

SECOND DIVISION

[G.R. No. 130683, May 31, 2000]

**ELIGIO MADRID, PETITIONER, VS. COURT OF APPEALS,
REGIONAL TRIAL COURT AND PEOPLE OF THE PHILIPPINES,
RESPONDENTS.**

D E C I S I O N

MENDOZA, J.:

This is a petition for review on certiorari of the decision^[1] of the Court of Appeals affirming the conviction by the Regional Trial Court, Branch 9, Aparri, Cagayan, of petitioner Eligio Madrid^[2] and his co-accused Arsenio Sunido of the crime of homicide, for the killing on May 21, 1992 of Angel Sunido in Buguey, Cagayan.

The information against them charged --

That on or about May 21, 1992, in the municipality of Buguey, province of Cagayan, and within the jurisdiction of this Honorable Court, the said accused, Arsenio Sunido y Silos and Eligio (Melencio) Madrid, armed with a sharp pointed instrument, conspiring together and helping each other, with intent to kill did then and there wilfully, unlawfully and feloniously attack, assault and stab one Angel Sunido and inflicting upon hi[m] stab wounds on his body which caused his death.

CONTRARY TO LAW.

When arraigned on October 6, 1992, petitioner and Arsenio Sunido pleaded "not guilty" to the crime charged,^[3] whereupon trial ensued. The prosecution presented three witnesses, namely: Remedios Sunido, wife of the victim; Merdelyn Sunido, the victim's daughter; and Dr. Teddy Unida, medico-legal examiner.

Remedios Sunido adopted as her testimony on direct examination, the affidavit executed by her at the Buguey Police Station on June 1, 1992. In said affidavit, she narrated that Arsenio and Angel Sunido were brothers who, previous to May 21, 1992, had a quarrel over a fighting cock which Arsenio claimed was his. At around 12 noon of May 21, 1992, Angel Sunido and Jerry Escobar had drinks in the former's house. Under the influence of alcohol, Angel provoked a fight with Arsenio. As a result, as Angel was walking back to his house after taking Escobar home, he was stopped by Arsenio and two companions, one of whom was petitioner. Arsenio's companions held Angel by the arms as Arsenio stabbed him several times on different parts of the body. Arsenio and his companions afterwards fled using petitioner's tricycle.^[4]

Remedios Sunido was cross-examined on the basis of her affidavit. She testified that Arsenio did not pass by their house on May 21, 1992. On further questioning,

however, she testified that Arsenio came to their house at around seven o'clock in the morning of that day as Angel and some friends were having drinks. It was during that visit that Angel provoked a quarrel with Arsenio concerning the fighting cock.^[5] On re-direct examination, it was stipulated that the family of Angel incurred P4,000.00 as expenses for his death.^[6]

Merdelyn Sunido also executed an affidavit before the police on June 2, 1992.^[7] She stated that her father, her uncle Arsenio, and some visitors were drinking in their house on May 21, 1992. The brothers quarrelled over a fighting cock which she claimed Arsenio took from their yard. Angel then accompanied Jerry Escobar to his home. Because of the bad blood between the brothers, on his way back from Escobar's house, Angel was attacked by Arsenio Sunido, with the help of petitioner and an unidentified man, and stabbed Angel to death.^[8] On the witness stand, Merdelyn testified that at around noon of May 21, 1992, her father Angel and the latter's friends, Jerry Escobar and a certain Rudy, were in their house having drinks.^[9] At 12 noon, Angel took Jerry Escobar home. Either on the way to or back from Escobar's house, Angel was stopped by Arsenio Sunido who was with petitioner and another person. Petitioner and his companion held Angel's hands, raising them upwards, with petitioner holding him by the right hand, while his companion held Angel by the left hand. And then, Arsenio started attacking Angel with a knife. After seriously wounding Arsenio, the three fled. Merdelyn said she witnessed the incident because she was just approximately five meters away from the place where it happened.^[10]

The other witness for the prosecution was Dr. Teddy A. Unida, municipal health officer of Buguey, who conducted the autopsy on the body of Angel Sunido. His findings were embodied in a medical certificate,^[11] which showed the following wounds suffered by Angel Sunido:

DIAGNOSIS:

1. Incised wound - 6 cm. in length - 1 cm. deep, located at the left temporal region.
2. Stab wound - 3 cm. in length, 8 cm. deep, located at right anterior lower thorax.
3. Stab wound - 4 cm. in length - 6 cm. deep, located at right anterior lower thorax. Direction - Antero-posterior.
4. Stab wound - 3 cm. in length - 6 cm. deep, located at left anterior lower thorax. Direction - Antero-posterior.
5. Stab wound - 6 cm. in length - 6 cm. deep, located at the right upper [quadrant] of the abdomen-anterior. Direction - Antero-posterior.
6. Stab wound - 3 cm. in length - 6 cm. deep, located at left upper [quadrant] of the abdomen-anterior. Direction - Antero-posterior.
7. Stab wound - 1½ cm. in length - 3 cm. deep, located at the right side of the abdomen-lateral. Direction - Right to left.
8. Stab wound - 2½ cm. - 5 cm. deep, located at left lower [quadrant] of the abdomen. Direction - Antero caudal.
9. Stab wound - 2 cm. in length - 8 cm. deep, located at the left side of the abdomen-lateral. Direction - Left to right.

Dr. Unida testified that based on these wounds, it could be concluded that the assailant was in front of the victim and that he used a sharp-edged instrument, like a bolo with a pointed tip, in killing the latter. It is possible that either the assailant and the victim were in a standing position facing each other or the victim was lying on the ground with his face upwards. Stab wound nos. 2, 3, 4, 5, 6, 7 and 8 were fatal injuries causing the victim's death in the absence of medical attendance. As to how many assailants were responsible for the wounds, he said that judging from the variance in the size and shape of the wounds, it was possible that there was more than one assailant or that more than one weapon was used. However, Dr. Unida stressed that there was no certainty as to this because the elasticity of the skin makes it difficult to conclude exactly what type of instrument was used on the basis of the length of the stab wounds alone.^[12]

On the other hand, the defense presented as witnesses Jerry Escobar,^[13] petitioner, Arsenio Sunido and Alipio Valdez.

Jerry Escobar was the person who, according to the wife and daughter of the victim, the latter took home after having drinks in their house. Jerry testified that he dropped by the house of Angel Sunido between six and seven o'clock in the morning of May 21, 1992, on his way to buy chicken feeds. According to Jerry, he and Angel had drinks until 12 o'clock noon with another persons whom Angel introduced as guests from the Ilocos province. At around 10 o'clock in the morning, Arsenio Sunido and petitioner arrived in Arsenio's house in a Tamaraw vehicle. Angel's house was located behind that of Arsenio, approximately 10 meters away. Upon seeing his brother and his companion, Angel provoked Arsenio to a fight over a fighting cock which Angel claimed belonged to him. He drew a line on the ground with his knife as he continued to provoke Arsenio. The two brothers then grappled with each other and fell to the ground. Arsenio was able to land on top of Angel and from this vantage point was able to wrest the knife with which he stabbed Angel several times. Jerry said he then ran away. Petitioner was near the Tamaraw vehicle at the time of the incident. Jerry denied Remedios Sunido's claim that Angel accompanied him (Jerry) to his house. He said Angel was too drunk to have done so. He further belied Remedios' claim that petitioner held Angel by the arm while Arsenio stabbed Angel. Jerry said that he was bothered in his conscience by allegations of other witnesses that Angel took him home.^[14] When cross-examined, Jerry clarified that neither Arsenio nor petitioner drank liquor with them. He only saw Arsenio and petitioner at around 10 o'clock in the morning when they went to Arsenio's house on their way to haul palay. It was then that Angel challenged Arsenio to a fight as Angel took out his knife. Several people witnessed the fight between the two brothers, but no one intervened because of fear. Jerry further clarified that petitioner ran to the Tamaraw vehicle when the brothers started fighting. Jerry said that he did not report what he witnessed to anyone because he was not directly involved in the case. But he decided to testify and relate what he witnessed as his conscience bothered him.^[15]

Petitioner testified next. He said he was a businessman with seven children, all of whom finished college. His business consisted of three rice mills, one located in Maddalero and two in Cabanbunan, Gonzaga. The manager of the Maddalero rice mill was Arsenio Sunido. On May 21, 1992, at around 10 o'clock in the morning, Arsenio informed him that they needed to buy palay, for which reason they got into his Tamaraw jeep, with Arsenio driving. They proceeded to Arsenio's house in

Maddalero. Arsenio parked the vehicle in front of his house. When Arsenio alighted from the vehicle, Angel ran towards him with a knife. When he saw this, petitioner said he ran away from the scene and toward the farm. While in hiding, he heard the brothers arguing. Petitioner denied that he held Angel's hands as Arsenio stabbed Angel.^[16] During cross-examination, petitioner explained that he only knew Angel as the brother of Arsenio. He reiterated that he ran away because he was frightened by the sight of the knife. He never saw what happened to the brothers. Nor did he inquire about the incident. He just heard from other people what had happened since he did not return to Maddalero until a month later.^[17]

The other defense witness was Arsenio Sunido, who testified that he managed the rice mill of petitioner in Maddalero, Buguey, Cagayan. On May 21, 1992, at around 10 o'clock in the morning, he left his house to see petitioner. He noticed several persons, including Angel, drinking gin in the yard outside the latter's house. Angel saw him and began challenging him to a fight. It appears that Arsenio had lost a fighting cock about two weeks before. He claimed that the fighting cock in Angel's yard belonged to him. Despite provocation from his brother, Arsenio simply went about his way and left the house to fetch petitioner in Gonzaga, Cagayan where the latter was residing. Upon arriving in petitioner's house, Arsenio informed him that they needed money to buy palay. For this reason, petitioner dispatched his Tamaraw jeepney and accompanied Arsenio to Sta. Teresita where they bought palay. They then proceeded to Arsenio's house in Maddalero, arriving there at around 11 to 12 o'clock noon. They were met by Angel Sunido who was drunk. Armed with a knife, Angel rushed towards Arsenio with intent to kill the latter, saying "I will kill you now." When Angel was around two meters away from him, Arsenio alighted from the vehicle and charged toward Angel.

On cross-examination, Arsenio testified that he did not see petitioner anymore during the incident because the latter ran away. After alighting from the Tamaraw, Arsenio slipped and fell. A struggle ensued and Arsenio was able to wrest the knife away from Angel. Arsenio then stabbed Angel several times. When he realized what he did, Arsenio dropped the knife, wanting to embrace his dead brother for he never really intended to kill him. He immediately surrendered to Alipio Valdez, the vice mayor, who brought him to the police precinct of Buguey.^[18] On further cross-examination, Arsenio explained that the misunderstanding between him and his brother arose out of a fighting cock then in Angel's possession. He claimed that the fighting cock, a breeder, was his but he no longer paid any attention to his brother's claim, being aware of the latter's temperament. However, on the date in question, Angel challenged him to a fight as he was leaving his house. When Arsenio returned to his house, together with petitioner, Angel met them and threatened to kill Arsenio as the latter was about to alight from the vehicle. With his back against the Tamaraw jeepney, Arsenio lost his balance and fell down. Angel jumped on him. After taking the knife away from his brother, Arsenio stabbed Angel. Angel ran towards a mango tree and died there. Arsenio then went to Vice Mayor Valdez' house and told Valdez that he stabbed his brother. Upon request of Arsenio, Vice Mayor Valdez accompanied him to the police station. On re-direct examination, Arsenio reiterated that his brother was an ex-convict, having been convicted of rape with homicide. He, on the other hand, had never been charged of any crime before the present case.^[19]

Alipio Valdez, vice mayor of Buguey, Cagayan, testified that Arsenio went to his

house on May 21, 1992, informing him that he stabbed someone. Since Arsenio was willing to surrender himself to the proper authorities, hence, Vice Mayor Valdez accompanied him to the Buguey Police Department.^[20] When cross-examined, Valdez repeated that Arsenio asked for his protection and, thus, he personally accompanied him to the police station.^[21]

For purposes of rebuttal, Remedios Sunido denied Arsenio's claim that the knife used in killing Angel belonged to the latter. She explained that it could not have been her husband's knife because Angel did not carry a knife when he accompanied Jerry home.^[22]

After trial, the lower court rendered a decision convicting Arsenio Sunido and Eligio Madrid of the crime of homicide. The dispositive portion reads:

WHEREFORE, the Court hereby finds the accused guilty beyond reasonable doubt of the crime of homicide, the penalty for which is reclusion temporal (Art. 249, Revised Penal Code) attended by evident premeditation, abuse of superior strength and availment of means to weaken the defense (Art. 14, pars. 13 and 15, R.P.C.). There is more than ample evidence to establish conspiracy. Therefore, the act of one is the act of all (People v. Noguero, Jr., 218 SCRA 85, 96). The accused are hereby sentenced to serve imprisonment of nineteen (19) years; seven (7) months; and nine (9) days to twenty (20) years of reclusion temporal maximum, including all its accessory, penalties. They are further directed to indemnify the heirs of the deceased jointly and severally P50,000.00 for the latter's death; P25,000.00 for moral damages; and P50,000.00 for exemplary damages, there being more than one aggravating circumstance and considering the manner the crime was committed, to serve as deterrent to others, with prejudice to the grant of parole or pardon.

Costs against the accused.

SO ORDERED.^[23]

Petitioner appealed to the Court of Appeals which rendered a decision, dated September 17, 1997, affirming the trial court's decision, subject to modifications, viz.:

WHEREFORE, foregoing considered, the appealed decision is hereby AFFIRMED with the following modification:

1. The accused-appellant Arsenio Sunido is sentenced to suffer the indeterminate penalty of six (6) 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, with the mitigating circumstance of voluntary surrender appreciated in his favor thus offsetting the aggravating circumstance of use of superior strength; and
2. The accused-appellant Madrid is sentenced to suffer the indeterminate penalty of six (6) years and one (1) day of prision mayor, as minimum, to seventeen (17) years, four (4) months and one (1) day of reclusion