

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ALEX AURELLA AND ANTONIO LOPEZ, ACCUSED-APPELLANTS.

G.R. No. 97565. March 23, 1994

Ponente: PUNO, J.

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PUNO, J.:

In an Information,[1] dated December 6, 1989, ALEX AURELLA and ANTONIO LOPEZ were accused of MURDER before the Regional Trial Court (Branch 15) of Ligao, Albay. The crime was allegedly committed as follows:

"That on or about July 21, 1989, at 1:00 o'clock in the morning, more or less, at Barangay 3, Municipality of Pioduran, Province of Albay, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and helping one another for a common purpose, and with intent to kill, did then and there wilfully, unlawfully and feloniously attack and stab with knives NAPOLEON RAZO, JR., hitting the latter on the different parts of his body, which caused his death, to the damage and prejudice of his legal heirs.

"ACTS CONTRARY TO LAW."

The accused were arraigned on January 24, 1990,[2] pleaded not guilty and underwent trial.

The evidence show that in the evening of July 20, 1989, Lilian Dolor, a fish dealer, was fast asleep in her house in Pioduran, Albay. She was, at that time, with her husband and their six (6) children. Their helper, Napoleon Razo, Jr., was sleeping on a sofa in the same house. In between the place where Napoleon and the Dolors slept was a G.I. sheet partition with a small window.

At around one o'clock in the morning of July 21, 1989, Lilian Dolor was awakened by the sound (kalabog) of a falling object. She cast her eyes on her surroundings and saw accused Alex Aurella and Antonio Lopez inside the house. Accused proceeded to the place where Razo, Jr., was sleeping. Through the small opening, Lilian saw Alex Aurella and Antonio Lopez repeatedly stab the sleeping Razo, Jr. Instinctively, she screamed: "No, no!" The other members of her family were awakened. Startled, the two (2) accused scampered towards the seashore some eight meters away from the house.[3]

Eduardo Dolor, husband of Lilian Dolor, and one Rodolfo Gabriel reported the stabbing incident to Patrolman Alberto Aquino at the police outpost of Barangay 3 (Zone 3) of Pioduran. Patrolman Aquino rushed to the scene of the crime where he was informed that the victim was taken to Malacbalac District Hospital. He proceeded to the hospital and tried to get the ante mortem statement of the victim. Unfortunately, the victim was unable to speak. The victim expired.

The Autopsy Report of Rural Health Physician Ireneo D. Bisguera of Malacbalac District Hospital, revealed that the victim sustained eight (8) stab wounds. He died due to "hypovolemic shock, secondary to severe blood loss, secondary to multiple stab wound." [4]

Patrolman Aquino and his co-policemen conducted follow-up investigation of the case. He received information on the possible involvement of accused Alex Aurella and Antonio Lopez. Thus, the policemen went to the residence of accused Antonio Lopez and Alex Aurella, respectively. Antonio allegedly pointed to Alex as the culprit. From Antonio's house, the policemen proceeded to the house of Maximo Aurella, father of accused Alex. It was past one o'clock in the morning of July 21, 1989. Alex was roused from his sleep by his father when the policemen arrived. Accused was clad only in briefs. Patrolman Aquino noticed bloodstains on the right knee and the middle finger of the right hand of Alex. Thus, the latter was brought to Malacbalac District Hospital for examination. Dr. Bisguera confirmed the presence of bloodstains on the finger and knee of accused Aurella. Subsequently, accused Alex and Antonio were taken to the police outpost for further questioning.

The defense is anchored on alibi. They alleged that at around seven thirty in the morning of June 20, 1989, Alex was in his father's house in Zone 1, Pioduran, Albay. He allegedly dressed a chicken and cooked it for his friend, Antonio Lopez. The latter arrived at seven o'clock in the evening that same day. The two engaged in a drinking spree the whole night. They ate the "pulutan" and consumed two (2) bottles of San Miguel Gin from seven o'clock in the evening until midnight. At midnight, Maximo Aurella told both accused to stop drinking. They obliged. Antonio Lopez went home and slept in his house. Alex Aurella stayed in his father's house and slept. At past one o'clock in the morning of July 21, 1989, accused Alex Aurella was roused from his sleep by his father as the policemen, headed by Aquino, arrived. Policeman Aquino focused a flashlight on his body. He noticed the bloodstains on Alex's knee and middle finger.

During the trial, Alex explained that the bloodstains could have come from the chicken he dressed on July 20, 1989. Maximo Aurella corroborated the testimony of his son, Alex. He admitted, however, that he slept ahead of his son.

After trial, both accused were found guilty as charged. The dispositive portion of the trial court's judgment reads:

"WHEREFORE, PREMISES CONSIDERED, we (sic) find both accused, Alex Aurelia (sic) and Antonio Lopez, guilty beyond reasonable doubt of the felony of murder as penalized under Article 248 of the Revised Penal Code, and hereby sentences each to suffer the penalty of RECLUSION PERPETUA, to indemnify jointly and in solidum the heirs of Napoleon Razo in the sum of P30,000.00 and to pay the cost.

"SO ORDERED."

Both appealed from the judgment of conviction raising these errors, viz:

THE TRIAL COURT ERRED IN GIVING WEIGHT TO THE PROSECUTION WITNESSES' IMPROBABLE, INCONSISTENT, CONTRADICTORY AND INCREDIBLE TESTIMONIES.

THE TRIAL COURT ERRED IN DISREGARDING THE ACCUSED-APPELLANTS' DEFENSE OF ALIBI AND DENIAL.

THE TRIAL COURT ERRED IN CONVICTING THE ACCUSED-APPELLANTS FOR MURDER BEYOND REASONABLE DOUBT.

The judgment of conviction stands.

We find no cogent reason to depart from the settled principle that findings of the trial court on the credibility of witnesses deserve full faith and credence, having observed the demeanor of witnesses as they testify on the witness stand.[5]

Both accused-appellants were positively identified by Lilian Dolor, as the killer of Napoleon Razo, Jr. The lone eyewitness gave a clear account of the stabbing incident. She testified:

"FISCAL CRISOSTOMO:

"Q: On July 21, at 1:00 o'clock (in the morning), do you remember of an incident that happened inside of (sic) your house?

"LILIAN DOLOR:

"A: Yes, sir. I have (sic) heard a sound and when I open(ed) my eyes I saw (the) two (2) of them, Alex Aurella and Antonio Lopez.

"Q: Why were they inside of your house?

"A: They went inside and they stabbed Napoleon Razo.

"Q: How far were you when you saw Alex Aurella?

"A: At this distance.

"COURT:

About two (2) meters.

"FISCAL CRISOSTOMO:

"Q: How about the other accused, Antonio Lopez, how far were you?

"WITNESS:

"A: They were together. The same distance.

"Q: How were you able to recognized (sic) them when the incident happened at nighttime?

"A: Inside the house was "naanyagan" lighted.

"Q: How were you able to say that they were lighted?

"A: Because the place were (sic) lighted.

"x x x.

"Q: When you saw them where did they proceed?

"A: Outside.

"Q: Was there a light outside?

"A: There was a light coming from the electric post.

"Q: Where did they proceed?

"A: To the seashore.

"Q: How far is your house from the seashore.

"A: From this point to that point.

"COURT:

About eight (8) meters.

"x x x.

"Q: Did you actually see the stabbing of the accused to Napoleon Razo?

"A: Yes, your honor.

"Q: Who stabbed Napoleon?

"A: The two (2) of them, the first one is Alex.

"Q: Each one of them made a stabbing?

"A: Yes, your honor.

"FISCAL CRISOSTOMO:

"Q: You said that you were awoken(ed) by the "calabog", of what object?

"WITNESS:

"A: They bump against the bench.

(TSN, March 15, 1990, pp. 6-7).

During the cross-examination, Lilian Dolor said:

ATTY. ENCINAREAL:

"Q: When you heard the falling sound you immediately look through the window?

"A: Yes, sir.

"x x x

"Q: And you saw the two accused stabbing repeatedly the sleeping Napoleon Razo?

"A: Yes, sir.

"Q: And you did not bother to shout to stop them in stabbing Napoleon Razo?

"A: Yes, sir.

"Q: What did you say?

"A: No, no.

"Q: To whom did you directed (sic) that word?

"A: I shouted to them.

"Q: And everybody in your house got up and witness the incident?

"Q: Yes, sir. All of them opened their eyes.

"A: You did not tell them to stop the escaping assailant?

"Q: Most of them are small children."

(TSN, March 15, 1990, pp. 13-14).

The trial court gave a stamp of truth on the foregoing testimony of Lilian Dolor. We note the observation of the trial court on the eyewitness' sincerity, viz:

"After scrutinizing the evidence on record, we (sic) find the testimony of Lilian Dolor who admittedly is a relative of one Alex Aurella, and who personally witnessed the actual stabbing of the victim Napoleon Razo by herein two (2) accused, to be clear and convincing. Her version of the incident remained unshaken despite the clever attempt by the defense counsel to discredit her story. Her testimony appears credible as it was given in a natural, spontaneous and straight-forward manner. Her gesture, inflection of voice and demeanor on the witness stand especially on the cross-examination through which she was exposed, further strengthened the credibility of her testimony. By and large, her testimony had all the earmarks of truth." (emphasis ours)

(Decision, p. 3; Rollo, p. 20).

The belated explanation of Alex that the bloodstains were probably due to the chicken he dressed for his visitor Antonio Lopez is not believable.

Alex testified that he dressed the chicken at seven thirty in the morning of June 20, 1989. Thereafter, he washed his hands. The drinking spree occurred at around seven o'clock in the evening of the same day and lasted until midnight.

On the other hand, Maximo Aurella alleged that after his son and Antonio had consumed the two (2) bottles of gin, Alex and Antonio Lopez dressed the chicken. Thereafter, they continued drinking.[6]

For his part, Antonio averred that the chicken was already cooked when he arrived at Alex's house.[7] They finished drinking the two (2) bottles of gin at around twelve midnight. Thereafter, he went home.

The conflicting testimonies of these defense witnesses show that the explanation given by Alex Aurella is a mere afterthought and does not deserve any credence.

Accused-appellants further aver that the testimony of the lone eyewitness, Lilian Dolor, was contradicted by Patrolman Alberto Aquino who stated that nobody could pinpoint who the perpetrators were when he conducted the investigation at the scene of the crime.

The initial hesitation of Lilian Dolor to immediately identify the accused-appellants as the perpetrators of the crime at bench is not a ground to junk her credibility. We take judicial notice of the natural reluctance of most people to get involved and volunteer information in criminal cases. Moreover, we note that accused Alex Aurella is a relative of Lilian Dolor.[8]

In his further effort to discredit Lilian Dolor as a witness, Alex alleges that his "Tia Lilian" may have harbored ill-feelings against him because two years ago, deceased Napoleon Razo, Jr., co-accused Antonio Lopez and himself were involved in a frustrated homicide case. We find this untenable.

Other than his say-so, there was no other evidence presented that Lilian Dolor was moved by improper motives to falsely testify against Alex, her own relative, and accused Antonio. We have ruled that: "When there is no evidence indicating that the principal witness for the prosecution was moved by improper motive, the presumption is that he was not so moved and his testimony is entitled to full faith and credit." [9] Thus, as between the self-serving testimony of the accused-appellants and the positive declaration made by Lilian Dolor pointing to the accused-appellants as the murderers of Napoleon Razo, Jr., the latter deserves greater credence. Further, in the case at bench, the place of the incident was well-lighted, not to mention that both accused-appellants were known to the eyewitness even prior to the stabbing incident. Thus, all things considered, we believe the story of Lilian Dolor.

We hold that the trial court correctly rejected the defense of alibi of accused Alex Aurella and Antonio Lopez. Alibi is a weak defense, particularly, when there is no proof that it was physically impossible for the accused to be at the scene of the crime at the time of its commission.[10]

It was established that prior to the stabbing incident, both accused-appellants were at the house of Maximo Aurella at Zone 1, Pioduran, Albay.[11] They stopped drinking at midnight. Antonio Lopez testified that it would take him ten (10) minutes to negotiate the distance between the house of Lilian Dolor and his house.[12] The stabbing incident occurred at about one o'clock in the early morning of July 21, 1989. Assuming, arguendo, that Antonio went home after the drinking spree, he had ample time to go to the house of Lilian Dolor and commit the crime imputed against him. The same holds true for Alex Aurella since his father's house is, more or less, one (1) kilometer away from the house of Lilian Dolor.[13] It was not improbable for both accused-appellants to proceed to the scene of the crime at around one o'clock in the early morning of July 21, 1989, after their drinking spree.

There is no doubt in our mind that the crime committed was murder. The killing of Napoleon Razo, Jr. was qualified by treachery. The victim was not in a position to defend himself as he was sleeping when he was repeatedly stabbed to death by accused-appellants.

WHEREFORE, premises considered, the judgment of conviction is affirmed. Accused Alex Aurella and Antonio Lopez are meted a penalty of Reclusion Perpetua. In line with this Court's prevailing policy, accused-appellants are ordered to indemnify the legal heirs of Napoleon Razo, Jr., the sum of fifty thousand pesos (P50,000.00). With costs against accused-appellants.

SO ORDERED.

Narvasa, C.J., (Chairman), Padilla, and Regalado, JJ., concur.

[1] Original Records, p. 39.

[2] Original Records, p. 47.

[3] TSN, March 16, 1990, pp. 4-8.

[4] Exhibit "A"; Original Records, p. 7.

[5] People vs. De Guzman, G.R. No. 102409-10, December 21, 1992, 216 SCRA 754, 759-770.

[6] TSN, June 14, 1990, p. 6.

[7] TSN, September 26, 1990, p. 7.

[8] Eduardo Dolor, husband of Lilian Dolor, is a relative of the mother of accused Alex Aurella.

[9] People vs. Gerente, G.R. No. 95847-48, March 10, 1993, 219 SCRA 756.

[10] People vs. Villagrancia, G.R. No. 94471, March 1, 1993, 219 SCRA 212.

[11] Zone 1 is only 400 meters from Zone 3, the place of incident.

[12] TSN, September 26, 1990, p. 16.

[13] TSN, June 14, 1990, pp. 12-13.

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