

## THIRD DIVISION

[ G.R. No. 189281, February 23, 2011 ]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. ROMEO ANCHES,  
APPELLANT.**

### DECISION

**BRION, J.:**

We resolve in this Decision the appeal of appellant Romeo Anches from the March 25, 2009 decision<sup>[1]</sup> of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 00205-MIN.

#### THE FACTUAL ANTECEDENTS

On October 30, 1990, the appellant was accused of murder<sup>[2]</sup> before the Regional Trial Court (RTC), Branch 6, Iligan City, under the following Information:

That on or about the 30<sup>th</sup> day of May, 1990, at Bacolod, Lanao del Norte, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually helping one another with Pat. Edgardo Gedo Cruz, whose case is now pending before the Office of the Judge Advocate General, Parang, Maguindanao, with intent to kill, did then and there willfully, unlawfully and feloniously, with treachery, evident premeditation, taking advantage of superior strength and nighttime, assault, attack and use personal violence upon one Vicente Pabalay by then and there shooting the latter with firearms thereby inflicting upon him multiple gunshot wounds which were the direct and immediate cause of his death soon thereafter.

CONTRARY to and in violation of Article 248 of the Revised Penal Code with the qualifying circumstance of treachery and attendance of the aggravating circumstances of evident premeditation, taking advantage of superior strength & nighttime.<sup>[3]</sup>

On April 4, 2002, the appellant was arrested. He pleaded not guilty upon arraignment and was brought to trial.

The case for the prosecution is summarized below.

At about 11:00 p.m. of May 30, 1990, Manuel Pomicpic was standing at the balcony of his house near the corner of the National Highway and the Municipal Road of Bacolod. It was a moonlit night, and the electric light at the ceiling of a nearby house also illuminated the area. From the balcony, he saw the victim, Vicente Pabalay, standing in front of the waiting shed along the National Highway. He also saw the appellant and Edgardo Gedo Cruz, on board a motorcycle, stop in front of the victim. The appellant said, "*Vicente sakay sa motor kay ako ka nga ihatud*" (Vicente ride on the motorcycle and I will bring you to where you're going). The victim declined the appellant's offer, walked away and crossed the national highway. While Edgardo remained on the motorcycle, the appellant alighted and followed the victim. Upon reaching the other side of the national highway, the victim stopped. As he turned around, the appellant shot him several times. The victim fell on the ground while the appellant simply turned around and fled towards the municipal road. The wounded victim stood up and sought help from the nearby house of Nida Pomicpic.<sup>[4]</sup>

Nida, who was awakened by the gunshots, saw the victim through her window and heard him shout - "*Help, Martin, Andres.*" Nida told her husband Olimpio to go and get the local Civilian Home Defense Force (CHDF). When Olimpio returned minutes later with the CHDF members, Nida opened their front door. They saw the victim sitting on the floor of their foyer, bleeding from his shoulder, abdomen and thigh. Roger Paracale, the CHDF team leader, asked the victim - "*Dong, who shot you?*"; the latter replied that it was the appellant who shot him. The victim was then brought to the Mercy Community Hospital. When Dr. Daniel Rigor performed an exploratory laparotomy on the victim on May 31, 1990, he found the victim's small intestine severed and his liver injured by 9 gunshot wounds. The victim died 10 hours later.<sup>[5]</sup>

The appellant, interposing alibi, claimed that he was at PC Camp in Kolambugan together with his fellow policemen on the night of the killing; they were not allowed to leave the camp because the replacement commanding officer was expected that day.<sup>[6]</sup>

### **THE RTC RULING**

In its April 21, 2003 decision, the RTC found the appellant guilty of murder. The trial court gave credence to Manuel Pomicpic's positive identification of the appellant as the perpetrator, as corroborated by the victim's antemortem statement less than an hour after the shooting. It noted that the appellant's flight from the crime scene and his arrest 12 years later were evidence of his guilt. In rejecting the appellant's alibi, the RTC noted that the 20-kilometer distance between Kolambugan and Bacolod can be traveled by motor vehicle in just 20 minutes. The RTC appreciated the qualifying circumstance of treachery because the appellant shot the victim by surprise and without giving him any opportunity to defend himself. However, it disregarded the qualifying circumstances of evident premeditation and abuse of superior strength for lack of proof. It also noted that nighttime was absorbed by treachery. The RTC sentenced the appellant to suffer the penalty of *reclusion perpetua*, and to pay the heirs of the victim P50,000 as civil indemnity, P50,000 as moral damages, P15,000 as nominal damages and P25,000 as exemplary damages.

<sup>[7]</sup>