

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. HENRY VILLANUEVA, ACCUSED-APPELLANT.

G.R. No. 106580. January 20, 1997

Ponente: ROMERO, J.

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ROMERO, J.:

Appellant Henry Villanueva was charged with the crime of Robbery with Homicide together with Robert Manuel (who did not appeal) and Ben Gingco, in an information which reads:

"That on or about the 5th day of August, 1986, in the Municipality of Gapan, Province of Nueva Ecija, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with the intent to gain and intent to kill, conspiring and confederating together and mutually aiding one another, armed with a bladed instrument, did then and there, wilfully, unlawfully and feloniously enter the house of one EMILIO MARCELO, through one of the windows of said house and once inside, by means of force, threat and violence upon person, stabbed said Emilio Marcelo, causing his death, and thereafter took, stole and carried away one television set, one wrist watch (Seiko 5), one ring, with a total value of EIGHTEEN THOUSAND PESOS (P18,000.00), including cash money amounting to ONE HUNDRED TEN PESOS (P110.00), owned by and belonging to said Emilio Marcelo, taken against his will and without his consent, to the damage and prejudice of the heirs of said Emilio Marcelo in an amount that maybe awarded to them under the Civil Code of the Philippines."

Appellant Henry Villanueva, Jr. ("Jun") and his co-accused Robert Manuel who were the only ones apprehended were arraigned on April 7, 1988 and both entered a plea of Not Guilty. The other accused, Ben Gingco, remains at large.

The prosecution's evidence shows that on August 6, 1986 at about 7:00 in the morning, Ricardo Labios' neighbor informed him that a commotion was going on in the house of his (Labios) first cousin Emilio (Miling) Marcelo.[1] Forthwith, Labios went to the Marcelo house and finding the door closed, used a ladder to gain entry thereto through an open window, whereupon he found the victim, Emilio Marcelo, "bathed in his own blood" and no longer moving.[2] As he had been in the house several times before, Labios noticed that a refrigerator, a colored T.V. set, a black and white T.V. set and jewelries were missing.

On November 11, 1986, appellant and Robert Manuel were apprehended and interrogated by the police of Gapan, Nueva Ecija.[3] Robert Manuel executed a sworn statement admitting his participation in the commission of the crime, declaring:

T

Ano naman ang dahilan at hinuli ka ng mga pulis Gapan?

S

Ako po ay nakasama sa pagnanakaw at pagkapatay kay Miling Marcelo sa barangay San Lorenzo, Gapan,

Nueva Ecija noong ika-5 ng Agosto, 1986.

T

Ano naman ang iyong kinalaman o kaalaman mo tungkol sa pagkamatay ni Miling Marcelo?

S

Ako po at si Ben Gingco at Jun Villanueva ay nagpunta sa bahay ni Miling Marcelo para magnakaw lang po.

T

Noong makaakyat kayo sa bahay at makapasok saan nyo nakita si Miling Marcelo?

S

Nakita po namin nakahiga sa loob ng kuwarto at noong kami po ay papasok na ay nagbangon si Miling Marcelo lumabas ng kwarto at sinindihan ang ilaw pagkatapos po ay pumasok na kami ng kuwarto at pinahalughog na po sa akin ni Jun Villanueva ang isang aparador at ng ako ay naghahalughog biglang bumukas ang pinto ng kuwarto at nakita ko na lang na biglang sinaksak ni Jun Villanueva si Miling Marcelo.

T

Gaano ka ba kalayo kay Miling Marcelo ng saksakin ni Jun Villanueva?

S

Malapit lang po (witness pointing to a corner with a distance of 3 meters more or less).

T

Noong makita mong masaksak si Miling Marcelo ano ang iyong ginawa?

S

Napatayo na lang po ako pagkat di ko akalain na sasaksakin ni Jun Villanueva si Miling Marcelo pagkat ang usapan namin ay hindi papatayin.

T

Ilan beses ba sinaksak ni Jun Villanueva si Miling Marcelo?

S

Isang beses po ang nakita ko sapagkat nakakubli ako sa pinto na binuksan na pintuan ng kuwarto po at sila ay napasok sa may salas kaya hindi ko po nakita kung ilang saksak po.

T

Pagkatapos na makita mong sinaksak ni Jun Villanueva si Miling Marcelo ano ang ginawa mo ?

S

Sumigaw po si Ben Gingco na 'Robert tarana' kaya ang ginawa ko nanaog na ako at sa bintana rin na aking inakyat ako nagdaan at pagkatapos po pumunta ako sa may puno ng buko at noong ako po ay bumababa nakita ko si Miling Marcelo na nakadapa sa may salas.

T

Bakit ngayon ay nagsasabi ka na kayo nila Jun Villanueva at Ben Ginco ang siyang nagnakaw kay Miling Marcelo?

S

Hindi na po ako natatakot pagkat nahuli na po si Jun Villanueva at ang ikinatatakot ko po ay baka kung ano ang gawin niya at mga kasama niya sa pamilya ko at iyon po ang madalas na ipinanakot sa akin ni Jun Villanueva.

Appellant likewise admitted his participation in the commission of the crime in his own sworn statement.[4]

On June 22, 1992, the trial court rendered a decision, the dispositive portion of which states:

"WHEREFORE, premises considered, the court finds the accused Robert Manuel and Henry Villanueva, Jr. guilty beyond reasonable doubt of the crime of Robbery with Homicide as charged in the information and they are hereby sentenced to suffer life imprisonment with the accessory penalties provided for by law. The said accused are further ordered to pay jointly and severally the heirs of the deceased Emilio Marcelo the sum of Eighteen Thousand One Hundred Ten (P18,110.00) Pesos, the value of the property stolen or taken from the house of the victim; to indemnify the heirs of Emilio Marcelo the sum of Thirty Thousand (P30,000.00) Pesos by way of damages; and to pay the costs of suit.

SO ORDERED."

In arriving at its decision, the trial court relied on the testimonies of the following witnesses: Police Lt. Col. Demetrio de la Cruz, Ricardo Labios, Atty. Noel Santiano, Dr. Felicidad Atacador, Lourdes Labios Mojica and Reynaldo Audar.

Lt. Col. Demetrio de la Cruz testified that he requested the presence of Atty. Noel Santiano on November 11, 1986 because he was going to take the statement of Robert Manuel. He identified the said statement given by Robert Manuel in the presence of his counsel, Atty. Santiano, and verified that Manuel had been advised that he had the constitutional right to remain silent before he was interrogated. De la Cruz also said that they were able to recover the portable T.V. set and the ring in Cauayan, Isabela after appellant Jun Villanueva pointed to the persons to whom he entrusted the items.[5]

Atty. Santiano testified that on November 11, 1986, he assisted a detained prisoner by the name of Robert Manuel, informing him of his rights under the Constitution and his right to remain silent. He was also present during Manuel's interrogation and heard the questions propounded to him and his answers thereto. After the written statement of Robert Manuel was finished, he read the same and asked Manuel if he could read. When Manuel answered "yes," Atty. Santiano gave him the statement to read and asked him if the contents were all true, to which Manuel again replied affirmatively. Atty. Santiano also asked Manuel if he had been threatened, hurt, forced or promised a favor in the execution of the statement, to which Manuel replied: "Hindi po, kusang-loob ko po ang pagbibigay ko ng salaysay dito sa pagsisiyasat na ito." [6]

Dr. Felicidad Atacador testified that on August 6, 1986 she conducted a post mortem examination of Emilio Marcelo upon the request of the Chief of Police of Gapan, Nueva Ecija. Her findings showed the cause of death to be severe hemorrhage and shock due to multiple stab wounds. The approximate time of death was between 10:00 p.m. in the evening of August 5, 1986, and 2:00 a.m. in the morning of August 6, 1986 and two or more instruments were used in the killing of the victim.[7]

Reynaldo Audar testified that accused Robert Manuel is his cousin and that on August 5, 1986 between 10:00 and 11:00 in the evening, Manuel fetched him from his house. Audar was told to borrow the motorized tricycle owned

by Pascual de los Santos. Appellant then came out of the house of Manuel and boarded the borrowed tricycle carrying a box about two feet square. They proceeded to Bucana as appellant was going to Isabela.[8]

Appellant now contends that the trial court erred in finding that there was conspiracy between him and Robert Manuel in the commission of the crime of robbery and that it erred in sentencing him to life imprisonment.

Appellant argues that the evidence for the prosecution does not reveal that he and Robert Manuel agreed to rob Emilio Marcelo. He states that the only evidence thereof is the testimony of his co-accused, Robert Manuel, which does not show convincingly and conclusively the existence of any conspiracy.

We are not convinced by appellant's self-serving statements.

First of all, Robert Manuel executed an extrajudicial confession wherein he admitted planning to rob the victim together with appellant. Although Manuel later alleged that the statement he gave was given under duress, the Court sees no evidence of the same. We have declared that "voluntariness of a confession may be inferred from its language such that if upon its face the confession exhibits no sign of suspicious circumstances tending to cast doubt upon its integrity, it being replete with details, which could possibly be supplied only by the accused, reflecting spontaneity and coherence which psychologically cannot be associated with a mind to which violence and torture have been applied, it may be considered voluntary." [9] A close examination of the "Tanong and Sagot" in the statement that Manuel gave reveals an exactness of detail that could only have been supplied by a participant in the crime.

Appellant's guilt was also substantiated by Manuel during his cross examination wherein he stated that appellant admitted being hurt by the victim, who fought back during the robbery.

Q He did not tell you why Miling Marcelo stabbed him?

A What he told me is that Miling Marcelo fought back." [10]

All appellant can show, by way of rebuttal, is a bare denial of his participation in the crime and a weak alibi, stating that he was in Manila on the date of the commission of the crime. However, appellant failed to show any proof of the same aside from his own testimony. On the other hand, the evidence of his guilt is strong as shown by the fact that the ring taken from the victim was found in the possession of his sister-in-law, as testified to by Col. de la Cruz.[11]

"Fiscal Garcia:

We have just been handed a ring, can you tell us what relation this ring has to the ring which you said you recovered?

A

This is the ring that we recovered to the person (sic) Henry Villanueva pointed.

Q

From how many persons or places did you recover the ring and the TV set?

A

The TV set was recovered from Hernandez Electronics and this ring was recovered from the husband of the sister-in-law.

Q

Husband of the sister-in-law of whom?

A

Of Henry Villanueva, sir."

Furthermore, if the police were able to recover the said items at all, it was because appellant himself told them where to find said items.[12] The TSN declares further:

Q Where were you able to recover the TV according to you?

A In Cauayan, Isabela, sir.

Q How were you able to follow up that TV set in Cauayan, Isabela?

A When we conduct an investigation in the person of June (sic) Villanueva, sir. He pointed us the person to whom he has entrusted the TV and the ring in Cauayan, Isabela, sir."

As the trial court aptly observed:

"There was conspiracy on the part of Henry Villanueva and Robert Manuel in the commission of robbery in the house of Emilio Marcelo. The evidence reveals that Robert Manuel and Henry Villanueva agreed to rob Emilio Marcelo, and they did in fact carry out this plan when they entered the house of Emilio Marcelo on August 5, 1986 and took therefrom the articles heretofore mentioned. On the occasion of the robbery, Emilio Marcelo was killed. Thus, it was held that conspiracy exists when two or more persons agree to commit a felony and they carry out their agreement. (People vs. Padilla, 132 SCRA 682)

Conspiracy having been established all the conspirators are liable as co-principals regardless of the extent and character of their participation because in contemplation of law, the act of one is the act of all. (People vs. Lorenzo, 130 SCRA 311)

It will be noted that in the extrajudicial confessions of the accused Robert Manuel and Henry Villanueva, while they admitted their participation in the robbery, each pointed to the other as the one who stabbed Emilio Marcelo. Regardless of who between them stabbed Emilio Marcelo, they are both liable for the homicide committed on the occasion of the robbery, considering the existence of conspiracy and, therefore, the act of one is the act of all."

The Court is convinced beyond reasonable doubt that appellant was indeed guilty of the crime of robbery with homicide. However, the proper penalty imposed on him should have been reclusion perpetua and not life imprisonment.[13]

Finally, as far as the civil indemnity of appellant is concerned, the same is hereby increased to P50,000.00 from P30,000.00, in line with the Court's previous rulings on the matter.

WHEREFORE, in view of the foregoing, the conviction of appellant is hereby **AFFIRMED**. However, the Court imposes the penalty of reclusion perpetua upon him, instead of life imprisonment and orders him to pay the heirs of the victim the amount of P50,000.00. Costs against appellant.

SO ORDERED.

Regalado, (Chairman), Puno, Mendoza, and Torres, Jr., JJ., concur.

[1] TSN, March 10, 1993, p. 6.

[2] TSN, p. 7, *ibid*.

[3] TSN, June 30, 1993, p. 5.

- [4] TSN, March 6, 1987, p. 22.
- [5] TSN, pp. 25-26, *ibid*.
- [6] TSN, March 17, 1987, p. 32.
- [7] TSN, March 29, 1989, pp. 10-16.
- [8] TSN, August 21, 1991, pp. 11-13.
- [9] U.S. v. De los Santos, 24 Phil. 329, 358.
- [10] TSN, March 17, 1987, p. 14.
- [11] TSN, March 6, 1987, pp. 25-26.
- [12] TSN, January 30, 1987, p. 16.
- [13] *People v. Retuta*, 234 SCRA 645 (1994).

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