

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROBERT DINGLASAN Y MANGINO @ OBET, REYNALDO TAPIA Y SORAO, AND MANOLO BONGALOS @ MANOLO, ACCUSED, ROBERT DINGLASAN Y MANGINO @...

G.R. No. 101312. January 28, 1997

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

Accused-appellant ultimately relies on the defense of alibi in his bid for acquittal but fails to observe the settled doctrines and requirements laid down by this Court for its plausible application.

This is an appeal from the Decision[1] dated July 15, 1991 of the Regional Trial Court of Pasig, Metro Manila, National Capital Judicial Region, Branch 164,[2] in Criminal Case No. 83931, convicting accused Robert Dinglasan y Mangino of the crime of murder and sentencing him to suffer the penalty of reclusion perpetua, to indemnify the heirs of the victim Efren Lasona in the amount of P50,000.00, to reimburse the funeral expenses incurred by his mother in the sum of P12,000.00, and to pay the costs.[3]

The Information[4] dated September 6, 1990 was filed by 4th Assistant Provincial Prosecutor Amelia A. Fabros against the appellant charging him as follows:

"That on or about the 5th day of September, 1990 in the Municipality of Pasig, Metro-Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating together with Reynaldo Tapia y Sorao, Manolo Bongalos @ Manolo and alyas 'Jetlee' who are still at large and mutually helping and aiding one another, armed with double bladed weapon, with intent to kill and with evident premeditation and treachery, did, then and there wilfully (sic), unlawfully and feloniously stab with said double bladed weapon one Efren Lasona y Ajero, hitting him on different parts of his body, thereby inflicting upon the latter multiple stab wounds which directly caused his death.

CONTRARY TO LAW."

Arraigned on October 10, 1990, the accused assisted by counsel de oficio Ramon Aldea, pleaded not guilty to the charge.[5]Pre-trial was deemed waived and trial ensued in the normal course.

An Amended Information to include the names of the other accused who were at large, namely Reynaldo Tapia y Sorao and Manolo Bongalos @ Manolo was admitted by the trial court, per its order dated October 29, 1990.

The Facts

According to the Prosecution

The prosecution presented four witnesses: (1) Dr. Maximo Reyes, who testified on the results of the autopsy, (2) Rolando Quintanilla and (3) Rosario Santos, who gave their eyewitness account of the stabbing, and (4) Luciana

Lasona, the mother of the victim, who testified as to the amount of the latter's lost income and funeral expenses.

The facts as culled by the trial court from their testimonies during trial are as follows:

"The second witness presented by the prosecution was Rolando Quintanilla.

He testified that at around 5:00 in the afternoon of September 5, 1990, he was at the corner of Camia St., Rosario, Pasig, Metro Manila conversing with Efren Lasona during which Robert Dinglasan, Manolo Bongalos, Reynaldo Tapia and a certain 'Jetlee' arrived. When Efren Lasona alighted from the tricycle that they were on, Manolo Bongalos and 'Jetlee' blocked his way. Suddenly, Reynaldo Tapia and Manolo Bongalos repeatedly stabbed Efren Lasona. The accused Robert Dinglasan placed his arms around Efren Lasona while 'Jetlee' participated by aiming his 'pana' at him when he was about to render assistance to Efren Lasona so he ran away and sought for help.

That he has known the accused Robert Dinglasan for quite a time because he usually frequented their place.

This witness identified the accused in court.

That he also knows Manolo Bongalos because his house is adjacent to that of Robert Dinglasan. 'Jetlee' is a member of their group (barkada).

That the present whereabouts of 'Jetlee', Tapia and Bongalos are not known to him.

On cross-examination, he stated that he was with Efren Lasona in the tricycle at the corner of Camia St. sometime on September 5, 1990 at around 5:00 in the afternoon. When Lasona alighted from the tricycle, some persons blocked his path. They were then face to face. It was Efren Lasona who first alighted from the tricycle and this was the moment when the arrow (pana) was aimed at him.

That he saw the actual stabbing and the stabbing instrument was stained with blood. Thereafter, he sought for help.

That he was about two (2) arms' length away from where Lasona was stabbed. It was Robert Dinglasan, Manolo Bongalos, Reynaldo Tapia and 'Jetlee' who blocked the way of Efren Lasona.

On clarificatory questions from the Court, this witness stated that "Jetlee" was holding a 'pana' and the other three (3) were also armed.

That he saw the accused Robert Dinglasan holding or embracing Efren Lasona. Bongalos and Tapia had bladed weapons and they used them in stabbing Efren Lasona.

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The fourth witness presented by the prosecution was one Rosario Santos.[6]

She testified that at around 5:00 in the afternoon of September 5, 1990, she was near a bakery in Camia St., Jabson Site, Rosario, Pasig, metro Manila. She witnessed the killing of herein Efren Lasona by the herein accused.

She identified Robert Dinglasan in court.

That the accused held the victim by his hands. The accused embraced the victim and repeatedly stabbed him.

That three (3) persons stabbed the victim. Robert Dinglasan did not stab the victim but just embraced him. When the victim was being stabbed, the latter could no longer move.

That the victim was stabbed several times. She was only half a meter away from the place of the incident.

That at first, Robert Dinglasan held the victim by the hand but the victim was able to set himself free. When

Dinglasan was able to get hold of the victim again, this time the hands of the victim were held at his back.

Counsel for the accused and the private prosecutor stipulated that the witness executed an affidavit before the Eastern Police District because when the witness was confronted with the document, she manifested that she had poor eyesight.

On cross-examination, this witness stated that she suffered a stroke before September 1990. That she could still walk on her own.

That she was about 11 1/2 meters away from the scene of the incident. However she stated also that she was about one and a half meters away from the scene of the incident.

That she was alone and standing when she witnessed the stabbing. She did not notice the raiment (sic) of the accused was wearing at the time as well as the others who stabbed the victim. She was at the bakery for sometime when she witnessed the incident. She did not see how the victim as well as the assailants arrived near the bakery. She was in a state of shock.

That the accused held the victim while three other persons stabbed the victim.

That the victim is known to her because Efren Lasona's mother is her friend.

That the mother of the victim did not ask her to testify in this case.

That the accused held the victim with his hands at the back.

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The third witness presented by the prosecution was Dr. Maximo Reyes, a medico-legal officer of the National Bureau of Investigation (NBI).[7]

He testified that on September 5, 1990, he conducted an autopsy on the cadaver of the deceased Efren Lasona y Ajero. In the Post-Mortem Findings, the deceased was found to have suffered all in all eleven (11) stab wounds, four (4) of which were located on the right portion of the chest and were all fatal. The size of the wounds are 2.5 to 2.6 cms.

That there was tremendous loss of blood and oxygen.

That some stab wounds severed the upper lobe of the left lung and the right ventricle of the heart which are bloody organs. Others were located on the middle third of the left arm. These involved skin and soft tissues.

That the wounds were caused by a sharp pointed single-bladed instrument. It could be three or more sharp bladed instruments that could have been used in the stabbing. Under normal conditions, the wounds were inflicted by those fronting the victim. It is possible that more than one person inflicted these wounds.

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That even if medical attendance was given this victim, he would not have survived just the same. The death could have been instantaneous as all the stab wounds were fatal.

On cross-examination, he stated that the height of the victim was about 5'7" or 5'8". He did not take the weight of the victim. The victim was of medium built and was not robust.

That the accused and the victim would more or less be of the same height.

That the accused is of medium-size built.

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That he could not tell what was the first injury inflicted. The first wound was not penetrating because the instrument used hit the sternal area near the chest. There were two stab wounds between the first and second intercostal spaces. The direction was towards the center of the chest. Under normal conditions, the assailant and the victim were standing and facing one another with the assailant more towards the left of the victim.

That four (4) stab wounds were located on the left side of the chest and other four (4) stab wounds were on the right side of the chest. That the death was not instantaneous because the victim has to fall until exhausted and respiratory depression will follow.

That there was a stab wound at the back which perforated the kidney of the victim. It could have been inflicted by way of a thrusting or swinging motion. It could be presumed that the assailant was behind and to the left of the victim. This wound at the back was also fatal. It could have been caused by another almost identical weapon.

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The first witness presented by the prosecution was Luciana Lasona.[8]

She testified that Efren Lasona was her son. Her son was stabbed to death.

That her son would have gone to Canada had he lived because of the telegram her son received after his death. Her son would have received a monthly salary of \$600.00 had he not died.

That she spent P12,000.00 for the casket and funeral services of her son as evidenced by the receipt issued by St. Claire Funeral Homes as well as P4,000.00 for the tomb but the receipt got lost. During the wake, the amount of P4,000.00 was also spent by her but she has no receipts to show for it and P1,000.00 for the hiring of jeepneys used during the burial of his son but such was also unreceipted for.

On cross-examination, this witness stated that she did not ask for even a piece of paper to show proof of some of her expenses but only the provisional receipt of P12,000.00 was received by her."

Version of the Defense

After the prosecution rested, the defense filed a Demurrer to Evidence dated April 15, 1991 which however was denied by the trial court in an undated order but filed as part of the Records on pages 87 to 88.

In contrast to the prosecution's theory that the victim was killed with treachery by the accused-appellant acting in conspiracy with three other persons, the defense claims that the appellant was not at the crime scene but was selling barbecue with someone somewhere else. The defense presented five witnesses, to wit: the accused himself, his co-vendor of barbecue Alfredo Bongalos, a tricycle driver Orlando Camañero, the arresting officer Patrolman Edilberto Sanchez, and Leonida Sy. The version of the defense as summarized by the trial court a quo from the testimonies of the witnesses presented by the defense is as follows:

"The first witness presented by the defense was one Alfredo Bongalos.[9]

He testified that he is a barbecue vendor since 1986 in Life Homes Subdivision which is in front of the Mariwasa Corp.

That when one uses a tricycle, it would normally take ten to fifteen minutes to go from Jabson Site to Life Homes Subdivision. The distance maybe (sic) about half a kilometer.

That the accused Robert Dinglasan is known to him because he is a friend of his brother. That the accused accompanied him in selling barbecue on September 5, 1990. He left for Life Homes on September 5, 1990 at

around 3:30 in the afternoon. The accused was his helper that afternoon. That when he and Robert Dinglasan arrived in Life Homes Subdivision, there was not an instance that the accused left his barbecue stand.

That no unusual event happened at that time but late in the afternoon, armed men arrived at his stand in Life Homes accompanied by a certain Zaldy and was pointing to the accused. These armed men took the accused with them but he did not notice any suspicious or unusual behavior on the part of Dinglasan.

On cross-examination, this witness stated that by walking, it would take fifteen to twenty minutes to travel from Life Homes to Jabson Site. He is certain that accused Dinglasan was with him that afternoon of September 5, 1990 in their barbecue stand at Life Homes Subdivision. He could not recall what day September 5, 1990 was.

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The second witness presented by the defense was one Orlando Camañero.[10]

He testified that he is a tricycle driver for five (5) years.

That on September 5, 1990, he conducted the accused herein from Jabson Site to Mariwasa Corp. The accused is his neighbor.

That the accused was with Jun Bongalos to attend to their 'ihaw-ihaw' stand. They left Jabson Site about 3:30 in the afternoon and arrived in Mariwasa about 4:00 in the afternoon. Upon arrival, he helped them unload their wares from his tricycle and thereafter, he proceeded back to Rosario.

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That the mother of the accused requested him to testify in this case.

The third witness presented by the defense was Pat. Edilberto Sanchez of the Pasig Police Station. [11]

He testified that he was one of the policemen who arrested the accused Robert Dinglasan. He was pointed to them by a certain Mr. Fontanilla (Quintanilla).

That they spotted the accused at the tricycle terminal of Life Homes Subdivision. On being arrested, the accused was somewhat surprised (nabigla) and then became pale (namutla).x x x.

That they received the report about the stabbing incident in Jabson site at about 5:00 o'clock in the afternoon and the suspects allegedly fled toward the direction of Manggahan; and when they proceeded there, the accused was pointed to them by a certain Rolando Funtanilla (Quintanilla). They arrested the accused between 5:00 to 6:00 o'clock in the afternoon of September 5, 1990.

On cross-examination, this witness stated that the distance between Life Homes Subdivision and Jabson Site is about fifty (50) to sixty (60) meters. Life Homes is just opposite the place of the incident at Jabson Site. They are separated only by a river. By using a vehicle, it would take only five to ten minutes travel time.

That they were able to catch up with the accused but as to the other suspects, they failed to do so.

The fourth witness presented by the defense was accused Robert Dinglasan.[12]

He testified that on September 5, 1990 at about 5:00 o'clock in the afternoon, he was at Life Homes Subdivision selling barbecue. In going there, he took a tricycle being driven by Orlando Camañero. He was with a certain 'Jun'. There was no occasion that he left the subdivision except when armed men in civilian clothes poked their guns at him and made him board their vehicle. He only knows one of them as Pat. Edilberto Sanchez.

That there were other persons who approached him at Life Homes. It was a certain Zaldy who pointed to him at

the barbecue stand. A certain Rolando Quintanilla was there also."

After trial, the Court a quo rendered judgment as follows:

"ACCORDINGLY, the Court finds the accused Robert Dinglasan y Mangino @ 'Obet' GUILTY beyond reasonable doubt, in conspiracy with others, of the crime of Murder for the killing of one Efren Lasona y Ajero as charged; and therefore, hereby imposes upon him to suffer the penalty of reclusion perpetua; to indemnify the heirs of said Efren Lasona the sum of P50,000.00; and to reimburse the mother of the deceased victim the sum of P12,000.00 who defrayed, among others, said amount as payment for the funeral services of her son which was properly receipted for by the St. Claire Funeral Home; as well as to pay the costs.

Let a copy of this Decision be furnished the Office of the Court Administrator of the Supreme Court, Manila, for its information.

SO ORDERED."[13]

The Issues

Before this Court, accused-appellant assigns the following errors:[14]

"I

The trial court erred in convicting the accused-appellant of the crime of murder beyond reasonable doubt despite insufficiency of evidence.

- A. The postmortem findings belie the alleged participation of accused-appellant in the crime charged.
- B. The physical evidence of the prosecution conforms with the defense evidence that the accused-appellant had no participation in the crime imputed to him.
- C. The testimony of the prosecution witness Rosario Santos is replete with inconsistencies and is so contrary to human experience as to be incredible.

II

The trial court erred in finding accused-appellant conspired with the other accused to commit the crime of murder.

In the main, the appellant's arguments constitute four main issues: the credibility of the prosecution's two eyewitnesses, the weight to be given the defense of alibi, the sufficiency and weight of evidence presented and the presence of conspiracy.

The Court's Ruling

First Issue: Credibility of Prosecution Witnesses

The Court sees no reason to disturb the trial court's evaluation and assessment of the credibility of witnesses, the same not being tainted by any arbitrariness or palpable error. "In the matter of credibility of witnesses, we reiterate the familiar and well-entrenched rule that the factual findings of the trial court should be respected. The judge a quo was in a better position to pass judgment on the credibility of witnesses, having personally heard them when they testified and observed their deportment and manner of testifying. It is doctrinally settled that the evaluation of the testimony of the witnesses by the trial court is received on appeal with the highest respect, because it had the direct opportunity to observe the witnesses on the stand and detect if they were telling the truth. This assessment is binding upon the appellate court in the absence of a clear showing that it was reached

arbitrarily or that the trial court had plainly overlooked certain facts of substance or value that if considered might affect the result of the case." [15]

After a thorough scrutiny of the entire record of the case, the Court found that the trial court correctly gave credence to the testimonies of Rolando Quintanilla and Rosario Santos. As aptly stated by it:

"The Court did not doubt, at any instance, the veracity of the two testimonies given by the two aforementioned eyewitnesses for the prosecution. They were given in a straight-forward manner and projected a clear picture of the circumstances surrounding the stabbing incident and the personae principiis involved.

There were at times certain inconsistencies, minor in character, especially coming from prosecution witness Rosario Santos but then, she did correct herself soon thereafter. Moreover, although of poor eyesight, she could still walk alone in the streets and because it was mid-afternoon and bright and she was situated very near the place of the stabbing, no doubt that she could see what was going on in front of her.

Further, their credibility is further enhanced because they came forward and testified before the Court in the manner that they did, disinterestedly, with no other obvious reason shown except to tell dispassionately what they saw that afternoon. [16]

In his brief [17], the accused-appellant argues that the testimony of Rosario Santos is "replete with inconsistencies" showing it was rehearsed and false. He anchors this contention on her poor recollection of what transpired right before the stabbing in this case and her having corrected her statement that the accused stabbed the victim. This contention is puerile. It is in accord with ordinary human experience for someone like Rosario Santos, a septuagenarian who had just suffered a stroke, not to remember all the details transpiring right before the occurrence of the startling stabbing incident especially since she was preoccupied with what she needed to buy in her visit to the bakery that afternoon. Her quickly correcting herself that the accused-appellant did not stab the victim [18] does not destroy the credibility of her testimony as this is a minor inconsistency which involves a matter not at all inconsistent with the accused Dinglasan's taking part in the stabbing incident. Jurisprudence teaches us that "x x x (m)inor inconsistencies in the testimonies of witnesses do not detract from their credibility; on the contrary, they serve to strengthen their credibility and are taken as badges of truth rather than as indicia of falsehood even as they also erase suspicion of rehearsed testimony." [19]

What is plain from the testimonies of Rolando Quintanilla and Rosario Santos is their consistent and unequivocal eyewitness accounts positively identifying and showing the presence and participation of Robert Dinglasan in the killing of the victim Efren Lasona. They both testified that accused-appellant held and restrained the victim to enable the other perpetrators to inflict the fatal stab wounds. The testimony of Rolando Quintanilla showed this, viz.

Q

When these four persons arrived, what happened?

A

Efren alighted from the tricycle and then Manolo Bongalos and Jetly (sic) suddenly blocked his way(.)

Q

Thereafter what happened?

A

After that, they repeatedly stabbed Efren, Sir.

Q

When you said they, who were they who stabbed Efren?

A

Tapia and Manolo, Sir.

Q

How about Roberto Dinglasan, what was his participation?

A

He was the one, Sir, who held or placed his hands around Efren Lasona (sic) (at this juncture witness raised his both hands showing as if embracing somebody)."[20]

This was corroborated by Rosario Santos who testified as follows:

Q

Who killed this Efren Lasona, if you know?

A

He is the one, sir.

Q

Would you please point to this Honorable Court the person you are mentioning who have (sic) killed Efren Lasona? I will be going near the person you are pointing to and I will ask you if he is the same person that you are pointing to.

A

Yes, sir, he is the one.

(Witness pointing to a man in white t-shirt and who when asked, gave his name as Robert Dinglasan, accused in this case.)

ATTY. BONIFACIO:

May we put on record that this witness points to the person of Robert Dinglasan twice, meaning, that she is referring to Robert Dinglasan as a participant in the killing of Efren Lasona.

Q

What is the participation of or what did this Robert Dinglasan do in the killing of Efren Lasona?

A

Robert Dinglasan held Efren Lasona by his hands.

Q

Would you please describe to this Honorable Court how this Robert Dinglasan held Efren Lasona? I am approaching you and you describe how Dinglasan held Efren Lasona.

For the record, Your Honor, the Private Prosecutor approached the witness here in front while he is also facing the witness and the witness hold (sic) the Private Prosecutor on his right hand and move (sic) it in front

wherein the back of the Private .Prosecutor was facing her, Your Honor, and thereafter, embraced the Private Prosecutor.[21]

Q

You testified that while being stabbed by these three persons, Efren Lasona was being held at the back by Dinglasan. He was being embraced and his hands being held by Robert Dinglasan and your other testimony is that while being stabbed, the hands of Efren Lasona was (sic) being held at the back by Dinglasan. How would you explain to this Honorable Court how that happened?

A

I would explain it in this vein, sir. When the demonstration was made earlier, at the time, Robert Dinglasan really held both hands of Efren Lasona in front in this manner (witness crossing her arms) and in that position, Lasona made some struggles and he was able to get free from the hold of Robert Dinglasan. Then Robert Dinglasan again held his hand and this time, the hands of Lasona were already held at his back.".[22]

Second Issue: Is the Defense of Alibi Plausible?

The foregoing positive and categorical assertion of the two eyewitnesses for the prosecution as to the appellant Robert Dinglasan's "active participation in the crime outweighs his alibi. The settled rule is that for alibi to prosper, it is not enough to prove that the appellant was somewhere else when the crime was committed, but he must likewise demonstrate that he could not have been physically present at the place of the crime, or in its immediate vicinity, at the time of its commission."[23]

Jurisprudence consistently holds that "alibi is generally considered a weak defense because of the facility with which it can be fabricated. Thus, courts have always looked upon it with suspicion and have received it with caution. It is a well-settled rule that in order for an alibi to prevail, the defense must establish by positive, clear and satisfactory proof that it was physically impossible for the accused to have been at the scene of the crime at the time of its commission, and not merely that the accused was somewhere else."[24]

As testified to by defense witnesses Alfredo Bongalos and Pat. Edilberto Sanchez, the place where the accused-appellant claimed to be at was a mere fifty to sixty meters[25] away from the crime scene and could be reached in fifteen to twenty minutes by walking and ten to fifteen minutes by riding a tricycle.[26] Hence, alibi is not plausible in this case as it was not physically impossible for the appellant to be present during the crime.

Third Issue: Sufficiency and Weight of Evidence

Based on the foregoing discussion, the trial court a quo, therefore, committed no error in giving weight and credence to the two eyewitnesses' positive identification of the appellant Robert Dinglasan, and in disregarding the alibi interposed by the latter. "Positive identification, where categorical and consistent and without any showing of ill motive on the part of the eyewitness testifying on the matter, prevails over alibi and denial which if not substantiated by clear and convincing evidence are negative and self-serving evidence undeserving of weight in law."[27]

The appellant further contends in his brief that:

"The Trial Court further grievously disregarded the evidence that after about thirty minutes from the time the killing happened, Dinglasan was found exactly where he said he was he was the whole afternoon: selling barbecue at Life Homes Subdivision.

Certainly, if Dinglasan were guilty of the very serious crime of murder, he would escape and disappear, as did the other accused who to date remains at large. x x x"[28]

This contention is bereft of merit. As this Court had repeatedly held, "there is no law or principle which guarantees that non-flight per se is proof, let alone conclusive proof, of one's innocence and, as in this case of alibi, such a defense is unavailing when placed astride the undisputed fact that there is positive identification of the felon." [29]

Fourth Issue: Conspiracy is Sufficiently Proved

As previously discussed, the accused-appellant's participation is limited only to his having held and restrained the victim Efren Lasona during the fatal stabbing. Nevertheless it is well-settled that, "(i)n a conspiracy, it is not necessary to show that all the conspirators actually hit and killed the victim. What is important is that all participants performed specific acts with such closeness and coordination as unmistakably to indicate a common purpose or design in bringing about the death of the victim." [30] Hence, the fact that the accused-appellant did not actually stab the victim Efren Lasona does not negate the appellant's being part of a conspiracy to kill the latter. Moreover, the fact that appellant Robert Dinglasan conspired in the commission of the crime charged was sufficiently and convincingly shown by his active participation in holding the victim to render him immobile thus enabling the former's companions to consummate their dastardly act. As the trial court a quo astutely and correctly observed:

Conspiracy by its very nature is a joint offense. It maybe inferred from the acts of the accused themselves when such acts point to a joint and unity of purpose and design.

These elements of conspiracy are patently present and have been established by the testimonies of the above-named prosecution witnesses which ironically, was confirmed even by one of the witnesses presented by the defense who also saw the beginnings of the stabbing incident.

The role of the herein accused was to hold Efren Lasona to immobilize him and to preclude any potential resistance or fight that he may possibly put up making it possible for his two co-conspirators to stab their victim repeatedly and with impunity without peril to themselves.

In carrying a conspiracy into effect, every act of one of the conspirators in furtherance of the common purpose is in contemplation of law the act of all.

Consonant to these legal principles which are deeply rooted in our criminal justice system, the herein accused is just as guilty as if he himself dealt the killing blows that sent Efren Lasona to an early grave." [31]

Treachery

The Revised Penal Code [32] provides that "(t)here is treachery when the offender commits any of the crimes against the person, employing means, methods, or forms in the execution thereof which tend directly and specially to insure its execution, without risk to himself arising from the defense which the offended party might make." In the case at bench, the presence of treachery or alevosia which qualified the killing to murder was correctly appreciated by the trial court because the manner by which the perpetrators commenced and consummated the stabbing of the victim Efren Lasona showed conclusively that the latter was totally surprised by the attack and not afforded an opportunity to raise any defense against his attackers. Efren Lasona could not have expected, while riding in that tricycle, that he would be savagely and fatally assaulted by knife-wielding attackers. The victim was defenseless during the attack as his hands were restrained by the accused-appellant to facilitate the stabbing of the victim by the other perpetrators. It is well-settled that "(a)n unexpected and sudden attack under circumstances which render the victim unable and unprepared to defend himself by reason of the suddenness and severity of the attack, constitutes alevosia." [33] Parenthetically, the fact that the attack on deceased Efren Lasona was frontal does not preclude the presence of treachery in this case as the same made the attack no less unexpected and

sudden.[34]

WHEREFORE, the appealed Decision convicting appellant Robert Dinglasan y Mangino of the crime of murder and imposing on him the penalty of reclusion perpetua and the payment to the victim's heirs of civil indemnity in the amount of P50,000.00 and to the victim's mother the amount of P12,000.00, and of the costs is hereby AFFIRMED in toto.

SO ORDERED.

Narvasa, C.J., (Chairman), Davide, Jr., Melo and Francisco, JJ., concur.

[1] Rollo, pp. 14-34.

[2] Judge Apolonio R. Chavez, Jr. presiding.

[3] Rollo, p. 34.

[4] Record, p. 1.

[5] Ibid., p. 6.

[6] Ibid., pp. 5-7.

[7] Decision, pp. 3-5.

[8] Ibid., pp. 1-2.

[9] Ibid., p. 7.

[10] Ibid., p. 8.

[11] Ibid., pp. 8-9.

[12] Ibid., p. 9.

[13] Ibid., p. 23; Rollo, p. 34.

[14] Rollo, p. 45. The accused appellant was represented by Attys. Roco, Bunag, Kapunan and Migallos. They entered their appearance on February 1, 1991 in substitution of counsel de oficio Ramon Aldea.

[15] People vs. Morales, 241 SCRA 267, 273, February 13, 1995; citing People vs. Jacalan, 230 SCRA 1, February 10, 1994, People vs. Abo, 230 SCRA 612, March 2, 1994, and People vs. Revillame, 230 SCRA 650, March 3, 1994.

[16] Rollo, p. 80.

[17] Appellant's Brief, pp. 21-23; Rollo, pp. 60-62.

[18] TSN, April 4, 1991, p. 5

[19] People vs. Plasencia, 249 SCRA 674, 684-685, citing People vs. Reyes, 236 SCRA 264, September 2, 1994, People vs. Ponayo, 235 SCRA 226, August 10, 1994, and People vs. Joya, 227 SCRA 9, October 1, 1993.

[20] TSN. December 12, 1990, p. 3.

[21] TSN, April 4, 1991, pp. 3-4.

[22] Ibid., pp. 7-8.

[23] People vs. Jose, 250 SCRA 319, 322, citing People vs. Mallari, 241 SCRA 113, February 6, 1995.

[24] People vs. Magana, G.R. No. 105673, p. 14, July 26, 1996; citing People vs. Cortes, 226 SCRA 91, September 3, 1991, People vs. Marquez, 153 SCRA 700, September 14, 1987, and People vs. Nescio, 239 SCRA 493, December 28, 1994.

[25] Rollo, p. 20.

[26] Ibid., p. 19.

[27] People vs. Amania, 248 SCRA 486, 493, September 21, 1995.

[28] Appellant's Brief, p 21; Rollo, p. 60.

[29] People vs. Amania, supra, p. 493.

[30] People vs. Francisco, 249 SCRA 526, 536, October 25, 1995.

[31] Decision, pp. 13-14; Rollo, pp. 25-26.

[32] Article 14, No. 16, par. 2.

[33] People vs. Soldao, 243 SCRA 119, 127, March 31, 1995.

[34] People vs. Halili, 245 SCRA 340, 353, June 27, 1995.

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