

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. LEONARDO BIHISON Y SILENCIO, PEPITO KADUSALE Y DEIS AND RELITO TIPONTIPON Y ESTOY, ACCUSED-APPELLANTS.

G.R. No. 132024. June 17, 1999

Ponente: VITUG, J.

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VITUG, J.:

In their appeal from the decision, dated 10 October 1993, of the Regional Trial Court of Cavite Branch 18, to the Court of Appeals, accused-appellants Pepito Kadusale, Relito Tipontipon, Eduardo Bihison and Leonardo Bihison sought a reversal of the verdict finding them guilty beyond reasonable doubt of the crime of murder. The information filed against appellants read:

"The under signed 1[st] Assistant Provincial Prosecutor hereby accuses EUFEMIO CABINGAN, PEPITO KADUSALE, EDUARDO BIHISON, RELITO TIPONTIPON, LEONARDO BIHISON, PONCIANO DUCUSIN, DOMINGO DUCUSIN, CARLOS MENDOZA, JUNIOR DOYOLA, BASILIO BUKLATIN, ALBERTO DUCUSIN, EMILIO DUCUSIN, CARDING BRAZA and BOY DOE of the crime of MURDER, committed as follows:

"That on or about the 23rd day of February 1992 at Barangay Adlas, Municipality of Silang, Province of Cavite, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually helping and aiding one another, with intent to kill, being then armed with bladed and pointed weapons, with treachery and evident premeditation, did, then and, there, willfully, unlawfully and feloniously, attack, hit, assault and stab one Honorio Lintag inflicting upon him mortal wounds which caused his subsequent death, thereby causing damage and prejudice to his legal heirs."[1]

Of the fourteen accused, only Eufemio Cabingan, Pepito Kadusale, Relito Tipontipon, Leonardo Bihison and Eduardo Bihison had been arrested and brought to trial following a plea of not guilty entered by the accused at the arraignment. The prosecution presented its case. After the prosecution had rested, the defense started to give its own account of the evidence . Its presentation could not be completed, however, due to the repeated failure of the counsel for the accused to appear for trial despite notice. Finally, on 13 July 1993, the trial court issued an order, upon motion of the prosecution, declaring the right of the accused to present further evidence to have been waived and holding the case to have thereby been deemed submitted for decision. Shortly thereafter, the court a quo was informed by the Provincial Warden of Cavite that accused Eufemio Cabingan had died of cardiac arrest on 28 July 1993 and that accused Eduardo Bihison had escaped.

On 09 November 1993, the trial court issued an order archiving the case when advised of the pendency of a petition for certiorari, filed by appellants with the Court of Appeals, assailing the denial of their petition for bail. The appellate court dismissed the petition for certiorari. The trial court thereupon ordered the reinstatement of the case against appellants and set the promulgation of its decision.

On 10 October 1993, the trial court rendered its judgment, finding appellants guilty of the offense charged and

sentencing them accordingly; viz:

"WHEREFORE, in view of the foregoing, this Court finds the accused PEPITO KADUSALE y DEIS, RELITO TIPONTIPON y ESTOY, EDUARDO BIHISON y SILENCIO and LEONARDO BIHISON y SILENCIO, GUILTY beyond reasonable doubt as principals of the crime of MURDER, as this felony is defined and penalized by Article 248 of the Revised Penal Code, and there being no modifying circumstance proven to either aggravate or mitigate their liability, and, furthermore, applying the provisions of the Indeterminate Sentence Law, hereby sentences said accused to suffer an indeterminate penalty of imprisonment ranging from FOURTEEN (14) YEARS, EIGHT (8) MONTHS and ONE (1) DAY of Reclusion Temporal, as minimum to SEVENTEEN (17) YEARS and FOUR (4) MONTHS of Reclusion Temporal, as maximum; to pay the heirs of the deceased Honorio Lintag the sum of P33,000.00, as actual damages; P50,000.00, as indemnity for the death of the victim; P25,000.00, as moral damages; and P25,000.00, as exemplary damages; and to pay the costs.

"With respect to the other accused herein, namely: Ponciano Ducusin, Domingo Ducusin, Carlos Mendoza, Junior Doyola, Basilio Buklatin, Alberto Ducusin, Emilio Ducusin, Carding Braza and Boy Doe, let the instant case against them be archived to be revived once they are finally arrested and brought to this Court by the police authorities for appropriate proceedings." [2]

Still feeling aggrieved by the decision of the trial court, accused Pepito Kadusale, Relito Tipontipon and Leonardo Bihison interposed an appeal to the Court of Appeals. The appeal opened the whole case for review, inclusive of the penalties imposed by the court a quo, [3] a rule in vogue in criminal proceedings. On 19 March 1997, the appellate court rendered judgment affirming the conviction of appellants but increasing the penalty imposed to reclusion perpetua; it explained:

"However, as pointed out by the Solicitor General, the penalty imposed by the court a quo, which is within the range of reclusion temporal, is not correct. There being no modifying circumstance, the penalty for the crime of murder should be reclusion perpetua. This is explained in *People vs. Munoz*, 170 SCRA 107, thus:

"In *People vs. Guevarra*, Justice Pedro L. Yap declared for the Court that 'in view of the abolition of the death penalty under Section 19, Article III of the 1987 Constitution, the penalty that may be imposed for murder is reclusion temporal in its maximum period to reclusion perpetua,' thereby eliminating death as the original maximum period. Later, without categorically saying so, the Court, through Justice Ameurfina A. Melencio-Herrera in *People vs. Masangkay* and through Justice Andres B. Narvasa in *People vs. Atencio*, divided the modified penalty into three new periods, the limits of which were specified by Justice Edgardo L. Paras, in *People vs. Intino*, as follows: the lower half of reclusion temporal maximum as the medium; and reclusion perpetua as the maximum.

'The Court has reconsidered the above cases and, after extended discussion, come to the conclusion that the doctrine announced therein does not reflect the intention of the framers as embodied in Article III, Section 19 (1) of the Constitution. This conclusion is not unanimous, to be sure. Indeed, there is much to be said of the opposite view, which was in fact shared by many of those now voting for its reversal. The majority of the Court, however, is of the belief that the original interpretation should be restored as the more acceptable reading of the constitutional provision in question.

'The advocates of the *Masangkay* ruling argue that the Constitution abolished the death penalty and thereby limited the penalty for murder to the remaining periods, to wit, the minimum and the medium. These should now be divided into three new periods in keeping with the three-grade scheme intended by the legislature. Those who disagree feel that Article III, Section 19 (1) merely prohibits the imposition of the death penalty and has not, by reducing it to reclusion perpetua, also correspondingly reduced the remaining penalties. These should be maintained intact.

'A reading of Section 19(1) of Article III will readily show that there is really nothing therein which expressly

declares the abolition of the death penalty. The provision merely says that the death penalty shall not be imposed unless for compelling reasons involving heinous crimes the Congress hereafter provides for it and, if already imposed, shall be reduced to reclusion perpetua. The language, while rather awkward, is still plain enough. And it is a settled rule of legal hermeneutics that if the language under consideration is plain, it is neither necessary nor permissible to resort to extrinsic aids, like the records of the constitutional convention, for its interpretation.'

"What course of action should this Court take under the situation? The answer is found in Section 13, 2nd paragraph, Rule 124 of the 1985 Rules on Criminal Procedure, which provides as follows:

"'Whenever the Court of Appeals should be of the opinion that the penalty of reclusion perpetua or higher should be imposed in a case, the court after discussion of the evidence and the law involved, shall render judgment imposing the penalty of reclusion perpetua or higher as the circumstances warrant, refrain from entering judgment and forthwith certify the case and elevate the entire record thereof to the Supreme Court for review.'

"The above rule is a restatement of the ruling in *People vs. Daniel*, 86 SCRA 511, on the preliminary issue on the correct course of action the Court of Appeals should take when, in a case properly appealed to it, said Court determines that the penalty of death or reclusion perpetua (life imprisonment) should be imposed." [4]

Whereupon, the Court of Appeals, consistently with the Rules, rendered judgment imposing the penalty of reclusion perpetua, refrained from entering judgment and forthwith directed the elevation of the records of the case to this Court for review; thus:

"WHEREFORE, premises considered, the decision appealed from is hereby MODIFIED by sentencing the accused-appellants to suffer the penalty of reclusion perpetua. With this modification, the judgment below is AFFIRMED in all other respects, with costs against appellants.

"The Division Clerk of Court is directed to elevate the entire record of the case to the Supreme Court within five (5) days after the lapse of the period to appeal, unless this Court, in the meantime, reverses this judgment or modifies it by imposing a penalty lower than reclusion perpetua." [5]

On 18 February 1998, the Court issued a resolution informing appellants that they could file an additional appeal brief within a non-extendible period of twenty (20) days from notice and, if such additional brief is filed, requiring the office of the Solicitor General to file an additional brief for appellee. No additional briefs were filed by either party.

In their appeal-brief to the Court of Appeals, appellants raised the following assignment of errors, to wit:

"I. The trial court erred in finding accused-appellants guilty beyond reasonable doubt of the crime charged despite the fact that the evidence for the prosecution was insufficient to convict.

"II. The trial court erred in finding accused-appellants guilty beyond reasonable doubt of the crime charged despite the failure of the prosecution to prove their guilt beyond reasonable doubt." [6]

The core issue raised by appellants in their appeal is indeed factual and involves nothing more really than the credibility of the witnesses. Under prevailing jurisprudence, [7] the assignment of values to the testimony of witnesses is virtually left to the trial court which is considered to be in the best position to discharge that function. Its findings on that issue almost invariably are given the highest degree of respect and, absent strong cogent reasons to the contrary, are not disturbed on appeal. Appellants have not been able to successfully show sufficient justification to warrant a reversal at this time and in this instance of that long standing rule.

The main argument of appellants hinges on certain supposed inadequacies in the testimony of Rosalinda Mendoza

and that of Ireneza Zacarias. Appellants claim that Rosalinda Mendoza should not be considered a credible witness because she could not recall the exact sequence of the attack and the relative positions of appellants in assaulting and stabbing the victim. The credibility of Ireneza Zacarias, in her case, is also assailed for her inability to name the respective instruments used by each of the appellants.

The argument is feeble.

Eyewitnesses to a horrifying event cannot be expected, nor be faulted if they are unable, to be completely accurate in picturing to the court all that has transpired and every detail of what they have seen or heard. Various reasons, mostly explainable, can account for this reality; the Court has long acknowledged the verity that different human minds react distinctly and diversely when confronted with a sudden and shocking event, and that a witness may sometimes ignore certain details which at the time might have appeared to him to be insignificant but which to another person, under the same circumstances, would seem noteworthy.[8]

The Court has closely examined the testimony of Rosalinda Mendoza, and her narration of the stabbing and hacking incident is far from being incredulous. Here is how she testified:

"ATTY. CAPISTRANO:

Do you remember where you were on February 23, 1992 at three o'clock in the afternoon?

"A. We were going to the sugar cane plantation, sir.

"Q. Where is this?

"A. In Barangay Adlas, sir.

"Q. Who were with you?

"A.

Ireneza Zacarias was my companion then.

"Q. Did you witness any unusual occurrence?

"ATTY. AQUINO:

Leading, your Honor.

"ATTY. CAPISTRANO:

It is just preliminary.

"COURT:

All right, preliminary. You may proceed.

"ATTY. CAPISTRANO:

Did you witness any unusual occurrence?

"A. There was, sir.

"Q. Can you tell the Court what you saw? What you witnessed?

"A. When he was blocked by armed men and he was stabbed and hacked by Artemio Cabingan and his companions.

"Q.

Who was this person who was blocked and hacked?

"WITNESS:

Honorio Lintag, sir.

"ATTY. CAPISTRANO:

Did you recognize the men you mentioned who blocked and stabbed the victim?

"A. The one who stabbed was Artemio Cabingan and his four (4) companions.

"Q. You also mentioned that there were armed men. What were they armed of?

"A.

The ones who blocked his way were armed with firearms, sir.

"Q.

Can you tell what type of firearms were they carrying?

"A. I do not know what kind of firearm were they, but they were long firearms.

"Q.

If you will see these men again, will you be able to identify them?

"A.

Yes, sir.

"Q. Are these men inside the courtroom today?

"A. Yes, sir. They are present, sir."[9]

The witness was unrelenting even when cross-examined by defense counsel; responding straightforwardly on cross-examination, she continued:

"COURT:

Of the men who stabbed and hacked Honorio Lintag, could you recall who among these men stabbed Honorio Lintag first?

"A. Artemio (sic) Cabingan was the one who stabbed.

"COURT:

And who followed Cabingan?

"A. I do not know any more because I was afraid.

"COURT:

What kind of weapon did accused Cabingan use in stabbing the victim?

"A. A short `panaksak' about one (1) foot, more or less.

"COURT:

And from a distance of fifty (50) meters, you could still distinguish the knife used by Cabingan which is measuring one (1) foot?

A. No more, your Honor.

"COURT:

At that time when you saw accused Cabingan stabbed the victim, to what direction were you and your companion facing?

"A. We were facing them, your Honor.

"COURT:

All right. How about Cabingan, to what direction was he facing at the time he stabbed Honorio Lintag?

"A. He was facing Honorio Lintag.

"COURT:

And to what direction was Honorio Lintag facing when he was being stabbed?

"A.

Southward, your Honor.

"COURT:

What about Cabingan, what direction was he facing?

Was it also `paibaba'?

"A. He was at the back of Honorio Lintag.

"COURT:

Cabingan was also facing south when he stabbed Honorio Lintag because he was at the back of Honorio Lintag?

"A. Yes, your Honor.

"COURT:

All right. And you were facing Honorio Lintag when you first saw Cabingan stabbed Lintag, is that correct?

"A. Yes, your Honor, because we were going north.

"COURT:

So, what direction were you facing when you saw the incident? Was it towards the south or towards the north?

"A. We were going north, your Honor.

"COURT:

You were going north, and since Honorio Lintag was facing south, Honorio Lintag and Cabingan were facing you, is that correct, because you were facing north?

"A. Because we were far, your Honor.

"COURT:

But you better understand the question very carefully. You repeat the question and you answer it.

(At this juncture, the question was read again.)

"WITNESS:

Yes, your Honor.

"COURT:

Now, what about the other companions of Cabingan, to what direction were they facing when you saw Honorio Lintag being stabbed and hacked by them?

"A. They were in front of Honorio Lintag.

"COURT:

Who were the persons in front of Honorio Lintag?

"A.

Artemio (sic) Cabingan, your Honor.

"COURT:

Who else was in front?

"A. I do now know anymore who were facing him, your Honor.

"COURT:

But you identified persons in Court?

"A. Yes, your Honor.

"COURT:

Could you recall where were they situated when you saw Honorio Lintag being blocked, stabbed and hacked?

"A.

I cannot recall their places.

"COURT:

What about the armed men, to what direction were they facing when they blocked?

"WITNESS:

When we saw Honorio Lintag, they were already surrounding him.

"COURT:

Any other question?

"ATTY. AQUINO:

Yes, your Honor.

"COURT:

You may continue.

"ATTY. AQUINO:

You will still tell the Honorable Court that Honorio Lintag was stabbed at the back? by Eufemio Cabingan?

"A. Yes, you sir.

"Q. Do you recall how many times the victim Honorio Lintag was stabbed or hacked by the accused?

"A. I cannot remember how many times he was stabbed and hacked.

"Q. Can you inform the Honorable Court the specific location of the wound sustained by Honorio Lintag?

"A. He sustained wounds at his back, on his body and on the forehead.

"Q. Aside from those specific parts, no other parts of his body that were injured; that is all the locations of the wounds that you can recall?

"WITNESS:

I do not know the other parts.

"ATTY. AQUINO:

Now, do we understand correctly that the armed men did nothing to Honorio Lintag except poked their firearms to him all the time that he was being stabbed?

"A. Yes, sir.

"Q. Until they left the premises, they did nothing except that?

"A. Honorio Lintag was stabbed and hacked, then they left."[10]

The testimony of Rosalinda Mendoza was corroborated in most respects by Ireneza Zacarias. The latter was with Rosalinda Mendoza when Honorio Lintag was killed. Ireneza Zacarias testified:

"BY ATTY. CAPISTRANO:

Mrs. Zacarias, do you recall where you were on the day of 23 February 1992, in the afternoon, at about 3:00 o'clock?

"A. Yes, sir.

"Q. Where were you exactly on that date, what barangay?

"A. Barangay Adlas, Silang, Cavite, sir.

"Q. What were you doing in that place?

"A. We were on our way to Cabdula, Dasmariñas, Cavite, sir.

"Q. Who were with you, can you remember?

"A. My companion was Rosalinda Mendoza, sir.

"xxx xxx xxx.

`ATTY. CAPISTRANO:

What is that occurrence?

"A.

When Honorio Lintag was stabbed, sir.

"Q. Who is this Honorio Lintag? Lintag?

"A. He was the Vice-President of Samahang Magsasaka (SAMAKA), sir.

"Q.

Is he the same Honorio Lintag who is the deceased in this case?

"ATTY. AQUINO:

Leading, your Honor.

"ATTY. CAPISTRANO:

I move to strike out the question, your Honor.

"ATTY. CAPISTRANO:

You said that Honorio Lintag was killed. Can you now tell the Court who you saw killed Honorio Lintag?

"A. They are here in this courtroom. I know them only by their faces, sir.

"FISCAL VELAZCO:

Witness pointing to the person inside the courtroom, your Honor.

"INTERPRETER:

Witness pointing to the persons who are wearing tangerine T-shirts.

"COURT:

The persons pointed to, will you please give your names?

"A. Persons referred to gave their names as Leonardo Bihison, Eufemio Cabingan, Relito Tipontipon, Eduardo Bihison, and Pepito Kadusala.

"ATTY. CAPISTRANO:

Mrs. Zacarias, can you now tell the Court how these men you mentioned and you identified killed Mr. Lintag?

"A. They stabbed him on the body, sir.

"Q. On which parts of the body did you see him stab?

"A. He was stabbed in the different parts of the body, sir.

"Q.

Which particular parts?

"A. Witness demonstrating the part of the body stabbed by the accused.

"Q. Now, you said that the victim was stabbed. Did you see the instruments used?

"A. I saw it, sir.

"Q. What arms did they use to kill?

"A. Pointed knives, sir.

"ATTY. AQUINO:

May we incorporate into the record, your Honor, that the witness is demonstrating, calling something a 'kampilan,' with a demonstration of his two (2) hands that the said object is about his length.

"FISCAL VELAZCO:

About one (1) foot.

"ATTY. AQUINO:

One (1) foot. Stipulate?

"FISCAL VELAZCO:

More or less. She demonstrated, your Honor, one (1) weapon or about one (1) foot.

"ATTY. AQUINO:

More or less.

"FISCAL VELAZCO: (cont.)

in length.

"COURT:

Next question.

"ATTY. CAPISTRANO:

How many weapons were used?

"A. They were five (5), and they used five (5), sir.

"Q. Were they all armed?

"A.

Yes, sir.

"Q. If you are shown the instrument that you saw used by the accused, will you be able to identify the same?

"A.

Yes, sir.

"Q. I now show you five (5) instruments, bladed instruments. Are these the same instruments you saw the accused used in stabbing and killing Honorio Lintag?

"A.

These are the instruments used, sir.

"ATTY. CAPISTRANO:

I ask that these pointed instruments be marked as Exhibits 'C', 'D,' etc.

"ATTY. CAPISTRANO:

Can you also recall if you witnessed Mr. Lintag tried to evade the attack made by the accused?

"ATTY. AQUINO:

Objection, your Honor, on the ground that it is leading.

"COURT:

Sustained.

"ATTY. CAPISTRANO:

I reform, your Honor.

"ATTY. CAPISTRANO:

You told the Court that you saw them stabbed and hacked Mr. Lintag. What happened to Mr. Lintag, after that?

"A. He fell down to the ground, sir.

"Q. What, if any, did you do, after you saw this incident?

"WITNESS:

They took cover, sir."[11]

The probative value of testimonial evidence, particularly that which relates to the identity of the culprits, will not be diminished as long as the mass of testimony jibes on material points. Neither the slight variation in the statements of witnesses nor a want of perfect recollection down to minute details dilute their credibility or reduce the veracity of their declaration. Indeed, inadequacies on minor matters can even enhance the worth of testimony and indicate that the responses are honest and unrehearsed.[12]

The explanation given by the appellate court, earlier adverted to, in modifying the penalty imposed by the trial court to reclusion perpetua is well taken, and this Court reiterates the basic rule laid down in *People vs. Muñoz*[13] to the effect that -

"x x x Article III, Sec. 19(1) [of the 1987 Constitution] does not change the periods of the penalty prescribed by Article 248 of the Revised Penal Code except only insofar as it prohibits the imposition of the death penalty and reduces it to reclusion perpetua. The range of the medium and minimum penalties remains unchanged"[14]

Accordingly, there being neither generic aggravating nor mitigating circumstance that has attended the commission of the offense, the applicable sentence in the case at bar is the medium period of the penalty proscribed by Article 248 of the Revised Penal Code, i.e., reclusion perpetua.

The civil liability imposed by the trial court should be slightly modified by deleting, since there has been no

aggravating circumstance in attendance, the exemplary damages of P25,000.00.

WHEREFORE, the judgment of the court of Appeals under review, finding appellants guilty beyond reasonable doubt of MURDER and sentencing each of them to suffer the penalty of reclusion perpetua is AFFIRMED. The award for civil liabilities is modified by DELETING the exemplary damages of P25,000.00. Costs against accused-appellants.

SO ORDERED.

Romero, Panganiban, Purisima, and Gonzaga-Reyes, JJ., concur.

[1] Records, p. 40.

[2] Records, pp. 215-216.

[3] Obosa vs. Court of Appeals, 266 SCRA 281.

[4] Rollo, pp. 84-85.

[5] Rollo, pp. 91-92.

[6] Rollo, pp. 62-63.

[7] See People vs. Juma, 220 SCRA 432.

[8] People vs. Daen, Jr., 244 SCRA 382, 391.

[9] TSN, Mrs. Rosalinda Mendoza, 04 August 1992, pp. 4-5.

[10] Ibid., pp. 23-28.

[11] TSN, Mrs. Irene Zacarias, 03 August 1992, pp. 5-11.

[12] People vs. Pacapac, 248 SCRA 77.

[13] 170 SCRA 107.

[14] At p. 124.

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