

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RAUL CANTUBA, RONNIE BALATUCAN (AT LARGE), ROMEO BALATUCAN, ELENITO BALATUCAN (AT LARGE), ACCUSED.

G.R. No. 126022. March 12, 2002

Ponente: PUNO, J.

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PUNO, J.:

This is an appeal from the Decision[1] dated May 6, 1996 of the Regional Trial Court of Masbate, Branch 48, in Criminal Case No. 7329, finding accused Raul Cantuba and Romeo Balatucan guilty beyond reasonable doubt of the crime of Murder and sentencing them to suffer the penalty of reclusion perpetua.

Raul Cantuba, Romeo Balatucan, Ronnie Balatucan and Elenito Balatucan were charged with the crime of murder in an information which reads, thus:

“That on or about January 11, 1994, in the evening thereof, at barangay Polot, Municipality of Mobo, Province of Masbate, Philippines, within the jurisdiction of this Honorable Court, the above-named accused, conspiring together, confederating with and mutually helping one another with intent to kill, evident premeditation, treachery and taking advantage of superiority of strength, did then and there willfully, unlawfully, and feloniously attack, assault and hack and stab with bladed weapons one Felino Hate, thereby inflicting wounds which caused his death.

Contrary to law.”[2]

Of the four accused, only Raul Cantuba and Romeo Balatucan were arraigned and pleaded not guilty.[3] Ronnie Balatucan and Elenito Balatucan remained at large. Trial ensued.

The prosecution presented three witnesses: (1) Rosalinda Hate, the widow of the victim and an eyewitness to the crime; (2) Dr. Enrique Legaspi III, the Municipal Health Officer of Mobo who conducted the post-mortem examination on the body of the victim; and (3) SPO4 Lucio Briones, the police officer of PNP-Mobo who investigated the killing.

The defense presented six witnesses: (1) Andronico Magno, the barangay captain of Polot, Mobo, Masbate at the time of the killing; (2) Rodolfo Guarin, the owner of the store where the crime was committed; (3) Nicolas Bermudo, a neighbor and eyewitness to the killing; (4) accused Romeo Balatucan; (5) accused Raul Cantuba; and (6) Antonio Bailon, a Sanitary Inspector who allegedly treated the wound sustained by Raul Cantuba.

The facts, according to prosecution eyewitness Rosalinda Hate, are as follows:

On January 11, 1994, at 7:00 in the evening, Rosalinda and her husband, Felino Hate, went to the store of Rodolfo Guarin in Barangay Polot, Mobo, Masbate to buy kerosene. Upon reaching the store, they saw the four accused having a drinking spree. They invited Felino to drink, and the latter acceded, having previously turned down similar offers by the group.[4] Two hours later, Felino asked permission to go home, but one of the accused, Raul Cantuba, stood up, held Felino’s hands and prevented him from leaving.[5] Still holding Felino’s hands, Raul

looked back at Ronnie Balatucan who immediately stood up and stabbed Felino on the left chest.[6] This was followed by a stab at the back by Elenito Balatucan, and a hack on Felino's neck by Romeo Balatucan.[7] Rosalinda witnessed the incident from one (1) meter.

Rosalinda ran to ask help from an uncle, but on her way fell from the bank of a creek and lost consciousness. When she recovered, she was already at her uncle's house. She told her uncle, Marlon Gamba, about the killing of her husband and named the four accused as the culprits. Gamba reported the incident to the barangay captain. The following morning, the lifeless body of Felino Hate was recovered from the crime scene.[8]

The Municipal Health Officer of Mobo, Dr. Enrique Legaspi III, conducted the post-mortem examination on the body of Felino Hate and found two wounds, to wit:

“(1) Neck -

hacking wound, extending from the (R) postero-lateral side of the neck, to the anterior part, then to the (L) postero-lateral side with the transection of the cord, neck muscles and the trachea.

(2) C/L -

stab wound, 6 cms., penetrating at the level of the 6[th] ICS, anterior chest wall (L).”[9]

Dr. Legaspi explained that the hack wound sustained by Felino measures fifteen centimeters (15 cms.) in length, and is fatal as it almost cut the neck. The stab wound, on the other hand, is six centimeters (6 cms.) and was sustained along the vicinity of the heart.[10]

SPO4 Lucio Briones of PNP-Mobo investigated the killing incident and filed a complaint for murder against the four accused. During the investigation, he found that only Ronnie and Elenito were armed during the incident, and that Raul did not inflict any injury on the victim, but was himself injured by Ronnie.[11]

The defense interposed denial.

Andronico Magno, the barangay captain of Polot, Mobo, Masbate at the time of the killing, testified that at about 7:00 in the evening of January 11, 1994, a barangay tanod informed him that something happened in the house of Rodolfo Guarin. He went to the house of Guarin and found the dead body of Felino Hate.[12] He was told by Guarin that Raul, Romeo and Ronnie were having a drinking spree when Ronnie suddenly killed Felino who came to buy something from the store. Guarin added that Ronnie even showed him the weapon used in the killing.[13] Magno informed Felino's wife of the incident and noticed her fractured right arm. Upon his inquiry, she explained that she was on her way to fetch Felino from the store of Guarin when she witnessed the killing and fell from the riverbank.[14] She then revealed that it was Ronnie who killed her husband, but “she will implicate all of them.”[15]

Rodolfo Guarin, the storeowner, testified that it was Felino Hate who arrived first in his store and bought gin. Raul, Romeo and Ronnie then came and drank gin with Felino.[16] Later, Felino shouted, “Nano kay adi kamo?” (Why are you here?) This sparked an argument between Ronnie and Felino. Then, Guarin saw everyone stand up with Ronnie unleashing his bolo. He heard Raul say, “Ayaw kamo sani.” (Stop that.) Peeping through a window, he saw Ronnie stab Felino on the chest. He also saw Romeo and Raul run away. Guarin alleged he did not see who inflicted the hack wound on the victim. Likewise, he said he did not see whether Raul was wounded during the incident.[17]

Nicolas Bermudo testified that on the night of the incident, he was in the house of barangay tanod Melquiades

Daigo to get a massage for a sprained hand when he heard some people having an altercation. He looked outside the window and saw, about five (5) meters away, Ronnie Balatucan and Felino Hate being pacified by Raul Cantuba. Felino pulled out his bolo and stabbed Ronnie, but the thrust was parried by Raul, resulting to a wound on the latter's right hand. Raul ran away with Romeo Balatucan, leaving Ronnie behind. Ronnie stabbed Felino on the left chest and then pushed him using a guitar. As Felino fell, Ronnie continued his attack by hacking the victim on the neck. Thereafter, Ronnie approached Guarin, returned the guitar, then left.[18] Nicolas denied seeing Elenito Balatucan and Rosalinda Hate during the incident.[19] During the cross examination, Nicolas admitted that he was with Kagawad Alan Masamoc when the latter invited Raul Cantuba to the police station, but he did not tell the police that he witnessed the crime and that Raul was innocent.[20]

Accused Romeo Balatucan testified that at about 6:00 p.m., he was having a drinking spree with his brother Ronnie and stepfather Raul in the store of Guarin when Felino Hate came. Upon arrival, Felino, who was already drunk, immediately pulled out his bolo and struck Ronnie who, however, was not hit as the blow was parried by Raul. Raul was wounded on his right forearm. Romeo and Raul then ran away, leaving Ronnie behind.[21] The following day, Romeo learned that Felino was killed. On cross-examination, Romeo added that he started drinking with Ronnie and Raul in the store of Guarin at about 4:00 in the afternoon, and had already consumed three (3) bottles of gin when Felino arrived. He denied having Elenito with them during the drinking session, and maintained that Felino attacked Ronnie with a bolo without having any previous altercation with the latter.[22]

Accused Raul Cantuba testified that he was drinking with his stepsons Romeo and Ronnie in the store of Guarin when Felino came and boxed Ronnie while saying "Buwisit ka!". Ronnie did not pay attention to the blow. Felino unsheathed his bolo and struck Ronnie, but this was parried by Raul. Raul got injured on his right arm and ran away. After being hit, Raul ran away.[23] His wound was allegedly treated by one Bailon at the Mobo Municipal Hall.[24]

Antonio Bailon, the Sanitary Inspector of Mobo, also testified. He, however, claimed that he could not recall if he treated Raul, and that his office does not maintain records of patients.[25]

The trial court rendered judgment on May 6, 1996, the dispositive portion of which reads:

"WHEREFORE, in view of all the foregoing, the guilt of accused Raul Cantuba and Romeo Balatucan having been established beyond reasonable doubt, they are hereby CONVICTED for MURDER under Article 248 of the Revised Penal Code. Accordingly, in the absence of any aggravating or mitigating circumstances in the commission of the crime, both accused are hereby sentenced to suffer the penalty of RECLUSION PERPETUA and to pay severally and jointly the amount of P50,000.00 as indemnity to the heirs of Felino Hate by reason of his death, and their proportionate share of the cost of the suit.

With respect to the remaining accused, Ronnie Balatucan and Elenito Balatucan, let the instant case be as it is hereby ordered ARCHIVED, to be revived and reincluded in the active calendar of this Court once said accused are finally apprehended and brought to this Court for appropriate proceeding. Let an alias warrant for their arrest be issued in this case.

SO ORDERED."

Hence, the appeal by Raul Cantuba and Romeo Balatucan. In a Resolution dated January 18, 1999, we dismissed the appeal as to accused-appellant Raul Cantuba pursuant to Rule 124, Section 8 of the Rules of Court, in view of his escape from the detention cell on October 25, 1997. We required the Presiding Judge of the Regional Trial Court of Masbate, Branch 48 to order the arrest of Cantuba for the service of his sentence. The said Resolution became final and executory on February 25, 1999.[27]

The remaining accused-appellant, Romeo Balatucan, raises the following assignment of errors:

“I.

THE COURT A QUO GRAVELY ERRED IN GIVING FULL FAITH AND CREDENCE TO THE TESTIMONY OF THE WIFE OF THE VICTIM THAT ACCUSED-APPELLANT ROMEO BALATUCAN CONSPIRED IN KILLING [THE] VICTIM.

II.

THE COURT A QUO GRAVELY ERRED IN DISREGARDING THE TESTIMONIES OF THE WITNESSES EXCULPATING ACCUSED-APPELLANT OF THE OFFENSE CHARGED.

III.

THE COURT A QUO ERRED IN HOLDING ACCUSED-APPELLANT SEVERALLY AND JOINTLY LIABLE TO PAY THE AMOUNT OF P50,000.00 TO THE HEIRS OF VICTIM AND TO PROPORTIONALLY PAY THE COST OF THE SUIT.”[28]

The appeal is devoid of merit.

The first two assignments of error shall be resolved jointly as they both relate to the issue of credibility of witnesses. The basic argument of the appellant is that Rosalinda Hate, being the widow of the victim, is a biased witness whose testimony should not have been accorded credence.

We do not agree.

The testimony of the victim’s wife, Rosalinda, deserves credence. She clearly identified the accused as the perpetrators of the crime, and described their individual participation. It was improbable for her to err as she witnessed the incident from a distance of one meter. The fact that Rosalinda is the wife of the victim does not ipso facto make her a biased witness.[29] The familiar rule is that “mere relationship of a witness to the victim does not automatically impair his credibility and render his testimony less worthy of credence where no improper motive can be ascribed to him for testifying. Rather, the witness’ relationship to the victim, far from rendering his testimony biased, would even make it more credible as it would be unnatural for a relative who is interested in seeking justice for the deceased to accuse somebody other than the real culprit.”[30] The records show that Rosalinda has no reason or motive to make any false accusation against the appellant.

The appellant also contends that the discrepancy between the number of wounds inflicted upon the victim as narrated by Rosalinda and the actual number of wounds found on the body of the victim by the medico-legal officer raises doubt as to the truthfulness of her testimony. The discrepancy cannot erode the entire testimony of Rosalinda. Well-settled is the rule that the testimony of a witness may be believed in part and disbelieved in another, depending on the corroborative evidence or the probabilities and improbabilities of the case.[31] Where a part of the testimony of a witness runs counter to the medical evidence submitted, it is within the sound discretion of the court to determine which portions of the testimony to reject as false and which to consider worthy of belief. The hacking of the victim is borne out by the medical evidence. It also shows that the victim was hacked only once. All these coincide with the testimony of Rosalinda. She declared that it was Romeo who hacked the victim. There is no reason for her to perjure herself as regards Romeo. Her testimony with respect to the culpability of Romeo is thus credible as it is not inconsistent with the totality of the evidence.

The trial court rejected the testimonies of the defense witnesses, because of their negative nature and their material inconsistencies, viz:

“The two accused vehemently deny this version of the prosecution. But their denials constitute self-serving negative evidence which can hardly be considered to overcome straightforward and credit-worthy eyewitness

account. It therefore deserves no weight in law and cannot be given greater evidentiary value over the credible testimony of Rosalinda who testified on affirmative matters. xxx

xxx xxx xxx

True, the defense, aside from the two accused, presented witnesses to corroborate their allegation in denying the crime imputed. Yet the material details of those testimonies show substantial incongruities that belied their claim. For one, the storeowner say (sic) that it was the victim who arrived first in his store who ordered a bottle of gin and later Raul and his three stepsons arrived and sit (sic) in the table where the former was drinking, that when the group was asked by the victim why they were there, this prompted them to stand up and thereupon Ronnie pulled a bolo and stab (sic) the victim. Nicolas, another defense witness, says otherwise: That it was the deceased who pulled a bolo and stab (sic) Ronnie but missed. On the other hand, both accused were in agreement that they arrived first in the store and had already consumed three (3) bottles of gin before the victim came, contrary to the store owner's claim. And while Romeo claims that Felino who was drunk arrived and immediately unsheathed his bolo without any previous altercation and thrust it to (sic) Ronnie, Raul, on the other hand, declares that the victim, upon arriving went near them and box (sic) Ronnie and then unsheathed a bolo and stab (sic) the latter.”[32]

We cannot fault the finding of the trial court. The matter of assessing and assigning values to the testimonies of witnesses is best and most competently performed by a trial judge who has the unique opportunity to observe the behavior, demeanor and conduct of the witness at the stand. Thus, absent any indication or showing that the trial court has overlooked some material facts or gravely abused its discretion, this Court will not interfere with the trial court's assessment of the credibility of the witnesses.[33]

The appellant further insists that Rosalinda was not with her husband when the incident occurred and could not have seen the killing. To support the contention, appellant quoted the testimony of Andronico Magno where the latter was allegedly told by Rosalinda that “She is going to fetch Felino to eat but on the way she saw that there was a scupled (sic), so she fell in the river bank.” He also cited the testimony of Nicolas Bermudo who, when asked if he saw Rosalinda in the house of Guarin at the time when Felino allegedly stabbed Ronnie, answered, “I was not able to see her.”[34]

The contention is untenable. Nothing in these testimonies proves that Rosalinda was not in the crime scene at the time of the killing. The alleged statement of Rosalinda that she was going to fetch her husband even confirms her presence in the crime scene where she saw the scuffle involving her husband and the accused. The statement of Bermudo that he was “not able to see” Rosalinda during the incident does not mean that Rosalinda was not there. Appellant is engaging in plain non sequitur argument.

The evidence shows conspiracy was proved. Conspiracy exists where the participants performed specific acts with such closeness and coordination as unmistakably to indicate a common purpose or design in committing the crime.[35] In conspiracy, the act of one is the act of all, hence, it is not necessary that all the participants deliver the fatal blow.[36] The testimony of Rosalinda details the participation of each of the accused, viz:

“ATTY. MANLAPAZ:

xxx xxx xxx

Q:

And what did your husband do?

A:

And my husband asked permission to (sic) the group that he was going home.

Q:

And after that what happened?

A:

So Raul Cantuba stood up and prevented my husband to go.

Q:

Assuming that I am your husband and you were Raul Cantuba who you said prevented your husband from leaving, will you please demonstrate to us how Raul Cantuba prevented your husband from leaving?

A:

(Witness demonstrating how Raul Cantuba prevented her husband by holding the right hand of her husband with the right hand of Raul and the left hand with the left hand of Raul.)

Q:

When your husband was prevented by Raul Cantuba from leaving, what happened next?

A:

Raul first looked at his back and Ronnie stood up.

Q:

What happened next?

A:

Then Ronnie stabbed my husband on his back.

Q:

You were first demonstrating how Raul Cantuba holding (sic) the two hands of your husband. Now, where was Ronnie coming from that (sic) Raul was holding your husband?

A:

Ronnie came from behind Raul.

Q:

And what did [he] do?

A:

Then Ronnie stabbed my husband while being held by Raul Cantuba in (sic) his hands.

COURT:

(to the witness)

Q:

Now, where was he hit?

A:

My husband was stabbed on the left breast and that was the injury sustained by Raul.

COURT:

Proceed.

ATTY. MANLAPAZ:

Q:

You mean Ronnie Balatucan was behind Raul Cantuba when he stabbed your husband?

A:

Yes, sir.

Q:

After Ronnie Balatucan has stabbed your husband on the left breast while being held by Raul Cantuba, what happened next?

A:

After that he was also stabbed by Elenito Balatucan at his back.

COURT:

(to witness)

Q:

Where was he hit?

A:

(Witness demonstrating at the right back of her shoulder.)

COURT:

Proceed.

ATTY. MANLAPAZ:

Q:

What happened next after that?

A:

Then it was Romeo who hacked my husband on his neck.

xxx xxx xxx"[37]

While accused Raul Cantuba was holding the hands of Felino, the latter was stabbed by Ronnie and Elenito Balatucan, and hacked by appellant Romeo Balatucan. The concerted action is designed for the common purpose of killing Felino.

We also find that treachery was proved. There are two requisites for the existence of the qualifying circumstance of treachery, to wit: (1) the employment of the means of execution that gives the person attacked no opportunity to defend himself or retaliate; and (2) the deliberate and conscious adoption of the means of execution.[38] When accused Cantuba held the hands of the victim, the latter was rendered defenseless and unable to repel the attack of the other accused. The attack was sudden and unexpected. Previous thereto, the accused and the victim had been drinking gin for two hours. There was no altercation. It was only when the victim stood up and asked permission to leave that the four accused, without warning, carried out their sinister plan. Moreover, Rosalinda testified that Raul held the hands of the victim and looked back at Ronnie, ostensibly as a signal of sort, after which, the latter immediately stood up and stabbed the victim. This was followed by another stab by Elenito and a hack by appellant Romeo. Clearly, the manner by which the killing was carried out was deliberately and consciously adopted to ensure the death of the victim.

We hold, however, that the aggravating circumstance of evident premeditation was not proven in this case. For evident premeditation to exist, three requisites must be established, viz: (1) the time when the accused determined to commit the crime; (2) an act manifestly indicating that the accused clung to his determination; and (3) a sufficient lapse of time between such determination and execution to allow him to reflect upon the consequences

of his act.[39] The evidence on record utterly failed to sufficiently establish these elements, hence, evident premeditation may not be appreciated.

Finding no error in the decision of the trial court, we see no reason to sustain the third assignment of error and to reverse the order directing the accused-appellant to pay indemnity to the heirs of the victim and his proportionate share in the cost of suit.

WHEREFORE, the decision of the trial court convicting Romeo Balatucan of the crime of Murder and sentencing him to suffer the penalty of Reclusion Perpetua and to pay jointly and severally with Raul Cantuba the amount of fifty thousand pesos (P50,000.00) to the heirs of Felino Hate, and his proportionate share in the cost of the suit, is hereby AFFIRMED.

Costs against the appellant.

SO ORDERED.

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

[1] Penned by Judge Manuel S. Pecson.

[2] Rollo, p. 5.

[3] Records, p. 25.

[4] TSN dated August 10, 1994, pp. 4-6; Records, pp. 87-89.

[5] TSN dated October 31, 1995, p. 6; Records, p. 271.

[6] Ibid.

[7] TSN dated August 10, 1994, p. 7; TSN dated October 31, 1995, pp. 6-8; Records, pp. 90, 271-273.

[8] Id., pp. 8-11; Records, pp. 91-94.

[9] Medico-Legal Report, Records, p. 39.

[10] TSN dated November 17, 1994, pp. 4-5; Records, pp. 116-117.

[11] TSN dated January 5, 1995, pp. 6-7; Records, pp. 128-129.

[12] TSN dated July 13, 1995, pp. 3-4; Records, pp. 138-139.

[13] Id., pp. 4-5, 10, 12; Records, pp. 139-140, 145, 147.

[14] Id., pp. 12-13; Records, pp. 147-148.

[15] Id., p. 14; Records, p. 149.

[16] TSN dated July 19, 1995, pp. 9-11; Records, pp. 162-164.

[17] Id., pp. 11-17, 20; Records, pp. 164-170, 173.

[18] TSN dated August 9, 1995, pp. 4-7; Records, p. 181-184.

[19] Id., p. 9; Records, p. 186.

[20] Id., pp. 13, 18; Records, pp. 190, 195.

- [21] TSN dated September 4, 1995, pp. 3-5; Records, pp. 208-210.
- [22] Id., pp. 7, 12-14; Records, pp. 212, 217-219.
- [23] TSN dated September 5, 1995, pp. 4-5; Records, pp. 231-232.
- [24] Id., pp. 7-8; Records, pp. 243-235.
- [25] TSN dated September 15, 1995, p. 5; Records, p. 262.
- [26] RTC Decision, pp. 10-11; Rollo, pp. 128-129.
- [27] Rollo, pp. 82-84.
- [28] Brief for the Accused-Appellant, p. 1; Rollo, p. 103.
- [29] *People v. Ronato*, 316 SCRA 433, 440 (1999).
- [30] *People v. Batidor*, 303 SCRA 335, 349 (1999), citing *People v. Anonuevo*, 262 SCRA 22 (1996).
- [31] *People v. Alvarez*, 345 SCRA 361, 373 (2000), citing *People v. Somooc*, 244 SCRA 731, 739 (1995), and *People v. Sotto*, 275 SCRA 191, 202 (1997).
- [32] RTC Decision, pp. 7-8; Rollo, pp. 125-126.
- [33] *People v. Daroy*, 336 SCRA 24, 37 (2000).
- [34] Brief for the Accused-Appellant, pp. 13-14; Rollo, pp. 115-116.
- [35] *People v. Dinglasan*, 267 SCRA 26, 44 (1997).
- [36] *People vs. Catampongan*, 318 SCRA 674, 685 (1999), citations omitted.
- [37] TSN dated October 31, 1995, pp. 6-8; Records, pp. 271-273.
- [38] *People v. Cabansay*, G.R. No. 138646, March 6, 2001, p. 10.
- [39] *People vs. Marcelino*, 316 SCRA 104, 117 (1999).

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