

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. MICHAEL MOLO, ACCUSED-APPELLANT.

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HERNANDO, J:

Before Us is an appeal from the Judgment[1] dated July 21, 2011 rendered by the Regional Trial Court (RTC), Branch 8 of Kalibo, Aklan in Criminal Case No. 8807 finding accused-appellant Michael Molo guilty beyond reasonable doubt of the crime of Murder, the decretal portion of which reads:

WHEREFORE, in the light of the foregoing, the accused MICHAEL MOLO is hereby found GUILTY beyond reasonable doubt of the offense of MURDER penalized under Article 248(1) of the Revised Penal Code for the killing, attended with treachery, of Marlon Yerro and hereby sentences him to suffer the penalty of RECLUSION PERPETUA.

The accused is further made liable for civil indemnity of Php100,000.00 to the wife and children of the deceased.

SO ORDERED.[2]

The Antecedents

In an Information dated February 9, 2009, Third Assistant Provincial Prosecutor Ronaldo B. Ingente of the Province of Aklan charged accused-appellant Michael Molo with the crime of Murder, allegedly committed as follows:

That on or about the 5[th] day of February 2009, in the evening, at Barangay Poblacion, Municipality of Malinao, Province of Aklan, Republic of the Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, while armed with bolos, with treachery and intent to kill, did then and there willfully, unlawfully and feloniously attack, assault and hack several times one Marlon Yerro, thereby inflicting upon the latter mortal wounds, to wit:

“Multiple Hacked/Stab wounds

1. 6cm hacked wound with skull fracture Right frontal
2. 3cm stab wounds, Right Submandibular penetrating through-through thyroid cartilage penetration, (+) esophageal injury
3. 5cm hacked wound with skull fracture right posterior parietal
4. 2cm stab wound right temporal area
5. 10cm hacked wound left parietal with skull fracture
6. 6cm hacked wound with skull fracture occipital
7. 12cm hacked wound with multiple blood vessel transaction posterior neck proximal third
8. 8cm hacked wound with muscular injury left shoulder anterior aspect

9. 6cm hacked wound medial aspect middle 3[rd] left arm, with muscular injury
10. 6cm hacked wound with muscular injury posterolateral aspect, middle 3[rd] left arm
11. 4cm hacked wound proximal third left arm, medial aspect
12. 14cm hacked wound left forearm anteromedial aspect
13. 5cm stab wound right 5[th] ICS, midclavicular line
14. 5cm stab wound left parascapular area medial aspect
15. 6cm hacked wound right parascapular area, medial aspect
16. 6cm hacked wound left intrascapular area medial aspect
17. 10cm hacked wound paravertebral area, level at 8[th] and 9[th] ICS
18. 5cm hacked wound right leg d/3[rd]
19. 6cm hacked wound right leg d/3[rd] lateral aspect.”

as per Medico-Legal Certificate issued by Dr. Edmar B. Balleras, Attending Physician at Saint Gabriel Hospital, Kalibo, Aklan, copy of which is hereto attached, which mortal wounds caused the death of said Marlon Yerro.

That as a result of the unlawful acts of the accused, the heirs of the victim suffered actual and compensatory damages in the amount of One Hundred Thousand Pesos (Php100,000.00).

CONTRARY TO LAW.[3]

Michael Molo, duly assisted by Atty. Flosemer Chris Gonzales of the Public Attorney’s Office (PAO), pleaded not guilty at his arraignment on March 19, 2009.[4] During pre-trial, the defense offered to enter a plea of guilty to homicide but this was rejected by the prosecution. The defense also admitted the following facts: the identity of the accused; that the accused was present at around nine o'clock in the evening on February 5, 2009 in the house where Spouses Marlon and Juvy Yerro are living; that the accused was arrested by the elements of Malinao Police in the house of the victim; that the wife of the victim was inside the room with Marlon Yerro and the existence of the Medico-Legal Certificate issued by Saint Gabriel Hospital.[5] Trial thereafter ensued.

Version of the Prosecution

The prosecution’s version, as narrated by the trial court in the assailed Judgment, shows that in the evening of February 5, 2009, Juvy Yerro and her husband, Marlon Yerro, together with their two (2) minor children, were in their bedroom in the second floor of their house, when Michael Molo, armed with two (2) bolos, entered their room and struck at Juvy Yerro first who was hit at the leg and then at Marlon Yerro who was still lying face down on the floor. Juvy was able to get out of the house and sought assistance from Engr. Ricardo Ileteo, a neighbor. When they got back inside the room, Marlon Yerro already had stab and hack wounds that were apparently inflicted by Michael Molo. Engr. Ileteo was able to subdue Michael Molo and brought him down the house. The responding policemen who arrived then arrested the accused.

Dr. Edmar Balleras of the Saint Gabriel Hospital identified a total of nineteen (19) hack and stab wounds on the body of Marlon Yerro which caused his death.[6]

Version of the Defense

Accused-appellant does not question his conviction but asserts that he should be convicted of the lower offense of

homicide. He argues that the mitigating circumstance of intoxication should be appreciated in his favor. He presented his defense in his brief as follows:

On February 5, 2009, while accused-appellant was feeding the chickens in Ricardo Ilete's farm, the victim, Marlon Yerro, arrived. Michael offered him a drink but the victim refused. After the victim went home, the accused went back to a drinking session with friends until 7:30 in the evening. He went home thereafter and tried to sleep but he was not able to do so. When he decided to go to the plaza, it came to his mind to confront the victim about the maltreatment that he committed against him. Upon reaching the victim's house, he saw Yerro's motorcycle parked in their house so he went inside the gate. He called for someone in the house but when nobody answered, he decided to go inside using the back door. He proceeded upstairs because he wanted to talk with the victim. He peeped inside the room and saw that the victim and his wife were lying and talking with each other. Upon seeing him, the victim stood up and then pushed the door. He thought that Yerro will box him so he hacked the victim using his bolo.

Accused averred that he wanted to confront the victim on that night because of the previous maltreatment done to him. He said that there were times that the victim boxed and punched him when the victim was drunk. There were also instances that the victim asked him to admit stealing things in their own house. The victim told him to make the admissions because the victims' wife might suspect the victim as the thief. He likewise said the victim was engaged in gambling activities and this is the reason why the victim stole things in their own house.

Dr. Athena C. Magdamit testified that she was the one who attended to the accused regarding the injuries that he sustained on February 5, 2009. She likewise identified the Medico-Legal Certificate she issued in connection with the case.

Dr. Ramona S. Magayanes claimed that she conducted the psychiatric examination on the accused. She identified the Psychiatric Report dated January 26, 2011 that she issued.[7]

The Ruling of the Regional Trial Court

On July 21, 2011, the RTC convicted accused-appellant as charged.[8] It ruled that treachery attended the killing of the victim such that accused-appellant is liable for murder and not merely homicide, as claimed by the defense. The trial court held that:

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There is no argument that the victim was surprised inside his bedroom with his wife and two (2) minor children. He was lying face down on the floor with his wife. Even assuming arguendo that the victim was able to get up, still it cannot be denied that the attack was sudden and completely unexpected.

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Further, the fact that the accused was armed with two (2) bolos was sufficiently established by the testimony of Engr. Ricardo Ilete and the responding policemen, specifically, SPO3 Jose Ituralde and PO3 Roy Arevalo. The bolos were produced and identified in open court.

The number of hack and stab wounds inflicted by the accused on the victim, as properly established by the attending physician, Dr. Edmar Balleras, more than sufficiently proves intent to kill.[9]

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While the defense tried to set up the defense of insanity to exculpate the accused-appellant from any liability with respect to the crime committed, the court a quo did not give credence to such defense inasmuch as the examining psychiatrist, Dr. Ramona Magayanas, declared that the accused had no psychiatric, depressive or anxiety

symptoms.

Assignment of Errors

The case is now before Us on appeal. Accused-appellant insists that the trial court erred in convicting him of murder by citing in his Brief the following errors:

- I. The court a quo gravely erred in appreciating the aggravating circumstances of treachery that qualifies the crime to murder;
- II. The court a quo gravely erred in not appreciating the mitigating circumstance of intoxication in favor of the accused-appellant.[10]

The Solicitor General recommended that the trial court's judgment of conviction for murder against accused-appellant be affirmed.[11]

THE RULING OF THE COURT

In this appeal, appellant asserts that he should be convicted merely of homicide based on the ground that treachery was not present when he committed the crime. In addition, he argues that the alternative circumstance of intoxication should be appreciated as a mitigating circumstance in his favor.

The presence of treachery

According to the court a quo, there was treachery when the crime was committed due to the fact that appellant attacked the victim while the latter was lying face down on the floor, apparently in the process of sleeping, thus making such attack sudden and unexpected. Moreover, the number of stab and hack wounds plus the fact that appellant was armed with two bolos, made the attack treacherous.

On the other hand, appellant argues that the fact that he was armed with two bolos during the attack is of no moment since he always carried two bolos with him. He further argued that if he had intended to kill the victim on that night, he would have brought along only one bolo in his possession because the other bolo can be used by the victim against him. He explained that he did not plan to kill the victim but he merely intended to talk with him regarding the maltreatment that he suffered at his hands.

We are not persuaded by the arguments of the appellant.

Treachery is present when the offender commits any of the crimes against persons, employing means, methods, or forms in the execution thereof which tend directly and specially to insure its execution, without risk to himself arising from the defense which the offended party might make. On this aspect, the prosecution needs to establish that (a) at the time of the attack, the victim was not in a position to defend himself; and (b) that the offender consciously adopted the particular means, method or form of attack employed by him.[12]

Here, appellant intruded into the house of the victim at nighttime. In fact, in his testimony, he narrated that he kicked the back door of the house so he can gain entry thereat.[13] This event shows appellant's intent to harm the victim, particularly since he was armed with two bladed weapons. Indeed it is apparent that he purposely equipped himself with the two bolos so as to arm himself for the purpose of making successful his intention of getting back at the victim as a form of retaliation for the previous and past "maltreatment" that he received from him.

Significantly, if his purpose was really to talk to the victim, then he would have not hacked the wife first upon entering the room.[14] Moreover, his Uncle Ike (referring to Ricardo Ileto) would have not admitted and

corroborated that Juvy, (wife of the victim) had hacking wounds on both legs when she shouted for help,[15] if such had not been so. Ricardo Iletto even testified that when Marlon, who was at that time already heavily wounded and who hid under the bed to evade any further stab thrust and hacking blows from appellant, made the act of raising his head, but appellant promptly kicked the victim's head. This latter act of appellant is an eloquent gesture manifesting his intent to kill and not merely to "talk" about the maltreatment that he allegedly suffered at the victim's hands.

Intoxication

Appellant next asserts that his intoxication should be admitted as a mitigating circumstance. We find this to be equally without merit.

Based on the testimonies of the witnesses, We conclude that intoxication should have even been alleged as an aggravating circumstance because it was the driving force which fortified appellant to commit the crime. In fact, appellant himself admitted that the victim assessed him to be "maoy" when drunk, which was translated by the trial court as being wild. In this case, We find that if indeed he was drunk, then he must have purposely imbibed liquor to make himself stronger to carry successfully his plan to injure the victim. In any case, he has not shown, to any degree, the extent of his intoxication at the time of the killing of Yerro.

Withal, We find no reversible error committed by the trial court in finding appellant guilty of murder and in the penalty it meted out on him.

However, We modify the amount of damages awarded by the trial court in line with current jurisprudence.[16] In murder and homicide cases, the award of Php50,000.00 is mandatory, without need of allegation and proof other than the death of the victim. Civil indemnity of Php75,000.00 and exemplary damages of Php30,000.00 are also awarded, considering the presence of treachery in the commission of the crime. With regard to actual and compensatory damages, the prosecution was able to prove that the victim's family incurred hospitalization and burial expenses of Php119,386.75. However, the trial court awarded only Php100,000.00 since this latter amount was the one stated in the Information. Considering however that appellant pleaded not guilty and no stipulation was made as to the amount of expenses, We rule that the amount of Php119,386.75 should be awarded since this was what was proven by the prosecution.

WHEREFORE, premises considered, this appeal is DENIED. The July 21, 2011 Judgment of the Regional Trial Court (RTC), Branch 8, Kalibo, Aklan is AFFIRMED with the MODIFICATION that he is further ordered to pay the heirs of Marlon Yerro the amounts of Php50,000.00 as moral damages, Php75,000.00 as civil indemnity, Php30,000.00 exemplary damages and Php119,386.75 as actual damages. No costs.

SO ORDERED.

Quijano-Padilla, and Azcarraga-Jacob, JJ., concur.

[1] Penned by Presiding Judge Nelson J. Bartolome.

[2] RTC records, pp. 156-161.

[3] RTC records, p. 1-2.

[4] Order dated March 19, 2009; RTC records, p. 18.

[5] Pre-Trial Order dated September 9, 2009; RTC records, pp. 48-51.

[6] RTC Decision, *supra*.

[7] Evidence for the Defense, Brief for Accused-Appellant; Rollo, pp. 45-56.

[8] RTC Decision, *supra*.

[9] *Ibid*.

[10] Assignment of Errors, Brief for the Accused-Appellant; Rollo, pp. 45-56.

[11] Brief for Appellee, *supra*.

[12] *People v. Avelino*, G.R. No. 181444, July 17, 2013; *People v. Nazareno*, G.R. No. 196434, October 24, 2012, 684 SCRA 604; *Quidet v. People*, G.R. No. 170289, April 8, 2010, 618 SCRA 1.

[13] Testimony of Michael Yerro; TSN, September 24, 2010, p. 5.

[14] Testimony of Juvy Yasa Yerro; TSN, November 10, 2009, p. 5.

[15] Testimony of Engr. Ricardo I. Iletto; TSN, June 7, 2010, pp. 3-14.

[16] *People v. Avelino*, *supra*; *People v. Bernardo*, G.R. No. 198789, June 3, 2013.

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