

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JOHN DEE Y OFIDO AND ALEX SALANGA Y VALDEZ, ACCUSED-APPELLANTS.

G.R. Nos. 115251-52. October 05, 2000

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

On appeal is the decision of the Regional Trial Court of Dagupan City, Branch 41 in Criminal Cases Nos. D-11026 for frustrated murder and D-11027 for murder, finding appellants guilty of murder and frustrated murder. Appellants profess their innocence and seek an acquittal on the ground that the prosecution failed to prove their guilt beyond reasonable doubt.

The facts of this case are as follows:

From March 5 to 8, the municipality of Mangaldan, Pangasinan celebrates the feast of its patron saint, St. Thomas Aquinas. In 1992, a fair was held in Mangaldan I Central School, featuring a mini-carnival, amusement games, and an open-air movie theater.

At around 9:30 p.m., March 6, 1992, two of the merrymaking residents, Romeo Blaquer and Jesus Malanum, went to the fair reeking of liquor to watch the movie "Grease Gun Gang." They made a noisy pair.

A few minutes after entering the theater, Blaquer and Malanum were suddenly attacked by two knife-wielding persons. Blaquer was stabbed in the left arm, while Malanum in various parts of his body. Although wounded, Blaquer was able to flee. He looked back and saw one of the attackers holding Malanum, while the other repeatedly stabbed him. Their assailants and five others then bodily lifted Malanum and hurled him over the fence of the theater.

Outside the theater, Blaquer ran into a relative who brought him to the police station to report the incident.[1] Then he was brought to the Governor Teofilo Sison Memorial Provincial Hospital in Dagupan City, where the following medico-legal findings were made:

- "- Positive alcoholic breath
- Stabbed (sic) wound, 1.0 Cm. third ICS, midaxillar, line left
- Stabbed (sic) wound, 1.5 cm. seventh ICS, midscapular area left
- Incised wound, 3.5 cm. posterior aspect middle third arm left
- Stabbed (sic) wound 1.5 cm. antero-medial aspect, proximal third arm left."[2]

Malanum was also rushed to the said hospital, but died on arrival. The cause of his death was "Hypovolemic Shock second degree due to Multiple Stabbed Wound (sic)."[3]

During the investigation, Blaquer told the police that he did not know the names of the assailants, but he could identify them. From a group picture of the theater's employees which the police showed,[4] Blaquer identified

appellants Dee and Salanga as responsible for killing Malanum. The authorities then tracked appellants to Balungao, Pangasinan where they were apprehended.

In an Information dated April 6, 1992, the Provincial Prosecutor of Pangasinan charged appellants with the murder of Malanum allegedly committed as follows:

"That on or about the 6th day of March, 1992 in the evening, in the municipality of Mangaldan, province of Pangasinan, Philippines and within the jurisdiction of this Honorable Court, the above named accused, conspiring, confederating and mutually helping one another, armed with sharp, pointed and bladed weapon(s), with intent to kill, with treachery and abuse of superior strength, did then and there, wilfully, unlawfully and feloniously attack, assault, stab and hit Jesus Malanum y Pascua, inflicting upon him 'multiple stabbed wound (sic)' as shown in the Certificate of Death issued by Dr. Franco Rosario, M.D. of the Gov. Teofilo Sison Memorial Provincial Hospital, Dagupan City, to the damage and prejudice of the heirs of Jesus Malanum y Pascua.

Contrary to Article 248 of the Revised Penal Code."[5]

In another Information dated April 8, 1992, appellants were charged with frustrated murder against Blaquer, thus:

"That on or about the 6th day of March, 1992 in the evening, in the municipality of Mangaldan, province of Pangasinan, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually helping one another, armed with a sharp, pointed and bladed weapon, with intent to kill, with treachery and abuse of superior strength, did then and there, wilfully (sic), unlawfully and feloniously attack, assault, stab and hit Romeo Blaquer, inflicting upon him the following:

- stabbed (sic) wound, 1.0 cm. third ICS, midaxillary line left,
- stabbed (sic) wound 1.5 cm. seventh ICS, midscapular area left,
- incised (sic) wound 3.5 cm. posterior aspect middle third arm left,
- stabbed (sic) wound 1.5 cm antero-medial aspect, proximal third arm, left,

the accused having thus performed the acts of execution which would have produced the crime of murder as a consequence but nevertheless did [not] produce it by reason of cause/s independent of the will of the accused that is the timely medical assistance afforded to Romeo Blaquer which prevented his death, to his damage and prejudice.

CONTRARY to Article 248 in relation to Article 6 of the Revised Penal Code."[6]

The two charges were initially filed with the Regional Trial Court of Lingayen, Pangasinan.[7] On July 15, 1992, however, the RTC of Lingayen ordered the indorsement of the two cases to the RTC of Dagupan City since the locus criminis fell within the territorial jurisdiction of the latter court.[8]

On September 2, 1992, appellants were arraigned. Assisted by counsel de oficio, they pleaded not guilty to the charges. Trial on the merits then commenced.

The prosecution presented Saturnino Paroche, an eyewitness to the incident. Paroche declared he was inside the mini-theater when he saw appellant Salanga first stab Blaquer, then Malanum.[9] Paroche averred that he was only two arms' length away from Malanum when the incident occurred.[10] He testified that he saw the events clearly because of a bright fluorescent lamp some three meters from his position.[11] He further stated that he saw Salanga and five other companions bodily lift and throw Malanum over the fence of the cinema.[12] Paroche did not know Salanga's name but pointed to him in open court as one of the culprits responsible for the fatal stabbing of Malanum.[13]

Testifying for the prosecution, Blaquer related that he was with Malanum when they entered the cinema. They stood near the brightly-lit entrance when, without any warning, they were suddenly attacked by two men armed with knives. Salanga stabbed him in the arm while, simultaneously, Dee knifed him in the back.[14] Salanga and Dee also stabbed Malanum several times,[15] after which, with the help of five other persons, they threw him over the fence. Blaquer then escaped from the assailants.[16] He testified that he was positively sure as to the identities of their attackers and pointed to appellants in open court.

SPO4 Elpidio Maningding of the Mangaldan police force testified that he was the investigator who showed Blaquer the group picture of the employees of ABEN New Theatre, the scene of the incident. Looking at the picture, Blaquer pointed out his assailants.[17] Maningding pointed to appellants in open court as the culprits identified by Blaquer.[18] He said he arrested appellants with the aid of policemen from Balungao, Pangasinan.[19]

Another police investigator, SPO4 Augusto Aquino, testified that Blaquer pointed to appellants at the police line-up in the Mangaldan police detention cell as the ones responsible for stabbing him and killing Malanum.[20]

Appellants raised the defense of alibi. Dee declared that at the time of the incident he was at the jackpot section of the carnival, attending to its operations,[21] while Salanga averred that he was inside the ticket booth, handing out tickets.[22] They said they knew nothing of the incident,[23] but admitted hearing about it.

To corroborate their alibi, appellants presented Robelio Aben, the operator of the ABEN New Theatre, and Ernesto Corpuz, the gatekeeper of the cinema.

On February 21, 1994, the lower court rendered its decision, thus:

"WHEREFORE, considering all the foregoing and finding accused JOHN DEE y OPIDO and ALEX SALANGA guilty of the crime of MURDER qualified by treachery as defined and penalized under par. 1. Art. 248 of the Revised Penal Code and FRUSTRATED MURDER, there being no qualifying circumstances, both accused are hereby sentenced to suffer the penalty of RECLUSION PERPETUA for Murder and an indeterminate penalty of SIX (6) YEARS OF PRISION CORRECCIONAL as the minimum to TWELVE (12) YEARS, FIVE (5) MONTHS and ELEVEN (11) DAYS OF RECLUSION TEMPORAL as the maximum for Frustrated Murder.

Both accused are likewise ordered to pay jointly and severally the heirs of deceased Jesus Malanum the amount of P50,000.00 as indemnity for the latter's death plus the amount of P22,330.00 for the amount spent for the wake and burial. They are further ordered to pay Romeo Blaquer the amount of P10,955.00 as and for civil liability.

The accused who are presently detained at the Provincial Jail, Lingayen, Pangasinan are immediately ordered to be transferred to the New Bilibid Prison in Muntinlupa, Metro Manila for security reasons.

SO ORDERED."[24]

Hence, the instant appeal.

In their brief, appellants assign the following errors allegedly committed by the trial court:

I

THE LOWER COURT GROSSLY ERRED IN CONVICTING THE TWO ACCUSED OF THE CRIMES CHARGED BECAUSE THE PROSECUTION'S EVIDENCE WAS OBVIOUSLY WEAK AND UNCONVINCING.

II

THE LOWER COURT ERRED IN FAILING TO NOTE THE MATERIAL INCONSISTENCIES IN THE PROSECUTION'S EVIDENCE, WHILE IT HOWEVER NOTED THE INSIGNIFICANT INCONSISTENCIES IN THE TESTIMONIES OF THE DEFENSE WITNESSES, THUS SHOWING THE PARTIALITY AND UNFAIRNESS OF THE QUESTIONED DECISION.

The principal issue to be resolved, in our view, is whether the guilt of appellants has been proved beyond reasonable doubt.

In their first assignment of error, appellants try to discredit the identification made by the surviving victim, Blaquer. They contend that since the incident happened at night, inside a cinema, Blaquer could not have identified them. They likewise seek to capitalize on the admission of the police investigators that they were in the dark as to the identities of the perpetrators until the photo was shown to Blaquer. Appellants further point out that Blaquer was under the influence of liquor at the time of the incident and could not even identify the alleged five companions of appellants who helped the latter throw the severely wounded Malanum over the theater fence. They submit that in view of the doubtful identification made, the prosecution's evidence failed to overcome the presumption of innocence in their favor.

The Office of the Solicitor General argues that the failure of the victim to initially identify his assailants to the police investigators does not necessarily mean that he could not identify them at all. It only means that he did not know their names prior to the incident. Furthermore, the fact that Blaquer was found positive for alcoholic breath does not necessarily prevent him from making a positive identification of his attackers. There was no showing that his level of intoxication was such as to impair his faculties. His credibility should not be made to suffer on this score alone. As to the allegation that the incident happened inside a dark theater, the OSG points out that the prosecution had clearly established that the victims were stabbed close to the brightly-lit entrance of the theater. The light was sufficient for Blaquer to see appellants and identify them as the perpetrators of the crime.

In brief, the contentions of the parties respecting the first assigned error revolve around the credibility of prosecution witness Blaquer. When an accused challenges his identification by witnesses, he in effect assails their credibility.[25] Time and again, we have ruled that the credibility of witnesses is a matter best left to the determination of the trial court because of its unique advantage of having observed the witnesses firsthand and to note their demeanor, conduct, and attitude.[26] The assessment of the trial court of the credibility of witnesses are binding upon this Court except when there are facts and circumstances of weight and influence overlooked by the lower court, which could alter the result.[27]

We have thoroughly scrutinized the records of the instant case, but we find no reason to disregard the rule. Appellants were positively identified by prosecution witnesses as the persons responsible for the fatal stabbing of Malanum and the wounding of Blaquer. The latter did not know appellants personally, but identified them from a group photograph of the mini-cinema's employees. At the time Blaquer was shown the photograph, the incident was still fresh in his mind. Furthermore, he pinpointed appellants at the police line-up inside the detention cell, as well as in open court. It bears stressing that Blaquer did not know personally both Dee and Salanga, having seen them only that fateful night, yet he readily pointed to the two in the photograph and at the police line-up. We find Blaquer's positive identification credible, forthright, consistent, and convincing. The identification withstood the test of a rigorous cross-examination. Appellants' contention that Blaquer was "positive for alcoholic breath" at the time of the incident does not detract from his positive identification of appellants as the malefactors. There was no showing whatsoever that Blaquer's level of intoxication was such as to impair his senses or faculties and thereby prevent him from making a positive identification of the accused. The law presumes that, in the absence of proof to the contrary, every person is of sound mind.[28] Moreover, it is the most natural reaction of victims of violence to strive to see the appearance of the perpetrators of the crime and observe the manner in which the crime was

committed.[29]

Nor can we give credence to appellants' contention that since the incident happened inside a darkened, open-air mini-cinema, at night, positive identification would have been difficult, if not impossible. The prosecution duly established that the incident occurred near a bright fluorescent lamp at the theater entrance.[30] Hence, it was not impossible or even difficult for that matter, for Blaquer to have recognized and identified the perpetrators. Where the conditions of visibility are favorable and the prosecution witness does not appear to have any ill motive to testify unfavorably against the accused, the identification of the accused as the felon should be given full faith and credit.[31]

On the second assigned error, appellants contend that the trial court erred in failing to note the inconsistencies in the testimonies of the prosecution witnesses. Appellants particularly harp on prosecution eyewitness Paroche's declarations that it was Salanga alone who stabbed both Malanum and Blaquer. They now insist that Paroche's statements contradict the claim of Blaquer that both Salanga and Dee attacked him and Malanum with knives.

The Solicitor General argues that Paroche's testimony essentially corroborates that of Blaquer's in its material points and, in fact, does not demolish the prosecution's evidence identifying appellant Salanga as one of the malefactors. That there are discrepancies between their testimonial accounts could have been caused by the natural fickleness of memory, and the variances serve to strengthen rather than weaken the prosecution's cause, since the differences in their respective testimonies erase any suspicion that their stories were rehearsed. According to the Solicitor General, said variances do not impair the essential integrity of the prosecution witnesses.

Based on the record, we find that Blaquer and Paroche were consistent in pinpointing Salanga as the killer of Malanum. The fact that Paroche failed to identify Dee as one of those responsible for the killing of Malanum and the stabbing of Blaquer does not discredit either his own or Blaquer's testimony. Witnesses who tell the truth are not expected to give error-free testimonies, considering the lapse of time and the treachery of human memory.[32] Nor is there a requirement that the separate testimonies of the witnesses must meet in perfect congruence.[33] Recollections of different witnesses with respect to the circumstances of a criminal incident would naturally differ in various details.[34]

At this point, we must stress that over and above Paroche's testimony, the eyewitness account of Blaquer can stand on its own. The testimony of a lone eyewitness, if found positive and credible by the trial court, is sufficient to support a conviction, especially where the testimony bears the earmarks of truth and sincerity and has been delivered spontaneously, naturally, and in a straightforward manner.[35] Witnesses are weighed, not numbered, and it is not at all incredible or uncommon for a conviction to be based on the testimony of a single witness.[36]

Appellants contend that the trial court was biased in disregarding their alibi. Alibi is one of the weakest defenses in a criminal case and should be rejected when the identity of the accused is sufficiently and positively established by the prosecution.[37] For alibi to prosper as a defense, one must not only prove that he was somewhere else when the crime was committed, he must also show that it was physically impossible for him to have been at the scene of the crime.[38] In this case, appellants admitted their presence at the mini-cinema. Salanga averred that he was in the cinema ticket booth issuing tickets.[39] Dee testified that he was at the "jackpot section" (lakpatan) working.[40] Their employer, Robelio Aben, declared that both appellants were working at the time of the incident, "in front of the theater."[41] Ernesto Corpuz, a co-employee of appellants, also testified that when the attack on Malanum and Blaquer occurred, both appellants were working. Salanga was in front of the theater advertising the show, while Dee was managing the "tangga" table.[42] It was, therefore, not physically impossible for appellants to be at the locus criminis.

Appellants' defense of denial must likewise fail in the light of their positive identification by Blaquer. Like alibi, denial is inherently weak and must fail vis-à-vis the positive declaration of a truthful witness, who affirms that appellants were at the scene of the crime and were its perpetrators.[43] The positive, forthright declarations of the eyewitness outweigh the negative, self-serving denials of appellants.[44]

The trial court qualified the killing of Malanum to murder because of the presence of treachery. It found that:

"The prosecution, in these cases, had clearly established with certainty that the two accused perpetrated a simultaneous, deliberate and sudden aggression on their unsuspecting victims Blaquer and Malanum who were then unarmed." [45]

Treachery exists when the offender commits any of the crimes against persons, employing means, methods, or forms which tend directly and especially to insure the execution of the crime without risk to himself arising from the defense which the offended party might make.[46] Treachery indeed attended the killing of Malanum and the near-fatal wounding of Blaquer. Armed with knives, appellants attacked without warning. Coldly and deliberately they stabbed unarmed and unsuspecting victims. The trial court did not err in finding that treachery qualified the killing of Malanum so that appellants are guilty of his murder. They are also guilty of the frustrated murder of Blaquer.

WHEREFORE, the assailed decision of the Regional Trial Court of Dagupan City, Branch 41, in Criminal Cases Nos. D-11026 and D-11027 is **AFFIRMED**. Costs against appellants.

SO ORDERED.

Bellosillo, (Chairman), Mendoza, Buena, and De Leon, Jr., JJ., concur.

[1] Records, p. 14, Criminal Case No. D-11026.

[2] Id. at 4; Exhibit "N," Exhibit "1," Folder of Exhibits.

[3] Exhibit "M," Folder of Exhibits.

[4] Exhibit "E," supra.

[5] Records, p. 1, Criminal Case No. D-11027.

[6] Records, p. 25, Criminal Case No. D-11026.

[7] The cases were raffled to Branch 39 of the RTC of Lingayen and docketed as Criminal Cases Nos. L-4613 (Frustrated Murder) and L-4614 (Murder).

[8] Supra Note 6, at 29.

[9] TSN, October 8, 1992, p. 11.

[10] Id. at 12.

[11] Id. at 12, 17.

[12] Ibid.

[13] Id. at 10.

[14] TSN, October 1, 1992, p. 5.

- [15] Id. at 7.15
- [16] Id. at 9.
- [17] TSN, November 12, 1992, p. 14.
- [18] Id. at 15.
- [19] Id. at 15-17.
- [20] TSN, December 15, 1992, pp. 6-9.
- [21] TSN, July 29, 1993, p. 2.
- [22] Id. at 4.
- [23] Id. at 3, 4.
- [24] Records, p. 188, Criminal Case No. D-11026.
- [25] *People v. Aquino, et al.*, G.R. No. 129288, March 30, 2000, p.11 citing *People v. Martinez*, 274 SCRA 259, 268 (1997).
- [26] *People v. Milliam*, G.R. No. 129071, January 31, 2000, p. 13.
- [27] *People v. Paglinawan*, G.R. No. 123094, January 31, 2000, p. 14.
- [28] *People v. Joya*, 227 SCRA 9, 21 (1993).
- [29] *People v. Pulusan*, 290 SCRA 353, 372 (1998).
- [30] TSN, October 1, 1992, p. 7; TSN, October 8, 1992, pp. 12, 17.
- [31] *People v. Lumacang, et al.*, G.R. No. 120283, February 1, 2000, p. 11.
- [32] *People v. Ebrada*, 296 SCRA 353, 365 (1998).
- [33] *People v. Amondina*, 220 SCRA 6, 10 (1993).
- [34] *People v. Andres*, 296 SCRA 318, 333 (1998).
- [35] *People v. Alagon and Rafael*, G.R. No. 126536-37, February 10, 2000, p. 13.
- [36] *People v. Aquino*, G.R. No. 126047, September 16, 1999.
- [37] *People v. Dando*, G.R. No. 120646, February 14, 2000, p. 18 citing *People v. Salvador*, 279 SCRA 164 (1997).
- [38] *People v. Virtucio, Jr.*, G.R. No. 130667, February 22, 2000, p. 7.
- [39] TSN, July 29, 1993, p. 4.
- [40] Id. at 2.
- [41] TSN, June 10, 1993, p. 4.
- [42] Tangga is a gambling game at local carnivals where coins are thrown into various circles depicted on a table. TSN, July 8, 1993, pp. 2-3.
- [43] *People v. Juan and Juan*, G.R. Nos. 100718-19, January 20, 2000, p. 19 citing *People v. Baniel*, 275 SCRA

472 (1997).

[44] People v. Sesbreño, G.R. No. 121764, September 9, 1999, p. 22.

[45] Supra Note 24.

[46] People v. Galido, G.R. No. 128883, February 22, 2000, p. 9.

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