

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
GENARO LARDIZABAL, LEOPOLDO LARDIZABAL AND ERNESTO
SANCHEZ, AT LARGE, ACCUSED-APPELLANTS.**

G.R. No. 89113. November 29, 1991

Ponente: PARAS, J.

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PARAS, J.:

This is an appeal from the June 5, 1989 decision* of the Regional Trial Court, Fourth Judicial Region, Branch 58, Lucena City, in Criminal Case No. 85-105, finding the accused Genaro Lardizabal and Leopoldo Lardizabal guilty beyond reasonable doubt, as principals, of the offense of Murder as defined and penalized in Article 248 of the Revised Penal Code, and in the absence of any mitigating or aggravating circumstance, hereby sentences said accused persons to suffer the penalty of reclusion perpetua, to pay the heirs of the victim Paulo Guerra, jointly and severally, the amount of Thirty Thousand (P30,000.00) Pesos, as indemnification, and to pay the costs (Original Record, Decision, p. 416).

The appellants were charged in an information filed by Asst. Provincial Fiscal Melquiades M. Refazo of Lucena City on August 17, 1984, which reads:

"The undersigned accuses Genaro Lardizabal (prisoner), Leopoldo Lardizabal (on bail) and Ernesto Sanchez (on bail), of the crime of murder, committed as follows:

"That on or about the 15th day of May 1983, at Barangay Cabay, Municipality of Tiaong, Province of Quezon, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, Genaro Lardizabal, armed with a small bolo (gulukan), and the accused Leopoldo Lardizabal and Ernesto Sanchez, each armed with a bolo, with intent to kill, with treachery and evident premeditation, and taking advantage of their superior strength, conspiring and confederating together and mutually helping one another, did then and there willfully, unlawfully and feloniously attack, assault, stab and hack with the said weapons one Paulo Guerra, thereby inflicting upon the latter various wounds on the different parts of the body, which directly caused his death.

"CONTRARY TO LAW." (Rollo, p. 109, Original Record, pp. 2-3).

Upon arraignment, the accused Genaro Lardizabal and Leopoldo Lardizabal entered a plea of not guilty of the crime charged (Original Record, p. 17).

The other accused Ernesto Sanchez did not appear for arraignment. A warrant for his arrest was duly issued thereafter, but it appears that to date, the arrest of Sanchez has not yet been effected (Rollo, Decision, pp. 90; 101).

The trial of the case ensued.

The prosecution presented the following witnesses: Dr. Vicente Umali, Pat. Eduardo de Rosales, Pat. Rodolfo Castillo, Leonida Guerra and Rodolfo Guerra.

Dr. Vicente Umali - Municipal Health Officer of Tiaong, Quezon, conducted a post-mortem examination on May 15, 1983 on the body of Paulo Guerra. His findings as reflected in his Autopsy Report (Exhibit "A"), reveal that at the time he examined the body of the victim, rigor mortis had already set in; that the body sustained sixteen (16) stab and incised wounds at the chest, the back, the head and the extremities, eight (8) of which proved to be fatal; and that the cause of the victims' death is shock due to severe hemorrhage resulting from multiple stab wounds and incised wounds.

He, likewise, stated that said wounds were caused or inflicted by more than one person and the instruments used were more than one; that the location and nature of the injuries sustained clearly show the manifest intention of the assailants to kill the victim; and that the latter had no chance to defend himself as there were more than one perpetrator, who took part in the commission of said crime (TSN, Hearing of March 27, 1985, pp. 4-24).

Pat. Eduardo de Rosales - a member of the Integrated National Police of Tiaong, Quezon declared that at around 1:00 o'clock in the morning of May 15, 1983, while in his parent's house in Cabay, Tiaong, Quezon, he received a report from one named Rodolfo Guerra that there was a dead person near the place where a wedding ceremony was being held at that time. Together with Pat. Rodolfo Castillo, they went to the place designated by Rodolfo Guerra and there they found the body of the victim. The body sustained many hacking wounds. They investigated the incident and a sworn statement were executed by Barangay Tanod Rodolfo Guerra and Leonida Guerra and in the course of investigation they found a bolo in the place where the incident had taken place (TSN, Hearing of August 15, 1985, pp. 37-42).

Pat. Rodolfo Castillo - also a member of INP of Tiaong, Quezon, corroborated the testimony of Pat. Eduardo de Rosales. In addition, he testified that he was the one who caused the incident to be recorded on the police blotter. Although Rodolfo Guerra made a report that his uncle was killed, he refused to answer who witnessed the killing because he was frightened that night. There were also many residents around but nobody could tell the name of the person who did it. Finally, the next time he saw Rodolfo and Leonida Guerra on May 19, 1983, they executed their affidavits (TSN, Hearing of October 29, 1985, pp. 56-69).

Leonida Guerra - housewife, widow of the victim, Paulo Guerra, and an eyewitness of the prosecution, narrated that on May 14, 1983 at around 8:00 o'clock in the evening her husband, Paulo Guerra, left their house to attend a wedding celebration at the residence of a certain Sixto de Rosales and that from 8:00 o'clock in the evening of May 14, 1983 to 1:30 in the morning of May 15, 1983, she was at the balcony of their house waiting for her husband to come home. While waiting, she witnessed that her husband was ganged-up by three (3) persons namely: Genaro Lardizabal, Leopoldo Lardizabal and Ernesto Sanchez. From a distance of around five (5) meters she saw Genaro Lardizabal hack her husband and Leopoldo Lardizabal and Ernesto Sanchez stab her husband. Genaro Lardizabal used a bolo, Leopoldo Lardizabal and Ernesto Sanchez each used a small bolo "gulukan". She shouted twice and ran towards her husband. Then she saw Rodolfo Guerra coming from the banana plantation. Rodolfo told her to stay there and that he would call for help, but her husband died. She also testified that Genaro and Leopoldo had been known to her husband since childhood; that her husband was a carpenter earning Sixty-five Pesos (P65.00) a day. They had eight (8) children, the eldest was thirty (30) years old and the youngest thirteen (13); she was shocked due to her husband's death. During the wake she spent Five Thousand Pesos (P5,000.00) (TSN, Hearing of January 14, 1986, pp. 74-82).

Rodolfo Guerra - another eyewitness of the prosecution who is a security guard and a nephew of the victim Paulo Guerra, corroborated the testimony of the widow and narrated more in detail that at around 9:00 o'clock in the evening of May 14, 1983 he went to a wedding celebration held in the house of one Sixto de Rosales; he stayed in said house for about four (4) hours. He saw the victim Paulo Guerra in the same wedding celebration. When Paulo Guerra left the place Rodolfo followed him. He was walking five (5) meters behind Paulo Guerra when the latter

was attacked by three (3) men namely: Genaro Lardizabal, Leopoldo Lardizabal and Ernesto Sanchez, the accused herein. Genaro used a bolo, Leopoldo and Ernesto each used a "gulukan" to stab Paulo. The incident took place at around 1:30 in the morning of May 15, 1983. He recognized the three men because of the light coming from a house twenty meters away owned by Rodolfo Regulto. When he saw the three men hacking and stabbing the victim Paulo, he ran and hid himself behind a banana plant. After hacking and stabbing the victim the three men ran away. It was then that he saw Leonida Guerra beside the victim and told her to stay there while he left to look for help. He reported the incident to Pat. Eduardo de Rosales. When he went back to the scene of the incident he found out that his Uncle Paulo was already dead. (TSN, Hearing of April 1, 1986, pp. 117-127).

The version of the defense consists of denial and alibi, presenting the following witnesses who testified as follows:

Leopoldo Lardizabal - one of the accused, married, farmer, and a resident of Cabay, Tiaong, Quezon, testified that on May 14, 1983, he and his wife were at home preparing food with the help of neighbors and friends because one of his children, Julieta, was a sponsor in the offering of flowers in the Flores de Mayo. The preparation started noontime and lasted up to 10:00 o'clock in the evening. After they finished he had a drinking spree in their house with Ernesto Sanchez and one friend. They drank one gallon of lambanog. He fell asleep ahead of his friends who were still there when he woke up at 4:00 or 5:00 o'clock in the morning, after which he cleared the things they used in their drinking spree. He denied having participated in the killing of Paulo Guerra and he has no knowledge of the charges against him.

Two days after the Flores de Mayo, he left for Cavite to work in a farm he had been working on since 1982. He came to know of the death of Paulo Guerra only through his Tiya Polonia and Cesar Rason. He was fetched by his brother in Cavite on June 27, 1983 and he was told that he was a suspect in the killing of Paulo Guerra. He was incarcerated in the Municipal Jail of Tiaong, Quezon. (TSN, Hearing of December 9, 1986, pp. 205-212).

He revealed that the Guerra Family are mad at the Lardizabals because Genaro Lardizabal was suspected of killing Domingo Guerra, the father of Paulo Guerra. However, Genaro was acquitted and released from jail.

On cross-examination, Leopoldo Lardizabal claimed that the family of Guerra and the Lardizabals are not on speaking terms, but the Lardizabals do not harbor any ill-feelings against the Guerras. In fact he had no knowledge of the death of Domingo Guerra, even before he came to Cabay, Tiaong, Quezon. He worked in the farm of Alberto Sabale situated in Bayang Luma, South Compound, Imus, Cavite. He frequently goes to Cabay after every harvest.

He also admitted that he had a drinking spree with his brother-in-law, Ernesto Sanchez and Alberto Sabale. On the 17th of May he and Alberto Sabale proceeded to Imus, Cavite. When apprehended In June, 1983, he was not aware that Genaro and Ernesto were also implicated (TSN, Hearings of February 26, 1987, pp. 216-220; 227; 235; April 23, 1987, p. 242).

Lamberto Sabale - corroborated the testimony of Leopoldo Lardizabal, and stated that on the 14th of May, 1983, he was in the house of the latter having a drinking spree which lasted at past 12:00 in the evening. He slept beside the door of the house and woke up at past 5:00 o'clock in the morning. When he woke up, all were still asleep. Leopoldo woke up at past 6:00 o'clock in the morning. On the 16th of May, 1983, at 8:00 o'clock in the morning he and Leopoldo left for Cavite (TSN, Hearing of June 9, 1987, pp. 272-278).

On cross-examination, he said that he volunteered to testify in favor of Leopoldo Lardizabal because he was really with him on May 14 and 15, 1983 at Cabay. The farm where they worked is owned by Teofilo Dequiros. He seems to have heard of someone's death outside while they were in the house (TSN, Hearing of June 9, 1987, p.

291).

Genaro Lardizabal - another accused, testified that he left for Buenavista on May 13, 1983 at 4:00 o'clock in the afternoon because he was summoned by his parent-in-law, Apolonio Perez. He was accompanied by Jose Bustamante. He worked and plowed in the farm and stayed there until the afternoon of May 15, 1983. After working in the farm, he and Jose Bustamante went home to Cabay at around 7:00 o'clock in the evening. He was told by his wife that Paulo died. He told his wife to go to the vigil because he will go to Cavite to borrow money for his father-in-law from Antonino Lardizabal in Imus, Cavite. Unable to get money he proceeded to Buenavista and returned to Cavite on June 16, 1983 to again look for money. He went home on the following day but was arrested by the policemen of Tiaong, who brought him to the headquarter at Imus then to the Municipal Building of Tiaong. He stated that when he refused to make an affidavit, he was boxed and put in jail (TSN, Hearing of October 13, 1987, pp. 304-311).

On cross examination, Genaro testified that Brgy. Buenavista is four (4) kilometers away from Cabay where no transportation is available and would take two hours walk using the rice paddies. He was not aware that he was a suspect in a crime. Neither did he see Leopoldo Lardizabal on the 16th and 17th of May 1983 and only came to know of the latter's arrest when he saw Leopoldo in jail (TSN, Hearings of October 13, 1987, pp. 316-319; November 5, 1987, p. 336).

Juan Dioli - testified to prove Genaro's presence in Buenavista, Candelaria, stating that on May 14, 1983 at about 4:00 o'clock in the afternoon, he bought a pig from Apolonio Perez at Buenavista, Candelaria, Quezon. He stayed overnight in the house of Apolonio Perez, where he saw Jose Bustamante and Genaro Lardizabal who slept also in the same house. He left on the 15th of May, 1983 (TSN, Hearing of May 19, 1988, pp. 342-347).

On cross-examination, he claimed that his family and the Lardizabals are not really in good terms but when he learned that Genaro Lardizabal was suspected of killing Paulo Guerra, he volunteered to testify for Genaro (TSN, Hearing of May 19, 1988, pp. 3-4; 14).

On June 5, 1989, the trial court rendered judgment, the decretal portion of which reads as follows:

"WHEREFORE, premises considered, the Court hereby renders judgment finding accused GENARO LARDIZABAL, 48 years old, married, laborer and a resident of Barangay Cabay, Tiaong, Quezon, and Leopoldo Lardizabal, 43 years old, married, farmer and a resident of Barangay Cabay, Tiaong, Quezon, guilty beyond reasonable doubt, as principals, of the offense of Murder as defined and penalized in Article 248 of the Revised Penal Code, and in the absence of any mitigating or aggravating circumstance, hereby sentences said accused persons to suffer the penalty of Reclusion Perpetua, to pay to the heirs of the victim Paulo Guerra, jointly and severally, the amount of Thirty Thousand (P30,000.00) pesos, as indemnification, and to pay the costs.

With respect to accused Ernesto Sanchez who is still at large, hereby ordered that the case as against him be ARCHIVED, to be retrieved if and when said accused is arrested and brought within the custody of the Court.

Let an alias warrant of arrest be issued against the said accused.

SO ORDERED." (Original Record, pp. 416-417).

Hence, the instant appeal.

Two briefs were filed separately for the accused-appellants: (a) for Genaro Lardizabal on January 13, 1990 (Rollo, pp. 70-88) and for Leopoldo Lardizabal on August 15, 1990 (Rollo, p. 138), while brief for the appellee was filed on March 30, 1990 (Rollo, pp. 107-122).

Appellant raised one assignment of error:

THE COURT ERRED IN FINDING ACCUSED-APPELLANT GENARO LARDIZABAL AND LEOPOLDO LARDIZABAL GUILTY BEYOND REASONABLE DOUBT AS PRINCIPALS OF THE OFFENSE OF MURDER.

The main issue in this case is whether or not the testimonies of the prosecution witnesses are credible.

The main thrust of Genaro's counsel is that the lower court erred in finding the accused guilty of the crime charged by relying solely on the testimonies of Leonida Guerra and Rodolfo Guerra who were moved by improper motives in view of the family feud between the Lardizabals and the Guerras. The witnesses were supposed to have been motivated by vengeance because as earlier stated Genaro Lardizabal was acquitted of the charge of killing Domingo Guerra, father of Paulo Guerra.

In addition, counsel for Leopoldo Lardizabal pointed out that Leonida and Rodolfo are biased by reason of their close relationship with the victim and that their testimonies are incredible being against the natural course of things (Brief for Accused-Appellant Leopoldo Lardizabal, p. 6).

It is a well-settled rule that in criminal prosecutions on the matter of credibility of witnesses, the findings of the trial court are given weight and the highest degree of respect by appellate courts because the former is in a better position to decide the question, having heard the witnesses themselves and observed their deportment and manner of testifying during the trial (People v. Trigo, 174 SCRA 97 [1989]; People v. Kintuan, 156 SCRA 195 [1987]).

The testimonies of the two eyewitnesses, Leonida Guerra, the victim's wife, who witnessed the crime from the balcony five (5) meters away and Rodolfo Guerra, the victim's nephew who saw the incident behind a tree also five (5) meters away, were clear and positive. They identified both appellants and Ernesto Sanchez as the perpetrators thereof. There was no showing of any ulterior motive on their part to falsely charge the accused-appellants.

Guided by the time-honored doctrine that where the issue is one of credibility of witnesses, appellate courts will generally not disturb the findings of the trial court unless certain facts of substance and value have plainly been overlooked and that if considered might affect the result of the case (People v. Abonada, 169 SCRA 543 [1989]), a scrutiny of the records yields no basis for the view that this case falls under the exception.

The accused-appellants were positively identified as the assailants, who hacked and stabbed the victim to death by the prosecution's eyewitnesses. Aside from the fact that the witnesses are related to the victim, the accused had not successfully shown any motive for said witnesses to manufacture their testimonies on the witness stand. As ruled by this Court, proof of motive is unnecessary where there is a clear identification of the accused (People v. Madali, 188 SCRA 69 [1990]).

More than that, when there is no showing of improper motive on the part of witnesses for testifying against the accused the fact that they are related to the victim does not render their clear and positive testimony less worthy of full faith and credit (People v. De Mesa, 188 SCRA 48 [1990]).

In fact this Court has repeatedly held that mere relationship of the witnesses to the victim does not render their clear and positive testimony less worthy of full faith and credit. On the contrary, their natural interest in serving the conviction of the guilty would deter them from implicating persons other than the culprits, for otherwise, the latter would thereby gain immunity (People v. Narajos, 149 SCRA 101 [1987]; People v. Radones, 141 SCRA 548 [1986]).

It should also be stated that revenge is a normal reaction in a person who has lost loved ones because of a crime

but it does not follow that the revenge would be directed aimlessly so as to include innocent persons (*People v. Sarabia*, 127 SCRA 101 [1984]).

Likewise, the behaviour of Rodolfo Guerra of not immediately emerging from his hiding place but five minutes after appellants had left, cannot be considered as contrary to human experience as "there is no standard form of behavior when one is confronted by a shocking incident." (*People v. Anuncio*, 122 SCRA 686; *People v. Radones*, 141 SCRA 548 [1986]).

Neither can the seeming inconsistencies in the testimonies of the prosecution's witnesses as to the length of time to consummate the killing or the distance of the place of the killing from the place of the wedding, detract from the veracity of their testimonies which consistently pointed to the accused as the perpetrators of the crime. On the contrary, minor inconsistencies indicate that the responses were honest and unrehearsed (*People v. Detuya*, 154 SCRA 423 [1987]; *People v. Datahan*, 157 SCRA 219 [1988]; *People v. Melgar*, 157 SCRA 725 [1988]; *People v. Bustos*, 171 SCRA 243 [1989]; *Medris v. C.A.*, 169 SCRA 838 [1989]). It is a well-settled rule that minor inconsistencies will not affect the credibility of witnesses (*People v. Juanga*, 189 SCRA 226; 232 [1990]).

As to accused-appellants' defense of alibi, although corroborated by the testimonies of the defense witnesses Lamberto Sabale and Juan Dioli, is unavailing as against the positive identification by the prosecution witnesses and the absence of physical impossibility of their being at the scene of the crime.

Leopoldo Lardizabal claims that at the time of the killing of Paulo Guerra, he was at his house, which is located barely 100 meters away from the crime scene while Genaro Lardizabal claims that he was then at Barangay Buenavista, Candelaria, Quezon on an errand for his father-in-law, which is more or less four (4) kilometers away from Cabay or a two-hour walk therefrom.

This Court always receives with caution, if not suspicion, evidence of alibi "not only because it is inherently weak and unreliable, but also because of its easy fabrication. To overcome the evidence of the prosecution, an alibi must satisfy the test of "full, clear, and satisfactory evidence." This test requires not only proof that the accused was somewhere else other than the scene of the crime, but clear, convincing proof of physical impossibility for the accused to have been at the place of the commission of the crime." To be given full faith and credit, it must be clearly established and must not have room for doubt as to its plausibility and verity (*People v. Baring*, 187 SCRA 629; 635 [1990]).

Finally, the oft repeated truism that the credibility of the witness is the realm of the trial court (*Balida v. People*, 178 SCRA 204 [1989]) is applicable to the case at bar. In fact no plausible reason can be found to disturb the findings of fact of the trial court.

PREMISES CONSIDERED, the appealed decision is AFFIRMED with the modification that the indemnity is increased to Fifty Thousand (P50,000) Pesos conformably with current jurisprudence.

SO ORDERED.

Melencio-Herrera, (Chairman), Padilla, and Regalado, JJ., concur.

* Penned by Judge Ludovico C. Lopez.

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