

FIRST DIVISION

[G.R. No. 137610-11, February 06, 2002]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
MANUEL GUTIERREZ (AT LARGE); JUANCHO GUTIERREZ (AT
LARGE); ESTING CARIÑO (AT LARGE) AND ZACARIAS CASTILLO,
ACCUSED-APPELLANT.**

D E C I S I O N

PUNO, J.:

Several men did not live to see daylight at the break of dawn on January 8, 1992. Still several others suffered in the darkness of their fear and coldness of their pain as they bled. In a rough and deserted road, the accused peppered the victims' vehicle and bodies with bullets in a matter of minutes.

On March 23, 1992, an information was filed against the accused Manuel Gutierrez, Juancho Gutierrez, Esting Cariño and Zacarias Castillo for the crime of multiple murder and multiple frustrated murder, *viz*:

"That on or about the 8th day of January 1992, in the morning, in barangay Sanlibo, municipality of Bayambang, province of Pangasinan, New (sic) Republic of the Philippines and within the jurisdiction of this Honorable Court, the above-named accused, confederating and conspiring together and mutually aiding one another, armed with high-caliber firearms, with treachery and evident premeditation and with intent to kill, did, then and there, wilfully, unlawfully and feloniously shoot and spray with bullets the jeep driven by Lorenzo de Leon resulting in the deaths of Vicente de Leon, Aldren de Leon^[1] and Guillermo Tapiador^[2] xxx

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and the wounding with serious gunshot injuries of Racquel Agbuya, Catalina de Leon, Gregoria de Leon and Lorenzo de Leon xxx

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the accused having performed all the acts of execution which would produced (sic) the crime of Murder as a consequence but which, nevertheless, did not produce it by reason of causes independent of the will of the perpetrators and that is due to the able and (sic) medical attendance extended to the said victims which prevented their death to the damage and prejudice of the victims and the heirs of the deceased victims.

CONTRARY to Art. 248, and Art. 248 in relation to Art. 6 of the Revised Penal Code."^[3]

Accused Castillo pleaded not guilty. Accused Manuel Gutierrez, Juancho Gutierrez, and Esting Cariño have remained at-large, thus trial proceeded only against accused Castillo.

The prosecution's version of the story is as follows:

At about 5:00 in the morning of January 8, 1992, Lorenzo de Leon was driving the Sarao passenger jeep of Vicente de Leon, his father. With him were Vicente de Leon, his wife Catalina de Leon, Gregoria de Leon, Aldrin de Leon, and Racquel Agbuya. They were headed towards San Carlos City to attend a hearing in an attempted murder case. While the jeep was moving slowly on a bumpy and rugged road to Sanlibo, four men, namely, the accused Zacarias Castillo, Esting Cariño, Juancho Gutierrez, and Manuel Gutierrez, fired at the right side of the jeep, from about three meters away. The headlights of the jeep lighted Castillo, Cariño, and the Gutierrezes who were near a big *camachile* tree. Lorenzo personally knew the four as Castillo and Cariño were from his *barangay*, Sanlibo, while the Gutierrezes were from an adjacent *barrio* and they often went to Sanlibo to drink. Castillo and the Gutierrezes are his cousins. In firing at them, Castillo used an armalite, while Cariño used a rifle, and the Gutierrezes each used a carbine. Lorenzo was familiar with these firearms as he held these when he was a soldier. After being fired at, Lorenzo jumped off the jeep and crawled to the grass, then ran to Barangay Idiong where he was rushed to the emergency hospital of Bayambang. It was already morning and bright. Lorenzo was hit in the arm and the temple and had a grazing wound on the chest. His wife, Catalina de Leon, was also hit in the arm and was rushed to the hospital along with Gregoria de Leon and Racquel Agbuya. Later, they were all transferred to Bolingit General Hospital in San Carlos City. Lorenzo's father, Vicente de Leon, and Guillermo Tapiador died of gunshot wounds.^[4]

Catalina de Leon also testified. At about 5:00 in the morning of January 8, 1992, she was in Barangay Sanlibo, Bayambang, Pangasinan. She was on a passenger jeep driven by her husband, Lorenzo de Leon, and was seated behind him. With them were Vicente de Leon, Gregoria de Leon, Aldrin de Leon, Adonis de Leon, Racquel Agbuya, and Guillermo Tapiador. They were headed for the *poblacion*. While the jeep was moving slowly on a bumpy road, the accused Juancho Gutierrez and Manuel Gutierrez suddenly blocked the jeep and fired at them from about three meters from the right side of the jeep. The accused Castillo and Cariño also fired at them from the rear part of the jeep. Manuel Gutierrez and Zacarias Castillo used armalites with which she was familiar as her brother-in-law who was a policeman carried one, Esting Cariño used a rifle, and Juancho Gutierrez used a carbine. Catalina was hit on her left arm. Her companions were also hit, including Lorenzo who jumped off the jeep and crawled in the corn field. Vicente de Leon, Aldrin de Leon and Guillermo Tapiador died. The firing lasted for about fifteen minutes. The headlights of the jeep illuminated the four so she was able to identify them. She personally knew Cariño and Castillo as they were from her *barangay*, Sanlibo, while the Gutierrezes were from a neighboring barangay about half a kilometer from Sanlibo. Towards the end of the firing, dawn was already breaking, so it became bright. After the attack, the four accused ran towards the mango trees going to Malicer. A group came to the aid of the victims and brought Catalina and Gregoria to the Bayambang District Hospital. Later, they were transferred to the San Carlos

General Hospital. She saw the four accused the previous day having a drinking spree at the house of accused Castillo's brother, Ador Castillo, who lived about a hundred meters away from her.^[5]

SPO1 Lito Barboza took the witness stand. On January 8, 1992, he was the police investigator on duty at the Bayambang Police Station. At around 6:00 a.m., he received a call on the radio from Barangay Sanlibo, Bayambang, Pangasinan regarding a shooting incident. He responded to the call and proceeded to the crime scene with the Chief of Police, Captain Felimon M. Doria, and other policemen from their station. Upon arriving at a rough road of Barangay Sanlibo, Bayambang, Pangasinan, they found a Sarao passenger jeep peppered with at least six bullet holes. Vicente de Leon, Aldrin de Leon, and Guillermo Tapiador were dead. Three to five meters from the right side of the jeep, they recovered 20 empty shells of an M-16 rifle, seven empty shells of a carbine or .30 caliber, and four empty shells of Springfield 1903 or a garand rifle. They asked a photographer to take pictures of the crime scene. After gathering evidence, the police team went to Bayambang hospital, then to San Carlos General Hospital where Lorenzo de Leon, Catalina de Leon, and Racquel Agbuya were brought. They were not able to take the statements of the four because they were unconscious at that time. Later, on February 2, 1992, Gregorio de Leon and Lorenzo de Leon executed sworn statements regarding the shooting incident while Catalina de Leon and Racquel Agbuya executed theirs on February 4, 1992.^[6]

Police officer Federico Simeon corroborated the testimony of SPO1 Lito Barboza. On January 8, 1992, he was assigned as the desk officer at the Bayambang police station. He identified the police blotter entry relative to the shooting incident of January 8, 1992.^[7]

Dr. Juan Carrera testified that on January 8, 1992, he treated Gregoria de Leon, Lorenzo de Leon, Catalina de Leon, and Racquel Agbuya at the San Carlos General Hospital of the injury they sustained from a shooting incident that morning. With respect to Gregoria de Leon, he issued a medical certificate stating that she received treatment for the following wounds:

"GSW (gunshot - PT. ENTRY: 10 TH ICS
wound):#(1) POST. AXILLARY (L)
- NO PT. OF EXIT:
GSW: # - PT. OF ENTRY: SUPRAORBITAL AREA (R)
(2) -NO PT. OF EXIT."^[8]

He also issued a medical certificate for Lorenzo de Leon indicating the following injuries:

"- WOUND, LACERATED 2.5 CM. FRONTAL AREA (R)
- MULTIPLE SPLINTER WOUND, 0.5 CM.-1CM in its GREATEST DIAMETER,
FACIAL AREA (R)
- WOUND, LACERATED 2.0 CM., NASAL BRIDGE (R)
- WOUND, LACERATED #3 1.5 -2.0 CM. MANDIBLE
- WOUND, LACERATED 3 CM. STERNAL AREA
- WOUND, MULTIPLE SPLINTER WOUNDS, ANTERIOR, CHEST AREA

GSW: #2 - 0.5 CM. IN DIAMETER POSTERIOR ASPECT, LOWER THIRD, ARM, (R)."^[9]

The splinter wounds were caused by gunshots.

His examination on Catalina de Leon showed that she suffered the following gunshot wounds:

"GSW: - PT. OF ENTRY: - 2.5 CM. POSTERIOR
(1) ASPECT, M/3, UPPER ARM, (L)
GSW: - PT. OF EXIT: - ANTERIOR ASPECT M/3
(2) U/ARM (L)
GSW: - POSTERIOR ASPECT M/3, UPPER ARM (L)
(3)
GSW: - PT. OF ENTRY: - 2.0 CM. (L) LUMBAR
(4) AREA
- NO EXIT
- FRACTURE, COMPLETE, OPEN HUMERUS
(L)."^[10]

Another medical certificate for Racquel Agbuya was prepared by Dr. Carrera, indicating therein her wounds, viz:

"GSW: # (1) POE: PERIANAL (R) 4.0 CM. IN DIAMETER
POX: -NONE
GSW: # (2) POE: - MEDIAL ASPECT, P/3RD, ARM, (R), 2.0 CM. IN
DIAMETER
POX: - DORSOMEDIAL ASPECT, P/3RD, 3.0 CM. IN
DIAMETER (R)
GSW: # (3) POE: -LATERAL ASPECT, THIGH, (R)
POX: -NONE
GSW: # (4) POE: - LATERAL ASPECT, M/3RD, LEG (R) 2.0 CM. IN
DIAMETER
POX: - LATERAL ASPECT, D/3RD LEG (R) 4.0 CM. IN
DIAMETER."^[11]

Dr. Carrera opined that if Catalina de Leon had not received immediate medical attention, she would have died of hypovolemic shock or loss of blood from the fracture of her humerus or upper hand. She did not, however, require any operation. Gregoria de Leon may have developed neurogenic shock secondary to pain if not treated. Lorenzo de Leon needed surgical intervention on the multiple lacerated wounds on different parts of his body.^[12]

Dr. Nestor C. Pascual also took the witness stand. He was the Municipal Health Officer of Bayambang since 1987 up to May 1992. In January 1992, he was in his office at Bayambang. At about 9:00 in the morning, the police of Bayambang called him to Barangay Sanlibo, Bayambang, Pangasinan to conduct a post-mortem examination. Together with the police, he performed a post-mortem examination on Guillermo Tapiador, Jr. at the latter's house. He then conducted another post-mortem examination on Vicente de Leon and Aldrin de Leon at Vicente's house.

Dr. Pascual's examination showed that Vicente's face was deformed. There was a

gunshot wound about 1.5 centimeters on the medial portion of the left eye, penetrating the brain and exiting a little above the left ear. There was another gunshot wound severing the vertebral column and penetrating the abdominal cavity and hitting the intestine blood vessels. The cause of death was cardio-respiratory arrest due to gunshot wounds which caused massive bleeding.

With respect to Aldrin de Leon, Dr. Pascual's findings showed that a bullet penetrated his heart. The cause of his death was also cardiac arrest due to gunshot wound. As regards Guillermo Tapiador, Jr., Dr. Pascual's examination revealed that he sustained a gunshot wound that penetrated his abdominal cavity and hit his stomach, liver and blood vessels. A second gunshot wound penetrated the abdominal cavity and hit the intestines and blood vessels. He also sustained a superficial gunshot wound on the waist. The fourth gunshot wound hit the left lung and heart. The cause of his death was cardiorespiratory arrest due to gunshot wounds.^[13]

The defense presented the accused Castillo. From 1990 to 1996, he was employed as a house painter by the Landhaus Properties and Development Corporation. On January 7, 1992, he reported to work at 8:00 in the morning and worked until 5:00 in the afternoon in a project in Antipolo, Rizal. That night, he slept in their barracks. The following day or on January 8, 1992, he again worked in Antipolo from 8:00 in the morning to 5:00 in the afternoon. He slept that night in one of the vacant units in the housing project. From 1990 to 1996, Castillo spent his vacation in his hometown twice a year. He could at anytime during the year take a leave from work. From January to March, 1992, however, he did not go home to his hometown in Sanlibo, Bayambang, Pangasinan which was six to eight hours away by bus. After the shooting incident in 1992 until 1996, the police officers of Bayambang did not arrest him when he went home to Bayambang. From 1996 until his arrest in 1997, he worked with Engineer Cresencio Milla. He was arrested on the charge of murder.

Castillo knows the victim, Lorenzo de Leon, as the latter is his first cousin. He also knows Catalina de Leon, Lorenzo's wife. He denied Lorenzo's and Catalina's testimony that he was among those who fired at them on January 8, 1992 as he was in Antipolo at that time. He has never had a fight with Lorenzo nor with Catalina, thus, he is not aware of any reason why they would testify against him. He claimed not to know his co-accused Manuel Gutierrez, Juancho Gutierrez and Esting Cariño.^[14]

Ernesto Tabor corroborated accused Castillo's testimony. He is a resident of Antipolo, Rizal and a co-painter of the accused at the Landhaus Properties and Development Corporation. He worked for the company from 1991 to 1994 and got to know the accused Castillo in 1991. On January 7, 1992, he and Castillo worked from 8:00 a.m. to 5:00 p.m. at the Buenos Aires project in Antipolo, Rizal. After work, they went to their barracks and talked. The following day, January 8, 1992, he and Castillo again worked from 8:00 in the morning to 5:00 in the afternoon. They worked on the same hours on January 9, 1992. Castillo's wife asked him to testify for Castillo.^[15]

Leoberto Makilan, another co-worker of Castillo, also testified. He is a resident of Sumulong Highway, Antipolo, Rizal. He knows the accused Castillo as they both