

## SECOND DIVISION

[ G.R. No. 127492, January 16, 2004 ]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. DIONISIO SANTOS, APPELLANT.**

### D E C I S I O N

**TINGA, J,:**

Appellant Dionisio Santos was charged with Murder, along with Emmanuel Santos, Emilio Santos and Elizabeth Santos-Guerrero, in an *Information* reading:

That on or about October 22, 1989, in the City of Manila, Philippines, the said accused, conspiring and confederating together and helping one another, with intent to kill, and by means of treachery and with the aid of armed men, did then and there willfully, unlawfully and feloniously, attack, assault, and use personal violence upon the person of VALENTINO A. GUEVARRA by then and there hacking and stabbing him with jungle bolos and samurais on the different parts of his body, thereby inflicting upon said Valentino A. Guevarra multiple hack and stab wounds which were the direct and immediate cause of his death thereafter.<sup>[1]</sup>

Of the four accused, only Dionisio Santos was arraigned and tried. Emmanuel Santos, Emilio Santos and Elizabeth Santos-Guerrero remain at large.

In the afternoon of October 22, 1989, Lucita Guevarra was walking towards Pepin Street to look for her son Valentino.<sup>[2]</sup> Earlier, someone came to her house asking for Valentino and Lucita volunteered to find him. She proceeded to Miguelin Street, which Valentino frequented but upon arriving there, she was told that her son was at Pepin Street.<sup>[3]</sup>

Some distance away from Pepin Street, Lucita saw his son with a companion standing on the corner of the street.<sup>[4]</sup> Suddenly, a samurai-wielding Dionisio Santos approached Valentino from behind and hacked him in his right thigh.<sup>[5]</sup> Lucita's eyes were focused on Valentino but several other persons were standing near her son, holding something.<sup>[6]</sup> Lucita tried to go to her son but suddenly felt dizzy.<sup>[7]</sup> Somebody held her from behind and told her not to go near Valentino anymore, assuring her that someone had already called the police.<sup>[8]</sup> A commotion had ensued and the person holding Lucita brought her home.<sup>[9]</sup> Lucita thought Valentino was still alive when she got home, only to be told later that her son was dead.<sup>[10]</sup>

About two or three meters away, Rodelio Dipana also witnessed the killing of his neighbor, Valentino Guevarra.<sup>[11]</sup> He said Valentino was walking with a certain Francisco along Laong-Laan and M. dela Fuente Streets in Sampaloc, Manila when

two men alighted from a tricycle, one brandishing a samurai and the other, a bolo. [12] Dionisio Santos hacked Valentino from behind with his samurai, causing Valentino to fall on his hands. [13] Valentino crawled for a while but the man with the bolo started hacking him. [14]

Francisco tried to help Valentino, but caught the ire of the attackers. [15] Dionisio hacked Francisco, hitting him on his left hand. [16] Francisco then ran and boarded a passing jeep. [17]

Valentino was not as lucky. After Francisco fled, two other persons arrived, turned Valentino face up and stabbed him repeatedly. [18]

Another neighbor, Ernesto del Rosario, testified that Valentino was standing at the corner when he was hacked by the accused at the back and on the right leg. [19] Ernesto then rode to the residence of Lucita Guevarra and reported the incident to her. [20] Lucita then rushed to the scene of the hacking. [21]

As a result of the attack, Valentino sustained, aside from two abrasions, five stab wounds two of which were fatal, and five hack wounds of which three were fatal. [22] According to Dr. Florante Baltazar, former Chief of the Philippine National Police Crime Laboratory, National Capital Region, who conducted the autopsy on the victim, it is possible that, based on the wounds of the victim, more than one bladed weapon was involved. [23] A samurai could have been one of the weapons. [24]

Only accused Dionisio Santos testified for the defense.

The accused invoked alibi, claiming that when tragedy struck on October 22, 1989, he was in Balut, Tondo, where he worked as a plumber, far from the place of the killing. [25] He admitted, however, that he started work only on October 24, 1989, and returned to their house in Pepin Street, Sampaloc, Manila on October 29. [26] He claimed that prosecution witness Rodelio Dipana pointed to him because they once had a quarrel during a drinking spree. [27]

After trial, Dionisio was found guilty as charged. The dispositive portion of the trial court's decision states:

WHEREFORE, premises considered, accused Dionisio Santos is hereby found guilty beyond reasonable doubt of the crime of murder and is therefore sentenced to serve the penalty of *Reclusion Perpetua*, and to pay the family/heirs of victim Valentino A. Guevarra the amount of Fifty Thousand (P50,000.00) Pesos.

Atty. Viterbo Tagarda is awarded an honorarium of P1,000.00 as attorney's fees, subject to the availability of funds.

The case as against the other accused Emmanuel Santos, Emilio Santos and Elizabeth Santos-Guerrero is hereby ordered archived pending their arrest. In the meantime, issue alias warrants of arrest against the said three remaining accused.

There is ample evidence of the attack perpetrated by the appellant and his co-accused on the victim which led to the latter's death. Appellant, however, questions the credibility of the prosecution witnesses and their respective testimonies.

Appellant points out that after witnessing her son's hacking, Lucita Guevarra willingly accepted someone's offer to take her home. She did not call for help, or inform the authorities or anyone in her household of the incident. Appellant contends that Lucita's reaction is unnatural as a mother's instinct is to protect her young, even at the cost of her own life. To leave the scene of a crime while her son is being hacked to death without even attempting to save her child, appellant claims, is highly improbable. Moreover, not only did Lucita not help Valentino or shout for help, she did not even ascertain what happened to her son.

Appellant also cites an inconsistency between the testimonies of Lucita and the other prosecution witnesses. When asked what time the incident happened, Lucita mentioned noontime. The two other witnesses, however, testified that the incident occurred late in the afternoon.

Ernesto del Rosario also testified that immediately after seeing Valentino being hacked, Ernesto went to Valentino's house and informed Lucita of the incident. Appellant theorizes that only then did Lucita learn of her son's killing. Appellant concludes that Lucita could not have been present at the scene of the crime, and that she must have merely adopted as her own the account of others.

Contrary to appellant's claim, there is nothing improbable about Lucita Guevarra's testimony.

Lucita Guevarra's testimony shows that she did try to approach her son but could not do so because she was overcome by dizziness. It is not unusual for a sexagenarian mother to feel faintish upon seeing her son attacked. As the Solicitor General points out, Lucita was not in a position to help her son and, when she was led home, there was already a commotion over him.

Q And after the first thrust was made hitting the thigh of your son, what did you see further?

A At that time, I attempted to approach my son, but I felt dizzy and somebody held me from behind and told me not to approach my son anymore and he just called a mobile.

. . . .

Q When you became dizzy, who were with you?

A There was this person who was assisting me.

Q And what did he do to you when you felt dizzy?

A That person wanted to bring me home, but because I felt really bad at that time and I noticed that there was already a commotion about my son and that person wanted to bring me home and I also wanted to approach my son, but that person wanted to bring me home instead.

Q And then where were you brought?

A I was brought at our house.<sup>[29]</sup>

As to the time of the incident, the claim that Lucita Guevarra categorically mentioned noontime is not borne by the evidence. She testified that the hacking happened **about** noontime, thus:

Q And this happened about noontime?

A Yes, sir.<sup>[30]</sup> [Underscoring supplied.]

The Solicitor General correctly observes that Lucita even testified that she was at home between noon and afternoon.

Q On October 22, 1988, where were you then?

A We were at our place.

Q What time was that?

A I cannot remember anymore the exact time but I am sure that it was between noon and afternoon.

Q And what were you doing at that time?

A I was just inside the house cleaning.<sup>[31]</sup>

In any case, the purported inconsistencies in the time of the killing are minor ones that bear little significance to the outcome of the case. Inconsistencies as to minor details and collateral matters do not affect the credibility of the witnesses nor the veracity of the weight of their testimonies.<sup>[32]</sup>

The fact that, immediately after the hacking, Ernesto del Rosario went to the victim's house and informed Lucita of the incident, does not lead to the conclusion that she was not present at the scene of the crime. It is entirely possible that a well-meaning person may inform another of an incident not knowing that the latter already had prior knowledge of the same.

Indeed, there is no reason why the victim's mother would fabricate a story to accuse an innocent person of such grave a crime. The natural interest of the witness, who is a relative of the victim in securing the convictions of the guilty would deter her from implicating a person other than the true culprit.<sup>[33]</sup> It is therefore highly unlikely for her to lie as to the identity of one of her son's assailants.

Moreover, the defense did not present any evidence of ill motive on the part of the victim's mother. In the absence of any evidence tending to question her motive and integrity, her testimony should be given full credit. The absence of improper or evil motive for a prosecution witness to make false imputations against the accused strengthens her credibility.<sup>[34]</sup>

Appellant next questions the ability of Rodelio Dipana to identify appellant as one of the perpetrators of the killing. Rodelio stated that he was not familiar with or he did not know any of the assailants. He did not mention having had a good look at any of the assailants. He did not even report the incident to the authorities. When asked how he could have known the name of the accused, the witness replied that he learned it from the victim's mother. Rodelio allegedly even misrepresented the time

when he first identified appellant at the police precinct. Rodelio said that he identified appellant three days after the incident. Appellant, however, was apprehended only five (5) years after the commission of the crime.

Appellant's contentions have no merit. The Solicitor General rightly argues that neither law nor jurisprudence requires that a prosecution witness be familiar with the perpetrator of a crime for such witness to make a positive identification.<sup>[35]</sup> The evidence shows that Rodelio Dipana was able to observe the incident, as well as the perpetrators thereof, as he stood only two meters away from where it took place.<sup>[36]</sup>

It is true that Rodelio testified on cross-examination that Lucita asked him to identify Valentino's assailant after the latter was supposedly arrested **three days** after the incident when in fact appellant was arrested only after **five years**, in 1994. On re-direct examination, however, Rodelio clarified:

FISCAL CABANGON TO WITNESS:

Q: When Virgilio (sic) Guevarra was killed[,] it took place on October 22, 1989. My question is, do you know when you were called by the mother to identify a person if you could recognize him if he could be part of the killing of Virgilio (sic) Guevarra, was that this year 1995 or last year 1994?

ATTY. TAGARDA:

Leading your honor.

COURT:

Sustained.

FISCAL CABANGON:

Q: When was that? What year was that?

A: 1994.<sup>[37]</sup>

At any rate, the date when Rodelio identified appellant as one of the perpetrators of the attack is not crucial to the prosecution's case.

Appellant also claims that Ernesto del Rosario never identified appellant as Guevarra's killer. He merely mentioned that he saw the victim being hacked. The public prosecutor did not ask the witness to identify the supposed assailant.

The transcript of Ernesto's testimony, however, contains references to "the accused," who can be no other than appellant Dionisio Santos, the only person on trial. Thus:

Q: When you saw the accused hacked (sic) Valentino Guevarra, was he with some other persons?

A: He was with one person.

Q: Did you recognize the weapon used?

A: Samurai sir.