

## **FIRST DIVISION**

**[ G.R. No. 136869, October 17, 2001 ]**

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
DENNIS MAZO, ACCUSED-APPELLANT.**

### **D E C I S I O N**

**KAPUNAN, J.:**

In an Information dated February 4, 1997, the Provincial Prosecutor of Romblon charged appellant Dennis Mazo before the Regional Trial Court (RTC) of killing one Rafael Morada, Jr., thus:

That on or about the 10<sup>th</sup> day of January, 1997, at around 1:00 o'clock in the morning, in the Poblacion, municipality of Romblon, province of Romblon, Philippines, and within the jurisdiction of this Honorable Court, the said accused, with intent to kill, did then and there, by means of treachery, willfully, unlawfully and feloniously attack, assault and strike with a knife, one RAFAEL MORADA, JR., inflicting upon the latter serious wounds in different parts of his body which resulted to his untimely death.

Contrary to law.<sup>[1]</sup>

Arraigned on February 12, 1997, the accused pleaded not guilty to the above charges.<sup>[2]</sup>

The prosecution presented Rommel Abrenica, 19, who testified that at about 1:00 in the morning of January 10, 1997, he and the deceased, Rafael Morada, Jr., were having a drink in the "Rendezvous," located near the plaza in Barangay 1, in Poblacion, Romblon, Romblon. Earlier that evening, the two had gone to the "S & L Video" where each of them had two (2) bottles of beer. Rommel and Rafael stayed in the Rendezvous for around 30 minutes and consumed another two (2) bottles of beer each.

Before leaving the Rendezvous, an altercation between them and the accused Dennis Mazo occurred. Rommel's testimony regarding the altercation is sketchy but it appears that Rommel was jealous of the accused whose alleged girlfriend, a waitress at the Rendezvous, Rommel also fancied. On their way out, Rommel saw the accused Dennis Mazo, who was with Anthony Mortel, Gerry Moreno and Glenn Mazo. Rommel approached one of the girls in the bar. While talking to the girl, the accused approached them and said, "[O]h, what?" They responded by asking him, "[W]hat?" Rommel described the accused's attitude as "brave[,] as if he was threatening [them]."

Rafael purportedly also asked Rommel, "*Ano ba talaga ang problema ng long hair na ito?*" referring to the accused, who sported long hair. Anticipating trouble, Rommel got hold of a bottle of beer and hid it under the table.

Rommel and Rafael subsequently went upstairs the Rendezvous to look for another male companion, Joan Martinez. Failing to find Joan, the two went down and rode Rommel's motorcycle to Ilaya Street. As the two rode past Jim's Beta House, they passed the group of Dennis Mazo. Somebody called, "Pssst," and Rommel stopped the vehicle at Punzalan's Pharmacy. Rafael alighted and approached Dennis and his companions to ask who called them. Dennis and Rafael walked towards each other, Dennis holding his back pocket. Suddenly, Dennis, who wielded a knife on his right hand, stabbed Rafael about eight inches below the left nipple.

During this time, Rommel remained seated on his motorcycle. He had turned his head, allowing him to witness the incident from a distance of about five (5) meters. A light from a post illuminated the scene.

Though wounded, Rafael was able to parry another of Dennis' thrusts and then run towards the municipal building. He held his left side with both hands as Dennis gave him chase. Rafael stumbled as he reached the H.E. Building fronting the Romblon West Central School, six (6) or seven (7) arms' length away. Rafael cushioned his fall with his hands and was able to roll on his back. He raised his feet and his hands to shield himself from Dennis' stabbing thrusts. Rafael cried, "*Aray! Aray! Tama na! Tama na!*" Thereafter, Dennis fled towards Ilaya Street.

Rafael managed to stand up despite his wounds. He walked towards the municipal building but fell again before reaching it. In his motorcycle, Rommel rode to where Rafael lay. Rommel held Dennis and tried to lift him but his friend was just too heavy. Rommel called for help. Subsequently, a certain Lalong and one Joseph Angcaco arrived. They rode the victim in the latter's tricycle and brought him to the hospital. Their efforts proved futile, however, for Rafael was already dead on arrival.

In court, Rommel identified Exhibit "D" as the same knife that the accused allegedly used in stabbing the deceased.<sup>[3]</sup>

Dr. Victorio F. Benedicto, the Municipal Health Officer of Romblon, Romblon conducted the autopsy on Rafael's remains. Dr. Benedicto listed five injuries on the victim's body, all of which could have been caused by a sharp, bladed instrument:

1. Stab wound, 3 cm. in length just below the xiphoid process directed internally, upward and to the left, with the forceps going all the way up to the handle.
2. Stab wound 5 cms. in length [sic] at the left lumbar area, directed medially penetrating the abdominal cavity with a loop of small intestines protruding
3. Stab wound ½cm in length 2cms. in depth back of left thigh

4. Stab wound through and through left calf medial 3<sup>rd</sup> entrance; 4cms. lateral aspect; exit 5cms., medial aspect
5. Stab wound through and through, right thigh entrance-3cms., posterior lateral aspect medial 3<sup>rd</sup>. Exit antero-lateral - 3cms.[4]

Dr. Benedicto concluded that the cause of the victim's death was "cardiac tamponade secondary to traumatic injury to the heart inflicted by injury No. 1." He could not tell, however, the order of the infliction of the injuries.[5]

SPO2 Jose Riva de la Cruz was the guard on duty when the accused was brought to the police station. SPO2 De la Cruz asked the accused why he was "surrendering." Dennis answered, "I stabbed Rabot Morada." The accused also told SPO2 de la Cruz that he used a kitchen knife in stabbing the victim. SPO2 de la Cruz asked him where the knife was. The accused replied, "I threw it in the creek at the back of the house of Noel Falcutilla."

When SPO3 Elizer Gene Mallen arrived at the police station, SPO2 de la Cruz instructed him to go to the back of Noel Falcutilla's house to recover the knife. SPO3 Mallen complied and soon returned with the weapon.

SPO2 de la Cruz showed the knife to the accused and asked him if that was the same knife used in the killing. The accused replied, "Yes, sir."

SPO2 de la Cruz admitted, however, that his questioning of the accused was made without the latter having the benefit of counsel.[6]

Gloria Morada, the deceased's sister, testified that her brother, a marine engineering graduate, was 23 when he was killed. She said that she spent P800.00 for the embalming of the body and another P8,000 for the coffin. The lot where he was buried cost P5,000 and the expenses for the nine-day wake amounted to P10,000.  
[7]

The accused interposed self-defense, claiming that it was the victim who initially possessed the knife and started the fight.

Dennis Mazo, 19, recalled that he, his brother Glenn, and friends Anthony Mortel and Jerry Moreno were at the Rendezvous on the evening of January 9, 1997. A girl standing by the door called to Dennis. Dennis approached her and the girl introduced herself as Mila. They shook hands and Dennis gave his name. The girl asked if he wanted a drink. Dennis declined but the girl insisted.

While Dennis and Mila conversed, Rafael and Rommel went down and headed towards them. Rommel was holding a bottle of beer. The two, especially Rafael, stared at him "badly." Rafael pointed to Dennis asking, what was the problem with "that long hair"?

Dennis approached Rafael and told him, "[T]ol (brother), I don't have [a] problem [with you]." Rafael just stared at him. Rommel told Rafael, "[P]are, kinakaya ka lang yata."

As the situation grew tenser, Dennis' companions approached and tried to patch things up between the protagonists. Dennis' friends told him it would be better if they went home "because the two (2) would not respond." The group thus headed home.

The four were walking in front of Jim's Beta Shop when a speeding motorcycle driven by Rommel Abrenica passed by them and stopped in front of Punzalan's Pharmacy. Rafael alighted from the vehicle, drew something from his back pocket and walked towards Dennis.

At about a distance of one (1) meter from Dennis, Rafael, with knife in hand, delivered a thrust in the direction of Dennis' abdomen. Dennis, a student of the Yaw Yan Karate Club, Parañaque Chapter, managed to evade Rafael's thrust by sidestepping. He turned his body, held Rafael's arm with both hands, and pounded Rafael's arm with his right knee.

Rafael lost his grip on the knife, which fell on the ground to Dennis' right. Rafael stooped to pick up the knife but Dennis was there ahead of him. Dennis grabbed the knife from the ground and stabbed Rafael, hitting him in the right part of the abdomen. Dennis again stabbed Rafael and hit him this time on the left. Rafael exclaimed, "Ah, I am hit!" and fell on his back. Rafael raised his feet and kicked Dennis on the abdomen. Dennis reacted by stabbing Rafael on the foot.

Dennis' companions told him, "Let's go," and Dennis followed them home.<sup>[8]</sup>

The foregoing account was corroborated by Dennis' companions, Gerry Moreno<sup>[9]</sup> and Anthony Mortel,<sup>[10]</sup> in their respective testimonies.

Dennis rested at home until Senior Police Inspector Harry B. Mazo, then the Chief of the Romblon, Romblon Police Station and a distant relative of the accused, arrived. The Inspector asked Dennis whether he was involved in the stabbing incident. Dennis answered in the affirmative and told Inspector Mazo that he was going to surrender to him. Inspector Mazo approved, and said that he will fetch Dennis at 6:00 that morning.

As promised, Inspector Mazo picked up Dennis before going to work that day. Dennis was brought to the police headquarters where an investigation was conducted. Dennis said he told the police about the whole incident. He pointed them to where he threw the knife, which the victim allegedly used in the attack.

Rafael further testified that he sustained an injury in his right forefinger as he parried Rafael's thrust. Dennis treated the injury with first aid by washing it and applying Merthiolate on the wound. Dennis later had the injury treated by Dr. Victorio Benedicto on January 17, 1997, seven days after the incident. It did not occur to Dennis to have the wound treated immediately after the infliction of the injury because he was still confused.<sup>[11]</sup>

Dr. Victorio Benedicto confirmed that he treated Dennis for the injury on his finger. In a medico-legal certificate dated January 17, 1997, Dr. Benedicto stated that he attended to Dennis for a "[h]ealed incised wound 1.5 cms. mid-portion, anterior

aspect RT. index finger."<sup>[12]</sup>

The doctor said that the injury could have been caused by a kitchen knife, such as Exhibit "D," but that it could also have been sustained before or even after the January 10 incident.<sup>[13]</sup>

To prove the mitigating circumstance of voluntary surrender, the defense presented Senior Police Inspector Harry B. Mazo.

Senior Police Inspector Mazo was at home on January 10, 1997, at about 3:30 in the morning when somebody knocked on his door. He opened it and found Violy Mazo and Jane Muros, the grandmother and cousin of the accused, respectively. They informed the Inspector that Dennis was involved in the stabbing incident that occurred earlier. Senior Police Inspector Mazo inquired where Dennis was. According to the women, they could not ascertain their relative's whereabouts. Senior Police Inspector Mazo told the two that if Dennis was afraid, he could surrender to him. He then accompanied Violeta and Jane back to their residence.

Arriving at Dennis Mazo's residence, the Inspector was informed by Catalino Mazo, Dennis' grandfather, that Dennis was already sleeping. Catalino woke Dennis, who told the Inspector that he was afraid of the victims' relatives. Considering that it was already early morning, and in order to give Dennis time to rest, the Inspector told Dennis that it would be better that Dennis surrender to him later that morning. Dennis acceded to the Inspector's suggestion.

Later, Inspector Mazo picked up Dennis at the latter's residence before heading to the police station. Without question, Dennis rode with the Inspector to the station where he was locked up in the investigation room.

Senior Police Inspector Mazo inquired from Dennis what happened earlier that morning. Dennis narrated that while he was having a drink in the Rendezvous Shopping Center with a friend, Rommel Abrenica stared at him angrily. Dennis said that Rommel felt jealous towards him because of a girl. Upon the advice of Dennis' younger brother, Dennis and his friends went home.

On their way home, a motorcycle chased their group and stopped near them. Dennis heard Rommel tell Rafael to alight the vehicle and say, "*Banatan mo na.*" The victim alighted and attacked Dennis with a knife. Dennis, in self-defense, was able to stab Rafael, who ran towards the church.

Senior Police Inspector Mazo asked him the whereabouts of the knife. Dennis revealed that the knife was thrown in the creek, near the residence of one Mr. Falcutilla.<sup>[14]</sup>

On rebuttal, the prosecution again presented Rommel Abrenica<sup>[15]</sup> and SPO2 de la Cruz,<sup>[16]</sup> who both affirmed their earlier testimonies. The prosecution also offered for the first time the testimony of Adrian "Dianne" Yap, 20, a make-up artist.

It was fiesta time and Adrian and his friends were having a stroll at around midnight of January 10, 1997 to look for men. The group ended up in the church belfry, where the men were supposed to hang out. Adrian's companions were Ronnie