

## SECOND DIVISION

[ G.R. No. 128886, November 23, 2001 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JESUS JULIANDA, JR. AND SAMSON GUERRERO, ACCUSED-APPELLANTS.**

### D E C I S I O N

**BUENA, J.:**

Accused-appellants Jesus Julianda, Jr. and Samson Guerrero appeal the decision of the Regional Trial Court at Ligao, Albay, Branch 12 in Criminal Case Nos. 3217 and 3218 entitled "People of the Philippines versus Nolito Julianda, Jimmy Julianda, Jesus Julianda, Sr., Jesus Julianda, Jr., Samson Guerrero, Luis "Louie" Magana and Dante Talagtag" convicting them of murder and attempted murder, respectively, and sentencing both of them to *reclusion perpetua* and *prision mayor*, respectively.

On April 26, 1994, two informations were filed against the accused charging them of murder and attempted murder committed as follows:

"CRIMINAL CASE NO. 3217

"That at about 8:15 in the morning of January 15, 1994 at Barangay Along-ong, Municipality of Libon, Province of Albay, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with intent to kill, armed with bolos, stones and lead pipes, with evident premeditation, treachery and superior strength, conspiring, confederating with one another, did then and there, wilfully, unlawfully and feloniously hack, stab, stone and strike one TEOFILO CORALDE at (sic) the different parts of his body which caused the instantaneous death of said Teofilo Coralde, to the damage and prejudice of the latter's heirs.

"ACTS CONTRARY TO LAW.

"CRIMINAL CASE NO. 3218

"That at about 8:15 in the morning of January 15, 1994 at Barangay Along-ong, Municipality of Libon, Province of Albay, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with intent to kill, armed with bolos, stones and lead pipes, with treachery, evident premeditation and superior strength, conspiring, confederating with one another, did then and there, wilfully, unlawfully and feloniously attack, assault, hack, stab, stone and strike with lead pipe one FERDINAND CORALDE in the different parts of his body, thus accused commenced the commission of the offense directly by overt acts but was not able to consummate the crime of Murder for reasons other than their spontaneous desistance, that is, the victim ran away, to the damage and

prejudice of said Ferdinand Coralde.

"ACTS CONTRARY TO LAW."

Of the seven (7) accused only Jesus Julianda, Jr. and Samson Guerrero were arrested while the rest of the accused remain at large.

Joint trial of the two (2) cases was conducted considering that they arose out of the same incident involving the same parties.

Upon arraignment, the accused, assisted by counsel, pleaded not guilty to the crime charged. The Regional Trial Court thereafter proceeded with the trial.

Both the prosecution and the defense presented seven (7) witnesses each. The prosecution witnesses were Gertrudes Casalo, Macaria Segui, and Ferdinand Coralde who were all eyewitnesses to the incident. Dr. Mario Cerillo was presented because he conducted the post-mortem examination on Teofilo Coralde. Dr. Larry Mateum treated the injuries sustained by Ferdinand Coralde. Divina Coralde, Teofilo's widow, and Martina Coralde, mother of the two victims, testified on the civil aspect and the expenses incurred for the wake and burial of Teofilo and the medical expenses of Ferdinand.

Gertrudes Casalo, the first witness for the prosecution, testified that on January 15, 1994 at around 8:15 a.m., she was at the junction of Along-ong, Libon, Albay. She saw Teofilo Coralde (Teofilo, for short) riding a carabao while his brother Ferdinand (Ferdinand, for brevity) was walking behind him.

She saw that their (the Coraldes') way was suddenly blocked by the brothers Jesus, Jr., Jimmy, and Nolito Julianda.<sup>[1]</sup> Jimmy and Nolito were armed with bolos while Jesus was holding a rock.<sup>[2]</sup>

Jimmy and Nolito tried to hack Teofilo so the latter alighted from the carabao and ran away. Both Teofilo and Ferdinand entered the store of a certain Arlene Cabrillas.

Approximately twenty people surrounded the store, four (4) of whom she recognized: the three Julianda brothers - Jesus, Jr., Jimmy, and Nolito - and Samson Guerrero.<sup>[3]</sup> She didn't know the others because they are from Buluang, Bato, Camarines Sur, which is around five (5) kilometers from Along-ong.

From a distance of ten (10) meters she saw Nolito pull the hand of Teofilo and drag him towards the road. Upon reaching the road, Nolito hacked the back of Teofilo. Despite this, Teofilo was able to run and cross the road before he fell down. Jimmy likewise hacked Teofilo while Jesus hit Teofilo with a stone.<sup>[4]</sup>

Gertrudes Casalo could not say which part of Teofilo's body was hit because a lot of people surrounded him. Somebody was hacking him, another was hitting him with stones, and Samson Guerrero was hitting him with a lead pipe.<sup>[5]</sup>

Ferdinand Coralde, upon seeing his brother fall, went out of the store. He was met by Samson Guerrero who smashed his nose with a stone. Then the group ganged up on him. He was already down, when the group left him.<sup>[6]</sup>

Ferdinand, upon regaining consciousness, got up and ran away, leaving his brother Teofilo behind.

Although afraid, Casalo along with her two companions, just stood and watched what happened to Teofilo and Ferdinand.

The second prosecution witness was Dr. Mario Cerillo, Rural Health Physician of the Rural Health Unit of Libon, Albay.<sup>[7]</sup> He conducted the autopsy on the cadaver of Teofilo Coralde. The victim sustained eleven (11) injuries on different parts of his body. The cause of death was severe blood loss secondary to multiple stab wounds with multiple organ injury.

Dr. Cerillo testified that the victim suffered two lacerated wounds on the forehead, caused by a blunt object although he could not say what kind; a stab wound on the right side below the right elbow, going down at the mid axillary line penetrating down to the third bone; a broken bone; an incised wound on the left axillary (below the armpit); an incised wound on the middle finger of the right hand; and a hacking wound found on the left axillary area (from the left shoulder going diagonally to the right) - all of which could have been caused by sharp instrument, a knife, a sharp object or a *bolo* with a sharp tip.

A stab wound on the lower part of the abdomen was also found, where the small intestine was partially out but not totally cut. Again a sharp-tipped instrument caused it.

The multiple abrasions found on the right leg and both knees of the victim were attributed to a hard and rough object as when a person is dragged by another person, or when the victim falls on a rough instrument or object.

Except for the abrasions Dr. Cerillo could not say whether the rest of the wounds were caused by one instrument. However, he admitted that it was possible.

It was possible that the assailant was beside or at the back of the victim when the injury on victim's back was inflicted. It was also probable that different sharp instruments inflicted the wounds.

Two (2) fatal wounds could have caused the demise of the victim: one was the stab wound 4 centimeters, 6<sup>th</sup> intercostal space, right mid axillary line penetrating with broken (cut) 5<sup>th</sup> bone rib, and the other was the wound in the abdomen where the intestine was partly cut. The hacking wound could be considered as fatal because of its length. Dr. Cerillo could not say if one or more persons inflicted the wounds.

Macaria Segui, the third prosecution witness, and an aunt of the Coralde brothers, corroborated the testimony of Gertrudes Casalo.

She testified that in the morning of January 15, 1994 at around 8:15 a.m., she was at the junction of Along-ong. She saw Nolito Julianda, Jimmy Julianda, Jesus Julianda, Sr., Jesus Talagtag, Rodrigo Talagtag, Ramon Talagtag, Samson Gregorio, Aniano Lascano, Nelson Lascano, Wilson Lascano, Toden Magana, Luis Magana, Dante Talagtag, and Diomedes Gavina. They were in a group and were armed. She

knew them as they always converged at the junction on market days and because she was a resident of Along-ong and Buga.<sup>[8]</sup>

She saw Nolito holding a bolo and heard him repeatedly saying, "Where are these two brothers, Teofilo Coralde and Ferdinand Coralde because we are going to kill them." She passed by them and went to the copra dealer.<sup>[9]</sup>

As she was going home she saw Teofilo and Ferdinand being chased by the above-mentioned people who were accompanied by others whom she didn't recognize. Nolito was leading the group. Teofilo and Ferdinand were, at the same time, being stoned as they entered the store of Arlene Cabrillas, while she (Segui) entered the warehouse of the copra dealer. The store of Arlene Cabrillas and the copra buyer's warehouse were adjacent to each other. Through the warehouse's window she saw what transpired.<sup>[10]</sup>

Nolito pulled Teofilo by the hand from out of the store with Jimmy Julianda, Jesus Julianda, Jr., and Jesus Talagtag pushing Teofilo towards Nolito. The other members of the group surrounded the five.<sup>[11]</sup>

Nolito went behind Teofilo and hacked the latter with his "guinonting" bolo. Teofilo was hit at the back below the left shoulder blade. He slumped but was still able to stand up. It was then that Aniano Lascano hit his right thigh with a lead pipe. Notwithstanding his injuries Teofilo was able to run away. However, he fell down. The group went after him. Again it was Nolito who was running ahead of the group.<sup>[12]</sup>

While Teofilo was lying on his back, Diomedes Gavina stabbed him on the stomach while Nelson Lascano stabbed him below the armpit. Jimmy Julianda likewise stabbed him on the right and left sides of the body. Samson Guerrero struck him on the head with a lead pipe.<sup>[13]</sup> Then Toden Magana shot him twice with an Indian arrow<sup>[14]</sup> on the forehead. Meanwhile, Luis Magana, Dante Talagtag, Jesus Julianda, Sr., Jesus Talagtag, Rodrigo Talagtag, and Ramon Talagtag kept striking Teofilo with stones.<sup>[15]</sup>

Macaria Segui saw that Teofilo was hit several times.

After Teofilo was hit on the forehead by the Indian arrow they pulled him away.

Upon seeing that Teofilo had fallen down, Ferdinand went out of the store. Ferdinand tried to help his brother but Samson Guerrero, Dante Talagtag and Luis Magana met him. Samson Guerrero struck him. Guerrero hacked Ferdinand on the left leg with a bolo.<sup>[16]</sup> Luis Magana and Dante Talagtag helped in striking Ferdinand. Luis Magana hacked Ferdinand on the back of his right arm with a bolo while Dante Talagtag hacked Ferdinand on the right forehead.<sup>[17]</sup>

When Ferdinand fell down they left him and ran towards Teofilo. After regaining consciousness, Ferdinand ran away.

When the military arrived Macaria Segui came out of the warehouse and went home.

Segui was standing more or less eight (8) meters away from the scene of the crime. Gertrudes Casalo, the first prosecution witness, was five (5) meters away from where she (Segui) was.

She estimated that the incident transpired for around fifteen (15) minutes. She testified that Jesus Julianda, Sr., Jimmy Julianda, and Diomedes Gavina hit Teofilo Coralde with stones. Teofilo was hit on the right temple when he was already wounded. Before that he was hit on the stomach and on the right side of the arm. Diomedes Gavina hit Teofilo at the back when he was already wounded.<sup>[18]</sup>

She saw Teofilo being hacked by Nolito Julianda when he was already wounded. When he was able to run away he was stabbed, not hacked, three times by Wilson Lascana, Diomedes Gavina and Jimmy Julianda.<sup>[19]</sup>

She identified the two accused (Jesus Julianda, Jr. and Samson Guerrero) in the courtroom and claimed that she could recognize the others if she would see them again.

The next witness for the prosecution was Ferdinand Coralde. He positively identified accused Samson Guerrero and Jesus Julianda, Jr., as among those who assaulted him and his brother Teofilo.<sup>[20]</sup> He corroborated the testimonies of Gertrudes Casalo and Macaria Segui. He claimed that it was Guerrero, Dante Talagtag, Luis Magana and Toden Magana who assaulted him.<sup>[21]</sup>

He testified that in the morning of January 15, 1994 at around 7:30 a.m., he and his brother were going to Bulwang, Bato, Camarines Sur. His brother was riding a carabao whereas he was walking behind.<sup>[22]</sup>

Upon reaching the junction of Along-ong they were waylaid by the group of Nolito Julianda and Aniano Lascano who suddenly appeared in front of them. There were more than twenty (20) people in that group and they were armed. He could only identify fourteen (14) of the people in the group, to wit: Nolito Julianda, Jesus Julianda, Sr., Jesus Julianda, Jr., Jimmy Julianda, Jesus Talagtag, Ramon Talagtag, Rodrigo Talagtag, Aniano Lascano, Wilson Lascano, Diomedes Gavina, Samson Guerrero, Toden Magana, Dante Talagtag, and Luis Magana. The men were armed with bolos, stones, and lead pipes. He knew these men as he used to pass by their place.<sup>[23]</sup>

Aniano Lascano was armed with a lead pipe. Jesus Julianda, Sr. was armed with a stone. Samson Guerrero had a stone, a lead pipe and a sheathed bolo. Nolito Julianda was armed with a bolo.<sup>[24]</sup>

Ferdinand and his brother Teofilo then ran away. They were able to enter the house cum store of Arlene Cabrillas. This group of armed men surrounded the house. He and Teofilo stood behind each door. He saw Teofilo being pulled outside by Nolito Julianda. Jimmy Julianda, Jesus Talagtag, and Jesus Julianda, Jr. were helping Nolito.<sup>[25]</sup>

When Teofilo and Nolito were already outside the latter hacked Teofilo at the back.