

SECOND DIVISION

[G.R. Nos. 106345-46, September 16, 1996]

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ROMEO TUSON Y JABIDO, ACCUSED-APPELLANT.**

D E C I S I O N

ROMERO, J.:

Murder is one of the instances when man descends to a level lower than that of the beast, for it is non-instinctive killing, a deliberate destruction of a member of the same species for reasons other than survival. Its senselessness is heightened when, reminiscent of Cain and Abel, it is committed between kindred.

The Tusons and the Villarins are more than mere neighbors in the semi-permanent structures they call home in Project 6, Quezon City; they are also cousins. This dual relationship should have fostered harmonious co-existence among them, but such was not the case. Sometime in October 1990, accused-appellant Romeo Tuson and his first cousin, Loreto Villarin, were engaged in a fight over gambling matters. Bolo marks on the door of Tuson's shanty attest to the violence that attended their quarrel. Three days later, on October 11, their differences were finally settled.

The brothers Loreto and Ceferino Villarin were drunk and tipsy that night after celebrating another brother's birthday at Forest Hills. At around 10:45 p.m., Ceferino, who was seated beside the wooden window of their single-storey house, saw Loreto who was clad only in his underwear make his way to the common lavatory. Loreto never reached his destination, for he was suddenly shot in the neck by Tuson who was standing by the door of his own slightly-elevated shack which was adjacent to the toilet. Ceferino rushed to rescue his brother but was likewise shot by Tuson in the face.^[1]

Three other prosecution witnesses heard the twin shots; two of them actually saw the shooting of Ceferino by Tuson. Ceferino's wife Evelyn and nephew, Hernani Villeta who was living with them, immediately rushed to the door of their house after hearing the gunshot and saw Tuson shoot Ceferino in the face as the latter tried to help his brother.^[2] Loreto's wife Rosalinda heard everything but did not have the heart to look out. All three testified that Tuson shouted, "Ikaw pa!" prior to the second shot. When Ceferino was already down, he was threatened by Tuson not to rise lest he be shot a second time. Hernani shouted and succeeded in pleading with his Uncle Romeo to stop. Forthwith, Tuson fled.

With timely medical attention by Dr. Marida Arend Arugay of the East Avenue Medical Center, Ceferino's life was saved. The downward trajectory of the bullet extracted from his neck indicated that the assailant fired the gun from a higher elevation. The same was true with the bullet that killed Loreto as it entered the right side of the neck and exited between the two shoulder blades.^[3]

Tuson claims he shot the brothers in self-defense. His story was that he was sleeping with his wife Teresita and their two children on that fateful night when Loreto barged into their one-room house shouting, "Tayo! Putang-ina mo!" Although it is not clear if it was Loreto who was armed -- Tuson himself testified that he heard Ceferino from outside the door shouting that "he has a gun" -- Tuson asserted that he tried to wrest a gun away from Loreto. While grappling for possession of the gun, they both fell near the three-step stairway and, with Loreto on top of him, the gun went off. Somehow, the blast sent Loreto flipping over the two-foot rail guard barring the door, down the three steps, finally resting on the ground outside.^[4] Seeing that Ceferino who was allegedly armed with a bladed weapon was rising, he also shot him. He immediately fled, threw away the gun, and went into hiding for nine days before surrendering to the police on October 20, 1990.^[5] His story was corroborated by his wife and older sister, Nieves Sotto. No bladed weapon was recovered from the crime scene.

Sotto testified that prior to the shooting, the brothers Villarin were challenging her youngest brother, Romeo. Loreto was on the stairs of Romeo's house telling the latter to go out because his coffin was ready, all the while banging the door. Yet, on cross-examination, she admitted that she did not notice who opened the door of Romeo's house because she was then embracing her husband who was sleeping on the floor of their own house.^[6]

For the death of Loreto Villarin and the shooting of Ceferino Villarin, Romeo Tuson was charged with murder and frustrated murder before the Regional Trial Court of Quezon City, Branch 88. On June 2, 1992, Judge Tirso D'C. Velasco rendered judgment, the dispositive portion of which reads as follows:

"WHEREFORE premises considered, this court finds accused ROMEO TUSON y JABIDO GUILTY of the crime charged in the two (2) informations, and hereby sentences him to suffer a penalty of reclusion perpetua for the murder of Loreto Villarin in Criminal Case No. Q-90-15933, the death penalty having been abolished, and imprisonment of ten (10) years and one (1) day of prision mayor as minimum to seventeen (17) years, four (4) months and one (1) day of reclusion temporal as maximum for the frustrated murder of Ceferino Villarin in Criminal Case No. Q-90-15934; to pay the heirs of deceased LORETO VILLARIN in the amount of P8,900.00 for burial expense, P30,000.00 for actual and moral damages and P50,000.00 as indemnity for the death; and to Ceferino Villarin the amount of P15,000.00 for moral damages, and to pay the cost.

SO ORDERED."

In the instant appeal, Tuson argues that the trial court erred in not appreciating in his favor the justifying circumstance of self-defense, a time-worn excuse resorted to by assailants in appealed criminal cases. Time and again, however, this Court has adhered to the policy of deference to the factual findings of the trial judge owing to his having personally examined the evidence presented and observed the witnesses testify on the stand. Unless his conclusions are glaringly erroneous and unduly prejudicial to the accused, the same must be respected on appeal.