

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ARMANDO DEL VALLE, EDUARDO SERRANO AND DIOSDADO DEL VALLE, ACCUSED, ARMANDO DEL VALLE, ACCUSED-APPELLANT.

G.R. No. 119616. December 14, 2001

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

On appeal is the decision[1] dated August 30, 1994, of the Regional Trial Court of Pasay City, Branch 115, finding Armando del Valle guilty of murder and sentencing him to suffer the penalty of life imprisonment and to pay the heirs of Nestor Aguares the sum of P50,000 as civil indemnity and P50,000 as actual damages.

The Information filed on November 18, 1988, accused Eduardo Serrano y Postrado, JOHN DOE @ "EDDIE" and PETER DOE @ "DADO", the real identities and whereabouts of the last two accused then unknown, of the crime of MURDER committed as follows:

That on or about the 17th day of November, 1988 in Pasay City, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating together and mutually helping one another, with evident premeditation and treachery and abuse of superior strength, with deliberate intent to kill and without justifiable cause, did then and there wilfully, unlawfully and feloniously attack, assault and inflict stab wounds on the vital parts of the body of one Nestor Aguares with a bladed instrument accused was then provided with resulting in injuries which caused his death.

Contrary to law.[2]

On August 1, 1989, this Information was amended to read:

The undersigned Assistant City Prosecutor accuses EDUARDO SERRANO y POSTRADO, DING SERRANO AND DIOSDADO DEL VALLE of the crime of MURDER. x x x[3]

This was further amended on February 18, 1993 to change "DING SERRANO" to "ARMANDO DEL VALLE." [4]

First to be arrested and tried, Serrano pleaded not guilty[5] to the charge. Armando and Diosdado del Valle likewise pleaded not guilty[6] in their arraignment which took place on February 18, 1993, five years after the trial of Serrano.

In both trials, the prosecution presented as witnesses, Evelyn and Arsenio Aguares, parents of the victim, and Dr. Valentin Bernaldes, the medico-legal officer who examined the body of the deceased.

Evelyn Aguares, mother of the victim, testified that on November 17, 1988, at around 6 A.M., her sixteen-year old son Nestor, who, like herself was a vendor along Taft Ave. Pasay City, in front of Far East Bank, was counting money from the sales he made that morning when he was approached by fellow vendors Armando and Diosdado del Valle. The two demanded P10 for the payment of space (pwesto) and light. Nestor refused.

Armando then snatched the P10 from him and scampered off. Nestor gave chase and Eduardo Serrano blocked him and held his arms behind him with his other arm around Nestor's neck. At this point, Armando turned around and stabbed Nestor with something which he pulled from his waist. Diosdado also hit Nestor on the head with a hard object wrapped in newspaper.[7]

Evelyn was only a few meters from her son when the stabbing incident happened.[8] She shouted repeatedly for help and soon Nestor's father, Arsenio, who was then acting as barangay captain, came blowing his whistle, as he drove the assailants away.[9]

Arsenio Aguares, corroborated the testimony of Evelyn in all its material points.[10] He testified that in the morning of November 17, 1988, he was walking towards Petron along Taft Ave. going to Rotonda when he heard a woman shouting for help. Soon he realized that the woman shouting was his wife and that his son was being stabbed by Armando, while Eduardo held his son by the neck with his arms behind him. He blew his whistle and shouted and it was at this point that the assailants ran off to different directions.[11]

Nestor sustained a stab wound on the chest and was dead on arrival at the San Juan De Dios Hospital. According to Dr. Valentin Bernales, Nestor suffered external injuries and a fatal stab wound.[12] The cause of death was "hemorrhage, severe, massive, secondary to stab wound, chest area." [13]

For his part, appellant Armando del Valle testified that at the time the incident happened, he was in the vicinity unloading goods to be sold that day. He said that he was about 15 meters from where the stabbing took place.[14] Yet he claims that he did not see nor had any part in the incident. Interesting to note was his claim that when he was informed that a stabbing incident took place, he packed up his goods upon the urging of his wife for fear of being implicated.[15]

On April 20, 1989, Judge Sergio I. Amonoy of RTC-Pasay City, Branch 115, convicted Eduardo Serrano, thus:

All the premises considered, the Court finds accused EDUARDO SERRANO guilty beyond reasonable doubt of the crime of murder and there being no modifying circumstance present pursuant to Article 248 of the Revised Penal Code and applying the indeterminate sentence law sentences him, as principal to suffer the penalty of prision mayor maximum to reclusion temporal medium or 10 years and 1 day to 17 years and 4 months, to reimburse the parents of the victim P5,000 burial, funeral and hospital expenses, to indemnify them P20,000.00 for his death and to pay the cost of the proceedings.

SO ORDERED.

On August 30, 1994, succeeding RTC-Pasay City, Branch 115, Judge Edita M. Mulingtapang, rendered a decision:

In the case of Diosdado del Valle, his identity as the one who stricken (sic) on the body of Nestor Aguares with a wrapped hard object, was not clearly shown. There [was] no categorical testimony to the effect that Diosdado del Valle was earlier seen in the scene of the crime....Also, while in jail said accused was not pinpointed by the Aguares spouses to be one of the suspects except in open Court after the case was called. For these reasons, the Court believes that Diosdado del Valle is innocent of the charge against him.

x x x

...Accordingly, Diosdado del Valle is hereby pronounced innocent of the charge against him.

x x x

However, with respect to Armando del Valle, the Court finds him GUILTY of the Charge against him. Accordingly, he is hereby sentenced to suffer the penalty of life imprisonment and to pay the heirs of Nestor

Aguares the sum of P50,000.00 for the death of Nestor Aguares and P50,000.00 as actual damages.

SO ORDERED.[16]

Both Armando del Valle and Eduardo Serrano filed their notices of appeal.[17] However, Serrano withdrew his appeal before this court in a Motion dated April 10, 1997.[18] Thus, we are now concerned only with the appeal of Armando del Valle.

In his brief,[19] appellant assigns the following errors:

I

THE TRIAL COURT GRAVELY ERRED IN GIVING FULL WEIGHT AND CREDENCE TO THE INCONSISTENT, CONTRADICTIONARY AND INCREDIBLE TESTIMONIES OF PROSECUTION WITNESSES EVELYN AGUARES AND ARSENIO AGUARES.

II

THE TRIAL COURT GRAVELY ERRED IN CONVICTING ACCUSED-APPELLANT ARMANDO DEL VALLE OF THE CRIME OF MURDER DESPITE FAILURE OF THE PROSECUTION TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.[20]

For consideration are the following issues: (1) Whether or not the testimonies of Evelyn and Arsenio Aguares are credible and should be given full weight and credence; and (2) Whether or not the trial court erred in finding appellant Armando del Valle guilty of the crime of murder.

Appellant claims that there were inconsistencies and contradictions in the testimonies of the principal witnesses Evelyn and Arsenio Aguares. He cites as inconsistent the testimony of Arsenio who said that what his wife shouted was, "Saklolo, tulungan ninyo po ako pinapatay nila ang aking anak,"[21] though Evelyn had testified that what she said to her husband was, "Come quick, they already killed our son." [22]

He also cites the portion of the testimony of Arsenio where he said that the railing was just low so that what he did was jump off the railing to respond immediately to the call. His wife, meanwhile testified that because of the railing, her husband had to go around before he could reach the place of the crime.[23]

Appellant also cites the alleged variance in the descriptions of the two witnesses as to the surrounding area at the time of the incident. While Arsenio testified that people ran and scampered because of the incident, Evelyn said that she did not notice if people in the vicinity were attracted to the incident. Arsenio likewise claimed that at the time of the incident there was no vehicle passing, contrary to the testimony of his wife.[24]

Appellant likewise described the testimony of Evelyn, that her son was repeatedly stabbed by the accused-appellant, as improbable and unbelievable, because Dr. Valentin Bernales found that there was only one stab wound on the body of the victim.[25] Finally, appellant claims that it is contrary to human experience that the accused would continue to stab the victim despite the whistle blow of Arsenio, Evelyn's husband.[26]

For the appellee, the Office of the Solicitor General contends that the errors assigned by the appellant are basically factual in nature hence they should not be passed upon by this Court at this point.[27] Moreover, the trial court's findings on the credibility of witnesses are entitled to the highest degree of respect.[28] Also, said the OSG, there is no contradiction between the statements of the witnesses, Arsenio and Evelyn Aguares on basic elements of the case. If there are inconsistencies, these pertain to minor, trivial and inconsequential matters that do not affect the credibility of the witnesses.[29]

As to the second assigned error, appellant claims that the prosecution failed to prove the guilt of appellant

Armando del Valle beyond reasonable doubt. He alleges that Evelyn did not actually see the appellant as the killer of her son, for she still asked persistently the people around regarding the identity of her son's assailant after the victim's burial.[30]

To this the appellee explained that, while appellant's true name was not known to Evelyn Aguares before the stabbing incident, his role as the knife-wielder was clearly established.[31] As appellant himself admitted, he and Evelyn Aguares had already seen each other even before the incident because they were co-vendors.[32]

After carefully considering the testimonies of witnesses and the medical evidence on record and the briefs of the appellant and the appellee, we find that the instant appeal lacks merit.

Regarding first alleged error, we are in agreement with the Office of the Solicitor General that the trial court's findings on the credibility of witnesses are entitled to the highest degree of respect. Absent any showing that it has overlooked, misapprehended, or misapplied some facts of weight and substance which, if properly considered, would have altered the result of the case, the assessment of the trial court regarding the credibility of the witnesses deserves to be sustained on appeal. For having had the distinct opportunity of directly observing the demeanor and conduct of the witnesses under oath, the trial court is in a better position to ascertain whether or not a witness is telling the truth.[33]

Moreover, we find that the alleged inconsistencies in the testimonies of the Aguares couple as eyewitnesses were minor, trivial and inconsequential. They pertained to surrounding incidents and not to the elements of the crime itself. Witnesses cannot be expected to remember all the details of the harrowing event which unfolded before their eyes. Minor discrepancies might be found in their testimony, but they do not damage the essential integrity of the evidence in its material whole, nor should they reflect adversely on the witnesses' credibility. In fact, they may even strengthen their credibility as they erase suspicion that the same was perjured.[34]

We likewise agree with the appellee that while appellant's true name was not known to Evelyn Aguares before the stabbing incident, he was already known to the witness by his alias.[35] His role as the knife-wielder was clearly established by the evidence on record. As appellant himself admitted, he and Evelyn Aguares had already seen each other even before the incident, hence knew each other by sight, because they were co-vendors.[36]

The trial court found that the killing was qualified to murder because treachery was sufficiently proven. As Evelyn Aguares, an eyewitness, testified:

Q:

If there was a chance on the part of your son Nestor Aguares to fight the accused, could he possibly fight back under such situation when he was stabbed by Ding?

A:

In my opinion there was no chance my son to fight back, he was being held at the neck, his other hand was placed at the back.[37]

This testimony remains unrebutted.

In a long line of cases, we held that treachery is present when the offender employs means, methods, or forms which tend to directly and specially insure the execution of the crime, without risk to himself arising from the defense which the offended party might make.[38] In the recent case of *People vs. Birayon*,[39] treachery was appreciated because the victim's hands were held when he was stabbed, such as in this case.

The defense of alibi offered by appellant and his co-accused deserves scant consideration. As we consistently

held, "alibi is the weakest of all defenses. It is a settled rule that for an alibi to prevail, the defense must establish by positive, clear and satisfactory proof that it was physically impossible for the accused to have been at the scene of the crime at the time of its commission, and not merely that the accused was somewhere else." [40]

"In the case at bar, appellant was only a few meters away from the scene of the crime. Moreover, appellant's alibi crumbles in the face of the prosecution's identification. Between a positive identification of the accused and an alibi, the former is given greater weight especially when the witness has no motive to falsely testify against the accused, such as in this case." [41]

In sum, beyond a shadow of doubt, we are convinced that appellant participated as principal in the murder of Nestor Aguares.

As to the penalty to be imposed on appellant, however, the appropriate penalty is not life imprisonment as imposed by the trial judge but reclusion perpetua as provided for in Article 248 of the Revised Penal Code. Moreover, the amount of P50,000 as civil indemnity should be awarded to the victim's heirs without need of further proof other than the death of the victim. [42] In addition, his heirs are also entitled to moral damages in the amount of P50,000 in accordance with recent rulings. [43]

As regards the amount of actual damages, the mother of the victim testified that they spent P25,000 for the funeral expenses, P20,000 for litigation costs; and P5,000 for lost income. [44] She, however, was not able to present receipts for these expenses. Aside from the bare assertions of the mother of the victim, no other evidence of actual damages was presented as required by Article 2199 of the Civil Code. Hence, the award of actual damages should be deleted. However, in lieu thereof, temperate damages under Article 2224 may be recovered, as it has been shown that the victim's family suffered some pecuniary loss but the amount thereof cannot be proved with certainty. For this reason an award of P15,000 by way of temperate damages should suffice. [45]

WHEREFORE, the decision of the Regional Trial Court of Pasay City, Branch 115, finding appellant Armando del Valle guilty of murder is **AFFIRMED** with the **MODIFICATION** that appellant is sentenced to suffer the penalty of reclusion perpetua and to pay to the heirs of Nestor Aguares, the amounts of P50,000 as civil indemnity for the victim's death, P50,000 for moral damages, and P15,000 as temperate damages.

SO ORDERED.

Bellosillo, (Chairman), Mendoza, and De Leon, Jr., JJ., concur.
Buena, J., on official leave.

[1] Rollo, pp. 29-33.

[2] Id. at 8-9.

[3] Id. at 10-11.

[4] Records, p. 112.

[5] Id. at 21-22.

[6] Id. at 150 and 156.

[7] TSN, April 28, 1993, pp. 7-19.

[8] Id. at 39, 44-45, 52.

- [9] Id. at 22-25.
- [10] TSN, May 11, 1993, pp. 56-91.
- [11] Id. at 58-65.
- [12] TSN, March 23, 1993, pp. 11-12.
- [13] Records, p. 77.
- [14] TSN, August 22, 1994, p. 5.
- [15] Id. at 5-6.
- [16] Records, pp. 311-312.
- [17] Id. at 34-35.
- [18] Id. at 169.
- [19] Id. at 68-81.
- [20] Id. at 70.
- [21] Id. at 76. "Help, help me please; they are killing my son."
- [22] Id. at 77.
- [23] Ibid.
- [24] Id. at 78.
- [25] Ibid.
- [26] Id. at 78-79.
- [27] Id. at 121-122.
- [28] Id. at 122.
- [29] Id. at 123-128.
- [30] Id. at 79.
- [31] Id. at 128-129.
- [32] Id. at 129.
- [33] People vs. Joemar Palec, et. al, G.R. No. 135331, November 23, 2000, p. 6.
- [34] People vs. SPO3 Antonio Mendoza, G.R. No. 134004, December 15, 2000, p. 15; People vs. Elpidio Mercado, etc. et. al., G.R. No. 116239, November 29, 2000, p. 29.
- [35] TSN, April 28, 1993, pp. 54-59.
- [36] TSN, August 22, 1994, p. 9.
- [37] TSN, December 5, 1988, p. 9.
- [38] People vs. Felix Celeste, G.R. No. 130281, December 15, 2000, p. 10; People vs. Joemar Palec et. al, G.R.

No. 135331, November 23, 2000, p. 16; *People vs. Gaspar S. Sinda, et.al*, G.R. Nos. 115247-48, December 1, 2000, p. 13.

[39] G.R. No. 133787, November 29, 2000, p. 11. See also *People vs. Alvarado*, G.R. No. 117402, 275 SCRA 727, 739 (1997).

[40] *People vs. Gaspar S. Sinda, et. al*, G.R. Nos. 115247-48, December 1, 2000, pp. 20-21; *People vs. Antonio Templo*, G.R. No. 133569, December 1, 2000, p. 12.

[41] *Ibid*.

[42] *People vs. Bautista*, G.R. No. 96092, 312 SCRA 475, 486 (1999); *People vs. Panida*, G.R. Nos. 127125 & 138952, 310 SCRA 66, 98 (1999) as cited in *People vs. Suplito*, G.R. No. 104944, 314 SCRA 493, 504 (1999).

[43] *People vs. Atrejenio*, G.R. No. 120160, 310 SCRA 229, 245 (1999); *People vs. Panida supra* as cited in *People vs. Suplito*, *supra* note 42 at 505.

[44] TSN, May 20, 1993, pp. 3-4. "P10,000.00 for the funeral parlor, P1,000.00 for the cemetery; P10,000.00 for the wake which lasted for two weeks; P4,000.00 for the vehicle used in the burial, niche, flowers and candles; P20,000.00, for the Court litigants, for processing of papers, for xeroxing of documents and for the time spent during the proceedings; P5,000.00 for the sales for November 16, 1988, aside from the coins or the loose change on November 17... The minimum earnings of my son in selling is P200.00 a day."

[45] *People vs. Suplito*, *supra* note 42 at 505.

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