

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
RICARDO VERZOLA & JOSE-FINA MOLINA,
ACCUSED-APPELLANTS.**

G.R. No. L-35022. December 21, 1977

Ponente: ANTONIO, J.

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ANTONIO, J.:

Appeal by Ricardo Verzola and Josefina Molina from the decision of the Court of First Instance of Abra, finding them guilty of the crime of Murder and sentencing them, respectively, viz.: Verzola, as principal, to suffer the penalty of life imprisonment, to indemnify the offended party in the amount of P12,000.00 without subsidiary imprisonment in case of insolvency, and to pay 3/4 of the costs; and Molina, as an accessory after the fact, to suffer an indeterminate penalty of six (6) months of *arresto mayor* as minimum, to six (6) years of *prision correccional* as maximum, and to pay 1/4 of the indemnity and costs.

At about 10:00 o'clock on the night of September 28, 1969, Bernardo Molina was clubbed to death by Ricardo Verzola in the presence of appellant Josefina Molina inside Molina's house at Barrio Lipcan, Bangued, Abra. The body of the victim was subsequently carried by the two appellants to the ground and left at the foot of the stairs. Appellant Verzola then went to his house, changed his clothes and threw his bloodstained sweater, undershirt and underwear, including the piece of wood he used in clubbing the deceased, inside their toilet. After-wards, he went to the municipal building and report-ed to the police authorities that Bernardo had died in an accident. The police authorities, together with the Municipal Health Officer, the Municipal Judge and a photographer went to Lipcan to conduct the investigation. They found the body of the deceased Bernardo Molina sprawled at the foot of the bamboo ladder (Exhibit "I"). Blood had oozed from the mouth, nose and ears. There were blood-stains on the floor of the bedroom of the house, on the mat, as well as on the beddings of the deceased. The bloodstains led to the bamboo ladder where some of the stains could be found on the steps of the ladder. When questioned by the police, Josefina revealed that the assailant of her husband was Ricardo Verzola. Upon her request, she was brought to the Office of the Chief of Police of Bangued, where at about 2:00 o'clock in the morning of Sep-tember 29, 1969, she gave a written statement narrating the circumstances surrounding the incident in question and pointing to appellant Verzola as the assailant of her husband (Exhibits "K" and "9"). In that extra-judicial statement, she stated that immediately after 10:00 o'clock in the evening of September 28, 1969, appellant Ricardo Verzola went to their house in Barrio Lipcan, Bangued, Abra, en-tered the room where she was sleeping with her hus-band, Bernardo Molina, woke her up and had carnal knowledge of her; that when Bernardo Molina woke up and attempted to rise from the floor, that was the moment when Verzola clubbed Bernardo, hitting him on the head several times; that afterwards, she heard the sound of a body being dragged downstairs and the voice of Verzola saying that he was leaving and warning her not to say anything about the inci-dent. She looked out of the door and saw her hus-band already lying prostrate at the foot of the stairs. This statement was sworn to by her before Municipal Judge Francisco T. Valera.

At about 4:00 o'clock that same morning, appel-lant Verzola was picked up by the police and brought to the

municipal building, and there he also executed a written statement (Exhibit "L") admitting that he clubbed the victim several times. Thus, in his extra-judicial confession of September 29, 1969, the following statements appear:

"6. Q:- You stated that you killed Bernardo Molina inside his house, will (you) relate the true events or what happened when you killed him?

A:- Yes, sir.

Last night at the stated hour in Bar-rio Lipcan, Bangued, Abra, inside the house of Bernardo Molina I went and when I was under their house that was the time when I pricked with a bamboo twig just under the place where Josephina Molina, wife of Bernardo Molina was lying down, and I noticed that she was awake, and not long afterwards she came down and came to my place, and that was the time when we did everything that wanted both of us to do, but before that in the night, Josephina Molina told me "THAT HER HUSBAND WAS PLANNING TO KILL ME" and just after we were through what both of us did, Josephina went upstairs inside (the) house, and because I can-not withstand anymore the plan of her husband to kill me that was why I went upstairs and I went direct inside their room and I saw Bernardo Molina lying down sleeping, and that was the time when I clubbed him three times at the nape, and when he did not move anymore that was the time when we both with Josephina Molina throw him downstairs of their house. After that I went home.

7. Q:- What is the weapon that you used in club-bing Bernardo Molina?

A:- A wooden club which is rounded and about two palms in length, Sir.

8. Q:- You stated that while you were under the house of Bernardo Molina and you pricked with bamboo twig in awakening Josephina Molina and not long afterwards she came down and went to you, what is your relationship with Josephina Molina the wife of Bernardo Molina?

A:- Josephina Molina is my paramour.

9. Q:- How long have you been in that relation-ship with Josephina Molina?

A:- What I know is that it is already about 10 years, Sir. Because her daughter who is already 12 years old was still small.

10. Q:- With this relationship that you have with Josephina Molina did not her hus-band Bernardo Molina notice, so that Josephina told you that her husband was planning to kill you?

A:- Probably he had already, Sir. Because that is what his wife told me.

11. Q:- Who witnessed when you killed Bernardo Molina that you know?

A:- It was only Josephina the wife of Ber-nardo Molina, Sir.

12. Q:- What did Josephina say when you delivered club blows at her husband?

A:- 'That is enough he is dead, let us bring him down' , that is what she said, Sir.

13. Q:-Therefore, you want to say that you and Josephina Molina the wife of Bernardo helped each other in this killing?

A:- I told her when she was going up, 'I'LL GO AHEAD OF HIM' and what she answered to me 'IT IS UP TO YOU' , Sir.

14. Q: And where was Josephina while you were clubbing Bernardo, if you remember?

A: She was there lying down, and when Ber-nardo did not move she said that is enough.

15. Q:- What was your clothing when you went to club Bernardo Molina and also your trou-sers that you used?

A:- Sweater with long sleeves colored light gray and white shorts, Sir.

16. Q:-,Where are these sweater and shorts?

A:- I dropped it inside our toilet, Sir.

17. Q:- And where is that club that you said you used in clubbing Bernardo Molina?

A:- I also dropped it inside our toilet, Sir.

18. Q: Is it not correct that you kill Bernardo Molina because he surprised you while you were beside his wife inside their room that night?

A:- No, Sir.

19. Q: - So that in this where you clubbed to death Bernardo Molina you admit as your guilt?

A:- Yes, Sir.

20. Q: Do you have something more to add to this statement of yours?

A:- No more, Sir. Unless there are more questions to me.

21. Q:- Were you forced, intimidated, instructed or you were mauled in this where you made your statement?

A:- No, Sir.

22. Q:- Do you want to sign this statement of yours?

A:- Yes, Sir." (Exhibit "L-Translation")

After executing his aforesaid written statement, he was brought to the residence of Judge Francisco T. Valera. Judge Valera sent the policemen out of his house, apprised Verzola of his constitutional rights, then read to him the contents of his aforementioned extra-judicial confession. After satisfy-ing himself that the statement was given voluntarily, he administered the oath to said appellant. Appel-lant Verzola then guided the police authorities to his house where, in their presence, he retrieved from the toilet his bloodstained clothes, as well as the piece of wood which he used in clubbing the deceased.

Dr. Luis F. Briñas, Municipal Health Officer of Bangued, Abra, who conducted the autopsy, testi-fied that the deceased died instantaneously as a result of cardio-respiratory failure caused by "cere-bral compressions and hemorrhages". The deceased sustained the following wounds:

"LACERATED WOUND NO. I:- 7 Cm. in length with irregular borders or edges extremities, the deeper tissues unevenly divided with tags of tissues showing in the wound. The edges and surrounding parts bruised and some hairs were found in the wound. Situated 6 Cm. in level of the posterior outer upper part of left Helix of the left ear, extending slantingly downwards below to middle portion of Occipital region.

"LACERATED WOUND NO. II:- 6 Cm. in length situated 3 Cm. lateral to Lacerated Wound No. I, plated horizontally form mid point of the Lace-rated Wound. The characteristics of the wound is the same as the above wounds.

"LACERATED WOUND NO. III:- Same characte-ristics as of the above wounds. 5 Cm. in length situated 2 Cm. below Lacerated Wound No. II, extending slightly to the right side.

"LACERATED WOUND NO. IV:- 4.5 Cm. in length same as the characteristics of the other wounds above, but extending opposite Lacerated Wound No. I only from the right side." (Exhibit "A").

He also declared that on the basis of the location and direction of the wounds, the assailant must have been behind the victim and said wounds were inflicted while the victim was lying in prone position, face downwards.

Both appellants admit that it was appellant Verzola who inflicted the fatal blows on the victim. Verzola, however, after impugning the veracity of the facts contained in his extra-judicial confession (Exhibit "L"), claims that he did so in self-defense. Thus, Verzola testified that while he was feeding his two cows in front of his house at about 10:00 o'clock on the night of September 28, 1969, he heard cries for help coming from the direction of the house of Bernardo Molina. Upon recognizing it to be the voice of the wife of Bernardo, he proceeded to the couple's house. Upon reaching the yard of said house, he heard the loud voice of a man. Thus thinking that some intruder had entered the Molinas' residence, he decided to arm himself. At the threshold of the ladder, he picked up a part of a plow (Exhibit "B"). At the door of the room, he heard the man say: "Vulva of your mother, I will kill you." As he entered the small room, he saw his co-appellant Josefina Molina crouching in a corner, being maltreated by Bernardo Molina. After Bernardo noticed his presence, he said: "Vulva of your mother, I will kill all of you." At that juncture, Bernardo stooped to pick up a bolo from the floor. As Bernardo was still bending towards the floor, Verzola struck him twice with the piece of wood, hitting the head of the victim, causing him to fall. After he had fallen, he tried to revive the victim by placing the head of the latter on his lap and shaking it, saying: "Hoy, Hoy, Hoy". He explained that this was the reason why there were bloodstains on his clothes. When Josefina asked him what happened, he replied that Bernardo met an accident. At his suggestion, they both carried the body of the victim down the stairs because according to him they wanted to bring the body to the hospital. As the hospital was too far and it was too dark, they left the body on the ground. After instructing Josefina to go and summon persons to help the victim, he went home. After changing his clothes and throwing his bloodstained clothing inside their toilet, he went to the municipal building in Bangued, Abra, and reported to the guard that there was a person who met an accident in Barrio Lipcan.

His co-appellant, Josefina Molina, also testified that during the first week of September, 1969 she had a quarrel with her husband because of Bernardo's jealousy of three men, namely, Ambrocio Bocarile, Santos Beloy and appellant Ricardo Verzola; that on the night in question, she and her husband had another quarrel and in the course thereof, she was boxed and strangled by her husband, causing her to shout for help; that after a while, as she was crouching in a corner of the house, with her face covered, she heard a thud. As she looked up, she noticed that Verzola was already inside their room, squatting on the floor and holding on his lap the head of her husband; that while Verzola was shaking the head of the deceased, he was saying: "Hoy, Hoy, Hoy." She claimed that out of fear, she assisted Verzola in carrying the body of Bernardo at the foot of the stairs where Verzola left her. After looking at the wounds of her husband, she became afraid and went up the house where her children were sleeping.

Both appellants claimed that they were not aware of the contents of their extra-judicial confessions as they were made to sign them by the police authorities without being able to read their contents.

There can be no question that once an accused has admitted the killing of a human being, the burden is on him to establish the existence of any circumstance which may justify the killing or at least attenuate the offense committed. To establish his exculpation, or the justification for the act, he must prove such affirmative allegation by clear, satisfactory and convincing evidence.[1] He must rely on the strength of his own evidence and not on the weakness of that for the prosecution, for even if that were weak, it could not be disbelieved after the accused himself had admitted the killing.[2] It is evident that no such proof was adduced by appellant Verzola.

To begin with, the conduct of appellant Verzola immediately after he committed the crime is incompatible with

the reaction of one who killed another in legitimate self-defense. Although he claims that he brought the victim down the stairs in order to bring him to the hospital, yet when he was able to get a jeep he did not utilize it for that purpose but instead used it in going to town. Moreover, although appellant Verzola was present at the scene of the crime when the police authorities were investigating the case, he kept quiet about the incident. It was only from Josefina Molina that the police learned for the first time that Verzola was the assailant of the deceased. Even then, Josefina had to request the police authorities to bring her to the poblacion so that she could talk more freely about the killing. For his part, Verzola attempted to conceal his participation in the crime by hiding inside his toilet his bloodstained clothes and the weapon that he used in clubbing the deceased. These actuations of appellant Verzola reveal a behaviour which is incompatible with the reaction of one who acted in legitimate self-defense.[3] More significant, however, are the undisputed physical facts of the case, such as the nature, character and location of the wounds sustained by the deceased and the presence of the bloodstains on the beddings of the victim. These facts and circumstances belie the claim of the appellant that he clubbed the victim in self-defense. On the contrary, they sufficiently indicate that the fatal injuries were inflicted upon the victim when the latter was lying defenseless on the floor, as he was either sleeping or was just beginning to wake up.

Although appellant Josefina Molina admitted in her extra-judicial statement (Exhibits "K", "K-1" to "K-9") that she was the paramour of her co-appellant for over a year, there is no proof that she had knowledge of the criminal design of her co-appellant. Neither has she cooperated with him by previous or simultaneous acts, much less is there any showing that she supplied the principal with material or moral aid. Her only participation was in assisting her co-appellant in bringing the body of the deceased to the ground. The question, therefore, is whether or not by said overt act she could be held criminally responsible as an accessory.

An accessory does not participate in the criminal design, nor cooperate in the commission of the felony, but, with knowledge of the commission of the crime, he subsequently takes part in three (3) ways: (a) by profiting from the effects of the crime; (b) by concealing the body, effects or instruments of the crime in order to prevent its discovery; and (c) by assisting in the escape or concealment of the principal of the crime, provided he acts with abuse of his public functions or the principal is guilty of treason, parricide, murder, or an attempt to take the life of the Chief Executive, or is known to be habitually guilty of some other crime. The main difference separating accessories after the fact from principal and accomplice lies in the fact that the responsibility of the accessories is subsequent to the consummation of the crime and subordinate to that of the principal.

According to the trial court, "the bringing down of the body of the victim * * * was to destroy the body of the crime, or its effect, that is, to make it appear that the death of the victim was caused by an accident." We disagree. There is no iota of proof that Josefina Molina ever attempted "to destroy the body of the crime" or to make it appear that death of the victim was accidental. It must be noted that Josefina testified that she helped her co-appellant bring the body of the deceased down the stairs because of fear. Even if she assisted her co-appellant without duress, simply assisting Verzola in bringing the body down the house to the foot of the stairs and leaving said body for anyone to see, cannot be classified as an attempt to conceal or destroy the body of the crime. The concealing or destroying of the body of the crime, the effects or instruments thereof, must be done to prevent the discovery of the crime. In the case at bar, the body was left at the foot of the stairs at a place where it was easily visible to the public. Under such circumstances, there could not have been any attempt on the part of Josefina to conceal or destroy the body of the crime.

WHEREFORE, in view of the foregoing, the judgment, insofar as appellant Verzola is concerned, is hereby **AFFIRMED**. The judgment against Josefina Molina is, however, reversed and said appellant is **ACQUITTED**, with proportionate costs de oficio.

Barredo, (Acting Chairman), Aquino, Concepcion, Jr., and Guerrero*, JJ., concur.

Fernando, (Chairman), and Santos, JJ., on official leave.

[1] People v. Quintab, 16 SCRA 146; People v. Bauden, 77 Phil. 105; People v. Berio, 59 Phil. 533; People v. Libed, 14 SCRA 410, 413; People v. Ordiales, 42 SCRA 238, 247.

[2] People v. Ansoyon, 75 Phil. 772; People v. Silang Cruz, 53 Phil. 635; People v. Espenilla, 62 Phil. 265; People v. Navarra, 25 SCRA 491; People v. Talaboc, Jr., 30 SCRA 87; People v. Llamera, 51 SCRA 48.

[3] People v. Pelago, 24 SCRA 1027, 1033.

* J. Guerrero was designated to sit in the Second Division.

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