

## THIRD DIVISION

[ G.R. No. 112369, April 04, 1997 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
JACINTO APONGAN ALIAS VER, ACCUSED-APPELLANT.  
D E C I S I O N**

**PANGANIBAN, J.:**

While admitting his presence at the scene of the incident, Appellant Jacinto Apongan nonetheless denies authorship of the crime charged against him. Instead, he claims that another person (who was not charged) singly carried out the felonious act. But the prosecution eyewitness points only at appellant and his co-accused, Ronald Revadona (who did not appeal), as the actual perpetrators. Since we find no cogent reason to disturb the findings and conclusions of the trial court, this appeal must thus fail.

Accused-appellant, together with Ronald Revadona, Teodorico Paraiso and Roberto Apongan, was charged in the court below with the crime of murder in an Information<sup>[1]</sup> filed by 3rd Assistant Provincial Fiscal Reuel D. Yares, dated August 6, 1987. Said Information reads as follows:

"The undersigned accuses TEODORICO PARAISO alias Commander CONDOR, RONALD REVADONA alias DIEGO and JACINTO APONGAN alias VER and ROBERTO APONGAN alias BERTO of the crime of MURDER, committed as follows:

That on or about the 8th day of June 1986, at about 8:30 to 9:00 o'clock in the evening, at Barangay Lagumbingan, Municipality of Midsayap, Province of Cotabato, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused TEODORICO PARAISO alias Commander CONDOR, RONALD REVADONA alias DIEGO, JACINTO APONGAN alias VER, and ROBERTO APONGAN alias BERTO, armed with a deadly bladed weapon, with intent to kill, with treachery and evident premeditation and with the use of superior strength, conspiring, confederating and mutually helping one another, did then and there willfully, unlawfully and feloniously attack, assault and stab Mrs. Victoria Samulde, thus inflicting upon the latter stab wounds on the different parts of her body which were the direct and immediate cause of her death."

To the above charge, all the accused entered a plea of "not guilty."<sup>[2]</sup> After due trial,<sup>[3]</sup> Judge Zain B. Angas of the Regional Trial Court of Midsayap, Cotabato, Branch 18, rendered his Decision<sup>[4]</sup> convicting only the appellant and Ronald Revadona, and acquitting Roberto Apongan and Teodorico Paraiso for insufficiency of evidence. We quote below the full dispositive portion of said Decision promulgated on September 11, 1991:

"WHEREFORE, the court finds accused Ronald Revadona and Jacinto Apongan guilty beyond reasonable doubt of the crime of murder defined

and penalized under Article 248 of the Revised Penal Code and the court hereby sentences said Ronald Revadona and Jacinto Apongan to suffer the penalty of reclusion perpetua. Ronald Revadona and Roberto Apongan are further sentenced to jointly and severally indemnify the heirs of Mrs. Victoria Samulde the amount of P50,000.00 and to pay proportionate costs.

The court hereby acquits Roberto Apongan and Teodorico Paraiso for insufficiency of evidence. Roberto Apongan and Teodorico Paraiso are ordered released from detention unless they are otherwise held for another legal cause.”<sup>[5]</sup>

### **The Facts**

After evaluating the testimonial and documentary evidence for both prosecution and defense, the trial court made the following findings of facts:

“The evidence on record has clearly established that at about eight-thirty o’clock in the evening of June 8, 1986 at Barangay Lagumbingan, Midsayap, Cotabato, Mrs. Victoria Samulde and her son Celestino Samulde, Jr. were walking along the barangay road between their house and the house of another son of Mrs. Samulde. They came from the house of the other son. Along the road to the left going to the house of Mrs. Samulde from the house of the son she visited that evening were banana plants, bamboo grooves [sic] and a ‘porok’ (small hut). The ‘porok’ is about fifteen meters to Mrs. Samulde’s house. To the right or opposite side of the road are ipil-ipil trees and the house of Ronquillo. Ronquillo has a broiler poultry which is raised under a camarin. An electric bulb is maintained in the poultry to keep the broilers warm. This electric bulb from the Ronquillo’s poultry reflects its illumination up to the road. It is a little dark along the side of the ipil-ipil trees because of the shadow they cast. The ipil-ipil trees are as tall as Celestino, Jr. While Mrs. Samulde and her son were walking near the ipil-ipil trees, Celestino, Jr., saw Jacinto Apongan and Ronald Revadona walking also along the road coming towards them. Celestino, Jr. first saw Jacinto and Ronald walking towards them at a distance of about ten meters. He recognized Jacinto and Ronald because of the reflection of the electric bulb coming from the Ronquillo poultry. He has known Jacinto and Ronald because they also lived in the same barrio of Lagumbingan and they are neighbors. He has known Ronald since childhood. He used to play basketball with Ronald. He readily identified Ronald and Jacinto in court.

Celestino, Jr. was walking about two steps ahead of his mother. Celestino, Jr. and his mother continued walking until they met Jacinto and Ronald. Without any warning or word, Ronald tried to grab the head of Celestino, Jr. Celestino, Jr. ducked to avoid being caught at the same time ran. While running about five meters he looked back and saw Jacinto and Ronald stabbing his mother, Mrs. Samulde. Celestino, Jr. stopped running and looked at Jacinto and Ronald stabbing his mother several times with long knives. He could see the reflection of the knives. Jacinto and Ronald continued stabbing Mrs. Samulde until she fell to the ground. When Mrs.

Samulde fell on the ground Jacinto and Ronald still stabbed her making sure that she was already dead. Afterwards, Jacinto and Ronald ran away towards the ricefields. Celestino, Jr. also ran home and called for his father, Celestino Samulde, Sr. and told him that his mother was stabbed.

Mrs. Samulde died of multiple stab wounds and dicapitation (sic)."[6]

In arriving at the above findings, the court a quo relied heavily on the testimony of Celestino Samulde Jr., the only prosecution eyewitness to the fatal stabbing of Mrs. Victoria Samulde, his mother.[7]

To establish conspiracy among the accused, the prosecution also presented Ervin Araneta who testified that on May 25, 1986, the four accused, namely, Roberto and Jacinto Apongan, Ronald Revadona and Teodorico Paraiso, together with Manuel Tagacay, Sr., Victor Alising and the witness, purportedly all members of the Communist Party of the Philippines-New People's Army (CPP-NPA), held a conference at the house of Roberto Apongan wherein the latter proposed the liquidation of Mrs. Victoria Samulde because of a personal grudge and also because of the exorbitant interest rates she allegedly charged from the people. A second meeting took place on a later date, attended by Jacinto Apongan, Revadona, Paraiso, Alising, Eduardo Araneta and the witness, where the execution of Mrs. Samulde was planned. Revadona and Apongan volunteered to carry out the plan, while Araneta and Paraiso were assigned to assist them. At 8:00 in the evening of June 8, 1986, about three to four hundred meters away from the Samulde house, the witness met Paraiso, who informed him that men were already posted to kill Mrs. Samulde. He later heard shouts and cries of a child. Three days after, he met Revadona, Paraiso, Araneta and appellant who narrated to him the killing of Mrs. Samulde. Sometime in August 1988, he gave his statement to the police authorities.

[8]On redirect examination, the witness stated that he and Accused Paraiso had disagreed with the plan because there was allegedly no order from higher CPP-NPA officers.[9]

The defenses interposed by the accused consisted of denial of the commission of the crime and its imputation to a third party. Corroborated by two other witnesses, two of the accused (Revadona and appellant) pinpointed one Eduardo Araneta as the mastermind and sole perpetrator of the brutal slaying of Mrs. Samulde. Revadona and appellant related that on the fateful night of June 8, 1986, they were at the public plaza of Midsayap to watch an amateur singing contest. At about 7:00 to 7:30 that evening, they met Eduardo Araneta and the three of them hiked back to Lagumbingan which was about five kilometers away. While walking, Araneta allegedly sought the help of appellant to kill Mrs. Samulde, which appellant refused for fear that he might get caught and be jailed. Moving on, they saw Mrs. Samulde and her son walking towards their direction. Upon meeting Mrs. Samulde, Eduardo, who was about five meters ahead of appellant, suddenly stabbed her several times with a bolo until she fell to the ground. When Mrs. Samulde was on the ground, Eduardo further slashed her throat. Caught by surprise, Revadona and appellant stood motionless, until Eduardo shouted at them to run. They all ran towards the rice field where they hid for about two hours. Neither revealed to anyone what they witnessed that evening.[10] Defense Witness Perla Tagacay declared that she had seen Araneta on June 5, 1986 at the tailor shop where she worked. Araneta then related to her his problem of nonpayment of his wages by the Samuldes, for whom he had worked as a laborer the previous year. Eduardo also recounted that on one

occasion, the Samuldes poked a gun at him when he asked for his wages. He further intimated that if Mrs. Samulde still refused to pay him, he would kill her before the June 11-12, 1986 fiesta of Lagumbingan.<sup>[11]</sup>

Another defense witness, Dionisio Ballena, Jr., claimed that the same Eduardo Araneta, who was his friend, confided to him sometime in 1986 that he killed Mrs. Samulde because the latter had refused to pay his wages when he worked for her.<sup>[12]</sup>

### **The Trial Court's Ruling**

The trial court gave full credence to the testimony of prosecution eyewitness Celestino Samulde, Jr., finding him "convincing, candid, persuasive and truthful." Explaining, the court said:

"x x x (It) has no reason to doubt the testimony of Celestino, Jr. In spite of the rigid and detailed cross examination made by the two counsels (sic) for the accused on him, Celestino, Jr. never wavered in his testimony. He stuck to the substantial and material points of his testimony, consistent with a truthful and credible witness. If he saw Eduardo to be at the scene of the crime he could have easily stated so. Instead, he categorically declared that the two, Jacinto and Ronald, are the only ones responsible for the death of his mother. There is no reason for Celestino, Jr. to exclude Eduardo from any responsibility in connection with the death of Mrs. Samulde had he really seen Eduardo killing her mother. There is no evidence indicating any reason to exculpate Eduardo. He could not relate anything more than what he saw."<sup>[13]</sup>

In discrediting the defense of appellant and Revadona, the court a quo asserted:

"On the other hand, Jacinto and Ronald had all the reason to point to another as the author of the crime to free themselves from culpability. The court is not convinced of their defense that Eduardo did the killing of Mrs. Samulde without their participation. Their denial cannot destroy and overcome the positive and direct testimony of Celestino, Jr."<sup>[14]</sup>

With respect to the other accused, the trial court found that the evidence did not show that "Roberto Apongan and Teodorico Paraiso actually participated in stabbing to death Mrs. Samulde. There is no evidence showing their presence at the scene of the incident. The presence of Teodorico walking along the National Irrigation road at Lagumbingan, about three to four hundred meters away from the house of Mrs. Samulde before the stabbing incident can hardly be considered being present at the scene of the crime." With these findings and on the premise that "mere presence of an accused at the discussion of a conspiracy, even approval of it without any active participation in the same, is not enough for purposes of conviction," the court acquitted Roberto Apongan and Paraiso for insufficiency of evidence.

From the judgment of the trial court, only Apongan appealed.<sup>[15]</sup>

### **Issues**

In his brief,<sup>[16]</sup> accused-appellant assigns the following errors:

- “(1) The trial court erred in convicting appellant Jacinto Apongan despite the failure of the prosecution witness to identify him positively;
- (2) The trial court erred in finding conspiracy in the killing of Victoria Samulde; and,
- (3) The trial court erred in not appreciating circumstances in the evidence which favor the innocence of appellant Jacinto Apongan.”<sup>[17]</sup>

In support of his assigned errors, appellant contends that Celestino Samulde Jr. could not have actually seen the assailants since the act of stabbing took place in a dark area. Besides, if Celestino Jr. really knew Jacinto Apongan and saw him stab his mother, he should have “normally called Jacinto Apongan and told him not to stab his mother, or he should have normally called up his father and told him that Jacinto Apongan stabbed his mother.” For Celestino’s failure to do so, appellant ascribes “serious doubt” unto said witness’ identification of the assailant.<sup>[18]</sup>

Appellant further maintains that the only evidence of the alleged conspiracy was the testimony of prosecution witness Araneta. In view however, of the “hazy evidence” identifying appellant as one of the actual assailants, he claims that “it cannot be positively concluded that he acted in concert or unity with his co-accused x x x.” In addition, there is no showing that the injuries sustained by the victim, “though numerous, were inflicted by different persons and/or instruments.”

Rejecting the grounds advanced by appellant for a reversal of the assailed Decision, the Solicitor General asserts:

“Even granting arguendo, that Celestino, Jr. did not see who actually stabbed Mrs. Samulde because the place where she was stabbed was allegedly dark, the fact that Celestino, Jr. saw only two persons whom he positively recognized as appellant and Revadona, both armed with knives, within the immediate vicinity of the scene of the crime before the commission thereof and that after Apongan and Revadona tried and failed to grab Celestino, Jr.’s head, Mrs. Samulde, who was just two steps behind her son, would subsequently lay mortally wounded, affords a reasonable basis to conclude that appellant and Revadona were the perpetrators of the crime. These established circumstances constitute an unbroken chain which leads to one fair and reasonable conclusion pointing to the appellant and his co-accused as the author of the crime. In effect, these proven and established circumstances are consistent with each other, consistent with the hypothesis that appellant is guilty and at the same time inconsistent with any other hypothesis except that of guilt. Such circumstances will suffice conviction (People vs. Caneda, 12 SCRA 19).”<sup>[19]</sup>

### **This Court’s Ruling**

#### **First Issue: Positive Identification of Appellant**