

FIFTH DIVISION

[CA-G.R. CR-H.C. NO. 06231, November 21, 2014]

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
DANIEL COLIS Y MINGUELA, ACCUSED-APPELLANT.**

DECISION

BARZA, J.:

Accused-appellant Daniel Colis y Minguela seeks the reversal of the Decision^[1] dated June 19, 2012, of the Regional Trial Court, Branch 40, stationed in Calapan, Oriental Mindoro, in Criminal Case No. C-03-7300, finding him guilty beyond reasonable doubt of Murder and sentencing him to suffer the penalty of *reclusion perpetua*.

The *Information*^[2] reads:

"That on or about the 7th day of April 2003, at around 8:00 o'clock in the evening, at Barangay Biga, City of Calapan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with a decided purpose to kill and while armed with a fan knife (balisong) did then and there willfully and unlawfully stab one EVANGELINE RAYRAY-DRIS, who was then unaware, unarmed and defenseless, inflicting upon the latter wounds on the different parts of her body which wounds were necessarily mortal thereby causing the instantaneous and untimely demise of the said EVANGELINE RAYRAY-DRIS.

That in the commission of the aforesaid offense, the qualifying circumstance of treachery and evident premeditation are attendant.

CONTRARY TO LAW."

Accused-appellant was arraigned on July 2, 2003 and with the assistance of counsel *de officio*, entered a plea of not guilty.^[3]

During pre-trial, accused-appellant manifested that his defense is purely denial. The Government Prosecutor, on the other hand, manifested that he has nothing to stipulate and the markings of the exhibits will be made during trial on the merits. Pre-trial was then terminated.

The prosecution presented as its first witness, Yolanda G. Franco, who testified that the victim, Evangeline Ray-Ray-Dris is her agent-collector at Kelly Ellis. The victim and the accused-appellant were renting one of the rooms in the witness' house as

they were live-in partners. Witness narrated that at around 8 o'clock in the evening of April 7, 2003, she was with her two daughters inside her house in Sitio Bagong Pook, Barangay Biga, Calapan City, when the victim arrived on board a motorcycle. The victim just entered her house when she noticed accused-appellant walking towards the direction of her house holding an open fan knife (*balisong*). Witness immediately told the victim "*Nandiyan si Daniel. Bukas ang balisong,*" after which, the victim ran towards the witness' room. Once inside her house, accused-appellant proceeded to the room where the victim was and stabbed the latter several times. She is not certain the number of times that the victim was stabbed but she saw that accused-appellant stabbed the victim in the nape while the latter was in a stooping position. At that time, the victim was holding a plastic drawer dura box cover which she used to protect herself to parry the stabbing blows by accused-appellant. When witness saw the victim fell down, she ran outside the house because of fear. While witness was proceeding towards the house of her sister, Nery Beredo which was about 30 meters away from her house, accused-appellant followed her and was holding a *bolo*. Upon reaching the house of her sister, the latter closed the gate and accused-appellant tried to enter the gate but her neighbors, Gilbert Erodias, Supremo Caranzo, Noel Gutierrez, Romeo Gutierrez and Dondon Cruzat and their respective wives got angry, blocked the way of the accused-appellant and drove him away. The police was called and witness only went back to her house when PO3 Paquito Villanueva and SPO1 Arnel Espiritu arrived. The barangay chairman and several barangay tanods also arrived at the scene of the crime. They found the victim already dead and lying face down bathing in her own blood at the very place she fell down. The police officers took pictures of the victim and her cadaver was taken by the funeral parlor.

On cross-examination, witness testified that when she warned the victim about the presence of the accused inside her house, the victim tried to get the drawer of a dura box in order to defend herself but it was unfortunate that the latter was killed. On re-direct, witness testified that when the victim and the accused-appellant were still living together, the victim used to tell her that the accused-appellant was jealous and he did not allow her to ride the motorcycle which was usually used by the witness' collector.^[4]

Also testifying for the prosecution is Leonida Rayray, the mother of the victim, who testified that she came to know about the incident because a police officer went to the house of her son. She went to the funeral parlor but was not able to see the cadaver of her daughter so she proceeded to Calero, Calapan City, where she saw the accused-appellant. She immediately informed the police officers and he was soon arrested and detained in the early morning of April 8, 2003. Witness testified that accused-appellant and her daughter have been living together for about three years prior to the incident and it was her daughter who was earning for the family. According to witness, accused-appellant killed her daughter because of jealousy as accused-appellant was unemployed while her daughter was the one earning.

The last witness for the prosecution is Dr. Ronald Jeffrey Gines, Rural Health Physician of Calapan City Health and Sanitation Department, Calapan City, who testified that upon written request of SPO1 Eric Espiritu of the Calapan City Police Station, he conducted an autopsy examination of the cadaver of the victim Evangeline Rayray-Dris at around 10:00 o'clock in the morning of April 8, 2003, and prepared a Necropsy Report in relation to his examination as well as a Certificate of Death. Said witness confirmed that the victim sustained the following injuries: (1)

3.5 cm. stab wound on the left armpit which could have been caused by a sharp-pointed instrument like a fan knife or *balisong*; said wound is fatal considering that it was a through and through injury on the chest cavity and probably caused the death of the victim; the assailant could have been positioned in front of the victim and the accused was holding the weapon by his right hand and delivered a thrust towards the left side of the victim; it is also possible that the assailant was positioned on the left side of the victim at the time said injury was inflicted; (2) 4 cm. stab wound on the nape which was possibly inflicted while the assailant was behind the victim; said injury is also considered fatal because of the damaged vessels which caused severe hemorrhage; (3) 4 cm. stab wound on the left upper arm which could be hemorrhagic; (4) 3 cm. stab wound on the left side or back portion of the armpit which is considered fatal because of its proximity to the heart and lungs; the assailant was possibly in front of or behind the victim at the time said injury was inflicted; and, (5) 10 cm. incised wound on the upper front portion of the left thigh which was probably caused by a sharp-edged and bladed instrument like a *bolo* or fan knife that could also produce massive hemorrhage; if said wound produced massive hemorrhage, it is possible that it contributed to the death of the victim; the victim died of Cardio Respiratory Arrest Secondary To Hypovolemic Shock Secondary to Multiple Stab Wounds.

For the defense, it presented Victor Pallaria and accused-appellant, as witnesses.

Victor Pallaria testified that accused-appellant is his neighbor and he knows the victim as the wife of accused-appellant. When asked why he testified, witness answered that he does not know anything about the case but he testified in favor of accused-appellant out of pity.^[5]

When accused-appellant took the witness stand, he denied the charge against him and testified that in the morning of April 7, 2003, he arrived in the house of prosecution witness Yolanda Franco, where he and the victim were renting a room. He was supposed to remit the money to the victim which was his week's work of harvesting and gathering citrus fruits in Barangay Aurora IV, Naujan, Oriental Mindoro, but the victim was not there as she was collecting payments in Victoria, Oriental Mindoro. He went back to the house of Yolanda Franco at around 8:00 o'clock in the evening of the same date and proceeded to the room where he and the victim were renting. When he entered the room, he saw the victim and Romeo Gutierrez, the brother of witness Yolanda Franco, kissing each other, totally naked on the bed. The victim was a collector of Kelly Ellis while Romeo Gutierrez was the driver of the said establishment. Accused-appellant got angry and proceeded to the kitchen of the house and got hold of a knife. Thereafter, he went back to the room where he found the victim and Romeo Gutierrez but the latter was already going out of the room. He ran after Romeo Gutierrez but was not able to catch up with him so he went back to the room and found the victim already putting on her dress. He admitted having stabbed the victim but he could not recall how many times he stabbed her. He proceeded to the house of Ramil, his acquaintance in Barangay Biga, Calapan City, in order to borrow a motorcycle but was not able to borrow it. Instead, Ramil brought him to the house of accused-appellant's parents in Barangay Aurora, Naujan, Oriental Mindoro. Once in the house of his parents, accused-appellant told his parents "*Nadisgrasya ko si Evangeline.*" Accused-appellant was brought to the house of barangay councilman Journey Rupido, who advised him to hide, so he proceeded to the house of his godfather Fernando Mendoza in Barangay Canubing, Calapan City. His godfather gave him money to go somewhere else. While