

SECOND DIVISION

[G.R. No. 143702, September 13, 2001]

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ZALDY MENDOZA Y SEVILLA, ACCUSED-APPELLANT.**

D E C I S I O N

MENDOZA, J.:

This is an appeal from the decision,^[1] dated March 12, 1998, of the Regional Trial Court, Branch 33, Iloilo City, finding accused-appellant Zaldy Mendoza guilty of the crime of robbery with homicide and sentencing him to suffer the penalty of *reclusion perpetua* and to indemnify the heirs of the victim, Hernandez Abatay, in the amounts of P75,000.00 as actual damages and P50,000.00 as civil indemnity.

The information against accused-appellant charged —

That on or about the 7th day of July, 1994 in the City of Iloilo, Philippines and within the jurisdiction of this Court, said accused, armed with a knife, conspiring and confederating with Marco Aguirre who is still at large, working together and helping one another, with deliberate intent and with violence employed upon the person of Hernandez Abatay, that is by stabbing him with the said knife, with which the accused was armed at the time, did then and there wilfully, unlawfully and criminally take and carry away with intent to gain one (1) Seiko Divers wristwatch valued at P300.00 and cash of P15.00 owned by Hernandez Abatay and as a consequence of the stab wounds suffered by Hernandez Abatay at the hands of the accused, the said Hernandez Abatay died a few days thereafter.

CONTRARY TO LAW.^[2]

The information was subsequently amended to include Marco Aguirre, accused-appellant Mendoza's co-accused.

The prosecution presented evidence showing the following:

On July 7, 1994, at around 1:30 a.m., the victim Hernandez Abatay and his companion Jose Neri Tajanlangit were at the corner of Quezon and Ledesma Streets in Iloilo City waiting for a jeepney to take them home. They had just come from work at a supermarket. Tajanlangit left Abatay to urinate nearby. He was about 15 feet away from Abatay when he saw accused-appellant Zaldy Mendoza and a companion approach Abatay. The two men robbed Abatay. Accused-appellant's companion held Abatay's hands behind his back while accused-appellant took

Abatay's wrist watch and money. Accused-appellant then stabbed Abatay in the abdomen. Abatay ran away but accused-appellant pursued him.^[3]

At that time, PO3 Danilo Tan of the PNP was going home on board a tricycle. He saw a man running on the street, going in his direction. Tan asked the tricycle driver to stop. He alighted and asked the person why he was running. He turned out to be Abatay. He said that he had been held up by two persons. Tan asked him why he was clutching his stomach. Abatay replied that he had been stabbed by the robbers. Tan found that the victim had a wound in the lower right portion of his stomach, about one inch above his belt. Abatay told Tan that one of the robbers was wearing a white t-shirt while the other was wearing a sleeveless basketball shirt and undershirt uniform.^[4]

PO3 Tan asked the tricycle driver to take Abatay to St. Paul's Hospital, while he went after the suspects. He spotted one of the suspects, who was wearing a sleeveless basketball shirt, along Quezon St. on the way to Rizal St. The suspect, who was later identified as accused-appellant Zaldy Mendoza, was panting for breath because he had been running. Tan identified himself and searched the suspect. Tan was able to recover a table knife from accused-appellant.^[5]

PO3 Tan then took accused-appellant to the St. Paul's Hospital where Abatay was confined. In the presence of Tan and some nurses and the attending physician in the emergency room, Abatay pointed to accused-appellant as one of those who had held him up and then stabbed him. At that time, Abatay was in good condition and even spoke with Tan. Tan then placed accused-appellant under arrest and took him to the police station for investigation. Accused-appellant allegedly pointed to Marco Aguirre as his companion when they held up Abatay. Tan tried to look for Aguirre but was unsuccessful.^[6]

Melly De Rojo testified that on July 7, 1994, from around 11:30 p.m. to 12:30 a.m., she was washing clothes outside her house at the Roxas Village in Mabini St., Iloilo. She was a neighbor of accused-appellant Zaldy Mendoza and Marco Aguirre in the said village.^[7] According to this witness, Marco Aguirre asked her to hide him inside her house because he had just stabbed someone. De Rojo said Aguirre was wearing a white t-shirt with bloodstains on it and was holding a knife. Aguirre told her that he could not get inside his own house because it was closed. She said she refused Aguirre's request because her husband and children were sleeping inside the house. Then Aguirre allegedly took off his clothes and hung them on her clothes line. She told Aguirre not to hang his clothes on her clothes line as it might place her in trouble. Aguirre left and De Rojo did not see him again. Neither did she see accused-appellant. De Rojo did not report the incident to the police because she was afraid and, anyway, she found out later that the crime had already been reported to the police.^[8]

Accused-appellant went to see De Rojo twice after the event that took place on the night of July 7, 1994. Accused-appellant's wife asked her if it was true that Aguirre showed up at her house on the night in question. De Rojo replied in the affirmative and told her that she would testify in favor of accused-appellant because it was Aguirre and not accused-appellant whom she saw that night outside her house.^[9]

The kitchen knife which had been recovered from accused-appellant was turned over on July 8, 1994 at 8:00 a.m. to PO3 Manuel Artuz, the exhibit custodian of Police Precinct I. The blade of the knife was discolored but he could not say if it was blood that caused the stain.^[10]

Violeta Abatay, the victim's mother, testified that she saw her son at the St. Paul's Hospital in the early morning of July 7, 1994. Her son died on July 10, 1994, after three days' confinement.^[11]

Dr. Tito Doromal, a medico-legal officer of the Iloilo City Police Station, performed an autopsy on the body of Hernandez Abatay on July 11, 1994.^[12] As reflected in a medico-legal autopsy report (Exh. A) prepared by him, Dr. Doromal found that the cause of death of the victim was a single stab wound located under the subleeding and thoraco-abdominal region or near the right lower abdomen. The direction and entrance of the wound was horizontal inside the abdominal cavity and ended at the outer portion of the right kidney. The wound, which was 18 cms. deep and 3.5 x 1.2 cms. wide, was inflicted using a single-bladed sharp instrument, such as a knife. The bladed instrument penetrated the back and hit the posterior portion of the lungs, causing the same to harden and acquire a liver-like consistency. The victim developed hypostatic pneumonia causing his death. Hemorrhaging secondary to the stab wound also contributed to the victim's death.^[13]

Dr. Doromal also found that based on the location of the wound in the victim's body, it was possible that the victim and his assailant were facing each other when the former was stabbed. The assailant's thrust originated from below the victim's abdomen and moved upwards to the inner portion of the body.

The defense of the accused-appellant Zaldy Mendoza was alibi. He claimed that on July 7, 1994, at around 11:30 p.m., he was at the Rochelle Carinderia resting after a day's work, driving a "triscad." Afterwards, he walked along Mabini St. towards the corner of Ledesma St. On the way, he saw his neighbor Marco Aguirre with a certain person he did not know. Accused-appellant, who was about five meters away, saw Aguirre pointing a knife at the person. Accused-appellant said he approached the two and asked Aguirre what the matter was, but he was told to leave. Then, he said, he saw Aguirre stab the person. Accused-appellant claimed he fled towards the direction of the Rochelle Carinderia. Accused-appellant said he wanted to report the incident to the police, but before he could do so a police patrol car arrived. PO3 Danilo Tan alighted from the car and, while pointing a gun at him, asked accused-appellant who his companions were. Accused-appellant said he had no companions. He was then made to get inside the patrol car and taken to the Gen. Luna Police Station for investigation.^[14]

Accused-appellant said he was handcuffed and taken to St. Paul's Hospital. At the emergency room of the hospital, he said PO3 Tan asked Abatay if accused-appellant was the one who stabbed him, but Abatay answered that it was accused-appellant's companion who stabbed him.

On March 12, 1998, the lower court rendered a decision finding accused-appellant guilty of the crime charged. The dispositive portion of its decision states:

WHEREFORE, the accused Zaldy Mendoza y Sevilla is hereby found guilty beyond reasonable doubt of the crime of Robbery with Homicide under Article 294 of the Revised Penal Code, as amended nu Republic Act 7659, is hereby punished with imprisonment of Reclusion Perpetua to Death, to pay the heirs of the victim P75,000.00 as actual damages and to pay civil indemnity of P50,000.00.

SO ORDERED.^[15]

Accused-appellant filed a motion for reconsideration dated November 25, 1994. In its order dated October 26, 1998, the trial court denied the motion after finding no compelling reason to reconsider its decision.^[16] But the trial court amended the dispositive portion by specifying the provision of the Revised Penal Code violated and the penalty as follows:

WHEREFORE, the accused Zaldy Mendoza y Sevilla is hereby found guilty beyond reasonable doubt of the crime of Robbery with Homicide under Article 294 of the Revised Penal Code, as amended by Republic Act 7659, is punished with imprisonment of Reclusion Perpetua, to pay the heirs of the victim Seventy-Five Thousand (P75,000.00) Pesos as actual damages and to pay civil indemnity of Fifty Thousand (P50,000.00) Pesos.^[17]

On November 25, 1998, accused-appellant filed a motion for reconsideration and new adjudication on the ground that the trial court's order, dated October 26, 1998, was rendered after Judge Florentino P. Pedronio had vacated his position as RTC Judge of Iloilo.^[18] But the trial court denied accused-appellant's motion in an order on March 16, 2000.^[19]

Hence, this appeal. In his lone assignment of error, accused-appellant contends:

THE TRIAL COURT ERRED IN CONVICTING ACCUSED ZALDY MENDOZA Y SEVILLA FOR A CAPITAL OFFENSE ON INSUFFICIENT EVIDENCE.^[20]

We find the appeal to be without merit.

First. The issue in this case turns on the credibility of the prosecution witnesses. We have repeatedly ruled that in the absence of any fact or circumstance of weight which has been overlooked or the significance of which has been misconstrued, appellate courts will not interfere with the trial court's findings on the credibility of witnesses or set aside its judgment considering that it is in a better position to decide these questions as it heard the witnesses during trial.^[21] The matter of assigning values to declarations on the witness stand is best and most completely performed and carried out by a trial judge who, unlike appellate magistrates, can weigh such testimonies in the light of the defendant's behavior, demeanor, conduct, and attitude during the trial.^[22]

In this case, accused-appellant questions the testimony of the lone eyewitness, Jose Tajanlangit, claiming that the latter's testimony is not worthy of credence because it

is incredible and is based largely on hearsay. To bolster his claim, accused-appellant cites three examples from the latter's testimony. First, Tajanlangit did not testify that he heard any sound come from the deceased Abatay when the latter was stabbed by his holduppers. Accused-appellant says it is highly improbable that the deceased did not make any outcry when he was stabbed and equally improbable that Tajanlangit did not hear the same. Second, Tajanlangit testified that he ran away in the direction opposite that to which Abatay ran after being stabbed. Yet Tajanlangit also testified that Abatay met PO3 Tan; that Tan sent Abatay to his employer; and that Tan pursued and caught up with accused-appellant. Accused-appellant asserts that Tajanlangit could not have possibly testified as to facts which took place after he ran away and that he only gathered such facts from the victim himself when the latter was still alive in the hospital. Third, Tajanlangit testified that he and the victim were waiting for a jeep instead of a taxi on the night in question because the victim only had P15.00 in his pocket. Accused-appellant claims that this is unbelievable since Tajanlangit had P50.00 in his own pocket. Why, accused-appellant asks, did Tajanlangit not disclose this fact to the victim so that they could have taken a taxi?[23]

The questions raised by accused-appellant concerning Tajanlangit's testimony as to what he saw, heard, and did on that fateful night are too incidental to merit any serious consideration. They concern only minor details that do not touch upon the basic elements of the crime itself and therefore cannot detract from the credibility of the witness.[24] No glaring inconsistencies in the testimony of Tajanlangit were shown by the defense. What is crucial is that Tajanlangit testified clearly that he saw accused-appellant and a companion being held up Abatay on that night; that the two managed to take Abatay's money and wrist watch; and that accused-appellant stabbed the victim. There is no reason to doubt the accuracy of Tajanlangit's observation since the place where the crime occurred was well-lighted, there being a street lamp on a nearby corner.[25]

Witness Tajanlangit testified that he saw the actual stabbing of Abatay and was even able to demonstrate that the direction of the stabbing motion made by accused-appellant was downward going upward.[26] This coincides with the finding of the medico-legal expert, Dr. Tito Doromal, that the entry of the weapon into the victim's abdomen was "backward upward," that is, that the entrance of the weapon was horizontal inside the abdominal cavity and ended at the outer portion of the right kidney.[27] Thus, the evidence confirms that the wound sustained by the victim was inflicted in the manner seen and testified to by Tajanlangit.[28] Accused-appellant failed to show that Tajanlangit had any motive to testify falsely against him and his companion concerning so serious a crime as robbery with homicide.

Further bolstering the credibility of Tajanlangit are the testimonies of the other witnesses presented by the prosecution which sufficiently establish accused-appellant's guilt of the crime charged.

PO3 Danilo Tan testified that he encountered the victim on Ledesma Street who told him that he had been robbed and then stabbed by two persons; that the victim suffered a wound in the abdominal area; that the victim described the appearance of his attackers; that he sent the victim to his employer in the supermarket; that he caught accused-appellant, who matched the description of one of the victim's robbers, while the latter was running along Quezon St.; that he recovered a table