

SECOND DIVISION

[G.R. No. 132078, September 25, 2000]

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ARTEMIO BERZUELA, ACCUSED-APPELLANT.**

D E C I S I O N

MENDOZA, J.:

This is an appeal from the decision^[1] of the Regional Trial Court, Branch 38, Iloilo City, finding accused-appellant Artemio Berzuela guilty of murder and sentencing him to *reclusion perpetua* and to pay the heirs of Rogelio Daras the sum of P9,300.00 as actual damages and P50,000.00 as indemnity.

The Information against accused-appellant alleged:

That on or about the 15th day of December, 1993, in the Municipality of Dumangas, Province of Iloilo, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused with treachery did then and there willfully, unlawfully and feloniously and with deliberate intent to kill, shot ROGELIO DARAS Y AGUIRRE with a shotgun he was then provided at that time as a result of which the said Rogelio Daras y Aguirre suffered multiple pellet wounds on his body which caused his death thereafter.^[2]

Upon arraignment, accused-appellant pleaded not guilty to the crime charged and trial of the case followed.

The prosecution presented evidence showing the following:

Rogelio Daras, a farmer from Agusan del Sur, went to Pulao, Dumangas, Iloilo in November 1993 to visit his sister Lina Guelos. He stayed with his sister's family until the second week of December 1993 when he decided to go back to Agusan del Sur on the 16th of that month. At around 6 o'clock in the afternoon of December 15, 1993, Rogelio, together with his nephew Robert Guelos, 17, and Freddie Daras, went to the house of Efren Guelos, Robert's uncle, also in Barangay Pulao, for a going-away party in his honor. Fred de Asis, another acquaintance, later joined the party. At 8:30 that evening, while the group was having drinks, Rogelio, who was dancing with his back toward the window, was shot from behind. He was killed instantly. His nephew Robert said he noticed accused-appellant fire the shot from outside through the kitchen window of the house. Shortly before the shooting, Robert noticed that the window was opened by someone outside, who turned out to be accused-appellant. Robert saw accused-appellant place his firearm on the window sill, but, before he could warn Rogelio, a shot rang out and Rogelio was hit at the back. Robert was shocked and frightened. The others scampered for safety. And in the confusion, accused-appellant slipped away.

The following day, December 16, at about 7 o'clock in the morning, Robert went to Tigbauan where his mother had earlier gone to inform her of Rogelio's death. On the way, he chanced upon accused-appellant in Patlao *sari-sari* store. Robert noticed that accused-appellant, who had changed clothes, could not look him in the eye. In the afternoon of that day, after he and his mother had returned to Pulao, Robert executed an affidavit before Judge Evelio Ilanga of the Municipal Trial Court of Dumangas in which he identified accused-appellant as the person who had shot Rogelio.^[3]

During the trial of the case, Robert again pointed to accused-appellant as his uncle's assailant. He stated that he knew accused-appellant because the latter frequently visited relatives in Pulao, Dumangas. He recognized accused-appellant as the assailant because of the light from the kerosene lamp near the window which illuminated accused-appellant from the waist up. When asked whether the fact that the victim was dancing in front of him obstructed his view of the window, Robert replied that it did not.^[4]

On cross-examination, Robert admitted that he knew of no previous quarrel between his uncle and accused-appellant but that his impression was based only on the few times he had been with his uncle.^[5]

On December 20, 1993, upon the request of the chief of police of Dumangas, Dr. Ricardo H. Jaboneta, NBI medico-legal officer, Region VI, conducted an autopsy on the body of the deceased and afterward issued the following report:

POSTMORTEM FINDINGS

Pallor, integuments and nailbeds.

Wound, shotgun, ENTRANCE, multiple, nine (9) in number, sizes varies from .6 x 0.6 to 0.5 x 0.5 cm., back, . . . both sides, over an area of 8.0 x 15.0 cms., center of which is 131.0 cms. from right heel, all were directed forward to different parts of the chest causing punch-in fracture, 3rd rib, right side along paravertebral line, 5th rib, left side along paravertebral line, body of 5th thoracic vertebra, right side, one (1) pellet lodged and recovered in the body of 4th thoracic vertebra, posterior portion, into thoracic cavity, both sides, perforating thru and thru, one at left lung, apex and pellet lodged and recovered intramuscularly at left chest, level of 2nd intercostal space, along parasternal line, four (4) perforation on left lung, upper lobe, two (2) at left lung, lower lobe, where one (1) pellet lodged and recovered, perforating esophagus and vena cava at the level of 5th thoracic cavity, two (2) pellets lodged and recovered intramuscularly at left side of the chest along anterior and midaxillary line, the three (3) other pellets tract were lost at the thoracic cavity.

Hemothorax, clotted blood, 1,100 cc., left side, 500 cc., right side.

Heart, covered with moderate amount of fatty tissues. Ventricular chambers, empty.

Lungs, collapsed, both sides.

Other visceral organs, pale.

Stomach, contain[ed] about 1/3 of pinkish semi-solid and other food.

Cause of Death: Hemorrhage, profuse secondary to shotgun wounds.^[6]

Dr. Jaboneta testified that the nine entry wounds at the back of the deceased were caused by pellets from a single shot of a .12 gauge type shotgun, fired at a distance of three to five meters from behind the victim. He stated that the injuries sustained by the victim, involving the vena cava, left lung, and esophagus, were of such serious nature that he could not have survived even with prompt medical attention. On cross-examination, he stated that, since the pellets showed an upward trajectory, the nozzle of the shotgun was aimed slightly lower than the points of entry of the gunshot wounds.^[7]

The prosecution also presented Lina Guelos who testified that her family spent around P15,000.00 for the wake and burial of the deceased. However, she was able to present only a receipt issued by the Pinuela Funeral Home (Exh. C) evidencing the payment for the coffin worth P7,500.00 and another receipt issued by the Parish of St. Augustine, Dumangas (Exh. C-1) for P1,800.00 for funeral services and the rental of the niche.

Accused-appellant's defense was that, at the time of the incident, he was in the house of his uncle, Jesus Berzuela, in Pulao, Dumangas and that he was then asleep. He explained that although he was from the neighboring Barangay of Patlad, he had been staying with his uncle in Pulao since April 1993 to help in the harvesting of *palay* and the cutting of bamboo. He stated that he did not know the victim, although he had heard of him. He, however, admitted knowing Robert whom he had met thrice after the incident of December 15, 1993.^[8]

On cross-examination, accused-appellant stated that Jesus Berzuela's house is about a kilometer from that of Efren Guelos and that the distance could be covered in 15 minutes by foot.^[9]

The defense also presented Jesus Berzuela to corroborate accused-appellant's alibi. He testified that in the evening of December 15, 1993, accused-appellant was in his house in Pulao, Dumangas and that he (accused-appellant) did not leave the house that night.^[10] On cross-examination, Berzuela stated that his house is about a kilometer away from that of Efren Guelos and that the distance could be covered in a few minutes by walking. When asked whether he knew the victim, he said that he had heard of the latter but had not met him.^[11]

The prosecution then recalled Robert Guelos to the witness stand to rebut accused-appellant's testimony that they had met thrice after the killing of his uncle. Robert said that, except when he chanced upon accused-appellant in the *sari-sari* store in Pulao in the early morning of December 16, 1993, he did not meet nor talk to accused-appellant after December 15, 1993.^[12]

On March 26, 1997, the trial court rendered judgment as follows:

WHEREFORE, the court finds the accused, Artemio Berzuela Y Paez, guilty beyond reasonable doubt for the crime of Murder penalized under No. 1, Section 6 of Republic Act No. 7659 amending Article 248 of the Revised Penal Code and hereby sentences said accused to suffer the penalty of Reclusion Perpetua, to pay the heirs of Rogelio Daras Y Aguirre the sum of P9,300.00 as actual damages and P50,000.00 as civil indemnity by reason of such death in accordance with current jurisprudence.^[13]

Hence this appeal. Accused-appellant alleges that —

I. THE TRIAL COURT ERRED IN GIVING CREDENCE TO THE TESTIMONY OF THE PROSECUTION'S STAR WITNESS.

II. THE TRIAL COURT ERRED IN FINDING THE ACCUSED GUILTY BEYOND REASONABLE DOUBT OF THE CRIME OF MURDER.^[14]

First. Accused-appellant contends that the prosecution failed to establish motive on his part. It is incredible, according to him, that he would kill somebody who never offended him.^[15]

The contention is without merit. Motive is not an element of a crime and need not be proved to produce a conviction.^[16] Such becomes relevant only when the identity of the person who committed the crime is in dispute. But when there is positive identification of the accused, proof of motive can be dispensed with.^[17]

In this case, Robert Guelos positively identified accused-appellant as his uncle's assailant, first in the affidavit he executed a day after the killing, and later during his testimony in court on March 21, 1996. He pointed to accused-appellant as the person who shot the victim after opening the window in the kitchen of Efren Guelos' house. Robert knew accused-appellant because the latter, although a resident of Barangay Patlad, had relatives in Barangay Pulao whom he often visited. The place where the victim was shot was sufficiently lighted by Petromax and kerosene lamps. Robert said that the light from the kerosene lamp, which was placed on the table near the window, enabled him to recognize accused-appellant as it illuminated him from the waist up, especially his face. Robert was just four meters from the window where accused-appellant was when the latter fired the fatal shot. He said his view of the window was not obstructed by the fact that the victim was in front of him. As the deceased was about a meter from him, Robert could see the other parts of the house, including the window in the kitchen.

Accused-appellant cites the case of *People v. Vasquez*.^[18] The facts of that case, however, are different. In that case, the Court acquitted the two accused of murder because not only did the autopsy findings fail to corroborate the testimonies of the supposed eyewitnesses to the killing but the latter's testimonies contained inconsistencies and improbabilities which undermined their credibility. In addition, the defense was able to show that the witnesses had reason to falsely implicate the accused in the killing. In view of these circumstances, the Court held that proof of motive was indispensable.^[19]