

## EN BANC

**[ G.R. No. 124666, February 15, 2002 ]**

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
RENATO SAMSON Y COREA, ACCUSED-APPELLANT.**

### DECISION

**SANDOVAL-GUTIERREZ, J.:**

Automatic review of the Decision dated February 27, 1996 of the Regional Trial Court, Branch 258, Parañaque City, in Criminal Case No. 94-0720 (94-5890), finding Renato C. Samson guilty of murder and sentencing him to suffer the penalty of death.

The Information<sup>[1]</sup> against accused Renato C. Samson reads:

"That on or about the 28<sup>th</sup> day of August 1994 in the Municipality of Parañaque, Metro Manila, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with intent to kill and with treachery and with evident premeditation did then and there willfully, unlawfully and feloniously kill one Sol Homicillada y Batilo by then and there shooting the latter with a gun, thereby inflicting upon said Sol Homicillada y Batilo mortal wounds which were the direct and immediate cause of his death.

CONTRARY TO LAW."

On November 24, 1994, the accused, upon arraignment, pleaded "not guilty."<sup>[2]</sup> During the trial, the prosecution presented five (5) witnesses, namely: John Dexter Tuazon Daylag, SPO1 Patrocinio Dantes, Dr. Artenio Vertido, Ireneo Ordeano and Enrico Homicillada, the victim's brother, who testified on the civil aspect of the crime.

John Dexter Tuazon Daylag ("John") is the prosecution's principal witness. He is 19 years old and a resident of N. De Leon Street, La Huerta, Parañaque City. Sol Homicillada, the victim, is a resident of P. Dandan Street which is within the vicinity of La Huerta, Parañaque City. John and Sol were close friends. They would often meet during nighttime at N. De Leon Street. In the evening of August 27, 1994, at around 8:00 o'clock, John left his house and played guitar with his friends at N. De Leon Street. At 9:00 o'clock that same night, Sol arrived and joined the group. At around 12:00 o'clock midnight, he and John left in order to play darts at the corner of De Leon and Dandan streets. They were able to play darts at 3:00 o'clock in the morning of August 28, 1994, at which time two persons suddenly arrived from behind and fired two (2) gun shots at them. Luckily, they were not hit. Sol tried to run towards N. De Leon Street and in the process, he "shoved" John, causing him to bump against one of the gunmen. That gunman then pointed a gun at Sol. The

other gunman fired at Sol hitting him at the left side of his back which caused him to fall to the ground. The man who had just hit Sol then passed by John's side, approached Sol and, at close range, fired three (3) to four (4) more shots at his head.

John identified the person who passed by him and fired successive shots at Sol as Renato C. Samson, accused herein, then a Barangay Tanod in their place – La Huerta, Parañaque. At that time, he had a blue scarf on his head and was wearing a white T-shirt and a green short. While passing by John's side, the scarf was blown away. John saw his face because of the light coming from a nearby fluorescent lamp. The accused's companion was Marcelo Aniag, also a Barangay Tanod in La Huerta. Both were armed with a caliber .38 gun.

After the shooting incident, the accused and Aniag went away. John, out of fear, went to the house of Jhun Orjales. Eventually, he proceeded to Camp Ricardo Papa in Taguig, Bicutan where he executed a sworn statement.<sup>[3]</sup>

On August 31, 1994, a police operative team composed of SPO1 Patrocinio Dantes, SPO2 Ramolito Javier and SPO3 Ricardo Ruiz of Camp Ricardo Papa was dispatched by Chief Inspector Jacinto Dinio to N. De Leon Street, La Huerta, Parañaque City to look for the accused. Witness John accompanied the team. When confronted, the accused willingly went with them to Camp Ricardo Papa for investigation. <sup>[4]</sup> Seized from him were three (3) .38 caliber live ammunitions.

Dr. Antonio Vertido, a Medico-Legal Officer of the National Bureau of Investigation, conducted an autopsy on August 28, 1994.<sup>[5]</sup> According to him, the victim sustained six (6) gunshot wounds: at the back and right side of his head; below his left ear; at the lateral left chest wall; at the right side of the back of the body; and at his left forearm, posterior lateral aspect. Based on the gunshot entrance of each wound and the direction of the bullets, he concluded that the shots were fired at a distance of no less than 24 inches away from the victim, but could be two meters, fifteen meters or even thirty meters. With respect to wound No. 3, however, he claimed that the gun was pointed at the body of the victim at a distance of less than 7 inches before it was fired because of the presence of smudging (caused by the burning of nitrates) around the area of the wound.<sup>[6]</sup>

Ireneo Ordeano, a Senior Ballistician in the National Bureau of Investigation, testified that the 4 slugs recovered from the body of the victim were forwarded to his office by Dr. Vertido. He conducted the corresponding ballistic examinations on the bullets and found that they came from a .38 caliber gun.<sup>[7]</sup>

For his defense, accused Renato C. Samson merely denied the charge. He testified that he does know the victim, Sol Homicillada, nor one Marcelo Aniag, despite the fact that he is a resident of La Huerta, Parañaque, Metro Manila and, admittedly, a Barangay Tanod of the place. Nonetheless, he knows John Dexter Tuazon Daylag, a prosecution witness, because they have had a quarrel once. Sometime in April of 1994, John maligned his wife ("*binastos niya ang asawa ko*"). He confronted John resulting in a fist fight between them. John sustained "black eye." This incident might have impelled John to implicate him in the commission of the crime charged.

<sup>[8]</sup>

James Odialles, also a resident of N. De Leon Street, La Huerta, Parañaque, Metro Manila, testified that he knows John, he being his "kumpare" who used to be a helper in his store. He does not know "Jun Ordialles" whom John claimed to be the person he approached after the shooting incident. There are no other "Odialles" in their place except his family.<sup>[9]</sup>

After trial, the court *a quo*, on February 27, 1996, rendered a Decision, the dispositive portion of which reads:

"WHEREFORE, viewed in the light of the foregoing, judgment is hereby rendered finding the accused RENATO SAMSON y COREA guilty beyond reasonable doubt of the crime of MURDER qualified by treachery as defined in and penalized by Article 248 of the Revised Penal Code, as amended by Section 6 of Republic Act No. 7659, and hereby condemns said accused to suffer the penalty of DEATH. The accused is hereby ordered to pay the legal heirs of Sol Homicillada the amounts of P50,000.00 as death indemnity, P30,000.00 as moral damages, P15,000.00 as exemplary damages, P72,670.00 as and for funeral and burial expenses, P10,000.00 as attorney's fees and to pay the costs.

"SO ORDERED."<sup>[10]</sup>

Hence, this automatic review.

Appellant ascribes to the trial court the following errors:

"I.

THE LOWER COURT ERRED IN RELYING MAINLY ON THE TESTIMONY OF JOHN DEXTER DAYLAG AS BASIS FOR THE CONVICTION OF THE ACCUSED-APPELLANT DESPITE THE INCONSISTENCIES IN HIS TESTIMONY.

II.

THE LOWER COURT ERRED IN APPRECIATING THE CIRCUMSTANCE OF TREACHERY AGAINST ACCUSED-APPELLANT WHICH QUALIFIED THE KILLING TO MURDER AS DEFINED AND PENALIZED UNDER ARTICLE 248 OF THE REVISED PENAL CODE, AS AMENDED BY R.A. NO. 7659."

The appeal is not meritorious.

Prosecution's eyewitness, John Dexter Tuazon Daylag, positively identified appellant as the one who fired multiple shots at Sol Homicillada, causing his tragic death. This is clearly shown by John's testimony, thus:

"Atty. Arpa III:

Q And what happened, Mr. Witness?

A **I saw Sol Homicillada fell because he was shot at the left side of his back, sir.**

Q After that what happened, Mr. Witness?

**A      The other one passed by me and fired some more shots, sir.**

**Q      And then what happened, Mr. witness?**

**A      He approached Sol and fired him, Sir.**

**Q      How many times did he shoot Sol Homicillada, Mr. Witness?**

**A      Three (3) to four (4) shots, sir.**

**x x x**

**Q      Do you know what the other person (was doing) whom you said you bumped when you were shoved (by Sol) during that time?**

**A      He was holding a gun pointed to Ka Sol while the other one was approaching Ka Sol, sir.**

**Q      Now, the other person whom you said approached and shot Sol Homicillada, how does it look like, Mr. witness?**

**A      He had a blue scarf on his head and he was wearing a white t-shirt and a green short, sir.**

**Q      How was the scarf put on his head?**

**A      It was just placed on top of his head, sir.**

**Q      Were you able to look at his face?**

**A      Yes, sir because when he passed by me, a scarf on his head was being blown by the wind, sir.**

**Q      And you saw his face, Mr. Witness?**

**A      Yes, sir.**

**Q      Were you able to recognize him?**

**A      Yes, sir.**

**Q      Who was he?**

**A      He was a barangay tanod, sir.**

**Q      What is his name, Mr. Witness?**

**A      Renato Samsom y Corea, sir.**

**Q      When you said a scarf was blown on his head by the wind, was there a light on that street, Mr. Witness?**

**A      There was, sir.**

- Q Where was the light coming from, Mr. Witness?**  
**A He crossed the street where the light was coming, sir.**
- Q Where was the light situated, Mr. Witness?**  
**A On top of the shed where we were playing darts, sir.**
- Q What kind of light were installed there?**  
**A A flourescent, sir.**

x x x. "[11] (Emphasis ours)

During cross-examination, John never faltered in his assertion that appellant shot the victim, thus:

"Atty. Mangalindan

- Q And how far were you from Sol Homicillada at the time he was hit?**  
**A Three to four meters, sir.**

Court

- Q Were you able to recognize the person who shot and hit Sol Homicillada?**  
**A Yes, your honor.**
- Q From the place you were standing?**  
**A Yes, your honor.**
- Q Who was this person?**  
**A He is the one, your honor.**

**Witness pointing to a person inside the courtroom who stands and answers to the name of Renato Samson.**

Atty. Mangalindan

- Q What was the suit being worn by Renato Samson at the time?**  
**A He was wearing a green shorts, white T-shirt and a scarf on his head.**
- Q Now, this Renato Samson whom you pointed out, when you saw him, he was running after Sol Homicillada?**  
**A Yes, sir. He was chasing Sol Homiccillada and he passed in front of me and his scarf was blown.**

x x x