

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLE, VS. FELIX DE GUIA Y QUIRINO, ACCUSED-APPELLANT.

G.R. No. 123172. October 02, 1997

Ponente: MELO, J.

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MELO, J.:

Accused-appellant Felix de Guia y Quirino interposes the instant appeal against the decision dated August 14, 1995 of the Regional Trial Court of the National Capital Judicial Region (Quezon City, Branch 92) which convicted him of the crime of murder. Disposed thus the trial court:

WHEREFORE, the Court finds accused FELIX DE GUIA Y QUIRINO, GUILTY beyond reasonable doubt of the crime of Murder qualified by abuse of superior strength and imposes upon him the penalty of reclusion perpetua, with the accessory penalties of the law; and to indemnify the heirs of the victim Luzon Madarang the following:

- 1.) the sum of P 50,000.00 as indemnity for the death of said Luzon Madarang;
- 2.) the sum of P19,573.00 as for funeral expenses; and
- 3.) the sum of P30,000.00 as moral damages, with costs against the accused.

SO ORDERED.

(pp. 32-33, Rollo.)

For the death of Luzon Madarang y Padilla due to multiple stab wounds, accused-appellant was charged with the crime of murder in an Information date October 12, 1992, the accusatory portion of which pertinently stated:

That on or about the 9[th] day of October 1992, in Quezon City, Philippines, the above-named accused, did then and there, wilfully, unlawfully and feloniously, with intent to kill, with treachery, taking advantage of superior strength and with evident premeditation, attack, assault and employ personal violence upon the person of LUZON MADARANG Y PADILLA, by then and there stabbing the latter with the use of a fan knife, hitting him on the different parts of his body, thereby inflicting upon him serious and mortal wounds which was the direct and immediate cause of his death, to the damage and prejudice of the heirs of said LUZON MADARANG Y PADILLA.

(p. 8, *ibid.*)

After a plea of not guilty was entered, trial ensued in due course. Thereafter, the trial court rendered the now appealed decision.

The prosecution presented six witnesses, namely: a) Melita Del Valle who testified about the circumstances surrounding the death as well as the damages incurred; b) Greta Amihan Erese, an eyewitness to the stabbing incident; c) PO3 Rodrigo Barnachea, a member of the Philippine National Police assigned at Central Police

District Command, Police Station 2, Quezon City, who testified on the arrest and turnover of accused-appellant to the police station for investigation; d) Dr. Alberto Reyes, NBI Medico-Legal Officer who testified on the autopsy results; e) PO2 Jose Justo Curameng, the police investigator who conducted the investigation on the stabbing incident; and f) Jesus Madarang, the brother of the victim, who testified on the expenses incurred for the wake and interment.

The prosecution's version of the incident, as synthesized by the Office of the Solicitor General, is as follows:

On October 9, 1992, at about 8:00 o'clock in the evening, appellant and Ricardo Pagadura invited and fetched Luzon Madarang from his house for a drinking spree near the creek at Squatter's Area, Fema Road, Sitio Pajo, Baesa, Quezon City (pp. 5 & 8, TSN, Dec. 7, 1992; p. 4, Decision dated August 14, 1995).

At about 12:00 midnight, Greta Erese was on her way to the house of a friend along Fema Road, Pajo, Baesa, Quezon City to attend a wake. While she was walking on Fema Road, the strap of her slipper got loose and she stopped to fix her damaged slipper (TSN, January 11, 1993, p. 6)

While fixing her slipper, Greta Erese saw Luzon Madarang sleeping on a bench/seat about fifteen (15) meters away. Moments later, appellant and Ricardo Pagadura, using a "balisong" (about 12 inches long including the handle) simultaneously stabbed Madarang several times on the chest, back, right side, and right arm until Madarang fell off the bench/seat (Ibid, pp. 8, 9, 10, 13 & 16).

Scared, Erese hid and did not ask for help (TSN, January 11, 1993, p. 11).

Erese readily recognized and identified the faces of appellant and Pagadura as the place of the stabbing incident was brightly lighted and she was only fifteen (15) meters away from them (Ibid, p. 7).

Subsequently, Erese attended the wake of her friend's niece but did not mention the stabbing incident to her friend (Susan Cato) for she was still afraid (TSN, January 11, 1993, pp. 12, 17, 18 and 19).

On her way home after attending the wake, Erese passed by the place of the stabbing incident and saw people in the neighborhood cleaning the place of bloodstains (TSN, January 11, 1993, p. 12).

Marang was brought to the Quezon City General Hospital but, due to the multiple stab wounds he sustained on the vital parts of the body, he did not reach the hospital alive and was pronounced dead-on-arrival (TSN, July 13, 1993, p. 18).

On October 10, 1992, at about 1:00 A.M. the police officers from CPOC Station No. 2 led by SPO3 Rodrigo Barnachea, responding to reports, went to the place of the stabbing incident to investigate. There PO3 Rodrigo Barnachea's group was told by residents that appellant stabbed Marang (TSN, April 5, 1993, pp. 3 and 4).

The residents led PO3 Barnachea's group to a safehouse in Sitio Pajo where they found appellant, with two (2) other companions (Edgar Bello and Jesus Saliling), all drunk and sleeping (TSN, April 5, 1993, pp. 4-7).

PO3 Barnachea announced that they were policemen; but since appellant and his companions were drunk, they had to wake them up. Found in appellant's possession was a bladed weapon tucked in his waistline and bloodstains were all over appellant's maong pants and T-shirt (TSN, April 5, 1993, pp. 8-12).

(pp. 93-96, Ibid.)

The defense, on the other hand, presented three witnesses, namely, accused-appellant himself; Norberto Saliling, the husband of the aunt of the accused-appellant; and, Eduardo Tuano, accused-appellant's employer. The trial court's summarization of the defense's version of the incident, was adopted by accused-appellant in his brief, to wit:

On his part, accused denied knowing Luzon Marang and Ricardo Pagadura or Joel Segase nor Greta Amihan

Erese; and testified that he is employed as a construction worker at Jella Construction owned by Eduardo Tuano; that on October 9, 1991, he arrived at his residence between 9:00 to 9:30 o'clock in the evening coming from his place of work; that he cooked their meal and after he and his household companions have eaten, he rested for a while and slept at about 10:30 o'clock in the evening; that around 1:00 o'clock in the morning, he was awakened by police officers and was arrested as one of the suspects who killed Luzon Madarang as pointed to by Jesus Saliling and Edgar Bello; that when he was arrested he was wearing white sando and yellow short; that the police officers brought him, Jesus Saliling and Edgar Bello to the police station and detained them; that he was brought to the inquest fiscal and he was asked if he was the one who killed Luzon Madarang; that he denied that he was at the scene of the stabbing incident; and that he does not know a person by the name of Luzon Madarang; and that he was transferred to the Quezon City Jail.

Norberto Saliling, the husband of the aunt of the accused, testified that on October 9, 1992 at around 12:00 o'clock midnight, he was awakened by Edgardo Bello's shouting "Binanatan si Luzon ni Kado," that when he got out of bed, he heard somebody shouting "Lumaban ka na, siga ka"; that when he peeped from the window, he saw "Ricardo "Kado" Pagadura stabbing Luzon Madarang; and that as regards accused Felix de Guia, he saw sleeping inside the room during the stabbing incident.

Eduardo Tuano testified that he is a building contractor and owner of Jella Construction; that accused Felix De Guia is one of his construction workers; and that on October 9, 1992, accused De Guia reported for work and left at about 5:00 o'clock in the afternoon." (Decision, pp. 5-6).

(pp. 50-51, Ibid.)

Accused-appellant puts to task the trial court –

I

...IN GIVING UNDUE WEIGHT AND CREDENCE TO THE INCONSISTENT IF NOT CONTRADICTORY STATEMENTS OF THE PROSECUTION WITNESSES ANENT THE CRIME ASCRIBED AGAINST APPELLANT.

II

...IN CONVICTING APPELLANT BASED ON CIRCUMSTANTIAL EVIDENCE.

III

...IN NOT GIVING EXCULPATORY WEIGHT TO THE EVIDENCE ADDUCED BY THE DEFENSE WHICH WAS AMPLY CORROBORATED ON MATERIAL POINTS.

IV

...IN RENDERING A VERDICT OF CONVICTION DESPITE THE FACT THAT THE GUILT OF APPELLANT WAS NOT PROVEN BEYOND REASONABLE DOUBT.

(p. 45, Ibid.)

Since the above errors are intertwined, the court will discuss and resolve them jointly.

The focal point of accused-appellant's arguments is the issue of the credibility of the witness. The Court, in a litany of decisions, has consistently ruled that when the paramount issue of the credibility of witnesses, appellate courts will generally not disturb the findings of the trial court considering that the latter was in a better position to assess the same, having heard the witnesses themselves and having observed their deportment and manner of

testifying during trial, unless it has plainly overlooked certain facts of substance and value which, if considered, may affect the result of the case (People vs. Prado, 251 SCRA 690 [1995]).

After a judicious review and evaluation of the record of the case, the Court finds no cogent reason to overturn the findings of the trial court, the same being in full accord with the evidence on records as well as with applicable jurisprudence on the matter.

The prosecution had a credible witness in the person of Greta Amihan Erese who positively and unequivocally identified accused-appellant as the author of the crime. This is how Erese, who had no apparent reason to falsely testify against accused-appellant, straightforwardly and candidly narrated the stabbing incident:

Q On October 9, 1992 at around 12:00 midnight where were you?

A I was at No. 23 Fema Road, Pajo Baesa, Quezon City, squatter's areas, sir.

Q Madame Witness, you said that on 12:00 midnight on October 9, 1992 you were?

A At No. 23 Fema Road, Pajo Baesa, Quezon City, sir.

FISCAL BARAQUIA

On that particular date, time and place you mentioned, do you remember if there was any unusual incident that occurred?

A Yes, sir somebody was killed, sir.

Q Who was that somebody?

A Luzon Madarang, sir.

Q How was he killed?

ATTY. SISON

Objection, Your Honor, no basis.

COURT

Lay the basis.

FISCAL BARAQUIA

Madame Witness, what do you know about that unusual incident?

A I was going to the house of a friend to attend the wake as I was passing-by my slipper was damaged, sir, when I fixed my slipper I saw Luzon Madarang was being stabbed, sir.

Q You said that you saw Luzon Madarang being stabbed, what was he doing while he was being stabbed?

A He was sleeping, sir.

FISCAL BARAQUIA

What is your distance from the place of Luzon Madarang when he was being stabbed?

A Fifteen (15) meters away, sir.

Q Madame Witness, you said that you were 15 meters away and that happened at 12:00 midnight on October 9, 1992 what was the lighting situation in that area?

A Its bright, sir, because there was light near the bridge and near the store, sir.

Q What was the distance of that person being stabbed, Luzon Madarang from the light at the bridge?

A From this place to the doorway, sir.

COURT

Can you not stipulate the distance from the place of the witness to the doorway?

FISCAL BARAQUIA

More or less nine (9) meters more or less, Your Honor.

ATTY. SISON

Yes Your Honor.

FISCAL BARAQUIA

You said that there was a light near the store, what was the distance of the victim from the store?

A They were exactly at the place, sir, who was seated in the seat in front of the store.

Q In that particular moment that you saw the victim being stabbed, how many persons were there on that scene of the stabbing incident?

A Three (3), sir.

Q What kind of weapon was used in stabbing the victim?

A Balisong knife, sir.

Q If you happened to see the person who stabbed the victim, Luzon Madarang, will you be able to recognize them?

A Yes, sir.

INTERPRETER

Witness pointed to a person whom when as identified himself Felix de Guia.

(TSN, January 11, 1993, pp. 5-8.)

And during her cross-examination by Atty. Exequiel Sison, Jr., then counsel of accused-appellant, Erese was consistent and firm in her statement that it was accused-appellant, together with Ricardo Pagadura, who stabbed the victim, thusly:

ATTY. SISON

When for the first time did you know the name of Felix de Guia?

A The day when he killed Luzon Madarang, sir.

Q You said that there were two (2) persons whom you saw stabbing Luzon Madarang. Now, how were you able to know that when you have the name of Felix de Guia it was the accused you identified in Court?

A I was able to know him when we went to the place where he was being detained, sir.

Q Are you referring to the police precinct?

A Yes, sir.

Q Can you still recall when was that when you were there?

A Before the 1[st] day of November, sir.

Q How many days was that after October 9, 1992, when you went to the police precinct?

ATTY. SISON

I am referring to the stabbing incident.

A About three (3) or two (2) days, sir.

Q You said that you were going to the house of your friend to attend the wake?

A Yes, sir.

Q And this wake is within the squatter's area?

A Yes, sir.

ATTY. SISON

In the squatter's area when you said squatter's area do I get it from you that the houses are closely attached or adjacent?

A Yes, sir.

Q You said that you went at what time?

A At 12:00 midnight, sir.

Q You said you saw Felix de Guia stabbed Luzon Madarang for not less than twelve (12) times, is it not?

A Yes, sir.

Q Did you see the first stabbed made by Felix de Guia?

A They already stabbing him when I saw them, sir.

Q You said you were fifteen (15) meters away more or less?

A Yes, sir.

Q What did you do when you saw these two (2) persons stabbing Luzon Madarang?

A I hid, sir, because I was scared.

Q You did not do anything?

A None, sir.

Q You did not run?

A No, sir.

Q You did not shout?

A No, sir, I was scared, sir.

Q You did not ask for help?

A No, sir.

Q And after this you went directly to that wake you were referring a while ago?

A Yes, sir.

(TSN, January 11, 1993 pp. 59-61.)

The Court finds the testimony of Erese to be credible for being unbridled and adulterated. A witness like Erese who testifies in a categorical, straightforward, spontaneous, and frank manner, and remains consistent is a credible witness (*People vs. Nuestro*, 240 SCRA 221 [1995]). The spontaneity of the testimony of Erese can not be discredited by the mere denials of accused-appellant, for affirmative or positive testimony is weightier than negative statement (*People vs. Macario*, 240 SCRA 531 [1995]). Moreover, accused-appellant failed to show any improper motive for Erese to falsely testify against him for a crime which he may not have committed specially so

when the crime charged is of such gravity which may lead to incarceration for life. Erese's testimony even gains credibility for being corroborated by the other prosecution witnesses on its material points.

Accused-appellant contends that Erese's testimony should not have been given weight and credence by the trial court because it is full of loopholes. The Court, however, finds the alleged loopholes immaterial and inconsequential, and instead of impairing Erese's credibility, they rather enhance her credibility, showing as they do, that her testimony was uncoached and unrehearsed.

It is said that the testimony of Erese that she saw two persons stabbing Luzon Madarang is diametrically opposed to the declaration of Jesus Saliling in his "Malaya at Kusang Loob na Salaysay" that there were 5 persons drinking at the time of the stabbing incident. The Court perceives no contradiction. Erese's testimony refers to the stabbing incident itself while Saliling's declaration of refers to the circumstances prior to the stabbing incident. Nonetheless, what is essential is that Erese's testimony jibes with the declaration of Saliling on material points. Erese testified how she witnessed accused-appellant together with Pagadura, stab the victim several times. On the other hand, Saliling, in his Salaysay, described how accused-appellant and Pagadura inflicted wounds on the different parts of the body of the victim. Accused-appellant further contends that Erese's statement that the group was drinking "Beer na Beer" and gin is contrary to Saliling's statement that they were drinking "Tanduay Dark." What brand of beer was being imbibed surely is of trivial importance as to affect Erese's credibility.

Accused-appellant would cast doubt on how Erese could have counted the number of stab wounds sustained by the victim when she said that she was scared at the time of the stabbing. The fact that the testimony of Erese regarding the number of stab wounds sustained by the victim may seem to be too detailed does not necessarily affect her credibility as experience may show that a startling or frightful experience, like the one witnessed by her, creates a indelible impression in the mind that can be recalled vividly (*People vs. Daquipil*, 240 SCRA 314 [1995]). Additionally, a detailed testimony, if given in a simple straightforward manner, indicates sincerity in the narration of facts and may not in the least be considered as concocted (*People vs. Bañez*, 214 SCRA 109 [1992]). Likewise, in murder or homicide cases like the one at bar, such detailed testimony acquires greater weight and credibility if it jibes with the autopsy finding (*People vs. Molina*, 213 SCRA 52 [1992]). Erese testified that the number of stab wounds inflicted on the victim was more or less 24 and such statement finds support in the autopsy findings of Dr. Alberto Reyes which remarked that the victim suffered:

Wound, incised, forearm, left, lower third, posterior aspect, 5.0 cm.;

Wounds, stab, linear in shapes, edges, clean cut, all having a sharp and an opposite contused, extremities, with sizes ranging from 1.0 cm. to 3.5 cm. twenty two (22) in number with nine (9) located at the anterior chest wall, five (5) on the left side, three (3) on the right side and one (1) along the anterior median line, three (3) at the anterior abdominal wall, two (2) on the left side and one (1) on the right side, two (2) at the back, one (1) on the left side and one (1) along the posterior median line, eight (8) at the left arm, seven (7) on the posterior aspect and one (1) on the anterior aspect, involving the skin and underlying soft tissues, the right ventricle of the heart, the right and left lungs, the right lobe of the liver and the right side of the diaphragm, with an approximate depth varying from 3.8 to 14.0 cm.

(Exhibit C-2)

As a last ditch effort to put down Erese, accused-appellant argues that Erese was not sure of accused-appellant's identity as indicated by the circumstance that Erese still had to go to the police station to identify accused-appellant, and also by the fact that Erese did not give any written statement to the police. The argument is flawed. Erese went to the police station to confirm the arrest of accused-appellant whom she had known for 3 years (TSN, January 11, 1993, p. 15). Her failure to execute a written statement before the police, on the other hand, was attributable to fear of reprisal (TSN, January 11, 1993, pp. 19-20). The initial reluctance of a witness to

volunteer information about a criminal case and the unwillingness of said witness to be involved in criminal investigations due to fear of reprisal are common and have been judicially declared not to affect credibility (People vs. Pacapac, 248 SCRA 77 [1995]). Nonetheless, what is essential is Erese's categorical and straightforward testimony in court regarding the stabbing incident and her positive identification of accused-appellant as the culprit.

In his attempt to discredit the other prosecution witnesses, accused-appellant claims that the sworn statement of PO2 Jose Curament that the blood-stained knife was recovered at 11:30 A.M. on October 10, 1992 at the house of Saliling is contradictory to the testimony of Melita del Valle and PO3 Rodrigo Barnachea that said knife was recovered from accused-appellant at about 1 A.M. on October 10, 1992. The argument is without merit for said discrepancy is of minor importance and does not at all affect the credibility of these witnesses. Again, one hardly needs reminding that inconsistencies on minor and trivial matters only serve to strengthen rather than weaken the credibility of witnesses for they erase any suspicion of rehearsed testimony (People vs. Padilla, 242 SCRA 629 [1995]).

The issue of whether or not the trial court erred in convicting accused-appellant based on circumstantial evidence has been rendered moot because, as shown above, the culpability of accused-appellant is sufficiently supported by direct evidence. However, in order to appease accused-appellant's mind, the Court will resolve the same.

Under the Rules of Court, the requisites for conviction based on circumstantial evidence are: a) there is more than one circumstance; b) the inferences are based on proven facts; and c) the combination of all circumstances produces a conviction beyond reasonable doubt of the guilt of the accused (People vs. Ramos, 240 SCRA 191 [1995]). In other words, for circumstantial evidence to be sufficient to support a conviction, all circumstances must be consistent with each other, consistent with the hypothesis that the accused is guilty, and at the same time inconsistent with the hypothesis that he is innocent and with every other rational hypothesis except that of guilt (People vs. Casingal, 243 SCRA 37 [1995]).

Here, the Court is Convinced that the totality of the circumstantial evidence adduced by the prosecution excludes any reasonable doubt that accused-appellant is innocent. The record of the case discloses that on October 9, 1992 at around 8:00 P.M., the victim was fetched from his house by accused-appellant and Pagadura for a drinking session with Saliling and Bello near the creek at Squater's Area, Fema Road, Baesa, Quezon City. After the drinking spree, the victim fell asleep on the bench and thereafter was stabbed to death with the use of a sharp pointed object similar to a knife of "balisong." Soon after the incident, accused-appellant was nabbed by the authorities in the house of Saliling and at the time of the apprehension, he was wearing maong pants and a sando with blood stains and a fan knife with blood stains was likewise recovered from him. As correctly ruled by the trial court, these circumstances duly proved by the prosecution constitute an unbroken chain which leads to one fair and reasonable conclusion pointing to accused-appellant's guilt.

Accused-appellant raises the defense of alibi, saying that at the time of the incident, he was at home asleep. Such defense does not merit serious consideration. For alibi to prosper, it is not enough to prove that the accused was somewhere else when the crime was committed, but he must likewise demonstrate that he could not have been physically present at the place of the crime or in its immediate vicinity at the time of its commission (People vs. Jose, 250 SCRA 319 [1995]). Here at the time of the incident, accused-appellant claims that he was sleeping at his house located at Fema Road, Brgy Baesa, Quezon City, which place, however, is the locus criminis. Clearly, there was no physical impossibility of accused-appellant to be present at the scene of the crime at the time of its commission. Likewise, the defense of alibi must be supported by credible corroboration, preferably from disinterested witnesses who will swear that they saw or were with the accused somewhere else when the crime was being committed (People vs. Yadao, 216 SCRA 1 [1992]). Although accused-appellant's alibi was

corroborated by Norberto Saliling, such corroboration is not credible for Norberto Saliling can not be considered as a disinterested witness he being the husband of the aunt of accused-appellant. Alibi is commonly regarded as weak if it is sought to be established wholly or mainly by the accused himself or his relatives (People vs. Parica, 243 SCRA 557 [1995]). Moreover, Erese's positive identification of accused-appellant as the author of the crime negates alibi. Alibi can not prevail over the positive identification of the accused by an eyewitness who had no untoward motive to falsely testify (People vs. Morales, 241 SCRA 267 [1995]).

The Court, however, finds that the trial court erred in finding the commission of the crime to have been attended with the qualifying circumstance of abuse of superior strength. The trial court should have instead appreciated the qualifying circumstance of treachery. There is treachery when the offender commits any of the crimes against persons, employing means, methods or forms in the execution thereof which directly and specially to insure its execution without risk to himself arising from the defense which the offended party might make (People vs. Tamparong, Jr., 249 SCRA 584 [1995]). The essence of treachery is the sudden and unexpected attack without the slightest provocation on the part of the person being attacked (People vs. Abapo, 239 SCRA 469 [1994]). Here, at the time Madarang was stabbed by accused-appellant and Pagadura, he was dead drunk and sleeping on a bench and had no chance to defend himself from attack. Thus, the killing was attended by treachery, as alleged in the Information. Abuse of superior strength can no longer be appreciated since it is already absorbed by treachery (People vs. Panganiban, 241 SCRA 91 [1995]). At any rate, the penalty imposed by the trial court is not affected by the change of the attendant qualifying circumstance.

Independent of the arguments raised by accused-appellant, the Court shall look into the propriety of the awards made by the trial court.

The sum P50,000.00 as indemnity for the death of the victim is proper, the same being in accordance with current jurisprudence. The award of P19,573.00 for funeral expenses is likewise proper supported as it is by the testimony of Jesus Madarang and Exhibit "D," the lists of expenses. Anent the award of moral damages, the Court finds the same to be with factual and legal basis. Jesus Madarang testified that he suffered anxiety and sleepless nights for the demise of his only brother and under Paragraph 1 of Article 2219 of the Civil Code, moral damages may be recovered in criminal offenses resulting in physical injuries. However, the amount of P30,000.00 moral damages is a bit high. The amount of P20,00.00 appears to be more reasonable.

WHEREFORE, the appealed decision is hereby AFFIRMED in all respects except for the above modifications.

SO ORDERED.

Narvasa, C.J., (Chairman), Romero, Francisco, and Panganiban, JJ., concur.

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