

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. MARIO ABLAO, ISAGANI SACOP, LEOPOLDO DE GUZMAN, PEDRO LADIANA, ZENON SAMONTE, ALFREDO DEL MUNDO, BRUNO ABLAO, ISIDORO GALEMA, ...

G.R. No. 70556. December 26, 1990

Ponente: NARVASA, J.

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NARVASA, J.:

In the evening of July 6, 1980, Hon. Lotus Sobejana, Sr., Municipal Judge of Lumban, Laguna, and his seven-year old son, Lotus, Jr., were shot and killed. They died almost instantly from multiple gunshot wounds sustained on different parts of their bodies. Thirteen (13) persons were indicted in the then Circuit Criminal Court, Laguna, as co-conspirators in the two killings, categorized by the Provincial Fiscal as double murder qualified by treachery and evident premeditation.¹

The persons indicted were the six (6) appellants herein -- Mario Ablao, Isagani Sacop, Leopoldo de Guzman, Pedro Ladiana, Zenon Samonte and Alfredo del Mundo -- and seven (7) others: Hector Samonte, David Ablao, Bruno Ablao, Isidro Galema, Danilo Mercado, Rustico Liwanag and Francisco Baldemeca. All pleaded innocent on arraignment.

On September 17, 1982, in the course of trial, Judge Jose M. Aguila, then presiding over the Circuit Criminal Court, dismissed the case as against three of the defendants: Isidro Galema, Danilo Mercado and Rustico Liwanag for insufficiency of evidence and with the conformity of the prosecution.² During the trial, too, Bruno Ablao died, and Francisco Baldemeca escaped from his detention cell in the Philippine Constabulary stockade in Santa Cruz, Laguna, and has since remained at large.

After the prosecution had rested, Judge Maximiano C. Asuncion succeeded Judge Aguila and received evidence for the defense. On February 1, 1985, he rendered judgment:

(1) ACQUITTING Hector Samonte and David Ablao “(f)or lack of sufficient evidence;”

(2) CONVICTING -

(a) "MARIO ABLAO, as principal by direct participation, PEDRO LADIANA, LEOPOLDO DE GUZMAN and ISAGANI SACOP AS PRINCIPALS by conspiracy with Mario Ablao * * of Two (2) separate MURDERS for the killing of Lotus Sobejana and Lotus Sobejana, jr. with the qualifying circumstances of treachery and evident premeditation, and the aggravating circumstances of nocturnity, disregard of rank, respect and age respectively due the victims and with the use of unlicensed firearm,” and SENTENCING “each of them * * to suffer the maximum and supreme penalty of Two (2) separate DEATH PENALTY,” and

(b) "Atty. ZENON SAMONTE and ALFREDO DEL MUNDO * * as Accessory after the fact to the crimes of Two (2) Separate MURDERS perpetrated by MARIO ABLAO in harboring and assisting in the escape of the

latter," and SENTENCING "each of them to suffer imprisonment of two (2) indeterminate penalties of Twelve (12) Years and One (1) day of the maximum of Prison Mayor to Twenty (20) Years of the maximum of Reclusion Temporal; and

(3) further SENTENCING all the accused "to pay, jointly and severally, the heirs of Judge Lotus Sobejana and his son, Lotus Sobejana, Jr. the sum of P200,000.00 as actual and compensatory damages and P500,000.00 by way of moral damages with all the accessory penalties provided for by law and to pay the costs."³

In these appellate proceedings, all the convicted defendants pray that the judgment of conviction be reversed and they be acquitted. They contend that the Trial Court erred:

- (1) in according credit to the identification of Mario Ablao by Leoncia Alarcon y Osorio, Judge Sobejana's mother-in-law;
- (2) in giving credence to the testimony of prosecution witnesses Pedro and Jose de los Reyes;
- (3) in making certain findings and conclusions of fact not borne out by the evidence; and
- (4) in holding that there was conspiracy among the accused.⁴

Having reviewed the record, the Court finds merit in these pleas sufficient to justify a reversal.

First, on the question of identification: Based on the version offered by the prosecution, besides the killer himself, two persons actually witnessed the double murder -- Felisa Alarcon, the wife of Judge Sobejana, and her mother, Leoncia Osorio Alarcon. The latter provided what the Trial Court described as "explicit and positive" testimony identifying appellant Mario Ablao as the triggerman, the decision pointing out that she identified Ablao no less than four (4) times; at the crime scene moments after the shooting, then twice in the course of the investigation conducted by the Philippine Constabulary, and finally during the trial when she picked him out from among the persons then present in the courtroom.⁵ Closer examination shows, however, that such reliance has been largely misplaced and that said witness' testimony is not as strong and convincing as it must have seemed to the Trial Court. All that appears to have been elicited from her while at the scene of the crime immediately or shortly after its commission was that the killer was a stranger wearing a hat, one, however, whom she would recognize if she saw him again.⁶ The same sketchy description was given by her to PC Col. Pedro Lumbres on the following day, July 7, 1980. True, about two weeks later at PC Headquarters in Sta. Cruz, Laguna, Mrs. Alarcon offered more details, such as that the killer was slim, fair-skinned, about five feet five inches tall, sported slightly long hair, and wore a long-sleeved fatigue shirt, denim pants and a buri hat,⁷ and supposedly picked Ablao out of a line-up; but the credibility of this as well as of her subsequent identification of Ablao during trial, seriously suffers not only from the length of time elapsed between their making and her encounter with the gunman during the commission of the crime, but also because on these last two occasions, Ablao was already established as a suspect -- a circumstance that may have colored her recollection and conditioned her mind to identify Ablao as the unknown gunman whom she had first seen for only the few brief moments that it took to carry out the double killing.⁸

Moreover, there seems to be nothing in the record to show that Ablao fitted Alarcon's later and more detailed physical description of the killer, to wit and as already stated: slim, fair-skinned, five feet five, etc., which was given two weeks after the event.

Identification evidence of this kind -- at best, inconclusive -- cannot, standing alone, provide sufficient basis for a conviction. Yet, it is not supported by any other evidence, not even by that of the other eyewitness, Alarcon's own daughter, the widow Sobejana. The latter, according to investigators, was in a state of shock and too distraught to give any statement at the crime scene. But even after she had recovered sufficiently, she failed to identify the assailant, though as she later testified, she had known all the accused for a long time.⁹

Advertence is made to the extrajudicial statement of Eduardo Mercado that he saw Ablao pass by the Lumban Academy on General Luna Street near the scene of the crime a few minutes after the killings as corroborative of the testimony identifying Ablao as the killer.¹⁰ However, any value that might attach to said statement is negated by Mercado's own later testimony disowning the same and claiming that he had been coerced by the military into giving it.¹¹

The failure of the identification evidence against Mario Ablao is equally fatal to the prosecution's theory of conspiracy which hinges upon, and has for an essential ingredient, the alleged association of the other accused with Ablao in the planning and commission of the double killing. The fact that the proof has failed to tag Ablao as the one who did the actual killing renders ipso facto suspect evidence the thrust and intendment of which is to show a conspiracy in which Ablao, and not any one of the other alleged conspirators, was assigned and agreed to carry out the part of killer. And, running true to the form that the other proof for the prosecution in this case has taken, such evidence (of conspiracy) is similarly difficult to credit, both intrinsically and because coming from hardly pristine sources.

It was attempted to prove conspiracy among the accused through the testimony of Pedro de los Reyes and Jose de los Reyes, father and son, which imputed to said accused acts and conduct such as: (a) their entering the office of Judge Sobejana in the Lumban municipal hall on June 10, 1980 (not June 9, as erroneously stated in the appealed decision) and uttering threats against his life; (b) their reconnaissance of the place where the killing took place two days before that event; (c) their having engaged in an all-day drinking spree on the day of the killing in a nearby house belonging to one of them (Zenon Samonte); (d) their furtive, unusual and suspicious movements in or about the vicinity of the crime scene on that same day before and after the killings; and (e) overheard utterances like "nayari din," indicative of guilty knowledge.

Judge Asuncion, who wrote the appealed decision, never heard these witnesses testify -- as already observed, it was his predecessor, Judge Jose M. Aguila, who heard the entire case for the People -- had little basis for approvingly adjudging their testimony as given " * * in a straightforward and simple manner * *" ¹² and obviously giving it his full credence. This he did despite the existence of evidence not seriously contradicted that these witnesses had their own axes to grind, grievances against the appellants, which should have dictated more caution in evaluating the truth and candor of what they said. That evidence is to the effect that the brothers Hector and Zenon Samonte and said witnesses had not only political differences, but also disputes concerning lands retrieved from them by the Samonte family, to the possession and income of which they felt themselves entitled; that Jose de los Reyes and Benjamin de los Reyes had been dismissed from their casual employment with the Bureau of Public Highways by Engineer Ruben Samonte, brother of Zenon; that a collection suit had been filed against Pedro de los Reyes by Samonte-owned Rural Bank of Lumban, and Zenon Samonte was a witness in a case of grave threats filed against Pedro de los Reyes by Leopoldo de Guzman;¹³ that appellant Pedro Ladiana had been Pedro de los Reyes' political rival, who had bested him in the election for barangay captain of Salac in Lumban, and he (Ladiana) had also been suspected by Pedro to be behind the petition of Salac residents denouncing the latter for mismanaging barangay affairs; that Jose de los Reyes had had a quarrel with Ladiana inside a precinct during the local elections, and Ladiana claimed that Jose owed him some still unpaid gambling debts; that appellant Isagani Sacop, for his part, had been suspected of stoning the house of Pedro de los Reyes, for which Pedro, armed with a bolo had chased Sacop and Jose de los Reyes had tried to stab him with a knife; and that Pedro also had a score to settle with Leopoldo de Guzman who had filed a still pending case against him for grave threats.¹⁴

Apart from these indicia of the Reyeses' possible bias and motive to testify falsely, it simply is difficult to believe that parties bent on a common felonious purpose would so recklessly advertise their intentions and call attention

to themselves by holding a day-long drinking spree within plain sight of the place where they planned to kill their victim that very same day, their actions visible to every curious eye; and when not huddled together in drink, conspicuously skulking about the vicinity and generally acting as if they were waiting for something out of the ordinary to happen or were helping make it happen -- actions that observers would in hindsight equate with guilt. The more natural tendency of conspirators who had planned a killing and agreed to let one of their number carry it out is for the rest to arrange to be somewhere other than at the scene of the crime at its planned time of commission to avoid any suspicion fastening upon them or provide themselves with alibis in case it did.

The credibility of the appealed decision is not helped any by indications that the Trial Judge had reached his own adverse conclusions about appellant Ablao's character, if not his guilt, even before all the evidence was in and by the presence therein of findings to which the recorded proofs offer no support except upon loose inferences. It describes Ablao's alleged actions after the killing as those of a "professional killer"¹⁵ on apparently no more solid basis than that said appellant had earlier been convicted and sentenced to death for what the Trial Judge described as a "cold-blooded murder"¹⁶ in another case also heard by him -- said remarks being clearly uncalled for in the context in which they were made and considering that Ablao was facing a capital charge. It credits the widow Sobejana with seeing, or declaring that she had seen, Ablao and Leopoldo de Guzman reconnoitering the vicinity of the crime scene on July 4, 1980 and passing through an alley later used as an escape route by Ablao after shooting Judge Sobejana and his son.¹⁷ What is, however, of record as to her actual testimony is no more than that on said occasion, Leopoldo de Guzman, accompanied by a long-haired man wearing a fatigue-cloth jacket, maong pants and buri hat (whom she did not however recognize or identify as Ablao) had walked past where she was seated on a bench in a neighbor's house.¹⁸ Similarly, nothing in the transcripts warrants describing as "frantic" or "unusual" huddles and movements, as does the appealed decision,¹⁹ otherwise normal and commonplace actions on the part of some of the accused like conversing while they walked past what was to become the scene of the crime on their way to buy cigarettes. After linking David Ablao to the crimes by stating that he must have accompanied the triggerman, Mario Ablao,²⁰ the decision proceeds to acquit him for insufficiency of evidence, in effect relegating that implicatory statement to the area of mere surmise. Of similar stripe is the statement that the case seemed but another episode in the "vicious cycle of cases in Lumban, Laguna traceable to factional strife,"²¹ which, besides not being exactly relevant, appears to be a conclusion born of the Trial Judge's conception of the backgrounds of other cases he had tried rather than on any evidence presented in this particular case. In fact, from the wealth of observations made in that judgment, it is not easy to separate what His Honor regarded as founded on hard evidence from those which were simple speculation or conjecture. Also -- and though favorable to appellant Zenon Samonte, it is another inconsistency, the appealed decision does not make clear why appellant Zenon Samonte was found guilty only as an accessory after the fact notwithstanding its having found as fact that the conspiracy was hatched in his own home, that he was the one who had brought Mario Ablao there in the morning of the day of the killings, and that he had been present in the Lumban municipal building on that occasion of June 10, 1980 when the other appellants had barged into the office of Judge Sobejana allegedly with the intention of doing him bodily harm.²³

Error was further committed in giving weight and credence to the alleged confession of Francisco Baldemeca, one of the original accused who escaped from detention and has since remained at large, as evidence against Mario Ablao. There having been no opportunity on the part of the defense, which objected to its presentation,²⁴ to examine Baldemeca about said confession, it is inadmissible hearsay entitled to no consideration.²⁵

On the whole and in view of the conspicuous deficiencies and shortcomings of the evidence for the prosecution, whatever suspicions about the complicity of the appellants in the killing of Judge Sobejana and his son are not promoted to any reasonable certainty. Said evidence, insufficient, in the Court's considered view after due examination and evaluation, to pinpoint Mario Ablao as the gunwielder or to establish the existence a conspiracy

among the appellants to take the lives of said victims, fails to overcome the presumption of innocence and erase all reasonable doubts of guilt. The verdict of the Trial Court and the respect and acceptance that by precedent its findings of fact would otherwise ordinarily command notwithstanding, the appellants are entitled to an acquittal.

WHEREFORE, the appealed decision is SET ASIDE and REVERSED, and the appellants are ACQUITTED, with costs de oficio.

SO ORDERED.

Cruz, Gancayco, Grino-Aquino, and Medialdea, JJ., concur.

1 Rollo, p. 6; the case was docketed as Criminal Case No. 2877

2 Original Record, vol. III, p. 530

3 Rollo, pp. 36-80

4 Appellants' brief, pp. 23-24; Rollo, p. 103

5 Appealed Decision, supra; Rollo, p. 62

6 TSN September 16, 1981, pp. 50-51

7 Witness' statement given July 21, 1980

8 People vs. Aquino, 93 SCRA 772 (1979); People vs. Delmendo, 109 SCRA 350 (1981)

9 TSN July 9, 1981, p. 65

10 Rollo, p. 62

11 TSN July 30, 1981, pp. 10-25

12 Appealed Decision; Rollo, p. 72

13 TSN June 12, 1982, pp. 13-19

14 TSN July 23, 1981, pp. 42, 70-73

15 Rollo, p. 60

16 Rollo, p. 63

17 Rollo, p. 60

18 TSN July 9, 1981, pp. 36-37

19 Rollo, pp. 66, 70

20 Rollo, p. 66

21 Rollo, p. 62

22 Rollo, p. 66

23 Rollo, pp. 64-65

24 TSN September 17, 1981, p. 38

25 People vs. Amajul, 1 SCRA 682 (1961); People vs. Cabiltes, 25 SCRA 112 (1968)

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