

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. T/SGT. PORFERIO R. ANGUS, JR., ACCUSED-APPELLANT.

G.R. No. 178778. August 03, 2010

Ponente: VILLARAMA, JR., J.

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VILLARAMA, JR., J.:

On appeal is the Decision[1] dated December 5, 2006 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 00114, which affirmed with modification the Decision[2] of the Regional Trial Court (RTC) of Misamis Oriental, Cagayan de Oro City, Branch 18, convicting appellant T/Sgt. Porferio R. Angus, Jr. of the crime of parricide in Criminal Case No. 2002-587.

Appellant T/Sgt. Porferio R. Angus, Jr. was charged in an Information[3] dated June 7, 2002, as follows:

That on or about the 10[th] day of January, 2002, at about 10:00 o'clock in the morning, more or less, at Lanis[i] Patrol Base, Lanis[i], Municipality of Claveria, Province of Misamis Oriental, and within the jurisdiction of this Honorable Court, the above-named accused, with intent to kill, did then and there, willfully, unlawfully, and feloniously attack, assault, choked and strangled the neck of his legitimate wife Betty Angus, thereby causing her instantaneous death.

CONTRARY TO and in violation of Article 246 of the Revised Penal Code.

Upon arraignment, appellant, with the assistance of counsel, pleaded not guilty[4] to the offense charged.

The prosecution and the defense stipulated on the following facts at the pre-trial, to wit:

- That the accused and the victim were legally married.
- That the incident happened on January 10, 2002, at the Lanisi Patrol Base, Lanisi, Claveria, Misamis Oriental.
- That T/SGT Porferio R. Angus, Jr. is a member of the Armed Forces of the Philippines, particularly the Philippine Army, assigned at the Lanisi Patrol Base, Lanisi, Claveria, Misamis Oriental.[5]

Thereafter, trial on the merits ensued.

The prosecution presented as witnesses Police Senior Inspector Reynaldo A. Padulla, Staff Sergeant Romeo Rhea, Dr. Alex R. Uy, Dr. Luchie S. Serognas-At-at, and Civilian Armed Forces Geographical Unit (CAFGU) members Romeo I. Malaran, Leoncio P. Jintapa and Alejo O. Carpio. Their testimonies may be synthesized into the following narration of events:

The victim, Betty D. Angus, arrived at the Lanisi Patrol Base at around 7:00 p.m. on January 9, 2002. Appellant fetched her at the gate and they proceeded to his bunker. Later, CAFGU members Malaran and Carpio heard the two (2) arguing about appellant's relationship with another woman. Appellant was also seen go out of his bunker around midnight to get some rice, beef and vegetables for dinner.[6]

The following day, January 10, 2002, at around 7:00 a.m., appellant had breakfast at the mess hall with Jintapa, Malaran and Carpio. As appellant was not with his wife, Jintapa reminded appellant to call her. When appellant returned, he told them that he would just leave some food for his wife because she was still sleeping.

After eating, Malaran and Jintapa asked for permission to fetch water near the barangay elementary school about a kilometer away. While they were gone, Carpio went to the outpost and started cleaning his firearm. Appellant went to the comfort room then decided to join Carpio at the outpost. On his way to the outpost, appellant passed by his bunker and peeped through the door which was open by about 1 ½ inches.[7] Carpio was able to see the door because it was facing the outpost.[8] A few minutes later, Malaran and Jintapa returned and joined appellant and Carpio at the outpost. The four (4) shared funny stories and joked for a while, after which Carpio went to the mess hall while Jintapa went to his bunker. Malaran and appellant decided to continue their conversation at the mess hall.[9]

On their way to the mess hall, appellant passed by his bunker but was not able to open the door at once because something was blocking it from the inside. When appellant pushed the door, Malaran saw the back of the victim in a slanting position and leaning at the door. Appellant went inside and almost immediately shouted for help. Malaran and Carpio saw appellant embracing his wife. They helped appellant carry Betty's body to the bed. Malaran observed that her skin below the jaw was reddish and her knees were covered with mud.[10] There was food on the table and a multi-colored tubao[11] was hanging on the purlins of the roof about a meter away from the victim. The lower tip of the tubao was in a circular form and was hanging about four (4) feet from the ground. They heard appellant repeatedly say, "Why did you do this? How can I explain this to our children?"[12]

Carpio called Jintapa and told him that something had happened to Betty. This was around 10:00 a.m. When Jintapa entered appellant's bunker, he noticed that the tubao was still hanging from the roof. He also saw appellant embracing his wife and crying hard. Appellant exerted effort to revive his wife by pumping her chest. Malaran tried to help by massaging Betty's hands, feet, and legs. When Carpio and Malaran left to look for a vehicle, Jintapa took Malaran's place and also massaged Betty's hands and feet which were already cold. Appellant, who continued to cry very hard, covered Betty's neck with his tubao and draped a blanket over her body. The tubao that was hanging on the roof was not removed until Corporal Teodoro Guibone ordered a meat collector to remove it.[13]

At the Claveria Municipal Hospital, Dr. Luchie S. Serognas-At-at concluded that Betty was already dead upon arrival for she no longer had a pulse. She asked appellant as to the cause of her death, and after two (2) minutes, he replied that maybe she suffered a heart attack as she had a history of heart ailment. Dr. At-at wanted to thoroughly examine Betty's body but she was not able to do so because appellant was crying very hard. A commotion also took place at the hospital when a soldier, later identified as Sgt. Romeo Rhea, tried to box appellant, saying that appellant's crying was only an act.[14] Rhea and appellant were companions at Bravo Company, while Betty was Rhea's neighbor in Basilan. Appellant is also the godfather of Rhea's child. According to Rhea, he knew about appellant's illicit relationship with a certain Jennifer Abao, with whom appellant had been sweethearts for about three (3) years prior to the incident on January 10, 2002.[15]

when they could not bring the cadaver to Basilan.the buriaer granmother led herself. and backbiting. Cheryl Angus, MhDr. Alex R. Uy, Medico-Legal Officer of the Philippine National Police (PNP) Crime Laboratory of Patag, Cagayan de Oro City, conducted the autopsy. His examination revealed the following findings:

HEAD AND NECK

- Abrasion: Right Mandibular Region: measuring 4 x 2 cm., 4 cm. from the anterior midline.
- Ligature mark: extending bilaterally around the neck at the level below the hyoid bone, measuring 42 x 1 cm.,

bisected by the anterior midline, directed horizontally and posteriorward. Larynx and Trachea are markedly congested and hemorrhagic.[16]

Dr. Uy stated that Betty may have died two (2) hours after taking her last meal due to the presence of partially digested food inside the stomach.[17] He believed that the cause of her death was asphyxia by strangulation and not by hanging, as the victim did not sustain a fractured bone on her neck or hyoid bone and there was no hemorrhage above the trachea and larynx. He explained that the sudden gravitational force would usually cause a fractured bone. Dr. Uy clarified that the absence of a fractured bone would only happen if the person hangs herself very slowly without a sudden force or if she was in a kneeling position.[18]

For its part, the defense presented as witnesses Angeles S. Ociones, Senior Police Officer 1 Victorino Busalla, Cheryl Ann A. Siarez, Master Sergeant Benedicto Palma, Emeliano Bolonias, Bobby Padilla Lopez and appellant. Taken together, their testimonies present the following narrative:

Cheryl Ann A. Siarez is the only daughter of Betty and appellant. In the afternoon of January 9, 2002, at around 1:30 p.m., Betty went inside Cheryl Ann's bedroom and told her to be serious in her studies. Betty also intimated to Cheryl Ann that she wanted to go to a far place where there would be no more rumors, no backbiting, and nobody would recognize her. At 4:00 p.m., they boarded a bus bound for Cagayan de Oro City. Betty disembarked at Villanueva, Misamis Oriental to transfer to a passenger jeepney going to Claveria.[19]

From Villanueva to Claveria, Betty sat beside Angeles Ociones, an old friend, in the front seat of the jeepney. She confided to Ociones about her jealousy towards her husband. She also mentioned that she was angry that she was not able to catch him and his mistress. Ociones advised Betty to confront her husband regarding the rumors she had heard, as it was common to hear such rumors every time a soldier is assigned to a place away from home. Betty revealed that she planned to commit suicide because of the many stories she had heard about her husband. This was the third time she shared thoughts of suicide. Betty further said she wanted to go to a far place where nobody would recognize her. At around 7:00 p.m., Betty arrived at Lanisi Patrol Base.[20]

Appellant met his wife at the gate and went with her to his bunker. Appellant testified that they talked about only three (3) things: his whereabouts on January 7, 2002, the conference in Mat-i, Claveria, and whether he was able to borrow money for the renovation of their house. He later admitted, however, that Betty also confronted him about his relationship with another woman. At around 11:00 p.m. they went to bed. He asked Betty if she has eaten dinner but she said she did not want to eat. Nonetheless, he brought her some food then went back to sleep. He woke up the following day at around 6:00 a.m. and heard Emiliano Bolonias knocking at his door. Bolonias confirmed that when the door was opened, he saw Betty sleeping on the bed. Since Betty was still asleep, appellant suggested that they proceed to the mess hall to talk about their financial dealings. He did not lock the door to his bunker when they left. At around 8:00 a.m. appellant went back to his bunker to invite his wife to have breakfast with them.[21]

After having breakfast, appellant, Malaran, Carpio and Jintapa went to the outpost while Bolonias left the patrol base. Malaran and Jintapa asked permission to fetch water but later arrived and stayed at the outpost. Appellant went to his bunker and found the same locked from inside. He knocked and called his wife, but there was no response. He forcibly opened the door and saw his wife hanging with the use of a tubao which was tied at the purlins of the roof. Her body was hanging and almost in a kneeling position. He shouted for help as he untied the knot around Betty's neck but was not able to carry her since she was heavy. The other CAGU members helped appellant put Betty on the bed. Malaran massaged Betty's feet while appellant massaged her chest and even did a mouth-to-mouth resuscitation. When the vehicle appellant had requested arrived, Betty was brought to the hospital. The tubao that was used by the victim was left hanging at the purlins.[22]

That same day, Cheryl Ann was informed that her mother was in serious condition. She was fetched and brought to Claveria, Misamis Oriental, where she saw her father crying. Appellant told Cheryl Ann that her mother had committed suicide. The burial was originally scheduled on January 16, 2002 so her grandmother could attend. Betty's relatives who attended the wake did not attend the burial because they got angry when appellant did not allow them to bring Betty's body to Basilan. Her grandfather, SPO4 Cesar Ocay, told Cheryl Ann to bury her mother's body in Basilan so that they will not file a case against appellant. Cheryl Ann believes her mother committed suicide.[23]

M/Sgt. Benedicto Palma testified that on January 15, 2002, at around 2:00 p.m., he was at the funeral parlor of Poblacion, Balingasag, Misamis Oriental, assisting Dr. Alex Uy, who was conducting the autopsy on Betty's body. When he asked Dr. Uy regarding his findings, the doctor replied that appellant had nothing to do with the death of his wife, and that she indeed committed suicide.[24] Aside from appellant, his brothers-in-law, Edgardo De Vera and Mariano De Vera, Sgt. Rhea, and appellant's sister-in-law, Jerry, were also present at the funeral parlor when Dr. Uy announced his findings that Betty committed suicide.[25]

On May 20, 2003, the RTC rendered a Decision, the dispositive portion of which reads:

WHEREFORE, finding accused T/SGT. PORFERIO R. ANGUS, JR., GUILTY beyond reasonable doubt [of] the crime of Parricide, punishable under Article 246 of the Revised Penal Code, and taking into account the mitigating circumstance of voluntary surrender, he is hereby sentenced to suffer the penalty of Reclusion Perpetua, including its accessory penalties. He is also directed to pay FIFTY THOUSAND PESOS (P50,000.00), as indemnity, to the heirs of the victim.

SO ORDERED. Cagayan de Oro City, May 20, 2003.[26]

Appellant interposed an appeal to this Court. Pursuant to *People v. Mateo*,[27] which modified Rules 122, 124 and 125 of the Revised Rules of Criminal Procedure, as amended, insofar as they provide for direct appeals from the RTC to this Court in cases where the penalty imposed by the trial court is death, reclusion perpetua or life imprisonment, this case was referred to the CA for intermediate review.

On December 5, 2006, the CA rendered judgment affirming with modification the decision of the RTC. The fallo of the CA decision reads:

FOR THE REASONS STATED, the appealed Decision convicting T/SGT. PORFERIO R. ANGUS, JR. of Parricide is hereby AFFIRMED with the MODIFICATION that he is additionally ORDERED to pay the heirs of the victim P25,000 as exemplary damages and P50,000 as moral damages on top of the decreed indemnity. Costs de officio.

SO ORDERED.[28]

Hence, this appeal. In his brief,[29] appellant raises a lone assignment of error:

THE COURT A QUO GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY OF THE CRIME CHARGED DESPITE THE FAILURE OF THE PROSECUTION TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.

Appellant argues that nobody really saw who killed the victim or when and how she was killed. He asserts that the prosecution witnesses merely testified to have last seen Betty alive on the night of January 9, 2002. Thereafter, they heard the couple arguing about a woman. The following morning Betty was found dead. Although there was more than one (1) circumstance, appellant contends that the prosecution failed to prove that the combination thereof leads to the inevitable conclusion that he killed his wife.

We find merit in appellant's contentions.

The Constitution mandates that an accused shall be presumed innocent until the contrary is proven beyond reasonable doubt. The burden lies on the prosecution to overcome such presumption of innocence by presenting the quantum of evidence required. In so doing, the prosecution must rest on the strength of its own evidence and must not rely on the weakness of the defense.[30] And if the prosecution fails to meet its burden of proof, the defense may logically not even present evidence on its own behalf. In such cases the presumption prevails and the accused should necessarily be acquitted.[31]

We may well emphasize that direct evidence of the commission of a crime is not the only basis on which a court draws its finding of guilt. Established facts that form a chain of circumstances can lead the mind intuitively or impel a conscious process of reasoning towards a conviction.[32] Verily, resort to circumstantial evidence is sanctioned by Section 4, Rule 133 of the Revised Rules on Evidence.

While no general rule can be laid down as to the quantity of circumstantial evidence which will suffice in a given case, all the circumstances proved must be consistent with each other, consistent with the hypothesis that the accused is guilty, and at the same time inconsistent with the hypothesis that he is innocent, and with every other rational hypothesis except that of guilt. The circumstances proved should constitute an unbroken chain which leads to only one (1) fair and reasonable conclusion that the accused, to the exclusion of all others, is the guilty person. Proof beyond reasonable doubt does not mean the degree of proof excluding the possibility of error and producing absolute certainty. Only moral certainty or "that degree of proof which produces conviction in an unprejudiced mind" is required.[33]

The following are the requisites for circumstantial evidence to be sufficient to support conviction: (a) there is more than one (1) circumstance, (b) the facts from which the inferences are derived have been proven, and (c) the combination of all the circumstances results in a moral certainty that the accused, to the exclusion of all others, is the one (1) who has committed the crime. Thus, to justify a conviction based on circumstantial evidence, the combination of circumstances must be interwoven in such a way as to leave no reasonable doubt as to the guilt of the accused.[34]

After a thorough review of the records of the case, we find sufficient basis to warrant the reversal of the assailed judgment of conviction. The crime of parricide is defined and punished under Article 246 of the Revised Penal Code, as amended, to wit:

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.

The elements of the crime of parricide are: (1) a person is killed; (2) the deceased is killed by the accused; and (3) the deceased is the father, mother or child, whether legitimate or illegitimate, of the accused or any of his ascendants or descendants, or his spouse.[35]

The evidence in this case shows that Betty arrived at the camp at around 7:00 o'clock in the evening of January 9, 2002. Witnesses heard Betty and the appellant arguing over the latter's illicit relationship with another woman. The following day, appellant went out of his bunker at around 6:00 o'clock in the morning. He had breakfast at the mess area with his companions, but went back to his bunker at around 8:00 o'clock to ask his wife to join them for breakfast. When he returned, he told his men that his wife could not join them for breakfast because she was still asleep. At around 10:00 a.m., appellant returned to his bunker followed by Malaran who saw the dead body of the victim.

The Court is not satisfied that the circumstantial evidence in this case constitutes an unbroken chain which leads to the conclusion that appellant, to the exclusion of all others, is guilty of killing his wife. The trial court relied on the testimonies of Malaran and Carpio who heard the appellant and his wife arguing about the latter's illicit relationship with another woman, which supposedly proves motive for him to commit the crime. However, granting that appellant and Betty had an argument on the night before her death, it would be too much to presume that such an argument would drive appellant to kill his wife. Clearly, the motive is not convincing. If at all, the testimonies of Malaran and Carpio merely show a suspicion of appellant's responsibility for the crime. Needless to state, however, suspicion no matter how strong can not sway judgment.[36] In the absence of any other evidence reasonably linking appellant to the crime, evidence of motive is not sufficient to convict him.[37]

Likewise, Dr. Uy explained that if a person hangs herself, most of the time there will be a fracture on the bone of the neck because of the pressure caused by gravity that pulls the rope. However, he also testified that if the person hangs herself slowly, there will be no fracture on her neck or hyoid bone. Thus, the fact that Betty did not sustain a fractured bone on her neck or hyoid bone, as the doctor observed, does not automatically lead to the conclusion that appellant strangled the victim. Given the evidence that the victim had intimated her wish to commit suicide a day before the incident, it is not farfetched to conclude that she indeed chose to take her life.

An acquittal based on reasonable doubt will prosper even though the accused's innocence may be doubted, for a criminal conviction rests on the strength of the evidence of the prosecution and not on the weakness of the defense. And, if the inculpatory facts and circumstances are capable of two (2) or more explanations, one (1) of which is consistent with the innocence of the accused and the other consistent with his guilt, then the evidence does not fulfill the test of moral certainty and is not sufficient to support a conviction. That which is favorable to the accused should be considered.[38] After all, *mas vale que queden sin castigar diez reos presuntos, que se castigue uno inocente*. [39] Courts should be guided by the principle that it would be better to set free ten (10) men who might be probably guilty of the crime charged than to convict one (1) innocent man for a crime he did not commit.[40]

WHEREFORE, the appeal is GRANTED. The assailed Decision dated December 5, 2006 of the Court of Appeals in CA-G.R. CR-HC No. 00114 is REVERSED and SET ASIDE. Appellant T/Sgt. Porferio R. Angus, Jr. is ACQUITTED of the crime of parricide on the ground of reasonable doubt. Unless detained for some other lawful reasons, appellant is hereby ordered released immediately.

SO ORDERED.

Carpio Morales, (Chairperson), Brion, Bersamin, and Abad,[*] JJ., concur.

[*] Designated additional member per Special Order No. 843 dated May 17, 2010.

[1] Rollo, pp. 5-18. Penned by Associate Justice Edgardo A. Camello, with Associate Justices Sixto C. Marella, Jr. and Mario V. Lopez concurring.

[2] CA rollo, pp. 31-54. Penned by Judge Edgardo T. Lloren. Dated May 20, 2003.

[3] Records, p. 2.

[4] Id. at 60.

[5] Id. at 70.

[6] TSN, September 17, 2002, pp. 42-47; TSN, September 18, 2002, pp. 75-78.

- [7] TSN, September 18, 2002, pp. 85-86.
- [8] Id. at 81.
- [9] TSN, September 17, 2002, pp. 17-28; TSN, September 18, 2002, pp. 79-82.
- [10] TSN, September 9, 2002, pp. 16-20.
- [11] A scarf-like clothing used to cover the head and neck. See TSN, September 18, 2002, pp. 67-68.
- [12] TSN, September 16, 2002, pp. 3-11; TSN, September 17, 2002, pp. 28-32.
- [13] TSN, September 17, 2002, pp. 33-41; TSN, September 18, 2002, pp. 59-69.
- [14] TSN, September 5, 2002, pp. 28-37, 43-44.
- [15] TSN, September 30, 2002, pp. 68-76.
- [16] Records, p. 222.
- [17] TSN, September 2, 2002, p. 10.
- [18] Id. at 3-22.
- [19] TSN, January 14, 2003, pp. 104-106.
- [20] TSN, December 18, 2002, pp. 17-41.
- [21] TSN, January 21, 2003, pp. 26-28; TSN, January 22, 2003, pp. 89-95.
- [22] TSN, January 22, 2003, pp. 96-103.
- [23] TSN, January 14, 2003, pp. 107-119.
- [24] TSN, January 15, 2003, pp. 143-146.
- [25] TSN, March 3, 2003, p. 74.
- [26] CA rollo, pp. 53-54.
- [27] G.R. Nos. 147678-87, July 7, 2004, 433 SCRA 640, 657-658.
- [28] Rollo, p. 18.
- [29] CA rollo, pp. 91-107.
- [30] People v. Suan, G.R. No. 184546, February 22, 2010, p. 14.
- [31] See People v. Dela Cruz, G.R. No. 177222, October 29, 2008, 570 SCRA 273, 286-287.
- [32] People v. Casitas, Jr., G.R. No. 137404, February 14, 2003, 397 SCRA 382, 390.
- [33] People v. Dela Cruz, G.R. No. 187683, February 11, 2010, p. 8.
- [34] Bastian v. Court of Appeals, G.R. No. 160811, April 18, 2008, 552 SCRA 43, 55.
- [35] People v. Ayuman, G.R. No. 133436, April 14, 2004, 427 SCRA 248, 256.
- [36] People v. Balderas, G.R. No. 106582, July 31, 1997, 276 SCRA 470, 484.
- [37] People v. Manambit, G.R. Nos. 72744-45, April 18, 1997, 271 SCRA 344, 368.

[38] Dela Cruz v. People, G.R. No. 150439, July 29, 2005, 465 SCRA 190, 216.

[39] People v. Suarez, G.R. Nos. 153573-76, April 15, 2005, 456 SCRA 333, 365.

[40] People v. Capili, G.R. No. 130588, June 8, 2000, 333 SCRA 354, 366.

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