

SECOND DIVISION

[G.R. No. 138022, August 23, 2001]

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
PEDRO FRANCISCO Y ADRIANO, ROMEO ROMERO Y ASIADO,
AND SALVADOR GREGORIO (AT LARGE), ACCUSED, ROMEO
ROMERO Y ASIADO, ACCUSED-APPELLANT.**

D E C I S I O N

MENDOZA, J.:

This is an appeal from the decision^[1] of the Regional Trial Court, Branch 100, Quezon City, finding accused-appellant guilty of the complex crime of robbery with homicide and sentencing him to suffer the penalty of *reclusion perpetua* and to pay damages.

Accused-appellant was charged, together with Pedro Francisco and Salvador Gregorio, with robbery with homicide under Art. 294, par. 1 of the Revised Penal Code. The amended information alleged —

That on or about the 15th day of October, 1991 in Quezon City, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring together, confederating with and mutually helping one another, with intent to gain and by means of violence and intimidation against person, did then and there, willfully, unlawfully and feloniously rob the residence of PING YAN LUEY y CRUZ located at No. 41 Cristine Street, Parkway Village, Barangay Apolonio Samson, this City, in the following manner, to wit: on the date and place aforementioned, accused pursuant to their conspiracy, barged into the residence of said PING YAN LUEY y CRUZ and with [an] ice-pick pointed to PURITA LUEY y SANTOS, hogtied her and thereafter robbed, took and carried away the following, to wit:

One (1) Sony Betamax and Adaptor	P10,000
One (1) Lady's gold ring with diamonds	10,000
One (1) pair of white gold earrings	5,000
Two (2) gold lady's bracelet	10,000
One (1) lady's necklace with heart shaped pendant	30,000
One (1) pearl necklace	10,000
TOTAL	P 75,000

All in the total amount of P75,000.00 and cash money of undetermined amount (Philippine currency and U.S. dollar), and on the occasion of said robbery, accused with intent to kill and without any justifiable cause, stabbed said PURITA LUEY y SANTOS in the different parts of her body,

thereby inflicting upon her serious and mortal wounds which were the direct and immediate cause of her death, to the damage and prejudice of the heirs of said PURITA LUEY y SANTOS in such amount as may be awarded to them and to said PING YAN LUEY y CRUZ in the aforementioned amount and in such other amount as may be awarded to him under the provisions of law.

Contrary to law.^[2]

In the beginning, only Pedro Francisco was apprehended. Upon being arraigned on January 16, 1992, he pleaded not guilty. Romeo Romero was apprehended two years later. Upon being arraigned on August 12, 1994, he too entered a plea of not guilty to the crime charged. Thereupon trial was held. Accused Salvador Gregorio has remained at large to this date.

After the initial stage of the trial, Pedro Francisco changed his plea from not guilty to guilty to the lesser offense of robbery with physical injuries, of which he was convicted on July 16, 1997.

The prosecution presented six witnesses, whose testimonies are as follows:

Carlos Obal, first cousin of the victim Purita Santos Luey, testified that on October 15, 1991, at about 8 o'clock in the morning, he went to the victim's residence where he worked as a gardener. As he was about to enter the gate, he saw three men, whom he identified as Pedro Francisco, Romeo Romero, and Salvador Gregorio, hurriedly coming out of the house, each one carrying a bag.^[3] Obal knew Francisco whom he in fact had recommended to the Lueys as a construction worker. As for accused-appellant Romeo Romero, Obal recognized him, having previously seen him in Francisco's house at Kaingin Road, Balintawak, where the two were neighbors.^[4]

Carlos Obal testified that when he entered the house of the Lueys, he found his cousin Purita Santos Luey dead. The victim's hands and feet were bound by a telephone cord. Her body bore signs of multiple stab wounds. Obal went out of the house and tried to contact the victim's husband, but failed to reach him. Obal was able to contact the victim's brother-in-law.^[5]

Investigating Officer SPO2 Rodrigo Mendez testified that on October 15, 1991, he was on duty at the Philippine National Police (PNP) Station 1 in La Loma, Quezon City. He received a report of a killing at No. 41 Christine Street, Parkway Village, Barangay Apolonio Samson, Quezon City. When he and his companions went to the place, there were already several people inside the house, including some barangay officials. He found the lifeless body of Purita Santos Luey lying in a pool of blood. There was a trail of blood from the dining room to the living room where the victim's body was found.^[6] The victim's neck was tied with a telephone wire, while her hands were tied to the window grill.^[7] The room had been ransacked, with some of the drawers forcibly opened. The house was in complete disarray. The police recovered two improvised ice pick scabbards, one on top of the refrigerator and the other on the table near the kitchen.^[8]

The victim's husband, Ping Yan Luey, testified that he arrived home later in the

morning of October 15, 1991.^[9] He discovered his Sony Betamax and adaptor, several pieces of jewelry belonging to his wife, and sums of money (both in Philippine and United States currencies) to be missing. He presented official receipts (Exhs. H to J) showing the actual expenses he incurred for the funeral and burial of his deceased wife. The total amount of the valuables and cash allegedly missing in the house of the Lueys was estimated to be P75,000.00.^[10]

Dr. Dario Gajardo performed an autopsy on the body of Purita Santos Luey on October 20, 1991. His report (Exh. C) is as follows:

FINDINGS:

Fairly developed, fairly nourished female cadaver in rigor mortis with postmortem lividity over the dependent portions of the body. Conjunctive are pale. Lips and nailbeds are cyanotic.

HEAD, TRUNK AND UPPER EXTREMITIES:

(1) Stab wound, neck, measuring 0.6 by 0.3 cm, along the anterior midline.

(2) Stab wound, neck, measuring 0.5 by 0.3 cm, 4 cm left of the anterior midline.

(3) Stab wound, left infraclavicular region, measuring 0.5 by 0.3 cm, 7.5 cm from the anterior midline.

(4) Stab wound, left infraclavicular region, measuring 0.5 by 0.3 cm, 10 cm from the anterior midline.

(5) Stab wound, left infraclavicular region, measuring 0.6 by 0.3 cm, 14 cm from the anterior midline.

(6) Stab wound, chest, measuring 0.7 by 0.3 cm, 10 cm left of the anterior midline.

(7) Stab wound, chest, measuring 0.8 by 0.3 cm, 4 cm left of the anterior midline.

(8) Stab wound, sternal region, measuring 0.7 by 0.3 cm, just right of the anterior midline.

(9) Stab wound, sternal region, measuring 0.8 by 0.3 cm, 1 cm right of the anterior midline.

(10) Stab wound, right mammary region, measuring 0.6 by 0.3 cm, 5 cm from the anterior midline.

(11) Stab wound, left mammary region, measuring 0.6 by 0.3 cm, 6 cm from the anterior midline.

- (12) Stab wound, left axillary region, measuring 0.7 by 0.3 cm, 23 cm from the anterior midline.
- (13) Stab wound, left axillary region, measuring 0.7 by 0.3 cm, 24 cm from the anterior midline.
- (14) Abrasion, right costal region, measuring 0.5 by 0.4 cm, 5 cm from the anterior midline.
- (15) Stab wound, nape, measuring 0.5 by 0.2 cm, 2 cm right of the posterior midline.
- (16) Stab wound, nape, measuring 0.6 by 0.3 cm, 2 cm left of the posterior midline.
- (17) Stab wound, nape, measuring 0.5 by 0.2 cm, 2 cm right of the posterior midline.
- (18) Stab wound, left suprascapular region, measuring 0.5 by 0.2 cm, 6 cm from the posterior midline.
- (19) Abrasion, left shoulder, measuring 0.7 by 0.4 cm, 15 cm from the posterior midline.
- (20) Stab wound, left suprascapular region, measuring 0.5 by 0.3 cm, 10 cm from the posterior midline.
- (21) Stab wound, left suprascapular region, measuring 0.6 by 0.2 cm, 2.5 cm from the posterior midline.
- (22) Stab wound, left suprascapular region, measuring 0.5 by 0.2 cm, 5.5 cm from the posterior midline.
- (23) Stab wound, interscapular region, measuring 0.7 by 0.2 cm, 3 cm right of the posterior midline.
- (24) Stab wound, left scapular region, measuring 0.7 by 0.2 cm, 8 cm from the posterior midline.
- (25) Stab wound, right infrascapular region, measuring 1 by 0.3 cm, 11 cm from the posterior midline.
- (26) Stab wound, left infrascapular region, measuring 0.8 by 0.2 cm, 6 cm from the posterior midline.
- (27) Stab wound, left infrascapular region, measuring 0.7 by 0.2 cm, 8 cm from the posterior midline, 10 cm deep.
- (28) Stab wound, left infrascapular region, measuring 0.6 by 0.2 cm, 9 cm from the posterior midline, 10 cm deep.
- (29) Stab wound, left lumbar region, measuring 0.2 by 0.2 cm, 8 cm

from the posterior midline.

(30) Stab wound, left suprascapular region, measuring 0.7 by 0.2 cm, 12 cm from the posterior midline.

(31) Stab wound, right mammary region, measuring 0.6 by 0.3 cm, 10.5 cm from the anterior midline.

(32) Ligature mark, around the right wrist, measuring 14 by 4 cm.

(33) Ligature mark, around the left wrist, measuring 18 by 0.6 cm.

(34) Contusion, left peri-orbital extending to the left maxillar region, measuring 11 by 8 cm, 5 cm from the anterior midline.

The 5th right and 2nd left thoracic rib and sternum at the level of the 3rd thoracic rib are fractured.

Both lobes of the left lung, all lobes of the right lung, pericardial sac, left ventricle of the heart, 4th right, 2nd, 3rd, 5th and 7th left intercostal spaces are lacerated.

Stomach is empty.

(Sgd.)

SUPT. DARIO L. GAJARDO MS (PNP)

CONCLUSION:

Cause of death is cardio-respiratory arrest due to shock and hemorrhage secondary to multiple stab wounds in the trunk.^[11]

Dr. Gajardo testified that the victim sustained 30 stab wounds on her body, six of which, located on the lungs and the heart, were fatal. Four injuries were found to be ordinary marks, signs that the victim was tied with a rope or something that was rough.^[12] When asked what kind of weapon could have caused the wounds on the victim's body, Dr. Gajardo stated that the instrument was pointed, containing no edges, much like an ice pick.^[13]

SPO2 Geronimo Estacio, of PNP Station 1 in La Loma, Quezon City, testified that on October 19, 1991, he received a call from an informant who said that Pedro Francisco, Romeo Romero, and Salvador Gregorio were responsible for the killing of Purita Santos Luey and the robbery in the victim's house and that the suspects could be found at No. 86 Kaingin Road, Barangay Apolonio Samson. Accordingly, SPO2 Estacio said, he and two other policemen proceeded to the address given and, with the assistance of a barangay official, found Pedro Francisco sleeping on a bench. He testified that Pedro Francisco voluntarily went with them to PNP Station 1 in La Loma, Quezon City and that, on their way, Francisco admitted participation in the commission of the crime.^[14] According to SPO2 Estacio, Francisco pointed to accused-appellant Romeo Romero and Salvador Gregorio as his companions in