

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
RONALDO FABRO Y SERVANTES, JOVEL CASTRO Y EUGENIO ALIAS
JOEL CASTRO AND HERNANDO MORALES Y DE CASTRO,
ACCUSED-APPELLANTS.**

G.R. No. 109578. August 27, 1997

Ponente: FRANCISCO, J.

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FRANCISCO, J.:

In the afternoon of September 22, 1991, a stabbing incident took place in Galas Market, Quezon City. The victim was Victor Ramirez y Olegonio, a vendor, who sustained twenty eight (28) wounds, “fourteen (14) of which are stab wounds while the rest are either hacked wounds, incised wounds, abrasions and contusions.”[1] He died instantaneously of “cardio respiratory arrest due to shock and hemorrhage secondary to multiple stab wounds in the body.”[2]

Tagged as responsible for this gruesome crime are Hernando Morales (appellant herein), Ronaldo Fabro, Jovel Castro and another unidentified accused, all of whom were thereafter charged with murder under the following accusatory allegations:

That on or about the 22nd day of September, 1991, in Quezon City, Philippines, the above-named accused, with intent to kill, with abuse of superior strength and with evident premeditation and treachery, conspiring together, confederating with other persons and mutually helping with (sic) one another, did then and there, willfully, unlawfully and feloniously attack, assault and employ personal violence upon the person of one VICTOR RAMIREZ Y OLEGENIO, by then and there stabbing him on the different parts of his body with bolos (bladed weapons), thereby inflicting upon him serious and mortal wounds which were the direct and immediate cause of his untimely death, to the damage and prejudice of the heirs of the said victim.

CONTRARY TO LAW.”[3]

After being arrested, they were arraigned[4] and separately pleaded not guilty to the crime charged. Ronaldo Fabro and Jovel Castro, however, had a change of heart during the ensuing trial and admitted their actual participation in the commission of the crime.[5] Nonetheless, they asserted in their testimony that appellant was not “involved” in the incident, claiming that he was merely included in the indictment by Victor’s heirs because they had a grudge against him. Appellant, according to them, previously caused the arrest of Victor allegedly for selling shabu.[6]

Believing the prosecution’s version that appellant was among Victor’s assailants, the trial court rendered a judgment of conviction sentencing him and his co-accused to suffer reclusion perpetua and to jointly and severally pay the heirs of Victor P50,000.00, as death indemnity, and P30,000.00, as moral damages.[7] They were likewise ordered by the trial court to pay the costs of the suit.[8]

They all filed their Notices of Appeal but Ronaldo Fabro and Jovel Castro subsequently moved to withdraw their

appeal which we accordingly granted[9] following the Public Attorney's Office's[10] confirmation that such withdrawal was knowingly and voluntarily made.

This appeal therefore concerns only appellant Hernando Morales who maintains that:

THE TRIAL COURT ERRED IN CONVICTING ACCUSED-APPELLANT GUILTY BEYOND REASONABLE DOUBT OF MURDER DESPITE INSUFFICIENCY OF EVIDENCE BY THE PROSECUTION.”[11]

It is appellant's principal contention that the prosecution witnesses' testimony, from which the trial court anchored its verdict of conviction, are “riddled with legal x x x inconsistencies, incongruities and incredulities x x x.”[12] In support thereof, appellant points out that: (1) Remigio Nitura testified seeing Victor talking to his step-father Rosendo Pusilero seconds before the incident, but Angelina Olegeno and Rosendo Pusilero did not mention of such fact, and (2) Rosendo testified that appellant approached Victor from behind and stabbed the latter at his chest, while Remigio Nitura claimed that appellant called Victor and when the latter turned, appellant stabbed Victor.[13]

To our mind, the alluded inconsistencies are inconsequential for they do not affect the substance of the prosecution witnesses' testimony with respect to appellant's participation in the commission of the crime. If at all, these alleged inconsistencies refer only to collateral matters which are neither substantial nor of such nature as to cast serious doubt on the credibility of witnesses.[14] And far from detracting from their credibility, these inconsistencies, in fact, suggest that the assailed testimonies were unrehearsed.[15] We certainly do not expect the testimony of witnesses to the crime to be consistent all throughout because different persons may have different impressions and recollections of the same incident.[16]

We must stress that appellant has been positively identified by at least three (3) prosecution eyewitnesses, namely: (1) Rosendo Pusilero; (2) Angelina Olegeno; and (3) Remigio Nitura, as the first assailant to approach and stab Victor on his chest.[17] They are also one in declaring that after his initial stabbing, appellant even lifted Victor's polo shirt from behind and used the same to cover his (Victor's) face and thereafter stabbed him again. It was at this juncture that the other assailants arrived and successively stabbed and/or hacked Victor while Angelina was pleading for their mercy. The trial court, which has observed their demeanor while on the witness stand, finds no cogent reason to doubt their credibility. We respect and uphold the same considering that the matter of assigning values to the testimony of witnesses is a function best performed by the trial judge[18] whose findings thereon are entitled to the highest degree of respect on appeal.[19]

Appellant's defense of alibi -- that he was in Lagro Subdivision, Quezon City at the time of the incident where he was allegedly employed as construction worker[20] -- albeit being corroborated by Rolando Villaflor,[21] must fail. As against the testimony of the prosecution witnesses amply demonstrating appellant's participation in the commission of the crime, his alibi cannot prevail.[22] Furthermore, proof that appellant was somewhere else when the crime was committed is not enough. Appellant must likewise demonstrate that he could not have been present at the crime scene, or in its vicinity, at the time of its commission.[23] In this case, as the trial court correctly noted,[24] Lagro Subdivision and Galas Market are both situated in Quezon City and that these two places are accessible to each other by any mode of public transportation. Indeed, considering the proximity of these two places with each other, it was not impossible for appellant to have easily gone to Galas Market at about the time of the commission of the crime and to have returned to Lagro Subdivision immediately thereafter.

With respect to the existence of treachery, we fully subscribe to the findings of the trial court that this qualifying circumstance was truly present in this case. Angelina narrates how her son Victor met his untimely and bloody death in the hands of the appellant and his cohorts:

Q

On September 22, 1991 at about 12 o'clock noontime, where were you?

A

I was in my store.

Q

Why were you there at your place of business or store at Galas Market Quezon City, (sic) was there any unusual incident happened?

A

Yes ma'am.

Q

And what was that incident ?

A

That person [referring to appellant] I heard him call my son Victor, and then when my son face (sic) towards that person he stabbed my son in his chest and he also removed the polo-shirt of my son and he stabbed him again.

Q

What happened Mrs. witness, after your son was stabbed twice by that person?

A

Ronaldo Fabro arrived and the other persons arrived and each took turned (sic) stabbing my son.”[25]
(Underscoring Ours)

It can be gleaned from the foregoing testimony that Victor was not in a position to defend himself when appellant made the initial assault. Neither was he sufficiently forewarned of the same considering the suddenness of the attack. What was clear was that appellant suddenly emerged from somewhere and lunged at the unsuspecting Victor. That appellant purposely adopted this mode of attack to consummate the crime without any risk to himself is beyond doubt, as in fact, he even waited for what could be a perfect opportunity for commencing the assault.[26] This, unmistakably, was treachery.[27]

WHEREFORE, in view of the foregoing, the assailed decision of the Regional Trial Court of Quezon City, Branch 92 convicting appellant HERNANDO MORALES Y DE CASTRO of the crime of Murder is hereby AFFIRMED in toto. It is so ordered.

Narvasa, C.J., (Chairman), Davide, Jr., Melo, and Panganiban, JJ., concur.

[1] Regional Trial Court, Quezon City, Branch 92, Decision dated February 9, 1993, Rollo, p.16; See Exhibit “B”, Record, p. 58.

[2] Exhibit “A-1,” Record, p. 57.

- [3] Amended Information dated May 26, 1992; Record, p. 28.
- [4] Ronaldo Fabro and Jovel Castro were arraigned on February 10, 1992 (Record, p. 21), while appellant Hernando Morales was arraigned on June 22, 1992 (Record, p. 39).
- [5] TSN, Ronald Fabro, August 24, 1992, p. 4; TSN, Jovel Castro, August 24, 1992, p. 12.
- [6] TSN, Ronald Fabro, August 24, 1992, p. 5; TSN, Jovel Castro, August 24, 1992, p. 13.
- [7] RTC Decision, *supra* at p. 23.
- [8] *Id.*
- [9] Resolution Dated November 22, 1993; Rollo, p. 68.
- [10] Now Public Defender's Office.
- [11] Brief for the Appellant, dated November 3, 1993; Rollo, p. 44.
- [12] *Id.* p. 50.
- [13] *Id.* pp. 50-51.
- [14] *People v. Porras*, 255 SCRA 514 (1996) citing *People v. Ireneza*, 164 SCRA 121 (1988) and *People v. Cariño*, 165 SCRA 664 (1988).
- [15] *People v. Acob*, 246 SCRA 715 (1995); *People v. Cajambab*, 240 SCRA 643 (1995).
- [16] See *People v. Gazmen*, 247 SCRA 414 (1995).
- [17] TSN, Rosendo Pusilero, July 23, 1992, p. 3; TSN, Angelina Olegeno, August 6, 1992, p. 2; TSN, Remigio Nitura, October 22, 1992, p. 6.
- [18] *People v. Bondoc*, 232 SCRA 478 (1994); *People v. Nimo*, 227 SCRA 69 (1993).
- [19] *People v. de la Cruz*, 217 SCRA 283 (1993); *People v. Dominguez*, 217 SCRA 170 (1993); *People v. Caraig*, 202 SCRA 357 (1991); *People v. Sarol*, 139 SCRA 125 (1985). This rule of course admits of certain exceptions, which we find absent herein, namely: (1) when patent inconsistencies in the statements of witnesses are ignored by the trial court, or (2) when the conclusions arrived at are clearly unsupported by the evidence. See *People v. Gumahin*, 21 SCRA 729 (1967); *People v. Secapuri, et. al.*, 16 SCRA 199 (1966).
- [20] TSN, Hernando Morales, September 10, 1992, pp. 5-7.
- [21] TSN, Rolando Villaflor, October 1, 1992, pp. 4-6.
- [22] *People v. Porras*, 255 SCRA 514, 525 (1996) citing *People v. Miranday*, 242 SCRA 620 (1995); See *People v. Claudio*, 216 SCRA 647 (1992); *People v. Yadao*, 216 SCRA 1 (1992); *People v. Cabuang*, 217 SCRA 675 (1993).
- [23] *People v. Manero, Jr.*, 218 SCRA 85 (1993), citing *People v. Pugal*, 215 SCRA 247 (1992).
- [24] RTC Decision, *supra* at p. 22.
- [25] TSN, Angelina Oligeno, July 23, 1992, p. 13.
- [26] TSN, Remigio Nitura, October 22, 1992, p. 5.
- [27] *Serrano v. Court of Appeals*, 247 SCRA 203 (1995); *People v. Torres*, 247 SCRA 212 (1995); *People v.*

Adonis, 240 SCRA 773 (1995).

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