

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. MANUEL GUARDO, CARLOS TAMAYO AND ORLANDO TAMAYO, DEFENDANTS-APPELLANTS.

G.R. No. L-42965. December 03, 1987

Ponente: CRUZ, J.

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CRUZ, J.:

The theft of a kitchen stove is certainly no justification for the taking of human life, but there it is. The owner, Ruben Estanilao, complained to the authorities. Orlando Tamayo was among those investigated. Manuel Guardo was also linked to the offense. Carlos Tamayo resented the suggestion of his son's involvement and made a vague threat. The stove was ultimately traced and returned to the owner,[1] but the matter did not end there.

All this happened on April 9, 1974. Two days later, on Holy Thursday, Estanislao was dead, stabbed in the chest with a kitchen knife.

Immediately after the incident, Guardo surrendered to the Marikina police and admitted the killing. In due time he was charged with murder, together with Carlos Tamayo and Orlando Tamayo as co-principals. All three were found guilty after the trial before Judge Pedro A. Revilla of the Court of First Instance of Rizal. Guardo was sentenced to the indeterminate penalty of 14 years and 8 months of reclusion temporal as minimum to 20 years of reclusion temporal as maximum. His voluntary surrender was considered in mitigation. The two Tamayos were sentenced to life imprisonment. They were also bound jointly and severally with Guardo to indemnify the victim's heirs in the amount of P12,000.00 and to pay the costs.[2]

This appeal involves only Manuel Guardo and Orlando Tamayo. Carlos Tamayo died on February 25, 1982,[3] to be judged in another forum by a still Higher Court than this.

On the basis of the testimony of the prosecution witnesses, the trial court found that in the morning of April 11, 1974, while his arms were being held by the two Tamayos, preventing him from defending himself, Ruben Estanislao was stabbed in the chest by Manuel Guardo with a kitchen knife.[4] The assailants then fled. Ruben's wife, Sebastiana, immediately approached her husband and asked him who had stabbed him. His answer was: "Sila, Hulihin sila." ("They, Apprehend them.") She hurriedly hailed a tricycle and brought him to the hospital but he died shortly upon arrival.[5] The cause of death, as the autopsy was to reveal, was "cardio-respiratory arrest due to shock and hemorrhage as a result of a stab wound in the chest." [6]

Two eyewitnesses were presented by the prosecution, namely, Norma Madayag, the victim's cousin, and David Estanislao, his 14-year old son.

Norma testified that she was coming out at the back of Ruben's stall in the Marikina public market at about 10:30 o'clock in the morning of April 11, 1974, when she saw Guardo stab her cousin while his arms were being held by Orlando Tamayo and Carlos Tamayo. Carlos Tamayo was restraining Ruben's left arm and Orlando was holding the other arm. She was about four feet from them when the stabbing occurred.[7]

David Estanislao said he was about three meters from his father when he was stabbed by Guardo in the manner described by Norma. The incident happened at the back of their carinderia. He too declared that at the time of the stabbing, his father's arms were being restrained by the two Tamayos, adding that in the process Ruben's watchstrap was unloosed. David said that he was unable to do anything and just stood there because of fear and shock.[8]

The widow, Sebastiana, said she did not witness the actual stabbing although she had seen the four protagonists talking to each other moments earlier. When she looked back her husband had already been bloodied and was holding his stomach. She also noticed that when she approached him his watch had become unfastened. Besides narrating how she succored Ruben and took him to the Eulogio Rodriguez Memorial Hospital, she testified on the loss of their kitchen stove and the involvement of Manuel Guardo and Orlando Tamayo. According to her, Carlos Tamayo asked her why his son was being implicated and, when she said she did not know, muttered: "If my son is hurt, hmmm." [9]

There cannot be any probability of mistaken identity here for the principal figures in this tragedy were known to each other, having worked in the same market for years. Ruben and his family had a carinderia and Guardo had his own stall where he served goto and pansit. Carlos Tamayo worked as a cargador and his son was employed in the slaughterhouse in the same market.

Guardo admitted stabbing Ruben minutes after the incident and later reiterated this confession at the trial.[10] He disclaimed criminal liability, however, on the ground of insanity. The night before the incident, he testified, he kept hearing voices but could not see where they were coming from. As he felt he was being pursued, he sought refuge in the Marikina police station, where he asked - and was allowed - to stay for the night, leaving the same in the morning of April 11, 1974.[11] There is dubious corroboration of this statement[12] but it is not really that important.

On the stabbing itself, Guardo averred it was provoked by Ruben himself, who called him that morning as he was passing by and insisted that he reveal the name of the person who had stolen the kitchen stove. He said he did not know and was roundly berated by Ruben. He felt embarrassed and left. He then bought some turnips, borrowed a kitchen knife from a fellow vendor and walked around while he peeled and ate a turnip but was called again by Ruben, who shouted "putang ina mo" and "magnanakaw" at him. He saw red, he said. On impulse, he stabbed Ruben. He then went directly to the Marikina police station and confessed the crime, surrendering the knife. He swore in court that he committed the crime alone and exculpated his two co-accused.[13]

There is evidence that Guardo had previously been confined in the National Mental Hospital for some time,[14] but this does not prove anything. Neither does his stay in the Marikina police station the night before the killing, assuming this was true, add to his defense. The important thing is that no evidence was adduced to show that Guardo was insane at the time of the commission of the offense in the morning of April 11, 1974. No one testified that he was acting irrationally immediately before, during, or immediately after the stabbing. No witness was presented to show that Guardo had at that time no control of his actions or was not in full possession of his mental faculties. In fact, there was no indication even during the trial of any mental abnormality in him except only a dullness of mind which could possibly have been feigned, as when he said he did not know how long a minute was.[15] As the Court sees it, the plea of insanity should not have been made at all, considering the lack of competent evidence to prove it. It was a crazy defense.

The involvement of the two Tamayos is another matter.

Carlos Tamayo, testifying for himself, insisted that although he was near Ruben Estanislao at the time of the stabbing, he had no part in it and certainly did not restrain the victim from defending himself. He was about one

and a half meter from Ruben where he was stabbed. Immediately after the stabbing, Carlos said, he ran away for fear that Guardo would turn the knife on him and then went to his son Orlando to warn him against the killer. He declared categorically that Orlando was not at the scene of the crime and therefore could not have held one of Ruben Estanislao's arms.[16]

Orlando Tamayo, for his part, corroborated his father's testimony about warning him, and said he was about fifteen meters away in the slaughterhouse when Ruben was stabbed by Guardo. At the time of the stabbing, Orlando declared, he was busy dressing chickens.[17] Significantly, if his testimony is to be believed, Carlos merely warned him against Guardo, who was only a short distance away, and did not take him away to safety as a protective parent would have done.

As earlier observed, Guardo himself testified that he alone was responsible for the stabbing of the victim and had no assistance from the Tamayos. He was positive that Carlos Tamayo did not restrain Ruben and that Orlando Tamayo was not there at the time of the incident.

Similar testimony was given by Diego Adlao, but he was revealed on cross examination to be a rather unreliable witness. He said he ran away after the stabbing because he was afraid but after a while returned to his stall and resumed his normal activities as if nothing unusual had happened. He declared he collected payments for the coffee he had earlier sold to about fifty persons but said he discussed the matter with no one although the incident was surely the most insistent topic that morning in the Marikina market. He also said he had volunteered to testify only out of a sense of civic duty but later admitted he had been asked to be a witness by a relative of the Tamayos.[18]

Against the defense, the trial court inclined toward the testimony of the prosecution witnesses, and correctly. These witnesses gave definite, forthright testimony of what they had seen and, notably, could not be shaken on cross-examination. Even the 14-year old David stood his ground during his long interrogation by defense counsel and insisted on his narration of how his father was killed by the accused.[19]

The fact that these witnesses were relatives of the victim did not necessarily taint their testimony as it was not shown that they had any ill-feeling toward any of the accused before the stabbing of Ruben Estanislao. As for the argument that Norma Madayag took about one week before implicating the Tamayos, it is settled that mere delay in reporting such matter will not render the testimony incredible,[20] especially if it is considered in this case that the witness was a close relative of the deceased and must have been occupied by other matters after his death, such as his funeral. The fact that David could not remember the name of the policemen who took his statement after his father's killing and that he had not previously mentioned the 'Tamayos' participation therein is also understandable. It must be remembered that the boy was at the time in a state of shock and confusion over the traumatic experience of seeing his father suddenly stabbed and killed.

By contrast, the motive of the Tamayos cannot be lightly brushed aside as it involved a matter of honor. Orlando took umbrage at the imputation that he had something to do with the theft of Ruben's kitchen stove. Carlos, the father, was also angry over the suspicion that had been cast upon his son and, indeed, uttered an ominous warning to Ruben's wife. While it would have been unnatural for the prosecution witnesses to implicate the Tamayos if in fact they were not guilty, it was, on the other hand, quite natural for the Tamayos to be resentful over the insinuation that Orlando had something to do with the theft of Ruben Estanislao's kitchen stove. It is easier to accept that the Tamayo's ire toward the victim manifested itself in their direct participation in the stabbing by Guardo of Ruben Estanislao as the object of their common wrath.

We see no reason to reverse the factual findings of the trial judge, who had the opportunity to observe the demeanor of the witnesses and to assess their credibility. The written record will not show that nuance of tone or

voice, the meaningful contrast between the hesitant pause and the prompt reply, and the expression or color or tilt of face that will affirm the truth or expose the fabrication. All these subtle factors could be considered by the trial judge in weighing the conflicting declarations before him, and we do not find that he has erred.

Although the attack was frontal, the crime committed was murder, qualified by treachery, as the accused employed means to insure the commission of the offense without risk to themselves of any defense the offended party might make.[21] There was also abuse of superiority when the two Tamayos restrained Ruben Estanislao while Guardo stabbed him,[22] but this aggravating circumstance is absorbed in alevosia and so cannot be treated separately. Conspiracy has not been proved and neither has evident premeditation, but it is admitted that Guardo is entitled to the mitigating circumstance of voluntary surrender with the corresponding reduction of his sentence. The penalties imposed are in accordance with law, but the civil indemnity shall be, as it is, increased to P30,000.00.

WHEREFORE, the appealed decision is **AFFIRMED** as above modified, to be enforced only against Manuel Guardo and Orlando Tamayo, the criminal liability of Carlos Tamayo having been extinguished by reason of his death.

SO ORDERED.

Teehankee, C.J., Narvasa, Paras, and Gancayco, JJ., concur.

[1] TSN, Aug. 21, 1974, pp. 7-8.

[2] Rollo, pp. 27-28.

[3] Ibid., p. 135.

[4] TSN, July 3, 1974, pp. 5-9, 10-11; Ibid., Oct. 8, 1974, pp. 5-6.

[5] Ibid., July 16, 1974, pp. 12, 18.

[6] Exh. "F" - Folder of Exhibits, p. 9.

[7] TSN, July 3, 1974, pp. 4-6, 11.

[8] Ibid., Oct. 8, 1974, pp. 5-6, 15.

[9] Id., July 16, 1974, pp. 9-11, 25-28.

[10] Id., Jan. 14, 1975, p. 3.

[11] Id., Jan. 14, 1975, pp. 2, 82.

[12] Rollo, pp. 19-20, 22.

[13] TSN, Jan. 14, 1975, pp. 3-4; Ibid., Jan. 15, 1975, p. 5.

[14] Rollo, pp. 20-21; TSN, Dec. 16, 1974, pp. 18-23.

[15] TSN, Jan. 15, 1975, p. 75.

[16] Ibid., March 5, 1975, pp. 3-4.

[17] Id., April 7, 1975, pp. 4-5, 8, 17-18.

[18] Id., Dec. 16, 1974, pp. 6, 12-15; Rollo, pp. 17-19.

[19] Id., Oct. 8, 1974, pp. 9-19.

[20] *People v. Cabanit*, 139 SCRA 94, citing *People v. Rotas*, 73 SCRA 583, 593, & *People v. Lao Wan Sing*, 18 SCRA 1076; *People v. Centeno* citing *People v. Estocada*, 75 SCRA 295.

[21] *People v. Reyes*, 11 Phil. 225; *People v. De La Cruz*, 17 Phil. 527; *People v. Gonzales*, 92 Phil. 1078.

[22] Rollo, pp. 7-8.

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