

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. DANILO VALDEZ AND SIMPLICIO ORODIO ALIAS “KAMLON”, APPELLANTS.

G.R. No. L-75390. March 25, 1988

Ponente: FELICIANO, J.

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FELICIANO, J.:

This case is before us on automatic review of the decision of the Regional Trial Court, First Judicial Region, Branch 26, San Fernando, La Union, convicting the accused-appellants Danilo Valdez and Simplicio Orodio of the crime of murder and sentencing each of them to death.

The accused Danilo Valdez and Simplicio Orodio were charged in an information which read as follows:

"That on or about the 7th day of June, 1977, in the Municipality of Santol, Province of La Union, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually aiding one another, armed with a fire arm, with treachery and evident premeditation and with deliberate intent to kill, did then and there wilfully, unlawfully and feloniously, shoot Eleno Maquiling inflicting upon him a gun-shot wound which caused the victim's instantaneous death.

That the aggravating circumstance of nighttime was present in the commission of the crime.

Contrary to Article 248 of the Revised Penal Code."

After arraignment and trial, the trial court rendered in due course, on 27 June 1986, a decision finding both of the accused guilty of murder. The dispositive portion of the decision states:

"WHEREFORE, in view of the foregoing, this Court finds the accused Danilo Valdez and Simplicio Orodio alias "Kamlon" guilty beyond reasonable doubt of the crime of murder and judgment is hereby rendered imposing upon each of them the capital penalty of death; to indemnify the heirs of Eleno Maquiling the sum of P30,000.00; to reimburse the expenses in the sum of P3,000.00 to said heirs, and to pay the costs.

The bail bonds posted by the accused for their provisional liberty are hereby cancelled and their immediate arrest ordered."

The accused-appellants argue that the trial court erred in the following respects:

- That the evidence of the prosecution does not establish the guilt of the accused beyond reasonable doubt; and
- That the evidence of the prosecution is based simply on suspicion.

We will address these arguments together.

From the record, the facts of the case may be collated as follows:

The house of the Maquiling family stands on the slope of a mountain in Barangay Ambagat, Santol, La Union. At about 8:00 o'clock in the evening of 7 June 1977, the victim Eleno Maquiling, his sisters Leticia and Thelma, his mother Esmenia, and his father Juanito were all in the yard of their house. Esmenia and Juanito were under the

awning of their house facing north, engaged in stringing together tobacco leaves. The victim's brother Dionisio was eating his dinner in the wall-less kitchen located on the ground floor of the house. The victim Eleno was seated with his back toward the north and plucking a guitar. The place and its surroundings were lighted by a 300 candle-power petromax lamp hanging under the northern end of the awning of the house.[1]

While the Maquilings were thus seated in their yard, a relative of the family, one Carolina, arrived and asked Esmenia to accompany her to a prayer meeting. Esmenia demurred and instead asked Eleno to accompany Carolina. The victim was then just about two (2) meters away from his parents and about to stand up when suddenly a very loud gun shot rang out from the northern side of the yard and Eleno fell to the ground, crying out to his father for help. Juanito rushed to his fallen son and carried him into their house; Eleno, however, died immediately thereafter.

The victim's mother Esmenia was about to succour Eleno when she instinctively looked towards the direction from whence the gunshot came and saw the two (2) accused, Danilo Valdez and Simplicio Orodio, running down the hill away from the bamboo groves on the northern side of the house. According to Esmenia, the accused Danilo was wearing a blue shirt and dark pants and carrying a long firearm, while the other accused Simplicio was running along side the former. Dionisio Maquilang, brother of the victim, also testified that he too had seen Danilo with a gun and Simplicio both running away in a westernly direction. Danilo stated that he was then about seven (7) meters away from the accused-appellants.[2] Danilo Valdez was a neighbor and a relative of the Maquilings, while Simplicio Orodio was their old acquaintance residing in Sitio Villaga, Barangay Corooy of the same town; thus, both were well-known to Esmenia and Dionisio Maquilang.

On 8 June 1977, the Municipal Health Officer of Balaoan, Dr. Monico O. Morales, conducted an autopsy which showed that the victim Eleno had sustained eight (8) gunshot (pellet) wounds on his back:

"1.

Wound, gunshot, 1/2 inch longest dia., 1 cm. below base of neck, medial, pellet plowed slightly upward and found its exit at the lower 3rd of neck, left, measuring 3/4 inch longest diameter. (thru and thru).

2.

Wound, gunshot, 1/2 inch longest dia., medial, 1 inch lateral to vertebral column, right, pellet plowed upward and found its exit at the base of neck, left, measuring 3/4 longest diameter. (Thru and thru).

3.

Wound, gunshot, 1/2 inch longest dia., level of 4th intercostal space, back, right, penetrating the chest cavity, pellet was recovered at the upper lobe of right lung.

4.

Wound, gunshot, 1/2 inch longest dia., 1 inch above armpit, back, right, pellet plowed slightly upwards and to left. Pellet was not recovered.

5.

Wound, gunshot, 1/2 inch longest dia., 8th intercostal space, back, right, 1 inch lateral to the vertebral column, pellet penetrated chest cavity hitting lower lobe of lungs, right. Pellet was not recovered.

6.

Wound, gunshot, 1/2 inch longest dia., medial, back, left, level of 8th intercostal space, hitting the lower lobe, lung, left. Pellet was not recovered.

7.

Wound, gunshot, 1/2 inch longest dia., chest, back medial, left, (Level of 9th interspace), penetrating chest cavity hitting lower lobe, lung, left. (Pellet was not recovered).

8.

Wound, gunshot, 1/2 inch longest dia., postero-lateral, back, 1 inch below lowest rib of chest, right. Pellet was recovered at the abdominal wall, hypochondric region, front, right. Two (2) pellets were given to Chief of Police, Segundo Tuvera."[3]

The morning after the shooting, on 8 June 1977, Sgt. Segundo Tuvera of the Integrated National Police, Santol, La Union, went to the house of the Maquilings to investigate the death of Eleno.[4] He saw a petromax lamp hanging from the awning of the northern end of the house, as well as footprints near the bamboo groves near the northern side of the house. During his investigation, neither Esmenia nor Dionisio informed Sgt. Tuvera of what they had seen.

On 10 June 1977, Juanito Maquiling, the victim's father, executed a sworn statement before the police in the Santol Police Substation. Juanito admitted in his statement that he had not seen the accused-appellants on the night of the shooting. He did relate, however, that three (3) days prior to the shooting of Eleno, Eleno had informed him that in case something untoward happened to him (Eleno), the accused-appellants Danilo Valdez and Simplicio Orodio should be held responsible, since he (Eleno) had quarrelled with them concerning their stealing and robbing.[5] Juanito, further, stated that the accused Danilo has had a personal grudge against Eleno: Danilo had mortgaged to Eleno's brother a stolen spading fork, a circumstance that Eleno discovered when the real owner of the spading fork came to talk to him. Esmenia, Eleno's mother, gave no sworn statement on that day. Ten (10) days later, on 20 June 1977, however, she made a sworn statement to the Philippine Constabulary in San Fernando, La Union. Shortly thereafter, on 23 June 1977, Dionisio Maquiling, Eleno's brother, gave his own separate sworn statement also to the Philippine Constabulary. Both Esmenia and Dionisio identified Danilo Valdez and Simplicio Orodio as Eleno's killers.[6]

At the trial, Esmenia Maquiling was firm and categorical in identifying the appellants as the men she saw running from the bamboo groves immediately after the shooting --

"Q. When you heard that gunshot, what did you do?

A. We immediately rushed to his side and we found him on the ground, sir.

Q. From what direction did you hear the gunshot?

A. North of our yard, sir.

Q. When you went to the succour of your son, what else did you do?

A. When I went to give succour to my son, I turned and I saw these two, sir.

Q. Where did you see the two accused?

A. North of our yard, sir.

Q. How far were they from you when you saw them?

A. Witness indicating a distance of more or less five meters.

Q. When you saw the two accused, did you see anything in their possession?

A. They have, sir, (Witness indicating a length of about a foot), and it was Danilo Valdez who was holding that object.

Q. Were you able to recognize that object which Danilo Valdez was then holding?

A. It was a gun, sir.

Q. When you saw Danilo Valdez and Simplicio Orodio north of your yard, what were they doing?

A. I saw Danilo Valdez holding the gun while Simplicio Orodio ran downhill and then Danilo Valdez followed, sir.

Q. You said that you saw Danilo Valdez and Simplicio Orodio north of your yard. In relation to the place where you heard the gunshot, where were they?

A. Near the bamboo grove which is located north of our house, sir?

Q. In relation to that bamboo grove where you heard the gunshot, where were Danilo Valdez and Simplicio Orodio at the time you saw them?

A. They were east of the bamboo grove, sir.

Q. How far were they from that bamboo grove?

A. Witness referring to a distance of about 6 to 6-1/2 meters away.

COURT:

Q. How far were you from the accused when you recognized them?

A. Less than a meter away when I recognized them, sir.

FISCAL:

Q.

You said that the distance between you and the two accused at the time you saw them was five meters more or less. Upon questioning of the court, you said that the distance is less than a meter. Which is true?

A. Witness pointing to a distance of more or less five meters.

Q. How were you able to recognize the two accused at that distance of five meters from you considering that it was nighttime?

A. There was a light from the petromax lamp which was hanging [from] the awning of our house, sir.

Q. That part of the house where this awning is located, is there a wall surrounding the awning?

A. None, sir.

Q. That petromax lamp which you said was hanging under the awning of your house, how high is the petromax light from the ground level?

A. The height is 12 feet, sir.

Q. How big was the petromax light?

A. About two feet, sir.”[7]

Esmenia's testimony was corroborated by the equally definite testimony of Dionisio Maquiling, who declared that:

"Q.

Where were you at the time your brother was shot to death?

A. I was in our kitchen eating.

Q. Where was your brother then at the time he was shot in relation to your house?

A. He was west of our kitchen.

Q. In what particular part of your house, inside or outside?

A. Outside of our house.

Q. What time was your brother shot to death?

A. More or less 8 o'clock in the evening.

Q.

You said you were in the kitchen of your house eating and you pointed to Danilo Valdez and Simplicio Orodio alias "Kamlon" as the persons who shot your brother. How were you able to see Simplicio Orodio and Danilo Valdez shoot your brother?

A. I saw them.

Q. Will you relate how were you able to see Danilo Valdez and Simplicio Orodio alias Kamlon shoot your brother Eleno Maquiling?

A. When I was eating facing westward I heard a gunshot and when I looked through the north I saw Danilo Valdez running being followed by Simplicio Orodio.

Q. When you looked northward and you saw Danilo Valdez and Simplicio Orodio running, did you see anything in their possession?

A.

A gun. (Witness showing a length of about half a meter).

Q. Who of the two, Danilo Valdez and Simplicio Orodio was hiding the gun?

A. Danilo Valdez.”[8]

The trial court found the testimony of witnesses Esmenia and Dionisio as positive, credible and reliable. We find no reason to disagree with the finding of the trial court. It is commonplace that "the findings of the trial court as to the credibility of the witnesses are to be given great weight and a high degree of respect by the appellate court".[9] There is nothing in the record to show that the prosecution witnesses were moved by any improper motive to accuse falsely the accused-appellants -- one a relative and the other an old acquaintance -- of so grave a crime as murder.

The circumstance that Esmenia waited for thirteen (13) days after her son's assassination before reporting the identities of the accused to the authorities, was not unnatural in itself. She explained the delay by saying that she was afraid to talk about the killing and that she had seen the accused loitering frequently around the Maquilings' house, carrying a gun, after the burial of her son.[10] The trial court observed that Esmenia's fear ---

"was not imaginary because the night that she reported the identities of the accused their house was stoned by unidentified persons. The delay was satisfactorily explained. In *People vs. Marinez*, 127 SCRA 260, it was held that delay of witness for several months, because of fear, in reporting the incident to the police does not affect credibility. 'Fear of likely retaliation by the several accused who were still at large has been considered as a justified reason for the witnesses' delay in coming forward with their testimony' (*People vs. Sampang*, 16 SCRA 531; *People vs. Equal*, 14 SCRA 89)."[11]

This explanation does not appear incredible in itself and certainly such a delay of thirteen (13) days, under the circumstances of this case, does not warrant a conclusion that her testimony as to the identities of the killers of her son was false. In *People v. Martinez*,[12] the Court held that the failure of a witness to reveal immediately the identities of the accused does not militate against his credibility.

Both Esmenia Maquiling and Dionisio Maquiling did not testify that they had actually seen either Danilo Valdez

or Simplicio Orodio shooting at the deceased victim. The principal evidence against the accused is, therefore, circumstantial in character. The trial court recognized this and was careful to analyze the chain of circumstantial evidence on the basis of which the trial court concluded that the two (2) accused had killed Eleno Maquiling:

"While the prosecution failed to present an eye witness to the actual shooting by the accused of deceased Eleno, the chain of circumstances, prior and subsequent to the killing, leaves no room for doubt that accused are the guilty persons. The rule is that before conviction upon circumstantial evidence, the circumstances proved should constitute an unbroken chain which leads to one fair and reasonable conclusion pointing to the accused as the authors of the crime. (People vs. Pamintuan, 127 SCRA 820). In this case, this requisite has been fully met.

Rule 133, Section 5 of the Revised Rules of Court provides:

'CIRCUMSTANTIAL EVIDENCE, WHEN SUFFICIENT. - Circumstantial evidence is sufficient for conviction if:

- (a) There is more than one circumstances;
- (b) The facts from which the inferences are derived are proven; and
- (c) The combination of all the circumstances is such as to produce a conviction beyond a reasonable doubt.'

Tested by the rule stated above, and considering that Eleno was killed by a shot in the back and suffered eight (8) pellet wounds from one gunshot only; that the accused were immediately seen running downhill away from the scene after the gunshot report with accused Danilo Valdez carrying a long firearm; that three (3) days before the incident there was already bad blood between the victim and accused Danilo Valdez as the victim confided to his father Juanito Maquiling that if ever he would be shot accused Danilo Valdez is the one to be blamed[13]; that when the place where the crime was committed is an isolated place and it is highly probable that some other malefactors could have been present; and that footprints were seen by the police investigators behind the bamboo grove where the accused were seen to come from immediately after the shooting that Esmeria Maquiling even described the clothing of accused Danilo Valdez; that the two accused are well-known to the victim's family thereby precluding the possibility of mistaken identity; all these proven facts afford sufficient basis for a reasonable inference that the two accused were indeed the killers of the victim."[14]

In his brief, the Solicitor General took the position that accused-appellant Simplicio Orodio should be acquitted for lack of sufficient evidence to sustain this conviction either as a principal or an accomplice. The Solicitor General said:

"In the case at bar, the information charged Orodio as having allegedly conspired with Valdez in killing Eleno. The prosecution did not however adduce any evidence establishing the aforesaid alleged conspiracy between Valdez and Orodio to commit the crime charged. The only fact that the prosecution was able to successfully prove was the presence of Orodio at the crime scene when he was seen running together with Valdez by Dionisio and Esmeria after Eleno was gunned down and that he was a barkada of Eleno. It is submitted that in the light of the aforesaid ruling in the Madera case, there exist no factual and legal basis to sustain the conviction of Orodio either as a principal or accomplice in this case."[15]

We are unable to agree with the Solicitor General, whose view appears to be too drastic a simplification of the evidence that was in fact before the trial court. Orodio was present with Valdez at the time Eleno Maquiling was killed by a shotgun blast at his back. He was in the company of a man running with a shotgun, at approximately

8:00 o'clock in the evening, immediately after the fatal shooting, just outside the Maquilings' house where he had no business being if he were not acting in concert with Danilo Valdez, the accused-appellant who carried the shotgun. He was a close friend (barkada) of the accused Danilo Valdez, both of whom the deceased victim had identified as probably responsible should any untoward event befall the victim. Simplicio Orodio completely failed to explain what he was doing with Danilo Valdez the night of the killing, on the one hand. Upon the other, both Danilo Valdez and Simplicio Orodio pleaded the same alibi. Valdez and Orodio both testified that they were in Cervantes, Ilocos Sur, when Eleno was shot to death. Their common alibi remained uncorroborated for both failed to present either the mother of accused Danilo Valdez who was supposed to have come to Cervantes, Ilocos Sur, to inform them that Eleno Maquilung had been shot to death, or any other witness for that matter. The trial court found the accused's common defense of alibi as non-credible "as it was not impossible for the accused to be present at the scene of the crime".[16]

We hold that the prosecution's evidence was more than adequate to sustain the finding of the trial court of a conspiracy between Danilo Valdez and Simplicio Orodio. Conspiracy being present, it does not matter that the prosecution had failed to show who as between the two actually pulled the trigger of the shotgun that killed Eleno Maquilung.[17] Both Danilo Valdez and Simplicio Orodio are liable as co-conspirators since any act of a co-conspirator becomes the act of the other regardless of the precise degree of participation in the act.[18]

The trial court correctly appreciated the presence of treachery and evident premeditation. The accused had purposely sought nocturnity and hid themselves behind the bamboo groves located close by the victim's house and had fired at Eleno Maquilung suddenly, without any warning, from behind obviously to ensure the success of their deadly purpose without any risk to themselves and without any possibility of retaliation. Three (3) days before his assassination, Eleno was already apprehensive for his life when he disclosed to his father, Juanito Maquilung, his quarrel with Danilo Valdez and Simplicio Orodio over the latter's thievery and robbery. Clearly, the accused had planned to kill Eleno some days before the fateful night of 7 June 1977; the shotgun blast at the back of Eleno was not the result of a spur of the moment decision.

Since both treachery and evident premeditation were present, and only one (1) qualifying circumstance is necessary to constitute homicide into murder, evident premeditation may be considered as a generic aggravating circumstance.[19] The circumstance of nighttime is, however, absorbed by treachery.[20] A second aggravating circumstance -- that the victim who had given no provocation was slain in his dwelling -- was also found by the trial court.[21]

WHEREFORE, premises considered, the decision of the trial court finding Danilo Valdez and Simplicio Orodio guilty beyond reasonable doubt of the crime of murder is hereby AFFIRMED. In view of the abolition of capital punishment under the 1987 Constitution, and in view of the presence of two (2) aggravating circumstances not offset by any mitigating circumstance, the applicable penalty is reclusion perpetua.

SO ORDERED.

Fernan, (Chairman), Gutierrez, Jr., Bidin, and Cortes, JJ., concur.

[1] Exhibit I, pp. 4-5, 8-9 and 13-15; TSN, 13 May 1980, pp. 19-20, 23-24, 28-29; and TSN, 10 December 1980.

[2] Exhibits 1, 2 & 7, pp. 18-20; TSN, 13 May 1980, pp. 23-25 & 32; and TSN, 10 December 1980.

[3] Report of Dr. Monico O. Morales, as quoted in the Decision, pp. 3-4; Rollo, pp. 16-17.

[4] TSN, 28 March 1983, pp. 1-4; TSN, 10 December 1980, pp. 9, 32-33.

[5] TSN, 18 December 1980, p. 64.

[6] Exhibits 1 & 2, pp. 2-6, Records.

[7] TSN, 13 May 1980, pp. 5-9.

[8] TSN, 18 December 1980, pp. 18-20; Records, pp. 63-65.

[9] *People vs. Sarol*, 139 SCRA 125 [1985].

[10] Exhibit 7, pp. 22, Record.

[11] Decision, p. 8, Rollo, p. 78.

[12] 127 SCRA 250 (1984); and see also *People v. Madera*, 57 SCRA 349 (1974).

[13] Actually, Juanito Maquiling had stated that both Danilo Valdez and Simplicio Orodio were named by the victim Eleno three days before the shooting.

[14] Decision, p. 13; Rollo, p. 26; Underscoring supplied.

[15] Solicitor General's Brief, p. 23; Rollo.

[16] Rollo, p. 79.

[17] *People vs. Moral*, 132 SCRA 474 [1984]; 74 Phil. 295 [1943].

[18] *People vs. Candido*, 84 SCRA 508 [1978]; *People vs. Patricio*, 79 Phil. 227 [1947]; and *People vs. Bersamin*, 88 Phil. 292 [1951].

[19] *People vs. Dueño*, 37 [1979]; and *People vs. Diaz*, 55 SCRA 188 [1974].

[20] *People vs. Gongora*, 118 Phil. 486 [1963]; *People vs. Curiano*, 118 Phil. 1163 [1963]; *People vs. Magsilang*, 271, 275-276 [1948]; and *U.S. vs. Salgado*, 11 Phil. 56 [1908].

[21] Decision, p. 16; Rollo, p. 29.

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