

PEOPLE OF THE PHILIPPINES PLAINTIFF-APPELLEE, VS. MARIANO BALUYOT, DEFENDANT-APPELLANT.

G.R. No. 82998. February 23, 1989

Ponente: SARMIENTO, J.

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SARMIENTO, J.:

Mariano Baluyot, Rufino Ornega, Reynaldo Resusta, Romeo Resusta, and Edwin Paredes Ibardolaza were charged in the then Court of First Instance of Rizal, Branch 32[1] at Kaloocan City, for the murder of Ricardo Patiag.

Only Mariano Baluyot was apprehended and tried. The other accused remain at large. After trial, Baluyot was convicted of the lesser offense of homicide as the trial court found that treachery and abuse of superior strength had not been proved and sentenced him to suffer an indeterminate penalty of 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 to indemnity the heirs of the deceased in the amount of P12,000.00 and the sum of P2,000.00 for funeral expenses; and to pay the costs.[2]

Seeking acquittal: Baluyot appealed to the Court of Appeals which, through its then Seventh Division,[3] decided on November 29, 1978 that:

From the foregoing facts and circumstances, we do not agree with, the trial judge in not appreciating the qualifying circumstances (sic) of abuse of superior strength which was alleged in the information. The crime committed is not homicide as found by the trial judge but murder qualified with abuse of superior strength. There being neither mitigating or (sic) aggravating circumstances, the penalty that may be imposed upon the appellant is reclusion perpetua, a penalty which may be imposed only by the Supreme Court.

Believing that, the offense charged is murder without the attendance of any generic aggravating or mitigating circumstances, we believe that this case should be elevated to the Supreme Court.

WHEREFORE, We hereby elevate the records of this case to the Supreme Court for its disposition.[4]

In a Resolution dated February 8, 1988, however, the then Supreme Court's First Division resolved to return the case to the Court of Appeals for proper disposition in line with the procedure set forth in *People vs. Daniel*[5], that:

xxx henceforth, should the Court of Appeals be of the opinion that the penalty of death or reclusion perpetua (life imprisonment) should be imposed in any criminal case appealed to it where the penalty imposed by the trial court is less than reclusion perpetua, the said Court, with a comprehensive written analysis of the evidence and discussion of the law, (should) render judgment expressly and explicitly imposing the penalty of either death or reclusion perpetua as the circumstances warrant, refrain from entering judgment, and forthwith certify the case and elevate the entire record thereof, to this Court for review."[6]

Thus, the Court of Appeals, through its Special Ninth Division.[7] rendered judgment on March 23, 1988, the

dispositive portion of which states:

WHEREFORE, in accordance with the aforesaid directive and conformably with this Court's findings and conclusion in its decision of November 29, 1978, which are adopted and incorporated herein, judgment is hereby rendered finding accused Mariano Baluyot GUILTY beyond reasonable doubt of the crime of murder as charged in the Amended Information, in the absence of either mitigating or aggravating circumstance, he is hereby sentenced to suffer the penalty of reclusion perpetua. The trial court's award of P2,000.00 to the heirs of the deceased for funeral expenses and costs is affirmed, but the indemnity to the heirs is increased from P12,000.00 to P30,000.00. However, We refrain from entering judgment, and hereby certify the case, and order the records hereof immediately elevated, to the Honorable Supreme Court for review.[8]

For us to consider are the following errors alleged by the appellant Mariano Baluyot:

FIRST ASSIGNMENT OF ERROR

THE HONORABLE TRIAL COURT ERRED IN GIVING FULL CREDENCE TO THE TESTIMONY OF FLORENDA PATIAG, WHICH TESTIMONY WAS UNCORROBORATED, INHERENTLY INCREDIBLE AND UNSUPPORTED BY REAL EVIDENCE OF INJURY.

SECOND ASSIGNMENT OF ERROR

THE HONORABLE TRIAL COURT ERRED IN NOT GIVING CREDENCE TO THE STRAIGHT FORWARD DECLARATIONS OF THE ACCUSED-APPELLANT AND IN IGNORING THE TESTIMONY OF HIS WITNESS AURORA V. SEGADOR.

THIRD ASSIGNMENT OF ERROR

THE HONORABLE TRIAL COURT ERRED IN NOT ACQUITTING THE ACCUSED AT LEAST ON GROUNDS (sic) OF REASONABLE DOUBT[9]

The evidence for the prosecution, based on the testimony of Florenda Patiag, widow of the deceased and an alleged eyewitness to the crime, is summarized in the Brief of the Solicitor General and adopted by the trial court.

The facts as testified to by the prosecution, placed the time of the grim tragedy at about seven o'clock in the evening of July 12, 1975. The place, Caloocan City (tsn., pp. 6-9, Oct. 11, 1976). The victim, Ricardo Patiag, was ganged up by five men and subsequently stabbed by the accused, Mariano Baluyot (tsn., p. 9, *ibid*). Ricardo Patiag was subsequently brought to a hospital where he was pronounced dead on arrival (tsn. p. 12, *ibid*; Exhibit B).

The antecedents leading to the death of Ricardo Patiag are as follows; At about 3:00 in the afternoon of July 12, 1975, the deceased, Ricardo Patiag, had an altercation with a certain Romeo Resusta (tsn., p. 6. Oct. 11, 1976). Apparently, this misunderstanding was patched up as Romeo Resusta was heard telling Ricardo Patiag, "Pare, wala ho iyon" and at the time tapping the latter on the shoulder (tsn., pp. 18-19, *ibid*.)

At around 7:00 in the evening of that same day, the accused, Mariano Baluyot, went to the house of Ricardo Patiag (tsn., p. 6-7, *ibid*). At that time, Ricardo Patiag was already sleeping and he woke up when he heard Baluyot calling for him (*ibid*). He went out of his house and walked with Baluyot towards the street corner with the latter's arm placed around the shoulder of the former (*ibid*). At that time, Florenda Patiag, Ricardo's wife, was at the window of their house. She decided to follow them (tsn., p. 8, *ibid*).

When Ricardo Patiag and Mariano Baluyot reached the street corner, Baluyot's companions, who apparently were already there, waiting ganged up on Ricardo Patiag (tsn. p. 9, *ibid*). With his companions holding and restraining Ricardo Patiag, Mariano Baluyot stabbed Patiag's stomach, shoulder and back (*ibid*). Afterwards, Baluyot's companions boxed and threw a flower pot at Patiag before they ran away (tsn., p. 10, *ibid*) Mariano Baluyot who was left behind, lifted an empty drum and dropped it on Ricardo Patiag (tsn., p. 11, *ibid*). It was

only when Florenda Patiag shouted that Mariano Baluyot left the scene (ibid). The fallen Ricardo Patiag was rushed to a hospital where he was pronounced dead. (tsn., p. 12, ibid).[10]

On the other hand, also as recounted by the Solicitor General, the defense, presented the following version:

At 3:00 o'clock on the afternoon of July 12, 1975, the deceased had an argument with a certain Romeo Resusta in front of his house (tsn., Oct. 12, 1976, p. 17). Romeo Resusta is one of those charged with murder in this case (pls. see Amended Information), and is a cousin of appellant Mariano Baluyot (tsn., February 15, 1977, pp. 5-6).

At about 7:00 o'clock in the evening of the same day, July 12, 1973, the appellant (Mariano Baluyot) met his cousin Romeo Resusta and three other persons, namely, Ernesto Resusta, Pinong and Edwin. Romeo's forehead was bleeding and he informed the appellant that he was boxed by Mang Carding (Ricardo Patiag). Being a friend of Mang Carding, the appellant offered to settle the differences between him and his cousin (tsn., February 15, 1977, pp. 5-6).

It was with such intention of keeping the peace between his friend Mang Carding, on one, hand, and his cousin and the latter's companion on the other, that the appellant proceeded to fetch the deceased from his home that evening of July 12, 1975. Ricardo Patiag went him (sic) willingly, and he even put his arms on the shoulder of the deceased as they walked away from the latter's house (tsn., Oct. 11, 1976, p. 7).

What actually happened outside the house was that, when the appellant reached the corner of Barrio Pacita with the deceased, he tried to patch up the latter's differences with his cousin Romeo Resusta. Then one of Resusta's companions, one Erning, shouted angrily, "Why did you box my brother? You were already asking for one bottle and yet you still boxed him!" Then Romeo Resusta hit Mang Carding, who hit back, and an exchange of blows ensued. Erning joined the fight and also hit Mang Carding with his fists. The appellant tried to intervene but Erning pushed him aside and told him not to meddle. The mauling of Ricardo Patiag continued until one of Erning's companions, named Pinong, drew a knife and stabbed Carding on the left shoulder. The appellant, horrified, shouted, "Tama na yan, tama na!" But the knife-wielder did not desist, and, afraid of being involved in the stabbing, the appellant ran away (tsn., February 15, 1977, p. 8-12).[11]

After a review of the records of this case, we find no reason to disturb the findings and the conclusions of the Court of Appeals, the same being in accord with the evidence and the law.

The testimony of Florenda Patiasr, which was given credence by the trial court and adopted by the Court of Appeals in its decision, shows that she positively identified the appellant Mariano Baluyot as the person who stabbed her late husband in the stomach, in the shoulder, and at the back. It is not disputed that the lights were bright at the place and time of the incident and that she was at a distance of about ten (10) paces from where her husband was stabbed to death. Florenda was able to see the stabbing incident because when her husband went out of their house together with the appellant, she followed him. The appellant argues that Florenda's presence at the scene of the crime was too convenient to be true. We find nothing improbable about a wife following her husband on that occasion where a few hours before the incident occurred, her husband had a quarrel with Romeo Resusta, a cousin of the appellant Baluyot. Florenda, therefore, had reason to be concerned about what, would happen next to her husband.

Moreover, the trial court declared that taking into consideration her manner of testifying, her means and opportunity of knowing the facts to which she testified, and the probability of her testimony, Florenda is deserving of credence.

We have held that the matter of assigning value to declarations at the witness stand is best and most competently performed by the trial judge, who, unlike appellate magistrates, can weigh such testimony in the light of the declarant's demeanor, conduct, and attitude at the trial and thereby placed in a more competent position to

discriminate between the true and the false.

It is not true, as appellant contends, that the testimony of Florenda is totally uncorroborated. Rodolfo Jocson, another witness for the prosecution, testified that he saw the appellant Baluyot with a bladed weapon tucked in his waist after coming from the bloody incident. While it is true that Jocson did not actually see Baluyot stab Patiag, his testimony that he saw Baluyot with a bladed weapon tucked in his waist immediately after the stabbing suffices as substantial corroboration.

On the other hand, what appears to us as unworthy of belief is the testimony of the appellant, ostensibly corroborated by his witness, Aurora V. Segador, that the former went to fetch the deceased from the latter's home at 7:00 o'clock in the evening to patch up the differences between the deceased and Romeo Resusta, the appellant's cousin. If indeed the appellant's purpose was to patch up said differences, why did he bring along a bladed weapon and why did he bring not only Romeo Resusta but also Rufino Ornega alias "Pinong", Reynaldo Resusta, and Edwin Paredes Ibardolaza? Obviously, the appellant's purpose, together with his companions, was to gang up and inflict harm on the deceased as an act of revenge and not to settle the aforesaid quarrel.

Furthermore, the accused Baluyot took to flight immediately after the incident and was in hiding for about one year before he was finally arrested, and tried. Indeed, flight is indicative of guilt.

Finally, we agree with the Court of Appeals that the qualifying circumstance of abuse of superior strength should be appreciated here as alleged in the information. It was established that the assailants ganged up on Ricardo Patiag and while his four companions were holding and restraining the victim. Mariano Baluyot stabbed him (Patiag) three times causing his death. There was a clear and notorious disparity of forces between the victim and the aggressors as the former was unarmed and alone. The attackers cooperated in such a way as to secure advantage of their combined strength to perpetrate the crime with impunity.[12] Thus, the crime committed is not homicide as found by the trial court, but murder qualified by abuse of superior strength.

The penalty for murder prescribed under Article 248 of the Revised Penal Code is reclusion temporal in its maximum period to death. Due to the absence of modifying circumstances in the case at bar, the penalty should be imposed in its medium period. In view of the Constitutional provision prohibiting us from imposing the penalty of death and considering our very recent ruling in *People vs. Millora, et al.*,[*] the proper imposable penalty is reclusion perpetua.

WHEREFORE, we find the appellant, Mariano Baluyot, guilty beyond reasonable doubt of the crime of murder and hereby sentence him to suffer the penalty of reclusion perpetua. The award of P2,000.00 to the heirs of the deceased for funeral expenses and costs is affirmed, but the indemnity to the heirs is increased from P12,000.00 to P30,000.00. Costs against appellant.

SO ORDERED.

Padilla, J., concur.

Melencio-Herrera, J., concurs, in deference to the majority ruling in *Millora* although, as stated in my dissent therein, it is my view that the medium period of the penalty for Murder is not reclusion perpetua but the higher half of reclusion temporal medium, due to the application of capital punishment by the 1987 Constitution.

Paras and Regalado, JJ., concurs subject to the same reservations of the ponente, and those of Justice Ameurфина Herrera.

[1] Judge Alberto Q. Ubay, presiding.

[2] Decision, 14; Rollo, 28.

[3] *Ericka*, Vicente G., J. Busran, Mama D., and Jimenez, Jose B., JJ.

[4] Decision, 8-9; Rollo, 88-89.

[5] No. L-40330, November 20, 1978, 86 SCRA 511.

[6] Rollo, 93.

[7] Composed of Associate Justices Alfredo L. Benipayo, Jose C. Campos, Jr., and Venancio D. Aldecoa, Jr.

[8] Rollo, 99.

[9] Brief for the Appellant, 7-8; *Id.*, 52-53.

[10] Brief for the Appellee, 2-4, Rollo, 76.

[11] Rollo, 48-51.

[12] *People vs. Balictar*, No. L-29994, July 20, 1970, 91 SCRA 500.

[*] This case, decided en banc, changed our existing rulings on the effect of Article III. Sec. 19(1) of the 1987 Constitution regarding the determination of the imposable penalty. Notwithstanding my dissent in the aforesaid case, mainly for the reason that our previous interpretation and application of said constitutional provision was more favorable to the accused and in consonance with the settled doctrine in criminal law that where the law is ambiguous and there is a doubt as to its interpretation, the one favorable to the accused should be adopted. I have to abide by the decision of the majority of my colleagues.

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