

EN BANC

[G.R. No. 136258, October 10, 2001]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
CARLOS FELICIANO, ACCUSED-APPELLANT.**

D E C I S I O N

VITUG, J.:

From being the subject of moral condemnation, the "Kiss of Judas" appears to attain a different dimension in criminal procedure. Indeed, by entering into an "unholy" contract with an accused, so that the latter might betray his partner in crime in exchange for an acquittal, the State demonstrates how far its efforts could go to vindicate crime. That the State should agree to become a party to setting up a premium on "treachery," and that it should reward conduct from which an honorable man would ordinarily recoil with aversion, paradoxically illustrates the perceived necessity of such kind of an arrangement in criminal procedure.^[1] It is this doggedness of purpose on the part of the State which herein accused-appellant, in one of his assignment of errors, decries -

"The trial court [has] erred in discharging accused Rodel de la Cruz to be the state witness against co-accused Carlos Feliciano despite strong objections from the defense."^[2]

The accused-appellant, Carlos Feliciano, was a security guard detailed by the Atlantic Security Agency at the Kingsmen building, also popularly known in the small community as the hub of four disco pubs located on four floors of the edifice, in Kalibo, Aklan. He was assigned to the "Superstar" disco pub and his duties ranged from refusing entry to dubious characters to making certain that no customer would leave without first paying his bill. Rodel de la Cruz, a security guard from another agency, the Rheaza Security Agency, was stationed at the parking lot of the same building. In keeping with the nocturnal business hours of the establishments at Kingsmen, the two security guards would report for duty at 7:00 in the evening until the wee hours of the next morning or when the last customer would have by then left the premises. In the early morning of 05 June 1995, Feliciano and de la Cruz centrally figured in the investigation over the grisly death of an unidentified woman whose body was found sprawled in Barangay New Buswang, Kalibo, Aklan.

Finding a dead body at 5:30 in the morning in nearby Barangay Buswang was big news to the small community of Kalibo. The radio news about an unidentified lifeless female lying in the Sampaton Funeral Parlor caught the curiosity of Rosalie Ricarto. The dead woman, so described as wearing a red jacket emblazoned with the words "El-Hassan, Kingdom of Saudi Arabia" and maong pants, fit the description of Teresita Fuentes. Rosalie, a rice retailer, shared a stall with Teresita, a

vendor of spices, condiments and fruits, at the Yambing Building. Rosalie last saw Teresita on the afternoon of 04 June 1995. Teresita, who regularly went to Iloilo twice a week to buy goods to sell, was scheduled to leave the following morning of 05 June 1995. According to Rosalie, Teresita, who normally would take the 2:00 a.m. trip to Iloilo, should already be back at Kalibo by about 4:00 p.m. of the same day. But Teresita did not return that afternoon. Rosalie said that Teresita wore pieces of jewelry - a necklace, a pair of earrings, a bracelet, four rings and a Seiko wristwatch - all of which, except for the timepiece, were eventually recovered. Anna Liza Pronton Fuentes, the daughter of Teresita, was able to identify the bag recovered by Myca Banson from the crime scene, as well as all its contents, to be those belonging to her mother. Likewise, recovered at the crime scene were twelve P100.00 bills, seven P5.00 bills and the broken windshield of the tricycle owned by Ruben Barte. Turned over to the police by the manager of the Superstar Disco Club was the sum of P1,000.00.

The autopsy report showed that whoever bludgeoned the hapless Teresita Fuentes to death had used a blunt instrument, inflicting twelve different wounds on her head and face. The cause of death was noted to be severe hemorrhage secondary to lacerated wounds and skull fracture.

On 02 August 1995, an Information was filed against Rodel de la Cruz and Carlos Feliciano -

"That on or about the 5th day of June 1995, in the early morning, in Barangay New Buswang, Municipality of Kalibo, Province of Aklan, Republic of the Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating together and mutually helping one another, while armed with a handgun, by means of force and violence, and with intent of gain and without the consent of the owner thereof, did then and there willfully, unlawfully and feloniously take, steal, rob and carry away cash money in the amount of TEN THOUSAND PESOS (P10,000.00), Philippine currency, more or less, belonging to TERESITA FUENTES Y OSORIO, to the damage and prejudice of the owner in the aforesaid amount; that by reason or in the occasion of said robbery, and for the purpose of enabling the accused to take, steal and carry away the aforesaid amount, the above-named accused with intent to kill and conspiring with one another, did then and there willfully, unlawfully and feloniously and with evident premeditation and under the cover of darkness, treacherously attack, assault and wound TERESITA FUENTES Y OSORIO, thereby inflicting upon her mortal wounds, to wit:

1. Lacerated wound about 1 ¼ inches in length left chin.
2. Lacerated wound about 1 inch in length left lower lip.
3. Fracture of the left mandible.
4. Fracture of the left upper lateral incisor and the left upper canine.

5. Lacerated wound about 1 ¼ inches in length and about 1 ½ in depth left face.
6. Punctured wound ½ in diameter and about 1½ inches in depth mid-portion base nose bridge left.
7. Lacerated wound about 2 inches in length and about 1½ inches in depth left cheek.
8. Lacerated wound about 1 inch in length left ear medially.
9. Lacerated wound about ½ inch in length left face near the left ear.
10. Lacerated wound about 1 ½ in length below the left eyebrow.
11. Punctured wound about 1 inch in diameter and about 5 inches in depth left parietal
12. Skull fracture occiput right.

"as per autopsy report of Dr. Agrelita D. Fernandez, of the Rural Health Unit, Kalibo, Aklan, hereto attached and forming an integral part hereof which wounds directly caused the death of said TERESITA FUENTES Y OSORIO.

"That as a result of the criminal acts of the accused, the heirs of the victim suffered actual and compensatory damages in the amount of FIFTY THOUSAND (P50,000.00) PESOS." [3]

The prosecution sought the discharge of accused Rodel de la Cruz so that the latter could testify against his co-accused Carlos Feliciano. Pending resolution by the trial court on the motion, Carlos Feliciano and Rodel de la Cruz were arraigned on 08 February 1996. The two accused entered a plea of not guilty. On 18 June 1996, the court *a quo* granted the motion of the prosecution and the name of Rodel de la Cruz, an accused turned state witness, was forthwith stricken off from the Information. [4]

A detailed account of the incident presented at the trial by the prosecution was narrated by the Office of the Solicitor General.

"In the early morning of June 5, 1995, before 2 o'clock, appellant went to the guard post of Dela Cruz to tell the latter to assist him in going after a customer who did not pay the bill. It was not the first time that they had to run after a non-paying customer. Dela Cruz thus accompanied appellant who rented for the purpose a tricycle from its driver, Ruben Barte, who stayed behind. Appellant initially drove but about twenty meters past Kingsmen Building, he asked Dela Cruz to take over while he stayed inside the passenger sidecar of the tricycle. Somewhere between the Ceres and Libacao terminals, appellant alighted from the tricycle after instructing Dela Cruz to stop and wait for him. Appellant subsequently

informed Dela Cruz that they shall wait there for the customer they were after. About a half hour later, however, appellant decided to leave the place, apparently because the person he was looking for was nowhere in sight. As they passed Banga, New Washington crossing, they saw a woman walking alone. Appellant waved at her, giving Dela Cruz the impression that they knew each other. Dela Cruz stopped the vehicle, as he was told by appellant, who then jumped out. Drawing his service gun, appellant suddenly held the woman by the neck and at the same time poked his gun at her face. He dragged her towards the tricycle and ordered her to board it. The woman would later be identified as Teresita Fuentes. Dela Cruz was shocked with what appellant did and was at a loss on what to do. Still stricken with panic, Dela Cruz asked appellant what was going on and said he was leaving as he did not want to be part of whatever plans appellant had. Appellant retorted that Dela Cruz was already involved. Dela Cruz was about to alight from the tricycle when appellant poked his gun at him and ordered him to drive. Thinking that appellant was in a position to easily shoot him, Dela Cruz did as he was ordered.

"Appellant then instructed Dela Cruz to drive back to the public market. When they reached the junction of Toting Reyes and Roxas Avenues, appellant told Dela Cruz to turn right at Rizal Memorial College of Arts and Trade (RMCAT). They noticed at this point that another tricycle, which came from the direction of Kingsmen Building, was following them. This prompted appellant to order Dela Cruz to turn left at Magdalena Village instead and to drive faster. During the ride, appellant held Fuentes, who was crouching, by her hair, pressing her head down. He also kicked her and struck her head with the butt of his gun whenever she struggled. Dela Cruz asked appellant to stop hurting Fuentes and to have pity but his entreaties fell on deaf ears. Appellant even threatened to shoot Dela Cruz if he does not stop complaining.

"When they reached New Buswang, they noticed that the other tricycle they saw earlier was still trailing them by about 15 meters. As they approached Magdalena Village after passing Camp Martelino, Fuentes struggled so appellant hit her again. Dela Cruz told appellant to desist from striking her. Appellant did not take kindly to the unsolicited advice and fired his gun in the air. Seeing an opportunity for escape, Dela Cruz suddenly swerved the tricycle towards Magdalena Village until the vehicle toppled over. When the tricycle was lifted from its fallen state, Dela Cruz immediately jumped out of it and ran towards a feeder road leading to the Cooperative Rural Bank. He was resting at the back of the bank for a few minutes when appellant also arrived. Enraged, Dela Cruz this time drew his service firearm and aimed it at appellant, demanding from the latter an explanation why he had to involve him (Dela Cruz). With an assurance that he would own up the responsibility for everything that had happened, appellant was able to calm Dela Cruz down. After returning his service gun to the holster, Dela Cruz headed back to the road. Behind him following was appellant. Then, they saw Barte, from whom appellant rented the tricycle earlier, trying to start the engine thereof. It turned out that it was Barte who was in the other tricycle, driven by Ramon Yael. Appellant assured Barte that he will pay for all the damages of the rented

tricycle.

"Meanwhile, Dela Cruz went back to Kingsmen Building aboard Yael's tricycle to look for his dancer girlfriend, Myka (or Mika) Banzon (or Vanson), but she was not there. Dela Cruz, with Yael in his tricycle, were about to go to Banzon's boarding house when appellant approached them, insisting that Yael take him first to Magdalena Village. Afraid of appellant, Yael agreed. When they got there, particularly where Barte's tricycle turned over earlier, appellant walked towards a mango tree. Curious, Dela Cruz followed him. Dela Cruz saw appellant hitting Fuentes on the head with his gun. She was lying down face up, groaning. Dela Cruz admonished and pushed appellant away, telling him to have pity on Fuentes. Since he did not want to get involved further nor did he want to see any more of what appellant was up to, Dela Cruz walked back to the tricycle. He took a last look back and saw appellant getting something from the pocket of Fuentes and putting it inside the pocket of his *chaleco*. Soon enough, appellant caught up with Dela Cruz and Yael as they were about to leave and they all went back to Kingsmen Building.

"Dela Cruz finally found Banzon at the third floor of the building and informed her that he was going to bring her home already. She passed by the ladies' room while he stood watch outside. Appellant arrived and told Dela Cruz and Banzon that they had to talk inside the ladies' room. He was giving Dela Cruz and Banzon P600.00 each, but they declined to accept the money. Appellant threatened Dela Cruz not to squeal whatever he knows or appellant will kill him and his family. When appellant insisted in giving the money, Dela Cruz took it only to place it on the sink, then, he and Banzon left.

"Dela Cruz and Banzon were leaving for her boarding house aboard Yael's tricycle when appellant caught up with them again and ordered Yael to first take him to Ceres terminal. As they passed the Tumbokan Memorial Hospital, they came across Barte driving his tricycle. After signaling for Barte to stop, appellant gave him money. Dela Cruz and Banzon quickly transferred to Barte's tricycle since Yael still had to take appellant to the terminal. In the course of the transfer to the other tricycle, appellant placed something inside the pocket of Dela Cruz who thought nothing of it as he was in a hurry to go home. In Banzon's boarding house, Dela Cruz found out that what appellant had put in his pocket was a blood-stained necklace wrapped in a piece of paper. Banzon also showed him a bag she found at the place where Barte's tricycle turned turtle. Dela Cruz planned to return the necklace and the bag the next day.

"In the evening of June 5, 1995, Dela Cruz reported for work. Appellant asked him for the necklace so that he could pawn it. Dela Cruz, however, was unable to give the necklace back because in the morning of June 6, 1995, the police raided the boarding house of Banzon. Among those confiscated by the police was his wallet where he placed the necklace. The police invited Dela Cruz to the police station to shed light on what he knew about a murder committed in Magdalena Village. The police had earlier confirmed an anonymous call that a dead woman was found at New Buswang. Twelve 100-peso bills were found at the scene, as well as