

FIRST DIVISION

[G.R. No. 112445, March 07, 1996]

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
CARLOS PATROLLA, JR. Y VEGA, ACCUSED-APPELLANT.**

D E C I S I O N

KAPUNAN, J.:

Appellant Carlos Patrolla, Jr. and his brother Alex were charged with murder with less serious physical injuries in the following amended information:

That on or about 5:40 in the afternoon of September 28, 1991 at Burgos Street, San Carlos City, Negros Occidental, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring together and helping one another, armed with bolos, with intent to kill, with treachery and evident premeditation, and with use of superior strength, did then and there, wilfully, unlawfully and feloniously, with the use of said weapons, attack, assault and use personal violence upon the persons of the spouses **NIDO PANOGALINOG** and **BELINDA PANOGALINOG** by striking and stabbing the former and the latter, thereby inflicting upon them physical injuries, described as follows:

UPON THE PERSON OF NIDO PANOGALINOG

- 1 inch incised wound (R) pariental;
- 3 inches incised wound (L) pariental;
- 2 inches incised wound inter pariental;
- 4 inches wound (L) lower jaw;
- 5 inches incised wound (R) lower jaw;
- 1 inch wound mid-anterior neck;
- 2 inches incised wound (L) hand palm;
- 1/2 inch stab wound 1 inch depth (L) chest areola;
- 1 inch stab wound 1 inch depth (R) upper chest anterior;
- 1 inch stab wound 1 1/2 inches depth (L) lower chest anterior;
- 2 inches stab wound (R) lower chest medial;

- 3 inches stab wound (R) lower chest medial;
- 2 inches stab wound (R) epigastric abdomen;
- 2 inches stab wound (R) upper abdomen;
- 2 inches stab wound (R) upper abdomen;
- 3 inches stab wound (R) upper abdomen;
- 1 inch stab wound (L) back chest lower medial;
- 1/2 inch stab wound (L) back chest lower lateral;
- 6 inches stab wound linear abrasion (R) back,

which injuries caused shock secondary to severe hemorrhage which resulted in the death of said NIDO PANOGALINOG;

UPON THE PERSON OF BELINDA PANOGALINOG

- 2 inches incised wound (L) hand dorsum,

and which injury requires a period of from ten (10) to fourteen (14) days, more or less of treatment and healing barring complication.^[1]

Upon arraignment, both accused pleaded not guilty.^[2]

At the pre-trial of the case on November 26, 1991, however, Alex Patrolla, assisted by counsel, pleaded guilty to homicide. Accordingly, the trial court rendered a decision finding Alex guilty of homicide with the mitigating circumstance of voluntary surrender, and sentencing him to an indeterminate sentence of twelve years and one day to fourteen years, to indemnify the heirs of Nido Panogalinog in the amount of P30,000.00 and to pay costs.^[3]

Trial proceeded against appellant.

In a decision dated August 26, 1993, the trial court convicted appellant, the dispositive portion of which reads:

WHEREFORE, the accused **CARLOS V. PATROLLA, JR.,** is hereby sentenced to suffer the penalty of **RECLUSION PERPETUA** in regard to his participation on the murder of the late Nido Panogalinog and suffer the penalty of **ONE MONTH AND ONE (1) DAY OF ARRESTO MAYOR** in its minimum period of said penalty for the Less Serious Physical Injuries he has inflicted upon the person of Mrs. Belinda Panogalinog. Said accused is likewise hereby sentenced and ordered to indemnify the heirs of the late **Nido** Panogalinog in the amount of **FIFTY THOUSAND (P50,000.00) PESOS** for the life of the victim, **THIRTY THOUSAND (P30,000.00) PESOS** by way of moral damages and **TWENTY THOUSAND (20,000.00) PESOS** by way of exemplary damages.^[4]

The facts as found by the trial court may be summarized as follows:

At around 5:40 in the afternoon of September 28, 1991, spouses Nido and Belinda Panogalinog were tending their barbecue stand along Burgos Street in San Carlos City. Coming from Burgos Street Interior, appellant and his brother Alex approached the spouses. Each brother was armed with a sharp-pointed instrument locally known as "pinuti."^[5]

Reaching the spouses, appellant stabbed Nido, and with the same blow, hit Belinda's palm.^[6]

Nido shouted to Belinda to run, and she ran to the store of Angging Flores. From there she watched as the brothers continued to assault Nido.^[7]

The brothers positioned themselves on each side of Nido, so that when Nido would run to either side, appellant or his brother would meet him with stabs. Nido fell to the ground and the brothers continued to stab him.^[8]

Through with stabbing Nido, appellant loudly challenged anyone to defend the victim, stating: "Kinsa and isog nga mulaban kang Nido."^[9] The brothers then stayed at the scene to smoke.

After the appellants left, Belinda rushed to Nido and found him bloodied and lying on the ground still alive. Moments later, Nido died. A neighbor then took Belinda to the hospital where she was treated by Dr. Larry Yap.^[10]

Dr. Yap later conducted a postmortem examination on Nido. He concluded that Nido died of "shock secondary to severe hemorrhage due to multiple stab wounds."^[11]

In this appeal, appellant asserts that the trial court erred when it: 1) found him guilty beyond reasonable doubt of the crime of murder and less physical injuries; 2) held him guilty notwithstanding the assertion of Alex Patrolla, appellant's brother, that he alone killed Nido; and 3) failed to appreciate his defense of alibi.^[12]

We first consider the effect on the culpability of appellant of Alex Patrolla's plea of guilt to and conviction of the crime of homicide. Appellant posits that Alex's plea was an admission that he alone committed the crime and that there was no conspiracy between him and appellant, and by such plea, appellant's criminal liability was extinguished. Corollarily, appellant argues that Alex Patrolla's conviction of homicide had the effect of "extinguishing" the qualifying circumstances of treachery.

We disagree. The plea was the result of bargaining, which involves the defendant's pleading guilty to a lesser offense or to only one or some of the counts of a multi-count indictment in return for a lighter sentence than that for the graver charge.^[13]

Alex's plea of guilty to homicide did not carry with it an admission of sole authorship of the crime, so as to exonerate appellant from criminal liability. "To uphold the argument of appellant would leave at the hands of the one accused, who elects to plead guilty, the automatic exemption of his co-accused from all criminal