

FIRST DIVISION

[G.R. No. 186528, January 26, 2011]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
HEMIANO DE JESUS AND RODELO MORALES, ACCUSED-
APPELLANTS.**

D E C I S I O N

VELASCO JR., J.:

Before this Court on appeal is the August 19, 2008 Decision^[1] of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 02493, which upheld the convictions of accused Hemiano de Jesus and Rodelo Morales in Criminal Case No. 4247-92, decided by the Regional Trial Court (RTC), Branch 87 in Rosario, Batangas on June 15, 2006.

The Facts

The accused were charged with the crime of Murder before the RTC in Lipa City, Batangas, in an Information dated October 8, 1992, which reads as follows:

That on or about the 9th day of July, 1992, at about 9:00 o'clock in the evening, in Barangay Libato, Municipality of San Juan, Province of Batangas, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, both armed with [a] small bolo (*gulukan*), conspiring and confederating together, acting in common accord and mutually helping each other, with intent to kill, with treachery and evident premeditation and abuse of superior strength and without any justifiable cause, did then and there, wilfully, unlawfully and feloniously attack, assault, hack and stab with the said small bolo one Armando Arasula y de Torres, suddenly and without warning, thereby inflicting upon the latter physical injuries on the different parts of his body which caused his instantaneous death.

Contrary to law.^[2]

The RTC, Branch 13 in Lipa City issued a warrant of arrest dated October 22, 1992.
^[3] The case was transferred to the RTC, Branch 87 in Rosario, Batangas.

The RTC in Rosario, Batangas issued an Alias Warrant of Arrest dated June 25, 1997, which was then returned on October 24, 2000, with the information that both of the accused had been arrested on October 19, 2000 in Mamburao, Occidental Mindoro.
^[4] The case was revived in an Order dated November 15, 2000, and arraignment was set for November 29, 2000.^[5] The accused both pleaded "not guilty" to the

crime charged.^[6] The trial then proceeded.

The Case for the Prosecution

The prosecution presented as its eyewitness Santiago Arasula, the younger brother of the victim, Armando Arasula. The prosecution and the defense agreed to stipulate on the testimony of Dr. Elizabeth Sario and the existence of the post-mortem findings^[7] and certificate of death^[8] made by her. Dr. Sario concluded that the cause of death was cardio-respiratory arrest, secondary to stab wounds.^[9]

Santiago stated that his brother Armando lived in the house of their mother in *Barangay* Libato, San Juan, Batangas, which was more or less 10 meters from his own house.^[10] Santiago testified that, on the evening of July 9, 1992, he, Armando, and the two accused had been drinking at the birthday party of a certain Alejandro Hornillo, but he left earlier than the others. Later, when Santiago was already at home with his wife and children, he heard Armando shouting, "Mother, Mother, I was stabbed by Hemiano and Rodelo!" Santiago then ran towards his brother, and saw him lying on the ground, with the accused still stabbing him with a *gulukan* (small bolo). He ordered the two to stop, whereupon they ran away, heading north. When Santiago reached his brother, he found that Armando was already dead.^[11]

Santiago also testified as to the expenses entailed by his brother's death, which amounted to more than PhP 100,000, without receipts to prove them, broken down as follows: coffin, PhP 20,000; burial, PhP 20,000; first death anniversary, PhP 30,000; and the costs incurred in filing the criminal case, PhP 20,000.^[12]

On cross-examination, Santiago stated that he left his brother drinking with the accused at the party of Alejandro Hornillo, and that prior to the attack, he had seen his brother lying drunk near the road.^[13] He also stated that he did not run after the assailants, since he was more concerned about his brother, and that after the incident he went to the San Juan, Batangas police station to report what had happened.^[14]

The Case for the Defense

Rodelo Morales testified that on July 9, 1992, he was at the house of Alejandro Hornillo to attend the latter's birthday party, and that he saw Hemiano de Jesus there as well.^[15] He left the party at around 6:00 p.m., and went home. He claimed to be cooking dinner in his house at the time the victim was attacked, around 9:00 p.m. He said that he slept at around 10:00 p.m. He stated that there was no bad blood between him and the Arasula brothers, and denied having killed Armando.^[16]

Hemiano de Jesus admitted having killed the victim, but raised the justifying circumstance of self-defense. He claimed that on July 9, 1992, he attended the birthday party of Alejandro Hornillo, then decided to go home at 9:00 p.m. Armando Arasula left the party at the same time, and de Jesus decided to accompany him, considering that Armando was drunk. De Jesus claimed that as they were walking, Armando got mad at him because he did not wish to be

accompanied. De Jesus insisted, whereupon Armando drew his bolo and attacked him. De Jesus stated that he parried the first blow and grappled with Armando for the bolo. He then ran and went to the house of his cousin, and did not go home or report the incident to the police out of fear. He claimed that he was not aware that Armando was dead when he left him. He also claimed that Rodelo Morales was not with him at the time of Armando Arasula's demise.^[17]

After deliberating upon the evidence, the trial court rendered its Decision, finding both of the accused guilty in Criminal Case No. 4247-92, the dispositive portion of the Decision reading as follows:

WHEREFORE, in view of the foregoing consideration, this Court hereby declares both accused RODEOLO [sic] MORALES and HEMIANO DE JESUS, GUILTY of the Crime of Murder penalized under Article 248 of the Revised Penal Code. There being no mitigating circumstances attending the commission of the offense, they are hereby sentenced to suffer the penalty of *Reclusion Perpetua* to Death and to pay the heirs of the victim with the following amount:

1. 50,000 as civil indemnity
2. 100,000 as moral indemnity
3. P25,000 as actual damages, considering that the actual expenses were not supported by documentary evidence

SO ORDERED.^[18]

The Case before the CA

The case was raised to the CA and docketed as CA-G.R. CR-H.C. No. 02493. In their appeal, accused-appellants attempted to cast doubt upon the testimony of Santiago Arasula, claiming that the witness' identification of the accused lacked credibility, considering the circumstances that the area was dark and that Santiago was the only one to respond to the alleged cries for help of the victim.^[19] They also attempted to show that the version of events posited by accused-appellant de Jesus was more credible, that the killing was done in self-defense. Accused-appellants further argued that, assuming *arguendo* that they committed the act of killing Armando Arasula, the trial court erred in appreciating the qualifying circumstance of superior strength.

The CA found the testimony of Santiago Arasula to be more credible and convincing, and thus upheld the RTC decision. The CA, however, found it necessary to modify the penalty and the award of damages. The penalty was reduced to *reclusion perpetua*, as no mitigating or aggravating circumstances attended the commission of the crime.^[20] The award of moral damages was found to be excessive, and was reduced in accordance with current jurisprudence. The award of actual damages was modified to temperate damages as Santiago failed to prove his expenses with receipts.^[21] The dispositive portion of the CA Decision, thus, reads as follows:

WHEREFORE, in view of the foregoing premises, the instant appeal is hereby **DENIED** and, consequently, **DISMISSED**. The assailed decision dated June 15, 2006 is hereby **AFFIRMED with MODIFICATIONS** in that the penalty imposed is *reclusion perpetua* only and the damages awarded are the sum of Php50,000.00 as civil indemnity for the death of Armando Arasula, the sum of Php50,000 as moral damages, and the sum of Php10,000.00 as temperate damages.

SO ORDERED. ^[22]

Hence, We have this appeal.

The Ruling of this Court

The appeal is without merit.

The RTC gave more weight to the testimony of Santiago Arasula. Santiago testified in a candid and straightforward manner, and the cross-examination conducted by the defense failed to shake him.

Santiago positively identified the men who killed his brother, as he had known them for at least five years. His testimony to that effect went as follows:

Q Do you know the accused in this case?

A Yes, sir.

x x x x

Q Since when have you known them?

A For quite a long time, sir.

Q Could you estimate how long a time?

A I know them for about five years, sir.

Q Prior to the year 1992, they were five years in your place?

A Yes sir and even more than five years.

Q Do you know why they were in your barangay?

A They were working in the land of Atty. Bautista, sir.

Q That land is situated at Brgy. Libato, San Juan, Batangas?

A Yes, sir. ^[23]

Santiago demonstrated his familiarity with accused-appellants, which they failed to dispute or contest, so his identification of them may be relied upon.

Santiago testified what he witnessed on that night as follows:

Q Upon hearing your brother shouting, what if any, did you do next?

A I immediately went down of our house and I went to my brother, sir.

Q What if any, did you see when you went to your brother?

A When I was near to my brother, I saw that Heminiano [sic] and Rodelo stabbed again my brother twice, sir.

Q Prior to your saying that the two accused again stabbed your brother, what is the condition of your brother before he was stabbed again by the two accused?

A He was lying already down when I approached him and the two accused stabbed him, sir.

Q What did you do when you saw that your brother was stabbed again by the two accused?

A I approached my brother, sir.

Q Were you armed at the time?

A No, sir.

Q What was your distance when you saw the two accused [stab] your brother?

A More or less five (5) meters, sir.

Q Was your brother armed, if you noticed at that time?

A No, sir.

Q How about the two accused, you said that the two accused stabbed your brother, what weapon did the two accused use in stabbing your brother?

A A small bolo, sir.

Q You mean to say that they were both armed with a small bolo?

A Yes, sir.