

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. AMADEO BRONCANO, HERNANI BRONCANO, GUILLERMO BRONCANO, DIOSDADO BRONCANO, DIOSCORO BRONCANO AND ANTONIO VARELA, ACCUSED-APPE...

G.R. No. 104870. August 22, 1996

Ponente: MENDOZA, J.

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MENDOZA, J.:

This is an appeal from the decision of the Regional Trial Court of Tabaco, Albay, finding accused-appellants guilty beyond reasonable doubt of the crime of Murder and sentencing them to reclusion perpetua.

The Information against accused-appellants alleged:

That on or about the 5th day of April, 1990 at 7:30 o'clock in the evening, more or less, at Barangay Quinarabasahan, Municipality of Malinao, Province of Albay, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and helping one another, with deliberate intent to kill, taking advantage of nighttime, superior strength and with treachery, did then and there wilfully, unlawfully, feloniously attack, assault and hacked RENATO CANUEL, with bolos while the latter was hiding under the banana plants and unable to defend himself, thereby inflicting upon him several mortal wounds which caused his instantaneous death, to the damage and prejudice of his heirs.

ACTS CONTRARY TO LAW.

Accused-appellants pleaded not guilty and thereafter were tried.

It was the feast day of San Vicente de Ferrer in Quinarabasahan, Malinao, Albay, on April 5, 1990. As is usually the case with fiestas in the Philippines, there was drinking among the men and cockfighting. For some, drinking is the excuse for settling old grudges. So it was in this case.

The evidence for the prosecution shows that early in the evening of April 5, 1990, the accused-appellants were having drinks near the cockpit when they saw the victim, Renato Canuel, passing by. Accused-appellant Diosdado Broncano asked Canuel to join the group. Canuel accepted the invitation. As he was getting his drink, however, he accidentally knocked over the glass being held by accused-appellant Amadeo Broncano. This angered Amadeo, who pushed Canuel and kicked him in the thigh. Canuel fell down but did not fight back. Instead, he got up and walked away from the group. Amadeo shouted after him, "Mag decision ka, gadan kong gadan," which in English means, roughly, "You decide, if you want to fight to the death, then fight to the death it shall be." Canuel did not respond but simply proceeded on his way. He was seen by Eduardo Bello as he passed by the latter's house.

Eduardo Bello is the brother of Canuel's wife, Alicia. As Bello and his guests were about to sit down for dinner that evening, Amadeo Broncano and his sons, Hernani and Guillermo, barged into the house. Accused-appellants were brandishing bolos called "guinonting." They were looking for Renato Canuel. In fright, the house owners and their guests scampered, some of them jumping out of the window. Witnesses Eduardo Bello and his brother

Efren hid in the cornfield behind their house. They saw that there were others outside their house, namely, Diosdado and Dioscoro Broncano, who are nephews of Amadeo, and Antonio Varela, whose wife is the sister of Amadeo's wife.[1]

In a while, Diosdado Broncano called out to Amadeo, "Pay Mading, anion se pighahanap ta,"[2] meaning "Uncle Mading, here is the one we are looking for." He was referring to Canuel who was hiding behind banana trees at the back of Eduardo's house, about two meters away from the kitchen. Without saying anything, Amadeo struck Canuel with his bolo, hitting Canuel on the forehead. Thereafter, the other members of the group took turns in hacking Renato Canuel "as if he was just a thing - not a human being." [3] The attack lasted for about four (4) minutes. Then the group moved to the front part of the yard. Thinking that the victim might still be alive, Guillermo went back and stabbed him in the throat with his bolo. Amadeo ordered Antonio Varela to go inside the house to see if there were any persons there. Varela did as ordered, but found no one in the house. The group then left.

After accused-appellants had left, Eduardo and Efren Bello came out of their hiding places. They found Renato Canuel dead, his intestines eviscerated and spilling out of his stomach. The killers practically made minced meat of him ("toc-toc" or "tinoc tok"). His arms were almost severed from his body.[4]

The defense had a diametrically-opposed version. Its evidence is to the effect that at about 5:00 p.m., on April 5, 1990, as Amadeo was walking past the sari-sari store of Eduardo Bello, Canuel and Bello accosted him and, without provocation, Canuel stabbed him with a bolo, hitting him on the right side of his stomach, while Bello gave him a fist blow on the face. After Amadeo had fallen on the ground, Canuel kicked him. Bello went into the store where 20 persons had taken shelter from the rain and announced that Canuel had stabbed Amadeo. Guillermo Broncano, who was in the nearby house of a relative, rushed to his father's aid. Canuel turned to him and attacked him with a bolo, although he missed. The two then grappled with each other. Guillermo was able to wrest the bolo from Canuel and with it he struck Canuel twenty times on the face and in various parts of the body and then stabbed him to finish him off. Guillermo raged against his father's assailant, because he thought that his father had been killed. Finding that his father was still alive, he took him to the hospital.

For their part, accused-appellants Hernani, Diosdado and Dioscoro Broncano and Antonio Varela claimed they were somewhere else at the time of the incident and denied participation in the crime.

The court gave credence to the prosecution's version. First, it rejected the defense theory that only one person, Guillermo Broncano, had inflicted the 20 wounds inflicted on Canuel, in view of Dr. Ray Tanchuling's finding that the wounds had been caused by a very sharp instrument and by another one with a rugged edge. Second, the testimonies of the prosecution witnesses, especially the Bello brothers, were straightforward and credible. Third, the defense of alibi could not be given credit since Diosdado and Dioscoro Broncano were admittedly at the cockpit, which was only 30 meters from the scene of the crime, while the house of Lorenzo Briagas, where accused-appellant Antonio Varela claimed he was, was only 500 meters away. On the other hand, Hernani Broncano's claim that he was in San Ramon, San Lorenzo Ruiz, Camarines Norte was belied by the testimony of Cpl. Rodolfo Ofalsa, a member of the Philippine Army, who said he had seen Hernani and Antonio Varela together on April 5, 1990 in Barangay Quinarabasahan. Fourth, the doctor who allegedly treated Amadeo Broncano for a stab wound was not presented by the defense, while the wound suffered by Amadeo appeared to be merely superficial and to have been self-inflicted. Fifth, Guillermo Broncano never claimed sole responsibility for the killing before. Accordingly, the trial court held:

Consequently, this Court after careful examination and analysis of the entire evidence on record cannot but come to the inescapable conclusions [sic] that all of the herein accused are guilty of the crime of Murder charged against them for the merciless and brutal killing of the late Renato Canuel and for which they should

be meted the full measure of the law. Likewise they are civilly liable to the heirs of said deceased consisting of his wife Alicia Canuel and children for his untimely death and which civil liability the Court fixes at Fifty Thousand Pesos (P50,000.00) as death indemnity; Thirteen Thousand Six Hundred Twenty-Five Pesos (P13,625.00) as actual damages for expenses incurred for the interment, Borbe's Funeral Homes, etc.; P100,000.00 as moral damages and another Fifty Thousand Pesos (50,000.00) as loss of earning capacity or a grand total of TWO HUNDRED THIRTEEN THOUSAND SIX HUNDRED TWENTY-FIVE PESOS (213,625.00).

The killing of Renato Canuel is truly MURDER since the qualifying circumstances of treachery, evident premeditation, superior strength and night time purposely sought are all present. In view hereof, the prosecution's motion for the recall and cancellation of bail posted by all the herein accused is granted and said bails are ordered cancelled immediately. The accused should already be detained and sent to the National Penitentiary or Bureau of Prisons at Muntinlupa, Rizal immediately. This is also pursuant to Administrative Circular No. 2-92 dated January 20, 1992 of the Supreme Court of the Philippines.

WHEREFORE, premises considered, judgment is hereby rendered finding the herein six (6) accused, Amadeo Broncano, Hernani Broncano, Guillermo Broncano, Diosdado Broncano, Dioscoro Broncano and Antonio Varela guilty beyond reasonable doubt of the crime of MURDER and sentencing them to the penalty of RECLUSION PERPETUA with all the accessory penalties provided therefor.

As regards their civil liability, this Court also orders all of the above-named six accused to pay the heirs of the late Renato Canuel, jointly and severally the total amount of TWO HUNDRED THIRTEEN THOUSAND and SIX HUNDRED TWENTY-FIVE PESOS (P213,625.00) representing the death indemnity, moral and actual damages, loss of earning capacity of said deceased and to pay the costs hereof.

Hence, this appeal.

First. Accused-appellants contend that Eduardo and Efren Bello could not have hidden in the cornfield, which was only five (5) meters from the scene of the killing, without being noticed by accused-appellants. If Eduardo and Efren were fleeing from the armed men who allegedly entered their house, they should have gone very far.

We find no reason to doubt the finding of the trial court that the prosecution witnesses really saw the assailants because there was light coming from a petromax lamp in the kitchen in Bello's house, just two meters away from the scene of the crime. The wall of the kitchen was made of bamboo slats placed three inches apart.[5] The area where the banana trees were was sufficiently lighted to allow the witnesses to recognize the assailants. The light was not strong enough, however, to illuminate the cornfields five meters farther, where the witnesses were hiding. As Efren Bello testified, although it was bright where the assailants were, it was dark where he was hiding.[6] This explains why the two witnesses were able to conceal themselves in the cornfield without being noticed by accused-appellants.

Besides, accused-appellants were known to the witnesses. Not only were they townmates, but three of them, Amadeo, Hernani and Guillermo Broncano, had earlier been seen by the witnesses at close range as they barged into the house of Eduardo Bello. As for Diosdado Broncano, Dioscoro Broncano and Antonio Varela, the witnesses recognized them because the three scoured the area for Canuel. The killing of Canuel by accused-appellants was done in full view of the two witnesses and lasted approximately four minutes. Afterwards, the accused-appellants lingered in the area to make sure that there were no other people present, while Guillermo Broncano went back to the victim to finish him off.

The next day, April 6, Eduardo Bello and Efren Bello gave written statements[7] to the police identifying the accused-appellants as the ones who had killed Renato Canuel. We have no doubt that these witnesses saw the perpetration of the crime and the persons responsible for the deed.

Second. Accused-appellants claim that only one person, Guillermo Broncano, inflicted the wounds on the deceased and that he did so in defense of his father, Amadeo. They argue that the number of wounds suffered by Canuel - 16 external wounds and 4 internal ones - does not negate the possibility that they were inflicted by only one person in defense of a relative. They quote the following statement from *United States v. Singson*:^[8]

The law does not require, and it would be too much to ask of the ordinary man, that when he is defending himself from a deadly assault, in the heat of an encounter at close quarters, he should so mete out his blows that upon a calm and deliberate review of the incident, it will not appear that he exceeded the precise limits of what was absolutely necessary to put his antagonist hors de combat; or that he struck one blow more than was absolutely necessary to save his own life; or that he failed to hold his hand so as to avoid inflicting a fatal wound where a less severe stroke might have served his purpose. Of course the victim of an unlawful aggression may not lawfully exceed the bounds of rational necessity in repelling the assault. But the measure of rational necessity in cases of this kind is to be found in the situation as it appears to the victim of the assault at the time when the blow is struck; and the courts should not and will not, in the light of after events or fuller knowledge, hold the victims of such deadly assaults at close quarters, to so strict a degree of accountability that they will hesitate to put forth their utmost effort in their own defense when that seems to them to be reasonably necessary.

Guillermo claimed that when he saw his father sprawled on the ground, he thought that he was already dead, because of which he was so angry that he gave Canuel several bolo blows in different parts of the body without realizing that he had hacked him 16 times.

The post-mortem reports show that Canuel died due to hypovolemic shock secondary to multiple hacked wounds and cerebral edema secondary to head injury caused by the following wounds:

EXTERNAL LESIONS:

1. Hacked wound, Y-shaped 10 cm. long mid-frontal area extending to the medial aspect to the (R) eye
2. Hacked wound, 5.0 cm. medial aspect of eyebrow (L)
3. Open skull fracture frontal area
4. Hacked wound, with tendon & metacarpal bones involvement hand (R)
5. Hacked wound, 6.0 cm. (R) postero-lateral aspect, muscle deep, m/3rd forearm
6. Hacked wound, 6.0 cm. m/3rd arm anterior aspect (L)
7. Hacked wound, 4.0 cm. proximal 3rd, posterior aspects forearm (L)
8. Hacked wound, 6.0 (R) subcostal area, transverse in position transecting last ant. rib incising (R) lobe liver
9. Hacked wound, 12.0 cm. (L) subcostal area transverse in position penetrating abdominal cavity with omental, colon & small bowel evisceration
10. Wound, stabbed, 1.5 cm. with rugged edges mid-suprasternal area
11. Wound, hacked, lateral aspect m/3rd (R) thigh muscle deep
12. Wound, hacked, 2.0 cm. knee (L)
13. Hacked wound, 3.0 cm. medial aspect knee (R)
14. Wound, hacked, 3.5 cm. scapular area (R)
15. Wound, hacked 2.0 cm. infrascapular area (R)
16. Wound, hacked, 1.5 cm. posterior lumbar (L)

INTERNAL LESIONS:

1. Incised (R) lobe liver
2. Areas of hemorrhages over the small bowel mesentery
3. Lacerated subclavion vein
4. Open frontal sinuses with epidermal hematoma^[9]

Dr. Ray Tanchuling, who made the post-mortem report, testified that although only one type of sharp instrument,

a "guinonting" bolo, was used to inflict the 16 external wounds, it was probable that more than one such instrument, wielded by more than one person, was actually used in inflicting the wounds. Moreover, Lesion No. 10 in the post-mortem report, which is a stab wound caused by a bolo with rugged edges, could not have been inflicted by the same bolo used in inflicting the other wounds. As Dr. Tanchuling testified:[10]

ATTY. BONGON (To witness)

Q Doctor, if a certain bolo is having rugged edges, could that cause injury No. 10?

A Yes, sir, it could be possible.

ATTY. BONGON:

That will be all.

ATTY. MA-ALAT: (To witness)

Q Doctor Tanchuling you indicated in your new finding that there were internal and external lesions and this could have been caused by sharp instrument?

A Yes, sir.

Q Based on your medical knowledge could you determine whether the weapon used could be one and the same instrument?

A That could be possible.

COURT: (To witness)

Q But it could be possible that several instrument were used?

A Possible, the limit is two because of lesion No. 10.

COURT:

A No further question. Re-direct.

ATTY. BERCES: (To witness)

Q You mentioned that the number of the instrument used maybe limited to two considering your finding with rugged edges and hacked wound, would it be possible also that it could be instrument of the same kind?

A Possible. Yes, sir. If they are the same they have the same sharpness, the same finish.

Q And could have several instruments used?

A There is a possibility.

The post-mortem report corroborates the claim of the prosecution witnesses, Eduardo and Efren Bello, that the first blow was delivered by Amadeo to the forehead of Canuel, which rendered Canuel helpless, and that thereafter Canuel was hit in several parts of his body. The last wound inflicted was, according to them, a stab wound in the throat of the victim, which was inflicted by Guillermo. The post-mortem report shows an actual blow to the forehead which must have been inflicted with such force that it caused an open skull fracture (Lesion Nos. 1, 2, and 3). A stab wound above the sternum (Lesion No. 10) confirms the stabbing of the victim in the

throat. Lesion No. 9 confirms that there was evisceration of the intestines of the victim, while Lesion Nos. 4, 5, 6, and 7 proves that there were indeed several deep wounds on the arms of Canuel.

Indeed, as the trial court observed, the account of the prosecution witnesses was given in a straightforward manner, which makes their version more plausible than the version of the defense.

Third. The alibi of four of the accused-appellants, Diosdado, Dioscoro and Hernani Broncano and Antonio Varela is weak. Three of these accused-appellants claimed to be in places which were not more than 500 meters from the scene of the crime. Diosdado and Dioscoro Broncano said they were at the cockpit which was only 30 meters away from the place where Canuel was killed. On the other hand, Antonio Varela was said to be in the house of Lorenzo Briagas which was claimed to be 500 meters away from the scene of the crime although Diosdado Broncano testified he saw Varela near the cockpit. It was not, therefore, physically impossible for the three to have gone to the place where Canuel was killed.

On the other hand, Hernani claimed he was in San Lorenzo Ruiz, Camarines Norte from March 29, 1990 to April 8, 1990, having been sent there by his father, Amadeo, to help make copra. But a witness, Cpl. Rodolfo Ofalsa of the Philippine Army, testified that he saw Hernani at Quinabarasahan in the evening of April 4, 1990 and again near the cockpit in the afternoon of April 5, 1990.[11] Cpl. Ofalsa had been assigned to the place of celebration to help maintain peace and order.

Thus, it is not only that accused-appellants Hernani, Diosdado and Dioscoro Broncano and Antonio Varela were positively identified by the prosecution witnesses. Their alibi is weak.

Nor is there any merit in the allegation that it was Canuel and not Amadeo who was the aggressor. Amadeo and Canuel had a long-standing feud. On November 9, 1980, Canuel and a certain Pedro Retona went to Amadeo's house and challenged Ramon Cerdenio, who was hiding there, to come out and fight. Cerdenio came out and a fight ensued in which Retona was killed. Cerdenio was convicted of Homicide, but Canuel claimed later that it was Amadeo who actually killed Retona. Amadeo admitted that he had once been convicted of Homicide for the killing of a certain Onesimo Bonagua.[12]

Thus, although Amadeo's group was outwardly friendly when they saw Renato Canuel on April 5, 1990, by inviting him to join them for drinks, Amadeo's resentment very easily turned into violence when Canuel accidentally hit the glass being held by him. As already stated, Amadeo violently pushed Canuel and kicked him in the thigh, causing him to fall on the ground. Canuel fled from the group. It would seem the accused-appellants followed him. They looked for him in the house of Eduardo Bello because they knew that he was the brother-in-law of Eduardo Bello. Canuel must have sensed he was in danger that is why he sought refuge in the house of Eduardo.

The testimonies of witnesses presented to show that it was Canuel who attacked Amadeo with a stab in the stomach are contradictory. While Herminio Bongais claimed that Canuel had stabbed Amadeo and Eduardo Bello boxed him,[13] Felipe Cas testified that Canuel merely boxed and kicked Amadeo because Canuel was unarmed.[14] As the trial court noted, this fact suggests that Amadeo's wound was self-inflicted in order to lay the basis for the claim of self-defense.

Indeed, Guillermo's claim that he acted in defense of his father must be rejected in view of the overwhelming evidence of the prosecution. It cannot be said that he simply employed more blows than was necessary to prevent or repel an unlawful aggression. The number of wounds inflicted on Canuel does not only belie the defense claim that Guillermo alone inflicted those wounds, but also his claim that he acted in defense of his father.[15]

Guillermo claimed that he struck Canuel with his bolo again and again "because of my feeling that my father was

already dead.”[16] It may be that, after the first few blows, one who acts in self-defense might deal a few more blows without changing the character of his defense, if this was done out of confusion or fear, but, after delivering several blows, to inflict a stab wound in the victim’s throat as a coup de grace would be to negate any semblance of good faith and manifest a deliberate and wanton intention to kill.

We are thus in full agreement that the accused-appellants are guilty beyond reasonable doubt of Murder, qualified by treachery and superior strength. The trial court, however, erred in considering evident premeditation as an aggravating circumstance. The evidence is not clear that accused-appellants planned the killing and that despite the lapse of sufficient time from the time it was determined to commit the crime to the time the crime was committed, the accused-appellants clung to their determination. Similarly, nighttime cannot be considered because it does not appear that accused-appellants took advantage of the cover of night to commit the crime[17] or that nighttime in any way facilitated the commission of the crime. On the contrary, when they barged into the house of Bello, they made no effort to conceal their identity. Above all even if nighttime was specially sought by the accused-appellants it must be deemed absorbed in treachery. As superior strength is likewise deemed absorbed in treachery,[18] appellants are guilty of MURDER without any modifying circumstance, the penalty for which is reclusion perpetua.[19]

ACCORDINGLY, the decision appealed from is AFFIRMED.

SO ORDERED.

Regalado (Chairman), Romero, Puno and Torres, Jr., JJ., concur.

[1] TSN, Oct. 18, 1990, p. 14.

[2] TSN, Oct. 19, 1990, p. 17.

[3] TSN, Oct. 19, 1990, p. 20; Judgment, p. 5.

[4] TSN, Oct. 19, 1990, p. 27.

[5] TSN, Oct. 26, 1990, p. 41.

[6] TSN, Oct. 26, 1990, p. 51.

[7] Exhs. A and B.

[8] 41 Phil. 53, 56-57 (1920).

[9] Records, pp. 14-15.

[10] TSN, Oct. 30, 1990, pp. 20-22.

[11] TSN, July 4, 1991, p. 7.

[12] Exh. 5, Records, p. 146.

[13] TSN, Feb. 7, 1991, p. 5.

[14] TSN, Feb. 7, 1991, p. 46.

[15] *People v. Sarence*, 214 SCRA 780 (1992); *People v. Amaro*, 235 SCRA 8 (1994); *People v. Tanduyan*, 236 SCRA 433 (1994).

[16] TSN, May 8, 1991, p. 38.

[17] REVISED PENAL CODE, Art. 14(6); *People v. Matbagon*, 60 Phil. 893 (1934).

[18] *People v. Sespeña*, 12 Phil. 199 (1957).

[19] *Fuentes, Jr., v. Court of Appeals and People of the Philippines*, G.R. No. 111692, February 9, 1996.

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