

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RODOLFO SANTOS Y ALVAREZ ALIAS "ROD"; AND FERNANDO TAMAYO Y BERNARDO ALIAS "NARDO"; ACCUSED-APPELLANTS.

G.R. No. 122935. May 31, 2000

Ponente: PARDO, J.

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PARDO, J.:

The case is an appeal from the decision[1] of the Regional Trial Court, Branch 14, Malolos, Bulacan convicting accused Rodolfo Santos y Alvarez alias "Rod" and Fernando Tamayo y Bernardo alias "Nardo" of murder and sentencing them to reclusion perpetua and to pay P150,000.00 as indemnity and P100,000.00 as moral damages.

On July 20, 1993, Assistant Provincial Prosecutor Maria Lourdes A. Giron filed with the Regional Trial Court, Malolos, Bulacan an information charging the accused with murder, committed as follows:

"That on or about the 15th day of June, 1993, in the municipality of Hagonoy, province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused conspiring, confederating together and mutually helping each other, with intent to kill one Melvin A. Adriano, did then and there wilfully, unlawfully and feloniously, with evident premeditation and treachery, attack, assault and use personal violence to the said Melvin A. Adriano, thereby causing upon him 'Cardiorespiratory arrest due to Asphyxia by drowning, which directly caused his death.'"[2]

On July 30, 1993, upon arraignment, accused pleaded not guilty to the charge.[3] Trial thus followed.

The facts are as follows:

From 10:00 in the morning until around 4:00 in the afternoon of June 15, 1993, Melvin A. Adriano (hereafter Melvin) was helping his girlfriend Carmela Alvarez sun-dry some salted fish ("alamang") at the latter's hut in Barangay Tibagin, Hagonoy, Bulacan. Melvin left thereafter and returned at around 8 p.m. accompanied, for the first time, by accused Rodolfo Santos who is Carmela's first degree cousin and accused Fernando Tamayo, an erstwhile ardent but spurned suitor of Carmela, both of whom are CAFGU vigilantes of the locality. Melvin and accused Fernando were singing inside the hut, while accused Rodolfo was lying on the floor. Carmela's mother, Nana Nita, advised both accused to spend the night at the hut as they were reeking of liquor. The two (2) accused nonetheless insisted that they would go home. At about 12 midnight, Melvin and the two (2) accused decided to leave. The two (2) accused requested Melvin to accompany them to Barangay Pugad, Hagonoy. Melvin acceded to the request because the two (2) accused were very drunk. That was the last time Carmela saw her boyfriend Melvin alive.

At around 5:30 in the morning of the following day, June 16, 1993, Carmela's cousin named Ogie came to their hut and informed her that he saw Melvin's body sprawled beside a fishpond near the river separating Tibagin and Barangay Pugad, Hagonoy. Carmela and her father Dominador Alvarez rushed to the scene and saw Melvin's

lifeless body beside a fishpond dike lying face down and with one of his hands holding his left foot. Dominador Alvarez proceeded to Tibagin, Hagonoy and informed Melvin's parents of their son's fate.[4]

In their defense, each of the accused offered an alibi. Accused Rodolfo claimed that on the night of Melvin's death, he was merely staying in his house in Barangay Pugad, Hagonoy from 8:30 p.m. up to the next morning of June 16, 1993. He admitted knowing Melvin as a suitor of Carmela, but denied going to Carmela's hut with his co-accused Fernando and Melvin on that fateful night. He was invited by policeman Mario Reyes for questioning and was thereafter detained at the municipal jail of Hagonoy on June 16, 1993.[5]

Similarly, accused Fernando denied going to Carmela's hut in the evening of June 15, 1993. He claimed he was in his house also situated in Pugad, Hagonoy. He further denied (1) knowing Melvin, (2) finding Carmela beautiful and charming, and (3) being in the habit of drinking.[6]

The trial court disregarded the accused's alibi and found them guilty on the basis of circumstantial evidence. Thus, on June 28, 1995, the trial court rendered decision which decreed:

"WHEREFORE, the Court finds the accused guilty of the crime of murder and the Court imposes upon the accused the penalty of Reclusion Perpetua.

"To indemnify the heirs of the victim P150,000.00.

"To pay moral damages P100,000.00, with costs.

"The Provincial Warden is ordered to commit the accused to the National Penitentiary immediately upon receipt hereof.

"SO ORDERED." [7]

Hence, this appeal.[8]

The Solicitor General, in his "Manifestation and Motion" (in lieu of Appellee's Brief),[9] recommended that the accused be acquitted on reasonable doubt.

We do not agree with the Solicitor General's recommendation. The Court finds the conviction of the two (2) accused-appellants in order.

The failure of the prosecution to present eyewitnesses to the actual killing of Melvin does not ipso facto dispel the accused-appellants' authorship of the felony. Indeed, there are crimes where there are no eyewitnesses at all.[10] Direct evidence of the commission of a crime is not the only matrix wherefrom a trial court may draw its conclusion and finding of guilt.[11] Resort to circumstantial evidence is essential when to insist on direct testimony would result in setting felons free.[12] Conviction may be had even on circumstantial evidence provided the following requisites concur:

- 1.) there is more than one circumstance;
- 2.) the facts from which the inferences are derived are proven; and
- 3.) the combination of all the circumstances is such as to produce a conviction beyond reasonable doubt.[13]

In other words, the circumstances themselves, or a combination thereof, should point to overt acts of the accused that would logically point to the conclusion, and no other, that the accused is guilty of the crime charged and at the same time inconsistent with the hypothesis that they are innocent.[14] And the facts and circumstances consistent with the guilt of the accused and inconsistent with his innocence can constitute evidence which, in weight and probative value, may be deemed to surpass even direct evidence in its effect on the court.[15]

We are convinced that the totality of the following circumstances points to the accused-appellants as Melvin's killers:

First: The accused-appellants were the last persons seen with Melvin;

Second: Accused-appellant Fernando was a spurned suitor of Carmela who was the girlfriend of Melvin for two (2) months before the latter's death;

Third: Accused-appellants were members of the CAFGU of the locality. Melvin was not their friend. Then, quite strangely, both accused-appellants accompanied Melvin to Carmela's hut for the very first time in the evening of June 15, 1993, and thereafter asked Melvin to accompany them to Barangay Pugad where they would be crossing the river near the same fishpond where Melvin's dead body was later found; and

Fourth: Police Officer Mario Reyes testified that when he arrested accused-appellants in their respective houses at Barangay Pugad between breakfast and lunchtime of June 16, 1993, both admitted to him that they came from Barangay Tibagin with Melvin the previous night (June 15, 1993)[16] because they requested Melvin to accompany them to Barangay Pugad.[17] Policeman Reyes also noticed that the accused-appellants' feet were wet at the time of the arrest.[18]

Thus, when circumstantial evidence constitutes an unbroken chain of natural and rational circumstances corroborating each other, it cannot be overcome by inconcrete and doubtful evidence submitted by the accused-appellants,[19] such as their alibi. To note, Barangay Pugad, where both accused-appellants claim they were at the time of the killing, is just separated from Barangay Tibagin by a river which did not render impossible their presence at the fishpond where Melvin was killed. Having failed to prove that it was physically impossible for them to be at the crime scene, accused-appellants' alibi shatters all the more.[20] That accused-appellant Fernando's alibi was supported by his mother Carmelita Tamayo[21] and accused-appellant Rodolfo's story by his wife Adelina Santos,[22] had no persuasive effect. Alibi becomes less plausible when it is corroborated merely by immediate relatives.[23]

However, no treachery attended the commission of the offense. While the autopsy report of Dr. Alberto M. Bondoc[24] revealed that Melvin suffered multiple abrasions and drowned, there is no evidence showing that the attack on Melvin came without warning and that he had absolutely no opportunity to defend himself or to escape. Where no particulars are known regarding the manner in which the aggression was made or how the act which resulted in the victim's death began and developed, it cannot be established from mere supposition that the accused perpetrated the killing with treachery.[25] Any doubt as to the existence of treachery must be resolved in favor of the accused.[26] Thus, where treachery was not adequately proved, the accused-appellants can be convicted only of homicide.[27]

Pursuant to Article 249 of the Revised Penal Code, the penalty prescribed for homicide was reclusion temporal. Without the attendance of any aggravating or mitigating circumstance, the prescribed penalty of reclusion temporal shall be imposed in its medium period.[28] Applying the Indeterminate Sentence Law, the accused-appellants may be sentenced to an indeterminate penalty the minimum of which is any period of the penalty next lower in degree to that prescribed for the offense, that is, prision mayor, and the maximum of which shall be a stated period within the range of reclusion temporal in its medium period, in the absence of any modifying circumstance, as the maximum.[29]

WHEREFORE, the Court hereby MODIFIES the judgment appealed from. The Court finds accused-appellants Rodolfo Santos y Alvarez and Fernando Tamayo y Bernardo guilty beyond reasonable doubt of homicide, defined and penalized under Article 249 of the Revised Penal Code. In the absence of any aggravating or mitigating

circumstances, the Court sentences each of them to an indeterminate penalty of eight (8) years of prision mayor, as minimum, to seventeen (17) years and four (4) months of reclusion temporal, as maximum, with all its accessory penalties, and to pay the heirs of the deceased Melvin A. Adriano fifty thousand pesos (P50,000.00) as death indemnity and twelve thousand pesos (P12,000.00) as actual damages, the latter amount covering funeral expenses which are properly receipted.[30] Costs against accused-appellants.

SO ORDERED.

Puno, and Kapunan, JJ., concur.

Davide, Jr., C.J., (Chairman) on official leave.

Ynares-Santiago, J., no part.

[1] In Crim. Case No. 1745-M-93, Judge Felipe N. Villajuan, Jr., presiding, Rollo, pp. 102-108.

[2] Original Record, Vol. 1, pp. 1-2.

[3] Original Record, Vol. 1, p. 12.

[4] TSN, September 1, 1993, pp. 4-53.

[5] TSN, June 17, 1994, pp. 3-14.

[6] TSN, July 1, 1994, pp. 3-10.

[7] Original Record, Vol. 1, p. 108.

[8] Rollo, p. 25.

[9] Rollo, pp. 61-78.

[10] *People v. Gargar*, 300 SCRA 542 (1998)

[11] *People vs. Espina*, G. R. No. 123102, February 29, 2000; *People vs. Lopez*, G. R. No. 131151, August 25, 1999; *People vs. Mendoza*, 301 SCRA 66 (1999)

[12] *People vs. Salas*, G. R. No. 115192, March 7, 2000.

[13] *People vs. Salonga*, G. R. No. 128647, March 31, 2000; *People vs. Fabon*, G. R. No. 133226, March 16, 2000; *People vs. Dela Cruz*, G. R. No. 125936, February 23, 2000.

[14] *People vs. Salonga*, supra. See also *People vs. Comesario*, 306 SCRA 400 (1999)

[15] *People vs. Acuno*, G. R. No. 130964, September 3, 1999; *People vs. Eubra*, 274 SCRA 180 (1997)

[16] TSN, February 2, 1994, p. 13.

[17] *Ibid.*, p. 14.

[18] *Ibid.*, p. 20.

[19] *People vs. Dacibar*, G. R. No. 111286, February 17, 2000; *People vs. Mendoza*, 301 SCRA 66 (1999)

[20] *People vs. Crisostomo*, 293 SCRA 65 (1998)

[21] TSN, August 5, 1994.

[22] TSN, November 2, 1994.

[23] *People vs. Crisostomo*, supra; *People vs. Araneta*, 300 SCRA 80 (1998)

[24] Exhibit "G".

[25] *People vs. Real*, G. R. No. 121930, June 14, 1999.

[26] *People vs. Bahenting*, 303 SCRA 558 (1999)

[27] *People vs. Real*, supra, citing *People vs. Beltran*, 260 SCRA 141 (1996)

[28] Article 64 (1), Revised Penal Code.

[29] *People vs. Tadeje*, G.R. No. 123143, July 19, 1999.

[30] Exhibit "E".

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