

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. DANTE FLORES Y PONCE, LARRY PONCE Y BUNGABONG AND OLIVER GUERRERO Y DAVIS, ACCUSED-APPELLANTS.

G.R. No. 79451. May 14, 1990

Ponente: FELICIANO, J.

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FELICIANO, J.:

The decision of the Regional Trial Court, Branch 29, San Fernando, La Union, convicting the accused Dante Flores y Ponce, Larry Ponce y Bungabong and Oliver Guerrero y Davis of the crime of murder and sentencing each of them to suffer reclusion perpetua, is before us on appeal.

The accused Dante Flores, Larry Ponce and Oliver Guerrero were charged by the Provincial Fiscal of La Union in an Information which read as follows:

"That on or about the 3rd day of June, 1984, in the Municipality of San Fernando, La Union, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating with each other, and mutually helping one another, being then armed, with deliberate intent to kill and without any justifiable cause, did then and there willfully, unlawfully and feloniously by means of treachery and abuse of superior strength, attack, assault, stab several times, and hit SALVADOR CATBAGAN in several parts of his body, inflicting upon him wounds that directly caused his death, to the damage and prejudice of the heirs of said Salvador Catbagan.

Contrary to Article 248 of the Revised Penal Code."

The accused all pleaded not guilty and went to trial. After trial, the Regional Trial Court in a decision dated 23 June 1987, convicted all three (3) accused of the crime of murder. The dispositive portion of the decision states:

"WHEREFORE, finding the accused Dante Flores y Ponce, Larry Ponce y Bungabong and Oliver Guerrero Y Davis guilty beyond reasonable doubt as principals of the crime of Murder defined and penalized under Article 248 of the Revised Penal Code, they are hereby sentenced to suffer RECLUSION PERPETUA, and to pay the costs. They are further sentenced to indemnify jointly and severally the heirs of the deceased the amount of P30,000.00 for the death of Salvador Catbagan and the amount of P5,980.00 which the heirs of the deceased had incurred for the wake and burial of the deceased."

SO ORDERED."

In their Brief, the appellants assign the following errors:

1. the lower court erred in appreciating the evidence of the prosecution tending to show that the three appellants mauled and inflicted the wounds that caused the death of the victim, Salvador Catbagan;
2. the lower court erred in not considering the circumstances favorable to the accused-appellants;
3. the trial court erred in convicting the accused-appellants; and

4. the lower court erred in not acquitting the accused-appellants.

From the record, the facts of the case may be summarized in the following manner:

In the evening of 3 June 1984, Dante Flores, Larry Ponce and Oliver Guerrero met at the Town Plaza of San Fernando, La Union, planning to attend an amateur singing contest. They, however, arrived at the Town Plaza too late for the singing contest. They then decided to see the last full movie show at the Nancy Theater. They were, however, also late for the last full show; accordingly, they decided to drink some beer at the Daily Fast Foods, a restaurant some 100 meters away from the theater.[1]

The three (3) accused drank several bottles of beer, after which they decided to call it a night. While the three (3) were waiting for a tricycle along P. Burgos Street, a man who was apparently drunk and who was later on identified as the victim, Salvador Catbagan, approached them and proceeded to urinate on the accused Dante Flores' leg and feet. That done, Catbagan asked Flores whether the latter had any objection to what the former had done. Flores answered "none, manong." Catbagan propounded the same question to the other two (2) accused, Larry Ponce and Oliver Guerrero, successively; the two (2) gave the same negative answer: "None, manong."

Juanito Go, Barangay Captain of Barangay 1, was patrolling the vicinity at around 10:00 o'clock p.m. that evening and was at a vacant lot near the Nancy Theater when he became aware of a commotion taking place at the corner of Don Chen Ja. He ran towards the situs of the commotion. He saw Catbagan fleeing from the scene of the commotion with three (3) individuals chasing after him. Catbagan lost his balance and fell to the ground and when he attempted to get up and run, he was caught by appellant Dante Flores. Catbagan fell to the ground again and Juanito Go noted that Catbagan was bleeding.[2] The three (3) accused began running northward along the highway. Patrolmen Felipe Martinez and Reynaldo Biales, having also noticed the commotion and the scuffling, chased the three (3) accused in a tricycle. They were able to catch up with the accused about half a kilometer away and apprehended them and brought them to the police station for questioning.

Romeo Palabay together with Luzviminda Nigos happened, that evening of 3 June 1984 at about 10:00 o'clock p.m., to be in front of the Nancy Theater looking at the still pictures on display. Romeo's attention was directed by Luzviminda to the commotion which had suddenly erupted at Petron gasoline station across the street approximately 20 meters away. Romeo noticed that Salvador Catbagan was being mauled and beaten and so he (Romeo) ran towards the group to succor Salvador Catbagan, then lying on the ground with blood on his chest. Romeo Palabay, testifying for the prosecution, identified the three (3) accused as the three (3) persons whom he saw attacking Salvador Catbagan, namely, Dante Flores, Larry Ponce and Oliver Guerrero. Upon reaching the scene of the commotion, Romeo picked up Salvador Catbagan, having in the process to avoid a stabbing attack on himself by Dante Flores. Romeo carried Salvador Catbagan, put him on board a tricycle and brought him to the Bethany Hospital.[3] There Salvador Catbagan expired upon arrival.

Dr. Arturo Llavore, a Medico Legal Officer of the National Bureau of Investigation, carried out an autopsy on the cadaver of Salvador Catbagan. The autopsy revealed, apart from assorted contusions and abrasions on the face, left arm, left and right wrists and on the knee, as well as incised wounds on the right cheek and on the left posterior lumbar region, five (5) stab wounds:

1. The first wound was located on the chest, anterior aspect, right side, directed downward, penetrating the lower lobe, left lung, and the liver and perforating the upper portion of the stomach, with an approximate depth of 16.5 cms.;
2. The second stab wound was located on the left chest, anterior aspect, also directed downward and penetrating the left lobe of the liver and the mesentery and cutting the "abdominal aorta", with an approximate depth of 15.5

cms.;

3. The third wound also oriented downward, located on the chest, right side, anterior aspect and penetrating the lower lobe of the right lung, with an approximate depth of 12 cms.;
4. The fourth stab wound also located on the upper abdomen, perforated loops of the small intestine and ended at the lumbar region, with an approximate depth of 10 cms.; and
5. The fifth stab wound, also found on the lumbar region, left posterior aspect, oriented upwards, penetrated the spleen and the base of the left lung, with an approximate depth of 9.5 cms.[4]

At the police station, Dr. Llavore was able to scrape at some stains on the fingers of Dante Flores. The scrapings, upon laboratory examination, turned out to be dried human blood of the AB type, which was the same blood type of the victim Salvador Catbagan.

In evaluating the assignments of error raised by the accused, which assignments will be considered together, the first point that should be made is that there were at least two (2) eyewitnesses presented by the prosecution who were able, positively and definitely, to identify the accused-appellants as having mauled and beaten up the victim Salvador Catbagan. The first of these was Norma Ucol who testified in the following manner:

"WITNESS:

A: There were three men and the fourth one is Salvador.

FISCAL MUNAR:

Q: What did these three men do if any?

A: I just saw them, they boxed Salvador, sir.

Q: How did they box Salvador?

ATTY. PULMANO:

There were three men, the question is vague.

FISCAL MUNAR:

Q: Will you please demonstrate what you saw?

A: Witness demonstrating straight thrust.

Q: What else did you see?

A: When I saw that the three men boxed Salvador he fell down then Salvador kicked them, sir.

Q: What was the position of Salvador when he kicked the three men?

A: He was lying down, sir.

Q: What else did these three men do to Salvador?

A: I do not know because I run inside the restaurant, sir.

Q: Where did Salvador fall?

A: Near the Wimpis Meal Station, sir.

Q: What part of the Wimpis Station?

A: Outside, sir.

Q: How far away from the Wimpis Station?

A: Around one meter, sir.

Q: Was it already along the side walk or on the street?

A: Along the side walk, sir.

Q: You said three persons boxed Salvador Catbagan?

ATTY. PULMANO:

She said Salvador.

Q: Do you know the full name of this Salvador.

A: Salvador Catbagan, sir.

Q: You said that three persons boxed Salvador Catbagan, will [you] be able to recognize those three persons?

A: Yes, sir.

Q: If they are in court will you please point to them?

A: Witness pointing to a man in the courtroom who answered in the name of Dante Flores and the other person who answered by the name of Larry Ponce.

FISCAL MUNAR:

Q: What about the third person will you be able to recognize him?

A: Yes, sir, he is not here.

Q: Will you please describe him?

A: He is dark with curly hair and he is tall, sir.

FISCAL MUNAR:

May we make on record your honor, that in the bail bond posted by one of the accused namely Oliver Guerrero do not bear any picture and because of this the witness will not be able to identify the accused Oliver Guerrero. In view of his absence today as well as there is no photograph attached to his bail bond.[5]

x x x x x x x x

FISCAL MUNAR:

Still on direct examination. With the permission of the Honorable Court.

COURT:

Proceed.

FISCAL MUNAR:

When you testified the last time, you were asked to point out the three (3) persons whom you saw attacked and boxed Salvador Catbagan and you pointed to the person Larry Ponce and Dante Flores, while the third person was then absent, my question today is, will you now please look at the person in the court room and point to

that person if he is here?

A: There is, sir.

Q: Will you please point to him?

A: (Witness pointing to a man in the court room who answered by the name of Oliver Guerrero.)

Q: Now, in your direct examination, you said that you saw the victim Salvador Catbagan being boxed by the three (3) persons, now, who was that person whom you saw boxed Salvador Catbagan?

ATTY. PULMANO:

Already answered, the three persons she identified.

FISCAL MUNAR:

Will you please explain what you mean, when they boxed Salvador Catbagan?

ATTY. PULMANO:

Already answered. She demonstrated that the persons delivered a punch.

FISCAL MUNAR:

In the interest of justice, she should explain because we want the witness to testify how those three persons boxed Salvador Catbagan.

ATTY. PULMANO:

But the witness has already demonstrated, what more, action speaks more than words.

COURT:

Witness may answer.

WITNESS:

A: I already said it before, sir.

FISCAL MUNAR:

Q: Whom did you see boxed Salvador Catbagan?

ATTY. PULMANO:

Already answered. The three (3) persons.

FISCAL MUNAR:

Precisely, the three persons, she only demonstrated one box.

Q: Was it at the same time?

ATTY. PULMANO:

That is better, we will withdraw our objection if that is the case.

WITNESS:

A: No, sir.

FISCAL MUNAR:

Q: Alright, how did they box him? Was it only one time?

A: I only saw one who boxed Salvador, sir.

Q: Who was that person?

A: I do not know who among them because I am far away. I cannot identify.

Q: After boxing Salvador Catbagan what did these three (3) persons do?

ATTY. PULMANO:

Already answered, Your Honor. She said I do not know anymore.

FISCAL MUNAR:

The question is, what did the three persons do after boxing Salvador Catbagan and the question is not yet translated.

COURT:

Witness may answer.

WITNESS:

A: They tried to go near him again, sir.

FISCAL MUNAR:

Q: When you said they, to whom do you refer?

WITNESS:

A: The three (3) of them, sir. (Witness pointing to the three accused).

FISCAL MUNAR:

Q: Were they able to get near Salvador Catbagan?

A: No, sir.

Q: Why?

ATTY. PULMANO:

The witness already answered, she does not know because she went already to the restaurant.

x x x x x x x x"[6]

The second eyewitness, prosecution witness Romeo Palabay, corroborated Norma Ucol's testimony. Romeo Palabay was also able to identify Dante Flores as having stabbed at the victim with a knife:

"x x x x x x x x

Q: While you were there was there anything unusual that happened?

A: There was, sir.

Q: What was that?

A: Bobby was being mauled, sir.

Q: Who is this Bobby who was being mauled?

A: Salvador Catbagan, sir.

Q: Where was this Bobby when he was being mauled?

A: He was in the Petron, sir.

FISCAL MUNAR:

Q: What did you do when Bobby was being mauled?

A: I run immediately, sir.

Q: Towards where?

A: Going north, sir.

Q: To where?

A: I went to see Bobby who was being mauled, sir.

Q: And were you able to reach that place where Bobby was being mauled?

Q: I saw three persons, sir.

ATTY. PULMANO:

I move to strike the answer of the witness, Your Honor, it is not responsive. The question is were you able to reach the place?

A: I reach the place, sir.

Q: What did you see?

A: I saw three men, sir.

Q: What were those three men doing?

A: They were mauling Bobby, sir.

Q: Will you demonstrate how they were mauling Bobby Catbagan?

A: Witness demonstrating a thrust downward with his right hand.

FISCAL MUNAR:

Q: What was the position of Salvador Catbagan when he was being mauled?

A: He was lying down his face upward, sir.

Q: Where were the three who were mauling Salvador Catbagan?

A: The two were north of Salvador Catbagan and the other one was on the south of Salvador Catbagan, sir.

Q: Those three persons who were mauling Salvador Catbagan will you please look those persons inside the courtroom and point to us those persons if they are here?

A: They are here, sir. Witness pointing to the three accused seated on the bench.

Q: Will you please go down and pat their shoulder?

ATTY. PULMANO:

The witness pointed to the three persons even moving his finger towards his left.

FISCAL MUNAR:

Q: Will you go down and tap the shoulder of the persons whom you saw in that incident who mauled Salvador Catbagan?

Note:

Witness went to the place where the accused were sitting and touch the shoulder of the three men whose name is Dante Flores, Larry Ponce and Oscar Pimentel.[7]

X X X X X X X X

FISCAL MUNAR:

Q: What did you observe the three persons holding if any?

ATTY. PULMANO:

The same objection, not premised it assumed the fact not fully established.

COURT:

Witness may answer.

WITNESS:

A: There was a knife, sir.

Q: And who was holding that knife?

A: Witness pointing to a man at the northern most of the bench and when asked his name he answered that he is Dante Flores.

Q: When you reached near the persons what did you do?

A: They moved a little bit far, sir.

Q: And what did you do?

A: I went to carry Bobby Catbagan.

Q: When you were able to carry Bobby Catbagan what did the three (3) persons do if any?

A: He came again to stab me, sir.

Q: Who was that person who went to stab you?

A: Dante Flores, sir.

Q: Was he able to stab you?

A: I was able to evade, sir.

X X X X X X X X"[8]

While Romeo was able to observe only Dante Flores in the act of holding a knife, the trial court found that, considering the number of wounds sustained by the deceased and the differing dimensions of the entry wounds, at least two (2) knives had been used in inflicting multiple stab wounds upon the deceased and that those wounds had been inflicted by more than one person. The trial court said:

"At least two knives were used in the inflicted wounds sustained by the deceased because the entrance of stabbed wound No. 1 and 2 are longer than the stabbed wound No. 5. [In] stabbed wound No. 2, the entrance is 2.7 cms. longer while stabbed wound No. 4 is only 7 cms. longer.

x x x x x x x x[9]

The number of wounds and their sizes would mean that more than one knife had been used in the commission of the crime and that more than one person had inflicted them. The prosecution witnesses had actually seen the three accused delivering blows to the deceased immediately before the deceased run away from them and fell on the road bleeding. There is but only one inescapable conclusion therefore that the three accused were all armed with knives with which they inflicted the several wounds sustained by the deceased, and that conspiracy attended the commission of the crime.

x x x x x x x x"[10]

The trial court obviously found the testimony of the prosecution eyewitnesses to be reliable and credible and, after careful consideration of the records of this case, we find no reason for overturning such findings. The general rule is that "the findings of the trial court as to the credibility of the witnesses are to be given weight and a high degree of respect by the appellate court".[11] Moreover, "if there is nothing in the record to show that the prosecution witnesses were moved by any improper motive to accuse falsely the appellants of so grave a crime as murder, then the findings of the trial court as to the credibility must be respected."[12]

The appellants point to certain alleged errors, contradictions, and inconsistencies in the testimony of the witnesses for the prosecution. Thus, it is claimed that the testimony on direct examination of Norma Ucol to the effect that she saw the three (3) accused gang up on the victim and that she saw one of the accused strike the victim who was in turn kicked by the latter, was inconsistent with her declaration on cross-examination that she did not recognize the person who delivered that blow. The Court, however, finds no necessary contradiction in these statements. Norma's statement that she could not identify the person who delivered the blow must be viewed in relation to all her earlier statements (direct and cross examination) in order to be properly understood. Her testimony may be understood to mean that she saw at that time the faces and general appearance of the three (3) accused, since the area involved was well-lighted at 10:00 o'clock p.m.[13] But, she learned the names of the accused only upon meeting them at the police station. Moreover, her failure to identify who among the three (3) accused had struck the victim does not appear critical or essential, considering that conspiracy among the accused was alleged and proven at the trial. The rule is: where there is conspiracy, a showing as to who inflicted the fatal blow is not required.[14]

It is also claimed that the testimony of Romeo Palabay that he saw the three (3) accused gang up on the victim in the premises of the Petron gasoline station was inconsistent with his statement that the three (3) accused were Dante Flores, Larry Ponce and Oscar Pimentel, the last named not being one of the accused. We find no serious contradiction in the foregoing statements. Attention must be directed to the fact that Romeo was able to point out[15] to the trial court the three (3) accused who were then sitting on a bench inside the court room as the culprits. The alleged error occurred when Romeo named the three (3) accused in this case: the name Oscar Pimentel which was not a name used by any of the accused, came up. The record offers no explanation how the name "Oscar Pimentel", rather than "Oliver Guerrero", came up. Defense counsel did not object at the time to what is now on appeal, alleged to be an error in identification. It is, however, pertinent to note that witness

Palabay was not previously acquainted with any of the accused before the killing of Catbagan and that he (like Norma Ucol) learned their names only when he saw them at the police station.[16] It must also be noted that the presence of all the accused (including Oliver Guerrero) at the time and place of the crime was properly established by the testimony of the other witnesses for the prosecution.

Appellants further claim that the testimony of Romeo Palabay to the effect that he saw accused Dante Flores holding a knife which said accused used in trying to stab him was diametrically opposed to the testimony of Barangay Captain Go that he did not take any knife from the accused Flores. There appears nothing mutually contradictory between these two (2) statements. Assuming that Flores was really armed with a knife at the time of his encounter with Catbagan, Flores certainly had the opportunity to drop or get rid of the knife by the time Barangay Captain Go caught up with him.

The other alleged inconsistencies and errors in Palabay's testimony appear too minor to be considered explicitly and they do not affect the credibility of said witness. Minor discrepancies in the testimonies of witnesses are but natural and to be expected. They enhance their credibility because these discrepancies tend to indicate that the answers were unrehearsed.[17]

The evidence submitted by the prosecution did not show who, apart from Dante Flores, of the three (3) accused had wielded a knife and inflicted knife wounds upon the victim. It must, therefore, be noted that the element of conspiracy was present since all the three (3) accused had acted in a concerted manner in attacking and chasing the deceased victim. It follows that all three (3) may be held liable for the stabbing and killing of the victim.[18]

The defense of the accused consisted of the simple denial that anyone of them had attacked and stabbed at the victim. All three (3) testified that not one of them had felt upset or angry when the deceased Catbagan had urinated on the leg of Dante Flores and that the deceased victim had unaccountably started to run away. The trial court clearly found this defense unworthy of serious consideration --

"The accused have a motive in committing the crime charged. While they were at the park, the deceased who was then drunk approached them and urinated on the leg of Dante Flores. According to the three accused, after urinating on the leg of Dante Flores, he asked the accused one after the other if they had hurt feelings because of what he had done, but all of them simply answered "none manong". The act of the deceased in urinating on the leg of Dante Flores is indeed very provocative which must have angered the accused to stab him. As a matter of fact, the three accused all testified that after urinating on the leg of Dante Flores there is a commotion ensued which was but the result of the act of the deceased in urinating on the leg of Dante Flores." [19] (Underscoring in the original)

The trial court thus found provocation on the part of the deceased and that the accused must have responded in anger by attacking and stabbing the deceased. Motive, of course, is not an essential element of a crime. Thus, extreme moral perversion could lead a person to commit a crime without a motive that could be appreciated or understood by an ordinary man.[20] It is settled that where the identity of a person accused of having committed a crime is not in dispute, the motive that may have impelled the commission of the crime is not very relevant.[21] In the instant case, there are at least two (2) eyewitnesses to the crime as earlier noted, whose testimonies were, in addition, corroborated by at least four (4) other witnesses: Juanito Go, Luzviminda Nigos and two (2) police patrolmen, Patrolmen Felipe Martinez and Reynaldo Biares, all of whom testified that the accused were present at the scene of the crime chasing after the deceased, and fleeing from the scene after the Barangay Captain and the police had begun to converge upon them, and were arrested immediately after fleeing from the fatal mauling and stabbing of the victim. There was, in other words, no need for the prosecution to prove motive on the part of the accused-appellants. Even so, the explanation of the trial court being quite in line with ordinary human behavior, that explanation appears useful in understanding what happened that night of 3 June 1984 when Salvador

Catbagan, to all appearances drunk and in a belligerent mood, had the misfortune of coming across and inflicting himself upon the three (3) accused-appellants who had themselves been drinking beer.

It remains only to note that the killing of Salvador Catbagan was attended by the generic aggravating circumstance of abuse of superior strength. The three (3) accused-appellants obviously outnumbered and ganged up on Salvador Catbagan. The multiplicity of the abrasions and contusions, incised wounds and the deep and deadly stab wounds sustained by Catbagan indicated the overpowering nature of the violent attack directed against him.

WHEREFORE, the decision of the trial court finding the accused-appellants Dante Flores, Larry Ponce and Oliver Guerrero guilty beyond reasonable doubt of the crime of murder and sentencing each of them to reclusion perpetua, to indemnify the heirs of the deceased in the amount of P30,000.00 plus the amount of P5,980.00 incurred for burial and funeral expenses of the deceased and to pay the costs, is hereby AFFIRMED.

SO ORDERED.

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

[1] TSN, 21 May 1986, pp. 6-8; Record, pp. 323-325.

[2] TSN, 30 January 1986, pp. 9-14; Record, pp. 233-238; TSN, 3 December 1986, pp. 9-15; Record, pp. 212-218.

[3] TSN, 13 May 1986, pp. 5-7; Record, pp. 285-287; TSN, 3 December 1985, p. 7; Record, p. 7.

[4] Decision of the trial court, Rollo, pp. 53-55.

[5] TSN, 10 December 1984, pp. 4-6; Record, pp. 68-70. Underscoring supplied.

[6] TSN, 20 December 1984, pp. 2-6; Record, pp. 73-77. Underscoring supplied.

[7] TSN, 13 November 1984, pp. 3-6; Record, pp. 42-45. Underscoring supplied.

[8] Id., pp. 7-8; Record, pp. 46-47. Underscoring supplied.

[9] Decision of the trial court, Rollo, p. 55. Underscoring supplied.

[10] Id., Rollo, p. 63. Underscoring supplied.

[11] People v. Valdez, et al., 159 SCRA 152 (1988); People v. Sarol, 139 SCRA 125 (1985).

[12] People v. Valdez, supra.

[13] TSN, 20 December 1984, p. 9; Record, p. 80.

[14] People v. Tamba, 147 SCRA 427 (1987); People v. Tala, 141 SCRA 240 (1986).

[15] TSN, 13 November 1984, p. 5; Record, p. 44.

[16] See in this connection, People v. Magdueño, 144 SCRA 210 (1986).

[17] People v. Bautista, 147 SCRA 500 (1987); People v. De las Piñas, 141 SCRA 379 (1986); People v. Valentino, 141 SCRA 397 (1986).

[18] People v. Roxas, 147 SCRA 169 (1987); People v. Jusep, 151 SCRA 248 (1987); People v. Garcia, 141

SCRA 336 (1986); *People v. Arhis*, 144 SCRA 684 (1986).

[19] Decision of the trial court, Rollo, p. 59.

[20] *People v. Arcilla*, G.R. No. 11792, 30 June 1985; *People v. Del Rosario*, 105 Phil. 591 (1959).

[21] *People v. Ramilo y Sangalang*, G.R. No. 52230, 15 December 1987; *People v. Ibal y Yakap*, 143 SCRA 317 (1986).

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