

SECOND DIVISION

[G.R. NO. 90301, December 10, 1998]

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
JUANCHO GATCHALIAN, ACCUSED-APPELLANT.**

D E C I S I O N

MENDOZA, J.:

This is an appeal from the decision of the Regional Trial Court of Manila, Branch 49, finding accused-appellant Juancho Gatchalian guilty of murder for the killing on January 23, 1986 of Arthur Aumentado and imposing on him the penalty of *reclusion perpetua* and ordering him to indemnify the heirs of Arthur Aumentado in the amount of P38,000.00 and to pay the costs of suit.^[1]

As is usual in cases of this nature, the parties present conflicting versions of the incident. The question is which version is the more credible, given the rule that the burden is on the prosecution to prove beyond reasonable doubt the guilt of the accused.

The prosecution version is based mainly on the testimonies^[2] of Luisito Reyes and his father Agapito Reyes. Luisito said that at about 5 o'clock in the afternoon of January 23, 1986, he went to the store of Aling Paro at the corner of Perla B and Pavia Streets in Tondo, Manila, to buy cigarettes. While he was there, he saw accused-appellant Juancho Gatchalian and Boyong Hagibis pass by. They came from the direction of Sevilla Street and they were walking towards Perla C Street. They both seemed drunk. Accused-appellant's head appeared bloodied. Neither of them was carrying a weapon. The two had reportedly been drinking and accused-appellant had gotten into a quarrel at Sevilla Street with a certain "Eddie" and also one "Pedro".

After accused-appellant and Boyong Hagibis had passed by, Arthur Aumentado, a co-worker and neighbor of Luisito Reyes, came to the store to buy cigarettes. Luisito's father, Agapito Reyes, also dropped by the store. He was on his way to a neighbor's house and his purpose in stopping by was to tell his son to go home soon.

Luisito Reyes told the court that shortly after he had seen the two, accused-appellant Juancho Gatchalian and Boyong Hagibis passed by the store again. This time, accused-appellant was armed with a jungle bolo, about 2 1/2 feet long, while Boyong Hagibis was armed with an iron pipe, about a foot long and an inch in diameter. At that point, Arthur Aumentado walked a few meters away to go to an alley to try to see what was going on at Sevilla Street where earlier there had reportedly been a commotion. Although Arthur Aumentado's back was turned towards them, accused-appellant and Boyong Hagibis nonetheless recognized him. Luisito heard Boyong Hagibis say to accused-appellant, "Pare, Pare, may kaaway

tayo." (Pal, we have an enemy.) When Arthur Aumentado turned around to return to the store, Boyong Hagibis struck him on the head with the iron pipe. Arthur Aumentado fell to the ground, whereupon, accused-appellant stabbed him, once in the breast and again in the abdominal area with his jungle bolo. Boyong Hagibis then fled towards Perla C Street, followed by accused-appellant who brought with him the jungle bolo he used to stab the victim.

Luisito Reyes and his father, Agapito Reyes, saw the entire incident. Luisito Reyes was barely five (5) meters away, while Agapito was about four (4) arms length away from the scene of the stabbing. The place where the stabbing occurred was well lighted by a string of electric bulbs used during the last fiesta and by Meralco posts. There was a commotion as a result of the incident. Agapito Reyes went home while Luisito Reyes asked somebody to call for Arnold Aumentado, a brother of the victim. When Arnold Aumentado arrived, he and Luisito Reyes took Arthur Aumentado to the Mary Johnson Hospital in Tondo, Manila. However, he was already dead when they arrived at the hospital at about 6:50 that evening.

Meantime, police investigators, headed by Pat. Feliciano Cristobal, arrived, following a call from a security guard of the Mary Johnson Hospital. The police officers encountered Luisito Reyes at the hospital who told them that he had witnessed the stabbing and pointed to accused-appellant Juancho Gatchalian and Boyong Hagibis as the culprits. The police also learned that Agapito Reyes likewise saw the incident and that accused-appellant was at the Tondo General Hospital for treatment. They were not able to interview accused-appellant, however, as he was still under sedation. Meanwhile, both Luisito Reyes and his father, Agapito, went to the Western Police District on United Nations Avenue. At 9:45 that evening, Luisito Reyes gave his written statement to Pat. Rodolfo Rival. Later that evening, at 10:10, Agapito Reyes gave his written statement to Pat. Feliciano Cristobal.^[3]

Accused-appellant categorically denied he stabbed Arthur Aumentado. He claimed he did not know a person named Boyong Hagibis. The defense presented evidence^[4] showing that, on January 23, 1986, at about 6 o'clock in the evening, accused-appellant was in the house of his compadre Batotoy on Pavia Street. He was there, according to him, to get jewelry to sell on commission. While he was in the house of Batotoy, he was fetched by his aunt because his child fell sick. On her way to Batotoy's house, accused-appellant's aunt, Myrna Conje, noticed two (2) men near the alley at the corner of Pavia Street. One of the men, whom she later came to know was Arthur Aumentado, held a jungle bolo, while the other, whom she later came to know was Artemio (Temy) Aumentado, a brother of Arthur Aumentado, had a gun tucked at his waist.

Myrna Conje said that upon reaching Batotoy's house, she called accused-appellant who lost no time going home with her. On their way back, they saw from about four (4) to five (5) meters away, Artemio Aumentado aim his gun at accused-appellant's direction and fire it. As accused-appellant tried to run, he found himself and his aunt surrounded. Behind them, blocking a small alley, were three (3) men: Arnold Aumentado (brother of Arthur Aumentado), who had a jungle bolo; Luisito Reyes, who had a foot long knife; and Elmer Aumentado (another brother of the victim), who was holding a jungle bolo. Arthur Aumentado then went to the middle of the street and demanded to know why accused-appellant and his aunt were "blocking" the street ("*Bakit kayo paharang-harang?*"). Without waiting for an answer,

accused-appellant said, Arthur Aumentado struck him with a jungle bolo, hitting him (accused-appellant) on the right side of the head and causing him to fall on his back. Thereupon, he claimed Artemio Aumentado, Arnold Aumentado, Elmer Aumentado, and Luisito Reyes rushed toward them and started attacking him. At this point, Arthur Aumentado, his brothers, and Luisito Reyes were surrounding the accused-appellant and Myrna Conje who was behind him. He tried to parry the blows of his attackers with the use of his feet and by rolling on the ground. In the process, the first interdigital web of his left foot was cut.

During the attack, accused-appellant said he fell unconscious. He was pulled away from the group by his aunt and brought home. He was then taken to the hospital. Accused-appellant claimed the attack lasted about thirty (30) minutes.

Accused-appellant was taken to the Tondo General Hospital shortly before 7 o'clock that evening. He was found to have sustained a lacerated wound, three (3) centimeters on the first interdigital web of his left foot, and an avulsion of the scalp, parieto-occipital (right) with an area of five (5) centimeters by four (4) centimeters. He also tested positive for alcohol. He was placed under sedation and discharged from the hospital the following day.^[5]

On January 27, 1986, he was taken to the Western Police District on United Nations Avenue. In the presence of his counsel, Atty. David Paz, accused-appellant and his aunt, Myrna Conje, gave statements to the police investigators. Atty. David Paz filed a letter, dated January 27, 1986, with the Office of the Superintendent of the Western Police District requesting for the investigation of Artemio (Temy) Aumentado and others, including Arthur Aumentado, for the injuries suffered by accused-appellant. On April 11, 1986, he filed a complaint for frustrated murder against Arthur Aumentado, Artemio Aumentado, Elmer Aumentado, Arnold Aumentado, and a John Doe with the Office of the City Fiscal of Manila. On July 21, 1986, however, Assistant City Fiscal Cesario del Rosario, with the concurrence and approval of the City Fiscal, found the complaint to be without merit and accordingly dismissed the case filed by accused-appellant against Arthur Aumentado. Instead, the filing of an Information for murder against accused-appellant was ordered.^[6]

Accordingly, on August 29, 1986, an Information^[7] for murder was filed against accused-appellant Juancho Gatchalian.^[8] After trial, he was found guilty by the Regional Trial Court of Manila, Branch 49, in a decision, dated December 8, 1987.^[9]

Hence, this appeal.

Accused-appellant raises the following errors in his brief:^[10]

I

THE TRIAL COURT ERRED IN DISREGARDING THE CLAIM OF SELF-DEFENSE BY THE ACCUSED DESPITE CLEAR EVIDENCE ON RECORD SUPPORTING THE SAME.

II

THE TRIAL COURT ERRED IN GIVING CREDENCE TO THE PROSECUTION WITNESSES, NAMELY LUISITO AND AGAPITO BOTH SURNAMED, REYES WHO BOTH HAVE INTEREST IN THE CASE.

III

THE TRIAL COURT ERRED IN FINDING THE ACCUSED GUILTY BEYOND REASONABLE DOUBT OF THE CRIME OF MURDER DESPITE WEAK EVIDENCE FOR THE PROSECUTION.

IV

GRANTING WITHOUT ADMITTING THAT ACCUSED COULD BE HELD LIABLE FOR THE DEATH OF ARTHUR AUMENTADO, EVIDENCE SHOWS THAT THE CRIME WAS NOT ATTENDED BY THE QUALIFYING CIRCUMSTANCES OF MURDER.

We find the foregoing contentions to be untenable.

First. The first three assignments of errors involve basically a question of credibility. The time-honored rule is, of course, that when the issue is one of credibility of witnesses, appellate courts will not disturb the findings of the trial court unless it has plainly overlooked certain facts of substance and value which, if considered, might affect the result of the case. This is so because the trial judge heard the witnesses testify and had the opportunity to observe their demeanor and manner of testifying.^[11] As we explained in *People v. Cayabyab*:^[12]

. . . Having the advantage of directly observing witnesses, the trial judge is able to detect that sometimes thin line between fact and prevarication that will determine the guilt or innocence of the accused. That line may not be discernible from a mere reading of the impersonal record by the reviewing court. The record will not reveal those tell-tale signs that will affirm the truth or expose the contrivance, like the angry flush of an insisted assertion or the sudden pallor of a discovered lie or the tremulous mutter of a reluctant answer or the forthright tone of a ready reply. The record will not show if the eyes have darted in evasion or looked down in confession or gazed steadily with a serenity that has nothing to distort or conceal. The record will not show if tears were shed in anger, or in shame, or in remembered pain, or in feigned innocence. Only the judge trying the case can see all these and on the basis of these observations arrive at an informed and reasoned verdict.

There is no reason for departing from this salutary rule. The defense version that accused-appellant was attacked while he and his aunt were walking home simply defies credibility.

(1) The medical certificate^[13] presented by accused-appellant shows that he sustained the following injuries: "lacerated wound, 3 cm. first interdigital web, left foot," and "avulsion of the scalp, 5x4 cm. parieto-occipital (right)." Although he was advised to remain at the hospital for one night, it was primarily because he was intoxicated. According to Dr. Gan, who examined him, accused-appellant could have

made his way home immediately after suture of his wounds.^[14]

(2) The trial court expressed disbelief that accused-appellant would have sustained only minor injuries which required less than nine (9) days of treatment if, as the defense claimed, accused-appellant had been attacked by five men, all heavily armed with a gun, jungle bolos, and a knife, who, if the defense were to be believed, were out to do him serious harm, if not to kill him. Accused-appellant's story is all the more difficult to believe because the attack allegedly lasted for about half an hour.^[15] How accused-appellant survived such an attack with only two minor injuries is incredible.

Second. Another puzzling matter is the claim that accused-appellant's aunt was able to pull him away from his assailants. Why would his alleged attackers gang up on him and yet half an hour later allow, without protest, his aunt to take him away? Myrna Conje said she cried for help but no one came to their aid.^[16] What is even more incredible is that while accused-appellant was allegedly attacked by five fully armed men, it was one of the latter, victim Arthur Aumentado, who ended up dead after the alleged assault.

Indeed, a perusal of the transcript of stenographic notes shows that the respective testimonies of accused-appellant and his aunt are inconsistent with each other. Accused-appellant claimed it was only the victim who had actually struck at him because the other four men merely surrounded them.^[17] This is inconsistent with the testimony of his aunt that all five men ganged up on him.^[18] This is a substantial aspect of the defense theory. Moreover, the defense witnesses gave their statements only after four days had elapsed since the killing of the victim while the prosecution witnesses gave theirs on the very day itself, a few hours later. Lastly, the trial court observed that witness Myrna Conje initially tried to deny any knowledge of Boyong Hagibis but later admitted to being familiar with him.^[19] Such being the case, the trial court could not be faulted for not giving credence to their testimonies.

In contrast, witnesses presented by the prosecution were categorical and consistent in saying that they saw accused-appellant stab Arthur Aumentado after the latter was rendered helpless by accused-appellant's companion who first hit the victim on the head with an iron pipe. All three corroborate the substantial aspects of each other's accounts. The said witnesses have stood firm by their accounts of the killing of the victim from the time they were first questioned up to the time they testified in court.

Luisito Reyes testified:^[20]

FISCAL FORMOSO:

When you noticed Boyong and Juancho [Gatchalian] approaching, how far were you?

WITNESS:

About 5 meters, sir.