

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ALFONSO MENDOZA, ACCUSED-APPELLANT.*G.R. No. 109783. September 22, 1994*

Ponente: REGALADO, J.

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Oscar Andal and Demetrio Sia both died on the night of May 24, 1993 from gunshot wounds. The witnesses for the prosecution positively pointed to accused-appellant Alfonso Mendoza as the assailant. Appellant maintained that the fatal shooting had been accidental, but he was nonetheless charged with murder for the twin killings before the Regional Trial Court of Lucena City, that is, in Criminal Case No. 91-293 for the death of Oscar Andal filed with Branch 60 of said court; and Criminal Case No. 91-294 for the killing of Demetrio Sia, lodged before Branch 58 thereof.[1]

Appellant continues to insist on his innocence through this appeal now before us with respect to and involving only Criminal Case No. 91-293 of the court below. A judgment of conviction had been handed down therein finding him guilty as charged in an information which alleged:

“That on or about the 24th day of May 1990, at Poblacion, Municipality of San Antonio, Province of Quezon, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused armed with (an) M-16 Armalite rifle, with intent to kill, with treachery and evident premeditation, did then and there willfully, unlawfully and feloniously attack, assault and sho(o)t with the said armalite rifle one Oscar Andal, inflicting upon the latter gunshot wounds on different parts of his body, which directly caused his death.”[2]

At his arraignment on August 22, 1991 with the assistance of counsel, appellant entered a plea of not guilty.[3] Trial on the merits was thereafter conducted and the case was submitted for the trial court’s verdict on January 21, 1993. The court a quo sentenced appellant to suffer the penalty of reclusion perpetua and to indemnify the heirs of Oscar Andal in the amount of P50,000.00.[4]

The evidence for the prosecution discloses that Demetrio Sia and his common-law wife, Rosemarie Ching, together with the former’s mother, Mercedes Sia, were in their residence at the poblacion of San Antonio, Quezon at about 9:00 P.M. of May 24, 1990, when appellant Alfonso Mendoza, Pfc. Manuel Matanggihan, and SPO1 Felix Real suddenly arrived thereat. Appellant, who was at the time the deputy station commander of the San Antonio police force with the rank of police corporal, inquired from Demetrio Sia about the whereabouts of one Oscar “Boy” Andal. Sia answered, “Ka Ponsing magpapaliwanag ako.” Appellant, however, snapped at him saying, “Walang palipaliwanag, basta lumabas ka.” He then grabbed Sia and turned him over to Pfc. Matanggihan who frisked him for concealed weapons.[5]

Appellant, meanwhile, spotted Oscar Andal sitting on a bench. He swiftly proceeded to where Andal was seated and unceremoniously struck the latter with the butt of his service weapon, an M-16 automatic rifle, causing Andal to fall to the ground. Appellant then picked him up and led him out of the house. Demetrio Sia was likewise escorted out of the house by the two other policemen. Mercedes Sia, her daughter Marilou Sia, and Rosemarie

Ching, who were apprehensive of what would happen, followed closely behind the group.[6]

Once the group reached the highway, appellant threw down (“iwinaksi”) Oscar Andal to the ground and, without much ado, opened fire at the hapless victim. After he was through with Andal, appellant turned his rifle towards Demetrio Sia and likewise peppered him with automatic gunfire, in the process wounding his comrade, Pfc. Matanggihan, and a bystander, a certain Rodrigo Din. Appellant then fled from the macabre scene. Andal died on the spot, while Sia was pronounced dead in a hospital at nearby Lipa City. Pfc. Matanggihan and Rodrigo Din, on the other hand, survived the carnage.[7]

Appellant admits that the two victims were killed on that night. He persists, however, in his contention that the deceased caused their own deaths when they tried to grab his service rifle from him. In the ensuing struggle for possession of the M-16 rifle, a burst of automatic gunfire rang out and shortly, thereafter, Oscar Andal and Demetrio Sia lay dead on the road. Appellant’s other companion, Pfc. Matanggihan, was also wounded but not fatally.[8]

In this appeal, appellant ascribes error on the part of the trial court (a) when it gave more weight and credence to the theory presented by the prosecution than to that advanced by the defense, and (b) in pronouncing a verdict of conviction against appellant in spite of the failure of the prosecution to prove his guilt beyond reasonable doubt.[9]

After a painstaking review of the record, we are convinced that the lower court correctly convicted appellant Alfonso Mendoza of the crime of murder. Indeed, the defense of appellant taxes and assaults our credulity. He would have the Court believe that the incident which resulted in the deaths of Oscar Andal and Demetrio Sia, and the wounding of SPO1 Matanggihan and Rodrigo Din, was the result of the unsuccessful attempt of Andal and Sia to wrest from him his service rifle. However, the circumstances surrounding the deaths of the deceased indubitably point to inherent and inexplicable flaws in appellant’s version of the incident.

In the first place, the testimonies of the prosecution witnesses as to how Oscar Andal was wounded are confirmed by the nature and location of the multiple gunshot wounds that he sustained. Said witnesses categorically concur that appellant forcefully shoved or swung the victim to the ground before shooting him. Andal fell flat on his back and it was at this point that appellant fired away with the fatal shots. Andal suffered three bullet wounds, with one slug piercing his right forearm, another hitting him just above the left nipple, and still another penetrating his lower back.[10] The first two wounds indicate that he had been shot at frontally. The gunshot wound at the back of his body may have been due to the fact that, according to Dr. Pedro P. Landicho who conducted the postmortem examination on Andal’s body, he was probably moving and presumably turning towards his left side in an effort to evade the hail of bullets.[11]

In the second place, it is extremely difficult to believe that Andal and Sia, both unarmed and not endowed with any unusual physical strength or prowess, would dare attack appellant in the presence of the other policemen who were likewise armed. Such superiority in number and force could have effectively deterred the two victims from embarking upon a foolhardy resistance. That the ill-fated duo had supposedly done so in the manner asserted by appellant and his witnesses is incredible and runs counter to normal human behavior. It would have meant, in the words of the trial court, suicide their part, and suicidal attempts belong to the realm of the extraordinary or fictional fantasies.

What exacerbates the incredibility level of appellant’s version of the incident is the disregard of physical facts and possibilities. According to appellant, and this is sought to be corroborated by his witnesses, the relative positions of the protagonists when they were grappling for the armalite rifle was that appellant, with the rifle slung over his right shoulder and pointing downward, was facing Andal who was at appellant’s right while Sia

was in front of him. Andal held the butt of the rifle with his left hand while his right hand gripped the portion of the gun near its magazine. Sia, on the other hand, latched on to the middle part of the rifle towards its “pointed portion.” The gun, during that particular moment, was by then pointed upwards.[12]

Appellant claims that he tried to swing to his left in order to pull the weapon away from the clutches of Andal and Sia but, notwithstanding the fact that he had positioned or put on the safety lock of the rifle, it still fired a burst of bullets and, in the process, Pfc. Matanggihan who was standing nearby at his left side was hit. Before he knew it, Andal and Sia had both slumped on the ground with mortal wounds.[13]

The Court is just as extremely incredulous and discombobulated as the court below over this theory. For, if we were to give credence to said account, then how could Andal have sustained those gunshot wounds considering that he was, as appellant himself asserted, holding on to the butt of the rifle, hence away and in the opposite direction from the muzzle or front end of the barrel of the rifle? The same question could be asked with respect to Sia for, according to appellant himself, the rifle was slung over his shoulder pointed downwards and, during the supposed struggle for its possession, it was pointed upwards. However, we shall limit our discussion only to the foregoing observations material to this appeal, since Criminal Case No. 91-294 for the death of Sia is not a subject of this proceeding.

Coming back to this case, the consideration that the safety lock of an M-16 armalite rifle is not easily shifted or disengaged, the fact that there were four persons who were injured fatally or otherwise, and the multitude of wounds that they sustained clearly negate the possibility that it had all been an accident as appellant contends. As for the wounding of Pfc. Matanggihan, it may well be that he was hit by stray bullets for he was near Demetrio Sia when appellant trained his armalite rifle on Sia.[14]

While it is true that Pfc. Matanggihan later testified in appellant’s favor, aside from the interplay of the well-known esprit de corps among soldiers or policemen, that fact is at any rate beside the point. For, between the two conflicting versions of the parties in this case, that of the prosecution concededly appears believable and accordingly worthy of credence, while that of the defense is inherently improbable. As the truism goes, testimonial evidence to be believed must have been given not only by credible witnesses but it must be credible in itself.[15] Moreover, greater weight should generally be given to the positive declarations of prosecution witnesses than to mere denials of the defense.[16] The settled rule is that affirmative testimony has more value than the negative one, for the reason that he who denies a certain fact may not remember exactly the circumstances on which he bases his denial.[17]

The motive attributed by appellant to Mercedes Sia and Rosemarie Ching for testifying against him hardly deserves any discussion. True, Demetrio Sia was the son of Mercedes Sia and the common-law husband of Rosemarie Ching but that is insufficient to cast doubts on their testimonies. Both witnesses creditably demonstrated the truthfulness of what they had seen by their direct and categorical declarations before the trial court. Mere relationship of the witnesses to the victim does not render their positive assertions less worthy of full faith and credit.[18]

As to the alleged contradictions in the testimonies of the prosecutions witnesses, these are clearly on matters of detail and are, therefore, of minor importance. Far from eroding the effectiveness of the testimonies of Mercedes Sia and Rosemarie Ching, such trivial differences in fact constitute signs of veracity.[19] It is of common knowledge that witnesses react differently to what they see depending upon their situation and state of mind.[20] The most candid witnesses oftentimes make mistakes and fall into confused and inconsistent statements but such honest lapses do not necessarily affect their credibility.[21]

On the other hand, uniformity in details is a badge of untruthfulness,[22] and such indicium of dubiety apparently

applies to the testimonies of the witnesses for the defense. Indeed, and in contrast to the prosecution witnesses, appellant's narration of the facts was reiterated literally and point by point by the testimonies of defense witnesses Pfc. Manuel Matangghian and SPO1 Felix Real.[23] These are the earmarks of rehearsed or coached testimony and, at the very least, cast serious doubts on their credibility. Parenthetically, the forthright and specific testimonies of Mercedes Sia and Rosemarie Ching were given full credit by the trial court and, since we find no showing of any gross misapprehension on its part of the facts after our scrutiny of the evidence on record, the same should not be disregarded.[24]

We agree with the finding of the lower court that appellant killed Andal in a treacherous manner. For alevosia to be considered as a qualifying circumstance, two conditions need to be satisfied: (a) the employment of means, method or manner of execution which would ensure the safety of the malefactor from defense or retaliatory acts on the part of the victim, no opportunity being given to the latter to defend himself or to retaliate; and (b) the means, method, or manner of execution were deliberately or consciously adopted by the offender.[25]

The victim, Oscar Andal, was not only unarmed but was also deprived of all means to defend himself from or evade the sudden and unexpected assault. The circumstances that appellant first hurled the deceased to the ground abruptly and forcibly thus rendering the latter defenseless, and then fired at him without the slightest warning as he lay supine, constitute a clear case of treachery. It also shows that appellant deliberately or consciously adopted and resorted to a mode of attack to ensure the killing without any risk to himself.

In fine, the evidence offered by the defense has been totally unconvincing and has not detracted from the weight and force of the People's evidence which have sufficiently overcome the presumption of innocence initially vouchsafed to appellant. The Court finds, therefore, that it was his perfidious act of deliberately shooting Oscar Andal that caused the latter's untimely death and that appellant is guilty of murder beyond reasonable doubt. However, the aggravating circumstance of evident premeditation cannot be appreciated against him for lack of evidence thereon.

ACCORDINGLY, the challenged judgment of the court a quo in Criminal Case No. 91-293 is hereby AFFIRMED in toto, with costs against accused-appellant Alfonso Mendoza.

SO ORDERED.

Narvasa, C.J., (Chairman), Puno, and Mendoza, JJ., concur.
Padilla, J., on leave.

[1] Original Record, 2-3, 69.

[2] Ibid., 2.

[3] Ibid., 45.

[4] Ibid., 269; Judge Napoleon E. Inoturan, presiding.

[5] TSN, February 21, 1992, 7-8; March 6, 1992, 5-7; August 6, 1992, 4.

[6] Ibid., February 21, 1992, 8; March 6, 1992, 7-9.

[7] Ibid., February 21, 1992, 9-11; February 28, 1992, 14; March 6, 1992, 9-11; Original Record, 6, 11.

[8] Ibid., August 6, 1992, 5-10.

[9] Brief for the Accused-Appellant, 1; Rollo, 59.

- [10] Exhibits A and B, Criminal Case No. 91-293.
- [11] TSN, November 21, 1991, 8-9.
- [12] Ibid., August 6, 1992, 17-19.
- [13] Ibid., id., 9, 16-17, 25.
- [14] Ibid., February 21, 1992, 9.
- [15] People vs. Dag-Uman, G.R. No. 96548; May 28, 1992, 209 SCRA 407; People vs. Malbago, G.R. No. 37679; May 14, 1990, 185 SCRA 311.
- [16] People vs. Antud, G.R. No. 95684, October 27, 1992, 215 SCRA 190.
- [17] People vs. Mendoza, G.R. No. 97430, June 26, 1992, 210 SCRA 517.
- [18] People vs. Masangkay, et al., G.R. No. 73461, January 25, 1988, 157 SCRA 320.
- [19] People vs. Deberto, et al., G.R. No. 78358, January 23, 1992, 205 SCRA 291.
- [20] People vs. Yadao, et al., G.R. Nos. 72991-92, November 26, 1992, 216 SCRA 1.
- [21] People vs. Lagota, et al., G.R. No. 85795, February 14, 1991, 194 SCRA 92.
- [22] People vs. Ansing, G.R. No. 86641, April 26, 1991, 196 SCRA 374.
- [23] TSN, March 11, 1992, 7-11; March 18, 1992, 14-24.
- [24] People vs. Mancao, et al., G.R. Nos. 66873-74, May 8, 1992, 208 SCRA 573.
- [25] People vs. Gabatin G.R. No. 84730, October 28, 1991, 203 SCRA 225.

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