

FIRST DIVISION

[G.R. No. 128083, March 16, 2001]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
RODOLFO HILARIO Y MARTINEZ, RODRIGO HILARIO Y
MARTINEZ, AND JOHN DOE, ACCUSED.**

RODRIGO HILARIO Y MARTINEZ, ACCUSED-APPELLANT.

D E C I S I O N

PUNO, J.:

For being at the wrong place at the wrong time, Carlos Reyes, the victim in this case, lost his life. One quiet evening, while relaxing with *his friend* in front of a store, he was subjected to a treacherous assault by two brothers and their cumpadre. It turned out the three mistakenly bent their terror on him - - - the one they really planned to kill was *his friend*.

The two brothers charged with committing this dastardly act were Rodolfo Hilario y Martinez and Rodrigo Hilario y Martinez. Their cumpadre, however, remains unidentified. Together, they were indicted for the crime of murder, committed as follows:

"That on or about the 30th day of October 1990 in Kalookan City, MM, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring together and mutually helping one another, with deliberate intent to kill, with treachery and evident premeditation, did then and there willfully, unlawfully and feloniously and maliciously attack, assault, and stab one CARLOS REYES Y LASCANO thereby inflicting upon the latter serious physical injuries which directly caused his death.

CONTRARY TO LAW."^[1]

Of the triumvirate, only Rodrigo Hilario was apprehended by the authorities. Consequently, only the criminal action against him proceeded. When arraigned, he entered a plea of **not guilty**. Trial then ensued.

The prosecution wasted no time in building its case. It first presented an eyewitness to the entire event: Danilo Manzanares, a watch repairman. At the time of the incident, Danilo was residing at 122 L. Lupa St., Caloocan City, where he maintained a small shop. He testified that in the afternoon of October 30, 1990, at about two o'clock, the accused Rodrigo Hilario, together with his brother Rodolfo, and someone who appears to be their cumpadre (whose name he does not know) went to his house. The first two are his uncles, they being the brothers of his mother. The purpose of their visit was to have the bracelet of Rodolfo's watch restored. While Danilo was busy fixing the bracelet, the three were conversing nearby. He inadvertently heard Rodrigo saying, "Pare, nandyan na ang taong titirahin natin, si

Berong." In response, Rodolfo remarked, "Padilim tayo." After 30 minutes, the three left and proceeded to the Barangay Hall which is only two houses away.

At about 8:30 in the evening, Danilo went to Mang Jack's store, 20 meters away to buy some snacks for his children. There, he saw Berong and the victim Carlos Reyes in front of the store squatting and talking to each other. Both were wearing white shirts. A little later, Berong removed his white shirt. Fate must be smiling on him that night because uncannily, this innocent act would later save his skin at the expense of Carlos.

At this juncture, Danilo saw Rodrigo, Rodolfo and their cumpadre approaching from the other side of the store approximately two arms length from him. Then he saw Rodrigo handing a bolo to his brother Rodolfo and an ice-pick one foot long to their cumpadre, saying at the same time, "The one ***in white shirt.***" In a swift, sudden motion, the cumpadre bluntly stabbed Carlos Reyes on the chest, asking his companions, "*Ito ba?*" By this time, Rodrigo was six arms length away watching the whole incident. Meanwhile, Rodolfo, still holding the bolo, served as a "back-up", standing near his cumpadre. He also shouted "*Walang makiki-alam!*" Carlos, wounded and bleeding, fell on his back. After which, the three ran away in the same direction. Danilo was able to clearly see what transpired because the place was well-lighted by electric lights emanating from the store and the lamp post.

Hurriedly, Danilo left the place out of sheer fright. He went back to his house, feeling confused and shocked. Moments later, somebody knocked at his door. It was Greg Reyes, a business associate, and the father of the victim. A loving parent that he was, Greg just could not accept and understand the tragedy that befell his son as he asked: "Why did your uncles do that to my son?" Danilo could only surmise and said, "It was only a case of mistaken identity, they thought it was Berong, they intended to kill Berong." The next day Greg returned to his house and asked the same question. Danilo gave the same response.

The next few days saw Greg frequenting the house of Danilo. His visits, however, were totally not related to the incident anymore. He would come to discuss their business venture. Still, this arose the suspicion of the brothers Hilario who feared that Danilo would blow the whistle on them. He realized the thickening suspicion when one day Rodrigo brusquely warned him, "*Huwag kang makikialam, huwag kang tetestigo.*" He gave the assurance that he would not favor anyone because they are the brothers of his mother. He also told them that Greg's visits were purely for business. His explanation failed to allay the suspicion of his uncles. On the contrary, it only became more intense. On April 22, 1991, at about 8 o'clock in the evening, Rodrigo waited in ambush and hacked him repeatedly on the head, and left and right arms.

Sensing that the situation was becoming too hot for comfort, Danilo decided to transfer his residence to a far-away place (Balagtas, Bulacan). But he did not permit Rodrigo to avoid his criminal liability. He instituted a case against him for the hacking. Furthermore, he, together with Greg, went to the NBI to file a complaint against Rodrigo and Rodolfo Hilario and their cumpadre for stabbing to death Carlos Reyes.

The prosecution then offered Virginia Reyes, the mother of the victim. She testified on the expenses they incurred in connection with the burial of Carlos. They paid

P10,000.00 to Funeraria Vasquez for the coffin and services, and spent P30,000.00 for the prayers and interment.

Finally, it called the agent-on-the-case NBI Senior Agent Ferdinand Lavin to the stand. The agent testified that he conducted the investigation, took the statement of the complainant and the witnesses, and prepared the investigation report. He also identified the referral letter of the NBI Director addressed to the City Prosecutor recommending the prosecution of the accused for murder.

The defense, for its part, presented a single witness: the accused himself, Rodrigo Hilario. He declared that he is a Barangay Tanod of Barangay 32, Caloocan City. On October 30, 1990, he was assigned on 12-hour duty shift at the Barangay Hall from 6 o'clock in the afternoon up to 6 o'clock in the morning of the following day. He recalled that at about 7 o'clock in the evening, he and the other Tanods responded to a call for assistance from a certain Councilor Tiongson who reported that a suspicious-looking person was in front of his house. When they arrived there, they found no one so they went back to the Hall. A few minutes later, the councilor called them again because this time somebody was making trouble in front of his house. When they arrived, they saw several persons chasing somebody. They deliberately did not intervene as the chase reached Barangay 37, which was already outside their territorial jurisdiction. Instead, they chose to go back to the Hall. At roughly 8:10 in the evening, they received another call from the same Councilor Tiongson who for the third time sought their assistance concerning someone who was creating a scene in front of his home. Upon arriving, they discovered that the person was no longer there. By 2 o'clock in the morning, he, together with five other Tanods, conducted a roving patrol. This lasted until 6 o'clock in the morning.

Rodrigo stated that aside from the reports of Councilor Tiongson, he could not remember any unusual incident which occurred that night. He also never saw Danilo Manzanares the whole evening of October 30. According to him, the testimony of Danilo to the effect that the latter saw him with Rodolfo and his cumpadre, and that he gave them a bolo and an ice pick were pure lies. The reason Danilo might have dragged him in this case was because the former harbored a grudge against him. Rodrigo admitted having a fight with Danilo on April 22, 1991, but disagreed on who started it. Per his account, it was Danilo who treacherously waited and attacked him near the Barangay Hall after he had an argument with the former's wife. At any rate, the criminal case relating to this matter had already been dismissed. In the end, the trial court rendered a judgment^[2] **convicting** the accused. It gave the following sentence:

"When this crime was committed, death penalty was not yet imposed. Republic Act No. 7659 reimposing death penalty took effect only on January 1, 1994.

WHEREFORE, the prosecution having proven the guilt of the accused beyond reasonable doubt, the Court finds the accused RODRIGO HILARIO Y MARTINEZ guilty as principal of the crime of murder, qualified by evident premeditation, and there being present the generic aggravating circumstance of treachery without any mitigating circumstance to offset the same, hereby sentences him to suffer the penalty of reclusion perpetua, together with all the accessory penalties imposed by law, and to pay 1/3 of the costs. He is further sentenced to pay jointly and

severally with his co-accused the amount of P50,000.00 as indemnity for the death of the victim Carlos Reyes, and P30,000.00 for actual funeral expenses, without subsidiary imprisonment in case of insolvency.

x x x

SO ORDERED."^[3]

Dissatisfied with the ruling, Rodrigo interposed this appeal. He continues to reiterate his innocence and assails the decision based on the following assigned errors, to wit:

"I

THE TRIAL COURT ERRED IN GIVING CREDENCE TO STAR WITNESS DANILO MANZANARES' TESTIMONY WHICH WAS OBVIOUSLY FABRICATED AND REHEARSED.

II

THE TRIAL COURT ERRED IN FINDING THE ACCUSED GUILTY BEYOND REASONABLE DOUBT OF THE CRIME OF MURDER DESPITE THE FACT THAT THE STAR WITNESS DANILO MANZANARES TESTIMONY WAS UNCORROBORATED BY THOSE WHO WERE LIKEWISE PRESENT AT THE STORE.

III

THE TRIAL COURT FAILED TO CONSIDER THE ALIBI OF THE ACCUSED THAT HE WAS WITH THE ROVING TEAM OF BARANGAY TANODS ON THAT FATEFUL NIGHT DESPITE THE INHERENT WEAKNESSES OF THE TESTIMONY OF THE STAR WITNESS DANILO MANZANARES WHO ADMITTED HOLDING A GRUDGE AGAINST THE ACCUSED."^[4]

We **affirm** the conviction.

Murder is committed by any person who shall kill another, provided that the killing was attended by any of the qualifying circumstances mentioned in Art. 248 of the Revised Penal Code, and provided further that the killing is not parricide or homicide. The evidence on record reveals that all the three accused, including the appellant, were positively identified by the prosecution witness Danilo Manzanares as the ones who participated in the killing of Carlos Reyes. He could not have been mistaken in ascertaining the identity of the brothers Hilario for the simple reason that they are his uncles. Danilo assured that he could identify the third accused, the cumpadre of the two, if he sees him again.

The evidence also sufficiently demonstrates the existence of conspiracy in the execution of the crime. A conspiracy exists when two or more persons come to an agreement concerning the commission of a felony and decide to commit it. Although as a rule, conspiracy is not a crime, the existence of a conspiracy is decisive in determining whether two or more persons who participated in the commission of an offense are liable as co-principals or accomplices or are exempt from criminal liability. If an express or implied conspiracy is proven, then all the conspirators may