

BIEN D. SEVALLE, PETITIONER, VS. COURT OF APPEALS AND PEOPLE OF THE PHILIPPINES, RESPONDENTS.

G.R. No. 122858. February 28, 2001

Ponente: MENDOZA, J.

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MENDOZA, J.:

This is a petition for review on certiorari of the decision,[1] dated September 29, 1995, of the Court of Appeals affirming the decision of the Regional Trial Court, Branch 156, Pasig, finding accused-appellant Bien Sevalle guilty of homicide and sentencing him to suffer the penalty of eight (8) years and one (1) day of prision mayor, as minimum, to fourteen (14) years, eight (8) months and one (1) day of reclusion temporal, as maximum, and to pay the heirs of the victim Angelito Balbuena the sum of P50,000 as indemnity and the costs.

The information against petitioner and his co-accused alleged:[2]

That on or about the 17th day of December 1986 at around 8:30 at nighttime, in the municipality of Tagig, Metro Manila, Philippines, a place within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating together with two (2) John Does, whose true names, identities and present whereabouts are still unknown, taking advantage of their superior strength, and mutually helping and aiding one another, armed with deadly weapons, with intent to kill, treachery and evident premeditation, did then and there willfully, unlawfully and feloniously attack, assault, shoot and stab one Angelito Balbuena, as a result of which the latter sustained gunshot and stab wounds on the different parts of his body which directly caused his death.

Contrary to law.

Upon arraignment, petitioner pleaded not guilty to the crime charged and so the trial of the case followed.

The prosecution presented evidence showing the following:

On December 17, 1986, at around 8 p.m., Rosemarie Santos- Balbuena left her house in Tipas, Taguig to get some medicine for her son. As she was walking along Labao Street, Ligid, Tipas, on her way back home, she saw petitioner Bien Sevalle, Rusty Mendiola, and two other unidentified men beating up a man. She saw Mendiola stab the victim. Then she heard a gunshot and saw petitioner pointing a gun at the victim.[3]

Rosemarie got scared and so she took a different route home. Upon reaching home, she told her sister-in-law Virgie Balbuena what she had witnessed. After a while, her brother-in-law, Jessie Quilatan, arrived and told them that Rosemarie's other brother-in-law, Angelito Balbuena, had been killed. It was then that Rosemarie realized that the person she had seen being beaten up and killed was her brother-in-law.

At around 11:00 p.m., Pfc. Pedro Abrigo and Ricardo Mando of the Taguig police arrived and conducted an investigation.[4] Less than a month after the killing of her brother-in-law, two brothers of the victim, including Rosemarie's husband, were killed allegedly by members of the Taguig police. Pfc. Pedro Abrigo, who had been assigned to investigate the killing of the victim, was charged together with other officers before the Judge

Advocate General's Office and the National Police Commission.[5]

Desiderio A. Moraleda, a medico-legal examiner of the Crime Laboratory Service in Camp Crame, submitted on January 17, 1987 a report showing that Angelito Balbuena sustained several injuries, to wit:[6]

POSTMORTEM FINDINGS

FINDINGS:

Fairly developed, fairly nourished, male cadaver in rigor mortis with postmortem lividity over the dependent portions of the body. Conjunctivae are pale. Lips and nailbeds are cyanotic. Stomach is empty.

NECK:

- Stab wound, neck, measuring 1.5 x 0.5 cm., 7 cm. left from its anterior midline, 3 cm. deep, directed downwards, posteriorwards and medialwards, lacerating the left common carotid artery.
- Stab wound, neck, measuring 1.4 x 0.5 cm., 8 cm. left from its anterior midline, 4 cm. deep, directed downwards, posteriorwards and medialwards, lacerating the left common carotid artery.
- Stab wound, neck, measuring 1.5 x 1 cm., 3.5 cm. left from its anterior midline, 5 cm. deep, directed downwards, posteriorwards and medialwards, lacerating the left common carotid artery.
- Stab wound, neck, measuring 1.5 x 0.6 cm., 1.5 cm. lateral to its anterior midline, 5 cm. deep.
- Stab wound, neck, measuring 1.5 x 0.7 cm., 5 cm. left from its anterior midline, 8 cm. deep, directed downwards and posteriorwards, lacerating the left carotid artery.
- Gunshot wound, thru and thru, point of entry, right mammary region, measuring 0.8 x 0.9 cm., 7 cm. from the anterior midline with an abraded collar, measuring 0.3 cm. superiorly and laterally, 0.1 inferiorly and medially, directed posteriorwards, downwards and to the right, fracturing the 6th right thoracic rib, lacerating the upper and middle lobes of the right lung, making a point of exit at the right infrascapular region, measuring 1.5 x 1.2 cm., 7 cm. from the posterior midline.
- Stab wound, chest, measuring 4 x 2 cm. along the anterior midline, 4 cm. deep, directed downwards and posteriorwards, fracturing the sternum at the level of 2nd thoracic rib lacerating the left pulmonary artery.
- Stab wound, chest, measuring 1.8 x 0.5 cm., just right of the anterior midline, 6 cm. deep, directed downwards and posteriorwards, fracturing the sternum at the level of the 4th and 5th thoracic ribs.
- Stab wound, left mammary region, measuring 1.6 x 0.7 cm., 5.5 cm. from the anterior midline, 6 cm. deep, directed downwards and posteriorwards, fracturing the 3rd and 4th left thoracic ribs, lacerating the upper lobe of the left lung.
- Stab wound, epigastric region, measuring 1.5 x 0.5 cm. along the anterior midline, 7 cm. deep, directed downwards and posteriorwards, lacerating the stomach.
- Stab wound, left mammary region, measuring 1 x 0.5 cm., 14 cm. from the anterior midline, 7 cm. deep, directed downwards and posteriorwards, fracturing the left thoracic rib, lacerating the upper lobe of the left lung.
- Stab wound, left mammary region, measuring 1.6 x 0.6 cm., 6 cm. from the anterior midline, 6 cm. deep.
- Stab wound, left mammary region, measuring 1.6 x 0.5 cm., 3 cm. from the anterior midline, 8 cm. deep.
- Stab wound, left mid-axillary region, measuring 2 x 0.7 cm., 16 cm. from the anterior line, 7 cm. deep.
- Stab wound, epigastric region, measuring 1.6 x 0.5 cm., 3 cm. left from its anterior midline, 7 cm. deep,

directed upwards, posteriorwards and medialwards, fracturing the 6th left thoracic rib, lacerating both ventricles of the heart.

- Stab wound, left mammary region, measuring 1.6 x 0.5 cm., 4.5 cm. from its anterior midline, 8 cm. deep, directed downwards and posteriorwards, lacerating the left dome of the diaphragm and left lobe of the liver.

- Stab wound, left hypochondriac region, measuring 1.6 x 0.5 cm., 5 cm. from the anterior midline, 7 cm. deep, directed downwards and posteriorwards, lacerating the left dome of the diaphragm and left lobe of the liver.

- Stab wound, abdomen, measuring 0.7 x 1.7 cm., 3 cm. lateral from its anterior midline, 5 cm. deep, directed upwards and posteriorwards, lacerating the stomach.

- Stab wound, left hypochondriac region, measuring 1.6 x 0.7 cm., 6 cm. from the anterior midline, 7 cm. deep, directed upwards and posteriorwards, lacerating the left lobe of the liver.

- Stab wound, right hypochondriac region, measuring 1.5 x 0.5 cm., 4 cm. from its anterior midline, 6 cm. deep, directed downwards and posteriorwards, lacerating the right lobe of the liver.

- Gunshot wound, thru and thru, point of entry, abdomen, 0.8 and 0.7 cm., 4 cm. right from its anterior midline, with an abraded collar, measuring 0.2 cm. inferiorly, 0.1 cm. superiorly, medially, inferiorly and laterally, fracturing the 9th thoracic vertebra, lacerating the right dome of the diaphragm, right lobe of the liver, making a point of exit, at the left lumbar region, measuring 1.5 x 1.1 cm., 5 cm. from the posterior midline.

- Stab wound, middle 3rd of the left arm, measuring 1.5 x 0.6 cm., 2.5 cm. from its posterior midline.

- Stab wound, proximal 3rd of the left arm, measuring 1.3 x 0.5 cm., 3 cm. from the anterior midline.

- Stab wound, proximal 3rd of the left arm, measuring 1.5 x 0.5 cm. along the anterior midline.

- Incised wound, distal 3rd of the left arm, measuring 3 x 0.5 cm., 6 cm. from the posterior midline.

- Stab wound, left elbow, measuring 2.5 x 0.6 along the posterior midline.

- Stab wound, proximal 3rd of the left leg, measuring 2 x 0.5 cm., 5 cm. from the posterior midline.

- Stab wound, proximal 3rd of the left forearm, measuring 2.3 x 0.8 cm., 2.5 cm. from its posterior midline.

- Stab wound, dorsum aspect of the left hand, measuring 1.5 x 0.5 cm., along the anterior midline.

- Stab wound, proximal 3rd of the left forearm, measuring 3 x 0.5 cm., 3 cm. from the anterior midline.

- Stab wound, middle 3rd of the left forearm, measuring 1.5 x 1 cm., 4 cm. from the anterior midline.

- Stab wound, distal 3rd of the left arm, measuring 3.5 x 0.6 cm., 1.5 cm. Lateral to its anterior midline.

One thousand six hundred (1,600) cc of blood and blood clots accumulated in the thoracic and abdominal cavities.

Stomach is empty and the rest of the visceral organs are grossly unremarkable.

CONCLUSION:

Cause of death is cardio-respiratory arrest due to shock and hemorrhage as a result of multiple stab and gunshot wounds of the neck, trunk and upper extremity.

In 1987, due to the inaction of the Taguig police in the killing of Angelito and his two brothers, the Balbuena family sought the assistance of PC-CIS to investigate Angelito's death. Later, however, Virgie Balbuena asked the CIS for a deferment of the investigation because her family was busy with the prosecution of Taguig policemen

suspected of killing the two Balbuena brothers. Virgie Balbuena and Rosemarie Santos-Balbuena were able to file a formal statement with the CIS only in 1989.[7] As a result, Rusty Mendiola was arrested on November 8, 1989[8]and subsequently charged with murder. He was, however, acquitted by Branch 156, NCR, Regional Trial Court for failure of the prosecution to prove his guilt beyond reasonable doubt.[9] On the other hand, petitioner, who had eluded arrest, remained in hiding even after the acquittal of his co-accused Rusty Mendiola in 1990. Petitioner was finally arrested in August 1992 and tried.

This is the gist of the evidence for the prosecution. Without leave of court, petitioner filed a demurrer to the evidence. The trial court denied the demurrer and convicted petitioner of homicide. The dispositive portion of its decision stated:[10]

WHEREFORE, the Court finds the accused Bien Sevalle y Dimaguila guilty beyond reasonable doubt of the crime of Homicide defined and penalized under Article 249 of the Revised Penal Code and hereby sentences said accused to suffer an indeterminate prison term of eight (8) years and one (1) day of prision mayor as minimum to fourteen (14) years, eight (8) months and one (1) day of reclusion temporal as maximum, to indemnify the heirs of the victim in the amount of FIFTY THOUSAND PESOS (P50,000) and to pay the costs.

In the service of his sentence, the accused shall be credited in full with the period of his preventive imprisonment which lasted from July 20, 1992 up to November 20, 1992.

Hence, this appeal. Petitioner presents the following issues for resolution:

- Whether or not the prosecution has established by proof beyond reasonable doubt the guilt of the herein petitioner of the crime of homicide.
- Whether or not the decision in Criminal Case No. 79330 entitled "People Versus Rusty Mendiola" should have been taken into full consideration by the court a quo considering the similarity of the issues and facts involved therein as well as the parity of the sets of evidence presented during the trial of both cases.

After reviewing the records of this case, we hold that the decision of the trial court finding accused-appellant guilty of murder should be affirmed.

First. It is settled that, because of its opportunity to observe the facial expressions, gestures, and tone of voice of a witness who is testifying, the trial court's evaluation of the testimony of a witness is entitled to great respect.[11] The proximate contact of the trial court with those who take the witness stand places it in a more competent position to discriminate between a true and false testimony.[12] In this case, petitioner failed to show that the trial court erred in giving weight to the testimony of the prosecution witnesses.

Rule 133 of the Revised Rules on Evidence provides:

Sec. 2. Proof beyond reasonable doubt.-- In a criminal case, the accused is entitled to an acquittal, unless his guilt is shown beyond a reasonable doubt. Proof beyond a reasonable doubt does not mean such a degree of proof as, excluding possibility of error, produces absolute certainty. Moral certainty only is required, or that degree of proof which produces conviction in an unprejudiced mind.

In this case, the evidence of the prosecution is sufficient to produce conviction in an unprejudiced mind. Rosemarie Balbuena pointed to the area where the crime was committed. She testified that she saw petitioner pointing a gun at the victim, who turned out to be Angelito Balbuena, because the place was sufficiently illuminated by a Meralco lamppost and the light from a nearby sari-sari store. She was able to identify at least one of the killers, because she came close to the scene of the crime although she left in a hurry passing through another route because of fright. She knew some of the assailants. She stated that she heard a gunshot and then she saw petitioner Bien Sevalle pointing a gun at the prostrate figure of the victim. She identified petitioner in open

court. Rosemarie never wavered in her account of what she saw on the night Angelito Balbuena was killed.

While Rosemarie was the only witness to the crime, her testimony is sufficient to convict the accused. The testimony of a single witness, if positive and credible, is sufficient to support a conviction. A testimony is credible if it bears the earmarks of truth and sincerity and had been delivered in a spontaneous, natural, and straightforward manner.[13]

Petitioner has not shown that Rosemarie had any ulterior motive in testifying against him. Rosemarie knew that by lying she would be enabling the real culprit to go scot-free. Human experience tells us that a person, in the absence of a showing of any ill motive, would not impute a grave crime upon another unless the same is true.[14] In the absence of evidence or any indicium that the prosecution's main witness harbored ill will towards petitioner, her testimony must be presumed to be true.[15] In *People v. Pama*,[16] this Court held that where there is no evidence to show any dubious reason or improper motive why a prosecution witness should testify falsely against the accused or falsely implicate him in the heinous crime, the witness' testimony must be accorded full faith and credit.

On the other hand, the evidence showed that petitioner went into hiding and was found only in 1992, five years after the killing of Angelito Balbuena and two years after his co-accused Rusty Mendiola had been acquitted. S/Sgt. Simplicio Languisan, an investigator of the Criminal Investigation Services, tried several times to find petitioner, but failed to do so.[17] Flight is evidence of a guilty conscience. For as the good book says, the wicked fleeth even when no man pursueth, whereas the righteous are as brave as a lion.[18]

Second. Indeed, petitioner did not present evidence in his defense. He only relies on the fact that, in the case of Rusty Mendiola, the trial court found the evidence insufficient and so acquitted him on the ground of reasonable doubt. It can no more be argued, however, that if Rusty Mendiola had been convicted -- of murder and not merely of homicide as petitioner was -- then the latter should likewise have been convicted of murder. The fact is that the two were separately tried and additional evidence was presented in the case of petitioner. The decision acquitting Rusty Mendiola was rendered on October 12, 1990. At that time, petitioner was still in hiding.

In the case of Rusty Mendiola, the trial court disregarded the testimony of Rosemarie Balbuena on the ground that it was contradicted by Pfc. Abrigo of the Taguig Police Force. Rosemarie testified that she saw the killing of her brother-in-law Angelito Balbuena by a group which included Rusty Mendiola. She claimed she was able to identify the latter because the place was lighted by a Meralco lamppost and by a nearby store.[19] But a defense witness, Pfc. Pedro Abrigo, testified that when he arrived at the scene of the crime, the place was dark, and he had to use a flashlight to make an investigation.[20] The trial court placed greater weight on Abrigo's testimony than on that of Rosemarie Balbuena. But the trial court failed to take into account the fact that Pfc. Abrigo arrived at the crime scene at 11:00 p.m., two hours after the crime was committed, after the stores in the vicinity had already closed.[21] While it was not dark in the area two hours earlier, conditions could very well have changed two hours later. For one, the sari-sari stores from which much of the illumination came could have closed down because of the incident. This case is similar to *People v. Narvasa*,[22] in which it was held that the spot where a stabbing occurred could not be said to be poorly lighted so as to impair visibility because the electric light from the houses in the vicinity as well as the lamppost were more than sufficient to illuminate the area and make it possible for the eyewitness to clearly identify the person who attacked the deceased.

Two years later, it was entirely right for the trial court, therefore, to reconsider the evidence for the prosecution and arrive at a conclusion different from that reached by it in the case of Rusty Mendiola.

Third. Petitioner questions Rosemarie's testimony that two unidentified men tried to strike the victim, one with a piece of stone and the other with a piece of wood, because it is contradicted by the autopsy report of the

medico-legal officer which does not mention any injury caused by blunt instruments. These are minor discrepancies possibly caused by Rosemarie's state of mind upon witnessing a killing which affected her perception and recollection of some details. These lapses in Rosemarie's memory do not affect the credibility of her testimony. It is quite possible that the weapons she perceived as blunt instruments were actually bladed ones used to stab the victim. This Court has said:[23]

That there are inconsistencies, even improbabilities, in the testimony of a witness, especially on minor details or collateral matters is a common phenomenon. . . . There is no perfect or omniscient witness because there is no person with perfect faculties or senses. . . .

Yet, if it appears that the witness has not willfully perverted the truth, as may be gleaned from the tenor of his testimony and as concluded by the trial judge from his demeanor and behavior on the witness stand, his credibility on material points may be accepted.

Fourth. Petitioner claims that none of the victim's relatives, including Rosemarie, identified the killers during the police investigation. This is not so. The record shows that the victim's relatives reported the crime to the Taguig police on the very night of the incident. That they did not immediately give the identities of the killer is not of such importance as to affect their credibility. Delay in divulging the names of perpetrators of crimes, if sufficiently explained, does not impair the credibility of the witness and the probative value of his testimony.[24] In this case, the witnesses had reason to be afraid. After Angelito Balbuena died, his two brothers were also killed.

As regards the civil liability of accused-petitioner, moral damages amounting to P50,000.00 should also be awarded to the heirs of the victim in accordance with current rulings.[25]

WHEREFORE, the decision of the Court of Appeals affirming the decision of the Regional Trial Court, Branch 156, Pasig, finding petitioner guilty of homicide and sentencing him to suffer a prison term of eight (8) years and one (1) day of prision mayor, as minimum, to fourteen (14) years, eight (8) months, and one (1) day of reclusion temporal, as maximum, to indemnify the heirs of the victim in the amount of FIFTY THOUSAND PESOS (P50,000.00), and to pay the costs, is **AFFIRMED**, with the modification that moral damages amounting to P50,000.00 are also awarded to the heirs.

In the service of his sentence, petitioner shall be credited in full with the period of his preventive imprisonment.

SO ORDERED.

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

[1] Per Justice Jose C. de la Rama and concurred in by Justices Jorge S. Imperial and Eduardo G. Montenegro of the Ninth Division of the Court of Appeals.

[2] Records, p. 1.

[3] TSN (Rosemarie Santos-Balbuena), pp. 2-6, April 24, 1990.

[4] TSN (Virginia Balbuena), p.8, Jan. 12, 1993.

[5] TSN (Rosemarie Santos-Balbuena), pp. 15-16, Nov. 10, 1992.

[6] Records, pp. 88-89.

[7] TSN (Virginia Balbuena), pp. 11-14, Jan. 12, 1993.

[8] Records, p. 12.

[9] Id., pp. 197-203.

[10] Id., p. 403.

[11] People v. Bautista and Bautista, G.R. No. 131840, April 27, 2000.

[12] People v. Olivo, G.R. No. 130335, January 18, 2001; People v. Salonga, G.R. No. 128647, March 31, 2000.

[13] People v. Lazo, 198 SCRA 274 (1991).

[14] People v. Geguira, G.R. No. 130769, March 13, 2000.

[15] People v. Galano, G.R. No. 111806, March 9, 2000.

[16] 216 SCRA 385 (1992).

[17] TSN (S/Sgt. Simplicio Languisan), p. 9, March 27, 1990.

[18] People v. Olivo, supra; People v. Gallo, 318 SCRA 157 (1999).

[19] TSN (Rosemarie Santos-Balbuena), p. 6, April 24, 1990; TSN, pp. 7-9, Nov. 10, 1992.

[20] TSN (Pfc. Pedro Abrigo), p.4, July 9, 1990.

[21] TSN (Virginia Balbuena), p. 8, Jan. 12, 1993.

[22] G.R. No. 110807, Jan. 20, 2000.

[23] People v. Geguira, supra; People v. Resagaya, 54 SCRA 350 (1973).

[24] People v. Hernandez, G.R. No. 130809, March 15, 2000; People v. Pascua, 206 SCRA 628 (1992); People v. Aldeguez, 184 SCRA 1 (1990); People v. Valdez, 159 SCRA 152 (1988); People v. Rosario, 134 SCRA 496 (1985).

[25] People v. Berzuela, G.R. No. 132078, September 25, 2000; People v. Lopez, 312 SCRA 684 (1999).

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