

FIRST DIVISION

[G.R. No. 125898, April 14, 2004]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. RODOLFO RAMOS
Y ENRIQUEZ, APPELLANT.**

DECISION

AZCUNA, J.:

On appeal is the Decision dated May 21, 1996 of the Court of Appeals finding appellant Rodolfo Ramos y Enriquez guilty of the crime of murder and sentencing him to suffer the penalty of *reclusion perpetua*.^[1]

The information under which appellant was charged states, as follows:

That on or about October 6, 1991, in the City of Manila, Philippines, the said accused, did then and there willfully, unlawfully and feloniously with intent to kill and with treachery and evident premeditation, attack, assault and use personal violence upon one ERWIN PUNZALAN Y MERCADO, by then and there stabbing the latter with a bladed weapon on the different parts of his body, thereby inflicting upon him mortal stab wounds which were the direct and immediate cause of his death thereafter.^[2]

In his arraignment on February 26, 1992, appellant, assisted by counsel, pleaded not guilty to the charge of murder.^[3]

Appellant's conviction was principally based on the testimony of a sole eyewitness, Rigor Almodovar.

On October 13, 1991, **Rigor Almodovar** voluntarily reported to the Homicide Division of the Western Police District (WPD), disclosing his knowledge of a stabbing incident he witnessed on the night of October 6, 1991. He executed a sworn statement^[4] wherein he related that at around 11:00 p.m. of the same date, he was riding his bike on his way home when he noticed a man being stabbed in front of Alhambra Cigarette Factory at the corner of Tayuman and Juan Luna Streets. He witnessed the assailant stab the victim three times with a bladed weapon. He was unable to get a close look at the victim, but was able to describe the assailant as 5'5" to 5'7" in height, with burly built, fair complexion and wavy hair. He narrated therein that the assailant kept stabbing the victim even as the latter was running away. It was only when the victim fell down to the ground that the assailant fled towards Tayuman Street. Almodovar further stated that his sleepless nights spent thinking that he could suffer the same fate had prompted him to volunteer information on the incident. He was thereafter asked by the police investigator to look at the detainees at the station. Upon seeing appellant as one of the detainees lined up, Almodovar pointed to him as the assailant.

On the witness stand, Almodovar testified^[5] that from a distance of 3 meters, and with the light coming from the electric post, he was able to observe that the victim, then surrounded by four men, was facing appellant when the stabbing occurred. He recalled seeing appellant use a knife with a 6-inch blade. He saw blood coming out of the victim's body, but was unable to recognize the latter's face. He declared that he did not have personal knowledge of the victim's identity and only learned thereof when he saw the incident reported in the newspapers. Neither was he acquainted with appellant. He also stated that he never talked to anyone about what he witnessed until two weeks after, when he reported to the police out of his own volition. On cross-examination, he stated that he did not mention in his sworn statement that the assailant was accompanied by three other men because appellant was the only one he recognized.

David Mercado,^[6] the victim's uncle, testified on the medical and funeral expenses he incurred, the receipts of which were allegedly kept by the victim's mother who resides abroad.

PO3 Rafael Melencio,^[7] police officer from the WPD, was initially assigned as the investigator of the case. He testified that at 11:35 p.m. of the night in question, he received information that an unidentified person was found dead along Tayuman Street in front of Alhambra Cigarette Factory. He proceeded to the crime scene and found the victim's lifeless body with stab wounds on the chest and hand. No eyewitness surfaced, but he gathered from his investigation that the victim just came from the house of the latter's girlfriend who resided 30 meters away. He prepared an Advance Information Report, which the prosecution submitted as documentary evidence.^[8]

Pfc. Alfredo Salazar,^[9] an investigator of the WPD, Homicide Division, testified that on October 13, 1991, a witness by the name of Rigor Almodovar personally came to their office to volunteer information on the stabbing of Erwin Punzalan. Salazar took Almodovar's statement, prepared the Progress Report, and presented the witness to the Inquest Prosecutor, who charged appellant with murder. He thereafter prepared the Booking Sheet and Arrest Report of appellant, who was then already being detained for a separate charge.

Sr. Inspector Florante Baltazar,^[10] Medico-Legal Officer of the Philippine National Police, conducted an autopsy on the cadaver of the victim. He testified on his findings as indicated in the Autopsy Sketch^[11] and Medico-Legal Report^[12] he submitted. His examination disclosed that the victim suffered two fatal stab wounds on the chest and one stab wound on the left hand, which he opines to be a defense injury. Finding no injuries at the back of the victim, he stated that the relative position of the victim and the assailant was more likely to be frontal.

As the sole witness for the defense, appellant **Rodolfo Ramos**^[13] interposed the defense of alibi. He declared that on October 6, 1991, from 8:00 a.m. until 11:30 p.m., he was in the company of his four friends in his residence at Franco Street, Tondo, Manila, arranging T-shirts for sale. About five to seven days later, while selling at the Pritil Market, he was picked up by the police authorities and was brought to the police station. He claimed that the police officers attempted to

extract a confession from him by beating him up at the police station, as a result of which his dentures got broken and he sustained contusions and abrasions on different parts of his body. He further testified that there was no police line-up during the investigation, for he was then standing alone outside the detention cell when he was identified by the witness Almodovar.

On April 18, 1994, the Regional Trial Court of Manila, Branch 19, rendered a decision finding appellant guilty of murder. It rejected the defense of alibi in light of appellant's failure to present other witnesses to substantiate it. Hence it sentenced appellant, as follows:

WHEREFORE, and in view of all of the foregoing considerations, the accused RODOLFO RAMOS Y ENRIQUEZ alias Dupong, is hereby found guilty beyond reasonable doubt of the crime of MURDER defined and penalized under paragraph 1 of Article 248 of the Revised Penal Code, it appearing that even as the victim was already attempting to run away, the accused pursued him and continued to stab him until he fell on the ground. Consequently, the accused is hereby sentenced to suffer the penalty of imprisonment from TWELVE (12) YEARS and ONE (1) DAY to SEVENTEEN (17) YEARS and FOUR (4) MONTHS of reclusion temporal, and to pay the heirs of the victim the sum of P15,000.00 for funeral expenses, P10,000.00 for medical expenses and the sum of P50,000.00 for the life of Erwin Punzalan y Mercado, which the accused snuffed out from him.

SO ORDERED.^[14]

Appellant sought recourse to the Court of Appeals, which affirmed the findings of the trial court. It however raised the penalty from *reclusion temporal* to *reclusion perpetua* and deleted the award of medical expenses. The dispositive portion of its May 21, 1996 Decision reads, as follows:

WHEREFORE, the decision appealed from is hereby AFFIRMED with the MODIFICATION that the penalty imposed upon accused-appellant, RODOLFO RAMOS y ENRIQUEZ, should be raised to, as he is hereby sentenced to suffer, the penalty of *reclusion perpetua*, and the award of P10,000.00 for medical expenses is deleted.

After the lapse of the period for filing a motion for reconsideration, the Division Clerk of this Court, following Section 13, Rule 124, Revised Rules of Court, is hereby ordered to desist from entering judgment; instead she should elevate this case with its complete records to the Supreme Court for review.

SO ORDERED.^[15]

Hence the instant appeal. Appellant questions his conviction on the same grounds on which he anchored his appeal to the Court of Appeals:

I.

THE TRIAL COURT GRAVELY ERRED IN FINDING THE ACCUSED GUILTY

OF THE CRIME OF MURDER DESPITE FAILURE OF THE PROSECUTION TO PROVE POSITIVE IDENTIFICATION THAT ACCUSED WAS THE ASSAILANT.

II.

THE TRIAL COURT GRAVELY ERRED IN DISREGARDING THE DEFENSE OF ALIBI INTERPOSED BY THE ACCUSED.^[16]

In addition, appellant in his supplemental brief contests his conviction of murder despite the prosecution's failure to prove the attendance of treachery.^[17]

Appellant argues that the prosecution failed sufficiently to prove his identification as the assailant. Claiming that it was the policemen who pointed to him for the witness to identify, he puts emphasis on the following portion of Almodovar's testimony:

Q How were you made to identify the accused at the Homicide Section?

A I was told to describe and then they pointed to me.^[18]

Appellant's assertion misleads. When seen in the context of the rest of the witness's testimony, it can be gleaned that the aforementioned statement was subsequently clarified by Almodovar himself, thus:

Q Why[,] where was the accused at that time when you gave your statement?

A He was already at the Homicide Section.

Q While giving your statement all along you can see the accused from the detention cell?

A Yes sir.

Q After giving that statement you were brought to the detention cell?

A Yes sir.

Q Or the accused [was] brought out from the detention cell?

A They were asked to line up inside the prison cell and I was asked to point.^[19]

This Court sees no indication of suggestive identification from the foregoing testimony. The policemen had asked Almodovar to identify the assailant from among the detainees lined up, without suggesting to the witness whom to point to. As correctly found by the Court of Appeals, he had already given a detailed description of the assailant before he was brought near the detention cell to view the detainees