

## SECOND DIVISION

[ G.R. No. 130809, March 15, 2000 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
MAXIMO HERNANDEZ Y DE GUZMAN, ACCUSED-APPELLANT.**

### D E C I S I O N

**DE LEON, JR., J.:**

Maximo Hernandez y de Guzman assails the decision of the Regional Trial Court (RTC) of Manila, Branch 37, convicting him beyond reasonable doubt of the crime of murder and sentencing him to suffer the penalty of *reclusion perpetua*.

The facts of the case as culled from the records are as follows:

On January 3, 1992, at around 4:45 o'clock in the afternoon, Patricia Malunas de la Cruz was in her house at 2422 M. Hizon St. Sta. Cruz, Manila, when a man known only as "Tambol" arrived. Tambol was looking for Edgardo Torres who happened to live in the same house with Patricia. Since Edgardo at that time was out somewhere at the corner of M. Hizon Street, Patricia had to fetch him. On their way home, they met Gerry Caniesa<sup>[1]</sup> with whom Edgardo had a previous argument, standing outside the door of an apartment, with two other companions, Ricardo and Orlando Soriano. Gerry summoned Edgardo but the latter, anxious to go home, only replied, "Tomorrow." Irked, Gerry demanded, "Ngayon na!" and swore "Fuck you!"

Piqued by Gerry's remarks, Edgardo entered the apartment but he was instantly beaten up by Gerry and four other men identified as Ricardo Soriano, Orlando Soriano, Meo Caniesa and Antonio Claudio. The men, armed with pieces of wood, took turns in mauling Edgardo. Meo, who was armed with a hammer and a bolo, hacked the foot of Edgardo twice. Then, Edgardo was thrown out of the apartment and left on the pavement, bleeding and almost unconscious.

Instead of helping the victim, accused-appellant, who happened to be standing outside of the apartment, held the two hands of Edgardo and violently pushed him causing the deceased to fall on his back. Accused-appellant then got a piece of wood about 2" x 3" in size to hit Edgardo's head, causing the victim's brain to spill out. Thereafter, accused-appellant fled on foot while the rest of the suspects hid.

Edgardo was loaded on a pushcart and brought to the Chinese General Hospital. He expired on the same night when he was admitted to the hospital. His family spent P22,250.00 for the hospital and funeral expenses.<sup>[2]</sup> The post mortem examination conducted on Edgardo by Dr. Manuel Lagonera, Medico-Legal Officer of the Western Police District-Philippine National Police (WPD-PNP) revealed the following findings:

***External Findings:***

1. *Abrasion, right supra-clavicular region, measuring 1.5 x 0.5 cms.*
2. *Contusion, left posterior thorax, measuring 24 x 13 cms.*
3. *Abrasion, left elbow, measuring 5 x 1 cms.*
4. *Abrasion, distal 3rd, left posterior forearm, measuring 4 x 1 cms.*
5. *Abrasion, right elbow, measuring 1 x 0.8 cms.*
6. *Abrasion, right knee, measuring 2 x 1 cms.*
7. *Hacking wound, middle 3rd right anterior lower leg, measuring 4.5 x 2 cms.*
8. *Hacking wound, middle 3rd, left anterior lower leg, measuring 6 x 5 cms. Both hacking wounds lacerated the anterior muscles of the lower legs and fracturing the left tibia.*
9. *Abrasion, right forehead, measuring 6 x 2 cms.*
10. *Contusions, bluish in color, both upper eyelids.*
11. *Abrasion, right zygomatic region, measuring 1.2 x 1 cms.*
12. *Lacerated wound, vertex, measuring 3.2 x 1 cms.*
13. *Lacerated wound, left parieto-temporal region, measuring 6 x .5 cms.*
14. *Lacerated wound, back of the left ear, measuring 1 x 0.5 cms.*
15. *Contusion, left occipital region, measuring 6 x 3 cms.*

**Internal Findings:**

1. *There was massive sub-aponeurotic hemorrhage with depressed fracture of the left parieto-temporal bone and occipital bone.*
2. *There was massive sub-arachnoid hemorrhage with contusion of the parieto-temporal lobes of the brain.*
3. *Linear fractures of the anterior, middle cranial fossae extending up to sella turcica.*
4. *Recovered from the stomach about ½ cup of thick brownish material and without alcoholic odor.*

**CAUSE OF DEATH:** *Blunt Head Injuries.*<sup>[3]</sup>

Apart from the abrasions and multiple lacerations in the head which caused his death, there were hack wounds found on the legs of the deceased. Dr Lagonera, however, opined that the hack wounds were not fatal. He added that the lacerated

wounds could have been caused by a blunt instrument.<sup>[4]</sup>

In the meantime, a security guard of the Chinese General Hospital called up the WPD to report that a victim of a clubbing incident along M. Hizon Street, Blumentritt Manila was admitted to the hospital. Some operatives of the WPD hurried to the reported place of the incident and managed to apprehend Orlando Serrano y Lapuz, Ricardo Serrano y Lapuz and Antonio Claude y Salvador. However, the three (3) men were released for insufficiency of evidence against them. Herein accused-appellant Max, Gerry and two other unidentified males who were also suspects, remained at large.<sup>[5]</sup>

Juanita Lacson, the aunt of the deceased and a resident of 2422 M. Hizon Street, Sta. Cruz, Manila, testified that the victim lived with her since he was thirteen (13) years old. On January 3, 1992, as she was leaving her house, she saw accused-appellant hit the deceased on the head with a piece of wood.<sup>[6]</sup> Nobody tried to pacify the persons clubbing the deceased since no one, except for Patricia, and Gerry Caniesa and his friends, were around.<sup>[7]</sup> While the others rushed the victim to the hospital, Juanita went to the police station and reported the incident. At the police station, she was advised by one Boy Encarnacion to formally lodge a complaint upon accused-appellant's arrest. Juanita explained that it took her more than a month to file her complaint because the accused-appellant and the five other men went into hiding immediately after the said incident.<sup>[8]</sup>

On February 4, 1992, an Emilia Torres de Ramos of C-2, Capulong Highway Tondo, Manila called up the WPD to report that accused-appellant was roaming along the vicinity of M. Hizon Street in Blumentritt, Manila. Several operatives of the WPD were dispatched in response to the report and apprehended accused-appellant on the same day.

On February 7, 1992, the following information was filed against accused-appellant before the RTC of Manila, Branch 37.

*That on or about January 3, 1992, in the City of Manila, Philippines, the said accused, conspiring and confederating together with other whose true names, identities and present whereabouts are still unknown, did then and there, wilfully, unlawfully and feloniously, with intent to kill and with treachery, evident premeditation and abuse of superior strength, attack, assault and use personal violence upon one Edgardo Torres y Lacson, by then and there clubbing him several times on the head with pieces of wood, thereby inflicting upon the latter mortal head injuries which were the direct and immediate cause of his death thereafter.*

Contrary to law.<sup>[9]</sup>

Accused-appellant pleaded not guilty upon arraignment<sup>[10]</sup> and instead offered the following version of the story:

Accused-appellant is a resident of 2445 M. Hizon Street, Sta. Cruz, Manila. He was a vendor by profession and was appointed as Officer-in-Charge (OIC) of the Barangay Tanods in Barangay 365, Zone 37 in Sta. Cruz, Manila. As OIC of the barangay tanods, one of his duties and responsibilities is the maintenance of peace and order

in the barangay. On January 3, 1992, at around 4:30 o'clock p.m., accused-appellant was about to leave for Sta. Mesa, Manila when a certain Amelia Estipular sought his help in pacifying the deceased who was chasing someone with a knife in a house nearby. Upon reaching the house, he saw Ric Serrano, Orland Serrano, Gerry Caniesa, a certain Mio and the deceased standing on the ground floor. The deceased then asked him, "Ano ang ginagawa ninyo dito?" When accused-appellant did not reply, the deceased pulled a "balisong" from his pocket and tried to stab him. Before he could inflict any harm on accused-appellant, Gerry Caniesa, struck the deceased several times. Thereafter, Gerry ran away. Accused-appellant tried to go after Gerry but failed to apprehend him since Gerry was holding a piece of wood.  
[11]

When accused-appellant returned, he saw the deceased being loaded on a pushcart before being brought to the hospital. The barangay chairman, Juanita Lacson and Patricia de la Cruz arrived. The accused-appellant did not report the incident to the Barangay Chairman because he was not asked to do so. He then decided to go home and did not bother to volunteer any information regarding the incident to the police.  
[12]

Accused-appellant's story is corroborated by his cousin and neighbor Danilo de Guzman. Danilo testified that at around 4:20 o'clock in the afternoon of January 3, 1994, he was in the house of Ric Serrano, in M. Hizon Street, Sta. Cruz, Manila. He was in the company of Ric, Ato, Meo and Orlan when he saw Gerry Caniesa being chased by the deceased "Togart". The deceased at that time was holding a bladed weapon. Gerry was the first to enter Serrano's house followed by Togart. Then there was some shouting heard. Later, he saw Togart leaving the house pacified by Ric. At this point, accused-appellant arrived. Accused-appellant asked Togart what happened but the latter tried to stab him. Suddenly, Gerry emerged from the house, got a piece of wood and hit the deceased four (4) to five (5) times. Orlan followed suit and hit the deceased three (3) times. Thereafter, Gerry together with Orlan fled.  
[13] Danilo was not able to give his statement to the police officers who arrived to investigate the case because they hastily left.  
[14] Danilo then proceeded to the police station where he was able to talk to a certain "Chico".  
[15] From the time of the incident up to the trial, he did not volunteer any information regarding the gruesome killing of Edgardo Torres.  
[16]

Amelia Sandico Estipular, the sister of Antonio Claudio  
[17] who is one of the suspects in the killing of the victim, also corroborated accused-appellant's story. She said that Gerry Caniesa hit the deceased with a piece of wood several times on the head, thus causing his death. Amelia testified that she was in the store near the house of Ric Soriano  
[18] when she heard some shouting. It was then that she realized the deceased was pursuing Gerry inside said house. She approached the accused-appellant to help pacify the two men inasmuch as the accused-appellant was the Officer in Charge (OIC) of the Barangay Tanods. Accused-appellant then positioned himself at the door of Soriano's house but the deceased tried to stab him. When accused-appellant was able to parry the blow coming from the victim, he pushed the latter. At this point, Gerry Caniesa appeared and hit the victim with a piece of wood for about six (6) times. Amelia was not able to witness the subsequent events since a number of people came rushing to the scene. She heard, however, that the victim was later brought to the hospital.  
[19] Amelia did not volunteer to give any