

## FIRST DIVISION

[ G.R. No. 212818, January 25, 2017 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
GREGORIO QUITA ALIAS "GREG", ACCUSED-APPELLANT.**

### R E S O L U T I O N

**DEL CASTILLO, J.:**

This is an appeal from the January 10, 2014 Decision<sup>[1]</sup> of the Court of Appeals (CA) in CA-G.R. CR-HC No. 04782, the dispositive portion of which reads:

WHEREFORE, in view of the foregoing, the appeal is hereby DENIED for lack of merit. The Decision dated December 1, 2010 rendered by the Regional Trial Court of Parañaque City, Branch 195, in Criminal Case No. 06-0294 is hereby MODIFIED, increasing the amount of civil indemnity ex delicto to P75,000.00, moral damages to P50,000.00 and exemplary damages to P30,000.00.

SO ORDERED.<sup>[2]</sup>

#### ***Factual Antecedents***

The two accused in this case, Gregorio Quita, alias Greg (Gregorio), and Fleno Quita, alias Eddie Boy (Fleno) were indicted for Murder before the Regional Trial Court (RTC) of Parañaque City, in an Information which alleged:

That on or about the 17<sup>th</sup> day of November[, ] 2002, in the City of Parañaque, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, armed with bladed weapon, conspiring and confederating together and both of them mutually helping and aiding one another, and with treachery and abuse of superior strength, did then and there willfully, unlawfully and feloniously attack, assault and stab one ROBERTO SOLAYAO, thereby inflicting upon the latter mortal wounds which directly caused his death.

CONTRARY TO LAW.<sup>[3]</sup>

As these accused were not promptly apprehended when the foregoing Information was filed, this case was ordered archived by the RTC. But on January 8, 2007, Gregorio was arrested, hence the case was revived on the said date.

On January 17, 2007, Gregorio, assisted by counsel, was arraigned and entered a negative plea to the charge against him.<sup>[4]</sup> Pre-trial was held,<sup>[5]</sup> after which trial on the merits followed.

### ***Version of the Prosecution***

The case for the prosecution is built upon the testimonies of Paquito Solayao (Paquito) and Dr. Edgardo Vida (Dr. Vida).

Paquito testified that the deceased victim in this case, Roberto Solayao (Roberto), was his eldest son. He claimed that he had known Gregorio and Fleno for about a year prior to the killing of Roberto, because these two were the ones who delivered water in their locality; that on November 17, 2002 at around 8:30 in the evening he was at home at Greenland Street, Better Living Subdivision, Parañaque City having just arrived from work, when his daughter told him that Roberto was having a drinking session nearby; that while on his way to fetch Roberto, he saw three persons fighting; that when he went near the trio he saw Gregorio holding Roberto's hand at the back while Roberto was being stabbed by Fleno; that when he shouted, his son's assailants took to their heels; and that he ran after them, but when the two reached a dark alley he no longer pursued them. He then went back to where Roberto was lying, and with the help of his neighbors, brought the stricken Roberto to the hospital. But when they arrived at the hospital the doctor told him that Roberto was already dead. He spent about P40,000.00 for Roberto's funeral and burial expenses, but only the expenses amounting to 25,000.00 were covered by receipts. Paquito claimed that Roberto's death was very painful to him.

Dr. Vida, former NBI<sup>[6]</sup> Medico-Legal Officer, testified that he was the one who conducted an autopsy on Roberto's cadaver. His findings were embodied in the Autopsy Report,<sup>[7]</sup> wherein he affirmed that the victim sustained six contused abrasions, three incised wounds, and six stab wounds. According to this witness, the most fatal wound, labeled Wound No. 1, was the one inflicted at the deceased's right shoulder (or deltoid area) which penetrated the large vessels of the axillary artery. Without this Wound No. 1, the victim might have survived as the other wounds were only superficial. Dr. Vida opined that the wounds inflicted on the deceased could have been inflicted by one and the same weapon, possibly a double-bladed instrument.

### ***Version of the Defense***

The defense presented Gregorio and his wife Analyn Quita (Analyn).

Gregorio made a total denial of the charge against him. He denied that he had ever known the victim or met him even once. He claimed that prior to the incident in question he was residing at No. 10 SMI Compound, Sucat, Kupang, Muntinlupa City; that he used to work as a truck driver for Leslie Corporation but that on the date of the incident, November 17, 2002, he was no longer employed with Leslie, and was looking for a job; that it was only in December 2002 that he was able to find a job as a driver for a trucking company, the name of which he could no longer remember; that he worked for this trucking company until 2004; that his job was to deliver cup noodles in Metro Manila and in the provinces; that he was assisted in this job by a "*pahinante*" named Danilo; that on the date of the incident, he left their house at 10:30 in the morning and together with his brother, Fleno, went to Better Living Subdivision in Parañaque City where their "*kababayans*" Gerry Virtudazo (Gerry) and Jose Virtudazo (Jose) were working as water delivery boys; and, that when they got to that subdivision, Gerry and Jose invited them to a

birthday celebration. He heard that the birthday celebrant was the child of the owner of the house where the celebration was taking place. But he was not introduced, either to the birthday celebrant, or to the owner of the house. After they had eaten and had partaken of liquor, they sang songs inside the house of the birthday celebrant. While they were singing, four men, not one of whom he knew, arrived. One of these four, he later heard, was named "Berto". After these four had finished eating, they went outside the house. At this point, the owner of the house told his group that this "Berto" was angry with them. To avoid trouble, he and his companions decided to leave the place of celebration at around 4 p.m. Not far away from the celebrant's house, however, he and his companions saw "Berto's" group waiting for them along the road. A fight erupted, and someone gave him a blow at the right side of his face. Fortunately, the residents of the place were able to pacify the protagonists. He and his companions then left the place on board a tricycle. He reached his house at Sucat, Kupang, Muntinlupa City between 6:30 to 7 p.m. and told his wife about the incident that happened that day; his wife advised him not to go to that place anymore. In 2004 he transferred his family to Paliparan 3, Dasmariñas City in Cavite, where his parents had a piece of land. Here, he found work as a tricycle driver. Sometime in the early part of January 2007, while driving his tricycle, someone told him to go to Parañaque City because a warrant for his arrest was waiting for him there. He went with that person to Parañaque City because he knew he did not commit any crime. But when he got there, he was at once brought to the Special Investigation Division at the Parañaque Coastal Area, where he was told to sign a blank piece of paper, which, according to the person who brought him there, meant that he had killed somebody from the Better Living Subdivision in Parañaque City. After signing the blank piece of paper he was detained in jail and was told that if he believed he was innocent of the accusation against him, he should prove his innocence in court. He said that he was never brought to the prosecutor's office in Parañaque City. He insisted that there was never a time that he left Kupang, Muntinlupa City from November 17, 2002 up to the time he transferred to Dasmariñas City in Cavite in 2004. He claimed that at the time of the incident, the other accused, his brother Fleno, was residing at Bicutan in Taguig City, and that Fleno left Bicutan only in 2003.

Analyn corroborated her husband's testimony in its entirety.

### ***Ruling of the Regional Trial Court***<sup>[8]</sup>

The RTC sustained the factuality of the treacherous killing of Roberto, labeling it as murder, *viz.*:

The fact of death of the victim was duly established by his death certificate (exhibit "C"). Accused Gregorio was one of those who killed the victim. The killing was qualified by treachery. Obviously, the killing was neither parricide nor infanticide.

This Court finds Paquito Solayao's eyewitness account of the incident worthy of belief. His positive, straightforward, categorical[,] and unequivocal testimony that accused Gregorio held both hands of the victim at the back while being stabbed by his co-accused Fleno who is his brother, deserves full credence. It is worthy of note that Paquito was not shown to have been impelled by ill motive to testify falsely against both accused and indict them for a crime as serious as murder. All that was

shown was his ardent desire to give justice to his murdered son. When there is no showing of any improper motive on the part of the prosecution witnesses to testify falsely against the accused, the logical conclusion is that no such improper motive exists and that their positive and categorical testimonies and declarations on the witness stand under the solemnity of an oath are worthy of full faith and credence (*Buenaventura vs. People*, 493 SCRA 223; *People vs. Cabbab, Jr.*, 527 SCRA 589). In the instant case, absent any evidence of improper motive on Paquito's part to testify as principal witness, his testimony deserves credit (*Nerpito vs. People*, 528 SCRA 93).

Paquito's testimony that both hands of the victim were held at the back by accused Gregorio while being stabbed by accused Fleno shows the presence of treachery because under such situation the victim was deprived of any real chance to fight back and defend himself. In the cases of *People vs. Pascual*, 512 SCRA and *People vs. Concepcion*, 514 SCRA 660[,] the Supreme Court held that treachery is present when the offender commits any crime against persons employing means, methods, or form in the execution thereof which tend directly and especially to insure its execution without risk to the offender arising from any defense which the offended party might make. In the instant case, holding the hands of the victim while being stabbed was the means employed by the accused to insure that the former could not fight back and defend himself.

The defense of denial interposed by accused Gregorio, on the other hand, cannot prevail over Paquito's positive, direct[,] and categorical declarations made in a straightforward manner while in the witness stand that he held both hands of the victim while being stabbed by his brother, accused Fleno. It must be noted that aside from his self[-]serving testimony that on the date in question, he just stayed home after coming from Better Living, Parañaque City where he attended a birthday party and that when they left the house of the birthday celebrant, the group of Berto waited for them on the road and that when they passed in front of them he was allegedly punched by one of Berto's companions, no other clear and convincing evidence was presented to substantiate the same. His "kababayans", Jose and Gerry Vertudasos, were not even presented to establish at least the fact that he indeed was with them from 10:30 in the morning up to 4:00 in the afternoon of November 17, 2002. Neither was his testimony that he was employed as a truck driver with Leslie Corporation prior to the date in question nor that he was employed as delivery boy (driver) of a certain company from December 2002 up to 2004 was duly established. His alleged pahinante, Danilo, was not presented to corroborate such testimony. Even the tricycle driver, who[,] according to his wife Analyn, was the one who informed her that he was arrested while driving his tricycle in Dasmariñas, Cavite, was not presented to corroborate this testimony.

The Supreme Court, in a long line of cases, ruled that evidence[,] to be believed[,] must not only proceed from the mouth of a credible witness but x x x must [also] be credible in itself[,] such as the common experience and observation of mankind can approve as probable under

the circumstances. Unfortunately, the evidence presented by the accused did not pass this test.<sup>[9]</sup>

Upon these facts, the RTC disposed as follows:

WHEREFORE, this Court finds accused Gregorio Quita, GUILTY BEYOND REASONABLE DOUBT of the crime of murder and hereby sentences him to suffer the penalty of *reclusion perpetua* which carries with it the accessory penalties of civil interdiction for life and that of perpetual absolute disqualification which he shall suffer even though pardoned unless the same shall have been expressly remitted therein.

Accused Gregorio Quita is likewise ordered to pay the heirs of the victim the amounts of Fifteen Thousand Pesos (P15,000.00) as actual damages; Fifty Thousand Pesos (P50,000.00) as civil indemnity ex delicto; Forty Thousand Pesos (P40,000.00) as moral damages; and Twenty Thousand Pesos (P20,000.00) as exemplary damages.

The City Jail Warden of Parañaque City is hereby ordered to transfer said accused to the National Penitentiary in Muntinlupa City, immediately upon receipt of this Decision.

As regards accused Fleno Quita, this case shall remain in archive. The alias warrant of arrest issued against him stays.

SO ORDERED.<sup>[10]</sup>

### ***Ruling of the Court of Appeals***

From this judgment, Gregorio interposed an appeal to the CA anchored on a single assignment of error to wit:

THE TRIAL COURT GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY OF THE CRIME CHARGED DESPITE THE PROSECUTION'S FAILURE TO ESTABLISH HIS GUILT BEYOND REASONABLE DOUBT.<sup>[11]</sup>

But the CA predictably sustained the RTC's factual underpinnings of the case, thus:

Paquito Solayao, the victim's father who was an eyewitness to the incident, positively identified Accused-Appellant Gregorio Quita to be the person who held the hands of the victim while the other accused Fleno Quita stabbed the victim. He knew the two accused because they were water delivery boys in the water station three streets away from their place. He saw the accused in the water delivery station one month before and also one week before the incident happened [on] November 17, 2002. The faces of the accused had become familiar to the witness that it is believable for him to recognize them when he saw them ganging up on his son that fateful night. The incident happened in the middle of the street in front of a lamp post so that the witness, who was but five (5) meters away, clearly saw Gregorio Quita holding both the hands of his son, who was struggling, at the back while Fleno Quita stabbed his son.