

FIRST DIVISION

[G.R. Nos. 133815-17, March 22, 2001]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
EDGARDO LIAD Y BEIGAR AND JUN VALDERAMA Y CASPE,
ACCUSED-APPELLANTS.**

D E C I S I O N

KAPUNAN, J.:

On the night of February 28, 1996, at around 7:00 in the evening, Lydia Cuenca was driving her Tamaraw FX along Commonwealth Avenue, Quezon City. Immediately behind the FX in his own vehicle was Lydia's husband Manuel. Seated beside Manuel in the car was the latter's employee, Larry Buseron. Manuel and Larry had just come from the store and were on a convoy with Lydia on their way home.

Upon reaching the corner of Don Enrique Subdivision and Commonwealth Avenue, Lydia made a full stop to make a U-turn. Three (3) men then approached her vehicle, banging on the door to force it to open. Unsuccessful, the man on the left of the vehicle pulled out a gun and pulled the trigger, hitting one of the windows as well as Lydia's left shoulder. One of the men also shot the other side of the vehicle but it hit Manuel's car instead. Still unable to open the FX's door, one of the men broke the window of the right door using the butt of a gun.

Finally succeeding, the men boarded the vehicle. Manuel heard another shot which hit his wife's nape. Manuel bumped the rear of the FX, hoping to startle the culprits. The bump did not startle them as Manuel hoped. The men sped off aboard the FX, heading north with Lydia. The whole incident took around five (5) to ten (10) minutes.

Manuel got out of the car and tried to pursue the FX. Larry Buseron also wanted to help but could not get out of the car, which was locked. Manuel went back to his car to follow the FX. Alas, his car broke down. Manuel ordered Larry to go back to their store, presumably owned by Manuel, and get help. Manuel for his part rushed to another store around a hundred meters away also to ask for help. The people in the store went to the police station to report the hold-up. Manuel went home to get another car and catch up with the FX.

In the meantime, Larry did not find anyone in their store so he went to the police station by himself. A police officer told him that they would have to talk to Mr. Cuenca. Larry said he would look for him.

Larry returned to the scene of the crime but did not find Manuel there. Larry waited and looked after the car. After several minutes, Manuel arrived and instructed Larry to watch over the vehicle. He informed Larry that Mrs. Cuenca was at Ilang-Ilang Street.

Meanwhile at Police Station 6, Commonwealth Avenue, the desk officer, SPO Bernarte, received a telephone call from a concerned citizen informing them that a robbery-hold-up was in progress along Commonwealth Avenue. The desk officer immediately dispatched SPO4 Raul Espejon, SPO1 Ricardo Inamac, SPO2 Faustino and SPO1 Diaz. Before they could leave the police station, however, their office received another report from Batasan Hills Barangay Captain Arturo Ison regarding the same incident.

The police thus proceeded to Commonwealth Avenue and Ilang-Ilang Street where they saw the victim, Lydia Cuenca, lying on the front door of the Tamaraw FX. SPO4 Diaz and SPO1 Faustino brought the victim to the hospital while the rest of the force proceeded to the Trans-World Compound along Filinvest Road, about 400 yards from Ilang-Ilang Street. A security guard as well as members of the barangay commando informed them that the three suspects were in the compound.

Upon approaching the suspects, the police were met with a barrage of gunfire. The police returned fire. The exchange lasted a few minutes until one of the suspects, a certain "Baeng," was hit. Baeng sprawled to the ground, still holding his .38 calibre *paltik*. Accused-appellants, who were hiding behind the banana plants, then surrendered to the police.

SPO4 Espejon immediately apprehended accused-appellant Jun Valderama and disarmed him of his .38 calibre *paltik* revolver. He also recovered Baeng's gun.

SPO1 Inamac arrested the other accused-appellant, Edgardo Liad, and confiscated the latter's firearm, likewise a .38 *paltik* revolver. SPO1 Inamac also recovered the victim's jewelry and wallet, which was pointed to by Liad. The victim's bag was wedged in the trunk of a banana plant. The police brought the accused-appellants to the police station while Baeng, who was gasping for breath, was rushed to the Fairview Hospital.

Back at Commonwealth Avenue, Manuel came upon his wife's FX at the corner of Commonwealth Avenue and Ilang-Ilang Street, abandoned and bloody. A horde of people milled around the vehicle. Manuel asked them where the victim was and a police officer informed him that she was rushed to the Fairview Hospital. Manuel proceeded to the hospital and arrived there only to find his wife of 30 years already dead. She was 53.

Suddenly, a wounded person accompanied by a police officer arrived at the hospital. Manuel recognized him as one of the hold-uppers. He asked one of the police officers what the man's name was. The police officers told him that, per reference to the man's ID, the man's name was "Baeng." Five (5) to ten (10) minutes later, Baeng, too, breathed his last.

Manuel headed to the police station where he recognized the two other persons who accosted his wife in police custody. A police officer showed Manuel the articles they recovered from the perpetrators, including Lydia's blue shoulder bag, cash amounting to more than P15,000.00, pieces of jewelry, bank books, calling cards, ATM cards and other personal items.

Dr. Alvin David, Medico-Legal Officer of the National Bureau of Investigation (NBI),

conducted an autopsy on the victim's remains. From the examination, Dr. David concluded that a gunshot wound was the victim's cause of death. He found two gunshot wounds, one located at the posterior chest at the back of the victim and the second on the victim's left arm. The second gunshot wound exhibited an area of tattooing, leading Dr. David to deduce that the muzzle of the gun must have been less than 36 inches from the victim. Both wounds were fatal. Dr. David's findings are embodied in Autopsy Report No. N-96-42.^[1]

Elmer Nelson Piedad, also of the NBI, conducted a ballistic examination on the two (2) bullets recovered by Dr. David on the victim's body. His findings and conclusions are contained in Report No. FID-123-92-29-96 (N-96-458) dated March 6, 1996:

1. To determine the caliber and type of firearm from which the evidence bullets marked "LD-1" and "LD-2" were fired.

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- a. Evidence marked "LD-1" is a deformed caliber .38 lead bullet and was fired through the barrel of a caliber .38 firearm with riflings twisting to the right.
 - b. Evidence marked "LD-2" is deformed caliber .38 copper coated lead bullet and was fired from a caliber .38 firearm. No determination could be made as to the type of firearm from which it was fired due to its deformed and scratched conditions.
2. Comparative examinations made between the evidence bullets marked "LD-1" and "LD-2" revealed that evidence bullet marked "LD-2" does not possess sufficient individual characteristics markings that could be used as basis for a definite identification due to its deformed and scratched conditions.^[2]

Accused-appellants Edgar Liad and Jun Valderama were subsequently charged before the Regional Trial Court of Quezon City with Robbery with Homicide, defined and punished by Article 293 of the Revised Penal Code, as amended, in relation to Article 294 thereof. The information in Criminal Case No. Q-96-65118 reads:

That on or about the 28th day of February, 1996, in Quezon City, Philippines, the above-named accused, with intent to kill, did then and there, wilfully, unlawfully, and feloniously assault, attack and employ personal violence upon the person of LYDIA DY-CUENCA in the following manner, to wit: on the date and in the place aforementioned while herein victim was driving her Tamaraw FX bearing plate No. TPD-522, cruising Commonwealth Avenue near cor. Don Enrique Heights, Brgy. Holy Spirit, this City, accused pursuant to their conspiracy, flagged down the victim's vehicle but when the latter refused to open her car, accused armed with handguns fired two successive shots at the windshield, hitting the said victim, causing her to sustain serious and mortal wounds which was the immediate cause of her untimely death; that immediately thereafter, accused boarded the said vehicle and upon reaching Ilang-Ilang St., Brgy. Batasan Hills, this City, abandoned the said car afterwhich they

took, robbed and carried away cash money in the amount of P15,090.00 and valuable items all valued in the amount of P170,000.00 Philippine Currency, belonging to LYDIA DY-CUENCA, all in the total amount of P185,090.00 to the damage and prejudice of the heirs of said LYDIA DY-CUENCA.^[3]

Accused-appellants were also charged in the same court with one count each of Illegal Possession of Firearm, defined and punished by Section 1 of Presidential Decree No. 1866,^[4] as amended. In Criminal Case No. Q-96-65119 against accused appellant Edgardo Liad, the information alleged:

That on or about the 28th day of February 1996 in Quezon City, Philippines, the said accused without any authority of law, did then and there wilfully, unlawfully and knowingly have in his/her possession and under his/her custody and control one (1) caliber .38 paltik snob nose revolver, without serial number, loaded with two (2) spent shell and three (3) live ammunitions without first having secured the necessary license/permit issued by the proper authorities.^[5]

In Criminal Case No. Q-96-65120, the information charged accused-appellant Jun Valderama as follows:

That on or about the 28th day of February 1996 in Quezon City, Philippines, the said accused without any authority of law, did then and there wilfully, unlawfully and knowingly have in his/her possession and under his/her custody and control one (1) caliber .38 paltik Revolver without serial number, loaded with two (2) spent shells and three (3) live ammunitions, without first having secured the necessary license/permit issued by the proper authorities.^[6]

Upon arraignment, accused-appellants pleaded not guilty to all the above charges.

The prosecution presented, among other evidence, the testimonies of Manuel Cuenca,^[7] SPO4 Raul Espejon,^[8] PO3 Rudy Peralta,^[9] Larry Buseron,^[10] SPO1 Ricardo Inamac,^[11] Dr. Alvin David^[12] and Elmer Nelson Piedad,^[13] from which the foregoing narration of facts was culled. The deceased's son Manuel, Jr. was also presented to prove the civil liability of accused-appellants.^[14]

Accused-appellants offered denial as their defense.

Accused-appellant Jun Valderama, 23, married, a vendor of garlic and other spices, and a resident of Diliman, Quezon City, claimed that on February 28, 1996, he was in Batasan Hills selling his wares. At around 5:00 p.m., Valderama was passing by a compound, the name of which he could not recall. He noticed many people in front of the compound. Suddenly, a police officer accosted him. The police officer frisked him and asked him where he lived. Valderama said that he lived in Diliman. The police officer also asked Valderama where he came from. Valderama replied that he had just finished vending his goods.

From the search conducted on Valderama, the police officer recovered a fan knife from Valderama's pocket. Valderama explained in court that he carried the knife for self-defense since he usually passes by the squatter's area. He said that he did not

intend to use the knife for "anything that is not good." The police officer then handcuffed Valderama to the tricycle parked nearby, and told him to wait there. According to the police officer, they were waiting for a person inside the compound. From the police officer's uniform, Valderama was able to identify the officer as "Espejon."

About (30) thirty minutes later, Valderama heard two (2) loud gunshots and another one not so loud coming from the compound, which was about thirty (30) meters away. After a while, the police came out the compound dragging Edgardo Liad. The police brought Liad to the tricycle where Valderama was handcuffed. They unlocked the handcuffs from the tricycle and placed it on Liad such that Valderama and Liad were cuffed together. The accused-appellants were then brought to the police station in Precinct 6.

Valderama was placed in a detention cell while Liad was brought to another room. Twenty minutes later, the police took Valderama out of the cell and brought to the same room where Liad was taken. The latter was placed in the detention cell.

Valderama claimed that while in the room the police tried to force him to admit that he was a participant in the hold-up in Commonwealth Avenue. Valderama denied the accusation, angering the four (4) police officers, all of who were not in uniform. They mauled and tortured him. When Valderama could no longer endure the beating, he finally admitted the crime. It was only then that the officers stopped torturing him.

In court, Valderama averred that he was not provided the services of counsel at the time he was forced to admit the police officers' accusations. He denied having anything to do with the killing of Lydia Cuenca. It was not true that he carried a *paltik* revolver.^[15]

Accused-appellant Edgardo Liad, 26, a laborer and a resident of 194 Saint Andrew Street, Barangay Holy Spirit, Quezon City, admitted his presence at the crime scene but denied any participation therein.

He claimed that at around 2:00 in the afternoon of February 28, 1996, he was watching TV at home when he saw his brother-in-law Felix Forteza together with the latter's friend, Liberato Quintoa. Quintoa was Liad's neighbor from the province, whom he had not seen since 1992.

Liad asked the two to bring him to a movie since they had just received their salaries. Forteza and Quintoa agreed to Liad's request but Forteza said that they had to pass by the office to get his pay. Forteza worked as a security guard in Capital Auto Supply, a business owned and managed by Manuel Cuenca.

The three left the house, took a tricycle then a bus. Forteza left the two in a *carinderia* along Commonwealth Avenue and proceeded to his employer's office. When he came back, he told them that they would have to wait a little longer since his employer was not yet there. Less than an hour later, Liad's companions suddenly blocked a white car in the middle of the street. Liad remained in the *carinderia*. Forteza and Quintoa, who both carried firearms, shot at the vehicle. Quintoa entered the vehicle and took the driver's seat while Forteza sat beside him. Once inside, the two called Liad and told him to board the vehicle. Shocked and confused, Liad did as