

FIRST DIVISION

[G.R. No. 126145, April 30, 2001]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
HERMES B. SARMIENTO, RUDY SARMIENTO, AND LOLITA B.
SARMIENTO, ACCUSED. HERMES B. SARMIENTO AND RUDY
SARMIENTO, ACCUSED-APPELLANTS.**

D E C I S I O N

PUNO, J.:

Spouses **Hermes B. Sarmiento** and **Lolita Sarmiento**, and their son, **Rudy Sarmiento**, were charged before the Regional Trial Court of Virac, Catanduanes, with the crime of murder. The Information^[1] against them reads:

"That on or about 3:00 o'clock in the afternoon on April 27, 1993, at barangay Bothoan, Caramoran, Catanduanes, Philippines, and within the jurisdiction of this Honorable Court, the above named accused, conspiring, confederating and mutually helping one another for a common purpose, that is to kill and with **treachery** and **evident premeditation**, did then and there, willfully, unlawfully and feloniously, attack, stab with the use of deadly weapons one Nilo Tablizo hitting him in (sic) several parts of his body which cause(d) his instantaneous death, to the damage and prejudice of the heirs of the said victim.

That this offense is aggravated by the use of **superior strength**.

ALL CONTRARY TO LAW."

The three pled not guilty when arraigned. Trial on the merits ensued.

The records show that on April 27, 1993, at about 3:00 p.m., Lorenzo Eustaquio was on his way to his farm in Bothoan, Caramoran. Walking about ten (10) meters ahead of him were the accused spouses, Hermes and Lolita Sarmiento, accused Rudy Sarmiento and his younger siblings, Ramil and Lorna.^[2]

At about that time, the victim, Nilo Tablizo, his brother, Rodel Tablizo, and their cousin, John Aldave, were in Bothoan fixing a cart parked beside the road in front of the house of Jesus Villareal. When accused Hermes Sarmiento neared the victim, the former suddenly grabbed the collar of the victim's shirt and stabbed the latter. At the same time, accused Hermes Sarmiento told accused Rudy^[3] Sarmiento to stab the victim. Accused Rudy Sarmiento lunged at the victim and stabbed the latter several times on the different parts of his body.^[4] Although wounded, the victim managed to break free from the two accused. He wobbled towards a coconut

plantation near the mountains and collapsed on the grassy ground, about ten (10) meters away from the place where he was initially attacked.^[5]

Rodel Tablizo and John Aldave were about five (5) meters away from the victim when the stabbing incident took place. Rodel Tablizo pled for his brother's life, but the two accused chased him and Aldave. When the accused failed to catch up with Rodel Tablizo and Aldave, they again vented their wrath on the victim. They took turns in stabbing the victim before finally fleeing.^[6] After the accused left, Rodel Tablizo returned to the crime scene. He found the victim already dead.^[7]

At about 8:00 p.m, the victim was brought to the district hospital of Pandan. The medico-legal certificate^[8] issued by the attending physician, Ma. Theresa Mariano, showed that the victim died due to hemorrhagic shock secondary to multiple stab wounds. The victim sustained eight (8) puncture wounds and four (4) incise wounds on the different parts of his body. Two (2) wounds inflicted on the victim's chest were fatal.^[9]

It appears that before the stabbing incident, the missing carabao of the Tablizos was found in the possession of the Sarmientos. The Tablizos reported the matter to the authorities. The report allegedly infuriated accused Hermes Sarmiento. He threatened that one of the Tablizos would be killed.^[10]

Perfecto Tablizo, the father of the victim, testified that he spent approximately P50,000.00 for the wake and burial of the victim and another P50,000.00 for the prosecution of the accused.

On the other hand, the defense evidence shows that on April 26, 1993, accused Hermes Sarmiento and his family attended the *barangay* fiesta of Balangonan, Pandan, Catanduanes. In the afternoon of the following day, April 27, they headed for home. Accused hired Eduardo Manabat's tricycle to take them to Tucao.^[11] A certain Allan Alpon rode with them. When they reached Bothoan, Manabat asked his passengers to alight because his tricycle could no longer negotiate the rough road to Tucao. Accused Hermes Sarmiento and his family proceeded towards Tucao on foot while accused Rudy Sarmiento was left behind to settle their fare.^[12]

As they were walking along the road in Bothoan, accused Hermes Sarmiento saw the Tablizo brothers and John Aldave in front of Jesus Villareal's house. The victim confronted accused Hermes Sarmiento about the barbed wire enclosing the ricefield that was being farmed by the latter. In the past, accused Lolita Sarmiento had caught the victim destroying the barbed wire. The victim wanted to know if accused Hermes Sarmiento was slighted by what he did. Accused Hermes Sarmiento claimed he was not angry, but he asked the victim why he destroyed the barbed wire. Irked, the victim called accused Hermes Sarmiento a cattle rustler. When the accused denied the charge, the victim retorted, "You're tough!" and boxed the accused twice. The accused fell on the ground and was helped by co-accused Lolita Sarmiento to get up. They sought refuge in the house of Jesus Villareal.^[13] Ten (10) minutes later, accused Rudy Sarmiento came and told accused Hermes and Lolita Sarmiento that he accidentally stabbed the victim. They immediately left Bothoan.^[14]

After trekking a distance of almost 100 meters, accused Hermes Sarmiento saw policeman Dandoy Azanza riding a motorcycle. He signaled Azanza to stop but was ignored. After walking for another 100 meters, accused again saw Azanza with policeman Alfredo Talan. He told them that his son had stabbed someone. The policemen took custody of accused Rudy Sarmiento.^[15]

Accused Hermes Sarmiento denied ordering his son to stab the victim. Accused Lolita Sarmiento also denied that she gave the bladed instrument used by accused Rudy Sarmiento in stabbing the victim. She likewise denied that she ordered her son not to let the victim live.^[16]

Accused Rudy Sarmiento who alone owned to the killing claimed that it was done in self-defense and in defense of his father. He testified that he merely ran to his father's succor. However, the victim boxed him, hitting his face. He retreated but the victim delivered another fist blow on his abdomen. The victim tried to hit him a third time but missed. In self-defense, he stabbed the victim on the chest using the knife in his pocket.

Still, the victim continued to advance towards him. He parried the continuing attack by the victim using his knife. After the victim collapsed on the ground, he went to the house of Jesus Villareal and informed his parents that he accidentally stabbed the victim. They immediately left and headed for home. Along the way, they met policeman Dandoy Azanza. They reported the stabbing incident to him.

Allan Alpon was a co-passenger of the accused in the afternoon of April 27, 1993. He corroborated the story that the victim boxed accused Hermes Sarmiento on the head. Accused Lolita Sarmiento helped her husband Hermes get up, but the victim again boxed Hermes on the abdomen. When accused Rudy Sarmiento ran towards his father to help, the victim gave him a fist blow. Accused Rudy Sarmiento grappled with the victim and when they separated, blood oozed from the victim's chest.

Felipe Fernandez, Jr. claimed that in the afternoon of April 27, 1993, he was riding his motorcycle on his way to Pandan. He saw a "tall man" later identified as Nilo Tablizo, about 5'9" or 5'10" in height, box accused Hermes Sarmiento on the head and on the stomach. The "tall man" also boxed accused Rudy Sarmiento when the latter approached the former. He then saw accused Rudy Sarmiento stab the "tall man" on the chest. Shocked, he immediately went home.^[17]

The prosecution presented Jesus Villareal as a rebuttal witness. He denied that accused Hermes Sarmiento and Lolita Sarmiento were in his house on April 27, 1993. However, he admitted that the commotion took place in front of his house. The victim is his relative.

Rebuttal witness Sonny Yuga testified that the victim was shorter than accused Hermes Sarmiento. He referred to an identification card of the victim showing his height was 5'4".

Another rebuttal witness was policeman Alfredo Talan of the Caramonan Municipal Jail. He testified that while accused Rudy Sarmiento was detained at the municipal jail, Rudy never told him that his parents did not participate in the stabbing incident.

On December 1, 1995, the trial court rendered its decision convicting accused Hermes and Rudy Sarmiento for Murder and acquitting Lolita Sarmiento on reasonable doubt. The trial court held:[18]

"The testimonies of Rodel Tablizo, Lorenzo Eustaquio and John Aldave, all eyewitnesses, clearly showed to the court the manner by which accused Hermes and Rudy Sarmiento stabbed to death Nilo Tablizo. The testimonies of these three eyewitnesses were in accord in showing to the court how Nilo Tablizo was killed from the inception of the attack by the two accused above-mentioned.

They testified that **accused Hermes, upon seeing Nilo Tablizo beside the road in Bothoan, immediately approached him and from behind, collared Nilo Tablizo and stabbed Nilo on the chest.** He shouted to his son Rudy to stab Nilo also and the two of them took turns in stabbing Nilo. They even continued stabbing Nilo who was already sprawled on the ground until he died.

Clearly, the prosecution was able to prove treachery to be attendant in the killing of Nilo Tablizo which qualified it to Murder. It was held in People v. Literado G.R. No. 77114 27 May 1992 and People v. Tinampay G.R. 80658 March 23, 1992 that 'Treachery is present when the offender commits any crime of the crimes against persons by employing means, methods or forms in the execution thereof, which tend directly and specially to insure its execution without risk to himself arising from the defense which the offended party might make.'

The attacks (sic) on Nilo Tablizo by Hermes and Rudy Sarmiento was sudden and unexpected that the former was not given a chance to defend himself as he was caught unaware.

The denial of accused Hermes Sarmiento that he was boxed by Nilo Tablizo and that he did not stab Nilo Tablizo does not wash or holds no water. Likewise, the claim and admission of Rudy Sarmiento that he was the only one who stabbed to death Nilo Tablizo was a desperate act to save the neck of his father Hermes. The three eyewitnesses' account of the killing of Nilo Tablizo could never be refuted by the denials of Hermes and Rudy Sarmiento. The motive behind the killing of Nilo Tablizo was about the loss of carabao of the Tablizo which was found in the possession of Hermes, and which was admitted by Hermes when he testified that he was called a cattle rustler by Nilo Tablizo.

The court doubted the testimonies of the other witnesses for the defense as some inconsistencies were noted by the court.

However, the court also doubted the claim of the prosecution that accused Lolita Sarmiento gave the knife to her son Rudy to stab Nilo. This is very unnatural for her as a mother to order her son to kill somebody and for a woman to be carrying a deadly weapon with her.