

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. FRANCISCO M. SANTIAGO ALIAS “FRANCIS,” APPELLANT.

G.R. No. 147314. February 06, 2004

Ponente: CALLEJO, SR., J.

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CALLEJO, SR., J.:

This is an automatic review of the Decision[1] of the Regional Trial Court of Baler, Aurora, Branch 66, convicting appellant Francisco M. Santiago alias “Francis” of murder and sentencing him to suffer the death penalty.

The Case for the Prosecution

The Spouses Francisco and Tess Santiago rented a room in the house under the care of Purita Sotero located at Barangay Buhangin, Municipality of Baler, Province of Aurora. The couple had an infant child.[2] Purita occupied another room in the house.[3] About a meter or two away was the house of the Spouses Jaime and Marissa Nisperos. The Nisperos spouses sold liquor and lambanog.[4] Purita had a very close relationship with Francis Santiago, but became disillusioned when he failed to pay the monthly rentals. Exasperated, Purita had the matter placed in the police blotter. This infuriated Santiago.[5]

One evening, Santiago arrived at the Nisperos residence. His eyes were reddish. He told the Nisperos couple that he was angry with Purita and even blurted: “Pare, I will kill her.” However, Jaime told Santiago that Purita was very kind to him and counseled against killing her.[6]

At 5:00 a.m. on October 11, 1995, Jaime left his house to buy pandesal at a nearby store for the children’s breakfast. Marissa remained in their house.[7] Momentarily, Marissa was nonplussed when she heard Purita moaning in pain and shouting for help. Marissa rushed to Purita’s house and tried to open the door, but it was locked from the inside.[8] She tried to push the door open. By then, Jaime had arrived from the store. He helped his wife force open the door, to no avail. Marissa went around the house and proceeded to the side where Purita’s bedroom was and heard her pleading: “Huwag, huwag, Francis.” Marissa also heard moans from the room. She then peeped through the wall and was shocked to see Santiago stabbing Purita as the latter was lying on the floor. The room was lighted by a lamp placed on a table. Marissa rushed back to the store.[9]

Momentarily, Santiago passed by and told her that he left his child in his room. Marissa replied: “Francis, lintek ka, bakit mo sinaksak si Purita?”[10] Santiago ignored Marissa and rushed to the Myra Express Transportation Terminal, about ten to twenty meters away, and boarded a bus.[11] In the meantime, Purita managed to open the door of her room and came out of the house, her bloodied hands pressed against her breasts. Jaime and Marissa rushed to help her. Purita told the couple that she had difficulty in breathing and sat down on the ground. Jaime brought Purita to the Aurora Memorial Hospital.[12]

Marissa called for help. Ruel Buenaventura, field reporter and radio program announcer of DZJO-7khz, was in the vicinity to gather news and information to be aired on the radio program “Magandang Umaga Aurora” from 5:00 to 6:00 a.m. He heard and saw Marissa pleading for help and shouting that someone had been killed.[13] When

Ruel asked Marissa what happened, she reported that Santiago had just stabbed Purita. She said that the assailant had short hair and big eyes and was about to board a bus.[14] Ruel contacted the Baler Police Station and informed the police authorities of the incident. He also told the police that Santiago had just boarded the Myra Express bus. When SPO2 Romeo C. Obedoza arrived, he and PO3 Francisco Angar, Jr. gave chase to the bus which Santiago boarded, but the latter was not there. The passengers told the policemen that Santiago had alighted from the bus before they arrived.[15] Ruel and the policemen later found Santiago naked, from the waist up, hiding in the jeepney of a transport cooperative. Santiago admitted to the policemen that he killed Purita. He was brought to the police station and was subjected to investigation.[16]

By the time Purita was brought to the hospital, she was already dead. The cadaver was autopsied by Dr. Marie Madeleine C. Terles of the Aurora Memorial Hospital. She prepared and signed a medico-legal certificate containing the following post-mortem findings:

- Stab wound 0.3cm left armpit.
- Stab wound 0.3cm left mid-axillary line 3rd ICS area.
- Stab wound 0.3cm 6th ICS right mid-clavicular line.
- (3) Stab wound 0.3cm 4th ICS right mid-clavicular line.
- Stab wound 0.3cm 3rd ICS right mid-clavicular line.
- Stab wound 0.3cm 2nd ICS right mid-clavicular line.
- Stab wound 0.3cm left forearm dorsal aspect.
- (2) Stab wound 0.3cm left wrist dorsal aspect.[17]

Purita was survived by her five children. Her brothers and sisters spent the total amount of P21,047[18] for her wake and burial, P9,447 of which is evidenced by receipts.[19]

On October 12, 1995, an Information was filed in the Regional Trial Court of Baler, Aurora, Branch 66, charging Santiago with murder, the accusatory portion of which reads:

That on the 11th day of October, 1995 at around 5:00 o'clock in the morning at Purok 1, Barangay Buhangin, Municipality of Baler, Province of Aurora, Philippines, and within the jurisdiction of this Honorable Court, the said accused, did then and there willfully, unlawfully and feloniously, with intent to kill and with treachery and evident premeditation, attack, assault and use personal violence upon the person of one PURITA S. SOTERO-BARTOLOME inside her house by then and there entering her room and suddenly stabbing her with a pointed instrument at the different parts of her body, thereby inflicting upon her mortal stab wounds which were the direct and immediate cause of her death thereafter.

CONTRARY TO LAW.[20]

Santiago, assisted by counsel, was arraigned on December 21, 1995 and entered a plea of not guilty.

After the prosecution rested its case, Santiago, through counsel, waived his right to adduce evidence in his behalf.

On November 24, 1999, the trial court rendered judgment convicting the appellant of murder and sentenced him to suffer the death penalty, on its finding that the killing was qualified by treachery and evident premeditation and aggravated by dwelling. The decretal portion of the decision reads:

WHEREFORE, this Court finds accused Francisco Santiago GUILTY beyond reasonable doubt of the crime of murder qualified by treachery and evident premeditation and hereby sentences him to the ultimate penalty of DEATH; to pay the heirs of Purita Sotero-Bartolome the sum of P50,000.00 as moral damages, the sum of P9,000.00 as actual damages, and to pay the costs.

SO ORDERED.[21]

On automatic appeal, Santiago, now the appellant, contends that:

I.

THE COURT A QUO GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY BEYOND REASONABLE DOUBT OF THE CRIME CHARGED DESPITE INSUFFICIENCY OF MATERIAL EVIDENCE TO WARRANT HIS CONVICTION.

II

THE COURT A QUO GRAVELY ERRED IN APPRECIATING THE QUALIFYING CIRCUMSTANCES OF TREACHERY AND EVIDENT PREMEDITATION DESPITE LACK OF EVIDENCE TO PROVE THEIR EXISTENCE.[22]

On the first assignment of error, the appellant asserts that the testimony of eyewitness Marissa Nisperos is incredible. It was impossible for her to have seen him stab the victim since she peeped through the hole of the wall of the house only for an instant. It is incredible that she would do this instead of climbing and passing through the window of Purita's house. Likewise incredible is the testimony of Marissa that even after Jaime failed to open the door to Purita's room, she did not pass through the window and prevent the appellant from stabbing and killing the victim. Furthermore, the incident took place at dawn; since it was still dark, Marissa could not have seen the stabbing inside Purita's room.

The assertions of the appellant do not hold water. Marissa did not testify that she peeped through the hole only for an instant. She testified that she looked through the hole long enough for her to have witnessed the gory stabbing:

Q You said you peeped to the hole of the room of Ms. Sotero, was the room lighted or not?

A There was a little light (sic).

Q Did you notice how long did you peep thru the hole?

A I did not peep so long because I was surprised of that kind of incident.

Q So, you were scared or afraid?

A I was not afraid but I just felt pity and angry with Francis Santiago.

Q You do (sic) not try to shout at Francis Santiago and asked (sic) him to stop?

A I was not able to do that because I was shocked and on that outset I became panic (sic).

Q And why did you say "Lintek ka Francis, bakit mo sinaksak si Purita?"

A Because after the incident, I was angry with him because he did that.[23]

Although it was only about 5:00 a.m., there were already streaks of light in Purita's room. Besides, there was a lamp on the table which illuminated the room. This can be gleaned from Marissa's testimony:

Q It is about 5:00 o'clock in the morning, how is the surrounding lighted?

A It has average light because during that time there was a light rain but the visibility of the vicinity, you can see people in the places around the house of Purita Sotero.

Q Considering that it was already early in the morning of October 11, 1995 assuming that there was no light inside the room of Purita Sotero in that particular hour of that early morning of October 11, 1995 could you possibly see or identify the person inside the room?

A Yes, Sir.

Q Is that because the window of the house of Purita Sotero is just opened and the light is coming?

A Because she has a small lamp, and even without that lamp it is possible for you to see the people because of the light coming through.[24]

Indeed, Jaime and Marissa could have climbed over the window to get to Purita when they failed to force open the door. However, people react differently when confronted by a startling or horrendous event. Some may be immobilized by fear. Others may be spurred into instant action despite grave perils to their lives or limbs. Still others flee from the scene for fear for their lives. It was not thus unusual for Marissa to immediately run back to the store after witnessing the stabbing of the victim through a hole in the wall, instead of climbing over the window and entering Purita's room to help the latter.

The Crime Committed by the Appellant And the Proper Penalty Therefor

The trial court convicted the appellant of murder on its finding that the killing was qualified by treachery and aggravated by evident premeditation and dwelling. For his part, the appellant avers that the prosecution failed to prove treachery and evident premeditation. The Office of the Solicitor General contends that, indeed, the appellant killed Purita with treachery and evident premeditation. Purita was asleep and defenseless when the appellant stabbed her. Evident premeditation was also attendant because before October 11, 1995, the appellant told the Spouses Nisperos of his intention to kill Purita.

We agree with the appellant. Treachery is a qualifying circumstance that changes the nature of the crime of homicide to murder. It must be proven by the same quantum of proof as the crime itself. There is no evidence that the victim was asleep when she was stabbed by the appellant. Marissa testified that she heard Purita shouting for help. When she peeped through the hole, she saw the appellant stabbing the victim. Marissa did not know how the stabbing commenced.

For treachery to be qualifying, the prosecution must prove the confluence of the following requisites: (a) the employment of means of execution that gives the person attacked the opportunity to defend himself or retaliate; (b) that the accused deliberately and consciously adopted the means of execution.[25] The prosecution failed to prove that the appellant deliberately or consciously adopted a mode of attack to ensure the killing. There is even no evidence of the particulars as to how the aggression commenced or the events that led to the stabbing.

The trial court erred in declaring that evident premeditation was attendant to the crime. The prosecution failed to prove the following:

... (1) the time when the accused decided to commit the crime; (2) an overt act showing that the accused clung to their determination to commit the crime; and (3) the lapse of a sufficient period of time, as to allow the accused to reflect upon the consequences of the act.[26]

The appellant may have intended to kill the victim even before October 11, 1995. However, there is no evidence on record that from that time on, until the victim was stabbed and killed, the appellant performed overt acts indicating his determination to commit the crime.

The crime is aggravated by dwelling.[27] Although the appellant and the victim lived in the same house, the appellant and his family rented a room, while Purita lived in another.[28] However, dwelling was not alleged in the Information as mandated by Section 8, Rule 110 of the Revised Rules of Criminal Procedure.[29] The crime was committed before the Revised Rules took effect, but the same should be applied retroactively, as it is favorable to the appellant.[30]

In sum, then the appellant is guilty beyond reasonable doubt of homicide under Article 249 of the Revised Penal Code. The imposable penalty for homicide is reclusion temporal in its full range. The maximum of the indeterminate penalty should be taken from the medium penalty of reclusion temporal. To determine the minimum of the indeterminate penalty, reclusion temporal has to be reduced by one degree, which is prision mayor with a range from six years and one day to twelve years. The minimum of the indeterminate penalty shall be taken from the full range of prision mayor.

The heirs of the victim Purita Sotero are entitled to P50,000 as civil indemnity ex delicto;[31] P50,000 as moral damages;[32] P25,000 as exemplary damages;[33] and P25,000 as temperate damages.[34]

IN LIGHT OF ALL THE FOREGOING, the Decision of the Regional Trial Court of Baler, Aurora, Branch 66, is AFFIRMED WITH MODIFICATION. The appellant Francisco M. Santiago is found guilty beyond reasonable doubt of homicide under Article 249 of the Revised Penal Code as amended by Republic Act No. 7659. There being no modifying circumstance attendant to the crime, the appellant is sentenced to suffer an indeterminate penalty from eight (8) years and eight (8) months of prision mayor in its medium period, as minimum, to fourteen (14) years and eight (8) months of reclusion temporal in its medium period, as maximum. The appellant is ordered to pay to the heirs of the victim Purita Sotero the amount of P50,000 as civil indemnity ex delicto; P50,000 as moral damages; P25,000 as exemplary damages; and P25,000 as temperate damages. No costs.

SO ORDERED.

Davide, Jr., C.J., Puno, Vitug, Panganiban, Quisumbing, Ynares-Santiago, Sandoval-Gutierrez, Carpio, Austria-Martinez, Corona, Carpio-Morales, and Tinga, JJ., concur.

Azcuna, J., on official leave.

[1] Penned by Judge Armando A. Yanga.

[2] TSN, 7 August 1998, p. 7.

[3] Id. at 8.

[4] Id.

[5] Id. at 6.

[6] Id. at 7.

[7] Id. at 9-10.

[8] Id. at 3.

[9] Id. at 3-4.

[10] Id. at 4.

[11] Id.

[12] Id. at 5.

[13] TSN, 31 August 1998, pp. 3-4.

[14] Id. at 4.

[15] TSN, 23 June 1998, p. 2.

[16] Id. at 2-3.

[17] Records, p. 7.

[18] Exhibits “D” to “D-3.”

[19] Exhibits “C” to “C-3.”

[20] Id. at 1.

[21] Id. at 320.

[22] Rollo, p. 50.

[23] TSN, 7 August 1998, pp. 12-13.

[24] Id. at 15.

[25] *People v. Realin*, 301 SCRA 495 (1999).

[26] *People v. Gaviola*, 327 SCRA 580 (2000).

[27] Article 14, paragraph 2, Revised Penal Code.

[28] *People v. Daniel*, 86 SCRA 511 (1978).

[29] SEC. 8. Designation of the offense. – The complaint or information shall state the designation of the offense given by the statute, aver the acts or omissions constituting the offense, and specify its qualifying and aggravating circumstances. If there is no designation of the offense, reference shall be made to the section or subsection of the statute punishing it.

[30] *People v. Garcia*, G.R. No. 145505, March 14, 2003.

[31] *People v. Delim*, G.R. No. 142773, January 28, 2003.

[32] *People v. Caballero*, G.R. Nos. 149028-30, April 2, 2003.

[33] *Talay v. CA*, G.R. No. 119477, February 27, 2003.

[34] *People v. Abrazaldo*, G.R. No. 124392, February 7, 2003.

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