

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
DOLORES BRITOS AGLIBUT, ACCUSED-APPELLANT.***G.R. No. L-23694. October 30, 1969*

Ponente: TEEHANKEE, J.

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We affirm the trial court's decision finding the accused-appellant guilty beyond reasonable doubt of the crime of parricide. The trial court's finding that the accused actively participated in the killing of her husband is fully supported by the evidence of record. The accused's alternative, claim of self-defense is without merit.

The factual background of this sordid case is related substantially in the Solicitor General's brief, as follows: "At about 10:00 o'clock in the evening of November 22, 1961, Perfecto Begonia, barrio lieutenant of Namalangan, Santa, Ilocos Sur, was: informed by Anastacio Britos, the father of the herein appellant that his son-in-law Telesforo Aglibut had been murdered. The two proceeded to the house of the deceased which was located also in the same barrio, and there found his corpse sprawled in his yard by the gate of the fence, bathed in a pool of his own blood (p. 7, rec.).

"Minutes later, Emilio Borje, then a corporal of the police department of Santa, Ilocos Sur, accompanied by several policemen, arrived at the scene of the crime (p. 90, t. s. n., Acance). In the course of the investigation conducted by Corporal Borje, he was informed by Mary Lou, daughter of the deceased, that her father was killed by their neighbor Saturnino de Peralta. Borje directed some of his men to fetch Saturnino de Peralta who was finally located at his father's house in the same barrio. Forthwith Peralta was lodged in the municipal jail at about 11:00 o'clock that night (p. 91, t. s. n., idem.);

"Early in the following morning, Corporal Borje and Sgt. Agpalo, also of the municipal police force, and Dr. Edencio Florendo, municipal health officer of Santa, Ilocos Sur, repaired to the scene of the crime. While Dr. Florendo was conducting the autopsy, the two police officers were busy interrogating people to get a lead into the cause or motive of the crime. Corporal Borje made a sketch of the premises of the murder scene (p. 92, t. s. n., idem).

"This sketch plainly showed bloodstains splattered in the anti-sala, (duag) immediately after the door opening into the sala. Blood were also splattered on the stairs and in the yard towards the place where the deceased fell dead. (Exh. 1, p. 16, rec., p. 93, t. s. n.; idem).

"In the meantime, Dr. Florendo had finished the autopsy and declared death to have been due to hemorrhage from sixteen cut wounds inflicted on the deceased (Medical Certificate Exhibit A, pp. 123-124, rec.; pp. 13, 24, t. s. n., Acance). Some of these wounds particularly wound No.1 which fractured the skull of the deceased, and wound No. 6 which extended from the mouth to the neck cutting the carotid artery and the jugular vein were dealt with heavy blows and could have been inflicted by a man of a strong build. The other wounds inflicted on the right elbow, right hand and the fingers of both hands were light cuts and could have been inflicted even by a weak person. (pp. 15, 24, t. s.n., Acance).

"At the police station, Saturnino de Peralta refused to make any statement (p. 94, t. s. n., Acance). On the same day, the herein appellant and her daughter made their statement imputing the killing of the deceased on Saturnino de Peralta. On the basis of their statement, Peralta was charged with murder in the Court of First Instance of Ilocos Sur, in Criminal Case No. 4325 (Exh. 2, p. 169, rec.; Affidavit of appellant, Exh. A, p.15, rec.).

"Three days later, November 25, 1961, Saturnino de Peralta finally broke his silence, and admitted in an affidavit sworn to before the Justice of the Peace of Santa, Ilocos Sur, that the deceased was killed in a bolo attack made jointly by himself and by the appellant herein. He claimed that the appellant had been his paramour for more than 5 years. By virtue of said confession, the present complaint for parricide was filed in court on November 27, 1964. (p.1, rec.).

"On December 8, 1961, the appellant executed another sworn statement before Police Sergeant Rosalino Agpalo and Police Corporal Emilio Borje relative to the killing of her husband by Peralta, which however, varied in some material respect from her previous statement. According to her second statement, when Peralta assaulted her husband, she was asleep and was only awakened by the shouts of her daughter Mary Lou; that the two of them, mother and daughter, witnessed Peralta's brutal slaying of her deceased husband (p. 6, rec.).

"On the other hand, her daughter Mary Lou's statement confirmed in effect the sworn statement of her mother. She stated that at the time that her father was assaulted by Peralta, she was studying her lessons and that she was the one who awakened her mother who was sleeping at the time (p. 8, rec.).

"On the basis of these two statements, the Chief of Police filed a motion to quash the complaint for parricide (p. 5, rec.). The Court however denied the Motion (p. 9, rec.). The case was finally set for hearing at which the prosecution presented its principal witness, Saturnino de Peralta, who by then was already serving sentence in Muntinlupa, Rizal, after pleading guilty to the crime of murder of which he was charged (Exh. 3, pp. 179- 183, rec.).

"At the trial of the case, Peralta testified that the appellant was his paramour, that earlier in the afternoon of that fatal day, she invited him to a tryst at her house during the night, as her husband, Telesforo Aglibut was to go fishing in the river (pp. 5, 12-13, Altuna). According to Peralta, he waited under a logo tree in the yard of appellant's father for the deceased to leave his house. At about 8 o'clock that night, he saw the deceased passed by, on his way to the river, carrying a kettle in his hand (p. 12, t. s. n., idem). This made him believe that the latter would be out fishing the whole night (p. 15, t. s. n., idem). Upon being assured that the deceased had already gone, he went upstairs into the latter's house where he found the appellant already waiting for him. They made love to each other and finally succumbed to the urge of the flesh (p. 6, t. s. n., Altuna). Em-boldened by the thought that the deceased would be out the whole night, Peralta stayed longer in the house. He and the appellant sat by the door of the sala and continued their amorous acts. While they were thus lost in the ecstasy of their sinful love, the deceased arrived and surprised them in a compromising situation. This provoked the anger of the deceased who, according to Peralta, began beating his wife with a club he was then carrying (pp. 7, 10, 21-22, 23, 28, t. s. n., Altuna). The appellant in desperation got hold of a bolo stuck in the nearby wall and with it struck the deceased several times (pp. 8, 28, idem). As the deceased continued beating the appellant, the latter called upon Peralta for aid (pp. 8, 22, t. s. n., idem). Peralta came to the succor of the appellant, unsheathed his bolo and began hack-ing the deceased left and right (pp. 8, 23, t. s. n., Altuna). The deceased floundered with the force of the joint assault on his per-son. Bleeding and helpless, he scampered down the stairs towards the gate evidently to escape. Appellant how ever followed and con-tinued hacking him (p. 25, t. s. n. idem), until he fell by the gate of the fence.

"On the advice of the appellant herself, Peralta escaped by passing through the rear of the bangsal of the house.

The bangsal is a sort of an open corridor connecting the kitchen from the main house) p. 25, t. s. n., idem.).[1]

After due trial, the Court of First Instance of Ilocos Sur, presided by His Honor, Judge Florencio Villamor, thus summarized its findings from the evidence of record:

"The evidence on record, therefore, has fully established the following facts: that the deceased Telesforo Aglibut and the accused Dolores Aglibut, were legally married; that in the evening of November 22, 1961, while the late Telesforo was out fishing, his wife, herein accused had a tryst in the conjugal home with Saturnino de Peralta, who was her para-mour; that when the late Telesforo returned, he found his wife together with Peralta in a provocative situation, and he was roused to anger; that the accused then took hold of a bolo and used it against her husband, who defended himself bare handed; that at that instance, Saturnino de Peralta made common cause with the accused and attacked the late Telesforo from behind with a bolo; and, that as a result of said attack, the late Telesforo Aglibut sustained a total of 16 wounds on different parts of the body, which injuries caused his instantaneous death."[2]

It therefore rendered the following judgment against the accused:

"IN VIEW OF THE FOREGOING, the Court finds the accused Dolores Aglibut guilty beyond reasonable doubt of the crime of parricide, as defined and penalized under Art. 246 of the Revised Penal Code, and, in the absence of any modifying circumstances, hereby sentences the said accused: to the penalty of reclusion perpetua, with its accessory penalties, to indemnify the heirs of the deceased offended party, Telesforo Aglibut, in the sum of Six Thousand Pesos (P6,000.00), without however, sub-sidiary imprisonment in case of insolvency, and, to pay the costs of this proceeding.[3]

The principal error assigned by the accused on appeal is that the trial court should not have found that she actively participated in the killing of her husband in accordance with the prosecution's evidence, but that it should have sustained her defense that her paramour, Saturnino de Peralta, alone perpetrated the killing.

The issue thus raised is essentially one of fact. Did the trial court err in giving faith and credence to the testimony of Saturnino de Peralta, the prosecution's principal witness, who himself had confessed to helping the accused in the killing and had pleaded guilty to the crime of murdering the victim, for which he had been separately charged and was already serving sentence in Muntinlupa, as against the versions of the accused and her young daughter which the court found to be untenable?

The doctrine is well settled that in the absence of any plain error or misapprehension or disregard of certain facts and circumstances of substance and value by the trial court in weighing the conflict in the testimonies of the witnesses, and accepting the version of the prosecution, and rejecting that of the defense or of some other special or compelling reason, this Court will not on appeal disturb the findings and conclusions of the trial court which has from its vantage point observed the demeanor and attitude of the witnesses.[4] Here, the trial court's judgment is fully supported by the evidence and we find no cause for its reversal.

1. The very nature and location of the multiple stab wounds of the victim[5] indicate that they were inflicted by at least two assailants. The necropsy report, Exhibit "A", of Dr. Fidencio Florendo, Municipal Health Officer of Santa, Ilocos Sur, who performed the autopsy on the cadaver of the victim, described the twenty-four (24)[6] stab wounds inflicted on the head, face, shoulders, arms and fingers of the victim as follows:

"Head

"1. At the vortex of the head are (3) three lacerated cut wounds forming a letter (N). (2 1/2) Two and one half inches, (4) Four inches, and (2) two inches respectively. The skull was fractured. The brain was not cut.

"2. At the right side of the head was a semi-circular lacerated cut wound (2) Two inches long cutting only the scalp of the skin of the head.

"3. Behind the right ear are (2) two lacerated cut wounds. (2) Two inches and (3) three inches respectively. The bone behind the ear (Mastoid bone) was fractured. 1/2 inch deep.

"4. At the posterior portion of the head at the level of the ears are two angular lacerated cut wounds, (2) two inches, and (3) three inches respectively. The skull was fractured. The brain was not injured.

"5. Two parallel lacerated wounds (parallel to the ground) at the level of the 1st cervical vertebrae, (2) two inches long and (5) five inches long respectively. The depth of the 5 inches long wound was 1 1/2 inches deep.

"6. Lacerated cut wound at the right side of the face from the right angle of the mouth to the right side of the neck (6) inches long 1 1/2 inches deep. The right side of the mandible bone was cut. The carotid artery and the jugular vein were cut. There was plenty of hemorrhage in this wound making it fatal.

"7. At the right side of the base of the neck was a lacerated cut wound (2) inches in length, 1 1/2 inches deep.

"8. At the right shoulder was a lacerated cut wound (5) five inches long, 1 1/2 inches deep.

"Body - Back

"9. At the region of the right scapula bone are two lacerated cut wounds of the skin. (1) One inch and (2) inches in length respectively. The depth of the wound are just skin deep.

"10. At the level of the 3rd thoracic vertebra 3 inches at the right of the vertebral column are (2) two lacerated cut wounds of the skin which are very superficial. (3) Three inches and (2) two inches respectively.

"Upper Right Extremity

"1. Lacerated diagonal cut wound (1) one inch in length and (1) one centimeter deep at the medial lateral portion of the right arm.

"2. Lacerated cut wound at the posterior portion of the right elbow joint (3) three inches long. Tendons of the tricep muscle were cut.

"3. Lacerated cut wound (4) four inches long, 1/2 inch deep at the posterior portion of the wrist of the right hand and extended between the index and middle finger of the right hand.

"4. Lacerated cut wound 1 1/2 inch long and 1/4 inch deep at the posterior portion of the middle finger.

"5. Two parallel lacerated wounds 1/2 inch each 1/4 inch deep at the medial portion of the right hand 1 inch below the wrist joint.

"Upper Left Extremity:

"1. The tip of the ring finger of the left hand was cut. (1) One centimeter long.

"Abdomen - Normal

"Lower extremities - normal

"Cause of Death -

"1. Hemorrhage from the carotid artery at the right side of the neck.

"2. Hemorrhage from the lacerated cut wounds mentioned above." (pp. 9-11, Rollo.)

Dr. Florendo, testifying on the victim's injuries,[7] declared they were bolo wounds; that two of the serious wounds on the head, wound no. 1 which fractured the skull and wound no. 6 on the right side of the face, extending from the mouth to the neck and severing the carotid artery and the jugular vein, were dealt with such

great force that they could not have been inflicted by a person of small build like the accused but by "a strong fellow" and that by the location and direction of said wounds, as well as wound no. 3 which fractured the mastoid bone behind the right ear, the assailant must have been behind the victim when he inflicted them. As to wounds nos. 11 to 16, inflicted on the right elbow and hand, as well as on some fingers of both hands, the doctor declared that they were light blows and could have been inflicted even by a person of small build, such as a woman; and that judging from the location of said injuries, as well as wound no. 8 on the right shoulder, they were frontally inflicted and said injuries could have been sustained while the victim had his arms raised in the act of defending himself. The nature and extent of the injuries sustained by the victim support the trial court's conclusion "that there were at least two assailants, one of whom was a well-built person who dealt the heavy blows from behind the victim, and the other, a person of small build who dealt the light blows while facing the victim." [8] The two assailants, as testified by Peralta, were himself and the accused, with the accused being the first to bolo the unfortunate victim, while he bologed the victim three times and left at her order while she continued bololing him. [9] That Peralta and the accused were present at the scene of the crime and at the time of its commission is not disputed.

2. The accused-appellant would discredit Peralta's testimony by questioning why Peralta did not implicate the accused when he was being investigated by the police authorities immediately after the commission of the crime and on the succeeding days, notwithstanding that the accused and her daughter, Marilou, pointed to him, as the sole perpetrator of the killing. Peralta's simple explanation for this was that the accused had so ordered him, telling him "Do not declare. I shall take care of everything," and he had to obey what she told him. [10] Three days after the killing, however, apparently overcome by repentance, Peralta did give on November 25, 1961, his statement to the Chief of Police of his town, which he subscribed and swore to before the justice of the peace on November 27, 1961. [11] Stricken by a guilty conscience, he pleaded guilty to the separate information for murder against him upon his arraignment on December 19, 1961 and was duly sentenced. He was represented in the case by the same counsel for the accused. [12] The accused's contention that when he pleaded guilty to the murder of the victim, "he never made any manifestation that he and defendant-appellant committed the crime", [13] is not borne out by Peralta's repeated assertions on cross-examination by the accused's counsel (and his own counsel in the murder case) that "At that time I pleaded guilty, I declared we were two accused then, sir" and "What I have said before is 'Yes, I am going to plead guilty now but I was not all alone. We were two.'" [14] Peralta's statements are supported by the record, for on November 27, 1961, the Chief of Police had filed with the Municipal Court the separate criminal complaint for parricide against the accused on the strength of Peralta's statement, and the justice of the peace was to conduct the preliminary investigation and remand the case on May 25, 1962 to the Court of First Instance for trial. [15]

When Peralta testified for the prosecution on June 18, 1963 and July 18, 1963, he was already serving his sentence at the National penitentiary in Muntinlupa. He had been meted a relatively light penalty of six years and one day of prison mayor to twelve years and one day of reclusion temporal, in view of the appreciation of several mitigating circumstances in his favor. [16] He had no motive -- and none has been offered by the accused -- to assault and kill the victim, except that as confessed to by him, that the victim had unexpectedly returned and found him and the accused at their tryst. No plausible reason is given -- and none has been advanced by the accused -- as to why Peralta, unless he was telling the truth to expiate his dark deed and do justice to the victim, would now testify falsely against his very paramour, the accused, for whose love he had killed. His testimony bore no rancor against the accused and he even tried to mitigate her guilt by claiming that the victim, upon his finding them together, had immediately assaulted the accused with a club, kicked her and threatened to kill her -- which the trial court, however, disbelieved, as there were no visible signs of injuries or of the "terrible beating" on the body of the accused. [17]

3. The version of the accused and her young daughter, Marilou Aglibut, that Peralta alone, for no apparent motive, assaulted and killed the victim, was correctly held to be untenable by the trial court. In the case of the accused, the trial court found that her actions before and immediately after the killing, belie her claim of innocence. As to the undisputed presence of Peralta at her conjugal home that evening, the trial Court observed that "according to Peralta, late in the afternoon of that day, the accused invited him to a tryst at her house that evening saying that her husband will be away. While the accused denied having extended such invitation, however, she failed to advance any explanation why Peralta was at the conjugal home that evening, considering that, according to her own testimony, Peralta came to the house only on the occasions when her husband was present. Neither can she now deny nor profess ignorance about Peralta's intentions towards her. In her testimony, she admitted that two weeks before the fatal incident, Peralta told her about his passionate love for her and that, he would have succeeded in having intercourse with her were it not for his 'stupidity' in proposing in the presence of her children. In other words, she was also in love with Peralta, and would have yielded her body to him on that occasion were it not because of her children's presence. It is reasonable to infer, therefore, that the two must have thought of waiting for another opportune time when they would give vent to their unrequited love, and that day came on the night of November 22, 1961, when she learned that her husband was to go fishing." [18]

As to her actions during the killing, the trial Court likewise correctly found them to be unworthy of credence: "According to the accused, when she was awakened by her daughter Marilou that evening, she immediately screamed for help and then saw Peralta in the act of bolting her husband; that Peralta then approached her and told her not to scream under pain of bodily harm; and that, immediately afterwards, she and her said daughter jumped out of the window and proceeded to her father's house nearby. Ordinarily, a person does not scream without knowing the reason therefor. Again, it is rather strange that Peralta, who was bolting the unfortunate husband, could have found time to approach the accused and only to warn her not to scream. And, if that was true, it is again strange why Peralta permitted the accused to flee unscathed. Moreover, the act of the accused in abandoning her husband who was in distress, as well as her children of tender ages, is quite unnatural. Ordinarily, a person placed in the same situation as the accused, will find no sacrifice is too great that he would not do if only to protect or defend from danger a relative or even a stranger. Incredible still that the accused and her daughter Marilou could have jumped out of the window of their house and remained unscathed, considering their weak physiques. It has also been noted, that after the accused had allegedly awakened her father and related to him the incident that occurred in her house, the latter instructed the accused to return to her house while, he went to notify the barrio-lieutenant about it. If that is true, then it is reasonable to conclude that when the accused left her house, she already knew that her husband was beyond help; and that her purpose in going to her father's house was merely to tell him about her husband's death. Besides, if it is true that the accused left her house because of fear of Peralta, then the only logical explanation as to why she was able to return accompanied only by a small daughter is, that she knew beforehand that her husband was already dead, and that Peralta was no longer there." [19]

4. The accused's oldest daughter, Marilou Aglibut, was only 13 years old at the time of the killing on November 22, 1961. She had married and was 16 years old when she testified on April 2, 1964, to corroborate her mother's version. Her claim that she witnessed Peralta's attack on her father and that she then awakened her mother who was already sleeping was properly found by the trial court to be "far from convincing and that she had not told the whole truth on the witness stand" [20] in a daughter's confused and desperate desire to shield a mother. [21] She claimed to have seen Peralta hide by the post of their house, upon hearing "some crushing sounds produced by the coming (from work) of (her) father" [22] and get himself ready to attack her father with a bolo, but she did not warn her father of Peralta's presence and suspicious movements. Her incredible explanation for this was "because (she) thought that Saturnino de Peralta was going to scare him only." [23]

While she claimed that upon Peralta's attack, her father fell from the stairs to the ground, the records show that her

father was attacked inside the house, and that the ante-sala was splattered with blood, as well as the stairs and in the yard where the deceased fell dead, in a futile attempt to escape.[24] The final proof of the unworthiness of her testimony was her admission that the truth of the matter was that when she woke up that fateful evening, her father was "already wounded and dying." [25]

5. This Court's affirmance of the trial court's verdict that the accused actively participated in the killing necessarily disposes of her alternative and inconsistent claim that "she killed her husband in self-defense." [26] This claim admits her participation in the crime, but would exculpate her on the basis of Peralta's testimony that the victim, upon finding him together with the accused, attacked her with a club, kicked her and threatened to kill her (supra, page 9), whereas according to the rejected defense version, the accused was soundly asleep at the time and Peralta alone and without any motive killed her husband. The facts as found by the trial court and herein affirmed show none of the elements justifying the claim of self-defense. The deceased was unarmed and had not committed any act of aggression against the accused. She certainly would have sustained some visible signs of injuries on her person, were this so. No such injuries were shown to the trial Court nor did the accused complain of any injuries when she executed her statement the day following the killing. Nor could she claim lack of sufficient provocation, assuming that her deceased husband assaulted her upon finding her in a tryst with her paramour at their very home.

We, therefore, find without merit the accused's appeal from her conviction for the crime of parricide. The indemnity awarded to the heirs of the deceased Telesforo Aglibut is increased to P12, 000. 00.[27]

ACCORDINGLY, with the modification that the indemnity to the heirs of the deceased Telesforo Aglibut is increased to P12,000.00, the judgment appealed from is hereby affirmed, with costs against the accused-appellant.

SO ORDERED.

Concepcion, C.J., Reyes, J.B.L., Dizon, Makalintal, Zaldivar, Sanchez, Castro, Fernando, and Barredo, JJ., concur.

[1] Solicitor General's Brief, pp. 1-6.

[2] Rollo, p. 20.

[3] Rollo, p. 21.

[4] People vs. Gutierrez, 26 SCRA 143 and cases cited; People vs. Fortillas, 23 SCRA 74.

[5] Cf. People vs. Cerna, L-20911, Oct. 30, 1967; People vs. Labis, L-22087, Nov. 15, 1967.

[6] The trial court erroneously gave the total number of wounds as 16, corresponding to the paragraphs in the necropsy report describing the wounds. An actual count of the wounds as described therein, as well as shown on the accompanying sketches of the report. Exhibits A-1 and A-2, shows a total of 24 wounds.

[7] t.s.n., Acance, pp. 9-44.

[8] Rollo, p. 16.

[9] t.s.n., Altuna, pp. 6-7, t.s.n., Acance, p. 25.

[10] t.s.n., Altuna, pp. 30-31.

[11] Record, p. 2; t.s.n., Acance, p. 95.

[12] t.s.n., Acance, p. 7.

[13] Rollo, p. 69.

[14] t.s.n., Acance, pp. 2-4.

[15] Record, pp. 1, 78.

[16] Exhibit 3.

[17] The record of the preliminary investigation, Rec., pp. 22-25, although not brought out at the trial, discloses that the accused had ground to be bitter against her husband, aside from her affair with Peralta. Four days before the killing, the police had to be called to the accused's house, as due to a "misunderstanding", the victim had dismantled the walls of their house.

[18] Rollo, p. 17.

[19] Rollo, pp. 18-19.

[20] Idem., p. 20.

[21] The justice of the peace who conducted the preliminary investigation more explicitly held in his Order of December 11, 1961, that "the daughter while testifying varies her testimony as frequently as one can ask a question ... (she) is testifying only to matters which her mother wishes her to state." (Rec. p. 9), and in his Order of May 25, 1962, transmitting the case for trial that "she testified as if reciting a poem from memory during the direct examinations but when she was being cross-examined, she could hardly answer simple questions relating to the incident, if picked at random." (Rec. p. 78).

[22] t.s.n., Acance, p. 77.

[23] t.s.n., Acance, p. 85.

[24] Sketch, Exh. 1; t.s.n., Acance, p. 93.

[25] t.s.n., Acance, p. 84.

[26] Appellant's Brief, p. 5.

[27] People vs. Pantoja, 25 SCRA, 469.

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