

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
GUILLERMO PANGANIBAN, ELPIDIO TERRIBLE, LAMBERTO
REDONDO, DOMINGO HINGAN, MAGUIN SAPUES AND NICOLAS
PERIA, ACCUSED, DOMINGO HI...**

G.R. No. 97969. February 06, 1995

Ponente: KAPUNAN, J.

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KAPUNAN, J.:

Guillermo Panganiban, Elpidio Terrible, Lamberto Redondo, Domingo Hingan (or Hinggan), Maguin Sapues and Nicolas Peria were charged with the crime of murder with the use of illegally possessed firearms in an information dated February 16, 1982 which reads as follows:

That on or about August 18, 1981 at Brgy. Makiling, Calamba, Laguna and within the jurisdiction of this Honorable Court, the above-named accused conspiring confederating and mutually helping with one another, armed with unlicensed caliber .45 pistols with intent to kill did then and there wilfully, unlawfully and feloniously with treachery and evident premeditation attack, assault and shot at 2Lt. Reymundo Medel PC (retired) thereby inflicting upon the latter gunshot wounds on the different parts of his body, which directly caused his death, to the damage and prejudice of the surviving heirs of the victim Reymundo Medel.

That in the commission of the offense, the aggravating circumstances of treachery, evident premeditation, use of unlicensed firearm and superior strength attended the commission thereof.

CONTRARY TO LAW.

Of the six accused, Redondo and Sapues have remained at large while Panganiban who had been arrested and had posted a bailbond, jumped bail before his arraignment. Trial of the case, which proceeded as to accused Terrible, Peria and Hingan who all pleaded not guilty to the charge, established the following:

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In the afternoon of August 18, 1981, the victim, retired constabulary 2Lt. Reymundo Medel, and his son, Armando, who were residents of Tanauan, Batangas, went to Barangay Makiling, Calamba, Laguna to attend a wake in the residence of Mariano Quilitis and a cockfight (tupada) beside Quilitis' house. [1] Upon their arrival, Armando noticed that Hingan and Peria were at the baklayan while Panganiban, Redondo, Terrible and Sapues were by the sitawan, around thirteen (13) meters from the baklayan. [2] As Armando and his father watched the card game of baklay, Hingan placed a bet and put his .45 caliber gun on the table with its muzzle pointed towards 2Lt. Medel. [3] Hingan said, "Matagal magsolo itong ating babarilin." [4] One by one, the people gathered around the baklayan slowly moved away but when Armando told his father to leave because he felt something bad might happen, his father told him that Hingan and his companions were just drunk. When Armando left the baklayan to urinate, he saw garand and carbine rifles stacked on the sitawan ("nakasandal sa sitawan"). [5] He also saw long firearms behind a mango tree. [6]

As Armando and his father proceeded to the ulutan, they were followed by Hingan and Peria who were signalling to the rest of their group ("hudyatan nang hudyatan") and pointing to his father. [7] Even as they left the gaff fixer and proceeded to the cockfight arena after matching their cock with a protagonist, Hingan and Peria were still behind them. After his father's rooster lost in the cockfight, Armando noticed Redondo and Panganiban approaching the sitawan and Sapues and Terrible going towards the mango tree. Then Redondo, Panganiban, Sapues and Terrible assumed a prone position. Armando also noticed that Hingan and Peria were at a distance of around three (3) meters from the rear left side of his father. As his father bent to pick up his rooster, Armando heard a gunshot and saw that his father was hit on the left side of his head. Armando looked back and saw Hingan and Peria running away. As he turned to look at his father, Armando saw him fall down. Just then, successive shots rang out from the sitawan. Redondo and Panganiban rose from prone position while firing their guns. Sapues and Terrible who were to Armando's left, also fired their firearms. Armando then ran to his father's Volkswagen car, broke its glass window and took his father's gun under the seat. He returned to the scene and fired at Redondo, Panganiban, Terrible, Sapues and Peria as they retreated to the west. Armando consumed one magazine or seven (7) bullets of his father's .45 caliber pistol but he did not appear to have hit any of the assailants. [8]

2Lt. Reymundo Medel died of "cerebral, intra-thoracic, intra-abdominal hemorrhage, massive, due to gunshot wounds." [9] Dr. Esmeraldo Plastina, municipal health officer of Calamba, conducted the autopsy and found that the victim sustained seventeen (17) gunshot wounds of varying sizes on various parts of his body.

The defense interposed denial and alibi in their bid for exoneration. According to Peria, on August 18, 1981, he was in Ulango, Calamba, Laguna, weeding a corn plantation owned by a certain Carandang of Batangas. He was on the job from 7:00 o'clock in the morning until 4:00 o'clock in the afternoon. His alibi was corroborated by his wife, Adelina Peria.

Hingan was tried partly in absentia [10] but his wife, Delia, testified that she and her husband were in the house of her mother in Ulango in the evening of August 17, 1981. Early the following day, her husband fetched water, chopped firewood and, after lunch, weeded their ricefield together with her. They went home at 5:00 o'clock in the afternoon. Her husband never left the ricefield between 1:00 and 5:00 o'clock in the afternoon. Teofila Peria, [11] mother of accused Panganiban and mother-in-law of Hingan, corroborated Delia's testimony in its material points.

After due hearing, the trial court [12] rendered the judgment of conviction on January 14, 1991 disposing of the case as follows:

"WHEREFORE, the Court finds accused Domingo Hingan and Nicolas Peria guilty beyond reasonable doubt of the crime of Murder with the use of illegally possessed firearm and hereby sentences said accused to suffer the penalty of reclusion perpetua and for the death of Lt. Raymundo Medel, to indemnify jointly and severally, the heirs of said deceased the sum of P30,000.00 and actual damages in the sum of P15,490.00 and to pay the costs.

Accused Elpidio Terrible whose guilt has not been established by the prosecution is hereby acquitted of the crime charged.

The Court cannot made (sic) any pronouncement against the other accused namely, Guillermo Panganiban, Lamberto Redondo, and Magin Sapues, as the Court has never acquired jurisdiction over them. Since warrants of arrest have been issued against them but they are nowhere to be found, and so that this case may not remain pending, let the case against them be archived until said accused are finally arrested.

SO ORDERED."

Hingan and Peria have interposed the instant appeal where, in their separate briefs, they contend that the trial court erred in convicting them of the crime charged solely on the testimony of Armando Medel, a biased witness, whose declaration was not only full of contradictions and inconsistencies but some portions of which were discredited by the trial court. Appellants also aver that the trial court erred in totally disregarding the testimony of prosecution witness Romeo Maglinao while adopting a portion of the testimony of Armando Medel when both testimonies were of "equal value and significance." [13]

Prosecution witness Maglinao corroborated Armando Medel's eyewitness account with respect to the identity of 2Lt. Medel's assailants. In discrediting Maglinao's testimony, the trial court emphasized Maglinao's admission that he came to know the assailants' names only after Armando Medel had revealed them to him. The trial court also opined that Maglinao's identification of the accused, specifically Hingan and Peria, was "open to serious doubts" because Maglinao himself swore that he was "not able to freely recognize the faces of the perpetrators of the shooting." [14]

While some of the details of the shooting as recounted by prosecution witnesses Armando Medel and Maglinao were not accurate, nevertheless, as found by the lower court, eyewitnesses Armando Medel and Maglinao clearly and positively identified appellants as among those who fatally shot and killed his father. Armando could not have been mistaken as to the identity of appellants. Prior to the shooting incident, he had met appellants at various cockfights in Calamba. [15] At the precise time of the shooting, he was just three (3) meters away from the victim while appellants were also of that distance from the left rear of the victim. [16]

Even without the testimony of Maglinao, the prosecution still has evidence to prove beyond reasonable doubt the culpability of the accused - the eyewitness account of Armando Medel. Except when expressly mandated, the law does not require that the testimony of a lone witness must be corroborated. [17] If credible and positive, such testimony is sufficient to convict. [18]

The supposed inconsistencies and incredibilities in Armando Medel's testimony, such as that portion where he said he could distinguish the gunshots coming from different kinds of firearms which were fired successively, does not dent the prosecution's case.

The supposed inconsistency between the direct testimony of Armando Medel that Hingan, Panganiban, Redondo, Peria, Terrible and Sapues, in this order, fired at the victim [19] and the declaration in his affidavit [20] to the effect that four (4) persons shot his father first by Hingan, followed by Panganiban, Redondo and Peria, in that order, may be explained by the fact that the CIS investigator who reduced the declaration of Armando given in a question-and-answer form could have typed it carelessly or inaccurately due to haste or could have misapprehended the order in which the names were given by the declarant. In any case, the sequence in which the accused fired at the victim refers to a trivial matter and minor detail which does not affect the witness' credibility. The same can be said of the type of firearms used by the assailants and the exact number of assailants. What is crucial and material is that Armando Medel actually saw the assailants fire their weapons at the victim. In *Lagunsad v. Court of Appeals*, [21] the Court held:

"It is perfectly within the discretion of the trial court to accept portions of the testimony of a witness as it may deem credible and reject those which it believes to be false. The maxim *falsus in uno, falsus in omnibus* is not a positive rule of law and is in fact rarely applied in modern jurisprudence (*People v. Pacis*, 130 SCRA 540 [1984]; *People v. Surban*, 123 SCRA 218 [1983]). Before this maxim can be applied, the witness must be shown to have willfully falsified the truth on one or more material points. Even then, where he is found to have done so, this does not make his entire testimony totally incredible. The court may still admit and credit those portions worthy of belief depending upon the corroborative evidence and the probabilities and improbabilities of the case (*People v. Molina*, 213 SCRA 52 [1992]; *People v. Arbolante*, 203 SCRA 85 [1991]; *People v.*

Osias, 199 SCRA 574 [1991])."

There is no proof that Armando Medel deliberately falsified his testimony. His relationship with the victim could not have impelled him to perjure and implicate the appellants in the crime. On the contrary, his being the victim's son rendered his testimony even more credible as it would be unnatural for a relative who is interested in vindicating the crime to accuse somebody other than the real culprit. [22] As earlier mentioned, the alleged inconsistencies in Armando Medel's testimony do not affect his credibility. This Court has time and again held that such inconsistencies, if merely on minor details, do not impair the credibility of witnesses where there is consistency in relating the principal occurrence and positive identification of the assailant. [23]

Through the testimony of appellant Hingan's wife, the defense tried to prove that the authorities (not Armando Medel) implicated her husband's group because they were angry with the appellants. [24] Said testimony, however, being mere hearsay, was correctly disregarded by the trial court. Thus, failure of the defense to prove that Armando Medel was moved by any improper motive, the presumption is that he was not so moved and his testimony, specifically the portions found credible by the trial court, is entitled to full faith and credit. [25]

Armando Medel claimed that his father was killed because one of the accused, Guillermo Panganiban, suspected that 2Lt. Medel killed Panganiban's father. [26] True or not, this evidence of motive is not essential for conviction considering that Armando Medel positively identified the appellants as among the killers of his father. [27]

Positive identification of the appellants as two of the culprits also demolished their alibi. [28] Aside from its inherent weakness because of the facility with which it can be fabricated, alibi becomes more unworthy of merit where it is established mainly by the accused himself and his relatives and not by credible persons. [29] In this case, by admitting that Ulango was only a half hour away by walking from Makiling, [30] the defense even failed to prove that the appellants were so far away from the scene of the crime that it would have been impossible for them to have committed the crime. [31]

The culpability of the appellants for the killing of 2Lt. Reymundo Medel has therefore been proven beyond reasonable doubt. However, the Court cannot agree with the trial court that they should be convicted of murder with the use of an illegally possessed firearm. A close scrutiny of the records reveals that there is no proof on the aspect of illegal possession of firearms. What is available in the records is the ballistics testimony [32] and the Ballistics Report No. D-202-86 [33] showing that the fragments of fired bullets recovered from the scene of the crime had not been fired from the caliber .30 garand rifle with serial number 2357152 which was submitted for examination.

The Solicitor General therefore correctly recommended that the appellants be held liable for murder only [34] the killing having been qualified by treachery. While it is true that the victim had been warned by his son on the possible danger to his person, [35] in treachery, what is decisive is that the attack was executed in such a manner as to make it impossible for the victim to retaliate. [36] The sudden and unexpected attack on 2Lt. Medel as he bent to pick up his rooster proved treachery.

Evident premeditation was not sufficiently proven by the prosecution. However, abuse of superior strength which is alleged in the information, is absorbed by treachery. [37]

Undoubtedly, conspiracy may be inferred from the mode or manner in which the offense was carried out as well as the circumstances surrounding the commission of the offense. [38] Conspiracy having been established, the act of one is the act of all. [39]

The trial court correctly imposed the penalty of reclusion perpetua upon the appellants considering that no mitigating or aggravating circumstances attended the commission of the crime. [40] However, pursuant to recent

jurisprudence, the indemnity imposed by the trial court shall be increased to P50,000.00.

WHEREFORE, appellants Domingo Hingan and Nicolas Peria are hereby convicted of the crime of murder for the killing of 2Lt. Reymundo Medel and accordingly imposed the penalty of reclusion perpetua. They shall solidarily indemnify the heirs of the victim in the amount of P50,000.00.

The Philippine National Police is directed to cause the immediate arrest of the other accused in this case in order that they may face trial. Costs against the appellants.

SO ORDERED.

Padilla, (Chairman), Davide, Jr., Bellosillo, and Quiason, JJ., concur.

[1] TSN, April 5, 1984, pp. 5-6.

[2] Id., November 5, 1984, pp. 17-19 & January 3, 1985, p. 23.

[3] Id., May 16, 1985, pp. 5-7.

[4] Id., May 21, 1985, pp. 28-29.

[5] Id., June 14, 1985, p. 17.

[6] Ibid., at p. 22.

[7] TSN, May 16, 1985, pp. 11-12.

[8] Id., January 3, 1985, pp. 103-113.

[9] Exh. E.

[10] TSN, July 22, 1986, p. 2; March 10, 1987, p. 2; July 21, 1987, p. 3; August 18, 1987, p. 2 & October 27, 1987, p. 2. In its decision, the trial court concluded that Hingan "jumped bail" (Decision, p. 10; Rollo, p. 64).

[11] According to appellant Peria, the mother of accused Guillermo Panganiban is his sister and therefore Panganiban is his nephew. Panganiban's sister, Delia, is married to appellant Hingan (TSN, August 18, 1987, pp. 8 & 16).

[12] Presided by Judge Eustaquio P. Sto. Domingo.

[13] Brief for Appellant Hingan, p. 27.

[14] Decision, p. 8-A; Rollo, p. 62. The trial court is referring to this portion of Maglinao's testimony: Q: So, the shooting of the deceased came so sudden(ly) and the incident happened so fast without you be(ing) able (to) properly recognize(d) fully the faces of (the) alleged perpetrators, is that correct? A. Yes, sir." (TSN, July 22, 1986, pp. 59-60).

[15] TSN, April 5, 1984, p. 10.

[16] Ibid, p. 4.

[17] People v. Amaguin, G.R. No. 54344-45, January 10, 1994, 229 SCRA 186.

[18] People vs. Abo, G.R. No. 107235, March 2, 1994, 230 SCRA 612.

[19] TSN, April 5, 1984, pp. 14-15.

- [20] Exh. G.
- [21] G.R. No. 104939, February 2, 1994, 229 SCRA 596, 599.
- [22] *People v. Viente*, G.R. No. 103299, August 17, 1993, 225 SCRA 361.
- [23] *People v. Briones, Jr.*, G.R. No. 101257, September 23, 1993, 226 SCRA 675.
- [24] TSN, August 17, 1988, pp. 11-12.
- [25] *People v. Tidong*, G. R. No. 101583, August 13, 1993, 225 SCRA 324.
- [26] TSN, April 5, 1984, p. 9.
- [27] *People v. Salveron*, G.R. No. 102079, November 22, 1993, 228 SCRA 92.
- [28] *People v. Jaralba*, G.R. No. 96766, September 20, 1993, 226 SCRA 602.
- [29] *People v. Gundran*, G.R. No. 105666, December 17, 1993, 228 SCRA 583.
- [30] TSN, October 12, 1988, p. 14.
- [31] *People v. Remollo*, G.R. No. 104498, October 22, 1993, 227 SCRA 375.
- [32] TSN, March 10, 1987, pp. 3-21.
- [33] Exh. 2.
- [34] Appellee's Brief, p. 22; Rollo, p. 189.
- [35] See *People v. Rivera*, G.R. No. 101798, May 10, 1993, 221 SCRA 647 where the Court held that there is no treachery where the victim is aware of the hostility of the assailants just before the attack.
- [36] *People v. Buela*, G.R. No. 92536, November 8, 1993, 227 SCRA 534 citing *People v. Bustos*, G.R. No. 35475, March 16, 1989, 171 SCRA 243.
- [37] *People v. Amondina*, G.R. No. 75295, March 17, 1993, 220 SCRA 6.
- [38] *People v. Deuna*, G.R. No. 87555, November 16, 1993, 227 SCRA 788.
- [39] *People v. Liquiran*, G.R. Nos. 105693-96, November 19, 1993, 228 SCRA 62.
- [40] Arts. 248 and 64 (L), Revised Penal Code.

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