

SECOND DIVISION

[G.R. Nos. 119958-62, March 01, 2000]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ALEJANDRO MARQUITA AND JOSEPH MARQUITA, ACCUSED-
APPELLANTS.**

D E C I S I O N

QUISUMBING, J.:

On appeal is the decision of the Regional Trial Court of Molave, Zamboanga del Sur, Branch 23,^[1] convicting appellants of five (5) counts of murder, imposing upon them five (5) terms of *reclusion perpetua*, and ordering them to solidarily indemnify the heirs of the victims P50,000.00 for each count of murder.

The facts are as follows:

On July 3, 1987, late in the afternoon in Alang-alang, Tambulig, Zamboanga del Sur, appellants Joseph Marquita and Alejandro Marquita were having a drinking session with Sergio Pampilo in the store/house of the latter. The drinking session lasted up to 4:00 o'clock the following morning. Thereafter, an altercation started between Joseph and Sergio over some "small matter."^[2] Apparently, Sergio was prohibiting everyone to pass through his dike.^[3] Suddenly, Sergio struck Joseph in the face with a bottle of Tanduay Kulafu. When Joseph felt the blood on his face, he became angry and retaliated by stabbing Sergio in the stomach.^[4] Alejandro tried to intervene but could not separate them since Joseph was holding a bolo.^[5] Alejandro started to run away.^[6]

After stabbing Sergio, Joseph totally lost control of himself and went on a rampage. He continued to stab even Sergio's wife, Rosalinda, who was sleeping inside the house. He also stabbed Sergio's daughters, Merlene, Rosalie and Sherly, who were also sleeping inside the house.^[7] Romeo Pampilo, Sergio's 16 year-old son survived by hiding himself inside a cabinet.^[8] Ruby Pampilo, Sergio's 4 year-old daughter survived because Alejandro, as he was fleeing, picked her up and brought her to the back of the house.^[9]

Guillermo Rebutazo, Romeo's uncle and a nearby neighbor, heard the cries for help. He rushed to the house and Romeo pointed to two persons running away in different directions as the perpetrators of the massacre. Rebutazo chased Joseph but did not catch up with him. When Rebutazo went back to the Pampilo residence, he saw the bodies of the five victims.^[10]

On October 7, 1987, appellants were charged with the crime of murder under five

(5) separate Informations containing the same allegations except for the names of the victims. The Information as to Merlene Pampilo states:[11]

"The undersigned Asst. Provincial Fiscal of Zamboanga del Sur accuses Joseph Marquita and Alejandro Marquita of the crime of MURDER, committed as follows:

That on July 4, 1987 at about 4:30 o'clock in the morning at barangay Alang-alang, Municipality of Tambulig, Province of Zamboanga del Sur, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused with intent to kill, with treachery, evident premeditation and with abuse of superior strength conspiring, confederating and mutually helping each other did then and there wilfully, unlawfully and feloniously, with the used (sic) of hunting knives, stabbed and hacked Merlene Pampilo, inflicting mortal wounds on his (sic) body which caused his death.

Contrary to law."

On April 14, 1988, upon arraignment, appellants entered pleas of "not guilty." [12] Joint trial ensued.

The prosecution presented Romeo Pampilo as its main witness. Romeo testified that appellants and his father started their drinking session late in the afternoon of the day before the incident. That night, he slept beside his father and sister Rosalie. His mother Rosalinda and sisters, Sherly and Merlene slept outside the room. Romeo claimed that he was awakened by blood spurting on his face when Joseph stabbed his father. Then he saw Joseph stab his sister Rosalie. He hid inside a cabinet and left the door half-open. Through the crack, he saw his mother Rosalinda and sisters Sherly and Merlene run downstairs where Alejandro, who was waiting for them, repeatedly hacked them to death. [13]

Guillermo Rebutazo and Juan Rebutazo, relatives of the victims and neighbors, also testified as to the incidents subsequent to the killings.

SPO3 Carlos Monsanto, Designated Deputy Station Commander of the PNP, Tambulig, Zamboanga del Sur, received the report about the killings and his office conducted an investigation. He testified that while appellants were detained at the municipal jail, he had a "conversation" with them. One of the appellants (he did not specify which one) told him where the hunting knife used in the killings was hidden. Accompanied by Alejandro and the latter's cousin, SP03 Monsanto recovered a bloodstained hunting knife. [14] During trial, however, he failed to present the hunting knife because its custodian was already dead. [15]

SPO1 Margarito Orimaco of the PNP-Zamboanga del Sur, likewise testified that he proceeded to the crime scene where he found the five dead members of the Pampilo family. [16]

For the defense, appellants testified on their behalf. Joseph Marquita admitted that he hacked Sergio Pampilo because the latter hit him on the face with the Tanduy bottle. He was then so drunk that he totally lost control of himself.

On the other hand, Alejandro Marquita testified that after he saw Joseph stab Sergio, he started to run away. He saw Ruby Pampilo and instinctively picked her up and brought her to the back of the house. He denied taking part in the killings.

On February 13, 1995, the trial court rendered a decision^[17] finding appellants guilty of five counts of murder, the killing having been attended by treachery, evident premeditation and abuse of superior strength. The trial court likewise found that appellants acted in conspiracy with each other. Appellants were accordingly sentenced to suffer the penalty of *reclusion perpetua* for each count of murder, and ordered to pay solidarily the sum of P50,000.00 for each murder.

In this appeal, appellants contend that the trial court erred in:^[18]

"I. ... CONVICTING ALEJANDRO MARQUITA OF THE CRIME OF MURDER DESPITE THE INSUFFICIENCY OF EVIDENCE THAT WOULD WARRANT A CONVICTION BEYOND REASONABLE DOUBT.

II. ... FINDING ACCUSED-APPELLANT JOSEPH MARQUITA GUILTY OF MURDER DESPITE THE INSUFFICIENCY OF AGGRAVATING CIRCUMSTANCES THAT WOULD QUALIFY THE OFFENSE TO MURDER."

In their consolidated brief, appellant Joseph prays for the modification of his conviction from murder to homicide, considering that conspiracy and treachery did not attend the commission of the crime. Appellant Alejandro pleads for his acquittal in view of Joseph's judicial admission that he alone committed the killings.

The Office of the Solicitor General, for the State, contends that the trial court correctly disregarded Alejandro's bare denials in view of Romeo Pampilo positive identification of *both* appellants as the killers. Further, considering the simultaneous attacks on the victims, it is evident that appellants acted in conspiracy with each other. The killings were qualified by treachery since the victims, according to Romeo's version, were all sleeping at the time of the attack.

In sum, the first issue pertains to Joseph's plea for a conviction for the lesser crime of homicide. The second issue pertains to Alejandro's plea for acquittal on the basis of Joseph's judicial admission that he alone committed the killings.

As to Joseph's liability, the prosecution's evidence is overwhelming. Joseph admitted that he had stabbed Sergio because the latter struck him first in the face with the Tanduay bottle. Being drunk, he went on a rampage and stabbed the other members of the Pampilo family.^[19] His testimony amounts to a judicial admission of guilt which may be given in evidence against him under Section 26 of Rule 130 of the Rules of Court. In addition, his co-appellant Alejandro testified that he saw Joseph stab Sergio.^[20] Prosecution witness Rebutazo also saw Joseph running away from the scene of the crime carrying a knife.^[21] The foregoing considered, we find that Joseph's guilt has been proven beyond reasonable doubt.

As to the second issue, the trial court convicted Alejandro on the basis of Romeo Pampilo's identification in court and the finding of conspiracy. As a general rule, the assessment of credibility of witnesses is a function best undertaken by the trial

court, and its findings are accorded great weight, if not finality, unless it has plainly overlooked certain facts of substance or value that, if considered, might affect the result of the case.^[22] In this case, we find certain material inconsistencies in the testimony of Romeo Pampilo, which militate against the finding of guilt as to Alejandro. During trial, Romeo Pampilo testified that he saw Joseph Marquita stab Sergio because he was awakened when blood spurted from Sergio's stab wound. He also saw Joseph stab his mother, and sister, Rosalie.^[23] Thus -

FISCAL CAGOCO: Where was your father hit when Joseph Marquita stabbed him?

ROMEO PAMPILO: In the stomach.

Q: After he was hit by the stabbed (sic) of Joseph Marquita, what else took place?

A: My mother and younger sisters.

...

Q: Where was your mother hit by the stabbed (sic) of Joseph Marquita?
(The witness pointed to the right armpit)

...

Q: How about your sister Shirley, where was she hit by the stabbed (sic) of Joseph Marquita?

A: It was only Rosalie who was hit by Joseph Marquita.

Q: Where was Rosalie hit by the stabbed (sic) made by Joseph Marquita?

A: At the stomach.

Subsequently, however, Romeo claimed that it was Alejandro who stabbed his mother, Rosalinda, and two sisters Merlene and Sherly. Thus -^[24]

FISCAL CAGOCO: Who was stabbed by Alejandro?

ROMEO PAMPILO: My mother, Merlyn (sic) and Shirley, (sic).

On cross-examination, Romeo testified that after stabbing Sergio, Joseph's next victim was not his mother, but his sister Rosalie. He testified-^[25]

"ATTY. TECSON: Now, who was stabbed first?

A: My father.

Q: And next?

A: Rosalie."

On re-direct examination, Romeo again insisted that it was not Joseph, but Alejandro who stabbed his mother -^[26]

"FISCAL CAGOCO: Who stabbed your mother?

ROMEO PAMPILO: Alejandro."

These material inconsistencies in Romeo Pampilo's testimony as to the identity of the alleged killers and their respective victims, coupled with the judicial admission of Joseph that he alone committed the killings impresses on us reasonable doubt as to the actual participation of Alejandro in the killings.