

## FIRST DIVISION

[ G.R. No. 135963, November 20, 2000 ]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. NORBERTO  
SABADO, APPELLANT.**

### D E C I S I O N

**DAVIDE JR., C.J.:**

The credible and positive testimony of a single witness is sufficient for conviction because truth is established by the quality, not necessarily the quantity, of evidence.

#### The Case

Before the Court is the appeal of Norberto Sabado, assailing the September 14, 1998 Decision<sup>[1]</sup> of the Regional Trial Court (RTC) of Tayug, Pangasinan (Branch 51), in Criminal Case No. T-1383. The decretal portion of the Decision, which convicted him of murder and sentenced him to *reclusion perpetua*, reads as follows:

"WHEREFORE, finding the accused Norberto Sabado guilty beyond reasonable doubt of the crime of [m]urder, qualified by evident premeditation, as defined and penalized under said Article 248, paragraph 5, the Court hereby sentences him to suffer the penalty of RECLUSION PERPETUA, to indemnify the heirs of the deceased Fernando Madelo for damages in the negotiated sum of P100,000.00<sup>[2]</sup> and to pay the costs."<sup>[3]</sup>

The Information,<sup>[4]</sup> dated April 19, 1993, charged appellant as follows:

"That on or about the 15<sup>th</sup> day of January, 1993, in the morning, at Barangay Sinabaan, Municipality of Umingan, Province of Pangasinan, New Republic of the Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, armed with [a] short firearm, with intent to kill[,] with treachery and evident prem[e]ditation, did then and there wilfully, unlawfully and feloniously shoot one FERNANDO MADELO, inflicting upon him an injury to wit:

-- Gunshot wound, through and through, point of entry [at] lateral portion of the right arm, penetrating the muscle of the arm going towards the right axilla, penetrating the lower portion of right and left lung point of exit at the left 5th intercostal space just below the left scapula.

which caused the death of FERNANDO MADELO, as a consequence, to the damage and prejudice of the heirs of said FERNANDO MADELO."<sup>[5]</sup>

When arraigned on July 1, 1997, appellant pleaded<sup>[6]</sup> not guilty.<sup>[7]</sup> After due trial, the court *a quo* promulgated its assailed Decision.

Hence, this appeal.<sup>[8]</sup>

### **The Facts** **Prosecution's Version**

In its Brief,<sup>[9]</sup> the Office of the Solicitor General presents the prosecution's version of the facts as follows:

"On January 15, 1993, at 9:00 o'clock in the morning, at the ricefields of Sinabaan, Umingan, Pangasinan, victim Fernando Madelo was harrowing the ricefield while his son, prosecution witness Robinson Madelo, was planting rice. Appellant Norberto Sabado appeared from behind of Fernando and Robinson Madelo, and the following altercation ensued:

Robinson Madelo:

` The accused was ordering my father to work in the irrigation project.

Atty. Sta. Maria:

` Q. How did Sabado state that fact to your father?

` A. `Go and work.'

Court:

` What, if any, did your father answer by way of response?

Robinson Madelo:

` My father insisted that he ha[d] [d]one already his work before.

"During the foregoing altercation, Robinson Madelo noticed that appellant had a firearm, and called the victim's attention to that fact. However, the victim simply brushed aside Robinson's warning and said, `Leave him alone.'

"Immediately after, appellant, who was in a standing position facing northwest, shot the victim who was then facing southward. The victim fell down and slumped on the ricefield. Robinson was stunned upon witnessing the shooting incident.

"Appellant hurriedly left the scene of the crime, while the victim's brother who was at the adjacent ricefield came to rescue the dying victim.

Fernando Madelo died as a result of the shooting incident.

"Dr. Alex Trinidad, Rural Health Physician[,] Unit II, Umingan, Pangasinan conducted an autopsy, and reported:

`Gunshot wound through and through. Point of entry, lateral portion of the right arm penetrating the muscle of the arm, going toward the right axilla, penetrating the lower portion of right and left lung, point of exit at the left lung, point of exit at the left[,] 5th intercostal space just below the left scapula. The point of entry is lower than the point of exit.'

`Q. And that for emphasis what is the cause of death?

`A. The [cause] of death is internal hemorrhage because the lungs are affected.'"[10] (citations omitted)

### **Defense's Version**

On the other hand, the trial court narrated appellant's lengthy account of the facts, including the circumstances before and after the incident, as follows:[11]

"The late Fernando Madelo was his best friend, but the brother Jeremias Madelo alias `Beriong' was his nemesis. He and Jeremias were in feud over irrigation waters.

"At around 8:00 [o]n the morning of January 15, 1993, he was in the ricefield where he saw Fernando.

"They were then to clean up the irrigation canal but when they were about to go Jeremias, then around 10 meters away, drew a gun and pointed to him, uttering `[V]ulva of your mother, Norie, I will kill you.'

"Upon seeing Jeremias draw a gun he hid himself behind Fernando, as there were three of them then.

"He was close by Fernando, although the latter was ahead as they started to proceed to the irrigation canal. He was then carrying his `panabas' (grass cutting bolo).

"As he and Fernando proceeded east, Jeremias approached from the south.

"As he hid behind Fernando's body, there was a shot and he ran. Jeremias chased him but was not able to catch up. He proceeded home, which was around 600 meters away. He ran the distance because of fear.

"He was not hit by the shot.

"He never came to know that Fernando died, until he was charged in court.

"It was a short firearm, around six inches long, that Jeremias pointed at him.

"When he hid behind Fernando, his body was completely shielded, as the latter was taller and stouter. He immediately hid as soon as the gun was pointed at him.

"When he ran another shot rang out.

"After the incident he did not report anymore to the police because he was afraid of Jeremias. Besides, he was not wounded and so he did not mind.

"Fernando was a resident of Brgy. Flores and not of adjacent Brgy. Sinabaaan.

"After the incident he left for Alicia, Isabela because of fear.

"The police in Isabela did not apprehend him; instead, he surrendered to the police chief in 1997 thru a common friend who informed him that there was a pending charge against him. That was when he came to know for the first time about the case.

"Since 1993 when he left Umingan, he lost contact with his family. They did not know where he went and neither did he get in touch.

"His parents are still alive and he has brothers and sisters. He wrote to them but they did not respond.

"Fernando's ricefield, around 100 meters away from his, was on a higher level.

"The flow of water would be sufficient if the irrigation canal was cleared up and on January 15, 1993 they were still in the process of clearing.

"Fernando was his best friend because they often saw each other. They had a common source of irrigation and they usually conversed in the ricefields. There were even times when they were together in birthday parties. But Jeremias hated him in connection with the irrigation waters.

"He controlled the flow of water that went to Jeremias' ricefield, but it was also possible for Fernando to control the flow of water.

"When he surrendered to police chief Manuel Cornel of Alicia, he mentioned about the incident in question. He knows Cornel personally because the latter came from Flores, Umingan. Upon learning from their common friend that he was charged he surrendered to Cornel because he knew that he was not at fault.

"There were only three of them when Jeremias fired a gun. For a while it was only he and Fernando who were around.

"Before the incident, he had an argument with Jeremias about irrigation waters, but the latter did not threaten him yet.

"Before Jeremias drew a gun he said `Vulva of your mother, Norie. I will kill you, I will kill you.' It was when he hid himself that Jeremias fired.

"He was not sure who was hit, but he was sure that someone was hit.

"When he hid behind Fernando, their bodies touched each other because he held the latter. It was the handle of Fernando's bolo that wounded him as he hid, but there was no scar. He was then wearing long sleeves.

"When he ran, after Jeremias fired, he left Fernando behind. He did not see Fernando run or collapse. He looked back when there was another shot and when Jeremias chased him. He did not see Fernando because his attention was then focused on Jeremias. When he was around 100 meters near his house, Jeremias desisted and proceeded east but still holding the gun.

"His house was located north of his ricefield.

"No, his house is in the south while his ricefield is in the north. When he ran he first proceeded east before going towards his house.

"When he reached home he did not see anyone because everybody was in town. He was not able to tell the barangay captain, his neighbor and relative, about the incident because he was afraid and nervous and so he left. Neither did he tell his neighbors about the incident. He left for Isabela with a clean conscience. He was not at all arrested. When he voluntarily surrendered that was his first time to know that there was a case against him and that he was being blamed for the death of his friend Fernando.

"He is in good terms with Fernando's wife.

"He did not communicate to Fernando's wife, to tell her how innocent he is, because when he surrendered he was incarcerated at once. She was then abroad. Because he was incarcerated he had no chance to contact the other relatives of the deceased. He did not explain anymore his innocence to the chief of police because the latter took him to the district jail in Balungao. There he explained neither.

"Earlier, when he was in the field he noticed that there was no water and so he went upstream and released some of the waters then irrigating the land of Jeremias.

"When Jeremias arrived and noticed, an argument between them ensued, on the occasion of which Jeremias drew a short gun. He ran away home and left Jeremias behind.

"On January 15, 1993 at around 9:00 a.m. he went to the field and