

## EN BANC

**[ G.R. NO. 136796, February 19, 2003 ]**

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROMEO DATU, ROLANDO BATUELO, JOHN DOE, PETER DOE, RICHARD DOE, ALLAN DOE, AND RICKY DOE, ACCUSED.**

**ROMEO DATU AND ROLANDO BATUELO, ACCUSED-APPELLANTS.**

### DECISION

**QUISUMBING, J.:**

For automatic review is the judgment<sup>[1]</sup> of the Regional Trial Court of Ilagan, Isabela, Branch 16, dated November 18, 1998, in Criminal Case No. 2781, which found appellants Romeo Datu and Rolando Batuelo, guilty of murder, and imposed upon them the penalty of death.

The factual antecedents in this case are as follows:

On September 30, 1997, appellants Datu, Batuelo, and several Does were charged with murder allegedly committed as follows:

That on or about the 17<sup>th</sup> day of April, 1997, in the municipality of Burgos, province of Isabela, Philippines and within the jurisdiction of this Honorable Court, the accused ROMEO DATU and ROLANDO BATUELO together with JOHN DOE, PETER DOE, RICHARD DOE, ALLAN DOE, and RICKY DOE, whose identities are still to be determined, conspiring, confederating together and helping one another, with intent to kill and with evident premeditation and treachery, did then and there, willfully, unlawfully and feloniously, assault, attack and use a teargas (sic) upon the person of Antonio Chan, rendering him unconscious, after which, tie a rope on his neck and hang him to a balluster (sic), inflicting upon him confluent hematoma entire circumference of the neck with rope marks and blood streak on the abdominal area which directly caused his death due to cardiorespiratory arrest.

CONTRARY TO LAW.<sup>[2]</sup>

On October 13, 1997, appellants Datu and Batuelo were arraigned and with assistance of counsel, pleaded not guilty to the charge.

That same day, the trial court directed the prosecution to amend the information to include one Domingo Madayag as an accused, in view of his extrajudicial confession admitting participation in the crime.

On November 20, 1997, the prosecution filed an amended information,<sup>[3]</sup> naming

Domingo Madayag as one of the accused.

On December 4, 1997, Madayag was arraigned with the assistance of counsel *de oficio*. Due to his refusal to enter a plea, the trial court directed that a plea of not guilty be entered for him.<sup>[4]</sup>

Trial on the merits then ensued for all the accused, in the course of which, Madayag moved for discharge as a state witness. Madayag's testimony was taken before the lower court granted his motion for discharge as a state witness on January 28, 1998.

The documentary and testimonial evidence for the prosecution showed that:

The family of appellant Romeo Datu is engaged in the business of selling hardware and construction materials in Aurora, Isabela. Appellant's father, Ignacio Datu, owned the business but his children, including appellant, managed this by turns. The victim, Antonio Chan, was a *compadre* of Ignacio and likewise operated the same line of business in Burgos, Isabela. Through appellant Datu, as registered owner, the Datu family sold an Isuzu dump truck to the victim for P480,000.00,<sup>[5]</sup> with the latter issuing four (4) postdated checks in payment. Three (3) of said checks were subsequently encashed, but the victim stopped payment on the fourth check amounting to P100,000.00.<sup>[6]</sup> This was to accommodate the victim's friend, Amadeo Yap, a dealer in sawn lumber from San Mariano, Isabela, for unpaid lumber, which Yap allegedly sold and delivered to the Datus.<sup>[7]</sup>

Early in the afternoon of April 4, 1997, appellant Datu went to the victim's store to confront him about the dishonored check. Appellant Datu was in a foul mood<sup>[8]</sup> and refused to entertain the victim's explanation. Datu then uttered angrily that Chan would pay a high price for what he did.<sup>[9]</sup> Datu then boarded his motorcycle, all the while hurling threats against Chan's employees.<sup>[10]</sup>

Late in the afternoon of April 5, 1997, appellant Datu approached one of his workers, state witness Madayag and told him that he had a problem, as somebody in Burgos, Isabela had fooled him and he needed Madayag's help. Madayag agreed to help Datu anyway he could. Thereupon, Datu told Madayag that he would be informed when he was needed.<sup>[11]</sup>

On April 4, 1997, appellant Batuelo applied with the victim as a truck driver.<sup>[12]</sup> He was immediately accepted and was allowed to stay in the Chan's compound as a stay-in employee.

On April 8, 1997, appellant Datu again approached Madayag and told him that he wanted somebody killed in Burgos, Isabela. Datu revealed that Madayag would have five or six companions and that he already sent one of his workers to apply as a driver of the intended victim. Datu told Madayag that said employee was "Enteng" whom Madayag later knew to be appellant Batuelo. Datu promised to pay Madayag P10,000.00 for his participation in the killing.<sup>[13]</sup>

On April 14, 1997, appellant Batuelo asked for a partial salary advance and left Chan's place on the excuse that he would be attending the ninth day prayer rites for

a departed relative.<sup>[14]</sup>

At around past ten o'clock in the evening of April 16, 1997, appellant Datu approached Madayag who was resting in the bunkhouse inside the Datu family compound. Appellant Datu told Madayag to be ready because his companions had arrived and they were going to Burgos, Isabela. Datu instructed Madayag to join appellant Batuelo who would lead the group and unfold the plan on their way to Burgos. Madayag, along with five other persons, then boarded a white Mitsubishi L-300 van parked near the gate of the Datu compound. He sat at the back of the van and as the group left for Burgos, he heard appellant Datu tell Batuelo, "*Malinis lang, Enteng.*" (Keep it clean, Enteng.)<sup>[15]</sup>

Batuelo, Madayag, and their four companions arrived at Burgos at almost one o'clock in the morning of April 17, 1997. They alighted from the van and walked through a rice field to the house of the victim, with Batuelo leading the way. Upon reaching the victim's house, they scattered on Batuelo's order and found hiding places behind the piles of hollow blocks in the Chan compound. They then settled down to wait. Batuelo told them that the victim was an early riser and would be the person to open the backdoor of the house.<sup>[16]</sup>

The group waited for about an hour until the victim came out of his house. Madayag then rushed to the victim and tried to grab him. The latter, however, saw Madayag and was able to grab a piece of wood. He struck Madayag with the piece of wood, hitting him on the left side of the forehead, causing a bleeding wound. Batuelo and the others then joined Madayag and managed to take hold of their victim. Batuelo then sprayed tear gas directly on the victim's face. The latter continued to resist but was finally subdued and thrown to the ground. One of the assailants then strangled him, while another tried to twist his head. Another assailant went inside the house to get rope, tied it around the victim's neck, then they carried him inside the house and hung one end of the rope from a railing above the basement of the house. Thereafter, Batuelo took hold of the victim's body and forcibly pulled it down. Batuelo then ripped off the victim's shirt, which was bloody and soiled, and pocketed it.<sup>[17]</sup>

Meanwhile the victim's wife, Susan Chan, was awakened by the sound of a "thud" coming from their hardware store. She ignored it and tried to sleep again but was unable to. She then stood up and went to their store where she noticed that a rope rack had fallen on the floor. She righted the rope rack and proceeded to the stairs where she saw four persons, one of whom she recognized as Batuelo. She heard him say, "Let us go, his wife might be awakened."<sup>[18]</sup> His companions then replied, "Let us go. He is already dead. Datu will be happy with this."<sup>[19]</sup> When she sensed that the intruders had left, Susan then proceeded to the stairs where she saw her husband with a rope tied around his neck but with both feet touching the ground.<sup>[20]</sup> She ran and shouted for help and then collapsed.

The culprits retraced their steps back to the waiting van. They then drove back to Aurora, reaching the Datu compound shortly before dawn. Appellant Batuelo told appellant Datu that they had accomplished their mission. Datu noticed Madayag's bleeding forehead and advised him to clean it. Datu then followed Madayag to the bunkhouse, gave him P1,000.00 and advised him to leave Aurora in the meantime.

Datu further instructed him to return after his wound had healed to receive the balance of the P10,000.00 promised as his payment for his participation.<sup>[21]</sup>

Later in the morning of April 17, 1997, Dr. Joseph George Razalan,<sup>[22]</sup> Municipal Health Officer of Burgos, Isabela, examined the corpse of the victim. He found "hematoma, rope marks at the neck area and x x x blood streak at the abdominal area"<sup>[23]</sup> and concluded that death was caused by "cardio respiratory arrest secondary to strangulation."<sup>[24]</sup> He placed the time of death at between 3:00 A.M. and 4:00 A.M. of that day or six (6) hours before examination.<sup>[25]</sup> He noted that the hematoma indicated that death was not instantaneous because blood was still circulating when the victim was strangled. He found no other injuries<sup>[26]</sup> but noted that the victim's feet were dirty. Due to lack of facilities, he was unable to perform an autopsy.

On April 28, 1997, Dr. Cleofas C. Antonio of the National Bureau of Investigation (NBI) performed an autopsy on the victim upon the request of the latter's family. Dr. Antonio found that the victim died as a result of "asphyxia by hanging."<sup>[27]</sup> He found no other injuries on the victim.<sup>[28]</sup>

Sometime in May 1997, after his wound had healed, Madayag who had gone home to Bugnan, Cabaldo,<sup>[29]</sup> Nueva Ecija, recalled that appellant Datu still owed him the balance of the P10,000.00 promised as his pay for participating in the killing of Antonio Chan. He decided to return to Aurora, Isabela, to collect from Datu. Before going to the Datu compound, however, he passed by his sister in Alicia, Dupax, Nueva Vizcaya. The latter told him that 3 men from Aurora came looking for him. Believing that Datu wanted him killed, Madayag returned to Nueva Ecija. Bothered by his conscience and unable to concentrate on his work, he disclosed to his wife that he had participated in the killing of Antonio Chan.<sup>[30]</sup> They decided to refer his problem to his wife's second cousin, an Army intelligence operative, Sgt. Flordelito Sabuyas. The latter sought the advice of their camp's provost marshal, Col. Hernani Acosta, and arranged a meeting with Susan Chan.<sup>[31]</sup>

On September 3, 1997, Madayag met with Susan. The latter agreed to forgive him if he would tell the truth. She then accompanied him to the Provincial Prosecutor where he executed a statement implicating both appellants in the killing of Antonio Chan.<sup>[32]</sup>

Appellant Datu raised the defense of alibi. He denied having had a verbal tussle with Antonio Chan on April 4, 1997, as he was then in Metro Manila with Edgardo Tensingco<sup>[33]</sup>, a corn dealer with whom he was doing business.<sup>[34]</sup> Appellant Datu likewise claimed that he was again with Tensingco in Manila on April 15-16, 1997.<sup>[35]</sup> He further claimed that he was still in Manila on April 17, 1997, visiting his sister-in-law, Maria Teresa Padron Martin, who gave birth on April 13, 1997 at the University of Santo Tomas (UST) Hospital.<sup>[36]</sup> Appellant Datu claimed that he only returned to Isabela on April 18, 1997.

Appellant Datu presented Tensingco to corroborate his claim that he was in Metro Manila on April 4<sup>[37]</sup> and April 15-16, 1997.<sup>[38]</sup> In addition, the two security guards of Tensingco, Nestor Mataverde and Nestor Fabre, both of whom allegedly saw Datu

with Tensingco on the aforesaid dates testified on the entries they made in the logbooks for April 1997, which recorded Datu's arrival with Tensingco on said dates.<sup>[39]</sup> The logbooks were likewise presented in evidence.<sup>[40]</sup> To further bolster his alibi, appellant Datu also presented Maria Teresa Padron Martin, who testified that the former visited her at the UST Hospital on April 16-17, 1997.<sup>[41]</sup> Dominic Dayrit, a family friend of the Datus, who declared that he met appellant Datu in Manila on April 15, 1997, and that he rode back with him to Isabela on the night of April 17, 1997, also testified for appellant Datu.<sup>[42]</sup>

Appellant Datu denied knowing both Madayag and his co-accused, Batuelo. He claimed that neither Madayag nor Batuelo were employees or workers of the Datus.<sup>[43]</sup> He also presented his brother-in-law, Sanny<sup>[44]</sup> Velasco, to testify that the white Mitsubishi L-300 van, which Madayag claimed was used to transport the killers of Antonio Chan, was in Manila on April 15-18, 1997.<sup>[45]</sup> Velasco declared that he met appellant in Manila on April 16, 1997.<sup>[46]</sup>

For his part, appellant Batuelo interposed the defense of denial and alibi. While he admitted having worked in the Chan's business as a driver from April 5-12, 1997,<sup>[47]</sup> he denied any participation in the killing of the victim. He claimed that on the night of the incident, he was already working at a rice mill in Magdalena, Cabatuan, Isabela,<sup>[48]</sup> where he worked from April 13 to May 3, 1997, and that he never left the said place. He admitted that his nickname was "Enteng"<sup>[49]</sup> but denied knowing or having worked for appellant Datu or the Datu family.

To buttress his alibi, appellant Batuelo presented a co-worker at the ricemill in Magdalena, Cabatuan, Isabela, who testified that he was with Batuelo at Cabatuan on April 16-17, 1997 and that the latter never left the place on said dates.<sup>[50]</sup>

The trial court found the prosecution's version credible and on November 18, 1998 convicted appellants of the charge. The *fallo* reads:

WHEREFORE, for all the foregoing premises, the prosecution having established the guilt of the accused beyond reasonable doubt in conspiracy with one another for the offense charged, the Court finding accused ROMEO DATU guilty as *principal by induction* and accused ROLANDO BATUELO, alias Enteng, by *direct and indispensable participation*, [italics in the original] and with two (2) aggravating circumstances to consider, that of evident premeditation and dwelling, without any mitigating circumstance to offset the same, the Court hereby sentences both to the supreme penalty of death by lethal injection in accordance with Republic Act No. 8177,<sup>[51]</sup> with all the accessory penalties provided for by law; to indemnify jointly and severally the heirs of the deceased victim, Antonio Chan, the sum of SEVEN MILLION FIVE HUNDRED THOUSAND (P7,500,000.00) PESOS by way of lost earnings of the deceased, and FIVE HUNDRED THOUSAND (P500,000.00) PESOS as moral damages, and an additional ONE HUNDRED THOUSAND (P100,000.00) PESOS as exemplary damages, and to pay the costs.

SO ORDERED.<sup>[52]</sup>