

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. FELIPE BRAVANTE AND AUGUSTO ALTAREJOS, ACCUSED-APPELLANTS.

G.R. No. 73804. May 29, 1987

Ponente: GUTIERREZ, JR., J.

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GUTIERREZ, JR., J.:

This is an appeal from an August 16, 1985 judgment of the Regional Trial Court of Masbate which found Felipe Bravante and Augusto Altarejos guilty of murder and sentenced them as follows:

"WHEREFORE, premises considered, judgment is hereby entered finding all the herein accused GUILTY beyond reasonable doubt of the crime of murder and hereby sentences them with the penalty of RECLUSION PERPETUA with all the accessory penalties provided for by law; and, to indemnify, jointly and severally, the heirs of the victim, Miguel B. Nuevo, in the sum of P30,000.00, without subsidiary imprisonment in case of insolvency, and to pay their proportionate share of the costs." (pp. 8-9, Decision of the trial court.)

In an information dated May 18, 1984, the two accused-appellants were charged as follows:

"That on or about December 24, 1983, in the evening thereof, at sitio Burabod, Barangay Resurreccion, Municipality of San Fernando, Province of Masbate, Philippines, within the jurisdiction of this court, the said accused conspiring and helping each other, with intent to kill, evident premeditation, treachery and superiority of strength, did then and there wilfully, unlawfully and feloniously attack, assault, spear, hack and stab with bolos one Miguel Nuevo, hitting the latter on the different parts of the body, thereby inflicting wounds which directly caused his instantaneous death." (p. 2, Rollo).

The facts upon which the trial court based its decision finding the appellants guilty beyond reasonable doubt are summarized as follows:

"It is not disputed that on or about 6:00 o'clock in the afternoon of December 24, 1983, Miguel Bravante Nuevo, the victim in this case, died of 'massive hemorrhage secondary to multiple wounds' (Exh. B-2) as a result of injuries he suffered in an incident involving him and the herein accused which took place at sitio Burabod, barangay Resurreccion (also known as Looc), San Fernando, Masbate, more particularly the following, to wit:

- '1. Hacking wound to the head, "C" shaped about 6 inches on left temporal area penetrating the brain;
- '2. Hacking wound to the throat, about 6 inches long, 3 inches deep, along anterior side of the neck;
- '3. Stab wound, right side, thorax, about 3 inches long, 1 inch to the right of sternum at 3rd intercostal spine;
- '4. Incised wound, 3 inches long across left palm.

"The post-mortem examination of the victim was conducted at about 1:00 p.m. of December 25, 1983 by Municipal Health Officer Roger A. Badillo of Batusa, Masbate (Exhs. B & B-1) who likewise issued the victim's Certificate of Death (Exhs. C & C-1). Per testimony of Dr. Artemio Capellan (who was called to the witness stand in lieu of Dr. Badillo who was unavailable), the fatal wounds were injuries Nos. 1, 2 and 3,

inclusive, which could have been respectively caused by a 'C-shaped' spade, a sharp-bladed instrument like a bolo, and a sharp-pointed weapon like a dagger (tsn-Diano, January 24, 1985, p. 2).

"The State asserts that late in the afternoon of December 24, 1983, while victim Miguel B. Nuevo, the latter's 8-year old son Jose Nuevo and their companion Nilo (alias Sato) Bauso (also known as Danilo Bauso) were on their way home to Burabod, Resurreccion, from the Poblacion of San Fernando, Masbate, (where they bought some food items in preparation for the 'noche buena'), the herein accused Felipe Bravante and his co-accused and son-in-law Augusto Altarejos suddenly approached them while they were in a trail near accused Bravante's house, and without any warning, accused Felipe Bravante armed with a spear attacked the victim Miguel B. Nuevo (who ran then unarmed) hitting the latter twice - first, on the upper portion of his left arm below the shoulder, followed by the thrust of the spear on the middle portion of the victim's breast. After the victim fell down to the ground face upward, accused Augusto Altarejos, armed with a bolo, hacked the victim twice hitting him on the forehead and on the neck. Thereafter, the two accused chased Nilo (alias Danilo or Sato) Bauso while the victim's son, Jose Nuevo, went home to inform his mother, Teresita Aninipot (victim's wife) about his father's death in the hands of the herein two accused. Mother and son returned to the crime scene where they found the victim lying dead on the ground, face upward. One named Leonardo Maro reported the incident to the muni-cipal authorities.

"Jose Nuevo and the victim's wife were interrogated that same evening by Patrolman Darlie Alvarez and the latter's companions, Patrolman Llacer and Arnulfo Arizala, all of whom failed to reduce into writing the child's narration of the incident. Nonetheless, the said policemen prepared a sketch of the crime scene (Exhs. A & A-1) indicating therein the location of the victim's corpse in relation to the house of accused Felipe Bravante which turned out to be only thirteen (13) meters away (Exh. A-2). The policemen learned, during their interrogation, that the victim's assailants were the herein accused Felipe Bravante and Augusto Altarejos who were both no longer at the crime scene so they failed to investigate them. They also failed to investigate that evening the victim's companion, Nilo Bauso, who was likewise a suspect in this case.

"On the following day, December 25, 1983, Patrolman Arnulfo Arizala, on orders of the Station Commander, conducted an investigation of the two accused but only accused Felipe Bravante executed an extra-judicial confession while his co-accused, Augusto Altarejos, refused to give any formal statements, even as it was uncertain whether the third suspect, Nilo (Sato) Bauso, ever gave any written affidavit.

"The victim's widow, Teresita Aninipot, claims furthermore that sometime in January, 1984, accused Felipe Bravante, armed with a bolo, gave her P60.00 (which she received for fear of her life) in her residence at Burabod, Resurreccion telling her to leave the place with her children for if she does she would still be paid the additional sum of P300.00 so as to abandon this case. In fact, accused Bravante revealed to her that Nilo (alias Sato) Bauso had already left the place and would no longer be available as a witness in this case, in consideration of P500.00 given to him by the accused." (pp. 2-4, Decision of the trial court.)

The evidence presented by the appellants consisted of their own testimonies and that of two witnesses - Pelagio Tuca and Patrolman Redempto Caperino. It consisted primarily of allegations of self-defense on the part of Felipe Bravante and alibi on the part of Augusto Altarejos.

The accused-appellants summarized their evidence as follows:

"Evidence for the defense shows that at 2:00 o'clock in the afternoon of December 24, 1983, Felipe Bravante and his hired cook, Melanio Tuca, were preparing food at the former's house. Miguel Nuevo and Nilo Bauso arrived uninvited at Bravante's house and were entertained with drinks. The duo left at about five p.m., but returned after an hour and challenged Felipe Bravante to a fight, threatening to kill the accused and his family. Knowing the victim to be a criminal and a trouble maker, with a sturdier and bigger body build than the accused, the latter armed himself with a bolo and a double-bladed spear. As Nuevo tried to go up the house of Bravante, the latter blocked his way with the spear, hitting the former on the head and breast. Nuevo died a few

meters away from Bravante's dwelling. The accused surrendered to Pat. Arizala.

"When the quarrel actually took place, accused Augusto Altarejos already left Bravante's house. Altarejos, out of fear, ran with his pregnant wife and mother-in-law towards his own house some two (2) kilometers away. He denied any participation in the offense charged and was implicated in the case for being a son-in-law of Felipe Bravante."

(p. 3, Appellants' brief)

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The accused-appellants raised the following assignments of errors in their appeal:

I

THE COURT A QUO ERRED IN FINDING THAT CONSPIRACY BETWEEN AUGUSTO ALTAREJOS AND HIS CO-ACCUSED WAS ESTABLISHED BY EVIDENCE.

II

THE COURT A QUO ERRED IN FINDING THAT THE QUALIFYING CIRCUMSTANCE OF TREASON WAS ATTENDANT IN THE COMMISSION OF THE CRIME.

III

THE COURT A QUO ERRED IN FINDING THE ACCUSED GUILTY BEYOND REASONABLE DOUBT OF THE CRIME OF MURDER.

(pp. 4 and 5 of appellants' brief)

The first assigned error alleges that Augusto Altarejos had no participation in the killing of Miguel Nuevo. The evidence indicates otherwise. Altarejos was not a mere passive co-conspirator. Much less was he an innocent person two kilometers away when the crime was committed. After Bravante struck the victim with a spear wounding him in the breast and in the upper left arm, Altarejos finished him off by hacking him on the forehead with a bolo. The wound was so deep that it penetrated to the brain. The two appellants then chased Nilo Bauso, the victim's companion while the victim's eight year old son, Jose Nuevo, ran home to report the killing and to seek help. The evidence points to two assailants. There was eye-witness testimony. The number and nature of the wounds corroborate the testimony of the eyewitness that the two accused — one armed with a spear and the other with a bolo — perpetrated the killing.

We agree with the findings of the trial court on this point:

"As established by the evidence, the sequence of the overt acts individually performed by the accused clearly revealed their unity of purpose at the time of the commission of the offense and that they were united in its execution. (See *People v. Cadag*, 2 SCRA 288; *People v. Clarit*, 3 SCRA 331; and *People v. Pagaduan*, 29 SCRA 54). In fact, the victim suffered numerous wounds - a circumstance which negated the defense' submission that it was the accused Felipe Bravante who alone inflicted the fatal injuries. Notwithstanding Dr. Capellan's opinion as to the possibility that the victim's various wounds could have been caused by only one assailant armed with 2 or 3 weapons (tsn., Diano, January 24, 1985, p. 4), the Court, nonetheless, finds ample justification in the conclusion of 'plurality of assailants' in the light of the nature and degree of the victim's fatal injuries which, per the doctor's opinion, were caused probably by at least two (2) weapons - one, a 'C-shaped' instrument, and the other, by a bladed and sharp-pointed bolo or dagger (tsn., p. 2). As aptly observed by the Supreme Court in one case:

'Numerous wounds in the body of the victim indicate plurality of assailants' (People v. Manzano, 58 SCRA 250).

Having thus cooperated indispensably in causing the death of the victim, the herein two accused are liable as co-conspirators (People v. Cutura, 4 SCRA 663) and each of them responsible for the acts of the other in further-ance of their conspiracy (People v. Pareja, 30 SCRA 693)." (p. 6, Decision of trial court).

The other assigned error questions the finding of treachery.

The appellants claim that the bolo belonged to Miguel Nuevo and that appellant Bravante was able to arm himself with another bolo and a double bladed spear to defend himself against an attack by Nuevo.

The findings of the trial court that Bravante and Altarejos waylaid Miguel Nuevo, Nilo Bauso, and eight year old Jose Nuevo when the three were passing along a trail near the Bravante's house is more logical and believable than the allegation of self-defense. The evidence shows that Miguel Nuevo was bringing food items for a noche buena when he was suddenly attacked by two assailants, one armed with a spear and the other with a bolo. The victim alone suffered the fatal wounds. The attack was so sudden that the victim had no opportunity to defend himself or to inflict retaliatory blows on the assailants. He just fell down after the spearing and was then hacked by Altarejos with the bolo. The killing was characterized by treachery.

The Revised Penal Code states:

"ART. 14. Aggravating circums-tances. - The following are aggravating circumstances:

xxx xxx xxx

"(16) That the act be committed with treachery (alevosia).

"There is treachery when the offender commits any of the crimes against the person, employing means, methods, or forms in the execution thereof which tend directly and spe-cially to insure its execution, without risk to himself arising from the defense which the offended party might make."

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The waylaying and the sudden attack show that the elements of treachery or alevosia are present. (See People v. Estillore, 141 SCRA 456).

To support his self-defense theory, Felipe Bravante alleged voluntary surrender. This claim is belied by the trial court which stated:

"The Court also finds defense' evidence as to the fact of surrender of accused Felipe Bravante to be unsatisfactory and unconvincing for, as disclosed by the record, the accused did not surrender but was, in fact, arrested on March 12, 1984 (more than 2 months after the incident) by Patrolman Blandino Deinla and was placed in detention in the municipal jail of San Fernando, Masbate, up to March 16, 1984 when he posted bail for his provisional liberty (record, pp. 13 to 21). Besides, his assertion of having sur-rendered to Patrolman Alvarez has not been corroborated by any competent and reliable evidence, muchless by Pat. Alvarez whose testimony in Court did not bear any suggestion to that effect.

"In this case, the crime commit-ted is murder qualified by treachery. The two accused, all armed with deadly weapons, suddenly attacked the victim without any warning, accused Felipe Bravante, using his double-bladed spear, struck the victim, hitting him on the upper portion of the left arm, and on the middle portion of the victim's breast. When the victim fell down, accused Augusto Altarejos hacked him with a bolo on the forehead and the neck, causing his instantaneous death, without any opportunity on the part of the victim to defend himself." (p. 8, Decision of the trial court).

The third assignment of error has no merit. The evidence clearly shows the appellants' guilt beyond reason-able

doubt.

WHEREFORE, the judgment rendered by the court a quo is hereby **AFFIRMED** in toto with costs against the accused appellants.

SO ORDERED.

Fernan, (Chairman), Paras, Padilla, Bidin, and Cortes, JJ., concurs.

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