

## PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. DEMETRIO MARAVILLA, JR., ACCUSED-APPELLANT.

*G.R. No. 77968. November 23, 1988*

Ponente: CORTES, J.

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### CORTES, J.:

This is an appeal from the decision of the Regional Trial Court, Sixth Judicial District, Branch XXXIII, Iloilo City, in Crim. Case No. 17450, convicting the accused for murder, pursuant to an information charging the accused with the commission of the offense in the following manner:

That on or about July 5, 1981, in the Municipality of Zarraga, Province of Iloilo, Philippines, and within the jurisdiction of this Court, the above-named accused, armed with butcher's knife (pinute), without any justifiable motive, with treachery and evident premeditation and taking advantage of nighttime to better realize his purpose with deliberate intent and decided purpose to kill, did then and there wilfully, unlawfully and feloniously attack, assault, stab, hit and wound one HERMINIO MATUTINA with the butcher's knife with which he was provided, thereby hitting and inflicting [a] stab wound on the vital parts of his body which caused his death thereafter. [Rollo, p. 8.]

Although a warrant for the arrest of the accused was first issued on September 15, 1981, it was only on March 28, 1984 that he was finally arrested, as he no longer resided in his parents' house in Zarraga, Iloilo [Record, p. 22.] Upon arraignment, he pleaded not guilty to the charge [Record, p. 77.] After trial, the court a quo rendered judgment finding the accused-appellant guilty beyond reasonable doubt of the crime charged and sentenced him to suffer the penalty of reclusion perpetua and to pay the widow of the victim the sum of P5,000.00 for burial expenses and P12,000.00 as "moral damages"\* [Rollo, p. 26.]

The accused appealed assigning the following errors:

#### I

THAT THE HONORABLE LOWER COURT ERRED IN RELYING ON THE TESTIMONY OF PROSECUTION WITNESS MARIO MALBA IN CONVICTING THE ACCUSED.

#### II

THAT THE HONORABLE LOWER COURT ERRED IN HOLDING THAT THE ACCUSED FLED IMMEDIATELY AFTER THE INCIDENT, INDICATIVE OF GUILT.

#### III

THAT THE HONORABLE LOWER COURT ERRED IN NOT GIVING CREDENCE TO THE TESTIMONY OF THE ACCUSED AND HIS WITNESSES.

#### IV

THAT THE HONORABLE LOWER COURT ERRED IN NOT ACQUITTING THE ACCUSED.

[Brief for Accused-Appellant, p.1]

As in all criminal cases, the fundamental issue is whether or not the guilt of the accused had been proved beyond reasonable doubt.

The evidence for the prosecution consisted of the autopsy report and death certificate and the testimonies of several witnesses.

Dr. Marcelino Diaz, Jr., the Rural Health Physician who conducted the autopsy on the body of the victim, described the injury sustained by the victim as follows:

There is a stab wound 3 cm. long lying slightly diagonal with the body. The upper extremity of the wound is dull while the lower extremity is sharp. It is located at the right postero-lateral side of the chest 3 1/2 cm. from the mid-axillary line and between the 10th and 11th ribs. The wound is directed inward slightly upward and frontal-ward towards the left side of the chest. It involves the skin, intercostals muscle, diaphragm, the upper part of the right lobe of the liver and ends up piercing the heart. [Exhibit "A"; Record, p. 13.]

The witness testified that the victim sustained the stab wound on the right side of his back and that the cause of the victim's death was shock secondary to severe hemorrhage due to the stab wound. He added that the stab wound was caused by a pointed instrument with a one-sided blade [TSN, October 4, 1984, pp. 3-9.]

The prosecution's star witness, Mario Malba, testified that in the evening of July 5, 1981, he was with Bienvenido Malba, Roberto Provideo, Jr., Ricardo Bendon and the victim, Herminio Matutina, in a store drinking "sioktong". At about 9:30 p.m., they left the store and proceeded to go home. Bienvenido Malba, Provideo and Bendon walked ahead of Mario Malba and the victim. As the victim was intoxicated, Mario Malba supported him by putting his (Malba's) arm over the victim's right shoulder. As the two were walking by a rice paddy, the victim suddenly shouted that he had been stabbed and that he needed help. Mario Malba immediately looked behind them and saw the accused some two steps behind about to stab him also. However, when Mario Malba shouted for help, the accused desisted and fled. The witness and his companions took the victim to the Rural Health Center but by then he had already died. They then reported the incident to the police. Mario Malba testified that he was able to recognize the accused as the person he saw about to stab him when he looked behind because the moon was out on the night of the incident. He added that he had known the accused since childhood. [TSN, October 15, 1984, pp. 2-28.]

Witness Ricardo Bendol corroborated the testimony of Malba. Bendol narrated that he was walking home with Mario Malba, Junior Provideo, Bienvenido Malba and the victim on that fateful night. He was walking alongside Bienvenido Malba and Junior Provideo while Mario Malba and the victim walked behind them. From a distance of about thirty (30) meters, he saw a person, whom he was not able to recognize, suddenly approach Mario Malba and the victim from behind. Then he heard the victim shout that he had been stabbed. Bendol and his companions ran to the victim as the assailant fled. The witness saw that the victim had been stabbed at the right side of his back. With the assistance of a policeman, Bendol and his companions brought the victim to the Health Center aboard a tricycle, but the victim had already died when they arrived. The witness also stated that he had known the accused for a year prior to the incident [TSN, November 19, 1984, pp. 2-10.]

The next three prosecution witnesses were members of the Integrated National Police. They testified on the details of the investigation, the arrest of the accused and the number of years they had known the accused [TSN, December 3, 1984, pp. 3-6, 8-15 and 16-21.]

The final witness for the prosecution was Amelita Matutina, the victim's widow, who testified on how she came to know of her husband's death and the expenses she allegedly incurred for the burial of her husband [TSN, January 7, 1985, pp. 3-7.]

For the defense, three witness were presented.

Aida Latumbo testified that the accused has been her houseboy since March 1979. She resided in Banban, Lambunao, Iloilo and the accused stayed in her house. She said that on July 5, 1981, the day of the incident, the accused was in her house working. She added that the accused seldom went home to his parents' house in Zarraga, Iloilo [TSN, February 4, 1985, pp. 2-13.]

The next witness, Bernardo Soubiron, the barangay captain of Inagdangan Norte, Zarraga, Iloilo, testified that the police apprehended three persons, including the accused's brother, in connection with the incident. He added that he had not seen the accused within the barangay on the the day of the incident and the day before it [Id., at 14-16.]

Finally, the accused testified in his behalf. He denied any involvement in the crime, saying that he was in Banban, Lambunao, Iloilo working for Aida Latumbo on the day of the incident. He stated that since working for Latumbo, he had not gone back to Inagdangan Norte, Zarraga, Iloilo until March 27, 1984, the day of his arrest, when he went home to attend a wedding [TSN, February 5, 1985, pp. 3-11.]

After carefully considering the evidence of the parties, the Court is convinced that the guilt of the accused for the crime charged has been proven beyond reasonable doubt.

The accused had been positively identified by the witness Mario Malba as the person he saw two steps behind him and the victim and about to stab him, as he turned around to see who had stabbed the victim [TSN, October 15, 1984, pp. 6-7.] It was a moonlit night and Mario Malba was able to recognize the accused, whom he had known since childhood [Id., at pp. 3, 9.] In spite of the defense counsel's questioning, the accused was not able to attribute to Mario Malba any ulterior motive for testifying against him [TSN, February 5, 1985, p. 6.] Thus, Malba's testimony is entitled to full faith and credit [People v. Detuya, G.R. No. L-39300, September 30, 1987, 154 SCRA 410, citing People v. Canamo, G.R. No. 62043, August 13, 1985, 138 SCRA 141 and People v. Alcantara, G.R. No. L-49693-94, December 29, 1983, 126 SCRA 425.]

Then, Malba testified that after he shouted upon seeing the accused about to stab him, the accused fled [TSN, October 15, 1984, p. 7.] Witness Ricardo Bendol corroborated this when he testified that the person he saw behind Malba and the victim fled as he and his companions came to their rescue [TSN, November 19, 1984, p. 6.] That the accused fled after he was seen is a strong indication of his guilt.

That witnesses Malba and Bendol had drunk liquor minutes before the incident does not necessarily render their testimonies incredible. On the contrary, a review of the transcript of their testimonies will show that their perception and recollection of the events that transpired was fairly good, leading to the conclusion that at the time the incident happened they were in full control of their faculties. This conclusion is bolstered by the fact that Malba and Bendol, together with their drinking companions, were able to immediately react to the situation by rushing the victim to the Rural Health Center.

On the other hand, the accused raises the defense of alibi. He testified that he had not gone back to his hometown since he started working for Aida Latumbo in 1979 until his arrest in 1984 [TSN, February 5, 1985, p. 9.] However, Latumbo, the defense's star witness, far from corroborating this, even contradicted it. Thus, when asked how often the accused went home to Inagdangan Norte, Zarraga, Iloilo, Latumbo answered, "Once in a while because his mother also went to our house." [TSN, February 4, 1985, pp. 3-4.] On this score alone, the defense of alibi crumbles. But there is a more compelling reason to reject this defense -- the positive testimony of witness Mario Malba, who had no motive to testify falsely against the accused, establishing the latter's presence at the scene of the crime at the pivotal moment. The rule is that the defense of alibi, in order to be given full faith and credit, must be clearly established and must not leave any room for doubt as to its plausibility and verity [People

v. Manalo, G.R. No. L-45088, February 28, 1985, 135 SCRA 84.]

While no witness testified that he actually saw the accused stabbing the victim, the Court finds that the evidence suffices to support a judgment of conviction. The circumstantial evidence points to the accused as the perpetrator of the crime. First, witness Mario Malba saw the accused two steps behind him and the victim, about to stab him, when he turned around to find out who had stabbed the victim. Second, the victim suffered a stab wound at the right side of his back. Third, the accused fled when he was seen by Malba and the attention of Bendol and his companions was drawn by the shouting. The rule is that circumstantial evidence is sufficient to prove conviction if (a) there is more than one circumstance; (b) the facts from which the inferences are derived are proven; and (c) the combination of all the circumstances is such as to produce a conviction beyond a reasonable doubt [Rule 133, Sec. 5, Revised Rules of Court.] Corollary to this rule, all the circumstances must be consistent with each other, consistent with the hypothesis that the accused is guilty, and at the same time inconsistent with the hypothesis that he is innocent, and with every other rational hypothesis except that of guilt [People v. Ludday, 61 Phil. 216 (1935); People v. Modesto, G.R. No. L-25484, September 21, 1968, 25 SCRA 36; People v. Comendador, G.R. No. L-38000, September 19, 1980, 100 SCRA 155.] After carefully weighing the evidence, the Court finds that all of the above elements exist and the test of moral certainty has been met.

The Court agrees with the court a quo that the crime committed is murder, qualified by treachery. There is treachery when, as in the instant case, the attack was so sudden and unexpected that the victim was unable to defend himself, thus insuring the execution of the criminal act without risk to the assailant [People v. Fernandez, G.R. No. 69619, September 15, 1987, 154 SCRA 30, citing People v. Carzano, G.R. No. L-29571, January 22, 1980, 95 SCRA 146; People v. Beltran, G.R. No. L-38049, July 15, 1985, 137 SCRA 508; and People v. Escoltero, G.R. No. 68160, October 9, 1985, 139 SCRA 218; see Art. 14, par. 16, Revised Penal Code.]

Although the crime was committed at nighttime, such cannot be appreciated separately, as nocturnity is deemed absorbed by treachery [People v. Corpuz, 107 Phil. 44 (1960); People v. Jimenez, 99 Phil. 285 (1956).]

As correctly found by the trial court, evident premeditation cannot be appreciated in the absence of any evidence to show that the accused had sufficient time to reflect and persist in the commission of the crime [Rollo, p. 26.] The essence of evident premeditation "consists in that the execution of the criminal act must be preceded by cool thought and reflection upon the resolution to carry out the criminal intent, during that space of time sufficient to arrive at a calm judgment" [People v. Durante, 53 Phil. 363, 369 (1929).]

In view of the abolition of the death penalty, murder is now penalized by reclusion temporal in its maximum period to reclusion perpetua. In the absence of any aggravating or mitigating circumstances, the penalty is imposable in its medium period, or from eighteen (18) years, eight (8) months and one (1) day to twenty (20) years of reclusion temporal. Applying the Indeterminate Sentence Law, the minimum term of the penalty to be imposed shall be within the range of the penalty next lower in degree, prision mayor in its maximum period to reclusion temporal in its medium period, or from ten (10) years and one (1) day to seventeen (17) years four and (4) months. In the exercise of its discretion, the Court fixes the minimum term at twelve (12) years and one (1) day of reclusion temporal.

Finally, with regard to the award of P5,000.00 as burial expenses, the Court finds that the claim had not been duly proved. In fact the victim's widow testified that she did not have receipts to support her claim for burial expenses [TSN, January 7, 1985, pp. 5, 7.]

WHEREFORE, the accused-appellant is found guilty beyond reasonable doubt of the crime of murder and the judgment of the Regional Trial Court in Crim. Case No. 17450 is AFFIRMED, with the following modifications: (1) the accused-appellant shall suffer the indeterminate penalty of TWELVE (12) YEARS and ONE (1) DAY of

reclusion temporal, as minimum, to TWENTY (20) YEARS of reclusion temporal, as maximum; (2) the trial court's award of P5,000.00 for burial expenses is SET ASIDE; and (3) the indemnity awarded to the heirs of the victim is increased to THIRTY THOUSAND PESOS (P30,000.00).

**SO ORDERED.**

Fernan, C.J., (Chairman), Gutierrez, Jr., Feliciano, and Bidin, JJ., concur.

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[\*] The trial court erroneously called the indemnity provided by law "moral damages".

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