

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. DEMETRIO DECILLO @ METRENG, ROLANDO DECILLO @ LANDO, ACCUSED,

G.R. No. 121408. October 02, 2000

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

On appeal is the decision of the Regional Trial Court of Trece Martires City, Branch 23, in Criminal Case No. TM-775, convicting appellant, Demetrio Decillo, of the crime of murder and sentencing him to suffer the penalty of reclusion perpetua, ordering him to pay the heirs of the victim, Dionisio Panganiban, the amount of P30,000.00 as indemnity, P30,000.00 as moral damages, and to pay the costs.

The established facts are as follows:

On November 18, 1990, at around 5:00 P.M., in Barrio Culliat, Barangay Panungyanan, General Trias, Cavite, the victim, appellant, co-accused Rolando Decillo, and some others, were having a drinking spree in the house of Lody Decillo, half-sister of appellants. The drinking spree broke up at around 9:00 P.M.. The victim slept in the house of Lody Decillo. At 10:30 P.M., he was stabbed 16 times. He was rushed to the hospital, but passed away two days later as a result of his wounds.

For the killing of the victim, two of his drinking companions, herein appellant and co-accused, were charged with the crime of murder under the following Information -[1]

"That on or about 10:30 P.M. in the evening of November 18, 1990 at Sitio Culliat, Panungyanan, Municipality of Gen. Trias, Province of Cavite and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating, and mutually helping one another, armed with deadly weapon (balisong), with intent to kill and with evident premeditation (sic) and with treachery, did, then and there wilfully, unlawfully and feloniously attacked (sic), assault and stab one DIONISIO S. PANGANIBAN, thereby inflicting upon the latter, several stab wounds on the different parts of his body, which causes his subsequent death, to the damage and prejudice of his heirs.

CONTRARY TO LAW."

Only appellant was apprehended. His co-accused remains at large. Upon arraignment, appellant entered a plea of not guilty.[2]

During trial, the prosecution presented the following witnesses: (1) Eliseo Panganiban, brother of the victim; (2) Maria Panganiban, mother of the victim; (3) PO3 Roberto Lanzaga, member of the Philippines National Police (PNP), General Trias, Cavite; and (4) Dr. Perla Palao, the resident physician at the De La Salle University Medical College who conducted the autopsy on the body of the victim.

Eliseo Panganiban testified that on November 18, 1990, at around 10 A.M., appellant and co-accused invited him and Dionisio to gather young coconuts in Panungyanan. The group proceeded to Panungyanan but later decided to have a drinking session instead. They went to the house of Lody Decillo where they drank from 5:00 P.M. until

around 9:00 P.M. Eliseo did not drink but merely joined the group. In the course of the drinking session, an argument arose among appellant, co-accused, and the victim. Eliseo, however, did not hear what the argument was all about. After the drinking session, Eliseo and the victim slept on the lower level of the house of Lody Decillo, while appellant and co-accused slept on the upper level. Eliseo was roused from his sleep when he sensed appellant and co-accused approaching the victim. Suddenly, appellant and co-accused repeatedly stabbed the victim. Paralyzed with fear, Eliseo pretended to be asleep. When appellant and co-accused finally left, Eliseo frantically woke up Lody Decillo. Together they brought the victim to the Andres Bonifacio Memorial Hospital at Trece Martires City. Later, the victim was transferred to the Jose P. Rizal National Medical Research Center in Dasmariñas, Cavite, where he died on November 20, 1990, due to multiple stab wounds.[3]

Dr. Palao conducted the autopsy on the victim. She testified that the victim suffered sixteen (16) stab wounds, six (6) of which were inflicted on the chest and ten (10) were located on both arms.[4]

For the defense, the following witnesses testified: (1) appellant, (2) his cousin Edwin Villanueva, (3) Lody Decillo, (4) Maria Decillo, his own mother and stepmother of co-accused; and (5) Irene Crudo, Medical Records Officer at the Andres Bonifacio Memorial Hospital, Trece Martires City.

The testimonies of the above witnesses can be summed up as follows: star witness Eliseo Panganiban was not present during the drinking session. He did not sleep in the house of Lody Decillo, and therefore, did not see the attack on the victim. Appellant and co-accused were not the assailants. Somebody else, an unknown person, stabbed the victim.

According to the defense, what actually transpired was that after the drinking session, appellant and co-accused repaired to the house of Lody Decillo to sleep. The victim remained in the backyard because he was already drunk. At around 12:00 P.M., the victim cried out that he was stabbed. This woke up Lody Decillo, appellant and co-accused, who rushed to his side to see what happened. When they saw his bloodied body, they immediately brought him to hospital. While the victim was being treated, appellant told co-accused to tell the mother of the victim about the incident. At around 3:00 A.M., co-accused went to the house of Edwin Villanueva, a cousin, to ask him to inform the mother of the victim about the incident. Edwin Villanueva fetched Maria and Eliseo Panganiban. Then they all proceeded to the hospital at Trece Martires City. Upon their arrival, appellant and Eliseo Panganiban talked to each other. Thereafter, appellant went home at around 4:00 A.M..[5]

On November 10, 1994, the trial court rendered judgment[6] convicting appellant, disposing as follows:

"WHEREFORE, IN VIEW OF THE FOREGOING, this Court hereby finds the accused DEMETRIO DECILLO guilty beyond reasonable doubt of the crime of Murder and hereby sentences said accused to suffer the penalty of reclusion perpetua, to indemnify the heirs of the deceased Dionisio Panganiban, in the sum of P30,000.00; to pay P30,000.00 as moral damages; without subsidiary imprisonment in case of insolvency, together with all the accessory penalties provided for by law, and to pay the costs.

SO ORDERED."

Hence, the present appeal. Appellant contends that the trial court erred[7] in -

I. ... GIVING WEIGHT AND CREDENCE TO THE TESTIMONY OF ELISEO PANGANIBAN DESPITE ITS INHERENT INCREDIBILITY.

II. ... CONVICTING THE ACCUSED-APPELLANT BEYOND REASONABLE DOUBT OF THE CRIME OF MURDER DESPITE THE WEAKNESS AND INSUFFICIENCY OF THE PROSECUTION EVIDENCE.

In his brief,[8] appellant insists that prosecution witness Eliseo Panganiban was not present at the locus criminis. Even granting that he was present, it is highly unusual for him to have pretended to be asleep while his brother

was being repeatedly hacked. Further, Eliseo's testimony that it was he and Lody Decillo who brought the victim to the hospital is inconsistent with his mother's testimony that it was Edwin Villanueva who brought the victim to the hospital. Further, considering the victim's precarious state, he could not have possibly made a dying declaration to his mother divulging the identity of his assailants. In fact, even PO3 Lanzaga testified that when he tried to talk to the victim, the latter merely opened his mouth and moaned in pain.

For the State, the Solicitor General prays for the affirmance of the judgment and the increase of the indemnity from P30,000.00 to P50,000.00, pursuant to current jurisprudence. The Solicitor General contends that the mere fact that Eliseo pretended to be asleep during the attack should not be taken against him. Persons do not necessarily react uniformly to a given situation, for what is natural to one may be strange to another. Further, no ill-motive can be attributed to Eliseo to falsely accuse appellant and co-accused of such a serious crime. The testimony of the victim's mother is worthy of belief for mere relationship to the victim does not necessarily impair a witness' credibility. Considering the injuries sustained by the victim, who was killed while sleeping, treachery clearly attended the killing.

The crucial issue is the assessment of credibility of prosecution witnesses, particularly the testimony of the sole eyewitness, Eliseo Panganiban.

Generally, when the issue is one of credibility of witnesses, appellate courts will not disturb the findings of the trial court, considering that the latter is in a better position to decide the question, having heard the witnesses themselves and observed their deportment and manner of testifying during the trial.[9] The exceptions to the rule are: (1) when patent inconsistencies in the statements of witnesses are ignored by the trial court, or (2) when the conclusions arrived at are clearly unsupported by the evidence.[10] In this case, we find the said exceptions pertinent and applicable.

The prosecution's case rests on the eyewitness testimony of Eliseo Panganiban who claims to have joined the drinking session and witnessed the stabbing of his brother. However his testimony, in particular as to his whereabouts at the time of the incident, is directly contradicted by the testimony of another prosecution witness, his own mother.

First. Eliseo testified that at 10:30 P.M., he was with the victim in the house of Lody Decillo where he later witnessed the stabbing of his brother by appellant and co-accused.[11] However, his mother categorically testified that at 10:30 P.M., Eliseo was with her at their residence.[12] Edwin Villanueva, defense witness, confirmed that when he reached the Panganiban residence to inform them of the stabbing incident, he saw Eliseo Panganiban there.[13]

Second. Eliseo stated no less than four times during his testimony that he saw both appellant and co-accused repeatedly stab the victim.[14] However, his mother categorically testified that the victim made a dying declaration to her saying that it was only appellant who stabbed him.[15]

Third. Eliseo testified that it was only him and Lody Decillo who brought the victim to the hospital.[16] His mother testified, however, that it was Edwin Villanueva who brought the victim to the hospital.[17]

The above-mentioned inconsistencies as to Eliseo's whereabouts at the time of the incident, the identity of the assailants, and the events immediately after the stabbing incident relate to the very crux of the matter, the alleged participation of appellant in the commission of the crime itself. Granting that appellant had an argument with the victim during the drinking session, and that they slept in the same house at the time of the stabbing incident, these circumstances by themselves are insufficient to make him liable for the killing of the victim.

While it is doctrinal that the testimony of a sole eyewitness may suffice to sustain a judgment of conviction,[18] it

bears stressing that such testimony must be positive and credible. Here, Eliseo's testimony was discredited by the testimony of his own mother. Thus, where the testimonies of the prosecution's witnesses, taken as a whole, contain irreconcilable inconsistencies and inherent improbabilities, which dwell on material facts, such inconsistencies necessarily diminish or even destroy the veracity of the witnesses' claims.

Given the circumstances on this case, we find that appellant's conviction cannot stand on the evidence presented by the prosecution. A finding of guilt must rest on the strength of the prosecution's own evidence, not on the weakness of the evidence or even absence thereof for the defense.[19] Moreover, the evidence for the prosecution must meet the test of moral certainty, that is, proof beyond reasonable doubt that indeed the accused is guilty of the offense charged.

That appellant is the suspected author of the crime is not enough; he must be proved guilty according to our laws. Our legal norms demand proof beyond reasonable doubt to be established according to law before any person may be deprived of his life, liberty, and property. Judgment on the basis of mere guesses, surmises, or suspicion is anathema to our legal order. That the evidence establishes a strong suspicion or probability is not equivalent to a finding of actual guilt of the accused. Before an accused can be convicted of a crime, the hypothesis of guilt must flow naturally from the facts proved and must be consistent with all of those facts.[20] Here, the inconsistencies and contradictions in the testimonial evidence presented by the prosecution leaves us with a lingering reasonable doubt as to appellant's responsibility for the alleged murder of the victim.

WHEREFORE, the decision of the trial court is REVERSED and SET ASIDE. Appellant DEMETRIO DECILLO is ACQUITTED of the crime of murder for lack of proof beyond reasonable doubt. The Director of Prisons is hereby directed to release the appellant immediately unless he is being held for another lawful cause, and to accordingly inform the Court within ten (10) days from notice. No costs.

SO ORDERED.

Bellosillo, (Chairman), Mendoza, Buena, and De Leon, Jr., JJ., concur.

[1] Records, p. 1.

[2] Id. at 32.

[3] TSN, January 18, 1993, pp. 3-7, 11, 14-17, 20-45.

[4] TSN, March 8, 1993, pp. 9-10.

[5] TSN, March 15, 1993, pp. 5-10, 16, 18; TSN, March 29, 1993, pp. 4-12, 21-35; TSN, April 19, 1993, pp. 4-5; TSN, April 26, 1993, pp. 5-10, 23-25; TSN, May 3, 1993, pp. 8, 19-20.

[6] Records, pp. 77-94.

[7] Rollo, p. 59.

[8] Id. at 59-72.

[9] *People v. Naguita*, 313 SCRA 292, 304-305 (1999); *People v. Hubilla, Jr.*, 252 SCRA 471, 478 (1996).

[10] *People v. Malimit*, 264 SCRA 167, 175 (1996); *People v. Gumahin*, 21 SCRA 729 (1967); *People v. Secapuri, et al.*, 16 SCRA 199 (1966).

[11] TSN, January 18, 1993, p. 4.

[12] TSN, January 11, 1993, p. 25.

[13] TSN, March 15, 1993, pp. 6-7.

[14] TSN, January 18, 1993, pp. 5-6, 31, 36-38, 41-42.

[15] TSN, November 9, 1992, p. 9; TSN, December 7, 1992, p. 3; TSN, January 11, 1993, p. 8.

[16] TSN, January 18, 1993, pp. 7, 43, 44.

[17] TSN, January 11, 1993, p. 3.

[18] *People v. Lotoc*, 307 SCRA 471, 482 (1999).

[19] *People v. Diaz*, 308 SCRA 744, 769 (1999).

[20] *People v. Morada*, 307 SCRA 362, 379-380 (1999).

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