

PEOPLE OF THE PHILIPPINES PLAINTIFF-APPELLEE, VS. ROLANDO CASINGAL AND REYNALDO HILUM, ACCUSED-APPELLANTS.

G.R. No. 87163. March 29, 1995

Ponente: QUIASON, J.

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QUIASON, J.:

This is an appeal from the decision of the Regional Trial Court, National Capital Judicial Region, Branch 68, Pasig, Metro Manila in Criminal Case No. 63632, finding appellants guilty beyond reasonable doubt of the crime of murder.

I

The information charging Rolando Casingal and Reynaldo Hilum of the crime of murder reads as follows:

"That on or about the 17th of April 1985, in the Municipality of Mandaluyong, Metro Manila, Philippines, a place within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating together and mutually helping and aiding one another, at night time, a circumstance deliberately sought to insure success in the commission of the crime, armed with a lead pipe, kitchen knife and ice pick, with intent to kill, evident premeditation, and with abuse of superior strength did, then and there willfully, unlawfully and feloniously attack, assault and stab one Eduardo Go on his chest and different parts of the body, thereby inflicting upon the latter stab wounds which directly caused his death" (Rollo, p. 9).

Both accused, assisted by their counsel, pleaded not guilty to the information.

After trial, on January 10, 1989, the court a quo rendered a decision convicting appellants for the murder of Eduardo Go. The dispositive portion of the decision reads as follows:

"WHEREFORE, premises considered, the Court finds both accused Rolando Casingal and Reynaldo Hilum guilty beyond reasonable doubt of the crime of murder defined and penalized under Art. 248 of the Revised Penal Code, and there being no other aggravating circumstances, sentences both accused to suffer the penalty of Reclusion Perpetua, with all the accessory penalty (sic) provided for by law and to indemnify the heirs of the deceased Eduardo Go jointly and severally the following sums:

1. P30,000.00 for the death of the deceased;
2. P98,202.00 for actual damages;
3. P200,000.00 for moral and exemplary damages; and
4. cost of suit.

The bail bonds for the temporary liberty of both accused are cancelled, and they are ordered committed to the National Penitentiary pending final resolution of this case" (Rollo, p. 46).

II

On April 16, 1985, at about 10:00 P.M., Rolando Casingal arrived home at No. 2 Katarungan St., Mandaluyong, Metro Manila. He was accompanied by Reynaldo Hilum. His mother, Rosa Bituin, was not at home at that time as she had to spend the night at Fairview, Quezon City.

Casingal asked Jesusa Labuac, a housemaid, for a cassette tape. After giving the cassette tape to Casingal, Labuac went upstairs to sleep. Later, she was awakened by a noise coming from the first floor which she described as "kalabugan" and shouts of "tama na, tama na."

Labuac did not dare go downstairs because she was afraid of Casingal, who used to manhandle her. She just slept until 5:00 A.M. Looking out of the window, she saw the two appellants in the garage standing near the Toyota car of Eduardo Go. The car's trunk was open and she saw a body resembling that of Go slumped inside.

Hilum entered the house carrying some things. Going back to the yard, he opened the gate to allow Casingal to drive the car out.

After appellants left, Labuac went downstairs and saw blood stains scattered on the floor of the living room. She saw a blanket with blood stains in a basin placed outside the kitchen.

Labuac cleaned the blood stains on the floor. When appellants returned, Casingal warned Labuac not to tell anyone that she saw Go. Hilum then washed the blood-stained blanket.

Armando Boloran, an employee of the Asian Development Bank, saw Go's car parked near the bank's premises at Pasay City. After seeing blood dripping from the trunk of the car, he reported his finding to a security guard of the bank, who, in turn, contacted the Pasay City Police.

When Bituin returned home at 6:00 P.M. of April 17, she went to the room of Casingal, which was splattered with blood stains on the walls and ceiling.

In the morning of April 18, Labuac saw in the newspapers a picture of Go's cadaver inside the trunk of his car. After reading the newspapers, Casingal remarked: "Malinis ang goma."

Casingal and Hilum left that day for Samar, after getting a sketch prepared by Bituin.

Dr. Bienvenido Munoz, who conducted an autopsy of Go's cadaver, testified that Go died from acute, massive hemorrhage secondary to multiple stab wounds. He found more than 100 stab wounds in Go's body. The possible instrument used was a sharp pointed single bladed instrument, like a "balisong," kitchen knife or any similar instrument.

Both appellants denied having killed Go. Their version of the incident was as follows:

While appellants were drinking in Casingal's bedroom at around 10:00 P.M. of April 16, 1985, they saw a big dog standing at the door of the house. They decided to catch the dog and butcher it for their "pulutan." After catching the dog, they brought it inside the bedroom, but it was able to get away and run to the dining room and sala. Hilum was able to stab it several times, causing its blood to drip on the floor.

Casingal told Labuac that if somebody would inquire about a lost dog, she should not tell that it was butchered by them. Earlier that day, Casingal had a heated argument with Labuac when the latter refused to follow his order. As a result, Casingal boxed her. Labuac tried to stab Casingal with a kitchen knife but was prevented from doing so by Hilum. Labuac even threatened "Putang ina mo, makakaganti rin ako sa iyo at gagapang ka rin."

Casingal surmised that the reason he was sent to Samar was because Labuac told his mother about the dog which

they butchered, the drinking spree and the quarrel which took place earlier between them.

At around 6:00 A.M. of April 18, 1985, appellants took a bus to Basay, Samar. They reached Basay at around 8:00 A.M. of April 19, 1985 and stayed in the house of Guillermo Bacha, a relative of Casingal.

On June 6, 1985, Casingal left Samar for Tacloban to pursue his studies.

On June 13, 1985 at around 11:30. P.M., Casingal was arrested by several policemen and constabulary soldiers. On June 14, 1985, Hilum was arrested in Samar.

II

Appellants contend that the decision convicting them is void for the judge who penned it, Judge Ernani Cruz Pano, was not the one who heard the case. Furthermore, the stenographic notes of the testimonies of several prosecution witnesses were not yet transcribed when the decision was rendered.

Before the rendition of said judgment, no less than four judges heard the case. Judge Otilio Abaya heard the prosecution witnesses; while Judges Demetrio M. Batario, Zenaida Baltazar and Julio R. Logarta heard the defense witnesses.

The prosecution filed a Motion to Defer Promulgation of Judgment on the ground that the transcripts of stenographic notes of prosecution witnesses, Dr. Bienvenido Munoz, Cpl. Leandro Abel and Jesusa Labuac (on cross-examination), had not been transcribed by stenographer Morita San Juan, who migrated to the United States. The defense opposed the motion for being dilatory, but admitted the testimony of Dr. Bienvenido Munoz, based upon his Medico-Legal Certificate and the testimony of Jesusa Labuac, based on her "Salaysay" given to Cpl. Leandro Abel. Having obtained an unfavorable judgment, the defense reversed its position and is now questioning the rendition of the judgment without the complete transcription of the stenographic notes.

In a resolution dated February 26, 1990, this Court ordered the retaking of the testimonies of Dr. Bienvenido Munoz, Jesusa Labuac (on cross-examination) and Cpl. Leandro Abel. A reading of the retaken testimonies of Dr. Bienvenido Munoz and the cross-examination of Jesusa Labuac shows that their testimonies do not materially differ from the Medico-Legal Certificate and "Salaysay," respectively, admitted in evidence. But even without the retaking of the testimony of these prosecution witnesses, there was no more impediment for the judge to decide the case based on the Medico-Legal Certificate and "Salaysay."

The testimony of Cpl. Leandro Abel should not affect the outcome of the case because this dealt only with the circumstances of the arrest of appellants and their extrajudicial confessions. The trial court ruled the confessions as illegal for having been obtained in violation of the accused's right to counsel. Hence, their testimony, even if presented, would not have affected the outcome of this case.

Appellants try to capitalize on the granting of bail by Judge Logarta after the prosecution had rested its case. They contend that this only shows that the evidence of guilt is not strong and, therefore, there is no legal basis for Judge Pano to convict them of the crime of murder.

A reading of the Order dated October 6, 1987, granting the Motion for Admission to Bail, shows that it does not contain a summary of the evidence offered by the prosecution. We have held in *People v. Nano*, 205 SCRA 155 (1992) that "[a]n order granting or refusing bail must contain a summary of the evidence offered by the prosecution. On the basis thereof, the judge should then formulate his own conclusion as to whether the evidence so presented is strong enough as to indicate guilt and thereby cause the continued detention of the accused. Otherwise, the accused must be released on bail."

It is apparent that the aforementioned order was defective in form and substance. There was no recital of any evidence presented by the prosecution nor a pronouncement that the evidence of guilt of the accused was not strong. Hence, the said order should not be sustained nor given any semblance of validity.

In *People v. Nano*, supra. at 161, we stated that:

"Admission to bail as a matter of discretion presupposes be exercise thereof in accordance with law and guided by the applicable legal principles. xxx. In other words, discretion must be exercised regularly, legally and within the confines of procedural due process, i.e., after evaluation of the evidence submitted by the prosecution. Any order issued in the absence thereof is not a product of sound judicial discretion but of whim and caprice and outright arbitrariness."

We now resolve the issue of whether or not circumstantial evidence is present to warrant the conviction of appellants for the killing of the victim.

For circumstantial evidence to be sufficient to support a conviction, all the circumstances must be consistent with each other, consistent with the hypothesis that the accused is guilty and at the same time inconsistent with the hypothesis that he is innocent, and with every other rational hypothesis except that of guilt (*People v. Jara*, 144 SCRA 517 [1986]). Guilt may be established through circumstantial evidence provided that the requisites therefor are present: namely, (1) there must be more than one circumstance; (2) the inferences must be based on proven facts; and (3) the combination of all circumstances produces a conviction beyond doubt of the guilt of the accused (*People v. Bacus*, 204 SCRA 81 [1991]).

The following circumstances point to the guilt of both appellants:

- (1) At around 10:00 P.M. of April 16, 1985, Casingal and Hilum were together drinking inside the former's room. Hilum had been staying in the house of Casingal for one month.
- (2) On that same night, Jesusa was awakened by a "kalabugan" and shouts of "tama na, tama na" coming from the room of Casingal.
- (3) At around 5:00 A.M. of April 17, 1985, Labuac saw Go's car parked inside the garage and inside the car's trunk a body resembling that of Eddie Go ("parang kay Eddie Go").
- (4) Hilum placed something inside the garbage can and burned the same with gasoline.
- (5) Casingal, with Hilum as a passenger, drove Go's car.
- (6) The dining room and sala were splattered with blood. A blood-stained blanket was soaked in a basin.
- (7) Upon arrival, Casingal told Labuac not to tell the relatives of Go that the latter went there.
- (8) Hilum destroyed and burned the bed of Casingal and washed the blood-stained blanket.
- (9) The body of Go inside the trunk was found at around 7:12 in the morning of April 17, 1985 in Pasay City by Armando Boloran.
- (10) Both accused left for Samar on April 18, 1985.

Appellants' claim that what they killed was a dog is not worthy of credence. It is not usual to kill a dog inside one's bedroom. No howling was heard despite the defense's allegation that the dog ran to the dining room and sala after it was stabbed. Appellants failed to present the person to whom they allegedly sold the dead dog for "pulutan" on April 17, 1985.

The defense tried to discredit the testimony of Labuac by showing ill motive on her part. Three defense witnesses testified as to the bad relationship between Casingal and Labuac. The evidence shows that the mother of Casingal, Bituin, knew of the bad blood between the two but she continued to retain the services of Labuac. It is not natural for a mother to continue the services of a mere housemaid, who would only disobey her children, on the pretext that it was hard to find another housemaid. The defense failed to prove that this bad relationship between Casingal and Labuac had reached such intensity as to cause the latter to falsely attribute a heinous crime to the former. On the part of Hilum, there was no showing of ill motive on the part of Labuac to implicate him.

This Court finds no reason for the hurried departure of Casingal to Samar for him to continue his studies, considering that as testified by him, he enrolled only in the month of June 1985 at the Leyte National High School in Tacloban City. This only means that the sudden flight of both appellants to Samar, the day after the discovery of Go's body was to hide their complicity in crime. Flight evidences a guilty conscience (*Anciro v. People*, 228 SCRA 629 [1993]).

We, however, find that the crime committed is only homicide and not murder for failure to prove the qualifying circumstances of evident premeditation and abuse of superior strength.

The prosecution postulates that as early as April 9, 1985, there was already a decision to kill Go, made at Ligaya Beach Resort in Batangas. However, Casingal was not with the group that went to the resort.

The fact that there were two persons who attacked the victim does not per se establish that the crime was committed with abuse of superior strength, there being no proof of the relative strength of the aggressors and the victim. To take advantage of superior strength means to purposely use excessive force out of proportion to the means available to the person attacked to defend himself (*People v. Alitao*, 194 SCRA 120 [1991]). Neither can the aggravating circumstance of nighttime be appreciated in the instant case. The evidence does not show that nighttime was deliberately and purposely sought to facilitate, or that it actually facilitated, the commission of the crime (*People v. Empacis*, 222 SCRA 59 [1993]).

The award of P200,000.00 for moral and exemplary damages in the trial court's decision is deleted. There was no evidence that the crime was committed with the attendance of any aggravating circumstances; hence, no exemplary damages may be awarded. On the other hand, the award of moral damages by the trial court is unexplained and unsupported in the court's decision.

In the absence of any qualifying circumstance, the crime committed is only homicide. The penalty for homicide under Article 249 of the Revised Penal Code is reclusion temporal. There were no mitigating and aggravating circumstances. Applying the Indeterminate Sentence Law, appellants are sentenced to an indeterminate penalty ranging from ten (10) years of prision mayor as minimum to seventeen (17) years and four (4) months of reclusion temporal as maximum. The award of P30,000.00 as indemnity to the heirs of the victim is increased to P50,000.00.

WHEREFORE, the decision appealed from is AFFIRMED with the modification above indicated.

SO ORDERED.

Padilla, (Chairman), Davide, Jr., Bellosillo, and Kapunan, JJ., concur.

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