

SIXTEENTH DIVISION

[CA-G.R. CR. NO. 27827, August 18, 2006]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JERRY
DELA CRUZ, ACCUSED-APPELLANT.**

D E C I S I O N

LAMPAS PERALTA, J.:

The present appeal seeks a reversal of the Decision dated August 21, 2003 in Criminal Case No. 00-38 of Branch 68, Regional Trial Court, Camiling, Tarlac, finding accused-appellant Jerry dela Cruz guilty beyond reasonable doubt of homicide.

THE ANTECEDENTS

On February 3, 2000, around 7:00 P.M., Rosita Tadal was inside her house in Barangay San Francisco, Sta. Ignacia, Tarlac when she heard her husband Pepito Tadal cry for help. She then saw Pepito Tadal who was sprawled on the ground outside the house and bathing in his own blood. Pepito Tadal told her that he was stabbed. His son-in-law Carlos Soriano came to help in bringing him to the hospital. On their way to the hospital, Carlos Soriano asked Pepito Tadal twice who his assailant was, to which he answered "Jerry". Upon reaching the hospital, Rosita Tadal also asked Pepito Tadal the identity of his assailant, to which he replied "Jerry dela Cruz". Pepito Tadal died on the following day due to massive loss of blood caused by eight (8) stab wounds.

The prosecution's version of the incident, as synthesized in the People's brief, is as follows:

"In the evening of February 3, 2000, around 7:30 o'clock in the evening, while inside their house in Brgy. San Francisco, Sta. Ignacia, Tarlac watching television, Rosita Tadal heard her husband outside the house crying for help. Checking on his plight, Rosita looked for a flashlight to no avail. She used a kerosene lamp instead (TSN, July 24, 2001, pp. 5-6).

Once outside their house, Rosita saw her husband sprawled on the ground bathed in his own blood while uttering "Help, I was stabbed, bring me to the hospital" (TSN, July 24, 2001, p. 6).

Unable to carry her wounded husband, Rosita shouted for help prompting Carlos Soriano, her son-in-law, to come to her aid. They immediately brought the victim to the hospital. While on their way, the victim repeatedly said: 'Help me my son.' Carlos asked his father-in-law who his assailant was: 'Sino ti nagkasta' and the latter responded several times, saying 'Jerry' (TSN, July 24, 2001, p. 7; TSN, September 3, 2001, pp. 6-8, 10).

Rosita and Carlo first brought Pepito Tadal to the Camiling District Hospital. However, due to lack of necessary medical equipment, Rosita was advised to bring the victim to the Tarlac Provincial Hospital (TSN, July 24, 2001, pp. 7-8; TSN, September 3, 2001, pp. 14-15).

While in the hospital, Rosita asked Pepito Tadal for the identity of his assailant. The victim, while gasping for breath, replied: 'isuda Jerry dela Cruz idiay talaytayan' (it was Jerry dela Cruz in the bamboo bridge). Conscious of his impending death, the victim declared 'diak sa makalasaten, matay akon' (I may not survive, I'm dying) (TSN July 24, 2001, pp. 8-10; TSN, September 3, 2001, pp. 11-13).

As the victim had difficulty breathing, was pale and in severe pain, Dr. Eliseo Bungay instituted first aid measures by giving him IV fluid and prepared him for surgery. The victim was operated on the following day around 1:00 o'clock in the early morning. While undergoing treatment, the victim expired due to massive blood loss due to numerous internal injuries caused by eight (8) stab wounds (TSN, April 16, 2002, pp. 5-9; Records, p. 8; TSN, September 3, 2001, p. 15).

On February 4, 2000, Rosita reported the incident to the police station of Sta. Ignacia, Tarlac (Records, p. 7).^[1]

Thus, an information^[2] was filed charging accused-appellant and two John Does with homicide, to wit:

"That on or about February 3, 2000, at around 7:30 o'clock in the evening in Barangay San Francisco, Municipality of Sta. Ignacia, Province of Tarlac, Philippines and within the jurisdiction of this Honorable Court, the said accused, conspiring, confederating and helping with one another, did then and there willfully, unlawfully and feloniously attack, assault and stab Pepito Tadal, inflicting upon him multiple stab wounds thereby injuring his liver, kidney and pancreas and other vital organs which caused his immediate death.

Contrary to law."

After accused-appellant entered a plea of "not guilty"^[3], trial ensued. Thereafter, the trial court rendered a Decision dated August 21, 2003, the dispositive portion of which reads:

"WHEREFORE, in view of the foregoing, this Court hereby finds accused Jerry dela Cruz GUILTY beyond reasonable doubt felony of HOMICIDE under Article 249 of the Revised Penal Code (RPC) and is hereby sentenced to suffer imprisonment for the indeterminate period of eight (8) years and one (1) day of prision mayor, as minimum, to fourteen (14) years, eight (8) months and one (1) day of reclusion temporal, as maximum, and to pay the heirs of Pepito Tadal the sum of P50,000.00 as moral damages; another sum of P50,000.00 as civil indemnity ex delicto; and P50,000.00 as reasonable attorney's fees.

As to the case against the two (2) 'John Does', the same is hereby

ARCHIVED pending their arrest and investigation.

Camiling, Tarlac, 21 August 2003.

SO ORDERED.”^[4]

Accused-appellant filed this appeal which is founded on the following assignment of errors:

I.

“THE TRIAL COURT GRAVELY ERRED IN GIVING FULL FAITH AND CREDENCE TO THE TESTIMONY OF PROSECUTION WITNESSES AS REGARDS THE ANTE MORTEM DECLARATION OF PEPITO TADAL.

II.

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT OF THE CRIME CHARGED DESPITE THE FACT THAT HIS GUILT WAS NOT PROVEN BEYOND REASONABLE DOUBT.”^[5]

THE ISSUE

Whether the trial court erred in giving weight and credence to the dying declaration of Pepito Tadal.

THE COURT’S RULING

In convicting accused-appellant, the trial court gave weight and credence to the dying declaration of Pepito Tadal through the testimonies of his surviving spouse, Rosita Tadal and his son-in-law, Carlos Soriano.

However, accused-appellant argues that Pepito Tadal merely uttered in his dying declaration the name “Jerry” and not “Jerry dela Cruz”. Allegedly, both the Ilocano phrases “idiay talaytayen” (“at the bamboo bridge”) and “ballasiw iti karayan” (“at the other side of the river”) did not specifically describe and identify accused-appellant as the assailant.^[6]

It is doctrinal that a dying declaration or an ante-mortem statement, is evidence of the highest order, for “when a person is at the point of death, every motive of falsehood is silenced. The mind is induced by the strongest of reasons to speak the truth -- the declarant’s impending meeting with his Creator.”^[7]

In order that a dying declaration may be admitted in evidence, the following requisites must be complied with:

“Under Rule 130, Section 37 of the Rules of Court, the declaration of a dying person with the consciousness of impending death may be received in any case wherein his death is the subject of inquiry, as evidence of the cause and the surrounding circumstances of such death. There are four requisites which must concur in order that a dying declaration may be admissible: (1) it must concern the crime and surrounding circumstances

of the declarant's death; (2) at the time it was made, the declarant was under the consciousness of an impending death; (3) the declarant was competent as a witness; and (4) the declaration is offered in any criminal case for homicide, murder or parricide in which the declarant was the victim.”^[8]

All the requisites of a dying declaration are present in this case. The dying declaration of Pepito Tadal concerned the stabbing and the circumstances surrounding his death. Pepito Tadal uttered accused-appellant's name when he was asked by Carlos Soriano and Rosita Tadal as to who his assailant was. Pepito Tadal also referred to the location of accused-appellant's house in his dying declaration. Pepito Tadal was then very much aware of his impending death as he uttered “diak sa makalasaten, matay akon” (“I may not survive, I’m dying”). There is also no question as to the competence of Pepito Tadal as a witness. Moreover, his dying declaration was offered as evidence in a criminal case for homicide in which he was the victim.

The following testimony of Rosita Tadal positively established Pepito Tadal's dying declaration:

“Q. What have you talked about while you're at the ICU?

A. I was asking, who did it to him, what is his name, and he told me, Sir.

Q What your husband told you?

A. He told me that ‘isuda Jerry dela Cruz’ meaning they were Jerry dela Cruz, sir.

Q. Who is this Jerry dela Cruz?

A. He is my neighbor, Sir, he is residing at the other side of the river.

Q. Will you relate the exact word which to identify the assailant?

A. I asked him, where did you go, he answered me, ‘idiay ballasiw iti karayan’; (who did it or who stabbed you? He answered ‘isuda Jerry dela Cruz idiay talaytayan’, but at that time, he could hardly talked (sic), Sir.

Q. How long have you been a resident of San Francisco?

A. I was born in that place, Sir or since birth, sir.

COURT:

Q. How do you know Jerry dela Cruz?

A. He is the only Jerry in our place, Sir.

Q. Who is this Jerry?

A. Jerry dela Cruz, sir, who is residing at the “balasiw iti karayan’, sir.