

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. PEDRO BAUTISTA, ET. AL., DEFENDANTS AND APPELLANTS.*G. R. No. L-17772. October 31, 1962*

Ponente: BAUTISTA ANGELO, J.

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Pedro Bautista alias Pedro Agno, Felipe, Alberto and Roman, all surnamed Bautista, and Mariano Baticos alias Marianito, were charged with murder for having conspired to kill one Crisanto Ponyo before the Court of First Instance of Batangas. All pleaded not guilty. However, at the inception of the trial, the defense reserved the right of Pedro Bautista to enter a plea of guilty in the event that the trial court shall find that the crime committed is only homicide in which event said accused should be given the benefit of the mitigating circumstances of incomplete self-defense, plea of guilty, and voluntary surrender. But, after trial on the merits, the trial court found all of the accused guilty of murder qualified by abuse of superior strength, with the mitigating circumstance of voluntary surrender with regard to Pedro Bautista, and without any modifying circumstance as to the rest.

Accordingly, Pedro Bautista was sentenced to suffer an indeterminate penalty running from 10 years and 1 day of prison mayor, as minimum, to 17 years 4 months and 1 day of reclusion temporal, as maximum, with the accessory penalties prescribed by law and to pay 1/5 of the costs, The other accused were sentenced each to suffer the penalty of reclusion perpetua, With the accessory penalties prescribed by law, and to pay 1/5 of the costs. The trial court ordered the five accused to indemnify, jointly and severally, the heirs of the deceased in the amount of P6,000.00, without subsidiary imprisonment in case of insolvency on account of the nature of the principal penalty imposed, while Pedro Bautista was credited with 1/2 of the preventive imprisonment he had undergone.

The five accused have appealed from the decision.

On the moonlit night of March 4, 1960, Juanito Hernandez was about to retire to his house at barrio Balagtas, Batangas, Batangas, when he heard his cousin Crisanto Ponyo, with whose voice he was familiar, utter the following: "Hinihiling kong huwag kayong lumapit." Attracted by the voice, Hernandez went down running to the place about 20 meters away whence the shout came from, and hiding himself behind a guava tree he saw and recognized, by the bright moonlight, at a distance of about 3 brazas, Felipe Bautista and his sons, Alberto, Pedro and Roman, as well as his son-in-law, Mariano Baticos, armed with balisong knives and an iron bar, surrounding Crisanto, even as the latter earnestly begged them not to come near him. Disregarding the supplication of Crisanto, who was also armed with a balisong knife, Felipe struck Crisanto on the face with the iron bar, and almost simultaneously Alberto, Pedro, Roman and Mariano ganged up on Crisanto and stabbed him with the bladed weapons they were carrying causing the latter to fall dead to the ground. Thereafter, the five assailants scampered away.

Forthwith, Hernandez informed Crisanto's wife and his parents-in-law of the incident, who even accompanied them to the scene of the crime, where later some policemen arrived and interrogated him. Hernandez was taken to the police headquarters that same night where Sgt Balmes took his statement in the presence of Sgt. Austria, both

of the local police force. In his statement, Hernandez named the five accused as the persons who assaulted and caused the death of the deceased.

That same night, about 11:00 o'clock, Dr. Agapito Dimaandal, Municipal Health Officer of Batangas, performed a post-mortem examination on the (dead) body of Crisanto Ponyo and found the following injuries:

- "1. Contusion, about a pesita in size on the right cheek;
2. Abrasion on the upper lips and left side of the nose;
3. Laceration on the middle dorsal aspect of the right forearm;
4. Stab-wound—3 cm. x 1 cm. at the root of the back of the neck;
5. Stab-wound on the right breast one inch above the nipple, 3.5 cm. x 1 cm. penetrating into the lung substance beneath;
6. Hacking wound at the level of the umbilicus, 6 cm. x 2 cm. with the intestine coming out;
7. Stab-wound triangular in form 3 cm. x 1 cm. at the right lumbar region;
8. Stab-wound 5 cm. x 1.5 cm. at the inferior angle of the right scapular;
9. Two puncture wounds 4 mm. in width on the left lumbar region."

According to Dr. Dimaandal, injuries Nos. 1, 2 and 3 were caused by a blunt instrument, while injuries Nos. 4, 5, 6, 8 and 9 were caused by a sharp-pointed instrument, like a knife, and injury No. 7 by a three-edged sharp instrument. In his opinion, injuries Nos. 5, 6, 7 and 8 are mortal in nature and caused the instantaneous death of the victim.

On March 7, 1960, or three days after the incident, Alfonso Corlit, who also witnessed the occurrence, likewise executed a written sworn statement naming the five accused as the assailants.

Here, as well as before the trial court, appellant Pedro Bautista insists that he alone inflicted the wounds that caused the death of the deceased. He, however, tried to prove that he merely acted in self-defense. The other four appellants merely offered alibi as their defense.

Briefly, the version of Pedro Bautista is as follows: At about 8:00 o'clock in the evening of March 4, 1960, while he was on his way to visit Flaviana Hernandez, whom he was courting, he met on the road Crisanto Ponyo who is not in favor of his overture to Flaviana, a first cousin of Crisanto's wife, and who harbored some ill-feeling against him, because his brother, Alberto, had separated from his wife, Gregoria Corlit, who is also a first cousin of Crisanto's wife. Upon their meeting, Crisanto shouted: "Labas ang baraco", meaning come out bully, but because he wanted to avoid trouble he went to one side of the road, but nevertheless, Crisanto called him just the same saying that he had something to tell him. When he came near Crisanto all of a sudden the latter grabbed his shirt with his right hand while with his left hand held an open balisong knife, saying, "I am going to take your life now." At this juncture, Crispin Ginhawa and Emiliano Aguda, who happened to be nearby, requested Crisanto to desist from his threat, but he did not mind them and even told the two to go away lest something might befall them. So the two left and went home. Immediately thereafter, Crisanto stabbed him and he parried the blow and they grappled for the possession of the knife until both fell on the cement pavement of the road as a result of which the knife struck Crisanto's stomach. Taking advantage of this opportunity, he wrested the knife from Crisanto but as the latter continued trying to retrieve the weapon, he continued stabbing Crisanto almost seven times, after which he left and surrendered to the authorities.

As it would be noted, the version given by the defense of Pedro Bautista is one from which one may infer that in killing the victim he acted in self-defense. Indeed, in assuming full responsibility for the killing his motivation cannot be other than his desire to clear from the charge his co-accused who are his father, brothers and brother-in-law. While this desire is plausible and understandable, it cannot however be given substance, considering the weight of the evidence that was unfolded by the prosecution and which was found worthy of credence by the court a quo. In this respect, to prove self-defense, it behooves the defense to come forward with clear and sufficient evidence to prove (1) that the accused is not the unlawful aggressor; (2) that there was lack of sufficient provocation on his part; and (3) that he employed reasonable means to prevent or repeal the aggression. Here, the defense failed to prove these circumstances, as may be gleaned from the following observation of the trial court:

"In the first place, it cannot outweigh, much less destroy, the vivid recital of the occurrence made by the People's eyewitnesses, Juanito Hernandez and Alfonso Corlit, whose straight forward account thereof is sincere in its spontaneity and convincing in its directness and minuteness. It must be recalled that both of them have unfolded their knowledge of the incident in their respective sworn statements, Exhs. 'A' and '2', Hernandez, a few hours after the killing, and Corlit, a few days thereafter. It is also worthy to note that the scene of the carnage was only about twenty (20) meters from the house of Hernandez, so that, he could have really heard Ponyo's utterance and be drawn to the place of the commotion. As a matter of fact, when counsel for the defense cross-examined Hernandez in detail as to the relative positions of the defendants and the victim at the scene of the occurrence, he, Hernandez, unhesitatingly indicated their relative positions as now shown in the sketch, Exh. '1' Were he not really a witness to the incident, he would vacillate, waver and finally say he cannot remember the particular spot each of the parties was then. He would simply generalize, like what Pedro Agno did in his affidavit, Exh. 'B', by stating that the defendants just surrounded the deceased. That Corlit has also witnessed the bloody incident is likewise persuasive, since he was at the time going to fetch water from the artesian well near which the killing took place.

"The fact that Hernandez and Corlit are the first cousins of Ponyo's wife does not necessarily make them untrustworthy witnesses, especially considering that Hernandez is, after all, also related to the defendants, Felipe Bautista being the step-brother of his grandmother, and consequently Felipe's sons, Pedro, Alberto and Roman are his, Hernandez', uncles.

"Again, the fact that defendant Alberto Bautista has been estranged from his wife, Gregoria Corlit, sister of Alfonso Corlit, is not a sufficient cause for the latter to falsely implicate the entire male members of the Bautista family with so serious an offense, a capital crime at that, as the one at bar, taking into account that Alberto and Gregoria have been living separately anyway for about ten (10) years already before the incident. Besides, it is improbable that Mariano Baticos, who is related to the other defendants merely by affinity would have been involved in the killing, were not the People's eyewitnesses actuated by truth and clear conscience.

"In the second place, the number, nature, and location of the injuries sustained by the deceased, which are enumerated and described in the post-mortem report, Exh. 'D', quoted above, of Dr. Dimaandal, municipal health officer of Batangas, not only belie the theory of self-defense, for they were obviously inflicted for offense, rather than for defense purposes, but also confirm eloquently the People's theory that the five defendants herein set upon and ganged up against the deceased with their weapons.

"It may not be amiss to state further that it could not be possible for all said ten (10) injuries of the deceased to have been inflicted by one and the same knife, Exh. 'C', as the defense would like this Court to believe. Indeed, according to Dr. Dimaandal, injuries Nos. 1, 2 and 3 were caused by blunt instrument, while injuries Nos. 4, 5, 6, 8 and 9 were caused by a sharp pointed instrument like a knife, and injury No. 7 was caused by a three-edged

sharp instrument. In other words, at least three different kinds of weapon were employed in the infliction of the aforesaid injuries. This, again bear out conclusively the testimonies of Hernandez and Corlit, that defendants used at least two kinds of weapon in assaulting the deceased, to wit, an iron bar and balisong knives, except that they must have just been honestly mistaken that the three-edged sharp instrument used by one of the defendants was also a balisong knife.

"In the third place, defendant Pedro Bautista's plea of self-defense does not have the ring of truth and sincerity, the same being opposed to the physical facts, as already pointed out above. Besides, he is naturally a biased witness, whose interest in his acquittal and that of his father and brothers, cannot be over-estimated, so that, his testimony must be regarded with extreme caution, if not with suspicion of distortion. As adverted to above, the Court cannot help but feel that Pedro Bautista alias Pedro Agno simply tried to play the role of a hero to his co-defendants by assuming sole authorship of Ponyo's untimely demise, by setting up the plea of justifiable homicide, thereby hoping 'to kill two birds with one shot'. This Court, however, cannot be so misled in the face of the positive and conclusive evidence of the prosecution to the contrary."

We cannot but agree to the foregoing observation considering the flaws we find in the story related by Pedro Bautista in connection with some facts and circumstances that appear undisputed in the record. Among these, the most important and decisive is the statement of Dr. Dimaandal, who performed the autopsy on the body of the victim, that some of the wounds he found were caused by a blunt instrument, others were caused by a sharp instrument, like a knife, and injury No. 7 was caused by a sharp three-edged instrument. This statement belies the very substance on which the theory of self-defense is predicated that when Pedro Bautista met the deceased on the eventful night he was not armed and when the deceased stabbed him with a balisong knife they grappled for its possession and he was able to wrest the knife with which he stabbed the deceased seven times leaving him dead flat on the ground. This narration is in clear contrast to the finding of Dr. Dimaandal that the wounds of the victim were inflicted by at least three instruments which could not have certainly been produced by the only balisong knife referred to by Pedro Bautista. This circumstance furnishes the best corroboration to the theory of the prosecution that the victim was assaulted and attacked by the five appellants who at the time were armed with an iron bar and several balisong knives.

It is contended that the testimony of the two eyewitnesses of the prosecution, namely, Juanito Hernandez and Alfonso Corlit, should not have been given credence for the simple reason that, according to the witnesses for the defense, Crispin Ginhawa and Emiliano Aguda, they were not present at the scene of the crime and so they could not have witnessed the occurrence, aside from the fact that they are first cousins of the wife of the victim. In the first place, mere relationship of the witness to a party in the controversy does not as a rule disqualify him if he is otherwise trustworthy, otherwise many crimes would remain unsolved. If Hernandez and Corlit were not seen by the defense witnesses at the scene of the crime it does not necessarily imply that they were not present, for they might have been hiding somewhere. And in this case this is true with regard to witness Hernandez who, according to the evidence, saw the aggression while hiding behind a guava tree. The same thing may be said of Corlit who must have been hiding somewhere else.

Anyway, little credence can be given to the testimony of Ginhawa and Aguda whose presence at the scene of the crime is also of doubtful admissibility considering that in the sworn statement made by Pedro Bautista he made mention only of one Vicente Culla as the person who witnessed the incident. No mention was made of Ginhawa and Aguda. The eleventh hour appearance of these two witnesses may be explained by the fact that Vicente Culla was not available and so he was not presented as a witness.

Another important flaw we find is that, according to the story of Pedro Bautista, after grabbing the knife from his alleged aggressor, the herein victim, he still continued delivering stab blows upon him totalling in all seven times.

This, indeed, is incompatible, with the plea of self-defense. It is a clear manifestation of a desire to liquidate him.

Regarding the other appellants' defense, their evidence merely consisted in denying their presence at the scene of the crime on the plea that they were in their respective homes. This defense can hardly be sustained considering the evidence pointing unremittingly to their presence and to their individual participation. Being a defense easy to concoct, it must be established by a clear and convincing evidence and not merely supported by witnesses who bear close ties of relationship to the accused. Alibi, besides, cannot deserve credence if it is not shown that the accused was so far away from the scene of the crime that it would have been physically impossible for him to be present and commit the crime. Here, these circumstances are wanting, and as such reject the theory of alibi.

On February 23, 1962, the case against Roman Bautista was dismissed because he died during the pendency of this appeal. This decision should, therefore, be considered as relating merely to the other four accused.

Wherefore, with the modification above indicated as regards appellant Roman Bautista, the decision appealed from is affirmed, with costs against the other appellants.

Bengzon, C. J., Padilla, Labrador, Concepcion, Barrera, Paredes, Dizon, Regala and Makalintal, JJ., concur.

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