

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. NORBERTO SABADO, APPELLANT.

G.R. No. 135963. November 20, 2000

Ponente: DAVIDE JR., C.J.

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DAVIDE JR., C.J.:

The credible and positive testimony of a single witness is sufficient for conviction because truth is established by the quality, not necessarily the quantity, of evidence.

The Case

Before the Court is the appeal of Norberto Sabado, assailing the September 14, 1998 Decision[1] of the Regional Trial Court (RTC) of Tayug, Pangasinan (Branch 51), in Criminal Case No. T-1383. The decretal portion of the Decision, which convicted him of murder and sentenced him to reclusion perpetua, reads as follows:

"WHEREFORE, finding the accused Norberto Sabado guilty beyond reasonable doubt of the crime of [m]urder, qualified by evident premeditation, as defined and penalized under said Article 248, paragraph 5, the Court hereby sentences him to suffer the penalty of RECLUSION PERPETUA, to indemnify the heirs of the deceased Fernando Madelo for damages in the negotiated sum of P100,000.00[2] and to pay the costs."[3]

The Information,[4] dated April 19, 1993, charged appellant as follows:

"That on or about the 15[th] day of January, 1993, in the morning, at Barangay Sinabaan, Municipality of Umingan, Province of Pangasinan, New Republic of the Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, armed with [a] short firearm, with intent to kill[,] with treachery and evident prem[e]ditation, did then and there wilfully, unlawfully and feloniously shoot one FERNANDO MADELO, inflicting upon him an injury to wit:

-- Gunshot wound, through and through, point of entry [at] lateral portion of the right arm, penetrating the muscle of the arm going towards the right axilla, penetrating the lower portion of right and left lung point of exit at the left 5th intercostal space just below the left scapula.

which caused the death of FERNANDO MADELO, as a consequence, to the damage and prejudice of the heirs of said FERNANDO MADELO."[5]

When arraigned on July 1, 1997, appellant pleaded[6] not guilty.[7] After due trial, the court a quo promulgated its assailed Decision.

Hence, this appeal.[8]

The FactsProsecution's Version

In its Brief,[9] the Office of the Solicitor General presents the prosecution's version of the facts as follows:

"On January 15, 1993, at 9:00 o'clock in the morning, at the ricefields of Sinabaan, Umingan, Pangasinan, victim Fernando Madelo was harrowing the ricefield while his son, prosecution witness Robinson Madelo, was

planting rice. Appellant Norberto Sabado appeared from behind of Fernando and Robinson Madelo, and the following altercation ensued:

Robinson Madelo:

`The accused was ordering my father to work in the irrigation project.

Atty. Sta. Maria:

`Q. How did Sabado state that fact to your father?

`A. `Go and work.'

Court:

`What, if any, did your father answer by way of response?

Robinson Madelo:

`My father insisted that he ha[d] [d]one already his work before.

"During the foregoing altercation, Robinson Madelo noticed that appellant had a firearm, and called the victim's attention to that fact. However, the victim simply brushed aside Robinson's warning and said, `Leave him alone.'

"Immediately after, appellant, who was in a standing position facing northwest, shot the victim who was then facing southward. The victim fell down and slumped on the ricefield. Robinson was stunned upon witnessing the shooting incident.

"Appellant hurriedly left the scene of the crime, while the victim's brother who was at the adjacent ricefield came to rescue the dying victim. Fernando Madelo died as a result of the shooting incident.

"Dr. Alex Trinidad, Rural Health Physician[,] Unit II, Umingan, Pangasinan conducted an autopsy, and reported:

`Gunshot wound through and through. Point of entry, lateral portion of the right arm penetrating the muscle of the arm, going toward the right axilla, penetrating the lower portion of right and left lung, point of exit at the left lung, point of exit at the left[,] 5th intercostal space just below the left scapula. The point of entry is lower than the point of exit.'

`Q. And that for emphasis what is the cause of death?

`A. The [cause] of death is internal hemorrhage because the lungs are affected.'"[10] (citations omitted)

Defense's Version

On the other hand, the trial court narrated appellant's lengthy account of the facts, including the circumstances before and after the incident, as follows:[11]

"The late Fernando Madelo was his best friend, but the brother Jeremias Madelo alias `Beriong' was his nemesis. He and Jeremias were in feud over irrigation waters.

"At around 8:00 [o]n the morning of January 15, 1993, he was in the ricefield where he saw Fernando.

"They were then to clean up the irrigation canal but when they were about to go Jeremias, then around 10 meters away, drew a gun and pointed to him, uttering `[V]ulva of your mother, Norie, I will kill you.'

"Upon seeing Jeremias draw a gun he hid himself behind Fernando, as there were three of them then.

"He was close by Fernando, although the latter was ahead as they started to proceed to the irrigation canal. He was then carrying his `panabas' (grass cutting bolo).

"As he and Fernando proceeded east, Jeremias approached from the south.

"As he hid behind Fernando's body, there was a shot and he ran. Jeremias chased him but was not able to catch up. He proceeded home, which was around 600 meters away. He ran the distance because of fear.

"He was not hit by the shot.

"He never came to know that Fernando died, until he was charged in court.

"It was a short firearm, around six inches long, that Jeremias pointed at him.

"When he hid behind Fernando, his body was completely shielded, as the latter was taller and stouter. He immediately hid as soon as the gun was pointed at him.

"When he ran another shot rang out.

"After the incident he did not report anymore to the police because he was afraid of Jeremias. Besides, he was not wounded and so he did not mind.

"Fernando was a resident of Brgy. Flores and not of adjacent Brgy. Sinabaan.

"After the incident he left for Alicia, Isabela because of fear.

"The police in Isabela did not apprehend him; instead, he surrendered to the police chief in 1997 thru a common friend who informed him that there was a pending charge against him. That was when he came to know for the first time about the case.

"Since 1993 when he left Umingan, he lost contact with his family. They did not know where he went and neither did he get in touch.

"His parents are still alive and he has brothers and sisters. He wrote to them but they did not respond.

"Fernando's ricefield, around 100 meters away from his, was on a higher level.

"The flow of water would be sufficient if the irrigation canal was cleared up and on January 15, 1993 they were still in the process of clearing.

"Fernando was his best friend because they often saw each other. They had a common source of irrigation and they usually conversed in the ricefields. There were even times when they were together in birthday parties. But Jeremias hated him in connection with the irrigation waters.

"He controlled the flow of water that went to Jeremias' ricefield, but it was also possible for Fernando to control the flow of water.

"When he surrendered to police chief Manuel Cornel of Alicia, he mentioned about the incident in question. He knows Cornel personally because the latter came from Flores, Umingan. Upon learning from their common friend that he was charged he surrendered to Cornel because he knew that he was not at fault.

"There were only three of them when Jeremias fired a gun. For a while it was only he and Fernando who were around.

"Before the incident, he had an argument with Jeremias about irrigation waters, but the latter did not threaten him yet.

"Before Jeremias drew a gun he said `Vulva of your mother, Norie. I will kill you, I will kill you.' It was when

he hid himself that Jeremias fired.

"He was not sure who was hit, but he was sure that someone was hit.

"When he hid behind Fernando, their bodies touched each other because he held the latter. It was the handle of Fernando's bolo that wounded him as he hid, but there was no scar. He was then wearing long sleeves.

"When he ran, after Jeremias fired, he left Fernando behind. He did not see Fernando run or collapse. He looked back when there was another shot and when Jeremias chased him. He did not see Fernando because his attention was then focused on Jeremias. When he was around 100 meters near his house, Jeremias desisted and proceeded east but still holding the gun.

"His house was located north of his ricefield.

"No, his house is in the south while his ricefield is in the north. When he ran he first proceeded east before going towards his house.

"When he reached home he did not see anyone because everybody was in town. He was not able to tell the barangay captain, his neighbor and relative, about the incident because he was afraid and nervous and so he left. Neither did he tell his neighbors about the incident. He left for Isabela with a clean conscience. He was not at all arrested. When he voluntarily surrendered that was his first time to know that there was a case against him and that he was being blamed for the death of his friend Fernando.

"He is in good terms with Fernando's wife.

"He did not communicate to Fernando's wife, to tell her how innocent he is, because when he surrendered he was incarcerated at once. She was then abroad. Because he was incarcerated he had no chance to contact the other relatives of the deceased. He did not explain anymore his innocence to the chief of police because the latter took him to the district jail in Balungao. There he explained neither.

"Earlier, when he was in the field he noticed that there was no water and so he went upstream and released some of the waters then irrigating the land of Jeremias.

"When Jeremias arrived and noticed, an argument between them ensued, on the occasion of which Jeremias drew a short gun. He ran away home and left Jeremias behind.

"On January 15, 1993 at around 9:00 a.m. he went to the field and talked to Fernando about the cleaning of the irrigation canal. He talked to Fernando in a brotherly way.

"He told Fernando: 'Please stop for a while what you are doing now because we have work to perform. You were even the one who set the day but now you can not fulfill your promise.' Fernando got mad and told him to go away, as Fernando took hold of a bolo on his waist. That was when Jeremias was approaching them some seven meters away.

"When he saw Fernando take hold of the bolo, he held Fernando by the hands and that was when he heard Jeremias saying 'Vulva of your mother, Norie, I will kill you.' Jeremias was then very mad at him and he saw the latter draw a short gun and point the same at him.

"That was when he shielded himself behind Fernando, then a shot rang out.

"As he held Fernando by the waist the latter was nearer to Jeremias.

"When Jeremias earlier confronted him about the irrigation waters, and Jeremias drew a gun they were five meters apart. He ran away immediately because he was afraid.

"During the incident of January 15, 1993, he did not run away when Jeremias drew a gun because he was

concerned about shielding himself behind Fernando, as Jeremias was already very mad.

"Fernando was also mad, and when he took hold of his bolo, he (accused) in turn held Fernando's hands. That was when Jeremias approached.

"He took the courage to hide behind Fernando because the two were brothers.

"He first notice[d] the presence of Jeremias when the latter said 'Vulva of your mother, Norie, I will kill you.' Jeremias was then around seven meters away.

"At the place where Fernando plowed his field there were tall grasses and a man approaching would not be easily detected.

"There were only three of them during the confrontation, namely himself, Jeremias and Fernando. There was no boy around. He knows personally the son of Fernando who testified for the prosecution herein.

"It is not true, as claimed by Robinson Madelo, that he was there and witnessed him (accused) shoot Fernando, the truth being that Robinson was not around. Robinson was then in school because it was a school day.

"He was arrested by the police in May, 1997 at Alicia, Isabela.

"On the date of the incident in question he was then residing in Brgy. Sinabaan. He was a farmer and his family consisted of his parents, brothers and sisters.

"Since the date of the incident, he stayed in Alicia until he was arrested.

"He left Umingan because he feared Jeremias who threatened to kill him. Before leaving Umingan, however, he did not know that he was being blamed for Fernando's death.

"Upon his arrest he explained to the chief of the police of Alicia that he had nothing to do with Fernando's death.

"It was only after he was arrested that he saw his 'family' again. He told his parents and relatives that he was faultless, narrating to them the facts and circumstances surrounding the incident, and he asked them to approach the Madelos to explain. He is not sure if they did because he was imprisoned.

"His parents are each more or less 60 years old and physically normal. He knows that it was Jeremias who shot his brother Fernando because Jeremias pointed a gun and he heard the shot.

"He did not think of reporting to the police of Umingan, before he went to Isabela, that it was Jeremias who shot Fernando because he was nervous and afraid.

"He left Isabela without telling his relatives at home beforehand because they were then out. He wrote to them only once, without telling them where he was. In his letter he told them what actually happened and the reason why he fled.

"He was in Brgy. Victoria, Alicia when the police took him into custody, and he was then on the highway waiting for a ride to town. While he waited he saw the police patrol passing by and he flagged it down, because he was then intending to go to police chief Cornel to surrender himself. He was told beforehand that he was being hunted down, but he did not know that there was a warrant for his arrest.

"On board the police patrol car was Cornel. He told Cornel that he was going to see him. He was not arrested.

"He is unaware that, as the prosecutor informed the Court, Jeremias also died after the questioned incident."

Trial Court's Ruling

Finding that appellant, not the victim's brother, was the culprit, the trial court concluded:

"In conclusion the Court holds that the prosecution has successfully discharged its duty to substantiate, with the quantum of proof required under Section 2, Rule 133 of the Revised Rules on Criminal Procedure, its allegation that [o]n the morning of the 15th of January, 1993 at Brgy. Sinabaan, Umingan, Pangasinan the accused Norberto Sabado, with intent to kill and with evident premeditation, did then and there fatally and feloniously shoot the late Fernando Madelo, contrary to Article 248 of the Revised Penal Code; that the element of treachery, additionally alleged in the Information, has not been adequately proven; and,

"That the accused failed to overcome the prosecution's evidence either through justification or denial." [12]

The Issues

Appellant alleges that the court a quo committed the following errors:

"I

The Honorable Court erred in giving full faith and credence to the testimony of the lone witness Robinson Madelo.

"II

The Honorable Court erred in giving weight and credence to Exh. `D' re: absence of Robinson Madelo on January 15, 1993, and discrediting Exh. `1' of the defense that Robinson Madelo was absent one (1) day in January 1993, with no specific date of absence.

"III

The Honorable Court erred in finding that the offense was attended by the qualifying circumstance of evident premeditation.

"IV

The Honorable Court erred in not giving weight to the theory of self-defense interposed by the accused." [13]

The Court's Ruling

The appeal has no merit.

First Issue: Credibility of the Lone Prosecution Witness

Appellant contends that the trial court erred in giving full faith and credence to Robinson Madelo, the lone prosecution witness. The defense insists, however, that the killer was Jeremias Madelo, the victim's brother. Allegedly, Jeremias fired at appellant who was hiding behind Fernando Madelo.

We are not convinced. First, the inconsistent narration of facts by appellant belies his claim. In an earlier testimony, he said that he and the victim were on their way to an irrigation canal. There the former saw, about ten meters from them, Jeremias who stopped, pointed a gun at him, and cursed "Vulva of your mother, vulva of your mother Norie, I will kill you." Appellant immediately took cover at the left side of Fernando, who was two strides ahead of him. When the former heard a shot, he immediately ran towards his house which was about 600 meters away. Jeremias chased him, but gave up when the former saw the latter nearing the house. [14]

But in a later testimony, appellant averred that shortly before the shooting incident, he had nagged the victim for failing to work on the irrigation canal. Despite the insistence of the latter that he had already done so, the former reiterated his demand. The victim got mad at him and attempted to hack him with his bolo. Hence, appellant immediately grabbed the former's hands. Both were in this position when the victim's brother allegedly arrived at the scene. [15]

Second, the defense's claim that Jeremias still fired at appellant despite the latter's being completely covered by Fernando goes against natural order and human nature. Ordinarily, a person would refrain from shooting if he knows that he might hurt his own relative. As the trial court succinctly pointed out, "[Appellant's] credibility as a witness is fair game to skeptics." [16]

Third, the testimony of the victim's son is supported by the medicolegal officer's testimony and autopsy report. According to the latter, the bullet penetrated the lateral side of the right arm and exited the lower left side of the scapula. The point of entry was lower than the point of exit by a few centimeters. There were no powder burns on the point of entry. Based on these findings, he deduced that the assailant's position was more probably on the right side of the victim, at a distance of not less than one meter. [17]

This conclusion supports the version of the victim's son Robinson. According to him, he was transplanting the rice seedlings, while his father was harrowing the rice field. The latter, who was facing south, was north of the former who was facing east. Approaching from the south, appellant, who was holding a gun in his right hand, stopped at Robinson's west, three meters from the victim. When the latter refused to do as he was told, he was shot by the former. [18]

Clearly, this version is more factual and more consistent with the evidence on hand.

Fourth, the trial court found Robinson's testimony to be credible and not instigated by any improper motive. As a rule, this Court will not disturb the finding of the trial court, which had the better opportunity to observe the demeanor and the conduct of the witnesses. Indeed, its assessment of the credibility of witnesses is entitled to great weight and is even conclusive and binding, if not tainted with arbitrariness or oversight of some fact or circumstance of significance and influence. [19] Appellant has not given any reason for us to overturn its conclusion.

Time and time again, the Court has ruled that the testimony of a single witness, if credible and positive, is sufficient for conviction because truth is established not by the quantity, but by the quality of the evidence. [20]

Appellant's Flight

There is one more reason why we believe the prosecution's version and reject that of the defense. If appellant is indeed innocent, why did he inexplicably flee from Barangay Sinabaan the same day the crime was committed? He left both his house and rice field unattended, without informing anyone -- not even his family -- where he was going.

Appellant insists that he was so afraid of the victim's brother that he hid in a very remote barangay in Isabela. But the barangay captain of Sinabaan was his relative. He could have told him of Jeremias' attempt on his life.

Through flight, one derogates the course of justice by avoiding arrest, detention, or the institution or continuance of criminal proceedings. [21] In this case, appellant was able to evade arrest for more than three years. Clearly, his flight evinced a consciousness of guilt and a silent admission of culpability. [22] Indeed, "the wicked flee, when no man pursueth, but the innocent are bold as a lion." [23]

Second Issue: Reliance on Exhibit "D"

Appellant argues that the trial court erred in giving weight and credence to Exhibit "D" (a school adviser's Certification of the absence of Robinson Madelo on January 15, 1993) and in ignoring Exhibit "1" (the Certification of the principal of Flores High School that Robinson was absent one day in January, 1993, with no specific date). The prosecution presented Exhibit "D," which showed that Robinson was absent from school on that fateful day, to corroborate his being in the farm with his father.

We reject appellant's argument. Aside from the general rule that factual findings of the trial court are accorded respect, the Court believes that a class adviser is in a better position than a principal to know whether a student-advisee is absent on a particular school day. Unlike a principal who is more concerned with the management or administration of the school as a whole, a class adviser would directly know of a student's presence in class. Moreover, Exhibit "D" bears not only the signature of the adviser, but also those of the six other teachers of Robinson Madelo on the date in question.

Third Issue: Evident Premeditation

Appellant contends that the trial court misappreciated the qualifying circumstance of evident premeditation.

This contention is without merit. There is evident premeditation when the following elements are proven: (1) the time when appellant decided to commit the crime; (2) an overt act showing that appellant clung to the determination to commit the crime; and (3) the lapse of a period of time between the decision and the execution of the crime, sufficient to allow appellant to reflect upon the consequences of the act.[24]

Prior to January 15, 1993, the relationship of the victim and the appellant had already been strained because of the minimal flow of water to the latter's rice field. As borne out by the records, not only was the rice field of the victim situated higher than that of appellant; the former himself controlled the water going down the latter's farm. Moreover, when appellant approached the victim on that fateful day, the former was already carrying a gun. Clearly, appellant had gone to the farm, not innocently as he would have us believe, but with an intent to confront and force the victim to address the dwindling supply of water flowing to the former's rice field. And when the victim refused to do so, appellant shot him as he had evidently planned.

Fourth Issue: Appellant's Theory of Self-Defense

Appellant contends that the trial court erred in not giving credence to his "theory of self-defense." [25] He explained his "theory" in these words: "At the setting and stage where accused-appellant found himself, he could not have dared to face Jeremias Madelo, so [he] thought of the only way to save himself, by shielding [himself with] the body of Fernando Madelo to protect himself. Jeremias did not anticipate the move the accused-appellant took. In the process of shooting accused-appellant, he hit his brother, Fernando Madelo, instead." [26]

It is scarcely necessary to address this point. It may be noted, though, that the "theory" of appellant is rather strange. In fact, he is not raising the justifying circumstance of self-defense, which presupposes that the accused admits authorship of the killing. He asserts, instead, that it was Jeremias Madelo who shot the victim. In any event, appellant's version of events is not credible, as shown earlier.

Verily, we hold that the allegation of the defense -- that it was Jeremias Madelo who killed Fernando Madelo -- cannot stand in the face of the credible and positive testimony of Robinson Madelo. Furthermore, the material contradictions in appellant's testimony [27] raise doubts as to its veracity.

WHEREFORE, the appeal is DENIED and the assailed Decision AFFIRMED. Costs against appellant.
SO ORDERED.

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

[1] Written by Judge Ulysses R. Butuyan.

[2] According to the trial court, the "parties readily agreed to fix a liquidated sum of P100,000.00 to answer for damages in the event of conviction." (RTC Decision, p. 2; Rollo, p. 17.)

- [3] RTC Decision, p. 16; Rollo, p. 31; records, p. 165.
- [4] Signed by 4[th] Asst. City Prosecutor Filemon L. Corpuz.
- [5] Information, dated April 19, 1993; Rollo, p. 9; records, p. 1.
- [6] Assisted by Atty. Merope P. Viado of the Public Attorney's Office.
- [7] See the RTC's Order dated July 1, 1997, and the Certificate of Arraignment; records, pp. 53-54.
- [8] This case was deemed submitted for resolution on September 11, 2000, when the Court received the Appellee's Brief. The filing of a reply brief was deemed waived, as none had been submitted within the reglementary period.
- [9] Signed by Sol. Gen. Ricardo P. Galvez, Asst. Sol. Gen. Maria Aurora P. Cortes and Sol. Rex Bernardo L. Pascual.
- [10] Appellee's Brief, pp. 3-6; Rollo, pp. 78-81.
- [11] RTC Decision, pp. 7-12; Rollo, pp. 54-59, records, pp. 156-161. Appellant's anemic 5-page Brief contains no narration of facts.
- [12] RTC Decision, pp. 15-16; Rollo, pp. 30-31; records, pp. 164-65.
- [13] Appellant's Brief, p. 1; Rollo, p. 41. This unpersuasive Brief was signed by Atty. Isidro D. Sta. Maria.
- [14] TSN, November 11, 1997, pp. 7-9.
- [15] TSN, February 18, 1998, pp. 5-7.
- [16] RTC Decision, p. 14; Rollo, p. 29.
- [17] TSN, November 24, 1997, pp. 4-6.
- [18] RTC Decision, p. 4; Rollo, p. 19; TSN, November 19, 1994, pp. 20-21.
- [19] *People v. Continente et al.*, GR Nos. 100801-02, August 25, 2000; *People v. Gonzales*, GR No. 122769, August 3, 2000; *People v. Reduca*, 301 SCRA 516, 528, January 21, 1999; *People v. Angeles*, 275 SCRA 19, 28-29, July 1, 1997.
- [20] *People v. Macaliag et al.*, GR No. 130655, August 9, 2000; *People v. Daraman et al.*, 294 SCRA 27, 44, August 7, 1998; *People v. Correa*, 288 SCRA 679, 689, January 30, 1998.
- [21] *US v. Alegado*, 25 Phil. 510, 511 (1913).
- [22] *People v. Dreu*, GR No. 126282, June 20, 2000; *People v. Mendoza*, G.R. No. 128890, May 31, 2000; *People v. Saragina*, GR No. 128281, May 30, 2000.
- [23] *US v. Alegado*, *supra*; citing *Hickory v. US*, 160 US 408, 422.
- [24] *People v. Casingal*, GR No. 132214, August 1, 2000; *People v. Virtucio Jr.*, GR No. 130667, February 22, 2000; *People v. Sarabia*, GR No. 106102, October 29, 1999.
- [25] Appellant's Brief, p. 3; Rollo, p. 43.
- [26] *Ibid.*
- [27] *cf.* TSN, August 11, 1997 and TSN, February 18, 1998.

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