

## THIRD DIVISION

[ G.R. No. 189091, August 25, 2010 ]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. ARMAN APACIBLE  
Y RODRIGUEZ, APPELLANT.**

### D E C I S I O N

**CARPIO MORALES, J.:**

From the Court of Appeals Decision affirming with modification, the trial court's decision convicting him of Murder, Arman Apacible y Rodriguez (appellant) comes to the Court on appeal.

The accusatory portion of the Information filed against appellant before the Regional Trial Court (RTC) of Balayan, Batangas reads:

That on or about the 23<sup>rd</sup> day of May, 1999 at about 8:30 o'clock in the evening, at Barangay Luna, Municipality of Tuy, Province of Batangas, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, armed with a bladed instrument, with intent to kill, with treachery and evident premeditation and without any justifiable cause, did then and there willfully, unlawfully and feloniously attack, assault and stab with the said weapon one **Arnold Vizconde y Famoso** thereby inflicting upon the latter multiple stab wounds in his body, which directly caused his death.<sup>[1]</sup> (emphasis supplied)

From the account of prosecution witness Mylene Vizconde (Mylene), widow of Arnold Vizconde (the victim), the following transpired on the day her husband died:

On May 23, 1999, starting at about 2:00 p.m., her husband, her uncle and appellant, who is her first cousin, had a drinking spree at a neighbor's house.<sup>[2]</sup> The spree lasted up to 8:30 p.m. following which her husband returned home and slept in their room.<sup>[3]</sup> She thereupon placed their eight-month old child beside him and went to the kitchen to prepare milk for the child. Shortly thereafter, she, from a distance of about three to four meters, heard appellant utter "*Putang ina mo, papatayin kita!*" and then saw appellant, through the open door to the room, stab her husband several times.<sup>[4]</sup>

She thus shouted for help and called appellant's mother with whom he lives about "five (5) steps away."<sup>[5]</sup> While appellant's mother who heeded her call repaired to the house, the latter and appellant left as they saw the victim drenched in blood.<sup>[6]</sup>

She then brought her child to a neighbor and sought help from the Tuy Police

Station who responded and conducted an investigation with dispatch.<sup>[7]</sup>

At the time of his death, the victim was 26 years old and was working at the National Power Corporation, earning P10,000 per month.<sup>[8]</sup>

Mylene surmised that appellant killed her husband in view of his (her husband's) refusal to amicably settle the malicious mischief case he had filed against appellant's brother for breaking the glass windshield of his car.<sup>[9]</sup>

Appellant, interposing alibi, claimed that after the victim whom he treated as a brother left, he too left with a friend for Cavite.<sup>[10]</sup> He surmised that he is being charged because the alleged breaking by his brother of the windshield of the victim's car was the subject of their conversation during the drinking spree.<sup>[11]</sup>

By Decision<sup>[12]</sup> of January 31, 2008, Branch 11 of the Balayan RTC which convicted him disposed:

**WHEREFORE**, the Court finds the accused Arman Apacible **GUILTY** beyond reasonable doubt of the crime of Murder, defined and penalized under Art. 248 of the Revised Penal Code, as amended by RA 7659, and hereby sentences him to suffer imprisonment of **Reclusion Perpetua** and to indemnify the heirs of victim Arnold Vizconde y Famoso the sum of **FIFTY THOUSAND (P50,000.00) PESOS** as death indemnity and **FIFTY THOUSAND (P50,000.00) PESOS as moral damages**.

Considering that accused Arman Apacible y Rodriguez is a detention prisoner he shall be credited with the period of his detention during his preventive imprisonment. (emphasis in the original; underscoring supplied)

In his Brief filed before the Court of Appeals, appellant questioned, in the main, Mylene's motive in identifying him as the assailant of her husband, the latter having allegedly refused appellant's request to amicably settle the malicious mischief case filed against appellant's brother. And appellant challenged Mylene's alleged seeing him stab her husband, there being "no mention" if the *locus criminis* was well-lighted.

The appellate court, by Decision of June 23, 2009, *affirmed with modification* the trial court's decision, disposing as follows:

WHEREFORE, premises considered, the Decision of Branch 10, Regional Trial Court of Balayan, Batangas dated January 31, 2008 in Criminal Case No. 4410 finding accused-appellant Arman Apacible y Rodriguez **GUILTY** beyond reasonable doubt of the crime of murder is **AFFIRMED** with the **MODIFICATIONS** that the award of civil indemnity shall be increased from P50,000.00 to P75,000.00 and that he is further ordered to indemnify the heirs of the victim P25,000.00 as exemplary damages.<sup>[13]</sup> (emphasis found in the original)