

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. EMILIO RABUTIN, ACCUSED-APPELLANT.

G.R. Nos. 118131-32. May 05, 1997

Ponente: MELO, J.

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MELO, J.:

Accused-appellant Emilio Rabutin pleads for reversal of the judgment rendered by Branch 20 of the Regional Trial Court of the Ninth Judicial Region stationed in Pagadian City, which found him guilty of the separate crimes of murder, and of double murder and frustrated murder, and consequently sentenced him as follows:

ACCORDINGLY, for the deaths of the victims LEONARDO DE LAS ALAS, in Criminal Case No. 5809, WILMA ARNOCO DE LAS ALAS, in Criminal Case No. 5900, and WARREN DE LAS ALAS, in Criminal Case No. 5900, Judgment is hereby rendered finding the Accused EMILIO RABUTIN, GUILTY beyond reasonable doubt or moral certainty as Principal of three (3) crimes of Murder under Article 248 of the Revised Penal Code, Paragraph (1), sentencing him to suffer three (3) penalties of RECLUSION PERPETUA, with accessory penalties prescribed by law, and to indemnify the heirs of LEONARDO DE LAS ALAS, WILMA ARNOCO DE LAS ALAS and WARREN DE LAS ALAS in the sum of Fifty Thousand Pesos each.

ACCORDINGLY, for the near death and injuries of the victim GLENDY DE LAS ALAS, in Criminal Case No. 5900, Judgment is hereby rendered finding the accused EMILIO RABUTIN, GUILTY beyond reasonable doubt or moral certainty as Principal of the crime of Frustrated Murder under Article 250 of the Revised Penal Code, Paragraph (1), sentencing him to suffer the penalty of imprisonment, ranging from 8 years of prision correccional, as minimum, to 17 years, and 4 months of reclusion temporal, as maximum, with the accessory penalties prescribed by law, and to indemnify GLENDY DE LAS ALAS in the sum of Twenty Thousand Pesos.

Emilio Rabutin shall serve the above sentences successively subject to the three-fold rule of Article 70 of the Revised Penal Code. The maximum period of imprisonment for this convict shall be forty (40) years (see *People vs. Macatambal*, 13 SCRA 328, 333).

(Rollo, pp. 35-36.)

Accused-appellant Emilio Rabutin was charged under two separate Informations docketed as Criminal Cases No. 5899 and 5900, for the crimes of murder and of double murder with frustrated murder, respectively, reading as follows:

Criminal Case No. 5899

That on or about 9:00 o'clock in the evening of July 18, 1988 at barangay Datagan, municipality of Don Mariano Marcos, province of Zamboanga del Sur, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with evident premeditation and with treachery, with intent to kill, did then and there, willfully, unlawfully and feloniously shot and fire upon one LEONARDO DE LAS ALAS with an armalite rifle, M16, thereby hitting and inflicting upon the latter multiple bullet wounds on the different parts of his body which caused his instantaneous death.

Acts contrary to law.

(p. 1, Record, Crim. Case No. 5899.)

Criminal Case No. 5900

That on or about 9:00 o'clock in the evening of July 18, 1988 at barangay Dagatan, municipality of Don Mariano Marcos, province of Zamboanga del Sur, Philippines, and within the jurisdiction of this Honorable Court, the above named accused, with evident premeditation and with treachery, with intent to kill, did then and there willfully, unlawfully and feloniously strafe and fire upon Wilma delas Alas and her children Warren and Glendy, all surnamed delas Alas, successively with an armalite rifle, M16, thereby hitting and inflicting upon the said Wilma de la Alas, Warren delas Alas and six-year old Glendy delas Alas several bullet wounds on the different parts of their body which caused the instantaneous death of Wilma delas Alas and Warren delas Alas; and inflicting upon the said Glendy delas Alas, several mortal wounds on the different parts of her body, thereby performing all the acts of execution which would produce the crime of murder as a consequence but which, nevertheless, did not produce it by reason of causes independent of the will of the accused, that is, the timely and able medical assistance rendered to the said Glendy delas Alas.

Act contrary to law.

(pp. 1-2, Record, Crim. Case No. 5890.)

Upon arraignment on October 4, 1988, accused-appellant denied both charges. Following a joint trial, a judgment of conviction ensued, as aforequoted. Hence, the instant appeal anchored on the following assigned errors:

I

THE TRIAL COURT ERRED IN GIVING DUE WEIGHT AND CREDIT TO THE TESTIMONIES OF THE PROSECUTION WITNESSES ALTHOUGH THE SAME WERE TAINTED WITH INCONSISTENT AND INCREDIBLE AVERMENTS.

II

THE TRIAL COURT ERRED IN FINDING THAT THERE WERE SUFFICIENT CIRCUMSTANTIAL EVIDENCES TO JUSTIFY CONVICTION OF THE ACCUSED.

(Rollo, pp. 76, 80)

The bare material facts which may be culled from the records are the following:

The series of events began at 4 o'clock on the afternoon of July 18, 1988 when accused-appellant Emilio Rabutin, witnesses Pedro Suco and Celso Suco, all members of an organization called "Sagrada Corazon Señor" (SCS), met for supper at the latter's house at Datagan. After supper, the three headed for the house of Leonardo delas Alas, one of the victims in this case. Celso Suco, who was authorized as a CHDF member, brought his M1 garand rifle with him. Upon reaching Leonardo's house, Celso and one companion, went upstairs, while the third one remained outside the house, by the yard. Sometime thereafter, gun bursts from an M16 armalite rifle were heard, and the two came rushing down from the house together, Celso, with his M1 garand rifle and his other companion, with an M16 armalite rifle. Immediately, accused-appellant and the Suco brothers fled from the scene of the crime.

Leoniso Jabordo, the victims' closest neighbors, heard the gunshots and recognized the same to have come from the house of Leonardo delas Alas. Thus, together with his brothers, Nelson and Retchel, Leoniso proceeded to the crime scene where they found the spouses Leonardo and Wilma delas Alas and their son Warren, all dead. Their

daughter Glendy, who was still alive, was brought to her grandmother's house for immediate treatment.

Accused-appellant and the Suco brothers returned the following morning to the scene of the crime where they saw the dead bodies of Leonardo, Wilma, and Warren delas Alas.

In spite of these uncontroverted facts, only Emilio Rabutin was charged for the crimes. The two brothers, as prosecution witnesses pointed to him as the lone killer. In his defense, however, accused-appellant fingered Celso as the gunman. This Court, as well as the court below is bewildered why the two brothers were not charged.

In pinning down accused-appellant as the lone assailant, the prosecution relied heavily upon the testimony of Rodrigo Gumilos as the eyewitness to the commission of the crime. According to him, on July 18, 1988, at about 9 o'clock in the evening, he was about to buy kerosene from the house of Leonardo and Wilma delas Alas, because his wife had just delivered their child. He saw accused-appellant Emilio Rabutin with an armalite rifle, seated in the sala of the victim's house. Suddenly, accused-appellant stood up and fired the armalite rifle at Leonardo who was not able to move anymore from where he was seated. Rodrigo, however, confirmed the presence of Celso Suco, who, according to him, passively stood there while accused-appellant was firing the armalite rifle at the victims. Additionally, Rodrigo attested that Celso also fired his own M1 rifle, hitting the coconut tree where the witness was hiding.

For his part, accused-appellant insists on his version which presents thusly:

Accused-appellant Emilio Rabutin testified that Leonardo delas Alas and his family lives in a two-storey house. He denied that on July 18, 1988 at around 9:00 p.m., Rodrigo Gumilos went to the house of delas Alas for the purpose of buying kerosene because there is no store in that house. He also denied having received the Armalite rifle from Wilma, the wife of Leonardo delas Alas after which, he stepped backward and fired at Leonardo and the rest of his family. He was in the house of Pedro and Celso that evening, when the brothers requested him to go with them to the house of delas Alas as they wanted to borrow rice.

He also testified that he is a missionary who heads a group called Sagrado Corazon Señor where Celso and Pedro Suco were members. Celso and Pedro are armed with Garand rifles issued to them as members of the CHDF. In one occasion, the CHDF attacked the NPA rebels and Celso recovered an armalite rifle from the rebel. The rifle was later issued to Leonardo delas Alas and this angered Celso as he was the one who recovered the rifle. Because of this feud, he requested one Sgt. Versoza to settle the problem and it was agreed that Celso can also borrow the armalite rifle from time to time. After that they went to the house of delas Alas for thanksgiving party.

On July 18, 1988 at about 4:00 p.m. he went to the house of Celso and Pedro Suco to give Celso his wage for working in his farm. On the evening of the said date, he and the two brothers went to the house of Leonardo delas Alas, as the brothers wanted to borrow rice from the latter. The brothers were armed with Garand rifles. Upon reaching the house, the brothers proceeded upstairs while he remained in the front yard. After a while, Pedro came downstairs bringing along the gun of Celso. Then he heard a commotion upstairs followed by gun shots. After the firing ended, Celso went down from the house carrying the armalite rifle. He fired a rifle grenade at the coconut tree then requested Pedro to go upstairs and fire at the victims but then the latter refused. So Celso went back and fired again. They then left the place while the brothers were pushing him away. Finally, he was able to escape from them and went to the house of the victims (TSN., pp. 1-16, December 17, 1992).

Lolito Ripana testified that there is an organization in Datagan, Don Mariano Marcos by the name of Sagrado Corazon Señor one of the activities of whom was to go after the rebels and assist the CHDF in their area. Accused-appellant, Emilio Rabutin, prosecution witness, Celso and Pedro Suco and deceased Leonardo delas Alas are all members of said organization. Sometime in April 1988, Celso Suco, shot an NPA rebel and was able to recover an armalite rifle. Said rifle was later issued to Leonardo delas Alas under a Memorandum

receipt issued by one Sgt. Versoza of the Airborne Unit. For this reason, Celso Suco got angry at delas Alas and said that if he cannot get the armalite peacefully, then he will get it by force. Two months later, delas Alas and his family were shot. (TSN, pp. 2-10, February 26, 1993)

(Rollo, pp. 74-76.)

The Court sustains the conviction of accused-appellant.

Under his first assigned error, accused-appellant assails inter alia the finding of the trial court that witness Rodrigo Gumilos positively established the presence of accused-appellant and Celso Suco at scene of the crime; that accused-appellant fired the fatal shots at the victims; and that there are no facts and circumstances which cast any doubt as to the identity of accused as a principal in the massacre of the delas Alas family.

It is argued that the trial judge should have been more circumspect in weighing the prosecution evidence considering that he was not the judge who heard the testimony of the prosecution witnesses. The trial court, it is contended, could not have ignored the glaring inconsistencies and impossibilities in the testimony of Rodrigo Gumilos, to wit: First, he said that he was barely 5 meters away from the house of the victims when he saw the incident, yet he omitted to mention the presence of Pedro Suco who was just in the front yard of the house. Secondly, the court totally disregarded the fact that there was actually no store in the house of the delas Alas. And thirdly, Rodrigo's action of going out on a dark night and walking two kilometers through a mountain without lighting his way is not in accord with human nature, especially because the area is rebel-infested.

The Court is not persuaded.

The fact that Judge Briccio A. Almeda who rendered the appealed decision was not the one who heard the testimony of the witnesses, which fact Judge Almeda honestly admitted in his decision, will not automatically warrant a reversal of the decision. In fact, in his decision, Judge Almeda candidly stated that "considering the gravity of the crime charged and the probable penalty, he has read and re-read their declarations, deliberately looking for loose-ends, signs of fabrications or dictated story, which might raise reasonable doubt in its mind as to the matter of identification" (Decision, p. 2). We do not doubt that the judge carefully weighed the evidence before he penned his decision which imposed three terms of reclusion perpetua plus another term of eight years of prision correccional to 17 years and four months of reclusion temporal upon accused-appellant.

This Court had ruled that while the trial judge who presided at the trial of the case would be in a better position to ascertain the truth or falsity of the testimony of the witnesses, it does not necessarily follow that a judge who was not present during the trial cannot render a valid and just decision. This is the main reason why all trial courts are mandatorily required to be courts of record. Whoever is tasked to render judgment in every case can rely on the transcribed stenographic notes taken during the trial as the basis for his decision (*People vs. Peralta*, 237 SCRA 220 [1994]).

In *People vs. Fuertes*, 229 SCRA 289 [1994], we ruled:

The fact that the judge who penned the decision did not hear the case in its entirety . . . is not a compelling reason to jettison his findings and conclusions, considering that the full record was available to him for his perusal. (*People vs. De la Cruz, et al.*, 207 SCRA 632 [1992].) This rule has been adhered to by this Court for quite a long time, and there is no reason to go against this principle now. It is not unusual for a judge who did not try a case to decide it on the basis of the record, for the former trial judge might have died, resigned, retired, transferred and so forth. (*People vs. Escalante, et al.*, 131 SCRA 237 [1984].) Even if the judge who heard the evidence is not the one who rendered the judgment and that, for said reason, the latter did not have the opportunity to observe the demeanor of the witnesses during the trial but merely relied on the records of the case, that fact does not render the judgment erroneous (*Co Tao vs. Court of Appeals, et al.*, 101 Phil. 188

[1957].)

(pp. 295-296)

At any rate, upon painstaking review of the records of the case and circumspect consideration of the arguments of accused-appellant, we make the following observations.

While we might agree with the trial court that the testimony of the Suco brothers may be treated as biased since they were proffered to save their own skins, their statements are not automatically stricken off the record so as not to deserve any consideration whatsoever. It should be pointed out that the brothers' narration may significantly shed light as to enable one to assess the credibility of the other prosecution witnesses.

Accused-appellant claims that Rodrigo Gumilos was inconsistent in saying that he witnessed the commission of the crime from a distance of only 5 meters from the house of the delas Alas and yet he made no mention of the presence of Pedro Suco who was just in front of the yard. This matter, to our mind, concerns an immaterial and insignificant detail and does not discredit the testimony of Rodrigo on the very material and significant point bearing on the very act of accused-appellant shooting at the victims. As long as the testimony of the witnesses corroborate each other on material points, the minor inconsistencies therein cannot destroy their credibility (*People vs. Morico*, 246 SCRA 214 [1995]). Inconsistencies on minor details do not undermine the integrity of a prosecution witness. The minor inconsistencies and contradictions in this case only serve to attest to the truthfulness of the witnesses and to the fact that they had not been coached or rehearsed (*People vs. Acob*, 246 SCRA 715 [1995]).

The same applies to the issue of whether or not there was a store at the delas Alas' house. Significantly, in controverting the positive declaration of witness Rodrigo that he happened to be present at the scene of the crime that evening because he was going to buy kerosene from the store of delas Alas, accused-appellant relies solely on his bare denial that there is a store at the said house. In a situation such as this, the court is under no obligation to outrightly discredit Rodrigo as a witness.

Accused-appellant contends that it is against human nature to walk in the dark, as Rodrigo did, without any light or torch. The refutation to the argument is stated by no less than accused-appellant, for he himself claims that the area is rebel-infested. Surely, if one traverses such an area, he would not advertise his presence by illuminating his way.

In fine, we find no circumstances on record to discredit and doubt the veracity of witness Rodrigo Gumilos on the fact that he saw accused-appellant shoot the victims with an M16 Armalite rifle on that fateful night of July 18, 1988.

Anent the second assigned error, accused-appellant posits that, "going over the records, one finds nothing among the circumstantial evidence that pinpoints to the accused as the actual perpetrator of the crime." (Appellant's Brief, p. 16; Rollo, p. 82).

We are not persuaded.

In the first place, the conviction of accused-appellant is not based solely on circumstantial evidence, for he was positively pinpointed and identified as the culprit who fired upon the victims. And as correctly ruled by the trial court:

But even without any eyewitness as it is usual in massacres, this Court cannot help but notice the solid and strong circumstantial evidence pointing to the guilt of the accused. There is more than one circumstance; the fact from which the inference are derived were proven; [1] the meeting at the Suco residence, [2] the intent to

punish the victim Leonardo de las Alas for having offended Rabutin's organization, [3] Rabutin's admitted presence at the scene of the crime, [4] the deaths of the victims when he left the scene of the crime, [5] the flight from the site of the offense, [6] his failure to do anything while the crimes were committed, [7] and his failure to report the matter to authorities; and the combination of all these circumstances is such as to produce a conviction of guilt beyond moral certainty or reasonable doubt.

(Rollo, p. 30.)

In assessing whether or not the above-enumerated circumstances are sufficient to convict the accused for the crimes charged, we turn to *People vs. Contante*, 12 SCRA 653 [1964]:

To warrant a conviction in criminal cases upon circumstantial evidence, such evidence must be more than one, derived from facts duly proven, and the combination of all of them must be such as to produce conviction beyond reasonable doubt. Of course, no general rule has been formulated as to the quantity of circumstantial evidence which will suffice for any case, but that matters not. For all that is required is that the circumstances proved must be consistent with the hypothesis that the accused is guilty, and at the same time inconsistent with the hypothesis that he is innocent, and with every rational hypothesis except that of guilt. (citations omitted)

(pp. 660-661.)

The combination of all of these circumstances enumerated by the trial court clearly and unmistakably presents a hypothesis consistent with guilt, excluding every reasonable hypothesis of innocence. Be that as it may, it must be emphasized that accused-appellant was positively identified by eyewitness Rodrigo Gumilos as the person he saw firing at the victims.

Even granting that the declaration of the two brothers that they went to delas Alas to punish him is self-serving, and that for this reason the same is to be discarded, this will not affect the criminal liability of accused-appellant. Under the premises, motive or lack of it, on the part of accused-appellant is immaterial. It is worth remembering that motive for the commission of the crime does not constitute an element thereof, and lack of motive is not a valid defense. Absence of motive does not preclude conviction when the crime and the participation of the accused therein are definitely established, such that when the culprit is positively identified and there is no room to doubt his identity, motive becomes immaterial (*People vs. Tapic*, 220 SCRA 190; 195 [1993] citing *People vs. Ballines*, 202 SCRA 516 [1991]; and *People vs. Gabatin*, 203 SCRA 225 [1991]).

Additionally, even as accused-appellant would have us believe that the two brothers were carrying firearms when they supposedly went to the house of delas Alas, it is to be observed that accused-appellant failed to explain why there was not any overt act on his part which would at least tend to show that he attempted to stop the commission of the crime, or that he had voluntarily desisted from having any participation in the gruesome crime. What is even more telling is the fact that all three of them fled at the same time immediately after the bloody massacre, having even the gumption and boldness of returning to the scene of the crime the following day to confirm the deaths and injury they had inflicted. The Court also finds significance, as did the trial court, in the fact that accused-appellant failed to report the crime to the authorities after witnessing the crime.

WHEREFORE, finding the conviction of the accused-appellant justified by the evidence on record, the judgment of the Court a quo is hereby **AFFIRMED**. The Department of Justice is likewise **DIRECTED** to conduct an investigation of Celso Suco and Pedro Suco to determine whether or not there is probable cause to charge them for the crimes committed in these cases. No special pronouncements is made as to costs.

SO ORDERED.

Narvasa, C.J., (Chairman), Davide, Jr., Francisco, and Panganiban, JJ., concur.

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