

## EN BANC

[ G.R. No. 173477, February 04, 2009 ]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. FRANCO DE GUZMAN A.K.A. FRANCISCO V. DE GUZMAN, JR., APPELLANT.**

### D E C I S I O N

#### **QUISUMBING, J.:**

On automatic review is the Decision<sup>[1]</sup> dated March 29, 2006 of the Court of Appeals in CA-G.R. CR-H.C. No. 00679 affirming with modification the Decision<sup>[2]</sup> dated October 12, 2004 of the Regional Trial Court (RTC), Branch 42, Dagupan City in Criminal Case No. 2003-0914-D. The RTC found the appellant Franco de Guzman guilty beyond reasonable doubt of the crime of murder and sentenced him to suffer the penalty of *reclusion perpetua*. The Court of Appeals modified the appellant's sentence to death.

The facts are as follows:

In an Information<sup>[3]</sup> dated December 8, 2003, the appellant was charged before the RTC as follows:

That on November 14, 2003 in the evening at Brgy. Guiguilonen, Mangaldan, Pangasinan, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, armed with a handgun and with the use of a motorcycle to facilitate the commission of the offense, with intent to kill, treachery and evident premeditation, conspiring and confederating together, did then and there, willfully, unlawfully and feloniously attack, shoot and hit **DR. FIDELITO MANAOIS several times**, inflicting upon him fatal gunshot wounds in the vital parts of the body, causing his untimely death, to the damage and prejudice of his heirs.

CONTRARY to Article 248 of the Revised Penal Code as amended by RA 7659.<sup>[4]</sup>

A Warrant of Arrest<sup>[5]</sup> was issued on November 28, 2003 for the appellant's arrest. On December 15, 2003, he was incarcerated at the Bureau of Jail Management and Penology (BJMP), Dagupan City.<sup>[6]</sup>

During arraignment, the appellant pleaded not guilty.<sup>[7]</sup> Trial ensued.

The first witness for the prosecution, Senior Police Officer (SPO) 2 Nestor Quijada<sup>[8]</sup> of the Philippine National Police (PNP), Mangaldan, Pangasinan, testified on a certification on the police blotter regarding a confrontation between the appellant

and his wife, Dr. Ma. Odah Manaois de Guzman, daughter of the victim Dr. Fidelito Manaois. The Certification<sup>[9]</sup> narrated that on November 29, 2003, Dr. Ma. Odah Manaois de Guzman visited the appellant at the municipal jail and asked him why he killed her father. The appellant replied that she was the one he intended to kill.

The second witness was Dr. Ophelia T. Rivera, the Municipal Health Officer of Mangaldan, Pangasinan, who conducted the autopsy on the body of Dr. Fidelito Manaois on November 15, 2003. As per post-mortem report signed by Dr. Rivera, the victim sustained the following wounds:

1. Gunshot wound, point of exit, 1.5 cm[.], parasternal area, medial clavicular line, level of 2<sup>nd</sup> intercostals space, left.
2. Gunshot wound, point of exit, 1.5 cm., parasternal area, medial clavicular line, 3 cm. above the nipple, right.
3. Gunshot wound, point of exit, 1.5 cm., lateral clavicular line, 3 cm. below the nipple, right.
4. Gunshot wound, point of exit, 1.5 cm., midclavicular line, 3 cm. below the nipple, right.
5. Gunshot wound, point of exit, 1.5 cm., medial clavicular line, 4 cm. below the subcostal margin, epigastric area, right.
6. Gunshot wound, point of exit, 1.5 cm., 2 cm. to the right lateral area of the umbilicus, right.
7. Gunshot wound, point of entry, 1.2 cm., anterior aspect, just above the knee, left.
8. Two metallic object[s] lodged on the medial aspect, middle third, thigh, Right.
9. Gunshot wound, point of entry, 1.0 cm., paravertebral area, 4 cm. from the vertebra, level of T3, left.
10. Gunshot wound, point of entry, 1.0 cm., paravertebral area, 3.5 cm. from the vertebra, level of T4, right.
11. Gunshot wound, point of entry, 1.0 cm., paravertebral area, 6 cm. from the vertebra, level of T7, left.
12. Gunshot wound, point of entry, 1.0 cm., paravertebral area, 3 cm. from the vertebra, level of T8, right.
13. Gunshot wound, point of entry, 1.0 cm., paravertebral area, 3 cm. from the vertebra, level of L2, right.
14. Gunshot wound, point of entry, 1.0 cm., paravertebral area, 5 cm. from the vertebra, level of L3, right.
15. Gunshot wound, point of entry, 1.0 cm., sacral area.
16. Gunshot wound, point of entry, 1.0 cm., buttocks, left.
17. Abrasion, #1-2 x 1 cm., #2 - 1.5 x 1 cm., buttocks, right.
18. Gunshot wound, point of entry, 1.0 cm., midaxillary line, 4 cm. below the subcostal margin, left.
19. Gunshot wound, point of entry, 1.0 cm., posterior aspect, proximal third, upper arm, left.
20. Gunshot wound, point of entry, 1.0 cm., posterior axillary line, infrascapular area, left.
21. Deformed upper arm, left.
22. Gunshot wound, point of entry, 1.0 cm[.], posterolateral aspect, middle third, upper arm, left.
23. Gunshot wound, point of exit, 1.5 cm., medial aspect, proximal third, upper arm, left.

24. Gunshot wound, point of entry, 1.0 cm., midaxillary area, level of 3<sup>rd</sup> intercostals space, left.
25. Gunshot wound, point of exit, 2 cm[.], posteromedial aspect, middle third, thigh, left.<sup>[10]</sup>

Dr. Rivera indicated the cause of death of Dr. Fidelito Manaois as cardiorespiratory arrest secondary to hypovolemic shock due to multiple gunshot wounds.<sup>[11]</sup>

The prosecution next presented Armando B. Nipales, a pedicab driver. Nipales testified that at about 7:30 in the evening on November 14, 2003, he transported the appellant to Barangay (Brgy.) Guiguilonen, Mangaldan. While on the way, the appellant called someone through his cellular phone and then alighted near a junkshop owned by Dr. Fidelito Manaois. Nipales heard the appellant instruct someone on the cellular phone to remove the plate number of a certain motorcycle as they would execute someone. The appellant then poked a gun at him and advised him to leave. When Nipales heard a gunshot, he moved his vehicle fast.<sup>[12]</sup>

The fourth witness presented was Angelito Malanum. Malanum testified that he and the appellant were employed in the hardware business of Dr. Fidelito Manaois.<sup>[13]</sup> At about 6:30 p.m. of November 14, 2003, he drove Dr. Fidelito Manaois in a tricycle to Brgy. Cabaruan, San Fabian, Pangasinan, where they stayed for about an hour. On the way home to Mangaldan, they took the San Fabian-San Jacinto route. At the Embarcadero Bridge, they saw in the opposite direction two persons riding in tandem on a motorcycle. Upon seeing them, the two suddenly turned around to pursue them and switched off their headlight. When they reached the boundary of Brgy. Guiguilonen, the back rider shot them three times. Malanum looked back and recognized the appellant as the person who fired at them. Dr. Fidelito Manaois who was riding behind him was hit by the first volley of gunfire. Malanum, for his part, was hit twice by the succeeding gunshots fired by the appellant. He lost control of the tricycle, swerved to the left and fell. He managed to stand up despite his wounds and attempted to cross the road. He met the appellant, but he continued his way to the other side of the road. He then heard a gunshot. He looked back and saw the appellant shooting Dr. Fidelito Manaois. About the same time, some people from the nearby house helped him. He was taken to the Region I Medical Center in Dagupan City.<sup>[14]</sup> Malanum further testified that none of the police officers who responded to the scene escorted him to the hospital.

On cross-examination by the defense counsel, Malanum admitted that he was confined at the hospital for one week and was not investigated by the policemen at the scene of the crime because he was immediately rushed to the hospital. He added that he did not divulge at once the identity of their assailant to the police because he was not sure who their enemies were and he needed to see a counsel. When asked why he was not sure of the identity of their assailant, Malanum answered that he was sure that their assailant was the appellant.<sup>[15]</sup> He likewise affirmed his sworn statement<sup>[16]</sup> given on November 23, 2003 at the Mangaldan PNP station. He also testified that during the police investigation on November 23, 2003, he had already told the investigators the name of their assailant before he was shown the appellant's picture.

The fifth witness presented by the prosecution was PO2 Vicente Abrazaldo, a

member of the PNP Mangaldan, Pangasinan. His oral testimony, however, was dispensed with upon the admission of the defense counsel of a set of six colored photographs of the victim and the empty shells and slug of a 9mm caliber handgun.  
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Lastly, the prosecution presented Dr. Ma. Odah Manaois de Guzman. She testified that she was married to the appellant on March 6, 2002. They both lived with her father, Dr. Fidelito Manaois, at the latter's residence in Poblacion, Mangaldan, Pangasinan for about five months. The appellant however had irreconcilable differences with her father. Their relationship turned sour so she left him and took a job in Angeles City where she stayed up to the death of her father.<sup>[18]</sup> She further testified that the appellant had been threatening her and her family with serious harm, and even death, before the incident. After her father was buried, she confronted the appellant inside the municipal jail and exacted explanation for the crime. The appellant did not deny killing her father albeit he retorted that she was the one he planned to kill.<sup>[19]</sup> She added that at the time her father was killed, she was no longer residing in Mangaldan but in Angeles City and that they had not seen or talked to each other for quite sometime. The appellant did not know of her whereabouts.

The defense for its part presented the appellant himself, Franco de Guzman, who denied the charges against him. The appellant alleged that he had been separated from his wife since February 3, 2003, when his wife left their house, and that he had stopped going to the victim's house. He also testified that he was interrogated at the Mangaldan Police Station on November 19, 2003, but was sent home. He was again summoned on November 23, 2003 and was identified by Armando Nipales as the one who rode on the latter's pedicab. The appellant also averred that he did not see Angelito Malanum inside the station nor was he ever confronted by Malanum.

The defense also presented Mark John Placido, who testified that he was at the appellant's house in Brgy. Sto. Tomas, San Jacinto, Pangasinan on November 14, 2003 from 6:30 p.m. up to 10:00 p.m. He watched a movie with the appellant, a certain Manang and Lolo Delfin and left said house after 10:00 p.m. The appellant allegedly never left the house.<sup>[20]</sup>

Lastly, the defense presented SPO4 Bennie Centeno. SPO4 Centeno testified about the application the appellant had filed with the PNP and the result of the appellant's medical, dental, neuro-psychiatric and physical examination. The prosecution underlined the result of the appellant's neuro-psychiatric test as "minimally recommended."<sup>[21]</sup>

On October 12, 2004, the RTC rendered a decision finding the appellant guilty beyond reasonable doubt of the crime of murder. The dispositive portion of the decision states:

WHEREFORE, the Court finds the accused Franco de Guzman, Jr. a.k.a. Francisco V. de Guzman, Jr. guilty beyond reasonable doubt of the felony charged and aggravated by treachery and evident premeditation and is hereby sentenced to suffer the penalty of reclusion perpetua, to indemnify the heirs of the victim in the amount of P50,000.00 and to pay the costs.

SO ORDERED.[22]

The Court of Appeals in a Decision dated March 29, 2006, affirmed with modification the RTC ruling. The dispositive portion of the Court of Appeals' decision states:

**WHEREFORE**, premises considered, the appeal is hereby **DENIED**. The assailed decision dated October 12, 2004 is **MODIFIED**. Appellant is hereby meted the penalty of **DEATH**. Appellant is likewise ordered to pay the heirs of the victim the amount of P50,000.00 as moral damages, P25,000.00 as exemplary damages and P25,000.00 as temperate damages in addition to the civil indemnity awarded by the trial court.

Pursuant to *Section 13 (a), Rule 124 of the 2000 Revised Rules on Criminal Procedure, as amended*, this case together with the entire record, is hereby forthwith certified, and ordered elevated to the Supreme Court for review.

**SO ORDERED.**[23]

Hence, this appeal.

The Court accepted the case on September 5, 2006 and required the parties to submit supplemental briefs.

In his brief, the appellant alleges that

I.

THE TRIAL COURT COMMITTED REVERSIBLE ERROR WHEN IT FOUND APPELLANT GUILTY BEYOND REASONABLE DOUBT OF THE CRIME OF MURDER DESPITE THE FAILURE OF THE PROSECUTION TO MEET THE QUANTUM OF PROOF REQUIRED TO OVERCOME THE CONSTITUTIONAL PRESUMPTION OF INNOCENCE.

II.

THE TRIAL COURT COMMITTED REVERSIBLE ERROR WHEN IT DISMISSED WITH PRECIPITATE DISFAVOR APPELLANT'S DEFENSE OF DENIAL AND ALIBI IN THE LIGHT OF EXCULPATORY FACTS AND CIRCUMSTANCES THAT ARE SUFFICIENT TO ACQUIT APPELLANT.

III.

THE TRIAL COURT COMMITTED REVERSIBLE ERROR WHEN IT GAVE CREDENCE TO THE TESTIMONIES OF PROSECUTION WITNESSES ANGELITO MALANUM AND ARMANDO NIPALES WHICH FOR THE MOST PART ARE CONTRARY TO HUMAN EXPERIENCE AND NOT WORTHY OF BELIEF[,] THUS GIVING RISE TO A LOT OF ROOM FOR REASONABLE DOUBT AS TO APPELLANT'S GUILT.

IV.