

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. MANOLITO TOLENTINO @ “BONG”; CARLITO TALA @ “BOY”; RODOLFO MATAWARAN AND @ JOHN DOE, ACCUSED-APPELLANTS.

G.R. No. 87085. February 02, 1993

Ponente: NOCON, J.

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NOCON, J.:

This is an appeal by accused Carlito Tala alias "Boy" from the decision[1] dated September 7, 1988 of the Regional Trial Court of Guagua, Pampanga, Third Judicial Region, Branch 51 in Criminal Case No. G-1627, the pertinent portion of which reads:

"Finding that the evidence has reached a degree of moral certainty that all the elements of robbery with homicide were adequately proven the three accused Tolentino, Matawaran and Tala should be found guilty of the crime charged. The Court also finds that the prosecution has proven actual damages consisting in the amount of P60,000.00 as hospital and medical expenses and P30,000.00 as funeral expenses or a total of P90,000.00. Also proven is the claim of moral damages which the Court assess at P40,000.00 for the death of the three children.

"WHEREFORE, premises considered, the Court finds the accused Manolito Tolentino alias "Bong", Carlito Tala alias "Boy" and Rodolfo Matawaran guilty beyond reasonable doubt as co-principals by direct participation of the crime of Robbery with Multiple Homicide and Serious Physical Injuries as charged in the Amended Information, with the attendance of the aggravating circumstances of nighttime, dwelling, abuse of superior strength and there were more than one victim, without modifying circumstance with respect to accused Carlito Tala alias "Boy" and Rodolfo Matawaran to offset the same, but with mitigating circumstance of voluntary plea of guilty with respect to Manolito Tolentino, and hereby sentences each of said accused to suffer the penalty of RECLUSION PERPETUA, with the accessory penalties of the law, and ordering each of them to indemnify solidarily the heirs of the deceased Enrique Lingad, Geraldine Lingad and Glenly Lingad in the sum of P30,000.00 for each victim by reason of their death and the further sum of P90,000.00 for actual damages, plus the amount of P4,000.00 by way of restitution of the unrecovered cash amount stolen from the spouses Domingo Lingad Jr. and Adelaida Lingad and the additional amount of P40,000.00 for moral damages incurred by the offended couple for the death of their three (3) children, without subsidiary imprisonment in case of insolvency, and to pay the proportionate share of the costs.

"The scythe (Exhibit "KK") used in the commission of the crime charged is hereby confiscated in favor of the state." [2]

On January 24, 1984, accused-appellant Carlito Tala alias "Boy" together with Manolito Tolentino alias "Bong", Rodolfo Matawaran and one John Doe were charged for the crime of ROBBERY WITH MULTIPLE HOMICIDE AND SERIOUS PHYSICAL INJURIES in an Amended Information committed as follows:

"That on or about the 8th of November, 1983, in the municipality of Lubao, province of Pampanga,

Philippines, and within the jurisdiction of this Honorable Court, the above-named accused MANOLITO TOLENTINO alias "Bong", CARLITO TALA alias "Boy", RODOLFO MATAWARAN and alias JOHN DOE, conspiring and confederating together and helping one another with grave abuse of confidence, nighttime purposely sought to facilitate the commission of the offense, did then and there willfully, unlawfully and feloniously with Intent of gain and without the knowledge and consent of the owner and by the use of force upon things, to wit: by forcibly breaking a wooden window grill of the comfort room to effect entrance into the said house and once inside, did then and there take, steal and carry away with them cash money amounting to FOUR THOUSAND (P4,000.00) PESOS, Philippines currency, belonging to Domingo Lingad Jr., to the damage and prejudice of the said owner in the total amount of P4,000.00; that on the occasion of the said robbery and for the purpose of enabling them to take, steal and carry away the amount above-mentioned, herein accused in pursuance of their conspiracy, did then and there willfully, unlawfully and feloniously and with evident premeditation and taking advantage of their superior in number and strength and with deliberate intent to kill, armed with a scythe, treacherously attack, assault and stab GLENLY LINGAD, 10 years of age, ENRIQUE LINGAD, 8 years of age, IRENE LINGAD, 11 years of age, inflicting upon them serious and fatal injuries which directly caused the death of Glenly Lingad, Enrique Lingad and Irene Lingad and likewise causing Serious Physical Injuries upon GRACE PAULE, 13 years of age, which injuries have required and will require medical attendance for a period of more than thirty (30) days and will incapacitate said Grace Paule from performing her customary labor for the same period of time."[3]

Upon arraignment, accused Tala, Tolentino and Matawaran pleaded "Not Guilty" while their co-accused named only John Doe in the Amended Information was never identified by the prosecution nor arrested. However, during the initial hearing of this case, accused Manolito Tolentino changed his plea from "Not Guilty" to "Guilty" in open court.[4]

The facts as found by the trial court are as follows:

At around 7 p.m. of November 7, 1983, Adelaida Lingad left her niece, Grace Paule and her three (3) children namely: Geraldine (Irene), Glenly and Enrique, all minors, at home to attend the wake of her uncle in a house 200 meters away from her place. The children were the only ones left at home. Her husband was then working abroad. At that time, Adelaida had P4,000.00 in cash which was wrapped in newspaper and kept hidden under her bed. Before leaving the house, Adelaida instructed the kids to go to bed.

At around 1 p.m. or 2 p.m. of November 8, 1983, accused Tala, Tolentino, Matawaran and an unknown person whose face was covered entered the house of Adelaida Lingad by forcibly breaking the window grill of the comfort room and demanded to know from the children where their mother hid her money. Grace Paule knew Manolito Tolentino because he is both an uncle and a barriomate. She also knew Carlito Tala who is a relative of her mother and Rodolfo Matawaran who is a "barkada" of Carlito. She recognized all the accused for the lights were on.[5] When the man whose face was covered threaten to stab the kids, Geraldine got so frighten that she revealed to the accused where her mother hid the money.

After Tolentino took the P4,000.00, he stabbed Grace Paule with a scythe while the other three (3) accused held the three (3) other children who were then stabbed one after the other by Tolentino. During the stabbing incident, Grace Paule lost consciousness but was able to regain it back after about five (5) minutes and shouted for help. Her mother and grandmother, who lived nearby, heard her and immediately proceeded to said house but the four (4) accused had already left.

When accused Tolentino's brother informed Adelaida about the stabbing incident that took place in her house, Adelaida immediately rushed to her house and saw all the children with stab wounds. Glenly was lying on the bed already dead while her bloodied niece Grace was sitting down near the door looking pale and holding her heart. Upon reaching Geraldine, who was lying at the porch, she asked her the identities of the person responsible for

stabbing them with the latter answering "Bong-Bong" and also mentioning the names of Tala and Matawaran[6]. However, when she asked her son Enrique the latter was not able to answer but merely made a sign with his three (3) fingers[7]. Thereafter, Adelaida lost consciousness and was brought to the house of her mother.

Upon reporting said incident to the authorities, Adelaida together with three (3) policemen went back to her house and an investigation was conducted where it was discovered that the accused entered into the house by destroying the middle portion of the wooden bars of the comfort room.

Meanwhile, the children were brought to the Central Luzon General Hospital where Glenly was pronounced dead on arrival and Enrique eventually died after undergoing an unsuccessful surgery. Geraldine who was operated twice at the Makabali Hospital also succumbed to her untimely death.

Grace Paule was the only surviving victim of this horrible and harrowing experience and testified that she was awoken by the four (4) accused who entered the house of her aunt in the early morning of November 8, 1983 and subsequently stabbed her and her three (3) cousins. She positively identified the three (3) accused because accused Manolito Tolentino is her uncle as well as her barriomate and accused-appellant Carlito Tala is a relative of her mother while accused Rodolfo Matawaran is the "barkada" of accused-appellant Tala.

On the otherhand, accused-appellant Tala denied having been in the house of Adelaida Lingad on that fateful morning and maintained that at around 11 p.m. of November 7, 1983, he and accused Matawaran were delivering watermelons at Saging, Dinalupihan, Bataan. Thereafter, they went to Samal to return the trailer where the watermelons were loaded and proceeded to his house in Lourdes, Lubao, Pampanga. On their way home, they passed the house of Adelaida Lingad and noticed nothing unusual. They arrived at his house at around 3 a.m. of November 8, 1983 and slept there.

In rejecting the defense of alibi, the trial court correctly stated as follows:

"Inasmuch as the two accused, Tala and Matawaran, were riding in a jeep and the scene of occurrence is only a 30 minutes drive from their place of destination, which is Dinalupihan, Bataan, it is [still] possible for them to reach their alleged destination and come back to Lourdes, Lubao, Pampanga in time to participate in the commission of the offense. Their painful and laborious effort to extend the period of time especially the three hours to load the watermelons is pitiful in its incredibility. The indubitable fact remains that despite all allegations alleging alibi the accused Tala and Matawaran slept in Lourdes, Lubao and were in fact apprehended there.

"It must be noted that the 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.

"In order that alibi as a defense may prosper, the evidence to support it must be clear and convincing as to preclude the possibility of the accused's presence at the scene of the crime while the evidence as to his identification must be weak and insufficient.

"Foremost and above all, it is essential that the defense of alibi cannot prevail over the positive testimony of a witness who clearly identified them as two of the cohorts of Manolito Tolentino.

"It is clear that in this case that the accused Tala and Matawaran failed to establish the credibility of their defense of alibi, first, as the facts narrated by them were not clear and convincing, second, there exist a wide room for doubt as to the plausity and verity of their testimonies, and finally, their defense of alibi is belied by the positive identification made by Grace Paule." [8]

Resolving the arguments of accused-appellant Tala that no probative value should be given to the extrajudicial statement of Grace Paule taken by Fiscal Abiog while she was still staying at the Makabali Hospital, since his

name and that of accused Matawaran were not mentioned by her as the unnamed companion of accused Tolentino, thereby indicating that the witness really had no inkling as to his participation in said crime until Mang Medrano supplied her their names, does not convince Us of the want of probative value of said statement of Grace Paule.

True that Grace failed to mention the names of accused-appellant Tala and accused Matawaran in her extrajudicial statement, but considering the fact that at the time her statement was taken she was then groggy and delirious from the stab wound she sustained but was nevertheless, able to positively identify accused-appellant on the witness stand as one of the persons who stabbed her and the children. We find Grace's testimony credible. There is no evidence on record to show why said witness would falsely implicate accused--appellant Tala who is a relative of her mother unless it is the truth. There being no improper motive on her part to point to accused-appellant as one of the perpetrators of the crime charged, Grace's testimony is entitled to full faith and credit[9]. Moreover, her testimony was corroborated by prosecution witness Adelaida Lingad when the latter testified that her deceased daughter Geraldine mentioned the names of the accused-appellant Tala and accused Matawaran as the persons who stabbed her before she died.[10]

As to accused-appellant's contention that the statement of Geraldine, naming her assailant soon after she was stabbed is inadmissible as part of the *res gestae*. We find said contention fallacious. The testimony of Adelaida Lingad, as mother of the victims belied the accused-appellant's allegation:

"Fiscal Abiog:

May I make it of record that all these three accused were properly or positively identified by the witness.

Now, Mrs. Witness, when we initially hear this case, you testified that you asked Geraldine who was then at the porch, you asked her as to who stabbed or caused those stabbed wounds and you testified that she told you she was stabbed by a certain Bong-Bong. Now, in the courtroom, you pointed to a certain person which you recognized or you know to be Manolito Tolentino, do you know the nickname of that Manolito Tolentino who is residing in your barrio?

A:

Yes, sir.

Q:

What is the nickname of that Manolito Tolentino?

A:

Bong-Bong, sir.

Q:

And you also mentioned that before you asked Geraldine as to who accused those stabbed wounds, Geraldine made a sign with her three fingers, did you not ask her what she meant with that sign with her three fingers?

Atty. Sampang:

The question was already answered during the previous trial as appearing on page 26 of the transcript of stenographic notes dated February 22, 1984.

Fiscal Abiog:

Alright, I will withdraw that question.

Court:

Next question.

Fiscal Abiog:

Q:

Now, according to you when you rushed home because you were called by the brother of Manolito Tolentino informing you that your children whom you left at home were stabbed and then when you arrived home, you reached Glenly already dead, and then Geraldine on the porch wounded, and Enrique on the sala, also wounded, and Grace Paule near the door, will you please tell us what happened to you when you saw or witnessed this incident when you observed your children and your niece on this condition?

A:

I asked my youngest child, sir.

Fiscal Abiog:

Q:

And the youngest child you are referring to or what is the name of your youngest child?

A:

Enrique, sir.

Q:

What did you ask Enrique?

A:

I shouted and asked him and he responded by showing or by raising his hand with three fingers, sir.

Q:

Alright, after you asked Enrique shouting, what happened and he did not answer and instead he made a sign with his three fingers, will you please tell us what else happened after that?

A:

I lost consciousness, sir.

Q:

And When you regained consciousness or where did you regain your consciousness?

A:

At the house of my mother, sir.

Q:

Will you please tell us how far is that house of your mother from the place of your residence?

Witness:

A:

From here up to that corner, sir.

Court:

Which corner?

A:

Up to there, sir. (Witness pointing to Joan's Refreshment).

Fiscal Abiog:

Which is about two hundred meters, more or less.

Atty. Sampang:

We agree, your Honor." (TSN, October 29, 1984, pp. 6-10)

The trial court had correctly applied the principle of *res gestae*, namely: (1) that the principal act, the *res gestae*, be a startling occurrence; (2) that the statements were made before the declarant had time to contrive or devise; and (3) that the statements made must concern the occurrence in question and its immediately attending circumstances^[11] which are all present in the case at bar as Geraldine had named accused-appellant as one of the perpetrators in the commission of the crime immediately after the occurrence of the stabbing incident.

Accused-appellant Carlito Tala also contends that the trial court erred in considering the extrajudicial confession of accused Manolito Tolentino implicating him in the crime charged in the face of the subsequent admission by Manolito Tolentino in open court that he was alone when he committed said crime.

We agree with appellant on this point. The extra-judicial confession of Tolentino cannot be used against appellant under the principle of *res inter alios acta* unless accused is discharged from the information and made a state witness.

At any rate, the evidence on record by itself is sufficient in proving accused-appellant's guilt beyond reasonable doubt.

WHEREFORE, the judgment appealed from is hereby **AFFIRMED** with the sole modification that the indemnity to be paid by the accused-appellant Carlito Tala to the heirs of each victim is increased to P50,000.00 in accordance with the recent jurisprudence of this Court.

SO ORDERED.

Narvasa, C.J., (Chairman), Feliciano, Regalado, and Campos, Jr., JJ., concur.

[1] Penned by Judge Arsenio P. Roman.

[2] Rollo, pp. 81-82.

[3] *Id.*, at p. 12.

[4] T.S.N., April 27, 1984, p. 4.

[5] TSN, pp. 4-7, S. Oct. 9, 1985; pp. 17-18, S. Oct. 17, 1984.

[6] T.S.N., February 22, 1984, pp. 21-26.

[7] T.S.N., February 29, 1984, p. 9.

[8] Rollo, pp. 77-81.

[9] People vs. Odicta, 197 SCRA 158 [1991].

[10] TSN, pp. 25-26, S. Feb. 22, 1984.

[11] Ilocos Norte Electric Company vs. Court of Appeals, 179 SCRA 5 [1989]; People vs. Balbas, 122 SCRA 859..

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