

SECOND DIVISION

[G.R. No. 139412, April 02, 2003]

THE PEOPLE OF THE PHILIPPINES, APPELLEE, VS. JAIME CASTILLANO, SR. ALIAS "TALINO," RONALD CASTILLANO ALIAS "NONO" AND JAIME CASTILLANO, JR. ALIAS "JUNJUN," ACCUSED,

RONALD CASTILLANO ALIAS "NONO" AND JAIME CASTILLANO, JR. ALIAS "JUNJUN," APPELLANTS.

D E C I S I O N

CALLEJO, SR., J.:

This is an appeal from the Decision^[1] of the Regional Trial Court of Pili, Camarines Sur, Branch 31, in Criminal Case No. P-2542, convicting appellants Ronald Castellano alias "Nono" and Jaime Castellano, Jr. of murder, meting on each of them the penalty of *reclusion perpetua* and ordering them to pay, jointly and severally, damages to the heirs of the victim Diosdado Volante.

The Evidence or the Prosecution

Diosdado Volante, who eked out a living as a farmer, his wife Luz,^[2] and their four children lived in their farmland located in the outskirts of Sitio Danawan, Barangay Sagrada, Bula, Camarines Sur.

About 200 meters away from Diosdado's farmland was the farmhouse of Jaime Castellano, Sr.^[3] He tasked his son, Jaime Castellano, Jr., to take care of the farmhouse and allowed him to reside there.^[4] Jaime, Sr., his wife Concepcion, their son Ronald (Nono) Castellano and other children lived at their family residence in Sagrada, Bula, Camarines Sur, approximately three kilometers away from their farmhouse in Sitio Danawan.^[5]

Sometime in the early part of June 1996,^[6] Jaime, Sr. fired his gun indiscriminately. Afraid that a stray bullet might hit any member of his family, Diosdado accosted Jaime, Sr. and asked him to desist from firing his gun indiscriminately. Jaime, Sr. resented the intrusion. He remonstrated that neighbors did not even complain about him firing his gun. A heated altercation ensued. Jaime, Sr. then fired his gun towards the house of Diosdado. The incident germinated deep animosity between the two and their respective families.^[7] Jaime, Sr. always carried a bolo whenever he passed by the house of Diosdado.

On July 8, 1996, between 5:00 p.m. to 6:00 p.m., Levy Avila, a teacher, was in his house doing some repairs. He noticed Jaime, Jr. and Ronald talking by the roadside near the gate of his (Levy's) house. Levy overheard the two planning to go to

Diosdado's house. Jaime, Jr. and Ronald even told Levy: "*Ayaw namin kasing inaasar.*" Suspecting that the two were intending to harm Diosdado, Levy urged them to amicably settle their differences with Diosdado.

At around 8:00 p.m., Luz and Diosdado were about to retire for the night. Their children were already fast asleep. Diosdado was tired after a day's work of spraying chemicals at the rice field. He reclined on a bamboo bench near the main door of their house. A kerosene lamp lighted the house. Suddenly, Luz heard voices near their house. She saw Jaime, Sr. holding a flashlight and his two sons, Jaime Jr. and Ronald, on their way to the house. Luz immediately alerted her husband and told him that the Castellanos were in their yard. However, Diosdado was nonchalant and simply told Luz not to mind them. All of a sudden, Jaime, Sr. fired his gun at Diosdado's house. Terrified, Luz hastily carried her baby daughter Mary Jane, sought cover and hid near the rear door. She was about five meters away from her husband when the Castellanos barged inside their house and ganged up on Diosdado. Jaime, Jr. and Ronald, armed with bladed weapons, took turns in stabbing Diosdado. Ronald stabbed Diosdado on the right side of his breast, right thigh and on the back. He also struck him with a one-meter long pipe. Not satisfied, Jaime, Sr. fired his gun hitting the right thigh of Diosdado. Luz was so shocked by the sudden turn of events. To silence her one year old baby, she breastfed her. As soon as she could, Luz fled to the rice paddies where she hid for a time. The Castellanos fled on board a jeep parked in the NIA road about 200 meters from the house of Diosdado. When Luz returned to their house, she saw her husband sprawled on the ground in a pool of his own blood. Diosdado, at the point of death, asked her for help. Not knowing what to do, Luz lost no time and ran to the house of their neighbor Celedonio Espiritu for help. Celedonio rushed to the Bula Police Station and reported the incident.

A team composed of SPO4 Jaime Javier, SPO3 Jaime Bellano and SPO3 Nilo Fornillos,^[8] the duty investigator,^[9] went to the crime scene^[10] to conduct an on-the-spot investigation. Photographs were taken of the cadaver.^[11] SPO3 Fornillo drew rough sketch^[12] of the scene. The policemen saw a bolo at the place where Diosdado was sprawled near the door of their house. A scabbard of a bolo was found a meter away from the house of Diosdado.^[13] The policemen also found a bullet hole on the wall of the house.^[14] Thereafter, the cadaver was placed on a *hamak* [hammock] brought to the police station. The police investigators turned over the scabbard and bolo to the desk officer of the police station.^[15]

From the police station, SPO4 Javier, SPO3 Bellano and Sgt. Rogelio Palacio boarded their mobile police car and set out a manhunt for the malefactors. They proceeded towards the boundary in Sto. Domingo where they put up a checkpoint. The police officers inspected every vehicle that passed by. At around 12:45 a.m., SPO4 Javier halted a passenger jeepney. On board were Jaime, Sr. and his two sons, Jaime Jr. and Ronald, each of whom carried a bag containing their clothes. The policemen brought the Castellanos to the police station.^[16] The bags of Jaime, Jr. and Ronald were turned over to the police investigators. The three were placed under arrest for the killing of Diosdado. The policemen submitted their investigation report.^[17]

In the meantime, at 7:00 a.m., Dr. Evangeline Consolacion, the Municipal Health

Officer of Bula, conducted an autopsy on the cadaver of Diosdado. Her autopsy report revealed the following findings:

External Findings

1. Incise Wound 3 cm Superior pinna R ear
2. Incise woud (sic) 10 cm. from nasal bridge extending to mandible R
3. Stab wound 2 cm.x 5 cm. Epigastrium R
4. Stab wound 2 cm.x 4 cm. Epigastrium L
5. Stab wound 2.5 cm. Middle third Arm R
6. Stab wound 2cm x 5 cm. posterior Back.
7. Amputating middle third finger L
8. Hacked wound posterior ankle L
9. Gunshot wound POE 2 x 2cm. with contusion collar medial aspect middle third R thigh
No point of exit noted

Internal Findings:

Fracture femur with Foreign body bullet lodge in middle third femur with hematoma about about 100 cc R thigh

Cause of Death; Hypovolemia secondary to Multiple Stab Wound^[18]

The doctor recovered a slug from the right thigh of Diosdado. She later signed the victim's post-mortem certificate of death.^[19] Senior Inspector Edgardo B. Sambo, Chief of Police of Bula Police Station, filed with the Municipal Trial Court of Bula, Camarines Sur, a criminal complaint^[20] for murder against the Castellano brothers.^[21] Judge Francisco O. Tolentino conducted the preliminary examination and thereafter issued an order of arrest against the Castellanos.^[22] No bail was recommended for their provisional release. On July 9, 1996, Luz gave a sworn statement to the police investigators.^[23]

On July 10, 1996, the accused were transferred to the Tinangis Penal Farm. Senior Inspector Sambo requested the PNP-CLRU5 Provincial Unit to conduct a paraffin test on the Castellanos.^[24]

On July 12, 1997, Major Lorlie Arroyo, the Head Forensic Chemist of PNP-Region 5, conducted the paraffin test on the Castellanos. Ronald was found positive for gunpowder residue.^[25] Jaime, Sr. and Jaime, Jr. were found negative for gunpowder residue.

The MTC issued a subpoena requiring the accused to submit their counter-affidavits from notice thereof. However, the accused failed to submit any counter-affidavit.^[26]

On August 2, 1996, an Information for murder was filed against Jaime, Sr., Ronald and Jaime Jr. with the Regional Trial Court of Pili, Camarines Sur, Branch 31. The accusatory portion of the Information reads:

That on or about the 8th day of July 1996 at about 8:00 o'clock in the evening at Barangay Sagrada, Municipality of Bula, Province of Camarines Sur, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused conspiring, confederating and mutually helping one another with intent to kill with treachery and evident premeditation armed with a handgun, bladed weapon and piece of wood did then and there wilfully, unlawfully and feloniously attack, assault and shot and stab one DIOSDADO VOLANTE y LOZANO inflicting upon the latter several mortal wounds on the different parts of his body which caused his instantaneous death, to the damage and prejudice of the heirs of said Diosdado Volante the amount of which to be proven in Court.

ACTS CONTRARY TO LAW.^[27]

Upon their arraignment^[28] on August 29, 1996, accused Jaime Sr., Jaime, Jr and Ronald, duly assisted by counsel *de parte*, Atty. Avelino Sales Jr., pleaded not guilty to the offense charged. Thereafter, trial on the merits ensued.

Luz testified that when Diosdado was still alive, he had an annual income of over P65,000. She spent P18,000 for the funeral services,^[29] P300 for religious services,^[30] P9,111 for food and other expenses^[31] during her husband's wake and funeral. She suffered sleepless nights and mental anguish for his sudden death.

The Defenses and Evidence of the Accused

Ronald admitted when he testified that he killed Diosdado but insisted that he did so in self-defense and in defense of his brother Jaime, Jr. He asserted that his father Jaime, Sr. and brother Jaime, Jr. had nothing to do with Diosdado's death. Ronald alleged that on September 8, 1996, at about 7:30 p.m., he was driving a passenger jeepney on his way to the poblacion of Bula. Jaime, Jr. flagged down the jeepney. He boarded the jeepney and told Ronald that he was instructed by their mother to go to the house of Jose del Socorro to ask the latter to accompany them to their farmhouse in order to fetch Gilda Albes. Ronald was armed with a .38 *paltik* gun, while Jaime, Jr. was armed with a bolo sheathed in a scabbard. They fetched Jose and then Ronald parked the jeepney at the NIA road. Jaime, Jr., who was holding a flashlight, walked along the footpath on top of a *pilapil* (a narrow earthen barrier between two rice fields). Ronald and Jose walked behind Jaime, Jr. As they passed by the house of Diosdado, a man suddenly shouted: "you shit, I have await (sic) for you for a while, why just now." Surprised, Jaime, Jr. forthwith focused his flashlight towards the man who shouted. He was aghast when he saw Diosdado armed with a bolo running towards them and about to attack them with his bolo. Ronald shoved Jaime, Jr. who fell on the muddy rice paddies below the *pilapil*. Ronald forthwith shot Diosdado. Diosdado took a step but fell on a kneeling position. Diosdado brandished his bolo. Ronald shot Diosdado once more but his gun misfired. To defend himself, Ronald took Jaime, Jr.'s bolo and hacked Diosdado to death.^[32] Ronald then fled from the scene and ran to the jeepney at the NIA road. Jaime, Jr. and Jose boarded the jeep and left the scene. Ronald threw the bolo along the way. He threw his gun into a rice farm in Danawan.

Jaime, Jr. corroborated the testimony of his brother. He, however, testified that he did not see his brother hack and kill Diosdado. He claimed that when Ronald got

hold of his bolo, he ran away and proceeded to their jeepney which was then parked at the roadside. Minutes later, Ronald followed. They then hastily went home to Sagrada and told their father Jaime, Sr. of the incident.^[33]

Jose Del Socorro corroborated the testimony of Ronald. He testified that on July 8, 1996, at about 5:00 p.m. he was on his way home when he met Diosdado whom he noticed to be inebriated and unruly Diosdado was throwing dried mud at the farmhouse of the Castellanos and challenging the occupants of the farmhouse to a fight. He advised Diosdado to stop what he was doing and warned him that he was only inviting trouble. Diosdado told him to mind his own business and not to intervene. Jose thereafter left Diosdado and went home.^[34] When Jose arrived home, Dominador Briña was waiting for him. He and Dominador talked business for a while and subsequently had dinner. After some time, Jaime, Jr. and Ronald arrived at Jose's house.

Concepcion Castellano testified that on July 8, 1996 at around 5:00 a.m., her son Jaime, Jr. arrived home and told her that Diosdado threw stones at their farmhouse and challenged everybody to a fight. She felt nervous and reported the incident to the police and caused the same to be entered in the police blotter.^[35] Thereafter, she went home and told her sons Jaime, Jr. and Ronald to immediately fetch Gilda. She, likewise, instructed her sons to first drop by the house of Jose so that the latter could accompany them to the farmhouse.

Jaime, Sr. vehemently denied any participation in the killing of Diosdado. He claimed that at the time of the alleged incident, he was at their house in Sagrada, bedridden due to his debilitating diabetes. He narrated to the trial court his medical history and his confinement at the Mandaluyong Medical Center sometime in 1994.^[36] He presented documents and receipts showing that he had been and is still under medication.^[37] He declared that upon learning from his son Ronald that the latter killed Diosdado, he advised his sons to look for a lawyer for legal representation. He told the trial court that at around 11:30 p.m., he and his two sons had decided to go to Andangan in order to meet a cousin of his who knew of a lawyer named Atty. Rotor. As they traversed the road to Andangan, they were stopped by some policemen at a checkpoint and were invited to the police station where they were investigated and eventually incarcerated.^[38]

Gilda Abes, the last witness for the defense, affirmed that she was the girlfriend of Jaime, Jr. She told the trial court that on July 8, 1996 she was at the farmhouse of the Castellanos. She corroborated the testimony of Jose that Diosdado was combative and drunk. According to Gilda, Jaime, Jr. left the farmhouse before sundown to go to his parent's place at Sagrada. Jaime, Jr. never returned to the farmhouse that night. Gilda learned of the incident the next morning when she went home.^[39]

The Verdict of the Trial Court

On December 22, 1998, the trial court rendered a decision convicting Jaime, Jr. and Ronald of murder qualified by evident premeditation and treachery. The trial court exonerated Jaime, Sr. of the crime on reasonable doubt. The trial court gave no