

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. VICENTE GENOBIA @ “INTING,” REYNALDO CAJES @ “GAGA,” AND EDWIN DOE, ACCUSED, VICENTE GENOBIA @ “INTING,” ACCUSED-APPELLANT.

G.R. No. 110058. August 03, 1994

Ponente: DAVIDE, JR., J.

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DAVIDE, JR., J.:

In the information[1] in Criminal Case No. 7711 of Branch 2 of the Regional Trial Court of Bohol, filed on 19 March 1992, the Office of the City Prosecutor of Tagbilaran City charged, as co-principals based on conspiracy, Vicente Genobia alias "Inting," Reynaldo Cajés alias "Gaga," and one Edwin Doe with the crime of murder for the death of Jeremias Paredes. Paredes sustained thirteen stab wounds in different parts of the chest, and one stab wound at the abdomen, right lumbar region, which caused a part of the small intestine to protrude. Alleged as qualifying circumstances in the information were treachery, abuse of superior strength, and cruelty. Eleven of the stab wounds were small in diameter probably produced by a sharp-pointed instrument (ice pick) while the other three were one-half-inch wide with clean edges.

On 4 May 1992, a warrant for the arrest of the three above-named accused was issued but only accused Vicente Genobia was taken into custody as the other two remained at large. The case proceeded only against Genobia who pleaded not guilty at his arraignment on 29 May 1992.[2] Trial then ensued and on 28 August 1992, a judgment[3] of conviction was promulgated against Genobia, the dispositive portion of which states:

"PREMISES CONSIDERED, the Court finds the accused Vicente Genobia guilty of the crime of MURDER punished under Article 248 of the Revised Penal Code and hereby sentences him to suffer an imprisonment of Reclusion Perpetua with the accessories of the law and to pay the cost.

The accused Vicente Genobia is further ordered to indemnify the surviving wife of Jeremias Paredes, Teresita Olarte in the amount of Fifty Thousand Pesos (P50,000.00) representing indemnity and damages, without subsidiary imprisonment in case of insolvency."[4]

The inculpatory evidence against Genobia was established by the prosecution through the testimonies of Eduardo Cajés and Juanito Banaag who professed to be with Genobia and the victim prior to the discovery of the latter's dead body.

On 15 March 1992, Banaag, a cockfighting aficionado who resides along Dampas Road, Tagbilaran City, went home elated as his two cocks had won in a cockfight. To celebrate the occasion, he invited Eduardo Cajés who lives about 25 meters from his house, two security guards from the motor pool, and a driver of a pedicab to partake of some liquor and of the vanquished cocks which were given to him as the owner of the two winning cocks.[5]

At about midnight, the celebrators went outside to continue their drinking spree as they felt warm inside the

house. However, the two security guards and the driver of the pedicab left leaving only Banaag and Eduardo Cajes.[6] Shortly thereafter, the latter two saw Genobia, Reynaldo Cajes (who is the younger brother of Eduardo), and a person known only as Edwin drinking along the road. Upon seeing Banaag, Genobia shouted "balato." Banaag obliged and readily gave money for liquor to one named Junior from Calape who, after buying liquor, left for the house of his uncle.[7] While the drinking session was going on, Jeremias Paredes passed by and joined the group. This prompted Genobia to ask Banaag who the newcomer was. When Banaag answered that he did not know, an altercation ensued between Genobia and Reynaldo Cajes, on one hand, and Paredes, on the other. Banaag admonished them but Reynaldo Cajes brandished a stainless steel kitchen knife at him, at the same time saying, "Go away, you have no participation in this." [8] Accordingly, Banaag desisted upon the advice of Eduardo Cajes who, although older than Reynaldo Cajes, did not also protest the latter's actions because he was likewise threatened with a knife and was smaller than Reynaldo Cajes.[9]

Meanwhile, the three protagonists pulled and pushed each other until finally, Reynaldo Cajes and Genobia were able to drag Paredes towards the Divine Word High School. At this juncture, Banaag and Eduardo Cajes left in opposite directions.[10]

Eduardo Cajes was home by 1:00 a.m. of 16 March 1992. While conversing with his wife, he noticed the arrival of Reynaldo Cajes and Genobia. He overheard Reynaldo Cajes telling Genobia that "It should not have been done," to which Genobia replied that they did not know that person. Then, Genobia asked for water which he and Reynaldo Cajes used to wash their hands.[11]

Dr. Nestor Virtucio was next presented by the prosecution to testify on the injuries sustained by the victim but his testimony was dispensed with because the defense admitted the medical certificate attesting to the fact that the victim suffered fourteen stab wounds, three of which were one-half-inch wide with clean edges, while the eleven others were small in diameter, probably produced by a sharp-pointed instrument.

Capt. Ernesto Cagas, PNP Chief of Operations of the Intelligence Branch, declared on the witness stand that on 18 March 1992 he investigated Genobia who told him that he held the victim while the two other suspects, Reynaldo Cajes and Edwin, stabbed the victim.[12] He also averred that Genobia voluntarily pointed to where the ice pick used to stab the victim could be found and even went with him to recover it from Arnulfo Tare with whom the same was allegedly entrusted by Edwin.[13]

Capt. Cagas also said that when he confronted Tare, the latter told him that he did not know anything about the incident. But when Genobia told him to surrender the ice pick, he willingly did so. Capt. Cagas identified in court an ice pick shown to him as the one he recovered from Tare.[14]

On the other hand, Genobia denied any participation in the killing of Paredes and gave a different version of the incident on the witness stand. He said that on 15 March 1992 he was in his house when he was invited at around 10:00 p.m. to drink and partake of a vanquished cock at the house of Eduardo Cajes by his co-accused Reynaldo Cajes and one Edwin whose surname he did not know.[15] At the house of Eduardo Cajes, Banaag came bringing drinks consisting of two "long-necks" and two pocket-sized Tanduays. While engaged in a drinking spree, somebody passed by and Banaag called for him. As he did not know the person called to, he asked Banaag who that person was but the latter replied that he did not know him. An altercation then ensued between Reynaldo Cajes and the newcomer, whom he came to know later as Jeremias Paredes.[16] Thereafter, Reynaldo allegedly dragged Paredes towards the Divine Word High School. He denied any participation in the killing of Paredes and imputed the crime to Reynaldo Cajes and Edwin who allegedly told him about what they did to Paredes but warned him not to reveal it to anyone otherwise he would be the next to die.[17] When asked about the ice pick, which was presented as Exhibit "B" of the prosecution, he said that the same was owned by Reynaldo Cajes who

left it with Arnulfo Tare when he fled.[18]

On cross-examination, he said that he learned of the killing of Paredes at about 1:00 a.m. of 16 March 1992 when Reynaldo Cajes and Edwin went to his house and told him about it. He admitted having been convicted twice for theft by Branch 2 of the Municipal Trial Court of Tagbilaran City on 30 September 1986 and by Branch 1 of the same court on 12 August 1987. He denied at first that he ever brought along with him a deadly weapon but later admitted that he was convicted of concealment of a deadly weapon on 25 July 1984.[19]

Having been found guilty beyond reasonable doubt of the crime charged by the trial court, Genobia appealed to this Court raising the following errors allegedly committed by the trial court:

"1. X X X IN NOT DECLARING THAT THE GUILT OF DEFENDANT-APPELLANT OF THE CRIME CHARGED WAS NOT ESTABLISHED BEYOND REASONABLE DOUBT;

2. X X X IN NOT DECLARING THAT THE PROSECUTION FAILED TO OVERCOME BY THEIR EVIDENCE THE CONSTITUTIONAL PRESUMPTION OF THE DEFENDANT- APPELLANT'S INNOCENCE."[20]

While it is true that there is no direct evidence pointing to Genobia as one of the perpetrators of the crime, his guilt for the crime charged has been established beyond reasonable doubt as there is sufficient circumstantial evidence linking him to it. Firstly, Genobia and Reynaldo Cajes engaged in a heated altercation with the victim during a drinking spree after midnight or on the early dawn of 16 March 1992. Secondly, Genobia and Reynaldo Cajes forcibly dragged the victim toward the Divine Word High School where the latter's body was later found on 17 March 1992. Thirdly, on the same night when the altercation occurred, Genobia and Reynaldo Cajes went to the house of Eduardo Cajes who overheard his brother, Reynaldo, say to Genobia, "It should not have been done," and, thereafter, Genobia asked for water with which to wash his hands. Fourthly, during the investigation, Genobia voluntarily disclosed to Capt. Ernesto Cagas where the ice pick used in killing the victim was. It was retrieved from one Arnulfo Tare to whom it had been entrusted by Genobia.

For circumstantial evidence to be sufficient to convict an accused, it is necessary that these requisites are present: (a) there must be more than one circumstance, (b) the facts from which the inferences are derived are proven, and (c) the combination of all the circumstances is such as to produce a conviction beyond reasonable doubt.[21] Or, as jurisprudentially formulated, a judgment of conviction based on circumstantial evidence can be upheld only if the circumstances proven constitute "an unbroken chain which leads to one fair and reasonable conclusion which points to the defendant, to the exclusion of all others, as the guilty person, i.e., the circumstances proved must be consistent with each other, consistent with the hypothesis that the accused is guilty, and at the same time inconsistent with any other hypothesis except that of guilty."[22]

The foregoing chain of events duly testified to by the prosecution witnesses is more than sufficient to persuade this Court that Genobia's guilt has been proved beyond reasonable doubt.

To avoid culpability, Genobia attacks the testimony of prosecution witness Eduardo Cajes as coming from a "polluted source" and as "self-serving -- for himself as a probable accused and for his brother who is now a fugitive from justice." [23] Genobia underscores the testimony of Banaag during the direct examination wherein he stated that he admonished Genobia and Reynaldo Cajes for their altercation with Paredes but as a result, Eduardo Cajes "gestured to stab him" with a stainless steel knife.[24] This gesture, according to him, proves the violent nature and disposition of the Cajes brothers and casts reasonable doubt on his guilt. Along with the testimony of the victim's mother who described Genobia as a friend of her son Jeremias Paredes,[25] Genobia argues that it cannot be shown from the evidence that he caused the death of Paredes.

Admittedly, this Court was initially perplexed on why Banaag declared on direct examination that Eduardo Cajes "gestured to stab him" with a stainless steel knife when he admonished Reynaldo Cajes and Genobia about their altercation with Paredes. It should be noted, however, that in the cross-examination of Banaag, it was clear that Genobia's lawyer and Banaag understood the latter's testimony to the effect that it was Reynaldo Cajes, not Eduardo, who brandished the knife at Banaag. Hereunder is an excerpt from the said cross-examination.

"Q Now, when you saw the altercation according to you, you intervened and in the process of intervening Gaga Cajes drew the stainless knife and gestured to stab you?

A Yes, sir, that's correct.

Q Did he say something at the time when he gestured or when he was attempting to stab you?

A He said, "Go away there, you have no participation in this."

Q And what was your reaction when you were delivering in fact giving drinks to them?

A I ran towards home.

Q Definitely from your own observation, the most angry person thereat was Gaga Cajes, is that correct?

A Because of his gesture of stabbing me I presumed that he was aggressive." [26]

Gaga Cajes is accused Reynaldo Cajes. [27]

Thus, the transcript of stenographic notes of the portion of the direct examination of Banaag which mentions Eduardo Cajes as the one who brandished the knife is probably just a typographical error. At any rate, Banaag made himself clear in his cross-examination that it was Reynaldo Cajes who "gestured to stab him." Therefore, the insinuation of Genobia that Eduardo Cajes is himself a probable accused is not duly supported by the records, and, hence, no conclusion can be drawn that his testimony is self-serving. Nor is his testimony favorable to his brother, Reynaldo Cajes, for he categorically pointed to the latter as one of the two persons who dragged the victim towards the Divine Word High School, as the knife-wielder, and as the person who uttered the words: "It should not have been done." His disclosures do not serve his brother's interests. On the contrary, he clearly implicated Reynaldo in the gruesome crime despite their brotherly ties. Thus, rather than indicate bias, his testimony denotes objectivity and bespeaks nothing but the truth considering further that it was not shown that he nurtured any serious grudge or hatred against his brother and Genobia.

No improper motive was likewise imputed against the other prosecution witness, Juanito Banaag, who is Genobia's neighbor. When there is no evidence, and nothing to indicate that the witnesses for the prosecution were actuated by any improper motive, the presumption is that they were not so actuated and their testimonies are entitled to full faith and credit. [28] Besides, the time-tested jurisprudence is that findings of fact and conclusions of trial courts on the credibility of witnesses enjoy the highest degree of respect because the trial courts are in a better position to decide the question, having heard the witnesses themselves and observed their deportment and manner of testifying during the trial. [29] Genobia has not shown any compelling reason why this rule should not be observed in this case.

In the face of the strong and convincing evidence for the prosecution establishing Genobia's guilt as a co-author of the crime and his abject failure to offer sufficient countervailing evidence, his claim that his co-accused Reynaldo Cajes and Edwin, and probably Eduardo Cajes, are the ones responsible for the death of the victim does not inspire belief. It does not matter that Genobia did not flee, unlike his two co-accused who fled and have remained at large. While it is settled that flight of an accused is competent evidence against him as having a tendency to establish his guilt, [30] non-flight is not conclusive proof of innocence. [31]

Considering, however, that no one testified as to the details of the stabbing and no evidence was offered to prove the circumstances of treachery, abuse of superior strength, and cruelty, such circumstances cannot be appreciated. Circumstances which qualify criminal responsibility must in no case rest upon mere presumption, no matter how reasonable or probable but must be based on facts of unquestionable existence. Axiomatic is the rule that the circumstances which would qualify the killing to murder must be proved as indubitably as the crime itself.[32] The doctor who conducted the autopsy of the cadaver of the victim could have aided the prosecution in proving any of those circumstances. Unfortunately, the doctor's testimony was dispensed with. We have only his Autopsy Report[33] which indicates that all the stab wounds were frontal but fails to show which were the fatal wounds. The number of wounds does not by itself prove cruelty. Accordingly, the crime proved is only homicide, not murder.

WHEREFORE, the appealed decision is **AFFIRMED**, subject to the modification that appellant VICENTE GENOBIA should only be held liable for the crime of **HOMICIDE** under Article 249, and not for **MURDER** under Article 248, of the Revised Penal Code, and, applying the Indeterminate Sentence Law, he is hereby sentenced to suffer an indeterminate penalty ranging from Ten (10) years of prision mayor medium as minimum to Seventeen (17) years and Four (4) months of reclusion temporal as maximum.

No pronouncement as to costs in this instance.

SO ORDERED.

Cruz, (Chairman), Quiason, and Kapunan, JJ., concur.
Bellosillo, J., on leave.

[1] Original Records (OR), 1-2.

* On Leave.

[2] OR, 22.

[3] Id., 42-46; Rollo, 12-16. Per Judge Antonio H. Bautista.

[4] Id., 46; Id., 16.

[5] TSN, 17 July 1992, 15-16.

[6] Id., 17-18.

[7] Id., 18-19.

[8] Id., 29.

[9] TSN, 13 July 1992, 15.

[10] TSN, 13 July 1992, 6-7.

[11] Id., 7-8.

[12] TSN, 17 July 1992, 6.

[13] Id., 7.

[14] TSN, 17 July 1992, 8.

[15] TSN, 24 July 1992, 3.

[16] Id., 4.

[17] Id., 5.

[18] TSN, 24 July 1992, 6.

[19] Id., 11-13.

[20] Rollo, 36.

[21] Section 4, Rule 133, Rules of Court.

[22] People vs. Tiozon, 198 SCRA 368 [1991]; People vs. Garcia, 215 SCRA 349 [1992].

[23] Rollo, 37.

[24] TSN, 17 July 1992, 21.

[25] TSN, 20 July 1992, 7.

[26] TSN, 17 July 1992, 29-30.

[27] TSN, 13 July 1992, 11; TSN, 24 July 1992, 2.

[28] People vs. Simon, 209 SCRA 148 [1992].

[29] People vs. Pascual, 208 SCRA 393 [1992]; People vs. Florida, 214 SCRA 227 [1992]; People vs. Matrimonio, 215 SCRA 613 [1992].

[30] U.S. vs. Alegado, 25 Phil. 510 [1913]; People vs. Garcia, 209 SCRA 164 [1992].

[31] People vs. Hangdaan, 201 SCRA 568 [1991]; People vs. Macalino, 209 SCRA 788 [1992].

[32] People vs. Simon, *supra*.

[33] Exhibit "A."

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