

## FIRST DIVISION

[ G.R. No. 134730, September 18, 2000 ]

**FELIPE GARCIA, JR., PETITIONER, VS. THE HONORABLE COURT  
OF APPEALS AND THE PEOPLE OF THE PHILIPPINES,  
RESPONDENTS.**

### D E C I S I O N

**KAPUNAN, J.:**

In two separate Informations filed before the Regional Trial Court of Manila, petitioner Felipe Garcia, Jr. was charged with frustrated murder in Criminal Case No. 91-93374 and with murder in Criminal Case 91-93375 committed as follows:

Criminal Case No. 91-93374:

That on or about November 3, 1990, in the City of Manila, Philippines, the said accused conspiring and confederating with two others who[se] true names, identities and present whereabouts are still unknown and helping one another, did then and there willfully, unlawfully and feloniously, with intent to kill and treachery, attack, assault and use personal violence upon one REYNALDO BERNARDO Y DEL ROSARIO @ "BOY PANCHANG", by then and there shooting the latter with a revolver, hitting him on the neck, thereby inflicting upon the said REYNALDO D. BERNARDO @ "BOY PANCHANG" physical injuries which was necessarily fatal and mortal, thus performing all the acts of execution which would have produced the crime of murder, as a consequence but nevertheless did not produce it by reason of causes independent of his will, that is by the timely and able medical assistance rendered to the said REYNALDO D. BERNARDO @ "BOY PANCHANG" which prevented his death.

Contrary to Law.<sup>[1]</sup>

x x x

Criminal Case No. 91-93375

That on or about November 3, 1990, in the City of Manila, Philippines, the said accused, conspiring and confederating together with two others whose true names, identities and present whereabouts are still unknown and helping one another, did then and there willfully, unlawfully and feloniously, with intent to kill and with treachery attack, assault and use personal force upon one FERNANDO B. LEAÑO Y BERNARDO @ "BAGGING", by then and there shooting the latter with a revolver, hitting him on the head, thereby inflicting upon the said FERNANDO B. LEAÑO @ "BAGGING" gunshot wounds which was the direct and immediate cause

of his death thereafter.

Contrary to Law.

x x x<sup>[2]</sup>

The two cases were consolidated and tried jointly before Branch 49 of the Regional Trial Court of Manila.

Upon arraignment on 24 May 1991, the petitioner, assisted by counsel *de parte*, entered a plea of "Not Guilty" to both charges.<sup>[3]</sup>

Trial on the merits then ensued. Based on the evidence presented, the trial court summarized the events that led to the killing of Fernando Leaño and the near fatal injuries sustained by Reynaldo Bernardo as follows:

On November 3, 1990, at about 11:30 o'clock in the evening, Arnold Corpuz and Fernando Leaño, a 15-year old student, and their friends, were conversing along Mataas na Lupa Street, Paco, Manila. Fernando Leaño was on the side of the street. Momentarily, a pedicab, with Renato Garcia (Reneng Palayok), on board, passed by and, in the process, the right wheel of the pedicab ran over the right foot of Fernando Leaño. The pedicab failed to stop and continued on its way. Incensed, Fernando Leaño ran after the pedicab. Arnold Corpuz followed suit, at a distance of about three (3) meters away from the pedicab. When Fernando Leaño was about abreast with the pedicab, he uttered invectives but Renato Garcia retaliated and hurled invectives, too, at Fernando Leaño, saying 'Putang ina ninyo.' Fernando Leaño was then ahead of the pedicab when he looked back and saw, to his consternation, Renato Garcia placing his right hand on the right side of his waistline and about to pull out his gun. Afraid for his life, Fernando Leaño sped away from the pedicab, turned to an alley and ran to Mataas na Lupa Street, Paco, Manila, direct to the house of his uncle, Reynaldo Bernardo, at No. 1281 Mataas na Lupa, Paco, Manila (Exhibit 'E-1'). The pedicab slowed down a bit and then turned towards F. Muñoz Street, Paco, Manila. Arnold Corpuz followed Fernando Leaño to the alley and, when he saw him again, Fernando Leaño was conversing with his uncle, Reynaldo Bernardo, by the gate of the latter's house (Exhibit 'E-1'). Fernando Leaño reported to his uncle that Renato Garcia earlier uttered invectives at him and even tried to pull out his gun from the back portion of his waistline. Reynaldo Bernardo decided to have the incident reported to Police Station No. 5 of the Western Police District. Reynaldo Bernardo changed clothes, put on his shoes and, with Fernando Leaño and Arnold Corpuz, proceeded to the house of his mother, Esperanza del Rosario Bernardo (Exhibits 'E-2' and 'O-2') to borrow the latter's jeep, parked near the basketball court, along Mataas na Lupa Street, Paco, Manila, which they will use in going to the police station. The house of Reynaldo Bernardo was about twenty (20) meters away from the house of his mother.

The three (3) then turned left along Mataas na Lupa Street, towards the direction of the house of Esperanza del Rosario Bernardo. However, before they could reach her house, they had to pass by the intersection

of F. Muñoz Street and Mataas na Lupa Street, Paco, Manila. The intersection was about twenty-five (25) meters away from the house of the Accused and Renato Garcia and about fifty (50) meters away from the house of Gerardo Lugos, which was near the South Superhighway already.

When Reynaldo Bernardo, Fernando Leaño and Arnold Corpuz were near the corner of F. Muñoz and Mataas na Lupa Street, Paco, Manila, Reynaldo Bernardo saw the head of Gerardo Lugos who was peeping on the side corner of the vacant store, at the said corner of the street. However, Reynaldo Bernardo gave no significance to the incident, there being no feud or misunderstanding between him and Gerardo Lugos. When Reynaldo Bernardo, Fernando Leaño and Arnold Corpuz continued on their walk, Fernando Leaño and Reynaldo Bernardo were walking side by side, Fernando Leaño on the right side of his uncle, while Arnold Corpuz was three (3) meters behind the two (2) but tried to overtake them. When the three (3) passed by the first corner of F. Muñoz Street, Paco, Manila and Mataas na Lupa Street, Paco, Manila, Arnold Corpuz saw three (3) male persons, about seven (7) to ten (10) meters away on their left side, walking along F. Muñoz Street, Paco, Manila, going towards their direction, but did not as yet recognize them at the time. However, when the three (3) male persons were near the portion of the street near the store, which was lighted by the lights emanating from the Meralco post (Exhibit 'E'), Arnold Corpuz recognized the three (3) male persons. The first was Renato (Reneng Palayok) Garcia, who was then holding a .38 caliber revolver, with his two (2) hands raised on the level of his abreast, aimed at them. Behind Renato Garcia, towards his right side, was his younger brother, the Accused and behind the Accused, to his right side, was Jerry Lugos. The Accused and Jerry Lugos were armed with handguns, also aimed at Reynaldo Bernardo. When Reynaldo Bernardo, Fernando Leaño and Arnold Corpuz were about two (2) to three (3) meters from the intersection of F. Muñoz and Mataas na Lupa Streets, Paco, Manila, Reynaldo Bernardo turned, looked towards his left, and saw Renato Garcia, the Accused and Jerry Lugos, all armed and their guns aimed at him. Reynaldo Bernardo then started to sprint toward where Renato Garcia, the Accused and Jerry Lugos were but barely had Reynaldo Bernardo taken off when Renato Garcia fired his gun, once, at Reynaldo Bernardo and hit the latter on the left side of his neck (Exhibit 'B'). Renato Garcia was then only about two (2) meters way from Reynaldo Bernardo. When Renato Garcia fired at Reynaldo Bernardo, the Accused and Jerry Lugos looked around as if acting as lookouts. Reynaldo Bernardo placed his left palm on the left side of his neck which was hit, fell, at first, on a kneeling position and then, on the ground, face down (Exhibits 'E-3' and 'O'). Instinctively, after Reynaldo Bernardo was hit, he flung and swung his hand inward, outward and sideward and, in the process, hit Arnold Corpuz who was then about to give succor to Reynaldo Bernardo. Arnold Corpuz then fell on the ground, on a sitting position. Arnold Corpuz then stood up and then fell again on a kneeling position (Exhibit 'E-4'). In the meantime, too, Fernando Leaño rushed to his uncle and tried to lift him (Exhibit 'E-5'). Fernando Leaño was then on a kneeling position. In the meantime, too, Renato Garcia, the Accused and Jerry Lugos continued walking towards where Reynaldo Bernardo

was sprawled and Fernando Leaño beside him and Arnold Corpuz in front of Fernando Leaño. The body of Reynaldo Bernardo was between them. Three (3) successive shots then ensued. Arnold Corpuz then decided to lie down on the ground, face down, his face on the feet of Reynaldo Bernardo, to avoid being hit with his two (2) hands under his breast. Arnold Corpuz then raised his head a little and noticed that the front portion of the head of Fernando Leaño was bulging and Fernando Leaño falling down. It turned out that Fernando Leaño was felled (sic) by a gunshot wound at the back of his head. In the process, Arnold Corpuz saw Renato Garcia, the Accused and Jerry Lugos behind Fernando Leaño, still holding their guns. Renato Garcia, the Accused and Jerry Lugos then fled from the scene together. Arnold Corpuz also fled from the scene towards the house of Esperanza del Rosario Bernardo to plead for help. On the way, Arnold Corpuz met Dominador Bernardo, Jr., the brother of Reynaldo Bernardo who came from the basketball court. Dominador Bernardo, Jr. inquired why Arnold Corpuz was running and Arnold Corpuz (sic) replied, thus: Tinamaan si Kuya Boy at Ferdie.' (pp. 214-216, id.)<sup>[4]</sup>

The victims were taken to the Medical Center Manila at about 12:00 midnight. Subsequently, Leaño was transferred to the Orthopedic Hospital, where he died in the morning of November 4, 1990.<sup>[5]</sup>

Dr. Marcial Cenido performed an autopsy on the cadaver of Leaño and prepared a report with the following Post Mortem Findings:

#### EXTERNAL INJURIES AND EXTENSIONS INTERNALLY:

1. Gunshot wound, thru and thru with the following points of entry and exit:

Point of Entry - right occipital region, head, 58.5 inches from the heel, 3 cm. from the posterior midline, measuring 0.5 cm. x 0.3 cm. and with the contusion collar measures 1 cm. x 0.7 cm. and

Point of Exit - right forehead, 5 cm. from the anterior midline, 58  $\frac{3}{4}$  inches from the heel, and measures 1.3 cm. x 0.5 cm.

Course: Forwards, very slightly upwards and very slightly towards the lateral penetrating the cranial cavity and lacerating the right occipital, parietal and frontal lobes of the brain.

2. Hematoma, below the right eyebrow.

#### INTERNAL FINDINGS:

1. Laceration of the right occipital, parietal and frontal lobes of the brains and subarachnoid hemorrhage, and generalized pallor of the internal organs and tissues; and

2. Recovered from the stomach about a glassful of dark liquid with some rice and vegetables and without alcoholic odor.

## CAUSE OF DEATH

Gunshot wound, right occipital region, head.<sup>[6]</sup>

On the other hand, Dr. Pedro P. Solis, Medico-Legal Officer of the Medical Center Manila, performed an operation on and gave medical treatment to Reynaldo Bernardo. The report he prepared showed the following findings:

Abrasion, 3 cm. x 2 cm. scalp, frontal region, left side; 3 cm. 3.5 cm x 1cm. lateral aspect, frontal region, left side. Wound, gunshot, circular in shape, 0.9 cm. in diameter, lateral aspect, neck left side, indise anterior triangle, directed medially, downwards and slightly backwards, penetrating soft tissues of the neck, involving external jugular vein, then making wound exist at right paravertebral area that the level of T3-T4 and 3 cm. below the highest point of the shoulder.<sup>[7]</sup>

Based on the above established facts, the trial court rendered judgment, the dispositive portion reading as follows:

In view of all the foregoing, judgment is hereby rendered in the following cases to wit:

1. In People versus Felipe Garcia, Jr., Criminal Case No. 91-93374, judgment is hereby rendered finding the Accused guilty beyond reasonable doubt of the crime of "Frustrated Homicide" and hereby sentences said Accused to an indeterminate penalty of from Four (4) Years and Two (2) months of Prision Correccional, as Minimum, to Eight (8) Years and One (1) Day of Prision Mayor, as Maximum, and to pay to Reynaldo Bernardo the amount of P115,631.00 as actual damages and P25,000.00 as moral damages;

2. In People versus Felipe Garcia, Jr. Criminal Case No. 91-93375, judgment is hereby rendered finding the Accused guilty beyond reasonable doubt of the crime of "Homicide" and hereby metes on him an indeterminate penalty of from 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 to the heirs of Fernando Leaño the amount of P10,040.00 as actual damages and P50,000.00 by way of indemnity.<sup>[8]</sup>

Petitioner elevated his conviction to the Court of Appeals, which on 21 May 1998, affirmed *in toto* the decision of the trial court.<sup>[9]</sup> Hence, the present case, petitioner raising the following assignment of errors:

### I

THE LOWER COURT GRAVELY ERRED IN EVALUATING EVIDENCE DIRECTED AGAINST SUSPECTS GERRY LUGOS AND RENATO GARCIA - INFERENTIALLY AGAINST ACCUSED-APPELLANT FELIPE GARCIA, JR., UNDER THE PRINCIPLE OF CONSPIRACY SO-CALLED.