

EN BANC

[G.R. No. 129295, August 15, 2001]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. EDWIN MORIAL, LEONARDO MORIAL ALIAS "CARDING" AND NONELITO ABIÑON* ALIAS "NOLY," DEFENDANTS-APPELLANTS.

D E C I S I O N

PER CURIAM:

Two of the three appellants herein were sentenced to death by the Regional Trial Court (RTC) of Southern Leyte for Robbery with Homicide. The other was sentenced to suffer only the penalty of *reclusion perpetua* on account of minority. The judgment of conviction is now before this Court on automatic review.

The information charging appellants reads as follows:

That on the 6th day of January 1996, at about 6:30 o'clock [sic] in the evening more or less, in [B]arangay Cagnituan, [M]unicipality of Maasin, [P]rovince of Southern Leyte, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused conspiring, confederating and mutually helping one another, with intent to kill and with intent of [sic] gain, entered into [sic] the house of Paula Bandibas and Benjamin Morial and once inside did then and there willfully and unlawfully and feloniously attack, assault, box, beat and stab the victims Paula Bandibas and Albert Bandibas, with the use of sharp-pointed weapons and stones which the accused had provided themselves for the purpose, thereby inflicting upon the victims mortal wounds which caused their instantaneous death, after [which], said accused took, stole and carried away therefrom Cash in the amount of Eleven Thousand Pesos (P11,000.00) Philippine Currency, belonging to said Paula Bandibas and Benjamin Morial, to the damage and prejudice of the victims and of social order.

CONTRARY TO LAW.^[1]

Upon arraignment, the three accused pleaded not guilty.

The prosecution theorized that the accused committed the robbery in the early evening of January 6, 1996 so they would have money to spend for the dance later that night. To obtain the money or to silence any witnesses, the accused killed the occupants of the house, Paula Bandibas and her three-year old grandson Albert. In proving its theory, the prosecution offered the testimonies of Gabriel Guilao, Benjamin Morial, SPO4 Antonio Macion and Dr. Teodulo Salas.

The crime allegedly took place at 6:00 in the evening in Barangay Cagnituan, Maasin, Southern Leyte. Gabriel Guilao, 62, had just finished pasturing his horses and was on his way home. He was passing through the road near the house of Benjamin Morial when he heard the voice of Paula Bandibas pleading, "[P]lease don't kill me[.] I am going to give you money." Finding what he heard "weird," Gabriel paused and remained at a distance of about eight (8) meters from the yard of the house. From where he stood, Gabriel saw accused Nonelito Abiñon slap Paula Bandibas' neck. Paula fell and was stabbed by accused Edwin Morial with a small, sharp, pointed weapon. Accused Leonardo Morial stood outside the house.

Gabriel also saw Paula Bandibas' grandson, Albert Bandibas, run towards his grandmother's garden. Gabriel then heard the crushing sound of a stone against flesh.

The three accused stayed in the house for about ten minutes after the killing the victims. Thereafter, they departed and headed towards the nearby houses.^[2]

Paula Bandibas' common-law husband, Benjamin Morial, 56, was in neighboring Barangay Maria Clara when the incident took place. He, along with the father of accused Leonardo Morial, and two others, Heracleo Alonzo and Leo Padilla, were having drinks in his Maria Clara residence.

Benjamin left Barangay Maria Clara the next day at 2:00 in the afternoon. He arrived in Barangay Cagnituan, 7½ kilometers away, two hours later. As was his wont, Benjamin called out Paula's name when he was some five (5) meters from the house. This time, however, there was no answer.

Benjamin raced to the house, heading straight to the bedroom. There, he found the clothes all topsy-turvy. The box where he and Paula hid their money was turned upside down. Someone had ransacked their house.

Benjamin moved back and saw Paula lying on the floor with a cut in her neck. He shouted for help. Responding to his cries, Benjamin's neighbors, including *barangay kagawads* Patricio Abiñon and Rufino Guilao, rushed to his house. Benjamin asked his neighbors to help search for Albert, who was found shortly some 50 meters from the house. Albert Bandibas laid flat on the ground with two stones near his head. Benjamin requested Patricio to send someone to report the incident to the police.^[3]

Upon learning of Benjamin's return to Barangay Cagnituan, Gabriel Guilao also hurried to Benjamin's house.^[4] He revealed to the grieving Benjamin that he witnessed Paula's killing and that the three accused, Edwin Morial, Leonardo Morial and Nonelito Abiñon, were the perpetrators. Benjamin advised Gabriel not to tell anyone about what he knew for fear that they would all be killed since the Abiñons were "saturated in [their] place." Gabriel heeded Benjamin's advice.^[5]

The police arrived at around 10:00 that evening. SPO4 Antonio Macion, along with four other police officers, investigated the tragedy. They found wounds in Paula Bandibas' stomach, breast and neck. Albert Bandibas, on the other hand, had a contusion on the right side of his head. Beside him were two stones.^[6]

After examining the victims' wounds, the police officers, along with Benjamin Morial, proceeded to the bedroom. Benjamin informed the officers that P11,000.00 was missing from the moneybox. Other than the cash, nothing else was missing.

Outside the house, Benjamin disclosed to the officers his three suspects, the accused in this case. He advised them, however, to bring only Leonardo and Edwin Morial into custody and not to include Nonelito Abiñon, who had many relatives in Cagnituan. As a former barangay captain of 22 years, he knew that the Abiñons were "most feared" in Cagnituan. Benjamin did not tell the police that Gabriel Guilao had witnessed the incident.^[7]

The police found Edwin and Leonardo Morial in the house of Nonelito Abiñon and invited the two to the police station, where they were turned over to SPO4 Andres Fernandez. The investigation conducted by SPO4 Fernandez yielded an extra-judicial confession from accused Leonardo Morial,^[8] who was assisted by Atty. Tobias Aguilar.

On January 8, 1996, Dr. Teodulo Salas, a rural health physician, conducted a post-mortem examination on the bodies of the victims. Dr. Salas found an incised wound at the upper portion of Paula Bandibas' neck, which he believed was caused by a sharp-edged weapon or instrument, possibly a knife. Two stab wounds on the chest below and above the right nipple, both punctured the lung. Another stab wound at the abdomen pierced the intestine. Dr. Salas concluded that the cause of death of Paula Bandibas is severe hemorrhages secondary to the incised wound.

On the remains of Albert Bandibas, Dr. Salas found multiple angular corrogated wounds on the head, which could have been caused by a heavy object such as a stone. Multiple stab wounds punctured the skull. There was also an abrasion on the right side of the face, which was grossly swollen and disfigured. The abrasion, according to Dr. Salas, might have been caused by a piece of wood, by friction with the ground, or by some rough material that struck the child's face. The last injury was a stab wound on the right forehead. Dr. Salas believed that the cause of death of Albert Bandibas is the intra-cranial hemorrhages secondary to the violent injury to the head.^[9] The foregoing findings and conclusions were reduced to writing in the doctor's Necropsy Reports.^[10]

The accused, all first-degree cousins, interposed denial and alibi as their defense. They denied being together at the time of the incident.

Accused Nonelito Abiñon, 22, claimed that he was in his house at around 6:00 in the evening of January 6, 1996. An hour later, he went to the house of his sweetheart, Rosalie Mepico, and the two later attended a dance at around 9:30 that evening. At the dance, they occupied a table with Renida Mepico, Renato Montederamos and Edwin Morial. Leonardo Morial, he said, was not with them.^[11]

Accused Edwin Morial, 18, maintained that he was also at home on January 6, 1996. He slept from 6:00 until 7:30 in the evening. At 9:00 p.m., he went to the dance with Renato Montederamos. Nonelito Abiñon and Renida Mepico were also at the dance.^[12]

The defense pinned its bid for exculpation on the lengthy testimony of accused

Leonardo Morial, 20. He narrated as follows:

At around 6:00 to 7:00 p.m. of January 6, 1996, he was at home washing dishes. He had supper at approximately 7:00 and went to sleep at about 7:30 or 8:00. Unlike his fellow accused, Leonardo did not go to the dance.^[13]

At 4:00 in the afternoon of the next day, he was in the basketball court of their barangay watching Nonelito and Edwin playing basketball with Jaime Morial, Renato Montederamos, Jimmy Abiñon, Danilo Morial and Christopher Morial, among others.^[14] Suddenly, they heard Benjamin Morial shout for help several times.^[15] Nonelito and Edwin, along with the others in the basketball court, all rushed to Benjamin Morial's house.^[16] Leonardo Morial also proceeded to Benjamin's house after bringing home his two-year old sister.^[17]

At the house of Benjamin Morial, they found the lifeless body of Paula Bandibas on the floor underneath the kitchen table. Her hands were on her breast, one foot crooked and the other straight. She had wounds in her neck and breast. The corpse exuded a bad odor. Benjamin Morial was crying. He said that whoever killed Paula shall pay.^[18] Edwin asked Daniel Morial who the suspects to the killing were. Daniel said he did not know. Edwin went home after about five minutes.^[19]

After viewing Paula Bandibas' remains, Leonardo went out of the house because of the unpleasant smell and then headed home.^[20] Nonelito, on the other hand, departed as people started looking for the body of Albert Bandibas since it was getting late. That was about 5:15 in the afternoon.^[21]

That night, Edwin and Leonardo slept at Nonelito's house. Nonelito had invited Edwin to sleep over as they were going to dress a chicken,^[22] and Edwin had told Leonardo about it. The cousins had the chicken for dinner. It was quite late when they finished their supper so Leonardo also decided to spend the night at Nonelito's house.^[23] They slept at past 8:00 in the evening.^[24] According to Nonelito, that was not the only time that the two had slept over. He said there were previous occasions that his cousins had spent the night at their place.^[25]

The Abiñon household was to be roused from its slumber three hours later. At 11:00 p.m., the police arrived to investigate the killing of the Bandibases. A police officer asked Edwin where he was at 6:00 in the evening of January 6, 1996. Edwin replied that he was in their house sleeping. They also asked the same question to Leonardo Morial, who answered that he was at home taking care of his younger siblings. Nonelito, however, was not questioned. A policeman informed Edwin and Leonardo that they would be brought to the police station for the continuation of the investigation.^[26]

Edwin and Leonardo went with the police officers and arrived at the station at around 3:00 dawn the next day. The police told them to go to sleep.^[27]

The suspects were interrogated after they awoke at past 6:00 that same morning. Edwin was advised to tell the truth so he would not be killed. Nevertheless, he refused to admit his alleged participation in the killings. Someone then struck his

left hand with a pistol. His hand swelled. A policeman in uniform warned him that if he did not tell the truth, he would be brought to the toilet.

Sure enough, Edwin was subsequently brought to the lavatory where he was boxed at the back and instructed to undress. As Edwin stood naked, hands on his side, six tires were placed around his body. A towel soaked with water was pushed into his mouth. Fortunately, the towel did not go all the way to his throat since another policeman, a certain Leoni Egido, advised Edwin's tormentors to stop and have pity on him. Edwin said that around seven policemen were in the toilet with him though he could not identify any of them in court. He claimed that he did not have his hand examined by a physician since he was afraid.^[28]

Like Edwin, Leonardo was also asked where he was on January 6, 1996 at 6:00 in the evening. Leonardo reiterated that he was at home. He was then brought to a separate room where his interrogation continued.

Leonardo refused to own up to the incident so a policeman called two other policemen and directed them to gag Leonardo. The two held Leonardo's arms while the other stuffed a shirt into his mouth. One of them inflicted three successive painful blows on Leonardo's left side as the two others continued to hold his hands.

Leonardo was then seated and his gag removed. The police told Leonardo to confess to the killings. Leonardo professed that he did not witness the incident and could not tell them anything about it. Again, they gagged his mouth and the same policeman who had hit him then boxed him twice, this time on his right side. Thereafter, they released their hold and advised him to confess so they would not kill him. Leonardo repeated that he did not know anything about the incident. When a policeman attempted to box him again, Leonardo finally admitted that Nonelito Abiñon and Edwin Morial were responsible for the death of Paula Bandibas. Leonardo's interrogation lasted one and a half to two hours.

Asked in court to identify the uniformed policemen who beat him up, Leonardo said he could not recall their faces. He did not look at the policemen during his interrogation and did not see their nameplates.

Leonardo did not ask the police for a physician to examine him nor did he tell anyone about his injuries because he did not know he was permitted to do so.

Leonardo's statements were then reduced into writing. A policeman informed him that they were going to contact a lawyer to assist him during the investigation. Leonardo was told that his counsel would be a certain Atty. Aguilar whose office was very near the police station. Leonardo consented.

Having prepared Leonardo's statement, the police then told Leonardo to come with them to Atty. Aguilar's office, which was about 50 meters from the police station. There, he saw Atty. Aguilar for the first time. The lawyer read to him the document and asked him whether its contents were true. The police had instructed Leonardo to answer "yes" if he was asked that question, and Leonardo heeded the instructions.

Leonardo denied that Atty. Aguilar examined his body for any injuries. Atty. Aguilar did ask Leonardo if he was forced or intimidated to execute the extra-judicial