

FIRST DIVISION

[G.R. No. 113691, February 06, 1998]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ALBERTO MEDINA Y CATUD, ACCUSED-APPELLANT.**

D E C I S I O N

PANGANIBAN, J.:

The law presumes that an offender possesses full control of his mental faculties. Thus, the exempting circumstance of insanity or imbecility under Art. 12, par. 1 of the Revised Penal Code must be established by clear and competent evidence showing that the accused completely lost his reason, or was demented immediately prior to or at the very moment the crime was committed.

The Case

This is the legal precept relied upon by this Court in denying this appeal from the Decision^[1] dated November 17, 1993 of the Regional Trial Court of Batangas City, Branch 7, in Criminal Case No. 5787 convicting Alberto Medina y Catud of murder.

In an Information dated June 10, 1992, Second Assistant Provincial Prosecutor Benito E. Lat charged appellant with murder allegedly committed as follows:^[2]

“That on or about the 20th day of May, 1992, at about 11:00 o'clock in the evening, in Barangay Kaingin, Municipality of San Pascual, Province of Batangas, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, armed with a balisong knife, with intent to kill, with treachery and evident premeditation and without any justifiable cause, did then and there wilfully, unlawfully and feloniously attack, assault and stab with the said balisong knife one Andres M. Dalisay, suddenly and without warning, thereby inflicting upon the latter stab wounds on the different parts of his body, which directly caused his death.

Contrary to law.”

On arraignment, appellant, assisted by Counsel Jose Contreras, pleaded “not guilty” to the charge.^[3] After trial in due course, the court *a quo* rendered the assailed Decision, the decretal portion of which reads:^[4]

“WHEREFORE, the court finds the accused, ALBERTO MEDINA y CATUD, guilty beyond reasonable doubt of the crime of murder as defined and penalized by Article 248 of the Revised Penal [Code] and there being no mitigating circumstance to offset the qualifying circumstance of treachery and generic aggravating circumstance of evident premeditation, and hereby sentences him to suffer the penalty of reclusion perpetua and to pay the heirs of the deceased Andres M. Dalisay the sum of ₱50,000.00. Costs against the deceased.”

Hence, this appeal.^[5]

The Facts

Version of the Prosecution

The prosecution's version of the facts, as recounted by the solicitor general in the appellee's brief, is as follows:^[6]

"At around 11 pm on May 20, 1991, a party was held in the house of Sebastian and Delia Aguila in Barangay Caingin, Balite, Batangas, to celebrate the awarding of a championship trophy to the basketball team of Larry Andal. Among those present during the celebration were Andres Dalisay, Edgardo Silang, Larry Andal, Norberto Biscocho, Bayani Dorado, Salustiano Aguila and appellant Alberto Medina (pp. 3-5, tsn, September 9, 1992, testimony of Larry Andal). During the celebration, appellant and Dalisay danced the 'cha-cha' in the shade (sulambi) near the terrace of the house of Delia and Sebastian Aguila. While the two were dancing, the group watched and clapped their hands. When the dance was finished, appellant left the house of the Aguilas. After a while, Dalisay invited Andal to go home (pp. 8-11, tsn, September 11, 1992). The two left the house of the Aguilas, with Dalisay walking ahead of Andal. While they were walking, Andal saw appellant, who was waiting along the way, stab Dalisay with a 'balisong' in the abdominal region. Dalisay held the hand of appellant. While they were grappling, Dalisay was able to extricate himself and started to run away. Appellant chased him. When appellant caught up with Dalisay, appellant stabbed Dalisay once more at the back. Dalisay fell to the ground. He tried to get up and run, but he again fell down. Appellant stabbed him [once more] on the chest. Then [a]ppellant fled from the scene.

Andal, who was about one meter away, was so stunned and shocked by what he saw that he did not do anything to help Dalisay. Andal and his relatives brought Dalisay to the Batangas Regional Hospital, but Dalisay was pronounced dead on arrival (pp. 2-6, tsn, Sept. 11, 1992).

At that time of the incident, prosecution witness Edgardo Silang was urinating twenty paces away. He heard Delia Aguila, the sister of appellant, shouting, "Husay ka Alberto pihadong makukulong ka, sinaksak mo si Andres." When he turned to where the shout came from, he saw Dalisay running towards him, pursued by appellant. He saw blood in front of the body of Dalisay. He held the arm of Dalisay and tried to hug him but Dalisay fell to the ground. At that point, he saw appellant flee (pp. 5-18, tsn, Sept. 9, 1992, testimony of Edgardo Silang).

Dr. Benjamin M. Aguado, the Municipal Health Officer of San Pascual Rural Health Unit, conducted a post-mortem examination of the body of the deceased. He issued a Post-Mortem Examination Report (Exhibit 'C') containing the following findings:

- '1. Stab Wound between the 3rd & 4th interspace at the lateral side of the body of the sternum measuring ½ inch in length x 2 cm in wid[th] x 3 cm in depth.
2. Stab Wound at the left Hypochondriac region measuring ½ inch in length x 2 cm in wid[th] exposing the omentum.
3. Stab Wound thigh left just below the Inguinal Hernia measuring 1 inch in length 3 cm in wid[th] x 4 cm in depth.
4. Stab Wound of the thigh left mid portion anterior surface measuring 1 inch in length x 3 cm in wid[th] x 4 cm depth.

5. Stab Wound at the scapular region mid portion measuring ½ inch in length x 2 cm in width x 3 cm in depth.
6. Stab Wound at the back left between the 7th and 8th interspace measuring ½ inch in length x 2 cm in width x 3 cm in depth.
7. Stab Wound at lower portion of the scapular region left measuring ½ inch in length x 2 cm in width x 3 cm in depth.
8. Stab Wound at the back right at the level of the kidney measuring ½ inch in length x 2 cm in width x 4 cm in depth.'

(Exhibit 'C')."

Version of the Defense

In his brief, appellant sets up insanity as his defense. His version of the facts is as follows:^[7]

1. Accused-appellant Alberto Medina testified that on the evening of May 20, 1992, he went to the house of his sister, Delia Aguila, purposely to watch t.v. (TSN, September 9, 1993, p. 5). Upon his arrival, he saw the group of the deceased Andres Dalisay, Larry Andal and Edgardo Silang who were then engaged in a drinking spree at the balcony of the Aguila residence (Ibid, p. 6).
2. Accused-appellant refused the group's invitation to join them in their drinking; however, he accepted their invitation to dance with Andres Dalisay (Ibid.). In fact, accused-appellant danced with him for about six (6) or seven (7) times (Ibid, p. 7).
3. As the dance and the party ended, the guests started to leave. Accused-appellant left his sister's house to head for his home at Barangay Balete, which was more or less 200 meters away. Among the persons left behind was Andres Dalisay.
4. While walking along the path, accused-appellant heard Andres Dalisay say, 'Bert, sandali lang', (TSN, September 9, 1993, p. 10) prompting the former to stop.
5. Thereupon, Andres Dalisay, who appeared to be drunk, approached accused-appellant and uttered: 'Bakit mo ako hiniya?' and hit him (accused-appellant) on the chest (Ibid). Enraged, accused-appellant prepared to fight back when Andres Dalisay threatened to kill him (Ibid., p. 11). At this point, accused-appellant further testified, it looked as if Andres Dalisay was taking something out [of] his pocket.
6. Upon seeing this, accused-appellant beat him to the draw, took out his 'balisong' and stabbed Andres Dalisay, who then looked like a devil with 'horns' (Ibid., p. 11 and 19). It was only when Andres Dalisay uttered 'May tama ako' did accused-appellant stop xxx stabbing his victim (Ibid., p. 16).
7. Upon realizing that he has stabbed a person, accused-appellant surrendered himself and the weapon on the same evening to the authorities (TSN, September 9, 1993, p. 20).
8. On several occasions before, specifically during the latter part of 1981, accused-appellant had exhibited unusual behaviors. His sister Lorna Medina testified that on June 22, 1982, she brought her brother to the National Mental Hospital after the latter had shown unusual conduct, such as looking blankly at a

distance, hitting his wife or banging her head on the wall for no reason and having sleepless nights (TSN, August 11, 1993, pp. 13-15).

9. From June to October of 1982, accused-appellant was confined at the National Mental Hospital. Ms. Lourdes Palapal, the Records Officer of the National Center for Mental Health (formerly, the National Mental Hospital) testified on the documents issued by their office relative to the confinement of accused-appellant for 'schizophreniform disorder' during that period (Exhibits 3 to 11).

10. After his release from the hospital, accused-appellant lived with his mother and his two children at Brgy. Balete, San Pascual, Batangas. His condition did not seem to improve, though. Lorna Medina further testified that in January of 1992, accused-appellant again exhibited the same unusual behavior which she had observed from him in 1982 (TSN, August 11, 1993, p.17).

11. This prompted Lorna to refer her brother's case to Dr. Teresita Adigue, a psychologist-friend who conducted a psychological examination on accused-appellant (TSN, August 11, 1993, p. 17).

12. Dr. Teresita Adigue, a Doctor of Psychology and a holder of a Master's Degree in Clinical and Industrial Psychology and another Master's Degree in Guidance and Counselling, and an accredited psychologist of the Philippine National Police testified that on January 20, 1992, she administered a psychological evaluation on accused-appellant (TSN, May 24, 1993, p. 5).

13. Dr. Adigue testified that based on the evaluation of accused-appellant, the latter has been shown to be suffering from depression and was exhibiting homicidal tendencies, and that he did not know the difference between right and wrong (TSN, May 24, 1993, p. 10 and TSN, July 20, 1993, p. 16). On cross-examination, the witness affirmed that a person suffering from depression may be insane (TSN, July 20, 1993, p. 10).

14. Dr. Adigue stated that the psychological evaluation made on accused-appellant was based on the behavioral history of the latter furnished to her by Lorna Medina and Leticia Regalado, (TSN, July 20, 1993, p. 11) a case study based on the family background of accused-appellant (Ibid., p. 12), and on a series of psychological tests ('draw a person' test, the 'card' test wherein the emotions of the subject are represented by the cards, and the thematic perception test) (TSN, May 24, 1993, p. 7)."

Ruling of the Trial Court

The trial court rejected the appellant's defense of insanity. It ruled that Dr. Adigue was not properly qualified as an expert witness because: (1) she did not have the appellant's complete behavioral history; (2) she failed to demonstrate satisfactorily how she arrived at her conclusions; (3) her method of testing was incomplete and inconclusive; (4) her examination lasted for only a few hours without any follow-up evaluation; (5) the university from where she allegedly obtained her doctoral degree is not known to specialize in psychology or psychiatry; (6) she is not known as a psychiatrist; and (7) she reported that 'the mental activity [of the accused was] functioning on the normal level' at the time of the evaluation, that he comprehended instructions fast, and that he was suffering only from mild depression.

The testimony of appellant's sister that she had observed unusual behavior on the part of appellant did not constitute sufficient proof of his insanity, "because not every aberration of the mind or mental deficiency constitute[s] insanity." That the accused was released from confinement at the National Center for Mental Health on October 4, 1982 and was not readmitted for any mental disorder for about ten years militated against his alleged lunacy. Additionally, the trial judge observed that, during the hearings, appellant was attentive, well-behaved and responsive to the questions propounded to him in English even without translation.

On the other hand, appellant's mental agility was shown when he admitted seeing the deceased take something out of his pocket, for which reason he decided to beat him to the draw ("*Inunahan ko na*"). With his *balisong*, he repeatedly stabbed the deceased. The trial court appreciated treachery based on Andal's narration of the stabbing incident.

Assignment of Errors

The defense assigns the following errors allegedly committed by the trial court in convicting appellant:

"A

The trial court gravely erred in not acquitting accused-appellant or mitigating his criminal liability on the ground of insanity.

B

Assuming, *arguendo*, that accused-appellant is criminally liable for the death of Andres Dalisay, the trial court nevertheless erred in convicting him of the crime of murder by appreciating the aggravating circumstances of treachery and evident premeditation despite doubt tending to show the existence of such circumstances.

C

Assuming, *arguendo*, that accused-appellant is criminally liable, the trial court likewise erred in not appreciating the mitigating circumstance of voluntary surrender in his favor."

In short, appellant puts in issue (1) his insanity and (2) the presence and the effect of the following circumstances: (a) treachery, (b) evident premeditation, and (c) voluntary surrender. We shall deal with each of these issues.

The Court's Ruling

The appeal is partly meritorious. We reject appellant's plea for acquittal but accept his claim of voluntary surrender.

First Issue: *Appellant's Insanity Not Proven*

Appellant insists that the trial court gravely erred in refusing to consider Dr. Adigue as an expert witness. He argues that Dr. Adigue, being an accredited psychologist of the Philippine National Police since 1979 and a holder of a doctorate in psychology from the University of Calcutta, India, and a master's degree in clinical and industrial psychology, deserves credence.