

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. CRESENTE PIJA (AT LARGE), NESTOR ALAPAN AND FRANCISCO CLAVIDO, ACCUSED, NESTOR ALAPAN AND FRANCISCO CLAVIDO, ACCUSED-APPELLANTS.

G.R. No. 97285. June 16, 1995

Ponente: BELLOSILLO, J.

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BELLOSILLO, J.:

NESTOR ALAPAN and FRANCISCO CLAVIDO were found guilty of murder and sentenced to reclusion perpetua by the Regional Trial Court of Oroquieta City. They were also ordered to indemnify the heirs of their victim in the amount of P30,000.00.[1]

Clemente Pija was also charged as co-accused in the same Information but was never apprehended to be arraigned and tried.

Nestor Alapan and Francisco Clavido are now before us assailing the credibility of the witnesses against them and asserting that the prosecution has failed to prove their guilt beyond reasonable doubt.

Appellants Alapan and Clavido, along with accused Pija who remains at large, are being held responsible for the death of 20-year old Renato Adecer who was courting a certain Annelyn Poledo. The version of the prosecution is that Renato together with four (4) friends was on his way home one afternoon after escorting Annelyn to her house. They were walking towards the market of San Isidro, Sinacaban, Misamis Occidental, when they were suddenly attacked. Renato was singled out and repeatedly hacked and stabbed to death.

At the trial that ensued, the state presented three (3) of the companions of Renato as eyewitnesses to the incident. They were Nilo Madronero, Rodrigo Macas and Vicente Idol. They all pointed to the two (2) appellants and Cresente Pija who to this date has not been brought to the jurisdiction of the court.

Nilo Madronero, a 13-year old Grade V pupil, testified that at around six o'clock in the afternoon of 4 February 1990 after a basketball game in San Isidro Alto, he together with Adecer, Macas, Idol and Leo Pinas brought Annelyn Poledo home where they hung around for about thirty (30) minutes. They were already on their way home when all of a sudden accused Cresente Pija who was also wooing Annelyn hacked Adecer on the forehead with a bolo. Accused Alapan followed with a foot-long hunting knife and repeatedly stabbed the victim who was then held by accused Clavido.

Macas, 16, a 3rd-year high school student, corroborated the testimony of Madronero and clarified that Adecer was first hacked by Pija with a 2-1/2 feet-long bolo on the forehead and then on the neck. Afterwards the victim who was held by appellant Clavido by the shoulder was stabbed twice by appellant Alapan.

Idol, 21, likewise a 3rd-year high school student, supplied more details. They were walking towards the market of San Isidro Alto when he saw appellants Alapan and Clavido seated at the left side of the road while accused Pija

was at the right. As they were nearing Pija, Clavido and Alapan, Adecer greeted them "good evening." As they returned the greeting, Pija suddenly hacked Adecer on the forehead causing the latter to stagger. Pija followed the assault with another blow on the nape of Adecer. Clavido then held the victim while Alapan repeatedly stabbed him with a 10-inch knife. Meanwhile Pija cast his ire on the victim's companions as he brandished his bolo thus sending them scampering away.

Dr. Gloria Bongabong, the Municipal Health Officer who examined the cadaver of Renato Adecer, concluded that he died of "shock and internal hemorrhage due to multiple stab and hacking wounds." [2]

To acquit themselves, appellants Alapan and Clavido raised alibi for their defense, presented witnesses and pointed to Pija as the lone assailant of Adecer. They endeavored to make their tales identical. They alleged that at around three-thirty in the afternoon of 4 February 1990 they were with accused Pija in the market of San Isidro Alto drinking Tanduay Rhum. At about four o'clock they separated. Clavido proceeded to his house which was about a kilometer away from the crime scene, while Alapan had supper in the convent some two (2) kilometers away. The two (2) witnesses of appellants, Romeo Gamotin and Elizaldy Legados, both testified that they saw Cresente Pija alone when he hacked Renato. Barangay Captain Mamerto Aganos also stepped forward and told the court that before Pija went into hiding the latter surrendered the bolo and confessed that he alone killed the victim because of a woman.

In their appeal brief appellants argue that the testimonies of the prosecution witnesses that they saw the hacking and stabbing incident "from beginning to end" is incredible because according to them a person's natural and instinctive reaction in the same situation would be to run away immediately and not to wait for the deathblow. Appellants likewise assert that due to the serious doubts they have generated the prosecution was not able to prove their participation in the killing. At any rate, they point to Pija as the lone perpetrator and rightly so, they say, for only he had a motive to kill Renato.

We are not convinced. In criminal cases the factual circumstances surrounding an incident are generally drawn from the testimonies of witnesses whose credibilities are carefully assessed. It is common occurrence for the witnesses for the prosecution and the defense to clash in their testimonies. And when faced with factual contradicting allegations, we as a rule submit to the findings of the trial court unless there are valid reasons to disregard its observation. The assessment of the credibility of witnesses is left largely to the trial court because of its opportunity unavailable to the appellate court to see the witnesses on the stand and determine by their conduct and demeanor whether they are testifying truthfully or simply lying. The determination of credibility is the domain of the trial court, and the matter of assigning values to the testimonies of witnesses is best performed by it. Thus, the evaluation by the trial judge on the credibility of witnesses is well nigh conclusive on this Court, absent arbitrariness in arriving at his conclusions. [3] Accordingly, and relying on the cold records of the case at bench, we have to submit to the findings of the trial court and give credence to the testimonies of the witnesses for the prosecution over those for the defense.

For, the trial court could not have been more lucid in its observation that —

The three eyewitnesses (for the prosecution) spoke vividly of the brutal slaying of their friend Renato Adecer before their very eyes, rendering them immobile spectators paralyzed with shock, moving only after the deed was done to run away from the scene of the crime in fear. On the witness stand the three eyewitnesses replayed the memory tapes they kept of the grim and harrowing experience. Speaking fearlessly and with conviction, their answers firm with force of truth, they positively identified the three accused as the perpetrators x x x [4]

The narration of the prosecution witnesses is even strengthened absent any showing of false motive on their part. Where there is no evidence to show improper motive on the part of the prosecution witnesses to testify falsely

against the appellants or falsely implicate them in the commission of a crime, as in the instant case, the logical conclusion is that no such improper motive existed and that their testimonies are worthy of full faith and credit[5]

The appellants invoke alibi as their defense. They were supposedly not there when the killing took place. But they were not far enough. As they themselves admitted, they were only a kilometer or two (2) away from the scene of the crime at the time it was perpetrated. Well entrenched is the doctrine that for alibi to prosper it is not enough to prove that appellants were somewhere else when the offense was committed but it must likewise be demonstrated that they were so far away that they could not have been physically present at the place of the crime or its immediate vicinity at the time of its commission.[6] Likewise fatal to their alibi is their positive identification as the perpetrators of the foul deed by the three (3) prosecution witnesses. For, alibi cannot prevail over the positive identification made by credible witnesses.[7]

The assertion that the prosecution witnesses were not credible since they supposedly witnessed the killing "from beginning to end," which is allegedly contrary to human nature, is seriously flawed. Suffice it to say that there is no standard form of human behavioral response when one is confronted with a strange, startling or frightful experience.[8]

The defense believes that it has dented the evidence for the prosecution. We hold otherwise. The prosecution, in fact, was able to present sufficient evidence to prove beyond reasonable doubt that appellants unyieldingly participated in the killing of Adecer and deliberately employed means which tended directly and specially to insure the commission of the crime without risk to themselves arising from the defense which the offended party might make. Thus Alapan repeatedly stabbed the victim while Clavido held and prevented the latter from defending himself and retaliating. The prosecution presented not only one (1) but three (3) eyewitnesses who positively identified appellants and who have no false motive to implicate them. Thus the witnesses' testimonies were assessed by the trial court to be "firm with force of truth."

Consequently appellants' imputation of the killing to accused Pija, who supposedly acted alone, should be received with suspicion since he is not on trial and has become a convenient scapegoat after he has successfully eluded arrest.

WHEREFORE, the Decision of the trial court finding appellants Nestor Alapan and Francisco Clavido guilty of murder and sentencing them to reclusion perpetua is **AFFIRMED** with the modification that, consistent with prevailing jurisprudence, their civil indemnity to be paid the heirs of the victim Renato Adecer is increased to P50,000.00. Costs against accused-appellants.

SO ORDERED.

Padilla, (Chairman), Davide, Jr., and Kapunan, JJ., concur.
Quiason, J., on official leave.

[1] Decision penned by Judge Ma. Nimfa Penaco-Sitaca, RTC, Oroquieta City, Br. 13.

[2] Post-mortem Examination Report; TSN, 27 August 1990, pp. 2-4.

[3] *People v. Rivera*, G.R. Nos. 88298-99, 1 March 1995, citing *People v. Yumang*, G.R. No. 94977, 17 May 1993, 222 SCRA 119; *People v. Kyamko*, G.R. No. 103805, 17 May 1993, 222 SCRA 183; *People v. Aruta*, G.R. No. 73907, 1 May 1993, 222 SCRA 201; *People v. Clapano*, G.R. No. 106525, 8 November 1993, 227 SCRA 598; and *People v. Juma*, G.R. No. 95029, 24 March 1993, 220 SCRA 440.

- [4] Decision of the trial court, p. 4; Rollo, p. 14.
- [5] *People v. Rostata, Jr.*, G.R. No. 91482, 9 February 1993, 218 SCRA 657.
- [6] *People v. Bernardo*, G.R. No. 97393, 17 March 1993, 220 SCRA 31.
- [7] *People v. Dural*, G.R. No. 84921, 8 June 1993, 223 SCRA 201.
- [8] *People v. Flores*, G.R. No. 98069, 27 January 1993, 217 SCRA 613.

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