

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. SALVADOR GALIDO ALIAS ‘BADONG’ UBERAS, ACCUSED-APPELLANT.

G.R. No. 128883. February 22, 2000

Ponente: GONZAGA-REYES, J.

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GONZAGA-REYES, J.:

Before us is an appeal from the October 17, 1996 decision[1] of the Regional Trial Court of Negros Occidental, Branch 47, finding accused-appellant Salvador Galido alias Salvador "Badong" Uberas (hereafter GALIDO) guilty beyond reasonable doubt of the crime of murder and sentencing him to suffer the penalty of reclusion perpetua and to pay the heirs of the victim the sums of P50,000 as indemnity, P148,800 for loss of income, and P10,000 as moral damages.

GALIDO was charged with murder in an information, the accusatory portion of which reads:

That on or about the 4[th] day of July, 1994, in the City of Bacolod, Philippines, and within the jurisdiction of this Honorable Court, the herein accused, without any justifiable cause of [sic] motive, being then armed with a knife, with intent to kill, and by means of treachery and evident premeditation, did then and there wilfully, unlawfully and feloniously assault, attack, and stab with said weapon one Dindo Panganiban, thereby inflicting upon the person of the latter the following wound...which was the direct and immediate cause of his death,...

GALIDO was arraigned on September 20, 1994 and with the assistance of counsel pleaded not guilty to the crime charged,[2] whereupon trial ensued.

The prosecution witnesses were Renato Fillera, PO3 Felimon Roderos, Dr. Johnnie V. Aritao, Jr. and Juana Panganiban. GALIDO himself was the sole witness for the defense.

Renato Fillera testified that at about 12:30 in the morning of July 4, 1994, he was at the bandstand of the Bacolod City public plaza looking for a "girl of pleasure" with whom he could pass the time. While at such place, he saw a man approach another man asleep on the floor of the bandstand and stab him, hitting his left breast, using a double-bladed knife. The victim stood up for a moment before eventually falling down again. Fillera was about 5 meters away from the victim. He claimed that he was able to take a good look at the face of the assailant because of the light in the bandstand as well as the light coming from the public plaza. After he stabbed the man, the assailant left the bandstand and casually proceeded to the direction of the Manokan, an eating place. Fillera did not do anything upon seeing the stabbing because he was afraid since the assailant was armed and because he knew neither the assailant nor the victim. After the incident, Fillera proceeded to his aunt's house at the Shopping Center.

Within the week, Fillera met with his friend Kano, who told him that his brother-in-law was stabbed at the public plaza at around 12:30 a.m. of July 4, 1994 and that they had no witnesses. Upon hearing his friend's account, Renato became convinced that he had witnessed the killing of Kano's brother-in-law.[3]

On cross-examination, Fillera testified that the assailant was facing him when he stabbed the victim.[4] He also declared that the face of the assailant was familiar to him because he often saw him at the public plaza.[5]

Police officer Felimon Roderos testified that, while he was on duty at the police headquarters of Magsaysay, Bacolod City during the early morning of July 4, 1994, the station received a radio call from base control to proceed to the Western Visayas Regional Hospital to investigate a stabbing incident. Roderos, together with SPO3 Amador Verzosa and PO3 Edison Rosales, proceeded to the provincial hospital where they found the victim in the emergency room, whom they were told was already dead upon arrival at the hospital. They learned from the nurse that the victim's name was Dindo Panganiban. Roderos and the other police officers conducted an ocular inspection at the public plaza, but there were no persons there. They then returned to police headquarters to make a report. A follow-up investigation was conducted the following day and they were able to interview a certain Leo Buoy y Garcia who claimed to have witnessed the incident. Garcia told them that on July 4, 1994, at 12:30 a.m., he saw the suspect Salvador Uberas climb up the stage and stab the victim. Acting on Garcia's testimony, they arrested accused.[6]

The post-mortem examination of the body of Dindo Panganiban was conducted by Dr. Johnnie V. Aritao, Jr., the City Health Officer and Medico-Legal Officer of Bacolod City. In his Autopsy Report,[7] Dr. Aritao made the following findings: stab wound 2 cm wide, 4 cm deep at the left 3rd intercostal space, line directed medially forward rupturing the heart and left lung. The cause of death was "cardio-respiratory arrest, shock, hemorrhage, severe, internal, ruptured lung and heart, due to a stab wound." [8] Dr. Aritao testified that, based on the location and the nature of the injuries sustained by the victim, the assailant most probably used a sharp bladed instrument and the attack was frontal.[9]

Juana Panganiban, the mother of the victim, testified that her son was born on March 23, 1976. At the time of his death on July 4, 1994, Dindo was a fish vendor at the Central Market of Bacolod City with daily earnings of P100 to P150. He was single and lived with his mother. Dindo was the sole breadwinner of the family.[10]

For his defense, GALIDO interposed a denial and an alibi. He stated that on July 4, 1994, at about 12:30 a.m., he was at his boarding house at Barangay 12, Mambulok, asleep beside his gay lover Wilfredo Segovia, Jr., his nightly companion for more than 5 years. On July 3, 1994, GALIDO and Wilfredo Segovia went to sleep at about 11:30 p.m. after watching television and woke up at 7:00 a.m. the following day. He asserted that he never left his boarding house from the time he went to sleep until he awoke the following morning.

GALIDO denied knowing Leo Boy Y Garcia and Dindo Panganiban. He claims that the first time he heard the name Dindo Panganiban was when he was arrested by the police. On August 21, 1994, as he was returning to his job after having bought cigarettes, he was called by a policeman who requested him to go with them because there was a charge against him for having killed Dindo Panganiban. When he refused to go with the arresting officers, they struck him with an armalite.

GALIDO testified that the public plaza is only about 30 meters from Barangay 12 where he lives. He stated that Barangay 12 was at the back of Manokan Country, a refreshment parlor, which is two blocks away from the public plaza. However, immediately after GALIDO said this, counsel for the defense asked him to point out to the court the distance of 30 meters from where he was seated and GALIDO pointed to an area about 300 to 400 meters away. Yet, on cross-examination, GALIDO admitted that it only takes five minutes to traverse the distance between Barangay 12 and the public plaza.[11]

The trial court gave credence to the testimony of Renato Fillera, an eyewitness to the killing of Dindo Panganiban. The court found Fillera's comportment to be "natural and normal" and that his testimony was given "with candor and sincerity" and replete with the necessary details. The court stated that the fact that Fillera's testimony was

uncorroborated did not make it any less worthy of credit since it is intrinsically credible and there was no showing that it was improperly or maliciously motivated. Finally, the court said that the failure of Fillera to report the crime to the police and to mention the incident to his aunt with whom he was living was understandable since he feared reprisal from GALIDO, whom he often encountered at the public plaza.[12]

The alibi of GALIDO was not accepted by the trial court. First of all, the crime scene was only five minutes away from the house of accused, therefore it was not physically impossible for accused to have been at the crime scene at the time of its commission. Secondly, such alibi was uncorroborated, even by Wilfredo Segovia, Jr. who was supposed to have been with GALIDO on the night of the killing.[13]

The qualifying circumstance of treachery was appreciated by the trial court due to the fact "that the victim was in a slumber when accused administered and delivered the fatal blow with the use of a lethal weapon, a knife, at the left breast of his totally unsuspecting victim. Being asleep at the time of the attack, the victim could not have put up any defense whatsoever against the sudden assault by accused." [14]

Thus, in its decision,[15] the trial court decreed:

WHEREFORE, finding accused Salvador Galido alias "Salvador 'Badong' Uberas" GUILTY beyond reasonable doubt of Murder punishable under Article 248 of the Revised Penal Code as amended by Section 6 of Republic Act No. 7659, judgment is hereby rendered, sentencing him to suffer RECLUSION PERPETUA, as well as the accessory penalty provided by law. He is likewise ordered to indemnify the heirs of Dindo Panganiban P50,000 for his death, P148,800 for loss of income, and P10,000 as moral damages.

SO ORDERED.[16]

In his appellant's brief,[17] GALIDO contends that the trial court gravely erred in giving full weight and credit to the testimony of Renato Fillera. According to accused, the lower court failed to consider that Fillera is a friend of the decedent's brother-in-law, which relation "unequivocally dictated and/or pushed him to testify against the accused-appellant." GALIDO insists that Fillera's failure to report the incident to the police belies his credibility, considering that there was a police precinct near the scene of the crime. That Fillera feared reprisal from GALIDO was not believable since even after the accused was arrested on August 21, 1994, Fillera only came forward after about six months. Based on the foregoing circumstances, GALIDO submits that the testimony of Renato Fillera was incredible and tainted with partiality and is not sufficient to sustain a conviction.

Finally, GALIDO contends that, assuming that he had in fact stabbed Dindo Panganiban, the prosecution had not established the qualifying circumstance of treachery as there was no proof "that prior to the killing the accused-appellant had made some sort of preparation to kill the deceased in such a manner as to insure the execution of the crime or to make [it] hard or impossible for the person attacked to defend himself or retaliate." GALIDO contends that "it does not always follow that if the attack was sudden and unexpected, it should be attended with treachery."

Based on a careful study of the records, we uphold the trial court's assessment of the credibility of Renato Fillera. The transcripts reveal that his testimony was candid, straightforward, and consistent on all material points. It is doctrinal that the trial court's evaluation of the credibility of a testimony is accorded the highest respect, for the trial court has the distinct opportunity of directly observing the demeanor of a witness and, thus, to determine whether he is telling the truth.[18]

Other than accused's bare accusations, there is no showing that Fillera testified falsely due to the promptings of his friend Kano, the brother-in-law of the victim. We have held that where the defense fails to prove that witnesses are moved by improper motives, the presumption is that they are not so moved and their testimonies are

therefore entitled to full weight and credit.[19] The fact that Fillera is a friend of deceased's brother-in-law does not taint his testimony with bias, as accused would have us hold.

Although the defense makes much of the failure of Fillera to immediately report the incident to the police, we hold that the same does not impair his credibility. Fillera testified that he was afraid that accused would harm him if he reported the crime to the police, as the latter knew him at least by face and knew that he frequented the public plaza. Fear of reprisal and the natural reluctance of a witness to get involved in a criminal case are sufficient explanations for a witness' delay in reporting a crime to the authorities.[20]

The positive identification of GALIDO as the perpetrator of the crime by Renato Fillera, absent any showing of ill motive, must prevail over the weak and obviously fabricated alibi of the accused.[21]

GALIDO testified that, at the time of the killing of Dindo Panganiban at the public plaza, he was sleeping together with Wilfredo Segovia in their boarding house in Barangay 12. Accused himself testified, however, that Barangay 12 is near the public plaza and the distance can be negotiated by a short five-minute walk. For the defense of alibi to serve as a basis for acquittal, the accused must establish by clear and convincing evidence his presence at another place at the time of the perpetration of the offense and that it would thus be physically impossible for him to have been at the scene of the crime.[22] Accused failed to discharge this evidentiary burden.

Since alibis are inherently weak and unreliable, they must receive credible corroboration from disinterested witnesses. The failure of the defense to present Wilfredo Segovia as a witness, the only person who could attest to the truth of accused's testimony, further weakens GALIDO's alibi. When the accused is unable to substantiate his alibi with the testimony of a credible witness, the same is reduced to self-serving evidence undeserving of any weight in law.[23]

We affirm the trial court's appreciation of the qualifying circumstance of treachery. Treachery exists when the offender commits any of the crimes against persons, employing means, methods, or forms which tend directly and specially to insure the execution of the crime without risk to himself arising from the defense which the offended party might make.[24] Dindo Panganiban was sleeping when GALIDO suddenly and unexpectedly stabbed him in the chest, without any warning. There is no doubt that the victim in this case could not have repelled the attack or offered any defense of his person.

The existence of treachery qualifies the killing to murder under Article 248 of the Revised Penal Code. Under R.A. No. 7659, the penalty for murder is reclusion perpetua to death. The trial court correctly imposed the penalty of reclusion perpetua upon accused since no generic aggravating nor mitigating circumstances were proven, pursuant to Article 63 of the Revised Penal Code.

Consistent with current jurisprudence, we affirm the award of P50,000 as indemnity for the victim's untimely death[25] and order the increase of the award of moral damages to P50,000.[26]

With regard to the decedent's loss of earning capacity, the trial court limited its award to the amount of P148,800 because this is the amount which the prosecution alleged in the information. Such award is erroneous. The formula for computing loss of earning capacity is

$$\frac{2}{3} \times [80 - \text{age of victim at the time of death}] \times [\text{reasonable portion of the annual net income which would have been received as support by heirs}]$$
[27]

Dindo Panganiban was eighteen years old on July 4, 1994. As testified to by Juana Panganiban, he was earning P100 to P150 each day, or an average daily income of P125 or P3,750 monthly. From this monthly income must be deducted the reasonable amount of P1,875 representing the living and other necessary expenses of the

deceased.[28] Thus, the victim's net annual income would be P22,500. The lost earnings of the deceased should be computed as follows:

$$\begin{aligned} &= [2/3 \times (80 - 18)] \times [22,500] \\ &= \text{P}930,000 \end{aligned}$$

WHEREFORE, the appealed Decision of the Regional Trial Court of Negros Occidental is AFFIRMED, except that the moral damages should be increased to P50,000 and the amount awarded for loss of income should be increased to P930,000.

No pronouncement as to costs.

SO ORDERED.

Melo, (Chairman), Vitug, Panganiban, and Purisima, JJ., concur.

[1] Docketed as G.R. No. 16626 and penned by Judge Edgar G. Garvilles. Rollo, 55-64.

[2] Rollo, 56.

[3] TSN, February 15, 1995, 1-13.

[4] Ibid., 16.

[5] Ibid., 23-24.

[6] TSN, October 4, 1995, 1-18.

[7] Exhibit B.

[8] Exhibit C.

[9] TSN, December 6, 1995, 1-15.

[10] TSN, January 24, 1996, 1-4.

[11] TSN, February 28, 1996, 1-31.

[12] Rollo, 61.

[13] Ibid., 62-63.

[14] Ibid., 59-60.

[15] Supra note 1.

[16] Rollo, 64.

[17] Ibid., 44-53.

[18] *People v. Obello*, 284 SCRA 79 (1998).

[19] *People v. Mendoza*, 284 SCRA 705 (1998).

[20] *People v. Viovicente*, 286 SCRA 1 (1998); *People v. Villanueva*, 284 SCRA 501 (1998).

[21] *People v. Andres*, 296 SCRA 318 (1998); *People v. Enriquez*, 292 SCRA 656 (1998).

[22] People v. Balmoria, 287 SCRA 687 (1998); People v. Ravanes, 284 SCRA 634 (1998).

[23] People v. Luzorata, 286 SCRA 487 (1998).

[24] People v. Gungon, 287 SCRA 618 (1998).

[25] People v. Vermudez, G.R. No. 119464, January 28, 1999.

[26] People v. Gutierrez, 302 SCRA 643 (1999); People v. Reyes, 287 SCRA 229 (1998); People v. Aringue, 283 SCRA 291 (1997).

[27] People v. Jerez, 285 SCRA 393 (1998).

[28] People v. Verde, G.R. No. 119077, February 10, 1999; People v. Gutierrez, G.R. No. 116281, February 8, 1999. In these cases, the Court considered 50% of the gross annual income as a reasonable amount representing the living and other necessary expenses of the deceased.

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