

## EN BANC

[ G.R. No. 141187, April 28, 2003 ]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. RONNIE MACTAL Y AZARCON, APPELLANT.**

### D E C I S I O N

**CORONA, J.:**

Before us on automatic review is the decision<sup>[1]</sup> of the Regional Trial Court, Branch 36, Gapan, Nueva Ecija, in Criminal Case No. 4045 convicting herein appellant of the crime of parricide and sentencing him to suffer the supreme penalty of death.

Appellant Ronnie Mactal y Azarcon was charged with killing his wife, Evelyn Joaquin Mactal, in an information<sup>[2]</sup> that read:

“That or on about the 15<sup>th</sup> day of July, 1995, at Daang Bakal, San Nicholas, Gapan, Nueva Ecija, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with intent to kill and with the use of a hard object, did then and there willfully, unlawfully and feloniously attack, assault and use personal violence upon EVELYN MACTAL Y JOAQUIN, his lawfully wedded wife, who sustained injuries on her head that caused her instantaneous death as per the Autopsy Report, to the death as per the Autopsy Report, to the damage and prejudice of the victim’s heirs.”

During arraignment on September 15, 1995,<sup>[3]</sup> appellant, assisted by his counsel, pleaded “not guilty” to the charge. Thereafter, trial ensued.

The factual antecedents follow.

Appellant and the deceased were married by a Catholic priest in Gapan, Nueva Ecija, on March 23, 1985. However, their union was not a happy one, beset by frequent violent quarrels due to appellant’s drinking, gambling and womanizing. The couple separated a number of times but deceased Evelyn always came back to her husband inspite of the physical abuse because she loved him. As appellant failed to earn a living for his family, Evelyn ran a small sari-sari store located in front of their house. On the night of the incident, July 14, 1995, at around 7:00 p.m., appellant’s brother-in-law, Romeo Rivera, whose house was right beside the couple’s, heard the couple arguing but he did not mind them as he was used to their arguments. At around 8:00 p.m., Liwayway Rillon, the deceased’s good friend, went to the store to buy something but did not stay long as Evelyn seemed to be in a bad mood and was getting ready to close the store. Through the door of the store, Rillon saw appellant inside the store and the couple’s children sleeping in bed; their living quarters were adjacent to the store.

At around midnight, appellant went to Rivera's house to check whether his wife Evelyn was there. Rivera did not reply but instead asked if the two had a quarrel. The appellant answered in the negative. Rivera, his wife and appellant conversed in the former's garage for about 30 minutes, with the Rivera couple suggesting places where appellant should look for his wife. Then appellant's sister-in-law went to appellant's house and peeped inside the unlighted room of the couple but did not find her sister, the deceased. After this, the Rivera couple returned to their house and went to sleep.

At around 1:00 a.m., Alfred Young, on board a tricycle, was passing by appellant's house. From a distance of 15 meters, he saw Evelyn seated on a wooden chair in front of the window of the house. She appeared lifeless because her head was "hanging." Appellant was about an arm's length away from Evelyn and, when he saw the tricycle, he disappeared into a unlighted part of the house. At about the same time, Romeo Adayo, who was walking home, saw appellant. The latter was about 20 steps away from him, carrying the body of his wife Evelyn over his right shoulder, face up, with the head at appellant's back and the legs in front. Appellant was walking very fast towards a dark street. As Adayo was very tired after his trip from Manila, he did not call appellant and just continued walking. The body of Evelyn was discovered by a neighbor at around 5:00 a.m., 15 meters away from her house.

The autopsy conducted by Dr. Marcelo Gallardo revealed a 3.5-inch laceration in the middle part of Evelyn's head. It was probably caused by blunt object like wood, bamboo or round metal. The cause of death was shock secondary to laceration and contusion on the head.<sup>[4]</sup> According to the doctor, timely medical attention could have saved the life of the deceased.

Upon investigation of the appellant's house, SPO1 Jose Jimenez, SPO2 Jose Galang and SPO3 Nicolas Salaysay found bloodstains on a yellow *sando*, electric fan, wooden chair and the cement floor. There were also bloodstains on items found outside the house, e.g., a wastebasket, newspaper and cigarette carton. Emetria San Pedro vda. de Joaquin, Evelyn's mother, who arrived at her daughter's house a few minutes before the police, also noticed bloodstains on the furniture and electric fan. When the bloodstains were sent to the national police crime laboratory in Camp Crame for analysis, they tested positive as human blood. The blood found on a yellow *sando* was of blood type B.

When SPO1 Jimenez asked appellant what he did after finding out about his wife's disappearance, he said that he looked for his wife in her friend Josie's house. This was, however, denied by the latter upon questioning by SPO1 Jimenez.

For his defense, appellant denied the charges against him and testified that the last time he saw his wife alive was at 8:30 p.m. in their house because at 9:00 p.m., he went to sleep. He denied being seen by prosecution witnesses Young and Adayo as he was already asleep at 1:00 a.m. He denied that he beat up his wife and presented his son, Ronald, and his mother, Estrella Mactal, to corroborate this fact. Ronald testified that his father loved his wife Evelyn very much and could not have possibly killed her.

The trial court found appellant guilty beyond reasonable doubt of parricide and sentenced him to death after finding that nighttime and abuse of superior strength aggravated the crime:

"WHEREFORE, having been found guilty beyond reasonable doubt of the crime of parricide, as charged, attended by the aggravating circumstances of nighttime and for having taken advantage of his superior strength in the commission of the crime, accused Ronnie Mactal is sentenced to suffer the penalty of death by lethal injection and to indemnify the heirs of Evelyn Mactal, the victim, the sum of P75,000.

Let the records of the case be forwarded to the Honorable Supreme Court for Review.

SO ORDERED."

In his brief, appellant raises the following assignments of error:

- I. THE TRIAL COURT ERRED IN GIVING FAITH AND CREDENCE TO THE TESTIMONIES OF ALFRED B. YOUNG AND ROMEO ADAYO.
- II. THE TRIAL COURT ERRED IN ACCORDING WEIGHT TO THE TESTIMONY AND FINDINGS OF DR. JESUSA VERGARA
- III. THE TRIAL COURT ERRED IN FINDING ACCUSED-APPELLANT GUILTY BEYOND REASONABLE DOUBT OF THE CRIME OF PARRICIDE ON THE BASIS MERELY OF CIRCUMSTANTIAL EVIDENCE WHICH DO NOT PROVE WITH CERTAINTY THAT ACCUSED-APPELLANT KILLED HIS WIFE EVELYN, AND THAT IF EVELYN WAS INDEED DELIBERATELY KILLED, IT WAS ACCUSED-APPELLANT ALONE WHO COULD HAVE DONE IT, TO THE EXCLUSION OF ALL OTHERS.
- IV. ASSUMING ARGUENDO THAT ACCUSED-APPELLANT IS TRULY LIABLE FOR THE DEATH OF EVELYN MACTAL, THE TRIAL COURT, NONETHELESS, ERRED IN IMPOSING UPON HIM THE SUPREME PENALTY OF DEATH. [5]

The Solicitor General agrees that appellant ought to be convicted of parricide but recommends that the penalty be reduced to *reclusion perpetua* as there was no evidence showing that nighttime and notorious strength were purposely sought and used to facilitate the commission of the crime.

After a thorough review of the records, we find that the circumstantial evidence presented by the prosecution was enough to find appellant guilty beyond reasonable doubt of parricide. However, we agree with the Solicitor General that the penalty should be reduced to *reclusion perpetua* as nighttime and abuse of superior strength should not be taken against the appellant. These circumstances were, moreover, not alleged in the information.

Under Article 246<sup>[6]</sup> of the Revised Penal Code, parricide is the killing of one's legitimate or illegitimate father, mother, child, any ascendant or descendant and spouse and is punishable by the single indivisible penalty of *reclusion perpetua* to death.

In the present case, the Court is convinced that, in the evening of July 14, 1995,