

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ALEJANDRO REUNIR, ACCUSED-APPELLANT.

G.R. No. 73605. January 29, 1988

Ponente: MELENCIO-HERRERA, J.

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MELENCIO-HERRERA, J.:

Accused-appellant, Alejandro Reunir y Tan, appeals from the judgment[*] of the Regional Trial Court of Quezon City Branch 89, in Criminal Case No. Q-32606, convicting him of Murder and sentencing him to reclusion perpetua.

According to the prosecution, the offense was committed as follows:

"At about 9:00 o'clock in the evening of December 4, 1983, the victim whose father, Dominador Umagtang, has a flower shop inside St. Peter Memorial Chapels at Quezon City; the accused who used to help in said memorial chapels; and, Felix Ramos, Jr., the nightshift driver therein, were together (pp. 11, 13, tsn., May 8, 1984).

"While being thus together, the accused asked money from the victim which the latter gave. But, when the accused asked money, for the second time, from the victim, this was refused. The accused resented the refusal. It was then about 10:00 o'clock in the evening (pp. 10, 13, *ibid.*).

"The accused also asked money from Felix Ramos, Jr., who, however, had no money. For this, the accused got angry at Felix who he also wanted to stab but which did not materialize (p. 14, *ibid.*).

"After refusing to give money to the accused the second time, the victim went inside a house in front of the basement of the memorial chapels to sleep (p. 4, *ibid.*).

"Then, at about 1:00 o'clock in the early morning of December 5, 1983, the accused who was roaming around the compound of St. Peter, was seen by Felix Ramos, Jr., who was then urinating at a distance of ten (10) arm lengths away, entering the house where the victim slept, thru the open door (p. 6, *ibid.*).

"The accused was then the only person in the house with the victim (pp. 7, 12, *ibid.*).

"When the accused went out, Felix Ramos, Jr., saw him with a kitchen knife (pp. 7-8, 15, *ibid.*).

"Thereafter, Felix Ramos, Jr., and the janitor of St. Peter, by the name of Jolobello (Holobillo), picked-up the victim and brought him to the Jose Reyes Memorial Hospital (pp. 4, 15, *ibid.*).

"On their way to the hospital, Felix Ramos, Jr., asked the victim who stabbed him. But the latter said that he did not know as he was sleeping (pp. 12, 15-16, *ibid.*).

"The victim died on the same day, December 5, 1983, because of shock and hemorrhage due to a stab wound lacerating the left kidney, per his Certificate of Death (Exh. B) (p. 4, *ibid.*).

"For the death of his son, the father, Dominador Umagtang, spent the amount of P14,230.00 (Exh. 'C'), and the victim, who was 17 years old at the time of his death, lost his earning capacity of P30.00 a day, as a flower

shop worker (pp. 3-4, tsn., June 27, 1984).

"Sometime on February 27, 1984, the accused, with his friend, Juanito de la Cruz, were arrested by elements of the PC and CHDF led by Sgt. Laganao at Barangay Duhat, Padre Burgos, Quezon, while they were walking on their way to Manila from Catanauan, Quezon (pp. 6, 7, tsn., June 25, 1984).

"Previous to his arrest, the accused was sent, on December 10, 1983, by his mother to his cousins, Rogelio and Julio de Ramos, at Barangay Dahikan, Catanauan, Quezon (p. 4, tsn., Oct. 3, 1984; p. 3, tsn., Oct. 6, 1984).

"The accused was brought to the police station of Padre Burgos where he admitted to CHDP Manuel Laude that he committed a crime in Quezon City. The CHDF told the Station Commander about this (pp. 6, 7, tsn., June 25, 1984).

"Thus, the Station Commander told Pat. Antero Binabay to get the statement of the accused, which the latter did on February 29, 1984 at the Police Station at Padre Burgos, Quezon xx xx xx (pp. 3-6, *ibid.*; Exhibit 'A')." (pp. 2-5, Appellee's Brief).

Subsequently, Accused-appellant was taken to Quezon City by a patrolman and an unidentified soldier and turned over to the Quezon City Police.

On 16 March 1984, Accused-appellant executed a second sworn statement (Exhibit "D") before an Investigator of the Quezon City Police wherein he stated, *inter alia*:

"TANONG 10: Bakit naman nandoon kayo sa bundok ng Quezon, ano naman ang ginagawa ninyong dalawa ni JUANITO doon?

"SAGOT 10:

Naglalakad kami noon sir dahilan sa galing kami roon sa may taniman namin doon at pababa na kami ng bundok noon sir, para lumuwas na ng Maynila at para sumurrender ako, dahilan sir sa nakapatay ako pero yon po ay pagseself-defense ko lang.

x x x x x

"TANONG 13: Nasabi mo kanina na ikaw ay may napatay? sino naman itong tinutukoy mong napatay mo?

"SAGOT 13: Ang alam ko pong pangalan niya ay ALEX, na kasamahan ko sa Flower's Shop sa Punerarya ng St. Peter, sa Quezon Boulevard.

"TANONG 14: Kailan at saan mo naman napatay itong si ALEX?

"SAGOT 14: Sa loob po ng compound ng St. Peters Chapel noon pong ika 5 ng December 1983 mga ika 1:00 ng madaling araw.

"TANONG 15: Bakit o papaano mo naman napatay itong si ALEX?

"SAGOT 15:

Ganito sir yon, matutulog na ako noon sir at natutulog na si ALEX sa basement, ngayon ginising ko siya para sabihin na kukunin ko yong kumot ng Tatay ko at gagamitin ko sa pagtulog, pero ng ginigising ko na siya ay naalimpungan siya, may kalapit siyang kutsilyo sa pagtulog at sa paggising niya dinampot niya agad yong kutsilyo at inambahan niya ako ng kutsilyo, pero hindi ako tinamaan noong una kaya nahawakan ko yong kamay niya at pinisil ko yong kamay niya nabitiwan niya yong kutsilyo kaya dinampot ko at doon ko siya nasaksak sa may tagiliran sa likod niya. Doon pa po ako natulog noong gabing yon, at kinabukasan nga ay nalaman ko na dinala siya sa ospital at sinabi niya na ako ang sumaksak sa kanya, kaya umuwi na ako noon sa nanay ko, tapos ipinadala naman ako ng nanay ko sa Lucena Quezon, para doon na lang muna ako at para magtanim-tanim ako roon ng Camote at iba pang mga guIay. Nagtrabaho rin ako sir sa palaisdaan doon.

"TANONG 16: Kung ganoon inaamin mo na ikaw ang nakapatay kay ALEX?

"SAGOT 16: Opo. Inaamin ko po."

A third Statement was executed by Accused-appellant the following day (Exhibit "E") wherein he stated in part:

"TANONG 06: Ngayong bakit ka naririto sa loob ng silid siyasatan at nagbibigay ng isang malayang salaysay?

"SAGOT 06:

Para po ipaalam sa inyo na noong pababa na kami ni JUANITO DE LA CRUZ sa bundok ng Quezon at nahuli kami ng mga sundalo ay papunta na kami rito sa Maynila para magkusang sumuko sa kinauukulan.

"TANONG 07: Bakit mo naman naisipang sumuko sa mga kinauukulan?

"SAGOT 07: Para po maipaliwanag ko ang buong pangyayari at malaman ninuman na ako ay nagtanggol lamang sa sarili ko noong mangyaring ako ay makasaksak.

"TANONG 08: May nag-utos ba sa iyo na magbigay ng karagdagang salaysay na ito, sinaktan ka ba o tinakot para lang magbigay ng ganitong salaysay?

"SAGOT 08: Wala po, at ang lahat ay mga kagustuhan ko.

"TANONG 09: Wala na akong itatanong pa sa iyo, meron ka pa bang gustong sabihin sa imbestigasyong ito?

"SAGOT 09: Ang masasabi ko lang po ay para patunayan na ako ay nagtanggol lang sa sarili ko ay gusto ko pong manatili muna rito sa Headquarters na pansamantala."

In open Court, however, Accused-appellant denied having had anything to do with the death of the victim. His defense was alibi, claiming that at the time of the incident he was with his mother, who is a Metro-aide, sleeping at the Metro-aides' quarters at the Engineering Compound, Quezon City. He denied the contents of his first statement, Exhibit "A", which he claimed was only made up by the police and which he signed only because he was maltreated by around 20 soldiers at the military camp in Padre Burgos, Quezon Province.

The Trial Court disbelieved the defense of alibi, convicted Accused-appellant of Murder and, in the absence of modifying circumstances, sentenced him to suffer reclusion perpetua with all the accessory penalties provided for by law; to indemnify the heirs of the victim in the amount of P30,000.00; and to pay the costs.

Accused-appellant maintains in this appeal that:

I

"The Honorable Regional Trial Court erred in convicting accused-appellant based on the confession of the latter identified as Exhibit A which is inadmissible as evidence in Court.

II

"That the Regional Trial Court erred in convicting the accused-appellant of the crime charged by giving credence to the incredible testimony of Felix Ramos, witness for the prosecution."

There is basis for the first assigned error. The Trial Court had, indeed, concluded:

"On the basis, therefore, of the extra-judicial confession of the accused whose admissibility in evidence had been satisfactorily established, coupled by proof of corpus delicti, there is no question that the accused is criminally responsible for the killing of the victim".

Even the People in their Brief admit, however, that Exhibit "A" is inadmissible in evidence, for, as the defense stresses, when the confession was extracted from Accused-appellant he was alone among military officers without a lawyer to assist him, not even a friend, relative, or even someone who witnessed the execution of the confession. Conviction, therefore, cannot be based thereon.

The question now is whether conviction can be predicated on his two other extrajudicial confessions, Exhibits "D" and "E". The People maintain the affirmative. The defense is silent on the point.

We hold that the other two extrajudicial confessions, Exhibits "D" and "E" are similarly inadmissible. Although Accused-appellant's mother was a witness to Exhibit "D", there is nothing in the records to show that she had understood the contents thereof and that she was cognizant of the constitutional rights of her son. Her presence cannot substitute for the explicit requirement that counsel be present in custodial interrogations (*Morales, Jr. vs. Enrile*, No. L-61016, April 26, 1983, 121 SCRA 538) so that the constitutional rights of a detained person may be sufficiently safeguarded.

But even disregarding said confessions, the circumstantial evidence is ample enough to establish the guilt of Accused-appellant through the testimony of prosecution witness Felix Ramos, Jr., who had known Accused-appellant for about one (1) year. Motive for the commission of the crime was established, specifically, the refusal of the victim to lend money to Accused-appellant for the second time that fateful night. Much later, the latter was seen by said witness enter the house where the victim slept, then leaving it with a kitchen knife in his hand at about 1:00 A.M. of December 5, 1983, after which the victim was found to have sustained a stab wound at the left side of his body which caused his death. There was no one else in that house aside from

Accused-appellant and the victim so that the inevitable conclusion is that he was the malefactor. Although said witness did testify that five funeral agents and the janitor were also in the premises, witness was referring to people in the memorial chapels opposite the house where the victim was killed and not to the house itself. There is no inconsistency in Ramos' testimony, therefore, and the Trial Court committed no reversible error in lending it credence contrary to the defense allegation in its second assigned error.

The flight of Accused-appellant to Quezon Province after the incident is also indicative of his guilt. As he had stated in his Statement, Exhibit "D", he learned the next morning of the incident that the victim had disclosed that he was the assailant so that at his mother's behest he went to Lucena, Quezon, where he remained in hiding for over a year until his arrest in February, 1984. The ostensible reason given, which was to help his cousins in making copra, is too flimsy to justify the interruption of his schooling as a second year high school student at the Manuel Roxas High School at the time.

Accused-appellant's defense of alibi deserves no credence. For that defense to succeed it must be shown that not only was an accused at some other place at the time but that it was physically impossible for him to have been at the scene of the crime at the time of its commission. As the Trial Court had pointed out, the Metro-Aide quarters at the Engineering Compound at Quezon City is less than a kilometer away from the St. Peter Memorial Chapels so that even if Accused-appellant was, in fact, sleeping with his mother that evening, it would have been an easy matter for him to have slipped out at 1:00 A.M., committed the offense, and then returned to the sleeping quarters.

As to the categorization of the crime, treachery was correctly appreciated by the Trial Court. As prosecution witness, Felix Ramos, Jr. testified, when he asked the victim about the identity of his assailant, the victim replied that he did not know as he was asleep at the time. That statement was part of the *res gestae* and sufficiently proves that treachery attended the commission of the offense.

Upon the totality of the evidence, therefore, we conclude that the guilt of Accused-appellant has been established beyond reasonable doubt.

The penalty, however, will have to be modified. With the abolition of capital punishment in the 1987 Constitution the penalty for Murder is now reclusion temporal in its maximum period to reclusion perpetua (People vs. Gavarra, No. L-37673, October 30, 1987; People vs. Masangkay, G. R. No. 73461, October 27, 1987). With no modifying circumstances attendant, said penalty is imposable in its medium period, or, from eighteen (18) years, eight (8) months and one (1) day to twenty (20) years. The indeterminate penalty would then be within the range of the penalty next lower, or, prision mayor, maximum, to reclusion temporal, medium (Article 61, parag. 3, Revised Penal Code), or, from ten (10) years and one (1) day to seventeen (17) years and four (4) months.

WHEREFORE, the appealed judgment is hereby modified in that the accused-appellant, Alejandro Reunir y Tan, is hereby sentenced to suffer the indeterminate penalty of ten (10) years and one (1) day of prision mayor, as minimum, to eighteen (18) years, eight (8) months and one (1) day of reclusion temporal, as maximum. Costs against accused-appellant.

SO ORDERED.

Yap, (Chairman), Paras, Padilla, and Sarmiento, JJ., concur.

[*] Penned by Judge Rodolfo A. Ortiz.

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