

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
VALENTINO G. ESPINOSA ALIAS BILLY ESPINOSA,
ACCUSED-APPELLANT.**

G.R. No. 62613. January 17, 1986

Ponente: GUTIERREZ, JR., J.

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GUTIERREZ, JR., J.:

Convicted of the crime of murder and sentenced to suffer the penalty of reclusion perpetua by the Circuit Criminal Court, 14th Judicial District, Cebu City in a decision dated June 7, 1982, the accused Valentino Gelig Espinosa, also known as Billy Espinosa, interposed the present appeal.

Valentino Gelig Espinosa was charged with the murder of one Eladio Bation, in an amended information dated September 29, 1981, as follows:

"That on 2 August, 1981, at about 2:00 o'clock dawn in Ibabao, Agus, Lapulapu City, Philippines, and within the jurisdiction of this Honorable Court, the above named accused did then and there wilfully, unlawfully and feloniously - in a sudden and unexpected manner - treacherously stab one Iladio Bation, inflicting upon the latter the following injuries, to wit:

"Stab wound penetrating, perforating right chest lacerating the diaphragm, right lobe liver, perforating hepatic flexure colon;

"Stab wound left post-lumbar penetrating, perforating descending colon;

"Incised wound right forearm."

causing the death of said Iladio Bation, to the damage and prejudice of the heirs of said victim.

"That the crime is committed with the presence of the aggravating circumstances of nighttime and reiteration, the accused having been previously convicted by final judgment of the crimes of violation of PD 1507 and violation of Batas Pambansa Blg. 6 by the City Court of Lapu-Lapu, Lapu-Lapu City.

"Contrary to Law."

The accused entered a plea of "not guilty."

Further amendment of the information was made during the trial upon manifestation of the prosecuting officer, Fiscal Celso M. Gimenez, who withdrew the allegation of "reiteration" and moved to delete the same from the information after having certified that it was one Virgilio Guba Espinosa of Mangubat Street, Lapu-Lapu City and not herein accused Valentino Gelig Espinosa who had been convicted by final judgment of the City Court of Lapu-Lapu City of violation of PD 1507 and Batas Pambansa Blg. 6 for the illegal possession and sale of lottery tickets.

Through its witness Francisco Igot, Chief of the Barangay Police of Abuno, Pahak, the prosecution sought to

establish the following as facts:

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"x x x (O)n July 25, 1981, his men and he saw Billy Espinosa carrying a combat bolo in a public dance at Micasia and so, tried to apprehend him. They failed because Billy Espinosa ran and then slipped into the darkness of the night.

"Thus, on August 1, 1981, when Francisco Igot espied the presence of Billy Espinosa in the public dance at Juan Taghoy, he directed his men to watch the accused closely. Billy was dancing all the while, but he did take respite by drinking hard liquor with friends at any one of the small stores at the side of the dancing place. A lone mercury vapor lamp illuminated the dancing place and its surrounding area.

"After the dance was over, everyone - dancers and spectators alike -started to go home. Eladio Bation and Antonio Sagarino were on their way home together, followed a short distance away by Francisco Igot and some Barangay policemen.

"All of a sudden, the accused Billy Espinosa, having come from behind the coconut trees, appeared and suddenly stabbed Eladio Bation twice with a combat bolo. At this point, Francisco Igot called out to the accused by saying , 'Stop! we are Barangay Policemen.'

"The accused, upon seeing that he was detected, ran posthaste into the darkness. Francisco Igot there upon ordered three of his Barangay Policemen to bring the wounded victim to the hospital while he, accompanied by four other Barangay policemen, gave chase. The accused managed to cross the boundary and, seeing that the accused did, and he had no jurisdiction to apprehend the accused in the other barrio, he desisted from further pursuit and returned to the crime scene.

"Francisco Igot reported the matter to the Barangay Captain. Having been authorized to pursue the case further, Francisco Igot went to the house of Billy Espinosa, but did not find the accused there. Having encountered Venancio Amores instead, he picked up the latter and brought him to the Police Headquarters in Lapulapu City. Venancio Amores declared quite reluctantly that the author of the crime was Billy Espinosa, his hesitation having been caused by threat of death or bodily harm if he tells the police that it was Billy Espinosa who perpetrated the killing."

Corroborating the testimony of Barangay Police Chief Francisco Igot were Barangay Policemen Bruno Villaraza and Gervasio Ygot who were among those assigned to keep peace and order at the public dance at Sitio Juan Taghoy. Being eyewitnesses, both Villaraza and Ygot positively identified the accused as Bation's assailant. They stated that they chased the latter as he fled from the scene of the crime.

Likewise identifying the accused as responsible for the death of Bation, Antonio Sagarino, guitar maker, resident of Abuno, Lapu-Lapu City and companion of the deceased Eladio Bation when the incident occurred, recounted that he and Eladio were on their way home together from the public dance at sitio Juan Taghoy when, having barely reached a distance of around twelve (12) meters from the dancing place, they were ambushed and attacked by three (3) persons, among them Billy Espinosa, who made thrusts at Eladio Bation with a combat bolo, fatally wounding the latter and fleeing upon being seen and chased by barangay policemen.

Dr. Guillermo Tiambang who attended to the deceased and later conducted his autopsy, testified as to the nature and extent of the injuries sustained by the deceased.

The father of the deceased, Pascual Bation, offered evidence on the damages he suffered as a result of the killing of his son, leaving, however, the amount of moral damages to the discretion of the court.

The decision appealed from, also summarized the contention of the accused, to wit:

"It is the defense of the accused Billy Espinosa, more properly, Valentino Gelig Espinosa, 21 years of age, married, a porter by occupation, and a resident of Ibabao, Agus, Lapulapu City, that he had no hand in the killing of Eladio Bation and that he was a witness to the fact that it was Albino Flores, Jr., who perpetrated the act of stabbing and killing the offended party.

"It is the accused's contention that, on August 1, 1981, Alfredo Warang of Sitio Juan Taghoy hired him to load a shipment of guitars. At 7:00 o'clock in the evening, when his work was done, he went out of the house of Alfredo Warang only to realize that a public dance was in the offing. He then decided to watch the dancing and, perhaps, later participate in it. In point of fact, he was just able to watch the affair from the sidelines, but he stayed on until the end of the dance.

'Just then, he saw that a certain Rex Sullano approached Albino Flores, Jr. and, as they conversed, he heard that Rex Sullano was asking for help from Albino Flores, Jr. because some persons were going after him. Albino Flores, Jr. went with Rex Sullano and it turned out that it was with Antonio Sagarino and Eladio Bation that Rex Sullano had quarreled. As Rex Sullano encountered Antonio Sagarino, the former boxed the latter on the face. Antonio Sagarino and Eladio Bation beat a retreat and ran their separate ways. It was unfortunate for Eladio Bation that he passed by a coconut tree where Albino Flores, Jr. was lying in ambush. As Eladio Bation passed by, Albino Flores, Jr. immediately stabbed him.

"Billy Espinosa went home after he saw the killing, he having trembled at the sight of the occurrence. On the way home, he met Albino Flores, Jr. and found the latter nonchalantly singing a march while walking. The accused remarked at Albino Flores, Jr., 'You are fool, Jun, why stab him?' To this, Albino Flores, Jr. remarked, 'Don't be noisy, we might be discovered.' As Albino Flores, Jr. went to his house, the accused Billy Espinosa allowed him to sleep there. At past 4:00 o'clock dawn, however, he woke up only to realize that Albino Flores, Jr. had already left. Since then, the accused never saw Albino Flores, Jr. again.

"It is the contention of the accused that Albino Flores, Jr. is more likely to be the killer of Eladio Bation for the reason that Albino Flores, Jr. has the propensity to kill. The accused alleged that Albino Flores, Jr. had stabbed a garbage collector and a child in a moments of intoxication."

To support this latter fact, the defense presented Luis Vosotros and Cristina Elardo. The former was a victim himself of Flores' criminal propensity while the latter was called upon to identify a certification from the police blotter of the Cebu INP regarding the stabbing incident involving a little boy where Albino Flores, Jr. was the author.

Defense witness Mario Gilig substantiated the accused's testimony in all its material points. He was with the accused Espinosa in Fredo Waram's place of work, at the public dance, and later, at the scene of the crime and on the way home with his neighbor, Billy Espinosa.

Another defense witness, Higinio Arong, testified in substance that on his way home after the public dance to which he accompanied his daughter and lady cousin, he noticed a commotion ahead of them. Proceeding further, he saw Eladio Bation sitting on the ground, his back leaning against a banana trunk. He asked Eladio what had happened to him. Bation answered that he was stabbed by the companion of Billy Espinosa. He immediately called for Pepe Fuentes, the only barangay policeman allegedly present at the dance to take care of the victim and upon the latter responding, he, his daughter and lady cousin went home.

"Upon an overview of the foregoing evidence adduced by the parties", the lower court found "positive, sufficient, and convincing evidence presented by the prosecution directly showing the criminal liability of the accused Billy Espinosa." Hence, this appeal.

Accused-appellant assigns the following errors:

- THE TRIAL COURT ERRED IN GIVING CREDENCE TO THE OTHERWISE IMPROBABLE AND

INCREDIBLE TESTIMONIES OF PROSECUTION WITNESSES; and

- THE TRIAL COURT ERRED IN NOT AFFORDING WEIGHT TO THE VOLUNTARY, SPONTANEOUS AND TRUTHFUL TESTIMONIES OF THE ACCUSED AND HIS WITNESSES.

Appellant cites various inconsistencies in the testimonies of prosecution witnesses. The defense makes capital of the fact that in the testimony of Francisco Igot, he alleged that the distance from the scene of the crime was only twelve (12) meters away from the dancing place where he and his co-barangay policemen were located. This particular statement is in conflict with the testimony of another supposed eyewitness Mr. Bruno Villaraza that the distance was about fifty (50) meters away. It is alleged that the big variance in the testimonies of both witnesses as to the distance creates a doubt as to the veracity of their allegations that they were present and stood eyewitnesses to the incident. Likewise, that the lone mercury vapor lamp of the dance hall could illuminate to about fifteen (15) arms' length away as testified to by Gervasio Ygot is in direct contradiction to Bruno Villaraza's statement that beyond fifteen (15) meters to a distance of fifty (50) meters away, the lamp was capable of illuminating the scene of the crime. These are matters of relative unimportance too trivial to affect the positive testimony and identification of the accused as *particeps criminis*. Inconsistencies in the testimony of the principal eyewitnesses which are details that do not impair their identification of the appellant are not fatal (*People v. Demeterio*, 124 SCRA 914). Conflict-ing testimonies on measurements of distances are of minor consequence (*People v. Hilario*, 113 SCRA 291). Witnesses who are in a state of surprise and fright cannot be expected to recall with accuracy or uniformity matters connected with the main overt act (*People v. Balane*, 123 SCRA 614). Rather than dis-credit the testimony of prosecution witnesses, such discrepancies on minor details serve to add credence and veracity to their categorical, straightforward, and spontaneous testimony. The same do not affect the thrust of witnesses' testimonies where they all jibe in the matter of the identity of the accused.

The decisive fact is that the witness was present at the scene of the crime and that the same is corroborated (*People v. Muñoz*, 107 SCRA 313). In the case at bar, the presence of prosecution witnesses at the scene of the crime, at a distance as to enable them to make a positive identification of the accused, was firmly established and corroborated as to impress the court with a belief in its truth. There was indeed some variance in the testimonies of Francisco Igot and Bruno Villaraza regarding distances. The same, however, appears to be due to an honest mistake in observation on the part of witness Villaraza, who strikes us as the least discriminating of the witnesses presented by the prosecution. We note that mere estimations and not exact calculations or measurements were given by the witnesses, some even using arms lengths to describe distance. The following excerpts from the transcripts of stenographic notes give insight as to the limited knowledge ability of the witnesses regarding measurements. These explain the occurrence of inconsistencies in testimonies:

"ATTY. NAVARRO

"Q: How far is the dance hall to the place where the incident allegedly happened?

"A: Maybe from this corner here up to that corner. (WITNESS INDICATING A DISTANCE ESTIMATED TO BE 12 METERS)."

(Testimony of Francisco Igot, p. 8, Tsn., 12 November 1981).

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"ATTY. NAVARRO

"Q How far as the place of the incident in relation to the dance hall?

"A From here to the post (WITNESS INDICATING A DISTANCE OF ABOUT 50 METERS.)" (Testimony of Bruno Villaraza, p. 7, tsn., 21 January 1981).

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"COURT:

"Q Will you first clarify this, you were already 15 meters away from the dance floor or 50 meters away?

"A 15 arms' length, sir.

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"COURT:

"Q - So that there will be no misunderstanding, you demonstrate that distance?

"A - Maybe, from here up to the light? (Witness pointing a distance around 12 meters)."

(Testimony of Gervasio Ygot, p. 8, tsn., 9 March 1982).

"FISCAL JIMENEZ:

"Q How far away was the place of the stabbing incident from the dancing place, as far as your estimate of the distance is concerned?

"A May be from here up to there (witness pointing a distance of around 12 meters)."

(Testimony of Antonio Sagarino, pp. 4-5, Tsn., 13 November 1981).

That Bruno Villaraza's statement was an honest miscalculation and the other prosecution witnesses' averments were correct is strengthened by the supporting testimony of defense witness Higinio Arong, to wit:

"Q Now. While going home after the cessation of the dance was there any unusual incident that occurred?

"A There was.

"Q Please relate that unusual incident?

"A While we were going home, there was a commotion that ensued beyond us at a distance of around 15 meters from the dancing place. x x x."

(Testimony of Higinio Arong, p. 3, tsn., 21 April 1982).

This information was voluntarily supplied by Arong on direct examination. This, at least, appellant must believe.

Nevertheless, granting arguendo that Villaraza's statement regarding the matter of distances is discredited, the same does not render false the rest of his testimony. The fact that a witness may have lied at one instance on a certain point does not make his entire testimony totally incredible and therefore inadmissible, in the light of sufficient evidence to establish the commission of the crime, the eyewitnessing of the criminal act, and identification of the criminal -

"It is perfectly reasonable to believe the testimony of a witness with respect to some facts and disbelieve it with respect to other facts. And it has been aptly said that even when witnesses are found to have deliberately falsified in some material particulars, it is not required that the whole of their uncorroborated testimony be rejected, but such portions thereof deemed worthy of belief may be credited." (People v. Mozar, 130 SCRA 579, citing People v. Malillos, 24 SCRA 133).

The same is true for the testimony of defense witness Higinio Arong whom the prosecution has billed a "professional witness." Although his claim that he was present at the scene of the crime elicits belief, his

testimony that, upon seeing the deceased Eladio Bation leaning on a banana trunk, all bloodied up, he had asked the latter, who was responsible for stabbing him, ("Who stabbed you?") to which Bation had answered, "It was Billy's companion", was uncorroborated and easily fabricated. It lacks credibility. As against the testimony of prosecution witnesses, the same fails to impress this Court. As between the testimony of the eyewitnesses and the testimony of Arong who arrived at the scene of the crime, and testified only as to matters occurring after the stabbing incident, the former should prevail.

The defense maintains that the testimony of Antonio Sagarino must not be given any weight and credence. It contends that his identification of the accused Espinosa came about only after the incident at the instance of a third person, and is thus, hearsay and inadmissible in evidence. It cites his testimony:

"ATTY. NAVARRO:

"Q You knew the accused at the time of the incident?

"A Yes.

"Q I am referring to paragraph 10 of your sworn statement which says, which consist of a question and answer phrased this way – 'do you know that person who made a thrust of that long bolo against Eladio Bation which hit the latter and caused him to groan? A-Only now that I know him, after the incident, that the person who made the thrust that hit Eladio Bation is Billy Espinosa who is the resident of Ibabao, Lapulapu City,' is this your own statement before the police?

"A Yes.

"Q How would you reconcile now your answer to your previous testimony that you knew him already at that time of the incident?

"A It was because of Venancio Amores who said that it was Billy Espinosa who stabbed him.

"Q And when did Venancio tell Eladio Bation?

"A After the incident.

"Q When particularly, the following day or two days after?

"A The following day.

"Q So that you will now it clear that you only came to know the accused Billy Espinosa the day after the incident?

"A Yes.

"Q Because Venancio Amores told you so?

"A Yes."

(Tsn., November 13, 1981, pp. 8-9).

The foregoing, however, is not the entirety of Sagarino's statements on that point. The rest of his statements prove contrary to the contentions of the appellant -

"Q You said that there were three persons who approached Eladio Bation and yourself along the way, can you name the other two persons?

"A I only know two of them.

"Q Who were they?

"A Venancio Amores and Billy Espinosa.

"Q Were there other persons next to you?

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"COURT:

"Q Did you know Billy Espinosa before the stabbing incident?

"A Yes.

"Q How did you come to know him?

"A He always attend dances in our place.

"Q And the moment that he rushed at you and Eladio Bation, did you recognize him to be Billy Espinosa?

"A Yes.

"Q When someone thrust at Bation twice, did you see who made the thrust at Eladio Bation?

"A Yes, I saw it was Billy Espinosa." (Tsn., November 13, 1981, p. 9).

The witness appears to have been merely misled by the manner of counsel's questioning. The court found it necessary to propound clarificatory questions. It is clear that witness Sagarino had known the accused prior to the time of the incident although it was only from Venancio Amores that he had learned that this man was Billy Espinosa from Ibabao, Lapulapu City. There is clear and positive identification of the accused. Sagarino was categorical that he had seen and known appellant before and that it was the latter who stabbed Bation. There is nothing incredible about this testimony. Identification of an accused may be made even without previous knowledge of the person as in a police line-up, with such person initially identified as a "John Doe." And while Sagarino may have learned of the appellant's name from Amores, the fact that he was at the scene of the crime and saw the accused stab the deceased was firmly established. Further, Sagarino's identification of Espinosa is supported by other prosecution witnesses who are themselves eyewitnesses to the crime.

The defense relies on statements clearly taken out of context to discredit prosecution witnesses. The testimony of prosecution witness Gervasio Ygot is alleged to be "unbelievable". They state that it is incredible for Ygot to merely shout to the culprit 'do not do that' because 'the dance is still going on' at the precise moment the crime was being committed' and that "it was very unnatural for the four barangay policemen, Gervasio Ygot included, who were allegedly about four arms' length from the scene of the crime 'to wait for the relatives of the deceased to prevent the killing'."

We agree that it is hardly imaginable that such an incident would elicit a merely docile reaction from the lawmen. The transcript of stenographic notes taken during the trial reveals a different reaction:

"Q Do you want to impress this Court that when the first stab was delivered upon the victim four of the barangay policemen merely stood about 4 meters away from the commotion and did noting except to announce your presence?

"A We gave chase."

(Tsn., March 9, 1982, p. 10).

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Further, the records disclose -

"COURT:

"Q Then there were four of you who were barangay policemen, did you not intervene in the incident in order to prevent further harm to the victim?

"A We intervened, but we just waited the relatives of the deceased if they will meet us.

"COURT:

"Q Will you clarify, after the first blow, the question of counsel is, why did you not confirm your answer also you were waiting for the relatives of the deceased to ask for your help, what do you mean by that?

"A To wait for the relatives of the deceased to prevent the killing.

"A I do not understand intervener (intervene), sir.

"COURT:

"Q What do you want to say? In answer to question of the counsel?

"A What I mean was that, after we gave chase to the assailant, we returned to the wounded person and we brought him to the hospital."

(Tsn., March 9, 1982, pp. 10-11)

It is shown from the aforequoted testimony that the witness, together with the other barangay policemen, had given chase to the accused, returned to the wounded victim and it was then that they awaited the relatives of the deceased "to meet them". Instead of stating a fact, Ygot's statement "to wait for the relatives of the deceased to prevent the killing", was to clarify what the court meant when it posed the query "x x x why did you not confirm your answer also you were waiting for the relatives of the deceased to ask for help, x x x?" Admittedly, the witness misunderstood the question propounded to him. It would be unfair for the defense to use against the witness such statement on a point which the latter did not clearly comprehend.

Reference is also made to Ygot's statement that he was unaware of any instructions to conduct surveillance on the person of accused Billy Espinosa. From there, a conclusion is drawn that Ygot was never an eyewitness to the crime.

Ygot's lack of awareness of any such instructions is not incongruous with the fact that he had been an eyewitness to the slaying of Eladio Bation. The defense counsel must have known of instances where bystanders or even passersby, totally innocent of the goings-on at the scene of the crime previous to their being present thereat, become eyewitnesses - Why then could Ygot not be one? Far from discrediting witness Ygot, such a fact is significant as it establishes not only the spontaneous and unrehearsed nature of his account but also the lack of orchestration or coaching on the part of the prosecution, with each witness rendering his own individual account replete with peculiar observations of details making the same more credible and worthy of belief.

Turning to prosecution witness Bruno Villaraza, the defense questions Villaraza's failure to confiscate the bolo which the accused was earlier carrying at the dance.

The barangay policemen's hesitation at confiscating the accused's bolo at the dancing place is fully understandable. Being unarmed, their apprehension had basis. To limit themselves to conducting a surveillance was, under the circumstances, the most prudent thing to do. Nothing untoward had as yet happened during the dance and to confiscate Espinosa's "pinute" would only create trouble and undue panic. It would have disrupted

the peace and order at the dance. There was then no reason for them to believe that Espinosa would use it on anyone, the dance having proceeded without incident. Espinosa coerced or threatened no one with the bolo and even left the same everytime he danced. And while Villaraza's judgment may have been unwise, the same does not impair his testimony as an eyewitness. In fact, Villaraza's alleged leniency with Espinosa in that instance proves the former's unbiased and truthful testimony. No motive appears on the part of the witness to besmirch Espinosa's name or reputation. More importantly, the fact that the crime was committed and that accused appears responsible for it remains.

The testimonies of defense witnesses on the other hand, are insufficient to tip the scales of justice in favor of the appellant and to overcome the evidence substantiating the charge against him and proving him guilty beyond reasonable doubt. Witness Mario Gilig, the only eyewitness presented for the accused, merely corroborates the latter's theory, in an apparently scripted account which we find to be unpersuasive.

Espinosa's actuations were not in accord with that of an innocent man. Having been the companion of Albino Flores, Jr. whom he alleges to have been the author of the crime, it is to be expected of Espinosa to have informed the authorities thereof and assert his own innocence. Instead, Espinosa had fled the same day and later harbored the alleged murderer in his home allowing him to stay the night. Furthermore, the appellant had thereafter left his own place of residence for places unknown until his arrest.

These facts, together with the testimony of Gilig, a first degree cousin of the accused, lead us to affirm them findings of the lower court.

Finally, defense witnesses Cristina Elardo and Luis Vosotros, have testified on a matter with no bearing on the guilt nor innocence of the accused. Proof of Albino Flores, Jr.'s criminal propensity neither frees Espinosa of guilt nor establishes Flores' hand in the killing.

On the whole, Espinosa's defense, consisting of a denial and the faulting of another, is unavailing. We find no error in the trial court's pronouncement of guilt.

WHEREFORE, IN VIEW OF THE FOREGOING, the decision of the Circuit Criminal Court of Cebu, 14th Judicial District dated June 7, 1982 finding Valentino Gilig Espinosa, alias Billy Espinosa, guilty beyond reasonable doubt of the crime of murder and sentencing him to suffer the penalty of RECLUSION PERPETUA with the acces-sory penalties of the law, is hereby AFFIRMED. However, following the precedent set in *People v. Dela Fuente* (126 SCRA 518), the award of Twelve Thousand Pesos (P12,000.00) as indemnification for the death of Eladio Bation is increased to THIRTY THOUSAND PESOS (P30,000.00).

SO ORDERED.

Teehankee, (Chairman), Melencio-Herrera, Plana, Relova, De la Fuente, and Patajo, JJ. concur.

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