

## **EIGHTH DIVISION**

**[ CA-G.R. CR No. 35980, August 29, 2014 ]**

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
JUANITO BRIONES Y MOLINA, ACCUSED-APPELLANT.**

### **DECISION**

**LAMPAS PERALTA, J.:**

Before the Court is an appeal from the Decision dated June 18, 2013<sup>[1]</sup> in Criminal Case No. Q-08-152400 of Branch 83, Regional Trial Court (RTC), Quezon City finding accused-appellant Juanito Briones y Molina guilty beyond reasonable doubt of the crime of frustrated murder.

### **THE ANTECEDENTS**

Around 11:30 in the evening of September 17, 2007, while private complainant Renato Pia was walking home from work along Freedom Park 5, Batasan Hills, Quezon City, accused-appellant suddenly appeared, held him by the shoulders and uttered, "You are not from this place". Thereupon, accused-appellant stabbed private complainant with a bladed weapon. Private complainant was hit on the upper abdomen and tried to run away. However, accused-appellant, who was with a certain alias "Duling",<sup>[2]</sup> caught up with him and stabbed him in the arm.<sup>[3]</sup> Despite his wounds, private complainant was able to get away from accused-appellant until he reached home.<sup>[4]</sup> His family then brought him to the East Avenue Medical Hospital where he was treated and confined from September 17-21, 2007.<sup>[5]</sup>

However, accused-appellant denied having anything to do with the crime as he claimed that he was at home on Badon Street, Freedom Park, Quezon City at the time of the incident.<sup>[6]</sup> Allegedly, it was a case of mistaken identity since most of the residents in their area had similar faces.<sup>[7]</sup>

On June 4, 2008, an information<sup>[8]</sup> was filed with the trial court against accused-appellant charging him with frustrated murder committed as follows:

"That on or about the 17<sup>th</sup> day of September, 2007 in Quezon City, Philippines, the above-named accuse, conspiring together, confederating with another persons whose true name identity and whereabouts had not as yet been ascertained with intent to kill, with the qualifying aggravating circumstances of evident premeditation, treachery and abuse of superior strength did, then and there willfully, unlawfully and feloniously attack, assault and employ personal violence upon the person of RENATO PIA y UBATAY, by then and there held him by the shoulder and stabbing him on the chest, thereby inflicting upon him serious and mortal stab wounds, 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 or causes independent of the will of the perpetrator, that is the timely and able medical assistance rendered to said RENATO PIA y UBATAY to his damage and prejudice.

Accused persistently planned commission of the crime prior to its execution, consciously adopting the means and methods of execution, done suddenly and unexpectedly and taking advantage of superior strength and numbers to ensure commission of the crime without risk to the accused.

CONTRARY TO LAW."

Accused-appellant pleaded "not guilty" to the charge. During the pre-trial conference,<sup>[9]</sup> he admitted the following:

- "1. That the Court has jurisdiction over the case;
2. That the real name of the Accused is JUANITO BRIONES;
3. That whenever the name FIDEL EXPECTACION y BINAOBRA is mentioned in the subsequent hearings of this case, said name will refer to the same JUANITO BRIONES, who is the accused in this case."

Trial on the merits ensued. The prosecution presented as its witness private complainant Renato Pia. On the other hand, accused-appellant and Marta A. Almogeurra (a boarder of accused-appellant's father) took the witness stand for the defense.

On June 18, 2013, the trial court rendered a Decision convicting accused-appellant of frustrated murder. The decretal portion of the Decision reads:

"WHEREFORE, the prosecution having established the guilt of accused JUANITO BRIONES of the offense of FRUSTRATED MURDER beyond reasonable doubt, this Court finds him GUILTY thereof and hereby sentences him to undergo imprisonment of 12 years and 1 day to 14 years and 8 months as minimum to 20 years as maximum.

Accused Juanito Briones, is hereby ordered to reimburse to complainant Renato Pua the medical expenses incurred by the latter in his hospitalization and treatment of his injuries in the amount of Fifty Eight Thousand Pesos (P58,000.00) and loss of income for three months in the total amount of Fifty Thousand Pesos (P50,000.00).

Costs against the accused.

SO ORDERED."

Hence, accused-appellant filed the present appeal ascribing the following errors allegedly committed by the trial court:

## I

THE TRIAL COURT GRAVELY ERRED IN FINDING THAT THE GUILT OF THE ACCUSED-APPELLANT FOR THE CRIME CHARGED HAS BEEN PROVEN BEYOND REASONABLE DOUBT.

ON THE ASSUMPTION THAT THE ACCUSED-APPELLANT IS LIABLE, THE TRIAL COURT GRAVELY ERRED IN CONVICTING HIM OF FRUSTRATED MURDER INSTEAD OF FRUSTRATED HOMICIDE.<sup>[10]</sup>

### THE ISSUE

Whether the trial court erred in convicting accused-appellant of the crime of frustrated murder.

### THE COURT'S RULING

In holding accused-appellant guilty of frustrated murder, the trial court gave weight and credence to the positive testimony of private complainant and did not dignify accused-appellant's defense of alibi. Said the trial court:

"Scrutinizing the respective versions of the prosecution and the defense, there is more reason to believe the version of the prosecution that accused Juanito Briones was the one [who] inflicted the stab wound upon the complainant. The testimony of the private complainant has all the earmarks of credibility, he is straightforward, consistent in giving a clear picture of the whole stabbing incident that transpired on September 17, 2007.

On the other hand, Juanito Briones set up the defenses of alibi and denial. His evidence is to the effect that on June (sic) 17, 2007 at around 11:30 o'clock in the evening when the stabbing incident occurred he was inside the "Carinderia" together with his daughter they were eating porridge. After eating, they went home at around 11:35 o'clock in the evening.

x x x      x x      x x x

Further, the positive identification made by private complainant, the conclusion is inescapable that accused Briones was the one to be responsible for the stabbing incident for the stabbing incident on September 17, 2007 and therefore, a judgment of conviction is in order."

Accused-appellant, however, asseverates that although the defense of alibi is weak, he should be acquitted because the evidence of the prosecution is also weak. Allegedly, it was unlikely for private complainant to have positively and clearly identified him if the former immediately ran away after the attack.

The asseveration is unfounded.

Basic are the elements of murder, to wit: (i) a person was killed; (ii) the accused killed him or her; (iii) the killing was attended by any of the qualifying circumstances mentioned in Article 248 of the Revised Penal Code (RPC); and, (iv) the killing is not parricide or infanticide.<sup>[11]</sup>

In his direct testimony, private complainant positively identified accused-appellant as his assailant and candidly narrated the material events showing how the crime was perpetrated with treachery. Thus:

"Hon. Eduardo Leagspi (Public Prosecutor):

Mr. Witness, on September 17, 2007, at about 11:30 in the evening, do you know where you were?

Renato Pia y Ubatay (Private Complainant):

I was on my way home. I was along Briones St., Sir.

x x x            x x x            x x x

Q: While walking thereat at that time, was there any unusual incident that happened?

A: While I was walking thereat, suddenly Juanito Briones appeared and put his arms over my shoulder and told me that "YOU ARE NOT FROM THIS PLACE", and simultaneously stabbed me, Sir.

Q: After you were stabbed by the accused, what did you do?

A: I tried to escape and ran away, but again he went after me and stabbed me at my right upper arm, Sir.

x x x            x x x            x x x

Q: After that, what transpired after that?

A: Again, I tried (sic) myself from him and ran way, then I reached home and my family brought me to the East Avenue Medical Center, Sir.

Q: By the way, this Juanito Briones, who stabbed you, is he inside the courtroom?

A: Yes, Sir.

Court Interpreter:

WITNESS IS POINTING TO A MAN WEARING A YELLOW T-SHIRT, AND WHEN ASKED ABOUT HIS NAME, ANSWERED THAT HE IS JUANITO BRIONES, ACCUSED IN THIS CASE.

Atty. Alexis Bartolome (Counsel for the Accused):

Why are you sure, Mr. Witness, that the accused was the one who stabbed you, when in fact there was no occasion in the past that you talk to him?

x x x            x x x            x x x

Renato Pia y Ubatay (Private Complainant):

Because when he put his arms around me, I saw his face,  
Sir.

Atty. Alexis Bartolome (Counsel for the Accused):

Is that the place where you stabbed, Mr. Witness, and the  
place was not well lighted?

Renato Pia y Ubatay (Private Complainant):

We were face to face when he put his arms around me.  
So, I really saw his face, Sir."<sup>[12]</sup>

Private complainant also testified on the favorable condition of visibility at the time  
of the incident. Thus:

"Court:

The defense counsel asked you about the lighting  
condition, and you said: "Yes". That it was dark. Then you  
were stabbed. Are you repeating the same answer?

Renato Pia y Ubatay (Private Complainant):

Yes, Your Honor.

Court:

From the place where accused put his arms on your  
shoulders, how far was the nearest light?

Renato Pia y Ubatay (Private Complainant):

Up to that cabinet, Your Honor.

Hon. Eduardo Legaspi (Public Prosecutor):

About 5 meters.

x x x            x x x            x x x

Court:

According to you that when accused stabbed you, you  
looked at him?

Renato Pia y Ubatay (Private Complainant):

Yes, Your Honor.