

## FIRST DIVISION

[ G.R. No. 133799, February 05, 2002 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
GEORGINO BONIFACIO Y MENDOZA AND JERRY BONIFACIO Y  
MENDOZA, ACCUSED-APPELLANTS.**

### D E C I S I O N

**YNARES-SANTIAGO, J.:**

Accused-appellants, brothers Georgino and Jerry Bonifacio, were charged with murder in an amended Information which reads:

That on or about May 21, 1997, in the City of Zamboanga, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, armed with a bolo and knife, conspiring and confederating together, mutually aiding and assisting one another, by means of treachery, abuse of superior strength, and with intent to kill, did then and there wilfully, unlawfully and feloniously suddenly attack and without warning, assault, attack, hack and stab, with the use of said weapons that they were then armed with, at the person of NOEL SAAVEDRA Y REBOLLOS, thereby inflicting upon the latter's person mortal hacked and stabbed wounds which directly caused his death, to the damage and prejudice of the heirs of said victim.

CONTRARY TO LAW.<sup>[1]</sup>

The facts as narrated by the prosecution:

At 7:00 in the evening of May 21, 1997, Noel Saavedra, Roberto Seiton and Ricardo Isidro were at the waiting shed at Campo Lourdes, Upper Bunguiao, Zamboanga City. Fifteen meters away, Georgino and Jerry Bonifacio were loading boxes of mangoes on a parked bus.

After some time, Saavedra left the waiting shed to relieve himself. Jerry Bonifacio followed Saavedra and approached him from behind, unsheathed his bolo from its scabbard and hacked him at the back of the head causing the latter to fall face down to the ground. Georgino Bonifacio approached Saavedra and repeatedly stabbed him with a *bolito*. Saavedra expired. Georgino and Jerry immediately fled thereafter.

Saavedra suffered the following wounds:

- (1) INCISED WOUND - measuring about 6 inches in length located at the parieto-occipital region cutting scalp and skull into the cranial cavity to the right of the mid-sagittal plane.

- (2) STAB WOUND - measuring 2 cms. in length and 2 1/2 inches in length located at the left chest region.
- (3) STAB WOUND - measuring 3 cms. in length located at the left back laterally into the left armpit region 5 inches in depth.
- (4) STAB WOUND - measuring 3 cms. in length located at the left back into the chest cavity.
- (5) STAB WOUND - measuring 2 inches in length located at the left back region into the chest cavity.
- (6) STAB WOUND - measuring 1 inch in length located at the right back into the chest cavity.
- (7) STAB WOUND - located at the right side of the body measuring 2 cms. in length into the chest cavity.

Immediately after the stabbing, Seiton left the place and reported the incident to the Bunguiao Police Station.

Ricardo Isidro corroborated Seiton's testimony. He narrated that a few minutes after Saavedra left the waiting shed, Jerry Bonifacio followed him and hacked him with a bolo on his head causing him to fall to the ground face down. After that, he no longer knew what transpired as he ran to the nearby store of Reynaldo Francisco and informed him of the hacking incident. Together they boarded the jeepney of Francisco to report the incident to the police. On their way to the police station, they passed by the house of Moises Saavedra, father of the victim, and informed him of the death of his son. At the police station, they learned that Seiton had already reported the incident.

Moises Saavedra, father of the victim, testified that he spent P50,000.00 for the burial of his son.

On the other hand, the defense had a totally different story. Georgino Bonifacio admitted having killed Saavedra but maintained that he did so in self-defense. He declared that while he was loading boxes of mangoes on a bus parked in front of the waiting shed, Saavedra passed by and threatened to kill him. Georgino ran but was chased by Saavedra with a bolo. Saavedra attempted to hack him but he was able to evade the blow. Georgino Bonifacio unsheathed his own bolo and hacked the former on the head. As he was about to hack him again, the handle of his bolo fell so he had to use his *bolito* that was tucked in his waist. He pulled the *bolito* from the scabbard and stabbed Saavedra several times.

Rogelio Alviar, another defense witness, testified that while he was loading boxes of mangoes on the parked bus, he saw Saavedra chasing Georgino Bonifacio. Saavedra ran straight past the bus. Moments later, Georgino Bonifacio, pulled his bolo and hacked Saavedra on his head. Georgino Bonifacio next pulled his *bolito* and repeatedly stabbed Saavedra.

Jerry Bonifacio, on the other hand, denied participation in the crime. He averred that on the night of the incident, he was at the house of his brother-in-law Reynerio Alviar together with Diego Nacario, another brother-in-law, located at Zone 3, Bunguiao proper. According to him, Zone 3, Bunguiao is eight (8) kilometers from Campo Lourdes, Upper Bunguiao, Zamboanga City. They drank beer from 6:00 p.m. until 8:30 in the evening. Hence, it was physically impossible for him to be at the crime scene at the approximate time of the killing. He went straight home after their drinking spree. He only came to know about the incident from his mother who told him that his brother Georgino killed Noel Saavedra. Both Alviar and Nacario corroborated his testimony.

From the evidence presented, the trial court concluded that Gerogino and Jerry conspired to kill Saavedra. Their actions showed unity of purpose and design. The trial court also found that the qualifying circumstance of treachery attended the commission of the crime. The attack from behind was so sudden leaving the victim unprepared and defenseless. Consequently, the trial court found Georgino and Jerry Bonifacio guilty beyond reasonable doubt of murder and correspondingly sentenced them to suffer the penalty of *reclusion perpetua* and to indemnify the heirs of Noel Saavedra in the amount of P50,000.00 and another P50,000.00 as actual damages.

[2]

Accused-appellants filed separate appeals. Georgino claims that the trial court erred: 1) in not giving exculpatory weight to his assertion of self-defense, and 2) in giving weight and credence to the testimonies of the prosecution witnesses.

Jerry, on the other hand, claims that the trial court erred in finding him guilty of the crime as charged. Specifically, he argues that the trial court erred in not considering his defense of alibi.

Anent the first error alleged by Georgino, we agree with the trial court's not giving credence to accused-appellant Georgino's version of self-defense. As correctly observed by the trial court:

x x x. Georgino's testimony does not inspire belief. It was directly contradicted by the testimonies of Roberto Seiton and Ricardo Isidro who had no motive to testify falsely against both accused. It is difficult to believe that Noel who was allegedly running after Georgino with a bolo would run past Georgino so that Georgino was able to hack him at the back of the head. It is also not credible that Georgino pulled his bolo from its scabbard only after he evaded Noel and after Noel ran past him and then hacked the latter. It is also hard to believe that the handle of Georgino's bolo broke after it hit the head of Noel. It is not credible that accused Georgino Bonifacio had two bolos, one 21 inches long with scabbard tied on the left side of his waist and another 16 1/2 inches long small bolo ("bolito") with scabbard, tucked on his left waist inside his pants while he was loading boxes of mangoes on the bus and when he allegedly hacked and stabbed the victim.

The allegation of Georgino Bonifacio that he killed Noel Saavedra in self-defense was x x x also belied by the fact that five (5) fatal wounds were inflicted on the victim; one on the head and four at the back which all