

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ZOSIMO ALABASO, ACCUSED-APPELLANT.

G.R. No. 92968. December 02, 1991

Ponente: PADILLA, J.

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PADILLA, J.:

The accused-appellant was charged with murder in an information[1] filed by 4th Assistant Provincial Fiscal Virgilio G. Caballero of San Jose City, Nueva Ecija, which reads as follows:

"That on or about the 5th day of November, 1987, at nighttime, at Barangay Sampalukan, Municipality of Bongabon, Province of Nueva Ecija, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, did then and there wilfully, unlawfully and feloniously, with the intention to kill, with treachery and evident premeditation, with cruelty and by taking advantage of the (sic) nighttime and the situation that the victim was weak due to drunkenness rendering said victim to be helpless, deliberately attack, assault and beat with the use of blunt instrument one ANGEL GONZALES y LINSANGAN, thereby inflicting fatal wounds and injuries that killed the victim, to the damage and prejudice of the heirs of the said Angel Gonzales y Linsangan."

Upon arraignment, accused Zosimo Alabaso entered a plea of "not guilty." Thereafter, trial on the merits ensued and on 19 December 1989, the trial court rendered its decision,[2] the dispositive portion of which reads thus:

"WHEREFORE, finding the accused guilty beyond reasonable doubt of the crime of murder, he is hereby sentenced to suffer the penalty of reclusion perpetua and to pay indemnity of P30,000.00, without subsidiary imprisonment in case of insolvency, plus costs.

SO ORDERED."

Disagreeing with the decision, accused Zosimo Alabaso interposed the present appeal, assigning the following errors allegedly committed by the trial court:

I.

THE COURT A QUO ERRED IN GIVING WEIGHT AND CREDENCE TO THE TESTIMONIES OF THE PROSECUTION WITNESSES AND IN DISREGARDING THE THEORY OF THE DEFENSE.

II.

THE COURT A QUO ERRED IN FINDING THE ACCUSED--APPELLANT ZOSIMO ALABASO GUILTY BEYOND REASONABLE DOUBT OF THE CRIME OF MURDER DESPITE THE INSUFFICIENCY OF EVIDENCE.[3]

The facts, according to the People's Brief, are as follows:

"The victim, Angel Gonzales, and appellant were business partners in the buying and selling of tricycles (TSN,

Aug. 24, 1989, p. 7). On November 5, 1987, at 5:00 o'clock in the after-noon, Angel was at his house in Barangay Cruz, Bongabon, Nueva Ecija, fixing the tricycle of his parents when appellant arrived thereat to invite him to go to the house of a certain Andres Velarde (Ibid., p. 5). They left Angel's house using Angel's tricycle with appellant on the driver's seat (TSN, Sept. 13, 1989, p. 4). Angel and appellant arrived at Velarde's house about 6:30 o'clock in the evening (Ibid., p. 3). The partners asked Velarde to buy two (2) bottles of Ginebra San Miguel to toast the sale of a sidecar they had earlier negotiated (Ibid.). While the three (3) men were thus drinking, an argument ensued between Angel and appellant (Ibid., p. 6). Appellant was trying to collect P400.00 from Angel as his commission in the sale of the sidecar, but Angel would only give him P200.00 (Ibid.). When Angel said that appellant was entitled to no more than P200.00 as commission, appellant got angry and stood up (Ibid.). He then took out the gun tucked inside the waist of his pants and threatened to fire the same (Ibid.). He was pacified only when told that the barangay captain who was a neighbor of Valarde might arrest him (Ibid.).

The trio continued drinking until Angel became so drunk that he becomes [sic] sleepy (Ibid.). It was then that appellant insisted on bringing Angel home (Ibid.). Angel and appellant left the Velarde house around 7:30 o'clock p.m. (Ibid., p. 8). The two (2) boarded Angel's tricycle with the appellant again taking the driver's seat and Angel reclining on the passenger's seat (Ibid., p. 7). When the two reached Barangay Sinampalukan, appellant stopped the tricycle and hit Angel with a blunt instrument several times on the head (Ibid., p. 20). As a result, Angel died of 'hemorrhage and intra-cranial injuries to the brain' (Exhibit 'A-1').[4]

The accused-appellant admits that he and the deceased were business partners in the buy and sell of motorcycles for almost a year; that they had a drinking session on 5 November 1987 from 12:00 to 5:00 o'clock in the afternoon, first in Barangay Commercial, Bongabong, Nueva Ecija, and later, in the house of Andy Velarde at Barangay Santor for more or less another hour. He further admits that after their drinking spree, he and the victim headed for home by boarding the latter's tricycle which he drove. He, however, denies killing Angel Gonzales and submits the following version of the incident:

"x x x (W)hen the tricycle was between Brgy. Curva and Brgy. Cruz, three (3) persons blocked its way. They were carryng long firearms and wanted to be taken to Sapang Tuyo. Zosimo Alabaso told them that it was already dark and that the tricycle belongs to Angel Gonzales. A heated argument ensued between Angel Gonzales and the three (3) persons when he refused what they wanted. Then one of them hit Zosimo Alabaso in his stomach with the muzzle of a rifle. He lost consciousness. When Zosimo Alabaso regained consciousness later on, he saw Angel Gonzales slumped on the ground in front of the tricycle. The three (3) persons were already far away when he saw them. He then boarded Angel Gonzales, who was heard to be moaning, into the tricycle and drove the same to the Bongabon District Hospital where, not long afterwards, the doctor in attendance pronounced that he was already dead."[5]

The Court has consistently ruled that circumstantial evidence is sufficient for conviction if: (a) there is more than one circumstance; (b) the facts from which the inferences are derived are proven; and (c) the combination of all the circumstances is such as to produce conviction beyond reasonable doubt.[6]

Here, the circumstances proved constitute an unbroken chain which leads to one fair and reasonable conclusion that the accused is guilty of the crime charged beyond reasonable doubt, to wit:

"One circumstance is that at 5:00 p.m. of November 5, 1987, the accused and the complainant, who are business partners in buying and selling of tricycles, together went to the house of Andres Velarde in Brgy. Santor, Bongabon, Nueva Ecija, arriving there at about 6:30 p.m. They were riding on the tricycle of the complainant. The three (3) of them had a drinking spree for more or less one (1) hour. After they finished two (2) bottles of gin, the complainant became groggy and had to lay down in bed. So the accused insisted that he bring the complainant home to the latter's house in Brgy. Cruz, Bongabon, Nueva Ecija. The complainant, upon being persuaded by the accused, was loaded by the accused on the passenger' (sic) seat of the same

tricycle they used earlier and then drove the same towards Brgy. Cruz. These facts were testified to by the prosecution witness Andres Velarde and the accused himself.

Another circumstance is that while the said tricycle was passing thru Brgy. Curva, Bongabon, Nueva Ecija, at more or less 7:30 p.m. that same day, the accused was observed to be driving the same at normal speed while the complainant was in reclining position with his head on the back rest of the passenger's seat thereof. This was testified to by prosecution witness Ramon Gonzales who happened to be in his compadre's house at the time in that place.

Another circumstance as testified to by prosecution witness Eugenio Matutino, is that at about 7:30 p.m. of November 5, 1987, he was at (sic) town of Bongabon, Nueva Ecija, waiting for a tricycle for (sic) home in Brgy. Cruz of that municipality. As the tricycle he was able to take (sic) reached Brgy. Sampalukan, of the same municipality, the light thereof was focused on a scene of a brawl. He saw the accused hitting somebody with an object. At that time, he was unable to recognize the person being hit. It was only after reaching the gate of his house when he heard from a passing tricycle that the complainant was already dead and therefore he concluded that that person he saw being hit way back by the accused was the complainant.

One more circumstance is that the underlying causes of the death of the complainant, according to Dr. Mario D. Cajucum who examined his body is 'BLOWS ON THE HEAD, blunt instrument' (Exh. A)."[7]

In *Aldeguer*,[8] we said that in determining the sufficiency of circumstantial evidence to support a conviction, each case is to be determined on its own peculiar circumstances and all the facts and circumstances are to be considered together as a whole and, when so considered, may be sufficient to support a conviction, although one or more of the facts taken separately might not be sufficient for this purpose. No general rule has been formulated as to the quantity of circumstantial evidence which will suffice for any case. What is required is that the circumstances proved must be consistent with each other, and at the same time, inconsistent with the hypothesis that the accused is innocent. The aforementioned circumstances proved by the prosecution more than meet the quantum of proof sufficient to support a conviction.

The accused-appellant's flight also belies his claim of innocence. His arrest was effected only on 26 June 1989, or one (1) year and seven (7) months after the incident happened, because he went into hiding. The guilty flee when no man pursueth but the innocent are as bold as a lion.[9]

WHEREFORE, the decision appealed from is AFFIRMED with the sole modification that the indemnity to the heirs of the offended party is hereby increased to P50,000.00, with costs against the appellant.

SO ORDERED.

Melencio-Herrera, (Chairman), Paras, and Regalado, JJ., concur.

[1] Rollo, 8

[2] "The People of the Philippines vs. Zosimo Alabaso alias "Boy Pilay," Criminal Case No. 0046-P, Regional Trial Court, Third Judicial Region, Branch 40, Palayan City, Conrado P. Labrador, Judge; Rollo, 32

[3] Appellant's Brief, Rollo, 42

[4] Appellee's Brief; Rollo, 52-54

[5] Decision, *supra*, note 2, at 28

[6] *People v. Agan*, G.R. No. 77713, February 6, 1990; *People v. Yagong*, G.R. No. 77088, January 29, 1990;

People v. Dumpe, G.R. Nos. 80110-11, March 22, 1990; People v. Aldeguer, G.R. No. L-47991, April 3, 1990

[7] Decision, *supra*, note 2, at 29-31

[8] People v. Aldeguer, G.R. No. L-47991, April 3, 1990

[9] People v. Ablao, G.R. No. 69184, March 26, 1990

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