

SECOND DIVISION

[G.R. No. 183703, January 20, 2009]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
FERNANDO SAMENIANO, ACCUSED-APPELLANT.**

DECISION

VELASCO JR., J.:

This is an appeal from the February 26, 2008 Decision^[1] of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 02525, which affirmed the August 1, 2006 judgment^[2] of the Regional Trial Court (RTC), Branch 32 in Pili, Camarines Sur in Criminal Case No. P-2924. The RTC convicted accused-appellant Fernando Sameniano of murder and sentenced him to *reclusion perpetua*.

The Facts

On August 24, 1999 at around 10:00 p.m., Norming de los Santos and his cousin, Roberto de los Santos, were asleep in a nipa hut at an abaca plantation in *Sitio Kaunlong*, Brgy. Gatbo, Ocampo, Camarines Sur when three men suddenly pelted their nipa hut with stones. Not long after, the men barged inside the nipa hut and directed their flashlights on Roberto's face. Norming recognized one of the assailants as accused-appellant. The three intruders surrounded Roberto and then one of them, later identified as Jose Aguilar, hacked Roberto with a bolo. Another man with a bolo, later identified as Benedicto Felicidadario, Jr., held Roberto's hands. While the assailants were wrestling with Roberto, Norming rushed out to the abaca plantation. Accused-appellant chased Norming but failed to catch up with him.

Roberto was unable to flee as he was hacked and stabbed, causing irreversible shock secondary to massive brain and lung hemorrhage and resulting in his instantaneous death.^[3]

Norming reached Roberto's house and narrated to the latter's wife what happened in the plantation. Thereafter, Roberto's wife went to Brgy. Gatbo to ask for help from *barangay* officials. A *barangay* official went to the place of the incident, but Norming failed to accompany him due to a knee injury caused by a stone thrown at him. Norming also reported the incident to the police.

According to the autopsy report prepared by Dr. Angelina Celso, Municipal Health Officer of Ocampo, Camarines Sur, the following were found on the cadaver of Roberto:

1. Wound hacked 12.0 cm in length located in the face cutting right and left maxillary and zygomatic bones and the nasal bone affecting brain substance.

2. Wound stabbed 6.0 cm in length located at the left lateral chest at the level of the 5th and 6th intercostals space penetrating chest cavity involving left lung.
3. Wound incised, posterior portion, right middle finger involving phalanges.^[4]

Consequently, the following information was filed against accused-appellant, Aguilar, and Felicidadario:

CRIMINAL CASE NO. P-2924

That on the 24th of August, 1999 at around 10:00 o'clock in the evening, at Zone 6, Barangay Gatbo, Municipality of Ocampo, Province of Camarines Sur, and within the Jurisdiction of this Honorable Court, the said accused, conspiring and confederating together, with intent to kill and while armed with bolos, with treachery and evident premeditation, did then and there willfully, unlawfully and feloniously attack, assault, and hack to death one Roberto delos Santos, inflicting upon him several mortal wounds in the different parts of his body, thereby causing his instantaneous death, to the damage and prejudice of the heirs of the said Roberto delos Santos.

Further, the generic aggravating circumstances that the crime was committed during nighttime and in an uninhabited place are present in this case.

ACTS CONTRARY TO LAW. ^[5]

Upon arraignment, all the accused pleaded not guilty. During trial, Aguilar died. The defense of accused-appellant consisted of denial and alibi. He claimed that on the fateful night in question, he was at home in Brgy. Villaflorida, Ocampo, Camarines Sur tending to his sick daughter with his brother Jaime. He admitted knowing where Zone 6, Brgy. Gatbo, Ocampo is as he used to play volleyball there. Brgy. Gatbo is three *barangays* away from where he lives and can be reached by three tricycle rides that take at least three hours. The last trip to Brgy. Gatbo is at 9:00 p.m. According to accused-appellant, on September 1, 1999, a police officer came to his house and invited him for questioning. He voluntarily went to the police station where he was detained for two days, together with Aguilar, his volleyball playmate, and Felicidadario, whom he claimed meeting there for the first time.

After trial, the court *a quo* found both Felicidadario and accused-appellant guilty. The *fallo* of the decision reads:

WHEREFORE, judgment is hereby rendered, finding both Benedicto Felicidadario, Jr. and Fernando Sameniano guilty beyond reasonable doubt of murder as charged in the information, hereby sentencing them to suffer the penalty of reclusion perpetua; to indemnify the heirs of Roberto delos Santos the sum of P50,000.00 as moral damages.^[6]

Only accused-appellant interposed an appeal.

The Ruling of the CA

Before the CA, accused-appellant contended that the testimony of the lone witness, Norming, is not credible. It was accused-appellant's posture that Norming could not have witnessed the incident or identified the attackers since he testified that he turned his back while Aguilar hacked Roberto. It was, accused-appellant added, also very dark at that time; the incident allegedly happened around 10:00 p.m. and the attackers had flashlights. Accused-appellant further pointed out that there was no proof of his participation in the killing of the victim since Norming testified that he only saw Felicidad wrestled with Roberto while Aguilar hacked Roberto with a bolo. He argued that the prosecution failed to prove the existence of conspiracy. Lastly, accused-appellant insisted that while alibi is generally a weak defense, his alibi should have been given weight by the trial court because of the doubtful nature of the testimony of the lone eyewitness.^[7]

On the other hand, the People, represented by the Solicitor General, prayed for the conviction of accused-appellant and for the additional award of PhP 50,000 as civil indemnity and PhP 25,000 as exemplary damages.

The appellate court affirmed the conviction with modification as follows:

WHEREFORE, the decision subject of the instant appeal is hereby **AFFIRMED with a modification** as to the civil liability. Thus, in conformity with recent jurisprudence, the accused-appellant is hereby ordered to pay the heirs of the victim an additional P50,000 by way of civil indemnity.^[8]

Accused-Appellant's Assignment of Error Presented Before Us

THE COURT GRAVELY ERRED IN FINDING THAT THE GUILT OF THE ACCUSED-APPELLANT FOR THE CRIME CHARGED HAS BEEN PROVEN BEYOND REASONABLE DOUBT

The Court's Ruling

The appeal lacks merit.

In his plea to be acquitted of the crime, accused-appellant attempts to cast doubt on the testimony of the lone prosecution eyewitness. Upon review of the records, however, we find eyewitness Norming's following account of how his cousin was killed convincing:

PROS. CONTRERAS:

Q: Mr. delos Santos, do you know the victim in this case Roberto de los Santos?

A: Yes sir.

Q: How are you related to him?

A: We are first cousins.

x x x x

Q: What about the accused Fernando Sameniano, do you

know him?
A: Yes sir.
Q: Would you kindly point him to us, if he is inside the courtroom today?
A: (The witness pointed to a man who, when asked of his name, answered Fernando Sameniano.)
Q: Tell us why do you know all these three accused?
A: Because we are residing in one barangay.
x x x x

Q: Tell us where you were on August 24, 1999 at around 10:00 o'clock in the evening?
A: We were at the abaca plantation.
Q: Abaca plantation of what barangay and municipality?
A: At Sitio Kaunlong, Bgy. Gatbo, Ocampo, Camarines Sur.
Q: Who was with you at that time?
A: Only the two of us.
Q: When you said only the two of you, to whom are you referring?
A: Roberto delos Santos.

x x x x

Q: Would you kindly tell us what happened while you were there at the abaca plantation on that particular date and time?
A: They forcibly entered our small hut.

COURT:

Q: How many entered that small hut?
A: The three of them.

PROS. CONTRERAS:

Q: Can you tell us who were these three persons whom you are referring to?
A: These Jose Aguilar, Benedicto Felicidadario, Jr. and Fernando Sameniano.
Q: How were you able to recognize these three people considering that it was nighttime?
A: I was able to recognize him because I was one armlength away from them.
Q: When you said, you are at a distance of one armlength away from him, to who are you referring?
A: These Jose Aguilar, Fernando Sameniano and Benedicto Felicidadario, Jr.
Q: What did these three people do?

ATTY. BRAZIL:

That is vague, your honor, from what point of reference.

COURT:

Overruled.

WITNESS: