

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. MARIO BANEZ Y ARGENTE, ACCUSED-APPELLANT.

G.R. No. 95456. September 18, 1992

Ponente: MEDIALDEA, J.

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MEDIALDEA, J.:

For the killing of Floro Hubilla on July 20, 1985, the accused-appellant Mario Bañez y Argente was charged with the crime of murder in Criminal Case No. Q-54854 of the Regional Trial Court, Branch 103 at Quezon City. The information filed in said case reads as follows:

“That on or about the 20th day of August, 1985, in Quezon City, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring together, confederating with and mutually helping one another, with intent to kill, with treachery and abuse of superior strength, did, then and there, wilfully, unlawfully and feloniously attack, assault and employ personal violence upon the person of one FLORO HUBILLA y TARIGA, by then and there, stabbing him with bladed instruments on the different parts of his body, thereby inflicting upon him serious and mortal injuries which were the direct and immediate cause of his untimely death, to the damage and prejudice of the heirs of the said victim in such amount as may be awarded under the provisions of the Civil Code.

“CONTRARY TO LAW.” (p. 6, Rollo)

Upon being arraigned, the appellant entered a plea of not guilty to the offense charged. After trial on the merits, the trial court, on November 28, 1989, rendered its decision convicting Bañez, the dispositive portion of which reads:

“ACCORDINGLY, judgment is hereby rendered finding MARIO BANEZ y ARGENTE of barangay Payatas, Quezon City, GUILTY AS PRINCIPAL in the instant charge for MURDER.

“Said accused Mario Bañez y Argente is hereby sentenced to an imprisonment term of RECLUSION PERPETUA.

“On the civil aspect, accused Mario Bañez y Argente is hereby ordered to indemnify the heirs of the deceased Floro Hubilla y Tariga (Alfreda Hubilla, Amalia and Leticia Hubilla), the sum of P30,000.00, as actual dam(a)ges; P200,000 as moral damages; and P200,000 as exemplary damages. No costs.

“SO ORDERED.” (p. 23, Rollo)

Hence, this appeal from the lower court's decision by the appellant alleging that the trial court gravely erred:

“1. In failing to observe the presumption of innocence of the accused until the contrary is proved x x x;

“2. In convicting the accused despite the existence of an iota or scintilla of doubt, in gross violation of the Phil. Constitution and the Rules of Court;

“3. In overlooking the vital and material fact that iota or scintilla of doubt was precisely produced or brought

about by the strong/vigorous/vehement denial by accused-appellant of the charge/accusation and supported by the categorical testimony in court of the impartial and disinterested eyewitness, MRS. FLORDELITA SINTOS-PALACIO (sic) (a neighbor of victim), who told the Honorable Trial Court that immediately before the actual stabbing x x x of victim FLORO T. HUBILLA, she saw accused-appellant MARIO A. BANEZ fleeing/running away from the side of the victim's house and disappeared. x x x.

“In short, appellant BANEZ did not participate in the actual stabbing x x x of victim HUBILLA; it was only RODY PEREZ and JUN TARUC who stabbed to death the victim.” (pp. 32-33, Rollo)

The antecedent facts of the case which were established by the prosecution and adopted by the trial court are as follows:

Appellant Mario A. Bañez and the deceased Floro Hubilla were neighbors at Group I, Area B, Payatas, Quezon City, who had personally known each other for six years prior to the death of the latter.

On July 20, 1985, at around 10:00 in the evening, the deceased, Floro Hubilla, was inside his house with his wife, Alfreda Hubilla and their two daughters, Amalia and Leticia who were then 13 and 14 years of age, respectively. Then, three men, namely, appellant Bañez, Rudy Perez and a certain Jun Taruk entered the deceased's yard and invited the latter to join them in a drinking session. Alfreda Hubilla told the three that the deceased was already drunk and could not join them.

Upon being told, the three, led by appellant, challenged the deceased to come out of the house, saying, “Palabasin si Floro kung siya'y matapang.” When the deceased still refused to come out of the house, the three men including appellant banged the front door of the house which was locked. Appellant, who was already very drunk, entered the back door followed by his companions and pushed Alfreda aside. Alfreda Hubilla saw appellant Bañez pull out an eight-inch long, single-bladed knife from his waistline and walk towards the deceased who was lying at the floor. The latter tried to put up a fight against the appellant but his hands were held by appellant's companions Rudy Perez and Jun Taruk. Alfreda saw appellant stab the victim three times, one below the armpit, at the neck and at the cheek. While this incident was going on inside their house, the two daughters of the deceased, namely Amalia and Leticia jumped out of the window of their house, which was a “kubo” and went to the Barangay Hall to seek assistance.

After stabbing the deceased, appellant and his companions left the house and ran away. Alfreda left her dying husband to ask for help from the police authorities.

The body of Floro Hubilla was brought to Funeraria Rey. As stated in the death certificate, the cause of death of the victim is cardio-respiratory arrest due to shock and hemorrhage as a result of stab wounds on the head and trunk.

Appellant was arrested by the police authorities on April 4, 1987 while his two companions have remained at large.

Appellant, Mario Bañez, on the other hand, denied participation in the killing of Hubilla. According to him, on July 20, 1985 at about 10:00 p.m., appellant joined Rudy Perez and Jun Taruk in a drinking session upon the invitation of the two; that later, Roberto Panican @ Berto passed by and was invited by appellant and the group to drink with them; that while they were drinking, the group was also singing while Berto was playing the guitar; that the group decided to serenade a beautiful young lady living at the back of the house of the deceased Hubilla; that in going to the house of the young lady, the group has to pass through the alley beside the house of the deceased; that since it was then raining continuously and the street was muddy, Jun Taruk accidentally slipped and bumped the wall of the house of the deceased after which, Alfreda Hubilla, common-law wife of the deceased

shouted, “Putang ina ninyo, kung ayaw ninyong matulog, magpatulog kayo,” that Jun Taruk asked for apology by explaining that what he did was not intentional; that the deceased Floro Hubilla thereafter shouted “Mga putang ina ninyo, pumasok kayo kung matatapang kayo;” that after hearing those words, appellant and Berto left the scene and fled in different directions; that appellant returned home at about 10:15 p.m. and stayed there until Rudy Perez and Jun Taruk came to the house looking for appellant; that upon the instruction of appellant, his wife and children told Perez and Taruk that appellant was not at home; that Perez and Taruk told appellant's wife to advise appellant to hide from the police since Alfreda Hubilla would implicate the latter in the killing of the deceased Floro Hubilla because at one time, appellant had slapped Alfreda Hubilla and; that despite the warning made by Perez and Taruk, appellant stayed at home until he was arrested in connection with the killing of Floro Hubilla.

The issue raised in this case boils down to the credibility of witnesses.

Anent his first, second and third assigned errors, the appellant argues that the evidence presented by the prosecution was insufficient to overcome the constitutional presumption of his innocence. Appellant further submits that the trial court erred in disregarding the testimony of defense witness Flordeliza Santos which corroborated appellant's version that he was not present when Rudy Perez and Jun Taruk entered Hubilla's house and killed the deceased.

The appellant's contentions are devoid of merit. In convicting the appellant, the trial court relied heavily on the testimonies of prosecution witnesses which it found to be credible and disregarded the defense's alibi concocted by the appellant and his witness.

The prosecution presented the victim's wife and daughter who both positively identified appellant as one of three persons who assaulted and killed the deceased. Alfreda Hubilla, wife of the deceased, testified as follows:

“Q. While you were resting in your house on that date, on July 20, 1985, at around 10:30 in the evening, do you remember any unusual incident (that) happened?

“A. Yes, sir.

“Q. Please tell the Honorable Court what was that (untoward) incident?

“A. Somebody entered our yard.

“Q. How many of these persons entered your yard?

“A. They were three.

“Q. What happened when these three persons entered your yard?

“A. They invited Floro to drink with them.

“x x x.

“Q. After Floro did not go out of your house, what happened next?

“A. They bang(ed) the house and entered the back door and stabbed Floro.

“Q. What was the position of Floro when these persons entered to stab him?

“A. He was on his side when he was stabbed.

“Q. Was he standing.

“A. He was lying down.

“Q. x x x Did you see the instrument that accused used in stabbing your husband.

“A. Yes, sir.

“Q. What was it?

“A. It was a kitchen knife used in slicing onions.

“Q. How long is that?

“A. I can not remember I think it was 8 inches.

“Q. Was there any light in your house when they entered forcibly.

“A. Yes, sir.

“Q. What is the light made of?

“A. ‘Gasera.’

“Q. These persons who entered your house, were you able to recognize them?

“A. Yes, sir.

“Q. Do you know their names?

“A. Yes sir.

“Q. Please give their names.

“A. Mario Bañez, Rudy Perez, alias June whom I do not know the true name because he (has) just transfer(red) to our place x x x.

“Q. How about... by the way, of these three persons whom you said challenged in your house, who of them stabbed your husband?

“A. I saw Mario Bañez.

“Q. What did Mario Bañez do to your late husband?

“A. He stabbed my husband.

“Q. How about the other companion, what about the other companion of Mario Bañez, what was their participation.

“A. They (were) holding my husband.

“Q. When your husband was being stabbed by Mario Bañez, with the help of his companions what (was) he doing?

“A. He could not move.

“Q. How about you, what did you do?

“A. I was afraid.

“Q. After your husband was stabbed, what did the three persons do, if they did anything?

“A. They (ran).

“Q. What was the condition of your husband after these three (persons) left?

“A. He was lying down on the side and could not move and he was dead.” (TSN, February 20, 1989, pp. 5-11)

The clear and straight-forward testimony of Alfreda Hubilla that she witnessed Mario Bañez stab her husband with the aid of appellant’s companions was further corroborated by Leticia Hubilla, the victim’s daughter who likewise testified that she actually saw the appellant stab her father (TSN, March 20, 1989, p. 6). Both prosecution witnesses testified that they knew the appellant as he was residing in the same barangay where the victim and his family lived.

On the other hand, the appellant testified on the witness stand that when he and his companions passed near the victim’s house, Jun accidentally slipped and bumped the house of the deceased, causing the latter’s wife Alfreda Hubilla to shout at them, after which he left the scene and went back to his house (Records, pp. 74-80). Appellant insists that his claim is supported by the testimony of one Flordeliz Santos who stated that she did not see appellant inside the victim’s house when Rudy Perez and Jun Taruk killed the victim.

We agree with the trial court’s conclusions and findings. The function of assigning values to testimonies is best performed by the trial judge (*People v. Abrogar*, G.R. No. L-24310, October 19, 1976, 73 SCRA 466). The testimonies of the eyewitnesses when given in simple, straightforward manner, mentioning details of the incident that could not have been merely concocted, such as in the case at bar, indicate sincerity in the narration of events during the incident and truth as to what actually happened (*People v. Villa*, No. L-31401, October 30, 1979, 93 SCRA 716). Moreover, the prosecution eyewitnesses here were not shown to have any improper motive to prompt them to testify falsely against appellant. The alleged motive of Alfreda Hubilla, the victim’s wife, to take revenge for the slapping made to her at one instance by appellant is utterly insufficient to attribute to the appellant the heinous crime of murder. If appellant had really nothing to do with the crime, it is against the natural order of events and of human nature and against presumption of good faith that the prosecution witnesses would falsely testify against him. What is unnatural is for witnesses to impute knowingly a crime to a person not responsible for it. (*People v. Balili*, No. L-38250, August 6, 1979, 92 SCRA 552)

The alibi of the appellant that he was not present when the deceased was killed cannot prevail over the positive identification of witnesses. Appellant’s claim that he was already at his house during the killing is a feeble defense where the appellant’s residence was only a short distance away from the scene of crime, as he admitted that the deceased is his neighbor (*People v. Sabater*, No. L-38169, February 23, 1978, 81 SCRA 110).

In finding the appellant’s alibi as not credible, We take note of several material contradictions in the testimonies between appellant and his witness Flordeliz Santos, as follows:

First, appellant testified that it was his companion Jun who fell on the ground and bumped the wall of the Hubilla’s house (TSN, June 6, 1981, Records, p. 79). However, according to Santos, it was Rudy Perez whom she saw slip on the ground and bang against the deceased’s house.

Secondly, appellant stated that he and a certain Berto Panikan were with Rudy Perez and Jun at the time they passed near the Hubilla’s house and during the moment Jun bumped the house (TSN, June 6, 1989, Records, p. 79). On the other hand, Santos testified that she only saw Rudy Perez and Jun near the Hubilla’s house when the former bumped against the house and that she did not see appellant within the vicinity, considering the short distance of about 10 meters between the Hubilla’s house and the place where she was standing.

Thirdly, during the rest of her examination, Santos gave several inconsistent statements which cast doubt on the truth and credibility of her testimony, to wit:

“Q. While you were waiting for your husband you did not see any person outside of your house neither was there any person near the house of Floro Hubilla, is that correct?

“A. None sir except me.

“Q. And it was only when you heard banging inside the house of Hubilla that you noticed that there were persons inside the house of Floro Hubilla, is that correct?

“A. Yes, sir.

“Q. And the persons inside the house of the Hubillas are Rudy Perez, alias Jun, Berto and the accused Mario Bañez, is that not correct?

“A. Yes sir.

“Q. So it is not correct when you said that only Rudy Perez and alias Jun entered the house of Floro Hubilla because they were already inside the house together with Mario Bañez and Berto, is that not correct. x x x.

“A. Because the truth sir is that Mario Bañez has no fault because it is Alfreda Hubilla herself who told me that it was only Jun and Rudy, the ones who killed her husband.

“Q. When did Alfreda Hubilla tell you that matter you have just told the court?

“A. March 1988 because I was living in the house of Alfreda Hubilla on (sic) March 1988 and that was the time that she told me that Mario Bañez was not at fault.

“Q. So it is not true that Rudy Perez, alias Jun, Mario Bañez and Berto are in the house of the Hubillas because you were not there?

“A. I was there on July 20 while I was told about this in March 1988. Actually sir, in that evening I was waiting for my husband outside our house. Our house is just in front of the house of Alfreda Hubilla. I went to the house of Alfreda Hubilla because my husband might be there and I saw only Rudy Perez and June inside. I did not see Mario Bañez there in the house of Alfreda Hubilla.

“Q. But you said earlier that you saw Rudy Perez and Jun (enter) the house of Alfreda Hubilla, is that correct?

“A. That is true sir.

“x x x.

“Q. Did you not say earlier that except for Rudy Perez and Jun who entered the house, Mario Bañez had run away?

“A. Yes sir.

“Q. So the truth is Mario Bañez and Berto were there also because you saw them run away when Rudy and Jun r(a)n away from the house of the Hubilla?

“A. Mario Bañez and Berto (ran) away going out of the house.

“Q. You did not see them (go) out of the house because they were inside the house?

“A. Yes sir.

“x x x.

“Q. But up to now Alfreda Hubilla has not quarreled with you, is that not correct?

“A. After I left the house of Alfreda Hubilla where I was renting a space, I transferred to the house of my cousin. Alfreda told me that I am a traitor and she quarelled with me and that is the time I came to think I should stand as a witness here for Mario Bañez.

“Q. Do you want to tell or impress the Honorable Court that before you left the house of Alfreda Hubilla you were in good terms with her?

“A. Yes sir.

“Q. And it was because she quarrelled with you that you wanted to make revenge by testifying in favor of Mario Bañez?

“A. Yes sir.

“Q. Whether or not the testimony you are going to give is not correct?

“A. That is true sir.” (TSN, August 9, 1989, Records, pp. 127-134)

The foregoing testimony of the defense witness does not in anyway support the story alleged by appellant that he did not commit the crime. Santos was unclear and unsure whether during the time of the killing, appellant was inside the victim’s house or not, thus, rendering doubt on whether she actually witnessed the stabbing incident.

Moreover, the trial court found that appellant went into hiding after the commission of the crime. It stated:

“x x x. The claim by Mario Bañez that he went straight home is belied not only by Ms. Hubilla who failed to find Mr. Bañez in his house in the company of the police; but also by his own admission that he was arrested only on April 4, 1987; (b) by the fact that, having been warned by his companions - he was listening according to Mr. Bañez while Rudy Perez and Jun Taruk talked to his wife after the stabbing incident - that Mrs. Hubilla is mad at him and will falsely implicate him to the killing. Mr. Bañez did not bother to voluntarily go to any authority - the barangay or the police - in order to show that he had nothing to do with the incident. It, in fact, took more than a year after July 20, 1985 to apprehend Mr. Mario Bañez (p. 22, Rollo)

The actuation of appellant in leaving his residence and eluding the police authorities is not consistent with his claim of innocence. We have held in many cases that flight is an admission of guilt.

Considering all the evidence presented on both sides, the prosecution’s theory that the crime was committed by appellant together with two other persons is more credible than the defense’s negative theory. As aptly said by the trial judge, from the manner the defense was presented and developed, the strong impression is that it was a lawyer’s brew-planned finely but executed poorly. We uphold the findings of the trial court pointing to the appellant’s responsibility for the death of Hubilla except as to the finding that treachery attended the commission of the offense. In this case, where three persons including the appellant, assaulted the victim inside his house and the appellant stabbed the deceased while the latter was firmly held by the two other companions, the rule is settled that treachery cannot be appreciated because here it is deemed included in abuse of superiority (*Ofiasca v. People*, 73 Phil. 87; *People v. Bustos*, 45 Phil. 9). The evidence also shows that the appellant stabbed the victim to death inside the latter’s house. The commission of the crime in the dwelling of the offended party when the latter has not given any provocation is aggravating. Although not alleged in the information, dwelling being a generic aggravating circumstance may be appreciated. The penalty for murder as provided for by Article 248 of the Revised Penal Code is reclusion temporal in its maximum period to death. Since dwelling aggravated the offense, the penalty that should be imposed is death. However, since the death penalty is no longer imposable under the 1987 Constitution, the trial court correctly imposed upon the appellant the penalty of reclusion perpetua. The civil indemnity ordered by the trial court to be paid by the accused to the legal heirs of the deceased in the amount of P30,000.00 is hereby increased to P50,000.00 conformably with the present policy of this Court. The P200,000.00 award of moral damages is deleted there being no evidence to warrant it. However, since an aggravating circumstance attended the killing, an award for exemplary damages is proper considering the circumstances in this case (*People v. Marciales, et al.*, G.R. No. 61961, October 18, 1988, 166 SCRA 436) but at a reduced amount of

P20,000.00.

ACCORDINGLY, the judgment appealed from is AFFIRMED with modification as to the civil indemnity of the appellant to the legal heirs of the victim which is increased to P50,000.00, but the moral damages is deleted and the exemplary damages is reduced from P200,000.00 to P20,000.00.

SO ORDERED.

Padilla, (Acting Chairman), Griño-Aquino, and Bellosillo, JJ., concur.
Cruz, J., (Chairman), on leave.

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