

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. NOEL T. SALES, APPELLANT.

G.R. No. 177218. October 03, 2011

Ponente: DEL CASTILLO, J.

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DEL CASTILLO, J.:

A father ought to discipline his children for committing a misdeed. However, he may not employ sadistic beatings and inflict fatal injuries under the guise of disciplining them.

This appeal seeks the reversal of the December 4, 2006 Decision[1] of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 01627 that affirmed the August 3, 2005 Joint Decision[2] of the Regional Trial Court (RTC), Branch 63 of Calabanga, Camarines Sur in Criminal Case Nos. RTC'03-782 and RTC'03-789, convicting appellant Noel T. Sales (appellant) of the crimes of parricide and slight physical injuries, respectively. The Information[3] for parricide contained the following allegations:

That on or about the 20[th] day of September, 2002, at around or past 8:00 o'clock in the evening at Brgy. San Vicente, Tinambac, Camarines Sur, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused with evident premeditation and [in] a fit of anger, did then and there willfully, unlawfully and feloniously hit [several] times, the different parts of the body of his legitimate eldest son, Noemar Sales, a 9-year old minor, with a [piece of] wood, measuring more or less one meter in length and one [and] a half inches in diameter, [thereby] inflicting upon the latter mortal wounds, which cause[d] the death of the said victim, to the damage and prejudice of the latter's heirs in such amount as may be proven in court.

ACTS CONTRARY TO LAW.[4]

On the other hand, the Information[5] in Criminal Case No. RTC'03-789 alleges that appellant inflicted slight physical injuries in the following manner:

That on or about the 20[th] day of September, 2002, at around or past 8:00 o'clock in the evening, at Brgy. San Vicente, Tinambac, Camarines Sur, Philippines, and within the jurisdiction of this Honorable Court, the above-named [accused] assault[ed] and hit with a piece of wood, one Noel Sales, Jr., an 8-year old minor, his second legitimate son, thereby inflicting upon him physical injuries which have required medical attendance for a period of five (5) days to the damage and prejudice of the victim's heirs in such amount as may be proven in court.

ACTS CONTRARY TO LAW.[6]

When arraigned on April 11, 2003 and July 1, 2003, appellant pleaded not guilty for the charges of parricide[7] and slight physical injuries[8] respectively. The cases were then consolidated upon manifestation of the prosecution which was not objected to by the defense.[9] During the pre-trial conference, the parties agreed to stipulate that appellant is the father of the victims, Noemar Sales (Noemar) and Noel Sales, Jr. (Junior); that at the time of the incident, appellant's family was living in the conjugal home located in Barangay San Vicente, Tinambac, Camarines Sur; and, that appellant voluntarily surrendered to the police.[10]

Thereafter, trial ensued.

The Version of the Prosecution

On September 19, 2002, brothers Noemar and Junior, then nine and eight years old, respectively, left their home to attend the fluvial procession of Our Lady of Peñafrancia without the permission of their parents. They did not return home that night. When their mother, Maria Litan Sales (Maria), looked for them the next day, she found them in the nearby Barangay of Magsaysay. Afraid of their father's rage, Noemar and Junior initially refused to return home but their mother prevailed upon them. When the two kids reached home at around 8 o'clock in the evening of September 20, 2002, a furious appellant confronted them. Appellant then whipped them with a stick which was later broken so that he brought his kids outside their house. With Noemar's and Junior's hands and feet tied to a coconut tree, appellant continued beating them with a thick piece of wood. During the beating Maria stayed inside the house and did not do anything as she feared for her life.

When the beating finally stopped, the three walked back to the house with appellant assisting Noemar as the latter was staggering, while Junior fearfully followed. Maria noticed a crack in Noemar's head and injuries in his legs. She also saw injuries in the right portion of the head, the left cheek, and legs of Junior. Shortly thereafter, Noemar collapsed and lost consciousness. Maria tried to revive him and when Noemar remained motionless despite her efforts, she told appellant that their son was already dead. However, appellant refused to believe her. Maria then told appellant to call a quack doctor. He left and returned with one, who told them that they have to bring Noemar to a hospital. Appellant thus proceeded to take the unconscious Noemar to the junction and waited for a vehicle to take them to a hospital. As there was no vehicle and because another quack doctor they met at the junction told them that Noemar is already dead, appellant brought his son back to their house.

Noemar's wake lasted only for a night and he was immediately buried the following day. His body was never examined by a doctor.

The Version of the Defense

Prior to the incident, Noemar and Junior had already left their residence on three separate occasions without the permission of their parents. Each time, appellant merely scolded them and told them not to repeat the misdeed since something untoward might happen to them. During those times, Noemar and Junior were never physically harmed by their father.

However, Noemar and Junior again left their home without their parents' permission on September 16, 2002 and failed to return for several days. Worse, appellant received information that his sons stole a pedicab. As they are broke, appellant had to borrow money so that his wife could search for Noemar and Junior. When his sons finally arrived home at 8 o'clock in the evening of September 20, 2002, appellant scolded and hit them with a piece of wood as thick as his index finger. He hit Noemar and Junior simultaneously since they were side by side. After whipping his sons in their buttocks three times, he noticed that Noemar was chilling and frothing. When Noemar lost consciousness, appellant decided to bring him to a hospital in Naga City by waiting for a vehicle at the crossroad which was seven kilometers away from their house.

Appellant held Noemar while on their way to the crossroad and observed his difficulty in breathing. The pupils of Noemar's eyes were also moving up and down. Appellant heard him say that he wanted to sleep and saw him pointing to his chest in pain. However, they waited in vain since a vehicle never came. It was then that Noemar died. Appellant thus decided to just bring Noemar back to their house.

Appellant denied that his son died from his beating since no parent could kill his or her child. He claimed that Noemar died as a result of difficulty in breathing. In fact, he never complained of the whipping done to him.

Besides, appellant recalled that Noemar was brought to a hospital more than a year before September 2002 and diagnosed with having a weak heart.

On the other hand, Maria testified that Noemar suffered from epilepsy. Whenever he suffers from epileptic seizures, Noemar froths and passes out. But he would regain consciousness after 15 minutes. His seizures normally occur whenever he gets hungry or when scolded.

The death of Noemar was reported to the police by the barangay captain.[11] Thereafter, appellant surrendered voluntarily.[12]

Ruling of the Regional Trial Court

In a Joint Decision,[13] the trial court held that the evidence presented by the prosecution was sufficient to prove that appellant was guilty of committing the crimes of parricide and slight physical injuries in the manner described in the Informations. In the crime of parricide, the trial court did not consider the aggravating circumstance of evident premeditation against appellant since there is no proof that he planned to kill Noemar. But the trial court appreciated in his favor the mitigating circumstances of voluntary surrender and lack of intent to commit so grave a wrong. The dispositive portion of said Joint Decision reads:

WHEREFORE, in view of the foregoing, the prosecution having proven the guilt of Noel Sales, beyond reasonable doubt, he is found guilty of parricide in Crim. Case No. RTC'03-782 and sentenced to suffer the penalty of reclusion perpetua. He is likewise ordered to pay the heirs of Noemar Sales, the amount of P50,000.00 as civil indemnity; P50,000.00 as moral damages; P25,000.00 as exemplary damages and to pay the costs.

Furthermore, accused Noel Sales is also found guilty beyond reasonable doubt of the crime of slight physical injuries in Crim. Case No. RTC'03-789 and sentenced to suffer the penalty of twenty (20) days of Arresto Menor in its medium period.

Accused Noel Sales is likewise meted the accessory penalties as provided under the Revised Penal Code. Considering that herein accused has undergone preventive imprisonment, he shall be credited in the service of his sentence with the time he has undergone preventive imprisonment in accordance with and subject to the conditions provided for in Article 29 of the Revised Penal Code.

SO ORDERED.[14]

Appellant filed a Notice of Appeal[15] which was given due course in an Order[16] dated September 21, 2005.

Ruling of the Court of Appeals

However, the appellate court denied the appeal and affirmed the ruling of the trial court. The dispositive portion of its Decision[17] reads as follows:

WHEREFORE, premises considered, the appeal is DENIED. The assailed decision dated August 3, 2005 in Criminal Case Nos. RTC'03-782 and RTC'03-789 for Parricide and Slight Physical Injuries, respectively, is AFFIRMED.

Pursuant to Section 13(c), Rule 124 of the Revised Rules of Criminal Procedure, appellant may appeal this case to the Supreme Court via a Notice of Appeal filed before this Court.

SO ORDERED.[18]

Issues

Hence, appellant is now before this Court with the following two-fold issues:

I

THE COURT A QUO GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY BEYOND REASONABLE DOUBT OF THE CRIMES CHARGED.

II

THE COURT A QUO GRAVELY ERRED IN NOT GIVING WEIGHT TO THE TESTIMONIES OF THE DEFENSE WITNESSES.[19]

Our Ruling

The appeal is without merit.

The Charge of Parricide

Appellant admits beating his sons on September 20, 2002 as a disciplinary measure, but denies battering Noemar to death. He believes that no father could kill his own son. According to him, Noemar had a weak heart that resulted in attacks consisting of loss of consciousness and froth in his mouth. He claims that Noemar was conscious as they traveled to the junction where they would take a vehicle in going to a hospital. However, Noemar had difficulty in breathing and complained of chest pain. He contends that it was at this moment that Noemar died, not during his whipping. To substantiate his claim, appellant presented his wife, Maria, who testified that Noemar indeed suffered seizures, but this was due to epilepsy.

The contentions of appellant fail to persuade. The imposition of parental discipline on children of tender years must always be with the view of correcting their erroneous behavior. A parent or guardian must exercise restraint and caution in administering the proper punishment. They must not exceed the parameters of their parental duty to discipline their minor children. It is incumbent upon them to remain rational and refrain from being motivated by anger in enforcing the intended punishment. A deviation will undoubtedly result in sadism.

Prior to whipping his sons, appellant was already furious with them because they left the family dwelling without permission and that was already preceded by three other similar incidents. This was further aggravated by a report that his sons stole a pedicab thereby putting him in disgrace. Moreover, they have no money so much so that he still had to borrow so that his wife could look for the children and bring them home. From these, it is therefore clear that appellant was motivated not by an honest desire to discipline the children for their misdeeds but by an evil intent of venting his anger. This can reasonably be concluded from the injuries of Noemar in his head, face and legs. It was only when Noemar's body slipped from the coconut tree to which he was tied and lost consciousness that appellant stopped the beating. Had not Noemar lost consciousness, appellant would most likely not have ceased from his sadistic act. His subsequent attempt to seek medical attention for Noemar as an act of repentance was nevertheless too late to save the child's life. It bears stressing that a decent and responsible parent would never subject a minor child to sadistic punishment in the guise of discipline.

Appellant attempts to evade criminal culpability by arguing that he merely intended to discipline Noemar and not to kill him. However, the relevant portion of Article 4 of the Revised Penal Code states:

Art. 4. Criminal liability. - Criminal liability shall be incurred:

1. By any person committing a felony (delito) although the wrongful act done be different from that which he intended.

x x x x

In order that a person may be criminally liable for a felony different from that which he intended to commit, it is

indispensible (a) that a felony was committed and (b) that the wrong done to the aggrieved person be the direct consequence of the crime committed by the perpetrator.[20] Here, there is no doubt appellant in beating his son Noemar and inflicting upon him physical injuries, committed a felony. As a direct consequence of the beating suffered by the child, he expired. Appellant's criminal liability for the death of his son, Noemar, is thus clear.

Appellant's claim that it was Noemar's heart ailment that caused his death deserves no merit. This declaration is self-serving and uncorroborated since it is not substantiated by evidence. While Dr. Salvador Betito, a Municipal Health Officer of Tinambac, Camarines Sur issued a death certificate indicating that Noemar died due to cardio-pulmonary arrest, the same is not sufficient to prove that his death was due mainly to his poor health. It is worth emphasizing that Noemar's cadaver was never examined. Also, even if appellant presented his wife, Maria, to lend credence to his contention, the latter's testimony did not help as same was even in conflict with his testimony. Appellant testified that Noemar suffered from a weak heart which resulted in his death while Maria declared that Noemar was suffering from epilepsy. Interestingly, Maria's testimony was also unsubstantiated by evidence.

Moreover, as will be discussed below, all the elements of the crime of parricide are present in this case.

All the Elements of Parricide are present in the case at bench.

We find no error in the ruling of the trial court, as affirmed by the appellate court, that appellant committed the crime of parricide.

Article 246 of the Revised Penal Code defines parricide as follows:

Art. 246. Parricide. - Any person who shall kill his father, mother, or child, whether legitimate or illegitimate, or any of his ascendants, or descendants, or his spouse, shall be guilty of parricide and shall be punished by the penalty of reclusion perpetua to death.

"Parricide is committed when: (1) a person is killed; (2) the deceased is killed by the accused; (3) the deceased is the father, mother, or child, whether legitimate or illegitimate, or a legitimate other ascendant or other descendant, or the legitimate spouse of accused." [21]

In the case at bench, there is overwhelming evidence to prove the first element, that is, a person was killed. Maria testified that her son Noemar did not regain consciousness after the severe beating he suffered from the hands of his father. Thereafter, a quack doctor declared Noemar dead. Afterwards, as testified to by Maria, they held a wake for Noemar the next day and then buried him the day after. Noemar's Death Certificate [22] was also presented in evidence.

There is likewise no doubt as to the existence of the second element that the appellant killed the deceased. Same is sufficiently established by the positive testimonies of Maria and Junior. Maria testified that on September 20, 2002, Noemar and his younger brother, Junior, were whipped by appellant, their father, inside their house. The whipping continued even outside the house but this time, the brothers were tied side by side to a coconut tree while appellant delivered the lashes indiscriminately. For his part, Junior testified that Noemar, while tied to a tree, was beaten by their father in the head. Because the savagery of the attack was too much for Noemar's frail body to endure, he lost consciousness and died from his injuries immediately after the incident.

As to the third element, appellant himself admitted that the deceased is his child. While Noemar's birth certificate was not presented, oral evidence of filial relationship may be considered. [23] As earlier stated, appellant stipulated to the fact that he is the father of Noemar during the pre-trial conference and likewise made the same declaration while under oath. [24] Maria also testified that Noemar and Junior are her sons with appellant, her husband. These testimonies are sufficient to establish the relationship between appellant and Noemar.

Clearly, all the elements of the crime of parricide are obtaining in this case.

There is Mitigating Circumstance of Voluntary Surrender but not Lack of Intention to Commit so Grave a Wrong

The trial court correctly appreciated the mitigating circumstance of voluntary surrender in favor of appellant since the evidence shows that he went to the police station a day after the barangay captain reported the death of Noemar. The presentation by appellant of himself to the police officer on duty in a spontaneous manner is a manifestation of his intent "to save the authorities the trouble and expense that may be incurred for his search and capture"[25] which is the essence of voluntary surrender.

However, there was error in appreciating the mitigating circumstance of lack of intention to commit so grave a wrong. Appellant adopted means to ensure the success of the savage battering of his sons. He tied their wrists to a coconut tree to prevent their escape while they were battered with a stick to inflict as much pain as possible. Noemar suffered injuries in his face, head and legs that immediately caused his death. "The mitigating circumstance of lack of intent to commit so grave a wrong as that actually perpetrated cannot be appreciated where the acts employed by the accused were reasonably sufficient to produce and did actually produce the death of the victim."[26]

The Award of Damages and Penalty for Parricide

We find proper the trial court's award to the heirs of Noemar of the sums of P50,000.00 as civil indemnity, and P50,000.00 as moral damages. However, the award of exemplary damages of P25,000.00 should be increased to P30,000.00 in accordance with prevailing jurisprudence.[27] "In addition, and in conformity with current policy, we also impose on all the monetary awards for damages an interest at the legal rate of 6% from the date of finality of this Decision until fully paid."[28]

As regards the penalty, parricide is punishable by reclusion perpetua to death. The trial court imposed the penalty of reclusion perpetua when it considered the presence of the mitigating circumstances of voluntary surrender and lack of intent to commit so grave a wrong. However, even if we earlier ruled that the trial court erred in considering the mitigating circumstance of lack of intent to commit so grave a wrong, we maintain the penalty imposed. This is because the exclusion of said mitigating circumstance does not result to a different penalty since the presence of only one mitigating circumstance, which is, voluntary surrender, with no aggravating circumstance, is sufficient for the imposition of reclusion perpetua as the proper prison term. Article 63 of the Revised Penal Code provides in part as follows:

Art. 63. Rules for the application of indivisible penalties. - x x x

In all cases in which the law prescribes a penalty composed of two indivisible penalties, the following rules shall be observed in the application thereof:

x x x x

3. When the commission of the act is attended by some mitigating circumstance and there is no aggravating circumstance, the lesser penalty shall be applied.

x x x x

The crime of parricide is punishable by the indivisible penalties of reclusion perpetua to death. With one mitigating circumstance, which is voluntary surrender, and no aggravating circumstance, the imposition of the lesser penalty of reclusion perpetua and not the penalty of death on appellant was thus proper.[29]

The Charge of Slight Physical Injuries

The victim himself, Junior testified that he, together with his brother Noemar, were beaten by their father, herein appellant, while they were tied to a coconut tree. He recalled to have been hit on his right eye and right leg and to have been examined by a physician thereafter.[30] Maria corroborated her son's testimony.[31]

Junior's testimony was likewise supported by Dr. Ursolino Primavera, Jr. (Dr. Primavera) of Tinambac Community Hospital who examined him for physical injuries. He issued a Medical Certificate for his findings and testified on the same. His findings were (1) muscular contusions with hematoma on the right side of Junior's face just below the eye and on both legs, which could have been caused by hitting said area with a hard object such as a wooden stick and, (2) abrasions of brownish color circling both wrist with crust formation which could have been sustained by the patient due to struggling while his hands were tied. When asked how long does he think the injuries would heal, Dr. Primavera answered one to two weeks.[32] But if applied with medication, the injuries would heal in a week.[33]

We give full faith and credence to the categorical and positive testimony of Junior that he was beaten by his father and that by reason thereof he sustained injuries. His testimony deserves credence especially since the same is corroborated by the testimony of his mother, Maria, and supported by medical examination. We thus find that the RTC correctly held appellant guilty of the crime of slight physical injuries.

Penalty for Slight Physical Injuries

We likewise affirm the penalty imposed by the RTC. Dr. Primavera testified that the injuries sustained by Junior should heal in one week upon medication. Hence, the trial court correctly meted upon appellant the penalty under paragraph 1, Article 266 of the Revised Penal Code which provides:

ART. 266. Slight Physical Injuries and maltreatment. - The crime of slight physical injuries shall be punished:

1. By arresto menor when the offender has inflicted physical injuries which shall incapacitate the offended party for labor from one to nine days or shall require medical attendance during the same period.

x x x x

There being no mitigating or aggravating circumstance present in the commission of the crime, the penalty shall be in its medium period. The RTC was thus correct in imposing upon appellant the penalty of twenty (20) days of arresto menor in its medium period.

WHEREFORE, the appeal is DENIED. The Decision of the Court of Appeals in CA-G.R. CR-H.C. No. 01627 that affirmed the Joint Decision of the Regional Trial Court, Branch 63 of Calabanga, Camarines Sur in Criminal Case Nos. RTC'03-782 and RTC'03-789, convicting Noel T. Sales of the crimes of parricide and slight physical injuries is AFFIRMED with MODIFICATIONS that the award of exemplary damages is increased to P30,000.00. In addition, an interest of 6% is imposed on all monetary awards from date of finality of this Decision until fully paid.

SO ORDERED.

Corona, C.J., (Chairperson), Leonardo-De Castro, Bersamin, and Villarama, Jr., JJ., concur.

[1] CA rollo, pp. 101-110, penned by Associate Justice Juan Q. Enriquez, Jr. and concurred in by Presiding Justice Ruben T. Reyes and Associate Justice Vicente S.E. Veloso.

[2] Id. at 15-32; penned by Judge Freddie D. Balonzo.

- [3] Records (Criminal Case No. RTC'03-782), p. 1.
- [4] Id.
- [5] Records (Criminal Case No. RTC'03-789), p. 1.
- [6] Id.
- [7] See Order dated April 11, 200, records (Criminal Case No. RTC'03-782), p. 15.
- [8] See Order dated July 1, 2003, records (Criminal Case No. RTC'03-789), p. 24.
- [9] See p. 2 of the RTC's Joint Decision, *supra* note 3.
- [10] See Pre-Trial Order, records (Criminal Case No. RTC'03-782), p. 22.
- [11] See Certification of the Tinambac Municipal Police Station dated July 26, 2003, *id.* at 25.
- [12] See Certification of the Tinambac Municipal Police Station dated June 26, 2003, *id.* at 26.
- [13] *Supra* note 2.
- [14] CA rollo, p. 32.
- [15] *Id.* at 33.
- [16] *Id.* at 34.
- [17] *Supra* note 1.
- [18] CA rollo, pp. 109-110.
- [19] *Id.* at 42.
- [20] Reyes, L. B. The Revised Penal Code, Volume I, 2008, p. 68.
- [21] *People v. Castro*, G.R. No. 172370, October 6, 2008, 567 SCRA 586, 606.
- [22] Records (Criminal Case RTC'03-782), p. 35.
- [23] *People v. Malabago*, 333 Phil. 20, 27 (1996).
- [24] TSN, September 22, 2004, p. 2.
- [25] *People v. Garcia*, G.R. No. 174479, June 17, 2008, 554 SCRA 616, 637.
- [26] *Oriente v. People*, G.R. No. 155094, January 30, 2007, 513 SCRA 348, 365.
- [27] *People v. Latosa*, G.R. No. 186128, June 23, 2010.
- [28] *People v. Campos*, G.R. No. 176061, July 4, 2011.
- [29] *People v. Juan*, 464 Phil. 507, 513-515 (2004).
- [30] TSN, November 11, 2003, pp. 6-8.
- [31] TSN, September 3, 2003, pp. 3-5.
- [32] TSN, August 26, 2003, pp. 3-9.
- [33] *Id.* at 13.

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