

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ANDION YANGAN, JIMMY YANGAN, JOHN DOE, PETER DOE, RICHARD DOE, AND JAMES DOE, ACCUSED. ANDION YANGAN AND JIMMY YANGAN, ACCUSE...

G.R. No. 109770. June 28, 1994

Ponente: DAVIDE, JR., J.

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DAVIDE, JR., J.:

For the death due to stab and hack wounds of Pepito Castillo on 15 October 1991, accused Andion Yangan, Jimmy Yangan and others designated as John Doe, Peter Doe, Richard Doe, and James Doe were charged with murder in an information[1] filed with the Regional Trial Court of Mati, Davao Oriental.

The case was docketed as Criminal Case No. 2219 and raffled to Branch 5 of the said court.

Only the accused Andion and Jimmy Yangan, who are brothers, were arrested. Their co-accused have remained unidentified and at large. The case proceeded only as against the Yangans who pleaded not guilty upon arraignment.

During the trial, the prosecution presented Remelita and Maria Pontillas as its witnesses. It also offered in evidence the death certificate[2] of the victim, Pepito Castillo. On the other hand, the defense presented accused Andion and Jimmy Yangan as its witnesses.

On 21 January 1993, the trial court promulgated its decision[3] finding accused Andion and Jimmy Yangan guilty of the crime of murder. Its dispositive portion reads as follows:

"WHEREFORE, IN VIEW OF THE FOREGOING, the Court hereby finds the accused Andion Yangan and Jimmy Yangan 'GUILTY' beyond reasonable doubt of the crime of Murder with the qualifying circumstance of treachery, and hereby sentences each of them to suffer the penalty of RECLUSION PERPETUA, to indemnify, jointly and severally, the heirs of the deceased Pepito Castillo the sum of P50,000.00, and to pay the costs of the proceeding.

The case as against the other accused, namely: John Doe, Peter Doe, Richard Doe and James Doe is archived pending their identification and arrest.

SO ORDERED."[4]

The conviction is based on the finding of the trial court that the prosecution's evidence

"established that Pepito Castillo, victim herein, on October 15, 1991, in the Municipality of San Isidro, Province of Davao Oriental, died as a result of multiple hacked wounds inflicted upon him in his stomach and back (Exhs. "A", "A-1", "A-2", "A-3", "A-4", "A-5", "A-6", and "A-7"). Prosecution witnesses Remelita Pontillas and Maria Pontillas positively declared that it was the accused Andion Yangan and Jimmy Yangan who hacked with their bolos the said victim hitting the latter in the stomach and at the back."[5]

The trial court considered the defense of alibi put up by the accused as "very weak" because the

"accused were in the vicinity of the scene of the crime at the time of its commission. They were positively identified by prosecution witnesses who have no motive to falsely implicate the herein accused. [The] alibi of the accused cannot prevail over their positive identification by the prosecution witnesses." [6]

The testimonial evidence for the parties is summarized by the trial court in this wise:

"Remelita Pontillas, 24 years old, married, farmer and resident of Panabsaban, Dugmanon, San Isidro, Davao Oriental, declared that at about 2:00 o'clock dawn of October 15, 1991, she was in the house of her mother-in-law, Maria Pontillas, at Panabsaban, Dugmanon, San Isidro, Davao Oriental; that there were persons who are knocking the door but they did not open the door, so that what they did was to peep through the holes of the walling of the house and they saw the accused Andion Yangan and Jimmy Yangan, brothers, who were bringing her uncle, Pepito Castillo, who was hogtied; that because they did not open the door, both accused brought Pepito down and built fire using dried coconut leaves near the house; that she saw the two accused hacked with their bolos her uncle Pepito who still was able to run about 25 meters away; that she heard gunshot; that because they were afraid they did not immediately go down until about 5:00 o'clock in the morning and looked for her uncle Pepito whom they found lying already dead with several big wounds on the stomach and at the back; that the incident was reported to the barangay captain and the detachment commander; and thereafter Mayor Alfredo Leones and two (2) policemen arrived and examined the scene of the crime and the body of the victim Pepito Castillo; and that she was able to recognize the accused because of the light emanating from the fire of the burning dried coconut leaves.

Maria Pontillas, 33 years old, housewife, married and residing at Panabsaban, Dugmanon, San Isidro, Davao Oriental, declared that she worked as laborer of the land owned by one Juanito Lim; that while she was in her house at Panabsaban, Dugmanon, San Isidro, Davao Oriental, while she was in her house at about 2:00 o'clock dawn of October 15, 1991, there was knocking in the house; that she did not open the door but peeped through the holes of the walling of the house made of bamboo split and thereat saw the accused Andion Yangan and Jimmy Yangan bringing her brother Pepito Castillo who was hogtied at the back; that because she did not open the door, the accused went down with Pepito and built fire using dried coconut leaves; that thereafter the two accused Andion Yangan and Jimmy Yangan hacked Pepito with their bolos and the latter was able to ran about 25 meters away but was pursued by the accused; t hat she was able to recognize the accused because of the light produced by burning of the dried coconut leaves put up by the accused; that they were afraid to go down the house but at about 5:00 o'clock in the morning they went down to look for Pepito and found him lying dead about 25 meters away with many wounds on his body; that Pepito was already naked with only his brief; and that thereafter the Mayor and policemen arrived in their house to investigate the incident. The witness further declared that she was able to identify the accused Andion Yangan and Jimmy Yangan because of the light produced by the fire by burning the dried coconut leaves put up by the accused; that she knows the accused because she used to see them at Manikling together with their mother who was selling viand; and that at that time Pepito, her brother, slept at the copra drier because he came from the dance and was not able to go up the house.

In his defense, Andion Yangan declared that he is 20 years old, residing at Manikling, San Isidro, Davao Oriental and a farmer; that he has been residing at Manikling for a long time; that he has been living with his parents; that on October 15, 1991, he was at Bacong, San Isidro working in the land of Senon Pleños weeding grasses; that they were four working thereat, namely: Rogelio Yangan, Jimmy Yangan, Resco Capul and himself; that they started working on October 12, 1991 and went home only on November 1, 1991; that he and his brother Jimmy Yangan were arrested on December 20, 1991 by certain Opong Calumbay, a CAFGU, without a warrant of arrest, who told them they would be taken to Dugmanon; that they were taken to the Barangay Captain for investigation, and he denied the charges against him.

Accused Jimmy Yangan, on his part, declared that he is 15 years old, and resident at Manikling, San Isidro,

Davao Oriental, with his parents; that on October 15, 1991, he was at Bacong, San Isidro, working in the land of Senon Pleños with his elder brother Andion and other persons; they started working on October 12, 1991 up to November 1991; that on December 20, 1991, they were arrested by Opong Calumbay, a CAFGU, and were brought to Dugmanon, San Isidro, to the Barangay Captain for investigation, but denied the charge against them." [7]

Insisting upon their innocence, the accused filed a notice of appeal wherein they manifested their intention to appeal to the Court of Appeals.[8] In view of the penalty imposed, the appeal should have been made to this Court.[9] The trial court erroneously directed the elevation of the records of the case to the Court of Appeals. The latter, however, on 12 March 1993 transmitted the records to this Court which accepted the appeal in its Resolution of 21 June 1993.[10]

In their Brief,[11] the accused-appellants raise this lone assignment of error:

"THE TRIAL COURT ERRED IN CONVICTING ACCUSED APPELLANTS OF THE CRIME CHARGED DESPITE THE FAILURE OF THE PROSECUTION TO PROVE THEIR GUILT BEYOND REASONABLE DOUBT." [12]

and allege in support thereof that prosecution witnesses Remelita and Maria Pontillas did not categorically state that they saw the accused-appellants hack and kill Pepito Castillo. They point out that Remelita made the following admissions upon questioning by the trial court:

"Q. When you saw your uncle being hog tied what happen?

A. He was hacked.

Q. Hack by whom?

A. I did not see when he was hacked because there was no more fire.

Q. Since you did not see him being hacked how can you say that he was hacked?

A. Through the sound, his voice, because everytime he was hacked we can hear his voice.

Q. You only concluded that Pepito was hacked because of his voice?

A. Yes, sir.

Q. What was he saying that you hear?

A. Moaning with pain." [13]

and that Maria also made the following admissions in answer to the court's question:

"Q. You did not actually see who hack and who was hacked?

A. I did not see sir because the light was put out." [14]

To further engender doubt on their actual complicity in the killing of the victim, the accused-appellants cite the testimony of Maria that there were other men in the premises aside from the accused-appellants.[15]

In the Brief for the Appellee,[16] the Office of the Solicitor General concedes that no eyewitness testified to having seen the accused-appellants hack the victim. It maintains, however, that the following circumstances point to no other conclusion than that the accused-appellants perpetrated the crime charged:

"First, the verbal warning made by the appellants at around 2:00 A.M. on October 15, 1991 directing the members of the Fontillas household to open the door otherwise they would all be killed (TSN, May 19, 1992,

p. 65).

Second, the spontaneous utterances of the victim, Pepito Castillo, immediately prior to his death, pleading for the members of the Fontillas household to open the door for him because he was told by the appellants that he would be killed if he would not request Maria Fontillas and her family to open the door for them (TSN, April 29, 1992, p. 21).

Third, the spontaneous utterance made by Andion and Jimmy Yangan immediately prior to the hacking of the victim that due to the failure of the Fontillas and her family to open the door, they would kill Pepito Castillo (TSN, May 19, 1992, p. 50).

Fourth, the testimonies of prosecution witnesses Remelita Fontillas and Maria Fontillas who corroborated each other positively identifying the perpetrators as Andion Yangan and Jimmy Yangan after the appellants together with Pepito Castillo descended the stairs and lit a fire near the door of their bodega for three minutes. (TSN, April 29, 1992, pp. 19, 24-25; TSN, May 19, 1992, pp. 50-51, 67-68).

Prosecution witness Maria Fontillas further described the appellants as wearing black T-shirt and black pants armed with a bolo about 1/2 meters long who were facing the fire some two and a half meters away from the wall of her house together with Pepito Castillo (TSN, May 19, 1992, pp. 52, 67-68).

Prosecution witness Remelita Fontillas testified that she saw appellants both armed with long bolo (TSN, April 29, 1992, p. 25, 40) and saw them hogtie her uncle Pepito Castillo and one of them looked up expecting the window to be opened (TSN, April 29, 1992, pp. 34-35) while her uncle pleaded for their help (TSN, April 29, 1992, pp. 30-31).

Fifth, the repeated pleadings of Pepito Castillo to the family of Maria Fontillas, immediately after he was hogtied and before he was hacked, asking for their help because he might die (TSN, April 29, 1992, p. 31.)

Sixth, the act of appellants in extinguishing the fire they lit inside the bodega of Maria Fontillas immediately before they hacked and killed the victim (TSN, April 29, 1992, p. 36; TSN, May 19, 1992, p. 68).

Seventh, the spontaneous utterance of the victim while moaning in pain while he was repeatedly hacked and calling the name of his sister Maria Fontillas and informing her that he was being hacked (TSN, May 19, 1992, p. 70; TSN, April 29, 1992, p. 27).

Eight, the flight of the appellants from the scene of the crime immediately after a gunshot was fired and Pepito Castillo fell to the ground (TSN, April 29, 1992, pp. 7-8; TSN, May 19, 1992, pp. 54-55).

Ninth, the residue of the fire lit by the appellants downstairs inside the bodega of Maria Fontillas shown by prosecution witness Remelita Fontillas to the responding policemen (TSN, April 29, 1992, p. 32).

Tenth, the dead body of Pepito Castillo sprawled on the very same spot where he fell bearing several stab and hack wounds on his breast, stomach, side and back as evidenced by the Certificate of Death (Exhibit "A") (TSN, April 29, 1992, pp. 8, 10; TSN, May 19, 1992, p. 56)."[17]

The chief issue in this case is whether the accused-appellants were positively identified as the perpetrators of the offense charged. If they were, then the circumstantial evidence pointed out by the Office of the Solicitor General would be enough to establish beyond reasonable doubt the guilt of the accused-appellants for it would satisfy the requirements of Section 4, Rule 133 of the Rules of Court on the sufficiency of circumstantial evidence as it would constitute an unbroken chain which would lead to a fair and reasonable conclusion that the accused-appellants are guilty.[18] The thesis then of the accused-appellants would necessarily fail, for it confines itself to one particular circumstance, viz., the actual hacking of the victim which the prosecution witnesses did not actually see and whose statements to the contrary on direct examination could only be mere speculation. Such a thesis would thus be flawed by its failure to fully grasp the rule on circumstantial evidence.

A meticulous evaluation of the evidence for the prosecution, however, does not support the conclusion suggested by the appellee. Serious doubts are cast on the alleged positive identification of the accused-appellants. The testimonies of Remelita and Maria Pontillas on this point do not inspire belief and the holding of the trial court that the accused-appellants were positively identified failed to consider vital facts and circumstances brought out during the cross-examination and during their questioning by the trial court which exposed their failure to identify the perpetrators of the crime and heightened the witnesses' tendency to exaggerate their testimony.

Prosecution witness Maria Pontillas claimed to have recognized the accused-appellants as the persons who knocked at the door because of the fire they lit before they knocked. On cross-examination, she stated:

"Q. You testified further that you already knew and hearing the knock, of Andion Yangan and Jimmy Yangan?

A. Yes, sir.

Q. Why? Did they introduce themselves?

A. I know their faces.

Q. When for the first time did you see their faces, at the time of the knocking?

A. I saw their faces downstairs when they were setting the fire downstairs.

Q. Which was ahead, the setting of the fire or the knocking?

A. The setting was first and after that they went up stairs."[19]

Maria also declared that there was "a little light" from the moon. Thus:

"ATTY. DIUYAN:

Q. You said, in answer to the query of the Court there was no fire yet?

A. Yes, when they went upstairs.

Q. What was the condition of the place?

A. There was a little light at that time, there was a moon.

Q. Can you remember what was the position of the moon?

A. The moon was already at the west."[20]

These assertions of Maria are unconvincing. Firstly, her answers to the questions of the trial court clearly disclose that the fire was lit after the knocking:

"COURT:

Q. Which is correct was the setting of the fire before or after the knocking?

A. After the knocking, while they were knocking we did not open the door and what they did they bring my brother and hogtied him.

Q. Is it not the fact, when you woke up there was already fire downstairs?

A. While they were knocking because we did not open, then they brought my brother downstairs and they set up fire."[21]

Secondly, Remelita positively declared that there was no moonlight when the incident occurred. Thus:

"COURT:

x x x

Q. During that time it was 2:00 o'clock in the early morning, how is the condition of the night was it dark or moonlight?

A. There was no moon.

Q. So it was totally dark?

A. No, they made a fire downstairs."[22]

Assuming arguendo that the assailants had built the fire before knocking at the door of the house of the Pontillas, we are still unable to believe the story of Remelita and Maria that through the hole in the wall of the second storey of their house and aided by the light produced by the fire, they were able to see the faces of the accused-appellants who were then facing the fire.[23] This could have been possible only if the fire was built in front of the house. But, as admitted by Maria on cross-examination, the fire was built under the house:

"ATTY. DIUYAN:

x x x

Q. You said they set fire downstairs, how far is that fire to your house?

A. They set up the fire under the house and they were thinking we will come out."[24]

This is confirmed by the testimony of Remelita that the traces of the fire were located "[r]ight inside the bodega." Thus:

"COURT:

x x x

Q. By the way, in what particular area within the premises of the house that the traces of fire located?

A. Right inside the bodega."[25]

The bodega is the lower portion of the Pontillas' two-storey house.[26] Maria and Remelita and the rest of the occupants of the house were at the second storey.[27] Since the fire was under the house, it was impossible for Remelita and Maria to see the accused-appellants around or near the fire through the use of the hole in the wall of the second storey of the house. As admitted by her, what one would see if he peeped through the hole is the "outside":

"Q. And when you peeped what area did you see inside or outside the house?

A. Outside.

x x x

Q. What part of the house did you see when you peeped, was it at the side, the front or at the back of the house?

A. In the side of the house."[28]

Remelita impliedly admitted this impossibility when, upon questioning by the trial court, she offered the explanation that the accused-appellants went out from the bodega. Specifically, she said:

"COURT:

x x x

Q. So you cannot see the fire while you are peeping from upstairs?

A. Because after they build the fire when they were already lighted they also got out from the bodega."[29]

This explanation suggests that if they were inside the bodega where the fire was built, they could not be seen by peeping through any hole or opening in the wall on the second storey, and it was only after they got out of the bodega when Remelita saw them. This explanation further suggests that the accused-appellants immediately tried to avoid identification by getting out of the bodega "when they were already lighted." Obviously, however, this is pure speculation on the part of Remelita in the light of her implied admission that she could not see from the hole in the wall the place where the fire was built. In any event, it was only after they had gone out of the bodega that they could have been possibly seen by Remelita. Nevertheless, they could not have been identified because it was dark outside and they precisely sought darkness by getting away from the light of the fire.

Moreover, Maria Pontillas admitted that she had seen the accused-appellants prior to 15 October 1991 because they lived at the interior part of Manikling and they were always with their mother who is a fruit vendor,[30] and to a question of the trial court, she admitted that on the day of the incident she already knew the names of the persons who killed her brother Pepito Castillo. Thus:

"COURT:

Q. On that date October 15, 1991, did you already know the names of the persons you saw who could be responsible for the death of your brother?

A. Yes, your Honor."[31]

Yet when investigated by the police authorities immediately after she reported the killing of Pepito following the discovery of his body at 5:00 a.m. of 15 October 1991, she did not reveal their names to the investigator; she just told them that Pepito was killed by members of the "Toktok" gang. Thus:

"Q. Did the police further ask you who hack your brother?

A. Yes, sir.

Q. What was your answer?

A. I told the police that he was hacked by the persons who knock the door.

Q. So that is the only information you give to the police that he was killed by the Toktok gang? And do you know who are the Toktok gang members?

A. I do not know but I only know these two persons.

Q. In telling the police, the one responsible is the toktok gang, did you not inform the police the name of the persons responsible?

A. I did not tell them yet.

Q. Can you explain with the Honorable Court, why at that time you did not tell him?

A. I did not reveal the name.

Q. Can you tell us why did you not tell the police?

A. I did not reveal the name because if those persons will be apprehended and I will identify them.

Q. So at that time you are not sure?

ATTY. BALDOZA:

We object your Honor, misleading.

COURT:

Reform the question.

Q. So you did not ask the police to apprehend the persons responsible?

A. Not yet. I did not tell.

Q. So you are giving the problem to the police?

A. Yes, sir."[32]

She also admitted that she did not go to the police to reveal the names of Pepito's assailants until 28 December 1991 when she was informed that the accused-appellants were arrested by the CAFGU.[33] When pressed for an explanation by the trial court on why she did not reveal the identities of the assailants,[34] Maria was quick to realize the implication and now stated that she did reveal them to her neighbor. Still the trial court proceeded to confront her on why she revealed such information to a neighbor yet withheld it from the authorities. This time, she offered the lame excuse that she was afraid because "I keep on going out and they might kill us,"[35] which we find to be unacceptable considering that if she knew the assailants, and was afraid of them because she was always going out, then she should have immediately disclosed their names to the police authorities so that they could have been arrested and detained. Then too, neither she nor any member of her family disclosed to the barangay captain the identities of the assailants despite her assertion that she told them about their identities, including her son Ruel who reported the incident to the barangay captain.[36]

Besides, if Maria and Remelita knew that Pepito was hacked five times as shown by Maria's testimony:

"Q. Could you hear the hacking?

A. Yes, I could hear the sound is clear.

Q. How many sound of hacking you hear [sic]?

A. Five (5) times."[37]

then after the assailants had left they should have immediately looked for Pepito. Nonetheless, it was only at 5:00 a.m., or three hours later, when they did so. The darkness which Maria alleged[38] is not a justifiable reason for their inaction and unconcern. Their conduct in this regard is contrary to ordinary human experience.

Finally, we observe the tendency of the prosecution witnesses to exaggerate. For one thing, although Remelita could not have seen the faces of those knocking at the door and the taking and hogtying of Pepito, she made it appear in her testimony that she knew them and saw the taking and hacking. Thus, on direct examination she explicitly declared:

"Q. Can you tell this Honorable Court what was that untoward incident on that particular date and time?

A. There were people knocking the door and we did not open the door.

Q. And what happen next since you did not open the door?

A. Our uncle Pepito was brought down and they hogtied him and after hogtying they hack him." [39]

Later, she admitted that she actually did not see the hacking but only heard the "moaning with pain." [40]

Maria imagined no less when she claimed, on the basis alone of the sound she heard, that her brother Pepito was hacked five times.

In fine, we find the evidence for the prosecution to be insufficient to prove the guilt of the accused-appellants with moral certainty. The presumption of their innocence enshrined in the Bill of Rights [41] therefore stands.

WHEREFORE, the challenged decision of Branch 5 of the Regional Trial Court of Davao Oriental in Criminal Case No. 2219 is REVERSED and, on ground of reasonable doubt, accused-appellants ANDION YANGAN and JIMMY YANGAN are ACQUITTED. Their immediate release from detention is hereby ordered, unless any other lawful cause warrants their further detention.

Costs de oficio.

SO ORDERED.

Cruz, (Chairman), Bellosillo, Quason, and Kapunan, JJ., concur.

[1] Original Records (OR), 1-2; Rollo, 6-7.

[2] Exhibit "A."

[3] OR, 131-137; Rollo, 13-19. Per Judge Ricardo M. Berba.

[4] Id., 136-137; Id., 18-19.

[5] Id., 135; Id., 17.

[6] OR, 136; Rollo, 18.

[7] OR, 132-135; Rollo, 14-17.

[8] Rollo, 20.

[9] Section 5 (2) (d), Article VIII, 1987 Constitution; Section 3(c), Rule 122, Rules of Court; Section 17, Judiciary Act of 1948, as amended.

[10] Rollo, 22.

[11] Id., 33-40.

[12] Id., 35.

[13] TSN, 29 April 1992, 27 (emphasis supplied).

[14] TSN, 19 May 1992, 69 (emphasis supplied).

[15] Id., 69-70.

[16] Rollo, 59-77.

[17] Rollo, 69-72.

[18] People vs. Tiozon, 198 SCRA 368 [1991].

[19] TSN, 19 May 1992, 63-64 (emphasis supplied).

[20] TSN, 19 May 1992, 71-72.

[21] *Id.*, 65-66.

[22] TSN, 29 April 1992, 18-19 (emphasis supplied).

[23] *Id.*, 19; TSN, 19 May 1992, 67-68.

[24] TSN, 19 May 1992, 74.

[25] TSN, 29 April 1992, 33.

[26] TSN, 29 April 1992, 16.

[27] TSN, 19 May 1992, 48.

[28] TSN, 29 April 1992, 24.

[29] *Id.*, 33.

[30] TSN, 19 May 1992, 53-54.

[31] *Id.*, 92.

[32] TSN, 19 May 1992, 85-86.

[33] *Id.*, 88.

[34] *Id.*, 91.

[35] *Id.*, 93.

[36] *Id.*, 87.

[37] TSN, 19 May 1992, 69.

[38] *Id.*, 55.

[39] TSN, 29 April 1992, 7.

[40] *Id.*, 27.

[41] Section 14(2), Article III.

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