

## EN BANC

[ G.R. NO. 150234, September 30, 2005 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
FLORANTE PADRONES, ACCUSED-APPELLANT.**

### DECISION

**CARPIO MORALES, J.:**

On review is the Court of Appeals Decision<sup>[1]</sup> dated October 18, 2001 affirming with modification the consolidated judgment of Branch 52 of the Regional Trial Court (RTC) of Puerto Princesa convicting accused-appellant of three offenses in Criminal Case Nos. 10104, 10314, and 10315.

On April 9, 1992 at around 10:00 o'clock in the evening, a grenade exploded near the Northern Operators and Drivers Association (NODA) terminal at Malvar Street, Puerto Princesa City, Palawan, killing Elias Laurente (Elias) who was at the second floor of his 2-storey house nearby, and slightly injuring two children and an elderly lady in the vicinity.

The following day, April 10, 1992, at close to midnight, Elpedio Presto (Presto) of Barangay Matahimik, Puerto Princesa City gave a sworn statement<sup>[2]</sup> before the Puerto Princesa police alleging that the night before, while he was watching television at his house, he was fetched by his wife's cousin to extend help to one Ome Pareja, who was being awaited at the terminal by some persons; and as soon as Ome emerged from the terminal, he (Ome) and the persons waiting for him including accused-appellant Florante Padrones (appellant) had an altercation and as he (Presto) attempted to pacify the parties, appellant at once pulled the pin of a grenade and threw it at his adversaries.

At the same time and day, April 10, 1992, Anastacio Lastrella and Domingo Lastrella (the Lastrellas) also gave a **joint** sworn statement before the police alleging that the night before, while they were standing by the NODA terminal, "*may dalawang taong lasing na sina ANGGAY PADRONES at ROMEO PAREJA 'ALIAS OME' na may dalang granada at si [appellant] ANGGAY PADRONES ang may hawak ng nasabing granada;*" that appellant warned "*na huwag kang (sic) lalapit sa akin at ikaw (sic) ay madadamay lang dito sa gulong ito;*" and that appellant threw the grenade towards a carinderia which landed and exploded on the ground, following which he immediately fled, and while they chased him, they failed.

More than two months after Presto and the Lastrellas gave their sworn statements or on June 17, 1992, they executed their respective *Pagbabawi ng Salaysay*.

In their *Pagbabawi ng Pinagsamang Salaysay*, the Lastrellas alleged that, *inter alia*, they did not "*gaanong naintindihan*" what were incorporated in their earlier joint statement as they were drunk during the incident and had a hang-over at the time it

was taken, and they were not certain that appellant was the one who threw the grenade as "*may kadiliman*" at the spot where the person threw the grenade.

X X X

1. Na kami ay nagsagawa ng isang Pinagsamang Salaysay noong ika-10 ng Abril, 1992 tungkol sa isang insidente na nagyari noong ika-9 ng gabi ng Abril, 1992 sa Malvar Street, Puerto Princesa City;
2. Na ang nga nakasaad sa nasabing salaysay ay hindi namin gaanong naunawaan dahil kami ay naka-inom noong gabi at may hang-over noong ginawa ang nasabing salaysay;
3. Na hindi namin sigurado na si Anggay Padrones nga ang taong nagtapon ng granada dahil noong mangyari and insidente ay medyo may kadiliman sa bahaging kinaroroonan ng taong naghagis at hindi namin gaanong maaninag kung sino ang nagtapon ng granada;
4. Na ang sinsabi naming Anggay Padrones na nagtapon ng granada ay ayon lamang sa aming mga narinig na usap-usapan ngunit ito ay hindi naming tiyak;
5. Na kami ay nagkasundo na hindi na magtitistigo laban kay Florante "Anggay" Padrones at aming pinawalang saysay ang aming naunang ginawang Pinagsanib na salaysay sapagkat talagang hindi namin sigurado na si Anggay Padrones nga ang naghagis ng granada.<sup>[3]</sup> (Underscoring supplied)

And Presto, in his *Pagbawi ng Sinumpaang Salaysay*, similarly alleged that he did not "*gaanong naunawaan*" the contents of his sworn statement "*dahil sa bilis ng panahon.*"

X X X

1. Na ako ay nagbigay ng isang Salaysay sa himpilan ng Pulisya ng Lungsod ng Puerto Princesa sa pagsisiyasat ni SPO1 Virgilio Alvarez noong ika-9 ng Abril, 1992 sa ganap na ika-11:30 ng gabi;
2. Na ang mga nakasaad sa nasabing salaysay ay hindi ko gaanong naunawaan dahil sa bilis ng pangyayari at agarang pagbibigay ko ng aking malayang salaysay;
3. Na noong pagbigay ko ng aking Malayang Salaysay sa himpilan ng Pulisya ay hindi ko pa gaanong naunawaan ang puno at dulo ng pangyayari at ang pangalang Anggay Padrones ay narinig ko lamang sa mga taong nag-uusap-usap na yon daw ang pangalan ng naghagis ng granada;
4. Na matapos kong makita ang sinasabi nilang Anggay Padrones ay natitiyak kong hindi siya ang taong nakita ko na naghagis ng granada, at maaaring napagkamalan lamang siya ng ibang tao at

ang pangalan niya ang sinasabi na naghagis ng granada;

5. Na ako ay kusang loob na nagsagawa ng salaysay na ito upang ipaliwanag saysay ang aking naunang ginawang salaysay at hindi na ako magtetistigo laban sa pagkatao ni Ginoong Florante "Anggay" Padrones.<sup>[4]</sup> (Underscoring supplied)

About five months after the grenade blast incident or on September 4, 1992, three Informations for Homicide, Violation of Presidential Decree No. 1866,<sup>[5]</sup> and Violation of COMELEC Resolution No. 2323<sup>[6]</sup> were filed against appellant before the RTC of Puerto Princesa City. The Informations, which were consolidated and lodged at Branch 51 of the RTC, respectively read as follows:

CRIMINAL CASE NO. 10104 (for **Homicide**)

That on or about the 9<sup>th</sup> day of April 1992, in the evening, at Malvar Street, Puerto Prinsesa City, Philippines and within the jurisdiction of this Honorable Court, the said accused conspiring and confederating together with John Doe and William Doe whose true identities and present whereabouts are still unknown, and mutually helping one another, did then and there willfully, unlawfully and feloniously with intent to kill, exploded (sic) a hand grenade which hit one Elias Laurente thereby inflicting upon the latter mortal wounds which were the direct and immediate cause of his death.

CONTRARY TO LAW.<sup>[7]</sup> (Underscoring supplied)

CRIMINAL CASE NO. 10314  
(for **violation of COMELEC Resolution**)

That on or about the 9<sup>th</sup> day of April 1992, in the evening, at Malvar Street, Puerto Princesa City, Philippines and within the jurisdiction of this Honorable Court, the said accused, did then and there willfully, unlawfully and feloniously have in his possession, custody and control one (1) handgrenade without first securing the necessary permit and/or license to possess the same which is **in violation of COMELEC Resolution No. 2323**, dated December 11, 1991, in relation to Section 261, paragraphs (p) (q) (r) (z) (t) and (u), Sections 32 and 33 of **Republic Act No. 7166 (Omnibus Election Code)**.

CONTRARY TO LAW.<sup>[8]</sup> (Emphasis and underscoring supplied)

CRIMINAL CASE NO. 10315  
(for **violation of P.D. 1866**)

That on or about the 9<sup>th</sup> day of April, 1992, in the evening, at Malvar St., Puerto Prinsesa City, Philippines, and within the jurisdiction of this Honorable Court, the said accused, did then and there willfully, unlawfully and feloniously have in his possession, custody and control one (1) hand grenade without first securing the necessary permit and/or license from the proper authorities to possess the same, which is **in violation of PD**

CONTRARY TO LAW.<sup>[9]</sup> (Emphasis and underscoring supplied)

Listed in each of the three informations were the following five common witnesses, Presto and the Lastrellas (the three who had previously executed sworn statements dated April 10, 1992 pointing to appellant as the person they saw hurling the grenade but who subsequently executed affidavits of June 17, 1992 recanting said sworn statements), the victim's brother Ruben T. Laurente, and one Abet Valeña.

Upon arraignment, appellant entered a plea of not guilty.<sup>[10]</sup>

On the scheduled hearing of the cases on June 8, 1993, the prosecution manifested that three (Presto and the two Lastrellas) of the five witnesses listed in the informations had executed (on June 17, 1992) "affidavits of desistance" before the NBI. The prosecution thereupon called to the witness stand, without offering the purpose of his testimony,<sup>[11]</sup> Nathan Hermosura (Hermosura), a resident of 20-B Malvar St., Puerto Princesa City. No objection to the admission of Hermosura's testimony was, however, raised by the defense.

Hermosura, a tricycle driver, for the first time since the incident occurred more than a year earlier, gave an account of what he claimed to have witnessed, as follows:

About 10:00 o'clock in the evening of April 9, 1992, while he was resting by the roadside fronting the NODA terminal at Malvar Street,<sup>[12]</sup> he, at a distance of ten meters, saw appellant, also known in the place as "Anggay Padrones," arrive on a tricycle with a companion. On stepping down from the tricycle, appellant "suddenly approached his companion while some w[ere] trying to pacify them."<sup>[13]</sup> An altercation ensued following which appellant, holding a hand grenade with his left hand and the safety pin thereof with his right,<sup>[14]</sup> threatened to throw it to the persons with whom he was quarrelling. Appellant, who was at the middle of the road, soon pulled the safety pin of the greande and threw it to his enemies<sup>[15]</sup> who were more or less two to three meters away.<sup>[16]</sup>

Hermosura went on to declare as follows:

Before the grenade could explode, appellant fled, and the intended victims chased him. Roughly ten seconds after the grenade was thrown, it exploded at which time appellant and the intended victims were already far, hence, none of them was injured by the blast.<sup>[17]</sup>

The prosecution also presented the doctor who attended to the fatality Elias at the hospital, as well as Elias' brother Ruben Laurente who testified on the civil aspect of the case consisting of claims for actual damages in the amount of P20,000.00 to P25,000.00<sup>[18]</sup> representing expenses for interment, and moral damages in the amount of P200,000.00 on account of his brother's death.<sup>[19]</sup>

The prosecution furthermore presented SPO1 Rolando Amorao of the Firearm and Explosive Unit of the Philippine National Police (PNP) who declared that appellant was not duly licensed or authorized to possess any firearm or explosive, as borne

out by the certification issued by the Provincial Director of PNP of Palawan.<sup>[20]</sup>

This Court notes that the fifth listed witness in the informations, Abet Valeña, was not subpoenaed to testify. Nor was he presented by the prosecution.

Appellant, who gave his occupation as cockpit referee, a resident of Libis, San Pedro, Puerto Princesa City, denied the accusations. Admitting that he was at the NODA terminal at Malvar Street on April 9, 1992 at around 10:00 o'clock in the evening, he gave his version of the incident as follows:

While he was at the NODA terminal about to board a vehicle bound for Roxas, three strangers who were drunk approached him, asking him where he was going, to which he replied that he was going to Roxas. Without any provocation, the strangers uttered invectives at him and they "quarreled," drawing him to retreat. As he was retreating, he noticed that something was thrown at him by one of the three. He thus "ran and that thing exploded." He then decided to go home.<sup>[21]</sup>

The following day he was apprehended by the police who told him that he was pointed to as the suspect by witnesses Presto and the Lastrellas.<sup>[22]</sup> When he confronted the three, however, they told him that they just heard his name mentioned by the police and that they were even drunk when they made their statements. That explains why the three repaired to the National Bureau of Investigation (NBI) to withdraw their statements implicating him.<sup>[23]</sup>

The defense also presented Romeo Pareja<sup>[24]</sup> (Pareja), the father of the two girls, Annalyn and Genelyn, who were slightly injured by the explosion.

At the witness stand, Pareja declared as follows:

On the date and time of the incident, he, together with his wife and his two daughters were walking on their way home from Mendoza Park.<sup>[25]</sup> As they were passing through Malvar Street, he noticed that appellant was engaged in a conversation with three persons. He soon heard an explosion<sup>[26]</sup> but he did not see who was responsible therefor. While he later came to know that appellant was accused for the incident, he did not lodge any complaint against him as the injuries of his children were only slight.<sup>[27]</sup>

By the assailed consolidated judgment, the trial court convicted appellant of the three charges. The decretal text of the trial court's decision reads:

"WHEREFORE, premises considered, a consolidated judgment is hereby rendered declaring that in:

1. CRIMINAL CASE NO. 10,104, the accused FLORANTE PADRONES is found and pronounced guilty beyond reasonable doubt as principal of the crime of **homicide** and there being no modifying circumstances appreciated, and applying the provisions of the Indeterminate Sentence Law, he is hereby sentenced to an indeterminate penalty ranging from a minimum of EIGHT (8) YEARS and ONE (1) DAY of prision mayor in its medium period, to a maximum of FOURTEEN (14) YEARS and TEN (10) MONTHS of