

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. CRISPULO DIJAN Y MACAJIYA, ACCUSED-APPELLANT.

G.R. No. 142682. June 05, 2002

Ponente: VITUG, J.

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VITUG, J.:

Accused Crispulo Dijan y Macajiya was indicted on 15 April 1998, along with Romualdo Paglinawan and Oliver Lizardo, for the crime of murder before the Regional Trial Court, Branch 272, of Marikina. The information read:

“That on or about the 11[th] day of April, 1998 in the City of Marikina, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating together and mutually helping and aiding one another, while armed with a knife and an ice-pick with intent to kill and by means of treachery and abuse of superior strength, did then and there willfully, unlawfully and feloniously attack, assault and stab one ALVARO HILARIO, thereby inflicting upon the latter moral wounds which directly caused his death.”[1]

Upon arraignment, the three accused separately and independently entered a plea of not guilty to the offense charged; trial ensued.

Evidence for the Prosecution –

On the evening of 11 April 1998, about ten o’clock, Roderick Silvestre and Alvaro Hilario were at a store located around the corner of Paraiso and Sumulong Streets in Parang, Marikina City, to buy some cigarettes when they saw the group of Crispulo Dijan, Romualdo Paglinawan and Oliver Lizardo, passing by the store. The two groups came to an encounter when Romualdo Paglinawan suddenly confronted Alvaro Hilario for purportedly giving him a “bad stare.” Silvestre apologized to the group and, offering them some cigarettes, explained that it was the natural way Hilario gazed at people. Dijan, Paglinawan and Lizardo then left the place while Silvestre and Hilario who lived in the same house proceeded home. While Silvestre and Hilario were walking, the three accused, who apparently were waiting for the duo, suddenly ganged up on, and took turns in stabbing, Hilario. At that point, Hilario, who was walking slightly ahead of Silvestre, cried out and told the latter to flee. Silvestre ran away until he was able to cling to a passing passenger jeepney.

Responding policemen, soon informed of the stabbing incident through radio communication, proceeded to the crime scene and there found the lifeless body of Hilario sprawled on the ground. After receiving a report on the identity and the whereabouts of the assailants, the policemen proceeded to a place about 200 meters away from the site of the stabbing incident. Barangay tanods assisted the police in arresting the suspected assailants. The following day, 12 April 1998, Dr. Ma. Cristina B. Freyra, Medico-Legal Officer of the Philippine National Police (PNP), conducted an autopsy on the victim’s cadaver. Hilario was found to have sustained several stab wounds, punctured and incised wounds, and abrasion in various parts of the body which caused his death. The medico-legal officer concluded that the wounds could have been inflicted by two assailants with the use of two single-bladed weapons and an icepick.

The version of the Defense -

The defense claimed that on the night of the incident, Crispulo Dijan and his two companions, Romualdo Paglinawan and Oliver Lizardo, were walking on their way home when they dropped by a store to buy some cigarettes. There, they met two persons, later identified to be Alvaro Hilario and Roderick Silvestre, who were partaking of drinks. Paglinawan accosted one of the duo for allegedly sharply staring at him but the other apologized to their group and explained that his companion was already drunk. Paglinawan himself then also made an apology, and everybody shook hands. Dijan and his friends started to walk along Paraiso Street. When Dijan happened to look behind, he was surprised to see Paglinawan being stabbed with a knife by Alvaro Hilario. He saw that when Paglinawan was hit on the left arm, the two grappled for the knife's possession. Seeing Roderick Silvestre to have pulled out an icepick himself, Dijan promptly held his hand. After disarming Silvestre, Dijan saw Paglinawan still grappling with Hilario for the knife's possession. Realizing that Paglinawan was no match for Hilario, the latter being much taller than Paglinawan, Dijan helped his friend and stabbed Hilario with the icepick he wrestled away from Silvestre. He assisted Paglinawan in getting home which was only about 20 meters away from the scene of the crime.

Dijan's two co-accused, Oliver Morales Lizardo and Romualdo Paglinawan, gave a similar account. Lizardo claimed that he ran away when Silvestre, holding an icepick, rushed towards them. Romualdo Paglinawan said that, when their group was already at the corner of Paraiso and Sumulong streets, he heard rushing steps of slippers and, turning his head around, Hilario suddenly stabbed him with a knife. He was able to evade the thrust directed on his chest, wounding him instead on his left forearm. The two grappled for the knife's possession for about five minutes until he was weakened by the bleeding of his wound. Dijan was able to timely pull away Hilario. Dijan then stabbed Hilario. Paglinawan stood up and walked home followed by Dijan. He requested Dijan to bring him to the hospital for treatment but it was the policemen, who meanwhile arrived, who brought him to the hospital. After his wounds were treated, he was taken to the police headquarters.

The defense also presented Lani Sarmiento and Dr. Alfredo Garcia to the stand. Sarmiento claimed that when she and a companion passed by Linda's Bakery on the night of the incident, they noticed two male persons, a tall fellow and the other of average height, overtake them causing her to exclaim "Fe, tingnan mo yan, parang nagmamadali, parang galit sa mundo." [2] Nearing Sumulong Street, they saw the two men approach three other male persons who were walking towards Paraiso Street. Suddenly, the tall guy pulled out a knife and gave a stabbing thrust to one of the three men. When they reached home, they learned that it was their "Kuya" Jojo or Romualdo Paglinawan who had been stabbed. Dr. Garcia testified having treated Romualdo Paglinawan on 11 April 1998 at the Amang Rodriguez Medical Centre for a stab wound at the right forearm.

The Judgment of the Trial Court. -

The trial court saw the case for the prosecution insofar as accused-appellant Crispulo M. Dijan was concerned whom the court found guilty of the crime of murder, acquitting thereby Dijan's two co-accused, Romualdo Paglinawan and Oliver Lizardo, based on reasonable doubt; viz:

"WHEREFORE, foregoing premises considered, accused CRISPULO DIJAN y MACAJIYA is hereby found GUILTY beyond reasonable doubt of the crime of Murder qualified by treachery as charged against him and is ordered to suffer the penalty of RECLUSION PERPETUA, to indemnify the heirs of the victim Alvaro Hilario the amount of Fifty Thousand (P50,000.00) Pesos; to pay the said heirs the amount of Thirty Four Thousand Two Hundred (P34,200.00) Pesos as funeral expenses; and the amount of Fifty Thousand (P50,000.00) Pesos as moral and exemplary damages. The accused ROMUALDO PAGLINAWAN y RICAMORA and OLIVER LIZARDO y MORALES are hereby ACQUITTED of the crime charged against them for failure of the prosecution to prove their guilt beyond reasonable doubt. The Jail Warden of the Marikina City Jail is ordered

to immediately release the persons of Romualdo Paglinawan and Oliver Lizardo unless validly held for some other offense.”[3]

Appealing his conviction to this Court, accused-appellant would argue that -

“I. The trial court erred in finding accused-appellant Crispulo Dijan guilty beyond reasonable doubt of the crime of murder.

“II. Assuming for the sake of argument that accused-appellant is guilty, the trial court erred in appreciating the qualifying circumstance of treachery.”[4]

A party who invokes the justifying circumstance of “defense of a stranger” has the burden of proving by clear and convincing evidence the exculpatory cause that can save him from conviction.[5] In order to successfully put up this defense an accused must show (1) the existence of unlawful aggression on the part of the victim; (2) the reasonable necessity of the means employed to prevent or repel it; and (3) that the accused has not been induced by revenge, resentment, or other evil motive.[6] The unlawful aggression must be a continuing circumstance or must have been existing at the time the defense is made. Once unlawful aggression is found to have ceased, the one making the defense of a stranger would likewise cease to have any justification for killing, or even just wounding, the former aggressor.[7]

From the defense account, it would appear that Hilario was already disarmed and the unlawful aggression by Hilario (if indeed he was the aggressor) to have by then been abated, when accused-appellant still delivered the fatal thrusts on the victim. Paglinawan himself testified:

“Q.

And because Crispulo Dijan was already able to take possession of the weapon from Roderick Silvestre, you yourself was able to take possession of the weapon from Hilario there was no more danger to you as well as to Crispulo Dijan?

“A.

Yes, sir.”[8]

The number of wounds sustained by the victim would itself likewise negate accused-appellant’s claim of defense of a stranger. The autopsy conducted on the corpse would show that the deceased sustained fourteen injuries consisting of nine stab wounds, three punctured wounds, an incised wound and an abrasion.[9] Certainly, the nature and number of wounds inflicted by an accused on the victim should be significant indicia in determining the plausibility of the defense plea.[10]

The Court, however, finds the evidence of the prosecution to be wanting in respect to the qualifying circumstance of treachery. The essence of treachery is the sudden and unexpected attack by an aggressor on an unsuspecting victim, depriving the latter of any real chance to defend himself and thereby ensuring its commission with no risk to the aggressor.[11] The conditions that must concur in order that treachery may be appreciated are: (a) the employment of means of execution that gives the person attacked no opportunity to defend himself or to retaliate; and (b) that the means of execution are deliberately and consciously adopted.[12] These elements must be proven as indubitably as the killing itself and cannot be deduced from conjecture.[13]

Here, it was not satisfactorily established that the victim was unarmed at the time of the stabbing incident. On the contrary, the stab wound on the person of Romualdo Paglinawan, a companion and co-accused of herein appellant, could indicate that the victim might have also been armed. Neither was it made clear that there was no

provocation on the part of the victim.

Accused-appellant can thus only be convicted of the crime of homicide, the penalty for which, under Article 249 of the Revised Penal Code, is reclusion temporal that, absent any mitigating nor aggravating circumstance, shall be imposed in its medium period. Applying the Indeterminate Sentence Law, accused-appellant should thus be penalized by an indeterminate sentence of anywhere within the range of prision mayor, or from six years and one day to 12 years, by way of minimum, and anywhere within the range of reclusion temporal in its medium period of from fourteen years, eight months and one day to seventeen years and four months, by way of maximum.[14]

The award of damages made by the court a quo should be affirmed insofar as the civil indemnity of P50,000.00 and actual damages of P34,200.00 are concerned, the latter being amply supported by receipts.[15] The additional award of moral and exemplary damages should be deleted for lack of factual and legal grounds.

WHEREFORE, the appealed decision of the Regional Trial Court is AFFIRMED with MODIFICATION in that accused-appellant is only found GUILTY of HOMICIDE and sentenced to an indeterminate penalty of nine (9) years and one (1) day of prision mayor, as minimum, to fifteen (15) years and eleven (11) months and three (3) days of reclusion temporal, as maximum, and is ordered to pay the heirs of the victim Alvaro Hilario civil indemnity of Fifty Thousand (P50,000.00) pesos and actual damages of Thirty-four Thousand Two Hundred (P34,200.00) Pesos. The award by the trial court of moral and exemplary damages are deleted. Costs against appellant.

SO ORDERED.

Kapunan, and Martinez, JJ., concur.

Davide, Jr., C.J., (Chairman), and Ynares-Santiago, JJ., on official leave.

[1] Rollo, p. 4.

[2] TSN, Lani Sarmiento, 24 May 1999, p. 4.

[3] Rollo, pp. 45-46.

[4] Rollo, p. 58.

[5] Almeda vs. Court of Appeals, 269 SCRA 643.

[6] People vs. Emberga, 319 SCRA 304.

[7] People vs. Bitoon, Sr., 309 SCRA 209.

[8] TSN, 27 September 1999, p. 45.

[9] TSN of Dr. Freyra, p. 15, 25 November 1998; Medico-Legal Report, p. 4, Folder of Documentary Exhibits.

[10] People vs. Bitoon, Sr., supra.

[11] People vs. Vermudez, 302 SCRA 276.

[12] People vs. Academia, Jr., 307 SCRA 229.

[13] People vs. Silvestre, 307 SCRA 68.

[14] People vs. Silvestre, supra.

[15] Exhibits I, I-1, I-2, I-3, I-4, I-5, Folder of Documentary Exhibits.

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