

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROBERT CASTILLO Y MONES, ACCUSED-APPELLANT.

G.R. No. 120282. April 20, 1998

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

The trial court judge is not an idle arbiter during a trial. He can propound clarificatory questions to witnesses in order to ferret out the truth. The impartiality of a judge cannot be assailed on the mere ground that he asked such questions during the trial.

The Case

This is an appeal from the Decision[1] dated December 23, 1994 of the Regional Trial Court of Quezon City, Branch 88, in Criminal Case No. Q-93-45235 convicting Robert Castillo y Mones of murder and sentencing him to reclusion perpetua.[2]

On July 23, 1993, an amended Information[3] was filed by Assistant City Prosecutor Ralph S. Lee, charging appellant with murder allegedly committed as follows:

“That on or about the 25th day of May, 1993, in Quezon City, Philippines, the above-named accused, with intent to kill[,] qualified by evident premeditation, use of superior strength and treachery did then and there, willfully, unlawfully and feloniously assault, attack and employ personal violence upon the person of one ANTONIO DOMETITA, by then and there stabbing him with a bladed weapon[,] hitting him on his chest thereby inflicting upon him serious and mortal wounds, which were the direct and immediate cause of his untimely death, to the damage and prejudice of the heirs of the said ANTONIO DOMETITA.

CONTRARY TO LAW.”

Upon arraignment, Appellant Castillo, assisted by Counsel Salacnib Bateria, entered a plea of not guilty.[4] After trial in due course, appellant was convicted. The dispositive portion of the assailed Decision reads:

“WHEREFORE, premises considered, accused ROBERTO CASTILLO y MONES is found guilty beyond reasonable doubt of the crime of Murder and [is] hereby sentenced to suffer [the] penalty of reclusion perpetua. He is likewise ordered to pay the heirs of the deceased Antonio Dometita actual damages in the sum of P60,000.00, the sum of P50,000.00 by way of indemnity for the death of the victim and moral damages in the sum of P100,000.00. He is likewise ordered to pay costs.

SO ORDERED.”[5]

Hence, this appeal.[6]

The Facts

Evidence for the Prosecution

The Appellee's Brief[7] presents the facts as follows:

"On May 25, 1993, around one o'clock in the morning, Eulogio Velasco, floor manager of the Cola Pubhouse along EDSA, Project 7, Veteran's Village, Quezon City, was sitting outside the Pubhouse talking with his co-worker, Dorie. Soon, Antonio "Tony" Dometita, one of their customers, came out of the pubhouse. As he passed by, he informed Eulogio that he was going home. When Tony Dometita was about an armslength [sic] from Eulogio, however, appellant Robert Castillo suddenly appeared and, without warning, stabbed Tony with a fan knife on his left chest. As Tony pleaded for help, appellant stabbed him once more, hitting him on the left hand.

Responding to Tony's cry for help, Eulogio placed a chair between Tony and appellant to stop appellant from further attacking Tony. He also shouted at Tony to run away. Tony ran towards the other side of EDSA, but appellant pursued him.

Eulogio came to know later that Tony had died. His body was found outside the fence of the Iglesia ni Cristo Compound, EDSA, Quezon City.

Dr. Bienvenido Munoz, the medico-legal officer who autopsied Tony's cadaver, testified that the proximate cause of Tony's death was the stab wound on his left chest. Tony also suffered several incised wounds and abrasions, indicating that he tried to resist the attack."[8]

Version of the Defense

On the other hand, the defense viewed the facts in this way:[9]

"On May 25, 1993, the late Antonio Dometita was found dead by the police officers at the alley on the right side of the Iglesia ni Cristo Church at EDSA in Bago Bantay.

It is the theory of the prosecution that the deceased Antonio Dometita was stabbed by the accused Robert Castillo y Mones as testified to by Leo Velasco. The corroboration of Leo Velasco's testimony is that of Melinda Mercado who (tsn Oct. 11, 1993) stated that Leo Velasco informed her that Dometita was stabbed. Robert Castillo was walking away from the pubhouse with the bladed weapon. Leo Velasco himself detailed the way Castillo stabbed the deceased Antonio Dometita.

On the other hand the defense claims that the deceased died in the alley at the right side of the church. That decedent Dometita was attacked by two malefactors as testified to by Edilberto Marcelino, a tricycle driver who saw two people ganging up on a third. The same witness saw the victim falling to the ground. (TSN January 5, 1994, page 8). A report of Edilberto Marcelino to the Barangay Tanod's Office was made in the blotter of the Barangay and the extract (xerox of the page) was marked as Exhibit '2'."

The Trial Court's Ruling

The court a quo gave full credence to the testimonies of the two prosecution witnesses, who positively identified the appellant as the killer. It explained:

"From the testimonies of the witnesses of the prosecution and the defense, it can be gleaned that the accused, to exculpate himself from the liability, clung to the defense of alibi[,] saying that he was not at the place where the incident took place at the time of the killing. This was supported by the testimony of his mother and his neighbor and guide Malikdem. This, however, is contradicted by the testimonies of the two eyewitnesses of the prosecution who positively identified accused as the person who stabbed the victim. While the testimony of Mercado is to the effect that she did not actually see the accused hit the victim, she however, saw him walking away and carrying a bladed weapon at the scene of the crime. Velasco on the other hand, actually saw him lunged [sic] his fan knife at the victim. These were further strengthened by the findings of the medico-legal officer that the weapon used in killing the victim [was] similar to a balisong."[10]

The trial court also found that the killing was qualified by abuse of superior strength, because “the accused used a deadly weapon in surprising the victim who [was] unarmed.” Although treachery was present, the trial court held that this was absorbed by abuse of superior strength.

The Issues

The appellant raises the following assignment of errors:[11]

“I

That the trial court failed to appreciate the evidence presented by the accused that there was a stabbing/mauling incident at the side street near the Iglesia ni Cristo Church at Edsa-Bago Bantay, Quezon City (at about the time of the alleged stabbing of victim [sic] Antonio Dometita according to the prosecution version), the same evidence for the accused being buttressed and supported by the barangay blotter, marked Exhibit ‘2.’

II

That the trial court failed to appreciate the implications of: the medical finding that the heart and the lungs of the victim were impaled; that according to the testimony of the prosecution witness, PO3 Manolito Estacio, the victim was found at the side street near the Iglesia ni Cristo Church; and that that side street distant from the place the witnesses for the prosecution stated the victim was stabbed. These matters create reasonable doubt as to the guilt of the accused and cast distrust on the testimony of the witness Eulogio Velasco who allegedly witnessed the stabbing of the victim.

III

That the trial court in many instances showed its prejudice against the accused and in several instances asked questions that [were] well within the duty of the prosecution to explore and ask; it never appreciated other matters favorable to the accused, like the frontal infliction of the mortal wound and the presence [of] “defense wounds” which negate treachery and superiority.

IV

That the trial judge was bias[ed] against the accused hence the judgement of conviction.”

In the main, appellant questions the trial judge’s (1) assessment of the credibility of the witnesses and their testimonies and (2) alleged partiality in favor of the prosecution as shown by his participation in the examination of witnesses.

This Court’s Ruling

The appeal is bereft of merit.

First Issue: Credibility of Witnesses

Time and again, this Court has adhered to the rule that the factual findings[12] of the trial court, as well as its assessment of the credibility of witnesses,[13] are entitled to great weight and are even conclusive and binding, barring arbitrariness and oversight of some fact or circumstance of weight and substance. The evaluation of the credibility of witnesses is a matter that peculiarly falls within the power of the trial court, as it has the opportunity to watch and observe the demeanor and behavior of the witnesses on the stand.[14] In this case, appellant failed to provide any substantial argument to warrant a departure from this rule.

The testimony of Prosecution Witness Eulogio Velasco that he saw the appellant stab the victim is clear and

unequivocal. He was sitting outside the pub house when the victim came out. Dometita, who was then only an arm's length away from him, turned around to say goodbye when, suddenly, the accused came out of nowhere and stabbed the victim. Velasco narrated further that the victim asked him for help; so he responded by placing a chair between the victim and the appellant to block the assault of the accused.[15] Thereafter, he told Dometita to run away. The accused then chased the victim towards the other side of EDSA.[16] The relevant portions of Velasco's testimony are reproduced hereunder:

“Q Immediately thereafter, was there any unusual incident that happened?

A When Dorie went inside the pub house, that was the time Tony went out, sir.

COURT:

Q Who is this Tony?

A Antonio Dimatita alias Tony, Your Honor.

PROS. LEE:

Q When Antonio Dimatita [sic] alias Tony went out, what happened?

A Tony asked permission from me that he will go home, sir.

Q And what happened thereafter?

A When he ha[d] not gone far yet from me, Robert Castillo suddenly attacked him and stabbed him, sir.

Q What happened to Antonio Dimatita [sic] alias Tony when he was stabbed by accused Robert Castillo?

A He was taken aback. He was not able to cover up himself and he was hit by the stab made by Robert Castillo, sir.

Q On what part of the body was he hit?

A On the left side of the chest, sir.

Q And did you see in what summer [sic] accused Robert Castillo stabbed Antonio Dimatita [sic]?

A Like this, sir. (Witness demonstrating with his right arm above his shoulder with downward stabbing position.)

Q As you stated, after Tony was hit on the left side of [his] chest, what happened next?

A He was stabbed again and was hit on the arm, sir.

Q What arm? Left or right?

A On the left arm, sir. (Witness is pointing to his left arm in between the 1st and second finger.)

Q After he was hit on the left arm, what happened next?

A He went near me and asked for help, sir. I placed a bench on the middle to block the way so that Robert Castillo [would] not be able to reach him and I told Tony to run away, sir.

Q Did Tony run away thereafter?

A Yes, sir.

Q How about accused Robert Castillo, what was he doing the[n]?

A He chased, sir.

Q What happened next?

A I heard Tony was already dead, sir.”

The testimony of Velasco that the accused stabbed the victim on the left side of the chest and then on the left arm was confirmed by the medical findings,[17] particularly the autopsy report of Dr. Munoz, who testified as follows:[18]

“COURT

Q Can you tell the Court the relative position of the victim and the assailant when the stab wound was inflicted?

TRIAL PROS. RALPH S. LEE

Based on the wound, doctor.

WITNESS

A If the victim and the assailant were in a standing position, the assailant and the victim would be facing each other and the fatal wound was delivered from upward to downward, your honor.”

Witness Velasco further testified that the accused used a bladed weapon which looked like a fan knife.[19] This was also supported by Dr. Munoz, viz.: [20]

“Q Dr. Munoz, in your learned medical knowledge, what could have caused this stab wound marked as Exhibit “D”?

A This was inflicted by a sharp pointed single bladed instrument like kitchen knife or “balisong” or any similar instrument.”

Melinda Mercado, the other prosecution witness, corroborated the story of Velasco. She testified that when she was inside the pub, she heard Velasco shout that Antonio Dometita was stabbed.[21] She went out to verify and saw the accused walking away. What she saw was not the stabbing incident itself, but the accused wrapping a bladed weapon in his shirt.[22] This confirms the assertion of Velasco that the accused was still holding the bladed instrument as he chased the victim.[23]

Clearly, the straightforward, detailed and consistent narrations of the government witnesses show that the trial court did not err in giving credence to the account of the prosecution.

Appellant contends that the trial court failed to appreciate the testimony of Defense Witness Edilberto Marcelino who narrated a “stabbing/mauling incident” on a side street that fateful night near the Iglesia ni Cristo Church, where the victim’s body was found. Said witness testified that he was driving his tricycle, when he noticed a group ganging up on a man (pinagtutulungan).[24] He then saw the person fall.[25] He did not notice if the assailants had weapons, as he was a bit far from them, illumination coming only from the headlight of his tricycle. He stated that the appellant, with whom he was familiar because he often saw him selling cigarettes along EDSA,[26] was not one of those he saw ganging up on the person who fell to the ground. He described one of the malefactors as long-haired and lanky, and the other one as fair-complexioned with a medium build,[27] descriptions which did not fit the accused. Upon witnessing the incident, Marcelino immediately proceeded to the barangay hall to report the matter.

The trial court did not accord weight to said testimony. We sustain this holding. Marcelino admitted that he was

about twenty-five meters away from the place of incident[28] and that said place was not lighted. Furthermore, his tricycle was then moving because he was in a hurry.[29] Thus, we agree with this statement of the trial court: “[C]onsidering that it was dark and the distance from where the witness saw the incident [was] quite far, it could not have been possible for him to recognize the victim and his attackers.”[30]

Appellant also asserts that the trial court failed to appreciate the implications of the medical finding that the heart and lungs of the victim were impaled. He argues that these wounds made it impossible for the victim to traverse the distance from the pub house to the Iglesia ni Cristo Church area, where his body was eventually found. However, the testimony of the medico-legal expert did not rule out this possibility, as gleaned from the following:

“Q And if the stab wound was fatal, how long could have he [sic] lived after the infliction of the wound?

A It would be very very difficult to give the duration of survival because different individual[s] would have different types of survival. Others would [live] for five minutes and others would survive for at least... in shorter time.

Q But five minutes doctor would be a long time already. It could be the survival time of a person who has a strong constitution. Do you agree with me?

A No, sir. In this particular case considering that the involvement here of the heart is the left ventricle which is a very thick portion of the heart, I don’t think he would die in less than five minutes because the thick portion of the heart serves as a sealer once the instrument is pulled out, the tendency of the thick muscle is to close the injury so there is a much longer time for survival.”[31] (Underscoring supplied.)

Second Issue: Partiality of the Trial Judge

Appellant declares that the trial judge was biased against him, for propounding questions that were well within the prerogative of the prosecution to explore and ask. More pointedly, appellant alleges that the trial judge took over from the prosecution and asked questions in a leading manner,[32] interrupted the cross-examination to help the witness give answers favorable to the prosecution,[33] and asked questions which pertained to matters of opinion and allusions of bad moral character, which could not be objected to by defense counsel, because they have been ventilated by the judge himself.[34] To substantiate the alleged bias and prejudice of the judge, appellant in his brief cited several pages from the transcript of stenographic notes.[35]

The allegation of bias and prejudice is not well-taken. It is a judge’s prerogative and duty to ask clarificatory questions to ferret out the truth.[36] On the whole, the Court finds that the questions propounded by the judge were merely clarificatory in nature. Questions which merely clear up dubious points and bring out additional relevant evidence are within judicial prerogative. Moreover, jurisprudence teaches that allegations of bias on the part of the trial court should be received with caution, especially when the queries by the judge did not prejudice the accused. The propriety of a judge’s queries is determined not necessarily by their quantity but by their quality and, in any event, by the test of whether the defendant was prejudiced by such questioning. In this case, appellant failed to demonstrate that he was prejudiced by the questions propounded by the trial judge. In fact, even if all such questions and the answers thereto were eliminated, appellant would still be convicted.

As correctly observed by the solicitor general, “there was no showing that the judge had an interest, personal or otherwise, in the prosecution of the case at bar. He is therefore presumed to have acted regularly and in the manner [that] preserve[s] the ideal of the ‘cold neutrality of an impartial judge’ implicit in the guarantee of due process (Mateo, Jr. vs. Villaluz, 50 SCRA 18).”[37] That the trial judge believed the evidence of the prosecution more than that of the defense, does not indicate that he was biased. He simply accorded greater credibility to the testimony of the prosecution witnesses than to that of the accused.[38]

Alibi

Appellant's defense of alibi and denial is unavailing. For the defense of alibi to prosper, the accused must prove not only that he was at some other place at the time the crime was committed, but that it was likewise physically impossible for him to be at the locus criminis at the time of the alleged crime.[39] This the appellant miserably failed to do. Appellant contends that he was then asleep in his house at the time of the incident. This was supported by his mother who stated that he was asleep from 9:00 p.m. to 6:00 a.m. the next day[40] and by Rosemarie Malikdem who said that she visited the accused on the night of May 24, 1993 to counsel him, which was her task in the Samahang Magkakapitbahay.[41] Appellant failed to demonstrate, however, the distance between the crime scene and his house. Indeed, he testified that his house was "near" the crime scene. In any event, this defense cannot overturn the clear and positive testimony of the credible eyewitnesses who located appellant at the locus criminis and identified him as the assailant.[42]

Aggravating Circumstances

The Court agrees with the trial court that appellant is guilty of murder for the death of Antonio Dometita. We likewise agree that the prosecution was unable to prove the aggravating circumstance of evident premeditation. For this circumstance to be appreciated, there must be proof, as clear as the evidence of the crime itself, of the following elements: 1) the time when the offender determined to commit the crime, 2) an act manifestly indicating that he clung to his determination, and 3) a sufficient lapse of time between determination and execution to allow himself time to reflect upon the consequences of his act.[43] These requisites were never established by the prosecution.

On the other hand, we disagree with the trial court that the killing was qualified by abuse of superior strength. "To properly appreciate the aggravating circumstance of abuse of superior strength, the prosecution must prove that the assailant purposely used excessive force out of proportion to the means of defense available to the person attacked." [44] The prosecution did not demonstrate that there was a marked difference in the stature and build of the victim and the appellant which would have precluded an appropriate defense from the victim. Not even the use of a bladed instrument would constitute abuse of superior strength if the victim was adequately prepared to face an attack, or if he was obviously physically superior to the assailant.

Nonetheless, we hold that the killing was qualified by treachery. "Treachery is committed when two conditions concur, namely, that the means, methods, and forms of execution employed gave the person attacked no opportunity to defend himself or to retaliate[;] and that such means, methods, and forms of execution were deliberately and consciously adopted by the accused without danger to his person." [45] These requisites were evidently present in this case when the accused appeared from nowhere and swiftly and unexpectedly stabbed the victim just as he was bidding goodbye to his friend, Witness Velasco. Said action rendered it difficult for the victim to defend himself. The presence of "defense wounds" does not negate treachery because, as testified to by Velasco, the first stab, fatal as it was, was inflicted on the chest. The incised wounds in the arms were inflicted when the victim was already rendered defenseless.

Damages

The trial court awarded indemnity and actual and moral damages to the heirs of the victim. We sustain the award of indemnity in the amount of P50,000, but we cannot do the same for the actual and moral damages which must be supported by proof. In this case, the trial court did not state any evidentiary basis for this award. We have examined the records, but we failed to find any, either.

WHEREFORE, the appeal is hereby DENIED and the assailed Decision is AFFIRMED,[46] but the award of

actual and moral damages is DELETED for lack of factual basis. Costs against appellant.

SO ORDERED.

Davide, Jr., (Chairman), Bellosillo, Vitug, and Quisumbing, JJ., concur.

[1] Rollo, pp. 13-17.

[2] Penned by Judge Tirso D.C. Velasco.

[3] Rollo, p. 5.

[4] Records, p. 18.

[5] Rollo, p. 17.

[6] The case was deemed submitted for decision on February 6, 1997 upon receipt by this Court of Appellee's Brief. The filing of a reply brief was deemed waived.

[7] This Brief was signed by Assistant Solicitor General Carlos N. Ortega and Solicitor Geraldine C. Fiel-Macaraig.

[8] Appellee's Brief, pp. 3-5; Rollo, pp. 83-85.

[9] Appellant's Brief, p. 1. This was signed by Attys. Salacnib Bateria and Ismael Bateria.

[10] Decision, p. 3; Rollo, p. 15.

[11] Appellant's Brief, pp. (50) i-ii.

[12] People vs. Sumbillo, G.R. No. 105292, April 18, 1997; People vs. Quinao, G.R. No. 108454, March 13, 1997; People vs. Nuestro, 240 SCRA 221, January 18, 1995.

[13] People vs. Ombrog, G.R. No. 104666, February 12, 1997; People vs. Sumbillo, supra; People vs. Ortega, G.R. No. 116736, July 24, 1997; People vs. de Guzman, 188 SCRA 405, August 7, 1990.

[14] People vs. Morin, 241 SCRA 709, February 24, 1995; People vs. Cogonon, 262 SCRA 693, October 4, 1996.

[15] TSN, September 1, 1993, p. 12.

[16] Ibid., p. 51.

[17] TSN, September 1, 1993, p. 11.

[18] TSN, August 12, 1993, p. 10

[19] TSN, September 1, 1993, p.13.

[20] TSN, August 12, 1993, p. 8.

[21] TSN, October 11, 1993, p. 8.

[22] Ibid., pp. 9 - 10.

[23] TSN, September 1, 1993, p. 14.

[24] TSN, January 5, 1995, p. 8.

- [25] Ibid., p. 16.
- [26] Id., p. 17.
- [27] Id., p. 18.
- [28] TSN, January 5, 1995, p. 27.
- [29] Ibid., p. 30.
- [30] Decision, p. 4; Rollo, p. 16.
- [31] TSN, August 12, 1993, p. 12.
- [32] Appellant's Brief, p. 7.
- [33] Ibid., p. 8.
- [34] Id., p. 11.
- [35] Appellant's Brief, pp. 6-13.
- [36] People vs. Tabarno, 242 SCRA 456, March 20, 1995; Ventura vs. Yatco, 105 Phil 287, March 16, 1959; People vs. Catindihan, 97 SCRA 196, April 28, 1980.
- [37] Appellee's Brief, p. 13; Rollo, p. 93.
- [38] People vs. Tabarno, supra.
- [39] People vs. Umali, 242 SCRA 17, March 1, 1995; People vs. Hortillano, 177 SCRA 729, September 19, 1989; People vs. Cabresos, 244 SCRA 362, May, 26, 1995.
- [40] TSN, February 23, 1994, p. 4.
- [41] TSN, July 12, 1994, pp. 6-7.
- [42] People vs. Sumbillo, supra; People vs. Baydo, GR No. 113799, June 17, 1997.
- [43] People vs. Baydo, supra; People vs. Halili, 245 SCRA 340, June 27, 1995.
- [44] People vs. Ruelan, 231 SCRA 650, April 19, 1994; People vs. Casingal, 243 SCRA 37, March 29, 1995.
- [45] People vs. Maalat, GR No. 109814, July 8, 1997, per Romero, J.; People vs. Tuson, GR No. 106345-46, September 16, 1996.
- [46] As discussed, however, the killing is qualified by treachery, not by abuse of superior strength.

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