

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. FAUSTA GONZALES, AUGUSTO GONZALES, CUSTODIO GONZALES, SR., CUSTODIO GONZALES, JR., NERIO GONZALES AND ROGELIO LANIDA, ACCUSED....

G.R. NO. 80762. March 19, 1990

Ponente: SARMIENTO, J.

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SARMIENTO, J.:

In a decision[1] dated October 31, 1984, the Regional Trial Court of Iloilo, Branch XXXVIII (38), in Criminal Case No. 13661, entitled "People of the Philippines vs. Fausta Gonzales, Augusto Gonzales, Custodio Gonzales, Sr., Custodio Gonzales, Jr., Nerio Gonzales, and Rogelio Lanida," found all the accused, except Rogelio Lanida who eluded arrest and up to now has remained at large and not yet arraigned, guilty beyond reasonable doubt of the crime of murder as defined under Article 248 of the Revised Penal Code. They were sentenced "to suffer the penalty of imprisonment of twelve (12) years and one (1) day to seventeen (17) years and four (4) months of reclusion temporal, to indemnify the heirs of the deceased victim in the amount of P40,000.00, plus moral damages in the sum of P14,000.00 and to pay the costs." [2] The victim was Lloyd Peñacerrada, 44, landowner, and a resident of Barangay Aspera, Sara, Iloilo.

Through their counsel, all the accused, except of course Rogelio Lanida, filed a notice of appeal from the trial court's decision. During the pendency of their appeal and before judgment thereon could be rendered by the Court of Appeals, however, all the accused-appellants, except Custodio Gonzales, Sr., withdrew their appeal and chose instead to pursue their respective applications for parole before the then Ministry, now Department, of Justice, Parole Division.[3]

On October 27, 1987, the Court of Appeals rendered a decision[4] on the appeal of Custodio Gonzales, Sr. It modified the appealed decision in that the lone appellant was sentenced to reclusion perpetua and to indemnify the heirs of Lloyd Peñacerrada in the amount of P30,000.00. In all other respects, the decision of the trial court was affirmed. Further, on the basis of our ruling in *People vs. Ramos*, [5] the appellate court certified this case to us for review.[6]

The antecedent facts are as follows:

At around 9:00 o'clock in the evening of February 21, 1981, Bartolome Paja, the barangay captain of Barangay Tipacla, Ajuy, Iloilo, was awakened from his sleep by the spouses Augusto and Fausta Gonzales. Augusto informed Paja that his wife had just killed their landlord, Lloyd Peñacerrada, and thus would like to surrender to the authorities. Seeing Augusto still holding the knife allegedly used in the killing and Fausta with her dress smeared with blood, Paja immediately ordered a nephew of his to take the spouses to the police authorities at the Municipal Hall in Poblacion, Ajuy. As instructed, Paja's nephew brought the Gonzales spouses, who "backrode" on his motorcycle, to the municipal building.[7] Upon reaching the Ajuy Police sub-station, the couple informed the police on duty of the incident. That same night, Patrolman Salvador Centeno of the Ajuy Police-Force and the

Gonzales spouses went back to Barangay Tipacla. Reaching Barangay Tipacla, the group went to Paja's residence where Fausta was made to stay, while Paja, Patrolman Centeno, and Augusto proceeded to the latter's residence at Sitio Nabitasan where the killing incident allegedly occurred.[8] There they saw the lifeless body of Lloyd Peñacerrada, clad only in an underwear, sprawled face down inside the bedroom.[9] The group stayed for about an hour during which time Patrolman Centeno inspected the scene and started to make a rough sketch thereof and the immediate surroundings.[10] The next day, February 22, 1981, at around 7:00 o'clock in the morning, Patrolman Centeno, accompanied by a photographer, went back to the scene of the killing to conduct further investigations. Fausta Gonzales, on the other hand, was brought back that same day by Barangay Captain Paja to the police sub-station in Ajuy. When Patrolman Centeno and his companion arrived at Sitio Nabitasan, two members of the 321st P.C. Company stationed in Sara, Iloilo, who had likewise been informed of the incident, were already there conducting their own investigation. Patrolman Centeno continued with his sketch; photographs of the scene were likewise taken. The body of the victim was then brought to the Municipal Hall of Ajuy for autopsy.

The autopsy of Lloyd Peñacerrada's cadaver was performed at about 11:20 a.m. on February 22, 1981; after completed, a report was made with the following findings:

PHYSICAL FINDINGS:

- Deceased is about 5 ft. and 4 inches in height, body moderately built and on cadaveric rigidity.

EXTERNAL FINDINGS

- Puncture wound, 1 cm in width, 9 cm in length, located at the lower 3rd anterior aspect of the arm, right, directed upward to the right axillary pit.
- Stab wound, thru and thru, located at the proximal 3rd, forearm right, posterior aspect with an entrance of 5 cm in width and 9 cm in length with an exit at the middle 3rd, posterior aspect of the forearm, right, with 1 cm wound exit.
- Stab wound, thru and thru, located at the middle 3rd, posterior aspect of the forearm right, 1 cm in width.
- Incised wound, 4 cm long, depth visualizing the right lateral border of the sternum, 6th and 7th ribs, right located 1.5 inches below the right nipple.
- Stab wound, 2 cm in width, 10.5 cm in depth, directed inward to the thoracic cavity right, located at the left midclavicular line at the level of the 5th rib left.
- Stab wound, 2 cm in width, 9.5 cm in depth directed toward the right thoracic cavity, located at the mid left scapular line at the level of the 8th intercostal space.
- Puncture wound, 1 cm in width, located at the base of the left armpit directed toward the left thoracic cavity.
- Puncture wound, 1 cm in width, 11 cm in length, directed toward the left deltoid muscle, located at the upper 3rd axilla, left.
- Puncture wound, 3 cm in width, 11.5 cm in length, located at the anterior aspect, proximal 3rd arm left, directed downward.
- Stab wound, thru and thru, 2.5 cm in width, and 5 cm in length, medial aspect, palm right.
- Stab wound, 4 cm in width, iliac area, right, directed inward with portion of large intestine and mesentery coming out.

- Stab wound, 4 cm. in width, located at the posterior portion of the shoulder, right, directed downward to the aspx of the right thoracic cavity.
- Incised wound, 1 cm in width, 10 cm in length, located at the medial portion of the medial border of the right scapula.
- Incised wound, 1 cm in width, 4.5 cm in length, located at the posterior aspect of the right elbow.
- Incised wound, 1 cm in width, 2 cm in length, located at the posterior portion, middle 3rd, forearm, right.
- Lacerated wound at the anterior tantanelle with fissural fracture of the skull.

INTERNAL FINDINGS:

- Stab wound No. 5, injuring the left ventricle of the heart.
- Stab wound No. 6, severely injuring the right lower lobe of the lungs.
- Stab wound No. 7, injuring the right middle lobe of the lungs.
- Stab wound No. 11, injuring the descending colon of the large intestine, thru and thru.
- Stab wound No. 12, severely injuring the apex of the right lungs (sic).

CAUSE OF DEATH:

MASSIVE HEMMORRHAGE DUE TO MULTIPLE LACERATED, STABBED (sic), INCISED AND PUNCTURED WOUNDS.

JESUS D. ROJAS, M.D.

Rural Health Physicia

Ajuy, Iloilo[11]

The autopsy report thus showed that Dr. Rojas "found sixteen (16) wounds, five (5) of which are fatal because they penetrated the internal organs, heart, lungs and intestines of the deceased." [12]

On February 23, two days after the incident, Augusto Gonzales appeared before the police sub-station in the poblacion of Ajuy and voluntarily surrendered to Police Corporal Ben Sazon for detention and protective custody for "having been involved" in the killing of Lloyd Peñacerrada. He requested that he be taken to the P.C. headquarters in Sara, Iloilo where his wife, Fausta, was already detained having been indorsed thereat by the Ajuy police force.[13]

Based on the foregoing and on the investigations conducted by the Ajuy police force and the 321st P.C. Company, an information for murder dated August 26, 1981, was filed by the Provincial Fiscal of Iloilo against the spouses Augusto and Fausta Gonzales. The information read as follows:

The undersigned Provincial Fiscal accuses FAUSTA GONZALES and AUGUSTO GONZALES of the crime of MURDER, committed as follows:

That on or about the 21st day of February, 1981, in the Municipality of Ajuy, Province of Iloilo, Philippines, and within the jurisdiction of this Court, the above-named accused with four other companions whose identities are still unknown and are still at large, armed with sharp-pointed and deadly weapons, conspiring, confederating and helping each other, with treachery and evident premeditation, with deliberate intent and decided purpose to kill, and taking advantage of their superior strength and number, did then and there wilfully, unlawfully and feloniously attack, assault, stab, hack, hit and wound Lloyd D. Peñacerrada, with the

weapons with which said accused were provided at the time, thereby inflicting upon said Lloyd D. Peñacerrada multiple wounds on different parts of his body as shown by autopsy report attached to the record of this case which multifarious wounds caused the immediate death of said Lloyd D. Peñacerrada.

CONTRARY TO LAW.

Iloilo City, August 26, 1981.[14]

When arraigned on September 16, 1981, Augusto and Fausta both entered a plea of not guilty. Before trial, however, Jose Huntoria¹⁶ who claimed to have witnessed the killing of Lloyd Peñacerrada, presented himself to Nanie Peñacerrada, the victim's widow, on October 6, 1981, and volunteered to testify for the prosecution. A reinvestigation of the case was therefore conducted by the Provincial Fiscal of Iloilo on the basis of which an Amended Information,¹⁷ dated March 3, 1982, naming as additional accused Custodio Gonzales, Sr. (the herein appellant), Custodio Gonzales, Jr., Nerio Gonzales, and Rogelio Lanida, was filed. Again, all the accused except as earlier explained, Lanida, pleaded not guilty to the crime.

At the trial, the prosecution presented Dr. Jesus Rojas, the Rural Health physician of Ajuy who conducted the autopsy on the body of the victim; Bartolome Paja, the barangay captain of Barangay Tipacla; Patrolman Salvador Centeno and Corporal Ben Sazon of the Ajuy Police Force; Sgt. (ret.) Nicolas Belicanao and Sgt. Reynaldo Palomo of the 321st P.C. Company based in Sara, Iloilo; Jose Huntoria; and Nanie Peñacerrada, the widow.

Dr. Jesus Rojas testified that he performed the autopsy on the body of the deceased Lloyd Peñacerrada at around 11:20 a.m. on February 22, 1981 after it was taken to the municipal hall of Ajuy.¹⁸ His findings revealed that the victim suffered from 16 wounds comprising of four (4) punctured wounds, seven (7) stab wounds, four (4) incised wounds, and one (1) lacerated wound. In his testimony, Dr. Rojas, while admitting the possibility that only one weapon might have caused all the wounds (except the lacerated wound) inflicted on the victim, nevertheless opined that due to the number and different characteristics of the wounds, the probability that at least two instruments were used is high.¹⁹ The police authorities and the P.C. operatives for their part testified on the aspect of the investigation they respectively conducted in relation to the incident. Nanie Peñacerrada testified mainly on the expenses she incurred by reason of the death of her husband while Barangay Captain Bartolome Paja related the events surrounding the surrender of the spouses Augusto and Fausta Gonzales to him, the location of the houses of the accused, as well as on other matters.

By and large, the prosecution's case rested on Huntoria's alleged eyewitness account of the incident. According to Huntoria, who gave his age as 30 when he testified on July 27, 1982,²⁰ at 5:00 o'clock in the afternoon on February 21, 1981, he left his work at Barangay Central, in Ajuy, Iloilo where he was employed as a tractor driver by one Mr. Piccio, and walked home;²¹ he took a short-cut route.²² While passing at the vicinity of the Gonzales spouses' house at around 8:00 o'clock in the evening, he heard cries for help.²³ Curiosity, prompted him to approach the place where the shouts were emanating. When he was some 15 to 20 meters away, he hid himself behind a clump of banana trees.²⁴ From where he stood, he allegedly saw all the accused ganging upon and taking turns in stabbing and hacking the victim Lloyd Peñacerrada, near a "linasan" or threshing platform. He said he clearly recognized all the accused as the place was then awash in moonlight.²⁵ Huntoria further recounted that after the accused were through in stabbing and hacking the victim, they then lifted his body and carried it into the house of the Gonzales spouses which was situated some 20 to 25 meters away from the "linasan".^[25] Huntoria then proceeded on his way home. Upon reaching his house, he related what he saw to his mother and to his wife^[26] before he went to sleep^[27] Huntoria explained that he did not immediately report to the police authorities what he witnessed for fear of his life.^[28] In October 1981 however, eight months after the extraordinary incident he allegedly witnessed, bothered by his conscience plus the fact that his father was formerly a tenant of the victim which, to his mind, made him likewise a tenant of the latter, he thought of helping

the victim's widow, Nanie Peñacerrada. Hence, out of his volition, he travelled from his place at Sitio Nabitasan, in Barangay Tipacla, Municipality of Ajuy, to Sara, Iloilo where Mrs. Peñacerrada lived, and related to her what he saw on February 21, 1981.[29]

Except Fausta who admitted killing Lloyd Peñacerrada in defense of her honor as the deceased attempted to rape her, all the accused denied participation in the crime. The herein accused-appellant, Custodio Gonzales, Sr., claimed that he was asleep[30] in his house which was located some one kilometer away from the scene of the crime[31] when the incident happened. He asserted that he only came to know of it after his grandchildren by Augusto and Fausta Gonzales went to his house that night of February 21, 1981 to inform him.[32]

The trial court disregarded the version of the defense; it believed the testimony of Huntoria.

On appeal to the Court of Appeals, Custodio Gonzales, Sr., the lone appellant, contended that the trial court erred in convicting him on the basis of the testimony of Jose Huntoria, the lone alleged eyewitness, and in not appreciating his defense of alibi.

The Court of Appeals found no merit in both assigned errors. In upholding Huntoria's testimony, the appellate court held that:

x x x Huntoria positively identi-fied all the accused, including the herein accused-appellant, as the assailants of Peñacerrada. (TSN, p. 43, July 27, 1982) The claim that Huntoria would have difficulty recognizing the assailants at a distance of 15 to 20 meters is without merit, considering that Huntoria knew all the accused. (Id., pp. 37-39) If Huntoria could not say who was hacking and who was stabbing the deceased, it was only because the assailants were moving around the victim.

As for the delay in reporting the incident to the authorities, we think that Huntoria's explanation is satisfactory. He said he feared for his life. (Id., pp. 50-51, 65) As stated in *People v. Realon*, 99 SCRA 442, 450 (1980): "The natural reticence of most people to get involved in a criminal case is of judicial notice. As held in *People v. Delfin*, '... the initial reluctance of witnesses in this country to volunteer information about a criminal case and their unwillingness to be involved in or dragged into criminal investigations is common, and has been judicially declared not to affect credibility.'"

It is noteworthy that the accused-appellant himself admitted that he had known Huntoria for about 10 years and that he and Huntoria were in good terms and had no misunderstanding whatsoever. (TSN, p. 33, July 18, 1984) He said that he could not think of any reason why Huntoria should implicate him. (Id., p. 34) Thus, Huntoria's credibility is beyond question.[33]

The Court of Appeals likewise rejected the appellant's defense of alibi.[34] The appellate court, however, found the sentence imposed by the trial court on the accused-appellant erroneous. Said the appellate court:

Finally, we find that the trial court erroneously sentenced the accused-appellant to 12 years and 1 day to 17 years and 4 months of reclusion temporal. The penalty for murder under Article 248 is reclusion temporal in its maximum period to death. As there was no mitigating or aggravating circumstance, the imposable penalty should be reclusion perpetua. Consequently, the appeal should have been brought to the Supreme Court. With regard to the indemnity for death, the award of P40,000.00 should be reduced to P30,000.00, in accordance with the rulings of the Supreme Court. (E.g., *People v. De la Fuente*, 126 SCRA 518 (1983); *People v. Atanacio*, 128 SCRA 31 (1984); *People v. Redo*, 128 SCRA 43 (1984); *People v. Bautista*, G.R. No. 68731, Feb. 27, 1987).[35]

The case, as mentioned earlier, is now before us upon certification by the Court of Appeals, the penalty imposed being reclusion perpetua.

After a careful review of the evidence adduced by the prosecution, we find the same insufficient to convict the

appellant of the crime charged.

To begin with, the investigation conducted by the police authorities leave much to be desired. Patrolman Centeno of the Ajuy police force in his sworn statements[36] even gave the date of the commission of the crime as "March 21, 1981." Moreover, the sketch[37] he made of the scene is of little help. While indicated thereon are the alleged various blood stains and their locations relative to the scene of the crime, there was however no indication as to their quantity. This is rather unfortunate for the prosecution because, considering that there are two versions proffered on where the killing was carried out, the extent of blood stains found would have provided a more definite clue as to which version is more credible. If, as the version of the defense puts it, the killing transpired inside the bedroom of the Gonzales spouses, there would have been more blood stains inside the couple's bedroom or even on the ground directly under it. And this circumstance would provide an additional mooring to the claim of attempted rape asseverated by Fausta. On the other hand, if the prosecution's version that the killing was committed in the field near the "linasan" is the truth, then blood stains in that place would have been more than in any other place.

The same sloppiness characterizes the investigation conducted by the other authorities. Police Corporal Ben Sazon who claimed that accused Augusto Gonzales surrendered to him on February 23, 1981 failed to state clearly the reason for the "surrender." It would even appear that Augusto "surrendered" just so he could be safe from possible revenge by the victim's kins. Corporal Sazon likewise admitted that Augusto never mentioned to him the participation of other persons in the killing of the victim. Finally, without any evidence on that point, P.C. investigators of the 321st P.C. Company who likewise conducted an investigation of the killing mentioned in their criminal complaint[38] four other unnamed persons, aside from the spouses Augusto and Fausta Gonzales, to have conspired in killing Lloyd Peñacerrada.

Now on the medical evidence. Dr. Rojas opined that it is possible that the sixteen wounds described in the autopsy report were caused by two or more bladed instruments. Nonetheless, he admitted the possibility that one bladed instrument might have caused all. Thus, insofar as Dr. Rojas' testimony and the autopsy report are concerned, Fausta Gonzales' admission that she alone was responsible for the killing appears not at all too impossible. And then there is the positive testimony of Dr. Rojas that there were only five wounds that could be fatal out of the sixteen described in the autopsy report. We shall discuss more the significance of these wounds later.

It is thus clear from the foregoing that if the conviction of the appellant by the lower courts is to be sustained, it can only be on the basis of the testimony of Huntoria, the self-proclaimed eyewitness. Hence, a meticulous scrutiny of Huntoria's testimony is compelling.

To recollect, Huntoria testified that he clearly saw all the accused, including the appellant, take turns in hacking and stabbing Lloyd Peñacerrada, at about 8:00 o'clock in the evening, on February 21, 1981, in the field near a "linasan" while he (Huntoria) stood concealed behind a clump of banana trees some 15 to 20 meters away from where the crime was being committed. According to him, he recognized the six accused as the malefactors because the scene was then illuminated by the moon. He further stated that the stabbing and hacking took about an hour. But on cross-examination, Huntoria admitted that he could not determine who among the six accused did the stabbing and/or hacking and what particular weapon was used by each of them.

ATTY. GATON (defense counsel on cross-examination):

Q

And you said that the moon was bright, is it correct?

A

Yes, sir.

Q

And you would like us to understand that you saw the hacking and the stabbing, at that distance by the herein accused as identified by you?

A

Yes, sir, because the moon was brightly shining.

Q

If you saw the stabbing and the hacking, will you please tell this Honorable Court who was hacking the victim?

A

Because they were surrounding Peñacerada and were in constant movement, I could not determine who did the hacking.

ATTY. GATON:

The interpretation is not clear.

COURT:

They were doing it rapidly.

A

The moving around or the hacking or the 'labu' or 'bunu' is rapid. I only saw the rapid movement of their arms, Your Honor, and I cannot determine who was hacking and who was stabbing. But I saw the hacking and the stabbing blow.

ATTY. GATON:

Q

You cannot positively identify before this Court who really hacked Lloyd Peñacerada?

A

Yes, sir, I cannot positively tell who did the hacking.

Q

And likewise you cannot positively tell this Honorable Court who did the stabbing?

A

Yes, sir, and because of the rapid movements.

Q

I noticed in your direct testimony that you could not even identify the weapons used because according to you it was just flashing?

A

Yes, sir.[39]

(Underscoring supplied.)

From his very testimony, Huntoria failed to impute a definite and specific act committed, or contributed, by the appellant in the killing of Lloyd Peñacerrada.

It also bears stressing that there is nothing in the findings of the trial court and of the Court of Appeals which would categorize the criminal liability of the appellant as a principal by direct participation under Article 17, paragraph 1 of the Revised Penal Code. Likewise, there is nothing in the evidence for the prosecution that inculcates him by inducement, under paragraph 2 of the same Article 17, or by indispensable cooperation under paragraph 3 thereof. What then was the direct part in the killing did the appellant perform to support the ultimate punishment imposed by the Court of Appeals on him?

Article 4 of the Revised Penal Code provides how criminal liability is incurred.

ART. 4. Criminal liability.-- Criminal liability shall be incurred:

1. By any person committing a felony (delito) although the wrongful act done be different from that which he intended.
2. By any person performing an act which would be an offense against persons or property, were it not for the inherent impossibility of its accomplishment or on account of the employment of inadequate or ineffectual means.

(Underscoring supplied.)

Thus, one of the means by which criminal liability is incurred is through the commission of a felony. Article 3 of the Revised Penal Code, on the other hand, provides how felonies are committed.

ART. 3. Definition.-- Acts and omissions punishable by law are felonies (delitos).

Felonies are committed not only by means of deceit (dolo) but also by means of fault (culpa).

There is deceit when the act is performed with deliberate intent; and there is fault when the wrongful act results from imprudence, negligence, lack of foresight, or lack of skill.

(Emphasis supplied.)

Thus, the elements of felonies in general are: (1) there must be an act or omission; (2) the act or omission must be punishable under the Revised Penal Code; and (3) the act is performed or the omission incurred by means of deceit or fault.

Here, while the prosecution accuses, and the two lower courts both found, that the appellant has committed a

felony in the killing of Lloyd Peñacerrada, forsooth there is paucity of proof as to what act was performed by the appellant. It has been said that "act," as used in Article 3 of the Revised Penal Code, must be understood as "any bodily movement tending to produce some effect in the external world." [40] In this instance, there must therefore be shown an "act" committed by the appellant which would have inflicted any harm to the body of the victim that produced his death.

Yet, even Huntoria, as earlier emphasized, admitted quite candidly that he did not see who "stabbed" or who "hacked" the victim. Thus this principal witness did not say, because he could not, whether the appellant "hacked" or "stabbed" the victim. In fact, Huntoria does not know what specific act was performed by the appellant. This lack of specificity then makes the case fall short of the test laid down by Article 3 of the Revised Penal Code previously discussed. Furthermore, the fact that the victim sustained only five fatal wounds out of the total of sixteen inflicted, as adverted to above, while there are six accused charged as principals, it follows to reason that one of the six accused could not have caused or dealt a fatal wound. And this one could as well be the appellant, granted *ex gratia argumenti* that he took part in the hacking and stabbing alleged by Huntoria. And why not him? Is he not after all the oldest (already sexagenarian at that time) and practically the father of the other five accused? And pursuing this argument to the limits of its logic, it is possible, nay even probable, that only four, or three, or two of the accused could have inflicted all the five fatal wounds to the exclusion of two, three, or four of them. And stretching the logic further, it is possible, nay probable, that all the fatal wounds, including even all the non-fatal wounds, could have been dealt by Fausta in rage against the assault on her womanhood and honor. But more importantly, there being not an iota of evidence that the appellant caused any of the said five fatal wounds, coupled with the prosecution's failure to prove the presence of conspiracy beyond reasonable doubt, the appellant's conviction can not be sustained.

Additionally, Huntoria's credibility as a witness is likewise tarnished by the fact that he only came out to testify in October 1981, or eight long months since he allegedly saw the killing on February 21, 1981. While ordinarily the failure of a witness to report at once to the police authorities the crime he had witnessed should not be taken against him and should not affect his credibility, [41] here, the unreasonable delay in Huntoria's coming out engenders doubt on his veracity. [42] If the silence of an alleged eyewitness for several weeks renders his credibility doubtful, [43] the more it should be for one who was mute for eight months. Further, Huntoria's long delay in revealing what he allegedly witnessed, has not been satisfactorily explained. His lame excuse that he feared his life would be endangered is too pat to be believed. There is no showing that he was threatened by the accused or by anybody. And if it were true that he feared a possible retaliation from the accused, [44] why did he finally volunteer to testify considering that except for the spouses Augusto and Fausta Gonzales who were already under police custody, the rest of the accused were then still free and around; they were not yet named in the original information, [45] thus the supposed danger on Huntoria's life would still be clear and present when he testified.

Moreover, Huntoria is not exactly a disinterested witness as portrayed by the prosecution. He admitted that he was a tenant of the deceased. In fact, he stated that one of the principal reasons why he testified was because the victim was also his landlord.

x x x x x x x x

Q

Now, Mr. Huntoria, why did it take you so long from the time you saw the stabbing and hacking of Lloyd Peñacerrada when you told Mrs. Peñacerrada about what happened to her husband?

A

At first I was then afraid to tell anybody else but because I was haunted by my conscience and secondly the victim was also my landlord I revealed what I saw to the wife of the victim.[46]

x x x x x x x x

(Emphasis ours.)

At this juncture, it may be relevant to remind that under our socio-economic set-up, a tenant owes the very source of his livelihood, if not existence itself, from his landlord who provides him with the land to till. In this milieu, tenants like Huntoria are naturally beholden to their landlords and seek ways and means to ingratiate themselves with the latter. In this instance, volunteering his services as a purported eyewitness and providing that material testimony which would lead to the conviction of the entire family of Augusto Gonzales whose wife, Fausta, has confessed to the killing of Lloyd Penacerrada, would, in a perverted sense, be a way by which Huntoria sought to ingratiate himself with the surviving family of his deceased landlord. This is especially so because the need to get into the good graces of his landlord's family assumed a greater urgency considering that he ceased to be employed as early as May 1981.[47] Volunteering his services would alleviate the financial distress he was in. And Huntoria proved quite sagacious in his choice of action for shortly after he volunteered and presented himself to the victim's widow, he was taken under the protective wings of the victim's uncle, one Dr. Bicular, who gave him employment and provided lodging for his family.[48] Given all the foregoing circumstances, we can not help but dismiss Huntoria as an unreliable witness, to say the least.

At any rate, there is another reason why we find the alleged participation of the appellant in the killing of Lloyd Peñacerrada doubtful--it is contrary to our customs and traditions. Under the Filipino family tradition and culture, aging parents are sheltered and insulated by their adult children from any possible physical and emotional harm. It is therefore improbable for the other accused who are much younger and at the prime of their manhood, to summon the aid or allow the participation of their 65-year old[49] father, the appellant, in the killing of their lone adversary, granting that the victim was indeed an adversary. And considering that the appellant's residence was about one kilometer from the scene of the crime,[50] we seriously doubt that the appellant went there just for the purpose of aiding his three robust male sons (Custodio, Jr., Nerio, and Augusto), not to mention the brother and sister, Rogelio and Fausta, in the killing of Lloyd Peñacerrada, even if the latter were a perceived enemy.

Finally, while indeed alibi is a weak defense,[51] under appropriate circumstances, like in the instant case in which the participation of the appellant is not beyond cavil, it may be considered as exculpatory. Courts should not at once look with disfavor at the defense of alibi for if taken in the light of the other evidence on record, it may be sufficient to acquit the accused.[52]

In fine, the guilt of the appellant has not been proven beyond reasonable doubt.

WHEREFORE, the Decision of the Court of Appeals is REVERSED and SET ASIDE and the appellant is hereby ACQUITTED. Costs de officio.

SO ORDERED.

Melencio-Herrera, (Chairman), Paras, Padilla, and Regalado, JJ., concur.

[1] Rendered by Judge Constancio E. Jaugan.

[2] Decision of the Regional Trial Court, 9.

[3] Rollo, 54 and 67.

[4] Mendoza, Vicente V., J., ponente; Herrera, Manuel C. and Imperial, Jorge S., JJ., concurring.

[5] No. L-49818, February-20, 1979, 88 SCRA 486; see also *People vs. Galang*, G.R. No. 70713, June 29, 1989; *People vs. Centeno*, L-48744, October 30, 1981, 108 SCRA, 710; and *People vs. Daniel*, No. L-40330, November 20, 1978, 86 SCRA 511.

[6] Rollo, id., 114.

[7] T.S.N., session of June 6, 1983, 5-9.

[8] Id., Session of May 10, 1983, 34-35.

[9] Original Records, 149.

[10] T.S.N., id., session of July 27, 1982, 11.

[11] Autopsy Report, Original Records, id., 2-3.

[12] Decision of the Regional Trial Court, id., 3.

[13] T.S.N., id., session of July 27, 1982, 17-19.

[14] Original Records, id., 32.

[15] Interchangeably mentioned in the Records of the case as Jose Juntoria, Jose Hontoria, and Jose Huntoria.

[16] Original Records, id., 81-82.

[17] T.S.N., session of June 16, 1982, 3.

[18] Id., 24.

[19] Id., session of July 27, 1982, 37; see also T.S.N., of the Reinvestigation, session of January 8, 1982, at 2, Original Records, at 187, where Huntoria gave his age as 29 years old.

[20] Id., session of July 27, 1982, 41.

[21] Id., 55.

[22] Id., 41.

[23] Id., 44, 56-57.

[24] Id., 45.

[25] Id.

[26] Id., 48, 63.

[27] Id., 64.

[28] Id., 51.

[29] Id., 52, 66.

[30] Id., session of July 18, 1984, 12.

[31] Id., 6.

- [32] Id., 14-15.
- [33] Rollo, id., 112.
- [34] Id., 113.
- [35] Id., 113-114.
- [36] Original Records, id., 7, 14-16.
- [37] Id., 4-5.
- [38] Id., 1.
- [39] T.S.N., session of July 27, 1982, 57-59.
- [40] REYES, THE REVISED PENAL CODE (1977), vol. 1, 68-69.
- [41] People vs. Punzalan, No. 54562, August 6, 1987, 153 SCRA 1; People vs. Coronado, No. 68932, October 28, 1986, 145 SCRA 250.
- [42] People vs. Delavin, Nos. 73762-63, February 27, 1987, 148 SCRA 257, citing People vs. Madarang, No. L-22295, January 30, 1970, 31 SCRA 148.
- [43] People vs. Tulagan, No. 68620, July 22, 1986, 143 SCRA 107.
- [44] T.S.N., session of July 27, 1982, 50-51.
- [45] Original Records, id., 32-33.
- [46] T.S.N., session of July 27, 1982, id., 51-52.
- [47] Id., 67.
- [48] Id., 67-68.
- [49] The appellant was already 68 years old on July 18, 1984; T.S.N., session of July 18, 1984, 3.
- [50] T.S.N., id., 6.
- [51] People vs. Arnel Mitra, et al., No. 80405, November 24, 1989; People vs. Berbal and Juanito, No. 71527, August 10, 1989; People vs. Nolasco, No. 55483, July 28, 1988, 163 SCRA 623; People vs. Pecato, No. L-41008, June 18, 1987, 151 SCRA 14.
- [52] People vs. Santos, No. 62072, November 11, 1985, 139 SCRA 583.

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