

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ALFREDO AGAN ALIAS JIMMY, DEFENDANT-APPELLANT.

G.R. No. 77713. February 06, 1990

Ponente: PADILLA, J.

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PADILLA, J.:

In an information filed with the Court of First Instance of Bulacan, which was docketed therein as Criminal Case No. 5233-M, Alfredo Agan alias Jimmy was charged with the crime of Murder committed as follows:

"That on or about the 19th day of August 1982, in the municipality of Pulilan, province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the said accused Alfredo Agan alias Jimmy, with intent to kill one Nemencio Uy, did then and there wilfully, unlawfully and feloniously, with evident premeditation, abuse of superior strength and treachery, attack, assault and stab with a kitchen knife he was then provided the said Nemencio Uy, who was then sleeping, hitting the latter on his body, thereby causing him serious physical injuries which directly caused his death."[1]

When arraigned, the accused pleaded not guilty.[2] He denied having killed the said Nemencio Uy and pointed to one Nelson Fabroa, a truck driver and his co-worker in the compound of Ruperto Herrera in Barrio Longos, Pulilan, Bulacan, as the assailant of Nemencio Uy. According to the accused, he, was washing clothes inside the compound of Ruperto Herrera when he heard Nemencio Uy and Nelson Fabroa having a heated argument. A few moments later, he saw the said Nelson Fabroa stab Nemencio Uy. After stabbing Nemencio Uy, Nelson Fabroa turned on him (accused). So, he ran away. Nelson Fabroa ran after him but Fabroa was not able to overtake him. He ran to a store nearby, about 100 meters from the compound and stayed thereat until police authorities arrived and brought him to the municipal building for investigation.[3]

The trial court, however, gave no credence to the claim of the accused and found him guilty of the crime charged. The dispositive portion of the decision reads as follows:

"WHEREFORE, the Court finds the accused Alfredo Agan guilty beyond reasonable doubt of the crime of murder and sentences him to suffer imprisonment for life with the accessory penalties provided for by law; to indemnify the heirs of the deceased in the amount of P18,000.00, and to pay the costs."[4]

The accused Alfredo Agan alias Jimmy now comes to this Court seeking the reversal of the aforesaid judgment, claiming that the evidence presented by the prosecution is not sufficient to prove his guilt beyond reasonable doubt. He contends that the prosecution evidence is purely circumstantial which cannot prevail over the positive evidence presented by him.

The Court finds the appeal devoid of merit. While the evidence adduced by the prosecution is indeed circumstantial, it appears that the witnesses who testified for the prosecution are credible witnesses and the circumstances testified to by them are consistent with truth and human nature and the natural course of things which, taken together, point unerringly to the accused-appellant Alfredo Agan alias Jimmy as the guilty party.

Thus, Joselito Tiongson, a neighbor of Ruperto Herrera in Barrio Longos, Pulilan, Bulacan, testified for the prosecution that he was at home on 19 August 1982. At about 4:00 o'clock in the afternoon of the said day, he called Nemencio Uy who was working in the compound of Ruperto Herrera in order to talk to him. But, Nemencio Uy did not answer his call. When he came near Nemencio Uy, he saw that he was sitting on a rocking chair, asleep. So, he returned home and read a newspaper instead. Some thirty (30) minutes later, he heard Nemencio Uy calling for help. He rushed out of his house and went back to the compound of Ruperto Herrera and saw the said Nemencio Uy coming out of the house of Ruperto Herrera with blood oozing from his chest. As he ran towards Nemencio Uy, he met the accused Alfredo Agan alias Jimmy, who was also coming out of the house of Ruperto Herrera, holding a blood-stained knife, about eight (8) inches long, who told him to get out of his way, which he did. After the accused had left, Tiongson and several other persons who responded to the call for help, brought Nemencio Uy to the hospital. But, Nemencio Uy was pronounced dead on arrival.[5]

Dr. Pacifico Cruz, the Municipal Health Officer of Pulilan, Bulacan, examined the cadaver and found a stab wound, about two (2) inches wide, on the left chest of the deceased which probably hit the heart and caused his death. [6]

Circumstantial evidence is sufficient for conviction if: (1) there is more than one circumstance; (2) the facts from which the inferences are derived are proven; and (3) the combination of all the circumstances is such as to produce a conviction beyond reasonable doubt.[7]

The incriminating circumstantial evidence that point to the accused Alfredo Agan alias Jimmy as the perpetrator of the offense are the following:

(1)

The victim Nemencio Uy was seen coming out of the house of Ruperto Herrera with blood oozing from his chest. Upon examination, he was found to have sustained a stab wound, about two (2) inches wide, in the left chest which probably hit his heart and caused his death;

(2)

A few moments thereafter, the accused Alfredo Agan alias Jimmy was also seen coming out of the house of the said Ruperto Herrera holding a blood-stained knife;

(3)

The knife used in the stabbing of Nemencio Uy was recovered from the accused. In the Salaysay, executed by Joselito Tiongson before Pat. R. P. Santos at the police headquarters of Pulilan, Bulacan, on 24 September 1982, which was marked as Exhibit 2 for the defense and adopted by the accused, the following statement appears:

"12.

T –

Sa iyong pagkakita, ano namang uri ng kutsilyo ang ginamit na panaksak nitong si Alfredo kay Nemencio?

S –

Kutsilyo pong yaring bahay.

"13.

T –

Tumingin ka dito sa ibabaw ng lamesa ng nagsisiyasat, alin dito sa mga kutsilyong nari-rito ang nakita mong ginamit nitong si Alfredo kay Nemencio?

S –

Iyan po. (Declarant pointing to a knife, recovered from the suspect)"[8]

The statement that the knife used in the stabbing of the deceased was recovered from the accused has not been controverted by the latter. Neither did the accused deny that he was seen by Tionson holding a blood-stained knife. When asked if he knows Tionson, he merely stated that he cannot remember.[9]

(4) The accused Alfredo Agan alias Jimmy admits that he was in the compound of Ruperto Herrera when the stabbing incident took place.[10]

(5)

The prosecution witnesses had no motive whatsoever to falsify the truth and impute to the accused Alfredo Agan alias Jimmy the commission of so grave an offense.

The combination of the foregoing circumstances, to our mind, is sufficient to establish the guilt of the accused Alfredo Agan alias Jimmy beyond reasonable doubt.

The crime committed by the accused-appellant, however, is Homicide only (not murder). As pointed out by the People's counsel in his Brief, "while the Information alleges that the killing was accompanied by evident premeditation, abuse of superior strength and treachery, the records are, however, bare of any evidence in support thereof." [11]

The penalty prescribed for the offense of Homicide is reclusion temporal,[12] or a period of from twelve (12) years and one (1) day to twenty (20) years. There being no aggravating nor mitigating circumstance to modify the penalty, the medium period of the penalty, or from fourteen (14) years, eight (8) months and one (1) day to seventeen (17) years and four (4) months, should be applied. Applying the Indeterminate Sentence Law, the penalty to be imposed upon the accused-appellant Alfredo Agan alias Jimmy should be from eight (8) years and one (1) day of prision mayor, as minimum, to fourteen (14) years, eight (8) months and one (1) day of reclusion temporal, as maximum. The indemnity to be paid to the heirs of the victim shall also be increased to P30,000.00

in line with recent decisions of the Court on the matter.

WHEREFORE, the judgment appealed from is hereby **AFFIRMED** with the modifications above indicated. Costs against the accused-appellant.

SO ORDERED.

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

[1] Original Record, p. 14.

[2] *Id.*, p. 19.

[3] *tsn* of June 27, 1985, pp. 2-3; *tsn* of July 5, 1985, pp. 2-6.

[4] Original Record, p. 125.

[5] *tsn* of April 18, 1983, pp. 2-4.

[6] *tsn* of November 15, 1983, pp. 2-3, See also Exhibit A.

[7] Sec. 5, Rule 133, Rules of Court.

[8] Original Record, p. 6.

[9] *tsn* of June 27, 1984, p. 4.

[10] *Id.*, *id.*

[11] Appellee's Brief, pp. 10-11.

[12] Art. 249, Revised Penal Code.

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