

FIRST DIVISION

[G.R. No. 142430, September 13, 2001]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
RONNIE QUINICIO @ "GALON" AND RAFAEL QUINICIO, JR. @
"RAFFY," ACCUSED-APPELLANTS.**

D E C I S I O N

DAVIDE, JR., C.J.:

This is an appeal from the decision^[1] of 8 November 1999 of the Regional Trial Court of Kalibo, Aklan, Branch 2, in Criminal Case No. 5341, finding accused-appellants Ronnie Quinico *alias* Galon (hereafter RONNIE) and Rafael Quinico, Jr. *alias* "Raffy" (hereafter RAFAEL) guilty beyond reasonable doubt of the crime of murder for the death of Ritchie E. Bantigue (hereafter RITCHIE), sentencing each of them to suffer the penalty of *reclusion perpetua*, and ordering them to jointly and severally indemnify the heirs of the victim the amount of P50,000, and pay the costs of suit.

An Information^[2] for murder was filed on 12 February 1999 charging RONNIE and RAFAEL with murder, committed as follows:

"That on or about the 22nd day of November, 1998, in the afternoon, in Barangay Morales, Municipality of Balete, Province of Aklan, Republic of the Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and helping one another, with the use of superior strength, with treachery, evident premeditation and with intent to kill, did then and there wilfully, unlawfully and feloniously attack, assault, and stab one RITCHIE E. BANTIGUE with a knife, thereby inflicting upon the latter mortal injuries, to wit:

- "1. Stab wound 1 inch in length 0.5 inch in width at the base of the anterior aspect of the neck.
2. Stab wound 1 inch in length 0.5 inch in width at the left hypochondriac region coursing posteriorly.
3. Stab wound 1 inch in length 0.5 inch in width just below the right nipple coursing posteriorly and injuring the lung.
4. Stab wound 1.5 inch in length 0.5 inch in width just below the left scapula coursing slightly downward and anteriorly.
5. Incised wound 1.5 inch in length right palm."

as per Medical Certificate issued by Dr. Alfredo B. Villaruel, Rural Health Physician, Rural Health Unit, Balete, Aklan, hereby attached as Annex "A," which injuries directly caused the death of RITCHIE E. BANTIGUE.

That as a result of the unlawful acts of the accused, the heirs of the deceased suffered actual and compensatory damages in the amount of P50,000.00.

CONTRARY TO LAW.

At their arraignment^[3] on 14 April 1999, RONNIE and RAFAEL each pleaded not guilty to the crime charged.

Trial on the merits ensued after pre-trial was terminated on 1 June 1999.^[4] The witnesses presented by the prosecution were Rommel Revesencio, Rolly Revesencio, SPO3 Rex delos Reyes, and Dr. Alfredo B. Villaruel. Their testimonies are hereafter summarized.

Rommel Revesencio testified that on 22 November 1998, at around 5:30 in the afternoon, he and his brother Rolly were in Barangay Morales, Balete, Aklan, riding in a tricycle driven by the victim, RITCHIE. Rommel and Rolly were on their way from a cassava plantation to Barangay Arcangel in the same municipality. Their way was blocked by RAFAEL who was standing in the middle of the road with his arms outstretched. RAFAEL boxed RITCHIE and the two fought for about ten minutes. Rommel and Rolly tried to pacify them to no avail. RONNIE then stabbed RITCHIE several times. RITCHIE fell on a nearby ricefield. RAFAEL then took the knife from RONNIE and stabbed RITCHIE in the neck. After stabbing RITCHIE, RAFAEL and RONNIE chased the Revesencio brothers. The latter were able to outrun their pursuers and they proceeded to Rolly's house.^[5]

Rolly Revesencio corroborated Rommel's testimony that they were on board RITCHIE's tricycle when it was blocked by RAFAEL, who was standing in the middle of the road. RAFAEL boxed RITCHIE hard on the left side of the face. The latter alighted from the tricycle and the two engaged in a fistfight for ten minutes. RONNIE then stabbed RITCHIE three times, the first time on the back. RITCHIE and RAFAEL were still boxing when RONNIE stabbed him. RITCHIE fell and RAFAEL took the knife from RONNIE and stabbed RITCHIE in the neck. RAFAEL and RONNIE then chased Rolly and Rommel, although they were unable to catch the latter.^[6]

SPO3 Rex delos Reyes, police investigator of the Balete Police Station, testified that on 22 November 1998, at 5:35 p.m., he received information that a stabbing incident had occurred in Barangay Morales, Balete, Aklan. He proceeded to the crime scene with a photographer who took pictures of the dead body. He also interviewed some people present during the incident and was told that a certain "Galon" (RONNIE's nickname) Quinico stabbed the victim and that he was accompanied by another person. Delos Reyes observed that the windshield and headlight of the motorcycle driven by RITCHIE had been damaged by a bladed instrument. He was informed that the person who inflicted the damage was RAFAEL. The following day, RONNIE surrendered himself and his knife to the police.^[7]

Dr. Alfredo B. Villaruel, a Rural Health Physician of the Rural Health Unit of Balete, Aklan, conducted a post mortem examination of RITCHIE's body on 23 November

1998 at Barangay Arcangel, Balete, Aklan. The body sustained four stab wounds and an incised wound. The cause of death was "hemorrhagic shock secondary to stab wounds." He issued a death certificate, Exhibit "D," and prepared a sketch, Exhibit "F," of the wounds showing that the stab wound identified as number 4 is on the victim's back, which indicates that the assailant was behind the victim when the former inflicted the wound.^[8]

The witnesses for the defense were Dr. Alfredo Villaruel, Arnaldo Ruiz, RAFAEL, RONNIE and Joseph de Pablo.

Dr. Alfredo Villaruel testified that when he examined RAFAEL on 23 November 1998, he found that he had a lacerated wound on the upper lip and injuries on his fingers. The injuries could have been caused by a blunt instrument, like the back of a bolo, or blows due to boxing or kicking.^[9]

Arnaldo Ruiz declared that he knew RITCHIE, RAFAEL, RONNIE and prosecution witnesses Rolly and Rommel Reyesencio because they are residents of Barangay Morales, Balete, Aklan. The Reyesencio brothers were close friends of RITCHIE and called each other "*kumpare*."

On 22 November 1998, at around 5:30 p.m., while he was on his way home from his ricefield, Arnaldo saw RITCHIE, Rommel Reyesencio and RAFAEL fighting each other near the store of Pacita Patricio and a waiting shed. He was about 30 meters from them and he was asked by Rolly Reyesencio to help pacify the fighters. With the help of another bystander, Joseph de Pablo, they pulled RAFAEL and brought him to the side of the road. RONNIE arrived and confronted RITCHIE. He stabbed RITCHIE in the stomach. RITCHIE ran and jumped into the rice field and RONNIE followed him and stabbed him in the back causing him to fall down. Even after RITCHIE had fallen, RONNIE continued to stab him. RONNIE left and the *barangay tanods* arrived a little later and pulled RITCHIE's body to the side of the road. The policemen arrived about thirty minutes later and took pictures of the body. Arnaldo identified the pictures^[10] as those of the dead RITCHIE.^[11]

RAFAEL denied any participation in the killing. It was only his brother RONNIE who killed RITCHIE. On 22 November 1998, he was at the store of Pacita Patricio buying cigarettes and candies. He was about to leave the store when RITCHIE arrived riding a tricycle together with Rommel and Rolly Reyesencio. RITCHIE challenged him to a fistfight. He was surprised with the challenge because he had no previous quarrel or misunderstanding with any of them. The three men alighted from the tricycle and Rommel punched RAFAEL in the mouth. Rolly apologized to him for what Rommel had done, but RITCHIE also punched him, hitting his right jaw. The two exchanged blows. Arnaldo Ruiz arrived and pulled RAFAEL away, but RITCHIE continued punching him. Joseph de Pablo, who was at the waiting shed, came to help stop the fight. RITCHIE and the Reyesencio brothers followed them across the road.

RAFAEL claimed that he was groggy from the beatings that he suffered and only came to know from Arnaldo Ruiz that RONNIE had stabbed RITCHIE. RAFAEL then went home with RONNIE and decided to report the incident to the *barangay* captain. On his way to the *barangay* captain he passed by the place where the incident happened and saw the body of RITCHIE by the side of the road lying face

up. He had noticed RONNIE with a stainless steel knife at home, the same knife RONNIE used to stab RITCHIE. RAFAEL denied stabbing RITCHIE in the neck because he was unable to do much, being already weak from the injuries he had earlier sustained.^[12]

RONNIE admitted stabbing RITCHIE on 22 November 1998. When he went to the waiting shed on that day, he saw Joseph de Pablo and Arnaldo Ruiz holding RAFAEL while RITCHIE and Rommel were kicking him. He thought that RAFAEL had been stabbed because his mouth was bleeding and there was much blood on his shirt. When RITCHIE and Rommel saw him, they stood back from RAFAEL. RONNIE confronted RITCHIE and asked him why he stabbed RAFAEL. RITCHIE answered, "You also?"; and tried to box RONNIE. The latter evaded the blow and stabbed RITCHIE on his left chest, below the breast. RITCHIE ran towards the ricefield and RONNIE followed him. He stabbed RITCHIE again while he was chasing him, hitting him in the back, near his left shoulder. RONNIE continued to stab RITCHIE because the latter was still alive. RONNIE then went home but decided to proceed to a hut some 250 meters away from his house for fear of retaliation by RITCHIE's family. He thought of spending the night at a cousin's house far from the area, and it was there that his father fetched him the next morning to convince him to surrender. On his way to the police station, he met the policemen by the road near their house and turned the knife over to them.^[13]

Joseph de Pablo testified that he knew the victim RITCHIE and the accused RAFAEL and RONNIE. He also knew the Reyesencio brothers as RITCHIE's friends. On 22 November 1998 at about 4:00 p.m., he was in Barangay Morales, Balete, Aklan, standing near the store of Pacita Patricio. He was alone at the waiting shed and he did not notice RONNIE in the vicinity although he saw RAFAEL buying candies and cigarettes at Pacita's store. While RAFAEL was leaving the gate of the store, RITCHIE alighted from a tricycle and challenged RAFAEL to a fistfight. Rolly Reyesencio approached RAFAEL and apologized saying, "*Pare*, forgive him."

Joseph refuted the testimonies of the Reyesencio brothers that RAFAEL stood in the middle of the road, extended his hands and blocked RITCHIE's tricycle. It was RITCHIE who first boxed RAFAEL and then Rommel also punched RAFAEL. A fistfight ensued between the three of them with RAFAEL fighting back and hitting RITCHIE and Rommel, both of whom appeared drunk. Joseph saw Rolly and Arnaldo Ruiz standing on the side of the road. He and Arnaldo pulled RAFAEL away from RITCHIE and Rommel in an effort to stop the fight. When RONNIE arrived, RITCHIE and Rommel stopped kicking RAFAEL. RONNIE confronted RITCHIE and stabbed him. RITCHIE ran towards the ricefield and RONNIE chased him and stabbed him in the back. RITCHIE fell down. RONNIE continued to stab RITCHIE, while the Reyesencio brothers stayed by the roadside. Rolly asked Joseph to bring Rommel to the house of Emiliano Patricio to keep him away from RONNIE who might stab him. He went to the waiting shed and when he came back, he saw RONNIE and RAFAEL running towards RONNIE's house. When the *barangay tanods* arrived, they pulled the body of RITCHIE from the ricefield and brought him to the side of the road.^[14]

The prosecution presented as rebuttal witness one Ex Feliciano, a farmer and resident of Barangay Morales, Balete, Aklan. He declared that on 22 November 1998, as he was leaving his sister's house at 6:00 p.m., he heard a noise coming from outside the house. The noise turned out to be caused by a fight occurring some

100 meters away. He went nearer and saw RITCHIE and RAFAEL fighting each other and Rolly and Rommel Revesencio trying to pacify them. RONNIE suddenly stabbed RITCHIE in the back. RITCHIE ran towards the ricefield to escape his attacker but he fell down. RAFAEL then got the knife from RONNIE and stabbed RITCHIE in the neck near his throat. RAFAEL and RONNIE then went home, leaving their victim dead. RAFAEL returned later with a bolo and hacked RITCHIE's tricycle.^[15]

In its decision^[16] the trial court found for the prosecution and rendered judgment as follows:

WHEREFORE, the Court finds both accused Rafael Quinico, Jr. alias "Raffy" and Ronnie Quinico alias "Galon" GUILTY beyond reasonable doubt of the crime of MURDER defined and penalized under Article 248 of the Revised Penal Code as amended by RA 7659, and hereby sentences them of [sic] RECLUSION PERPETUA.

The two said accused are also ordered to pay jointly and severally to the heirs of the victim Ritchie Bantigue the amount of P50,000.00 for the loss of the latter's life in accordance with the present jurisprudence on the matter.

With COSTS against both accused.

SO ORDERED.^[17]

RONNIE and RAFAEL seasonably appealed the decision.

In their Appellants' Brief RONNIE and RAFAEL contend that the trial court erred in (a) convicting RONNIE of murder although treachery was never established as attending the commission of the crime; (b) not taking into consideration the mitigating circumstances of voluntary surrender, plea of guilty and incomplete defense of a relative in favor of RONNIE; and (c) convicting RAFAEL although his guilt was never proven beyond reasonable doubt as the evidence against him is patently weak and insufficient to convict.

RONNIE and RAFAEL maintain that the testimonies of Rommel Revesencio, Rolly Revesencio and Ex Feliciano are all materially inconsistent with the findings of the physician who examined the body of the victim. While these witnesses were one in stating that RONNIE first stabbed the victim in the back, the findings of Dr. Villaruel in his medico-legal report show that the back injury, injury number 4, was actually the fatal blow. They argue that if injury number 4 were the first stab wound inflicted then the victim should have died then and there, instead of still being able to flee to the ricefield. RONNIE's statement that the first injury he delivered was to RITCHIE's lower left chest is thus more consistent with the medical findings.

They state further that RONNIE did not stab RITCHIE out of any evil motive, but rather from a sincere desire to rescue his brother RAFAEL from being mauled to death by him and the Revesencio brothers. There was no treachery in his action because there was a quarrel and the attack was continuous. Furthermore, the mitigating circumstances of voluntary surrender, admission of guilt and incomplete