

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. BENJAMIN GALANO Y GLORIA, ELMER HONORIO Y GAYO, BRIGIDO TRIPOLI Y CABILOSA AND ROMULO STA. IGLESIA Y CUISON, ACCUSED*G.R. No. 111806. March 09, 2000*

Ponente: QUISUMBING, J.

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This is an appeal from the decision of the Regional Trial Court of Manila, Branch 5, [1] convicting accused-appellants Benjamin Galano y Gloria, Brigido Tripoli y Cabilosa, and Romulo Sta. Iglesia y Cuison of the crime of murder under Article 248 (1) of the Revised Penal Code for the killing of Leonardo Torres, and imposing upon them the penalty of reclusion perpetua. Their co-accused, Elmer Honorio y Gayo, was acquitted.

Benjamin was a 30 year-old laundryman; Brigido, a 24 year-old janitor; and Romulo, a 24 year-old baker, at the time of the alleged offense. They all resided in the Sampaloc area of Manila. Their alleged victims, Virgilio and Leonardo Torres, were total strangers to the appellants. Both were brothers who merely happened to be waiting for a ride and came to the succor of an alleged snatching victim when both were suddenly grabbed from behind by appellants Brigido and Romulo, and then stabbed by Benjamin. Leonardo succumbed to stab wounds but Virgilio survived to tell his story before the trial court.

The pertinent facts in this case are as follows:

On September 8, 1990, at around 8:30 in the evening, while Virgilio and his older brother, Leonardo, were standing at a street corner of España near Centro St., waiting for a ride, they heard somebody shout "snatcher". They approached and asked him what happened. [2] Suddenly, a fast-running jeepney going to Lepanto made a turn at Centro St. and parked on España. A man with a knife in his left hand (later identified as appellant Benjamin) alighted from the jeepney, and ran after the person who had shouted "snatcher". Upon seeing Benjamin, this person ran away [3] Virgilio then lost sight of both in the traffic. He and his brother Leonardo continued waiting for a ride. After a while, two men alighted from the jeepney. [4] To the surprise of Virgilio, the two men (whom he later identified as appellants Brigido and Romulo) suddenly held him and his brother. [5] Appellant Brigido embraced Virgilio from the back, while appellant Romulo similarly held the brother Leonardo. [6] Appellant Benjamin soon appeared and suddenly stabbed Virgilio on the right side of his stomach, then turned to Leonardo and likewise stabbed him in the stomach. [7] Thereafter, the three assailants ran towards the parked jeepney, which the driver first maneuvered backwards, then sped off towards Lepanto St.. As the two brothers tried to follow the jeepney, Leonardo turned to Virgilio to ask if he was also hit, and Virgilio replied "yes". After that, Leonardo fell on the pavement. In spite of the pain, Virgilio continued to run after the jeepney and took note of its plate number, CBR 522. Virgilio even managed to throw stones at the speeding jeepney. [8] Some bystanders joined him in running after the jeepney. [9] He shouted for help. Some people heard him and brought his brother and him to the UST Hospital. There, Leonardo was declared dead on arrival.

Virgilio was more fortunate. His wounds only required surgery. Before he was operated on, he informed his father

of the plate number of the jeepney that their assailants used.

Virgilio stayed in the hospital for more or less a month. [10] He only saw the assailants again when he identified them at the Western Police District headquarters from a police line-up of eight persons. [11] He positively identified appellants Brigido and Romulo as the ones who held him and his brother, respectively, and appellant Benjamin as the one who stabbed them. [12]

On October 16, 1990, the Assistant City Prosecutor of Manila filed an Information [13] for Murder against four (4) accused, as follows:

"The undersigned accuses Benjamin Galano y Gloria, Elmer Honorio y Gayo, Brigido Tripoli y Cabilosa and Romulo Sta. Iglesia y Cuison of the crime of Murder, committed as follows:

That on or about September 8, 1990 in the City of Manila, Philippines, the said accused conspiring and confederating together and helping one another, with intent to kill and with treachery and evident premeditation, attack, assault, and use personal violence upon one LEONARDO TORRES y BARTOLOME by then and there holding his two arms and thereafter stabbed him at the back of his body, thereby inflicting upon said Leonardo Torres y Bartolome mortal wounds which were the direct and immediate cause of his death thereafter."

On December 5, 1990, upon arraignment, all accused, duly assisted by counsel de oficio, entered a plea of not guilty.

Trial ensued, with the prosecution presenting two witnesses, namely (1) Virgilio Torres, the brother of the deceased Leonardo Torres; and (2) Dr. Marcial Ceñido y Guevarra, a Medico-Legal Officer of the Western Police District who conducted the post-mortem examination on Leonardo Torres, and who testified that the latter died as a result of severe hemorrhage caused by the stab wound which pierced the internal organs of the victim. [14]

For the defense, appellants testified on their behalf and interposed the defense of alibi and denial. Accused Elmer Honorio waived his right to present evidence on his behalf.

Appellant Benjamin testified that on September 8, 1990, at around 7:00 o'clock in the evening, he left his place of work (Metrobank) where he is a janitor and proceeded to Raon to canvass certain appliances. On his way home from Quiapo, the passenger jeepney which he was riding was stoned. Some of the passengers jumped out of the vehicle but he remained inside the jeepney. [15] Thereafter, he saw a man being chased by two other persons. Still, the jeepney proceeded to Lepanto St. where he alighted and went home. [16]

Appellants Romulo and Brigido, in their corroborating testimonies, claimed that on September 8, 1990, at around 7:00 o'clock in the evening, they were watching the movie Die Hard II in a moviehouse along Morayta St., and that they left the moviehouse late in the evening and took a ride home to Antipolo St. along España. [17] The jeepney they were riding was stoned but they remained inside while the other passengers jumped off the jeepney. Nevertheless, the jeepney continued on España up to Antipolo St., where they alighted and proceeded to the house of Romulo where they both spent the night. [18]

On August 20, 1993, the trial court rendered its decision, disposing as follows:

"WHEREFORE, premises considered, except for Elmer Honorio who had no participation in the crime charged, judgment is hereby rendered finding herein all the three (3) accused guilty beyond reasonable doubt of the crime of murder under Article 248 (1) of the Revised Penal Code and accordingly, the penalty of RECLUSION PERPETUA is imposed upon them."

Hence, the present appeal. In their consolidated brief, [19] appellants Benjamin, Romulo and Brigido assign the

following errors:

A.

THE LOWER COURT ERRED IN NOT FINDING THAT THE UNCORROBORATED TESTIMONY OF PROSECUTION'S WITNESS VIRGILIO TORRES IS UNRELIABLE AND INCREDIBLE. THEREFORE, INSUFFICIENT TO ESTABLISH THE IDENTITY OF THE ASSAILANTS.

B.

THE LOWER COURT ERRED IN NOT FINDING THAT ACCUSED BENJAMIN GALANO COULD NOT HAVE EXECUTED OR PETPETRATED (SIC) THE STABBING COMMITTED BY A "LEFT HANDED" ASSAILANT, WHO WAS THEN IN FRONT OF THE VICTIM, CONSIDERING THAT, AS BORNE BY THE RECORDS OF THIS CASE, SAID ACCUSED GALANO IS "RIGHT HANDED".

C.

THE LOWER COURT ERRED IN NOT FINDING THAT THE FAILURE OF THE PROSECUTION TO ESTABLISH THE MOTIVE ON THE PART OF THE ACCUSED IN COMMITTING THE MURDER IS A GROUND FOR THE ACQUITTAL OF THE ACCUSED, CONSIDERING THAT THE IDENTITY OF THE ASSAILANTS IS IN QUESTION OR DOUBTFUL AND HAS NOT BEEN ESTABLISHED BY EVIDENCE.

D.

THE LOWER COURT ERRED IN NOT DISMISSING THE INFORMATION OR ACQUITTING THE ACCUSED CONSIDERING THAT THE GUILT OF THE ACCUSED HAS NOT BEEN PROVEN BEYOND REASONABLE DOUBT.

E.

THE LOWER COURT ERRED IN NOT RULING THAT TREACHERY HAS NOT ATTENDED THE KILLING OF VICTIM.

F.

THE LOWER COURT ERRED IN IMPOSING THE PENALTY OF RECLUSION PERPETUA, SINCE THE OFFENSE PROVED BY THE EVIDENCE IS HOMICIDE PUNISHABLE BY RECLUSION TEMPORAL.

[20]

Considering the aforecited assignment of errors, we find that the main issues in this case concern the credibility of the principal witness, Virgilio Torres; the sufficiency of the evidence presented by the prosecution to convict the appellants of murder; and the propriety of the penalty imposed by the trial court.

A. ON THE CREDIBILITY OF PROSECUTION WITNESS VIRGILIO TORRES

Appellants contend that Virgilio Torres was not a credible witness. He could not have possibly identified appellants inasmuch as he failed to state that the nearby lamp post shed enough light on the faces of the appellants at the time of the incident, and that coupled with the fast turn of events, no man would have the capacity to remember details of the alleged incident at the same time. Further, appellants argue that Benjamin could not have stabbed the victims with his left hand since he was "right-handed," as indicated in the Booking Sheet and Arrest Report.

We find appellants' contention unconvincing. In several cases, we have found that illumination from a lamp post is sufficient for purposes of identification, [21] particularly in this case where the victims had an opportunity to see the faces of the assailants before and after they were attacked and considering that the distance from the locus criminis to the parked jeepney where assailants fled was only about ten (10) armlengths. [22]

That Virgilio Torres could vividly recall the circumstances attending the killing of his brother is not at all

surprising. It has been repeatedly ruled that people react differently under emotional stress and there is no standard form of behavior when one is confronted by a shocking incident. [23] In general, witnesses to a crime react in different ways. [24] Witnesses to startling occurrences react differently depending upon their situation and state of mind, and there is no standard form of human behavioral response when one is confronted with a strange, startling or frightful experience. [25] The sudden cold-blooded attack on the two brothers by total strangers must have heightened the memory of Virgilio, such that the images of the appellants must have been literally burned into his memory and thus enabled him to identify the appellants subsequently with absolute confidence.

Appellants assert that the testimony of Virgilio Torres was uncorroborated. For indeed, the lips of his brother, Leonardo, were sealed by death. But the sole testimony of an eyewitness, if found convincing and trustworthy by the court, is sufficient to support a finding of guilt beyond reasonable doubt. [26] The testimony of a lone eyewitness, if found positive and credible by the trial court, is sufficient to support a conviction especially when the testimony bears the earmarks of truth and sincerity and had been delivered spontaneously, naturally and in a straightforward manner. [27] Witnesses are to be weighed, not numbered. Hence, it is not at all uncommon to reach a conclusion of guilt on the basis of the testimony of a single witness. For although the number of witnesses may be considered a factor in the appreciation of evidence, preponderance is not necessarily with the greatest number and conviction can still be had on the basis of the credible and positive testimony of a single witness. [28] Corroborative evidence is deemed necessary "only when there are reasons to warrant the suspicion that the witness falsified the truth or that his observation had been inaccurate." [29] In this case, we find the testimony of Virgilio Torres convincing and trustworthy. The trial court correctly relied on his testimony. The defense failed to prove any ill-motive on his part to testify against appellants. In the absence of evidence or any indicium that the prosecution's main witness harbored ill motives against the accused, the presumption is that he was not so moved and that his testimony was untainted with bias. [30]

Lastly, we find no reason to disturb the factual findings of the trial court, particularly in regard to the fact that although Benjamin was right-handed, according to the Booking Sheet and Arrest Report, for nothing therein negates the fact that he was the one who stabbed the victims. Nothing on record shows that Benjamin's left hand could not be used in a lethal attack.

B. ON THE ABSENCE OF MOTIVE AND THE DEFENSE OF ALIBI

Appellants claim they have no possible motive to attack the victims, who were total strangers to them. In the crime of murder, however, motive is not an element of the offense. Motive becomes material only when the evidence is circumstantial or inconclusive, and there is some doubt on whether a crime has been committed or whether the accused has committed it. Indeed, motive is totally irrelevant when ample direct evidence sustains the culpability of the accused beyond reasonable doubt. [31] Where a reliable eyewitness has fully and satisfactorily identified the accused as the perpetrator of the felony, motive becomes immaterial in the successful prosecution of a criminal case. [32] Hence, whether or not appellants had any motive in attacking the victims, their conviction may still follow from the positive and categorical identification made by witness Virgilio Torres.

Appellants profess innocence and invoke the defense of denial and alibi. For alibi to prosper, however, appellants must prove not only that they were not present at the scene of the crime but also that it was physically impossible for them to have been present there at the time the offense was committed. [33] Here, appellants not only admitted to being within the vicinity of the commission of the crime but also failed to prove the physical impossibility of their being present at the time and place it was committed. It is well-settled that "[p]ositive identification, where categorical and consistent and without any showing of ill motive on the part of the eyewitness testifying on the matter, prevails over alibi and denial which if not substantiated by clear and convincing evidence are negative and self-serving evidence undeserving weight in law." [34]

C. ON THE EXISTENCE OF TREACHERY

Appellants contend that no treachery attended the fatal attack on Leonardo, for though the victim's hands were held at the back, he could have used his lower extremities to repel the attack by kicking the assailant. We find, however, that the deceased was hardly in a position to defend himself.

There is treachery when the offender commits any of the crimes against persons employing means, methods or forms in the execution thereof, which tend directly and specially to insure its execution, without risk to himself arising from defense which the offended party might make. [35] For treachery to be considered a qualifying circumstance, two conditions must be satisfied: (a) the malefactor employed such means, method or manner of execution as to ensure his or her safety from the defensive or retaliatory acts of the victim; and (b) the said means, method or manner of execution was deliberately adopted. [36] The essence of treachery is that the attack is deliberate and without warning -- done in a swift and unexpected manner, affording the hapless, unarmed and unsuspecting victim no chance to resist or to escape. [37] In this case, the attack on the two brothers was unexpected and sudden, and neither of them could have resisted the knife attack by Benjamin even if they wanted to because of its suddenness. Moreover, the brothers were each held in the tight embrace of appellants Romulo and Brigido. At no time were the assailants open to retaliation. Also, they immediately fled from the scene of the crime by the use of a motor vehicle, a jeepney. Clearly, treachery qualified the killing to murder.

D. ON THE CHARACTERIZATION OF THE CRIME AND THE PROPRIETY OF THE PENALTY

Considering that treachery attended the commission of the offense, we agree with the trial court that the crime committed is murder, under Article 248, No. 1 of the Revised Penal Code.

However, contrary to the allegation in the information that the killing was attended by evident premeditation, we cannot appreciate this aggravating circumstance since it was not proved with "clear and convincing evidence." [38] The prosecution ought to have shown the following: (1) the time when the accused determined to commit the crime, (2) an act manifestly indicating that the accused clung to his determination, and (3) a sufficient lapse of time between such a determination and its execution to allow him to reflect upon the consequences of his act. [39] The records do not show the presence of these three conditions, nor any attempt on the part of the prosecution to establish them.

In this case, the offense was committed prior to the passage of Republic Act No. 7659, commonly known as the death penalty law. The penalty for the crime of murder then was reclusion temporal in its maximum period to death. There being no aggravating or mitigating circumstances, the trial court correctly imposed on appellants the penalty of reclusion perpetua. In addition to said penalty, appellants ought also to jointly and severally pay civil indemnity to the heirs of the victim in the amount of fifty thousand pesos (P50,000.00), pursuant to prevailing case law.

WHEREFORE, the assailed Decision finding appellants guilty of murder beyond reasonable doubt and sentencing them to reclusion perpetua is hereby **AFFIRMED**. Appellants are also hereby **ORDERED** to indemnify jointly and severally the heirs of the victim, Leonardo Torres, in the amount of P50,000.00, in line with current jurisprudence. Costs against appellants.

SO ORDERED.

Bellosillo, (Chairman), Mendoza, Buena, and De Leon, Jr., JJ., concur.

[1] Presided by Judge Cesar J. Mindaro.

- [2] TSN, August 6, 1992, pp. 8-9; TSN, February 4, 1993, p. 3.
- [3] Ibid.
- [4] Id. at 9-10.
- [5] Id. at 11.
- [6] Ibid.
- [7] Id. at 11-12.
- [8] Id. at 13-14; TSN, February 4, 1993, p. 4.
- [9] TSN, February 4, 1993, p. 4.
- [10] TSN, August 6, 1992, p. 15.
- [11] Id. at 16-17; Booking Sheet and Arrest Report, Records, pp. 25, 26, 28, 29.
- [12] Id. at 17-18.
- [13] Rollo, p. 2; N.B. Per the records, Prosecutor Pedro B. Salanga stated in open court that Virgilio Torres also filed a separate complaint for Frustrated Murder against the same accused; TSN, August 6, 1992, p. 11.
- [14] TSN, August 6, 1992, pp. 2-7.
- [15] TSN, May 10, 1993, pp. 3, 6.
- [16] Id. at 6.
- [17] TSN, May 26, 1993, pp. 2, 6.
- [18] Id. at 3-4; TSN, May 31, 1993, pp. 3-4, 10.
- [19] Rollo, pp. 71-89.
- [20] Id. at 74-75.
- [21] *People v. Evangelista*, 256 SCRA 611, 621 (1996); *People v. Fulinara*, 247 SCRA 28, 40 (1995); *People v. Abalos*, 258 SCRA 523, 531 (1996).
- [22] TSN, August 6, 1992, p. 13.
- [23] *People v. Ranido*, 288 SCRA 369, 379 (1998).
- [24] *People v. Matubis*, 288 SCRA 210, 220 (1998) citing *People v. Paynor*, 261 SCRA 615, 626 (1996).
- [25] Ibid.
- [26] *People v. Bundang*, 272 SCRA 641, 651 (1997), citing *People v. Camat*, 256 SCRA 52, 63 (1996).
- [27] *People v. Tulop*, 289 SCRA 316, 332 (1998), citing *People v. De la Cruz*, 207 SCRA 632 (1992); *People v. De Cruz*, 148 SCRA 582 (1997); *People v. Javier*, 182 SCRA 830 (1987); *People v. Francia*, 154 SCRA 495 (1987).
- [28] Ibid., citing *People v. Rayray*, 241 SCRA 1 (1995); *People v. Jumao-as*, 230 SCRA 70 (1994).
- [29] Ibid., citing *People v. De la Cruz*, *supra*.
- [30] *People v. Timon*, 281 SCRA 577, 594-595 (1997).
- [31] *People v. Astorga*, 283 SCRA 420, 433 (1997), citing *People v. Sta. Agata*, 244 SCRA 677, 684 (1995); *People v. Cayetano*, 223 SCRA 770 (1993); *People v. Magpayao*, 226 SCRA 13, 27 (1993).
- [32] *People v. Castillo*, 273 SCRA 22, 32 (1997), citing *People v. Lovedioro*, 250 SCRA 389 (1995).
- [33] *People v. Nialda*, 289 SCRA 521, 532 (1998), citing *People v. Balderas*, 276 SCRA 470 (1997).
- [34] *People v. Enriquez*, 292 SCRA 656, 661 (1998), *People v. Dinglasan*, 267 SCRA 26, 44 (1997), citing *People v. Armania*, 248 SCRA 486, 493 (1995), reiterated in *Bautista v. Court of Appeals*, 288 SCRA 171, 177 (1998).
- [35] Article 14 (16), Revised Penal Code.
- [36] *People v. De la Cruz*, 291 SCRA 164, 184 (1998).
- [37] Id. at 184-185, citing *People v. Zamora*, 278 SCRA 60 (1997).
- [38] *People v. Pallarco*, 288 SCRA 151, 169-170 (1998), citing *People v. Ganzagan, Jr.*, 247 SCRA 220, 236 (1995) and *People v. Halili*, 245 SCRA 340, 352 (1995).
- [39] Id. at 170, citing *People v. Silvestre*, 244 SCRA 479, 494 (1995); *People v. De la Cruz*, 242 SCRA 129, 142

(1995).

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