

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. PAQUITO MANZON AND JOHN DOE, ACCUSED, VIRGILIO MANZON ALIAS “ANGEL”; ACCUSED-APPELLANT.

G.R. No. 74784. October 11, 1990

Ponente: CRUZ, J.

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CRUZ, J.:

Imagine a rustic scene, with a farmer wending his way home in a bulcart after a hard day's work. He is standing in front, guiding the cow pulling the creaking cart. Behind, perched on top of the hay they had gathered earlier are his son and two grandsons, lazing in the quiet of the approaching dusk. Everything is serene; there are probably even songbirds twittering in the trees, to make the idyll complete. It is a moment one can cherish, when all the turmoil in the world seems to have ceased and an ineffable peace has calmed the land.

Then, suddenly, the violence. Two angry men appeared as if from nowhere, with intent to kill, even as a third companion lurked by the post of a nearby wall. Their acts were deadly swift. Without much ado, the first man shot the farmer three times with a rifle, hitting him in the chest and arms. The second, using a knife attached to his shotgun, stabbed the stricken man in the chin and breast as he toppled heavily to the ground. Horrified, the son and the older grandson jumped off the cart and fled for their lives even as they heard a fourth shot as if in pursuit. The second grandson remained in the cart, petrified with fear under the hay and awaiting his own imminent slaughter. Mercifully, he was not hurt.

The slain man was Pablo Manzon, late of Barrio Mestizo, San Carlos, Pangasinan. The killing occurred on November 4, 1982, at about six o'clock in the evening. The following month, an information for murder was filed against Virgilio Manzon, Paquito Manzon, and a still then (as now) unidentified person. Paquito died after the trial but before a decision could be rendered in which the charge against him was dismissed. That decision also convicted his brother Virgilio Manzon and sentenced him to reclusion perpetua plus civil indemnity of P30,000.00, actual damages in the sum of P19,031.00, and the costs.[1] He is now before us on appeal.

The killing of Pablo Manzon as above narrated was testified to by his two grandsons, Larry and Marcial Tamondong,[2] twelve and nine years old, respectively, when they took the stand. Both positively identified their grandfather's assailants as Virgilio and Paquito Manzon, who were their own uncles. From where they sat on top of the hay, they could clearly see the surprise attack. It was still light enough at the time. Paquito was the one who fired the shots, and it was Virgilio who followed with the knife thrusts on the helpless victim. The boys were quite categorical in their identification of the two co-accused. Despite long and rigorous cross-examination, they remained unfazed and stuck stubbornly to their declaration. They insisted it was Paquito and Virgilio Manzon who had attacked and killed their grandfather.

Maria Manzon, the victim's wife, testified that, upon being informed by her son of the attack on his father, she immediately rushed to her husband's side, reaching him a few minutes before he died. (Their house was only 300 meters away from where he had fallen, according to Larry Tamondong.) She swore that the dying man identified

his killers as Virgilio and Paquito Manzon. Questioned as to their possible motive, she suggested it was a land dispute between her husband and his brother Sisenando, the father of the two co-accused.[3]

Sgt. Eduardo Mandapat, who headed the team that conducted an investigation at about eight o'clock the same evening, said he was informed by the three children that the killers were Paquito and Virgilio Manzon.[4] He sought them out first at their house in Mestizo but, not finding them there, proceeded to Angalatan, about four or five kilometers away, accompanied by Sisenando. The brothers acceded when invited to police headquarters for questioning but refused to give any statement. They were detained and formally charged with the murder of Pablo Manzon.

Dr. Juan A. Pizarro, testifying on the autopsy performed on the cadaver of Pablo Manzon, reported that it had sustained four gunshot wounds, two stab wounds and a fractured arm, causing "cardio-respiratory arrest, secondary to massive hemorrhage." Except for one of the stab wounds, all the wounds inflicted on the victim were fatal.[5]

The accused brothers denied the charge and claimed alibi. They swore they were never even near the scene of the crime at the time of its commission, being then at Angalatan, where they had been working all day with two other brothers and some hired help. Sisenando Manzon, their father, corroborated their testimony and said he and his wife had brought them supper that afternoon, starting for Angalatan at about four o'clock in the afternoon and arriving there after hiking for one hour. Paquito and Virgilio remained in the place while he and his wife returned to Mestizo, also on foot, arriving there about 8:30 p.m. to find the police looking for their sons. Remedios Manzon, the wife, testified to substantially the same effect.

The accused faulted the prosecution evidence, claiming that the testimonies of the principal witnesses were fabricated and incredible. They presented Francisco Manzon, a brother of the victim, who declared that he was the first to reach Pablo Manzon after the attack and that at that time the victim was already dead.[6] This belied Maria Manzon's testimony that her husband gasped out the names of his killers shortly before he died. As for the two boys who allegedly saw the killing, the accused suggested that they had been coached by their grandmother to testify falsely because of her hatred for Sisenando's family.

The defense also presented Pedro Posadas, who, like Francisco Manzon, testified that when shortly after the incident the two boys were asked who had killed their grandfather, both of them said they did not know.[7] Another witness, Jose Mendoza, declared that the killers were not the accused but two other persons not known to him, who were shorter than Paquito and Virgilio Manzon. The brothers were 5'11" and 5'9", respectively.[8]

It is also the contention of the defense that Larry Tamondong could not have possibly seen the stabbing if, as he testified, he jumped off the cart immediately after he saw the shooting of his grandfather. He was also suspiciously inconsistent on whether the stabbing preceded or followed the shooting. The defense likewise maintained that if the boys were really not lying, the bullets would have had an upward trajectory as Pablo Manzon was allegedly shot while standing on the front part of the cart.

As to this last contention, it appears from the testimonies of both Dr. Pizarro, a prosecution witness, and Dr. Ernesto Brion, who was called by the defense, that no finding had been made regarding the trajectory of the bullets, which had caused three entry wounds and only one exit wound.

When it comes to questions of fact and the assessment of the testimonial evidence, we accord much weight to the findings of the trial judge who tried the case and observed the demeanor of the witnesses. Absent a showing that these findings are tainted with arbitrariness, the appellate court must rely heavily on the determinations of the court a quo, which has the advantage of direct access to the evidence of the parties that is not enjoyed by the

reviewing court. As this Court observed in one case:[9]

The appellate court can go only by the records, without the opportunity of seeing for itself how the persons testifying react to questions put to them and noting those little gestures and telltale signs that can limn the line between fact and fabrication. These are not found in the transcript and so may not be fully appreciated on appeal. But the trial judge can see all these. Hence, the rule that his findings on this matter are accorded much respect, if not indeed conclusive effect, save only in those exceptional instances where they are clearly shown to be arbitrary.

We do not disbelieve the two young witnesses because of their minor inconsistencies as the boys were understandably jolted by the traumatic incident and cannot be expected to remember every one of its ugly details with perfect accuracy. And neither can we believe that they were coached into "framing" the accused because the record shows that they immediately revealed the killers and identified them to Sgt. Mandapat when he questioned them only two hours after the killing. Even if it be conceded that Francisco Manzon and Posadas were not lying, the two children might have had their reasons for not telling the truth then, considering that the accused were also their close relatives. What matters is that at the proper time and place, they came out categorically and pointed to Virgilio and Paquito Manzon as the killers of their grandfather.

The defense imputes baleful motives to Maria Manzon and charges her with suborning her grandchildren inducing them to lie under oath to condemn two innocent persons. We are not convinced. There is no satisfactory explanation for such malevolent attitude. Neither she nor the two accused were directly involved in the land dispute between her husband and his brother Sisenando. In any event, we do not believe that a grandmother would corrupt her minor grandchildren, for the reason suggested here, into sending their own uncles to jail, perhaps for the rest of their lives.

As for Pablo's dying declaration, Dr. Pizarro testified that the wounds, although fatal, did not cause instantaneous death and prevent the victim from pointing to his killers. It was possible for Pablo to speak to his wife before he expired although he might have been unwilling or unable to talk earlier to his brother Francisco, who had arrived before her. It is not unnatural for a dying man to save his ebbing strength so he can share the last moments of his life with his wife.

We probably no longer have to rule on the question of conspiracy because Virgilio Manzon remains the lone accused in this case after the death of his brother Paquito. It has been established that one of the stab wounds inflicted by Virgilio was as fatal as the gunshot wounds caused by Paquito, thus making both of them co-principals in the killing of Pablo Manzon. In any event, we find that the conspiracy has been established, it appearing that the brothers lay in wait for their victim with the same objective, attacked him almost simultaneously and in concert with each other, and subsequently fled together. These are clear marks of their conspiracy.

A conspiracy exists when two or more persons come to an agreement concerning the commission of a crime and decide to commit it.[10] It has been held that for conspiracy to be appreciated, it is enough to show that at the time the offense was committed, the participants had the same purpose and were united in their execution, as may be inferred from the attendant circumstances.[11]

The crime committed was murder, with the qualifying circumstance of treachery. There was treachery because of the sudden attack on the surprised victim, who was in no position to defend himself as he stood in the front of the cart holding on to the ropes guiding the cow. He was ambushed to death. There being no mitigating or aggravating circumstances, the accused-appellant was properly sentenced to reclusion perpetua.

The defense presented a number of witnesses who sought to deflate the evidence of the prosecution, but as earlier

observed this Court will place great reliance on the findings of the court below on the basis of the facts directly available to it as disclosed by the parties during the trial. Especially in criminal cases where the identity of the culprit is the pivotal issue, the conclusions of the trial judge, who had the opportunity to observe and examine the witnesses and to determine whether or not they were honoring their oaths, are generally accepted on appeal.

WHEREFORE, the appealed judgment is **AFFIRMED**, except only as to the civil indemnity which is increased to P50,000.00, with costs against the accused-appellant. It is so ordered.

Narvasa, (Chairman), Gancayco, Griño-Aquino, and Medialdea, JJ., concur.

[1] Rollo, p. 40. Decision penned by Judge Ludovico Ma. Ipac.

[2] TSN, June 3, 1983, pp. 3-19; June 23, 1983, pp. 7-23.

[3] TSN, October 4, 1983, pp. 6-13.

[4] TSN, August 18, 1983, pp. 11-23.

[5] TSN, June 2, 1983, pp. 10-17.

[6] TSN, September 5, 1984, pp. 5-12.

[7] TSN, September 6, 1984, p. 12.

[8] TSN, November 7, 1984, pp. 25-26.

[9] *People v. Liston*, G.R. No. 63396, November 15, 1989.

[10] Art. 8, Revised Penal Code.

[11] *People v. Masangkay*, 157 SCRA 320.

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