

FIRST DIVISION

[G.R. No. 134004, December 15, 2000]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. SPO3
ANTONIO MENDOZA, ACCUSED-APPELLANT.**

D E C I S I O N

PUNO, J.:

While celebrating his best friend's birthday, Antonio Antholyn Laggui II ironically met his death. At age 25, he was still at the prime of his life and less than one year into his marriage. The accused SPO3 Antonio Mendoza was behind his namesake's untimely demise.

On June 11, 1997, an information was filed charging the accused Mendoza with murder, viz:

"That on or about the 22nd day of March, 1997, in the municipality of Ilagan, province of Isabela, Philippines, and within the jurisdiction of this Honorable Court, the said accused, with intent to kill and with evident premeditation and treachery, did then and there, willfully, unlawfully and feloniously, assault, attack and shoot for several times with a Caliber .45 pistol one Antonio Antholyn Laggi (sic) II, inflicting upon him, multiple gunshot wounds on different parts of his body, which directly caused his death.

CONTRARY TO LAW."^[1]

The accused Mendoza pled not guilty. Trial proceeded in due course.

The records show that on March 21, 1997, from 4:00 p.m. until midnight, Christopher Huidem was celebrating his birthday in his house in Purok 3, Bliss Village, Ilagan, Isabela. He and his *barkada*, among whom was the victim Antonio, were drinking Tanduay rum mixed with Pepsi. At the stroke of midnight, some of Christopher's friends went home while others including Antonio stayed behind in the Huidem residence. While the rest of their friends slept, Christopher, his brother Jonathan, a certain Toti Galumaya and Antonio conversed until Christopher and Jonathan started an argument at about 3:00 a.m. Both were already tipsy but could still get hold of themselves.^[2] The altercation stemmed from an incident the previous day when Christopher, the younger of the Huidems, did not obey Jonathan who asked him to do an errand. Christopher's aunt, Rosario Repaso, was in her store less than thirty meters away and heard the argument. As the parents of the Huidem brothers entrusted their children to Rosario while they were away, Rosario went to the Huidem residence to check on them. She found Christopher, Jonathan,

Toti and Antonio at the terrace. She pacified the Huidem brothers and told Christopher to go out to Rosario's store and Jonathan to go inside their house and sleep. Antonio followed Christopher outside.^[3]

Andres Rodriguez, the Huidem's neighbor across the road, was also awakened by the altercation of the Huidems. The latter's parents also instructed Andres to look after their children while they were away. He got up and proceeded to the Huidem residence. He met Christopher on the road in front of the Huidem residence. Andres advised Christopher to give in to Jonathan so as not to cause any further trouble. While Andres was conversing with Christopher and Antonio was standing about three to four meters away from the latter,^[4] the accused Mendoza approached them and lighted their faces with a flashlight.^[5] Mendoza wore a bonnet which left his "singkit"/"medyo singkit" eyes and "medyo matangos" nose exposed.^[6] As the accused lighted Antonio's face, he shouted at Antonio, asking him if he was a *barangay tanod* and if he was drunk. Antonio answered in the negative. All of a sudden, from a distance of about one meter, the accused Mendoza shot Antonio twice on the breast using a .45 caliber pistol. Antonio fell to the ground face up. Christopher was about four meters away from the accused Mendoza. Andres was about five meters away from the latter and about two to three meters away from Christopher. Andres then ran to the back of his house. The place where the shooting incident took place was illumined by a light in front of a store about four meters away and a neon street light about three meters away.^[7]

Upon hearing the two gunshots, Rosario told Toti that she would check where the gunshots came from. Afraid, however, of the danger, she went out of the Huidem abode through the kitchen backdoor and ran back to her store. Rosario's husband, Adonis Repaso, also heard the gunshots from their store. He went out of their store and when he was about five meters away from Christopher, the accused Mendoza walked towards Adonis, poked his gun at him and asked him if he was also a tough guy. Adonis answered that he was not and ran back inside their store.

The accused Mendoza went back to Antonio and shot him for the third time just below the eye. Christopher then ran towards the back of Andres' house. Rosario was then on her way to their store when she heard the third gunshot. Upon reaching their store, Adonis met her. He warned her not to go out because the accused Mendoza was armed. She sat under a santol tree by their store. From there, she saw the accused Mendoza standing beside the fallen Antonio. He flagged down an approaching tricycle. She was about fifteen meters away from the accused.^[8] Meanwhile, Christopher fetched Barangay Tanod Basilio Goyagoy who lived about ten meters away from the back of Andres' house and fifty meters away from the crime scene.^[9] Christopher awakened Goyagoy and told him that Antonio was shot at the road in front of Andres' house. The two headed for the crime scene. Goyagoy was ahead of Christopher by about seven meters. When Goyagoy approached Antonio's body, the accused Mendoza pointed his gun at him. Goyagoy was about three meters from Mendoza.^[10] Goyagoy ran back to his house. Rosario then saw the accused Mendoza board the tricycle. Shortly after Goyagoy reached his house, he proceeded to the house of Bliss Village's Barangay Captain, Fausto Mamauag. He passed by the scene of the crime again. By this time, the accused Mendoza was nowhere in sight. Upon reaching Mamauag's residence, Goyagoy told him that Antonio had been shot. They headed for the crime scene. Rosario, who

had then gone out of hiding, secretly told Mamauag that the accused Mendoza killed Antonio.^[11] Mamauag instructed the Barangay Tanods who arrived at the crime scene to look for the accused Mendoza at his residence. After going to the latter's residence, the Barangay Tanods went back to Mamauag and reported that Mendoza was nowhere to be found.^[12] Shortly thereafter, Mamauag and Goyagoy left to report the matter at the police station. Mamauag asked the police to investigate the shooting incident, then called the Funeraria Ramos. Mamauag and Goyagoy accompanied four policemen to the crime scene. The police inspected Antonio's wounds. Thereafter, the employees of Funeraria Ramos took his body.^[13] Christopher, Andres, Rosario, and Adonis went with the police to the police station. In the morning of March 22, 1997, Christopher, Andres, and Rosario separately executed sworn statements^[14] narrating the shooting incident. On June 6, 1997, Goyagoy also executed a sworn statement narrating the incident.^[15]

Christopher had known the accused Mendoza for two years prior to the shooting incident because Mendoza was a resident of Purok 6 of the Bliss Village and a policeman. He was familiar with Mendoza's face, fair complexion, about 5'7" height, and medium to heavy built^[16] because he would see Mendoza walking or on a vehicle in Bliss Village. At 5:00 p.m., the latter would board a jeep along the highway in front of Christopher's house, sometimes wearing the same khaki shorts he was wearing on that fateful day of March 22, 1997. In the morning, he would sometimes jog. Sometimes he would also buy cigarettes near Christopher's house.^[17] Andres was also familiar with the accused Mendoza's face and built prior to the shooting incident because he would see him at the Bliss Village and in the camp where Mendoza was assigned as a policeman and where Andres was following up the case of his grandchild. He would pass by the road fronting Andres' house.^[18] Rosario was also familiar with the accused Mendoza. Before the shooting incident, she would see him in the Bliss Village vicinity. He went to her store about four times. Prior to the fateful night, the last time he went there was at about 11:00 p.m. on March 18, 1997.

Dra. Lourdes A. Sajonas, municipal health officer of Rural Unit 1, Ilagan, Isabela also testified. She examined Antonio's body at 8:00 a.m. of March 22, 1997. Her findings show that Antonio sustained three gunshot wounds: one below the left eye, another above the left nipple and the third below the left nipple. These were the points of entry of the bullets. Two other wounds were found, one at the back of the head and another at the back of the victim, possibly the points of exit of two bullets. With the presence of gunpowder around the entry wounds, Dra. Sajonas concluded that the victim was shot within two feet, and that the gun wielder was standing in front of the victim. All three gunshot wounds were fatal. The cause of Antonio's death was hypovolemic shock secondary to multiple gunshot wounds. Dra. Sajonas also concluded that the victim died about six hours before she examined him.^[19]

SPO4 Catalino Rumbaoa also took the witness stand. As the provincial supply officer of the Philippine National Police (PNP), he issued one pistol caliber .45 (Colt) with Serial No. 1085262, one magazine for caliber .45, and seven rounds of ammunition for caliber .45 to the accused Mendoza on January 1, 1994. The accused's receipt of the said items was evidenced by a memorandum receipt^[20] which the accused's counsel admitted to have been signed by the accused.^[21]

National Bureau of Investigation (NBI) ballistics Rodolfo Bilgera also testified as an expert on ballistics. From his examination, he concluded that the bullet^[22] and two shells found in the crime scene were fired from caliber .45 pistol with serial number 1085262, the accused Mendoza's pistol which was turned over to the NBI.^[23]

Leonisa Laggui, Antonio's wife, also took the witness stand. She testified that Antonio was 25 years old at the time of his death. He was then earning P180.00 per day as a contractual worker in the Coca-Cola Bottler's Plant in Ilagan, Isabela. Leonisa spent P8,000.00 for the services of Funeraria Ramos and another P20,000.00 for the wake. Her husband's death caused her pain and sleepless nights worrying about the future of their child.^[24]

The defense presented the accused Mendoza. He testified that prior to his detention in relation to the instant case, he resided at Purok 6, Bliss Village, Ilagan, Isabela since February 6, 1996. In the evening of March 21, 1997, he was at the Isabela Provincial Hospital at Calamagui, Ilagan, Isabela. He was watching over his twenty-year old son, Benjie Mendoza. The latter had been confined in the hospital since March 17, 1997 because his face was clubbed during a fight with several persons, among whom were a certain Sotero and Lazam, a young man residing near the place where Antonio was shot. The brawl occurred a few days before the shooting of Antonio. It was the third time his son figured in an unprovoked fight with some young men in Bliss Village. On the second fight, Mendoza thought that his son was going to die because he fell unconscious.

On the night of March 21, 1997, Mendoza arrived at the hospital at 7:30 p.m. and did not leave his son's bedside until 4:40 a.m. the following day. At that time, he was with his wife, Maria Cristina and mother-in-law, Carmen Carao. From the hospital, he proceeded to the Isabela Provincial Police Office at Baligatan, Ilagan, Isabela. He stayed there until 8:00 a.m.^[25]

He denied any involvement in the shooting of Antonio. In fact, prior to March 22, 1997, he did not know nor had he ever seen Antonio Antholyn Laggui, Andres Rodriguez, Rosario Repaso, and Christopher Huidem. He also testified that he had no misunderstanding with any of the prosecution witnesses. He claimed that he had been falsely charged of the killing of Antonio through the machinations of Senior Inspector Nepomuceno Alindada who bore a grudge against him because of an incident relating to the 1995 elections. On May 7, 1995, Mendoza headed the team which confiscated the armalite rifles issued to Alindada but were found in the possession of the political supporters of mayor Mercy Uy in Barangay Marana, Ilagan, Isabela. As a result of the confiscation, a case for Illegal Possession of Firearms was filed. The case was subsequently dismissed.

Maria Cristina Mendoza also took the witness stand. She testified that in the early evening of March 21, 1997, she was at the Isabela Provincial Hospital in Calamagui 2nd, Ilagan, Isabela with the accused, their son Benjie, and her mother Carmen Carao. She was watching over Benjie who was confined at the hospital since March 17, 1997 because he met an accident while he boarded his single motor bike. He was unconscious that night. The accused arrived between 7:00 p.m. to 8:00 p.m. and stayed there until about 6:00 a.m. the next morning. That night, Cristina would

sleep briefly, then awake to attend to her son, then go back to sleep. Cristina produced a certification from the hospital that Benjie was confined from March 17, 1997 until March 25, 1997. After the shooting incident on March 22, 1997, the Mendoza family did not go back to Bliss Village because the accused Mendoza was tagged as a suspect in the killing of Antonio Laggui. The family stayed in the police camp where the accused Mendoza was assigned.^[26]

Carmen Carao also testified. On the evening of March 21, 1997, she was at the Isabela Provincial Hospital at Calamagui, Ilagan, Isabela. She was with the accused Mendoza and his wife Cristina, watching over Benjie, her grandson. Benjie was confined at the hospital for treatment of several injuries on the head and face which he sustained when he was mauled by unidentified persons from Bliss Village, the prime suspect being a person working in Coca-Cola. The accused did not leave the hospital until Benjie was discharged on March 25, 1997.^[27]

The trial court gave credence to the prosecution's story. The dispositive portion of its decision reads:

"WHEREFORE, finding the accused guilty beyond reasonable doubt of the offense charged - MURDER - and there being no mitigating nor aggravating circumstance to consider, the court hereby sentences the accused to a penalty of RECLUSION PERPETUA, with all the accessory penalties provided for by law; to indemnify the heirs of the deceased victim, ANTONIO ANTHOLYN LAGGUI II, the sum of P30,000.00 as actual expenses incurred as a result of his death; the amount of P1,260,000.00 for lost earnings; the sum of P500,000.00 as moral damages and P100,000.00 as exemplary damages, and to pay the costs.

The gun used (sic) a .45 caliber pistol bearing Serial No. 1085262 is hereby ordered returned to the government agency or unit that issued the same to the accused."^[28]

Hence, this appeal with the following assignment of errors:

"I

The trial court committed grave error in giving full weight and credence to the inconsistent and conflicting testimonies of the prosecution witnesses in total disregard of the glaring and fatal infirmities thereof, specially with respect to the identification of the accused-appellant.

II

The trial court committed grave error in convicting accused-appellant of the crime of murder despite failure of the prosecution to prove the identity of the assailant and his guilt beyond reasonable doubt.

III