

SECOND DIVISION

[G.R. No. 122858, February 28, 2001]

**BIEN D. SEVALLE, PETITIONER, VS. COURT OF APPEALS AND
PEOPLE OF THE PHILIPPINES, RESPONDENTS.**

D E C I S I O N

MENDOZA, J.:

This is a petition for review on *certiorari* of the decision,^[1] dated September 29, 1995, of the Court of Appeals affirming the decision of the Regional Trial Court, Branch 156, Pasig, finding accused-appellant Bien Sevalle guilty of homicide and sentencing him to suffer the penalty of eight (8) years and one (1) day of *prision mayor*, as minimum, to fourteen (14) years, eight (8) months and one (1) day of *reclusion temporal*, as maximum, and to pay the heirs of the victim Angelito Balbuena the sum of P50,000 as indemnity and the costs.

The information against petitioner and his co-accused alleged:^[2]

That on or about the 17th day of December 1986 at around 8:30 at nighttime, in the municipality of Tagig, Metro Manila, Philippines, a place within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating together with two (2) John Does, whose true names, identities and present whereabouts are still unknown, taking advantage of their superior strength, and mutually helping and aiding one another, armed with deadly weapons, with intent to kill, treachery and evident premeditation, did then and there willfully, unlawfully and feloniously attack, assault, shoot and stab one Angelito Balbuena, as a result of which the latter sustained gunshot and stab wounds on the different parts of his body which directly caused his death.

Contrary to law.

Upon arraignment, petitioner pleaded not guilty to the crime charged and so the trial of the case followed.

The prosecution presented evidence showing the following:

On December 17, 1986, at around 8 p.m., Rosemarie Santos- Balbuena left her house in Tipas, Taguig to get some medicine for her son. As she was walking along Labao Street, Ligid, Tipas, on her way back home, she saw petitioner Bien Sevalle, Rusty Mendiola, and two other unidentified men beating up a man. She saw Mendiola stab the victim. Then she heard a gunshot and saw petitioner pointing a gun at the victim.^[3]

Rosemarie got scared and so she took a different route home. Upon reaching home,

she told her sister-in-law Virgie Balbuena what she had witnessed. After a while, her brother-in-law, Jessie Quilatan, arrived and told them that Rosemarie's other brother-in-law, Angelito Balbuena, had been killed. It was then that Rosemarie realized that the person she had seen being beaten up and killed was her brother-in-law.

At around 11:00 p.m., Pfc. Pedro Abrigo and Ricardo Mando of the Taguig police arrived and conducted an investigation.^[4] Less than a month after the killing of her brother-in-law, two brothers of the victim, including Rosemarie's husband, were killed allegedly by members of the Taguig police. Pfc. Pedro Abrigo, who had been assigned to investigate the killing of the victim, was charged together with other officers before the Judge Advocate General's Office and the National Police Commission.^[5]

Desiderio A. Moraleda, a medico-legal examiner of the Crime Laboratory Service in Camp Crame, submitted on January 17, 1987 a report showing that Angelito Balbuena sustained several injuries, to wit:^[6]

POSTMORTEM FINDINGS

FINDINGS:

Fairly developed, fairly nourished, male cadaver in rigor mortis with postmortem lividity over the dependent portions of the body. Conjunctivae are pale. Lips and nailbeds are cyanotic. Stomach is empty.

NECK:

1. Stab wound, neck, measuring 1.5 x 0.5 cm., 7 cm. left from its anterior midline, 3 cm. deep, directed downwards, posteriorwards and medialwards, lacerating the left common carotid artery.
2. Stab wound, neck, measuring 1.4 x 0.5 cm., 8 cm. left from its anterior midline, 4 cm. deep, directed downwards, posteriorwards and medialwards, lacerating the left common carotid artery.
3. Stab wound, neck, measuring 1.5 x 1 cm., 3.5 cm. left from its anterior midline, 5 cm. deep, directed downwards, posteriorwards and medialwards, lacerating the left common carotid artery.
4. Stab wound, neck, measuring 1.5 x 0.6 cm., 1.5 cm. lateral to its anterior midline, 5 cm. deep.
5. Stab wound, neck, measuring 1.5 x 0.7 cm., 5 cm. left from its anterior midline, 8 cm. deep, directed downwards and posteriorwards, lacerating the left carotid artery.
6. Gunshot wound, thru and thru, point of entry, right mammary region, measuring 0.8 x 0.9 cm., 7 cm. from the anterior midline with an abraded collar, measuring 0.3 cm. superiorly and laterally, 0.1 inferiorly and medially, directed posteriorwards, downwards and to the right, fracturing the 6th right thoracic rib, lacerating the

upper and middle lobes of the right lung, making a point of exit at the right infrascapular region, measuring 1.5 x 1.2 cm., 7 cm. from the posterior midline.

7. Stab wound, chest, measuring 4 x 2 cm. along the anterior midline, 4 cm. deep, directed downwards and posteriorwards, fracturing the sternum at the level of 2nd thoracic rib lacerating the left pulmonary artery.
8. Stab wound, chest, measuring 1.8 x 0.5 cm., just right of the anterior midline, 6 cm. deep, directed downwards and posteriorwards, fracturing the sternum at the level of the 4th and 5th thoracic ribs.
9. Stab wound, left mammary region, measuring 1.6 x 0.7 cm., 5.5 cm. from the anterior midline, 6 cm. deep, directed downwards and posteriorwards, fracturing the 3rd and 4th left thoracic ribs, lacerating the upper lobe of the left lung.
10. Stab wound, epigastric region, measuring 1.5 x 0.5 cm. along the anterior midline, 7 cm. deep, directed downwards and posteriorwards, lacerating the stomach.
11. Stab wound, left mammary region, measuring 1 x 0.5 cm., 14 cm. from the anterior midline, 7 cm. deep, directed downwards and posteriorwards, fracturing the left thoracic rib, lacerating the upper lobe of the left lung.
12. Stab wound, left mammary region, measuring 1.6 x 0.6 cm., 6 cm. from the anterior midline, 6 cm. deep.
13. Stab wound, left mammary region, measuring 1.6 x 0.5 cm., 3 cm. from the anterior midline, 8 cm. deep.
14. Stab wound, left mid-axillary region, measuring 2 x 0.7 cm., 16 cm. from the anterior line, 7 cm. deep.
15. Stab wound, epigastric region, measuring 1.6 x 0.5 cm., 3 cm. left from its anterior midline, 7 cm. deep, directed upwards, posteriorwards and medialwards, fracturing the 6th left thoracic rib, lacerating both ventricles of the heart.
16. Stab wound, left mammary region, measuring 1.6 x 0.5 cm., 4.5 cm. from its anterior midline, 8 cm. deep, directed downwards and posteriorwards, lacerating the left dome of the diaphragm and left lobe of the liver.
17. Stab wound, left hypochondriac region, measuring 1.6 x 0.5 cm., 5 cm. from the anterior midline, 7 cm. deep, directed downwards and posteriorwards, lacerating the left dome of the diaphragm and left lobe of the liver.

18. Stab wound, abdomen, measuring 0.7 x 1.7 cm., 3 cm. lateral from its anterior midline, 5 cm. deep, directed upwards and posteriorwards, lacerating the stomach.
19. Stab wound, left hypochondriac region, measuring 1.6 x 0.7 cm., 6 cm. from the anterior midline, 7 cm. deep, directed upwards and posteriorwards, lacerating the left lobe of the liver.
20. Stab wound, right hypochondriac region, measuring 1.5 x 0.5 cm., 4 cm. from its anterior midline, 6 cm. deep, directed downwards and posteriorwards, lacerating the right lobe of the liver.
21. Gunshot wound, thru and thru, point of entry, abdomen, 0.8 and 0.7 cm., 4 cm. right from its anterior midline, with an abraided collar, measuring 0.2 cm. inferiorly, 0.1 cm. superiorly, medially, inferiorly and laterally, fracturing the 9th thoracic vertebra, lacerating the right dome of the diaphragm, right lobe of the liver, making a point of exit, at the left lumbar region, measuring 1.5 x 1.1 cm., 5 cm. from the posterior midline.
22. Stab wound, middle 3rd of the left arm, measuring 1.5 x 0.6 cm., 2.5 cm. from its posterior midline.
23. Stab wound, proximal 3rd of the left arm, measuring 1.3 x 0.5 cm., 3 cm. from the anterior midline.
24. Stab wound, proximal 3rd of the left arm, measuring 1.5 x 0.5 cm. along the anterior midline.
25. Incised wound, distal 3rd of the left arm, measuring 3 x 0.5 cm., 6 cm. from the posterior midline.
26. Stab wound, left elbow, measuring 2.5 x 0.6 along the posterior midline.
27. Stab wound, proximal 3rd of the left leg, measuring 2 x 0.5 cm., 5 cm. from the posterior midline.
28. Stab wound, proximal 3rd of the left forearm, measuring 2.3 x 0.8 cm., 2.5 cm. from its posterior midline.
29. Stab wound, dorsum aspect of the left hand, measuring 1.5 x 0.5 cm., along the anterior midline.
30. Stab wound, proximal 3rd of the left forearm, measuring 3 x 0.5 cm., 3 cm. from the anterior midline.
31. Stab wound, middle 3rd of the left forearm, measuring 1.5 x 1 cm., 4 cm. from the anterior midline.
32. Stab wound, distal 3rd of the left arm, measuring 3.5 x 0.6 cm., 1.5 cm. Lateral to its anterior midline.

One thousand six hundred (1,600) cc of blood and blood clots accumulated in the thoracic and abdominal cavities.

Stomach is empty and the rest of the visceral organs are grossly unremarkable.

CONCLUSION:

Cause of death is cardio-respiratory arrest due to shock and hemorrhage as a result of multiple stab and gunshot wounds of the neck, trunk and upper extremity.

In 1987, due to the inaction of the Taguig police in the killing of Angelito and his two brothers, the Balbuena family sought the assistance of PC-CIS to investigate Angelito's death. Later, however, Virgie Balbuena asked the CIS for a deferment of the investigation because her family was busy with the prosecution of Taguig policemen suspected of killing the two Balbuena brothers. Virgie Balbuena and Rosemarie Santos-Balbuena were able to file a formal statement with the CIS only in 1989.^[7] As a result, Rusty Mendiola was arrested on November 8, 1989^[8] and subsequently charged with murder. He was, however, acquitted by Branch 156, NCR, Regional Trial Court for failure of the prosecution to prove his guilt beyond reasonable doubt.^[9] On the other hand, petitioner, who had eluded arrest, remained in hiding even after the acquittal of his co-accused Rusty Mendiola in 1990. Petitioner was finally arrested in August 1992 and tried.

This is the gist of the evidence for the prosecution. Without leave of court, petitioner filed a demurrer to the evidence. The trial court denied the demurrer and convicted petitioner of homicide. The dispositive portion of its decision stated:^[10]

WHEREFORE, the Court finds the accused Bien Sevalle y Dimaguila guilty beyond reasonable doubt of the crime of Homicide defined and penalized under Article 249 of the Revised Penal Code and hereby sentences said accused to suffer an indeterminate prison term of eight (8) years and one (1) day of prision mayor as minimum to fourteen (14) years, eight (8) months and one (1) day of reclusion temporal as maximum, to indemnify the heirs of the victim in the amount of FIFTY THOUSAND PESOS (P50,000) and to pay the costs.

In the service of his sentence, the accused shall be credited in full with the period of his preventive imprisonment which lasted from July 20, 1992 up to November 20, 1992.

Hence, this appeal. Petitioner presents the following issues for resolution:

- I. Whether or not the prosecution has established by proof beyond reasonable doubt the guilt of the herein petitioner of the crime of homicide.
- II. Whether or not the decision in Criminal Case No. 79330 entitled "People Versus Rusty Mendiola" should have been taken into full consideration by the court a quo considering the similarity of the issues and facts involved therein as well as the parity of the sets of evidence presented during the trial of both cases.