PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ALBERTO FLORES Y SABADO AND RODOLFO FLORES Y SABADO, ACCUSED-APPELLANTS.

G.R. No. 131039. December 08, 1999

Ponente: PUNO, J.

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PUNO, J.:

This is an appeal from the Decision[1] f the Regional Trial Court of Bulacan convicting accused-appellants for the crime of murder committed against Michael Manlapig y Capalaran as follows:

> "That on or about the 25th day of February, 1996, in the municipality of Baliuag, province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the said accused Alberto Flores y Sabado @ Amang Mangot and Rodolfo Flores y Sabado @ Rudy with intent to kill one Michael Manlapig y Capalaran, conspiring, confederating together and helping one another, did then and there wilfully, unlawfully and feloniously, with evident premeditation, abuse of superior strength and treachery, attack, assault and stab with the bladed instrument they were then provided the said Michael Manlapig y Capalaran, hitting the latter on his head, thereby causing him serious physical injuries which directly caused his death.[2]

Trial ensued after accused-appellants pled not guilty to the charge.

The prosecution presented the victim's common-law-wife, Marissa B. Manlapig. She testified that on the night of February 25, 1996, Michael slept drunk. She followed him to bed at 11:00 p.m. Before sleeping, she left a gas lamp (gasera) lighted as she had a little child. Afterward, she woke up because of a stomachache and she heard a rustling noise by the door. She squinted and looked toward the direction of the sound. She noticed that the door was open. She saw persons inside the house. She recognized them because of the light coming from the gas lamp. They were Alberto and Rodolfo Flores. She pretended to close her eyes and saw the intruders proceed near their bed. Rodolfo then stabbed Michael at the back of his left ear while Alberto was strangling him. They put down his head and left.[3] The culprits were merely one (1) foot away from Marissa when they killed Michael.[4]

Marissa went out of the house and called her brothers and sisters. They brought the victim to the Prado Hospital, Baliuag, Bulacan, where he was pronounced dead on arrival. Dr. Severino Marcelo who attended the victim found a 1.5 centimeter lacerated wound near his ear (preauricular area).[5] He opined that the assailant was at the right lateral side of the victim when it was inflicted. He did not conduct an autopsy of the victim.[6]

The following morning, Marissa reported the crime to Eladio San Pedro, Chief of the Investigation Section of the Baliuag Police Station. She stated she had no knowledge how Michael was killed. San Pedro asked Marissa whom she suspected of the crime. She named Alberto Flores because a day before the incident, the latter had a quarrel with Michael at the market. Michael told her about the quarrel on the morning of February 25, 1996. Thus, San Pedro led a team of police officers and went to the house of Alberto Flores. They arrested and brought him to the police Station. At the police station, Alberto allegedly admitted that he and Rodolfo killed the victim in order to exact revenge.[7] Alberto made the admission without the assistance of counsel. He was arrested without any

warrant of arrest.

Accused-appellants interposed denial and alibi as their defense. Rodolfo Flores alleged that he and the victim were neighbors at Little Baguio, Baliuag, Bulacan. They had known each other for at least six years. He was at home at the time of the incident. He denied that he had any reason to kill the victim. He only learned that Michael was killed upon his arrest. He was detained at the municipal jail of Baliuag and later transferred in the provincial jail.[8]

Alberto Flores claimed that he was at home sleeping during the time of the incident. He resides at Libis, Baliuag, Bulacan which is two (2) barrios away from Little Baguio. He knows the victim but they were neither friends nor enemies.

After his arrest, he was detained at the municipal jail of Baliuag, Bulacan and later transferred at the provincial jail. He complained that policeman San Pedro has previously arrested him for crimes that he did not commit.[9]

In a decision dated April 3, 1997, the trial court convicted the accused-appellants. It relied heavily on the testimony of Marissa. It held that she has no reason to testify falsely against them. It observed that she testified sincerely, candidly and was straightforward in the witness stand. It accepted her explanation that she did not immediately identify the accused-appellants out of fear as they were then still at large. It ruled that the positive identification of the accused negated their defense.[10] The trial court further found that treachery attended the commission of the crime.

The disposition of the decision reads:

> "WHEREFORE, this Court finds the accused ALBERTO FLORES and RODOLFO FLORES GUILTY beyond reasonable doubt as principals of the crime of Murder as charged in the Information as defined and penalized under Article 248 of the Revised Penal Code and thereby sentences them to suffer the penalty of reclusion perpetua and to indemnify the heirs of Michael Manlapig the sum of P14,000.00 as actual damages, P50,000.00 as compensatory damages and P30,000.00 as moral damages and to pay the cost of this suit."[11]

Accused-appellants assign the following errors committed by the trial court, viz:

> "1. In perceiving that appellants' evidence is mere alibi and therefore, inferior and weak, compared to positive identification;
>
> "2. In appreciating the existence of treachery and use of excessive force by appellants on the deceased Michael Manlapig; and
>
> "3. In convicting the appellants based on the very weak evidence adduced by the prosecution."[12]

In support of these assignment of errors, accused-appellants cite the glaring inconsistencies made by Marissa in her sworn statement at the police station and her testimony in court. In her sworn statement, she claimed that she did not see how and who killed the victim. She alleged that the victim was stabbed twice -"isa sa kanang sentido (right temple) at isa sa kanang butas ng tainga (right ear)."[13] However, in her testimony, she claimed that she saw Rodolfo stab the victim. She declared that the victim was stabbed on his left temple[14] nd left ear.[15] Accused-appellants also insist lack of motive to kill the victim.

We acquit.

Jurisprudence forewarns that when serious and inexplicable discrepancies are present between a previously executed sworn statement of a witness and her testimonial declarations with respect to one's participation in a serious imputation such as murder, there is raised a grave doubt on the veracity of the witness' account.[16] In the case at bar, it is difficult to reconcile the inconsistencies made by Marissa in her sworn statement and testimony in

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court. It is even more difficult to accept her explanation in committing these inconsistencies.

An examination of her sworn statement and her testimony will reveal why her truthfulness is doubtful. In her sworn statement, she answered the questions of the investigating officer in the following manner:

> "07. T: Nakita mo ba ang ginawang pagpatay kay Michael?
>
> S: Hindi po.
>
> "08. T: Sino naman ang posibleng sumaksak at pumatay kay Michael?
>
> S: Sina RUDY FLORES at ang kapatid nitong si AMANG MANGOK FLORES na kapwa taga Libis-Poblacion, Baliuag, Bulacan."[17]

In the witness stand, she testified that:

> "Q - After the door was opened, what happened?
>
> "A - I saw somebody was inside the house, so I closed my eyes, ma'am.
>
> "Q -
>
> After you closed your eyes, what happened?
>
> "A - When I saw them entered the house, I pretended to close my eyes and when they were already at our head they stabbed my husband, ma'am.
>
> "xxx
>
> "Q- When you said you saw them stabbing your husband, who in particular did you see stabbing your husband?
>
> "A - Rudy, ma'am.
>
> "Q - And what was Alberto Flores doing at the time that Rodolfo Flores was stabbing your husband?
>
> "A - He was holding my husband, ma'am."[18]

On cross-examination, she tried to explain the contradiction as follows:

> "Q - Do you recall, Madam Witness, giving a statement here that you were unable to see who stabbed your husband?

"A - Yes, sir. But the truth of the matter is that, I did not identify them because they were still at large at that time.

"Q - You are now telling the Court that your statement xxx is not really the truth when you said that you did not see who stabbed your husband?

"A - Only that portion wherein I said that I was sleeping, sir."[19]

Marissa's explanation is implausible. As can be seen, Marissa gave the names of accused-appellants in her statement. Thus, her explanation that she did not identify accused-appellants out of fear strains credulity to its seams. When a witness makes two sworn statements and these two statements contradict each other in essential details, the court cannot accept either statement as worthy evidence. By his own act of giving false testimony, the witness impeaches his own testimony.[20]

To be sure, her sworn statement supports the theory that she did not really see who stabbed her husband. Thus:

"18. Tanong: Anong oras mo bang nakitang buhay itong si MICHAEL?

Sagot: Kagabi po, ika-25 ng Pebrero, 1996, bandang alas 10:00 ng gabi, bago ako matulog sa tabi niya.

"19. T: Anong oras mo naman nalaman na patay na itong si MICHAEL?

S: Kagabi rin po, ika-25 ng Pebrero, 1996, bandang alas 12:00 ng gabi, nang ako ay maalimpungatan at makita kong bukas ang aming pintuan na sinigurado kong sarado bago ako natulog.

"20. T: Ano ang napansin mo kay MICHAEL nang ikaw ay maalimpungatan noong oras na iyon?

S: Kinabahan na nga po ako nang makita kong bukas ang aming pinto at nang ginigising ko si MICHAEL ay nakita kong duguan na si MICHAEL.[21]

Even the alleged motive of accused-appellants in killing the victim can not be given full faith and credit. Again, Marissa offered two versions on how she came to know such motive. In her sworn statement she said:

"09. T: Bakit mo naman tinukoy sina RUDY FLORES at AMANG MANGOK FLORES na siyang posibleng pumatay kay MICHAEL?

S: Dahilan po sa sila ang nakagalit ni MICHAEL at siyang naghahanap kay MICHAEL bago naganap ang pagpatay kay MICHAEL.

"10. T: Paano naman nakagalit ni MICHAEL itong sina RUDY at AMANG MANGOK?

S: Sang-ayon po kasi sa nagkuwento sa akin ay sinaktan ni MICHAEL si AMANG MANGOK[.]"[22]

On the witness stand, she changed her sworn statement to:

"Q - Do you know of any reason why Alberto Flores and Rodolfo Flores would do this to your husband?

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"A - My husband happened to have quarrelled with the brother of Rudy, ma'am.

"xxx

"Q -

When was it when your husband had a quarrel with Alberto Flores or Angot?

"A - February 24, 1996, ma'am.

"xxx

"Q - And do you know the reason why they quarrelled?

"A - I don't know the reason ma'am.

"Q - How did you come to know of that quarrel?

"A - My husband told me the following morning, ma'am."[23]

On cross examination, Marissa further muddled up the issue of motive. This time, she said she had personal differences with the accused-appellants, viz:

"Q - Real reason why you are pointing to these two (2) brothers, the accused, as perpetrators of the crime because you have personal differences to (sic) them?

"A - Yes, sir."[24]

The trial court should have rejected the story of Marissa on the alleged motive of accused-appellants. Her story rests on the quicksand of hearsay. The alleged quarrel between the victim and the accused-appellants was beyond her personal knowledge.

Equally perplexing is the absolute absence of any action on the part of Marissa when she saw the intruders before they killed the victim. By her testimony, she did not even wake up the victim to warn him that there were intruders in their house. She did not call for help. Neither did she attempt to help the victim while he was being attacked. Nor did she make any move to protect her children who were sleeping by her side. All these omissions do not enhance her credibility.

The Court has no option but to acquit. This is in keeping with the worn-out principle that the prosecution must rely on the strength of its evidence and not on the weakness of the defense.[25] So often has it been said that it is better for 100 criminals to go free than for one innocent man to be convicted.[26] Conviction should be decreed only when the exacting standard of proof beyond reasonable doubt is met.

Finally, the Court commends the Free Legal Aid Clinic of the IBP-Bulacan Chapter for handling the case of

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accused-appellants with due diligence. Especially worthy of mention is the efforts of Atty. Crescenciano C. Santiago who defended the accused-appellants pro bono yet with commendable zeal and skill.

IN VIEW WHEREOF, the decision appealed from is reversed. Accused-appellants are ACQUITTED because of reasonable doubt. They are ordered released from confinement immediately, unless they are being lawfully held for other reasons. The Director of Prisons shall inform this Court of the proper implementation of this Decision within ten (10) days from its receipt.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Kapunan, Pardo, and Ynares-Santiago, JJ., concur.

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[1] Criminal Case No. 453-M-96.

[2] Records, p. 1.

[3] TSN, May 27, 1996, pp. 3-7

[4] Ibid., p. 14.

[5] TSN, September 9, 1996, p. 3.

[6] Ibid., pp. 2-4

[7] TSN, July 1, 1996, pp. 3-5.

[8] TSN, October 2, 1996, pp. 2-4.

[9] Ibid, pp. 6-7, 9.

[10] RTC Decision, p. 18, penned by Judge Manuel R. Ortiguerra.

[11] Ibid., p. 19.

[12] Rollo, p. 97.

[13] Exhibit "A"; Records, p. 5.

[14] TSN, May 27, 1996, p. 7.

[15] Ibid., p. 15.

[16] People vs. Ortiz, 650 SCRA 641 (1996).

[17] Records, p. 5.

[18] TSN, May 27, 1996, p. 6-7.

[19] Ibid., p. 11.

[20] See Regalado, Remedial Law Compendium, vol. II, 1995, p. 684, citing U.S. vs. Pala, et al., Phil. 190 (1911).

[21] Records, p. 6.

[22] Records, p. 5.

[23] TSN, May 27, 1996, pp. 8-9.

[24] Ibid., p. 14.

[25] People vs. Solis, 182 SCRA 182 (1990).

[26] People vs. Capilitan, 182 SCRA 313 (1990).

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