

## THIRD DIVISION

[ G.R. Nos. 94130-32, May 05, 1997 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JUAN ISRAEL Y BISMONTE, ACCUSED-APPELLANT.**

### D E C I S I O N

**DAVIDE, JR., J.:**

Accused Juan Israel y Bismonte was charged with frustrated murder and two (2) counts of murder in Criminal Cases numbered Q-55757, Q-55758 and Q-55759, respectively, of the Regional Trial Court of Quezon City, Branch 88. The accusatory portions of the informations in these cases read as follows:

#### **Criminal Case No. Q-55757**

That on or about the 2nd day of February, 1988 in Quezon City, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with intent to kill, did then and there, willfully, unlawfully and feloniously [sic] with treachery stab PETER SY Y GO, with the use of a bladed weapon, hitting him on the left anterior axillary line, thereby inflicting upon him [a] serious and mortal wound, thus performing all the acts of execution which would have produced the crime of MURDER, but which nevertheless did not produce it, by reason of causes independent of his own will, that is the [sic] timely medical intervention, to the damage and prejudice of said PETER SY Y GO in such amount as may be awarded to him under the provisions of the New Civil Code of the Philippines.<sup>[1]</sup>

#### **Criminal Case No. Q- 55758**

That on or about the 2nd day of February, 1988 in Quezon City, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with intent to kill, did then and there, wilfully, unlawfully and feloniously [sic] with treachery, stab PABLO QUIOHILAG Y LIM, with the use of [a] bladed weapon, hitting him on the body, thereby inflicting upon him [a] serious and mortal wound, which was the direct and immediate cause of his death, to the damage and prejudice of the heirs of said PABLO QUIOHILAG Y LIM in such amount as may be awarded to them under the provisions of the New Civil Code of the Philippines.<sup>[2]</sup>

#### **Criminal Case No. Q-55759**

That on or about the 2nd day of February, 1988 in Quezon City, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with intent to kill, did then and there, wilfully, unlawfully

and feloniously [sic] with treachery stab JOHNNY QUIOHILAG Y LIM, thereby inflicting upon him [a] serious stab wound, which was the direct and immediate cause of his death, to the damage and prejudice of the heirs of said JOHNNY QUIOHILAG Y LIM in such amount as may be awarded to them under the provisions of the New Civil Code of the Philippines.<sup>[3]</sup>

The three cases were consolidated and jointly tried. At his arraignment on 22 February 1988, accused entered a plea of not guilty in each of the three cases.<sup>[4]</sup>

The prosecution's version of the event as testified to by its witnesses, namely: Tomas Abril, an eyewitness; Patrolman Jonah Manajo; Patrolman Rolando Fernandez; Aida Quiohilag; Dr. Isaias Cupino; Dr. Norberto Lengheng-Uy; Dr. Maximo Reyes, Sr., Medico-Legal Officer of the National Bureau of Investigation; and Dr. Mariano Cueva, Jr., Medico-Legal Officer of the National Bureau of Investigation, is summarized in the Appellee's Brief as follows:

Pablo Quiohilag was the owner of Tramcar Accessories Shop, a retail establishment concentrating on car accessories located at 135 G. Araneta Avenue, Barangay Imelda and co-managed by his brother Johnny Quiohilag (TSN dated July 20, 1988, p.19). On February 2, 1988 at about 11:00 o'clock in the morning inside the store, the two brothers and a certain Eric Espiritu had a heated argument. The argument apparently stemmed from the information relayed by Johnny Quiohilag to a lady customer who asked [for the] assistance of any person who could help her repair the lock of her car. As Johnny Quiohilag told her to get a freelance locksmith, this was resented by Eric Espiritu who was a locksmith and who was then present (TSN dated August 14, 1988, p. 19). In the course of the argument, Eric Espiritu shouted "If you will come out, I will finish you" (lumabas ka lamang at yari ka) to Johnny Quiohilag. Afterwards, Johnny Quiohilag went about his normal work inside the store while Eric Espiritu stood guard outside near the cigarette vendor (TSN dated July 20, 1988, p.14).

At around 4:00 o'clock in the afternoon, Johnny Quiohilag went out of the store to attend to a customer. Eric Espiritu followed him and boxed him on the face (Ibid.). Johnny Quiohilag retaliated and a scuffle ensued. A customer by the name of Peter Sy tried to pacify the two. Pablo Quiohilag also went out of the store to pacify the two and it was at this point that appellant Juan Israel, a close friend of Eric Espiritu followed behind with his hand in his pocket (p. 15, TSN dated August 4, 1988, p.2, p. 6).

Without any warning, appellant Juan Israel took out a balisong and suddenly started stabbing his victims (TSN dated August 4, 1988, p. 25). He first stabbed Pablo Quiohilag. Then he stabbed Johnny Quiohilag. Finally, he stabbed Peter Sy. All three sustained stab wounds on their left armpits below the nipple (Ibid.).

After the stabbing incident, appellant Juan Israel quickly ran away. However, he was collared by Patrolman Jonah S. Manajo of the Western Police District, Manila who incidentally happened to be near the scene of

the crime. Patrolman Jonah S. Manojó seized the fan knife of appellant Juan Israel and brought him to the station for questioning (TSN dated August 12, 1988, p.3).

Meanwhile, all the three victims were rushed to U.E.R.M. Hospital for immediate medical treatment. Among the persons who helped bring the victims to the hospital was Tomas Abril, an employee of Pablo Quiohilag and the prosecution star witness (TSN dated July 20, 1988). Of the three victims, only Peter Sy survived. Pablo and Johnny Quiohilag died several hours later from hemorrhage secondary to stab wound each sustained on the chest (TSN dated April 12, 1989, p. 5; TSN dated January 10, 1989, p. 6).<sup>[5]</sup>

The postmortem findings of Dr. Maximo Reyes entered in his Autopsy Report<sup>[6]</sup> show that Pablo Quiohilag sustained the following stab wounds:

1) Illiptical, gaping, 3.0 cm. with clean cut edges and with one extremity sharp, the other is contused; located over the left side of the chest, 10.0 cm. From the anterior median line, level of the 4th intercostal space, directed medially, downward and backward, involving skin and soft tissues into the thoracic cavity, lacerating the left ventricle of the heart with an approximate depth of 11.5 cm.

2) Illiptical, gaping, 3.0 cm. with clean cut edges and with one extremity sharp, the other the contused, located over the left side of the chest, level of 5th intercostal space and 14.0 cm. from the anterior median line, directed medially backwards and slightly downwards involving skin and soft tissues into the left thoracic cavity, lacerating the upper lobe of the left lung with an approximate depth of 11.0 cm.

3) Illiptical, gaping, 3.0 cm. with clean cut edges and with one extremity sharp, then other is contused, located over the left side of the chest, 16.0 cm. from the anterior median line and level of 6th intercostal space, directed medially, downwards and backwards, involving skin and soft tissues into the thoracic cavity, lacerating the lower lobe of left lung with an approximate depth of 10.5 cm.

The postmortem findings of Dr. Mariano Cueva, Jr. entered in his Autopsy Report<sup>[7]</sup> show that Johnny Quiohilag<sup>[8]</sup> suffered the following:

Wound, stab: infraaxillary region, left, 19.0 cm. from the posterior medline, 2.0 cm. long, gaping, clean cut, supero-lateral extremity slightly contused and sharp infero-medial extremity, directed forwards, slightly upwards and medially, into the chest cavity at the level of fourth intercostal space, involving the left lower lobe of the lungs, aorta and through and through the right ventricle of the heart.

As to the civil liability of the accused, the trial court observed:

The cancelled checks in the total amount of P68,530.00 proves the expenses incurred by heirs of the Quiohilag brothers in regards to the stabbing and death of said Quiohilag brothers. (Exhibits "E," "E-2," "F" and "F-1") considering that his net annual income of the Accessories Shop jointly operated by the Quiohilag brothers was in the amount of

P300,000.00. This business is now lost to the family of both the aforesaid surviving spouses. As the victim[s] died in their late thirties, a three-year operation by the victims of the said business would have yielded them an income of P900,000.00. Each surviving spouse is entitled to one-half of this amount, (Article 2202, 2205, and 2206, Civil Code) plus moral damages in the amount of P20,000.00 each surviving spouse is entitled.

[9]

Accused, corroborated by his witness Rey Chico, had a different story to tell. We quote verbatim the trial court's summary of his story, to wit:

Accused JUAN ISRAEL is taking up the cudgel for his defense, testified that as a freelance locksmith of Tramcar Accessories, he has no employer. In his trade he duplicates car keys with ease and sometimes installs rubber compartments in cars using the tools of his trade. He knows Eric Espiritu alias "Baka." He knows that Pablo and Johnny are owners of Tramcar Accessories and that there was an attitude of resentment "sama-an ng loob" between Johnny and Eric Espiritu. He knows Rey Chico being his companion in his work.

It was at around 11:00 o'clock in the morning of February 2, 1988 when there was a heated argument between Eric Espiritu and Johnny Quiohilag but the proverbial cooler heads managed to pacify the two. At 4:30 P.M. of the same date, Johnny, Pablo and a companion went out of their store and ganged up on Eric Espiritu until he was sprawled on the ground. Eric Espiritu got up and run to his tool box retrieving a knife therefrom and used the same in stabbing the three, Johnny, Pablo, and their companion. The stabbing lasted for 5 minutes. After the [sic] stabbing the three, Espiritu ran away. It is not true that he, Juan Israel was the one who stabbed Johnny, Pablo and the other person. Tomas Abril who testified against him did so because when he gave me a customer he wanted a share of my profits which was bigger than mine. He held this grudge against me by refusing to talk to me. Whenever Tomas Abril would bring out some accessories, Juan Israel would report the matter to [the] brothers Quiohilags and sometimes Tomas Abril was scolded. Accused continuing his narration says that the three wounded persons, Johnny, Pablo, and their companion were taken to the hospital; that on his way home and at the corner of Palanca and Araneta Streets, a policeman invited him and poked a gun at him and he was taken to the Galas Police Station where he was tortured and this torture made him admit the killings; that it is not true that he was arrested in front of Tramcar Accessories but some 100 meters from said place. On cross-examination accused states that the stabbing happened at around 4:30 P.M.; that he was with Rey Chico at the time some 12 to 13 meters from the place of incident; and that he did not sign any paper.

Continuing his narration accused asserts that as Deacon of the Iglesia Ni Cristo, he has not quarreled with anyone for the last five years and he preaches to people not inside their chapel but outside their chapel or church or temple in Bago Bantay every Tuesday or Thursday; that the first commandments enunciated in the "PASUGO" (Exhibit "2") is Join the INK and be saved"; and that a member of the Iglesia Ni Kristo are [sic]

excommunicated when convicted for a criminal case like Dario and Jose DecoreDa, one of his inmates, who was convicted of theft.<sup>[10]</sup>

The trial court gave full credit to the prosecution's version. It found Tomas Abril's testimony "positive and credible" and observed that "in spite of the extensive cross-examination [he] steadfastly maintained in his mind and narration that he has actually witnessed the commission of the crime on that fateful late afternoon of February 2, 1988 and positively identified the accused as the perpetrator of the crime of murder on two counts and frustrated murder."<sup>[11]</sup> On the other hand, it rejected the version of the accused not only because he admitted the killing at the Galas Police Sub-station, but also because his subsequent denial could not prevail over the positive identification made by witness Abril that the accused was the killer. It did not believe the claim of accused that he was tortured and forced to admit the killing for lack of evidence and for his failure to file a complaint against the police officer who allegedly tortured him, and considered against the accused as strong indication of guilt his flight immediately after committing the crime which, nevertheless, was aborted by his arrest.

Finally, the trial court appreciated against the accused the qualifying aggravating circumstance of treachery, which was duly alleged in the informations. As to the killing of Pablo Quiohilag, it found undisputed that accused, with his arms folded below his breast, while watching Eric Espiritu and Johnny Quiohilag boxing each other, followed Pablo as the latter was coming out of Tramcar, then suddenly stabbed Pablo with a balisong which the accused drew from his pocket. However, it made no finding as to how Johnny Quiohilag was stabbed. As to the stabbing of Peter Sy, it observed:

On the stabbing of Peter Sy, Patrolman Rolando Fernandez testified that he was able to interview the former who said that he did not see the person who stabbed him; neither did he see the knife used in the stabbing, although Tomas Abril pointed the accused as the person who stabbed Peter Sy (TSN, Nov. 8, 1988, p.7) because of the suddenness of the attack [sic] on Peter Sy. The latter's attention was focused on trying to pacify the fighting protagonists, Eric and Johnny. This circumstance and the suddenness of the assault on him by the accused (which the accused took advantage of to ensure the execution of his nefarious objective without risk to himself arising from the defense which Peter Sy might make) rendered Peter Sy bereft of any means to defend himself.<sup>[12]</sup>

Accordingly, in its decision<sup>[13]</sup> of 27 April 1990, the trial court found the accused guilty beyond reasonable doubt of murder on two counts as charged in Criminal Case Nos. Q-55758 and Q-55759, and of frustrated murder in Criminal Case No. Q-55757, and sentenced the accused:

- 1) To suffer the penalty of Reclusion Perpetua for the death of Johnny Quiohilag y Lim, there being no aggravating or mitigating circumstance to appreciate;
- 2) To suffer the penalty of Reclusion Perpetua for the death of Pablo Quiohilag y Lim, there being no aggravating or mitigating circumstance to consider;
- 3) To suffer the indeterminate penalty of 4 years, 2 months and 1 day of Prison