

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. LEONARDO LOPEZ Y MANCILLA, JR., ACCUSED-APPELLANT.

G.R. No. 104662. June 16, 1995

Ponente: KAPUNAN, J.

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KAPUNAN, J.:

Accused-appellant Leonardo Lopez y Mancilla, Jr. was charged with murder in an information dated March 13, 1991 that reads:

That on or about August 8, 1990, in the City of Manila, Philippines, the said accused with intent to kill and with treachery and evident premeditation, did then and there willfully, unlawfully and feloniously attack, assault and use personal violence upon the person of one Jesus Reyes by then and there stabbing him with a bladed weapon in the different parts of his body, thereby inflicting upon said Jesus Reyes mortal wounds which were the direct and immediate cause of his death thereafter.

SO ORDERED.[1]

On arraignment, accused entered a plea of not guilty to the offense charged.[2]

Thereafter, trial ensued.

On August 15, 1991, Regional Trial Court Judge Romeo Callejo[3] rendered judgment, the dispositive portion of which reads:

WHEREFORE, judgment is hereby rendered finding the accused guilty beyond reasonable doubt of the crime of 'Murder' defined in and penalized by Article 248 of the Revised Penal Code, qualified by treachery, and there being no other modifying circumstances which attended the commission of the crime, hereby metes on said Accused the penalty of RECLUSION PERPETUA, with all the accessory penalties of the law and hereby condemns him to pay to the heirs of the deceased the amount of P4,500.00 as actual damages and P50,000.00 as indemnity. The period during which the accused was detained at the City Jail of Manila shall be credited to him in full provided that he agreed in writing to abide by and comply strictly with the rules of regulations of the City Jail of Manila. With Costs against the Accused.

SO ORDERED.[4]

Insisting that he is innocent of the crime charged, accused-appellant is now before this Court to challenge the trial court's decision and to protest his conviction.

At about 8:00 o'clock in the morning of August 8, 1990, Evelyn Paras, Edgardo Castro and Jesus Reyes went to the Barangay Hall at Onyx Street, San Andres, Manila to file a complaint against Mario Lopez who reportedly rained stones on the house of Evelyn Paras.[5]

While they were at the Barangay Hall, appellant Leonardo Lopez who is the brother of Mario Lopez suddenly

appeared behind them and in a swift and sudden motion, stabbed Jesus Reyes at the back with the use of a knife.[6] After the first attack, Edgardo Castro told Jesus Reyes to run even as he searched for a piece of wood with which to parry the blows of Lopez. Suddenly, Edgardo Castro was also struck at the back. He lost consciousness.[7]

In the meantime, Jesus Reyes fled and ran for his life as he was being pursued by the appellant. He then fell on the ground face down. As he was trying to stand, appellant stabbed him at the back for a second time.[8] Appellant thereafter sped towards the market at Onyx Street in San Andres, Manila.

Both Edgardo Castro and Jesus Reyes were rushed to the Philippine General Hospital for treatment. Unfortunately, Jesus Reyes expired.[9] His family spent four thousand pesos (P4,000.00) for his burial.[10]

Dr. Marcial Cenido performed an autopsy on the body of Jesus Reyes and submitted the autopsy report[11] describing the wounds inflicted on the deceased and the cause of death, to wit:

EXTERNAL INJURIES AND EXTENSIONS INTERNALLY:

1. Penetrating stab wound, left posterior thorax, 8.5 cm. from the posterior midline, measuring 2.2 cm. x 0.8 cm. x 11 cm. in depth, directed obliquely forwards, slightly upwards and towards the midline thru the 8th intercostal space and piercing the upper lobe of the left lung and thoracic aorta;
2. Penetrating stab wound, right upper posterior lumbar, 14 cm. from the posterior midline measuring 2.3 cm. x 1 cm. x 10.8 cm. in depth, directed, obliquely forwards, slightly upwards and towards the midline piercing the diaphragm and right lobe of the liver;
3. Abrasion, chin, right and left of anterior midline measuring 3 cm. x 0.5 cm. and 0.5 x 0.3 cm., respectively;
4. Abrasion, left of anterior shoulder and the lateral to the left nipple, measuring 1.2 cm. x 1 cm. and 1.2 cm. x 2 cm. respectively;
5. Abrasion, right knee measuring 0.8 cm. x 0.5 cm., right posterior shoulder measuring 0.5 cm. x 0.2 cm., middle 3rd, right forearm, posterior measuring 3 cm. x 0.4 cm. and posterior distal 3rd of the right thigh measuring 2 cm. x 0.4 cm.

INTERNAL FINDINGS:

1. Stab wounds of the internal organs and tissues as indicated under the internal extensions of the external wounds with recovered blood of about 2,000 cc from the left thoracic cavity and generalized pallor; and
2. Recovered from the stomach about half of a glassful of brownish viscid liquid without alcoholic odor.

CAUSE OF DEATH:

Penetrating stab wound, left posterior thorax and right posterior lumbar.[12]

After the incident, appellant went into hiding and was not heard of or seen in the neighborhood until seven (7) months later when Evelyn Paras saw him at his house. She called the police and the appellant was promptly arrested.[13]

On his part, accused-appellant anchored his defense on denial and alibi and averred that at the time of the stabbing incident, he was sleeping in his house located some thirteen (13) meters from the scene of the crime. He claimed that he learned of the stabbing only from his wife who informed him that his brother, Mario Lopez, was brought to Police Station No. 2 of the Western Police District on suspicion that he perpetrated the alleged crime. He did not go to the precinct to check on his brother. He sent his older brother instead. Therefrom, he stayed in his house

most of the time, occasionally visiting his cousins in Paco and Caloocan.[14]

In the appeal brief he submitted to this Court, he reiterates the foregoing arguments and challenges the court a quo's decision on the following ground, viz:

I

THE TRIAL COURT ERRED IN CONVICTING THE ACCUSED OF THE CRIME OF MURDER AND IN HOLDING HIM PECUNIARILY LIABLE FOR P4,500.00 AS ACTUAL DAMAGES AND FOR P50,000.00 AS DEATH INDEMNITY TO THE HEIRS OF THE DECEASED JESUS REYES.

II

THE TRIAL COURT ERRED IN DISREGARDING THE ACCUSED'S DEFENSE OF ALIBI AND IN HOLDING THAT THE ACCUSED WAS POSITIVELY AND SPONTANEOUSLY IDENTIFIED AS THE AUTHOR OF THE CRIME OF MURDER BY THE PROSECUTION WITNESS.

III

THE TRIAL COURT ERRED IN CONCLUDING THAT THE GUILT OF THE ACCUSED FOR THE CRIME OF MURDER HAS BEEN ESTABLISHED BY EVIDENCE BEYOND REASONABLE DOUBT.[15]

The appeal is not impressed with merit.

Accused-appellant would want to impress upon this Court that the prosecution's evidence is flimsy and incredible. He contends that compared to his own "straightforward" testimony, the prosecution's evidence cannot even "survive the test of reason and common sense." [16]

The Court is not impressed.

The prosecution presented two (2) witnesses who were present during the stabbing incident. These witnesses positively identified the appellant as the person who stabbed Jesus Reyes on that fateful day. Indeed, appellant's denial of culpability cannot be given greater evidentiary weight than the positive declarations of credible witnesses who testified on affirmative matters.[17] Hence, we reproduce below with approval certain portions of the testimonies of prosecution witnesses Edgardo Castro and Evelyn Paras who testified in clear, categorical and positive manner that appellant was the perpetrator of the offense charged.

Testimony of Edgardo Castro:

"Q.

Mr. Witness, on August 8, 1990 at around 8:00 o'clock in the morning, can you recall where were you?

x x x.

A.

We were near the Barangay Hall, sir.

Q.

And you used the word 'pumunta kami,' who were your companions?

A.

I am (sic) also with Jesus Reyes and Evelyn Paras, sir.

Q.

Why were you proceeding to the Barangay Hall at Onyx Street corner Estrada Street?

A.

Because we were going to file a complaint, sir.

x x x

Q.

When you were proceeding to the Barangay Hall at Onyx and Estrada Streets all together with Evelyn Paras and Jesus Reyes, do you recall of any unusual incident that happened?

x x x

A.

Jesus Reyes was stabbed, sir.

Q.

And who stabbed this Jesus Reyes?

A.

Leonardo Lopez, sir.

Q.

How far were you in relation to the place where Jesus Reyes was stabbed by Leonardo Lopez?

A.

We were near each other, sir.

Q.

How was this Reyes stabbed by Lopez?

A.

When we were near the Barangay Hall, sir, Leonardo Lopez suddenly stabbed Jesus Reyes at the back.

x x x

Q.

Will you please stand up and will you please demonstrate to this Honorable Court how Leonardo stabbed Jesus Reyes at the back?

A.

Leonardo Lopez came from the back and he suddenly stabbed Reyes, sir.

x x x

Q.

After this Jesus Reyes was stabbed by Lopez at the back, what did you do?

A.

I let Jesus Reyes ran (sic) away, sir.

Q.

What about you, what did you do?

A.

I was trying to look for some wood to help Jesus Reyes, sir.

Q.

Were you able to get a piece of wood?

A.

I was able to get a piece of wood but someone hit me, sir.

Q.

What was that thing that hit your head?

A.

I don't know, sir, because I was hit at the back.

Q.

Now, this Jesus Reyes, when you asked him to run, what did Jesus Reyes do?

A.

He ran away to the direction of Estrada Street, sir.

Q.

What happened to him if you still recall after running?

A.

Leonardo Lopez chased him, sir.

Q.

What happened when Leonardo Lopez chased Jesus Reyes?

A.

I did not notice it because somebody hit the back of my head and my mouth and I lost consciousness, sir.

x x x

Q.

Have you seen this Leonardo Lopez prior to August 8, 1990.

A.

Yes, sir.

Q.

And since when have you known this Leonardo Lopez before August 8, 1990?

A.

We grew up together, sir.

x x x

Q.

What was the instrument that was used by this Leonardo Lopez?

A.

It is a .29, sir.

x x x

Q.

Will you please look inside the courtroom and point to him?

x x x

(witness pointing to a person who, when asked, stated his name as Leonardo Lopez)."[18]

Testimony of Evelyn Paras:

"Q.

Can you recall of any unusual incident that happened while you were in front of the Barangay Hall on August 8, 1990 at around 8:00 o'clock in the morning?

A.

Yes, sir.

Q.

And could you tell to this Honorable Court what was that incident?

A.

Yes, sir. We were on our way to the Barangay Hall and somebody just suddenly appeared from the back, sir.

Q.

Who is that person who appeared suddenly at your back?

A.

Junior Lopez or Leonardo Lopez, sir.

Q.

What did that Leonardo Lopez do when he suddenly appeared at your back?

A.

He stabbed my cousin, sir.

Q.

What is the name of your cousin?

A.

Jesus Reyes, sir.

x x x

Q.

Where was he hit?

A.

At the back, sir.

Q.

Can you tell what instrument was used by this Lopez stab your cousin?

A.

Yes, sir.

Q.

What was it?

A.

A .29, sir.

x x x

Q.

When your cousin was stabbed by this Lopez, what did your cousin do?

A.

He ran away, sir.

Q.

What about Lopez, what did he do when your cousin ran?

A.

He chased him, sir.

Q.

Now, when Lopez was chasing your cousin, what happened to your cousin?

A.

He fell on (sic) the ground, sir.

x x x

Q.

When your cousin fell to the ground, what did Lopez do?

A.

My cousin stood up, sir.

Q.

What did your cousin do?

A.

He ran away but was chased and again he was stabbed at the back, sir.

Q.

How many times did he stab him for the second time?

A.

He was stabbed again once, sir.

Q.

What part of the body of your cousin was hit?

A.

At the back, sir.

x x x

Q.

Now, if you see again this Junior Lopez, can you still identify him?

A.

Yes, sir.

x x x

(witness is pointing to a person who, when asked, stated his name as Leonardo Lopez)

Q.

How long have you know this Leonardo Lopez and Mario Lopez prior to August 8, 1990?

A.

For a long time, sir."^[19]

These declarations were likewise confirmed by the postmortem findings of Dr. Marcial Cenido^[20] who testified that the victim suffered two (2) fatal wounds^[21] which caused his death. Moreover, the identification of appellant by the witnesses as the perpetrator of the crime is entitled to full faith and credit considering that there appears no evidence to show that they were moved by improper motive to falsely testify against the appellant. Appellant has

been their neighbor for a long time and the records bear out that no animosity existed between them before the incident.

As earlier stated, the defense of the appellant is mere denial and alibi. He contended that at the time of the incident, he was sleeping at his house and that at around 9:00 o'clock that morning, he left his house to sell newspaper and cigarettes.

In appreciating the defense of alibi, this Court has repeatedly held that the accused must be able (a) to prove his presence at another place at the time of the perpetration of the offense and (b) to demonstrate that it would thus be physically impossible for him to be at the scene of the crime.[22] Neither of the above essential requisites has been convincingly established. The distance of thirteen (13) meters from the place of commission to the house of the appellant can easily be negotiated in a number of minutes. Most importantly, alibi cannot stand in the face of positive identification of the accused by disinterested witnesses[23] as in the case at bench.

In addition, there is the unrebutted finding of the trial court that the appellant fled soon after the incident. Flight evidences guilt and a guilty conscience; the same strongly indicates a guilty mind or betrays the existence of a guilty conscience.[24]

Finally, it is much too late for appellant to raise the question of his arrest without a warrant. When accused-appellant was arrested and a case was filed against him, he pleaded not guilty upon arraignment, participated in the trial and presented his evidence. Appellant is thus estopped from questioning the legality of his arrest. It is well-settled that any objection involving a warrant of arrest or procedure in the acquisition by the court of jurisdiction over the person of an accused must be made before he enters his plea, otherwise the objection is deemed waived.[25] Besides, this issue is being raised for the first time by appellant. He did not move for the quashal of the information before the trial court on this ground. Consequently, any irregularity attendant to his arrest, if any, was cured when he voluntarily submitted himself to the jurisdiction of the trial court by entering a plea of not guilty and by participating in the trial.[26] Moreover, the illegal arrest of an accused is not sufficient cause for setting aside a valid judgment rendered upon a sufficient complaint after trial free from error.[27]

With respect to the civil indemnity, it would suffice to state that in line with the ruling of this Court in *People v. Sison*[28] the trial court correctly awarded P50,000.00 as indemnity for the death of Jesus Reyes. However, the award of P4,500.00 as actual damages representing funeral expenses must be reduced to P4,000.00 in accordance with testimony in this regard.[29]

WHEREFORE, with the modification only of the award of actual damages from P4,500.00 to P4,000.00, the judgment appealed from is hereby **AFFIRMED** with costs against accused-appellant.

SO ORDERED.

Padilla, (Chairman), Davide, Jr., and Bellosillo, JJ., concur.
Quiason, J., on leave.

[1] Original Records, p. 1.

[2] *Id.*, at 4-5.

[3] Then Presiding Judge of RTC, Manila, Branch XLIX, now Associate Justice of the Court of Appeals.

[4] Decision, pp. 12-13; Original Records, pp. 48-49.

- [5] TSN, June 25, 1991, pp. 4-7.
- [6] Id., at 7.
- [7] TSN, June 10, 1991, pp. 17-18.
- [8] TSN, June 25, 1991, pp. 7-8.
- [9] TSN, June 20, 1991, p. 3.
- [10] TSN, June 25, 1991, p. 23.
- [11] Exhibit "B".
- [12] Original Records, p. 15.
- [13] TSN, June 25, 1991, p. 19.
- [14] TSN, July 16, 1991, pp. 3-5, 11-14.
- [15] Appellant's Brief, p. 1; Rollo, p. 41.
- [15] Id., at 14-15; Id., at 54-55.
- [16] People vs. Sendon, 228 SCRA 489, 498 (1993); People vs. Dela Torre, 198 SCRA 663 (1991).
- [18] TSN, June 20, 1991, pp. 14-22.
- [19] TSN, June 25, 1991, pp. 3-10.
- [20] See Note 10, supra.
- [21] TSN, June 20, 1991, p. 9.
- [22] People v. Dayson, G.R. No. 106234, March 2, 1995; People v. Penillos, 205 SCRA 546 [1992]; People v. Cinco, 194 SCRA 535 [1991].
- [23] People v. Mosende, 228 SCRA 341 [1993]; People v. Yadao, 216 SCRA 1 [1992]; People v. Lee, 204 SCRA 900 [1991].
- [24] Anciro v. People, 228 SCRA 629 [1993]; People v. Martinado, 214 SCRA 712 [1992]; People v. Garcia, 209 SCRA 164 [1992].
- [25] People v. Codilla, 224 SCRA 104 [1993]; De Asis v. Romero 41 SCRA 235 [1971].
- [26] People v. De Guzman, 224 SCRA 93 [1993]; People v. Rabang 187 SCRA 682 [1990].
- [27] People v. Briones, 202 SCRA 708 [1991]; U.S. v. Grant and Kennedy 18 Phil. 122 [1910].
- [28] 198 SCRA 643 [1990].**
- [29] See Note 9, supra.

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