

THIRD DIVISION

[G.R. No. 177223, November 28, 2007]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
CASTOR BATIN, ACCUSED-APPELLANT.**

DECISION

CHICO-NAZARIO, J.:

We are reviewing herein the Decision^[1] of the Court of Appeals dated 6 February 2007, in CA-G.R. CR HC No. 01396, affirming the Decision of the Regional Trial Court (RTC) of Quezon City, convicting father and son, Castor and Neil Batin, of the crime of murder. The conviction was for the killing of one Eugenio Refugio, who was shot in the afternoon of 21 October 1994, while he was leaning against a mango tree near his house on St. Peter Street, San Paolo Subdivision, Nagkakaisang Nayon, Novaliches, Quezon City.

The Information^[2] against Castor and Neil Batin was filed by the Office of the City Prosecutor of Quezon City on 11 April 1995, alleging as follows:

That on or about the 21st day of October, 1994, in Quezon City, Philippines, the above-named accused, conspiring together, confederating with and mutually helping each other, did, then and there, wilfully, unlawfully and feloniously, with intent to kill, with treachery, taking advantage of superior strength, and with evident premeditation, attack, assault and employ personal violence upon the person of one EUGENIO REFUGIO y ZOSA, by then and there shooting him with a handgun, hitting him on the right side of his stomach, thereby inflicting upon him serious and mortal wounds which were the direct and immediate cause of his untimely death, to the damage and prejudice of the heirs of said Eugenio Refugio y Zosa, in such amount as may be awarded under the provisions of the Civil Code.

Castor and Neil Batin entered pleas of not guilty.

The prosecution, presented as its witnesses Eusebio Farrales, Vilma Juadinez Rodriguez, Florante Baltazar, Josephine Refugio, PO3 Marifor Segundo and Police Inspector Solomon Segundo, offered the following version of the facts, as summarized by the trial court:

Eugenio's wife, Josephine Refugio, was with him when he was shot, facing him as he leaned against the mango tree and, in fact, had her arms resting on his shoulders. She recalled that before the shooting, she was at home at No. 4-A St. Peter Street that afternoon when, looking out of the window, she caught sight of Castor Batin washing his feet at a nearby faucet. Castor was angrily muttering, and she distinctly heard him say, among the other things he said: "*Mga matatandang kunsintidor,*

dapat manahimik na." Then, being through with washing himself, Castor moved towards the street. Seeing this, she went down and also went to the street because of a feeling of uneasiness ("*Para po akong kinakabahan, kasi, ganoon naman ang ginagawa nila lagi, eh, pag nalalasing*"). Finding her husband leaning against the mango tree on the side of St. Peter Street, she went to him. She tried to talk Eugenio into going home with her because Castor was again into one of his wild ways ("*Nagwawala na naman, daldal ng daldal*"). As he was talking with Eugenio, she glanced to her left and saw Neil Batin standing at the gate to their (Batins') compound, looking towards her and her husband. A few moments later, Neil went to one of the parked cars, opened its door, and took a gun from inside. She next noticed Castor going towards Neil as the latter stood at the side of the car and shouting: "*Huwag!*" Castor grabbed the gun from Neil. After the gun was taken from him, Neil just proceeded towards the right rear of the car. Castor followed Neil and handed the gun back to him.

When she shifted her glance from the Batins, Josephine heard Castor ordering his son: "*Sige, banatan mo na.*" Neil responded by drawing the gun from his waistline, raising and aiming it at her and her husband, and firing twice from his eye-level. Both Josephine and Eugenio fell to the ground, the former, backwards, and the latter landing on top of her. As they tried to get up, Eugenio uttered to her: "*Nanay, may tama ako.*" She then pulled her husband by the shoulder of his shirt so that she could take him to their house as he was already slumped to the right. She later rushed her husband to the Quezon City General Hospital, where he underwent surgery, but later expired.

Other eyewitnesses from the neighborhood were presented and they substantially corroborated her testimonial account.

One of them, Eusebio Farrales, a resident of No. 7 St. Paul Street, in relation to which St. Peter Street was perpendicular, recalled being at the barangay outpost near the corner of St. Peter Street and St. Paul Street between 3:00 and 3:30 pm of the afternoon of October 21, 1994 – engaged in the clearing of the debris of the recent typhoon – when he heard someone cursing and challenging to a fight. Walking towards St. Peter Street where the voice came, he saw that it was Castor. He also saw other neighbors, namely, Eugenio, Josephine, and Eugenio's mother, Emilia Refugio. According to Farrales, Castor was moving aimlessly for around five minutes ("*Walang direktion at pa-ikot ikot lang siya doon*") while cussing: "*Putang ina ninyo, sino ang matapang lumabas.*"

Farrales stated that a white car and a white-and-yellow colored taxicab were parked on the side portion of the street fronting the gate to the compound of the Batins and near where Eugenio and Josephine stood. Emilia, the mother of Eugenio, then came towards him, but he advised her to seek assistance from the *barangay tanod*. After Emilia proceeded towards St. Paul Street to do so, Neil came out through the gate, opened the door of the white car, took out a gun from inside, and handed the gun to Castor, but the latter returned the gun to Neil. Upon getting back the gun, Neil reentered the yard through the gate.

Farrales asserted that in the meanwhile Eugenio remained leaning against the mango tree with Josephine facing him and her arms resting on his shoulders. They were in this position when Neil again came out through the gate a few moments later and proceeded to the right side of the car, still holding the handgun. From there, Neil fired twice at the Refugios. The Refugios both fell to the left of the mango tree. Farrales saw both Castor and Neil quickly enter the compound. At that point, Farrales decided to run home in order to summon Alfredo Dizon, his tenant, who was a police officer because he feared that the Batins might escape from the scene by car.

Farrales and Dizon lost no time in going to the place of the Batins. After Dizon talked with Castor at the gate of the latter's compound, the latter entered the house of his nephew, Ricky Basilio, which was beside Castor's own house. A few moments later, Castor came out of Basilio's house to let Dizon in through the gate. It was about this time that the responding police officers arrived at the scene. The victim had been rushed to the hospital immediately.

Another neighbor, Vilma Juadines Rodriguez, resident of No. 7-A St. Peter Street, declared that while she was at home taking care of her baby at between 3:00 and 3:30 pm of October 21, 1994, she heard someone challenging others to a fight; that looking out of her window ("*dungaw*"), she saw that it was Boy Batin – Castor – and he was then walking about on St. Peter Street; that just then, her child cried, and so she went to him; that upon returning to the window to call her other child, she saw Castor hand over a handgun to Neil, and the latter thereafter entered through their gate; that she next saw Neil load bullets into the gun and then tucking it in his right waistline; that after loading, Neil went out to the street, went between the parked white car and yellow taxicab, aimed the gun at Eugenio and Josephine who were at the mango tree, and then asked Castor: "*Tay, banatan ko na?*"; that Castor replied: "*Sige, anak, banatan mo na.*" that, at that instant, Neil fired two shots; that as she went down to get her other child upon hearing the gunshots, she heard Josephine say: "*Tay, may tama ka?*"; that she later reentered her house; and that she knew that Eugenio died afterwards.

Although Eugenio was rushed to the Quezon City General Hospital right after the shooting and was operated on, he expired the next day. His remains were properly identified in writing by his brother, Tito Eugenio.^[3]

The medico-legal officer of the PNP Crime Laboratory Service, Dr. Florante Baltazar, conducted an autopsy on Eugenio's remains. In his Medico-Legal Report No. M-1715-94,^[4] he indicated that Eugenio sustained one gunshot wound, which was, however, fatal, because "it went slightly upward, slightly anteriorward from the right to the left of the body, fracturing the right to [the] left [of the] thoracic region, lacerating the right lumbar region." Dr. Baltazar made the certification as to the cause of death in the death certificate.^[5]

Upon a written request^[6] from the Novaliches Police Station, Quezon City, Police

Inspector Solomon Segundo, Chief of the Firearms Identification Branch of the Central Crime Laboratory, Northern Police District Command, Quezon City, conducted the ballistics examination to ascertain whether or not the bullet recovered from the victim was fired from the specimen firearm submitted for examination. P/Insp. Segundo prepared Ballistics Report No. B-042-94,^[7] wherein he certified that the bullet from the recovery box^[8] and the bullet recovered from the victim's body^[9] were fired from the same specimen firearm.^[10] This conclusion was arrived at after a test fire and a comparison under the bullet comparison microscope.

The defense, on the other hand, presented accused Neil Batin, Castor's common-law wife Maricon Pantoja, and one Restituto Paller. Neil Batin's testimony is summarized by the trial court as follows:

Neil substantially claimed that it was his responsibility to conduct his younger brothers to school and fetch them by car; that he also drove their taxicab; that it was about 7:00 o'clock in morning of October 21, 1994, while he was cleaning the family-owned taxicab, that he found a short gun ("*de bola*") underneath it beside the right rear wheel; that he picked the gun and concealed it in the compartment of the taxicab; that he continued with his chore of cleaning; that as soon as he finished cleaning the taxicab, he drove the white Datsun car to Tondo to fetch his six-year old brother Mark, the son of his father with Maricon Pantoja; that Mark was a pupil at the Magat Salamat Elementary School in Tondo; that after picking up Mark, they drove to the house of his uncle, Domingo Batin, in Marulas, Valenzuela, to get his clothes from his cousin; that they arrived there at 11:00 am, and spent around two hours there; that from Marulas, they went home, arriving at St. Peter Street at around 2:30 pm; that he parked the car on the road in front of their fence; that he and Mark first entered the house to deposit Mark's school things and later went outside to await the arrival of Mark's mother; that his other brothers were outside; that Castor was also outside talking with a man whose name he did not know but whom he had seen thrice before as well as with Boy Iñigo in front of the latter's house; that Iñigo's house was 15 meters from their gate; that Pantoja soon arrived at around 2:45 pm; that he continued talking and playing with his brothers; and that at that point he decided to take the gun from the compartment of the taxicab – then parked around 2 ½ meters away from where he and his brothers were – and tucked it in his waistline.

Having thus tucked the gun, Neil went to stand at the right rear side of the Datsun car which was parked facing the mango tree ("*halos magkatapat lang po*"). Maricon came out to the street at that point to ask him about the time he had fetched Mark. It was while he was standing there with the others that, according to Neil, he suddenly felt the impulse of drawing the gun from his waistline ("*Bigla kong naisipang bunutin ang baril*"). He thus drew the gun and turned around, but, as he did so, he accidentally pulled the trigger, causing the gun to fire twice ("*Tumalikod po ako, tapos nakalabit ko, pumutok ng dalawang beses*").

Neil admitted knowing the late Eugenio Refugio and his wife Josephine because they were his neighbors with only a high wall separating their

houses; but denied seeing them that afternoon beside the mango tree.

At the sound of gunfire, Castor rushed towards Neil from where he was in front of Iñigo's house, shouting twice to his son: "*Huwag!*" Pantoja, for her part, forced Neil to enter the compound, where she brought him inside the house of his aunt. Neil concealed the gun in the ceiling of the aunt's house.

Neil said that he and his father did not grapple inside the Datsun car for possession of the gun; that his father did not wrest the gun from him; that he did not enter the compound to put bullets in the gun; that his father did not order him to shoot Eugenio; and that his father was not drunk and challenging others to a fight. He insisted that he and the Refugios, with whom he was acquainted since 1987, had no misunderstandings, for he even had shared drinks with the late Eugenio before October 21, 1994.^[11]

As regards the testimonies of the defense's two other witnesses, the trial court could not make an intelligible narrative of the version of the facts presented by them, considering the contradictions it found in their testimonies. The trial court found glaring Maricon Pantoja's "self-contradiction" as to where she and the accused were when Eugenio was shot. During the trial, Maricon testified that she, Neil and Castor were outside their house when Neil drew the gun and accidentally fired. However, in her affidavit,^[12] she alleged that they went outside their house upon hearing a gun explosion and saw "Eugenio Refugio alone holding his stomach x x x we have no any knowledge whether he was hit by a bullet."^[13]

On 8 June 1998, the trial court rendered its Decision finding both accused guilty of murder, qualified by treachery, to wit:

WHEREFORE, judgment is hereby rendered finding the accused CASTOR BATIN and NEIL BATIN guilty beyond reasonable doubt of the crime of MURDER as defined and penalized under Art. 248, Revised Penal Code, as amended, and they are hereby each sentenced to suffer reclusion perpetua; and ordered to pay the heirs of EUGENIO REFUGIO, through his wife, JOSEPHINE REFUGIO, as follows:

- 1] P50,000.00, as death indemnity;
- 2] P61,500.00, as actual damages;
- 3] P500,000.00, as moral damages;
- 4] P307,920.00, as indemnity for lost of earning capacity; and
- 5] The costs of suit.^[14]

Neil and Castor Batin filed an appeal with the Court of Appeals. However, on 13 November 2000, accused Neil Batin filed an Urgent Motion to Withdraw Appeal. The *People* interposed no objection to the Motion, which was granted.