

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. MARIANITO TERIAPIL Y QUINAWAYAN, APPELLANT.

G.R. No. 191361. March 02, 2011

Ponente: ABAD, J.

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ABAD, J.:

This case is about the alleged attendance of the qualifying circumstance of treachery in connection with a killing that occurred shortly after one group charged another with cheating in bet.

The Facts and the Case

The public prosecutor charged the accused Marianito Q. Teriapil (Teriapil) and Ricardo P. Balonga (Balonga) of murder attended by treachery and evident premeditation before the Regional Trial Court (RTC) of Caloocan City in Criminal Case C-69686.[1] Trial took place only with respect to Teriapil because Balonga died of cardio respiratory arrest while in detention.[2]

The prosecution evidence, culled from the essentially identical narration of the RTC and the Court of Appeals (CA), shows that at around 11:00 a.m. of November 29, 2003 in Bagong Silang, Caloocan City, two groups of men engaged in a pigeon race. One group consisted of the victim Joel Montero (Montero), Ramil Rama (Rama), Randy Conje, and Eduardo Arevalo (Arevalo), collectively referred to as the Montero group. The other group consisted of the accused Teriapil and Balonga. The latter approached the Montero group and challenged it to a pigeon race. When the Montero group lost, it thought that accused Teriapil and Balonga cheated them. Losing no time, the Montero group went to look for the two to get back their bet money of P450.00. But pillboxes met them. Nonoy, a brother of the accused Balonga, threw the pillboxes. For his part, accused Teriapil shot Montero with a pen gun or "paltik." Montero was rushed to a hospital but he was dead on arrival.[3]

Accused Teriapil denied killing Montero. He testified that he was at home at the time of the shooting. When he heard an explosion, he looked out the window and saw Rama and two other men on board a tricycle. As the tricycle stopped in front of Teriapil's house, the driver pointed at him.[4] The defense did not offer any proof of impossibility of Teriapil's presence at the crime scene.[5]

On August 3, 2007 the RTC found accused Teriapil guilty of murder and sentenced him to suffer the penalty of reclusion perpetua. The RTC also ordered him to pay P50,000.00 as indemnity to the victim's heirs and P50,000.00 as exemplary damages.

The RTC rejected accused Teriapil's defense of alibi in the face of his having been positively identified by Rama and Arevalo as Montero's assailant. Since accused Teriapil shot Montero while the latter was in a position where he could not defend himself, the RTC appreciated the qualifying circumstance of treachery against the accused. The RTC held, however, that the prosecution failed to prove the elements of evident premeditation: 1) the time when the offender decided to commit the crime; 2) an act indicating that he clung to his decision; and 3) sufficient lapse of time between his decision to commit the crime and its execution to allow for reflection on the

consequences of the act he had decided on.[6] Accused Teriapil appealed to the CA.

On September 30, 2009 the CA affirmed the RTC Decision with modifications. It reduced the exemplary damages to P25,000.00, deleted the award of indemnity, but in its place directed accused Teriapil to pay P25,000.00 as temperate damages to the victim's heirs.

The Issues Presented

The case presents two issues:

1. Whether or not the CA erred in finding that accused Teriapil killed Montero with the attendant qualifying circumstance of treachery as to make him liable for murder; and
2. Whether or not the CA erred in giving credence to the testimonies of the prosecution witnesses.

Ruling of the Court

One. Agreeing with the prosecution, the CA held that treachery attended accused Teriapil's shooting of Montero since the latter was inside his house at that time. This mode of attack, claimed the CA, rendered Montero incapable of defending himself.[7]

True, an assailant uses treachery when he suddenly and unexpectedly attacks his unsuspecting victim and denies him any real chance to defend himself. By this, the assailant ensures the success of his attack with no risk to his person. In numerous cases, however, the Court held that the idea of treachery does not apply when the killing is not premeditated or when the accused did not deliberately choose the means he employed for committing the crime.[8]

Here, the clash between the Montero group and the accused Teriapil and Balonga developed spontaneously. The Montero group suspected the two of having cheated them in the pigeon race. Arevalo testified that when he told Balonga of his suspicion, the latter ran away. At this point, the Montero group decided to proceed with haste to where accused Teriapil and Balonga were to get their bet money back. On getting there, however, they were met with crude explosives called pillboxes. From the succession of events, it can hardly be said that accused Teriapil had planned to attack Montero or the other members of his group. The clash between the two groups and the slaying of Montero followed a continuous relay of events that began with the accusation that accused Teriapil and Balonga had cheated the victim and his companions in the pigeon race.

Although accused Teriapil was positioned inside his house, there is no evidence that he deliberately hid there to surprise and ambush Montero. Montero's group was fully alerted when pillboxes met them. They knew they had to defend themselves from aggression that awaited them. Besides, based on the records, the march of events did not afford accused Teriapil and Balonga the time to plan and prepare how they were to resist the Montero group that came in number to get their money back from those who, they thought, cheated them.

Two. Accused Teriapil assails the inconsistencies in the testimonies of the prosecution witnesses that impaired their supposed positive identification of him. But those inconsistencies, mainly about the number and types of ammunitions used, do not depart from the core theory of the prosecution. The Court believes that the witnesses referred to were present during the clash between the two groups and were proximate to where Teriapil shot Montero. Moreover, the incident happened at 11:00 in the morning which made it easy for the witnesses to identify Teriapil.

WHEREFORE, the Court MODIFIES the decision of the Court of Appeals in CA-G.R. CR-H.C. 03046 dated September 30, 2009 and FINDS the accused Mariano Teriapil y Quinawayan guilty beyond reasonable doubt of homicide and SENTENCES him to suffer the penalty of 6 years and 1 day of prision mayor as minimum to 12

years and 1 day of reclusion temporal as maximum. The Court ORDERS him to pay Joel Montero's heirs P75,000.00 as civil indemnity, P75,000.00 as moral damages, and P75,000.00 as temperate damages.

SO ORDERED.

Carpio, (Chairperson), Velasco, Jr.,[*] Del Castillo,**] and Mendoza, JJ., concur.

[*] Designated as additional member in lieu of Associate Justice Antonio Eduardo B. Nachura, per Special Order 933 dated January 24, 2011.

**] Designated as additional member in lieu of Associate Justice Diosdado M. Peralta, per Special Order 954 dated February 21, 2011.

[1] Records, p. 2.

[2] Id. at 60-63.

[3] Rollo, pp. 4-5.

[4] Id. at 6.

[5] CA rollo, p. 47.

[6] Id. at 46, citing *People v. Magsombol*, 322 Phil. 196, 212 (1996).

[7] Id. at 126.

[8] *People v. Macaso*, 159-A Phil. 917, 929 (1975); *People v. Cadad*, 112 Phil. 314, 319 (1961); *People v. Abalos*, 84 Phil. 771, 773 (1949).

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