

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. EMILIO RAMILO, DEFENDANT-APPELLANT.

G.R. No. 69579. January 07, 1987

Ponente: GUTIERREZ, JR., J.

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GUTIERREZ, JR., J.:

This is an appeal from the decision of the Regional Trial Court, Branch XV, at Palo, Leyte, finding appellant Emilio Ramilo guilty beyond reasonable doubt of the crime of Murder and sentencing him to suffer the penalty of Reclusion Perpetua and to indemnify the heirs of the deceased Pablo Cañeda the sum of P12,000.00 and to pay the costs.

The information filed against the accused alleged:

"That on or about the 10[th] day of August, 1980, in the Municipality of Burauen, Province of Leyte, Philippines, within the jurisdiction of this Honorable Court, the above-named accused, with intent to kill and with treachery, did then and there wilfully, unlawfully and feloniously attack, stab and wound one Pablo Cañeda with the use of a long bolo which the said accused had provided himself for the purpose thereby hitting and inflicting upon Pablo Cañeda wounds which caused his death."

The lower court findings, upon which guilt beyond reasonable doubt was established, are summarized as follows:

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"[T]hat on August 10, 1980, at about 11:00 o'clock[*] in the evening, Pablo Cañeda took shelter in the house of Antonio Ramilo at Barangay Balorinay, Burauen, Leyte, because it was raining. When the rain stopped at about seven o'clock that evening, Pablo Cañeda left the house of Antonio Ramilo with a lighted bottle since the night was dark. Just after Antonio closed the door of his house, he heard the voice of Pablo Cañeda shouting for help because he was wounded by Emilio. When Antonio opened his door, Antonio saw Emilio Ramilo running on his yard towards the road bringing with him a short bolo. Antonio went to the place where the voice of Pablo Cañeda came from and he found Pablo Cañeda lying on the ground already wounded at a distance of about ten (10) meters from his house.

"After tying the wound on the arm of Pablo Cañeda, Antonio proceeded to Brgy. Arado to get a motorcycle to bring Pablo to the hospital. Failing to secure a motorcycle, Antonio went back to the place where Pablo Cañeda was lying down, but Antonio found Pablo Cañeda already dead. Antonio then proceeded to the house of the barangay captain, Iluminado Rael, to inform the latter of the incident.

"Antonio Ramilo admits that he did not see the incident but he only knew that Emilio Ramilo was the one who wounded Pablo Cañeda because the latter told him.

"The motive of this stabbing incident is that, about two years before, Emilio Ramilo was stabbed by Ignacio Cañeda the son of Pablo Cañeda.

"At about 10:30 o'clock in the evening of August 10, 1980, Pat. Jovencio Perido and Pat. Resurreccion Coral proceeded to Brgy. Balorinay, Burauen, Leyte to conduct an investigation of this incident. The two patrolmen made a sketch of the crime scene (Exhibit "D) and submitted their Investigation Report (Exhibit "C").

"Dr. Dionisio Conde conducted an autopsy examination on the body of Pablo Cañeda on August 11, 1980 and issued a Medical Certificate (Exhibit "A) describing the three wounds of Pablo Cañeda. Dr. Conde also issued a Sketch of Human Body (Exhibit "B") indicating therein the location of the three wounds of Pablo Cañeda. The weapon used was a sharp pointed bladed instrument. The cause of death of Pablo Cañeda is profuse hemorrhage due to stab wounds."

The appellant raised the following assignments of errors in this appeal.

- A. THE REGIONAL TRIAL COURT ERRED IN GIVING CREDENCE TO THE TESTIMONY OF PROSECUTION WITNESS ANTONIO RAMILO;
- B. THE REGIONAL TRIAL COURT ERRED IN NOT HOLDING THAT THE PROSECUTION FAILED TO OVERCOME THE PRESUMPTION OF INNOCENCE OF THE ACCUSED;
- C. THE REGIONAL TRIAL COURT ERRED IN NOT CONSIDERING AS MERITORIOUS THE EVIDENCE FOR THE DEFENSE.

All the assignments of errors center on whether or not the trial court erred in determining the credibility of the evidence presented and the weight to be given to it.

We have held in a long line of cases that trial courts' findings of facts carry great weight for these courts have the privilege of examining the deportment and demeanor of witnesses and, therefore, can discern if such witnesses are telling the truth or not. (People v. Natipravat, G.R. No. 69876, November 13, 1986; People v. De Jesus, G.R. Nos. 71942-43, November 13, 1986; People v. Adones, G.R. No. 63453, September 24, 1986; People v. Dondoy, G.R. No. 63728, September 15, 1986; and People v. Patog, G.R. No. 69620, September 24, 1986). We have carefully examined the records and we find no reason to depart from the trial court's appreciation of the evidence of the prosecution and that of the defense.

The appellant tries to impeach the testimony of Antonio Ramilo, the lone prosecution witness by alleging conflicts of facts and inconsistencies in his statements. In court, witness Antonio stated:

"A. When he left I closed my exit because I was already about to go to sleep when all of a sudden while I was already along the path I heard shout saying, 'Padi, help me, I was wounded by Emilio.' Then I went out to verify.

"Q When you went out to verify what did you find, what did you see?

"A I helped my pari because he was already fallen to the ground and he was shouting for help.

"Q Who were the persons there when you arrived at the place where you saw your compadre?

"A Nobody was there because he informed me that he ran.

"Q Who?

"A The person who wounded him."

(TSN, August 25, 1983, pp. 6-7).

Later on, Antonio affirmed an allegation in his affidavit that "x x x there and then I immediately open (sic) my door and I saw Emilio Ramilo running on my yard towards the road bringing with him a short bolo approximately 12 inches long more or less (tsn., supra, p. 9).

In the course of cross examination, Antonio stated:

"Q Is it not a fact that you were only told that it was Ramilo who stabbed Pablo Cañeda as you said in your direct testimony Ramilo has already ran away when you arrived at the victim, Pablo Cañeda?

"A I was told by him.

"Q What?

"A Cañeda said, 'help me because I was wounded by Emilio'.

"Q Actually you did not see Emilio delivered stab blows at Pablo Cañeda because according to you, you have only closed your door?

"A I did not see because my doors were closed.

"Q It is clear now that you only know that it was Emilio Ramilo who stabbed Cañeda because Cañeda told you about that?

"A Yes, sir.

"Q What happened to that lighted lamp which you gave to Pablo Cañeda?

"A It was thrown to the ground.

"Q And the light fell out?

"A Yes, sir.

"Q So, when you went out you could not see anymore anybody because it was dark?

"A Yes, sir."

(TSN., supra, pp. 10-11).

The appellant emphasizes his conclusion that in fact Antonio Ramilo was not a witness to the incident and therefore "the whole case for the prosecution immediately ends there, for there is no other piece of evidence for the prosecution on the identity of the perpetrator of the crime".

The contradiction mentioned by the appellant is more apparent than real. The question of whether or not Antonio witnessed the stabbing incident was never in dispute. The trial court stated:

"Antonio Ramilo admits that he did not see the incident but he only knew that Emilio Ramilo was the one who wounded Pablo Cañeda because the latter told him."

The statement by the deceased Cañeda was merely reinforced by the fact that Antonio saw the accused-appellant running away with a bolo in his hand from the place where Cañeda was found. On this point, the trial court stated that:

"Antonio Ramilo, uncle of the accused Emilio Ramilo, positively identified Emilio Ramilo running across the yard of Antonio's house just after the deceased Pablo Cañeda shouted for help because he was wounded by Emilio Ramilo."

The witness does not claim to have seen the actual stabbing.

The appellant doubts if Antonio positively recognized the assailant because — (1) there was a lapse of a few minutes between the time he heard Cañeda's shouts and the time he opened the door and (2) the lamp he carried could not have sufficiently aided him in recognizing the assailant whom was 15 meters away from his house.

We agree with the Solicitor General that what bears emphasis is the testimony of Antonio regarding the time frame being assailed by the appellant. Antonio testified as follows:

"Q What was that incident?

"A When he left I closed my exit because I was already about to go to sleep when all of a sudden while I was already along the path I heard shout saying, 'Padi, help me, I was wounded by Emilio'. Then I went out to verify." (underscoring supplied)

(TSN., supra, pp. 6-7)

Antonio's reaction to the shouts of Cañeda was, therefore, immediate. This explains why he was able to see the accused Ramilo running away.

Moreover, the records show that Antonio did not state that the assailant was 15 meters away from Antonio's house as assumed by the appellant but rather that it was the fallen body of Cañeda which was 15 meters away (tsn., August 25, 1983, p. 12).

The contradictions raised by the appellant do not merit serious consideration.

The appellant also contends that it seems out of the ordinary that a person shouting under the circumstances of Cañeda at the time would mention both the christian name and family name of the assailant.

This contention is untenable. As held in the case of *People v. Quinlob* (119 SCRA 130):

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"x x x It is submitted that the deceased statement calling out his assailants' full names considering they were his brothers, does not make this improbable. At any rate, it is not uncommon for a man, who is on the brink of death, to call out his assailants' full names, to remove any doubt as to their identities. Nor was there any reason for the deceased to call out the assailants' nicknames. When the deceased was attacked treacherously by the appellants, any love or attachment the former may have to the latter was completely destroyed. From that moment on, to the deceased, the appellants ceased to be his brothers. In the natural course of human conduct, it is not uncommon to name hated persons in their full names."

Appellant Ramilo also asserts that the statement of Cañeda does not satisfy the requirements of a dying declaration pursuant to Sec. 31, Rule 130 of the Rules of Court.

Even if the statement were not admissible as an anti-mortem declaration, it may still be considered as part of *res gestae*. The statement was natural and spontaneous and made before the deceased could contrive or devise a plan to incriminate the appellant (*People v. Araja*, 105 SCRA 133; and *People v. Laquinon*, 135 SCRA 91).

The defense of alibi cannot assume importance in the case at bar.

The defense interposed an alibi through the testimony of the accused Emilio Ramilo, corroborated by the testimonies of Francisco Tinoran, Alfredo Capongcol, Hugo Manacpo and Segundina T. Apo:

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"x x x [T]hat on August 10, 1980, the accused, Emilio Ramilo, started working for Francisco Timosan at Sitio Bencay, (also known Sebucao), Brgy. Salvacion, Dulag, Leyte at about seven o'clock in the morning unhusking coconuts. Bencay is about two kilometers from the barrio proper of Brgy. Salvacion. The accused stopped working at about 5:30 o'clock in the afternoon. The accused accompanied Francisco Timosan to the house of the latter in Barangay Salvacion where the accused ate his supper at 8:00 o'clock upon invitation of Francisco. After supper the accused was given one half gallon of tuba which the accused drank by himself in the balcony of the house of Francisco because the latter does not drink. At ten o'clock that evening the accused was fetched by his uncle, Hugo Manacpo, Jr. from the house of Francisco Timosan. The house of Hugo Manacpo, Jr. is more than hundred meters from the house of Francisco Timosan in the same barangay of Salvacion. The accused went home with his uncle, Hugo Manacpo, but they passed by the house of Alfredo Capongcol to return a tool."

As held in the case of *People v. Quinlob*, supra:

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"x x x Alibi is the weakest of all defenses because it can be easily concocted. To sustain the defense of alibi, the accused must not only show that he was at some other place at the time the crime happened, but also, that it was physically impossible for him to have been at the place where the crime was committed."

An ulterior motive has been imputed against Antonio Ramilo for testifying against his nephew, appellant Emilio Ramilo. The latter believes that Antonio, brother of his father, Senando Ramilo, testified against him because of a dispute over their inheritance which his uncle refused to give to Senando's family.

The lower court did not err in ruling that such a theory does not inspire belief considering the admission of the accused that it is Antonio Ramilo who is in possession of the land alluded to by the appellant as their inheritance.

As correctly pointed out by the Solicitor General: "If there is anybody who should feel aggrieved, it is the accused himself, Emilio Ramilo, not Antonio Ramilo, because it was the former who felt dispossessed of what he claims to be rightfully his".

On the other hand, it is the appellant who possesses a motive. The records show that about two years before the stabbing incident, Emilio Ramilo was stabbed by Ignacio Cañeda, the son of the deceased Pablo Cañeda.

It is a well-settled rule that motive is essential for conviction only when there is doubt as to the identity of the culprit or where there are no eyewitnesses and where suspicion is likely to fall upon a number of persons (*People v. Manalo*, 135 SCRA 84). Thus, there can be no doubt about the guilt of the appellant in the face of the prosecution evidence clearly and sufficiently warranting his conviction namely that the deceased Cañeda named him as his assailant, he was seen running away from the scene of the crime, and he had a motive to commit the crime.

WHEREFORE, the judgment appealed from is **AFFIRMED** with the **MODIFICATION** that the indemnity to be paid is increased to **THIRTY THOUSAND PESOS (P30,000.00)**.

SO ORDERED.

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

[*] It is impossible for Cañeda to seek shelter at 11:00 p.m. and then leave at 7:00 p.m. on the same night. This must have been either a typographical error or an oversight on the part of the trial court.

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