THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. EFREN MANTES AND DANILO, FLORES, ACCUSED-APPELLANT.

G.R. No. 138914. November 14, 2001

Ponente: MELO, J.

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MELO, J.:

On May 3, 1999, appellants Efren Mantes and Danilo Flores were found guilty of the crime of Murder by the Regional Trial Court of the Fourth Judicial Region (Branch 19, Bacoor, Cavite) per the Honorable Novato T. Cajigal, as follows:

> WHEREFORE, foregoing considered, the prosecution having proven beyond reasonable doubt the guilt of accused Efren Mantes and Danilo Flores, this Court finds accused Efren Mantes and Danilo Flores GUILTY beyond reasonable doubt of the crime of murder and hereby sentences both accused to suffer the penalty of DEATH; to jointly pay the amount of One Hundred Thousand Pesos (P100,000.00) to the heirs of the victim for the death of Elicazar Napili and One Hundred Twenty Thousand Pesos (P120,000.00) as actual damages; P50,000.00 as moral damages; and the amount of Fourteen Thousand Three Hundred Pesos (P14,300.00) as funeral expenses.
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> (Rollo, pp. 24.)

With the imposition upon appellants of the supreme penalty of death, the case is now before this Court on automatic review pursuant to Article 47 of the Revised Penal Code, as amended by Section 22 of Republic Act No. 7659.

The Information filed against appellants on January 7, 1995 charged:

> That on or about the 7[th] day of July 1994, at around 7:30 o'clock in the evening, at Sitio Potrero, Barangay Bancal, Municipality of Carmona, Province of Cavite, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually helping and aiding one another, with intent to kill, being then armed with bolos, and with treachery and evident premeditation, did, then and there, wilfully, unlawfully and feloniously, attack, assault stab and hack the person of one Elicazar Napili with the said bladed weapons, inflicting upon the said victim mortal wounds on the different parts of his body thereby causing his subsequent death, to the damage and prejudice of his legal heirs.
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> (Rollo, p. 4.)

Upon appellants' arraignment on February 27, 1995 (for Flores) and March 22, 1995 (for Mantes), both entered a plea of not guilty. Trial thereafter ensued, following which the judgment of conviction was rendered. Hence the instant review.

The version of the prosecution, as culled from the testimony of its witnesses Elizabeth Napili, the wife of the victim; Violeta Latagan, a resident of the house near where the victim was allegedly killed; Roberto de Salit, the barangay captain of Bancal; Julio de Salit, a barangay investigator; Rogelio Manabat, a barangay councilor; and

Dr. Rolando A. Poblete, the physician who performed the autopsy on the victim, may be synthesized as follows:

On July 7, 1994, at about 7:30 P.M., appellants Efren Mantes and Danilo Flores barged inside the house of Elicazar Napili while the latter was having supper with his wife Elizabeth and their children. Appellants, armed with guns and bolos, introduced themselves as men of the barangay captain and told Elicazar that he was being summoned by the barangay captain. Cowed by their arms, Elicazar went with the two. When his wife Elizabeth tried to follow, Danilo tried to hack her so she returned to their house. Thirty minutes after the three had left, Elizabeth Napili went to the barangay captain to inquire as to the whereabouts of her husband. She was told that her husband was not summoned and that his whereabouts were not known to the barangay captain. Since it was raining heavily, the barangay captain told Elizabeth to rest and let the night pass, which advice she followed.

On the witness stand, Violeta Latagan testified that at around 8 P.M., July7, while she and her husband Abelardo and their child were resting inside their house, three persons sought shelter from the rain, huddling under the roof overhanging her house. One of them even stated "makikisilong kami." Minutes later, she heard them quarrelling. Peering outside her door, she saw appellants Efren Mantes and Danilo Flores hacking at Elicazar Napili. Elicazar managed to force his way inside Violeta's house, but appellants still pursued him. Grabbing her child, Violeta and her husband fled the scene, but not before she was hacked in the left buttock by Danilo Flores. She ran to the house of her nearest neighbor, who put her on his horse and brought her to the hospital.

Barangay Captain Roberto de Salit, on the other hand, testified that on the evening of July 7, 1994, Elizabeth Napili went to the Bancal barangay hall complaining that her husband had been kidnapped by two persons. Since it was raining heavily, he told her the matter had to wait until the rain had ceased. When it stopped raining at around 4 A.M. the next day, he, along with Elizabeth and several barangay officials went to the Napili residence. Since Elicazar had not yet returned, the group proceeded to the house of Efren Mantes' father to look for Efren, one of the alleged kidnappers. There, they found Efren Mantes already awake, wearing a bloodied T-shirt and with wounds on his hands and back. When asked the reason therefor, Efren told the group that he had been in a drinking spree that night and that a fight had ensued thereat. Told to escort the group to the place of the drinking spree and fight, Mantes led the group to the hut of a certain Nicanor Malabanan. Nicanor informed the group that he had heard shouting at the adjacent hut the night before. The nearby hut turned out to be the Latagan residence. No one was around but marks on the grass indicated that something had been dragged from the area. Following the trail of disturbed or ruffled grass, the group found a newly dug grave 100 meters from the Latagan residence. Digging out the same, the group unearthed the lifeless body of Elicazar Napili wrapped in a transparent plastic sheet. The testimony of Rogelio Manabat and Julio de Salit, who were members of the group which went to the house of Efren Mantes' father and later discovered Elicazar's cadaver, corroborated the testimony of the barangay captain.

Dr. Rolando A. Poblete testified that Elicazar died of hypovolemic shock due to multiple stab wounds, with the fatal blow being inflicted on the victim's neck area -- a stab wound so deep that it severed the victim's jugular vein and carotid artery. His findings, as formalized in the necropsy report, are as follows:

> HEENT (head, ears, eyes, nose, throat)
>
> ecchymosis right eye; laceration 1.0 cm., right side of the face inferiorly located to right eye (non-penetrating); laceration tip of right ear; stab wound 1.2 cms., right side of anterior neck, penetrating and severing some muscle structures and also main blood vessels particularly the right common carotid artery and the internal jugular vein, this resulted to massive blood loss; a 2 cms. x 1.5 cms. x 0.5 cm. square-shaped laceration, deep which also severed some muscle structures and other big blood vessels, this is located just inferior to the previously described wound; a 0.4 cm. laceration, non-penetrating, just lateral to the trachea.
>
> CHEST/THORAX

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contusion, sternum; incised wound 4.5 cms. x 2 cms. vertical, just above the right shoulder blade (scapula)

EXTREMITIES

laceration 1.0 cm. just below the left knee

Cause of Death: Hypovolemic shock due to multiple stab wounds.

(Record, p. 68.)

On the other hand, the defense relied on appellants themselves and Leticia Flores, Danilo's sister.

According to Mantes, at around 8 P.M., July 7, 1994, he and Elicazar Napili were invited by Abelardo Latagan to a drinking spree at the latter's house. Together with a certain Oming, appellant Mantes, Elicazar, and Abelardo proceeded to Abelardo's house, arriving thereat an hour later. There, the group was joined by Bernardo Latagan, a brother of Abelardo. However, while outside Abelardo's house, and before they could start drinking, Bernardo and Elicazar got into an argument, which ultimately led to Bernardo dealing fist blows to Elicazar. Appellant Mantes alleged that he tried to pacify the two, but he was suddenly hacked with a bolo by Abelardo, prompting him to run and hide in the bushes nearby. From his vantage point, Mantes saw Elicazar wrest the bolo from Abelardo and chase the latter into the house. It was inside the house where Violeta was hacked by Elicazar. During the scuffle, however, Abelardo managed to hit Elicazar on the arm with a piece of wood, causing him to drop the bolo. Abelardo then took hold of the bolo and hacked Elicazar in the neck. With Elicazar down, Abelardo and his wife left their house only to return minutes later. They then rolled Elicazar's body to the creek nearby. Thirty minutes thereafter, appellant Mantes left the vicinity. He further testified that he arrived at the house of his parents at 3 A.M. the next day. An hour later, barangay officials and Elizabeth Napili arrived. Moreover, Efren denied having seen appellant Danilo Flores at the scene of the crime.

Danilo Flores, on the other hand, testified that at the time of the fateful incident, he was nowhere near Carmona, Cavite, having been in Candelaria, Quezon at that time. He also denied knowing his co-accused Efren Mantes. To establish appellant Flores' alibi, the defense also presented Leticia Flores, his sister, who testified that at the time of the incident Danilo was indeed in Candelaria, Quezon. However, upon being cross-examined, Leticia Flores admitted that she knew her brother was in Candelaria during the incident only because her brother had told her that he was there at that time.

The trial court found no merit in the defense posture, stating that the denial and alibi proffered by appellants could not prevail over the positive identification by Elizabeth Napili that appellants were the persons who abducted her husband, and the testimony of Violeta Latagan that the two were the ones who hacked the victim.

In their brief, appellants plead for reversal, raising in their assignment of errors the alleged incredible and conflicting testimony of Elizabeth Napili and Violeta Latagan. They further claim that Elizabeth Napili only pointed to Efren Mantes as her husband's assailant because she had a misunderstanding with Mantes four days prior to the incident in question.

The petition has no merit.

Capsulized, appellants' arguments boil down to and center on the credibility of Elizabeth Napili and Violeta Latagan.

Time and again, the Court has declared that the evaluation of the credibility of witnesses is a matter that particularly falls within the authority of the trial court, it having had the opportunity to observe the demeanor of the witnesses on the stand. For this reason, appellate courts accord a trial court's factual findings and assessment of witnesses great weight and even finality, barring arbitrariness or oversight of some fact or circumstance of

weight and substance (People vs. Bantayan, G.R. No. 137693, December 14, 2000). In the case at bar, the trial court found the testimony of the prosecution witnesses to be credible. Appellants have not advanced an alternative excuse or explanation sufficient to overturn this assessment. In fact, to explain away their implication, all that appellants can point to is the alleged bias of prosecution witnesses Violeta and Elizabeth - Violeta because she is the wife of the alleged author of the crime, Abelardo Latagan, and Elizabeth because she had a misunderstanding with appellant Mantes 4 days prior to the incident in question.

While motive, bias, or interest of the witness in testifying affects his credibility, the supposed presence of improper personal motives on the part of a witness to testify against the accused should be supported by satisfactory proof in order that his testimony may be considered biased (People vs. Ilao, 296 SCRA 658 [1998]). In the instant case, appellants have failed to discharge this burden. While appellant Mantes points to Abelardo Latagan as the perpetrator of the crime, his narration of events is quite incredible, to say the least. Even as Mantes says that it was Abelardo Latagan who committed the crime, he could not explain why he did not immediately report the incident to the authorities. According to Mantes, the incident occurred at around 9 o'clock in the evening. He arrived home at 3 A.M. Not only did he fail to report the incident during the six hours that had elapsed, he also could not satisfactorily explain his failure to do so, lamely stating that after his escape, he was afraid to do so because he heard Abelardo shouting "isasama ko rin siya sa pinsan niya," explaining that this statement referred to him (Mantes), Elicazar being his cousin.

Nor can Elizabeth's testimony be brushed away by appellants' declaration that this was brought about by a prior misunderstanding between the parties. The alleged motive to testify falsely against Mantes is too paltry a cause for any person to testify untruthfully against another and cause, not only the latter's incarceration for the better part of his life, but to expose him to the all too real danger of death by lethal injection. Moreover, the fact that Elizabeth is the widow of the deceased makes her testimony even more credible, for it is unnatural for a relative who is interested in vindicating the crime, to accuse somebody other than the real culprit. To do so would allow the guilty to go scot-free.

Efren Mantes' version of events, as well as Danilo Flores' alibi cannot, thus, stand against the damning testimony of Elizabeth and Violeta implicating them as Elicazar's assailants. It is a well-settled rule that positive identification of the accused, where categorical and consistent and without any showing of ill motive on the part of the eyewitness testifying on the matter, prevails over alibi and denial which if not substantiated by clear and convincing evidence are negative and self-serving evidence undeserving of weight in law (People vs. Enriquez, 292 SCRA 656 [1998]). In this case, Elizabeth positively and categorically identified appellants as the persons who abducted her husband. In the same manner, Violeta Latagan identified appellants as the persons whom she saw hacking the victim.

Parenthetically, Efren Mantes does not deny his presence at the scene of the incident at the time of its commission. On the other hand, Danilo Flores' alibi that he was in Candelaria, Quezon at that time is inherently weak, and in point of fact appears all too contrived as brought about during his cross-examination. For alibi to prosper, the defense must prove by clear and convincing evidence that it was physically impossible for the accused to have been at the scene of the crime at the time of its commission. To be noted further is the fact that Candelaria is only three hours away from the scene of the crime, a distance which does not preclude Flores from being at the place of the incident at the probable time of death of the victim.

From the foregoing, the Court declares appellants guilty beyond reasonable doubt for their acts leading to the death of Elicazar Napili. However, this Court finds appellants guilty only of homicide, not murder, the qualifying circumstance of treachery not having been proven as conclusively as the killing itself.

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There is treachery when the offender commits any of the crimes against persons, employing means, methods, or forms in the execution thereof which tend to directly and specially insure the execution of the crime, without risk to himself arising from the defense which the offended party might make. The elements of treachery are: (i) the means of execution employed gives the victim no opportunity to defend himself or retaliate; and (ii) the methods of execution were deliberately or consciously adopted (People vs. Cirilo, G.R. No. 134245, December 1, 2000). These two conditions are clearly wanting in the case at bar. Although Elicazar was unarmed at the time he was attacked with bolos by appellants, such circumstance alone does not satisfy the legal requirements of treachery. In People vs. Valles (167 SCRA 103 [1997]), we declared that the mere fact that the victim had no weapon with which he could have defended himself is not sufficient to prove the existence of the first element of treachery, for settled is the rule that treachery cannot be presumed, it must be proved by clear and convincing evidence.

Moreover, the essence of treachery is the sudden, unexpected, and unforeseen attack on the person of the victim, without the slightest provocation on the part of the latter. In the instant case, Elicazar was already alerted to the fact that appellants meant him harm. According to his wife's testimony, Elicazar was already pleading for his life with appellants when they took him away. They even hacked at his wife when the latter tried to follow them. All these circumstances point to the fact that Elicazar was already forewarned of the danger to his life. In People vs. Lopez (249 SCRA 610 [1995]), we declared that "there is no treachery were the victim was aware of the danger on his life, when he chose to be courageous instead of cautious, courting obvious danger which, when it came, cannot be defined as sudden, unexpected, and unforeseen." Violeta Latagan's testimony is no less enlightening. Violeta testified that she heard appellants and Elicazar quarreling prior to the attack on the latter, and that during the attack the latter even tried to escape. The fact that there was a quarrel prior to the attack proves that there was no treachery, and it is also all too obvious that Elicazar was well-aware of the danger to his life as shown in his attempt to escape, albeit unsuccessfully, from his assailants.

Likewise, evident premeditation cannot be considered in this case as no proof has been shown as to when appellants planned the killing or even whether they planned the killing at all. In fact, prosecution witness Violeta Latagan testified that appellants quarreled with the victim prior to the attack. Absent any showing on these vital points, there is no way of determining whether sufficient time had elapsed to allow appellants to reflect on their plan and to persist in carrying it out.

The killing not being attended by treachery or evident premeditation, appellants can only be found guilty of homicide, the penalty for which, under Article 249 of the Revised Penal Code, is reclusion temporal. Article 64(1), on the other hand, provides that in the absence of any mitigating or aggravating circumstance, the medium period of the penalty prescribed by law should be imposed. Applying the Indeterminate Sentence Law, the imposable penalty shall be an indeterminate sentence, the minimum of which shall be within the range of prision mayor, and the maximum of which shall be reclusion temporal in its medium period.

As to appellants' civil liability, the award by the trial court of P100,000.00 as civil indemnity for the death of Elicazar Napili, for which no proof is required, must be reduced to P50,000.00 in accordance with current jurisprudence (People vs. SPO3 Mendoza, G.R. No. 134004, December 15, 2000). Likewise, the award of P120,000.00 as actual damages cannot be sustained, the prosecution having failed to substantiate this amount by competent evidence. The award of actual damages must thus be reduced to P15,000.00, the amount incurred in connection with the burial of the victim which is duly supported by receipts. The amount of P50,000.00 as moral damages is correct, the same being justified by Article 2219(1) of the Civil Code.

WHEREFORE, premises considered, appellants Efren Mantes and Danilo Flores are hereby found guilty beyond reasonable doubt of the crime of homicide and are sentenced to suffer the indeterminate penalty of imprisonment from eight (8) years of prision mayor as minimum, to sixteen (16) years of reclusion temporal in its medium

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period as maximum, and to pay jointly and severally the heirs of Elicazar Napili the amount of Fifty Thousand Pesos (P50,000.00) as civil indemnity, Fifty Thousand Pesos (P50,000.00) as moral damages, and Fifteen Thousand Pesos (P15,000.00) as actual damages.

No special pronouncement is made as to costs.

SO ORDERED.

Davide, Jr., C.J., Bellosillo, Puno, Vitug, Kapunan, Mendoza, Panganiban, Quisumbing, Pardo, Buena, Ynares-Santiago, De Leon, Jr., Sandoval-Gutierrez, and Carpio, JJ., concur.

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