

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
DOMINADOR VELASCO ALIAS “ADOR,”
ACCUSED-APPELLANT.**

G.R. No. 128089. February 13, 2001

Ponente: VITUG, J.

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VITUG, J.:

An inglorious case of marital altercation eventually led to the unanticipated death of an alleged unfaithful spouse. Was it an impassioned shame that spurred the victim to take her own life, or was it because of a belief of his wife's infidelity that might have moved the accused to perpetrate the condemnable deed?

The accused was indicted for parricide under Article 246 of the Revised Penal Code in an information that read:

"That on or about October 27, 1990, in the Municipality of Sto. Tomas, Province of La Union, Philippines, and within the jurisdiction of this Honorable Court, the said accused, did then and there willfully, unlawfully and feloniously and with evident premeditation, that is having conceived and deliberated to kill his wife, Prescilla B. Velasco, with whom he was united in lawful wedlock, armed with a wood and attack, assault, clubbed his wife repeatedly, and with treachery by employing means, manner and form in the execution thereof, which tended directly and specially to insure its commission without danger to the person of said accused, the result of which attack was that the said Prescilla B. Velasco received several mortal wounds in her body which directly caused her death."[1]

Assisted by counsel de parte, the accused pled "not guilty" at his arraignment.

Accused Dominador Velasco and victim Priscila Velasco were married way back on 24 July 1976.[2] The union begot seven children.

In the morning of 27 October 1990, between 10 o'clock and 11 o'clock, Noel Basco, the then incumbent barangay captain of Ambitacay, Santo Tomas, La Union, was occupied with planting watermelon in his farm when Ped Velasco, a brother of the accused, came by and mentioned an on-going quarrel between the accused and the victim.

In the afternoon of the same day, Crisanto Boado, a thirteen-year old country lad, was on his way to a nearby store in Patac, Sto. Tomas, La Union, to buy a bag of sugar when from a distance of ninety to one hundred meters, he saw the accused, armed with a piece of wood of about 2 feet in length and 3 inches in diameter, aggressively pursuing the victim who was just about two-and-a-half meters away from him. The scene was plain enough for Crisanto to see being way up at the top of the hill overlooking the clashing couple. Crisanto, however, could not tell whether the accused was finally able to catch up with the victim because the two eventually reached a place covered by tall grasses that obscured his view. Crisanto did hear the accused shouting at the top of his voice. "I will kill you now, I will kill you now" while the victim was desperately calling for help.

Later that afternoon, Priscilla Velasco was found dead. Rumors quickly spread that she had killed herself by

drinking poison. Dr. David Villanueva, Jr., the physician detailed at the Rural Health Unit (RHU), Sto. Tomas, La Union, examined the remains of the victim and prepared the certificate of death stating that the deceased had died of poisoning. He confessed, however, that he did not perform an autopsy on the cadaver and that he had come up with his conclusion only after noticing a small amount of brownish fluid oozing from the victim's mouth with the characteristic smell of insecticide. Although he did not notice any injury or external manifestation of abrasion or hematoma, Dr. Villanueva admitted, in any case, that his findings were inconclusive.

With the nagging doubt as to what really could have caused his daughter's death, as well as particularly aware that the accused had often maltreated his wife, Veronico Basco decided to have the body undergo an autopsy. Dr. Arturo Llavore, the medico-legal officer of the National Bureau of Investigation (NBI), Regional Office, responded favorably to the request and the body was exhumed following the issuance of a permit therefor from the Department of Health.

The autopsy, conducted on 16 November 1990, revealed that the victim had suffered from abrasions on the right side of the face, including the jaw; hematoma on the back portion of the head at the left posterior portion; hematoma on the skull; contusions on the left side of the back portion of the body and on the back portion of the left upper extremities; contused abrasion on the arm and forearm; and contusion on the right forearm. Dr. Llavore concluded that the victim died of shock, secondary to multiple traumatic injuries, and opined that the wounds could have likely been caused by physical contact with a hard object like a piece of wood or wooden club. Samples of the victim's brain, heart, kidney, spleen, lungs, liver, and pancreas were taken to the Medico Legal Laboratory in Manila for histopathological and toxicological examinations. Dr. Nieto M. Salvador, a medical specialist of the NBI, conducted the histopathological examination and arrived at the finding that the victim had died of congestion and edema of the visceral organs. Toxicology Report No. T-90-3324[3] prepared by NBI Forensic Biologist II, Dr. Beverly A. Vidanez, indicated that no trace of poisonous substances was detected in the body of the victim.

The accused disclaimed responsibility for his wife's death. He recalled that on 27 October 1990, at or about 7 o'clock in the morning, he was on his way to work when he was abruptly taken by utter shock. From a distance of about seventy to eighty meters, he saw his wife having sexual intercourse with a certain Mariano Erquiza, both starkly naked, at the edge of a tobacco seedlings area. He stood motionless as he watched the adulterous interlude. After satisfying their carnal desires, the paramour put on his clothes and began descending towards the east. It was then when the accused started to chase him that lasted for two hours. Unsuccessful, and deciding to instead go home, he came across his brother Romeo Velasco and recounted to him what had happened. He stayed in the house of Romeo, with the latter's wife to keep him company, until 4 o'clock in the afternoon when he unexpectedly heard people shouting. The accused and his brother rushed out only to learn of his wife's unexpected demise.

The defense presented, next and last, witness Elpidio Eisma who testified that on 27 October 1990, about 3 o'clock in the afternoon, while he was about to unwind the rope attached to his carabao, he heard somebody yell from the hilltop. He hurriedly proceeded to the place, and there he saw Rosita Eisma and another neighbor massaging the victim's stomach. Rosita told him that the victim had poisoned herself.

From the web of circumstantial evidence, the Regional Trial Court, Branch 32, of Agoo, La Union, rendered a judgment of conviction; it held:

"WHEREFORE, in view of all the foregoing considerations, this Honorable Court hereby finds the accused DOMINADOR VELASCO alias "ADOR" GUILTY beyond reasonable doubt for the crime of Parricide contrary to Article 246 of the Revised Penal Code. The accused is hereby sentenced to suffer the penalty of RECLUSION PERPETUA, indemnify the heirs of the victim in the amount of P50,000.00 and to pay the cost

of the proceedings."[4]

Elevating the case to this Court, the accused ascribed to the court a quo a sole assigned error; viz:

"THE TRIAL COURT ERRED IN DISREGARDING THE EVIDENCE SUPPORTING THE FACT THAT THE VICTIM COMMITTED SUICIDE BY POISONING HERSELF AND WAS NOT KILLED BY THE ACCUSED."[5]

Accused-appellant denied having pounced upon the victim, claiming that he never left his brother's house from 10 o'clock in the morning up until 4 o'clock in the afternoon of the fateful day, and suggesting that the victim might have opted to take her own life because of the scandal and shame she had put herself into.

But not a trace of poison was detected in any part of the victim's body. Even Dr. Villanueva acknowledged the inconclusiveness of his cursory finding that the victim must have taken her own life, his opinion being based mainly on the speculation in the neighborhood that the victim drunk some poisonous substance. He might have actually smelled insecticide in the victim's mouth the day she died; however, he himself conceded that it could have been possible that the substance was just poured through the victim's mouth soon after she breathed her last. Suicide, in any event, was finally ruled out following the results of the histopathological and toxicological examinations on the body of the victim conducted by NBI experts. The body itself had borne witness to the deadly torment it went through which exposed several abrasions and contusions that would completely negate the suicide theory.[6]

It should bear to underscore that the individual qualifications of the medico legal officer and forensic biologist, the expert witnesses presented, remained unassailed.

Interestingly, the defense failed to place at the witness stand the brother or the sister-in-law of the accused who could have corroborated his alibi, a fatal omission if, indeed, his claim should deserve any weight. No undue bias or ill motive had been attributed to the prosecution witnesses that would have impelled them to falsely testify against the accused and to implicate him in so despicable a deed as parricide. The paucity of such an evidence hardly could support any proposition other than that the witnesses had testified on untarnished truth.[7]

Innately, there appears to be great incredulity in the version of the accused. How could a husband merely stand still and endure the illicit sexual congress between his wife and her supposed paramour from beginning to end? How could he just go after his wife's lover when the latter is through with his lovemaking and only after he would have put on his clothes and started to flee? This kind of attitude defies human nature. So, also, it would seem unlikely that the wife and her alleged lover would completely undress themselves and consummate the demands of their flesh in an open field and in broad daylight. Truly, there is no real test of truth in the testimony of a witness except to gauge it consonantly with human knowledge, observation, and experience. There should be wisdom in the statement that whatever is repugnant to these teachings belongs to the miraculous and must thereby be held outside normal judicial cognizance.[8]

The bundle of circumstantial evidence has sufficiently established the malefactor, destroyed the presumption of innocence, and fulfilled the standard of moral certainty to sustain a conviction. Even in the absence of direct evidence linking an accused to the crime, circumstantial evidence can suffice to convict when (a) there is more than one circumstance; (b) the facts from which the inferences can be derived are proven; and (c) the combination of all the circumstances is such as to produce finding of guilt beyond reasonable doubt.[9]

The prosecution successfully came up with several pieces of evidence; to wit: (1) Barangay captain Noel Basco was advised by Ped Velasco, a brother of the accused, of the squabble between the accused and the victim in the early morning of 27 October 1990; (2) Crisanto Boado, while out on an errand in the afternoon of that day, saw

the accused chasing the victim, holding a piece of wood in his hand and yelling that he was going to kill the victim; (3) the victim was found dead later that same afternoon; (4) the autopsy report revealed abrasions and contusions all over the victim's body; (5) the toxicological examinations of the specimens from the victim's visceral organs yielded negative indications of volatile, non-volatile, or metallic poisons, including insecticides; and (6) the accused was not without propensity in maltreating his wife. He himself thusly testified:

"PROSECUTOR HIPOL:

May we just request that the Exhibits be brought out so that we can confront him with his signature.

"Q

Mr. Witness, before the recess you were saying that you were not summoned to a confrontation with your wife before Barangay Captain Junior Lachica. You also denied that you never physically maltreated your wife. Of course, you were here when your very own father-in-law testified that he has personal knowledge of the fact and you maltreated your wife. Can you tell us any reason why he testified against you?

"A I do not know of any reason sir.

"Q By the way, are you very familiar with the signature of your late wife Priscilla?

"A I remember now that it is true that I have also maltreated my wife but there is a valid reason for doing that so.

"Q What is that valid reason?

"A Because of my reputation being dismerged (sic).

"Q That was before the incident subject matter of this case occurred?

"A

People in our place has been spreading the rumor regarding the unfaithfulness of my wife but I was only merely suspecting that it was on that particular day that I caught her in flagranti delicto.

"Q The incident subject matter of this case occurred on October 27, 1990, can you recall that?

"A Yes, sir.

"Q When was that occasion admittedly to led your hands to your wife in relation to October 27, 1990?

"A That was long before October 27.

"Q Could that have been in September 1983?

"A I am not very sure of that date.

"Q Anyway, was there more than one occasion when you actually maltreated your wife?

"A Yes, sir.

"Q About how many times?

"A I can no longer recall sir.

"Q

And during those occasions, did you have the same reason for maltreating your wife or there were some other reason?

"A Only for that particular reason.

"Q That you have heard rumors to the effect that your wife is unfaithful to you?

"A Yes, sir.

"Q Had you actually confronted your wife about that matter?

"A Yes, sir.

"Q And what was her comment?

"A She did not want to reveal the truth.

"Q And when she did not reveal the truth, you then maltreated her?

"A Yes, sir.

"Q Up to the extent that your wife even filed a case before the Barangay Captain in Patac?

"A Yes, sir.

"Q And you were even summoned by the Barangay Captain to appear before him to confront with your wife?

"A

Yes, sir.

"Q And before the Barangay Captain, you even promised not to repeat and not to maltreat your wife again?

"A Yes, sir." [10]

The chain of events, perhaps insignificant when taken separately and independently, could, nevertheless, produce the effect of conviction beyond reasonable doubt when considered cumulatively. Verily, a judgment of conviction based on circumstantial evidence can be upheld if the circumstances established would lead to a fair and reasonable conclusion pointing to the accused, to the exclusion of all others, as being the author of the crime.[11]

Bearing the penalty of reclusion perpetua to death, the crime of parricide is committed when: (1) a person is killed; (2) the deceased is killed by the accused; and (3) the deceased is the father, mother, or child, whether legitimate or illegitimate, or a legitimate other ascendant or other descendant, or the legitimate spouse of the accused.[12] The key element in parricide is the relationship of the offender with the victim. In the case of parricide of a spouse, the best proof of the relationship between the accused and the deceased would be the marriage certificate.[13] The testimony of the accused of being married to the victim, in itself, may also be taken as an admission against penal interest.[14]

There being neither aggravating nor mitigating circumstance shown, the lower of the two indivisible penalties was correctly imposed by the trial court. The civil indemnity of P50,000.00 awarded to the heirs of the victim was likewise proper.[15]

WHEREFORE, the judgment of the trial court appealed from is AFFIRMED. Cost against accused-appellant.

SO ORDERED.

Melo, (Chairman, Third Division), Panganiban, Gonzaga-Reyes, and Sandoval-Gutierrez, JJ., concur.

[1] Rollo, p. 5.

[2] Exhibit K, Folder of Exhibits.

[3] Exh. G-2, Folder of Exhibits.

[4] Rollo, pp. 51-52.

[5] Rollo, p. 103.

[6] People vs. Nepomuceno, Jr., 298 SCRA 450; People vs. Malabago, 265 SCRA 198; People vs. Cloud, 265 SCRA 472.

[7] People vs. Dela Pena, 232 SCRA 72.

[8] See People vs. Escalante, 238 SCRA 554.

[9] People vs. Estrellanes, Jr., 239 SCRA 235.

[10] TSN, 02 August 1993, pp. 7-9.

[11] People vs. Genobia, 234 SCRA 699; People vs. Parel, 261 SCRA 720.

[12] Article 246, Revised Penal Code; People vs. Malabago, 265 SCRA 198.

[13] Exhibit K, supra; see People vs. Malabago, 265 SCRA 198.

[14] See People vs. Malabago, 265 SCRA 198; TSN p. 326 July 1993.

[15] People vs. Malabago, 265 SCRA 198; People vs. Lacson, G.R. No. 132512, 15 December 1999.

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