

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. DANILO DANIEL Y RAMOS ALIAS BOYET, ACCUSED-APPELLANT.

G.R. No. 108493. September 15, 1994

Ponente: PUNO, J.

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PUNO, J.:

Accused Danilo Daniel y Ramos, alias Boyet, was charged with Murder before the Regional Trial Court of Malabon, Branch 169, under the following Information:[1]

"That on or about the 25th day of May, 1982, in the Municipality of Malabon, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with intent to kill, evident premeditation and treachery, did then and there wilfully, unlawfully and feloniously attack, assault and stab one Edgardo de Guzman with a Batangas knife (balisong), (and) as a result thereof, the said victim suffered fatal wounds which directly caused his death.

"Contrary to law."

Upon arraignment, accused pleaded not guilty. Trial on the merits ensued.

To establish its case against accused-appellant, the prosecution presented four (4) witnesses, viz: Joseph Ang y Sandoval, Teofilo de Guzman, Dr. Alberto M. Reyes and Edgardo F. Lazaro.

Joseph Ang y Sandoval testified that on May 25, 1992, at about 6 p.m., he was standing at the corner of Anonas Street and Orange Street in Malabon.[2] From about seven (7) meters, he saw Edgardo de Guzman buying a cigarette. Suddenly, accused Danilo Daniel y Ramos appeared from behind Edgardo. He kicked Edgardo then stabbed him at the back. Accused fled with the bloodstained knife.[3] Ang repeatedly called on Edgardo. He was ignored.

Ang ran to Edgardo's succor and asked: "Napaano ka ba?" Edgardo told him he was stabbed by accused. Two of Edgardo's friends, Jesus Tecson and Raymundo Catalan, came and also assisted the wounded Edgardo to his house.[4] At the gate, they saw Edgardo's father, Teofilo. The three rushed Edgardo to the nearest hospital. On the way, Edgardo related to his father the stabbing incident. He informed his father that he recognized accused for he turned to him after he was kicked from behind.

Edgardo was operated on at the Chinese General Hospital. In the meantime, Teofilo de Guzman, accompanied by the police authorities, went back to the scene of the crime. They failed to find the accused. Teofilo filed a complaint with the CIS. A manhunt of the accused was mounted. Accused was arrested in due time in Davao.[5]

Edgardo did not survive his operation. He died from severe hemorrhage resulting from the stab wound.[6] During the trial, Teofilo de Guzman presented the receipts (Exhibits "D" to "D-14") evidencing the expenses he incurred relative to the medical treatment and burial arrangements of his son.[7]

After the prosecution rested its evidence, the defense counsel moved, by way of demurrer, for the dismissal of the

case. The trial court denied the motion and set the date for the reception of the evidence for the defense. The accused opted not to adduce evidence and submitted the case for decision.

Accused was convicted of the crime charged. The trial court made the following disposition:[8]

"WHEREFORE, premises considered, the Court finds the accused Danilo Daniel y Ramos, alias Boyet, guilty beyond reasonable doubt of the crime of Murder and is hereby sentenced to suffer RECLUSION PERPETUA with all the accessory penalties provided for by law and to pay the cost.

"The accused is hereby ordered to indemnify the offended party the sum of P50,000.00 and actual expenses of P15,382.40.

"SO ORDERED."

Hence this appeal on the following grounds:

1. THE LOWER COURT COMMITTED REVERSIBLE ERROR IN FINDING ACCUSED-APPELLANT GUILTY BEYOND REASONABLE DOUBT

A. INCONSISTENT STATEMENTS MADE BY THE WITNESSES LEAVE ROOM FOR DOUBT AS TO THE GUILT OF ACCUSED-APPELLANT;

B. INCONSISTENCIES IN THE TESTIMONY OF THE WITNESSES PERTAIN TO MATERIAL, NOT ONLY MINOR, MATTERS;

C. AT MOST, THE PROSECUTION'S EVIDENCE WAS MERELY CIRCUMSTANTIAL AND NOT SUFFICIENT FOR CONVICTION.

2. THE LOWER COURT COMMITTED REVERSIBLE ERROR IN HOLDING THAT THE FLIGHT OF HEREIN ACCUSED-APPELLANT IS AN INDICATION OF GUILT.

Accused-appellant faults the trial court for giving credence to the testimonies of prosecution witnesses Joseph Ang and Teofilo de Guzman. He claims that their testimonies contained inconsistencies on material points thus making them unworthy of belief.

Accused-appellant maintains that Ang vacillated in his testimony. In his direct testimony, Ang allegedly said that he only saw accused-appellant running away from the scene of the crime holding a bloodstained knife. However, during his cross-examination, he testified he actually saw accused-appellant stab the victim.

The alleged variance was clarified by Ang in his re-direct examination. He recounted that he initially saw the victim buying a cigarette at a nearby store. From out of nowhere, accused-appellant came from behind and kicked the victim. Accused-appellant then stabbed the victim at the back and fled. Ang repeatedly called on accused-appellant. He was ignored. He approached the victim to assist him. A careful review of Ang's entire testimony precludes any doubt that he witnessed the stabbing of the victim. Thus, the alleged inconsistency adverted to by accused-appellant is illusory. There could not have been any mistake on the identity of accused-appellant. Ang was a mere seven (7) meters away when the stabbing incident happened. Moreover, the victim himself saw accused-appellant immediately before he was stabbed by the latter.

Additionally, accused-appellant faults the testimony of Teofilo de Guzman that on their way to the hospital, the wounded Edgardo recounted to him the stabbing incident, thus: While Edgardo was buying a cigarette, someone kicked him from behind. Edgardo then turned around and faced his assailant. It was then that Edgardo saw and recognized accused-appellant. Facing Edgardo, accused-appellant then stabbed Edgardo's back. Accused-appellant urges that this version is preposterous considering the location of the stab wound of the victim

vis-a-vis the relative positions of the parties.

There is no merit in the contention. The victim related to his father that after accused-appellant kicked him from behind, he turned and it was at that point that he recognized his assailant. Nowhere in the records is it categorically stated that the victim completely turned around and actually stood face-to-face with accused-appellant which would have rendered it physically improbable for accused-appellant to stab the victim at the back. More accurately, Teofilo de Guzman testified as follows:

"Q. Was your son able to talk to you?

"A. Yes sir.

"Q. What did he tell you?

"A. In (sic) the way x x x to the hospital, he told me that he was buying a cigarette in (sic) the corner of Anonas Street and Orange Road at a sari-sari store when a certain person kicked him behind and when he turn(ed) back, he saw this Danilo Daniel and (he) stabbed him at the back by a "balisong," sir." [9]

It will be noted that in describing the stabbing incident, the witness declared that the victim "turned back" -- not "turned around" -- thus enabling the victim to identify his assailant. Surely, the victim need only turn his head sideways to verify the identity of accused-appellant. This position certainly would not preclude accused-appellant from stabbing the victim at the back.

Accused-appellant also scores the prosecution for not presenting as witnesses Jesus Tecson and Raymundo Catalan, the two (2) friends of the victim who accompanied the latter to the hospital. Again, this is groundless.

The testimonies of prosecution witnesses Joseph Ang and Teofilo de Guzman sufficiently proved the guilt of accused-appellant beyond reasonable doubt. There was no necessity to present Tecson and Catalan. Their testimonies would only be corroborative.

Finally, accused-appellant takes exception to a portion of the trial court's decision which stated:

"It is equally important to note that accused jumped bail in 1983 and was only rearrested in 1991. The fact that it took eight (8) years to arrest accused shows that he went into hiding. Flight is an indication of a guilty mind x x x (and) is evidence of guilt x x x." (Rollo, at p. 15)

He contends that it took the authorities eight (8) years to arrest him but that does not necessarily mean he tried to evade arrest.

The crime was committed on May 25, 1982. Trial on the merits was conducted only after accused-appellant was arrested in October 1993 for his presence in court was necessary for his identification by the prosecution witnesses. Noticeably, accused-appellant, in his Brief, never categorically denied that he went into hiding. Neither did he offer any reason for his stay in Davao for a period of eight (8) years. There is reason to conclude that accused-appellant fled to evade arrest.

Since accused-appellant waived his right to adduce evidence, he failed to deny or explain his presence at the scene of the crime at the time of its commission. Neither did he ascribe any bias or improper motive on the part of the prosecution witnesses that could have prompted them to testify falsely. We are satisfied that the prosecution evidence established his guilt beyond reasonable doubt.

Accused-appellant was meted the correct penalty. He caught the unarmed and unsuspecting victim by surprise and stabbed him at the back for no apparent reason. Treachery attended the commission of the crime. Murder qualified by treachery is punished under the Revised Penal Code by reclusion temporal in its maximum period to death.[10]

Since no mitigating or aggravating circumstance attended the commission of the crime, the impossible penalty is reclusion perpetua.[11]

IN VIEW WHEREOF, the appealed Decision is hereby AFFIRMED in toto. Costs against accused-appellant.

SO ORDERED.

Narvasa, C.J., (Chairman), Padilla, Regalado, and Mendoza, JJ., concur.

[1] Original Records, p. 1.

[2] TSN, January 21, 1992, pp. 2-3.

[3] *id.*, pp. 8-10.

[4] *id.*, pp. 4-5.

[5] TSN, March 4, 1992, pp. 4-6; TSN, March 11, 1992, p. 4.

[6] TSN, February 18, 1992, pp. 3-4.

[7] TSN, March 4, 1992, p. 9.

[8] Decision dated October 28, 1992, penned by Judge Eufrocinio S. Dela Merced, Rollo, pp. 40-45.

[9] TSN, March 4, 1992, pp. 5-6.

[10] Article 248, Revised Penal Code.

[11] Article 64 (1), Revised Penal Code.

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