

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RONNIE AMANIA, MANUEL AMANIA, GERMINIANO DANONG, GREGORIO CALIZA ALIAS GORING, EFREN LUCABON, ERNESTO PIAMONTE, JR., AND DANIL...

G.R. No. 108598. September 21, 1995

Ponente: REGALADO, J.

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REGALADO, J.:

Via an information dated March 11, 1988 which commenced Criminal Case No. DU-680 in the Regional Trial Court, Branch 108 of Mandaue City, accused Ronnie Amania, Manuel Amania, Germiniano Danong, Gregorio Caliza, Efren Lucabon, Ernesto Piamonte, Jr., and Danilo Peras were all charged with the crime of murder as confederators therein.[1] As the trial court's response to the position espoused by the prosecution was affirmative, accused-appellants, with the exception of Ronnie Amania who bolted from jail soon after his arraignment and has since remained at large, have interposed this appeal assailing said court's conclusion of guilt on their part.

The principal eyewitness for the prosecution, Cecilia Deguilmo, an employee of the Regional Trial Court in Cebu City, was the widowed spouse of the victim, Police Officer Douglas Deguilmo of the Carbon Police Substation in Cebu City. She recounted at the trial that she and her husband were on their way to their respective workplaces at around 7:00 to 8:00 A.M. of March 1, 1988 when her husband was gunned down near the entrance gate to San Jose Village in Umapad, Mandaue City where they were then residing. She later tagged, in a police line-up and at the trial, the brothers Ronnie and Manuel Amania as her husband's assassins while the rest, appellants Gregorio Caliza, Germiniano Danong, Efren Lucabon, Ernesto Piamonte, Jr., and Danilo Peras, apparently acted as lookouts.[2]

Cecilia Deguilmo recalled that within the hour, she was able to report the incident to a police station where she furnished descriptions of the physical features of the malefactors. Then, together with two policemen, she brought her husband to the Cortes General Hospital where Pfc. Deguilmo expired from gunshot wounds.[3] Feliciano Hortelano, who was having breakfast at the time of the incident in his house located around twenty-five meters from the crime scene, recalled that shortly after hearing a burst of gunfire, he instinctively turned towards the area where the shots came from. In a little while, Ronnie Amania and Germiniano Danong hurriedly ran past his house and he noticed that both of them were armed with handguns. Hortelano later identified the two after they were arrested by police authorities and also at the trial.[4]

Sgt. Sixto Ompad of the 348th Philippine Constabulary Company stationed in Mandaue City testified that after they received a report of the shooting incident at around 8:00 o'clock of that same morning, a team that included himself was sent out to San Jose Village to apprehend possible suspects in the slaying of Pfc. Deguilmo. With the help of an informant and of some residents in the area, they were able to track down and effect the arrest of the accused on the same day. The Amania brothers were apprehended in a house at Plaridel Street, Mandaue City. Gregorio Caliza was caught at a house in Sitio Basurahan, also in Mandaue City, while Ernesto Piamonte, Jr. was

collared near Caliza's residence. Appellants Danilo Peras and Efren Lucabon, on the other hand, were apprehended in different salt warehouses at Umapad, Pilapil, likewise in Mandaue City. The seven accused were later positively identified by Cecilia Deguilmo as the persons who carried out her husband's assassination.[5]

All the appellants uniformly disclaimed any participation in the slaying of Pfc. Deguilmo. Both Manuel Amania and Germiniano Danong, who are cousins, insisted that on the day and at the hour in question, they were in the former's house at Umapad where they sorted out junk and scrap materials for one Juana Taborada whose business was to buy and sell these things.[6] Gregorio Caliza, a resident and a barangay tanod at Umapad, testified that he was also in his house at the time.[7] Ernesto Piamonte, Jr., a neighbor of Caliza, likewise averred that he was at his residence during the shooting incident.[8] Efren Lucabon alleged that he was working at a warehouse in Mandaue City where he had just been accepted as a worker when military elements pounced on him at 10:30 in the morning of March 1, 1988 in connection with the shooting of Pfc. Deguilmo.[9] Danilo Peras, for his part, recalled that he was at the place of a certain Cita Seno, where he worked as a craftsman, in the morning of March 1, 1988 and that when he was on his way to his home in Umapad at around 12:00 noon of that day, he was suddenly accosted by constabulary men near the Opao Elementary School.[10]

When arraigned on April 4, 1988, all the accused, with the assistance of counsel, pleaded not guilty.[11] Trial thereafter ensued although, as earlier mentioned, accused Ronnie Amania later escaped from prison. On October 21, 1992, the lower court handed down its verdict, rejecting the defenses of all the accused and pronouncing them guilty as conspirators in the crime of murder qualified by treachery and aggravated by abuse of superior strength. Since the death penalty was then proscribed, each of them was sentenced to suffer the penalty of reclusion perpetua together with the accessory penalties thereof; to indemnify, jointly and severally, the heirs of the victim in the amount of P50,000.00 without subsidiary imprisonment in case of insolvency; and to pay their respective shares of the costs. They were, however, credited in the service of their sentences with the periods during which they were under detention.[12]

In their appeal brief, appellants contend that the trial court erred in extending credence to the evidence of the prosecution, particularly the eyewitness account of the victim's spouse which appellants claim was inherently doubtful, instead of granting credit to that adduced by the defense. Furthermore, it is their submission that the failure of the prosecution to present the informant in court is a circumstance which considerably weakened its case. Conversely, appellants assert that had their foregoing postulations been appreciated, the defenses they adduced would have been correspondingly strengthened. We do not perceive any reversible faux pas committed by the lower court in the case now under review.

Appellants consider it beyond the ambit of human experience that Cecilia Deguilmo, in spite of "so startling and horrifying" an event as the brutal murder of her husband which was carried out in a matter of seconds right before her very eyes, could well "remember all the faces of the assailants whom she admitted to have seen for the very first time." The logical thing that she would have done, so appellants conjecture, was to instantly rush to her husband's side after the assault in order to attend to him; or, she would even have become panic-stricken and thereby rendered oblivious to her surroundings and to the identities of her husband's attackers.

There is, to start with, nothing unusual about said eyewitness' comportment during the very occurrence of the shooting and immediately thereafter. She was able to remember her husband's assailants because the circumstances under which the ambush transpired precisely made recollection and identification entirely possible and facile. By her own account, as she and her husband were walking toward the gate of San Jose Village, she clearly observed two individuals about two meters in front of and facing them, and apparently gesturing to somebody behind them. These two, according to her, were Gregorio Caliza and Germiniano Danong. She consequently turned around toward the direction they indicated and it was then that she saw Ronnie and Manuel

Amania, who were standing only about three meters away, unceremoniously fire away at her ill-fated husband. Then, as Pfc. Deguilmo lay stricken on the road, Ronnie Amania came over to divest the victim of his wristwatch, Rayban sunglasses, wallet, and service firearm. At this time, she also noticed the presence of three other individuals who stood facing them about five meters away from where they were. Shortly after Ronnie Amania had taken her husband's belongings, these three, whom she categorically identified to be Efren Lucabon, Ernesto Piamonte, Jr. and Danilo Peras, then fled with the Amanias toward the interior portion of San Jose Village.

Thus, while it may be conceded that she was terrified by it all, Cecilia Deguilmo could not conceivably have erred in positively pointing to appellants as the very same individuals who killed her husband. The assassination was committed in broad daylight. The Deguilmos and the accused were only a few meters apart from one another. Notwithstanding that it was over in a few seconds, there was more than ample time for Cecilia Deguilmo to have a clear view of her husband's assailants whom she saw face to face and one by one. And it could very well be that, contrary to appellants' theory, the very terror that gripped her that day indelibly etched in her mind and memory the identities of the murderers. It is a recognized psychological fact that one of the strongest aids to memory is the emotional reinforcement and impact on the mind caused by a shocking or horrifying event. That is why she showed no hesitation whatsoever when she unequivocally identified the accused at the police station a couple of days later and, subsequently, during the hearings.

The trial court, therefore, did not err when it considered as indisputably established the positive identification of the accused, in light of which it discredited as valueless in evidence the defenses of alibi cum denial interposed by appellants. Positive identification, where categorical and consistent and without any showing of ill motive on the part of the eyewitness testifying on the matter, prevails over alibi and denial which if not substantiated by clear and convincing evidence are negative and self-serving evidence undeserving of weight in law.[13] Parenthetically, we have stressed time and again that these defenses are inherently weak and unreliable as they are easy to concoct and fabricate. In the case of alibi, it is elementary case law that the requirements of time and place be strictly complied with by the defense, meaning that the accused must not only show that he was somewhere else but that it was also physically impossible for him to have been at the scene of the crime at the time it was committed.[14]

Needless to state, said requirements have not been convincingly established by appellants. In fact, they admit that they were all in the vicinity of Umapad, Mandaue City, although in different places, at the time of the fatal shooting of Pfc. Deguilmo. This circumstance, they nonetheless argue, runs counter to the normal actuations of criminals to flee far away from the scene of the crime in order to evade detection. Appellants would accordingly insist that their presence in Umapad, instead of being regarded as corrosive of their defense, should be accepted as the truth and, hence, as an indication of their innocence.

We have repeatedly held, however, that there is no law or principle which guarantees that non-flight per se is proof, let alone conclusive proof, of one's innocence and, as in the case of alibi, such a defense is unavailing when placed astride the undisputed fact that there is positive identification of the felon.[15] Cecilia Deguilmo, as earlier noted, was forthright in her assertion that it was Ronnie and Manuel Amania who snuffed out her husband's life. Another prosecution eyewitness, Feliciano Hortelano, on whom likewise no improper motive to testify falsely has been imputed by the defense, corroborated her account about the presence of two of the accused, Ronnie Amania and Herminiano Danong, near the locus delicti just after the incident.

As regards the non-presentation of the informant who furnished the whereabouts of appellants to the constabulary authorities, his presence in court is not indispensable as his testimony would only be corroborative of the testimony of Sgt. Sixto Ompad who was among those sent out to track down the suspects. Sgt. Ompad's testimony about the eventual apprehension of all the accused being likewise clear, positive and explicit, the same should be

given full faith and credence. Moreover, as an enforcer of the law, the presumption of regularity in the performance of his duties must be duly observed in his favor^[16] for, as in the case of Cecilia Deguilmo and Feliciano Hortelano, no improper or dubious motive has been attributed to him in testifying for the prosecution and against the accused.

The evidence on record also amply supports the finding of conspiracy and treachery. In conspiracy, it is essential that there must be unity of purpose and unity in the execution of the unlawful object.^[17] Like any other ingredient of the offense charged, it must be proved as sufficiently as the crime itself through clear and convincing evidence, and not by mere conjecture.^[18] In the absence of direct evidence, the same can be inferred and proven by the totality of the acts of the accused when said acts indubitably point to a joint purpose and design.^[19] In the present case, we are satisfied that the existence of a conspiracy can be clearly concluded from the conduct and concerted acts of the seven accused.

The sequence of events irresistibly conduce to the fact of such a confabulation. As soon as the Deguilmo spouses were near the entrance gate of San Jose Village, Gregorio Caliza and Germiniano Danong appeared out of nowhere and gave hand signals to their confederates who were then already behind the spouses, apparently to confirm that their quarry had arrived. The Amania brothers, without much ado, then shot Pfc. Deguilmo, killing the latter instantly. At the same time, Cecilia Deguilmo observed the presence of Efren Lucabon, Ernesto Piamonte, Jr. and Danilo Peras nearby while Ronnie Amania was divesting her husband of his belongings. Thereafter, the Amanias and these three persons all fled together from the scene of the crime. All their foregoing coordinated acts, from shortly before the commencement of the attack until the subsequent escape of the felons, conclusively establish a criminal confederacy on the part of appellants.

Finally, *alevosia* characterized the killing, thus qualifying it to murder. Here, the attack on Pfc. Deguilmo was from behind, sudden and unexpected, and without the slightest warning. Obviously, the accused deliberately resorted to such a mode of attack knowing that their victim, a policeman, was armed and could defend himself if the field of combat for a firefight was fair and level. In view of the presence of treachery, abuse of superior strength, which the trial court found to be attendant in the killing, should not be appreciated as a separate aggravating circumstance. Under the factual scenario of this case, abuse of superior strength is absorbed in *alevosia*.^[20] The penalty would nonetheless be the medium period of that prescribed for murder, that is, reclusion perpetua.

WHEREFORE, the appeal is DISMISSED and the assailed judgment is hereby AFFIRMED in toto, with further costs in this instance against accused-appellants.

SO ORDERED.

Narvasa, C.J., (Chairman), Puno, Mendoza, and Francisco, JJ., concur.

* His name appears as "Herminiano" Danong in the transcript of stenographic notes.

[1] Original Record, 1-2; Rollo, 3-4.

[2] TSN, April 20, 1988, 5-16.

[3] *Ibid.*, *id.*, 17-18.

[4] *Id.*, March 1, 1988, 4-10.

[5] *Id.*, July 10, 1989, 2-10; September 13, 1989, 9-15.

[6] Id., October 29, 1991, 8-9; December 12, 1991, 4-6.

[7] Id., April 5, 1991, 5, 10-11.

[8] Id., July 10, 1991, 8-10.

[9] Id., September 17, 1991, 3-8.

[10] Id., September 21, 1992, 2-5.

[11] Original Record, 12.

[12] Ibid., 174-175.

[13] *People vs. Evangelista*, G.R. No. 107683, August 11, 1994, 235 SCRA 247; *People vs. Escoto*, G.R. No. 91756, May 11, 1995.

[14] *People vs. Flores, et al.*, G.R. No. 98069, January 27, 1993, 217 SCRA 613; *People vs. Apawan, et al.*, G.R. No. 85329, August 16, 1994, 235 SCRA 355.

[15] *People vs. Desalisa*, G.R. No. 95262, January 4, 1994, 229 SCRA 35; *People vs. Parica, et al.*, G.R. No. 80611, April 21, 1995.

[16] *People vs. David*, G.R. No. 105667, March 1, 1994, 230 SCRA 541; *People vs. Cuacho*, G.R. Nos. 106286-87, December 1, 1994, 238 SCRA 540.

[17] *People vs. Silong, et al.*, G.R. No. 110830, May 23, 1994, 232 SCRA 487; *People vs. Manuel, et al.*, G.R. Nos. 93926-28, July 28, 1994, 234 SCRA 532.

[18] *People vs. Jorge*, G.R. No. 99379, April 22, 1994, 231 SCRA 693; *People vs. Orehuela, et al.*, G.R. Nos. 108780-81, April 29, 1994, 232 SCRA 82.

[19] *People vs. Bayrante, et al.*, G.R. No. 92508, August 4, 1994, 235 SCRA 19; *People vs. Hilario*, G.R. No. 114268, May 31, 1995.

[20] *People vs. Renejane, et al.*, G.R. Nos. 76954-55, February 26, 1988, 158 SCRA 258; *People vs. Centeno, et al.*, G.R. No. 33284, April 20, 1989, 172 SCRA 607.

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