

PEOPLE OF THE PHILIPPINES, PLAINTIFF/APPELLEE, VS. BERNARDO GONZALES, ACCUSED/APPELLANT.

G.R. No. 96928. June 16, 1992

Ponente: FELICIANO, J.

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FELICIANO, J.:

Bernardo Gonzales appeals from a decision of the Regional Trial Court, Caloocan City, sentencing him to suffer the penalty of reclusion perpetua for the murder of Alberto de Guzman and to pay P30,000.00 as indemnity for death and P10,000.00 as reimbursement for actual expenses incurred.

The information filed against appellant alleged:

"That on or about the 7th day of February, 1982 at Caloocan City, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, without any justifiable cause, with deliberate intent to kill, evident premeditation and treachery, did then and there wilfully, unlawfully and feloniously attack, assault and stab several times with a kitchen knife on the different parts of the body one ALBERTO DE GUZMAN y PINIANO, thereby inflicting multiple stab wounds upon the latter which caused the death of the said victim at the Manila Central University, this city.

"Contrary to law."[1]

Appellant Gonzales, upon arraignment, entered a plea of not guilty, and the case proceeded to trial.

The prosecution presented as its principal evidence the testimony of three (3) witnesses, namely: (1) Myrna de Guzman who is the mother of the victim; (2) Juliana Flores who had personally witnessed the stabbing incident; and (3) Cpl. Paulino Batarina who had conducted an investigation and referred the matter to the Fiscal's office.

Appellant filed a demurrer to the evidence; it was denied by the trial court which instead afforded appellant the opportunity to adduce evidence. Appellant waived his right to present evidence and never did present any.

On 16 August 1990, the trial court rendered a decision finding Gonzales guilty beyond reasonable doubt, as already noted.

The facts of the case are starkly simple and have been summarized by the Solicitor General in the Brief for the People in the following manner:

"At around 11:00 o'clock in the morning of February 7, 1982, victim Alberto Piniano de Guzman was sleeping in the driver's seat of a passenger jeepney parked along Katarungan Street, Bagong Barrio, Caloocan City when he was stabbed several times by appellant. The stabbing was witnessed by Juliana Flores who was buying something from a store located at the corner of Katarungan and Anonas Streets, about two full arms-length away from the jeepney. Flores saw appellant, who appeared very angry, deliver the first thrust using a knife measuring about six (6) inches long excluding the handle, on the chest of the sleeping victim (TSN, pp. 6-8, March 12, 1990; Juliana Flores, Direct Examination). Appellant then ran away and the victim, who was bathed in his own blood, rushed to his own house (Id. at p. 9). Flores knew the victim and appellant as she was leasing

a house in that area, on KKK Street, which was about 25 meters away from the scene of the incident (Id., at pp. 6, 9). There were other persons who witnessed the stabbing (Id., at p. 12).

When the stabbing incident happened, Myrna de Guzman was inside their house with her younger son when her older son, the victim, with blood oozing out from his wounds and clutching his breast, entered the house asking for help. The victim informed Myrna that he was stabbed by appellant. Myrna knew appellant since 1963 as he was an associate of her husband in the barangay. Myrna brought the victim to the Manila Central University Hospital aboard a tricycle. Along the way, the victim kept on repeating that it was appellant who stabbed him. The victim died while undergoing surgery at the hospital (TSN, pp. 4-5, March 14, 1990; Myrna de Guzman, Direct Examination).

During the trial of the case, Myrna chanced upon Juliana Flores and asked her to testify after another eyewitness, Jaime Andaya, who had executed a statement, failed to testify in court. Myrna [had] met Juliana Flores, a market vendor like her, one week after the incident and the latter informed the former that she witnessed the stabbing (TSN, pp. 10-11, March 14, 1990).

The Medical Certificate issued by the attending physician, Dr. Gregorio Conner (Exh. 'D'), described the wounds as follows: 'multiple stab wounds, 4 cm. chin; 4 cm. left cheek, 1.5 cm. M/3rd medial left; Anterior and posterior aspect, D/3rd, arm, left; U/3rd int. lateral aspect, left leg; 2 cm. midsternal, 2 cm. parasternal left 4th ICS, 2 cm. 6th ICS, AAL, left, Laceration, diaphragm 1 cm., hemothorax, left; Hemoperitoneum, perforation, T&T, Transverse colon 0.5 cm. jejunum 0.5 cm.' (Exh. 'D', Medical Certificate, p. 21, Records).

The father of the victim reported the stabbing to the police station in Caloocan City. The case was referred to Cpl. Paulino Batarina for investigation. He was not able to interview the victim since the latter was already being operated on when he arrived at the hospital with the father of the victim. (TSN, pp. 2-4, March 12, 1990, Paulino Batarina, Direct Examination). After investigation, a criminal complaint was subsequently filed against appellant before the fiscal's office on February 11, 1982. However, when policemen tried to serve the subpoena, appellant could not be found at his residence. Appellant was arrested only in January, 1990 (Id. at pp. 4-5)."[2]

Since appellant Gonzales did not present evidence on his own behalf, the instant appeal does not relate to any form of defense, but involves only issues concerning the reliability and sufficiency of the evidence for the prosecution.

Appellant first contends that the trial court should not have given credence to the testimony of Juliana Flores who stated that she had witnessed the stabbing incident. Although Juliana Flores temporarily resided in Bagong Barrio, Caloocan City where the victim lived and was supposed to know the mother of the victim, appellant argues, she had not revealed her knowledge of the incident until after the lapse of a considerable period of time.

The Court is not persuaded because if there was any delay, it was sufficiently explained by Juliana Flores. She stated that she did not feel compelled immediately to inform the relatives of the victim about her knowledge as there were other people who had seen the stabbing anyway.[3] It has been held that eyewitnesses are commonly naturally reluctant to get involved in criminal investigations;[4] if these eyewitnesses do not come forward immediately without delay, the fact of delay should not, by itself, be considered as seriously affecting their credibility. Rather, credibility should be assessed independently, on the basis of the substance of the testimony offered and the surrounding circumstances.

Juliana Flores had positively identified appellant Gonzales as the person who stabbed the victim to death. She was only two (2) arms-length away from the assailant and the victim at that time and was quite certain of the identity of appellant as the doer of the criminal deed. The identification made by Juliana Flores was reinforced by the victim who, while still alive and on the way to the hospital, had repeatedly told his mother Myrna de Guzman that

it was appellant who had assaulted him with a knife.

Appellant Gonzales, however, disputes the admission in evidence of the ante mortem statement; he alleges that the evidence of record does not indicate that that statement was made by the victim under the consciousness of impending death. In its decision, the trial court noted that during the relevant period, the victim had sustained multiple stab wounds and blood was spurting from his chest. The degree and seriousness of the wounds and the fact that death supervened shortly after arrival at the hospital's operating room constitute adequate evidence that the victim must have been aware of his impending death as he told his mother that appellant had repeatedly knifed him as he slept.[5] The law does not require that the declarant first explicitly state his perception of the inevitability of death as it is sufficient that from the nature and extent of the wounds inflicted, the seriousness of his condition was so apparent to the victim.[6]

A strong indication of appellant's guilt was his disappearance from his place of residence for about eight (8) years. As early as 11 February 1982 when the complaint was filed before the Fiscal's Office of Caloocan City, appellant could no longer be found in his house. He remained at large for many years despite the issuance of several warrants for his arrest and showed up only in 1990.

Appellant, however, argues that flight which constitutes evidence of guilt is disappearance from the scene of the crime and not concealment to evade arrest. We agree with the Solicitor General that such a distinction makes no legal difference. It does not really matter whether the disappearance immediately followed the commission of the offense or a few days afterwards when the police begin to close in on the fleeing suspect.[7] The legal consequence would be the same because in either case, the purpose of the fugitive is to evade responsibility for the offense committed. It is the act of flight which is the principal basis of inference rather than the precise proximity thereof to the time of commission of the criminal act.

Appellant finally alleges that the trial court erred in appreciating treachery as a qualifying circumstance. He contends that the casual mention by Juliana Flores that the victim was sleeping in the parked passenger jeepney when the stab wounds were inflicted, was not sufficient to establish treachery.

We consider, however, that there is no further proof required in the instant case to show that treachery had attended the commission of the offense. The mode of attack described by Juliana Flores indicates that it was made suddenly and unexpectedly, rendering the victim helpless and without opportunity to defend himself.[8] As correctly observed by the trial court, the victim was then unarmed and oblivious of the possibility of a deadly attack as he slept on the driver's seat of a passenger jeepney. There was no confrontation or altercation that preceded the attack.[9] Appellant Gonzales chose that particular time to attack the victim when retaliation or defense was not possible. That is the very essence of treachery as a criminal law concept.

WHEREFORE, the Decision appealed from is hereby **AFFIRMED**, save that the amount of indemnity for death payable by appellant Bernardino Gonzales to the heirs of the victim is hereby **INCREASED** to P50,000.00 conformably with recent jurisprudence.

SO ORDERED.

Gutierrez, Jr., (Chairman), Bidin, Davide, Jr., and Romero, JJ., concur.

[1] Records, p. 2.

[2] Appellee's Brief, pp. 4-7.

[3] TSN, 12 March 1990, p. 12.

[4] *People v. Munoz*, 170 SCRA 107 (1989); *People v. Pecabes*, 137 SCRA 158 (1985); *People v. Punzalan*, 153 SCRA 1 (1987).

[5] *People v. Bocatcat, Sr.*, 188 SCRA 175 (1990); *People v. Alegarbes*, 173 SCRA 64 (1989); *People v. Garcia*, 89 SCRA 440 (1979).

[6] *People v. Macalino*, 177 SCRA 185 (1989); *People v. Sarabia*, 127 SCRA 100 (1984).

[7] *People v. Lagahan*, 168 SCRA 346 (1988).

[8] *People v. Mabubay*, 185 SCRA 675 (1990); *People v. Bayocot*, 174 SCRA 285 (1989).

[9] RTC Decision, p. 4.

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