

## SECOND DIVISION

[ G.R. No. 147220, June 09, 2004 ]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. JESUS AQUINO Y DIMACALI, APPELLANT.**

### DECISION

**CALLEJO, SR., J.:**

This is an appeal from the Decision<sup>[1]</sup> of the Regional Trial Court of Caloocan City, Branch 129, finding the appellant Jesus Aquino y Dimacali guilty beyond reasonable doubt of murder and sentencing him to suffer the penalty of *reclusion perpetua*.

An Information charging Jesus Aquino y Dimacali with murder was filed on November 17, 1999.<sup>[2]</sup> The accusatory portion reads:

That on or about the 13th day of November, 1999 in Caloocan City and within the jurisdiction of this Honorable Court, the above-named accused without any justifiable cause and with deliberate intent to kill, treachery and evident premeditation, did then and there wilfully, unlawfully and feloniously stab with a double-bladed dagger one FILIPINA DE LEON y VILLA, hitting her on the different parts of the body, thereby inflicting upon the latter serious physical injuries, which injuries caused her instantaneous death.<sup>[3]</sup>

The appellant was arraigned on December 16, 1999, assisted by counsel, and entered a plea of not guilty.<sup>[4]</sup>

#### The Facts

The appellant Jesus Aquino and his live-in partner, Filipina "Sweet" de Leon, lived at No. 115 Libis, Talisay, Dulo, Caloocan City.<sup>[5]</sup> However, when Sweet got pregnant, her parents, who lived at No. 73 Kapak St., Libis, Dulo, Caloocan City,<sup>[6]</sup> took her away.<sup>[7]</sup>

In the afternoon of November 13, 1999, three months after she had given birth, Sweet, with her baby, went to the house of her sister, Helen Grace de Leon-de Ocera.<sup>[8]</sup> Momentarily, Leslie, the appellant's daughter by another woman, went to Helen's house to fetch Sweet, and told the latter that a male person was in their house waiting for her. Sweet told Leslie that she would just follow later.<sup>[9]</sup> Thereafter, Sweet, with her three-month-old son, arrived at the appellant's house.<sup>[10]</sup>

When the appellant saw Sweet, he asked her what she was doing in the house of his friend Jun-Jun. Sweet did not answer. He forced Sweet to admit that she was having

an affair with his friend Jun-Jun. Sweet raised her voice, prompting the appellant to slap her.<sup>[11]</sup> Sweet then saw the knife placed on top of the television and was poised to stab the appellant with it, but the latter grabbed possession of the knife. Sweet slapped the appellant in the process.<sup>[12]</sup> The appellant then lost control of himself, and stabbed Sweet eleven times. When he regained his senses and saw Sweet sprawled on the floor, bloodied all over, he fled to the cemetery and slept there.<sup>[13]</sup> At 6:00 a.m., he surrendered to Barangay Captain Conrado "Bebot" Cruz, who brought him to the police station.

A post-mortem examination of the victim's cadaver was conducted by Dr. Ludivino J. Lagat. He found that Sweet died of multiple stab wounds. She sustained a total of eleven stab wounds, nine of which were at the back.<sup>[14]</sup>

On November 16, 1999, the appellant executed a sworn statement<sup>[15]</sup> after being apprised of his rights under the Constitution, in which he admitted killing Sweet.

During the trial, the appellant admitted having executed his sworn statement in the police station and the truth of the contents thereof.

On February 19, 2001, the trial court promulgated a decision finding the appellant guilty beyond reasonable doubt of murder qualified by treachery, the dispositive portion of which is herein quoted:

WHEREFORE, premises considered, this Court finds the accused guilty beyond reasonable doubt as principal of the crime of murder, as defined and penalized under Article 248 of the Revised Penal Code, as amended by Section 6 of Rep. Act No. 7659. Accordingly, he shall serve the penalty of reclusion perpetua with all the accessory penalties under the law, and shall pay the costs.

The accused shall be credited with the period of his preventive detention.

By way of civil liabilities, the accused shall pay the following amounts to the victim's heirs, without subsidiary imprisonment in case of insolvency:

P80,000.00 – for funeral services;  
P59,270.00 – for burial expenses;  
P100,000.00 – for the victim's father's travel expenses; and  
P50,000.00 – for attorney's fees to Atty. Arnel Magcalas

The Branch Clerk of this Court shall now issue the corresponding Commitment Order for the accused's confinement at the Bureau of Corrections, Muntinlupa City.<sup>[16]</sup>

The trial court appreciated in favor of the appellant the mitigating circumstance of voluntary surrender.

#### The Present Appeal

The appellant now appeals the decision, contending that the trial court erred in convicting him of murder, absent proof of treachery attendant to the crime.