

SECOND DIVISION

[G.R. No. 111263, May 21, 1998]

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
MARIO PADLAN @ "MARCOS," ROMEO MAGLEO @ "MOTMOT,"
AND ALFREDO MAGLEO @ "BOY," ACCUSED-APPELLANTS.**

DECISION

MENDOZA, J.:

This is an appeal from the decision,^[1] dated June 30, 1993, rendered by the Regional Trial Court, Branch 56 of San Carlos City, Pangasinan, in Criminal Case No. SCC-1960, finding accused-appellants Mario "Marcos" Padlan, Romeo "Motmot" Magleo, and Alfredo "Boy" Magleo guilty of two counts of murder and sentencing each of them

to suffer an imprisonment of:

1. Reclusion perpetua, for the death of Rodolfo Manzon.
2. Reclusion perpetua, for the death of Mateo Manzon.

and to indemnify the heirs of the deceased as follows:

- 1) P60,000.00 for the death of Rodolfo Manzon.
- 2) P50,000.00 for the death of Mateo Manzon
- 3) P100,000.00 for actual and temperate damages.
- 4) P200,000.00 as moral damages.
- 5) P5,000.00 as exemplary damages.

The information filed against accused-appellants charged That on or about the 15th day of November, 1992, at around 1:15 o'clock in the morning at Barangay Libas, San Carlos City in Pangasinan, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating, and mutually aiding each other, with evident premeditation, treachery, and intent to kill, did then and there wilfully, unlawfully, and feloniously, with the use of high-powered long firearm, attack and shoot Rodolfo Manzon and Mateo Manzon, killing them instantaneously as a consequence, to the damage and prejudice of the heirs of the said victims in the amount of P _____.

Contrary to Article 248 of the Revised Penal Code.^[2]

When arraigned on June 7, 1993, accused-appellants pleaded not guilty, whereupon trial was held. The prosecution's main witnesses were Carlito Manzon and Jordan

Pagsolingan. Carlito Manzon is a nephew of the deceased Rodolfo Manzon, Carlito's father being the brother of Rodolfo Manzon. Jordan Pagsolingan is the son of Carlito Manzon's sister, Flora Pagsolingan, and therefore is a grandnephew of the deceased Rodolfo Manzon.

Per their testimonies,^[3] at around 11 p.m. of November 14, 1992, at a pre-wedding dance in Barangay Libas, San Carlos City, Rufo Manzon was beaten up by accused-appellant Mario Padlan and a certain Lito Fernandez. He was saved from further punishment by the timely intervention of Carlito Manzon and Jordan Pagsolingan who took him away and led him to the house of Flora Pagsolingan in Barangay Anando. Carlito Manzon and Jordan Pagsolingan then went to Barangay Payar to fetch Rufo's father, Rodolfo Manzon. Mateo, a brother of Rufo, came along in response.

At Sitio Caniogon of Barangay Libas, the four saw accused-appellants Mario Padlan, Romeo Magleo, and Alfredo Magleo. They tried to avoid them, but they were pursued by the three. Romeo Magleo ordered them to stop, shouting "Hoy!" at them. Carlito and Jordan saw that Mario Padlan was armed with a rifle. Jordan also saw that accused-appellant Alfredo Magleo had a knife.

Carlito and Jordan were young boys aged 16 and 15, respectively. Mario Padlan "went around" the two boys to get near Rodolfo Manzon and then shot the latter. Mario Padlan fired three times at Rodolfo Manzon,^[4] as the other accused-appellants watched.^[5]

Frightened, Jordan Pagsolingan and Carlito Manzon ran away. As they were fleeing, Jordan Pagsolingan said he heard two more shots fired.^[6] He and Carlito went home to Barangay Anando to report the incident. Upon learning of the incident, Jordan's mother, Flora Pagsolingan, and Eling Manzon lost no time and went to the city proper to report the matter to the police.

Flora Pagsolingan corroborated the testimonies of her son Jordan and her brother Carlito Manzon.^[7] She testified that the incident was entered in the blotter of the police.^[8]

SPO4 Alberto Castro of the Philippine National Police in San Carlos City also testified.^[9] He said that upon receipt of Flora Pagsolingan's report, at 3:20 a.m. of November 15, 1992, a team of policemen went to the scene of the crime and afterwards to the residence of Mario Padlan in Barangay Libas, but was told by the latter's wife that he did not go home that night. The police finally found him at about 7 a.m., in the house of his father-in-law, Alejandro Magleo. Magleo, a former barangay captain, surrendered Mario Padlan to the police. SPO4 Castro said that the report mentioning the participation of the two other accused-appellants, Romeo and Alfredo Magleo, came only at about 5 in the morning.^[10]

SPO Virgilio G. Cardíñoza, who was a member of the team, testified that they recovered from the scene of the crime four empty shells fired from an armalite rifle.^[11] Rodolfo Manzon had a short bolo which the police found to be in its scabbard,^[12] while Mateo Manzon had a slingshot with darts.^[13] Near the feet of Rodolfo Manzon the police found a knife.^[14] SPO Cardíñoza said he interviewed Jordan Pagsolingan and was told that Mario Padlan fired at them and that with Padlan were

Romeo and Alfredo Magleo.^[15] SPO Cardíñoza said that he and his companions after sometime found Mario Padlan in the house of his father-in-law, but they were unable to locate the other accused-appellants Romeo and Alfredo Magleo in their residences.^[16]

Lolita Manzon, the wife and mother of the victims, testified^[17] that prior to their death, Rodolfo Manzon worked as a tenant farmer on land that produced eight cavans a year, while her son Mateo, 15 years of age, was a high school sophomore who helped his father farm the land. She bought coffins but could not remember how much she paid for them because of her shock and grief. The deaths of her husband and son were for her "very painful because there were two of them."^[18]

Dr. Juan I. Pizarro, who conducted the postmortem examination of the bodies of the victims, found Rodolfo Manzon to have suffered the following wounds:

1. Lacerated wound, anterior surface of left forearm, 3 inches from the elbow, measuring 1 1/2 by 1 1/2 inch.
2. Incised wound rectangular in shape 1/2 inch by 1/2 inch, 3/4 inch deep located 1/2 inch just below wound No. 1.
3. Gunshot wound with point of entrance, circular in shape, 10 mm. in diameter, located at the left epigastric area along anterior axillary line 3 inches below the coastal line with irregular borders penetrating the abdominal cavity with portion of the intestine protruding outside through this wound.

Point of Exit - None.^[19] Dr. Pizarro testified that wound no. 1 could have been caused by a pointed instrument and wound no. 2 by a sharp-bladed instrument. Wound no. 3 was the fatal wound, which caused massive internal hemorrhage.^[20]

Dr. Pizarro found Mateo Manzon to have suffered a "[g]aping incised wound 2 1/2 inches long and 1 1/2 inches wide and 5 1/2 inches deep horizontally across the anterior chest wall just below the medial end of the right clavicle lacerating the right first rib and right portion of the sternum, directed posteriorly to the left lacerating the lungs and the heart."^[21] According to Dr. Pizarro, the wound, which was caused by a sharp-pointed instrument, was fatal.^[22]

Accused-appellant Alfredo Magleo admitted^[23] that he was at the pre-wedding party in Barangay Libas in the evening of November 14, 1992. He claimed, however, that he and accused-appellant Mario Padlan and others did not leave the place until 4 a.m. of the following day, November 15, 1992. Alfredo said that from the party he went home to Barangay Anando, and that in the morning, while the police officers went to the house of his father and arrested his brother-in-law, accused-appellant Mario Padlan, they did not arrest him (Alfredo Magleo) despite the fact that his house was only 15 meters away.

Accused-appellants Mario Padlan and Romeo Magleo also interposed the defense of alibi. Padlan claimed^[24] that they were in the house of Aniceto de la Cruz for the pre-wedding party for the latter's daughter, Evangeline de la Cruz, and Roly Domingo which lasted from 7 p.m. of November 14, 1992 up to 4 a.m. of November 15, 1992; and that after the party, accused-appellant Romeo Magleo stayed behind,

as he had been asked by Aniceto de la Cruz to help prepare the food for the guests on the day of the wedding.

Padlan claimed that from the party, he went to the house of his father-in-law Alejandro Magleo because his wife was there. It was there that the police found him and "invited" him to go with them to the police station for questioning. He said he denied involvement in the killing and even asked to be given a paraffin test by the National Bureau of Investigation, but that although he was taken to the NBI, he could not be tested because of lack of equipment. Padlan also testified that he had no misunderstanding with the Pagsolingan family.

For his part, Romeo Magleo testified^[25] that before he left the house of Aniceto de la Cruz (where the party was held) at 8:30 a.m. of November 15, 1992, Flora Pagsolingan arrived with some policemen and asked if any untoward incident had happened during the celebration, to which Romeo Magleo said he answered in the negative; and that he (Romeo Magleo) was not apprehended by the police officers.

Aniceto de la Cruz, in whose house the party was held, testified that none of the accused-appellants had left the party before it ended at 4 a.m. of November 15, 1992.^[26]

The defense also presented as witnesses three farmers, Rodolfo Lavarias, Tomas Lavarias, and Ernesto Lavarias, all of whom were residents of Barangay Anando. Ernesto Lavarias testified^[27] that at around midnight of November 14, 1992, he heard cries coming from the house of Flora Pagsolingan less than 30 meters away. For this reason, he said, he fetched his brother Tomas and the two of them then went to Flora's house. There they learned that Rufo Manzon had been beaten up. Rufo was brought to the house of Flora. According to Ernesto Lavarias, Flora Pagsolingan sent her son Jordan Pagsolingan and Carlito Manzon to fetch Rufo's parents. In no time, Jordan and Lito were back with news that Rufo's parents were coming.

On rebuttal, Flora Pagsolingan testified^[28] that actually Ernesto and Tomas Lavarias went to her house only at about 1:15 in the morning of November 15, 1992, and that was because of the news that Rodolfo Manzon had been shot.

The trial court found accused-appellants guilty as charged in its decision, the dispositive portion of which was quoted earlier herein. Hence, this appeal. Accused-appellants contend:

I.

THE LOWER COURT ERRED IN NOT FINDING THE EVIDENCE OF THE PROSECUTION SUBSTANTIALLY INSUFFICIENT TO ESTABLISH THE GUILT OF THE HEREIN ACCUSED-APPELLANTS BEYOND REASONABLE DOUBT IN THE CASE AT BAR.

II.

THE LOWER COURT ERRED IN NOT GIVING WEIGHT TO THE EVIDENCE OF THE HEREIN ACCUSED-APPELLANTS.

The contentions are without merit.

First. Accused-appellants were positively identified by prosecution witnesses Jordan Pagsolingan and Carlito Manzon as the ones who had stopped them on the way on the day of the incident. While accused-appellants claimed they were in the house of Aniceto de la Cruz attending a pre-wedding party, their alibi cannot prevail over the testimonies of the prosecution witnesses positively identifying them as the assailants. The place where accused-appellants were at the time of the killing is in Barangay Libas where the crime also took place. It was not at all physically impossible for them to have committed the crime.^[29] Each of the accused-appellants claimed he had no quarrel with the deceased or the prosecution's main witnesses. Their identification, however, makes it irrelevant that there is no proof of ill motive on their part to commit the crime. Motive assumes significance only where there is no showing of who the perpetrators of the crimes were.^[30]

It is contended that the testimonies of the two prosecution eyewitnesses, Carlito Manzon and Jordan Pagsolingan, are at odds with the entry in the police blotter. Accused-appellants Romeo and Alfredo Magleo contend that entry in the police blotter does not name them as among those involved in the killing of Rodolfo Manzon and his son Mateo.

The entry reads:

FIRST, SECOND & THIRD SHIFT: 0800h-0800h 14-15 NOVEMBER 1992.

Entry Nr-496

Date: 11-15-92

Time: 0320H = Flora Pagsolingan y Manzon, 39 years old, widow, housekeeper, high school graduate, and resident of Brgy. Anando, this city came and reported to this office that Rodolfo Manzon and Mateo Manzon, Carlito Manzon and Jordan Pagsolingan were fired upon by Marcos Pagsolingan in company w/ two other whom they do not know their names. Reportee further reported that they do not know whether Mateo Manzon and Rodolfo Manzon were hit. Incident happened at about 1:15 A.M. today November 15, 1992 at Brgy. Libas, this city per her signature appear herein.

SGD: Flora Pagsolingan

SPO4 Albert Castro, SPO4 A. Patayan PO3 Viduya, PO3 Cardinoza, SPO2 Tamayo and PO3 Lazaro were dispatched to investigate.

SGD: SPO4 ANDRES G. ELERTA Desk Officer^[31]

Flora Pagsolingan explained that at the time she made the report, she was "in [a] state of shock ... confused, and did not know what [she] was doing."^[32] She must have been in such a state of agitation that even the police investigator, who took down her statement, identified accused-appellant Mario "Marcos" Padlan as "Marcos Pagsolingan," although Flora maintains she never said the assailant was "Marcos" Pagsolingan. As she testified:

COURT:

Q Now, in this police blotter, it was entered by the police,