PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. WILLY FIGURACION, ARCELY FIGURACION Y FABRO, EVANGELINE FABRO Y TABALI AND WILLIAM ESPLANA Y DELGADO, ACCUSED-APPELLANTS.

G.R. No. 129162. August 10, 2001

Ponente: DE LEON, JR., J.

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DE LEON, JR., J.:

Before us on automatic review is the Decision[1] of the Regional Trial Court of Quezon City, Branch 95, in Criminal Case No. Q-96-66826 convicting the appellants of the crime of murder and sentencing them to suffer the supreme penalty of death.

The appellants, Willy Figuracion, Arcely Figuracion y Fabro, William Esplana y Delgado and Evangeline Fabro y Tabali, were charged with the crime of Murder, as defined and penalized under Article 248 of the Revised Penal Code, as amended, in an Information that reads:

> That on or about the 4[th] day of July 1996, in Quezon City, Philippines, the above-named accused, conspiring, confederating with and mutually helping one another, with intent to kill, qualified by evident premeditation and treachery, taking advantage of superior strength, did then and there wilfully, unlawfully and feloniously attack, assault and employ personal violence upon the person of one CESAR FIGURACION y BUMATAY, by then and there stabbing him with a bladed weapon hitting him on the chest, left abdomen and left armpit, thereby inflicting upon said offended party serious and mortal wounds which were the direct and immediate cause of his untimely death, to the damage and prejudice of the heirs of the victim CESAR FIGURACION y BUMATAY.
>
> CONTRARY TO LAW.

Upon being arraigned on July 18, 1996, the four (4) appellants, assisted by counsel, entered the plea of “Not Guilty”.

On July 19, 1996, all the appellants, through counsel, moved for admission to bail. After hearings were conducted for the purpose of determining whether or not the evidence of the prosecution against the appellants for the crime charged in the Information is strong, the trial court issued an order on September 20, 1996 denying the appellants’ motion to post bail for their temporary release. Thereafter, trial on the merits ensued.

It appears from the evidence adduced by the prosecution that prior to the tragic stabbing incident, Virginia Figuracion had a quarrel with Arcely Figuracion at 3:00 o’clock in the afternoon on July 4, 1996 inasmuch as Arcely suspected Virginia of spreading rumor that her new-born son was sired by another man. The protagonists were pacified when the husband of Virginia, Cesar Figuracion, intervened.[2]

At around 11:00 o’clock in the evening of the same day, Arcely confronted Virginia over the noise that was allegedly emanating from the latter’s house. Virginia denied that there was such a noise. Thereafter, an argument

broke out between the two (2) women. During the verbal exchange, William Esplana barged into the house and taunted Virginia that she should already go to hear mass ("Magsimba na raw ako"). Cesar, who was then drinking beer inside the house, intervened.[3] Suddenly, William embraced Cesar around the waist and dragged him outside the house. At that instance, Arcely and the live-in partner of William, Evangeline Fabro, rendered assistance by holding both arms of Cesar.[4]

Outside the house, Arcely's husband, Willy Figuracion, appeared and stabbed Cesar with a kitchen knife. Virginia noticed that William was also holding a knife while the other appellants were watching.[5] Virginia remained at the door of their house which was only four (4) paces away from the scene of the crime. She had not witnessed what happened after Willy stabbed her husband inasmuch as she entered the house after Cesar ordered her to close the door. Virginia came out only when she heard their cousin, Fely Alegre, shouted that Cesar was stabbed.[6]

After the stabbing incident, Cesar was rushed to the Quezon City General Hospital where he died at 3:00 o'clock in the morning on July 5, 1996.[7] The post-mortem examination on the body of the deceased was conducted by Dr. Ma. Cristina B. Freyra, M.D., after which she prepared a human sketch[8] depicting the locations of the wounds, a death certificate[9] for the late Cesar Figuracion and a medico-legal report[10] which shows the following findings, to wit:

> - Stab wound, right supra-mammary region, measuring 2.6 (cm.) x 0.8 cm., 8.0 cm. from the anterior midline, 132.5 cm. from heel, 6.0 cm. deep, directed posteriorwards, downwards and medialwards, fracturing the 4th right thoracic rib and the sternum.
>
> - Stab wound, right supra-scapular region, measuring 2.5 cm. x 0.5 cm., 10 cm. from the posterior midline, 142 cm. from heel, 9 cm. deep, directed anteriorwards, downwards and lateral wards, piercing the underlying soft tissues.
>
> - Stab wound, right infra-scapular region, measuring 6.3 cm. x 1.0 cm., 4.0 cm. from the posterior midline, 129 cm. from heel, 8.0 cm. deep, directed anteriorwards, downwards and lateralwards, fracturing the 9th right thoracic rib, piercing the lower lobe of the right lung.

Dr. Freyra testified during the trial of this case that the victim sustained three (3) stab wounds. It appears from the human sketch[11] that the first stab wound, measuring 2.6 cm. x 0.8 cm. x 6.0 cm., was inflicted at the upper portion of the right mammary region of the victim's body while the second stab wound, measuring 2.5 cm. x 0.5 cm. x 9.0 cm., was inflicted at the back of the victim, below the right scapular. The third wound, which was fatal, measures 6.3 cm. x 1.0 cm. x 8.0 cm., and was inflicted at the right infra-scapular region of the victim's body penetrating the lobe of the right lung. Based on the measurements, stab wounds nos. 1 and 2 were caused by the same bladed instrument while wound no. 3 was caused by another bladed instrument. Dr. Freyra concluded that the three (3) stab wounds were inflicted by two (2) persons.[12]

7The defense denied any liability of the appellants for the crime of murder. Appellant Willy Figuracion initially denied stabbing the victim inasmuch as Cesar was his first cousin on the paternal side, while his other co-appellants, the sisters Arcely Figuracion y Fabro and Evangeline Fabro y Tabali, were second cousins of the victim on the maternal side. Willy testified that he fetched his wife (Arcely) at around 10:30 o'clock in the evening on July 4, 1996 when he overheard his Kuya Cesar, Virginia and Arcely having an argument over the latter's suspicion that Virginia was spreading the rumor that her new-born son was sired by another man. Cesar was furious at his wife (Virginia) over her alleged penchant for meddling in other people's lives. Virginia countered that it was actually William Esplana who spread the rumor. William, who by then had arrived together with his live-in partner, Evangeline, denied the accusation. Subsequently, Cesar ordered his wife to proceed inside the house.[13]

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Soon after Cesar and Virginia had closed the door of their house, Willy and his companions heard the couple having a quarrel. After hearing commotions, the door suddenly opened and Cesar ran outside the house holding his bloodied left armpit. Meanwhile, Virginia continued throwing things inside the house, thus Willy and the other appellants hurriedly left toward their house.[14]

During the re-direct examination Willy gave a modified account of the stabbing incident on July 4, 1996. Willy claimed that while Virginia and William were arguing, Cesar intervened and challenged William to deal with him instead of his wife ("Ako na lang ang harapin mo!"). Cesar was holding a knife and attempted to stab William but Willy was able to pull William away from the thrust. Cesar also tried to stab Willy but the latter was able to parry the blow. They grappled for possession of the knife which Willy was able to wrest from Cesar. Subsequently, Cesar armlocked Willy at the neck. In the ensuing struggle, Willy accidentally stabbed Cesar once near the left armpit.[15]

Arcely Figuracion testified that she went to the house of Baby Romero which is adjacent to the house of the victim to retrieve her umbrella. While conversing with Baby, Arcely overheard Cesar and Virginia talking inside their house about the rumor that her new-born son was sired by another man. Arcely confronted Virginia and emphasized that the rumor relative to the paternity of her son was false. Virginia retorted that the rumor came from William. During the subsequent altercation, Willy arrived followed by William and Evangeline. William, in turn, pointed at Virginia as the source of the rumor. The statement drew the ire of Cesar who pointed a knife at William and threatened to cut his tongue. Willy pulled William behind him which act was resented by Cesar. Cesar then vented his anger on Willy by strangling him with one arm while his right hand was holding the knife. While the two (2) were grappling for possession of the knife, Arcely became very frightened. She did not witness the actual stabbing of Cesar inasmuch as she was crying out for help from their neighbors. However, she was informed by her husband right after the incident that he accidentally stabbed his Kuya Cesar.[16]

For his part, William Esplana testified that he and his live-in partner, Evangeline Fabro, visited Willy and Arcely at their house in Sitio Mendez, Baesa, Quezon City on July 4, 1996 at 9:00 o'clock in the evening. At around 10:00 o'clock in the evening, Arcely went to her neighbor's house. Having taken sometime to return, Willy followed to fetch his wife. Thereafter, William overheard an altercation between Virginia and Arcely. Virginia was asking for the whereabouts of William inasmuch as, according to her, he was the source of the rumor that Arcely's new-born son was sired by another man. Having been implicated in the controversy, William and Evangeline approached to clarify the matter. William explained to Cesar that his wife was actually the source of the rumor. Cesar became very mad and berated William. He even attempted to stab him but was timely pulled away by Willy. Shocked by the attempt on his life, William and Evangeline ran back to the house of Willy. William did not anymore witness the succeeding events for the reason that Evangeline, Arcely and himself locked themselves inside the house.[17]

Evangeline corroborated the testimony of William on material points. She testified that on the date of the stabbing incident, they visited her sister, Arcely, in Baesa, Quezon City at 9:00 o'clock in the evening. On the said occasion, Arcely and Virginia had an altercation over the latter's alleged role in spreading the rumor over the paternity of her sister's new-born son. Evangeline and William went out of the house upon having heard Virginia claiming that William was the source of the rumor. Their presence apparently irked Cesar as he berated William and threatened to cut his tongue with a knife. Willy intervened hence, Cesar confronted him. Cesar and Willy subsequently grappled for possession of the knife.[18]

After analyzing the evidence, the trial court rendered a Decision on April 25, 1997, the dispositive portion of which reads:

> WHEREFORE, judgment is hereby rendered finding all the accused Willy Figuracion, Arcely Figuracion y

> Fabro, Evangeline Fabro y Tabali and William Esplana y Delgado Guilty beyond reasonable doubt of the crime of Murder as defined in and penalized by Art. 248 of the Revised Penal Code, as amended, and, there being one aggravating circumstance of dwelling without any mitigating circumstance to offset the same, are hereby sentenced to suffer the penalty of DEATH. They are further ordered to indemnify the heirs of the victim the amounts of P50,000.00 for the death of the victim; P50,000.00 as moral damages, P20,000.00 as exemplary damages; and P43,474.10 as actual damages.
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> All the accused are ordered to pay the costs.
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> SO ORDERED.

In their Consolidated Appellants' Brief,[19] the appellants contend that the trial court erred in accepting as gospel truth the allegedly inconsistent and incredible testimony of the victim's widow. Appellants also faulted the trial court for rejecting the testimony of Willy Figuracion that he stabbed the victim in self-defense. Lastly, the appellants claim that the trial court erred when it found all the appellants guilty of the crime of murder despite insufficiency of evidence to support its finding.

The credibility of the testimonies of witnesses is crucial to the resolution of this case on automatic review. The general rule is that when the issue is one of credibility of witnesses, the trial court's determination on the credibility of witnesses is entitled to great respect[20] unless there are facts or circumstances of weight and influence which have been overlooked or the significance of which have been misconstrued as to impeach the findings of the trial court.[21] The reason for the rule is that the trial court is in a better position to decide the question of credibility, having seen and heard the witnesses themselves and observed their behavior and manner of testifying.[22]

In finding all the appellants guilty of the crime of murder, the trial court gave full faith and credence to the testimony of Virginia to the effect that the killing of her husband, after he was allegedly dragged outside the house by three (3) of the said appellants, was attended by treachery and abuse of superior strength. To justify the imposition of the supreme penalty of death on all the appellants, the trial court appreciated the existence of the generic aggravating circumstance of dwelling.

After a thorough review of the evidence adduced, it is our finding that the stabbing to death of Cesar in front of his house was preceded by an altercation between his wife, Virginia, and Arcely, who was the second cousin of Cesar on the maternal side. The altercation developed after Arcely confronted Virginia in her house, and she accused her of spreading the rumor that her new-born son was sired by another man. Being neighbors whose houses were merely about ten (10) meters apart,[23] Arcely's husband, Willy, who was also a cousin of Cesar on the paternal side, came to fetch his wife during the altercation. Willy was followed by Arcely's sister, Evangeline, and her live-in partner, William. Evangeline and William were then residing in Tondo but they visited Arcely at her house in Sitio Mendez, Baesa, Quezon City on July 4, 1996 which was the day when the stabbing incident happened.

Upon the arrival of the three (3) at the house of Cesar, Virginia pointed at William as the source of the rumor. The latter vehemently denied the accusation thus, a verbal exchange ensued, this time between William and Virginia. Being a stranger, William's intrusive venture into what should have been a strictly family feud, insulted Cesar, who was then drinking beer inside the house. Cesar berated William and was poised to castigate him further but for Willy's timely intervention. Willy's apparent move to side with a stranger drove his first cousin Cesar, furious and vented his anger on the former.

In the physical combat that followed, Cesar was stabbed three (3) times. Upon sustaining the first stab wound from Willy, Cesar managed to instruct his wife to close their door. Virginia obeyed but not after glancing at

William who also wielded a knife in his right hand while embracing Cesar from behind with his left arm.

From the above set of facts, it appears clear that Arcely and her sister Evangeline, had no direct participation in the commission of the crime charged. We simply find it hard to believe that Arcely and Evangeline would orchestrate a criminal conspiracy to kill Cesar, whom they fondly address “Kuya”,[24] despite the fact that both of them had absolutely no axe to grind against their elder cousin.[25] Their resentment was directed at his wife, Virginia, whom Arcely suspected of being responsible for spreading the nasty rumor that her new-born son was sired by another man. Even then, Arcely agreed to make peace with Virginia in the afternoon of July 4, 1996 upon the intercession of the victim for whom she had a high regard.[26] Consequently, it would be contrary to common human experience to claim that Arcely and Evangeline aided William in allegedly dragging Cesar outside his house by holding both hands of the victim. Significantly, Virginia herself admitted during the trial that Arcely and Evangeline did not do anything while Willy and William were onto the victim.[27] It should be stressed that relationship among the appellants alone does not imply conspiracy.[28] Likewise, the mere presence of the said appellants, Arcely and Evangeline, at the scene of the crime does not imply conspiracy.[29] A conspiracy must be established by positive and conclusive evidence. It must be shown to exist as clearly and convincingly as the commission of the offense itself.[30]

However, there is sufficient evidence on record to hold the two (2) other appellants responsible for stabbing their victim to death. Virginia positively identified Willy as the person who inflicted the first stab wound on her husband. As Virginia stood at their doorway, she witnessed from a distance of four (4) meters how Willy frontally attacked Cesar with a knife while William was holding on to her husband’s waistline as he (William), too, was wielding a knife in his right hand.

Willy’s defense of self-defense is utterly unavailing. To successfully interpose self-defense, the appellant must clearly and convincingly prove: 1) unlawful aggression on the part of the victim; 2) the reasonable necessity of the means employed to prevent or repel the attack; and 3) the person defending himself must not have provoked the victim into committing the act of aggression.[31] In addition, it is jurisprudential rule that when an accused admits killing the victim but invokes self-defense to escape criminal liability, he assumes the burden to establish his plea by credible, clear and convincing evidence; otherwise, conviction would follow from his admission that he killed the victim.[32]

Other than the self-serving testimonies of the appellants, there is absolutely no evidence on record to show that Cesar attacked Willy with a knife when the latter was confronted by the victim. Willy initially denied stabbing Cesar during the direct examination. His modified version of the incident during the re-direct examination that he stabbed the victim in self-defense is obviously an afterthought that seriously impugns his credibility. Notably, two (2) of the stab wounds sustained by the victim were located at his back. The nature and number of wounds are constantly and unremittingly considered important indicia which disprove a plea of self-defense.[33] Besides, his failure to inform the police of the unlawful aggression on the part of the victim and to surrender the knife that he used in stabbing the victim militates against his claim of self-defense.

The actuations of William during the fight undeniably leads to the conclusion that he was acting in concert with Willy in their intention to kill Cesar. He could not have simply abandoned Willy during the fight after the latter apparently junked his first cousin and chose to side with him during William’s verbal tussle with the victim. True enough, Virginia had witnessed William aiding Willy while the latter was engaging Cesar to a fight. William was holding a knife while embracing Cesar from behind. Incidentally, two (2) of the stab wounds were located at the back of the victim.[34] The physician who conducted the autopsy on the body of the victim testified that based on their measurements, the stab wounds sustained by the victim were inflicted by two (2) persons. On the same occasion, Willy and William were the only persons who engaged Cesar to a fight.

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It is not anymore necessary to pinpoint which of the two (2) appellants, Willy and William, inflicted the fatal wound on the victim inasmuch as conspiracy existed between them. That the stabbing was committed immediately following the altercation between Virginia and Arcely does not negate the existence of conspiracy between Willy and William. Conspiracy does not require a previous plan or agreement to commit assault; it is sufficient if, at the time of such aggression, the accused manifested by their acts a common intent or desire to attack the victim as in the case at bar.[35]

The trial court erred in ruling that treachery attended the commission of the crime. The essential requisites of the qualifying circumstance of treachery are: 1) the employment of means of execution which gives the person attacked no opportunity to defend or to retaliate; and 2) that said means of execution were deliberately or consciously adopted.[36] We note that what actually took place among the protagonists in the case at bar was a brawl after having lost control of their violent tempers. Hence, there is no basis to conclude that appellants Willy and William attacked the victim swiftly and unexpectedly rendering the latter absolutely unable to escape or defend himself, which is the essence of treachery.[37]

Likewise, there is no evidence to support the trial court's finding of existence of the qualifying circumstance of abuse of superior strength absent any showing that the appellants deliberately took advantage of their superiority in number and strength to ensure the commission of the offense. The qualifying circumstance of abuse of superior strength requires a deliberate intent on the part of the malefactors to take advantage thereof - there must be a situation of strength notoriously selected and made use of by the offenders in the commission of the crime which was not proved in this case.[38]

Lastly, dwelling may not be appreciated against the appellants in the case at bar for the reason that they committed the crime outside the house of the victim. The evidence on record even tends to show that prior to the stabbing incident, the victim approached the appellants who were in front of his house.

In view of the foregoing, Arcely and Evangeline should be acquitted on the ground that the prosecution failed to prove their alleged guilt for the crime charged beyond reasonable doubt. On the other hand, there is sufficient evidence to hold Willy and William liable for the stabbing to death of the victim, and in the absence of any qualifying circumstance, they should be convicted for the crime of homicide only.

WHEREFORE, the Decision of the Regional Trial Court of Quezon City, Branch 95, in Criminal Case No. Q-96-66826 convicting all the appellants of the crime of murder and sentencing them to suffer the supreme penalty of death is MODIFIED. Appellants Willy Figuracion and William Esplana y Delgado are hereby found GUILTY of the crime of homicide, and there being no mitigating nor aggravating circumstance, the said appellants are each sentenced to suffer the indeterminate penalty of twelve (12) years of prision mayor, as minimum, to seventeen (17) years and four (4) months of reclusion temporal, as maximum; and to pay jointly and severally the heirs of the victim Cesar B. Figuracion, the amounts of Forty Three Thousand Four Hundred Seventy-Four Pesos and Ten Centavos (P43,474.10) by way of actual damages;[39] Fifty Thousand Pesos (P50,000.00) as civil indemnity ex delicto; and Fifty Thousand Pesos (P50,000.00) as moral damages.

Appellants Arcely Figuracion y Fabro and Evangeline Fabro y Tabali are hereby ACQUITTED of the crime of murder on the ground of reasonable doubt. Consequently, appellants Arcely Figuracion y Fabro and Evangeline Fabro y Tabali are ordered released forthwith from custody unless they are being lawfully held for another cause. The Superintendent of the Correctional Institution for Women is directed to implement this Decision in regard to the said acquitted appellants, and to report to this Court the action taken therein within five (5) days from receipt hereof.

SO ORDERED.

Davide, Jr., C.J., Bellosillo, Melo, Puno, Vitug, Kapunan, Mendoza, Panganiban, Quisumbing, Pardo, Buena, Gonzaga-Reyes, and Ynares-Santiago, JJ., concur.
Sandoval-Gutierrez, J., on leave.

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[1] Penned by Judge Diosdado M. Peralta, Rollo, pp. 21-33.

[2] TSN dated July 29, 1996, p. 9.

[3] TSN dated August 12, 1996, pp. 18-19.

[4] TSN dated July 29, 1996, pp. 5; 10-11.

[5] TSN dated November 5, 1996, p. 4.

[6] TSN dated July 29, 1996, pp. 5-8.

[7] TSN dated July 29, 1996, pp. 5-8.

[8] Exhibit “F”.

[9] Exhibit “I”.

[10] Exhibit “E”.

[11] Exhibit “F”.

[12] TSN dated August 26, 1996, pp. 3-9.

[13] TSN dated November 21, 1996, pp. 2-5.

[14] TSN dated November 21, 1996, pp. 5-11.

[15] TSN dated November 27, 1996, pp. 3-7.

[16] TSN dated November 28, 1996, pp. 2-7.

[17] TSN dated December 9, 1996, pp. 5-12.

[18] TSN dated December 11, 1996, pp. 4-12.

[19] Rollo, pp. 80-123.

[20] People v. Quisay, 320 SCRA 450, 469 (1999); People v. Bihison, 308 SCRA 510, 517 (1999).

[21] People v. Tanzon, 320 SCRA 762, 770 (1999); People v. Bautista, 308 SCRA 620, 633 (1999).

[22] People v. Sta. Ana, 291 SCRA 188, 202 (1998); People v. Monfero, 308 SCRA 396, 410 (1999).

[23] TSN dated July 29, 1996, p. 4; TSN dated December 9, 1996, p. 21.

[24] TSN dated November 28, 1996, p. 5.

[25] TSN dated November 5, 1996, p. 7.

[26] TSN dated November 29, 1996, pp. 2-3; TSN dated July 29, 1996, p. 9.

[27] TSN dated November 5, 1996, p. 10.

[28] People v. Ferras, 289 SCRA 94, 107 (1998).

[29] People v. Hilario, 284 SCRA 344, 354 (1998).

[30] People v. Bolivar, 317 SCRA 577, 591 (1999); People v. Desoy, 312 SCRA 432, 445 (1999).

[31] People v. Villamor, 292 SCRA 384, 395 (1998); People v. Vermudez, 302 SCRA 276, 284 (1999); People v. Eribal, 305 SCRA 341, 349 (1999).

[32] People v. Timblor, 285 SCRA 64, 75 (1998); People v. Real, 308 SCRA 244, 253 (1999).

[33] People v. Cañete, 287 SCRA 490, 498 (1998); People v. Ganut, 118 SCRA 35, 43 (1982).

[34] Exhibit “F”.

[35] People v. Robedillo, 286 SCRA 379, 385 (1998).

[36] People v. Piamonte, 303 SCRA 577, 589-590 (1999); People v. Nullan, 305 SCRA 679, 703 (1999).

[37] People v. Villanueva, 302 SCRA 380, 399 (1999).

[38] People v. Langres, 316 SCRA 769, 786 (1999); People v. Apelado, 316 SCRA 422, 431 (1999).

[39] Exhibits “D” - “D-15”.

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