

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RENATO DESALISA Y PAYOS (AT LARGE) AND ROMEO DESALISA Y PAYOS, ACCUSED,

G.R. No. 148327. June 12, 2003

Ponente: PUNO, J.

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PUNO, J.:

One usual drinking spree on the night of July 7, 1996 in Carmona, Cavite turned into a bloody mess for Richard Oracion, a 40-year-old construction worker who bled to his untimely death due to multiple stab wounds.

On review is the Decision[1] of the Regional Trial Court of Bacoor, Cavite in Crim. Case No. B-97-33, dated April 30, 1999, finding appellant Romeo Desalisa y Payos guilty beyond reasonable doubt of the crime of murder, and imposing upon him the penalty of imprisonment of reclusion perpetua.

In an Information[2] dated January 13, 1997, accused Renato Desalisa y Payos and Romeo Desalisa y Payos were charged with the crime of Murder, committed as follows:

That on or about July 7, 1996 in the Municipality of Carmona, Province of Cavite, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, then armed with a bolo, conspiring, confederating and mutually helping one another, with intent to kill, with treachery and evident premeditation and taking advantage of superior strength, did then and there willfully, unlawfully and feloniously, attack, assault and stab one RICHARD ORACION y LOPEZ with the use of said bolo, thereby inflicting upon the latter multiple stab wounds on the different parts of his body which caused his instantaneous death, to the damage and prejudice of the heirs of said Richard Oracion.

CONTRARY TO LAW.

Appellant Romeo Desalisa y Payos pleaded not guilty to the offense charged and was tried for the crime of murder, while co-accused Renato Desalisa y Payos remained at-large throughout the duration of the trial.

Accused Renato Desalisa and Romeo Desalisa are brothers. The victim Richard Oracion is their neighbor at Silverio, Cabilang Baybay, Carmona, Cavite.

The evidence for the prosecution shows that at around 5:50 p.m. of July 7, 1996, the victim and some of his co-workers, including accused Renato and one named Teddy had a drinking spree in front of the victim's house at the Silverio Compound, Cabilang Baybay, Carmona, Cavite. Later, the victim escorted Teddy to the latter's home nearby. Renato followed suit. Ladella, the victim's wife, also joined them at Teddy's house where the drinking continued. While drinking, the victim and Renato had a heated exchange of words regarding each other's capability to do each other's job, they being co-workers at the Fil-Estate.[3] Before the argument could turn for the worse, Renato went home. In his mother's house, he called Madge Oracion, the victim's son, on the pretext that he would place his bet in a numbers game called "ending." Once Madge was inside the house, Renato did not place any bet. Instead, he twisted Madge's arm who managed to free himself from Renato's grip. Immediately,

Madge reported to the victim the incident. Enraged, the victim with his wife rushed to Renato's mother's house and confronted Renato. Armed with a bladed weapon, Renato suddenly came out of the house and stabbed the victim in the stomach. A few moments later, accused Romeo joined the fray and stabbed the victim at his back.[4]

Severely injured, the victim ran away but was followed by Renato and Romeo who continued hitting him with their weapons. Ladella who rushed to the help of her husband was likewise hacked by Romeo, hitting her between her eyes and on her right hand.[5] As Romeo was poised to hit Ladella again, she ran for safety and found refuge in the house of a certain Shirley,[6] thus leaving the helpless victim to the mercy of Renato and Romeo. They were later joined by another brother Ramon who continued ganging up on him.[7]

Ladella shouted for help but nobody came to her aid. She looked for her husband as she lost sight of him when she ran away. She found him later sprawled on the ground behind their house.[8] Someone helped her bring her husband to the Pagamutang Bayan in Carmona where he was pronounced dead on arrival.[9]

Dr. Erwin Escal who conducted the post-mortem examination on the body of Richard testified that the victim died due to hypovolemic shock secondary to multiple stab wounds. The victim suffered from blood loss caused by the stab wounds which produced the shock that led to his death. The multiple stab wounds and hacking wounds caused the fatal injuries sustained by the victim, especially those that penetrated his abdominal cavity, liver, intestines and their blood vessels. He deduced that two different instruments, a bolo and a knife, were used in inflicting the blows, judging from the size, shape and depth of the wounds sustained. He also called as "defense wounds" those found in the upper extremities of the victim, i.e., palm and forearms, and opined that these came from a frontal attack and the victim's parrying of the blows of the assailant. The autopsy report[10] by Dr. Escal, dated July 8, 1996, reveals that the victim sustained one abrasion and 21 stab wounds inflicted through the use of bladed weapons.[11]

The defense presents a different version, which is as follows:

Guadalupe Payos Desalisa, mother of the accused, was inside her house with her son Renato. Richard and his wife Ladella, together with their son Madge, suddenly appeared and were shouting. Guadalupe, followed by Renato, met Richard at the door. In an instant, Richard drew a bolo from his back and thrustured the same towards Renato. To prevent his mother from being hit, Renato pushed her but her head hit a chair and she lost consciousness.[12]

At that same time, appellant Romeo was in his own house attending to their children when he heard shouts coming from the outside. He went outside and saw Renato and Richard arguing in front of his mother's house. With his wife Myrna, they immediately proceeded to his mother's house. On their way, they met Pedro Diaz alias "Payat," brother of Ladella, together with a certain Egay. As Diaz and Romeo drew near, Diaz swung his bolo towards Romeo who was able to wrest the same from Diaz. Romeo threw the bolo in his yard, and proceeded to his mother's house. Upon reaching and finding no one in his mother's house, Romeo and his wife went back home. Romeo was later arrested at around 7:00 p.m., that same evening of July 7, 1996.[13]

The defense assails the trial court's judgment of conviction. It argues that there were two (2) incidents that simultaneously occurred on July 7, 1996 at Silvestre Compound, Cabilang Baybay, Carmona, Cavite, at about 6:30 p.m. The first is the killing of Richard Oracion allegedly committed by accused Renato Desalisa who remains at-large as of the conclusion of the trial, and second is the altercation between accused-appellant Romeo Desalisa and Pedro Diaz. The defense submits that accused-appellant did not participate in the killing of Richard Oracion because at nearly that same time, he was defending himself from Pedro Diaz.[14]

The Solicitor General, on the other hand, counters that accused-appellant Romeo Desalisa's guilt has been sufficiently established by the positive testimony of two (2) eyewitnesses. These two (2) eyewitnesses are the

victim's wife Ladella Oracion and their son, Madge Oracion.[15]

Appellant Romeo Desalisa's defense is that of denial. In support of his defense, he alleged that he was inside his house when the incident happened. He said he was then preparing milk for his children when he heard noises coming from outside his house. He immediately went out of the house and proceeded to his mother's house where he saw Renato and Richard engaged in an argument at the front door. While on his way to his mother's house, Pedro Diaz blocked his path and attempted to hack him with a bolo. He wrestled the bolo away from Diaz and threw it in his yard and proceeded to his mother's house. Nobody was there when he reached it.

This Court has consistently held that positive identification cannot be overcome by alibi and denial.[16] In the case at bar, two (2) relatives of the victim, namely his wife Ladella and his son Madge, have positively identified appellant Romeo and accused Renato as the ones who attacked, hacked and stabbed the hapless victim to death. No evidence was presented showing ill-motive on the part of Ladella and her son to point to Romeo as one of the perpetrators of the crime charged. In the absence of a proof of improper motive, their testimonies are not affected by their relationship to the victim.[17] Relationship of the prosecution witnesses to the victim does not necessarily categorize the former as biased and interested and thus tarnish their testimonies.[18] In fact, the witnesses' relationship to the victim makes their testimonies even more reliable. It is highly doubtful that the wife and son of the victim would aid in the prosecution of the appellant simply because they wanted someone, i.e., anyone, to answer for the murder of their loved one. Indeed, it can not be lightly supposed that relatives of the victim would callously violate their conscience to avenge the death of a dear one by blaming it on persons whom they believe to be innocent thereof.[19]

The continuing case law is that for the defense of alibi to prosper, the accused must prove not only that he was at some other place when the crime was committed, but also that it was physically impossible for him to be at the scene of the crime or its immediate vicinity through clear and convincing evidence.[20] In the instant case, appellant was admittedly within the immediate vicinity of the place of the crime. He was in his house when the incident happened, and that he immediately went out when he heard the noises coming from his mother's house. It was at this time when the hapless victim was stabbed and hacked to death. On cross-examination, he stated that when he went out of his house, he saw Ladella Oracion, wife of the victim, coming out from his mother's yard and shouting for help. He was then "more or less eleven (11) meters away" from where he saw Ladella.[21] Thus, it was not physically impossible for him to be at the place of the crime and commit it. His alibi must fail.

The defense also makes much fuss of the alleged inconsistent and contradictory statements of prosecution witness Ladella Oracion. It impugns the credibility of witness Ladella, and argues that she is "capable of telling a lie" as shown in the discrepancy between her affidavit and testimony on the identities of the persons engaged in the argument during their drinking spree, whether they were the victim and Renato, or Teddy and Renato; and her alleged inconsistent statements during her cross-examination on which hand, right or left, made a thrust when accused-appellant hacked her.[22] These alleged discrepancies dwell on minor and trivial matters which do not impair the integrity of the evidence for the prosecution as a whole nor reflect on the honesty of the witness. They can even enhance the truthfulness of her testimony as they erase any suspicion of it being rehearsed. [23]

We likewise uphold the ruling of the trial court that the killing was attended by treachery as the victim was caught unaware of the unexpected attack by the two accused. The attack was sudden and the victim was unable to defend himself. The victim sustained twenty-one (21) stab wounds. Of these wounds, wound no. 9 penetrated the right lobe of the liver; wound no. 10 penetrated and severed the liver and stomach; and wound no. 11 penetrated and severed the intestines and their blood vessels. In addition, as shown in the chart[24] prepared by Dr. Erwin M. Escal who conducted the autopsy, the victim sustained injuries not only in the frontal area but at the back of the body as well, particularly wounds nos. 4, 5, 6, 7 and 8. The victim also sustained injuries at the back of his left

arm (wounds nos. 18 and 19) and at the back of both legs (wounds nos. 21 and 22). Ladella Oracion testified that while Renato was frontally assaulting the victim with a bladed weapon, Romeo was stabbing the victim at the back.[25] Hence, it was clearly impossible on the part of the victim to defend himself. The circumstance of taking advantage of superior strength is absorbed in treachery.[26]

Likewise, the trial court is correct in ruling that the qualifying circumstance of evident premeditation, as alleged in the Information cannot be appreciated because of the absence of direct evidence of planning and preparation to kill the victim.[27]

We come to the award of damages. We reduce the award of the trial court from P42,500.00 to P19,050.00 because it is only the latter amount which is supported by receipts.[28] The total amount of P19,050.00 consisted of P16,300.00 for funeral services (Loyola de Mesa Funeral Parlor), P2,400.00 for interment services (South Felipe Parish Cemetery), and P350.00 for church services (South Felipe Parish Church).[29] Lastly, we reduce the award of moral damages and civil indemnity from P100,000.00 to P50,000.00 each.[30]

IN VIEW THEREOF, the decision of the Regional Trial Court of Bacoor, Cavite in Crim. Case No. B-97-33, dated April 30, 1999, finding accused-appellant Romeo Desalisa y Payos guilty beyond reasonable doubt of the crime of murder, and imposing upon him the penalty of imprisonment of reclusion perpetua, there being no aggravating nor mitigating circumstances, is hereby **AFFIRMED** with the **MODIFICATION** that the accused-appellant is ordered to pay the heirs of the victim the amounts of P19,050.00 as actual damages, P50,000.00 as moral damages, and P50,000.00 as civil indemnity ex delicto.

SO ORDERED.

Panganiban, Sandoval-Gutierrez, Corona, and Carpio-Morales, JJ., concur.

[1] Records, pp. 140-147.

[2] Id. at 28.

[3] Rollo, pp. 28-29; TSN, 04 April 1997, pp. 10-11.

[4] Id. at 29; Id. at 12-13.

[5] TSN, 04 April 1997, p. 15.

[6] Rollo, p. 29; TSN, 04 April 1997, p. 17.

[7] Id. at 30; Id. at 18.

[8] TSN, 04 April 1997, p. 19.

[9] Rollo, p. 30; TSN, 04 April 1997, p. 20.

[10] Exhibit "A," Records, p. 41.

[11] Rollo, p. 28; TSN, 19 March 1997, pp. 9-19.

[12] Id. at 30; TSN, 28 January 1998, pp. 4-5.

[13] Id. at 31; TSN, 20 March 1998, pp. 3-6.

[14] Rollo, pp. 52, 53, 59.

[15] Id. at 101.

[16] *People vs. Panado*, 348 SCRA 679, 688 (2000).

[17] *Tecson vs. Sandiganbayan*, 318 SCRA 80; *People vs. Capillo*, 319 SCRA 223; *People vs. Biñas*, 320 SCRA 22; *People vs. Enoja*, 321 SCRA 7; *Naval vs. Panday*, 321 SCRA 290; *People vs. Durado*, 321 SCRA 498.

[18] *People vs. Villanueva*, G.R. No. 95851, 01 March 1995.

[19] *People vs. Boniao*, 217 SCRA 653 (1993).

[20] *People vs. Abundo*, 349 SCRA 577 (2001).

[21] TSN, 20 March 1998, p. 7.

[22] TSN, 18 April 1997, pp. 6-8.

[23] *People vs. Villanueva*, G.R. No. 114266, 04 December 1996.

[24] Exh. "B," Records, p. 42.

[25] TSN, 04 April 1997, pp. 13-14.

[26] *People vs. de Leon*, 248 SCRA 609 (1995).

[27] *People vs. Salvador*, 224 SCRA 819 (1993).

[28] *People vs. Riglos*, G.R. No. 134763, 04 September 2000.

[29] TSN, 04 April 1997, p. 28.

[30] *People vs. Ragundiaz*, G.R. No. 124977, 22 June 2000; *People vs. Diolata*, G.R. No. 144933, 03 July 2002.

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