

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. VICTOR TORRES, MARIO EMNACE, EDUARDO EMNACE, AND LIBERATO RAYMUNDA, ACCUSED-APPELLANTS.

G.R. No. 111289. August 11, 1995

Ponente: FRANCISCO, J.

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FRANCISCO, J.:

Acting in conspiracy attended by evident premeditation, treachery and abuse of superior strength accused VICTOR TORRES, EDUARDO TORRES, MARIO EMNACE, EDUARDO EMNACE and LIBERATO RAYMUNDA, were charged with Murder for having unlawfully and feloniously hacked, slashed and stabbed Avelino Villaplaza with the use of a scythe and other bladed instruments which resulted in his death at about 10:00 o'clock in the evening of October 21, 1989 at Barangay Landahan, Toledo City.

Upon arraignment, Eduardo Torres entered a plea of guilty for homicide. The rest, Victor Torres, Mario Emnace, Eduardo Emnace and Liberato Raymunda went to trial on their respective pleas of not guilty. Judgment was rendered sentencing them to suffer the penalty of Reclusion Perpetua and to primarily and solidarily indemnify the heirs of the offended party the sum of P50,000.00, the sum of P10,000.00 as funeral expenses and as moral damages P10,000.00.[1]

From this judgment, accused-appellants Victor Torres, Mario Emnace, Eduardo Emnace, and Liberato Raymunda took the present appeal, and challenged the decision essentially on the following grounds: (1) the conviction of Eduardo Torres negated the existence of conspiracy, (2) the trial court erred in giving credence to prosecution witnesses, and (3) treachery was erroneously imputed to them.[2]

With adequate evidentiary support are the following facts:

On the night of October 21, 1989, the victim Avelino Villaplaza together with Jose Omana, Feliciano Villaplaza, and Primitivo Banggay attended a dance at Sitio Tapan, Landahan, Toledo City. Thereafter, they proceeded to Raymunda's store just beside the dancing area where Victor Torres, Eduardo Torres, Eduardo Emnace, Mario Emnace and Liberato Raymunda were drinking liquor. As the victim and his companions were about two arms length near the store, Raymunda approached the victim and placed his arms around the victim's shoulder while Eduardo Emnace pushed the victim from behind causing him to fall. Raymunda then pinned down the victim to the ground by holding his arms. At this point, Victor Torres, armed with a six-inch bladed weapon, and, Eduardo Torres and Mario Emnace, armed with a scythe and plamingko respectively, simultaneously attacked, stabbed and slashed the victim who having been outnumbered was unable to parry the blows. After the attack, they fled. The lifeless body of the victim was brought to the Barangay Hall. Only the scythe and its scabbard owned by Eduardo Torres were recovered.

Dr. Ladislao Diola, Chief Medico Legal Officer, PNP, 7th Regional Unit, testified that he conducted an autopsy examination of the victim, Avelino Villaplaza[3], and submitted a Medico-Legal Necropsy Report (Exhibit "B"). Per his findings, the injuries were concentrated on the head and neck, with incised wound on the chin, a deep

wound cutting the blood vessel on the neck, wounds on the left jaw, on the nape and on the back between the clavicular area.[4] An incised wound on the victim's left forearm cutting deep into the muscles and blood vessel was also noted. These wounds resulted to the death of the victim. He opined that the probable weapons used were sharp bladed instruments and judging from the number of wounds and their locations they could have been inflicted by more than one person.[5]

Appellants' defense is one of denial. They maintain that it was Eduardo Torres alone who killed the victim.

Appellant Liberato Raymunda testified that on October 21, 1989 at around 9:00 o'clock in the evening he went to the store of his wife situated near the dancing area where he had a conversation with Zosimo Baylosis, a Barangay official. At around 10:00 o'clock of the same evening and while standing near his store, Raymunda was approached by the victim and had a talk with him during which occasion Eduardo Torres suddenly rushed and stabbed the victim. To pacify the two, Raymunda held and placed his hands on the shoulder of the victim, but Eduardo Torres again rushed and stabbed the victim hitting him on the neck. When the victim fell, Eduardo Torres ran away from the crime scene. Raymunda denied holding the victim's arms during the stabbing incident.

Appellant Eduardo Emnace for his part narrated that while he was at a dancing place at Sitio Tapan, Landahan, Toledo City at around 8:30 in the evening of October 21, 1989, he saw Liberato Raymunda, Mario Emnace and Victor Torres at Raymunda's store. Eduardo Torres suddenly approached the victim, held his hair and stabbed him. While the victim was being attacked, Eduardo Emnace averred that he was just standing near the right side of the victim.

Appellant Victor Torres also denied any participation in the killing. According to him while he was seated on a bench at Raymunda's store together with Mario Emnace he noticed that the victim was conversing with Liberato Raymunda. He saw Eduardo Torres, brandishing a scythe, immediately approached and held the victim's hair and slashed his neck causing him to fall. Raymunda tried to help and lift the victim. Subsequently, Raymunda, Mario and Eduardo Emnace ran away from the crime scene.

Appellants argue that Eduardo Torres' plea of guilty negated the existence of conspiracy among them. To bolster this contention, appellants cite Dr. Diola's testimony stating that there was only one kind of weapon used in the killing and since only the scythe and the scabbard were recovered from the crime scene the ownership of which was readily admitted by Eduardo Torres then it could only be him who should be held responsible for the death of the victim.

The argument is untenable. Appellants failed to note that the doctor never singled out any type of instrument. On the contrary, what the doctor's testimony merely established is that there was one kind of weapon used. The term kind denotes a grouping, a class, a grade, or genus and encompasses several objects or materials with similar traits or characteristics. In this case, scythe, plamingko, and six-inch knife, belong to one kind of instrument, i.e., bladed instruments. It is thus incorrect for the appellants to argue that only the scythe was used and only Eduardo Torres was liable. Worse, the doctor's testimony, rightly given credence by the trial court, was categorical in finding that the killing was one of murder committed by several persons. More importantly, the argument can not prevail over the positive identification of witnesses who were never shown to have any motive to falsely testify against the appellants. The scythe, plamingko and the knife have been amply shown to be the weapons used by the appellants in assaulting the victim. Appellants' bare denial is a weak defense which becomes even weaker in the face of positive identification of the accused by the prosecution witnesses.[6]

Appellants' assertion that conspiracy has not been established is belied by the eyewitnesses' accounts. All the accused were present in Raymunda's store before the killing and when the victim came near the store he was fetched and led by Raymunda closer to the store. Eduardo Emnace forcibly pushed the victim down and instead of

helping the victim, Raymunda pinned him down by holding his arms whereupon the accused delivered concerted blows with the use of bladed weapons. Eduardo Torres slashed the victim's neck, while Victor Torres and Mario Emnace stabbed the victim at the base of his neck and left arm. These simultaneous attacks on the victim show accused's common goal of inflicting fatal blows upon the victim. The well-coordinated and concerted execution of their purpose proved conspiracy.[7] Conspiracy may be inferred from the acts of the accused immediately prior to, during and right after their attack on the victim,[8] as in this case. Hence, their assertion merits scant consideration.

Appellants next trail their attack on the credibility of prosecution witnesses and were emphatic in asserting that the trial court erred in giving credence to their testimonies. Appellants' asseveration is unavailing. The court has repeatedly ruled that the matter of assigning values to declarations on the witness stand is best and most competently performed by the trial judge, who, unlike appellate magistrates, can weigh such testimony in the light of the declarant's demeanor, conduct and attitude at the trial and is thereby placed in a more competent position to discriminate between the true and the false.[9] Thus, it is a settled rule that when the issue is one of credibility the appellate courts will generally not disturb the findings of the trial court, as in this case, especially where the appellants failed to show any fact of substance which the trial court might have overlooked that when considered may affect the result of the case. In fact, prosecution eyewitness Primitivo Banggay, the cousin of Raymunda, positively identified Raymunda and the rest of the group as the ones responsible for the victim's demise. The testimonies of the prosecution witnesses deserved to be given full faith and credence, as rightly accorded by the trial court.

Appellants finally contend that treachery was erroneously appreciated by the trial court. There is treachery when the offender commits any of the crimes against persons, employing means, method or forms in the execution thereof which tend directly and especially to insure its execution, without risk to himself arising from the defense which the offended party might make.[10] The incidents which culminated in the death of the victim amply proved the presence of treachery. The helpless victim, outnumbered by the appellants, was led by appellant Raymunda to the store where he was suddenly pushed causing him to fall down whereupon the appellants simultaneously delivered stabbing blows upon his person. The victim, continuously pinned down with his hands held by appellant Raymunda, was effectively immobilized thereby insuring the execution of the offense without the least resistance or retaliation from the victim nor any opportunity on his part to defend himself. The attack upon him being synchronal, sudden and unexpected, treachery was rightly appreciated.[11]

WHEREFORE, judgment is hereby rendered DISMISSING the instant appeal and AFFIRMING in toto the decision appealed from.

SO ORDERED.

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

[1] RTC Decision, p. 10; Rollo, p. 45.

[2] Rollo, pp. 57-58.

[3] TSN, April 22, 1991.

[4] Id., at pp. 3-4.

[5] Id., at p. 5.

[6] People vs. Ompad, Jr., 233 SCRA 62, 67.

[7] People vs. Blima, 195 SCRA 614, 622; People vs. Arroyo, 201 SCRA 616, 628.

[8] People vs. Umbrero, 196 SCRA 821, 829.

[9] People vs. Tacipit, G.R. No. 109140, March 8, 1995; People vs. Estrellanes, Jr., 239 SCRA 235, 247; People vs. Albarico, 238 SCRA 203, 212.

[10] People vs. Devaras, 205 SCRA 676, 693.

[11] People vs. Donato, 207 SCRA 125, 133; People vs. Serdan, 213 SCRA 329, 343.

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