

PEOPLE OF THE PHILIPPINES, ACCUSED-APPELLEE, VS. EGUNDO ALVERIO, Jr., ACCUSED-APPELLANT JOSE JUANITES AND JOHN DOE, ACCUSED.

G.R. No. 135035. November 29, 2000

Ponente: VITUG, J.

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VITUG, J.:

Vengeance is never legally justified; even the most unfortunate loss of a life cannot be required for its sake by the taking of another life.

In an Information, dated 12 October 1994, Segundo Alverio, Jr., Jose Juanites and John Doe were charged with the crime of Murder; thus:

"That on or about the 22nd day of July 1994, in the Municipality of Caibiran, Biliran Province, Philippines, and within the jurisdiction of this Honorable Court, said accused, conspiring with, confederating and mutually helping one another and with great abuse of superior strength, with intent to kill, did then and there willfully, unlawfully and feloniously attack, assault and stab one Santos Cabillan, Jr. with a short bladed weapon which the accused have provided themselves for the purpose, thereby inflicting upon the said Santos Cabillan, Jr. multiple mortal wounds which caused his death shortly thereafter.

"In violation of Art. 248 of the Revised Penal Code." [1]

Only accused Alverio was apprehended; he pled "not guilty" to the charge. Trial immediately followed the arraignment.

The court a quo narrated the conflicting versions of the prosecution and the defense.

Prosecution witness Bianito Solayao declared that on 22 July 1994, about one o'clock in the morning, while he, together with Victorio ("Nicnic") Cabalquinto and the deceased Santos Cabillan, Jr., were on their way home after watching a "Miss Gay" presentation in front of the Municipal Building of Caibiran, Biliran, they were met by three persons. One of the trio immediately went behind and collared Cabillan and then proceeded to stab him with a knife. The two other companions of the attacker thereupon positioned themselves in front of the victim and forthwith likewise stabbed him. Solayao tried to call for help while Cabalquinto fled. The three malefactors later escaped towards Palanay. Solayao immediately went back to check if Cabillan was still alive. He was able to recognize the three attackers not only because of the light coming from an electric post but also because of the bright moonlight. He identified accused Alverio as the person who collared Cabillan and stabbed the victim from behind. The other prosecution eyewitness, Victorio Cabalquinto, corroborated the testimony of Solayao in its material points.

Police investigator SPO3 Leodegario Torlao testified that on 22 July 1994, around 1:20 a.m., he responded to a request for assistance made by Victor Cabillan. He brought the cadaver of the victim to the medicare clinic for autopsy. He found at the crime scene a hat, a slipper and a hunting knife. SPO1 Michael Docallos brought the

witnesses to the house of accused Alverio who, after being positively identified, was arrested. Juanites was able to escape. Torlao recalled that the victim was a suspect in the killing of one Romeo Alverio.

Dr. Zelda Trinidad Nicdao, who conducted the post mortem examination, stated that the victim had sustained thirty-eight (38) wounds consisting of seven (7) stab wounds, twenty-two (22) incised wounds, three (3) abrasions, three (3) confluent abrasions, two (2) lacerated wounds and one (1) multiple linear abrasion caused by more than just one (1) sharp pointed instrument.

The family of the victim incurred for the embalming, funeral and burial expenses the sum of P20,000.00.

Accused Segundo Alverio, Jr., proffered an alibi, contending that at the time of the incident on 22 July 1994 he was at his house in Barangay Maurang caring for his sick child. Alverio stayed home until seven o'clock in the morning as he had to report for work in Caibiran, Biliran, splitting bamboos for the school fence. Two hours later, police officers Michael Docallos and Romeo Vinos, together with two other persons, arrived at the school premises. After observing him for about half an hour, Docallos, putting an arm around Alverio, invited the latter to the police station. Asked why, the policemen told him to wait until they would have been in the police station. Lilibeth Martinez, who was present, asked if the policemen had a warrant for Alverio's arrest; they had none to show. At the police station, the accused claimed, he was manhandled.

Corroborating Alverio, Roberto Diaz, a friend of the accused, stated that he stayed in the house of the accused until 5:00 in the morning of 22 July 1994 tending to the sick son of the accused. Lilibeth Martinez, a school teacher of Barangay Maurang, confirmed that Alverio was working on the school fence when he was fetched by the policemen and that when she asked the policemen whether the latter had a warrant of arrest, they replied in the negative.

After trial, the Regional Trial Court of Naval, Biliran, Branch 16, in its decision, dated 19 May 1998 (promulgated on 22 July 1998), convicted accused Segundo Alverio, Jr.

"WHEREFORE, judgment is rendered finding accused Segundo Alverio, Jr. GUILTY beyond reasonable doubt of the crime of Murder which is punished under Article 248 of the Revised Penal Code with Reclusion Temporal Maximum to Death and there being no mitigating or generic circumstance for or against the accused, the penalty shall be imposed in its medium period. Accused Segundo Alverio, Jr. is, therefore, sentenced to suffer the prison term of RECLUSION PERPETUA and ordered to indemnify the heirs of Santos Cabillan, Jr. the sum of P50,000.00; to pay P20,000.00 for actual damages; to pay P10,000.00 for moral damages and to pay the costs."[2]

The trial court found adequate proof to qualify the crime to murder after considering the number of wounds sustained by the victim and the suddenness of the attack made by the three armed malefactors.

The convicted accused, through counsel, timely filing a notice of appeal, would now contend that -

"1. THE LOWER COURT ERRED IN FINDING THAT WITNESSES SOLAYAO AND CABALQUINTO POSITIVELY IDENTIFIED ACCUSED ALVERIO INSPITE OF THE TESTIMONY OF POLICE OFFICER TORLAO THAT THE SCENE OF THE CRIME WAS VERY DARK.

"2. THE LOWER COURT ERRED IN FINDING THE ACCUSED GUILTY INSPITE OF THE SUSPICIOUS CIRCUMSTANCES THAT LED TO THE IDENTIFICATION AND ARREST OF ACCUSED ALVERIO.

"3. THE LOWER COURT ERRED IN CONVICTING THE ACCUSED FOR MURDER INSPITE OF THE FACT THAT IT WAS NOT CLEARLY SHOWN THAT THERE WAS DELIBERATE INTENT ON THE PART OF THE ACCUSED TO TAKE ADVANTAGE OF THEIR SUPERIOR STRENGTH."[3]

The Court finds no valid reasons to reverse the judgment of the trial court. The real focus on the appeal relates to an evaluation on the credibility of the witnesses presented by the prosecution and the defense at the trial. The findings on this score by the trial court are accorded great weight and respect.[4] The assessment on the testimony of witnesses is a matter best undertaken by the trial court[5] because of its opportunity, first hand, to observe the declarants at the witness stand and to determine the veracity of their statements.[6]

The Court, nevertheless, has closely examined the records. The denial and alibi posed by the defense are just too unconvincing to overcome the narration, given in great detail, by the eyewitnesses. Observe the straightforward testimony of Bianito Solayao:

"Q When was the last time you saw Santos Cabillan Jr. alive?

"A On the 22nd.

"Q Of what month and year?

"A June, [July] 1994.

"Q You said that the last time you saw Santos Cabillan Jr. was on June 22, 1994, where?

"A In their house.

"Q Where were you at that time?

"A I went to their house to their place.

"Q What was your purpose in going to the place of Santos Cabillan Jr.?

"A I just go there to see him.

"Q Did you have a companion?

"A None.

"Q Were you able to met Santos Cabillan Jr.?

"A Yes Sir.

"Q After that when you met him what did you do?

"A We went to the Miss Gay presentation at the plaza.

"Q Who was your companion if any?

"A Victorino Cabalquinto and Santos Cabillan Jr.

"Q Where was this Miss Gay presentation held?

"A At the plaza infront of the Municipal Building.

"Q Do you know why there was presentation of Miss Gay, what occasion was that?

"A I do not know.

"Q After seeing the presentation, what happened next?

"A We went home.

"Q On your way home what happened next?

"A Santos Cabillan Jr. and Nicnic urinated.

"Q After that what happened next?

"A They fixed their belt and zipped their trousers.

"Q And after that?

"A We were met by Segundo Alverio Jr. and his two companions.

"Q When you were met where were you and what were your position, the three of you?

"A We were walking.

"Q What was your position the three of you from each other?

"A We were walking side by side.

"Q You said that Segundo Alverio met you with his two companions, where were they?

"A I did not know where they came from.

"Q Where did you first saw them?

"A In front of us.

"Q Who were in front of you?

"A Segundo Alverio Jr. and his companions.

"Q What happened when these three met you?

"A He was collared at the back and then stabbed.

"Q Who was collared?

"A Santos Cabillan Jr.

"Q Who collared him?

"A Alverio.

"Q Where was Alverio when he collared Santos Cabillan Jr.?

"A He was behind.

"Q His two companions?

"A In front.

"Q What happened next after that?

"A He was stabbed.

"Q Who was stabbed?

"A Santos Cabillan Jr.

"Q Who stabbed Santos Cabillan Jr.

"A Alverio.

"Q How about his two companions what were they doing when Alverio stabbed Santos Cabillan Jr.?

"A They also stabbed Santos Cabillan Jr. in front.

"Q You, what were you doing when this Santos Cabillan Jr. was being stabbed by Segundo Alverio Jr. and his companions?

"A I shouted for help.

"Q How far were you from them?

"A Two arms length.

"Q Was there any help that came?

"A None.

"Q Your other companions, Victorio Cabalquinto where was he when Santos Cabillan Jr. was being stabbed?

"A We were side by side.

"Q What did Victorino Cabalquinto do?

"A He ran to Santos Cabillan Jr.'s parents.

"Q You after shouting for help and there was no help what did you do?

"A When I saw that Santos Cabillan Jr. was dead I ran away because they faced me.

"Q When you ran, how about these three assailants, Segundo Alverio Jr. and his two companions what did they do when you ran?

"A They followed me then they ran to Palanay.

"Q You, what did you do after that?

"A I went back to the place where Santos Cabillan Jr. was.

"Q What did you do?

"A I feel him if he was still alive.

"Q What did you feel?

"A He was dead.

"Q At what time was this stabbing incident happened?

"A About 1:00 AM.

"Q And how were you able to recognize the face of the assailants?

"A The moon was bright and there was light on the electric post.

"Q This Segundo Alverio do you know him personally?

"A I did not know him and I came to know him when he was apprehended by the police.

"Q When this stabbing incident was happening did you know him already as Segundo Alverio?

"A Only the face but the name I did not know." [7]

The other eyewitness, Victorino Cabalquinto, gave in similar fashion his account of the incident.

"Q After urinating, what did you and Santos Cabillan, Jr., do?

"A We continue walking but we were unable to reach an armslength.

"Q Why, what happened?

"A We were met by three persons.

"Q Did you recognize these three persons?

"A Only their faces.

"Q Until now, you do not recognize their names?

"A I came to know when one was apprehended.

"Q What happened when you met these three persons?

"A One person went behind and collared behind and stabbed the victim behind.

"Q Who collared whom?

"A Santos Cabillan, Jr., was collared behind and the person who collared him during that moment I still do not know him.

"Q You know him now?

"A Yes, Sir.

"Q What is the name?

"A Segundo Alverio.

"Q You said that Alverio was behind Santos Cabillan, Jr., when the latter was collared, which part of the dress of Santos Cabillan was collared by Segundo Alverio?

"A Here.

"Q Will you please demonstrated how Alverio did that to Santos Cabillan, Jr. using the interpreter as Cabillan?

"A This way. (Witness holding the back collar of the interpreter.)

"Q After holding the collar of Cabillan from behind, what did Alverio do?

"A He immediately stabbed Santos Cabillan, Jr.

"Q What did Alverio use in stabbing Santos Cabillan, Jr.?

"A A knife.

"Q Was Santos Cabillan, Jr., hit?

"A Yes, Sir.

Q Which part of his body was hit?

"A Back of Santos Cabillan, Jr.

"Q You said that you met three persons, what did the other two persons do?

"A They were in front of us.

"Q What did they do?

"A The two persons attacked us [but] we ran away.

"Q Before the two persons attacked you, what did they do if any to Santos Cabillan, Jr.?

"A The two persons were the ones facing us.

"Q After facing you, what did the two persons do?

"A They attacked us by stabbing us.

"Q When you say us, you were referring to who?

"A Beanito Solayao.

"Q Were you hit?

"A No, Sir.

"Q Who actually stabbed Santos Cabillan, Jr.?

"A Segundo Alverio.

"Q Anybody else?

"A Yes, the other two persons.

"Q Do you know of these two persons?

"A I do not know their names but I know them by face.

"Q It was nighttime how were you able to recognize Segundo Alverio and companions?

"A The moon during that time was bright and there was an electric lamp on that spot.

"Q How far was the electric lamp to the site where Santos Cabillan was stabbed?

"A Less than three armlength.

"Q How far were to Santos Cabillan, Jr., when he was stabbed by the assailant?

"A Less than three armlength also.

"Q As far as you can remember, how many times did Alverio stab Santos Cabillan, Jr.?

"A I could no longer remember how many times Santos Cabillan was stabbed but I only remember that Santos Cabillan was stabbed by them.

"Q You said that two of the companions of Alverio faced you and tried to stab you, what did you do when they faced and tried to stab you?

"A I ran in order to inform the parents.

"Q Parents of whom?

"A Santos Cabillan, Jr."[8]

There simply is no way that the alibi of accused-appellant and his denial can hold against the positive declaration

of the eyewitnesses. Alibi is inherently a weak defense for it can easily be fabricated;[9] for it to be appreciated, it is necessary not only to prove the presence of the accused at another place at the time of the perpetration of the offense but also that it is physically impossible for him to be at the crime scene.[10] It is hardly so in this case. Neither can denial, like alibi, prevail over the positive testimony given by eyewitnesses.[11]

The Court sustains the trial court in appreciating the qualifying circumstance of abuse of superior strength in the killing of the victim. While mere superiority in number does not per se indicate the presence of this circumstance,[12] it may be properly considered, however, when, like here, the assailants likewise enjoy and make use of their superiority in arms.[13] The assailants in this case, two of whom are yet to be brought to justice, have clearly overwhelmed the victim rendering him completely unable to defend himself.

WHEREFORE, the assailed decision of the trial court is **AFFIRMED** in toto. Costs against accused-appellant.

SO ORDERED.

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

[1] Records, p. 33.

[2] Rollo, p. 73.

[3] Rollo, pp. 56-57.

[4] People vs. Tenorio, 284 SCRA 420.

[5] People vs. Aliano, 287 SCRA 158.

[6] People vs. Baccay, 284 SCRA 296.

[7] TSN, 14 June 1995, pp. 3-6.

[8] TSN, 15 June 1995, pp. 4-8.

[9] People vs. Cabiles, 284 SCRA 199.

[10] People vs. Magpantay, 284 SCRA 96; People vs. Ravanes, 284 SCRA 634.

[11] People vs. Cabiles, 284 SCRA 199; People vs. Barrientos, 285 SCRA 221.

[12] People vs. Asis, 286 SCRA 64.

[13] See People vs. Felix, 297 SCRA 12.

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