

FIRST DIVISION

[G.R. No. 156786, June 03, 2004]

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. SUSANO PATEO Y GARCIA ALIAS "SANOK" AND VICENTE BATUTO Y JAPAY, APPELLANTS.

D E C I S I O N

YNARES-SATIAGO, J.:

Appellants Susano Pateo y Garcia alias "Sanok" and Vicente Batuto y Japay were charged with the crime of murder in an information^[1] which reads:

That on or about the 01st day of October 2000, at Sitio Picas, Brgy. Caraycaray, Naval, Biliran Province, Philippines, and within the jurisdiction of this Honorable Court, said accused, with malice aforethought, and with deliberate intent to take the life of ANTONIO SILVANO, conspiring with, confederating and mutually helping one another, did then and there willfully, unlawfully and feloniously and treacherously attack the former, first, from behind by co-accused Vicente Batuto who hid behind the flowering plants in front of the store of Susano Pateo alias Sanok, and thereafter, by Susano Pateo who went out of his store and strike (sic) the head of Antonio Silvano with the use of a lead pipe, and later, to (sic) the other parts of the victim's body, and while accused Vicente Batuto and victim Antonio Silvano grappled for the possession of the short knife, co-accused Susano Pateo continuously hack (sic) said Antonio Silvano hitting him to (sic) the different parts of his body which caused his direct and immediate death thereafter.

Appellants pleaded "not guilty." Trial on the merits thereafter ensued.

At around 6:30 in the evening of October 1, 2000, appellants Susano Pateo and Vicente Batuto were having a drinking binge together with Olimpio Narrido and Zosimo Paculan at the yard near Susano's store located at Sitio Picas, Brgy. Caraycaray, Naval, Biliran. When they were inebriated, they began to talk loudly and became unruly. Their neighbor, Antonio Silvano, could not sleep due to the noise. He and his wife sent their daughter, Ana Marie, to ask the group twice to tone down their voices, but the request was ignored.

A short while later, Antonio went out of his house to buy candies from Susano's store with Ana Marie in tow. He brought with him a knife hidden behind his waist. When he saw Antonio approaching, Susano handed a bolo to Vicente, who then hid behind some shrubs near the store.

After Antonio got his candies, Vicente suddenly emerged from his hiding place and hacked the former at the back of his head. Immediately thereafter, Vicente successively hacked Antonio on different parts of his body. Antonio fought for

possession of the bolo from Vicente. He was able to draw his knife and stab Vicente on the abdomen, chest and left arm.

Seeing the tide shifting in Antonio's favor, Susano ran out of his store and repeatedly struck Antonio on different parts of his body with a blunt instrument, forcing the latter to release his hold on Vicente and drop his knife. Antonio ran towards his mother's house while Vicente pursued him. Vicente caught up with him and repeatedly hacked him on different parts of his body with the bolo.

After Antonio fell to the ground, Susano went back to his house. Vicente, however, who had a grudge against Antonio, tauntingly asked, "Are you still alive?" He then delivered the *coup de grace* and thrust his bolo into Antonio's body, which caused his death.

Dr. Salvacion Salas, Municipal Health Officer of Naval, Biliran, examined Antonio's cadaver and came up with the following findings:

1. Hacking wound at the occipital region of the head which measures to 7 cm. width respectively, involving only the skin.
2. Hacking wound at the frontal area of the head involving the skin exposing the bone. The wound measures L-9 cm. & w-2 cm. respectively. No brain tissues noted.
3. Hacking wound at the left portion of the face involving at the upper left eyebrow passing thru the left ear involving the left portion of the neck. It involved the skin up to the bone of the skull but no brain tissues noted. The wound measures L-19 cm. & W-3 cm.
4. Hacking wound at the right portion of the right ear through the right side of the forehead. It measures L-6.5 cm. & W-2 cm. Involving only the skin and Muscle.
5. Lacerated wound at the back of the right ear measuring 3 cm. in length; and 1 cm. in width.
6. Wound at the back portion of the head; just adjacent to the 1st wound, involving only the skin. It measures L-6 cm.; W-1 cm.
7. Lacerated wound at the left cheek bone area with a Measurement L-2.5 cm; W-0.5 cm.
8. Lacerated wound at the right face – measuring L-11 cm. & W-6.5 cm. respectively.
9. Lacerated wound at the chin just below the lower lip Measuring 4 cm. in length; and 2 cm. wide.
10. Lacerated wound at the left arm just below the right axilla measuring 2 cm. long; and 1 cm. wide.

11. Stab wound at the left chest – 5 cm. from the left nipple. The wound measures 3 cm. long; 0.7 cm. wide; and 24 cm. deep directing downward penetrating the chest cavity.
12. Stab wound at the abdomen just 3.5 cm. from umbilicus. The wound measures 2 cm. length; 0.5 cm. wide & 3.5 cm. deep involving the skin up to muscle.
13. Lacerated wound at the back of the right thigh measuring to 3 cm. long; 2 cm. wide & 6 cm. deep.
14. Lacerated wound at the back of the right leg just below the knee joint measuring to 5 cm. long; 1 cm. wide & 5 cm. deep involving the skin up to the muscle.
15. Lacerated wound at the right hand measuring 1 cm. long & 4 cm. wide.

Cause of Death: Cardiac Respiratory Arrest due to Severe Internal & External hemorrhage secondary to Multiple Hacking and Stab wounds.^[2]

Appellant Vicente interposed self-defense. He alleged that a drunk and armed Antonio went to Susano's store looking for him. When Antonio found him outside the store, he stabbed the latter with the knife. Vicente fought back with his bolo. In the ensuing struggle, Antonio fell and died of his wounds.

For his part, Susano denied striking Antonio with a lead pipe. He claimed that he just stayed in his store during the fight and took no part in the fighting.

The trial court gave credence to the prosecution's evidence and rendered a decision,^[3] the dispositive portion of which reads:

WHEREFORE, in view of the foregoing considerations, this Court finds the accused SUSANO PATEO Y GARCIA alias "Sanok" and VICENTE BATUTO Y JAPAY **GUILTY** beyond reasonable doubt of the crime of Murder, hereby imposing upon them the penalty of Reclusion Perpetua and with all the necessary penalties provided by law.

Both accused shall solidarily pay the legal heirs an indemnity on the life of the deceased Antonio Silvano in the amount of P50,000.00. With costs.

SO ORDERED.

Hence, this appeal based on the following assignment of errors:

1. THE TRIAL COURT ERRED IN GIVING CREDENCE TO THE TESTIMONIES OF PROSECUTION WITNESSES ANA MARIE SILVANO, ERIC SILVANO, AND TERESA MALLEN INSPITE OF THEIR GROSSLY INCONSISTENT AND CONTRADICTORY STATEMENTS.
2. THE TRIAL COURT ERRED IN CONVICTING ACCUSED SUSANO PATEO OF THE CRIME CHARGED.