

THIRD DIVISION

[G.R. No. 130501, September 02, 1999]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ISABELO PEREZ Y HALOG, DEOGRACIAS MENDOZA Y PEREZ,
DENNIS MENDOZA, GEORGE VALDEZ AND "BOYET," ACCUSED,
ISABELO PEREZ Y HALOG, APPELLANT.**

D E C I S I O N

PANGANIBAN, J.:

In rejecting this appeal, this Court relies on the time-honored doctrine that the assessment by the trial court of the credibility of the witnesses and their testimonies deserves great respect. Appellant has not convinced us that the lower court overlooked any important fact or misapprehended any relevant information which, if properly weighed and considered, would negate or erode its assessment.

The Case

Before this Court is the appeal^[1] of Isabelo Perez seeking a reversal of the May 22, 1996 Decision^[2] of the Regional Trial Court of Mamburao, Occidental Mindoro, Branch 44, in Criminal Case No. Z-617, finding him and his co-accused guilty of murder beyond reasonable doubt and sentencing them to *reclusion perpetua*.

Accused of murder in an Information filed by Assistant Provincial Prosecutor Loreto F. Jaravata on March 13, 1991, were Isabelo Perez, Deogracias Mendoza, George Valdez, Dennis Mendoza and one nicknamed Boyet. The crime was allegedly committed as follows:

"That on or about the 6th day of January, 1991 at around 9:00 o'clock in the evening, more or less, in Barangay Payompon, Municipality of Mamburao, [P]rovince of Occidental Mindoro, and within the jurisdiction of this Honorable Court, the abovenamed accused being then armed with a deadly weapon, with intent to kill and with treachery and evident premeditation, conspiring and confederating and helping one another, did then and there willfully, unlawfully and feloniously attack, assault and beat with the said weapon one Marion Perol Y Canete, thereby inflicting mortal wounds upon the latter which caused his untimely death.

"That as a result of the unlawful acts of the accused, the heirs of Mario Perol suffered damages for which they should be indemnified in an amount which the Honorable Court may deem just and proper under the circumstances."^[3]

Upon arraignment, Isabelo Perez, Deogracias Mendoza and Dennis Mendoza, assisted by counsel,^[4] pleaded not guilty to the crime charged; George Valdez and

Boyot remained at large. Trial on the merits proceeded against the first three accused. However, on November 17, 1992, prior to the promulgation of the assailed Decision, Deogracias Mendoza died. Thereafter, the trial court rendered the assailed judgment, the dispositive portion of which reads:

"WHEREFORE, the Court finds [A]ccused ISABELO PEREZ Y HALOG and DENNIS MENDOZA guilty beyond reasonable doubt as principals by direct participation in the crime [of m]urder, qualified by treachery, and hereby sentences them to suffer imprisonment [for] the period of RECLUSION PERPETUA and, to pay jointly and solidarily the heirs of MARIO PEROL the sum of P50,000.00 for the death of said victim"[5]

Hence, this appeal.[6]

The Facts

Version of the Prosecution

In its Brief,[7] the Office of the Solicitor General presents the following narration of facts:"

On January 1, 1991, Deogracias or 'Domeng' Mendoza and his son Dennis Mendoza went to Mario Perol's house at Brgy. 9, Payompon, Mamburao, Occidental Mindoro and invited the latter and one Fermin Verwel to a drinking spree. During the course of the drinking spree, Deogracias offered Mario the amount of Ten Thousand (P10,000.00) Pesos if the latter would kill a certain Gregg. Mario rejected the offer. (TSN, Sept. 17, 1991, pp. 3, 9-12)

"A few days later, this Gregg passed by Mario's house. Mario told Gregg about Deogracias' proposal. While the two were conversing by the door of Mario's house, Deogracias was apparently staring at them (Ibid, pp. 16-17).

"On January 6, 1991, at around 8:00 p.m., Deogracias and Billy Perez were seen by Mario's wife Gliceria Perol drinking in Deogracias' house. Deogracias then shouted for Mario to come out of his house. Afterwards, Deogracias went inside Mario's house, woke Mario up and asked the latter to come with him to settle their differences (Ibid, pp. 19-21).

"At around 9:00 p.m. of the same day, Domingo Bernardo Jr. and his friend Nelson Magpantay were walking along Bansutan St., Payompon, Mamburao, Occidental Mindoro going towards Dennis Mendoza's house. About 6 meters before reaching the said house, the two saw Deogracias angrily pointing and shouting invectives at Mario stating, 'patayin iyan, patayin iyan, babayaran iyan.' They heard Mario reply, 'Huwag kang magbiro ng ganyan Kuya Doming' (TSN, Sept. 16, 1991, pp. 7-11).

"At that precise moment, Isabelo Perez held the right hand of Mario and twisted it towards the latter's back while Deogracias took a sledgehammer and struck Mario's left eyebrow. Dennis Mendoza and George Valdez took lead pipes which they used in beating Mario while

one alias 'Boyot' and two unidentified persons mauled Mario. When the latter lay prostrate on the ground, Domingo saw Isabelo strike Mario with the use of a sledge hammer (Ibid., pp. 12-15).

"Afraid of what they witnessed, Domingo and Nelson decided to go straight to their respective homes that night. On January 10, 1991, the two (2) executed their joint sworn statement, 'Pinagsamang Salaysay' which became the basis of the present charge of [m]urder against appellant and his co-accused (Ibid., pp. 15 & 18)."^[8]

Version of the Defense

For his part, appellant presents the following version of the facts as culled from the testimonies of the defense witnesses:^[9]

"Olive Mendoza x x x

xxx

xxx

xxx

"That she was at their house at about 7:00 o'clock in the evening on January 6, 1991, with her two children, her husband and Isabelo Perez (appellant);

"That Isabelo Perez was there because they had not seen each other with her husband for a long time;

"That her husband told her to prepare the table, and while doing so, Boyet Perol shouted from his house, only 10 meters far, 'Tio Domeng may alak ka ba dian'?, and her husband, Domeng, answered, 'mayroon';

"That at that instant, Boyet Perol walked to the[i]r house unsteadily (pasuray-suray); that he was 'pasuray-suray' because she had seen him to have just awaken[ed] xxx up from a drinking spree the whole afternoon 1991; there were many who went to his house whom she did not know but who came from Alacaac; that they had started drinking from 7:30 o'clock in the morning;

"That as soon as he entered their house, Perol said, 'nasaan Tio Domeng ang sinasabi mo'?', to which her husband answered, 'just wait', and then my husband got the liquor from the store that she [was] tending.

"That when Perol arrived, he was looking at Isabelo Perez and then said, 'Tio Domeng, may bisita ka palang baboy, masarap giliten [ang] leeg' to which her husband remarked, 'don't mind my visitor, just attend to the liquor';

"That reacting to Perol's remarks, Perez said, 'huwag na lang ako ang gilit[a]n mo ng leeg, iyon na lang mga alagang baboy ni Olive';

"Then Perol stood up, and said, 'ano ang magagawa mo kung ikaw ang trip ko'; that Perez just kept quiet; while her husband told Perol to sit down; but Perol said, 'I will not sit down';

"That when Perol repeated what he had already earlier said, Perez just stood up to go away; then Perol followed him and put his hand around Perez' shoulder and told the latter, 'don't go away because you will be killed, it is much better to die near the sea'; then my husband invited both of them to go inside as he told me to prepare the food;

"That I gave them plates; that while Perez was eating his food, Perol was laughing; and after Perez ha[d] eaten about 3 spoonfuls Perol grabbed his plate and exchanged his empty plate with spoon and fork, saying, 'it is not fit for you to eat foods of humans, the proper food for you is food for the pigs'; at that juncture her husband told her to take away the plates; on the part of Perez, the latter was 'nagsisikip ang dibdib' as he asked for water;

"That Perez stayed in their house for about 30 minutes; then he proceeded to the shop of Dennis Mendoza, son of Domeng, which [was] about 300 meters away, at Bansutan St.; followed by her husband, Domeng, leaving Perol inside our house, just looking at the two who just left him;

"Then Perol shouted, 'hintayin mo akong baboy ka pupuntahan kita dian'; and then Perol went to his house; and got a bolo which she 'felt it from his back as I was tr[y]ing to grab it, but he said, 'Hindi, Ate Olive, hu[w]ag mo akong pigilan' (don't stop I will go to the shop);

"That when I failed to stop Perol, I went to his brother, Restituto, a CAFGU, and told him to follow Boyet because he had a bolo and 'pinagtatangkaan niya si Isabelo Perez'; however, Restituto said 'I cannot follow because I will be late [for] my duty'; and so I just proceeded to our house

"That he[r] husband arrived at about 9:30 o'clock that night.

x x x

x x x

x x x

"ISABELO PEREZ x x x

x x x

x x x

x x x

"That he arrived at Mamburao at about 5 to 6 o'clock in the evening on January 6, 1991; that he proceeded to the shop of Domeng Mendoza because that [was] his garage and repair shop at Bansutan St., and they had [to weld] of the ream of the tires of his bus, which was finished at 6:30 p.m.;

"That from the shop he was invited by Dennis the son of Domeng to have a dinner at their house and [he] arrived thereat at about 7:00 o'clock;

"That while they were talking with Domeng and the wife, Olive, was preparing food, Boyet Perol arrived/asked for liquor from Domeng; that while Domeng was getting the liquor, Perol looked at him and said; 'you

have a visitor who is like a pig and nice to cut the neck', to which he answered kiddingly, 'hu[w]ag naman ako, [iyon] na lang baboy ni Olivia sa kulungan' thinking that Boyet Perol was just joking;

"That when Domeng gave the liquor, Perol drank the same straight from the bottle, without the use of glasses; then Domeng asked his wife to prepare the food and gave them plates and when they were eating and after only about 3 spoonful[s], Perol grabbed his plate and said, 'this is not fit for you, what is fit for you is food for the pigs'; that he stood up and kept quiet, while Domeng admonished Boyet Perol not to do that because he may be their boss in the future, but he said[,]' 'but he is my trip';

"That when Perol put his hand around his shoulder and asked him to sit down because he was leaving, xxx he sat down; and Domeng told his wife to keep the food; that xxx he again stood up and actually left the house of Domeng;

"As he was leaving, Perol said, 'wait for a while and I will come back'; and told him that he [would] be killed here in the seashore'; at that moment he asked for a glass of water to drink, and then hurriedly left; then Domeng followed him; and later also Perol to the shop of Dennis Mendoza at Bansutan Street;

"That his bus was across the right side of the bus facing the door of the shop, blocking the door of the welding shop, allowing people to be able to enter only at the southern side where there [was] an opening;

"That the entrance [was] about 5 to 6 meters;

"That he was the one who parked the bus in front of the shop blocking the entrance of the welding shop;

"That he saw Domeng Mendoza when he arrived at the place of Dennis who was there with George Valdez, with a bottle of liquor but not yet consumed;

"That inside the bus, there was the conductor and passengers who were stranded on their trip from Abra de Ilog, all sleeping inside the bus;

"That the bus left Mamburao for San Jose at 4:00 o'clock in the morning;

"That when Mario Perol arrived at Dennis' shop, he was standing and then seated himself behind Dennis while Domeng remained standing;

"That upon arriving, Perol placed his bolo on the table; he was advised by Domeng to keep it away; and so Perol put that the bolo under the table near his feet; and then he drank from the bottle of wine;

"Then he pointed to him and challenged him to a fight, saying, 'putang ina mo, maghubad ka at magsuntukan tayo';