

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JOSE SANTILLAN, ACCUSED-APPELLANT.

G.R. No. L-68331. January 29, 1988

Ponente: PARAS, J.

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PARAS, J.:

This is an appeal from the decision of the Regional Trial Court, Fourth Judicial Region, Branch XXXIII, Siniloan, Laguna, finding the accused Jose Santillan guilty beyond reasonable doubt of the crime of Murder sentencing him to serve the penalty of reclusion perpetua with all its accessory penalties, to indemnify the heirs of the victim in the amount of P12,000.00, to pay the sum of P2,900.00 as expenses incident to the burial and to pay one-half (1/2) of the costs. (pp. 33-34, Rollo) His co-accused Alex Pagapos is still at large.

The evidence for the prosecution shows that at about 12:00 o'clock in the evening of September 9, 1979, while Rodolfo Acelajado was walking home along an irrigation canal, he saw appellant Jose Santillan and his son-in-law Alex Pagapos hacking with their bolos the unarmed deceased Domingo Era, who was shouting for help, in the ricefield owned by Antonio Padua at barangay Bagong Pook, Sta. Maria, Laguna. The deceased fell down. Then, appellant and Pagapos left.

The deceased sustained fourteen (14) wounds, to wit:

- "1. Wound incised, 4 1/2 inches long start, parietal region of head, skull fractured;
- "2. Wound incised L shape 3/4 and 1/2 inches in length at left reg. of mouth; lower part of left chin;
- "3. Wound incised about 1 3/8 in length at lower part of lower part of mouth angle;
- "4. Wound incised about 1 1/2 in length at rt. lower chin;
- "5. Wound incised about 5/8 inches length at right angle of rt. mouth region;
- "6. Wound incised about 5/8 inch in length at medial side of rt. mamary region between 2nd and 3rd interspace, chest, hitting lower lobe of rt. lung;
- "7. Wound incised, about 1 1/2 long and 4 inches depth in 4th interspace, medial side of rt. chest, hitting lower lobe of rt. lung, thru and thru;
- "8. Wounds of various sizes at right shoulder region;
- "9. Wound incised at lateral side of rt. forearm 1 1/2 in. long and 2 cms. in depth;
- "10. Abrasion about 2 inches in dm. at lateral side at left abdomen;
- "11. Abrasion about 1 1/2 in. in dm. at left knee region;
- "12. Wounds incised about 2 5/8 and 1 1/2 by 2 1/2 in. in depth at rt. reg., frontal side;

"13. Wound stabbed, about 1 1/2 in. long by 2½ in depth at lateral side of left back chest region;

"14. Wound incised, about 1 1/2 by 2 1/2 in. in depth at lateral side of left wrist region. He died of shock with profused hemorrhage due to multiple stab and incised wounds all over the body." (pp. 56, Rollo)

The appeal centers on the credibility of the two (2) prosecution witnesses Vicente Recipide and Rodolfo Acelajado. This is evident from appellant's assigned errors which are as follows:

"1. The court a quo erred in finding that there is nothing incredible and untruthful in the testimonies of the two (2) principal witnesses Vicente Recipide and Rodolfo Acelajado for the prosecution;

"2. The court a quo erred in its observation that the defense had not adduced even an iota of evidence to show that the prosecution witnesses were ill-motivated or had any grudge or ill-feeling against the accused;

"3. The court a quo erred in finding the testimony of said originally unlisted witnesses - Vicente Recipide and Rodolfo Acelajado deserving of credence;

"4. The court a quo erred in finding that the defense is not only inherently weak, but suffers from lack of corroboration and that the defense adopted an alibi which is not convincing; and

"5. The court a quo erred in finding the accused Jose Santillan guilty beyond reasonable doubt of the crime of Murder and sentencing him to serve the penalty of reclusion perpetua with all its accessory penalties, to indemnify the heirs of the victim in the amount of P12,000.00, to pay the sum of P2,-000.00 as expenses incidental to the burial and to pay one-half (1/2) of the costs." (pp. 48 Rollo)

We have carefully reviewed the records of the case having in mind the seriousness of the crime committed. We are however convinced that the killing of Domingo Era was done in the manner narrated by the two (2) prosecution witnesses, Vicente Recipide and Rodolfo Acelajado. The latter positively declared that he saw appellant Jose Santillan helping Alex Pagapos hack the deceased. He declared as follows:

"Q.

Can you tell the Hon. Court, if you are certain that it was Jose Santillan there at the time of the incident?

"A. Yes, sir.

"Q. What was he doing?

"A.

After the incident I saw Alex Pagapos hacking Domingo Era because there was a moon and some of the girls were shouting, I saw Jose Santillan helping Alex Pagapos in hacking Domingo Era.

"Q. You were fifteen (15) meters away from the place of the incident?

"A. Yes, sir." (pp. 9-10, tsn., Jan. 27, 1981) (pp. 4-5 Brief for appellees, p. 56, Rollo)

Acelajado had ample opportunity to unmistakably recognize appellant Jose Santillan and his son-in-law Alex

Pagapos on the night of the incident, since he is familiar with the two for having known them for five (5) years already (p. 9, tsn, Jan. 27, 1981). That a woman was shouting Jose was only an additional circumstance which bolstered his identification of the appellant. (p. 5, Brief for the appellee) Acelajado's testimony was corroborated by Recipide.

We give credence to this narration of the incident by Acelajado and Recipide. Their testimonies were very natural and straightforward. They were just passing by when the incident they witnessed happened. They did not testify as to how the incident began. They simply testified on what they saw.

Furthermore, there is nothing in the records to suggest that they were ill-motivated and had any grudge or ill-feeling against appellant, or that they have received any compensation or benefit which could have prompted them to testify falsely for the prosecution.

"Where there is no evidence and nothing to indicate that the principal witness for the prosecution was actuated by improper motives, the presumption is that he was not so actuated and his testimony is entitled to full faith and credit." (People vs. de Jesus, 145 SCRA 521; People vs. Campana 124 SCRA 271).

Contrary to the contention of appellant, the failure of the prosecution to present its listed witnesses in the information, will not in any manner affect the credibility of Acelajado and Recipide. As correctly observed by the trial court, "if it is considered that there are two accused - Jose Santillan and his son-in-law, Alex Pagapos who was and up to now, still is at large, and the co-accused Jose Santillan who the records show was never arrested and/or detained and yet granted a reduced bail, who among the listed witnesses will ever dare to be a witness and testify in court?" (pp. 29-30, Rollo).

The trial court correctly rejected appellant's defense of alibi which in his case has become more dubious because it was sought to be established by only the appellant himself, uncorroborated by any other evidence. It has been repeatedly observed that alibi is a defense easily fabricated so that great caution must be exercised in accepting it. Not only that, well-entrenched is the rule that for alibi to prosper, it is not enough that the accused was somewhere else when the crime was committed but it must likewise be demonstrated that he was so far away that he could not have been physically present at the place of the crime or its immediate vicinity at the time of its commission. (People vs. Perante Jr. 143 SCRA 56; People vs. Gapasin, 145 SCRA 178) In this case, the distance of the place where appellant allegedly was at the time of the incident and the place where the incident happened could be negotiated in just a few minutes by merely walking. Such distance does not preclude the possibility that the appellant committed the crime.

Finally, it cannot be gainsaid that alibi is the weakest defense. In the face of positive identification, the alibi dwindles into nothingness. (People vs. Tan, 145 SCRA 614; People vs. Coronado, 145 SCRA 250; People vs. Vengco, 127 SCRA 242) And it is well-settled in our jurisdiction that conclusions of the trial judge, regarding the credibility of witnesses, command great respect and consideration, specially when, as in this particular case they are supported by the evidence on record.

Upon the totality of the evidence, therefore, we conclude that the guilt of Accused-appellant has been established beyond reasonable doubt.

The penalty, however, will have to be modified. With the abolition of capital punishment in the 1987 Constitution the penalty for Murder is now reclusion temporal in its maximum period to reclusion perpetua (People vs. Gavarra, No. L-37673, October 30, 1987; People vs. Masangkay, G.R. No. 73461, October 27, 1987). With no modifying circumstances attendant, said penalty is impossible in its medium period, or, from eighteen (18) years, eight (8) months and one (1) day to twenty (20) years. The indeterminate penalty would then be within the range of the penalty next lower, or, prison mayor, maximum, to reclusion temporal, medium (Article 61, para. 3,

Revised Penal Code), or, from ten (10) years and one (1) day to seventeen (17) years and four (4) months.

WHEREFORE, the appealed judgment is hereby modified in that the accused-appellant, Jose Santillan, is hereby sentenced to suffer the indeterminate penalty of ten (10) years and one (1) day of prision mayor, as minimum, to eighteen (18) years, eight (8) months and one (1) day of reclusion temporal, as maximum, and the indemnity for the heirs is INCREASED from P12,000.00 to P30,000.00. Costs against accused-appellant.

SO ORDERED.

Yap, (Chairman), Melencio-Herrera, Padilla, and Sarmiento, JJ., concur.

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