

## SECOND DIVISION

[ G.R. No. 131035, February 28, 2003 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
SALVADOR DE LA CRUZ, ACCUSED-APPELLANT.**

### D E C I S I O N

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

Before the Court is an appeal from the Decision<sup>[1]</sup> rendered by the Regional Trial Court of Manila, Branch 18, convicting accused-appellant Salvador de la Cruz of Murder and imposing on him the penalty of *reclusion perpetua*, with all the accessory penalties provided for by law, for the death of Florencio Antonio and to pay the heirs of the victim the sum of P50,000.00 as moral damages, and the amount of P50,000.00 as civil indemnity.

#### The Antecedents

Salvador de la Cruz, a pedicab driver, and his family rented a portion of the house owned by one Tamano at Pacheco St., Tondo, Manila. Tamano and his brother, Boy Negro, resided in the same house. Florencio Antonio (also known as "Otey") and his family resided at No. 521 Pitong Gatang Street, Tondo, Manila, around three blocks away from the house of Tamano.<sup>[2]</sup>

On April 5, 1991, at around 12:00 midnight, Salvador, Tamano and Boy Negro went to the house of Florencio. Tamano knocked on the door of the house of Florencio while Salvador and Boy Negro were several meters away.<sup>[3]</sup> Shortly thereafter, Ferdinand Peñaranda, a distant uncle of Florencio, was resting in his house at No. 513 Pitong Gatang Street, Tondo, Manila, near the house of Florencio when he heard a commotion. He looked out from the window of his house and saw Florencio fleeing for dear life, chased by Tamano and two others namely, Salvador, known in the community as "Bading," and Boy Negro. Florencio sought refuge in a vacant lot fronting the house of Ferdinand. A Meralco lamp post lighted the area. Florencio tripped and fell to the ground. Florencio was in the process of standing up when Tamano stabbed him at the back. Bading and Boy Negro took turns in stabbing Florencio. Residents in the neighborhood saw the incident and shouted at Tamano, Bading and Boy Negro. Earlier, when he heard the commotion, Danilo Laviña, who was in a nearby billiard hall, rushed to where the shouts emanated and saw Florencio being stabbed by the three. The latter fled towards Sta. Maria Street, leaving Florencio mortally wounded. Florencio was brought by his wife and some bystanders, including Danilo, to the Mary Johnston Hospital where he expired an hour later. Ferdinand later arrived in the hospital but left and went back home when Florencio died.

Police investigators from the Homicide Section of the Western Police District arrived at the crime scene and made an on-the-spot investigation of the stabbing.

Ferdinand told the policemen that he witnessed the stabbing. The policemen brought Ferdinand to the police station where he gave his sworn statement.<sup>[4]</sup> Danilo likewise gave his sworn statement to the police.<sup>[5]</sup> Ferdinand claimed that he did not know the names of the two companions of Tamano although they were known in the community as "Boy Negro" and "Bading" de la Cruz. Ferdinand further stated that he could identify the two assailants if he saw them again. Danilo described Bading as small but with a big body build and a big stomach. Pat. Rafael Melencio signed an Advance Information listing the suspects as "Tamano," "Boy Negro" and "Bading" de la Cruz.<sup>[6]</sup>

Dr. Marcial Ceñido, the Medico-Legal Officer of the Western Police District, conducted an autopsy on the victim's body and made a report thereon which reads:

#### POST MORTEM FINDINGS

1. Stab wound, debrided and sutured, right posterior thorax, measuring 13.5 cm. x 12 cm. in depth, directed obliquely forwards, slightly downwards and towards the midline thru the 8th intercostals space perforating the lower lobe of the right lung and diaphragm and piercing the right lobe of the liver;
2. Stab wound, right lower posterior thorax, 4 cm. from the posterior midline, measuring 2.3 cm. x 0.6 cm. x 9 cm. in depth, with two stitches, directed obliquely forwards, slightly downwards and towards the midline thru the muscle tissue;
3. Stab wound, right posterior lumbar, 7 cm. from the posterior midline, measuring 2.6 cm. x 1 cm. x 7 cm. in depth, directed obliquely forwards, slightly downwards and towards the lateral thru the muscle tissue;
4. Linear abrasion, middle 3rd, right arm, antero-lateral surface measuring 7.5 cm. x 0.1 cm.;
5. Abrasion, dorsum of the left forefinger and right hand; and
6. Lacerated wound, lower lip, right of midline measuring 1.3 x 0.3 cm.

Others are mere surgical incisions at the right lower antero-lateral thorax and left arm antero-medial surface.

#### INTERNAL FINDINGS:

1. Stab wounds of the internal organs and tissues as indicated under the internal extension of the external wounds with massive right hemothorax and generalized pallor; and
2. Recovered from the stomach about a glassful of partially digested rice with vegetables and without alcoholic odor.

#### CAUSE OF DEATH:

Multiple three (3) stab wounds, one (1) fatal at right posterior thorax piercing the right lung and liver.<sup>[7]</sup>

The doctor also signed a Postmortem Certificate of Death of Florencio.<sup>[8]</sup>

On July 28, 1991, Salvador was arrested for theft of an electric fan by policemen.<sup>[9]</sup> When informed of said arrest, Ferdinand went to the police station and identified Salvador, who was then in a cell, and whom he knew as Bading de la Cruz, as one of the assailants of Florencio. It was then that Ferdinand came to know that the full name of Salvador was Salvador de la Cruz. Salvador was booked by the police authorities for Murder. In the Booking Sheet and Arrest Report, Salvador was described as slim.<sup>[10]</sup> When informed of the arrest of Salvador, Danilo went to the police station, identified Salvador as one of the assailants. Ferdinand and Danilo executed their supplemental affidavits.<sup>[11]</sup> The two affiants identified Salvador as one of the assailants. Tamano and Boy Negro remained at large.

On July 31, 1991, an Information for murder was filed against Salvador. The Information reads:

The undersigned accuses SALVADOR DELA CRUZ Y FLORES of the crime of murder, committed as follows:

That on or about April 5, 1991, in the City of Manila, Philippines, the said accused conspiring and confederating together with two others whose true names, identities and present whereabouts are still unknown and helping (*sic*) one another, with intent to kill and with evident premeditation and treachery, did then and there wilfully (*sic*), unlawfully and feloniously attack, assault and use personal violence upon one FLORENCIO ANTONIO Y RAMOS, by then and there stabbing him several times with a bladed weapon hitting him on the different (*sic*) parts of his body, thereby inflicting upon him mortal stabwounds (*sic*) which were the direct and immediate cause of his death.

Contrary to law.<sup>[12]</sup>

Upon being arraigned, Salvador pleaded not guilty to the charge. Trial thereafter ensued.

During the pre-trial, the prosecution and Salvador, assisted by counsel, stipulated on the amount of P98,000.00 actual damages.<sup>[13]</sup>

For his defense, Salvador denied having stabbed the victim. He admitted that he was present when Florencio was stabbed. He, however, insisted that Tamano and Boy Negro helped each other in fighting with and stabbing Florencio. Salvador claimed that when Tamano told him that he just had an altercation with Florencio, he (Salvador) suggested that Tamano and Florencio settle their differences. He even offered to act as mediator since Florencio was the godson of Salvador's father. In going to Florencio's house, Tamano and Salvador were joined by Boy Negro and Salvador's wife Virginia and their son. However, when Florencio opened the door of his house, he saw Tamano and attacked the latter. Tamano backed off and then pulled out a *balisong*. Florencio retreated to a neighbor's house, and when he reappeared, he was already armed with a samurai, about 24 inches long. Before the situation worsened, Salvador tried to pacify them by shouting "*Tama na, tama na! Awat na, awat na!*" (Enough, enough! Stop that, stop that!), but to no avail. Virginia cautioned Salvador, thus: "*Lumayo ka dyan. Lumayo ka dyan. Baka tamaan ka.*" (Move away from there. Move away from there. You might get hit.) Boy Negro, who

was armed with a piece of wood, watched as Tamano and Florencio squared off. Florencio slipped and fell. The samurai fell from his hand. Suddenly, Tamano lunged at Florencio and stabbed him several times. Boy Negro joined the affray and hit Florencio at the neck with a piece of wood. Salvador and his wife Virginia left the scene and went home. The couple continued residing in the same house. After Florencio's death, Salvador was never investigated by policemen for the death of Florencio. He continued driving a pedicab. After a month, he transferred to the residence of his mother-in-law at No. 1564 Franco Street, Tondo, Manila. On July 28, 1991, Salvador was arrested for theft of an electric fan. Linda and Oga, mother and sister of Florencio, arrived in the police station. It was only then that he was booked for the killing of Florencio.

On March 6, 1995, the trial court rendered its Decision finding Salvador guilty beyond reasonable doubt of murder qualified by treachery and evident premeditation, the decretal portion of which reads as follows:

WHEREFORE, this Court finds the accused, Salvador De La Cruz Y Flores, guilty beyond reasonable doubt of the crime of murder under Article 248 of the Revised Penal Code and hereby sentences him to suffer the penalty of reclusion perpetua with all the accessory penalties provided by law, and to pay the costs. On the civil liability of the accused, he is further ordered to pay the heirs of the victim P50,000.00 moral damages and another P50,000.00 for the loss of the victim's life with interest thereon at the legal rate from today until fully paid.

SO ORDERED.<sup>[14]</sup>

On appeal, accused-appellant Salvador de la Cruz assails the decision of the trial court, contending that:

I

*THE TRIAL COURT ERRED WHEN IT GAVE CREDENCE AND PROBATIVE WEIGHT TO THE COLLECTIVE TESTIMONIES OF THE WITNESSES OF THE PROSECUTION AND IGNORED THOSE OF ACCUSED-APPELLANT AND HIS WIFE VIRGINIA DE LA CRUZ;*

II

*THE PROSECUTION FAILED TO PROVE BEYOND CAVIL CONSPIRACY BY AND AMONG BOY NEGRO, TAMANO AND ACCUSED-APPELLANT FOR THE KILLING OF FLORENCIO.*

III

*THE COURT A QUO ERRED IN IMPOSING THE SUPREME PENALTY OF DEATH ON ACCUSED-APPELLANT.*

The Court will delve into and resolve in *seriatim* the issues posed by accused-appellant.

On the first issue, accused-appellant avers that the testimony of Danilo pinpointing him as one of the assailants of Florencio is discordant and unreliable. In his sworn

statement to the police investigators, Danilo described one of the companions of Tamano as tall and of medium built, and the other as stout, with a big stomach. In contrast, the Booking Sheet and Arrest Report dated July 20, 1991 of the arresting officers described accused-appellant as short and slim. Accused-appellant continued residing in the house of Tamano after the killing and transferred his residence only a month after the stabbing, and yet he was never suspected by the close kins of Florencio for the death of the latter. Neither was he investigated by police officers for the killing of Florencio. Ferdinand admitted in his sworn statement to the police investigators on April 6, 1991 that he did not know the companions of Tamano but he heard from other persons that they were "Boy Negro" and "Bading." Ferdinand never testified that the victim was stabbed at the back. The name of accused-appellant as one of the culprits emerged only one month after the killing. Accused-appellant was implicated in the killing of Florencio only because of his close association with Boy Negro and Tamano. In fact, the witnesses of the prosecution invented a third culprit to implicate accused-appellant. Hence, accused-appellant contends that the trial court committed a grievous error when it gave credence to the testimonies of Danilo Laviña and Ferdinand Peñaranda identifying him as one of the assailants of Florencio and convicting him for said crime.

The contention of accused-appellant does not persuade. The legal aphorism is that the findings of facts of the trial court, its calibration of the testimonial evidence of the parties, its assessment of the probative weight thereof and its conclusions anchored on said findings are accorded great respect, if not conclusive effect, because of the unique advantage of the trial court of observing and monitoring at close range the conduct, demeanor and deportment of the witnesses as they gave their testimonies before the trial court.<sup>[15]</sup> As this Court held:

Truth does not always stalk boldly forth naked, but modest withal, in a printed abstract in a court of last resort. She oft hides in nooks and crannies visible only to the mind's eye of the judge who tries the case x x x The brazen face of the liar, the glibness of the schooled witness, as well as the honest face of the truthful one, are alone seen by him.<sup>[16]</sup>

The principle is of course not absolute. The appellate court is not bound by the findings and conclusions of the trial court if it ignored, overlooked, misconstrued or misinterpreted substantial facts and circumstances which if considered would change the outcome of the case.<sup>[17]</sup> However, the Court has carefully and assiduously examined the records of this case and finds that indeed, the finding of the trial court that accused-appellant was one of the three assailants of the victim is safely ensconced in *terra firma*.

In this case, the trial court gave credence and full probative credit to the collective testimonies of Ferdinand and Danilo. Ferdinand testified that he saw accused-appellant, whom he knew by the name "Bading," Tamano and Boy Negro successively stab the victim with their knives. Ferdinand saw the macabre killing through the window of his house, which was only about five meters away from where Florencio was stabbed. When asked to pinpoint Bading from among those in the courtroom, Ferdinand pointed to accused-appellant who admitted that his nickname was Bading:

FISCAL SAMPAGA: