

SECOND DIVISION

[G.R. No. 136731, January 18, 2001]

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
CESAR ROBLES Y COMBATE, ACCUSED-APPELLANT.**

D E C I S I O N

MENDOZA, J.:

This is an appeal from the decision,^[1] dated April 14, 1998, of the Regional Trial Court, Branch 12, Lipa City, finding accused-appellant Cesar Robles y Combate guilty of murder and sentencing him to suffer the penalty of *reclusion perpetua*, to indemnify the heirs of Antonio Lumbera in the amount of P50,000.00 for his death, and to pay to the said heirs the amount of P44,000.00 as actual damages, P20,000.00 as moral damages, and the costs.

The information^[2] against the accused-appellant alleged:

That on or about the 4th day of April, 1987 at about 11:30 a.m. at P. Torres Street, Lipa City, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, while armed with bladed weapon (*balisong*), with intent to kill, without justifiable cause, with treachery and evident premeditation, did then and there willfully, unlawfully, and feloniously attack, assault and stab with said deadly weapon one ANTONIO LUMBERA suddenly and without warning, thereby inflicting upon the latter stab wound on the abdomen which directly caused his death.

CONTRARY TO LAW.

When arraigned, accused-appellant pleaded not guilty,^[3] where-upon trial was held.

The prosecution presented as witnesses Naxinsino Lumbera, the attending physician Dr. Nemesio K. Villa, and Josefa Robles. Accused-appellant testified in his own behalf.

Lumbera is a nephew^[4] of the deceased. He testified that on April 4, 1987, at 11:30 a.m., he was at a jeepney terminal on P. Torres St., Lipa City, waiting for a ride home to San Francisco, Lipa City. According to him, he saw the victim Antonio Lumbera hanging on to the rear portion of a jeepney which was bound for San Celestino when accused-appellant Cesar Robles came from behind and stabbed him (the victim) once on his right chest with a *balisong* and then ran away.^[5] Lumbera claimed he was four meters away from the victim when the incident happened. According to him, his uncle fell to the ground and was later taken to the Villa Hospital in Lipa City by other onlookers. After going to the hospital, he went to the barrio to inform their relatives of the incident.^[6]

Dr. Nemesio Villa attended to the victim. The victim was operated on, but he went into cardiac arrest and died shortly thereafter.^[7] Dr. Villa testified ten years after the incident. For this reason, he said that in testifying he was relying on what remained of the medical records of the case and that, based on these records, the victim died of two stab wounds: one on the left chest wall and the other at the back, to the left of the posterior mid-line.^[8]

The victim's widow, Josefa Robles, testified as to the amount spent on funeral expenses. However, all she could present was a list she dictated to her daughter. She could not show any receipt as proof of the alleged transactions.

As already stated, accused-appellant testified in his defense. He denied having killed Antonio Lumbera. He claimed that at 7:30 in the morning on April 4, 1987, he was in Dallas Mountain in Labo, Camarines Norte, mining for gold. His daily schedule was going home to Barangay Masalong, Labo, Camarines Norte at 11:30 for lunch and returning to the mine at 1:30 in the afternoon.^[9] Accused-appellant claimed that to go from Labo, Camarines Norte to Lipa City and back would take about one day of travel.^[10]

Accused-appellant claimed that he and Naxinsino Lumbera, the sole eyewitness, were not in good terms. According to accused-appellant, Naxinsino harbored some resentment against him because Naxinsino used to buy coconuts harvested from the land of accused-appellant's father, but because he was unable to pay a huge debt incurred in 1996, accused-appellant took his place as buyer of coconuts.

On April 14, 1998, the trial court rendered its decision, the dispositive portion of which reads:

WHEREFORE, the court finds the accused, CESAR ROBLES y COMBATE, guilty beyond reasonable doubt, as principal by direct participation, of the crime of Murder, as defined and penalized under Article 248 of the Revised Penal Code and sentences him to suffer the penalty of Reclusion Perpetua, to indemnify the heirs of Antonio Lumbera in the amount of P50,000.00 for his death, to pay the amount of P44,000.00, as actual damages, to pay the amount of P20,000.00 as moral damages and to pay the costs.^[11]

Accused-appellant contends that the trial court erred: (1) in giving credence to the testimony of Naxinsino Lumbera; (2) in rejecting the defense of alibi interposed by him which is more credible; and (3) assuming *arguendo* that accused-appellant killed the victim, in holding that there is sufficient evidence to prove that the killing was attended by the qualifying circumstance of treachery so as to render him liable for murder.

We find this appeal to be well taken.

First. Naxinsino Lumbera's testimony says too little too late. Lumbera did not give any statement to the police despite the fact that he allegedly saw the killing of his uncle. For ten years he kept quiet about the incident. Although he explained it was because he was afraid, there is no evidence that accused-appellant or anyone acting