

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. PEDRO ALCANTARA AND MANUEL GUINTO, ACCUSED. MANUEL GUINTO, ACCUSED-APPELLANT.

G.R. No. L-38042. June 30, 1987

Ponente: CRUZ, J.

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CRUZ, J.:

Before the horrified eyes of his two children, then aged sixteen and ten, Felipe Avendaño was attacked from behind and hacked twice with bolos, one in the head and another in the shoulder. Within minutes he was dead. How-ever, we have yet to write finis to this case, which began on June 29, 1963. The full accounting of that tragic night is still to be made.

One of those accused of the offense has since been convicted and is now serving a life sentence.[1] In this case, we deal with Manuel Guinto who, like Pedro Alcantara, has been sentenced to reclusion perpetua as a co-conspira-tor in the murder of Avendaño.[2] The third one, Enrique Cagsawa, is still at large.

As found by the trial court,* the incident happened during a benefit dance in barrio Enriqueta, Lavezares, Samar. Avendaño was standing by the window and cooling himself, having just enjoyed the exertions of the dance, when three men who were standing by the bamboo grove behind him, suddenly pounced upon him.[3] The first assail-ant was Guinto, who administered the fatal blow in the head with a "kinogan" bolo.[4] Almost simultaneously, Alcantara made the second slash on the shoulder with his "menasbad," another kind of bolo.[5] The third man, Enrique Cagsawa, was about to strike when he was deterred by the screams of Lydia Avendaño, the victim's daughter.[6] Immediately thereafter, the three assailants escaped.[7]

The above findings were based mainly on the eyewit-ness accounts of the victim's two children, who were near their father when he was killed.[8] Their mother, who was also presented by the prosecution, testified as to the events that transpired after the killing.[9] Two other witnesses, Antonio Martires and Dr. Arturo Dubongco, de-scribed the wounds inflicted on the victim, the latter declaring that the one in the head was fatal without me-dical treatment but the second was not, barring complica-tions.[10]

In his defense, the accused-appellant denied any part in the slaying, insisting that he was in fact one of those who stayed by the corpse after the stabbing and got the knife from the victim's hand on orders of the barrio captain. Lydia saw him as he was giving the weapon to the said officer, which must have given her the impression that Guinto was one of the killers.[11] He was corrobo-rated by Victorino Escalderon and Lucas Puedan, who both declared they saw Juan Alcantara slash the victim twice.[12]

The accused-appellant lays much stress on the incon-sistencies in the testimony of Lydia Avendaño, who claims to have witnessed her father's slaying. The flaw, it is argued, is that whereas she declared in her sworn state-ment dated July 2, 1963,[13] that Pedro Alcantara slashed her father twice, she later testified that the victim was attacked first by Guinto, who hacked him in the head, and then by Alcantara, who dealt the second blow.[14]

We do not believe that this inconsistency should detract from the veracity of Lydia's testimony, which, standing by itself, appears to be a truthful narration of Avendaño's death. It is not unlikely that when she made the sworn statement, this young girl had not yet recovered from the shock and trauma of witnessing her father's violent death only four days before. It is entirely possible she was still confused and had not yet collected her thoughts at that time and so could not make a completely accurate account of how her father was killed.

Moreover, as Moore correctly observes, "an affidavit being taken ex parte, is almost always incomplete and often inaccurate, sometimes from partial suggestion, and some-times from want of suggestion and inquiries, without the aid of which the witness may be unable to recall the connected collateral circumstances necessary for the correction of the first suggestion of his memory and for his accurate recollection of all that belongs to the subject." [15]

Significantly, Carlos Avendaño's own testimony tallied in all material points with that made by his elder sister, as well it should. [16] They were only a short distance from their father when he was killed and they saw every detail of the brutal slaying by the light of the three gas lamps by the doorway and in the dance hall. [17] While time may have blurred the sharp focus of their recollections, the memory of that fatal night - and especially the killers of their father - can hardly be blotted out of their minds.

The accused-appellant's insistence that he was the one who stayed by Avendaño's body was further belied by the victim's wife, Felisa, who testified that she saw Guinto and his companions running away from the direction of the dance hall where, unknown to her then, her husband had just been killed. [18]

The crime was committed in 1963 but it was only ten years later that Guinto was arrested and prosecuted as in the meantime he could not be located. Both he and Cagsawa had disappeared, leaving Alcantara to face the music alone, as it were. Guinto now claims he was in Enriqueta all the time until 1967, when he transferred to barrio Maravilla, also in Lavezares. There he stayed for one year before going to Manila, from where he returned to Enriqueta in 1970. [19]

Felisa denies this, arguing that if that were so she would have demanded his arrest, as she immediately did when she learned of his return to Lavezares in 1973. [20] In fact, a warrant of arrest had been issued against Guinto as early as 1964 but it could not be served because he could not be found. In his return dated October 27, 1964, the municipal chief of police certified that "Manuel Guinto went to Manila after the commission of the crime," [21] and his successor, in another return dated February 28, 1966, declared that "the whole municipality was almost combed for the arrest of Enrique Cagsawa and Manuel Guinto and according to information said persons is (sic) at Manila." [22]

Caught in this obvious lie, the accused-appellant has to explain now why he left so precipitately after the commission of the crime, of which he claims to be innocent. Assuming that his sudden departure, while suspicious, was innocent, he would have come back earlier, having heard of the charge against him - as he must have - to clear his name.

The defense cites the reliability of witnesses Puedan and Escalderon, aged sixty-four and eighty-four, respectively, and both municipal officials who, it is argued, would not have perjured themselves just to save Guinto. Perhaps so. On the other hand, no ill motive has been imputed to the Avendaño children in testifying against the accused-appellant, with whom their family was apparently on good terms until the killing. At any rate, faced with the question of credibility, the trial judge, who had the chance to observe the witnesses and assess their demeanor on the stand, opted to believe the prosecution witnesses. We shall abide by that preference absent a showing of any abuse of discretion.

The accused is entitled to be presumed innocent, but only until the contrary is proved. In this case, we believe with the trial court that the guilt of Manuel Guinto has been established beyond reasonable doubt and so he is not entitled to a reversal. We sustain the finding that in conspiracy with each other the accused-appellant and his two companions treacherously attacked Felipe Avendaño, with Guinto himself administering the fatal blow in the victim's head. The crime is murder, without any aggravating or mitigating circumstances, for which the penalty is reclusion perpetua. The civil indemnity is, however, increased to P30,000.00.

WHEREFORE, the judgment appealed from is AFFIRMED as above modified, with costs against the accused-appellant. It is so ordered.

Yap, (Chairman), Narvasa, Melencio-Herrera, Feliciano, Gancayco, and Sarmiento, JJ., concur.

[1] People vs. Alcantara, 33 SCRA 812, 820.

[2] Rollo, p. 39.

* Presided by Judge Juan Figueroa.

[3] Ibid., pp. 16-17.

[4] Id., p. 17.

[5] id.

[6] id.

[7] TSN, August 6, 1973, p. 7.

[8] Ibid., p. 5.

[9] Id., pp. 18-20.

[10] Rollo, pp. 21-22.

[11] Ibid., pp. 23-24.

[12] Id., p. 25.

[13] Brief for the Appellee, pp. 11-12.

[14] Rollo, p. 28.

[15] Moore on Facts, p. 1098.

[16] Rollo, pp. 16-17.

[17] Ibid., p. 17.

[18] Id., pp. 18-19.

[19] id., pp. 24-25.

[20] id., pp. 36-37.

[21] Exh. "E-1".

[22] Exh. "D".

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