PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROSALITO @ LIKLIK CABOQUIN Y DEL ROSARIO, ACCUSED-APPELLANT.

G.R. No. 137613. November 14, 2001

Ponente: PUNO, J.

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PUNO, J.:

Accused ROSALITO @ Liklik CABOQUIN was charged with Murder for the fatal stabbing of one PABLITO TALINGTING in an Information[1] which reads:

> "That on or about the 3[rd] day of October 1991, in the Municipality of Kawayan, Biliran Province, Philippines, and within the jurisdiction of this Honorable Court, said accused, with treachery and with intent to kill, did then and there willfully, unlawfully and feloniously attack, assault and stab one Pablito Talingting, with the use of hunting knife locally known as `balisong' which the accused has conveniently provided himself for the purpose, thereby inflicting upon the latter multiple mortal wounds which caused his death shortly thereafter.
>
> In violation of Art. 248 of the Revised Penal Code."

The People's case was established from the testimony of two (2) eyewitnesses PAQUITO BENALDO and OLIVO MATUGUINAS. They knew the accused ROSALITO CABOQUIN, alias Liklik, since childhood as they resided in the same barangay in Kawayan, Biliran province. On October 3, 1991, at about 8:00 p.m., Paquito and Olivo were seated on a bench in front of a store in their barangay, with their friends PABLITO TALINGTING and siblings Mayeng and Baby Monto. Accompanied by Baby on the guitar, the group sang while they waited for some fishermen to arrive. Suddenly, the accused appeared in front of Pablito and repeatedly stabbed him on the chest with his knife. Pablito staggered and walked towards the direction of his house. He only got as far as 10 meters before he stumbled on the ground. During the commotion, Pablito's friends remained seated and motionless as they were stunned and frightened by what they witnessed. After the stabbing, the accused proceeded to the tennis court and challenged everybody to a fight. Pablito's friends took advantage of the opportunity. They ran and sought refuge in different areas. Paquito hid in the barangay hall, about five (5) meters away from the crime scene. From where he was hiding, he tried to ascertain if Pablito was still alive. After the accused left and the commotion died down, the group approached Pablito but he was already dead. They carried Pablito's lifeless body back to his house.[2] Post-mortem examination revealed that Pablito sustained multiple stab wounds on the chest which caused his untimely death.[3]

On October 7, 1991, the statements of eyewitnesses Paquito and Olivo were taken at the Kawayan police station. After the preliminary investigation, the MCTC judge issued a warrant[4] for the arrest of the accused on October 11, 1991. On March 30, 1992, the warrant was returned unserved as the accused could no longer be found in his residence and his whereabouts was unknown.[5] The case was ordered archived.[6]

Three (3) years later, in August, 1995, the victim's parents received information that the accused was detained in Quezon City in connection with another crime. They immediately reported this to the Kawayan police station.

Acting on the information, PO3 ROMEO VICTORIOSO proceeded to the Central Police District in Quezon City to serve an alias warrant of arrest[7] on the accused for the killing of Pablito. When he arrived at the Station 3 of the Central Police District, he conferred with the jail warden and inquired about the whereabouts of the accused. Upon verification, the name of the accused did not appear on the record of detainees at the police station. PO3 Victorioso then visited the jail and chanced upon an acquaintance, Junjun Villarin, who was detained there. Junjun pointed out to him the accused inside the detention cell. Junjun confided to him that the jail records did not reflect the accused's name as Rosalito Caboquin since the accused gave his name to the police as Lito Mendoza. PO3 Victorioso then informed the warden of his discovery. The warden conferred with Lito Mendoza in his office and the latter readily admitted that his real name was Rosalito Caboquin. The warden then attached a copy of the arrest warrant to the accused's file and assured PO3 Victorioso that after the accused's trial in Quezon City, he would cause the physical transfer of the accused to Kawayan, Biliran, to answer for the killing of Pablito. Two months later, or on October 23, 1995, the accused was turned over to the Kawayan police station.[8]

The accused proferred the defense of alibi. He testified that on October 3, 1991, at about 9:00 p.m., he was in his house in People's Village, Catmon, Malabon, Metro Manila, watching television. He has worked as a fish dealer in Malabon since 1982. The last time he visited Biliran was in 1989 when he attended the barrio fiesta. From then on, he stayed in Metro Manila and has not returned to Biliran. He admitted that he used the name Lito Mendoza when he went to Manila. In 1992, he was detained in Bicutan jail for illegal possession of firearm. He claimed that the police officers planted the firearm found in his possession. The first time he learned about the killing of Pablito was on October 21, 1995 when he was turned over to the Kawayan police authorities.[9]

While the accused claimed he was in his house at about 9:00 p.m. that day, defense witness JEAN ASLAG, an 18 year-old resident of Malabon, recounted that on said date, at about 7:00 p.m., the accused went to her house to attend a birthday party and left at about 10:00 p.m. already.[10]

After the trial, the court a quo found the accused guilty of Murder and sentenced him, thus:[11]

> "WHEREFORE, in view of the foregoing considerations, this Court finds the accused Rosalito Caboquin y del Rosario GUILTY beyond reasonable doubt of the crime of Murder as charged in the Information.
>
> This Court hereby imposes the penalty of Reclusion Perpetua."
>
> The accused shall indemnify the heirs of the victim Pablito Talingting the amount of P50,000.00 as moral damages and shall pay the costs.
>
> SO ORDERED."

Before this Court, the sole issue submitted for resolution is whether or not treachery attended the killing of the victim. The appellant contends that the facts proved by the prosecution with respect to the manner Pablito was killed do not establish the existence of treachery. He argues that from the evidence adduced, it cannot be said that Pablito had no opportunity to defend himself. At the time of the assault, Pablito was sitting in the middle of the bamboo bench, flanked by four of his friends. Thus, the appellant concludes that Pablito could not have been totally defenseless at the time he was stabbed. Absent the qualifying circumstance of treachery, the appellant insists that he should only be convicted of Homicide.

We affirm the appellant's conviction for Murder.

The trial court correctly appreciated the presence of treachery in the killing of Pablito. There is treachery when the offender commits any of the crimes against persons, employing means, methods, or forms in the execution thereof which tend directly and specially to insure its execution, without risk to himself arising from the defense which the offended party might make.[12] In the case at bar, Pablito was seated on the bench and was singing with his

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friends when the appellant suddenly appeared and lunged at him with a knife, repeatedly stabbing him on the chest. Clearly, the attack was all too sudden. There is nothing in the records to show that it was preceded by an altercation or that Pablito gave the slightest provocation. Although Pablito was seated among his friends at the time he was stabbed, this did not afford him any shield or refuge as his friends were likewise caught off-guard by the suddenness of the unprovoked attack. His friends remained seated and motionless due to shock. In fact, it was only after the stabbing incident when the appellant left the crime scene that Pablito's friends regained their composure and sought shelter to protect themselves. Clearly, their presence did not diminish the suddenness of the appellant's aggression. From the evidence adduced, the stabbing, although frontal, was so unexpected and sudden that it left Pablito and his friends, all unarmed, with nary an opportunity to put up a defense.[13] Indeed, the essence of treachery is the swift and unexpected attack on an unarmed victim that insures its execution without risk to the assailant arising from the defense of his victim.[14] Clearly then, in the case at bar, treachery qualified the killing to murder.

As to the penalty imposed, the award of moral damages by the trial court to the heirs of the victim is affirmed. The recent policy of the Court on moral damages is to automatically award it in case of violent death without need of proof as the circumstances surrounding the untimely and violent death, as borne out by human nature and experience, invariably brought emotional pain and anguish on the part of the victim's family.[15] Moreover, as the fact of emotional and mental suffering on the part of the victim's heirs is undisputed, it is considered proved. Additionally, the amount of fifty thousand pesos (P50,000.00) is adjudged as civil indemnity ex delicto in favor of the heirs of Pablito Talingting, which award is likewise mandatory and requires no proof other than the victim's death.[16]

IN VIEW WHEREOF, the Decision of the trial court convicting the appellant ROSALITO CABOQUIN, alias Liklik, of Murder is AFFIRMED, subject to the modification that, in addition to the fifty thousand pesos (P50,000.00) moral damages adjudged by the trial court, civil indemnity ex delicto in the amount of fifty thousand pesos (P50,000.00) is likewise awarded to the heirs of Pablito Talingting.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Kapunan, Pardo, and Ynares-Santiago, JJ., concur.

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[1] Dated December 14, 1995; Rollo, p. 4.

[2] September 24, 1996 TSN, pp. 1-19; September 25, 1996 TSN, pp. 1-16.

[3] Post-mortem Report, dated October 29, 1991; Rollo, p. 8.

[4] Original Records, p. 9.

[5] Return of Service, Rollo, p. 10.

[6] Order, dated March 30, 1992, issued by MCTC Judge Meljohn De La Peña; Original Records, p. 10.

[7] Dated August 17, 1995, issued by MCTC Judge Dulcisimo C. Pitao; Original Records, p. 13.

[8] April 30, 1997 TSN, pp. 1-10; September 30, 1997 TSN, pp. 1-10.

[9] September 2, 1998 TSN, pp. 1-10.

[10] October 5, 1998 TSN, pp. 1-11.

[11] Penned by Judge Enrique C. Asis, Regional Trial Court, Eighth Judicial Region, Branch 16, Naval, Biliran;

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Rollo, pp. 11-32.

[12] Article 14 (16), Revised Penal Code.

[13] People vs. Vital, G.R. No. 130785, September 29, 2000; People vs. Dano, G.R. No. 117690, September 1, 2000.

[14] People vs. Berzuela, G.R. No. 132078, September 25, 2000; People vs. Aglipa, G.R. No. 130941, August 3, 2000; People vs. Villarba, G.R. No. 132784, October 30, 2000.

[15] People v. Panado, G.R. 133439, December 26, 2000.

[16] People vs. Temanel, et al., G.R. Nos. 97138-39, September 28, 2000; People vs. Dagami, G.R. No. 123111, September 13, 2000; People vs. Riglos, G.R. No. 134763, September 4, 2000.

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