

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JOVENCIO PACANTARA Y MASON,[] ACCUSED-APPELLANT.

G.R. No. 140896. May 07, 2002

Ponente: DAVIDE JR., C.J.

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DAVIDE JR., C.J.:

Accused-appellant Jovencio Pacantara (hereafter JOVENCIO) appeals from the decision[1] of 5 August 1999 of the Regional Trial Court of Marikina City, Branch 272, in Criminal Case No. 98-2394-MK, finding him guilty beyond reasonable doubt of the crime of murder and imposing upon him the penalty of reclusion perpetua, and to pay the heirs of Dominador Drillon (hereafter DOMINADOR) the amount of P50,000 as indemnity, P15,500 as funeral expenses, and P20,000, as moral damages.

The accusatory portion of the Information[2] under which JOVENCIO was arraigned, tried and convicted reads as follows:

That on or about the 22nd day of March, 1998 in the City of Marikina, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, armed with a bolo, with intent to kill, treachery and abuse of superior strength, did then and there wilfully, unlawfully and feloniously attack, assault and stab/hack one Dominador Drillon y Montano on the different parts of his body, thereby inflicting upon the latter mortal wounds which directly caused his death.

CONTRARY TO LAW.

With the assistance of counsel de oficio, JOVENCIO entered a plea of not guilty upon arraignment on 14 April 1998.

The first witness presented by the prosecution was 43-year old Wilfredo Villasor, a maintenance employee of Berkley and barangay tanod of Sitio Olandes, Industrial Valley Complex, Marikina City. He testified that on 22 March 1998, at 4:35 p.m., after arriving home from a funeral, he heard someone shout "Huwag Pareng Dencio." He went out of his house and found that it was Mrs. Molina, his neighbor. At the same time, he saw JOVENCIO, then ten meters away from him and behind DOMINADOR, who was sitting near a table, writing on a basketball ending game betting card. JOVENCIO had a bolo in his hand which he used in suddenly hacking DOMINADOR's right hand. JOVENCIO gave three more successive thrusts. Wilfredo ran toward JOVENCIO and asked him to stop, but JOVENCIO did not heed the plea and continued hacking DOMINADOR, who had already fallen to the ground. Wilfredo hit JOVENCIO with his nightstick (batuta) and tried to grab the bolo, so JOVENCIO attacked him, too, hitting his left palm. They grappled for the bolo, and Wilfredo eventually get the weapon. He brought JOVENCIO to the "Executive Officer of the barangay tanod." He later identified the bolo in court.[3]

The prosecution then presented Dr. Tomas Suguitan, medico-legal officer of the PNP Crime Laboratory. He testified that on 23 March 1998, he conducted an autopsy on the body of DOMINADOR and found the latter had sustained four incised and eight hack wounds, two of which were fatal. The four incised wounds were inflicted by

a sharp-edged instrument while the eight hack wounds were caused by a heavy, sharp-edged instrument which could have been a bolo, axe, shovel or any other instrument bigger than a knife.[4] Dr. Suguitan's findings were incorporated in his Medico-Legal Report No. M-610-98,[5] to wit:

POST MORTEM FINDINGS:

Fairly developed, fairly nourished male cadaver in primary stage of flaccidity with post mortem lividity at the dependent portions of the body. Conjunctivae, lips and nailbeds are pale.

TRUNK AND EXTREMITIES:

1)

Hacked wound, right shoulder extending diagonally to the epigastric region, measuring 23 x 4.2 cm from the anterior midline, 7 cm deep, cutting the 1st to 7th right ribs, piercing all lobes of the right lung, diaphragm and liver.

2)

Incised wound, right lumbar region, measuring 8 x 1.5 cm, 9 cm from the anterior midline.

3)

Hacked wound, left inframammary region, measuring 11 x 3 cm, 6 cm from the anterior midline, 9 cm deep, cutting the 4th to 6th left ribs piercing the pericardial sac, heart and lower lobe of the left lung.

4)

Hacked wound, left shoulder, measuring 7 x 2 cm, 7 cm from the posterior midline, 2 cm deep, nicking the left clavicle, piercing the underlying soft tissues.

5)

Hacked wound, left lumbar region, measuring 19 x 2.5 cm, 11 cm from the posterior midline, 9 cm deep, cutting the 12th left rib, piercing the left kidney.

6)

Hacked wound, proximal 3rd of the right arm, measuring 8 x 2 cm, crossing its anterior midline, 2 cm medially and 6 cm laterally, 1 cm deep, piercing the underlying soft tissues.

7)

Hacked wound, middle 3rd of the left arm, measuring 8.5 x 1.5 cm medial to its anterior midline, 4.5 cm deep, piercing the underlying soft tissues.

8)

Incised wound, middle 3rd of the left forearm, measuring 9 x 0.5 cm, 3 cm lateral to its anterior midline.

9)

Hacked wound, distal 3rd of the right forearm, measuring 8 x 2 cm, bisected by its posterior midline, 1.5 cm deep, nicking the right radial and ulnar bones, piercing the underlying soft tissues.

10)

Hacked wounds, dorsum of the right hand, measuring 10 x 1.5 cm crossing its posterior midline.

11)

Incised wound, proximal 3rd of the right thigh, measuring 3.5 x 1 cm, 5 cm lateral to its anterior midline.

12)

Incised wound, proximal 3rd of the left thigh, measuring 4.5 x 0.5 cm, 7 cm lateral to its anterior midline.

There are 1500 cc of blood and blood clots accumulated at the thoracic and abdominal cavities.

Stomach is empty. xxx

CONCLUSION:

Cause of death is hemorrhages [sic] as a result of multiple hacked wounds of the trunk and upper extremities.

Dr. Suguitan further testified that DOMINADOR had “type B” blood, the same type as the bloodstains found on the bolo submitted by the pathologist of the PNP Crime Laboratory, per Medico-Legal Report No. S-046-98.[6]

The third witness for the prosecution was Dr. Olga Bausa. As pathologist and medico-legal officer of the PNP Crime Laboratory, she prepared the said Medico-Legal Report No. S-046-98 after conducting a serological examination on the blood stains on the bolo and scabbard taken from the crime scene and submitted to her office for analysis.[7]

Finally, the prosecution presented Eva Drilon,[8] widow of DOMINADOR. She testified that it was Wilfredo Villasor who informed her that her husband was stabbed to death by JOVENCIO. The latter, who used to be their neighbor at Olandes, Marikina, allegedly bore a grudge against them because of his feud with their son Richard. DOMINADOR, a former barangay tanod, wanted to discuss the matter with JOVENCIO, but because of the latter’s hostile attitude, no settlement was reached. Sometime in January 1998, JOVENCIO even injured Richard, but they did not file charges against him because they knew he was drunk at the time.[9]

Eva also testified that she spent P13,000 for the funeral services of her husband; P2,500 for her husband’s coffin; and P40,000 for other expenses during the wake which lasted two weeks.[10]

The defense, on the other hand, presented JOVENCIO and Roan Hilot Bautista.

JOVENCIO raised self-defense. He testified that on 22 March 1998, at around 4:30 p.m., he was on his way home

when somebody shouted at him “Pareng Ben” as he was passing by the house of a certain Felimon Molina. He turned around and saw DOMINADOR about to hack him with a bolo. He immediately held up his hand and they fought for possession of the bolo. JOVENCIO was able to get hold of the bolo, but only after his left index finger was injured. DOMINADOR then pulled out a fan knife and stabbed him. He apparently hacked DOMINADOR continuously until he saw blood oozing from his (JOVENCIO's) index finger. JOVENCIO fainted upon seeing blood all over his body.

When he recovered consciousness, Wilfredo allegedly hit him with a club. He was handcuffed, brought to the hospital, then to the CID.[11] JOVENCIO did not know the reason why DOMINADOR attacked him.

On cross-examination, JOVENCIO admitted that he did not sustain any hack wound in the back because he was able to parry DOMINADOR's blow. He moved backward as soon as he got possession of the bolo. Then he hacked DOMINADOR only once to scare and drive him away.[12]

Roan Hilot Bautista testified that at about 4:30 p.m. of 22 March 1998, she was walking along Libis on her way to the house of her friend Gunyong when she saw a man carrying a bolo while walking. She stopped because she was surprised. Then she saw another man, later identified as JOVENCIO, pass by. The man carrying the bolo was about to hack JOVENCIO from behind, but the latter was able to evade the blow by taking one step away from the man. JOVENCIO raised both his hands so that when he was hacked, JOVENCIO was hit on the left index finger. When JOVENCIO saw that the man was about to hack him again, they fought for possession of the bolo. JOVENCIO was able to get the bolo, and when the man pulled out a fan knife, JOVENCIO hacked him once. Out of fear, Roan immediately left the scene and proceeded to the house of Gunyong.[13]

After evaluating the evidence offered by the parties, the trial court gave full faith and credit to the version of the prosecution. It appreciated the qualifying circumstance of treachery against JOVENCIO and disregarded his theory of self-defense for being self-serving.

Accordingly, in its decision of 5 August 1999,[14] the trial court decreed as follows:

WHEREFORE, foregoing premises considered, the Court finds JOVENCIO PACANTARA y AMAZONA, the herein accused, GUILTY beyond reasonable doubt of the crime of MURDER penalized under Art. 248 of the Revised Penal Code, as amended by RA [No.] 7659 to suffer the penalty of RECLUSION PERPETUA, there being no mitigating or aggravating circumstance in the commission thereof. The accused is likewise ordered to pay the heirs of Dominador Drillon the amount of FIFTY THOUSAND (PhP50,000.00) PESOS as indemnity for his death, FIFTEEN THOUSAND FIVE HUNDRED (PhP15,500.00) PESOS as funeral expenses and TWENTY THOUSAND (PhP20,000.00) [PESOS] as moral damages. Costs against the accused.

SO ORDERED. August 5, 1999.

In his appeal, JOVENCIO raises this lone assignment of error:

THE TRIAL COURT ERRED IN HOLDING THAT THE KILLING OF THE VICTIM DOMINADOR DRILLON WAS COMMITTED WITH THE QUALIFYING AGGRAVATING CIRCUMSTANCE OF TREACHERY.

To prove his point, JOVENCIO argues that before DOMINADOR was attacked, someone shouted “Huwag, Pareng Dencio.” This could have warned DOMINADOR of the danger to his life so he could have taken the necessary precaution to defend himself. The element of treachery was thus absent. Moreover, the fact that DOMINADOR sustained frontal injuries proved that they were facing each other at the time of the incident.

Thus, JOVENCIO prays that his conviction for murder be modified to homicide and that the appropriate penalty therefor be imposed.

The Office of the Solicitor General (OSG), however, differs and insists that treachery attended the killing of DOMINADOR because he was attacked while seated with his back against his assailant, JOVENCIO. Without provocation or warning, JOVENCIO inflicted upon the unarmed and unsuspecting DOMINADOR fatal hack wounds which caused his instantaneous death. Even while most of his injuries were located in the front part of his body, treachery could not be ruled out because the initial attack emanated from behind DOMINADOR. And although Mrs. Molina shouted, “Huwag, Pareng Dencio,” this was not enough to warn DOMINADOR of the impending assault against him, because the shouting and hacking happened almost simultaneously.

Time and again, we have said that we will not interfere with the judgment of the trial court in determining the credibility of witnesses unless there appears on record some fact or circumstance of weight and influence which has been overlooked or the significance of which has been misinterpreted.[15] Settled is the rule that the factual findings of the trial court, especially on the credibility of witnesses, are accorded great weight and respect. This is so because the trial court has the advantage of observing the witnesses through the different indicators of truthfulness or falsehood.[16]

Based on our own evaluation of the evidence in this case, we find that the trial court was justified in giving full faith and credit to the testimony of prosecution witness Wilfredo Villasor, who gave in a candid and forthright manner a full account of what transpired on 22 March 1998. The defense did not even attempt to show that Wilfredo Villasor was moved by any improper motive to implicate JOVENCIO in the death of DOMINADOR. It must then be presumed that Wilfredo was not so moved.[17] His testimony that JOVENCIO hacked DOMINADOR from behind, hitting the latter on the right hand, followed by three more successive hacking thrusts in front, was corroborated by the findings of Dr. Suguitan.

On the other hand, we cannot give credence to JOVENCIO’s version of the events, which is clearly self-serving. In the same light, the testimony of Roan Bautista is weak and untenable. Despite their assertions that DOMINADOR was the aggressor and JOVENCIO engaged in a struggle for possession of the bolo, the latter did not sustain any serious injury. A plea of self-defense cannot be justifiably appreciated, especially when uncorroborated by independent and competent evidence and when it is extremely doubtful by itself.[18] The defense asserts that JOVENCIO hacked DOMINADOR only once. The physical evidence, however, shows that DOMINADOR suffered twelve hack and incised wounds, which contradicts JOVENCIO’s claim of self-defense. It certainly defies reason why he had to inflict such injuries on DOMINADOR if he were only defending himself. The number of wounds, by itself, negates self-defense and demonstrates a criminal mind resolved to end the life of the victim.[19]

We thus sustain the trial court’s finding that the crime committed by JOVENCIO is murder because of the qualifying circumstance of treachery. There is treachery when the offender commits any of the crimes against the person, employing means, methods or forms in the execution thereof which tend directly and specially to insure its execution, without risk to himself arising from any defensive or retaliatory act which the victim might make.[20] For treachery to be appreciated, two conditions must concur: (1) the means of execution were employed to give the person attacked no opportunity to defend himself or retaliate; and (2) the means of execution were deliberately or consciously adopted.[21]

The evidence for the prosecution in this case has established with moral certainty that the killing of DOMINADOR was attended with treachery. Witness Wilfredo Villasor declared that the attack was sudden and without any provocation. DOMINADOR was writing on a table while seated with his back against JOVENCIO when he was hacked from behind by the latter. Clearly, DOMINADOR had no opportunity to offer any kind of resistance or defense against the attack. He was unarmed and completely unaware of the impending danger to his life.

DOMINADOR did not even have sufficient warning of the danger that lay ahead because Mrs. Molina did not call his attention but instead tried to stop JOVENCIO. Even if it were so, we had ruled that treachery may still be appreciated even when the victim was forewarned of the danger to his person if the execution of the attack made it impossible for the victim to defend himself or to retaliate.[22] The essence of treachery is the suddenness and unexpectedness of the assault without the slightest provocation on the part of the person attacked.[23]

We find the award of indemnity for the death of DOMINADOR in the amount of P50,000 and P15,500 as funeral expenses, in order. The award of moral damages should, however, be increased from P20,000 to P50,000.[24]

ACCORDINGLY, the assailed decision of the Regional Trial Court of Marikina City, Branch 272, in Criminal Case No. 98-2394-MK, finding JOVENCIO PACANTARA y MASON (or AMAZONA) guilty beyond reasonable doubt of murder, defined and penalized under Article 248 of the Revised Penal Code, as amended, and sentencing him to suffer the penalty of reclusion perpetua, is hereby AFFIRMED, subject to the modification that the amount of the award for moral damages should be increased from P20,000 to P50,000, in addition to the P50,000 indemnity and funeral expenses of P15,500.

Costs de oficio.

SO ORDERED.

Puno, Kapunan, Ynares-Santiago, and Austria-Martinez, JJ., concur.

[*] May also be Amazona per his testimony, TSN, 5 April 1999, p. 3; See also the dispositive portion of the assailed decision, Original Records, Folder 1 (OR-1), 102; Rollo, 31.

[1] OR, 81. Per Judge Reuben P. de la Cruz.

[2] Ibid., 1. Rollo, 4.

[3] TSN, 2 February 1999, 4-11, 16-22.

[4] TSN, 15 June 1998, 13-14, 16-17, 20-21.

[5] Exhibit "B"; OR-2, 2-3.

[6] TSN, 19 October 1998, 7-8, 10-13. Exhibit _____

[7] TSN, 9 November 1998, 18-21.

[8] Spelled Drillon in the Information.

[9] TSN, 17 August 1998, 6-7, 9-11, 33-35.

[10] TSN, 17 August 1998, 14-17.

[11] TSN, 5 April 1999, 5-7, 9, 11-12, 13-15.

[12] Id., 24-26.

[13] Supra note 14 at 3-6.

[14] Supra note 1.

[15] People v. Remudo, G.R. No. 127905, 30 August 2001.

[16] People v. Abella, 339 SCRA 129, 144 (2000).

[17] People v. Meneque, 339 SCRA 200, 209 (2000).

[18] People v. de la Cruz, 291 SCRA 164, 181 (1998).

[19] People v. Patalinghug, 318 SCRA 116, 137-138 (2000).

[20] Article 14(16), Revised Penal Code; People v. Villanueva, 302 SCRA 380, 399 (1999).

[21] People v. Enriquez, G.R. No. 138264, April 20, 2001; People v. Bermudez, 309 SCRA 124, 138 (1999); People v. Aquino, 322 SCRA 769, 775 (2000); People v. Sualog 344 SCRA 690, 704 (2000);

[22] People v. Belaro, 307 SCRA 591, 607 (1999).

[23] People v. Pascual, 331 SCRA 252, 265 (2000).

[24] People v. Bolivar, G.R. No. 130597, 21 February 2001; People v. Sualog, Supra note 21 at 705.

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