

SECOND DIVISION

[G.R. No. 131866, August 20, 2001]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
CARLOS DOCTORO, SR., ACCUSED-APPELLANT.**

D E C I S I O N

BUENA, J.:

Carlos Doctoro Sr. appeals from the decision dated 10 September 1997 in Criminal Case No. 14735-R of the Regional Trial Court of Baguio City, Branch VI, finding him guilty beyond reasonable doubt of the crime of murder.

The information against Doctoro states-

"That on or about the 20th day of November, 1996, in the City of Baguio, Philippines, and within the jurisdiction of the Honorable Court, the above-named accused, with intent to kill and with treachery, did then and there willfully, unlawfully and feloniously shoot one VICENTE GANONGAN JR. with a gun, thereby inflicting upon the latter gunshot wounds of the trunk which caused hemorrhage, and as a result thereof, the said Vicente Ganongan, Jr. died.

"That in the commission of the offense the qualifying aggravating circumstance of treachery attended the same considering that the accused suddenly attacked the victim who did not have any means to defend himself because of the suddenness of the attack.

"CONTRARY TO LAW."^[1]

Upon arraignment, Doctoro entered a plea of not guilty. Thereafter, trial ensued.

Prosecution evidence showed that on November 20, 1996 at around 7:00 in the evening, Vicente Ganongan Jr. and Roderick Litorco went to their friends' boarding house on Honeymoon Road, Baguio City. Thereat, Vicente Ganongan, Roderick Litorco, Regie Daodaoan, Rex Tabanganay, Jeffrey Alimani and Florencio Dagson agreed to drink gin in Sangatan Store, which is about 20 meters from the boarding house. After two (2) hours, the group decided to go home. They went down Honeymoon road towards Rimando road to get a taxi for Litorco. Upon noticing that Litorco could not carry himself, they decided to bring him to their boarding house. Dagson assisted Litorco and walked ahead of Ganongan, Daodaoan, Tabanganay and Alimani. As the latter four neared the Garcia store along Honeymoon road, Carlos Garcia, with three companions, told them to stop, pointing a gun at them. Hearing the commotion, Dagson who was walking about 5 to 7 meters ahead with Litorco

rushed to the boarding house and sought help. When Dagson came back, he was with Oliver Alimani, Arman Alimani and Dexter Daggay. When they arrived, they saw Garcia pointing a gun at the group of Ganongan, Daodaoan, Tabanganay and Jeffrey Alimani. Oliver Alimani approached Garcia who in turn pointed his gun at Oliver and identified himself as barangay *kagawad*. At this time, Carlos Doctolero Sr. was standing at the edge of Honeymoon road. He then put his arm over Daodaoan's shoulder. Daodaoan shoved Doctolero's hand and retreated. Doctolero stepped back and fired twice at Daodaoan but missed. Tabanganay asked Daodaoan if he was hit and upon answering that he was not, Tabanganay shouted at his friends to run. When Ganongan turned around to run, Doctolero fired at him, hitting him twice. Oliver Alimani came to Ganongan's aid when the latter yelled that he was hit. Thereafter, they hailed a taxi and rushed Ganongan to Saint Louis University Hospital where he expired.

In his defense, accused-appellant denied the accusation against him. He testified that while he was in his house watching a television program, the telephone rang. His wife answered the phone and it turned out that it was Carlos Garcia's wife asking for help. When he opened his window and looked outside, he saw several men running and shouting. Sensing trouble, he went out, took his licensed handgun and tucked it in his waist. His wife followed. Arriving at the scene of the incident, he saw the group of young men, drunk, shouting and holding stones poised to strike at the group of Carlos Garcia. He tried to pacify the contending parties but the group of young men did not heed his plea to stop the trouble and instead advanced towards him with stones held in their hands. He then pulled his gun and fired a warning shot directed upwards. The group of men continued to approach him. Thus, he was forced to fire another warning shot directed towards the ground. As the group of young men approached him, he retreated and his right foot slipped into the canal at the edge of the road where he fell. The handgun that he was holding fell to the ditch. At this juncture, he heard two (2) more shots coming from the direction of Carlos Garcia. Thereafter, he declared that a taxi coming from upper Honeymoon road passed by. Upon reaching the Garcia store, one of the passengers shouted and blamed Garcia in shooting one of their companions. He claimed that he confronted Garcia about what he heard from the passengers of the taxi but Garcia told him just to ignore what he heard. After the incident, he proceeded to Garcia's house. After a while, he went home and entered through the back door of his house. He cleaned his gun, threw the spent shells, changed his soiled clothes and narrated to his wife what happened. After some time, both he and his wife fell asleep.

As aforesaid, accused-appellant was convicted of murder after appreciating the aggravating circumstance of treachery. He was sentenced to suffer the penalty of *reclusion perpetua* and was ordered to indemnify the heirs of Ganongan the amounts of P50,000.00 as civil indemnity, P227,808.80 as actual damages, and P300,000.00 as moral damages plus costs, to wit-

"WHEREFORE, the Court finds the accused Carlos Doctolero, Sr. guilty beyond reasonable doubt of the offense of Murder, qualified by treachery defined and penalized under Article 248 of the Revised Penal Code as charged in the Information, and hereby sentences him to Reclusion Perpetua; to indemnify the heirs of deceased Vicente Ganongan, Jr. the sum of P50,000.00 as indemnity for his death; the sum of P227,808.80 as actual damages for expenses incurred for hospitalization, doctor's

fees, funeral expenses, vigil and burial as a result of his death, and P300,000.00 as Moral damages for the pain and mental anguish suffered by the heirs by reason of his death, all indemnifications being without subsidiary imprisonment in case of insolvency, and to pay the costs.

"The accused being a detention prisoner is entitled to be credited 4/5 of his preventive imprisonment in the service of his sentence in accordance with Article 29 of the Revised Penal Code.

"The Court directs that the Prosecutor's Office of Baguio conduct a preliminary investigation on the participation of Carlos Garcia in the shooting incident resulting in the death of Vicente Ganongan, Jr. on November 20, 1996, informing the latter accordingly of the same and if warranted by the evidence, to file the appropriate Information.

"SO ORDERED."^[2]

In his appeal, accused-appellant contends that the trial court erred - ^[3]

- "I. in disregarding the physical, testimonial and documentary evidence which, if appreciated, would have exonerated the accused.
- "II. in anchoring its decision entirely on and giving full credence to the testimony of the prosecution's purported eyewitness.
- "III. in giving primacy to, and basing its decision, on supposed weakness of the defense.
- "IV. in disregarding the un rebutted evidence of part of *res gestae*.
- "V. in completely disregarding the testimony of defense witness Zoilo Estolas.
- "VI. in disregarding the un rebutted evidence on the character and reputation of the accused.
- "VII. in finding the existence of the aggravating circumstance of treachery.
- "VIII. in convicting the accused and disregarding the principle of proof beyond reasonable doubt.

Accused-appellant professes his innocence and seeks an acquittal on the ground that the prosecution failed to prove his guilt beyond reasonable doubt. He maintains that it was Carlos Garcia who fired the fatal shots.^[4]

Records reveal that Oliver Alimani^[5] and Jeffrey Alimani^[6] positively identified accused-appellant as the one who shot Ganongan when the latter was about to run. They were present at the incident and saw at close range when accused-appellant fired his gun. Their testimonies are consistent with the findings of the medico-legal officer who conducted the autopsy on the cadaver that Ganongan sustained four (4) gunshot wounds, consisting of two (2) points of entry and two (2) points of exit^[7] such that the first gunshot wound was the one located at the back.^[8] Notably, a

witness' testimony which is corroborated by the autopsy report is credible.^[9] Accused-appellant insists that the trial court erred in disregarding the testimonies of disinterested witnesses who corroborated his defense. He stakes his appeal on the assertion that the testimonies of prosecution witnesses were biased and inconsistent which should not be relied upon. These allegations of inconsistent testimonies - that it was impossible for Litorco, being so drunk to be carried by just one man; that Litorco and Dagson, being so drunk, could not walk faster than the rest of his friends who were following, about 5 to 7 meters, behind;^[10] that Dagson was inconsistent on the place where he left Litorco, whether in Sangatan store or in the boarding house;^[11] or the incompatible testimony that the boarding house was lighted or not when Dagson arrived and woke up his friends^[12] - merely refer to minor details which do not negate the fact that the prosecution witnesses saw the fatal shooting. Although there may be inconsistencies on minor details, the same do not impair the credibility of the witness where there is consistency in relating the principal occurrence and positive identification of the assailant.^[13] As a whole, prosecution witnesses were unanimous in identifying accused-appellant as the person who killed Ganongan.

Accused-appellant avers that the trial court erred in not giving probative weight to the testimony of defense witness Zoilo Estolas who testified that -

"xxx he was in front of his store smoking cigarette at about 9:00 in the evening of November 20, 1996. His store is between Garcia's Store and Annabel's Store. While smoking, he heard chasing, shouting and stoning about 15 meters away from him. They were familiar to him as the group of Kalinga students and they were chasing two male persons who went down to the house of Engr. Genove. He did not recognize the two male persons being chased. The group of Kalinga students were stopped by Garcia, a barangay kagawad, and his three companions. Garcia shouted, 'You stop and raise your hands,' while pointing a gun at them. And the group of young men answered back., 'Why? What is our fault? Why do you point your gun at us?' And Garcia insisted saying he is a barangay official. At that time the young men were noisy and in a drunken state. Suddenly, the 3 companions of Garcia engaged the young men in a street fight using fists and feet. The rumble lasted about two minutes when one of the group of Kalinga students ran away shouting, 'I will call the police!' That was when the group of Garcia and the group of Kalinga students parted ways. He saw again chasing and running. He ran back to his store and it was then that he heard two successive gunshots. He did not see who fired the successive gunshots. But he looked towards the source of the gunshots and saw Doctolero and Garcia each holding a gun. And it was then that the group of young men advanced towards Doctolero. The young men advanced towards Doctolero with their hands poised to throw stones they were holding. Doctolero retreated and fell to the canal. It was then that Garcia fired his gun. Apprehensive, Estolas returned to his house. But while going towards his yard, he heard another burst of gunfire. He did not see anymore who fired the last shot. He saw Garcia and Doctolero going near the store of Garcia after which a taxicab came and one of the passengers shouted, 'Vulva of your mother, Garcia. Why did you shoot one of our companions? We will be back.'"^[14]