

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. AURELIO ONAROSA, DEFENDANT-APPELLANT.

G.R. No. L-30256. February 29, 1984

Ponente: RELOVA, J.

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RELOVA, J.:

In an information dated September 16, 1968, filed in the then Court, of First Instance of Samar, Aurelio Onarosa and Gregorio Onarosa were charged with the crime of murder.

After trial, the court a quo rendered judgment:

"WHEREFORE, the Court finds accused Aurelio Onarosa guilty beyond reasonable doubt as principal of the crime of murder defined and penalized under Article 248 the Revised Penal Code; there being no mitigating nor aggravating circumstance present, convicts him to suffer an imprisonment of reclusion perpetua, indemnify the heirs of Juan Balagasay the sum of P10,000.00 and pay one-half of the costs.

"His guilt not having been proven beyond reasonable doubt, the Court acquits accused Gregorio Onarosa of the charge and of an attempt to commit the same, with one half of the costs de officio.

"Exhibits 'A', the dagger and 'A-1', the scabbard, are ordered confiscated and forfeited in favor of the government (Article 45, Revised Penal Code)." (p. 16, Rollo)

Accused Aurelio Onarosa appealed from the decision of the trial Court.

Prosecution evidence shows that the late Juan Balagasay and Sabino Daep Camposano were at the town plaza of Balangiga, Eastern Samar on August 9, 1968, the eve of its town fiesta. They went to the house of Ciriaco Elacion, father-in-law of Balagasay, to drink tuba. They saw appellant Aurelio Onarosa in the said house. Appellant and the deceased are brothers-in-law (mag-bilas) because their wives are sisters and daughters of Ciriaco Elacion. After sometime, Juan Balagasay and Aurelio Onarosa almost fought and women in the house shouted. As the house of Ciriaco Elacion was near the municipal building, the Chief of Police, upon hearing the commotion, sent a policeman to find out what it was all about. In the meantime, Sabino Daep Camposano was able to pacify and separate the two protagonists. Hence, when the peace officer arrived at the place every-thing was peaceful and so he returned to the municipal building.

From the house of Ciriaco Elacion, Balagasay and Camposano went to the town plaza and, after a while, they, in the company of Gregorio Onarosa, went to the house Juan uan Arica, where they indulged again in drinking tuba.

About 11:00 in the evening, Gregorio Onarosa invited Balagasay and Camposano to the dance which was being held in the town plaza. As the three, namely: Gregorio Onarosa, Juan Balagasay and Sabino Daep Camposano went out of the house, Arica accompanied them to the yard and advised them not to drink anymore. Gregorio Onarosa walked ahead, followed by Balagasay and Camposano with the arm of one around the shoulder of the other. After they had walked about 20 meters from the house of Arica, they were met by appellant Aurelio Onarosa and Genaro Onarosa. Aurelio ran towards Balagasay and immediately stabbed the latter with a dagger,

hitting him in the stomach. Gregorio Onarosa, uncle of appellant, also stabbed Balagasay but failed to hit the latter who then walked towards the house of Juan Arica who heard a voice saying: "Pare Waway, Pare Waway, open the door, I am in distress." Arica opened the door and saw Balagasay with his hand holding his stomach stained with blood. He invited Balagasay to come into the house as the latter told him "I am in a serious condition." Arica upon seeing Balagasay weak, pale and his voice low, asked "Who wounded you?" Balagasay replied: "Aurelio wounded me. Gregorio Onarosa stabbed me but failed to hit me."

Juan Arica told his daughter Elvira to fetch a policeman. The Chief of Police, Raymundo Campanero, arrived and Balagasay said: "I am weak, I might die." Whereupon, Chief of Police Campanero propounded questions in the dialect to Juan Balagasay who answered them also in the dialect. The statement was reduced into writing, signed by Balagasay and properly attested to by Juan Arica (Exhibit "B"). The following is the translation in English of Exhibit "B."

"MORTEM STATEMENT OF JUAN BALAGASAY TAKEN BY THE CHIEF OF POLICE AT ABOUT 10:45 P.M.

Q Who wounded you?

A Aurelio, my brother-in-law.

Q Who was with Aurelio?

A Gorio Onarosa who assaulted me but was not able to hit me.

Q Who also helped Aurelio?

A Sabe Daep.

Q How do you feel about your wound?

A I do not know about this.

Q Were those only the three persons that you recognized who wounded you?

(SGD.) JUAN BALAGASAY

Witness: (Sgd.) JUAN ARICA

"This is to certify that the above is true and correct translation to the best of my knowledge.

(SGD.) ANDRES ABUCEJO

Court Interpreter"

(p. 42, Rollo Exh. "B-2")

Thereafter, the Chief of Police ordered Arica to bring the victim Balagasay to the Puericulture Center where he was attended to by Dr Catalina Camenforte who, thereafter, issued a medical certificate (Exhibit "C"). After his treatment by Dr. Camenforte, Balagasay was transferred to 'the Southern Leyte General Hospital where he died on August 10, 1968. The cause of death is "hemorrhage, internal, stab wound" (Exhibit "C-1).

On the other hand, defense version is as follows: The deceased Balagasay and Sabina Daep Camposano, after consuming some quantity of tuba in the house of Elacion, proceeded to the town plaza and approached Alejandro Maragrag who was managing a gambling game called "Holing-hoging." They were asking money from Alejandro

who politely asked that he be excused because he does not have any income yet, not even for the payment of his license fee. Failing to get money from Maragrag, the two, Balagasay and Camposano, together with Gregorio Onarosa whom they met in the plaza, went to the house of Juan Arica where they indulged again in drinking tuba. After a while, Gregorio Onarosa left the place, followed by the deceased and Camposano who intended to go to the dance hall at the town plaza. On the way, the deceased and Camposano kept on discussing until they finally exchanged blows. Camposano drew his weapon, Exhibit "A-1", and stabbed the deceased hitting him in the abdomen. At that moment, appellant Aurelio Onarosa, (bilas of Balagasay) arrived and Balagasay said: "Bilas, retaliate for me, I am wounded." Immediately, appellant wrestled with Camposano for the possession of the weapon. Appellant succeeded and attacked the latter until Camposano ran under the house of one Damaso Carilla. Camposano fell to the ground face downward and appellant Aurelio Onarosa continued stabbing him with the weapon (Exhibit "C-1") until it stuck at the back of Camposano.

In the meantime, Juan Balagasay sought refuge in the house of Arica who, upon opening the door of his house, saw appellant chasing Camposano towards the house of Carilla.

The weather at the time was bad as it was raining very hard. When the rain stopped Carilla sent his daughter to fetch the Chief of Police who arrived and found Balagasay bleeding profusely due to the wound on his abdomen. At the same time, a police sergeant found Sabino Daep Camposano in the house of Carilla prostrate on the ground with a weapon planted on his back. The Chief of Police took the dying declaration of Camposano and thereafter brought the two, Balagasay and Camposano, to the health center for treatment. They were transferred to the Southern Samar General Hospital the following day where Balagasay died, while Camposano survived.

The foregoing version of the defense deserves no credence. As aptly observed by the trial court, there was no reason to doubt the testimony of Sabino Daep Camposano. He has no reason to stab, much less, kill the deceased. They were always together, which shows their close friendly relationship. He has no reason to testify falsely against herein appellant. He was a friend of both the deceased and the appellant. There was no misunderstanding between them up to the time of the incident. In fact, the defense has imputed no motive for Camposano to testify against the accused.

Hereunder is the testimony of Sabino Daep Camposano regarding the incident:

"Fiscal:

Do you know the accused in this case Aurelio Onarosa?

A Yes, sir.

Q Please point him out if he is in the courtroom?

(Witness pointing to one who answers the name of Aurelio Onarosa.)

Q For how long have you known Aurelio Onarosa?

A Since I went to Balangiga.

Q Why, from where is Aurelio Onarosa?

A When I went to Balangiga, he was already there.

Q How about you, from where are you?

A From Song-an.

Q When did you go to Balangiga?

A In 1960.

x x x x x x x x

Q Do you know a person who in his lifetime answers the name of Juan Balagasay?

A Yes, sir.

Q How did you happen to know Juan Balagasay?

A We became friends when I was still working in a transportation bus.

Q When was that when you were working in a transportation bus?

A In the year 1958.

Q Do you know from where is this Juan Balagasay?

A Yes, sir.

Q On August 9, 1968, where were you?

A I was in Balangiga.

Q Do you remember having seen Juan Balagasay on the 9th of August 1968?

A Yes, sir.

Q Where did you see him?

A In Balangiga, in the plaza and then we went towards the cockpit.

Q At around what time was that when you met Juan Balagasay in the town plaza?

A One o'clock.

x x x x x x x x

Q What time was it when you went outside the house of Juan Arica?

A Eleven o'clock.

Q What happened on the way when you were walking towards the dance? If anything happened?

A When we walked about 20 meters from the house of Juan Arica, we were immediately met by Aurelio Onarosa and immediately stabbed.

Q From where did he come from?

A Aurelio Onarosa, was facing towards the direction of the house of Juan Arica.

Q How about you, towards what direction were you going?

A We were going to the plaza.

Q Who was your companion when you were met by Aurelio Onarosa?

A Gregorio Onarosa and Juan Balagasay.

Q And who was stabbed by Aurelio Onarosa?

A Juan Balagasay.

Q Was he hit?

A Yes, sir.

FISCAL:

With what weapon was Juan Balagasay stabbed by Aurelio Onarosa?

A Small bolo in the form of a gaff.

Q You stated that Juan Balagasay was hit when stabbed by Aurelio Onarosa, what part of his body was hit?

A (Witness pointing to the stomach) The abdomen.

Q What happened with Juan Balagasay when he was stabbed by Aurelio Onarosa?

A He was also stabbed by Gregorio Onarosa but was not hit.

Q With what weapon did Gregorio Onarosa stab Juan Balagasay?

A Double blade.

Q If that weapon will be shown to you will you recognize it?

A Yes, sir." (tsn. pp. 2, 3, 8-9, October 19, 1968 hearing)

Besides the testimony of Camposano there is the dying declaration of Juan Balagasay which must be admitted because present are the four (4) requisites, namely: (a) it concerns the crime and the surrounding circumstances of the declarant's death; (b) at the time it was made the declarant was seriously wounded; (c) declarant was competent as a witness; and (d) the declaration is offered in the criminal case for homicide, murder or parricide in which the declarant was the victim.

Further, Juan Arica was told by the victim who was already in serious condition, that it was appellant who stabbed him. This statement of the victim can be considered as part of the *res gestae*. Thus, Arica testified:

"Q Do you know a person who in his lifetime answers the name of Juan Balagasay?

A Yes, sir.

x x x x x x x x

Q How were you called?

A Pare Waway, you open the door, because a sorrowful incident happened to me.

Q This Pare Waway, who was referred to while you were lying down not yet asleep?

A I was the one.

ATTY. JUABAN:

Did you recognize the caller as you heard the call?

A Yes, sir.

Q Having recognized the caller and you being the person called, what then did you do?

A I opened the door.

Q After opening your door, what did you find?

A I saw Juan Balagasay holding his abdomen stained with blood.

Q Was he the caller whom you recognized?

A Yes, sir.

Q Why are you being called Pare Waway by the caller who turned out to be Juan Balagasay?

A Because Juan Balagasay was the sponsor of the baptism of my child.

Q So on seeing Juan Balagasay wounded and holding his abdomen as you opened your door, what then did you do with him?

A I let him go upstairs.

Q What did you do with him inside your house?

A I asked him as to what he feel, whether he was serious or not.

Q What was his answer to your inquiry?

A 'I am in so serious condition.'

Q Did you see where his wound was as you said you found him wounded?

A It was in the abdomen.

Q Did you actually see the wound in the abdominal portion you indicated?

A I did not see clearly because it was covered by his palm.

ATTY. JUABAN:

Having been informed that he was very seriously wounded, what then did you do or what did you ask him if any?

A I said to him: 'Pare Waway, tell the truth, who wounded you?'

Q As you asked that question to him, what did you observe his physical condition?

A He was already very weak.

Q How about his facial expression, you observed of him?

A His face was pale.

Q How about the manner he talked?

A His voice was already very low.

Q To that question you asked him, as to who wounded him because you fear that he was in a very serious condition, what was his answer, if any?

A He answered to me that the man who wounded him was Aurelio Onarosa and Gregorio Onarosa who failed to hit him when he stabbed him.

Q After you got the information and Juan Balagasay who appeared to be in serious condition, what did you do with him?

A After answering me I sent one of my children to get a policeman.

Q Who was the child you sent for an errand to fetch a policeman?

A Elvira Arica."

(tsn., pp. 33, 37-39, Testimony of Juan Arica)

Finally, We take note of the observation of the trial court that "[t]he quarrel between Aurelio Onarosa and the deceased in the house of Ciriaco Elacion must have generated ill feeling in accused Aurelio Onarosa which swiftly accelerated into a desire for revenge. Fired by a raging anger, his moral restraint must have broken down and he became obsessed with the desire to commit a hideous act of depraved criminality, that is to wound and kill Juan Balagasay. That evening, seeing Juan Balagasay and Sabino Daep Camposano going to the dance, he found the time and place most opportune. He ran, therefore, towards Juan Balagasay and with unblushing insolence stabbed him to give vent to his surging rage and animosity. But the accused should know, as all others, that 'crime does not pay.' (p.14, Rollo).

We find no error in the trial court's finding and conclusion that herein appellant was the assailant and the one responsible for the death of Juan Balagasay.

ACCORDINGLY, the judgment appealed from is hereby AFFIRMED with the modification that the indemnity is increased to P30,000.00. With costs.

SO ORDERED.

Teehankee, (Chairman), Melencio-Herrera, Plana, and Gutierrez, Jr., JJ., concur.

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