

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JULIE VILLAMOR, A.K.A. “JULITO VILLAMOR” AND “JULIO VILLAMOR”, ARMANDO ESCALANTE AND JOSEPITO “LOCLOC” GAMIL, ACCUSED, JULIE V...

G.R. Nos. 111313-14. January 16, 1998

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

In denying this appeal, the Court reiterates some well-known doctrines: (1) the trial court’s assessment of the witnesses and their credibility deserves great respect; (2) delay in reporting a crime and in identifying the culprits, when sufficiently explained, does not necessarily taint an eyewitness’ account; and (3) awards of actual and moral damages must be justified by adequate proof.

The Case

Before us is an appeal from the Joint Decision[1] dated July 8, 1993 of the Regional Trial Court of Surigao City, Branch 30, rendered in Criminal Case Nos. 3846 and 3847, convicting Appellant Julie Villamor of two counts of murder and sentencing him to *reclusión perpetua* for each count.

Two separate amended Informations, both dated October 29, 1992, were filed by Second Assistant Surigao City Prosecutor Danilo C. Menor against Appellant Julie Villamor and his co-accused. The first amended Information, docketed as Criminal Case No. 3846, charged appellant with murder, committed as follows:[2]

“That on or about [the] 8th day of February, 1987 in the City of Surigao, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating together and mutually helping one another armed with firearms and deadly weapons, with intent to kill Benigno Tenajeros, without any justifiable cause did then and there wilfully, unlawfully and feloniously and with treachery and taking advantage of superior strength, shoot and stab Benigno Tenajeros with the use of a firearms (sic) and a knife, thereby inflicting upon Benigno Tenajeros mortal wounds which caused his death, to the damage and prejudice of the heirs of Benigno Tenajeros in such sum as may be allowed by law.

Contrary to law, with the qualifying circumstances of treachery and taking advantage of superior strength.”

The second amended Information, docketed as Criminal Case No. 3847, also charged appellant and his co-accused with another count of murder, committed as follows:[3]

“That on or about the 8th day of January, 1987 in the City of Surigao, Philippines, and within the jurisdiction of this Honorable [C]ourt, the above-named accused, conspiring and confederating together and mutually helping one another, armed with firearms and knife, with intent to kill Lito Edo without any justifiable cause, did then and there wilfully, unlawfully and feloniously and with treachery and taking advantage of superior strength, shoot and stab Lito Edo with the use of the said firearms and knife, thereby inflicting upon said Lito Edo mortal wounds which caused his death, to the damage and prejudice of the heirs of Lito Edo in such sum as may be allowed by law.

Contrary to law, with the qualifying circumstance of treachery and taking advantage of superior strength.”

Only Appellant Julie Villamor was apprehended by the Surigao Police; his co-accused Armando Escalante and Josepito “Locloc” Gamil were at large. Consequently, appellant alone was arraigned on March 4, 1993. With the assistance of counsel, he entered a plea of “not guilty” to both counts.[4]

The case against Gamil and Escalante was archived, but a separate trial for appellant was conducted. In due course, the trial court rendered the assailed Joint Decision, the decretal portion of which reads:[5]

“WHEREFORE, this Court finds accused Julie Villamor, also known as Julito Villamor and Julio Villamor, GUILTY beyond reasonable count, as charged in both Criminal Cases Nos. 3846 and 3847, for the crime of Murder, defined and penalized in Article 248 of the Revised Penal Code, metes out the penalty of reclusion perpetua in each case:

- To indemnify the widow and children of victim Benigno Tenajeros the sum of Thirty Thousand (P30,000.00) Pesos; in addition, to pay moral damages of P5,000.00; lose [sic] of earning capacity of P180,000.00 for five (5) years, at the rate of P3,000.00 per month; funeral expenses of P6,000.00.

- To indemnify the heirs of victim Lito Edo the sum of Thirty Thousand (P30,000.00) Pesos; in addition, to pay moral damages of P5,000.00; lose [sic] of earning capacity, for five (5) years, at the rate of P50.00 daily; funeral expenses of P3,000.00;

Without subsidiary imprisonment, in case of insolvency;

- To suffer the accessory penalty, provided for by law; and,

- To pay one-third [sic] (1/3) of the cost in both cases.

The cases with respect to accused Armando Escalante and Josepito ‘Locloc’ Gamil are hereby placed in ARCHIVE, to be revived only upon their apprehension.

In the meantime, let an alias warrant issue for the arrest of said two (2) accused.”

Hence, this appeal.[6]

The Facts Version of the Prosecution

The facts of this case, as culled from the testimonies of the prosecution witnesses, were synthesized by the solicitor general as follows:[7]

“In the evening of January 8, 1987, around 7:00 o’clock, Eduardo Escalante was sent by his father to buy food for the workers who [would] work on their ricefield the following day. He walked from their house at Sitio Looc, Barangay Luna, Surigao City, toward the highway to wait for a ride (TSN, March 18, 1993, p. 4). At the highway, he met appellant Julie Villamor, and his first cousins Armando Escalante and Josepito “Locloc” Gamil (TSN, March 18, 1993, p. 5), all residents of Sitio Looc. Gamil asked him about his destination and Eduardo Escalante replied that he was going to Surigao City. Thereupon, appellant declared ‘we will go together’. (TSN, March 18, 1993, p. 6)

Then the tricycle of Benigno Tenajeros, with Lito Edo on board, arrived. The four boarded the vehicle. Eduardo Escalante described the seating arrangement as follows:

‘Q Your said that you and the three other persons you mentioned, namely, Julie Villamor, Armando Escalante and Locloc Gamil boarded the motorized tricycle... boarded already with Lito Edo, where did Armando Escalante sit?

A At the front seat beside Lito Edo.

Q On the outer or near the driver ... beside the driver or not?

A Outer side, sir.

Q How about Julie Villamor, where did he seat?

A Right at the back of the driver.

Q How about Josepito Locloc Gamil, where did he seat? (sic)

A At the back of Armando Escalante at the backseat.

Q How about you, where did you sit?

A At the side of Locloc Gamil.

Q And you were seated opposite Julie Villamor?

A Yes, sir.' (TSN, March 18, 1993, p. 7)

On the way to the 'City', near the junction of Bernadette Village, appellant suddenly drew a revolver with his left hand from his right hip (TSN, March 18, 1993, p. 8). Eduardo Escalante cowered in fear and heard appellant's gun fire. As he glanced back, he saw Locloc Gamil pull a knife and cut the front part of Tenajeros' neck. Tenajeros fell from the tricycle which itself fell into a nearby canal (TSN, March 18, 1993, p. 10).

As Eduardo Escalante emerged from the tricycle, he saw Lito Edo running towards the ricefield while Armando Escalante and Julie Villamor took turns shooting xxx him (Lito Edo), who finally fell down. Appellant and his cohorts approached Edo to find out if he was dead. After that, appellant, Armando Escalante and Locloc Gamil escorted Eduardo back to his house with a warning that they would kill him if he reports the incident to the authorities (TSN, March 18, 1993, pp. 12-13).

Dra. Alice Ensomo Gonzaga, Assistant City Health Officer, Surigao City described the injuries sustained by the victim as follows:

'On Benigno Tenajeros:

1). Wound – 21 cm. x 6 cm. large gaping in size with irregular edges, located at the anterior neck length extending from the medial tip of the left clavicle to the right side of the neck to the anterior tip of the right scapule back affecting skin, subcutaneous tissues, muscles of the neck, hitting the major vessels of the neck, trachea separated between the 2nd and 3rd ring, esophagus;

2). Wound (gunshot-entrance) – ½ cm. x ½ cm. in size with contused and inverted edges, located at anterior left mid cheek, affecting skin; subcutaneous tissues; muscles of the cheek to communicate with wound no. 3; and

3). Wound (gunshot-exit) – ½ cm. ½ cm. in size with everted edges, located at the mid right occipito temporal aspect of the head, to communicate with wound no. 2.

Cause of Death: Shock due to internal hemorrhage secondary to gunshot and stab wounds. (Records, p. 37)

On Lito Edo:

1). Contusion Hematoma – 4 x 3 cm. in diameter, located below left eye;

2). Wound (gunshot-entrance) – ½ x 1 cm. in size, with contused and inverted edges, located at the nape 3 cm. right lateral to the midline (occipito) affecting skin; subcutaneous tissues, muscles of the neck; major vessels of the neck (right side); and,

3). Wound (lacerated) 2 x 1 cm. in size, located at the left lateral side of the chest; level of the 4th intercostal

space, affecting skin, subcutaneous tissues, muscles of the chest to hit the left lung.

Cause of Death: Shock due to internal hemorrhage secondary to gunshot and stab wounds. (Records, p. 36)' (Joint Decision, pp. 5-6)"

Version of the Defense

Appellant denied any involvement in the crime, interposing alibi. His counterstatement of the facts is as follows:[8]

"On the evening of 08 January 1987, accused-appellant Julie Villamor was in the company of Jesus Tesaluna in the latter's house at Songkoy, Looc, Luna, Surigao City, where they drank 'tuba', wine from a coconut tree. They spent together the whole night in that house. (TSN, 15 April 1993, pp. 18-21; TSN, 31 March 1993, pp. 29-34 & 40-43)

When accused-appellant returned to his house on the following day, policemen came over to his surprise and brought him to the Surigao City Police Station. (TSN, 15 April 1993, pp. 22-23) Unknown to him, Benigno Tenajeros and his friend Lito Edo were killed along the National Highway, Luna, Surigao City, on the evening of 08 January 1987.

Sometime in September of 1992, or after more than five years from the alleged occurrence of the killing incident, a witness, Eduardo Escalante, emerged and revealed to the police authorities that accused-appellant was one of the authors thereof. Said witness had decided to disclose what he knew about the incident for fear that he would be jailed, being one of the suspects, should he refuse to do so. (TSN, 18 March 1993, pp. 14-17)."

Ruling of the Trial Court

Relying largely on Eduardo's eyewitness account, the trial court convicted appellant of two counts of murder. According to the trial court, Eduardo's testimony "vividly made a positive detailed narration" of the two victims' slaying at the hands of appellant and his cohorts. Aside from that, the report of the medico-legal expert regarding the nature and the location of the wounds sustained by the victims confirmed Eduardo's testimony. The trial court held that the testimony of a single eyewitness, corroborated in its material points by the medical findings, was sufficient to establish the guilt of the assailants.

The trial court also ruled that the killings were "qualified by alevosia and aggravated by taking advantage of superior strength." [9]

Assignment of Error

Appellant submits this lone assignment of error:[10]

"The trial court erred in finding the accused-appellant guilty beyond reasonable doubt of the crime of murder in Criminal Case No. 3846 in connection with the death of Benigno Tenajeros and in Criminal Case No. 3847 in connection with the death of Lito Edo and in sentencing said accused-appellant to suffer the penalty of reclusion perpetua and to indemnify the heirs of said victims specified sums of money in both cases."

In fine, appellant argues that the prosecution eyewitness' testimony was accorded precipitate credulity despite the fact that (1) it was from a "polluted source," (2) it was contrary to human experience, and (3) it was given only after a five-year delay. Alternatively, the defense insists that appellant could be convicted only of two counts of homicide, not murder, because alevosia and abuse of superior strength were not sufficiently proven.

The Court's Ruling

The appeal is bereft of merit.

Credibility of the Eyewitness

Not a Polluted Source

In view of his admission that he rode with appellant and his cohorts in the tricycle driven by one of the victims, the eyewitness was initially included by the local police in its list of suspects in the double murder. This fact, however, does not ipso facto taint his credibility. Presence at the crime scene does not automatically make one the author of the crime.[11] As explained by Eduardo, he met the accused on his way to the city purely by chance. That he rode with them in the tricycle does not constitute conspiracy; this fact, by itself, does not show a decision on his part to participate in the crime.[12] In fact, the record is bereft of any evidence that he acted in union with appellant and his group.

In this light, his testimony cannot be viewed as a means of extricating himself from criminal liability. The implication advanced by appellant is, at best, speculative and insufficient to overturn the trial court's assessment of his testimony.

Delay in Reporting

An eyewitness account cannot be disregarded on account of the delay in its reporting, so long as the delay is justified.[13] In this particular case, Witness Eduardo tarried in reporting what he witnessed that fateful night for fear of reprisal. We agree with this explanation of the trial court:[14]

“The fact that Eduardo Escalante took some time, more than four (4) years, to reveal his knowledge about the crime, was satisfactorily explained, because of the threat to his life. It was not until accused Julie Villamor was apprehended and the said witness was summoned by the police authorities, when he revealed what he saw since he was even one of those four (4) persons, suspected by the police, to wit:

‘x x x

Prosecutor Menor:

x x x

Q

You said that after Julie Villamor was apprehended by the police authorities, you were summoned by the police authorities. Did you heed the summons?

A

I went to the police.

Q

When you arrived at the police station, did you learn the purpose of the police authorities in summoning you?

A

Yes, sir.

Q

What was the purpose of the police authorities in summoning you?

A

Because I was included in the four suspects, as one of the four suspects.

Q

And what did the police authorities tell you?

A

I was told by the police that ‘you are one of the four suspects who killed those two there at the area with motorized tricycle’ and then I answered the policeman, ‘no, sir, I did not do it, sir’.

Q

And it was then that you decided to reveal to the police authorities what you witnessed in the evening of January 8, 1987?

A

Yes, sir, because if I will not reveal the incident ... the truth regarding the incident, I will be jailed since I have no fault or offense. I will be confined in jail despite the fact that I have not done wrong.

Q

And you executed an affidavit in connection with these cases?

A

Yes, sir.”

It should also be noted that Eduardo, after overcoming his initial fear, testified for the prosecution despite further threats to his own life. Said the trial court:[15]

“After deciding to reveal everything he knew, not even the veiled threats of the accused, wife Virginia, and his own relative Pedro Escalante deterred him from testifying, to wit:

‘x x x

Prosecutor Menor:

x x x

Q

Pedro Escalante, defense witness, testified that you have visited the accused Julie Villamor in the city jail for many times since his detention there, what can you say about that?

A

I went to the police on February 18, in order to report the matter that the wife of Julie Villamor went to my residence.

Q

Why did you have to report that incident?

A

Because they threatened me. They told me not to testify in these cases and it is better, ‘you will leave this place and go to Manila and we will give you money, for something might happen to you’.

Q

Were you able to report that incident to the police station?

A

I was not able to report that incident because that policewoman would not take any responsibility regarding that report because she might be admonished because I could not present witness in my behalf.

Q

While you were in the police station, do you remember if you called ... if you were called by Julie Villamor?

A

Yes, sir.

Q

What transpired when you and Julie Villamor had a talk?

A

‘If you continue to be a witness in this case, it is up to you, you might be in trouble’.”

In Accord with Human Experience

Appellant insists that it was utterly unbelievable that he and his cohorts would take along a bystander to witness their crime, only to warn him later, under threat, to keep silent about it. The Court is not persuaded. On the contrary, it was but natural for the eyewitness to ride with appellants and his co-accused considering that the city, to where Eduardo was headed, was from Sitio Looc. Besides, Accused Armando Escalante and Locloc Gamil were his first cousins. In the final analysis, the argument is merely a rehash of the insinuation that the eyewitness is a polluted source. It is a desperate attempt to force the prosecution to establish appellant’s motive for killing the two victims. However, it is well-settled that motive is not necessary when there is a clear and positive identification of the perpetrators of the crime.[16]

At bottom, the Court finds no cogent reason to deviate from the well-established doctrine that absent any arbitrariness, oversight or misappreciation of a fact which would otherwise affect the disposition of the case, the trial court’s assessment of the credibility of a witness is accorded respect by appellate courts.[17]

Establishing Alevosia

Eduardo testified that appellant and his co-accused, presenting themselves as passengers, rode in the victim’s tricycle. Upon reaching Bernadette Village, appellant and his cohorts suddenly attacked the tricycle driver and one of the passengers. Appellant shot the driver from behind while Gamil slashed his neck. Then, appellant and Armando Escalante alternately shot Edo, who tried to flee. The speed with which the killings were perpetrated tended directly and specially to ensure their execution and afforded the victims no chance to put up any defense.[18] Clearly, alevosia was established in this case. Abuse of superior strength, which the trial court appreciated as a generic aggravating circumstance, need not be established, for it is absorbed in the qualifying circumstance of treachery.[19]

Award of Damages

Proof must support any award of damages. The grant of burial expenses to the heirs of the two victims is not established by competent evidence. No receipts or other credible evidence were presented. Rosa Tenajeros,[20] (widow of Benigno Tenajeros) and Bago Edo,[21] father of Lito Edo, merely estimated the expenses allegedly

incurred. Furthermore, actual damages of thirty thousand pesos, awarded separately by the trial court to the heirs of the two victims, appear to have been arbitrarily set. The moral damages awarded by the trial court are similarly unsubstantiated, as the heirs did not even testify to any fact or circumstance that would have entitled them to the award. While no proof of pecuniary loss is necessary, it is essential that the claimant should satisfactorily provide factual basis for the alleged moral injury.[22]

The award for loss of earning capacity is also arbitrary. In support of the claim, the widow of Tenajeros testified that her husband used to earn P3,000 monthly as a truck driver, supplemented by earnings from plying his tricycle.[23] The trial court then fixed the amount at P180,000, equivalent to his earnings for five years at the monthly rate of P3,000. On the other hand, Bago Edo testified that his deceased son used to give him P50 a day.[24] The trial court then held that the young Edo's lost earnings should be computed at P50 a day for five years. The trial court's computations are bereft of legal basis. This Court has held that an award for loss of earnings should be computed as follows:[25]

$\frac{2}{3} \times$

80 – age of victim at
the time of death

$\times$

reasonable portion of the
annual net income which
would have been received
as support by heirs

The Court finds P1,000 to be a reasonable estimate of the living and other incidental expenses to be deducted from the gross income of Tenajeros. Applying the foregoing formula, his lost earnings should be computed as follows:

$$= \frac{2}{3} \times [80 - 37] \times [P3,000 - P1,000 \times 12]$$

$$= \frac{2}{3} \times 43 \times P24,000$$

$$= P688,000.$$

In the case of Lito Edo, the records do not show the actual amount of his income. The amount of P50, as testified to by his father, represented not his daily income but the daily support he had been giving his family. Hence, his lost earnings should be computed as follows:

$$= \frac{2}{3} \times [80 - 22] \times [P50 \times 30 \times 12]$$

$$= \frac{2}{3} \times 58 \times P18,000$$

$$= P 69,600$$

The trial court also awarded civil indemnity of thirty thousand pesos. In line with current jurisprudence,[26] the civil indemnity should be increased to fifty thousand pesos (P50,000).

WHEREFORE, the appeal is hereby DENIED and the challenged Joint Decision is AFFIRMED. However, the monetary awards are MODIFIED as follows: the grant of moral damages and funeral expenses is DELETED for lack of factual basis; to the heirs of Benigno Tenajeros, appellant is ordered to pay the amounts P688,000 representing loss of earning capacity and 50,000 as civil indemnity; to the heirs of Lito Edo, the amount of 69,600

representing loss of earning capacity and P 50,000 as civil indemnity. Costs against appellant.

SO ORDERED.

Narvasa, C.J. (Chairman), Romero, Melo and Francisco, JJ., concur.

[1] Penned by Judge Carlo H. Lozada.

[2] Records, p. 27.

[3] Rollo, p. 7.

[4] Records of Crim. Case No. 3846, p. 33; and records of Crim. Case No. 3847, p. 22.

[5] Rollo, pp. 25-26.

[6] The case was submitted for resolution upon receipt by this Court on February 2, 1996 of the confirmation of appellant's confinement at the Davao Prison and Penal Farm; Rollo, p. 102.

[7] Brief for the Plaintiff-Appellee, pp. 1-5; Rollo, pp. 91b-91f.

[8] Appellant's Brief, filed by the Public Attorney's Office, pp. 4-5; Rollo, pp. 57-58.

[9] Decision, p. 8; Rollo, p. 24.

[10] Rollo, p. 54.

[11] People vs. Dulatre, Jr., 248 SCRA 109, 119-120, September 7, 1995, per Romero, J.

[12] People vs. Sumbillo, G.R. No. 105292, April 18, 1997, p. 24; People vs. Luayon, 260 SCRA 739, 752, August 22, 1996; and People vs. Layno, 264 SCRA 558, 575, November 21, 1996.

[13] People vs. Magana, 259 SCRA 380, 395, July 26, 1996, per Panganiban, J.

[14] Decision, pp. 6-7; Rollo, pp. 22-23.

[15] Ibid., pp. 7-8; Rollo, pp. 23-24.

[16] People vs. Garcia, 258 SCRA 411, 420, July 5, 1996; People vs. Pano, 257 SCRA 274, 283, June 5, 1996; and People vs. Lapura, 255 SCRA 85, 97, March 15, 1996.

[17] People vs. Nell, G.R. No. 109660, July 1, 1997, pp. 10-11; People vs. Dansal, G.R. No. 105002, July 17, 1997, pp. 10-11; People vs. Sumbillo, supra, p. 14; People vs. Marollano, G.R. No. 105004, July 24, 1997, pp. 15-16; People vs. Ombrog, G.R. No. 104666, February 12, 1997, pp. 11-12; and People vs. Cogonon, G.R. No. 94548, October 4, 1996, pp. 13-14.

[18] People vs. Sol, G.R. No. 118504, May 7, 1997, pp. 12-13; People vs. Serzo, G.R. No. 118485, June 20, 1997, p. 22; People vs. Isleta, G.R. No. 114971, November 19, 1996, pp. 11-17; People vs. Layno, G.R. No. 110833, November 21, 1996, pp. 19-20; and People vs. Dinglasan, G.R. No. 101312, January 28, 1997, pp. 23-24.

[19] People vs. Francisco, 249 SCRA 526, 536, October 25, 1995; People vs. Panganiban, 241 SCRA 91, 102, February 6, 1995; and People vs. Parangan, 231 SCRA 682, 692, April 22, 1994.

[20] TSN, March 17, 1993, p. 20.

[21] Ibid., pp. 14-15.

[22] Kierulf vs. Court of Appeals, G.R. No. 99301, March 13, 1997, pp. 23-24.

[23] TSN, March 17, 1993, p. 20.

[24] Ibid., p. 15.

[25] People vs. Marollano, G.R. No. 105004, July 24, 1997, pp. 40-43, per Panganiban, J. See also Negros Navigation vs. Court of Appeals, G.R. No. 110398, November 7, 1997, per Mendoza, J.

[26] People vs. Eduardo Caballes, G.R. Nos. 102723-24, June 19, 1997.

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