

FIRST DIVISION

[G.R. No. 235990, January 22, 2020]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
GIRALYN P. ADALIA ACCUSED-APPELLANT.**

DECISION

LAZARO-JAVIER, J.:

The Case

This appeal seeks to reverse the Decision^[1] dated July 6, 2017 of the Court of Appeals in CA-G.R. CR-HC No. 02210, affirming the conviction of appellant Giralyn P. Adalia for infanticide under Article 255 of the Revised Penal Code (RPC), sentencing her to *reclusion perpetua* and requiring her to pay P100,000.00 as civil indemnity and P100,000.00 each as moral damages, exemplary damages, and temperate damages.

The Proceedings Before the Trial Court

Appellant Giralyn P. Adalia was charged with infanticide under the following Information:

That on or about the 17th day of July, 2010 at Sitio Arabe, Barangay Mayabon, Zamboanguita, Negros Oriental, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, after giving birth to a live baby girl on or about said date of July 17, 2010, with intent to kill, did, then and there, willfully, unlawfully and feloniously CARRY said baby girl who was still less than three days of age and THROW her into (the) Arabe Creek in order to drown and be killed, and whose dead body was eventually recovered early in the morning of July 20, 2010 with the umbilical cord and placenta intact.

An (act) defined and penalized by Article 255 of the Revised Penal Code.
^[2]

On arraignment, appellant pleaded not guilty.^[3] Trial ensued.

Lorna Maruya, Esterlita Obera, Angelita Paltingca, Juanita Paclarin, PO3 Paquito Diaz, Ranie Japon, Cornelia Samy,^[4] and Dr. Delia Futalan testified for the prosecution. On the other hand, appellant manifested that she had no testimonial and documentary evidence to present.^[5]

Version of the Prosecution

On December 18, 2009, appellant consulted Dr. Delia Futalan, Municipal Health Officer and Medico-Legal Officer of Zamboanguita, Negros Oriental, for pain in the

abdomen and urination. Appellant's urinalysis showed that she had a mild form of urinary tract infection. Dr. Futalan prescribed antibiotics for her.^[6]

On March 15, 2010, appellant's mother Rogelia Adalia sought Juanita Paclarin, a *manghihiilot*, to have the latter check appellant's stomach which was growing bigger and bigger. Appellant complained that she had not had her menstruation for five (5) months already. Paclarin refused to examine appellant considering that she was just a therapist specializing in sprains and not a *mananabang*. Rogelia, however, insisted for Paclarin to examine appellant's stomach. Paclarin obliged. She observed that appellant's tummy was, indeed, big although appellant was not fat. When she touched it, she felt something moved inside. Due to her experience with her own pregnancies, she told appellant she was pregnant. But Rogelia forcefully told her that appellant could not be pregnant because she had no husband or boyfriend. Appellant also insisted that she had not had sexual intercourse with any man. Paclarin then advised appellant to see a medical doctor.^[7]

On May 17, 2010, appellant returned to Dr. Futalan's clinic complaining of irregular menstruation and recurrent scanty vaginal bleeding. Upon examination, Dr. Futalan noted that appellant had an abdominal mass compatible to five (5) to seven (7) months pregnancy gestation. When asked, appellant insisted that her last menstruation was in March 2010. Considering appellant's last menstrual period, which was inconsistent with pregnancy, and due to the fact that the rural health center was limited to conducting physical examination, Dr. Futalan directed appellant to seek medical help from the Provincial hospital for further evaluation and management. Before she discharged appellant, however, Dr. Futalan told her she might be pregnant.^[8]

Meantime, appellant's neighbors started to notice that appellant was gaining weight and her stomach was getting bigger. Sometime in May 2010, appellant told Lorna Maruya, who worked in the farm with her, that her menstruation was delayed. Maruya told appellant to seek medical help. Later, Maruya learned from appellant that a doctor allegedly diagnosed her with kidney failure. Appellant also said that a faith healer told her and her mother that her bulging belly was caused by an "*uray*" or bad spirit. The faith healer described it as an "*octopus getting inside the stomach of a person.*" Appellant further told Maruya that she would strangle whatever creature she would give birth to.^[9]

Esterlita Obera and Angelita Paltingca similarly noticed that appellant's tummy was getting bigger.^[10] Appellant even sought advice from Paltingca on how to cure her bulging belly. Paltingca, who was three (3) months pregnant herself, offered to take appellant to the hospital to have an ultrasound with her but appellant declined.^[11]

On July 17, 2010, Maruya was working in the farm with appellant and Rogelia. Appellant suddenly asked Rogelia for permission to go home which the latter granted. Rogelia explained to Maruya that appellant had a headache. Rogelia also mentioned, though, that July 12, 2010 was the ninth (9th) month from appellant's last menstruation. At lunch time, Rogelia told Maruya that she would also be going home as appellant may have given birth already. Rogelia did not come back to work on that day.^[12]

Sometime in the morning on that day, Ranie Japon heard a baby crying in the abandoned shanty owned by appellant's family. He was surprised by the sound

considering that he knew that the shanty was abandoned. Curious, he moved towards the shanty. Suddenly, the crying stopped. Peeping through the shanty, he saw Rogelia and appellant in blood stained clothes. Blood stained rags also littered the floor. As if sensing his presence, Rogelia and appellant hurriedly collected the rags. Japon, on the other hand, left to tell the neighbors what he saw.^[13]

Esterlita Obera also heard a baby crying inside the abandoned shanty of appellant's family. Less than a minute, though, the crying stopped. She did not think anything unusual about the cry. She only thought something strange when she heard later that day that appellant was bleeding.^[14]

Around 1 o'clock in the afternoon, Paltingca saw appellant and Rogelia coming out of the shanty. They were going down the slope. Rogelia was carrying a small pail.^[15]

Around 2 o'clock in the afternoon, Rogelia flagged the tricycad driven by Cornelia Samy. Rogelia instructed her to take her and appellant to the health center. Samy asked appellant whether she was about to give birth already, to which appellant replied "*maybe...*" At the health center, a nurse greeted appellant and her sister. She asked what their health concern was. Appellant's sister replied appellant was bleeding. The nurse referred them to Dr. Abella. Samy then drove them to Dr. Abella. Dr. Abella prescribed ferrous sulphate and advised them to go to an OB Gyne. Appellant though decided to go home.^[16]

The next day, or on July 18, 2010, Rogelia went to Maruya's house to pick up her umbrella. When Maruya asked about appellant, Rogelia said appellant had given birth, but there was no baby, only blood. Later, Maruya saw appellant. When Maruya greeted appellant, the latter replied that she had given birth already.^[17] On the same day, Maruya, Paltingca, and Feliza Adalim went to the abandoned shanty and confirmed the rumor that a lot of blood was left there. There was also a freshly dug hole.^[18]

On the same day, Rogelia once again sought Paclarin's help. Rogelia told Paclarin that appellant was bleeding. Paclarin saw appellant lying on the floor in her sister's home. When Paclarin touched appellant's stomach, she noticed that it had shrunk in size. When she asked whether appellant had given birth, appellant denied giving birth and reasoned that she could not have possibly given birth since she had no boyfriend or husband. She also noted that appellant was weak. She advised appellant to go to a doctor, but the latter said that she had already gone to one.^[19]

On July 19, 2010, Rogelia confronted Maruya regarding their visit to the shanty. Rogelia angrily asked Maruya whether she thought appellant killed the baby. On the same day, Maruya saw appellant who also asked what she thought happened to the baby. Maruya candidly told her they suspected she would kill the baby she was carrying. Appellant retorted "*why would I not strangle it (it) is better to strangle than to raise something that is due to evil spirit.*"^[20]

On July 20, 2010, appellant and Rogelia went to Dr. Futralan's clinic to complain of vaginal bleeding. When she physically examined appellant, Dr. Futralan noted that appellant's breasts were engorged and excreted milk, her abdomen was very lax and there was "*linea negro*," the appearance of her cervix was compatible to three (3) months gestation and admitted one (1) finger, her vaginal wall was very lax, and there was discharge of foul smelling blood. Dr. Futralan's conclusion was that

appellant had delivered a baby two (2) to three (3) days ago. Appellant retracted her initial statement and admitted that her last menstrual period was in October 2009 and not March 2010.^[21]

Meanwhile, PO3 Paquito Diaz received a text message that a baby was found floating in the Arabe creek. Together with other police officers, PO3 Diaz went to the creek. Indeed, an infant girl was on the creek. The baby's umbilical cord was still attached, but her whole body was already bloated. They took pictures of the baby at the *situs criminis* and interviewed some of the people who had milled around the area. A certain Cecilia Rico told them that appellant was the only pregnant woman in town and that there was a shanty nearby with bloodstains on it. When their team went to the shanty, they saw blood stained old clothes scattered around the floor and two (2) dug holes.^[22]

Later that day, Paclarin was once again summoned to the house of appellant's sister. While she was there, she heard that a dead baby was found beside the creek. She confronted appellant and Rogelia but they both ignored her.^[23]

Dr. Futralan was informed that a dead infant was found in the creek and brought to the police station. She went to the police station to examine the baby. She found that the new born baby girl had her placenta intact and her umbilical cord was uncut. In her opinion, the baby would have sustained a life of its own because it was already fully developed. Based on her estimate, the baby died about two (2) to three (3) days from the time it was discovered. She recommended that the baby be buried immediately as the baby's body was already decomposing and forming gas.^[24]

Pending trial, the prosecution moved to exhume the child for DNA with appellant,^[25] which appellant vehemently opposes. By Order^[26] dated August 16, 2013 the trial court granted the motion. Unfortunately, the body of the infant could no longer be found where it was buried.^[27]

The prosecution offered the following exhibits: "A" to "A-1-a" - Lorna Maruya's Affidavit;^[28] "B" to "B-1-" Esterlita Obera's Affidavit;^[29] "C" to "C-1" - Angelita Paltingca's Affidavit;^[30] "D" to "D-1" - Juanita Paclarin's Affidavit;^[31] "E" to "E-1" - PO3 Paquito Diaz's Affidavit;^[32] "J" to "M" - Photographs taken by PO3 Paquito Diaz and his team;^[33] "N" - Medical Certificate dated December 18, 2009 issued by Dr. Delia Futralan to appellant;^[34] "O" - Medical Certificate dated July 20, 2010 issued by Dr. Delia Futralan to appellant;^[35] "P" - Certification dated July 27, 2010 executed by Dr. Delia Futralan as to her examination on the body of the dead infant found at the Arabe Creek on July 20, 2010;^[36] and "R" - Police Blotter Entry No. 00101 dated July 26, 2010 of the Philippine National Police (PNP) Station of Zamboangita, Negros Orienta.^[37]

On the other hand, the defense manifested^[38] it was not presenting any evidence.

The Trial Court's Ruling

By Decision^[39] dated February 23, 2016, the trial court found appellant guilty as charged, *viz.*:

WHEREFORE, the foregoing considered, this Court therefore finds the Accused GIRALYN P. ADALIA guilty beyond reasonable doubt of the crime of INFANTICIDE and hereby sentences her to suffer the maximum penalty of *reclusion perpetua* to death as amended by R.A. 7659. However, pursuant to Republic Act 9346, since the death penalty was abolished accused shall only be sentenced to suffer the penalty of *reclusion perpetua* only.

SO ORDERED.^[40]

The trial court found that although there was no direct evidence that appellant slayed her own child, all the attendant circumstances, especially the actions of appellant and Rogelia before and after the child's birth lead to no other conclusion but that appellant was pregnant, gave birth, and threw her child into the creek to die.

The Proceedings Before the Court of Appeals

On appeal, appellant faulted the trial court for rendering a verdict of conviction. She argued^[41] that the prosecution failed to categorically prove she was pregnant. Dr. Futralan even initially ruled out pregnancy and instead diagnosed her with uterine mass. Dr. Futralan recanted her diagnosis only when a dead infant was found in the creek. Her neighbors' testimonies as to her alleged pregnancy should not be given credence as these witnesses were not experts in the field of gynecology or medicine. Too, the prosecution miserably failed to prove that the child found in the creek belonged to her or whether the child was actually alive at birth. The prosecution witnesses merely testified they allegedly heard a baby crying in the shanty but nobody saw a baby there. Thus, absent any proof that the baby was alive when born, one cannot logically conclude that it was killed. She was merely a "*convenient suspect*" in the killing of the child found floating in the Arabe Creek.

For its part, the Office of the Solicitor General (OSG), through Assistant Solicitor General Raymund I. Rigodon and Associate Solicitor Patricia Ruth E. Peña, countered in the main: jurisprudence does not preclude a finding of guilt on the basis of circumstantial evidence. Considering the nature of the crime, the same is usually done in utmost secrecy. Thus, it is not surprising here that there were no actual eyewitnesses. But it does not mean that the crime did not happen. The following circumstances show that appellant was guilty of infanticide:^[42]

(a) Appellant's neighbors noticed her bulging belly. Some of them even elicited admission from appellant herself. Too, after she did a physical examination on appellant in July 2010, Dr. Futralan concluded that appellant had recently given birth. Appellant herself admitted to Dr. Futralan that her last menstrual period was in October 2009;

(b) Appellant's unusual conduct during her pregnancy, *i.e.*, consistently denying her pregnancy, insisting to Dr. Futralan that her last menstrual period was in March 2010, imputing her condition on evil spirit, and confiding in Maruya that she would strangle whatever creature was inside her tummy - all indicate her sinister plot to conceal her pregnancy;

(c) Appellant's actuations on July 17, 2010 spoke one (1) indubitable fact: she gave birth to a child. The testimonies of the prosecution