PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. MAXIMO RAMOS Y SAN DIEGO ALIAS “IMO,” ACCUSED-APPELLANT.

G.R. Nos. 135068-72. September 20, 2001

Ponente: BELLOSILLO, J.

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BELLOSILLO, J.:

DEATH for each death. This was the verdict of the trial court on the killer of Eleodoro[1]Araranggol and Severino Araranggol. He was also sentenced to pay the heirs of his victims P50,000.00 as civil indemnity in each case. He is now before us on automatic review.

Maximo Ramos y San Diego alias Imo was initially charged with two (2) counts of murder[2]qualified by treachery and evident premeditation for the killing of Eleodoro Araranggol and Severino Araranggol, and three (3) counts of attempted murder[3]for the wounding of Marcelino Perez, Augusto Perez and Paulino Perez. But the Regional Trial Court of Cabanatuan City, Br. 27, acquitted him of the three (3) counts of attempted murder[4]for the failure of the prosecution to establish his guilt beyond reasonable doubt; hence, this automatic review pertains only to Crim. Cases Nos. 7370-AF and 7371-AF for murder.

The Perez clan of Barangay Sta. Arcadia, Cabanatuan City, was planning a family reunion on 9 February 1997. It was to be held in an open space about twelve (12) meters in circumference surrounded by eight (8) houses belonging to Ben Perez, Nene Maranan, Viring Perez, Baby Maranan, Ome Maranan, Inong Perez, Fernan Perez and Larry Perez.

On 8 February 1997 people were already gathered at the site of the festivities doing different chores like slaughtering the animals, preparing and cooking food over make-shift stoves, and putting up damaras or sheds made of coconut fronds tied to bamboo posts. A rectangular table and three (3) benches were set up about one and one-half (1 1/2) meters long in front of the house of Baby Maranan where a drinking spree was already underway as early as 5:00 o'clock in the afternoon. Among those drinking were father and son Eleodoro and Severino Araranggol, Marcelino Perez, Balat Fernando, Jose Maranan and Augusto Perez.

At around 7:30 that evening the lights suddenly went off. Six (6) improvised lamps made from empty peanut butter jars about six (6) inches tall with cloth wicks and fueled by kerosene lighted the place in addition to the illumination from the make-shift stoves nearby. Three (3) lamps were placed on top of the table where the men were drinking.

At half past 8:00 o'clock that evening the preparations and the merrymaking were disrupted by a sudden burst of gunfire supposedly coming from an armalite rifle. Eleodoro and Severino were hit. Also wounded were Marcelino Perez, Augusto Perez and Paulino Perez who suffered minor injuries. Eleodoro and Severino were rushed to the hospital but the latter was declared dead on arrival while Eleodoro died the following day.

According to Marcelino Perez, the gunman suddenly appeared near the house of Baby Maranan one and a half

(1-1/2) meters away from Severino and three (3) meters from him and Eleodoro. The assassin was sporting a shoulder-length hair a full beard and an earring on his left ear. The gunman aimed his rifle first at Severino hitting him instantly. He next aimed his shots at Eleodoro who suffered several mortal wounds. After the initial burst of gunfire, the rest of the party scampered away for safety except for Marcelino who remained where he was while Severino and Eleodoro were sprayed with bullets. He focused his gaze at the gunman as he was shooting the rest of his relatives. In fact, it was only after the last shot was fired and the gunman had already left that Marcelino thought of lying face down on the ground.[5]In court, Marcelino Perez pointed to accused-appellant Maximo Ramos as the assailant.

On 8 February 1997 between 6:00 o'clock and 7:00 o'clock in the evening, Luis Perez, another prosecution witness, arrived at Bgy. Sta. Arcadia, Cabanatuan City, bringing along with him animals to be butchered for the family reunion. He noticed upon his arrival that there were at least fifty (50) persons already working on their assigned tasks. At around 8:00 o'clock that evening Marcelino Perez, Eleodoro Araranggol, Severino Araranggol, Balat Fernando, Jose Maranan and Augusto Perez started drinking in front of the houses of Baby Maranan and Ome Maranan. Half an hour later, while standing by the door of Baby Maranan's house, Luis Perez heard a sudden burst of gunfire coming from the side of Baby Maranan's house. Severino was hit, then followed by Eleodoro. Luis identified Ramos in the courtroom as the gunman.[6]

In his defense, Maximo Ramos denied participation in the crime. He averred that at the time Eleodoro and Severino were shot, he (Maximo) was in Tagpos, Soledad, Sta. Rosa, Nueva Ecija resting inside the warehouse of his employer Epitacio Rivera and his co-worker Bonifacio Villanueva.

Maximo further testified that early in the morning of 9 February 1997 two (2) policemen went to his house looking for him and Bonifacio Villanueva. After identifying themselves as police officers, they invited him and Villanueva to their headquarters for questioning. They voluntarily went with the police officers when they brought them to the PNP Headquarters in Cabanatuan City, then to the PNP Crime Laboratory for a paraffin test. Thereafter, they were brought back to the PNP Headquarters and placed in a police "line-up" where Maximo was pointed to by Marcelino Perez as the gunman. Before the line-up, Maximo noticed that a certain Perez, a policeman from Talavera, Nueva Ecija, and brother of Marcelino Perez, was making gestures pointing him to Marcelino. He denied having handled, an armalite rifle. The paraffin test conducted on him and Villanueva yielded negative results. This version of Villanueva was corroborated by Ramos.

On rebuttal, the defense presented Alberto Espino who claimed to be the Pangulo of the Civilian Armed Forces Geographical Unit (CAFGU) in their barangay, and that Ramos was an active CAFGU member from 1988 to 1989, and was in fact issued a Garand rifle, not an Armalite.

In convicting Ramos of two (2) counts of murder the court a quo was convinced that based on the testimonies of Marcelino Perez and Luis Perez the identity of the accused as the gunman was adequately established.

We do not see it the way the trial court did. The trial court gave undue credence to the testimonies of the "eyewitnesses" despite their improbabilities and inconsistencies which render them too unreliable for the conviction of accused-appellant.

In common parlance, "positive" means certain, definite[7]or absolute.[8]It means direct, express, opposed to circumstantial.[9]It is one which is expressed clearly, certainly, or peremptorily with no doubt, reservation or unclarity.[10] On the other hand, "identification" means proof of identity; the proving that a person, subject or article before the court is the very same that he or it is alleged, charged or reputed to be; as where a witness recognizes the prisoner at bar as the same person whom he saw committing the crime.[11]Thus, for there to be a positive identification, the perpetrator must be clearly, unhesitatingly, absolutely, expressly, certainly, and without

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any reservation or doubt identified and pointed to as the assailant. The so-called identification made by Marcelino and Luis was marked with unexplained uncertainties and inconsistencies. For sure, it was never explained how Marcelino arrived at the conclusion that the gunman was Ramos.

In his direct examination, Marcelino described the assailant as sporting a long hair and a full beard with an earring on his left ear.[12]In his cross-examination, he even admitted that he saw the assailant for the first time only during the incident.[13] It is, therefore, quite perplexing how Marcelino readily came to the conclusion that the gunman was accused-appellant Ramos.

This Court may accept as true that Marcelino saw the assailant with long hair, full beard and an earring on his left ear, as this pertains to general appearance which can be easily noted at a glance. What bewilders this Court, however, is the failure of Marcelino to make a connection between the assailant and accused-appellant.

Quite relevantly, when Marcelino was invited to the police headquarters at around 1:30 in the afternoon of 9 February 1997, he stated in his affidavit that -

> T:
>
> Nakita mo ba kung sino ang bumaril sa inyo?
>
> S:
>
> Nakita ko po.
>
> T:
>
> Sino kung gayon ang bumaril sa inyo?
>
> S:
>
> Hindi ko po siya kakilala pero kung makikita ko po siyang muli ay makikilala ko po.
>
> T:
>
> Ilarawan mo nga ang itsura ng taong sinasabi mo.
>
> S:
>
> Balbaro po siya, medyo mahaba ang buhok, mataas sa akin na matipuno ang pangangatawan.[14]

What fuels the confusion, however, is the police report also dated 9 February 1997 vis-a-vis the affidavit of Marcelino which narrated thus -

> That, we conducted investigation regarding the shooting incident at Sta. Arcadia, Cabanatuan City committed on or about 8:30 in the evening, February 8, 1997 which resulted in the death of Severino Araranggol and his father Eleodoro Araranggol and wounding of Marcelino Perez, Augusto Perez and Paulino Perez;
>
> That, on or about 9:30 A.M. of February 9, 1997, Mr. Marcelino Perez informed us that he identified the gunman as alias Imo and his companion Bonifacio Villanueva both helpers at the farm of Epitacio Rivera situated at Bgy. Tagpos, Sta. Rosa," Nueva Ecija;
>
> That the undersigned together with Mr. Marcelino Perez proceeded to Bgy. Tagpos, Sta. Rosa and invited Imo who turned out to be Maximo Ramos y San Diego native of Homestead I, Talavera, Nueva Ecija; and Bonifacio Villanueva a resident of Sta. Arcadia, Cabanatuan City x x x x (underscoring supplied).[15]

The conflict between the statements of Marcelino and those of the police officers is glaring and obvious. Never

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did Marcelino mention in his affidavit or in court that he went to the warehouse of Epitacio Rivera in the morning of 9 February 1997 in the company of the police officers to identify and apprehend Ramos. On the contrary, Marcelino manifested in his affidavit executed on 9 February 1997 at 1:30 in the afternoon that he could not yet identify the person of the assailant. Yet, the police officers claimed that Marcelino already knew the identity of the assailant when they went to his place early in the morning of 9 February 1997. In fact, he even accompanied them to apprehend accused-appellant Ramos.

The inconsistency between the statements of Marcelino and those of the police officers is very material and relevant to the instant case. The failure of the prosecution to explain and clarify this obvious discrepancy leads us to conclude that neither, of the statements given by Marcelino nor those of the policemen was credible. Consequently, this renders dubious the identification by Marcelino of accused-appellant as the gunman.

Also, it is difficult for this Court to take the word of Marcelino that he clearly saw the face of Ramos. According to Marcelino, when accused-appellant suddenly appeared the latter immediately fired the initial two (2) shots, followed by successive shots. We find it understandable for the assailant to have raced against time because he was already near his targets and to hesitate would not only derail his plan but also cost him his life. Thus, because of the time element involved, identification could not have been as easy and clear as manifested by Marcelino. Prior to the shooting, Marcelino could not have had a good look at the attacker as to fix his eyes on his features. With a considerable portion of the attacker's face concealed by a full beard, Marcelino's ability and opportunity to recognize him was diminished.

We also hesitate to lend credence to the testimony of Marcelino that he saw accused-appellant prior to the shooting and that while the latter was firing they were facing each other, and it was only after accused-appellant left that he lay down on the ground.

Marcelino was seated beside the second target of the assassination. In the natural course of events and as a normal human reaction, Marcelino would have run away or sought cover at the very start of the attack as the other members of the group did, and not be so bold enough as to face his attacker. Besides, Luis Perez, another prosecution witness, narrated that Marcelino remained behind after the Araranggols were hit because he was pinned down by the body of Eleodoro.[16] Inasmuch as Marcelino was pinned down, he could not have a clear view of the assailant. The actual burst of gunfire was estimated by Marcelino to have lasted for about ten (10) seconds only. Positive identification of the gunman `could not have been achieved in such a fleeting moment, more so that the body of the "eyewitness" was held down by that of the victim.

We find it very unlikely for Marcelino to stay where he allegedly was and not caution his drinking buddies of the impending danger if he indeed saw accused-appellant prior to the shooting. Besides, according to Luis, there were at least fifty (50) persons present in the area. Yet, when the policemen arrived, nobody came forward to identify the assailant. Nobody volunteered any information as regards the identity of the attacker. It cannot be repeated often enough that for evidence to be believed, it must not only proceed from the mouth of a credible witness but must itself be credible. The evidence must be what the common experience and observation of mankind would approve of as probable under the circumstances.[17]

In order to give some semblance of credence to the testimony of Marcelino, the prosecution divined a motive on the part of Ramos. According to Marcelino, Ramos had priorly attempted on the life of his victims and that, in fact, a case for attempted murder had already been filed against him.[18]Unfortunately, this was successfully rebutted by the defense. It appears that the defendant referred to was not accused-appellant in the instant case.

Motive is unnecessary to impute a crime on the accused if the evidence on identification is convincing. But where the proof concerning the identification of the accused is unclear, as in this case, then proof of motive is of

paramount necessity.[19] While generally the motive of the accused is immaterial and does not have to be proved, proof of the same becomes relevant and essential when the identity of the assailant is in question.[20] In the instant case, not only was the identification of the accused-appellant unconvincing, the prosecution miserably failed to ascribe motive to him.

Prosecution witness Luis Perez testified that at the time of the incident there were at least fifty (50) persons milling around the area. Interestingly, even Luis declined to give any information to the police regarding the identity of the gunman. He did not even execute an affidavit identifying accused-appellant as the attacker. Thus, in the police blotter the gunman was described as unknown. It was only in court that Luis implicated accused-appellant as the assailant. The delay by Luis in identifying accused-appellant as the gunman was never sufficiently explained. When asked why he demurred to give information to the police officers, his feeble excuse was that he was prevailed upon by his nephews not to interfere in the case. Supposedly, his nephews, particularly Marcelino, had assured him that they would pursue the case. Since Marcelino had already testified before the court, we are therefore at a loss why Luis suddenly felt the urge and the necessity to volunteer his "eyewitness" account. His excuse that he was merely performing his civic duty as a responsible citizen is lame.

The testimony of the rebuttal witness for the prosecution carries no weight at all. According to Espino, accused-appellant was an active member of the CAFGU in 1988 to 1989, and was in fact issued a Garand rifle. To our mind, this declaration is of no help in the identification of accused-appellant as the assailant. That indeed accused-appellant was an active CAFGU member in 1988 to 1989 bears little or no significance at all considering that the incident subject of the instant case happened eight (8) years hence and at a time when accused-appellant was no longer connected with the CAFGU. Also worth mentioning is the fact that the weapon used in the shooting was an armalite rifle and not a Garand rifle.

Accused-appellant's defense is basically alibi. He maintains that at the time of the incident, he was resting in the warehouse of his employer Epitacio Rivera in Tagpos, Soledad, Sta. Rosa, Nueva Ecija.

As a rule, alibis should be regarded with suspicion and received with caution, not only because they are inherently weak and unreliable, but also because they can be easily fabricated. But equally fundamental is the axiom that evidence for the prosecution must stand or fall on its own merits and cannot be allowed to draw strength from the weakness of the defense. A conviction in a criminal case must rest on nothing less than proof beyond reasonable doubt. The prosecution cannot use the weakness of the defense to enhance its cause. And, where the prosecution's evidence is weak or just equally tenuous, alibis need not be inquired into.[21]

Parenthetically, we cannot understand why the lower court convicted accused-appellant of murder, yet, based on the same set of facts, acquitted him of three (3) counts of attempted murder. Its one-liner explanation that the "prosecution failed to establish the guilt of the accused beyond reasonable doubt"[22] is utterly unacceptable.

Normally, findings of the trial court as to the credibility of witnesses are accorded great weight, even finality, on appeal, unless the trial court has failed to appreciate certain facts and circumstances which, if taken into account, would materially affect the result of the case.[23]From the foregoing, it is clear that the court below overlooked material and relevant facts that could affect the outcome of the case. The constitutional presumption of innocence requires this Court to take "a more than casual consideration" of every circumstance or doubt favoring the innocence of the accused as courts have the imperative duty to "put prosecution evidence under severe testing."[24]

In all criminal cases, all doubts should be resolved in favor of the accused on the principle that it is better to free a guilty man than to unjustly keep in prison one whose guilt has not been proved by the required quantum of evidence.[25]It is only when the conscience is satisfied that the crime has been committed by the person on trial

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that the judgment must be for conviction. For only when there is proof beyond any shadow of doubt that those responsible should be made answerable.[26]

WHEREFORE, for failure of the prosecution to prove the guilt of accused-appellant Maximo Ramos y San Diego alias "Imo" beyond reasonable doubt, the Decision of the Regional Trial Court of Cabanatuan City, Br. 27, dated 26 June 1998, convicting accused-appellant Maximo Ramos of two (2) counts of murder and sentencing him to suffer the penalty of death on each count, and ordering him to pay the heirs of his victims P50,000.00 each as indemnity, is REVERSED and SET ASIDE. Accused-appellant is ACQUITTED and ordered immediately released from custody unless held for some other lawful cause.

The Director of Prisons is DIRECTED to implement this Decision forthwith and to inform this Court within five (5) days from receipt hereof of the date accused-appellant was actually released from confinement. Costs de oficio.

SO ORDERED.

Davide, Jr., C.J., Melo, Puno, Vitug, Kapunan, Mendoza, Panganiban, Quisumbing, Pardo, Buena, Gonzaga-Reyes, Ynares-Santiago, De Leon, Jr., and Sandoval-Gutierrez, JJ., concur.

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[1] Also spelled "Ileodoro."

[2] Docketed as Crim. Cases Nos. 7370-AF and 7371-AF.

[3] Docketed as Crim. Cases Nos. 7372-AF, 7373-AF and 7374-AF.

[4] Decision penned by Judge Feliciano V. Buenaventura, RTC-Br. 27, Cabanatuan City; Rollo, p. 58.

[5] Cross Examination of Marcelino Perez, TSN, 9 September 1997, p. 4.

[6] Direct Examination of Luis Perez, TSN, 21 October 1997, pp. 2-7.

[7] Haines v. Ebert, Ohio Com.Pl., N.E.2d 522, 524.

[8] Coleman v. Roberts, 1 Mo. 97, 100.

[9] Schrack v. Mcknight, 84 Pa. 26, 30.

[10] Webster's Third New International Dictionary.

[11] Black's Law Dictionary, Fourth Edition.

[12] Direct Examination of Marcelino Perez, TSN, 26 June 1997, p. 8.

[13] Cross Examination of Marcelino Perez, TSN, 9 September 1997, p. 3.

[14] Affidavit of Marcelino Perez, Original Records, p. 8.

[15] Joint Affidavit of SPO2 Anastacio P. Apostol and P/Inspector Bienvenido Padua, Original Records, p. 12.

[16] Direct Examination of Luis Perez, TSN, 22 October 1997, p. 4.

[17] People v. Madali, G.R. No. 126050, 16 January 2001.

[18] Cross Examination of Marcelino Perez, TSN, 4 August 1997, p. 12.

[19] People v. Panado, G.R. No. 133439, 26 December 2000 citing People v. Agustin, G.R. No. 114681, 18 July

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1995, 246 SCRA 673.

[20] People v. Austria, G.R. No. 134279, 8 March 2001, citing People v. Bautista, G.R. No. 117685, 21 June 1999, 308 SCRA 620.

[21] Id., citing People v. Milan, G.R. No. 125086, 28 July 1999, 311 SCRA 461.

[22] Rollo, p. 58.

[23] People v. Batidor, G.R. No. 126027, 18 February 1999, 303 SCRA 335.

[24] People v. Bautista, see Note 20.

[25] Ibid.

[26] People v. Vidal, G.R. No. 90419, 1 June 1999, 308 SCRA 1.

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