

SECOND DIVISION

[G.R. No. 224889, October 19, 2016]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. MC HENRY SUAREZ Y ZURITA, JOHN JOSEPH RAVENA Y ACOSTA AND JOHN PAUL VICENCIO Y BARRANCO, ACCUSED-APPELLANTS.

DECISION

MENDOZA, J.:

This is an appeal from the October 20, 2015 Decision^[1] of the Court of Appeals (CA) in CA-G.R. CEB-CR H.C. No. 01723, which affirmed the June 21, 2013 Decision^[2] of the Regional Trial Court, Branch 35, Iloilo City (RTC), in Criminal Case No. 11-69572, finding accused Me Henry Suarez y Zurita (*Suarez*), John Joseph Ravena y Acosta (*Ravena*) and John Paul Vicencio y Barranco (*Vicencio*) guilty beyond reasonable doubt of the crime of Murder.

Suarez, Ravena and Vicencio were indicted for Murder in an Information, dated February 7, 2011, which alleged that accused, conniving and mutually helping each other, stabbed and killed one Roger Setera (*Roger*) on or about the 2nd day of February 2011 and that the killing was qualified by treachery and abuse of superior strength.

Version of the Prosecution

The People's version of the events as summarized by the Office of the Solicitor General (OSG) in the Consolidated Appellee's Brief^[3] are as follows:

Prosecution witness Nancy Lauresta ("Nancy") is an employee of 123 Videoke Bar located at Bonifacio St. in Oton, Iloilo. On February 2, 2011, she was one of the employees working at the said bar, opening it at around 4:00 p.m. and attending to the customers therein. At around 9:30 p.m., appellants Vicencio and Suarez arrived at the bar. Appellant Ravena joined them later on. Roger Setera (Roger), the victim in this case, arrived at 10:30 p.m. with two (2) of his companions.

At 12 o'clock midnight, appellants decided to leave. Before actually leaving however, two (2) incidents involving appellants occurred. First, while still inside the bar, appellant Vicencio uttered, "Parts, wala sang matabo sa aton" ("Parts, nothing will happen to us"). Suarez, who was holding a bottle, threw it against the floor and then said, "Ano guid haw" ("So what"). The second incident happened as appellants were exiting the bar. They were stopped on the way out by the cashier who told them that they have yet to pay their bill. Appellant Ravena then took out a P100.00 bill from his pocket and gave it to the cashier saying "Ta, here's

the P100.00, you might tell my mother that I did not pay the bill." This was not enough though as the balance of P40.00 remained. It was a Tiayay Esang who settled the balance later on.

After these two (2) incidents, appellants left the bar and proceeded to a lamppost outside. The lamppost stood 3 meters away from where Nancy was standing as she was gathering bottles and cleaning the tables outside. While standing, Suarez broke a bottle again and the three started to push each other. At this point, the victim Roger was also outside the bar and shouted at appellants, "You all go home." Appellants made a sign to Roger with their fingers, beckoning the latter to come closer. In response to this, Roger approached them. When Roger Setera got close, Vicencio and Suarez started to simultaneously and continuously box him. Roger parried their punches with his arm. While this was going on, Ravena who was positioned at the back of Roger delivered a stab blow to the latter's back. Ravena then ran away followed by Suarez and Vicencio. They ran to the back portion of the market headed towards the beach area.

Prosecution witness Prudencio Taño ("Pradencio"), who was drinking with Roger along with other companions did not notice that Roger had left his chair and went to appellants. He was only alerted when he and his companions heard Roger shout that he was hit. Prudencio stood up and went to Roger and asked him, "What happened to you, Pre?" Roger then replied, "They stabbed me and I am wounded!" Prudencio then asked Roger who was it that stabbed him and Roger replied with "the children." Afterwards, Prudencio saw "Jun" and "Bongbong" running towards the dark area. Prudencio called for a tricycle because Roger asked that he be brought to the hospital. Roger was loaded onto a tricycle and brought to the police station in order that Roger be transferred to the ambulance that was parked there, as well as to blotter the incident. At the police station, they reported the incident to PO3 Jose Minerva ("PO3 Minerva") who was on duty that night. Roger told him that he was "stabbed by three persons he knew." Prudencio and PO3 Minerva accompanied Roger in the ambulance. Inside the ambulance, Prudencio asked Roger who was it that stabbed him and Roger replied that it was "Joseph Acosta" or "Janjan." When they arrived at the hospital, Prudencio called up the family of Roger, her sister, Sharon, and Arty. Naciongayo. Aforementioned persons followed by policemen. The following morning Roger died.

After Roger was taken to the hospital, PO3 Minerva went back to the crime scene in order to investigate. When he arrived there, he met the attendants of 123 Videoke Bar including Nancy Lauresta. He asked the attendants who stabbed Setera and was told that it was appellants who stabbed Roger. After this initial investigation, the police conducted a hot pursuit operation, through which they were able to arrest Suarez and Vicencio. Appellant Ravena, however, was able to flee and, thus, was not apprehended in the operation.

Dr. Owen Jaen Lebaquin, Medico-Legal Officer, PNP Camp Delgado, conducted the autopsy on the cadaver of Roger. In connection with his examination, he issued Medico-Legal Report No. M-060-2011 which

revealed that Roger sustained "stab wound at the right lumbar area of the back which also lacerated the right kidney, measuring by 3 x 1 cm., 10 cm. from the posterior midline, 15 cm. deep, directed anteriorwards slightly upwards medialwards lacerating the right kidney" and that he died "due to a stab wound at the right lumbar area at the back."

Accordingly to Dr. Lebaquin, the assailant could have been standing directly at the back of Roger when the stab blow was inflicted. The wound sustained by Roger was fatal because it lacerated the kidney. However, instantaneous death could have been prevented with immediate medical attention.^[4]

Version of the Defense

Suarez, Ravena and Vicencio denied the accusation against them and gave the following version in their Appellants Brief to substantiate their claim of innocence:

On February 2, 2011, at around 1:00 in the afternoon, Ravena was at his house washing his clothes when Vicencio, his childhood friend, arrived for a visit. After washing his clothes for two hours, Ravena rested. Later, Vicencio invited Ravena to play basketball at the plaza. At around 3:10 o'clock that afternoon, Vicencio and Ravena arrived at the plaza and hanged out for twenty minutes. Thereafter, "they played basketball for more than an hour. At 4:45 o'clock in the afternoon, they went back to the house of Ravena and hanged out there until 8:30 o'clock in the evening.

At past 8:30 o'clock in the evening, Vicencio and Ravena went to the 123 Videoke Bar and arrived there at 9:00 o'clock. Tiay Esang, Panoy Vicencio Ariane and Royroy Salcedo and his two companions were already there. Ravena and Vicencio settled on one of the tables and talked with each other. Fifteen minutes after, they ordered two bottles of Red Horse beer.

While Vicencio and Ravena were drinking, at about 10:00 o'clock, they saw Suarez passed by, walking on his way home. They invited the latter to join them. Suarez joined them and they ordered a bottle of Red Horse for him. While they were drinking, Ravena noticed the argument which ensued between Roger and Royroy when Roger denied the latter's request to buy him a drink. In this altercation, Royroy told Roger, "You will have something later."

Vicencio, Ravena and Suarez continued drinking until 11:30 o'clock that evening and prepared themselves to go home. They chipped-in to pay the bill amounting to P120.00. Vicencio and Ravena paid the bill to the cashier. When they were about to go out, the cashier called their attention that their bill was not fully paid. They argued with the cashier that they paid for what they had consumed. Tiay Esang pacified them and paid the balance of P40.00.

On their way out of the videoke bar, suddenly, Suarez threw an empty bottle on the road as a reaction to the embarrassing situation which arose from the argument relating to the payment of their account. Vicencio and Ravena approached him and asked him why he threw the bottle. Suarez did not answer. Momentarily, Roger approached them and uttered, "Gaano kamo dodri, gapaisog-isog?" ("Are you displaying your bravery here?"). Upon hearing Roger's statement, Suarez and Vicencio fled. Then the group of Royroy approached Roger and a fight ensued between them. Ravena ran away and when he reached his house, he rested for a while. When his mother asked him why he was running home and catching his breath, he answered that a dog was running after him. His mother told him to rest.

The following day, Ravena heard that Roger was killed and that he was one of the suspects. At first, he did not mind the imputation but on February 3, 2011, he asked his mother to call his uncle Buddy Carvajal so that the latter can accompany him to surrender at the police station. Accompanied by his father, girlfriend and Carvajal, he surrendered.

Suarez, for his part, fled towards the house of his grandmother where he was staying near the beach. While he was walking towards the beach for fresh air, he was surprised when policemen accosted him and told him to go with them to the police station. At the police station, he asked the authorities what his offense was, however, he was told to keep quiet and not to ask questions. Later, he heard that he was one of the suspects in the stabbing incident that happened at the videoke bar. Later, the ambulance which brought Roger to the hospital arrived. Its driver asked as to who was the companion of Royroy Salcedo in stabbing Roger because that was the name that was uttered by the latter.

Vicencio heard a shout emanating from inside of the videoke bar and for fear that he might be implicated because Suarez threw a bottle of beer, he fled. When he arrived home, he went to the kitchen to look for food but found nothing. His mother Virginia woke up and gave him money to buy bread at Red's which is located in front of the gymnasium. On his way thereto, a policeman named Saluya arrested him. He protested his arrest and asked the policeman what his offense was but the policeman did not answer. At the police station, the policeman told him that he will be released if the other suspect was captured.

On the night of February 2, 2011, Jesus Suarez (Tiyay Esang), together with Panoy Villavicencio, was at the videoke bar drinking when Vicencio, Ravena and Suarez arrived. Suarez approached her to buy them drinks, however, she told him that she had no money. When she and Panoy finished drinking, she went to the cashier and inquired how much was the balance of the group of Suarez. The cashier informed her that the balance was P40.00, so she paid it. Before she left the videoke bar, she told Vicencio, Ravena and Suarez to go home immediately after they were through. Then, she left the place.

Virginia Vicencio was lying down when her son Vicencio arrived. The

latter told her that he was starving and was looking for food. She told him that there was no food and gave him money to buy bread. Then, she heard someone calling her and told that her son was arrested. She went out of the house and proceeded to where his son was. There, she saw her son being held by police officers Minerva and Sabijon. The policemen were asking her son who his companions were so that he will be released. Later, her son was brought to and detained at the police station.^[5]

The Ruling of the RTC

On June 21, 2013, the RTC rendered its decision finding Suarez, Ravena and Vicencio guilty as charged. It did not lend credence to the twin defenses of denial and alibi proffered by the accused, stating that said defenses could not prevail over the testimony of Nancy Lauresta (*Nancy*), who categorically and convincingly testified that she saw Ravena stab Roger while he was being punched by Suarez and Vicencio. The RTC noted that the accused could not show any ill motive that could have impelled Nancy to falsely implicate them in such a heinous crime. Hence, it concluded that there is neither cause nor reason to withhold credence from her testimony.

The RTC also wrote that the testimony of Prudencio Taño (*Taño*) on Roger's dying declaration effectively unmasked the identities of the accused as his assailants. It was, however, of the view that evidence of treachery was wanting because Roger must have been forewarned of the risk and danger that could befall him. Hence, it could not be said that the boxing and stabbing were consciously and deliberately adopted by the accused. Nevertheless, it opined that the attendance of abuse of superior strength qualified the killing to murder. The RTC added that the manner by which the accused committed the felonious act revealed a community of criminal design. Hence, it concluded that there was conspiracy. The decretal portion of the RTC decision reads:

WHEREFORE, in the light of the foregoing, judgment is hereby rendered finding accused **MC HENRY SUAREZ y ZURITA, JOHN JOSEPH RAVENA y ACOSTA, and JOHN PAUL VICENCIO y BARRANCO, GUILTY**, beyond reasonable doubt of **MURDER** under Article 248 of the Revised Penal Code. Accordingly, each is hereby sentenced to surfer the penalty of **RECLUSION PERPETUA**.

As civil liability, they are ordered to pay, jointly and severally, the heirs of Roger Setera the amounts of P75,000.00 as indemnity *ex-delicto*, P75,000.00 as moral damages, P30,000.00 as exemplary damages and P104,446.44 as actual damages and an interest of 6% per annum on all the awards of damages from the finality of judgment until fully paid.

They shall be credited with the full time of the preventive imprisonment they have undergone under the conditions set out in Article 29 of the Revised Penal Code.