

THIRD DIVISION

[G.R. No. 137770, January 30, 2001]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
FERNANDO DULOT @ PANDROY (AT LARGE), BILLY BATURIANO @
BILLY, FELIPE BATURIANO @ IPE (AT LARGE), AND GOMER
BATURIANO (AT LARGE), ACCUSED.**

BILLY BATURIANO, ACCUSED-APPELLANT.

D E C I S I O N

VITUG, J.:

When Florinda Bautista left the house in the afternoon of 30 July 1995 to report for work at a garments factory, her teen-age son, Dajohn Bautista, was still home. But it was the last time Florinda would see her son alive. Five hours later, at ten o'clock that evening, her other children would break, to her great disbelief, the news that Dajohn was dead. He was barely sixteen years old.

On 20 October 1995, the following Information was filed against the four accused-

"I N F O R M A T I O N"

"The undersigned Assistant Provincial Prosecutor accuses Fernando Dulot alias Pandoy, Billy Baturiano alias Billy, Felipe Baturiano alias Ipe and Gomer Baturiano of the crime of murder, penalized under the provisions of Article 248 of the Revised Penal Code, committed as follows:

"That on or about the 30th day of July, 1995, in the municipality of Meycauayan, Province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused armed with an ice pick and fan knife, conspiring, confederating together and mutually helping one another and with intent to kill one Dajohn Bautista, did then and there willfully, unlawfully and feloniously with evident premeditation and treachery, attack, assault and stab the said Dajohn Bautista hitting the latter on the different parts of his body thereby inflicting upon him serious bodily injuries which directly caused the death of the said Dajohn Bautista."^[1]

According to Braulo Rosete, a friend of the deceased, he was with Dajohn Bautista that fateful day at the latter's house in Little Grace Park, a squatter's area in Meycauayan, Bulacan. At seven o'clock, he and Dajohn went to Aling Chedeng's store to get some cigarettes. At the store, they saw one of the accused, Felipe Baturiano, who unexplainably blamed the two friends for the loss of his wallet. Braulo and Dajohn just decided to hurriedly leave the store and return to the latter's house. After some time, however, the two friends went back to the store to buy some bottles of beer. At the store, Felipe Baturiano, who was still there, suddenly

threw teargas at them. The deceased was able to dodge, but the teargas hit Braulo. With his friend's eyes in pain, Dajohn guided him back to the house. After recovering, about thirty minutes later, Braulo insisted on going home and requested his friend to accompany him. Dajohn acceded. Dajohn would never make it to Braulo's house. On the way, the two teenagers were accosted by accused-appellant Billy Baturiano and Fernando Dulot alias "Pandoy." Standing beside the two men was Fernando Dulot, wielding a double-bladed knife. Evident that Dajohn was the intended prey upon seeing "Pandoy" in an attempt to stab him, Braulo yelled to warn his friend. Dajohn was able to run a distance of ten meters and would have escaped had it not been for the two other accused - Felipe Baturiano and Gomer Baturiano - who blocked his way and eventually caught up with him. Billy Baturiano and Gomer Baturiano held the arms and hands of Dajohn. Now trapped and defenseless, Dajohn was stabbed repeatedly by Fernando Dulot and Felipe Baturiano. Fernando Dulot, with the use of his double-bladed knife, delivered three stab thrusts and Felipe Baturiano, using an icepick, gave two stab thrusts on the victim before scampering into the night. When asked to speculate what could have motivated the four assailants to kill Dajohn Bautista, Braulo could only surmise that it might have been because the victim was courting at the time the daughter of Billy Baturiano. Braulo identified in court Billy Baturiano. The three co-accused - Fernando Dulot, Felipe Baturiano, and Gomer Baturiano - had been able to elude the clutches of the law and remained at large.

In an autopsy conducted by Dr. Benito Caballero, three fatal wounds were found on the body of the deceased, one superficial wound on the upper part of the chest caused by a pointed and bladed instrument, and two other wounds at the right side of the thorax likely caused by an icepick. A bigger wound was also found on the right arm. The cause of death was diagnosed to be shocked brought about by massive external and internal hemorrhage due to multiple stab wounds on the chest, abdomen and extremity, penetrating the victim's right lung, heart and large intestines. Upon cross-examination, Dr. Caballero declared that the wound perforating through the victim's heart was decidedly fatal and put the victim's chance at life rather bleak even if immediate medical attention were then made available.

Testifying for his defense, Billy Baturiano gave an alibi, which situated him about 100 meters from the scene of the crime. On the date and time of the murder, Billy Baturiano said, he was at the house of Ananias Ysrael, a neighbor, and had been there since six o'clock that evening. He and Ysrael were engaged in conversation when an unidentified female passing by the house shouted that someone had been stabbed. Curious, Billy Baturiano and Ananias Ysrael went to the scene, about 100 meters or a mere 20-minute walk from Ysrael's house, to take a look at what had happened. From bystanders, Billy Baturiano learned that Fernando Dulot had stabbed Dajohn Bautista. By the time he and Ysrael arrived at the crime scene, Fernando Dulot and the victim were no longer around. Billy Baturiano and his friend decided to go home. He claimed being at a loss why he was being charged for the death of the victim as no ill-will existed between him and the Bautista family.

Ananias Ysrael sought to corroborate Billy Baturiano's testimony. He and accused-appellant were neighbors at Little Grace Park, Meycauayan, Bulacan, their houses being merely five meters apart. On the day in question, Ysrael was at his residence with his son and daughter. At approximately six o'clock in the afternoon, Billy Baturiano passed by their house. Ysrael invited Billy in because he intended to ask

Billy, a carpenter, regarding a repair work to be done. Ananias Ysrael served Billy Baturiano a cup of coffee. While the two men were conversing, a woman passed by yelling that someone had been stabbed. The two did not recognize the woman because it was already dark. Ananias Ysrael and Billy Baturiano went to the scene of the incident, a store about 100 meters from Ysrael's house and about 150 meters from the house of accused-appellant. Ysrael gathered from the people milling in the vicinity, that it was Fernando Dulot who had stabbed the victim.

On rebuttal, the prosecution presented Joselito Lique, the vice-president of the "Samahan ng Mahihirap sa Little Grace Park II" from 1989 to 1996 and a continuous resident since 1979, who claimed that he was familiar with the residents of the place, among whom were accused-appellant Billy Baturiano and his co-accused Fernando Dulot, Felipe "Ipe" Baturiano and Gomer Baturiano, but insisted not being aware of anyone by the name of Ananias Ysrael as having resided at the squatter's area.

Contesting the allegation of Joselito Lique, Billy Baturiano, when recalled to the witness stand, said that Lique could not possibly be acquainted with all the residents of little Grace Park, the two associations in the squatters' area - the "Samahan ng mga Mahihirap sa LGP, "of which Joselito Lique was the vice-president and the "Samahan ng Urban Poor" - being distinct organizations and Ananias Ysrael being a member of the latter association as so certified to by its president.^[2]

The trial court, after the parties had submitted the case for decision, rendered judgment finding accused Billy Baturiano guilty of the crime of murder -

"WHEREFORE, judgment is hereby rendered finding the accused BILLY BATURIANO @ Billy, GUILTY beyond reasonable doubt for the crime of murder, penalized under the provisions of Article 248 of the Revised Penal code and hereby sentences him with the penalty of reclusion perpetua.

"On the civil aspect, an award of fifty thousand pesos (P50,000.00) to the victim's heirs is justified, this being the jurisprudence on the matter; thirty thousand pesos (P30,000.00) actual expenses representing the funeral, burial and other incidental expenses; and exemplary damages of fifty thousand pesos (P50,000.00) to the victim's heirs is called for not only as a measure of recompense for the anguish and mental suffering of their heirs but to set an example and sense of prevention to other person not to commit the same offense.

"Accused Billy Baturiano is entitled to full credit of preventive imprisonment.

"The other accused who are still at large, namely: Fernando Dulot alias Pandoy, Felipe Baturiano, alias Ipe and Gomer Baturiano are not yet apprehended and accordingly the case against them are hereby ARCHIVED and therefore issue alias Warrant of Arrest against them."^[3]

In his appeal elevated to this court, accused-appellant raised the following assignment of errors-

"FIRST ASSIGNMENT OF ERROR

"THE TRIAL COURT ERRED IN INCLINING TO GIVE FAITH AND CREDIT IN FAVOR OF THE PROSECUTION TO THAT SUBMITTED BY THE DEFENSE.

"SECOND ASSIGNMENT OF ERROR

"THE TRIAL COURT ERRED IN FINDING AND DECLARING THAT THE TESTIMONY OF SINGLE WITNESS BRAULIO ROSETE WAS FOUND CONVINCING AND TRUSTWORTHY, SUFFICIENT TO SUPPORT A FINDING OF GUILT OF THE ACCUSED BEYOND REASONABLE DOUBT.

"THIRD ASSIGNMENT OF ERROR

"THE TRIAL COURT ERRED IN DECLARING THAT THE DEFENSE OF ALIBI IS INHERENTLY WEAK AND WORTHLESS.

"FOURTH ASSIGNMENT OF ERROR

"THE TRIAL COURT ERRED IN NOT GIVING FAITH AND CREDIT TO THE EVIDENCE PRESENTED BY THE DEFENSE.

"FIFTH ASSIGNMENT OF ERROR

"THE TRIAL COURT ERRED IN FINDING AND DECLARING ACCUSED BILLY BATURIANO ALIAS BILLY GUILTY BEYOND REASONABLE DOUBT FOR THE CRIME OF MURDER AND SENTENCED HIM TO RECLUSION PERPETUA.

"SIXTH ASSIGNMENT OF ERROR

"THE TRIAL COURT ERRED IN FINDING AND DECLARING THAT AN AWARD OF P50,000.00 TO THE VICTIM'S HEIRS IS JUSTIFIED; THAT P30,000.00 AS ACTUAL EXPENSES REPRESENTING THE FUNERAL, BURIAL AND OTHER INCIDENTAL EXPENSES AND EXEMPLARY DAMAGES OF P50,000.00 ARE CALLED FOR.

"SEVENTH ASSIGNMENT OF ERROR

"THE TRIAL COURT ERRED IN NOT ACQUITTING ACCUSED-APPELLANT BILLY BATURIANO ALIAS BILLY AND IN NOT DECLARING THAT SAID ACCUSED IS NOT LIABLE FOR ANY KIND OF DAMAGES."^[4]

All seven assignments could narrow down to the singular issue of whether or not accused-appellant Billy Baturiano killed Dajohn Bautista. Accused-appellant, in sum, would submit that the prosecution failed to overcome by proof beyond reasonable doubt the presumption of innocence in his favor.

Like the trial court, however, the court is morally convinced of the guilt of accused-appellant. Braulo Rosete, an eyewitness to the killing and a friend of the victim, has given a credible account of the incident.

"Q. On said date at around 7:00 in the morning will you tell us where were you at that time and date?

"A. We were then at the house of the deceased, sir.

"Q. Where is this house of the deceased located?

"A. LGP, Meycauyan, Bulacan, sir.

"Q. This deceased that you mentioned you are referring to whom, Mr. Witness?

"A. My friend Dajohn Bautista, sir.

"Q. On said date, July 30, 1995 at around 7:00 o'clock while in that place of LGP, Meycauyan, Bulacan, do you recall of any unusual incident that transpired?

"A. There was, sir.

"Q. What was that?

"A. We went to a store to buy cigarette and Felipe Baturiano was then on that store.

"Q. You said `we', to whom are you referring?

"A. With Dajohn Bautista, sir.

"Q. And while in that store what happened next?

"A. While Felipe Baturiano was there, his wallet fell and he was blaming us for that matter, sir.

"Q. What happened after that? When you were being blamed or being suspected for the missing wallet?

"A. We left, sir and went home to his house.

"Q. To whose house?

"A. At the house of Dajohn Bautista.

"Q. Will you tell us the distance or how far is the house of Dajohn Bautista from that store where you come from?

"A. Around 20 meters in distance, sir.

"Q. And after that, were you able to reach the house of Dajohn Bautista?

"A. Yes, sir.

"Q. What happened next?

"A. After a few minutes, we again left the house to buy beer, sir.