

SECOND DIVISION

[G.R. No. 130613, October 05, 2000]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ARTEMIO AQUINO A.K.A. ARTEM AND ERNESTO AQUINO A.K.A.
ERNING, ACCUSED.**

ARTEMIO AQUINO A.K.A. ARTEM, ACCUSED-APPELLANT.

D E C I S I O N

BELLOSILLO, J.:

The brothers ARTEMIO AQUINO a.k.a. *Artem* and ERNESTO AQUINO a.k.a. *Erning* were charged with murder for the killing of Ricardo Junio on 29 July 1984 in Sitio Parongking, Bgy. San Miguel, Calasiao, Pangasinan. Soon after, Ernesto Aquino was apprehended, tried, but eventually acquitted, while Artemio Aquino remained at large until he was finally arrested sometime in December 1996. Thereafter he was tried. On 23 May 1997 the Regional Trial Court - Br. 43 of Dagupan City found Artemio Aquino guilty of murder; hence, this appeal pertains only to him.

The evidence for the prosecution adduced through witness Eduardo Barte was that at around 6:00 o'clock in the evening of 29 July 1984 he was in Sitio Parongking, Bgy. San Miguel, Calasiao, Pangasinan, to buy cigarettes when he saw accused Artemio Aquino stab Ricardo Junio. Artemio first approached Ricardo who was seated on a bamboo bench and talked to him. After a short while, Artemio stabbed the unsuspecting Ricardo with a 10-inch bladed weapon. Wounded, Ricardo stood up and ran towards the makeshift bamboo bridge; Ernesto pursued him. In the process, the victim fell from the bamboo bridge into the water. Artemio then proceeded to his house nearby. According to Eduardo, he pulled Ricardo out of the water but the latter was already dead so Eduardo placed his body on the river bank and informed Rosario, wife of Ricardo, about the incident.

Artemio denied participation in the crime. He averred that at the time of the incident he was at home taking care of his children.

Finding the qualifying circumstance of treachery to have attended the commission of the crime, the court *a quo* convicted accused Artemio Aquino of murder and sentenced him to suffer the penalty of *reclusion perpetua* and to pay the heirs of Ricardo Junio P50,000.00 as civil indemnity, P50,000.00 as moral damages, P38,700.00 as actual damages, plus the costs of the suit.^[1]

Accused-appellant Artemio Aquino submits that the testimony of prosecution witness Eduardo Barte was fabricated as he did not see the actual stabbing.

This contention is untenable. Other than this sweeping conclusion, the defense did not cite instances, much less present evidence, that would persuade this Court to

conclude that Eduardo's testimony was a mere concoction.

The trial court found the testimony of Eduardo Barte to be "direct, clear cut, straightforward and positive." On the credibility of witnesses, appellate courts accord the highest respect to the assessment made by the trial court because of the trial judge's unique opportunity to observe the witnesses firsthand and to note their demeanor, conduct and attitude under grueling examination. These are significant factors in evaluating the sincerity and credibility of witnesses in the process of unearthing the truth.^[2] Unless the trial judge plainly overlooked certain facts of substance and value which, if considered, might affect the result of the case, his assessment of the credibility of the witnesses must be respected.^[3] In the instant case, we agree with the trial court that Eduardo Barte identified accused-appellant as the assailant. His identification was positive, categorical, consistent and without any showing of ill motive which should prevail over the negative, unsubstantiated, and self-serving evidence of alibi and denial of accused-appellant.^[4]

Accused-appellant next claims that the trial court erred in appreciating the qualifying circumstance of treachery. This insistence is meritorious. Circumstances qualifying a killing to murder, such as treachery, must be proven as indubitably as the crime itself. Thus, the elements of treachery in a given case must be proved as well: (a) the employment of means of execution which gives the person attacked no opportunity to defend or retaliate; and, (b) that said means of execution were deliberately or consciously adopted.^[5]

In the instant case, Eduardo first saw accused-appellant and the victim engage in a casual conversation prior to the attack, but when he looked at them again accused-appellant was already stabbing Ricardo with a 10-inch knife. Admittedly, the attack was frontal as shown by the stab wound sustained by the victim. Ricardo was unarmed and totally unsuspecting of the attack. Nonetheless, the prosecution failed to show by clear and convincing evidence that accused-appellant deliberately adopted such means of execution. Significantly, Eduardo did not even testify on how the attack was commenced -

Pros. Finez: Sometime on July 29, 1984 at about 6:00 o'clock in the evening, do you remember where you were?

Witness Barte: Yes, sir x x x x I was at Barangay Parongking, sir.

Q: Who were your companions at that time 6:00 p.m.?

A: I was alone, sir.

Q: Why did you go to Parongking on that day?

A: Because I intended to buy a cigarette in a certain store, sir.

Q: Were you able to buy a cigarette on that day?

A: Not anymore, sir.

Q: Why, Mr. Witness?

A: Because I already witnessed a crime involving the stabbing of Ricardo Junio by Ernesto Aquino and Artemio Aquino, sir.

Q: What was that crime about?

A: That crime about the stabbing of Ricardo Junio by Artemio