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# THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. LIBERATO GIGANTO, SR., REYNALDO GIGANTO, EDGARDO GIGANTO, AND LIBERATO GIGANTO, JR., ACCUSED-APPELLANTS.

*G.R. No. 123077. July 20, 2000*

Ponente: MENDOZA, J.

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**MENDOZA, J.:**

This is an appeal from the decision[1] of the Regional Trial Court, Branch 52, Puerto Princesa City, finding accused-appellants Liberato, Sr., Reynaldo, Edgardo, and Liberato, Jr., all surnamed Giganto, guilty beyond reasonable doubt of the crime of murder and sentencing each of them to suffer the penalty of reclusion perpetua, with the accessory penalties of civil interdiction for life and of perpetual absolute disqualification, and to indemnify the heirs of the deceased Francisco Florentino, jointly and severally, in the amount of P50,000.00 plus costs.

The information against accused-appellants alleged[2] -

> That on or about the 30th day of October, 1993, in the evening, at Sitio Subingao, in Barangay Dumarao, Municipality of Roxas, Province of Palawan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused conspiring, confederating together and mutually helping one another, with evident premeditation and treachery, and with the use of superior strength, while armed with an air gun and bladed weapons, with intent to kill, did then and there wilfully, unlawfully and feloniously attack, assault and hack with their bladed weapons, one FRANCISCO FLORENTINO, hitting him in the vital parts of his body and inflicting upon him the following injuries:
>
> - Hack wound on the occipital area, penetrating the cranium;
>
> - Hack wound, occipital area cutting the cervical vertebrae;
>
> - Hack wound, temporal area penetrating the cranium;
>
> - Hack wound, posterior neck cutting the cervical vertebrae and major cervical vessels;
>
> - Hack wound on the thoracic vertebrae;
>
> - Multiple superficial hack wound on the neck;
>
> - Amputation of lower left arm; and,
>
> - Two hack wounds on the buttock, left side.
>
> which were the direct and immediate cause of his instantaneous death.
>
> CONTRARY TO LAW.

When arraigned, accused-appellants pleaded not guilty, whereupon, trial commenced.



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The evidence for the prosecution is summarized in the following portion of the appealed decision:[3]

Gina Martisano, a daughter of Guillermo Martisano, was to be wedded on October 31, 1993 to Liberato Giganto, Jr., a son of Liberato Giganto, Sr. The prospective bride and groom are both residents of Sitio Subingao, Barangay Dumarao, Roxas, Palawan, and as was traditional, the wedding feast follow[ing] the exchange of nuptial vows was to be held in the residence of the prospective bride.

The wedding ceremony was to be performed in the morning of October 31, 1993, and to be followed by the wedding reception. The preparation for the wedding feast, undertaken mostly by members of the family and relatives of the prospective groom, commenced as early as the evening of October [30], 1993 and continued until lunch was actually served about noontime of October 31, 1993.

Guillermo Martisano, father of the prospective bride, has 3 brothers and a married sister, Lourdes Martisano Garmino, who resides with members of her family in Barangay Itangil, Dumarao, Palawan. In connection with the forthcoming marriage of his daughter, Guillermo Martisano extended invitation to her sister and children to attend the wedding feast to be celebrated in their residence in Sitio Subingao, Barangay Dumarao, Roxas, Palawan.

The personalities with involvement of significance both in relation to the marriage between Gina Martisano and Liberato Giganto, Jr., and in the prosecution of the instant criminal action, appear to have been migrants to Palawan from the same town in the Province of Aklan. They came on different dates to different places in Palawan. Prosecution witness Cristobal Sonio came to Palawan sometime in 1968 and in 1972, established residence in Barangay Itangil, Dumarao, Palawan.

Liberato Giganto, Sr., his wife and 6 children, on the other hand, came to Palawan about 1985 to 1986 and first lived in the town of Bataraza. In 1987, however, the family moved to Sitio Subingao, Barangay Dumarao, Roxas, Palawan. Having no place to live thereat, one Francisco Florentino, a compadre of one of the children of Liberato Giganto, Sr., welcomed the Gigantos to live with [him] in [his] own residence in the same barangay. For almost a year, and only after the Gigantos have acquired a parcel of land of their own and built their own house thereon, all eight members of the family of Liberato Giganto, Sr. lived, in the place of abode, with Francisco Florentino.

From Aklan, Guillermo Martisano settled with his family and that of his cousin, Francisco Florentino, in Sitio Subingao, Barangay Dumarao, Roxas, Palawan, years before the family of the Gigantos settled in the same place from Bataraza, Palawan. The house built for the residence of the Gigantos is estimated to be about 400 to 500 meters from the residence of the family of Francisco Florentino.

It appears that despite the invitation which Guillermo Martisano extended to his close relatives, his married sister, Lourdes Martisano and her husband, Romulo Garmino, failed to attend the wedding of Gina Martisano and Liberato Giganto, Jr. Their three children, however, a daughter [and] two sons, were the ones they sent to attend the wedding. Moreover, on the basis of the invitation to him, Romulo Garmino in turn invited Cristobal Sonio to the wedding.

Cristobal Sonio and the three children of the spouses Lourdes and Romulo Garmino left their place of residence in Barangay Itangil, Dumarao, Palawan, at about 2:00 o’clock in the afternoon of October 30, 1993, and arrived in Sitio Subingao, Barangay Dumarao, Roxas, Palawan, at about 4:00 o’clock that same afternoon. On getting to Sitio Subingao, the three (3) Garmino children proceeded right away to the place of residence of their uncle, Guillermo Martisano, where the feast for the wedding of Gina Martisano and Liberato Giganto, Jr. is to take place, while Cristobal Sonio passed by, and tarried for some time, in the residence of the deceased Francisco Florentino.

At about 10:00 o’clock that same evening Francisco Florentino left his residence with one Joey Segovia,


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Reynaldo Martisano and Cristobal Sonio, and together they set out on foot to go to the residence of Guillermo Martisano, about half a kilometer away, to help in the preparation for the wedding reception for Gina and Liberato Giganto, Jr. Francisco Florentino and Cristobal Sonio, however, were unable to get to the place for the celebration of the wedding.

It was a bright moonlight night when Francisco Florentino left his residence with three others to go to the residence of Guillermo Martisano for the celebration of the eve of the wedding. When they got to that section close to the river, about 2/5 of the way to their destination, they were waylaid by Liberato Giganto, Sr., and his three sons, Reynaldo, Edgar[do] and Liberato, Jr., all of whom are armed.

Liberato, Sr. was armed with an air gun while his three sons were armed with bolos. With Liberato Giganto, Sr. pointing/poking the air gun to Francisco Florentino, the Gigantos encircled and isolated Francisco Florentino from his three companions. Then from behind, Liberato Giganto Jr. delivered the first hacking blow on Francisco Florentino, hitting the latter on his back. Not to be outdone, Reynaldo Giganto and Edgar[do] Giganto, one after the other, also hacked the victim similarly hitting him on his back.

Overcome with fear and apprehension, the victim's companions, except for Cristobal Sonio, ran away on commencement by the offenders of the attack on Francisco Florentino. First to run away from the scene was Gerry Martisano followed by Joey Segovia. Not much acquainted with the place, Cristobal Sonio was unable to run away but hid himself behind a thick growth of tall grasses nearby.

From the place where he hid, he subsequently saw the accused dragged the fallen body of Francisco Florentino towards the river. Then they dumped the lifeless body of the victim close to the river and Liberato Giganto, Sr. hacked Francisco Florentino, hitting him on his lower left arm causing it to be amputated. Thereafter, Liberato Giganto, Jr. also hacked the victim on his neck causing it to be similarly disarticulated. Horrified by the gruesome spectacle that he beheld with the aid of the bright [light] of the full moon, Cristobal Sonio ran way from where he had been hiding and did not proceed anymore to the residence of the Martisanos where the wedding is to take place.

In the morning of October 31, 1993, the body of Francisco Florentino was found in the river of Barangay Dumarao, Roxas, Palawan, close to where the victim was hacked by the brothers, Liberato, Jr., Edgar[do] and Reynaldo, all surnamed Giganto and their father, Liberato Giganto, Sr. About 4:30 o'clock in the afternoon of the same day, Dr. Leo C. Salvino, Municipal Health Officer of Roxas, Palawan, conducted in Barangay III, Roxas, Palawan, an autopsy of the body of Francisco Florentino.

In connection with his examination of the body of Francisco Florentino, the examining physician issued a handwritten Autopsy Report, marked Exh. "C" which contained the following:

> PHYSICAL EXAM FINDINGS:
>
> HEAD - 1) Hacking wound, 15 cm., 5 cm. deep, occipital area, penetrating the cranium with exenteration of brain sus. and amputation of (L) ear tragus and anti-tragus.
>
> 2) Hacking wound, 13 cm., 5 cm. deep, occipital area, with complete disarticulation of cervical vertebrae.
>
> 3) Hacking wound, 13 cm., 7 cm. deep, temporal area, penetrating the cranial cavity.
>
> NECK - Hacking wound, 15 cm., 8 cm. deep, posterior neck, with complete disarticulation of cervical vert. and severed major cervical vessels.
>
> BACK 1) Hacking wound, 39 cm., 9 cm. deep, bet. thoracic vert. 1 and 2, with complete disarticulation of thoracic vertebrea.

2) Multiple superficial hacking wounds.

EXT - 1) Amputation of distal 3rd (L) lower arm.

2) Hacking wound, 10 cm. x 1 cm. ,(L) buttock

3) Hacking wound, 8.5 cm. x 2 cm., (L) buttock.

PROBABLE CAUSE OF DEATH:
- Intracranial Hemorrhage due to multiple hacked wound.

- Severed spinal cord due to multiple hacked wound.

The evidence for the defense is summarized in the following portion of the trial court's decision:[4]

Through the testimonies of Guillermo Martisano, father of the bride and father-in-law of co-accused Liberato Giganto Jr., and [of] two of the four accused, namely Liberato Giganto, Sr. and Reynaldo Giganto, the defense sought to prove that for the duration of the period from early in the evening of October 30, 1993 until dinner time in the evening of October 31, 1993, all four accused have always been in the residence of Guillermo Martisano helping in the preparation of the food to be served to the guests and visitors, and subsequently assisting in serving food and entertaining guests. None of them had been to the scene of the slaying, nor in the immediate vicinity thereof about the time of its supposed commission.

Co-accused Liberato Giganto, Sr., father of all three other co-accused declared that on invitation of his son-in-law, he and members of his family came to Sitio Subingao, Barangay Dumarao, Roxas, Palawan, from Bataraza, Palawan, sometime in 1987. As they were yet without any place for his big family to live in, and on invitation by Francisco Florentino, a compadre of his son-in-law, the Gigantos were accommodated in the residence of the latter. For almost a year, and until they have acquired a land and build a house of their own thereon, the family of the Gigantos lived free of charge in the residence of Francisco Florentino. They build their house, also in Sitio Subingao, Barangay Dumarao, Roxas, Palawan, about 500 meters from the residence of Guillermo Martisano.

In relation to the forthcoming marriage of his son, Liberato, Jr. to Gina Martisano on October 31, 1993, Liberato Giganto, Sr., as early as 6:00 o'clock in the evening of October 30, 1993, went to the residence of Guillermo Martisano, father of his prospective daughter-in-law, to oversee and supervise the food preparations for the wedding feast following the wedding ceremony. With him in the same place were his sons, Reynaldo, Liberato, Jr. and Edgar[do], and some other friends who also helped in the preparation for the wedding feast. The accused Liberato Giganto, Sr. and all his three sons aforenamed remained in the residence of Guillermo Martisano for the duration of the whole evening of October 30, 1993, and until the conclusion of the celebration about 6:00 o'clock in the afternoon of October 31, 1993.

Co-accused Reynaldo Giganto, the only other accused who testified for the defense similarly set up the defense of alibi. Among others, he affirmed his father's testimony that in 1987, the Gigantos first lived in the residence of the deceased Francisco Florentino in Sitio Subingao, Barangay Dumarao, Roxas, Palawan. After about a year, they transferred to the house of their own build also in Sitio Subingao, about 500 meters away from the residence of Francisco Florentino. By close association with one another, Francisco and the Giganto brothers regard each other as blood brothers. Moreover, Liberato Giganto, Sr. and his wife, Anastacia, are treated as parents by Francisco Florentino.

Like his father and two other brothers, co-accused Reynaldo Giganto was in the residence of Guillermo Martisano, also in Sitio Subingao, Barangay Dumarao, Roxas, Palawan, starting about 6:00 o'clock in the evening of October 30, 1993, attending to the food preparation for the wedding of his brother Liberato, Jr. and

Gina Martisano. Like his father and two other brothers, Reynaldo Giganto remained in the residence of Guillermo Martisano, attending to the food preparations and subsequently entertaining guests until about 6:00 o'clock in the evening of October 31, 1993. For the duration of that span of time, there was never any instance that Reynaldo Giganto, his father and two other brothers leave the premises of the residence of Guillermo Martisano.

Guillermo Martisano, father of the bride, Gina Martisano, and who became the father-in-law of co-accused Liberato Giganto, Jr., and one of two other witnesses for the defense, similarly affirmed that from about 6:00 o'clock in the evening of October 30, 1993 until about 6:00 o'clock in the evening of the following day, the accused Liberato Giganto, Sr. and his three sons, co-accused Reynaldo, Edgar[do] and Liberato, Jr., were in the residence of the Martisano attending to the food preparations for the wedding reception following the solemnization of the marriage. He personally know such fact because as father of the bride, he was also [at] home for that span of time and he actually noticed the presence in his residence of all the persons of the accused.

Tarciso Factor, the only other witness for the defense, was called to the stand to prove that he [was] acquainted with all the accused and the deceased Francisco Florentino, and that no feud or quarrel exist between any member of the family of one and the other. Like Guillermo Martisano though, Tarciso Factor also [knew] that the deceased Francisco Florentino [was] troublesome, especially after taking intoxicating drinks.

On September 28, 1995, the trial court rendered its decision finding accused-appellants guilty of murder. The court gave credence to the testimony of Cristobal Sonio and dismissed the defense of alibi of accused-appellants on the ground that the house of Guillermo Martisano, where they said they were at the time of the killing, and the place of the killing can be negotiated by foot in only two and a half minutes. It was thus not physically impossible for the accused-appellants to sneak from the residence of Guillermo Martisano and proceed to the vicinity where they attacked the victim and his companions. The court surmised that because the victim was known in the neighborhood as a troublemaker, "[t]he Gigantos may not have relished the sad spectacle of a pleasurable wedding reception being disrupted by the rowdiness of a troublemaker." It relied on the sworn statement (Exh. A) of Joey Segovia that accused-appellant Liberato Giganto, Sr. pointed an air gun at them (including the victim Francisco Florentino), while the other accused-appellants took turns in attacking the victim with their bolos. The trial court held:[5]

> In seeking exoneration from the charge, the accused relied on alibi, reputed to be one of the weakest defenses the defendants can invoke. . . .
>
> The place of residence o Guillermo Martisano, where the accused were supposed to have been attending to the food preparation for the wedding reception the following day, was only about half a kilometer from the residence of the deceased Francisco Florentino, and only about 400 meters from the river close to where the latter was purportedly slain. Co-accused Reynaldo Giganto conceded that the distance from Martisano residence to the place where Francisco Florentino was slain can be negotiated on foot in only about 2½ minutes. (TSN, Roselyn Teologo, July 19, 1995, pp. 26 & 27)
>
> On the basis of the proximity of the distance between the two places, it was not physically impossible for the accused to sneak from the residence of Guillermo Martisano where they were attending to the food preparations for the wedding and proceed to the vicinity of the river where they waylaid the deceased. . . .
>
> The evidence for the defense portrayed the deceased Francisco Florentino as a trouble maker. Because of that, neither Guillermo Martisano, a first cousin of the deceased, nor anyone of the Gigantos extended invitation for him to help in the food preparations or even as a guest in the wedding reception. Yet, they may have expected that Francisco Florentino will be going to the residence of Guillermo Martisano with Cristobal Sonio, Joey Segovia and Reynaldo Martisano that evening of October 30, 1993.
>
> . . . . The Garmino children must have been asked who were with them from Barangay Itangil, and they must


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> have related that they were with Cristobal Sonio, but who passed by and tarried for some time in the residence of Francisco Florentino. The Gigantos may not have relished the sad spectacle of a pleasurable wedding reception being disrupted by the rowdiness of a troublemaker.
>
> In connection with the police investigation of the incident which resulted to the death of Francisco Florentino, on November 3, 1993, Senior Police Officer 2 Roselito Cervantis Abis took sworn statement of Joey Segovia, one of those with Francisco Florentino at the time the Gigantos waylaid them by the river and eventually hacked and killed the victim. In that same statement marked Exh. "A", Joey Segovia declared among others that:
> Noon pong ika 30 ng Octobre, 1993, sa Sitio Subingao, Barangay Dumarao, Roxas, Palawan, humigit kumulang bandang ika 10:00 ng gabi, kami ay magkasama nina Francisco Florentino at Ronaldo Martisano upang magtulong sa pagkatay ng mga baboy para sa handa sa kasalan at nang sa daan papunta sa nasabing kasalan na malapit sa may ilog ay hinarang kami ng apat na tao na sina Liberato [Giganto, Sr.], Reynaldo [Giganto], Liberato [Giganto, Jr.] and Edgar[do] [Giganto], at tinutukan kami ng air gun ni Liberato [Giganto, Sr.] habang ang tatlo niyang anak ay pawang may hawak na mga gulok, at nakita kong biglang inuundayan ng taga ni Liberato [Giganto, Jr.] si Francisco Florentino at nang makita ko ang ganoong pangyayari ako ay napatakbo dahil sa takot at ako ay nagtago at tuloy na akong umuwi sa aming bahay." (Portion of sworn statement marked Exh. "A".)

When compelled to take the witness stand as a witness for the prosecution, having been ordered arrested for having previously failed to appear despite notice, the same witness turned hostile to the case of the prosecution and declared that his declarations contained in the sworn statement marked Exh. "A" are not true as he was only coerced, threatened and intimidated into affixing his signature in the same document.

The court, however, has not been impressed by the reason for the retraction by Joey Segovia of his statements in Exh. A". It has not convinced the Court that the contents thereof were only dictated to him by the close relatives of the deceased Francisco Florentino. Rather, it appeared to the court that the statement therein were voluntarily given by him in the course of the investigation by the police, conducted only a few days after the death of the victim. His responses to questions on cross-examination tended to show that he himself gave the statements to the police.

**Q**

Do you know why you were brought to the police station?

**A**

Yes, sir.

**Q**

Why?

**A**

In order to give my statements.

**Q**

And did you give your Malayang Salaysay before the police?

**A**

Yes, sir.

. . . .

**Q**

And actually your statement was taken by the police?

**A**

Yes, sir.

**Q**

And the statement taken by the police is the same statement you identified earlier and marked Exhibit ”A”?

**A**

Yes, sir. (TSN, Timothea RV Basa, March 14, 1995, pp. 13 & 14)

The death of Francisco Florentino was conclusively established by the evidence. The manner the deceased was attacked by the four accused as testified to by prosecution witness Cristobal Sonio is borne by the kind of injuries inflicted on the victim as found by Dr. Leo Salvino, the MHO of Roxas, Palawan, who conducted the Post Mortem Examination the day following his death.

The dispositive portion of the trial court’s decision reads:[6]

> WHEREFORE, premises considered, judgment is hereby rendered finding the accused Liberato Giganto, Sr., Reynaldo Giganto, Edgar[do] Giganto and Liberato Giganto, Jr., guilty beyond reasonable doubt as co-principals of the crime of murder and there being no modifying circumstances appreciated, and not being entitled to the benefits of the Indeterminate Sentence Law, all said accused are sentenced to reclusion perpetua, with the accessory penalt[ies] of civil interdiction for life, and of perpetual absolute disqualification; to pay the heirs of the deceased Francisco Florentino, jointly and severally, civil indemnity of P50,000; and to pay the costs.
>
> SO ORDERED.

Hence, this appeal. Accused-appellants maintain their defense of alibi and question the credibility of prosecution witness Cristobal Sonio. We find their contentions to be well taken. As is evident from the above excerpt, the trial court relied on the weakness of the defense, rather than on the strength of the prosecution evidence, by emphasizing that alibi is a weak defense.

While it is true that alibi is a weak defense, it is equally settled that where the evidence of the prosecution is itself feeble, particularly as to the identity of the accused as the author of the crime, the defense of alibi assumes importance and acquires commensurate strength.[7] The rule that alibi must be satisfactorily proven was never intended to change the burden of proof in criminal cases; otherwise, the accused would be put in the difficult position of proving his innocence even where the prosecution’s evidence is vague and weak.[8] The prosecution cannot profit from the weakness of accused-appellants’ alibi. It must rely on the strength of its evidence and establish the guilt of the accused-appellants beyond reasonable doubt.[9]

In the case at bar, discarding for the moment the defense of alibi of accused-appellants and how easily they could have gone to the place of the commission of the crime, there is no evidence of the prosecution on which a judgment of conviction can be based. Two prospective prosecution witnesses, Joey Segovia and Ronaldo Martisano, repudiated the affidavits which they had given on November 3, 1993 on the ground that they had been coerced to make the affidavits. These persons retracted what they had stated in their affidavits twice, on November 26, 1993 and again on March 7, 1994, leaving the prosecution without any positive evidence to link accused-appellants to the crime except the testimony of Cristobal Sonio.

There are, however, several reasons for disbelieving the testimony of Sonio.

First. Sonio surfaced as a witness only on May 31, 1994, seven months after the killing of Francisco Florentino on October 30, 1993. He was accompanied by Rosalina Florentino, sister of the victim, to give his Sinumpaang Salaysay before the police authorities. He testified that he decided to come out and reveal what he knew of the case because he had been told by Elpidio Florentino, the victim's brother, that Joey Segovia and Ronaldo Martisano had been paid to keep their silence and thereafter, refused to testify for the prosecution.[10] Sonio said he was reluctant in the beginning to testify for the prosecution because he lived quite far from the court. But, upon learning that Segovia and Martisano had retracted their earlier sworn statements, he was moved by pity for the victim's family and decided to come out in the open.

The explanation for the eleventh-hour decision of Cristobal Sonio to talk is too pat to be believed. Sonio allegedly dropped by the house of the deceased on his way to the Martisano residence to which he had been invited. He and the deceased were good friends. If he really witnessed the killing of his friend, it is hard to understand why he did not even tell Elpidio Florentino, the brother of the deceased, or Anastacia Florentino, the widow, about what he had allegedly seen considering that he admitted that he saw them after October 30, 1993.[11] He could not possibly have been afraid of reprisals as he did not reside in the town of Subingao where accused-appellants and the victim lived. Indeed, he never claimed he had been threatened or intimidated if he testified.

As a rule, the failure of a witness to report immediately a crime he had witnessed does not affect his credibility. It is not unusual for a witness to show some reluctance about getting involved in a criminal case and such natural reticence of most people is of judicial notice. The witness may also be threatened.[12] For this reason, the delay or vacillation in making a criminal accusation does not necessarily weaken the credibility of a witness.[13] But, in this case, the delay of seven months was not satisfactorily explained, especially considering the fact that the deceased was a friend of the witness. These circumstances distinguish this case from those cases[14] cited by the prosecution to explain the failure of Sonio to come out earlier and implicate accused-appellants in the crime.

It is more likely that because Joey Segovia and Ronaldo Martisano repudiated their previous statements, Cristobal Sonio was persuaded to take their place. It is noteworthy that Sonio's statement was given on May 31, 1994, while Segovia and Martisano made their retractions for the second time on March 7, 1994. It is also noteworthy that the two did not mention that Sonio was with them when the victim was killed.[15] There is thus some doubt whether Sonio actually witnessed the killing.

Second. Evidence to be believed must not only come from the mouth of a credible witness but must itself be credible. This is a well-established rule of evidence.

In this case, the killing took place on October 30, 1993, on the eve of a wedding. The prospective groom was accused-appellant Liberato Giganto, Jr. The prospective bride was a relative of the deceased, the first cousin of her father. Given these facts, why should accused-appellants want to kill on the eve of a wedding and mar the joy of the occasion when there was no sufficient reason for them to do so? Why would they wish to kill someone who was a relative of the future wife of one of them?


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Moreover, it appears that when accused-appellants first arrived in 1986 in Sitio Subingao, Barangay Dumarao to settle there, they lived in the house of the deceased and stayed there until they were able to build their own house nearby. Their relations with the deceased remained cordial. They did not have any quarrel. Accused-appellant Reynaldo Giganto said he and the victim regarded each other as brothers.[16] And even after the death of Francisco Florentino, Anastacia, his widow, went to the house of accused-appellants to borrow palay.[17] Given these facts, why should accused-appellant kill Francisco Florentino?

To the question why accused-appellant would want to kill the deceased, the trial court had one answer: The deceased was a menace (salot) in the community. Because of his violent temper, people were afraid of him. The trial court theorized that "[t]he Gigantos may not have relished the sad spectacle of a pleasurable wedding reception being disrupted by the rowdiness of a troublemaker." That is certainly not a sufficient reason for a prospective groom and his family to commit murder against a man who is a relative of the future bride, whom they themselves regarded as a member of their family.

Guillermo Martisano was the cousin of the victim but he testified for the defense. Reason would dictate that he should testify for the prosecution, considering that the victim was his first cousin. This fact and the other circumstances just enumerated cast serious doubt on the veracity of Cristobal Sonio's testimony.

When the evidence of the prosecution is weak, it is necessary to prove motive; otherwise, the guilt of the accused becomes open to reasonable doubt, and the accused must be acquitted.[18] For if the inculpatory facts are capable of two or more explanations, one of which is consistent with the innocence of the accused and the other consistent with his guilt, then the evidence fails to meet the test of moral certainty and is insufficient to support a conviction.

WHEREFORE, the decision of Regional Trial Court, Branch 52, Puerto Princesa City, in Criminal Case No. 11567 is REVERSED, and accused-appellants Liberato Giganto, Sr., Reynaldo Giganto, Edgardo Giganto, and Liberato Giganto, Jr. are ACQUITTED.

The immediate release from confinement of accused-appellants is ordered unless some other lawful cause warrants their further detention. The Director of the Bureau of Corrections is directed to implement this Decision and to report to this Court the action taken hereon within five (5) days from receipt hereof.

**SO ORDERED.**

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

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[1] Per Judge Filomeno A. Vergara.

[2] Rollo, pp. 1-2.

[3] Decision, pp. 1- 6; Id., pp. 16-20.

[4] Id., pp. 7-11; Id., pp. 21-25.

[5] Id., pp. 11-15; Id., pp. 25-29.

[6] Rollo, pp. 31-32.

[7] People v. Galera, 280 SCRA 492 (1997); People v. De la Cruz, 279 SCRA 245 (1997).

[8] People vs. Manambit, 271 SCRA 344 (1997).

[9] People v. Ragay, 277 SCRA 106 (1997).

[10] TSN, pp. 12-13, March 15, 1995.

[11] Id., p. 9.

[12] People v. Castillo, G.R. No. 130188, April 27, 2000.

[13] People v. Funesalida, 281 SCRA 452 (1997).

[14] People v. Plasencia, 249 SCRA 674 (1995); People v. Francisco, 249 SCRA 526 (1995); People v. Pacapac, 248 SCRA 77 (1995).

[15] TSN, p. 6, March 14, 1995.

[16] TSN, p. 8, July 19, 1995.

[17] Id., pp. 18-19.

[18] People v. Vasquez, 280 SCRA 160 (1997).


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