

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. FRANCISCO NARCA (AT LARGE), FELIX ANTIDO Y LUMBRE AND LITO ANTIDO Y LUMBRE, ACCUSED, FELIX ANTIDO Y LUMBRE AND LITO ANTIDO Y L...

G.R. No. 129217. August 25, 2000

Ponente: BUENA, J.

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BUENA, J.:

This is an appeal from the decision dated September 2, 1996 of the Regional Trial Court of Quezon City, Branch 80, in Criminal Case No. Q-92-30342, the dispositive portion of which reads:

“WHEREFORE, in the light of the foregoing, the Court finds accused Felix Antido y Lumbre and Lito Antido y Lumbre both guilty beyond reasonable doubt of the crime of murder as charged. Accordingly, the Court hereby sentences each of them to suffer the penalty of reclusion perpetua with the accessory penalties provided by law; to jointly and severally pay the heirs of the deceased Rodolfo Cardeno the amount of P50,000.00 for his death and the amount of P13,300.00 as actual damages as well as the sum of P15,000.00 as attorney’s fees and also the amount of P50,000.00 as moral damages.

“SO ORDERED.”[1]

The information against appellants and the other accused, Francisco Narca reads:

“That on or about the 5th day of October, 1991, in Quezon City, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring together, confederating and mutually helping one another, without any justifiable cause, with intent to kill, qualified by evident premeditation and treachery, taking advantage of superior strength, did, then and there, willfully, unlawfully and feloniously, attack, assault and employ personal violence upon the person of one Rodolfo Cardeno y Sonoga, by then and there, stabbing him on the different parts of his body with a bladed instrument, thereby inflicting upon him serious mortal wounds which were the direct and immediate cause of his untimely death, to the damage and prejudice of the heirs of the late Rodolfo Cardeno y Sonoga in such amount as may be awarded under the provisions of the Civil Code.

“CONTRARY TO LAW.”[2]

Appellants pleaded not guilty upon arraignment. Their co-accused remains at large.

The prosecution presented, as witnesses, the deceased’s companions Edwin Bautista and Joel Dayag, the deceased’s mother, Epifania Cardeno, Police Investigator SPO2 Alfredo Quilang, and Dr. Emmanuel Aranas of the PNP Crime Laboratory. The defense presented the following witnesses: appellants Felix Antido and Lito Antido, and Belen Berdal who corroborated the testimony of appellant Lito Antido that he was at his residence at the time of the incident.

After trial on the merits, the trial court convicted appellants.

The prosecution's version, as correctly summarized by the People's counsel, is as follows:

"At around six o'clock in the evening of October 5, 1991, Joel Dayag, Edwin Bautista, and the victim Rodolfo Cardeno were at Kasunduan Street, GAO, Quezon City to buy barbecue (p. 2, t.s.n., January 27, 1993). Dayag and Cardeno were engaged in a conversation while Bautista was buying barbecue when three (3) persons, whom Dayag later recognized as appellants Felix and Lito and their co-accused Narca, suddenly arrived (p. 3, id). To their surprise, Dayag was stabbed by appellant, Lito Antido (p.4, id).

"Dayag was hit at the back with a bladed weapon (id). Fearing for his life, Dayag ran away from the aggressors (p. 5, id). When he looked back, he saw appellant Felix holding the nape of the victim Cardeno (id). He even saw Cardeno being mauled and stabbed by appellants Lito and Felix, while Narca was standing as a look out (P.6, id).

"Dayag testified that appellants used a bladed weapon measuring one (1) foot long in stabbing the victim Cardeno who was declared dead on arrival at the East Avenue Medical Center in Quezon City, where the latter was brought (p.7, id).

"An autopsy examination was conducted on the body of the victim by Dr. Emmanuel L. Aranas of the Philippine National Police (PNP) Crime Laboratory, National Capital Region, Central Police District Command Station Four (4), who found out that the victim sustained two (2) stab wounds: (1) located on the right side of the chest below the heart area and (2) on the left side portion of the back (pp. 3-6, t.s.n., December 16, 1992). He further declared that stab wound number one (1) was fatal, xxx.

"Doctor Aranas opined that the stab wounds suffered by the victim were caused by a sharp bladed weapon (p. 7, id)."[3]

By way of defense, the accused pleaded alibi.

Accused Felix Antido, a deep well digger and a carpenter by occupation, testified that on October 5, 1991, he was at Barangay Dahlia, Fairview, Quezon City constructing a deep-well together with Francisco Narca starting from 8:00 o'clock in the morning until 5:00 o'clock in the afternoon and thereafter, they proceeded to Barangay Kasunduan Street. They saw three (3) persons approaching them and one of them was holding a piece of wood, while the others were armed with sharp objects. Said persons had a previous altercation with Francisco Narca. Francisco Narca told Felix Antido to escape as he might be involved in trouble, which the latter did. Felix Antido then proceeded to Barangay Krus Na Ligas, Quezon City. The following day, Felix Antido just stayed home and did not bother to report the incident to the police as he was afraid then. He recalled that on November 16, 1993, while constructing a door of a store at Krus Na Ligas Street, he was apprehended by the police in connection with this case and brought to COA Police Station at Fairview, Quezon City for investigation. At the said police station he was pinpointed and identified by the mother of the victim and other persons whom he did not know. He categorically denied his participation in the commission of the crime charged.[4]

Accused Lito Antido, a construction worker, testified that he was not at the scene of the crime on October 5, 1992 since he was then at Yellow Bell, Araneta Village, Leparo Street, Malabon, Metro Manila, working in one of the houses therein from 8:00 o'clock in the morning until 5:00 o'clock in the afternoon. Thereafter, he went straight to their rented house at the same village where he spent the night watching television until 10:00 o'clock in the evening with his mother-in-law. The following day, he resumed his work. From Malabon, he transferred his residence to Alinisan Street, Batasan Hills, Quezon City as he has construction work at U.P. He recalled that sometime on October 19, 1992, while attending a wake somewhere in Batasan, Quezon City at the invitation of his friend, he, together with a companion, were arrested by the police in connection with the case and was brought to the COA Police Station. While there, he was pinpointed by witnesses although he vehemently denied the accusation against him. A certain Belen Berdal, alleged neighbor of said accused, corroborated his testimony that,

on the date of the incident, she saw accused together with his mother-in-law, watching television.[5]

In this appeal, appellants raise the following assignment of errors:

I

“The court a quo erred in convicting the accused-appellants notwithstanding the failure of the prosecution to establish their guilt beyond reasonable doubt.

II

“The court a quo erred in appreciating treachery as a qualifying circumstance in the case at bar.”[6]

In support of the first assigned error, appellants contend that aside from the testimonies of the two eyewitnesses who were the victim’s companions, no other evidence would point to either Lito or Felix as the perpetrators of the crime; that no weapons were recovered from either of them and no independent witnesses were presented to corroborate the testimonies of Joel Dayag and Edwin Bautista; that accused-appellants were able to adequately explain their respective whereabouts during the time the killing happened, which was not rebutted by the prosecution; that it is possible that the victim was killed by someone else and his two (2) companions merely found it convenient to put the blame on Felix and Lito; that it is, likewise, also possible that it was either Joel Dayag or Edwin Bautista who killed the victim and allegedly, this would explain the wound sustained by Joel Dayag who was also stabbed. According to appellants, if these two were really concerned about Rodolfo Cardeno, why did they not exert efforts in bringing the victim to the hospital as soon as possible?

This Court finds the appellants’ contentions to be untenable.

Joel Dayag, one of the two companions of the victim, is a victim himself, having been stabbed by appellant Lito Antido. As such, Joel Dayag’s testimony, standing alone, can be made the basis of accused’s prosecution and conviction, if such testimony meets the test of credibility.[7] The matter of the accuracy of the identification by the victim of the offenders is a factual issue resolved by the trial court which should be given weight on appeal, unless there are convincing indications that certain facts or circumstances of weight and significance have been overlooked.[8] Upon careful examination of the records, this Court finds that the said eyewitness gave a straightforward and unequivocal account of the stabbing incident worthy of belief and no circumstances of weight and significance have been overlooked by the trial court. The testimonies of the eyewitnesses, Joel Dayag and Edwin Bautista are entitled to full faith and credit as there is no showing that the prosecution witnesses were actuated by any improper motive.[9]

Appellants aver that they were able to adequately explain their respective whereabouts during the time the killing happened. However, alibi is the weakest of all defenses and should be rejected when, as in this case, the identity of the accused has been sufficiently and positively established by eyewitnesses to the crime.[10]

As to appellants’ question why the deceased’s companions did not exert efforts in bringing the victim to the hospital as soon as possible, it is understandable that said companions also feared for their lives. Also, the workings of the human mind, under emotional stress, are unpredictable, such that people react differently to startling situations: some may shout, some may faint, others may be shocked into insensibility.[11]

As to the second assigned error, appellants submit that it is erroneous to convict them of murder because of the existence of alevosia, or treachery. Appellants argue that the prosecution never established that the accused consciously, or deliberately, adopted the mode of attack which led to the victim’s death, and that the prosecution did not even present any indicia of proof as to how the attack started. Appellants cite the case of *People vs. Garcia*, 258 SCRA 411, where it was held that treachery cannot be considered when the witnesses did not see the

commencement of the assault.

The Court is not persuaded.

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, and the fact that the act was frontal does not preclude the presence of treachery.[12]

In the case at bar, the prosecution was able to establish that the unexpected and sudden attack by the appellants rendered the deceased, Rodolfo Cardeno, unable to defend himself by reason of the suddenness and severity of the attack. Thus, prosecution eyewitness Joel Dayag testified:

“Q....Now, please tell this Court Mr. Witness the reason why you were there at that place on October 5, 1991 at 6:00 o’clock in the evening.

“A....We were there conversing with each other.

“Q....You were conversing with whom?

“A....Rodolfo Cardeno

“Q....How about Edwin Bautista?

“A....He was the one buying barbecue.

“X X X.....X X X.....X X X

“Q....When you saw Felix Antido, the brother of Lito Antido holding the nape of the victim in this case Rodolfo Cardeno, will you please tell this Court what was the relation of the position of Felix Antido in relation to Rodolfo Cardeno?

“A....He was at the back of Rodolfo Cardeno.

“Q....Will you please tell also Mr. Witness clearly what was the position of Rodolfo Cardeno the victim in this case while his nape was being held by Felix Antido?

“A....He was sitting down.”[13]

Deceased Rodolfo Cardeno was sitting and conversing with eyewitness Joel Dayag while his other companion, Edwin Bautista, was buying barbecue when appellants appeared from behind and stabbed him. No conversation took place between assailants and their victim. The appellants purposely approached the victim to kill him. Unarmed and unaware of the impending danger, the victim could not have defended himself against the attack from his back. Appellants deliberately adopted means to ensure the consummation of their objective – to kill the victim.

In *People vs. Saturnino*,[14] this Court held that:

“It is clear, therefore, that appellant is guilty of the crime of murder, qualified by treachery, he having approached Valdez from behind and struck him, without previous warning or altercation, when Valdez was engaged in a friendly conversation with other persons, and, hence, could not have possibly defended himself or even tried to escape.”

The trial court did not err in convicting appellants of the crime of murder qualified by treachery, since the elements of said crime were established by the prosecution.

The trial court also correctly awarded to the heirs of the victim the following: civil indemnity, actual damages, attorney’s fees and moral damages. When death occurs as a result of a crime, the heirs of the deceased are entitled to the amount of P50,000.00 as indemnity for the death of the victim without need of any evidence or proof of damages.[15] This is in consonance with Article 100 of the Revised Penal Code which provides that “Every

person criminally liable is also civilly liable.” The mother of the deceased Rodolfo Cardeno, Mrs. Epifania Cardeno, incurred expenses in the amount of P13,300.00 for coffin and cemetery lot,[16] and attorney’s fees (for hiring a private prosecutor) in the amount of P15,000.00 and P600.00 per appearance.[17] The victim’s mother also testified that she suffered sleepless nights and wounded feelings because of the death of her son,[18] which would justify an award for moral damages in the amount of P50,000.00.[19]

WHEREFORE, the decision appealed from is hereby AFFIRMED in toto.

SO ORDERED.

Bellosillo, (Chairman), Mendoza, Quisumbing, and De Leon, Jr., JJ., concur.

[1] Rollo, pp. 67-71.

[2] Original Record, p. 1.

[3] Appellee’s Brief, Rollo, pp. 85-87.

[4] TSN, Sept. 20, 1995, pp. 4-11.

[5] TSN, October 24, 1995, pp. 4-12.

[6] Appellant’s Brief, p. 4, Rollo, p. 62.

[7] People vs. Gapasan, 243 SCRA 53 (1995)

[8] People vs. Canturia, 245 SCRA 275 (1995)

[9] People vs. Piandiong, 268 SCRA 555 (1997)

[10] People vs. Sancholes, 271 SCRA 527 (1997)

[11] People vs. Bersabe, 289 SCRA 685 (1998)

[12] People vs. Dinglasan, 267 SCRA 26 (1997)

[13] TSN, January 27, 1993, pp. 3, 5-6.

[14] 96 Phil. 868 (1955)

[15] People vs. Espanola, 271 SCRA 689 (1997)

[16] Exhs. E, E-1, F, F-1, pp. 220-221, Original Records; TSN May 4, 1993, pp. 2-3.

[17] TSN, May 4, 1993, p. 4.

[18] TSN, May 4, 1993, p. 4.

[19] People vs. Mejos, 265 SCRA 689 (1996)

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