

## EN BANC

[ G.R. No. 140872, June 23, 2003 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
PABLITO INGGO Y TAMBULA, ACCUSED-APPELLANT.**

### D E C I S I O N

#### **QUISUMBING, J.:**

For automatic review is the decision<sup>[1]</sup> of the Regional Trial Court of Dipolog City, Branch 8, dated October 6, 1999, in Criminal Case No. 7593, convicting appellant Pablito T. Inggo of murder, sentencing him to suffer

the penalty of death, and ordering him to pay the heirs of the victim the sum of P500,000 by way of consequential damages, P100,000 as moral damages, and to pay the costs.

His conviction stemmed from the Information which accused him of murder, allegedly committed as follows:

That, in the afternoon, on or about the 15<sup>th</sup> day of August, 1996, in the municipality of Katipunan, Zamboanga del Norte, within the jurisdiction of this Honorable Court, the said accused armed with hunting knife and with intent to kill by means of treachery and evident premeditation, did then and there wilfully, unlawfully and feloniously attack, assault and stab one ROSEMARIE CONDE REINANTE, thereby inflicting upon her several wounds on the vital parts of her body which caused her death shortly thereafter; that as a result of the commission of the said crime the heirs of the herein victim suffered the following damages, viz:

a) Indemnity	
for victim's	.....P 50,000.00
death	
b) Loss of	
earning	..... 50,000.00
capacity	

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P100,000.00

CONTRARY TO LAW (Viol. of Art. 248, Revised Penal Code), with the qualifying circumstances of treachery and evident premeditation.<sup>[2]</sup>

Appellant pleaded not guilty when arraigned on January 17, 1997. Trial on the merits ensued thereafter.

The version of the prosecution, as summed up from the records by the Office of the Solicitor General, is as follows:

On August 15, 1996, about 8:00 o'clock in the morning, Rosemarie Reinante<sup>[3]</sup> requested her parents-in-law's house helper, Leonisa Insic,<sup>[4]</sup> to go to her house in Poblacion Katipunan, Zamboanga del Norte, to do some household chores (p. 3, TSN, July 15, 1997). Leonisa Insic went to Rosemarie Reinante's house as bidden (p. 8, TSN, July 8, 1997).

About 1:00 o'clock in the afternoon of that day, Leonisa Insic returned to the house of Rolando Reinante, Sr. where she was living. She proceeded to the kitchen to take her lunch (p. 10, TSN, July 15, 1997). While she was eating, Leonisa Insic noticed somebody buy a bottle of beer from Rolando Reinante, Sr.'s store which was then being tended by Lando Tangga, another housekeeper of Rolando Reinante, Sr. The store was attached to the house of Rolando Reinante, Sr. Later, Leonisa Insic identified that somebody as the appellant (pp. 8-10, TSN, July 8, 1997; p. 15, TSN, July 15, 1997).

Appellant gave the amount of P50.00 as his payment for the beer. Since there was not enough cash to change the fifty-peso bill, Lando Tangga asked Leonisa Insic to have the fifty-peso bill changed to smaller denominations. Leonisa Insic consequently went to another store to have the bill changed to smaller denominations (ibid.).

Leonisa Insic returned to the store moments later after having the fifty-peso bill changed to smaller denominations. She gave the money to Lando Tangga but the latter refused to accept it. Instead, he told Leonisa Insic to give the change to appellant. Leonisa Insic obliged. Leonisa Insic then approached appellant and tried to give him his change. Appellant, however, refused to accept his change and insisted that he should get back the full amount he gave. Exchange of words, thereafter, ensued between Leonisa Insic and appellant (pp. 11-13, TSN, July 8, 1997).

While appellant and Leonisa Insic were having an exchange of words, Rosemarie Reinante arrived. Consequently, Rosemarie Reinante asked for the money and volunteered to give it to appellant. Appellant still refused to accept his change from Rosemarie Reinante which led to an argument (pp. 13-15, ibid.).

While appellant and Rosemarie Reinante were thus arguing, appellant suddenly rushed to Rosemarie Reinante. When he was already near her, he loosened his belt and removed it from his waist. Rosemarie Reinante consequently ran. Appellant chased her and when he caught up with her, appellant stabbed her. Immediately, Leonisa Insic came to Rosemarie Reinante's rescue. She tried to separate Rosemarie Reinante and appellant by holding the latter's hands. Leonisa Insic was able to stop appellant which gave Rosemarie Reinante an opportunity to run towards the road. However, appellant was able to get away from Leonisa Insic and chased Rosemarie Reinante again. When appellant failed to catch up with Rosemarie Reinante, he ran towards the direction going to the cemetery of Katipunan (pp. 15-16, ibid.).

Leonisa Insic saw Rosemarie Reinante fall down when she reached the road. She then ran towards Rosemarie Reinante's house to report the

matter to Rolando Reinante, Jr. She did not find Rolando Reinante, Jr. in their house. Instead, she found some of the house helpers (names not on record) of Rosemarie Reinante. When they asked her what happened, she said that Rosemarie Reinante was stabbed. Leonisa Insic did not anymore return to the place where Rosemarie Reinante fell down because she was afraid (pp. 16-18, ibid.).

Later, policemen arrived. Together with Leonisa Insic, they brought Rosemarie Reinante to the Dipolog City hospital. When they reached the hospital, Rosemarie Reinante was pronounced dead on arrival (pp. 18-19, ibid.).<sup>[5]</sup>

The defense's version based on the lone testimony of the accused is, as summarized by the trial court, as follows:

That he was an ice cream vendor before he was arrested and detained in jail on August 15, 1996. xxx That in the morning of August 15, 1996, from Katipunan, Z.N., where he resides, he went to Roxas, an adjoining town of Katipunan to sell ice cream. He was just walking while pushing his ice cream box along the way as he passed and sold ice cream to children and students in schools at Brgy. Tambo, Piao, and Nabilid, before reaching the poblacion of Roxas... about 12:00 o'clock noon. He took his lunch [in] the public market of Roxas, after which he drunk *tuba* and started back on his way to Katipunan at about 1:00 o'clock as he continued selling his wares on the same route he took in going to Roxas. It was already about 4:00 o'clock in the afternoon when he arrived [in] Katipunan. However, he was not able to reach his house because when he was at the crossing nearby the cemetery of Katipunan, he was waylaid by three armed men whose names were unknown to him except that he could only recognize their faces, and apprehended him. So he asked the persons who apprehended him what was his fault, but was told in reply "just [come] with us". Without showing any resistance, he was brought to the police station of Katipunan. Then at the police station, the three persons who waylaid him took off his T-shirt, pants, and shoes. They also took off his brief[s]. Thereafter, he was detained in jail. While in detention, he was not informed of his right to counsel and neither was he accorded the assistance of a lawyer. He was not also informed of his right to remain silent and that anything he would say or any statement he made may be used against him.

That by about 6:00 o'clock [of] that afternoon, he was brought by the policemen to the provincial hospital in Dipolog City. The purpose of bringing him to the hospital was just to examine his breathing, but the doctor who examined him observed that he was under the influence of liquor or ha[d] taken intoxicating drinks... he was brought back to the detention cell of Katipunan Police Station. He had already put on or put back his [clothes], which were returned to him by the policemen. That while in the detention cell, he was boxed and mauled by two police officers one of whom he recognized as a certain Rodel Castillon while he did not know the name of the other. The mauling xxx made him unconscious as he suffered injuries on the different parts of his body. That upon regaining consciousness, he noticed that he already sustained

a [stab] wound on his stomach above his navel. He could not remember nor identify the person who stabbed him.

In the morning of August 16, 1996, he was again brought to the same hospital xxx for [the] treatment of his [stab] wound. He was admitted [to] the hospital from August 16, 1996 to August 22, 1996... the accused denied the ownership of the following exhibits for the prosecution, to wit:

Exh. "A" — a dirty white T-shirt with green combination allegedly wor[n] by the accused at the time of the incident;

Exh. "B" — a leather belt with a secret pocket that serves as a scabbard sewn in the inside face of the belt and the stainless knife that fits into the secret pocket, allegedly own[ed] by the accused and allegedly used by him in stabbing the victim Rosemarie Conde Reinante and in stabbing himself in an attempt to commit suicide;

Exh. "C" — a yellow towel with blood stain allegedly carried by the accused at the time of the incident;

Exh. "D" — a stainless hunting knife, measuring 4 1/2 inches by its blade, and 2 1/2 inches by its handle, mentioned in Exh. "B".

The accused likewise denied knowing the victim Rosemarie Conde Reinante as well as her husband Rolando Reinante, Jr. He further denied knowing the two witnesses for the prosecution Leonisa Insic and Lando Tangga. That he did not see all the above-named persons on August 15, 1996, because on that day, he was at the nearby town of Roxas selling ice cream.<sup>[6]</sup>

The trial court found the evidence for the prosecution credible and sufficient to convict appellant of murder beyond reasonable doubt. The decretal portion of its decision reads:

WHEREFORE, and for all of the foregoing observations, and finding the guilt of the accused established by proof beyond reasonable doubt, herein accused Pablito Inggo y Tambula, is hereby convicted of the crime of Murder charged against him as principal by direct participation, and in the light of Article 248 of the Revised Penal Code, as amended by Rep. Act 7659, sentence[d] to suffer the supreme penalty of DEATH, to indemnify the heirs of the victim Rosemarie Conde Reinante, the sum of P500,000.00 by way of consequential damages, P100,000.00 as moral damages, and to pay the costs.

SO ORDERED.<sup>[7]</sup>

Hence, this automatic review, with appellant assigning the following errors:

AGGRAVATING CIRCUMSTANCES OF TREACHERY, `WITH INSULT OR IN DISREGARD OF THE RESPECT DUE THE OFFENDED PARTY ON ACCOUNT OF HER RANK, AGE AND SEX, AND INTOXICATION, ALTHOUGH THE SAME WERE NOT ESTABLISHED BEYOND REASONABLE DOUBT.

## II

THE COURT A *QUO* GRAVELY ERRED IN SENTENCING THE ACCUSED-APPELLANT TO DEATH DESPITE THE FACT THAT NO QUALIFYING AGGRAVATING CIRCUMSTANCE WAS ATTENDANT.

## III

NOTWITHSTANDING ALL THESE, THE COURT A *QUO* ERRED IN CONVICTING THE ACCUSED-APPELLANT ALTHOUGH IT IS EVIDENT THAT HE WAS ONLY FRAMED-UP.<sup>[8]</sup>

Principally, the issues for our resolution are (a) whether appellant's guilt was proved beyond reasonable doubt, and (b) whether the penalty of death was properly imposed on him. To resolve these issues, we must also inquire into credibility of the witnesses and their testimonies.

Appellant insists that he was merely "framed-up" by the police who could not find the real perpetrator. He points to the stab wound he sustained while in detention as proof of the devious and diabolical machinations by the police officers to implicate him in the said crime.<sup>[9]</sup> He contends that, granting without admitting that he was the assailant, there could be no treachery since the victim provoked appellant by arguing with him when she tried to force him to receive the P40.00 change. Appellant adds that since the assault was frontal, it could not be said to have been sudden and unexpected.<sup>[10]</sup>

The appellee, as represented by the Office of the Solicitor General (OSG), counters that appellant's claim that he was merely framed up should be rejected as it is uncorroborated and unsubstantiated by any evidence other than his self-serving claim. Contrary to appellant's claim, two eyewitnesses positively identified appellant as the perpetrator of the crime.<sup>[11]</sup> The OSG asserts that treachery attended the commission of the crime as the attack was so sudden and so unexpected since the victim did not know that appellant had a knife with him, securely sewn and hidden inside his belt. Even if there was a prior argument between appellant and Rosemarie, she could not have anticipated that he would stab her.<sup>[12]</sup>

Well-established is the principle that the findings of the trial court on the credibility of witnesses and their testimonies are accorded great weight and respect, even finality, on appeal unless the trial court has failed to appreciate certain facts and circumstances which, if taken into account, would materially affect the result of the case.<sup>[13]</sup> We have thoroughly reviewed the records of this case and we see no compelling reason to depart from this well-settled rule.

The positive identification of appellant by the two eyewitnesses, Leonisa Insic and Lando Tangga, cannot be overcome by denial and allegation of a "frame-up". Like alibi, which by its nature is inherently weak, the allegation of frame-up is easy to