

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. CASIMIRO DE CASTRO AND ANTONIETO PLAZA, ACCUSED. CASIMIRO DE CASTRO, ACCUSED-APPELLANT.*G.R. No. 98061. January 25, 1996*

Ponente: REGALADO, J.

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It is a common albeit intriguing occurrence, especially in the rural areas, that a public dance or festivity is marred by a fight or violent confrontation between some attendees. These incidents are sometimes traceable to clan rivalry, simmering petty feuds or just boastful affectations of machismo. It would seem that the male hubris seeks that display of braggadocio to impress the female audience which the occasion provides, but sometimes with tragic results. This case also chose a festive occasion for its setting, but with the singularity that no motive for the murder appears in the records.

Drawing from the evidence at hand as well as the documented submissions of the parties themselves, the facts herein narrated appear to be the antecedents of this case. On July 19, 1987, Macario Aporbo, his friends and relatives, attended a barangay benefit dance at the Sta. Cruz Elementary School in Marihatag, Surigao del Sur, which affair was the culmination of the activities of the town fiesta. Macario's group was at the party from 8:00 o'clock in the evening until the early hours of the following day, July 20, 1987.[1]

At around 2:30 A.M., Macario Aporbo decided to go home together with his cousin, Yolanda Aporbo, and his friends, Sergio Sanchez, Jr., Felisa Uyaw, Felipe Tejol, Elvie Uyaw, Eliza Aporbo, and Caguita Tejol. On their way home, Monico Plaza, who also attended the dance, walked behind Macario's group carrying a lighted Petromax lamp which provided ample lighting in that early morning darkness.[2]

One of the principal prosecution witnesses, Yolanda Aporbo, who was then walking side by side with Macario, recounted what transpired on that fateful morning. She testified that shortly after they left the benefit dance at the Sta. Cruz Elementary School, accused-appellant Casimiro de Castro suddenly appeared out of nowhere and "sideswiped" her arm as he moved forward and tried to thrust a pointed bolo at Macario. The victim was able to parry that lunge but, almost as abruptly as the initial attack, he was pushed by accused Antonieto Plaza, who was appellant's companion on that occasion, thereby causing the former to fall to the ground. Upon seeing the victim in a supine position, appellant again struck the latter with the bolo, hitting him at the left chest cavity. It was subsequently established that the victim died instantaneously as a consequence.

Yolanda and some of their companions ran to ask for help, and immediately proceeded to the house of the victim's father to report the incident. Other members of the group went back to the school building.[3] The accused, on their part, fled immediately after the incident towards the house of Crustico Lisayan which was about 50 meters away from the scene of the crime.

Felipe Lopez, another prosecution witness, corroborated Yolanda Aporbo's testimony and declared that when he opened the door of Lisayan's house, he saw appellant with blood splattered all over his shirt and holding a

bloodied bolo. Lopez, who was the cook of Lisayan, further testified that Casimiro told him that he had stabbed Macario Aporbo and warned him to keep quiet about it.

The body of Macario was brought to his parents' house at around 1:30 P.M. of the same day. Dr. Romeo de los Reyes, the town's municipal doctor, conducted an autopsy on the body of the victim. The autopsy report, presented and admitted in evidence as Exhibit "D", showed that the victim's death was caused by "hemothorax left and right, secondary to stab wounds." The victim sustained a stab wound at the sixth and seventh ribs of the left side of the body and an incised wound at the right ring finger.[4]

An information for murder was filed and docketed as Criminal Case No. L-1013 in the Regional Trial Court, Branch 28, Lianga, Surigao del Sur against Casimiro de Castro and Antonieto Plaza, alleging --

"That on the 20th day of July, 1987 at about 2:30 in the morning, more or less, in barangay Sta. Cruz, Marihatag, Surigao del Sur, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and mutually aiding one another, did then and there, with evident premeditation and treachery, willfully, unlawfully and feloniously, with intent to kill, assault and stab with the use of a sharp pointed bob one Macario Aporbo, thereby inflicting upon the latter stab wound 6 centimeters in length, about 20 centimeters in depth penetrating left and right lung - field, lower portion both lungs, level between 6th and 7th rib, along the anterior auxiliary line chest left, directed medial wound, and incised wound 1.5 centimeters length ring finger right anterior aspect which injuries caused his instantaneous death, to the damage and prejudice of the victim's heirs in the amount of P30,000.00 as civil indemnity."[5]

Both accused Casimiro de Castro and Antonieto Plaza went into hiding and were not immediately apprehended. Much later, a warrant for their arrest was issued on June 8, 1988. Accused Antonieto Plaza was captured and detained at the municipal jail on November 13, 1988, but he escaped on December 3, 1987. On December 19, 1989, more than two years after the commission of the crime, appellant was eventually apprehended. He was subsequently arraigned and pleaded not guilty to the charge.[6] Accused Antonieto Plaza remains at large.

Appellant's defense is that in the evening of July 19, 1987, at around 7:00 o'clock, he was actually sleeping in the house of his father-in-law, Angelo Cancio. The latter arrived at around 11:00 o'clock that evening from the benefit dance, together with one Cresencio Campos. Appellant was directed by Cancio to serve lauya and tuba to him and his guest. After complying therewith, appellant claims that he went back to sleep and he woke up at around 6:00 A.M. the following day. This alibi of appellant was afforded corroboration by Cresencio Campos who testified as a defense witness.

Appellant further alleges that at around 10:00 A.M. on July 20, 1987, he learned from the other residents of their barangay that Macario Aporbo was killed. To further bolster his claim of innocence, appellant claims that he even attended the wake of Macario where he greeted and condoled with the victim's father. He further asserted that during the funeral of Macario, he served as one of the pallbearers.[7]

In support of his contention that he was never in hiding or had taken flight after the incident, appellant insisted that he merely went to Tadeco, Davao to help in the farm of his sister. However, upon his return in September, 1987 to Marihatag, he was warned by his father that the New People's Army (NPA) was looking for him. Upon the advice of his father, he went back to Davao and returned only in November, 1989. Subsequently, he turned himself in to the police of Marihatag, Surigao del Sur.[8]

In a lengthy decision dated March 8, 1991, the court below convicted appellant of murder, with the following judgment:

"WHEREFORE, premises considered, this court finds the accused Casimiro de Castro, 24 years of age, married to Nancy Cancio, a farmer by occupation, and resident of Sta. Cruz, Marihatag, Surigao del Sur, guilty

beyond reasonable doubt of the crime of Murder, as principal, penalized under Article 248 of the Revised Penal Code and as charged in the information, and is therefore, hereby sentenced to suffer the penalty of reclusion perpetua, with all the accessory penalties provided by law, and to indemnify the parents of said victim, Mr. and Mrs. Ignacio Aporbo, in the amount of P30,000.00 as indemnification for said death of their son, Macario Aporbo, plus P20,000.00 as and in the concept of moral damages, P10,000.00 as and for exemplary damages, and actual damages of P17,060.00 and to pay costs.

With respect to accused Antonieto Plaza, let Alias Warrant of Arrest in sufficient copies issue for distribution to the different police and law-enforcement agencies of the Government for their possible execution . "[9]

Appellant has come before this Court reiterating his innocence and imputing three errors to the trial court, wherein he remonstrates that it erred, firstly, in giving full credence to the conflicting, unreliable and incredible testimony of prosecution witnesses Sergio Sanchez, Jr., Yolanda Aporbo and Felipe Lopez; secondly, in finding him guilty beyond reasonable doubt; and thirdly, in finding that there was treachery in the killing of Macario Aporbo.[10] We are not convinced.

Appellant avers that the court a quo erred in giving full credence to the testimonies of the three aforementioned prosecution witnesses, although there are two glaring inconsistencies in the testimonies of witnesses Yolanda Aporbo and Sergio Sanchez, Jr. Firstly, so he contends, there is a disparity in the reported number of companions of the victim at the time of the crime. According to Sergio Sanchez, Jr., there were five, including himself, while Yolanda Aporbo testified that there were eight of them."[11]

We have examined the transcript of stenographic notes and we find that there were indeed minor inconsistencies in the statements of the two eyewitnesses. On the one hand, Sergio Sanchez, Jr. testified that there were at least five of them who were present at the time of the incident.[12] On the other, Yolanda Aporbo testified that there were seven of them who accompanied the victim.[13] Accordingly, appellant argues that said inconsistencies provide enough basis for the Court to doubt the credibility of said vital prosecution witness. The Court believes otherwise.

Their divergence on the number of individuals who accompanied the victim does not, in any way, affect and discredit the testimony of said witnesses. That inconsistency is not without an explanation. The testimonies of Sergio and Yolanda were based on what they actually saw during the incident. Arguably, from the visual point of Sergio, who was then walking behind Macario, he only saw Yolanda Aporbo, Felix Tejol, Alex Aporbo, Feliza Uyaw and himself as the companions of the victim. Yolanda, for her part, may have additionally seen Laynita Tejol, Eliza Aporbo and Ellen Uyaw, hence she mentioned their names. It is of common experience that the perspective of individuals may vary depending on their location and the extent of their peripheral vision.

As we have held in a number of cases, the recollection of different witnesses with respect to the time, place and other circumstances of a criminal event would naturally differ in various details.[14] Also, this Court has often observed that "inconsistencies on just minor details do not diminish but even bolster the credibility of the prosecution witnesses, as well as the veracity of their testimonies." [15] Moreover, passing upon the credibility of witnesses is a matter that primarily should be addressed by the trial court. [16]

Before this Court could be convinced by the asseveration of appellant that said witnesses were not telling the truth, the inconsistencies should be materially on the actual stabbing in that incident, which is the most important focus of inquiry. As it is, witnesses Sergio and Yolanda were consistent in their accounts that it was appellant who stabbed the victim with a pointed bolo at the left chest cavity.

The testimony of Sergio Sanchez, Jr. is as follows:

"Q.

Will you please tell the Court what transpired on that particular month or occasion?

A.

I saw Casimiro de Castro side-swipe (giwakli) the arm of Yolanda Aporbo, and Casimiro de Castro pushed and then stabbed Macarlo Aporbo, sir."

Q.

When Casimiro de Castro stabbed Macario Aporbo, where was Macario Aporbo hit with the stabbing?

A.

Left chest, sir.

Q.

And what weapon was used by Casimiro de Castro in stabbing Macario Aporbo?

A.

A bolo with pointed tip, sir.[17]

In turn, Yolanda Aporbo gave the following testimony:

"Q.

What was the incident (that) happened?

A.

Macario was stabbed, sir.

Q.

Who was that Macario?

A.

Macario Aporbo, sir.

Q.

Who was that person that stabbed Macario Aporbo?

A.

Casimiro de Castro, sir.

xxx xxx xxx

Q.

In other words you have seen the stabbing. What weapon did Casimiro de Castro use in stabbing Macario Aporbo?

A.

Long bolo sir.

Q.

Where was Macario Aporbo hit when he was stabbed by Casimiro de Castro?

A.

Left breast, sir."[18]

Appellant further maintains that witnesses Yolanda Aporbo and Sergio Sanchez, Jr. gave conflicting statements on who "sideswiped" Yolanda before appellant thrust his bolo towards the victim. According to appellant, Sergio Sanchez, Jr. testified that it was Casimiro who "sideswiped" Yolanda, while Yolanda claimed it was Antonio Plaza.

This Court has repeatedly held that we cannot and do not expect absolute uniformity in every detail, because witnesses react differently to what they see and hear depending upon their situation and state of mind.[19] In the case at bar, Yolanda was walking beside Macario, whereas Sergio was behind him. Naturally, they saw the incident from different angles, hence the variance of their visual impressions. Contrary to appellant's theory, to expect identical features in the testimonies of witnesses cannot but generate the suspicion that the material circumstances testified to by them were integral parts of a well thought out and prefabricated story.[20]

Appellant further alleges that the testimony of Felipe Lopez claiming that appellant told him he had stabbed the victim is out of the ordinary, and that it was incredible for appellant to go to the house of Crustico Lisayan which is considerably farther than his own home and from the scene of the crime.[21] We disagree. It was very probable that appellant did make that statement in his agitated state and to explain his intrusion into Lisayan's house. It was also credible that appellant sought refuge in Lisayan's house, which was more secluded and farther than his own house, in order to make his escape easier. He obviously anticipated that had there been an immediate pursuit, the logical step would be for the pursuers to look for him in his or his father's house.

We find no merit whatsoever in the second assigned error, which is based on general opinions and inapplicable citations. In this case, there were two eyewitnesses who positively identified appellant as the one who stabbed and killed the victim. This positive identification remained undisturbed even after the appellant presented his evidence. As we held in *People vs. Aurella*,[22] between the self-serving testimony of the accused-appellant and the positive identification by the eyewitnesses, the latter deserves greater credence.

The alibi of appellant is flawed from the very start. The testimony of Cresencio Campos that he continuously saw the appellant at the house of Angelo Cancio from 11:00 P.M. on July 19, 1987 up to 5:00 A.M. of July 20, 1987[23] is per se unbelievable. Further, in the same breath, he admitted that he and Cancio were drinking tuba in the living room of the house from 11:00 P.M. to 5:00 A.M. the following morning, while appellant was supposedly sleeping in another room. Campos did not dare intimate that he was watching over appellant during that period, since that would be absurd.

The distance between the house of Cancio and the scene of the crime is merely 25 meters. In fact, appellant could have very easily sneaked out of the house unnoticed between 2:00 and 4:00 o'clock in the morning and it would have been impossible for Campos to know that fact. Thus, the defense of alibi and the usual corroboration thereof are disfavored in law for the same reason, that is, both can be very easily contrived. This is obviously the situation in this case and, taken together with the preceding considerations, we reject this shabby and discredited defense.

The third assigned error is as puerile as the first two. It is elementary but we still are constrained to point out up to now that there is treachery when the attack was done in a sudden and unexpected manner and without any provocation on the part of the victim.[24] Evidently adopting his treacherous mode of attack, appellant surreptitiously and without warning attacked the victim, who was at that time unarmed and completely unaware of any impending danger to his life. Although the victim was able to parry the first thrust of the bolo, that automatic

reaction on his part can be attributed to an instinctive, rather than a prepared, response.

ON THE FOREGOING CONSIDERATIONS, the judgment of the court a quo is hereby AFFIRMED, with the MODIFICATION of the civil liability by increasing the death indemnity to P50,000.00 in line with present case law, and deleting the award for exemplary damages since the offense was committed without any aggravating circumstance. -

SO ORDERED.

Romero, Puno, and Mendoza, JJ., concur.

[1] Brief for the Appellee, 2-3; Rollo, 168-169.

[2] Ibid., 4; id., 170.

[3] Ibid., 4-5; Id., 170-171.

[4] Original Record, 27.

[5] Original Record, 8.

[6] Rollo, 476-477.

[7] Appellant's Brief, 4-5; Rollo, 106-107.

[8] Ibid., 5; Id., 107.

[9] Original Record, 500.

[10] Appellant's Brief, 1; Rollo, 103.

[11] Ibid., 8; Rollo, 108.

[12] TSN, March 7, 1990, 3.

[13] Ibid., Id., 19.

[14] People vs. Orehuela, et al., G.R. Nos. 108780-81, April 29, 1994, 232 SCRA 82.

[15] People vs. Manahan, G.R. No. 111550, November 14, 1994, 238 SCRA 141.

[16] Tanggote vs. Sandiganbayan, et al., OR. No. 103584, September 2, 1994, 236 SCRA 273.

[17] TSN, March 7, 1990, 3.

[18] Ibid., id., 12-13.

[19] People vs. Retuta, et al., G.R. No. 95758, August 2, 1994, 234 SCRA 645.

[20] People vs. Madriaga IV, et al., G.R. No. 73057, March 8, 1989, 171 SCRA 103.

[21] Appellant's Brief, 6-7; Rollo, 108-109.

[22] G.R. No. 97565, March 23, 1994, 231 SCRA 394.

[23] TSN, September 19, 1990, 61 and 63.

[24] People vs. Ponayo, G.R. No. 111523, August 10, 1994, 235 SCRA 227; People vs. Abapo, G.R. Nos. 93632-33, December 28, 1994, 239 SCRA 469.

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