

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ARMANDO SOLARES Y MANALOTO, ACCUSED-APPELLANT.

G.R. No. 82363. May 05, 1989

Ponente: GUTIERREZ, JR., J.

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GUTIERREZ, JR., J.:

This is an appeal from the decision of the Regional Trial Court of Caloocan City, Branch 131, finding the appellant Armando Solares guilty beyond reasonable doubt of the crime of Murder and sentencing him to suffer the penalty of reclusion perpetua and to indemnify the heirs of the deceased Baltazar Mercado the sum of P30,000.00; to reimburse the said heirs the sum of P11,300.00 representing the funeral and burial expenses actually incurred; and to pay the costs.

The appellant with four other persons identified as Rodolfo Solares, Enrico de los Santos, Roberto de los Santos and Olly Fernandez were charged with Murder in an information which alleged:

"That on or about the 31st day of July, 1986, in Caloocan City, Metro Manila and within the jurisdiction of this Honorable Court, the above named accused, conspiring together and mutually helping one another, with deliberate intent to kill, with treachery and evident premeditation, did then and there wilfully, unlawfully and feloniously attack, stab and hit with adobe stone one Baltazar Mercado y Gubat on the vital parts of the body, thereby inflicting upon the latter serious physical injuries, which caused his death on the above specified date.

Contrary to law." (Rollo, p. 13)

Only the appellant Solares was arraigned as the other accused remained at large.

The prosecution evidence upon which the trial court based its finding of guilt beyond reasonable doubt is summarized by the court as follows:

"That at about 2:00 A.M. of July 31, 1986, witness Estrella Cunanan was at her house when she saw that the victim Baltazar Mercado was fetched by three of his friends (barkada) and was brought to a small alley way near P. Sevilla Street, Caloocan City; she later heard a loud commotion and the shouts of the victim; after hearing the victim shouting, she went out and saw the victim being held by the two brothers, accused and Junior Solares (accused was holding the right arm of victim with both hands while Junior Solares was holding the left arm of victim likewise with both hands) while Enrico de los Santos repeatedly stabbed the victim; when Enrico de los Santos stabbed the victim the former's father Roberto de los Santos shouted "GO ON KILL HIM. GO ON KILL HIM" and at that instance Olly Fernandez came and hit the victim on the head with an adobe stone causing the victim to fall down; after being stabbed and hit on the head with an adobe stone, victim was still able to run and was pursued by Enrico de los Santos.

"The victim Baltazar Mercado was brought to the Jose R. Reyes Memorial Hospital but was pronounced DOA (Exh. "C"). Dr. Desiderio A. Moraleda, PCCL Medico-Legal Examiner testified that the victim suffered eleven (11) stab wounds and one (1) incised wound and, as a result of which, the cause of death of the victim is 'cardio-respiratory arrest due to shock and hemorrhage as a result of multiple stab wounds of the body' (Exh.

"C-1" and "D").

"The expenses incurred by the family of the victim were P5,500.00 for funeral expenses, P2,500.00 for morgue fees, P3,000.00 for the wake, and P300.00 for jeepney rental during the burial or a total of P11,300.00." (Rollo, p. 14)

Solares raises the following assigned errors in this appeal:

I

"THE HONORABLE TRIAL COURT GRAVELY ERRED IN GIVING MUCH CREDENCE TO THE VERSION OF LONE EYE-WITNESS ESTRELLA CUNANAN; AND

II

"THE HONORABLE TRIAL COURT LIKEWISE ERRED IN APPRECIATING THE QUALIFYING CIRCUMSTANCES OF CONSPIRACY AND TREACHERY IN CONVICTING THE HEREIN ACCUSED-APPELLANT OF THE OFFENSE CHARGED." (Rollo, pp. 26-27)

The appellant questions the trial court's appreciation of the evidence presented particularly the credibility of the witnesses.

We have reiterated time and again in a long line of cases that a trial court's factual conclusions carry great weight as it had the privilege of observing the demeanor and deportment of the witnesses and, therefore, can discern if the witnesses are telling the truth or not. (People v. Bachar, G.R. No. 78269, February 27, 1989; People v. Molato, G.R. No. 66634, February 27, 1989; People v. Gimongala, G.R. No. 62968-69, February 27, 1989; People v. Serrano, G.R. No. 74657, February 27, 1989; People v. Gaddi, G.R. No. 74065, February 27, 1989; People v. Abaya, G.R. No. 77980, February 27, 1989; People v. Paco, G.R. No. 76893, February 27, 1989; People v. Baluyot, G.R. No. 82998, February 23, 1989; People v. Millora, G.R. Nos. 38968-70, February 9, 1989).

We have carefully examined the records and we find no reason to discredit the trial court's appreciation of the evidence of the prosecution and that of the defense.

It is of no moment that the prosecution presented a lone eyewitness. If her uncorroborated testimony is credible and positive, and satisfies the court beyond reasonable doubt then it is sufficient to justify conviction. (People v. Ibal, 143 SCRA 317 (1986)).

The trial court gave credence to the positive identification made by prosecution witness Estrella Cunanan because it found her testimony "logical, straight-forward and more probable, and her credibility was not in any manner shaken by cross-examination to which she had been exposed." (Rollo, p. 17).

The appellant tries to cast some doubt on Cunanan's testimony by pointing to the fact that she was summoned only on January 2, 1987 despite the fact that the incident happened on July 31, 1986.

This was satisfactorily explained as the appellant was apprehended only on January 2, 1987. Four other co-accused were still at large during the trial.

The appellant does not really impugn the testimony of Cunanan.

Solares cites the testimony of Cunanan wherein she stated that the appellant was holding the right arm of the victim Baltazar Mercado and Junior Solares was holding the left arm while Enrico de los Santos repeatedly stabbed Mercado. Since that was his only participation in the crime, he contends that he cannot be convicted of murder.

The contention is without merit.

The presence of conspiracy was clearly established in the case at bar. The assailants were animated by one and the same purpose - that is to inflict harm on Mercado. (People v. Manlolo, G.R. No. 40778, January 26, 1989).

The question as to who actually stabbed Mercado, therefore, becomes of no consequence. It is settled that in conspiracy, the act of one is the act of all. (People v. Millora, supra).

The appellant also questions the finding of the presence of treachery. He contends that the attack on the victim was frontal; as such the victim was not completely deprived of his prerogative to defend himself or to retaliate.

On the contrary, the victim was completely helpless. Both his hands were held by the attackers. In fact, the accused held the victim's right arm with both of his hands. There were five people including Solares who were ganging up on him.

As held in the case of People v. Gimongala, supra.

"We sustain the finding of treachery against them as it is clear that they had adopted means and methods to insure the commission of the offenses without risk to themselves from any defense their unwary victims might make. It bears stressing that their victims were totally unprepared for their sudden attack and also without any weapons to resist it."

Finally, the appellant alleges that he and the victim were good friends so he had no motive in wanting him killed.

The absence of improper motive on the part of the accused and the raising of the defense of alibi that the appellant was asleep at the time of the killing in his house in the same neighborhood cannot prevail over the straightforward narration of the prosecution eyewitness, more so as no ill motive was attributed to the latter to prevaricate the truth. (People v. Trinidad, G.R. Nos. 79123-25, January 9, 1989).

WHEREFORE, the appealed decision is hereby AFFIRMED.

SO ORDERED.

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

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