

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. BONIFACIO PIGON, ACCUSED-APPELLANT.

G.R. No. 76048. May 29, 1989

Ponente: FELICIANO, J.

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FELICIANO, J.:

Bonifacio Pigon, also known as "Boy" Pigon, having been found guilty of the crime of robbery with homicide and sentenced to life imprisonment by the Regional Trial Court, Branch 49, Cataingan, Masbate, is before us on appeal.

Appellant Bonifacio Pigon was charged with robbery with homicide in an Information[1] dated 14 January 1985, which read as follows:

"That on December 29, 1983, in Galutan, Cataingan, Masbate, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with intent to kill, did then and there wilfully, feloniously, and unlawfully stab to death one Leonito Samson by using a sharp deadly weapon locally known as "FLAMINGO" and with intent to gain, did then and there take the money of the deceased from his pocket and carry it away, together with the shoes, pants and T-shirt of said deceased to the damage and prejudice of the latter to an estimated amount of ONE THOUSAND FIVE HUNDRED PESOS (P1,500.00), Philippine Currency.

Contrary to law."

On arraignment on 18 February 1985, appellant, assisted by counsel, pleaded not guilty.

On 22 July 1985, after trial, the trial court rendered its decision finding Bonifacio Pigon guilty of the crime of robbery with homicide. The dispositive part of this decision reads:

"WHEREFORE, viewed from all the foregoing, we find the accused Bonifacio Pigon guilty beyond reasonable doubt of the crime charged, and there being no mitigating or aggravating circumstance present, said accused is hereby sentenced to suffer the penalty of Reclusion Perpetua, to indemnify the heirs of Leonito Samson in the sum of P30,000.00, and to pay the costs.

In the service of the sentence, the accused is granted a full period deduction for the preventive imprisonment he might have undergone.

SO ORDERED."[2]

From the above decision, Pigon interposed the present appeal alleging that the trial court erred in:

- (1) convicting him despite the "unreliable" testimony given by the prosecution's star witness Jaime Deogrades; and
- (2) convicting him of the crime of robbery with homicide although his guilt had not been proven beyond reasonable doubt.[3]

The evidence for the prosecution consisted primarily and most importantly of the testimony of Jaime Deogrades

who claimed to have personally witnessed the commission of the crime.

Jaime Deogrades, then 14 years old, testified that on 28 December 1983, he was at his home in Salvacion, Municipality of Pio V. Corpuz, Masbate, engaged in casual conversation with his cousins, Bonifacio "Boy" Pigon and Leonito Samson. In the course of their conversation, Pigon asked Samson whether the latter would be willing to exchange his (Samson's) pair of shoes and a little cash for a goat. Samson readily agreed to the proposed barter transaction. Pigon then invited Deogrades and Samson to come along with him to Pigon's house in Catigao-tigawan, Cataingan Masbate to secure the goat he would turn over to Samson. The next day, 29 December 1983, at 3 o'clock in the morning, the three left for Catigao-tigawan on foot as Pigon refused to avail of any means of transportation. The three thus walked on a narrow footpath in single file, Samson in the lead, followed by Pigon, while Deogrades brought up the rear. When the three reached Barangay Galutan, Cataingan, Pigon suddenly grabbed Samson's right shoulder from behind and as Samson turned to his right towards the rear, Pigon pulled out a fan knife locally known as a "flamingo" and stabbed Samson in the right breast. Samson fell to the ground. Pigon promptly stripped Samson of his shirt, belt and trousers, and wallet and pulled out paper bills from such wallet. Pigon fled with the Deogrades, warning the latter not ever to discuss the incident with anyone otherwise something would happen to him. Deogrades was detained at Pigon's house for a few days and was able to leave only after Pigon had been arrested by the police on 7 January, 1984. Jaime Deogrades then immediately reported what he had seen to his grandmother at Dimasalang, who in turn wrote to the victim's mother (who was an aunt of Deogrades) about Leonito Samson's tragic fate. Samson's mother, after confirming the killing with Deogrades, filed the necessary complaint against Pigon.[4]

The prosecution also presented Dr. Primitivo Monterde, Rural Health Officer of Catigao-tigawan, who had conducted the autopsy on the body of the victim, Leonito Samson. Dr. Monterde testified that the immediate cause of the victim's death was "hemorrhage secondary to stab wounds;" that the injury sustained by Samson must have been caused by a sharp, pointed object which could have penetrated his heart; and that, judging from the location of the injury, the victim and the assailant were possibly "facing each other"[5] at the moment of the stabbing.

The defense offered a different version of the facts. The appellant's principal plea was that of alibi.

The defense presented Pedro Yanson, a farmer and resident San Rafael, Cataingan Masbate, who declared that sometime on 28 December 1983, he was at the poblacion of Cataingan, Masbate, and dropped by Bonifacio Pigon's house to invite him to a birthday party to be given by Yanson's daughter. Yanson asked Pigon to come along with him to San Rafael that afternoon to help him carry the things he had bought in preparation for the party. Pigon, according to Yanson, went with the latter to San Rafael, arriving there at about 3:00 p.m. At the Yansons' home, Pigon spent the rest of the afternoon assisting to household in preparing for tomorrow's birthday party. The following day, until 12 o'clock noon, Pigon helped the Yansons in slaughtering a hog and preparing the food for the party. Yanson testified that from 3:00 p.m. of 28 December 1983 and until 12:00 noon of the following day, he could not recall having seen Pigon leave the house and that Pigon left the Yanson house at 3:00 p.m. of 29 December 1983, for Catigao-tigawan. According to Yanson, San Rafael was about 15 kilometers away from Catigao-tigawan and accessible only by foot.[6]

The accused Bonifacio Pigon testified that on 28 December 1983, at around 1:00 p.m., he was in his house in Catigao-tigawan, Cataingan, Masbate. Pedro Yanson called on him there to invite him to Yanson's daughter's birthday party scheduled for the following day. Pigon accepted the invitation and went with Yanson to San Rafael that same afternoon. Upon arrival in Yanson's house in San Rafael at about 3:00 p.m., Pigon promptly proceeded to assist the household in preparing for the festivities of the next day and that he spent the night in Yanson's house. The next day, 29 December 1983, Pigon once more involved himself in the household chores, such as

slaughtering a pig, preparing and cooking a variety of dishes, until 12:00 noon. He further testified that he did not leave the Yansons' house until 3 o'clock in the afternoon of 29 December 1983 when he had to return to Catigao-tigawan. Pigon also declared that one coming from Catigao-tigawan and proceeding to San Rafael, had to pass along the "Crossing", approximately 5 kilometers away from San Rafael, where no mechanical means of transportation was available.[7]

The appellant assails the credibility of the prosecution's principal witness, Jaime Deogrades. The defense argues, firstly, that Jaime must have been motivated by revenge in identifying the appellant Bonifacio Pigon, Jaime's first cousin, as author of the robbery and killing here involved. Appellant Pigon related an alleged incident which had occurred when Jaime Deogrades was staying in Pigon's house. Jaime took Bonifacio's bolo and scythe without the latter's permission. In the resulting confrontation, Bonifacio Pigon said, he had out of anger slapped Jaime in the face. We find this argument unpersuasive. It will be noted that Bonifacio Pigon and Jaime Deogrades are first cousins; Jaime's mother is the sister of Bonifacio's father. Considering this close relationship by blood, the Court finds it difficult to believe that Jaime would deliberately and falsely accuse his first cousin of crimes as grievous as homicide and robbery, for which the law imposes life imprisonment, simply to get even with Bonifacio for the slapping that Bonifacio had supposedly administered to him some three (3) years before the trial. Moreover, appellant Pigon himself had testified that on the day prior to the killing and robbery, he was at Jaime's house chatting casually and to all appearances amiably with Jaime, and that Jaime had willingly gone with Bonifacio and Leonito Samson to Catigao-tigawan the next day. There was, in other words, no indication that Jaime had all the time been harboring a deep and deadly resentment against Bonifacio.

The defense also seeks to make capital out of Jaime's failure to react instantly by manifesting concern for and trying to help the victim, Leonito Samson, as he lay on the ground bleeding and being despoiled of his personal belongings. The argument, once more, is not persuasive. If Jaime Deogrades was passive right then and there as Bonifacio Pigon was relieving the fatally wounded Samson of his shirt, belt and trousers and money, such passivity is easily ascribed to shock that must have resulted from the sudden, deadly, turn of events from an amiable conversation among cousins the day before in Salvacion, Pio V. Corpuz, to the unprovoked murderous assault right before his eyes the following day. Jaime, a young boy barely into his teens, was either in a state of shock then and there or must have been frightened almost out of his wits that appellant Bonifacio would also turn his homicidal attentions upon him.

Appellant Pigon also contends that Jaime's sworn statement on the whole incident should not have been given any consideration as it had not been prepared by Jaime personally. It may be readily conceded that Jaime, who was unable to read or write, could not have prepared his own affidavit. Jaime, however, had placed his thumbmark on the affidavit which is equivalent to his signature thereon, and an acknowledgment that the statements there set forth were his own or at least faithfully reflected statements made by him. It may be stressed that Jaime's narration of events during the trial did not vary in any substantial sense from the statements in his affidavit.

The defense sought to minimize the effect of Jaime's testimony as an eye-witness, by denigrating his testimony as having been coached or rehearsed and scripted allegedly by the mother of the victim. The defense claimed that Jaime was in effect a paid witness, that is, that Jaime had testified against Bonifacio Pigon because the victim's mother had paid Jaime to do so. This contention was denied by Jaime who readily conceded that the mother of the victim had given him transportation money for going to and from the court during the trial.[8] The Court finds it difficult, once more, to believe that Jaime Deogrades had undertaken to testify falsely against Bonifacio Pigon simply because the victim's mother had given him money for transportation expenses during the trial. The Solicitor General also pointed out[9] that there was nothing to show that the victim's mother harbored any ill will against Bonifacio Pigon strong enough to lead her to buy false testimony tying him up with the killing of her son.

It is also contended by the defense that because no motive had been shown by the prosecution on the part of the appellant Pigon for the killing of Samson, the judgment of conviction must fail. This contention runs counter to our case law to the effect that proof of motive is unnecessary for conviction where the doer of the crime has been positively identified, and that proof of motive may become necessary only where no eye-witnesses to the crime had been presented and where suspicion falls upon a number of persons.[10]

On the issue of the credibility of Jaime Deogrades as an eye-witness, the trial court gave full credence to the testimony of Jaime Deogrades having been obviously impressed by his demeanor in court while testifying. The trial court said:

After scrutinizing the evidence on record, nothing has impressed this Court so much than the testimony of Jaime Deogrades, a minor 14 years of age, and a first cousin of the accused, who personally witnessed the actual stabbing of the victim Leonito Samson by the accused Bonifacio Pigon. His version of the incident remained unshaken despite the clever attempts of the defense, to destroy his story. His testimony appears credible as it was given in clear, spontaneous, natural, and straight forward manner. His gesture, inflection of voice and demeanor on the witness stand, specially when he was made to demonstrate in open court, how the crime was committed, further strengthened the credibility of his testimony.[11]

It is quite sufficient to recall the firmly held doctrine that the "findings of fact of the trial judge must be accorded great weight by an appellate tribunal." [12] For, in the words of the Court in *People vs. Taduyo*,

"the latter can only read in cold print the testimony of the witness which commonly is translated from the local dialect into English. In the process of converting into written form the statements of living human beings, not only fine nuances but a world of meaning apparent to the judge present, watching and listening, may escape the reader of the written, translated words." [13]

We turn to appellant's defense of alibi. Appellant Pigon insists he was somewhere else at the time the killing and robbery were committed. His story was corroborated by the testimony of his friend Pedro Yanson, who had, as pointed out earlier, testified that the appellant had been in his (Yanson's) house from 2:00 p.m. of 28 December 1983 until 12:00 noon of 29 December 1983 and could not recall seeing Bonifacio Pigon leave his (Yanson's) house until 3:00 p.m. of 29 December 1983. The trial court rejected this defense, correctly in our view. As a practical matter, it would not have been possible for Yanson to have kept a close and constant watch on the movements of appellant Pigon during the entire period from the afternoon of 28 December, through the night and until the afternoon of the next day, 29 December 1983, since the whole Yanson household was busy preparing for the party and since the guests, after they had arrived, must have been moving about. There were, according to Yanson, on 29 December 1983 about twenty (20) guests attending the birthday party at the Yansons' house. Moreover, as pointed out by the trial judge, the distance from Barangay San Rafael where the Yanson's house was situated to Barangay Galutan where the crime was committed, was "not very far" -- "in as much as both barangays, San Rafael and Galutan, are located within the same municipality of Cataingan," and it appeared that Barangay Galutan was accessible from Barangay San Rafael, and vice versa, by motorized vehicles. The trial court was pointing out, in other words, that there was no impossibility for the accused-appellant to have been at the scene of the crime at the time of its commission. For alibi to succeed, it must, of course, be shown not only that the accused was at some other place but that it was physically impossible for him to have been at the situs of the crime at the time of its commission.[14] In any case, alibi is not permitted to prevail against positive identification of the accused as the doer of the crime.[15] The identification of Pigon as Samson's killer, and a robber as well, by Jaime Deogrades, was beyond cavil.

WHEREFORE, the decision of the trial court finding accused-appellant Bonifacio Pigon guilty beyond reasonable doubt of robbery with homicide, and sentencing him to reclusion perpetua and to pay an indemnity of P30,000.00

to Leonito Samson's heirs as well as costs, is hereby AFFIRMED. No pronouncement as to costs.

SO ORDERED.

Fernan, C.J., (Chairman), Gutierrez, Jr., Bidin, and Cortes, JJ., concur.

[1] Rollo, p. 11.

[2] Rollo, pp. 11-13.

[3] Brief for Appellant, p. 6; Rollo, p. 25.

[4] Rollo, pp. 1-12.

[5] TSN, 18 October 1985, pp. 12-18.

[6] TSN, 23 April 1986, pp. 2-12.

[7] Ibid.

[8] TSN, August 20, 1985, p. 8.

[9] Rollo, pp. 58-59.

[10] People vs. Melga, 157 SCRA 718 (1988), citing People vs. Anquillano, 149 SCRA 422 (1987); People vs. Ramiro, 147 SCRA 102 (1987); and People vs. Manalo, 135 SCRA 84 (1985).

[11] Rollo, pp. 12-13; underscoring supplied.

[12] People vs. Taduyo, 154 SCRA 349 (1987); Amarante Heirs vs. Court of Appeals, 155 SCRA 46 (1987); and People vs. Kintuan, 156 SCRA 195 (1987).

[13] 154 SCRA at 359 (1987).

[14] People vs. Aniñon, 158 SCRA 701 (1988); People vs. Awsan, 158 SCRA 701 (1987); and People vs. Marasigan, 56 SCRA 32 (1974).

[15] People vs. Datahan, 157 SCRA 215 (1988); and People vs. Awsan, *supra*.

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