

SECOND DIVISION

[G.R. No. 131840, April 27, 2000]

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
NILO BAUTISTA AND HENRY BAUTISTA, ACCUSED-APPELLANTS.**

D E C I S I O N

MENDOZA, J.:

This is an appeal from the decision,^[1] dated June 23, 1997, of the Regional Trial Court, Branch 79, Morong, Rizal, finding accused-appellants Henry and Nilo Bautista guilty beyond reasonable doubt of murder and sentencing them to suffer the penalty of *reclusion perpetua* and to pay jointly the amounts of P24,839.00 as actual damages and P30,000.00 as civil indemnity to the heirs of the victim, Igmidio Grajo.

The Information alleged --

That on or about the 7th day of June, 1995 in the Municipality of Tanay, Province of Rizal, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating together, armed with a bladed weapon, with intent to kill and with evident premeditation and treachery, did then and there willfully, unlawfully and feloniously attack, assault and stab one Igmidio Grajo y Sinosin inflicting mortal wounds on the different parts of the body of the said victim which caused his instantaneous death.

The evidence for the prosecution shows that, at around 9:30 in the evening of June 7, 1995, Richard Grajo, the son of the victim, Igmidio Grajo, was with a group of friends in front of the store of Edgardo Cruz on Rodriguez Street, Tanay, Rizal. When he saw his father coming, Richard hid inside the store thinking he would be sent home. From where he was hiding, Richard saw accused-appellants Henry and Nilo Bautista walking behind his father. Apparently sensing the presence of accused-appellants, Igmidio ran inside the house of Cruz, which adjoins the store. But as accused-appellants were pursuing him, Igmidio ran outside the house.^[2]

Accused-appellants caught up with Igmidio in front of the house of Cruz. Henry tried to stab him with a knife ("balisong") but Igmidio was able to evade the thrust. At this point, Richard came out of the store to help his father. However, Noli held him and pushed him to the ground.^[3] Three prosecution witnesses, Joseph Manansala, Armando Alalid, and Jerry Fontanos, testified that Noli punched Richard in the stomach,^[4] while Henry stabbed Igmidio several times with the "balisong", causing the latter to fall to the ground on his back. Accused-appellants then ran away. Igmidio was taken to a hospital, where he died.^[5]

On the other hand, the defense presented evidence showing the following. Henry Bautista met Igmidio Grajo on his way home on Rodriguez Street, Tanay, Rizal in the

evening of June 7, 1995. Igmidio appeared to be drunk and began cursing Henry without any provocation. To avoid trouble, Henry turned back, but Igmidio hit him from behind with a lead pipe. As Henry staggered, Igmidio continued to hit him on the head and arms, causing him to retreat further back. In self-defense, Henry gave Igmidio a kick which threw the latter against a tricycle parked nearby. But Igmidio got a knife from the tricycle. Seeing this, Henry grappled with Igmidio for possession of the weapon. Henry succeeded in wresting the knife from Igmidio and with it stabbed the latter in the chest.^[6]

At this point, Noli arrived at the scene and pacified Henry, who allowed himself to be brought to his house. However, as he was apprehensive that relatives of Igmidio might seek revenge, Henry went to the house of Noli and then to that of a friend, but as both were not home, Henry hid in the cemetery, and from there took a ride to his hometown, Sta. Cruz, Laguna. On June 9, 1995, Henry was told by relatives that Noli had been taken into custody for the killing of Igmidio. He was prevailed upon to surrender to the Mayor of Tanay, Rizal, who that same day sent his driver to Sta. Cruz, Laguna to fetch him.^[7] Upon reaching Tanay, Rizal, Henry surrendered at the municipal police station.^[8]

Dr. Owen J. Lebaquin, who performed the autopsy on the body of Igmidio, issued a medical certificate, dated August 4, 1995, containing the following findings:

FINDINGS:

POST MORTEM FINDINGS:

Fairly developed, fairly nourished previously embalmed male cadaver with an embalming incision at the right anterior neck.

- 1) Incised wound, right anterior neck, measuring 6.5 x 2 cm, 9 cm from the anterior midline.
- 2) Stab wound, point of entry, left anterior chest, measuring 5.2 x 0.8 cm, 4.8 cm from the anterior midline, passing thru the left 4th intercostal space, 8.5 cm deep, directed posteriorwards, medialwards, slightly downwards, lacerating the lower lobe of the left lungs.
- 3) Stab wound, point of entry, sternal region of the chest, measuring 3.4 x 0.8 cm, along the anterior midline, passing thru the level of the 4th intercostal space, 5.5 cm. deep directed posteriorwards, lateralwards, slightly upwards lacerating the pericardial sac.
- 4) Linear abrasion, right anterior chest extending to the left anterior chest, measuring 20.8 x 0.4 cm, 5 cm left of the anterior midline.
- 5) Stab wound, point of entry, left infrascapular region, measuring 1.5 x 0.3 cm. 10 cm from the posterior midline passing thru the 8th left intercostal space, 5.5 cm deep, directed anteriorwards, upwards, medialwards, lacerating the lowerlobe of the left lung.
- 6) Stab wound, point of entry, inter spiral region of the back of the

level of the 9th thoracic ribs, measuring 3.4 x 0.4 cm, along the posterior midline, 6 cm deep, directed anteriorwards, slightly upwards and lateralwards, lacerating the lower lobe of the left lung.

7) Abrasion, distal 3rd of the right thigh, measuring 2 x 0.6 cm, 2.5 cm lateral to its anterior midline.

8) Abrasion, right knee, measuring 2 x 1.3 cm along its anterior midline.

There are about 1,500 cc of blood and blood clots admixed with formalin at the thoracic cavity.

CONCLUSION:

Cause of death is Hemorrhage as a result of multiple stab wounds of the chest and back.^[9]

In the decision, dated June 23, 1997, the trial court found:

A careful reading of the evidence on record induces this court to believe with approval the testimonies of Richard Grajo, son of the victim, corroborated by the testimony of witness Joseph Manansala.

. . . .

In contrast, the court finds the defense version incongruous with reality.

. . . .

The foregoing narration by accused Henry Bautista is an outright fabrication to shield him from liability by attempting to show that it was the victim who was about to get the knife from the parked tricycle when he suddenly grabbed the knife and used it in stabbing the victim. It was obviously designed by the accused Henry Bautista to provide himself the justifying circumstance of self defense.

. . . .

The qualifying circumstance of treachery is present in the case at bar. The victim was stabbed when pursued by accused Henry Bautista. The stabbing took place when the victim has no means to defend himself. As testified to by Dr. Owen J. Lebaquin, the medicolegal officer of the PNP Crime Laboratory who autopsied the cadaver of the victim, he said that of the several wounds inflicted upon the said victim, wounds number 5 and 6 which are located at the back are both fatal wounds. These two wounds affected the lower lobe of the left lung. Wound number 3 appears according to the Dr. to be the most fatal because it lacerated the pericardial sac of the heart.

As to the amount of damages suffered by the widow of the victim, Purita Grajo, her deceased husband was earning P300.00 a day for repacking

bleaching liquid (chlorox). The funeral expenses she incurred were P7,000.00 for seven (7) days wake, P9,000.00 for funeral services (Exhibit "F"); P8,000.00 for memorial lot, (Exhibit "F-1"); P204.00 construction materials, (Exhibit "H"); and P635.00 for hospital bill with a total of P24,839.00.

The accused were charged of murder as defined and penalized under Article 248 of the Revised Penal Code as amended by R.A. No. 7659, the penalty of which is reclusion perpetua to death, the qualifying circumstance of treachery having been proven. In this case, no mitigating nor aggravating circumstance is present. The proper penalty in accordance with Article 63, second paragraph of the Revised Penal Code is the lesser penalty of reclusion perpetua.

The dispositive portion of its decision reads:

WHEREFORE, accused HENRY BAUTISTA and NILO BAUTISTA having been found to be GUILTY beyond reasonable doubt of the crime of murder are hereby sentenced to suffer the penalty of reclusion perpetua. Both accused are further ordered to pay the heirs of the victim the amount of P24,839.00 by way of actual damages and the further sum of P50,000.00 by way of civil indemnity both amounts to be paid jointly by them.

Hence this appeal. Accused-appellants assign the following errors as having been allegedly committed by the trial court:

- I. THE COURT OF ORIGIN ERRED SERIOUSLY IN NOT CONSIDERING THE JUSTIFYING CIRCUMSTANCE OF SELF-DEFENSE POSED BY ACCUSED-APPELLANT HENRY BAUTISTA WHICH IN EFFECT, NOT EXCULPATING HIM OF THE CRIME CHARGED IN THE CASE AT BAR.
- II. THE TRIAL COURT HAS COMMITTED A SERIOUS ERROR IN NOT EXCULPATING ACCUSED-APPELLANT NILO BAUTISTA OF THE CRIME CHARGED DUE TO LACK OF SUFFICIENT EVIDENCE TO PROVE THAT THERE WAS CONSPIRACY TO COMMIT A CRIME AGAINST THE ALLEGED VICTIM IN THE CASE IN BENCH.

The instant petition is without merit.

First. Richard Grajo, the son of Igmidio Grajo, testified:

Q On June 7, 1995 at around 9:30 P.M., tell this court where were you at that time?

A At Rodriguez Street, Tanay, Rizal, sir.

Q What were you doing at Rodriguez St., Tanay, Rizal?

A We were telling stories with my friends, sir.

Q At whose house were you talking with your friends at that time?

A At the store of Egay, sir.

Q Do you know the full name of this Egay?

A Edgardo Cruz, sir.

Q You mentioned that you and your friends were talking,

inside or outside the store?

A Outside, sir.

Q Tell the name of your friends who were with you at the store?

A Joseph Manansala, Jessie Bolaño, Jess Buenaventura, Eric Jasmin, June Austria, Tots Dizon and Joel Nacor, sir.

Q Do I understand from you that this is a big store?

A Not so big, sir.

Q While you and your companions were talking, do you recall if there was an unusual incident that happened at that time?

A Yes, sir.

Q What is that unusual incident?

A I witnessed how they killed my father, sir.

Q Tell us the incident of how your father was killed?

A My father went to me at the store, sir.

Q After that, what happened next?

A And following him were brothers Henry and Nilo, sir.

Q Tell us the surname of these two brothers?

A Bautista, sir.

Q When you noticed that Danilo Bautista and Henry Bautista were following your father, what took place next?

A Henry Bautista stabbed my father and I was pushed by Nilo Bautista so that I can't extend help to my father, sir.

Q How many times did Henry Bautista stab your father?

A At the first stab, my father was able to evade and ran but he followed my father and he was able to approach him outside of the house, sir.

Q What happened after that?

A They ran in and out of the house, sir.

Q What happened after they ran in and out of the house with Henry Bautista pursuing your father?

A When Henry overtook my father, he stabbed him for several times and when he saw blood, he ran together with Nilo Bautista, sir.

Q While Henry Bautista was stabbing your father, where were you at that time?

A I was there at the place of the incident, sir.

Q How far were you from your father while he was being stabbed by Henry Bautista?

A About five meters, sir.

Q While you were five meters from your father and who at that time was being stabbed by Henry Bautista, where is Nilo Bautista at that time?

A He was holding me and refraining me to come near to my father, sir.

Q In what manner was he preventing you from coming to the rescue of your father?

A He hit me with his both hands and I rolled on the ground, sir.

Q You mentioned that he hit you, what part of your body was hit?

A On my hands, sir.

Q Was that the only thing which he did to restrain you?

A Yes, sir.