

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
REBETO TIENGO, TEOFANIS TIAGO, ALIAS “FANIS” AND
FELIX BOOC, ALIAS “EWIN”, ACCUSED, TEOFANIS
TIAGO, AND FELIX BOOC, ACCUSE...**

G.R. No. 55832. November 20, 1984

Ponente: RELOVA, J.

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RELOVA, J.:

In Criminal Case No. CCC-XIV-2024-Cebu, Rebeto Tiengo, Teofanis Tiago and Felix Booc were prosecuted for and convicted of the crime of Murder. Appreciated in their favor was the mitigating circumstance of voluntary surrender but because it was offset by the generic aggravating circumstance of treachery, they were each sentenced "to the penalty of reclusion perpetua, with the accessory penalties of the law; to indemnify the heirs of the deceased by way of actual and compensatory damages in the sum of P15,000.00; and by way of moral and exemplary damages in the sum of P25,000.00, without subsidiary imprisonment in case of insolvency and to pay the costs." (p. 20, Rollo)

From the foregoing decision, only Teofanis Tiago and Felix Booc appealed their conviction to this Court.

Paquito and Nestor Severo were brothers and natives of Dingle, Iloilo. About 6:30 in the evening of July 6, 1979, accused Rebeto Tiengo, Teofanis Tiago and Felix Booc were lying in wait under a coconut tree which was along the way of Paquito Severo from his place of work at the TMX factory in Lipata, Lapu-Lapu City. When Paquito reached the place where the three were waiting, Rebeto Tiengo suddenly struck him with a piece of wood at the lower portion of the left knee, causing the latter to fall to the ground. As soon as Paquito showed signs of getting up, Rebeto Tiengo stabbed him with a stainless steel knife. Thereafter, Teofanis Tiago and Felix Booc joined the fray by stabbing Paquito twice, each successively, until the latter fell and died on the spot.

The incident was witnessed by Evelyn Severo (wife of Nestor Severo) who, at the time, was at a well nearby. She shouted for help but not one of the neighbors came. Instead, Evelyn even saw the neighbors closed their doors and windows. Only her husband, Nestor, came out of their house and, upon seeing his younger brother, Paquito, lying prostrate on the ground, he rushed to his side to help. However, he was met by Rebeto Tiengo who stabbed him in the lower left portion of his chest. Nestor retreated and ran towards the road. Joined by his wife, Evelyn, they hailed and boarded a tricycle for the Opon Emergency Hospital. Due to the seriousness of the injury, Nestor was transferred by ambulance to the Southern Island Hospital where he eventually died.

For the death of Nestor Severo, only Rebeto Tiengo was charged with the crime of Homicide (Criminal Case No. CCC-XIV-2055-Cebu), was convicted and sentenced accordingly. Likewise, he did not appeal.

The defense of appellants Teofanis Tiago and Felix Booc was alibi - Tiago alleging that on the date and time in question he was at the guard post as watchman at Dacay Construction; and, Booc contending that he did not report for work then because he was sick with fever and had to rest in bed.

The lower court did not lend credence to their defense, and relied instead on the convincing testimony of prosecution witness, Evelyn Severo, wife of the deceased Nestor Severo, that "the three accused, all armed with knives, conspired, confederated and helped each other in stabbing the deceased, Paquito Severo to death. Clear and patent as her identification of the accused has been, there is no pretense on the part of the accused that she did not know them or that they did not know her." (p. 18, Rollo)

We cannot reverse.

(1) We find no reason to discredit the testimony of Evelyn Severo who was positive and categorical in her identification of the assailants of her brother-in-law. She has known them before the incident and, therefore, could not be mistaken about their identities. Besides, the absence of evidence as to improper motive actuating this material witness for the prosecution strongly tends to sustain the conclusion that no such improper motive existed, and that her testimony is worthy of full faith and credit. The fact that she failed to describe in detail the particular portion of Paquito's body hit by Tiengo's first stab; to identify the weapon used by appellants Tiago and Booc; and to tell the relative position of Booc to Paquito when the latter was struck with a piece of wood by Tiengo - only heightened her credibility as it shows that her testimony was neither coached nor rehearsed. The credibility of a witness is not affected by minor details, if with respect to the main incident - the identities of the malefactors, the testimony appears to be consistent.

(2) Dr. Jesus P. Cerna testified on his autopsy of the deceased Paquito Severo and in his report found him to have suffered abrasions and seven (7) stab wounds of varying sizes which could have been caused by more than one assailant. The abrasion below the left knee of Paquito substantially sustained the testimony of Evelyn that the victim was first hit with a piece of wood before he was stabbed by Tiengo, Tiago and Booc.

(3) Appellants' claim of lack of motive on their part to assault the victim is without merit. Lack of motive for committing the crime does not preclude conviction of the offense when the crime and the participation of the appellants are definitely proved. As held in *People vs. Verzo*, 21 SCRA 1403, the proof of motive is not indispensable when the record clearly shows that the death of the offended party is due to the injuries inflicted by the defendants.

(4) Appellants' defense, of alibi cannot overcome the testimony of Evelyn Severo who knew them personally, identifying them as co-employees of her husband, Nestor and brother-in-law, Paquito, at the TMX factory. They even ate lunch in their house. To this We may add, there is absolutely no evidence showing ill motive on the part of Evelyn to falsely impute to the appellants and Rebeto Tiengo (who did not even appeal) the commission of such a serious offense as murder.

Tiago's defense of alibi, on its own merit, is not convincing. His testimony was not corroborated by any of his co-workers, not even Romy Cabrera who he claims informed him in the factory of Paquito's death. And, surprisingly, he just left his post at the factory and fled to Cebu City where he met Tiengo, the self-confessed killer of Paquito Severo. Likewise, Booc's defense of alibi cannot be given credence. As aptly observed by the Solicitor General in his brief, "if it were true that he was sick with fever and had to rest in bed, how come that he went out of his house to inquire what was happening at the crime scene, considering that there was a drizzle?" (p. 29, Appellee's Brief)

WHEREFORE, with the modification that the indemnity is increased from P15,000.00 to P30,000.00, the decision of the lower court of August 4, 1980 convicting appellants Teofanis Tiago and Felix Booc of the crime of murder in Criminal Case No. CCC-XIV-2024-Cebu is AFFIRMED in all other respects.

SO ORDERED.

Teehankee (Chairman), Melencio-Herrera, Plana, Gutierrez, Jr., and De la Fuente, JJ., concur.

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