

FIRST DIVISION

[G.R. No. 122935, May 31, 2000]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
RODOLFO SANTOS Y ALVAREZ ALIAS "ROD" AND FERNANDO
TAMAYO Y BERNARDO ALIAS "NARDO", ACCUSED-APPELLANTS.**

D E C I S I O N

PARDO, J.:

The case is an appeal from the decision^[1] of the Regional Trial Court, Branch 14, Malolos, Bulacan convicting accused Rodolfo Santos y Alvarez alias "Rod" and Fernando Tamayo y Bernardo alias "Nardo" of murder and sentencing them to *reclusion perpetua* and to pay P150,000.00 as indemnity and P100,000.00 as moral damages.

On July 20, 1993, Assistant Provincial Prosecutor Maria Lourdes A. Giron filed with the Regional Trial Court, Malolos, Bulacan an information charging the accused with murder, committed as follows:

"That on or about the 15th day of June, 1993, in the municipality of Hagonoy, province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused conspiring, confederating together and mutually helping each other, with intent to kill one Melvin A. Adriano, did then and there wilfully, unlawfully and feloniously, with evident premeditation and treachery, attack, assault and use personal violence to the said Melvin A. Adriano, thereby causing upon him 'Cardiorespiratory arrest due to Asphyxia by drowning, which directly caused his death.'^[2]

On July 30, 1993, upon arraignment, accused pleaded not guilty to the charge.^[3] Trial thus followed.

The facts are as follows:

From 10:00 in the morning until around 4:00 in the afternoon of June 15, 1993, Melvin A. Adriano (hereafter Melvin) was helping his girlfriend Carmela Alvarez sun-dry some salted fish ("alamang") at the latter's hut in Barangay Tibagin, Hagonoy, Bulacan. Melvin left thereafter and returned at around 8 p.m. accompanied, for the first time, by accused Rodolfo Santos who is Carmela's first degree cousin and accused Fernando Tamayo, an erstwhile ardent but spurned suitor of Carmela, both of whom are CAGU vigilantes of the locality. Melvin and accused Fernando were singing inside the hut, while accused Rodolfo was lying on the floor. Carmela's mother, Nana Nita, advised both accused to spend the night at the hut as they were reeking of liquor. The two (2) accused nonetheless insisted that they would go home. At about 12 midnight, Melvin and the two (2) accused decided to leave. The

two (2) accused requested Melvin to accompany them to Barangay Pugad, Hagonoy. Melvin acceded to the request because the two (2) accused were very drunk. That was the last time Carmela saw her boyfriend Melvin alive.

At around 5:30 in the morning of the following day, June 16, 1993, Carmela's cousin named Ogie came to their hut and informed her that he saw Melvin's body sprawled beside a fishpond near the river separating Tibagin and Barangay Pugad, Hagonoy. Carmela and her father Dominador Alvarez rushed to the scene and saw Melvin's lifeless body beside a fishpond dike lying face down and with one of his hands holding his left foot. Dominador Alvarez proceeded to Tibagin, Hagonoy and informed Melvin's parents of their son's fate.^[4]

In their defense, each of the accused offered an alibi. Accused Rodolfo claimed that on the night of Melvin's death, he was merely staying in his house in Barangay Pugad, Hagonoy from 8:30 p.m. up to the next morning of June 16, 1993. He admitted knowing Melvin as a suitor of Carmela, but denied going to Carmela's hut with his co-accused Fernando and Melvin on that fateful night. He was invited by policeman Mario Reyes for questioning and was thereafter detained at the municipal jail of Hagonoy on June 16, 1993.^[5]

Similarly, accused Fernando denied going to Carmela's hut in the evening of June 15, 1993. He claimed he was in his house also situated in Pugad, Hagonoy. He further denied (1) knowing Melvin, (2) finding Carmela beautiful and charming, and (3) being in the habit of drinking.^[6]

The trial court disregarded the accused's alibi and found them guilty on the basis of circumstantial evidence. Thus, on June 28, 1995, the trial court rendered decision which decreed:

"WHEREFORE, the Court finds the accused guilty of the crime of murder and the Court imposes upon the accused the penalty of Reclusion Perpetua.

"To indemnify the heirs of the victim P150,000.00.

"To pay moral damages P100,000.00, with costs.

"The Provincial Warden is ordered to commit the accused to the National Penitentiary immediately upon receipt hereof.

"SO ORDERED."^[7]

Hence, this appeal.^[8]

The Solicitor General, in his "Manifestation and Motion" (in lieu of Appellee's Brief),^[9] recommended that the accused be acquitted on reasonable doubt.

We do not agree with the Solicitor General's recommendation. The Court finds the conviction of the two (2) accused-appellants in order.

The failure of the prosecution to present eyewitnesses to the actual killing of Melvin