

THIRD DIVISION

[G.R. No. 97961, September 05, 1997]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JIMMY TALISIC Y VILLAMOR, ACCUSED-APPELLANT.

DECISION

PANGANIBAN, J.:

The accused-appellant admits having killed his wife but insists that he did so only after surprising her in the very act of sexual intercourse with another man. However, he fails to substantiate the stringent elements required by law to absolve him of criminal responsibility. His defense appears no more than an amalgam of confusion, contradiction and concoction.

Statement of the Case

The foregoing sums up our ruling in this appeal from the Decision^[1] of the Regional Trial Court of Iligan City, Lanao del Norte, Branch 5, in Criminal Case No. 1969, finding accused-appellant guilty of parricide.

Second Assistant City Fiscal Norma B. Siao charged accused-appellant in an Information dated May 13, 1988, which reads as follows:

That on or about May 8, 1988, in the City of Iligan, Philippines, and within the jurisdiction of this Honorable Court, the said accused, having conceived a deliberate intent to kill his wife Janita Sapio Talisic, did then and there willfully, unlawfully and feloniously and with evident premeditation, attack, assault, stab and wound his wife, as a result of said attack, the said Janita Sapio Talisic died.

Contrary to and in violation of Article 246 of the Revised Penal Code."

Arraigned on October 26, 1988, the accused, with the assistance of Counsel de Oficio Daniel T. Bayron, pleaded not guilty to the charge.^[2] Trial ensued in due course. Thereafter, the trial court rendered its Decision, which disposed as follows:

The foregoing premises considered, the Court finds the inculpatory evidence of the prosecution quite satisfying and sufficient to establish that the crime of parricide was committed here and that the guilt of the accused has been proven beyond reasonable doubt.

WHEREFORE, the accused is hereby sentenced to suffer the penalty of reclusion perpetua, and to indemnify for civil liability the heirs of the victim in the amount of (P50,000.00).

SO ORDERED.”^[3]

In view of the penalty imposed, the accused appealed directly to this Court.

The Facts

Version of to the Prosecution

The facts as gathered from the testimonies of Prosecution Witnesses Dr. Regino Gaite, Danilo Talisic and Victoria Sapyo Tautho are as follows:

Sixteen-year old Danilo Talisic testified that at dawn of May 8, 1988, his mother, Janita Talisic, was stabbed to death with a chisel by his father Jimmy Talisic, who afterwards displayed the bloodied weapon before their altar. Realizing that his mother was already dead, Danilo decided to bring his younger sister to their grandfather's house.^[4] They passed by the house of their aunt, Victoria Sapyo Tautho, a sister of the deceased, and related to her the bizarre killing. The latter hurried to the house of the deceased, arriving at six o'clock that morning. She was aghast at the bludgeoned body of her sister and the bloodstained chisel at the altar.^[5] In the meantime, Danilo also related the killing to his paternal grandfather, Simon Talisic, who thereupon proceeded to the house of his son, Accused-appellant Jimmy Talisic, and brought the latter to the military camp at Tipanoy, Iligan City.^[6]

Substantially corroborating Danilo's testimony, Victoria Sagio Tautho stated that she found her sister's lifeless body sprawled on the floor of their living room, as well as the crimson-drenched chisel at the altar.

Dr. Regino Gaite examined the body of the deceased and issued the necropsy report (Exhibit "B"). On the stand, he described the sixteen stab wounds inflicted on the victim, as follows:

Q During the examination on the 16 stab wounds you have mentioned, will you please tell this Honorable Court how deep was the penetration of these injuries on the dead body of the victim?

A Some were four inches deep; some were two, depending on the site of the body.

Q I would like to call your attention to this document, and tell us how deep was the penetration of the injuries Nos. 2, 3, 4, 5 and this No. 6, which is in the neck of the victim?

A Four inches deep.

Q In your opinion, Doctor, these particular injuries numbered you have indicated, will these be sufficient to cause the death of the victim?

A Numbers 2, three are in the external region; Nos. 4 and 5 are

above the heart; then No. 6 is in the carotid region, leftside.

Q What about the injuries on the left arm of the victim, Dr., how deep was the penetration indicated, Nos. 10, on the left arm of the victim, 11, 12, 13, 14, 15, and 16?

A Two inches deep.”^[7]

According to him, these multiple wounds resulted in hemorrhage and shock which ultimately caused the death of the victim.^[8]

Version of the Defense

The defense presented only the testimony of Jimmy Talisic which is summarized in the six-page Appellant’s Brief,^[9] dated November 4, 1991, as follows:

Testifying for his defense, accused-appellant declared that between the hours of 3:00 and 4:00 in the early morning of May 8, 1988, she (sic) was requested by his wife to fetch water from a well as they had earlier (planned) to go to the city together. As requested, he then fetched water from a well about 200 meters away from their house which took him about 30 minutes to do so. When he came back from the well and while climbing up the stairs, he was surprised to see a man lying on top of his wife. He tried to draw his bolo and stabbed the man who, however, was able to run away. He tried to run after him but did not overtake him. He came back to their house but only to be met by a stabbing thrust from his wife using a chisel. He was not hit as he was able to parry the blow, thus prompting him to grab the chisel from his wife. He lost his temper and stabbed her to death.”

Issue

In his brief, appellant contends:

“The trial court erred in not finding that accused-appellant had killed his wife under exceptional circumstances and in not applying the provision of Article 247 of the Revised Penal Code.”

The crucial question in this appeal is whether the totality of the evidence presented before the trial court justifies the application of Article 247 of the Revised Penal Code.

The Court’s Ruling

We affirm the judgment of the trial court.

Applicability of Article 247 of the Revised Penal Code

At the outset, it must be underscored that appellant admits killing his wife. This is

clear from his testimony:

Q Can you recall where were you between the hours of 3:00 and 4:00 A.M. of May 8, 1988?

A Yes.

Q Where were you?

A I fetched water from the well.

Q Where is this well located?

A In the lower portion of my house.

Q How far is this well from your house?

A 200 meters.

Q Can you describe to the court the condition of the road going to that well where you fetched water?

A Yes, Sir.

Q Please describe to the Honorable Court?

A It is rolling.

Q Were you able to fetch water from the well?

A Yes.

Q Now, will you please tell the Court why you fetch water at this early morning of May 8, 1988?

A I fetched water because we were planning to go down early to the city.

Q You said we, who is your companion?

A My wife is my companion in going down to the City, so she requested me to fetch

water so she can take a bath.

Q Are you referring to the late Janita Sapio?

A Yes, Sir.

Q Where (sic) you able to go back to your house after fetching water from the well?

A Yes.

Q When you reached your house, what did you discover if there was any?

A When I arrived home and climbed up the stairs, I put the plastic container of water, and I saw a man lying on top of my wife. I drew my bolo and stabbed the man, but I was not able to hit the man because he ran away.

Q What did you do after, when you said that the man who was lying

on top of your wife ran away?

A I ran after him.

Q Were you able to catch up with that man?

A. No, I was not able to catch up.

Q What did you do next?

A When I went back to my house, I was stabbed by my wife with a chisel because there was a chisel placed on the wall.

Q What did you do when you were stabbed by your wife with [the] chisel?

A I was able to parry it and grabbed the chisel from her.

Q What did you do next after grabbing the chisel from your wife?

A I lost my temper because I was so mad, so I stabbed her because she was unfaithful to our marriage because we were legally married.

Q Do you know who was that man you saw on top of your wife?

A. No, I was not able to recognize because it was dark."^[10]

However, he argues that he killed his wife under the exceptional circumstance provided in Article 247 of the Revised Penal Code, which reads:

Art. 247. Death or physical injuries inflicted under exceptional circumstances. Any legally married person who, having surprised his spouse in the act of committing sexual intercourse with another person, shall kill any of them or both of them in the act or immediately thereafter, or shall inflict upon them any serious physical injury, shall suffer the penalty of destierro. xxx."

An absolutory cause is present "where the act committed is a crime but for reasons of public policy and sentiment there is no penalty imposed."^[11] Article 247 is an example of an absolutory cause. Explaining the rationale for this, the Court held:

x x x. The vindication of a man's honor is justified because of the scandal an unfaithful wife creates; the law is strict on this, authorizing as it does, a man to chastise her, even with death. But killing the errant spouse as a purification is so severe that it can only be justified when the unfaithful spouse is caught in flagrante delicto; and it must be resorted to only with great caution so much so that the law requires that it be inflicted only during the sexual intercourse or immediately thereafter."^[12]

Having admitted the killing, the accused must now bear the burden of showing the applicability of Article 247. Accordingly, the defense must prove the following

1. That a legally married person (or a parent) surprises his spouse (or his daughter, under 18 years of age and living with him), in the act of committing sexual intercourse with another person.
2. That he or she kills any or both of them or inflicts upon any or