

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. BERNARD SIA, ACCUSED-APPELLANT.

G.R. No. 107362. June 16, 1995

Ponente: PADILLA, J.

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PADILLA, J.:

Accused-appellant Bernard Sia alias Narding was charged with Robbery with Homicide in an information dated 22 September 1988, reading as follows:

"That on or about the 2nd day of December, 1987, in the municipality of Cabagan, province of Isabela, Philippines, and within the jurisdiction of this Honorable Court, the said accused did then and there wilfully, unlawfully and feloniously, with intent to gain and by means of violence, take and steal from Tranquilino Aggabao cash money in the amount of P9,000.00 against the latter's will and consent, to the damage and prejudice of said owner in the aforementioned sum of P9,000.00; that on the occasion of said robbery for the purpose of enabling him to take and steal the abovementioned amount of P9,000.00, said accused, with evident premeditation and treachery, did then and there wilfully, unlawfully and feloniously, with intent to kill, suddenly and unexpectedly and without giving him chance to defend himself, treacherously attack, assault, hack and stab with a bolo the said Tranquilino Aggabao inflicting upon the latter multiple stab and hack wounds on the different parts of his body which directly caused his death due to massive hemorrhage as a result of the multiple wounds."[1]

The accused pleaded not guilty when arraigned and after trial, the Regional Trial Court, Branch 17, Ilagan, Isabela rendered a decision* in Criminal Case No. 1009, dated 3 June 1992, the dispositive part of which reads:

"WHEREFORE, finding the accused guilty beyond reasonable doubt of the crime of Murder, the Court sentences him to suffer the penalty of Reclusion Perpetua. To indemnify the heirs of Tranquilino Aggabao the sum of P50,000.00, to pay the heirs of Tranquilino Aggabao the sum of P300,000.00 representing loss of income without subsidiary imprisonment in case of insolvency and to pay the costs.

SO ORDERED."[2]

The following undisputed facts can be culled from the records of the case:

1. The victim, Tranquilino Aggabao, was a butcher at the public market of Cabagan, Isabela.
2. Accused-appellant Bernard Sia was employed by the victim to look for live pigs to be slaughtered. Sia would purchase the pigs with money supplied to him by Aggabao, after which the former would butcher the pigs and sell the meat at the public market. Aggabao and Sia would then divide the profit from the sales equally between them.
3. In the early hours of 2 December 1987, Tranquilino Aggabao was attacked and killed near the public market. The cause of his death was determined to be massive hemorrhage due to no less than sixteen (16) hack and stab wounds on various parts of the body.[3]

The trial court based its judgment of conviction on circumstantial evidence which, in its opinion, established the

guilt of the accused-appellant beyond reasonable doubt.

At the outset, it is to be noted that the trial court erroneously stated that "there was no direct eye-witness who could fully testify as to [the] commission [of the crime]."[4] The truth of the matter is that, on 15 November 1989, the prosecution presented Luis Tan who testified that in the early morning of 2 December 1987, he witnessed Tranquilino Aggabao being hacked and stabbed by accused-appellant Sia. Tan stated that Aggabao came to his house between 4:00 and 5:00 in the morning of 2 December 1987 to ask for his help in butchering a pig to be marketed, since Sia was not around.

Luis Tan further stated that he acceded to the request of Aggabao who went ahead to the public market. Tan followed him about two (2) to three (3) minutes later and while walking to the market, he heard someone shout for help because a certain "Narding" was going to kill him. Tan stated that he hid behind a wall because he was afraid and it was then that he saw the accused-appellant Bernard Sia, also known as Narding Sia, hack and stab the victim Tranquilino Aggabao.[5] When asked why he did not give any statement to the police or during the preliminary investigation of the case, Tan stated that he was afraid Sia would kill him. He further stated that he informed the victim's son Pancho that he would testify later if they needed him.[6]

The above-summarized testimony of Tan was contained in the trial court's decision dated 3 June 1992.[7] However, as previously mentioned, the trial court either disregarded or neglected to appreciate said testimony of Tan. The Court can only surmise the reason why Tan's testimony did not play a role in the rendition of the appealed decision. There is nothing in the decision to indicate whether or not Tan's testimony was being rejected or whether the trial court considered it at all. What is clear is that the court failed in its duty to consider all the evidence before it and to clearly state why it relied only on circumstantial evidence instead of the direct and positive testimony of Luis Tan. Indeed, in this respect, the trial court decision leaves much to be desired.

The witnesses relied upon by the trial court in convicting the accused of Murder were:

1. Elvira Aggabao, the victim's widow, who testified that her husband and accused-appellant Bernard Sia were always arguing about the latter's gambling habit. Elvira stated that Sia had a P6,000.00 debt with her husband which he promised to pay on 2 December 1987. She also stated that her husband often scolded Sia whenever he used his (Tranquilino's) money for gambling and that she had told her husband to discontinue having Sia as a helper in their business.
2. Police captain Jose Pinugu testified that on 2 December 1987, after receiving a report of the killing of Tranquilino Aggabao, he ordered his investigators to pick-up possible suspects including butchers in the area. He stated that he personally brought accused Bernard Sia to the police station at around 10:00 in the morning of 2 December 1987 and he noticed that Sia had bruises on his arms and an injury on his lip. When asked about the injuries, Sia stated that he stumbled in his backyard. Pinugu likewise noticed that Sia had just changed his clothes. When asked as to where the clothes he had worn while slaughtering pigs were to be found, Sia replied that the t-shirt was in the laundry and the jacket he had worn was with a certain Rodolfo Yadan. Pinugu then instructed one of his policemen to get the t-shirt and jacket and they noticed that the jacket had stains which appeared to be blood. When they asked Sia what the stains were, he replied that they were pig's blood.
3. Patrolman Potenciano Bagunu testified that on 2 December 1987, he received a report about a person who had been killed near the house of a certain Pabling Ramirez. He immediately proceeded to the place where he saw a body sprawled on the ground apparently dead. He immediately summoned Dr. Francisco Pua to examine the body which they identified as that of Tranquilino Aggabao. Bagunu likewise testified that while at the crime scene, he saw accused Bernard Sia and a companion who stopped for a few seconds and immediately went away. He also testified to having recovered pieces of blood-stained clothing belonging to the victim.

4. Pat. Taureano dela Rosa testified that he was the one ordered by Jose Pinugu to accompany the accused Sia to get the clothes which the latter had worn at the time the victim was killed, which clothes later turned out to have been stained with human blood. He identified said clothes in the course of his testimony for the prosecution.

5. Alicia Liberato, a forensic chemist of the National Bureau of Investigation, testified that she examined the blood stains on the clothes of the victim and of the accused and determined that the blood stains on the clothes of the victim and of the accused were all type "B" blood. She testified that the blood could have come from the same person but she admitted that there was no examination of the blood of the victim nor of the accused.

For his defense, accused Bernard Sia denied any participation in the crime committed. He testified that at around ten (10) or eleven (11) o'clock in the evening of 1 December 1987, he went to the public market to remind his fellow butchers of the pigs they were to slaughter the following day. Sia testified that he slept near the selling table at the public market and he awoke at around four (4) o'clock in the morning of 2 December 1987. He saw the meat they were to sell already on the table but when he realized that the pigs' intestines were not there, he proceeded to the abattoir about two (2) blocks away and he returned riding a borrowed bicycle. On his way back, he fell from the bicycle and sustained injuries on his arms and lip. When he got to the market, it was then that he learned that Tranquilino Aggabao had been killed. He proceeded to the scene of the incident and stayed there for about three (3) minutes, after which he went to Aggabao's house to inform them of the incident but when he got there, he saw the house occupants already crying so he just returned to the market to take charge of selling their meat until around nine (9) o'clock in the morning of the same day. Later, he again went to the Aggabao residence to tell the daughter of the victim, Thelma Aggabao, that her father had placed an order for shoes in Tuguegarao, Cagayan and the daughter requested him to get them. Sia then stated that he was unable to claim the shoes since they were still unfinished. Sia claims that he was invited by some policemen for questioning and he further claimed being maltreated by the Station Commander when he denied any involvement in the killing of Aggabao. Sia admitted that he was at the public market at the time the incident happened.

To support his story, Sia presented Rodolfo Yadan who testified that he had borrowed the jacket of Sia on the night of 1 December 1987 and returned it at around six (6) o'clock in the morning of the next day. This was the jacket which contained the stains verified to be human blood.

Lejomar Balacanao, a fellow butcher of Sia, testified that Sia along with thirty nine (39) other butchers, were at the public market at the time of the incident. He however admitted that he did not know the exact time when he saw Sia on that day nor did he see Sia again after seeing him earlier.

The prosecution recalled Taureano dela Rosa as a rebuttal witness to belie Yadan's testimony regarding the jacket. He testified that on the night of 1 December 1987, at about (10) ten to eleven (11) o'clock, he saw accused Bernard Sia asleep in the public market wearing the yellow jacket later determined to contain human blood stains.

The prosecution also presented Thelma Aggabao--Guzman who belied the accused's claim that he talked to her about a pair of shoes supposedly ordered by her father in Tuguegarao, Cagayan. She stated that she never saw Sia on the day her father was killed.

Captain Pinugu was also recalled by the prosecution to deny Sia's claims that he was maltreated by the police when he refused to admit to having committed the crime.

Finally, the prosecution presented Melchor Totto who testified that at about half past four (4) in the morning of 2 December 1987, while he was walking along the municipal road, he saw accused Bernard Sia with a person he could not identify, enter Sia's house. Totto stated that he saw Sia carrying something wrapped in paper tucked under his arm.

As earlier pointed out, the trial court was remiss in not considering all the evidence before it and in not expressing clearly and distinctly the facts and the law on which its decision is based as required by Sec. 14 Article VIII of the Constitution. A reading of the trial court decision reveals the absence of a careful and exhaustive analysis of the evidence which convinced the court of the guilt of the accused Bernard Sia.

The first ten (10) pages of the decision contain a summary of the testimonies of the witnesses for the prosecution and the defense, including that of eyewitness Luis Tan. The latter portion of page 10 carries a heading "FACTUAL AND LEGAL ANALYSIS" which discusses:

1. The testimony of Elvira Aggabao which, to the trial court, established the motive of the accused in killing Tranquilino Aggabao. The trial court concluded that the accused Sia was motivated by revenge as a result of the constant scolding he received from the victim concerning his gambling habit.
2. The statement by the trial court that there was no direct eyewitness to the crime.
3. A summary of other circumstances relied upon in rendering the appealed judgment, namely:
 - a. The testimony of Pat. Bagunu that upon arriving at the crime scene, he saw accused Bernard Sia riding a bicycle with bruises on his hands and lips.
 - b. The testimony of Capt. Jose Pinugu that on the basis of the report of Pat. Bagunu, he invited accused Sia for questioning and he verified that Sia had injuries on his hands and lips. Sia stated that he sustained the injuries when he fell down. Further investigation showed the existence of a jacket and shirt worn by Sia at the time of the incident and after said clothes were recovered and found to contain spots appearing to be blood stains, Sia said they were pig's blood, and yet, upon verification, the NBI chemist found that the stains were those of human blood.
 - c. Bernard Sia's admission that at the time of the incident he was within the immediate vicinity having been at the market place and the abattoir which are both only about half a kilometer away.

After the "FACTUAL AND LEGAL ANALYSIS" which is actually an enumeration of the abovementioned circumstances, the trial court promptly concludes that although the crime of robbery with homicide was not proven, the crime of murder was adequately shown.

In his appeal before this Court, Bernard Sia assigns the following errors to the trial court:

"X X X IN FINDING THAT THE GUILT OF THE ACCUSED WAS PROVEN BEYOND REASONABLE DOUBT ON THE BASIS SOLELY OF CIRCUMSTANTIAL EVIDENCE.

X X X IN CONVICTING THE ACCUSED OF MURDER NOTWITHSTANDING ABSENCE OF FACTUAL AND LEGAL GROUNDS FOR THE SAME."[8]

Circumstantial evidence will support and justify a conviction only if the following requisites concur:

1. There is more than one circumstance;
2. The facts from which the inferences are derived are proven; and
3. The combination of all the circumstances is such as to produce a conviction beyond reasonable doubt.[9]

In this case, the circumstances pointing to accused-appellant's guilt are as follows:

1. Bernard Sia was indebted to the victim in the amount of P6,000.00 which he had to pay on 2 December 1987, the same day the victim was killed.

2. Tranquilino Aggabao could not find Sia in the early morning of 2 December 1987. This was the reason why he asked Luis Tan to help him butcher a pig to be marketed later.
3. Bernard Sia stated that the stains on his clothes were just pig blood. The stains were later found to be human blood.
4. Bernard Sia's testimony about going to the victim's house to inform the latter's family of the incident and about a pair of shoes supposedly ordered by the victim in Tuguegarao, Cagayan was belied by the victim's daughter, Thelma Aggabao-Guzman.
5. Rodolfo Yadan's testimony that he borrowed Sia's jacket on the night of 1 December 1987 and returned it only at 6:00 in the morning of the next day, was belied by the testimony of police officer Taureano dela Rosa who stated that he saw Sia wearing the jacket while sleeping in the public market at around 11:00 in the evening of 1 December 1987. The jacket was later found to be stained with human blood. There is no reason to reject dela Rosa's testimony since the presumption of regularity in the performance of official duty applies to his testifying as a witness for the prosecution.
6. Sia's testimony that he proceeded to the scene of the incident and stayed for about three (3) minutes, was contradicted by Patrolman Potenciano Bagunu who stated that accused Sia and a companion immediately went away from the crime scene. Again the presumption of regularity in the performance of official duty applies to Bagunu's testimony.
7. Melchor Tutto testified that at about half past four (4) in the morning of 2 December 1987, he saw accused Sia enter the latter's house with something wrapped in paper tucked under his arm.
8. Bernard Sia's own admission that at the time of the incident he was within the immediate vicinity of the locus criminis and that he travelled from the market place to the abattoir and back. Sia's own testimony made it impossible for him to establish being at a distant place when the crime was committed.

The above circumstances clearly point to Sia's guilt and when taken together with the testimony of Luis Tan which was straightforward and clear as to the identity of the victim's assailant as accused Bernard Sia, the presumption of innocence in the latter's favor has been overcome by proof beyond reasonable doubt.

In contrast, accused Sia merely relies on denial and alibi to support his claim of innocence. He admits being in the immediate vicinity of the crime scene at the time of the incident. The witnesses relied upon by the defense are hardly convincing especially since witnesses for the prosecution were not shown to have any motive to testify falsely against the accused. Hence, accused-appellant Bernard Sia's defense of alibi and denial must fail.

However, this Court finds that circumstances to qualify the killing to murder have not been adequately proved. Luis Tan's testimony that he saw accused Sia hacking the victim does not automatically qualify the killing to murder. Absent any qualifying circumstance, the crime committed is homicide and accused should be made to suffer an indeterminate sentence of eight (8) years and one (1) day of prison mayor medium as minimum to fourteen (14) years and eight (8) months and one (1) day of reclusion temporal medium as maximum.

WHEREFORE, the appealed decision is hereby **AFFIRMED**, with the sole modification that accused-appellant Bernard Sia is found guilty beyond reasonable doubt of the crime of Homicide and sentenced to suffer the above-stated indeterminate sentence. Costs against accused-appellant.

SO ORDERED.

Davide, Jr., and Kapunan, JJ., concur.
Bellosillo and Quiason, JJ., on leave.

[1] Rollo, p. 4.

[*] Penned by Judge Senen O. Casibang.

[2] Rollo, p. 29.

[3] Original Records, pp. 6-7.

[4] Trial Court Decision, p. 11.

[5] TSN, 15 November 1989, pp. 2-12.

[6] TSN, 15 November 1989, p. 15.

[7] Trial Court Decision, pp. 5-6.

[8] Rollo, p. 53.

[9] Sec. 4, Rule 133, Rules of Court.

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