

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
BUENAVENTURA ARUTA, NATHANIEL QUIÑONES, AND JOHN DOE,
ACCUSED-APPELLANTS.**

G.R. No. 73907. May 18, 1993

Ponente: CRUZ, J.

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CRUZ, J.:

Cesar Galvez sped on his motorcycle to meet a friend that tragic night. Little did he know that it was death that awaited him, to fall upon him with knives and leave him lifeless on the road.

Three men were originally charged in the information for his murder. One was shot to death before he could be arraigned. Another has never been identified and is still at large. This appeal concerns only Buenaventura Aruta, who claims he was erroneously convicted.

The killing occurred on December 26, 1982, at about seven o'clock in the evening, in Jaro, Leyte. The prosecution presented two alleged eyewitnesses who both pointed to Aruta as one of the assailants.

Adriano Marmita testified that on the night in question, he was waiting for Cesar Galvez at Sta. Cruz Street so he could hitch a ride on his motorcycle. When Galvez arrived, Nathaniel Quiñones, who was standing about 8 meters away, called him. Galvez alighted from his motorcycle and parked it, after which Quiñones approached him. Quiñones then restrained Galvez by the shoulders and shouted "Fight him!" This must have been a pre-arranged signal for it was then that Buenaventura Aruta and another person emerged from the edge of the road to attack Galvez. Aruta stabbed Galvez twice in the chest. The other person stabbed Galvez in the side of his body. Quiñones also stabbed the now helpless Galvez in the abdomen. Galvez was dead when he fell.[1]

Marmita said that he fled in fear and thereafter rode with Cresente Puertollano on his motorcycle to inform Jacinto Galvez of his son's death.[2]

Martin Rombo made practically the same narration of Galvez's killing. He said he was on his way to his cousin's house when he witnessed the attack on Galvez by Aruta and his two companions. Rombo did not immediately report the killing to Jacinto Galvez, explaining that it was already getting late at that time.[3]

Dr. Prudencio Fevidal, Municipal Health Officer of Jaro, Leyte conducted the autopsy on the body and reported that the cause of death was severe hemorrhage due to four stab wounds in the chest and abdomen.[4]

Aruta took the stand in his defense and swore he was not among the three men who attacked and killed Galvez. He said that he was 60 kilometers away at the time of the killing, enjoying a drinking session at his compadre's house at Cogon, Ormoc City.[5] Mariano Dagle corroborated this testimony, affirming that Aruta left his house for Jaro in the morning of December 27, 1982, at about 5 o'clock.[6] Two other defense witnesses, namely Samuel Dejana and Wilfredo Garrido, declared that they had seen the killing and that it was committed only by Quiñones.[7] Pat. Perfecto Villamor, who investigated the incident that same night, testified that nobody mentioned Aruta as among the men who had attacked Galvez.[8]

The appellant's brief faults the trial court for convicting Aruta despite the reasonable doubts about his guilt.[9] Specifically, it is pointed out that the four stab wounds were caused by only one weapon and thus by only one person. This man was Quiñones and not Aruta. There were also inconsistencies in the testimonies of the two alleged eyewitnesses, e.g., who assaulted Galvez and when, the number of thrusts made, and the place where the stabbings occurred. It was also strange that Rombo, who claimed to have witnessed the incident, took all of ten days, no less, to report the matter to the victim's father. By contrast, the accused-appellant's alibi was completely credible and had been corroborated by the other defense witnesses.

We are not convinced.

It is a settled doctrine that the assessment of the credibility of witnesses is left largely to the trial court because of its opportunity, not available to the appellate court, to observe the witnesses on the stand and determine by their demeanor whether they are testifying truthfully or lying in their teeth. The findings of the trial court on this matter are received with much respect and indeed accepted as conclusive if supported by the evidence of record. The findings of the trial court in the case at bar are so substantiated.

The defense theory that only one man inflicted the four stab wounds was debunked by the medical examiner himself, who declared that the wounds could have been caused by different persons using identical weapons.[10] The inconsistencies cited are minor ones and do not detract from the essential veracity (and concordance) of the separate narrations of the killing. Rombo explained his delay; it was late that night and he had to go to his cousin's house, and there was also the natural reluctance of persons to be involved in court litigations, especially if they deal with murder and persons not known to be exactly law-abiding. As for the alibi, it was for the trial judge to ascertain whether it should be accepted, considering its inherent weakness and the credibility of the corroborating witnesses. We shall not disturb his rejection of this defense in light of his appraisal of the evidence on this matter.

It would seem that the defense is taking advantage of the shooting down of Quiñones to exculpate Aruta from the killing of Galvez. Quiñones has by his death become a convenient scapegoat who can no longer be punished by the Court. But we are not deceived. There is enough evidence that Aruta himself stabbed Galvez as so did Quiñones and the other attacker. At any rate, there is no question that a conspiracy existed between the three assailants, making the act of all the act of each of them.[11] Under this rule, the acts of the deceased Quiñones are also imputable to Aruta.

Motive does not have to be established where the malefactors have been positively identified, as in this case. Nevertheless, the reason for the killing of Galvez is not difficult to discover from the activities of the protagonists. The motive is traceable to the violent rivalry between two groups operating the game of masiao in Jaro, with Galvez and the accused on opposite sides. This could also have been the reason for the subsequent killing of Nathaniel Quiñones by an alleged associate of Galvez in that business.

The killing of Galvez was attended by treachery and so qualified as murder. The victim was taken completely by surprise when the three assailants ganged up on him and stabbed him to death. The killers had insured that their prey would have no means to defend himself against their sudden attack.

The allegation of evident premeditation has not been proved, but even if it were, the penalty, would still not change because the maximum penalty of death cannot be imposed in view of the inhibition in Article III, Section 19(1). Following our ruling in *People v. Munoz*, [12] we approve the imposition of the penalty of reclusion perpetua. The civil indemnity is, however, increased to P50,000.00 in accordance with existing policy.

WHEREFORE, the challenged decision is **AFFIRMED** as above modified and the appeal **DISMISSED**, with costs against the accused appellant.

SO ORDERED.

Griño-Aquino, Bellosillo, and Quiason, JJ., concur.

[1] TSN, January 12, 1983, pp. 4-5

[2] Ibid., p. 13

[3] Id., February 17, 1984, pp. 8-11; 13.

[4] Records, p. 5

[5] TSN, November 19, 1984, pp. 9-10

[6] Ibid., August 10, 1984, pp. 43-45

[7] Id., March 20, 1984, pp. 29-30; January 11, 1985

[8] id., May 28, 1985, pp. 7-9

[9] Regional Trial Court, Palo, Leyte, Br. 7, presided by Judge Auxencio C. Dacuycuy.

[10] TSN, October 24, 1986, p. 15

[11] id., January 12, 1983, pp. 4-5; *People v. Villanueva*, 211 SCRA 403.

[12] 170 SCRA 107.

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