

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ANGELO ORILLO (AT LARGE), STEVE SULLANO, ACCUSED.

G.R. No. 125896. May 11, 2000

Ponente: MENDOZA, J.

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MENDOZA, J.:

This case is here on appeal from the decision[1] of the Regional Trial Court, Branch 35, Iloilo City, finding accused-appellant guilty of murder and ordering him to suffer the penalty of reclusion perpetua and to pay the heirs of Felix Villaruel the amount of P50,000.00 as indemnity and the further sum of P71,691.00 as funeral expenses.

The Information[2] in this case reads:

The undersigned City Prosecutor accuses ANGELO ORILLO and STEVE SULLANO whose maternal surnames, dates and places of birth could not be ascertained of the crime of MURDER (Art. 248 of the Revised Penal Code), committed as follows:

That on or about the 19th day of March, 1994, in the City of Iloilo, Philippines and within the jurisdiction of this Court said accused, armed with knives, conspiring and confederating between themselves, working together and helping one another, with deliberate intent to kill and without any justifiable motive, and with treachery, did then and there willfully, unlawfully and criminally deliver fist blows to, kick, stab, hit and wound Felix Villaruel with the said knives, with which the said accused were then provided at the time, thereby causing upon said Felix P. Villaruel contusions, abrasions and stab wound on vital parts of his body, which caused his death few moments thereafter.

Upon arraignment, accused-appellant pleaded not guilty, whereupon trial ensued.

The facts are as follows:

Accused-appellant Steve Sullano and other residents, including accused Angelo Orillo, were at the wake for a certain Cipriano Veloso in Barangay West Timawa, Zone II, Molo, Iloilo City at around 2:00 in the morning of March 19, 1994. As is customary in towns and villages throughout the country, those attending the wake whiled the time away by playing games. Accused-appellant was watching the players in card games when the victim Felix Villaruel arrived. He looked drunk. He ordered his nephew, known only as "Burnog," to go home, otherwise, he threatened, he would wring his neck.[3] But "Burnog" refused, saying he wanted to keep his friend company. Orillo, who was playing a game of cara y cruz, paused and greeted Villaruel, "Good evening." Villaruel retorted: "I will [wring] your neck," to which Orillo replied, "It is up to you." At that point, accused-appellant stood up to go to the toilet. As Villaruel was on the way, accused-appellant asked the former to let him pass. Villaruel asked accused-appellant how the latter came to know his name, and accused-appellant answered, "Why can I not know you [when] I am always here." Somehow, accused-appellant was able to pass, but when he came back, Villaruel refused to let him pass. This prompted accused-appellant to grab Villaruel. Villaruel got angry and tried to box accused-appellant, but the latter was able to box and kick Villaruel, sending him to the ground.

Prosecution witness Morito Dingcong said he was present during the incident and claimed that accused-appellant continued to give Villaruel fist blows, as the victim was held by the arm by Orillo.[4] Just then Villaruel's father, Jose, arrived, shouting at accused-appellant and Orillo, "Hey, what are you doing to my son?" Accused-appellant ran away, followed by Orillo.

At this point, the prosecution and the defense versions slightly diverged. According to accused-appellant and defense witness Bienvenido Equibal, when Villaruel was felled by his fist blows, accused-appellant ran away and fled towards Barangay Cochero while Orillo was going to hit the victim with a bench but was stopped by Morito Dingcong. Orillo then fled towards Molo.[5]

In any event, there is no dispute that, after the assailants had fled, one of them, Angelo Orillo, came back armed with a knife. He stabbed Felix Villaruel in the chest. Jose Villaruel tried to help his son, but Orillo turned to him. Jose Villaruel ran away, even as he shouted for help. Orillo fled from the scene. Jose Villaruel went back and, with the help of Morito Dingcong and other bystanders, took Felix Villaruel to the Iloilo Doctor's Hospital where he was pronounced dead on arrival.

The autopsy report,[6] dated March 19, 1994, contained the following findings:

HEAD & NECK

Nothing of note.

THORACO-ABDOMINAL REGIONS:

1) STAB WOUND, vertical, 3 x 1.2 cm., in dia., sharp on its inferior end, left anterior chest wall, 5 cms., from the anterior median line, 124 cms., from the left heel, penetrating the thoracic cavity at the level of the 4th intercostal space, perforating the anterior pericardial sac, thru & thru the left ventricle, posterior pericardial sac, penetrating the lower lobe, left lung, where it ends.

The direction of the wound is backward, slightly downward with a deep of 18.5 centimeters.

About 2.5 liters of clotted and liquefied blood was extracted from the thoracic cavity.

EXTREMITIES:

- 1) Contused-abrasion, 4.5 x 4.1 cm., in dia., right medial knee.
- 2) Contused-abrasion, 3 x 2 cm., in dia., below and medial to lesion no. 1.
- 3) Contused-abrasion, 5 x 1 cm., in dia., antero-medial aspect, upper 3rd, right leg.
- 4) Contused-abrasion, 5 x 1.1 cm., in dia., anterior lower 3rd, left thigh.
- 5) Contused-abrasion, 4 x 1 cm., in dia., left mid-anterior knee.
- 6) Contused-abrasion, 1.5 x 1 cm., in dia., anterior upper 3rd, left leg.
- 7) Contused-abrasion, 9 x 1 cm., in dia., anterior aspect, junction of upper and middle 3rd, left leg.
- 8) Contused-abrasion, 1 x 1.1 cm., in dia., dorsal aspect, anterior portion, left foot.

CAUSE OF DEATH:

HEMORRHAGE, 2° to STAB WOUND.

Orillo has remained at large up to the present time. Accused-appellant, on the other hand, was arrested on July 3, 1994 after staying in Lambunao, Iloilo for 15 days and in Sta. Barbara, Iloilo for seven (7) days.

On the basis of these facts, the trial court rendered its decision, dated October 11, 1995, the dispositive portion of which reads:

WHEREFORE, finding the accused, STEVE SULLANO, guilty beyond reasonable doubt of the crime of MURDER, the Court hereby imposes upon him the penalty of RECLUSION PERPETUA, together with the accessory penalties provided for by law and to indemnify the heirs of Felix Villaruel the sum of P50,000.00 as death indemnity and to pay the amount of P71,691.00, as funeral and burial expenses and to pay the costs.

The Court hereby recommends to the Chief Executive thru the Department of Justice that Executive Clemency be extended to the accused after service of part of the penalty imposed upon him, consistent with the ends of retributive justice and objectives of RA 7659.

Hence, this appeal. Accused-appellant's sole assignment of error is that --

THE TRIAL COURT GRAVELY ERRED IN FINDING THE EXISTENCE OF CONSPIRACY THAT WOULD WARRANT THE CONVICTION OF ACCUSED-APPELLANT STEVE SULLANO OF THE CRIME CHARGED.

He contends that there is no basis for the trial court's finding that there was conspiracy between him and Orillo, because there is no evidence to show that he and Orillo had acted in concert in killing Felix Villaruel. Instead, the trial court should have found each of them responsible for his own act and since he was not the one who stabbed Villaruel and caused the latter's death, he should, at most, be held liable only for the injuries sustained by the victim as a result of the fist blows and kicks he delivered.

The appeal has no merit.

First. Accused-appellant claims that the only basis for the finding of conspiracy is the testimony of Domingo Doronila that he saw accused-appellant hand a knife to Orillo, which the latter used in stabbing Felix Villaruel. Accused-appellant says that Doronila had been coached and that he "fabricated a story to implicate [him] as a co-conspirator in the commission of the crime charged." [7]

The contention is untenable. Needless to say, the issue of credibility of witnesses is best left to the determination of the trial court since the latter has the opportunity to observe the witnesses' demeanor on the stand. [8] Consequently, only if it is clearly shown that the trial court's findings are arbitrary or that the judge overlooked certain facts which, if considered, will affect the outcome of the case, will this Court set aside such findings. [9]

In this case, there is no reason to depart from the trial court's ruling. Domingo Doronila testified:

Q Mr. Doronila, on March 19, 1994 at about 2:30 o'clock in the morning can you recall if where were you?

A I was in our Barangay Hall conducting an inspection of the members of my Barangay Tanod.

Q In what barangay were you holding then your inspection?

A Barangay Infante, Lopez Jaena Street, Molo, Iloilo City.

Q Why? What was your position in that barangay?

A At that time, I was the Barangay Captain.

Q While you were conducting an inspection, can you recall if there was an unusual incident that happened?

A Yes, sir.

Q Please tell the Honorable Court?

A After conducting an inspection while I was on my way home and on passing the alley at the junction between my barangay and Barangay Timawa, I saw two (2) persons standing.

Q Can you tell us if what were these two (2) persons doing?

A Yes, sir.

Q Who were they?

A Steve Sullano and Angelo Orillo.

Q While they were standing what were they doing?

A I saw them just standing, sir.

Q After that standing what did they do?

A While I was approaching them and already near them, suddenly there was a knife that Steve Sullano gave to Angelo Orillo.

Q You said that you saw a knife that Steve Sullano gave to Angelo Orillo, then what happened after that?

A When they saw that I was nearing them, suddenly this Steve Sullano ran away, and I chased him.

Q How about Angelo Orillo to whom the knife was given by Steve Sullano, what did he do?

A I saw this Angelo Orillo ran towards the opposite barangay while this Steve Sullano ran towards my barangay.

Q You said that you ran after this Steve Sullano, is that correct?

A Yes, sir.

Q Were you able to catch up with him?

A No, sir, because he was running very fast.

Q What did you do because you were not able to catch up this Steve Sullano?

A I went back with the intention of chasing Angelo Orillo but I saw that there was a commotion and the people were shouting, so I went there.

Q You have mentioned that you went back to catch up with Angelo Orillo, what happened?

A I went to the scene of the incident where there was a commotion and shouting of people and while I was there, there was somebody who was stabbed. They brought the victim to the hospital and I myself also followed.

Q When you went to the scene of the incident where there was a commotion, you said that there was a person who was stabbed, who was that person?

A They said that the victim was Felix Villaruel.

Q Before that early morning when you saw the two (2) persons, the accused in this case, how long have you known them before the early morning of March 19, 1994?

A I have known them for a long time because I have been a resident of that place, and besides I am the Barangay Captain there so, I am not new to that place.

Q Are you the Barangay Captain of Barangay Infante Avenue, Molo, Iloilo City, and this stabbing incident

happened in that place?

A The stabbing incident happened at Barangay Timawa Zone II, Iloilo City.

Q How far is this Barangay Timawa, Zone II from Barangay Infante Avenue wherein you are the Barangay Captain?

A If we based it in the zoning, this Barangay Timawa, Zone II and Barangay Infante Avenue has a junction and separated by an alley.

Q You mean that this Barangay Timawa, Zone II and Barangay Infante Avenue are adjacent and separated by that alley which you have mentioned?

A Yes, sir.

Q Since it was in the early morning about 2:30 of March 19, 1994 when you saw the two (2) accused, so it was dark, how come you can recognize them?

A The place where they were standing has an electric post, and our barangay is well illuminated.

Q How far were you when you first saw these two (2) persons standing under that electric post?

A I was about 100 meters distance, sir.

Q Was there any obstruction in viewing these two (2) persons from your place and to the place of the two accused?

A There was none, sir. These two (2) accused could be seen by me even in a far distance because the way was clear.

Q You said that when these two (2) accused saw you coming nearer them, they ran away, you mean from the point you saw them for the first time, and you proceeded towards them?

A Yes, sir.

Q And how many meters were you from these two (2) accused when they started running away?

A It was about four (4) arms length.[10]

Accused-appellant says it is strange that Doronila should be making the rounds of Barangay Infante at the wee hours of the morning during which he allegedly chanced on Orillo and accused-appellant who were then planning to attack the victim. There is really nothing unusual in what he said he did. As barangay captain, it was his duty to ensure peace and order in his area at all times. He saw accused-appellant handing over a knife to Orillo, and he suspected something wrong was afoot. He ran after accused-appellant, instead of Orillo to whom the knife had been given, as it was accused-appellant who ran towards Barangay Infante while Orillo fled towards Barangay West Timawa.

Accused-appellant also makes much of the fact that Doronila did not testify during the preliminary investigation stage and testified only six (6) months after the incident."[11] This matter was sufficiently explained by Doronila. When asked by the court, he said that he went to Manila shortly after the incident and did not return to Molo until after six (6) months.[12]

Second. Whatever doubt there may be as regards accused-appellant's culpability should be dispelled by the fact that on March 20, 1994 -- a day after the incident -- he left Molo, Iloilo with his girlfriend (who later became his wife), and did not return until 22 days after.[13] He claims they attended the fiesta in Lambunao, Iloilo for 15 days and then in Sta. Barbara, Iloilo for one week, and it was only upon his return on July 3, 1994 that he learned

he was a suspect in the killing of Felix Villaruel. According to him, it was his habit to attend fiestas for one or two weeks.[14]

Accused-appellant's explanation as to his whereabouts shortly after the incident is simply incredible. It was improbable for him not to know Felix Villaruel's death at the time he left Molo. He was fetched from his home by his then girlfriend, Cristina Equibal. Cristina is the daughter of Bienvenido Equibal who testified that he had witnessed the whole incident from the time accused-appellant boxed and kicked Villaruel until Orillo stabbed the victim. Bienvenido Equibal knew that Villaruel was pronounced dead upon arrival at the hospital.[15] It is very probable that he told his daughter about the death of Felix Villaruel and that his daughter and accused-appellant left Molo the day after Villaruel's death precisely to escape from the police. As this Court held, "[t]o flee the fold of law is to admit that one has transgressed that law." [16] In *People v. Alvero*, [17] we said:

It is settled doctrine that the flight of an accused is competent evidence to indicate his guilt. Summarizing our rulings thereon in various cases, we said in *People vs. Garcia*, that flight, when unexplained, is a circumstance from which an inference of guilt may be drawn; it evidences guilt and a guilty conscience or strongly indicates a guilty mind. The reason for this may be found in the literature of the Old Testament:

"The wicked man flees though no man pursues, But the righteous are as bold as a lion."

Third. Conspiracy was sufficiently established by the prosecution. The fact that the victim sustained several wounds is proof that these were inflicted by more than one attacker. From the testimonies given by the witnesses of both parties, including accused-appellant himself, the participation of each accused can be fairly ascertained. While both took turns in delivering fist blows and kicks to the victim, it was Orillo who inflicted on Villaruel the fatal wound with the knife given to him by accused-appellant. "To establish conspiracy, prior agreement between both accused to kill the victim is not essential for the same may be inferred from their own acts showing a joint purpose or design, which was illustrated in this case, by the concerted acts of appellants." [18]

Nor can it be argued that treachery may only be appreciated against Orillo since it was said accused who stabbed the victim while the latter was lying on the ground weak and defenseless. The rule is that "where there is conspiracy, treachery is considered against all offenders." [19] "Conspiracy implies concert of design and not participation in every detail of execution. Thus, treachery should be considered against all persons participating or cooperating in the perpetration of the crime." [20] The trial court correctly held:

There is no question that the two accused actively participated in mauling the deceased, knocking him down and disabling him. After taking turns in castigating the victim by delivering fist blows and kicks, they knocked the victim down and fled towards the same direction. At a distance, accused Sullano handed a knife to accused Orillo which the latter immediately took hold and swiftly returned to the scene and stabbed the deceased with said weapon provided by Sullano while the victim was still weak and being helped to stand up by his father Jose Villaruel and Morito Dingcong. As to why accused Orillo felt obliged to stab the victim after having received the knife from Sullano is not difficult to discern. The two accused are very close friends being members of the same gang. They usually go together when accused Sullano pays a visit to his girlfriend in West Timawa, Molo. The insolent indifference to an outsider courting a local young girl has touched the measure of manliness of the accused. They distaste the inhospitality of the deceased which fired them to an irrational anger.

The evidence of the prosecution pointing to accused Sullano as the one who gave the knife to his co-accused and gangmate Orillo to stab the victim was never denied by the defense. . . .

And, although it may be argued that it was the victim, Felix Villaruel, who provoked the fight, the means employed by the two accused in mauling the victim is clearly disproportionate to the perceived harm from

Villaruel's part. It is also noted that such provocation from the victim's end had already ceased when accused-appellant handed the knife to Orillo and the latter went back to stab Villaruel.

For the foregoing reasons, we hold that accused-appellant is guilty of murder and that he was correctly sentenced to suffer the penalty of reclusion perpetua and to indemnify the heirs of Felix Villaruel in the amount of P50,000.00. However, he should, in addition, be ordered to pay P50,000.00 as moral damages without need of proof thereof, consistent with the recent rulings of this Court.[21]

WHEREFORE, the decision of the Regional Trial Court, Branch 35, Iloilo City, is **AFFIRMED** with the **MODIFICATION** that accused-appellant is ordered to pay the heirs of Felix Villaruel the additional amount of P50,000.00 as moral damages and costs.

SO ORDERED.

Bellosillo, (Chairman), Quisumbing, and Buena, JJ., concur.

De Leon, Jr., J., on leave.

[1] Per Judge Severino C. Aguilar.

[2] Records, p. 1.

[3] TSN (Bienvenido Equibal), p. 5, June 27, 1995; TSN (Steve Sullano), p. 23, June 27, 1995.

[4] Records, p. 101.

[5] TSN (Bienvenido Equibal), pp. 6-7 & 16, June 27, 1995; TSN (Steve Sullano), 24 & 30, June 27, 1995.

[6] Exh. D; Records, p. 94.

[7] Brief for Accused-Appellant, pp. 8-9; Rollo, pp. 56-57.

[8] *People v. Luayon*, 260 SCRA 739 (1996)

[9] *People v. Castillo*, G.R. No. 130188, April 27, 2000.

[10] TSN, pp. 4-11, Sept. 14, 1994.

[11] Brief for Accused-Appellant, pp. 8-9, Rollo, pp. 56-57.

[12] TSN (Domingo Doronila), pp. 17-18, Sept. 14, 1994.

[13] TSN (Steve Sullano), pp. 25-26, 31-34, June 27, 1995.

[14] *Id.*, p. 41.

[15] TSN, p. 8, June 27, 1995.

[16] *People v. Borja*, 91 SCRA 340, 357 (1979)

[17] 224 SCRA 16, 33 (1993)

[18] *People v. Bigcas*, 211 SCRA 631, 643 (1992); See *People v. Panida*, G.R. Nos. 127125 & 138952, July 6, 1999.

[19] *People v. Borja*, 91 SCRA at 357, citing *People v. Carandang*, 54 Phil. 503 (1930); *People v. Baybayon*, 184 SCRA 13 (1990)

[20] *People v. Ong*, 62 SCRA 174 (1975)

[21] See *People v. Atrejenio*, G.R. No. 120160, July 13, 1999.

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