

EN BANC

[G.R. Nos. 140514-15, September 30, 2003]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JUNE
IGNAS Y SANGGINO, ACCUSED-APPELLANT.**

DECISION

QUISUMBING, J.:

In the amended decision^[1] dated June 2, 1999, in Criminal Case No. 96-CR-2522, the Regional Trial Court (RTC) of La Trinidad, Benguet, Branch 8, found appellant June Ignas y Sanggino guilty of murder aggravated especially by the use of an unlicensed firearm. Appellant was initially sentenced to suffer the penalty of *reclusion perpetua*,^[2] but on motion for reconsideration by the prosecution, the penalty was upgraded to death by lethal injection.^[3] Hence, the case is now before us for automatic review.

Appellant is an elementary school graduate. He resided at Cruz, La Trinidad, Benguet, where he operated a bakery.^[4] He is married to Wilma Grace Ignas, by whom he has a son of minor age.^[5] Wilma Grace used to be the cashier of Windfield Enterprise, which is owned by Pauline Gumpic.^[6] Pauline had a brother, Nemesio Lopate. It was he whom appellant fatally shot.

In the amended Information,^[7] pursuant to Section 14, Rule 110^[8] of the 1985 Rules of Criminal Procedure, the Provincial Prosecutor of Benguet charged appellant as follows:

That on or about the 10th day of March 1996 at Trading Post, Km. 5, Municipality of La Trinidad, Province of Benguet, Philippines, and within the jurisdiction of this Honorable Court, without any authority of law or without any lawful permit did then and there willfully, unlawfully and knowingly have in his possession, control and custody a Cal. .38 hand gun and two (2) ammunitions, (sic) which firearm and ammunitions were used by the accused in unlawfully killing NEMESIO LOPATE at the above-mentioned place and date in violation of the said law.

CONTRARY TO LAW.^[9]

Appellant was arraigned and pleaded not guilty to the foregoing amended information. The case then proceeded to be heard on the merits.

Gleaned from the records, the facts of this case are as follows:

Sometime in September 1995, appellant's wife, Wilma Grace Ignas, confided to her close friend, Romenda^[10] Foyagao, that she was having an affair with Nemesio

Lopate.^[11]

On the evening of October 16, 1995, Wilma Grace, Romenda, and Nemesio went to Manila. Romenda and Nemesio were sending off Wilma Grace at the Ninoy Aquino International Airport as she was leaving for Taiwan to work as a domestic helper. Upon arrival in Manila, the trio checked at Dangwa Inn, with Nemesio and Wilma Grace sharing a room.^[12] All three of them stayed at the inn until October 18, 1995, when Wilma Grace left for Taiwan.^[13]

Thereafter, Romenda received from Taiwan four letters written by Wilma Grace on various dates. Although all the letters were addressed to Romenda, two of them were meant by Wilma Grace to be read by her paramour, Nemesio.^[14] In the other two letters, Wilma Grace instructed Romenda to reveal to appellant her affair with Nemesio.

It was only sometime late in February 1996 that Romenda, following her bosom friend's written instructions, informed appellant about the extramarital affair between Wilma Grace and Nemesio. Romenda informed him that the two had spent a day and a night together in a room at Dangwa Inn in Manila.^[15] Appellant became furious. He declared "*Addan to aldaw na dayta nga Nemesio, patayek dayta nga Nemesio*" (There will be a day for that Nemesio. I will kill that Nemesio).^[16] Appellant then got all the letters of Wilma Grace from Romenda.^[17]

That same week Alfred Mayamnes, appellant's neighbor who was presented at the trial as a prosecution witness, had a talk with appellant. Mayamnes was an elder of the Kankanaey tribe to which appellant belonged. He wanted to confirm whether Nemesio Lopate, who was likewise from the same tribe, ^[18] was having an affair with appellant's spouse. Talk apparently had reached the tribal elders and they wanted the problem resolved as soon as possible.^[19] A visibly angry appellant confirmed the gossip.^[20] Mayamnes also testified that he advised Nemesio to stay at the Mountain Trail Kankanaey community until things had cooled down.^[21]

Shortly after their talk, appellant closed down his bakeshop and offered his equipment for sale. Among the potential buyers he approached was Mayamnes, but the latter declined the offer.^[22]

Sometime during the first week of March, Mayamnes saw appellant load his bakery equipment on board a hired truck and depart for Nueva Vizcaya.^[23]

At around 10:00 p.m. of March 10, 1996, according to another prosecution witness, Annie Bayanes, a trader in vegetables, she was at the Trading Post, La Trinidad, Benguet.^[24] The Trading Post is a popular depot where vegetable growers in the Cordilleras bring their produce late in the evenings for sale to wholesalers and retailers. Witness Bayanes said she was at the unloading area (*bagsakan*), conversing with another dealer at the latter's booth, when suddenly two gunshots shattered the quiet evening.^[25]

Bayanes turned towards the place where the sound of the gunshots came from. She testified that she saw a person falling to the ground.^[26] Standing behind the fallen

individual, some 16 inches away,^[27] was another person who tucked a handgun into his waistband and casually walked away.^[28]

Initially, she only saw the gunman's profile, but when he turned, she caught a glimpse of his face.^[29] She immediately recognized him as the appellant June Ignas. She said she was familiar with him as he was her townmate and had known him for several years. Witness Bayanes was five or six meters away from the scene, and the taillight of a parked jeepney, which was being loaded with vegetables, plus the lights from the roof of the *bagsakan*, aided her recognition of appellant.^[30]

Also at the *bagsakan* area that night was prosecution witness Marlon Manis. He testified that on hearing gunshots from the Trading Post entrance, he immediately looked at the place where the gunfire came from. He saw people converging on a spot where a bloodied figure was lying on the ground.^[31] Witness Manis saw that the fallen victim was Nemesio Lopate, whom he said he had known since Grade 2 in elementary school.^[32] Manis then saw another person, some 25 meters away, hastily walking away from the scene. He could not see the person's face very well, but from his gait and build, he identified the latter as his close friend and neighbor, June Ignas.^[33] Manis said that the scene was very dimly lit and the only illumination was from the lights of passing vehicles, but he was familiar with appellant's build, hairstyle, and manner of walking.^[34]

Prosecution witness Mona Barredo, a bakery worker, testified that she knew appellant. She said they were co-workers formerly at the Annaliza Bakery at Km. 10, Shilan, La Trinidad, Benguet.^[35] Barredo declared that at around 10:30 p.m. of March 10, 1996, appellant came to her residence at Pico, La Trinidad. After being served refreshments, appellant took out a handgun from his jacket and removed the empty shells from the chamber.^[36] Appellant then told her to throw the empty cartridges out of the window. Because of nervousness she complied.^[37] Barredo also said that appellant disclosed to her that he had just shot his wife's paramour.^[38] Appellant then stayed at her house for 8 or 9 hours; he left only in the morning of March 11, 1996,^[39] according to her. Police investigators later recovered the spent gun shells from witness Barredo's sweet potato garden.^[40]

According to witness on the scene, responding policemen immediately brought the victim, Nemesio Lopate, to the Benguet General Hospital where he was pronounced dead on arrival.^[41]

Dr. Doris C. Jovellanos, Municipal Health Officer of La Trinidad, Benguet, testified during that trial that she conducted the post-mortem examination of the victim's cadaver. Among her findings were:

1. Ovaloid hole, 2.0 x 5.0 cm. dms., with blackened edges (1.8 x 1.3 cms. span), on the right side of the mouth, above the edge of the upper lip

x x x

3. Exit hole on the left side of the mouth, 5.0 x 1.3 cm. dms., with avulsion of the upper lip on the left side

9. Circular hole, penetrating, on the back, right side, 0.7 cm. x 0.7 cm. diam., with blackened edges (0.9 x 0.9 cm. span), at the level of the fifth intercostal space, subscapular area, 13 cm. from the midline, directed to the left side of the chest, 38.0 cm. from the embedded bullet slug of the left shoulder.^[42]

Dr. Jovellanos determined the cause of death to be "Hypovolemia due to gunshot wound, back, right, (Point of Entry - fifth intercostal space subscapular area)."^[43] She further stated on the witness stand that she recovered a bullet from the victim's left shoulder, which she turned over to the police investigators.^[44] According to her, given the blackened edges of the gunshot wound at the victim's back, Nemesio was shot from a distance of less than three (3) feet.^[45]

On March 14, 1996, police investigators accompanied by one of appellant's brother as well as prosecution witness Julio Bayacsan, a friend of appellant, went to Kayapa, Nueva Vizcaya, to invite appellant to shed light on the slaying of Nemesio. The law enforcers found appellant selling bread at Kayapa and brought him back to La Trinidad, Benguet.^[46]

Witness Bayacsan testified that shortly after they arrived from Kayapa, he had an opportunity to talk with appellant at the La Trinidad Police Station. There, appellant disclosed to this witness that he shot and killed Nemesio.^[47] Bayacsan, however, did not inform the police about appellant's revelation as he considered appellant his good friend.^[48]

Prosecution witness Pauline Gumpic, the victim's sister, testified that she and appellant had a private talk, while the latter was in police custody, and appellant admitted to her that he killed her brother.^[49] Gumpic declared that appellant revealed to her that he shot Nemesio for having illicit relations with appellant's wife and failing to ask for his forgiveness.^[50]

SPO4 Arthur Bomagao^[51] of the La Trinidad police, who headed the team that investigated the fatal shooting of Nemesio, declared on the stand that appellant voluntarily admitted to him that he shot the victim with a .38 caliber handgun.^[52] Bomagao further testified that appellant surrendered to him the letters of Wilma Grace, wherein the latter admitted her affair with Nemesio.^[53]

Appellant interposed the defense of alibi. Sometime during the last week of February 1996, he said, he entered into a partnership with a friend and fellow baker, Ben Anoma, to operate a bakery in Kayapa, Nueva Vizcaya.^[54] Appellant claimed that he was having a hard time operating his bakeshop in La Trinidad as he had no helpers. When Anoma proposed a business arrangement, he added, he immediately seized the opportunity.^[55] On March 8, 1996, he and Anoma then transferred his equipment to Anoma's bakery in Kayapa,^[56] which is some four (4) to five (5) hours away from La Trinidad, according to appellant. He averred that he was baking bread with Anoma in Kayapa on the night Nemesio was killed.^[57] Under oath, appellant said that he never left Kayapa since his arrival on March 8, 1996. He and Anoma

were engrossed in baking and marketing their produce, he testified, until the policemen from La Trinidad brought him back to Benguet for questioning on March 14, 1996.^[58]

Defense witness Ben Anoma corroborated appellant's alibi. Anoma declared that during the last week of February 1996, he met with appellant in La Trinidad. There, the witness said, he proposed a partnership with appellant in the baking business to be based in Kayapa.^[59] Appellant agreed and on March 8, 1996, they transferred appellant's equipment to Kayapa.^[60] They immediately commenced their operations and on the evening of March 10, 1996, he and appellant baked bread at his bakery in Kayapa until 11:00 p.m., when they rested for the night.^[61]

The trial court disbelieved appellant's defense and sustained the prosecution's version. Its initial judgment reads:

WHEREFORE, premises considered, the accused June Ignas is hereby found GUILTY beyond reasonable doubt of the crime of MURDER as defined and penalized under Article 248 of the Revised Penal Code, and considering the aggravating circumstances of treachery, nighttime and the special aggravating circumstance of the use of an unlicensed firearm, without any mitigating circumstance, he is hereby sentenced to suffer the penalty of *Reclusion Perpetua*. He is further sentenced to pay the heirs of the VICTIM the following sums:

1. P150,000.00 for funeral expenses and those incurred for and during the wake;
2. P1,800,000.00 for unearned income;
3. P50,000.00 as death compensation established by jurisprudence; and
4. P50,000.00 as and for moral damages; and
5. P20,000.00 as attorney's fees.

Costs against the accused.

SO ORDERED in Chambers this 18th day of February 1999 at La Trinidad, Benguet, Philippines.^[62]

Both the prosecution and the defense filed their respective motions for reconsideration. The prosecution sought the imposition of the death penalty.^[63] The defense prayed for acquittal on the ground of reasonable doubt.

On June 2, 1999, the trial court granted the prosecution's motion. It amended its judgment to read as follows:

WHEREFORE, premises considered, the accused June Ignas is hereby found GUILTY beyond reasonable doubt of the crime of MURDER as defined and penalized under Article 248 of the Revised Penal Code, and considering the aggravating circumstances of treachery, nighttime and