roque, Wilfredo Ramos and the three others unidentified men.

Pros. Mananquil:

**Q**

After the accused tied William Lomida on a santol tree, what happened next?

**A**

Ramon San Roque stabbed William Lomida.

**Q**

And with what kind of weapon was used by Ramon San Roque?

**A**

A bladed 29.

**Q**

How long?

**A**

I cannot say how long, sir.

**Q**

How many times did you see Ramon San Roque stabbed the victim with the 29?

**A**

About two times, sir.

**Q**

And did you see if Lomida was hit with that two stab thrust?

**A**

He was stabbed on the stomach.

Pros. Mananquil:

**Q**

What happened after Ramon San Roque stabbed the victim?

**A**

The victim, William Lomida ‘nangisay’ and then Narciso Ramos came near the victim and shot him.

**Q**

How many times?

**A**

About 5 to 7 shots.

**Q**

And did you see if the victim was hit?

**A**

It seems that the shots were directed to his face because he was bloodied all over his face.

**Q**

With what kind of firearm, if you remember?

**A**

When the investigator showed me some guns, I noticed that the one gun that Narciso Ramos used was a .45 caliber.

**Q**

Was it magazine or revolver?

**A**

Magazine type.

**Q**

After Narciso Ramos shot the victim 7 times on the head, what happened next?

**A**

When the group made sure that the victim was dead already, they untied him and brought the body where there was a pile of tires, piles of pieces of rubber tires.

**Q**

By the way, at the time when the victim was shot by Narciso Ramos and stabbed by Ramon San Roque, where was Willy Ramos, Narciso Ramos and Eulalia San Roque?

**A**

They were just there standing and afterwards, turned their back around.

x x x

Prosecutor:

**Q**

How far was Eulalia San Roque from Lomida when Lomida was shot by Narciso Ramos and stabbed by Ramon San Roque?

**A**

This place up to that wall. Distance of about 8 meters.

**Q**

And what was Eulalia doing at the time when the victim was stabbed and shot?

**A**

She turned her back and face the kitchen of the house of Narciso Ramos.

**Q**

Did she not try to intervene, this Eulalia, being the live-in partner of William Lomida or did not exert effort to pacify?

x x x

Prosecutor:

**Q**

Just turning her back, what else that she did, being live-in partner of William Lomida?

**A**

She did not do anything anymore.

**Q**

After the victim was stabbed and shot, he was untied from the santol tree. Who untied him?

**A**

It was Ramon San Roque, Willy Ramos and the three others.

**Q**

Willy refers to Wilfredo Ramos?

**A**

Yes, sir.

**Q**

Where was Eulalia at the time?

**A**

She was still there standing.

**Q**

Now, you said after the victim was untied from the santol tree, he was brought to where pieces of rubber tires were piled, recycled, how far is this from the santol tree where the victim was tied?

**A**

About 25 meters.

**Q**

Now, after the accused brought the victim to the piles of recycled tires, what happened next?

**A**

Ramos San Roque got a can and poured something on the body of the victim and then, lighted it up.

**Q**

What happened to the body of the victim, William Lomida?

**A**

The body was burned.

**Q**

At the time when this Ramon San Roque poured something on the body of the victim and then lighted the same, where were Wilfredo Ramos, Eulalia San Roque and Narciso Ramos and the other unidentified persons?

**A**

There were – They were there in front of the burning body.

**Q**

How long did the fire last?

**A**

It took a long time, about more than one hour.

**Q**

After one hour, what happened next?

**A**

They left the place. The group left the place.

Court:

**Q**

What happened to the tires?

**A**

The tires also burned.

**Q**

And where was the body of Lomida in relation to the tires?

**A**

The body of the victim was almost burned and when we went back to the place, the shape of the charred was still there. The same of human body.”[5]

The foregoing testimony clearly shows that Ambal, being then present at the locus of the crime, was able to identify the appellant and the other accused as the persons who killed William. Ambal narrated the incidents leading to the victim's death with clarity and lucidity that they could not have been fabricated or concocted. The records show that throughout the trial, he remained steadfast in his testimony. There is thus no doubt in our minds that this lone eyewitness is credible. While his testimony is uncorroborated, still it sustains the conviction of appellant. In *People vs. Toyco*,[6] we held:

“It is axiomatic that truth is established not by the number of witnesses but by the quality of their testimonies. The testimony of a single witness if positive and credible is sufficient to support a conviction even in charge of murder.”

We are not persuaded by appellant’s contention that the prosecution failed to adduce sufficient evidence to establish the existence of conspiracy among the accused. She vigorously contends that she did not participate in the killing of the victim.

In determining the existence of conspiracy, it is not necessary to show that all the conspirators actually hit and killed the victim.[7] The presence of conspiracy among the accused can be proven by their conduct before, during or after the commission of the crime showing that they acted in unison with each other, evincing a common purpose or design. There must be a showing that appellant cooperated in the commission of the offense, either morally, through advice, encouragement or agreement or materially through external acts indicating a manifest intent of supplying aid in the perpetration of the crime in an efficacious way. In such case, the act of one becomes the act of all, and each of the accused will thereby be deemed equally guilty of the crime committed.[8]

The series of events in this case convincingly show that appellant and her co-accused acted in unison and cooperated with each other in killing William Lomida. Appellant was the one who opened the door and allowed the other accused to enter the house. She joined them in bringing the victim to the residence of Narciso Ramos, her brother-in-law. While her co-accused dragged the helpless victim, tied him to a santol tree, stabbed him twice by a bladed knife, and shot him 5 to 7 times, appellant merely watched intensely. She even “turned her back” as the lifeless body of the victim was being burned. And after attaining their purpose, she fled with the other accused.

The above circumstances clearly show the common purpose and concerted efforts on the part of appellant and her co-accused. We agree with the trial court in concluding that their acts were indications of a criminal conspiracy to commit the crime of murder.

The only remaining question is whether the crime was attended by aggravating circumstances.

The killing of the victim was attended by treachery. Treachery exists “when the offender commits a crime against persons, employing means, methods or forms in the execution thereof which tend directly and specifically to insure its execution, without risk to himself arising from any defense or retaliatory act which the victim might make.”[9] Here, appellant and her co-accused tied William to a santol tree before they stabbed and shot him to death, thus, insuring the execution of the crime without risk to themselves. Obviously, he could not retaliate. This aggravating circumstance qualifies the crime to murder.

However, we cannot sustain the trial court’s appreciation of the aggravating circumstance of superior strength as this is absorbed in treachery.[10]

It bears stressing that this crime of murder was committed on February 11, 1993.[11] The law applicable is Article 248 of the Revised Penal Code then penalizing murder with reclusion temporal in its maximum period to death. Under Article 64 (1) of the Revised Penal Code, in cases in which the penalties prescribed by law contain three periods, whether it be a single divisible penalty or composed of three different penalties, and there are neither aggravating nor mitigating circumstances that attended the commission of the crime, the penalty prescribed by law in its medium period shall be imposed.

The range of the imposable penalty, i.e., reclusion temporal in its maximum period to death, is 17 years, 4 months and 1 day to death. Applying the Indeterminate Sentence Law, and there being no aggravating or mitigating circumstance that attended the commission of the crime, the maximum period is the medium of the imposable penalty, which is reclusion perpetua. The minimum period is one degree lower, or prision mayor in its maximum period to reclusion temporal in its medium period, the range of which is 10 years and 1 day to 17 years and 4 months. The minimum period of the penalty imposable is anywhere within this range, or 10 years and 1 day. Hence, appellant should be sentenced to 10 years and 1 day of prision mayor, as minimum, to reclusion perpetua, as maximum.

Regarding damages, the trial court correctly awarded P50,000.00 as civil indemnity to the victim’s heirs. When death occurs as a result of a crime, appellant should be ordered to pay the heirs of the victim P50,000.00 as civil indemnity, without need of any evidence or proof of damages.[12]

We likewise award temperate damages, in lieu of actual damages. Here, the prosecution failed to present any proof of the expenses incurred by the victim’s heirs. However, as they actually incurred funeral expenses, we award P25,000.00 by way of temperate damages.[13]

Anent moral damages, we award the victim’s heirs the amount of P50,000.00.[14] For verily, moral damages are not intended to enrich the victim’s heirs; rather they are awarded to allow them to obtain means for diversion that could serve to alleviate their moral and psychological sufferings.[15] Mariano Lomida, victim’s father, equivocally described how he suffered untold wounded feelings for the loss of his son.

We also award the victim’s heirs P25,000.00 as exemplary damages. This is pursuant to our ruling in *People vs. Catubig*[16] that if a crime is committed with an aggravating circumstance, either qualifying or generic, an award of P25,000.00 as exemplary damages is justified.

WHEREFORE, the assailed Decision dated April 24, 1998 of the Regional Trial Court, Branch 122, Caloocan City, in Criminal Case No. C-46010, is hereby **AFFIRMED** with **MODIFICATION** in the sense that appellant EULALIA SAN ROQUE DE FRANCISCO is sentenced to suffer the penalty of 10 years and 1 day of prision mayor, as minimum, to reclusion perpetua, as maximum. She is ordered to pay the victim’s heirs (a) P50,000.00 as civil indemnity; (b) P25,000.00 as temperate damages; (c) P50,000.00 as moral damages and (d) P25,000.00 as

exemplary damages.

Costs de oficio.

**SO ORDERED.**

Vitug, (Chairman), Corona, and Carpio-Morales, JJ., concur.

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[1] Penned by Judge Remigio E. Zari, Rollo at 12-15.

[2] Rollo at 4.

[3] Decision, *id.* at 32.

[4] Section 6 of Republic Act No. 7659 (enacted on January 1, 1994) amended the prescribed penalty to “reclusion perpetua to death.”

[5] TSN, February 13, 1996 at 3-17.

[6] G.R. No. 138609, January 17, 2001, 349 SCRA 385, 399, citing *People vs. Benito*, 303 SCRA 468 (1999).

[7] *People vs. Amazan*, G.R. Nos. 136251, 138606 & 138607, January 16, 2001, 349 SCRA 218, 234, citing *People vs. Alib*, 322 SCRA 93 (2000).

[8] *People vs. Visaya*, G.R. No. 136967, February 26, 2001, 352 SCRA 713, 720-721.

[9] *People vs. Berdin*, G.R. No. 137598, November 28, 2003 at 16-17, citing *People vs. Bolivar*, 352 SCRA 438 (2001); Article 14, par. 16, Revised Penal Code.

[10] *People vs. Ampo-an*, G.R. No. 75366, July 4, 1990, 187 SCRA 173, 189; *People vs. Manzanares*, G.R. No. 82696, September 8, 1989, 177 SCRA 427.

[11] The crime was committed before Republic Act No. 7659 which took effect on January 1, 1994.

[12] *People vs. Berdin*, *supra* at 18, citing *People vs. Joey Manlansing y Ambrosio and Mario Manlansing y Ambrosio*, G.R. Nos. 131736-37, March 11, 2002.

[13] *People vs. Abrazaldo*, G.R. No. 124392, February 7, 2003.

[14] *People vs. Solamillo*, *supra*, citing *People vs. Marquez*, 380 SCRA 561 (2002); *People vs. Yatco*, 379 SCRA 432 (2002); *People vs. Matic*, 377 SCRA 314 (2002).

[15] *People vs. Berdin*, *supra* at 19, citing *People vs. Pacina*, 338 SCRA 195, 215-216 (2000).

[16] G.R. No. 137842, August 23, 2001, 363 SCRA 621, cited in *People vs. Berdin*, *supra* at 19.

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