

## EN BANC

[ G.R. No. 140871, August 08, 2002 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RESTY SILVA, RODOLFO SANDANGO, ALIAS "DUPONG" AND JUN-JUN FLORES, ACCUSED-APPELLANTS.**

### D E C I S I O N

#### PER CURIAM:

For automatic review is the decision dated October 27, 1999 of the Regional Trial Court of Baler, Aurora, Branch 66, finding herein accused-appellants Resty Silva and Rodolfo Sandangao guilty beyond reasonable doubt of the crimes of murder and attempted murder and imposing on them the maximum penalty of death for the murder of Manuel Cerialles and an indeterminate penalty of six years *prision correccional* as minimum to twelve (12) years *prision mayor* as maximum for the attempted murder of Edmundo Cerialles.

In an Amended Information dated September 23, 1996, herein accused-appellants were charged with the crimes of murder and attempted murder committed as follows:

That on September 3, 1996 at around 10:00 o'clock in the evening, purposely sought to better accomplish their criminal design, at Sitio Diaboyo, Barangay Ditumabo, San Luis, Aurora, Philippines, and within the jurisdiction of this Honorable Court, the said accused, conspiring and confederating together and helping one another, with intent to kill and with treachery and evident premeditation and use of superior strength, did then and there willfully, unlawfully and feloniously attack, assault and use personal violence upon the person of one Manuel Cerialles after abducting him and his brother Edmund Cerialles and while his feet were both tied with a rope and his hands tied at his back, by stabbing and beheading him causing his instantaneous death; that the accused also commenced the commission of the crime of murder upon the person of Edmund Cerialles directly by overt acts by also tying his two feet and his hands at his back with intent to kill, but the said accused did not perform all the acts of execution which should have produced the crime of Murder as a consequence, by reason of causes other than their own spontaneous desistance, that is, said Edmund Cerialles was able to escape while the accused were about to kill his brother Manuel Cerialles.

CONTRARY TO LAW.<sup>[1]</sup>

On arraignment, accused-appellants Resty Silva and Rodolfo Sandangao both pleaded "not guilty" to the offense charged. Accused Jun-Jun Flores, however, remained at large. The case then proceeded to trial.

The prosecution presented the testimonies of Edmundo Cerialles; police officers Maximo Galope, Antonio Mendigoren, Eligio Fernandez, and Waldo Andrada; Andres Macatiag; Agapito Regalado; and Dr. Maria Pura Valenzuela-Uy.

As summarized in the People's Brief, Edmundo Cerialles testified as follows:

On September 3, 1996, around 8:30 p.m., Edmundo Cerialles, passed by his brother Manuel's house at Diaboyo, Ditumabo, San Luis, Aurora. There, he saw Boy Tagalario, Jimmy Tagalario, Marlon Flores, Mardie Alejandro, a certain Onoy, and Pogi Salvador. Some of these men were playing a card game known as "tong-its" while the others were merely watching the game. Suddenly three men arrived. One pointed an armalite gun to all those present and ordered them to lie on their stomach. Another ordered brothers Edmundo and Manuel to get out of the house. (TSN, February 26, 1998, pp. 2-3)

As soon as they were out, they were made to lie face down. Upon the orders of a person whom Edmundo later recognized as appellant Resty Silva, he and his brother were tied by two armed men whom he also recognized later as Rodolfo Sandangao, also known as Dupong and Jun-jun Flores. Thereafter, they walked towards the highway. An incoming vehicle light enabled Edmundo to recognize Sandangao at this point. They hid and continued walking after the vehicle left. Since Edmundo and Manuel were tied together, they walked side by side. It was at this point that Edmundo whispered to his brother that he recognized Sandangao to be their childhood neighbor. Although there were houses along the way, the brothers were prevented from asking help because they were threatened with bodily harm by the three men. When they reached a coconut plantation owned by a certain Almonte, appellant Silva cut his T-shirt and stuck some of its portion to Edmundo's mouth. It was removed later by appellant Silva after being assured that they would not fight back. As they continued walking, they reached the plantation of a certain Henyo who happened to be Edmundo's godfather. Edmundo tried to convince their abductors to kill them there and not to bring them away anymore. Jun-jun Flores was about to stab him but his brother Manuel begged Flores not to do it. (Ibid, p. 3-5)

Upon reaching Lucing Guerrero's coconut plantation, they were made to sit on a hollow block. It was at this point where appellant Resty Silva focused a flashlight on himself. He then asked the brothers if they knew their abductors. When he and Manuel positively answered, appellant Silva retorted "Papano yan Dupong, kilala pala tayo, obligado na nating patayin." (TSN dated February 25, 1998, p. 10)

Edmundo was thereafter separated from Manuel. He was brought twenty meters away from Manuel by Sandangao and herein appellant while Flores was left to take care of Manuel. After appellant Sandangao tied his feet, appellant left them. He then pleaded to Sandangao to set him free and promised to forget the incident. But Sandangao refused. After which, Sandangao left him. He then tried to free himself jumping away from where he was until he fell into a hole. While there, he tried to untie his hands and feet till he heard the scream of Manuel followed by sound akin to the cutting of a tree. When Edmundo was already untying his feet he

was given a warning to come out or they would kill Manuel if he failed. He slowly stuck out his head from the hole and failing to see the three men, he ran away fast until he reached the place of his godfather Andres Macatiag (Ibid pp. 10-11). The latter advised him to spend the night in his house. Around 5'o clock in the morning of September 4, 1996, Macatiag went to Edmundo's house to verify the condition of the latter's family. Seeing that they were unharmed, he returned to his house and related the matter to Edmundo. Later that day, the headless body of Manuel was found. Macatiag proceeded where the body was found. He saw that the feet were still tied (TSN, April 29, 1998, p. 6). When policemen Galope, Andrada and Mendigoren arrived, Edmundo went with them to see the body of Manuel which he was able to identify because of the clothes he was wearing. Several days after the beheading incident the missing head of the victim Manuel Cerialles was found at Baler, Aurora (TSN, February 25, 1998, p. 11).<sup>[2]</sup>

Witness Andres Macatiag corroborated Edmundo's testimony. He alleged that he was in his house around ten o'clock in the evening of September 3, 1996, when his godson Edmundo Cerialles arrived. The latter was shaking and could hardly speak and his right hand and foot were tied. The only words Edmundo uttered at that time were, "*yong familia ko ang baka pag-uwian ng tinakasan ko.*" Not knowing what to do, Macatiag sought the help of a certain Danny Bihasa, a barangay councilman. However, he was told that there were no more barangay tanods at that time so he went home. It was only then that Edmundo was able to fully relate to Macatiag what happened.<sup>[3]</sup>

Edmundo told him that he and his brother Manuel were abducted by Resty Silva, Rodolfo Sandangao and Jun-jun Flores and brought to the plantation of Querijero. When Silva learned that the Cerialles brothers recognized them, he uttered, "*Kung ganon, patayin na ito dahil kilala tayo.*" Edmundo was brought by Silva and "Dupong" (referring to accused-appellant Sandangao) several meters away from Manuel who was guarded by accused Flores. While Dupong was tying UP Edmundo's feet, Silva joined Flores and Manuel. Edmundo begged Dupong to untie him but the latter refused. After a while, Dupong joined Silva and Flores, so Edmundo tried to escape by jumping into a hole. He was able to loosen the ties in his hands and feet. While inside the hole, he heard shouts from his brother Manuel so he ran as fast as he could until he reached Macatiag's house.<sup>[4]</sup>

After hearing Edmundo's story, Macatiag asked him to spend the night in his house. The following morning, Macatiag left to inquire if Edmundo's family was safe. Upon seeing that they were not harmed, he went back home to tell Edmundo. Macatiag and Edmundo then proceeded to the place of the incident and saw that there were already a lot of people gathered in the area. Edmundo, accompanied by several persons, went to fetch the police who then brought the headless body to a detachment in Diaboyo.<sup>[5]</sup>

Witness Agapito Regalado averred that around eight thirty in the evening of September 3, 1996, he was playing "tong-its" in the house of victim Manuel Cerialles with several other people when a man carrying a long firearm suddenly arrived and ordered them to stop the game. The man then commanded Manuel and Edmundo Cerialles to come out while the rest were made to lie face down. When the armed man and the Cerialles brothers were already outside, witness heard somebody say,

"gapusin." After a while, Regalado and the others went out but the armed man and the Ceriales brothers were already gone.<sup>[6]</sup>

The following day, Macatiag summoned Regalado to his house. Edmundo was there and requested them to look for his brother Manuel in the land of Lucing Querijero. Regalado fetched barangay councilman Danilo Bihasa and together with Edmundo and Macatiag, they proceeded to Querijero's property where they found Manuel's headless body. Regalado identified the body as that of Manuel's because of the shorts the latter was wearing the night before. They called the police and summoned a certain Dr. Valenzuela to autopsy the body.<sup>[7]</sup>

On rebuttal, Regalado testified that he saw accused-appellant Resty Silva twice in Barangay Ditumabo. The first time was during in the last week of August 1996 at the house of a certain Belo Reyes in Sitio Diaboyo. The second time was around ten o'clock in the morning of September 3, 1996, in Purok Bagong Silang, Brgy. Ditumabo in the house of one Manang Tunay Esperancilla.<sup>[8]</sup>

SPO4 Maximo Galope, police investigator on duty at San Luis, Aurora, narrated that around eight thirty in the morning of September 4, 1996, a barangay tanod arrived in the police station and reported that the body of Manuel Ceriales was found dead. The police then formed a team composed of witness, SPO4 Antonio Mendigoren, SPO3 Andrada, SPO3 Eligio Fernandez and several other police officers. They proceeded to the crime scene to investigate and saw a body lying on its stomach. Both hands were tied behind the back and the head was severed. Edmundo Ceriales identified the body as that of his brother Manuel. They brought the body to the roadside and summoned Dr. Pura Valenzuela-Uy who conducted the autopsy.<sup>[9]</sup> Upon information from Edmundo that the perpetrators were a certain Resty Silva, Jun-jun Flores and Rodolfo Sandangao, they proceeded to the house of the latter but did not find Sandangao. He was later found hiding in a hut at a citrus plantation. Upon seeing Sandangao, Edmundo asked him, "bakit ganon ang ginawa mo?" Sandangao was brought to the police headquarters in San Luis. A few days after, the police received a report that the head of Manuel Ceriales was found.<sup>[10]</sup>

SPO4 Antonio Mendigoren, OIC police commander at San Luis PNP, corroborated the testimony of SPO4 Galope and testified that at around eight thirty in the morning of September 4, 1996, councilman Bihasa of Brgy. Ditumabo reported that a certain Manuel Ceriales was abducted and found in the copra kiln of a certain Lucing Querijero. A police team was formed and, together with barangay officials and Edmundo Ceriales, they proceeded to the place of the incident. They saw a headless body with hands and feet tied with a rope. The body was identified by Edmundo as that of his brother Manuel. Using an improvised stretcher, they brought the body down the roadside where a certain Dr. Uy conducted an autopsy.<sup>[11]</sup> The police, together with Edmundo, proceeded to the house of one of the suspects, Rodolfo Sandangao who was apprehended and brought to the police station. In coordination with the police officers in Baler, the head of Manuel Ceriales was recovered five days after. Accused-appellant Resty Silva was thereafter arrested in Cabanatuan City through the help of the Nueva Ecija police. Accused-appellant Jun-Jun Flores, however, managed to escape.<sup>[12]</sup>

The prosecution also presented SPO3 Eligio Fernandez and SPO3 Waldo Andrada as witnesses but the defense agreed to stipulate that their testimonies merely corroborate the testimonies of SPO4 Galope and Mendigoren in connection with the

investigation and arrest of accused-appellant Sandangao, the identification of accused-appellant Silva and the recovery of the headless body of Manuel Cerialles.  
[13]

Finally, Dr. Maria Pura Valenzuela-Uy, rural health physician of San Luis, Aurora, testified that around eleven thirty in the morning of September 4, 1999, she was summoned to conduct a medico-legal examination on the cadaver of the victim Manuel Cerialles inside a barangay station in Sitio Diaboyo. The decapitated body was already in a state of rigor mortis. Both hands and feet were tied by a black rope and the body bore shallow stab wounds over the left shoulder and in the epigastric area. Dr. Uy concluded that the cause of death was hyperbolic shock secondary to decapitation and at the time of examination, the victim might have already been dead for more than ten (10) hours.  
[14]

The evidence for the defense, on the other hand consisted of the testimonies of accused-appellants Resty Silva and Rodolfo Sandangao; Cipriano de Francisca; Ricardo Silva; and Bernardito Alzona.

Accused-appellant Rodolfo Sandangao alleged that around eight thirty in the evening of September 3, 1996, he was at home with his family in Brgy. Ditumabo, San Luis, Aurora when Jun-jun Flores and a man carrying an armalite gun arrived. He was ordered at gunpoint to accompany them to the house of Manuel Cerialles under threat that his family would be killed if he did not cooperate. Upon reaching Manuel's house, Flores and the armed man ordered everyone to lie face down. The Cerialles brothers were then asked to come out. When Edmundo and Manuel were already outside, Flores ordered him (Sandangao) to tie them. They proceeded to the land owned by Lucing Querijero where Edmundo and Manuel were separated. He was ordered by the armed man to guard Edmundo and to tie his feet. When Edmundo managed to escape, Sandangao also ran away towards Nestor Aguila's citrus plantation. Manuel Cerialles was left in the coconut plantation of Querijero with Flores and the armed man. Sandangao spent the night inside a hut because he was too afraid to go home.  
[15] The following morning, the owner of the plantation arrived and asked him to gather coconuts. While he was working, the police officers arrived asking him to point to them the location of the head of Manuel Cerialles. He denied that he knew anything about the incident so he was brought to the police station. He claimed that he did not recognize the man carrying the gun that night and met accused-appellant Silva for the first time when the latter was incarcerated.  
[16]

Accused-appellant Resty Silva also denied the charges against him. He claimed that on the night of the incident, he was in the house of his brother Ricardo Silva in the compound of the National Mental Hospital in Mandaluyong City playing "tong-its" with security guards Alsona and Cifriano.  
[17] From May 1996 to September 3, 1996, he had no occasion to be in San Luis, Aurora because he was staying with his brother in Mandaluyong who worked as a security guard in the said hospital.  
[18] He was about to return to San Luis when he was arrested in Cabanatuan City. He was brought to the Aurora Provincial Jail where he met accused-appellant Sandangao for the first time.  
[19] He denied the accusations against him and claimed that he did not know the Cerialles brothers and the other two accused, Flores and Sandangao.  
[20]

Ricardo Silva, brother of accused-appellant Resty Silva, testified that he and his family resided inside the compound of the National Mental Hospital in Mandaluyong