

## SECOND DIVISION

[ G.R. No. 136790, March 26, 2001 ]

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
MANUEL GALVEZ Y ESTANISLAO, ACCUSED-APPELLANT.**

### D E C I S I O N

**MENDOZA, J.:**

This is an appeal from the decision,<sup>[1]</sup> dated November 18, 1998, of the Regional Trial Court, Branch 127, Caloocan City, finding accused-appellant Manuel Galvez y Estanislao guilty beyond reasonable doubt of the crime of murder and sentencing him to suffer the penalty of *reclusion perpetua* and to pay the legal heirs of the victim P50,000.00 as indemnity, P30,000.00 as actual damages, P30,000.00 as moral damages, P30,000.00 as exemplary damages, and the costs.

The information against accused-appellant Galvez alleged --

That on or about the 9th day of May 1998 in Caloocan City, Metro Manila and within the jurisdiction of this Honorable Court, the above-named accused, without any justifiable cause, with deliberate intent to kill, with treachery and evident premeditation, did then and there wilfully, unlawfully, and feloniously attack, assault, and stab with a bladed weapon on the back portion of his body one ROMEN CASTRO y BROQUISA, which injuries eventually caused his death.

CONTRARY TO LAW.<sup>[2]</sup>

As accused-appellant pleaded not guilty to the charge, the trial court proceeded with trial on the merits.<sup>[3]</sup>

The prosecution presented the following witnesses: Danilo Julia, Dr. Ludovico Lagat, Arturo Saligumba, Reynaldo Castro, Loreto Palad, Alvin Adolfo, SPO2 Vivencio Gamboa, and PO3 Feliciano Almojuela. On the other hand, the defense presented Elmer Aguilar, accused-appellant Galvez, Edwin Mangalabanan, SPO1 Alberto Lizarondo, Elena Javier, and Epida Galvez as its witnesses.

The prosecution evidence established the following facts:

At around 11:30 in the evening of May 9, 1998, Danilo Julia, Loreto Palad, and Alvin Adolfo were at a local fair inside the DM Compound in Heroes del 98, Caloocan City. Danilo Julia was playing bingo, while Loreto Palad, Alvin Adolfo, and the victim Romen Castro<sup>[4]</sup> were playing a game where they would throw 25 centavo coins in one of the stalls. Loreto Palad was on the left side facing the stall, while Romen Castro was on his left side. Danilo Julia was around three meters away. After a while, five men arrived, including accused-appellant Manuel Galvez. Two of the men

approached Romen Castro, while the other two men served as lookouts. Accused-appellant Manuel Galvez then went up directly to Romen Castro and stabbed him at the back with a knife. Accused-appellant afterward threw the knife away and then fled with his companions. Loreto Palad saw Romen Castro fall to the ground, seriously wounded. With the help of Danilo Julia, Loreto Palad took the victim to the Ospital ng Caloocan, where he was declared dead on arrival. Danilo and Loreto then informed the relatives of the victim that the latter had died. Danilo Julia did not know Galvez's companions but he was able to recognize accused-appellant because the place where the stabbing took place was well-lighted. The other prosecution witness, Alvin Adolfo, was around three arm lengths away from Castro and Galvez and saw the entire incident.<sup>[5]</sup>

On the other hand, PO3 Feliciano Almojuela testified that he was on duty on the night of May 9, 1998 when he received a report of the incident. He and another policeman, SPO1 Edgardo Mendoza, went to the Caloocan City General Hospital to view the body of the victim and later proceeded to the scene of the crime where they found bloodstains on the cemented pavement near the gate of the DM Compound. Upon investigation, they learned that the assailant of Romen Castro was accused-appellant Manuel Galvez. They were not able to arrest Galvez for lack of knowledge of his whereabouts.<sup>[6]</sup>

Reynaldo Castro, brother of the victim, testified that the day after his brother's death, two policemen arrived in his house with accused-appellant Galvez. Reynaldo Castro told them, however, that accused-appellant Galvez was not the one who stabbed his brother and should be released. The policemen, therefore, left and allowed Galvez to go. A few minutes after they had left, the people inside Reynaldo Castro's house began talking and told Reynaldo that accused-appellant Galvez was the one who had stabbed Romen Castro. Danilo Julia, Loreto Palad, Armando Rufo, and Alvin Adolfo, who were then in the house of Reynaldo Castro, pointed to accused-appellant Galvez as Romen's assailant. At the instance of Reynaldo, Arturo Saligumba, a barangay tanod, apprehended Manuel Galvez.

Arturo Saligumba admitted that Reynaldo did not have personal knowledge of Galvez's culpability but was only told by others about the stabbing. Saligumba explained that it was the policeman who actually arrested Galvez, and that he only took the latter to the headquarters.<sup>[7]</sup>

Saligumba's testimony was corroborated by SPO2 Vivencio Gamboa, investigator of the Station Investigation Division of the Caloocan City police, who testified that Barangay Tanod Saligumba turned over accused-appellant Galvez to him for investigation. Gamboa was the one who took the statements of Danilo Julia (Exh. A), Alvin Adolfo (Exh. H), Loreto Palad, Armando Rufo, Arturo Saligumba (Exh. F), and Maribel Oseña, sister of the victim (Exh. G). He also prepared the referral slip, dated May 10, 1998, for filing of the case for inquest proceedings (Exh. I).

On cross-examination, Gamboa explained that the statements of the witnesses were prepared only when accused-appellant Galvez was already in the custody of the police authorities. From the time he was brought to the police station, accused-appellant had been under detention, having been committed to the Caloocan City Jail during the inquest. Accused-appellant had not been released because no bail was recommended considering the charge against him. Gamboa stated that

Saligumba did not tell him that Galvez was arrested on mere suspicion. Gamboa narrated that there were six suspects in the stabbing of Romen Castro, but they could not be found in their respective residences at the time of the initial investigation. Accused-appellant no longer had the opportunity to file his counter-affidavit as he was apprehended a day after the incident. During Gamboa's cross-examination, the prosecution stipulated that there was no warrant of arrest at the time Galvez was taken into custody by Saligumba. Gamboa also testified that there had been efforts to arrest the other suspects who were still at large. On re-direct examination, Gamboa explained that they inquired about the knife used by the assailant, but it could not be found because the incident occurred at nighttime. When questioned by the trial court, Gamboa also stated that he asked accused-appellant Galvez where the knife was, but the latter invoked his right to remain silent. During his investigation, Gamboa relied on the report of Almojuela and the affidavits executed by the witnesses.<sup>[8]</sup>

Dr. Ludovico Lagat, Medico-Legal Officer of the National Bureau of Investigation, conducted an autopsy on the body of Romen Castro. His report contained the following findings:

Postmortem rigidity, complete.  
Pallor, generalized.  
Livid, back.

Abrasions: 3.0 x 2.0 cm., forehead; 5.0 x 2.0 cm., left cheek; 3.0 x 3.0 cms., naso-labial area; 3.5 x 2.0 cm., left ante-cubital area; 4.0 x 1.5 cms., right scapular area; 1.0 x 0.3 cm., right lumbar area; 3.0 x 6.0 cms., left knee.

Stab wound: 3.0 cm., clean cut edges; with a sharp and blunt extremity; elliptical; located at the left lumbar area; 11.0 cm., from the posterior median line; directed forward downward and medially; involving the skin and underlying soft tissues; into the retroperitoneum; penetrating the left kidney (thru and thru); then entering the peritoneal cavity; and into the abdominal aorta; with a depth 10.0 cms.

Retroperitoneal hemorrhage, massive.  
Visceral organs, pale.

Stomach, small amount of partially digested food particles.<sup>[9]</sup>

Dr. Lagat testified that only one stab wound was found on the body of the victim, although the latter also sustained several abrasions. The stab wound at the back was the fatal wound, as the kidney and the aorta were both damaged by it. According to Dr. Lagat, the stab wound was caused by a pointed sharp-bladed instrument, such as a knife. From the direction of the stab wound, which was from the back going forward, Dr. Lagat concluded that the assailant was at the back of the victim when the latter was stabbed. On cross-examination, Dr. Lagat stated that any injury found on the hands, such as the abrasions suffered by the victim in this case, could be considered defense wounds. Upon inquiry by the trial court, however, he explained further that the abrasions found on the victim could have been inflicted by the assailant or caused by the impact as the victim fell to the ground after he had been stabbed.<sup>[10]</sup>

It was stipulated during Reynaldo Castro's testimony that the family of the victim incurred P30,000.00 as actual damages for Romen Castro's wake and funeral expenses. Reynaldo likewise testified that Romen Castro was a construction worker earning a daily wage of P150.00 at the time of his death.<sup>[11]</sup>

Accused-appellant testified in his behalf, denying the allegations against him. He claimed that he was at his family's store in Monumento, Caloocan City on the night of May 9, 1998 and went home at around 11 o'clock in the evening to 1052 DM Compound, Caloocan City. He said that after eating supper he went out and had a talk with a neighbor until 12 midnight near their house. Their house was near the place where the fair was located, around a block away. He heard that a stone-throwing incident occurred that night but only learned that someone had been stabbed the following day. He said that at around 9 o'clock in the morning of that day, two policemen went to his house and told him that he was suspected of stabbing Romen Castro. They asked him to accompany them to Reynaldo Castro's house. To clear his name, accused-appellant agreed to do so but, upon arriving thereat, the people in the house told the policemen that he was not the one who killed Romen Castro because the one who did so was fair-complexioned and short. Although allegedly released, he was later forced by a barangay tanod to board a taxi and go to the police headquarters in Sangandaan, Caloocan City. There, he was told that he was a suspect in the killing of Romen Castro. He was not shown a warrant when he was arrested nor was he interviewed by the policemen at the headquarters.<sup>[12]</sup>

Elmer Aguilar, another witness for the defense, testified that he was at the fair at around 11:30 in the evening of May 9, 1998 when Romen Castro arrived. According to Aguilar, after Romen Castro's enemies arrived, a commotion ensued, with these people throwing stones and pieces of wood at the victim and the latter retaliating. Romen Castro tried to run, but his attackers, around five in all, were able to catch up with him, and he was stabbed by one of them on his left buttock. After stabbing their victim, the group ran away. Aguilar said that he did not see accused-appellant at the local fair that night and that the latter was not one of those who attacked and killed Romen Castro.<sup>[13]</sup>

Corroborating accused-appellant's testimony are his neighbor Edwin Mangalabanan, his aunt Elena Javier, and his mother Epida Galvez. Edwin Mangalabanan claimed that he was in front of his house and exchanging stories with accused-appellant Manuel Galvez and another companion, Bensyo, from 11 o'clock in the evening to 12 midnight of May 9, 1998. They learned from passersby that someone was stabbed inside the DM Compound, but they did not know who the victim was.<sup>[14]</sup> Elena Javier recalled that at around 11:15 in the evening of May 9, 1998, she passed by a *sari-sari* store to buy something on her way home from a *miting de avance*. While walking towards the store, around 60 to 70 meters from the fair, she heard a person shouting that someone had been stabbed. At the store, she saw Manuel Galvez buying a cigarette. Accused-appellant was with someone named Dencio and a person whom Elena Javier did not know. Elena told Galvez not to go to the fair because something had happened there. She then proceeded home. When she looked back towards accused-appellant's direction, she saw the latter also on his way home. Elena Javier admitted that accused-appellant was her nephew.<sup>[15]</sup>

For her part, Epida Galvez, mother of accused-appellant, testified that she hurriedly

left the *miting de avance* when she learned that some trouble occurred inside the DM Compound. She and her companion, Rosemarie Torres, had to pass by the fair on their way home. On the way, they saw someone boarding a tricycle, while another person, who was directing the traffic, was holding a knife. Epida Galvez identified the person who was directing the traffic as Saligumba, the barangay tanod. She then saw her son Manuel at the store, smoking a cigarette, and told him to go home. Accused-appellant was with Edwin Mangalabanan and someone named Dencio.<sup>[16]</sup>

SPO1 Alberto Lizarondo also testified for the defense. He testified that he and another policeman conducted a follow-up investigation of the stabbing incident on May 10, 1998. Inside the DM Compound, bystanders informed him that accused-appellant Galvez had stabbed Romen Castro. Lizarondo then fetched Galvez from the latter's house and told him to go with him to the house of the victim. Galvez agreed, but when they arrived, the people just looked at Galvez and did not point to him as the person responsible for the stabbing of Romen Castro. He therefore let Galvez go. Later that same day, Lizarondo said he saw Galvez in the police station. Lizarondo asked why Galvez was there, but the relatives of the victim and the other witnesses told him that the reason they said nothing when he asked them to identify Galvez was because of fear.<sup>[17]</sup>

Based on the evidence presented, the trial court rendered a decision, dated November 18, 1998, the dispositive portion of which states:

WHEREFORE premises considered and the prosecution having established to a moral certainty the guilty of Accused MANUEL GALVEZ Y ESTANISLAO of the crime of Murder as defined and penalized under Art. 248 of the Revised Penal Code as amended by RA 7659 and absent any generic aggravating or mitigating circumstances hereby sentences said accused to suffer the penalty of RECLUSION PERPETUA; to indemnify the legal heirs of the deceased the sum of P50,000.00 plus actual damages of P30,000.00 as well as moral and exemplary damages of P30,000.00 each and to pay the costs, without any subsidiary imprisonment in case of insolvency.

Accused's preventive imprisonment shall be credited in full in the service of his sentence in accordance with Art. 29 of the Revised Penal Code.

SO ORDERED.<sup>[18]</sup>

As his lone assignment of error, accused-appellant contends that the trial court erred in convicting him of murder despite the failure of the prosecution to establish his identity beyond reasonable doubt.<sup>[19]</sup>

*First.* Accused-appellant questions the legality of his arrest and alleges that it was based on hearsay evidence. He maintains that he was arrested not because of the positive identification of the eyewitnesses but on the basis of the hearsay testimony of Reynaldo Castro.<sup>[20]</sup>

Accused-appellant's arrest was illegal. Arturo Saligumba admitted that he arrested Galvez on the basis solely of what Reynaldo Castro had told him and not because he