

THIRD DIVISION

[G.R. No. 137676, September 27, 2001]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ATTY.
ROBERTO DIONISIO, DEFENDANT-APPELLANT.**

D E C I S I O N

SANDOVAL-GUTIERREZ, J.:

This is an appeal from the decision^[1] of the Regional Trial Court, Branch 7, Malolos, Bulacan in Criminal Case No. 134-M-96 finding a member of the Bar and two others guilty of the crime of murder and sentencing them to suffer the penalty of *reclusion perpetua*.

On January 26, 1996, an information^[2] for murder was filed against Atty. Roberto Dionisio, Nestor Gulperic and William Ramos, to wit:

"That on or about the 25th day of January, 1996, in the municipality of Malolos, province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, armed with firearms and with intent to kill one Raul Borlongan, conspiring and confederating together and mutually helping one another, did then and there willfully, unlawfully and feloniously, with evident premeditation, abuse of superior strength and treachery, attack, assault and shoot with the said firearms they were then provided the said Raul Borlongan, hitting the latter on his head, thereby causing him serious physical injuries which directly caused his death.

CONTRARY TO LAW."

Upon arraignment, all the accused entered a plea of not guilty. Thereafter, trial on the merits ensued.

The theory of the prosecution, as summarized by the Solicitor General in the People's brief,^[3] is as follows:

"On January 25, 1996, around 7:00 p.m., Jose Macapugay, Danny Pasco, Dennis Quilet and Raul Borlongan were drinking and conversing in the yard of the rented house of the Borlongans at Maunlad Homes, Caingin, Malolos, Bulacan (p. 5, TSN, February 20, 1996; p. 9, TSN, February 7, 1996). Suddenly, a white car stopped. Appellant, together with Nestor Gulperic and William Ramos alighted from said car. About ten (10) seconds thereafter, appellant entered the yard and unceremoniously fired

at Raul hitting him on the head. Thereupon, Nestor and William successively fired at Raul hitting him on various parts of his body (pp.7-10, February 20, 1996).

As the shooting was taking place, Dennis ran away while Jose and Danny remained seated (p.15, Ibid). Thereafter, appellant, together with Nestor and William, fled aboard the white car leaving Raul slumped on his chair (pp. 11 & 30, Ibid). Immediately, Jose and Danny brought Raul to the Bulacan Provincial Hospital where he was pronounced dead on arrival (p. 14, Ibid).

About 11:00 o'clock p.m. of the same day, Dr. Dominic Aguda, NBI medico-legal officer, was asked by Rudy Fernandez, manager of St. Matthew Funeral Homes, located in Malolos, Bulacan, to conduct an autopsy on the cadaver of Raul (pp. 6-8, TSN, February 28, 1996).

Dr. Aguda's examination yielded the following findings (Exhibit "C"), viz:

` x x x Borlongan sustained three (3) gunshot wounds: one on the right upper cheek (Exhibit "D-1"), another on the left anterior chest (Exhibit "D-2 and the third at the left arm of the deceased (Exhibit "D-3"). He likewise prepared a second cohematic diagram (Exhibit "E") showing the parts of the body of the victim where two (2) bullets were recovered (Exhibit "E-3"). He recovered one of the bullets inside the cranium of the victim and it lacerated the brain, while the other bullet was found by him lodged inside the posterior thoracic cavity or thorax (TSN, February 28, 1996, p.22), after passing through and piercing the left auricle and the aorta of the victim's heart. Either of the said injuries is fatal (p. 23, Ibid). He also prepared the certificate of death of Raul C. Borlongan stating that the latter died as a result of various gunshot wounds that he sustained on January 25, 1996 (Exhibits "G" and "G-1"). He forwarded the two (2) bullets which he recovered from the body of Raul C. Borlongan to the NBI Firearms Investigation Division for ballistic examination as evidenced by a written request that he made for the purpose (Exhibit "F")."

The three accused denied participation in the slaying of Raul Borlongan and raised alibi as their defense.

Accused William Ramos testified that on the night of January 25, 1996, he and his wife Teresita were in the house of his mother at Tibagan, Bustos, Bulacan to get the money promised by her which is needed for the processing of his papers in going abroad. They left his mother's house approximately 7:30 that evening and arrived home in Alido Subdivision, Malolos, Bulacan around 9 o'clock. Early morning the next day, several policemen arrived in their house, informing him that he was one of the suspects in the murder of Raul Borlongan. Forthwith, they brought him to the Municipal Hall of Malolos. There Mayor Danilo Domingo inquired whether he was with Atty. Dionisio. He answered in the negative.^[4] His wife, Teresita Ramos, corroborated his story.^[5]

The other accused, Nestor Gulperic, declared on the witness stand that in the

evening of January 25, 1996, the day the crime transpired, he was in his house at Longos, Calumpit, Bulacan recuperating from a kidney ailment which kept him bedridden for three consecutive days. The following morning, several policemen came and told him that Atty. Dionisio wanted to see him at the Municipal Hall. Despite his sickness which made walking difficult, he went with the policemen since Atty. Dionisio is his godfather. At the treasurer's office, Mayor Domingo arrived and told him to admit his guilt as Atty. Dionisio had already confessed having committed the crime. He vehemently professed his innocence, saying he could not even walk at the time the crime occurred.^[6]

Accused Dionisio testified that on the night Raul Borlongan was killed, he was at the house of Sotero Santiago in Ligas, Malolos, Bulacan, which is ten to twelve kilometers away from the crime scene. He arrived at Ligas between 5:00 to 5:30 o'clock in the afternoon of January 25, 1996 to visit his friends and political leaders. A drinking session started when Milling Eugenio, Angela Natividad, Manoling Alcoriza, Barangay Captain Pabling Santiago and others arrived. Between 9:00 to 9:30 o'clock that evening, he left Sotero's house accompanied by some friends to Sta. Rita, Bulacan where he boarded a jeepney going home to Alido Subdivision, Tabang, Guiguinto, Bulacan. He arrived in their house at about 10:30 that night.^[7]

Sotero Santiago and Flaviano Santiago corroborated Dionisio's testimony. According to them, from 5:00 or 6:00 o'clock in the afternoon until 9:00 or 9:30 o'clock in the evening of January 25, 1996, Atty. Dionisio was engaged in a drinking spree with them in Ligas, Malolos, Bulacan.^[8]

After trial, judgment^[9] was rendered by the lower court, the dispositive portion of which reads:

"WHEREFORE, the court finds the three accused, Atty. Roberto S. Dionisio, Nestor G. Gulperic and William G. Ramos, guilty beyond reasonable doubt as principals by direct participation of the crime of murder, qualified by treachery, as defined in and penalized under Article 248 of the Revised Penal Code, and hereby sentences each of them to suffer the penalty of reclusion perpetua, and to indemnify the heirs of their victim, Raul Borlongan, jointly and severally, the sum of P50,000.00, and the further sum of P85,000.00 representing funeral and other expenses incidental thereto.

SO ORDERED."

Hence, this appeal, but only by Atty. Roberto Dionisio, ascribing to the trial court the following errors:

I. "THE LOWER COURT ERRED IN NOT DISMISSING THE INSTANT CASE AND RENDERING A VERDICT OF ACQUITTAL IN FAVOR OF THE ACCUSED-APPELLANTS.

II. THE TRIAL COURT ERRED IN CITING THE TESTIMONY OF SPO4 ALEX LEONCIO OF THE MALOLOS PNP AS LEAD WITNESS TO

JUSTIFY A WRONGFUL DECISION.

- III. THE TRIAL COURT ERRED IN THE PROMULGATION OF JUDGMENT WITHOUT NOTICE TO APPELLANTS, ESPECIALLY ATTY. ROBERTO S. DIONISIO, COUNSEL FOR HIMSELF AND FOR THE OTHER CO-ACCUSED AND WITHOUT FIRST RESOLVING THE MOTION TO REOPEN TRIAL OF THE ABOVE CASE.
- IV. THE TRIAL COURT GRAVELY ERRED IN NOT CONSIDERING SPECIAL CIRCUMSTANCE OF THE CASE ON THE BASIS OF WHICH IT CAN BE CONCLUDED THAT OTHER PARTY IS BEHIND THE COMMISSION OF THE CRIME.
- V. THE TRIAL COURT ERRED IN DECLARING INADMISSIBLE RELEVANT DOCUMENTARY EVIDENCE OF THE DEFENSE, WHICH WERE PROPERLY OFFERED BY APPELLANT.
- VI. THE TRIAL COURT ERRED IN GIVING CREDENCE TO THE TESTIMONY OF JOSE MACAPUGAY AND DANILO PASCO AS EVIDENCE TO THE IDENTITIES OF THE ACCUSED AS THE ALLEGED PERPETRATORS OF THE CRIME.
- VII. THE TRIAL COURT ERRED IN FAILING TO ACKNOWLEDGE THAT DIRTY POLITICS INTRUDED IN THE ABOVE CASE."^[10]

After a meticulous assessment of the evidence on record, we find no compelling reason to deviate from the trial court's finding that appellant, together with his co-accused, are responsible for the death of Raul Borlongan.

Appellant claims that when the prosecution witnesses, Jose Macapugay and Danilo Pasco, reported the incident to the police station after bringing the victim to the hospital or three (3) hours from the commission of the crime, they could not give the names of the assailants. According to appellant, such failure on their part casts doubt on their credibility. Suffice it to say that delay in revealing the identity of the malefactors does not necessarily taint the credibility of witnesses,^[11] especially if the delay has been sufficiently explained.^[12] In one case, even the failure of witnesses to volunteer information to law enforcement officers did not impair their credibility.^[13] Macapugay and Pasco explained that they failed to identify the perpetrators of the crime at that time because of fear. It must be emphasized that appellant is not an ordinary citizen. He is a lawyer and a former vice-mayor of Malolos. Naturally, considering his influence and standing in the community, those witnesses would hesitate to point to him as the author of the crime. At any rate, Macapugay and Pasco were able to identify appellant and his companions during the hearing, thus:

"Atty. Faylona:

q- Mr. Macapugay, where were you on the evening of January 2, 1996 at about 7:30 in the evening?

Witness:

a- In the house being rented by Raul Borlongan, sir.

q- Why were you there?

a- We were having drinking spree while having conversation.

q- With whom were you having a conversation?

a- I was having a conversation with Raul Borlongan and Danny Pasco and Dennis Quilet.

Court:

q- Were they all drinking?

a- Yes, Your Honor.

q- What were you drinking?

a- Liquor, Your Honor.

q- When did you start?

a- About 7:00 o'clock.

q- What was the occasion?

a- None, Your Honor.

Atty. Faylona:

q- Was there any unusual incident that transpired during that time?

a- Yes, sir, there was.

q- Will you kindly relate what that unusual incident was?

Witness:

a- About the shooting incident with respect to Raul Borlongan.

q- Who shot Raul Borlongan?

a- It was Atty. Dionisio and his companions, sir.

q- Who were these companions of his?

(Witness pointing to person inside the courtroom which (sic) he does not know the name.)

Court:

You point.