

## EN BANC

[ G.R. No. 136173, March 07, 2001 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
ERNESTO ICALLA Y INES, ACCUSED-APPELLANT.**

### DECISION

#### **QUISUMBING, J.:**

In Criminal Case No. 97-0128, the Regional Trial Court of Pasay City, Branch 109, found appellant Ernesto Icalla y Ines guilty beyond reasonable doubt of the crime of murder and imposed on him the penalty of death. Its decision is now before us on automatic review.

The Information against appellant reads:

That on or about the 20th day of May 1997 in Pasay City, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, Ernesto Icalla y Ines with intent to kill, with evident premeditation and treachery did then and there willfully, unlawfully and feloniously stab with a bladed weapon one Jessie Dalupo y Manalo thereby inflicting upon the latter mortal wounds which caused his death.

Contrary to Law.<sup>[1]</sup>

After appellant entered a plea of not guilty on June 9, 1997.<sup>[2]</sup> Trial on the merits ensued.

The facts of this case are as follows:

Appellant Ernesto Icalla is married to Adelina Icalla with whom he has three children. From 1969 to 1992, appellant worked as a furniture maker in Bantay, Ilocos Sur, until he went to Manila and was employed by Modas Retro Antique Shop at F.B. Harrison St., Pasay City. He left his wife and children behind in the province.<sup>[3]</sup>

Shortly after he arrived in Manila, appellant began co-habiting with Belen Dawal and begot a child with the latter. The two separated in 1995 when Adelina joined appellant in the city and Belen discovered that her live-in partner was actually a married man. However, appellant continued to visit Belen at her house despite the separation, which caused quarrels between appellant and his legal wife.

Occasionally, Belen would sell t-shirts and men's underwear to augment her income. Among those who bought her goods were construction workers in a construction site situated 100 meters away from the place where appellant worked. It was under these circumstances that Belen met the victim, Jessie Dalupo, who was one of her

customers. In February of 1997, Belen and Jessie developed a romantic relationship which did not sit well with appellant. This led to frequent quarrels between appellant and Belen.

Belen testified that in the early evening of May 19, 1997, she and appellant had a quarrel on account of Jessie. After appellant left her house, Belen followed appellant to the construction site where he saw Jessie conversing with Belen's sister and cousin. Appellant thus had an argument with Jessie. Evidently, appellant angrily whipped out a "balisong." When appellant could not be pacified, Belen called appellant's legitimate wife, Adelina, who came and brought appellant home.<sup>[4]</sup>

At about 8:00 P.M. that same evening, appellant returned to the building site. Prosecution witness Arcadio Fermin approached him and blocked his way. Appellant invited Arcadio and another prosecution witness, Wilson Mesiano, for a drink so that they could "understand each other." While drinking at the ground floor of the jobsite, appellant inquired into the whereabouts of Jessie and expressed his wish to confront the latter regarding his relationship with Belen. Appellant asked Wilson and Arcadio to invite Jessie to drink with them, but the two witnesses allegedly told appellant that Jessie was already asleep in one of the unfinished rooms. According to Wilson and Arcadio, appellant also told them that he wanted to vindicate his honor ("*aalisin ko ang dumi sa aking ulo*") because he was being betrayed by Belen ("*pinependeho*"), and that he wanted to meet with the construction foreman to have Jessie removed from employment.

After they finished drinking one bottle of Ginebra gin, Wilson and Arcadio begged to be excused as they had work the following day. To make sure that appellant would not cause any trouble, they escorted appellant home, before the duo returned to the construction site to catch some sleep.<sup>[5]</sup>

Instead of staying home, appellant went back to Belen's house at 2:00 A.M. of May 20, 1997. He again quarreled with her and left after half an hour. Belen locked the door of the house to prevent appellant from entering in case he returned.<sup>[6]</sup>

At around 3:00 A.M., Wilson, Arcadio and another co-worker, Jeramil Eala, were awakened by shouts coming from the room where Jessie was sleeping. They immediately ran towards the place where the shouts came from. They saw appellant, knife in hand, going down the stairs of the building. Wilson and Arcadio claimed that they distinctly saw appellant remove the plywood cover used as makeshift door and dash away from the scene of the crime. All three co-workers maintained that they recognized appellant since the place was well-lit and they were merely 15 feet away when appellant ran away.

Upon returning to Jessie's room, Jeramil, Arcadio and Wilson saw Jessie's bloodied body sprawled on the floor. Wasting no time, Jeramil and another co-worker loaded Jessie into a tricycle and brought him to the Manila Sanitarium Hospital where he was pronounced "dead on arrival."<sup>[7]</sup> Arcadio and Wilson chose to stay behind in the jobsite.<sup>[8]</sup>

At 4:30 A.M., SPO1 Antonio Canoy was summoned to conduct an investigation on Jessie's death. When he arrived at the hospital, he was informed that the suspect was still in the vicinity. Belen and some of the victim's co-workers identified

appellant as the person who killed Jessie and accompanied the police back to where the killing took place. With the assistance of barangay councilors and community youth volunteers, the police apprehended appellant at 5:00 A.M. as he was entering the compound of the Antique Shop, his workplace.

In the course of investigation, SPO1 Canoy was informed that appellant had changed his clothes. The police then sought to retrieve the blue shirt and dark pants allegedly worn by appellant when he attacked the deceased. These were recovered without difficulty at 10:00 A.M. when they were surrendered voluntarily by appellant's wife.<sup>[9]</sup> The soiled garments were subjected to forensic chemical and hematology examination<sup>[10]</sup> and were found positive for the presence of human blood type "B," the victim's blood type.<sup>[11]</sup> The weapon used in the killing was never found.

An autopsy<sup>[12]</sup> of the victim's cadaver conducted by NBI Medico-Legal Officer Bienvenido Muñoz, M.D., revealed the extent of the injuries suffered by the victim. Dr. Muñoz testified in court that Jessie sustained five stab wounds, two of which penetrated the heart, liver and gall bladder and produced massive hemorrhage which led to the victim's death. Except for one wound located on the left thigh, all wounds were inflicted from above going downward. According to the medical officer, a sharp, pointed, single-edged instrument like a "balisong" or kitchen knife<sup>[13]</sup> was used by the killer.

Appellant denied killing Jessie Dalupo, and offered an alibi as his defense. Corroborated by his wife, Adelina,<sup>[14]</sup> appellant stated that on May 19, 1997, he reported for work from 8:00 A.M. to 5:00 P.M. and rendered overtime work up to 10:00 P.M. This was affirmed by the timekeeper of Modas Retro Antique Shop, Roger Quiñones<sup>[15]</sup> who presented a time record book in court. Appellant claimed that contrary to the evidence presented by the prosecution, he wore a green shirt and a pair of red short pants that day. According to appellant, after leaving the factory, he went straight home, slept with his wife and did not wake up until 5:00 A.M. the following day. Next morning, he asked for money from his wife to buy some cigarettes. However, on his way out, SPO1 Canoy and another police officer, Reynaldo Paculan, suddenly pounced on him and pointed a gun at him. Both were wearing civilian clothes and were not armed with a warrant. They handcuffed him, entered his house, and took a blue shirt and a pair of brown pants from his "aparador." He and his wife were then told to prepare P20,000.00 in exchange for the clothes.

Thereafter, appellant was brought in front of the Manila Sanitarium Hospital. Paculan allegedly entered the hospital and took with him the blue shirt and brown pants which were confiscated earlier. When Paculan returned, appellant was surprised to see his clothes stained with blood. Referring to the pieces of clothing, Paculan told appellant "*ito ang papatay sa iyo.*" He was subsequently brought to the police precinct where he was detained.

At the trial, appellant insisted that he did not know the deceased or any of the prosecution witnesses except for Belen. He claimed that there was no truth to the allegation that he became jealous of the deceased. He added that the time of the alleged killing, appellant was no longer involved with Belen, his former paramour.

[16]

Convinced that the evidence of the prosecution satisfactorily met the quantum of proof required for conviction, found appellant guilty beyond reasonable doubt and sentenced him to death. It decreed as follows:

IN VIEW OF ALL THE FOREGOING, the Court finds accused Ernesto Icalla y Ines guilty beyond reasonable doubt for the crime of Murder as defined and penalized under Art. 248 of the Revised Penal Code as amended by RA 7659 and is hereby sentenced to DEATH. He is also ordered to pay P60,000.00 civil liability to the heirs of the victim.[17]

Appellant now urges the Court to acquit him on the ground that the trial court erred in:

## I

...RELYING MAINLY ON CIRCUMSTANTIAL EVIDENCE PRESENTED BY THE PROSECUTION AS BASIS FOR THE CONVICTION OF THE ACCUSED.

## II

...FINDING THE ACCUSED GUILTY BEYOND REASONABLE DOUBT OF THE CRIME OF MURDER AS DEFINED AND PENALIZED UNDER ART. 248 OF THE REVISED PENAL CODE AS AMENDED BY RA 7659.

The main issue for resolution is whether the prosecution's evidence is sufficient for the conviction of appellant for murder and the imposition on him of the death sentence.

At the outset, we note that appellant faults the trial court for its reliance on circumstantial evidence. However, it is well-settled that direct evidence of the commission of a crime is not the only matrix wherefrom a trial court may draw its conclusion and finding of guilt.[18] Conviction may still be proper if factual circumstances duly proven by the prosecution constitute an unbroken chain which lead to a fair and reasonable conclusion that the accused is guilty to the exclusion of all others. To support a conviction based on circumstantial evidence, the concurrence of the following requisites is essential: (a) there must be more than one circumstance; (b) the facts from which the inference of guilt is based must be proved; and (c) the combination of all the circumstances is such as to produce conviction beyond reasonable doubt.[19] Even if there is no eyewitness to the crime, responsibility therefor can be established by the totality of the duly proven facts that yield an inevitable conclusion consistent with the guilt of the accused.

Based on testimonies under oath given in court by prosecution witnesses Arcadio Fermin, Wilson Mesiano, Jeramil Eala and Belen Dawal, the trial court concluded that the following circumstantial evidence proved appellant's complicity in the killing of Jessie Dalupo even if they did not actually witness the assault:

1. That victim Jessie Dalupo had an amorous relation with Belen Dawal, a former live-in partner of accused Ernesto Icalla with whom she has a child;