

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. BENJAMIN NOGUERRAS Y TORRES, ACCUSED-APPELLANT.

G.R. No. 76238. January 11, 1990

Ponente: PARAS, J.

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PARAS, J.:

The accused-appellant, Benjamin Noguerras, was charged in the Regional Trial Court, National Capital Judicial Region, Branch 106, Quezon City, with the crime of Murder committed in conspiracy with Rolando Collado who could not be tried with him because he was then at large. He asks for the reversal of the decision convicting him of murder and sentencing him to the maximum penalty of reclusion perpetua plus civil indemnity in the sum of P30,000.00, on a lone assignment of error — the lower court erred in finding him guilty beyond reasonable doubt of the crime as charged in the information.

The information filed against accused-appellant alleged:

"That on or about the 6th day of July, 1985, in Quezon City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused conspiring together, confederating with and mutually helping each other, with intent to kill, with evident premeditation and treachery, and without any justifiable cause, did then and there willfully, unlawfully and feloniously pursuant to their conspiracy, employ personal violence upon the person of EDGARDO ESCONDO Y NAPENAS, by then and there stabbing him with the use of bladed instrument hitting the latter on different parts of his body thereby inflicting upon said EDGARDO ESCONDO Y NAPENAS serious and mortal wounds which were the direct and immediate cause of his death, to the damage and prejudice of the heirs of said Edgardo Escondo y Napenas in such amount as may be awarded under the provisions of the Civil Code." (p. 15, Rollo)

The lower court's findings, upon which guilt beyond reasonable doubt was established, are summarized as follows:

"It appears that the deceased Edgardo Escondo was considered the chief among the barangay tanods at Barangay Santol, Quezon City. Among the residents in that barangay, particularly in the squatters' area, were the accused, Benjamin Noguerras and Rolando Collado; and the alleged eyewitnesses. They were all neighbors. (tsn, pp. 3-4, Nov. 4, 1985)

"Although Edgardo was a law enforcer in the community, apparently, at the same time, he also dabbled in the sale of marijuana. And as a drug pusher, his associates in the trade were the two accused, who addressed him as 'boss'. Apart from being pushers, the two accused were reportedly also drug dependents.

"The three colleagues had a falling out mainly because of three incidents. The first incident began with a chess game between Edgardo and Rolando. They bet against each other: Edgardo bet drugs, while Rolando bet P100. Rolando won the game, but Edgardo refused to pay.

"After a couple more games, it was Benjamin's turn to play against Edgardo. They started the game, with the agreement that if there was any disturbance during the game, Benjamin would automatically lose it.

"While the game was in progress, Rolando said aloud that Edgardo's shoes were beautiful and looked imported. Edgardo, invoking their previous agreement, immediately claimed that Rolando's comments constituted a disturbance of the game. Hence, Edgardo claimed victory. Rolando protested and instead suggested that the game should be considered a draw. (tsn, pp. 7-10, February 26, 1986)

"The dispute became heated. Rolando remembered that Edgardo still owed him P100.00 Edgardo refused to pay. Rolando grew angry. But Edgardo, asserting his authority as boss, said: 'I can easily pay for your lives. You are worth only P10, 000 to P15, 000.' At this, the game broke up. And the protagonists went home.

"The second incident arose from the theft of a bicycle. Apparently, Rolando and Benjamin, concurrently with their occupation as drug pushers, were also thieves. The witness Anita Collado testified that as a neighbor, one time she saw Rolando bring home a bicycle that he had stolen. With Anita listening, he boasted of his exploits as a burglar.

"Edgardo confronted Rolando about the bikes, using the latter's nickname. Edgardo asked: 'Bakit naman Ollie ganyan ang ginagawa ninyo?' Rolando was aggrieved by what he perceived to be the unjustified meddling by Edgardo. Rolando muttered under his breath: 'Mahilig makialam si boss.' The witness Anita Collado testified that after his incident, her brother-in-law Rolando said: 'Bakit siya nakikialam sa akin, kahit na ba boss siya ay pakikialaman niya tayo, baka patayin ko siya.' (Exh. 'B-1', Question and Answer No. 9).

"The day before Edgardo's death, apparently the two accused again stole two bikes. Edgardo learned of their misdeed, and berated them. Further, Edgardo demanded that Rolando should return the stolen bikes.

"The third incident was apparently a business quarrel between Edgardo and Rolando. They reportedly had a fight over a certain aspect of their drug pushing business.

"In any event, a few days before Edgardo's death, Rolando approached his sister-in-law Anita for a loan. He said he needed the money because he and Benjamin were going to kill someone. They would use the money to pay for their fares to the Visayas, where they would hide. Anita demurred, saying she had no money to lend: 'Ang sabi ko sa kanya ay wala na akong pera. Kahit ako ang kanyang patayin ay wala akong maibibigay. (Exhs. 'B-1'; Q & A No. 9).

"Later, Anita learned that the two accused stole two bicycles, which they sold.; Thus, the two accused came into money (sic), just the day before the alleged murder.

"Just before the fateful day, Rolando's brother, Cecilio Collado, a contract worker, arrived from employment in Iraq. When Cecilio arrived home at 2 Baloy St., Barangay Santol, Quezon City, he was ill. He was confined in bed, in their bungalow which consisted of only one room. (tsn, p. 4, Nov. 4, 1985; p. 3, Nov. 20, 1985)

"Rolando went up to Cecilio and requested for a pair of pants. Apparently, Rolando at that time was high on drugs. Cecilio did not want to entertain his brother, so he told Rolando to return the next day, protesting his illness. Rolando moved away, but remained in the room. (tsn, p. 4, Nov. 20, 1985)

"At this point, the deceased Edgardo Escondo arrived. Edgardo extended a warm welcome to Cecilio. However, Edgardo, noting that Cecilio was sick, only exchanged brief pleasantries and then made excuses to leave. Edgardo promised that he would return for a longer conversation, after Cecilio would have recovered from his illness. (tsn, p. 5, Nov. 20, 1985)

"As Edgardo prepared to leave, Rolando grabbed him by the collar and pulled him backward. Rolando growled at the same time: 'Bakit ganyan ka, boss? Mahilig kang makialam.' Edgardo completely taken by surprise, could only ask: 'Bakit? ano ba iyon?' (tsn, p. 5-7, Nov. 20, 1985)

"But Rolando gave him no chance to clarify matters. Rolando used his left arm to strangle Edgardo on the neck; and his right arm to stab Edgardo repeatedly with an icepick, about 8 inches long. Rolando stabbed Edgardo repeatedly on the chest and all over the body. (tsn, p. 6, Nov. 20, 1985)

"While he was stabbing Edgardo, Rolando commanded the women in the room to refrain from helping Edgardo, or else he would also kill them (Exhs. 'A', Q & A No. 5). The women disobeyed Rolando's warning. They screamed for help and just at this point, the accused Benjamin Noguerras arrived.

"At first, the women thought that Benjamin had responded to their cries for help. But that was not the case. Benjamin said, 'Ano ba yan, direk', at the same time taking out a knife. Benjamin continued to stab him. Rolando sat on Edgardo's abdomen and stabbed him, too. Rolando lifted Edgardo's head and pounded it about four times on the cement floor. (tsn, pp. 8-9, Nov. 4, 1985)

"While the stabbing was taking place, Cecilio and Anita pleaded with her brother-in-law; 'Tama na Ollie' But Rolando, instead of being pacified, grew even bolder, and said: 'Huwag kang makialam dito. Baka pati ikaw patayin ko!'

"The two attackers waited to see if the victim was still breathing. Satisfied that he was not, they ran out into the night, towards Araneta Avenue. (tsn, p. 7, Nov. 4, 1985)

"The neighbors brought Edgardo, still alive, to the UERM Hospital at around midnight.; He was treated by Dr. Simeon Tolentino, Jr. The doctor found that the patient bore multiple stab wounds and was bleeding in the chest. He had wounds in the anterior chest wall. He was so far gone that despite medical efforts, he died at 3:30 a.m. Dr. Tolentino testified that the cause of death was head injury such as a brain contusion. But the death certificate states that the cause of death was stabbing (Exh. D).

"The police requested for an autopsy (Exh. 'D-1'). Maj. Dario Gajardo of the PCCL issued the autopsy report (Exh. B). The doctor found 18 major wounds. He concluded that the cause of death was 'cardio respiratory arrest due to severe hemorrhage secondary to multiple stab wounds.' The location and size of the various stab wounds are indicated in the full body sketch (Exh. C); and the head sketches (Exh. C-1). (tsn, pp. 13-15, Nov. 4, 1985)

"The next day, 7 July 1985, in the morning, the women eyewitnesses to the murder gave their respective sworn statements before Pat. Jose Garcia, Jr. of the Quezon City Police Station, Special Investigation Division. The sworn statements were given by Anita Collado (Exh. B), Maria Oliveros (Exh. A) and Lolita Oliveros (Exh. C). They uniformly narrated the incident. (tsn, p. 9, *ibid*; tsn, p. 10, Nov. 20, 1985)

"On July 25, 1985, Benjamin, accompanied by his uncle, Pat. David Mavilla, surrendered to the SID. He denied the charge against him. After learning of his constitutional rights, he declined to give a statement to the police. (tsn, pp. 6-7, Jan. 22, 1986)

"On 26 July 1985, in the evening, the three women went back to the police station, this time to pick out the accused from a line-up. They uniformly identified Benjamin Noguerras in the line-up.; Then they executed supplemental sworn statements, also before Pat. Garcia. These supplemental statements were given by Anita Collado (Exh. B-4) and Maria Oliveros (Exh. C-4).

"Also on the same day, 26 July 1985, the SID chief sent a letter referral to the Quezon City fiscal (Exh. F), charging Noguerras and Collado with homicide." (pp. 1-5, Decision; pp. 15-19, Rollo; pp. 2-8 of Brief for Appellee; p. 98, Rollo)

In his defense, accused-appellant denied any part in the slaying insisting that he was in fact only responding to the cries for help. He claimed that when he entered Cecilio's house, he was not carrying anything, much less a weapon.

Appellant's testimony on this point, however, remained totally uncorroborated. This uncorroborated denial of his participation cannot overthrow the positive and categorical testimony of Maria Oliveros, Anita Collado and Lolita Oliveros that they saw the appellant joining forces with Rolando Collado in killing Edgardo Escondo. There is no possibility that they could have been mistaken in their identification for apart from being at the crime scene, these

witnesses are familiar with the appellant since they are all residents of the same barangay. In fact, Anita Collado is the sister-in-law of appellant's co-accused Rolando Collado. Furthermore, there is no showing that the witnesses had any motive to testify falsely against the appellant.

In an attempt to disprove the findings of the trial court, appellant pointed out that there are certain inconsistencies that render the testimonies of prosecution witnesses incredible. Emphasis is given to the medico-legal officer's testimony that the type of instrument used was a "pointed object like an icepick" while on the other hand, Maria Oliveros and Anita Collado stated that "as if it was a knife" and "I am not sure whether it was pointed or rounded icepick." (tsn, p. 7, Nov. 4, 1985; tsn, p. 8, Nov. 20, 1985; cited in pp. 10-11 of Brief for the Appellee, p. 98, Rollo).

The inconsistencies pointed out by appellant are not so substantial as to destroy their credibility. The alleged discrepancy in the kind or type of instrument used will not detract from the guilt of the appellant. As held by this Court, discrepancies in minor details are to be expected from an uncoached witness (*People v. Arbois*, 138 SCRA 31). Such minor variations would rather show the sincerity of the witnesses and the absence of connivance between them to make their testimonies tally in every respect. (*People v. Pielago*, 140 SCRA 419, 423) Truth to tell, such trivial differences constitute fail-safe-reliability (*People v. Dollantes*, 15, SCRA 592, 603).

At any rate, faced with the question of credibility, the trial judge who had the chance to observe the witnesses and assess their demeanor on the stand, opted to believe the prosecution witnesses. We shall abide by that preference absent a showing of any abuse of discretion.

The accused is entitled to be presumed innocent, but only until the contrary is proved. In this case, We believe with the trial court that the guilt of appellant has been established beyond reasonable doubt and so he is not entitled to a reversal.

WHEREFORE, the judgment appealed from is AFFIRMED with costs against the accused-appellant.

SO ORDERED.

Melencio-Herrera, (Chairman), Padilla, Sarmiento, and Regalado, JJ., concur.

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