PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ELEUTERIO COSTELO, ROSENDO CONDE AND PABLO ANINIPOT, ACCUSED, ELEUTERIO COSTELO AND ROSENDO CONDE, APPELLANTS.

G.R. No. 134311. October 13, 1999

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

When appellants raise factual issues, they must use cogent and convincing arguments to show that the trial court erred in appreciating the evidence. Whenever the credibility of witnesses and their testimonies is raised as the core issue, reviewing courts necessarily rely on the assessment thereof by the trial judge. This is because he was in the best position to observe the witnesses firsthand and to note their demeanor, conduct and manner of testifying. Absent any showing that certain facts or circumstances of weight and substance have been overlooked, misapprehended or misapplied, such assessment is binding on appellate courts.

The Case

Eleuterio Costelo and Rosendo Conde appeal the Decision[1] of the Regional Trial Court (RTC) of Pasig City (Branch 160) in Criminal Case No. 107566-H, which convicted them of murder and sentenced them to reclusion perpetua.

4th Assistant Provincial Prosecutor Filipinas Z. Aguilar-Ata filed an Amended[2] Information[3] dated February 15, 1995 charging Appellants Costelo and Conde, as well as one Pablo L. Aninipot, with a crime allegedly committed as follows:

> "That on or about the 30th day of December, 1994 in the Municipality of Tagig, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating together with one (1) unidentified male person and whose true name and present whereabout[s] is still unknown and all of them mutually helping and aiding one another, while armed with a deadly weapon, with intent to kill, with treachery and abuse of superior strength and number, did then and there willfully, unlawfully and feloniously attack, assault and stab with the said deadly weapon, one Remedios Quiño,[4] as a result of which the latter sustained stab wounds on the different parts of h[er] body, which directly caused h[er] death."[5]

Assisted by Atty. Abner Torres, Appellants Costelo and Conde pleaded not guilty when arraigned on February 21, 1995.[6] Aninipot, the other accused, remained at large. Trial ensued against Costelo and Conde. Thereafter, the lower court rendered its assailed Decision,[7] the dispositive part of which reads:

> "WHEREFORE, foregoing considered, the court finds accused: Eleuterio Costelo y Ibatados and Rosendo Conde y Ramos guilty beyond reasonable doubt of the crime of murder, qualified by treachery and hereby sentences both accused to [the] penalty of reclusion perpetua and to indemnify the heirs of the victim in the amount of P9,000.00 as actual damages, P50,000.00 for the death of Remedios Quino, moral damages of P50,000.00, and exemplary damages of P20,000.00 and to pay the costs."[8]

Hence, this appeal.[9]

The Facts

Version of the Prosecution

In the Appellee's Brief,[10] the Office of the Solicitor General narrates the facts, as viewed by the prosecution, in this manner:

> "Prosecution witness Nestor Cendaña[11] testified that around 5:35 in the afternoon of December 30, 1994, while he was at the door of his house with his wife at Sitio Kaunlaran, Tagig, Metro Manila, he saw Remy come from the premises of Elsa Guianan.[12] But upon reaching the street along Conde's residence, Conde grabbed Remy by the neck. Conde stabbed Remy at the mouth and at the back. When Remy was able to escape from Conde, she ran towards Costelo, who pushed her towards Conde, who again squeezed Remy['s] mouth and dragged her in front of Elsa's house. Remy fell in front of Elsa's house and Pablo Aninipot, who suddenly appeared, sat on the chest of Remy and stabbed her on the chest more than fifteen times. Costelo held Remy on the shoulders in a stooping position while the latter was being stabbed by Pablo.
>
> "Prosecution witness Elsa Gianan (Elsa for brevity) testified that she was a neighbor of the victim, appellants Costelo and Conde, and accused Pablo Aninipot at Sitio Kaunlaran, Taguig.
>
> "On December 30, 1994, when she was inside her house, Elsa heard the voice of Remy crying for help. When Elsa came out of the house with her children, she saw Remy being held by Pablo on the her neck and he was holding a weapon.
>
> "Remy struggled until she was able to release herself, and ran away from Pablo and towards Elsa. She was met by Costelo, who held her by the shoulder, and at that point, Pablo approached Remy and stabbed her many times at the back. Remy fell and Pablo continued stabbing her.
>
> "Elsa tried to intervene but was warned against it by Costelo. Thereafter, Pablo and Costelo left.
>
> "Another prosecution witness, 12-year-old Danilo Gianan, testified that on December 30, 1994, around 6:00 in the evening, while playing inside their house, he heard somebody shouting. Together with his brother Dante, he approached the person crying for help and saw Remy being strangled by appellant Conde. Conde also stabbed Remy several times while appellant Costelo blocked the way of Remy. Thereafter, accused Pablo put his weight on Remy and continuously stabbed the latter. Danilo Gianan was later on investigated by the PNP regarding the case." (citations omitted)

Version of the Defense

In his Brief,[13] Appellant Rosendo Conde alleges lack of participation and summarizes the facts of the case as follows:

> "x x x [O]n December 30, 1995 at about 5:30 in the afternoon, while he [Conde] was in his house at Sitio Kaunlaran, F[or]t Bonifacio resting after he had just come from duty (he was with the Company Security Escort of the Philippine Army and also a member of the Philippine Army Band) he heard shouts of a woman. Upon query, he was informed by his wife that it was 'Manang Remy' (Remedios Quinio) and was likewise told by his wife to help pacify Pablo Aninipot who was then strangling Remedios Quinio. Rosendo Conde went out of the house and tried to intervene by pulling Pablo Aninipot and as a result of which he fell down on the ground. Thereafter, his wife said 'Pa, halika dito, baka madamay ka pa. Baka mabaril ka ni Manong Quinio.' Rosendo got scared and entered his house." (citation omitted)

For his part, Appellant Eleuterio Costelo presents the facts in this wise:

> "As culled from the records of the case, it was revealed that accused-appellant Costelo, Rosendo Conde and

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> Pablo Aninipot and Remedios Quino were neighbors at Sitio Kaunlaran, Barrio Western Bicutan, Fort Bonifacio, Taguig, Metro Manila. Segundino Quino who is the lawful husband of Remedios Quino was the first cousin of Pablo Aninipot.
>
> "Sometime on December 30, 1994, Remedios Quino was stabbed dead near the house of Rosendo Conde. The cause of death as testified to by Dr. Jesusa N. Vergara was hemorrhage as a result of multiple stab wounds o[n] the tr[u]nk. It was further disclosed that at approximately 5:30 o'clock in the afternoon of that date, Remedios Quino was about to leave the premises of Elsa Gianan at Sitio Kaunlaran, Western Bicutan, Taguig, Metro Manila and after reaching near the compound of accused Rosendo Conde, the latter suddenly took hold of Remedios Quiño and while she was being held by the neck, he stabbed her in her mouth and at the back portion of her body. Despite injuries, she was able to free herself. At that instance, accused-appellant Costelo held her by the shoulder and suddenly Pablo Aninipot appeared from nowhere, held Quiño by the collar and stabbed her several times. She fell flat on the ground but Aninipot continued to stab her several more times. Both Rosendo Conde and Pablo Aninipot used scissors in stabbing Quiño. Sometime on January 2, 1995 at about 9:00 o'clock in the evening, accused-appellant was arrested without warrant at his house at Sitio Kaunlaran, Western Bicutan, Taguig, Metro Manila.
>
> "Accused-appellant Costelo left for Cainta at 11:30 in the morning and went back to Fort Bonifacio at approximately 6:00 o'clock in the evening of the same date, Dec. 30, 1994. Upon reaching his house and while feeding his fighting cocks, he heard shouts of 'PUTANG INA MO, PABLO ANINIPOT'. He verified what was it all about but to his great shock, he [saw] Pablo Aninipot hitting a woman [who] he later learned to be Remedios Quiño. Accused-appellant went on to look for a policeman until he met a gun-toting Segundino Quiño who was looking for Pablo Aninipot."[14] (emphasis supplied)

The Trial Court's Ruling

In holding both appellants liable for murder, the court a quo believed the prosecution evidence and considered it "sufficient,"[15] the testimonies of the principal government witnesses being "categorical[,] direct and highly credible when they identified the culprits and narrated the sequence of events that transpired at the crime scene."[16] It emphasized that these testimonies were consistent in "material and essential aspects."[17]

The lower court rejected the claim of appellants that they were merely pacifying Pablo Aninipot, pointing out that neither of them gave any statement to the police investigators. It also ruled that the three accused conspired with one another and that the crime was qualified by alevosia.

The Issues

Appellant Costelo presents the following assignment of errors:

"I.

THE COURT A QUO GRAVELY ERRED IN NOT APPRECIATING THE TESTIMONY OF ACCUSED-APPELLANT COSTELO AS TO HIS ACTUAL PARTICIPATION WHILE ASSAILANT PABLO ANINIPOT WAS HITTING REMEDIOS QUINIO.

II.

THE COURT A QUO ERRONEOUSLY RELIED HEAVILY ON THE SELF-SERVING TESTIMONIES OF THE ALLEGED EYEWITNESSES PARTICULARLY THAT OF NESTOR SEVILLA CENDAÑA WHOSE NARRATION WAS BEYOND [B]ELIEF.

III.

THE COURT GRAVELY ERRED IN CONVICTING ACCUSED-APPELLANT COSTELO ON THE BASIS MERELY OF AN UNFOUNDED AND SELF-SERVING TESTIMONY OF CONSPIRACY."[18]

On the other hand, Appellant Conde ascribes to the trial court the following errors:

"I

THE COURT A QUO ERRED IN GIVING WEIGHT AND CREDIT TO THE TESTIMONY OF THREE (3) PROSECUTION EYEWITNESSES DESPITE LACK OF CORROBORATION IN THEIR MATERIAL POINTS.

II

THE COURT A QUO ERRED IN CONVICTING ACCUSED-APPELLANT DESPITE FAILURE OF THE PROSECUTION TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.

III

THE COURT A QUO ERRED IN QUALIFYING THE CRIME INTO MURDER BY REASON OF TREACHERY."[19]

We deem the following as the issues to be resolved: (1) the credibility of the witnesses; (2) the sufficiency of evidence as to the guilt of appellants, as well as to the existence of conspiracy and the qualifying circumstance of treachery.

The Court's Ruling

The appeals have no merit.

First Issue:

Credibility of Prosecution Witnesses

As mentioned by the Office of the Solicitor General in its Brief, "[t]he core issue raised by both appellants x x x is factual and delves on the credibility of the witnesses."[20] We agree. In People v. Lotoc et al.,[21] we stated:

> "x x x. Time and again this Court has declared that 'the assessment of the credibility of witnesses and their testimonies is a matter best undertaken by the trial court, because of its unique opportunity to observe the witnesses firsthand and to note their demeanor, conduct and attitude. Findings of the trial court on such matters are binding and conclusive on the appellate court, unless some facts o[r] circumstances of weight and substance have been overlooked, misapprehended or misinterpreted.'"

The assertions of appellants are insufficient to convince us otherwise. Prosecution Eyewitness Nestor Cendaña's testimony clearly establishes their participation and, consequently, their culpability in the gruesome murder of a defenseless 45-year-old woman, as the following shows:

> "Atty. Cuerva (To the witness)
>
> Q. Now, what is this incident that you saw while you were standing in front or your house wherein Rosendo Conde was stabbing Ate Remy, would you relate that to the court?
>
> A Yes. Ate Remy came from the premises of Ate Elsa. She was on her way out but upon reaching the street along Conde's residence, Conde grabbed her.

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Q Could you show to the court how accused Rosendo Conde grabbed Remedios Quino while she was walking in front of his house?

Witness demonstrating with his hand around his neck, as if it [were] the neck of the victim while his right hand was holding a 'panaksak' stabbing his mouth.

x x x x x x x x x

Q Now, after Rosendo Conde stabbed her in the mouth what else happened if you recall?

A Ate Remy kept on moving and shouting and she was able to release herself and [go] to Costelo but Costelo pushed her towards Conde and again xxx [her mouth was squeezed] and at that time while her mouth was being squeezed I saw it, because I was at the door of my house[.] [H]e dragged Remy in front of Elsa's house.

x x x x x x x x x

Q xxx You mentioned that she was stabbed in the mouth. Do you know if she was stabbed in any [other] part of the body?

A Yes, sir. After she was stabbed at the mouth, she was stabbed at the back by Conde and when she was able to release herself then she was caught by Costelo and again she was pushed[.]

Q Who pushed who?

A Costelo pushed Ate Remy.

Q Towards what direction?

A Towards Conde, sir. And when she was [in] Conde's hands, her mouth was again squeezed and while her mouth was being squeezed, Costelo saw us in front of the door of our house and so he pulled/or dragged her towards, in front of the house of Elsa.

Q While this was happening, do you recall if you saw third party Pablo Aninipot?

A Yes, sir.

Q What was he doing at that time?

A Ate [Remy] fell in front of Elsa's house then Pablo Aninipot suddenly appeared.

Q And what did he do?

A He put his body on top of Ate Remy and continued stabbing her.

Q Where?

A He stabbed her on the chest while she was lying on the ground face up.

Q You said 'pinagsasaksak sa dibdib', how many times was she stabbed on the chest?

A Several times, sir. More than fifteen (15) times[.] (Witness continuously demonstrating the continuous stabbing motion.)

x x x x x x x x x

Q Did you notice if Mr. Costelo [who] you said was watching when the stabbing incident [was] going on, did you notice if Costelo [assisted] the victim?

A He was holding Ate Remy in a stooping position (Witness demonstrating)[.] [H]e was holding Ate Remy

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while he was watching her being stabbed."[22] (emphasis supplied)

Absent any showing of ill motive on the witness' part, we sustain the lower court in giving Cendaña full faith and credence.[23] Notably, his testimony is corroborated by 12-year-old Danilo Gianan, who testified thus:

"By Atty. Corvera (To the witness)

Q On December 30, 1994 at about 6:00 in the afternoon, do you recall where you were?

A Yes, sir.

Q Where were you?

A I was there playing, sir.

Q At that particular time 6:00 in the afternoon of December 30, 1994, do you recall of any unusual incident that happened in your place?

A I heard somebody shouting, sir.

Q What did you do when you heard somebody shouting?

A We went near her.

x x x x x x x x x

Q When you approached the person crying for help, whom did you see?

A I saw Conde, sir.

Q Who [was] this person shouting?

A Ate Remy, sir.

Q What did you see when you came out of your house?

A Ate Remy was being strangled xxx.

Q What else did you see?

A She was also stabbed, sir.

Q Who stabbed Ate Remy?

A Conde, sir.

x x x x x x x x x

Q Aside from Conde did you see any other person with Ate Remy at that time?

A Yes sir, there was.

Q Who else?

A Costelo, sir. xxx

Q Now, what was Costelo doing at that time?

A He blocked Ate Remy, sir.

Q How many times was Ate Remy stabbed by Conde, if you still recall?

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A Several times, sir.

Q What about Pablo Aninipot, did you see Pablo Aninipot [in] the same area?

A Yes, sir.

Q What was he doing at that time?

A He put his weight on top of Ate Remy and stabbed [her].

Q How many times did Pablo Aninipot stab Ate Remy?

A We just saw him continuously stabbing her.

x x x x x x x x x ”[24]

Moreover, Cendaña’s version is supported by the physical evidence.[25] His testimony that the victim was stabbed “[m]ore than fifteen (15) times”[26] conforms with the autopsy report that the latter suffered 18 stab wounds.[27] As the solicitor general notes,[28] the detailed testimony of a witness in murder or homicide cases acquires greater weight and credibility if it corresponds with the autopsy report.[29]

Appellant Conde argues that there were inconsistencies in the testimonies of the prosecution witnesses. He specifically points out that he was not mentioned as one of the perpetrators in Elsa Gianan’s Sworn Statement, supplemental Sworn Statement or direct testimony.[30] He was supposedly implicated only in her rebuttal testimony which, he argues, was just an afterthought. Likewise, he harps on the fact that neither the Sworn Statement nor the Supplemental Sworn Statement of Danilo Gianan implicated him.[31] Lastly, he argues that the prosecution witnesses contradicted one another.

These arguments are not convincing. We do not share Conde’s view that Elsa Gianan’s entire testimony was untrue. The inconsistency between her rebuttal testimony on the one hand, and her direct testimony as well as Sworn Statements on the other is no reason to disregard her story. Falsus in unos, falsus in omnibus is not a strict legal maxim in our jurisprudence.[32] It is neither a categorical test of credibility nor a positive rule of universal application. Therefore, it should not be applied to portions of the testimony corroborated by other pieces of evidence.[33]

While we accept the direct testimony of Elsa that Pablo Aninipot stabbed the victim who was prevented by Costelo from escaping,[34] we cannot accord credence to her rebuttal testimony that she also saw Conde stab the deceased. In fact, she did not say so in her direct testimony, because she did not witness it. She was inside her house when the incident began, and she went out only upon hearing Remy Quiño calling her. It should be noted that according to Danilo and Nestor, it was Conde who first attacked the victim. Thus, we deem Elsa’s account deficient rather than entirely false. Be that as it may, it should be stressed that Conde’s conviction rests not upon her testimony, but upon those of Danilo Gianan and Nestor Cendaña, both of whom witnessed the event in its entirety.

On the other hand, Danilo Gianan’s failure to implicate Conde in his Sworn Statement is not enough reason to disregard his testimony altogether. Our jurisprudence is unequivocal in saying that the testimony of a witness prevails over an affidavit.[35] “The general rule has always been that discrepancies between the statements of the affiant in his affidavit and those made by him on the witness stand do not necessarily discredit him because ‘affidavits, being taken ex parte are almost always incomplete and often inaccurate x x x.’”[36]

In this particular case, Danilo Gianan positively pointed to Appellants Costelo and Conde, together with Pablo Aninipot, as the perpetrators. Unlike his mother, the young boy was able to observe the entire incident, because he

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was outside their house playing with his younger brother.[37] Thus, Danilo was clear during direct and unwavering during cross-examination. We find no reason to differ with the trial court's appreciation of his testimony.

We cannot accept Appellant Conde's argument that Elena Gianan's testimony contradicted that of Nestor Cendaña. Again, we stress that her testimony was incomplete but not entirely contrived. Moreover, such insufficiency did not contradict the credibility of Nestor or his narration of the incident. On the contrary, it showed that the latter's account was the entire truth. Elsa's version was in fact in harmony with the accounts of Cendaña and Danilo Gianan, both of whom had witnessed the entire event. Furthermore, we emphasize that both the Sworn Statement of Cendaña[38] and his testimony[39] before the lower court were in complete congruence.

The foregoing facts clearly show that Aninipot, Costelo and Conde killed Remedios Quiño by inflicting upon her eighteen stab wounds.

Second Issue:

Sufficiency of Prosecution's Evidence

Appellant Conde contends that the prosecution's evidence is insufficient to establish his guilt or the qualifying circumstance of treachery beyond reasonable doubt. On the other hand, Costelo asserts that conspiracy was not proven.

The Identification of Conde

Conde argues that the evidence gathered by the prosecution is confusing inasmuch as it admits of two conclusions[40] as to the identity of the perpetrator. We disagree. As emphasized above, several eyewitnesses pointed to Costelo, Conde and Aninipot as the culprits. Nestor Cendaña saw Conde choke and stab the victim in the mouth and at the back. The autopsy performed on her revealed that her face and back indeed bore stab wounds. When asked who the perpetrators were, Cendaña gave definite answers:

> "Atty. Corvera (To the witness)
>
> Q Do you know the accused in this case, Eleuterio Costelo and Rosendo Conde?
>
> A Yes sir, I know them.
>
> Q Why do you know these Costelo and Conde?
>
> A They are my neighbors, sir.
>
> x x x x x x x x x
>
> Q Now, on that particular day, December 30, 1994, do you recall more or less the time when this incident happened?
>
> A Yes, at 5:35 in the afternoon, sir.
>
> Q Could you describe the visibility in terms of sunrise on that particular day?
>
> A It was still bright, sir.
>
> x x x x x x x x x "[41] (emphasis ours)

His testimony was completely corroborated by that of Danilo Gianan. When asked why he knew Conde, the boy replied: "He was also a neighbor, sir."[42]

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There is therefore no doubt and no “confusion” as to the identity of the perpetrators.

Conspiracy

Appellant Costelo, for his part, argues that there was no conspiracy, as “there was no testimony that there was prior agreement or collective purpose [preceding] the killing of Remedios Quiño.”[43] We are not persuaded. In People v. Maldo,[44] we stated:

> “Conspiracy exists when two or more persons come to an agreement concerning the commission of a felony and decide to commit it. Direct proof is not essential, for conspiracy may be inferred from the acts of the accused prior to, during or subsequent to the incident. Such acts must point to a joint purpose, concert of action or community of interest. Hence, the victim need not be actually hit by each of the conspirators for the act of one of them is deemed the act of all.” (citations omitted, emphasis ours)

In this case, conspiracy was shown because Appellant Conde grabbed the victim and stabbed her while Appellant Costelo impeded her escape and shoved her towards Pablo Aninipot, who in turn straddled her on the ground and stabbed her. Conde, Costelo and Aninipot’s prior act of waiting for the victim outside her house affirms the existence of conspiracy, for it speaks of a common design and purpose. Nestor Cendaña testified thus:

> “Atty. Corvera
>
> Q Now, on that same day prior to 5:35 p.m. could you recall if you saw the three accused Costelo, Conde and Aninipot immediately before?
>
> A Yes, sir, they were already on the watch (nakaabang na).
>
> Q And how were they positioned if you said that they were already waiting?
>
> A Costelo was very near Ate Remy’s place. Conde was in front of their house. Pablo Aninipot was also on guard on the street.”[45] (emphasis supplied)

It is worth emphasizing here that Appellant Costelo himself in his narration of facts admits that he held the victim while she was being attacked.[46] In his Brief,[47] he states:

> “x x x And worst, moved by extreme pity and compassion he might have touched the shoulders of Remedios Quiño. He might [have] pushed somebody in [a] state of shock and he might have physically done something to somebody by way of human reflexes and instinct. He might have [uttered] something in disbelief. He might have prevailed [on] somebody. But all these were mere possibilities and unexplored probabilities while accused-appellant was in deep shock and emotion[al] stress. Everything [was] hazy and he was not aware of it.” (emphasis supplied)
>
> Even the utterances of Costelo during the incident do not help his cause. That he told Elsa and Danilo Gianan not to interfere was established.[48] In fact, while preventing the victim from escaping, he asked her derisively, “Saan ka pupunta?”[49] All these facts support the lower court’s finding of conspiracy.

Treachery

Appellant Conde asserts that treachery was not adequately proven in this case. He contends that the evidence for the prosecution tends to establish that the weapon used was only a pair of scissors, and that the crime was committed in an area “teeming with people where houses are very near each other and where help and rescue can easily be available.”[50] Thus, he argues further that the prosecution failed to prove that the offender employed means, methods or forms in the execution of the crime, tending directly and especially to ensure its execution without risk to the offender arising from the defense that the offended party might make.[51]

This argument divulges appellant's failure to comprehend fully the concept of alevosia. That the locus criminis was a heavily populated area where others could thus intervene is not significant at all. For treachery to be considered a qualifying circumstance, two conditions must be satisfied: (a) the malefactor employed such means, method or manner of execution as to ensure safety from the defensive or retaliatory acts of the victim; and (b) the said means, method or manner of execution was deliberately adopted. The essence of treachery is that the attack is deliberate and without warning -- done in a swift and unexpected manner, affording the hapless, unarmed and unsuspecting victim no chance to resist or to escape.[52]

The defense or retaliation contemplated here must come from the victim, not from anyone else. Treachery was irrefutably indicated in the method by which the three assailants waited for the victim to pass by before suddenly attacking her and preventing her escape. At any rate, no help was forthcoming, precisely because Costelo made sure that escape was impossible, and that anyone inclined to lend assistance was intimidated. Hence, treachery was correctly appreciated by the lower court.

Non-Flight

Appellant Conde argues that his failure to leave the premises immediately after the crime was committed is a strong indication of his innocence. This is incorrect.[53] Considering our jurisprudence and all the pieces of evidence against Appellant Conde, non-flight is not a conclusive proof of innocence and is thus not enough to exculpate him.

Damages

We affirm the award of P50,000 as indemnity ex delicto.[54] The solicitor general's recommendation to increase the amount to P75,000, based on People v. Victor,[55] is not well-taken. People v. Victor increased the award of indemnity in rape cases that are effectively qualified by any of the circumstances which, under the present amended law, calls for the death penalty.[56] Clearly, it is inapplicable in the present controversy.

Nonetheless, we increase the award of actual damages from P9,000 to P17,000 to include the amounts paid for the grave, tombstone and church services. These expenses were supported by appropriate receipts presented during trial and submitted as evidence.[57]

The Warrantless Arrest

One last point. In his Brief,[58] Appellant Conde alluded to the warrantless arrest that he had been subjected to. However, he failed to move to quash the Information on this ground. Instead, he elected to go to trial. Hence, he is deemed to have waived his right to question the irregularity of his arrest. In People v. Silvano,[59] we held:

> "[A]ppellant's failure to quash the information, his participation in the trial and presenting evidence in his behalf, placed him in estoppel to make such challenge. He has patently waived any objection or irregularities and is deemed as having submitted himself to the jurisdiction the court. It should be noted that the legality of arrest affects only the jurisdiction of court over the person of the accused. Consequently, if objection on such ground is waived the illegality of the arrest is not sufficient reason for setting aside an otherwise valid judgment rendered after the trial, free from error. The technicality cannot render the subsequent proceedings void and deprive the State of its right to convict the guilty when the facts on the record point to the culpability of the accused." (citations omitted)

Be that as it may, the Court takes this opportunity to remind law enforcers once again to observe the constitutional rights of indicted persons. Had the appellants not waived their illegal arrest, they could have been acquitted, and the People and the victim would have been denied justice, all because law enforcement agents failed to follow proper procedure.[60]

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WHEREFORE, the appeals of Eleuterio Costelo and Rosendo Conde are hereby DENIED and the Decision of the Regional Trial Court is AFFIRMED, with the MODIFICATION that the award of actual damages is INCREASED to P17,000. Costs against appellants.

SO ORDERED.

Melo, (Chairman), Vitug, Purisima, and Gonzaga-Reyes, JJ., concur.

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[1] Dated October 1, 1997 and written by Judge Mariano M. Umali, now a justice of the Court of Appeals.

[2] The first Information did not include Pablo L. Aninipot among those charged.

[3] Records, pp. 32-33; rollo, pp. 6-7.

[4] Also spelled “Quino” or “Quinio” in other parts of the records.

[5] Records, pp. 32-33; rollo, pp. 6-7.

[6] Records, p. 17.

[7] Records, pp. 257-277; rollo, pp. 27-47.

[8] Decision, p. 20; rollo, p. 46.

[9] The Notice of Appeal dated December 15, 1997, was erroneously addressed to the Court of Appeals by Atty. Abner M. Torres. Nonetheless, the records were correctly forwarded to this Court by the RTC of Pasig City, Branch 160. Via resolution dated December 14, 1998, this Court accepted the appeal interposed by Conde and Costelo. The case was deemed submitted for resolution on September 1, 1999, when the Court received the Reply Brief of Appellant Conde.

[10] Consolidated Appellees’ Brief, pp. 9-11; rollo, pp. 175-177. This was signed by Assistant Solicitor General Carlos N. Ortega, Assistant Solicitor General Rodolfo G. Urbiztondo and Solicitor Encebrin E. Javier-Inanuran.

[11] Also spelled “Cendeña” in the records.

[12] Also spelled “Gianan” in the records.

[13] Brief for Appellant Rosendo Conde signed by Atty. Abner Torres, p. 5; rollo, p. 111.

[14] Brief for Appellant Eleuterio Costelo, pp. 3-5; rollo, pp. 61-63, signed by Atty. Jose S. Maronilla.

[15] Decision, p. 9; rollo, p. 35.

[16] Ibid.

[17] Ibid., p. 16; rollo, p. 42.

[18] Appellant Costelo’s Brief, p. 1; rollo, p. 59.

[19] Appellant Conde’s Brief, p. 6; rollo, p. 112.

[20] Appellee’s Brief, p. 11, rollo, p. 177.

[21] GR No. 132166, May 19, 1999, p. 8, per Panganiban, J., citing People v. Oliano, 287 SCRA 158, 169, March 6, 1998. See also People v. Siguin, GR No. 126517, November 24, 1998; People v. Sta. Ana, 291 SCRA 188, June 26, 1998; People v. Gaorana, 289 SCRA 652, April 27, 1998; People v. Bersabe, 289 SCRA 685, April 27,

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1998; People v. Tulop, 289 SCRA 316, April 21, 1998; People v. Castillo, 289 SCRA 213, April 20, 1998; People v. Bahatan, 285 SCRA 282, January 28, 1998; People v. Villamor, 284 SCRA 184, January 16, 1998.

[22] TSN, May 4, 1995, pp. 11-19.

[23] See People v. Realin, GR No. 126051, January 21, 1999.

[24] TSN, December 12, 1995, pp. 5-9.

[25] Medico-Legal Report, Records, Vol. 1, pp. 121-123; cf. TSN, August 7, 1995, pp. 8-12.

[26] TSN, May 4, 1995, p. 18.

[27] TSN, August 7, 1995, p. 8.

[28] Consolidated Appellees' Brief, p. 17; rollo, p. 183.

[29] See People v. De Guia, 280 SCRA 141, October 2, 1997; citing People v. Molina, 213 SCRA 52, August 28, 1992.

[30] Appellant Conde's Brief, pp. 7-10; rollo, pp. 113-116.

[31] The pertinent portions of Danilo Gianan's supplemental Sworn Statement reads:

"T - Ngayon sabihin mo sa akin kung sino ang nasaksihan mo o ang iyong nakita na pumaslang o pumatay sa Ate Remy?

S - Ang nakita ko pong sumaksak ay si PABLO ANINIPOT at ang humahawak kay Ate Remy habang sinasaksak ay si ELEUTERIO COSTELO po.

x x x x x x x x x" (Records, p. 5, Vol.1)

[32] People v. Sala, GR Nos. 76340-41, July 28, 1999.

[33] See People v. Bibat, 290 SCRA 27, May 13, 1998.

[34] TSN, March 16, 1995, pp. 11-17.

[35] People v. Maldo, GR No. 131347, May 19, 1999. See also People v. Oliva, 282 SCRA 470, December 5, 1997; People v. Jamiro, 279 SCRA 290, September 18, 1997; People v. Marollano 274 SCRA 84, July 24, 1997.

[36] People v. Jaberto, GR No. 128147, May 12, 1999, p. 9, per Panganiban, J.; citing People v. Calegan, 233 SCRA 537, June 30, 1994 and People v. Villanueva, 215 SCRA 22, October 21, 1992.

[37] TSN, December 12, 1995, pp. 17 & 19.

[38] Nestor Cendaña's Sworn Statement narrates the events thus:

"Ganito po ang aking nasaksihan, si Ate Remy ay palabas galing sa bakuran nina Ate Liza, at pa[g]kadating sa bakuran sa tapat nina Conde ay biglang dinakma ni CONDE si Ate Remy, at habang hinahawakan ay kitang kita ko na sinasakal at sina[sa]ksak sa bunganga at sa bandang likuran ng katawan at sa pakakataon na iyon po ay medyo naka-igtad si Ate Remy sa [pagkakahawak] ni Conde at napunta sa kinaroroonan ni Costelo, at biglang itinulak naman ni Costelo si Ate Remy patago papunta sa tapat ni Ate Liza, at pagkatapos ay biglang sum[u]lpot si Pablo Aninipot at ang ginawa ay hin[a]wakan ang kuwelyo ng damit ni Ate Remy at pagkatapos ay sinaksak ng maraming beses na kitang kita rin ni Ate Liza at dalawang bata, na binabato ng dalawang bata ng bao ng niyog si Pablo Aninipot at si Costelo, dahil sa naawa sila sa biktima po." (Sworn Statement of Nestor Cendaña, January 3,

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1995; records, p. 6, Vol. 1.)

[39] Supra.

[40] Appellant Conde's Brief, pp. 20-23; rollo, pp. 126-129.

[41] TSN, May 4, 1995, pp. 7, 20-21.

[42] TSN, December 12, p. 7.

[43] Appellant Costelo's Brief, p. 14; rollo, p. 72.

[44] Supra.

[45] TSN, May 4, 1995, pp. 21-22.

[46] Appellant Costelo's Brief, p. 4; rollo, p. 62.

[47] Ibid., p. 9; rollo, p. 67.

[48] TSN, December 12, 1995, pp. 24, 36, 38.

[49] Ibid., p. 43.

[50] Appellant Conde's Brief, p. 27; rollo, p. 133.

[51] Ibid., p. 26; rollo, p. 132.

[52] People v. De la Cruz, 291 SCRA 164, 184-185, June 26, 1998, per Panganiban, J.

[53] See People v. Palma, GR Nos. 130206-08, June 17, 1999; and People v. Almacin, GR No. 113253, February 19, 1999.

[54] See People v. Quitlong, 292 SCRA 360, July 10, 1993; People v. Lagarteja, 291 SCRA 142, June 22, 1998; People v. Marollano, 276 SCRA 84, July 24, 1998; and People v. Caballes, 274 SCRA 83, June 19, 1997.

[55] 292 SCRA 186, July 9, 1998.

[56] People v. Lotoc et al., GR No. 132166, May 19, 1999.

[57] Records, p. 132, Vol. 1.

[58] Appellant Conde's Brief, p. 5; rollo, p. 111.

[59] GR No. 127356, p. 14, June 29, 1999, per curiam. See also People v. Barrientos, 285 SCRA 221, January 28, 1998.

[60] Cf. People v. Muleta, GR No. 130189, June 25, 1999.

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