

EN BANC

[G.R. No. 130144, May 24, 2001]

MELECIA PAÑA AND EMMANUEL TIGUMAN, PETITIONERS, VS. JUDGE FLORIPINAS C. BUYSER, PRESIDING JUDGE, BRANCH 30, RTC, SURIGAO DEL NORTE AND SURIGAO CITY, THE PEOPLE OF THE PHILIPPINES AND THE HEIRS OF JOSE JUANITE, SR. AND JOSE JUANITE, JR., RESPONDENTS.

[G.R. NO. 130502-03. MAY 24, 2001]

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. EMMANUEL TIGUMAN, MELECIA PAÑA, ROBERT BAYAN, JOHN DOE, AND EFREN PAÑA (ACQUITTED), ACCUSED. EMMANUEL TIGUMAN AND MELECIA PAÑA, ACCUSED-APPELLANTS.

D E C I S I O N

BUENA, J.:

For a simple land dispute, father and son were sprayed with bullets right in their own house by some goons for hire. The culprits were Jose Bilboro Pomoy, Jr., alias "Robert Bayan," accused-appellants Emmanuel Tiguman, a.k.a. "Manny," and Melecia Paña, alias "Meling," and a certain John Doe. Pomoy pleaded guilty to a lesser offense of homicide. Appellants Tiguman and Paña, who were convicted of murder and sentenced to death by the trial court, filed with this Court a petition for *certiorari* under Rule 65, docketed as G.R. No. 130144, imputing grave abuse of discretion to the lower court in convicting them. Since their conviction is on automatic review due to the penalty imposed, docketed as G.R. Nos. 130502-03, this Court treated their petition for *certiorari* as an appeal.^[1]

On December 10, 1993, Jose Juanite, Sr. and his son Jose Juanite, Jr. were in their residence in San Pedro, Alegria, Surigao del Norte conversing with members of their family. When someone knocked on the door, ten-year old Teotimo Questo, Jr. opened it. Upon opening the door, a man suddenly burst in and fired at Jose Juanite, Sr. His son, Jose Juanite, Jr., rushed towards the door to close it but he was shot from the window by another man. The gunshot wounds sustained by both father and son caused their instantaneous deaths.

This incident led to the filing of two (2) criminal informations for murder against appellant Tiguman, accused Pomoy, Jr. and one John Doe. Subsequently, the informations^[2] were amended to include spouses Efren and appellant Paña, as principals by inducement.

Upon arraignment appellants Tiguman and the spouses Paña pleaded not guilty to the charge. Thereafter, trial ensued.

Pomoy, Jr. was arrested only after the prosecution has rested its case. When he was arraigned, he initially pleaded not guilty to the separate charges of murder. Later however, his motion to plead guilty to the lesser offense of homicide was granted for which he was convicted. The trial court issued an order sentencing Pomoy, Jr. to suffer for each case the indeterminate penalty of six (6) years and one (1) day of *prision mayor* minimum, as minimum, to fourteen (14) years, eight (8) months and one (1) day of *reclusion temporal* medium, as maximum.^[3]

After trial, judgment was rendered by the lower court convicting appellant Tiguman, as principal by direct participation, and appellant Paña, as principal by inducement, for the crime of murder and sentenced each of them to death. However, the trial court acquitted appellant Paña's husband Efren Paña for insufficiency of evidence. The dispositive portion of the court a quo's decision reads:^[4]

"WHEREFORE, finding the accused Emmanuel (Manny) Tiguman and Melecia Paña GUILTY beyond reasonable doubt in both cases as principals [Emmanuel (Manny) Tiguman, by direct participation; Melecia Paña, by inducement] in the crimes of MURDER qualified by treachery, defined and penalized in Article 248 of the Revised Penal Code, as amended by Section 6 of Republic Act No. 7659, and after considering against them the aggravating circumstances of evident premeditation, dwelling and price or reward, this Court hereby imposes upon each one of the said accused the penalty of DEATH BY LETHAL INJECTION in each of these cases; and, to pay the costs.

"The accused Emmanuel (Manny) Tiguman and Melecia Paña are hereby ordered, jointly and severally, to indemnify the heirs of Jose Juanite, Sr. and Jose Juanite, Jr., respectively in the sum of Fifty Thousand (P50,000.00) Pesos, for the death of each of the aforementioned deceased; actual damages in the sum of One Hundred Fifty Thousand (P150,000.00) pesos; and, moral damages of One Hundred Thousand (P100,000.00) Pesos, for both deceased.

"Pursuant to Supreme Court Administrative Circular No. 2-92, dated January 20, 1992, the bail bond posted for the provisional liberty of the accused Melecia Paña is hereby ordered CANCELLED and said accused shall be placed in confinement, pending resolution of her automatic appeal.

"Let the records of these cases be transmitted to the Supreme Court for automatic review.

"Relative to the accused Efren Paña, he is hereby ACQUITTED of the crime of Murder, charged in each of the herein informations, for insufficiency of evidence. The bail bond, therefore, posted for his provisional liberty is hereby ordered RELEASED.

"In regard to the accused John Doe, let Criminal Case No. 4232 be ARCHIVED, subject to be revived as soon as said accused is identified and apprehended.

"SO ORDERED."

Sought for before us is the reversal of the foregoing decision on the grounds that the trial court committed errors-[5]

"1. when it convicted the appellants in the absence of evidence that would prove guilt beyond reasonable doubt;

"2. when it admitted the testimony of accused Jose Bilboro Pomoy, Jr. alias Robert Bayan as evidence in chief during the rebuttal stage of the trial;

"3. when it ignored the evidence for the defense which has clearly wrecked that of the prosecution's, just like the Walls of Jericho;

"4. when it imposed the death penalty without authority of law.

After a careful and thorough perusal of the evidence on record, the court is convinced that the prosecution had discharged its burden by proving appellants' guilt with the requisite quantum of evidence in criminal cases which is proof beyond reasonable doubt.[6]

There is no doubt as to appellant Tiguman's direct participation. He was the principal triggerman who shot Jose Juanite, Sr. to death since he was positively identified by Maria Elena Juanite who was present at the scene when the shooting happened. According to Maria Elena, who is the daughter and sister of the victims, at around 6:30 in the evening of December 10, 1993, when knocks on the door were heard, her brother Juanite, Jr. requested the young Questo, Jr. to open the door. Upon opening the door, appellant Tiguman went inside and shot Juanite, Sr. without warning. When her brother Jose Juanite, Jr. rushed to close the door, Pomoy, Jr., who was positioned outside the house of the Juanites, fired at Jose, Jr. from the window.

Moreover, appellant Tiguman's participation in the killing was affirmed in open court by no less than his co-accused Pomoy, Jr. who pleaded guilty to a lesser offense of homicide. According to the latter, he was an informer of appellant Tiguman. He also testified how appellant Paña solicited appellant Tiguman, a scout ranger of the Philippine Army,[7] to kill the Juanites for some monetary consideration. The plan to kill was hatched in the house of the Paña spouses in their presence. Pomoy, Jr. described in detail that the plan to kill the victims was on account of a land dispute and that money was paid by appellant Paña to appellant Tiguman to accomplish the task. The killing was facilitated with the aid of two (2) other men unknown to him but were known to appellant Tiguman. After killing the victims, Pomoy, Jr. left the place and settled in Parañaque, Metro Manila upon the advice of appellant Tiguman. [8] Pomoy, Jr. narrated their evil design to the minutest detail, facts which could not have been known except only to the parties and their co-conspirators. All the more this lends credence to the truth that appellants were indeed the culprits behind the fatal shooting.

Appellants, however, assail the admission of the testimony of Pomoy, Jr. as rebuttal witness on the ground that the prosecution had already rested its case. This is misleading, because in the order of trial set by the rules, the parties may present rebuttal evidence.^[9] It is settled that the right to present evidence is reserved to the State no less than to the accused.^[10] The rules of evidence permit the use of considerable discretion by the trial courts in the admission of rebuttal evidence. It cannot be said that the trial court abused its discretion in this respect, where the defendant is not taken by surprise and is not prevented from introducing evidence in sur-rebuttal.^[11]

In any case, assuming that the testimonies of prosecution witness Maria Elena Juanite and rebuttal witness Pomoy, Jr., are inadmissible in evidence, the culpability of appellant Tiguman was clearly established by the positive identification of other prosecution witnesses.

Testifying for the prosecution, the 10-year old Questo, Jr., was actually present with the Juanites at the time the shooting happened. He testified that prior to the shooting, he saw appellants Tiguman, Pomoy, Jr. and an unidentified person on December 10, 1993, between 6:00 to 6:30 in the evening, in the waiting shed of Purok 5, Barangay San Pedro, Alegria, Surigao del Norte, carrying a sack from where the muzzles of firearms were protruding. The young boy, on the witness stand declared and positively identified appellant Tiguman as the person who suddenly shot Juanite, Sr. in the latter's house.^[12] Another prosecution witness, Arturo Balesteros, testified that moments after he heard gunshots coming from the residence of the Juanites, he saw Manny Tiguman pass by, coming from the direction of the Juanite house.

Against such overwhelming evidence, appellant Tiguman could only offer denial and alibi as his defenses which are inherently weak and unreliable.^[13] He claims that at the time of the incident on that fatal night, he was in Camp Evangelista, Cagayan de Oro City, which is a neighboring city of the province of Surigao del Norte. Appellant Tiguman's alibi is worthless in the face of his positive identification^[14] by prosecution witnesses who have no motive to wrongly accuse him of such ignominious crime. His alibi is self-serving and his bare denial is a negative declaration which deserves no consideration and cannot prevail over the affirmative testimony which was corroborated by further evidence.^[15] Another prosecution witness, Graciano Madelo, a driver in the ricemill of a certain engineer in the locality, testified that appellant Tiguman was present in Alegria, Surigao del Norte on the day the Juanites were killed. In fact, Madelo was tasked by Manny Tiguman to drive for him to pick up Pomoy, Jr. and their unidentified companion. These threads of events form a chain of circumstantial evidence which when taken together, clearly established the presence of appellant Tiguman in the crime scene. The record is bereft of evidence that these witnesses were motivated by ill considerations and intent, hence their testimony is given full probative value.^[16]

The other appellant, "Meling" Paña, was convicted below as principal by inducement. Prosecution evidence showed that appellant Paña had motive to kill the Juanites because of a land dispute. It appears that spouses Juanites filed an agrarian case against Efren Paña, husband of accused-appellant who was acquitted

in said case, together with other people.^[17] When judgment was rendered in favor of spouses Juanite, the spouses Paña harbored a grudge against the Juanites. Prosecution witness Anita Sanchez, wife of Macario Sanchez, who was one of the respondents in the DARAB case, testified that appellant Paña went to her house several times for financial assistance in order to "liquidate" Jose Juanite, Sr. Sanchez subsequently learned that the Juanites were shot to death.

The domestic helper of the Juanites, Elena Siaboc, testified that appellant Paña requested from her pictures of the victims which she obliged by giving them to appellant Paña. This shows that the killing of the Juanites was conceived by appellant Paña. Since appellant Tiguman could not have known the victims, a picture was necessary to identify the targets.

Andy Acebedo, neighbor of spouses Paña likewise testified in court that on December 8, 1993 he saw Pomoy, Jr., accused-appellant Tiguman, pass by and proceed to the house of the Pañas. When he followed them, he overheard accused-appellant Paña telling accused-appellant Tiguman, Pomoy, Jr., and two persons unknown to him, to kill Jose Juanite, Sr. and Jr.

Prosecution witness Gemma Bacor, whose house is located just across the house of the Juanites, testified that on that fateful night, while watching television, she heard gunfire. She opened the door of her house and saw two persons in the street carrying firearms. Bacor further testified that on January 2, 1994, the Paña spouses invited her to their residence and asked her to execute an affidavit to the effect that what she saw on that night were only children and not adults. Such invitation to execute a misleading statement is an *indicia* of guilt to silence a living witness to their horrible deed, and perpetrate an injustice to the poor victims of their greed.

Testimonies of prosecution witnesses are given weight and credence absent proof of ill will, or motive, to testify against the accused. Prosecution witnesses, Andy Acebedo, Elena Siaboc, Gemma Bacor are not maliciously motivated to testify against appellant Paña. The latter herself testified that there exists no misunderstanding between her and the witnesses mentioned.

In this case, no reason appears for the Court to disregard the trial court's assessments, to wit:

"In summary, insofar as the accused Melecia Paña is concerned, there is proof beyond reasonable doubt that, as a result of the adverse DARAB decision dated October 28, 1993, motive exists on the part of said accused to cause the killing of Jose Juanite, Sr. and Jose Juanite, Jr.; that, on November 25, 1993, the accused Melecia Paña procured pictures of the said victims from prosecution witness Elena Siaboc; that, in the evening of December 8, 1993, the accused Melecia Paña, Emmanuel (Manny) Tiguman, Jose Bilboro Pomoy, Jr. a.k.a. Robert Bayan, and a certain Glen and Nonoy met in the Paña residence and there, they planned the killing of the Juanites, during which occasion the accused Melecia Paña instructed Manny Tiguman and Robert Bayan, thus: 'That is all, ha? You will kill Jose Juanite, Sr. and Jose Juanite, Jr.'; that the accused Melecia Paña handed the money to Manny Tiguman, saying: 'Here is the money. This is one-half of the total price, 'bahala na