

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ARTEMIO LAPUZ, (AT LARGE), ACCUSED, ARMANDO LAPUZ AND CELSO LAPUZ, ACCUSED-APPELLANTS.

G.R. No. 113515. November 23, 1995

Ponente: FRANCISCO, J.

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FRANCISCO, J.:

This is how savagely and viciously a fraternal triumvirate can waste life.

Brothers Armando, Artemio and Celso, all surnamed Lapuz, were charged with the crime of murder allegedly committed as follows:

"That on or about the 6th day of October 1990, at Barangay Calantipayan, in the Municipality of Lopez, Province of Quezon, x x x, the above-named accused, armed with bolos and iron pipe, conspiring and confederating together and mutually helping one another, with intent to kill and taking advantage of their superior strength and treachery, did then and there willfully, unlawfully and feloniously attack, assault, hit with said iron pipe and hack with said bolos one Atillano Llamas, thereby inflicting upon the latter wounds on different parts of his body, which directly caused his death.

That the accused attacked, assaulted, hacked with the use of bolos and hit with said iron pipe said Atillano Llamas without giving the latter any opportunity to defend himself or to escape.

Contrary to law."^[1]

Only two (2) of them were apprehended — herein appellants Armando and Celso who pleaded not guilty upon arraignment. The prosecution's version of the killing as may be culled from the consistent testimonies of purported eyewitnesses Efren Teruel and Edilberto Regalado, is as follows:

While victim Atillano Llamas was watching a basketball game in Barangay Calantipayan, Lopez, Quezon at or about 5:00 o'clock in the afternoon of October 6, 1990, appellant Armando, with a lead pipe in hand, arrived and appeared to be looking for somebody. Upon seeing Atillano and without provocation, Armando attacked him with the lead pipe, striking Atillano's head first then the right side of the body. A scuffle for possession of the pipe ensued between Armando and Atillano during which, Artemio appeared holding a bolo. Hacking blows were delivered by Artemio to Atillano's back and head upon Armando's shouts of "HACK HIM, HACK HIM."^[2] The assault was further reinforced by the appearance and participation of Celso who aimed his bolo at Atillano's knees causing the latter to fall to the ground. The hacking spree was relentless in spite of Atillano's already fallen, helpless and dead body, a halt to which came only when the brothers' parents arrived at the scene. Armando and Artemio accompanied their parents home. Celso, however, appeared insatiated. He proceeded to Atillano's house and loudly challenged anyone inside to come out. With his dare unheeded, Celso returned to Atillano's corpse, and as a gruesome finale to the enterprise, dropped one final hacking blow to Atillano's neck, severing the head from the body.

The trial court gave credence and weight to the testimonies of the prosecution witnesses and thus rendered the now-assailed decision of conviction, the dispositive portion of which reads:

"WHEREFORE, based on the foregoing premises, the Court finds accused ARMANDO LAPUZ and CELSO LAPUZ guilty beyond reasonable doubt of the crime of MURDER qualified by abuse of superior strength defined and penalized under Article 248, par.(1) of the Revised Penal Code and hereby sentences said two (2) accused to suffer the penalty of RECLUSION PERPETUA together with accessories prescribed by law and to pay the heirs of the victim ATILLANO LLAMES, jointly and severally with the sum of FIFTY THOUSAND PESOS (P50,000.00) as civil indemnity without subsidiary imprisonment in case of insolvency, plus costs of the suit.

x x x x x x x x

SO ORDERED."[3]

Appellants seek a reversal of the above decision principally contending that the trial court erred in convicting them in spite of the failure of the prosecution to prove their guilt beyond reasonable doubt.[4] In support thereof, appellant Armando relies on defense's version of the facts as recounted by him and defense witness Gregorio Castro, while appellant Celso reiterates his defense of alibi.

Appellant Armando insists that he had nothing to do with the killing of Atilano and that it was the latter and three other persons, namely Jun Teruel, Turing and Ambet Llamas who mauled him on October 6,1990 at about 4:00 in the afternoon near the basketball court in Barangay Calantipayan. He claims that he fled from his attackers and ran towards Barangay Jongo, but the latter gave chase. Atilano allegedly pursued him wielding a bolo but did not catch up with him. He denies any knowledge of what may have happened to Atilano after he was able to flee from the latter.[5]

Appellant Armando's story of his mauling was corroborated by Gregorio Castro who, nonetheless, testified that he did not do anything while appellant Armando was being ganged upon and beaten up. He said that he saw appellant Armando run away after the incident. For fear that appellant Armando's attackers might turn against him, he proceeded home and witnessed nothing further.[6]

Appellant Armando claims that as a result of the alleged mauling, he sustained injuries evidenced by a medical certificate issued by Dr. Enrique Agra and presented as Exhibit "1" for the defense.[7]

On the other hand, appellant Celso asserts that he was nowhere near the vicinity of the crime on the fateful day of October 6,1990, as he spent that entire day in a ricefield situated at Barangay Jongo, Lopez, Quezon and never went to Barangay Calantipayan. Buttressing appellant Celso's alibi is his mother, Magdalena Lapuz.

Appellants' conviction should be sustained.

Appellant Armando's bare denial and appellant Celso's alibi cannot prevail over the positive identification by the prosecution witnesses of the appellants as the perpetrators of the crime. The eyewitnesses' (Teruel and Regalado) clear and categorical statements leave no room for doubt as to their culpability. This Court has consistently held that both denial and alibi are weak defenses which become even weaker in the face of positive identification of the accused by the prosecution witnesses.[8]

Appellant Celso seeks refuge in the defense of alibi which has been consistently regarded by this Court as "the much abused sanctuary of felons and x x x considered as an argument with a bad reputation, x x x. It is, to say the least, the weakest defense which must be taken with caution being easily fabricated."[9] Furthermore, it has not been established that it was physically impossible for the appellant Celso to have been at the scene of the crime at the time of the commission thereof. Barangay Jongo is merely ten (10) kilometers away from Barangay

Calantipayan, and as admitted by appellant Celso himself, is accessible by tricycle or jeep.[10] It is well settled that for the defense of alibi to prosper, it is not enough to show that the accused was somewhere else when the crime was committed but that the accused must further demonstrate that it was physically impossible for him to have been at the scene of the crime at the time of the commission thereof.[11] The testimony of appellant Celso's mother (Magdalena Lapuz) corroborating his alibi did more damage than good to his cause. Her testimony that her son never left the ricefield and took his lunch there conflicted with appellant Celso's own declaration that he left the ricefield and went home briefly at around ten o'clock in the morning then returned to the ricefield after lunch. Her testimony is bereft of any proof that appellant Celso could not have been at the scene of the crime on the said date at around 5:00 in the afternoon.[12] As previously held by this Court, "x x x when the appellant's alibi is supported only by the testimony of his mother, the alibi loses evidentiary weight." [13]

In a desperate attempt to discredit the testimony of the prosecution witnesses, appellants Armando and Celso assail their credibility and assert that their story is based on concoction and fabrication.[14]

Confronted by the two conflicting versions of the facts presented by the prosecution and by appellant Armando as corroborated by Gregorio Castro, the trial judge chose to give credence to the version of the former. We find no cogent reason to disturb the factual findings of the trial court. Suffice it to say that it is a well established rule needing minimal discussion that the evaluation by the trial judge of the credibility of the witnesses and the ascribing of evidentiary weight to their testimony is conclusive upon an appellate court, barring arbitrariness in arriving at his conclusions.[15] The obvious rationale behind this general rule is that no one is in a better position to determine the issue of the credibility of witnesses than the trial judge who has heard the witnesses themselves and observed their deportment and manner of testifying during trial.[16] Thus, absent any showing of a fact or any circumstance which the trial court failed to appreciate and which would have changed the result if it were considered, the factual findings as laid down by the trial court remain binding upon us.[17]

The trial court also correctly held that the defense failed miserably to achieve the stated purpose of appellant Armando's testimony which is to establish the presence of the justifying circumstance of self-defense on his part.[18] His defense is evidently one of bare denial only. Thus:

"While the defense vainly tried to make it appear that Armando Lapuz acted in self-defense, at the same time the accused Armando Lapuz kept on denying that he had something to do with the killing of Atillano Llamas. x x x It is a well-established norm in criminal jurisprudence that when an accused in a crime of murder interposed self-defense, he in effect impliedly admits that he committed the crime but he was justified in so doing because he merely acted to preserve his own life from the unlawful aggression of the victim. x x x Even granting arguendo that there was indeed a mauling incident involving accused Armando Lapuz and the four persons (including Atillano Llamas) who allegedly attacked him, the defense nevertheless failed to clearly establish that in the course of such mauling incident Armando Lapuz was compelled out of necessity to repel such unlawful aggression in order to save his own life. What he had testified to is that after the mauling incident he ran away and he even said that Atillano Llamas who allegedly chased him with a bolo was not able to get him." [19] (Underscoring supplied.)

Finally, perhaps realizing the futility of their cause in the face of the overwhelming evidence against them, appellants contend that their conviction should be for homicide only and not for murder absent the attendant circumstance of evident premeditation.[20] This argument is very misleading because the decision of the trial court stated in no uncertain terms that the appellants Armando and Celso are found guilty of the crime of murder qualified by abuse of superior strength. Nowhere in the trial court's decision, nor in the information, is the circumstance of evident premeditation considered nor given attention. And needless to state is that the existence and proof of only one duly alleged qualifying circumstance, like abuse of superior strength, is enough to elevate a killing to murder.

In this connection, the trial court correctly appreciated the qualifying circumstance of abuse of superior strength. No other conclusion is proper in view of the patent inequality of forces between the victim and the aggressors.[21] The three perpetrators of the crime, one armed with a lead pipe and two armed with bolos, repeatedly and brutally hacked their lone and unarmed victim Atillano Llames. The victim's body bore gruesome hack wounds dismembering his head and exposing his entrails, mute testimony of the vengeful fury and bestiality of the attack upon him.[22] The depravity of the appellants is despicable; even the unthinking beast would have been less insensitive.[23]

WHEREFORE, in view of the foregoing, We find the accused Armando Lapuz and Celso Lapuz GUILTY beyond reasonable doubt of the crime of murder qualified by abuse of superior strength. The decision appealed from is hereby. AFFIRMED in toto.

SO ORDERED.

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

[1] Information, p.1; Rollo, p.10.

[2] TSN, Hearing on February 26,1992, p.12.

[3] Decision dated November 8,1993, p.15; Rollo, p.35.

[4] Appellant's Brief, p.1; Rollo, p.44.

[5] TSN, Hearing on January 13,1993, pp.3-8.

[6] TSN, Hearing on September 23,1992, pp.8-10.

[7] TSN, Hearing on February 9,1993, pp.2-3.

[8] People vs. Ompad, Jr., 233 SCRA 62; People vs. Torres, et al., G.R. No. 111289, Aug. 11,1995; People vs. Cobre, 239 SCRA 159; People vs. Besana, 220 SCRA 93.

[9] People vs. Miranday, 242 SCRA 620, 626; People vs. Claudio, 216 SCRA 647; People vs. Yadao, 216 SCRA 1; People vs. Cabuang, 217 SCRA 675.

[10] TSN, Hearing on February 23,1993, pp.3-5.

[11] People vs. Miranday, note 9, supra; People vs. Cabuang, note 9, supra; People vs. Manzanares, 177 SCRA 427; People vs. Tamayo, et al., G.R. Nos. 7418-21, March 20,1990; People vs. Dominguez, 217 SCRA 170;

[12] TSN, Hearing on February 23, 1993,pp.7-11.

[13] People vs. Manzanares, note 11, supra, at p. 433.

[14] Note 4, supra at p.9; Rollo, p.52.

[15] People vs. De Roxas, et al., 241 SCRA 369; People vs. Torres, et al., note 8, supra; People vs. Domingo, 227 SCRA 94; and People vs. Gerona, 227 SCRA 547.

[16] People vs. Estrellanes, 239 SCRA 235; People vs. Albarico, 238 SCRA 203; People vs. Dominguez,note 11, supra; and People vs. Yadao, note 9, supra.

[17] Ibid.

[18] TSN, Hearing on January 13,1993, p.2.

[19] Note 3, supra, pp.11-12; Rollo, pp.30-31.

[20] Note 4, supra, p. 11; Rollo, p.54.

[21] People vs. Amaro, 235 SCRA 8; People vs. de la Cruz, et al., 242 SCRA 129; People vs. Besana, note 8, supra.

[22] People vs De Roxas, et al., note 8, supra.

[23] J. Cruz' words in "People v. Olarte", 228 SCRA 257, 261.

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