

EN BANC

[G.R. No. 134607, December 12, 2001]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. CELSO REYNES ALIAS "BOY BAGA", ACCUSED-APPELLANT.

DECISION

CARPIO, J.:

Treachery, whenever present and alleged in the information, qualifies the killing of the victim and raises it to the category of murder. Once appreciated as a qualifying circumstance, treachery can no longer be considered anew as a generic aggravating circumstance for the purpose of imposing the supreme penalty of death.

The Case

Before this Court, by way of automatic review, is the Decision^[1] dated July 13, 1998, of the Regional Trial Court of Urdaneta City, Pangasinan, Branch 46, convicting appellant Celso Reynes alias "Boy Baga" of murder aggravated by treachery and sentencing him to suffer the supreme penalty of death.

The Charge

Celso Reynes was charged with the crime of murder in an Information that reads:

"That on or about June 20, 1997 at barangay Nancamaliran East, Urdaneta, Pangasinan, and within the jurisdiction of this Honorable Court, the above-named accused armed with an unlicensed firearm with intent to kill, treachery and evident premeditation, did then and there willfully, unlawfully and feloniously shoot Claro Bernardino y Pasana inflicting upon him multiple mortal wounds which caused the instantaneous death of said Claro Bernardino y Pasana to the damage and prejudice of his heirs.

Contrary to Article 248 as amended by R.A. 7659."^[2]

Arraignment and Plea

When arraigned on March 16, 1998, appellant, with the assistance of counsel, entered a plea of not guilty.^[3] Thereafter, trial ensued.

The Trial

Version of the Prosecution

The prosecution presented four witnesses, namely: (1) Norma Padilla, common-law wife of the victim and an eyewitness to the incident; (2) Dr. Ramon Gonzales, Jr.,

rural health physician who conducted the autopsy on the victim and issued the death certificate; (3) SPO1 Asterio Dismaya, member of the Philippine National Police (PNP) in Urdaneta, Pangasinan, who went to the crime scene and the hospital to investigate; and (4) SPO2 Ernesto C. Ganceña, also a member of the PNP in Urdaneta, Pangasinan, who was present when SPO1 Asterio Dismaya and another policeman took the statement of Norma Padilla. The prosecution's version of the incident, as culled from the testimonies of its witnesses, was summed by the Solicitor General in the People's Brief, thus:

"At a little past midnight of June 20, 1997,^[4] Claro Bernardino and his common-law wife, Norma Padilla, returned to their house in Nancamaliran East, Urdaneta, Pangasinan after breaking in their motorcycle (pp. 4-5, tsn, April 13, 1998). After parking the motorcycle in front of their house, the couple went inside their house and Norma Bernardino prepared coffee. At about 12:10 a.m., after drinking coffee, Claro Bernardino stepped outside while telling Norma to help him bring the motorcycle inside the house. Norma followed him and went out of the house. She saw Claro Bernardino, about 2 meters away from the motorcycle, urinating at the left side of the front portion of the house which was illuminated by a 100-watt bulb. Appellant suddenly emerged from the wall at the right side of the house, approached appellant on his right side, which was approximately three meters away, and shot him three times with a firearm (p. 3, tsn, April 20, 1998; pp. 5-6, tsn, April 13, 1998). After shooting Claro Bernardino, appellant ran away towards the north. Norma embraced her husband who had fallen and shouted for help. The victim was rushed to the Sacred Heart Hospital in Urdaneta, Pangasinan by his brother but he did not reach the said hospital alive (pp. 7-8, tsn, April 13, 1998).

After receiving a report of the foregoing incident at past midnight, a spot investigation at the crime scene was conducted by SPO1 Asterio Dismaya (pp. 3-4, 7, tsn, April 1, 1998). He was able to investigate Norma Bernardino at her residence where the latter informed him that it was appellant who shot the victim (p. 4, id).

The post-mortem examination conducted by Dr. Ramon Gonzales disclosed that the victim sustained a total of eight (8) gunshot wounds, three of which were identified as entry wounds (pp. 6, 15-16, tsn, April 28, 1998).

In connection with the death of Claro Bernardino, appellant was subsequently arrested by the police and incarcerated at the BJMP detention center in Urdaneta, Pangasinan (p. 5, tsn, June 16, 1998)."^[5]

Version of the Defense

For his part, appellant Celso Reynes, a thirty-nine year old construction worker, resident of Umingan, Pangasinan, relied on denial and alibi to maintain his innocence. He testified that at the time of the incident on June 20, 1997, he was in the house of his *compadre* Manuel Garcia, seeking financial help for the school fees of his son. From 8:00 o'clock in the evening of June 19, 1997 until 2:00 o'clock in the morning of June 20, 1997, he and his *compadre*, Manuel Garcia and Sergio

Tuliao were having a drinking spree. After consuming four bottles of gin, he and his *compadre* slept in the sala. He woke up at 9:00 o'clock in the morning when Manuel arrived from the market. He claimed that he stayed at his *compadre*'s house from June 19, 1997 until June 24, 1997 and returned to Umingan for the school opening. He admitted knowing the victim, Claro Bernardino, since he stayed in the latter's house for a year, some time in 1995.^[6]

Manuel Garcia and Sergio Tuliao were presented to corroborate the alibi of appellant. Manuel Garcia, forty-two years old, resident of Mabanogbog, Urdaneta, Pangasinan, testified that appellant arrived at his house at 6:00 o'clock in the evening of June 20, 1997 with his children. They started drinking from 8:00 o'clock in the evening until about 1:00 o'clock or 2:00 o'clock the following morning. After consuming four bottles of gin, they both slept in the sala. When he woke up at 5:00 o'clock in the morning, he saw appellant near him. When he left to go to the market for his buy and sell business, appellant was still sleeping. According to him, appellant stayed in his house for four days from June 20, 1997 because appellant was ejected from his house in Umingan.^[7]

Sergio Tuliao, forty-two years old, an ice cream maker, also a resident of Mabanogbog, Urdaneta City, testified that he was with appellant in the evening of June 20, 1997 until dawn of June 21, 1997. He testified that at around 8:00 o'clock in the evening of June 20, 1997, he joined appellant and Manuel Garcia at the latter's house for drinks. He stayed for less than an hour then left to attend a wake. At 1:00 o'clock in the morning of June 21, 1997, he returned to Manuel Garcia's house. He saw the two still drinking. After taking a shot, he left and went home.^[8]

The Trial Court's Ruling

The trial court accorded full faith and credence to the testimony of Norma Padilla and disregarded appellant's defense of alibi. It observed that Norma's testimony was direct, positive, unswerving, and rings with truth. It also noted that the defense has not shown any improper motive as to why Norma would testify falsely and impute a serious charge against appellant.^[9] On the other hand, the trial court found appellant's alibi as weak in the face of Norma's positive testimony.

In the decretal portion of the decision, the trial court pronounced judgment thus:

"WHEREFORE, the Court finds Celso Reynes, guilty of Murder (aggravated by Treachery) beyond reasonable doubt, and hereby sentences Celso Reynes to suffer the penalty of Death to be implemented in the manner provided by Law. To pay the heirs the sum of P100,000.00 for actual expenses, plus P50,000.00 moral damages, another P20,000.00 for exemplary damages together with all accessory penalty (sic) provided for by law.

xxx xxx xxx.

xxx xxx xxx.

SO ORDERED."^[10]

Hence, the transmittal of the records of the case to this Court for automatic review.

The Issues

Appellant seeks the reversal of the conviction decreed by the trial court, by contending that -

I

THE LOWER COURT ERRED IN ACCORDING UNDUE WEIGHT AND CREDENCE ON THE UNCORROBORATED TESTIMONY OF NORMA PADILLA DESPITE ITS INHERENT BIAS, MARKED CONTRADICTIONS AND IMPROBABILITIES.

II

THE LOWER COURT LIKEWISE ERRED IN APPRECIATING TREACHERY AS ATTENDANT IN THE SHOOTING OF CLARO BERNARDINO ALLEGEDLY BY THE HEREIN ACCUSED-APPELLANT, CELSO REYNES.^[11]

The Court's Ruling

The Court sustains the conviction of appellant for the crime of murder,^[12] but the penalty imposed by the trial court should be reduced from death to *reclusion perpetua*.

In support of the first assignment of error, appellant points to the following alleged inconsistencies and improbabilities in the testimony of eyewitness Norma Padilla: (1) her declaration that she saw appellant shoot the victim three (3) times is belied by the medical findings of Dr. Ramon Gonzales, Jr. that there were no less than nine (9) gunshot wounds found on the external part of the victim; (2) her declaration on direct examination that her husband was shot three times while urinating *before* the motorcycle was brought inside their house contradicts her declaration on cross-examination that her husband went out of the house to urinate *after* they had brought the motorcycle inside their house; (3) her testimony that her husband urinated only about two meters away from her, but she was not seen by appellant at the time the latter shot her husband at a close range of about two meters, defies reason; and, finally, (4) it was unnatural for Norma not to shout or warn her husband of the impending danger from the assailant who was just as near to her as her husband was to the assailant.

Based on the foregoing arguments, the resolution of this case hinges on the credibility of the prosecution's lone eyewitness, Norma Padilla. Her account on direct examination of what happened at a little past midnight of June 19, 1997 runs in this wise:

"Q: At about 12:10 in the morning of June 20, 1997, do you still recall what are you (sic) doing?

A: We just came home from having our motorcycle breaking in, sir.

Q: After you just came home from breaking in your motorcycle, whose motorcycle is that?

A: That is ours sir.

Q: And where did you place that motorcycle after you arrived breaking in?

A: In front of our house sir.

Q: By the way, when did you start breaking in your motorcycle?

A: 9:00 o'clock in the evening sir.

Q: When you arrived at your house, what happened after breaking in your motorcycle?

A: We took our coffee, sir.

Q: After that what happened?

A: We went out, sir.

Q: Where?

A: We went out from our house, sir.

Q: For what purpose?

A: For my husband to bring inside the house our motorcycle, sir.

Q: What did your husband do?

A: He went to urinate sir.

Q: Where?

A: At the left side in front of our house, sir.

Q: How far is the motorcycle parked to the house?

A: Two (2) meters sir.

Q: How far is the place where your husband urinate to the motorcycle parked?

A: About two (2) meters sir.

Q: How about you where did you go?

A: I went to help him from bringing inside our house the motorcycle, sir.

Q: While your husband was urinating what happened next?

A: He was shot sir.

Q: How many times was your husband shot?

A: Three (3) times sir.

Q: Do you know who shot him?

A: Yes sir.

Q: Who shot your husband?

A: Celso Reynes sir.

Q: Why do you say that Celso Reynes who shot your husband?

A: Because I saw it, sir.

Q: Where was Celso Reynes when he shot your husband?