

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROBERTO SORIANO Y BRUAN @ “RUBEN,” AND SALVADOR MEJIA @ “ADONG,” ACCUSED-APPELLANTS.

G.R. No. 74783. April 22, 1991

Ponente: NARVASA, J.

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NARVASA, J.:

Near midnight of August 11, 1980, a school teacher, Leonora Corpuz, while lying in bed at her home in Amangcosiling Norte, Bayambang, Pangasinan, became alarmed at the continuous barking of her dog in her yard. She went to her window and looked out into the yard but failed to see anything. She roused her son, Marcelino Corpuz, and her brother-in-law, Natalio Solomon, who happened to be in her house at the time, and the three of them went down to find out what was getting the dog all excited. They noted that pebbles were being thrown at her chico tree and her dog had gone towards Leonora's camarin, the place where, presumably, the pebble-throwers were. After a few moments, the dog returned and fell to the ground. It appeared to them the animal had been poisoned with "vetsin," and they tried to revive it. While they were thus occupied, two (2) men suddenly appeared, brandishing firearms and saying, "Do not move." Then, without warning, one of them — identified by Leonora Corpuz and Natalio Solomon as Roberto Soriano @ "Ruben," fired at Marcelino Corpuz. The other intruder — identified as Salvador Mejia — was beside Roberto Soriano. The third — identified as Restituto Ferrer — was farther away, near a pigsty and a bathing area in Leonora Corpuz's yard. Marcelino Corpuz dropped to the ground, mortally wounded. His mother and Natalio Solomon rushed to him. Roberto Soriano and Salvador Mejia thereupon grabbed the unconscious dog and departed from the scene. Marcelino Corpuz was pronounced dead on arrival at the Emergency Hospital in Bayambang, Pangasinan.

The following day, Sgt. Eustino Maure, a PC Investigator of the 153[rd] PC Command in Bayambang, and other peace officers conducted an investigation at the place of the crime. They took photographs of the premises, including the spot still stained with the victim's blood. They recovered an empty carbine shell and some dried fish into which some "vetsin" appeared to have been introduced. Leonora Corpuz confided to Sgt. Maure and to another police investigator, Felipe D. Quinto, the names of the three persons she believed to be the perpetrators of the crime. She also requested them not to file the criminal complaint against the suspects until they had all been apprehended, considering that they were allegedly known criminals in the locality, a request to which they acceded. The three suspects were arrested on various dates. The last to be arrested was Restituto Ferrer, who was taken into custody only on June 16, 1981.

On January 4, 1982, an information was filed by the Provincial Fiscal against Soriano, Mejia and Ferrer, charging them with the crime of robbery with homicide under Article 294 (1) of the Revised Penal Code, the dog asported by the accused being given a value of P200.00. They were arraigned on different dates, and all entered pleas of not guilty. Roberto Soriano subsequently jumped bail and was never again apprehended during the trial. He was thus tried in absentia, and was successively represented by two de officio lawyers who, according to the Trial Court, "performed their responsibilities with remarkable distinction."

On April 17, 1986, the Trial Court[2] promulgated its judgment dated April 3, 1986, finding Roberto Soriano y Bruan and Salvador Mejia guilty beyond reasonable doubt of the felony charged as co--conspirators and sentencing them "to suffer the penalty of reclusion perpetua; * * * to indemnify the heirs of the victim, Marcelino Corpuz, jointly and severally, in the amount of Thirty Thousand (P30,000.00) Pesos and to pay the costs." Restituto Ferrer was acquitted on account of "failure of the prosecution to prove (his) guilt beyond reasonable doubt."

Soriano was not present at the promulgation, having as aforestated earlier jumped bail and never thereafter having been re-arrested. The record indicates that Soriano died from a gunshot wound in the head on December 17, 1985 in Lareg-Lareg, Malasiqui, Pangasinan, a fact evidenced by the authenticated death certificate issued by the Local Civil Registrar of the Municipality of Pangasinan on January 13, 1986.[3] His criminal liability must hence be deemed extinguished as to both personal and pecuniary penalties in accordance with Article 89 (1) of the Revised Penal Code.

Soriano's violent end was apparently not made known to his counsel, for the latter filed a notice of appeal in behalf of both Soriano and Mejia under date of April 29, 1986.

In this Court, only one issue is raised by Mejia's and Soriano's counsel. He impugns as "fabricated," his clients' identification by Leonora Corpuz and Natalio Solomon and adverts, in proof of this thesis, (1) to the fact that the entry in the police blotter corresponding to the crime in question (No. 2486, p. 580, dated August 12, 1980) indicating that the two (2) suspects were not "personally known" to the mother of the victim (Leonora Corpuz); and (2) to the further fact that both Leonora Corpuz and Natalio Solomon did not execute their affidavits identifying him and his co-accused until five months later, in December, 1980.

The thesis cannot be sustained in light of the recorded facts.

There is no reason to doubt the accuracy of the identification of Mejia and Soriano made by Leonora Corpuz and Natalio Solomon. Both the latter were so circumstanced as to enable them to recognize both appellants. It was a starlit night. The area around Leonora's house was illuminated by the fluorescent lamps inside her house all of which had earlier been turned on, as well as by a 100-watt bulb outside the house itself. In fact, Leonora's dog had been brought directly under this 100-watt lamp the better to be examined; and it was while the dog was being so examined that the appellants approached Leonora, her son (Marcelino), and Natalio Solomon. The distance between Leonora's group and the assailants was only about two meters.

Leonora Corpuz recognized Roberto Soriano because he was once a student of the Bayambang National High School where she teaches. She also knew Salvador Mejia because she had seen him frequently in Barangay Dusok. Natalio Solomon, on the other hand, had known Roberto Soriano for five years, and Salvador Mejia, for ten. Moreover, both Leonora Corpuz and Natalio Solomon told the police investigators the names of both Soriano and Mejia on the following day.

Identification of this character cannot but be sustained. It cannot be overthrown by the entry in the police blotter referred to by appellant's counsel. The blotter was never produced and presented in Court, apart from the fact that the entry in question was not made by either of the police investigators to whom the names of the suspects had been confided by both Leonora Corpuz and Natalio Solomon on the day following the perpetration of the crime.

Neither may the tardiness of the execution by Leonora Corpuz and Natalio Solomon of their affidavits narrating the material events of August 11, 1980 be deemed a factor eroding the veracity of their identification of the culprits. The tardiness is explained by their fear, also revealed by them to the police investigators on the following day, that the named suspects, who apparently had unsavory reputations in the community, might take retaliatory

steps against them unless they were already in legal custody at the time of the formal execution of sworn statements against them.

It was indeed on the basis of such a definite identification of the appellants that the Trial Court quite properly rejected their proffered alibis, citing familiar precedents laid down by this Court, to the effect that the defense of alibi cannot stand in the face of positive identification, and in the absence of persuasive evidence demonstrating the physical impossibility of their being at the scene of the offense at the time of its commission.[4]

No reversible error can thus be ascribed to the Court a quo in convicting the appellants of the crime for which they were indicted. However, as already pointed out, the conviction of Roberto Soriano y Bruan must be negated, he having been killed on December 17, 1985, prior to the promulgation of judgment on April 17, 1986; and the civil indemnity payable to the heirs of the victim, in line with current doctrine, must be increased to P50,000.00.

WHEREFORE, except to modify it as above indicated, by deleting the conviction of Roberto Soriano y Bruan and increasing the indemnity to be paid to the heirs of the victim, Marcelino Corpuz, to Fifty Thousand Pesos (P50,000.00), the judgment of the Regional Trial Court in Criminal Case No. SCC-684 dated April 3, 1986 is AFFIRMED in toto.

IT IS SO ORDERED.

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

[1] There were three accused in Criminal Case No. SCC-684 of the Regional Trial Court (Br. 56) at San Carlos City, Pangasinan, from the judgment in which the appeal at bar was taken. These were: the two now named (Soriano and Mejia) and Restituto Ferrer @ "Atong." Restituto Ferrer was, however, acquitted on reasonable doubt by the Trial Court in its judgment rendered on April 3, 1986.

[2] Presided over by Hon. Pedro G. Aducayen

[3] Original record, pp. 379-380

[4] Peo. v. Garcellano, L-25345, May 13, 1968 (23 SCRA 595); Peo. v. Naba-unag, L-30414 & 30415, Sept. 9, 1977 (79 SCRA 32)

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