

SIXTH DIVISION

[CA-G.R. CR HC No. 05059, November 12, 2014]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ISIDRO RAMIREZ Y BALLAD, ACCUSED-APPELLANT.

DECISION

TIJAM, J.:

Before this Court is an Appeal^[1] interposed by Accused-Appellant Isidro Ramirez y Ballad (Ramirez), assailing the Decision^[2] dated February 23, 2011, of the Regional Trial Court (RTC) of Tuguegarao City, Branch 03 in Criminal Case No. 12145, which found Ramirez, as well as co-accused Melanio Furigay y Suyu (Furigay), guilty beyond reasonable doubt of the felony of murder, and sentenced them to suffer the penalty of imprisonment of *reclusion perpetua*.

The facts pertinent to the resolution of this case are as follows:

On June 29, 2006, an Information^[3] was filed by the Provincial Prosecutor charging Ramirez and Furigay of Murder as defined and penalized under Article 248 of the Revised Penal Code, as amended by Republic Act 7659, alleging the following:

"That on or about JANUARY 26, 2003 in the Municipality of Penablanca, Province of Cagayan and within the jurisdiction of this Honorable Court, the said accused ISIDRO RAMIREZ Y BALLAD and SP01 MELANIO FURIGAY Y SUYU armed with a knife and M16 Assault Rifle, conspiring together and helping each other, with intent to kill, treachery and with evident premeditation, did then and there willfully, unlawfully and feloniously attack, assault and stab MANUEL BUGAO, inflicting upon him stab wound on his body which caused his death.

CONTRARY TO LAW."

Upon his arraignment on May 20, 2008, Ramirez pleaded "not guilty"^[4] to the charge against him. Furigay likewise entered a plea of "not guilty" during his arraignment on June 23, 2008.^[5]

Ramirez and Furigay filed a Petition for Bail,^[6] but was denied in a Resolution dated June 3, 2009^[7]. Forthwith, trial on the merits ensued.

The version of the prosecution:

On January 26, 2003, at 10:00 o'clock in the morning, the victim Manuel Bugao

(Manuel), Virgilio Suyat, Jr.(Virgilio), Roniel Bugao (Roniel), Rollan Bugao (Rollan) and Benito Malaggay (Benito), (hereinafter referred to as "Bugao's group") were making farm huts situated in Sitio Caronsi, Alimannao, Penablanca, Cagayan, in the land of Mr. Aledgundo Cayosa (Aledgundo). Consequently, Ramirez (who was armed with a .45 caliber pistol), with Furigay, in a police uniform and armed with an armalite [M16]^[8], together with his companions, armed with bolos, arrived and surrounded Bugao's group.^[9]

Manuel told Ramirez that they were not going to fight. When he was about to show a map of Aledgundo's land, Ramirez boxed Manuel and thereafter stabbed him. Rollan asked help from Furigay, but the latter ignored his plea. Instead, Furigay pushed Rollan and pointed his gun at him.^[10]

One of the witnesses, Romeo Ballad (Romeo), testified that he accompanied Ramirez's group to drive away Bugao's group. He was more or less a meter away when Ramirez stabbed Manuel. He related that Manuel did not fight with Ramirez and was even asking for mercy.^[11]

After the stabbing, members of Bugao's group asked Furigay to rush Manuel to the hospital but Furigay neither helped Manuel nor arrested anyone from the group.^[12]

Ramirez pressured Romeo to confess to the killing of Manuel. They went directly to the police station after the incident, where Ramirez let Romeo sign a document^[13] written in English, which he did not understand and was not explained to him in Itawes dialect. Out of fear of Ramirez, Romeo signed the same.^[14]

Another witness, Virgilio testified that two days before the incident, Ramirez went to the same area where they were making a farm hut. Ramirez told Manuel that he owns the land. Bugao's group told Ramirez that Aledgundo permitted them to build a farm hut.^[15] Nevertheless, Ramirez told the group to remove the fence or else he will come back and kill them.^[16]

Two days after Manuel's death, police authorities informed the deceased's family's lawyer that they arrested the person who killed their father. When they went to the police station, Romeo was presented as the one who killed Manuel. Upon seeing Ramirez, who came out from one of the rooms, Rollan shouted to their lawyer that it was Ramirez who killed their father.^[17]

Upon Romeo's release from detention, he went to the deceased's family's lawyer's house and through an affidavit, gave his own version of what transpired^[18] during the incident. He recanted an earlier affidavit^[19] stating that he killed Manuel. He claimed that he was unable to give his testimony earlier because he was in the BJMP and he was afraid of Ramirez.^[20]

The Version of the Defense

Defense witness, Melanio Ballad (Melanio) testified that in the morning of January 26, 2003, he was with Ramirez and Furigay, along with other companions, to confirm that there were Kalingas who erected their houses on their lot.^[21] He had

earlier sought the assistance of Ramirez, who in turn asked for the assistance of Furigay, to drive out the Kalingas from their lot.^[22]

Ramirez denied the allegations that it was he who stabbed and killed Manuel.^[23] He testified that he talked to one member of Bugao's group to inquire on why they were constructing a hut considering they were not the land owners. Bugao's group told him that the land where they were erecting the bunk house is owned by Aledgundo. Ramirez advised them to stop constructing the house. Since the person he was talking to was furious, he tried talking to another person who seemed to be their leader. He was suddenly surprised when he heard a shout that a person was stabbed. He saw a person sprawled on the ground and Romeo admitted that he was the one who stabbed the person.^[24]

Furigay then apprehended Romeo, got the knife used to stab Manuel and together with Ramirez, brought Romeo to the police station, where Furigay entered the incident in the police blotter.^[25]

During the trial, the RTC of Tuguegarao City learned of a civil action for damages arising from the same incident, that was currently pending before the RTC of Tabuk, Kalinga. As a result of which, the private prosecutor was no longer allowed to prosecute the case.^[26]

After trial on the merits, the RTC of Tuguegarao City rendered a Decision^[27] dated February 23, 2011 convicting Ramirez and Furigay of the crime of Murder. The dispositive portion of the decision reads:

"WHEREFORE, in view of all the foregoing, the Court finds accused ISIDRO RAMIREZ y Ballad and MELANIO FURIGAY y Suyu GUILTY beyond reasonable doubt of the felony of MURDER, defined and penalized under Article 248 of the Revised Penal Code, as amended by Republic Act No. 7659, and hereby sentences them to suffer imprisonment of *reclusion perpetua*.

SO ORDERED."^[28]

The RTC of Tuguegarao City did not decide on the aspect of damages:

"As to damages, the private complainant filed a separate action for damages before the Regional Trial Court in Tabuk, Kalinga."^[29]

Aggrieved by his conviction, Ramirez filed a Notice of Appeal^[30] on March 9, 2011, which was given due course by the RTC of Tuguegarao City in an Order dated June 8, 2011.^[31]

Furigay, on the other hand, filed a Motion for Reconsideration on March 10, 2011^[32], but the same was denied by the RTC of Tuguegarao City in an Order dated June 8, 2011^[33].

Furigay filed with Us a Motion to Defer Decision-Making^[34] on October 29, 2013, alleging that the Order of the denial of the Motion for Reconsideration appears to have not been served on his counsel, Atty. Bonifacio Albino B. Pattaguan, Jr., (Atty. Pattaguan, Jr.) and that Furigay received the Order only on October 21, 2011. He then filed a Notice of Appeal on October 24, 2011^[35], but it was neither given due course nor elevated to the Court of Appeals.

The Branch Clerk of Court (BCC) of the RTC of Tuguegarao City filed a Comment and Compliance^[36] and averred that the June 8, 2011 Order denying Furigay's Motion for Reconsideration was properly served^[37] on Atty. Carmelo Z. Lasam, the counsel of record of Furigay. The BCC likewise pointed out that Atty. Pattaguan, Jr. signed the Motion for Reconsideration as "Collaborating Counsel for Accused Furigay".

In a January 10, 2014 Order^[38], the RTC of Tuguegarao City neither gave due course to Furigay's notice of appeal nor did it elevate the same to the Court of Appeals.

Ramirez interposed the present appeal raising the following issues:

"I. WHETHER OR NOT THE ACCUSED ARE GUILTY BEYOND MORAL CERTAINTY FOR THE CRIME OF MURDER.

II. WHETHER OR NOT THE KILLING WAS COMMITTED WITH TEACHERY (*sic*), EVIDENT PREMEDITATION AND CONSPIRACY."^[39]

Ramirez imputes error upon the RTC of Tuguegarao City positing that it erred when he was not acquitted based on the voluntary confession of Romeo, and that his recantation should not be given merit. He also points out that the RTC of Tuguegarao City erred in finding that the offense was committed with treachery and conspiracy.

The Office of the Solicitor General is of the opinion that the voluntary surrender and confession of Romeo was obtained in violation of his constitutional rights, therefore the RTC of Tuguegarao City correctly disregarded the same. It also posits that treachery and conspiracy were proven by the prosecution.

The Appeal has no merit.

Ramirez would have Us first focus on the confession made by Romeo, and that his recanting of the same deserves scant consideration. We, however, are not persuaded.

Confession to be admissible must be a) voluntary; b) made with the assistance of a competent and independent counsel; c) express; and, d) in writing.^[40] These were not met in this case.

We note that Romeo's supposed confession or admission was made without the

assistance of a competent and independent counsel:

"Q While at the police station what happened?

A When we were at the police station they let me signed (sic) a document, sir.

Q Who let you signed (sic) a document?

A Bgy. Captain Ramirez, sir.

Q Was this document written in English or Tagalog or Itawes?

A It was written in English, sir.

xxx

Q Mr. Witness when they asked you to sign this affidavit at the police station, did you have a counsel?

xxx

A None, your Honor.

Q Mr. Witness you said that you can't understand and don't read English by the way what is your academic background?

A Grade VI, sir.

Q You mentioned that you don't know how to read English and you can't understand, did the contents of the affidavit explained to you in Itawes dialect?

A No, sir.

Q Even you (sic) don't understand English and have no counsel to explain, why did you sign it?

A Because of fear that's why I signed it, sir.

Q What are you afraid of?

A I am afraid to (sic) Bgy. Captain Isidro Ramirez, sir.

xxx

Q It Appear (sic) on your affidavit that it was subscribed and sworn to before a certain Pablo Agustin, do you know who (sic) is this Pablo Agustin? Do you know Pablo Agustin who subscribed your statement?

A No, sir. I signed a document in the police station.

Q Do you personally know this Pablo Agustin?

A No, sir.

xxx"^[41](Emphasis Ours)

People vs. Janson^[42] is instructive on the inadmissibility of a confession made