

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. VICENTE IGPAS, SALVADOR DUMORAN, BEATO ESCUÑA, JR., AND PEDRO DABUCOL, ACCUSED. VICENTE IGPAS, SALVADOR DUMORAN AND PEDRO DAB...

G.R. No. 88029. May 25, 1994

Ponente: BELLOSILLO, J.

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BELLOSILLO, J.:

DEMETRIO and INOCENCIA DEMORAL were an elderly couple “known for extending loans to friends and relatives in consideration of varied but not commendable rates of interest.”[1] They owned lands and lived in relative comfort by rural standards. Their children being all married now live separately from them. But in June 1985, their 14-year old grandson, Roel Amores, who was attending classes at a nearby school, moved in to live with them in sitio Vito; Argawanon, San Remigio, Cebu.

At around six-thirty in the evening of 5 September 1985, ferocious barking of dogs prompted Demetrio to go out of their house to inspect his roosters at their backyard. He passed through the kitchen door. Roel followed an arm's length behind. Suddenly, Demetrio was hacked by a man with "deep-set eyes, long nose and dark complexion," later identified by Roel as Beato Escuña, Jr.

In his fright, Roel ran upstairs passing by his grandmother who was sitting on one of the steps of the stairs facing the kitchen door. At this juncture, according to Roel, he noticed Vicente Igpas, a distant relative, with a bolo tucked to his waist turning towards the kitchen door. Sensing that two robbers had entered their house, Roel jumped out of the window and ran to the place of Alfon Demoral, an uncle, who had other relatives called. Roel then related to them and to the responding PC soldiers what happened, except as to the presence of Vicente Igpas which, Roel claims, he disclosed only to his father who supposedly advised him not to divulge the matter to anybody for fear of reprisal.

When Luz Demoral Layson, a daughter of the deceased, arrived at eleven o'clock that evening, she found the contents of her parents' aparador strewn open and scattered around the room. The paper bills amounting to P20,000.00 placed in a bag as well as the coins worth P3,000.00 kept in a tin can were missing. Luz claims she was there a week before and she counted the remaining money of her parents after borrowing P8,000.00 from them. There she learned of the threat to have her father robbed by Vicente for refusing to lend him money. A week before he was killed, Demetrio who was then looking frightened and apprehensive, related to Gerardo Demoral, a nephew, that he (Demetrio) also turned down the request of Beato Escuña, Jr., to lend him money.

Four days before the bloody incident, or on 1 September 1985, at about eleven o'clock in the evening, Felipe Cabansag was walking along a highway with Felipe Demoral when the former overheard Salvador Dumoran, who was in the company of Escuña, Jr., and Pedro Dabucol, saying in Cebuano, "Ang tawo nga dili pabaylo ug kuwarta, mobanaw ang dugo,"[2] and Escuña, Jr., concurred.

For their defense, accused raised diverse alibis, i.e., Vicente Igpas about the time of the murder was cooking supper in his house; Pedro Dabucol did not leave the premises where he worked as gatherer of dried copra; Beato Escuña, Jr., was playing mahjong at a vigil; and, Salvador Dumoran just woke up from an afternoon nap and went to see Conrado Loon at the latter's residence.

But the trial court found their excuses unpersuasive and upheld the prosecution instead. Thus, on 28 February 1989, the court convicted all the accused, except Beato Escuña, Jr., who died in the meantime while in detention. The dispositive portion of the decision now on appeal reads:

WHEREFORE, the Court finds accused VICENTE IGPAS, SALVADOR DUMORAN and PEDRO DABUCOL GUILTY beyond reasonable doubt, as principals, of the crime of ROBBERY WITH HOMICIDE, defined and penalized in Par. 1, Art. 294 of the Revised Penal Code, and condemns all said accused to suffer the penalty of RECLUSION PERPETUA, to indemnify the heirs of the deceased, Demetrio and Inocencia Demoral, the sum of P60,000.00; to restitute the amount of P23,000.00, and to pay the costs.

The criminal liability of accused Beato Escuña, Jr., having been extinguished by reason of his death, in accordance with Art. 89 of the Revised Penal Code, the case against him is considered DISMISSED, with costs de oficio.

While we respect the trial court's appraisal of the testimonies of the witnesses, we are not bound to believe them in their entirety, especially where they defy human experience. But first, we concur with the Office of the Solicitor General that appellants Dabucol and Dumoran should be acquitted as it concedes that their conviction based on circumstantial evidence is erroneous. There is only one circumstance linking them to the crime, i.e., their alleged conversation in the evening of 1 September 1985 that blood would flow from one who would not lend money.

This circumstance alone does not sufficiently prove that said appellants committed the crime charged. Unlike Dabucol and Dumoran, Igpas was not only spotted at the crime scene but was also said to have threatened to have the victims robbed. But, for being hearsay, we have no alternative but to disregard this testimony of Luz Demoral Layson on the alleged threat of Igpas as she did not personally hear the threat; it was only related to her by her father. Thus, with only one circumstance left implicating Igpas to the supposed conspiracy to rob and kill the spouses Demetrio and Inocencia Demoral, Igpas could not be convicted on circumstantial evidence.

In any case, we view with skepticism Roel's actuations after the incident. In his earlier accounts immediately after the shocking incident, Roel intentionally withheld the name of Igpas from his inquiring relatives and responding PC soldiers allegedly for fear of reprisal. He omitted the same information when he first reported the incident to his uncle Alfon, even when not one of the suspects was around. Having known Igpas as a relative who was frequenting their house, a startled Roel could not be expected to consciously omit Igpas' name from his spontaneous narration of facts. Roel was familiar with Igpas and unfamiliar with the other accused and while the name of Igpas could have easily leaked from his unrehearsed report yet it was about a stranger with deep-set eyes, etc., which predominated his narration. And even when he saw Igpas among the crowd of onlookers, Roel had no reason to be afraid to point him out in the presence of Roel's relatives and PC soldiers.

Granting arguendo that he had basis to fear reprisal, he failed to elaborate what "the right condition"[3] was on 8 November 1985 that made him report Igpas to the authorities. We do not know what emboldened him to finally mention his name since the record does not disclose any consequential circumstance that altered the situation since the incident happened.

This is not a normal impulse we expect from a witness out to vindicate the death of his maternal grandparents he was living with. He should not have lost time in identifying to the authorities all those responsible for the

dastardly act lest they be afforded an opportunity to escape. The delay in incriminating Igpas is a positive sign of hesitation and incertitude on the part of Roel that restrains us from affirming the conviction of Igpas.

On the other hand, Igpas did not flee. He was among the kibitzers when the PC soldiers arrived at the scene. He was at the wake of the victims and was among those who attended the funeral. In fact, it appears that the name of Igpas only surfaced from an unsubstantiated suspicion generated from the story of his aunt, Luz Demoral Layson, about the threat allegedly made to the victims, and Roel supposedly confided to his father the information on Igpas only at dawn.[4] These circumstances may not necessarily establish his innocence, but when added to the weakness of the evidence for the prosecution would reinforce our sustained belief that indeed he had nothing to do with the murder and/or robbery of the victims, or that his guilt has not been proved beyond reasonable doubt.

WHEREFORE, the appealed decision of the Regional Trial Court of Cebu City, Branch 7, convicting accused-appellants VICENTE IGPAS, SALVADOR DUMORAN and PEDRO DABUCOL in Crim. Case No. CBU-6648 is REVERSED and SET ASIDE and a new one entered acquitting them of the crime charged as their guilt has not been proved beyond reasonable doubt. Costs de oficio.

SO ORDERED.

Davide, Jr., and Quiason, JJ., concur.

Cruz, (Chairman), and Kapunan, JJ., on leave.

[1] Decision penned by Judge Generoso A. Juaban, Regional Trial Court, Cebu City, Br. 7, Crim. Case No. CBU-6648, p. 2.

[2] "One who will not lend money will spill blood" (Sworn Statement of Felipe Cabansag executed 17 October 1985 before SSG Timoteo R. Buayaban, Jr., of the 342nd PC/INP Company, Dist I, Bogo, Cebu, RTC Rec. p. 21).

[3] TSN, 10 April 1986, p. 17.

[4] TSN, 10 April 1986, p. 26; TSN, 22 May 1986, pp. 37-38.

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