

THIRD DIVISION

[G.R. No. 142654, November 16, 2001]

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. ROLANDO MENDOZA Y CARPIO, APPELLANT.

DECISION

PANGANIBAN, J.:

The reasons for the admissibility of a dying declaration as an exception to the hearsay rule are (a) necessity and (b) trustworthiness. Necessity, because death renders a declarant's taking the witness stand impossible, and it often happens that there is no other equally satisfactory proof of the crime. Hence, the declaration is allowed to prevent a failure of justice. And trustworthiness, for in the language of Lord Baron Eyre, the declaration is made in extremity, when the party is at the point of death and every hope of this world is gone, when every motive for falsehood is silenced and the mind induced by the most powerful considerations to speak the truth. A situation so solemn and awful is considered by the law as creating an obligation equal to that which is imposed by an oath administered in court.^[1] The idea, more succinctly expressed, is that "truth sits on the lips of dying men."^[2]

The Case

Before us is an appeal from the March 15, 2000 Decision^[3] of the Regional Trial Court (RTC) of Caloocan City (Branch 127) in Criminal Case No. C-55995 (99), convicting Rolando Mendoza of murder and sentencing him to *reclusion perpetua*.

The decretal portion of the RTC Decision reads as follows:

"WHEREFORE premises considered and the prosecution having established to a moral certainty the guilt of Accused ROLANDO MENDOZA of the crime of murder as defined and penalized under Art. 248 of the Revised Penal Code as amended by RA 7659, this Court hereby sentences the said accused to suffer the penalty of reclusion perpetua; to indemnify the legal heirs of the deceased the civil indemnity of P50,000.00; to compensate MELY CRUZ [for] the stipulated actual damages of P65,000.00; to pay Mrs. BEATRIZ VALDOZ moral damages of P40,000.00 and to pay the costs, without any subsidiary imprisonment in case of insolvency.

"The preventive imprisonment suffered by the accused shall be credited in full in the service of his sentence in accordance with Art. 29 of the Revised Penal Code."^[4]

The Information,^[5] dated January 27, 1999, charged appellant, together with his co-accused Reynaldo Balverde, as follows:

"That on or about the 11th day of October, 1998 in Caloocan City, Metro Manila and within the jurisdiction of this Honorable Court, the above-named accused, without any justifiable cause, conspiring together and mutually aiding one another, with deliberate intent to kill and with treachery and evident premeditation, did then and there willfully, unlawfully and feloniously attack, assault and stab with bladed weapons on the different parts of his body one PRUDENCIO VALDOZ Y SANTOS, thereby inflicting upon the latter serious physical injuries which injuries caused the victim's death at East Avenue Medical Center after several days of confinement."^[6]

On March 15, 1999, the trial court issued warrants of arrest^[7] against the two accused. Herein appellant was arrested on October 19, 1999^[8] but his co-accused, Balverde, has remained at large. When arraigned on November 3, 1999, appellant pleaded^[9] not guilty after the Information had been read and interpreted to him in a language that he fully understood.^[10] After pretrial, trial on the merits ensued against him alone. Thereafter, the lower court promulgated its assailed Decision. The Public Attorney's Office, counsel for appellant, filed the Notice of Appeal on March 27, 2000.^[11]

The Facts

Version of the Prosecution

In its Brief,^[12] the Office of the Solicitor General presents the prosecution's version of the facts as follows:

"About 8:00 in the evening of October 11, 1998, Eduardo Mariquit was walking on his way home from his sister's house. While traversing Sta. Rita Street, San Vicente Ferrer, Tala, Caloocan City, he saw Prudencio Valdoz repeatedly stabbed by appellant Rolando Mendoza alias 'Patsy' and Reynaldo Balverde, Jr. alias 'Jingjing.' Using a kitchen knife, appellant stabbed Prudencio Valdoz on the stomach. Likewise, Reynaldo Balverde stabbed Prudencio twice with a butcher's knife, hitting the latter below the left armpit. Wounded, Prudencio Valdoz staggered and collapsed. Reynaldo Balverde alias 'Jingjing' approached Eduardo Mariquit and warned him saying 'wala kang nakita, wala kang narinig.' Thereafter, appellant and Reynaldo Balverde fled. Eduardo Mariquit went to help Reynaldo Valdoz. He assisted him in going to his house which was about twelve (12) meters away. Eduardo Mariquit thereafter went to see the victim's brother, Manuel Valdoz, and informed him that Prudencio was stabbed by appellant Rolando Mendoza alias 'Patsy' and Reynaldo Balverde alias 'Jingjing.'

"Meanwhile, Estrellita Carmelo was watching TV inside her house at 587 Barangay Sta. Rita, Tala, Caloocan City, when she noticed a commotion taking place outside. She heard people shouting that somebody was stabbed.

Estrellita Carmelo went out and saw Prudencio, her neighbor and co-worker, lying still and wounded. Estrellita Carmelo, accompanied by her

neighbors, brought Prudencio to the Tala Hospital in a tricycle. Because the Tala Hospital lacked the necessary equipment to treat the victim, he was transferred to East Avenue Medical Center in Quezon City. Inside the operating room, Prudencio Valdoz beckoned to Estrellita Carmelo to come near him. When Estrellita moved closer and placed her ear near Prudencio's mouth, Prudencio, who was in great pain, told Estrellita x x x, 'Ate, baka mamatay ako sasabihin ko sa iyo kung sino an[g] sumaksak sa akin, tandaan mo lang huwag mong kalimutan.' Prudencio told Estrellita that Rolando Mendoza alias 'Patsy' and Reynaldo Balverde alias 'Jingjing' stabbed him. Estrellita Carmelo stayed with the victim at the hospital till the next day.

"The following day, Manuel Valdoz called the police. PO3 Alex Barroga of the Caloocan City Police Station 6 arrived in the morning at the East Avenue Medical Center. He interviewed the victim and took his statements. In the presence of his relatives and Estrellita Carmelo, the victim, who was gasping for breath, gave his **ante mortem** statement. He pointed to appellant Rolando Mendoza alias 'Patsy' and Reynaldo Balverde alias 'Jingjing' as the persons who stabbed him. The victim affixed his signature on the **ante mortem** statement, with Manuel Valdoz and Merle Valdoz as witnesses.

"On October 19, 1998, the victim died.

"Police Superintendent Ma. Cristina B. Freyra, Medico-Legal Officer, PNP Crime Laboratory Services, Camp Crame, Quezon City conducted an autopsy on the cadaver of the victim. In a Medico-Legal Report No. M-1595-98, dated October 3, 1998, Dr. Freyra stated the following findings and conclusion:

` FINDINGS:

POSTMORTEM FINDINGS:

Fairly nourished, fairly developed, male cadaver in rigor mortis with postmortem lividity at the dependent portions of the body. The conjunctiva lips and nailbeds are pale. There is a surgical incision along the anterior midline of the abdomen, measuring 35 cm long with 34 stitches applied, including 6 tension sutures. Needle puncture marks noted at the distal 3rd of both firearms.

TRUNK:

1) Stab wound, epigastric region measuring 2.6 cm long with 4 stitches applied, 13 cm left of the anterior midline, 120 cm from the heel, 6 cm deep, directed posteriorwards, upwards and medialwards, piercing the left dome of the diaphragm which was surgically repaired.

2) Stab wound, periumbilical region, measuring 1 cm long, just left of the anterior midline, 105 cm from the heel, 9 cm

deep, directed posteriorwards, upwards and medialwards, piercing the head of the pancreas and the loops and mesentery of the small intestine.

3) Stab wound, left anterior lumbar region, measuring 1.5 cm long with 2 stitches applied, 19 cm from the anterior midline, 96 cm from the heel, 9 cm deep, directed posteriorwards, upwards and medialwards, piercing the loops and mesentery of the small intestine.

There is thick greenish yellow exudate in the abdominal cavity.

Stomach is empty.

The rest of the visceral organs are grossly unremarkable.

CONCLUSION:

Cause of death is septic shock secondary to multiple wounds, trunk S/P Exploratory laparotomy.'

"Dr. Freyra declared that a typographical error was committed by the typist who inadvertently omitted to state Stab Wound No. 3 in the Medico-Legal Report. Dr. Freyra thus indicated in her own handwriting, Stab Wound No. 3 as follows:

`STAB WOUND NO. 3 - ANTERIOR LUMBAR REGION, MEASURING 2 CM LONG WITH 1 STITCH APPLIED 14 CM FROM MIDLINE ANTERIOR, 107 CM FROM THE HEEL, 5 CM DEEP, DIRECTED POSTERIOR, UPWARD, AND MEDIALWARD, PIERCING THE LOOP AND MESENTERY OF SMALL INTESTINE.'

"Dr. Freyra further declared that the four (4) stab wounds sustained by the victim were all fatal."^[13] (Citations omitted)

Version of the Defense

Appellant denies participation in the killing of Prudencio Valdoz.^[14] He adds that the trial court gave too much weight and credence to the allegedly incredible testimony of prosecution's principal witness. Appellant reproduced the trial court's narration of the facts, as follows:^[15]

"Evidence for the Defense

"As summarized by the trial court, the evidence for the defense, on the other hand, is quoted hereunder:

"At past 8:00 p.m. of 11 October 1998, he (Accused MENDOZA) with co-accused REYNALDO BALVERDE, JR., @ JING-JING (accused BALVERDE for short) was walking home toward Dr. Puno Street, Barrio Sta. Rita North, Tala, this City coming from Sta. Rita South. Upon reaching the closed store of the BALVERDE, they saw Victim standing thereat with both hands tucked in his pockets. Thereupon Accused BALVERDE asked Victim how

come he was still there at that time and the latter, who was apparently drunk, retorted: 'BAKIT, ANONG PAKIALAM MO.' Thence Accused BALVERDE instructed Victim to go home but instead of acceding thereto Victim cursed him. At this juncture Accused MENDOZA intervened and after pacifying [the] victim, prevailed upon him to go home. As the latter was walking toward his house, Accused BALVERDE asked if they would still watch VHS tape but he failed to receive any answer, hence, Accused MENDOZA decided to go home. After negotiating a distance of about ten (10) meters accused MENDOZA looked back and saw Accused BALVERDE hurriedly walking uphill toward the direction of Victim, prompting accused Mendoza to follow him. While about 8 to 9 meters away from Accused BALVERDE, Accused MENDOZA called his name and in the process Victim whose attention was also alerted thereby, turned around and the next thing Accused MENDOZA saw was Accused BALVERDE and the victim engaging themselves in a fist-fight. Upon approaching the duo, Accused MENDOZA held with his left hand the right hand of Accused BALVERDE which was in Victim's waist and at the same time holding with his right hand Victim's arm, and then he pushed the protagonists, telling them: 'ANO BA KAYO PARANG HINDI TAYO MAGKAKILALA.' Considering that the source of illumination at the scene was an electric post which was quite far, accused MENDOZA was unable to see clearly what actually transpired between the duo, except that he noticed when Victim raised his left arm and simultaneously uttering: 'Hah' before walking ahead and at about a distance of 4 to 5 meters away he fell to the ground on his bended knees. Thinking that this was only brought about by victim's state of drunkenness, accused MENDOZA approached the Victim to take him home. At that instance, accused MENDOZA's brother-in-law JOSELITO GUTIERREZ (JOSELITO for short) and a certain teenager arrived and helped him (Accused MENDOZA) in lifting the Victim who when exposed to the light, they saw his T-shirt to be soaking with blood. At that instance, accused MENDOZA spotted accused BALVERDE running away uphill, thus, he tried to follow the latter to hold him answerable to whatever he did to victim. However, he lost track of accused BALVERDE when the latter entered an alley, hence, accused MENDOZA returned to where he came from and seeing victim already on board a tricycle with some companions including JOSELITO who was in another tricycle he decided to go home; that he never went to the police to identify the real assailant of victim; that he worked as a painter in Antipolo but used to go home every weekend and it was on 19 October 1999 when the police arrested him in connection with this case. Accused MENDOZA further stated that prosecution witness EDUARDO MARIQUIT must have entertained a grudge against him for reason that three weeks prior to the incident he drove him away without giving him anything to eat since their food at the table were just enough for the family especially his children and that before this, MARIQUIT used to drop-by their house on Sundays to beg for some food."^[16]

Ruling of the Trial Court

In finding appellant guilty of murder, the court *a quo* gave full faith and credence to the testimony of the prosecution's principal witness, Eduardo Mariquit, who had positively identified appellant as the perpetrator of the crime. It likewise accepted