

FIRST DIVISION

[G.R. No. 131039, December 08, 1999]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ALBERTO FLORES Y SABADO AND RODOLFO FLORES Y SABADO,
ACCUSED-APPELLANTS.**

D E C I S I O N

PUNO, J.:

This is an appeal from the Decision^[1] of the Regional Trial Court of Bulacan convicting accused-appellants for the crime of murder committed against Michael Manlapig y Capalaran as follows:

"That on or about the 25th day of February, 1996, in the municipality of Baliuag, province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the said accused Alberto Flores y Sabado @ Amang Mangot and Rodolfo Flores y Sabado @ Rudy with intent to kill one Michael Manlapig y Capalaran, conspiring, confederating together and helping one another, did then and there wilfully, unlawfully and feloniously, with evident premeditation, abuse of superior strength and treachery, attack, assault and stab with the bladed instrument they were then provided the said Michael Manlapig y Capalaran, hitting the latter on his head, thereby causing him serious physical injuries which directly caused his death."^[2]

Trial ensued after accused-appellants pled not guilty to the charge.

The prosecution presented the victim's common-law-wife, Marissa B. Manlapig. She testified that on the night of February 25, 1996, Michael slept drunk. She followed him to bed at 11:00 p.m. Before sleeping, she left a gas lamp (gasera) lighted as she had a little child. Afterward, she woke up because of a stomachache and she heard a rustling noise by the door. She squinted and looked toward the direction of the sound. She noticed that the door was open. She saw persons inside the house. She recognized them because of the light coming from the gas lamp. They were Alberto and Rodolfo Flores. She pretended to close her eyes and saw the intruders proceed near their bed. Rodolfo then stabbed Michael at the back of his left ear while Alberto was strangling him. They put down his head and left.^[3] The culprits were merely one (1) foot away from Marissa when they killed Michael.^[4]

Marissa went out of the house and called her brothers and sisters. They brought the victim to the Prado Hospital, Baliuag, Bulacan, where he was pronounced dead on arrival. Dr. Severino Marcelo who attended the victim found a 1.5 centimeter lacerated wound near his ear (preauricular area).^[5] He opined that the assailant was at the right lateral side of the victim when it was inflicted. He did not conduct an autopsy of the victim.^[6]

The following morning, Marissa reported the crime to Eladio San Pedro, Chief of the Investigation Section of the Baliuag Police Station. She stated she had no knowledge how Michael was killed. San Pedro asked Marissa whom she suspected of the crime. She named Alberto Flores because a day before the incident, the latter had a quarrel with Michael at the market. Michael told her about the quarrel on the morning of February 25, 1996. Thus, San Pedro led a team of police officers and went to the house of Alberto Flores. They arrested and brought him to the police Station. At the police station, Alberto allegedly admitted that he and Rodolfo killed the victim in order to exact revenge.^[7] Alberto made the admission without the assistance of counsel. He was arrested without any warrant of arrest.

Accused-appellants interposed denial and alibi as their defense. Rodolfo Flores alleged that he and the victim were neighbors at Little Baguio, Baliuag, Bulacan. They had known each other for at least six years. He was at home at the time of the incident. He denied that he had any reason to kill the victim. He only learned that Michael was killed upon his arrest. He was detained at the municipal jail of Baliuag and later transferred in the provincial jail.^[8]

Alberto Flores claimed that he was at home sleeping during the time of the incident. He resides at Libis, Baliuag, Bulacan which is two (2) barrios away from Little Baguio. He knows the victim but they were neither friends nor enemies.

After his arrest, he was detained at the municipal jail of Baliuag, Bulacan and later transferred at the provincial jail. He complained that policeman San Pedro has previously arrested him for crimes that he did not commit.^[9]

In a decision dated April 3, 1997, the trial court convicted the accused-appellants. It relied heavily on the testimony of Marissa. It held that she has no reason to testify falsely against them. It observed that she testified sincerely, candidly and was straightforward in the witness stand. It accepted her explanation that she did not immediately identify the accused-appellants out of fear as they were then still at large. It ruled that the positive identification of the accused negated their defense.^[10] The trial court further found that treachery attended the commission of the crime.

The disposition of the decision reads:

"WHEREFORE, this Court finds the accused ALBERTO FLORES and RODOLFO FLORES GUILTY beyond reasonable doubt as principals of the crime of Murder as charged in the Information as defined and penalized under Article 248 of the Revised Penal Code and thereby sentences them to suffer the penalty of reclusion perpetua and to indemnify the heirs of Michael Manlapig the sum of P14,000.00 as actual damages, P50,000.00 as compensatory damages and P30,000.00 as moral damages and to pay the cost of this suit."^[11]

Accused-appellants assign the following errors committed by the trial court, viz:

"1. In perceiving that appellants' evidence is mere alibi and therefore, inferior and weak, compared to positive identification;

"2. In appreciating the existence of treachery and use of excessive force by appellants on the deceased Michael Manlapig; and

"3. In convicting the appellants based on the very weak evidence adduced by the prosecution."^[12]

In support of these assignment of errors, accused-appellants cite the glaring inconsistencies made by Marissa in her sworn statement at the police station and her testimony in court. In her sworn statement, she claimed that she did not see how and who killed the victim. She alleged that the victim was stabbed twice -"isa sa kanang sentido (right temple) at isa sa kanang butas ng tainga (right ear)."^[13] However, in her testimony, she claimed that she saw Rodolfo stab the victim. She declared that the victim was stabbed on his left temple^[14] and left ear.^[15] Accused-appellants also insist lack of motive to kill the victim.

We acquit.

Jurisprudence forewarns that when serious and inexplicable discrepancies are present between a previously executed sworn statement of a witness and her testimonial declarations with respect to one's participation in a serious imputation such as murder, there is raised a grave doubt on the veracity of the witness' account.^[16] In the case at bar, it is difficult to reconcile the inconsistencies made by Marissa in her sworn statement and testimony in court. It is even more difficult to accept her explanation in committing these inconsistencies.

An examination of her sworn statement and her testimony will reveal why her truthfulness is doubtful. In her sworn statement, she answered the questions of the investigating officer in the following manner:

"07. T: Nakita mo ba ang ginawang pagpatay kay Michael?

S: Hindi po.

"08. T: Sino naman ang posibleng sumaksak at pumatay kay Michael?

S: Sina RUDY FLORES at ang kapatid nitong si AMANG MANGOK FLORES na kapwa taga Libis-Poblacion, Baliuag, Bulacan."^[17]

In the witness stand, she testified that:

"Q - After the door was opened, what happened?

"A - I saw somebody was inside the house, so I closed my eyes, ma'am.

"Q - After you closed your eyes, what happened?

"A - When I saw them entered the house, I pretended to close my eyes and when they were already at our head they stabbed my husband, ma'am.

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