

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. WILSON ANTONIO, JR., ALIAS "INTSIK"; ACCUSED-APPELLANT.*G.R. No. 144266. November 27, 2002*

Ponente: BELLOSILLO, J.

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WILSON ANTONIO, JR. alias "Intsik" appeals from the Decision of the trial court convicting him of murder and imposing upon him the penalty of death and ordering him to indemnify the heirs of Sergio "Bobby" Mella P50,000.00 as death indemnity, P100,000.00 as actual damages, P300,000.00 as moral damages, P300,000.00 as exemplary damages, and P1,500,000.00 for loss of his earning capacity.[1]

As found by the trial court, at around 7:15 in the morning of 16 June 1996, at Poblacion, San Remegio, Antique, accused-appellant Wilson Antonio, Jr. was carrying a gun and walking towards Sergio Mella's house.[2] Wilson's sister Wilfe followed him and pleaded to him to stop but he ignored her and continued going to the house of Sergio.[3] A few minutes later, or around 7:30 a.m., gunshots were heard coming from inside the house of Sergio Mella.[4]

Kevin Paul Mella, seven (7)-year old son of Sergio, witnessed the incident. He was lying on the bed beside his father Sergio in the bedroom when he heard a window being opened and the sound of feet stepping on the floor. Then someone kicked open the door to the bedroom. Kevin saw Wilson carrying a shotgun.[5] Wilson aimed his gun at Sergio who was asleep on the bed and fired hitting Sergio on the chest, shoulder and back.[6] He was also hit on his left thigh. Immediately after firing his gun, Wilson hurriedly left the room. When the police arrived Sergio was already dead.

Fe Antonio, accused-appellant's mother, reported the incident to the police. When the police went to the house of Wilson to arrest him, he was already gone. He eluded arrest for more than one (1) year after the incident or until 23 October 1997 when he surrendered to the police.

The killing of the victim was admitted by accused-appellant Wilson Antonio, Jr. alias "Intsik." It was also clearly proved during the trial. The only defense raised by accused-appellant was whether he was insane during the commission of the crime so that he was exempt from criminal liability.

Insanity exists when there is a complete deprivation of intelligence in committing the act. Mere abnormality of the mental faculties will not exclude imputability.[7] The accused must be "so insane as to be incapable of entertaining criminal intent." [8] He must be deprived of reason and acting without the least discernment because there is a complete absence of the power to discern or a total deprivation of freedom of the will.

The presumption in law is that every person is of sound mind.[9] All acts are voluntary and it is improper to presume that acts were done unconsciously.[10] When insanity is alleged to free a person from criminal liability, it must be proved by clear and convincing evidence which must refer to the time immediately preceding the act or to the very moment of its execution.[11] To ascertain the mental condition of the accused at the time of the act,

evidence of the condition of his mind within a reasonable period before and after that time may be received. The mind can only be known by outward acts, so his thoughts, motives and emotions may be evaluated to determine if his external acts conform to those of people with sound mind.[12]

On the basis of the foregoing legal principles, we affirm the conviction for murder of accused-appellant. His evidence presented in his defense fails to convince us that he was insane at the time he killed Sergio Mella.

Accused-appellant relies heavily on his defense of insanity as testified to by his mother Fe Antonio and a psychiatrist, Dr. Rowena G. Cosca.

According to Fe Antonio, ever since accused-appellant was a young boy he already exhibited unusual behavior. He was moody and short-tempered which worsened when her husband and another son were killed by members of the New People's Army. When Wilson was in Mindanao, she took him home to Iloilo and then to the Pototan Mental Hospital for treatment. In 1994 she had him treated by Dr. Japhet Gensaya Fernandez de Leon, a psychiatrist of Molo, Iloilo City. While under the medical care of Dr. de Leon from 13 May 1994 to 22 November 1994 he was given various medicines. His condition improved but he would sometimes stop taking them. She brought him to another doctor in Sibalom, Antique, Dr. Hornada, who likewise prescribed some drugs for him but he would still fail to take them so she had to persuade him to take his medicine, but he would still refuse saying it was useless as he was still hearing voices telling him to do something. As to his behavior before 16 June 1998, Fe Antonio reported that he was not taking his medication as prescribed by the doctor; on the other hand, he would do irrational things like maltreating his wife and children, and throwing stones and chairs now and then inside the house.[13]

Dr. Rowena G. Cosca, a psychiatrist and Medical Specialist II of the Department of Psychiatry, Western Visayas Medical Center, Iloilo City, interviewed accused-appellant upon the request of his mother Fe Antonio. The interview was conducted on 14 September 1998 at the Antique Provincial Jail where accused-appellant was detained pending trial. Based on her interview which lasted for two (2) hours, Dr. Cosca concluded that accused-appellant was suffering from schizo-affective disorder or psychosis which required long-term treatment. This mental disorder was manifested by behavioral problems such as auditory hallucinations and paranoia delusions or persecutory delusions. In Dr. Cosca's view, a person suffering from psychosis does not know what he is doing[14] and is deprived of his faculty to distinguish right from wrong; he is deprived of reason and does not understand the consequences of his actions because of his behavioral symptoms.[15]

Accused-appellant confirmed the statements of his mother that he had been submitted for psychiatric treatment from 1994 to 1996 since he was hearing voices which others could not hear. He was having difficulty sleeping because of these voices talking to him, making him angry and jealous and threatening him. He was prescribed drugs like thoracin and torvictus to calm his nerves and make him sleep.[16] He took his medication continuously until March 1997, but as early as 1996, he would not take his medicines now and then. He admitted drinking alcohol which seemed to interfere with the drugs he was taking.[17]

Accused-appellant had difficulty sleeping early morning of 16 June 1996 as he kept thinking about the incident that happened earlier between him and his victim "Bobby" Mella. He and Bobby were having a drinking bout in Sitio Durog, San Remegio, Antique, when he was boxed by Bobby. At around three o'clock the following morning he and Bobby arrived home from their drinking session. Just when they parted for their respective homes, two (2) shots were heard. Accused-appellant did not know who it was who fired the shots but he heard the voice of Bobby, so he assumed that it was Bobby who fired the shots.[18] When accused-appellant heard the shots, he fired his gun into the air twice and shouted, "Bobby, I will kill you within two days." As he heard no response to his gunfire, he went home and lay in bed and at around seven o'clock in the morning of 16 June 1996

he went to Bobby's home and shot him.[19]

A review of the evidence of accused-appellant fails to convince us that he was legally insane at the time he shot Bobby. The testimonies of Fe Antonio and Dr. Rowena G. Cosca did not show the condition of his mind at the time of or immediately before the killing. An inquiry into the mental state of accused-appellant should relate to the period immediately prior to or at the precise moment of doing the act which is the subject of the inquiry, and his mental condition after that crucial period or during the trial is inconsequential for purposes of determining his criminal liability.[20]

According to Fe Antonio, the last time she saw her son Wilson before the incident was on 15 June 1996 at around eight o'clock in the morning when she had breakfast with him.[21] Until 23 October 1997 she did not see her son anymore. She did not see him on 16 June 1996 when the incident took place, but only on 23 October 1997 when he went back to San Remegio, Antique, to surrender. Hence, from eight o'clock in the morning of 15 June 1996 until 23 October 1997, Fe Antonio had no opportunity to observe her son's behavior.[22]

Dr. Rowena G. Cosca was similarly situated. She was not able to examine accused-appellant before or immediately after the commission of the crime, but was able to interview him only after two (2) years from the incident. Dr. Cosca's finding of schizo-affective disorder or psychosis is conclusive as to the insanity suffered by accused-appellant at the time of the evaluation. It was not conclusive of his state of mind at the time he killed "Bobby" Mella.

Dr. Cosca was emphatic in saying that accused-appellant was psychotic at the precise time that he committed the crime.[23] Her basis was the nature of the disease, which was chronic and required a long-term treatment, as well as the medical history of accused-appellant. His symptoms started to manifest themselves in 1994 but would disappear whenever he took his medication.[24] However he was not taking his medication religiously and did not submit to regular check-ups. Worse, he was taking alcoholic drinks that triggered his symptoms of psychosis in its active phase.[25] Dr. Cosca explained that a person suffering from psychosis may have varying degrees of symptoms within a specified period.[26] Hence it was possible that his active symptoms of psychosis, e.g., auditory hallucinations or persecutory delusions, may be present for that period that he did not take his medication and drank alcohol.[27] She asserted that in psychiatry they did not use the phrase "lucid interval" but what they called "in remission of symptoms," meaning, there was no active phase of the symptoms of psychosis.[28] She concluded that since accused-appellant was not taking his medicine around the time the offense was committed, and he had been drinking alcohol which interfered with any medication he might have taken and triggered the symptoms of psychosis, accused-appellant might have been in the active phase of psychosis which prompted him to kill Bobby Mella.[29]

This is not however a conclusive finding as to the sanity of accused-appellant at the time of the commission of the crime. Even as Dr. Cosca said that a psychotic does not know what he is doing, she also admitted that the psychotic may have varying degrees of awareness of the consequences of his acts, which awareness would also depend on the degree of psychosis at the time of the commission of the act, so that the lesser the degree of psychosis, the greater the awareness.[30] Hence, her testimony in substance negated complete deprivation of intelligence in committing the act, which is crucial under our law for the defense of insanity to be sustained. She also admitted that it could not be conclusively presumed that accused-appellant was psychotic or insane on 16 June 1996 as there was no psychiatrist who examined him during the time of the incident.[31]

What militates heavily against the defense of insanity is the testimony of accused-appellant himself when he admitted on cross-examination that he killed the victim out of anger and a desire for revenge. He believed he had been wronged when Sergio Mella boxed him so he retaliated. He knew very well that killing a person was against

the law of God and of man. He was also aware that as a result of his actuations he would be apprehended by the police and imprisoned, but his hatred and anger towards the accused pushed aside the proddings of his conscience and overcame his fears of the consequences of his acts. As proof of such awareness, after killing Sergio, accused-appellant fled and hid from the authorities because his fear of being punished became real.[32] This is contrary to the thesis of Dr. Cosca that one suffering from psychosis does not know what he is doing because, as admitted by accused-appellant, he was fully conscious of his acts before, during and after the event, of what was right and wrong, and of the consequences of his deeds. Hence, his admission is inconsistent with his defense of insanity. We are fully convinced, as was the court below, that accused-appellant was not insane or completely deprived of reason at the time of the commission of the crime. As we held in *People v. Rafanan, Jr.*,[33] where the accused fails to show complete impairment or loss of intelligence, the Court recognizes at most a mitigating, not an exempting, circumstance pursuant to Art. 13, par. (9) of The Revised Penal Code.

The evidence of accused-appellant shows that while there was some impairment of his mental faculties, since he was shown to suffer from the chronic mental disease called schizo-affective disorder or psychosis, such impairment was not so complete as to deprive him of his intelligence or the consciousness of his acts. The schizo-affective disorder or psychosis of accused-appellant may be classified as an illness which diminishes the exercise of his will-power but without depriving him of the consciousness of his acts. He may thus be credited with this mitigating circumstance but will not exempt him from his criminal liability.

The trial court convicted accused-appellant of "murder qualified by treachery x x x and aggravated by the circumstances of evident premeditation, dwelling and unlawful entry." [34] Treachery was clearly present since the victim was shot while asleep, hence, was defenseless at the time of the attack. We find however that the aggravating circumstances of evident premeditation, dwelling and unlawful entry, were not alleged in the Information; [35] only the qualifying circumstance of treachery which was proved during the trial.

Pursuant to the 2000 Revised Rules of Criminal Procedure, every Complaint or Information must state not only the qualifying but also the aggravating circumstances. [36] This rule may be given retroactive effect in the light of the well-established rule that statutes regulating the procedure of the courts will be construed as applicable to actions pending and undetermined at the time of their passage. [37] The aggravating circumstances of evident premeditation, dwelling and unlawful entry, not having been alleged in the Information, may not now be appreciated to enhance the liability of accused-appellant.

Nonetheless, we sustain the award of civil indemnity to the heirs of Sergio "Bobby" Mella as it is automatically granted without need of proof other than the fact of commission of the crime. The amount of P50,000.00 awarded by this Court to the heirs is increased to P75,000.00 conformably with current jurisprudence. [38]

As to the actual damages, the amount of P100,000.00 is unsubstantiated. Nowhere in the evidence on record, even in the testimony of the widow Ruby Mella, is there any mention of the actual expenses incurred for the funeral, nor were there receipts to support the evidence. To justify actual damages, it is necessary to prove the amount of loss with a reasonable degree of certainty, premised on competent proof and on the best evidence obtainable by the injured party. [39] The award of actual damages should thus be deleted for lack of any supporting evidence.

We likewise find the need to modify the award of P300,000.00 as moral damages and P300,000.00 as exemplary damages. Moral damages are awarded in criminal offenses resulting in physical injuries or in the victim's death, and no proof of pecuniary loss is necessary. [40] The widow of the deceased had testified to her sadness, difficulties and anxieties which she suffered upon her husband's demise. [41] But we reduce the award to P100,000.00 as we find the award of P300,000.00 too excessive. The exemplary damages awarded by the trial court must be deleted, considering that no aggravating circumstances could be appreciated in this case.

We must also modify the award for loss of earning capacity. Ruby Mella testified that her deceased husband was born on 12 November 1960 so that he was thirty-five (35) years old at the time of his death.[42] The trial court found that the annual gross earnings of Sergio "Bobby" Mella at the time of his death could be fixed at P39,000.00/year as a farmer and P18,000.00/year as a rice mill operator, or a total income of P57,000.00/annum.[43] Sergio's unearned income is P855,000.00 computed under the following formula[44] for loss of earning capacity:

$$\begin{aligned} &\text{Net Earning Life Gross Reasonable \&} \\ &\text{Capacity (x) = Expectancy x Annual less Necessary} \\ &\text{Income Living} \\ &\text{Expenses} \\ x &= \frac{2}{3} (80 - 35) \times (P57,000.00 - P28,500.00) \\ &= \frac{2}{3} (45) \times P28,500.00 \\ &= 30 \times P28,500.00 \\ &= P855,000.00 \end{aligned}$$

The penalty for murder under Art. 248 of The Revised Penal Code is reclusion perpetua to death. Considering that there is one (1) mitigating circumstance of mental illness of the offender, which is not offset by any aggravating circumstance since evident premeditation, dwelling and unlawful entry could not be appreciated for not having been alleged in the Information, the lower penalty of reclusion perpetua should be imposed.[45]

WHEREFORE, the assailed Decision of the court a quo finding accused-appellant Wilson Antonio, Jr. guilty of murder qualified by treachery for the killing of Sergio "Bobby" Mella and imposing upon him the death penalty is MODIFIED. Accused-appellant is sentenced instead to reclusion perpetua and ordered to pay the heirs of the deceased P75,000.00 as civil indemnity, P100,000.00 as moral damages, and P855,000.00 for lost earnings. No costs.

SO ORDERED.

Vitug, Mendoza, Panganiban, Quisumbing, Ynares-Santiago, Sandoval-Gutierrez, Carpio, Austria-Martinez, Corona, Morales, Callejo, Sr., and Azcuna, JJ., concur.
Davide, Jr., C.J., and Puno, JJ., on official leave.

[1] Decision penned by Judge Nery G. Duremdes, RTC-Br. 11, San Jose, Antique, prom. 25 March 1999; Rollo, pp. 18-66.

[2] TSN, 20 February 1998, p. 6.

[3] Ibid.

[4] Id, p. 8.

[5] TSN, 1 April 1998, pp. 5-6.

[6] Id., pp. 7-9; Exh. "A," the medico-legal report found on p. 4 of the Original Records shows that the victim suffered twelve (12) gunshot wounds, two (2) of which were fatal according to Dr. Suzette Moleño; TSN, 29

January 1998, pp. 8-9.

[7] *People v. Formigones*, 87 Phil 658 (1959).

[8] *People v. Estrada*, G.R. No. 130487, 19 June 2000, 333 SCRA 699, 713.

[9] Art. 800, Civil Code.

[10] *People v. Cruz*, 109 Phil 288 (1960).

[11] *People v. Austria*, G.R. Nos. 111517-19, 31 July 1996, 260 SCRA 106, 117.

[12] *People v. Bonoan*, 64 Phil 87, 93 (1937)

[13] TSN, 10 July 1998, pp. 3-8.

[14] TSN, 10 December 1998, pp. 9-13.

[15] *Id.*, pp. 23-26.

[16] TSN, 16 September 1998, pp. 8-12.

[17] TSN, 4 November 1998, pp. 3-4.

[18] *Id.*, pp. 4-5.

[19] *Id.* p.8.

[20] *People v. Villa, Jr.*, G.R. No. 129899, 27 April 2000, 331 SCRA 142, 154.

[21] TSN, 10 July 1998, p. 23.

[22] *Id.*, p. 24.

[23] TSN, 10 December 1998, pp. 45-48.

[24] *Id.*, p. 13.

[25] *Id.*, p. 14.

[26] *Id.*, p. 49.

[27] *Id.*, p. 51.

[28] *Id.*, pp. 51-52.

[29] *Id.*, pp. 49-50.

[30] *Id.*, pp. 52-53.

[31] *Id.*, p. 59-60.

[32] TSN, 13 November 1998, pp. 9-14.

[33] G.R. No. 54135, 21 November 1991, 204 SCRA 65, 75, citing *People v. Amit*, 82 Phil 820 (1949); *People v. Balneg*, 79 Phil 805 (1948); *People v. Bonoan*, 64 Phil 95 (1937).

[34] See Note 1, p. 65.

[35] Rollo, p. 6.

[36] Secs. 8 and 9, Rule 110.

[37] *People v. Arrojado*, G.R. No. 130492, 31 January 2001, 350 SCRA 679, 696.

[38] *People v. Mario Lacuesta*, G.R. No. 129212, 14 September 2001, citing *People v. Bangcado*, G.R. No. 132330, 28 November 2002, 346 SCRA 189, 211.

[39] *People v. Gadin, Jr.*, G.R. No. 130658, 4 May 2000, 331 SCRA 345, 355.

[40] *Id.*, p. 356.

[41] TSN, 4 June 1998, pp. 7-8.

[42] *Id.*, p. 5.

[43] Rollo, p. 62.

[44] *People v. Estepano*, G.R. No. 126283, 28 May 1999, 307 SCRA 701, 713.

[45] Art. 63, The Revised Penal Code.

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