

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RODELIO PERALTA Y CALAMAAN, AND FERDINAND QUIAMBAO, DEFENDANTS-APPELLANTS.

G.R. No. 131637. March 01, 2001

Ponente: BUENA, J.

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BUENA, J.:

A criminal information[1] for murder, dated May 4, 1987, was filed against Rodelio Peralta y Calamaan, alias Mike and Nognog, together with Ferdinand Quiambao alias Ferding, for stabbing Ramon Mendoza resulting to his death. The case was archived[2] and was revived only on June 7, 1996[3] following the arrest of Rodelio Peralta on June 4, 1996.[4] At that time, Ferdinand Quiambao remained at-large.

Upon the scheduled arraignment, sometime in 1996, counsel for accused Peralta also appeared in behalf of accused Quiambao and manifested in court that the latter is voluntarily placing himself at the court's disposition and that accused Quiambao was never in hiding but is actually out on recognizance, citing the fact that accused Quiambao is likewise a defendant in another criminal case pending in Pasay City.[5] When arraigned, both accused entered a plea of not guilty.

At the trial, prosecution evidence pointed to both accused as the assailants following the narration given by Milagros Garcia Mendoza [hereinafter referred to as Milagros], the common law wife of the victim, who testified in court that she saw the stabbing incident. According to her, while the victim was outside the parlor waiting for her, both accused suddenly arrived from behind. While the victim was standing, Peralta yanked the left shoulder of the victim and stabbed him once on his chest upon the instruction of Quiambao who was then less than a meter behind Peralta. After stabbing the victim, both accused fled. Immediately, the victim and Milagros ran towards the direction of their house. Thereat, the victim collapsed on the ground. When brought to the hospital, the victim was pronounced dead on arrival.

Milagros further testified that there exists no animosity between the victim and both accused. The displeasure with her husband and accused started with her husband's brother, Raymundo Mendoza, who went on a drinking spree with the accused. In this regard, brother of the victim, Raymundo Mendoza, testified in court that prior to March 10, 1997, both accused were his friends. However, after an incident between him and the wife of accused Quiambao, the latter, with a friend, made an attempt on his life, which he was able to escape. After the attempt on his life, he allegedly warned the victim.

Police investigators who handled the case testified in court that when they proceeded to the crime scene, the names of both accused surfaced during their on-the-spot investigation but both accused were nowhere to be found.[6] When the case was finally filed in court and the accused remained at-large, the case was archived and was revived only following the arrest of accused Peralta and the appearance of accused Quiambao.

For his defense, accused Quiambao vehemently denied any participation in the killing of the victim Ramon Mendoza. He claimed that he has no knowledge of the murder incident being imputed against him and neither was

he aware of the existence of a warrant for his arrest. He posited that he knows the victim only by name because they live in the same barrio. He admitted being more acquainted with the victim's brother Raymundo Mendoza but denied any knowledge on the alleged attempt against Raymundo Mendoza's life. He further declared that he was unaware of the incident between his wife and Raymundo Mendoza and learned the same only in court.

As for accused Peralta, he claimed that he was in San Vicente, Tarlac on the day the stabbing occurred. He admitted having resided in the same place where the victim resides, from 1982 to 1986. He testified that he knew the victim from 1982 to 1986. With respect to accused-appellant Quiambao, he testified that they were friends only because they used to work together in 1983, but in 1986 they separated ways. Since 1986 he had been staying in Tarlac but occasionally visits his sister at Zone 7, Western Bicutan, Taguig, Metro Manila. He averred that he has no misunderstanding with the victim but posited that he was framed in this case because the victim's common-law wife harbors a grudge against him. He declares that on June 2, 1996, he came to Taguig coming from Tarlac to deliver his nephew's driver's license. Thereat, he alleged that the Taguig Police Force apprehended him in the afternoon of the same day. He declared that he was not informed that he was being arrested for killing Ramon Mendoza.

After trial, both accused were found guilty of murder and were respectively sentenced to suffer the penalty of reclusion perpetua, thus:

"WHEREFORE, finding both accused RODELIO PERALTA y CALAMAAN, alias 'Mike', alias 'Nognog' and FERDINAND QUIAMBAO, alias 'Ferding,' GUILTY beyond reasonable doubt of the crime of Murder, qualified by treachery as charged in the Information, and there being no mitigating or any aggravating circumstance, they are both hereby sentenced to suffer the penalty of reclusion perpetua; to indemnify the heirs of victim Ramon Mendoza in the amount of Fifty thousand Pesos (P50,000.00); to pay the sum of Fifteen Thousand Pesos (P15,000.00) as funeral expenses; and the further sum of Fifty Thousand Pesos (P50,000.00) by way of moral and exemplary damages, all without subsidiary imprisonment in case of insolvency; and to pay the costs.

"In the service of their sentence, both accused shall be credited in full with the period of their preventive imprisonment.

"Let a Commitment Order be issued for the transfer of accused RODELIO PERALTA y CALAMAAN, alias 'Mike,' alias 'Nognog,' and FERDINAND QUIAMBAO, alias 'Ferding,' from Camp Bagong Diwa, Bicutan, Taguig, Metro Manila, to the Bureau of Corrections, Muntinlupa City.

"SO ORDERED."[7]

Hence, this appeal raising the following issues -

I.

THE TRIAL COURT ERRED IN FINDING THAT APPELLANTS CONSPIRED TO KILL RAMON MENDOZA.

II

THE TRIAL COURT ERRED IN FINDING THAT TREACHERY QUALIFIED THE KILLING TO MURDER.

In the first assigned error, accused-appellant Quiambao asserts that the prosecution's evidence is insufficient to support his conviction. He anchors his acquittal on the alleged lack of credibility of prosecution witness Milagros, common-law wife of the victim, that she could not have heard accused-appellant Quiambao utter to accused-appellant Peralta - "Sige pare, saksakin mo yan nakatalikod" unless the witness is a lip reader.

Accused-appellants' appeal rests on the determination of the credibility of prosecution witness Milagros. It must be observed that where issues raised involve the credibility of witnesses, the trial court's findings on the credibility of witnesses are entitled to the highest degree of respect and will not be disturbed on appeal absent any clear showing that it overlooked, misunderstood or misapplied some facts, or circumstances of weight or substance, which could have affected the result of the case[8] which does not appear in this case. The contention of appellant that prosecution witness Milagros could not have heard such utterances is inadequate to overturn the established fact that Milagros witnessed the stabbing of her husband by accused-appellant Peralta upon the prodding of accused-appellant Quiambao. Considering the proximity of the location and that Milagros was only an arm's length away from her husband, the trial court cannot be faulted for giving credence to witness' testimony that she saw the crime that was then unfolding. Adding credence to her testimony is the fact that relatives of a victim of a crime have a natural knack for remembering the face of the assailant and they, more than anybody else, would be concerned with obtaining justice for the victim by bringing the malefactor to the face of the law. Indeed, family members who have witnessed the killing of a loved one usually strive to remember the faces of the assailants.[9] As the trial court held:

" xxx xxx xxx

"The testimonies of both accused herein and that of their witnesses, aside from being self-serving, fall flat in the face of the clear and categorical eyewitness account of the incident given by Milagros Mendoza, wife of the deceased, and whose testimony the Court gives more credence.

"In a straightforward manner, devoid of any trace of ill motive, which both sides acknowledged to be non-existent, Milagros Mendoza reiterated to the Court the details of her husband's untimely demise. She was there when both accused suddenly, and without any warning pounced on her unsuspecting husband who was, at that time, standing by the door of the beauty parlor where she was having her hair trimmed.

`A witness who testifies in a categorical, straightforward, spontaneous and frank manner, and remains consistent is a credible witness.'

`Alibi and denial cannot prevail over the positive identification of the accused as the perpetrator of the crime.'

"To her horror, Milagros Mendoza saw it all. Accused Quiambao, in an apparent display of a premeditated intent with accused Peralta, she distinctly heard instructed the latter, thus, `Sige pare, saksakin mo na, ayan, nakatalikod.' Accused Peralta, without hesitation obliged. Then he pulled Ramon Mendoza by the left shoulder and plunged the fatal blow right at the very heart of his victim. Then both accused fled.

"Milagros Mendoza positively identified both accused. She even distinguished each of their participation in the killing of her husband.

`Greater weight is given to the categorical identification of the accused by the prosecution witnesses than to the accused plain denial of participation in the commission of the crime.'

`It is well-settled rule that an affirmative testimony is far stronger than a negative testimony especially so when it comes from the mouth of a credible witness.'

"xxx xxx xxx."[10]*

The trial court correctly rejected the defense of alibi of accused-appellants because of the positive identification[11] of prosecution witness Milagros who does not appear to have any motive against them to fabricate evidence. The allegation of ill motive on the part of the prosecution witness Milagros in testifying against accused-appellants remains unsubstantiated. The identity of accused-appellants and their participation in the stabbing incident has been established beyond reasonable doubt with the testimony of Milagros that she saw

the stabbing. The disavowal of accused-appellants in the crime imputed against them claiming that they were never in hiding but in fact never knew that they were accused of the crime is inherently weak considering that the victim and accused-appellants were "barriomates".[12] Moreover, conspiracy is amply and sufficiently proven in this case. Accused-appellants approached the victim from behind. When accused-appellant Quiambao told Peralta to stab the victim, accused-appellant Peralta yanked the left shoulder of Ramon and immediately stabbed the latter on his chest. After the stabbing, both accused-appellants fled and were apprehended only after more than nine (9) years from the filing of the criminal case in court. These acts taken together, are sufficient to establish the existence of a common design among accused-appellants to commit the offense charged.

Anent the second assigned error, accused-appellants likewise contend that the trial court erred in appreciating the aggravating circumstance of treachery. In crimes against persons, treachery exists when the accused employs, means, methods, and forms which directly and specially ensure its execution, without risk to himself arising from the defense which the offended party might make.[13] To rule that treachery exists in the commission of the crime it must be shown that at the time of the attack, the victim was not in a position to defend himself and accused-appellants consciously and deliberately adopted the particular means, methods or forms of the attack employed by him.[14] In the instant case, the victim was stabbed on his chest. While the stab wound appears frontal, it was shown that accused-appellants came from behind and yanked the victim's shoulder in order to inflict the fatal blow. The manner of attack was duly proven and the infliction of the stab wound was the result of a deliberate act. The post mortem-examination showed one stab wound, thus-

"Fairly nourished, fairly developed, in rigor mortis, generalized, pallor.

"Contused abrasions: cheek, left, 3.0 x 3.0 cms., molar area, left, 4.0 x 5.0 cms., maxillary region, left, 1.0 x 3.0 cms.

"Wound, stab: located at the chest, along left midclavicular line, left side, 8.5 cms. To the left of anterior median line; elliptical in shape; 1.5 cms. Long, oriented downward and slightly medially; edges, clean cut, infero-medial extremity, sharp, supero-lateral extremity, blunt; directed backward, upward and medially; involving among other the skin and underlying soft tissues, piercing thru the left 4th intercostal space along the left midclavicular line, into the left thoracic cavity, piercing the pericardial sac, into the pericardial cavity, lacerating thru the left ventricle and thru the right auricle; with an approximate depth of 13.0 cms.

"Brain and other visceral organs, pale.

"Heart, empty.

"Hemopericardium about 300 cc of dark fluid blood.

"Hemothorax, right 500 cc.; left 1,500 cc. Fluid and dark clotted blood.

"Stomach, empty.

"CAUSE OF DEATH:

Hemorrhage, profuse, secondary to stab wound of the chest."[15]

At the time of the fatal attack, the victim was standing in front of the parlor while waiting for his wife. The victim, at that moment was unaware of what would befall him and was not given an opportunity to defend himself or retaliate. In fact, the medico-legal officer[16] who conducted the examination on the cadaver of the victim posits that there appears no defense wounds on the body of the victim which indicates that the victim was not able to defend himself from the attack.[17]

On the basis of the foregoing considerations, we are convinced that accused-appellants are guilty of murder as

found by the trial court.

WHEREFORE, the judgment appealed from convicting accused-appellants RODELIO PERALTA Y CALAMAAN and FERDINAND QUIAMBAO guilty beyond reasonable doubt of the crime of MURDER is hereby AFFIRMED.

SO ORDERED.

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

[1] The information reads-

"That on or about the 10th day of March, 1987, in the Municipality of Taguig, Metro Manila, Philippines, and within the jurisdiction of this Honorable Court, the said accused, confederating and conspiring together and mutually helping and assisting one another, and with intent to kill, did then and there willfully, unlawfully and feloniously, and with treachery and evident premeditation, attack and assault Ramon Mendoza with a deadly weapon, thereby inflicting a fatal wound in the left chest of said Ramon Mendoza which caused his direct and immediate death.

"Contrary to law." Records, p. 1

[2] Records, p. 8.

[3] Ibid., p. 15.

[4] Ibid., p. 12.

[5] Ibid., pp. 28-32.

[6] TSN, December 18, 1996, p. 6.

[7] Records, pp. 211-225 at p. 225.

[8] People of the Philippines vs. Ariel Pedroso y Ciabo, G.R. No. 125128, July 19, 2000, citing People vs. Pulusan, 290 SCRA 353 [1998].

[9] People of the Philippines vs. Oscar Mansueto, G.R. No. 135196, July 31, 2000.

[10] RTC Decision, Rollo, pp. 15-29 at pp. 28-29 * citations omitted.

[11] People vs. De Guia, 280 SCRA 141, 158 [1997].

[12] TSN, p. 10, March 4, 1997 cross of accused-appellant Rodelio Peralta y Calamaan; TSN, March 20, 1997, p. 3, direct examination of accused-appellant Ferdinand Quiambao.

[13] People of the Philippines vs. Efren Mindanao y Gumabao, G.R. No. 123095, July 6, 2000.

[14] People of the Philippines vs. Rolando Cardel y Dizon and Arnold Calumpang y Valerio, G.R. No. 105582, July 19, 2000.

[15] Exhibit H, records p. 121.

[16] Dr. Renato C. Bautista

[17] TSN, January 7, 1997, p. 12.

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