

EN BANC

[G.R. No. 175781, March 20, 2012]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
FRANCISCA TALARO,* GREGORIO TALARO,** NORBERTO (JUN)
ADVIENTO, RENATO RAMOS, RODOLFO DUZON,*** RAYMUNDO
ZAMORA** AND LOLITO AQUINO, ACCUSED.**

**NORBERTO (JUN) ADVIENTO, RENATO RAMOS AND LOLITO
AQUINO, ACCUSED-APPELLANTS.**

D E C I S I O N

PERALTA, J.:

This is an automatic review of the Decision^[1] of the Court of Appeals (CA) promulgated on December, 15, 2005, in accordance with Section 2 of Rule 125, in relation to Section 3 of Rule 56, of the Rules of Court. The CA affirmed with modification the judgment rendered by the Regional Trial Court (RTC), Branch 38 of Lingayen, Pangasinan, thereby finding accused-appellants Norberto (Jun) Adviento, Renato Ramos and Lolito Aquino, guilty beyond reasonable doubt of the crime of Murder and sentencing them to death, but acquitting accused Rodolfo Duzon.

Accused-appellants were charged before the RTC of Urdaneta, Pangasinan, with the crime of murder under an Information reading as follows:

That on or about the 26th day of April 1994, in the Poblacion of the Municipality of Laoac, Province of Pangasinan, and within the jurisdiction of this Honorable Court, the said accused, conspiring, confederating with each other, with intent to kill, and with treachery, and evident premeditation, in consideration of a price, and by means of motor vehicle, did then and there, willfully, unlawfully and feloniously attack and shoot one MELVIN ALIPIO, with a handgun hitting the latter in the different parts of his body and the wounds being mortal caused directly the death of said MELVIN ALIPIO, to the damage and prejudice of his heirs.

CONTRARY to Article 248, Revised Penal Code.^[2]

The testimonies of prosecution witnesses showed the sequence of events shortly before and after the killing of victim Melvin Alipio to be as follows.

Raymundo Zamora is the nephew of Gregorio Talaro, the husband of Francisca Talaro. In the morning of April 24, 1994, when Zamora went home for breakfast after driving his tricycle, he found Francisca Talaro, Lolito Aquino, Renato "Atong"

Ramos, and Norberto "Jun" Adviento conversing among themselves under a santol tree in front of his (Zamora's) house. He went near the group to find out what they were talking about and he learned that his aunt, Francisca Talaro, was transacting with the other three accused-appellants for the killing of Atty. Melvin Alipio. He was merely a meter away from the group so he heard the group's conversation. He learned that Francisca Talaro would give the three accused-appellants an advance payment of P30,000.00 and then another P30,000.00 after Atty. Melvin Alipio is killed, with said last payment to be delivered in *Barangay (Brgy.)* Bactad. The three accused-appellants then nodded their heads in agreement. After learning of the group's plan, Zamora got scared and stayed away from the group, but three days after that meeting in front of his house, he was asked by Francisca Talaro to drive her and her husband Gregorio to *Brgy.* Bactad. The Talaro spouses alighted at a place in *Brgy.* Bactad, while Zamora stayed in his tricycle and merely waited for them. He assumed that the couple delivered the payment of P30,000.00 to someone in *Brgy.* Bactad.^[3]

Accused-appellant Lolito Aquino, when questioned during preliminary investigation, admitted that he and co-accused Renato Ramos conducted a surveillance on Atty. Alipio in the afternoon of April 25, 1994.^[4]

Around 6 o'clock in the morning of April 26, 1994, tricycle driver Rodolfo Duzon was at the parking area in the *poblacion* of Urdaneta waiting for passengers, when accused-appellant Renato Ramos approached him. Accused-appellant Ramos offered to pay Rodolfo Duzon P200.00 for the latter to drive Ramos' motorcycle to Laoac, Pangasinan to take some onions and turnips there. Duzon agreed, so after bringing his own tricycle home to his house in Bactad, Urdaneta, he then drove Ramos' motorcycle to the *poblacion* of Urdaneta. At the *poblacion*, Ramos bought a basket where he placed the onions and turnips. Ramos then told Duzon to drive the motorcycle to Laoac, but they first passed by Garcia Street in Urdaneta. At a house along Garcia Street, Ramos alighted and talked to someone whom Rodolfo Duzon later came to know as accused-appellant Lolito Aquino. Ramos then told Duzon that after coming from Laoac, Duzon should leave the motorcycle at that house on Garcia Street with Lolito Aquino. Ramos and Duzon then proceeded to Laoac, stopping at a gas station where they fueled up. Ramos alighted from the motorcycle at the gas station and, taking along the basket of onions and turnips, walked towards Guardian Angel Hospital (the clinic owned by the Alipios). Five minutes after Ramos alighted, Duzon heard three gunshots coming from the west, and moments later, he saw Ramos, who was coming toward him, being chased by another man. When Ramos got to the motorcycle, he ordered Duzon to immediately drive away, and poked a gun at Duzon's back. Ramos then instructed Duzon as to the route they should take until they reached Urdaneta where Ramos alighted, leaving Duzon with instructions to bring the motorcycle to Garcia Street, leave it with Lolito Aquino, then meet him (Ramos) again at the *poblacion* where he (Duzon) will be paid P200.00 for his services. Duzon did as he was told, but when he met with Ramos at the *poblacion* and asked for the P200.00, Ramos got mad and shouted invectives at him. A few days later, he again ran into Ramos who warned him to keep his silence, threatening to kill him (Duzon) too if he tells anyone about the killing. Accused-appellant Norberto (Jun) Adviento also threatened him not to reveal to anyone whatever he knows about the crime. That was why Duzon decided to keep quiet. Later, however, he revealed the matter to his brother, Victoriano Duzon, who accompanied him to the Criminal Investigation Services (CIS) Office in Urdaneta so

he could give his statement. He executed affidavits, assisted by a lawyer from the Public Attorney's Office (PAO), attesting to what he knew about the crime, in his desire to be a state witness.^[5]

Witness Rene Balanga, who was the helper of the spouses Atty. Melvin and Dr. Lina Alipio, was cleaning the windows at the clinic of Dr. Alipio around 8 o'clock in the morning of April 26, 1994. He heard three gunshots coming from the garage of the clinic, which was around ten meters away from where he was. Immediately after the gunshots, he saw a man quickly walking out from the garage, going towards the main gate, but he was not able to clearly see the face of the man. He merely observed that the man was around 5'4" to 5'5" in height, medium-built, wearing a blue jacket and faded *maong* (denim) pants. He ran towards the garage and there, he saw Atty. Melvin Alipio lying dead. He then chased after the man so he could identify him better but he did not succeed in doing so because the driver of the motorcycle that the gunman was boarding was already drawing something out from the rear portion of the motorcycle. After the assailant sped off, Balanga went to the police station in Laoac to report the crime and give his statement before the CIS. Sometime later, at the CIS Office, he identified Rodolfo Duzon as the driver of the motorcycle used by the gunman to get away.^[6]

Another eyewitness, Eusebio Hidalgo, whose son was confined at the clinic, was sitting at a bench in the garage of the clinic on the morning of April 26, 1994. Two other women who were looking for Atty. Alipio also sat at the bench with him after he told them that Atty. Alipio was still having his breakfast. After a few minutes, a man arrived looking for Dr. Alipio, and also sat at the bench. Thereafter, Atty. Alipio came out to the garage and talked to the two women. When Atty. Alipio finished talking to them, the man sitting with them on the bench suddenly stood up and shot Atty. Alipio three times. Atty. Alipio was merely one meter away from the assailant when the latter shot him. After the shooting, the assailant walked away. Hidalgo then saw the helper at the clinic, Reny Balanga, run after the assailant, but the latter had whistled to his companion who was waiting on his motorcycle and the two were able to speed away aboard said vehicle. Hidalgo identified the assailant from a picture^[7] shown to him.^[8] The picture was that of Renato Ramos.^[9]

A few weeks after Atty. Melvin Alipio had been killed, Zamora was in the parking lot in Sta. Maria Norte in Binalonan, when accused-appellant Aquino approached him and told him to remind Francisca Talaro that she still has to pay him (Aquino) P10,000.00. Zamora then immediately told his uncle Gregorio Talaro about Aquino's message and the very next day, Gregorio went to Zamora's house with the P10,000.00. Gregorio could no longer wait for Aquino so he just left the money with Zamora, instructing him to hand it over to Aquino when the latter arrives. Later that day, Zamora saw Aquino so he told him (Aquino) to just get the money from his house. About three weeks later, Aquino again went to Zamora's house, this time saying he needs another P5,000.00 just in case he needs to escape. Zamora then contacted Francisca Talaro and conveyed Aquino's message to her. The following day, Gregorio again went to Zamora's house and left the P3,000.00 for Aquino. That afternoon, Zamora again told Aquino to just pick up the money from his house. Zamora observed that Aquino seemed happy enough with the P3,000.00 he received.^[10]

Zamora said that he thinks the Talaros had Atty. Alipio killed because the latter was

not able to comply with his contractual obligations to the Talaros to complete the construction of a building. Dr. Lina Alipio, the wife of the victim Atty. Melvin Alipio, confirmed that indeed, the victim entered into an agreement with Rodolfo Talaro, the Talaro spouses' son, for the construction of a building, but the construction was not finished within the agreed one-year period because of the sudden rise of prices for materials. Atty. Alipio asked Rodolfo for additional payment so he could finish construction, but the latter refused to pay more. Dr. Alipio stated that eventually, Atty. Alipio and Rodolfo agreed that Atty. Alipio would return all the money he received from Rodolfo and the whole property would, in turn, be turned over to Atty. Alipio. Atty. Alipio was unable to return the money despite several demands made by Rodolfo, and Dr. Alipio believes this is the reason why the Talaros had her husband killed. Dr. Alipio further testified on matters regarding expenses for the wake and burial, and the earnings of her husband.^[11]

Dr. Arnulfo Bacarro conducted the autopsy on the victim and stated that three slugs were taken from the body of the victim, and the cause of death was internal hemorrhage.^[12] Police officers testified on how they conducted the investigation, stating that accused-appellant Aquino and Zamora's statements were taken in the presence of their respective lawyers. They maintain that no bodily harm was inflicted on the accused-appellants while they were being investigated.^[13]

On the other hand, accused-appellant Lolito Aquino stated that he was taken by CIS men without a warrant of arrest; that he was mauled by police authorities while under detention, but could not undergo a medical check-up due to fear from threats that he would be killed by police authorities if he did so; that he was assisted by a PAO lawyer when he made his confession, but he did not read the contents of the document, Sgt. Tomelden just ordered him to sign the same; that the PAO lawyer is not his own choice; that he does not know Rodolfo Duzon and Raymundo Zamora; and that he was not present at the meeting held in Raymundo Zamora's yard. He admitted, however, that the motorcycle used by the gunman belongs to him; and that he first agreed to be a state witness because he was promised to be paid P20,000.00 and that he would be placed in the witness protection program.^[14]

Accused-appellant Norberto (Jun) Adviento's defense is denial and alibi. He claimed that he was not present during the April 24, 1994 meeting held to plan the killing of Atty. Alipio, because on said date and time, he was in the house of Congressman Amadito Perez, for whom he works as driver-messenger, and that morning, he also drove the Congressman's family to church to hear mass. On April 26, 1994, he also reported for work at the house of the Congressman from 8 o'clock in the morning until 5 o'clock in the afternoon. He likewise denied personally knowing any of his co-accused except for Duzon whose face is familiar to him.^[15]

After trial, the RTC rendered judgment as follows:

Wherefore, in the light of all the considerations discussed above, this court hereby finds and holds the accused Francisca Talaro, Norberto (Jun) Adviento, Renato Ramos, Rodolfo Duzon and Lolito Aquino, guilty beyond reasonable doubt of the crime of Murder defined and penalized under the provisions of Article 248 of the Revised Penal Code as amended by Republic Act No. 7659 and conformable thereto, pursuant to law, hereby

imposes on each of the accused the death penalty and to pay proportionately the costs of the proceedings.

The court further orders the accused to indemnify, jointly and severally, the heirs of the deceased the sum of P83,000.00 as actual damages; P100,000.00 as moral damages; P50,000.00 as death indemnity; P10,000.00 as [attorney's fees] paid to their private prosecutor and P2,400,000.00 as loss in the earning capacity of the deceased without subsidiary imprisonment in case of insolvency.

Taking into consideration that accused Francisca Talaro is already 75 years old, the death penalty meted upon her shall be commuted to *reclusion perpetua* with the accessory penalties provided in Article 40 of the Revised Penal Code.

And considering that the evidence adduced by the prosecution against the accused Gregorio Talaro is not sufficient to sustain his conviction of the offense filed against him, the court hereby declares accused Gregorio Talaro not guilty. The court likewise declares Raymundo Zamora acquitted of the offense filed against him.

Let an order of arrest be issued against accused Renato Ramos who escaped from jail during the pendency of this case, to be served by the NBI, CIC and PNP of Urdaneta, Pangasinan.

SO ORDERED.^[16]

The case was then brought to this Court for automatic review in view of the penalty of death imposed on accused-appellants. However, in accordance with the ruling in *People v. Mateo*,^[17] and the amendments made to Sections 3 and 10 of Rule 122, Section 13 of Rule 124, and Section 3 of Rule 125 of the Revised Rules on Criminal Procedure, the Court transferred this case to the CA for intermediate review.

On December 15, 2005, the CA rendered its Decision, the dispositive portion of which reads as follows:

WHEREFORE, in view of the foregoing, the decision of the Regional Trial Court, Branch 38 of Lingayen, Pangasinan in Criminal Case No. U-8239, is hereby AFFIRMED with the MODIFICATION that accused-appellant Rodolfo Duzon is ACQUITTED on reasonable doubt and his release is hereby ordered unless he is being held for some other legal cause.

Further, in lieu of the awards made by the trial court in favor of the heirs of deceased Atty. Melvin Alipio, accused-appellants are ordered to pay, jointly and severally, the heirs of the victim the following amounts: (1) P25,000.00 as temperate damages; (2) P75,000.00 as civil indemnity; (3) P50,000.00 as moral damages; and (4) P25,000.00 as exemplary damages;

SO ORDERED.^[18]