

SECOND DIVISION

[G.R. No. 129892, October 16, 2000]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
RODOLFO BARRO, JR.,^[1]**

DECISION

QUISUMBING, J.:

For review is the decision of the Court of Appeals,^[2] in CA-G.R. No. 18290, which affirmed the decision of the Regional Trial Court of Cadlan, Pili, Camarines Sur, Branch 32, convicting appellant of the crime of murder. The Court of Appeals increased the penalty to *reclusion perpetua* and accordingly certified the case to this Court for review, pursuant to Rule 124, Section 13, of the Rules of Court.

The case for the prosecution, as summarized by the Office of the Solicitor General, is as follows:^[3]

"At about 10:30 o'clock in the evening of 31 October, 1992, witness Villaruel was in his house, with his family, in La Purisima Nuevo, Ocampo, Camarines Sur; some fifty meters away from his house, was the house of Pedro Largo, where in the vacant pig-pen, four persons were having a drinking spree (tsn, May 13, 1994, p. 3); these four were Pedro Largo, Dennis Cano, Ruben Barro and one nicknamed 'Onong' (tsn, May 13, 1994, pp. 3 & 4); the drinking partners were talking in a loud voice, impelling Villaruel to go down his house, going in the direction of his neighbor's pig-pen where the rowdy drinkers were, but on his way, he notice Ruben Barro and 'Oneng' leave the two namely, Pedro Largo and Dennis Cano sitting side by side, with Dennis Cano's back resting on the cemented wall of the pen (tsn, May 13, 1994, pp. 8 & 11); with his back resting on the wall of the pig-pen; Dennis Cano was suddenly attacked from behind by Rodolfo Barro Jr. with a bladed instrument about a foot long, hitting the former with that first stab just below the left scapula (tsn, May 13, 1994, pp. 5 & 11); the second stab wound inflicted on Cano by Barro Jr. found its mark about 8 inches below the left armpit (tsn, January 20, 1994, pp. 4 & 7; tsn, August 4, 1994, p. 4); even as Cano had already sustained two stab wounds, he still managed to walk in the direction of the house of Pedro Largo some four meters away, where he collapsed (tsn, May 13, 1994, pp. 13 & 15); Pedro Largo and the father of Dennis Cano brought the wounded Dennis Cano by jeep to the Camarines Sur Regional Hospital in Naga City, where, in spite of medical attendance, Cano expired on 6 November, 1992 (tsn, January 20, 1994; pp 6 & 7; tsn, May 13, 1994, p. 6); there is no dispute that Cano died of the stab wounds inflicted on him by Rodolfo Barro, Jr. on the night of 31 October 1992 (tsn, January 20, 1994, p. 7)."

Appellant relied on outright denial and alibi for his defense,^[4] thus:

"Accused Rodolfo Barro, Jr. denied having anything to do with the killing of Dennis Cano. He testified that on the alleged date and time of the stabbing incident, he was at Buang, Tabaco, Albay where he permanently resides. He did not know the victim and had never been to La Purisima, Ocampo, Camarines Sur. And that before his arrest, he had been residing in Buang, Tabaco, Albay, with his family and worked as a permanent laborer in the land owned by Danilo Bonita. (TSN, August 18, 1994, pp. 2-4)

Danilo Bonita corroborated the foregoing testimony of accused Rodolfo Barro, Jr. (TSN, October 4, 1994, pp. 3-5)"

We shall now review the proceedings below and the evidence offered by the prosecution as well as the defense. On February 2, 1993, the following Information for murder was filed against appellant:^[5]

"That on or about the 31st day of October, 1992 in Barangay La Purisima Nuevo, Municipality of Ocampo, Province of Camarines Sur, Philippines and within the jurisdiction of this Honorable Court, the above-named accused with intent to kill, with treachery and evident premeditation, did then and there, willfully, unlawfully and feloniously attack, assault and stab with a double bladed weapon, one DENNIS CANO, thereby inflicting upon the latter stab wounds on his body which caused his death, to the damage and prejudice of the offended party in such amount as maybe proven in court.

ACTS CONTRARY TO LAW."

Upon arraignment, appellant entered a plea of not guilty.^[6]

During trial, the prosecution presented the following witnesses: (1) Pedro Largo, the remaining companion of the victim when he was stabbed, who witnessed the stabbing incident, (2) Renato Villaruel, Largo's neighbor, who also witnessed the stabbing incident, (3) Federico Cano, father of the victim, and (4) Dr. Jullie Sy, a resident physician at the Bicol Regional Hospital, Naga City, who conducted the autopsy on the body of the victim.

Pedro Largo testified that he knew appellant because the latter used to work at their farm. After the drinking session, Largo and the victim remained seated at a table facing each other. An electric bulb hung overhead. While Largo and the victim were swapping stories, appellant suddenly came up behind the victim and stabbed him with a sharp bladed weapon. Largo testified that he recognized appellant, who was wearing a black t-shirt. After stabbing the victim, appellant ran away.^[7]

Renato Villaruel, Largo's neighbor, testified that he was about to approach the drinking session to verify what the loud noise was all about when he saw two persons get up and leave the group. The remaining two were Largo and the victim. When he was about 10 meters away, he saw appellant approach the victim from behind and stab him twice with a bladed instrument. After stabbing the victim, appellant immediately ran away. Villaruel helped Largo bring the victim to the

hospital.^[8]

Federico Cano testified as to the expenses incurred as a result of the death of his son.

The autopsy report revealed that the victim sustained two stab wounds - "3.2 cm. left infra scapular area" and "3 cm. level of the 9th intercostal space, 8 cm. lateral aspect left to the vertebra," and that the second stab wound penetrated the thoracic and abdominal cavity. The victim also suffered from a cerebral edema as a result possibly of an inflammation or a fall.^[9]

For the defense, appellant and Danilo Bonita testified. Appellant denied knowing the victim or prosecution witnesses Largo and Villaruel. He claimed that he had never gone to La Purisima Nuevo, Ocampo, Camarines Sur in his entire life. However, he does not know why the prosecution witnesses would point to him as the assailant in this case.^[10]

Danilo Bonita testified that appellant was a laborer in his plantation in Buang, Tabaco, Albay from 1991 up to August 1993 when the latter was arrested. On October 31, 1992, the day of the incident, appellant was then working for him. However, when pressed by the Court to present proof, Bonita could not present any record showing that appellant was employed as his laborer.^[11]

On rebuttal, the prosecution presented Rogelio Largo to debunk appellant's testimony that he had never been to La Purisima, Ocampo, Camarines Sur. Rogelio testified that he hired appellant as a laborer in his riceland located in said place from June of 1992 until the end of October 1992. He likewise presented in court a notebook prepared by his wife indicating that on October 31, 1992, they paid the salary of appellant for the day.^[12]

On sur-rebuttal, appellant claimed that the testimony of Rogelio Largo was false. He denied even knowing the latter or even having any misunderstanding with him. He insisted that he never went to La Purisima at anytime in 1992.^[13]

On February 2, 1995, the trial court rendered a decision^[14] convicting appellant of the crime of murder, disposing thus:

"IN VIEW OF THE FOREGOING CONSIDERATIONS, judgment is hereby rendered, finding the accused Rodolfo Barro, Jr. also known as Arnulfo Barro, guilty, beyond reasonable doubt of the crime of Murder, qualified by treachery, defined and penalized under Art. 248 of the Revised Penal Code, and hereby sentences him to suffer the indeterminate penalty of 17 years, 4 months, and 1 day of Reclusion Temporal, as minimum to 26 years 8 months and 1 day of Reclusion Perpetua, medium period as the maximum, to indemnify the heirs of Dennis Cano the sum of Fifty Thousand (P50,000.00) Pesos, as indemnity for his death, plus the sum of Thirty Four Thousand, Two Hundred Sixty-One Pesos and Ten Centavos (P34,261.10) as actual and consequential damages, with all the accessories of the law, plus costs; the accused is credited in full for his preventive detention.

SO ORDERED. Given this 2nd day of February, 1995 at Pili, Camarines Sur."

On appeal, the appellate court rendered its decision^[15] affirming the judgment of the trial court but, as already stated, increasing the penalty to *reclusion perpetua*. Our primary concern now is whether the imposition of this penalty, as well as the finding of guilt of appellant, is proper.

In our Resolution dated November 17, 1997,^[16] the Court resolved to grant the Manifestation filed by the Public Attorney's Office adopting the appellant's brief filed before the CA as its appellant's brief and submitting the case for decision.

Appellant contends^[17] that the trial court erred in:

- I. ... GIVING FULL FAITH AND CREDENCE TO THE INCONSISTENT IF NOT CONFLICTING TESTIMONY OF THE PROSECUTION WITNESSES ANENT THE STABBING INCIDENT IN QUESTION AND IN DISREGARDING THE EVIDENCE ADDUCED BY THE DEFENSE.
- II. ... HOLDING THAT TREACHERY WAS PRESENT IN THE COMMISSION OF THE CRIME ASCRIBED AGAINST APPELLANT.
- III. ... RENDERING A VERDICT OF CONVICTION DESPITE THE FACT THAT THE GUILT OF APPELLANT WAS NOT PROVED BEYOND REASONABLE DOUBT.

In his brief, appellant assails the credibility of prosecution witness Villaruel by pointing out the following inconsistencies between his sworn statement and his testimony in court. *First*, in his sworn statement, Villaruel stated that the victim was stabbed while the latter was walking with Pedro Largo. But on the witness stand, Villaruel testified that the victim was seated when he was stabbed. When asked about the inconsistency, Villaruel explained that his earlier statement was incorrect. *Second*, Villaruel stated in his affidavit that Ruben Barro and Oning Divinaflores were with the victim when the latter was stabbed and that the two ran away with appellant after the stabbing incident. But Villaruel testified later on that Ruben and Oning left as he was approaching the group. Further, during direct examination, Villaruel testified that he witnessed the actual stabbing, but on cross-examination, he testified that he did not notice the stabbing incident until the victim uttered that he was stabbed.

Appellant likewise assails the credibility of prosecution witness Largo by pointing out the following inconsistencies in his testimony: *First*, on direct examination, Largo testified that there was a heated altercation between the victim and appellant prior to the stabbing incident. On cross, Largo testified that there was no such altercation. *Second*, during preliminary examination, Largo testified that they drank gin, while on the stand, he testified that they drank 3 bottles of "beer grande" and 3 bottles of gin. Further, in his sworn statement, Largo testified that he saw appellant stab the victim with his right hand, while on the stand, Largo testified that appellant stabbed the victim with both hands. Further, in his sworn statement, Largo testified that the weapon was double-bladed, while on the stand, he said it was single bladed only. When confronted by the trial judge, Largo could not explain these inconsistencies.