

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. CARLITO ALCANTARA, DEFENDANT-APPELLANT.

G.R. No. 95957. February 28, 1992

Ponente: GRINO-AQUINO, J.

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GRINO-AQUINO, J.:

This is a petition for review of the decision dated July 17, 1990 of the Regional Trial Court of Lucena City, Branch 55, convicting defendant-appellant Carlito Alcantara of the crime of murder and sentencing him to suffer the penalty of reclusion perpetua.

The information which was filed against the appellant on July 18, 1989 by the Provincial Prosecutor of Quezon reads as follows:

"That on or about the 6th day of January 1989, at Barangay Ilayang Bolo, Municipality of Unisan, Province of Quezon, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, armed with a small bolo (itak-itakan), with intent to kill and with treachery, did then and there wilfully, unlawfully and feloniously attack, assault and stab with the said bolo one Wilfredo Hugo, thereby inflicting upon the latter a stab wound on a vital part of his body which directly caused his death.

"That accused attacked and stabbed and said Wilfredo Hugo suddenly and unexpectedly without giving him any opportunity to repel the attack or to escape." (p. 7, Rollo.)

Upon arraignment, Alcantara pleaded not guilty.

The facts of the case as set forth in the decision of the court a quo are as follows:

"The scenario depicted by the People's evidence is that Wilfredo Hugo, the victim, at the time of his death, was a resident of Barangay Ilayang Bolo, Unisan, Quezon. He was earning his livelihood as a tenant of a coconut plantation and receiving an income of around P1,500.00 a year. Although single in civil status, he fathered two (2) sons from a common law wife.

"The crime scene is the waiting shed situated at Sitio Malinta, Ilayang Bolo, Panaon, Unisan, Quezon, which is adjacent to the house of the spouses Atanacio and Delia Tapero, both prosecution witnesses (Exhibits 'K' and 'L'), and fifteen (15) to twenty (20) meters away, more or less, from the house of a certain Hector Rivera, a brother-in-law of Atanacio Tapero.

"The spouses Atanacio and Delia Tapero positively identified the accused as Wilfredo Hugo's assailant four (4) days after the crime in question occurred (sic) by executing and signing their separate and sworn statements (Exhibit 'A' with sub-marking) before investigators of the Unisan Police Force on January 10, 1989. In their separate testimonies before the Court, they recalled how they witnessed the killing of Wilfredo Hugo on the night of January 6, 1989, as follows: That on or about 7:00 o'clock that night, they were inside the aforesaid waiting shed with Wilfredo Hugo conversing with one another when accused Carlito Alcantara arrived causing them to stop their conversation; that the accused then invited Wilfredo Hugo to the house of Hector Rivera, which is situated nearby, and asked the victim for 'pulutan' but Wilfredo Hugo refused and made the following

utterances: 'Why will I go when you know that I do not go there;' that after Wilfredo Hugo made such utterances, the accused, who sat beside Wilfredo Hugo at the latter's right side after his arrival, stood up as if he was going away from the waiting shed and after moving towards his right, he suddenly swerved to his left side and stabbed Wilfredo Hugo with a small bolo (itak-itakan) (Exhibit 'B') in his left hand hitting the victim on the right side of his body just under his armpit; and that at the time accused stabbed Wilfredo Hugo, the spouses Tapero thought that accused merely boxed the victim with his left hand.

"The same spouses likewise recalled that after the stabbing incident, accused ran towards the house of Hector Rivera while Wilfredo Hugo asked help from them by uttering the following: 'Utol Tacing (Atanacio's nickname), tulungan mo ako, tinraydor ako, may tama ako.' And Atanacio held the victim while the latter was falling to the ground. At that instance, the accused returned to the waiting shed carrying the small bolo (Exhibit 'B', Id.) in order to finish his prey but when he saw Wilfredo Hugo lying on the ground already lifeless, he ran away from the place of incident." (pp. 9-10, Rollo.)

On July 18, 1989, the trial court rendered judgment finding the appellant guilty beyond reasonable doubt of the crime of murder and sentenced him to suffer the penalty of reclusion perpetua. The dispositive portion of the decision reads:

"WHEREFORE, the Court hereby finds the accused CARLITO ALCANTARA Y RONTERASO GUILTY beyond reasonable doubt as principal of the crime of Murder, qualified by treachery, as defined and penalized by the provisions of Article 248 of the Revised Penal Code, and there being no modifying circumstances proved to either aggravate or mitigate his liability, hereby sentences said accused to suffer a penalty of reclusion perpetua or life imprisonment; to pay to the heirs of the deceased Wilfredo Hugo the sum of P30,000.00, by way of indemnity for the death of said victim; P 8,207.50, as actual damages; compensatory damages of P30,000.00, by way of unrealized earnings; and further, to pay the costs." (p. 20, Rollo.)

Hence, this appeal wherein the appellant alleges that:

1. the trial court erred in believing the version of the prosecution and in disregarding that of the defense;
2. the trial court erred in convicting accused-appellant of the crime charged despite the failure of the prosecution to prove his guilt beyond reasonable doubt.

The petition is without merit.

In disclaiming liability for the murder of Wilfredo Hugo, the appellant testified that he was in his house at Ilayang Bulo, Unisan, the night Hugo was stabbed to death with a bolo. However, appellant admitted that he was in Rivera's house in the afternoon of January 6, 1989 where he had a drinking session with some friends.

The defense of alibi, which the appellant relies on, is always received with caution, if not suspicion, by the courts, not only because it is inherently weak and unreliable, but also because of its easy fabrication. To overcome the evidence of the prosecution, an alibi must satisfy the test of full, clear, and satisfactory evidence (*People vs. Baring*, 187 SCRA 629, citing *People vs. Gaddi y Catubay*, 170 SCRA 649). For the defense of alibi to prosper, it does not suffice to prove merely the whereabouts of the accused at the time the crime was committed; it must be indisputably demonstrated that at the time of the commission of the crime, it was physically impossible for the suspect to have been at, or near, the scene of the crime (*People vs. Manzanares*, 177 SCRA 427).

Moreover, the defense of alibi cannot prevail over the positive identification of the accused by the prosecution witnesses (*People vs. Serrano*, 170 SCRA 663).

The accused was identified as the person who stabbed Wilfredo Hugo by the eye-witnesses, Atanacio and Delia Tapero, who were with the victim in the waiting shed when the stabbing occurred. They could not possibly have been mistaken as to the identity of the killer for they personally knew him.

As correctly pointed out by the trial court, the appellant's defense of alibi is weak, hence, must be rejected. Appellant's allegation that his wife, Amy Alcantara, and his brother-in-law, Glicerio Torres, met him when he arrived at his house in Ilayang Bulo, Unisan, at 5:00 o'clock in the afternoon of January 6, 1989, was not corroborated by his wife and brother-in-law. Furthermore, his house is not inaccessibly remote from the scene of the crime. As he himself testified, his house is only 2-1/2 kilometers distant from the murder scene.

The defense of alibi is unconvincing when the distance from the place where the accused allegedly was, and the scene of the crime can be negotiated within minutes (*People vs. Marmita, Jr.*, 180 SCRA 723). In *People vs. Binsol*, 100 Phil. 713, we held that a distance of only three (3) kilometers between the scene of the crime and the alleged whereabouts of the accused "is not so far to preclude the possibility of the accused's presence at the locus criminis."

The appellant assails the trial court's finding that treachery was present in the commission of the crime. He argues that the Municipal Health Officer's finding, upon a post-mortem examination of the body of the victim, that a contusion was sustained by the victim and his belief that it could have been caused by a fist fight between the victim and his assailant, rules out treachery in the stabbing of the victim. However, that speculation of the Municipal Health Officer was refuted by the two eye-witnesses who declared that no fight preceded the appellant's sudden attack against the deceased. The contusion on the forehead and jaw of the deceased could have been caused by his fall.

A sudden and unexpected attack, without the slightest provocation on the person of the one attacked, is the essence of treachery (*People vs. Rey*, 172 SCRA 149). As testified by the prosecution witnesses, the appellant stood up and pretended to leave but he suddenly turned around to the left and stabbed the victim with his small bolo. The surprise attack was indeed treacherous as it was totally unexpected by the hapless victim.

WHEREFORE, finding no merit in the appeal, the decision of the trial court is AFFIRMED in toto. However, the civil indemnity of P30,000 for the death of Wilfredo Hugo should be increased to P50,000 in accordance with more recent jurisprudence (*People vs. Sazon*, 189 SCRA 700).

SO ORDERED.

Narvasa, C.J., Cruz, and Medialdea, JJ., concur.

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