

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
RICARDO VILLAMIL Y FERNANDEZ, NONOY ENRICO Y BERNARDO
AND FELIX PADILLA ALIAS FELIX DAGA, ACCUSED. FELIX PADILLA,
ACCUSED-...**

G.R. No. 56098. April 09, 1985

Ponente: ABAD SANTOS, J.

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ABAD SANTOS, J.:

RICARDO VILLAMIL, NONOY ENRICO and FELIX PADILLA were accused of murder in an information filed in the defunct Court of First Instance of Rizal denominated as Criminal Case No. Q-8906. The information reads:

"That on or about the 6th day of January, 1978, in Quezon City, Philippines, the above-named accused, conspiring together, confederating with and mutually helping one another, did, then and there, willfully, unlawfully and feloniously, with intent to kill, qualified by evident premeditation and treachery, by taking advantage of superior strength, attack, assault, and employ personal violence upon JULIAN BALADHAY y PRESCILLAS, by then and there stabbing him with a stainless knife known as 'negritos', hitting said JULIAN BALADHAY y PRESCILLAS on the chest, thereby inflicting upon him serious and mortal stab wounds which were the direct and immediate cause of his death, to the damage and prejudice of the heirs of said Julian Baladhay y Prescillas in such amount as may be awarded under the provisions of the Civil Code." (Expediente, p. 1.)

After trial, they were sentenced as follows:

"Wherefore, premises considered, the Court finds the accused Ricardo Villamil, Nonoy Enrico and Felix Padilla guilty beyond reasonable doubt as principals of the crime of Murder for the death of Julian Baladhay and imposes upon said accused the following penalties:

1. For Ricardo Villamil and Nonoy Enrico, absent any generic aggravating circumstance and any mitigating circumstance, the penalty of RECLUSION PERPETUA;
2. For Felix Padilla, against whom the generic aggravating circumstance of evident premeditation is appreciated, the penalty of Death.

"All the accused are likewise ordered to indemnify the heirs of Julian Baladhay the sum of P12,000.00." (Expediente, p. 296.)

Ricardo Villamil and Nonoy Enrico did not appeal. In fact even Felix Padilla did not appeal but his case is before Us for automatic review because of the imposition of the death penalty.

The People's version of the facts is as follows:

"On January 6, 1978, at about 9:00 o'clock in the evening, Emilia dela Cruz and Melina Arandia were tending their barbecue stand near K-G Street, Kamias, Quezon City when accused Ricardo Villamil and Nonoy Enrico,

together with a certain Leo, arrived. A misunderstanding arose between Emilia dela Cruz and the group because the group refused to pay for the barbecue that they ordered. Thereafter, appellant Felix Padilla arrived. He appeared to be in a bad mood as he said, 'Mainit ang dugo ko, gusto kong makabana'. (I am in a bad mood; I want to hit somebody). At that point in the conversation, the victim, Julian Baladhay happened to be passing by. Ricardo Villamil pointed out the victim to appellant who then immediately accosted the victim and stabbed him with a knife. Villamil then boxed the victim, who started to run away. Appellant gave chase and he was joined by Nonoy Enrico who also boxed the deceased on the back. Villamil was about to join the two but he was pulled by Melina Arandia so Villamil stayed on his seat. Melina Arandia and Emilia dela Cruz saw appellant and Nonoy chase the victim until Salgado street but they did not see what thereafter happened as the three turned towards Salgado Street. Later appellant and Nonoy returned to the barbecue stand and appellant was seen by Melina Arandia and Emilia dela Cruz holding a bloodstained knife. The same evening they learned that the victim had died when they were taken by the barangay officials for investigation. The victim was found by some persons in the vicinity and was already dead on arrival when brought to the St. Luke's Hospital (tsn., April 3, 1978, pp. 1-6, 9-14; Sept. 28, 1978, pp. 1-4; March 20, 1979, pp. 6-9). The body of Julian Baladhay was found by Det. Armando Estrada already in the morgue so the cadaver was brought to the P.C. Crime Laboratory for autopsy (tsn., Nov. 29, 1979, pp. 3-10). Capt Desiderio Moraleda of the P.C. Crime Laboratory conducted the autopsy of the deceased and found that death was caused by cardiac-respiratory arrest due to shock and hemorrhage as a result of multiple stab wounds of the trunk and left upper extremity (tsn., March 20, 1979, pp. 1-3; July 19, 1979, pp. 4-10)." (Brief, pp. 3-4.)

Upon the other hand, the defense of appellant Padilla was to deny totally his involvement in the crime. The following was his direct testimony:

"BY ATTY. MELENDRES:

Q

Mr. Witness, there is an information filed with this Honorable Court docketed as Criminal Case No. Q-8906 for Murder against Ricardo Villamil, Nonoy Enrico and Felix Padilla, will you tell the Honorable Court if you are the same Felix Padilla, as one of the accused here?

A

Yes, sir.

Q

According to the evidence for the prosecution, on January 6, 1978 around 9:45 in the evening, you were at Camias Road, corner K-G, what can you say about that?

A

No, sir, I was not there.

Q

Likewise, Mr. Witness, according to the prosecution, when you arrived at the said place you saw the other ac-cused in this case Ricardo Villamil and Nonoy Enrico, what can you say about this?

A

No, sir, that is not true.

Q

Further, Mr. Witness, the evidence for the prosecution says that when you arrived in that place you said 'mainit and dugo ko', is that true?

A

No, sir, that is not true.

Q

Mr. Witness, the information charges you for having stabbed one Julian Baladhay and he died, is that true?

A

No, sir.

Q

By the way, do you know a person by the name of Julian Baladhay y Prescillas?

A

No, sir.

Q

You stated Mr. Witness that the charge for Murder against you is not true and you did not know a person by the name of Julian Baladhay. Will you tell the Court where were you on January 6, 1978 at around 9:45 in the evening?

A

I could not recall any more where I was at that time.

COURT:

Q Why can't you recall?

A I do not know, Your Honor, where I was at that time.

Q This January 6, 1978 is six days after New Year's day. Do you remember where were you on New Year?

A I was at home, Your Honor.

Q Where is your house?

A At No. 26 Mapagmahal St., Piñahan, Quezon City, Your Honor.

Q How far is that from Kamias Road corner K-G, is it a walking distance?

A On the other side of the street, Your Honor.

Q

If you will walk, how many minutes?

A About 5 minutes, Your Honor.

Q But you do not remember where were you on January 6, 1978?

A I don't recall, Your Honor.

ATTY. MELENDRES:

Q You said Mr. Witness that you cannot recall where were you on January 6, 1978 in the evening at 9:45, but could you at least tell the Honorable Court if you were in your house at that time?

A I do not recall, sir.

Q

You cannot recall whether you were at the alleged scene of the crime?

A I do not recall, sir.

COURT:

Q On January 6, 1978, do you know Ricardo Villamil?

A I know him for a long time already, sir.

Q How about Nonoy Enrico?

A Yes, sir, same with Ricardo Villamil.

Q

How about Melina Arandia, who was tending banana cue at Kamias Road, do you know her?

A I do not know her personally but I know her that she has a place at Kamias road.

Q In other words, you have seen her at her banana cue stand on January 6, 1978?

A Even before that date, I have already seen her, Your Honor.

Q And this Emilia dela Cruz, have you known her and have you seen her also on January 6, 1978?

A No, sir.

COURT:

Alright, continue.

ATTY. MELENDRES:

Q

What about the following day January 7, 1978, do you recall where you were?

A I left the house, sir.

Q You said you left your house, where did you go?

A In the morning of January 7, 1978, I went to the house of my sister.

Q Where is the house of your sister located?

A In Marikina, sir.

Q

What did you do in the house of your sister?

A I was told that I will go there because my sister was going to deliver a baby.

Q From the house of your sister, where did you go?

A I went home, sir.

Q By the way Mr. Witness, do you personally know the accused Nonoy Enrico and Ricardo Villamil?

A I have known him for a long time already.

Q Why do you know them?

A They are my friends, sir.

Q

The information likewise charges Ricardo Villamil and Nonoy Enrico for having stabbed one Julian Baladhay on January 6, 1978, can you remember having seen them on January 6, 1978?

A I do not know where they were.

Q Will you tell the Honorable Court when for the first time you came to know the case filed against you for Murder?

A When we had a hearing already.

COURT:

Q When were you apprehended by the police officers?

A When there was a case filed in Court.

Q Where were you apprehended?

A At Malakas St.

Q

You were brought by the police to the precinct?

A Yes, sir.

Q Did not the police tell you that you were being a suspect of stabbing Julian Baladhay?

A No, sir.

Q Did the police not tell you that?

A No, Your Honor.

Q Did you now ask them why you were being arrested?

A I was informed that I have stabbed somebody.

Q

Who told you that you have stabbed somebody?

A The police, sir.

Q So, you were told that you were the one who stabbed somebody on January 6, 1978?

A No, Your Honor, the reason why I was detained was because of a frustrated homicide case filed against me.

Q When was that?

A In 1977, sir.

Q Who was the victim in that case?

A Bernardo Makato, Your Honor, this was heard before Judge Punzalan.

Q

What happened to that case?

A I was sentenced in that case by the Court.

Q How many months or years?

A I was sentenced to 6 months to 3 years, Your Honor.

Q When were you sentenced by Judge Punzalan?

A March 1, 1978, Your Honor.

Q 1978?

A I mean 1979, Your Honor.

COURT:

Continue.

ATTY. MELENDRES:

Q Are you presently detained now?

A Yes, sir.

Q Do you know the reason why you are detained?

A Yes, sir.

Q Why?vee

A

Because I stabbed a person.

Q Are you referring to this present charge against you?

A No, sir, I was detained for the frustrated homicide case in the other Court.

Q Do you remember when were you detained?

A I was brought to jail May 1978.

Q Mr. Witness, do you know a person who can testify as to exactly where were you on January 6, 1978?

A I do not know, sir.

ATTY. MELENDRES:

Your Honor, we are constrained to close our case, Your Honor." (TSN, pp. 97-102.)

Before this Court, the appellant claims that he was not accorded a fair trial because he was not adequately represented. He states:

"The records will show that herein accused-appellant Felix Padilla had been represented by no less than four counsel de oficio. During the hearing of September 28, 1978, when Melina Arandia and Emilia dela Cruz [only Emilia testified on that date] testified, Felix Padilla was represented by Atty. Manuel de Jesus. On May 19, 1979, [correct date is July 19, 1979] when the Medico Legal expert was presented, accused-appellant was

represented by Atty. Andrade. Then on November 29, 1979 [and December 3, 1979] when the police investigator was presented, accused-appellant Felix Padilla was represented by Atty. Teresa Jimenez. And finally, on January 10, 1980 when it was the turn of the defense to present evidence, accused was represented by Atty. Reynaldo Melendres.

"Without in the least intending to cast any doubt on the competence of any or all of the counsel de oficio appointed to handle the defense of the accused, it can not be denied that justice could have been better served if only one counsel de oficio or even a group of such counsel coordinating with each other and integrating all their efforts for the cause of the accused had handled accused's case from the start of the proceeding up to the end. The counsel who had heard the evidence against the accused could better apprise accused of the evidence against him and how this could be met by accused's evidence in his defense." (Brief, p. 9.)

The appellant indeed had no less than four counsels de oficio during his trial. The record does not show why the changes occurred. But an examination of the transcript and the paucity of his defense do not support his claim that he was not accorded a fair trial. For the record shows that the appellant's different counsels, albeit de oficio, did credit to their assignments. In the case of Atty. Reynaldo P. Melendres who assisted the appellant when he presented his evidence there is no indication in the record that counsel could have done more in the light of his principal's negative evidence.

The other ground which the appellant invokes to reverse his conviction is that the prosecution's witnesses were not consistent with respect to the stabbing.

Emilia dela Cruz was recalled to the witness stand on September 28, 1978, to give testimony against the appellant. When the information was filed on January 9, 1978, appellant Padilla was at large. He was arrested only on or about May 24, 1978.

Emilia testified that in the evening of January 6, 1978, she was at her barbecue stand located at the corner of Kamias and K-G streets in Quezon City. There she saw a man chased by two men. The two were Nonoy Enrico and Felix Padilla who boxed the man pursued. She later saw the man who was pursued dead at the funeral parlor. She also testified that when Felix returned to the barbecue stand he was holding a weapon - a "panaksak."

Melina Arandia was also recalled to the witness stand on March 20, 1979, to testify against the appellant. She testified that she was selling barbecue in the evening of January 6, 1978, at the corner of Kamias and Salgado streets in Quezon City. A "matansero" or Felix Padilla arrived and said, "My blood feels hot; I want to hit somebody (babanatan ko)." He said this to Ricardo Villamil. Then a man passed by whose name she did not know. "Carding made a sign and Felix accosted the victim and stab the victim." She found out later that the victim died.

The slight variation in the narration of the event given by Emilia dela Cruz and Melina Arandia does not weaken the prosecution's case; in fact the variation strengthens it. It shows that their testimony was not contrived and rehearsed but in fact they corroborate each other on material points: that the appellant chased the deceased and he had a knife. Emilia did not see the stabbing but Melina did.

We agree with the trial court that the killing of Baladhay was qualified by treachery and was, therefore, murder. For although the attack was frontal, it was so sudden and unexpected that the deceased had no time to prepare for his defense.

But We cannot agree with the trial court that with respect to appellant Padilla there was evident premeditation and for which reason he was sentenced to suffer the death penalty. That there could have been no evident premeditation not only for Villamil and Enrico but also for Padilla is manifest from the trial court's own statement, to wit:

"There is no doubt in the mind of the Court that the three accused represent the worst type of cowardly bullies ready to pounce upon helpless strangers. Julian Baladhay was a total stranger who had done them no harm — but apparently, because Padilla was in an angry mood that evening, and Villamil himself had a spat with Melina over the payment of their snack, they decided to give vent to their instinct of aggression by deciding to injure the most likely passerby that comes along. As testified by Melina, Julian Baladhay was wearing eyeglasses — he seemed an easy prey. The three, like some jungle beasts, without provocation, attacked their victim who even had no inkling that in a busy street like Kamias, he would be mauled and killed." (Expediente, p. 294.)

Obviously there could have been no evident premeditation in the casual killing of a stranger.

In the light of the foregoing, appellant Padilla should be punished no more than his co-accused.

WHEREFORE, the judgment under review is modified in that Felix Padilla shall suffer the penalty of reclusion perpetua instead of death and the civil indemnity is increased to P30,000.00. Costs against the appellant.

SO ORDERED.

Fernando, C.J., Teehankee, Makasiar, Aquino, Concepcion, Jr., Melencio-Herrera, Plana, Escolin, Relova, Gutierrez, Jr., De La Fuente, Cuevas, and Alampay, JJ., concur.

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