

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. WILLITO SALODAGA AND DAVID BALONDO, ACCUSED-APPELLANTS.

G.R. No. 106784. August 07, 1995

Ponente: VITUG, J.

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VITUG, J.:

Appellants Willito Salodaga and David Balondo, together with two others identified only to be John Doe and Peter Doe, were accused in an information, dated 12 December 1991, that read:

"That on or about the 11th day of December, 1991 in Valenzuela, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring together and mutually helping one another, without any justifiable cause, with treachery and evident premeditation and with deliberate intent to kill, did then and there wilfully, unlawfully and feloniously attack, assault and shoot with a gun one Pat. DOMINGO FRANCISCO Y PADRINAO, who was then in the performance of his duties as a member of the Philippine National Police and who had identified himself as such upon accosting accused who were acting suspiciously, thereby inflicting upon the latter serious physical injuries, which directly caused his death."[1]

Willito Salodaga and David Balondo pleaded not guilty when arraigned. The prosecution presented at the trial the testimonies of PO1 Armando Halos, Dominique Gomez, Alberto Buenaventura and P/Cpl. Redentor Bote.

From the narration of PO1 Armando Halos and Dominique Gomez, it would appear that at around 5:45 in the morning of 11 December 1991, PO1 Armando Halos and Pat. Domingo Francisco (the victim), both members of the Capital Command Field Force, stationed at Camp Bagong Diwa, Taguig, Bicutan, and Dominique Gomez, dropped by at the Caltex gasoline station in San Andres, Malanday, Valenzuela, Metro Manila, to have Francisco's "owner-type jeep" cleaned up. PO1 Armando Halos and Dominique Gomez walked to a nearby carinderia, about 15 meters away, while Pat. Francisco stayed at the gasoline station and watched while his vehicle was being washed by Alberto Buenaventura. After a while, PO1 Halos and Gomez noticed four male persons being accosted by Pat. Francisco. Moments later, one of the four men fired his gun at Pat. Francisco. As Pat. Francisco fell from a gunshot wound, two of the malefactors, later identified as the accused-appellants, began to hit the fallen police officer with kick blows. Pat. Francisco was still able to fire his gun, although it would seem, aimlessly. The assailants scurried to a squatters' area about ten (10) meters away from the gasoline station. Evidently caught-off guard, Pat. Halos and Dominique Gomez could only get close to Pat. Francisco when the assailants had started to flee from the scene. Pat. Halos took the victim's gun for safe-keeping and assisted in bringing his fatally wounded comrade to the hospital where he was pronounced "dead on arrival." At the Valenzuela Police Station, Pat. Halos saw two of the suspects, accused Willito Salodaga and David Balondo, who were by then already taken into custody. The accused were apprehended by P/Cpl. Redentor Bote and Pfc. Quinones after having been pointed by a "young boy" to be two of the perpetrators of the crime.[2]

The third prosecution witness, Alberto Buenaventura, testified that on 11 December 1991 at past five o'clock in the morning, while on board a parked pedicab at the Caltex gasoline station in Malanday, Valenzuela, Metro

Manila, he was awakened by Pat. Domingo Francisco who asked that his jeep be washed and cleaned up. Just as he was through washing the vehicle, he saw Pat. Francisco about to accost four men. Closing in, Pat. Francisco held one of them by the shoulder. The latter turned and instantly fired his gun three times in succession.[3] One shot found its mark. Pat. Francisco fell, pulled his gun and fired back. The assailants fled in different directions. Buenaventura and his father carried the victim to his jeep so that he could be brought to the hospital. The companions of the victim, Buenaventura said, were at the nearby canteen and showed up moments after the victim was shot and carried on board the vehicle.

P/Cpl. Redentor Bote testified on the arrest he made. Upon hearing over the Maravi radio of the incident, he, along with Pfc. Arthur Quinones, Pat. Edilfonso Orig, Jr., and Pat. Angeles Miranda, rushed to the scene. The officers saw blood splattered around the place. The policemen were told that the victim, Pat. Francisco, was already taken to the hospital. Informed that the suspects ran towards Lingahan, Valenzuela, Metro Manila, which is about 300 meters away, the officers, accompanied by Alberto Buenaventura, promptly proceeded to the place. When the group reached Road 3, Lingahan, Buenaventura pointed to a house where the two suspects, evidently noticing the presence of the police officers, came out and tried to get away. The police officers caught up with them. Apprehended, the two suspects, herein accused-appellants, were brought to the police headquarters.[4]

The defense evidence is one of alibi.

Willito Salodaga, one of the two accused, stated that he had just arrived from Quezon Province at about six o'clock that morning of 11 December 1991. The purpose of his trip to Metro Manila, he explained, was to visit his would-be compadre, a Boy Garcia, who was residing at Malanday, Valenzuela. He got to Malanday but he was unable to meet with Garcia because of his sudden arrest. He claimed to have been maltreated at the police station. Denying the accusation, he said that he met his co-accused David Balondo only when they both found themselves on board the same vehicle following their arrest.

The other accused-appellant, David Balondo, testified that he had come to Manila from Catmon, Naval, Leyte, on 05 November 1991 to look for a job. He was residing at the house of his aunt where, on 11 December 1991, he was arrested. At the police station, he denied having known his co-accused Willito Salodaga nor the person who was said to have shot Pat. Francisco.

The trial court, after evaluating the evidence, saw for the prosecution and found both accused guilty of MURDER. Finding the victim to be neither in uniform nor on duty at the time of the incident, the Court did not consider "direct assault" in the commission of the offense. The conviction for murder was predicated on the existence of conspiracy among the accused-appellants and the assailant (said to be still at large) who shot the victim. The trial court held:

"WHEREFORE, in view of the foregoing the accused WILLITO SALODAGA and DAVID BALONDO are hereby found guilty beyond reasonable doubt of the crime of MURDER and are hereby sentenced to suffer the penalty of RECLUSION PERPETUA, to indemnify the heirs of Domingo Francisco jointly and severally in the sum of P50,000.00 without subsidiary imprisonment in case of insolvency and to pay the costs."[5]

In this appeal, the two accused assail the trial court (a) for having given credence to what they asseverate to be inconsistent and unreliable declarations of the prosecution witnesses, and (b) in having found conspiracy to be extant in the commission of the crime.

The first assigned error cannot be conceded to appellants. Where the issue, such as here, deals on the credulity of testimony, the trial court's assessment is hardly open to serious challenge. This rule is anchored on the practical recognition of the vantage position of the trial judge in assessing and weighing the witnesses' conflicting declarations.[6] Nevertheless, the appellate court invariably still examines the records before it as a means of also

assuring itself that the trial court can be reasonably depended on in its appreciation of the evidence.

While prosecution witness Dominique Gomez admitted having found some difficulty in recognizing the faces of accused-appellants at the particular time of the incident (5:45 A.M.), the identification made, however, by the two other eye-witnesses, PO1 Halos and Buenaventura, was positive and categorical. PO1 Halos was able to recognize appellants when accused-appellants and their companions passed by the carinderia just before the shooting incident.[7] During one of his casual glances towards the direction of Pat. Francisco, the witness saw the victim first being shot by one of the four men and then being subjected to kick blows by accused-appellants.

"Q

Will you tell us again how far were you from that place in the carinderia to the place where Pat. Francisco was?

"A

About 15 meters, sir.

"Q

How come you noticed that Pat. Francisco accosted 4 persons?

"A

As I've said earlier, once in a while we look at that direction, sir.

"Q

At that particular instance when you looked at the direction where Pat. Francisco was what did you see?

"A

He was accosting four (4) persons who was carrying a bag, sir.

"Q

Who was carrying the bag?

"A

Three (3) were carrying bag, only one does not have a bag, sir.

"Q

When you said four (4) persons, who are these 4 persons, male or female?

"A

They are all male persons, sir.

"Q

And how did you know that Pat. Domingo Francisco has accosted these four persons?

"A

We looked at the place where Pat. Francisco was, sir.

"Q

And what did you see?

"A

I saw that he was accosting the four and one of these 4 shot him, sir.

"COURT:

"Q

Who shot him, is he around?

"A

He is not around, Your Honor.

"FISCAL:

"Q

After he was shot what happened next?

"A

The two (2) kicked Pat. Francisco who fell down, sir.

"Q

And then what happened next?

"A

And then they all ran away towards the squatters area, sir.

"Q

Now, this person who shot Pat. Francisco did you see him?

"A

Yes, sir.

"x x x x x x x x.

"Q

That was the first time you saw these accused, 5:45 in the early morning when the sun was not yet up how do you know these were the same persons?

"A

They passed by the place where we were before the incident happened, Your Honor.

"Q

Both of them?

"A

Yes, Your Honor.

"Q

So what?

"A

I was able to recognize them because it was bright at the place where we were which was a carinderia, Your Honor."[8]

Alberto Buenaventura, who witnessed the shooting at close range, unmistakably identified accused-appellants.

"Q

The person who shot Domingo Francisco, is he present in court now?

"A

He is not here, sir.

"Q

How about the 3 companions?

"ATTY. DOMINGO

We will object, you Honor. He merely saw them walking.

"COURT:

You said 4. One fired. How about the 3? Are they here?

"A

2 only, your Honor.

"FISCAL:

"Q

Would you be able to point to them?

"A

Yes, your Honor.

"Q

Please point to them?

"A

That man in brown polo (who when asked by the Court his name answered Willito Salodaga) and that one, (who when asked by the Court his name answered David Balondo).

"COURT:

"Q

Whose shoulder was held by Domingo Francisco?

"A

He is not here, ma'am.

"Q

This Willito Salodaga, how far was he from Domingo Francisco when Domingo Francisco was shot?

"A

2 arms length, sir.

"FISCAL:

"Q

How far was this Willito Salodaga from the one who shot Domingo Francisco at the time that this person shot Domingo Francisco?

"A

Far, sir.

"COURT:

"Q

The one who shot him was far?

"A

Yes, your Honor.

"FISCAL:

"Q

This David Balondo, how far was he from Francisco at the time when Domingo Francisco was shot?

"A

Far, sir.

"Q

At the time of the incident, was Domingo Francisco alone or with companions?

"A

He had companions, sir.

"COURT:

"Q

How many?

"A

3, your Honor.

"Q

So they were 4 in all?

"A

Yes, your Honor.

"FISCAL:

"Q

Where were the companions of Francisco?

"A

2 companions of Francisco . . interrupted.

"COURT:

"Q

How far?

"A

They were not around.

"Q

How far were they when the shooting incident happened?

"A

They were in the canteen, your Honor.

"FISCAL:

"Q

Prior to this incident, do you used to see these four (4) persons around the Caltex Station?

"A Yes, sir.

"Q

Were they always together?

"A

Yes, sir.

"Q

In the evening of December 10, up to December 11, 1991, prior to the shooting incident, did you see these 4 persons?

"A

Yes, sir.

"Q

What were they doing there in the evening of December 10 up to the early morning of December 11?

"A

On my way home, at 12:00 midnight, I saw these four (4) firing the gun 3 times. I went out and slept at the Caltex Station, sir.

"COURT:

"Q

Where?

"A

At the Caltex Station, your Honor.

"FISCAL:

"Q

Who was the one who fired the gun? Is he present in the courtroom?

"A

No, sir.

"Q

When he fired the gun, to what place did he fire the gun?

"A

In that dark alley, sir.

"Q

And after that, were you able to see where they went?

"COURT:

"Q

How were you able to see them in the dark alley?

"A

They were on their way to a disco house, your Honor.

"FISCAL:

"Q

Did you see to what disco house they went to?

"A

Yes, sir.

"Q

And after that what did you do when you saw them went out and went to the disco house?

"A

I just slept outside, sir."[9]

Appellants would consider it unlikely for PO1 Halos and Dominique Gomez not to have immediately gone to the rescue of Pat. Francisco.[10] While it is rather unfortunate that they evidently did tarry, we have often said, however, that there really is no standard form of human behavioral response by one when confronted with a strange, startling or frightful experience.[11] We additionally take note that no false or evil motive has been attributed to any of the prosecution witnesses which could have caused or impelled them to falsely testify against appellants.[12]

On the issue of conspiracy, the rule, of course, is that conspiracy must be shown to exist as clearly as the commission of the offense itself. Direct proof, however, is not essential; it may be shown by acts and circumstances from which may logically be inferred the existence of a common design among the accused to commit the offense charged.[13] In finding conspiracy, the trial court said:

"x x x. They clearly appeared to be in conspiracy with the one who shot the victim by kicking the victim while still "nangingisay" after he was shot and the fact that they ran all together after accomplishing their purpose of putting the victim done, is a clear case of conspiracy and a common design against the victim. This being so, even if the two accused were not the ones who shot the victim who dies, the act of the one who shot the victim is also considered their act."[14]

Appellants, along with the two others (John Doe and Peter Doe) were often seen together in the vicinity of the Caltex gasoline station.[15] At midnight of 10 December 1991, Buenaventura saw the same group indiscriminately firing a gun.[16] Just minutes before the fatal incident on 11 December 1991, the four accused were seen alighting from the same jeep and passing by in front of the carinderia where PO1 Halos and Gomez were at the time.[17] All three prosecution witnesses (PO1 Halos, Gomez & Buenaventura) testified on how they saw Pat. Francisco accost the four accused, and how one of the four accused then shot Pat. Francisco.[18] At once, appellants began kicking the victim while sprawled on his own pool of blood.[19] Far from being mere passive spectators of a crime or dissociating themselves from the unlawful act, accused-appellants breathed not a word of prevention or warning but even confirmed their unity of purpose by yet giving kick blows on the fallen police officer. Conspiracy was not here imaginary, it was real.[20]

It is the opinion of this Court that the prosecution's evidence had fulfilled the test of moral certainty.

WHEREFORE, the decision of the trial court is AFFIRMED. Costs against appellants.

SO ORDERED.

Feliciano, (Chairman), Romero, and Melo, JJ., concur.

[1] Rollo, p. 2.

[2] TSN, Jan. 24, 1992, pp. 3-17; February 21, 1992, pp. 3-13; March 9, 1992, pp. 8-10.

[3] TSN, June 1, 1992, pp. 3-9.

[4] TSN, April 6, 1992, pp. 2-14.

[5] Rollo, p. 21.

[6] People vs. Manuel, 234 SCRA 532; People vs. Balderama, 226 SCRA 537; People vs. Antud, 215 SCRA 190; People v. Garcia, 209 SCRA 164.

[7] TSN, 24 January 1992, p. 15-16.

[8] TSN, 24 January 1992, pp. 8-16.

[9] TSN, 01 June 1992, pp. 8-14.

[10] Rollo, p. 146.

[11] People vs. Flores, 217 SCRA 613.

[12] Absence of such ill motive, grudge or animosity on the part of the prosecution witnesses, their unwavering declaration and categorical identification of appellants as the culprits should be given full faith and credit. People vs. Tolentino, 218 SCRA 337; Araneta, Jr. v. Court of Appeals, 187 SCRA 123.

[13] People v. Garcia, 215 SCRA 349; People v. Lorenzo, 200 SCRA 207.

[14] Rollo, pp. 130-131.

[15] TSN, Buenaventura, June 1, 1991, p. 11.

[16] Ibid., p. 12.

[17] TSN, March 9, 1992, p. 11.

[18] TSN, January 24, 1992, p. 16.

[19] See, testimony of Halos and Gomez and affidavit of Buenaventura.

[20] People vs. Pugal, 215 SCRA 247; Siton vs. Court of Appeals, 204 SCRA 473; People vs. dela Cruz, 207 SCRA 632; People v. Degoma, 209 SCRA 266.

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