

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. CESARIO VILLAGRACIA, NESTOR RAGUT AND REY MARO, ACCUSED, CESARIO VILLAGRACIA, ACCUSED-APPELLANT.

G.R. Nos. 82727-28. April 07, 1993

Ponente: NOCON, J.

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NOCON, J.:

This is an appeal from the decision[1] of the Regional Trial Court, Branch XIX, Bacoor, Cavite, wherein accused-appellant, Cesario Villagracia y Silvio, together with Apolinario Roquino, Judito Toston, Angelito Toston, Elpidio Espedilla, Nestor Ragut and Rey Maro, was charged of the crime of Murder and Frustrated Murder. Two informations[2] were filed, which read:

1. In Criminal Case No. B-85-226, for Murder:

"The undersigned Assistant Provincial Fiscal accuses CESARIO VILLAGRACIA Y SILVIO, APOLINARIO ROQUINO Y HERROY @ PAULINO ROQUINO, JUDITO TOSTON Y MACATO, ANGELITO TOSTON Y MACATO, NESTOR RAGUT, REY MARO AND ELPIDIO ESPEDILLA of the crime of MURDER, committed as follows:

"That on or about the 16th day of June 1985, in the Municipality of Bacoor, province of Cavite, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually helping and aiding each other, did, then and there, willfully, unlawfully and feloniously with intent to kill, treachery and evident premeditation, armed with a jungle bolo, bolo, knife, assault, attack, and stab one Restituto Castillo, hitting him on the different parts of his body thereby causing his untimely death, to the damage and prejudice of his family.

CONTRARY TO LAW."

2. In Criminal Case No. B-85-227, for Frustrated Murder:

"The undersigned Assistant Provincial Fiscal accuses CESARIO VILLAGRACIA Y SILVIO, APOLINARIO ROQUINO Y HERROY @ PAULINO ROQUINO, JUDITO TOSTON Y MACATO, ANGELITO TOSTON Y MACATO, NESTOR RAGUT, REY MARO AND ELPIDIO ESPEDILLA of the crime of FRUSTRATED MURDER, committed as follows:

"That on or about the 16th day of June 1985, in the Municipality of Bacoor, Province of Cavite, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually helping and aiding one another, did, then and there, willfully, unlawfully and feloniously, with intent to kill, treachery and evident premeditation, armed with a jungle bolo, bolo and knife, assault, attack and stab one Federico Adonis, hitting him on the different parts of his body, accused having performed all the acts of execution which would produce the crime of Murder as a consequence but which did not produce it by reason of causes independent of their will, that is due to the able and timely medical assistance rendered to him which prevent his death, to the damage and prejudice of said Federico Adonis.

CONTRARY TO LAW."

After a trial on the merits, accused-appellant was convicted of the crime of Murder and Frustrated Murder while the other accused namely, Apolinario Roquino @ Paulino Roquino, Judito Toston, Angelito Toston and Elpidio Espedilla were acquitted both for the crime of Murder and Frustrated Murder, the dispositive portion of which reads:

"WHEREFORE, foregoing considered, the Court finds:

1. In Criminal Case No. B-85-226 accused Cesario Villagrancia guilty beyond reasonable doubt of the crime of Murder and there being the aggravating circumstance of dwelling, hereby sentences said accused to suffer a penalty of reclusion perpetua and to indemnify the heirs of Restituto Castillo, the amount of P7,500.00 as actual expenses and P30,000.00 moral damages of P10,000.00 (sic) and exemplary damages of P5,000.00 and to pay the costs.

2. Accused Cesario VILLAGRANCIA, in Criminal Case No. B-85-227 guilty beyond reasonable doubt as co-principal of the crime of Frustrated Murder and hereby sentences said accused to suffer a penalty of 10 years of prision mayor as minimum to 17 years of reclusion temporal as maximum and to indemnify to Federico Adonis the amount of P5,000.00 as actual expenses and to pay the costs.

3. In both Criminal Cases Nos. B-85-226 & 227 for Murder and Frustrated Murder respectively, accused Apolinario Roquino, Judito Toston, Angelito Toston and Elpidio Espedilla, on grounds of reasonable doubt are ordered ACQUITTED of the charge.

The preventive imprisonment which accused Cesario Villagrancia has undergone shall be credited in full in his favor.

SO ORDERED."[3]

Appellant was arrested on the night of the incident and was detained immediately. Nestor Ragut and Rey Maro presently remains at large.

The facts of the case are as follows:

It was around 8 o'clock in the evening of June 16, 1985, when a stabbing incident happened in Bagong Silang, Queen's Row Subdivision, Molino, Bacoor, Cavite.

Prosecution witness Lilia Adonis Antivo, brother of Federico Adonis, testified that she was at home heating water when the stabbing incident happened. Someone knocked at the door of her brother's (Federico) house, who was just living beside her. Restituto Castillo who happen to be in Federico's house, opened the door and was suddenly stabbed by Cesario Villagrancia.[4] Nestor Ragut followed by stabbing Federico Adonis.[5] Lilia Adonis Antivo executed a sworn statement[6] narrating how she witnessed the stabbing incident. She said:

"Ng ang oras po ay humigit kumulang sa alas 6:30 ng gabi ika-16 ng Hunyo 1985 ay nakita ko po na tumatakbo si Marilou Ragut na asawa ni Nestor na patungo, sa bahay ni Cesario Villagrancia at Edong at sinabi ni Marilou kay Cesario na nariryan ang kapatid ni Lily (ko) sa bahay nila at pagkasabi niya kay Cesario ay pumunta na si Marilou sa bahay ni Edong at siya po ay umalis na at ang oras nga po ay humigit kumulang sa alas 8:00 ng gabi ay mayroon pong kumatok sa pintuan ng kapatid kong si Federico na katabi ng pintuan ko at ng ito nga po ay buksan ni Restituto ay biglang tinaga ni Cesario Villagrancia si Restituto at pagkataga ni Cesario ay bumaba ito at pumanhik naman si Nestor at sinaksak ang aking kapatid na si Federico at ang sabi ng aking kapatid ay, "Tulungan mo ako bayaw na aking asawa at ng buksan ng aking asawa ang aming pinto tatagain siya ni Nestor kaya ang ginawa ko ay binatak ko ang aking asawa sa loob ng aming kuartero at sila po ay nagtakbuhan na sila."

x x x x x x x x

"Dahil ng mayroon pong kumatok sa pintuan ng aking kapatid ay hinatak ko na po ang sako na dibisyon ng kuarto namin kaya nakita ko po ng saksakin ang aking kapatid at tagain ang kasama nito at nakita ko rin po ang mga kasama ni Nestor at Cesario na sina Apolinario Roquino, Judito Toston at Angelito Toston na nasa labas ng bakod namin na katapat ng pintuan na mayroong mga dalang jungle bolo at itak at si Eduardo alyas Edong at Rey Maro naman ay nasa likod ng bahay namin sa tapat ng pintuan ng kusina at sila ay mayroong mga dalang itak." [7]

Restituto Castillo died on the spot due to hemorrhage, secondary to stab wound of the abdomen as evidenced by the certificate of post-mortem examination.[8] Federico Adonis on the other hand, was brought to the Hospital ng Maynila for treatment.[9]

We find the accused-appellant guilty of the crime charged.

Records will show that Lilia Antivo positively identified accused-appellant as the assailant. Her testimony on Cesario Villagrancia's participation to the killing is revealing. Thus-

"Q. - While you were in your house on that date heating water can you tell the Court if there was any unusual incident that happened?

A. - Yes, sir, Cesario Villagrancia killed Restituto Castillo and Federico Adonis was stabbed by Nestor Ragut." [10]

x x x x x x x x

"Q - You want to tell this Court that these accused were in group when you saw them in front of your house?

A - Yes, sir.

Q - When you saw them in your house what transpired next?

A - They knocked at the door of my brother's house whose house is adjacent to our house it was opened by Restituto Castillo he was suddenly hacked by Cesario Villagrancia and then Nestor Ragut entered and stabbed my brother." [11]

x x x x x x x x

"Q - What did you do when these were taking place?

A - When the accused knocked at the door of my brother, I pulled the sack serving as division between our rooms and I actually saw the stabbing made on my brother and Restituto Castillo." [12]

x x x x x x x x

"Q - Will you please tell the Court how long was the bolo allegedly used by Cesario Villagrancia in hacking Restituto Castillo?

A - Two (2) feet sir.

Q - How far were you when this accused Nestor Ragut stabbed Federico Adonis with a double bladed weapon?

A - From here up to there. (Witness demonstrating more than a meter)

A - That is also the same distance when you saw accused Cesario Villagrancia hacked Restituto Castillo with a bolo?

Q - About an arms length." [13]

In the case of *People vs. Aboga, et. al.*[14] the Court held that the testimony of a prosecution witness, who was only two-arms length away and although there was no electricity but there was a wick lamp inside the house, is credible.

In the case at bar, witness Lilia Antivo was about a meter away from the scene of the crime. There is no doubt that she witnessed the crime and testified on what she saw with utmost accuracy and certainty.

Moreover, prosecution witness Lilia Antivo had no difficulty in identifying accused-appellant Cesario Villagrancia because the latter also resides at Bagong Silang, Queen's Row Subdivision, Molino, Bacoor, Cavite and both see each other almost everyday.

Jurisprudence teaches Us that positive identification of the appellant as the perpetrator of the crime by prosecution witnesses is given great weight.[15]

Another prosecution witness, Edilberto Adonis testified that just before Castillo died, the latter told him that it was Cesario Villagrancia who stabbed him.[16]

Though the declaration made by Castillo is not admissible in evidence, it being done not under consciousness of an impending death, nevertheless the same may be admitted as part of the *res gestae*. The statement that it was appellant who stabbed and caused his injuries was made under the influence of a startling occurrence when Castillo had no time to concoct or devise; and, the statement concerns the occurrence in question and its immediate attending circumstances.[17]

Accused-appellant anchors his defense on alibi.

Accused-appellant alleged that he was in the house of a certain Jun Oredon that evening of June 16, 1985. He further said that he went home at around 10 o'clock in the evening and that his wife informed him of the stabbing incident that happened. However, Jun Oredon was never presented during trial to corroborate his allegation.

In the case of *People vs. Belon*,[18] the Court ruled that alibi cannot prevail over the positive identification of the authors of the crime by the prosecution witnesses. Nor could much credence be given to the testimony of the wife of Cesario, Alicia Villagrancia, who corroborated his defense of alibi. It is undeniable that such testimony is tainted with bias for it springs from the natural desire of a wife to bail out her husband from criminal liability even to the extent of lying.[19]

The lower court correctly found the qualifying circumstance of treachery to be present in the instant case. Said the court a quo:

"Treachery was present in the commission of the crime.

'There is treachery when the offender commits any of the crimes against the person, employing means, methods, or forms in the execution thereof which tend directly and specially to insure its execution without risk to himself arising from the defense which the offended party might make.' (Art. 14, par.16, Revised Penal Code)

"In the case of *People vs. Samonte, Jr.*, (69, SCRA 70) the Supreme Court ruled that in treachery, two conditions must concur: 1) the employment of means, method or manner of execution which would insure the offender's safety from defensive or retaliatory act on the part of the offended party, which means that no opportunity is given the latter to defend himself or to retaliate; and 2) that such means, methods or manner of execution was deliberately or consciously chosen." [20]

Accused-appellant gave the victim no chance to defend himself or repel the assault against him considering the sudden and unexpected attack on his person thereby ensuring its accomplishment.

Appellant further alleged that there was no conspiracy between him and one of the accused, Nestor Ragut.

We agree with the trial court when it said:

“x x x conspiracy was evident when accused Cesario Villagrancia hacked Restituto Castillo to death and then followed by Nestor Ragut who stabbed Federico Adonis. Both accused were together when they knocked (sic) the door of the house where Adonis and Castillo were partaking their supper. Conspiracy may be inferred from the acts of accused when such acts points (sic) to a joint purpose or design. (People vs. Datumina Dinalasing, 98 Phil. 902). Conspiracy need not be established by direct evidence. (People vs. Colamn, 103 Phil 6). Both accused in this case acted simultaneously with a common purpose of inflicting serious and fatal injuries to their victims. Accused Villagrancia and Ragut should be held liable as co-conspirators of the crime of murder and frustrated murder.”[21]

We noticed however, that there was an error in the dispositive portion of the lower court's decision. The phrase, "as indemnity" should be inserted after the amount of P30,000.00.

WHEREFORE, there being no reversible error in the appealed decision and the guilt of accused-appellant CESARIO VILLAGRACIA having been proved beyond reasonable doubt, the same is hereby AFFIRMED except for the modification that the indemnity to be paid to the heirs of the victim be increased in the amount of P50,000.00.[22]

SO ORDERED.

Narvasa, C.J., (Chairman), Padilla, Regalado, and Campos, Jr., JJ., concur.

[1] Rollo, p. 26.

[2] Records, pp. 16-17.

[3] Rollo, pp. 48-49.

[4] T.S.N., March 18, 1986, p. 4.

[5] Ibid.

[6] Exhibit "A", Folder of Exhibits, p. 2.

[7] Ibid.

[8] Exhibit "E", Folder of Exhibits, p. 12.

[9] Exhibit "A-Adonis", Folder of Exhibits, p. 1.

[10] T.S.N., March 18, 1986, p. 3.

[11] Ibid., at p. 4.

[12] Ibid., at p. 5.

[13] T.S.N., June 6, 1986, p. 2.

[14] 147 SCRA 404 (1987).

[15] People vs. Santillan, 157 SCRA 534 (1988).

[16] T.S.N., September 18, 1986, p. 4.

[17] People vs. Roca, 162 SCRA 696 (1988).

[18] People vs. Arbolante, 203 SCRA 85 (1991).

[19] People vs. Loste, G.R. No. 94785 (1992).

[20] Decision, Criminal Case Nos. B-85-226 & 227, pp. 17-18, Rollo, pp. 136-137.

[21] Decision, Criminal Case Nos. B-85-226 & 227, pp. 21-22, Rollo pp. 140-141.

[22] People vs. Sison, G.R. No. 86455, 189 SCRA 643 (1990).

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