

EN BANC

[G.R. No. L-146308, July 18, 2002]

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. SIXTO PARAGAS Y DELA CRUZ AND AMADO PARAGAS Y ABALOS, APPELLANTS.

DECISION

PANGANIBAN, J.:

Under the present Rules on Criminal Procedure, qualifying and aggravating circumstances must be alleged or specified in the Information. Otherwise, even if they are proven, they cannot be appreciated in determining the nature of the crime and imposing the penalty.

Statement of the Case

For automatic review by this Court is the September 14, 2000 Decision^[1] of the Regional Trial Court (RTC) of Pasig City, Branch 263, in Criminal Case No. 105201, finding Sixto Paragas y dela Cruz and Amado Paragas y Abalos guilty of murder beyond reasonable doubt and sentencing them to death. The dispositive portion of the Decision reads as follows:

"WHEREFORE, the Court finds both the accused Sixto Paragas and Amado Paragas GUILTY beyond reasonable doubt of the crime of MURDER defined and penalized in Art. 248 of the Revised Penal Code, as amended. Accordingly Sixto Paragas and Amado Paragas are hereby sentenced to suffer the penalty of Death.

"Moreover, they are ordered to indemnify, jointly and severally, the heirs of the victim the following:

1. The sum of P50,000.00 for the death of the victim;
2. The sum of P100,000.00 as moral damages.

"Costs against the accused."^[2]

Appellants were charged in the Information^[3] dated March 15, 1994, in these words:

"That on or about the 4th day of March 1994 in the Municipality of Tag[u]ig, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating together and mutually helping and aiding one another, armed with a bladed weapon, with intent to kill and evident premeditation, did then and there wilfully, unlawfully and feloniously attack, assault and stab with said bladed weapon one Ferdinand Gutierrez on the left side of his chest, thereby inflicting upon the latter [a] mortal wound which caused his death."^[4]

Duly assisted by their counsel,^[5] appellants pleaded not guilty to the charge during their arraignment on April 26, 1994.^[6] After due trial, the court *a quo* rendered the assailed Decision.

The Facts

Version of the Prosecution

In its Brief,^[7] the Office of the Solicitor General (OSG) presents the prosecution's version of the facts as follows:

"Ferdinand Gutierrez, single and residing at PNR Site, Bicutan, Metro Manila, operates a watch repair stall at LMR Tenement Market, Taguig, Metro Manila. Appellant Amado Paragas is a market stall owner at the LMR Tenement Market and serves as board director of the Western Vendor Multi-Purpose Cooperative. His co-appellant, Sixto Paragas, is his cousin/caretaker/salesman. Both appellants reside at the LMR Tenement Market, Taguig, Metro Manila which is five (5) minutes away by car from the place where the criminal incident happened.

"Prior to the subject incident, co-appellant Sixto filed against witness Lilia Serrano's son, Allan, a complaint for Highway Robbery allegedly committed on January 23, 1994. In relation to this complaint, Ferdinand Gutierrez became a witness for Allan and executed on February 22, 1994 a sworn statement before the Asst. Provincial Prosecutor of Pasig where he attested that Allan was not among those whom Sixto had a fistfight with on January 23, 1994.

"On March 4, 1994, at around 7:30 in the evening, Ferdinand Gutierrez and prosecution witnesses, namely: Robert Venturado, Alejandro Malila, Virgilio Mabbun and Eduardo Peralta, were at the Caltex gasoline station located near the Bliss, FTI Compound, Taguig, Metro Manila. They were waiting for a public transportation. Except for Malila and Mabbun who were co-workers, the rest were strangers to one another. Momentarily, a well-lighted passenger jeepney bound for Tanyag, Taguig, Metro Manila stopped at the gasoline station to pick up passengers. The aforementioned witnesses all boarded the vehicle. Ferdinand Gutierrez and appellants were among the first to board the jeepney. Ferdinand seated himself in the front seat of the vehicle, between the jeepney driver and a lady passenger. On the other hand, co-appellant Sixto, who was wearing short pants, sleeveless shirt and with a towel tied on his forehead sat behind the driver and Ferdinand. Appellant Amado, who was wearing long sleeves sat on the opposite bench, near the rear door of the vehicle.

"The jeepney cruised inside the FTI Compound in Taguig for about ten (10) minutes. As they were passing under a bridge, co-appellant Sixto was seen glancing at Amado as if waiting for a response. When appellant Amado nodded his head, his co-appellant Sixto rose from his seat and grabbed Ferdinand by the neck. With his left arm, co-appellant Sixto stabbed Ferdinand on the left chest with a bladed weapon. Thereafter, co-appellant Sixto immediately alighted from the jeepney and fled towards the direction of the LMR Tenement Market. The other passengers namely: Mabbun, Peralta and Venturado, immediately rose from their seats to chase the assailant but they were prevailed upon by appellant Amado to

stay put in their places as he told them that he will be the one to chase co-appellant Sixto. Appellant Amado directed them to assist and bring the victim to the hospital. However, it was observed that appellant Amado simply walked away and did not run after Sixto.

"The jeepney driver, together with Mabbun, Peralta, Malila and Venturado, brought Ferdinand to the Parañaque Medical Center Hospital where he died upon arrival. In his autopsy report, Dr. Antonio Vertido, NBI Medico-Legal Officer stated that the victim died of cardiac tamponade secondary to stab wound in the chest. That same night of March 4, 1994, Malila executed a sworn statement about the incident."^[8] (Citations omitted)

Version of the Defense

Resorting to the defense of denial, appellants narrate in their Brief^[9] their version of the facts as follows:

"Accused **AMADO PARAGAS** expressed absolute disavowal of the crime charged. On May 11, 1994, at around 6:00 o'clock in the morning, he started his routinary chore of vending fruits and vegetables in his stall at the LMR Market, Taguig, Metro Manila, together with his cousin and helper, Sixto Paragas. At around 12:00 noon of the same date, some policemen, led by a certain Graciano Cangco, invited them for a 'salu-salu' at Block 1. After eating their lunch, the policemen suddenly put handcuffs on their wrists and hit his stomach. Sixto Paragas was likewise hit and kicked by the policeman. The two of them were then brought by the policemen at a police mini-station in Taguig and locked them inside a cell, without showing them any warrant for their arrest nor informing them of its cause. It was only during the night of March 11, 1994 when the jail warden informed them that they were suspects in a stabbing incident that occurred on March 4, 1994. He flatly denied this accusation.

"On March 4, 1994, he started his day by vending fruits and vegetables at his stall. At around 4:00 o'clock in the afternoon, he proceeded to a meeting called by his cooperative, the Western Bicutan Multi-Purpose Cooperative, held at the East Service Road, Western Bicutan. The meeting lasted between 4:00 o'clock in the afternoon until 7:30 in the evening and was attended by at least twenty (20) members of the organization, though only about eighteen (18), including himself, had signed the attendance sheet and the minutes of the meeting. Accused Amado Paragas surmised that they were being implicated in the stabbing incident for the reason that the victim, Ferdinand Gutierrez, was a witness for the accused in a criminal case instituted by his cousin and co-accused, Sixto Paragas, against a certain Alan Serrano.

"The testimony of accused Amado Paragas as to his whereabouts relative to the time between 4:00 o'clock PM to 7:45 in the evening of March 4, 1994 was corroborated by witness **NENITA TUMOL**. The said witness is the secretary of the Western Bicutan Vendors Multi Purpose Cooperative where the accused, Amado Paragas, is a Board of Director. On March 4, 1994, Amado Paragas arrived for the meeting of the cooperative at around 4:35 PM. As secretary, she required those present at the said

meeting, including Amado Paragas, to sign the attendance sheet. The witness likewise reiterated that Amado Paragas actively participated on the issues being deliberated during the meeting.

"The testimonies of the first two witnesses for the defense, relative to the presence of accused Amado Paragas at the meeting of the cooperative, between 4:00 PM to 7:45 PM of March 4, 1994, was further corroborated by FELINO **ILAGAN**, the chairman of the Western Vendor Multi Purpose Cooperative. The witness further testified that after the adjournment of the meeting at around 7:45 P.M. of March 4, 1994, he, together with the accused Amado Paragas proceeded to the stall of the latter at the LMR Market to further discuss their agenda. There, he saw Sixto Paragas taking care of the stall of Amado Paragas.

"Accused **SIXTO PARAGAS**, testifying on his behalf, corroborated the testimony of co-accused Amado Paragas. Accordingly, on March 11, 1994, at around 10:30 in the morning, a certain Lilia Serrano, together with some companions, approached him while he was peddling fruits at a stall inside the Tenement Market, Taguig, Metro Manila. Mrs. Serrano pleaded [with] him to withdraw a case which he had filed against some of her children. When he replied that the case was already filed in court, Mrs. Serrano and her companions threatened that they would implicate him in a case, even if he is innocent. The woman's companions, who turned out to be policemen, then invited him to the police precinct near the Tenement Market in the guise of celebrating their Lieutenant's birthday. The policemen, however, prevented him from getting out of the precinct even after he had partook of the food served by the birthday celebrant. A policeman in uniform named Tangco, then came, and frisked and handcuffed him. Queried whether they had a warrant for his arrest, the policemen retorted that he would just be asked questions at the Taguig Municipal Hall, where he was sent inside a cell. At around midnight, he was blindfolded and brought out of the cell. He felt that many people were in the vicinity and that somebody was pointing at him. He then heard somebody says: '*iyang si Sixto Paragas*'. He surmised that the voice sounded like that of Lilia Serrano's. The people around him then asked him to admit a murder charge against him and he was beaten for about three (3) hours.

"**NATIVIDAD LAUREANO**, another vendor of the LMR Market, Taguig, Metro Manila, testified that accused Amado Paragas and Sixto Paragas were at their stall from 7:00 AM to 8:00 P.M. of March 4, 1994."^[10]
(Citations omitted)

Ruling of the Trial Court

The trial court gave full faith and credence to the testimonies of the four (4) prosecution witnesses, who had been aboard the jeepney where the stabbing incident occurred. It ruled that their testimonies had corroborated each other on every material point and clearly established the identities of appellants as the culprits.^[11]

The RTC rejected appellants' alibi, which had failed to show that it was physically impossible for the two to be at the scene of the crime at the time of the stabbing

incident. It also concluded that conspiracy could be inferred from their acts. Finally, it held that the prosecution was able to establish the elements of evident premeditation as a qualifying, and treachery as an aggravating, circumstance.

Hence, this automatic review.^[12]

Issues

Appellants assign three alleged errors for our consideration:

“I

The Court *a quo* gravely erred in giving undue credence to the alleged positive identification of the accused by the prosecution witnesses as the perpetrators of the crime charged;

“II

The Court *a quo* gravely erred in finding both the accused guilty of the crime of murder despite the insufficiency of evidence adduced to prove the qualifying circumstances thereto;

“III

The Court *a quo* committed a reversible error in not imposing the proper penalty for the crime allegedly proven.”^[13]

In sum, the issues boil down to two: (1) sufficiency of the prosecution evidence and (2) proper penalty for the crime proven.

The Court’s Ruling

The appeal is partly meritorious; appellants are guilty of homicide only, not murder.

First Issue:

Sufficiency of Prosecution Evidence

Appellants contend that the RTC erred in giving credence to the identification made by the prosecution witnesses. They argue that since the witnesses had only a fleeting observation of the stabbing incident, the latter could not have positively identified the perpetrators.^[14] We are not convinced.

Well-settled is the rule that the assessment by the trial court of the credibility of witnesses is accorded great respect.^[15] This is because of its unique opportunity to observe them firsthand and to note their demeanor, conduct and attitude.^[16] It is aided by various indicia that are not readily apparent from the records: “the candid answer, the hesitant pause, the nervous voice, the undertone, the befuddled look, the honest gaze, the modest blush, or the guilty blanch” reveal if they are telling the gospel truth or just spinning a web of lies.^[17] Hence, its findings on such matters are binding and conclusive on appellate courts, unless some facts or circumstances of weight and substance have been overlooked, misapprehended or misinterpreted.^[18]

In the present case, the RTC found the testimonies of the four passenger-witnesses to be credible, coherent and straightforward accounts of what had transpired inside