

PEOPLE OF THE PHILIPPINES, PLAINTIFF and APPELLEE, VS. EFREN MARTIN, ET AL., DEFENDANTS and APPELLANTS.*G.R. Nos. L-18763-64. May 23, 1964*

Ponente: BAUTISTA ANGELO, J.

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Efren and Agustin Martin were accused of murder of Edmundo Nepomuceno in an information filed before the Court of first Instance of Manila, which was later amended to include Eriberto Martin (Case No. 55587). In another information, Elinio Martin and Pablo Nunag were also accused of the same offense involving the same victim (Case No. 56130).

After a joint trial, all the accused, except Pablo Nunag, who was acquitted, were found guilty as charged, and sentenced as follows: Efren Martin, Agustin Martin, and Elinio Martin, to suffer reclusion perpetua, with the accessory penalties of the law, while Eriberto Martin, in whose favor the mitigating circumstance of voluntary surrender was appreciated, to suffer an indeterminate term of 10 years and 1 day of prision mayor, as minimum, to 17 years, 4 months and 1 day of reclusion temporal, as maximum, with the accessory penalties of the law. The four accused were also sentenced to indemnify the heirs of the deceased in the sum of P6,000.00, without subsidiary imprisonment in case of insolvency, and each to pay one-fifth of the costs. In due time, the four accused have appealed, but in a resolution dated February 5, 1962, this Court granted Eriberto Martin's motion to withdraw his appeal.

The evidence for the prosecution shows that in the evening of December 17, 1960, between ten and eleven o'clock, while Edmundo Nepomuceno was making toys for his children in the presence of his common-law wife Conchita Sanchez, Emilio Martin stoned his house. The couple did not pay attention to the act, but Emilio Martin, not contented with it, challenged Edmundo to come out and fight, which the latter did not mind. When Conchita saw a boy in their neighborhood, she requested him to call Aurelia Nepomuceno, sister of Edmundo, who at the time was already preparing to sleep. Aurelia heeded the call and went to the room where Edmundo was living, and when she noticed the stones that were spread on the floor she tasked where they did come from. Edmundo told her that Emilio Martin stoned the house and challenged him to a fight, but he refused to fight.

When everything had quieted down and Aurelia was about to leave, Edmundo felt headache and asked his sister for ten centavos with which to buy a cortical pill. After receiving the money, he went out. Aurelia followed him and hardly had Edmundo gone out when Efren Martin, brother of Emilio, held him by the collar of his shirt and stabbed him with a kitchen knife, hitting him on the lower part of the chest, after which he dragged him towards the stairs of Benny Yumang's house where Benny hit him with a piece of wood. After having been hit by Benny, Edmundo was again hit by Pete Nunag at the back of the head. Then the other Martins, Elinio, Eriberto, Emilio, and Agustin, came out and one by one assaulted Edmundo who had already fallen to the ground. Pablo Nunag, brother of Pete, raised Edmundo and held him by the shoulder while the Martins stabbed him. When Pablo released his hold on Edmundo, the latter fell to the ground. His assailants then started kicking him. Upon seeing the Martins and his cousins assaulting Edmundo, his common-law wife Conchita Sanchez shouted for help, but

nobody came to his rescue. Edmundo crawled towards his room followed by the three Martin brothers, Elino, Agustin and Emilio and their cousins Benny Yumang and Pete Nunag, who continued kicking him. Finally, a neighbor, Ricardo Ociano, came and helped Conchita Sanchez bring Edmundo to the North General Hospital, but when he arrived, Edmundo was already dead.

Meanwhile, Edmundo's sister, Aurelia, ran to precinct 3 for help. She was able to call a mobile patrol unit. When this arrived at her brother's house, Edmundo had already been taken to the hospital. On this occasion, Aurelia indicated to the policemen those who attacked her brother, among them Efren Martin who at the time was about to leave the place. The policemen arrested him and took him to Precinct No. 3, together with Aurelia, whose statement was taken down by the police.

The victim suffered the following injuries:

"CENTRAL NERVOUS SYSTEM: Hemorrhage, subarachnoid, brain slight.

CARDIOVASCULAR SYSTEM: Laceration , blood vessels, right lung and liver, Exsanguination collapse, vena cavae.

RESPIRATORY SYSTEM: Stab wound, middle and lower lobes, right diaphragm. Hemothorax, about 650 c.c. blood, right thorax. Exsanguination paleness, lungs, bilateral.

GASTROINTESTINAL SYSTEM: Hemoperitoneum, about 150 c.c. blood, abdominal cavity. Exsanguination paleness, intestines.

LIVER: Stab wound, right lobe liver.

MISCELLANEOUS: (1) Wound, stab, 2.5 cm, x 0.75 deep, sutured, penetrating, anterior right chest, through 6th interspace, piercing lower and middle lobes, right lung and right diaphragm.

(2) Wound, stab, 2.5 cm. x 1.0 cm. deep, sutured, penetrating right lateral abdomen, through 8th interspace, piercing right diaphragm, and right lobe, liver.

(3) Wound, stab, 2.5 cm. x 0.75 cm. x 7 cm. deep, lateral right thigh.

(4) Wound, stab thru and thru, 2.5 cm. x 1.0 cm. anterior right thigh, exit: 2.0 cm. x .75 cm.

(5) Wound, hacking, 5.0 cm. x 0.5 cm, x 2.5 cm. deep, left occipital region, scalp.

Contused abrasion, left forehead. Abrasion, multiple, left forehead; right eyebrow; left glabella; nose, and lateral, right chest."

The cause of death was profuse hemorrhage and shock due to multiple wounds. According to the doctor who performed the autopsy, the wounds were caused by at least 'two kinds of instruments, a heavy sharp-edged instrument and a sharper-edged-pointed instrument. At least three of the wounds were mortal in nature each of which could have caused instant death. On December 21, 1960, Eriberto Martin surrendered to the police thru Councilor Justo Albert. The volunteered to give a statement in connection with the killing of Edmundo Nepomuceno.

The deceased at the time of the incident had already two children with his common-law wife Conchita Sanchez. However, in September of 1960, he married Carmen Martin, a sister of the victim's assailants, before the Justice of the Peace of Caloocan. They lived together for only one week because the Martins took back their sister. They did not want Edmundo to take care of his children with his common-law wife.

The defense presented no evidence as to how the incident started although it hinted that the trouble arose out of a quarrel between Efren and Edmundo. Of the five accused, only Eriberto Martin admitted having any participation in the bloody incident because the others disclaimed having any knowledge or participation in the killing of Edmundo. They practically set up the defense of alibi.

Agustin Martin testified as follows: On December 17, 1960, he was in his house from seven in the evening to twelve o'clock midnight, although later on he declared that he was in the house of Corazon Pacheco from morning till twelve o'clock midnight. He said that he was accompanying the children of Corazon Pacheco in her house which was 200 meters from the house of the Martin brothers. He was awakened at 12:30 in the morning by one of Corazon's children. He went to Corazon's store which was 100 meters from his house and closed it. He slept alone in the store until the following morning. The next day he learned that his brother Eriberto had a quarrel. It was Corazon Pacheco who gave him the information on December 18. He visited Efren in jail from eight to nine o'clock in the morning with Corazon Pacheco, when a secret service man asked him about his relationship with Efren, and upon knowing that they were brothers, the policeman arrested him for the killing of Edmundo.

Eliano Martin testified that he had been a mason for 12 years. On December 17, 1960, he was working as a carpenter in a house at Grace Park, Caloocan, Rizal, whose owner he did not know. He was assigned to work on the cabinets. On December 17, 1960, he reported for work at seven o'clock in the morning. He went home at 12:00 o'clock midnight because the contractor told him to finish the work so he could start painting the house the following Sunday. He boarded a jeepney at 11:00 o'clock in the evening and arrived home at 12:00 o'clock midnight. Upon his arrival, his wife told him that there were people making trouble in the neighborhood. After eating his supper he went to bed. He denied any participation in the killing of Edmundo Nepomuceno.

Eriberto Martin testified that he has been a mason since 1953. On December 17, 1960, he was working at Forbes Park under a contractor named Eduardo Santiago. He worked from seven o'clock in the morning to six o'clock in the afternoon. From his work he went home directly arriving there between 8:00 and 9:00 o'clock in the evening. He ate his supper and read comics on the ground floor of the house, and while thus reading he heard somebody shout that Efren, his brother, was being chased, as in fact he saw Edmundo chasing him with one knife in each hand. Upon seeing this he approached Edmundo and told him to stop. Edmundo stopped but faced him instead and thrust his knife at him with his right hand. He stepped back and took a "pinga" to defend himself. As Edmundo made a thrust at him with his right hand, he stepped backward and hit him with the "pinga." Edmundo received the blow at the neck as a result of which he was thrown away. Edmundo turned around and faced him at which moment he tried to pick the knife that Edmundo had dropped but the latter grabbed the knife from him. When Edmundo made another thrust at him he hit him with the "pinga." He picked up the knife which fell from Edmundo's left hand after the first blow and took away his "pinga." Then he told him to stop as he was not going to fight him. Edmundo suddenly hit him with the knife in his right hand, which he was able to dodge, and instead he stabbed Edmundo twice. After hitting Edmundo, he ran away.

Efren Martin professed lack of knowledge of what has happened or feigned not to recollect any fact or event leading to the incident. In answer to the questions of defense counsel, he claimed that he did not know where he lives, the name of his father or mother, the names of his brothers or relatives. He claimed that he did not know who stabbed Edmundo and he practically answered "I do not know" to all questions propounded to him.

It thus appears that, with the exception of Eriberto Martin, who in his own way explained the incident that led to the death of Edmundo Nepomuceno, the other accused disclaimed knowledge thereof other than what they had been informed by those who had witnessed it. Their defense was mere alibi in that they attempted to show that at the time of the occurrence they were attending to different errands such that after they arrived home the incident had already taken place, with the exception of Efren who, on the witness stand, professed ignorance of what has happened as well as of any fact and event which ordinarily should have come to his knowledge, thereby giving the impression that he lost his memory or is a person who did not know what he was doing. But, of course, the court a quo was not swayed by such feigned behavior as it knew right along that Efren was neither an idiot nor insane but one who merely adopted that posture in an attempt to exculpate himself of the serious offense with which he is

charged. As a matter of fact, the medico-legal officer who examined him at the request of the prosecution certified that while Efren appears to be congenitally feeble-minded, he is not insane but knew the nature of his acts.

There is no doubt that the incident has happened as reflected from the evidence of the prosecution for it appears clear that Edmundo Nepomuceno met his death because of the ill-feeling the Martin brothers had harbored against him sometime prior to the event which led to his death. It should be recalled that Edmundo had a common-law wife by the name of Conchita Sanchez with whom he had two children but that this relationship notwithstanding he succeeded in winning the affection of the accused's sister, Carmen Martin, whom he married, perhaps to atone somewhat for what he has done, but which, however, was not enough to assuage their feeling, since one week thereafter, the Martin brothers took her back as an eloquent proof of their disapproval of the whole affair. And not long after this event, the affray took place wherein Edmundo found himself to be the victim of the collective aggression of the Martins who heaped upon him simultaneous thrusts with their knives leaving him helpless until he expired. There is, therefore, enough motive for the Martin brothers to commit the act imputed to them more so when they were living in houses that were close to one another and where the illicit relationship of Edmundo with his common-law wife was within the knowledge of the whole neighborhood. The behavior of Edmundo towards the sister of the Martin brothers must have deeply hurt the feeling of the Martin family that to avenge what they believed to be an affront to their sister and to them they provoked Edmundo to a fight and in the process annihilated him with a combine and simultaneous action leaving him with no hope of survival.

On this point, it is interesting to note the following observation of the court a quo:-

"The defense, accordingly, did not explain how it happened that Edmundo Nepomuceno would be chasing Efren with two knives in his hands. Setting aside these beclouding circumstances, it also appears improbable that Edmundo would be chasing Efren. It is undeniable that before the occurrence of the incident, the Martins had been harboring ill-feelings against Edmundo. In the relative situations of the Martins, on the one hand, and Edmundo Nepomuceno, on the other, it was most unlikely that Edmundo would be the aggressor in a fight against any of the Martin brothers. Edmundo had no relatives in the vicinity, except a sister to whom he ran for help when his house was being stoned. The Martins, on the other hand, are living in the same house where at least five of the Martin brothers, all fully grown up, are living together. In the nearby houses reside close relatives of the Martins, namely, the Nunags and the Yumangs. There is more reason to believe, therefore, the claim of the prosecution that even when Edmundo was already being stoned in his house and challenged by the Martins to come out and fight, he chose to remain calm and ignore his enemies."

Eriberto Martin seems to have offered himself as the lone sacrificial goat in an effort to relieve his co-accused brothers of complicity in the death of Edmundo Nepomuceno. Thus, he testified that while he was reading comics on the ground floor of his house in the night in question, he heard a voice saying that his brother Efren was being chased. At this juncture, he really saw Edmundo with one knife in each hand chasing Efren for which reason he approached and told Edmundo to stop. Edmundo did stop but instead face a him and entrust his knife at him with his right hand. He stepped back and took a "pinga" to defend himself. Edmundo again thrust at him with his right hand and he stepped backward and hit him with the "pinga," Edmundo received the blow at the neck as a result at which he was thrown away, but he turned around and faced him, so he tried to pick up the knife that Edmundo had dropped, but the latter grabbed it from him. When Edmundo made another thrust he hit him with his "pinga." He told Edmundo to stop as he was not going to fight him, but Edmundo suddenly hit him again with the knife in his right hand. What he did was to hit him twice and run away.

But the court a quo did not give credit to this version considering that it runs counter to the facts that are undisputably borne out by the evidence. Indeed, if it is true what Eriberto has testified that it was he who was chased by Edmundo with one knife in each hand and has received several thrusts from him with his weapons to the extent that Eriberto did nothing but to defend himself with a "pinga", although occasionally he was able to

grab one of the knives and counter-thrust it at Edmundo, no reason is seen why Edmundo would receive so many serious stab wounds on different parts of his body, aside from many contusions and abrasions, all of which remain fully unexplained. On the other hand, it appears highly strange that Eriberto did not even receive a scratch considering their close personal encounter and the fact that the victim was then armed with two deadly knives as against a piece of wood carried by Eriberto. And it appears even more strange to see that in spite of the fact that the alleged scuffle took place near the house where the Martin brothers were staying, they did not lift a finger, nor do anything to help their brother, and would content themselves to just stand by and watch the uneven fight until Eriberto ran away.

The court a quo found this version untenable, making on this point the following comment:-

"The injuries found on the body of Edmundo Nepomuceno consisted in four stab wounds in different parts of his body, and a hacking wound in the back part of his head, as well as contusions and abrasions in his forehead and other parts of the face (Exhs. E and F). The nature and the number of said injuries belie the claim of defense that it was Eriberto alone who inflicted those injuries. Eriberto stated that in the beginning, he used a pinga with which he clubbed Edmundo by the nape. No in-jury was found in the nape of Edmundo. While Eriberto stated that he gave only two knife thrust at Edmundo, the medico-legal examiner found four stab wounds on the cadaver. More-over, Dr. Larion, MED Medico-legal examiner, categorically stated that the hacking wound in the back of the head of the deceased could not have been caused by a knife, and that judging by the nature thereof, it was probably caused by a bolo or a similar hacking instrument. According to the defense, Eriberto only used a knife he wrested from Edmundo. No explanation was made as to how the deceased suffered a hacking wound in the back of the head."

With regard to the alibi set up by the defense in behalf of some of the accused, we agree with the Solicitor General that the same is shot through with so many flaws that it does not deserve any consideration. The refutation he makes of such an alibi is well taken.

The decision appealed from being in accordance with law and the evidence, we hereby affirm the same, with cost against appellants.

Bengzon, C.J., Padilla, Concepcion, Reyes, J.B.L., Barrera, Paredes, Dizon, and Makalintal, JJ., concur.

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