

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. VALENTIN MATIBAG Y ALDAY AND WENCESLAO CASTILLO Y ABITRIA, ACCUSED-APPELLANTS.

G.R. No. 110515. July 18, 2000

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

Manuel Alcala, Eligio Bautista, Wenceslao Castillo, Dominador Ortiz and Valentin Matibag were charged with murder in an Information[1] that reads:

"That on or about November 8, 1990 at around 8:30 am at the Capistrano Village, Lucena City and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually aiding one another and with the aggravating circumstances of for a consideration of a price, reward or promise and with advantage taken by the accused of their public positions and with the use of a motor vehicle and with treachery and evident premeditation did there and then wilfully, unlawfully and feloniously shoot and kill Rufino Carlos with the use of a firearm, a Colt .45 pistol automatic with Serial No.-81811 which caused said Rufino Carlos' instantaneous death, thus causing damage and prejudice to the latter's family and heirs."

Bautista, Castillo, Ortiz and Matibag pleaded "not guilty" to the charge while Alcala remained at large.

The facts as culled from the records are as follows:

In the morning of November 8, 1990, Atty. Rufino Carlos was shot at close range while seated in his car parked outside his house in Capistrano Subdivision, Lucena City. After the shooting, the gunman simply walked away. Mrs. Amparo Carlos was seven (7) meters behind her husband and saw everything that transpired. Atty. Rufino Carlos was brought to the hospital but was pronounced dead on arrival.

Pat. Noel Manga of the Lucena police, who investigated the crime scene, recovered seven (7) empty shells beside the left portion of the car and two (2) slugs inside the car. Dr. Vicente Martinez autopsied the body of the victim and found seven (7) gunshot wounds, six (6) of which were fatal. Per his findings,[2] Atty. Rufino Carlos died of hypovolemic shock secondary to multiple gunshot wounds perforating the ascending aorta.

Apparently unsatisfied with the pace of the investigation conducted by the Lucena police, the assistance of the National Bureau of Investigation was sought. The then NBI Director, General Alfredo Lim, assigned agents Burgos, de Guzman and Meneses to investigate the case. In the course of his investigation, Burgos received information that the alleged gunman was accused-appellant Valentin Matibag, an inmate at the Quezon Provincial Jail. He also learned that a certain Edna Crisologo also witnessed the shooting. After securing pictures of Matibag, Burgos showed them to Edna Crisologo and Mrs. Carlos who both identified Matibag as the assailant. When Matibag was placed in a police line-up, he was again positively identified as the gunman by Edna Crisologo.

On March 18, 1991, the .45 caliber pistols of Wenceslao Castillo, Conrado Nipales, Carlos Bautista, Serafin Lagrama, Ronnie Menchero, Roberto Rama, Teodulo Ayag and Marianito Quisto, all personnel of the Quezon

Provincial Jail, were subjected to fire testing. The examination of NBI Ballistician Ireneo Ordiano yielded the following results:

"Comparative examinations made between the evidence bullets marked as "EB-1", "EB-2", evidence shells marked "ES-1" to "ES-7" and test bullets and test shells fired from the abovementioned firearms revealed the following results:

- Evidence bullets, caliber .45 marked "EB-1" and "EB-2" revealed insufficient results. There are no sufficient individual characteristic markings found on both the evidence bullets that could be used as basis for a definite identification.
- Evidence shells, caliber .45 marked "ES-1" to "ES-7" possess similar individual characteristic markings with the test shells fired from UNKNOWN (COLT) Automatic Pistol Caliber .45 SN - 81811 said evidence shells marked "ES-1" to "ES-7" were fired from this particular firearm."[3]

Notably, automatic pistol caliber .45 with Serial Number 81811 was the firearm issued to Assistant Provincial Warden Wenceslao Castillo.

Meanwhile, Matibag was brought to the NBI office in Manila, where he narrated that he shot Atty. Rufino Carlos upon orders of Provincial Jail Warden Eligio Bautista for a consideration of P50,000.00. In the early morning of November 8, 1990, Matibag was allegedly released from jail and brought near the house of his intended victim. He was accompanied by Bautista, Nipales and Ortiz. When Atty. Carlos came out of the gate of his house and boarded his car, Matibag casually walked near the car and shot him at close range several times. Thereafter, he was brought back to the Quezon Provincial Jail.

Having been implicated by Matibag, the latter's co-accused Bautista, Castillo, Nipales and Ortiz were invited to the NBI office in Manila. Ortiz executed a sworn statement narrating that in the afternoon of November 7, 1990, Manuel "Noli" Alcala, son of former Quezon Governor Anacleto Alcala, handed over to Bautista a brown envelope saying "Bahala ka na diyan, Eligio." At 6:00 p.m. that same day, Bautista, Castillo, Nipales and Ortiz planned to liquidate Atty. Rufino Carlos. They decided among themselves to use the firearm of Castillo as it was the most reliable. The next morning, they took Matibag out from detention and positioned themselves near the house of Atty. Rufino Carlos. When the latter came out of the gate of his residence and entered his car, Matibag casually walked towards him and shot him at close range. Ortiz received P5,000.00 for his participation.

Nipales, on the other hand, died of heart attack while in detention. Meanwhile, Manuel Alcala surrendered to the authorities. Like the rest of his co-accused, he pleaded "not guilty" to the charge. The prosecution did not present additional evidence against him. Instead, it opted to rest its case. Matibag, Bautista, Castillo and Ortiz denied the charge against them. Alcala did not take the witness stand at all.

Accused-appellant Matibag insisted that he was coerced into making the statement before the NBI office in Manila. He denied being assisted by Atty. Antonio Barranda when the statement was made. Ortiz adopted the same line of defense. He declared he was tortured and coerced into making the statement. Bautista completely denied any participation in the killing. He claimed that he did not allow Matibag to be released from detention. For himself, Castillo maintained that he never relinquished possession of his firearm that fateful day of November 8, 1990.

Governor Eduardo T. Rodriguez testified for the defense. He averred that when he visited Matibag at the NBI office in Manila, the latter complained that he was coerced and tortured into signing a statement. The defense likewise presented Nelson Pacia, a jail guard at the Quezon Provincial Jail. He brought with him his "detail book" showing that Matibag did not leave the jail premises on November 8, 1990.

Upon assessment of the evidence presented by both parties, the trial court convicted Matibag and Castillo of murder. Bautista, Ortiz and Alcala were acquitted for insufficiency of evidence. The decretal portion of the decision reads:

WHEREFORE, finding Valentin Matibag and Wenceslao Castillo y Abitria guilty beyond reasonable doubt of the crime of murder defined and penalized under Art. 248 of the Revised Penal Code and taking into account the provisions of Article 64 of the same Code, and considering further the existence of the two aggravating circumstances of evident premeditation and that accused Wenceslao Castillo took advantage of his position not offset by any mitigating circumstance, the Court hereby sentences Valentin Matibag and Wenceslao Castillo y Abitria to reclusion perpetua.

Each of the accused is ordered to pay the heirs of the deceased Atty. Rufino Carlos the sum of P50,000.00 as death indemnity.

The Court cannot grant other damages as no evidence whatsoever was presented during the trial of this case.

The prosecution having failed to prove the guilt of accused Eligio Bautista, Dominador Ortiz and Manuel Alcala beyond reasonable doubt, they are acquitted.

The bailbond of accused Wenceslao Castillo y Abitria is cancelled and his confinement at the Quezon Provincial Jail is hereby ordered.

It appearing that accused Valentin Matibag is detained, he is credited with the full period of his imprisonment pursuant to Republic Act 6127 approved on June 17, 1970 provided that he has complied with the terms and conditions of said law.[4]

Matibag and Castillo filed their separate appeals. In his appeal, Castillo assigns the following as errors:

- It was error for the trial court to have drawn and adopted the conclusion that the lone and uncorroborated testimony of Mrs. Amparo Carlos, widow of the deceased Atty. Rufino Carlos and alleged eyewitness to the commission of the offense was direct, straightforward and sincere, instead of holding that the same was patently incredible, untrustworthy and manifestly absurd or impossible.
- It was error for the trial court to have drawn and adopted the conclusion that the result of the comparative analysis made by Senior Ballistician Ireneo Ordiano of the seven (7) shells and two (2) slugs allegedly recovered from the crime scene was admissible, instead of holding that the same was grounded entirely on speculations, surmises and conjectures.
- It was error for the trial court to have drawn and adopted the conclusion that the two (2) slugs marked as prosecution exhibits EB-1 and EB-2 are admissible to prove that they were fired from the automatic .45 caliber pistol of accused-appellant Wenceslao Castillo which allegedly killed the deceased, instead of holding that the same was patently inadmissible, impertinent and irrelevant inasmuch as the two (2) slugs recovered from the body of the deceased by Dr. Vicente Martinez were never presented in court and deliberately or intentionally suppressed by the prosecution for reasons only known to them.
- It was error for the trial court to have drawn and adopted the conclusion that prosecution exhibits EB-1 and EB-2 (Evidence Bullets) are admissible, instead of holding that the same were inadmissible, impertinent and irrelevant after Senior Ballistician Ireneo Ordiano explicitly admitted in court that there are no sufficient individual characteristic markings found on both the evidence bullets that could be used as basis for a definite identification. (Exh. 00-1 to 00-3)
- The trial court erred in not holding that the case against all the accused was predicated on falsehood, fabrications or suppression of evidence perpetrated by the NBI agents and police investigators who investigated the case at

bar.

- It was error for the trial court to have drawn and adopted the conclusion that there existed a conspiracy between the two accused-appellants in the murder of Atty. Rufino Carlos.
- It was error for the trial court to have drawn and adopted the conclusion that accused-appellant Wenceslao Castillo is guilty beyond reasonable doubt of the crime of murder and sentenced him to reclusion perpetua and to pay the heirs of Atty. Rufino Carlos the sum of P50,000.00 as death indemnity.
- The trial court finally erred in not acquitting the accused-appellant Wenceslao Castillo y Abitria.[5]

For his part, Matibag alleged that:

- The trial court erred in giving credence to the testimony of Amparo Carlos despite the fact that there are glaring inconsistencies and unbelievable statements.
- The lower court erred in the appreciation of the evidence presented by the prosecution which, had this been properly perceived, would have led to the acquittal of the appellants.
- The lower court erred in giving consideration to an alleged statement of Edna Crisologo Jacob who was not even presented as a witness.
- The lower court erred in concluding that there was conspiracy among the accused and that there was evident premeditation despite the fact that there is no evidence presented to prove conspiracy or evident premeditation.
- The lower court erred in giving due consideration to hearsay evidence and making conclusions based on the constitutionally inadmissible evidence.
- The lower court erred in convicting the accused on insufficient evidence.[6]

In sum, the errors assigned by accused-appellants Matibag and Castillo may be consolidated and reduced into the following:

- The trial court erred in lending credence to the inconsistent and incredible testimony of Mrs. Amparo Carlos;
- The trial court erred in ruling that there was conspiracy among the accused and that evident premeditation attended the commission of the crime.
- The trial court erred in giving weight to the statements given by Edna Crisologo Jacob as she was not presented on the witness stand.
- The trial court erred in the appreciation of the evidence particularly on the findings of NBI Senior Ballistician Ordiano as the same was based on speculations, surmises and conjectures.

These submissions are without merit.

The trial court committed no error in lending credence to the testimony of Mrs. Amparo Carlos. The alleged inconsistency as to the distance of Mrs. Carlos to her husband when the latter was shot is definitely inconsequential. Whether the distance was four (4), five (5) or seven (7) meters, the fact still remains that she was in the vicinity and personally witnessed the crime when it was committed.

Likewise, the prosecution could not be faulted for not presenting a certain Mrs. Mercado, the President of the Homeowner's Association and neighbor of the Carloses, whom Mrs. Carlos allegedly saw after her husband was shot. The testimony of a single witness, if found to be credible, trustworthy and straightforward would suffice to convict the accused of the crime of which he was charged. The discretion still lies with the prosecution as to the

number of witnesses and whom to present on the witness stand. For sure, the prosecution could not be accused of suppressing vital evidence. The defense could have presented Mrs. Mercado as an adverse witness if it so desired. Besides, it was not contrary to human nature for Mrs. Carlos not to divulge to anybody, including the police authorities, the killing of her husband immediately after he was shot. According to her, she became hysterical upon seeing her husband bathed in blood. From the foregoing, this Court finds no reason to doubt the testimony of Mrs. Carlos which the trial court has assessed to be "direct, straightforward and sincere." [7]

This Court has sufficient reason to believe that Assistant Provincial Warden Wenceslao Castillo participated in the commission of the crime. The report of NBI Senior Ballistician Ordiano is categorical that the bullets used to kill the victim were fired from an automatic pistol .45 caliber with Serial No. 81811. It was established beyond doubt that the subject pistol was issued to Castillo. The latter testified that he never lost possession of his pistol on the day Rufino Carlos was killed. Hence, the only logical conclusion from the foregoing disquisition would have been that Castillo intentionally, voluntarily and temporarily relinquished possession of his pistol to Matibag until after the latter accomplished his mission.

Also, it is very apparent that the attack on the victim was premeditated. The assailants waited in ambush outside the house of their intended victim. They were there early in the morning just before their victim was to leave for his office. Matibag waited until Rufino Carlos was inside his car before he shot him several times.

No error was committed by the trial court in giving weight to the findings of NBI Senior Ballistician Ordiano. The contention that it was based on speculations, surmises and conjectures is a sweeping conclusion bereft of any factual basis. On the contrary, Ordiano's findings consist of empirical data gathered after application of long-tested scientific procedures. The defense could not even pinpoint a single and valid defect in the procedures adopted by Ordiano.

On the other hand, this Court agrees with accused-appellants that the trial court should not have considered the extrajudicial statement of Edna Crisologo Jacob who was not placed on the witness stand, thus, depriving the defense of its right to cross-examination. The veracity of her statement not having been ascertained, it should not have been given any probative value at all. Be that as it may, her testimony is merely corroborative, and its exclusion will not affect the finding of guilt of accused-appellants.

Incidentally, the trial court erred in ordering each of the accused-appellants to pay P50,000.00 as death indemnity. Under Article 110 of the Revised Penal Code, accused-appellants, as principals to the crime, should be held jointly and severally liable for the death indemnity. This means that any one of the accused-appellants may be held liable for the full payment thereof without prejudice to the payor seeking reimbursement from the other principal of his proportionate share.[8] In the instant case, Matibag or Castillo should be held jointly and severally liable for the total amount of P50,000.00 as death indemnity. Hence, both accused-appellants are only liable for P50,000.00 death indemnity, and not P50,000.00 each or a total of P100,000.00 as held by the trial court.

WHEREFORE, in view of the foregoing, the judgment of the trial court finding Valentin Matibag and Wenceslao Castillo GUILTY beyond reasonable doubt of the crime of murder qualified by evident premeditation and sentencing them to suffer the penalty of reclusion perpetua is hereby AFFIRMED with the MODIFICATION that both accused-appellants are ordered to pay jointly and severally to the heirs of Atty. Rufino Carlos the sum of P50,000.00 as death indemnity. Costs against accused-appellants.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Puno, Kapunan, and Pardo, JJ., concur.

[1] Rollo, p. 6.

[2] Exhibit "DD", Records.

[3] Exhibit "O", Records.

[4] Rollo, p. 27.

[5] Rollo, pp. 66-67.

[6] Rollo, pp. 130-131.

[7] Judgment, Rollo, p. 41.

[8] Civil Code, Art. 1217.

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