

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. PANCHO ENTRIALGO, APPELLANT.

G.R. No. 177353. November 28, 2008

Ponente: CORONA, J.

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CORONA, J.:

On August 14, 2000, appellant Pancho Entrialgo was charged with two counts of murder[1] in the Regional Trial Court (RTC) of Puerto Princesa City, Branch 49[2] under the following information:

Criminal Case No. 16095

That on or about the 30[th] day of July, 2000 at about 8:20 in the evening of [Brgy.] Sta Cruz, Puerto Princesa City, Philippines, and within the jurisdiction of this Honorable Court, [appellant] with intent to kill with treachery, evident premeditation, grave abuse of superior strength and taking advantage of nighttime and while armed with a bolo, did then and there willfully, unlawfully and feloniously assault, attack and hack therewith one Benjamin Tabang, hitting him and inflicting upon him mortal wounds at the different parts of his body, which were the direct and immediate cause of his death shortly thereafter.

CONTRARY TO LAW.

Criminal Case No. 16096

That on or about the 30[th] day of July, 2000 at about 8:20 in the evening of [Brgy.] Sta Cruz, Puerto Princesa City, Philippines, and within the jurisdiction of this Honorable Court, [appellant] with intent to kill with treachery, evident premeditation, grave abuse of superior strength and taking advantage of nighttime and while armed with a bolo, did then and there willfully, unlawfully and feloniously assault, attack and hack therewith one Avelina M. Tabang, hitting [her] and inflicting upon [her] mortal wounds at the different parts of [her] body, which were the direct and immediate cause of his death shortly thereafter.

CONTRARY TO LAW.

Upon arraignment, the appellant pleaded not guilty.

In the absence of an eyewitness, the prosecution presented the theory that appellant had the motive to kill the victims as he in fact killed the spouses Benjamin and Avelina Tabang.

Appellant's brother-in-law, Rolly Panaligan, was the prosecution's principal witness. Rolly testified that he and appellant were both tanods of Barangay Sta. Cruz in Puerto Princesa City. However, appellant was dismissed by their barangay chairman, victim Benjamin Tabang, sometime before July 30, 2000. As a result thereof, appellant harbored ill-feelings towards Benjamin.

On the evening of July 30, 2000, Rolly met the Tabangs on his way to the sari-sari store. Soon thereafter, appellant (armed with a bolo) saw him and inquired about Benjamin's whereabouts. He told appellant that Benjamin was on his way to report for duty as barangay captain. Appellant then divulged his plan to kill

Benjamin. Rolly discouraged appellant but appellant did not respond.

Later that evening, appellant went to Rolly's house and confessed that he had killed Benjamin and his wife, Avelina.

The next morning, Rolly heard about the Tabangs' death. Out of remorse, he surrendered to police authorities and executed a statement regarding the incident.

Rolly's wife (appellant's sister), Mary Ann Panaligan, corroborated the testimony of the principal witness. Mary Ann testified that appellant went to see her husband on the evening of July 30, 2000 and the two spoke in a dimly lit area. She brought an improvised light to the area but appellant told her not to light it so she went home.

Dr. Carla Vigonte was presented as an expert witness. According to Dr. Vigonte, Benjamin suffered four hacking wounds while Avelina bore three hacking wounds and two lacerated wounds. Both victims died due to multiple hacking wounds.

Appellant denied the allegations against him. According to him, he slept at around 7 p.m. on July 30, 2000 after a long day at work. He did not present any evidence to corroborate his testimony.

Weighing the testimonies of the prosecution's witnesses vis-à-vis appellant's uncorroborated denial, the RTC ruled that denials cannot prevail over the positive declarations of the prosecution's witnesses. Thus, it concluded that appellant killed the Tabangs but found that the qualifying circumstance of evident premeditation[3] was present only with respect to Benjamin.[4]

In a decision dated August 2, 2004, the RTC found appellant guilty of murder and homicide[5] for the deaths of Benjamin and Avelina, respectively. [6] Thus:

Therefore, upon a consideration of the foregoing facts and circumstances, the Court:

- Finds [appellant] guilty beyond reasonable doubt of the crime of Murder in Criminal Case No. 16095, and taking into consideration the presence of aggravating circumstance of nighttime, there being no mitigating circumstance, is meted the penalty of death and is ordered to pay by way of civil indemnity the heirs of the victim in the amount of seventy-five thousand pesos (P75,000).

- Finds [appellant] guilty beyond reasonable doubt of the crime of Homicide in Criminal Case No. 16096, taking into consideration the presence of the aggravating circumstance of nighttime, there being no mitigating circumstance of, is meted the penalty of imprisonment for seventeen (17) years, four (4) months and one day to twenty years and is directed to pay the heirs of the victim by way of civil indemnity the amount of fifty thousand pesos (P50,000).

The City Warden of Puerto Princesa City is hereby directed to immediately bring and commit [appellant] to the National Penitentiary in Muntinlupa City.

SO ORDERED.

The Court of Appeals (CA), on intermediate appellate review,[7] affirmed the findings and the ruling of the RTC in toto.[8]

We affirm appellant's guilt and the penalties and civil liabilities imposed on him.

With regard to Criminal Case No. 16095, in view of Section 2 of RA 9346,[9] appellant is sentenced to reclusion perpetua without eligibility for parole. Conformably with present jurisprudence, he is also ordered to pay the heirs of Benjamin P75,000 as civil indemnity ex delicto.[10] He is further ordered to pay P50,000 as moral damages, as these are warranted under the circumstances. In cases of violent death, moral damages are awarded even in the

absence of proof because an untimely death invariably brings about emotional pain and anguish on the part of the victim's family.[11]

With regard to Criminal Case No. 169069, appellant is sentenced to suffer indeterminate imprisonment from a minimum of 12 years of prision mayor in its maximum period to a maximum of 20 years of reclusion temporal in its maximum period.[12] Moreover, to conform with recent jurisprudence, appellant is ordered to pay the heirs of Avelina P50,000 as moral damages.[13]

WHEREFORE, the June 30, 2006 decision of the Court of Appeals in CA-G.R. CR HC No. 00391 is hereby AFFIRMED.

Appellant Pancho Entrialgo is found guilty of murder as defined in Article 248(5) of the Revised Penal Code in Criminal Case No. 16095 and is sentenced to reclusion perpetua without eligibility for parole. He is further ordered to pay the heirs of the victim Benjamin Tabang P75,000 as civil indemnity ex delicto and P50,000 as moral damages.

He is likewise found guilty of homicide as defined in Article 249 of the Revised Penal Code in Criminal Case No. 16096 and is sentenced to a minimum of 12 years of prision mayor in its maximum period to a maximum of 20 years of reclusion temporal in its maximum period. He is further ordered to pay the heirs of the victim Avelina M. Tabang P50,000 as civil indemnity ex delicto and P50,000 as moral damages.

Costs against appellant.

SO ORDERED.

Puno, C.J., Quisumbing, Ynares-Santiago, Carpio, Austria-Martinez, Carpio-Morales, Azcuna, Tinga, Chico-Nazario, Velasco, Jr., Nachura, and Reyes, JJ., concur.

Leonardo-De Castro, J., on official leave.

Brion, J., on leave.

[1] PENAL CODE, Art. 248 states:

Article 248. Murder. - Any person who, not falling with the provisions of Article 246, shall kill another, shall be guilty of murder and shall be punished by reclusion perpetua to death if committed with any of the following attendant circumstances:

- With treachery, taking advantage of superior strength, with aid of armed men, or employing means to weaken defense, or of means or persons to insure or afford impunity;

x x x x x x x x

- With evident premeditation;

x x x x x x x x

[2] Docketed as Criminal Case Nos. 16095 and 16096 respectively.

[3] People v. Biso, 448 Phil.591, 602 (2003) and People v. Tigle, 465 Phil. 368, 383. (2004). In order that evident premeditation may be appreciated as a qualifying circumstances, the following must be proven by the prosecution:

(a)

the time when the offender determined to commit the crime;

(b)

an act manifestly indicating that the offender clung to his determination and

(c)

a sufficient interval of time between the determination and execution of the crime to allow him to reflect upon the consequences of his act.

It must be established by clear and convincing evidence that the accused persistently and continuously clung to this resolution despite the lapse of sufficient time to clear their minds and overcome their determination to commit the same.

[4] It appears that the prosecution did not submit any evidence to show that appellant intentionally committed the crimes in the evening. The RTC, on the other hand, did not explain why it considered nighttime as an aggravating circumstance.

[5] PENAL CODE, Art. 249 states:

Article 249. Homicide.—Any person who, not falling within the provisions of Article 246, shall kill another without the attendance of any of the circumstances enumerated in the next preceding article, shall be deemed guilty of homicide and be punished by reclusion temporal. (emphasis supplied)

[6] Decision penned by Judge Panfilo S. Salva. CA rollo, pp. 25-31.

[7] Docketed as CA-G.R. CR HC No. 00391.

[8] Decision penned by Associate Justice Portio Aliño-Hormachuelos and concurred in by Associate Justices Amelita G. Tolentino and Santiago Javier Ranada of the Fourth Division of the Court of Appeals. Rollo, pp. 2-16.

[9] AN ACT PROHIBITING THE IMPOSITION OF DEATH PENALTY IN THE PHILIPPINES.

[10] *People v. Tubongbanua*, G.R. No. 171271, 31 August 2006, 500 SCRA 727, 743.

[11] *People v. Mallari*, 452 Phil. 210 (2003).

[12] Under the Indeterminate Sentence Law, the maximum penalty should be that which, in view of the attending circumstances, could be properly imposed under the rules of the Revised Penal Code. In the presence of an aggravating circumstance, the penalty should be imposed in its maximum period, in this case, the maximum of reclusion temporal (i.e., 17 years, four months and one day to 20 years). The minimum term of the indeterminate penalty should be taken from the minimum period of the penalty next lower in degree (i.e., prision mayor in its maximum period, from 10 years and one day to 12 years.). The maximum term, on the other hand, should be taken from the maximum of reclusion temporal.

[13] *People v. Romero*, 447 Phil. 506, 516 (2003).

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