

SECOND DIVISION

[G.R. NO. 159261, February 21, 2007]

**PEOPLE OF THE PHILIPPINES, PETITIONER, VS. THE
HONORABLE COURT OF APPEALS (FIFTEENTH DIVISION) AND
RAMON GALICIA Y MANRESA, RESPONDENTS.**

DECISION

QUISUMBING, J.:

This petition for certiorari assails the Court of Appeals' Decision^[1] dated May 22, 2003 in CA-G.R. CR No. 23605, entitled "*People of the Philippines v. Ramon Galicia y Manresa*," on the ground that said decision was issued with grave abuse of discretion. The decision reversed the trial court's conviction of herein private respondent Ramon Galicia, and acquitted him.

The informations against the private respondent as one of the accused in two cases for homicide before the Regional Trial Court (RTC) of Oriental Mindoro, Branch 43, read:

Criminal Case No. R-725

The undersigned accuses RAMON GALICIA, ROBERTO [U]RETA, JOJO MANITO, NESTOR VICENTE, JUN BANANG and MERL[I]N VICENTE of the crime of homicide committed as follows:

That on or about the 16th day of August, 1995, at 10:00 o'clock in the evening, more or less, in the Barangay of San Antonio, Municipality of Mansalay, Province of Oriental Mindoro, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with intent to kill and conspiring, confederating and mutually aiding one another, did then and there wilfully, unlawfully and feloniously attack, assault and stab one THELMO ABENIR thereby inflicting upon the latter stab wounds on the different parts of his body resultant therewith caused his death shortly thereafter.

Contrary to Article 249 of the Revised Penal Code.^[2]

Criminal Case No. R-726

The undersigned accuses "JUN" BANANG, JOJO MANITO RAMON GALICIA, [R]OBERTO [U]RETA, NESTOR VICENTE and MERL[I]N VICENTE of the crime of homicide committed as follows:

That on or about the 16th day of August, 1995, at 10:00 o'clock in the evening, more or less, in the Barangay of San Antonio, Municipality of

Mansalay, Province of Oriental Mindoro, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with intent to kill and conspiring, confederating and mutually aiding one another, did then and there wilfully, unlawfully and feloniously attack, assault and stab one RAMON ABENIR thereby inflicting upon the latter stab wounds on the different parts of his body resultant therewith caused his death shortly thereafter.

Contrary to Article 249 of the Revised Penal Code.^[3]

On arraignment, all accused entered pleas of not guilty and thereafter a joint trial ensued.

The Office of the Solicitor General (OSG) summed up the prosecution's version^[4] of the incident at bar, as follows:

At about 10:00 p.m. on August 16, 1995, Ramon Abenir (Ramon) arrived at the house of his parents, Thelmo and Dolores, in San Antonio, Mansalay, Oriental Mindoro. Once inside, Ramon shouted "*Lumabas kayo Kapitan, Barangay Tanod.*"^[5] Someone who was later identified as Brgy. Captain Ramon Galicia (Galicia) retorted, "*Ramon, lumabas ka diyan, labas, babarilin kita.*"^[6] Thereafter, Galicia fired two shots, destroyed the perimeter fence, broke the kitchen door and entered the house.^[7] A fight ensued between Ramon and Galicia. The two wrestled for possession of a bladed weapon. Galicia pulled Ramon towards the bed where the spouses Thelmo and Dolores were seated. Dolores saw Roberto Ureta, a companion of Galicia, stab Ramon. According to Dolores, her husband and she were only an arm's length away^[8] and they witnessed what happened.

Another companion of Galicia, namely Vicente "Jun" Banang, Jr., also entered the house and then dragged Thelmo towards the back of the house.^[9] Ureta joined Banang in the assault on Thelmo, and banged Thelmo's head against the wall of the house. And then, uttering "*Kunsintidor sa iyong anak,*" Ureta stabbed Thelmo.^[10]

At about the same time, Audie Abenir, the brother of Ramon, testified that he was about ten meters away from their parents' house. He also heard his brother, Ramon, shouting, "*Mga tanod, Kapitan, lumabas kayo.*" Thereafter, according to Audie, he saw Galicia arrived with some men. He saw Galicia fired shots and call out, "*Ramon, lumabas ka, babarilin kita.*" Suddenly, he heard a commotion from his parents' kitchen and heard his mother saying, "*[Roding], tulungan mo kami, pinasok kami nina Kapitan.*"^[11] From his children's room, Audie said, he witnessed his brother Ramon and Galicia fighting. He also saw Ureta in the kitchen. He sought help, and with SPO2 Nolito "Noli" Maning and Felix Maquirang, the responding policemen, they went to his parents' house where he saw his brother Ramon, lying near the front door with a chest wound, and his father, Thelmo, clutching his intestines that were protruding from an open wound as he sat by Ramon's head.^[12] Maning rushed Ramon and Thelmo to the hospital. Audie also testified that he had known both Galicia and Ureta from childhood.

Thelmo's son and Ramon's brother, Felipe, testified that while attending to his father in the hospital, on August 24, 1995, his father told him in the vernacular, "*Ping, may*

sasabihin ako sa iyo, iyong pakatandaan at huwag mong kalilimutan.”^[13] Felipe got a pen and paper and wrote the names enumerated by his father as those who entered their house – “Kap. Galicia, Berting Ureta, Jun Banang, Nestor Vicente, Merlin Vicente, Jojo Manito.” A few minutes later, Thelmo died.^[14]

Dr. Moises Serdoncillo, medico-legal officer of the Calapan Provincial Hospital, unsuccessfully operated on both Ramon and Thelmo; both father and son died.

The medical certificate issued by Dr. Serdoncillo showed that Ramon sustained a stab wound which penetrated the middle portion of his abdomen. The cause of Ramon’s death was loss of blood and infection. Thelmo’s medical certificate showed that he sustained a stab wound at the left portion of his abdomen which injured his spleen and traversed the colon up to the posterior abdominal wall. Thelmo also had a hematoma at the back, caused by something that hit him. According to the medical certificate, Thelmo died of cardiorespiratory arrest due to myocardial infarction secondary to stab wound.

The defense’s version^[15] of the incident was culled mainly from the testimonies of accused Galicia, Jojo Manito and Merlin Vicente, as follows:

Galicia testified that at around 8:45 p.m. on August 16, 1995, while he was in his sister Benedicta’s house, he saw Ramon in front of the *Barangay* Hall located about five meters from Benedicta’s house. Ramon was shouting, “*Kapitan, mga Barangay Tanod, lumabas kayo riyan. Kayo’y aking papatayin!*”^[16] Galicia approached Ramon and told him to go home. Ramon relented, and Galicia said he even accompanied Ramon home. Ramon rushed upstairs, straight to the window and started throwing stones, hitting Galicia in the knee. According to Galicia, as he walked away, he heard the continued shouts of Thelmo and his wife calling their sons, Audie and Felix, to help. He tried to ignore Thelmo’s wife calling, but when he heard Ramon shouting, “*Kapitan, huwag kang umalis. Ikaw ay aking papatayin,*”^[17] he turned towards the kitchen of the house. He was by the broken fence and about two meters from the door of the kitchen when he told Ramon, “*Tukayo, huwag kang lumaban. Maraming tao dito, baka ka madisgrasiya.*”^[18] By then, several persons were milling in front of the gate. But, Ramon suddenly came out of the kitchen and struck him with a scythe. He parried the blow with both hands and they grappled for the scythe. The scythe hit him in his arms and body. Suddenly, Ramon fell and his head hit the doorknob of the kitchen door. They continued grappling and Galicia was hit in the nape.^[19] At this point, Galicia shouted for assistance, “*Mga kasama, kung meron man diyan sa labas, ako’y may tama!*”^[20]

Accused Jojo Manito, a *barangay tanod* who heard the call, approached the protagonists. Manito even demonstrated during trial the position of the two protagonists as they grappled for the scythe. He said that as he entered, Galicia was crouching, holding Ramon’s hands. Ramon, still holding on to the scythe, was lying underneath Galicia. Manito said he tried to grab the scythe from Ramon but he was hit on his left hand near the thumb, upper left forearm, and on his right hand, near the thumb. Manito recalled he had a tear gas canister in his pocket and told Galicia about it. After instructing Galicia to cover his face with a towel, Manito sprayed tear gas on Ramon, making Ramon dizzy. Galicia and Manito left. At the gate, they met accused Merlin Vicente, who was about to enter the yard. As Galicia

told Merlin that they were on their way to get police assistance to bring Ramon to the police station, someone told them that Ureta had already called the police. Merlin helped Galicia board a tricycle. Galicia with Manito and Banang went to the Medicare Clinic. Manito said that before they left, he noticed several persons enter the house to assist Ramon. He said he did not see accused Ureta and Nestor Vicente during the incident.^[21]

Accused Nestor Vicente interposed the defense of alibi,^[22] saying he was out fishing with Robert Alunsagay and Abelio* Villanueva from 5:00 p.m. until 10:00 p.m. on August 16, 1995. Later, they sold their catch to Carmen Magadia whose house was about half a kilometer from the Abenirs. Magadia^[23] and Villanueva^[24] were both called as witnesses to support Nestor's alibi.

Merlin Vicente testified that he was in his house which is about forty meters from the house of the Abenirs, at around 10:00 p.m. on August 16, 1995.^[25] As he rushed to the Abenirs' house, he heard shouts of "*Tabang kayo mga kapitbahay.*"^[26] On the way, he said he met a certain Norma Cunanan. When they reached Thelmo's house, he saw a bloodied Galicia, aided by Manito, on the way out of the compound. He helped Manito guide Galicia towards a tricycle.^[27] He also testified that he did not see Ureta nor Thelmo all the time that he was at the gate.^[28]

Dr. Domingo Asis corroborated the testimony of Galicia. He said he treated Galicia at around 9:30 p.m. on August 16, 1995. He described the eleven incised wounds Galicia sustained.^[29] He also said that the injuries sustained by Galicia could have been inflicted while grappling for possession of a sharp bladed instrument like a scythe.^[30] He added that he treated a companion of Galicia whose name he could not recall.^[31]

Accused Ureta and Banang jumped bail during trial and were tried *in absentia*.^[32]

On August 19, 1999, the RTC rendered a joint decision. The decretal portion of the said decision reads:

WHEREFORE, judgment is hereby rendered as follows:

(a) In Criminal Case No. R-726, accused Ramon Galicia y Manresa and accused Roberto [U]reta y Ortega are hereby pronounced GUILTY of the crime of Homicide with the aggravating circumstance of dwelling which was off-setted (sic) by the mitigating circumstance of sufficient provocation and each of them is hereby sentenced to an indeterminate penalty of imprisonment ranging from eight (8) years and one (1) day of prision mayor as MINIMUM to fourteen (14) years, eight (8) months and one (1) day of reclusion temporal medium as MAXIMUM and for them to pay in solidum the heirs of the victim of Ramon Abenir, the sum of P50,000.00 as compensatory damages and the additional sum of P50,000.00 as moral damages;

(b) The rest of the accused in Criminal Case No. R-726 namely Joseph a.k.a. as Jojo Manito y Galicia, Nestor Vicente y Gervacio, Vicente "Jun" Banang, Jr. y Buncag and Merl[i]n Vicente y Buncag are ACQUITTED for

insufficiency of evidence and the bailbonds posted by them are hereby ordered discharged;

(c) In accordance with Administrative Circular No. 12-94 entitled "Amendments to Rule 114 of the 1985 Rules of Criminal Procedure more particularly paragraph a, Section 2 of Rule 114 to the effect that the bail shall be effective upon approval unless sooner cancelled until the promulgation of judgment by the Regional Trial Court, the bail bond posted by the accused Ramon Galicia y Manresa is cancelled and he is ordered committed to the Provincial Jail. Pursuant to the ruling of the Honorable Supreme Court in Jose T. Obosa vs. Court of Appeals, et al., G.R. No. 114350, prom. January 16, 1997 that the grant of bail even in non-capital offenses after conviction of the accused by the Regional Trial Court is now a matter of discretion and it appearing that none of the circumstances mentioned in paragraph 3, Section 5, Rule 114 of the Revised Rules of Criminal Procedure which could preclude the grant of bail is present, said accused is allowed to post bail which is hereby fixed at P90,000.00 should he decide to appeal from the decision for his provisional liberty during the pendency of the appeal;

(d) Let an alias warrant of arrest be issued against accused Roberto [U]reta y Ortega who has jumped bail during the trial of the case.

Upon the other hand, in Criminal Case No. R-725, the court pronounced judgment as follows:

(a) Accused Vicente "Jun" Banang, Jr. y Buncag and Roberto [U]reta y Ortega are hereby found GUILTY of the crime of Homicide with the aggravating circumstance of dwelling without any mitigating circumstance and each of them is hereby sentenced to an indeterminate penalty of imprisonment ranging from twelve (12) years of prision mayor to seventeen (17) years, four (4) months and one (1) day of reclusion temporal maximum as MAXIMUM and for them to pay in solidum the heirs of Thelmo Abenir the sum of P50,000.00 as compensatory damages and the sum of P50,000.00 as moral damages;

(b) The rest of the accused in R-725 namely Ramon Galicia y Manresa, Joseph "Jojo" Manito y Galicia, Nestor Vicente y Gervacio and Merl[i]n Vicente y Buncag are ACQUITTED for insufficiency of evidence and the bail bonds posted by them are discharged;

(c) Let an alias warrant of arrest be issued against accused Vicente "Jun" Banang, Jr. y Buncag and Roberto [U]reta y Ortega.

No award of actual damages could be made in both cases for failure of the prosecution to establish the factual bases for entitlement to said damages.

For the convicted accused to pay the cost of suit.

SO ORDERED.^[33]