

FIRST DIVISION

[G.R. No. 184960, August 24, 2011]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. CLEOFE BAROQUILLO Y VILLANUEVA AND LEONARDO MAHILUM Y CAÑETE, ACCUSED-APPELLANTS.

D E C I S I O N

LEONARDO-DE CASTRO, J.:

This Appeal was filed by accused-appellants Cleofe Baroquillo y Villanueva (Cleofe) and Leonardo Mahilum y Cañete (Leonardo) to challenge the January 31, 2008 **Decision** ^[1] of the Court of Appeals in **CA-G.R. CR.-H.C. No. 00395 MIN**, which affirmed the judgment of conviction for Murder rendered against them by the Regional Trial Court (RTC), Branch 6, of Iligan City on October 7, 2002, in **Criminal Case No. 06-8614**.

The antecedents of this case, which were succinctly summarized by the Court of Appeals from the transcript of stenographic notes (TSN), are as follows:

Accused Lorenza Madeloso y Demecillo (Lorenza hereinafter) and victim Nelson Madeloso (Nelson hereinafter) are spouses with five children. Sometime in 1994, accused Lorenza met accused Cleofe Baroquillo y Villanueva (Cleofe hereinafter) [as they were both employees of the Abalos family in Kolambugan; TSN, March 5, 2002, p. 27]. [Their membership in the] congregation of a religious group, the Couple's (*sic*) for Christ, x x x nurtured a special friendship that culminated to an amorous relationship.

Sometime in October 2000, accused Lorenza disclosed to her *kumare* Ellen Dajao (Ellen hereinafter), her intimacy with accused Cleofe. Accused Lorenza even introduced accused Cleofe to Ellen as her second husband. In one of their conversations, Lorenza told Ellen how much she loves accused Cleofe. Ellen also recounted that accused Lorenza and accused Cleofe had a furious argument over the surname of accused Lorenza's fourth child, suspected to be of accused Cleofe's. Apparently, the latter wanted said child to carry his surname but accused Lorenza refused out of respect [for] her husband Nelson. Accused Lorenza further intimated to Ellen that she wanted her husband killed because he no longer gives her money.

On 5 January 2001, accused Lorenza went to her father-in-law Gregorio Madeloso (Gregorio hereinafter), in Cotabato City to get the twenty[-]three thousand pesos (P23,000.00) which the latter promised as financial assistance for her intended trip abroad. On the same day,

accused Lorenza went back to Iligan City with the money. On her way to their house, she spotted her husband Nelson, sitting by the store of Vicky Ababa, approached him and angrily shouted: "*Wala ko makadala ug cuarta kay wala ang imong papa mohatag.*" She also threatened Nelson saying: "*Dili ka magdugay [Nel]son; pipila na lang ka adlaw, ipapatay ta ka.*"

On 10 January 2001, at around twelve o'clock noon, accused Lorenza met and had lunch with accused Cleofe and accused Leonardo Mahilum (Leonardo hereinafter) at *Dado's Lechon* House in Tibanga, Iligan City. Meanwhile, at around eight o'clock in the evening, Nelson went out of their house and asked Promelito Jimenez (Promelito hereinafter), their neighbor who was then sitting outside their house, for the time. Promelito answered and asked him where he was going. Nelson replied, "*Mamang* called for me," and then hurriedly left. Nelson fondly called his wife *mamang* or mama.

At around 8:15 p.m., Lorenza, with one of her children, arrived home. Meantime, Nelson chanced upon Meneleo Tumampil (Meneleo hereinafter), another neighbor driving his motorcycle bound for Villaverde, Iligan City. Nelson flagged down Meneleo. When the latter asked where he was headed, Nelson responded, "*Mamang* called for me." Nelson then requested Meneleo if he could drop him off at the crossing of St. Mary and *Bagong Silang*. Meneleo acceded and the two rode off together. When Nelson reached the place, he alighted and left Meneleo on his way.

At around nine o'clock in the evening, in *Bagong Silang*, Nelson was shot dead by accused Leonardo. The prosecution witness, Ricky Ramos (Ricky hereinafter), saw the gruesome incident while walking on his way home from the house of a friend. He vividly recounted that he saw Nelson sitting by the gutter of the road when two (2) men, identified later on as accused Cleofe and Leonardo, crossed the street and approached Nelson. Accused Cleofe pulled Nelson up towards him and held him, while Leonardo pulled out a gun from his side and shot Nelson in the head several times.

Soon after, the Iligan City police received a report that there had been a shooting incident in *Bagong Silang*. Several members of the Iligan police went to the crime scene to investigate and found the victim, Nelson, prostrate on the ground drenched with his own blood.

[Promelito Jimenez, another neighbor of the Madelosos, overheard] Major Celso Regencia inform accused Lorenza about the shooting incident x x x. [He added that] accused Lorenza's reaction [to hearing about Nelson's death] was strangely opposed to ordinary human experience - she did not really look surprised, as if she was expecting the news.

Promelito, and a few other neighbors, then accompanied accused Lorenza to *Bagong Silang*. When accused Lorenza saw her husband's lifeless body, she embraced him and cried but her cry allegedly x x x appeared feigned and insincere [to Promelito] Nelson's bloody corpse was then

taken to Mansueto Funeral homes.

At Mansueto Funeral Homes, SPO2 Genaro Enchavez asked Lorenza a few questions. When the police received the information of accused Lorenza and accused Cleofe's extra-marital affair, Lorenza was invited to the police station for further questioning where she confessed her illicit relation with accused Cleofe. Thereupon, the police proceeded to accused Cleofe's house at Riverside, Kolambogan by patrol car. The police met accused Cleofe's wife and asked her what time accused Cleofe arrived home. She replied that her husband came home between eleven and twelve o'clock midnight. When the police invited accused Cleofe to the station for questioning, his wife exhorted them to incarcerate her husband because of his alleged love affair with the wife of Nelson.

In the morning of 11 January 2001, while at the police station, Lorenza received a phone call from Leonardo. With the permission of the police, Lorenza answered the call. Leonardo instructed her to meet him at around twelve o'clock noon at *Dado's Lechon House* to which she agreed with the approval of the police. At around eleven-thirty o'clock in the morning, accused Lorenza, together with the police, arrived at *Dado's Lechon House*. After thirty minutes, more or less, accused Leonardo arrived and sat at the table occupied by accused Lorenza. The police, who were sitting nearby, approached the two accused persons and invited accused Leonardo to the police station for questioning. After investigation, the accused-appellants, Cleofe, Leonardo and Lorenza were charged with murder.^[2]

On January 15, 2001, Cleofe and Leonardo, along with Lorenza Madeloso (Lorenza), were charged with Murder under Article 248 of the Revised Penal Code before the RTC, Branch 6 of Iligan City. The pertinent portion of the Amended Information^[3] reads as follows:

That on or about January 10, 2001, in the City of Iligan, Philippines, and within the jurisdiction of this Honorable Court, the said accused, conspiring with and confederating together and mutually helping one another, armed with a deadly weapon, with intent to kill and evident premeditation and by means of treachery, did then and there willfully, unlawfully and feloniously attack, assault, [shoot,] and wound one Nelson Madeloso, thereby inflicting upon him the following physical injuries, to wit:

- Cranicerebral injury
- Multiple Gunshot Wounds

and as a result thereof, the said Nelson Madeloso died.

Contrary to and in violation of Article 248 of the Revised Penal Code with the aggravating circumstances of treachery and evident premeditation.

All three accused pleaded not guilty to the crime of Murder during their Arraignment

on January 31, 2001.^[4] They also filed three separate Petitions for Bail,^[5] which were all denied by the RTC on August 28, 2001.^[6]

Trial on the merits followed the pre-trial conference,^[7] also conducted and concluded on January 31, 2001.

As can be gleaned from the antecedents above, the prosecution presented Ellen Dajao^[8] and Estrella Bailo^[9] to testify on the extra-marital affair between Lorenza and Cleofe and how Lorenza wanted her husband dead; and Gregorio Madeloso,^[10] Marichel Paler,^[11] Meneleo Tumampil,^[12] Senior Police Officer 2 (SPO2) Genaro Echavez,^[13] SPO2 Rodney Diez,^[14] SPO1 Andres Lluch,^[15] Promelito Jimenez,^[16] and Ricky Ramos^[17] to testify on the circumstances that led to the shooting of Nelson Madeloso (Nelson), how his body was discovered, and the events that transpired after. The prosecution also presented Dr. Leonardo Labanon, the Iligan City Health Office physician who examined the dead body of Nelson and who accomplished the Necropsy Report^[18] and Certificate of Death.^[19] Dr. Labanon testified that on January 11, 2001, he examined the cadaver of Nelson, whom he determined to have died of craniocerebral injury due to multiple gunshot wounds. He explained that a craniocerebral injury is damage caused to the brain substance (cerebral) and the skull protecting the brain (cranium).^[20] Dr. Labanon also elaborated on the other injuries found on Nelson's body, including a gunshot wound that entered the left side and exited through the right side of his head, a "raccoon sign"^[21] on his left eye, a gunshot wound on his lower right jaw with an upward trajectory,^[22] an abrasion on his left foot, a "thru and thru"^[23] gunshot wound on his upper right back, and a laceration on the middle portion of his back.^[24] When asked which of the wounds Nelson sustained was fatal, the Doctor answered that gunshot wounds to the head are always fatal.^[25]

After the prosecution rested its case, the three accused took the stand and denied killing Nelson.

Leonardo claimed that on January 10, 2001, he left his house before lunchtime to go to Villaverde for his cousin, Bonifacio Patac's birthday party. On his way there, he passed by Dado's Lechon eatery where he saw his childhood friend Cleofe. Cleofe was accompanied by Lorenza and her child, whom Leonardo met for the first time. After Lorenza and her child left, Leonardo and Cleofe transferred to Anduyan's where they watched an NBA game and drank beer until 6:00 p.m., when they parted ways. Cleofe went towards his house in Kolambugan, and Leonardo, towards his cousin's party in Villaverde. Leonardo alleged that he reached his cousin Bonifacio's house in Villaverde between 7:00 p.m. and 7:30 p.m. and stayed there until the following morning, then he proceeded to Dado's Lechon in acquiescence to Lorenza's text message to him to meet her there for lunch.^[26]

In support of Leonardo's alibi, the defense presented the birthday celebrator himself, Bonifacio Patac, and another cousin, Rowela Gabinera (Rowela), who was also present at Bonifacio's birthday celebration. Rowela testified that Leonardo arrived at around eight o'clock in the evening; and from then until about 10:00 p.m., they ate and played the card game *tong-its*. She also alleged that Leonardo spent the night at their house and when she left at 12:30 p.m. the following day to

go to class, Leonardo was still there.^[27] Bonifacio backed-up Leonardo's and Rowela's claims that they were both present at his birthday celebration. He also corroborated Rowela's testimony that at 9:00 p.m., Leonardo was in their house playing *tong-its* with them, further adding that he, Leonardo, and another male cousin slept together in their living room an hour later. Bonifacio also confirmed that Leonardo stayed there for the night because he was still sleeping in the living room when Bonifacio woke up at 6:30 a.m. the following day.^[28]

Cleofe also denied killing Lorenza's husband and alleged that he was at home in Riverside, Kolambugan when Nelson was killed. Cleofe testified that on January 10, 2001, before nine o'clock in the morning, he went to Iligan to have his wife's mobile phone repaired. As lunchtime drew near, he looked for a place to eat and ended up at Dado's Lechon, which was within walking distance from where he was. While at Dado's Lechon, he saw Leonardo on his bicycle, so he called him and invited him for lunch. They parted ways between 5:00 p.m. and 5:30 p.m. When Cleofe reached his house in Kolambugan at about 7:30 p.m., he ate dinner with his family and watched television until he went to sleep between 9:00 p.m. and 10:00 p.m.^[29]

Lita Balatero Daviz (Lita) corroborated Cleofe's alibi that he was at home in the evening of January 10, 2001. Lita was Cleofe's neighbor in Kolambugan and she used to go to Cleofe's house every night to watch television as she had none of her own. Lita claimed that Cleofe was at his house the entire time she was there, which was from 7:30 p.m. to 9:00 p.m.^[30]

Lorenza, for her part, claimed that she had no reason to have her husband killed as she loved him. She averred that aside from the normal spats between couples, she and Nelson had a harmonious and peaceful marital life due largely to Nelson's patience. She admitted receiving the ₱23,000.00 she had asked from Nelson's father, Gregorio, but claimed that Nelson borrowed ₱10,000.00 to redeem the service motorcycle he had mortgaged. Lorenza testified that on January 10, 2001, she met Cleofe at Ladies Burger in Tibanga, Iligan City, to fetch her child, whom she entrusted to Cleofe earlier that morning. When she arrived there, Cleofe was playing billiards with a man whom she later on came to know as Leonardo. The three of them had lunch at Dado's Lechon until about 1:30 p.m. After some window shopping, she and her child made their way back home to Abigail Subdivision. Lorenza alleged that at exactly 7:15 p.m. they entered their house and she found her husband Nelson and their other children there. After dinner, Nelson left with the Twenty Pesos (₱20.00) he had previously asked from her.^[31]

On October 7, 2002, the RTC convicted all three accused of Murder. The dispositive portion of its Decision^[32] reads:

WHEREFORE, the court finds the accused Cleofe Baroquillo y Villanueva, Leonardo Mahilum y Cañete and Lorenza Madeloso y Demecillo GUILTY beyond reasonable doubt as principals of the crime of murder qualified by treachery defined and penalized in Art. 248 of the Revised Penal Code, as amended, and there being no other aggravating circumstance (superior strength is absorbed in treachery) attending the offense, hereby sentences each of them to the single and indivisible penalty of RECLUSION PERPETUA with the corresponding accessory penalties