

THIRD DIVISION

[G.R. No. 134761, October 17, 2000]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
AGUINALDO CATUIRAN, JR., ELMER DE LA CRUZ, ALIAS
"SMALL," REY DE LA CRUZ, ALIAS "PONTOY," JUSELITO DE
PEDRO, ALIAS "LANO," RAMON PATRICIO, JR., ALIAS "BOGOY,"
RICARDO DE PEDRO, ALIAS "CADO," FERNANDO LAVAROSA,
ALIAS "FANDO," AND REYNALDO CATUIRAN, ALIAS "BOY
GALDING," ACCUSED-APPELLANTS.**

D E C I S I O N

VITUG, J.:

Accused-appellants were charged with MURDER in an information that read:

"The undersigned First Assistant Provincial Fiscal of Aklan accuses AGUINALDO CATUIRAN, JR., ELMER DELA CRUZ, alias `Small', REY DELA CRUZ, alias `Pontoy,' JUSELITO DE PEDRO, alias `Lano', RAMON PATRICIO, JR., alias `Bogoy', RICARDO DE PEDRO, alias `Cado', FERNANDO LAVAROSA, alias `Fando' and REYNALDO CATUIRAN, alias `Boy' Galding', all of Barangay Lupo, Altavas, Aklan, or elsewhere, of the crime of MURDER, committed as follows:

"That on or about the early morning of November 5, 1983, between 2:00 and 3:00 a.m., in Barangay Lupo, Municipality of Altavas, Province of Aklan, Republic of the Philippines, and within the jurisdiction of this Honorable Court, the abovenamed accused, armed with deadly weapons consisting of knives and boloes, conspiring, confederating together and helping one another, with evident premeditation, treachery and intent to kill, did then and there wilfully, unlawfully and feloniously attack, assault, stab and bolo one JOEFREDO FLORES TULIO, thereby infliction upon the latter twenty nine (29) wounds on different parts of his body, to wit:

"ANTERIOR WOUNDS

- "1. Wound, hacking, from the right angle of the mouth to the bridge of the nose going below the maxillary prominence of the left fact fracturing the nose and anterior maxillary bone.
- "2. Wound, incised, 1-1/2", superficial, 1-1/2" below the maxillary prominence, left.
- "3. Wound, stab, 1/2", penetrating, 1-1/2" below the mandibular angle, right.
- "4. Wound, stab, 1/4", penetrating, level of thyroid cartilage, 1" from the midline, left.
- "5. Wound, stab, 1/2", penetrating, level of 2nd ICS, 1-1/2" lateral to the midclavicular line, left.
- "6. Wound, stab, 1/2", penetrating, level of 2nd ICS, 1"

- from the midline, left.
- "7. Wound, stab, 1/2", penetrating, level of 2nd ICS, 1-1/2" from the midline, left.
 - "8. Wound, stab, 1/2", penetrating, level of 4th ICS, 1" lateral to midclavicular line, left.
 - "9. Wound, stab, 1/2", penetrating, level of 5th ICS, midaxillary line, left.
 - "10. Wound, incised, 5", superficial, running obliquely from the sternum to the anterior axillary line passing above the nipple, right.
 - "11. Wound, incised, 1-1/2", superficial, level of 7th rib, midclavicular line, left.
 - "12. Wound, stab, 1/2", penetrating, level of subcostal margin, 2-1/2" from the midline, left.
 - "13. Wound, stab, 1/2" penetrating, level 8th ICS, anterior axillary line, right.
 - "14. Wound, stab, 3/8" penetrating, level 8th ICS, 1" medial to anterior axillary line, right.
 - "15. Wound, stab, 1/2" penetrating, level 8th ICS, midaxillary line, right.
 - "16. Wound, incised, 3", superficial, along costal margin, right.
 - "17. Wound, stab, 1" medial aspect, middle 3rd, arm, left.
 - "18. Wound, stab, 1/2", medial aspect, middle 3rd, arm, right.

"POSTERIOR WOUNDS

- "19. Wound, stab, 1/2", non-penetrating, level of scapular process, right.
- "20. Wound, stab, 1/2", non-penetrating, level of scapular process, left.
- "21. Wound, stab, 3/8", non-penetrating, level of scapular, left.
- "22. Wound, stab, 3/8", non-penetrating, just above the angle of the scapular, left.
- "23. Wound, stab, 1/2", penetrating, 1-1/2" from the shoulder, joint, right.
- "24. Wound, stab, 1/2", penetrating, 1/2" from the shoulder, joint, right.
- "25. Wound, stab, 1/2", penetrating, level of 8th ICS, 1-1/2" from the midline, right.
- "26. Wound, stab, 1/2", penetrating, level of 10th ICS, 2-1/2" from the midline, right.
- "27. Wound, stab, 1/2", penetrating, level of 5th ICS, posterior axillary line, right.
- "28. Wound, stab, 1/2", penetrating, level of 9th ICS, posterior axillary line, right.
- "29. Wound, stab, 1/2", posterior aspect, middle 3rd, arm, right.

"as per Autopsy Report signed by Dr. Ronnie B. Payba, Resident Physician, Altavas District Hospital, Altavas, Aklan, hereto attached as Annex 'A' and made part of this information, which physical injuries caused the death of the victim JOEFREDO FLORES TULIO, as per Certificate of Death signed by the same physician, hereto attached as

Annex `B' and likewise made integral part of this information.

"That in the commission of the crime, the aggravating circumstances of nighttime are present and committed by a band.

"CONTRARY TO LAW."^[1]

Following arraignment and trial, the court *a quo* rendered judgment, on 30 March 1990, finding accused-appellants guilty, some as principals and the rest as accomplices, of homicide; *viz*:

"WHEREFORE, judgment is hereby rendered as follows:

"1. This Court finds the accused AGUINALDO CATUIRAN, JR., REY DELA CRUZ, JUSELITO DE PEDRO, AND REYNALDO CATUIRAN GUILTY as principal (sic) of the crime of Homicide, without mitigating or aggravating circumstances, and they are hereby sentenced 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, and to indemnify the heirs of Joefredo Tulio the sum of Thirty Thousand Pesos (P30,000.00), without subsidiary imprisonment in case of insolvency, and to pay the costs;

"2. This Court finds the accused ELMER DELA CRUZ, RICARDO DE PEDRO, and FERNANDO LAVAROSA GUILTY as accomplices of the crime of Homicide, without mitigating or aggravating circumstances, and they are hereby sentenced to suffer an indeterminate penalty of TWO (2) YEARS, FOUR (4) MONTHS and ONE (1) DAY OF PRISION CORRECCIONAL as minimum, to EIGHT (8) YEARS and ONE (1) DAY OF PRISION MAYOR as maximum, and to jointly and severally indemnify the heirs of Joefredo Tulio the sum of Thirty Thousand Pesos (P30,000.00), for the death of the victim, without subsidiary imprisonment in case of insolvency, and also to pay the costs; and

"3. That a separate trial would be conducted for the accused RAMON PATRICIO, JR."^[2]

From the above judgment, the accused went on appeal to the Court of Appeals.

The Court of Appeals, through Justice Ricardo P. Galvez concurred in by Justice Pedro A. Ramirez and Justice B. A. Adefuin-dela Cruz, in its decision, dated 31 January 1997, affirmed the trial court but, finding the attendance of treachery in the commission of the crime, the appellate court adjudged:

"WHEREFORE, premises considered, the appealed decision is hereby MODIFIED as to the nature of the offense committed. As MODIFIED, We find accused-appellants Elmer dela Cruz, Fernando Lavarosa, Aguinaldo Catuiran, Jr., Reynaldo Catuiran, Rey dela Cruz, Ricardo de Pedro and Juselito de Pedro guilty beyond reasonable doubt of murder and are each sentenced to suffer an indeterminate penalty ranging from Seventeen (17) years and Four (4) months of Reclusion Temporal as minimum to Reclusion Perpetua as maximum, with the corresponding accessory penalties as provided by law and to pay the costs. The preventive

imprisonment which the accused had already undergone shall be credited in their favor in the service of their sentence, in accordance with, and subject to the conditions and exceptions laid down in Article 29 of the Revised Penal Code as amended by R.A. 6127."^[3]

The motion for reconsideration filed by accused-appellants before the appellate court was denied in its resolution of 29 June 1998.

The statement of the case and the relevant facts introduced at the trial before the court *a quo* have been culled by the Court of Appeals in this wise; *viz*:

"At the trial on the merits, the prosecution, through its witnesses Dr. Ronnie Payba, Cpl. Teofilo Martesano, Henry Candelario, Isidro Peniano, Ricky Vedasto, Flocerfida Tulio Inocencio and Ana May Tulio-Garmino, established the following facts: that at around 8:00 o'clock in the evening of November 4, 1983, a benefit dance sponsored by the Barangay Tanod was being held in an improvised dance hall located at Barangay Lupo, Altavas, Aklan. The place was well-lit. There were many people who attended the festivities including deceased Joefredo Tulio, the above accused, namely, Elmer De la Cruz, Aguinaldo Catuiran, Jr., Rey dela Cruz, Juselito de Pedro, Ricardo de Pedro, Fernando Lavarosa, Reynaldo Catuiran and Ramon Patricio, Jr., and the witnesses Peniano, Candelario and Vedasto, all of whom were residents of Lupo, Altavas, Aklan. Between the hours of 2:00 o'clock and 3:00 o'clock in the morning of the following day, while the dance was in progress, Isidro Peniano saw Aguinaldo Catuiran, Jr. placed his arm over the shoulder of Joefredo Tulio, apparently in an friendly gesture. Later, Catuiran unsuspectingly led Tulio outside the dance hall. Peniano, through the illumination of light from the electric post, noticed that while the two were walking along a path from the hall leading to the street and towards the direction of Catuiran's house, which was a few meters away from the said hall, Catuiran suddenly pulled out his knife and thrust the same at the surprised victim hitting the latter's chest for four (4) times. Tulio struggled with his attacker for the possession of the weapon but his efforts proved futile so, he ran away. Peniano recounted having seen a group of men, later identified as Elmer de la Cruz, Juselito de Pedro, Rey de la Cruz, Ricardo de Pedro and Fernando Lavarosa on the road which was about twenty-five meters away from the said dance hall, apparently waiting for somebody. Only, it turned out to be Joefredo Tulio. As Tulio was fleeing from Catuiran, he was blocked by this group and thereafter stabbed by Juselito de Pedro and Rey de la Cruz. The others, in turn, kicked him and boxed him several times until the victim fell into a canal. They then carried the prostrate body of Tulio to a nearby ricefield, where they left the victim's body. As soon as these men had left the field and while proceeding towards the dance hall, one of them was heard saying `ma-surrender kami.' At this juncture, Reynaldo Catuiran, came rushing to the ricefield where Tulio was seen lying. Not satisfied with the wounds and injuries sustained by Tulio, Catuiran unsheathed his bolo and hacked the former with it. In consequence of the assault, Tulio sustained twenty-nine (29) wounds on the different parts of his body. Peniano's narration was corroborated by Ricky Vedasto, who was familiar with all the accused, and by Henry Candelario, who testified having last seen Joefredo Tulio

alive in the company of accused Aguinaldo Catuiran, Jr.

"The accused interposed the defense of alibi by claiming that they were somewhere else during the stabbing incident. While admitting that they did attend the dance that very night, Fernando Lavarosa, Rey de la Cruz, Juselito de Pedro and Ricardo de Pedro claim that they left the dance hall between the hours of 10:30 and 12:00 o'clock in the evening of November 4, 1983 and slept till 5:00 o'clock to 6:30 the following morning. For their part, the Catuiran brothers, Reynaldo and Aguinaldo, Jr., maintained that they never left the dance hall that night until 3:30 a.m. of November 5, 1983.^[4]

The principal point raised by accused-appellants in the instant petition relates to the credibility of the witnesses. Accused-appellants vehemently assail the appreciation made by both the trial court and the appellate court of the testimony of the prosecution witnesses and point to the prosecution witnesses as being the real assailants.

It is doctrinal that the evaluation by the trial court on the credibility of witnesses is accorded the highest respect on the thesis that it is the trial court, rather than the appellate court, which has an unrestrained and unparalleled opportunity to observe directly their demeanor and determine the veracity of their testimony. Such an assessment is almost invariably binding on this Court unless it finds such assessment to have been reached arbitrarily or, as so often said, when the trial court has evidently overlooked, misunderstood or misapplied some facts or circumstances of weight and substance which could affect the result of the case.^[5] The rule becomes even more pronounced than usual when the trial court is sustained by the Court of Appeals in the latter's own review.

It might be important to take special note of the fact that accused-appellants were positively identified to be the assailant of Joefredo Tulio not just by a single witness, whose lone testimony could have even sufficed to support a conviction for murder,^[6] but by three witnesses who were not shown to have had any strong motive to testify falsely against the accused.

Eyewitness Isidro Peniano positively identified accused-appellants and gave a straightforward and unequivocal account of the stabbing incident that could only inspire belief.

"Q. Now, you said that at around 2:00 A.M. you were proceeding to the dance hall but you were prevented while you were on the street because you saw a commotion, can you tell us if . . .
(Unfinished.)
I will reform.

When you were already on the street, did you observe any unusual incident?

"A. Not yet. When I reached the street, I saw six people.

"Q. These six persons that you saw, where were they situated or located?

"A. On the street.

"Q. When you saw them, were you able to identify them or not?
Do you know them?