

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ARTEMIO ESCAMILLAS, ACCUSED-APPELLANT.

G.R. Nos. L-49863-71. May 07, 1992

Ponente: NOCON, J.

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NOCON, J.:

We are here asked to decide which should be given greater weight: the defense of the accused-appellant or the credibility of the complaining witness who positively identified him as the assailant.

Artemio Escamillas, alias "Temyong", accused-appellant herein, Felicisimo Luna, Florencio Fernandez, alias "Puring", Dioscoro Dagli, Carlito Dimaunahan and John Atienza, were charged with Murder before the Circuit Criminal Court, Batangas City, in six (6) separate informations, all dated May 16, 1973, which alleged in substantially identical language –

"That on or about the 20th day of February 1971, between 4:00 o'clock and 5:00 o'clock in the afternoon in Barrio between Nasi and San Isidro, Municipality of Rosario, Province of Batangas, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, together with others who are still at large, armed with firearms, conspiring and confederating together, acting in common accord and mutually aiding one another, with intent to kill with treachery and evident premeditation, did then and there, willfully, unlawfully and feloniously attack, assault and shoot with their said firearms, suddenly and without warning"

the victims who were all "on board a jeep at the time."

The same accused were also charged before the same court of Frustrated Murder in three (3) separate Informations, each alleging that the accused performed

"all acts of execution, which should have produced the crime of murder as a consequence, but nevertheless did not produce it, by reason of some cause independent of the will of the perpetrators, that is, because of the timely and able medical attendance rendered to the offended parties."

In all the informations, it was uniformly alleged "that the aggravating circumstances of an uninhabited place and in band were present in the commission of the crime."

Accused Fernandez, Dagli, Dimaunahan, and Atienza, have remained at large.[1] On the other hand, upon agreement of the prosecution and counsel for accused Artemio Escamillas, Felicisimo Luna and Julian Palas, these nine (9) cases (Criminal Case Nos. CCC-VIII-345[73] to CCC-VIII-353[73] – Batangas, inclusive) were jointly heard with Criminal Case Nos. CCCVIII-418(73) to CCC-VIII-426(73) – Batangas, all entitled "People v. Julian Palas" for murder and frustrated murder.

After trial, judgment was rendered on September 27, 1974 acquitting Felicisimo Luna and Julian Palas of all the offenses charged in the informations, while accused Artemio Escamillas was found guilty beyond reasonable doubt of the crime of Murder in six (6) criminal cases (Criminal Case Nos. CCC-VIII-345 [73], CCC-VIII-346[73], CCC-VIII-347[73], CCC-VIII-348[73], CCC-VIII-349[73], CCC-VIII-350[73]) and of

Frustrated Murder in three (3) cases (Criminal Case Nos. CCC-VIII-351[73], CCC-VII-352[73], CCC-VIII-353[73]).

It was rather peculiar, however, that despite finding accused-appellant guilty of murder, he was merely sentenced to suffer the penalty of imprisonment of TEN (10) YEARS AND ONE (1) DAY OF prision mayor, as minimum, to SEVENTEEN (17) YEARS, FOUR (4) MONTHS AND ONE (1) DAY of reclusion temporal, as maximum, in each case. On the other hand, having also been found guilty beyond reasonable doubt of frustrated murder, he was sentenced in each of the three (3) cases to suffer the penalty of imprisonment of FOUR (4) YEARS, TWO (2) MONTHS AND ONE (1) DAY of prision correccional, as minimum, to TEN (10) YEARS AND ONE (1) DAY of prision mayor as maximum and to reimburse the victims of their medical and hospitalization expenses and other damages.

From the decision of the trial court, both accused-appellant and the prosecution appealed to the Court of Appeals: accused-appellant, for his conviction, and the prosecution, for the penalty imposed. In its decision[2] dated August 22, 1975, the Court of Appeals sustained the conviction of accused-appellant, but modified the penalty imposed in Criminal Case Nos. CCC-VIII-345 (73) to CCC-VIII-350 (73) to reclusion perpetua. The case was then certified to Us for appropriate proceedings.

The facts as adduced from the evidence disclose that at about 5:00 o'clock in the afternoon of February 20, 1971, Juan Asa, the complaining witness, and fifteen (15) other persons were riding in a passenger jeepney coming from a cockpit in Barrio Nasi, Rosario, Batangas. As the vehicle reached Boo Bridge between Barrio Nasi and Barrio Putting Kahoy, both in Rosario, Batangas, a group of persons variously positioned on the elevated portion of the road fired upon the jeepney, killing six (6) of its passengers and wounding three (3). Those killed were Reynaldo Asa, son of Juan Enrique Tubeo, Valentin Balita, Vitaliano Torres, Gregorio Carandang and the driver of the jeep, Ernesto de Chavez. Those injured were Juan Asa, Vicente Roallos and Mariano Panganiban. All the assailants used long firearms, and a number of them were unknown and/or unidentified. Among those recognized by Juan Asa were Artemio Escamillas, Florencio Fernandez, Dioscoro Dagli, Carlito Dimaunahan and Armando Atienza.

When the firing commenced, Juan Asa shouted: "Talon kayo't binabaril tayo!" Juan Asa sought cover, took his carbine and fired at the assailants, who were then approaching his group. The assailants retreated, leaving behind the body of Armando Atienza, who was apparently killed by Juan Asa's return fire.

Juan Asa then boarded a passing jeepney and went to San Juan where he was treated in the dispensary of a certain Dr. Adapon. Later Juan Asa, together with Vicente Roallos, was brought to Mt. Banaue Hospital in Quezon City for further treatment. Juan Asa did not immediately report the incident to the authorities, until after two years, when he was able to gather enough witnesses willing to testify.

In his defense, accused-appellant testified that at about 4:00 o'clock in the afternoon of February 20, 1971, from the ranch at Bagong Pook, Rosario, Batangas, where he was working, he went to the house of Celso Andal to pledge his ring. He invited the latter for a drink at the store of Ulpiano Salazar inside the public market of Rosario near Celso Andal's house. At about 5:00 o'clock in the afternoon of that same day, Cpl. Diego Arazola of the Rosario Police Department passed by and was invited to join accused-appellant and Andal. The three of them did not leave the place of Ulpiano Salazar and they continued drinking until about 8:00 p.m. This story was corroborated by Andal and Arazola in their respective testimonies.

Among the evidence and witnesses presented by the prosecution, the trial court relied heavily on the testimony of Juan Asa in convicting accused-appellant. Thus:

“The Court found the testimony of Juan Asa to be true in most of the facts that he testified. But the court cannot give credence to his hearsay testimony to the effect that many people informed him that Mayor Luna

was the mastermind of the ambush.

“It is the natural reaction of every victim of criminal violence to strive to know the identity of the assailant. (People v. Orteza, 6 SCRA 109) When Juan Asa pointed to Artemio Escamillas as one of the malefactors who fired at him and his companions together with other people he mentioned, the court believes the testimony of Juan Asa.”[3]

In his appeal, the accused-appellant alleged that the trial court erred in relying on the inconsistent testimony of Juan Asa. We do not agree. A careful perusal of the records of this case does not warrant a conclusion contrary to the trial court's findings. The minor inconsistencies in the testimony of Juan Asa did not affect, but rather enhanced, the credibility of his testimony. But with respect to the identity of accused-appellant, his testimony is clear and straight-forward. He positively identified accused-appellant as one of the gunmen who participated in the ambush wherein he was one of those wounded and his son, Reynaldo Asa, was one of the fatalities.

"ATTY. ILAO:

Q Will you please name those persons who according to you, fired at you, at that time?

A Yes, sir. One is Artemio Escamillas (witness pointing to accused Artemio Escamillas), Florencio Fernandez, Dioscoro Dagli, Carlito Dimaunahan and Armando Atienza and I do not know the names of the rest, sir.”[4]

Later, when Juan Asa was asked who were the persons who approached him, he answered:

"ATTY. ILAO:

Q And who are these persons who approached you?

A Artemio Escamillas, Dioscoro Dagli, Florencio Fernandez, Carlito Dimaunahan and Armando Atienza, sir.”[5]

The appellate court correctly ruled that there were no inconsistencies in the aforementioned statements of Juan Asa. The issue raised in this regard involves the credibility of witnesses. On this point, settled is the rule that appellate courts will generally not disturb the factual findings of the trial court, as the latter is in a better position to decide the same having heard the witnesses themselves and observed their deportment and manner of testifying during the trial, unless it has plainly overlooked certain facts of substance and value which, if considered, might affect the result of the case.[6]

On the long delay in the filing of the criminal complaint against accused-appellant, this was satisfactorily explained by Juan Asa, who declared that at first, he could not get witnesses to testify since one of the original accused, Mayor Felicisimo Luna, was politically entrenched and wielded considerable power and authority at the time.[7] It was only after the declaration of martial law that he was able to persuade the witnesses to testify in the interest of justice.[8]

As against his positive identification by a prosecution witness, accused-appellant's defense of alibi cannot stand. It has been stated time and time again that for the defense of alibi to prosper it must be established by clear and convincing evidence that the accused was at some other place for such a period of time as would negate his presence at the time and place where the crime was committed.[9]

In the case at bar, there was no physical impossibility for the accused not to be present at the scene of the crime at the time of its commission. As a matter of fact he was in the same town, Rosario, Batangas, and not far from where the incident occurred.

As far as the peculiarity of this case is concerned, the appellate court rightly observed that the penalties imposed

by the trial court upon the accused for the crime of murder are not in accordance with Article 248 of the Revised Penal Code, which provides that the penalty for the crime of murder is reclusion temporal in its maximum period to death.

As contended by the Solicitor General, where, as in this case, "there is no evidence of any mitigating circumstance, the court has no alternative but to impose the penalty of reclusion perpetua, the same being the medium period within the range of the penalty imposable."^[10]

The above pronouncement is in keeping with present jurisprudence, since the penalty of death has been suspended. As ruled in the case of *People v. Muñoz*,^[11] Section 19, Article III of the Constitution does not change the periods of the penalty prescribed by Article 248 of the Revised Penal Code, except only in so far as it prohibits the imposition of the death penalty and reduces it to reclusion perpetua. The range of the medium and minimum penalties remains unchanged.

Thus, the ruling of the trial court was correctly amended by the Appellate Court, to wit:

"WHEREFORE, with the modification that the sentence imposed for the crime of murder committed by the accused-appellant Artemio Escamillas in Criminal Case Nos. C.A.-G.R. No. 17490-CR (CCC-VIII-345(73)) up to C.A.-G.R. No. 17495-CR (CCC-VIII-350(73)) should be, as said sentence is hereby, raised to the penalty of "reclusion perpetua" for each and every case aforementioned. We hereby affirm the decision appealed from in all other respects, and accordingly certify the common decision rendered in all these cases to the Supreme Court for appropriate proceedings pursuant to law."

Considering, however, the latest jurisprudence, the indemnity to the heirs of each of the victims who were murdered should be increased from P12,000 to P50,000.^[12]

WHEREFORE, with the slight modification in the amount of indemnification which is increased to P50,000 for each victim who was murdered, and the imposable penalty in Criminal Case Nos. CA-G.R. 17490-CR (CCC-VIII-345[73]) up to CA-G.R. No. 17495-CR (CCC-VIII-350[73]), which is raised to reclusion perpetua, the decision appealed from is hereby affirmed in all other respects. Costs against accused-appellant.

SO ORDERED.

Melencio-Herrera, (Chairman), Paras, Padilla, and Regalado, JJ., concur.

[1] Decision of the Court of Appeals, p 3.

[2] Ponente: Justice Ricardo C. Puno; Justice Mateo Canonoy and B. S. de la Fuente, concurring.

[3] Decision of the Circuit Criminal Court, Batangas City, p. 38.

[4] T.S.N., November 5, 1973, pp. 6-7.

[5] Id., at p. 10.

[6] *People v. Sabado*, L-76952, 168 SCRA 681 (1988).

[7] T.S.N., November 8, 1973, pp. 30, 41-42.

[8] T.S.N., November 5, 1973, p. 51.

[9] *People v. Almario*, G.R. 69374, 171 SCRA 291 (1989), *People v. Cruz*, G.R. 66805, 142 SCRA 576 (1986).

[10] Appellee's Brief, p. 18.

[11] G.R. 38969-70, 170 SCRA 107 (1989).

[12] People v. Daniel Sison, G.R. No. 86455, 189 SCRA 643 (1990).

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