PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. MARIO LACUESTA, RICHARD LACUESTA (AT LARGE), ALI LAMELA (AT LARGE) AND RODNEY LAMELA (AT LARGE), ACCUSED. MARIO LACUESTA, ACCU...

G.R. No. 129212. September 14, 2001

Ponente: BELLOSILLO, J.

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BELLOSILLO, J.:

TRAGEDIES, as they happen in our time and age, seem to have inanities for beginnings. As shown in this case, the dreadful death which befell the victim traces its roots to a trivial tale of a fighting cock.

Sometime in late 1994 Danilo Panes borrowed a fighting cock from accused-appellant Mario Lacuesta to be entered in a cockfight in Dueñas, Iloilo. On the day of the derby, Danilo took the cock to the poblacion and proudly showed it around. The oblivious cock somehow found its way into the hands of Elmer Piccio who upon recognizing it to be his cock that was earlier stolen, asserted his right to it. As a consequence, Danilo found himself confronted by an incensed Elmer who demanded an explanation why his cock that was earlier stolen was being entered in the derby. Danilo disclaimed any knowledge about the theft of the cock; instead, he pointed to accused-appellant as its owner. Elmer immediately went to the house of accused-appellant and demanded reparation for the theft. But accused-appellant claimed that he just bought it from somebody whom he could no longer remember. Elmer insisted on taking it back home.

The embarrassment that accused-appellant suffered triggered the unexpected. At about 11:00 o'clock in the evening of 3 August 1994 an exhausted Danilo hastily alighted from the passenger jeepney that brought him home. Danilo had just come with Nestor Mata from a whole-day seminar for barangay officials at the poblacion. They were joined in the jeepney by Elnora Latumbo who earlier missed the last public utility vehicle that was to take her home. While the three (3) were walking home after getting down from the jeepney Elnora begged to be excused to answer the call of nature and took cover behind a mango tree along the way. She pleaded with her two (2) companions to slow down a little bit so she could catch up with them.

As soon as Elnora left her two (2) male companions to relieve herself, a volley of shots was heard. Instantly, Nestor fell to the ground. When Danilo looked back, he saw in a fleeting moment the faces of the attackers - accused-appellant Mario Lacuesta, his brother Richard, and their cousins Ali[1] and Rodnie Lamela, each armed with a twelve (12)-gauge pugakhang. Danilo sought cover among the tall rice stalks. His right arm was oozing with blood. He was in fear. The four (4) assailants were just five (5) arms length away. They were inching their way towards Nestor and then turned his motionless body to face up and beamed their flashlights at his face. Then Danilo heard accused-appellant dejectedly say, "he is not the one" (referring to the bloodied Nestor), afterwhich they abandoned Nestor on the road.

After the four (4) gunmen left, Danilo ran to the house of Oscar Villanueva for help. Oscar responded immediately by attending to Nestor hoping that he was still alive, but Nestor had already expired. Oscar was

followed by his son Arnold. After an hour, Oscar returned to Danilo and took the latter to the Pototan Provincial Hospital for treatment. Danilo stayed in the hospital for five (5) days after which he transferred residence to far-away Mandurriao, Iloilo, for fear of reprisal. Meanwhile, Nestor succumbed to the three (3) gunshot wounds on his head.

Accordingly, criminal complaints for the death of Nestor Mata and the wounding of Danilo Panes were instituted against accused-appellant Mario Lacuesta together with Richard Lacuesta, Ali Lamela and Rodnie Lamela. After conducting a preliminary investigation, the 7th Municipal Circuit Trial Court of Dingle-Dueñas, Iloilo, issued an Order finding probable cause for murder and frustrated murder against all the accused.[2] Forthwith, the corresponding Informations were filed against the four (4) accused and warrants for their arrest were issued. Accused-appellant Mario Lacuesta surrendered himself, posted bail and was accordingly released, while the three (3) other accused, Richard Lacuesta, Ali Lamela and Rodnie Lamela, evaded arrest. Up to now they have not submitted to the jurisdiction of the Court.

Subsequently, upon agreement of the prosecution and the defense, the cases for murder and frustrated murder were jointly tried and decided.

The case against accused-appellant was built around the testimonies of Danilo and Elnora. Danilo narrated that the story behind Nestor's death began from an ordinary confrontation in the cockpit until it ended in a tragedy in a deserted road in the evening of 3 August 1994.[3]

Elnora corroborated Danilo's testimony that while she was about to relieve herself by the roadside she saw accused-appellant fire at Nestor while Ali shot Danilo. Richard and Rodnie were brandishing their pugakhangs. According to Elnora, she recognized all the accused because they had their flashlights on and the moon was bright that night. She also testified that she witnessed how the accused-appellant and his companions moved the body of Nestor, and that immediately after the assailants left, she went home and hid under her bed as she was traumatized by what she had just witnessed.[4]

Accused-appellant Mario Lacuesta disclaimed having taken part in the killing of Nestor and the wounding of Danilo. Mario asserted that in the evening of 3 August 1994 he was at home drinking with Dominador Lara about a kilometer away from the crime scene. According to Mario, as it was the first day of his harvest, he invited Dominador, a tuba gatherer, for a few rounds of tuba. Their drinking spree lasted through the night; in fact, they broke up at two o'clock the following morning with both of them heavily intoxicated. Mario insisted that he learned of the shooting incident from Oscar Villanueva who told him casually about it in the afternoon of the following day while fetching water from their communal well.[5]

Dominador Lara, Mario's alleged drinking buddy, supported his alibi. According to Dominador, on 3 August 1994 while he was traversing the riverbank, accused-appellant invited him to the former's house to celebrate the first day of his harvest. They had a gallon of tuba and two (2) whole chickens, all to themselves. As he was too drunk to go home, he spent the night with Mario at the palayas[6] and went home early the following morning unaware of the diablerie that had befallen their barangay.[7]

The defense in a bid to discredit the testimonies of Danilo and Elnora presented Gil Catalan and Rene Lambuson as witnesses. Rene Lambuson, who claimed to be the conductor of the jeepney that brought home the barangay councilmen from the poblacion that night of 3 August 1994, insisted that Elnora was not aboard his vehicle thereby implying that she could not have witnessed the crime.[8]

On the other hand, Gil Catalan, barangay captain of the community where the parties to this incident resided, testified that on the day of the slaying he attended the seminar for barangay officials together with his nine (9)

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barangay kagawads at the poblacion. As they were later joined by officials of two (2) other barangays they decided to hire a jeepney to take them home. There were two (2) other women from their barangay who joined them but he was certain that neither of them was Elnora Latumbo. He identified the two (2) women as Ruby Porras and Lorna Lapastora, the barangay secretary. He however admitted that he did not know much less meet Elnora prior to the incident.

An hour after Gil Catalan reached home, Kagawad Oscar Villanueva went to his house and reported that both Nestor and Danilo had been shot. Together with Oscar, Gil proceeded to the scene of the shooting. There they saw the lifeless body of Nestor lying prostrate on the ground. Gil summoned the relatives of Nestor and instructed them to take Danilo to the hospital for treatment. Meanwhile, according to Gil, he did some sleuthing himself but this did not bear fruit. No witness was available and, according to Danilo himself, he was not able to recognize their attackers as it was very dark.[9]

The trial court was far from convinced by accused-appellant. According to the court, the defense failed to elicit credence and belief. Thus, for the death of Nestor Mata accused-appellant was convicted of murder qualified by treachery and sentenced to reclusion perpetua. Additionally, he was ordered to indemnify the heirs of Nestor Mata P22,482.40 as actual damages and P50,000.00 as civil indemnity.

As to the wounding of Danilo Panes, the trial court found the accused guilty only of attempted murder as no evidence was introduced to prove that Danilo would have died from his wounds without timely medical attendance. The court a quo ratiocinated that inasmuch as Danilo fled the crime scene immediately after "he was hit by the first shot, the subjective phase was not therefore complete."[10] Accused-appellant was accordingly sentenced to suffer the penalty of imprisonment ranging from four (4) years and two (2) months as minimum, to ten (10) years as maximum, and to pay Danilo Panes P1,815.00 as actual damages. Incidentally, the court a quo did not give the specific nomenclature of the penalties it imposed.

In his brief, accused-appellant Mario Lacuesta assails the trial court for rejecting his alibi and convicting him of murder and attempted murder. He pins his hopes for a reversal on the argument that based solely on the testimonies of prosecution witnesses his guilt has not been proved beyond reasonable doubt. Unfortunately, despite his valiant effort to discredit witnesses Danilo and Elnora, his pleas do not warrant a reversal.

We emphasize anew the well-settled principle that great weight is accorded to conclusions reached by trial courts on the question of credibility of witnesses, and unless it is shown that they failed to take into consideration matters of significance bearing materially on the outcome, their determination is to be left undisturbed.[11] In the present case, the court a quo was thoroughly and morally convinced as to the truth and credibility of the testimonies of Danilo and Elnora. We see no reason to disturb such finding.

It need not be stressed that accused-appellant was too well-known to Danilo to raise any serious doubt as to whether he erred in his identification. Danilo used to be a friend of accused-appellant and until the killing and his eventual transfer to Mandurriao, Iloilo, lived in the same neighborhood as all of the accused. Elnora, for her part, frequently visited her sister who lived in the same barangay and was likewise familiar with the assailants.

Moreover, a close perusal of the records confirms the correctness of the decision reached. For one, the argument that accused-appellant could not be at the locus criminis in the evening of 3 August 1994 as he was at home drinking with a friend is not persuasive. Alibi is a weak defense and is quite irreconcilable with the positive identification of the eyewitnesses to the crime.[12] For alibi to prosper, it must be shown that the accused was at a place far removed from the scene of the crime such that it was well-nigh impossible for him to have participated in the slaying.[13] In the case at bar, accused-appellant himself admitted that his house was barely a kilometer away from the locus criminis and the distance could be negotiated in a matter of minutes.[14] Verily, his defense

that he was at home which was just one (1) kilometer away while Nestor and Danilo were being peppered with bullets, does not satisfactorily show that it was physically impossible for him to have participated in the shooting.

The killing of Nestor Mata was clearly one for murder qualified by treachery considering that he was shot from behind while walking home unaware of the impending tragedy lurking ahead. In criminal law, the suddenness of an assault on an unsuspecting victim who had no opportunity to parry the attack qualifies the killing to murder.[15]

The wounding of Danilo Panes, as the trial court correctly found, constituted attempted murder. As neither of the two (2) wounds inflicted on Danilo's right arm was mortal, i.e., sufficient to cause death, accused-appellant failed to perform the last act necessary to produce the consummated crime of murder.[16]

WHEREFORE, the Decision of the Regional Trial Court, Br. 38, Iloilo City, finding accused-appellant MARIO LACUESTA guilty of MURDER for the death of Nestor Mata and ATTEMPTED MURDER for the wounding of Danilo Panes for which he was accordingly sentenced to reclusion perpetua for MURDER, and an indeterminate prison term of four (4) years and two (2) months as minimum to ten (10) years as maximum, and ordering him to pay the heirs of the deceased Nestor Mata P22,482.40, and Danilo Panes P1,815.00 as actual damages is AFFIRMED, with the MODIFICATION that the award of civil indemnity in favor of the heirs of Nestor Mata in the amount of P50,000.00 is increased to P75,000.00 conformably with prevailing jurisprudence.[17] In addition, the minimum prison term imposed on accused-appellant should be properly denominated prision correccional medium, while the maximum of ten (10) years should be denominated prision mayor medium. Costs against accused-appellant.

It appearing that accused Richard Lacuesta, Ali Lamela and Rodnie Lamela have not been arrested, let alias warrants for their arrest be issued immediately, returnable to the Regional Trial Court, Branch 38, Iloilo City, so that they can be tried and sentenced accordingly.

SO ORDERED.

Mendoza, Quisumbing, Buena, and De Leon, Jr., JJ., concur.

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[1] Also spelled in the records as "Ally."

[2] Original Records, p. 16.

[3] TSN, 16 June 1995, pp. 1-45.

[4] TSN, 20 September 1995, pp. 1-38.

[5] TSN, 20 March 1996, pp. 1-13.

[6] The term roughly means an "extension of the house;" Rollo, p. 80.

[7] TSN, 21 December 1995, pp. 1-22.

[8] TSN, 6 December 1995, pp. 1-22.

[9] TSN, 10 November 1995, pp. 1-20.

[10] Decision penned by Judge David A. Alfeche, Jr., RTC-Br. 38, Iloilo City, pp. 86 - 87.

[11] Uriarte v. People, G.R. No. 137344, 30 January 2001; People v. Celis, G.R. Nos. 125307-09, 20 October 1999, 317 SCRA 79; People v. Maramara, G.R. No. 110994, 22 October 1999, 317 SCRA 222; People v. Perez,

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G.R. Nos. 124366-67, 19 May 1999, 307 SCRA 276.

[12] People v. Hilario, G.R. No. 128083, 16 March 2001; People v. Yamson-Dumancas, G.R. Nos. 133527-28, 13 December 1999, 320 SCRA 584; People v. Altabano, G.R. No. 121344, 29 October 1999, 317 SCRA 708; People v. Garma, 338 Phil. 232 (1997); People v. Datun, G.R. No. 118080, 7 May 1992, 272 SCRA 380.

[13] People v. Laut, G.R. No. 137751, 1 February 2001; People v. De Labajan, G.R. Nos. 129968-69, 27 October 1999, 317 SCRA 566; People v. Lopez, G.R. No. 119380, 19 August 1999, 312 SCRA 684; People v. Domingo, G.R. No. 104955, 17 August 1999, 312 SCRA 487.

[14] Accused-appellant admitted that he could traverse the distance in five (5) to ten (10) minutes.

[15] People v. Endino and Galgarin, G.R. 133026, 20 February 2001; People v. Molina, G.R. No. 125397, 10 August 1999, 312 SCRA 131; People v. Lagarteja, G.R. No. 127095, 22 June 1998, 291 SCRA 142.

[16] Araneta, Jr. v. Court of Appeals, Nos. L- 43527 and 43745, 3 July 1990, 187 SCRA 122.

[17] People v. Bangcado, G.R. No. 132330, 28 November 2000, where the Court held: "It is submitted that the heirs of victims of murder, which is also a heinous crime, should not receive less than what victims of rape receive as civil indemnity. If the civil indemnity is automatically imposed upon the accused without need of proof other than the fact of the commission of the offense, all the more reason should the same minimum amount be imposed on those convicted of murder, as more often than not the victims who are killed leave behind grieving families who are dependent upon them for support. Thus, indemnity of P75,000.00 should therefore be reckoned for each count of murder committed by accused-appellant."

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