

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE VS. EUTROPIO ROMAWAK, DEFENDANT AND APPELLANT.*G.R. No. L-19644. October 31, 1964*

Ponente: PAREDES, J.

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In the early morning of September 2, 1958, the cadaver of Ariston Soriano was found in the yard of Ponciano Lanza, in the barrio of Tigbao, Dulag, Leyte. Thrae (3) days, thereafter, or on September 5, the Chief of Police of Dulag, presented a complaint with the Justice of the Peace Court of said place, charging Eutropio Romawak of Murder. The complaint was accompanied by the affidavits of Cecilio Losedio and Pastor Folon, which pointed to the defendant as the author of the offense. , Under date of April 20, 1959, the Provincial Fiscal of Leyte, filed an Information with the CFI of Leyte, charging Eutropio Romawak with murder, qualified by alevosia and evident premeditation with nocturnity, as an aggravating circumstance.

From the testimony of Cecilio Losedio, Crispino Repalda, Pastor Folon and Felicisimo Caunte, the following facts are elicited:

At about 9 o'clock in the evening of September 1, 1958, the deceased Ariston Soriano and the four (4) prosecution witnesses were having supper in the house of Ponciano Lanza, located in the barrio of Tigbao, Dulag, Leyte. The dining table was near the door which was at the time closed, with the deceased Ariston Soriano having his back towards the door. All of a sudden, a violent force was applied to tho door, which immediately gave way, and there emerped the accused Eutropio Romawak. As suddenly as ho appeared, Romawak stabbed Ariston Soriano on the bark, with a small sharp pointed bolo called "pismo". Having been wounded, Ariston jumped out of the house, thru a window. The accused did not pursue Ariston, instead, he also attacked the persons then in the house and wounded Caunte in the back and Repalda, on the thigh, alter which he walked away. The wound inflicted on the back of Ariston was the cause of his death.

The accused, upon the other hand, denied having inflicted the wound which caused the death of Ariston Soriano. He also ignored the imputation of having wounded Caunte and Ucpalda. He declared in court, that at about 8 o'clock in the evening of September 1, 1958, he was in the house of his cousin in barrio Tigbao. At about 9 o'clock, while lie was passing in front of the house of Ponciano Lanza, on his way home, he noticed that a fight was going on inside the house of Lanza and no sooner he saw a person, who turned out to be the deceased Ariston Soriano, jumped out of the window of the house, pursued by someone, whom he (accused) later found out to be Crispino Kepalda. In the course of the pursuit, he heard the wounded person cry out for help; that when Repatda saw the accused, the former faced and attacked the latter with his bolo, but accused succeeded in evp.ding the first thrust; that as Repalda persisted in his attacks and finding himself cornered, the accused also unsheated his bolo and faced his aggressor as a result Repalda was wounded on the left leg.

The claim of appellant was sought to be corroborated by Fortunato Garcia, who testified that it was one coming from the house of Ponciano Lanza who wonndod the person who jumped out of said house. Garcia claimed to

have been an eye-witness to the happening.

The court a quo rendered judgment, the pertinent portions of which are hereunder reproduced:

"* * * no less than four (4) ocular prosecution witnesses, namely, Crispino Repalda, Pastor Polon, Felicisimo Caunte and Cecilio Losadio, emphatically and unanimously testified that it was the accused Eutropio Romawak who cause the aforementioned mortal wound.

"* * *. The four witnesses already mentioned above who testified for the prosecution declared in a clear-cut positive and convincing manner that after the accused had violently forced open the door, he at once gave a blow with his bolo, hitting Ariston Soriano at the back. At the moment Ariston received the blow, he was scarcely a meter away from the door with his back towards it. It is thus apparent that the assault having been accomplished in such a way precluding any chance for Ariston to defend himself, the crime committed amounts to one of murder qualified by the circumstance of treachery.

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The Court has well observed the demeanor of the two sets of witnesses. Unlike the prosecution witnesses who testified with aplomb and manifest trustworthiness, the accused and his lone witness were fidgety and uncertain in their answers to the questions propounded to them.

WHEREFORE, AND ON THE STRENGTH OF AbL THE FOREGOING, the Court renders judgment sentencing the above-named accused Eutropio Romawak to undergo and suffer imprisonment of Reclusion Perpetua, there being no mitigating or aggravating circumstance or circumstances to consider; to the accessory penalties provided by law; to indemnify the heirs of Ariston Soriano in the amount of Six thousand (P6,000.00) pesos; and to pay the costs. One-half of the preventive imprisonment undergone by the accused during the pendency of this suit against him is hereby credited to his favor pursuant to Article 29 of the Revised Penal Code."

The above judgment is now before Us on appeal, appellant claiming that the lower court erred (1) in finding him guilty beyond reasonable doubt, although there is "an equiponderance of evidence"; and (2) in holding that the crime committed is murder qualified by treachery, when it should have been homicide, if there was any crime at all.

Appellant attributes an error on the part of the trial court in believing the testimonies of the prosecution witnesses and disregarding his defense, just because there were more witnesses presented against him. The conviction of the appellant did not arise from the fact that there were more witnesses presented by the prosecution. If the lower court did not consider the testimonies of appellant find his witness, it was because their tale was incredible. It must be stated here that the conclusions of trial courts, in matters of credibility and factual findings, command great weight, and appellate courts ordinarily do not disturb such conclusions and findings. In the case at bar, We find no cogent reasons, and none has been pointed to Us by appellant, why the conclusions of the lower court shoul not be upheld.

It seems to Us that the whole matter revolves around the idetification of the aggressor. The denials of the appellant that he was the offender cannot overcome the evidence on record. The learned trial court stated that the Peoples witnesses declared in a clear cut, positive and convincing manner to the effect that the appellant stabbed Soriano (not Repalda), at the back. Appellant has not shown, any reason why the witnesses for the prosecution had testified in the manner they did. We are not ready to accept the claim that since the appellant was not a member of the group to which the witnesses and the deceased belonged, he was singled out as the aggressor. In the first place, there was no reason for any of Soriano's group to harm or kill him. They were all peacefully enjoying together a dinner around one table. Secondly, it was the appellant who had the desire to eliminate

Soriano. It was shown that the appellant was the rival of Soriano for the hand of the daughter of Ponciano Lanza, in courtship. Ponciano Lanza was the owner of the house where they 'lined that night. As the trial court puts it. "As to the motive of the aggression, it is not preposterous to consider that it must have been the result of a violent fit of jealousy on the part of the accused. There exists on the record of the case evidence that the accused was a suitor of the daughter of Ponciano Lanza in whose house, the crime took place. Ariston Soriano was his rival, he having been courting the same girl prior to the incident which culminated in his death." Appellant's presence at the time of the killing, on the spot where the stabbing had taken place, cannot merely be coincidental.

The second error deals with the nature of the offense. Appellant contends that even if he had committed the offense, at most, it should have been "homicide" merely. In espousing this theory, appellant also points out that there was no treachery, even if the wound was inflicted on the back. Again, We are not ready to accept appellant's contention. The attack was so sudden that it did not afford the deceased and his companions opportunity to prepare for their defense. The positions of the wounds inflicted on the deceased and on Repalda, significantly point out to the treacherous manner of the assault. As the Solicitor General has well observed:

"The location of Eepalda's wound and that of the deceased (undisputedly at the back) and the proven suddenness of the attack by the appellant on the late Ariston Soriano, who absolutely had no chance to defend himself, fully justifies the trial court's conclusion that the killing was attended by treachery and that the crime committed is murder."

Moreover, it would appear inconsistent for the appellant to claim that the offense committed was merely homicide, when he has flatly denied having killed Soriano; and admitted having wounded Repalda only.

Conformably with all the foregoing, the decision appealed from should be, as it is hereby affirmed, in all respects, with costs against the appellant Eutropio Romawak

Bengzon, C. J., Bautista Angelo, Concepcion, Reyes, J. B. L., Barrera, Dizon, Makalintal and Zaldivar, JJ., concur.

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