

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS.
ANTOLIN CARDENAS, ANTONIO CARDENAS AND DELFIN CARDENAS,
DEFENDANTS, ANTOLIN CARDENAS, DEFENDANT AND APPELLANT.**

G.R. NO. L-29090. April 29, 1974

Ponente: ANTONIO, J.

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ANTONIO, J.:

This is an appeal from the judgment of the Court of First Instance, Catarman, Samar (Northern Samar), in Criminal Case No. C-1052, finding appellant Antolin Cardenas guilty beyond reasonable doubt of murder, qualified by premeditation and treachery, and sentencing him to reclusion perpetua, to indemnify the heirs of the deceased Victorio Teopinto in the amount of P6,000.00, as well as moral damages in the amount of P2,000.00.

Adelina Tan Teopinto, widow of the victim, testified that at around 7:00 o'clock on the evening of January 13, 1964, while she and her husband, Victorio Teopinto, were inside their family store in Barrio Cervantes, Municipality of Catarman, Province of Samar, Adolfo Marino entered their store for the purpose of purchasing some tuba. Upon being told by Victorio Teopinto that there was no more tuba for sale, Adolfo Marino inquired whether they had any "mallorca" (local intoxicating drink) for sale. Informed that there was no "mallorca" either, Adolfo Marino pulled out a 20-peso bill from his shirt pocket and handed it over to Victorio Teopinto with the request that the latter buy the "mallorca" somewhere else. Victorio Teopinto in turn handed the money over and transmitted the same request to Igmedio Ladeno. Adolfo Marino, upon seeing this, got back his money from Ladeno, and leading Victorio Teopinto by the hand out of the store, told the latter that they would be the ones to buy the "mallorca." Some time later she heard the voice of her husband calling for help. Upon hearing this, she and Igmedio Ladeno ran out of the store into the street, and saw, a few meters away, appellant Antolin Cardenas, together with Anonio Cardenas, Delfin Cardenas, Hermogenes Cardenas, Zosimo Cuanico and Adriano Labian, who were then armed with bolos, attacking and slashing her husband. Upon seeing this, she shouted, and upon hearing her, appellant Antolin Cardenas turned towards her and said: "You, also." Upon being thus threatened by appellant, she became scared and ran away.

On being asked how she could have seen the stabbing since the attack on her husband took place at about 7:00 o'clock in the evening, Adelina Tan Teopinto explained that the place where the incident occurred was sufficiently illuminated by the bright rays of light from the Petromax lamps in the houses of Olimpio Trongcoso, Antonio Trongcoso, Apolonio Medrano, and her own house which were all situated adjacent to the scene. On the possible motive of appellant, she also testified that four (4) days before the incident, her husband informed her that he would be a witness against appellant Antolin Cardenas in a criminal case in which said appellant was on trial for the shooting of one Pascualita Mangado.

Igmedio Ladeno, 41 years old, farmer of Barrio Cervantes, Catarman, Samar (now Northern Samar), second eyewitness of the prosecution, testified that on January 13, 1964, at about 7:00 o'clock in the evening, he went to the store of the deceased, Victorio Teopinto, to pay for a tin of salmon which he had purchased on credit, and it

was on that occasion when he saw Adolfo Marino entering the store inquiring if there was any tuba for sale. He corroborated Adelina's testimony on the insistence of Adolfo Marino in asking Victorio Teopinto to buy "mallorca" when he was informed that there was no "mallorca." Thus he declared that after Victorio Teopinto transmitted to him the money of Marino to buy some "mallorca" from the store of Olimpio Trongcoso, Adolfo Marino grabbed the 20-peso bill, and, holding the left arm of Victorio Teopinto, asked him to go with him (Adolfo Marino) to the house of Olimpio Trongcoso so that they would have a drinking spree. Victorio declined, saying: "Adolfo, you just be the one to go to the house of Olimpio." But due to the insistence of Adolfo Marino, Victorio finally relented, and so they proceeded in the direction of Olimpio Trongcoso's house. After a few minutes he heard Victorio Teopinto shouting for help. Upon hearing this, Adelina Tan Teopinto ran out of the store, and he followed her. Out in the street he saw Victorio Teopinto, who was already lying prone on the street, being "slashed" with bolos by Antolin Cardenas, Adriano Labian and Zosimo Cuanico. He moved towards them, at the same time pleading with him not to harm Victorio. But when Antolin Cardenas turned towards him and said, "You also?," he got scared and ran away towards his house.

On cross-examination, he stated that the weapon used by appellant Antolin Cardenas in slashing Victorio Teopinto was a bolo with which he boloed the victim, twice at the back; and that Zosimo Cuanico boloed the shoulder of the victim once, while Adriano Labian also "slashed" the same victim twice with his bolo.

The third eyewitness of the prosecution, Olimpio Trongcoso, testified that on the night of January 13, 1964, Adolfo Marino and the deceased, Victorio Teopinto had gone to his store to buy "mallorca," but had to leave after he informed them that he had no more "mallorca" for sale. After the two had gone down his stairs he heard whistles coming from outside his house and store, which was next to the store and residence of the Teopintos. He went near the door and tried to look outside to see who was whistling. It was at that moment when he saw the victim, Victorio Teopinto, already walking towards his house. But before he could reach his house appellant Antolin Cardenas suddenly emerged from behind Olimpio Trongcoso's house and boloed Victorio Teopinto, hitting him on the left forehead (wound No. 7 in Exh. "A"). After Victorio collapsed to the ground as a result of the blow, he saw Zosimo Cuanico, Adriano Labian and two others whom he did not recognize, approach the prostrate victim. Upon seeing this he became scared and closed the door and put out the light.

Dr. Arturo Dubongco, a resident physician of Northern Samar General Hospital, identified Exh. "A" as the autopsy report on Victorio Teopinto which he executed in this case and which reads in part:

- "1. Stab wound at the lateral scapula about 2 inches in length extending to the subcutaneous tissue.
- "2. Stab wound at the level of the inferior left scapula medially, about 2 inches in length involving the subcutaneous tissue.
- "3. Stab wound inferior to the wound No. 2 about 2 inches in length involving the subcutaneous tissue.
- "4. Stab wound medial dorsal at the level of the postero supra iliac spine.
- "5. Stab wound at the right lateral portion of the forearm distal 3rd, about 1 cm. skin deep.
- "6. Stab wound at the left lateral portion of the forearm distal 3rd, about 1 cm. skin deep.
- "7. Stab wound, left supra frontal region about 2 inches in length involving the whole scalp.
- "8. Old fracture with calcefication at the left temporoparietal region.
- "9. Brain findings — Presence of thrombosis at the superior sagittal sinus with softening of the brain tissue surrounding it.

"CAUSE OF DEATH: Shock secondary to CEREBRAL THROMBOSIS."

He testified that wounds Nos. 1, 2, 3, 4, 5 and 6 could have been caused by a bladed instrument, and the victim could be prostrate on the ground when they were inflicted; that wound No. 7 extended to the whole layer of the scalp up to the inner portion except the bony portion of the head, and was also caused by a bladed instrument; and that in the course of the autopsy he found wound No. 8, which was an old fracture and caused by a trauma which definitely fractured the temporoparietal region or portion of the skull, thus producing calcefication.

On cross-examination, Dr. Dubongco stated that wound No. 8 was more likely to have been the immediate cause of Victorio Teopinto's death than the other wounds; that as shown in Exh. "B", the death certificate, Teopinto died on January 18, 1964, or some five days after the incident; that while the patient was confined in the hospital, and immediately before his death, he was already ambulatory, i.e., he was a walking patient; that after the autopsy, the attending physicians were surprised because it was found out that the cause of death was cerebral thrombosis, and thrombosis means the formation of a clot or thrombus in any part of the vascular or blood vessels; and that wounds Nos. 1 to 7 could have caused the patient's death.

On redirect examination, the witness admitted that there was a possibility that wound No. 7, like wound No. 8, could have caused thrombosis.

Dr. Prudencio Ortiz, Municipal Health Officer of Catarman, identified Exh. "C" as the medical certificate which he issued on August 26, 1965, and which reads in part:

"This is to certify that Victorio Teopinto, 39, male, resident of Bo. Cervantes, Catarman, Samar, came to the clinic at 9:30 A.M., November 18, 1963, and was given medical attendance for the following injury:

"Wound, lacerated, head, left temporal region, 5 cms. long, parallel to the sagittal suture, 6.5 cms. above the left ear.

"The patient was suffering from slight concussion and disorientation.

"This is to certify further that the patient was treated by the undersigned and his injury and other concomitant findings required medical attendance for 12 days."

He explained that the patient had a languid look, and when he answered questions, he hesitated and seemed to be puzzled; that the concussion and disorientation could have been caused by the head wound; that 12 days from November 18, 1963, after he had found out that the patient was apparently all right, i.e., the patient was acting like a normal person, medical attendance was discontinued. (Dr. Ortiz was referring to wound No. 8, mentioned in Dr. Dubongco's autopsy report.)

On cross-examination, Dr. Ortiz declared that the laceration could leave a scar for two or three months; and that it could cause cerebral thrombosis, possibly resulting in death.

On redirect examination, the doctor testified that he assisted when the autopsy was being performed by Dr. Dubongco on the body of Teopinto; that on opening the skull, he and Dr. Dubongco found an old thrombus at the left temporal region, and a new and bigger thrombus at the region of the sagittal sinus at the peak of the head; that the sagittal sinus is a big blood vessel which carries the blood draining to the heart; that on the basis of their autopsy findings, he and Dr. Dubongco were of the opinion that the new thrombus was the cause of death of Victorio Teopinto; that the old thrombus was already in the process of dissolving, hence, it posed little danger to the life of Victorio Teopinto; that he and Dr. Dubongco were of the opinion that the trauma inducing the new wound on the forehead could have produced the dislodgment of the old thrombus, and the dislodged particle would have travelled to the sagittal sinus and produced the new thrombus; that the immediate cause of the

formation of the new thrombus was the trauma applied on the forehead producing the new wound; that the new thrombus was the cause of death of Victorio Teopinto; and that what induced the dislodgment of foreign matter from the old thrombus was wound No. 7.

Appellant Antolin Cardenas' defense is alibi. He testified that at about 5:00 o'clock on the afternoon of January 13, 1964, he was at Barrio Gebonawan, Catarman, Samar, in the store of Filemon Ong, which is about four kilometers from the scene of the crime at Barrio Cervantes, to sell to the latter six sacks of coprax which he brought with him; that Filemon Ong was not at home at the time, for he arrived at about 7:00 o'clock in the evening; that not long after Ong's arrival, Diosdado Calindong arrived; that up to the time of Ong's arrival, he, appellant, stayed in Ong's house, for Ong's wife refused to accept his coprax since she did not know about the business; that he stayed in the house of Ong until about 9:00 o'clock that night, and he went home directly; that one evening sometime in November, 1963, he went to Olimpio Trongcoso's house to borrow P18.00 from Olimpio; that there he saw Victorio Teopinto drinking "mallorca" with Olimpio; that Zosimo Cuanico arrived at Olimpio's house, and there a quarrel arose between Zosimo and Victorio Teopinto in connection with Zosimo's indebtedness of P14.00 to Victorio, resulting in the striking of Victorio's head by Zosimo with a bottle of soft drink; that he prevented Cuanico from inflicting further harm upon Teopinto, whom he, appellant, brought home; that later, Victorio Teopinto's wife, Adelina Tan Teopinto, asked him to be a witness for Victorio against Zosimo Cuanico and Adriano Labian for having struck Victorio on the head, but he refused, telling Adelina that he could testify only against Zosimo but not against Adriano, for the latter had nothing to do with the incident; that this is the reason why Adelina Tan Teopinto testified against him; that Igmedio Ladeno testified against him because Ladeno was a business partner of Adelina Tan Teopinto's father; and that Olimpio Trongcoso testified against him because, in exchange of the P18.00 which he, the appellant, borrowed from him, Olimpio was demanding three sacks of coprax, which he refused to give.

On cross-examination, appellant admitted that Igmedio Ladeno and Olimpio Trongcoso knew him very well and could not be mistaken in identifying him.

Bonifacio Mangado, a defense witness, testified that at about 7:00 o'clock on the evening of January 13, 1964, he was in the house of Eugenio Tan, which was about 15 meters across the street from the house of Adelina Tan Teopinto, trying to buy fried fish; that he saw Victorio Teopinto being boloed by Adriano Labian and Zosimo Cuanico some 8 meters away from Olimpio Trongcoso's house; that the only other person he saw at the scene was Adolfo Marino; and that he was investigated by the policemen of Catarman about three days after the incident in connection with what he saw.

On cross-examination, Mangado declared that he executed a sworn statement before the police authorities, but he had no copy thereof, and that at the time of the incident he was a rural policeman; and he was called by the police as he did not go to the police on his own volition, to inform them of what he saw. When asked why, as a rural policeman, he failed to inform the police authorities about it, he replied that he could not go to town because he had no money for transportation fare. He added that the following day he informed the Barrio Captain, but not the father or wife of the victim, Victorio Teopinto; that he did not inform those persons because he was afraid of Zosimo Cuanico; and that the Chief of Police later on filed a case against Adriano Labian, Zosimo Cuanico and the Cardenas brothers (at which point the private prosecutor manifested that the record shows that the complaint was filed by the relatives of the deceased themselves without the participation of the police).

On redirect examination, Mangado testified that he informed the Barrio Captain in the latter's house of the incident at about 7:00 o'clock in the morning of the following day; that he went to the Barrio Captain's house voluntarily; that his statement was taken down in writing, but he did not sign the same; that his sole purpose in going to the Barrio Captain's house was to inform him that only two persons, namely, Adriano Labian and Zosimo

Cuanico, participated in the boloing of Victorio Teopinto; and that he went to the municipal building for investigation by the police one week after the incident. When confronted by the court with his previous statement that he went there three days after the incident, the witness said that it was after a week, not three days; that he went to the police voluntarily; that he happened to be in town transporting bamboos when a policeman whose name he did not know saw him and called him; and that the policeman was with Adolfo Marino, and it was the latter who introduced him to the policeman by saying that "there is Bonifacio."

Diosdado Calindong also testified that on the evening of January 13, 1964, he was at home in Barrio Gebonawan; that immediately after supper at past 6:00 o'clock, he went to Filemon Ong's store across the street; that Antolin Cardenas was in Ong's house because he was waiting for Ong so that he could sell to the latter his coprax; that Ong arrived at about 7:00 o'clock that evening and weighed Antolin's coprax; and that he left Ong's house sometime after 8:00 o'clock, after Antolin Cardenas had gone down.

On cross-examination, Calindong declared that on March 10, 1964, Antolin's father requested him to be a witness for his son, Antolin.

The prosecution presented two rebuttal witnesses. Olimpio Trongcoso denied the claim of appellant that on the evening of November 17, 1963, he borrowed money from him and declared that on that occasion there was a drinking spree in his house by a group composed of Antolin Cardenas, Hermogenes Cardenas, Zosimo Cuanico, Adriano Labian, and Adolfo Marino; the deceased, Victorio Teopinto, passed by; when they called him to join the drinking spree, someone shouted, and appellant Antolin Cardenas, suspecting that it was Teopinto who made the outcry, pulled out his revolver and with it hit the head of Victorio Teopinto; and that the others in the group did not participate in the beating of Teopinto. On cross-examination, Trongcoso declared that Teopinto was hit by Antolin on the left side of the head. Adelina Tan Teopinto, also testifying on rebuttal, denied the imputations made by appellant on her motivations.

Four persons were charged for murder in the information filed by the Assistant Provincial Fiscal, namely, Antolin Cardenas, Antonio Cardenas, Delfin Cardenas and Adolfo Marino. Hermogenes Cardenas, Zosimo Cuanico and Adriano Labian were at large. Adolfo Marino was discharged from the information upon petition filed by the Assistant Provincial Fiscal to be utilized as a state witness. After trial, decision was rendered by the court a quo, which, as already stated above, found Antolin Cardenas guilty as charged and sentenced accordingly. The court acquitted Antonio and Delfin Cardenas on reasonable doubt.

In his brief appellant contends that the court a quo erred: (1) in rejecting his defense of alibi without weighing and evaluating the merits thereof and the testimonies of his witnesses; and (2) in finding him guilty of the crime notwithstanding the existence of medical testimony to the effect that it was remote that wound No. 7, which is alleged to have been inflicted by appellant, could have caused the death of the victim.

We find the appeal devoid of merit.

1. It is well settled that when an accused is identified by clear, explicit and positive testimony as the perpetrator of the offense, his defense cannot be entertained. Appellant having been positively identified as one of the assailants, through the testimonies of Adelina Tan Teopinto, Olimpio Trongcoso and Igmedio Ladeno, his defense of alibi would naturally have no weight.

These witnesses have testified clearly and positively on the criminal overt acts of appellant. True it is that as against each of these eyewitnesses, appellant had sought to attribute improper motives. Thus, appellant would insinuate that Adelina Tan Teopinto, in testifying against him, simply wanted to strike back at him for his previous refusal to testify against Adriano Labian on the November 17, 1963 incident. As regards Igmedio

Laden, appellant would make it appear that his testimony was untrue for the simple reason that he happened to be a friend of Victorio Teopinto's father-in-law. With respect to Olimpio Trongcoso, appellant sought to establish that his testimony was tainted with prejudice because appellant owed him P18.00 which he, Olimpio, was asking him to pay in the form of three sacks of copra. The motives attributed to these witnesses have not only been debunked but are patently unpersuasive. Considering their situations in that community, it would have been highly improbable for them to have falsely accused appellant of such a serious crime on the basis of such superficial causes. On the other hand, the early revelation by the prosecution witnesses to the authorities of the identity of the assailants of the deceased bespeaks spontaneity and strengthens their credibility. There is, moreover, the motive on the part of appellant for wanting to get rid of Victorio, and this is the fact that Victorio was going to testify against appellant in a criminal case in which appellant was accused of shooting and killing one Pascualita Mangado.

The rejection of appellant's alibi in the face of appellant's positive identification by credible witnesses and the apparent lack of sufficiently strong motives on the part of said witnesses to testify falsely against appellant, cannot, therefore, be considered a reversible error.

In the ultimate analysis, the issue posed by appellant is one of credibility, and the rule is well established in this jurisdiction that appellate courts will not interfere with the judgment of the trial court in passing upon the credibility of witnesses, unless there appears in the record some fact or circumstance of weight and influence which has been overlooked or the significance of which has been misinterpreted or misunderstood. This rule is posited on common sense because it is the trial court which has had the opportunity of observing the conduct, demeanor and manner of testifying of the witnesses.

2. In connection with appellant's second assigned error, it has been established that wound No. 7, described in the autopsy report (Exh. "A") as "stab wound, left supra frontal region about 2 inches in length involving the whole scalp" of the deceased, was inflicted by appellant. While it is true that Dr. Dubongco, the physician who prepared the autopsy report, declared in court that in his opinion wound No. 8 (the old fracture which obviously resulted from the first incident on November 17, 1963) was more likely to have been the immediate cause of death than the other wounds, he also stated that wounds Nos. 1 to 7 could have caused Teopinto's death, and that it was possible that wound No. 7, like wound No. 8, could have caused thrombosis.

Municipal Health Officer Ortiz extensively explained the nature, significance and effect of the wounds. He was definite that the new thrombus, which came about as a result of wound No. 7, was the cause of Teopinto's death, and that at the time of the infliction of wound No. 7, the old thrombus created by wound No. 8 was in the process of dissolving, and, consequently, it posed very little danger to Teopinto's life. He further explained that the trauma inducing the new wound on Teopinto's forehead could have produced the dislodgment of the old thrombus, and the dislodged particle travelled to the sagittal sinus to produce the new thrombus. In the final analysis, therefore, it was the new wound inflicted by appellant which resulted in the victim's death.

It was sufficiently established therefore that the death of the victim was the direct, natural and logical consequence of the various wounds inflicted upon him by the appellant and his companions. The existence of conspiracy could be deduced from the acts of the accused tending to show the existence of a common criminal design. The evidence shows that the deceased was lured out of his store on the pretext of drinking "mallorca" in the neighboring store, and that once out on the street he was suddenly attacked and bolied by appellant and his companions.

It is an established rule that an accused is criminally responsible for acts committed by him in violation of law and for all the natural and logical consequences resulting therefrom.

The attack being sudden and unexpected, the killing was therefore qualified by treachery.

We are not prepared to hold that the commission of the crime was aggravated by the circumstance of evident premeditation. To properly appreciate this circumstance, it is necessary to establish: (1) the time when the offender determined to commit the crime; (2) an act manifestly indicating that the culprit has clung to his determination; and (3) a sufficient lapse of time between the determination and the execution to allow him to reflect.[1]

The award of civil indemnity to the heirs of the deceased should be increased from P6,000.00 to P12,000.00.[2]

WHEREFORE, the judgment appealed from is affirmed, with the modification that the amount of indemnity to the heirs of the deceased Victorio Teopinto is increased to P12,000.00, with proportionate costs against appellant.

Zaldivar, (Chairman), Fernando, Barredo, Fernandez, and Aquino, JJ., concur.

[1] People vs. Diva, et al., G.R. No. L-22946, April 29, 1968, 23 SCRA 332, 340.

[2] People vs. Pantoja, G.R. No. L-18793, October 11, 1968, 25 SCRA 468, 473.

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