

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. JUANITO P. QUIROL AND MARIO P. QUIROL, APPELLANTS.

G.R. NO. 149259. October 20, 2005

Ponente: AZCUNA, J.

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AZCUNA, J.:

We review the convictions of Juanito Quirol and Mario Quirol for double murder in the decision of the Regional Trial Court of Cebu City,[1] the dispositive portion of which reads as follows:

Foregoing considered, the Court finds the accused Juanito and Mario Quirol guilty beyond reasonable doubt of the crime of double murder. Each accused is hereby sentenced to suffer an imprisonment ranging from thirteen (13) years as minimum to reclusion perpetua as maximum for the death of Benjamin Silva and another imprisonment of thirteen (13) years as minimum to reclusion perpetua as maximum for the death of Roel Ngujo. Both accused are jointly and severally liable to pay each of the heirs of Benjamin Silva and Roel Ngujo, the following:

- P50,000.00 for the death of Benjamin Silva;
- 50,000.00 for the death of Roel Ngujo;
- 10,000.00 for moral damages;
- 10,000.00 for actual damages; and
- costs.

SO ORDERED.

The convictions were affirmed by the Court of Appeals save for the penalties imposed. The periods of imprisonment were increased to a straight penalty of reclusion perpetua instead of an indeterminate sentence of thirteen (13) years as minimum to reclusion perpetua as maximum. The awards of moral damages were increased to P50,000 to conform with current jurisprudence. Thus, the convictions were modified as follows:

WHEREFORE, the decision appealed from is AFFIRMED with the MODIFICATION that accused-appellants Juanito and Mario Quirol are each sentenced to suffer two penalties of reclusion perpetua for the murder of Benjamin Silva and Roel Ngujo. Each of the appellants are further ordered to jointly and severally pay: (a) the heirs of Benjamin Silva, the amount of P50,000.00 as death indemnity; P10,000.00 as actual damages; and P50,000.00 as moral damages; (b) the heirs of Roel Ngujo, the sums of P50,000.00 as death indemnity; P10,000.00 as actual damages; and P50,000.00 as moral damages.

SO ORDERED.

The prosecution adduced evidence to prove that the following events transpired:[2]

On December 4, 1993, in celebration of a fiesta in Apas, Lahug, Cebu City, a "benefit disco dance" was held at

the local UCMA Village. Appellants, Juanito and Mario Quirol, and the two victims, Benjamin Silva and Roel Ngujo, attended. Policeman PO3 Jed Daloso, a third accused who remains at large, was also there.

At the dance, Juanito, Mario and Jed were together and drank all through the night with some friends. Jed was later seen in a drunken state chasing people around while Juanito was seen toying with a Batangas knife. The dance ended just prior to 4 a.m. and prosecution principal witness Wilson Cruz testified that it was about that time when he was asked by Benjamin and Roel to accompany them in escorting some ladies home. Wilson told them to go ahead and that he would just follow. Wilson was behind them at a distance of 7 to 10 fathoms when the group passed by the house of Jed. From his vantage point, Wilson saw Jed stop the two victims in front of his house and frisk them. The ladies, perhaps not wanting to be delayed, went ahead. Thereafter, Wilson saw Jed bind Benjamin and Roel together with a pair of handcuffs and lead them towards the control tower of the old airport of Lahug, Cebu City. There, the three were met by Juanito and Mario and together they proceeded to the airport runway. Wilson, hidden behind a bush, said he could hear Benjamin plead for his life. A few seconds later, Jed took out his .38 caliber service revolver and shot Benjamin at point-blank range on the head. As Benjamin fell, Roel was dragged down to his knees since he was handcuffed to Benjamin. Mario then held Roel while Juanito started stabbing him using a Batangas knife. Jed finished it by shooting Roel.

At around 7 a.m. that same morning, Juanito went to collect his wages at the house of Galileo Banate, a construction foreman for whom the former was working. Galileo observed Juanito to be somewhat in an inebriated state, and so when Juanito asked permission to sleep on the floor, Galileo acceded. Juanito was so sleepy that he unconsciously dropped his Batangas knife. Galileo later saw it beside him on the floor, picked it up and kept it as there were children around who could play with it. When he later gave Juanito his wages, he forgot to return the knife. Four days later, at the construction site, Mario arrived with a policeman and picked up Juanito. Before leaving the construction site, Juanito asked his knife back from Galileo. Galileo retrieved the knife from his house and turned it over to the policeman. A subsequent examination on the knife revealed that it had human bloodstains on it.

Appellant Mario tried to establish the defense of alibi.[3] He testified that he arrived at the dance at 7 p.m. on December 4, 1993 and started drinking with his friends, including Juanito and Jed. He claimed he never left the dance area and instead fell asleep drunk on the drinking table at around 2 a.m. of December 5, 1993. It was already 5 a.m. when he was awakened by Exequiel Aranas who asked for help in returning the table used in the dance.

Mario further claimed that the police advised him to turn as a prosecution witness but he refused because he was not really present when the crimes occurred.

Mario's alibi was corroborated by Exequiel Aranas[4] who testified that he was the supervisor in charge of activities for the fiesta. He said he was at the dance from 8 p.m. until 5 a.m. the next day and confirmed seeing Mario pass out on the drinking table from 2 a.m. until he woke him up at 5 a.m. to help him return the drinking table to his house.

Juanito, on the other hand, admitted being present at the scene of the crimes but denied any complicity therein.[5] He testified that he was at the dance on the night of December 4, 1993. At around 2:30 a.m. the next day, he left with Jed to go to the latter's house, leaving Mario sleeping on the drinking table. He said that they were engaged in conversation when the two victims walked by. Jed beckoned them to approach and questioned them about his two missing fighting cocks. Upon applying pressure, Jed got them to admit taking his cocks. Thereafter, Jed told Juanito to accompany him in bringing the victims to the Mabolo Police Station. At first, Juanito did not want to go but because he was afraid that Jed might get angry he acceded.

The troupe never reached the police station. They were walking along the old airport runway when Juanito heard a gun burst and he immediately ran for home leaving Jed and the two victims behind. He said he did not see where the sound of the gun came from or if anybody got hurt and he never looked back as he ran. A little later, at Juanito's house, Jed arrived and told him not to say anything about the incident.

At around 7:30 a.m., Juanito went to his foreman's house to collect his wages. He admitted he owned a Batangas knife which he used to slaughter chickens on the day of the fiesta at the house of Jed. He then stated that he left the knife at the house of the foreman.

After a careful review of the records and the analyses made by the trial court and the Court of Appeals, we rule to affirm the convictions.

Appellants reiterate the same issue they raised before the Court of Appeals, namely whether or not the prosecution's evidence was sufficient to establish appellants' guilt beyond reasonable doubt.[6] They particularly question the testimony of Wilson Cruz, the lone eye-witness to the crime upon which the convictions of appellants were heavily based. All of their arguments, however, pertain to alleged misapprehension of facts by the trial court, followed by the offering of unreasonable surmises and conjectures which cannot justifiably be used to overturn a conviction. They argue that Wilson could not have hidden behind a bush as the runways are always clear from obstruction, without presenting evidence that there were in fact no bushes near the scene of the crime. They further add that if there was a bush, it would be so far that Wilson would not be able to see the crime considering the darkness of the night. Again, they failed to support their allegation on the actual terrain of the place and the alleged poor lighting of the area.

They also argue that it was contrary to common experience for Wilson not to offer any assistance to his friends or report the matter to the police immediately and for Mario to hold Roel while being stabbed and shot as it would be enough for him to just watch rather than risk getting injured by a wayward thrust or bullet. Appellants cannot expect us to accept these contentions without a shred of supporting validation and reverse their convictions especially when the prevailing evidentiary tenet is that findings of the trial court which are factual in nature and which revolve on matters of credibility of witnesses deserve to be respected in the absence of glaring errors bordering on a gross misapprehension of facts, or where no speculative, arbitrary and unsupported conclusions can be gleaned from such findings.[7]

Appellants' attack on the credibility of Wilson by claiming it was unnatural for Wilson not to help the victims who were supposedly his friends is without basis. Whether he could have helped them but did not is not an issue that is determinative of the veracity of the testimony as not every witness to a crime can be expected to act reasonably and conformably to expectation.[8] The fact of the matter is that different people react differently to a given situation or type of situation and there is no standard form of human behavioral response when one is confronted with a strange or frightful experience.[9] All things considered, it is more reasonable to expect that rather than leave his hiding place and risk being seen, the witness would stay put and wait until after the perpetrators of the crime had left, which is exactly what he did.[10] Similarly, while it may have been unnecessary for Mario to hold Roel, that does not mean that it did not occur. And, contrary to the contention of appellants, there was no testimony that Mario was still holding Roel when he was shot and, therefore, risked being accidentally hit.[11]

We also sustain the finding of conspiracy. Conspiracy need not be proven by direct evidence of prior agreement to commit the crime.[12] Neither is it necessary to show that all the conspirators actually hit and killed the victim. What has to be shown is that all the participants performed specific acts with such closeness and coordination as to unmistakably indicate a common purpose and design.[13] The conspiracy in the instant case was sufficiently proven by Jed meeting with appellants at the old airport tower and walking together with them towards the

runway where appellants and Jed performed acts in unison with each other as to unmistakably reveal a common purpose and design.

Anent Mario's defense of alibi, despite corroboration from Exequiel Aranas, it is still an inherently weak defense and cannot prevail over a positive identification from a witness found credible by the trial court. Absent arbitrariness or oversight of some fact or circumstance of significance and influence, we will not interfere with the credence given to the testimony of Wilson over that of Mario and that of Exequiel, as assessments of credibility are generally left to the trial court whose proximate contact with those who take the witness stand places it in a more competent position to discriminate between true and false testimony.[14] Moreover, as correctly discussed by the Court of Appeals, the distance between the scene of the crimes and where Mario claims he passed out is not so far away as to prevent him from being physically present at the place of the crimes or its immediate vicinity at the time the crimes were committed.[15]

Treachery was correctly found to be present as the evidence shows that the concerted acts of appellants and Jed were consciously and deliberately adopted so that the victims would not be in a position to defend themselves or to retaliate. We, therefore, concur in the finding that the crimes were properly qualified to murder.

The crimes were committed on December 5, 1993, which was prior to the effectivity of R.A. 7659, the Death Penalty Law, which was approved on December 13, 1993. The penalty for murder then was reclusion temporal in its maximum period to death.[16] There being neither aggravating nor mitigating circumstance in the instant case, the penalty to be imposed upon appellants should be the medium range thereof, namely, reclusion perpetua.[17]

As to the award of actual damages, in accordance with our ruling in *People v. Mahilum*,[18] we award in lieu thereof temperate damages under Art. 2224 of the Civil Code in the amount of P15,000, since pecuniary loss is present but its amount cannot be proven with certainty. No modification is made on the award of civil indemnity and moral damages as these are all in conformity with prevailing jurisprudence.

WHEREFORE, the Decision of the Court of Appeals in CA-G.R. CR No. 20088, which affirmed the decision of Regional Trial Court of Cebu City, Branch 24, in Criminal Case No. CBU-33569, finding appellants Juanito Quirol y Pilit and Mario Quirol y Pilit GUILTY of the murders of Benjamin Silva and Roel Ngujo are AFFIRMED including their being sentenced to each suffer two penalties of RECLUSION PERPETUA and to pay jointly and severally the heirs of Benjamin Silva, the amounts of P50,000 as death indemnity and P50,000 as moral damages, and the heirs of Roel Ngujo the amounts of P50,000 as death indemnity and P50,000 as moral damages. The Decision is MODIFIED in that appellants are also ORDERED to pay jointly and severally the heirs of Benjamin Silva P15,000 as temperate damages and the heirs of Roel Ngujo P15,000 as temperate damages, in lieu of actual damages, without subsidiary imprisonment in case of insolvency.

Costs de oficio.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Quisumbing, Ynares-Santiago, and Carpio, JJ., concur.

[1] 7th Judicial Region, Branch 24.

[2] Testimonies of Cesar Cagalawan (TSN, May 5, 1994), Godofredo Cimafranca (TSN, May 5, 1994), Galileo Banate (TSN, May 19, 1994), Wilson Ruiz (TSN, July 29, 1994) and Elbert Flores (TSN, September 6, 1994).

[3] TSN, June 5, 1995.

[4]TSN, March 13, 1995.

[5] TSN, August 17, 1995 and September 21, 1995.

[6] The Public Attorney's Office filed a Manifestation dated March 18, 2002 stating that they are submitting the case for decision based on their brief filed with the Court of Appeals.

[7]People v. Mirafuentes, G.R. Nos. 135850-52, January 16, 2001, 349 SCRA 204.

[8]People v. Martinez, G.R. No. 124892, January 30, 2001, 350 SCRA 537.

[9] People v. Tio, G.R. Nos. 132482-83, February 20, 2001, 352 SCRA 295.

[10]Wilson testified that "I remained for a while so that I could not be seen by them" (TSN, July 29, 1994, p. 19).

[11] TSN, July 29, 1994, p. 18.

[12] People v. Balanag, G.R. No. 103225, September 15, 1994, 236 SCRA 474.

[13] People v. Givera, G.R. No. 132159, January 18, 2001, 349 SCRA 513.

[14]People v. Olivo, Jr., G.R. No. 130335, January 18, 2001, 349 SCRA 499.

[15]People v. Valdez, G.R. No. 128105, January 24, 2001, 350 SCRA 189.

[16] R.A. 7659 increased the penalty for murder to reclusion perpetua to death.

[17] People v. Bacho, G.R. No. 66645, March 29, 1989, 171 SCRA 458.

[18]G.R. No. 137990, September 27, 2002, 390 SCRA 91.

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