

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. LIBERATO ADONES AND DAVID ADONES, DEFENDANTS-APPELLANTS.

G.R. No. 63453. September 24, 1986

Ponente: GUTIERREZ, JR., J.

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GUTIERREZ, JR., J.:

This is an appeal from the decision of the then Court of First Instance of Bukidnon, Branch I, finding appellants Liberato Adones and David Adones guilty beyond reasonable doubt of the crime of Murder and sentencing each one to suffer the penalty of reclusion perpetua and to indemnify the heirs of the deceased Romeo Quioyo jointly and severally the amount of P12,000.00 and to pay the costs.

The information filed against the accused alleged:

"That on or about the 20th day of January 1979, in the evening, at barangay Dilapa, municipality of Quezon, province of Bukidnon, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring together and mutually helping one another, with intent to kill by means of treachery with the use of an icepick, with which they were conveniently provided, did then and there wilfully, unlawfully and criminally attack, assault and stab Romeo Quioyo, hitting him on his body, which caused his death later.

"Contrary to and in violation of Article 248 of the Revised Penal Code."

The lower court summarized the prosecution's evidence upon which the finding of guilt beyond reasonable doubt is based as follows:

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"x x x [T]hat on the evening of January 20, 1979, the Kabataang Barangay of Dilapa, Quezon, Bukidnon, held a benefit dance at the basketball court of the said barangay for the purpose of raising funds to be given as prizes for the basketball tournament. The deceased Romeo Quioyo together with Basilio Abito and Leonito Blancia attended the said dance. While the dance was in progress and at about 10:00 o'clock that same evening, the deceased Romeo Quioyo requested for a piece. There were also several requests for a piece during the evening, the music being supplied by a record player and the deceased Romeo Quioyo thinking that the piece played was the one he already requested, danced, but it turned out that the music that was played was a requested piece of one of the accused Liberato Adones, who upon seeing that the deceased Romeo Quioyo, was dancing on his requested piece, confronted him and asked him why he was dancing on the piece that he requested to which the deceased answered that he thought that the said music was his requested piece and asked for apology and at the same time told Liberato Adones to let him dance on his requested piece as soon as it is played. Liberato Adones was not however pacified by the explanation of Romeo Quioyo and he stopped the music so that Romeo Quioyo went towards the table where the phonograph was placed. Liberato Adones approached him and embraced him and shouted to his son 'stab, stab,' and accused David Adones responding to the call of his father, approached Romeo Quioyo and stabbed him with an icepick hitting the deceased in his stomach near the umbilical cord; that the incident happened so suddenly that some of the spectators did not notice the incident and even the chairman of the benefit dance thinking that nothing serious happened,

announced through the microphone to continue the dance because there was nothing to be alarmed with; that later on Benedicto Quioyo, the brother of the deceased approached the chairman of the dance and told him to stop the dance because his brother Romeo Quioyo was stabbed; that the dance was stopped and Romeo Quioyo upon reaching his house was later on brought to the Southern Bukidnon Hospital at Maramag, Bukidnon where he was treated by Dr. Teofames Agcopra; that he was admitted at about 11:00 o'clock that same evening suffering from severe abdominal pain and bleeding wound but unfortunately, however, he died before the operation performed on him was finished; that he expired exactly at about 12:25 A.M. of January 21, 1979. That on January 21, 1979, Patrolman Carlos Fajardo together with the Station Commander Clemente Naguio apprehended the accused Liberato Adones and David Adones at barrio Kipolot, Kuari, Quezon. The said accused before they were apprehended were already about two kilometers away from barrio Kipolot and were proceeding towards the direction of Davao and when the apprehending peace officers saw them, they shouted at them to stop but the said accused did not stop but continued to walk fast which prompted policeman Fajardo to fire a warning shot at them at the same time ordering them to surrender; that the accused then turned about face and the peace officers arrested them. Upon being investigated by the Station Commander as to the whereabouts of the weapon that they used in stabbing Romeo Quioyo, David Adones informed the police officers that he threw the said weapon at the basketball court at Dilapa where the incident happened so that the Station Commander ordered his policemen to look for the said weapon at the place indicated by the accused but they were not able to find the weapon hence the accused was again investigated and accused David Adones this time revealed that he threw the said weapon at a ravine at Kipolot where they were apprehended. Policeman Francisco Allaga was dispatched to the said place and he found the weapon which was an icepick with its scabbard (Exhibits "B" and "B-1") at the place indicated by David Adones."

On the other hand, the appellants' version of the case against them is stated by the court as follows:

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"[T]hat on the evening of January 20, 1979, a dance was held at the basketball court of Dilapa which was sponsored by the Kabataang Barangay for the purpose of raising funds for prizes to be given to the basketball tournament to be held on the fiesta of the said barangay; that accused Liberato Adones was at the dance hall and at about 10:00 o'clock that evening, he was requested by his nephew Rodolfo Siencio to dance on his requested piece but he however refused the offer because he had no shoes at that time and his shirt was dirty; that at this juncture, he heard Romeo Quioyo from the side of the tennis court saying he was 'playing hard to get' and at the same time kicked him twice, the first kick hitting his stomach but the second kick missed him. He was then pulled by the Barrio Captain and brought to the table near the phonograph and told to sit down. A few minutes later, Benedicto Quioyo came near the table and told the chairman of the dance to stop the dance because his brother Romeo Quioyo was stabbed and Benedicto Quioyo asked Liberato Adones where "boy", his son, was because he was the one who stabbed Romeo Quioyo and to which he answered 'why will you accuse my son of stabbing your brother when I have not seen him here'; that Benedicto Quioyo kept silent and Liberato Adones went out to look for his son and found his son at his house. Because of that incident, the dance was stopped and the following morning, Liberato Adones brought his son to surrender to the police authorities but fearing that they might be waylaid by the relatives of the deceased, they decided to surrender at Simod; that on the following morning, they proceeded to Simod but unfortunately, they were arrested by the police officers at Kipolot. David Adones' version of the incident was that on the same evening at the dance hall at Dilapa, he was arranging the chairs for the ladies, and after arranging said chairs, he went home at about 7:00 o'clock that evening, to take his supper, that he returned to the dance hall after taking supper but before reaching the dance hall, he felt like defecating so he went a little farther from the dance hall and defecated. While he was defecating, he heard the announcement from the microphone by saying 'don't worry, there is small trouble,' and so he proceeded to the dance hall and on the way, he met the deceased Romeo Quioyo and he asked him 'nong where are you going,' but Romeo Quioyo immediately pulled out his icepick and told him 'what, are you taking sides with somebody', and immediately stabbed David Adones with an icepick but he was able to hold the icepick and when he finally wrested the icepick from the possession of Romeo Quioyo, he in

turn stabbed him hitting him on his stomach after which he ran home as he was afraid of the brother of the deceased. David Adones identified the icepick (Exhibit "B") and its scabbard (Exhibit "B-1") as the very icepick belonging to the deceased Romeo Quioyo which he was able to wrest from the possession of Romeo Quioyo that same evening when Romeo Quioyo attempted to stab him. He denied the allegations of the prosecution that his father Liberato Adones took hold of Romeo Quioyo and commanded him to stab Romeo Quioyo because at the time of the incident, he did not even see his father. When he reached his house, his father was already there; that his father informed him that he was kicked by Romeo Quioyo. After their conversation, they proceeded to surrender at Simod because they might be waylaid by the relatives of the deceased if they surrender at Quezon. On their way to surrender, they were apprehended by the policemen at Kipolot, Kuari, Quezon and they were brought to Quezon where they were investigated by a policeman. He admitted that the icepick that he was able to wrest from the possession of the deceased was recovered by the policemen at Kipolot where he threw the same. Witnesses Leonida Perez, Nicolasa Navarro, Pedro Arcillas and Gervacio Alvarez tried to corroborate the testimonies of the accused and confirmed in their testimonies that at the time of the incident, accused Liberato Adones was sitting near the table where the phonograph was placed at the dance hall that evening and had not in any way participated in the stabbing of the deceased Romeo Quioyo, much less did he tell Romeo Quioyo and order his son to stab him. Likewise, Nicolasa Navarro attempted to corroborate the testimony of accused David Adones by testifying that while she was looking at the dance at the dance hall at Dilapa, she saw a man who was drunk passing at her back; that she tried to look at the man but she could not see him clearly so she looked back again to the dance but later on when she turned her face again to the drunk man, she saw him together with accused David Adones wrestling for the possession of the icepick. When she saw that David Adones was able to wrest the possession of the icepick from the man who was drunk, she ran away and she did not know what happened after that."

The appellants state that the lower court erred:

- IN FAILING TO STATE IN THE DECISION CLEARLY AND DISTINCTLY THE FACTS ON WHICH IT BASED ITS FINDING THAT THE ACCUSED-APPELLANTS ARE GUILTY;
- IN FINDING THAT ACCUSED-APPELLANT LIBERATO ADONES ACTED IN CONCERT WITH HIS SON ACCUSED-APPELLANT DAVID ADONES IN THE KILLING OF ROMEO QUIOYO;
- IN CONSIDERING AND RELYING ON THE Demeanor OF THE DEFENSE WITNESSES IN TESTIFYING;
- IN REFUSING TO GIVE CREDENCE TO DEFENSE EVIDENCE THAT ONLY ACCUSED-APPELLANT DAVID ADONES KILLED ROMEO QUIOYO IN SELF-DEFENSE;
- IN RELYING THAT POSITIVE TESTIMONY HAS MORE WEIGHT THAN NEGATIVE TESTIMONY;
- IN NOT BELIEVING THE TESTIMONY OF BARANGAY CAPTAIN GERVACIO ALVAREZ, KABATAANG BARANGAY PRESIDENT LEONIDA PEREZ AND PEDRO ARCILLAS, JR.
- IN NOT ACQUITTING ACCUSED-APPELLANT LIBERATO ADONES FOR NON-PARTICIPATION AND ACCUSED DAVID ADONES FOR COMPLETE SELF-DEFENSE.

Except for the first assigned error which questions the form of the decision, all the assignments of errors center on whether or not the trial court erred in determining the value and credibility of the evidence presented.

We have carefully studied the records of this case and find no reason to deviate from the well-settled rule that the findings of fact of the trial court on the credibility of witnesses are generally accorded the highest respect by the appellate court (*People v. Cabanit*, 139 SCRA 94; *People v. Sarol*, 139 SCRA 125; *People v. Valentino*, 141 SCRA 397; *People v. Pelias Jones*, 137 SCRA 166; *People v. Egas*, 137 SCRA 188; *People v. Rosario*, 134

SCRA 496), in view of its privilege of examining the demeanor of the witnesses as they testify. (People v. Amoncio, 122 SCRA 686; People v. Tala, 141 SCRA 240).

Liberato Adones set up the defense that he had nothing to do with the killing while his son, David Adones, although admitting having killed the deceased, set up self defense. These defenses, however, cannot prevail over the positive and unequivocal identification of the appellants as the assailants by the two prosecution witnesses, Leonito Blancia and Basilio Abeto and their description of how the crime was committed.

Insofar as Liberato Adones is concerned, his alibi cannot prevail in the face of his positive identification as the assailant and direct participant in the crime. (People v. Cabanit, supra; People v. Pampanga, 139 SCRA 339; People v. Sarol, supra; People v. Garcia, 131 SCRA 336; People v. De las Piñas, 141 SCRA 379; and People v. Valentino, supra).

Leonito Blancia recounted how Liberato embraced the deceased from behind thereby pinning his arms and rendering him incapable of putting up any form of defense against the subsequent attack. (TSN, February 26, 1980, p. 15). After locking his arms around the victim, Liberato ordered his son, David to stab him. This narration was corroborated by Basilio Abeto who was only about two meters away from the victim at the time. The dance hall was well-lighted with two petromax lamps so that these eyewitnesses could not have been mistaken as to the identity of the two assailants.

Moreover, no motive was shown why the prosecution witnesses would falsely charge the appellants especially with such a grave offense as in this case. Therefore, the identification made was correctly given full faith and credit (People v. Escoltero, 139 SCRA 219; People v. Lopez, 141 SCRA 385; People v. Arbois, 138 SCRA 24). The witnesses described in unequivocal terms how father and son cooperated in the commission of the crime.

Blancia and Abeto are disinterested witnesses. Both are not Veil-acquainted with the deceased. The latter, at the time of his death had just arrived from Manila a few days earlier (TSN, February 26, 1980, pp. 36 & 52).

The appellants try to impeach the testimonies of the eyewitnesses presented by the prosecution by alleging material inconsistencies in their statements as follows:

"ATTY. GARDONES:

"Q -

Now, you said a while ago, that after the music of that 6th request, Liberato Adones went outside and it is about 10 meters away from the phonograph, what can you say about that?

"A -

Before he dance, he went to that distance that was a store and when he returned, he stabbed Romeo."

(TSN, February 26, 1980, p. 26, Blancia's testimony)

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The appellants try to show from the aforequoted testimony of Leonito Blancia that it was Liberato and not David who stabbed the deceased. However, from the succeeding testimony which follows:

"Q -

So that, Liberato Adones embraced Romeo Quioyo after coming from the store, is that correct?

"A -

Coming from that store he danced and then Romeo Quioyo also danced and this Liberato Adones asked him why will you dance when this is my request. Rudy Serenio answered: 'I thought this was my request, but I have a request the next of this piece, just dance the next request so that we will be even.

"Q -

So that, Romeo Quioyo and Liberato Adones danced that 6th request?

"A -

Yes, sir.

"Q -

Did Liberato Adones dance in that 5th request?

"A -

No, because they interchanged that.

"Q -

Did Romeo Quioyo dance in the 5th request?

"A -

No, sir, not also."

(TSN, February 26, 1980, pp. 26-27, Blancia's testimony)

it can be gleaned that Blancia was not responding coherently, apparently due to the fact that he misunderstood the questions being propounded to him. It is incorrect and unfair to use against a witness his incoherent or non-responsive answers to questions which he could not clearly understand or which he took to mean something else. (See *People v. Espinosa*, 141 SCRA 110).

Later in his testimony, Blancia did in fact identify the appellants as the assailants and narrated the manner in which Liberato acted in concert with David who stabbed the deceased (TSN, March 25, 1980, pp. 45-47). For that matter, the sudden and unexpected stabbing of Romeo Quioyo while being held by Liberato, insured the killing without any risks to the assailants (See *People v. Ebor*, 141 SCRA 282).

The questioned testimony of Basilio Abeto reads:

"Q -

You said that you arrived at the dance place at 7:00 o'clock, will you please tell this Court what time the dance started?

"A -

7:00 o'clock, when I arrived, the dance started.

"Q -

And in fact, there was no single occasion that you were out from the dancing place from the time you arrived up to the time the dance ended?

"A -

Because I was always there standing by the side.

"Q -

Now, you said that that was only the first request, do you mean to say that that first request was the outcome of the trouble wherein Romeo Quioyo was being killed?

"A -

Yes, sir."

(TSN, March 25, 1980, pp. 55-56, Abeto's testimony)

The aforequoted testimony of Basilio Abeto allegedly conflicts with the prosecution's version that it was the 6th request for a piece of music which was the outcome of the trouble.

Contrary to the appellants' contention, however, this discrepancy does not discredit Abeto's testimony. What is decisive is the actual presence of the witness at the crime scene which is corroborated, not the variance as to which request for music started the trouble (See *People v. Espinosa*, supra; *People v. Muñoz*, 107 SCRA 313).

Assuming arguendo, that Abeto's statement regarding this matter is discredited, the same does not render the rest of his testimony false. It does not make his testimony totally incredible and therefore inadmissible, in the light of sufficient evidence to establish the commission of the crime, the eyewitnessing of the criminal act, and the identification of the criminals (*People v. Espinosa*, supra). Moreover, this discrepancy shows that the prosecution witnesses are not rehearsed witnesses.

The testimonies of the prosecution witnesses were given more weight as they witnessed the criminal act, in contrast to the testimonies of the defense witnesses contending that Liberato could not have participated in the stabbing as he was near the barangay captain.

Not many of those present witnessed the stabbing as it happened so suddenly and at the side of the basketball court. Most of the people then were dancing or were at the other side. In fact, the barangay captain completely unaware that a stabbing had occurred, announced that the dancing continue. Apparently, the defense witnesses namely, Pedro Arcillas, Jr., chairman of the dance; Gervacio Alvarez, barangay captain, and Leonida Perez, Kabataang Barangay Chairman did not see the actual stabbing. However, they were aware of a disturbance as their attention was caught by some shouting which prompted Alvarez to separate Liberato from Romeo and bring the former to his side. Some five minutes later, Benedicto Quioyo, brother of the deceased, reported to Alvarez that his brother Romeo had been stabbed.

Furthermore, Arcillas, Jr. and Alvarez did not volunteer their version to the police that Liberato had nothing to do with the stabbing not until they were served summons. (TSN, June 10, 1980, pp. 98-100 and 116-118).

David Adones' plea of self-defense cannot be given credit. The burden rests upon the accused who admits having killed a person to establish all facts necessary to prove circumstances of self-defense (*People v. Sarol*, supra). This he was unable to do. David Adones' version of the stabbing is inherently unbelievable. He himself admits that he does not know the deceased Romeo Quioyo (TSN, January 7, 1981, p. 179). Yet when Romeo was allegedly coming out of the dance hall, he asked, "Nong, where are you going?" Whereupon, the victim was said to have answered "What, are you taking sides with somebody." It is incredible to believe that Romeo would have known that David is the son of the man he allegedly kicked earlier.

David contends that Romeo was drunk but the physician who attended to Romeo after having been stabbed made no mention of this fact at all.

Furthermore, we agree with the lower court that the actuations of the accused after the incident clearly points to their guilt. They attempted to flee and they disposed of the icepick during such flight. The flight of the accused is not in accord with that of innocent men (*People v. Espinosa*, supra).

Appellants question the failure of the lower court to clearly and distinctly state the facts upon which the decision is based, such being contrary to the constitutional provision which provides that:

"Every decision of a court of record shall clearly and distinctly state the facts and the law on which it is based. x x x." (Constitution, Article X, Section 9).

We agree with the Solicitor General that:

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"x x x [I]t was previously held that: 'where the decision narrates the substance of the testimony of both the prosecution witnesses and the witnesses for the defense and thereafter declaring that defendants' defense has not been established, the pronouncement amounts to an acceptance of the facts narrated by the prosecution witnesses, facts previously detailed in the same decision.' Consequently, it cannot be held that the decision contained no statement of the facts proved (*People v. Sabijon*, 94 Phil. 1047). So it is with the decision in the case at bar."

WHEREFORE, except for the indemnity which is increased from P12,000.00 to P30,000.00, the appealed judgment is AFFIRMED in all other respects.

SO ORDERED.

Feria (Chairman), Fernan, Alampay and Paras, JJ., concur.

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