

EN BANC

[G.R. No. 129055, September 25, 2000]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. EDGAR BACALSO, ACCUSED-APPELLANT.

DECISION

VITUG, J.:

For review by the Court is the decision, dated 22 January 1997, rendered by the Regional Trial Court of Lanao del Norte, Iligan City, in Criminal Case No. 5759 finding accused-appellant Edgar Bacalso guilty beyond reasonable doubt of the complex crime of double murder with frustrated murder. The trial court has adjudged:

"CONCLUSION

"WHEREFORE, in the light of the foregoing findings and pronouncements and having carefully observed the demeanor of witnesses, judgment is hereby rendered, finding accused EDGAR BACALSO guilty, beyond reasonable doubt of the special complex crime of DOUBLE MURDER with FRUSTRATED MURDER in conformity with the provisions of Article 48 of the Revised Penal Code, and this Court sentences him to the penalty of DEATH, to indemnify the heirs of Artemio Cariit in the sum of P50,000.00 and the heirs of Remelie Cariit in the sum of P50,000.00 and to pay the costs.

"SO ORDERED

"Iligan City, Philippines, January 22, 1997."^[1]

The sentence of death having been imposed, the case has been elevated to this Court by way of automatic appeal.

The information indicting accused-appellant Edgar Bacalso, filed by the Provincial Prosecutor, read:

"The undersigned Provincial Prosecutor accuses EDGAR BACALSO of the crime of DOUBLE MURDER WITH FRUSTRATED MURDER, committed as follows:

"That on or about the 8th day of December, 1994, at Tagoloan, Lanao del Norte, Philippines and within the jurisdiction of this Honorable Court, the said accused did then and there willfully, unlawfully and feloniously, with treachery, evident premeditation, taking advantage of superior strength, and with intent to kill, attack, assault and use personal violence upon the persons of ARTEMIO CARIIT, REMELIE

CARIIT and JERRY CARIIT by then and there throwing a hand-grenade at said victims, thereby inflicting upon them multiple mortal wounds which were the direct and immediate cause of the deaths of said Artemio Cariit and Remelie Cariit and the serious wounding of said Jerry Cariit as a result of said explosion.

"CONTRARY to and in VIOLATION of Article 248 of the Revised Penal Code.

"Iligan City, Philippines, December 12, 1994."^[2]

Arraigned, the accused, assisted by counsel, entered a plea of "not guilty."

The trial court summed up the brief evidence, basically testimonial, respectively submitted by the prosecution and the defense; viz:

"The prosecution's version of the subject incident may be culled from the testimonies of purported eye-witnesses, Evangeline Cariit, Artchel Maglangit and Agustina Atulan, which in essence, are as follows:

"Witness Artchel Maglangit, an eye witness testified that he, together with his friends, were inside the house of the Cariits at Tagoloan; Lanao del Norte at the time of the incident. He likewise saw Edgar Bacalso threw the hand grenade (as portrayed in the information). Witness testified that he is a friend of the accused whom he had known for a year; that although the father (with whom the accused stays with) of the accused is a member of the CAFGU, he knew the accused to be a farmer; that prior to the incident, there was a friendly atmosphere inside the Cariits' residence and as a matter of fact, the tuba Bacalso drank was offered for free; that there being no electricity, the house, which was approximately six (6) meters wide was lighted by three (3) kerosene lamps made from bottles; that accused after thirty (30) minutes of drinking tuba left and came back ten (10) minutes later with the hand grenade; that accused was about three (3) armslength away from witness who was sitted at the balcony when the latter saw the former trying to destroy the bamboo wall of the house; that although there was no light outside the house, witness saw accused clearly because there was a full moon that night; that when accused threw the hand grenade inside the house of the Cariits, some of them were able to jumped out of the house before it exploded; that as a result of the grenade throwing incident and the subsequent explosion, the spouses Cariit died while their son Jerry suffered serious injuries. Witness pointed twice to Edgar Bacalso, the accused, as the culprit.

"Witness Evangeline Cariit in corroboration with the testimony of Artchel Maglangit testified that accused Edgar Bacalso whom she had known for two (2) years was at their house together with her parents, her brother, Artchel Maglangit, Arnie Pescholele, Tony Pagente and Ramil Tonongay; that after supper, accused was seen drinking the tuba which was given to him for free by Mrs. Cariit alone; that after drinking tuba, accused went

home and returned with a hand grenade; that witness who was at the kitchen when the accused returned, saw the accused clearly despite the absence of light because there was a full moon; that witness saw the accused from a distance of about 1 1/2 meters; that accused broke the bamboo wall with his fist and then threw the grenade which eventually exploded inside the sala of the Cariits; that as a result of the explosion, Mr. and Mrs. Cariit and their son Jerry, the three who were not able to jump from the house were hit; that Mr. and Mrs. Cariit died due to wounds sustained while Jerry Cariit, who was seriously wounded was brought to the Iligan City for treatment.

"The last witness for the prosecution, Agustina Atulan, an assistant embalmer of the Cosmopolitan Funeral Parlor testified to establish the facts of death of the spouses Cariit; that when she did an autopsy on the bodies of the spouses Cariit on december 10, 1994, she measured the length of the wounds and did a sketch; that the holes drawn on the sketch indicate the wounds sustained by the victims while the line indicate that the left arm was almost cut or blown off and there appears on the feet of the deceased's wounds inflicted by splinters.

"The defense presented as its lone witness, the accused Edgar Bacalso. Bacalso is presented by the defense to refute the prosecution evidence and the testimony of the prosecution witnesses. The defense further alleges that the accused has no motive whatsoever to inflict injuries against all the victims. Likewise, the accused worked as a farmer and is not in the position to lease, possess and use explosives or any explosive device.

"Witness/accused Edgar Bacalso, a resident of Sitio San Isidro, Tagoloan, Lanao del Norte for the past six (6) years, testified that he started farming at the age of twelve (12) in his grandfather's farm and lives with his sister Mirasol Bacalso because his parents are deceased. The charge against him is untrue because on December 8, 1994 at about 6:00 to 8:00 in the evening, he was asleep at his sister's house, 6:00 p.m. being his usual sleeping time. He further testified that on that particular day, as he usually does, after he finishes his farming chores at 5:00 p.m., he went home to cook rice, ate supper at 5:30 p.m. and went to sleep at 6:00 p.m.; that at 9:00 p.m. he was awakened by the CAFGU Boy Gumari, who arrested him for the death of the Cariits; that although said accusation surprised him as he has never been charged of any crime since birth, he willingly went along with the CAFGU who brought him to the residence of Mayor Rasmia Campong of Tagoloan for investigation; that the house of the Cariits is more or less two (2) kilometers away from his house and it would take thirty (30) minutes by walking or fifteen (15) minutes by running to reach the place."^[3]

Following what would appear to be its own perusal of the divergent testimony of the witnesses, the trial court ultimately came out convinced that the evidence for the prosecution credibly reflected the actual facts of the incident in question. The accused, having been found guilty, was sentenced to suffer the extreme penalty of death.

In every criminal case, the task of the prosecution is always two-pronged, i.e., (1) to prove beyond reasonable doubt the commission of the crime charged and (2) to establish with the same *quantum* of proof the identity of the person or persons responsible therefor, for, even if the commission of the crime is a given, there can be no conviction without the identity of the malefactor being likewise clearly ascertained.

The conviction of accused-appellant in this case hinges on the testimony of two prosecution witnesses, namely, Evangeline Cariit (Cariit) and Archel Maglangit (Maglangit).

While it is entrenched in this jurisdiction that findings of the trial court on the credibility of the witnesses are accorded great weight and respect since obviously it is provided with ample opportunity to observe the demeanor of the declarants at the witness stand, this rule, however, is not without exceptions. Generally put, the saving instance is said to be when a fact or circumstance of weight and influence has been overlooked, or its significance misconstrued, by the trial court sufficient to harbor serious misgivings on its conclusions. It should not be enough that the witness is determined to be credible but his testimony must also be credulous.^[4] It is ineluctable that the identification of the perpetrator of the crime bears heavily on the reasonableness or probability of the testimony of the prosecution witness.

There is, unfortunately, no single test to determine with all exactitude the probity of testimony, and the courts can only give conformity to the quotidian knowledge, observation and experience of man.^[5]

"It has been observed that the most positive testimony of a witness may be contradicted by the fact that the testimony is contrary to common observation or experience or the common principles by which the conduct of mankind is governed. The courts are not required to believe that which they judicially know to be incredible."^[6]

The Court has made a close scrutiny of each account given by Evangeline Cariit and Archel Maglangit. Somehow, it cannot help but entertain serious doubts on the veracity of the malefactor's identity, almost as if, in fact, it were merely contrived to pin the liability of the crime upon accused-appellant. The inconsistencies thereof, dismissed by the trial court as being merely trivial, would, on the contrary, appear to be telltale signs of unlikelihood.

Maglangit testified that he was with the group, which included accused-appellant, imbibing *tuba*, in the Cariit residence. He recounted that accused-appellant had left the group but returned shortly thereafter.

"A. I saw him sir because he destroyed the wall of the house and I was in a place that I can easily see him.

"Q. In fact it was in that place that you were sitting not inside the house where the others were sitting and the light was inside the house?

"A. Yes sir.

"x x x

x x x

x x x.

"Q. You also mentioned before that accused Edgar Bacalso throw a grenade and he also destroyed the wall of the house, did I get you right?

"A. Yes sir, he throw that grenade by way of destroying the wall.

"Q. What material was that wall made?

"A. Bamboo.

"Q. How did he destroyed it?

"A. He punched it sir.

"Q. When he destroyed the wall how big is the destruction?

"INTERPRETER:

Witness showing how the accused destroyed the wall and how big was it, which the Court estimated the portion which was destroyed to be 1 ½ wide by two (2) feet long and the bamboo wall were removed.

"PROS. CUETO:

"Q. That is where he throw the grenade?

"A. Yes sir.

"Q. Will you please tell the Court your relative position in connection with the position of the accused when he destroyed the wall and after which he throw the grenade?

"A. I was inside the house sitting and Edgar Bacalso was standing perpendicular to the place where I was sitting.

"Q. How far were you from Edgar Bacalso?

"A. Very near around three (3) arm length.

"COURT: (To counsel)

Will you agree?

"ATTY. QUIMCO:

Yes sir.

"PROS. CUETO:

"Q. How were you able to see him?

"A. I saw him, he destroyed the wall.