

## SECOND DIVISION

[ G.R. No. 108919, October 11, 1996 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. EDGAR CORDERO Y SUNI, ERNESTO PINLAC Y BANIQUED, JIMMY SALAZAR Y OLIVERAS, ELPIDIO BATAAC ALIAS "DOMINGO", DOMINGO BATAAC ALIAS "DENNIS", SALES SABADAO ALIAS "SONNY", MARLON ANGCO, FRED BATAAC, BEN BALOCON (AT LARGE), AND "JOHN DOES", ACCUSED. ERNESTO PINLAC Y BANIQUED, EDGAR CORDERO Y SUNI, DOMINGO BATAAC ALIAS "DENNIS", SALES ("SONNY") SABADAO, JIMMY SALAZAR AND FRED BATAAC, ACCUSED-APPELLANTS.**

### D E C I S I O N

**PUNO, J.:**

Edgar Cordero, Ernesto Pinlac y Baniqued, Jimmy Salazar, Elpidio Batac (alias "Domingo" and "Ace"), Domingo Batac (Alias "Dennis"), Sales Sabadao (alias "Sonny"), Marlon Angco, Fred Batac, Ben Balocon (at large) and several John Does, were charged before the Regional Trial Court (Branch VII) of Baguio City, with Robbery with Homicide<sup>[1]</sup>, committed against GARY SALVOSA. The Third Amended Information,<sup>[2]</sup> dated May 13, 1991, reads:

"That on or about the 12th day of August, 1990, in the City of Baguio, Philippines, and within the jurisdiction of this Honorable Court, the above " named accused, conspiring, confederating and mutually aiding one another, and by means of violence and intimidation, with intent to gain and against the consent of the owner thereof, did then and there willfully, unlawfully and feloniously take, rob and carry away the following articles, to wit:

- a) Nissan pickup 1988 model with Plate No. PJG 398, valued at P380,000.00;
- b) Glock (pistol) valued at P36,000.00;
- c) Uzi machine pistol valued at P53,000.00;
- d) Shotgun valued at P25,000.00;
- e) Browning valued at P38,000.00;
- f) Two jackets (one leather jacket valued at P3,500.00; one military jacket valued at P1,500.00);
- g) Wallet valued at P55.00;
- h) Cash amount of P5,000.00 which was in the wallet mentioned in item
- i) Seiko wrist watch valued at P2,500.00;
- j) Tasco binoculars valued at P8,500.00;
- k) Abloy padlock valued at P3,500.00;

all having a total value of P556,555.00 belonging to GARY SALVOSA, to

the damage and prejudice of the said owner; that on the occasion of the robbery and for the purpose of enabling them to take away, steal, rob and carry away the assorted articles and other personal belongings, the herein accused, in pursuance of their conspiracy, did then and there willfully, unlawfully and feloniously and with intent to kill, being then armed with a dagger and other weapons of violence and taking advantage of their superior strength and with evident premeditation and by means of treachery, attacked GARY SALVOSA with a dagger and other weapons, thereby inflicting upon the latter stab wounds which directly caused his death.

"That the aggravating circumstance that the killing was committed in the dwelling of the offended party is present and that the crime was facilitated by the use of a motor vehicle.

"CONTRARY TO LAW."

When arraigned on September 3, 1990, **accused Edgar Cordero and Domingo Batac pleaded guilty.** The rest of the accused, except **Ben Balocon** who has remained at large, entered a plea of "not guilty."<sup>[3]</sup> Trial on the merits ensued.

On November 11, 1991, **accused Marlon Angco was discharged from the information and utilized by the prosecution as a state witness.**<sup>[4]</sup>

First, the antecedent facts.

**GARY SALVOSA**, a 41-year old businessman, owned GP Shopping Arcade, a commercial building located at No. 101 Upper Mabini Street, Baguio City. Its penthouse served as the residence of Gary and his family. The other floors were rented out to tenants. Due to the unsafe condition of the building on account of July 16, 1990 earthquake, the Salvosas moved out of the building. Nonetheless, Gary would occasionally sleep over at the penthouse as he did on August 12, 1990.

**PACITA SALVOSA**, Gary's wife, recalled that after dinner on August 12, 1990, Gary discussed their plan to attend the wake of his uncle in Pampanga. He showed her his wallet containing P5,000.00 for their trip. At about 7:30 p.m., he went to the GP building on board a white Nissan pickup with license plate no. PJG 398. That was the last time she saw her husband alive.

The initial investigation of the police disclosed that **EDGAR CORDERO**, a security guard from Lanting Security Agency, was the guard on duty at the GP building on August 12, 1990. His tour of duty was from 4:00 p.m. to 12:00 midnight of said day. When Cordero relieved fellow security guard Freddie Natividad, the latter turned over to the former two (2) firearms: a .38 caliber pistol which is the official service firearm issued by their agency, and a shotgun owned by **GARY SALVOSA** bearing serial number A278669. The shotgun was lent to the building's security guards by Gary.<sup>[5]</sup>

The following day, August 13, 1990, at about 9:10 a.m., John Salvosa (a.k.a Jake), the nine-year old son of Pacita and Gary, and one Marlou Soliven, a janitor at the GP Building, discovered the lifeless body of Gary at the penthouse of the GP building.

Gary's clothes were soaked with blood, his hands were tied behind his back with a clothesline wire, and his eyes, mouth and neck were covered with strips of cloth.

Police authorities, led by **PATROLMAN RAY EKID**, repaired to the scene of the crime. They removed the strips of cloth covering Gary's head and found a hunting knife still stuck on his neck. Gary also suffered four (4) stab wounds on the chest and a stab wound on the right upper arm. His left wrist showed ligature marks indicating that the victim had a wristwatch. Dr. Emmanuel Fernandez' autopsy report revealed that Gary died due to "hypovolemic shock secondary to massive hemorrhage due to perforating wounds on the heart, aorta, right lung, liver, stomach and transverse colon due to multiple stab wounds on the chest."<sup>[7]</sup>

Strips of cloth similar to those used on the victim were found at the alley and the first, second and third floors of the building. Similar strips of cloth were also found at the guard post.<sup>[8]</sup>

The penthouse was in complete disarray. Its three (3) rooms were ransacked, the closets were opened and several items, such as bags and clothes, were scattered all over the floor. Among those taken from Gary were a **shotgun**, an **UZI automatic pistol** with serial number 15406, a **Glock 17 9mm pistol** bearing serial number EP 706, and a **Browning pistol**, with serial number 808175.

The white Nissan pickup of the victim, apparently used as a get-away vehicle by the then unidentified robbers was found abandoned along M. Roxas Street, Lower Brookside, Baguio City, about three (3) kilometers away from the crime scene.

State witness **MARLON ANGCO** testified that he used to visit his cousin and co-accused **SALES SABADAO** in P. Burgos Street, Baguio City. In February 1990, he accompanied Sabadao to visit former Vice-Mayor **ERNESTO PINLAC** in his house in Barangay Pulong Sur, Malasiqui, Pangasinan. Marlon likewise met Sabadao's cousins, the **Batac brothers-- Fred, Elpidio and Domingo**, in Pinlac's house. They stayed there for a week, during which time, Marlon served as the errand boy of Pinlac's group. Marlon went to Baguio but returned a month later to Pinlac's house with Sabadao. This time, Marlon stayed a little longer with Pinlac's group since they refused to let him go back to Baguio. Again, he served as their houseboy.<sup>[9]</sup>

At about 9:00 a.m. of August 12, 1990, Pinlac, together with Salazar, Fred Batac and Domingo Batac and Marlon went to Baguio on board Pinlac's jeep. Accused Elpidio Batac and Sabadao were left behind in Pangasinan.

They arrived in Baguio at about 3:00 p.m. They proceeded to Malcolm Square after taking their meal at the Slaughter House Restaurant. The Batac brothers left and fetch Cordero. Pinlac and Cordero exchanged cordial greetings and discussed how they would break into a building. At that time, Marlon had no idea of the building they were referring to. Pinlac then inquired: "*Ano, itutuloy ba natin?*" Cordero answered: "Of course, Vice." Cordero verified if Pinlac was "carrying anything." Pinlac retorted: "*Meron, pero iisa lang.*" Marlon surmised that Pinlac was referring to a .45 caliber pistol in the possession of Domingo Batac. Cordero quipped: "That is not enough." Pinlac then told Cordero to borrow another firearm from his companions.<sup>[10]</sup> Marlon realized that his companions would stage a robbery, although he was not sure of their target.<sup>[11]</sup>

At about 4:00 p.m., Cordero left for duty. Pinlac drove his jeep along Session Road and parked it in front of McDonald's construction site, a few meters from the GP building. Pinlac ordered his companions to take their supper.<sup>[12]</sup> Marlon, Salazar and the Batacs dined in an eatery along Mabini Street and returned to the Session Road at 7:00 p.m. They waited for Pinlac at the Star Café. Cordero came and asked them to join him at the GP building. After they entered the building, Cordero padlocked its gate. He instructed them to hide and said, "If he enters, I will poke my gun at him." Cordero took a blanket from a black bag and cut it into strips. Cordero and the Batac brothers went upstairs while Marlon and Salazar remained on the ground floor. They hid under the stairs. They waited for Gary for about an hour and a half.

Gary arrived at the GP Building on board his Nissan pickup. Cordero opened the gate and padlocked it. Gary greeted Cordero and inquired why the lights were out. Cordero then switched on the lights but poked a gun at Gary. Startled, Gary asked, "*What is happening, Ed?*" Cordero ordered Gary to lie down or be killed. At that instance, Fred Batac, Domingo Batac, Salazar, and Marlon appeared.<sup>[13]</sup>

Domingo also poked his .45 caliber pistol at Gary. With the help of Fred, he frisked Gary. Domingo got from Gary an Uzi and his wallet. Fred took Gary's 9 mm .45 caliber pistol. Salazar got Gary's wristwatch but Domingo snatched it from him and wore it. Seeing the robbery, Marlon got scared and hid behind the Nissan pickup. The commission of the crime continued. Salazar tied Gary's arms at the back with a clothesline wire. Cordero, Domingo and Fred led Gary Upstairs. They summoned Marlon to join them but he refused. They ordered Salazar to stay downstairs to drive the victim's Nissan pickup. Marlon and Salazar thought of leaving the place but the gate was padlocked. Half an hour later, Cordero went downstairs and instructed Salazar to start the pickup's engine. Salazar went upstairs to check on the Batac brothers. He returned and informed Marlon that they should go because Gary had been killed. Before they could go, Fred and Domingo joined them. Marlon noticed that Domingo's shoes were stained with blood. Fred's hands were likewise soiled with blood. Fred told Cordero that he killed Gary to prevent his identification.<sup>[14]</sup>

Marlon, Salazar, Domingo and Fred then boarded the victim's pickup while Cordero opened the gate. After his companions left, Cordero walked towards Session Road and boarded Pinlac's jeep which was parked in front of the McDonald's construction site. Pinlac followed the pickup driven by Salazar. Upon reaching Brookside, they abandoned the victim's pickup and transferred to Pinlac's jeep and proceeded to Pinlac's house in Pangasinan.<sup>[15]</sup> Inside the jeep, Domingo took P200.00 from Gary's wallet and pocketed it.

At about 10:00 p.m., Cordero's reliever, security guard **JOHNNY SANNADAN**, arrived. Sannadan came two (2) hours earlier than the start of his official duty. To his surprise, Cordero was not around and the main gate of the GP building was padlocked. He knocked at the gate but there was no response. He waited for Cordero until 2:00 a.m. of August 13, 1990, and went home when Cordero still failed to come. After four (4) hours, he again returned to the GP building and found the gate still locked. He proceeded to Cordero's boarding house along P. Burgos Street.<sup>[16]</sup> He learned that Cordero had taken all his clothes with him and has not

returned to the boarding house after he left for work that evening.<sup>[17]</sup>

At Pinlac's house, the group had a drinking spree. Fred Batac bragged about the killing and the successful heist. He told Sabadao to smell his hands. He challenged Sabadao: "If you were the one who made (sic) that, do you think you were (sic) able to get what we have (sic) got?" Sabadao countered: "If I plan a project, it is assured." The next day, the group separated. Cordero, Sabadao and the Batac brothers left for Manila. Salazar went to his hometown in Villasis while Marlon returned to Baguio.<sup>[18]</sup>

**NICOMEDES PAAS**, a security guard assigned at an establishment located across GP building, testified that he saw Gary's Nissan pickup enter the main gate of GP building at about 8:00 p.m. of August 12, 1990. Cordero opened the gate. An hour later, the Nissan pickup left. However, Paas did not see the people on board the Nissan pickup. Neither did he notice when Cordero left his post.<sup>[19]</sup>

The combined forces of the Baguio City Police, the CIS and the NBI conducted a dragnet which led to the arrest of several suspects, namely: **ERNESTO PINLAC**, former Vice-Mayor of Malasiqui, Pangasinan, security guard **EDGAR CORDERO**, state witness **MARLON ANGCO**, the **BATAC brothers, namely, Domingo, Fred and Elpidio, JIMMY SALAZAR and SALES "Sonny" SABADAO**.

The arrest of the suspects was made possible through the information given by Marlon to his brother, **ROBERT ANGCO**, a member of the Cordillera People's Liberation Army (CPLA) and an asset of the NBI. Robert Angco, in turn, relayed his brother's information to the authorities.

It was on October 8, 1990 that Cordero, Sabadao, Elpidio and Domingo Batac were arrested in their hide-out in Novaliches, Quezon City. **The authorities recovered from their hide-out the Browning 9 mm. pistol (Exhibit "P") of the deceased victim, some live ammunitions (Exhibit "P-1") and a loaded magazine for a Glock pistol (Exhibit Q-1").**<sup>[20]</sup> The authorities intercepted the jeep of Pinlac in Barangay Bugtong, about two (2) meters from Pinlac's house. Pinlac was then with Salazar and Marlon Angco.<sup>[21]</sup>

The police recovered the stolen Uzi (Exhibit "M") from Mayor Oscar Lambino of Malasiqui, Pangasinan. Mayor Lambino declared that the Uzi was pledged to him by Pinlac in September 1990 as security for a loan.<sup>[22]</sup>

Upon the other hand, the stolen shotgun was recovered by the San Carlos City police. Apparently, when Marlon reported the robbery to his brother, Robert, the latter and another NBI asset, **LES MORALES**, proceeded to Pinlac's residence in Malasiqui, Pangasinan. **SABADAO** introduced Robert to Pinlac. To facilitate the arrest of Pinlac's group, Robert informed the group that they could stage another robbery if Pinlac would supply the things he needed. Pinlac took the bait. He allowed Robert to use his jeep and the stolen shotgun and instructed one **BEN BALOCON** to accompany NBI assets **ROBERT and MORALES**. Robert was taken aback by Pinlac's swift response to his offer as he had yet to plan how to facilitate the group's arrest. In order not to blow his cover, Robert instructed Morales to ram Pinlac's jeep against a traffic sign near the San Carlos Police Station. When the policemen of San Carlos investigated the traffic accident, they saw the shotgun