

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
VALENTINO GAMIAO Y DE JESUS AND ROLANDO CAOILE Y
BAUTISTA, ACCUSED, ROLANDO CAOILE Y BAUTISTA,
ACCUSED-APPELLANT.**

G.R. No. 91492. January 19, 1995

Ponente: REGALADO, J.

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REGALADO, J.:

Accused Rolando Caoile and Valentino Gamiao, were charged in Criminal Case No. 82-12799 of the Regional Trial Court of Manila, Branch XL, with the crime of murder, attended by evident premeditation and treachery, for allegedly conspiring and stabbing to death with a bladed weapon Eulogio Armas y Palisoc on August 17, 1982. [1]

Thereafter, the accused, assisted by counsel de parte, were arraigned separately and both pleaded not guilty to the crime charged. [2] After trial, the court found them guilty of murder qualified by treachery and sentenced them to suffer the penalty of reclusion perpetua, to pay the heirs of the victim the amounts of P30,000.00 as death indemnity and P33,000.00 as consequential damages, and to further pay the costs of the proceedings. [3]

During the pendency of this case, accused Gamiao failed to appear in the lower court despite notice. Consequently, his bail bond was ordered cancelled and a warrant of arrest was issued for his apprehension, but he remains at large up to the present. [4] Also, the trial court ordered the consolidation with the case at bar of Criminal Case No. 83-16646, entitled "People vs. Flores and Asuncion," which apparently arose out of the same incident, but the accused therein had not been arrested hence the trial was conducted only with respect to the instant case. [5]

The evidence for the prosecution discloses that at around 2:00 P.M. on August 17, 1982, classmates Wilfredo Quiambao, Marlo Baarde, Apolinario Pligaria, Rogelio Juico, Bernardo Abalos, Eulogio Armas, Bernard Capistrano, and a certain Evangelista [6] were gathered in an alley located at the back of their school, the Philippine Marine Institute. Some of them were eating "pancit" while the others were preoccupied looking at the cassette tapes being peddled by a Muslim vendor. At that point, eight members of a fraternity known as the Samahang Ilokano arrived, four of whom were students of the Philippine Marine Institute, namely, Valentino Gamiao, Rolando Caoile, a certain Asuncion, and one Torres. One of the members of said group asked Quiambao if he was a member of a fraternity, to which he answered in the negative. Then, Quiambao was asked to dole out one peso, but he refused. [7]

Suddenly, members of the Samahang Ilokano group, who were carrying knives known as "balisong 29" inserted between the pages of their notebooks which were tucked under their arms, pulled out their weapons and surrounded the group of Quiambao. Appellant Caoile attempted to stab Quiambao but the latter was able to parry the blow. Quiambao pushed Caoile aside, thereby giving the former an opportunity to run away. At about this time, Armas, who was seated at the table across Quiambao, was suddenly stabbed by Gamiao. Armas was unable

to defend himself and he also attempted to run away but was restrained by Quiambao's companions who held him by the arms. It was at this juncture that Caoile stabbed him, causing him to fall to the ground. Not satisfied with what he had done, Caoile went on top of Armas and stabbed him again, after which the rest of the group took turns in stabbing the victim. [8]

After the incident, all the assailants individually dispersed from the scene leaving Armas, who had sustained six stab wounds, slumped on the ground. After the commotion, Baarde and Abalos went back to the alley where the offense was committed. They met Asuncion and Gamiao who told them to keep their silence. The group of Quiambao later came back for Armas and brought him to the Jose Reyes Memorial Hospital where he was declared dead on arrival. [9]

Appellants sought refuge in the defense of alibi. According to appellant Caoile, he had already stopped attending school as early as March, 1981 because he had to look for work due to financial difficulties. He was hired as a laborer at Abrigo Trading, a supplier of cartons to Subic Naval Base. On August 15, 1982, he was assigned at the branch of the firm in Dinalupihan, Bataan which was under the direct supervision of Alex Espiritu. [10] He avers that in the morning of August 17, 1982, he secured a residence tax certificate and returned to the warehouse where he spent the rest of the morning. In the afternoon, he and the other laborers loaded bundles of cartons in a truck bound for Orani, Bataan. At past 2:00 P.M., they brought the bundles of cartons to the Paragon Paper Mills and were able to leave the place at about 8:00 P.M. [11]

On October 25, 1982, Caoile went back to Manila since he had resigned from his job. It was while he was outside the house of his aunt in Quezon City when he was picked up by Pat. Bataller and Pat. Ansa. [12]

As earlier stated, the trial court found both appellants guilty as charged. Only appellant Caoile has appealed and now seeks the reversal of that judgment, arguing that the lower court erred in not giving credence to his alibi, and in convicting him on the basis of an incomplete transcript of stenographic notes.

We are not persuaded by appellant's denial and defense of alibi. The time-tested jurisprudence is that the findings and conclusions of the trial court on the credibility of witnesses enjoy a badge of respect for the reason that trial courts have the advantage of observing the demeanor of witnesses as they testify. For, 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 translated words. [13] Appellant has not shown any compelling reason why this rule of logic and experience should not be observed. [14]

In the instant case, the testimony of appellant consists mainly of denials which are not supported by any other evidence to sustain his claims. We have consistently ruled that denials, if unsubstantiated by clear and convincing evidence, are negative and self-serving evidence which deserve no weight in law and cannot be given greater evidentiary weight over the testimonies of credible witnesses who testify on affirmative matters. As between the positive declarations of the prosecution witnesses and the negative statements of the appellant, the former deserve more credence. [15]

It was with firmness born of certainty that Baarde and Quiambao positively identified appellant Caoile in the police line-up. In the same manner, Baarde and Quiambao confidently pinpointed Gamiao as one of the malefactors. From the police headquarters, after witnesses Baarde and Quiambao had identified Caoile, they proceeded to their school to verify their grades. There they saw Gamiao talking to some companions beside the railings along the river near the school. Without any hesitation, they called and informed the policemen about the presence of Gamiao, who was immediately apprehended. [16]

The testimony of a witness, mentioning the minutiae of an incident that could not easily be concocted, such as the

murder in this case, deserves credence for it indicates sincerity and truthfulness in the narration of events. [17] We are satisfied that the version of the prosecution is fully corroborated on all material points in a logical and credible fashion. Furthermore, the lack of any ill motive on the part of Pat. Bataller and of the classmates of Armas to testify falsely against and impute to appellant a grave offense is of considerable evidentiary weight in assessing the credibility of said witnesses. [18]

The trial court correctly disbelieved appellant's defense of alibi, a handy but shabby excuse which inditees never seem to tire of. Hence, at the risk of sounding like a broken record, we reiterate once again that for alibi to prosper, it is not enough to prove that the accused was somewhere else when the crime was committed, but it must likewise be demonstrated that it was physically impossible for him to have been at the scene of the crime at the time of its commission. Caoile himself admitted in his testimony that the distance between the locus criminis and Tabacan, Dinalupihan, Bataan where he claimed to be, is only about 100 kilometers, which could be negotiated by a public utility vehicle in not more than two hours, even taking into consideration the traffic congestions normally encountered by a commuter. [19]

Alibi, even if supported by the testimonies of friends of the accused, deserves the barest consideration, much more so in this case where the alibi of appellant was not corroborated by even a single witness despite his claim that he was with at least six persons in the afternoon of August 17, 1982. On top of that, we have the clear, direct, positive and categorical testimonies of the classmates of Armas, who were only 200 meters away from where the victim was mercilessly stabbed, [20] that appellant was one of those who perpetrated the crime at bar. Said declarations remained steadfast and unmoved by the lengthy and rigorous cross-examination conducted by the defense counsel.

At least three documents intended to establish Caoile's whereabouts during the time of the killing of Armas were offered. First, the defense presented a photocopy of his residence tax certificate. A residence tax certificate does not necessarily establish one's presence in the place of issue of the certificate nor is it entitled to full credit considering the ease in obtaining the issuance thereof. Besides, even if appellant personally acquired his residence tax certificate in Dinalupihan, Bataan in the morning of August 17, 1982 as claimed, he still had more than enough time to go to Manila and participate in the killing of Armas.

Second, a photocopy of the Daily Visitor's Log Book of the company attempted to show that Caoile and his companions were at the premises of Paragon Paper Mills between 5:30 P.M. to 8:00 P.M. of that day. Again, it was not impossible for appellant to have committed the offense at 2:00 P.M. and travel forthwith to Bataan in time to indicate his name in the log book of the said company at around 5:30 P.M. This is, of course, on the far-fetched assumption that appellant's claim about his presence on that date and hour at Paragon Paper Mills is true.

Third, a photocopy of a certification issued by the Abrigo Trading was offered to prove that Caoile was hired as a temporary worker from August 15 to 31, 1982. This is definitely of trivial evidentiary significance. Furthermore, the transcripts of the stenographic notes taken at the trial reveal that Alex Espiritu, who claimed that he was the direct supervisor of appellant, was demonstrably confused in his erratic answers when he was presented in court to confirm the alleged presence of Caoile at the crucial time, date and place.

Worse, he admitted that he signed the certification of employment because he could not refuse the request of Manuel E. Abrigo, the proprietor of Abrigo Trading, whom he was working for, thus:

"Q:

Now, I am showing to you a xerox copy of a document which was earlier marked as Exh. '3' for Caoile, and I would like you to go over this and inform the Honorable Court, what is the relation of this with the

employment of Caoile?

A:

This is the certification. I signed this certification upon the request of Caoile.

Court:

You signed there?

A:

Yes, your honor.

Court:

When you sign here what does it mean?

A:

When I read the certification and I saw that there was nothing wrong with it and there was the signature of the proprietor affixed there and I was asked when I went to the head office I was asked, to sign it." [21]

x x x

"Q:

Now, Mr. Witness, this certification was signed by you?

A:

Yes, sir, I signed this.

Q:

And when that was presented to you it was already typewritten, am I right?

A:

Yes, sir.

Q:

Were you consulted by the management before they executed that certification?

A:

No, sir.

Q:

So as you have stated you cannot refuse the wish of your employer as you have stated before?

A:

Yes, sir, insofar as this certification is concerned." [22]

That spirit of accommodation turned out to be futile for, as events would have it by way of poetic justice, the statements in the certification contradicted the very testimony of this witness. Espiritu attested in the certification that Caoile worked under him from August 15 to 30, 1982, contrary to his earlier testimony that appellant actually

worked under him for fifteen days, which was until August 15, 1982 and that he immediately left his employment thereafter because he met an accident. [23]

Parenthetically, appellant failed to present in evidence the originals or the xerox copies of the documents hereinbefore discussed. The requirements for the admission of such secondary evidence in court were not satisfied. The Rules of Court provide that private documents require proof of their due execution and authentication before they can be received in evidence. [24] When there is no such proof, the substitutionary documents may be excluded.

The alleged fire, which was supposed to have razed the boarding house of appellant's former lawyer resulting in the burning of the original documents, was not proved by appropriate evidence. Also, nothing was done by the defense to prove the loss of those documents, aside from its reliance on the self-serving testimony of Caoile. [25] Be that as it may, and even assuming the admissibility of the xerox copies, the foregoing discussion thereon has shown that they are bereft of any evidentiary weight and value.

From the records, it appears that Caoile had a motive to kill Armas because prosecution witness Baarde overheard and duly testified to the fact that Caoile was asking for the person responsible for hitting their fraternity brother early that morning, and they wanted to take their revenge. [26] At any rate, a long line of cases declares that lack or absence of motive for committing the crime does not preclude conviction thereof where, as in this case, there were reliable eyewitnesses who fully and satisfactorily identified appellant as the perpetrator of the felony. [27]

Anent the assailed finding and appreciation of treachery by the trial court, we see no cogent reason to overturn the same. In the instant case, treachery was duly established not only by one but by two witnesses, Quiambao and Baarde, who saw and clearly narrated how the killing of Armas was committed. Armas was without any weapon or means to defend himself against the sudden and unexpected attack by a group of at least eight armed persons.

The circumstance that the judge who rendered the judgment was not the one who heard the witnesses does not detract from the validity of the verdict of conviction. Furthermore, even a cursory perusal of his decision readily shows that it was duly based on the evidence presented during the trial and that it was carefully studied, with testimonies on direct and cross-examination as well as questions from the court carefully passed upon. [28]

Appellant contends that it was improper for the lower court to render a decision in the absence of stenographic notes consisting of the testimonies of important witnesses, that is, Dr. Mariano Cuevas and Pat. Bataller. Dr. Cuevas of the National Bureau of Investigation and Pat. Bataller of the Western Police District testified at the hearings of June 14, 1985, August 29, 1985 and October 10, 1985. Their testimonies were taken down by stenographers Ludy Macaraeg, who did not submit the original of her notes and is reportedly out of the country, and Cosme Cabelis, who also failed to turn over his notes and is no longer in the service, his whereabouts being unknown. This report led the Office of the Court Administrator to submit that the probability of recovering the stenographic notes from the said persons is practically nil, and nothing else could be done but to retake the testimonies. [29]

Dr. Cuevas' testimony relates to the autopsy of the body of the deceased and his post-mortem examination, while that of Pat. Bataller was merely on his taking of the sworn statements of eyewitnesses Baarde and Quiambao. The records of the case at bar were remanded to the trial court for the retaking of the testimonies of Cuevas and Bataller, but because of the manifestations of the defense counsel that he had no objection to the return of the case to this Court without retaking the testimonies of said witnesses, the trial court ordered the return of said records. [30]

Furthermore, as pertinently observed by the Solicitor General, "Dr. Cuevas and Pat. Bataller, whose testimonies

had not been transcribed, were witnesses for the prosecution. Normally, it should be the prosecution which should be interested in the matter of retaking said testimonies. However, nowhere does the record show that the prosecution made any manifestation with respect to the retaking of the testimonies of its witnesses. On the contrary, it was appellant's counsel who expressed his opinion on the matter and manifested that he had no objection to the return of the records of the case to this Honorable Court without the testimonies of Dr. Cuevas and Pat. Bataller." [31]

Appellant has thus exhibited censurable inconsistency in his shifting positions regarding the missing transcripts. Nonetheless, these stenographic notes are not crucial for the affirmance of the judgment of the trial court convicting appellant. On the contrary, based on the extant records, the missing transcript of stenographic notes would only have further strengthened the prosecution's theory of the case for, as may be gathered from the decision of the court below, the testimonies therein are fully supportive and corroborative of the avowals of witnesses Baarde and Quiambao.

WHEREFORE, the assailed judgment of the court a quo is hereby AFFIRMED, with the modification that the death indemnity to be paid to the heirs of the victim is increased to P50,000.00 in line with the present case law thereon.

SO ORDERED.

Narvasa, C.J., (Chairman), Puno, and Mendoza, JJ., concur.

[1] Original Record, 1.

[2] Ibid., 8-9.

[3] Penned by Presiding Judge Felicidad Carandang-Villalon and promulgated on June 30, 1989; Rollo, 32-36.

[4] TSN, January 23, 1989, 2; May 3, 1989, 7; Original Record, 93.

[5] Ibid., July 21, 1983, 7.

[6] Ibid., August 19, 1983, 24; September 1, 1983, 3.

[7] Ibid., July 21, 1983, 2-3, 5.

[8] Ibid., July 21, 1983, 4-6; August 19, 1983, 39; September 1, 1983, 4-5; November 3, 1983, 5-7; February 23, 1984, 4-5, 7-11.

[9] Ibid., July 21, 1983, 5-6; August 19, 1983, 24-25, 27; September 1, 1983, 9-10.

[10] Ibid., August 28, 1986, 5-6; September 4, 1987, 14.

[11] Ibid., August 28, 1986, 8-10.

[12] Ibid., December 4, 1986, 4-5.

[13] *People vs. Baslot, et al.*, G.R. No. 59738, June 8, 1992, 209 SCRA 537.

[14] *People vs. Danque*, G.R. No. 107978, November 19, 1993, 228 SCRA 83.

[15] *People vs. Guibao*, G.R. No. 93517, January 15, 1993, 217 SCRA 64.

[16] TSN, February 23, 1984, 11-16.

- [17] *People vs. Espinoza, et al.*, G.R. No. 104596, November 23, 1993, 228 SCRA 143.
- [18] *People vs. Fernandez*, G.R. No. 90019, December 8, 1993, 228 SCRA 301; TSN, July 22, 1986, 19; December 4, 1986, 8-9.
- [19] See *People vs. Necerio*, G.R. No. 98430, July 10, 1992, 211 SCRA 415; TSN, January 8, 1987, 16.
- [20] TSN, September 1, 1983, 8.
- [21] *Ibid.*, September 4, 1987, 14-15.
- [22] *Ibid.*, January 23, 1989, 10.
- [23] *Ibid.*, September 4, 1987, 9; January 23, 1989, 5, 7, 12.
- [24] Sections 20-24, Rule 132, Rules of Court.
- [25] TSN, May 3, 1989, 5.
- [26] *Ibid.*, September 1, 1983, 6.
- [27] *U.S. vs. Mc Mann*, 4 Phil. 561 (1905); *People vs. Godinez*, 106 Phil. 597 (1959); *People vs. Tan, Jr., et al.*, G.R. No. 53834, November 24, 1986, 145 SCRA 615; *People vs. Antud*, G.R. No. 95684, October 27, 1992, 215 SCRA 190; *People vs. Campa, et al.*, G.R. No. 105391, February 28, 1994, 230 SCRA 431.
- [28] See *People vs. Competente, et al.*, G.R. No. 96697, March 26, 1992, 207 SCRA 591.
- [29] Rollo, 61-63.
- [30] *Ibid.*, 77.
- [31] *Ibid.*, 97.

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