

SECOND DIVISION

[G.R. No. 121203, April 12, 2000]

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE,
VS. DOMINADOR ASPIRAS ALIAS "BOY", ACCUSED-APPELLANT.**

D E C I S I O N

QUISUMBING, J.:

This is an appeal from the decision^[1] dated April 24, 1995 of the Regional Trial Court of Urdaneta, Pangasinan, Branch 47 in Criminal Case No. U-6553, convicting accused-appellant Dominador Aspiras of the crime of MURDER qualified by treachery, and sentencing him to suffer the penalty of *reclusion perpetua* with all its accessory penalties, to pay the heirs of the victim P50,000.00 for indemnity; P50,000.00 for moral and exemplary damages; P82,250.00 for actual damages; P1,421,200.00 for expected or future income; and to pay the costs.

At the time of the incident, appellant Dominador Aspiras was a Police Officer 3 (PO3), assigned at Pilar Village Detachment in Las Piñas, Metro Manila. The victim, Renato Lumague, was a crusher general supervisor of the Northern Cement Corporation and a supporter of NPC-KBL political party.

As gleaned from the records, the pertinent facts are as follows:

In the evening of April 6, 1992, the NPC-KBL party held a political rally at the plaza of Bonapal, Bobonan, Pozorrubio, Pangasinan. The candidates for mayor and vice mayor, Artemio R. Saldivar and Felimon Reyes, respectively, were present together with the eight candidates for councilors, as well as Victor Juguilon,^[2] Juanito Caballero, and Renato Lumague,^[3] who were supporters of the party. About 100 to 200 people attended the rally. Between ten and eleven o'clock in the evening, Renato Lumague, was on stage, delivering a speech. Suddenly, a man appeared in front of Renato Lumague and shot him three times. He died instantly.

On April 9, 1992, Gilda Lumague, the widow of the victim, filed a complaint with the Philippine National Police of Pozorrubio Pangasinan, against appellant Dominador Aspiras for the death of her husband. Juanito Caballero executed an affidavit to support the complaint.

In an information dated August 11, 1992, Assistant Provincial Prosecutor Emiliano M. Matro accused Dominado Aspiras alias "Boy" of the crime of murder, committed as follows:

"That on or about the 6th day of April, 1992 in the evening at Sitio Bonapal, Barangay Bobonan, municipality of Pozorrubio, province of Pangasinan, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with intent to kill, being then armed

with a Caliber .45 pistol, with treachery and evident premeditation, did then and there wilfully, unlawfully, and feloniously shoot one Renato Lumague, inflicting upon him multiple gunshot wounds on the vital parts of his body, which caused his instantaneous death, to the damage and prejudice of the heirs of said Renato Lumague.^[4]

On arraignment, accused pleaded not guilty. Trial then ensued.

At the hearing of the case, the prosecution presented Juanito Caballero and Victor Juguilon, the two eyewitnesses; Dr. Francisco Llamas, the medico-legal who conducted the autopsy; Casiano Cabalan, the Personnel Manager of the Northern Cement Corporation; and Geraldine Lumague, the victim's daughter who testified in place of her mother.

Juanito Caballero and Victor Juguilon, who were both spectators and seated near the stage, stated that they witnessed the shooting incident. They categorically identified the appellant who shot the victim, Renato Lumague, who was three (3) meters away. The accused went directly in front of the stage where the victim was speaking and pulled the trigger. The accused after shooting the victim placed his gun on his waist, raised both his hands to the people and left the place. The victim was brought to the hospital but died. The police arrived later on and conducted investigation of the incident.

To rebut the version of the prosecution, appellant presented his evidence, which included his own testimony and those of Gabriel Viernes, Gavino Sababan Jr., Segundino Palisoc, Maj. Lazaro Lim, and Josephine Terry.

Appellant testified that during the whole day of April 6, 1992, he was on tour of duty with SPO2 Gavino Sababan, Jr., and PO2 Esteban Liu as team leader and driver, respectively, at Las Piñas, Metro Manila. He claimed that, with the other members of the crew in Mobile Car 962, he usually stood-by at the Shell Station, in Almanza, Las Piñas, Metro Manila, which is considered a "choke point". Here the police usually stood-by for police visibility. At 8:00 o'clock in the morning of April 6, they arrived from their detachment, about one (1) kilometer away from the "choke point", and they proceeded to the Shell Station to start their tour of duty. At 12:00 noon, they took their lunch at the detachment, then they returned to their "choke point" assignment where they stood-by up to midnight.

Their activities on that particular date, April 6, were recorded on a Record Book marked as Exh. "5". The activities of the appellant on April 5 and 7, 1992 were also recorded on said book. Appellant filled up the entries in the logbook but it was signed by the team leader, SPO2 Gavino Sababan. These were facts corroborated by Gavino Sababan, SPO3 Segundino Palisoc and Chief Inspector Major Lazaro Lim, all members of the PNP, Las Piñas Police Station, Las Piñas, Metro Manila.

According to appellant, one week after April 6, 1992, he learned that he was a suspect when he read about it in a tabloid newspaper. Appellant was called by his superior regarding the incident and was directed to submit an affidavit. On June 20, 1992, he was arrested and incarcerated at Camp Bagong Diwa, Bicutan, Taguig, Metro Manila. On September 5, 1992, he filed his bailbond and was then released.

Witness Juanito Caballero, according to appellant, had a motive to implicate him in

the crimes as they had a fistfight the first week of January 1991, in Pangasinan over some parcels of land owned by Engracio Aspiras and Brigida Aspiras. Said parcels were transferred by Caballero in his name. But appellant and the other relatives contested the transfer made by Caballero.^[5]

On April 24, 1995, the trial court promulgated its decision, disposing as follows:

"WHEREFORE, the Court finds the accused DOMINADOR ASPIRAS alias "boy" GUILTY beyond reasonable doubt of the crime of MURDER qualified by treachery and there being no mitigating or aggravating circumstance, hereby sentences him to suffer the penalty of RECLUSION PERPETUA with all its accessory penalties, and for the death of the victim RENATO LOMAGUE, to pay the heirs of said deceased as follows:

1. PhP 50,000.00 for indemnity;
2. PhP 50,000.00 for moral and exemplary damages;
3. PhP 82,250.00 for actual damages;
4. PhP 1,421,200.00 for expected or future income; and
5. To pay the costs.

SO ORDERED."^[6]

Hence this appeal, wherein appellant avers that the trial court erred:

I

... IN NOT ACQUITTING THE ACCUSED OF THE CRIME OF MURDER ON THE GROUND OF REASONABLE DOUBT.^[7]

II

...IN GIVING CREDENCE TO THE TESTIMONIES OF THE PROSECUTION EYEWITNESSES DESPITE THEIR INCREDIBILITY AND IMPROBABILITY.^[8]

III

...IN AWARDING VICTIM'S HEIRS INDEMNITY FOR CIVIL DAMAGES.^[9]

Primarily, appellant questions the credibility of the witnesses. Appellant alleges that the prosecution was not able to show beyond reasonable doubt that he committed the crime of murder because the judge merely based his finding of guilt on the testimony of the two eyewitnesses, whose testimony the judge did not hear or whose demeanor he did not observe. We find this proposition unacceptable. Judge Joven F. Costales, who took over the case from Judge Romulo E. Abalos had the full record before him, including the transcript of stenographic notes, which he studied. The efficacy of a decision is not necessarily impaired by the fact that its writer only took over from a colleague who had earlier presided at the trial.^[10]

Here we take particular note of the fact that prosecution witnesses Juanito Caballero and Victor Joquilon testified that they personally saw the person who shot the victim they identified the appellant as that triggerman. Thus we find in the transcript of stenographic notes the following testimonies:

Direct Examination of Juanito Caballero:

Q: Now. Mr. Witness, on April 6,1992, particularly in the evening thereof, do you remember where you were?

A: Yes, I know.

Q: Will you please tell the Honorable Court where were you on the said date?

A: I was in Plaza Bonapal sir.

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Q: Will you please tell the Honorable Court why were you at the Plaza Bonapal, Pozorrubio, Pangasinan on April 6, 1992?

A: We hold a meeting with the mayoralty candidate Artemio Zaldivar and his Vice Mayor Felimon Reyes, sir.

Q: What kind of meeting was this?

A: A political meeting sir.

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Q: Up to what time did the political meeting last, Mr. Witness?

A: The political meeting was disturbed between 10:00 and 11:00 o'clock in the evening when there was an unusual incident that happened.

Q: Now you said that there was an unusual incident that cause the disturbance of the political meeting, will you please tell the court Mr. Witness what was the unusual incident that happened?

A: There was someone who was shot sir.

Q: Will you tell the Honorable Court who was that someone that was shot?

A: Renato Lomague sir.

Q: What was Renato Lomague doing before he was shot?

A: He was delivering a speech sir.

Q: At what particular place was Renato Lomague delivering a speech?

A: At the stage sir.

Q: At the stage of the Plaza Bonapal?

A: Yes sir.

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Q: What about you in relation to the place where Renato Lomague was delibering (sic) a speech. Where were you?

A: I was not far away when Renato Lomague was delivering a speech, because I was just below the stage sir.

Q: Will you please tell the Honorable Court how high is the stage, Mr. Witness?

A: More or less one (1) meter sir.

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Q: You said a while ago that Renato Lomague was shot while delivering a speech on the stage, will you please tell the Honorable Court who shot Renato Lomague?

A: It was Dominador Aspiras, sir.

Q: Is he the same Dominador Aspiras who is the accused in this case?

A: Yes sir.

Direct Examination of Victor Juguillon:

Q: Mr. Witness, do you remember where were you on the evening of April 6, 1992?

A: Yes, sir.

Q: Could you tell us where where (sic) you?

A: As one of the candidates for councilor last election, we were in Brgy. Bonapal, Madam.

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Q: You testified that you were in Bonapal, Mr. Witness. Could you tell us where particularly in Bonapal?

A: At the place where the meeting was being held, Madam.

Q: What meeting was that?

A: Political meeting or rally, because that was the time for campaigning period, Madam.

Q: What were you doing at that meeting?

A: Because I was one of the candidates, that is why I was there, Madam.

Q: While you were attending the meeting, was there any unusual incident that happened?

A: There was Madam.

Q: Can you tell us what this unusual incident was?

A: There was someone who was shot at, Madam.

Q: Do you know that person who was shot at?

A: Yes, madam.

Q: Who was the person who was shot?

A: Renato Lumague, Madam.

Q: How do you know Renato Lumague?

A: I know Renato Lumague because he frequents the town proper and he was an employee of the NCC, Madam.

Q: Where were you at the time Renato Lumague was shot?

A: I was seated at the row of chairs behind the row where the witness Caballero was seated and that was beside the stage, Madam.

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Q: From where you were seated, what could you see?

A: From the place where I was seated, I could see the people around that place and there were many people, Madam.

Q: How far were you from the stage?

A: About two (2) meters, Madam.

Q: What was Renato Lumague doing at the time when he got shot?

A: He was speaking at the stage, Madam.

A: Do you know who shot Renato Lumague?

A: Yes, sir.

Q: Can you tell us who shot Renato Lumague?

A: Yes, sir, it was Dominador Aspiral (sic) alias Boy, Madam.

Worth stressing, it has been established at the trial that the two eyewitnesses were familiar with the appellant. Juanito Caballero knew him for the former grew up with