

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. FERIGEL OLIVA, ACCUSED-APPELLANT.

G.R. No. 122110. September 26, 2000

Ponente: PARDO, J.

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PARDO, J.:

The Case

The case is an appeal from the decision of the Regional Trial Court, Branch 12, Sanchez Mira, Cagayan[1] finding accused Ferigel Oliva (hereinafter referred to as "Ferigel") guilty beyond reasonable doubt of arson and murder,[2] sentencing him to seventeen (17) years, four (4) months and one (1) day of reclusion temporal, for arson, and to reclusion perpetua for murder, ordering him to pay Avelino Manguba damages of two hundred pesos (P200.00), and to pay indemnity of fifty thousand pesos (P50,000.00) to the heirs of Benjamin Estrellon.[3]

The Facts

On August 23, 1993, at around eleven o'clock in the evening, Avelino Manguba (hereinafter referred to as "Avelino") and his family were sleeping in their house in San Jose, Claveria, Cagayan. Avelino went out of the house to urinate.[4] He saw Ferigel set the roof of their house on fire with a lighted match.[5]

Awakened by the loud barking of dogs, Avelino's wife sensed danger and peeped through a hole in their wall. She also saw Ferigel burn the roof of their house.[6] She shouted, "Perry is burning our house!" and called out to the neighbors for help.[7]

While the fire razed Avelino's house, Ferigel and three others, Dominador Oliva, Marcos Paderan and Arnel Domingo watched at a distance of about five (5) meters.[8]

One of the neighbors, Benjamin Estrellon (hereinafter referred to as "Benjamin") went to the nearby river and fetched water with a pail. As Benjamin was helping put out the fire, he was shot by Ferigel at close range.[9] Benjamin tried to run, but he slumped and fell to the ground. The gunshot wound caused Benjamin's death.[10]

Avelino, his wife, and Benjamin's son, Noel, witnessed the shooting since they were only about five (5) to six (6) meters away from Ferigel when the incident occurred.[11] The place was brightly lit by the burning roof and visibility was not a problem.[12] On August 24, 1993, a post-mortem report was made on Benjamin's cadaver,[13] revealing the following:[14]

"II POSTMORTEM FINDINGS:

"Cadaver is in a state of rigor mortis and with postmortem lividity at back.

"Gunshot wound of entrance 0.9 cm. at left lateral mid-scapular area going medially and anterosuperiorly, 10 cms. deep without exit."

"III. CAUSE OF DEATH

"Internal Hemorrhage due to gunshot wound at back."

On October 4, 1993, an information for murder was filed[15] against accused-appellant Ferigel Oliva and co-accused Dominador Oliva, Marcos Paderan and Arnel Domingo, to wit:[16]

"That on or about August 23, 1993, in the municipality of Claveria, province of Cagayan, and within the jurisdiction of this Honorable Court, the said accused Ferigel Oliva, Dominador Oliva, Marcos Paderan and Arnel Domingo, armed with a gun, conspiring together and helping one another, with intent to kill, with treachery, with evident premeditation and with abuse of superior strength, did then and there wilfully (sic), unlawfully and feloniously assault, attack and shoot one Benjamin Estrellon, inflicting upon him gunshot wound on his body, which caused his death.

"CONTRARY TO LAW."

On the same day, the accused were also charged with arson, as follows:[17]

"That on or about August 23, 1993, in the municipality of Claveria, province of Cagayan, and within the jurisdiction of this Honorable Court, the said accused Ferigel Oliva, Marcos Paderan, Arnel Domingo and Dominador Oliva, conspiring together and helping one another, with intent to destroy and to cause damage, did then and there wilfully (sic), unlawfully and feloniously set on fire the house of one Avelino B. Manguba in the total amount of FIFTY THOUSAND (P50,000.00) pesos, Philippine currency.

"Contrary to law."

On October 20, 1993, the accused were arraigned. With the assistance of their respective counsel, they pleaded "not guilty" to the two crimes.[18]

On July 21, 1994, accused Ferigel escaped while in the custody of P/G-1 Joaquin P. Garingan. At the time of his escape, Ferigel was a detention prisoner at the Provincial Jail Extension of Sanchez Mira, Cagayan.[19]

On January 3, 1995, Ferigel was apprehended at Angadanan, Isabela by prison guards Joaquin P. Garingan and Angelino M. Cacatian, members of the Scout Ranger regiment and members of the PNP of Angadanan, Isabela.[20]

The cases for arson and murder were tried jointly.[21] In view of the common evidence presented coupled with the difficulty of distinguishing which evidence was for a particular case, only one decision was rendered.[22]

On August 23, 1995, the trial court rendered a decision, the dispositive portion of which reads:[23]

"WHEREFORE, premises all considered, judgment is hereby rendered as follows, to wit:

"1. Acquitting accused Marcos Paderan, Arnel Domingo and Dominador Oliva of the crime of Arson and Murder for lack of evidence and hereby orders for their immediate release from detention;

"2. Finding the accused Ferigel Oliva guilty beyond reasonable doubt of the crime of Arson penalized under par. 2, Sec. 3 of PD 1613 and hereby sentences him to suffer imprisonment of seventeen (17) years, four (4) months and one (1) day of reclusion temporal;

"3. Finding the accused Ferigel Oliva guilty beyond reasonable doubt of the crime of Murder penalized under Art. 248 of the Revised Penal Code and hereby sentences him to suffer imprisonment of reclusion perpetua;

"4. Ordering the accused Ferigel Oliva to pay P200 to Avelino Manguba as damages for the burning of the roof of his house that was burned (sic);

"5. Ordering the accused Ferigel Oliva to pay P50,000 to the heirs of Benjamin Estrellon as indemnity for the latter's death.

"SO ORDERED."

The Appeal

Hence, this appeal.[24]

Ferigel argues that the trial court erred when: first, it ignored glaring inconsistencies in the testimonies of prosecution witnesses;[25] second, it totally disregarded the defense of alibi; and third, it took into account the qualifying circumstance of treachery in the commission of murder and the fact that the house was inhabited when it was burned.[26]

The Court's Ruling

We find no reversible error and affirm the conviction.

Whether or not Benjamin was shot while he was on the street[27] or when he was in the act of pouring water on the burning roof[28] is irrelevant to the crime. We agree with the Solicitor General that Benjamin could have been on the street while pouring water on the burning roof.[29] The two testimonies were not inconsistent.

Also whether or not Benjamin immediately fell or tried to run away after he was shot is not important. The fact is that he was shot; any act of his after he was shot would not change the shooting, which at that point was fait accompli.

Equally insignificant is whether the gun used was a long firearm or a short firearm. Identification of the weapon only becomes critical when there is doubt as to the identity of the assailant. In this case, the trial court did not doubt the identity, and neither would we.

The fact is that Benjamin was shot and that it was Ferigel who shot him. This was the categorical, straightforward and unbiased testimony of the prosecution witnesses. The settled rule is that the trial court's assessment of the credibility of witnesses is entitled to great respect.[30] Absent any indication that the trial court overlooked some material fact or gravely abused its discretion, we find no compelling reason to interfere with its assessment of the credibility of the eyewitnesses.[31]

The "inconsistencies" pointed out by accused-appellant are on minor details. To acquit one who was positively identified on the basis of inconsequential matters would result in mischief and injustice.[32] We have held that minor inconsistencies are not enough to impair the essential integrity of the prosecution's evidence as a whole.[33]

Ferigel harps on the testimony of acting Barangay Captain of Filomena, Calanasan, Kalinga-Apayao, which he avers must not be disregarded. He feebly argues that the testimony of Barangay Captain Isabel Ramos conclusively established the impossibility of the presence of accused Dominador Oliva at the time of the commission of the crimes. From this, accused-appellant reasons that it "follows that the testimonies of prosecution witnesses pointing to the accused-appellant as the assailant should not be believed." This is non-sequitur.

Even assuming that Dominador Oliva's presence was impossible, such has no bearing in this appeal. Here, it is the guilt of Ferigel Oliva that is in issue. The trial court acquitted Dominador of the charges, but convicted Ferigel. Ferigel's innocence cannot be deduced from Dominador's acquittal.

Further, we note that Ferigel escaped during the trial. Flight is an indication of guilt.[34]

The Conviction for Arson

When Ferigel burned Avelino's house, the law applicable was P. D. No. 1613.[35] Under Section 3 (2) of the law, the penalty of reclusion temporal to reclusion perpetua shall be imposed if the property burned is "any inhabited

house or dwelling." Under the amendment, it is the fact that the house burned is inhabited that qualifies the crime. There is no need to prove that the accused had actual knowledge that the house was inhabited.[36]

Under Section 3 (2) of Presidential Decree No. 1613, the elements of arson are: (1) that there is intentional burning; and (2) that what is intentionally burned is an inhabited house or dwelling.[37] The records show that when Ferigel willfully set fire to the roof of Avelino's house, Avelino's wife and children were asleep therein.

Proof of corpus delicti is indispensable in prosecutions for felonies and offenses. Corpus delicti is the body or substance of the crime.[38] It refers to the fact that a crime has been actually committed. Corpus delicti is the fact of the commission of the crime that may be proved by the testimonies of witnesses.[39] In murder, the fact of death is the corpus delicti.[40] In arson, the corpus delicti rule is satisfied by proof of the bare occurrence of the fire and of its having been intentionally caused. The uncorroborated testimony of a single eyewitness, if credible, may be enough to prove the corpus delicti and to warrant conviction.[41] Here, corpus delicti of the arson and murder was duly proven beyond reasonable doubt.

Convicting Ferigel Oliva of arson, the trial court imposed the straight penalty of seventeen (17) years, four (4) months and one (1) day of reclusion temporal. This is an error. An indeterminate penalty must be imposed. This is mandatory.[42] Thus, we modify the penalty.

In *People v. Omotoy*,[43] we stated that in the absence of mitigating or aggravating circumstances proven, the prescribed penalty shall be imposed in its medium period.[44] Applying the Indeterminate Sentence Law, the imposable penalty is prision mayor, in any of its periods, as minimum, to twenty (20) years of reclusion temporal, as maximum.

The Conviction for Murder

As to whether the shooting was attended with treachery, we find that it was. Treachery qualified the crime to murder. In crimes against persons, treachery exists when the accused employs means, methods and forms which directly and specially ensure its execution, without risk to himself arising from the defense which the offended party might make.[45] When Benjamin was shot, he was merely acting as a good neighbor, innocently helping the Mangubas put out the fire that was razing the roof of their house.[46] At that moment, Benjamin was unaware of the fatal attack on him. He was not given an opportunity to defend himself or to retaliate. This clearly establishes the treacherous manner of the killing.[47]

At the time of the commission of the offense,[48] the penalty for murder under Article 248 of the Revised Penal Code was reclusion temporal in its maximum period to death.[49] There being no aggravating or mitigating circumstance that attended the killing, the proper imposable penalty is reclusion perpetua.[50]

Award of Damages as to Arson

Avelino testified that the value of the portion of the house that was burned was two hundred pesos (P200.00).[51] This was not rebutted by the defense and was even reiterated on cross examination when Avelino was permitted to elaborate on the number of palma Brava pieces that were burned.[52] This was the amount awarded by the trial court. We affirm this award.

Since there is no evidence to award moral damages to Avelino's family, we decline to grant such award.

Damages Connected to Murder

The trial court awarded Benjamin's heirs the amount of fifty thousand pesos (P50,000.00) as indemnity for his death. We affirm this award. Indemnity may be awarded without need of further proof other than the death of the victim.[53] However, there is a need to add an award for moral damages.

Benjamin's wife, Nelia Estrellon testified that she was only three (3) meters away from her husband when he was shot. Benjamin was in her embrace when he died. At this point, she lost consciousness.[54] We thus find that an award of fifty thousand pesos (P50,000.00) is adequate and reasonable, taking the pain and anguish of Benjamin's wife and six (6) children into consideration.[55]

The Fallo

WHEREFORE, the decision of the Regional Trial Court, Branch 12, Sanchez Mira, Cagayan is AFFIRMED with MODIFICATION.

Accused-appellant Ferigel Oliva is found guilty beyond reasonable doubt of ARSON, defined and penalized under P. D. No. 1613, Section 3 (2). In the absence of any modifying circumstance, he is sentenced to an intermediate penalty of ten (10) years and one (1) day of prision mayor, as minimum, to twenty (20) years of reclusion temporal, as maximum. Accused-appellant is further ordered to pay Avelino Manguba actual damages in the amount of two hundred pesos (P200.00).

Accused-appellant is found guilty beyond reasonable doubt of MURDER, defined and penalized under Article 248 of the Revised Penal Code.[56] In the absence of aggravating and mitigating circumstances, he is sentenced to reclusion perpetua. Accused appellant is further ordered to pay the heirs of Benjamin Estrellon moral damages of fifty thousand pesos (P50,000.00) and civil indemnity for wrongful death of fifty thousand pesos (P50,000.00).

Costs against accused-appellant.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Puno, and Kapunan, JJ., concur.
Ynares-Santiago, J., on leave.

[1] In criminal Case Nos. 2365-S (3) and 2366-S (93), dated August 23, 1995, Judge Adrian N. Pagalilauan, presiding.

[2] The same decision acquitted co-accused Dominador Oliva, Marcos Paderan and Arnel Domingo of both crimes.

[3] Rollo, pp. 33-34.

[4] 4 TSN, January 13, 1994, pp. 4-6; TSN, February 16, 1994, pp. 7-9.

[5] The roof was made of palma brava leaves.

[6] About one-fifth (1/5) of the roof was burned (TSN, January 13, 1994, p. 7).

[7] TSN, February 16, 1994, pp. 9-12; TSN, January 13, 1994, pp. 7-8.

[8] TSN, February 16, 1994, pp. 14-16.

[9] TSN, January 13, 1994, pp. 8-9; TSN, February 16, 1994, pp. 12-13.

[10] Regional Trial Court Record, p. 6.

[11] TSN, January 13, 1994, p. 9; TSN, March 15, 1994, p. 11.

[12] TSN, January 13, 1994, p. 12.

- [13] By Dr. Arnold V. Layus, Health Officer, Claveria, Cagayan.
- [14] Regional Trial Court Record, p. 7
- [15] By provincial prosecutor Alejandro A. Pulido.
- [16] Rollo, p. 11.
- [17] Rollo, p. 10.
- [18] Regional Trial Court Record, pp. 30, 32.
- [19] Ibid., p. 78.
- [20] Ibid., p. 53.
- [21] Order in open court dated January 13, 1994 (TSN, pp. 3-4)
- [22] Rollo, p. 25.
- [23] Ibid., pp. 33-34.
- [24] Notice of appeal filed on September 5, 1995 (Rollo, p. 73).
- [25] The “inconsistencies” cited are: “(i) Juanita Manguba’s testimony on what Benjamin Estrellon was doing when he was shot varies in the direct and cross examinations; (ii) Noel Estrellon’s testimony on whether Benjamin still managed to run after being shot varies in what he stated in the preliminary investigation and during the cross examination; and (iii) testimonies regarding the caliber of the gun used by appellant (Rollo, p. 118).”
- [26] Rollo, p. 84.
- [27] TSN, February 16, 1994, p. 13.
- [28] Ibid., pp. 13-14.
- [29] Rollo, p. 119.
- [30] *People v. Juntilla*, 314 SCRA 568 (1999); *People v. Antonio*, G.R. No. 128149, July 24, 2000.
- [31] *People v. Macaliag*, G.R. No. 130655, August 9, 2000.
- [32] *People v. Villablanca*, G.R. No. 89662, October 1, 1999.
- [33] *People v. Conde*, 252 SCRA 681 (1995).
- [34] *People v. Antonio*, *supra*, Note 30.
- [35] Amending the law on arson as found in Articles 320-362 of the Revised Penal Code.
- [36] Under the old law (Article 321), the crime “other forms of arson” was punishable by reclusion temporal to reclusion perpetua, “(a) If the offender shall set fire to any building, farmhouse, warehouse, hut, shelter, or vessel in port knowing it to be occupied at the time by one or more persons (underscoring ours)”
- [37] *People v. Omotoy*, 267 SCRA 143, 156 (1997).
- [38] *Tan v. People*, 313 SCRA 220, 231 (1999).
- [39] *People v. Agsunod, Jr.*, 306 SCRA 612, 621 (1999), citing *People v. Kalim*, 81 Phil. 107, 111 (1948).

[40] *People v. Agsunod, Jr.*, supra, Note 39.

[41] *People v. Gutierrez*, 258 SCRA 72, 75-76 (1996).

[42] Act No. 4103, as amended by Act No. 4225, Section 1; *Bacar v. de Guzman*, 338 Phil. 41, 53 (1997); *People v. Lee, Jr.*, 132 SCRA 66 (1984); *Argoncillo v. Court of Appeals*, 292 SCRA 313, 330-331 (1998).

[43] *Supra*, Note 37, at p. 157.

[44] Sixteen (16) years and one (1) day to twenty (20) years of reclusion temporal.

[45] *People v. Borreros*, 306 SCRA 680, 692-693 (1999); *People v. Reyes*, 287 SCRA 229 (1998); *People v. Mendoza*, G.R. No. 128890, May 31, 2000.

[46] TSN, March 15, 1994, pp. 6-7.

[47] *People v. Mindanao*, G.R. No. 123095, July 6, 2000.

[48] On August 23, 1993.

[49] This was amended by R.A. No. 7659, effective on December 31, 1993.

[50] *People v. Gonzales*, G.R. No. 122769, August 3, 2000.

[51] TSN, January 13, 1994, p. 12.

[52] *Ibid*, p. 18.

[53] *People v. Gonzales*, G.R. No. 138402, August 18, 2000.

[54] TSN, May 4, 1994, pp. 5-11.

[55] *People v. Ereno*, G.R. No. 124706, February 22, 2000.

[56] Prior to its amendment by R.A. No. 7659.

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