

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. DANILO CAPITILE ALIAS DANNY, ACCUSED-APPELLANT.

G.R. No. 137046. February 26, 2001

Ponente: BELLOSILLO, J.

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BELLOSILLO, J.:

DANILO CAPITILE alias Danny was charged before the Regional Trial Court of Alaminos, Pangasinan, with the killing of Yubegildo Peralta on 20 September 1982 qualified by treachery and aggravated by evident premeditation.[1]

On 20 October 1998 the trial court found the accused Danilo Capitle alias Danny guilty of murder qualified by treachery and sentenced him to reclusion perpetua. He was ordered to pay the heirs of Yubegildo Peralta P50,000.00 as death indemnity and P7,581.00 as actual damages.[2]

On 20 September 1982 at around nine o'clock in the evening Diomedes Apigo, Moises Rivera and Melchor Gapasen bought two (2) bottles of Ginebra San Miguel at a store in Barangay Pangapisan, Alaminos, Pangasinan. They proceeded to the house of Gabriel Ginez to serenade his granddaughter Annalyn Ginez. On their way, they noticed Danilo Capitle trailing them. Upon reaching Gabriel's house Danilo talked to Diomedes, Moises and Melchor. Moises then sang. Afterwards, all four (4) of them were invited by Gabriel inside his house and they started to drink the liquor. Yubegildo Peralta arrived and joined them.

At around 10:30 that evening, the group asked permission to leave. Danilo invited them to his house situated a kilometer away. But before leaving, Danilo took from the yard of Gabriel a three (3)-inch wide split bamboo locally known as bayog. When they reached Danilo's house, Danilo went inside and brought out a bottle of wine. Only Yubegildo drank. Thereafter, they went to the house of a certain Juaning Antipuesto except Melchor who stayed behind upon reaching his house.

Yubegildo walked ahead. A meter behind was Danilo. Diomedes was three (3) meters away from Danilo while Moises was about fifteen (15) meters behind Diomedes. While passing in that same order along a fishpond dike near the Pangapisan River between eleven and twelve in the evening, Danilo muttered to Diomedes, "Ikka kon sa," meaning, "I may as well give it now."

With Danilo holding the split bamboo, Diomedes began to suspect that Danilo was planning something sinister so he excused himself saying, "Tumakki ak," which means, "I will excrete." But from a distance of approximately fifteen (15) meters where he relieved himself, Diomedes saw Danilo strike Yubegildo with the split bamboo. Yubegildo fell down. Immediately Diomedes ran back towards Danilo's house and pleaded with his parents to pacify him. However, Danilo's father simply answered, "Sikilay makauley ditan," or "Attend to that yourselves." Diomedes opted to stay put in Danilo's house.

About thirty (30) minutes later, Danilo arrived and muttered, "Nalpasen," meaning, "It is finished." Then Diomedes noticed that Danilo's hands together with the knife he was holding were stained with blood. His father

gave Danilo vinegar with which he washed his hands. Later, Yubegildo's body was found floating in the Pangapisan River.

The autopsy revealed that Yubegildo Peralta sustained a cut wound on the scalp, a cut wound on the forehead, punctured and lacerated wound on the face and stab wound on the anterior chest which the physician opined could have been caused by a bolo, bamboo or sharp-edged instrument. The fatal wound was identified as the one inflicted on the victim's right nipple since it penetrated the right portion of his heart.[3] Death of Yubegildo was estimated to have occurred between one o'clock and two o'clock in the morning of 21 September 1982. His heirs claimed they spent P7,581.000[4] for his funeral.

Danilo's version was that while walking with Yubegildo, Diomedes and Moises for a hundred meters from the house of Gabriel, Yubegildo told Danilo, "Okinnayo," meaning, "Vulva of your mother." Diomedes then tapped the shoulder of Yubegildo and whispered something to him until he and Diomedes started to fight. Danilo tried to pacify them but he was pushed aside. Yubegildo clubbed Danilo. In retaliation, Danilo picked up a split bamboo near the river and hit Yubegildo below his left ear. Diomedes, armed with a balisong, grappled with Yubegildo, then stabbed him once on the breast. Diomedes gave the bloodstained weapon to Danilo, which the latter washed. Finding that Yubegildo was already dead, Diomedes and Danilo proceeded to the latter's house.

Moises Rivera, testifying for the defense, narrated that while walking on their way home, with the accused and Diomedes ahead of him, he overheard Diomedes saying he wanted to relieve himself. At that time, Moises did not know where Yubegildo was. Then he (Moises) suddenly heard a thud, or what sounded like a punch on a person, prompting him to rush to the nearest house. But he did not know what else happened after that.

The trial court believed the statements of Diomedes as it found them categorical, as against those of the accused which it considered replete with inconsistencies, and the declarations of Moises which it found to be directly opposed to his Sworn Statement dated 22 September 1982.

The court appreciated treachery since the victim was hit from behind without any warning at all nor any provocation on his part, but ruled out evident premeditation due to lack of sufficient time for the accused to have reflected on the consequences of the act he intended to commit.

Accused-appellant Danilo Capitle now argues that there is no direct evidence linking him to the death of Yubegildo Peralta, hence, he prays for acquittal.

It is not difficult to concede to the argument of accused-appellant. Nonetheless, direct evidence is not the sole means of establishing guilt beyond reasonable doubt since circumstantial evidence, if sufficient, can supplant its absence. It only requires that: (a) there is more than one circumstance; (b) the facts from which the inferences are derived are proved; and, (c) the combination of all the circumstances is such as to produce a conviction beyond reasonable doubt.[5] And we find all these requirements adequately complied with in the present case.

In plain words, eyewitness Diomedes Apigo clearly detailed the sequence of events that transpired in the evening of 20 September 1982. Hence, the assessment of his credibility deserves the highest respect of this Court, considering that the trial court had the direct opportunity to observe his deportment and manner of testifying, and availed itself of the various aids to determine whether he was telling the truth or simply concocting lies. The exceptions thereto, i.e., some fact or circumstance of weight and influence has been overlooked, or the significance of which has been misinterpreted which if considered might affect the result of the case, have not been shown to exist in this case.[6]

Consider these portions of Diomedes' testimony -

Q: And as you were proceeding to the direction of Mr. Antipuesto, what was your walking formation?

A: We went following one another, sir.

Q:

Who was ahead?

A: (Yube)gildo Peralta, sir.

Q: Who followed (Yube)gildo Peralta?

A: Danny Capitle, sir.

Q:

Who followed Danny Capitle?

A: I, sir.

Q: Who was behind you?

A: Moises Rivera x x x x

Q: Now, how far away was Danny Capitle from (Yube)gildo Peralta this time?

A: In my estimate, Danny Capitle was behind (Yube)gildo Peralta by one meter, sir.

Q: What about you, how far behind were you from Danny Capitle?

A: About 3 meters, sir.

Q: And behind you (was) Moises Rivera, how far was he behind you?

A: About 15 meters, sir.

Q:

On the way proceeding towards the place of Antipuesto with this walking formation as you stated, do you remember anything that happened x x x x

A:

I saw that Danny Capitle was holding a piece of x x x split bamboo (bayog) type which he took from the place where we serenaded and I saw that he struck (Yube)gildo Peralta with that piece of bamboo, sir x x x x

Q: How many times did you see Danny Capitle strike (Yube)gildo Peralta with that bamboo?

A:

I only saw Danny Capitle strike (Yube)gildo Peralta once, sir, and (Yube)gildo Peralta fell and then I ran towards the house of Danilo Capitle and informed the incident to his father x x x x

Q: And how far were you from Danilo Capitle when you saw him strike (Yube)gildo Peralta?

A: About 15 meters, sir.

Q: What were you doing then?

A: I pretended that I will (sic) do some necessity, sir.

Q: Why did you pretend to do some necessity?

A:

Because I suspected that there was something Danny Capitle wanted to do because he was carrying a piece of bamboo, sir x x x x

Q: Have you ever seen (sic) again Danilo Capitle that evening x x x x

A: After 30 minutes had passed, Danilo Capitle arrived at their house and said "Nalpasen," it's finished.

Q: And after Danilo said it's finished, what else transpired?

A:

He went inside and his father gave him vinegar with which Danilo Capitle x x x washed his hands with stained blood.

Q: By the way, who was with Danilo Capitle when he went to his house if any?

A: He was alone, sir.[7]

We also refer to the narrations of Diomedes Apigo in his Sworn Statements executed only a day after the incident

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Q:

Do you know of any misunderstanding (between) Danilo and Yubegildo?

A:

I don't know anything sir, but I know he has a plan because he said in Ilocano dialect "IKKA KON SA" x x x x[8]

Q: You said in your previous statement that Danilo Capitle said "IKKA KON SA," what do you mean by this?

A: x x x x Danilo was planning to hit Yubegildo with the piece of bamboo he was carrying.

Q:

Also in your previous statement you heard Danilo Capitle uttered "NALPASEN" in your presence and in the presence of Moises Rivera, what do you understand with this?

A:

I understand that Danilo had already finished hitting Yubegildo with the said piece of bamboo as I saw Danilo did (sic) it.[9]

Summing up the evidence for the prosecution, between eleven o'clock and twelve o'clock in the evening of 20 September 1982 the victim Yubegildo Peralta was walking along the fishpond dike followed closely by accused-appellant Danilo Capitle. Forming a line behind accused-appellant were Diomedes and then Moises. While walking in that order, accused-appellant told Diomedes, "Ikka kon sa" or "I may as well give it now." Diomedes readily suspected that accused-appellant was about to do something malevolent because he was still carrying the split bamboo he took from the yard of Gabriel. So Diomedes hurriedly excused himself saying he was going to defacate.

Approximately fifteen (15) meters away, Diomedes saw accused-appellant strike the victim with the bayong and Yubegildo fell down. Startled by the turn of events, Diomedes ran towards accused-appellant's house and asked his parents to pacify their son, but Danilo's father displayed an uncaring attitude. About thirty (30) minutes later,

accused-appellant arrived home and said, "Nalpasen" or "It is finished." Diomedes noticed that accused-appellant's hands and the knife he was holding were stained with blood. Accused-appellant washed his hands with vinegar given to him by his father. In the morning of 21 September 1982, Yubegildo's body was seen floating in the Pangapisan River, his time of death having been estimated between one o'clock and two o'clock of that morning.

In light of the events that preceded accused-appellant's statement, "Nalpasen," at approximately twelve-thirty in the morning of 21 September 1982, and the medical opinion that Yubegildo died between one o'clock and two o'clock that same morning, the conclusion is inescapable that when he said "Nalpasen" he meant that he had snuffed out the life of Yubegildo. The unbroken chain of circumstantial evidence which we connect from start to finish, aside from the fact that Diomedes saw Danilo strike Yubegildo with the bayog Danilo was holding, firmly points to accused-appellant Danilo Capitle, and to no other, as the perpetrator of the crime.

The accused-appellant's testimony and demeanor on the witness stand were definitely far from impressive. Inconsistencies in his statements during the direct and cross examinations were too glaring to ignore. We emphasize these points: (a) He said he picked up the split bamboo near the river but later admitted he took it from the yard of Gabriel;^[10] (b) He said he hit the victim below the left ear but subsequently disclaimed knowledge of what part of the victim's head was hit;^[11] (c) He said he saw Diomedes stab the victim once at the breast, only to vacillate later when he denied having actually seen Diomedes stab the victim;^[12] and, (d) He said he did not know how Moises got hold of the balisong after the stabbing incident yet later he stated that Diomedes gave it to Moises.^[13] A witness who is certain of his narrations will remain staunch, the assiduous efforts of the defense to demolish his credibility notwithstanding. On the other hand, a witness who prevaricates will find it hard to stick to his story and will find himself eventually entangled in the web of lies he has woven. Easily the accused-appellant falls under this category.

Furthermore, the testimony of Moises was incredible because it directly opposed his narrations in his Sworn Statements executed only two (2) days after the killing which uncannily corroborated the story of Diomedes -

Q: What transpired next?

A: I just heard a sound (BOG) and it came to my mind that Danilo mauled already Yubegildo Peralta.

Q: What did you do if any?

A:

I ran as fast as I can (sic) in order to reach the house of Danilo so I can (sic) inform his parents (about) what he did x x x x

Q:

How did you know then that Yubegildo Peralta was (the) one who was mauled by Danilo Capitle when in fact you did not see it personally?

A:

It came to my mind sir, that we were only four in the group and Danilo was following Yubegildo while we were walking along the way x x x x

Q: Did you voluntarily give your (balisong) to Danilo purposely to stab Yubegildo Peralta?

A:

No sir, he was forcing me to get that (balisong) but I told him no more it's no longer here, because I placed it

inside the aparador when we were having our serenade (harana) in the house of Mr. Gines x x x x

Q: If you said your (balisong) was inside the aparador why is it that Danilo was able to get it?

A:

I don't know sir, because while I was singing he roamed around and looked for that (balisong) and when we were about to get out from the house I embraced him on his hips and I felt the (balisong) inserted in his waistline, but I remained silent because I knew he was drunk that night already x x x x[14]

Q: When you heard the sound "BOG" why did you run to Danilo's parents' house to report that Danilo had done something to Yubegildo, what was that sound about?

A: It is the sound of a human body falling to the ground.

Q: Was that sound enough for you to determine that Danilo hit Yubegildo?

A:

Yes sir. I am sure because while we were still walking Danilo told us (with Diomedes Apigo) "IKKA KON SA" referring to Yubegildo. Danilo meant to hit Yubegildo with the piece of bamboo he brought with him from the house of the girl we serenaded that night, or with the knife that I felt about on Danilo's waistline. And beside Danilo reminded Yubegildo that he was boxed by the latter long ago to which Yubegildo answered by saying I already forgot the matter.

Q:

Diomedes Apigo and you ran towards the house of the parents of Danilo and about 30 minutes later Danilo arrived there, what have you noticed (about) Danilo?

A:

There were stains of blood on his hands and that he told us that he even washed some blood on his face at the river, and also saying "NALPASEN" for which I understood that he had already killed Yubegildo. In fact his father even gave vinegar to Danilo to wash the blood stains.[15]

The accused-appellant disputes the presence of treachery in the commission of the offense since, according to him, the victim was already forewarned of the danger to his life when accused-appellant picked up a split bamboo upon leaving the house of Gabriel.

We do not agree. For treachery to be appreciated these conditions must concur: (a) the means, methods or form of execution employed giving the person attacked no opportunity to defend himself or to retaliate; and (b) that such means, methods or form of execution were deliberately and consciously adopted by the accused.[16] Yubegildo was walking ahead of the rest of the group when accused-appellant suddenly struck him from behind with the bayog which caused him to fall down. Yubegildo was attacked without any warning and without affording him any opportunity to defend himself. Apparently, there was treachery.

The records do not indicate that Yubegildo saw accused-appellant pick up the split bamboo when they left the house of Gabriel. Moreover, we recall that after engaging in a drinking session, accused-appellant invited Yubegildo and the rest of the group to his house. Assuming that Yubegildo did see accused-appellant pick up the bayog, Yubegildo would have doubted the sincerity of accused-appellant's invitation and would not have joined them.

Evident premeditation to be considered must have these elements: (a) the time when the offender determined to commit the crime; (b) an act manifestly indicating that he clung to his determination; and, (c) a sufficient lapse of

time between determination and execution to allow himself time to reflect upon the consequences of his act.[17] These elements must be established with equal certainty and clarity as the criminal act itself before it can be appreciated.[18] Here, since there is no showing as to when and how the plan to kill was hatched or how much time had elapsed before it was carried out, evident premeditation cannot be considered to exist.[19]

At the time of the commission of the crime, Art. 248 of The Revised Penal Code punished murder with reclusion temporal in its maximum period to death. There being neither mitigating nor aggravating circumstance other than treachery, which already qualified the killing to murder, conformably with Art. 64, par. (1) of the same Code, the proper penalty is reclusion perpetua. The heirs of the victim are entitled to a death indemnity of P50,000.00 and actual damages of P7,581.00 which were duly proved. In addition, they are entitled to moral damages of P50,000.00 for their mental and emotional anguish.

WHEREFORE, the Decision appealed from finding accused-appellant DANILO CAPITLE alias Danny guilty beyond reasonable doubt of murder and sentencing him to reclusion perpetua and ordering him to pay the heirs of the victim Yubegildo Peralta P50,000.00 as death indemnity and P7,581.00 as actual damages is AFFIRMED, with the MODIFICATION that accused-appellant is further ordered to compensate the heirs with P50,000.00 as moral damages for their mental and emotional anguish. Costs against accused-appellant.

SO ORDERED.

Mendoza, Quisumbing, Buena, and De Leon, Jr., JJ., concur.

[1] The title of the Information dated 12 May 1983 reads, "People v. Danilo Capitle alias Danny," but the title in the RTC Decision is "People v. Danny Capitle;" Records, pp. 86-87.

[2] Decision penned by Judge Lilia C. Español, RTC-Br. 55, Alaminos, Pangasinan; Rollo, p. 51.

[3] Exh. "B;" Records, pp. 164-165.

[4] Exh. "G;" id., p. 241.

[5] Sec. 4, Rule 133, Rules of Court.

[6] People v. Laurente, G.R. No. 116734, 29 March 1996, 225 SCRA 543.

[7] TSN, 9 August 1983, pp. 13-20.

[8] Exh. "B;" Records, p. 10.

[9] Exh. "C;" id., p. 11.

[10] TSN, 23 May 1988, pp. 9-10; TSN, 21 February 1990, pp. 10-11.

[11] Id., p. 11; TSN, 18 October 1989, p. 6.

[12] TSN, 18 October 1989, p. 14.

[13] Id., p. 11; TSN, 23 March 1988, pp. 17-18

[14] Exh. "D;" Records, p. 12.

[15] Exh. "E;" id., p. 13.

[16] People v. Landicho, G.R. No. 116600, 3 July 1996, 258 SCRA 1.

[17] People v. Castillo, G.R. No. 120282, 20 April 1998, 289 SCRA 213.

[18] People v. Reyes, G.R. No. 118649, 9 March 1998, 287 SCRA 229.

[19] People v. Sambulan, G.R. No. 112972, 24 April 1998, 289 SCRA 500.

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