

## SECOND DIVISION

[ G.R. No. 173248, November 03, 2008 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. DANTE  
NUEVA Y SAMARO, ACCUSED-APPELLANT.**

### D E C I S I O N

**BRION, J.:**

We review the appeal by accused-appellant Dante Nueva y Samaro (*appellant*) from the April 27, 2006 Decision<sup>[1]</sup> of the Court of Appeals (CA) in CA-G.R. CR-HC No. 00727. The CA affirmed the November 12, 2004 Decision<sup>[2]</sup> of the Regional Trial Court (RTC), Branch 129, Caloocan City, finding the appellant guilty beyond reasonable doubt of the crime of murder and sentencing him to suffer the penalty of *reclusion perpetua*.

### ANTECEDENT FACTS

The prosecution charged the appellant, Porpirio Maribuhok (*Porpirio*) and John Doe, one of the as yet unidentified assailants, before the RTC with the crime of murder under an Information that states:

x x x

That on or about the 29<sup>th</sup> day of December, 2000 in Caloocan City, Metro Manila and within the jurisdiction of this Honorable Court, the above-named accused, conspiring together and mutually helping with one another, without any justifiable cause, and with deliberate intent to kill with treachery, evident premeditation and abuse of superior strength, did then and there willfully, unlawfully and feloniously attack, assault, hit with a piece of wood on the head and stab at the back and chest one VIRGILIO REVOLLIDO, JR. Y ANTOLIN, with a bladed weapon, thereby inflicting upon the latter serious physical injuries, which eventually caused his death.

Contrary to law.<sup>[3]</sup>

Of the three accused, only the appellant was apprehended; the others remained at large. On arraignment, the appellant pleaded not guilty to the charge. The prosecution presented the following witnesses in the trial on the merits that followed: Virgilio Revollido, Sr. (*Virgilio*); Alfonso Bacar, Jr. (*Alfonso*); PO3 Jaime Basa (*PO3 Basa*); Dr. Ludivino G. Lagat (*Dr. Lagat*); PO2 Edilberto Safuentes (*PO2 Safuentes*); SPO1 Renato Aguilar (*SPO1 Aguilar*); and Mariadita Revollido-Baytan (*Mariadita*). The appellant took the witness stand for the defense.

Virgilio, the father of the victim, testified that her daughter, Annabelle Revollido,

informed him in the morning of December 30, 2000 of his son's death.<sup>[4]</sup> At the time he died, his son was 31 years old<sup>[5]</sup> and was single; he received a monthly pay of about P5,000.00 as a machine operator in Vitan Industries.<sup>[6]</sup> He affirmed that he incurred more than P60,000.00 for the wake and burial of his son.<sup>[7]</sup>

Alfonso narrated that at around 10:00 in the evening of December 29, 2000, while he was standing outside the Great Taste Bakery located on 4th Avenue East, Caloocan City, he saw a person coming from M.H. Del Pilar Street being chased by another (*John Doe*). Upon reaching 4<sup>th</sup> Avenue, the person being chased passed in front of the appellant and Porpirio who were then standing near the corner of 4<sup>th</sup> Avenue. At that point, the appellant held the victim's left hand and led him to the other side of the road. There, Porpirio took a piece of wood and hit the victim on the head, causing the latter to fall to his knees. The appellant continued to box the victim until John Doe came.<sup>[8]</sup> John Doe immediately stabbed the victim at the back. The appellant, who was then at the victim's front, then pulled out a knife and likewise stabbed the victim. Afterwards, the three accused ran towards M.H. Del Pilar Street. The victim stood up, but, after taking two (2) steps, fell to the ground. Thereafter, an unidentified person came and brought the victim to a hospital on board a van.<sup>[9]</sup>

Alfonso testified further that he was informed of the full name of the victim on January 19, 2001 by the latter's relatives after he gave his statement to the police authorities.<sup>[10]</sup>

On cross examination, he narrated that he was more or less 7 to 8 arms length away from the place of the incident, and that the place at that time was well-lighted.<sup>[11]</sup>

PO3 Basa, a police officer assigned at the Caloocan Police Headquarters, testified that on December 29, 2000, he received a verbal communication from the PNP Tactical Operation Center of a stabbing incident at M.H. Del Pilar Street. He went to the scene of the crime and was informed there by bystanders that the victim had been brought to the Chinese General Hospital. He proceeded to the emergency room of the hospital and saw the lifeless body of the victim who bore several stab wounds.<sup>[12]</sup>

Dr. Lagat, the Medico-Legal Officer of the National Bureau of Investigation, declared on the witness stand that he conducted an autopsy on the remains of the victim on December 30, 2000 and made the following findings:

x x x

Abrasions: 1.0 x 1.3 cm., shoulder, left 4.0 x 2.0 cm., back, left side, 4.0 x 1.0 cm., back, right side; 5.0 x 1.0 cm., antecubital area, left; 2 x 1.0 cm. right knee.

Incised wounds, 3.0 cm., forehead, right side; 3.0 cm., chest, right side, 5.0 cm., left supra scapular area; 6.0 cm., left hand, back; 3.0 cm., right ring finger.

Stab wounds, all elliptical; clean cut edges, with sharp and a blunt extremities.

1. 1.0 cm., obliquely oriented, located at the lateral aspect of the neck; left side; 10.0 cm., from the anterior median line directed backward and medially involving the skin and soft tissue anteriorly.
2. 3.5 cm., obliquely oriented; located at the anterior chest wall, left side 4.0 cm., from the anterior median line, level of the 4<sup>th</sup> intercostal; directed backward, downward and medially involving the skin underlying soft tissue; perforating the pericardial sac; penetrating the left ventricle of the heart, with a depth of 13.0 cms.
3. 4.5 cms., obliquely oriented; located at the anterior chest wall, right side; 3.0 cms., from the anterior median line, level of the 5<sup>th</sup> intercostals; directed backward; downward and medially, involving the skin and underlying soft tissue; then penetrating the middle lobe of the right lobe with depth of 12.0 cms.

x x x

**CAUSE OF DEATH:** STAB WOUNDS, BODY.

x x x<sup>[13]</sup>

According to Dr. Lagat, the victim suffered three (3) stab wounds, eight (8) incise wounds, and several abrasions in different parts of his body. Of the three stab wounds, two (2) were fatal, both of them at the chest.<sup>[14]</sup>

PO2 Safuentes of the Mobile Patrol Division, Caloocan City Police, stated that he was one of the police officers who apprehended the appellant. According to him, he and his five (5) companions went to Letre, Tonsuya, Malabon to serve the arrest warrant on the appellant who was not in his house at the time.<sup>[15]</sup> On their way out of Letre, they chanced upon the accused who, on seeing them, turned his back and ran. PO1 Chu<sup>[16]</sup> fired two (2) warning shots, causing the appellant to stop. PO2 Safuentes showed him (appellant) then the corresponding warrant of arrest and then brought him to the hospital for mandatory physical examination.<sup>[17]</sup>

SPO1 Aguilar was with the arresting team and essentially confirmed what PO2 Safuentes testified on.<sup>[18]</sup>

Mariadita, the victim's sister, confirmed that she identified and requested an autopsy of her brother's remains.<sup>[19]</sup>

The appellant had a different version of the events. His testimony was succinctly summarized by the RTC as follows:

x x x Dante Nueva y Samaro testified that on December 29, 2000, at around 10:00 o'clock in the evening, he was at work as bouncer at Yellow Submarine with one Wilmor that was from 10:00 p.m. to 3:00 a.m. He does not know of any untoward or stabbing incident in his working place.

He said he does not know of any reason why he is being charged with murder.<sup>[20]</sup>

He likewise narrated that he knows a person by the name of Porpirio Maribuhok, one of the accused in this case who is a customer at Yellow Submarine. He did not see Porpirio Maribuhok at the night of the incident.<sup>[21]</sup>

On cross by Pros. Susano, said accused testified that he knows for 3 months already [sic] Porpirio Maribuhok who is a customer of the Yellow Submarine near M.H. del Pilar St., which place is around 30/40 meters away from Great Taste Bakery.<sup>[22]</sup>

He said that yellow Submarine is owned by one Maring Rinos whom he knows for three (3) years already. He also knows one Edgar, Entoy, Val and Leo.<sup>[23]</sup> *[Footnotes referring to the pertinent parts of the record supplied]*

The RTC convicted the appellant in its decision of November 12, 2004. The dispositive portion of this decision reads:

**WHEREFORE**, accused Dante Nueva y Samaro, is hereby found **Guilty**, beyond reasonable doubt of Murder, qualified by treachery, and is sentenced to **Reclusion Perpetua**. Accused is ordered to pay the heirs of the victim, Virgilio Revollido, Jr., P50,000.00 as civil indemnity *ex delicto*; to pay the heirs of the victim, Fifty Six Thousand One Hundred Twelve (P56,112.00) Pesos as actual damages.

In the absence of proof to prove loss of earning capacity, the same is disallowed.

x x x

Let alias warrant of arrest be issued against the accused Porpirio Maribuhok.

In the interim, the case against him is Archived, until his arrest.

SO ORDERED.<sup>[24]</sup> *[Emphasis in the original]*

The appellant appealed his conviction to the CA<sup>[25]</sup> whose decision of April 27, 2006 affirmed the RTC decision with modification. The CA ordered the appellant to additionally pay the victim's heirs the amounts of P50,000.00 and P25,000.00 as moral and exemplary damages, respectively.

In his brief,<sup>[26]</sup> the appellant argues that the lower court erred in finding him guilty of the crime charged despite the failure of the prosecution to establish his guilt beyond reasonable doubt. He posits that the prosecution merely established that a person was killed, but failed to prove beyond reasonable doubt that it was he who killed the victim.

## **THE COURT'S RULING**

**After due consideration, we resolve to deny the appeal but modify the amount of the awarded indemnities.**

### **Sufficiency of Prosecution Evidence**

A distinguishing feature of this case is the presence of an eyewitness - Alfonso - who provided positive identification of the appellant in his July 31, 2001 testimony. To directly quote from the records:

FISCAL NEPTHALI ALIPOSA:

Q: Mr. Bacar, can you recall where were you on the evening of December 29, 2000, particularly at around 10:00 in the evening, more or less?

ALFONSO BACAR, JR.:

A: Yes, sir.

Q: Where were you?

A: I was at Great Taste Bakery, sir.

Q: This bakery, where is this located?

A: At 4<sup>th</sup> Avenue East, Caloocan City.

Q: Outside or inside Great Taste Bakery?

A: Outside, sir.

Q: While outside Great Taste Bakery, do you remember of any unusual incident that happened?

A: Yes, sir.

Q: What was that unusual incident?

A: Somebody was chasing someone coming from M.H. Del Pilar St.

Q: How many persons who [*sic*] were running after someone?

A: One is chasing somebody, sir.

Q: What happened to that pursuit of one man with another man?

A: When the person being chased reached 4<sup>th</sup> Avenue coming from M.H. Del Pilar and facing in front of two persons