

## NINETEENTH DIVISION

[ CA-G.R. CR NO. 02251, February 27, 2015 ]

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
SERAFIN ENANO @ "APIN", ACCUSED-APPELLANT.**

### DECISION

**QUIJANO-PADILLA, J.:**

This is an appeal<sup>[1]</sup> from the September 9, 2013 Decision<sup>[2]</sup> of the Regional Trial Court (RTC), Branch 19, Catarman, Northern Samar in Criminal Case No. C-4578 finding accused-appellant Serafin Enano y De Silva @ "Apin" guilty beyond reasonable doubt for the crime of Homicide.

#### The Antecedents

Accused-appellant was charged of the crime of Homicide punishable under Article 249 of the Revised Penal Code, docketed as Criminal Case No. C-4578. The accusatory portion of the Information<sup>[3]</sup> against accused-appellant reads:

"That on April 06, 2007 at about 7:00 o'clock in the evening, at Sitio Cagpepe, Barangay San Isidro, [M]unicipality of Mondragon, Province of Northern Samar, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, armed with homemade shotgun locally known as "Bardog", with deliberate intent to kill without justifiable cause, did then and there, willfully, unlawfully and feloniously, attack, assault and shoot BASELIZA BATO OSIAS (*sic*) with the use of said weapon, which the accused had provided himself for the purpose, thereby inflicting upon said Baseliza Bato Osias multiple gunshot wounds which caused the instant death of the victim.

With the aggravating circumstance of used (*sic*) of unlicensed firearm.

CONTRARY TO LAW."

When arraigned on July 27, 2009, accused-appellant, duly assisted by counsel, pleaded not guilty to the charge against him.<sup>[4]</sup> Upon agreement of the parties, pre-trial conference was held on October 21, 2009<sup>[5]</sup> and terminated on same date.<sup>[6]</sup>

Thereafter, trial on the merits ensued.

#### Evidence for the Prosecution

The prosecution's account of the events pieced together from the testimonies of their witnesses Rodolfo Osias y Turla, Bryan Morillo, Dr. Maria Carol Hermosilla and Percila Bato, as summarized<sup>[7]</sup> by the RTC in its Decision, is as follows:

**"Rodolfo Osias y Turla,** the first witness for the prosecution, is a resident of Brgy. San Isidro, Mondr(a)gon(,) N. Samar and husband of the victim Baselisa Osias y Bato.

On April 6, 2007 at 12:00 o'clock noon, he and his wife Baselisa Osias, the victim in this case, were invited by the accused Serafin Enano to have a drinking spree at the latter's house in Brgy. San Isidro, Mondragon, Norther Samar, being a holiday, as it was GOOD FRIDAY.

They acceded to the invitation and went to the house of the accused and engaged in a drinking spree with the accused and wife Etang taking "Tanduay" rum. Later, they were joined by Villamor Enano @ Takang upon the invitation of the accused, and the drinking continued until evening.

At around 7:00 P.M., accused Serafin Enano and Villamor Enano @ Takong got into a heated argument over a parcel of land which made the accused mad. The accused got his gun, locally known as 'bardog'. Out of fear, Villamor Enano jumped going downstairs in the direction of Baselisa (victim) and accused shot at Takong but hitting instead Baselisa who was near Takong and hitting her at the back of her neck and she fell to the ground.

He attended to his wife Baselisa and saw blood flowing from her body so he shouted for help and asked the accused why he shot his wife. The accused approached and poked his gun at him and threatened at gun point to tell that it was Villamor Enano @ Takong who shot his wife and instructed him to tell his parents-in-law of the matter.

He went to his parents-in-law's house and met his brother-in-law Venancio Bato @ Bembem. He told the latter that his wife was shot to death by Villamor Enano @ Takong as instructed by the accused and his wife. Thereafter, he went to Manila and stayed thereat for four (4) months. On 29 January 2008, he executed an affidavit (Exh. 'A'), pointing to the accused as the person who actually killed his wife, and filed this case in court for he was bothered by his conscience that his children became orphan due to his wife's death.

**BRYAN CASTILLO (MORILLO),**<sup>[8]</sup> the second witness for the prosecution, is the son of the victim Baselisa Osias from her previous marriage.

On 6 April 2007, the accused Serafin Enano invited his parents to have a drinking spree at his house in Brgy. San Isidro, Mondragon(,) Northern Samar and he went with his parents. Present in the house of Enero (Enano) were the accused and wife Dianita, his mother Beselisa (sic) and step-father Rodolfo Osias. Later, his uncle Villamor Enano @ Takong arrived with a certain Titing and the two joined the drinking spree.

At around 4:00 o'clock in the afternoon, his mother Baselisa bought Ligo sardines and noodles and instructed him to go home to cook the food for their dinner. He went home to Sitio Cagpepe and cooked and waited for

his parents to come but until 7:00 pm they failed to arrived (sic). So he went back to the house of the accused with his half siblings Val, Mayjane and Erojane but they were scolded by his step-father upon their arrival. His mother sought permission from the group to go home for dinner but was prevented by the accused as he wanted them to stay overnight. Thereafter, the accused and his uncle Takong engaged in a heated argument over a parcel of land.

His uncle Takong went out to urinate in a cacao tree and when he came back, he offered a drink to his mother Baselisa Osias (victim) and the accused Serafin Enano. The accused, went inside the room and never answered his uncle Takong's call and then he saw the accused holding a gun and shot his uncle Takong.

The shot missed Takong but instead hit his mother Baselisa at the back of her neck. His mother died in front of him. His stepfather asked the accused why he shoot the victim which incident also surprised the accused. The wife of the accused Dianita got the firearm from the accused and the accused instructed his step-father Rodolfo Osias to inform the (sic) his mother's parents and siblings that it was his uncle Villamor Enano @ Takong who shot his mother. On that same evening, his uncle Bembem, the brother of his mother, shot to death his uncle Takong. Later his step-father Rodolfo Osias together with his uncles Bimbo, Titing and a certain Joel arrived and brought the cadaver of his mother to their house in Sitio Cagpepe.

**Dr. Maria Carol Hermosilla**, the Rural Health Physician of Mondragon Northern Samar, is the third witness for the prosecution. She examined the cadaver of the victim and conducted the post-mortem examination of the body of the victim.

The Post Mortem Examination Report (Exh. 'D') issued by Dr. Hermosilla revealed that the victim sustained a single gunshot wound measured 4x4 cms. located at left aspect of her posterior neck with no exit wounds.

Defense admitted the fact of death of the victim, so the testimony of Maribel Pinangay, the Local Civil Registrar of Mondragon Northern Samar, was dispensed by the court as its fourth witness.

**Percila Bato**, the mother of the victim, is the fifth witness for the prosecution. She incurred expenses for the wake and burial of the victim. She made a list of here (sic) expenses totaling in the amount of Php 79,150.00 with her signature (Exh. 'C').

The 6<sup>th</sup> and last witness for the prosecution is **SPO1 Claudio Alcera**, a member of the Philippine National Police (PNP) assigned at Mondragon Police Station, Mondragon Northern Samar. However, his testimony was dispensed with by the court by defense's admission that the date of the police blotter in this case is January 21, 2008 instead of 2007."

### **Evidence for the Accused-Appellant**

After the prosecution has rested, the defense proceeded with the presentation of its evidence. The narration of defense' witnesses Janita Bato Enano, Jhon Anthony Infante and SPO1 Danilo Picardal, on what purportedly transpired during the aforesaid time and date, similarly summarized<sup>[9]</sup> by the RTC, is as follows:

**Janita Bato Enano**, the first witness for the defense, is the wife of the accused Serafin Enano. She knows the victim Baselisa Bato Osias as well as Takong Enano. Baselisa is her niece while Takong is the cousin of her husband.

On 6 April 2007 at 6:00 p.m., she was at their house in Brgy. San Isidro, Mondragon(,) N. Samar(,) cooking rice. Other persons around were her husband Serafin Enano, grandchild Jhon Anthony Infante, the victim Baselisa and husband Ompong. Suddenly, Takong Enano arrived and offered to sell a gun to the spouses Baselisa and Ompong. Her husband was lying on the floor. Baselisa wanted to buy the gun but her husband objected for they have no money. Takong Enano shot Baselisa with the gun and fell down. Takong Enano ran away together with Ompong. She tried to pick up the victim but she was frightened and she was alone.

The house became dark due to the smoke from the gunfire so her husband lighted a lamp. Later, the siblings of the victims arrived and brought the cadaver of the victim to the barangay hall and she followed them. She has no knowledge of the present whereabouts of Takong Enano.

**Jhon Anthony Infante**, a 10 year old boy and Grade 3 pupil of Imelda Elementary School, Mondragon(,) N. Samar(,) is the second witness for the defense.

On 6 April 2007, at 7:00 P.M.(,) he was at their house in Sitio Cagpepe, Brgy. San Isidro, Mondragon(,) N. Samar playing with Belen, the daughter of the victim. The other people around were his Nanay Itang, Tatay Apin (the accused Serafin Enano), Auntie Basing (the victim Baselisa Osias) and her husband Ombrong. Suddenly, he saw Takong Enano walking along a human trail toward their house carrying a gun. His Tatay Apin was then sleeping beside him while his Nanay Itang was cooking.

Takong Enano dropped in their house and talked to his Uncle Ombrong (Rodolfo Osias), whispering to each other. When they parted, Takong Enano shot his auntie Basing at the stairs hitting her neck and she fell down. Their house was full of smoke due to gunfire and his Tatay Apin and Nanay Itang went out while his uncle Ombrong (Rodolfo Osias) chased Takong Enano.

His Nanay Itang cried as she can do nothing about the cadaver of the victim and the cadaver was brought by the barangay tanod to barangay San Isidro and they followed them.

The third and last witness for the defense is **SPO1 Danilo Picardal**, a

member of the Philippine National Police (PNP) assigned at Mondragon Police Station, Mondr(a)gon, Northern Samar.

He was sent by their Chief of Police to testify on the entry in their Police Blotter regarding this case, Entry No. 2007 dated April 6, 2007. He read the entry of the subject Police Blotter and the prosecution affirmed its excerpt except the time, which is 11:45 A.M. instead of 11:00 A.M.”

### **The Ruling of the RTC**

On September 9, 2013, the RTC rendered its Decision<sup>[10]</sup> convicting accused-appellant of homicide, holding that the evidence at hand led to no other conclusion but that his guilt was shown beyond reasonable doubt. The dispositive portion<sup>[11]</sup> of the assailed Decision reads:

“From all the foregoing, the Court finds the accused SERAFIN ENANO y DE SILVA @ APIN, GUILTY of HOMICIDE, and applying Art. 246 of RPC, is ordered to suffer the imprisonment of TEN (10) YEARS of PRISION MAYOR, as minimum to FOURTEEN (14) YEARS, EIGHT (8) MONTHS and ONE (1) day of RECLUSION TEMPORAL, as maximum and to pay P50,000.00 civil indemnity, P25,000.00 temperate damages and P25,000.00 moral damages. ”

Insisting on his innocence, accused-appellant is now before Us with the following assigned errors:

#### **I.**

**THE COURT A QUO GRAVELY ERRED IN FINDING THAT PROSECUTION WITNESSES HAVE POSITIVELY IDENTIFIED APPELLANT AS THE PERPETRATOR OF THE CRIME DESPITE EXISTING INCONSISTENCIES AND INCREDIBILITY THEREBY CREATING DOUBT AS TO THE TRUTHFULNESS OF THEIR TESTIMONIES.**

#### **II.**

**THE TRIAL COURT ERRED IN CONVICTING THE ACCUSED-APPELLANT OF THE CRIME CHARGED DESPITE THE FAILURE OF THE PROSECUTION TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.<sup>[12]</sup>**

### **This Court’s Ruling**

Accused-appellant now assails that the RTC gravely erred in finding him guilty beyond reasonable doubt of homicide because the State did not discharge its burden to prove beyond reasonable doubt every fact and circumstance constituting the crime charged.

Accused-appellant's insistence on his acquittal of the crime charged hinges on the following reasons, to wit: