

[G.R. No. 227878, August 09, 2017]

PEOPLE OF THE PHILIPPINES PLAINTIFF-APPELLEE, V. GERALDO SANTILLAN Y VILLANUEVA AND EUGENE BORROMEO Y NATIVIDAD, ACCUSED-APPELLANTS.

D E C I S I O N

This is an appeal from the May 8, 2015 Decision^[1] of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 05026, which affirmed the April 6, 2011 Decision^[2] of the Regional Trial Court, Branch 128, Caloocan City (RTC) in Criminal Case No. C-70393, finding accused-appellants Geraldo Santillan y Villanueva (*Geraldo*) and Eugene Borromeo (*Eugene*) guilty beyond reasonable doubt of the crime of murder.

The Antecedents

In an Information, dated March 30, 2004, Geraldo and four (4) John Does were charged with the crime of murder. The Information reads:

That on or about the 28th day of March 2004 in Caloocan City, Metro-Manila and within the jurisdiction of this Honorable Court, the above-named accused, conspiring together and mutually aiding with one another, without any justifiable cause, with deliberate intent to kill, treachery, evident premeditation and abuse of superior strength, did then and there willfully, unlawfully and feloniously attack and stab with a bladed weapon one ERNESTO GARCIA Y MARIANG, hitting the latter on the different parts of the body, thereby inflicting upon him serious physical injuries, which caused his instantaneous death.

Contrary to Law.^[3]

On April 28, 2004, Geraldo was arraigned where he pleaded "not guilty." Upon motion by the Public Prosecutor, an Amended Information was admitted by the RTC on June 24, 2004. The Amended Information named the four (4) John Does as Eugene, Ramil Santillan y Villanueva (*Ramil*), Julious Esmena (*Julious*), and Andres Cartnueva (*Andres*).

On January 24, 2007, Eugene was arraigned and he pleaded "not guilty" to the crime charged. Ramil, Julious and Andres, however, remained at large.

The prosecution presented Julie Ann Garcia (*Julie Ann*), Michael Garcia (*Michael*), Police Chief Inspector Felimon Porciuncula, Jr. (*Dr. Porciuncula, Jr.*), PO1 Joselito Bagting, and Mary Ann Parinas as its witnesses. On the other hand, the defense consisted of the testimonies of Clarita Amen (*Clarita*), Teresita Arias (*Teresita*), Geraldo and Eugene.

Version of the Prosecution

On March 23, 2004, at about 7:30 o'clock in the evening, Andres invited the victim Ernesto Garcia (*Ernesto*), who was then watching television in his living room, to go

out. Ernesto agreed and they went to the end portion of an alley.

Minutes later, Michael, Ernesto's son, was tending their store when he saw his father running towards their gate while being chased by Ramil and Geraldo, also known in their place as Dodong Santillan.^[4] Thereupon, Ramil stabbed Ernesto at the back. Geraldo, who was also armed, tried to stab Ernesto but missed.

Ernesto ran towards their gate and embraced Michael. Michael then called out his sister, Julie Ann, who came to help her father while Michael sought assistance from their uncle, Domingo Trinidad. Julie Ann asked Ernesto who his assailants were. Ernesto answered Dodong, Eugene, Ramil, and a certain "Palaka." Ernesto vomited blood and fell to the ground. Michael returned on board a tricycle and they tried to bring Ernesto to the hospital, but their father was already dead.

Version of the Defense

Geraldo testified that on March 28, 2004, at about 7:45 o'clock in the evening, he was already asleep in their house but was awakened when he felt something cold was pointed at his side. He was surprised to see that it was a gun and policemen were inside his house. The policemen immediately handcuffed him and informed him that he was responsible for Ernesto's death.

Geraldo further attested that Ernesto filed a complaint against him for allegedly throwing stones at his (Ernesto's) house. The *barangay* investigation, however, showed that he was not responsible for the complained act. He and Ernesto shook hands and the latter's children even asked for an apology. On March 14, 2004, Ernesto hacked him on the head. He filed a case for frustrated murder before the police precinct, but the case did not reach the prosecutor's office because Ernesto died.^[5] Also, sometime in November 2003, he and his wife Lorna Santillan filed a complaint against Ernesto before the *barangay*.^[6] He never thought of retaliating as they were advised to file a case against Ernesto.

Teresita, sister of Julious, corroborated the testimony of Geraldo. She testified that on March 28, 2004, between 6:00 to 6:30 o'clock in the evening, she was at Geraldo's house and she saw him sleeping because the house had no door and there was illumination from a candle; that while on her way home from the market, she noticed a commotion; that she heard that Ernesto was stabbed; that she hurriedly went to Geraldo's house to fetch her son and saw that Geraldo was still sleeping; that she was cooking at about 8:00 to 8:30 o'clock in the evening when policemen suddenly arrived; and that she saw from their window that Geraldo, who had just awakened, was being arrested.

For his part, Eugene deposed that on March 28, 2004 at about 7:45 o'clock in the evening, he was in Camarin, Zapote, Caloocan City. He arrived in the said place at about 4:30 o'clock in the afternoon because his mother instructed him to collect payment from her *kumadre*. He ate there and was able to collect the payment. He left Zapote at about 7:00 o'clock in the evening but did not go home and instead played *video carrera* for more than thirty 30 minutes. Afterwards, he went home and was surprised to see a lot of people in their place. He then learned of Ernesto's death. He alleged that he never had a misunderstanding with Ernesto; and that he was present during the time that Ernesto attacked Geraldo with a bolo. On November 23, 2005, he discovered that a case for murder was filed against him

when he secured a clearance from the OCC-MeTC.^[7] He stated that he never left their house in Bagong Silang; and that he did not go into hiding.

The RTC Ruling

In its April 6, 2011 decision, the RTC found Geraldo and Eugene guilty beyond reasonable of the crime of murder and sentenced them to suffer the penalty of *reclusion perpetua* and all the accessory penalties attached thereto.

The RTC treated the *ante mortem* statement of Ernesto as a dying declaration. It found that Ernesto's declaration, which was relayed to Julie Ann, concerned the circumstances surrounding his death; that it was offered in a criminal case in which he was the victim; and that it was made under the consciousness of impending death, taking into consideration the gravity of his wounds and the immediacy by which death took place. It also admitted Ernesto's declaration as part of the *res gestae*.

The trial court was convinced that the dying declaration, coupled with the testimony of Michael, had established beyond reasonable doubt the guilt of both Geraldo and Eugene. It opined that the defenses proffered centered on alibi, an inherently weak defense that is reduced to self-serving evidence when unsubstantiated and is undeserving of weight in law.

Moreover, the RTC ruled that the testimonies of defense witnesses Clarita and Teresita did not provide corroboration because both witnesses were not present during the stabbing incident. It observed that Teresita was at the market and saw Geraldo before and after the stabbing incident but not during its occurrence. In the same manner, the RTC noted that while Clarita saw Geraldo asleep before and after the stabbing incident, she nevertheless did not see him at the time of its commission for she was inside the house of Geraldo's mother having a massage session.

Finally, the RTC appreciated the qualifying circumstance of abuse of superior strength. In so ruling, it stressed that Ernesto was unarmed and was trying to flee from his attackers. The RTC took into account the fact that there were four assailants, two of whom were seen chasing Ernesto with a bolo on hand. Hence, it concluded that the crime committed was murder, qualified by abuse of superior strength. The *fallo* reads:

WHEREFORE, finding the accused Geraldo Santillan and Eugene Borromeo Guilty beyond reasonable doubt for Murder, the court hereby sentences them to suffer the penalty of *reclusion perpetua* and all the accessory penalties attached thereto. Accused Geraldo Santillan and Eugene Borromeo are likewise directed to pay jointly and severally the heirs of Ernesto Garcia as follows:

- 1) Seventy Five Thousand (P75,000.00) Pesos, as civil indemnity;
- 2) Seventy Five Thousand (P75,000.00) Pesos, as moral damages;
- 3) Seventy Five Thousand (P75,000.00) Pesos as, exemplary damages; and
- 4) Twenty Seven Thousand Eight Hundred Forty Five (P27,845.00) Pesos, as actual damages.

SO ORDERED.^[8]

Aggrieved, the accused-appellants elevated an appeal before the CA.

The CA Ruling

In its May 8, 2015 decision, the CA affirmed with modification the conviction of Geraldo and Eugene. It held that all the requisites for the admissibility of a dying declaration were present in this case. In the same manner, the CA ruled that Ernesto's declaration could also be admitted as part of the *res gestae* because when Ernesto gave the identities of those who stabbed him to Julie Ann, he was referring to a startling occurrence. It added that Ernesto was wounded and blood was oozing from his chest, thus, he had no time to contrive the identification of his assailants. The CA opined that Ernesto's utterance that Dodong, Eugene, Ramil, and a certain "Palaka" stabbed him was spontaneously made and only in reaction to the startling occurrence.

The appellate court explained that the qualifying circumstance of abuse of superior strength must be appreciated because the assailants enjoyed superiority in number and were armed with weapons, while Ernesto had no means with which to defend himself. It declared that the medico-legal report supported the inequality of forces between the victim and the assailants in terms of number and weapons. The CA noted Dr. Porciuncula, Jr.'s testimony that Ernesto sustained multiple incise wounds on different parts of his body; that the weapon used was a single bladed sharp instrument and it was possible that more than one was used; and that it was likely that there could have been more than one assailant that inflicted the stab wounds.

^[9] The CA disposed of the appeal in this wise:

WHEREFORE, the appeal is **DENIED**. The decision of the Regional Trial Court of Caloocan City, Branch 128 in Criminal Case No. C-70393, finding accused-appellants Geraldo Santillan y Villanueva and Eugene Borromeo y Natividad guilty beyond reasonable doubt of the crime of murder and sentencing each of them to suffer the penalty of *reclusion perpetua*, is **AFFIRMED** with **MODIFICATION**. Accused-appellants are ordered to pay jointly and severally the heirs of Ernesto Garcia the amounts of Seventy-Five Thousand Pesos (P75,000.00) as civil indemnity, Seventy-Five Thousand Pesos (P75,000.00) as moral damages, Thirty Thousand Pesos (P30,000.00) as exemplary damages and Twenty-Seven Thousand Eight Hundred Forty-Five Pesos (P27,845.00) as actual damages. Accused-appellants shall also pay interest on all these damages assessed at the legal rate of six percent (6%) per annum from date of finality of this decision until fully paid.

SO ORDERED.^[10]

Hence, this appeal.

ISSUES

I.

WHETHER IT WAS PROVEN BEYOND REASONABLE DOUBT THAT GERALDO AND EUGENE WERE RESPONSIBLE FOR THE DEATH OF ERNESTO