

FIRST DIVISION

[G.R. No. 129732, November 19, 1999]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. MARIO BASCO Y SALAO, ACCUSED-APPELLANT.

D E C I S I O N

PARDO, J.:

The admixture of liquor, hot heads and insignificant discussion were the dangerous concoction that led to the death of Rolando Buenaventura, Sr.

On September 16, 1993, Assistant City Prosecutor Carmelita S. Gutierrez-Fruelda filed with the Regional Trial Court, Branch 23, Manila, an information against accused Mario Basco y Salao, as follows:

"That on or about May 3, 1992 in the City of Manila, Philippines, the said accused did then and there wilfully, unlawfully and feloniously, with intent to kill and with evident premeditation and treachery, attack, assault and use personal violence upon one ROLANDO BUENAVENTRUA, SR. by then and there shooting the latter with a gun on the different parts of his body, thereby inflicting upon him mortal gunshot wounds which were the direct and immediate cause of his death thereafter.

"Contrary to law.

"(s/t) CARMELITA S. GUTIERREZ-FRUELDA

"Assistant City Prosecutor"^[1]

Upon arraignment on October 7, 1993, accused-appellant entered a plea of not guilty.^[2] Accordingly, trial was had.

The facts are those duly established through the testimony of Ednallyn Buenaventura, daughter of the deceased, as follows:

At around 8:00 in the evening of May 3, 1992, Rolando Buenaventura, Sr. was having a drinking spree with several men outside his home, at Cabangis, Tondo, Manila. Accused-appellant Mario Basco was with the group drinking beer. Emy, a cousin of the deceased arrived from work. Mang Lando, one of the men in the group invited Emy to have a drink, but he refused and told them that he would drink later on. Emy, however, noticed that accused-appellant Mario Basco was playing with a "balisong", so he warned the latter about it and told him to put it away because it was "nakakailang". Mario who was obviously a bit intoxicated retorted and said "Pare, gusto mo ba talaga ng biruan" and immediately approached Emy and poked

the knife at the latter's neck. Because of the sudden approach of accused-appellant and the slippery pavement, Mario slipped and Emy avoided the knife.^[3]

At this instance, the deceased Rolando Buenaventura, Sr. asked his other cousin Edong to help Emy, who was being attacked by accused-appellant. Edong then got a chair and was about to strike Mario when Mario's wife arrived and pacified them. Mario, however, continued wielding the knife and accidentally hit Rolly, a son of Rolando Buenaventura, Sr. Seeing that his son was seriously injured, Rolando Buenaventura, Sr. became angry and he cursed accused-appellant. A heated exchange ensued.^[4]

At the height of the argument between the two, Jaime Macanas, a neighbor who was a policeman, came out of his house, just in front of the house of the Buenaventuras and fired two shots in the air to pacify the men. Then, Mario's wife brought him home. Rolando Buenaventura, Sr. and Emy were left outside the house, but not for long, because Emy went inside the house to sleep.^[5]

Rolando Buenaventura, Sr. on the other hand was called by Ednelyn, his daughter and Rolly, his son, to go inside the house and eat supper. When they were about to eat, accused-appellant Mario Basco came calling and cursing Rolando Buenaventura, Sr. Suddenly, accused-appellant was at the door of the Buenaventura house and when Rolando stood up to drink water, accused-appellant immediately shot him, causing him to fall to the ground. Accused-appellant fired another shot at Rolando, then he went nearer and again shot Rolando at close range, hitting him on the chest.^[6] He died on the spot. In the autopsy report, the medico-legal examiner found the following:

"EXTERNAL FINDINGS:

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

"Point of Entry- at the left temporal region, in front of left ear, circular in shape, 60 inches from heel, 13.5 cms. from anterior midline, measuring 0.3 x 0.3 cms. and contusion collar measures 0.7 x 0.6 cms. and

"Point of Exit-at the right parieto-occipital region, stellate in shape, 64 ½ inches from heel, 3 cms. from posterior midline, measuring 2.2 x 1.3 cms.

"Trajectory-obliquely upward, backward crossing the midline, (from left to right), lacerating the left temporal lobe then crossed the midline then lacerating the parieto-occipital lobes of the right side of the brain. There was tunnel formation along its course filled with blood clots and some bone fragments.

"2. Gunshot wound, with the point of entry at the left mandible, oval in shape, 57 inches from heel, 4 cms. from anterior midline, measuring 1.2 x 0.5 cms. and contusion collar measures 1.8 x 1 cms.

"Trajectory-slightly downward, backward towards midline, fracturing the

left mandible on entry, lacerating the muscles of the left jaw, floor of the mouth and the left epiglottis. A deformed slug was extracted in the body of the 2nd cervical vertebra.

"3. Gunshot wound, thru and thru, with the following point of entry and exit:

"Point of entry - right upper anterior thorax, below the right collar bone, 52 inches from heel, 2.5 cms. from anterior midline measuring 0.4 x 0.3 cm. and contusion collar measures 0.7 x 0.9 cms. and tattooing measures 5 x 3 cms.

"Point of Exit-at the right upper posterior thorax, just below the right shoulder blade, 51 inches from heel, 17 cms. from posterior midline, and measuring 1.5 x 1 cms.

"Trajectory-directed obliquely downward, backward towards right lateral, making a thru and thru laceration in the upper lobe of the right lung, then fracturing the inferior border of the right scapula before it exited.

"INTERNAL FINDINGS:

"1. Lacerations of organs and tissues as indicated in the internal extensions of the gunshot wounds with fractures of the left temporal and right occipital bones. There was severe bleeding intra-cranially. About 1000 cc. of blood was extracted in the right thoracic cavity. The rest of the internal organs were pale.

"2. Recovered from the stomach about ½ glassful of partially digested vegetables and with alcoholic odor.

"CAUSE OF DEATH: MULTIPLE (3) Gunshot Wounds.^[7]

The defense, however, had a different version of the events that transpired on that fateful day. According to accused-appellant, it is true that they were having a drinking spree in front of the house of Rolando Buenaventura, Sr. However, he was not the aggressor. His version of the story is that, "In the course of the drinking spree, he had an argument with Emy, a cousin of the deceased. Their altercation angered Rolando Buenaventura, Sr. which resulted in a heated argument between them. They were pacified by Jaime Macanas and he went home to avoid further altercation with Rolando Buenaventura, Sr. However, realizing that he was at fault, he went to Rolando's house intending to apologize. When he was at the doorstep of the house, Rolando emerged pointing a gun at him. Fearing that Rolando might shoot him, he grappled for possession of the gun, and suddenly the gun fell and went off, after which he left immediately.^[8]

On July 19, 1996, after consideration of the evidence of both parties, the trial court found accused guilty as charged and rendered decision sentencing him to suffer the penalty of *reclusion perpetua* and to pay the heirs of the deceased the amount of P50,000.00 for his death; P100,000.00 as loss of income for his family; P18,000.00 for burial expenses; P1,500.00 spent during the wake and P5,000.00 for the burial