

THIRD DIVISION

[G.R. No. 128089, February 13, 2001]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
DOMINADOR VELASCO ALIAS "ADOR," ACCUSED-APPELLANT.**

D E C I S I O N

VITUG, J.:

An inglorious case of marital altercation eventually led to the unanticipated death of an alleged unfaithful spouse. Was it an impassioned shame that spurred the victim to take her own life, or was it because of a belief of his wife's infidelity that might have moved the accused to perpetrate the condemnable deed?

The accused was indicted for parricide under Article 246 of the Revised Penal Code in an information that read:

"That on or about October 27, 1990, in the Municipality of Sto. Tomas, Province of La Union, Philippines, and within the jurisdiction of this Honorable Court, the said accused, did then and there willfully, unlawfully and feloniously and with evident premeditation, that is having conceived and deliberated to kill his wife, Prescilla B. Velasco, with whom he was united in lawful wedlock, armed with a wood and attack, assault, clubbed his wife repeatedly, and with treachery by employing means, manner and form in the execution thereof, which tended directly and specially to insure its commission without danger to the person of said accused, the result of which attack was that the said Prescilla B. Velasco received several mortal wounds in her body which directly caused her death."^[1]

Assisted by counsel *de parte*, the accused pled "not guilty" at his arraignment.

Accused Dominador Velasco and victim Priscila Velasco were married way back on 24 July 1976.^[2] The union begot seven children.

In the morning of 27 October 1990, between 10 o'clock and 11 o'clock, Noel Basco, the then incumbent barangay captain of Ambitacay, Santo Tomas, La Union, was occupied with planting watermelon in his farm when Ped Velasco, a brother of the accused, came by and mentioned an on-going quarrel between the accused and the victim.

In the afternoon of the same day, Crisanto Boado, a thirteen-year old country lad, was on his way to a nearby store in Patac, Sto. Tomas, La Union, to buy a bag of sugar when from a distance of ninety to one hundred meters, he saw the accused, armed with a piece of wood of about 2 feet in length and 3 inches in diameter, aggressively pursuing the victim who was just about two-and-a-half meters away from him. The scene was plain enough for Crisanto to see being way up at the top of

the hill overlooking the clashing couple. Crisanto, however, could not tell whether the accused was finally able to catch up with the victim because the two eventually reached a place covered by tall grasses that obscured his view. Crisanto did hear the accused shouting at the top of his voice. "I will kill you now, I will kill you now" while the victim was desperately calling for help.

Later that afternoon, Priscilla Velasco was found dead. Rumors quickly spread that she had killed herself by drinking poison. Dr. David Villanueva, Jr., the physician detailed at the Rural Health Unit (RHU), Sto. Tomas, La Union, examined the remains of the victim and prepared the certificate of death stating that the deceased had died of poisoning. He confessed, however, that he did not perform an autopsy on the cadaver and that he had come up with his conclusion only after noticing a small amount of brownish fluid oozing from the victim's mouth with the characteristic smell of insecticide. Although he did not notice any injury or external manifestation of abrasion or hematoma, Dr. Villanueva admitted, in any case, that his findings were inconclusive.

With the nagging doubt as to what really could have caused his daughter's death, as well as particularly aware that the accused had often maltreated his wife, Veronico Basco decided to have the body undergo an autopsy. Dr. Arturo Llavore, the medico-legal officer of the National Bureau of Investigation (NBI), Regional Office, responded favorably to the request and the body was exhumed following the issuance of a permit therefor from the Department of Health.

The autopsy, conducted on 16 November 1990, revealed that the victim had suffered from abrasions on the right side of the face, including the jaw; hematoma on the back portion of the head at the left posterior portion; hematoma on the skull; contusions on the left side of the back portion of the body and on the back portion of the left upper extremities; contused abrasion on the arm and forearm; and contusion on the right forearm. Dr. Llavore concluded that the victim died of shock, secondary to multiple traumatic injuries, and opined that the wounds could have likely been caused by physical contact with a hard object like a piece of wood or wooden club. Samples of the victim's brain, heart, kidney, spleen, lungs, liver, and pancreas were taken to the Medico Legal Laboratory in Manila for histopathological and toxicological examinations. Dr. Nieto M. Salvador, a medical specialist of the NBI, conducted the histopathological examination and arrived at the finding that the victim had died of congestion and edema of the visceral organs. Toxicology Report No. T-90-3324^[3] prepared by NBI Forensic Biologist II, Dr. Beverly A. Vidanez, indicated that no trace of poisonous substances was detected in the body of the victim.

The accused disclaimed responsibility for his wife's death. He recalled that on 27 October 1990, at or about 7 o'clock in the morning, he was on his way to work when he was abruptly taken by utter shock. From a distance of about seventy to eighty meters, he saw his wife having sexual intercourse with a certain Mariano Erquiza, both starkly naked, at the edge of a tobacco seedlings area. He stood motionless as he watched the adulterous interlude. After satisfying their carnal desires, the paramour put on his clothes and began descending towards the east. It was then when the accused started to chase him that lasted for two hours. Unsuccessful, and deciding to instead go home, he came across his brother Romeo Velasco and recounted to him what had happened. He stayed in the house of Romeo, with the latter's wife to keep him company, until 4 o'clock in the afternoon when he

unexpectedly heard people shouting. The accused and his brother rushed out only to learn of his wife's unexpected demise.

The defense presented, next and last, witness Elpidio Eisma who testified that on 27 October 1990, about 3 o'clock in the afternoon, while he was about to unwind the rope attached to his carabao, he heard somebody yell from the hilltop. He hurriedly proceeded to the place, and there he saw Rosita Eisma and another neighbor massaging the victim's stomach. Rosita told him that the victim had poisoned herself.

From the web of circumstantial evidence, the Regional Trial Court, Branch 32, of Agoo, La Union, rendered a judgment of conviction; it held:

"WHEREFORE, in view of all the foregoing considerations, this Honorable Court hereby finds the accused DOMINADOR VELASCO alias "ADOR" GUILTY beyond reasonable doubt for the crime of Parricide contrary to Article 246 of the Revised Penal Code. The accused is hereby sentenced to suffer the penalty of RECLUSION PERPETUA, indemnify the heirs of the victim in the amount of P50,000.00 and to pay the cost of the proceedings."^[4]

Elevating the case to this Court, the accused ascribed to the court *a quo* a sole assigned error; viz:

"THE TRIAL COURT ERRED IN DISREGARDING THE EVIDENCE SUPPORTING THE FACT THAT THE VICTIM COMMITTED SUICIDE BY POISONING HERSELF AND WAS NOT KILLED BY THE ACCUSED."^[5]

Accused-appellant denied having pounced upon the victim, claiming that he never left his brother's house from 10 o'clock in the morning up until 4 o'clock in the afternoon of the fateful day, and suggesting that the victim might have opted to take her own life because of the scandal and shame she had put herself into.

But not a trace of poison was detected in any part of the victim's body. Even Dr. Villanueva acknowledged the inconclusiveness of his cursory finding that the victim must have taken her own life, his opinion being based mainly on the speculation in the neighborhood that the victim drunk some poisonous substance. He might have actually smelled insecticide in the victim's mouth the day she died; however, he himself conceded that it could have been possible that the substance was just poured through the victim's mouth soon after she breathed her last. Suicide, in any event, was finally ruled out following the results of the histopathological and toxicological examinations on the body of the victim conducted by NBI experts. The body itself had borne witness to the deadly torment it went through which exposed several abrasions and contusions that would completely negate the suicide theory.^[6]

It should bear to underscore that the individual qualifications of the medico legal officer and forensic biologist, the expert witnesses presented, remained unassailed.

Interestingly, the defense failed to place at the witness stand the brother or the sister-in-law of the accused who could have corroborated his *alibi*, a fatal omission if, indeed, his claim should deserve any weight. No undue bias or ill motive had been attributed to the prosecution witnesses that would have impelled them to falsely