

THIRD DIVISION

[G.R. No. 140277, June 06, 2001]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
GUILLERMO BALDAGO Y LAGUNA ALIAS "ONDOY", TEMOTEO
MADULEN Y LAGUE AND CARLITO BANGCAS Y MESO, ACCUSED.
TEMOTEO MADULEN Y LAGUE AND CARLITO BANGCAS Y MESO,
ACCUSED-APPELLANTS.**

D E C I S I O N

GONZAGA-REYES, J.:

For the death of Florentino Casas, Guillermo Baldago y Laguna (alias Ondoy), Temoteo Madulen y Laguna (alias Timog) and Carlito Bangcas y Meso were charged with Murder under the following information^[1]:

"That on or about the 17th day of May, 1998, in the evening, at barangay Old Kibawe, province of Bukidnon, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually helping one another, with intent to kill by means of treachery and evident premeditation, taking advantage of their superior strength armed with a hunting knife, a piece of wood and stones, did then and there willfully, unlawfully and criminally stab, attack, assault, whip, strike and stone FLORENTINO CASAS, hitting and inflicting upon his person multiple stab wounds which caused the instantaneous death of FLORENTINO CASAS, to the damage and prejudice of the legal heirs of FLORENTINO CASAS in such amount as may be allowed by law."

The three (3) accused all pleaded not guilty when arraigned on September 15, 1998. On October 20, 1998, accused Guillermo Baldago, through counsel, withdrew his previous plea of not guilty. Upon arraignment, and after the court propounded questions to determine whether his intention to enter a plea of guilty is voluntary and that he understood the consequences of his plea, the accused entered a plea of guilty to the offense of murder as charged in the information. The court thereupon found him guilty of murder and accused was sentenced to suffer the penalty of *reclusion perpetua* and to indemnify the heirs of Florentino Casas the sum of P50,000.00 and to pay P30,000.00 for actual damages.

Trial proceeded against the two other accused. In its Decision^[2] dated August 19, 1999, the trial court found Temoteo Madulen and Carlito Bangcas guilty as follows:

"WHEREFORE, judgment is hereby rendered finding accused Temoteo Madulen and Carlito Bangcas GUILTY beyond reasonable doubt of the crime of murder and are hereby sentenced to suffer the penalty of

reclusion perpetua, and to solidarily indemnify the heirs of their victim Florentino Casas the sum of P50,000.00."

The present appeal is interposed by Temoteo Madulen and Carlito Bangcas.

The prosecution's version of the incident is summarized in the Appellees' Brief as follows:

"On May 17, 1998 at around 8:30 in the evening in Old Kibawe, Kibawe, Bukidnon, Florentino Casas and Cesar Oroyan were drinking fighter wine in the sala of the house of Edilberto Ybañez from whose store they bought the wine. The store was the walled half portion of the balcony of the house which was elevated from the ground by about thirteen (13) inches. The store entrance was inside the house or on the side of the sala and adjoined the front door leading to the balcony. After consuming the wine, Florentino ordered another bottle of fighter wine and waited on the bench in the balcony with his arms resting sideward on the bamboo railing. Leonila Oroyan, wife of Cesar Oroyan, sat on the opposite bench. Meanwhile, a certain Romel Paje, who is the nephew of Florentino Casas, went up the store to buy cigarettes. As Edilberto was about to get the ordered wine, Guillermo Baldago suddenly went up the balcony coming from behind Florentino and stabbed the latter with a six inch knife, hitting him on the left breast. Almost simultaneously, Temoteo Madulen struck Florentino with a belt on the back, while Carlito Bangcas hit him with a piece of wood on the shoulder. Florentino ran inside the house pursued by Guillermo. The latter thrust his knife to stab Florentino again but only grazed his face. Edilberto at that moment closed the door and pinned Guillermo's hand that held the knife. Romel Paje, who was inside the house along with Cesar Oroyan and Leonila Oroyan who rushed inside the house during the incident, wrestled the knife from Guillermo's hand. Afterwards, Edilberto loosened his grip on the door which freed Guillermo who then ran away. Temoteo and Carlito, who stoned the house of Edilberto in the meantime, likewise fled.

Corazon Casas, wife of the victim Florentino Casas, was on her way to the house of Edilberto Ybañez to follow her nephew Romel Paje when she saw the incident from a distance of about ten (10) meters. Prior to the attack, she saw Guillermo Baldago, Temoteo Madulen and Carlito Bangcas behind the bamboo railing where Florentino was leaning. Suddenly, Guillermo Baldago went up the balcony to face Florentino and immediately stabbed him with a knife. Then Temoteo Madulen struck Florentino with a buckled belt once, followed by Carlito Bangcas who struck Florentino once with a split ipil-ipil firewood. The blows hit the latter on the shoulder and on the left side of the back. After the attackers had fled, Corazon went up the house of Edilberto Ybañez to assist her husband, who died however before reaching the hospital."^[3]

The accused-appellants raised alibi and denial as defense, and testified on their own versions of the incident. As summarized in the Appellants' Brief, their testimonies

are as follows:

"TEMOTEO MADULEN, said that on May 17, 1998 at about 7:00 p.m. he had dinner in his house together with his brethren, parents, and four brothers and sisters. Around 9:00 p.m. Baldago went to his house looking for him. Baldago asked Madulen to accompany him to the barangay captain's house for him to surrender because he has stabbed Florentino Casas. Upon reaching the house of the barangay captain, Rodolfo Paig, the latter's daughter informed them that her father was not at home. Then they proceeded to the house of Baldago's sister, Mely. At 10:00 p.m. the policemen arrived at Mely Baldago's house and arrested Guillermo Baldago. After Baldago was arrested, Madulen went home. Two hours after, the same policemen who arrested Baldago came to his house and arrested him. He was brought to the house of Edilberto Ybañez and Ceasar Oroyan pointed him as one of the assailants of Florentino Casas, he was then brought to the police headquarters.

CARLITO BANGCAS claimed that on May 17, 1998 at around 6:00 p.m. he was having conversation with the barangay captain. They heard a commotion so the barangay captain left him to investigate. At about 7:30 p.m. he took supper with his family. He went to bed at around 9:00 p.m.

Carlito Bangcas learned about the killing incident from stories of the people on May 18, 1998.

On May 22, 1998 the police went to his house to bring him to the police precinct. After asking him if he had anything to do with the killing of Florentino Casas, he was imprisoned."^[4]

In support of their plea for acquittal, appellants raise the following assignment of errors:

"I

THE TRIAL COURT ERRED IN GIVING CREDENCE TO THE CONFLICTING TESTIMONIES OF THE PROSECUTION WITNESSES.

II

THE TRIAL COURT ERRED IN CONVICTING THE ACCUSED FOR CONSPIRING TO COMMIT MURDER."^[5]

The trial court's finding with respect to the participation of Madulen and Bangcas is stated in the decision as follows:

"The prosecution's evidence, apparently, is strong and sufficient given the fact that there were four eyewitnesses who clearly recognized them as

they cooperated and conspired with Guillermo Baldago in the execution of their common criminal act. Perhaps Madulen and Bangcas did not have the intention of killing Casas for they only stood outside and only used a belt and a stock. Nevertheless, by their conspiracy with their co-accused who performed the fatal act, they are all liable for the death of their victim. The bookworn rule stated that in conspiracy "the act of one is the act of all."

As against the clear and direct testimonies of the four witnesses of the government, the alibi of Madulen and Bangcas have no leg to stand on. There appeared no motive in the part of said witness to falsely implicate Madulen and Bangcas with Baldago in the assault against Casas. And by itself, alibi has been considered a very weak defense by reason of the case by which it can be set forth. Further, for alibi to prosper, it must be positively established that the accused was at a certain place and that it was impossible for him to be at the crime scene when it was committed. In fact, in the instant case, both accused were in their respective houses in barangay Old Kibawe which is also the same barangay where Florentino Casas was killed. Both accused did not even have a single witness to corroborate their alibi.

The offense of murder as charged in the information was committed because treachery was plainly established by the prosecution. Florentino Casas was enjoying the evening with some friends and never suspected that the three accused show up to assault him. Without the least warning, Baldago suddenly stabbed the victim, while Madulen and Bangcas struck him from behind."^[6]

In assailing the trial court's giving credence to the prosecution evidence, the accused-appellants cite certain portions of the testimonies of prosecution witnesses Leonila Oroyan and Edilberto Ybañez which are allegedly conflicting and which tend to show that Leonila was not at the place of the incident when it happened. The alleged irreconcilable inconsistencies in the testimonies of Oroyan and Ybañez are substantially as summarized in Appellee's Brief as follows:

"(a) Although Leonila Oroyan testified that at the time of the incident the persons who were in the place of Edilberto Ybañez were the victim Florentino Casas, Cesar Oroyan, Romel Paje, Corazon Casas and herself, Edilberto Ybañez stated however that only his wife was his companion in the house until Florentino Casas and Cesar Oroyan arrived; (b) Leonila Oroyan testified that Edilberto Ybañez drank wine with Florentino Casas and Cesar Oroyan but Edilberto said he did not; (c) There is a variance in the testimonies of Leonila Oroyan and Edilberto Ybañez regarding the description of the latter's store in relation to his house, as well as whether or not Leonila was seated on the balcony bench at the time of the incident; (d) The testimony of Leonila Oroyan contradicts her affidavit where she did not mention seeing appellants Temoteo Madulen and Carlito Bangcas; (e) Edilberto Ybañez did not mention seeing Carlito Bangcas and merely assumed that appellant Temoteo Madulen struck the victim because he heard him say "Hoy", accompanied by a thudding