

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JULIAN PERANTE, JR. AND ORLANDO OBIAS, ACCUSED, JULIAN PERANTE, JR., ACCUSED-APPELLANT.

G.R. Nos. 63709-10. July 16, 1986

Ponente: CRUZ, J.

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CRUZ, J.:

Two separate informations for murder were filed against Julian Perante, Jr. and Orlando Obias in the Court of First Instance of Leyte. Only Perante was tried because Obias was then at large.[1] The joint trial of the two cases resulted in the conviction of the accused-appellant and the imposition on him of the death penalty.[2] The case is now before us on automatic review.

The facts as determined by the trial court are briefly as follows:

In the early morning of July 3, 1981, in Sitio Loctob, Leyte, while Aniano Roque, Romeo Roque and Mamerto Berian were sleeping in a small nipa hut on the farm they were tilling, two men pounced upon them with bolos, killing Aniano instantly and inflicting mortal wounds on Romeo from which he died about three hours later. Only Mamerto Berian survived the attack which he was later to recount in court.[3]

The killers, according to Berian, were Julian Perante, Jr. and Orlando Obias. They first attacked Romeo, who was sleeping near the door and was probably awakened when they arrived. Julian delivered two stab thrusts and two hacking blows and was followed by Obias. Perante then went to the recumbent Aniano and also stabbed him, again to be followed by Obias. Berian, paralyzed at first with fear, was finally able to jump out of the window and escape.[4]

On cross-examination, Berian declared that he could clearly see both accused because of the kerosene lamp hanging in the hut when Perante and Obias attacked them.[5] He could plainly identify the assailants and easily recognized Perante because he had met him several times before when he passed by their farm and sometimes asked for a light.[6]

Another witness, Felicitas Lariosa, testified that in the morning of July 3, 1981, she was awakened by her nephew, Romeo Roque, who was covered with blood. When she asked him what had happened, he said he had been attacked by Julian Perante and Orlando Obias. Romeo Roque died about three-and-a-half hours later shortly after he was taken to the hospital.[7]

Against the positive identification made by Berian and the corroboration of witness Lariosa, Perante offered the defense of alibi. According to him he was in the morning of the tragedy in a place about two kilometers from the scene of the crime and did not learn about the killings until nine days later, on July 12, 1981.[8] He was corroborated by his brother, Julius.[9]

Alibi is an inherently weak defense, more so when, as in this case, the accused is supported only by his own relative. Moreover, Perante was not able to present clear and convincing evidence that it was physically

impossible for him to go to Sitio Loctob during that fatal morning and to return the same morning to Bagong Silang where he claimed he had stayed until he woke up at about 6 o'clock.

"The rule is well-settled that an alibi cannot prosper unless clear and satisfactory evidence is presented that the accused was present at some other place at the time the crime was allegedly committed and that from that place it was physically impossible for him to have been at the place where the crime was committed either before or after the time he was at such other place (U.S. vs. Oxiles, 29 Phil. 587; People vs. Palamos, 49 Phil. 601). Much less can it prevail when there is clear evidence regarding the evidence of the accused. (People vs. Masani, G.R. No. L-3973, Sept. 18, 1952; People vs. Binsol, 100 Phil. 713; People vs. Unlai, G.R. Nos. L-8866-70, January 23, 1957; People vs. Villaroya, 101 Phil. 1061; People vs. Alcaraz, 103 Phil. 533)"

The defense also argues that Perante had no motive for the killings even if it were true, as asserted by the prosecution, that the accused had come to steal the chickens and carabao in the farm. As these were outside the hut, Perante and Obias would not have found it necessary at all, assuming they were the thieves, to kill the persons in the hut.[10]

Who can tell what goes on in the mind of the depraved person, when the bestial in him takes over his better nature and urges him to kill? Indeed, the annals of crime are replete with mindless murders, of lives wantonly snuffed out by killers who had no reason at all to kill.

At any rate, motive is important only when the identity of the culprit is in doubt, and not when he is positively identified by a credible witness.[11] In the instant case, Berian definitely pointed to Perante and Obias as the killers, and his testimony has not been satisfactorily refuted.[12]

The trial court found that the crimes committed were murder, qualified by treachery and with the aggravating circumstance of dwelling. We agree.

"It has been repeatedly held by this Court that there exists the qualifying circumstance of treachery when one takes the life of a person who is asleep" like Aniano Roque in this case.[13] As for Romeo Roque, who had just awakened when attacked, there was also treachery "because the victim, who may still be dazed and unprepared for the attack, would not be in a position to offer any risk or danger of retaliation to the attacker." [14]

The aggravating circumstance of dwelling is applicable because the hut in which the victims were attacked belonged to Juan Roque, who was the father of Aniano Roque and the grandfather of Romeo Roque. They did not just happen to be there when they were killed but were actually supposed to be occupying the hut for the entire duration of their work in the field.[15]

The claim of minority and lack of sufficient instruction, not having been established, is rejected. However, for lack of the necessary votes, the death penalties imposed by the court a quo are hereby reduced to reclusion perpetua.

WHEREFORE, the decision of the lower court is hereby modified and the accused-appellant sentenced to the penalty indicated in the preceding paragraph for each of the two crimes of murder committed. The civil indemnity is increased to P30,000.00 each for the heirs of Aniano Roque and Romeo Roque.

SO ORDERED.

Teehankee, C.J., Feria, Yap, Fernan, Narvasa, Melencio-Herrera, Alampay, Gutierrez, Jr., and Paras, JJ., concur.

[1] Rollo, p. 40.

- [2] Rollo, pp. 11-14.
- [3] TSN, Nov. 17, 1981, pp. 26-33.
- [4] TSN, Nov. 17, 1981, p. 29.
- [5] TSN, Nov. 17, 1981, p. 38.
- [6] TSN, Nov. 17, 1981, p. 39.
- [7] TSN, Nov. 17, 1981, p. 29.
- [8] TSN, July 5, 1982, pp. 57-58.
- [9] TSN, Dec. 9, 1982, pp. 9-10.
- [10] Rollo, p. 47.
- [11] *People vs. Herila*, 51 SCRA 31.
- [12] TSN, Nov. 17, 1981, p. 28.
- [13] *People vs. Dequiña*, 60 Phil. 279 (1934); *People vs. Miranda, et al.*, 90 Phil. 91 (1951).
- [14] *People vs. Avila*, 92 Phil. 805 (1953); *People vs. Atencio, et al.*, 22 SCRA 88 (1968).
- [15] *People vs. Basa*, 83 Phil. 622.

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