

FIRST DIVISION

[G.R. No. 190862, October 09, 2013]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
RICARDO DEARO, PAULINO LUAGUE AND WILFREDO TOLEDO,
ACCUSED-APPELLANTS.**

D E C I S I O N

SERENO, C.J.:

This is an appeal from the Decision^[1] of the Court of Appeals (CA) Cebu City affirming the Judgment^[2] of the Regional Trial Court of Negros Oriental, Dumaguete City, Branch 34 (RTC), finding appellants guilty of three counts of murder and sentencing them to suffer the penalty of *reclusion perpetua* for each count.

On the evening of 26 February 1996, Jose Jaro (Jose), Emeterio Santiago (Emeterio) and his son Rolly, as well as Porferia Luague Guardario (Porferia) and her daughter Analiza, were attending a *fiesta* celebration at Bugay, Bayawan, Negros Oriental.^[3] Around midnight, Emeterio asked Jose whether they might be able to spend the night in the latter's house, which was only about 500 meters away from the dancing area. Jose acceded and told Emeterio, Porteria and Analiza to proceed to his house while he looked for Rolly. Jose eventually found Rolly, and both of them followed the three others to Jose's home.

When Jose and Rolly were about 10 meters away, they heard a single gunshot coming from the house.^[4] The two went down on the ground for safety as they saw Paulino Luague (Luague) coming down from Jose's house, saying "*Ti, tapos ka man!*" (There, now you are finished!). Immediately after, they heard cries of women from inside the house asking for help, followed by a rapid series of gunfire from the back of the house.

When the firing stopped, they saw appellants Ricardo Dearo (Dearo) and Wilfredo Toledo (Toledo), both carrying long firearms, walk with Luague from the back of the house towards the road.^[5] The three had other companions, but Jose and Rolly were not able to identify them.

After appellants left, Jose and Rolly went inside the house and saw Emeterio on the floor, already dead.^[6] Porferia was lying nearby, also dead, while Analiza was still moaning in pain. Rolly wasted no time in looking for a vehicle to bring the victims to the hospital, but Analiza was later also pronounced dead.

Authorities from the Bayawan police station arrived in the house on the afternoon of 27 February 1996 to investigate.^[7] Both Jose and Rolly opted not to divulge any information to them.^[8] Instead, Rolly sought the help of the elements of the Criminal Investigation System (CIS) of Dumaguete City for investigation.^[9]

In the course of the investigation, it was found that the Luague family owned a vast tract of land in Bayawan, Negros Oriental. It was the subject of a sharing dispute between the heirs, including Luague and his sister Porferia.^[10] Part of the dispute involved the appointment of Emeterio as overseer of the land, a move that angered Luague. The animosity deepened when Emeterio padlocked the old house of Aquilino Luague (Aquilino), father of Luague and Porferia.

A few days before the incident, or on 24 February 1996, at around 10:00 a.m., Luague and appellants Dearo and Toledo asked Jose Santiago, brother of Emeterio, to accompany them to the old house to remove the padlock.^[11] While there, Jose Santiago heard appellant Dearo berating Aquilino's tenants in this wise: "You tenants, you believe everything Emeterio tells you. He is not from here. There is no Emeterio Santiago living in Bugay. If only he was here, I would show you how I'd kill him. Before the end of three days, I'll finish him!"^[12]

Marcelo Guardario, husband of Porferia and father of Analiza, confirmed the existence of a land dispute between his wife and her siblings.^[13] They used to reside in Bugay, Bayawan, Negros Oriental, but decided to relocate to Cebu when Luague threatened that they would lose a family member if they returned to Bugay. There was even a time when Luague pointed a gun at Porferia with the same threats.^[14] The latest confrontation between brother and sister was on 26 February 1996, a day before the shooting, when the police advised Luague that he could not prevent Porferia from attending to the farm.^[15]

On 4 June 1996, in three Informations, appellants were charged with murder, all committed by conspiracy and attended by treachery and evident premeditation.^[16]

During trial, appellant Dearo interposed the defenses of denial and alibi. He stated that he was at the fiesta celebration until 1:00 a.m. of 27 February 1996 and arrived home about 2:00 a.m. together with his family.^[17] He denied being with Luague and Toledo and stated that he only learned about the incident from Senior Police Officer 2 (SPO2) Georgin Sefe and Police Officer 3 (PO3) Napoleon Tuble of the Bayawan police station on the afternoon of 27 February 1996. He heard the police officers ask Jose and his wife Larry about the details regarding the incident, and they categorically answered that they could not say anything, because they were not present when it happened.

This statement was corroborated by the police officers, who said that they failed to file a case concerning the incident, because nobody could give them any information.^[18] When SPO2 Sefe and PO3 Tuble went to the house of Jose on the afternoon of 27 February 1996, they only saw bullet holes in the wall of the house and three empty shells of an M-16 rifle. When they sought the other members of the victims' family, they could not name any suspect.

RULING OF THE RTC

On 30 July 2004, the RTC rendered a Judgment^[19] finding Luague and appellants Dearo and Toledo guilty of the three counts of murder and sentenced them to suffer the penalty of *reclusion perpetua* for each count.^[20] For each of the three counts of

murder, appellants were also ordered to pay the victims' heirs in the amounts of P70,000 as civil indemnity, P25,000 as temperate damages and P20,000 as moral damages.

The RTC found that while none of the prosecution witnesses saw the actual shooting of the three victims, the attendant circumstantial evidence in the case are all consistent with the conclusion that Luague and appellants Dearo and Toledo are responsible for the death of the three victims.^[21] Conspiracy was also shown by the closeness and coordination of their acts a few days before and immediately after the shooting.^[22]

The RTC appreciated the qualifying circumstances of treachery and evident premeditation. According to the trial court, treachery was evident when the victims were fired upon while they were inside the house sleeping.^[23] Evident premeditation was also present, since appellant Dearo had already boisterously announced his intention to kill Emeterio a few days before.^[24] Luague was likewise shown to have threatened the life of Porferia a number of times.^[25]

On appeal to the CA, Luague and appellants Dearo and Toledo decried the alleged violation of due process due to supposed partiality and vindictiveness of Judge Rosendo B. Bandal, Jr. (Judge Bandal).^[26] They also pointed out the lack or insufficiency of evidence, which did not satisfy the standard of proof beyond reasonable doubt.

RULING OF THE CA

On 7 July 2009, the CA rendered a Decision^[27] affirming the Judgment of the RTC, with modification in that the civil indemnity was increased to P75,000 and the moral damages to P50,000, and exemplary damages in the amount of P25,000 were added. The award of temperate damages in the amount of P25,000 was maintained.

According to the CA, the pieces of evidence presented by the prosecution were of such nature that these would lead to a conviction that Luague and appellants Dearo and Toledo had acted in concert to kill the victims. Thus, it affirmed the finding of the RTC that the attendant circumstantial evidence in the case was sufficient to support a finding of guilt on their part. The appellate court also affirmed the finding of the RTC that treachery and evident premeditation had attended the crime.^[28]

The CA found no showing that the decision of Judge Bandal was affected at all by the letter of Teodora Luague, wife of Luague, sent to this Court seeking his inhibition and pointing out that the case had remained unacted upon for eight years by the trial court.^[29] The CA ruled that the evidence on record was clear that Luague and appellants Dearo and Toledo were the perpetrators of the crimes.

Hence, this appeal. On 20 February 2012, we considered the case closed and terminated insofar as Luague was concerned in view of his death on 15 September 2011.

ISSUE

Whether the guilt of appellants Dearo and Toledo was proven beyond reasonable doubt

OUR RULING

We deny the appeal.

Section 4, Rule 133 of the Rules of Court, applies when no witness has seen the actual commission of the crime.^[30] It states:

SEC. 4. *Circumstantial evidence, when sufficient.* — Circumstantial evidence is sufficient for conviction if:

- (a) There is more than one circumstance;
- (b) The facts from which the inferences are derived are proven;
and
- (c) The combination of all the circumstances is such as to produce a conviction beyond reasonable doubt.

Under the rule on circumstantial evidence, the circumstances shown must be consistent with each other. They should all support the hypothesis that the accused is guilty and, at the same time, be inconsistent with the hypothesis that the accused is innocent.^[31] “Thus, to justify a conviction based on circumstantial evidence, the combination of circumstances must be interwoven in such a way as to leave no reasonable doubt as to the guilt of the accused.”^[32]

We agree with the RTC and the CA in their finding that the following circumstances, proven by the prosecution and uncontroverted by the defense, combine to leave no reasonable doubt that the appellants conspired to kill the victims:

- a) Luague was at odds with Porferia regarding the sharing of their inherited tract of land, as a result of which Luague had threatened her life a few times before.
- b) Emeterio was the overseer of the land.
- c) Three days before the killing, appellant Dearo vowed to kill Emeterio.
- d) About 10 meters away from the house, Jose and Rolly heard the sound of a gunshot coming from inside the house, after which they saw Luague come out saying, “Ti, tapos ka man!” (There, now you are finished!).
- e) Jose and Rolly heard women’s cries for help immediately followed by a series of rapid gunfire coming from the back of the house.
- f) Appellants Dearo and Toledo emerged from the back of the house carrying long firearms.
- g) Jose and Rolly found the victims with gunshot wounds inside the house, with Emeterio and Porferia already dead, and Analiza still moaning in pain.
- h) A ballistic examination of the recovered metallic fragments and cartridge cases showed that they were fired from an M-16 rifle, a long firearm.^[33]

Appellants try to make much of the alleged insufficiency of lighting at the scene of the incident and argue that it is not enough to make a positive identification of