

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. TEOFILO DIOSO AND JACINTO ABARCA, DEFENDANTS-APPELLANTS.

G.R. Nos. L-38346-47. October 23, 1984

Ponente: ESCOLIN, J.

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ESCOLIN, J.:

Mandatory review of the death sentences imposed by the Circuit Criminal Court of Rizal upon Teofilo Dioso and Jacinto Abarca for the crime of murder.

The crime was committed inside the New Bilibid Prison in Muntinlupa, Rizal, where both accused were serving sentence, Abarca having been previously convicted by final judgment of the crime of homicide, and Dioso, of robbery.

At the time of the incident, Dioso and Abarca were members of the "Batang Mindanao" gang, while the victims Angelito Reyno and Fernando Gomez, also prisoners at the New Bilibid Prisons, belonged to a group known as the "Happy Go Lucky" gang. These rival factions had been involved in intermittent, and sometimes bloody, clashes, the latest of which resulted in the death of one Balerio a member of the "Batang Mindanao" gang.

Suspecting that Reyno and Gomez had authored the slaying of their gangmate, the two accused set their minds to avenge his death. They found the occasion to execute their nefarious design when they learned that Reyno and Gomez were sick and confined in the prison hospital. At 6:15 in the morning of September 12, 1972, Abarca, feigning illness, went to the hospital to seek admission as a patient. He was accompanied by his co-accused Dioso. Inside Ward 6 of the hospital they saw their intended victims: Reyno was taking break-fast while Gomez was lying down on a "tarima" [wooden bed] under a mosquito net. Dioso approached Reyno and spoke briefly to him, while Abarca headed towards the "tarima". Then, both accused suddenly drew out their improvised knives [matalas]. Abarca raised the mosquito net over the "tarima" and stabbed Gomez, as Dioso, almost simultaneously, attacked Reyno with his knife. And after the latter had fallen, Dioso strode to the "tarima" to help his co-accused finish off Gomez.

When the accused rushed out of Ward 6, they were met at the corridor by Prison Guard Enriquito Aguilar. Both gave themselves up and handed their weapons to him.

Dr. Ricardo E. Baryola, medico-legal officer of the NBI, who performed the autopsy, found that both accused died of massive bleeding due multiple stab wounds on the chest and abdomen.[1]

The accused were immediately interrogated by prison investigator Buenaventura dela Cuesta; and they readily executed their respective sworn statements, wherein they admitted responsibility for the death of the victims.[2]

In his sworn statement, Teofilo Dioso narrated how he delivered the death blow on Reyno, thus:

"T - Pagdating ninyo sa ward 6 ano ang inyong ginawa?

S - Tumuloy ho ako kay Reyno at tinanong ko kung saan si Insik [Gomez] ngayon tinuro ni Reyno sa akin.

Sabi ho iyong nakakulambo. Pagkatapos, sinabi ko na-man kay Abarca ang lugar ni Insik ngayon, pinunta-han naman niya. Pagtapat niya kay insik, sinipa ko si Reyno sabay bunot ng aking matalas at sinaksak ko sa kanya. Noong sa pag-aakala kong patay na, iniwan ko at tumulong ako kay Abarca sa pagsaksak kay Gomez. Noong tumihaya na si Gomez, sumigao ako kay Abarca na labas na tayo. Tumakas kami palabas at noong nasa pasilyo kami ng hospital nasalubong namin iyong guardiya at doon na-min sinurender ang mga ma-talas namin. Tapos kaming makapag-surrender, dinala kami ng guardiya sa Control Gate tuloy dito." [Exhibit "D", p. 2]

Jacinto Abarca on the other hand narrated his version of the killing as follows:

"T - Pagkatapos ninyong mapagka-sunduan na manaksak sa ward 6, ano ang inyong ginawa?

S - Ang sabi pa niya na bukas na tayo titira pagkatapos ng almosalan tapos naghi-walay na kami baka pa ma-rinig ng iba. Kaninang umaga pagkatapos naming kumain lumabas na ako sa ward 2 at nakita ko siya sa pintuan ng ward 4 na naghihintay sa akin. Nga-yon, pumasok muna siya sa ward 4 at kumuha ng sigarilyo at pagkatapos tumuloy kami sa ward 6. Pagdating namin sa ward 6, siya ang umuna dahil sa hindi ko pa alam kung saan naka puwesto ang mga Happy Go [gang]. Pagkatapos lu-mapit siya doon sa naka upo hindi ko alam kong kumakain o hindi at ako naman ay umu-po sa isang tarima sa tabi ni insik iyong tinira ko tapos bigla na lang siya bu-munot ng matalas niya bago tinira iyong naka upo sabay sabi na 'tira na'. Pagka-tira niya, ako naman ay lu-mapit doon sa tarima ni in-sik [Gomez] bago ko biglang tinaas ang kulambo dahil na-kahiga siya tapos tumakbo. Hinabol ko tapos paghabol ko, nadapa siya tapos sumuot sa silong ng tarima. Doon ko siya inabutan at sinaksak ko. Ngayon sa pagsaksak ko sa kanya, biglang dumating itong si Dioso at tumulong sa akin sa pagsaksak. Hindi nagtagal, sumigao si Dioso ng 'tama na' bago kami tumak-bo palabas ng ward 6. Noong nasa pasilyo kami ng hospital, nasalubong namin iyong guar-diya at doon namin sinurender ang mga matalas namin. Pagka-tapos naming ma surrender ang mga matalas namin, dinala ka-mi ng guardiya sa labas." [Exhibit "C", p. 2].

Dioso revealed the motive for the killing as follows:

"T - Bakit naman ninyo ni Abarca sinaksak sina Reyno at Gomez sa ward 6?

S - Dahil po doon sa nangyari kay Balerio. Si Balerio po ay sinaksak ng mga 'Happy Go' at iyong panaksak namin kanina ay iyon ang ganti naming mga BM sa mga 'Happy Go'. [Exhibit "D", p. 1].

Of similar tenor is the following statement of Abarca:

"T - Ibig mo bang sabihin, iyong mga sinaksak ninyo sa hos-pital kanina ay iyon din ang pumatay sa sinasabi mong ka-kusa ninyo na si Balerio?

S - Hindi ho pero katatak nila iyong pumatay kay Balerio. Pareho silang miembro ng 'Happy Go Lucky' gang. Nga-yon ang pagka panaksak namin kanina sa hospital noong da-lawa na miembro ng 'Happy Go' ay ganti naming mga BM [Batang Mindanao] sa pagkapatay nila kay Balerio." [Exhibit "C", p. 1].

When arraigned for the crime of murder, both accused voluntarily entered the plea of guilty. Thereafter the trial court required the presenta-tion of evidence to determine the degree of their culpability. At the hearing, they acknowledged the voluntary execution of their respective con-fessions.

The trial court correctly found that the crime was perpetrated with alevosia. As revealed by the accused themselves, they inflicted the fa-tal blows while Gomez was lying down under a mosquito net, and Reyno was taking his breakfast. Clearly, neither of the victims was in a posi-tion to defend himself from the sudden and unexpected assault.

It is thus noted that in their briefs, no attempt was made to impugn the lower court's conclusion as to their guilt. Instead, they seek attenuation of the death sentence imposed by the trial court by invoking the circumstances of voluntary surrender and plea of guilty. We find no necessity to discuss at length the effects of such mitigating

circumstances on the penalty imposed. Suffice it to say that the accused are quasi-recidivist, having committed the crime charged while serving sentence for a prior offense. As such, the maximum penalty prescribed by law for the new felony [murder] is death, regardless of the presence or absence of mitigating or aggravating circumstance or the complete absence thereof.[3]

But for lack of the requisite votes, the Court is constrained to commute the death sentence imposed on each of the accused to reclusion perpetua.

ACCORDINGLY, accused Teofilo Dioso and Jacinto Abarca are hereby sentenced to reclusion perpetua and to indemnify the heirs of the deceased, jointly and severally, the sum of P30,000.00. Costs against appellants.

SO ORDERED.

Fernando, C.J., Makasiar, Aquino, Guerrero, Abad Santos, Melencio-Herrera, Plana, Relova, De La Fuente, and Cuevas, JJ., concur.

Teehankee and Gutierrez, Jr., JJ., no part.

Concepcion, Jr., J., on vacation leave.

[1] Exhibits "Q" and "B".

[2] Exhibits "C" and "D".

[3] Article 160, Revised Penal Code; People v. Bautista, 65 SCRA 460.

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