

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. DONATO ALVERO, ALEJANDRO BANAYO, AND ROSENDO VILLANUEVA, JR. ALIAS "CHITO"; DEFENDANTS. DONATO ALVERO, DEFENDANT-APPELLANT.

G.R. No. 78268. July 19, 1990

Ponente: PADILLA, J.

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PADILLA, J.:

In an Information filed with the Court of First Instance of Quezon, which was docketed therein as Criminal Case No. 3048, Donato Alvero, Alejandro Banayo, and Rosendo Villanueva, Jr., alias "Chito" were charged with the crime of Murder, committed as follows:

"That on or about the 13th day of September 1980, at Barangay Bungoy, Municipality of Dolores, Province of Quezon, Philippines, and within the jurisdiction of this Honorable Court, the said accused, armed with a knife, conspiring and confederating together and mutually helping one another, with intent to kill, and with treachery, did then and there wilfully, unlawfully and feloniously attack, assault and stab several times with the said deadly weapon one Armando Abel, thereby inflicting upon the latter stab wounds on the different parts of the body which directly caused his death." [1]

When arraigned, Donato Alvero pleaded "not guilty" of the commission of the crime, but after trial, he was found guilty of the charge and sentenced to suffer the penalty of reclusion perpetua, with the accessory penalties of the law, to indemnify, jointly and severally with Alejandro Banayo, the heirs of the victim Armando Abel in the amount of P30,000.00, and to pay the proportionate costs. [2]

Hence, the present appeal.

The facts of the case, as summarized by the Solicitor General, are as follows:

"It appears that at about 8:30 o'clock in the evening of September 13, 1980, Armando Abel was stabbed in Barangay Bungoy, Dolores, Quezon resulting to (sic) his death. The autopsy conducted on the body of Armando Abel revealed that the victim died of internal hemorrhage due to several fatal wounds inflicted in different parts of the body (Exh. A, p. 112, Rec.).

"The incident was witnessed by Alfredo Esguerra, a resident of Barangay Bungoy, Dolores, Quezon. (p. 3, 5, tsn, Nov. 27, 1985). He testified that he was on the street in Barangay Bungoy, Dolores, Quezon when the deceased Armando Abel passed by (pp. 3, 4, tsn, Nov. 27, 1985). Shortly thereafter, there was a commotion and he saw Chito Villanueva stab Armando Abel while the left arm of the victim was held by Alejandro Banayo and the right arm was being held by Donato Alvero (pp. 5, 6, 7-8, tsn, Nov. 27, 1985). He was more or less twenty (20) meters away from the place of the incident (p. 4, tsn, Nov. 27, 1985). He helped the barangay captain, who arrived later, carry the victim to a jeep and proceeded to the Community Hospital in San Pablo City (p. 8, tsn, Nov. 27, 1985).

"Godofredo Valle, Barangay Captain of Barrio Bungoy, Dolores, Quezon, who was fetched from his house by

a certain Bernabe Obrado also testified that when he arrived at the place of the incident, he saw Armando Abel wounded and lying down near a canal (p. 23, tsn, Nov. 6, 1985). He loaded the victim in a jeep and proceeded to San Pablo City (p. 12, tsn, Nov. 6, 1985). While on the way to San Pablo City, he asked Armando Abel who stabbed him and the latter answered, 'the gang of Chito' (p. 13, tsn, Nov. 6, 1985). The gang mates of Chito Villanueva are Alejandro Banayo and Donato Alvero (pp. 14-15, tsn, Nov. 6, 1985). Armando Abel died on the way to the hospital (p. 13, tsn, Nov. 6, 1985)."[3]

The defendant-appellant Donato Alvero admitted that he was present when Chito Villanueva stabbed Armando Abel. But he denied holding the arm of the said Armando Abel when Chito Villanueva stabbed him (Armando Abel). According to the appellant, he was about 15 meters away from Armando Abel when he (Armando Abel) was stabbed by Chito Villanueva.[4]

Appellant's claim is corroborated by Arnel Ventocilla and Cesar Ilagan who testified that they were also present during the stabbing incident and that Donato Alvero was far from Chito Villanueva, and Armando Abel.[5]

In his Brief, the appellant contends that the trial court should have given due weight and credence to the testimony of defense witness Arnel Ventocilla who testified in a straightforward manner and is not related to any of the parties, instead of believing the uncorroborated testimony of Alfredo Esguerra, which is full of inconsistencies and contradictions.

We find no merit in the appeal. There is nothing in the record of the case that would justify a change in the trial court's findings. Alfredo Esguerra positively declared that the appellant Donato Alvero and Alejandro Banayo were holding the hands of Armando Abel while the latter was being stabbed by Chito Villanueva.[6] Alfredo Esguerra testified in a forthright manner and had no ill-motive to testify falsely against the appellant Donato Alvero. His testimony is, therefore, entitled to full faith and credit.

There may have been a discrepancy in the testimony given by Alfredo Esguerra during the trial of the case against Alejandro Banayo and his testimony in the instant case, as to which arm of the victim was held by the appellant Donato Alvero but, as the trial court found, and we agree, "these can be explained by the fact that four (4) years had transpired between the time he testified against Alejandro Banayo and the time he testified against Donato Alvero and the discrepancy is merely on matters that are not substantial and would even improve his credibility as a witness."

Besides, the appellant has not presented compelling grounds to overturn the findings of the trial court on the credibility of the witnesses for the prosecution and the clear and positive identification of the appellant Donato Alvero as one of the perpetrators of the crime. Well-settled is the rule that the factual findings of the trial court, which had all the opportunity to observe the behavior and demeanor of the witnesses and weigh all evidence presented, are accorded great respect in the absence of a clear showing of arbitrariness and misapprehension of the facts.[7]

Finally, it is already of public record that the appellant Donato Alvero and Alejandro Banayo were holding the hands of Armando Abel while the latter was being stabbed by Chito Villanueva. In its decision affirming the conviction of Alejandro Banayo,[8] this Court said:

"The holding of the hands of the victim by Donato Alvero and the defendant-appellant (Alejandro Banayo) insured the commission of the offense without risk to the accused. The victim was immobilized and prevented from parrying the knife thrusts of Chito Villanueva. The victim was in no position to retaliate."

WHEREFORE, the judgment appealed from should be, as it is hereby **AFFIRMED**, with costs against the appellant.

SO ORDERED.

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

[1] Rollo, p. 6

[2] Alejandro Banayo was earlier tried and convicted of the offense charged and sentenced to suffer the penalty of reclusion perpetua. His sentence was affirmed by this Court on 22 June 1984 (See 129 SCRA 725)

The accused Rosendo Villanueva, Jr. alias "Chito" has remained "at large" up to the present and his whereabouts are unknown.

[3] Brief for the appellee, pp. 2-4

[4] tsn of November 12, 1986, pp. 4-10

[5] tsn of July 30, 1986, pp. 5-12; tsn of August 27, 1986, pp. 6, 9; tsn of September 30, 1986, pp. 3-10

[6] tsn of November 27, 1986, pp. 7-8

[7] People vs. Demecillo, G.R. No. 83186, June 4, 1990 and cases cited

[8] People vs. Banayo, G.R. No. 64164, June 22, 1984, 129 SCRA 725, 735

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