

PEOPLE OF THE PHILIPPINES, PLAINTIFF/APPELLEE, VS. RICARDO AMARO Y CRISOLOGO, ARMANDO PANTE Y REALDA AND FERNANDO SINGSON Y AMARO, ACCUSED. FERNANDO SINGSON Y AMARO, APPELLANT.

G.R. No. 92502. August 04, 1994

Ponente: FELICIANO, J.

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FELICIANO, J.:

Ricardo C. Amaro, Armando R. Pante, and Fernando A. Singson were charged with murder in an information which read as follows:

"That on or about the 27th day of September, 1987, at Barangay San Agustin, Municipality of Pili, Province of Camarines Sur, Philippines, and within the jurisdiction of this honorable court, the abovenamed accused, conspiring, and confederating and mutually helping one another with evident premeditation and treachery, and taking advantage of nighttime and of superior strength and with intent to kill, did then and there willfully, unlawfully, and feloniously, attack, assault and stab with bolo and knives one AUGOSTO RONDA thereby inflicting upon the latter mortal wounds on his body which caused his instantaneous death to the damage and prejudice of his heirs of the offended party.

Contrary to law."[1]

Because Pante was able to escape from the custody of the police and had remained at large, only Amaro and Singson were arraigned and pleaded not guilty and stood trial.[2] After trial, the court a quo rendered judgment convicting the accused of murder, the dispositive portion of which read:

"WHEREFORE, judgment is hereby rendered finding the accused Ricardo Amaro y Crisologo and Fernando Singson y Amaro GUILTY beyond reasonable doubt as principals by direct participation of the crime of Murder qualified by abuse of superior strength defined and punished under Article 248, paragraph 1 thereof, of the Revised Penal Code without any generic aggravating circumstance or mitigating circumstance present in the commission thereof, and thereby sentences each of them to suffer the penalty of Reclusion Perpetua. They are credited in full for the period of their preventive imprisonment, if they agreed voluntarily in writing to abide by the same disciplinary rules imposed upon convicted prisoners, otherwise, with four-fifths thereof.

They are likewise ordered to pay jointly and severally the heirs of Augusto Ronda the following amounts, to wit:

1. For the death of Augusto Ronda--P30,000;
2. For actual expenses-- P16,918.55;
3. For loss of earning capacity there being no clear evidence of net earnings -- P20,000;
4. For moral damages--P5,000; and

5. The costs of the suit.

So Ordered."^[3]

The trial court found that on 27 September 1987, at about 10:00 p.m., Teofisto Azuela and Isagani Bernardino, both prosecution witnesses, were with Antet Remot and Jorge Isinalada in front of a store located along the national highway near the boundary line between the barangays of San Agustin and San Jose in the municipality of Pili, Camarines Sur. Accused Fernando Singson, Ricardo Amaro, and Armando Pante, all armed with bladed instruments, arrived and inquired about the whereabouts of Augusto Ronda, Antet Remot, and Eleuterio Osea. Despite the presence of Antet Remot, Teofisto Azuela answered that the three (3) named persons were not around; the accused left and proceeded in the direction of the Azajar ricemill located along the national highway at San Agustin, Pili, Camarines Sur. Shortly thereafter, Isagani Bernardino and Teofisto Azuela also left, one after the other, and proceeded in the same direction taken by the accused. Along the way, they stopped. At this point, because of the illumination provided by the mercury lamps of the Azajar ricemill compound and the lights of passing vehicles, the two (2) witnesses saw the three (3) accused who were near the gate of the ricemill, and Augusto Ronda who was then walking on the other side of the road approaching the ricemill. The accused ran towards Ronda and promptly hacked and stabbed him. Thereafter, the accused ran towards the Azajar ricemill and left Ronda lying on the ground. On the basis of these facts, the trial court convicted the accused of murder qualified by abuse of superior strength.

Only accused Fernando Singson filed an appellant's brief as accused Ricardo Amaro withdrew his appeal and commenced serving his sentence.^[4]

In his brief, Fernando Singson made the following assignment of errors:

1. That the trial court erred in finding [him] liable as principal for the crime of murder;
2. That the trial court erred in finding [him] guilty beyond reasonable doubt for the crime of murder;
3. That the trial court erred in giving full credit to the conflicting testimonies of the witnesses for the prosecution.^[5]

We have carefully scrutinized the evidence on record and find that the guilt of the accused-appellant Fernando Singson was proved beyond reasonable doubt.

Two (2) witnesses for the prosecution testified that the three (3) accused had hacked and slashed and stabbed Augusto Ronda on the fateful night of 27 September 1987. They were able to identify the accused with certainty; their distance from the scene of the crime, and the well lighted condition of that scene at that time, enabled them to observe the commission of the crime and to recognize the identity of the accused.

Isagani Bernardino testified that he had witnessed the crime from a distance which, on ocular inspection, was found to be at about 65 to 70 meters.^[6] Teofisto Azuela, on the other hand, witnessed the crime from a distance of about 50 meters.^[7]

The scene of the crime was well illuminated. The moon was out that night.^[8] The eight mercury lamps^[9] and the municipal electric light post by the gate of the ricemill and just above the precise situs of the crime^[10] were on. As the crime was committed along the highway, additional illumination came from the headlights of passing vehicles.^[11] The Court has held in the past that illumination produced by kerosene lamps,^[12] or by a flashlight,^[13] was sufficient to permit identification of a person. In this case, the trial court believed that illumination provided by mercury lamps and the moon and the lights of passing vehicles was quite enough to allow the witnesses to see or recognize the accused. We have no basis for overturning this conclusion.

Furthermore, Teofisto Azuela and Isagani Bernardino saw the events which immediately preceded the killing of Ronda, and those events point to the accused as the perpetrators of the crime. Before Ronda was killed, the three (3) accused went to the store where the witnesses were loitering around. Shortly after the accused left the store, Isagani Bernardino and Teofisto Azuela followed them, and the two (2) observed the moves of the accused. They saw the accused, armed with bolos and knives, leave the store and walk towards the Azajar ricemill and reach its gate, and cross the road, and meet Ronda and hack and stab him, and leave him lying by the roadside bleeding to death.

The testimonies of the two (2) witnesses were straightforward, positive, and consistent. Teofisto Azuela positively declared that the accused killed Augusto Ronda. He stated that:

"Q: What did the three accused do when Augusto Ronda was at a distance of 15 meters from the gate of Azajar ricemill?

A: At about 15 meters from the gate of Azajar ricemill, the accused saw Ronda through the lights coming from the cars and the accused ran across the road and met Augusto Ronda.

x x x x x x x x

Q: What happened when the three accused met ronda?

A: We saw a motion of hacking with a bolo and it was Augusto Ronda who was being hacked.

Q: Who were those whom you saw in motion of hacking Augusto Ronda?

A: The three persons who came from the store.

COURT:

Q: Who were they?

A: Ricardo Amaro, Fernando Singson, and Amante Pante."[14]

Isagani Bernardino, on the other hand, testified thus:

"Q. What did the accused do upon reaching the gate of the Azajar ricemill?

A. They ran across the road.

Q. And what did you observe them do when they ran across the road?

A. They were carrying bolo and Batangas knife.

x x x x x x x x

Q. When the accused crossed on the opposite side of the road from the gate of the Azajar ricemill, what happened, if any?

A. I saw them stab Augusto Ronda.

Q. Who was stabbing Augusto Ronda?

A. Ricardo Amaro and Singson were hacking.

Q. How about Pante, what did he do?

A. He was hacking Augusto Ronda."[15]

Moreover, no proof was adduced to show that the prosecution witnesses were moved by some evil motive falsely to testify against the accused. The cross-examination ably conducted by defense counsel failed to dent, however slightly, the credibility of the witnesses.

The account of the eyewitnesses that the three (3) accused hacked away at the victim simultaneously, was consistent with the testimony of the medical officer who had prepared the necropsy report. That report stated that at least two (2) bladed instruments were used in killing Ronda[16] who sustained not less than seventeen (17) stab and hack wounds.[17]

From the foregoing, we find that the trial court did not err in giving credence to the testimonies of the two (2) prosecution witnesses. The firmly settled rule is that appellate courts will not disturb the factual findings of trial courts, since the trial judge was in a better position to ascertain who should be believed and whose testimony should be rejected considering that he saw and heard the testimony of the witnesses in the course of the trial.[18] In the present case, we find no reason, and neither the judgment of the trial court nor appellant's brief provides us with one, to deviate from this rule.

Accused Fernando Singson urges the court to accept the statement of Ricardo Amaro that he was alone when he stabbed to death the victim Augusto Ronda.[19]

Amaro's statement or version of the facts, however, fails to impress. If an accused invokes self-defense, it is incumbent upon him to prove by clear and convincing evidence that he had indeed acted in self-defense.[20] Having admitted that he in fact killed the victim, the burden of proof is upon the accused to prove the presence of the essential elements of this justifying circumstance. Accused-appellant, unfortunately, failed to discharge this burden.

Amaro testified that he had been chased by Ronda and two (2) others who were all carrying bolos. Ronda allegedly hacked at him, but Amaro was able to parry the blow and to wrest the bolo. In turn, he used Ronda's bolo and slashed and stabbed Ronda to death. Ronda's companions, seeing that he was grievously wounded, ran away. Amaro left and proceeded towards Naga City supposedly in order to surrender himself. On his way, he was arrested by pursuing policemen.[21]

This defense is controverted by the necropsy report. First, the report stated that the body of Ronda bore seventeen (17) lesions. It has been held that a large number of wounds inflicted on the victim indicates aggression on the part of the perpetrator[22] for it shows his determination to kill his victim.[23] Thus, appellant cannot credibly claim that unlawful aggression had come from the victim. Second, the necropsy report showed that the wounds of Ronda must have been inflicted by at least two (2) kinds of bladed instruments, a knife and a bolo. This point necessarily traverses and contradicts Amaro's version that he had used a bolo only in killing Ronda, and that he alone had killed Ronda.

Furthermore, Amaro's story that the alleged killing implement was the bolo of Ronda is not credible. As the trial court observed, if the bolo he used in hacking Ronda belonged to the latter, it was incumbent upon Amaro to see to it that the bolo was turned over to the authorities and to have the same presented in court as evidence; its non-production was fatal to the defense.[24] It may be observed that when Amaro was arrested, there was found in his possession, not a bolo, but a knife. If at that time, he was in fact on his way to surrender immediately after the killing of Ronda, it is only natural that he would have carried the instrument he allegedly used in killing Ronda. It is thus noteworthy that he was then carrying a knife, one of the two (2) types of instruments used in killing Ronda.

Fernando Singson raised the defense of alibi, contending that, on the date and time that Ronda was killed, he

(Singson) was with Armando Pante in the house of Leoncio Pante located at Cadlan, Pili. From the time he arrived at 5:00 p.m. at Leoncio Pante's house up to 4:00 p.m. the following morning when he was arrested, Singson said, he never left the house.[25]

As a rule, alibi is an inherently weak defense; it cannot prevail over the positive identification of the accused by the witnesses for the prosecution.[26] For alibi to be given credence, it is not enough to prove that the accused was somewhere else when the crime was committed; he must also demonstrate that it was physically impossible for him to have been at the scene of the crime or within its immediate vicinity at the time of its commission.[27]

In the present case, the defense of alibi must fail. Leoncio Pante testified that his house is only about three (3) kilometers from the scene of the crime and that the distance can be negotiated non-stop in about two (2) minutes by a motor vehicle.[28] The distance of the house from the situs of the crime cannot establish the physical impossibility of his presence at the scene of the crime or within its immediate vicinity, when Ronda was killed. Finally, in the light of the un rebutted testimony of the prosecution witnesses positively identifying Fernando Singson as one of the wrongdoers, the defense of alibi is totally inadequate.

Lastly, the trial court correctly held that the killing of Ronda was qualified by the aggravating circumstance of abuse of superior strength. This qualifying circumstance is properly considered whenever there is patent inequality of forces between the victim and the aggressors, and a clear superiority of strength on the part of the aggressor, mobilized and taken advantage of by him in the commission of the crime. In addition to evaluating the relative physical conditions of the protagonists and the arms or weapons employed by both sides, it is also necessary to analyze the incidents and episodes constituting the development of the event.[29]

In the present case, the killing of Ronda was not a sudden and impulsive whim on the part of the accused; it was a deliberate act of deploying and exercising superior force against Ronda. Appellant Fernando Singson, Ricardo Amaro, and Fernando Pante armed themselves with knives and bolos and set out to kill their victim. Together, the three (3) armed men looked for Ronda at the store. Together they went to the Azajar ricemill. When the three (3) found Augusto Ronda, they proceeded concertedly to attack him. The accused clearly enjoyed superiority in number and in arms, and they utilized this in assaulting and slaying a lone and unarmed Ronda. The trial court, accordingly, did not err in finding this qualifying circumstance present. In *People v. Verzo*,[30] this Court held that abuse of superior strength may be appreciated in a murder case where three (3) persons wielding bolos killed an unarmed victim.

The trial court erred, however, in awarding P30,000.00 as indemnity for death to the heirs of Augusto Ronda. In the light of the Resolution of the Court En Banc dated 30 August 1990,[31] and other more recent jurisprudence, the amount of indemnity should be P50,000.00.

WHEREFORE, the judgment of the Regional Trial Court of Pili, Camarines Sur, finding accused appellant Fernando Singson guilty, is hereby **AFFIRMED**, with the sole modification that the indemnity for death to be paid by the appellant is **INCREASED** to P50,000.00.

SO ORDERED.

Bidin, Romero, Melo, and Vitug, JJ., concur.

[1] Records, p. 1.

[2] Trial Court Decision, p. 1; Rollo, p. 25.

[3] Id., pp. 14-15; Rollo, pp. 38-39.

- [4] Resolution of 27 January 1993, Rollo, p. 69.
- [5] Appellant's Brief, p. 11; Rollo, p. 94.
- [6] TSN, August 30, 1988, p. 8; Records, p. 131.
- [7] TSN, April 13, 1988, p. 16; Records, p. 44.
- [8] TSN, 30 August 1988, p. 3; Records, p. 126.
- [9] Id., p. 8; Records, p. 131.
- [10] TSN, 6 July 1988, p. 13; Records, p. 102.
- [11] Id., 17; Records, p. 106.
- [12] *People vs. Penillos*, 205 SCRA 546 [1992].
- [13] *People vs. Loste*, 201 SCRA 614 (1991).
- [14] TSN, 13 April 1988, pp. 16-17; Records, pp. 44-45.
- [15] TSN, 6 July 1988, pp. 10-11; Records, pp. 99-100.
- [16] TSN, 7 March 1988, p. 17; Records, p. 17.
- [17] See, Id., pp. 17-27; Records, pp. 17-27.
- [18] *People vs. Simon*, 209 SCRA 148 (1992); *People vs. Magaluna*, 205 SCRA 266 (1992); *Caubang vs. People*, 210 SCRA 371 (1992).
- [19] Appellant's Brief, p. 11; Rollo, p. 94.
- [20] *People vs. Arroyo*, 201 SCRA 616 (1991); *People vs. Nabayra*, 203 SCRA 75 (1991).
- [21] Trial Court Decision, p. 6; Rollo, p. 30.
- [22] *People vs. Sarense*, 214 SCRA 780 (1992).
- [23] *People v. Sagadsad*, 215 SCRA 641 (1992).
- [24] Trial Court Decision, p. 9; Rollo, p. 33.
- [25] Id., pp. 6-7; Rollo, pp. 6-7.
- [26] *People vs. Dela Cruz*, 207 SCRA 632 (1992); *People vs. Gelotin*, 208 SCRA 758 (1992).
- [27] *People vs. Devaras*, 205 SCRA 676 (1992).
- [28] TSN, 12 May 1989, p. 4; Records, p. 163.
- [29] *People v. Revillame*, G.R. Nos. 110714-15, 3 March 1994, citing *People v. Cabiling*, 74 SCRA 285 (1976).
- [30] 21 SCRA 1403 (1967).**
- [31] See *People v. Sison*, 189 SCRA 643 (1990).

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