

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. PATRICIO AMIGO ALIAS “BEBOT”, ACCUSED-APPELLANT.

G.R. No. 116719. January 18, 1996

Ponente: MELO, J.

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MELO, J.:

Initially, Patricio Amigo was charged with frustrated murder in an Information reading as follows:

The undersigned accuses the above-named accused of the crime of FRUSTRATED MURDER, under Art. 248, in relation to Art. 5 of the Revised Penal Code, committed as follows:

That on or about December 29, 1989, in the City of Davao, Philippines, and within the jurisdiction of this Honorable Court, the above-mentioned accused, armed with a knife, with treachery and evident premeditation and with intent to kill wilfully, unlawfully and feloniously attacked, assaulted and stab with said weapon one Benito Ng Suy, thereby inflicting injuries upon the latter, the following injuries, to wit:

“MULTIPLE STAB WOUNDS-LEFT ARM, LEFT CHEST, ABDOMEN AND LEFT THIGH WITH PENETRATION TO LEFT PLEURAL CAVITY, DIAPHRAGM STOMACH, DUODENUM, PANCREAS AND MIDTRANVERSE COLON.”

thus performing all the acts of execution which should have produced the crime of murder as a consequence but nevertheless, did not produce it by reason of causes independent of his will, that is, because of the timely and able medical assistance immediately rendered to the said Benito Ng Suy.

(p.1, Rollo.)

to which he pleaded not guilty.

Subsequently, due to the death of the victim, an amended Information was filed charging now the crime of murder, to wit:

That on or about December 29, 1989, in the City of Davao, Philippines, and within the jurisdiction of this Honorable Court, the above-mentioned accused, armed with a knife, with treachery and evident premeditation and with intent to kill wilfully, unlawfully and feloniously attacked, assaulted and stabbed with said weapon one Benito Ng Say, thereby inflicting upon the latter multiple wounds which caused his death and the consequent loss and damage to the heirs of the victim.

(p. 3, Rollo.)

After trial on the merits, the court a quo rendered a decision, disposing:

WHEREFORE, finding the accused Patricio Amigo guilty beyond reasonable doubt of the crime of MURDER punishable under Art. 248 of the Revised Penal Code, with no modifying circumstance present, the accused is hereby sentenced to the penalty of reclusion perpetua, which is the medium period of the penalty of reclusion

temporal in its maximum to death and to pay the cost; to indemnify the offended party the amount of P93,214.70 as actual damages and P50,000.00 as compensatory damages and P50,000.00 as moral damages.

(p. 32, Rollo.)

Reversal thereof is now sought, with accused-appellant arguing that error was committed by the trial court in imposing or meting out the penalty of reclusion perpetua against him despite the fact that Sec. 19 (1), Article III of the 1987 Constitution was already in effect when the offense was committed.

The facts of the case, as briefly summarized in the brief submitted by the Office of the Solicitor General and as borne out by the evidence, are as follows:

On December 29, 1989, at around 1:00 P.M., after having spent half-day at their store, located at No. 166-A, Ramon Magsaysay Avenue, Davao City, Benito Ng Suy was driving their gray Ford Fiera back home, situated at the back of Car Asia, Bajada, Davao City. With him during that time were his daughters, Jocelyn Ng Suy and a younger one together with his two year old son, who were all seated at the front seat beside him while a five year old boy was also seated at the back of the said vehicle. (TSN, April 29, 1991, pp. 3-5; TSN, March 31, 1992)

On their way home and while traversing the National Highway of Bajada, Davao City, an orange Toyota Tamaraw driven by one Virgilio Abogada, suddenly made a left turn in front of the Regional Hospital, Bajada, Davao City, without noticing the Ford Fiera coming from the opposite direction. This Tamaraw was heading for Sterlyn Kitchenette, which was situated at the corner of the said hospital. (TSN, April 29, 1991, p. 4; TSN, March 31, 1992, pp. 3 and 13)

With Virgilio was Patricio Amigo alias Bebot, a vulcanizer at Lingling's vulcanizing shop owned and operated by a certain Galadua. He was also seated at the right front seat beside Virgilio.

Due to the unexpected veer made by Virgilio, an accidental head on collision occurred between the Fiera and the Tamaraw, causing a slight damage to the right bumper of the latter. (TSN, March 31, 1992, p. 4)

Right after the collision, Benito immediately alighted from the driver's seat and confronted Virgilio Abogada who also went down from his vehicle. (TSN, April 29, 1991, p. 5)

Benito, who was a big man with a loud voice told Virgilio, "You were not looking," to which Virgilio retorted, "I did not see you." (TSN, April 29, 1991, p.16)

While the two drivers where having this verbal confrontation, Patricio who was merely a passenger of Virgilio also alighted from the front seat of the Tamaraw and instantaneously approached Benito and advised the latter to leave since it was merely a small and minor accident. (TSN, April 29, 1991, pp. 16-18)

A bit irritated with the actuation exhibit by Patricio, Benito rebuked the former and told him not to interfere, since he had nothing to do with the accident. (Ibid., p. 7)

Irked by the comment made by Benito, Patricio sarcastically asked; "You are Chinese, is it you?" With a ready answer Benito said; "Yes, I am a Chinese and why?" Patricio in turn replied; "So, you are a Chinese, wait for a while," then left. (Ibid., pp. 7 and 19)

Immediately thereafter, Benito ordered Jocelyn to call a policeman, but after a lapse of about one minute, Patricio returned and arrogantly approached Benito, asking the latter once again, "You are a Chinese, is it not?" To this Benito calmly responded in the affirmative.

(Ibid., pp. 7, 19-20)

Upon hearing the response, Patricio mumbled “Ah, so you are a Chinese,” and suddenly took a five inch knife from his waist and simultaneously stabbed Benito hitting him twice on the chest. (ibid., p. 20)

After being hit, Benito wounded and sensing that his life was in peril, tried to evade his assailant by pushing Patricio away and run around the Tamaraw but Patricio wielding the same knife and not content with the injuries he had already inflicted, still chased Benito and upon overtaking the latter embraced him and thrust his knife on the victim several times, the last of which hit Benito on the left side of his body. (Ibid., pp. 8, 10, 22)

It was at this juncture that Jocelyn who was still inside the Ford Fiera, pleading for mercy to spare her father tried to get out of the vehicle but it was very unfortunate that she could not open its door. (Ibid., p. 10)

Knowing that Patricio was really determined to kill her father by refusing to heed her pleas, Joselyn shouted for help, since there were already several people around witnessing that fatal incident, but to her consternation nobody lifted a single finger to help them. (Ibid., pp. 6, 10, 18, 21-22) Only after her father lay seated on the floor of their Ford Fiera after being hit on the left side of his body that she was able to open the door of the said vehicle. (Ibid., p. 12)

After this precise moment, her younger sister, upon seeing their father bathing with his own blood, embraced him, causing Patricio to cease from his ferocious assault and noticing the presence of several people, he fled. (Ibid., p. 22)

Thereafter, an enraged Jocelyn chased him, but since the assailant ran faster than her, she was not able to overtake him, thus, she instead decided to go back to where her father was and carried him inside the Tamaraw who bumped them and consequently brought him to San Pedro Hospital where he was attended to at the Emergency Room. (Ibid., p. 13)

While at the Emergency Room, Benito who was on a very critical condition, due to multiple (13) stabbed wounds, was operated by Dr. Rolando Chiu. After the operation, he was subsequently brought to the ICU and stayed there for three (3) weeks. (July 12, 1991, pp. 3 and 4)

In a last ditch effort to save his life, having only 10 to 20 percent survival, Benito was airlifted to Manila and was directly confined at the Chinese General Hospital. After three (3) weeks of confinement, Benito expired. CAUSE OF DEATH - SEPSIS (an overwhelming infection). This means that the infection has already circulated in the blood all over the body. (Ibid., pp.6-7)

(pp. 59-65, Rollo.)

Accused-appellant contends that under the 1987 Constitution and prior to the promulgation of Republic Act No. 7659, the death penalty had been abolished and hence, the penalty that should have been imposed for the crime of murder committed by accused-appellant without the attendance of any modifying circumstances, should be reclusion temporal in its medium period or 17 years, 4 months and 1 day, to 20 years of reclusion temporal.

Reasons out accused-appellant:

. . . Since the death penalty (or capital punishment) is not imposable when the stabbing and killing happened, the computation of the penalty should be regarded from reclusion perpetua down and not from death penalty. Indeed, the appropriate penalty is deducible from reclusion perpetua down to reclusion temporal in its medium period. Hence, there being no modifying circumstances present (p. 5 Decision, ibid.), the correct penalty should be in the medium period (Art. 64, par. 1, Revised Penal Code) which is 17 years, 4 months and 1 day to 20 years of reclusion temporal.

(p. 10, Appellant’s Brief, ff. p. 50, Rollo.)

The question raised by accused-appellant was settled by this Court in *People vs. Muñoz* (170 SCRA 107 [1989]) thusly:

In *People vs. Gavarra*, Justice Pedro L. Yap declared for the Court that “in view of the abolition of the death penalty under Section 19, Article III of the 1987 Constitution, the penalty that may be imposed for murder is reclusion temporal in its maximum period to reclusion perpetua,” thereby eliminating death as the original maximum period. Later, without categorically saying so, the Court, through Justice Ameurфина A. Melencio-Herrera in *People vs. Masangkay* and through Justice Andres R. Narvasa in *People vs. Atencio*, divided the modified penalty into three new periods, the limits of which were specified by Justice Edgardo L. Paras in *People vs. Intino*, as follows: the lower half of reclusion temporal maximum as the minimum; the upper half of reclusion temporal maximum as the medium; and reclusion perpetua as the maximum.

The Court has reconsidered the above cases and, after extended discussion, come to the conclusion that the doctrine announced therein does not reflect the intention of the framers as embodied in Article III, Section 19(1) of the Constitution. This conclusion is not unanimous, to be sure. Indeed, there is much to be said of the opposite view, which was in fact shared by many of those now voting for its reversal. The majority of the Court, however, is of the belief that the original interpretation should be restored as the more acceptable reading of the constitutional provision in question.

The advocates of the *Masangkay* ruling argue that the Constitution abolished the death penalty and thereby limited the penalty for murder to the remaining periods, to wit, the minimum and the medium. These should now be divided into three new periods in keeping with the three-grade scheme intended by the legislature. Those who disagree feel that Article III, Section 19(1) merely prohibits the imposition of the death penalty and has not, by reducing it to reclusion perpetua, also correspondingly reduced the remaining penalties. These should be maintained intact.

A reading of Section 19(1) of Article III will readily show that there is really nothing therein which expressly declares the abolition of the death penalty. The provision merely says that the death penalty shall not be imposed unless for compelling reasons involving heinous crimes the Congress hereafter provides for it and, if already imposed, shall be reduced to reclusion perpetua. The language, while rather awkward, is still plain enough. And it is a settled rule of legal hermeneutics that if the language under consideration is plain, it is neither necessary nor permissible to resort to extrinsic aids, like the records of the constitutional convention, for its interpretation.

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The question as we see it is not whether the framers intended to abolish the death penalty or merely to prevent its imposition. Whatever the intention was, what we should determine is whether or not they also meant to require a corresponding modification in the other periods as a result of the prohibition against the death penalty.

It is definite that such a requirement, if there really was one, is not at all expressed in Article III, Section 19(1) of the Constitution or indicated therein by at least clear and unmistakable implication. It would have been so easy, assuming such intention, to state it categorically and plainly, leaving no doubts as to its meaning. One searches in vain for such a statement, express or even implied. The writer of this opinion makes the personal observation that this might be still another instance where the framers meant one thing and said another or - strangely, considering their loquacity elsewhere - did not say enough.

The original ruling as applied in the *Gavarra*, *Masangkay*, *Atencio* and *Intino* cases represented the unanimous thinking of the Court as it was then constituted. All but two members at that time still sit on the Court today. If we have seen fit to take a second look at the doctrine on which we were all agreed before, it is not because of a change in the composition of this body. It is virtually the same Court that is changing its mind after reflecting on

the question again in the light of new perspectives. And well it might, and tan, for the tenets it lays down are not immutable. The decisions of this Court are not petrified rules grown rigid once pronounced but vital, growing things subject to change as all life is. While we are told that the trodden path is best, this should not prevent us from opening a fresh trial or exploring the other side or testing a new idea in a spirit of continuing inquiry.

Accordingly, with the hope that “as judges, (we) will be equal to (our) tasks,” whatever that means, we hereby reverse the current doctrine providing for three new periods for the penalty for murder as reduced by the Constitution. Instead, we return to our original interpretation and hold that Article III, Section 19(1) does not change the periods of the penalty prescribed by Article 248 of the Revised Penal Code except only insofar as it prohibits the imposition of the death penalty and reduces it to reclusion perpetua. The range of the medium and minimum penalties remains unchanged.

The Court realizes that this interpretation may lead to certain inequities that would not have arisen under Article 248 of the Revised Penal Code before its modification. Thus, a person originally subject to the death penalty and another who committed the murder without the attendance of any modifying circumstance will now be both punishable with the same medium period although the former is concededly more guilty than the latter. True enough. But that is the will not of this Court but of the Constitution. That is a question of wisdom, not construction. Of some relevance perhaps is the parable in the Bible of the workman who was paid the stipulated daily wage of one penny although he had worked longer than others hired later in the day also paid the same amount. When he complained because he felt unjustly treated by the householder, the latter replied: “Friend, I do you no wrong. Did you not agree with me for a penny?”

The problem in any event is addressed not to this Court but to the Congress. Penalties are prescribed by statute and are essentially and exclusively legislative. As judges, we can only interpret and apply them and have no authority to modify them or revise their range as determined exclusively by the legislature. We should not encroach on this prerogative of the lawmaking body.

Coming back to the case at bar, we find that there being no generic aggravating or mitigating circumstance attending the commission of the offenses, the applicable sentence is the medium period of the penalty prescribed by Article 248 of the Revised Penal Code which, conformably to the new doctrine here adopted and announced, is still reclusion perpetua. This is the penalty we imposed on all the accused-appellants for each of the three murders they have committed in conspiracy with the others. The award of civil indemnity for the heirs of each of the victims is affirmed but the amount thereof is hereby increased to P30,000.00 in line with the present policy.

(at pp. 120-125.)

The above ruling was reiterated in *People vs. Parojinog* (203 SCRA 673 [1991]) and in *People vs. De la Cruz* (216 SCRA 476 [1992]).

Finally, accused-appellant claims that the penalty of reclusion perpetua is too cruel and harsh a penalty and pleads for sympathy. Courts are not the forum to plead for sympathy. The duty of courts is to apply the law, disregarding their feeling of sympathy or pity for an accused. DURA LEX SED LEX. The remedy is elsewhere - clemency from the executive or an amendment of the law by the legislative, but surely, at this point, this Court can but apply the law.

WHEREFORE, the appealed decision is hereby AFFIRMED.

SO ORDERED.

Narvasa, C.J. (Chairman), Davide, Jr., Francisco, and Panganiban, JJ., concur.

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