

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ELMO CATUA, PETER CATUA AND RUBEN CATUA, DEFENDANTS-APPELLANTS.

G.R. No. 101367. March 23, 1992

Ponente: GRIÑO-AQUINO, J.

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GRIÑO-AQUINO, J.:

This case was certified to this Court by the Court of Appeals pursuant to Section 13, Rule 124 of the Revised Rules of Court because it imposed two (2) penalties of reclusion perpetua on each of the three (3) defendants-appellants.

The appellants were charged with the crime of Double Murder under Article 248, in relation to Article 48, of the Revised Penal Code, in an information alleging -

"That on or about February 21, 1986, in the municipality of Kapalong, Province of Davao, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually helping with John Doe and Peter Doe, who are still at large, with treachery and evident premeditation, with intent to kill, armed with rifles and 12 gauge shotguns, did then and there wilfully, unlawfully and feloniously attack, assault and shoot Fernando Bautista and Marina Agunza Bautista, thereby inflicting upon them wounds which caused their death, and further causing actual, moral and compensatory damages to the heirs of the victim." (p. 5, Rollo.)

After trial, the court a quo rendered a decision on September 4, 1989, the dispositive portion of which reads:

"WHEREFORE, premises considered, the guilt of the accused having (sic) proved beyond reasonable doubt, [the court] hereby sentence (sic) the accused Elmo Catua, Peter Catua and Ruben Catua, after applying the Indeterminate Sentence Law, to an imprisonment of FOURTEEN (14) YEARS, EIGHT (8) MONTHS, and ONE (1) DAY of reclusion temporal as minimum, to TWENTY (20) YEARS of reclusion temporal [as] maximum, and to indemnify the heirs of the deceased couple for P60,000.00." (p. 8, Decision, p. 15, Rollo; Words in bracket supplied.)

In their appeal to the Court of Appeals (CA-G.R. CR No. 08932) the appellants argued that the trial court erred (1) in finding them guilty of the crime charged despite the failure of the prosecution to positively identify them as the perpetrators of the crime and (2) in finding them guilty of the crime charged despite the failure of the prosecution to prove their guilt beyond reasonable doubt.

The facts of the case, as established by the evidence for the prosecution and summarized by the Solicitor General in the Brief for the People are as follows:

"In the morning of February 21, 1986, the spouses Fernando Bautista and Marina Bautista, together with their 14-year old son Tirso and 12-year old daughter Catalina, were planting corn in their farm in Calyawa, Kapalong, Davao. At around 10:00 o'clock, five persons, among them the appellants, appeared at the farm and shot the spouses Fernando and Marina Bautista with firearms. Tirso and Catalina Bautista who were twenty

(20) meters away from the appellants and their companions saw the shooting and, in fear, were holding each other's hands. After the shots were fired, Fernando and Marina fell to the ground groaning, and appellants and their companions ran away. Tirso and his sister Catalina, after stopping by their fallen mother, likewise ran away from the scene (TSN, T. Bautista, October 24, 1982, pp. 7-14, 19, and 22).

"Felix Remitar was sowing corn in a lot located in Baco-baco, Calyawa, Kapalong, Davao near the farm of the Bautista's when, around 9 o'clock in his estimate, he heard rapid firing of guns. Remitar's lot was located in the upper or elevated portion of the area, and when he looked down below, he saw the assailants firing at Fernando and Marina Bautista who then fell to the ground, Remitar recognized the appellants among the assailants because the Catua brothers were his friends having known them even before the shooting of the Bautistas (TSN, F. Remitar, November 19, 1986, pp. 6-12).

"After leaving the scene of the shooting, Tirso ran to the house of Jose Tunga, a member of the ICHDF, about a kilometer away from the scene, shouting as he approached, that his father was shot. Tunga immediately responded by calling and gathering the members of the ICHDF. Gaudioso Sobreno and Juanito Descarter, and two other ICHDF members joined Tunga and they went to the place of the incident. When they reached the place, they found Fernando and Marina Bautista motionless and dead. Fernando suffered injuries on his breast where his liver came out, and Marina was wounded in the stomach. Corn grains for sowing scattered around the corpses of the Bautistas. Tunga and his companions tried to trail the killers, whom Tirso identified as the Catua brothers, for two kilometers but they were no longer around. They returned and reported the matter to the Kapalong police (T. Bautista, p. 15; TSN, J. Tunga, April 21, 1980, pp. 10-11).

"Felix Remitar, after witnessing the shooting of the spouses Bautista, went back to the barrio where he met Tirso Bautista. He reported the incident to the ICHDF (Remitar, p. 17). The death of spouses Fernando Bautista and Marina Bautista is established by the Certificates of Death (Exhibits 'B' and 'C') showing that the victims died on February 21, 1986." (Appellee's Brief, pp. 4-7.)

The appellants denied their participation in the crime charged and set up the defense of alibi as follows:

Accused Ruben Catua testified that on February 21, 1986, he was in Asuncion, Davao, as he stayed in the house of an acquaintance by the name of Federico Casumanan. He was hospitalized and was treated for Malaria at the Kapalong District Hospital. From December 1985 to March of 1986, he was already in Asuncion. He had resided in barrio Callawa when he was still small. He was born in that place. At the age of seven (7), he left the place and transferred to Gupitan, Kapalong.

Federico Casumanan corroborated Ruben's alibi.

Salvador Belave testified that at around 10:00 o'clock in the morning of February 21, 1986, he was with Elmo Catua and a certain Able Ganongan cutting grasses in his farm in Suwaon, Kapalong, Davao. Before February 21, 1986, he was at the same farm, working with the same persons. He knew Callawa. Callawa is very far from Suwaon. If one would walk, it would take about one day's walk to reach Callawa from Suwaon because he would climb mountains. Elmo Catua and Able Ganongan worked with him in his farm for one (1) week from February 20 to February 24. His house is about fifteen (15) meters from the house of Elmo Catua.

Susan Catua testified that Peter Catua is her husband and they live in Monte Dujali, Kapalong, Davao. At around 10:00 o'clock in the morning of February 21, 1986, she was in the house together with her husband and their four (4) children. Her husband was supposed to plant on that day, but he was not able to go because one of their children was sick. They brought their child to Tagum for a doctor and they came home late in the afternoon.

Monte Dujali, Kapalong is very far from Callawa. The fare by bus to Callawa is P20.00 (TSN, July 19, 1989, pp. 16-22).

Roberto Ansero testified that on February 21, 1986, he was working on the farm of Peter Catua at

Mandalingan. He was requested by Peter Catua to do the planting because his son Peter Catua, Jr., was sick and he would bring his son to a doctor. He was in the company of Julito Makna and Eleno Bustamante. His house is only 50 meters away from the house of Peter Catua.

Ansero is a resident of Mandalingan, Monte Dujali where he has stayed for more than six (6) years. He has known Peter Catua for a long time (TSN, August 9, 1990, pp. 29-34).

The twin issues to be resolved in this case are whether or not the appellants' guilt of the crime of double murder had been proved beyond reasonable doubt, and whether the qualifying circumstance of treachery had been properly established.

Both the trial court and the appellate court rejected the appellants' alibi which is concededly a weak defense that cannot prevail over the positive testimony of truthful witnesses. The reason is that an alibi is easy to fabricate (People vs. Badilla, 48 Phil. 718; People vs. De Asis, 61 Phil. 384). When the defendants are identified by witnesses for the prosecution by clear, explicit and positive testimony, their alibi will not be credited (People vs. Medina, 58 Phil. 330).

The identity of the appellants was established by Tirso Bautista, the 14-year old son of the deceased couple, who was 20 meters from the assailants and three (3) meters from his parents when they were shot by the Catua brothers. This witness had known the assailants since he was ten (10) years old.

Jose Tunga confirmed that immediately after the shooting. Tirso ran up to him and reported that it was the Catua brothers who killed his parents. (pp. 5-6, 11, tsn, April 21, 1988.)

Another corroborating witness, Felix Remitar, who was working on his farm adjacent to that of the Bautistas, testified that when he heard rapid firing, he looked down below, because his lot is located on an elevation. He saw five (5) persons firing at the spouses Fernando Bautista and Marina Bautista (pp. 6-12, tsn, November 19, 1986). He recognized the Catua brothers because they were his friends (pp. 12-13, tsn, Nov. 19, 1986).

This Court finds no reason to disagree with the findings of the trial court on the credibility of the witnesses, to which great weight and a high degree of respect were accorded by the appellate court.

For the defense of alibi to be given credence, it must not only appear that the accused were at some other place, but also that it was physically impossible for them to be at the scene of the crime when it was committed (People vs. Virgilio Pasco y Santos, 181 SCRA 235; People vs. Pielago, 140 SCRA 419).

The appellants alleged that when the crime was committed: Ruben Catua was at Asuncion, Davao; Peter Catua was at Monte Dujali, Kapalong, Davao, but later went to Tagum, Davao; and Elmo Catua was at Suwaon, Kapalong, Davao. The trial court found, however, that:

"x x x from Callawa, Suwaon, Kapalong to Asuncion, Davao in spite of the distance by few kilometers away the same could be reached by jeep. Some PUJ are operating these routes from Tagum vice versa. The accessibility is not impossible nor impaired. These points - Callawa, Monte Dujali, Asuncion and Tagum are covered with PUJ jeeps routes and other vehicles." (p. 280, Records.)

Appellant Ruben Catua submitted a medical certificate to prove that he was ill with malaria on the day of the shooting. However, the medical certificate (Exh. 1) showed that he was "examined/treated/confined in this hospital for malaria on December 23-25, 1986," i.e., eleven (11) months after the commission of the crime on February 21, 1986. Moreover, Dr. Elena Isidra Osorio, who signed the medical certificate, was never presented as a witness at the trial.

In this connection, the following findings of the Court of Appeals on the presence of treachery and conspiracy in

the commission of the crime, are relevant:

"All told, we are convinced that the guilt of the appellants for the murderous death of the two victims has been established beyond moral certainty of doubt. Although the court below made no disquisition in its decision of the circumstance which qualified the killing to murder, a perusal of the facts of the case will readily reveal that treachery attended the killing. While the aforementioned circumstance may not be simply deduced from presumption as it is necessary that the existence of this qualifying circumstance be duly proven as the crime itself (People vs. Ardisa, 55 SCRA 245), the rule does not preclude proof of its attendance by circumstantial evidence (People vs. Maceda, G.R. No. 91106, May 27, 1991). By either means of proof, however, said circumstance is amply demonstrable in the case before us. Here, appellants together with two (2) other unidentified assailants with the use of rifles and shotguns, without warning, immediately fired upon the unarmed victims giving the latter no time for preparation, resistance or escape. Consequently, following a long line of cases (People vs. Ompad, 26 SCRA 750; People vs. Pedro, 16 SCRA 57; People vs. Ablan, 1 SCRA 931; People vs. Capitana, 49 Phil. 475), there can be no other conclusion than that appellants are guilty of the two (2) murders of Fernando Bautista and Marina Bautista.

"That there was conspiracy among the appellants cannot be doubted. It is well-settled in this jurisdiction that conspiracy need not be proved by direct evidence but can be inferred from the acts of the accused (People vs. Alitao, G.R. No. 74736, February 18, 1991). The appellants' actuations immediately prior to, during, and right after the shooting incident unmistakably reveal a concerted action indicative of a preconceived plan to assassinate the victims. x x x. Conspiracy having been established, the appellants, as co-conspirators, are all guilty in equal degree on the principle that the act of one is the act of all." (People vs. De Guzman, 162 SCRA 145).

The penalty for murder is reclusion temporal in its maximum period to death (Art. 248, Revised Penal Code).

As there are no aggravating nor mitigating circumstances, the prescribed penalty should be imposed in its medium period, which is reclusion perpetua.

The award of P60,000 by way of civil indemnity for the death of the two victims should be increased to P100,000 or P50,000 for each of them, conformably with the latest jurisprudence on the matter (People vs. Sazon, G.R. No. 75814, September 24, 1990; People vs. Tezarra, G.R. No. 85531, December 10, 1990; People vs. Peralta, G.R. No. 67702, January 18, 1991).

WHEREFORE, the Court finds the appellants, Elmo Catua, Peter Catua and Ruben Catua, GUILTY beyond reasonable doubt as co-conspirators in the murder of Fernando Bautista and Marina Agunza Bautista and hereby sentences each of them to suffer two (2) penalties of reclusion perpetua and to solidarily indemnify the legal heirs of each of the victims in the sum of P50,000, or the total sum of P100,000 for both victims, plus costs.

SO ORDERED.

Narvasa, C.J., (Chairman), Cruz, and Medialdea, JJ., concur.
Bellosillo, J., on leave.

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