

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROLANDO CAYAGO Y REYES, ACCUSED-APPELLANT.

G.R. No. 128827. August 18, 1999

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

For killing his own wife through strangulation and with evident premeditation, appellant was indicted for parricide.[1] He was tried and subsequently sentenced to die and ordered to pay damages to the victim's heirs.[2] The lower court judge, after making a twelve page summary of the testimonies of the witnesses, arrived at a conclusion that appellant is guilty of parricide, in just one short paragraph, which reads:

"After considering the prosecution and the defense evidence, the Court is convinced that the version of the defense is not credible. In his redirect examination, he admitted that his wife was reported missing as embodied in his first sworn statement, which had been marked in evidence as Exhibit `K'. Said sworn statement is entirely wrong because his wife was not missing as mentioned by the accused, but killed her. In the said first statement to the police, he merely wanted to mislead the police by concocting a lie that his wife is missing, when in truth and in fact, he had killed her and left her at the comfort room of the abandoned barangay hall, already lifeless."[3]

Culled from the evidence on record are the following facts which was condensed in the Appellee's Brief, to wit:

"At about 1:25 o'clock in the afternoon of August 2, 1995, SPO2 Belino Zinampan, Jr. was at the police headquarters at Pasig City where he received the report of Rolando Cayago that he saw the decomposing body of his wife at the abandoned barangay hall of Santolan, Pasig City. Zinampan, SPO2 Antonio Paulite, a police photographer and Cayago proceeded to the said abandoned barangay hall to verify the report. Thereat, the group saw the dead and decomposing body of a woman. Zinampan requested Cayago to identify the body and on recognizing the shoes worn by the deceased, let out a loud cry and thereafter lost consciousness for about five minutes. Thereafter, Cayago, in answer to Zinampan's question, answered that he does not know who killed his wife. Zinampan and Cayago then returned to the police headquarters where the latter's statement was taken by the former.

"At the time Cayago's statement was being taken, Police Sr. Inspector Pajota noticed Cayago's several inconsistent statements. Pajota subsequently instructed Zinampan, SPO2 Paulite and SPO2 Delos Reyes to further interrogate Cayago and, who, thereafter concluded that Cayago was `reluctant and inconsistent in answering our simple questions.' Pajota then advised Cayago to undergo a polygraph examination at Camp Crame.

"On August 3, 1995, when Cayago was about to be brought to Camp Crame for a polygraph test, he requested permission to go to the nearby church. Cayago requested that he be accompanied by SPO2 Delos Reyes, who agreed. Thereat, Cayago admitted to SPO2 Delos Reyes that he killed his wife Myra Cayago and was willing to give his statement relative to said killing. SPO2 Delos Reyes and Cayago returned to the police station and upon such information, Sr. Inspector Pajota instructed Zinampan to secure a lawyer to assist Cayago. Zinampan then requested Atty. Reynario Campanilla, who agreed to assist Cayago. Atty. Campanilla conferred

with Cayago at the Office of the Investigation Division. After apprising Cayago of his constitutional rights, Cayago admitted that he killed his wife. Atty. Campanilla then advised Cayago to personally write down his confession which Cayago did for about an hour in the presence of Atty. Campanilla. Thereafter, with the aid of a tape recorder, requested Cayago to read his admission. After informing Cayago of his constitutional rights against self-incrimination, SPO2 Delos Reyes started taking down Cayago's extra-judicial confession again in the presence of Atty. Campanilla and who signed said statement together with Cayago."[4]*

The gravamen of the felony of parricide is the killing of any of the persons enumerated in Article 246 of the Revised Penal Code (RPC), as amended. Its elements are:

- a person is killed;
- the deceased is killed by the accused;
- 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.[5] (*Italics supplied*).

In the case at bar, it is clear that appellant strangled his wife resulting to her death. This is supported by appellant's own testimony, his confession to the police and the medical findings corroborating that she died of asphyxia by strangulation.

In his testimony, appellant claims that he embraced his wife so tight but did not notice she had stopped breathing due to the tightness of the embrace. If it were true, however, that his intention of embracing her was to stop her from pushing him, he would have wrapped his arms around her body including her hands. Yet the medical findings revealed injuries on the neck which is shown by the presence of fracture on the victim's windpipe and hemorrhage inside the windpipe.[6] The examining physician explained his findings on the victim's cadaver which was already in an advanced state of decomposition at the time it was recovered two (2) days after the killing:

Q Based on the examination you conducted, Doctor, can you tell us what was the cause of death?

A

The cause of death Ma'am after the internal examination is asphyxia by strangulation because of the presence of fracture on windpipe and also the presence of hemorrhage inside the windpipe.

Q And what could have cause (sic) that injury?

A This particular finding was caused by the application of extensive pressure on the neck, anterior aspects of the neck.

Q Like what?

A Could be manual strangulation by using a material enough to exert pressure on the neck.

Q Did you prepare a medico legal report based on the examination you conducted?

A Yes Ma'am.

x x x x x x x x

Q

Now Doctor, can you explain further the findings that you stated here in your medico legal report in this portion laceration is noted at the posterior uterine wall with extrusion of the segments of the small intestines.

A

This only shows that there is laceration at the uterus and this is at the posterior portion at the back portion of the uterus, and this means that something was inserted thru the vagina and eventually lacerating the uterus, further examination showed that the small intestine of the deceased/herniated or passed thru this particular lacerations and was eventually extruded thru the vaginal opening.

Q Can you tell us Doctor what could have cause (sic) this injury?

A

It is highly probable that this was caused by something hard inserted thru the vaginal opening up to the uterus and extensive pressure was applied upon insertion of the material.

Q What do you mean by extensive pressure?

A Well, considering Ma'am that it created a laceration on the uterus then a pressure must be used to cause that lacerations.

Q With that same object?

A Yes Ma'am.[7]

There is no indication that his wife was sick as to succumb to an immediate difficulty or cessation of breathing. In any case, appellant's testimony before the trial court is clear and categorical that his wife died in his own hands:

Q

What else happened?

A Because there were already passersby she was pushing me, I requested her to go to the abandoned barangay hall, to have a talk.

Q

What happened next?

A

I thought we had settled everything when we were talking, inside the abandoned barangay hall she still pushing me to produce money and then to stop her, I held her, embraced her.

Q What happened next?

A

As I embraced her and while she was still resisting and then I was also tired that time, and my mind turned blank and I can no longer know what happened. I can no longer recall what happened.

Q How did you hold your wife?

A I embraced her.

Q Was she in front of you?

A Yes Ma'am.

Q You were, you were facing with each other?

A The first, we were facing each other but when she kept on resisting she turns her back.

Q What else happened after that?

A Suddenly she was breathless already and I thought she just stopped resisiting.

Q What happened next?

A When I thought that she just stayed calm, I was, I suddenly, I was surprise (sic) she already (sic) on my arms.

Q What else happened?

A I got afraid when she fell down I don't know what to do, I ran away and left her behind.

COURT What time did you arrive at that abandoned barangay hall?

A 11:30 o'clock in the evening, your honor.

COURT What time did you run away from that abandone (sic) barangay hall?

A 12:00 o'clock in the evening.

COURT Okey, proceed

ATTY. AZANZA Did you struggle?

A

No Ma'am.

Q What did you do that time?

A I did not think of anything, I was afraid that time so I just went home.

Q When you held her tight, what do you intend to do that time?

A I just want her to be silent and to listen to me.

Q Did you box her?

A No, Ma'am.

Q Do you want to hurt her that time?

A

No, Ma'am.

Q After that, what happened next if any?

A I left the place and went home at Valenzuela.

Q What happened next?

A

The following day I went to her sister, elder sister. I want to tell her everything happened but when I arrived there, the relatives, the cousins, of my wife were there and I was afraid that they might hurt me, so I was not able to, I left the place.

Q What else did you do if any?

A I went home. I don't know what to do. I was confused that time I could not think of anything to do, I went to the headquarters of Pasig.

Q What happened at the head quarters?

A I told what happened I confessed everything and we took the cadaver

Q What else happened after that?

A No, more, Ma'am.[8]

The foregoing testimony materially corroborates appellant's extrajudicial confession, even narrating facts to the minutest detail which would have been known only to him. Thus,

55. T.:-

Ano ang ginawa mo sa pagkakataong ito?

S.:-

Niyakap ko po siya ng mahigpit na mahigpit hanggang sa masakal ko siya.

56. T. :-

Papaano mo siya sinakal ?

S. :-

Yakap-yakap po siya ng aking kaliwang kamay at sakal-sakal naman siya ng aking kanang kamay.

57. T.:-

Ano ang sumunod na pangyayari?

S.:-

Namalayan ko na lamang po na nanlupaypay na siya at wala na siyang buhay at ibinaba ko na lang siya sa semento.

58. T.:-

Papaano mo naman nalaman na wala na siyang buhay?

S.:-

Kinapa ko po ang kanyang dibdib at nalaman kong hindi na tumitibok ang kanyang puso.

59. T.:-

Anong ginawa mo sa pagkakataong ito nang malaman mo na patay na ang asawa mo?

S.:-

Natakot po ako. Ang ginawa ko ay hinubaran ko siya ng kanyang suot na pantalon, T-shirt, bra at panty.

60. T.:-

Bakit mo naman naisip na hubaran ang iyong asawa matapos mong malaman na patay na pala siya?

S.:-

Para palabasin po na hindi ako ang gumawa sa kanya noon at palabasin na siya ay ginahasa.

61. T.:-

Saan mo naman inilagay ang saplot ng iyong asawa na hinubad mo?

S.:-

Matapos kong punitin ang kanyang t-shirt at muli ko itong itinakip sa kanyang katawan na nakahubad.

62. T.:-

Ano ang sumunod na pangyayari?

S.:-

Umalis na po ako at muli akong bumalik sa tinutuluyan kong bahay o silid sa Valenzuela."^[9]

He admitted that in an attempt to confuse authorities as to the true cause of his wife's death, appellant removed all her clothing including her panty and bra to make it appear that she was raped. This shows the probability that the victim sustained injuries in her vaginal opening and lacerations in her uterus, as found in the autopsy report.^[10]

There is no question that the victim is appellant's lawful spouse. They were married before a judge in San Carlos City, Pangasinan on April 18, 1991 as shown by their marriage contract.^[11] A marriage certificate/contract is the best proof of the relationship between the accused and the deceased in cases of parricide of a spouse.^[12] In appellant's testimony, he referred to the deceased as his wife.^[13] This constitutes a declaration of a party as to a relevant fact which may be given in evidence against him pursuant to Section 26, Rule 130 of the Rules of Court.

Parricide is punishable with reclusion perpetua to death.^[14] The higher penalty of death may be imposed only if there is an aggravating circumstance that concurs in the commission of the crime. Yet, the lower court judge, in imposing the death penalty, did not mention his basis for imposing the higher penalty. This violates the constitutional requirement, reiterated in the Rules of Court, that every decision must distinctly state the facts and the law on which it is based.^[15] When the decision of the trial court does not state the specific factual bases for the conclusion of guilt beyond reasonable doubt reached therein but merely makes sweeping generalizations, the same does not strictly follow the standards set by the rules on Criminal Procedure.^[16] Further, the trial judge's failure to award civil indemnity in his judgment of conviction all the more confirms his nonchalant attitude to the mandate of Section 2 of Rule 120 of the Rules of Court, which states:^[17]

"If it is of conviction, the judgment shall state (a) the legal qualification of the offense constituted by the acts committed by the accused, and the aggravating or mitigating circumstances attending the commission thereof, if there are any; (b) the participation of the accused in the commission of the offense, whether as principal, accomplice, or accessory after the fact; (c) the penalty imposed upon the accused; and (d) the civil liability or damages caused by the wrongful act to be recovered from the accused by the offended party, if there is any, unless the enforcement of the civil liability by a separate action has been reserved or waived."

A strict compliance with the mandate of the said provision is imperative in the writing of every decision. Otherwise, the rule would simply become a tool for speculations, which this Court will not countenance specially in criminal cases involving the possible deprivation of human life.

Appellant's contention that the statement he gave to the police is inadmissible in evidence because it was given without affording him the right to counsel guaranteed by the Constitution has no merit. It is undisputed that appellant was not arrested because the authorities were not yet aware of the crime. It was he himself who reported the incident to the police after he went to the abandoned barangay hall two days later and discovered that his wife's body was still there.^[18] Appellant himself admitted that since he did not know what to do after seeing his wife's relatives whom he feared for reprisal, he decided to report the matter to the Pasig police. The right to

counsel is afforded by Section 12(1), Article III of the 1987 Constitution only to "person(s) under investigation for the commission of an offense." On their way to Camp Crame, appellant asked that he be accompanied by an officer to the Pasig Church. There, he volunteered information to the officer on the whereabouts of his wife and stated that he is willing to put his statement in writing.[19] Custodial rights of a person are not available whenever he volunteers statements without being asked. He was not investigated by the authorities. In fact, after appellant admitted to the police officer that he killed his wife, the officer told him that he will be provided with a lawyer to assist him. In any case, during the subsequent events - the investigation in the precinct - appellant was assisted by a lawyer, namely, Atty. Campanilla. At the trial, the latter testified that he talked to appellant, advised him of his constitutional rights and was present when the latter wrote his extrajudicial statement admitting that he killed his wife.[20] Atty. Campanilla even asked for appellant's identification card to verify whether the signature he will sign in his statement is his own.

On the aggravating circumstances of nighttime and uninhabited place, the Solicitor-General posits that appellant obviously sought the time and place of the incident, which was about midnight in an abandoned barangay hall in Santolan, Pasig City, to consummate the crime,[21] thus, justifying the imposition of the death penalty. However, nocturnity is not aggravating when other than the time, there is nothing in the record and even in the testimonies of the witnesses from which it may be inferred, whether directly or indirectly, that appellant particularly took advantage of the darkness of the night to facilitate his criminal design.[22] Likewise, uninhabited place cannot be appreciated as an aggravating circumstance when there is no proof that "the place of commission affords a reasonable possibility for the victim to receive some help." [23] All that was mentioned is that both appellant and his wife went to his aunt at about 11 o'clock in the evening to borrow money, but was ashamed to wake her up because it was already too late in the night. Unable to get money, the victim started pushing the appellant asking him to produce money. He invited her to the abandoned barangay hall to talk. There she kept on pushing him. He embraced her so tight that she suddenly died.[24] The foregoing may prove that he indeed killed her, but it does not in any case show that he purposely sought the night and the place to kill her. Aggravating circumstances must be established with the same quantum of proof beyond reasonable doubt as fully as the crime itself and any doubt as to their existence must be resolved in favor of the accused.[25] The Court fails to see any logical connection in the Solicitor-General's argument that appellant's reporting that his wife was missing to the police the next day strengthens the view that the two aggravating circumstances concurred in the killing. Such reporting may have been done to divert attention from his culpability and create in the mind of the authorities a doubt as to why he would report a missing wife when all the while he knew where she was, but certainly not to show that he took advantage of nighttime and the uninhabited place.

Accordingly, the Court does not agree with the trial court's imposition of the death penalty and the Solicitor General's recommendation for its affirmance. Pursuant to Article 63 of the Revised Penal Code, when the penalty provided for by law are two indivisible penalties and there is neither mitigating nor aggravating circumstance, the lower penalty shall be imposed.[26] Forthwith, the death penalty imposed by the court a quo must be reduced to the indivisible penalty of reclusion perpetua.[27]

As for the civil aspect, the judgment of civil liability in favor of the heirs of the deceased is in consonance with Article 100 of the RPC which provides that "Every person criminally liable is also civilly liable." The award of the civil indemnity for cases not calling for the application of the death penalty is fixed by current jurisprudence at P50,000.00,[28] no other proof is necessary other than the fact of the death of the victim and the accused's responsibility therefor.[29] Moral damages can be awarded only when the same is supported by evidence in the records.[30] There is nothing in the testimony of the victim's sister showing that she or her heirs are entitled to that damages.

WHEREFORE, appellant's conviction for parricide is AFFIRMED, subject to the MODIFICATION that the penalty is reduced to reclusion perpetua. He is also ORDERED TO PAY P50,000.00 as civil indemnity to the children of the victim, in addition to the award of P26,000.00 as actual damages. The award of moral damages is deleted for lack of evidence.

SO ORDERED.

Davide, Jr., C.J., Bellosillo, Melo, Puno, Vitug, Kapunan, Mendoza, Panganiban, Quisumbing, Purisima, Pardo, Buena, and Gonzaga-Reyes, JJ., concur.

[*] No sic is indicated in the quoted portions of the record and the transcript of stenographic notes.

[1] The information reads:

"That on or about the 30th day of July 1995 in the City of Pasig, Philippines and within the jurisdiction of this Honorable Court, the above named accused willfully, unlawfully and feloniously and with evident premeditation (sic) that is having conceived and deliberated to kill his wife Myra Cayago, with whom he was united in wedlock, said accused did then and there willfully, unlawfully and feloniously attack, assault and employ physical violence on his wife by strangulation and as a result of which attack, said Myra Cayago died of asphyxia by strangulation.

Contrary to law." (Rollo, p. 5).

[2] The dispositive portion of the Regional Trial Court (RTC-Branch 67, Pasig City) Decision dated November 15, 1996 penned by Judge Apolinario B. Santos, reads:

"WHEREFORE, accused ROLANDO CAYAGO is hereby found guilty beyond reasonable doubt of the crime of Parricide defined and penalized under Art. 246 of the Revised Penal Code, and hereby sentences him to the penalty of DEATH, and other accessories of the law. He is hereby ordered to indemnify the heirs of Myra Ferrer-Cayago the sum of P26,000.00 as actual damages and the further sum of P100,000.00 as moral damages." (p. 12-13; Rollo, pp. 73-74).

[3] RTC Decision, p. 12; Rollo, p. 28.

[4] Appellee's Brief, pp. 2-4; Rollo, pp. 93-95.

[5] *People v. Castillo, Jr.*, 275 SCRA 752; *People v. Malabago*, 265 SCRA 198.

[6] Rollo, p. 70.

[7] TSN, Dr. Emmanuel Aranas, March 15, 1996, pp. 6-10.

[8] Transcript of Stenographic Notes (TSN), July 18, 1995 pp. 7-10.

[9] *Salaysay ni Rolando Cayago* (Exhibit "H", RTC Records, p. 15).

[10] TSN, March 15, 1996, pp. 9-10.

[11] Exhibit "D", RTC Records, p. 71.

[12] *People v. Malabago*, 265 SCRA 198.

[13] TSN, July 18, 1995, Rolando Cayago, p. 4.

[14] Article 246, Revised Penal Code, as amended by Section 5, Republic Act No. 7659.

[15] Article VIII, Section 14, 1987 Constitution; "No decision shall be rendered by any court without expressing therein clearly and distinctly the facts and the law on which it is based."; Section 2, Rule 120 provides that the "judgment shall contain clearly and distinctly a statement of the facts prove or admitted by the accused and the law upon which the judgment is based."

[16] *People v. Subido*, 253 SCRA 196.

[17] *People v. Veneracion*, 249 SCRA 244.

[18] Salaysay ni Rolando Cayago, Exhibit "H", RTC Records, p. 16:

"63. T.:-

Papaano naman ito nakarating sa kaalaman ng pulisya?

S.:-

Noong ika-02 ng Agosto, humigit kumulang mga alas-11:00 ng umaga ay muli akong nagpunta sa nasabing lugar at nadiskubre kong naroroon pa ang bangkay ng aking asawa.

"64. T.:-

Ano ang ginawa mo nang malaman mo na naroroon pa ang bangkay ng iyong asawa?

S.:-

Personal akong nagpunta rito sa himpilan ng pulisya ng Pasig at ipinalagay ko ang kinaroroonan ng bangkay ng aking asawa.

"65. T.:-

Ano ang sumunod na pangyayari?

S.:-

Sinamahan po nila ako at kinuha po naming ang bangkay ng aking asawa."

[19] TSN, January 26, 1996. p. 2.

[20] TSN, March 22, 1996. pp. 2-4.

[21] Appelle's Brief, p. 11; Unnumbered page in the Rollo between pages 101 and 102.

[22] *People v. Ronquillo*, 247 SCRA 793; *People v. Rosario*, 246 SCRA 658

[23] See *People v. Cabiles*, 248 SCRA 207.

[24] TSN, July 18, 1995, pp. 6-7.

[25] *People v. Maturgo, Sr.*, 248 SCRA 519.

[26]"In all case in which the law prescribes a penalty composed of two indivisible penalties, the following rules shall be observed in the application thereof:

x x x x x x x x

2. when there are neither mitigating nor aggravating circumstances in the commission of the deed, the lesser penalty shall be applied."

[27] People v. Saliling, 249 SCRA 185.

[28] People v. Espanola, 271 SCRA 689.

[29] People v. Ortega, Jr., 276 SCRA 166.

[30] People v. Arguelles, 222 SCRA 166.30

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