

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. WELMO ROMERO, ACCUSED-APPELLANT.

G.R. No. L-38786. December 15, 1982

Ponente: ESCOLIN, J.

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ESCOLIN, J.:

Appeal from the judgment of the Court of First Instance of Masbate, finding Welmo Romero guilty of murder and sentencing him "to the penalty of reclusion perpetua, to indemnify the heirs of Charlie Relano in the amount of P12,000.00, with the accessory penalty provided for by law and to pay the costs."

Appellant and his brothers Jose and Pludino, likewise surnamed Romero, were charged with murder for the death of the deceased Charlie Relano. The gravamen of the accusation is set forth in the information thus:

"That on or about the 25th day of April, 1966, in the sitio of Calawanan, Barrio of Bangad, Municipality of Milagros, Province of Masbate, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, confederating together and helping each other, with evident premeditation and treachery, did then and there wilfully, unlawfully and feloniously attack, assault and stab with their bolos, one Charlito Relano, who was then sleeping, thereby inflicting upon the latter serious wounds on the right chest and at the left wrist, which injuries directly caused his death.

"Contrary to law."

On April 27, 1966, the municipal court of Milagros, Masbate issued the corresponding warrants of arrest against the Romero brothers, but only Jose Romero was taken into custody on May 2, 1966, his co-accused having eluded arrest. The trial of Jose Romero was then commenced with the prosecution presenting the testimony of Dr. Rodolfo Garde, municipal health officer of Milagros, who conducted an autopsy of the deceased.

According to Dr. Garde, the deceased sustained two stab wounds: "one on the right chest, penetrating the second intercoastal space, about 6 inches in depth and 2 inches wide; and the other, on the left wrist, passing thru and thru, about 2 inches wide." [1] He further declared that Charlie Relano died of bleeding due to stab wound on the right chest. [2]

It appears that on July 11, 1970, the court, on motion of the trial fiscal, issued an order dismissing the charge against Jose Romero for insufficiency of evidence.

Appellant Welmo Romero was finally apprehended on July 30, 1971. At his trial, the prosecution presented the testimonies of Filomena Laguerta and Elena Prasmo, the victim's mother-in-law and wife, respectively. Before closing the prosecution's evidence, the trial fiscal offered for admission the testimonies of said witnesses as well as the declaration of Dr. Rodolfo Garde, who, as heretofore stated, had taken the witness stand during the trial of Jose Romero. Without objection on the part of the defense, however, the testimonies of all said witnesses as well as the autopsy report prepared by Dr. Garde [3] and the death certificate of the deceased [4] were admitted in evidence.

The testimony of Filomena Laguerta, the key witness for the prosecution, is succinctly summarized by the Solicitor General as follows:

"At about 2:00 o'clock in the afternoon of April 25, 1966, Filomena Laguerta, mother-in-law of the deceased Charlie Relano, was in their house located in Sitio Calawanan, Barrio Bangad, Municipality of Milagros, Masbate. At that time, Filomena Laguerta was lying awake on the floor upstairs, while Ena Pagunsan, mother of her son-in-law, was picking lice from her (Filomena's) hair (pp. 10, 14, tsn, July 5, 1972, Zurbito). The two women were just outside the room where Charlie Relano and his wife Elena Prasmo (Filomena's daughter) were then sleeping, the door to which room was open because the house had no locks (pp. 7, 8, 11, 14, tsn, id.). Elena was then a newly-delivered mother (pp. 6, 11, tsn, id.).

"Moments later, the two accused, Pludino Romero and Welmo Romero, entered the aforesaid house, both armed with bolos, known as 'talibong'. The two men proceeded upstairs, entered the room of the couple Charlie Relano and Elena Prasmo and then Pludino stabbed Charlie Relano, who was still sleeping, on the left breast just above the nipple (pp. 11-12, tsn, id.), followed by Welmo Romero who also stabbed Charlie Relano in the right breast (pp. 11-12, tsn, id.). Awakened by the attack against his person, Charlie Relano tried to raise his hand, but Welmo again hit him on the left wrist (p. 12, tsn, id.). Thereafter, Charlie Relano shouted: 'Mother, you get away, you might be included' (p. 12, tsn, id.).

"Elena Prasmo was still asleep as her husband was being assaulted by the two accused, and it was only when she woke up that she noticed that her husband's assailants had left the house (pp. 6, 9, tsn, id.).

"The three women, Filomena, Elena and Ena, then tried to carry the wounded Charlie Relano down the house, and in so doing, their clothes were covered with blood coming from his wounds (p. 12, tsn, id.). They managed to bring the wounded man to the poblacion of Milagros, but it was too far for them to reach any doctor, Relano's wife just tried to treat her husband with local medicine, thinking that his wounds were not too serious (p. 8, tsn, id.). However, Charlie Relano died that same day, at about 6 p.m. (pp. 8, 11, tsn, July 5, 1972). Subsequently, the three women went to the municipal building of Milagros, and asked the help of the municipal judge for the purpose of filing the charge against the assailants of Charlie Relano (p. 12, tsn, id.).

"xxx xxx xxx

"On March 5, 1972, the accused Welmo Romero, fetched Filomena Laguerta and Elena Prasmo from their residence in Bo. Bangad, informing them that they were to sign an affidavit, for which he (Welmo) would pay them P500.00 in order to help the child of the deceased Charlie Relano (pp. 16-17, 19 tsn, July 5, 1972, Zurbito). Filomena and Elena Prasmo were brought by Welmo to the office of Vice-Governor Jesus C. Almero, where an affidavit (Exh. '1', p. 188, Records) was read to them, partly in English and partly in the Visayan dialect. Filomena claimed she did not understand the portion of the affidavit read to her in English because she never went to school, while as to the portion read to her in the Visayan dialect, she understood the same as having to do with the promise of Welmo Romero to give her the amount of P500.00 (pp. 16-18, tsn, id.). The accused, Welmo Romero, admitted his promise to give Filomena Laguerta P500.00 in the presence of the provincial guard, Labastida (p. 17, tsn, id.), for which he signed and issued to the two women the receipt, Exhibit 'C' (pp. 175-176, Records; pp. 18-19, tsn, id.). After the signing of said affidavit, Welmo, however, gave the two women only P150.00 (pp. 17, 19, tsn, id.). From the office of the Vice-Governor, the two women were brought down to the office of Special Counsel, Pedro Duquino, before whom they subscribed to the said affidavit, Exhibit '1' (p. 19, tsn, id.)."

For his part, appellant denied any participation in the slaying of Charlie Relano. Setting up the defense of alibi, he stated that in the morning of April 25, 1966, he and his mother Asuncion Ragasa brought Arturo, the appellant's brother, to the clinic of Dr. Castro in the poblacion of Milagros, Arturo having been stabbed earlier that morning by the brothers Charlie and Joselito, both surnamed Relano; and that appellant and his mother kept watch over Arturo in said clinic until the latter died three days later.

Asuncion Ragasa, who corroborated her son's testimony, claimed that in the morning of April 25, 1966, immediately after her son Arturo was stabbed by the Relano brothers, she and her son Welmo brought Arturo to the clinic of Dr. Castro in Milagros where they stayed for three days.[5]

The defense further attempted to support the appellant's alibi by presenting the testimony of Florido Relano, another brother of Charlie. Florido declared that while he was in the house of Charlie in the afternoon of April 25, 1966, Pludino Romero, appellant's brother, arrived at said house, entered the room where Charlie was sleeping and there and then stabbed the latter. Florido claimed that the appellant Welmo Romero was not present during the incident.[6]

The appeal is devoid of merit. A number of weighty considerations culled from the record satisfies that standard of moral certainty required to hold appellant guilty as charged.

(1) Appellant was positively identified by Filomena Laguerta. She was lying down by the door of the victim's room, only three meters distant from where Charlie was sleeping, when he was attacked by the appellant and his brother, Pludino. Filomena and the appellant were barriomates; and they had known each other for a long time. The fact that the crime was committed in broad daylight, i.e., between the hours of 2:00 and 3:00 o'clock in the afternoon, should preclude any possibility of mistake in her identification.

The appellant's contention that the trial court erred in predicating his conviction solely on the testimony of Filomena Laguerta, the lone eye-witness presented by the prosecution, deserves scant consideration. Witnesses are to be weighed, not numbered[7], and it is a well established rule that the testimony of a single witness, if positive and credible, is sufficient to support a conviction even in a charge for murder.[8] The trial court characterized Filomena's testimony as "reliable and worthy of credence," and We find no cogent reason to disturb such findings in view of its unique opportunity to observe the demeanor of said witness on the stand. Besides, We have carefully scrutinized the records and there is nothing therein to indicate that any fact or circumstance has been overlooked or its significance misinterpreted by the lower court.

(2) The warrant of arrest against appellant was issued by the Municipal Judge of Milagros on April 27, 1966, i.e., just two days after the commission of the crime. It appears, however, that his arrest was not effected until July 30, 1971, because appellant left his place of residence and went into hiding. By his unexplained flight and continuous residence at an undisclosed place for a period of five years, appellant betrayed the existence of a guilty conscience on his part.

(3) The records further disclose that, after his arrest by the police authorities, appellant, escorted by a provincial guard, went to the relatives of the deceased and offered to compromise the charge against him. After the negotiations held in the Office of Vice-Governor Jesus C. Almario, appellant executed a promissory note dated March 6, 1972, Exhibit "C", in favor of Victor Relano, Filomena Laguerta and Elena Prasmo, the father, mother-in-law, and widow of the victim, respectively. Exhibit "C" reads as follows:

"I WILMO ROMERO, of legal age, married, Filipino, and resident of Bañgad, Milagros, Masbate, do hereby promise to Victor Relano, Filomena Laguerta, and Elena Prasmo, that I will pay the amount of THREE HUNDRED (P300.00) PESOS on the 7th day of March, 1972 and the balance of TWO HUNDRED (P200.00) PESOS will be paid by me in the month of September, 1972.

"IN WITNESS WHEREOF, I hereunto affix my signature this 6th day of March, 1972, at Masbate, Masbate.

(SGD.) WILMO ROMERO"

Appellant lays considerable emphasis on the "joint affidavit of desistance," Exhibit "C", signed on the same day, March 6, 1972, by Filomena Laguerta, Elena Prasmo and Victor Relano, wherein they stated that the sole author

of the crime was Pludino, the appellant's brother, who disappeared after the incident. It should be stated that said affidavit of desistance was a part of the deal for the settlement of the charge against the appellant, for it was the very consideration of the promissory note issued by the latter.

But while appellant had succeeded in convincing the relatives of the deceased to compromise the case, it appears that the charge was not ultimately dismissed because appellant, after having made an initial payment of P150.00, failed to pay the balance of the amount indicated in his promissory note.

It seems needless to add that in criminal cases which are not allowed by law to be settled, an offer of a compromise by the accused constitutes an implied admission of guilt.[9]

Upon the other hand, the principal defense put up by the appellant is alibi. Alibi, being easily susceptible of concoction, is very common defense in criminal cases. To be accorded credence, it does not suffice for the appellant to merely prove that he was at some other place, but also that the distance was such as to preclude the possibility for him to be at the scene of the crime at the time it was committed.[10] In the case at bar, it appears that the victim and the appellant were residents of barrio Bangad of the municipality of Milagros, Masbate. The short distance between their houses and the clinic of Dr. Castro in the poblacion of Milagros does not obviate the possibility of the appellant being at the scene of the crime at the time of its commission.

The testimony of Asuncion Ragasa corroborating her son's alibi deserves little probative value. It is undeniably tainted with bias for it springs from the natural desire of a mother to exculpate her son from criminal liability.

Likewise, We entertain serious doubt as to the credibility of Florido Relano, Charlie's brother who testified for the defense. It took him more than six (6) years to tell his story. From the tragic day of April 25, 1966 up to the time he testified in open court on July 5, 1973 he had not informed either his relatives or the police authorities of his alleged presence at the scene of the crime. As correctly observed by the trial court:

"The court cannot give weight to the testimony of Florido Relano, brother of the deceased. While he claimed to be pre-sent at the scene of the crime at the time of its commission, such is not supported by the evidence before this Court. Filomena Laguerta and Elena Prasmo who were there never mentioned Florido Relano as being present. The subsequent events did not show that he ever took any interest as would be expected of a brother for another brother in dire straits, as Charlie Relano was at that time."

Appellant maintains that the testimony of Dr. Garde is inadmissible in evidence. In support thereof, it is argued that, since Dr. Garde's testimony was given during the trial of his co-accused Jose Romero, the admission thereof by the trial court violated his constitutional right to be confronted by the witnesses against him.[11] We find no necessity to dwell at length on the issue thus raised. It suffices to state that even if Dr. Garde's declarations were discarded, as urged by appellant, the nature and location of the injuries sustained by the deceased[12] as well as the fact of his death[13] had been sufficiently established by Filomena Laguerta and Elena Prasmo, who testified and were cross-examined during the appellant's trial. The admission of Dr. Garde's testimony did not, therefore, materially affect the appellant's constitutional right.

There is no question that the crime committed by the appellant was murder, qualified by treachery, the fatal injuries having been inflicted while the victim was asleep. The Solicitor General however recommends the imposition of the death penalty as the offense was perpetrated in the victim's dwelling. We agree that the crime was aggravated by "dwelling." It is, however, undisputed that in the early morning of the incident, Charlie Relano and his brother Joselito inflicted serious injuries on Arturo Romero, appellant's brother[14] and that as a result thereof the latter died three (3) days later. In attacking Charlie Relano, appellant doubtless acted in vindication of a grievous offense committed by the deceased against the appellant's brother. This circumstance, which must be appreciated in favor of appellant, offsets the aggravating circumstance of "dwelling."

WHEREFORE, the judgment appealed from is hereby affirmed, with costs against the defendant-appellant.

SO ORDERED.

Makasiar, (Chairman), Guerrero, Abad Santos, and De Castro, JJ., concur.
Aquino, J., in the result.
Concepcion, Jr., J., on leave.

- [1] Exhibit A, tsn, pp. 1-2, March 31, 1969.
- [2] Exhibit A, tsn, p. 2, Id.
- [3] Exhibit A.
- [4] Exhibit D.
- [5] TSN, p. 22, Sept. 23, 1972.
- [6] TSN, pp. 26-27, July 5, 1973.
- [7] Foulke vs. Thalmesinger, 28 N.Y. 684,685.
- [8] People vs. Argana, 10 SCRA 311; People vs. Salazar, 58 SCRA 467.
- [9] Section 24, Rule 123, Rules of Court; People vs. Sope, 75 Phil. 810.
- [10] People vs. Salazar, 58 SCRA 467; People vs. Bañaga, 1 SCRA 283.
- [11] pp. 4-6, Appellant's Brief.
- [12] TSN, pp. 11-12, July 5, 1972.
- [13] TSN, pp. 4, 8, 10 and 13, id.
- [14] TSN, p. 21, Sept. 2, 1972.

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