

SECOND DIVISION

[G.R. No. 136818, December 19, 2000]

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
EDWIN BAYOTAS Y IMPERIO, ACCUSED-APPELLANT.**

D E C I S I O N

MENDOZA, J.:

This is an appeal from the decision,^[1] dated December 1, 1998, of the Regional Trial Court, Branch 70, Malabon, Metro Manila, finding accused-appellant Edwin Bayotas y Imperio guilty beyond reasonable doubt of the murder of Ricardo Caño and sentencing him to pay the latter's heirs P50,000.00 as civil indemnity, P60,000.00 as actual damages, and the costs.^[2]

The information against accused-appellant charged -

That on or about the 11th day of August, 1997, in the Municipality of Malabon, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the abovenamed accused, while armed with a fan knife (*balisong*), with intent to kill, treachery, evident premeditation, and with the use of superior strength, did then and there, wilfully, unlawfully, and feloniously attack, assault, hit/stab RICARDO CAÑO hitting the latter on the left side of his body and right hand, thereby inflicting upon the victim stab wounds, which caused his immediate death.^[3]

Accused-appellant pleaded not guilty, whereupon trial proceeded.^[4]

The stabbing of Ricardo Caño took place on August 11, 1997, at around 8:30 p.m. along M.H. Del Pilar Street, Panghulo, Malabon, Metro Manila. It appears that the victim had an altercation with accused-appellant. The victim fled to the barangay hall, but accused-appellant followed him and tried to attack him. Barangay tanods who were present at that time intervened and tried to pacify the two. Through their efforts, the victim and accused-appellant signed an amicable settlement.

After the two shook hands, accused-appellant departed, while the victim stayed behind. Jessie Soriano, a barangay tanod, was asked by the barangay captain to accompany the victim until he could find transportation. The victim boarded a jeepney. As the jeepney moved away, however, accused-appellant, who emerged from a dark corner of the street, managed to board it and, once inside, stabbed the victim with a fan knife (*balisong*). Upon seeing the incident, Jessie Soriano ran after the jeepney. He pulled accused-appellant off the jeepney by grabbing the back of accused-appellant's pants and slammed him on the pavement. Accused-appellant fell on his back, still clutching the fan knife. Upon seeing that accused-appellant was armed with a knife, Soriano backed off. Then he heard the victim say, "*Pare, may tama ako!*" ("Pal, I've been hit!") This made him turn to the victim. On the other

hand, accused-appellant took advantage of the momentary distraction of Soriano and fled. When Soriano saw that accused-appellant was fleeing, Soriano shouted at the policemen for help. As a result, accused-appellant was apprehended, although not before he had thrown the fan knife away.

One of the policemen handcuffed accused-appellant, while Jessie Soriano searched the area for accused-appellant's fan knife. When Soriano found it, he turned it over to the policemen. The fan knife was subsequently marked Exh. D^[5] for the prosecution.^[6]

The postmortem examination of the victim shows that he sustained the following:

- 1) Stab wound, right infraclavicular region, measuring 1.8 x 0.8 cm., 6 cm. from the anterior midline, 132 cm. from the heel, 7 cm. deep, directed posteriorwards, upwards and medialwards, fracturing the 2nd right thoracic rib, piercing the upper lobe of the right lung.
- 2) Stab wound, left mammary region, measuring 2 x 0.8 cm., 15 cm. from the anterior midline, 125 cm. from the heel.
- 3) Stab wound, left anterior axillary region, measuring 2.5 x 1.1 cm., 24 cm. from the anterior midline, 117 cm. from the heel, 8 cm. deep directed posteriorwards, upwards and medialwards, fracturing the 7th left thoracic rib, piercing the lower lobe of the left lung.
- 4) Incised wound, proximal phalanx, right thumb, measuring 1 x 0.3 cm.
- 5) Incised wound, right hand, measuring 2 x 0.5 cm., 3.5 cm. lateral to its posterior midline.^[7]

Dr. Maria Cristina B. Freyra, who conducted the postmortem examination, testified that stab wound no. 3 was fatal, and that, like the other wounds sustained by the victim, it was caused by a single-bladed weapon.^[8]

On the other hand, Pacita Samaniego, a representative of the victim's parents, testified that the latter spent P50,000.00 to P60,000.00 for the victim's wake and burial.^[9]

The defense presented accused-appellant as the sole witness. He admitted having stabbed the victim but alleged he did so in a fit of anger. He claimed that his wife, Gina Aber, a beautician, and the victim were having an affair. He said he knew the victim because of their common interest in cockfighting: he (accused-appellant) maintained fighting cocks, while the victim sold *taris* (spurs attached to the legs of fighting cocks so that they could maim each other during cockfights). They met at a place where fighting cocks are unloaded from Cebu.

According to accused-appellant, on June 15, 1997, he went to the beauty parlor where his wife was working without letting her know he was there. After the beauty parlor had closed, he saw his wife going to the drugstore and making a telephone call. Later, the victim arrived and picked her up in a taxi. Accused-appellant said he got a taxi and followed the pair. He saw the two check in a motel in Meycauayan,

Bulacan. When she arrived home at 11:00 o'clock that evening, however, she told accused-appellant that she had come from a client's house for home service.

On another occasion, on June 18, 1997, accused-appellant claimed that he asked his wife, as the latter was leaving the beauty parlor, where she was going because he suspected that she was going to meet the victim. His wife replied that she was going to have her nipper sharpened, but when accused-appellant offered to accompany her, she said she did not have the nipper with her after all. Accused-appellant claimed he also noticed his wife was wearing jewelry which he had not bought for her. When he confronted her about this, his wife replied she had bought them herself on credit. That same day, accused-appellant said he told the victim to stay away from his wife.

Despite this incident, accused-appellant said he still offered to sell *taris* for the victim. Accused-appellant claimed that, as he was having drinks with friends on August 11, 1997, he saw the victim pass by. He told the victim that he had sold two dozens of the latter's *taris* to a certain Wilbur for P7,000.00. The victim replied that accused-appellant should have sold them at P7,000.00 a dozen, or P14,000.00 for two dozens. This led to a quarrel. The two were taken to the barangay hall for reconciliation. Apparently, the two were able to patch up their differences although accused-appellant disputed that he left ahead of the victim, claiming that it was he who was told by the barangay captain to stay behind. After five minutes, accused-appellant said he was allowed to leave. He went back to have drinks with his friends. After a while, they decided to continue their drinking session in Monumento. When they boarded a jeepney to go there, they saw the victim inside the vehicle. Accused-appellant said the victim smiled at him and sarcastically told him that the P7,000.00 which he (accused-appellant) lost in the deal with Wilbur would be the payment for accused-appellant's wife whom he (the victim) was going to see that night. Accused-appellant got angry, drew his knife, and stabbed the victim. Afterwards, he alighted and surrendered to the police.^[10]

On December 10, 1991, the trial court rendered its decision, the dispositive portion of which reads:

WHEREFORE, premises considered, the Court finds accused Edwin Bayotas y Imperio guilty beyond reasonable doubt of the crime of MURDER qualified by treachery and hereby sentences him to suffer the penalty of *Reclusion Perpetua*.

Likewise, the accused is hereby ordered to pay the heirs of Ricardo Caño the amount of P50,000.00 as civil indemnity for the death of the said victim and P60,000.00 as actual damages plus cost of the suit.

SO ORDERED.^[11]

Hence, this appeal. Accused-appellant contends that -

I. THE COURT A QUO ERRED IN APPRECIATING THE QUALIFYING CIRCUMSTANCE OF TREACHERY IN THE CASE AT BAR.

II. THE COURT A QUO ERRED IN NOT APPRECIATING THE MITIGATING CIRCUMSTANCES OF PASSION AND OBFUSCATION AND

VOLUNTARY SURRENDER.

III. ASSUMING THAT PASSION AND OBFUSCATION CANNOT BE APPRECIATED IN THE CASE AT BAR, THE COURT A QUO SHOULD HAVE APPRECIATED THE MITIGATING CIRCUMSTANCE OF VINDICATION OF A GRAVE OFFENSE.^[12]

From the foregoing, it appears that accused-appellant does not deny stabbing the victim. Be that as it may, a resolution of his appeal turns on the determination of the circumstances surrounding the said stabbing.

It must be noted that the prosecution and the defense's narration of events differ in several respects. From the testimony of the prosecution eyewitness Jessie Soriano, it appears that despite the apparent reconciliation of the victim and accused-appellant at the barangay hall, the latter still harbored resentment against the former. Hence, after leaving the barangay hall ahead of the victim, accused-appellant armed himself with a fan knife and waited for the victim to emerge. Upon seeing the victim board a slow-moving jeepney, he attacked the victim.

Accused-appellant claims he could not have waylaid the victim because he (accused-appellant) left the barangay hall later than the victim; that it was by mere chance that he boarded the jeepney which the victim was also riding; and that he only stabbed the victim after the latter called his (accused-appellant's) wife a prostitute.

Between the self-serving testimony of accused-appellant and that of Jessie Soriano, the trial court correctly found the latter more credible. Soriano is a disinterested witness. He was, at the time of this incident, a barangay tanod, and it was as such that he got involved in this case. No evidence has been shown that he had any motive to testify falsely. We, therefore, give full credence to the following findings of the trial court:

As borne by the record, [accused-appellant] left the barangay hall ahead of the victim. He then armed himself with a fan knife before taking refuge at the dark portion of the street to await for the arrival of the passenger jeepney where [the victim] was on board. And as soon as he caught glimpse of the vehicle, the [accused-appellant] emerged from the dimly lit portion of the street, ran after passenger jeepney, and lunged at the helpless victim.^[13]

Indeed, it is well-established that findings of fact of the trial court are entitled to respect as the trial court is in a better position to decide the question of credibility having heard the witnesses and observed their deportment during the trial.^[14]

In the light of the foregoing factual scenario, the Court now resolves the arguments raised by accused-appellant in his appeal.

First. Accused-appellant claims he should have only been convicted of homicide, not murder, because the prosecution failed to establish the qualifying circumstance of treachery. He contends that the following circumstances negate the presence of treachery: (1) he stabbed the victim in a jeepney in the presence of other passengers who could have rendered assistance to the victim or served as eyewitnesses; (2) barangay tanod Jessie Soriano saw him stab the victim and even