

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JONATHAN ANACAN Y JALANDONI, ACCUSED-APPELLANT.

G.R. No. 144318. April 03, 2002

Ponente: BELLOSILLO, J.

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BELLOSILLO, J.:

This is an appeal from the Decision of the court a quo finding accused-appellant Jonathan Anacan y Jalandoni guilty of murder for the death of Henry Villanueva y Oriasa and correspondingly sentencing him to suffer the penalty of reclusion perpetua and to indemnify the heirs of his victim P89,019.15 as actual damages, P300,000.00 as moral damages, and P50,000.00 as civil indemnity.[1]

Midnight of 13 April 1997 Henry Villanueva y Oriasa and his cousin, Ricky Lejano, went to the Batik Restaurant along Rizal Avenue, Manila, to have some drinks. Later, they invited a lady guest relations officer, who happened to be the girlfriend of Randy Pacolba, the restaurant's disc jockey, to join them. Villanueva and Lejano stayed at the restaurant until 4:30 the following morning. When the duo were about to leave, Randy Pacolba, accused-appellant Jonathan Anacan and a certain Galman mauled Henry Villanueva. Villanueva rushed out of the restaurant but was pursued by Anacan. Due to his drunken state, Villanueva could not run as fast as he could and was immediately overtaken by Anacan who repeatedly stabbed him with a knife. After seeing his cousin being stabbed, Lejano also ran for his life.

A bystander brought Villanueva to the Jose Reyes Memorial Hospital but was subsequently transferred to the Metropolitan Hospital where he died on 16 April 1997 due to his multiple stab wounds.

An Information for murder was filed against Jonathan Anacan before the Regional Trial Court of Manila, docketed as Crim. Case No. 97-157227. Subsequently, another Information was filed, docketed as Crim. Case No. 98-163400 charging Randy Pacolba, likewise with murder. Eventually, the two (2) cases were consolidated. However, only Anacan was arraigned and tried as Pacolba remained at large.

Jonathan Anacan denied the accusation against him. He alleged that on 13 April 1997 at around 11:45 in the evening, he was at the Batik Restaurant having a few drinks when a commotion arose. He dashed out of the restaurant and went to WMC Carton Factory at Manuguit St., Tondo, Manila, where he was a stay-in helper. On 3 May 1997 police authorities arrested him at his place of work.

Ricky Lejano positively identified Anacan as the assailant and the trial court lent credence to his eyewitness account after finding no ill motive on his part to falsely testify against Anacan. On the other hand, the court a quo gave scant consideration to the denial and alibi of Anacan.

In this appeal, accused-appellant asserts that the court a quo erred in convicting him of murder considering the "dubious identification made by the prosecution eyewitness" and in not giving any probative value to his defense of alibi.[2]

According to accused-appellant, it is inconceivable for Lejano to have positively identified him as the assailant

considering the absence of a police line-up. Accused-appellant insists that placing him in a police line-up is necessary, it being a part of the "standard stationhouse verification procedures employed to test the memory of the witness." [3]

This Court is not persuaded. No law requires the accused to be placed in a police line-up for proper identification. [4] We entertain no doubt that Lejano positively identified Anacan as the perpetrator of the crime. First, Lejano and the victim were regulars at the restaurant-cum-beerhouse. Second, Anacan worked there prior to his employment at WMC Carton Factory. Third, Lejano saw Anacan at the Batik Restaurant several times prior to the incident. Fourth, a few hours prior to the incident, Lejano saw Anacan inside the restaurant. Anacan himself admitted he was at the place at the time of the commission of the crime. Fifth, the mauling commenced inside the eatery and ended in front of Wendy's Restaurant along Avenida Rizal, Manila, which was well-lighted. Sixth, the distance between Lejano and his cousin when the latter was stabbed was more or less twelve (12) meters. Considering the foregoing, this Court finds Lejano's identification of accused-appellant as the assailant clear and positive. Besides, no questionable motive was ascribed to Lejano to testify falsely against accused-appellant.

The defense next claims that Lejano's testimony is riddled with inconsistencies. According to Lejano, the victim sustained four (4) stab wounds which finding is contrary to that of the medico-legal officer that the victim suffered five (5) stab wounds and three (3) incised wounds. Because of this inconsistency, the defense concludes that Lejano could not have witnessed the stabbing incident.

The contention is non-sequitur and without merit. Just because Lejano did not correctly count the number of wounds suffered by his cousin does not mean that he did not witness the stabbing itself. As testified to by Lejano, upon being mauled inside the restaurant, the victim rushed out but was pursued by accused-appellant. Lejano followed his cousin but when the latter was overtaken and stabbed by Anacan, Lejano became frightened and scampered away for safety. From the foregoing, it is clear that when Lejano ran towards a different direction, accused-appellant was still stabbing his victim. It is understandable for Lejano to run for safety and not wait until after accused-appellant shall have finished with his victim. Besides, the stabbing incident happened so fast that Lejano could not be expected to keep count of the thrusts being inflicted on the victim.

Moreover, this "inconsistency" refers only to a collateral matter and does not deviate from the fact that accused-appellant was positively and categorically identified as the perpetrator of the crime. The "inconsistency" only bolsters the credibility of Lejano as it shows that his testimony was not rehearsed nor perjured. Thus -

Inconsistencies in the testimonies of the prosecution witnesses with respect to minor details and collateral matters do not affect the substance of their declarations nor the veracity or weight of their testimony. In fact, these minor inconsistencies enhance the credibility of the witnesses for they remove any suspicion that their testimonies were contrived or rehearsed. In *People v. Maglente* [306 SCRA 546 (1999)], this Court ruled that inconsistencies in details which are irrelevant to the elements of the crime are not grounds for acquittal. [5]

The defense maintains that Lejano is a perjured witness as he could not even state the exact date when his cousin died. Again, this Court is not convinced. Whatever seeming discrepancy there was in Lejano's testimony was not as irreconcilable nor material or relevant as to merit its complete disregard by the court. The date when the victim died refers only to a collateral matter. The established fact remains that accused-appellant stabbed the victim to death.

Accused-appellant insists that the court a quo erred in ignoring his alibi. We sustain the trial court. For alibi to prosper, it must be established by positive, clear and satisfactory proof that it was physically impossible for the accused to have been at the scene of the crime at the time of its commission, and not merely that the accused was somewhere else. Physical impossibility refers to the distance between the place where the accused was when the

crime happened and the place where it was committed, as well as the facility of access between the two (2) places.[6]

In the instant case, the court below properly disregarded accused-appellant's alibi for lack of basis. From the records, he himself admitted that he was at the Batik Restaurant at the time the crime was committed. There was no attempt, not even a lame one, to prove that he was elsewhere. Clearly, his defense of alibi crumbled not only in the face of the positive identification made by the prosecution witness but likewise by his own admission.

We cannot agree, however, with the conclusion of the trial court that the killing was qualified by treachery. The essence of treachery is the sudden and unexpected attack on an unsuspecting victim by the assailant, depriving his victim of any chance to defend himself or repel the aggression, thereby insuring its commission without risk to the aggressor and without any provocation on the part of the victim.[7] Just like the crime itself, the qualifying circumstance of treachery must be proved beyond reasonable doubt.

The court a quo appreciated the qualifying circumstance of treachery because -

The act of the accused in repeatedly stabbing the drunk and unarmed victim, thereby causing his untimely death, constitutes the crime of murder qualified by treachery under Article 248 of the Revised Penal Code. No other aggravating, and/or mitigating circumstances attended the commission of the crime.[8]

Aside from the terse conclusion that treachery attended the commission of the crime, no further elaboration was offered. There was absolutely no detail on how the mauling started. Resort to the records likewise produced no satisfactory results. There is a dearth of details on how the attack was done so as to substantiate the conclusion that the assault was indeed treacherous.

The testimony of Lejano failed to supply the details. He only declared that his cousin was mauled. He failed to describe the manner by which the aggression was executed. Thus -

Atty. Caspe: In the early morning of April 13, 1997, do you recall where were you?

Lejano: I was at the beerhouse.

Q:

Who was your companion at that time?

A:

Henry Villanueva.

Q:

Could you tell this Hon. Court what unusual incident that took place in the early morning of April 13, 1997, at Kulay Batik Restaurant?

A:

On our way home my companion was mauled

Q:

You were referring to your companion Henry Villanueva, is that correct?

A:

Yes, sir.

Q:

After he was mauled, what happened?

A:

After he was mauled, we were pursued outside the beerhouse.

Q:

Where did the mauling take place?

A:

Inside the beerhouse.

Q:

So you have not yet left the beerhouse when your companion was mauled?

A:

Yes, sir.

Q:

Do you know the person who mauled your companion?

A:

A certain Randy.

Q:

How many persons could you recall mauled your companion Henry Villanueva?

A:

There were 3 of them.

Q:

Could you identify these 3 persons who mauled your companion?

A:

Yes, sir.

Q:

Who are they?

A:

A certain Randy, Galman and Jonathan, the accused.

Court: Why was your companion mauled? What happened before he was mauled?

Lejano: It concerns a woman.

Q:

Why, what happened before the mauling . . . you were inside the beerhouse drinking?

A:

Yes, sir.

Q:

Together with your companion . . . you are (sic) occupying a table . . . nobody was with your table except the two of you or was there a woman seated at the table?

A:

There was a woman who joined in our table.

Q:

What happened while the three of you were drinking inside the beerhouse?

A:

The beerhouse was about to close and when we were about to go, my companion was mauled.

Q:

You said that the mauling was because of a woman, in what way (was) that woman connected in the mauling?

A:

Because Randy is the boyfriend of the girl he asked in our table.

Q:

And this girl who joined you in your table, was she being courted by your companion?

A:

He just asked her to join our table.

Q:

But he was not being courted by your companion?

A:

No, sir.

Q:

Why did Randy and his companion get jealous?

A:

My companion and the girl were just talking with each other.

Q:

And that is (sic) why Randy became jealous?

A:

Yes, sir.

Court: Alright, you may continue now.

Atty. Caspe: After this Randy got jealous, what happened?

A:

Nothing.

Court: He did not talk to your companion or to that woman to express his displeasure?

A:

He did not.

Atty. Caspe: After Galman boxed your companion, what happened?

A:

When my companion who is my cousin was boxed by Galman we ran out of the beerhouse.

Q:

After you ran out, what happened Mr. Witness?

A:

After we ran out, the accused armed with a knife pursued us.

Q:

What happened after the accused pursued you with a knife?

A:

My cousin could not run very fast because he was already drunk at the time.

Q:

And what happened to your cousin Henry?

A:

The accused was able to catch up with my cousin and he stabbed him.

Q:

Were you able to see how many times the accused stabbed your cousin?

A:

Four times.

Q:

What happened after you saw the accused stabbed your cousin four times.

A:

After seeing my cousin being stabbed four times by the accused, I got frightened, so I ran home and reported the incident.[9]

For the qualifying circumstance of treachery to be properly appreciated, two (2) elements must concur: (1) the means of execution employed gives the person attacked no opportunity to defend himself or retaliate; and (2) the means of execution was deliberately or consciously adopted. In the instant case, there was no proof on the means of execution and that it was deliberately resorted to by accused-appellant. As aforesaid, the elements of treachery, just like the crime itself, must be proved beyond reasonable doubt. Treachery not having been proved beyond

reasonable doubt, accused-appellant could only be convicted of homicide.

Modification of the award of damages is in order. Instead of P89,019.15 awarded as actual damages, the heirs of the victim are entitled instead to P97,782.55 as actual damages which are duly supported by receipts.[10] The amount of moral damages is reduced from P300,000.00 to P50,000.00 in line with current jurisprudence. The court below however correctly awarded to the heirs of the victim P50,000.00 as civil indemnity.

Homicide is punishable by reclusion temporal.[11] There being neither aggravating nor mitigating circumstance, the penalty prescribed by law must be imposed in its medium period.[12] Hence, the maximum imposable penalty must be taken from reclusion temporal in its medium period which ranges from fourteen (14) years, eight (8) months and one (1) day to seventeen (17) years and four (4) months. Applying the Indeterminate Sentence Law, the minimum imposable penalty must be taken from the full range of prision mayor which ranges from six (6) years and one (1) day to twelve (12) years.

WHEREFORE, the Decision of the Regional Trial Court of Manila, Br. 18, in Crim. Case No. 97-157227 is MODIFIED. Accused-appellant Jonathan Anacan y Jalandoni is found GUILTY instead of homicide, not murder, and is sentenced to suffer the penalty of six (6) years, eight (8) months and ten (10) days of prision mayor minimum as minimum, to fourteen (14) years, ten (10) months and twenty (20) days of reclusion temporal medium as maximum. In addition, accused-appellant is ordered to pay the heirs of Henry Villanueva y Oriasa P97,782.55 as actual damages, P50,000.00 as moral damages, and another P50,000.00 as civil indemnity. Costs against accused-appellant.

SO ORDERED.

Mendoza, Quisumbing, and De Leon, Jr., JJ., concur.

[1] Decision penned by Judge Perfecto A. S. Laguio, Jr., RTC-Br. 18, Manila; Rollo, pp. 13-15.

[2] Brief for the Accused-Appellant; Rollo, pp. 26-41.

[3] Id., p. 34.

[4] People v. Pabillano, et al., G.R. No. 108618, 6 February 2001.

[5] People v. Albarido and Igday, G.R. No. 102367, 25 October 2001.

[6] People v. Manzano, G.R. No. 138303, 28 November 2001.

[7] People v. Feliciano, G.R. Nos. 127759-60, 24 September 2001.

[8] Decision, p. 2; Rollo, p. 14.

[9] Testimony of Ricky V. Lejano, TSN, 30 September 1999, pp. 3-5.

[10] Exhibits I, I-1 to I-13; Records, pp. 93-107; Exhibit K; Records, p. 109.

[11] Article 249, The Revised Penal Code.

[12] Article 64, §1; id.

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