

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. EUGENIO RELLON ALIAS "GENIO", ACCUSED-APPELLANT.

G.R. No. 74051. November 08, 1988

Ponente: PARAS, J.

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PARAS, J.:

Appellant Eugenio Rellon alias "Genio" was charged before the lower court with the crime of Murder in an Information quoted hereunder:

"That on or about the 16th day of January, 1983, at about 5:30 o'clock in the afternoon, in the City of Cebu, Philippines, and within the jurisdiction of this Honorable Court, the said accused, armed with a deadly weapon, with treachery and evident premeditation, with deliberate intent, and with intent to kill, did then and there suddenly and unexpectedly stab one Arsenio Ram on the neck and at the back with said deadly weapon, thereby inflicting upon him the following physical injuries:

'HEMORRHAGE SEVERE, SECONDARY TO MULTIPLE INCISED HACK STAB WOUNDS, HEAD, NECK, BODY AND UPPER EXTREMITIES.'

and as a consequence of which, said Arsenio Ram died instantaneously.

"CONTRARY TO LAW." (p. 25, Rollo)

After due trial, judgment[*] was rendered by the trial court on January 2, 1986, its dispositive portion reading as follows:

"IN VIEW OF THE FOREGOING, this Court finds the accused EUGENIO RELLON alias 'GENIO' GUILTY of murder beyond reasonable doubt and is hereby sentenced to reclusion perpetua, to indemnify the heirs of the deceased Arsenio Ram the amount of P30,000.00 and to pay the costs.

"SO ORDERED." (p. 24, Rollo)

From the aforesaid judgment of conviction, appellant interposed the present appeal with this sole error:

THE LOWER COURT ERRED IN CONVICTING THE ACCUSED FOR MURDER INSTEAD OF HOMICIDE.

The evidence for the prosecution shows that on January 16, 1983 at around 5:30 in the afternoon, Arsenio Ram was stabbed to death while watching the Sinulog festival (tsn, January 25, 1984, pp. 2-3). Virginia Lusareto, stepdaughter of the victim, testified that she saw appellant walking back and forth behind the victim who was sitting on a bench. A minute later, appellant suddenly held the shoulder of the victim and stabbed him with a butcher's knife. Appellant thereafter fled. Upon seeing appellant stab the victim, Virginia shouted to her mother for help, but because of the commotion caused by the Sinulog celebration, her pleas were not heard. (ibid.)

A medico-legal expert testified that the victim suffered multiple stab wounds on his neck, back, chest and left arm (tsn, August 30, 1984, p. 4).

The accused Eugenio Rellon took the witness stand claiming self-defense. He narrated that on January 16, 1983 at around 5:30 in the afternoon, while walking to-wards his house at Tres de Abril, accused saw Arsenio Ram sitting at the roadside when the latter suddenly stood up, took his knife and thrust it towards Rellon. Accused was able to ward off the thrust by holding the deceased's arm and grappled for the possession of the knife. Having succeeded in getting the knife, accused accidentally stabbed the deceased in the right chest. After the stabbing incident, the accused left the scene.

The principal question, as in most criminal cases, is the credibility of witness. A review of the records of the case, however, shows that the evidence undoubtedly supports the findings and conclusions of the trial court in its judgment and conviction.

Through the testimony of Virginia Lusareto, the lone eyewitness to the crime, it has been established beyond reasonable doubt that appellant stabbed Arsenio Ram at the back with a butcher's knife.

The trial court held that the crime committed was murder. It appreciated treachery when it took note of the fact that the victim was suddenly stabbed from behind while he was watching the Sinulog dance. The trial court stated:

"It is a fact that the accused suddenly attacked and stabbed the victim from behind. He did this after walking back and forth behind the victim. As held in the cases of Sombilon (83 Phil. 630), Camay (89 Phil. 509), Escarro (89 Phil. 520), and Segovia (92 Phil. 1080), there is treachery where the attack on the victim was sudden and unexpected and from behind and without warning.

"Treachery is one of the qualifying circumstances for murder. '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 specially to insure its execution, without risk to himself arising from the defense which the offended party might make' (Par. 16, Art. 14, Revised Penal Code). Two conditions constitute treachery: (1) employment of means of execution so as to give to person attacked no opportunity to defend himself or retaliate; (2) that such means of execution was deliberately or consciously adopted (People v. Samonte, Jr., 64 SCRA 319).

"Treachery was appreciated in cases where the victim while sitting on the ground unarmed and absolutely unprepared, and without the least suspicion of the danger he was incurring was suddenly and abruptly assaulted by the 2 accused, without a word being uttered, and the first blow hit him on the nape of the back, knocking him backwards to the ground, and as he tried to get up he was stabbed in the abdomen (Castellon, 12 Phil. 160; Macarinas, 40 Phil. 1) The same thing happened in the case at bar. The characteristic and unmistakable manifestation of alevosia is the deliberate, sudden and unexpected attack of the victim from behind, without any warning and without giving him an opportunity to defend himself or repel the initial assault (Mercoleta, 17 Phil. 317; Boduso, 60 SCRA 60).

When appellant stabbed the victim, the latter was sitting on a bench watching the singing and dancing during the Sinulog festival. The victim was engrossed in the merrymaking when suddenly appellant stealthily stabbed him from behind. An attack from behind is treachery (People v. Danes, 131 SCRA 286; People v. Crisanto, Jr., 135 SCRA 413).

WHEREFORE, the decision appealed from is hereby AFFIRMED, with the sentence modified to an indeterminate term of ten (10) years and one (1) day of prison mayor as minimum to eighteen (18) years, eight (8) months and one (1) day of reclusion temporal as maximum, considering the Indeterminate Sentence Law. Costs against appellant.

SO ORDERED.

Melencio-Herrera, Padilla, Sarmiento, and Regalado, JJ., concur.

[*] Penned by Judge Leopoldo U. Diaz

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