

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. PABLITO RENDOQUE AND ESPERATO SALAQUIN, ACCUSED-APPELLANTS.

G.R. No. 95541. February 04, 1992

Ponente: NOCON, J.

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NOCON, J.:

This is an appeal by accused Pablito Rendoque and Esperato Salaquin from the decision dated August 31, 1990 of the Regional Trial Court of Negros Oriental, 7th Judicial Region, Branch 38 in Criminal Case No. 8167, the dispositive portion of which reads:

“In view of the foregoing consideration, the Court finds accused Esperato Salaquin and Pablito Rendoque guilty beyond reasonable doubt of the crime of Murder with the aggravating circumstance of dwelling and no mitigating circumstance to effect the same, and in view of the abolition of the death penalty in the 1987 Constitution, hereby sentences each of them to RECLUSION PERPETUA and to jointly and severally indemnify the heirs of the deceased Napoleon Sido in the amount of P30,000.00 without subsidiary imprisonment however in case of insolvency and to proportionately pay 1/3 of the costs.

On grounds of reasonable doubt, accused Quinciano Rendoque, Jr., Victorino Bacuac and Felix Estrellado are hereby acquitted and the case against them dismissed with 2/3 of the costs de oficio.”

Not satisfied with said decision, accused-appellants raised the following assignment of errors allegedly committed by the trial court, to wit:

I. IN BELIEVING THE EYE-WITNESS ACCOUNT OF PROSECUTION WITNESSES, ALFREDA SIDO AND MARISSA SIDO;

II. IN DISREGARDING THE ALIBI OF APPELLANTS AND, CONSEQUENTLY, IN HOLDING THAT THEIR GUILT HAS BEEN PROVED BEYOND REASONABLE DOUBT.

The antecedent facts which gave rise to the filing of an information against the accused-appellants as narrated by the trial court in the decision appealed from are as follows:

“Clearly established by and/or admitted or undisputed from the evidence presented by the prosecution and the accused are the following.:

That in the evening of April 21, 1988, a group of men claiming to be military men went to the house of Napoleon Sido in Basiao, San Jose, Negros Oriental and called for Napoleon Sido to come out. Before Napoleon Sido could come out, three shots rang from the ground. Napoleon Sido and his family hid behind the door. The door was kicked open and two men with long firearms entered the house. Napoleon Sido, his wife Alfreda Sido who was carrying in her arms her one-year old daughter Irene, Marissa Sido, then 9 years old and the latter’s younger sister Christine all knelt before the two men. Nevertheless, Napoleon Sido was shot. Napoleon Sido sustained a lacerated wound on the left lower maxillary region with complete fracture of the lower maxillary bone resulting in the loss of five teeth starting from the first incisor to the premolar tooth and multiple lacerated wounds circular in shape on the right side of the chest from the level of the second and third

ribs. Napoleon Sido died due to severe hemorrhage from the multiple gunshot wounds.

Two eyewitnesses to the shooting, namely, Alfreda Sido the wife of Napoleon Sido the person shot, and Marissa Sido, then 9 years old and daughter of Napoleon Sido, testified that it was Esperato Salaquin who first shot Napoleon Sido and then Pablito Rendoque. And that at the time Napoleon Sido was shot by accused Esperato Salaquin and Pablito Rendoque, accused Quinciano Rendoque Sr. and Quinciano Rendoque, Jr. were at the porch of the house, Quinciano Rendoque, Sr. holding a .38 caliber gun and Quinciano Rendoque, Jr., a shot gun, while accused Victorino Bacuac and Felix Estrellado, each holding a shotgun, were in the dining room.

Against this eyewitness account of Alfreda Sido and Marissa Sido, all the accused set up the defense of denial and alibi. All the accused denied having been in the house of Napoleon Sido in the night in question when Napoleon Sido was shot and killed. Accused Pablito Rendoque claimed that he was at his post at Master Footwear at Alfonso XIII Street in Dumaguete City, as security guard from 7:00 o'clock in the evening until 7:00 o'clock the following morning while accused Quinciano Rendoque, Sr., Quinciano Rendoque, Jr., Victorino Bacuac and Felix Estrellado maintained that they were in the house of Placido Despojo at Lala-an, San Jose, Negros Oriental, from 6:30 o'clock in the evening of April 21, 1988 up to past 6:00 o'clock in the morning of the following day when they left for Dumaguete City." (Decision, pp. 7-8, Rollo)

We find no merit in the appeal.

Under the first assignment of error, accused?appellants contend that the positive identification by the prosecution witnesses Alfreda and Marissa Sido of all the six accused in the killing of Napoleon Sido should not have been given weight and credence by the trial court considering that said court under the same evidence had acquitted the other four accused under the principle of FALSUS IN UNO, FALSUS IN OMNIBUS.

We do not agree.

The acquittal on reasonable doubt of Quinciano Rendoque, Sr., Quinciano Rendoque Jr., Victorino Bacuac and Felix Estrellado does not render the entire testimonies of Alfreda and Marissa Sido false and unreliable. The maxim of FALSUS IN UNO, FALSUS IN OMNIBUS is not a positive rule of law. Neither is it an inflexible one of universal application. If a part of a witness testimony is found untrue, it should not be disregarded in its entirety. The testimony of a witness may be believed in part and disbelieved in part (People vs. Pacis, G.R. Nos. L-32957-58, 130 SCRA 540 [1984])). A trial judge may accept portions thereof that he deems credible and reject those which he believes to be false. The trial court's decision of giving credence to the testimonies of Alfreda Sido and Marissa Sido in positively identifying the appellants as the assailants of Napoleon Sido and using these testimonies as the basis for the appellants' conviction cannot be put in doubt merely because certain portion of their testimonies which implicated the four other accused were rejected, considering that said decision was rendered by the trial judge only after a careful evaluation of all the evidences presented during the trial proceedings. Moreover, settled is the rule that appellate courts will not interfere with the finding of the trial court on the credibility of the opposing witnesses except when the trial court had overlooked certain facts of substance and value that, if considered, might affect the result of the case since the matter of assigning values to the testimony of witnesses is best performed by the trial courts because, unlike the appellate courts, they can weigh such testimony in the light of the demeanor, conduct and attitude of the witnesses at the trial (People vs. Catalino, No. L-25403, 22 SCRA 1091 [1968]).

Moreover, prosecution witness Pat. Antonio T. Ramirez of the San Jose, Negros Oriental Police, testified that when he took Alfreda Sido's affidavit on the very night of the incident, some 4 or 5 hours after Napoleon Sido was killed, she declared that only two persons went up their house, namely, Esperato Salaquin and Pablito Rendoque and they were the ones who killed her husband. This was noted in the police blotter (TSN-Ellado, Aug.

18, 1988, p. 23, p. 26). Dr. Bienvenida Palongpalong, Municipal Health Officer of San Jose, Negros Oriental who performed the autopsy on the body of the deceased testified that three days after the burial of Napoleon Sido she had a talk with the widow Alfreda Sido and asked her who killed her husband and the latter answered Esperato Salaquin and Pablito Rendoque (TSN-Ellado, Sept. 14, 1988, pp. 19-25). Appellant Salaquin shot the victim and hit him at the chin, followed by a shot from Pablito Rendoque, hitting said victim at the right chest (TSN, p. 11, June 23, 1988; pp. 11-13, July 28, 1988).

Thus, the trial court committed no error in giving credence to the testimonies of the prosecution witnesses.

With respect to the accused-appellants' contention that the trial court erred in disregarding their alibi, We find nothing to sustain the same. On the contrary, the trial court meticulously analyzed the evidence on why appellants' alibi should not be given credence.

As correctly stated by the trial court in the appealed decision:

RE: PABLITO RENDOQUE'S ALIBI. -

"The Court finds itself unable to entertain Pablito Rendoque's alibi notwithstanding the fact that it is corroborated by Eduardo Dingal and the latter's wife Elsa Yule Dingal for the simple reason that Pablito Rendoque had been clearly, directly and positively identified by Alfreda Sido and Marissa Sido, the wife and 9 year old daughter of the deceased Napoleon Sido. Alfreda Sido and Marissa Sido know Pablito Rendoque very well because they are close relatives. Pablito Rendoque, is a nephew of Alfreda Sido, being the son of Quinciano Rendoque, Sr., Alfreda Sido's elder brother. Pablito Rendoque and Marissa Sido are therefore first degree cousins. Not only do they know each other very well because or by reason of said relationship but that they were also neighbors at Basiao, San Jose for quite some time. At the time Napoleon Sido was shot by Esperato Salaquin and Pablito Rendoque, Alfreda Sido, Napoleon Sido and Marissa Sido were kneeling in front of Pablito Rendoque and Esperato Salaquin just a meter or so away. The room where they were was just very small. There were two lighted kerosene lamps in the room. Before Esperato Salaquin shot Napoleon Sido, Pablito Rendoque uttered the words, 'Do not molest her, she is not included' to Esperato Salaquin when the latter pointed his gun to Alfreda Sido. Under such environmental and family relationship backdrop, it would be near to impossible for Alfreda Sido and Marissa Sido not to be able to identify Pablito Rendoque and Esperato Salaquin. x x x His assertion that he was assigned at Master Footwear as security guard and that his tour of duty from April 16, 1988 to April 30, 1988 was from 7:00 o'clock in the evening to 7:00 o'clock in the morning of the following day was based only on his oral testimony and that of Eduardo Dingal and partly from the latter's wife. It is not backed up and supported by the official record of the agency or company which employed him or by the testimony of the officer or employee of said agency or company responsible for the assignment of security guards and the designation of the time said guards are supposed to render duty. Surely the record of the agency would have been more reliable and convincing than the mere self-serving declaration of Pablito Rendoque and the testimony of Eduardo Dingal and the latter's wife. 'Oral evidence of alibi is so easily concocted and fabricated and usually so unreliable that it can be rarely given credence (U.S. vs. Badilla, 48 Phil. 718; People vs. Layos, 60 Phil. 224; People vs. Morados, 70 Phil. 558; People vs. Medina, 71 Phil. 383).' But even assuming that Pablito Rendoque really did take over or relieve Eduardo Dingal as security guard at Master Footwear at 7:00 o'clock that evening of April 21, 1988, there is no clear, convincing and conclusive evidence that Pablito Rendoque stayed the entire period from 7:00 o'clock that evening of April 21, 1988 up to 7:00 o'clock the following morning. The corroboration given by Eduardo Dingal and the latter's wife was only with respect to the alleged relief of Eduardo Dingal by Pablito Redndoque at 7:00 o'clock that evening. Eduardo Dingal and his wife did not stay with Pablito Rendoque after 7:00 o'clock that evening until the next morning so they could not say whether Pablito Rendoque left his post at Master Footwear right after relieving Eduardo Dingal. Indeed it is entirely if not perfectly possible for Pablito Rendoque to leave his post at Master Footwear, go to the house of Napoleon Sido in Basiao, San Jose, with his co-accused Esperato Salaquin, commit the offense and then return to Master Footwear without anybody being the wiser about it.

Having been positively and explicitly identified by Alfreda Sido and Marissa Sido as one of the two who shot Napoleon Sido, it was not enough for Pablito Rendoque to show that he was at Master Footwear performing his duty as security guard when Napoleon Sido was shot. It was incumbent on Pablito Rendoque to demonstrate that it was physically impossible for him to be at Napoleon Sido's place at the time Napoleon Sido was shot. This, Pablito Rendoque has miserably failed to prove. He did not show how far Basiao, particularly the place of Napoleon Sido is, to Dumaguete City and whether this is accessible by transportation, either by bus, car, motorcycle or any other means. It has been said time and again that for the defense of alibi to prosper, the proof 'must be positive, clear and satisfactory to reasonably satisfy the Court of the truth of the defense (People vs. Sagario, 14 SCRA 468; People vs. Dayday, 14 SCRA 935; People vs. Lumantas, 28 SCRA 764)' or so convincing as to preclude any doubt that the accused could not have been present at the place of the commission of the crime or its vicinity at the time of its commission. (People vs. Tan, L-14257, July 31, 1959; People vs. Divina Gracia, L-10611, March 13, 1959; People vs. Villaroya, L-5781-82, Aug. 30, 1957; People vs. Arandia, et. al., L-11490, Apr. 30, 1958)." (Decision, pp. 9-10, Rollo).

The situation of accused Esperato Salaquin is different from the rest of the accused who were acquitted by the trial court on reasonable doubt. While they have the same alibi as said accused and which the trial court considered unconvincing and unsatisfactory, Esperato Salaquin was clearly identified by Alfreda Sido and Marissa Sido, the wife and daughter of the victim Napoleon Sido, while the other accused who were acquitted, were not. Their liability could not be the same.

Settled is the rule that alibi cannot prevail over the positive testimony of the prosecution witnesses and their clear identification of the accused as the perpetrator of the crime. This is so because alibi is a defense that is inherently weak as it can be easily fabricated and concocted. To establish alibi, as a defense, the accused must show that it was impossible for him to have been at the scene of the crime at the time of its commission (People vs. Tenebro, G.R. Nos. 87760-61, 191 SCRA 363 [1990]).

There is no doubt that the crime committed is that of murder, attended by the qualifying circumstance of treachery as the killing of Napoleon Sido was sudden, unexpected and not preceded by any quarrel between them. At the time of the shooting, the victim together with his wife and children were kneeling in front of the accused begging for mercy and in spite of their plea, the victim was mercilessly shot in his own house.

WHEREFORE, the judgment appealed from is hereby AFFIRMED with the sole modification that the indemnity to be paid by the appellants to the heirs of the victim is increased to P50,000.00 (People vs. Sison, G.R. No. 86455, 189 SCRA 643 [1990]) in accordance with the new policy of the Court on this matter. Costs against appellants.

SO ORDERED.

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

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