

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RONALD VITAL Y CASTRO, ACCUSED-APPELLANT.

G.R. No. 130785. September 29, 2000

Ponente: MENDOZA, J.

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MENDOZA, J.:

This is an appeal from the decision[1] of the Regional Trial Court, Branch 18, Manila, finding accused-appellant Ronald Vital guilty of murder and sentencing him to suffer the penalty of reclusion perpetua and to pay the heirs of the victim the sum of P10,100.00 as actual damages, P100,000.00 as moral damages, and P50,000.00 as indemnity plus the costs of the suit.

The information against accused-appellant charged:[2]

That on or about December 4, 1995, in the City of Manila, Philippines, the said accused, with intent to kill and with treachery and evident premeditation did then and there willfully, unlawfully and feloniously attack, assault and use personal violence upon the person of one LAWRENCE SANTOSIDAD y MANLULU, by then and there stabbing him several times with a deadly bladed weapon hitting him on the different parts of his body, thereby inflicting upon the said Lawrence Santosidad y Manlulu mortal stab wound which were the direct and immediate cause of his death thereafter.

CONTRARY TO LAW.

Accused-appellant pleaded not guilty. Thereafter, trial on the merits ensued.

The prosecution presented as its witnesses Francisco Estabillo, Ronesto Lotoc, Jermin Layao, SPO2 Jose Bagkus, Angelina Santosidad, and Dr. Manuel Lagonera. Their testimonies show the following:

Late in the evening of December 4, 1995, Ronesto Lotoc[3] and his two cousins were playing a game commonly known as “tong-its” in front of their grandmother’s store on Ibarra St., Tondo, Manila. They were joined by Francisco Estabillo.[4] While they were playing, Ronesto Lotoc saw accused-appellant Ronald Vital at the other store drinking a bottle of “Red Horse” beer. He later noticed accused-appellant walking back and forth near the place where they were.[5] Jermin Layao, who was watching the game, likewise noticed accused-appellant who seemed to him to be waiting for somebody (“Para pong may binabantayan siya”).[6]

At around 12:30 a.m., the victim, Larry Santosidad, arrived at the store with a companion. He sat beside Estabillo and watched as the group played “tong-its”. [7] Estabillo testified that accused-appellant went home while the game was on going.[8] He was, therefore, surprised when suddenly accused-appellant came back and pulled the victim from behind, causing the victim to fall from the wooden bench where he was sitting. Accused-appellant then pulled a kitchen knife and stabbed the victim several times while the witnesses, horrified, hurriedly left the scene. Estabillo tried to stop accused-appellant, telling him, “That’s enough.” But when accused-appellant made a gesture as if to attack him, Estabillo left. Accused-appellant fled towards Masinop alley. Estabillo followed the wounded victim but the latter collapsed before reaching his house. The victim was taken by his father to the

hospital.[9]

SPO2 Jose Bagkus went to Mary Johnston Hospital in Tondo, Manila but the victim was already dead. SPO2 Bagkus then proceeded to accused-appellant's house but did not find accused-appellant there. SPO2 Bagkus testified that on December 6, 1995, accused-appellant surrendered to SPO3 Vernon who then turned accused-appellant over to the Homicide Division of WPD Manila.[10]

Dr. Manuel Lagonera, who conducted the post mortem examination of the victim's body, found that the victim sustained six (6) stab wounds in various parts of the body, which were possibly caused by a single-bladed weapon. Dr. Lagonera opined that the victim struggled before his death, as evidenced by two (2) wounds on his left forearm.[11]

On the civil aspect of the case, the victim's mother, Angelina Santosidad testified that her family incurred expenses amounting to P60,000.00 on account of the victim's death. However, only the expenses for the coffin and the church mass were supported by receipts in the amount of P10,100.00.[12]

For his defense, accused-appellant denied any involvement in the killing of Lawrence Santosidad. He claimed that at around 12:30 a.m. on December 4, 1995 he was sleeping in his first cousin's house in Area B, Parola, Tondo, Manila, about half a kilometer away from the scene of the crime. He alleged that he stayed there for two days until his sister arrived in his cousin's house accompanied by several policemen who informed him that he was being charged for killing the victim. Accused-appellant went with them without resistance even if the policemen did not have a warrant for his arrest. However, accused-appellant claimed that on the way to the police headquarters, he had been subjected to brutalities by the policemen inside the taxi to force him to confess to the crime. He admitted that he knew the victim but denied killing him because he did not have any misunderstanding with the victim. Accused-appellant claimed that he was being charged with the crime because the victim's mother had a grudge against him.[13]

In its decision dated June 25, 1997, the trial court found accused-appellant guilty of murder. The dispositive portion of its decision reads:

WHEREFORE, this Court finds the accused, Ronald Vital y Castro, guilty beyond reasonable doubt of the crime of murder and he is sentenced to suffer the penalty of reclusion perpetua with all the accessory penalties provided by law, and to pay the costs.

As to the civil liability of the accused, he is ordered to indemnify the legal heirs of the victim actual and moral damages the sums of P10,000.00 and P100,000.00 respectively, and an additional sum of P50,000.00 for the victim's death.

SO ORDERED.

Hence, this appeal. Accused-appellant assigns the following errors allegedly committed by the trial court:

1)

THE LOWER COURT GRAVELY ERRED IN GIVING WEIGHT AND CREDENCE TO THE INCONSISTENT TESTIMONY OF THE PROSECUTION WITNESSES AND IN DISREGARDING APPELLANT'S ALIBI

2)

ASSUMING THAT HEREIN ACCUSED-APPELLANT KILLED THE VICTIM, THE LOWER COURT

GRAVELY ERRED IN FINDING THAT THE KILLING WAS QUALIFIED BY TREACHERY

3)

ASSUMING ARGUENDO THAT HEREIN ACCUSED-APPELLANT IS GUILTY OF THE CRIME CHARGED, THE LOWER COURT GRAVELY ERRED IN NOT APPRECIATING THE MITIGATING CIRCUMSTANCE OF VOLUNTARY SURRENDER

We find the appeal to be without merit.

First. Accused-appellant contends that there are material inconsistencies in the testimony of the prosecution witnesses. He points out that Estabillo testified the victim sustained three (3) stab wounds and was first stabbed at the back, while Layao declared that the victim was initially stabbed in the chest. Another witness, Lontoc, claimed that said victim sustained eight (8) stab wounds.

The contention is untenable. The alleged inconsistencies pertaining to the number of stab wounds sustained by the victim are inconsequential matters which did not affect the prosecution evidence establishing the guilt of accused-appellant. As held in one case:[14]

We find the inconsistencies to be merely on minor matters. It has been invariably held that inconsistencies on minor details usually do not destroy the probative value of a witness' testimony because generally, they may be due to an innocent mistake and not to deliberate falsehood. (People v. Lagota and Fernandez, G.R. No. 85795, February 14, 1991 citing People v. Bongo, 55 SCRA 547 [1974]; and People v. Resayaga, 54 SCRA 350 [1973]).

The testimonies of the prosecution witnesses show that accused-appellant was drinking a bottle of "Red Horse" beer in the store near the place where the victim was watching "tong-its;" that he went behind the victim and pulled him, causing him to fall from his seat; and that, once the victim was down, accused-appellant started stabbing him with a kitchen knife. These facts are well-established and, when taken collectively, are sufficient to convict accused-appellant for the crime of murder. The difference in the testimonies of Estabillo and Layao concerning which part of the body was the victim first stabbed does not affect their testimony pointing to accused-appellant as the assailant. While the testimonies are not free of inaccuracies or inconsistencies, this can easily be explained by the fact that persons experiencing the same occurrence under stress are likely to perceive such situation differently.[15] It is but natural for different witnesses to vary in detail in their testimonies about a single past event. Rather than showing falsehood, such inconsistencies reveal clear signs that the said witnesses had neither been tutored nor trained nor their testimonies been rehearsed.[16] Suffice it to say, the inconsistencies adverted to do not affect the probative value accorded to the evidence of the prosecution considered in its entirety.

Second. Alibi is inherently weak. This we have time and again pointed out. Accused-appellant claimed that he was in his cousin's house located in Area B, Parola, Tondo, Manila at the time of the incident. For one thing, such alibi cannot prevail over the positive identification by several prosecution witnesses that it was accused-appellant who stabbed the victim. For another, for alibi to serve as a basis for acquittal, it must be established by clear and convincing evidence. The requisites of time and place must be strictly met. The accused must show that he was at some other place for such period of time as to preclude or render impossible his presence at the place where the crime was committed at the time of its commission.[17] In this case, accused-appellant said the distance from his cousin's house in Parola St. and Ibarra St., Tondo, Manila is similar to the distance between the Manila City Hall to Plaza Lawton.[18] Accused-appellant failed to present credible evidence that it was physically impossible for him to be at the scene of the crime at the time of the incident.[19] Considering modern means of transportation, the distance between the place where the accused-appellant claimed to be and where the crime was committed

does not rule out the possibility of the appellant being at the place of the crime when it was committed.[20] As correctly observed by the trial court:[21]

The bare denial by the accused of the offense he is charged of and his claim that on the date and hour in question he was sleeping in the house of a cousin, a certain Neo Escario, (the name of whose wife the accused did not even know), which house is about half a kilometer from the scene of the stabbing incident, is not persuasive and is unworthy of credence. The identity of the accused has been positively established by prosecution witnesses Ronesto Lontoc, Jerminia Layao, and Francisco Estabillo, who had witnessed the commission of the crime.

Settled is the rule that positive testimony as to the presence of the accused at the scene of the crime and his identification carries a greater weight than negative testimony to the contrary. Moreover, the house of the accused' cousin where the accused claimed he was allegedly sleeping at the time the victim was stabbed is only half a kilometer away from the scene of the crime and it would not have been impossible for the accused to have been at the scene of the crime at the time of its commission.

Third. Accused-appellant argues that there was no treachery because, according to prosecution witnesses, the victim was able to struggle before he died. This contention cannot be sustained. The essence of treachery is that the attack, carried out swiftly, deliberately, and unexpectedly, rendered the unarmed and unsuspecting victim without opportunity to flee or defend himself. To show treachery, the prosecution must conclusively prove that the offender deliberately employed means, method or manner of attack which tended directly and specially to insure the execution of his felonious design without risk to himself arising from the defense which his victim might make.[22] In this case, the prosecution evidence shows treachery in the commission of the crime. It was undisputed that the victim was watching "tong-its" when accused-appellant suddenly appeared, pulled the victim's neck from behind, and stabbed the former without warning. After the victim fell from the bench where he was seated, accused-appellant stabbed him again for several times while the former tried in vain to parry the blows. Accused-appellant was thus able to perpetrate the crime without giving the victim a real chance to put up any form of defense. Accused-appellant's allegation that the victim was able to put up a defense is erroneous. The victim, while lying on the ground, raised his two hands to cover his body from accused-appellant's attack, an instinctive act which did not in any way indicate that he was able to defend himself. In fact, accused-appellant even admitted that the victim had polio; hence, accused-appellant knew that the victim would not have a real chance to defend himself. To be sure, even if the victim was standing, he would be unable to successfully evade accused-appellant's attack.[23] We agree with the following observations of the trial court:[24]

The sudden and unprovoked aggressive act of the accused in repeatedly and pitilessly stabbing the victim, who was unarmed and unaware, thereby ensuring the execution of the crime without risk to the accused, constitutes the crime of murder qualified by treachery under the 2nd paragraph, No. 16, Article 14 of the Revised Penal Code.

Fourth. Accused-appellant asserts that he was tortured by the policemen inside the taxicab to make him confess. This is irrelevant because there is no question concerning the admissibility of any confession made by him in this case. In fact, the prosecution witness SPO2 Bagkus even testified that, in the two investigations conducted by him, accused-appellant chose to remain silent. If accused-appellant was in fact maltreated by the police, his remedy is to file criminal actions for physical injuries against the erring policemen.

Fifth. Accused-appellant claims that he voluntarily surrendered to the authorities when they went to his cousin's house, two (2) days after the stabbing incident. We agree with accused-appellant. For the mitigating circumstance of voluntary surrender to be taken into consideration, it is necessary that the same must be spontaneous and done in such manner to show the interest of the accused to surrender unconditionally to the authorities, either because he acknowledges his guilt or because he wishes to save them the trouble and expense necessarily incurred in his

search and capture.[25] It has been held that this mitigating circumstance may properly be appreciated if the following requisites concur: (1) the offender was not actually arrested; (2) he surrendered himself to a person in authority or to an agent of a person in authority; and (3) his surrender was voluntary.[26] All the above requisites are present in this case. The record is clear that, as stated in the Affidavit of Apprehension,[27] executed on December 6, 1995 by SPO3 Ponciano and SPO1 Esto, accused-appellant's sister went to the Police Station and informed them that accused-appellant was in her cousin's house in Area B, Parola St., Tondo, Manila and was willing to surrender voluntarily to the authorities. Thus, when the authorities arrived, accused-appellant went with them without resistance. SPO3 Bagcus testified that on December 6, 1995, SPO3 Ponciano turned over custody of accused-appellant to him at the Western Police District Command, U.N. Avenue, Manila. Even if accused-appellant repeatedly mentioned in his testimony that he was arrested by the police officers, his entire testimony, taken together with the other evidence, still showed the voluntariness of his surrender. In a similar case, where the mayor facilitated the surrender of the accused when the former brought the authorities to where the accused was staying, this Court stated:[28]

As already noted, Diosdado Rapanut [accused] voluntarily went with Lt. Henry Thomas when the mayor brought the latter to where he was staying. All these had taken place before warrants for their arrest were issued. Accused-appellants are, therefore, entitled to the mitigating circumstance of voluntary surrender for what is required is that the offender voluntarily surrender himself to a person in authority or his agents before his actual apprehension.

On the basis of the foregoing, accused-appellant is entitled to the benefit of the mitigating circumstance of voluntary surrender. The trial court correctly imposed on accused-appellant the penalty of reclusion perpetua considering that the crime committed was murder and the penalty for the said crime is reclusion perpetua to death.[29] In accordance with Art. 62 of the Revised Penal Code, because of the presence of a mitigating circumstance and the absence of a generic aggravating circumstance in this case, the lesser penalty of reclusion perpetua should be imposed on accused-appellant.

Anent the civil aspect of the case, the expenses for funeral services and church mass were duly proven by receipts, aside from the testimony of Mrs. Santosidad. However, the rest of the expenses which she allegedly incurred, such as burial expenses and lost income among others, were only based on her bare allegations and not substantiated by documents. The trial court is correct when it viewed:[30]

With regard to the civil aspect of the case, the victim's mother, Angelina Santosidad claimed that she spent a total of P60,000.00 in connection with the death of her son but she presented in evidence only two receipts in the respective sums of P10,000.00 for funeral services, Exhibit "J" and P100.00 for funeral mass, Exhibit "K". The other expenses she had incurred were unreceipted and cannot, therefore, be recovered by her.

With respect to the alleged expenses incurred which were not duly receipted, the award of actual damages cannot be made on the basis of the testimony of Mrs. Santosidad alone. There must be competent proof of actual or compensatory damages suffered and evidence of the actual amount thereof.[31] Failure to substantiate such claim negates the award for actual damages.

WHEREFORE, the decision of the Regional Trial Court of Manila, Branch 18 is AFFIRMED with the MODIFICATION that the award of moral damages by the trial court amounting to P100,000.00 is reduced to P50,000.00.

SO ORDERED.

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

- [1] Per Judge Perfecto A.S. Laguio, Jr.
- [2] Rollo, p. 5.
- [3] Also referred to as Ronesto Lontoc; Ron-ron or Jon-jon.
- [4] TSN (Ronesto Lontoc), p.9, Sept. 18, 1996; TSN(Francisco Estabillo), p. 5, Oct. 3, 1996.
- [5] TSN (Ronesto Lontoc), p. 13-14, Sept. 18, 1996.
- [6] TSN (Jermin Layao), p. 18, Sept. 18, 1996.
- [7] TSN (Francisco Estabillo), p. 6 and 16, Oct. 3, 1996.
- [8] TSN (Francisco Estabillo), p. 15, Oct. 3, 1996.
- [9] TSN (Ronesto Lotoc), pp. 10-11, Sept. 18, 1996; TSN (Jermin Layao), p. 17, Sept. 18, 1996; TSN (Francisco Estabillo), p. 7-11, Oct. 3, 1996.
- [10] TSN (SPO2 Jose Bagkus), pp. 3-6, 11, Aug. 14, 1996.
- [11] TSN (Dr. Manuel Lagonera), pp. 3-7, Sept. 18, 1996.
- [12] TSN (Angelina Santosidad), pp. 3-4, 6, Sept. 11, 1996.
- [13] TSN (Ronald Vital), pp. 3-6, Nov. 21, 1996.
- [14] *People v. Moka*, 196 SCRA 378 (1991).
- [15] See *People v. Gandao*, 111 SCRA 298 (1982).
- [16] *People v. Malillos*, 24 SCRA 133 (1968).
- [17] *People v. Cruz*, 142 SCRA 576 (1986).
- [18] TSN (Ronald Vital), pp. 7-9, Nov. 21, 1996.
- [19] See *People v. Eustaquio*, 230 SCRA 527 (1994); *People v. Berame*, 72 SCRA 184 (1976).
- [20] *People v. Cruz*, 142 SCRA 576 (1986).
- [21] Rollo, p. 14.
- [22] *People v. Jamiro*, 279 SCRA 290 (1997), citing *People v. Cogonon*, 262 SCRA 693 (1996).
- [23] TSN (Ronald Vital), p. 7, Nov. 21, 1996.
- [24] Rollo, p. 14.
- [25] *People v. Sakam*, 61 Phil. 27 (1934).
- [26] *People v. Rapanut* 263 SCRA 515 (1996).
- [27] Exh. D.

[28] People v. Rapanut 263 SCRA 515 (1996).

[29] REVISED PENAL CODE, Art. 248, as amended by R.A. No. 7659.

[30] Rollo, p. 14.

[31] People v. Gallo, G.R. No. 128361, November 16, 1999; People v. Lachica, G.R. No. 94432, October 12, 1999; People v. Apelado, G.R. No. 114937, October 11, 1999.

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