

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RAMON LAO Y RICARDO, EDILBERTO RAJEL Y LAGUERTA, ALFREDO DELIZO Y SALCEDO, ALEJANDRO JOVILLANO Y PASUPIL, RUMOLITO PALERMO Y U...

G.R. No. 90627. November 29, 1991

Ponente: GRIÑO-AQUINO, J.

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GRIÑO-AQUINO, J.:

The seven (7) defendants have appealed the decision of the Regional Trial Court, Fourth Judicial Region, Branch 54, Lucena City, finding them guilty of the murder of their fellow prisoner, Norberto Reynoso, and sentencing each of them to suffer the penalty of reclusion perpetua as follows:

“WHEREFORE, premises consider-ed, the Court finds the seven (7) accused, namely: ROBERTO DIVINO, ALFREDO DELIZO, EDILBERTO RAJEL, GERRY MERELO, RAMON LAO, ALEJANDRO JOVILLANO AND RUMOLITO PALERMO guilty beyond reasonable doubt of the crime of MURDER, punishable under Article 248 of the Revised Penal Code, with the qualifying aggravating circumstances of treachery and abuse of superior strength present, and herein sentences each of them to imprisonment of RECLUSION PERPETUA (LIFE IMPRISONMENT), with all the accessory penalties provided by law. Furthermore, said accused are ordered to pay the heirs of the victim Norberto Reynoso, jointly and severally, the sum of P30,000.00 for the death of said victim, and to reimburse the said heirs the amount of P3,450.00 for the expenses incurred during the funeral/burial services of the deceased Norberto Reynoso.” (p. 17, Decision, Annex A, Appellants' Brief.)

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

"At about 10:00 o'clock in the evening of May 21, 1986, a drinking spree was taking place among the inmates of Cell No. 3 in the Lucena City Jail (p. 4, tsn, November 11, 1986). Amidst the merry-making there was also singing led by Norberto Reynoso, who was accompanied on the guitar by another inmate (p. 3, tsn, Aug. 7, 1986). As often happens in many a drinking session where alcoholic spirits go wild, trouble erupted. Thus, at a given signal from appellant Lao, appellant Divino first and then followed by the others assaulted the victim, Norberto Reynoso. Thus, appellants Divino, Rajel, Delizo, Jovellano and Merelo took turns in boxing and kicking Reynoso (p. 4, tsn, August 7, 1986). As Reynoso reeled groggy from the punches and kicks, he fell down on a 'tarima' (prison bunk), from where appellant Gerry Merelo pulled him up and dragged him towards the cell door. Merelo tried to prop him up preparatory to succeeding blows. Reynoso shouted for help and a prison guard responded and tried to pacify the group. After warning the inmates of Cell 3 to stop the commotion, the guard left. At this point, appellant Gerry Merelo again pulled Reynoso to a corner of the cell while the other appellants pushed a 'tarima' against the cell door to block entry into the cell. Then, appellant Ramon Lao clearly ordered, 'Patayin na si Reynoso.' (p. 3, tsn, July 31, 1986). With this signal, appellants closed in for the kill. Co-appellant Jovellano picked up a piece of wood, about a foot long and seven centimeters in diameter, (Exhibit A) and hurled it at Reynoso who was hit at the left arm. Gerry Merelo picked up the piece of wood and also hurled it at Reynoso who was hit at the head near the left ear. Ramon Lao boxed and kicked Reynoso. Then co-appellant Rumolito Palermo got hold of the piece of wood and hurled it at

Reynoso who was lying on the floor on his side hitting him on the left arm. After that, Gerry Merelo again got the piece of wood and with it hit Reynoso on the left side of the head. Meantime, Rumolito Palermo took a stainless 'patalim' or crudely-fashioned knife, bound one end of it with a piece of cloth and thereafter stabbed Reynoso at the back, hitting the latter near the spinal column. (pp. 4-5, tsn, July 31, 1986.)

"Alarmed by the commotion in Cell 3, several police officers rushed thereat. They sensed trouble inside and tried to enter the cell but could not, as the entrance was blocked by the 'tarima.' In their attempts to subdue and quell the rioting inmates of Cell 3, the police resorted to the use of hacksaws with which they cut the iron bars. After this, they were able to bring out some of the inmates. The rest of the inmates, including all the appellants, still refused to come out despite repeated pleas to do so coming from the police and even the Mayor of Lucena City. Finally, the police threw tear gas bombs inside the cell and with this tactic they were able to eventually flush out all the inmates of Cell 3 (p. 3, tsn, December 16, 1985).

"A post-mortem examination of Reynoso revealed the following injuries, some of them fatal, which he sustained at the hands of appellants:

"1. presence of hematoma 3 contusion of the right eye closed;

"2. presence of hematoma 3 contusion of the left eye;

"3. lacerated wd. 5 cm. x 1 cm x 1.5 cm over the right eyebrow;

"4. lacerated wd. 3 cm. x 1 cm x 1.5 cm. over the right parietal region of the skull;

"5. lacerated wd. 5.5 cm. x 1 cm x 1.5 over the left parietal region of the skull laceration of the left ear 10 cm with depressed fracture of the mastoid region of the left ear;

"6. stabbed wd. 1 cm. x 1 cm x 3 cm over the left side of the vertebral column 22 cm. distance for the nape of the neck;

"7. stabbed wd. 1 cm x 1 cm x 1.5 cm over the spinal column lumbar area 32 cm. for the nape of the neck.

"xxx xxx xxx

"With the exception of appellant Divino, who admitted his direct participation in the killing of Reynoso, the other appellants, although admitting their presence at the scene of the crime when it happened, denied their guilt with the following claims or excuses:

"a) Appellant Jovellano claimed that he could not have assaulted Reynoso because the latter was his 'Kumpadre';

"b) Appellant Delizo claimed that as a relatively new tenant in Cell 3, it was unlikely for him to get involved in any trouble;

"c) Appellants Rajel, Palermo and Merelo stated that they were all asleep when the killing occurred; and

"d) Appellant Lao claimed that he did not participate in the killing but tried to pacify the troublemakers.

"Appellants testified further that their cellmates Elson Tan, Rico Labagis, Bernardo Amarillas and Rolando Perez, all prosecution witnesses, were actually the killers of Reynoso." (pp. 89-95; Rollo.)

The accused have appealed insisting that the trial court erred in finding them guilty of the crime charged.

As the appeal merely raises in issue the credibility of the various witnesses, the rule in this regard is that the factual findings of the trial judge who had the opportunity to observe the demeanor of the witnesses and to assess their credibility, is entitled to the highest degree of respect. (People vs. Patag, 144 SCRA 542; People vs. Guardo,

156 SCRA 152.)

We find no reason to disturb the trial court's finding that:

"Their version of the incident could not be given any credence, firstly because their testimonies are contradictory in many material points, aside from being vague and general. Furthermore, their participation in assaulting the deceased becomes clear considering the fact that they were all identified by the prosecution witnesses and after all sorts of persuasion had been exerted by the authorities for them to come out voluntarily, they refused to do so and had to be extracted out of Cell No. 3.

"On the other hand, Edilberto Rajel, Roberto Divino, Ramon Lao, and Gerry Merelo testified that they did not see anything because having been in a drinking spree, they were fast asleep. Gerry Merelo even testified that he did not know anything, but only awoke to find out that he was already transferred to Cell No. 6. Again, their versions of the incident could not be given credence, because in the first place, upon ocular inspection of Cell No. 3, the Court found out that it is a very small cell which is only about three meters by eight meters in size, more or less, and the 'tarima' where the inmates sleep occupied practically about two-thirds of the floor area. Any occupant of Cell No. 3, therefore, would have been readily awakened by any unusual noise or commotion; and any such occupant could see what was happening anywhere he may have been at the time the incident occurred." (p. 57, Rollo.)

Against the prosecution witnesses' positive identification of the accused-appellants, the latter's simple denial of their participation in the commission of the crime or their pretense that they were not aware that it happened may not prevail (*People vs. Sabado*, 168 SCRA 681).

The crime committed was murder, qualified by treachery, for the appellants, numbering seven, attacked their lone victim while he was gaily singing, with no inkling whatsoever that he would be attacked. He was unarmed. The appellants were armed with a wooden club and a knife as they took turns in savagely beating and stabbing him in different parts of his body. And, knowing the futility of fighting back, Reynoso made no attempt to defend himself, hence, his attackers incurred no risk at all to themselves in the execution of the crime. Furthermore, to assure that Reynoso would neither escape nor be rescued, the appellants barricaded the door of the prison cell where they killed him in obedience to Lao's command: 'Patayin na si Reynoso (*People vs. Rojas*, 147 SCRA 169)'. (p. 100, Rollo.)

The presence of a conspiracy was clearly established. The appellants were animated by one and the same purpose: to kill Reynoso (*People vs. Manlolo*, 169 SCRA 394) and they were united in its execution (*People vs. Pagaduan*, 29 SCRA 54). The question as to who dealt the fatal blow on their victim is of no consequence for it is settled that when a conspiracy exists, the act of one is the act of all (*People vs. Muñoz*, 170 SCRA 107).

Contrary to the trial court's ruling, abuse of superior strength was not a qualifying circumstance in the commission of the murder for it was absorbed by treachery (*People vs. Dela Cruz*, 147 SCRA 359).

The presence of the special aggravating circumstance of quasi-recidivism under Art. 160, Revised Penal Code (committing a crime while still serving sentence for another) should have been considered, but it would not have affected the penalty imposable on the accused in this case for the maximum imposable penalty under the Constitution (reclusion perpetua) had already been imposed on each of them by the trial court.

A heavier penalty, such as death, may not be imposed under the 1987 Constitution no matter how heinous the crime might be, or how many aggravating circumstances may have attended its commission.

We are unable to conclude this decision without a word concerning the criminally lax, negligent and inept administration of the Lucena City Jail at the time of this bloody incident in May 1986, and perhaps up to this time. The cold-blooded murder of the inmate, Norberto Reynoso, would not have happened if the warden and jail

guards had been strict in prohibiting the entry of liquor into the prison cells. By allowing the inmates to have access to alcohol, the prison administration encouraged rowdy, drunken and violent behavior among the inmates, which, in this case, culminated in the murder of one of the prisoners. The prison guard who went to investigate Reynoso's cries for help was either afraid or stupid, or himself too drunk to do his duty. Seeing that the appellants were battering Reynoso, the guard should have known that Reynoso's life was in danger. He should have called the warden and other guards to help him (if he could not do it alone) to quell the commotion and remove Reynoso from the cell. Instead of simply warning Reynoso's attackers to stop beating him, the guard should have remained at the scene to see to it that his order was obeyed. By failing to do that, he indirectly contributed to the death of the inmate, Reynoso.

In view of the foregoing, the Court resolved to refer this matter to the Honorable Secretary of Justice for appropriate administrative action against the jail warden and the recreant prison guards on duty to improve the administration the Lucena City Jail and to avoid a repetition of this unfortunate occurrence not only in that jail but in all prisons and detention centers throughout the country.

WHEREFORE, the appealed judgment is affirmed except that the indemnity for the death of the victim, following recent decisions of this Court, is hereby increased to P50,000. Costs against the appellants.

SO ORDERED.

Narvasa, (Chairman), Cruz, Feliciano, and Medialdea, JJ., concur.

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