

FIRST DIVISION

[G.R. No. 125698, July 19, 2001]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
FRANCISCO HAPA Y EBASCO, CLARO FERATERO Y ENCINARES,
AMADOR ESPAÑO Y OFALSA AND CONRADO ENTERESO Y HAPA,
ACCUSED-APPELLANTS.**

D E C I S I O N

PARDO, J.:

Accused Francisco Hapa y Ebasco, Claro Feratero y Encinares, Amador Español y Ofalsa and Conrado Entereso y Hapa^[1] appeal from the decision^[2] of the Regional Trial Court, Branch 52, Sorsogon, Sorsogon finding them guilty beyond reasonable doubt of murder for the death of Leoniso Hermo, and sentencing each of them to *reclusion perpetua*, with all the accessory penalties provided therefor, and to indemnify jointly and severally, the heirs of the deceased Leoniso Hermo in the sum of P50,000.00, without subsidiary imprisonment in case of insolvency, and to pay their proportionate share of the costs.

On July 11, 1977, Sorsogon Assistant Provincial Fiscal Manuel C. Genova filed with the Court of First Instance of Sorsogon, Branch 3 an information for murder against Francisco Hapa y Ebasco, Claro Feratero y Encinares, Amador Español y Ofalsa and Conrado Entereso y Hapa, which reads:

"That on or about the 14th day of June, 1977, in the Municipality of Casiguran, Province of Sorsogon, Philippines, and with the jurisdiction of this Honorable Court, the above-named accused, Francisco Hapa y Ebasco, Claro Feratero y Encinares, Amador Español y Ofalsa and Conrado Entereso y Hapa, armed with pointed bladed weapons conspiring, confederating and confabulating with one another, with treachery and evident premeditation, did then and there willfully, unlawfully, feloniously and suddenly stab and maul one Leoniso Hermo and inflicting on his right chest a fatal stab wound, while they (accused) were surrounding the victim in order that he could not properly defend himself thereby inflicting a fatal wound which resulted to his instantaneous death, to the damage and prejudice of his heirs.

"Contrary to law."^[3]

Upon arraignment on August 8, 1978, all accused entered a plea of not guilty. Thereafter, trial ensued.^[4]

On June 13, 1977, the people of Trece Martinez, Casiguran, Sorsogon celebrated the town fiesta, which culminated in a dance. Accused Francisco Hapa, Claro Feratero, Amador Español and Conrado Entereso attended the dance.

At about 2:30 in the morning of June 14, 1977, the people at the dance started to wane and head for home, including prosecution witness Delfina Gratil. Upon arrival at her house, which was fifteen (15) meters away from the dance hall, Delfina proceeded to the kitchen for a cup of coffee. She opened the window of the kitchen for a breath of fresh air.

From the window of her house she saw Leoniso Hermo being held in each arm by two (2) persons. Another person, whom she later identified as accused Francisco, was wearing a jacket and was standing in front of the victim. The fourth person stood guard behind the victim.^[5] Though it was dark outside, Delfina witnessed what transpired because of light coming from a nearby lamppost that illuminated the scene of the crime.^[6]

Delfina heard someone utter, "Where is your house, you are our target?" The victim replied, "What is my fault?" Then she heard the voice of the same person again: "you are our target." Delfina identified the voice as that of accused Francisco.^[7]

Thereafter, accused dragged the victim toward the fence of Delfina's house. Accused Francisco pulled a bladed instrument from his jacket and made a "downward and forward thrusts" against Leoniso Hermo (hereafter Leoniso). All the while, Delfina thought that what she witnessed was just a joke, until she saw blood dripped from the bladed instrument held by accused Francisco.

Delfina saw that Leoniso was in pain as he clutched his breast. Thereafter, his assailants fled the scene. Delfina witnessed the incident from the window of her house, about two (2) meters or two and one-half (2 ½) arms length from the scene.

Thereafter, Delfina tried to go out of her house and shout for help. Many people arrived, including special police Jose Hadap who apprehended Conrado Entereso and brought him to Delfina's house for interrogation. In the course of the interrogation, a sharp instrument was found in his possession. When asked why he had that in his possession, Conrado replied that it was his "because he has a target." He denied stabbing Leoniso and pointed to Francisco as the one who stabbed the victim.

As soon as the questioning was over, Conrado was brought outside Delfina's house and turned over to police officer Edilberto Hicarte, PC soldier Jose Hular and Brgy. Capt. Alberto Coderes.^[8]

Benerando Hitosis, thirty (30) years old, farmer and a resident of Trece Martires, Casiguran, Sorsogon corroborated Delfina's testimony. At about 2:00 in the morning of June 14, 1977, while on his way home coming from the dance at the barangay hall, he met the four (4) accused, Francisco, Claro, Amador and Conrado. The dance hall was one hundred (100) meters from his house. He walked barely fifteen (15) meters when he heard shouts from behind him.

Benerando recognized the voice as that of Leoniso Hermo, his neighbor who was tailing behind him at a distance of ten (10) meters.^[9] Leoniso, who also attended the dance, was carrying a bench, which he was about to return to its owner. Leoniso had no shirt on, but was carrying his white t-shirt on his shoulder.

As Benerando turned his back, he saw three (3) persons, whom he recognized as Francisco, Amador, and Conrado, running towards the house of Conrado Hadap. Francisco was carrying a jacket and a five and one half (5 ½) inches bladed instrument, while Amador was holding a fork and Conrado was armed with a dagger. The other accused Claro was also armed with a bladed instrument.

As soon as the three, Francisco, Amador and Conrado reached the house of Conrado Hadap, they went up the house and closed it. Meanwhile, Leoniso tried to walk towards his house, which was beside the dance hall, but he died before he could reach his house.

By this time, the people in the barrio had been alerted. Upon learning that three (3) of the four (4) accused were hiding at the house of Conrado Hadap, the barrio people surrounded the Hadap residence to foil attempts of the accused to escape. Many people were present because the stabbing took place right after the dance. With the help of the barrio people all the accused were apprehended and turned over to Brgy. Capt. Alberto Coderes and M/Sgt. Jose Hular of the Philippine Constabulary.^[10]

Benerando confirmed that the four (4) accused were not natives of their place. Though it was dark when the incident happened, he recognized the four (4) accused because the place was illuminated by the light coming from the dance hall. His barrio mates left the house of Conrado Hadap only after the four (4) accused were apprehended by the authorities. Failing to contain their anger, the barrio people boxed the accused.^[11]

Evelyn Hadap, the daughter of Conrado Hadap corroborated Benerando's testimony that three (3) of the accused namely, Francisco, Claro and Amador arrived at their house at about 2:30 in the morning of June 14, 1977. She remembered that Francisco was carrying a knife.

Upon arrival at their house, the three kept moving and shouting "Are you still willing to fight?" The three (3) stayed at their house for around two (2) hours. They wanted to flee, but they could not because her parents closed the door.^[12]

Based on the autopsy report of Dr. Evanswinda Ansus Demate, Municipal Health Officer, Casiguran, Sorsogon, Leoniso was nineteen (19) years at the time of his death. The cause of death was shock secondary to severe hemorrhage due to the following:

"1. stab wound, right anterior chest, mammary region; incised muscles and blood vessels underneath.

"2. Laceration of the upper lobe of the right lung.^[13]

Aside from the stab wound on the anterior chest of the victim, Dr. Demate also saw linear abrasion about fourteen (14) inches long, located two (2) inches below the stab wound. Moreover, she confirmed that a sharp bladed instrument could have caused the stab wound sustained by the victim.^[14]

Mrs. Fidela Hermo, mother of Leoniso testified that while she was at home at about

2:00 in the morning of June 14, 1979, she heard that her nineteen (19) year old son, Leoniso was stabbed. She immediately went out of the house and proceeded to where her son was. The sight of the lifeless body of her son lying by the road beside Delfina's house made Fidela cry. She saw three (3) persons running away, carrying deadly weapons. She identified these people as accused Francisco, Claro, and Amador. One of the four (4) accused, Conrado, went inside Delfina's house.^[15] Although she did not witness the stabbing incident, Fidela was positive that the three (3) persons she saw scampering away from the scene were responsible for the death of her son. The knife Francisco was carrying was still dripping with blood.^[16]

Because of the loss of her son, who was the sole breadwinner of the family, her husband being a paralytic, Fidela "felt much the loss of a son."^[17]

All four (4) accused denied participation in the stabbing of Leoniso Hermo. They admitted going to the barrio fiesta of Trece Martinez, Casiguran, Sorsogon on the day in question and attended the dance.

Accused Amador España testified that in the evening of June 13, 1977, he and his three companions Francisco Hapa, Claro Feratero and Conrado Entereso attended a dance in Trece Martinez, Casiguran, Sorsogon. It was the barrio fiesta of Trece Martinez and the dance at the barangay hall was the highlight of the festivities. On that day, they ate at the house of Conrado Hadap, the wife of the latter being a relative of Amador. The four (4) accused stayed at the Hadap household until around 8:00 in the evening when they decided to proceed to the dance hall, five (5) meters away from the house.

About 12:00 midnight, Amador stepped out of the dance hall to answer a call of nature at the nearby church. While he was in the act of urinating, two (2) unknown persons approached him. One of them tapped him on the left shoulder and asked him: "You are about to create something?" But he did not know what the person was talking about.

At that precise moment, Francisco arrived and told him to go home. It was already 1:00 in the morning of June 14, 1977. Amador did as he was told and proceeded towards the Hadap residence. All this time, Amador was alone. He left his three (3) companions, still dancing, at the dance hall. When he arrived at the Hadap residence, he saw Conrado Hadap and all the members of the latter's family. His other companions, Francisco and Claro, arrived at the house of Conrado Hadap at around 2:00 in the morning.

Amador further testified that while he was in the Hadap residence, several people arrived and mauled them. He could not remember the exact time it happened and the identity of the persons who mauled them. He noticed that Conrado Hadap and his family went out of the house at that time. Amador could not tell why the barrio people would maul them. Thereafter, they were brought to the municipal hall of Casiguran, Sorsogon.

Though he sustained physical injuries, he did not submit himself to any medical examination because they were not serious. When asked about any plausible reason why Evelyn Hadap, a relative of his, should testify against him, he said that he did not know. Francisco Hapa and Claro Feratero, his co-accused were his barrio mates,

all of them being from Onion, Gubat, Sorsogon.^[18]

Conrado Entereso y Hapa partly corroborated Amador's testimony. He said that all four (4) of them Francisco, Claro, Amador and himself went to Trece Martirez, Casiguran, Sorsogon and attended the barrio fiesta on June 13, 1977. They left the Hadap residence and proceeded to the dance hall at about 8:00 in the evening.

Contrary to Amador's claim that Conrado remained at the dance hall when he [Amador] left at 12:00 midnight, accused Conrado alleged that he left the dance hall and headed for home at about 12:00 midnight. He went home alone and on foot. His three (3) companions, Francisco, Claro and Amador were still dancing at the dance hall. He headed for home to Sangat, Gubat, Sorsogon, about ten (10) kilometers from Trece Martirez.^[19] He went ahead of his three (3) companions because he did not have a place to stay in Trece Martirez. The others were sleeping over at the Hadap residence.

Conrado Entereso y Hapa was not able to go home that early morning of June 14, 1977. Ten (10) meters from the dance hall, several persons assaulted him and he lost consciousness. The scars on his left eyebrow and on his upper lips were the reminders of the beatings that he suffered that night. He did not recognize his assailants because it was dark.

When he regained consciousness, Conrado Entereso y Hapa went up a certain house, five (5) meters away and sought help. He was bleeding profusely because he was hit several times. He did not know who was the owner of the house nor did he find out who it was. He stayed in that house for two (2) hours until the police fetched him and brought him to the police station of Casiguran, Sorsogon. Several persons were present in that house, but he did not recognize them. He could still hear the music at the dance hall signifying that the dance was still on going. He did not know what happened to his three (3) companions. It was only at the police station of Casiguran that he met them again.

Conrado was not aware of any reason why several persons would cause him harm. It was the first time that he had been to Trece Martirez, Casiguran, Sorsogon. He was not investigated during his one (1) week stay at the police station of Casiguran.^[20]

For his part, Claro Feratero y Encinares admitted that he and his three (3) co-accused went to Trece Martirez, Casiguran, Sorsogon arriving there at around 5:00 in the afternoon of June 13, 1977. They proceeded to the house of Conrado Hadap and left at about 8:00 to attend the dance at the nearby barangay hall. He, Francisco and Amador stayed at the dance hall until 2:00 in the morning. Thereafter, they decided to go home to the Hadap residence, five (5) meters from the dance hall.^[21] When they arrived at the Hadap residence, he noticed the presence of many people.

Claro said that they were awakened when policemen fetched him and his two (2) companions, Francisco and Amador, at the Hadap residence in the early morning of June 14, 1977. It was only then that they found out that somebody was killed, and they were suspected of being responsible for such killing. Despite the fact that they were his visitors, Conrado Hadap did not inquire from the policemen why his visitors