

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. WILSON SUITOS, ACCUSED-APPELLANT.

G.R. No. 125280. March 31, 2000

Ponente: BELLOSILLO, J.

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BELLOSILLO, J.:

WILSON SUITOS was found guilty of murder and sentenced to reclusion perpetua for the killing of one Jesus Ylarde. He was also ordered to indemnify the heirs of the deceased, jointly and severally with his co-accused Alvaro Suitos,[1] the sum of P11,575.00 for actual damages, P320,000.00 for loss of earnings of the victim, P50,000.00 for death indemnity, and P20,000.00 for moral damages, without subsidiary imprisonment in case of insolvency, and to pay costs.[2]

Accused-appellant Wilson Suitos now challenges his conviction before this Court.

Jovy Ylarde, daughter of the deceased Jesus Ylarde, narrated that on 5 September 1987, at around 5:00 o'clock in the afternoon, her father and the rest of the family took their dinner in their house in Umingan, Pangasinan. After supper, Jesus went out of the house to pass the time in front of their store annexed to their house. Jovy followed him outside and talked with him. While they were conversing three (3) armed men suddenly appeared from the adjacent ice cream parlor and fired successively at her father, Jesus Ylarde, who died on the spot. Jovy identified the three (3) gunmen as Wilson Suitos, Alvaro "Barang" Suitos and Boy Villar. According to her, Wilson shot her father first hitting him on the forehead, followed by Alvaro and Boy. Everything happened in a matter of seconds. As the three (3) assailants ran towards Poblacion West, a tricycle with a certain Rey Suitos and a Vic Suitos on board, followed them. She was steadfast in her belief that the tricycle bearing Rey and Vic Suitos was a "back-up" vehicle as the suspects were all blood relatives. Vic Suitos is the son of Wilson Suitos who is the grandfather of the brothers Rey and Alvaro Suitos. When the policemen arrived some five (5) minutes later, Jovy pleaded with them to go after the escaping gunmen; however, they returned empty-handed.

Vivian, another daughter of Jesus Ylarde, also witnessed the brutal killing. According to her, she was inside their store a few meters away from her father when the latter was gunned down. She saw Wilson Suitos, Alvaro Suitos and Boy Villar approached her unsuspecting father and killed him. More shots rang out seconds later. When her father fell, she saw Wilson and Alvaro standing in front of him. After Boy Villar fired at her father, the three (3) ran towards the west and disappeared.

At around 8:30 in the evening on the same day, Dr. Thelma Busto autopsied the cadaver of Jesus Ylarde. At the trial, Dr. Busto testified on her post-mortem findings: (a) gunshot wound on the frontal area of the forehead mid-area as point of entrance, with no point of exit; and, (b) gunshot wound on the abdomen, hypogastric region, right superficial. On the basis of her expert opinion, the gunshot wound on the forehead was fatal as it damaged the brain, while the wound on the abdomen was merely a graze wound, hence, not fatal.

In his defense, accused-appellant Wilson Suitos testified that on 5 September 1987, at about 6:00 o'clock in the afternoon, he and his friends arrived on board a jeepney at the house of his godfather, ex-Mayor Francisco Lopez,

in the Poblacion of Umingan to sell him palay and also buy gasoline from him. They were all wearing sports outfit as they earlier played basketball in a nearby barangay. While he (Wilson) was talking with his godfather in front of the latter's gate, they heard three (3) gunshots. Francisco Lopez advised the group to stay behind as he would investigate. They waited until all the sacks of palay had been unloaded from the jeepney before they left for the public market. On their way, their jeepney could not proceed as the road was blocked by curious onlookers milling around the place. Whereupon they alighted from their vehicle and joined the crowd. They learned from Reynaldo Nuesca, an uncle-in-law of accused-appellant, that Jesus Ylarde was gunned down. Some five (5) minutes later they continued on their way.

According to accused-appellant, he was not investigated for the killing of Jesus Ylarde. In fact it was only in Manila sometime in October 1987 when he learned from his father that he was being charged for the slaying of Ylarde. His father advised him not to surrender because their lives might be in danger. Sometime in 1985 his eleven (11)-year old sister, his grandmother and four (4) others were "massacred" inside their canteen by two (2) individuals, one of whom was identified as Willy Ylarde, a nephew of Jesus.[3] The two (2) assailants were eventually apprehended, charged and convicted by the trial court. Wilson explained that "we" (referring to himself and his co-accused) were implicated in the murder of Jesus Ylarde because of his father's adamant refusal to settle the above-mentioned case. Besides, he and his co-accused were being suspected of having revenged the "massacre" that occurred in 1985 and fearing for their lives they opted not to surrender voluntarily to the authorities. However, he was arrested in 1994 by virtue of a standing warrant issued by the trial court on 24 September 1987.

To corroborate the testimony of Wilson Suitos, ex-Mayor Francisco Lopez testified that on 5 September 1987, between 5:30 to 6:00 o'clock in the afternoon, accused-appellant Wilson Suitos together with Boy Villar and several others dropped by his residence to sell palay to his son. Wilson greeted him and they talked for a while in front of the gate. While conversing they heard several bursts of gunfire from the southern portion of his house and saw people running about. Since he became curious he joined them. At the crime scene, he saw Jesus Ylarde lying on the ground bathed in his own blood. He asked the daughters of the victim if they knew who the killers were and they answered in the negative. They were hysterical. When he returned to his house, accused-appellant and his companions had already left.

SPO1 Felimon Bautista testified that upon investigation he learned from the bystanders and Jovy Ylarde that the three (3) assailants were young men, small and barefooted. Recorded in the police blotter are the following entries - [4]

Entry No. 593, dated 05 September 87, 051820 hours meaning 7:20 in the evening: "Several burst of firearm overheard somewhere in Paradaan, xxx and thereafter a telephone call was received informing that Martin Elarde was shot, Martin and Jesus is the same person, this station responded the call and info from several bystanders three (3) persons armed with the short firearm shot the victim and proceeding going to the West direction, the Cariño Street then left to then right Zamora Street proceeding to the ricefield their ages 16 to 20 years old and barefooted."

Reynaldo Nuesca likewise recounted that on the day of the incident he saw accused-appellant and several companions standing in front of the ex-mayor's house when he passed by on his way to the market. Before he reached the market, he heard three (3) to four (4) successive gunshots. He saw a small man holding a handgun and running towards the western direction, while his two (2) unarmed companions followed him from behind. He described the three (3) individuals to be about five (5) feet in height and barefooted. He averred that only one (1) gunman shot the victim. The three (3) were not familiar to him as they were "new faces"[5] When accused-appellant and his companions on board a jeepney passed by, he told them who the victim was.

Vivian Ylarde in rebuttal denied the claim of the defense that her sister Jovy was unable to positively identify accused-appellant and that she merely gave a general description of her father's killers. In fact, she asserted that she and her sister Jovy revealed the identities of the assailants to the authorities moments after the latter arrived at the scene of the crime. She belied the testimony of Reynaldo Nuesca that he was present during the shooting. katarungan

On 30 January 1996 the trial court found accused-appellant Wilson Suitos guilty beyond reasonable doubt of murder qualified by treachery and sentenced him to suffer the penalty of reclusion perpetua. He was likewise ordered to indemnify jointly and severally with his co-accused Alvaro Suitos,[6] who was earlier convicted by the same court, the sum of P11,575.00 as actual damages, P320,000.00 as loss of earnings of the victim, P50,000.00 as death indemnity and P20,000.00 as moral damages, without subsidiary imprisonment in case of insolvency.[7]

In convicting accused-appellant, the trial court gave full credence to the testimonies of the prosecution witnesses Jovy and Vivian Ylarde. The court believed that whatever interest they had in avenging the violent and sudden death of their father could not have induced them to falsely implicate Wilson Suitos knowing that their declarations in court would condemn an innocent man to spend the rest of his life behind bars. Their positive identification of accused-appellant, whom they knew for a long time, could not be doubted. Aside from minor inconsistencies in their testimonies, there was nothing in their actuations while testifying which would give rise to the suspicion that they were lying.[8]

Accused-appellant contends in this appeal that the trial court erred in not giving credit to the testimonies of the defense witnesses and in disregarding his defense of alibi. He argues that his witnesses were candid, straightforward and frank, and cautioned that the so-called "positive identification" by the prosecution witnesses should be taken with a grain of salt in light of the testimony of SPO1 Felimon Bautista, a police investigator, that Jovy Ylarde had informed him that the culprits were "young men, small and barefooted." [9]

After an incisive scrutiny of the evidence adduced by the parties, the Court is convinced beyond any tinge of doubt that accused-appellant is guilty as charged. Accordingly he must suffer the commensurate penalty plus damages according to law.

The defense magnified beyond proportion the importance of the alleged declaration by Jovy to SPO1 Felimon Bautista that the assailants were "young men, small and barefooted" and, consequently, insinuating that Jovy failed to give a positive identification of accused-appellant. We have examined every detail of the testimonies of Jovy and Vivian and found no reason to doubt their veracity. Contrary to the declaration of SPO1 Bautista, the Ylarde sisters categorically named accused-appellant as one of the gunmen, in the company of Alvaro Suitos and Boy Villar, who shot their father. Accused-appellant was no stranger to them as he used to buy cigarettes from their store. They were neighbors for years. Granting for the sake of argument that Jovy initially identified the culprits to be "young men, small and barefooted," we should not take such statement as gospel truth considering that she was in near hysterics after her father was slain right before her very eyes. During the trial she was unwavering in her claim that accused-appellant shot her father.

The hypothesis put forward by accused-appellant that his being implicated in the killing is traceable to his father's inflexible stand not to settle a case involving a relative of the Ylardes is a puerile, if not pathetic, excuse. It would be unnatural for a daughter who is determined to vindicate the death of her father to falsely accuse anyone other than the real culprit. If any, it was accused-appellant who had the motive to perpetrate the dastardly act knowing that his sister and grandmother had been killed by a relative of the victim.

Again, his failure to surrender to the authorities because of alleged fear of reprisal from the victim's family is a desperate attempt to camouflage his desire to elude arrest. True, flight per se cannot prove the guilt of an accused,

but if the same is considered in the light of other circumstances, it may be taken as a strong indication of guilt.

Lastly, his alibi has no leg to stand on. For alibi to prosper, the accused should prove not only that he was at some other place when the crime was committed but also that it was physically impossible for him to be at the locus criminis at the time of the commission.[10]The evidence shows that he was in the immediate environs when the shooting happened. In fact, the house of ex-Mayor Lopez where he claimed he was at that time was only a stone's throw away from the crime scene.

The trial court correctly held that the killing was qualified by treachery. The record shows that the three (3) accused (Wilson Suitos, Alvaro Suitos and Boy Villar) suddenly appeared from behind and without a word shot Jesus thrice in quick succession. The victim, who was talking with his daughter, had no inkling that the three (3) were out to end his life so suddenly. Not contented with the fatal first shot by Wilson, Alvaro and Boy alternately fired at the victim to be sure they killed him.

WHEREFORE, the assailed Decision of the trial court of Lingayen, Pangasinan, finding accused-appellant WILSON SUITOS GUILTY of MURDER and ordering him to indemnify, jointly and severally with his co-accused Alvaro Suitos, the heirs of the deceased the sum of P11,575.00 for actual damages, P320,000.00 for loss of earnings of the victim and P50,000.00 for death indemnity is AFFIRMED with the MODIFICATION that the amount of moral damages is increased to P50,000.00. Costs against accused-appellant.

SO ORDERED.

Mendoza, Quisumbing, Buena, and De Leon, Jr., JJ., concur.

[1] Alvaro "Barang" Suitos, co-accused of Wilson Suitos in the court below in Crim. Case No. T-846, was earlier convicted by the same Regional Trial Court - Br. 38, Lingayen, Pangasinan in its decision of 12 August 1988. The decision was affirmed by this Court on 24 March 1993 in G.R. No. 85951, with modifications in the award of damages. The third accused, a certain Boy Villar, who allegedly conspired with Wilson Suitos and Alvaro Suitos in the commission of the offense, still remains at large according to the records.

[2] Decision penned by Judge Antonio M. Belen, RTC-Br. 38, Lingayen, Pangasinan.

[3] TSN, 8 June 1995, p. 15.

[4] TSN, 21 June 1995, p. 45.

[5] Id., p. 94.

[6] See Note 1.

[7] Rollo, p. 132.

[8] Id., p. 131.

[9] TSN, 21 June 1995, pp. 47-51.

[10] People v. Henson, G.R. No. 116732, 2 April 1997, 270 SCRA 634.

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