

THIRD DIVISION

[G.R. No. 96618-19, August 11, 1999]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
PINKER JOSEPH BAUTISTA Y BASILIO, ACCUSED-APPELLANT.**

DECISION

GONZAGA-REYES, J.:

Pinker Joseph Bautisa y Basilio appeals from the decision^[1] dated February 24, 1989 in Criminal Case Nos. 88-63727-SCC and 88-63728-SCC of the Regional Trial Court of the City of Manila, Branch XLIX, finding him guilty beyond reasonable doubt of the crimes of murder and attempted homicide.

The information^[2], filed on June 6, 1988, charging Pinker Joseph Bautista with the crime of murder, reads:

"That on or about the 2nd day of June 1988, in the City of Manila, Philippines, the said accused did then and there willfully, unlawfully and feloniously, with evidence (sic) premeditation and treachery and with intent to kill, attack, assault and use personal violence upon one Paz Reyes y del Mundo by then and there stabbing her with a kitchen knife on the different parts of the body, thereby inflicting upon the latter mortal wounds which were the direct and immediate cause of her death thereafter.

CONTRARY TO LAW."

The information^[3], likewise filed on June 6, 1988, charging accused-appellant of the crime of frustrated murder reads, as follows:

"That on or about the 2nd day of June 1988, in the City of Manila, Philippines, the said accused willfully, unlawfully, and feloniously, with intent to kill, and with treachery and evident premeditation, attack, assault and use personal violence upon the person of one Eugenio Reyes y Sotero by then and there clubbing the latter's head with a piece of wood thereby inflicting upon him serious physical injuries which are necessarily fatal and mortal, thus performing all the acts of execution which should 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 by the said Eugenio Reyes y Sotero which saved his life,

CONTRARY TO LAW."

The accused, duly assisted by counsel *de officio*, was arraigned on July 1, 1988 and entered a plea of not guilty on both charges. Thereafter, the prosecution and the

accused, through counsel, agreed to a joint trial of the two cases.

The facts of the case, as culled by the trial court from the testimonial and documentary evidence presented by the prosecution are, as follows:

Eugenio Reyes, a 66-year old retired jeepney driver (Exhibit "E") and his second wife, Paz (Patsy) del Mundo Reyes, a 60-year old housewife, were residing, all alone by themselves, in their one-story house at No. 820 Jose Basa Street, Tondo, Manila. They did not have any maid. The house had three (3) doors, including the main door. Any of the doors could be opened from inside the house. There was an alley or passageway from the sala or receiving room to the kitchen of the house.

Romulo Reyes, Jr., the nephew of Eugenio Reyes, resided nearby at No. 842 Jose Basa Street, Tondo, Manila, about six (6) houses and less than ninety (90) meters away from the house of the elderly couple.

On May 30, 1988, at around 6:00 o'clock in the evening, the Accused Pinker Joseph Bautista, an 18-year old gay from San Fernando, Pampanga, arrived in the house of Eugenio Reyes in the company of Reynaldo (Rey) Pangilinan, the son of a niece of Paz del Mundo Reyes. The accused was then carrying a plastic traveling bag with him. The couple were surprised at the unannounced arrival of Reynaldo Pangilinan. After all, Rey Pangilinan had not been to the house of the couple since two (2) years before. The accused and Rey Pangilinan told Eugenio Reyes and Paz Reyes that they came to Manila from Pampanga to look for jobs. The accused and Rey Pangilinan did not tarry long because they left the house of the couple that day, the former returning to San Fernando, Pampanga. However, the accused left his plastic bag in the house of the couple.

On June 1, 1988, at about 7:30 o'clock in the evening, the accused arrived, alone, in the house of Eugenio Reyes. It was then raining. The accused was drenched with rain. When Paz Reyes asked the accused if he had a companion, the Accused replied that he was going to wait for Rey Pangilinan. The accused brought with him a bunch of bananas. Concerned, Paz Reyes told the accused to change his wet clothes. The Accused did. He took out from his plastic bag, which he left in the house of the couple earlier (Exhibit "P-2"), a white t-shirt (Exhibit "P-5") and a pair of red-striped short pants (Exhibit "P-4") and put them on. Paz Reyes placed the bananas on the table. Kindhearted as she was, Paz Reyes prepared dinner for the accused after conversing with him for a while. However, Rey Pangilinan failed to arrive that evening. Rather than allow the accused to go back to Pampanga in the dead of the night and in such inclement weather, Paz Reyes allowed the Accused to sleep in their house that evening. At about 11:00 o'clock that evening, the Spouses and the Accused decided to call it the day and prepared to sleep. Eugenio Reyes and Paz Reyes slept in the sala of the house. So did the Accused, about three (3) meters away from Eugenio Reyes.

However, at about 2:00 o'clock in the early morning of June 2, 1988, the Accused awakened Paz Reyes from her deep slumber and asked her to

prepare coffee for him. Eugenio Reyes was also awakened in the process. Paz Reyes uncomplainingly prepared coffee for the Accused which the latter drank. Paz Reyes then told the Accused to sleep already. However, the accused told the couple that he could not sleep and that he will sleep later. After the couple put off the lights, they returned to sleep. The Accused on the other hand, remained seated in the place where he slept earlier, leaning against the wall (Exhibit "S").

The slumber of Eugenio Reyes was suddenly disrupted anew between 4:00 o'clock and 4:30 o'clock that early morning when he heard his wife, Paz Reyes, crying and groaning, as she repeatedly cried: "Aray, aray, aray." It was then dark. However, Eugenio Reyes could see the accused stabbing his wife, Paz Reyes with a knife (Exhibit "S") about six (6) inches long. Eugenio Reyes saw his wife bloodied. Instinctively, he forthwith dove on the accused and tried to strangle him by putting his arms around the neck of the Accused, as Eugenio Reyes grappled with the Accused for the knife used by the latter, at the same time Eugenio Reyes biting the right part of the neck of the Accused and sticking his finger on eyes of the Accused (Exhibit "S"). Paz Reyes, in the meanwhile, continued crying and pleading for succor. The Accused was able to injure Eugenio Reyes with the said knife, on chin, left forearm, fingers, right arm and back. Eugenio Reyes was able to wrest the knife from the Accused, as they wrestled for it up to the door, but the knife fell to the floor. However, the Accused ran to the kitchen. Eugenio Reyes pursued the Accused. The latter took hold of a piece of wood which was used to secure the door and hit Eugenio Reyes on the head with it (Exhibit "O-3"). The Accused ran to the door with Paz Reyes who was then near the door trying to open it. She succeeded in opening the door. However, as she did so, the Accused hit her with the piece of wood. Eugenio Reyes was able to wrest the piece of wood from the Accused. Eugenio Reyes ran after the Accused but weakened in the process and fell unconscious.

By then, concerned citizens in the neighborhood heard of the pleas for help of Paz Reyes and rushed in front of the house of the couple, as the Accused emerged from the house of the couple. Gil Advincula, a neighbor of the couple, got hold of the Accused. Meanwhile, Romulo Reyes, Jr. who was then sleeping, was awakened from his sleep when he heard a commotion. He went out of their house to see what it was all about. He heard a person shouting: "Saklolohan ninyo. May saksakan na nangyari." Romulo Reyes, Jr. saw the Accused being held by Gil Advincula, bloodied and dazed. There were about ten (10) people holding and around the Accused at the time. Romulo Reyes, Jr. asked the Accused why he was bloody and the latter replied: "Hindi ako..." The concerned neighbors were angry at the Accused.

Earlier, Alfredo Lopez, a vendor, who resided only about two (2) houses away from where the house of the couple, heard the pleas for help of Paz Reyes and responded to her pleas. He proceeded to the house of Eugenio Reyes and Paz Reyes. He saw Eugenio Reyes outside the door of their house inside the yard, holding Paz Reyes on his lap (Exhibit "E-2"). Alfredo Lopez noticed a stab wound on the right side of Paz Reyes, under her armpit. On the other hand, Eugenio Reyes was bloody all over his

body. The main door to the house was open. Alfredo Lopez could see, from the outside that the furniture and appliances inside the house were in disarray and topsy-turvy. Eugenio Reyes told Alfredo Lopez that the person whom they allowed to sleep and eat in their house was the person who stabbed him and his wife, Paz Reyes. The latter also divulged to Alfredo Lopez that the person whom she allowed to eat and sleep in their house stabbed her while she was sleeping. Paz Reyes was then still strong and her voice was audible and clear. With the help of two (2) other persons, Alfredo Lopez carried Paz Reyes to the clinic of Dr. Santos, two (2) streets away from the house of Eugenio Reyes. It was then about 5:00 o'clock early in the morning. At the clinic, Paz Reyes told Alfredo Lopez "May pinatuloy kami. Pero sinaksak kami" and asked Alfredo Lopez to go back and attend to her husband, Eugenio Reyes, because he was also wounded. Alfredo Lopez left Paz Reyes under the care of Dr. Santos who put cotton on the stab wound of Paz Reyes to stem the flow of blood and returned to where Eugenio Reyes was. Alfredo Lopez saw Romulo Reyes, Jr. and told him that he brought Paz Reyes to the clinic of Dr. Santos. Romulo Reyes, Jr. asked the people around: "Sino, sino ang sumaksak?" Gil Advincula replied: "Eto, baka ito dahil duguan." However, the Accused insisted: "Hindi ako. Hindi ako."

Romulo Reyes, Jr., Arthur Victorio and his brother-in law then brought Eugenio Reyes to the clinic of Dr. Santos for treatment and medical attention. At the clinic, Romulo Reyes, Jr., also talked to Paz Reyes and asked her who stabbed her and she replied: "Ang sumaksak sa akin pinakain ko na, pinagmagandang loob ay iyong Pinker, iyong bakla." Romulo Reyes, Jr. noticed his aunt bloodied with stab wounds on the left and right sides under the armpit and left and right breasts and had a blow on the head. Eugenio Reyes and Paz Reyes were then placed in stretchers and carried to the car of Romulo Reyes, Jr. and brought to the University of Sto. Tomas Hospital along Espana Street, Sampaloc, Manila. On the way to the car of Romulo Reyes, Jr., Paz Reyes again told him "Walang hiya iyon. Pinagmagandang loob. Ginanito pa ako." She was still strong. Alfredo Lopez went with the couple and Romulo Reyes, Jr. to the UST Hospital. Paz Reyes told Alfredo Lopez: "Boy, huwag ka munang umalis dito sa amin." Romulo Reyes, Jr. stayed in the UST Hospital while Eugenio Reyes and Paz Reyes were being attended to by the doctors. However, they later came to know, at about 6:45 o'clock that morning, that Paz Reyes was already dead."

XXX

Earlier too, at about 6:00 o'clock that morning of June 2, 1988, Pat. Quevedo of Police Station No. 7 of the Western Police District called by telephone the "Crimes Against Persons Section" of the Western Police District and reported that Paz Reyes, a victim of a stabbing incident, expired at the UST hospital. Pat. Godofredo Alega, Jr. and Pat. Nelson Sorsonas responded to the call and proceeded to the UST Hospital. When they arrived at the hospital, the police investigators were informed by the hospital staff that Paz Reyes was already dead but that another victim, Eugenio Reyes, was being treated in the emergency ward of the hospital. Romulo Reyes, Jr. was also inside the emergency ward at that time. Pat.

Godofredo Alega, Jr. interviewed both Eugenio Reyes and Romulo Reyes, Jr. Eugenio Reyes related to the police investigator how he and his wife were stabbed and clubbed and that the weapons used on them were a kitchen knife and piece of wood. Romulo Reyes, Jr., however, averred that he did not see the incident but informed the police officer that the Accused was already in the custody of Police Station No. 7. From the UST Hospital, the police investigators, accompanied by Romulo Reyes, Jr. and Tomas del Mundo, the son of Paz del Mundo Reyes, and three (3) photographers proceeded to the scene of the stabbing-clubbing, in the house of Eugenio Reyes. They saw the main door open and the furniture and appliances in disarray and topsy-turvy. Blood splashes were found on the floor and on the walls of the house and along the passageway to the kitchen. The police investigators found a bloodied kitchen knife at the door near the sala (Exhibit "P-8") and a broken knife handle was found near the sofa (Exhibit "P-7"). A piece of wound stained with blood was also found beyond the sala inside the house (Exhibit "O-3"). A traveling plastic bag, owned by the Accused (Exhibit "P-2") which contained assorted personal belongings of the Accused was retrieved by the police investigators. Under the pillow used by the Accused when he slept earlier that evening, was found a June 1, 1988 issue of the "People's Tonight" afternoon daily which wrapped a blue plastic nylon cord (Exhibit "R"), a pair of rubberized hand gloves (Exhibits "O" and "O-1") and a scabbard of a knife. The scabbard fit the bloodied knife (Exhibit "P-8").

The police investigators proceeded to Police Station No. 7 of the Western Police District where the accused was turned over to the police investigator, Pat. Godofredo Alega, Jr. The latter noticed that the shirt and short pants of the Accused were bloodied. However, the police investigator did not notice any wounds sustained by the Accused. Pat. Godifredo Alega, Jr. and some other police officers brought the Accused to the UST Hospital for a confrontation with Eugenio Reyes. However, the Accused was not accompanied by any lawyer or by any of his relatives. On the stairway to the room of Eugenio Reyes in the UST Hospital, Pat. Godofredo Alega, Jr. removed the shirt of the Accused because if Eugenio Reyes saw the bloodied shirt, the latter will be able to recognize the Accused easily. The police investigator requested an unidentified janitor in the hospital to remove his upper attire and join the Accused for confrontation with Eugenio Reyes. The Accused and the unidentified janitor were then brought inside the room of Eugenio Reyes who was then lying in his hospital bed with cotton patched on his forehead and dextrose taped on his right hand. Eugenio Reyes pointed to and identified the Accused with his left foot and right hand (Exhibits "F-2", "F-4", and "F-7"). Pictures of the Accused were taken under the room of Eugenio Reyes during the confrontation (Exhibits "F-1", and "F-7"). The confrontation was also published in the "Ang Pilipino Ngayon" issue of June 3, 1988 (Exhibits "G" and "G-1") where Eugenio Reyes is shown pointing to the Accused with his hand."^[4]

Accused-appellant, for his part, categorically denied having stabbed or clubbed Paz del Mundo Reyes and Eugenio Reyes. As summarized by the trial court, the accused testified that: