

SECOND DIVISION

[G.R. No. 129895, April 30, 2003]

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. PO3 ARMANDO DALAG Y CUSTODIO, APPELLANT.

CALLEJO, SR., J.:

This is an appeal from the 10 January 1997 Decision^[1] of the Regional Trial Court of Bacolod City, Branch 42, in Criminal Case No. 17838, finding appellant PO3 Armando Dalag guilty beyond reasonable doubt of parricide for killing his wife, Leah Nolido Dalag. The trial court imposed upon him the penalty of *reclusion perpetua* and ordered him to pay their children P50,000 as civil indemnity.

The amended Information against the appellant reads:

The undersigned Assistant City Prosecutor accuses PO3 Armando C. Dalag of the crime of PARRICIDE (Under Art. 246 of the RPC, as amended by RA 7659, committed as follows:

That on or about the 15th day of August, 1996, in the City of Bacolod, Philippines, and within the jurisdiction of this Honorable Court, said accused Armando C. Dalag, willfully, unlawfully, and feloniously and with evident premeditation, that is having conceived and deliberated to kill his wife, Leah Nolido Dalag, with whom he was united in lawful wedlock, did, then and there, attack, assault, dragged (sic) and inflict serious multiple injuries upon his wife, Leah Nolido Dalag, in the different parts of her body, to wit:

Cranio-Cerebral Trauma with probale (sic) severe diffuse Axonal injury r/o Intracranial hematoma; r/o Multifocal Cerebral Contusions; Multiple Abrasions-Contusions; face, neck anterior chest extremities and such other injuries contained in the post exhumation autopsy/examination report employing means, manner and form in the execution of the crime which tended directly and specially to insure its commission without danger to the person of the accused, as a result of which attack and injuries caused the death of said Leah N. Dalag.^[2]

On his arraignment, Armando, with the assistance of counsel, pleaded not guilty to the charge.^[3] Trial ensued.

The Antecedents

Armando Dalag, a member of the Philippine National Police assigned to the Bacolod City police station, was lawfully married to Leah Nolido Dalag^[4]. They had three children: Francis, Princess Joy and Ezra John. The family resided in Barangay Handumanan, Bacolod City.

The marriage of Armando and Leah was far from idyllic. Their coverture was marred by violent quarrels, with Leah always at the losing end. Each time the couple had a quarrel, she sustained contusions, bruises and lumps on different parts of her body. The situation came to a point when on one occasion, Leah's father, Marcos Nolido, had to advise Armando to stop beating his wife. Armando replied that he planned to sell the house and leave Leah. Marcos was taken aback. He went to the kitchen and after a few minutes, heard Armando ordering his wife to get out of the house. He saw Armando poke his firearm at Leah. Marcos tried to pacify Armando to no avail. Marcos lost his temper and shouted at Armando: "What kind of a policeman are you? You are committing police brutality against your wife." Instead of being chastened, Armando poked his gun on his father-in-law instead.

On August 15, 1996, at around 8:00 p.m., Francis, then eleven years old, and his sister Princess Joy, then nine years old, were watching television in their house. Armando, who was drinking hard liquor, and Leah were in the yard sitting under the *datiles* tree. Momentarily, the children heard their parents quarreling. Leah was admonishing Armando not to drink liquor. The kids sensed that some object was being banged on the wall. Thereafter, they heard their mother cry. Francis and Princess Joy rushed outside the house to see what was happening. They were horrified when from a distance of three meters, they saw Armando pushing and kicking Leah on the left side of her body. She fell to the ground. Even as Leah was already lying posthaste on the ground, Armando continued to beat her up, punching her on the different parts of the body. Francis and Princess Joy pleaded to their father to stop maltreating their mother. Armando angrily told them not to interfere and that he will later beat them up as well. He grabbed Leah's hair and banged her head on the wall. Leah's forehead directly hit the wall. In the process, Armando stepped on a nail. Even as she was being assaulted by her husband, she told him "Toy, Toy, I will find some medicine for your wound." Leah then fled to the house of their neighbor, Felisa Horilla or "Tia Feli." Armando ran after Leah and pushed her to the house of Felisa. Francis went back to the house. Princess Joy looked for her parents but could not find them. She decided to go back to their house to sleep. In the meantime, Armando herded Leah back to the house. Princess Joy was awakened when she heard her mother crying. When Princess Joy went outside of the house, she saw her mother being pushed by her father. Leah fell to the ground and lost consciousness. Armando placed the head of Leah on a stone and ordered Princess Joy to get some water. She did. She poured water on the face of her mother but the latter did not move. Armando then tried to revive Leah by applying mouth-to-mouth resuscitation to no avail.

Princess Joy went back to the house to rouse Francis. When Francis came out to the yard, he saw his mother lying on the ground still unconscious. Armando was sitting near Leah, while nonchalantly smoking cigarette. Francis got a piece of carton from their store and placed it underneath his mother's body. Francis then suggested to his father that they bring Leah inside the house. Armando nonchalantly remarked, "You really love your mother."

Armando and Francis carried Leah to the house. Francis noticed that there were lumps on his mother's face as well as bruises on both her arms, between her breasts and on her thighs. There was likewise blood on Leah's right ear. After laying down her head on the bed, Armando told Francis to get some hot water. Armando then washed his wife's face with lukewarm water. When Francis finally went to sleep,

his mother was still unconscious.

When they woke up the following day, or on August 16, 1996, Francis and Princess Joy noticed that their mother remained unconscious. Despite their mother's condition, they decided to go to school. During lunchtime, Francis went home and saw that Leah's condition had not improved. When the children came home in the afternoon after their classes, Armando told them that their mother was brought to the hospital. Armando instructed Francis to inform his colleagues at the police headquarters that he would be unable to report for duty because his wife accidentally slipped and had to be brought to the hospital.

When Francis visited his mother in the hospital, he saw her lying on the bed, her face badly swollen. He saw the lumps and bruises on the different parts of her body. Leah never regained her consciousness. She died on August 22, 1996.

When SPO3 Herman S. Garcia, the station commander, was apprised of the death of Leah, he ordered Armando not to leave the police station. However, on August 23, 1996, Armando left the police station without the knowledge and permission of Garcia and could not be located.^[5] However, on August 28, 1996, Armando surrendered to SPO3 Garcia and to PO3s Joel Stephen B. Casador and Filemon Roderos.^[6]

Dr. Jesse Rey T. Cruel, the medico-legal officer of the Commission on Human Rights, conducted a post exhumation autopsy on the cadaver of Leah. The autopsy report revealed as follows:

FINDINGS

ABRASIONS:

1. 2.0 cms. x 3.0 cms., xiphi-sternal area, chest;
2. 6.0 cms. x 8.0 cms., multiple, in various sizes and shapes, knee region, left;
3. 5.0 cms. x 7.0 cms., multiple, in various sizes and shapes, elbow region, left;
4. 6.0 cms. x 10.0 cms. multiple, in various sizes and shapes, elbow region, right;
5. 4.0 cms. x 11.0 cms., multiple, in various sizes and shapes, dorsal aspect, hand, right;
6. 1.5 cms. x 3.0 cms., shoulder, left.

CONTUSED ABRASIONS, brownish:

1. 4.0 cms. x 7.5 cms., lateral aspect, malleolar area, left;
2. 6.0 cms. x 6.5 cms., lateral aspect, malleolar area, right;
3. 1.0 cm. X 2.5 cms., temporal area, head, left side.

CONTUSIONS, purplish-brown:

1. 1.0 cm x 3.0 cms., antero-lateral aspect, arm, middle third, right;
2. 2.0 cms. x 4.0 cm., anterior aspect, middle third, thigh, right;
3. 5.0 cms. x 6.5 cms., anterior aspect, middle third, thigh right;

4. 2.5 cms. x 4.0 cms., antero-lateral aspect, proximal third, leg, right;
5. 1.5 cms. in diameter, infra-mammary region, chest, right side;
6. 1.5 cms. in diameter, medial aspect, chest, right side;
7. 3.5 cms. x 6.5 cms., axillary region, right.

Scalp hematoma, parietal region, head, right side, with shallow depression of the right, temporal bone along the pterion.

Blood, clotted, approximately 100 milliliters in volume, anterior fossa, right.

Brain and other visceral organs, pale.

Pleural and peritoneal cavity, non-bloody.

Stomach, empty.

CAUSE OF DEATH: Intracranial hemorrhage secondary to blunt injury of the head.^[7]

Dr. Cruel testified that Leah suffered severe beatings and traumatic physical violence resulting in intracranial hemorrhage which caused her death.

The Defense of Armando

Armando vigorously denied killing his wife. He testified that he was a member of the PNP. However, before joining the police, he was unemployed. Thus, during the early part of his marriage to Leah, Marcos, his father-in-law, disapproved of him. He admitted that his relationship with his father-in-law did not improve because every time he and his wife had a spat, Marcos would interfere. Moreover, Marcos resented him because he (Armando) was a Catholic while Marcos and his family, including Leah, and their children belonged to the Mormon faith.

Armando narrated that on August 15, 1996, at around 6:00 p.m., he was watching TV Patrol on television with Leah and their children. When the program was over, he went out to their yard and sat under the *datiles* tree. Leah followed him. They then decided to drink liquor. He stood up to get a cigarette when he stepped on a four-inch nail. The nail punctured his foot, causing it to bleed. Marcos ordered Leah to get medicine. However, she could not find any. She then proceeded to the house of Tia Feli to ask for medicine. When Leah failed to return after an hour, he followed her to Tia Feli's house and found her conversing with friends. She told Armando that she was not able to find any medicine for him. He then asked her why she was still there, and ordered her to go home with him because it was already late.

When they were near their gate, Leah pushed Armando and ran towards their house. As she was running, Leah stumbled upon a pile of cut bamboos, causing her to fall to the ground. She then hit her head "in-between the two stones" found in their yard. Leah's left temple and nape ("back portion of her neck") hit the stones. She then rolled over. Armando immediately rushed to Leah's aid and when she saw that she had lost consciousness, applied mouth-to-mouth resuscitation on her. Leah regained consciousness. Armando called Francis and Princess Joy and told them that their mother had an accident.

Armando and Francis carried Leah and brought her inside the house. Upon his father's instructions, Francis wiped his mother's face with towel soaked in lukewarm water. Armando asked her if she wanted to be brought to the hospital, but Leah refused. The following morning, Armando noticed that Leah had two lumps at the back of her neck and on her left temple. Realizing that his wife's condition was getting worse, he had his mother fetched and together, they brought Leah to the hospital.

During Leah's confinement in the hospital, Armando stayed away to avoid confrontation with his father-in-law. After his wife's death, the children lived with Leah's parents. Armando averred that the testimonies of his children were untrue. In fact, he insisted, when they visited him at the headquarters they told him that they did not want him to go to jail.

Armando's mother, Agueda Dalag, testified that on August 16, 1996, Ada, her daughter, fetched her from the house upon the instruction of Armando. She and Ada went to the house of Armando and saw Leah on bed unconscious. When she asked Armando what happened to Leah, Armando replied that his wife slipped and fell, hitting her head on two stones. Armando, Agueda and Ada brought Leah to the hospital. Agueda testified that her son loved his wife and that she was not aware of any occasion where he maltreated or manhandled Leah.

PO3 Joel Stephen B. Casador testified that as far as he knew, Armando and Leah had a good marital relationship. Nenita Garcia, a neighbor of Armando and Leah, testified that early in the evening of August 15, 1996, she saw husband and wife drinking under the "*datiles*" tree in their yard. At around 8:00 in the evening, Leah passed by her house on the way to Tia Feli's house. Thereafter, Armando followed Leah to Tia Feli's house. Nenita observed that Armando was limping. He and Leah went back to their house together. Nenita said that she did not see the couple quarrel, nor was there anything unusual in the behavior of the couple that night.

The Verdict of the Trial Court

After due proceedings, the trial court rendered judgment finding Armando guilty beyond reasonable doubt of parricide for killing his wife and sentenced him to the penalty of *reclusion perpetua*. The trial court appreciated the mitigating circumstances of voluntary surrender and "one analogous to passion and obfuscation" in favor of Armando. The dispositive portion of the trial court's decision reads:

WHEREFORE, PREMISES CONSIDERED, the Court finds the accused, ARMANDO CUSTODIO DALAG, guilty beyond reasonable doubt of the crime of Parricide, appreciating in his favor the mitigating circumstances of voluntary surrender and one analogous to "passion and obfuscation" and there being no aggravating circumstance in attendance in [the] commission of the crime, hereby sentences the accused to serve the penalty of RECLUSION PERPETUA, with all its accessory penalties and to indemnify the children of the deceased, Leah Nolido-Dalag, the sum of FIFTY THOUSAND (P 50,000.00) PESOS. No costs.

SO ORDERED. ^[8]