

THIRD DIVISION

[G.R. No. 100197, April 04, 1997]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. EDWIN NARDO AND WILLY YLARDE, ACCUSED-APPELLANTS.

DECISION

PANGANIBAN, J.:

In pleading for acquittal, appellants attack the sufficiency of the evidence of the prosecution and the credibility of its witnesses, and offer the defense of alibi and denial. The Court rejects these contentions and applies the familiar rule according great respect to findings of fact by the trial court. However, it finds the accused guilty of four separate crimes of murder and two attempted murders, instead of the complex crime of murder with double frustrated murder.

Accused-appellants Edwin Nardo and Willy Ylarde appeal their conviction^[1] by the Regional Trial Court of Tayug, Pangasinan, Branch 51,^[2] in a Decision^[3] promulgated on May 8, 1991.

Since Ylarde was still at large, only Accused Nardo was initially charged in an Information^[4] dated November 9, 1987, filed by Assistant Provincial Fiscal Isidro C. Sta. Maria. Nardo pleaded "not guilty" thereto during his arraignment on June 7, 1988. Accused Ylarde was later charged with the same crime by way of an Amended Information,^[5] filed by the same prosecutor, which reads as follows:

"The undersigned hereby accuses EDWIN NARDO and WILLY YLARDE of the crime of MULTIPLE MURDER WITH DOUBLE FRUSTRATED MURDER, committed as follows:

That on or about the 21st day of July, 1985, in the evening, at Barangay Poblacion East, municipality of Umingan, province of Pangasinan, New Republic of the Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with intent to kill and with the qualifying circumstance of treachery armed with M16 Armalite Rifles, conspiring, confederating and helping one another, did then and there wilfully, unlawfully and feloniously shoot and fire at in a sudden and unexpected manner, CLARO SUITOS, MICAELA SUITOS, CLARENCE SUITOS, ANICIA SALES, MACARIO DELA PEÑA and LUZVIMINDA PUDOL, causing the death of CLARENCE SUITOS, ANICIA SALES, MACARIO DELA PEÑA and LUZVIMINDA PUDOL and wounding CLARO SUITOS on the left shoulder and MICAELA SUITOS on the left hip, to the damage and prejudice of the heirs of CLARENCE SUITOS, ANICIA SALES, MACARIO DELA PEÑA, LUZVIMINDA PUDOL, CLARO SUITOS and MICAELA SUITOS.

CONTRARY to Article 248 of the Revised Penal Code."

To said charge, Accused Ylarde pleaded not guilty on April 18, 1990. After due trial,

the court a quo rendered its Decision convicting both accused as charged. The following is the decretal portion of said Decision:

“WHEREFORE, premises considered, the Court finds the accused Edwin Nardo and Willy Ylarde GUILTY beyond reasonable doubt of the crime of Multiple Murder with Double Frustrated Murder, defined and penalized under Article 248 in relation to Article 48 of the Revised Penal Code and there being no aggravating nor mitigating circumstance to off-set each other, hereby sentences both accused to suffer the penalty of RECLUSION PERPETUA and to pay jointly and severally the following:

1. Heirs of Clarence Suits, P50,000.00 as indemnity plus P3,500.00 for the coffin and P10,000.00 for the expenses incurred during the wake;
2. Heirs of Macario dela Peña, P50,000.00 as indemnity and P20,000.00 for the funeral expenses and the wake;
3. Heirs of Anicia Sales, P50,000.00 as indemnity plus P20,000.00 for the funeral expenses and the wake;
4. Heirs of Luzviminda Pudol, P50,000.00 as indemnity and P15,000.00 for the funeral expenses and the wake;
5. Micaela Suits, P21,000.00 for the medical expenses incurred for her treatment and her husband's (Claro) injuries at the Sacred Heart Hospital in Urdaneta, Pangasinan, plus P10,000.00 as moral damages; and
6. Costs of this suit.”^[6]

Thus, this appeal.

The Facts

The antecedents of the case, as related by the trial court and adopted by the Solicitor General in his Brief,^[7] are as follows:

“EVIDENCE OF THE STATE:

From the collective testimonies of Dra. Thelma Busto, MHO of Umingan, Pangasinan, Micaela Suits, wife of Claro (Vic) Suits one of the injured parties and Rogelio Fernandez, the incident happened as follows:

In the morning of July 21, 1985, the accused Edwin Nardo and Willy Ylarde went to the eatery of spouses Claro (Vic) and Micaela Suits located at the public market of Umingan, Pangasinan. They brought with them a buri bag which turned out to contain marijuana leaves. They were offering to sell the same to Claro Suits who told them that it is prohibited, so they left.

At around 6:30 in the evening of the same day, Edwin Nardo and Willy Ylarde went back to the eatery of the spouses and then and there fired indiscriminately at the place with a baby armalite used by Edwin Nardo

and a short firearm used by Willy Ylarde. The firing resulted to (sic) the death of Clarence Suitos, Anicia Sales, Macario dela Peña and Luzviminda Pudol and in the wounding of Claro (Vic) Suitos, Micaela Suitos and the slightly (sic) wounding of Marivic Suitos.

The spouses Claro and Micaela Suitos were brought to the Sacred Heart Hospital in Urdaneta, Pangasinan where they were treated spending P15,000.00 leaving a balance of P6,000.00 unpaid. Their wounded daughter Marivic was merely extended first aid because her injury was merely slight (daplis). Their other daughter Clarence who died in the incident caused them to spend P3,500.00 for her coffin and P10,000.00 for the nine-day wake.

Upon the agreement of the prosecutor and the defense counsel, the expenses for the funeral and wake of the deceased Macario dela Peña and Anicia Sales were pegged at P20,000.00 each while for the deceased Luzviminda Pudol, it was pegged at P15,000.00.

The dead namely, Luzviminda Pudol, Macario dela Peña, Clarence Suitos and Anicia Sales were autopsied by Dra. Thelma Busto (Exhs. A to D).

Pending trial, Claro (Vic) Suitos died in an ambush on October 23, 1989.

EVIDENCE OF THE DEFENSE:

The accused put up the defense of alibi.

They claim that in the morning of July 21, 1985, they went to the eatery of the spouses Claro and Micaela Suitos to sell ten (10) cartoons (sic) of blue seal Marlboro cigarettes and five (5) packages of matches contained in a bag owned by Boy Lopez. Failing to sell the items, as instructed of them by the owner Boy Lopez, they proceeded to Quezon City at around 11:00 a.m. to return the said items to Boy Lopez at 89 West Point St., Cubao, Quezon City. They arrived at 4:00 p.m.. They slept at said place with the caretaker Juan Andres, Jr. and the maid of Boy Lopez named Rosie Espiritu. They left for Umingan, Pangasinan the following day, July 22, 1985.

Their stay at Quezon City was corroborated by witness Juan Andres, Jr., the caretaker of Boy Lopez.

Witness for the defense Nicanor Aquinde, a police investigator of the PC/INP of Umingan, Pangasinan testified that immediately after the incident, he investigated the spouses Claro and Micaela Suitos at the Sacred Heart Hospital in Urdaneta, Pangasinan. In that investigation, both mentioned names other than the herein accused as suspects. Said investigation however which was reduced to writing was unfinished and unsigned because the spouses requested him that they will better give their statements as soon as they get fully well as they are still in a state of shock. And upon their request which said investigator granted, the unfinished and unsigned statements were burned by him.

Reynaldo Andres, on the other hand, testified as follows:

On the day of the incident, he was a tricycle driver then residing at Brgy. Sinabaan, Umingan, Pangasinan. At around 8:00 p.m. on July 21, 1985, he parked his tricycle in the western gate of the compound of public market of Umingan, Pangasinan while waiting for passengers. While thereat, he heard gunshots so he took cover. After the firing, four (4) men approached him and told him to carry them somewhere near the boundary of Umingan and Lupao. Because he was threatened with a long firearm, he ferried them to the destination he was told which was near the boundary of Lupao and Umingan where there were no houses. He did not recognize any of them because it was night-time.”^[8]

Disposing of the accused’s defense of alibi, the trial court gave credence to the categorical and positive testimony given by Eyewitnesses Micaela Suits and Rogelio Fernandez identifying the accused as the perpetrators of the mass murder. Said eyewitnesses were without motive or ill will to perjure their testimonies and to implicate appellants in the crime. Although Micaela Suits failed to name the accused during the police investigation conducted immediately after the incident, the trial judge attributed this failure to the “tension of the moment, shock, excitement and haste, which fact was sustained by (Pat. Nicanor) Aquinde when he agreed to the burning of the alleged unfinished and unsigned statements” of Claro and Micaela Suits.

In addition, the court a quo noted two other factors negating the accused’s claim of innocence: one, the flight of both accused from where the incident happened, which was also their hometown (Umingan, Pangasinan), to elude arrest^[9]; and two, the relationship of the defense witnesses, Brothers Reynaldo and Juan Andres Jr., to Accused Willy Ylarde.^[10]

Finally, the lower court found both accused to have conspired in the murder of the victims, as proven by the simultaneous discharge of their firearms.

Issue

In their appeal, accused-appellants assign this single error to the trial court’s Decision:

“The trial court erred in not acquitting the two herein accused upon the ground that although their defense, in the nature of alibi, is inherently a weak defense, it should be considered sufficient as in this case, to tilt the scale of justice in favor of the accused because the evidence of the prosecution is itself weak and unconvincing and therefore, by and large, insufficient to prove the guilt of the accused beyond reasonable doubt.”^[11]

Restated in clearer and more concise form, the issue centers on the credibility of witnesses and sufficiency of prosecution evidence to prove the guilt of the accused beyond reasonable doubt.

Accused-appellants assail the testimony of Witness Micaela Suits pinpointing them

as the perpetrators of the carnage in spite of the fact that she had earlier named other persons as the assailants. According to appellants, what lends more doubt to her charge is the fact that she claimed to have known both accused prior to the incident and also to have seen them in the morning of that ill-fated day, yet failed to mention their names to the police investigator. If indeed they were the culprits, she could not have forgotten to name them during the investigation conducted immediately after the incident. Appellants likewise cast doubt upon the testimony of Rogelio Fernandez, citing his failure to give a statement to the authorities prior to his testimony in court more than five years later. They stressed that one of the fatalities was one of his landlords.

The Solicitor General sustains the findings of the trial judge who concluded that, after observing the demeanor of the witnesses, the evidence for the prosecution was sufficient to prove that the accused were guilty beyond reasonable doubt of the crime charged. He prays for the affirmation in toto of the appealed Decision.

The Court's Ruling

We affirm the findings of the trial court as regards the guilt of the appellants. However, the crime committed was not multiple murder with double frustrated murder, but four (4) separate crimes of murder committed against each of the four victims -- Clarence Suitos, Macario dela Peña, Anicia Sales and Luzviminda Pudol -- and two (2) separate crimes of attempted (instead of frustrated) murder committed against Spouses Claro and Micaela Suitos.

The Court reiterates the oft-stated general rule in assessing the credibility of witnesses and their testimonies that:

"x x x when the question is raised as to whether to believe the version of the prosecution or that of the defense, the trial court's choice is generally viewed as correct and entitled to the highest respect because it is more competent to conclude so, having had the opportunity to observe the witnesses' demeanor and deportment on the witness stand, and the manner in which they gave their testimonies, and therefore could better discern if such witnesses were telling the truth; the trial court is thus in the better position to weigh conflicting testimonies. Therefore, unless the trial judge plainly overlooked certain facts of substance and value which, if considered, might affect the result of the case, his assessment on credibility must be respected."^[12]

After a scrupulous review of the records of the case, we find that the court a quo did not overlook any fact of substance and value which would alter the conviction of the appellants. No palpable error was committed by the said trial court in assessing the credibility of both prosecution and defense witnesses, and in weighing the value of their testimonies. It correctly concluded that the defense of "alibi is unavailing because the accused were positively identified by witnesses without motive to charge falsely the accused especially with a grave offense that could bring death by execution on the culprit(s)."^[13] Besides, Micaela Suitos was a victim herself and a close relative of other victims, whose testimony should normally be accepted since such witness "usually strive(s) to remember the face(s) of the assailant(s)."^[14] Furthermore, "relationship with a victim would deter a witness from indiscriminately implicating anybody to the crime. His natural and usual interest would be to identify