

FIRST DIVISION

[G.R. No. 126042, October 08, 1998]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ISIDRO MIJARES, ACCUSED-APPELLANT.

DECISION

PANGANIBAN, J.:

A person may be convicted on the basis of circumstantial evidence, provided the proven circumstances inexorably lead to one fair and reasonable conclusion pointing to the accused as the guilty person, to the exclusion of all others. Where the evidence presented admits of other conclusions, the accused must be acquitted.

The Case

Appellant Isidro Mijares challenges before us the April 8, 1996 Decision^[1] of the Regional Trial Court of Zamboanga City, Branch 16, in Criminal Case No. 13275, convicting him of murder and sentencing him to reclusion perpetua.

In an Information dated June 28, 1995, Third Assistant City Prosecutor Elpidio F. Nuval charged appellant with killing a six-year-old girl, Marissa Agujar:

"That on or about June, 19, 1995, in the City of Zamboanga, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, in disregard of the respect due the offended party on account of her tender age and sex, by means of treachery and taking advantage of his superior streng[th], and with intent to kill, did then and there, wilfully, unlawfully and feloniously, assault, attack and slice the neck with the use of a bladed weapon that he was then armed with, at the person of **MARISSA AGUJAR y MAAMBONG**, a girl, 6 years of age, thereby inflicting upon the latter's person mortal injuries which directly caused her death, to the damage and prejudice of the heirs of said victim."

During his arraignment on July 14, 1995, Mijares, assisted by Counsel *de Oficio* Melchor Lim, entered a plea of not guilty.^[2] Trial ensued in due course. Thereafter, the court a quo rendered the assailed Decision, the dispositive portion of which reads:

"WHEREFORE, the Court finds accused **ISIDRO MIJARES** GUILTY BEYOND REASONABLE DOUBT, as principal, of the crime of [m]urder for the unjustified killing of Marissa Agujar y Maambong, without any mitigating or aggravating circumstance, and SENTENCES said accused to suffer the penalty of RECLUSION PERPETUA with all the accessory penalties provided by law; to pay the heirs of the victim P10,500.00 as actual damages representing expenses incurred in connection with the victim's death; P50,000.00 as indemnity for the victim's death; P50,000.00 as

moral damages and P30,000.00 as exemplary damages; and to pay the costs.

"The accused shall be credited in the service of his sentence the full period during which he was under preventive imprisonment."^[3]

The Facts

Version of the Prosecution

In the Appellee's Brief,^[4] the solicitor general presents the following narration of the facts.

"Around 5:00 in the afternoon of June 19, 1995, Marissa Aguilar, then six years old, was fetched by her mother Marilyn Aguilar from the Southcom Elementary School, Zamboanga City, where she was a Grade I pupil. Marilyn, at the time, was living with her 'live-in' partner, Adlai Mides, in Baliwasan Tabuk, Zamboanga City. As soon as she arrived home, Marilyn changed Marissa's clothes and washed them. Meanwhile, Marissa got her marbles inside an empty mayonnaise jar and asked her mother's permission to play outside.

"After washing clothes at 6:30 in the evening, Marilyn looked for Marissa at their neighbors' houses but she was unable to find her. She met Freddie, a friend of appellant Isidro Mijares, who warned her about appellant who was looking and waiting outside for her 'live-in' partner, Adlai, because appellant had a quarrel with Adlai and wanted to stab him. Marilyn went to the place where appellant was allegedly waiting for Adlai but did not find him there.

"She then continued to look for Marissa until 8:00 in the evening but her search was fruitless. She decided to fetch Adlai who was with his brother at Lower Calarian. The couple went home and prepared for supper. Adlai told Marilyn to look again for Marissa, but she was still unable to find her. This caused the couple to quarrel until their neighbor, Andy Antalan, a policeman, intervened and told them to concentrate instead on looking for Marissa (TSN, August 30, 1995, pp. 27-35).

"Another neighbor, Arnold Laurente, father of Arzen Lyod Laurente with whom Marissa was playing marbles that afternoon, told Marilyn that Marissa was with appellant who was drunk. They went to look for appellant at Elizabeth Oglos' house where he was reportedly staying, at the house of Cesario Mijares, appellant's brother, and at the house of their friends, but still to no avail (TSN, supra, pp. 36-39).

"They continued looking for Marissa the following day, June 20, 1995. At 11:20 in the morning of that day, Marilyn decided to go to the police station and report her daughter's absence. This was recorded in a Complaint Assignment Sheet (Exhibit C) (TSN, supra, pp. 42-43).

"On June 21, 1995, Marilyn saw appellant walking in Sta. Catalina district, Zamboanga City, and confronted him. He vehemently denied meeting Marissa and bringing her with him even when Marilyn brought him to the police station. But he was released because the police had nothing against him at that time (TSN, supra, pp. 44-46).

"In the morning of June 26, 1995, the body of Marissa was found on the floor of a room in the second storey of an old abandoned house near San Jose Road. Marissa was 'lying in a supine position, 'Tikangkang' (open legs), her mouth opened.' She was wearing a 'red jumper and it was worn with the back part of the dress in front, and the one that [was] supposed to be in front was at the back which was opened.' She was already in a state of decomposition, her color was already black, and there was some sort of oil or fluid oozing from her body. Also recovered from the scene of the crime were eleven pieces of marbles, a headband and a pair of blue slippers marked 'Rambo' (Exhibits L; L-1; O) (TSN, supra, pp. 49-59).

"The postmortem examination by Dr. Rodolfo M. Valmoria, [c]hief [m]edico-[l]egal [o]fficer of the PNP Crime Laboratory Service 9, Zamboanga City, showed the 'presence of sliced wound at the upper posterior neck' and the 'cause of death is cardiorespiratory arrest due to shock and hemorrhage secondary to sliced wound, posterior neck' (Exhibit I; I-1; and J). The victim's body was already in a state of decomposition (TSN, August 31, 1995, p. 4). When Dr. Valmoria first saw the victim, she was in a supine position, face up, her arms on her side and legs in open, flexed position. She had a wound on the upper portion on the posterior neck which could have been caused by a sharp-bladed instrument like a knife. The wound teemed with maggots. It was a fatal wound. The first and second vertebrae were exposed.

"Dr. Valmoria checked the external genitalia for possible sexual assault but it was 'masked' because of the decomposed state of the body. Thus, he could not make a conclusion that the victim was sexually assaulted, but he opined that it was possible that she was sexually abused. The victim was then wearing a panty, short pants and a red jumpsuit which were all inverted, with their inside portions out, indicating that they were taken off and then put on again, possibly when the victim was already dead. Based on the condition of the cadaver, the victim could have been dead for about 5 to 7 days. It was also possible that she died in the evening of June 19, 1995 (TSN, August 31, 1995, pp. 4-9).

"Per testimony of Marilyn, the victim's mother, appellant was a friend of her 'live-in' partner, Adlai Mides. He was also a carpenter mason like Adlai. When they were both working at the construction of Baliwasan Commercial Complex just across the place where the dead body of Marissa was found, Adlai, taking pity on him because he had no place to stay, invited appellant to stay with them. Appellant stayed with them for two weeks in March 1995. Eventually, Adlai asked him to leave because he did not contribute for the food that he ate. When appellant was staying with them, the victim was close to him, played with him and even called him 'Uncle.' Whenever he called her, she readily approached him and even obeyed him whenever she was told to do something for him (TSN, August 31, 1995, pp. 15-18).

"Appellant returned thereafter and borrowed a hammer from Marilyn. At 3:00 in the afternoon of the incident in question, Marilyn saw him at Upper Calarian drinking with Adlai (TSN, supra, pp. 18-19).

"Adlai confirmed Marilyn's testimony and added that he saw appellant in Lower Calarian at 7:00 in the morning of the incident in question. He asked him about the hammer he borrowed and appellant told him that it was in the house of Elizabeth Oglos where he was staying. Upon appellant's invitation, Adlai went with him to the house of Nonoy Espanola in Southcom Village where they drank two bottles of gin.

"They left Espanola's house at 3:00 in the afternoon and passed by the store of Clara Sabellano where appellant ordered another bottle of gin. Because he was very drunk, appellant made fun of a waitress married to a marine, which irritated Adlai who decided to leave him and take a tricycle.

"But appellant also boarded the tricycle and they proceeded to the house of Vicente Bandillon. Appellant left and Adlai joined Vicente, Tirso Bonhanong and Raul Santillan who were drinking. However, Adlai did not drink because he was already drunk. Appellant returned and Adlai confronted him anew about the hammer. Adlai eventually hit appellant with a glass on the chest. Appellant became angry. They parted ways and Adlai went to the house of his younger sister, arriving at 7:00 in the evening, and stayed there until he was fetched by Marilyn at 8:00 o'clock that same evening. Noticing Marissa's absence, they looked for her but were unable to find her (TSN, September 4, 1995, pp. 3-19).

"Marissa's playmate, Arzen Lyod Laurente, 7 years old, provided the missing link. He testified that at 5:00 in the afternoon of June 19, 1995, the day of the incident, he was playing marbles with Marissa. While playing, Arzen's mother told him to buy cooking oil at the store of his Aunt Mila. Marissa went with him. When they reached the store, Marissa and Arzen saw appellant and the latter gave Marissa P1.00 for candy. Arzen then went home with his father while Marissa was left in the store with appellant (TSN, August 30, 1995, pp. 9-15). When Arzen turned his head, he saw Marissa and appellant leaving the store. At that time, it was already dark but 'not so dark yet.' That was the last time Arzen saw Marissa alive (TSN, supra, pp. 18-19).

"Elizabeth Oglos revealed that appellant, who was her brother's close friend, arrived at her house on June 17, 1995, from Cagayan de Tawi-Tawi and asked if he could stay with her. She consented because she knew him. She noticed that he was wearing a pair of yellow plastic slippers with thin and worn-out soles (Exhibits K and K-1). He then asked permission to go out and drink with his friends. However, he left his yellow slippers and instead used Elizabeth's pair of slippers which was thicker, with violet strap[s] and black upper portion[s]. On the strap of both slippers was the name 'Rambo' (Exhibits L and L-1). She identified the slippers found at the scene of the crime as her 'Rambo' slippers which she described as the pair used by appellant without her permission. When asked to wear the 'Rambo' slippers, the same perfectly fitted her feet while the yellow slippers appeared too big for her (TSN, August 31, 1995, pp. 32-41).

"Appellant returned to her house in the evening of June 17, 1995, but left again the following day, still using her slippers, and returned in the evening. On June 19, 1995, he again left he[r] house in the morning and returned about 7:00 in the evening to change his clothes. She did not notice if he was wearing her slippers. He did not sleep at Elizabeth's house that night and the following successive nights, June 20 and 21.

"However, Elizabeth saw him on June 21, 1995, at the house of their neighbor, Francisco Bandillon, where she told him that somebody was looking for him because a child was missing. Appellant denied having anything to do with it, but Elizabeth noticed that he was no longer wearing her slippers. When asked about her slippers, appellant replied that he lost them at Southcom when he had a quarrel with Adlai Mides. He returned on June 22, 1995, bringing his clothes which he got from Marilyn and Adlai, but again left and did not sleep there. He returned and slept there on

June 23, 1995, and left early in the morning of June 24, 1995, to board a launch for Cagayan de Tawi-Tawi bringing his clothes with him, on the pretext that his brother had work for him there (TSN, supra, pp. 41-52).

"PO2 Jose RT Tortola confirmed that after receiving the report that a dead body was found inside the Domi[ni]can Compound, San Jose Road, Zamboanga City, he proceeded to the crime scene with two other policemen. They found the decomposed body of the victim sprawled on the floor in a supine position. Scattered near the victim's head were eleven pieces of marbles (Exhibit F). About ten to fifteen inches on her right side was a headband (Exhibit D). One of the slippers with [a] 'Rambo' mark was found outside the room, about ten meters away (Exhibits L; L-1) (TSN, September 1, 1995, pp. 4-14)."^[5]

Version of the Defense

The defense, in the Appellant's Brief,^[6] contests the above facts and alleges denial as follows:

"Hilda Paalisbo testified that Isidro Mijares went to her house in the evening of June 19, 1995 and slept there. Isidro was wearing slippers then. (TSN, pp. 1-16, September 11, 1995)

"Cesario Mijares testified that he is the elder brother of Isidro Mijares. Isidro was arrested because he (Isidro) was being suspected of kidnapping a child. (TSN, pp. 16-36, September 11, 1995)

"Isidro Mijares testified that he and Adlai had a drinking spree in the morning of June 19, 1995 till 3:00 o' clock in the afternoon of the same date. At about 6:30 p.m. of the said date, they parted ways. He (Isidro Mijares) slept in the house of Hilda Paalisbo. He denied [having] taken Marissa Aguilar. (TSN, pp. 1-59, September 12, 1995)"^[7]

The Ruling of the Trial Court

In convicting appellant, the trial court held that "although there is no direct evidence in the case at bar proving that it was accused Isidro Mijares who killed Marissa Aguilar x x x circumstantial evidence will support a judgment of conviction if: (1) there is more than one circumstance; (2) the facts from which the inferences are derived are proven; and (3) the combination of all the circumstances is such as to produce a conviction beyond reasonable doubt."^[8] The following are the particular circumstances that led the trial court to conclude that it was indeed Appellant Isidro Mijares who had killed Marissa Aguilar:

"x x x [T]hat Isidro Mijares is known to the victim[,] Marissa Aguilar; that he was asked by the victim's mother and stepfather to leave the house after staying for one week with them; that he borrowed the hammer of Adlai (Dodong) Mides, the victim's stepfather, and brought it to Cagayan de Tawi-Tawi without permission for which Adlai Mides got angry at him; that before they parted in the evening of June 19, 1995, Adlai Mides hit Isidro Mijares with a glass (baso) on the chest for which Isidro got mad; that Isidro was last seen with Marissa Aguilar on the evening when she