

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROMEO VILLANUEVA, RAMON ESGUERRA (DECEASED), AUGUSTO GARCIA, CARLITO BORJA (DECEASED), FAUSTO CAPILI, BENITO BALAGTAS, MARIO Y...

G.R. No. L-32274. April 02, 1984

Ponente: GUTIERREZ, JR., J.

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GUTIERREZ, JR., J.:

Before us for automatic review is the decision of the Circuit Criminal Court of Pasig, Seventh Judicial District, finding defendants-appellants guilty beyond reasonable doubt of the crime of MURDER of Bonifacio Davis y Aldamea and sentencing them to suffer the penalty of DEATH; to jointly and severally indemnify the heirs of the deceased Bonifacio Davis y Aldamea in the amount of P12,000.00; to pay the additional amount of P20,000.00 as moral and exemplary damages, without subsidiary imprisonment in case of insolvency considering the gravity of the penalty that was imposed; and to pay their proportionate share of the costs.

The information dated May 28, 1970 charged Romeo Villanueva (No. 62650), Ramon Esguerra (No. 54628-P), Augusto Garcia (No. 57696-P) Carlito Borja (No. 60127), Fausto Capili (No. 23748-P), Benito Balagtas (No. 45792-P), Mario Yumul (No. 60678-P), Salvador Villaflor (No. 59880-P), Antonio de la Cruz (No. 50108-P), Manuel Dumdom (No. 48182-P), Romuaido Recaide (No. 67053-P), Eduardo Prado (No. 55482-P) and Rodolfo Ibañez (No. 61027-P) with having committed murder as follows:

"That on or about the 8th day of December, 1969, in the municipality of Muntinlupa, province of Rizal, a place within the jurisdiction of this Honorable Court, the above-named accused, who are convicts confined and serving sentence in the New Bilibid Prison, by virtue of final judgments against them by the courts of competent jurisdiction, conspiring and confederating together and mutually helping one another, taking advantage of superior strength, with treachery, evident premeditation and intent to kill and armed with deadly weapons, to wit: improvised ice picks and sharpened halves of iron pipes, did, then and there wilfully, unlawfully and feloniously attack, assault and stab several times with the said weapons one Bonifacio Davis y Aldamea (No. 59688-P), thereby inflicting upon said Bonifacio Davis y Aldamea multiple stab wounds on the vital parts of his body which directly caused his death."

On June 4, 1970, accused Augusto Garcia, Mario Yumul, Salvador Villaflor, and Manuel Dumdom were arraigned and all pleaded not guilty.

On June 5, 1970, however, the four (4) accused asked that their earlier plea of not guilty be withdrawn and that it be substituted with a plea of guilty which the court granted. On the basis of the plea of guilty, each one of the four accused were sentenced to suffer the penalty of DEATH; to indemnify the heirs of the offended party in the amount of P12,000.00 jointly and severally; to pay the additional amount of P20,000.00 as moral and exemplary damages, without subsidiary imprisonment in case of insolvency considering the gravity of the penalty that was imposed; and to pay their proportionate share of the costs.

Trial proceeded against the remaining accused.

The facts established by the prosecution and accepted by the lower court as basis for the decision are summarized as follows:

X X X

X X X

X X X

"From the evidence on record, it appears that the two sigue-sigue inmates, one Danao and Reynaldo Guevarra were killed by other inmates belonging to the OXO Gang on December 6, 1969. The Sigue-Sigue Gang accordingly, planned to inflict revenge on the OXOs to avenge the death of their two gangmates. For the record, let it be stated that building 4 is occupied almost exclusively by Sigue-Sigue and building 3 is occupied almost exclusively by OXOs. On December 8, 1969, at about 10:00 o'clock in the morning, there was a call for one of the inmates of building 4, to the effect that prisoner Jose Tomasion would be released. Accordingly, prison guard Ramon Cruzado opened the door of building 4 to let prisoner Jose Tomasion out. When the door was opened, a group of 16 prisoners rushed out of the door and ran past the guard Cruzado. Among the 16 were the accused Romeo Villanueva, Ramon Esguerra, Augusto Garcia, Carlito Borja, Fausto Capili, Benito Balagtas, Mario Yumul, Salvador Villafior, Antonio de la Cruz, Manuel Dumdom, Romualdo Recalde, Eduardo Prado and Rodolfo Ibañez, and Rodrigo de Guzman. Prison Guard Ramon Cruzado claimed that all the inmates were armed at the time with various kinds of deadly weapons such as sharpened and pointed halved iron pipes. The group then ran toward building 3, where ten OXO inmates were cleaning the area near the said building 3. Nine of the ten OXOs were able to run away to safety, but the deceased Bonifacio Davis y Aldamea was caught by the Sigue-Sigues and was then and there stabbed to death by the accused. After stabbing the deceased and finding the door of their dormitory already closed, the accused then ran up the fire escape, and remained there until the arrival of more prison guards which compelled them to surrender. The accused were then investigated by the authorities and they gave their sworn written statements where they admitted their part in the stabbing to death the deceased Bonifacio Davis y Aldamea."

X X X

X X X

X X X

A postmortem examination of the victim's body was performed by Dr. Plaridel F. Vidal, a Medico Legal Officer of the National Bureau of Investigation. The Necropsy Report states:

"Pallor, marked: conjunctivae, lips, finger nail beds and body surface.

"Incise wounds: chin, right side 3.0 cm.: clavicular region, right, 0.5 cm.; forearm, posterior aspect, right middle 3rd. three (3) in numbers, sizes ranging from 1.0 cm. to 1.5 cm. in length.

"Stab wounds:

(1) Chest, anterior aspect, left, level of 5th intercostal space, 3.0 cms. from the anterior median line, elliptical in shape, 2.0 cm. in length, oriented slightly downward and laterally, medial extremity sharp, lateral extremity blunt and contused, edges clean-cut, directed backward, downward and laterally, penetrating the left thoracic cavity the pericardial sac and penetrating the right ventricular cavity into the interventricular septum with an

approximate depth of 9.0 cms.

"2) Chest, anterior aspect, left, just above the nipple, level of 5th intercostal space, 7.0 cms. from the anterior median line, elliptical in shape, 1.8 cm. in length, oriented almost horizontally, medial extremity sharp, lateral extremity blunt and contused, edges clean-cut, directed backward, downward and medially, penetrating the left thoracic cavity, the pericardial sac and the left ventricular cavity into the interventricular septum with an approximate depth of 9.5 cms.

"3) Chest, anterior aspect, right, level of 5th intercostal space, 6.0 cms. from the anterior median line, elliptical in shape, 2.0 cms. in length oriented downward and laterally, upper extremity sharp, lower extremity blunt and contused, edges clean-cut, directed backward, downward and laterally, penetrating the right thoracic cavity and the lower lobe of the right lung, with an approximate depth of 10.5 cms.

"4) Chest, antero-lateral aspect, right, level of 8th intercostal space, 12.0 cms. from the anterior median line, elliptical in shape, 2.5 cms. in length, oriented downward and laterally, upper extremity sharp, lower extremity blunt and contused, edges clean-cut, directed backward, upward and medially, penetrating the right thoracic cavity and the lower lobe of the right lung with an approximate depth of 9.5 cms.

"CAUSE OF DEATH:

"Stab wounds of the chest.

Brain and visceral organs, markedly pale

Hemothorax, left - 620 cc.

Hemothorax, right - 580 cc.

Stomach, empty."

The trial court found the qualifying circumstances of evident premeditation and abuse of superior strength to be present and convicted the remaining nine (9) accused for murder as follows:

"WHEREFORE, the Court finds the accused, namely: Romeo Villanueva, Ramon Esguerra, Carlito Borja, Fausto Capili, Benito Balagtas, Antonio dela Cruz, Romualto Ricalde, Eduardo Prado and Rodolfo Ibañez, all GUILTY, beyond reasonable doubt, of the crime of Murder, as defined in Article 248 of the Revised Penal Code, as charged in the information, and hereby sentences each one of them to suffer the penalty of DEATH; to indemnify the heirs of the deceased Bonifacio Davis y Aldamea, the amount of P 2,000.00, jointly and severally; to pay the heirs of the deceased the amount of P20,000.00, as moral and exemplary damages, without subsidiary imprisonment in case of insolvency, considering the gravity of the penalty that was imposed; and to pay their proportionate share of the costs.

"Pursuant to Section 32, Rule 138 of the New Rules of Court, Atty. Danilo Manalastas, who was appointed as counsel de oficio for the nine (9) accused, is hereby ordered compensated in the amount of P500.00, subject, however, to the availability of funds:

"Let copies of this decision be furnished the Office of the President of the Philippines, the Presiding Officers, as well as the Chairman of the Committee on Justice and Finance of both Houses of Congress, the Department of Justice and the Director of the Bureau of Prisons, for their information and guidance."

Defendants-appellants raise the following alleged errors in their brief:

I

THE COURT A QUO ERRED IN FINDING THAT THE NIKE ACCUSED HEREIN DIRECTLY TOOK PART IN THE COMMISSION OF THE CRIME;

II

THE COURT A QUO ERRED IN FINDING THAT CONSPIRACY WAS ATTENDANT IN THE COMMISSION OF THE CRIME.

III

THE COURT A QUO ERRED IN HOLDING THAT THE CRIME OF MURDER WAS COMMITTED.

IV

THE COURT A QUO ERRED IN NOT HOLDING THAT DEATH PENALTY IS VIOLATIVE OF THE CONSTITUTION.

On March 6, 1972, we received a letter from the Bureau of Prisons informing this Court of the death of defendant-appellant Ramon Esguerra y De Guzman on February 21, 1972 of Tuberculosis and Pneumonia. In view of the death of the aforesaid appellant during the pendency of this automatic review of the judgment of conviction, we resolved to dismiss the case against him. but only insofar as his criminal liability is concerned. (Court Resolution dated April 12, 1972).

On July 28, 1972, this Court received from the Bureau of Prisons a copy of the death certificate of defendant-appellant Rodolfo Ibañez y Amorinio showing that said appellant died on July 26, 1972 of undetermined cause. In view of the death of said appellant during the pendency of the automatic review of the judgment of conviction, we resolved to dismiss the case against appellant Rodolfo Ibañez only insofar as his criminal liability is concerned. (Court Resolution dated September 15, 1972).

On December 28, 1972, we received another letter from the Bureau of Prisons informing us of the death of defendant-appellant Carlito Borja on December 21, 1972 of Pneumonia. In view of the death of the said defendant-appellant, we resolved to dismiss the case against him with costs de oficio but only insofar as his criminal liability is concerned (Court Resolution dated February 8, 1973).

With respect to the first and second assignments of errors, the defendants-appellants argue that each of the inmates who rushed out of their dormitory when the door was opened acted on his own and not in concert with one another to attain one single objective of killing the deceased. Defendants-appellants submit that there is no evidence they all inflicted the injuries found on the body of the deceased; that there is no evidence that those who allegedly attacked the deceased even helped each other; (hat nobody heard any signal from anyone inviting them to finish off the victim; and that the only eyewitness did not elaborate on how the sixteen (16) members of the Sigue-Sigue gang attacked the victim.

The defendants-appellants' contentions have no merit. The elaboration as to the details of the stabbing which they mention need not be elicited from the prosecution. The existence of conspiracy may be inferred from the acts of the appellants tending to show a community of purpose. Conspiracy does not have to be proved by direct evidence bat may be decided from the mode and manner in which the offense was committed. (People vs. Baiane, G.R. No, 48319-20, July 25, 1983)

For an accused to be held liable as conspirator:

X X X

X X X

X X X

"x x x it must be established that he performed an overt act in furtherance of the conspiracy, either by actively participating in (he actual commission of the crime, or by lending moral assistance to his co-conspirators by being present at the scene of the crime, or by exerting moral ascendancy over the rest of the conspirators as to move them lo executing the conspiracy, x x x" (People vs. Peralta, 25 SCRA 759)

The appellants themselves admit as a matter of public knowledge that the inmates of the national penitentiary have banded into separate gangs, the principal ones being the OXO and the Sigue-Sigue gangs. The OXO gang is composed mainly of Tagalog inmates while the Sigue-Sigue gang is composed of those from (he Visayan provinces. The two are rival gangs which have engaged in bloody fighting over the years. In anticipation of these fights, the gang members have fashioned all kinds of bladed and pointed weapons which they secretly conceal from prison authorities.

The lower court premised its finding on the existence of conspiracy, among other things, on the following:

"A judicious perusal of the evidence on record reveals that conspiracy was attendant in the commission of the crime charged. Previous to the killing of inmate Bonifacio Davis y Aldamea, two prisoners affiliated with the Sigue-Sigue Gang, to which the accused in this case all belonged was killed by members of a rival gang of which the victim was a member. From this incident the call for revenge developed among the Sigue-Sigue Gang members to avenge the death of their former gang mates. That the accused conspired with one another to inflict violence upon members of their rival gang, the OXO, can be gleaned from the fact that when they saw ten (10) members of their "val gang cleaning the latter's brigade and at the time when their cell was unlocked by prison guard Ramon Cruzado in order to release one prisoner, without permission they all rushed out of their cell, armed with assorted bladed weapons and they ran toward the direction of the ten (10) prisoners, nine (9) of whom were able to run away but the accused caught up with the victim and they all simultaneously attacked and stabbed the deceased. This act of theirs is demonstrative of the existence of a common design towards the accomplishment of the same lawful purpose."

We agree with the Solicitor General that a discussion of the number of wounds inflicted in relation to the number of accused is not material because of the existence of conspiracy.

Relative to the third assignment of error, the defendants-appellants submit that there is absolutely no evidence which shows or tends to show that all the accused herein had planned to commit this crime. They state that there is no evidence that when they could not overtake the fleeing OXO gang members, they helped each other in stabbing the deceased, taking advantage of their superiority in numbers.

The crime committed was murder. We have carefully examined the records and we agree with the lower court that evident premeditation was present in the commission of the crime. The defendants-appellants planned and waited for an opportunity to avenge the deaths of their gang members who were killed on December 6, 1969. Two days later, the opportunity came and they seized it. To appreciate the circumstance of evident premeditation, it is necessary to establish the following - (1) the time when the offender determined to commit the crime; (2) the act manifestly indicating that the culprit has clung to his determination; and (3) a sufficient lapse of time between the determination and execution to allow him to reflect upon the consequences of his act and to allow his conscience to overcome the resolution of his will had he desired to hearken to its warnings (People vs. Nonceto Gravino, 122 SCRA 123). In the case at bar, all these requisites are present.

Direct proof was adduced by the prosecution to show the time when the defendants-appellants meditated and reflected upon their decision to avenge the death of their unfortunate comrades who died or were injured on December 6, 1969. Augusto Garcia and Mario Yumul testified that they and their companions planned to avenge the death of their comrades who died on December 6, 1969.

Augusto Garcia testified on the incident which happened on December 8, 1969 -

"Q

On that day do you remember if there was an unusual incident happened?

"A

Yes, sir.

"Q

What was that unusual incident?

"A

We watched for our enemy.

"Q

When you said 'we' who else are you referring to?

"A

We were five.

"Q

Do you know the names of your four other companions?

"A

Manuel Bardon, Mario Yumul, Rodrigo de Guzman and Salvador Villaflor.

"Q

What do you mean to say when you said that you were 'nag-aabang'?

"A

Because of a stabbing incident last December 6.

"Q

Were there anybody else who knew of this plan of yours to avenge the stabbing of one of your companions on December 6?

"A

No, sir, we were only five."

(TSN, June 8, 1970, p. 2)

Mario Yumul also testified to the same effect —

"Q

Do you remember if any unusual incident happened on that date and time mentioned?

"A

Yes sir, there was.

"Q

What was that unusual incident?

"A

We planned to stab somebody.

"Q

When you said 'we' who were the other persons you are referring to?

"A

Augusto Garcia.

"Q

Who else?

"A

Mario Dumdom, Salvador Villaflor, and Rodrigo de Guzman.

"Q

What is the reason why you said you planned to kill somebody? "A Because last December 6 we were attacked by the OXO group.

"Q

What happened to your group when you were attacked by the OXO gang?

"A

Two were killed.

"Q

Was this plan of yours to take revenge known to other persons in your Dormitory 4 other than the three others mentioned by you?

"A Five only of us knew the plan.

"Q Why did you not plan this matter with the other members of the group?

"A They might tell it to the authorities." (TSN, June 8, 1970, p. 9)

The attempt of four or five accused to exculpate their co-accused by assuming all responsibility does not diminish the evidence of premeditation which was admitted. Moreover, the manner in which the accused killed the victim

shows that the defendants-appellants deliberately planned the attack. We agree with the Solicitor General who pointed out circumstances showing conspiracy indicative also of evident premeditation. He stated:

"1. All the accused-appellants are members of the Sigue-Sigue Sputnik gang. On December 6, 1969, two days before the stabbing incident subject of the instant case, two gangmates of theirs were stabbed to death by the OXO group to which the victim in the case at bar belonged. Three of their companions were also seriously injured. In view of the preceding incident, it is correct to assume that the Sigue-Sigue gang members conspired with each other to avenge the death of their fallen comrades.

"2. All the accused-appellants were by the door when it was opened by the guard. And all of them rushed out of said door in a concerted wave. Why were all of them waiting by the side of the door? And why the sudden rush?

"3. All of the accused-appellants were armed at the time they rushed out of the door. It should be borne in mind that it is not easy to look for a weapon inside the penitentiary. It takes time to improvise and make weapons as the ones surrendered by the accused. These are made in secrecy. And even the concealment of said weapons in places readily accessible to the accused must be well planned, lest they be discovered.

"The sudden rush outside by the accused, coupled with the fact that they were all armed with improvised weapons, is indicative of a plot which takes time to plan.

"4. All the accused gave sworn written statements wherein they admitted their guilty participation. They are hardened criminals serving long prison terms. They are the type who could not be easily cowed or threatened - a fact that lends credence to the prosecution's evidence that the statements were voluntarily given."

The trial court was correct in stating that the crime was attended by the aggravating circumstance of superior strength. The defendants-appellants were all armed with bladed weapons while the victim and his companions were not. There were sixteen (16) of them. They all "positioned" themselves around the victim while they stabbed him. The deceased was unarmed and unable to defend himself.

Defendants-appellants also contend that it is error for the lower court to hold that their extra-judicial confessions, where they acknowledged their participation in the killing, were all made and signed voluntarily. Defendants-appellants maintain that as detainees they were at the mercy of the guards who investigated (hem, and when asked to sign the statements, they have no choice but to sign them.

We find no merit in this contention. There is no showing nor indication that the appellants were made to sign statements in the making of which they had no hand or were forced to make admissions. The statements jibe with the testimonies introduced later during the trial. We apply the rule stated in *People vs. Madal-Santalani* (93 SCRA 317) and reiterated in *People vs. Balane* (supra) that where the defendants did not present any evidence of compulsion or duress nor violence on their persons; where they failed to complain to the officers who administered the oaths; where they did not institute any criminal or administrative action against their alleged intimidators for maltreatment; where there appeared to be no marks of violence on their bodies; and where they did not have themselves examined by a reputable physician to buttress their claim, all these were considered by this Court as factors indicating voluntariness. Moreover, even during the trial, four of the accused pleaded guilty and the reminder by the court of the consequences of their plea did not make them reconsider it.

Four (4) of the accused entered a plea of guilty and were sentenced ahead of their co-accused. Insofar as they are concerned, the issue of whether or not there was an improvident plea of guilty becomes relevant. The trial court informed the four (4) accused of the consequences of their plea. They were told that under the law they would be sentenced to death, but despite this information they ail manifested that they were each entering plea of guilty. Two of the four, Augusto Garcia and Mario Yumul, admitted their participation in the commission of the crime,

and positively identified and implicated Mario Dumdom, Salvador Villaflor and Rodrigo de Guzman when they testified during the trial of the remaining nine (9) accused. Moreover, all of the four accused who pleaded guilty were serving sentences for various crimes when Bonifacio A. Davis was killed. They had prior experience with judicial and prosecution processes and knew fully well the implications of a plea of guilty. There was no improvident plea of guilt.

Lastly, the defendants-appellants have failed to sustain their contention that the death penalty is violative of the Philippine Constitution because it is cruel and unusual.

The Constitution itself impliedly validates the imposition of the death penalty whenever applicable under the law because it vests in the Supreme Court the power of review over all criminal cases where the penalty imposed is death or life imprisonment. (Article X, Section 5, Constitution.) As long as our criminal law provides for the imposition of the death penalty in certain cases the rule has long been to apply it where the requisites under the law are present and the extraordinary vote in this Court on appeal can be secured -

x x x

x x x

x x x

"x x x Today there are quite a number of people who honestly believe that the supreme penalty is either morally wrong or unwise or ineffective. However, as long as that penalty remains in the statute books, and as long as our criminal law provides for its imposition in certain cases, it is the duty of judicial officers to respect and apply the law regardless of their private opinions. It is a well settled rule that the courts are not concerned with the wisdom, efficacy or morality of laws. That question falls exclusively within the province of the Legislature which enacts them and the Chief Executive who approves or vetoes them. The only function of the judiciary is to interpret the laws and, if not in disharmony with the Constitution, to apply them. And for guidance of the members of the judiciary we feel it incumbent upon us to state that while they as citizens or as judges may regard a certain law as harsh, unwise or morally wrong, and may recommend to the authority or department concerned, its amendment, modification or repeal, still, as long as said law is in force, they must apply it and give it effect as decreed by the law-making body, x x x" (People vs. Limaco, 88 Phil. 35)

As specified in the information, at the time of the commission of the crime, the defendants-appellants were all quasi-recidivists because they were serving sentences for different crimes after having been convicted by final judgments. As the defendants-appellants are quasi-recidivists, the death penalty for murder was correctly imposed on them by the trial court conformably with Article 160 of the Revised Penal Code.

Considering the circumstances which drove the accused to kill the victim and the contributory role played by the inhuman conditions in the penitentiary vividly described by the trial judge in his decision, the death penalty did not get the necessary votes and is, therefore, commuted to reclusion perpetua. Following the precedent set forth in People vs. A. De La Fuente, (G.R. Nos. 63251-52, December 29, 1983) the P12,000.00 indemnity for the heirs of the offended party is raised to P30,000.00.

WHEREFORE, the judgment appealed from is hereby MODIFIED in that defendants-appellants Romeo Villanueva (No. 62650-P), Augusto Garcia (No. 57696-P), Fausto Capili (No. 23748-P), Benito Balagtas (No. 45792-P), Mario Yumul (No. 60678-P), Salvador Villaflor (No. 59880-P) Antonio de la Cruz (No. 50108-P), Manuel Dumdom (No. 48182-P), Romualdo Recalde (No. 67053-P), and Eduardo Prado (No. 55482-P) are sentenced to suffer the penalty of reclusion perpetua and to indemnify the heirs of the offended party in the

amount of P30,000.00 jointly and severally. The judgment of the court a quo is AFFIRMED in all other respects. The resolutions dismissing the cases against Ramon Esguerra (No. 54628-P), Carlito Borja (No. 60127-P) and Rodolfo Ibañez (No. 61027) insofar as their criminal liability is concerned are REITERATED.

SO ORDERED.

Makasiar, Actg. C.J., Concepcion Jr., Guerrero, Abad Santos, De Castro, Melencio-Herrera, Plana, Escolin, Relova, and De La Fuente, JJ., concur.

Fernando, C.J., and Teehankee, J., On Official Leave.

Aquino, J., In the result.

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