

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. CLARO BERNAL, MANUEL BERNAL AND RAMON BERNAL, ACCUSED-APPELLANTS.

G.R. No. 101332. March 13, 1996

Ponente: VITUG, J.

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VITUG, J.:

Brothers Claro Bernal, Manuel Bernal and Ramon Bernal were charged before the Regional Trial Court of Tabaco, Albay, Branch 17,[1] with the murder of Vicente Barrameda (Criminal Case No. T-1863) in an information that read:

"That on or about the 27th day of November, 1988 at more or less 3:00 o'clock in the afternoon at Pigcobohan, Municipality of Bacacay, Province of Albay, Philippines and within the jurisdiction of this Honorable Court, the above named accused, conspiring, confederating and mutually helping one another, with intent to kill, with treachery, taking advantage of superior strength, with evident premeditation, did then and there, wilfully, unlawfully, feloniously, assault, attack and hack one VICENTE BARRAMEDA with bolos and a bamboo spear thereby inflicting upon the latter multiple mortal wounds which caused his death, to the damage and prejudice of the offended party.

"ACTS CONTRARY TO LAW."[2]

At their arraignment, the accused pleaded not guilty to the charge.

The evidence for the prosecution sought to establish the following version of the incident:

In the afternoon of 27 November 1988, in Pigcobohan, Bacacay, Albay, Luisa Barrameda and her 42-year-old husband, Vicente Barrameda, together with their daughter, Hayde Barrameda, were at the store of one Nora Ballatan. Vicente Barrameda was seated on a wooden bench near the door of the store. Also present were Marivic Ballatan, Salvador Barcelona and Celso Benosa.

At about three o'clock, the Bernal brothers, the accused Claro, Manuel and Ramon, arrived. Claro remarked, "Ano fight?"[3] Instantly, Claro started hitting Vicente on the head with a "jungle bolo." Using a wooden stool, Vicente tried to parry the thrusts until he fell to the ground. He attempted to crawl out from the store but his way was blocked by Ramon and Manuel.[4] Ramon struck Vicente with a pointed bamboo stick on the chest while Manuel delivered bolo blows.

Luisa screamed, shouted and begged for mercy from the assailants.[5] She embraced her husband, who was by then in a half-kneeling position with his left leg on the floor, his buttocks resting thereon and his right leg spread out to the right, and she picked up his now severed left hand.[6] Just as she did, Claro gave another hacking blow which hit Luisa's right hand. At about this time, her son Alfredo arrived, but the three assailants turned on him. Fortunately, Alfredo was able to escape and hide from the trio. Claro wiped the blood from his bolo, smeared it on his face and shouted that he was going to "kill (them) all." [7]

Luisa sought the help of Celso Benosa, Raymundo Balaguer and Carmelo Barrameda to have her badly wounded husband brought to the hospital. Barangay Captain Apeles Barbacena, who was standing on an elevated portion of the land, berated Balaguer, the barangay secretary, for extending help to the victim.[8] Luisa expressed the belief that Barangay Captain Barbacena, a cousin of the accused, "masterminded" the killing of her husband. Barbacena was said to be a person against whom her husband Vicente had a grudge because of a land mortgage dispute Barbacena had with Vicente's parents. It appeared that on 14 March 1988, a certain Junior Baroso went to warn Vicente to take extra precaution because Barbacena had threatened to get him (Vicente) killed. Vicente thus inscribed on his calendar:[9] "Report ni Jr. Baroso na aco plano ipapatay kan barangay captain Apeles Barbacena." The following day, Luisa herself went to see Barbacena to talk him out of it.[10]

The deceased victim left behind Luisa and their five children. The family incurred the amount of P4,000.00 for funeral expenses. It was Luisa's brother-in-law who contracted the services of a private prosecutor.[11]

Sexagenarian Salvador Barcelona, an eyewitness, corroborated Luisa's narration and so pointed to the three Bernal brothers as the perpetrators of the crime. He declared that Claro first struck the victim on the head, followed by Ramon who stabbed the victim on the chest with a sharp piece of bamboo, and then Manuel who hit the victim with a bolo ("guinunting") at the back, hips and arms.[12]

Dr. Arsenia L. Mañosca, municipal health officer of Cagraray Island, conducted the autopsy. She found Vicente to have sustained multiple injuries: (a) head: six incised wounds and "partially avulsed scalp" on the left temporal and right parietal regions; (b) neck: an incised wound and a superficial abrasion at the anterior carotid triangle; (c) anterior chest wall: a lacerated wound, a superficial friction abrasion and superficial linear abrasions; (d) posterior chest wall: a stabbed wound at the upper scapular region, a superficial friction abrasion and superficial linear abrasions; (e) anterior abdomen: a superficial linear abrasion and a superficial impact abrasions; (f) posterior abdomen: a superficial impact abrasion, and (g) extremities: three hacking wounds, three incised wounds, superficial linear abrasions, and two avulsions at the lateral aspect distal 1st right phalange. The cause of Vicente's death was attributed to hypovolemic shock secondary to massive hemorrhage due to multiple hacking and incised wounds and fat embolism secondary to multiple fractures.[13] Dr. Manosca opined that a total of forty-six wounds found on the victim could have been caused by two or three kinds of instruments.[14]

The defense presented its own story.

Alleging self-defense, 40-year-old Claro Bernal testified that just as he arrived at the store of Josefina Ballatan that afternoon of 27 November 1988, Vicente suddenly struck him with a stool. Hit on the right eyebrow near the temple,[15] Claro immediately moved backwards and then tried to run away from Vicente but the latter gave chase. When Vicente was about to overtake the accused, the latter saw a bamboo stick, picked it up and thrust it on Vicente's abdomen. He saw Luisa coming out from her house. She asked her son Alfredo, who was carrying a bolo, to hurry up. Sensing danger, he ran towards the kitchen of Josefina where he, too, grabbed a bolo. Claro and Vicente then fought it out. In the course of the fight, Vicente's right hand was hit, causing him to drop the bolo. Seeing that his protagonist was already disarmed, Claro left him.

According to Claro, the injury on Luisa's hand was inflicted not by him but Luisa's act of pulling the bolo away from Alfredo's hold. Claro said that no one intervened in his fight with Vicente, and that his brothers Ramon and Manuel were not present at the time.[16]

Manuel and Ramon both denied any participation in the crime and interposed alibi. Manuel, 35 years old, testified that at around three o'clock in the afternoon of 27 November 1988, he was working at a farm in Langaton, Bacacay, Albay, around six kilometers away from Pigcobohan. He left the farm at about 4:30 that afternoon and walked home to Pigcobohan. While taking a rest, his wife informed him about the incident between his brother

Claro and Vicente. Forthwith, he proceeded to Claro's house.[17] In his case, 25-year-old Ramon said that he was at his house in Langatan, Bacacay, Albay, when Emilio Capino informed him about the "quarrel" between his brother Claro and Vicente. He then repaired to Claro's house, arriving thereat at around 5:30 in the afternoon. Prior to the incident, he had not talked to Claro for at least three months and to Manuel for around a month.[18]

The defense likewise presented Celso Benosa, Josefina Ballatan, Corazon Obrique and Apeles Barbacena.

Celso Benosa declared that Vicente tried to prevent Claro from entering the store by using a wooden stool. When he saw that Claro was hit on the head, he and Salvador Barcelona jumped out of the store through the window. He did not witness what had happened next since he and Salvador were by that time already some distance away. It was only after the scuffle had ended and when shouts for help were heard that he saw Manuel Bernal, Ramon Bernal and Apeles Barbacena at the scene.[19]

Storeowner Josefina Ballatan said that she was at the store during the incident. She saw Vicente hit Claro with a wooden stool. Surprised, Claro sought to flee but Vicente ran after him. Outside the store, Claro picked up a pointed bamboo stick from a nearby fence and used it on Vicente. She saw Luisa coming out from her house followed by her son Alfredo who was holding a bolo. Luisa took the bolo away from Alfredo but Vicente, in turn, was able to grab it from her. Claro went into the store kitchen and also armed himself with a bolo. Moments later, she saw the protagonists trying to hack each other. Josefina did not see Ramon and Manuel during the incident. It was about thirty minutes later when Barangay Captain Apeles Barbacena arrived at the scene.[20]

Corazon Obrique, a sister of the accused, testified that she had filed a case of theft against Vicente, their former employee, and since then, whenever she would pass by Vicente's place, Vicente could be heard to remark that there would soon be a "delubyo" in Pigcobohan.[21]

Apeles Barbacena, the barangay captain, denied having intimated to Vicente Baroso, Jr., any threat against Vicente's life,[22] and he, in fact, confronted Baroso after Luisa had talked to him about it. Barbacena said that since Vicente's return to Pigcobohan from Manila, he had taken and butchered two (2) dogs, committed slight physical injuries against one Barcelon and stole a live pig owned by Corazon Obrique. Thus, upon the insistence of a former barangay captain, Barbacena drafted a petition, signed by Pigcobohan residents, asking Vicente to depart from the place.[23] About the incident itself, the witness said that he only learned of it later. When he arrived at the crime scene, he saw Luisa still holding her bloodied husband. He did berate Raymundo Balaguer and Celso Benosa who tried to help carry the victim but only because he thought the victim was already dead and felt that it was the police who should dispose of the body. Upon seeing, however, that the victim was still alive, he instructed Vicente's relatives to bring him to the nearest hospital. Barbacena himself could not personally give assistance to the victim because of his kidney ailment and inflamed joints. Vicente expired at around eight o'clock that evening.[24]

On 10 May 1991, the trial court rendered its decision, giving credence to the evidence for the prosecution and disposing of the case as follows:

"WHEREFORE, finding accused CLARO BERNAL, MANUEL BERNAL and RAMON BERNAL GUILTY of the crime of MURDER defined and penalized under Article 248 of the Revised Penal Code, as their guilt had been proven beyond reasonable doubt, and considering the aggravating circumstances and no mitigating circumstances attendant, the Court orders, as it is hereby ordered, for each and all of them, to suffer the punishment, an imprisonment of Reclusion Perpetua.

"Likewise, the three named accused are ordered to pay the heirs of Vicente Barrameda y Beguiras the amount of THIRTY THOUSAND (P30,000.00) PESOS, as civil indemnity; and the incurred expenses during the death of the victim for TEN THOUSAND (P10,000.00) PESOS.

"The three named accused are ordered to pay the costs of the proceedings proportionately.

"SO ORDERED." [25]

In their appeal to this Court, appellants contend that the trial court has erred in finding sufficient proof to establish beyond reasonable doubt the guilt of the three accused.

Like in most criminal cases reaching the Court, it is here also asked that we discard the findings of fact of the trial court and evaluate anew the probative value of the evidence. It has thus become a persistent monotony for the Court to hold, since more often than not the challenge relates to the credibility of witnesses, that it is bound by the prevailing doctrine, founded on a host of jurisprudential rulings, to the effect that the matter is best determined at the trial court level where testimonies are "first hand given, received, assessed and evaluated." [26] The findings of the trial court on the credulity of testimony are generally not disturbed on appeal since "significant focus is held to lie on the deportment of, as well as the peculiar manner in which the declaration is made by, the witness in open court," [27] which an appellate court would be unable to fully appreciate, in the same way that a trial court can, from a mere reading of the transcript of stenographic notes. It is only when strong justifications exist that an appellate court could deny respect to the trial court's findings like when, quite repeatedly said, it is shown that the final court has clearly overlooked, misunderstood or misapplied some facts or circumstances of weight or substance which could affect the results of the case. [28]

The Court has examined the records, and it sees no justification to fault the trial court in a manner that appellants now ask. In assailing the credibility of the two eyewitnesses Luisa Barrameda and Salvador Barcelona, appellants argue that their testimonies contradict each other in at least two "material" points, i.e., (a) while Luisa testified that Barcelona jumped out of the store window, Barcelona denied, however, having done so, [29] and (b) while Luisa swore that Vicente had used a stool in defending himself, Barcelona, upon the other hand, recounted that Vicente had instead tried to escape. These alleged "inconsistencies" do not negate the principal facts, let alone the identities of the assailants and their collective responsibility for the victim's eventual death. The variance in some of the statements are to be expected. Witnesses react differently to what they see depending upon their situation and state of mind. Even the most candid witnesses oftentimes make mistakes and would fall into confused statements. [30] At times, far from eroding the effectiveness of the evidence, such lapses could, indeed, constitute signs of veracity.

The prosecution's case is bolstered by the fact that there is nothing on record to indicate any ulterior motive on the part of the eyewitnesses presented by the prosecution that would have urged them to wrongly implicate the appellants in a crime so serious as murder. Absent convincing evidence showing any cogent reason why such witnesses would testify falsely, their testimony can be worthy of faith and credit. [31]

Appellant Claro Bernal's claim of self-defense [32] must, accordingly, likewise fall. A plea of self-defense under the first paragraph of Article 11 of the Revised Penal Code, requires (1) an unlawful aggression on the part of the victim; (2) a reasonable necessity of the means employed by the accused to prevent or repel it and (3) lack of sufficient provocation on the part of the person defending himself. These circumstances must concur, [33] and an accused has the burden of proof in establishing their presence.

Here, to start with, there was no unlawful aggression on the part of the victim. Vicente used a wooden stool to parry the hacking blows of appellant Claro. Even on the assumption that the victim initiated the aggression by using the wooden stool, the act, nonetheless, was in reaction to appellant Claro's provocative remark of "Ano fight?" Most importantly, the nature and number of wounds inflicted on the victim betray the claim of self-defense; on the contrary, the multiple injuries that he sustained would show a determined effort on the part of the assailants to kill the victim. [34]

The denial and alibi of appellants Manuel and Ramon cannot prevail over the positive identification made by the prosecution eyewitnesses.[35] Denials, being basically self-serving evidence, do not deserve as much weight in law as the positive and affirmative testimony of witnesses.[36] Like a denial, an alibi is also an inherently weak defense.[37] For alibi to prosper, it would not be enough to prove that the accused is some-where else at the time of the incident but that he must also demonstrate that it would be physically impossible for him to be at the scene of the crime.[38] In this case, the distance between the place of the killing and the place pointed to in the alibi is barely six kilometers, and there is accessibility.

The conspiracy among the three appellant-brothers is evident by their synchronized acts in attacking the victim. For conspiracy to exist, proof of an actual agreement for an appreciable period prior to the incident is not required; it exists if, at the time of the commission of the crime, the accused participants appear to be united in its execution. So, also, direct proof of the agreement to commit the crime is not indispensable. It may be deduced from the mode and manner in which the offense is perpetrated, or inferred from the conduct of the accused themselves pointing to a joint purpose and design, concerted action and community of interest,[39] that would thereby render the act of one imputable to the others [40]

The crime committed is murder qualified by abuse of superior strength. The circumstance of abuse of superior strength depends upon the age, size and strength of the parties. To take advantage of superior strength is to purposely use excessive force out of proportion to the means of defense available to the person attacked.[41]

Aside from sheer superiority in number, appellants were also all armed as against the victim who merely used a wooden stool to fend off the assault. The only wound suffered by Claro, which according to Dr. Rey Tanchuling was caused by a blunt instrument (like a wooden stool[42]), would indicate that the victim himself could not have been armed with a bolo during the incident.

There being no mitigating circumstance, the penalty of reclusion perpetua was correctly imposed upon each of the appellants. The civil indemnity of P30,000.00 imposed by the trial court, however, should be increased to P50,000.00 in consonance with prevailing jurisprudence[43] but the award of P 10,000.00 for funeral expenses should be decreased to P4,000.00, the amount duly proven.

WHEREFORE, the herein questioned decision finding appellants CLARO BERNAL, RAMON BERNAL and MANUEL BERNAL guilty beyond reasonable doubt of the crime of murder and imposing upon each of them the penalty of reclusion perpetua is AFFIRMED with the MODIFICATION that they shall solidarily indemnify the heirs of Vicente Barrameda in the sum of P50,000.00 and the amount of P4,000.00 for funeral expenses. Costs against appellants.

SO ORDERED.

Padilla, Bellosillo, Kapunan, and Hermosisima, Jr., JJ., concur.

[1] Presided by Judge Milagros JB. Marcaida.

[2] Rollo, p. 11.

[3] TSN, September 28, 1989, p. 20.

[4] TSN, September 27, 1989, p. 31.

[5] Ibid., p. 32.

[6] TSN, September 28, 1989, pp. 24-25.

[7] TSN, September 27, 1989, p. 35.

[8] Ibid., pp. 35-36.

[9] Exh. F.

[10] TSN, September 27, 1989, pp. 40-41; Initially, Barbacena was included as a defendant but at the preliminary investigation, the case against him was dismissed for failure of the prosecution to establish sufficient evidence to so implicate him.

[11] Ibid., pp. 42-44.

[12] TSN, February 15, 1990, pp. 10-12.

[13] Exh B, Records, p. 10.

[14] TSN, August 22, 1989, p. 58.

[15] Claro was treated by Dr. Rey Tanchuling at the Ziga Memorial Hospital in Tabaco, Albay on November 28, 1988.

[16] TSN, October 12, 1990, pp. 29-37.

[17] TSN, January 21, 1991, pp. 4-6.

[18] TSN, February 11, 1991, pp. 4-6.

[19] TSN, July 27, 1990, pp. 6-8.

[20] TSN, July 31, 1990, pp. 4-12

[21] TSN, October 12, 1990, pp. 8-12

[22] Baroso himself denied having relayed that intention to the Barramedas.

[23] TSN, November 26, 1990, pp. 11-12.

[24] Ibid., pp. 15-19.

[25] Rollo, p. 66.

[26] *People vs. Miranda*, 235 SCRA 202.

[27] *People vs. Dado*, 244 SCRA 655.

[28] *People vs. Flores*, 243 SCRA 374; *People vs. Timple*, 237 SCRA 52.

[29] It should be noted that defense witness Celso Benosa testified that both he and Barcelona jumped out of the store window.

[30] *People vs. Reyes*, 236 SCRA 264; *People vs. Mendoza*, 236 SCRA 666; *People vs. Calegan*, 233 SCRA 537.

[31] *People vs. Taneo*, 218 SCRA 494.

[32] Appellants' Brief, pp. 14-15.

[33] *People vs. Llabres*, 225 SCRA 86; *People vs. Molina*, 213 SCRA 52; *People vs. Pletado*, 210 SCRA 634.

[34] See *People vs. Tanduyan*, 236 SCRA 433; *People vs. Amaro*, 235 SCRA 8; *People vs. Manalo*, 229 SCRA

479.

[35] People vs. Villanueva, 242 SCRA 47; People vs. Enciso, 223 SCRA 675.

[36] See People vs. Tamayo, 226 SCRA 527; People vs. Mortos, 226 SCRA 29; People vs. Guibao, 217 SCRA 64.

[37] See People vs. Montefalcon, 243 SCRA 617.

[38] People vs. Talaver, 230 SCRA 281.

[39] People vs. Martinado, 214 SCRA 712; People vs. De la Cruz, 207 SCRA 632; People vs. Briones, 202 SCRA 708.

[40] People vs. Parica, 243 SCRA 557.

[41] People vs. Carpio, 191 SCRA 108.

[42] TSN, October 3, 1990, p. 23.

[43] People vs. Logronio, 214 SCRA 519; People vs. Sison, 189 SCRA 643; People vs. Sazon, 189 SCRA 700.

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