PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. FRANCISCO VILLABLANCA AND EDUARDO VILLABLANCA, ACCUSED-APPELLANTS.

G.R. No. 89662. October 01, 1999

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

Seventeen-year-old Elizabeth Natanio witnessed the brutal and merciless slaying of her crippled father, Pedro Natanio. She identified brothers Francisco Villablanca and Eduardo Villablanca as the murderers. The trial court believed her. Both accused assail their convictions.

The testimony of a single witness is sufficient to support a conviction even in a charge of murder where it is both positive and credible. It has been often said that witnesses are to be weighed and not numbered.[1] With this in mind, we must deny the appeal. But first, the antecedents:

The two accused and one John Doe were charged with the crime of murder before the Regional Trial Court of Palo, Leyte in an information that reads:[2]

> That on or about the 19th day of August, 1985, in the Municipality of Pastrana, Province of Leyte, Philippines, and within the jurisdiction of this Honorable Court, the above named accused, conspiring, confederating and helping with (sic) one another, with the decided intent to kill, with abuse of superior strength and by means of treachery, Francisco Villablanca armed with a long bolo and Eduardo Villablanca with a handgun with the an (sic) unidentified person named John Doe standing as guard near the door of the house, did then and there willfully and feloniously attack, assault, stab and wound one PEDRO NATANIO with the weapons they provided themselves, thereby inflicting upon said Pedro Natanio wounds on the different parts of his body which caused his death shortly thereafter.
>
> Contrary to law.
>
> Government Center, Palo, Leyte, May 27, 1986.

When arraigned, both accused pleaded “not guilty.”[3] After trial, the court found them guilty beyond reasonable doubt of the crime of murder with the attendant qualifying circumstances of “treachery” and “abuse of superior strength” and sentenced them accordingly.[4]

Hence, this appeal. Appellants assail the decision and argue that the trial court erred in giving weight and credence to Elizabeth’s testimony, which they claim was fraught with inconsistencies and improbabilities.[5]

The appeal has no merit. After a careful review of the records, we sustain the conviction.

We agree with the trial court and give credence to Elizabeth’s testimony, from which the following facts can be gleaned:

> It was past 12:00 midnight of August 19, 1985. Elizabeth, her father Pedro and her 14 year-old brother[6] were

> sleeping in their bedroom when they were awakened by the sound of their chickens flying off their perch. Immediately after they heard the noise, the shutter of their door was forced open and was detached from its hinges by two persons who barged into their house. The intruders were the appellants, the brothers Francisco and Eduardo Villablanca. Francisco made Pedro kneel on the floor and then stabbed him on the stomach with a samurai, while Eduardo pointed a gun to his face. Pedro rolled to his side and was again stabbed thrice by Francisco. Elizabeth testified that the hut was dark as the kerosene lamp was put out before they retired for the night. However, she was able to recognize Francisco and Eduardo because she beamed her flashlight on their faces. Elizabeth was sitting by the door of the bedroom while her father was being attacked. She let out a loud cry, and Francisco threatened to kill her if she did not keep quiet. Elizabeth then retreated to her room. Eduardo admonished Francisco to spare Elizabeth, for she was too young. The two assailants left the hut. At around two o'clock in the morning, Elizabeth's grandfather, Felicisimo Dacumi, and his brother Federico arrived. Pedro was still breathing. Elizabeth and Felicisimo brought Pedro to the DZR Hospital in Tacloban City. Before they arrived at the hospital, however, Pedro expired.[7] The postmortem examination disclosed that Pedro sustained four stab wounds: one on the abdomen, one on the left chest and two at the back. The cause of Pedro's death was "hemorrhage secondary to multiple stabbed (sic) wounds of the trunk."[8]

The trial court was in the best position to assess the credibility of Elizabeth. It had the unique opportunity to observe Elizabeth first-hand and note her demeanor, conduct and attitude during a grilling examination.[9] For this reason, we have no reason to disbelieve the trial court's assertion that ---

From the demeanor of the eyewitness Elizabeth Natanio, the Court saw throughout her testimony that she was never coached but simply was testifying from what she actually saw with her eyes. (underscoring ours)[10]

The evaluation by the trial court of Elizabeth's credibility is binding on us, especially since there was no arbitrariness in arriving at its conclusions.[11]

During her direct examination, Elizabeth was straightforward and candid.[12] Thus:

> Q: What did they do inside the house?
>
> A: My father was made to kneel in front of the house.
>
> Q: Who ordered your father to kneel?
>
> A: Francisco Villablanca.
>
> Q: How about Eduardo Villablanca, where was he when your father was ordered to kneel?
>
> A: He was upstairs.
>
> Q: Where was Eduardo Villablanca in relation to your father and Francisco Villablanca at the time your father was made to kneel?
>
> A: He was situated beside the door of the house.
>
> Q: What happened after your father was made to kneel by Francisco Villablanca?
>
> A: My father was stabbed.
>
> x x x x x x x x x
>
> Q: When your father was made to kneel by Francisco Villablanca and he was stabbed on the pit (sic) of his abdomen, where was Eduardo Villablanca?
>
> A: He was standing near my father.

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Q: Did he do anything as he was standing?

A: Yes he did something.

Q: What did he do?

A: He was pointing the gun at my father.

x x x x x x x x x

Elizabeth positively identified appellants as her father's assailants, to wit:[13]

Q: You said you recognized Francisco Villablanca and Eduardo Villablanca as the assailants of your father. Are these two persons inside the courtroom now?

A: Yes sir.

Q: Will you please point to them?

A: (Witness pointing to accused Francisco Villablanca).

Q: How about Eduardo?

A: (Here witness pointing to accused Eduardo Villablanca).

Q: How long have you known the accused Francisco Villablanca?

A: I cannot say how many years but I have known him for quite a long time now.

Q: When did you first come to know him?

A: I first came to know Francisco Villablanca when they used to come to our house.

Q: How many years before from August 19, 1985 did Francisco Villablanca go to your house?

A: He has been going there for a long time already.

Q: Why would Francisco Villablanca go to your house?

A: Because Francisco Villablanca is a friend of my father.

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Q: How about Eduardo Villablanca, do you know him?

A: I know Eduardo Villablanca because he is a friend of mine. He used to come to our house.

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Q: Why are you very positive that it was Francisco Villablanca and Eduardo Villablanca who went up your house that evening and attack (sic) your father?

A: Because I recognize (sic) them.

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On cross-examination, Elizabeth remained firm.[14] Thus:

Q: Now, kindly tell the Honorable Court considering that it was dark inside the room of your house, how do you know that it was Francisco Villablanca who hacked and stabbed your father?

A: Because I recognize that it was Francisco Villablanca who was hacking and stabbing my father because I saw him first when he entered the room of the house and he was using his flashlight while he was stabbing my father.

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Q: Had it not been for the flashlight used by Francisco Villablanca you would not have recognized Francisco Villablanca as the person who wounded your father?

A: I would have recognized even if he did not use his flashlight because when he first entered the house I beamed my flashlight to him (sic).

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Q: And you saw Eduardo Villablanca by the door of the bedroom while Francisco Villablanca was hacking your father?

A: Yes sir. (underscoring ours)

x x x x x x x x x

We have held time and time again that the testimony of a single witness, if positive and credible, is sufficient to sustain a conviction for murder.[15] In the case at bar, we find the testimony of Elizabeth to be both positive and credible. Her testimony was express, direct and explicit. It is worthy of belief. Besides, the defense did not present any clear or convincing evidence to substantiate its claim that Elizabeth was motivated to testify falsely against appellants. In People vs. Pareja,[16] we ruled that it would be unnatural for the relations of the victim who seek justice to commit an injustice by imputing the crime to innocent persons and not those who were actually responsible therefor. We see no reason to rule differently in this case.

Given the positive and unequivocal identification of appellants, we hold that their defense of alibi cannot prevail. Alibi is the weakest defense and cannot prevail over the positive identification of the accused by a prosecution witness.[17] Positive identification, where categorical and consistent and without any showing of ill-motive on the part of the eyewitnesses testifying on the matter, prevails over alibi and denial which, if not substantiated by clear and convincing proof, are negative and self-serving evidence undeserving of weight in law.[18]

Furthermore, the alleged deficiencies in the testimony of Elizabeth are not material to impair her trustworthiness. The question of whether the victim was stabbed in the bedroom or in the living room is too minor to cast doubt on Elizabeth’s testimony. This is especially true given that the Natanios lived in a small bamboo house with an area of roughly five by three and a half-meters.[19] The exact spot in this five by three and a half-meter area where Pedro was actually stabbed is only a collateral and incidental matter. The substance of Elizabeth’s testimony is that Pedro was fatally stabbed and that she identified appellants as the killers. On this point of positive identification, she did not waver. To disregard Elizabeth’s testimony on the basis of minor inconsistencies would result in injustice. Hae nugae seria ducent in mala. Consideration of these trifles will lead to serious mischief. Again, minor inconsistencies do not impair the essential integrity of the prosecution’s evidence as a whole.[20]

We agree with the trial court that there was treachery. The records show with particularity how the aggression against Pedro was commenced and how it resulted in his death. For treachery to be present, two conditions must concur: (1) the means of execution employed gives the person attacked no opportunity to defend himself or retaliate; and (2) the means of execution was deliberately or consciously adopted.[21] Pedro may have been warned of a possible danger to his person. However, what is decisive is that the attack was executed in a manner making it impossible for Pedro to retaliate.[22] When Pedro was made to kneel on the floor, he was unarmed. There was no risk to appellants when Francisco commenced the stabbing. Pedro was not given any chance to

defend himself or retaliate. Pedro was unaware and unprepared of what was to befall him. At a kneeling position, Pedro was obviously helpless. Pedro's helplessness was bolstered by the fact that he was suffering from a "congenital limpness" which allowed him to walk "only short distances."[23]

But while the lower court correctly found that treachery qualified the crime to murder, it erred in holding that abuse of superior strength attended the commission of the crime. There is no evidence that appellants took advantage of superior strength. In any event, even if it was present it was absorbed in treachery. In People vs. Violin,[24] we held that when treachery qualifies the crime of murder, the generic aggravating circumstance of abuse of superior strength is necessarily included in the former.

Art. 248 of the Revised Penal Code, as amended, defines the crime of murder, to wit:

> Any person who, not falling within the provisions of Article 246, shall kill another, shall be guilty of murder and shall be punished by reclusion perpetua to death if committed with any of the following attendant circumstances:
>
> (1) With treachery, taking advantage of superior strength, with the aid of armed men, or employing means to weaken the defense or of means or persons to insure or afford impunity.

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The crime was committed at a time when the death penalty cannot be imposed. As such, the penalty imposable on both appellants is reclusion perpetua. Both appellants shall suffer the same fate as there was conspiracy between them. When Eduardo pointed a gun at Pedro, he provided Francisco with moral assistance. This is enough to make him a co-conspirator.[25] It is not necessary to show that Eduardo actually hit and killed Pedro to make him liable for Francisco's acts.[26]

Rule 120, Section 1 of the Rules of Court mandates that after an adjudication of guilt, the judge should impose the proper penalty and civil liability.[27] The trial court's award of the amount of P30,000.00 as indemnity is not consistent with current jurisprudence. Since an appeal throws the whole case open for review,[28] the amount of indemnity is increased to P50,000.00 in line with current jurisprudence.[29]

WHEREFORE, premises considered, we AFFIRM the decision of the Regional Trial Court of Palo, Leyte finding appellants, FRANCISCO VILLABLANCA and EDUARDO VILLABLANCA guilty beyond reasonable doubt of the crime of murder as defined and penalized under Article 248 of the Revised Penal Code and sentencing each of them to suffer the penalty of reclusion perpetua, with the MODIFICATION that the appellants are ORDERED to pay the heirs of PEDRO NATANIO the amount of P50,000.00 as indemnity ex delicto.

No costs.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Puno, Kapunan, and Pardo, JJ., concur.

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[1] People vs. Asoy, 251 SCRA 682 (1995).

[2] Rollo, p. 5.

[3] Rollo, p. 6.

[4] The dispositive portion of the assailed decision reads:

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> "The court finds both accused Francisco Villablanca and Eduardo Villablanca guilty beyond reasonable doubt of the crime of murder, and hereby sentences both accused to suffer the penalty of RECLUSION PERPETUA with all the accessory penalties and to indemnify the heirs of the late Pedro Natanio the sum of P30,000.00.
>
> SO ORDERED.
>
> Given this 28th day of February, 1989 at the Leyte Government Center, Candahug, Palo, Leyte." (Rollo, p. 33).

[5] Appellants' Brief, Rollo, p. 58.

[6] Elizabeth testified that her brother was not able to witness the crime as her brother jumped out of an opening in their kitchen as soon as they heard their door being forced open (TSN, October 23, 1986, pp. 3-4).

[7] TSN, September 10, 1986, pp. 4-16.

[8] Original Records, p. 35.

[9] People vs. Betonio, 279 SCRA 532 (1997).

[10] Rollo, p. 32.

[11] People vs. Pija, 245 SCRA 80 (1995).

[12] TSN, September 10, 1986, pp. 6-7.

[13] TSN, September 10, 1986, pp. 14-16.

[14] TSN, October 23, 1986, pp. 9-13.

[15] People vs. Lotoc, et al., G.R. No. 132166, May 19, 1999.

[16] 265 SCRA 429 (1997).

[17] People vs. Manzano, 248 SCRA 239 (1995).

[18] People vs. Dinglasan, 267 SCRA 26 (1997).

[19] TSN, September 10, 1986, pp. 4-5.

[20] People vs. Conde, 252 SCRA 681 (1995).

[21] People vs. Azugue, 268 SCRA 711 (1997); People vs. Valles, 267 SCRA 103 (1997).

[22] People vs. Javier, 269 SCRA 181 (1997).

[23] TSN, September 10, 1986, p. 20.

[24] 266 SCRA 224 (1997).

[25] People vs. Tami, 244 SCRA 1 (1995).

[26] People vs. Francisco, 249 SCRA 526 (1995).

[27] People vs. Veneracion, 249 SCRA 244 (1995).

[28] People vs. Rabanag, G.R. No. 130010, May 26, 1999.

[29] People vs. Caballes, G.R. No. 102723-24, June 19, 1997; People vs. Lotoc, supra.

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