

## FIRST DIVISION

[ G.R. NO. 171017, December 06, 2006 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
ZOSIMO AGUILA Y ATIENZA, ACCUSED-APPELLANT.**

### D E C I S I O N

**CHICO-NAZARIO, J.:**

For review is the Decision of the Court of Appeals in CA-G.R. CR No. 01077, dated 18 July 2005,<sup>[1]</sup> affirming the Decision of the Regional Trial Court (RTC) of Lipa City, Fourth Judicial Region, Branch 12, in Criminal Case No. 0451-2000, dated 22 July 2002,<sup>[2]</sup> convicting the accused-appellant Zosimo Aguila y Atienza, of the crime of murder, sentencing him to suffer the penalty of *reclusion perpetua*, and ordering him to pay the heirs of deceased Conrado V. Enriquez (Conrado), the amount of P39,690.00 as actual damages, P50,000.00 as civil indemnity, and P50,000.00 as moral damages.

On 5 September 2000, appellant was indicted in an Information<sup>[3]</sup> for Murder allegedly committed as follows:

That on or about the 3<sup>rd</sup> day of September, 2000 at about 8:00 o'clock in the evening, at Barangay Bulacnin, Lipa City, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, then armed with a piece of wood, with intent to kill and without any justifiable cause, with treachery and evident pre-meditation, did then and there willfully, unlawfully and feloniously attack, assault and club with the use of said piece of wood suddenly and without warning, one Conrado Enriquez y Villapando, thereby inflicting upon the latter multiple head injuries which directly caused his death.

When arraigned on 20 September 2000, appellant pleaded "Not Guilty" to the charge therein.<sup>[4]</sup> Thereafter, trial on the merits ensued.

The prosecution presented its case through the testimonies of its witnesses, namely: Simplicio Manalo, Donald Enriquez, Ronilo Bautista, SPO1 Marcelino Ligarte and Dr. Corazon Sabile. Their testimonies are summarized as follows:

Simplicio Manalo (Simplicio) is a farmer and resident of Barangay Bagong Pook, Rosario, Batangas. He testified that he knew the victim, Conrado, because they were good friends for a long time, and, that both of them were engaged in the selling of fighting cocks/roosters. He narrated that on 3 September 2000, at about 2:00 in the afternoon, he went to the house of Conrado at Barangay Bulacnin, Lipa City, as the latter wanted to show him his new set of fighting cocks/roosters. Both of them had *merienda* and drank a bottle of gin while conversing. They were not able to consume the bottle of gin because he refused to drink anymore. Thereafter, Conrado invited

him to the birthday party of his cousin's child which was being held in a house near a waiting shed of the same barangay.<sup>[5]</sup>

When he and Conrado arrived at the birthday party, they joined the other visitors in a drinking spree. He, however, drank only a small amount of gin. Conrado, then, introduced him to his brother-in-law, Zosimo Aguila (Aguila) herein appellant, and to his "*bilas*" Ronilo Bautista (Ronilo) who were also drinking thereat. During the drinking session, he saw and heard Conrado and appellant arguing about a borrowed hoe.<sup>[6]</sup>

At about 8:00 in the evening, he told Conrado that he was leaving. Conrado accompanied him to a nearby lighted waiting shed for a ride home. While waiting for a jeepney, he noticed that Conrado laid down on the bench of the waiting shed and fell asleep. Later, he saw appellant and Ronilo walking and heading to the waiting shed. Upon arriving thereat, the two approached the sleeping Conrado. He advised them not to wake up or disturb Conrado as the latter was heavily drunk. Appellant and Ronilo, however, told him that they would bring Conrado home. When Conrado woke up, the two carried him by putting his arms around their shoulders and walked towards the direction of a vacant lot near the waiting shed.<sup>[7]</sup>

Minutes later, he heard "cracking" sounds and shouts of "*huwag*" coming from the direction of the vacant lot. He glanced at the vacant lot and saw two persons, one was assaulting Conrado while the other was holding on to Conrado. He identified the two as the appellant and Ronilo. Frightened, he left the place and took a ride home. It was only after the lapse of one month that he learned of Conrado's death. Fearing for his own safety, he did not divulge to the family of Conrado what he knew about Conrado's death. When the family of Conrado, however, learned that he witnessed the incident, they went to his house and begged him several times to help in resolving the case. Out of pity for Conrado's family, he agreed to testify in court and gave his sworn statement before the police authorities.<sup>[8]</sup>

Donald Enriquez (Donald) is the younger brother of Conrado. He testified that on the evening of 3 September 2000, he went to the house of his cousin, Kuya Pitong Martija, to attend the birthday party of the latter's child. While he was on his way thereto, he passed by a lighted waiting shed and saw Conrado drunk and sleeping on the bench. Not wanting to disturb his drunk and tired brother, he merely looked at him and continued on his way to the birthday party. Upon arriving at the party, he joined the other visitors in a drinking session. Among his drinking companions were his Kuya Nestor, Kuya Noel, a certain Rudy and Kitoy. He saw appellant and Ronilo drinking with another group of visitors.<sup>[9]</sup>

Later, he noticed appellant and Ronilo walking away from their group and proceeding towards the lighted waiting shed which was about ten meters from the place where he and his group were drinking. Upon reaching the waiting shed, appellant and Ronilo woke up the sleeping Conrado. In order to carry Conrado, the two placed his arms around their shoulders and lifted him. Thereafter, they walked northwards. Subsequently, he excused himself from his companions and went to the house of his sister.<sup>[10]</sup>

The following day, he was informed that Conrado was already dead and that his body was found at the back of the house of a certain Ka Edro, which was at the

northern direction, about fifty meters away from the waiting shed. He also found out that Conrado was hit with a piece of wood at the back of his head, and, that appellant and Ronilo were the culprits.<sup>[11]</sup>

Ronilo is the "*bilas*" of Conrado since their respective wives are sisters whereas the appellant is his brother-in-law. He stated that on 3 September 2000, at about 5:00 in the afternoon, appellant arrived at his house and invited him to a birthday party at the house of a certain Kumpareng Pitong. Upon arriving at the said house, he and appellant joined a group of drinkers which included Conrado and Simplicio.<sup>[12]</sup>

During the drinking session, he heard appellant and Conrado arguing about a hoe. Appellant borrowed a hoe from Conrado a long time ago. Since then, appellant had not returned the same to Conrado. Thus, Conrado repeatedly mentioned the said hoe to appellant but the latter merely kept his silence. Later, he and appellant called it a night and left the party. While on their way home, they passed by a waiting shed and saw Conrado sleeping on the bench. Appellant woke up Conrado and both of them carried him by placing Conrado's arms around their shoulders. They told Conrado that they will bring him home. While they were walking, Conrado began berating the appellant for not returning the hoe. At first, appellant ignored the scolding of Conrado. Subsequently, however, appellant, irked and fed up, suddenly and without warning, stabbed Conrado with a stainless knife. When the stainless knife was broken, appellant pick up a piece of wood and hit Conrado four times in the head. Terrified, Ronilo ran away and proceeded to his house. On the following morning, he learned that Conrado was already dead.<sup>[13]</sup>

SPO1 Marcelino Ligarte (SPO1 Ligarte) testified that on 4 September 2000, Police Investigator Mario Magnaye told him that four barangay tanods of Barangay Bulacnin, Lipa City, came to the police station and reported a killing incident in their barangay. He was also informed that the victim was Conrado and the suspect was the appellant. Upon learning that appellant was hiding at the house of his brother-in-law, namely, Ben Palma, at Barangay Masaya, Rosario, Batangas, he, together with a certain SPO3 Marasigan and the barangay tanods immediately proceeded to the said house. When they arrived at the house of Ben Palma, one of the barangay tanods recognized the appellant and pointed out the latter to them. He approached the appellant, held his hand, and told him that he was a suspect in the killing of Conrado. He also informed appellant that he had a right to remain silent and to hire the services of a lawyer. Appellant did not say anything. Thereafter, they brought appellant to the Lipa City Police Headquarters for investigation.<sup>[14]</sup>

Dr. Corazon Sabile (Dr. Sabile) was the Medical Officer IV of Lipa City. She testified that on 4 September 2000, at about 1:30 in the afternoon, she conducted a post mortem examination on the body of Conrado. She found Conrado's corpse in complete *rigor mortis* and concluded that Conrado had died ten hours prior to the examination. When she examined the head of Conrado, she discovered multiple wounds or sixteen cranium cerebral injuries, most of them located at the posterior portion or at the back of the head. According to her, Conrado sustained multiple fractures of the bones in the head which means that Conrado's occipital bones at the back portion of the skull were fractured. The skull had a total of eight fractures, five of them were located at the back of the head, one at the bone of the nose, one at the upper jaw and another at the lower jaw.<sup>[15]</sup>

Considering that most of the injuries sustained by Conrado were located at the back portion of his head, she opined that the assailant was positioned at the back of Conrado during the assault. She also believed that a hard or blunt object was used in inflicting such injuries since Conrado sustained three lacerated wounds at the right ear and four lacerated wounds at the left ear which could have been caused by contact with a hard object. She noted that Conrado sustained lacerated wounds at the mandibular area, upper left, fracture on the frontal interior bone of the head, two fractured lateral left side of the head and fracture at the left of the backbone. Conrado also suffered three 0.7 cms x 0.2 cms. linear abrasion on his interior upper chest which could have been caused by rubbing or scratching with a hard rough object. She prepared the death certificate of Conrado.<sup>[16]</sup>

On the other hand, the defense presented the lone testimony of appellant to refute the foregoing accusations.

Appellant testified that he is a resident of Barangay Pagulingin, Lipa City. He narrated that on 3 September 2000, at about 4:00 in the afternoon, he arrived at the house of his sister, Antonia, and brother-in-law, Ronilo, at Barangay Bulacnin, Lipa City. At around 6:00 in the evening, Ronilo invited him to a birthday party at the house of Pitong Martija to which he agreed.<sup>[17]</sup>

Upon arriving at the party at about 7:00 in the evening, he saw three tables outside the house. One of the tables was occupied by Conrado, Donald, a certain Rodel Tolentino and Genio Masongsong, who were then drinking gin. Instead of joining the same group, he and Ronilo opted to occupy another table, and, thereafter drank gin.<sup>[18]</sup>

At about 9:00 in the evening, Conrado left the birthday party. Donald and Ronilo also left the birthday party in order to accompany and bring Conrado home as the latter was already drunk. He, however, chose to stay at the birthday party and continued drinking gin. Subsequently, Donald and Ronilo returned to the party. Ronilo, then, invited him to stay at his house to which he acceded. Thereafter, he, Donald, and Ronilo left the birthday party and proceeded to the house of the latter. Upon arriving at Ronilo's house at about 10:00 in the evening, he lied down in a bed. He noticed that Donald and Ronilo were having a conversation.<sup>[19]</sup>

After sleeping for a while, he woke up and went outside of the house to urinate. He observed that Donald and Ronilo were still conversing with each other, the topic of which he had no idea. After relieving himself, he returned to the bed and glanced at a clock nearby. He noticed that it was already 1:00 in the morning. Subsequently, he fell asleep again.<sup>[20]</sup>

Appellant vehemently denied the truthfulness of the testimony of Simplicio claiming that the latter is not a resident of Barangay Bulacnin, and, that Simplicio is a paid witness. He also assailed the veracity of the testimony of Donald which according to him was ill-motivated. Lastly, he asseverated that Ronilo testified against him in order to be relieved of any liability.<sup>[21]</sup>

On 22 July 2002, the RTC rendered its Decision finding appellant guilty beyond reasonable doubt of the crime of murder.<sup>[22]</sup> It gave credence to the "vivid and detailed account of the incident" of the prosecution witnesses which according to it,

"vibrates with truth and sincerity." It noted that the nature, number and location of the wounds sustained by Conrado bolstered the testimonies of the prosecution witnesses. It also found treachery in the commission of the crime since Conrado was "dead drunk," unarmed, and unsuspecting, and, thus, incapable of defending himself at the time of the attack. It is its "profound view," however, that Ronilo should have been included in the prosecution of the instant case. It also expressed the hope that the Department of Justice would inquire if the prosecution of Ronilo in the present case is still possible. In closing, the trial court held:

ACCORDINGLY, the Court finds the accused, ZOSIMO AGUILA y ATIENZA, guilty beyond per adventure of doubt, as principal by direct participation, of the crime of Murder, as defined and penalized under Article 248 of the Revised Penal Code, without any modifying circumstance, and sentences him to suffer the penalty of RECLUSION PERPETUA, to pay to the heirs of Conrado Enriquez the sums of P50,000.00, as indemnification for his death, P39,690.00, as actual damages and P50,000.00 as moral damages. With costs against accused.

Affronted, appellant filed a Notice of Appeal with the RTC on 20 August 2002.<sup>[23]</sup> Subsequently, on 23 October 2002, appellant filed his Appellant's Brief directly with this Court assailing the Decision of the RTC dated 22 July 2002. Pursuant to our ruling in the case of *People of the Philippines v. Efren Mateo y Garcia*, we issued a Resolution dated 30 March 2005 transferring the instant case to the Court of Appeals for disposition.<sup>[24]</sup> On 18 July 2005, the Court of Appeals promulgated its Decision denying the appeal of appellant and affirming *in toto* the assailed RTC Decision.<sup>[25]</sup> The dispositive portion thereof reads:

WHEREFORE, premises considered, the instant case is DENIED and the assailed Decision dated 22 July 2002, promulgated on 12 August 2002, of the Regional Trial Court of Lipa City, Branch 12 in Crim. Case No. 0451-2000 finding the appellant ZOSIMO AGUILA y ATIENZA guilty beyond reasonable doubt of the crime of Murder under Article 248 of the Revised Penal Code, as amended, and sentencing him to suffer the penalty of *reclusion perpetua*, and ordering him to pay to the heirs of the victim Conrado Enriquez the amounts of Php39,690.00 as actual damages; Php50,000.00 as death indemnity; and Php 50,000.00 as moral damages, is hereby AFFIRMED.

On automatic review, appellant raised the following issues:

I.

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT FOR THE CRIME OF MURDER.

II.

THE TRIAL COURT GRAVELY ERRED IN GIVING FULL WEIGHT AND CREDENCE TO THE PROSECUTION'S EVIDENCE.

Apropos the first issue, appellant contends that the testimony of Ronilo does not deserve any credit as the same was filled with inconsistencies and contradictions. Ronilo testified during the trial that appellant stabbed Conrado with a stainless knife,