

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JUAN REYES, ACCUSED-APPELLANT.

G.R. No. 74675. October 18, 1988

Ponente: MELENCIO-HERRERA, J.

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MELENCIO-HERRERA, J.:

The accused Juan Reyes professes innocence of the crime of Murder of which he was convicted by the Regional Trial Court of Masbate, Masbate,[*] in Criminal Case No. 4657, and sentenced to suffer the penalty of reclusion perpetua: "to indemnity the heirs of the deceased, Aramis Asuncion, in the sum of P30,000.00; to pay P30,000.00 as moral damages; without subsidiary imprisonment in case of insolvency, together with all the accessory penalties provided for by law and to pay the costs." (p. 20, Rollo)

The accused assails the credibility of the prosecution evidence narrated hereunder, particularly the testimonies of prosecution witnesses, Ely Grecia and Pat. Tagumpay Mendoza.

"The thrust of the prosecution evidence is to the effect that in the evening of December 31, 1984, a dance was held at Plaza Magsaysay in Poblacion Aroroy, Masbate in celebration of the New Year's Eve. At about midnight of the same date, while Ely Grecia and Arsenio de la Cruz were having a drinking spree just outside the said plaza, the victim, Aramis Asuncion, arrived and joined them. After a while Aramis Asuncion asked permission that he will urinated. It was at this point, while the victim was urinating that accused Juan Reyes suddenly stabbed him with a batangas knife, hitting the latter in the right portion of his abdomen.

"Ely Grecia who was just three (3) meters away from the victims saw the stabbing incident. He related that he saw accused Juan Reyes stab the victim with a batangas knife about 8 inches long, hitting the latter on the left portion of his stomach. Upon seeing this he approached the deceased but in the process he, too, was stabbed twice by the accused, hitting his right hand and abdomen superficially.

"Grecia positively identified accused Juan Reyes as the assailant because the place of the incident, which is four (4) meters away from the plaza, was well lighted by flourescent lamps placed inside the said plaza. He also declared that the moon was bright during that fatal night.

"Patrolman Tagumpay Z. Mendoza, who was then assigned as member of the beat patrol was at the gate of Plaza Magsaysay in Aroroy in the evening of December 31, 1984. He testifier that when he arrived at the said plaza at about 10:00 P.M. or 10:30 P.M. of the same date, he saw Sgt. Bajaro, the Station Commander of Aroroy, Masbate pacifying Juan Reyes, Mocring Mortel and Gigi Inventor because of the quarrel that ensued between the said persons as against Pat. Mones. Sgt. Bajaro advised the four to go home. According to Pat. Mendoza, he did not see Aramis Asuncion at the place when Sgt. Bajaro pacified the group of Juan Reyes. At around midnight more or less, while Pat. Mendoza was standing by the road fronting Plaza Magsaysay, somebody threw a bottle towards the store of Ondo Cedillo. Upon seeing a group of four (4) persons namely, Juan Reyes, Erly Barbolino, Jose Carranza and Gigi Inventor, he asked them who threw the bottle. The group answered that they were not the ones. At this point, he approached Juan Reyes and asked him why he returned back when he was advised by Sgt. Bajaro to go home. Accused did not answer the question but instead told Pat. Mendoza that they have an enemy there. While he was telling the accused that his enemy was not there

and that he better go home the accused without the knowledge of Pat. Mendoza, was boxed by Ely Grecia. Then a free-for-all fight ensued among Ely Grecia, accused Juan Reyes and Hercules Franco. In the said free-for-all flight, Pat. Mendoza declared that Aramis Asuncion was not there. Meanwhile, he intervened and boxed Ely Grecia and Juan Reyes. He held the accused but the latter wrestled and ran away; so, Pat. Mendoza chased Hercules Franco up to the health center. He was able to apprehend Franco and while he was holding him he (Mendoza) heard somebody shout. "I was hit." He ran towards the person who was shouting and saw the victim turning around. When he approached Aramis Asuncion the latter was already on the ground with a wound on the right portion of his abdomen with the intestines protruding. He placed the intestine inside the wound and asked who stabbed him. Asuncion did not say anything as he was groaning. Meanwhile, PFC Estercasio Pimentel arrived and helped in bringing the deceased to the clinic of Dr. Corpus. When they reached the said clinic, Pat. Mendoza called for Dr. Corpus but the latter was not around. He went back to where the victim was and there his dying declaration was taken by PFC Pimentel. From the dying declaration, Pat. Mendoza was able to know the assailant of the deceased as Jun Reyes whose complete name is Juan Reyes, the accused in this case. After the victim's dying declaration was taken, they went Remy Roa and took his jeep which they used in bringing Aramis Asuncion to Dr. Bonagua. Upon reaching the place of Dr. Bonagua, they were advised to secure a dextrose. Having secured one, the same was immediately administered to the victim. They were likewise advised to bring the deceased to Masbate because he (Bonagua) lacked facilities. They attempted to bring Aramis Asuncion to Masbate but failed to reach the same because the motorboat's engine malfunctioned. This time, they brought the victim to MGO Hospital in Aroroy where he was treated by Dr. Estanislao Sanchez. The following day at about 5:00 o'clock in the morning, the victim died.

"Patrolman Estercasio Pimentel who has likewise assigned as member of the beat patrol on January 1, 1985, took the dying declaration of the deceased. He related that on January 1, 1985, Aramis Asuncion was stabbed outside the plaza. After the victim was stabbed, they brought him to the clinic of Dr. Corpus and while they were outside the said clinic, he took the dying declaration of the deceased (Exh. C). When they found out later that Dr. Corpus was not around, they brought the victim to the clinic of Dr. Bonagua. Upon reaching the said clinic, Aramis Asuncion was attended to by Dr. Bonagua who gave him first aid. Afterwards, he left because the uncle of the victim was already there. The following morning, he came to know that Aramis Asuncion was loaded on a truck and was brought to Masbate. He further learned that the victim died on January 1, 1985.

"Dr. Estanislao Sanchez, Director of the MGO Hospital in Aroroy, Masbate was the last one to treat the injuries sustained by the deceased. The findings thereon, are reflected on the piece of paper (Exh. A) issued by him as follows:

'a) Stabbed wound right (R) hypochondriac area, about 2 1/2 inches in length, about 4 inches below the right nipple with small bowels coming out.'

"The cause of death as reflected in the Certificate of Death of Aramis Asuncion (Exh. B) was due to massive hemorrhage resulting to cardio-respiratory failure.

"According to Dr. Sanchez the wound could be caused by a sharp edge instrument, like a machete." (Decision, pp. 12-15, Rollo)

The accused and his witnesses on the other hand presented their own version of the fatal occurrence and relied on the defenses of alibi and denial. Thus:

"The accused denied any participation in the commission of the crime and claimed to be in his house located at Tamba Street, Poblacion, Aroroy, Masbate at around midnight, more or less, of December 31, 1984. He testified that immediately prior to the incident at around 11:00 o'clock in the evening of December 31, 1984, on his way to Bagaoma; he was at the plaza purposely to buy cigarettes at the store of Ondo Cedillo. While he was purchasing cigarettes at the said store, Pat. Tagumpay Mendoza approached him, searched his body and asked him for three (3) times if he has any complaint. Answering in the negative, he asked Pat. Mendoza why he

poured the liquor he (Reyes) was drinking. The said policeman, instead of answering him, immediately boxed him on his left breast. When he turned around, the group of Pat. Mendoza lunged at him, after which he rolled to the ground. The following morning, he went to the Municipal Building of Aroroy and had the names of those persons who boxed him placed in the blotter. On January 2, 1985, he went to Masbate for medical certification. A medical certification dated May 18, 1985 was issued to him by Dr. Domingo Malapitan and he filed a case before the Office of the Provincial Fiscal against the said Pat. Tagumpay Mendoza and his company.

"Accused Juan Reyes claim that he was in his house at the time of the stabbing incident was corroborated by his mother, Alice Reyes, his father, Jose Reyes and Gigi Inventor. Alice Reyes testified that at about 11:00 o'clock in the evening of December 31, 1984, she was at Plaza Magsaysay looking for her two children, Joy and Sherlino. While there, she saw her son, Juan Reyes buying cigarettes at the store of Ondo Cedillo. Then, she saw Pat. Tagumpay Mendoza approach his son and boxed the latter on his left breast. Afterwards a group of men dashed at the accused who rolled on the ground. She asked for a policeman to help her son but somebody told her that a policeman is just in front of her. Upon hearing this, she told Pat. Mendoza to help the accused and the second time she asked the help of the said policeman, she approached the persons ganging up on her son and told them to stop. She helped her son to stand up and when they were about to leave, again the same group lunged at the accused Juan Reyes again rolled on the ground and once again, she approached Pat. Mendoza to help the former. The said policeman was able to pacify the group and after which she helped her son to stand up. Again, while they were about to leave, the accused was ganged up by the same group who brought him near the fence to the Health Center where the accused was mauled. She again asked the help of Pat. Mendoza who approached that group and told them to leave her son. One man was left who kept on boxing her son and after that man was told by Pat. Mendoza to stop, he ran away towards Bagaoma. The accused stood up and went home together with his mother after they were advised by Pat. Mendoza. Upon reaching their house, the accused took a rest and shortly, enjoyed media noche. According to her, her son never left their house until the morning of the next day.

"On the following day, January 1, 1985, she and the accused went to the municipal building to complain about the persons who mauled Juan Reyes. They reported the incident policeman Wigberto Bajaro who told them to go to Masbate. Upon reaching Masbate, they filed a complaint against Pat. Mendoza and his company before the Office of the Provincial Fiscal.

"Jose Reyes likewise testified that in the evening of December 31, 1984, he was at their house. At about 11:00 o'clock in the evening thereof, his son, Juan Reyes, and the other members of his family were already in their house. His wife told her (sic) that their son, accused Juan Reyes was ganged up at the plaza by about seven (7) persons, after she, Juan Reyes and the other small children arrived at their house. He further declared that his son never left their house from 12:00 o'clock in the evening of December 31, 1984 up to the following morning.

"Gigi Inventor related that at about 12:00 o'clock in the evening of December 31, 1984, he was at the house of Juan Reyes located at Tamba, Aroroy because it was New Year and they are neighbors. While there, he saw the accused, his parents and other persons. He stayed in the said house until morning and knew that Juan Reyes never left their house during that time.

"Another witness for the defense, Nimfa Entines, declared that in the evening of December 31, 1984, she was in front of the plaza by the road selling cigarettes and candies. There, she saw the accused at the corner of the road fronting the plaza. She likewise saw Aramis Asuncion that evening. While attending to her store she saw the accused, his mother and Pat. Mendoza who inspected the body of Juan Reyes. Having discovered nothing, Pat. Mendoza pushed the accused and was momentarily ganged up by Ely Grecia, a certain Asuncion and many others whom she does not know the names. Juan Reyes rolled on the ground and when he could no longer stand up, he was approached by Pat. Mendoza who advised him and his mother to go home. After the accused and his mother left a fistfight ensued between Ely Grecia and Aramis Asuncion. As a result of the said

fistfight, nothing happened to Aramis Asuncion. According to her, the testimonies of some of the witnesses for the prosecution to the effect that accused Juan Reyes stabbed Aramis Asuncion, are not true because the accused was advised by Pat. Mendoza to go home together with his mother.

"Marivic Mangarin, likewise testified that in the evening of December 31, 1984, she was at Plaza Magsaysay in Poblacion Aroroy selling since there was a dance in celebration of the New Year. In her store, Pat. Tagumpay Mendoza was drinking, while the accused and his mother were standing nearby. Meanwhile, Pat. Mendoza asked the accused whether the latter has any complaint. The accused answered in the negative. After asking the same question for the third time. Pat. Mendoza pushed the accused and the companions of the said policeman came near and ganged up on Juan Reyes. When the accused fell down, Pat. Mendoza advised the former and his mother to go home. She further testified that in the evening of that date, she saw Aramis Asuncion sitting in the store adjacent to her store. The following morning, she learned that Aramis Asuncion died." (Decision. pp. 15-17, Rollo).

After evaluating the different versions, the Trial Court adjudged the accused guilty, hence, this appeal with the following Assignments of Error:

"I

The trial court gravely erred in relying heavily and in giving great weight and credence to the evidence adduced by the prosecution particularly, the testimony of the alleged eyewitness. Ely Grecia, and in totally disregarding the evidence adduced by the accused, particularly his defense of alibi.

"II

The trial court gravely erred in not acquitting the accused of the crime charged on the ground that his guilt was not proven beyond reasonable doubt."

Factual and legal imperatives sustain the conviction.

We find nothing incredible nor inconsistent in the testimonies of eyewitness, Ely Grecia, and prosecution witness, Patrolman Tagumpay Mendoza. There was nothing unnatural nor outside ordinary human experience in their respective declarations. Grecia had known the accused for sometime before the incident. He was only about three (3) meters away from the victim when the latter was stabbed by the accused and the place where it occurred was well lighted. The accused candidly admitted that there was no illwill between him and Grecia and could attribute no improper motive to the latter to testify falsely against him.

It is true that Pat. Mendoza testified that the accused was boxed by Grecia and that a rumble followed thereafter participated in by the accused, Hercules Franco and Grecia himself, a happening which Grecia never mentioned. That circumstance, however, refers only to the start of the incident and does not negate Grecia's declaration that he witnessed the actual stabbing. As Patrolman Mendoza testified, the accused was able to extricate himself from the Patrolman's hold and ran away after which the Patrolman lost sight of him already (t.s.n., March 4, 1985, p. 30).

Of note also is the fact that only five (5) days after the incident, or on 5 January 1985. Grecia execute a sworn statement (p. 7, Original Record) pointing to the accused as the culprit as a consequence of which the criminal complaint was filed before the Municipal Circuit Trial Court of Aroroy, Masbate (p. 3, Original Record). By 2 January 1985, the uncle of the victim had also been informed of the accused's criminal act. (p. 4, Original Record).

More significantly, Grecia's testimony was mutely but eloquently corroborated by the dying declaration of the victim (p. 47, Original Record), which carries all the earmarks of admissibility, wherein he positively identified

the accused as the one who had stabbed him. Relevantly, this Court has held that the "testimony of a witness that the accused perpetrated the crime reinforced by the dying declaration of another witness is credible" (People vs. Capillas, L-27177, October 23, 1981, 108 SCRA 173).

But the defense assails the veracity of the victim's dying declaration by pointing to the testimony of Dr. Rolando Bonagua, the second physician to whom the accused was taken, that when he asked the victim who had stabbed him, the latter replied that he did not know. It should be recalled, however, that Pat. Pimentel had taken the dying declaration when the victim was outside the clinic of Dr. Corpus, the first doctor to whom the victim was brought for treatment. At that time he could still muster the strength to answer but not any longer when taken to the next physician, Dr. Bonagua. Valuable time had lapsed and physical strength, caused by excessive bleeding, had waned between one clinic and the other.

The defense of alibi cannot as the Trial Court had found, be given any credence. As Pat. Mendoza had categorically declared, he again saw the accused shortly before midnight of December 31, 1984 thus prompting him to ask the latter why he had gone back to the plaza despite the fact that he had previously been advised by Sgt. Bajaro to go home after a rumble earlier that evening involving him and others (t.s.n., March 4, 1985, p. 28). After the accused replied that "we have an enemy here", Pat. Mendoza again told the accused to go home. Without Pat. Mendoza's knowledge, however, Grecia boxed the accused that started another fight among the accused, Grecia and Hercules Franco. Pat. Mendoza intervened, boxing the accused and Grecia and got hold of the accused but the latter "wrestled and ran away" (t.s.n., March 4, 1985, pp. 28-30). The accused, therefore, could not have gone home with his mother at that point, as the latter would have the Court believe. The accused may have, indeed, suffered injuries because of the "free-for-all" fight, but that does not disprove the fact of stabbing, as reliably testified to by eyewitness Grecia.

In the last analysis, the bottomline is a question of credibility of witnesses, in regard to which, the findings of the Trial Court are entitled to great respect, since we do not find that it had overlooked certain facts of substance and value that might affect the outcome of this case (People vs. Akiran, No. L-18760, September 29, 1966, 18 SCRA 239 citing People vs. Alban, No. L-13203, March 29, 1961; People vs. Curiano, No. L-15256-57, October 31, 1963).

Moreover, even assuming that the accused had, indeed, gone home with his mother, as they allege, their house has only about 200 meters away from the plaza so that it was not physically impossible for the accused to have been at the scene of the crime at the time it was committed. Doctrinal pronouncements have also consistently held that the defense of alibi, besides being weak, cannot prevail over positive identification by credible eyewitnesses, in this case Ely Grecia, whose identification of the accused is bolstered by the dying declaration of the victim revealing the identity of his assailant (People vs. Adones, No L-63453, September 24, 1986, 144 SCRA 364; People vs. Candado, No. L-34089, August 1, 1978, 84 SCRA 508; People vs. Plateros, No. L-37162, May 30, 1978, 83 SCRA 401; People vs. Estocada, No. L-31024, February 28, 1977, 75 SCRA 295; People vs. Jamero, No. L-32256, January 31, 1977, 75 SCRA 137).

The crime committed was correctly categorized as Murder with the characteristic feature of treachery (People vs. Cresanto, Jr., No. L-65792, March 18, 1985, 135 SCRA 413). In the absence of any modifying circumstances, the penalty would, indeed, be reclusion perpetua, except that with the advent of the 1987 Constitution, the penalty for Murder is now reclusion temporal in its maximum period to reclusion perpetua. An indeterminate penalty, is therefore, called for.

WHEREFORE, the judgment appealed from is hereby **AFFIRMED**, except as to the penalty which is hereby modified to an indeterminate sentence 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. Costs against the accused, Juan Reyes.

SO ORDERED.

Paras, Padilla, Sarmiento, and Regalado, JJ., concur.

[*] Presided over by Judge Zosimo Z. Angeles.

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