

PEOPLE OF THE PHILIPPINES, PLAINTIFF, VS. ROMUALDO SUNGA, OSCAR SUNGA AND DIONISIO RAMOS, ACCUSED, DIONISIO RAMOS, ACCUSED-APPELLANT.

G.R. No. 106096. November 22, 1994

Ponente: QUIASON, J.

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QUIASON, J.:

This is a case certified to this Court by the Court of Appeals under Section 13, Rule 124 of the 1988 Revised Rules of Criminal Procedure. The case originated from the Regional Trial Court, Branch 19, Malolos, Bulacan, which found appellant guilty of homicide in Criminal Case No. CCC--V-2347. On appeal to the Court of Appeals, that court found that appellant had committed the crime of murder. Instead of ordering the Clerk of Court to make an entry of judgment, the said court certified the case to us for review and ordered the said court official to elevate the records thereof to us (*People v. Daniel*, 86 SCRA 511 [1978]; *People v. Traya*, 89 SCRA 274 [1979]).

I

The amended information dated March 11, 1982 charged appellant, together with Romualdo Sunga and Oscar Sunga, with the crime of murder as follows:

"That on or about the 17th day of January, 1982, in the Municipality of Obando, province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the said accused Romualdo Sunga, Oscar Sunga and Dionisio Ramos, with two (2) others known only as "Kit" and "Johnny" whose exact identities are still unknown and who are still at large, with intent to kill one Ricardo Francisco, Sr., conspiring and confederating together and mutually helping one another, did then and there wilfully, unlawfully and feloniously, with evident premeditation, abuse of superior strength and treachery, attack, assault and shoot with the firearms they were then provided the said Ricardo Francisco, Sr., hitting the latter on the different parts of his body, thereby causing him fatal physical injuries which directly caused his death" (Rollo, p. 40).

After trial, the trial court found appellant guilty of the crime of homicide but acquitted Romualdo Sunga and Oscar Sunga. The dispositive part of the decision of the trial court reads as follows:

"WHEREFORE, the Court finds the accused, Dionisio Ramos, guilty beyond reasonable doubt of the crime of HOMICIDE defined and penalized under the provisions of Art. 249 of the Revised Penal Code and imposes upon him, the indeterminate sentence of imprisonment of Eight (8) years and One (1) day of prison mayor to Fourteen (14) years and Eight (8) months of reclusion temporal and to indemnify the offended party, Mrs. Lourdes Francisco the amount of Thirty Thousand (P30,000.00) Pesos, for the death of the Vice-Mayor, P39,000.00 for funeral and other expenses and P100,000.00 for moral damages. ROMUALDO AND OSCAR SUNGA are hereby acquitted for Insufficiency of Evidence. The appeal bond for accused Dionisio Ramos is set at P30,000.00. The present bail bond, however, is hereby considered satisfactory and sufficient as appeal bond in case the accused decides to appeal this decision to the Intermediate Appellate Court" (Decision, p. 18; Rollo, p. 41).

Appellant appealed to the Court of Appeals, which rendered a decision, the dispositive portion of which reads:

"WHEREFORE, premises considered, the appealed decision is modified as above discussed. Accused-appellant is found guilty of MURDER and is hereby sentenced to suffer the penalty of reclusion perpetua. However, the Division Clerk of Court is enjoined from entering judgment and is instructed to forthwith certify this case and elevate the records thereof to the Supreme Court for review" (Decision, p. 11; Rollo, p. 60).

II

The facts as found by the Court of Appeals are as follows:

At about 7:00 p.m. of January 17, 1982, Marcelino Espiritu met accused Romualdo Sunga, the Mayor of Obando, Bulacan and accused Dionisio Ramos outside the gate of the house of Atty. Pangan in Obando, Bulacan. Espiritu heard accused Romualdo Sunga mutter "Tila mo kung sino," before Sunga and Dionisio Ramos boarded Sunga's car. Espiritu proceeded to the house of Atty. Pangan where he saw Atty. Pangan, and his visitor Ricardo Francisco, the Vice-Mayor of Obando. After the lapse of 20 minutes, Romualdo Sunga returned with five companions. Ricardo Francisco, accompanied by two companions, went out. Sensing trouble, Espiritu followed them. Romualdo Sunga and Ricardo Francisco had a heated discussion. Espiritu asked Ramos what the two were arguing about. Ramos retorted: "It's none of your business." Ramos was then standing near the car of Atty. Pangan and was holding a carbine. Another person, whom Espiritu knew only as "Johnny" was positioned near Romualdo Sunga, while the other companions of Sunga, encircled Ricardo Francisco. When Espiritu was going back to the house of Pangan and about to pass through the gate, he heard gunfire. Turning around, he saw Francisco sprawled on the ground. Two gunshots followed in succession. Romualdo Sunga and his companions boarded their vehicles and sped away. Espiritu and Atty. Pangan brought Francisco to the Emergency Hospital in Polo, Bulacan, where he was pronounced dead on arrival.

Dr. Maximino Reyes, an NBI Senior Medical Officer, testified that Ricardo Francisco died from the three gunshot wounds on his back, produced possibly by a carbine and a .38 caliber pistol.

Appellant alleged in his brief filed with the Court of Appeals that:

"Espiritu, who was practically in the midst of the shooting did not point to anyone of the accused, nor to Johnny or Kit, who were supposedly with them, as the assailant. He claims that he saw Ramos armed with a carbine and another person, whom he could not identify, with a revolver. But it does not follow, nor could it be inferred, therefrom either or both were the assailants. It is axiomatic in the law of criminal evidence that the identity of the offender, like the crime itself, must be proven beyond reasonable doubt" (Appellant's Brief, p. 17; Rollo, p. 50).

Furthermore, appellant alleged that:

"[Rufino] Francisco pointed to Ramos and Johnny as the alleged assailants, but his testimony lacks the firmness and solidity of a credible testimony. His credibility as a witness himself is infirmed by the following telltale facts somehow credited by the trial court:

(aa) Espiritu, who was practically within breathing distance of the victim and the alleged assailants, did not point to Ramos and Johnny as the alleged gunmen;

(bb) [Rufino] Francisco, who pointed to the two as the alleged gunmen, was eight (8) meters away;

(cc) [Rufino] Francisco, from that distance, allegedly heard accused Mayor Sunga say, 'Ano pa and hinihintay ninyo. Tirahin niyo na.' Espiritu, who was within whispering distance, so to say, did not hear the alleged utterance of the mayor;

(dd) Well, Espiritu is not related to the deceased vice mayor; [Rufino] Francisco is the full-blood nephew of the deceased;

(ee) Espiritu said only Ramos and an identified person were armed; [Rufino] Francisco said aside from Ramos, Mayor Sunga, Oscar Sunga, Johnny and Kit were also armed;

(ff) Espiritu said only three (3) shots were fired; [Rufino] Francisco said four (4) shots were fired;

(gg) Espiritu said that when he approached Ramos and inquired what was the matter, the latter told him that it was none of his business; [Rufino] Francisco said Espiritu was told to leave;

(hh) Espiritu said that Mayor Sunga and his companions were Five (5) all in all; [Rufino] Francisco said they were six (6) --- Mayor Sunga, Oscar Sunga, Dionisio Ramos, Fernando Sunga, Johnny and Kit.

The inconsistencies pointed out cannot be assailed or dismissed as insignificant or minor" (Appellant's Brief, pp. 17-18; Rollo, p. 50).

Basically, appellant assails as contradictory the testimonies of the two principal witnesses for the prosecution. He claims that while Rufino Francisco pointed to Ramos and "Johnny" as the alleged assailants, such testimony is infirmed by the findings of the trial court that Marcelino Espiritu, who was only "within breathing distance" of the victim and the alleged assailants did not point to Ramos and "Johnny" as the alleged gunmen. Indeed Espiritu could not have seen the triggerman at that precise moment, considering that at that time, he had already turned around and was walking away from the crime scene.

Espiritu, on direct examination, testified thus:

"Q: What did you do when you heard Dionisio Ramos said (sic), 'Wala ka ng pakialam dito'?"

A: What I did was to proceed to the yard of Atty. Pangan.

Q: As you were doing that, that you were to proceed towards the yard of Atty. Pangan, was there anything unusual that you heard?

A: Yes, Sir.

Q: What was that unusual thing that you heard?

A: I heard a shot, Sir.

Q: Upon hearing a gunshot, what did you do?

A: I looked back, sir.

Q: And what did you see, if you saw anything?

A: I saw the Vice-Mayor falling down, sir. (TSN, March 29, 1982, p. 25).

Likewise, Espiritu, on cross-examination testified:

Q: You said that after talking with Mr. Ramos, you turned around and you were able to go inside the yard of Atty. Pangan when you heard the report and gunfire. Is that correct?

A: Yes, sir" (TSN, March 29, 1983, p. 60).

From this statement of Espiritu, it is clear that he was not able to see the person who fired the first shot. Nonetheless, the fact that he did not see the culprit cannot controvert the other evidence, though circumstantial, proving the commission of the crime considering that the testimonies of Espiritu and Rufino Francisco tally with

each other in their essential parts.

As to the second and third allegations, appellant claims that Rufino Francisco, who pointed to appellant and "Johnny" as the gunman, was eight meters away. According to appellant, Rufino Francisco could not have possibly heard Mayor Sunga say to his companions "Ano pa ang hinihintay ninyo. Tirahin niyo na." Surely, a distance of eight meters is not so great as would prevent any person from clearly observing the events that are taking place around him. Therefore, it was an error for the trial court to reject the entire testimony of Rufino Francisco and to conclude that he was absent from the crime scene at that definite moment.

On his fourth allegation, appellant tries to imply that inasmuch as Rufino Francisco is a nephew of the victim, such relation tainted his testimony so that the same should simply be disregarded as inadmissible. Bias of a witness goes to the weight of his testimony and is not a ground of objection to its admissibility. Regarding the weight of said testimony, appellant's conjecture cannot be given even the slightest credit because while a blood relative can be biased, still, such possible bias cannot overcome the corroborative testimony of the other witness in the person of Espiritu, an uninterested party to the case (*People v. Alacar*, 211 SCRA 580 [1992]; *People v. Libungan*, 220 SCRA 315 [1993]).

The remaining allegations of appellant merely point out to the other inconsistencies in the testimonies of the witnesses. The alleged inconsistencies referred to matters of minor details (*People v. Cayago*, 158 SCRA 586 [1988]). Besides, inconsistencies in the testimony of witnesses do not per se preclude the establishment of the commission of the crime itself when there is sufficient evidence to prove that indeed the crime was committed by the accused.

Appellant also argues that the prosecution failed to discharge the burden of establishing the guilt of the accused beyond reasonable doubt.

We do not agree.

Even if the two witnesses failed to see exactly who pulled the trigger, there are circumstantial evidence that prove that the crime was committed. We adopt the observation of the Solicitor General in the Appellee's Brief on the following points:

- (1.) Dionisio Ramos was seen with the group of Mayor Sunga in front of the house of Atty. Pangan at around 7:00 in the evening of January 17, 1982 when the victim Ricardo Francisco went out of the Pangan residence and met the Sunga group (tsn, March 29, 1982, pp. 12-13, 20-24);
- (2.) Dionisio Ramos was then armed with a carbine (tsn, March 29, 1982, pp. 13-14, 23);
- (3.) Suddenly three gun reports erupted (tsn, March 29, 1982, pp. 26-27, 61-63);
- (4.) Ricardo Francisco lay sprawled on the ground with three gunshot injuries (tsn, March 29, 1982, pp. 26-27; Exhibits "A," "A-1," "A-2," "A-3," "B");
- (5.) As a result, Francisco died of hemorrhage, acute, profuse, secondary to gunshot wounds at the back (tsn, March 19, 1982, p. 106);
- (6.) The characteristics of wounds numbers 1 and 2 are consistent with gunshot injuries emanating from a carbine (tsn, March 19, 1982, pp. 55, 61-62); and
- (7.) Treachery attended the killing of Ricardo Francisco qualifying the crime therefore to murder (see earlier discussion on treachery)" (Appellee's Brief, pp. 18-19; Rollo, p. 55).

Under Section 4, Rule 133 of the Revised Rules of Court, it is provided thus –

"Circumstantial evidence, when sufficient. – Circumstantial evidence is sufficient for conviction if:

- (a) There is more than one circumstance;
- (b) The facts from which the inferences are derived are proven; and
- (c) The combination of all the circumstances is such as to produce a conviction beyond reasonable doubt."

Furthermore, where events constitute a compact mass of circumstantial evidence and the existence of which was satisfactorily proved, the circumstantial evidence are sufficient to establish the culpability of the accused beyond reasonable doubt (*People v. Iran*, 216 SCRA 575 [1992]; *People v. Elizaga*, 23 SCRA 449 [1968]).

Clearly, this case complies with all the three tests in determining the sufficiency of the circumstantial evidence.

On the question of whether or not treachery attended the commission of the crime, thereby qualifying the crime of homicide to murder, we find that such finding of the Court of Appeals is more in accord with the evidence than the findings made by the trial court.

The trial court a quo in its decision stated that:

"The question at issue can be best answered by stating that the circumstances mentioned in Art. 248 of the Revised Penal Code, qualifying as they do the crime of murder, should be established by direct and positive evidence, mere presumptions or inferences are insufficient (*U.S. vs. de Jesus*, 2 Phil 514; *U.S. vs. Baguio* 4 Phil 110; *U.S. v. Bengale*, 24 Phil 69; *People vs. Sarmiento*, L--19146, May 31, 1969, 8 SCRA 263, 268-269).

With the Court's rejection of Francisco's testimonies in toto and pronouncing Espiritu's absence during the actual firing, the quantum of proof required which is proof beyond reasonable doubt in the determination of the presence of treachery is sadly lacking" (Decision, p. 15; Rollo, p. 41).

It is ironic because while the trial court gave credence to the testimony of Dr. Reyes, just the same it ruled that the qualifying circumstance of treachery was not proved beyond reasonable doubt. It is very clear from the testimony of Dr. Reyes that the three points of entrance of the bullets were at the back of the victim. All the wounds were fatal. While treachery does not automatically attach simply because the attack came from behind, in this case treachery is present by reason of the fact that the victim was unarmed and the attack was so sudden and executed in such a manner as would ensure the assailants that no retaliation could be offered by the victim against them (*People v. Peralta*, 193 SCRA 9 [1991]; *People v. Cuyo*, 196 SCRA 447 [1991]).

WHEREFORE, the decision of the Court of Appeals is AFFIRMED in toto.

SO ORDERED.

Padilla, (Chairman), Davide, Jr., Bellosillo, and Kapunan, JJ., concur.

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