

SECOND DIVISION

[G.R. No. 116237, May 15, 1996]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. FE
ARCILLA Y CORNEJO, ACCUSED-APPELLANT.**

D E C I S I O N

PUNO, J.:

In an Information, dated August 5, 1992,^[1] accused **FE ARCILLA y CORNEJO** was charged with **Parricide** before the Regional Trial Court of Daraga, Albay, **viz:**

"That on or about 9:00 A.M. of May 1, 1992, at Brgy. Namantao, Daraga, Albay, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with intent to kill and while armed with a fan knife, did then and there willfully, unlawfully and feloniously attack and stab her husband, ANTONIO F. ARCILLA, hitting and inflicting upon the latter fatal wound on his left chest, which injury directly caused and resulted to the death of said Antonio F. Arcilla, all to the damage and prejudice of the heirs of the deceased."

"CONTRARY TO LAW."

Accused pleaded not guilty^[2] and underwent trial.

The evidence for the prosecution shows that accused Fe Arcilla y Cornejo and the victim, Antonio Arcilla, were married in Goa, Camarines Sur, on April 19, 1975.^[3] They had five (5) children.

Accused was a teacher while Antonio was an employee of National Power Corporation in Daraga, Albay. In 1983, she left her family to work in Singapore. Her children remained in their conjugal home in Camarines Sur. Antonio, on the other hand, stayed most of the time in Albay.

Unknown to the accused, Antonio developed an illicit affair with Lilia Lipio. The house of Lilia's parents in barangay Namantao, Daraga, Albay, served as their love nest. Antonio sired two (2) children during his amorous union with Lilia.

Eventually, the accused learned of her husband's infidelity. She returned to the country in 1988 but her return did not stop the illicit relationship between Lilia and Antonio.

The illicit relationship came to a tragic end on May 1, 1992. At about 9:00 A.M. of said date, accused went to Lilia's residence in Namantao, Daraga, Albay looking for Antonio. It was the barangay's feast day and Lilia's family had a lot of guests. The

accused found Antonio having a drinking spree with his friends in a kiosk, just a few meters away from Lilia's house.

The meeting immediately started to be violent. Accused approached Antonio and slapped him. She then went inside Lilia's house and instructed Antonio to tell Lilia to join them. The three proceeded to the bedroom where the three (3) year-old son of Lilia and Antonio was sleeping. A heated altercation between accused and Antonio followed. Lilia left the bedroom and sat on a sofa in the receiving room. The sofa was about two (2) meters away and she could see the bickering couple through the bedroom's door which was then half-closed.

At the height of their arguments, the accused took a fan knife from her shoulder bag and stabbed Antonio on the chest, causing him to embrace her tightly. Lilia barged back to the room, held Antonio's belt at the back and pulled him away from accused. Accused was able to pull out the knife from Antonio's chest and she delivered a second thrust to Antonio. She hit him on the left thigh. Accused then fled with the fan knife. Blood stained her clothes.

Antonio was rushed to the hospital where he died due to "hypovolemic shock due to massive hemorrhage secondary to stab wound."

Accused gave a different version.

She testified that she received an urgent letter from her eldest daughter asking for money to pay her tuition fees. Thus, in the early morning of May 1, 1992, she went to see her husband in his office in Daraga, Albay. The security guard told her that Antonio was in Namantao. She proceeded to Lilia's residence and found Antonio drinking with some friends. Antonio advised her to go home and not to make a scene. Irrked, she slapped him and then went inside Lilia's house. Antonio followed her up the bedroom where the three-year old son of Lilia was sleeping. Lilia joined the couple in the bedroom. Accused then asked them if the child was theirs. Lilia denied the accusation but Antonio boldly admitted that the boy was theirs. The admission provoked a heated verbal exchange between the accused and Antonio while Lilia brought the child outside the bedroom. The altercation became violent when Antonio pushed the accused and she hit the concrete wall and felt dizzy. Seeing a fan knife in a cabinet, she held it with her right hand and warned Antonio not to go near her or she would stab him. Antonio did not heed her warning. They grappled for the knife until Antonio was able to twist her left arm at her back. She managed to free her left arm and held the knife with both hands. However, Antonio moved behind her, wrapped his arms around her, held her hands and tried to force the knife towards her. She twisted her body and the knife struck Antonio's left thigh. Undaunted, Antonio tried to direct the knife towards her a second time. She bit his arm but his grip even tightened. Again, she twisted her body and, in the process, the knife struck Antonio. When his embrace loosened, she ran away.

She chanced upon a barangay tanod who helped her surrender to the barangay captain of Namantao. She was then taken to the police headquarters in Daraga, Albay.

The trial court gave more credence to the testimony of prosecution witness Lilia Lipio and convicted the accused. The dispositive portion of the trial court's Decision,

dated May 27, 1994,^[4] states:

"CONSIDERING THE FOREGOING RATIOCINATION, the court hereby finds the accused FE ARCILLA Y CORNEJO to have committed beyond reasonable doubt the act of stabbing her lawfully wedded husband ANTONIO ARCILLA, resulting to the latter's untimely death. Accused is therefore declared GUILTY of the crime of parricide as defined and penalized under Article 246 of the Revised Penal Code. She is hereby sentenced to suffer the penalty of RECLUSION PERPETUA and the accessory penalties provided by law.

"Having been found (guilty) of the capital offense, the bail bond filed for her provisional liberty is hereby cancelled and accused is ordered committed to the provincial jail.

"Accused is likewise hereby ordered to pay the heirs of the deceased victim ANTONIO ARCILLA, the sum of FIFTY THOUSAND (P50,000.00) PESOS for the fact of death; TWENTY THOUSAND ONE HUNDRED (P20,100.00) PESOS, as actual or compensatory damages; and another TWENTY THOUSAND (P20,000.00) PESOS, as moral damages.

"Cost against the accused."

Subsequently, the trial court amended the dispositive portion of its Decision. Treating **reclusion perpetua** as a divisible penalty under Republic Act No. 7659, the trial court sentenced the accused as follows:

"CONSIDERING THE FOREGOING RATIOCINATION, the Court finds the accused FE ARCILLA y CORNEJO to have committed beyond reasonable doubt the act of stabbing her lawfully wedded husband ANTONIO ARCILLA, resulting to the latter's untimely death. Accused is therefore truly and truthfully guilty of the crime of parricide. There being no aggravating or mitigating circumstance and after applying the Indeterminate Sentence Law, she is hereby sentenced to suffer the penalty of FOURTEEN (14) YEARS, EIGHT (8) MONTHS AND ONE (1) DAY OF RECLUSION TEMPORAL as minimum, to TWENTY-EIGHT (28) YEARS, (8) MONTHS AND ONE (1) DAY OF RECLUSION PERPETUA, as maximum, and all the accessory penalties provided by law.

x x x."^[5]

Hence, this appeal where appellant contends:

"FIRST ASSIGNED ERROR

THE TRIAL COURT ERRED IN ADMITTING THE TESTIMONY OF LILIA LIPIO DESPITE THE ABSENCE OF A PUBLIC PROSECUTOR IN THE TAKING

THEREOF.

SECOND ASSIGNED ERROR

THE TRIAL COURT ERRED IN GIVING CREDENCE TO THE TESTIMONY OF LILIA LIPIO RELATIVE TO THE CIRCUMSTANCES WHICH LED TO THE DEATH OF ANTONIO ARCILLA.

THIRD ASSIGNED ERROR

THE TRIAL COURT ERRED IN NOT GIVING CREDENCE TO THE TESTIMONY OF THE ACCUSED-APPELLANT RELATIVE TO THE CIRCUMSTANCES WHICH LED TO THE DEATH OF HER HUSBAND ANTONIO ARCILLA."

The appeal lacks merit.

We reject the first contention of the appellant. The records do not show that the entire testimony of the prosecution star witness, Lilia Lipio, was given in the absence of the prosecuting fiscal. As explicitly stated by the trial judge in his Decision, **viz:**

x x x

"From the records of Branch I of the Regional Trial Court, Prosecutor de Joya only attended the pre-trial of the case. The pre-trial was, however, waived by the defense. It appears that Prosecutor de Joya, after the pre-trial went back to Branch 2, as in fact he cross-examined a witness for the defense in People vs. Rogelio Andez. This case was heard after the hearing in instant case. **So Prosecutor de Joya was absent for only a few minutes. He was not absent for all the time that Lilia Lipio took the witness stand.**

The Presiding Judge had a chance to talk to Prosecutor de Joya. According to him, he stayed at Branch I for not more than five (5) minutes, then, returned to Branch 2. **When he returned to Branch 2, the private prosecutor was still conducting his direct examination on Lilia."** (Italics supplied)

The fleeting absence of Fiscal de Joya is not a sufficient ground to invalidate the testimony of Lilia Lipio as urged by appellant. To begin with, appellant herself did not object to the continuation of the testimony of Lipio despite the momentary absence of the prosecutor. Appellant has not also shown any prejudice caused to her by the incident. Through counsel, she was able to fully cross-examine Lipio and test her credibility. To be sure, appellant misappreciates the reason requiring the public prosecutor to be present in the trial of criminal cases. A crime is an offense against the State, and hence is prosecuted in the name of the People of the Philippines.^[6]

For this reason, Section 5 of Rule 110 provides that "all criminal actions either commenced by complaint or by information shall be prosecuted under the direction and control of the fiscal x x x." Only private crimes like adultery, concubinage, seduction, abduction, rape or acts of lasciviousness can be prosecuted at the instance of the offended party.^[7] The presence of a public prosecutor in the trial of criminal cases is necessary to protect vital state interests at stake in the prosecution of crimes, foremost of which is its interest to vindicate the rule of law, the bedrock of peace of the people. As the representative of the State, the public prosecutor has the right and the duty to take all steps to protect the rights of the People in the trial of an accused. It ought to be self-evident that the right belongs to the public prosecutor and not to the accused. The absence of a prosecutor cannot therefore be raised by an accused to invalidate the testimony of a state witness if he cannot prove personal prejudice as in the case at bar.

In her second assignment of error, appellant assails the credibility of Lilia Lipio. The records will show that Lilia Lipio was clear and categorical when she testified on how Antonio was stabbed by accused. She declared:^[8]

"ATTY. NINOFRANCO:

What happened when you entered the room?

(LILIA LIPIO)

After I entered the room Fe Arcilla asked Antonio Arcilla whether the child who was sleeping is the child of Antonio Arcilla with me?

Q What did Antonio Arcilla answer or what was the answer of Antonio Arcilla?

A Antonio Arcilla said: "yes, is it not that you knew it already."

x x x

x x x

x x x

Q How far were you from Antonio and Fe when you seated yourself in the receiving room?

A More or less two meters.

Q What happened while you were already seated in the receiving room.

A Fe Arcilla asked Antonio Arcilla: "what do you like me to do, do I have to kill you."

Q What was the answer of Antonio Arcilla?

A Antonio Arcilla answered, "just do it."

Q What else happened after that?

A Antonio Arcilla was standing fronting Fe Arcilla.

Q Where was he facing, was he looking at Fe Arcilla when he said that?

A Yes, sir, but his face was a little bit lower.

Q With that position of Antonio Arcilla so, what did Fe Arcilla