

**[ CR No. 32010, July 09, 2010 ]**

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RUBEN DOMANTAY, ACCUSED-APPELLANT.**

**Court of Appeals**

Before us is an appeal from the Partial Joint Decision dated August 28, 2008 of the Regional Trial Court (RTC) of Dagupan City, Branch 44, in Criminal Case Nos. 97-01957-D and 97-01958-D,<sup>[1]</sup> the decretal portion of which states:

"WHEREFORE, judgment is hereby rendered in:

1. Crim. Case No. 97-01957-D finding accused Ruben Domantay Guilty beyond reasonable doubt with the crime of frustrated Homicide defined under Art. 249 in relation to Arts. 6 and 50 of the Revised Penal Code and is hereby sentenced to suffer an indeterminate penalty ranging from Six (6) Months and One (1) Day of Prision Correccional as minimum up to Six (6) Years and One (1) Day of Prision Mayor as maximum and to pay Rafel Padilla the amount of Php 20,000.00 as nominal damages.
2. Crim Case No. 97-01958-D, likewise finding the same Ruben Domantay Guilty beyond reasonable doubt with the crime of Homicide defined and penalized under Art. 249 of the Revised Penal Code and is hereby sentenced to suffer an indeterminate penalty ranging from Six (6) Years and One (1) Day of Prison Mayor as minimum up to twelve (120 years and one (1) day of Reclusion Temporal as maximum and to pay the heirs of the late Rodolfo Bauzon the amount of Php50,000.00 as civil indemnity and Php20,000.00 as nominal damages.

In the meantime, these cases are hereby ordered archived insofar as Accused MARIANO ORIOL, LANDO CAPALAR and ADOR CAPALAR are concerned.

Let Alias Warrants be issued against the aforementioned accused.

SO ORDERED."<sup>[2]</sup>

*The Facts*

The Prosecution's Evidence:

At around 9 to 10 o'clock in the evening of August 9, 1997, brothers Benigno Bauzon, Jovito Bauzon and Rodolfo Bauzon, and their companions Rafael Padilla and Juanito Zara went to a videoke bar located in Barangay Macabito, Calasiao, Pangasinan.<sup>[3]</sup> upon their arrival, they chanced upon accused-appellant Ruben

Domantay and four other male companions, drinking beer in the establishment.<sup>[4]</sup>

The place only had a total of three tables, and the group of Bauzon occupied at table less than two meters<sup>[5]</sup> away from that of accused-appellant.<sup>[6]</sup>

Bauzon's group then started drinking a bottle of beer each.<sup>[7]</sup> But before they could finish doing so, they sensed that appellant's group "had bad intentions" against them,<sup>[8]</sup> Appellant's group then went out of the establishment.<sup>[9]</sup> Then Bauzon's group also went out, but as they did so, appellant suddenly stabbed Rafael Padilla once on the left side of the abdomen with a knife,<sup>[10]</sup> causing the latter fall to the ground.<sup>[11]</sup> Appellant and his group then hurriedly left the scene and went to their workplace located behind the videoke bar,<sup>[12]</sup> only to return moments thereafter.<sup>[13]</sup>

As Benigno Bauzon was about to help carry the wounded Rafael Padilla, he, too, was stabbed by appellant and three of his companions.<sup>[14]</sup> Benigno suffered two stab wounds, one in the chest and another in the back, both inflicted by appellant.<sup>[15]</sup> The three other companions of appellant also stabbed him several times.<sup>[16]</sup> He lost consciousness and when he came through he was already at the Villaflor Hospital.<sup>[17]</sup>

While appellant and his group were in the course of stabbing Benigno Bauzon Rodolfo Bauzon tried to pacify them ,<sup>[18]</sup> But appellant and his companions also stabbed Rodolfo Bauzon.<sup>[19]</sup> Appellant stabbed Rodolfo five times, while appellant's companions stabbed him several times more.<sup>[20]</sup>

Rodolfo Bauzon was brought to the San Carlos General Hospital in San Carlos City, Pangasinan<sup>[21]</sup> where he was pronounced dead after attempts to resuscitate him had prove futile.<sup>[22]</sup> As stated in the Mexico Legal Certificate,<sup>[23]</sup> the cause of his death is "HYPOVOLEMIA SECONDARY TO 5 CM. STAB WOUND 9TH INTERCOSTAL SPACE MIDCLAVICULAR LINE (R) PENETRATING LUMBAR AREA (R) W/ INTESTINAL EVISCERATION".

On the other hand, Rafael Padilla was brought to Gov. Teofilo Sison Memorial Hospital in Dagupan City.<sup>[24]</sup> There, he was found to have a "stab wound in the left abdomen."<sup>[25]</sup> The stab wound damaged a vital organ, the intestine, and caused blood vessels supplying vital organs to be cut, which, without surgical intervention, would have resulted in hemorrhage and the death of the patient.<sup>[26]</sup>

Benigno Bauzon was brought to Dagupan Doctors-Villaflor Memorial Hospital in Dagupan City, where he underwent treatment to multiple stab wounds.<sup>[27]</sup>

#### *The Defense's Evidence:*

Appellants interposed the defense of denial. He denied having any part in the commission of the crime.

According to him, on the night of August 9, 1997. at around 9 to 10 o' clock, appellant was at a videoke bar located at the boundary of Barangays Balingueno and

Macabito.<sup>[28]</sup> The establishment was right in front of his workplace.<sup>[29]</sup> He went to the establishment with his Visayan co-workers, two of whom he could only identify as "Mariano" and "Ador."<sup>[30]</sup>

That night, someone was stabbed by Mariano, his co-worker.<sup>[31]</sup> Appellant claims he is the one being accused for it because the complainants cannot identify his companions.<sup>[32]</sup>

After he saw the stabbing, he went straight home, as his companions were then throwing things inside the bar.<sup>[33]</sup> However, he was followed by Mariano, who wanted to spend the night there.<sup>[34]</sup> He refused, as he wanted no part in the incident that happened.<sup>[35]</sup> Then, Mariano asked for directions to Sta. Barbara and fare money, but appellant just gave him the directions, as he had no money to give him.<sup>[36]</sup>

Appellant did not report what he saw to the authorities.<sup>[37]</sup> He also did not inform his wife about it, as she was then in Dagupan City.<sup>[38]</sup>

Appellant, together with co-accused Mariano Oriol, Lando Capalar, Ador Capalar, and John Doe, were charged in the Regional Trial Court with the crimes of Homicide, for the fatal stabbing of Rodolfo Bauzon,<sup>[39]</sup> and Frustrated Homicide, for the stabbing of Rafael Padilla.<sup>[40]</sup>

Only appellant was arrested by the authorities, while the other accused remain at large.

In an Order dated June 17, 2005, the RTC ordered the conduct of joint trial in the cases.<sup>[41]</sup>

### *The RTC's Ruling*

On August 28, 2008, the RTC rendered its assailed decision, finding appellant guilty beyond reasonable doubt of the crimes charged on the following findings and conclusion

"Domantay's bare denial that he stabbed Rodolfo Bauzon and Rafael Padilla is insufficient to overcome the positive identification of said two (2) prosecution witnesses, who themselves were victims of his stabbing, that he inflicted the lone injury sustained by Rafael Padilla and that he and his companions helped one another in stabbing Rodolfo Bauzon at the different parts of his body causing his instantaneous death.

What (is) more, Domantay's further denial that his group was involved in trouble with Bauzon's group as they were just watching videoke because they were throwing stones, bottles, caceroles (sic) inside the bar and he saw one Mariano stabbing somebody.

Lastly, the same Mariano followed Domantay in his house, which is about half a kilometer from the place of incident, after the stabbing in question

instead of going to the place where he is staying which is just very near the place of the incident.

Domantay did not only guide Mariano in going to Santa Barbara and escape criminal responsibility but likewise keep (sic) quite as to the identify of the alleged assailants. If it is true that he has no participation in the killing of Rodolfo Bauzon and the wounding of Rafael Padilla, as what he wants this court to believe, he should have informed the authorities that it was his Visayan companions who are responsible. But he did not."<sup>[42]</sup>

Hence, the instant appeal.

### *The Issues*

In his appeal brief, appellant take issue with the RTC's disposition of his defenses and argues that his reluctance to "get involved with a criminal investigation" was only normal.<sup>[43]</sup> He also tries to diminish the credibility of the prosecution's eyewitnesses by questioning their ability to identify appellant since "the place was dark" and by emphasizing that they contradicted themselves on the matter of whether they knew appellant's companions.<sup>[44]</sup> He also accuses the witnesses of falsely testifying against him ostensibly to avenge the death of their companion.<sup>[45]</sup>

### *The Court's Ruling*

We find the appeal devoid of merit.

The trial court correctly disregarded the defenses of appellant, especially in the face of his positive identification by the prosecution witnesses. It has been held that the positive identification by an eyewitness has greater weight than the more denial of the accused.<sup>[46]</sup> Denial, like alibi, is a weak defense, which becomes even weaker in the face of the positive identification of the assailant by an eyewitnesses. <sup>[47]</sup>

In the Present case, two witnesses positively pointed to appellant as the perpetrator. Not only were they present in the scene of the crime, but one of them, Benigno Bauzon, was in fact himself attacked and stabbed by appellant.<sup>[48]</sup> Such proximity to the perpetrator does not diminish , but actually enhances the witness' credibility.

The trial court was convinced of the credibility of prosecution witnesses and the truthfulness of their assertions. We defer to its findings as the assessment of the credibility of witnesses and their testimonies is a matter best undertaken by the trial court, because of its unique opportunity to observe the witnesses firsthand and to note their demeanor, conduct and attitude. The rule is that findings of the trial court on such matters are binding and conclusive on the appellate court, unless some facts or circumstances of weight and substance have been overlooked, misapprehended or misinterpreted.<sup>[49]</sup> We find no reason to warrant a deviation from the settled rule.