

EN BANC

[G.R. No. 139177, August 11, 2003]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. ALVIN
VILLANUEVA, APPELLANT.**

DECISION

CORONA, J.:

For automatic review is the decision^[1] of the Regional Trial Court, Branch 32, stationed in Agoo, La Union, finding appellant guilty beyond reasonable doubt of the crime of murder and sentencing him to suffer the penalty of death and to indemnify the heirs of the victim in the amounts of P50,000 as civil indemnity, P600,000 for actual damages and P1,000,000 for lost earnings.

The information that charged appellant for the offense alleged:

That on or about the 16th day of November, 1996, in the Municipality of Rosario, Province of La Union, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with intent to kill, evident premeditation and treachery and being then armed with a knife, did then and there wilfully, unlawfully and feloniously attack, assault and stab with said knife one OTO-LEO BINAY-AN BRABANTE from behind, inflicting three (3) stab wounds upon the latter, one of which penetrated his heart, which directly resulted to (sic) his death, to the damage and prejudice of his heirs.

CONTRARY TO LAW.^[2]

On arraignment, appellant pleaded not guilty to the charge. Forthwith, trial on the merits ensued. While the prosecution was adducing its evidence, appellant escaped from detention on October 9, 1997. The lower court thus proceeded with the trial of the case *in absentia* in accordance with Section 14(2), Article III of the 1987 Constitution.

The facts follow.

On November 15, 1996, at around 12 midnight, Marife Brabante was attending to her duties as cashier of the Highlander Store owned by her mother, Rita Binay-an, at Barangay Saitan, Camp 1, Rosario, La Union. She was assisted by Cheryl Dapiaoen and George Bautista. They were about to close the store when appellant, together with a certain Jerry, Teddy and an unidentified person, arrived. They occupied one of the tables and started drinking the liquor which they brought with them. Appellant then asked Marife if they could stay until 5:00 a.m. but Marife refused since they were unruly. When the group was about to leave, Cheryl asked appellant to pay the amount of P35 as cover charge. At this point, appellant became angry and threw

two bottles of gin on the floor. Marife's brother, Orland, who was sleeping in one of the rooms of the store, was awakened by the noise. He went out and told appellant not to create trouble. But appellant shoved him and left with a warning that he would return to kill somebody. Appellant got on his tricycle and bumped the door of the store while his companions threw rocks at it.

Meanwhile, Marife's other brother, Otoleo, got up from his bed and asked Cheryl to go with him to buy *balut* at the nearby Seven Star Store, which was only eight meters away from their store. After 30 minutes, appellant returned to Highlander Store with a knife. He walked past Marife and told her that she was not the one he was going to kill. Appellant went toward the Seven Star Store where Otoleo and Cheryl were then buying *balut*. Upon reaching the store, appellant suddenly stabbed Otoleo at the back. The victim turned to face appellant but the latter again stabbed him twice on the left armpit. Otoleo fell to the ground and appellant ran away. Marife, who was outside the Highlander Store, rushed to the bloodied body of her brother and hugged him. She brought the victim to the Rosario District Hospital in Rosario, La Union where he was declared dead on arrival.

Dr. Godofredo Garcia of the Rosario District Hospital, La Union conducted a *post mortem* examination on the cadaver of Otoleo and prepared his findings and the death certificate showing the following:

Rigor mortis, stabbed (sic) wound, 2 cm. arm, clavicular area (L), 3 inches deep 2 cm. arm posterior aspect (L), axilla 2 inches; penetrating wound thru the 5th intercostal space, anterior axillary line with hemothorax (L) lung with clotted blood; penetrating wound, lung (L), pericardial sac with hematoma, penetrating (L) auricle and ventricle.^[3]

Rita Binay-an, mother of the victim and owner of the Highlander Store, testified on the civil aspect of the case. She claimed to have spent the amount of P600,000 in connection with the death of her son. According to Rita, Otoleo was a second lieutenant in the Philippine Marines at the time of his death.

As earlier noted, appellant escaped from prison before the prosecution had completed the presentation of its evidence. Hence, he was deemed to have waived his right to present his evidence to dispute the charge.^[4]

After trial on the merits, a decision was rendered by the trial court on November 20, 1997 convicting appellant of the offense charged:

WHEREFORE, in view of all the foregoing considerations, the accused ALVIN VILLANUEVA is hereby found GUILTY of the crime of MURDER as charged in the Information. He is hereby sentenced to DEATH, and to pay P50,000.00 for the death of the victim, indemnify the heirs of the victim in the amount of P600,000.00 actual damages, P1,000,000.00 in loss of earning and to pay the cost of the proceedings.

SO ORDERED.^[5]

In his Brief, appellant insists that the trial court erred:

IN GIVING FULL FAITH AND CREDIT TO THE INCREDIBLE AND HIGHLY INCONSISTENT, IF NOT CONFLICTING, TESTIMONIES OF THE PROSECUTION WITNESSES ANENT THE INCIDENT IN QUESTION.

II

IN CONVICTING ACCUSED-APPELLANT OF THE CRIME CHARGED DESPITE THE FAILURE OF THE PROSECUTION TO ESTABLISH HIS GUILT BEYOND REASONABLE DOUBT.

III

IN CONVICTING HIM OF MURDER SINCE THE QUALIFYING CIRCUMSTANCES OF TREACHERY, EVIDENT PREMEDITATION AND NIGHTTIME ARE WANTING AND IN ERRONEOUSLY CONSIDERING FURTHER THE ACCUSED-APPELLANT'S ESCAPE AS AN AGGRAVATING CIRCUMSTANCE, THUS THE PENALTY IMPOSED UPON HIM MUST BE ACCORDINGLY REDUCED.^[6]

We shall jointly discuss the assigned errors since they are interrelated.

Appellant questions the credibility of prosecution witnesses Marife Brabante and Cheryl Dapiaoen as their testimonies were patently inconsistent and conflicting on material details. Appellant points out the following inconsistencies and contradictions in the testimonies of Marife and Cheryl:

(1) Marife first testified that appellant and his group arrived at the Highlander Store at around 12 midnight^[7] but later on declared that they arrived at around 12:45 a.m.^[8]

(2) Marife stated on direct examination that her brother, Orland, did not go out of his room when appellant became unruly.^[9] On cross-examination, however, she admitted that Orland went out of his room.^[10]

(3) Marife averred that appellant had three companions when he entered the Highlander Store.^[11] On the other hand, Cheryl testified that appellant had four companions at that time.^[12]

(4) Marife insisted that appellant's companions were nearby and laughing when he stabbed Otoleo.^[13] This was contrary to Cheryl's testimony that appellant's companions were merely observing the incident .^[14]

(5) Marife claimed that she rushed to help her brother, Otoleo, when he fell down,^[15] while Cheryl declared that she had to call Marife to inform her that Otoleo was stabbed by appellant.^[16]

While the testimonies of the two prosecution witnesses differed in some respects, the aforementioned inconsistencies and discrepancies referred to collateral and minor matters. The details cited by appellant such as the exact time of their arrival at the store, the number of companions he had at the time he entered the store and

the demeanor of his companions when he stabbed Otoleo, are all insignificant and inconsequential considering that they had nothing to do with the main scope of the inquiry -- the murder allegedly committed by appellant. Further, a miscalculation of time is too flimsy a reason to discredit a witness, especially where the exact hour is not an essential element of the offense, as in this case. Likewise, since several months had passed before Marife and Cheryl recounted their story before the trial court, it was impossible for them to have a total recall of the incident.

Indeed, neither inconsistencies on trivial matters nor innocent lapses affect the credibility of witnesses and the veracity of their declarations. On the contrary, they may even be considered badges of truth on material points in the testimony.^[17] The testimonies of witnesses must be considered and calibrated in their entirety and not in truncated portions or isolated passages.^[18] In the instant case, the testimonies of Marife and Cheryl were clearly consistent vis-a-vis the substantial aspects of the crime, i.e., the identification of appellant as the perpetrator of Otoleo's death and the manner by which the crime was committed.

Although it is incumbent on the prosecution to establish the guilt of the accused beyond reasonable doubt, to justify acquittal based on such ground, the doubt should relate to the facts constitutive of the crime charged.^[19] Discrepancies should touch on significant matters crucial to the guilt or innocence of the accused. Conversely, inconsistencies in details irrelevant to the elements of the crime are not grounds for acquittal.^[20] Besides, as held in numerous decisions, when there is no evidence that the principal witness for the prosecution is moved by improper motives, such witness is entitled to full faith and credit.^[21] Certainly, Marife and Cheryl, in identifying appellant as the assailant, had no other motive than to seek justice for the death of Otoleo.

It should also be noted that the testimonies of Marife and Cheryl were corroborated on material points by the expert testimony of Dr. Garcia who conducted the *post mortem* examination on the body of Otoleo Brabante. He declared:

PROECUTOR CATBAGAN:

Q: And what was your finding in the person of the victim?

A: Post mortem examination reveals that the victim is already rigor mortis. There is stabbed (sic) wound in the arm, clavicular area left armpit. And the most fatal wound is in the armpit. The penetrating wound entering the heart and the lungs. There is a presence of clotted blood in the left lung. And the pericardial sac with hematoma, the cause of heart cardiac, left uricle and ventricle.

Q: How many wounds were there, doctor?

A: There were three wounds.

Q: And how deep are those wounds?

A: The two wounds in the left is 3 inches deep and the left axillary penetrating and almost left the heart and fatal

wound. So that caused the death.

Q: Could you determine by those wounds what was the weapon used?

A: Sharp bladed weapon, sir.

COURT:

Q: Is it bladed?

A: Yes, sharp pointed bladed weapon, sir.

PROSECUTOR CATBAGAN:

Q: By the location of the wounds, could you determine the position of the assailant at the time he hit the victim?

A: The assailant is at the back because of the posterior arm, while this axilla, the fatal wound is on the side. So when the assailant is raising hand he thrust and injured him at the side. Supposing the assailant is right handed the possibility is in front or on the side.^[22]

Clearly, the physical evidence amply reinforced the testimonies of Marife and Cheryl that appellant stabbed Otoleo with a hunting knife, once at the back and twice at the side. Physical evidence is a mute but eloquent testimony of the truth and rates high in the hierarchy of trustworthy evidence.^[23]

The case of the prosecution was greatly strengthened by appellant's escape from confinement during trial and by his failure to turn himself in despite subsequent conviction by the trial court. It was only on November 2, 1998, one year after the trial court had promulgated its decision, when appellant was finally recaptured.^[24] It is well-established that the flight of an accused is competent evidence of guilt and culpability, and, when unexplained, flight is a circumstance from which an inference of guilt may be drawn.^[25] It must be stressed nonetheless that appellant's conviction in this case was premised not on this legal inference alone but on the overwhelming evidence presented against him. The witnesses' positive identification of appellant and narration of the circumstances of the victim's death were sufficiently corroborated by the testimony of the physician who examined the victim's body, and by the autopsy report. These considerations convince the Court beyond reasonable doubt that appellant was the perpetrator of the crime.

The trial court, in imposing the death penalty on appellant, found that treachery, evident premeditation and nighttime attended the commission of the crime. It also considered appellant's escape from detention as an aggravating circumstance.

The court *a quo* properly appreciated treachery against appellant which qualified the crime to murder, as evidenced by the salient parts of Marife's testimony, thus:

COURT:

Q: Did you see Alvin Villanueva was armed when he