

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
BONIFACIO RADA AND ADRIANO SACDALAN,
ACCUSED-APPELLANTS.**

G.R. No. 128181. June 10, 1999

Ponente: MELO, J.

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MELO, J.:

Accused-appellants Bonifacio Rada and Adriano Sacdalan were charged with Multiple Murder before the Regional Trial Court of the Fourth Judicial Region (Branch 63, Calauag, Quezon) in an Information dated April 16, 1990, to wit:

That on or about the 19th day of September, 1989, at Barangay Vinas, Municipality of Calauag, Province of Quezon, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, armed with firearms of undetermined calibers, with intent to kill, with treachery and evident premeditation, conspiring and confederating together and mutually helping each other, did then and there wilfully, unlawfully and feloniously attack, assault and shoot with said firearms the following: Simeon Castillo, Isidro Castillo and Leonora Castillo, thereby inflicting upon them gunshot wounds on different parts of their bodies, which directly caused their death.

That the accused attacked and shot Simeon Castillo, Isidro Castillo, and Leonora Castillo suddenly and unexpectedly without giving them any opportunity to defend themselves or to escape.

(p. 18, Rollo.)

Pleas of not guilty having been entered, trial was undertaken, following which, the court a quo rendered the now appealed decision dated September 9, 1996, finding accused-appellants guilty of the crime of murder and disposing:

WHEREFORE, in the light of all the foregoing considerations, this Court finds accused Bonifacio Rada and Adriano Sacdalan guilty beyond reasonable doubt of the crime of MURDER qualified by treachery defined and penalized under Article 248 (par. 1) of the Revised Penal Code and hereby sentences said two accused to suffer the penalty of THREE(3) counts each of RECLUSION PERPETUA together with all of its accessories prescribed by law and to pay the heirs of the victim Simeon Castillo jointly and severally with the sum of FIFTY THOUSAND PESOS (P50,000.00); the heirs of the victims Isidro Castillo and Leonora Castillo jointly and severally the sum of ONE HUNDRED THOUSAND PESOS (P100,000.00) as civil indemnities without subsidiary imprisonment in case on insolvency plus costs of the suit.

The accused Bonifacio Rada and Adriano Sacdalan are to be credited of their preventive imprisonment if any and proper under Article 29 of the Revised Penal Code as amended by Republic Act No. 6127.

(p. 61, Rollo.)

The prosecution presented the following witnesses:

Dr. Winefredo Lucido, Municipal Health Officer of Calauag, Quezon, testified that he conducted a post mortem examination on the cadavers of Isidro Castillo and Simeon Castillo at about 9:30 o'clock in the morning of September 19, 1989.

His post mortem examination of Isidro Castillo revealed the following fatal injuries sustained by the victim:

Gunshot wound No. 1 with contusion collar at the hypogastric region 2 cms. below the umbilicus, directed posteriorly, penetrating the abdominal cavity with point of exit 3 cms. diameter at the left lumbar region.

The witness declared that said injuries resulted in massive hemorrhage which caused the victim's death (tsn, Nov. 5, 1990, pp. 6-13).

On the other hand, Dr. Lucido's autopsy of the cadaver of Simeon Castillo showed that the victim sustained five gunshot wounds:

- Gunshot wound No. 1 with point of entrance of 1 cm. Diameter with contusion collar, at the right temporal region, directed medially, penetrating the cranial cavity, without point of exit.
- Gunshot wound No. 2 with point of entrance of 1 cm. Diameter with contusion collar at the right intrascapular region directed anteriorly, penetrating the thoracic cavity without point of exit.
- Gunshot wound No. 3 with point of entrance of 1 cm. Diameter with contusion collar at the right thigh, distal portion, lateral aspect, directed medially with point of exit of 6 cms. At the medial aspect, distal portion of the right thigh.
- Gunshot wound No. 4 with point of entrance of 1 cm. Diameter with contusion collar, at the right axillary region, directed medially, penetrating the thoracic cavity without point of exit.
- Gunshot wound No. 5, with point of entrance of 1 cm. Diameter, with contusion collar, at the right anterior chest level of the 3rd ICS, para-axillary line, directed medially, penetrating the thoracic cavity, without point of exit.

Dr. Lucido asserted that Simeon Castillo's cause of death was skull fracture and massive hemorrhage secondary to multiple gunshot wounds (tsn, Id., pp. 16-26).

Juanito Castillo, son of victims Isidro and Leonora Castillo, recalled that at about 1 o'clock in the morning of September 19, 1989, he was awakened by loud gunfire coming from the direction of his parents' house which is located some 100 meters away from his own house. Soon thereafter, his sister Milia, arrived informing him that their father Isidro and brother Simeon were already dead. He and his family then rushed to his parents' house. He embraced his wounded mother, Leonora, who told him that accused-appellants Rada and Sacdalan were the ones who entered their house and killed Isidro and Simeon. For fear of their lives, Juanito cautioned his relatives then present not to reveal the identities of the assailants. He then brought his mother to the hospital for medical treatment. On their way to the hospital, Leonora repeated to him the names of the perpetrators of the crime. Upon reaching the Lopez Memorial Hospital, he was informed that his mother would be needing blood for her operation. So, Juanito left for Lucena City and returned later with the needed blood only to find out that his mother had in the meantime died (tsn, Nov. 8, 1990, pp. 8-16).

Juanito likewise said that his parents were killed because they witnessed the earlier killing by accused-appellants of a neighbor, Alfredo Drez. He also declared that prior to the incident, accused-appellants, who were CAFGU members, were always asking Simeon to reveal the whereabouts of Martin Villanueva, a brother-in-law, who is a member of the NPA (tsn, Id., pp. 18-19).

He further asserted that he did not report the matter to the local authorities for fear of retaliation from

accused-appellants. Instead, the Castillos went to the Human Rights Commission office at Lucena City on September 26, 1989 where they filed the complaint against accused-appellants (tsn, Id., pp. 24-25).

Dr. Zadi Zaballero, a physician at the Magsayay Memorial District Hospital, testified that when he treated Leonora on September 19, 1989 at about 3 o'clock in the morning, Leonora was non-ambulatory and was suffering cardio-respiratory distress. Leonora sustained fatal wounds which directly caused her death, to wit: (1) gunshot wound, 3-point entry, sternum 0.5 cm. with contusion collar, no point of exit; (2) gunshot wound, point of entry 0.5 cm., axilla, right with contusion collar, no point of exit; (3) gunshot wound, point of entry 0.5 cm. 3rd intercostal space right midclavicular line with contusion collar, no point of exit; (4) avulsed skin and muscle 4.0 cm. distal 3rd left forearm, medial aspect, left (tsn, Nov. 20, 1990, pp. 5-11).

Zenaida Lopez Castillo, granddaughter of Isidro and Leonora Castillo, declared that at about 1 o'clock in the morning of September 19, 1989, while she was vacationing at her grandmother's house in Vinas, Calauag, Quezon, she was awakened by someone knocking and calling her aunt, Aida Castillo. Afterwards, Zenaida felt that somebody stoned the roof of her grandmother's house, one stone hitting the portion of the roof of the room where she slept and another one landing on the roof of her Tia Aida. Zenaida remained reclined and stood up only when she heard her uncle, Simeon Castillo, go out of his room and switch on the light at the balcony. Then, Zenaida heard several gunshots and saw her uncle Simeon fall down. Her aunt, Aida Castillo, rushed to her husband. Moments later, two armed men in fatigue uniforms, whom Zenaida identified as accused-appellants Bonifacio Rada and Adriano Sacdalan, entered their house. Zenaida, out of extreme fear, hid her face under a blanket. At this point, she heard her Tia Aida asking for mercy and she heard two more shots. Immediately after the shooting, Zenaida asked another aunt, Milia, to fetch her uncle Juanito Castillo. Upon arrival, Juanito embrace Leonora Castillo who told him that the culprits were accused-appellants Bonifacio Rada and Adriano Sacdalan. Then, Zenaida recalled that her uncle warned her and other relatives present not to tell anyone who the assailants are. While on their way to the hospital for Leonora's treatment, Zenaida added that her grandmother repeatedly mentioned the names of accused-appellants (tsn, Nov. 22, 1990, pp. 6-16).

Aida Villanueva Castillo testified that at about 1 o'clock in the morning of September 19, 1989, she was awakened by someone knocking at their window and calling out her name. After two minutes, somebody stoned their house and she woke up her husband Simeon Castillo. Simeon turned on the light at the balcony of their house. He was about to reach the room of his parents when he was felled by gunshots fired from outside. Aida rushed to her husband who lay slumped near the door of his parents' room all bloodied and with a gunshot wound in the head. Afterwards, Aida saw Bonifacio Rada and Adriano Sacdalan enter their house pointing their guns at her husband. Aida, who was crying and cradling her husband, pleaded for accused-appellants to stop, saying, "Tama na, Tama na!" Aida alleged that both were wearing fatigue uniforms and were armed with long firearms (tsn, Jan. 14, 1991, pp. 5-13)

Accused-appellants are both known to Aida Castillo. Bonifacio Rada, a civilian volunteer of the CAGU, is also a resident of Barangay Vinas, Calauag, Quezon while Adriano Sacdalan is a resident of Barangay Triumpo, Guinayangan, Quezon, a Councilman and also a CAGU member (tsn, Id., pp. 13-14).

Aida Castillo confirmed to her brother-in-law Juanito that it was Bonifacio Rada and Adriano Sacdalan who entered their house and fired at the people therein. Aida recounted that Juanito said that the identities of the assailants should not then be divulged as they might return and kill them all (tsn, Id., p. 18).

The defense, on the other hand, presented its version through the following witnesses:

Sgt. Jolly Verde, a military non-commissioned officer, testified that at around 9 o'clock in the evening of September 18, 1989, he and other CAGUs were resting in the house of Barangay Councilman Vio Tolentino at

Bgy. Triumpo, which is two kilometers away from Bgy. Vinas. Among the CAFGUs with Sgt. Verde at that time were accused-appellants Bonifacio Rada and Adriano Sacdalan. At around 1 o'clock in the morning of September 19, 1989, they heard gunshots from the direction of Bgy. Vinas. They immediately proceeded to Bgy. Vinas to investigate. On the way, they met Epifanio Yamo from whom they inquired about the incident. Epifanio told them that the firing came from Bgy. Vinas. And still, on the way, they met two women, who when asked where they came from answered, "sa pinangyarihan" without mentioning any specific place (tsn, Feb. 18, 1992, pp. 20-31).

When the team finally arrived at the scene of the crime, Sgt. Verde found the three victims. He likewise saw Aida Castillo crying and asked her who the villains were but Aida Castillo said that she did not know. Sgt. Verde further averred that they did not find any empty shells inside the house but found M-16 empty shells outside the house. Failing to obtain information about the identities of the perpetrators of the crime, Sgt. Verde and his men decided to pursue the killers by following the footprints which led them to Bgy. Apad Taisan. However, they failed to overtake the killers (tsn Id., pp. 34-37).

Vio Tolentino, a barangay councilman of Bgy. Triumpo, Guinayangan, Quezon, claimed that the group of Sgt. Jolly Verde which was composed of eleven persons including accused-appellants Bonifacio Rada and Adriano Sacdalan, rested in his house on September 18, 1989. These men left at around 1 o'clock in the morning of September 19, 1989 after hearing gunshots coming from the direction of Bgy. Vinas. Vio Tolentino affirmed that accused-appellants are his friends (tsn, Feb. 19, 1992, pp. 10-15).

Sgt. Leopoldo Marilag of the military camp at Bgy. Tabugon, Calauag, Quezon, declared that at around 4 o'clock in the morning of September 19, 1989, he investigated the shooting incident which took place in Bgy. Vinas. He asked Aida Castillo regarding the identities of the persons responsible for the killing but Aida maintained that she did not recognize these persons. The following morning, Aida Castillo and other relatives went to the headquarters of Sgt. Marilag where they gave their written statements in connection with the killing incident (tsn, June 4, 1992, pp. 6-15).

Bonifacio Rada refuted the testimony of Aida Castillo that he and Adriano Sacdalan were the ones who killed Simeon Castillo and his parents Isidro Castillo and Leonora Castillo. He claimed that before 1 o'clock in the morning of September 19, 1989, he and co-accused Adriano Sacdalan, together with other members of the CAFGU, were in the house of Barangay Councilman Vio Tolentino at Bgy. Triumpo, Guinayangan, Quezon resting after patrol duty on the evening of September 18, 1989. They were awakened by several gunshots and so, they proceeded to the place where the shots were fired. They later found out that the family of Castillo was gunned down. Bonifacio Rada further claimed that he did not know of any reason why the Castillo family would insist that he and Adriano Sacdalan are the perpetrators of said crime (tsn, July 22, 1992, pp. 10-25).

Adriano Sacdalan reiterated the claim of co-accused Bonifacio Rada that at around 1 o'clock in the morning, while they were resting in the house of Barangay Councilman Vio Tolentino, they heard gunshots coming from the direction of Bgy. Vinas. Their commanding officer, Sgt. Verde, commanded them to proceed to said place to investigate (tsn, Sept. 22, 1992, pp. 5-9).

The prosecution presented Jaime Follosa as a rebuttal witness. He testified that Sgt. Marilag arrived in their barangay at about 6 o'clock in the morning and not 4 o'clock as alleged by Sgt. Marilag. Follosa claimed that there were two batches of empty shells which he entrusted to Sgt. Marilag. He clarified that only two empty shells were found inside the house while 36 empty shells were found outside the house (tsn, March 21, 1995, pp. 6-13).

Contesting the verdict of the trial court, accused-appellants interposed the instant appeal, contending that the prosecution failed to establish their guilt beyond reasonable doubt.

After a careful review of the evidentiary record, we find no reason to disturb the findings and conclusions of the trial court. Accused-appellants' disclaimers must fail in the light of the positive identification made by Aida Castillo and Zenaida Castillo who were both present when the killings took place.

Accused-appellants try to make much capital out of inconsistencies in the testimony of prosecution witnesses, particularly Aida Castillo, Juanito Castillo, and Zenaida Castillo. They point out that while Juanito Castillo declared that when his mother Leonora Castillo identified accused-appellants as the assailants, no one was actually attending to and beside his mother, while Aida Castillo, on the other hand, claimed that there were four persons who were beside her mother-in-law when the latter revealed the identities of the assailants. Still, according to accused-appellants, Zenaida Castillo likewise contradicted Juanito Castillo when she testified that she, together with the family of her Tio Juanito and Tia Aida, were around Leonora Castillo when the latter mentioned the names of Bonifacio Rada and Adriano Sacdalan.

The alleged contradictions in the testimony of the eyewitnesses pointed out by accused-appellants refer to a minor detail which is not sufficient to overthrow the probative value accorded by the trial court to the testimony of said eyewitnesses.

On the contrary, the testimony of the abovenamed witnesses further bolster the fact that victim Leonora Castillo repeatedly identified accused-appellants as the perpetrators of the crime. It has been our consistent ruling that minor inconsistencies and contradictions in the declarations of witnesses do not destroy the witnesses' credibility but even enhance their truthfulness as they erase any suspicion of a rehearsed testimony (*People vs. Quel*, 29, 279 SCRA 145 [1997]; *People vs. Padilla*, 242 SCRA 629 [1995]).

On the whole, the alleged variance in the declarations of Juanito and that of Aida and Zenaida as to whether other persons were present when Leonora identified accused-appellants as the killers, is inconsequential. The witnesses testifying to the same event do not have to be consistent in every detail as differences in recollection or viewpoints or impressions are inevitable (*People vs. Fabros*, 214 SCRA 694 [1992]). Indeed, if rights were to be lost merely because witnesses, while agreeing on the essential fact, fail to testify harmoniously on all the particulars, a very large proportion of cases involving wrongs would find no redress in law. Hence, variations in the testimony of witnesses on the same side in respect to minor, collateral, or incidental matters do not usually impair the weight of their united testimony to the prominent facts (*People vs. De Gracia*, 264 SCRA 200 [1996]).

On the other hand, it is the testimony of defense witnesses which glaringly cannot agree on material points. While Sgt. Jolly Verde claimed that his group arrived at the crime scene ahead of the group of Sgt. Leopoldo Marilag (tsn, Feb. 18, 1992, pp. 56-57) the latter's testimony point to the contrary (tsn, Sept. 9, 1993, pp. 39-42). It should further be carefully noted that Sgt. Verde also declared that when they arrived in the house of Aida Castillo, they found three dead persons inside the house (tsn, Feb. 18, 1992, p. 34). This runs counter to the testimony of Aida Castillo that the group of Sgt. Verde arrived after her brother Juanito Castillo had left to bring Leonora Castillo to the hospital (tsn, Jan. 14, 1991, p. 20). Sgt. Verde's testimony is clearly dubious because it is an established fact that Leonora Castillo was brought and later died in the hospital.

The slight delay of only 7 days on the part of the prosecution witnesses in reporting the incident does not render their testimony less credible. The non-disclosure by these witnesses to the police authorities of accused-appellants' identities immediately after the occurrence of the crime is not entirely against human experience. In fact, the Court has consistently ruled that the initial reluctance of witnesses to volunteer information about a criminal case due to fear of reprisal is common and has been judicially declared not to affect credibility (*People vs. Israel*, 231 SCRA 155 [1994]; *People vs. Malimit*, 264 SCRA 167 [1996]; *People vs. Verano*, 264 SCRA 546 [1996]).

As satisfactorily explained by the prosecution witnesses, they did not file a report with the local authorities

because they feared for their lives since accused-appellants were CAFGU members and had strong connections with the police and military officers. This was the reason why the crime was reported instead to the Human Rights Commission. Moreover, neither substantive nor procedural law requires any person witnessing a crime to immediately report the matter to the proper authorities or to give his or her statement thereon (*People vs. Jamiro*, 279 SCRA 290 [1997]).

Likewise, the record is bereft of any evidence that the prosecution witnesses have improper motives to testify falsely against accused-appellants. Thus, we adhere to the established rule that absent evidence showing any reason or motive for prosecution witnesses to perjure, the logical conclusion is that no such improper motive exists, and their testimony is thus worthy of full faith and credit (*People vs. Agunais*, 279 SCRA 52 [1997]; *People vs. Constantino*, 235 SCRA 384 [1994]; *People vs. Simon*, 209 SCRA 148 [1992]).

Accused-appellants contend that it is improbable for victim Leonora Castillo to have made a dying declaration anent their identities as Leonora's physical condition, after sustaining the fatal gunshot wounds, rendered her incapable of perceiving. This argument is belied by the expert testimony of Dr. Zaballero, the physician who treated Leonora, to this effect:

Q. Doctor, when you treated her on September 19, 1989, Your patient is capable of voluntary movement?

A. Yes, sir.

Q. In fact, she can speak or talk?

A. She can utter a word and I even ask the patient what does she feel and she mentioned that she had a difficulty of breathing.

(tsn, Nov. 20, 1990, p. 11.)

To be sure, Leonora's revelation of the names of accused-appellants should be considered as a dying declaration. An ante mortem statement is evidence of the highest order because at the threshold of death, all thoughts of fabricating lies are stilled (*People vs. Montilla*, 211 SCRA 119 [1992]).

We agree with the trial court in appreciating treachery in this case. Treachery or alevosia is properly appreciated when the offender commits any of the crimes against persons, employing means, methods or forms in the execution thereof which tend directly and specially to insure the execution thereof, without risk to himself arising from the defense which the offended party might make. And "an unexpected and sudden attack under circumstances which render the victim unable and unprepared to defend himself by reason of the suddenness and severity of the attack constitutes alevosia" (*People vs. Soldao*, 243 SCRA 119 [1995]). In this case, the attack employed by accused-appellants was clearly attended by treachery because they fired their guns while Isidro Castillo and Leonora Castillo were lying down in their room and while the third victim, Simeon Castillo, was switching on the light in their balcony. Evidently, these casualties were defenseless, vulnerable, and helpless as the attack was sudden and unexpected, affording the victims no warning at all. Accused-appellants even positioned themselves outside the house of the victims while firing their guns, obviously to insure that there

would be no risk to themselves. Still not contented, they went inside the house after the initial shooting and upon seeing the already wounded Simeon Castillo, fired two more shots to finish him off despite the pleas for mercy of Simeon's wife, Aida Castillo.

All that accused-appellants could offer by way of defense are alibi and denial. These defenses cannot prevail over the positive identification of credible prosecution witnesses (*People vs. Villanueva*, 242 SCRA 47 [1995]; *People vs. Layno*, 264 SCRA 558 [1996]) as well as where there is an ante mortem statement of the victim received in evidence either as a dying declaration or as part of the *res gestae* (*People vs. Baguio*, 196 SCRA 459 [1991]). Especially must this be so, in view of defense witnesses Sgt. Verde and Kagawad Tolentino's claim that the place where they allegedly were at the time of the incident is only about two kilometers from the crime scene (tsn, Feb. 18, 1992, p. 42; Feb. 19, 1992, pp. 16-17). Essential to a valid defense of alibi is the physical impossibility of the accused to be present at the scene of the crime at the time of the commission thereof (*People vs. Daquipil*, 240 SCRA 314 [1995]; *People vs. Dayson*, 242 SCRA 124 [1995]). Accused-appellants failed to demonstrate any of these elements in the case at bench.

Accused-appellants further argue that it is highly unnatural for them to enter the victims' house without anything to conceal their identity considering the fact that they were both familiar and known to the Castillos. This argument deserves scant consideration. Not all perpetrators of a gruesome crime would hide their faces, especially so when the crime is committed at nighttime, as in this case. The criminal assault occurred at around 1 o'clock just past midnight and accused-appellants might have thought that it would be difficult to determine their identities because of the darkness and the relative scarcity of people in the streets. That is why there was no need for them to hide their identities.

The trial court correctly found the sequence and combination of the facts and circumstances proven as sufficient to produce a conviction of guilt beyond reasonable doubt. On the other hand, accused-appellants have failed at this instance to present any substantial basis for overturning the conclusion reached by the trial court.

WHEREFORE, the appealed decision convicting accused-appellants of the crime of Murder is hereby AFFIRMED in toto.

SO ORDERED.

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

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