

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JOSEPH JUNIO Y PANES, ACCUSED-APPELLANT.

Ponente: BARZA, J.

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BARZA, J.:

The accused-appellant Joseph Junio (Junio) appeals the Decision[1] dated 12 October 2012, of the Regional Trial Court of Imus, Cavite, Branch 21, convicting him of Murder for the death of Emidio Pacatang, and imposing on him the penalty of reclusion perpetua.

With co-accused Rolando Macose and Reynaldo Vinluan, who remained at-large[2], Junio was charged with Murder under the following Amended Information,[3] which reads:

"That on or about the 24[th] of July 2008 in the Municipality of Dasmariñas, Province of Cavite, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, then armed with a bladed weapon, with intent to kill, qualified by treachery, with abuse of superior strength and evident premeditation, conspiring, confederating and mutually helping one another, did then and there, willfully, unlawfully and feloniously attack, assault and stab one EMIDIO PACATANG y DANO, with the use of said weapon, thereby inflicting upon the latter fatal wound on his chest which caused the untimely death of said victim, to the damage and prejudice of the heirs of said Emidio Pacatang.

CONTRARY TO LAW."

Before the trial commenced, Junio, through counsel-de-oficio, moved for and was granted transfer of detention from BJMP-Dasmariñas, Cavite to the Cavite Provincial Jail, as the latter detention center is closer to where his family resides.[4]

Junio pleaded not guilty during the arraignment.[5] At the pre-trial[6], only the identity of Junio and the jurisdiction of the trial court over the case were the subject of stipulation between the prosecution and the defense, who both reserved their right to mark their respective exhibits during the course of the trial.

In the trial that ensued, the prosecution presented the testimonies of : 1) Antonio Reston; 2) Dr. Antonio Vertido; 3) Rosalie Bojador Pacatang, widow of the victim; and, 4) PO3 Edgar Belza.

Antonio Reston is a 40-year old jeepney driver, residing at Camella Springville 2, Molino, Bacoor, Cavite. On 24 July 2008 at around 10:30 in the evening, he was at the Paliparan Molino Road. Prior thereto, he saw accused-appellant Junio with Roland Macose and Reynaldo Vinluan at the car wash beside JP Gasoline Station in Paliparan. Reston and the victim, Pacatang, were also there having their vehicles (jeepneys) washed. Junio approached the person washing the vehicle and asked if he had already finished washing Pacatang's vehicle. The carwash person replied that he was not yet through.

After their respective vehicles had been washed, Reston and Pacatang rode their jeepneys to go home. Along the way, Reston passed by Junio, Macose and Vinluan who were in front of the San Marino Subdivision. Driving behind Reston was the victim, Pacatang, who got near him and told him that a stone had been thrown at his jeep.

Pacatang then overtook Reston's jeepney. As the two proceeded to drive home, another jeepney blocked Pacatang's jeepney. The passengers of the said jeepney alighted. They were Macose, Vinluan and Junio. Macose and Junio forced Pacatang to alight from his jeepney. Thereafter, from a distance of about seven meters, Reston saw Macose stab Pacatang with the use of an ice pick while Junio also stabbed Pacatang with the use of a balisong.

Before they stabbed the victim, Reston pleaded to Macose not to stab Pacatang to which Macose replied, "I will kill this because he is challenging me to a killing this morning." [7] Reston knows Macose as the latter is a fellow driver in Paliparan. Macose then told Reston to leave or else the latter would get involved in the incident. Upon hearing this, Vinluan pacified Macose. Before leaving the place, Reston took note of the plate number of the assailants' jeepney. He then called for rescue.

The barangay mobile nearby assisted Reston. They went back to the place of the incident and saw Pacatang already lying prostrate on the ground. Pacatang was brought to the hospital where the doctor pronounced him dead.

After which, Reston went to the operator of the jeepney that Pacatang was driving. The two of them were taken by the barangay officials to the barangay office where he gave his statement [8] to SPO3 Belza. Additional statements [9] were also given by Reston concerning the plate number of the vehicle of the assailants. He positively identified the person of the accused Junio at the stand.

SPO3 Edgar Belza of the Dasmariñas Municipal Police Station is the investigator-on-case. On the said date and time, he received information from the elements of Brgy. Salawag of a stabbing incident. He proceeded to the Metro South Hospital where he found out from the attending physician that the victim had been pronounced dead on arrival. He also found out that the person who brought the victim to the hospital is Antonio Reston, whose statement he took. He also executed a Pinagsamang Sinumpaang Salaysay for the instant case together with PO3 Rez Alovera.

Part of the investigation conducted was the verification of the Land Transportation Office (LTO) registration of the vehicle on which the suspects in this case boarded. As found out, the said vehicle is registered in the name of one Merlinda Pimentel [10]. However, upon verification from Pimentel, it was discovered that the said jeepney had been sold to Reynaldo Venluan (sic). [11]

The testimony of the wife of Pacatang, Rosalie Pacatang, was dispensed with after the parties stipulated on her supposed testimony and documentary exhibits to prove that she is the wife of the victim, Pacatang [12], the Death Certificate [13] of Pacatang, that she has no personal knowledge who actually killed her husband, her statement [14] given before the police officers, the expenses incurred [15] in the burial of her husband, and the contract [16] with her lawyer.

Dr. Antonio Vertido, Medico Legal Officer of the National Bureau of Investigation (NBI) Calabarzon, conducted the examination of the cadaver of the victim in this case. He prepared the Post Mortem/ Autopsy Report No. 08-179 [17]. At the stand, he testified that a sharp-pointed instrument caused the stab wound no. 1 which is located at the right anterior chest. The vital organs affected were the lung and the aorta. It is a fatal wound. The other stab wound is located at the right arm, again caused by a sharp-pointed instrument and considered as not fatal. The other wounds sustained by the victim were incised superficial injuries on the left forearm and contusion abrasion on the right elbow. There was also a connecting wound on the right arm posterior aspect.

The defense presented the lone testimonies of the accused-appellant Junio. He is a jeepney driver for one Reming, plying the route of Baclaran-Paliparan. He testified that on 24 July 2008, he was at his house at 208 Salawag-Paliparan Road, Dasmariñas City, Cavite. His relative, Reynaldo Vinluan, came to his house at 8:00

o'clock in the evening to ask his help in the registration of Vinluan's vehicle with the Land Transportation Office (LTO) because Junio knows someone in the said office. Junio, however, did not accompany Vinluan as his (Junio's) wife had just given birth a week ago. He heard nothing more about Vinluan and did not see him anymore after that night. Junio saw Vinluan again when the latter visited him in jail on 1 August 2008. On the said date, arresting officers invited Junio and Vinluan to the municipal hall where Junio was later on detained. He was surprised to know that Vinluan pinpointed him and sent him to jail as the one who has knowledge of the death of somebody. He did not know who was the person killed.

Junio had the occasion to talk to Vinluan and asked the latter why he was implicated in this crime. Vinluan told Junio that he had to pinpoint Junio because he (Junio) is his only relative in Cavite. This made Junio mad. Vinluan said that he would help Junio by causing his release from jail. Junio admits knowing Macose as a fellow driver but denies having seen Macose on 24 July 2008. Junio denies any of the allegation that he confederated and conspired with Macose and Vinluan in killing the victim, Emidio Pacatang.

On cross-examination, Junio admitted that in the evening of 24 July 2008, Vinluan came to him and mentioned about Macose. Vinluan asked Junio to go with him to see Macose, who earlier had an altercation with another jeepney driver. But Junio did not go with Vinluan to see Macose.

After evaluating the testimonial and documentary evidence adduced by the parties, the trial court rendered a decision convicting the accused as follows:

"WHEREFORE, judgment is hereby rendered finding accused Joseph Junio y Panes guilty beyond reasonable doubt of the crime of murder and hereby sentences him to suffer the penalty of reclusion perpetua and to indemnify the heirs of Emidio Pacatang y Dano the amount of P179,200.00 for funeral expenses, construction of niche and attorney's fees, P50,000.00 for civil indemnity, P50,000.00 for moral damages and to pay the costs of the suit.

SO ORDERED."

Hence, this appeal on the lone assignment of error:

THE COURT A QUO GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY OF THE CRIME CHARGED DESPITE THE PROSECUTION'S FAILURE TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.

In his appeal, accused-appellant Junio argues that the trial court erred in holding that all the elements of Murder are present, that the prosecution was able to establish the qualifying circumstances of treachery and evident premeditation, as well as the existence of conspiracy among the perpetrators. Accused-appellant contends that his denial and alibi should not be taken entirely against him. Not all denials and alibis are fabricated because if the accused is truly innocent, he can have no other defense but denial and alibi.

The Solicitor General, for the State, posits that the trial court correctly convicted the accused-appellant. The State, however, recommends that the presence of an aggravating circumstance merits the award of exemplary damages. The State also recommends an increase in the amount of civil indemnity and moral damages from P50,000 to P75,000, pursuant to recent jurisprudence.[18]

The appeal lacks merit.

The evidence proffered by the prosecution vis-à-vis defense of denial and alibi, was properly appreciated by the trial court. It has been jurisprudentially settled that the defense of alibi may not be successfully invoked where the identity of the assailant has been established by witnesses.[19] In this case, Reston positively identified the accused-appellant as one of the three persons who were on board a jeepney on the said date and time at Molino

Paliparan Road, Brgy. Salawag, Dasmariñas Cavite, and participated in stabbing the victim Emedio Pacatang to death.

Denial is inherently a weak defense as it is negative and self-serving. Corollarily, alibi is the weakest of all defenses for it is easy to contrive and difficult to prove. [20]

The defense of Alibi is inherently weak and crumbles in the light of positive declarations of truthful witnesses, who testified on affirmative matters that the appellants were at the scene of the incident and were among the victim's assailants.[21] The positive identification of the accused, when categorical and consistent, and without any showing of ill motive on the part of the eyewitnesses testifying, should prevail over the alibi and denial of the accused, whose testimony is unsubstantiated by clear and convincing evidence.[22]

Further, for alibi to prosper, it is not enough for the accused to prove that he was in another place when the crime was committed. He must likewise prove that it was physically impossible for him to be present at the crime scene or its immediate vicinity at the time of its commission.[23] It must be noted that the incident subject of the case happened in Molino Paliparan Road, Brgy. Salawag, Dasmariñas, Cavite. No other evidence was adduced to prove that as accused-appellant claims, he was home and never left his house also in Salawag-Paliparan Road, Dasmariñas City, Cavite, on the date and time of the incident. Hence, as nothing supports accused-appellant's alibi, the same must necessarily fail.

Besides, the defense of alibi, as a rule, is considered with suspicion and is always received with caution, not only because it is inherently weak and unreliable but also because it can be easily fabricated.[24]

Accused-appellant's attempt to discredit Reston's testimony by arguing that he was inconsistent, particularly when he had to give additional statements concerning the plate number of the vehicle of the assailants fails to persuade the Court into reversing Junio's conviction. As correctly observed by the State, Reston provided an adequate explanation as to the discrepancies in the plate numbers he identified, stating that he was only confused at the time.

It has been held that inconsistencies in the testimonies of prosecution witnesses that do not relate to the elements of the offense are too inconsequential to warrant a reversal of the trial court's judgment of conviction.[25] Minor discrepancies or inconsistencies in the declarations or testimonies of a witness do not affect, but even enhance, the witness' credibility, for they remove any suspicion that the testimonies were contrived or rehearsed. What is important is that the testimonies agree on the essential facts and substantially corroborate a consistent and coherent whole.[26]

The Court also disagrees with the accused-appellant that Reston failed to render aid to his friends in the hands of the assailants. Reston testified that he tried to stop the assailants. He pleaded to them by telling them that Pacatang has a family. He talked with Macose. After being told by Macose to leave lest he will involve him (Reston) in the incident, Reston immediately sought the help of the barangay officials whose mobile vehicle was not far from the place.[27] His act of leaving thereafter should not be taken against him, as he explained in court that he sought help which is not at all contrary to human experience. Besides, it bears stressing that the workings of the human mind when under stress are unpredictable.[28] Different people react differently to different situations and there is no standard norm of human response when one is confronted with a strange, startling or frightful experience.[29]

Accused-appellant argues that there is no treachery in this case because Reston, who was present at that time, did not see how the aggression began and had merely seen that the jeep being driven by Vinluan blocked the jeep being driven by the victim. This, accused-appellant maintains, would not suffice to hold the assumption that the accused-appellant and his companions intentionally sought the victim's disadvantaged position to ensure the

consummation of the crime. Accused-appellant also avers that the fact the jeep of Pacatang had been stoned by the group, made him aware that an aggression was imminent. There is, thus, no swiftness or suddenness in the attack.

The Court is not persuaded.

There is treachery when the following essential elements are present, viz: (a) at the time of the attack, the victim was not in a position to defend himself; and (b) the accused consciously and deliberately adopted the particular means, methods or forms of attack employed by him.[30] As correctly argued by the State in this case, the first element was established by Reston's testimony showing the sudden attack by accused-appellant and Macose on the victim. The latter was on his way home when his jeepney was suddenly blocked by the jeepney of the assailants. They forcibly dragged the victim out of his jeepney and thereafter stabbed him repeatedly.

The second element was established by Reston's testimony showing how the accused-appellant and his companions deliberately and consciously adopted a plan on how to kill the victim. Accused-appellant and his companions waited until the victim had finished with washing his jeepney, followed him on his way home, blocked his jeepney and forced him to alight therefrom and brought him on the side of the road where he was killed.

The fact that the jeepney of the victim had been stoned prior to the stabbing incident is of no moment and will not negate treachery. The rule is well-settled in this jurisdiction that treachery may still be appreciated even though the victim was forewarned of danger to his person. What is decisive is that the attack was executed in a manner that the victim was rendered defenseless and unable to retaliate,[31] as in this case.

Furthermore, the Court agrees that evident premeditation is present in this case. To prove evident premeditation, the prosecution is burdened to prove the confluence of the following elements: (1) the time when the offender determined to commit the crime; (2) an act manifestly indicating that he has clung to such determination; and (3) sufficient lapse of time between the determination and execution to allow the offender to reflect upon the consequence of his act.[32]

The plan to kill the victim is evident in this case. As the State correctly observed:

"Per appellant's own testimony on cross-examination, there was already a plan on the part of his co-conspirators to harm Emidio. He and his companion' contemporaneous acts during the incident would also show that a plan against the victim had been already concocted. As aforesaid, appellant and his companions waited for the victim at the car wash, after which they followed him and blocked his vehicle. They forced him to go down from his jeep and thereafter stabbed him. The declarations of Macose, saying that he will kill Emidio because he was challenged to a fight earlier, would further show proof that a plan was already made to kill Emidio."

Clearly, from the time the accused-appellant and his companions saw and waited for the victim to get through with the carwash and until they followed him on his way home, accused-appellant and his companions did not abandon their plan to kill the victim. The trial court stated, thus:

"x x x There was sufficient lapse of time between the time they saw the deceased at the car wash and asked the car wash boy what time the jeep of Pacatang will be finished and the actual execution of the plan for them to reflect upon what they would do. x x x"

In a decided case[33], it was held that:

"The essence of evident premeditation is that the execution of the criminal act is preceded by cool thought and reflection upon the resolution to carry out the criminal intent within a space of time sufficient to arrive at a

calm judgment. x x x The time that had elapsed while the accused were waiting for their victim to pass by, is indicative of cool thought and reflection on their part that they clung to their determination to commit the crime. We are therefore convinced that the elements of evident premeditation were established by the trial court with equal certainty as the criminal act itself. x x x"

The elements of murder, penalized under Article 248 of the Revised Penal Code, are: (1) a person is killed; (2) the deceased is killed by accused; (3) the killing is attended by any of the qualifying circumstances mentioned in Article 248 of the Revised Penal Code; and (4) the killing is neither parricide nor infanticide. All these elements have been sufficiently proven in this case.

The presence of the attending circumstances of treachery and evident premeditation qualified the killing to murder, which, under Art. 248 of the Revised Penal Code, as amended, is punishable by reclusion perpetua to death. Article 63 of the same Code provides that if the penalty prescribed is composed of two indivisible penalties, as in the instant case, and there is an aggravating circumstance the higher penalty should be imposed. Since, evident premeditation can be considered as an ordinary aggravating circumstance, treachery, by itself, being sufficient to qualify the killing, the proper imposable penalty - the higher sanction - is death. However, in view of the enactment of Republic Act No. 9346, prohibiting the imposition of the death penalty, the penalty for the killing of each of the victim is reduced to reclusion perpetua without eligibility for parole.[34]

Anent the award of exemplary damages, the Court holds the victims or the heirs are likewise entitled to exemplary damages if aggravating circumstances, whether qualifying or generic, are present. In this case, treachery and evident premeditation were clearly established. Article 2230 of the New Civil Code provides that exemplary damages are awarded to serve as a deterrent to serious wrongdoings, as vindication of undue suffering and wanton invasion of the rights of an injured person, and as punishment for those guilty of outrageous conduct. As recommended by the State, an award of P30,000.00 as exemplary damages is in order.

The Court also finds the recommendation of the State to increase the award of civil indemnity and moral damages to P75,000.00 each, pursuant to the ruling in Bug-atan vs. People.

All told, the Court finds no reason to deviate from the findings of the trial court in this case. It is oft repeated that the trial court's evaluation of the credibility of witnesses is viewed as correct and entitled to the highest respect because it is more competent to so conclude, having had the opportunity to observe the witnesses' demeanor and deportment on the stand, and the manner in which they gave their testimonies. The trial judge, therefore, can better determine if such witnesses were telling the truth, being in the ideal position to weigh conflicting testimonies. Therefore, unless the trial judge plainly overlooked certain facts of substance and value which, if considered, might affect the result of the case, his assessment on credibility must be respected[35], as in this case.

WHEREFORE, the appealed Decision of the Regional Trial Court of Imus, Cavite, Branch 21, convicting JOSEPH JUNIO y PANES of Murder, in Criminal Case No. 5248-08, is hereby **AFFIRMED** with **MODIFICATION**. Accused-appellant is sentenced to suffer the penalty of reclusion perpetua and ordered to pay the heirs of the victim the amounts of Seventy-five Thousand Pesos (P75,000.00) as civil indemnity; Seventy-five Thousand Pesos (P75,000.00) as moral damages; and Thirty Thousand Pesos (P30,000.00) as exemplary damages, in addition to the actual damages of P179, 200.00 and the costs of the suit.

SO ORDERED.

Abdulwahid, (Chairperson), and Cruz, JJ., concur.

[1] Rollo, pp. 13-20

- [2] Rollo, pp. 5-6; Decision, p. 1
- [3] Records, p. 1
- [4] Records, Order dated December 8, 2008
- [5] Certificate of Arraignment, Records, p. 57
- [6] Pre-Trial Order dated March 23, 2009, Records, p. 74
- [7] TSN, April 29, 2009, p. 13
- [8] Exh. "A" for the prosecution, Records, p. 30
- [9] Exhs. "B", "C" & "D" for the prosecution, Records, pp. 31-33
- [10] Exh. "K" for the prosecution, Records, p. 171
- [11] Deed of Absolute Sale, Exhs. "L-1" to "L-3" for the prosecution, Records, p. 192
- [12] Marriage Certificate, Exh. "F" for the prosecution, Records, p. 180
- [13] Exh. "E" for the prosecution, Exh. D on the Records, p. 22
- [14] Exh. "G" for the prosecution, Records, p. 8
- [15] Internment Contract and receipts for other expenses, Exhs. "H" to "H" for the prosecution, Records, pp. 182-198
- [16] Exh. "I" for the prosecution, Records, pp. 190-191
- [17] Exh. "N" for the prosecution, Records, p. 158
- [18] Bug-atan vs. People, 630 SCRA 537
- [19] People vs. Santos, 420 SCRA 37
- [20] Mendoza vs. People, G.R. No. 173551, October 4, 2007
- [21] People vs. Cariño, G.R. No. 131117, June 15, 2004
- [22] People vs. Mostrales, G.R. No. 184925, June 15, 2011
- [23] People vs. Vilbar, G.R. No. 185390, March 16, 2011
- [24] People vs. Atadero, G.R. No. 183,455, October 20, 2010
- [25] Reyes vs. People, G.R. No. 174980, August 31, 2011
- [26] People vs. Escote, G.R. No. 151834, June 8, 2004
- [27] TSN, April 29, 2009, pp. 13-14
- [28] People vs. Pimentel, G.R. No. 87781, December 11, 1992
- [29] People vs. Acob, G.R. No. 114382, July 20, 1995
- [30] People vs. Reyes 287 SCRA 229
- [31] People vs. Glino, G.R. No. 173793, December 4, 2007

[32] People vs. Demate, G.R. Nos. 132310 & 143968-69, January 20, 2004

[33] People vs. Galicia, G.R. No. 191063, October 9, 2013

[34] See People vs. Sanchez, G.R. No. 188610, June 29, 2010

[35] People vs. Castillon III, G.R. No. 132718, October 5, 2001

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