

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. EDILBERTO FABULA ALIAS “EDEN”, KANO FABULA, RICKY CUSI AND JOHN DOE, ACCUSED-APPELLANT.

G.R. No. 115401. December 16, 1996

Ponente: PUNO, J.

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PUNO, J.:

On August 24, 1992, at about 8:00 in the evening, an elderly couple was robbed and killed near their residence at Barangay Gamao, Naujan, Oriental Mindoro. The suspects were Edilberto Fabula alias Eden, Kano Fabula, Ricky Cusi and John Doe. They were charged before the Regional Trial Court of Calapan, Oriental Mindoro with the crime of Robbery with Double Homicide. The Information alleged:

That on or about the 24th day of August, 1992, at 8:00 o'clock in the evening, more or less, in the Barangay of Gamao, Municipality of Naujan, Province of Oriental Mindoro, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with intent to gain, conspiring, confederating and mutually helping one another did then and there wilfully, unlawfully and feloniously, by means of force and intimidation, take, steal and carry away the sum of FIFTEEN THOUSAND PESOS (P15,000), Philippine Currency, from spouses MARIANO CUETO and PETRA CUETO; that on the occasion (sic) of the said robbery and for the purpose of enabling them to take, steal and carry away the money above-mentioned, herein accused in pursuance of their conspiracy did then and there wilfully, unlawfully and feloniously attack, assault and stab several times said spouses MARIANO CUETO and PETRA CUETO with the use of bladed instruments thereby inflicting upon said victims fatal stab wounds in the different vital parts of the body resultant therewith caused their instantaneous death.

Contrary to Article 294, par. 1 thereof (sic) the Revised Penal Code.[1]

Among the four accused, only Edilberto "Eden" Fabula was arraigned and tried as the others were still at large.[2]

During the trial, the prosecution presented the testimony of eyewitness Bernardo Lingasa as well as his sworn statement executed before SPO3 Henry J. Aceremo at the Naujan PNP Station on September 25, 1992.[3] The prosecution evidence shows that on the evening of August 24, 1992, Bernardo Lingasa was at the house of spouses Mariano and Petra Cueto in Barangay Gamao, Naujan, Oriental Mindoro. At about 8:00 in the evening, Bernardo heard Petra scream: "Anong wawalanghiya ninyo Eden!" She was then at the store about twelve (12) arms length from the house. Sensing a commotion, Bernardo peeked through the door to see what was happening. He saw the accused Edilberto "Eden" Fabula grab Petra's bag and thereafter stab her on the chest. Mariano rushed to aide his wife but Eden's companion held his neck and stabbed him. Eden then told his companion "Tayo na Kuya Kano, patay na yang mga yan." [4] Both Petra and Mariano died on the spot due to the stab wounds inflicted on them.[5]

To corroborate Bernardo's testimony as regards the taking of Petra's bag, the prosecution presented Danilo Cueto, son of Petra and Mariano. He testified that on August 23, 1992, the day before the tragic incident, he saw

his mother, Petra, counting money inside their store. Petra placed the bills amounting to P15,000.00 inside her bag. After his parents' death, he looked for the bag but he never found it.[6]

The accused interposed the defense of denial and alibi. He testified that he did not rob and kill the Cueto spouses and that on the evening of August 24, 1992, he was at his parents' house in Sta. Cruz, Calapan, Oriental Mindoro.[7]

The trial court convicted the accused and sentenced him to two terms of reclusion perpetua, thus:

WHEREFORE, finding the accused guilty beyond reasonable doubt of the crime of Robbery with Double Homicide penalized under Article 294, Paragraph 1 of the Revised Penal Code, the accused, Edilberto Fabula, is hereby sentenced to suffer the penalty of reclusion perpetua for the death of Mariano Cueto. Likewise, the accused is hereby sentenced to suffer the penalty of reclusion perpetua for the death of Petra Cueto. He is hereby ordered to pay the sum of One Hundred Thousand Pesos (P100,000.00) to the heirs of Mariano and Petra Cueto by way of indemnity. The period of preventive imprisonment shall be deducted from his principal penalty.

All accessory penalties provided for by the Revised Penal Code are hereby imposed.[8]

In this appeal, accused-appellant asserts that the prosecution twisted the facts of the case by allegedly suppressing material evidence favorable to him. He also assails the credibility of prosecution witnesses by citing certain inconsistencies in their testimonies.

The appeal fails in both form and substance.

At the outset, we observe that accused-appellant's brief violates the form required by the Rules of Court. Section 16 of Rule 46 states:

Sec. 16. Contents of appellant's brief. - The appellant's brief shall contain in the order herein indicated the following:

- (a) A subject index of the matter in the brief with a digest of the argument and page references and a table of cases alphabetically arranged, textbooks and statutes cited with reference to the pages where they are cited;
- (b) An assignment of the errors intended to be urged. Such errors shall be separately, distinctly and concisely stated without repetition, and shall be numbered consecutively;
- (c) Under the heading "Statement of the Case," a clear and concise statement of the nature of the action, a summary of the proceedings, the appealed rulings and orders of the court, the nature of the judgment and any other matters necessary to an understanding of the nature of the controversy, with page references to the record;
- (d) Under the heading "Statement of Facts," a clear and concise statement in a narrative form of the facts admitted by both parties and of those in controversy, together with the substance of the proof relating thereto in sufficient detail to make it clearly intelligible, with page references to the record;
- (e) A clear and concise statement of the issues of fact or law to be submitted to the court for its judgment;
- (f) Under the heading "Argument," the appellant's arguments on each assignment of error with page references to the record. The authorities relied upon shall be cited by the page of the report at which the case begins and the page of the report on which the citation is found;
- (g) Under the heading "Relief," a specification of the order or judgment which the appellant seeks;
- (h) In cases not brought up by record on appeal, the appellant's brief shall contain as an appendix, a copy of

the judgment or order appealed from.

Accused-appellant's brief does not contain a subject index, a statement of the facts, and a statement of the case. Accused-appellant's counsel proceeded directly to discuss his arguments without stating the assigned errors and the issues in accordance with paragraphs (b) and (e) of the aforementioned rule. The brief also does not contain a Prayer to indicate the relief sought by the accused-appellant. These omissions are fatal and highlight the bankruptcy of accused-appellant's appeal.

Even on the merits, accused-appellant failed to show that the trial court erred in rendering a judgment of conviction.

Eyewitness Bernardo Lingasa positively identified accused-appellant as the one who stabbed Petra Cueto and took her bag. We thoroughly scrutinized his testimony both in the direct and cross-examination and we find it to be clear and unequivocal. Thus, we see no cogent reason to disturb the conclusions of the trial court regarding his credibility.

Accused-appellant's uncorroborated alibi crumbles in the face of such positive identification made by an eyewitness, especially since there is no showing that the witness was impelled by evil motives in imputing the offense on the accused-appellant. Furthermore, accused-appellant failed to prove that it was impossible for him to be at the crime scene at the time of its commission. He alleged that on August 24, 1992, at 8:00 in the evening, he was sleeping in his parents' house in Sta. Cruz, Calapan, Oriental Mindoro.[9] It has not been shown, however, that Barangay Gamao is absolutely inaccessible from Sta. Cruz, Calapan, Oriental Mindoro as to preclude any possibility of the accused-appellant going there in the evening of August 24, 1992. Accused-appellant also did not present any witness to corroborate his alibi. It is settled that for an alibi to be credible, the defense must not only prove that the accused was not at the scene of the crime at the time of its commission, but it must also prove that it was absolutely impossible for the accused to be there at that time.[10]

We, however, find that accused-appellant was erroneously sentenced to two terms of reclusion perpetua. Accused-appellant was wrongly charged with Robbery with Double Homicide. Such crime does not exist in our statute books. Article 294 paragraph 1 of the Revised Penal Code[11] imposes only one penalty for the special complex crime of robbery with homicide regardless of the number of persons killed.[12] This special complex crime does not limit the homicide to one victim as to make the killings in excess of that number punishable as separate offenses. All the homicides are merged in the composite, integrated whole that is robbery with homicide so long as the killings were perpetrated by reason or on the occasion of the robbery.[13] In addition, the trial court erred in failing to order the payment of fifteen thousand pesos (P15,000.00) to the heirs of the victims, the sum of money forcibly stolen by the accused-appellant.

IN VIEW WHEREOF, we find the accused-appellant GUILTY of the crime of Robbery with Homicide. He is hereby sentenced to Reclusion Perpetua and to pay the sum of P50,000.00 to the heirs of each of the victims as death indemnity plus the sum of P15,000.00 representing the money forcibly stolen from the victims. Costs against accused-appellant.

SO ORDERED.

Regalado, (Chairman), Romero, Mendoza, and Torres, Jr., JJ., concur.

[1] Original Records, p. 1.

[2] RTC Decision, Rollo, p.18.

[3] Exhibit "A".

[4] TSN, March 15, 1993, pp. 7-19; Exhibit "A".

[5] Exhibits "B", "C", "D" and "E".

[6] TSN, April 20, 1993, pp. 4-8, 14-15.

[7] TSN, September 7, 1993, pp. 4-5.

[8] RTC Decision, Rollo, p.21.

[9] TSN, September 7, 1993, pp. 4-5.

[10] Serrano vs. Court of Appeals, 247 SCRA 203 (1995); People vs. Parica, 243 SCRA 557 (1995); People vs. Daquipil, 240 SCRA 314 (1995).

[11] Art. 294. Robbery with violence against or intimidation of persons - Penalties. - Any person guilty of robbery with the use of violence against or any person shall suffer:

1. The penalty of reclusion perpetua to death, when by reason or on occasion of the robbery, the crime of homicide shall have been committed, or when the robbery shall have been accompanied by rape or intentional mutilation or arson.

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[12] People vs. Dulatre, 248 SCRA 107 (1995); People vs. Vivas, 232 SCRA 238 (1994).

[13] People vs. Quinones, 183 SCRA 747 (1990), citing People vs. Cabuena, 98 Phil 919 and People vs. Madrid, 88 Phil 1.

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