

THIRD DIVISION

[G.R. No. 123455, January 16, 1998]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ARNOLD HILARIO Y IGTING, ACCUSED-APPELLANT.**

D E C I S I O N

ROMERO, J.:

Arnold Hilario y Igting, herein accused-appellant, together with three John Does, was charged with murder in an information that reads:

"That on or about the 18th day of January 1992 in Kalookan City, Metro Manila and within the jurisdiction of this Honorable Court, the abovenamed accused, conspiring together and mutually helping one another, with deliberate intent to kill, treachery and evident premeditation, did then and there willfully, unlawfully and feloniously maul and stab on the different parts of his body one Juan Placer y Loreno, thereby inflicting upon the latter serious physical injuries which caused his death.

Contrary to Law."^[1]

The identities of the three John Does, having been subsequently established, the information was amended to include the names of Felix Almaden, Antonio Igting and Obet Bello. The three, however, still remained at large. Hence, the trial proceeded only as against accused-appellant who pleaded not guilty at his arraignment.

Shermie Maglalang, a niece of the victim testified that at about 10:00 o'clock in the evening of January 18, 1992, accused-appellant, Antonio Igting, Felix Almaden and Obet Bello were having a drinking spree in front of a *sari-sari* store at Baltazar Bukid, 10th Avenue, Kalookan City. While the four were drinking, Maglalang's uncle, victim Juan Placer and his companion Bernie Abalos went to the same sari-sari store to buy cigarettes. Suddenly and without any provocation at all, Antonio Igting stood up and struck the unsuspecting Placer with a steel chair causing the latter to fall down. When the latter was already lying prone on the ground, accused-appellant, Obet Bello and Felix Almaden ganged up on him, hitting their victim repeatedly with chairs on different parts of his body. Not content with merely using chairs, Antonio Igting and Felix Almaden pulled out their *balisong* and stabbed the victim. Thereafter, Antonio Igting, Obet Bello and Felix Almaden scampered away from the crime scene. Accused-appellant remained and continued bashing the head of the victim with a steel chair.

Maglalang, accompanied by her boyfriend (now her husband) Marwin Aclaw, found themselves helpless in the face of the onslaught. First, they were outnumbered by the aggressors, two as against four. Second, they were unarmed. Third, Antonio Igting and Felix Almaden warned them against intervening. To manifest their

intention, Igting and Almaden even brandished their *balisong* at them.

The victim was immediately brought to Dr. Jose Reyes Memorial Hospital but he expired at 3:00 o'clock in the morning of January 19, 1992. Maglalang positively identified accused-appellant in open court.

Marwin Aclaw testified that at the time of the incident, Juan Placer and his companion Bernie Abalos, were drinking in front of the *sari-sari* store. The four accused were likewise having a drinking spree in front of the same store. One of accused-appellant's companions offered Bernie Abalos a drink which the latter refused. Feeling slighted, accused Antonio Igting hit Abalos on the head with a glass. When Abalos fled, the four accused vented their ire on Placer. Antonio Igting grasped the victim's neck and punched him on his face. When Placer attempted to run away, accused-appellant ran after him and kicked him from behind. Then Felix Almaden pulled out his *balisong* and repeatedly stabbed the victim on different parts of his body. Thereafter, the assailants, with the exception of accused-appellant, fled from the scene of the crime. Accused-appellant remained, grabbed a chair with steel legs and hit Placer several times on the head.

When accused-appellant was brought to the hospital where the victim was confined, the victim identified him as one of the culprits.

On cross-examination, Aclaw further testified that while Felix Almaden was stabbing the victim, the latter was being held by Obet Bello, while accused-appellant and Antonio Igting stood guard around the victim.

Accused-appellant denied any participation in the crime; instead, he averred that it was Felix Almaden who should be held answerable for the death of Juan Placer.

The trial court was not convinced by accused-appellant's denials. Thus, on October 11, 1993 the Regional Trial Court-Br. 129 of Kalookan City found him guilty of the crime charged and accordingly sentenced him to suffer the indeterminate penalty of fourteen (14) years of reclusion temporal, as minimum, to reclusion perpetua, as maximum, and to indemnify the heirs of Juan Placer in the amount of P50,000.00.

The court *a quo* ruled -

"Upon the evidence, the conscience of this Court would never be at rest if it absolves accused Arnold Hilario from his proven liability for the death of Juan Placer.

Concededly, Arnold Hilario was not the accused who repeatedly plunged the deadly blade of the "29 balisong" into the vital parts of the victim's body. Admittedly, too, there is no showing that Arnold Hilario was the one who started the one-sided acts of aggression against the victim whose misfortune was to engage in what turned out to be his last drinking spree with 4 men whose inclination was to destroy and to kill when inebriated. Even so, Arnold Hilario's hand is clearly stained with the victim's blood. He appears to have acted in concert with his co-accused in kicking the victim first, and in subsequently hitting him with a chair until Felix Almaden finally dealt the coup de grace in the form of repeated stabs on the victim's body. As if Arnold Hilario wanted more blood from the fallen

victim who was already mortally wounded, he still repeatedly struck and hit him on the head with a chair, even after his (Arnold's) 3 co-accused had already fled from the scene, thereby adding the element of cruelty to the victim's condition of pain and helplessness.

The concerted attack was so unexpectedly sudden that the victim had no semblance of defense. This utterly unequal footing in the mode of execution of the attack is pure and simple *alevosia*. The crime charged is well-taken. The 4 accused did not simply kill the victim. They murdered him.”^[2]

On appeal, accused-appellant insisted that he did not perform any of the acts imputed to him, but the appellate court was not persuaded. It affirmed the findings of the court a quo. However, it modified the penalty to *reclusion perpetua*. Hence, pursuant to Sec. 13, par. (2), Rule 124 of the Rules of Court, the case was certified to this Court for review.

Both the lower court and the appellate court found that accused-appellant clearly and actively participated in causing the death of Juan Placer. Accused-appellant's alleged participation consisted in kicking the buttocks of the victim, hitting the victim's body and bashing the head with a steel chair. The two prosecution eyewitnesses, Maglalang and Aclaw, substantially testified to this effect.

These assertions were, however, refuted by the medical findings of Dr. Maximo Reyes who testified that the victim suffered no contusion, abrasion, laceration or hematoma. The autopsy report precisely indicated stab wounds as cause of death. His postmortem findings are the following:

“Marked pallor, generalized.

Hemothorax, 900 c.c. right, consisting of fluid and clotted blood.

Surgical incision, suture, 27.0 cm. running obliquely, right side of chest.

STAB WOUNDS:

1. Elliptical, gaping, 3.0 cm. with clean cut edges and one extremity sharp, other is contused, located over the sternal area, level of 5th rib, non-penetrating.
2. Three (3) in number, all with clean cut edges and with one extremity sharp, other is contused, varying in size, upper is 2.5 cm. and level of 3rd intercostal space; middle is 1.0 cm. level of 4th intercostal space and lower is 1.0 cm. level of 8th intercostal space, all directed medially, backward and downward, all entering the right thoracic cavity, severing the three lobes of right lung with an approximate depth of 10.0 cm. to 11.0 cm.
3. Elliptical, gaping, 2.5 cm. with clean cut edges and one extremity sharp, other is contused, located over the right posterior axillary line, non-penetrating.
4. Stab wound, 2.0 cm. located over the sternal area, non-penetrating.