

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. LOUIE EUGENIO, ACCUSED-APPELLANT.

G.R. No. 92305. February 27, 1991

Ponente: GRIÑO-AQUINO, J.

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GRIÑO-AQUINO, J.:

This is an appeal from the decision dated January 5, 1990, of the Regional Trial Court of Manila which found the appellant, Louie Eugenio, guilty beyond reasonable doubt of murder qualified by treachery.

As found by the trial court, the crime was committed as follows:

"x x x at about 6:30 o'clock in the early evening of May 29, 1985, while a basketball game was in progress in an elevated basketball court by the side of Adonis St., in Pandacan, Manila, the accused, Louie Eugenio, went up to the said court and looked around among the several spectators. Having seen the deceased Leopoldo Paltoub who was then sitting by the side of the court watching the game, he sidled to the right side of Leopoldo and as he neared, he suddenly shouted "Hoy!" and when the victim turned, the accused without saying anything more, suddenly fired at him with what looked like a Cal. 45 handgun, hitting him on the face below the right eye. The slug exited below the victim's left ear. As a result of the gunshot wound he sustained, the deceased died on the spot and could not be brought anymore by his kin to the hospital. After hitting the victim, the accused retreated backwards with the gun still in his hand and then ran away in the direction of Adonis Street, where his family lives." (pp. 21-22, Rollo.)

An information for murder was filed against Eugenio on October 2, 1985 by the Assistant City Fiscal of Manila. It alleged:

"That on or about May 29, 1985, in the City of Manila, Philippines, the said accused did then and there wilfully, unlawfully, and feloniously, with intent to kill, with treachery and evident premeditation, attack, assault and used personal violence upon one LEOPOLDO C. PALTOUB by then and there shooting him with a .45 cal. gun in the face, thereby inflicting upon said LEOPOLDO C. PALTOUB a mortal gunshot wound which was the direct and immediate cause of his death thereafter."

"Contrary to law." (p. 11, Rollo.)

After trial, the Regional Trial Court of Manila rendered judgment finding the accused guilty beyond reasonable doubt of the crime of murder qualified by treachery, but with neither mitigating nor aggravating circumstances, and sentencing him:

"x x x to suffer the penalty of reclusion perpetua and its accessory penalties; to pay the heirs of the victim, Leopoldo C. Paltoub, in the sum of P30,000.00; and to pay the costs." (p. 23, Rollo.)

In this appeal, the accused has assigned the following errors against the trial court's decision:

1. The trial court erred in not considering and noting the flagrant lies and inconsistencies in the testimonies of prosecution witnesses Laureano Paltoub and Lorenzo Paltoub, both brothers of the victim, Leopoldo Paltoub.

2. It erred in relying on the testimonies of prosecution witnesses Leopoldo Medina and Teresa Endonila whose testimonies were apparently concocted, defying both logic and human experience.
3. It erred in not acquitting defendant-appellant.

The first two assigned errors assail the trial court's appreciation of the evidence given by the prosecution witnesses, Laureano Paltoub, Lorenzo Paltoub, Leopoldo Medina, and Teresa Endonila.

The appellant contends that the testimony of Lorenzo and Laureano Paltoub that they saw him shoot their brother Leopoldo, is a fabrication for the natural reaction of a person upon hearing a shot, as the other persons in the basketball court did, is to run to a safe place without stopping to find out what had happened and who did it. It also cannot possibly be true that they saw appellant linger a while after shooting the victim, because the killer would have immediately fled after shooting his victim. Their identification of the accused as the killer of their brother was based on conjecture that the accused had a grudge against the deceased for he suspected the deceased of having killed his father. Furthermore, as said prosecution witnesses are close relatives of the victim, their evidence is necessarily biased and untrustworthy.

Those arguments have no merit.

The accused was identified as the person who shot Leopoldo Paltoub, not only by Laureano and Lorenzo Paltoub but by three other eyewitnesses, namely: Alberto Medina, Leilani Medina, and Ma. Teresa Endonila who were very near the spot where appellant was standing when he shot the victim, Leopoldo ("Bobot") Paltoub. These eyewitnesses disclosed that the scene of the crime was brightly illuminated by a lamp post which lighted up the basketball court. They could not possibly be mistaken as to the appellant's identity for they had personally known him since childhood; they and the appellant have been residing in the same neighborhood in Pandacan since they were children. The three eyewitnesses positively and categorically fingered the appellant as the killer of Leopoldo Paltoub. Alberto Medina, an 18-year-old student, testified that he was standing by the lamp post beside the basketball court, watching the game, when the shooting occurred:

"Q:

Will you tell the court what was that you witnessed?

"A:

At the height of the game and when it was about to be finished and I was about to go home also, somebody said "hoy" and when I looked at the direction where the voice came from, I saw him fired a gun.

"Q:

Towards whom?

"A:

He fired a gun at Bobot.

"Q:

How far were you when you saw Louie Eugenio fire that gun towards Bobot?

"A:

Around 8 arm's length, sir.

"Q:

Was the place lighted also at the place of shooting?

"A:

Yes, sir.

"Q:

What kind of light?

"A:

The lights coming from the basketball court and the light coming from the lamppost.

"Q:

How many times have you heard that shot?

"A:

One shot, sir.

"Q:

What happened to Bobot after that shot was fired?

"A:

He fell but somebody took hold of him." (p. 14, Brief for Plaintiff-appellee.)

The trial court correctly dismissed the appellant's alibi that he was in the house of his employer, Col. Arthur Custodio, in Kamuning, Quezon City when the crime was committed. Said the trial court:

"x x x This alibi is weak and does not compel belief. At best, it is of dubious credibility. There were several persons mentioned by the accused himself and his witness as residing there in Col. Custodio's residence. Only

one - a supposed maid - was called to testify. How about Col. Custodio or his wife? Why were they not presented to affirm that the accused was indeed their houseboy and was there with them on the night of the killing? Moreover, the defense failed to conclusively show that it was impossible for him, granting as true his claim that he was then a houseboy of Col. Custodio at the latter's residence at #155 K-3rd Kamuning St., Quezon City, to be at the scene of the crime at Adonis St., Pandacan, Manila, where his family also had their residence. It is an established rule of jurisprudence that alibi, in order to be considered a valid defense, must be supported by strong and convincing evidence of the impossibility of the accused being physically at the scene of the crime at the time of its commission. (People vs. Espinosa, 198 Phil. 147.) In this case, as well as in the case of People vs. Motiong, 198 Phil. 552, and in a long line of previous decisions, our Supreme Court has consistently held that alibi cannot prevail over the positive identification made by witnesses to the crime." (p. 22, Rollo.)

The crime committed was murder with treachery. The victim, who was absorbed in watching a basketball game, was completely unaware of the impending assault as the accused quietly sidled up to him, and shouted "Hoy!" so that the victim would face him before he shot the victim point blank in the face. It took no more than that single shot to kill the latter (People vs. Solares, 173 SCRA 203; People vs. Guardo, 156 SCRA 152).

Murder qualified by treachery is punishable with reclusion temporal in its maximum period to death (Art. 248, Revised Penal Code). However, in consonance with the 1987 Constitution, the death penalty is no longer imposable. Therefore, the trial court correctly sentenced the accused to suffer the penalty of reclusion perpetua. However, the civil indemnity of P30,000 for the death of Leopoldo Paltoub should be increased to P50,000 in accordance with the Court's recent decisions (People vs. Sison, G.R. No. 86455, September 14, 1990; People vs. Bartulay, G.R. No. 83696, December 13, 1990).

WHEREFORE, as above modified, the appealed decision is affirmed with costs de officio.

SO ORDERED.

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

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