

THIRD DIVISION

[G.R. No. 118435, June 20, 1997]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. MARIO SERZO, JR., ACCUSED-APPELLANT.

DECISION

PANGANIBAN, J.:

The right to counsel of an accused is guaranteed by our Constitution, our laws and our Rules of Court. During custodial investigation, arraignment, trial and even on appeal, the accused is given the option to be represented by a counsel of his choice. But when he neglects or refuses to exercise this option during arraignment and trial, the court shall appoint one for him. While the right to be represented by counsel is absolute, the accused's option to hire one of his own choice is limited. Such option cannot be used to sanction reprehensible dilatory tactics, to trifle with the Rules or to prejudice the equally important rights of the state and the offended party to speedy and adequate justice.

This will be amplified in this appeal seeking the reversal of the August 23, 1994 Decision of the Regional Trial Court of Antipolo, Rizal, Branch 72,^[1] in Criminal Case No. 90-5997 convicting Appellant Mario Serzo, Jr. of murder under Article 248 of the Revised Penal Code.

Appellant was charged with murder in an Information dated September 4, 1990 filed by Rizal Assistant Provincial Prosecutor Filipinas Z. Aguilar-Ata, worded as follows:
^[2]

"That on or about the 22nd day of August, 1990, in the Municipality of Antipolo, Province of Rizal, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, armed with bladed weapon, with intent to kill, with treachery, did then and there willfully, unlawfully and feloniously attack, assault and stab one Alfredo Alcantara y Casabal at the back, thereby inflicting upon him stab wounds which directly caused his death."

Thereafter, pre-trial was waived and the case proceeded to trial on the merits. After arraignment and trial, appellant was found guilty as charged and sentenced thus:^[3]

"WHEREFORE, on the basis of the foregoing, the Court finds accused GUILTY BEYOND REASONABLE DOUBT of having committed the crime of MURDER and as prescribed under Article 248 of the Revised Penal Code, hereby sentences accused to suffer the penalty of reclusion perpetua and to indemnify the victim's wife in the amount of FIFTY THOUSAND PESOS (P50,000.00) as actual damages and TWENTY FIVE THOUSAND PESOS (P25,000.00) as moral damages and costs."

The Antecedents

Summarizing the testimonies of Adelaida Alcantara (the victim's widow), Medico-Legal Officer Dario L. Gajardo and Epifania Andrade, the trial court found the following facts:[4]

"Alfredo Alcantara Y Casabal never knew that death was just around the corner inevitably meeting his way. That fateful night of August 22, 1990, Alfredo together with his wife Adelaida Alcantara were (sic) staying inside their house comfortably watching television when at around 11:30 in the evening, Susana Serzo, mother of the accused, and one Epifania Bentilacion came knocking at their doorsteps and pleading for help to bring out her grandchildren who were being held inside their house by her son, the accused in this case. Unhesitatingly, the couple heeded their call and went with them at (sic) their house, located just across the private complainant's residence. The spouses were able to rescue the grandchildren and to bring them to a safer place. When returning to their house, Alfredo Alcantara who was walking just armslength ahead of his wife, was attacked by accused Mario Serzo from behind. Accused stabbed Alfredo at his back forcing the latter to scamper for his dear life. However, accused was able to overpower him thereby causing his fall in the canal where he was repeatedly stabbed by the accused. Adelaida Alcantara shouted for help but was likewise attacked by the accused as she was only half-meter away from her husband. However, Adelaida fortunately was able to hold the hand of the knifewielder and persistently fought the accused. (p. 05 TSN June 3, 1991) At that moment, the commotion had already caught the attention of the residents within the vicinity who responded to help her thereby causing the accused to flee. The victim Alfredo Alcantara, who remained lying and motionless in the canal, was rushed to the hospital where he was confirmed dead. (p. 06 TSN June 3, 1991) The Medico-legal Officer, Dr. Dario Gajardo, testified in Court that the victim sustained three (3) stab wounds, two at the back and one in his chest, which instantaneously caused the victim's death. (p.04 TSN May 13, 1991)"

In view of appellant's allegation that he was denied his right to counsel, a narration of the proceedings before the trial court is now in order. Arraignment was set by the trial court on January 8, 1991, during which appellant appeared without counsel. Consequently, the trial court appointed Atty. Wilfredo Lina-ac as counsel de oficio for the arraignment only. Appellant, however, moved that the arraignment be reset and that he be given time to engage a counsel of his own choice, which the trial court granted.[5]

On February 11, 1991, appellant appeared without a counsel de parte. He was nonetheless arraigned with the assistance of Counsel de oficio Wilfredo Lina-ac.[6] He pleaded "not guilty." Pre-trial was waived and trial was set on April 22, May 6 and 13, 1991 for the reception of the prosecution evidence and June 3 and 17, 1991 for the defense.

The hearings scheduled on April 22, 1991 and May 6, 1991 were cancelled on motion of Public Prosecutor Robert H. Tobia.^[7] On both dates, appellant appeared with Atty. Lina-ac. On May 13 and June 3, 1991, trial proceeded with the testimonies of prosecution witnesses. On behalf of appellant, Atty. Lina-ac cross-examined the said witnesses.

On June 17, 1991, trial was again cancelled as appellant appeared without counsel.^[8] On August 13, 1991, the prosecution rested its case.^[9]

On November 4 and 11, 1991, presentation of evidence for the defense was reset as appellant was not ready to testify^[10] and he manifested his intention to secure the services of a counsel de parte.^[11] On March 3, 1992, Atty. Lina-ac was relieved as counsel de oficio in view of appellant's manifestation and refusal to cooperate with said counsel.^[12] On April 6, 1992 appellant appeared without counsel, forcing the trial court to appoint another counsel de oficio, Bella Antonano. Counsels for both parties agreed to reset the trial, but appellant refused to sign the minutes of the proceedings.^[13]

On April 27, 1992,^[14] over vehement objection from the prosecution, hearing was reset for the last time as appellant was still looking for a counsel de parte.^[15] On August 25, 1992, appellant appeared without counsel; thus, the trial court appointed Atty. Bonifacia Garcia of the Public Attorney's Office (PAO) as appellant's counsel de oficio. Again, trial was postponed.^[16] On September 1 and October 19, 1992, trial was postponed on motion of Atty. Garcia.^[17] Appellant again refused to sign the minutes of the proceedings for both trial dates. On November 5, 1992, appellant refused to cooperate with Atty. Garcia by declining to take the witness stand, forcing the defense to rest its case.^[18] Both parties were ordered to submit their respective memoranda in ten days, after which the case would be submitted for decision. Atty. Garcia was further ordered to manifest within the same period whether appellant would change his mind and cooperate with her. No memorandum or manifestation was ever filed by appellant.

Appellant wrote Judge Angeles three times within the period beginning December 16, 1992 until April 2, 1993, seeking legal advice and the early resolution of the case. Branch Clerk of Court Melchisedek A. Guan replied to him twice, informing him that Judge Angeles was prohibited by law from giving legal advice to litigants in cases pending in his court and that a decision was forthcoming. On July 13, 1994, appellant wrote Deputy Court Administrator Reynaldo L. Suarez, asking for the early resolution of his case.^[19] The latter referred said letter to Judge Angeles for appropriate action.

Thereafter, the assailed Decision convicting appellant of murder was promulgated on August 23, 1994.

Ruling of the Trial Court

In its Decision, the trial court noted that appellant simply refused to secure the services of a counsel de parte and to present evidence in his defense despite ample

opportunity accorded to him. Said the trial court:

"The defense particularly the accused assisted by counsel however refused to present any evidence despite several opportunities afforded by the Court. As early as the arraignment stage, accused refused to be assisted by a counsel de oficio from the Public Attorney's Office (PAO) insisting that he be assisted by a counsel of his own choice. For several settings, accused and her (sic) mother were allowed to secure the services of a counsel de parte. However, they failed to present one. Hence, the Court, to avoid further delay in the proceedings of the case, was constrained to assign a counsel de oficio from the PAO.

During the presentation of evidence for the defense, accused and counsel could not present any witness as accused refused to cooperate and to testify in Court. Hence, the defense waived its right to present any evidence.

Considering that this case has been dragging for several years already x x x the court x x x afforded the defense another opportunity to present its case by submitting its memorandum simultaneously with the Prosecution. Thereafter, the case was submitted for decision."^[20]

Consequently, the trial court convicted appellant on the basis of the evidence presented by the prosecution. Appellant was positively identified as the assailant by the widow, Adelaida Alcantara, who survived his attack. In her distinct and vivid narration of the sequence of events leading to the murder, she showed that the attack was treacherous as the victim was stabbed at the back and without warning.

Not satisfied with the trial court's Decision, appellant through Counsel Carmelo L. Arcilla^[21] appealed to this Court.

Assignment of Errors

In his Brief filed by Atty. Arcilla, appellant questions his conviction for murder based on the following alleged errors on the part of the trial court:^[22]

"I

The lower court erred in not giving the defendant-appellant time to engage counsel of his own choice.

"II

The lower court erred in not affording the defendant-appellant the chance to present evidence for his defense.

"III

The lower court erred in not acquitting the defendant-appellant."

Mainly, appellant alleges that he had been denied effective legal representation. His thesis is that the trial court did not give him enough time to engage a counsel de parte, effectively depriving him of the chance to present evidence in his defense. In fact, the scant five-page Appellant's Brief was dedicated entirely to this argument without contesting the facts found by the trial court.

The Court's Ruling

The right of an accused to counsel is guaranteed by the Constitution, the supreme law of the land. This right is granted to minimize the imbalance in the adversarial system where the accused is pitted against the awesome prosecutory machinery of the state. In the words of Justice Black,^[23] this is a "recognition xxx that an average (accused) does not have the professional skill to protect himself xxx before a tribunal with power to take his life or liberty, wherein the (prosecutor) is xxx an experienced and learned counsel." In *Powell vs. Alabama*,^[24] Mr. Justice Sutherland wrote at greater length on why an accused needs a competent counsel:

"Even the intelligent and educated layman has small and sometimes no skill in the science of law. If charged with crime, he is incapable, generally, of determining for himself whether the indictment is good or bad. He is unfamiliar with the rules of evidence. Left without the aid of counsel he may be put on trial without a proper charge, and convicted upon incompetent evidence, or evidence irrelevant to the issue or otherwise inadmissible. He lacks both the skill and knowledge adequately to prepare his defense, even though he has a perfect one. He requires the guiding hand of counsel at every step in the proceedings against him. Without it, though he be not guilty, he faces the danger of conviction because he does not know how to establish his innocence."

The right covers the period beginning from custodial investigation, well into the rendition of judgment,^[25] and even on appeal. Article III of the 1987 Constitution provides this right to an accused not only during trial but even before an information is filed. It provides:

"SEC. 12. (1) Any person under investigation for the commission of an offense shall have the right to be informed of his right to remain silent and to have competent and independent counsel preferably of his own choice. If the person cannot afford the services of counsel, he must be provided with one. These rights cannot be waived except in writing and in the presence of counsel."

"SEC. 14 (1) No person shall be held to answer for a criminal offense without due process of law.

(2) In all criminal prosecutions, the accused shall be presumed innocent until the contrary is proved, and shall enjoy the right to be heard by himself and counsel, x x x."

With these precepts as springboard, the Rules of Court grants an accused the right to counsel under the following provisions, viz.: