

## FIRST DIVISION

[ G.R. No. 182061, March 15, 2010 ]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. FERDINAND T. BALUNTONG, APPELLANT.**

### D E C I S I O N

**CARPIO MORALES, J.:**

Ferdinand T. Baluntong (appellant) appeals from the August 13, 2007 Decision<sup>[1]</sup> of the Court of Appeals to which the Court had earlier referred the present case for intermediate review following *People v. Mateo*.<sup>[2]</sup>

In its challenged Decision, the appellate court affirmed appellant's conviction by the Regional Trial Court of Roxas, Oriental Mindoro, Branch 43, of Double Murder with Frustrated Murder, following his indictment for such offense in an Information reading:

That on or about the 31<sup>st</sup> day of July 1998, at about 10:30 in the evening at Barangay Danggay, Municipality of Roxas, Province of Oriental Mindoro, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, did, then and there, with malice aforethought and with deliberate intent to kill, set on fire, the house of Celerina Solangon, causing the complete destruction of the said house and the death of Celerina Solangon and Alvin Savarez, and inflicting serious physical injuries on Josua (sic) Savarez, thereby performing all the acts of execution which would produce the crime of murder as a consequence (sic) but which, nevertheless do not produce it by reason of causes independent of the will of the perpetrator.<sup>[3]</sup> x x x x (underscoring supplied)

Gathered from the records of the case is the following version of the prosecution:

At around 10:30 p.m. of July 31, 1998, while then 12-year old Jovelyn Santos (Jovelyn) was sleeping in the house of her grandmother Celerina Solangon (Celerina) at Barangay Danggay, Roxas, Oriental Mindoro, she was awakened by heat emanating from the walls of the house. She thus roused her cousin Dorecyll and together they went out of the house.

Jovelyn saw appellant putting dry hay (*dayami*) around the house near the terrace where the fire started, but appellant ran away when he saw her and Dorecyll.

Appellant's neighbor, Felicitas Sarzona (Felicitas), also saw appellant near Celerina's house after it caught fire, following which, appellant fled on seeing Jovelyn and Dorecyll stepping out of the house, as other neighbors repaired to the scene to help contain the flames. Felicitas also saw Celerina, who was at a neighbor's house

before the fire started, enter the burning house and resurface with her grandsons Alvin and Joshua.

Celerina and Alvin sustained third degree burns which led to their death. Joshua sustained second degree burns.

Upon the other hand, appellant, denying the charge, invoked alibi, claiming that he, on his mother Rosalinda's request, went to Caloocan City on July 15, 1998 (16 days before the incident) and stayed there until February 1999. Rosalinda corroborated appellant's alibi.

By Decision of February 28, 2003, the trial court found appellant guilty as charged, disposing as follows:

**WHEREFORE**, judgment is hereby rendered as follows:

(a) The court finds accused Ferdinand Baluntong **GUILTY** beyond reasonable doubt of the complex crime of Double Murder with Frustrated Murder punishable under Article 248 of the Revised Penal Code as amended by Republic Act 7659 in relation to Article 48 of the Revised Penal Code and is hereby sentenced to suffer the supreme penalty of **DEATH** to be executed in accordance with the existing law;

x x x x

(c) Accused Ferdinand Baluntong is also ordered to pay the heirs of Celerina Suba Solangon the sum of P50,000.00 as compensatory damages and the heirs of Elvin [sic] Savariz the following: (I) the sum of P50,000.00 as compensatory damages (II) the sum of P16,500.00 as actual damages; and (III) the sum of P50,000.00 as moral damages.

SO ORDERED.<sup>[4]</sup> (emphasis in the original; italics and underscoring supplied)

In affirming the trial court's conviction of appellant, the appellate court brushed aside appellant's claim that the prosecution failed to prove his guilt beyond reasonable doubt. The appellate court, however, *modified* the trial court's decision by reducing the penalty to *reclusion perpetua* in light of the passage of Republic Act No. 9346,<sup>[5]</sup> and by additionally awarding exemplary damages to the heirs of the victims (Celerina and Alvin), and temperate damages to Joshua representing his "hospitalization and recuperation." Thus the appellate court disposed:

WHEREFORE, premises considered, the February 28, 2003 Decision of the Regional Trial Court of Roxas, Oriental Mindoro, Branch 43, is **MODIFIED** as follows:

1. Accused-appellant FERDINAND BALUNTONG y TALAGA is found **GUILTY** beyond reasonable doubt of the complex crime of Double Murder with Frustrated Murder and is hereby sentenced to suffer the penalty of *reclusion perpetua*.

2. Accused-appellant is further required to pay the heirs of the victims the amount of P25,000.00 as **exemplary damages** and the amount of P25,000.00 as **temperate damages for the hospitalization and recuperation of Joshua Savariz.**

3. In all other respects, the February 28, 2003 Decision of the regional trial court is hereby ***AFFIRMED.***<sup>[6]</sup> (italics and emphasis in the original; underscoring supplied)

In his Brief, appellant raises doubt on prosecution witness Felicitas' claim that she saw appellant fleeing away from the burning house, it being then 10:30 p.m. and, therefore, dark. He raises doubt too on Jovelyn's claim that she saw appellant, given her failure to ask him to stop putting dried hay around the house if indeed her claim were true.

After combing through the records of the case, the Court finds that the trial court, as well as the appellate court, did not err in finding that appellant was the malefactor.

There should be no doubt on prosecution witnesses Felicitas' and Jovelyn's positive identification of their neighbor-herein appellant as the person they saw during the burning of the house, given, among other things, the illumination generated by the fire. Consider the following testimonies of Felicitas and Jovelyn:

FELICITAS:

Q: Which portion of the house was on fire when you saw Balentong (sic) for the first time?

A: The fire was at the rear portion going up, sir.

Q: How far was Balentong (sic) from that burning portion of the house?

A: He was just infront (sic) of the house, sir.

Q: How far from the burning portion of the house?

A: About two (2) meters away, sir.

Q: The two (2) meters from the front portion or two (2) meters from the burning portion?

A: About two (2) meters, sir.

Q: From the burning portion?

A: Yes, sir.<sup>[7]</sup> (underscoring supplied)

JOVELYN:

Q: How big was the fire when according to you, you saw the back of this Ferdinand Balontong (sic)?