

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ROLDAN MANCIO Y SALVERON, ROLANDO C. YERO, EDGAR DAVID,
BORONG ESTRERA, RICHARD DOE, ACCUSED-APPELLANTS.**

G.R. Nos. 93055-56. January 24, 1992

Ponente: PARAS, J.

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PARAS, J.:

For the death of Certified Public Accountant Andrew Angelo and for the hack wound in the face of Erolando Toledo, accused-appellants Roldan Mancio y Salveron and Rolando Yero together with Edgar David, Rorong Estrera and Richard Doe were charged with Murder and Attempted Murder; and sentenced to suffer the penalty of a) Reclusion Perpetua and to indemnify the heirs of the victim jointly and severally the sum of Fifty Thousand (P50,000.00) Pesos and another Fifty Thousand (P50,000.00) Pesos as moral damages in Criminal Case No. C-204990 (83); and b) Imprisonment of Eight (8) years of prision mayor in Criminal Case No. C-220491 (83); and c) To pay the costs of suit.*

The two (Roldan Mancio and Rolando Yero) pleaded not guilty when arraigned. The other three accused were at large.

The prosecution presented nine (9) witnesses who corroborated one another in the following version: –

At around 9:00 in the evening of February 12, 1983, Erolando Toledo, the victim in the attempted murder case together with cousin, deceased Andrew Angelo, the victim in the murder case and three (3) others attended a party at Kanlaon Construction, Bagong Silang, Caloocan City. After about 10:00 p.m., they left the party without A. Angelo as he was eagerly conversing and drinking a little – with a friend whom he had not seen for a long time at a small store near the place of the party. When the group was preparing to go to sleep at the house of Andrew Angelo, the latter's mother beckoned them to fetch her son. The group went out again and brought A. Angelo home at about 12:15 A.M., February 13, 1983. Everyone began to go to sleep once more. After sometime, Andrew Angelo was fidgety and requested that they go out again because he remembered an appointment with a woman who was supposed to be waiting for him at about midnight at the party. This time, they just walked and only Erolando Toledo and Jonifer Tadungog accompanied the deceased. On their way out of the alley they saw a group of five (5) persons sitting on the sidewalk apparently for somebody. Upon passing by said group, the seated five (5) persons composing the group stood up and followed them from behind. When A. Angelo and companions turned about-face as the woman they were about to see was no longer at the appointed spot, they were confronted by the closing-in group of five men. The time was approximately 12:30 or 12:40 early morning of February 13, 1983. A. Angelo at once recognized some of the men and greeted the one nearest to him. He Said "Pareng Roldan, ikaw pala" to which accused-appellant Roldan Mancio replied: "Oo Pare." Immediately Roldan Mancio held Angelo by the nape. One of the men said: – "Pare, ito ba?" As an answer, Roldan Mancio immediately stabbed Andrew Angelo with a long knife making the heinous act easier and deeper-in-thrust as he was as aforesated holding the deceased at the nape with the other hand as if in an embrace. At the same time Erolando Toledo

stepped back but was hacked at the left part of his face by co-accused Rolando Yero or Boy Kulit with his about 2-1/2 feet long bolo causing another companion to comment: "Hindi yan." Then A. Angelo fell to the ground face down and Yero hacked him in the head with his bolo. When the group began stabbing and hacking, the other companion of the deceased ran away out of fright, while the deceased could not get up anymore as he was seriously injured. Then one Richard Doe raised the head of the felled deceased by pulling his hair and Roro Estrera slashed his throat with a balisong and Edgar David hit strongly his back with a lead pipe. Then the assailants fled quickly.

E. Toledo and one Mang Lorenzo reported what happened to the family of A. Angelo. E. Toledo was treated at the Jose Reyes Memorial Hospital for the three-inch wound in his left cheek, while the deceased was initially brought to the Paulino Hospital. For lack of a doctor, he was transferred to Legaspi Hospital and first aid was given him. For lack of proper medical equipment, however, he was brought to the Quezon City General Hospital and underwent several operations. Aware of his impending death, A. Angelo confessed to a priest, then called his mother and named their long time neighbors Roldan Mancio and Rolando Yero as his assailants together with 3 others he knew only by face. He stated too that he felt very weak and in much pain due to his fatal wounds in the head, throat, his slashed intestines and other internal organs and injured back bones with blood regularly coming out of his mouth. In addition, he said his wife will then become a widow soon. On February 16, 1983, A. Angelo died.

As for the defense, both Roldan Mancio and Rolando Yero set up their respective alibis. Roldan Mancio showed a sort of a medical slip accomplished at the Quezon City General Hospital purporting to prove that at around the date and time of the crime he accompanied another hacking victim. This injury was allegedly a result of a rumble that happened near the site of the party the deceased and his group attended. Rolando Yero on the other hand said he was asleep with his family about the time of the crimes. Both accused presented some witnesses.

In their brief, the appellants assigned two errors: – 1) The lower court erred in giving credence to the testimonies of the prosecution witnesses and in disregarding the testimonies of the defense witness; and 2) The lower court erred in convicting accused-appellants of the crimes of murder and attempted murder despite the failure of the prosecution to prove their guilt beyond reasonable doubt.

Alibis can never prevail over the very positive identification of the accused-appellants by several witnesses especially when it was not physically impossible for them to have been present at the place and time the crimes were committed. As culled from the Appellee's Brief, the Solicitor-General properly stated: –

"Toledo himself was hacked by appellant Yero with a jungle bolo and was wounded on the left cheek. Appellant Yero was about to hack Toledo again when one of the group told him that Toledo is not their target.

'During the criminal incident, Toledo was thus only an arms-length away from the appellants and from Angelo. De Vera and Tan, who were coming home from the same party, were only five (5) meters away from the crime scene. The place was well-lighted because of the lighted petromax gas lamp hanging from the window of a nearby house at the scene of the crime. All the three (3) eyewitnesses, therefore, clearly saw the savage slaying of Angelo by appellant Mancio who stabbed him in the stomach with a knife, Yero who hacked his head with a jungle bolo, Estrera who slashed his throat with a fan knife and David who struck his back with a lead pipe.

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'On the matter of appellants' defense of alibi, not a shred of truth could even be sifted from their testimonies. They have not shown, as it was incumbent upon them to do so, that it was physically impossible for any of them to be at the scene of the crimes at the time that said crimes were perpetrated.

‘Appellant Mancio vacuously claims that he was at home and from there went to the hospital at the time of the criminal incident. Considering, however, the proximity of said hospital to the scene of the crime, there is no way with which to conclude that it was physically impossible for appellant Mancio to have committed the acts of killing Angelo and of participating in seriously wounding Toledo, in conspiracy with his companions. Significant considerations must also be given to the fact that appellant Mancio's residence is only fifteen (15) meters away from where Angelo and Toledo were brutally assaulted (p. 17, tsn of Mary Ann de Vera, August 28, 1984).

‘Appellant Yero's alibi, similarly, rests on his claim that he was in his house at the time of the commission of the offenses. It bears to note, however, that appellant Yero resides also in Bagong Silang, Caloocan City, and therefore minutes away from the crime scene which is likewise located at Bagong Silang. In consonance with the trial court's observation, appellant Yero "did not adduce even an iota of evidence that it was physically impossible for him to have been at the place where the victim was attacked." (pp. 8-12, Appellee's Brief; pp. 115-119, Rollo)

As to the motive of the mother of the victim in pinpointing the accused-appellants as the culprits, it is highly inconceivable that the mother of the deceased for instance, who is also the auntie of the injured victim would concoct stories implicating innocent persons. A mother will stick to the truth to be able to bring to the fold of law the criminals who snuffed out the life of a human being which she brought out in this world thru pains of conception and delivery. (People vs. Bernal, 128 SCRA 606).

As to the several neighbor-witnesses, it was obvious that they did not have any grudge or any evil motive against the accused-appellants: Roldan Mancio being a barangay tanod and somewhat a prominent figure in the community and Rolando Yero, a long time neighbor. Their frank, straightforward and spontaneous testimonies ring only of sincerity and truth. Their desire that the real perpetrators of the crimes be the ones to be punished and no one else is their obsession. (People vs. Beltran, 138 SCRA 521).

The dying declaration or statement in articulo mortis of the deceased (People vs. Odencio, 88 SCRA 1) as sadly narrated to his mother deserves serious consideration – (TSN February 17, 1983) as Section 31, Rule 130, Rules of Court states: "The declaration of a dying person made under a consciousness of an impending death, may be received in a criminal case wherein his death is the subject of injury as evidence of the cause and surrounding circumstances of such death."

Finally, a restatement of the old doctrine why the factual findings of the trial court are accorded much credence and respect is again in order. (Peo. vs. Realon, 99 SCRA 422).

The well settled rule that "where the issue is one of credibility of witnesses, an appellate court will generally not disturb the findings of the trial court, considering that it is in a better position to decide the question, having heard the witnesses themselves and observed their treatment and manner of testifying during trial, unless it has plainly overlooked certain facts of substance and value that, if considered, might affect the result of the case." In the instant case, We find no justifiable or compelling reason to disturb the findings and conclusions of the trial court on the credibility of the prosecution witnesses singled out by herein appellants.

WHEREFORE, the decision appealed from is AFFIRMED.

SO ORDERED.

Melencio-Herrera, (Chairman), Padilla, Regalado and Nocon, JJ., concur.

* In a decision dated December 19, 1989 penned by Judge Adoracion G. Angeles of the Regional Trial Court, Branch 121, Caloocan City.

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