

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JOAQUIN BARRAMEDA AND ADOLFO BELGA, ACCUSED-APPELLANTS.*G.R. No. 130177. October 11, 2000*

Ponente: BELLOSILLO, J.

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JOAQUIN BARRAMEDA and ADOLFO BELGA were charged with murder for having conspired and helped one another in stabbing and hacking to death one Ruperto Dizon with treachery and taking advantage of their superior strength.[1]

On 20 May 1997 the court a quo found the accused Joaquin Barrameda and Adolfo Belga guilty as charged and sentenced both to death.[2] They were also ordered jointly and severally to indemnify the heirs of Ruperto Dizon in the amount of P50,000.00 for his death and to pay them P6,000.00 for funeral expenses plus another P50,000.00 for moral damages.

Romeo Barsaga, who was at the barangay hall of Tanagan, Bacacay, Albay, at seven o'clock in the evening of 9 June 1996 attending the barangay fiesta, testified that at nine o'clock that evening he left for the house of Edelina Burce in the same barangay. On the way, he heard a woman screaming. He rushed to the direction of the screaming and saw from a distance of about five (5) meters the two (2) accused simultaneously hacking Ruperto Dizon. The victim was unarmed. Joaquin who was in front of Ruperto was the first to hack him with a bolo. Adolfo who was following Ruperto from behind also struck him with a bolo. The continuous hacking by the two (2) accused felled the victim to the ground. Barsaga was gripped with fear that he immediately left and headed for the house of his cousins in Barangay Napao, Bacacay, Albay, where he spent the night. The following morning, 10 June 1996, Barsaga went to the house of Milagros Dizon, wife of Ruperto Dizon, in Barangay Cabasan, Bacacay, Albay, and told her that her husband was killed by the accused Joaquin Barrameda and Adolfo Belga.[3] Milagros then rushed to the Bacacay Police Headquarters where she saw the lifeless body of her husband.

The cadaver of Ruperto Dizon was autopsied by Dr. Merlie G. Beltran, Municipal Health Officer of Bacacay. Her autopsy report issued immediately after her examination on 10 June 1996 reflected her findings on the injuries sustained by Ruperto: (a) avulsion, scalp, 9 cm. x 2.5 cm., frontal area, involving superficial area of frontal bone; (b) hacked wound, parietal and occipital bones, 14 cm. long, gaping by 1.5 cm. with involvement of parietal and occipital lobes, brain; (c) abrasion with hematoma, shoulder, left, anterior area, 2.5 cm. x 1.5 cm.; (d) abrasion, chest, left, extending to the left arm, 14.5 cm. long; (e) stab wound, arm, right, 3 cm. long 2 cm. deep; (f) hacked wound, mandible, left, 7.5 cm. x 2 cm.; (g) stab wound, neck, left, 3 cm. long, 1 cm. deep; (h) Abrasion, neck, right 1 cm. long; (i) hacked wound, back, right 5 cm. long mid-scapular area; (j) hacked wound, 8.5 cm. x 2.5 cm., back, right, with fracture of scapular, superior area; (k) incised wound, back, right, 3 cm. long, inferior scapular area; (l) scratch wound, back, left, 5cm. long; (m) incised wound, knee, left, 3 cm. long. Final diagnosis: hypovolemia due to multiple hacked wounds.[4]

In his defense, Joaquin Barrameda testified that at about seven o'clock in the evening of 9 June 1996, which was

the eve of the barangay fiesta in Tanagan, his co-accused Adolfo Belga and wife Hermiliana, as well as Edmundo Besenio, Ruperto Dizon and Mando Bongadillo arrived in his (Joaquin) house. His wife was then nursing their baby at the sala. Ruperto Dizon ordered three (3) bottles of gin which he drank together with Besenio and Bongadillo. After the two (2) accused cooked supper in the kitchen, Belga's wife served the guests. Both accused and their families took supper at around seven-thirty in the evening.

After a while Mando Bongadillo asked permission to leave. Joaquin Barrameda and Ruperto Dizon resumed drinking while Adolfo Belga excused himself saying he was tired and wanted to rest. Ruperto then took out a P20-bill and asked Joaquin Barrameda to buy cigarettes. The latter acceded and left for the nearby store. When he was about twenty (20) meters away from his house he heard his wife and children shouting. When he looked back he saw Ruperto on top of his (Joaquin) wife. She was struggling to free herself from Ruperto who was forcibly kissing her. Joaquin then looked for a bolo and immediately struck Ruperto. Ruperto stood up and boxed Joaquin but the latter was able to duck. Joaquin then repeatedly hacked Ruperto. Ruperto fought back up to the kitchen. Joaquin kicked Ruperto who fell into the open toilet in the kitchen and afterwards, Joaquin looked for his family and found them in the house of one Loreta Barsaga. Joaquin further testified that he and his family did not return to his house that evening but slept instead in another house near Barsaga's residence.

Accused Adolfo Belga, for his part, swore that on 8 June 1996 he went to Pili, Camarines Sur, with his wife and child. They returned to Bacacay the following morning and proceeded to Telegrafo to take a motorboat to Tanagan. While waiting he drank with Ruperto Dizon, Mando Bongadillo and Edmundo Besenio and finished two (2) bottles of gin. At about five o'clock that afternoon Adolfo and his family together with Ruperto, Mando and Edmundo also boarded the motorboat to Tanagan arriving at their destination at seven o'clock in the evening. Although Ruperto told Adolfo that he (Ruperto) was going to Cabasan, Adolfo saw all three (3) - Ruperto, Mando and Edmundo - following him until they reached the house of Joaquin. Ruperto, Mando and Edmundo sat at the porch of Joaquin while Adolfo and his wife went to the kitchen and helped Joaquin cook supper.

Meanwhile, the three (3) visitors continued drinking and ate the food served by Joaquin and Adolfo. After supper, Adolfo asked permission to go to sleep and joined his family in the room. At about one o'clock the following morning, Adolfo was awakened by his wife who told him that she heard some noise outside as well as children crying. Although Adolfo himself heard nothing, just the same he and his wife woke their children up and they all proceeded to their house in Pigcobohan. According to Adolfo, when they left Joaquin's house, there was nobody there. On 20 June 1996, while he was on his way to Manila, Adolfo learned that Ruperto Dizon was killed and that he (Adolfo) was being arrested by the police.

To discredit the testimony of Romeo Barsaga, the defense also presented Ruben Bio who testified that Romeo was in his house in San Antonio, Santicon, Malilipot, Albay, from two o'clock in the afternoon of 9 June 1996 to ten o'clock the following morning; that Romeo consumed almost twenty (20) bottles of gin and slept at around midnight, and resumed drinking soon after until the following morning, leaving Bio's house at ten o'clock that same morning.

But the trial court disregarded the version of the defense and convicted the two (2) accused Joaquin Barrameda and Adolfo Belga of murder in conspiracy with one another, with treachery and taking advantage of their superior strength.

Accused-appellants now contend in this appeal that the court a quo erred (a) in totally disregarding their claim of defense of a relative as well as their denial, and (b) in giving full credence to the testimony of prosecution witness Romeo Barsaga which they characterized as unreliable.

We cannot sustain accused-appellants. The unbending jurisprudence is that findings of trial courts on the matter of

credibility of witnesses are entitled to the highest degree of respect and will not be disturbed on appeal. Barrameda's plea of defense of a relative and Belga's denial cannot prevail over the positive identification by prosecution witness Romeo Barsaga of the two (2) accused-appellants as the armed malefactors who simultaneously attacked and killed the unarmed Ruperto Dizon. This Court is not convinced that Romeo Barsaga falsely testified against accused-appellants as no evil motive was attributed to him. Detailed testimony about a murder which could not have been concocted is highly qualitative.[5] In this case, the detailed narration of Barsaga acquires greater weight and credibility against all the defenses of accused-appellants, especially because it jibed with the autopsy findings.[6] Where there was no showing of improper motive on the part of witness Romeo Barsaga for testifying against both accused-appellants, his testimony must be considered worthy of full faith and credit.

Having invoked the justifying circumstance of defense of a relative, accused-appellant Joaquin Barrameda is deemed to have admitted having killed the victim and the burden of proof is shifted to him to establish and prove the elements to set up the defense,[7] namely, (a) unlawful aggression, (b) reasonable necessity of the means employed to prevent or repel it, and, (c) in case the provocation was given by the person attacked, the one defending himself had no part therein.[8] In the case at bar, accused-appellant Joaquin Barrameda failed to present sufficient proof of the existence of a positively strong act of real aggression on the part of the deceased. Except for his self-serving and uncorroborated allegations, there is nothing on record that would justify his killing of Ruperto. He even failed to present his wife to corroborate his claim of sexual assault upon her by the deceased. Hence, the plea of defense of a relative cannot be justifiably entertained where it is not only uncorroborated by any separate competent evidence but is also extremely doubtful in itself.[9] The records show the presence of eight (8) stab, hack and incised wounds on the head and body of the deceased. If accused-appellant Barrameda stabbed the deceased merely to defend his wife, it certainly defies reason why he had to inflict several stab and hack wounds on the victim. The rule is settled that the nature and extent of the wounds inflicted on the victim negate an accused's defense of oneself or of a relative or a stranger.[10]

It is clear from the records that Joaquin Barrameda and Adolfo Belga conspired to kill the victim. Their simultaneous movement and concerted attack on the victim clearly evinced the existence of conspiracy.[11] The agreement to commit a crime may be gleaned from the mode and manner of the commission of the offense or inferred from the acts of the accused which point to a joint purpose and design, concerted action and community of intent.[12]

This Court however finds that the trial court erred in appreciating the qualifying circumstance of treachery. Where the lone eyewitness Romeo Barsaga did not see how the assault on the victim began, the trial court cannot conclude that treachery attended the commission of the crime.[13] Any doubt as to the existence of treachery must be resolved in favor of the accused. However, despite the absence of treachery, the factual circumstances of the crime show that the killing of the victim was qualified by abuse of superior strength, which is expressly alleged in the Information. Thus, the two (2) accused-appellants did not only enjoy superiority in number but they also used bolos while their victim was unarmed.[14] There was physical disparity between the protagonists and abuse of superior strength was obvious. The force used by the aggressors was out of proportion to the means of defense available to the victim.[15]

The murder of Ruperto Dizon was committed after the effectivity of RA 7659 which penalizes the crime with reclusion perpetua to death. In the absence of any other generic modifying circumstance, the penalty to be imposed upon each of the accused-appellants should be reclusion perpetua.

Conformably with established jurisprudence, the amount of P50,000.00 for civil indemnity and another P50,000.00 for moral damages were correctly awarded by the trial court to the heirs of the deceased Ruperto

Dizon, as well as P6,000.00 for actual damages in the form of funeral expenses which were duly established by Milagros Dizon, widow of Ruperto Dizon, with corresponding receipts.[16]

WHEREFORE, the assailed Decision convicting accused-appellants JOAQUIN BARRAMEDA and ADOLFO BELGA of murder is AFFIRMED with the modification that the penalty to be imposed upon each of them shall be reclusion perpetua in the absence of generic modifying circumstances. They are further ordered to pay the heirs of Ruperto Dizon P50,000.00 for civil indemnity, another P50,000.00 for moral damages, and P6,000.00 for funeral expenses.

SO ORDERED.

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

[1] Rollo, p. 8.

[2] Penned by Judge Arnulfo B. Cabredo, RTC-Br. 15, Tabaco, Albay.

[3] TSN, 6 March 1997, pp. 3-15.

[4] Records, p. 2.

[5] Arceño v. People, G.R. No. 116098, 26 April 1996, 256 SCRA 569.

[6] People v. de Guia, G.R. No. 123172, 2 October 1997, 280 SCRA 141.

[7] People v. Cahudo, G.R. No. 121178, 22 January 1997, 266 SCRA 554.

[8] People v. Santos, G.R. Nos. 99259-60, 29 March 1996, 255 SCRA 309.

[9] Jacobo v. Court of Appeals, G.R. No. 107699, 21 March 1997, 270 SCRA 270.

[10] See People v. Gregorio, G.R. Nos. 109614-15, 29 March 1996, 255 SCRA 380.

[11] People v. Landicho, G.R. No. 116600, 3 July 1996, 258 SCRA 1.

[12] People v. Sequino, G.R. No. 117397, 13 November 1996, 264 SCRA 79.

[13] People v. Obzunar, G.R. No. 92153, 16 October 1996, 265 SCRA 547.

[14] People v. Ballabare, G.R. No. 108871, 19 November 1996, 264 SCRA 350.

[15] People v. Patotoy, G.R. No. 102058, 26 August 1996, 261 SCRA 37.

[16] TSN, 17 March 1997, pp. 10-20; Records, pp. 64-66.

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