

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
WILFREDO BAÑEZ Y CABAEL, ALIAS “WILLY,”
ACCUSED-APPELLANT.**

G.R. No. 125849. January 20, 1999

Ponente: MENDOZA, J.

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MENDOZA, J.:

Before the Court for review is the decision,[1] dated August 9, 1996, of Branch 46 of the Regional Trial Court at Urdaneta, Pangasinan finding accused-appellant Wilfredo C. Bañez guilty beyond reasonable doubt of parricide for the killing of his father, Bernardo P. Bañez, and sentencing him to suffer the penalty of death. In addition, the trial court ordered accused-appellant to indemnify the heirs of his father in the amount of P50,000.00 and to pay the costs.

The information[2] against accused-appellant, dated October 27, 1994, alleged ¾

That on or about the 14th day of August, 1994 at barangay San Vicente, municipality of Urdaneta, province of Pangasinan and within the jurisdiction of this Honorable Court, the above-named accused with intent to kill and with treachery, did then and there, willfully, unlawfully and feloniously attack, assault and stab several times his father, Bernardo Bañez y Padilla, with the use of a bladed weapon, hitting said victim in the vital parts of his body which caused his instantaneous death and to the damage and prejudice of his heirs.

CONTRARY to Art. 246, Revised Penal Code.

The facts of the case are as follows:

Accused-appellant Wilfredo Bañez was living in his parents' house in Barangay San Vicente East, Urdaneta, Pangasinan. On August 14, 1994, his sisters, Elvira Bañez-Bustamante and Emelinda Bañez-Antiado, came to the house because their father, Bernardo P. Bañez, complained that accused-appellant made trouble whenever he was drunk. The elder Bañez wanted to put up accused-appellant in another house or sleeping quarters.[3]

Elvira testified that, in the evening of August 14, 1994, she and her sister Emelinda discussed with their father the latter's plan for accused-appellant. After a while, she said, when her father went to his room, accused-appellant, who looked drunk because he was red in the face, ran to the kitchen and got two (2) knives and then went inside their father's room. Emelinda followed accused-appellant inside the room. Elvira then heard Emelinda scream. When Elvira went inside the room, she saw accused-appellant stabbing her father saying, “Pinalalayas mo ako!” (“You are sending me away!”). The elder Bañez fell in a sitting position at a corner of the room. Elvira said she tried to stop accused-appellant from inflicting further injuries on her father, even as she pleaded with him that “He is our father.” But as Elvira tried to take the knives from accused-appellant, the latter lunged at her and stabbed her, hitting her on the right hand, forearm, and buttock. Emelinda tried to stop accused-appellant by throwing a piece of wood at him, but accused-appellant turned to Emelinda and said to her: “You are also one.” Emelinda was so frightened she ran to Elvira's house, about 25 meters away from their father's house. As

accused-appellant chased Emelinda, Elvira locked herself inside her father's house and stayed there until three (3) helpers from their poultry farm and their maid arrived. She asked them for help to take her father to the hospital, but accused-appellant came back and threatened them with harm. It was only much later, after accused-appellant had left again, that she was finally able to get help to take her father to the Sacred Heart Hospital in Urdaneta, Pangasinan. By then, however, her father was already dead. Elvira herself was treated for her injuries.[4]

On cross-examination, Elvira stated that accused-appellant had been staying in their father's house for four (4) years after accused-appellant separated from his wife; that in 1988 accused-appellant was confined at the Bicutan Rehabilitation Center in Taguig, Metro Manila for addiction to gasoline; that he had been discharged from the same a long time ago, although she could not remember the year he was discharged; that accused-appellant had not shown any indication that he was crazy although he was also treated at the Baguio General Hospital for addiction to gasoline.[5]

The autopsy report[6] showed that the victim suffered ten (10) stab wounds on various parts of his body, to wit:

SIGNIFICANT EXTERNAL FINDINGS:

- Stab wound, chest anterior wall, middle sternal area, lunate, 4x1 1/2 x 10 cm.
- Stab wound chest anterior wall, left lunate 4x 1/2 x 5 1/2 cm.
- Stab wound, abdomen left hypochondrium lunate 5x3x9 cm.
- Stab wound abdomen left iliac, lunate 4x9x10.
- Stab wound chest anterior wall, right lunate, 4x1/2x1/2 cm.
- Stab wound chest anterior wall, right lunate 7x1x9 cm.
- Stab wound abdomen, right near midline lunate 5x7x10 cm.
- Stab wound abdomen center lunate 4x1/2x10 cm.
- Stab wound right arm, lunate 5x1 1/2 cm. anterior aspect thru and thru to post aspect.
- Stab wound right thigh, lunate 4x1/2 x 3 cm.

SIGNIFICANT INTERNAL FINDINGS:

- 50-75 cc. blood at pericardial sac.
- Stab wound, heart.

CAUSE OF DEATH:

Cardiac tamponade due to stab wound, heart.

A plea of insanity was made by the defense in behalf of accused-appellant. Dr. Rico Angelo Gerona III and Marina Cabaal-Bañez, the mother of accused-appellant, were presented in support of such plea. Accused-appellant did not testify.

Dr. Gerona III, Medical Officer III of the National Center for Mental Health, Mandaluyong City, testified that accused-appellant was admitted to the hospital on September 3, 1994, twenty (20) days after the commission of the crime on August 14, 1994. He said accused-appellant was suffering from schizophrenia, which he described as a mental disorder characterized by thought disturbances, hallucination, suspiciousness, and deterioration in areas of work, social relations, and self-care. He stated that schizophrenia is generally caused by genetic predisposition,

use of substances, and stress and that inhaling or sniffing gasoline and alcoholism may also result in this kind of mental illness. He said that in the case of accused-appellant, schizophrenia could have been caused by addiction to gasoline or by family problems. But he could not say whether at the time of the commission of the crime accused-appellant was insane. His diagnosis that accused-appellant was suffering from schizophrenia “may be 99% correct or 1% wrong.”[7] He also stated that the writing on the notebook made by accused-appellant prior to August 14, 1994 was not conclusive that he was insane at the time of the killing or immediately prior thereto.[8]

Dr. Gerona III testified that accused-appellant admitted the killing and said this was because his father wanted to throw him out of their house to make room for a new helper. He said that accused-appellant was remorseful and hoped that he would be forgiven.[9]

On cross-examination,[10] Dr. Gerona III stated that taking shabu and inhaling gasoline produce the same results as schizophrenia, i.e., hallucination and dilation of the eyes; that it takes at least six (6) months of inhaling gasoline to develop schizophrenia and that a person who suffers from schizophrenia would not remember any violent act he may have committed.

Marina Gabel-Bañez, mother of accused-appellant, testified that, long before the incident on August 14, 1994, accused-appellant had been confined for more than a year at the Bicutan Rehabilitation Center for addiction to gasoline; that after his release, accused-appellant stayed in his father’s house where he worked as helper in the poultry farm; that accused-appellant was also treated at the Baguio General Hospital in 1987 although he was not confined there; and that, after killing his father, accused-appellant was confined at the Mandaluyong mental hospital for treatment.[11]

On cross-examination,[12] she told the court that, since 1979, she had been separated from her husband because the latter lived with another woman with whom he has two (2) children; that because of this, she went to Spain in 1979 to work and did not return to the Philippines until 1981; that accused-appellant was addicted to gasoline; that in 1987 she took accused-appellant to the Baguio General Hospital for treatment; that she thought her son had already been cured but not long after, accused-appellant’s wife, Apolonia Reboalos, left him. According to her, her son blamed his in-laws for his marital troubles. Accused-appellant resorted to gasoline sniffing again to forget his problems. When asked by the trial court whether accused-appellant was a drunkard, she answered, “No, he drinks liquor only when offered.”

On August 9, 1996, the trial court rendered a decision finding accused-appellant guilty of parricide with the aggravating circumstances of dwelling and habitual intoxication and sentencing him to suffer the penalty of death. It ruled that the defense of insanity had not been sufficiently proven.

Accused-appellant seeks the reversal of the trial court’s decision on the following grounds:[13]

I

THE TRIAL COURT GRAVELY ERRED IN NOT CONSIDERING THE EXEMPTING CIRCUMSTANCE OF INSANITY INTERPOSED BY THE ACCUSED-APPELLANT.

II

THE TRIAL COURT GRAVELY ERRED IN APPRECIATING THE AGGRAVATING CIRCUMSTANCES OF INTOXICATION AND DWELLING AS ATTENDANT IN THE COMMISSION OF THE CRIME CHARGED.

III

THE TRIAL COURT GRAVELY ERRED IN IMPOSING THE DEATH PENALTY UPON THE ACCUSED-APPELLANT INSTEAD OF RECLUSION PERPETUA ON THE ASSUMPTION THAT HE WAS SANE AT THE TIME OF THE KILLING.

First. It is contended that accused-appellant was suffering from schizophrenia when he killed his father and, therefore, he should have been held exempt from criminal liability under Art. 12(1) of the Revised Penal Code. The following portion of the report of Dr. Rico Angelo Gerona III of the National Center for Mental Health is cited in support of this contention:

In view of the foregoing history, observation and examinations on the patient Wilfredo Banez y Cabael, he is found suffering from a mental disorder called psychosis or insanity classified under Schizophrenia. This is a thought disorder characterized by suspiciousness, poor judgment, poor impulse control, perceptual disturbances, self mutilation and deterioration in areas of work, social relation and self-care.[14]

In addition, Dr. Gerona's testimony is quoted:

DR. RICO ANGELO GERONA ON DIRECT EXAMINATION:

Q.

What was your diagnosis of the patient Wilfredo Banez?

A. The patient to be psychotic, he has schizophrenia, sir.

Q. In your ordinary language what do you mean by that illness, Doctor?

A.

He is mentally disorder suffering in schizophrenia characterized by thought disturbances, hallucination, suspiciousness, deterioration in areas of work, social relation and self-care.

Q. Why did you arrive at this diagnosis, Doctor?

A.

Since the patient manifested the characteristics of suspiciousness, delusion, hallucination, deterioration of self-care, social relation in work.

Q. Can you tell us the causes of this illness schizophrenia, Doctor?

A.

Schizophrenia may be caused by many factors such as genetic, predisposition, use of substance and under stress.

....

Q. Doctor, were you able to determine when the patient was affected?

A. According to the patient's history the accused was sick six (6) years prior to his admission to the Center.

Q. That was your information that you received, is that correct, Doctor?

A. Yes, sir.

Q. Who gave you that information, Doctor?

A. I got it from the Chart, sir.

Q. Do you know who supplied the information?

A. The mother, sir.

Q. From your findings Doctor, can you determine if the patient is (sic) already mentally ill on August 14, 1994?

A. Yes, sir.

Q. It appears Doctor that in your report that the patient was admitted 20 days after August 14, 1994?

A. Yes, sir.[15]

The defense of insanity has no merit.

Art. 12 of the Revised Penal Code provides:

Art. 12. Circumstances which exempt from criminal liability. — The following are exempt from criminal liability:

1. An imbecile or an insane person, unless the latter has acted during a lucid interval.

....

In *People v. Formigones*,[16] it was held:

The Supreme Court of Spain held that in order that this exempting circumstance may be taken into account, it is necessary that there be a complete deprivation of intelligence in committing the act, that is, that the accused be deprived of reason; that there be no responsibility for his own acts; that he acts without the least discernment: (Decision of the Supreme Court of Spain of November 21, 1891; 47 Jur. Crim. 413.); that there be a complete absence of the power to discern, or that there be a total deprivation of freedom of the will. For this reason, it was held that the imbecility or insanity at the time of the commission of the act should absolutely deprive a person of intelligence or freedom of will, because mere abnormality of his mental faculties does not exclude imputability. (Decision of the Supreme Court of Spain of April 20, 1911; 86 Jur. Crim. 94, 97.)

Elaborating on this ruling, this Court stated in *People v. Rafanan, Jr.*: [17]

A linguistic or grammatical analysis of those standards suggests that *Formigones* established two (2) distinguishable tests: (a) the test of cognition - "complete deprivation of intelligence in committing the [criminal] act," and (b) the test of volition - "or that there be a total deprivation of freedom of the will." But our caselaw shows common reliance on the test of cognition, rather than on a test relating to "freedom of the will;" examination of our caselaw has failed to turn up any case where this Court has exempted an accused on the sole ground that he was totally deprived of "freedom of the will," i.e., without an accompanying "complete deprivation of intelligence." This is perhaps to be expected since a person's volition naturally reaches out only towards that which is presented as desirable by his intelligence, whether that intelligence be diseased or healthy.

Accused-appellant must thus prove that he was completely deprived of reason when he killed his father in order to be considered exempt from criminal liability. However, this has not been shown in this case. There is nothing either in the report of Dr. Gerona or in his testimony which indubitably show that accused-appellant was completely without reason on the night of August 14, 1994 when he killed his father because the latter wanted him to leave the house. Although he said that in his opinion accused-appellant was schizophrenic when he committed the crime, and that he was 99% certain of this, he was later less certain when questioned by the trial judge and admitted that accused-appellant was mentally well at least after his discharge from the Bicutan Rehabilitation Center in 1988 and for some time until he was confined at the mental hospital in 1994, after the commission of the crime in this case. Dr. Gerona testified:[18]

ATTY. PARAJAS, DEFENSE COUNSEL:

Q

Doctor, were you able to know if the accused was confined at the Bicutan Rehabilitation Center?

A Yes, sir.

Q When?

A In 1988 sir.

COURT:

Q And was released/discharged?

A Yes sir, two (2) years after he was admitted.

Q What ground was he released or discharged?

A I do not have the report.

Q But it will be concluded that he was released because he was okay?

A Yes, sir.

Q So that if he was already okay, he was no longer suffering of mental disorder?

A Yes, sir.

....

COURT:

Q

At the time of the killing by the accused of his father, you do not know whether or not he was suffering of such kind of illness but only your presumption?

A Yes, sir.

Q You might be correct 99% and wrong 1%?

A Yes, sir.

Q But it is possible that 1% the accused was not insane at that time of suffering from schizophrenia?

A Yes, sir.

....

ATTY. PARAJAS:

Q

It is possible Doctor at that time the accused Wilfredo Bañez killed his father on August 14, 1994, it is possible that he was already affected with this disease?

A Yes, sir.

COURT:

Q And it is also possible that he was not?

A

Yes, sir.

....

Q And now he can stand trial?

A Yes, sir.

Q

So that there are times he was suffering such kind of illness and there was some time he was not suffering such kind of illness?

A Yes, sir.

Q So that you do not know when it will re-occur?

A Yes, sir.

ATTY. PARAJAS:

That will be all, your Honor.

When Dr. Gerona was cross-examined, he admitted that accused-appellant was “apparently in good mental condition” when he committed the crime:[19]

PROS. VILLARIN: (CROSS-EXAMINATION):

Q

So from 1991 to 1994 the accused was allowed to associates [sic] with others?

A Yes, sir.

Q

So with that period before he was admitted (to the National Center for Mental Health) he was in good mental condition?

A Yes sir, he was apparently in good mental condition.

....

COURT:

Q

From the time he was released from the Bicutan Rehabilitation Center in 1988 up to the time he was brought to your center in 1994 with that span of time he was in normal condition, is that correct?

A Yes, sir, apparently.

Indeed, Dr. Gerona III could not have testified on the mental condition of accused-appellant at the time of the commission of the crime considering that he treated accused-appellant only after the latter was confined at the National Center for Mental Health. He was not even the doctor who admitted accused-appellant to the National Center for Mental Health on September 3, 1994 because it was a certain Dr. Gara[20] who did. Although

accused-appellant was admitted to the mental hospital on September 3, 1994, he was not treated by Dr. Gerona III until February 19, 1996, which was one and a half years after the commission of the crime. Nor were accused-appellant's medical records in the Bicutan Rehabilitation Center, where he was allegedly confined from 1988 to 1990, and in the Baguio General Hospital, where he was treated for some mental illness in 1987, submitted in evidence to determine for what illness he was exactly treated.

The defense of insanity is in the nature of confession and avoidance. Like the justifying circumstance of self-defense, the burden is on the defense to prove beyond reasonable doubt that accused-appellant was insane immediately before the commission of the crime or at the very moment of its execution.[21] In the instant case, accused-appellant failed to discharge this burden. His evidence merely consisted of the testimony of his own mother that he was confined at the Bicutan Rehabilitation Center in 1988 for the treatment of his addiction to gasoline, not for schizophrenia, and that he was also brought to the Baguio General Hospital for check-up. The testimony of Dr. Rico Angelo Gerona III is inconclusive as to whether accused-appellant was insane at the time immediately preceding or at the very moment of the killing.

On the other hand, the evidence shows that accused-appellant had a motive for killing his father. The latter wanted to put him up in another house because accused-appellant made trouble whenever he was drunk. His sister Elvira testified that accused-appellant created trouble whenever he was drunk and that was the reason she (Elvira) and Emelinda were in their father's house because their father did not want accused-appellant to stay there anymore. It was entirely possible that he killed his father out of resentment and that he only suffered a mental breakdown because of emotional stress arising from the incident. That was the reason he was found suffering from schizophrenia when taken to the National Center for Mental Health on September 3, 1994.

Although schizophrenia is not exempting if it does not completely deprive the offender of the consciousness of his acts, it may nevertheless be considered mitigating under Art. 13(9) if it diminishes the exercise of his will power. In this case, however, the defense failed to prove that accused-appellant was suffering from schizophrenia or any mental illness at the time immediately preceding or at the very moment of the commission of the crime that could diminish his will-power.

Second. With respect to the contention that the trial court erred in appreciating the aggravating circumstances of dwelling and intoxication in the commission of the crime, we find ourselves to be in agreement with the defense. Dwelling cannot be considered aggravating because accused-appellant and his father were living in the same house where the crime was committed.[22] The rationale for considering dwelling an aggravating circumstance is the violation by the offender of the sanctity of the home of the victim by trespassing therein to commit a crime.[23] This reason is entirely absent in this case.

With regard to the alternative circumstance of intoxication, which the trial court treated as aggravating, it has not been shown that it is habitual or that it was intentional as required by Art. 15 of the Revised Penal Code. Elvira Bañez-Bustamante testified that, at the time of the commission of the crime, accused-appellant looked drunk because his face was "reddish"[24] and he smelled of liquor. She further claimed that accused-appellant made trouble whenever he was drunk.[25] On the other hand, accused-appellant's mother, Marina Gabel-Bañez, denied that accused-appellant was a drunkard. She declared that he drank only when offered drinks by his friends.[26]

Assuming that accused-appellant was drunk at the time he killed his father, nonetheless, the record does not show that he is a habitual and excessive drinker or that he intentionally got drunk on August 14, 1994 in order to commit the crime. In the absence of clear and positive proof that intoxication was habitual or intentional on the part of accused-appellant, it is improper to consider the same as an aggravating circumstance. Every aggravating circumstance must be proven by the prosecution as fully as the crime itself and any doubt as to its existence must

be resolved in favor of the accused.[27]

Neither can intoxication be considered mitigating in this case because there is no showing that accused-appellant was so drunk that his will-power was impaired or that he could not comprehend the wrongfulness of his acts.[28] The result is that accused-appellant's intoxication cannot be considered as either aggravating or mitigating: The prosecution failed to prove that it was habitual or intentional, but neither did the defense prove that, as a result of intoxication, his will-power had been impaired such that he did not know what he was doing.

Under R.A. No. 7659, the penalty for parricide is reclusion perpetua to death. Since there was neither aggravating circumstance nor mitigating circumstance in this case, the lesser penalty of reclusion perpetua should be imposed on accused-appellant pursuant to Art. 63(2) of the Revised Penal Code.

WHEREFORE, the decision of the Regional Trial Court is **AFFIRMED** with the **MODIFICATION** that accused-appellant is sentenced to suffer the penalty of reclusion perpetua. No costs.

SO ORDERED.

Davide, Jr., C.J., Romero, Bellosillo, Melo, Puno, Vitug, Kapunan, Panganiban, Martinez, Quisumbing, Purisima, Pardo, Buena, and Gonzaga-Reyes, JJ., concur.

[1] Per Judge Joven F. Costales.

[2] Rollo, p. 10.

[3] Records, pp. 4-5, Sworn Statements of Elvira Bañez-Bustamante and Emelinda Bañez-Antiado.

[4] TSN, pp. 3-12, July 5, 1996.

[5] Id., pp. 15-20.

[6] Exh. B, Record, p. 6.

[7] TSN, pp. 2-14, July 29, 1996.

[8] Records, p. 43.

[9] TSN, pp. 8-11, 19-20, July 29, 1996; Report on the Mental Condition of Wilfredo Bañez, Exh. I, Records, pp. 12-14.

[10] Id., pp. 18-21.

[11] Id., pp. 21-24.

[12] Id., pp. 24-28.

[13] Brief for the Accused-Appellant, p. 1, Rollo, p. 103.

[14] Id., pp. 6-7, id., pp. 108-109.

[15] TSN, pp. 5-7, July 29, 1996.

[16] 87 Phil. 658, 661 (1950).

[17] 204 SCRA 65, 74-75 (1991).

[18] TSN, pp. 9-15, July 29, 1996 (emphasis added).

[19] TSN, p. 16-17, July 29, 1996 (emphasis added).

[20] *Id.*, p. 5.

[21] *People v. So*, 247 SCRA 708 (1995); *People v. Danao*, 215 SCRA 795 (1992).

[22] *People v. Morales*, 94 SCRA 191 (1979); *United States v. Rodriguez*, 9 Phil. 136 (1907).

[23] *People v. Balansi*, 187 SCRA 566 (1990).

[24] TSN, p. 5, July 5, 1996.

[25] *Id.*, at p. 19.

[26] TSN, p. 28, July 29, 1996.

[27] *People v. Maturgo, Sr.*, 248 SCRA 519 (1995).

[28] *People v. Renejane*, 158 SCRA 258 (1988); *People v. Ancheta*, 148 SCRA 178 (1987).

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