

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JOSE ADRIANO Y VARGAS, ACCUSED-APPELLANT.

G.R. No. 104578. September 06, 1993

Ponente: PADILLA, J.

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PADILLA, J.:

In an information dated 21 March 1989, accused-appellant Jose Adriano y Vargas was charged with the crime of murder committed as follows:

“That on or about March 19, 1989, in the City of Manila, Philippines, the said accused did then and there wilfully, unlawfully and feloniously with intent to kill, and with treachery and evident, premeditation, attack, assault and use personal violence upon one EDUARDO DE VEYRA y PUYAWAN, by then and there stabbing the latter with a bladed weapon hitting his left portion at the back, thereby inflicting upon him mortal stab wounds which were the direct and immediate cause of his death thereafter.

Contrary to law.”[1]

The accused-appellant pleaded not guilty to the charge and after pre-trial and trial, the Regional Trial Court, Branch 5, Special Criminal Court, Manila rendered a decision dated 12 September 1990, the dispositive part of which reads:

“WHEREFORE, finding the accused guilty beyond reasonable doubt of the crime of MURDER, sentences him to suffer the penalty of LIFE IMPRISONMENT and to indemnify the heirs of deceased Eduardo de Veyra the sum of THIRTY THOUSAND (P30,000.00) PESOS and pay the cost.

SO ORDERED.”[2]

On appeal, the following errors are assigned to the trial court:

“ x x x IN GIVING CREDENCE TO THE TESTIMONY OF PROSECUTION WITNESS ALEXANDER REYES WHICH IS REPLETE WITH MATERIAL INCONSISTENCIES AND CONTRADICTIONS.

x x x IN NOT ACQUITTING THE ACCUSED-APPELLANT JOSE ADRIANO y VARGAS WHEN THE EVIDENCE ADDUCED AGAINST HIM BY THE PROSECUTION FAILED TO OVERCOME THE PRESUMPTION OF INNOCENCE, WITH MORAL CERTAINTY, BY CLEAR AND CONVINCING EVIDENCE OF GUILT BEYOND REASONABLE DOUBT.”[3]

Eleven (11) year old Alexander Reyes, a stepson of the victim, testified that at about 4:30 in the afternoon of 19 March 1989, while he was outside their house, he saw his stepfather conversing with the accused-appellant Jose Adriano. A few moments later, Adriano allegedly stabbed his stepfather Eduardo de Veyra with a type of knife used by electricians. Eduardo then ran to their store where he collapsed while the accused-appellant left the area casually. Eduardo was later declared Dead on Arrival (DOA) at the Chinese General Hospital. Dr. Florante Baltazar, the Medico-Legal officer of the Western Police District, determined the cause of Eduardo’s death to be two (2) stab wounds, one at the back, specifically at the left side of the waist and the second at the upper left

breast, penetrating downwards which lacerated the aorta - the main artery which carries blood from the heart.

Accused-appellant Jose Adriano testified that at the time of the incident, he was with his wife in their house which is admittedly in the immediate vicinity of the crime scene. He allegedly heard some shouting from outside the house and he immediately went out and saw the victim Eduardo de Veyra sprawled on the ground. He approached Eduardo but the latter stood up and ran towards their store. He denied knowing that Eduardo had been stabbed, but he admitted having had a quarrel with the victim's wife because of the latter's refusal to vacate their (Adriano's) house. Adriano had earlier asked the de Veyras to vacate their house because he needed the lot where it was built on.

The Court takes this opportunity to once more call the attention of trial judges in the use of the proper terms when imposing penalties. The penalty for murder under the Revised Penal Code is reclusion temporal maximum to death, within which reclusion perpetua is included. The latter term of course is not synonymous with life imprisonment which is a penalty imposed by special laws. This Court has, through Administrative Circular No. 6-A-92 dated 21 June 1993, reminded judges to strictly follow the correct application of the penalties of reclusion perpetua and life imprisonment for offenses punishable under the Revised Penal Code and special laws, respectively. Future lapses on the part of trial judges in this matter will merit proper administrative sanctions.

In this appeal, accused-appellant Jose Adriano alleges that the testimony of Alexander Reyes contains material inconsistencies particularly on the matter of whether or not the latter witnessed the actual stabbing of the victim and whether it was an electrician's knife or kitchen knife that was used in the stabbing. It is additionally argued that the inaction of Jose de Veyra, the victim's brother who, according to Alexander's testimony, was also present when the incident happened, is inconsistent with human nature since he failed to come to the aid of his brother who was in danger.

The Solicitor General on the other hand argues that the circumstantial evidence established by the prosecution is adequate to show that it was accused-appellant, Jose Adriano, who stabbed and killed Eduardo de Veyra on 19 March 1989. It is however recommended by the Solicitor General that the accused-appellant be held guilty of the lesser offense of homicide since the qualifying circumstances of treachery and/or evident premeditation were not clearly established.

We agree with the Solicitor General.

The testimonies of Alexander Reyes and the accused-appellant Jose Adriano establish the following circumstances which prove the latter's guilt with the required moral certainty to overcome the constitutional presumption of innocence:

1. Prior to 19 March 1989, Alexander Reyes testified that the accused-appellant had quarreled with the victim's wife because the latter had refused to vacate the lot which accused-appellant claims was his.[4] The accused-appellant admitted having quarreled with the victim's wife prior to the stabbing incident.[5]
2. Immediately prior to the incident, the victim and the accused-appellant were having a conversation.[6]
3. Alexander Reyes testified that he left the accused-appellant and the victim and when he returned after a while, he saw the victim already sprawled on the ground with the accused-appellant standing near him and holding what the witness described as an electrician's knife.[7]
4. No other person was near the victim except the accused-appellant, Jose Adriano.

The Court finds no compelling reason to disturb the findings of the trial court regarding the above enumerated circumstances. Indeed, there are inconsistencies in the testimony of Alexander Reyes but these are minor

incon-sistencies, considered in the light that the witness was an eleven-year-old child who was even placed under the custody of the City Warden for his own safety.[8] The trauma of his stepfather being stabbed and killed and his experience during the trial must have placed him in a state of considerable anxiety and pressure. Instead of being disbelieved and discredited, his testimony should be lauded for being clear and credible enough to establish the circumstances which prove the guilt of the accused-appellant beyond reasonable doubt. In *People v. Galendez*,^[9] this Court held that there can be a conviction based on circumstantial evidence when the circumstances proved form an unbroken chain which leads to a fair and reasonable conclusion pinpointing the accused, to the exclusion of all others, as the perpetrator of the crime.

In the present case, the Court has no doubt that Jose Adriano stabbed and killed Eduardo de Veyra on 19 March 1989.

However, treachery, which must be proved by clear and convincing evidence,^[10] was not clearly established. Alexander Reyes did not witness the actual stabbing and the mere fact that the victim was stabbed in the back did not necessarily make the attack treacherous.^[11] Evident premeditation was likewise not established. In the absence of any qualifying circumstance, the crime committed is homicide not murder.

The indemnity for death of the victim should be increased to Fifty Thousand Pesos (P50,000.00) following the present policy of the Court.

WHEREFORE, the judgment appealed from is hereby MODIFIED. The accused-appellant Jose Adriano y Vargas is adjudged guilty beyond reasonable doubt of the crime of Homicide penalized under Article 249 of the Revised Penal Code and is sentenced to suffer the indeterminate penalty of eight (8) years, and one (1) day of prision mayor medium, as minimum, to fourteen (14) years, eight (8) months and one (1) day of reclusion temporal medium, as maximum. The accused-appellant is also ORDERED to pay the heirs of the victim Fifty Thousand Pesos (P50,000.00) by way of indemnity and the costs of suit.

SO ORDERED.

Narvasa, C.J., (Chairman), Regalado, Nocon, and Puno, JJ., concur.

[1] Rollo, p. 4

[2] Rollo, p. 13

[3] Rollo, p. 29

[4] TSN, 5 February 1990, pp. 3-4

[5] TSN, 12 February 1990, pp. 7-8

[6] TSN, 2 February 1990, pp. 5-6

[7] TSN, 2 February 1990, pp. 6-8 and TSN, 5 February 1990, pp. 9-10

[8] Order, 2 February 1990

[9] G.R. Nos. 56465-66, 26 June 1992, 210 SCRA 360

[10] *People v. Peran*, G.R. No. 95259, 26 October 1992, 215 SCRA 152

[11] *People v. Pajarit*, G.R. No. 82770, 19 October 1992, 214 SCRA 678

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