

FIRST DIVISION

[G.R. No. 177573, July 07, 2010]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ROBERTO ASIS AND JULIUS PEÑARANDA, ACCUSED-
APPELLANTS.**

D E C I S I O N

LEONARDO-DE CASTRO, J.:

Assailed before this Court is the Decision^[1] dated July 31, 2006 of the Court of Appeals in CA-G.R. CR No. 02293, which affirmed the Decision^[2] dated July 28, 1999 of the Regional Trial Court (RTC) of Quezon City, Branch 95, in Criminal Case No. Q-98-77356, finding accused-appellants Roberto Asis and Julius Peñaranda guilty beyond reasonable doubt of the crime of Murder and sentencing them to suffer the penalty of *reclusion perpetua*.

In the court of origin, accused-appellants were charged with the crime of Murder in an Information^[3] dated June 10, 1998. The crime was alleged to have been committed as follows:

That on or about the 7th day of June 1998, in Quezon City, Philippines, the above-named accused, conspiring and confederating with other persons whose true identities and other personal circumstances have not as yet been ascertained and mutually helping one another, with intent to kill, qualified with evident premeditation, treachery and abuse of superior strength, did then and there willfully, unlawfully and feloniously attack, assault and employ personal violence upon the person of one DONALD PAIS y BALAO, by then and there stabbing him with a bladed weapon hitting him on different parts of his body, thereby inflicting upon said DONALD PAIS y BALAO mortal wounds which were the direct and immediate cause of his untimely death, to the damage and prejudice of the heirs of said DONALD PAIS y BALAO.

When arraigned on July 6, 1998, both accused-appellants pleaded not guilty to the crime charged.

The prosecution presented eyewitnesses Ma. Theresa Ramos and Clifford Magsanoc (both residents of Payatas, Quezon City), Senior Police Officer (SPO) 1 Joselito Roxas, Dr. Anthony Joselito Llamas (a medico-legal officer of the Philippine National Police [PNP] Crime Laboratory), and SPO3 Ernesto Pais (the victim's father), while the defense presented accused-appellants Roberto Asis and Julius Peñaranda, and also Jenifer Indat and Villamor Casillan (also residents of Payatas) as witnesses.

After trial, a Decision was rendered by the court *a quo* on July 28, 1999, finding accused-appellants guilty beyond reasonable doubt of the crime of Murder. The trial court thus decreed:

WHEREFORE, judgment is hereby rendered finding the two accused, Roberto Asis y Bautista and Julius Peñaranda y Jacaba, GUILTY beyond reasonable doubt of the crime of murder defined in and penalized by Article 248 of the Revised Penal Code, as amended, and, there being no mitigating or aggravating circumstance, are hereby sentenced to suffer the penalty of *reclusion perpetua*. They are further ordered to indemnify the heirs of the victim the amounts of P50,000.00 as death indemnity, and P50,000.00 as actual or compensatory damages. The Court cannot award loss of earnings as the prosecution failed to adduce evidence for the grant of the same.^[4]

The record of this case was originally transmitted before this Court in view of the notices of appeal of accused-appellants. In our Resolutions^[5] both dated July 3, 2000, we accepted the appeal and directed the Chief of the Judicial Records Office to send notices to the parties to file their respective briefs.

Accused-appellants, through the Public Attorney's Office of the Department of Justice, filed their Brief for the Accused-Appellants^[6] on May 31, 2005, while the People, through the Office of the Solicitor General, filed its Appellee's Brief^[7] on October 4, 2005.

Pursuant to *People v. Mateo*,^[8] the record was remanded to the Court of Appeals for appropriate action and disposition where it was docketed as CA-G.R. CR No. 02293.

The evidence for the prosecution and for the defense were summarized by the Court of Appeals as follows:

On June 7, 1998[,] at about 6:30 in the evening, prosecution witness Ma. Theresa Ramos was inside her store when she saw Donald Pais, the victim, standing from a distance of five meters. She also saw Alex Costuna, accused-appellant Julius Peñaranda and another person in front of her store. Suddenly, a commotion broke out and stones were being thrown by different persons. Accused-appellant Julius Peñaranda placed his arms around Donald's shoulders, after which, Alex Costuna punched Donald who initially fought back but was eventually outnumbered. Donald was hit in the head. He ran away limping because he was stoned in the legs. However, Alex Costuna, accused-appellant Roberto Asis and several other persons caught up with Donald and ganged up on him. Thereupon, Alex Costuna took out a knife and repeatedly stabbed Donald. Accused-appellant Roberto Asis also did the same thing. The victim sat on the ground with hands crossed, covering his head to ward off his attackers. According to witness Theresa Ramos, she saw around nine to ten persons ganging up on the victim, but she could not tell who among them initiated the attack. However, she saw that aside from accused-appellant Roberto Asis and Alex Costuna, other men also hit and

boxed Donald Pais. She shouted for help but nobody came. The victim was bloodied and holding his stomach. After accused-appellants' group left, Theresa and her husband boarded the victim on a tricycle and took him to Fairview General Hospital in Quezon City where he died shortly after.

According to another witness by the name of Clifford Magsanoc, at around seven in the evening of June 7, 1998, he was standing in front of a store while chatting with a friend. There was then an on-going commotion perpetrated by Alex Costuna, Romy Manzanilla and accused-appellants Julius Peñaranda and Roberto Asis. Their target was Donald Pais who was hit on different parts of his body. The victim attempted to flee but his assailants caught up with him and stabbed him repeatedly. The witness saw the victim bloodied and lying on his back. When the accused-appellants' group left, the witness helped in boarding the victim on a tricycle.

Dr. Anthony Joselito Llamas, a medico-legal officer of the PNP Crime Laboratory autopsied the victim's body, and his findings are reduced in a medico-legal report, and quoted in *pari materia* as follows:

POST MORTEM FINDINGS:

Fairly developed, fairly nourished male cadaver in rigor mortis, with postmortem lividity at the dependent portions of the body. Conjunctiva are pale. Lips and nail beds are cyanotic.

HEAD, TRUNK AND EXTREMITIES:

1. Abrasion, frontal region, measuring 2 x 0.4 cm., 1.2 cm. Right of the anterior midline.
2. Abrasion, right maxillary region, measuring 0.8 x 0.6 cm., 8 cm. From the anterior midline.
3. Abrasion, frontal region, measuring 3.5 cm. x 2 cm., 7 cm. Left of the anterior midline with superimposed lacerated wound, measuring 2.2 x 0.6 cm.
4. Lacerated wound, occipital region, measuring 3 x 0.3 cm., 4 cm. right of the posterior midline.
5. Area of multiple contusions, right axillary region, measuring 8 x 5 cm., 17.5 cm. from the anterior midline.
6. Abrasion, right supermammary region, measuring 1.3 x 0.5 cm., 5.5 cm. from the anterior midline.
7. Stab wound, right mammary region, measuring 2.2 x 0.5 cm., 3.5 cm. from the anterior midline, 11 cm. deep,

directed posteriorwards, slightly medialwards, and to the left, fracturing the right 5th rib, piercing the right hemidiaphragm, and the left lobe of the liver.

8. Stab wound, right inframammary region, measuring 3 x 0.6 cm., 11.5 cm. from the anterior midline, 9 cm. deep, directed posteriorwards, medialwards, and slightly upwards, passing the 6th intercostals space, fracturing the 6th right rib and piercing the right and left lobes of the liver.
9. Stab wound, right hypochondriac region, measuring 3.8 x 1 cm., 14.5 cm. from the anterior midline 8.5 cm. deep, directed posteriorwards, medialwards and slightly upwards, fracturing the 7th thoracic rib and perforating the stomach.
10. Abrasion, left supermammary region, measuring 6.5 x 0.3 cm., 15.5 cm. from the anterior midline.
11. Area of multiple contusions, left axillary region, measuring 6 x 3 cm., 16 cm. from the anterior midline.
12. Stab wound, left lateral abdominal region, measuring 1.8 x 0.5 cm., 13.5 cm. from the anterior midline.
13. Stab wound, thru and thru, distal 3rd of the right arm, measuring 2.8 x 0.5 cm., 5.5. cm. medial to its anterior midline piercing the underlying soft tissues making a point of exit at the proximal 3rd of the right forearm, measuring 2.5 x 0.5 cm., 3.5 cm. lateral to its posterior midline.
14. Contusion, distal 3rd of the right forearm, measuring 4 x 4 cm., 2 cm. lateral to its posterior midline.
15. Abrasion, middle 3rd of the left arm, measuring 3.5 x 1 cm. lateral to its anterior midline.
16. Lacerated wound, left elbow, measuring 2 x 0.5 cm., along its posterior midline.
17. Stab wound, left elbow, measuring 2 x 0.5 cm., 5 cm. lateral to its posterior midline.

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CONCLUSION:

Cause of death is multiple stab wounds of the trunk.

In sum, Dr. Llamas concluded that Donald Pais sustained abrasions, lacerated wounds, contusions and stab wounds in various parts of his body, some of which fatally hit his vital organs and caused his death.

Evidence for the defense shows as follows:

On January 7, 1998[,] at around five in the afternoon, defense witness Jennifer Indat was tending her store. At about quarter past six in the evening, she was preparing to close her store when she saw two Ilongos conversing beside her store. She heard the Ilongo named Roy saying he could not sleep if he could not make revenge and kill somebody. Thereafter, a young girl passed by. The two Ilongos whistled at the young girl. The latter uttered "Kuya Donald, its already night time and you go home." The two Ilongos suddenly stood up, got stones and threw the same at Donald. The latter went home. Meanwhile, somebody pacified the two Ilongos and one of them was dragged home. Jennifer Indat testified that she closed her store at around quarter to seven in the evening. She then proceeded to the house of Julius Peñaranda to pay the latter money that her husband owed the former. On her way to Julius's house, she met the victim who was holding a bladed weapon. She hurriedly went to the house of Julius. Before she entered the latter's house, she heard Donald shouting "*Putangina niyo lumabas kayo diyan sino ang matapang sa inyo.*" Julius was already sleeping so she just gave the money to his mother. She went home at around seven forty in the evening.

According to another defense witness by the name of Villamor Casillan, he arrived home at around seven in the evening on June 7, 1998. He changed his clothes and went out to watch a basketball game in front of his house. At seven twenty in the evening, he heard Donald Pais shouting the name of Alex Costuna saying "*Putangina mo Alex.*" He did not mind what he heard but when Donald successively shouted "*Putangina mo Alex, putangina mo Alex, Kuya Jerry.*" he immediately left what he was watching, approached Donald, and helped the latter to stand up. Donald was very weak because he had stab wounds. He shouted for help at the house of Camilo Tabago. He got a tricycle and brought Donald to the hospital where Donald died. He waited for the arrival of Donald's father Sgt. Pais.

Accused-appellant Julius Peñaranda denied before the court his alleged participation in the killing of Donald Pais. According to him at the time of the incident, he was in their house sleeping because he was a little drunk so he slept early. He attended the birthday celebration of his brother-in-law Roberto Asis. They had a drinking spree at the back of their house together with Alex Costuna and a certain Bong.

Julius insisted that he only learned about the death of Donald Pais from his mother the following day. He asked who killed Donald but [his] mother did not know. He woke up at four in the morning of June 8, 1998, had breakfast and then went straight to work. He arrived home at seven in the evening. While having dinner, somebody knocked at their