

EN BANC

[G.R. No. 135413-15, November 15, 2000]

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE,
VS. AMER MOYONG Y TALORONG AND JORRY VELASCO (AT
LARGE), ACCUSED.
AMER MOYONG Y TALORONG, ACCUSED-APPELLANT.**

DECISION

VITUG, J.:

Accused-appellant Amer Moyong y Talorong was convicted, on three counts, of murder in a joint decision, dated 17 August 1988, rendered by the Regional Trial Court ("RTC") of Cavite City, Branch 88, in Criminal Cases No. 27-98, No. 28-98 and No. 29-98.

The three informations filed against accused-appellant and his co-accused Jorry Velasco were worded uniformly, except for the names of the victims, viz:

"That on or about December 7, 1997, in the City of Cavite, Republic of the Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with intent to kill, armed with a knife and an ice pick, acting with treachery and evident premeditation, taking advantage of superior strength with nighttime purposely sought to facilitate the commission of the offense, conspiring, confederating together and mutually helping one another, did, then and there, wilfully, unlawfully and feloniously assault, attack and repeatedly stab with their weapons NORMITA BAWAR y MADLANGBAYAN [JOSELITO AQUINO y ESTEBAN; PASCUAL BAWAR y AMON], hitting and inflicting upon the latter multiple stabbed and punctured wounds in the different parts of the body which caused the latter's instantaneous death.

"CONTRARY TO LAW."^[1]

Amer Moyong pled "not guilty" upon arraignment.^[2]

After trial, the court *a quo* promulgated its decision finding accused Moyong guilty and pronouncing on him a death sentence; thus:

"WHEREFORE, in view of all the foregoing considerations, this court hereby finds the accused Amer Moyong y Talorong guilty beyond reasonable doubt of the crime of murder as charged in the three (3) Informations, qualified by treachery and aggravated by evident premeditation and scoffing or outraging at the corpses of the victims, and accordingly hereby sentences him to suffer the supreme penalty of death

in each of the three (3) cases, and is hereby ordered to pay the heirs of the victims separate amounts of P50,000.00 each or a total of P150,000.00 as death indemnity.

"SO ORDERED."^[3]

The records of the case have been forwarded to this Court for review. Accused-appellant, in his appeal brief, posits a lone but a familiar all-embracing assignment of error, to wit:

"THE LOWER COURT HAS COMMITTED AN ERROR IN NOT ABSOLVING AND EXCULPATING THE ACCUSED-APPELLANT OF THE CRIMES CHARGED HEREIN."^[4]

The evidence presented by the prosecution incriminating accused-appellant are narrated by the Office of the Solicitor General in the People's Brief.

At around 3:45 in the morning of 07 December 1997, Bayani Panganiban, Chief Barangay Tanod of Barangay 39 in Cavite City, was on duty at the barangay hall when he was alerted by a male helper from "Our Inn Hotel and Restaurant" about an on-going "trouble" at the establishment. Panganiban, together with two tanods, responded and proceeded to the scene. Standing in front of the hotel, the responding barangay officials called out the name of hotel owner Pascual Bawar. Hearing no answer from Bawar and suspecting that something was wrong, Panganiban, used his VHF/UHF radio to call for police assistance. Meanwhile, Panganiban and his fellow tanods requested some members of the local Citizen's Crime Watch, as well as a number of tricycle drivers, to go around the hotel and guard possible escape routes of malefactors.

Joselito Jaro, a tricycle driver, and his companions stationed themselves at the back of the hotel along Molina Street. The people who had by then gathered in the area cried out that there was a man at the rooftop. Jaro, together with two others, climbed to the roof of a nearby house. Searching the premises with his flashlight, Jaro saw accused-appellant Amer Moyong crawling from a small opening near the fire exit of the hotel. In no time, accused-appellant was apprehended and detained at the barangay hall. His pair of pants, shirt and sandals were stained with blood.

Minutes later, PO3 Enrico Rosal, accompanied by other police officers, arrived at the scene. Inside the hotel, they found Pascual Bawar at the hallway in the second floor dead with multiple stab wounds. Nearby, they found Normita Bawar at the doorway of Room 113 and Joselito Aquino, the hotel cashier, lying on the bed, both also dead, with multiple stab wounds. In the hallway were prints of blood caused by the footwear worn by the assailant or assailants. The police officers were informed that a suspect was already in the custody of barangay officials. Later, at the police station, PO3 Rosal saw accused-appellant Amer Moyong, stained with blood, taken in for investigation.^[5]

Dr. Regalado Sosa, the health officer of Cavite City, conducted an autopsy on the cadaver of Joselito Aquino on 07 December 1997 and found twelve stab, incised and