

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
PAQUITO LOTO AND PEPE LOTO (AT LARGE), ACCUSED, PAQUITO
LOTO, ACCUSED-APPELLANT.**

G.R. Nos. 114523-24. September 05, 1995

Ponente: VITUG, J.

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VITUG, J.:

Two brothers, Paquito Loto and Pepe Loto, were charged with the fatal stabbing of Felix Samson y Ganay and the wounding of his brother, Moises Samson y Ganay, in two separate informations that read:

"(1) In Criminal Case No. TG-1735-91:

"That on or about the 3rd day of January 1991, at Phase IV, Barangay Ipil, Municipality of Silang, Province of Cavite, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually helping and aiding one another, with intent to kill, being then armed with bladed weapons, and with treachery and evident premeditation, did, then and there, wilfully, unlawfully and feloniously attack, assault and stab one Moises Samson y Ganay inflicting upon him stab wounds on the different parts of his body, the above-named accused, having thus performed all the acts of execution which would have produced the crime of Murder as a consequence (thereof), but which nevertheless did not produce it by reason of causes independent of the will of the accused, that is by reason of the timely and able medical assistance rendered to said victim, which prevented his death, to the damage and prejudice of the said Moises Samson y Ganay.

"(2) In Criminal Case No. TG-1736-91:

"That on or about the 3rd day of January 1991, at Phase IV, Barangay Ipil, Municipality of Cavite, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually helping and aiding one another, with intent to kill, being then armed with bladed weapons, and with treachery and evident premeditation, did, then and there, wilfully, unlawfully and feloniously, attack, assault and stab one Felix Samson hitting him on the different parts of his body causing his death, to the damage and prejudice of the family of the late Felix Samson."[1]

Herein appellant Paquito Loto, when arraigned, pleaded "not guilty" to the charges.

The other accused, Pepe Loto, continues to evade arrest and has since remained at large.

The trial court has made a fairly complete account of the evidence submitted before it. We narrate its findings thusly:

"The fatal stabbing of a certain Felix Samson y Ganay, and the wounding of his brother, Moise Samson, in the afternoon of January 3, 1991 inside the residence of the Samson Family at Phase IV, Barangay Ipil, Silang, Cavite, led to the institution of the criminal actions at bar.

"The accused are the brothers Paquito and Pepe Loto, x x x.

"xxx xxx xxx

"Only accused Paquito Loto, with the assistance of his counsels de-oficio, Atty. Pascual Garcia and Franco Loyola, was arraigned with a negative plea as the other accused, Pepe Loto, has successfully evaded his arrest under the warrant previously issued by this Court and remains at-large up to the present time. Thus, accused Paquito Loto is the only one who has been tried in these two (2) cases.

"The theories of the prosecution in the cases at bar appear to be moored on the following witnesses, who were presented at the witness stand on separate occasions, to wit:

"(1) MOISES SAMSON, 42 years old, single, a radio technician and a resident of Phase IV, Block 64, Lot 16, Bulihan, Silang, Cavite. In his direct testimony, he recalled that at about 5:30 o'clock in the afternoon of January 3, 1991, he was inside their house, at its upper floor, when he overheard the voice of Paquito Loto emanating from their sala at the ground floor and the latter was angry at his brother, Felix Samson; that he went down to verify the commotion and he saw accused Paquito Loto holding a stainless kitchen knife, which is pointed and with a length of less than twelve (12) inches and stabbed his brother, Felix, with it; that he then tried to help his brother but the other accused, Pepe Loto, emerged with a knife, and stabbed him hitting his hand in the process; and that he thereafter parried the other blows delivered by the same accused against him and he was again stabbed at his armpit.

"This witness also stated on direct examination that his brother, Felix Samson, was brought to the De la Salle University Medical Center, Dasmariñas, Cavite, where the latter was attended to by the doctors. However, despite his medical treatment and attendance, Felix Samson died on January 16, 1991.

"Moises Samson also alleged in his testimony that he was likewise brought to the same hospital where he was operated on his wounds. He was discharged on January 12, 1991. According to him, the incidents involving him and his brother could be attributed to an altercation between Felix and accused Paquito Loto which occurred in the month of October 1990 and from that time, the accused harbored a grudge against them. Likewise, this witness claimed that prior to the stabbing incidents, he overheard Paquito Loto and his wife quarreling with each other inside their house, which is about two (2) meters away from their (Samson's) house.

"On cross-examination, Moises Samson stated that he knows accused Paquito Loto for a long time as they are neighbors but he had no knowledge that the same accused is disabled physically; that he is not aware of any altercation between his brother, Felix, and accused Pepe Loto, nor any incident wherein his brother went to the house of the said accused where he challenged the latter to a fistfight.

"(2) DAVID SAMSON, 43 years old, single and a resident of Phase IV, Block 63, Lot 16 Bulihan, Silang, Cavite. On direct examination, he testified that he is a brother of the victims in these cases; that at about 5:30 o'clock in afternoon of the same date, he was at the sala of their house with his father and brother, Felix Samson, while brother Moises and a sister, Edith, were both upstairs; that Paquito Loto suddenly entered their house without their permission and smiled at Felix; that when the same accused was near Felix, he pulled the left hand of the latter, twisted it a little bit and forced Felix to stand; that when Felix was turning his back a little in an effort to struggle, he saw accused stabbed Felix at his left side; that he has known accused Paquito Loto for about two (2) years, the latter being a construction worker; that he knows that said accused met an accident which damaged his hand although he had seen him performed his duty as such worker and held carpenter's tools with his hands; and that he cannot agree to the proposition that same accused cannot hold a knife and cannot use his damaged hands normally as he saw him holding hollow blocks with his hands and a knife as well before the date of the incident.

"On cross-examination, David Samson stated that he does not know of any misunderstanding between Pepe Loto and his brother, Felix, before the stabbing incident occurred. He admitted though that Paquito Loto and Felix had an altercation sometime in October, 1990 near their house; that said accused insulted Felix on such altercations causing Felix to become angry; and that he does not know that a complaint was filed by the same

accused against Felix on account of such altercation/incident.

"The medico-legal certificate issued by the attending physician of the deceased Felix Samson (Exhibit 'A-1' as well as the Death Certificate (Exhibit 'A') clearly shows that the said victim suffered a `stab wound 9th ICS (L) Infrascapular with Hermothorax, penetrating Abdomen Empyema thoracis, UGIB sc. to Peptic Ulcer; Sepsis'. On the other hand, the other victim, Moises Samson, per Medico-Legal Report of his attending physician (Exhibit 'B') will disclose that the former suffered the following injuries, namely: 'Hacking wound Palm Zone II (L) Hand, Stab Wound (R) Axillary area' which necessitated an operation of the victim consisting of 'Neuroraphy 4th/5th digit, Debridement/wound Exploration, Suturing of Laceration (L) Hand and (R) Axillary area.' The same medical findings were admitted by the defense prompting the prosecution to dispense with the presentation of the doctors.

"Accused Paquito Loto's line of defense puts it that on the date and time indicated in the informations, he was at their house, which is three (3) meters away, more or less, from the house of the Samson family, with his wife and children when he saw Felix Samson approached their dwelling with a knife in hand and shouted the following: 'Papatayin ko kayo!'; that Pepe Loto, the other accused immediately went out of their house while his father locked their door for fear that Felix Samson and others might go inside their house; that he did not know what happened thereafter and as far as he is concerned, he was not a participant to the incidents in question nor knew anything about it as he did not even see his brother. The accused also denied the testimonies of Moises and David Samson that he entered the residence of the Samson family and stabbed Felix Samson, claiming that he does not know who stabbed the deceased.

"On cross-examination, he stated that when he saw Felix Samson, the latter was already at the door of their house and was then armed with a knife; that he does not know if his brother, Pepe, was armed when he went out of their house; and that after his brother went out of their door, he and his 76 year old father just let his brother go and after their door was closed, he did not mind anymore what would happen outside of their house. He also stated that he did not notice what happened afterwards because of the noise created by his four (4) children inside their house."[2]

Paquito Loto was acquitted for "insufficiency of evidence" in TG-1735-91 but he was found guilty beyond reasonable doubt of murder in TG-1736-91. The dispositive portion of the decision handed down by the Honorable Julieto P. Tabiolo, Presiding Judge of Branch 18 of the Regional Trial Court, Tagaytay City, read:

"WHEREFORE, in the light of the foregoing facts and considerations, judgment is hereby rendered as follows:

"(1) In Criminal Case No. TG-1735-91, for insufficiency of evidence, this Court finds accused Paquito Loto NOT GUILTY and accordingly, he is hereby acquitted of the charge filed against him in this case;

"(2) In Criminal Case No. TG-1736-91, this Court finds accused Paquito Loto GUILTY beyond reasonable doubt as principal in the crime of Murder, as this felony is defined and penalized under the provisions of Article 248, paragraph (1) of the Revised Penal Code, and there being no modifying circumstance which would aggravate or mitigate his liability, hereby sentences said accused to suffer the penalty of Reclusion Perpetua; and to pay the heirs of the deceased Felix Samson the sum of P50,000.00, as actual damages, and likewise to indemnify the same heirs in the sum of P50,000.00, plus costs.

"With respect to the remaining accused, Pepe Loto, let the instant cases be as it is hereby ordered ARCHIVED to be revived and reincluded in the active calendar of this Court once the same accused is finally apprehended and brought to this Court for appropriate proceedings. Furthermore, let an alias warrant for the arrest of the same accused be issued in these cases."[3]

In now questioning his conviction, Paquito Loto ascribes grave error on the part of the trial court in giving full weight and credit to the evidence of the prosecution and in thereby discarding the theory of the defense. Appellant states that the testimonies of the prosecution witnesses are best described for their improbabilities and

inconsistencies.

We have reviewed rather closely the records ourselves, and we find hardly anything that can impel us to sustain the appeal. On the contrary, the findings of the court a quo are fully substantiated by, and appear clearly congruous with, the evidence adduced.

Moises Samson was positive in identifying accused-appellant to be the assailant of the deceased victim. The witness, on direct examination, testified:

"Q.

Now, at about 5:30 in the afternoon of January 3, 1991, where were you then?

"A.

I was in the upper portion of our house.

"Q.

Where is that house of yours located?

"A.

.Block 64, Lot 16, Bulihan, Silang, Cavite.

"Q.

What were you doing in the upper portion of the house?

"A.

I am fixing our things, sir.

"Q.

While fixing your things, did you come to know if there was anything unusual that happened in your house?

"A.

Yes, sir. I heard the voice of Paquito Loto inside our sala, sir.

"Q.

What did he say, if you recall?

"A.

He is angry at Felix.

"Q.

Now, upon hearing that, what did you do?

"A.

I went down.

"Q.

When you went down of your house, what did you see?

"A.

I saw Paquito holding a weapon and stabbed Felix Samson at his back.

"Q.

Did you see the actual stabbing?

"A.

When he pulled out the knife from the body.

"FISCAL VELAZCO:

What kind of weapon was used in the stabbing of your brother which you said you saw?

"A.

A stainless kitchen knife.

"xxx xxx xxx

"Q.

What was the position of your brother when you saw him stabbed?

"A.

He was holding Felix' hand and stabbed at the back.

"Q.

At the time he was stabbed, Paquito Loto was standing?

"A.

Yes, sir.

"Q

.And your brother was also standing?

"A.

Yes, sir.

"Q.

When you saw that your brother was stabbed by Paquito Loto, what did you do?

"A.

I approached my brother to help him.

"Q.

Were you able to help your brother Felix?

"A.

I was not able to help my brother, sir.

"Q.

Why were you not able to help your brother?

"A.

When I was about to approach my brother, his brother entered, sir.

"Q.

Brother of whom?

"A.

Brother of Paquito Loto.

"Q.

Who was that brother of Paquito Loto who entered?

"A.

Pepe Loto, sir.

"FISCAL VELAZCO:

What did he do when he returned your house?

"A.

I saw he was also holding a kitchen knife.

"Q.

What did he do with the kitchen knife, if he did any?

"A.

When I was about to help my brother, he stabbed me and I was hit on my hand, but I parried his blows.

"Q.

What happened to your hand?

"A.

My hand was hit, sir.

"xxx xxx xxx

"Q.

After that, what happened when you were able to parry the first blow?

"A.

When I was out of balance, he again stabbed me at my armpit, right side of the body.

"Q

And what happened to your brother Felix Samson? Where is he now?

"A.

Dead already.

"Q.

What was the cause of his death, if you know?

"A.

Because of the stabbing, sir.

"Q.

Was he brought to a hospital?

"A.

Yes, sir.

"Q.

He was treated in the hospital?

"A.

Yes, sir, but he died, sir.

"Q.

When did he die?

"A.

January 16, sir.""[4]

On cross-examination, this witness remained unperturbed, and he categorically insisted:

"ATTY. GUMARANG:

Now, when Pepe Loto, according to you, stabbed you, hit you in your hands and armpit?

"A.

Yes, sir.

"Q.

At that time, Paquito was holding his brother Pepe?

"A.

No, sir.

"Q.

What was Paquito Loto doing at the time that Pepe was hitting your right arm?

"A.

Paquito did not do anything.

"Q.

He just held Felix Samson. That is all what Paquito did, holding the hands of Felix Samson?

"A.

He also stabbed Felix Samson, sir."[5]

The testimony of Moises was corroborated by David Samson who also readily pointed to accused-appellant as the person who stabbed the deceased. The testimony follows:

"FISCAL VELAZCO:

And what did he do after he entered your house even smiling at Felix?

"A.

When he was near Felix, he pulled the left hand of Felix, and twisted a little bit and so, Felix had to stand and when Felix was a little bit turning back, I saw him wanting to stab Felix.

"Q.

Why did you say that he was wanting to stab Felix?

"A.

Because he was holding with him a knife, sir.

"Q.

Did you come to know where he got that knife?

"A.

The knife was concealed in his body.

"Q.

When did you see him he pulled out that knife?

"A.

I did not notice very well when he pulled it from his body.

"Q.

When he entered your house, he was not holding that knife yet?

"A.

No, sir.

"Q.

And, he was not holding that knife in his hands?

"A.

No, sir.

"Q.

And what happened after that?

"A.

He stabbed Felix.

"Q.

And was Felix hit?

"A.

Yes, sir.

"Q.

Where was he hit?

"A.

At the left side."[6]

Pitted against the positive declarations of eyewitnesses, the bare denial of accused-appellant cannot prevail. Moreover, the findings of trial courts on the credibility of witnesses are entitled to great weight on appeal.[7] The rule is not changed simply because of some inconsequential inconsistencies that are discovered usually upon a fault-finding scrutiny of the records. The testimonies of witnesses cannot be expected to be completely flawless; if it were otherwise, there might then, in fact, be good reasons to doubt their veracity. Inconsistencies on minor or trivial matters should serve to strengthen, rather than destroy, the credulity of testimony.[8]

Considering the manner in which accused-appellant carried out the attack on the evidently unsuspecting victim, the trial court committed no error in sustaining the charge for murder and in imposing its sentence correspondingly.

WHEREFORE, the appealed decision is hereby **AFFIRMED** in toto. Costs against accused-appellant.

SO ORDERED.

Romero, (Acting Chairman), and Melo, JJ., concur.

Feliciano, J., (Chairman), on leave.

[1] Rollo, pp. 12-13.

[2] Rollo, pp. 12-15.

[3] Rollo, p. 17.

[4] TSN, 19 September 1991, pp. 3-5. (Underscoring ours.)

[5] TSN, 19 September 1991, p. 10.

[6] TSN, 25 September 1991, p. 5.

[7] *People vs. Lakibul*, 217 SCRA 575.

[8] *People vs. De la Cruz*, 224 SCRA 506.

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