

ELEVENTH DIVISION

[CA-G.R. CR No. 35329, March 15, 2015]

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
FLOR CARIAGA, ACCUSED-APPELLANT.**

DECISION

LIBREA-LEAGOGO, C.C., J.:

Before this Court is an appeal from the Decision^[1] dated 04 October 2012 of the Regional Trial Court, Second Judicial Region, Branch 22, Cabagan, Isabela in the case entitled "*The People of the Philippines v. Flor Cariaga*" docketed as *Criminal Case No. 22-2427*, finding accused-appellant guilty beyond reasonable doubt of the crime of homicide, the dispositive portion of which reads:

"WHEREFORE, premises considered, the court hereby finds the accused Flor Cariaga GUILTY beyond reasonable doubt of the crime of Homicide and accordingly sentences him to an indeterminate sentence of Eight (8) Years and One (1) Day as minimum to Fourteen (14) Years, Eight (8) Months and One (1) Day as maximum.

Further, the accused is hereby ordered to pay the Heirs of Joel Mendoza the following:

1. Seventy Five Thousand Pesos on (sic) Civil Indemity; 2. Fifty Thousand Pesos as Moral Damages; (and) 3. Twenty Five Thousand Pesos as Temperate Damages.

SO DECIDED."^[2]

Accused-appellant filed his Brief^[3] dated 23 September 2014. Plaintiff-appellee also filed its Brief^[4] dated 26 January 2015. Accused-appellant filed a Manifestation^[5] dated 05 February 2015 that he would no longer file a reply brief. Thus, the appeal is submitted for decision.

FACTUAL ANTECEDENTS

The accused Flor Cariaga was charged with homicide in an Information^[6] dated 22 March 2010, docketed as *Criminal Case No. (22)-2427*, and filed with the Regional Trial Court of Cabagan, Isabela and raffled off to Branch 22, the accusatory portion of which reads:

"That on or about the 25th day of May, 2009, in the municipality of Delfin Albano, province of Isabela, Philippines and within the jurisdiction of this Honorable Court, the said accused, with intent to kill and without any just motive, did then and there, willfully, unlawfully and feloniously, assault,

attack and maul with a piece of wood one Joel Mendoza y Mercado, inflicting upon him, acute epidural hematoma (L) temporal convexity, subarachnoid hemorrhage, intraparenchymal bleed (L) temporal and front area, which directly caused his death.

Contrary to law.^[7]

The trial court issued an Order of Arrest^[8] dated 13 May 2010 fixing the bail at Forty Thousand Pesos (Php40,000.00). In the Commitment for Detention Prisoner, etc.^[9] dated 28 May 2010, the accused was committed to the Provincial Warden of the Provincial Jail of Ilagan, Isabela. Accused posted a cash bond under Official Receipt No. 3553017, and in an Order^[10] dated 01 June 2010, the trial court ordered his release.

When arraigned on 27 July 2010, the accused entered a plea of not guilty to the crime charged.^[11] Pre-trial was held and a Pre-trial Order^[12] dated 10 August 2010 was issued, which stated, inter alia, that the parties admitted the identity of the accused.

Trial ensued.

The prosecution presented the following witnesses: Clarita Mendoza ("Clarita," for brevity), Dr. Pinky Beran ("Dr. Beran," for brevity), Maritess Montilla ("Montilla," for brevity), Jose Suanson ("Suanson," for brevity), SPO2 Alan Galapon ("SPO2 Galapon," for brevity), SPO2 Reynaldo Rabara ("SPO2 Rabara," for brevity), and PO2 Samson Bilgera ("PO2 Bilgera," for brevity).

Witness Clarita, testified, *inter alia*, that: the victim Joel Mendoza ("Joel," for brevity) was her son; Joel died on 25 May 2009; at around 8:00 in the evening of 25 May 2009, she was in their house at Barangay Visitacion, Delfin Albano, Isabela; she received a cellphone call from Elmer Baysa, her nephew, telling her to come to the emergency hospital at Delfin, Albano because Joel met an accident and he was injured; she immediately went to the Delfin Albano Rural Health Unit where she saw her son Joel comatose and bloodied; Joel had no upper garment and was wearing bloodied long pants; the doctor advised them to bring Joel home, which they heeded; the following morning, they returned Joel to the hospital but the doctor advised them to proceed to Tuguegarao for CT Scan; they proceeded to Tuguegarao at the Cagayan Valley Medical Center ("CVMC," for brevity); when they arrived, they were immediately referred to the Saint Paul Hospital for CT Scan; they brought Joel to the latter hospital where the CT Scan was conducted; when they got the result, they immediately scheduled the operation on Joel's head, which was injured; Joel was operated on the night of 26 May 2009; the doctor told them that if Joel would not be conscious within 72 hours, then he would die; the following day, Joel's head swelled and he died; Joel was born on 31 December 1973 and was thirty five (35) years old when he died;^[13] prior to his death, Joel was employed as a contractor, farmer and driver; in the year 2008, her son earned more or less Twenty Thousand Pesos (Php20,000.00) from farming; the steady work of Joel was as contractor and driver; as contractor, his income was Three Hundred Fifty Pesos (Php350.00) per day and his monthly income was Six Thousand Pesos (Php6,000.00) to Seven Thousand Pesos (Php7,000.00); he started working as a contractor in 2006; being a driver was only his extra work, where he earned One Thousand Pesos (Php1,000.00)

per day of driving; according to the witnesses, the person who assaulted her son was accused Cariaga, who she pointed to at the gallery; prior to 25 May 2009, she does not know accused Cariaga;^[14] she was living with Joel and his wife Juliene Cariaga under one roof; the spouses have children; she has no copy of his certificate of employment as a driver or contractor; her son did not file any income tax return; ^[15] her son was not a licensed contractor; he supervised his men and there was a group of laborers who worked under him to implement his contract; and he was a specialty contractor who put up or constructed walls, ceilings and even tiles, where he was paid on a daily basis.^[16]

The competence of witness Dr. Beran was admitted by the defense.^[17] She testified, *inter alia*, that: in May 2009, she was already a doctor at CVMC; on 26 May 2009, she attended to a patient named Joel Mendoza; when the latter was brought by his relative at the emergency room, he had severe headache; he was guarded and could not stand alone; he underwent CT Scan which revealed an intraparenchymal hemorrhage or blood clot; he was operated on immediately; he died on the third day after his operation; a Medico- Legal certificate was issued, which she identified in open court; the Medico-Legal Certificate that she issued has three findings for the surgical procedure that they conducted; he had acute epidural hematoma (102-CC), left temporal convexity, which means that one of the blood clot seen from the patient had a 102-CC volume; the blood clot to the skull may be due to a blow which could be done by a strong strike (*malakas na pagpalo*), vehicular accident and bumping (*nauntog*); this blood clot ruptured blood vessels in the brain; he had subarachnoid hemorrhage, another type of blood clot within the skull, which means that the covering of the brain also bled; he had intraparenchymal bleeding, left temporal and frontal area (3.64-CC), which indicated blood clot within the brain tissue; the first two findings were within the skull but outside the brain, while the third one was within the brain tissue; it is possible that these were caused by one severe blow to the head and could have been caused by one trauma directed to the head; the Medico-Legal Certificate indicates three entries in the cause of death; one of these is brain herniation, meaning deviation of the brain from its normal position, thus, it was displaced from its original position which was made by the blood clot found therein; the next entry is acute epidural hematoma; the other entry is mauling, based on the information relayed to her by those who accompanied the patient to the hospital; she issued a Certificate of Death, which she identified in court;^[18] she was on duty at the time of the operation but she was not the one who conducted the surgical operation; she was also not the one who conducted the CT Scan; she only attended to the patient after the operation;^[19] the craniotomy procedure was made immediately on the first day of the admission; it was only after the craniotomy procedure was undertaken that she came in with respect to the further management of the patient; and she likewise took over the management of the patient on the first day of the admission, with the supervision of Dr. Salvador, who did the operation.^[20]

Witness Montilla testified, *inter alia*, that: on 25 May 2009, she was a resident of Villaluz, Delfin Albano, Isabela; she knew Joel because he was a farm worker of her husband Pedro Montilla, Jr.; Joel resided at Visitacion, Delfin Albano, Isabela; Villaluz is far from the Municipal Hall of Delfin Albano, but she does not know how far exactly; he knows accused Cariaga; she identified Cariaga in open court; she already knew the accused on 25 May 2009; she knew accused Cariaga because her

husband was the farm worker of the latter's father; the last time that she saw Joel alive was when the latter came to their house begging for help at 7:30 in the evening; she observed that Joel was bleeding so they rushed him to the hospital at Delfin Albano, Isabela; she, her husband, and their neighbor Vicente Angui ("Angui," for brevity), a kagawad, brought Joel to the hospital with the use of a police car of Delfin Albano; Angui was there when Joel arrived at their house; she recognized those on board the police car to be police officers but she does not know their names; they were with Joel inside the police car going to the Emergency Hospital of Delfin Albano; they boarded the police car without talking to the police officers therein; after bringing Joel to the hospital, they went home to their respective houses and Joel was brought home by his mother; when they brought Joel to the hospital, they called his mother, who then went to the hospital; she affixed her signature to the sworn statement at the police station; her only purpose in coming to court is to tell the matter that she only rushed Joel to the hospital and nothing more; she did not honor the subpoena previously served upon her because Joel's mother told her not to involve herself in the case because she does not know anything about the case;^[21] when they were about to rush Joel to the hospital, the police arrived and when she asked them about the person they were going to arrest, they answered Joel because he was causing trouble at the house of Nida Villaverde ("Nida," for brevity); she told the police officers that Joel was bloodied, and the police agreed to bring the latter to the hospital; the house of Nida is about three (3) hectares from their house; the four (4) policemen, Galapon, Subia, Adan and Rabara, were on board the police car with them when they brought Joel to the hospital; Rabara was the one who took her statement on 17 June 2009; she met accused Cariaga on May 27 at 9:00 in the morning at the house of Nida, the former's sister; she went there to confront Nida because the latter was saying that she (Montilla) was spreading rumors that Joel was hiding at Cauayan; she asked Nida as to why there were rumors when in fact, Joel was already in a critical condition; she asked accused Cariaga why he pushed Joel; accused Cariaga was "repentful (magsisi)", but it was already done as he was not able to control his temper; their confrontation happened prior to the date when they went to Joel's wake;^[22] she is close to the accused and his family; it was her first time to see accused Cariaga on 27 May 2009, and she recognized him; she talked to accused in Ilocano dialect and the latter answered using the same dialect; she uttered to accused Cariaga, "Why did you not just box him? Why did you struck (sic) him?"; and she is testifying without being partial.^[23]

Witness Suanson testified, *inter alia*, that: Joel's wife was his cousin; the police asked him questions regarding the death of Joel, but he does not know how to read and he can barely write his name; the signature on the sworn statement is not his; when he went out of the house of Nida, he saw Joel along the road, lying face down; his house is far from the house of Nida; Joel dropped by his house alone at around 6:00 in the afternoon, riding a motorcycle; Joel told him that the two (2) of them would go to the house of Nida in Villaluz; when they arrived at Nida's house, accused Cariaga was at the kitchen, which is annexed to the house; Joel and accused Cariaga had a conversation at the kitchen; while the two were talking, they were inside the house of Nida, watching television; the kitchen was about six (6) to seven (7) meters away from where he was watching television with Willie, Nida and the latter's husband; Willie is the brother of Nida, who was with him and Joel when they went to Nida's house; while they were watching television, Joel went out and he heard the latter start the engine of the motorcycle, and told him (Suanson) that

they were going home; however, Joel dropped to the ground together with the motorcycle; he went out with Willie and they saw Joel lying face down, bloodied and the motorcycle was already on the ground; he saw accused Cariaga holding a piece of wood; when the latter was about to strike Joel, he covered Joel with his body; he helped Joel to stand and the latter ran away towards the east; blood came out of Joel's head; when he saw accused Cariaga holding a wooden club, he was 2 1/2 meters away; the engine of the motorcycle was turned off already; the wooden club was about a meter long; he covered Joel with his body that was why accused Cariaga did not continue to strike the latter as he would be the one to be hit; Joel ran towards the east, giving him a hand signal that he was going home; he and Willie then went home; the motorcycle of Joel was left at the house of Nida; he no longer saw Joel after that; and accused Cariaga is his cousin.^[24]

Witness SPO2 Galapon testified, *inter alia*, that: on 25 May 2009 at around 7:00 to 8:00 in the evening, they received a report about a mauling incident that transpired at the house of Nida at Villaluz, Delfin Albano, Isabela; Villaluz is more or less three (3) kilometers away from the police station; upon receiving the report, four (4) of them responded by immediately proceeding to the house of Nida using the police car; when they arrived at Nida's house, they were informed that Joel was injured; they immediately proceeded to the house of Montilla; he could no longer remember who informed them that Joel was hurt; they saw Joel bloodied outside the house of Montilla, thus, they immediately brought him to the Rural Health Hospital, which is more or less three (3) kilometers away from the house of Montilla; after they brought him to the hospital, they immediately went back to the house of Nida to gather information, but there were no other persons there; they looked for accused Cariaga because according to their informant, he was the one who injured Joel; even before proceeding to the place of Nida, they already have information that it was accused Cariaga who inflicted the injuries of Joel; they were not successful in locating accused Cariaga, thus, they went back to the police station;^[25] and they received the confidential information through a phone call.^[26]

SPO2 Rabara testified, *inter alia*, that: he reported for duty on 17 June 2009 at the police station of Delfin Albano; he was the duty investigator at that time; he conducted an investigation with regard to the death of Joel and took the statement of Montilla at their office; the latter came to their office to give her statement about what she knew regarding the mauling incident; Montilla was summoned by their Chief of Police; Montilla gave her statement before him, which he reduced into writing; he identified Montilla's written statement in court; Montilla signed the same in his presence and he was the one who propounded the questions to Montilla;^[27] he came to know Montilla when she went to their office; and the only thing that he did was to take the testimony of Montilla.^[28]

PO2 Bilgera testified, *inter alia*, that: on 22 September 2009, he reported for duty and was directed to take the statement of Suanson; he took the statement of Suanson and reduced the same into writing; he identified the sworn statement and the signature of Suanson because he was present when the latter affixed the same; he propounded the questions to Suanson; SPO4 Bernardino Subia ("SPO4 Subia," for brevity), their Deputy Chief of Police at that time, was the one who directed him to take the statement of Suanson, and the former was also present when Suanson affixed his signature on the written statement.^[29]