

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. SAM HINAUT, JESSIE HINAUT, JONATHAN HINAUT AND DIOSDADO HINAUT (AT LARGE), ACCUSED.

G.R. No. 143764. February 15, 2002

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

In affirming the trial court, we reiterate the doctrine that the credible and positive testimony of a lone eyewitness is sufficient to cause a conviction for murder. In the present case, the sole witness' testimony was corroborated by the Medicolegal Report, the photographs offered by the prosecution and the location and severity of the wounds sustained by the victim.

The Case

Sam Hinaut appeals the May 26, 2000 Decision[1] of the Regional Trial Court (RTC) of Oroquieta City (Branch 12) in Criminal Case No. 1407, finding him guilty of murder beyond reasonable doubt. The dispositive portion of the Decision reads as follows:

“WHEREFORE, finding him guilty beyond reasonable doubt of the crime of murder, the Court hereby sentences accused Sam Hinaut to suffer the penalty of RECLUSION PERPETUA with the accessory penalty of the law and to indemnify the heirs of deceased Paquito Salibay in the amount of [s]ixty [t]housand (P60,000.00) [p]esos as death indemnity, plus P21,330.00 as actual damages.”[2]

The Amended Information[3] charged Diosdado Hinaut, Sam Hinaut, Jessie Hinaut and Jonathan Hinaut as follows:

“That at about 10:00 o'clock in the evening of September 19, 1999 in [B]arangay Bunga, Oroquieta City and within the jurisdiction of this Honorable Court, the above-named accused conspiring, confederating and acting in concert, with intent to kill and taking advantage of superior strength and with treachery did then and there wilfully, unlawfully and feloniously assault, stab and hack Paquito Salibay causing injuries resulting [in] his instantaneous death.

“Contrary to Article 248 of the Revised Penal Code as amended by Republic Act No. 7659 with the qualifying circumstances of abuse of superior strength and treachery.”[4]

Only Jessie and Jonathan were arraigned[5] on November 7, 1999, because their co-accused -- Diosdado and Sam -- remained at large.[6] With the assistance of their counsel, both pleaded not guilty.[7] However, during pretrial, Jessie moved to change his plea of not guilty to guilty, while Jonathan moved to alter his plea of guilt from that of a principal to that of an accomplice only.[8] With the conformity of the prosecutor, the trial court ordered a re-arraignment.[9]

In spite of the change of plea, the RTC nonetheless directed the prosecution to present its evidence because of the severity of the crime charged. On January 6, 2000, it rendered its Decision finding Jessie guilty of murder as a

principal; and Jonathan, as an accomplice.

On January 27, 2000, appellant was arrested in Clarin, Misamis Occidental.[10] When arraigned on February 7, 2000,[11] he pleaded not guilty.[12] After trial in due course, the RTC rendered the assailed Decision.

The Facts

Version of the Prosecution

The prosecution presented the testimonies of Advenicer Lumacang, Dr. Jose Flores (medicolegal officer) and Felisa Salibay (the victim's mother).

The Office of the Solicitor General summarized the facts of the case as follows:

“Barangay Kagawad Advenicer Lumacang went out of their house to buy cigarettes around 10:00 o'clock in the evening of September 19, 1999 in Bonga, Oroquieta City. Lumacang proceeded to the store of Noreng Salibay about forty (40) meters from his house.

“The store was already closed when Lumacang arrived but he saw Paquito Salibay, a brother of the store owner, Noreng Salibay, knocking at the door. After five minutes, Noreng Salibay opened the store and allowed Lumacang and her brother Paquito Salibay to buy cigarettes. Thereafter, Lumacang and Paquito Salibay proceeded to go home together as their houses were merely seven (7) meters apart.

“On their way home, Lumacang and Paquito Salibay encountered the group of Diosdado Hinaut, Jessie Hinaut, Jonathan Hinaut, and appellant Sam Hinaut drinking ‘tuba’ beside the house of Rizal Ronda. Thereupon, Jonathan Hinaut called Paquito Salibay and angrily confronted him saying, ‘Noy, you have belittled my family.’ To this, Paquito Salibay answered, ‘I did not [belittle] your family, we are neighbors.’ Jonathan then offered Paquito Salibay a glass of ‘tuba’ which the latter accepted and drank. At that moment, Diosdado Hinaut, appellant Sam Hinaut and Jessie Hinaut were all standing behind Paquito Salibay.

“As Paquito was drinking the ‘tuba,’ Diosdado Hinaut suddenly hacked Paquito Salibay at his back with a bolo. Appellant followed suit and hacked Salibay again on the back with a bolo. Thereafter, Jessie Hinaut stabbed Salibay's back with a hunting knife. Fearing for his life, Lumacang, who was only five (5) meters away from the group, ran away and proceeded to the house of Paquito's mother, Felisa Salibay, to report what happened.

“Paquito Salibay was already dead when Lumacang and Nilo Sintorias went back for him soon thereafter. They then reported the incident to Barangay Captain Victoriano Manayon, Jr.

“Paquito Salibay died from three hack and stab wounds inflicted on him. The cause of his death was listed as ‘intrathoracic hemorrhage due to stab wound.’”[13]

Version of the Defense

Appellant denies having hacked or stabbed the victim. His version of the “undisputed facts” is summarized curtly in his Brief,[14] as follows:

“1. [O]n the evening of September 19, 1999, one Paquito Salibay was slain in Barangay Bunga, Oroquieta City;

“2. He was found to have sustained three (3) wounds all located at the back left side of his body. Two (2) were hackwounds which did not injure a vital organ caused by a bolo, and one (1) was a fatal stab wound which perforated his heart caused by a sharp-pointed knife;

“3. Jessie and Jonathan Hinaut admitted the killing and pleaded guilty thereof;

“4. The two (2) hackwounds did not endanger the deceased life as no vital organ was hit. But the knife stab wound was fatal and caused the death of the decedent because it penetrated his heart, a vital organ, (please see findings of inquest physician, Dr. Jose I. Flores)[.]”

The Trial Court’s Ruling

The trial court gave full faith and credence to the testimony of Lumacang, the lone eyewitness, who had testified on how the victim was hacked and stabbed by appellant and his co-accused. “Not only did he make categorical statements pointing to appellant as one of the authors of the crime but no motive or reason was shown by the defense as to why he would falsely accuse appellant of the crime of murder.”

“Paquito Salibay sustained three wounds which were inflicted from behind by Diosdado Hinaut, Sam Hinaut and Jessie Hinaut[,] one after the other in rapid succession, armed with bolos and a knife and acting in concert, whereas their victim Paquito Salibay was totally unprepared for the unexpected attack from behind and had no weapon to resist it[;] the stabbing could not but be considered treacherous.”[15]

Hence, this appeal.[16]

Assignment of Error

In his Brief,[17] appellant assigns this sole alleged error for our consideration:

“The trial court of origin erred in reposing full faith and credence in the uncorroborated testimony of the prosecution’s lone eyewitness to the incident in question.”[18]

This Court’s Ruling

The appeal has no merit.

Sole Issue:

Sufficiency of Prosecution Evidence

Appellant contends that the RTC erred in giving full faith and credence to Lumacang. The eyewitness testified to having seen the accused hack and stab the victim, who was then drinking the tuba offered to him by the group. Lumacang testified as follows:

“Pros. Acosta:

Q

Could you recall where were you [o]n the evening of September 19, 1999?

A

Yes, I can remember.

Q

Where were you?

A

In our house.

Q

What were you doing in your house?

A

I was at that time viewing x x x television.

Q

[Did] you have any companion while viewing a TV program?

A

Yes, x x x my children.

xxx xxx xxx

Q

While watching television that night, was there an occasion [when] you went outside your house?

A

Yes.

Q

What time was that?

A

Almost ten o'clock already.

Q

Where did you go [from] your house that time and why?

A

To buy cigarettes at the store of Noreng Salibay.

Q

Were you alone when you went out?

A

Yes, I was alone.

Q

By the way, the store of Noreng Salibay, where is this situated?

A

Bonga, Oroquieta City.

Q

How far is the store of Noreng Salibay from your house?

A

More or less 40 meters away.

Q

When you reach[ed] the store was it still open?

A

Already closed.

Q

Did you see someone outside the store?

A

Yes.

Q

Who?

A

Paquito Salibay.

Q

How is Paquito Salibay related to Noreng Salibay?

A

Her brother.

Q

What Was Paquito Salibay doing outside the store of Noreng his sister?

A

He was knocking [on] the door at the same time calling.

Q

Was the store open[ed]?

A

After five minutes the store was opened.

Q

Who opened the store?

A

Noreng Salibay.

xxx xxx xxx

Q

While on your way home, did you see someone?

A

Yes.

Q

Who?

A

Diosdado, Sam, Jessie, Jonathan Hinaut.

Q

Where did you see the four of them?

A

At the side of the house of Rizal Ronda.

Q

Is the house of Rizal Ronda adjacent to the road?

A

Yes.

Q

How come x x x you were able to recognize the four persons when it was already night time?

A

It was very bright because there was that electric bulb outside the house of Rizal Ronda.

Q

How far were the four persons [from] where the electric bulb was installed?

A

Very near about four meters only.

xxx xxx xxx

Q

When you saw the four accused what were they doing?

A

They were drinking tuba.

Q

When you saw them, what happened next?

A

Then Jonathan Hinaut called Paquito Salibay.

Q

Did Paquito Salibay go near Jonathan after he was called?

A

Yes.

Q

How about you, what did you do?

A

I also went near them because we were together.

Q

When Paquito Salibay was already near Jonathan Hinaut, what did you notice?

A

He, Jonathan, confronted Paquito.

Q

How was Paquito confronted by Jonathan?

A

This Jonathan was telling Paquito that he [had] belittled his family.

Q

How were those words uttered by Jonathan Hinaut?

A

‘Noy, you have belittled my family.’

Q

Were they uttered in a loud voice or [a] moderate voice?

A

Loud voice.

Q

What did you notice in the face of Jonathan Hinaut when he uttered those words?

A

He was angry.

Q

At that time where was Diosdado Hinaut in relation to Paquito Salibay?

A

Diosdado Hinaut was behind Paquito Salibay.

Q

How about Sam Hinaut where was he?

A

Also behind Paquito Salibay.

Q

How about Jessie Hinaut?

A

Also behind Paquito Salibay.

Q

After being confronted what did Paquito Salibay [answer] if ever there was any?

A

Paquito Salibay answered: 'I did not [belittle] your family, we are neighbors.'

Q

After that what did Jonathan Hinaut do?

A

Then Jonathan offered a glass of tuba to Paquito Salibay.

Q

Was that glass of tuba offered by Jonathan accepted by Paquito?

A

Yes.

Q

What did Paquito do with that tuba when he accept it?

A

He drank it.

Q

While Paquito was drinking that tuba where was Diosdado Hinaut in relation to Paquito Salibay?

A

Behind Paquito Salibay.

Q

How about Sam Hinaut, where was he?

A

Also behind Paquito Salibay.

Q

How about Jessie?

A

Also behind Paquito Salibay.

Q

While Paquito Salibay was drinking that tuba, what next did you observe?

A

Then Diosdado Hinaut hacked Paquito Salibay.

Q

What did Diosdado Hinaut [use] in hacking Paquito Salibay?

A

A bolo.

Q

Was Paquito hit?

A

Yes, he was hit.

Q

On what part of his body?

A

At his back.

Q

After that wha[t] did you notice?

A

Again Paquito Salibay was hacked by Sam Hinaut.

Q

What did Sam Hinaut [use] in hacking Paquito Salibay?

A

A bolo also.

Q

Was Paquito Salibay hit?

A

Yes.

Q

On what part of his body?

A

[On] the back of Paquito.

Q

After that what again have you observed?

A

Then he was stabbed by Jessie.

Q

What did Jessie [use] in stabbing Felix?

A

A hunting knife.

Q

Was Paquito hit?

A

Yes.

Q

On what part of his body?

A

[On] the back also.

Q

What was the interval from the time that Diosdado Hinaut first hacked Paquito Salibay followed by Sam Hinaut and again followed by the stabbing [by] Jessie Hinaut [of] the victim?

A

One after the other.

Q

By the way, when you witnessed that incident, how far were you from the victim?

A

Very near.

Q

From where you were seated, kindly point to us any object in court that was the alleged distance?

A

About five meters more or less.

Q

What did you do when you saw Paquito Salibay being hacked and stabbed by the accused? What did you feel?

A

Because of fear I ran away.

Q

Did you notice what happen[ed] to Paquito?

A

No more.

Q

Where did you r[u]n?

A

To the house of his mother Felisa Salibay.

Q

Why did you go to the house of Felisa Salibay?

A

To inform the mother.

Q

Were you able to inform the mother?

A

Yes.

Q

What did Felisa Salibay do after you inform[ed] her of the incident?

A

Then Felisa Salibay went out [of] her house and ask[ed] help or assistance from [her] son-in-law[,] a certain Sintorias.

Q

Where is this Sintorias residing?

A

Just very near each other because they are also neighbors.

Q

When Felisa Salibay ask[ed] help from her son-in-law, did the son-in-law go down?

A

Yes.

Q

Will you please tell us the complete name of this Sintorias?

A

Nilo Sintorias.

Q

When Nilo Sintorias went down, what did the three of you do?

A

Then we look[ed] for Paquito Salibay.

Q

Were you able to find Paquito Salibay?

A

Yes.

Q

Where?

A

Near the house of his mother.

Q

What was the condition of Paquito Salibay when you found him?

A

He was already dead, lying on his stomach[,] face down.”[19]

Lumacang’s testimony is corroborated by the Medicolegal Report of Dr. Jose Flores, the photographs[20] offered by the prosecution, and the location and severity of the wounds sustained by the victim. A detailed testimony acquires greater weight and credibility when confirmed by autopsy findings.[21] To secure a conviction for murder or homicide, it is enough that the death of the victim and the responsibility of the person who caused the death are proven beyond reasonable doubt.[22]

In contrast to the sufficient and credible prosecution evidence described above, the factual version of appellant is wanting in clarity and credence. Defense Witness Arturo Magnaong simply established the fact that he had merely given Jonathan two liters of tuba on that fateful night.[23] Another defense witness, Felicisimo Floresca, only said that “he saw wounded Paquito Salibay r[u]n towards his house until he fell [to] the ground.”[24] They did not exculpate appellant from the killing.

Well-settled is the rule that the testimony of a single eyewitness, if credible and positive, is sufficient to support a conviction, even in a charge of murder.[25] Moreover, it is basic that this Court will not interfere with the trial court’s assessment of the credibility of witnesses, absent any indication that some material fact was overlooked or neglected.[26]

Collateral Issues

Appellant’s Flight

Further militating against the cause of appellant was his flight. The records show that he hurriedly left his residence after the incident, even if it meant leaving his livelihood and the leased land he was tilling.[27] At the time, he already knew that he would be charged. Instead of defending his innocence, he tried to escape from the law. His explanation as to why he left (“I was brought by my wife to Clarin”) is too petty to merit consideration. Flight is evidence of guilt. It betrays a guilty mind or a guilty conscience.[28]

Conspiracy

The trial court correctly ruled that appellant and his cohorts had conspired in perpetrating the offense. Lumacang testified on how the group had staged their nefarious intent, alternately hacking and stabbing the victim from behind -- all acting in unison and with one single objective.

During cross-examination, Lumacang explained how the group had ganged up on the victim, as follows:

“ATTY. BERENGUEL:

Q

How about Sam Hinaut[,] where was he?

A

At the back of Paquito beside Jessie.

Q

So, you would say therefore that behind Paquito on [his] left side x x x was Jessie, [in] the middle was Sam Hinaut and at the right shoulder [was] Diosdado Hinaut?

A

Sam and Jessie [were] behind on the left side of Paquito while on the right side behind Paquito [was] Diosdado while Jonathan was [in front] of Paquito.

Q

In that position Jessie stabbed Paquito?

A

Yes.

Q

Did you see Jessie when he stabbed Paquito?

A

Yes.

Q

I have here a ruler. Let us say that this is the knife of Jessie. Please demonstrate before this honorable court how did you see Jessie [stab] Paquito?

A

With the [use] of his right hand holding the hunting knife [while] holding the handle of the knife pressed [he] then stabbed the back of Paquito somewhere on the left side at the back.

Q

You said that you saw Diosdado Hinaut [hack] Paquito. Now, using the same ruler at this time as a bolo[, k]indly demonstrate before this honorable court in that position whether he was at the right shoulder behind Paquito[,] how he hacked Paquito?

A

Because Diosdado [was] a left handed man[,] the bolo was on his left side and the hacking was from the right to the left motion on a back handed manner.

Q

So, where was Paquito hit in the hacking of Diosdado?

A

At the right side portion of the waistline at the back.

Q

How about Sam Hinaut, you said that you allegedly saw him also [hack] Paquito. Kindly demonstrate how did Sam [hack] Paquito?

A

Sam with his right hand holding the bolo hacked Paquito hitting [the latter] at the back using from behind a bolo[,] holding it at the right hand. (Witness demonstrated by striking[,] swinging the right hand towards the back of Paquito Salibay[,] hitting him at the back.

Q

So, when you were asked what was the sequence of the stabbing and hacking[,] you said that it was one after the other[;] when you said one after the other was it quite simultaneous?

A

One after the other.

Q

[In] very close sequence?

A

Yes.

Q

When you were behind Paquito Salibay and behind the three [--] Jessie, Sam and Diosdado [--] while Jonathan and Paquito [were] having an argument[, was the bolo] already in their hands x x x?

A

Not yet.

Q

Where was. the knife of Jessie?

A

I did not notice where he place[d] the knife.

Q

When did you notice where he place[d] the knife?

A

At the time when he stab [sic].

Q

In other words you notice[d] it when he was in the act of stabbing?

A

Yes.

Q

Did you not shout to Paquito to run[,] warning him[,] because Jessie was in the act of stabbing him?

A

It was so sudden.”[29]

Where the acts of the accused collectively and individually demonstrate the existence of a common design towards the accomplishment of the same unlawful purpose, conspiracy is evident and all the perpetrators would be liable as principals.[30] In conspiracy, it is not necessary to present direct proof of a previous agreement to commit the crime or to identify the one who rendered the fatal blow.[31]

Treachery

We likewise hold that the trial court did not err in finding appellant guilty of murder on the ground that the killing had been committed with treachery as alleged in the Information.

There is treachery when (1) the means of execution employed gives the person attacked no opportunity for self-defense or retaliation, and (2) the means of execution was deliberately or consciously adopted.[32] In this case, the evidence shows that appellant and his companions, one after the other, hacked and stabbed the unarmed victim who was then drinking the tuba they had offered him. He had no means or opportunity to defend himself.

In addition, the location of the wounds attest to the treacherous nature of the killing. Dr. Flores, who had conducted the postmortem examination of the body, testified as follows:

“PROSECUTOR ACOSTA

Q

And what did you find in the body of the victim?

DR. JOSE FLORES

A

On examination, I saw three wounds [on] the back of the victim. Two wounds were on the front.”[33]

The eyewitness account of Lumacang and the Medicolegal Report of Dr. Flores fully showed the employment of

treachery in the killing of the victim. Settled is the rule that there is treachery if the victim is attacked from behind when not expecting it.[34]

Civil Liabilities

In accordance with current jurisprudence, when death occurs as a result of a crime, the victim's heirs are entitled to the amount of P50,000 as indemnity ex delicto, without need of any evidence or proof.[35] Accordingly, we reduce the indemnity granted by the trial court from P60,000 to P50,000. The award for actual damages is reduced from P21,330 to P10,200 -- the latter being the amount duly supported by receipts.[36]

WHEREFORE, the assailed Decision is AFFIRMED with the MODIFICATION that appellant is ordered to indemnify the heirs of deceased Paquito Salibay in the amount of P50,000 as indemnity ex delicto and P10,200 as actual damages. Costs against appellant.

SO ORDERED.

Melo, (Chairman), Vitug, Sandoval-Gutierrez, and Carpio, JJ., concur.

[1] Penned by Judge Celso L. Conol; rollo, pp. 16-24; records, pp. 139-147.

[2] RTC Decision, p. 9; rollo, p. 24; records, p. 147.

[3] Signed by 2[nd] Asst. City Prosecutor Florante P. Acosta.

[4] Rollo, p. 11; records, p. 29.

[5] Records, p. 32.

[6] Report of the Execution of Warrant of Arrest, records, p. 38.

[7] Order dated November 17, 1999; records, p. 32.

[8] Order dated January 4, 2000; Id., p. 43.

[9] Order dated January 6, 2000; Id., p. 49.

[10] Records, p. 58.

[11] Assisted by Counsel de Oficio Mita Martinez.

[12] Order dated February 7, 2000; records, p. 67.

[13] Appellee's Brief, pp. 3-4; rollo, pp. 62-63. Signed by Asst. Solicitor General Carlos N. Ortega, Asst. Solicitor General Maria Aurora P. Cortes and Solicitor Carminda O. Punzalan-Gaite.

[14] Page 2; rollo, p. 42.

[15] RTC Decision, p. 8; rollo, p. 23; records, p. 146.

[16] This case was deemed submitted for resolution on July 24, 2001, when the Court received appellee's Brief. The filing of a reply brief was deemed waived, as none had been submitted within the reglementary period.

[17] Appellant's Brief was signed by Atty. Ramon G. Berenguel.

[18] Appellant's Brief, p. 1; rollo, p. 41; original in upper case.

[19] TSN, March 30, 2000, pp. 3-12.

[20] Exhibits “C” and “D”; records, p.11.

[21] *People v. De Guia*, 280 SCRA 141, 155, October 2, 1997; *People v. Milina*, 312 SCRA 130, 134, August 10, 1999.

[22] *People v. Serzo Jr.*, 274 SCRA 553, 569, June 2, 1997.

[23] TSN, April 26, 2000, p. 6.

[24] *Ibid.*, p. 17.

[25] *People v. Toyco*, GR No. 138609, January 17, 2001; *People v. Pascual*, 331 SCRA 252, April 28, 2000; *People v. Pirame*, 327 SCRA 552, March 9, 2000.

[26] *People v. Dadles*, 278 SCRA 393, 406, September 1, 1997; *People v. De Guia*, *supra* at p. 150; *People v. Molina*, 292 SCRA 742, 765, July 22, 1998.

[27] TSN, May 9, 2000, p. 24.

[28] *People v. Lopez Jr.*, 245 SCRA 95, 105, June 16, 1995.

[29] TSN, March 30, 2000, pp. 18-20.

[30] *People v. Bitoon Sr.* 309 SCRA 209, June 28, 1999.

[31] *People v. Bernas*, 309 SCRA 741, July 5, 1999.

[32] *People v. Aquino*, 342 SCRA 141, 144, October 5, 2000.

[33] TSN, April 3, 2000, p. 3.

[34] *People v. Daquipil*, 240 SCRA 314, 332, January 20, 1995.

[35] *People v. Obello*, 284 SCRA 79, January 14, 1998; *People v. Borreros*, 306 SCRA 680, May 5, 1999; *People v. Cayago*, 312 SCRA 623, August 18, 1999.

[36] *People v. Peleras et al.*, GR No. 140512, September 13, 2001; *People v. Gallo et al.*, GR No. 133002, October 19, 2001.

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