

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ARMANDO ESTANISLAO, ROGELIO ESTANISLAO, AND FELINO ESTANISLAO

G.R. No. 118079. December 24, 1996

Ponente: PADILLA, J.

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PADILLA, J.:

On 3 July 1990, the 4th Assistant Provincial Prosecutor of Camarines Sur charged Armando, Rogelio and Felino all surnamed Estanislao, with the murder of one Sergio Montejo, allegedly committed as follows:

"That on or about January 19, 1990, in the late afternoon thereof, at Poblacion, Municipality of Libmanan, Province of Camarines Sur, Philippines, and within the jurisdiction this Honorable Court, the above-named accused, conspiring, confederating together and mutually helping one another with intent to kill, with treachery and evident premeditation, did then and there wilfully, unlawfully and feloniously assault, attack and stab Sergio Montejo with a sharp bladed instrument, hitting the latter on his left chest that caused his instantaneous death.

That as a consequence of the death of said Sergio Montejo, his heirs sustained damages which will be proved later in court.

ACTS CONTRARY TO LAW."[1]

When arraigned, all accused pleaded not guilty.[2]

On 22 May 1992, the trial court issued an order dismissing the criminal aspect of the case against accused Felino Estanislao due to his death on 9 October 1990.[3]

On 21 March 1994, the Regional Trial Court, Branch 29 of Libmanan, Camarines Sur rendered a decision[4] of conviction, the dispositive part of which reads:

"WHEREFORE, premises considered, there being no aggravating or mitigating circumstance, accused Armando Estanislao and Rogelio Estanislao are hereby sentenced to suffer the penalty of reclusion perpetua together with the accessory penalties and for them, including the estate of the deceased accused Felino Estanislao, to pay jointly and severally an indemnity to the heirs of Sergio Montejo in the amount of FIFTY THOUSAND PESOS (P50,000.00) ONLY and to pay the costs.

SO ORDERED."[5]

A motion for reconsideration of the judgment finding the accused-appellants guilty of murder was denied on 6 September 1994[6] and a Notice of Appeal was seasonably filed with, and given due course by the trial court.[7]

The evidence for the prosecution based mainly on the testimony of Fe Peñaredondo tends to prove that on 19 January 1990 at around five o'clock in the afternoon while she (Peñaredondo) was at the eatery owned by a certain Jun Badilla and while Badilla, another unnamed person and the victim Sergio Montejo were drinking beer, the accused Rogelio Estanislao arrived.

When the victim Montejo stood up from the drinking session to relieve himself, accused Rogelio Estanislao suddenly uttered, "Tara Sergio!" after which Rogelio suddenly stabbed the victim Sergio Montejo and thereafter fled. Peñaredondo likewise testified that she saw Armando and Felino Estanislao, whom she had earlier seen within the vicinity of the store, approach the victim immediately after the stabbing, carrying wooden sticks locally called "palomaria". When the two (2) found out that the victim had fallen down with a stab wound, they then also fled.

Araceli Montejo, the victim's wife, testified that the relationship between the Estanislao and the Montejos had turned sour since 18 November 1989 when her husband (the victim) had advised the Estanislao to vacate the property of the Montejos that they were occupying since the Montejos were going to use the property. She testified that on 11 January 1990, only a week before the stabbing incident, her husband and Armando Estanislao had a fist fight where the latter was aided by the two (2) other accused, Felino and Rogelio Estanislao. The fight was broken up by the timely arrival of police officers which prevented the accused from further attacking the victim Sergio Montejo. The victim's widow likewise testified that Rogelio Estanislao threatened to kill her husband while she was trying to stop the fight.[8]

The defense on the other hand had a completely different version of the incident.

Accused-appellant Rogelio Estanislao while admitting that he was holding the bladed weapon that killed the victim interposed the defense that the latter was accidentally hit when he (Rogelio) was trying to parry an attack on himself.

Rogelio testified that at around five o'clock in the afternoon of 19 January 1990 at Barangay Poblacion, Libmanan, Camarines Sur, he passed by an eatery (carinderia) where the owner, a certain Jun Badilla, one Gerry Balces and the victim Sergio Montejo were having a drinking spree. As he passed by, he heard the victim say in the native dialect, "Here he comes, attack him now!". It was then that Montejo and Balces threw beer bottles at him and Montejo pulled out a fan knife (balisong) saying "I will finish you!". Jun Badilla likewise attacked him with a bolo. Rogelio then stated that he was able to grab hold of a small wooden table locally known as "papag" which he used to parry the attacks of the two (2) assailants. He declared that the victim was hit by the bolo of Jun Badilla when he parried the latter's attack and the bolo accidentally hit the victim. Defense witness Dionisio Munda corroborated Rogelio's version of the incident.

Accused-appellant Armando Estanislao relied on his defense of alibi. He testified that on the date and time of the incident, he was at the house of a certain Leonor Amores working as a hired laborer.

Amores confirmed Armando's alibi but admitted that the distance from her house to the crime scene can be negotiated in five (5) minutes on foot or two (2) minutes by trimobile.

Accused-appellants assign the following errors to the trial court:

I

WHEN IT RELIED UPON THE LONE, UNCORROBORATED AND INADEQUATE TESTIMONY OF PROSECUTION WITNESS FE PEÑAREDONDO IN CONCLUDING THAT APPELLANT ROGELIO ESTANISLAO EMPLOYED TREACHERY IN ATTACKING THE VICTIM.

II

WHEN IT RELIED UPON THE DUBIOUS TESTIMONY OF OFFENDED PARTY ARACELI MONTEJO IN CONCLUDING THAT THERE EXISTED EVIDENT PREMEDITATION THAT QUALIFIED THE OFFENSE TO MURDER.

III

WHEN IT INFERRED THE EXISTENCE OF CONSPIRACY AMONG THE ACCUSED-APPELLANTS FROM MERE RELATIONSHIP AND SPECULATION.

IV

WHEN IT DISREGARDED APPELLANT ROGELIO ESTANISLAO' S CLAIM OF SELF-DEFENSE EVEN WHEN HIS TESTIMONY WAS NEVER REBUTTED AND THEREFORE TACITLY ADMITTED BY THE PROSECUTION.

V

WHEN IT CONVICTED THE ACCUSED OF THE CRIME OF MURDER AS CHARGED.[9]

Accused-appellants argue that the trial court erroneously relied on the testimony of Fe Peñaredondo which was not only uncorroborated but also based on assumptions and contained accounts of events which were improbable.

It is argued that the prosecution should have presented the persons allegedly drinking with the victim at the time of the incident.

Accused-appellants likewise contend that witness Peñaredondo only assumed that the reason the victim stood up was to relieve himself, which assumption lacked any basis.

Appellants also maintain that it is improbable for accused Felino and Armando Estanislao to loiter near the scene of the incident as early as 4:30 in the afternoon of 19 January 1990 since the former was an infirm and ailing man who died during the trial of the case while the latter walks with a limp and there would have been a danger of their being violently accosted by the victim and his drinking companions.

Appellants then assail the finding of the trial court that treachery and evident premeditation accompanied the killing.

The settled rule is that appellate courts will generally not disturb the findings of the trial court on the issue of credibility of witnesses, considering that it is in a better position to decide the question, having heard the witnesses themselves and observed their deportment and manner of testifying during trial.[10]

In the present case, there is no showing that the trial court overlooked certain facts which could have materially affected its appreciation of the testimony of prosecution witness Fe Peñaredondo. Her testimony was clear, unequivocal and consistent. The issues raised by appellants regarding assumptions and improbabilities pertain to matters which are extraneous to her straightforward narration of how accused-appellant Rogelio Estanislao suddenly stabbed the victim Sergio Montejo, after which he immediately fled.

Accused-appellant Rogelio Estanislao for his defense contends that he was holding a wooden table (papag) and a knife he had grabbed possession of from one of the victim's drinking buddies. He maintains that the victim Montejo was accidentally stabbed when he was parrying the attacks against him.

Appellant Rogelio's defense that the victim was accidentally stabbed is defeated and negated by his own testimony.

On direct examination, Rogelio Estanislao first testified that the victim attacked him with a knife while Jun Badilla attacked him with a bolo he had pulled from his scabbard. He was then able to get hold of a wooden table to defend himself. While parrying the attacks against him, the victim (Montejo) was hit by the bolo of Badilla which he had blocked with the "papag".[11]

Later however, Rogelio stated that he was not sure if it was the bolo of Badilla or the knife which the victim had earlier attacked him with, but which the latter dropped and which he picked up and was then holding together with the "papag", which struck the fatal wound on Sergio Montejo. He also stated that the victim was attacking him

with a lead pipe while Badilla was attacking him with his bolo.[12]

On cross-examination, Rogelio had yet another version of the incident. He stated that Badilla was not yet holding a bolo when Sergio attacked him with a knife. Rogelio narrated that Sergio first dropped the knife before Badilla got a bolo from the stall and attacked him.[13]

The differences in the three (3) versions of the incident are irreconcilable and unexplained. Thus, against the uncontested and consistent testimony of the prosecution witnesses, his defense must fail.

Moreover, if it were indeed true that it was the victim's (Montejo) group that first attacked Rogelio Estanislao, it is not explained why the latter did not file criminal charges against his alleged attackers.

The presence of the qualifying circumstance of treachery has been adequately shown. The attack on Montejo although preceded by a warning ("Tara Sergio!") was undoubtedly sudden and unexpected and prevented the unsuspecting victim, who had just stood up, from defending himself.

Evident premeditation on the other hand was not substantially shown.

The requisites of evident premeditation are: 1) the time when the offender determined to commit the crime must be adequately shown; 2) an act to show that the offender clung to his determination and 3) a sufficient lapse of time between the determination and the execution to allow the offender to reflect upon the consequences of his act.[14]

Not all of said requisites have been adequately shown in this case.

On the criminal liability of Armando Estanislao, the trial court based his conviction on the inference that there was conspiracy between the father (Felino), whose criminal liability was extinguished by his death during trial of the case, and the two (2) sons, Rogelio and Armando.

Conspiracy may be inferred from the joint and simultaneous acts of several accused aimed at a common purpose.[15]

We are not convinced that conspiracy between Rogelio and the two (2) other accused can be logically inferred from the acts of the latter.

It is undisputed that Armando and Felino Estanislao did not commit any positive act to show unity of purpose with Rogelio. Their mere presence in the crime scene, absent other proof to support the allegation of conspiracy, cannot be considered an indication of their being conspirators.[16] Nor can relationship with Rogelio and their carrying wooden sticks be considered as badges of conspiracy. The doubt in this case should be resolved in favor of the accused-appellants.

Finally, the mitigating circumstance of voluntary surrender cannot be appreciated in favor of accused-appellant Rogelio Estanislao. The trial court correctly held that Rogelio's surrender after a warrant of arrest had been issued and almost two (2) months after the incident was not spontaneous and therefore deserves no consideration.

WHEREFORE, based on the foregoing, the decision appealed from is hereby MODIFIED as follows:

1. Accused-appellant Armando Estanislao is hereby ACQUITTED based on reasonable doubt;
2. The liability of the estate of Felino Estanislao for the death of the victim is SET ASIDE for being without basis;
3. Accused-appellant Rogelio Estanislao is declared guilty of murder and sentenced to suffer the penalty of Reclusion Perpetua and ordered to indemnify the heirs of the victim the amount of FIFTY THOUSAND PESOS (P50,000.00).

SO ORDERED.

Bellosillo, Kapunan, and Hermosisima, Jr., JJ., concur.

Vitug, J., on leave.

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- [1] Original Records, p. 1.
 - [2] Original Records, p. 85.
 - [3] Original Records, p. 194.
 - [4] Penned by Judge Salvador G. Cajot.
 - [5] Original Records, p. 272.
 - [6] Original Records, p. 296.
 - [7] Original Records, pp. 297 and 299.
 - [8] TSN, 14 January 1991, p. 10.
 - [9] Rollo, p. 51.
 - [10] People of the Philippines v. Albarico, G.R. Nos. 108596-97, 17 November 1994, 238 SCRA 203.
 - [11] TSN, 4 October 1991, pp. 9-10.
 - [12] TSN, 4 October 1991, pp. 10-11.
 - [13] TSN, 11 June 1992, pp. 4-6.
 - [14] People of the Philippines v. Maturgo, G.R. No. 111872, 27 September 1995, 248 SCRA 519.
 - [15] People of the Philippines v. Wenceslao, G.R. No. 95583, 12 August 1992, 212 SCRA 560.
 - [16] People of the Philippines v. Buntan, Sr., G.R. No. 90736, 12 April 1993, 221 SCRA 421.

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