

LUCY RAMOS, PETITIONER, VS. COURT OF APPEALS AND PEOPLE OF THE PHILIPPINES, RESPONDENTS.

G.R. No. L-49154. August 13, 1990

Ponente: GRINO-AQUINO, J.

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GRINO-AQUINO, J.:

The accused seeks a review of the decision of the Court of Appeals dated March 20, 1978 in CA-G.R. No. 16682-Cr. entitled, "People of the Philippines vs. Lucy Ramos," affirming the decision of the Court of First Instance of Negros Oriental, Branch IV, finding her guilty beyond reasonable doubt of the crime of frustrated murder and sentencing her to suffer an indeterminate penalty of imprisonment ranging from 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, to indemnify the complainant Acceles [or Acciles] Fundador in the sums of P3,000 and P1,000 by way of compensatory and moral damages, respectively, but without subsidiary imprisonment in case of insolvency, and to pay the costs." (p. 73, Appellant's Brief.)

The petitioner and her husband, Clemente Ramos, together with their five (5) children and househelpers, resided in the mountains of Pakuan, eighteen (18) kilometers from the town of La Libertad, Dumaguete. It is accessible only by means of weapons carriers which ply the Pakuan-La Libertad route. The Ramoses were settled comfortably in Pakuan. Mainly through the efforts of the enterprising Lucy, the family was profitably engaged in the businesses of copra trading and rice and corn milling. Their immediate neighbors, the Fundador brothers – Wilson and Acciles, lived about 60 meters away. Acciles, an ex-convict, returned to Pakuan in 1966, after having served sentence for homicide in the National Penitentiary in Muntinlupa.

On December 1, 1966, Clemente Ramos went to La Libertad to fetch a mechanic, Wani Cabanag, to do some repairs on their rice mill in Pakuan. On the other hand, Lucy Ramos, with her son, Domingo, and a houseboy, went to their rice mill in Bagtic, Dumaguete, to check and change the oil of their mill machinery there.

It was already late in the afternoon when Clemente Ramos returned to Pakuan with Wani Cabanag. Upon arriving home, he was informed by his children that Acciles Fundador, together with some drunken companions, had encircled their house in a mock procession, carrying a bamboo cross strung with a piece of cloth. Every now and then, they stopped to hurl stones at the rice and corn mill.

Not one to cringe before rowdies, Clemente decided to confront the Fundadors and proceeded to the latter's house. Barely a few meters from his house, he was met by the Fundador brothers. A quarrel ensued. Acciles grabbed Clemente from behind and immobilized him with a strangle-hold, while Wilson bashed an empty Vino Dato (rice-wine) bottle on Clemente's head. As blood gushed out of the wound on Clemente's forehead, the brothers rained fist blows on his stomach.

Lucy Ramos arrived home from Bagtic at eight o'clock in the evening. She was informed of the incident and even while she was dressing her husband's wound, the Fundadors filled the air with gunshots outside their house until midnight. The Ramoses and their household did not eat supper as they fearfully kept a close watch for their

tormentors. At dawn the next day, they were awakened by the shouts of Acciles Fundador, who had come to the rice mill yelling: "Come down, Bay, let's finish each other!" Discovering that the door of the mill was locked, Acciles approached the main door of Clemente's house. From the balcony, a rifle shot rang out, hitting Acciles in the chest. Clutching his breast, Acciles ran to the house of councilor Graciano Esler, who lived across the creek near the Ramos mill. He was immediately brought to the Guihulngan Emergency Hospital where he was treated and after eight (8) days was transferred to the Silliman University Medical Center where he was operated on and underwent medical treatment for forty-five (45) days.

Acciles' sworn statement was taken by the La Libertad Chief of Police at the Guihulngan Emergency Hospital on December 2, 1966. Those of other witnesses were taken a few days later.

On December 6, 1966, a complaint for frustrated murder was filed against the spouses Clemente and Lucy Ramos in the Municipal Court of La Libertad. On February 12, 1968, more than two (2) years after the incident, an Information for frustrated murder was filed in the Court of First Instance of Negros Oriental, Branch II, against the Ramos spouses. The information reads:

"That on or about the 2nd day of December, 1966, in the municipality of La Libertad, Province of Negros Oriental, Philippines, and within the jurisdiction of this Court, the above-named accused, conspiring, confederating, and helping one another, with intent to kill, evident premeditation and treachery, did then and there wilfully, unlawfully and feloniously shot one Acciles Fundador with the use of an LP Rifle Calibre .22 (Serial No. 36325), thereby hitting and wounding the latter at different parts of the body, thus inflicting the following injuries, to wit: wound, gunshot, 1/2 cm. diameter, chest, mid-clavicular line, at the level of the 4th rib, right and point of exit, wound, gunshot, 1 cm. diameter, mid-scapular line, at the level of the 7th rib, right; thus performing all the acts of execution which would have produced the crime of murder as a consequence but which nevertheless did not produce it by reason of causes independent of the will of the perpetrator, that is, the timely and able medical assistance rendered him which prevented his death." (pp. 40-41, Appellant's Brief.)

During the trial, the parties presented diametrically opposed versions of the incident. The prosecutions' witnesses were Graciano Esler and the complainant, Acciles Fundador. Ranged against them were Ramos' twelve-year-old son, Steve, the mechanic, Wani Cabanag, Councilor Esler's brother, Pedro, Jr., Pedro Obenza, Bertoldo Camero, and Artemisa Gantalao.

The complainant alleged that he was in the yard of his stepmother in Pakuan, feeding the chickens while Lucy was on the porch of her house. Suddenly, a shot rang out and he was hit in the breast. Acciles, who testified seven (7) years after the incident, alleged that he saw Lucy Ramos "from the breast up" behind the wooden jalousies on the second floor of her house, "holding a gun;" that he ran to the house of Councilor Graciano Esler who brought him immediately to the hospital.

After the prosecution had finished presenting its evidence, the trial court, upon motion of the fiscal, ordered the dismissal of the charge against Clemente Ramos on the ground of insufficiency of evidence.

The defense evidence on the other hand, attempted to show that Acciles Fundador was shot not by Lucy Ramos but by the houseboy, Venancio Estrabella, who saw Acciles in a belligerent mood, approach the main door of the Ramos' house. Upon Clemente's prodding ("Cio, avenge for me!") he allegedly rushed to the family room, grabbed the rifle, ran back to the balcony and, inserting the gun's barrel through the jalousie shutters, he aimed and fired at Acciles who was standing three (3) meters below.

Twelve-year-old Steve Ramos, Wani Cabanag and Councilor Esler's housemaid, Artemisa Gantalao, corroborated the theory of the defense. However, this defense theory was shaken on rebuttal when the houseboy, Venancio Estrabella, denied shooting Acciles. He explained that he admitted at the police investigation that he shot Acciles

because Lucy Ramos promised to give him P3,000. He allegedly did not know how to handle a rifle.

On March 26, 1974, the court a quo rendered a decision finding Lucy Ramos guilty beyond reasonable doubt of frustrated murder but appreciated in her favor the mitigating circumstance of immediate vindication of a grave offense.

Lucy Ramos appealed to the Court of Appeals (CA?G.R. No. 16682-Cr) which affirmed the lower court's decision. Upon denial of her motion for reconsideration, she filed this petition for review.

We find merit in the petition for review.

The facts as found by the trial court and the Court of Appeals, do not conclusively identify Lucy Ramos as the person who shot Acciles.

Acciles himself in his statement to the police, said he saw Clemente Ramos. He did not mention Lucy:

"I answered that way because after I was shot and I was holding my breast with my two hands, right there at the stairs I saw somebody coming out and since the clothes of that person was the same as that of Clemente Ramos, I said I saw Clemente Ramos at the stairs. x x x what I saw was the dress and it was the same as that of Clemente Ramos x x x When I was hit, I immediately ran away. My sight of him was sudden because I immediately ran away x x x I could not say he was not there nor could I say he was there because when I was hit, I could not see clearly because I immediately ran away. What I saw was only a figure." (pp. 53, 54, tsn, February 1, 1973.)

Two (2) years after the incident, the fiscal did not have prima facie evidence against either of the spouses that is why he filed an information against both of them.

However, when Acciles testified at the trial on February 1, 1973, or seven (7) years after the shooting, he fingered Lucy Ramos as the triggerman:

"While I was feeding chickens, unexpectedly I was shot by Mrs. Lucy Samoza Ramos. I did not expect her to shoot me because there was no misunderstanding between us. I was shot by her because after I was shot on the breast, I saw Mrs. Ramos at her window holding a gun. x x x She was standing on the porch which is on a higher place x x x what could be seen was only up to her breast but she could be seen because of the opening of the jalousie of her windows are wider than these." (Ibid.)

This self-contradiction strikes at the heart of his credibility. Falsus in uno, falsus in omnibus.

Why did Acciles and Venancio Estrabella change their tune?

Seven (7) years after the shooting much water had passed under the bridge. Clemente Ramos had already abandoned his loyal, hard-working and enterprising wife Lucy and cleaved to Acciles' sister. From erstwhile enemies, he and Acciles became good friends. This change in the situation of the parties caused a shift in the loyalty of Venancio and in Acciles' story. Loyal to Clemente, the houseboy Venancio was persuaded to repudiate his earlier testimony owning the crime, and put the blame on Lucy, so that, with his wife out of the way, he (Clemente) would have the run of Lucy's properties and businesses.*

Ranged against Acciles' uncorroborated identification of Lucy as the gun-wielder are the testimonies of Artemisa Gantalao, Councilor Esler's housemaid and Councilor Esler's brother, Pedro, Jr. Artemisa testified that when the councilor asked Acciles who shot him, the latter's answer was: "I cannot tell who of them fired at me, whether it was Lucy Ramos or Clemente Ramos." Pedro Esler, Jr., who brought Acciles to the hospital, declared that "he told me he did not know who shot him. What he saw was the barrel of the gun."

The crime for which Lucy Ramos is charged is a serious one. She should not be deprived of her liberty unless the proofs show beyond reasonable doubt that she is guilty. The evidence of the prosecution, however, does not meet the standard of certainty required for her conviction. We hold that her guilt was not proven beyond a reasonable doubt.

WHEREFORE, the appealed decision of the Court of Appeals is hereby reversed and set aside. The accused, Lucy Ramos, is acquitted of the crime charged, with costs de officio.

SO ORDERED.

Narvasa, (Chairman), Cruz, Gancayco, and Medialdea, JJ., concur.

* Clemente died after the trial without being reunited with his legitimate family.

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