

THIRD DIVISION

[G.R. No. 118573-74, May 31, 2000]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
RICARDO FRANCISCO Y CUPCUPIN, REYNALDO FRANCISCO Y
CUPCUPIN, TEODORO FRANCISCO Y CUPCUPIN, ANTONIO
SIOCO, ACCUSED-APPELLANTS.**

DECISION

GONZAGA-REYES, J.:

This is an appeal interposed by accused Ricardo, Reynaldo, and Teodoro, all surnamed Francisco, and Antonio Sioco from the Joint Decision^[1] dated November 7, 1994 of the Regional Trial Court (RTC) of Malabon, Metro Manila, Branch 170 in Criminal Cases Nos. 12196-MN & 12197-MN finding all the accused guilty beyond reasonable doubt of the crimes of murder and frustrated murder.

Two (2) Amended Informations^[2] for Murder and Frustrated Murder were filed against accused Ricardo Francisco y Cupcupin, Reynaldo Francisco y Cupcupin, Teodoro Francisco y Cupcupin, Antonio Sioco, Cesar Nuestro^[3], Efren Francisco, Jaime @ Daga^[4] and John Doe @ Nonoy^[5] as follows:

Amended Information for Murder

"That on or about the 27th day of October, 1992, in the Municipality of Malabon, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, armed with a bladed weapon, conspiring, confederating together with all the other accused, who are all at large, with intent to kill, evidence (sic) premeditation and abuse of superior strength, did, then and there, willfully, unlawfully, and feloniously attack, assault and stab with the said weapon one SERAFIN MANGALI, JR., hitting the victim on the chest, thereby inflicting upon the victim stab wound which caused his immediate death."

Amended Information for Frustrated Murder

"That on or about the 27th day of October, 1992, in the Municipality of Navotas, Metro Manila, Philippines and within the jurisdiction of his Honorable Court, the above-named accused, armed with a bladed weapon, conspiring, confederating and helping with one another, together with all the accused who are all at large, with evidence premeditation and abuse of superior strength, did, then and there, willfully, unlawfully and feloniously attack, assault and stab with the said weapon one ARIEL DE DIOS y FRANCISCO, hitting the latter on his abdomen and left finger, thereby performing all the acts of execution which would produce the crime of Murder, but did not produce the same for reason of cause

independent of the will of the accused, that is due to the timely and able medical attendance given to said victim which prevented his death."

Upon arraignment, accused Ricardo Francisco (RICARDO), Reynaldo Francisco (REYNALDO), Teodoro Francisco (TEODORO), Efren Francisco (EFREN)^[6] and Antonio Sioco (ANTONIO)^[7] with the assistance of counsel, individually entered a plea of not guilty.

EFREN underwent a psychiatric examination^[8] and was diagnosed as suffering "from psychosis or insanity classified as schizophrenia rendering him incompetent to stand court trial". The criminal cases filed against him were therefore suspended and he was ordered confined at the National Center for Mental Health in Mandaluyong for treatment.^[9]

The RTC summarized the facts as culled from the testimonies of the witnesses presented by the prosecution and by the defense as follows:

"On October 27, 1992 at about midnight, Ariel De Dios and Serafin Mangali went to the house of Manny Pascual at Naval Street, Navotas. After a short talk at the gate, the three proceeded in a nearby store on board a jeep. They ordered San Miguel Pale Pilsen for each one of them, sat on a bench and continued their conversation. Shortly thereafter, a man identified as Efren Francisco, who was sitting on the right side of Ariel spat at the latter. Ariel asked Manny why said man was acting like that and whether he knew the man. Manny told Ariel not to mind the man. The three continued their conversation but Ariel got irked when the man spat at his right arm again. Ariel then told Manny that they better go home as he does not like what the man was doing. Ariel paid the bill and told Manny and Serafin to board the jeep. Ariel then talked with the man and asked the latter why he spat at him. The man did not answer and just kept on smiling. Ariel then hit the man on the nape and the latter ran away. With Serafin on the wheel, the three proceeded to Manny's house. After talking for about five minutes at the gate, Serafin and Ariel boarded on the jeep while Manny went inside the house.

Ariel De Dios narrated the incidents that took place thereafter as follows: that Serafin maneuvered the jeep along M. Naval on their way to Malabon; that upon passing by the gate of Manny's house, Ariel saw a man, who turned out to be accused Antonio Sioco, a few meters from the gate pointing at them and saying "Heto na sila, heto na sila" that immediately thereafter, the headlights of a coming jeep that was occupying the lane they were then traversing were turned on; that Serafin stepped on the brakes and their jeep went off at a distance of about two feet from the coming jeep; that there were about seven persons on board the other jeep, the driver, two were seated in front, one on the left front fender and two or three at the back that the one on the fender, who turned out to be Ricardo Francisco was the first to alight followed by the rest; that Ricardo went towards Serafin, grabbed the latter by the neck and said "Putang ina mo, bumaba ka diyan"; that Serafin held on the steering wheel; and resisted the pull; that another person who came from the jeep grabbed Serafin by the arm and tried to loosen Serafin's grip on the steering wheel; that another person, who

turned out to be accused Teodoro Francisco came armed with a knife-like instrument and stabbed Serafin on the left armpit; that Ariel got stunned and was holding on the bar looking on what was happening when somebody, who turned out to be Reynaldo Francisco, suddenly pull his right arm and ordered him to get down; that when Ariel was in the act of alighting from the jeep, his right foot already out, Reynaldo stabbed him on the left part of the stomach; that Ariel asked Reynaldo why he stabbed him but the latter got stunned (napatanga) and did not answer; that Ariel then pushed Reynaldo, ran at the rear portion of the jeep and told Serafin to run ("Pare, takbo na tayo"); that at that instance, Serafin was being mauled beside the jeep; that Ariel ran towards Manny's gate, knocked twice and called Manny's name twice; that Teodoro and Efren chased Ariel and the latter proceeded on the pathway going to the garage at the back but after two or three steps in the pathway which was very dark, Ariel went back to the street where he came from and he saw Serafin sprawled on the ground; that Ariel also saw Teodoro, after which, he ran as fast as he can towards the back garage and called for Manny's father; that when no one was answering, Ariel scaled on the wall, went up the roof, knocked on the window and asked for help; that Manny's father went out together with his daughter and Ariel told them to help Serafin as he was being mauled; that Manny's father went out and returned after a while informing Ariel that Serafin was okay and was brought to the hospital by Manny and that Ariel was thereafter brought at the Manila Doctors Hospital.

Emmanuel Pascual testified that after Serafin and Ariel left, he proceeded towards their main door; that he was still knocking at their door when he heard Ariel called his name twice; that he walked casually towards the gate and opened it; that he saw people in front of the gate and somebody pointed to the right; that upon looking to the right, he saw Ariel's jeep and he walked faster towards the jeep; that he saw a body under the jeep and he ran; that while he was running, Teodoro who was a few feet away from the jeep told him "Pati lokoloko pinapatulan nila"; that there were other persons in the area but he was able to recognize only two, Boy and Tenok who turned out to be Ricardo and Reynaldo, respectively; that he saw Serafin full of blood; that he asked Serafin where Ariel was but Serafin did not answer; that he carried Serafin inside the jeep and brought him to Saint Joseph's Clinic; that there were no facilities in said clinic so he brought Serafin to Martinez Hospital; that he made a few phone calls after which, the doctor informed him that Serafin was already dead; and the he noticed that the two front teeth of Serafin were broken.

Dr. Ludivino J. Lagat, the NBI Medical Specialist who conducted an autopsy on the body of Serafin Mangali testified that the deceased sustained a linear abrasion on the right cheekbone and stab wound on the left side of the body below the armpit; that the stab wound was 2.0 cm big and 12 cm deep having one sharp and one blunt extremity directed backward medially and downward, entering the thoracic cavity and penetrating the lower lobe of the left lung and that 1600 cc of blood was recovered inside; that the stabwound could have been caused by one bladed sharp pointed instrument and is the cause of death of Serafin

Mangali.

Serafin Mangali, Sr. testified that his son, the deceased Serafin Mangali, Jr. was an employee of the Department of Agrarian Reform during his lifetime with an annual income of P22,524.00 (Exhibit "E") that he spent P29,500.0 for the funeral services of his son (Exhibit "F") and the additional sum of P15,000.00 for miscellaneous expenses during the wake; and that he will pay P50,000 for his share in the legal services in these cases.

Dr. Joaquin Tan, a dentist at the Department of Agrarian Reform testified that on May 8, 1992, he made a thorough dental examination on the deceased Serafin Mangali Jr. and as per dental record of the latter, his upper and lower teeth were complete (Exhibit "G"); and that he issued a certification to that effect on March 16, 1994 (Exhibit "G-1").

Dr. Dominador Chansiopen of the Manila Doctors Hospital identified the Medical Record of Ariel De Dios (Exhibit "H") and testified that he attended to Ariel De Dios at 1:30 o'clock in the early morning of October 27, 1992; that the latter sustained wound at the mid clavicular line post gastric stomach, perforating the colon through and through, caused by a stab thrust, which required operation for gastric repair or gastrophyl, and repair of the transverse colon or transversocolontraphy; that the said wound if left untreated would have caused the patient's death; that he further noted lacerated wound in Ariel's finger, abrasion in the side of the abdomen and in the small area of the hand.

On the other hand, the defense witnesses confirmed the presence of the accused Antonio Sioco and the Francisco brothers at the scene of the crime.

Raul Sosa, a compadre of accused Teodoro and Ricardo Francisco claims to have witnessed the incident while he and Rogelio Pineda were waiting for a ride. He testified that Teodoro Francisco, upon alighting from the jeep heading for Navotas, immediately approached the driver of the jeep heading for Malabon, whom he came to know later to be Serafin Mangali, and pulled out the latter while Reynaldo Francisco approached the passenger, whom he came to know later to be Ariel De Dios, and thereupon stabbed the latter; that Ariel alighted and ran away; that Teodoro dropped off Serafin and chased Ariel but failed to overtake the latter who turned to the next street; that Teodoro returned together with Manny Pascual whom he met along the way; that there was a commotion on the jeep but his attention was focused on Teodoro and Ariel; that he did not see Efren Francisco during the incident; and that he saw Antonio Sioco on the way to the jeep.

Rogelio Pineda corroborated the testimony of Raul Sosa and further testified that while Teodoro was chasing Ariel, Serafin alighted and went at the back of the jeep where he met Ricardo; that the two had an argument and moments later, Ricardo stabbed Serafin; that when Serafin sprawled on the ground, Ricardo disappeared and the latter's companion scampered away; that during the stabbing, Efren was standing nearby

while Antonio Sioco was in front of the jeep; and that Ricardo, Efren and Antonio left together.

For his part, accused Antonio Sioco testified that he was with Teodoro, Reynaldo, Ricardo and some other companions drinking beer in a store when Teodoro was informed by a saleslady that their brother Efren was kicked and hit at the nape by three persons who left on board a vehicle; that Teodoro thereupon talked into going after the said three persons to confront them why they did such thing; that the Franciscos and some of their companions hurriedly boarded a jeep while he was left behind; that upon hearing the skidding sound of the jeep coming to a halt, he followed his companions; that upon arrival at the scene, he saw Ariel De Dios standing beside the jeep in confrontation with Reynaldo and Ricardo while Serafin was still in the steering wheel in confrontation with Teodoro and two others; that when Ariel was about to hit Reynaldo, the latter stabbed the former; that Ariel who thereafter ran was chased by Teodoro; that Serafin alighted from the jeep and a commotion ensued and when Serafin went near Ricardo, the latter stabbed Serafin.

Ricardo Francisco claims that upon hearing the report that their brother Efren was ill-treated by three persons, Teodoro told him and their brother Reynaldo to stay behind and not to follow him as he will just talk to the persons concerned but he and Reynaldo insisted in going; that during the confrontation, Ariel was about to hit his brother Reynaldo with a black hard thing when Reynaldo stabbed Ariel; that Ariel who thereafter ran was chased by Teodoro; that Serafin alighted from the jeep and attacked him with a bottle of Coke which landed on his left shoulder; that when Serafin was about to draw something from his waist and uttered "I will kill you, I will kill you", he immediately stabbed him (Serafin); that he had a knife because he was peeling a mango during their drinking spree and he forgot to leave it.

Teodoro Francisco further corroborated the testimony that Reynaldo merely acted in self-defense when he stabbed Ariel. He likewise stated that he ran after Ariel in order to help the latter."^[10]

The RTC found the accused guilty beyond reasonable doubt of the crimes charged and rendered judgment on November 7, 1994, the dispositive portion of which reads:

"WHEREFORE, in view of the foregoing, judgment is hereby rendered finding accused Teodoro, Reynaldo and Ricardo, all surnamed Francisco, as well as Antonio Sioco guilty beyond reasonable doubt of the crime of Frustrated Murder in Criminal Case No. 12196-MN and of Murder in Criminal Case No. 12197-MN, and hereby sentences each one of them as follows:

1. In Criminal Case No. 12196-MN, to suffer an indeterminate penalty of eight (8) years and one (1) day of prision mayor as minimum to fourteen (14) years, eight (8) months and one (1) day of reclusion temporal as maximum;