

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. DANTE CASTRO, RITO CASTRO, JOEL CASTRO, GEORGE CASTRO AND OSCAR CASTRO, ACCUSED-APPELLANTS.

G.R. No. 119068. July 31, 1997

Ponente: PADILLA, J.

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PADILLA, J.:

An information, dated 14 November 1991,[1] was filed by Provincial Prosecutor Alejandro A. Pulido of Cagayan charging Dante, Oscar, Rito, Joel, George, all surnamed Castro, Caridad Menor y Castro alias Caring and Genesia Garcia y Castro with the crime of murder, allegedly committed as follows:

“The undersigned, Provincial Prosecutor, accuses Dante Castro, Oscar Castro, Rito Castro, Joel Castro, George Castro alias Jong, Caridad Menor y Castro alias Caring, and Genesia Garcia y Castro alias Jining of the crime of Murder, defined and penalized under Article 248 of the Revised Penal Code, committed as follows:

That on or about August 22, 1991, in the Municipality of Amulung, Province of Cagayan, and within the jurisdiction of this Honorable Court, the said accused, Dante Castro, Oscar Castro, Rito Castro, Joel Castro, Caring and Genesia Garcia y Castro alias Jining, armed with long handled bolos (tabas), spear and gun, conspiring together and helping one another with intent to kill, with evident premeditation, treachery and taking advantage of superior strength did then and there wilfully, unlawfully and feloniously attack, assault, stab, hack and shoot one, Alfonso Sosia, inflicting upon him several injuries on the different parts of his body which caused his death.

Contrary to law.”

On 10 February 1992, the accused, assisted by counsel, were arraigned and pleaded not guilty to the charge. Defense counsel waived pre-trial for the accused and moved for continuous trial which commenced on 2 March 1992 and terminating on 15 February 1994 when both prosecution and defense submitted the case for resolution.

On 10 May 1994, the Regional Trial Court, Branch 02 of Tuguegarao, Cagayan rendered a decision,[2] the dispositive part of which reads:

“WHEREFORE, finding the accused Oscar Castro, Dante Castro, Rito Casro, Joel Castro and George Castro guilty beyond all reasonable doubt of the crime of Murder as penalized under Art. 248, of the Revised Penal Code, they are hereby sentenced separately of [sic] the following penalties:

1. To Oscar, an indeterminate sentence of 10 years and 1 day of prision mayor to 18 years, 8 months and 1 day of reclusion temporal medium;
2. To Dante Castro, Rito Castro, Joel Castro and George Castro, reclusion perpetua;
3. Genecia Castro and Caridad Castro are acquitted of the murder charge.
4. All the accused except Caridad and Genecia Castro are hereby ordered to pay the cost of the suit.

SO ORDERED.”

The facts, as summarized by the Solicitor General in his brief, are as follows:

“In the morning of August 22, 1991, Clodualdo Escobar went to Barangay Bacring, Amulung, Cagayan to supervise the cultivation and preparation of his agricultural property, consisting of 25 hectares (TSN, March 2, 1992, pp. 14-15).

Escobar and his tenant and overseer Alfonso Socia, who was carrying a harrow borrowed from Romulo Garcia, were on their way to the farm when they met appellants Oscar Castro, Joel Castro, Rito Castro, Dante Castro and George Castro. Genecia Castro and Caridad Castro were also with the group(pp. 17-18, Ibid.).

Escobar was ahead of Socia by a distance of four (4) to five (5) meters. Appellant Oscar Castro, the leader of the group asked Escobar and Socia where they were going (Ibid.). Fear gripped Escobar, because appellants Oscar, Rito and Joel were all carrying boloes. Without waiting for an answer, appellant Oscar hit the left hand of Socia who was behind Escobar. Escobar was at that time moving backward, facing the appellants (p. 19, Ibid.). After Socia was hit, he tried to shield himself with the harrow he was carrying. Then came a series of stab and hacking blows from appellants Dante and George. George hacked the shoulder of Socia, while Dante stabbed the right forearm of Socia with a long bolo (Ibid., p. 20).

Appellant George was at the back of Socia at the left side of Dante when he delivered the stab blow. Dante and George came from the back of the house of Ernesto Garcia when they hit Socia. George was carrying a yellow sack, where he got a handgun which he gave to his uncle Rito, who immediately fired it and shot the lying Socia (p. 21, Ibid.).

All the appellants triumphantly shouted “nangabak kamin (meaning: We won.) (Ibid, p. 22). For fear that Rito might shoot him, Escobar retreated twenty-five (25) meters away. On the other hand, Caridad Castro used a spear to block Lourdes Castro [sic] who was calling for help. Genecia Castro meanwhile was shouting, “Adda pay ni Lakay Escobar, patayen yo pay” (meaning: Here is oldman Escobar, kill him also (Ibid., pp. 23-25).

After Socia fell, he was placed in a hammock and brought to Tuguegarao, Cagayan for treatment but died on the way. The body was brought to the house of one Rodolfo Farinas at Bayabat, Cagayan. The incident was reported to the 111th Philippine Constabulary detachment at Bayabat, Cagayan (Ibid., pp. 29-30).”[3]

In their brief, appellants attempted to show that the testimony of Lourdes Sosia* (victim’s wife) during the trial and the affidavit she executed on 27 August 1991 were contrived and devised. Appellants aver that in an interview by SPO1 Pedrito Catil of Lourdes Sosia on 22 August 1991, right after the incident in question took place, the latter informed the police investigator that it was only Oscar Castro who was the assailant of her husband Alfonso Sosia. According to appellants, such statement which was made on the same day the incident happened, should have been regarded by the trial court as part of the *res gestae* for it was made after stratling occurrence before she had time to concoct lies or to fabricate an account.

According to appellants, all the requisites for the admission of said statement as part of the *res gestae* under the Rules of Court are present in this case, to wit:

- (a) That the principal fact, the *res gestae*, be a startling occurrence;
- (b) that the statements were made before the declarant had time to contrive or devise; and
- (c) that the statements must concern the occurrence in question and its immediately attending circumstances.”[4]

Appellants further allege that the testimony in court of Lourdes Sosia implicating all the appellants in the crime charged is not the product of a natural and spontaneous reaction or response.

It is then argued by appellants that while admittedly all the appellants (except Oscar Castro) invoked the defense of alibi – usually a weak defense – the same should not be looked upon with disfavor in this case, as the same was amply corroborated on material points by the defense’s witnesses. In short, according to appellants, the presumption of innocence standing in their favor has not been adequately overcome by the prosecution.

Appellants’ arguments are not impressed with merit.

The testimony of Lourdes Sosia, the victim’s widow, during the trial that all the appellants killed her husband prevails over the affidavit she executed after the incident. It has been held that whenever there is inconsistency between the affidavit and the testimony of a witness in court, the testimony commands greater weight.^[5] Moreover, affidavits taken ex parte are inferior to testimony given in court, the former being almost invariably incomplete and oftentimes inaccurate.^[6]

The record is replete with evidence showing beyond reasonable doubt the guilt of the accused-appellants. Two (2) other prosecution witnesses – Clodualdo Escobar and Elon Farinas – declared that the appellants committed the gruesome crime. Clodualdo Escobar was with the victim and witnessed the whole incident from the moment Oscar Castro hit the victim with a bolo up to the the victim was shot by Rito Castro.

The defense of alibi put up by the appellants is not worthy of belief and fails to convince us. We agree with the trial court’s finding, to wit:

“Now, coming to the individual alibi put up by Dante Castro, Rito Castro, Joel Castro and George Castro, suffice it to state, that the defenses of alibi put up by the four male accused are unconvincing and unworthy of belief. Take the case of Dante Castro and Rito Castro. These two accused alleged that they went to Barangay Unag, Amulung, Cagayan, in the morning of August 21, 1991. True it is , that Eduardo Tabbu declared that he saw the two accused in the morning of August 21, 1991, at the house of Anita Tabbu and Ricardo Aglibar, but there is no proof that they slept in the house of the Aglibars on the night of August 21, 1991. Even granting that Dante Castro and Rito Castro really went to Barangay Unag in the morning of August 21 to plow the field of Ricardo Aglibar who was sick, but this does not prove that they slept in the latter’s house on August 21, 1991. Anita Tabbu or Ricardo Aglibar should have been called upon to testify that said accused did not go home to Bacring in the afternoon or night of August 21, and stayed in said barangay up to August 24, when the two accused allegedly went home.

The alibi put up by Dante Castro and Rito Castro was shattered to pieces and blown to oblivion when Loreto Garcia and Escobar testified as rebuttal witnesses declaring that Dante Castro was seen by these two rebuttal witnesses in the afternoon of August 21, 1991 near the premises of Loreto Garcia’s house, when Escobar was about to fetch water from the artesian well. Dante Castro and Rito Castro failed to refute these declarations of Escobar and Garcia.

Loreto Garcia’s testimony carries great weight considering that Dante Castro, Rito Castro and Oscar Castro are the nephews of Loreto Garcia, because Genecia Garcia-Castro, mother of Dante, Oscar and Rito, is the sister of Loreto Garcia.

The alibi of Joel Castro that he was sick, suffering from cold and fever on August 22, 1991, would not also hold water. If really Joel Castro was sick, then Laboreto Peana, the councilman in their place, should not have sent Joel Castro to call for barangay captain. Neither Laboreto Peana or Jose Peana stated that Joel Castro was sick. Even assuming that Joel Castro was sick and he forced himself to report the incident to the barangay captain, what would prevent said accused from being at the scene of the crime where Alfonso Socia was killed since he could walk and roam around.

The pretensions of George Castro that after Alfonso Socia fired at him, he went to the house of his Auntie Betty Donato y Castro and stayed there up to 3:00 P.M. deserves scant consideration because Betty Donato

was not called upon to testify. The fact alone that George Castro failed to report to his auntie what happened to him, that is, that Socia fired at him seriously impaired and weakened his claim of alibi.”[7]

In the defense of alibi put up by Dante and Rito Castro, the court a quo found that the distance between Bacrang and Barangay Unag is seven (7) kilometers and can be negotiated by hiking or walking in two (2) hours. Moreover, Such alibi was completely shattered when rebuttal prosecution witnesses Loreto Garcia and Clodualdo Escobar testified that Dante Castro was seen by them in the afternoon of 21 August 1991 at the premises of Garcia’s house when Escobar was about to fetch water from the artesian well. These declarations were not refuted by the appellants Dante and Rito Castro.

The trial court likewise declared that “[t]he claims of self-defense on the part of Oscar Castro has [sic] no probative value whatsoever. The number of wounds in the body (of the victim), consisting of eight (8) wounds, three hacked wounds, three incised wounds, one abrasion, and one gunshot wound, negate the claim of self-defense.” The self-defense put up by Oscar Castro is likewise unavailing. This pretense was not substantiated by a medical certificate. The firearm which was used in shooting Alfonso Socia was not immediately surrendered to the police authorities but thrown in a cogonal area. Oscar Castro claims that at first he did not volunteer to surrender the firearm because of fear that he would be implicated. This claim is devoid of any logic when one considers that he readily surrendered the bolo which he used in hacking and stabbing Alfonso Socia. We agree with the conclusion of the trial court that is patently clear that there was suppression of the handgun as a piece of evidence because if the fingerprints taken from the firearm were similar to the fingerprints of Rito Castro who, according to the prosecution’s evidence was the one who fired the gun, then Rito Castro would surely be charged with Illegal Possession of Firearm.

The trial court found that conspiracy was attendant in the incident. To establish conspiracy, it is not essential that there be proof as to previous agreement to commit a crime. It is sufficient that the malefactors shall have acted in concert pursuant to the same objective.

As aptly observed by the trial court:

“There is proof that the Castros are very closely knit family. They live in the same barangay and their houses are almost adjacent to each other. Although it may be true that only Escobar and Oscar Castro are wrangling or quarelling over Lot 30, and this involves also Alfonso Socia due to his closeness to Escobar, with the latter intending to transfer the possession of Lot 30 to Alfonso Socia, nevertheless, the oft-repeated saying: ‘that blood is thicker than water’ applies. In the tagalog adage: ‘Ang sakit ng kalingkingan ay sakit ng buong katawan,’ equally applies. Simply stated, the problem of Oscar Castro is the problem of the whole Castro Clan.”[8]

In conclusion, the court below declared:

“Was there conspiracy in the killing of Alfonso Socia? Art. 8, par. 2 of the Penal Code, defines conspiracy, as when two or more persons come to an agreement concerning the commission of a felony and decide to commit it. To establish conspiracy, it is not essential that there be proof as to previous agreement to commit a crime. It is sufficient that the malefactors shall have acted in concert pursuant to the same objective. (PP. vs San Luis, 86 Phil. 485; PP. vs. Timbol, GR No. 47473; PP. vs. Tian, 77 Phil. 1090). In the following cases there was implied conspiracy where four brothers attacked a victim (PP. vs Khaw Dy, 109 Phil. 649). Where five defendants converged upon the scene of the crime at the same time (PP. vs. Licuana, 88 Phil. 789) where the five defendants were closely related to one another and had a common grievance to redress.

In the case at bar, brothers, nephews and sons converged in one place attacked, stabbed, hacked and shot Alfonso Socia are clear evidence of implied conspiracy.”[9]

All told, the constitutional presumption of innocence in favor of the accused–appellants Dante, Rito, Joel, George and Oscar all surnamed Castro has been overcome by proof beyond reasonable doubt.

However, the trial court failed to require the accused-appellants to indemnify the heirs of the victim Alfonso Sosia according to settled jurisprudence.[10] We, therefore, order such indemnity in this decision.

One last observation.

It appears from the wording of the information that the provincial prosecutor was less than meticulous in preparing the same. It is noted that the names of the accused in the first paragraph of the information are not the same as those in the second paragraph. Although the divergence is not material in this case, accuracy is always demanded in preparation of informations for violation of penal laws since slight errors may, in certain cases, cause the government to lose its case.

WHEREFORE, the appealed judgment is hereby **AFFIRMED** with the modification that the accused-appellants are ordered, jointly and severally to indemnify the heirs of Alfonso Sosia the amount of P50,000.00, with costs against accused-appellants.

SO ORDERED.

Bellosillo, Vitug, and Kapunan, JJ., concur.
Hermosisima, Jr., J., on leave.

[1] Rollo, p. 4.

[2] Ibid, pp. 48-76.

[3] Rollo, pp. 182-184.

* Alternatively spelled "Socia" in some parts of the records.

[4] Rollo, p. 134.

[5] *People v. Ponayo*, 235 SCRA 226; citing *People v. Loveria*, 187 SCRA 47.

[6] *People v. Parangan*, 231 SCRA 681.

[7] Rollo, p. 68-69.

[8] Rollo, p. 71.

[9] Rollo, p. 72.

[10] *People v. Bravo*, G.R. No. 101191, 18 October 1993, 227 SCRA 285.

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