THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. EDGAR SANTO AND MARITO SANTO, ACCUSED-APPELLANTS.

Ponente: DIY, J.

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DIY, J.:

On appeal is the Judgment[1] dated November 18, 2011 rendered by Branch 6, Regional Trial Court (RTC) of Tacloban City, 8th Judicial Region, in Criminal Case No. 93-02-099 wherein both accused-appellants Edgar Santo and Marito Santo ("Edgar" and "Marito", for brevity) were found guilty of the crime of Murder. The dispositive portion of the assailed decision reads:

> IN VIEW of all the foregoing, WHEREFORE, the Court finds accused EDGAR SANTO and MARITO SANTO guilty beyond reasonable doubt with the crime of Murder duly attended with the qualifying circumstance of treachery and absent of any other mitigating or aggravating circumstance, sentences each accused to suffer imprisonment of reclusion perpetua and to pay the heirs of the victim jointly and severally civil indemnity of Fifty Thousand Pesos (P50,000.00) and moral damages of Fifty Thousand Pesos (P50,000.00).
>
> SO ORDERED.

The Antecedents

On February 18, 1993, an Information[2] was filed with the Regional Trial Court, docketed as Criminal Case No. 93-02-093. The accusatory charge reads:

xxx

> That on or about the 12th day of January, 1993, in the Municipality of Dulog, Province of Leyte, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with deliberate intent to kill, with evident premeditation and with treachery, conspiring, confederating and mutually helping one another, did then and there wilfully, unlawfully and feloniously attack, assault, shoot and wounded [sic] one VICENTE CAPUNCGOL, SR. with the use of long firearm, which the accused provided themselves for the purpose, thereby causing his death.

xxx

During arraignment, both accused Edgar and Marito pleaded not guilty to the charge.[3]

Thereafter, trial on the merits ensued since both accused Edgar and Marito opted not to submit to a pre-trial conference.

Version of the Prosecution

To prove its case, the prosecution presented the following witnesses: Vicente Capungcol, Jr., Zenaida Capungcol ("Zenaida", for brevity), and Chief and Medico-Legal Officer PSI Angel A. Cordero. However, Vicente Capungcol Jr.'s testimony was later expunged from the records of the case through an Order dated March 18, 1999 as he was not subjected to cross-examination without the fault of both accused.[4]

The prosecution's version of the facts as culled from the records and testimony of its witnesses is as follows:

On January 12, 1993, at about 8:30 o'clock in the evening more or less,[5] Vicente Capungcol Sr. (“Vicente, Sr.”, for brevity) was brushing his teeth at the kitchen outside his house in Brgy. Cabatuan,[6] Dulag. He was using a mere kerosene lamp placed near the kitchen sink for illumination.[7] While Vicente, Sr. was brushing his teeth, his wife Zenaida Capungcol saw Edgar and Marito standing side by side facing Vicente, Sr. across the kitchen sink.[8] Edgar was aiming the firearm he was holding at Vicente, Sr.[9] Zenaida then heard Marito telling Edgar to shoot Vicente, Sr. Then she heard a gunshot[10] and Vicente, Sr. fell to the ground. Immediately after seeing Vicente, Sr. on the ground, Zenaida went to the house of her parents-in-law, located nearby, to inform them about the incident. On the way to her parents-in-law's house, Zenaida saw Edgar and Marito come out to the yard of her parents-in-law.[11] Zenaida testified in open court that Edgar and Marito had motive to kill Vicente, Sr. because there was a dispute involving a portion of land owned by the latter's uncle, which Edgar and Marito's father had bought.

Based on the Certificate of Death[12] and Medico-Legal Necropsy Report,[13] the cause of death of Vicente, Sr. was shock and hemorrhage due to fracture of the skull and laceration of brain substances as a result of gunshot wounds. The post-mortem findings are quoted as follows:

> Post Mortem Findings:
>
> General
>
> Fairly nourished, fairly developed, male cadaver in the rigor mortis, with postmortem lividity on the dependent portions of the body. Lips and nails are cyanotic.
>
> Head and Neck:
>
> Gunshot wounds, multiple point of entries at the left parietal region, frontal and the lateral portion of the neck, producing an [sic] identical sizes, measuring 2x2x6 cms., AML
>
> On opening:
>
> It revealed fracture at the left parietal region, fracture of the cervical vertebra.
>
> Laceration of the brain substance.
>
> Two slugs were recovered from the said area.
>
> Remarks:
>
> Cause of Death is shock and hemorrhage due to gunshot wounds of the skull fracturing and lacerating the brain substance.

Version of the Defense

The defense presented both accused, Edgar Santo and Marito Santo, as well as Natividad Petilla, Fructosa Saño, Felicidad Medino, and Aleth Cabuguang.

Both accused denied the commission of the crime and interposed the defense of alibi.

In the evening of January 12, 1993, from six o'clock until nine o'clock, Marito was at his house in Brgy. Tabo, Dulag, Leyte, fixing his motorcycle together with Natividad Petilla.[14] Marito's motorcycle got damaged when he met an accident earlier that day at Brgy. Del Pilar, Dulag, Leyte.[15]

In that same evening of January 12, 1993, Edgar was at his house in Brgy. Tigbao, Dulag, Leyte. At about 8:30 o'clock in the evening, Edgar helped Felicidad Medino and Felipe Polon, his hired workers, in splitting the

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coconuts which were husked earlier that day by Felicidad and Felipe for copra.[16]

Felicidad Medino[17] in open court testified that he (Felicidad) was tending the fire on the kiln used to dry coconut meat which is located at the backyard of Edgar until 1:00 o'clock in the morning of January 13, 1993.[18] Felicidad Medino further testified that at about 8:30 o'clock and 9:00 o'clock in the evening, Edgar had overseen the fire in the kiln. The witness did not see Edgar leaving said house.[19]

Fructosa Saño testified in court on direct testimony that on January 12, 1993, she was the Barangay Captain of Barangay Cabatuan, Dulag, Leyte.[20] In the evening of January 12, 1993, she went to the house of Vicente, Sr. after receiving a report that somebody was shot.[21] Upon arriving at the house of Vicente, Sr., she saw the dead body of Vicente, Sr. lying at the kitchen floor.[22] Fructosa Saño then inquired from the son of Vicente, Sr., Vicente Capungcol, Jr., and from another female as to who killed the victim, but unfortunately, they were not able to recognize the assailants.[23]

On June 10, 2008, the court a quo rendered the assailed Decision[24] finding accused-appellants guilty beyond reasonable doubt of the crime of Murder qualified with treachery.

On July 7, 2008, a Notice of Appeal[25] was filed by both accused-appellants intending to appeal the above-mentioned Decision to the Supreme Court. However, on July 10, 2008, accused-appellants filed an Amended Notice of Appeal[26] intending to appeal said Decision before this Court.

Accused-appellants filed their Appellant’s Brief[27] on December 2, 2011 assigning the following errors - -

A.

THE HONORABLE RTC COMMITTED REVERSIBLE ERRORS OF FACTS AND OF LAW WHEN IT FOUND ACCUSED EDGAR SANTO AND MARITO SANTO GUILTY BEYOND REASONABLE DOUBT OF THE CRIME OF MURDER DESPITE THE WEAKNESS OF THE PROSECUTION'S EVIDENCE.

B.
THE HONORABLE RTC COMMITTED REVERSIBLE ERRORS OF FACTS AND LAW WHEN IT RELIED SOLELY ON THE TESTIMONY OF ZENAIDA CAPUNGCOL IN ORDER TO CONVICT ACCUSED EDGAR SANTO AND MARITO SANTO.

C.
THE HONORABLE RTC COMMITTED REVERSIBLE ERRORS OF FACTS AND LAW WHEN IT APPRECIATED THE QUALIFYING AGGRAVATING CIRCUMSTANCE OF TREACHERY DESPITE SAID CIRCUMSTANCE NOT HAVING BEEN PROVEN BY THE PROSECUTION.

D.
THE HONORABLE RTC COMMITTED REVERSIBLE ERROR OF FACTS AND OF LAW WHEN IT REFUSED TO CONSIDER THE DEFENSE INTERPOSED BY THE ACCUSED EDGAR SANTO AND MARITO SANTO.

E.
THE HONORABLE RTC COMMITTED REVERSIBLE ERRORS OF FACTS AND OF LAW WHEN IT AWARDED CIVIL INDEMNITY, MORAL DAMAGES AND EXEMPLARY DAMAGES IN FAVOR OF HEIRS OF VICENTE CAPUNGCOL, SR.

In their Appellant’s Brief,[28] accused-appellants assert that they should not have been convicted of the crime of Murder since the testimony of the lone eyewitness Zenaida Capungcol is improbable. It is argued that --

First, it was unlikely for Zenaida to see the assailants of her husband in the darkness of the night when the only light that illuminated the kitchen was the kerosene lamp his husband was using while brushing his teeth. Also, it was impossible for Zenaida to have seen the assailants since across their kitchen are trees, banana plants, and coconut trees. Furthermore, it is of judicial notice and a known scientific fact that a person inside a lighted room or house would not be able to see outside since one's eyes, having been attuned to the light, cannot see the figures in the dark.

Second, accused-appellants argue that Zenaida's testimony that accused-appellants stood only two meters away from her husband is quite contrary to human nature and experience. No person who is about to commit a crime, much more a person known to the victim and his family, would show himself to the intended victim. Human nature and experience dictate that one would conceal himself and take advantage of the darkness of the surroundings to avoid identification.

Third, the testimony of Zenaida that she saw accused-appellant Edgar aiming a long firearm towards her husband is unbelievable and inconceivable because she did not even attempt to warn her husband about the impending danger, which is the ordinary reaction a person would do if one would see a threat against a family member.

Fourth, the testimony of Zenaida that she heard Marito telling Edgar Santo to shoot Vicente, Sr. is likewise unbelievable since if she was able to hear Marito, then Vicente, Sr. would have also heard the same and thus could have had an opportunity to take cover.

Fifth, the testimony of Zenaida Capungcol contradicts the physical evidence of the prosecution. According to Zenaida she only heard one explosion after which Vicente, Sr. fell to the ground. However, in the Medico-Legal Report, findings show that there were multiple wounds and two slugs in the victim's brain substance coming from the same gun. Therefore, there were two gun reports and not only one as claimed by Zenaida Capungcol.

On the other hand, the People of the Philippines, through the OSG, refutes every argument raised by both accused-appellants and recommends that We affirm the challenged decision in toto.

The Ruling of the Court

“Justice cannot be for one side alone, but must be for both.”[29]
The appeal is meritorious.

After a judicious study of the records at hand, We are fully convinced that there is sufficient ground to reverse or deviate from the findings of the court a quo that both accused-appellants are guilty of the crime of murder.

At the outset, it is worthy to emphasize that no less than Section 14, Article III of the Constitution mandates:

> Section 14. (1) x x x
>
> (2) In all criminal prosecutions, the accused shall be presumed innocent until the contrary is proved, xxx.

(Emphasis Ours)
The principal effect of the guarantee of presumption of innocence is that no person shall be convicted unless the prosecution has proved him guilty beyond reasonable doubt.[30] Proof beyond reasonable doubt does not mean such a degree of proof as, excluding possibility of error, produces absolute certainty. Moral certainty only is required, or that degree of proof which produces conviction in an unprejudiced mind. Nevertheless, the burden of proof still rests on the State. The accused, if he so chooses, need not present evidence. He merely has to raise a reasonable doubt and whittle away from the case of the prosecution. The constitutional presumption of innocence demands no less.[31]

After a painstaking review of the records and the transcripts of stenographic notes, We are not fully convinced with moral certainty that both accused-appellants have committed the crime charged. Reasonable doubt bothers Our conscience. With a cloud of doubt continuously hovering, Our mind cannot rest easy.

The case for the prosecution was woven basically on the testimony of Zenaida, who claimed to have seen Edgar and Marito as the assailants of her husband Vicente, Sr. Well-settled is the rule that the testimony of a lone prosecution witness, as long as it is credible and positive, can prove the guilt of the accused beyond reasonable doubt.[32] However, for such testimony to sustain a conviction, it should not only come from the mouth of a credible witness, it should likewise be credible and reasonable in itself, candid, straightforward and in accord with human experience.[33]

We are hard put to believe the testimony of Zenaida. Her testimony is laden with improbabilities that detract from her credibility.

Firstly, it is established in the records that the killing of Vicente, Sr. occurred at night time and that the only illumination emanates from a kerosene lamp placed beside the kitchen sink. To our mind, a kerosene lamp furnishes a faint light. Thus, there was insufficient lighting to have enabled Zenaida to recognize the assailants of her husband who were outside in the dark, much less, to ascertain the killers to be both herein accused-appellants.

Secondly, if Zenaida actually saw Edgar aiming a gun towards Vicente, Sr., it bothers Us as to why she did not even attempt to warn Vicente, Sr. about the impending threat which is quite an unnatural reaction of a normal human being with normal emotions and feelings. Unless Zenaida claims to be psychologically and emotionally abnormal, she could not have helped but react as any ordinary human being would given the same circumstances.

Thirdly, the testimony of Zenaida that she only heard a single gunshot was belied by physical evidence that there were actually two slugs recovered as indicated in the Medico-Legal Report.

Somehow, We cannot help but entertain doubts on the veracity of the assailants' identity.

It bears stressing that it has been observed that the most positive testimony of a witness may be contradicted by the fact that the testimony is contrary to common observation and experience, or the common principles by which the conduct of mankind is governed. The courts are not required to believe that which they judicially know to be incredible.[34]

Furthermore, reasonable doubt is injected when Fructosa Saño testified that she was able to talk to Zenaida immediately after the killing of Vicente, Sr. took place. Zenaida had informed the witness that the former did not know who the assailants were, viz:[35]

> Q: And she told you that she saw the shooting of her husband?
>
> A: No, according to them they did not know.

We find that the statements and utterances made by Zenaida immediately after the death of her husband Vicente, Sr. fall under the res gestae rule, that is, they are part of the res gestae.

The term res gestae has been defined as “those circumstances which are the undersigned incidents of a particular litigated act and which are admissible when illustrative of such act.” In a general way, res gestae refers to the circumstances, facts, and declarations that grow out of the main fact and serve to illustrate its character and are so spontaneous and contemporaneous with the main fact as to exclude the idea of deliberation and fabrication. The rule on res gestae encompasses the exclamations and statements made by either the participants, victims, or spectators to a crime immediately before, during, or immediately after the commission of the crime when the circumstances are such that the statements were made as a spontaneous reaction or utterance inspired by the

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excitement of the occasion and there was no opportunity for the declarant to deliberate and to fabricate a false statement. The test of admissibility of evidence as a part of the res gestae is, therefore, whether the act, declaration, or exclamation is so intimately interwoven or connected with the principal fact or event that it characterizes as to be regarded as a part of the transaction itself, and also whether it clearly negatives any premeditation or purpose to manufacture testimony.[36]

Clearly, the statement and utterances made under the obtaining conditions by Zenaida to Fructosa Saño, who was the Barangay Captain at that time, were spontaneous declarations, without premeditation on Zenaida's part. Zenaida was still suffering under the strain of a startling occurrence, the stimuli of which could have not allowed her an opportunity to fabricate or dissimulate.[37] Thus, it is worthy of belief that she did not actually see the assailants of her husband Vicente, Sr. otherwise she could have told Fructosa Saño right there and then that it was Edgar and Marito who killed her husband. It appears to Us that Zenaida merely contrived to pin criminal culpability upon both accused-appellants in view of the land dispute involving Vicente Sr. and the father of both accused-appellants.

This Court would like to point out that it gives weight and credence to the testimony of Fructosa Saño that Zenaida had made said statement and utterances immediately after the killing of Vicente, Sr. The testimony of Fructosa Saño was given in a candid and straightforward manner during her cross-examination. It has been consistently held by the Supreme Court that that when a testimony is given in a candid and straightforward manner, there is no room for doubt that the witness is telling the truth.[38] The credibility of Fructosa Saño's testimony is enhanced by the fact that no ill motive can be imputed to her on why as to why she testified on the said matter.

Notwithstanding the fact that the evidence of the defense may be weak, well-settled is the rule that the prosecution must rely on the strength of its own evidence and not on the weakness of the defense.[39]

In our criminal justice system, what is important is, not whether the court entertains doubts about the innocence of the accused since an open mind is willing to explore all possibilities, but whether it entertains a reasonable, lingering doubt as to his guilt. For it would be a serious mistake to send an innocent man to jail where such kind of doubt hangs on to one’s inner being, like a piece of meat lodged immovable between teeth.[40]

Needless to stress, the prosecution has failed to establish the guilt of both accused-appellants with moral certainty. Its evidence has fallen short of the quantum of proof required for conviction. Among the fundamental rights of an accused under our Bill of Rights is to be presumed innocent until the contrary is proved, and to overcome the presumption, the prosecution must establish with nothing but proof beyond reasonable doubt. In our criminal justice system, if the prosecution fails to discharge its burden of proving the guilt of the accused beyond reasonable doubt, it becomes not only the right of the accused to be set free but also the constitutional duty of the court to set him free. This leaves the Court with no other option but to acquit both accused-appellants Edgar Santos and Marito Santos for insufficiency of evidence; or at the very least, on reasonable doubt.[41]

IN VIEW WHEREOF, the Court hereby REVERSES the Judgment dated November 18, 2011 rendered by Branch 6, Regional Trial Court (RTC) of Tacloban City, 8th Judicial Region in Criminal Case No. 93-02-099 and ACQUITS both accused-appellants of the crime charged, with costs de oficio. Accordingly, the Court orders the immediate release of both accused-appellants Edgar Santo and Marito Santo, unless they are held for other lawful causes. The Director, Bureau of Corrections, shall report to this Court his/her compliance herewith within five (5) days from notice.

The Division Clerk of Court is DIRECTED to immediately cause the ENTRY OF JUDGMENT in this case pursuant to Section 1(a) of Rule VII of the 2009 Internal Rules of the Court of Appeals.

SO ORDERED.

Delos Santos, E.L., (Chairperson) and Maxino, P.A.A., JJ., concur.

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[1] Records, pp. 105 – 112.

[2] Records, p. 1.

[3] Ibid., p. 41.

[4] Records, p. 210.

[5] TSN, July 28, 1998, p. 9 and p. 11.

[6] Also referred to in the records as “Brgy. Cabatoan” and “Brgy. Cabatu-an”.

[7] TSN, July 28, 1998, pp. 5-8.

[8] Ibid.,

[9] Ibid., p. 9.

[10] Ibid., p. 11 and p. 13.

[11] Ibid., p. 14.

[12] Records, p.12.

[13] Ibid., p. 13.

[14] A male person based on the record.

[15] TSN, February 23, 2000, pp. 3 – 6.

[16] TSN, July 28, 2000, pp. 6 – 7; December 13, 2000, p. 6.

[17] A male individual based on the record.

[18] TSN, July 28, 2000, pp. 9 – 10.

[19] Ibid., pp. 10 – 11.

[20] TSN, February 22, 2000, p. 5.

[21] Ibid., pp. 5 – 7.

[22] Ibid., p. 8.

[23] Ibid., p. 9.

[24] Supra, Note 1.

[25] Records, p. 476.

[26] Ibid., p. 479.

[27] Rollo, pp. 9 – 27.

[28] Ibid.

[29] Quotation from Eleanor Roosevelt.

[30] Bernas, J.G., The 1987 Philippine Constitution: A Comprehensive Reviewer, 2006 ed., p. 148.

[31] People of the Philippines vs. Tapeda, G.R. No. 100354, May 26, 1995; Section 2, Rule 133, Revised Rules of Evidence.

[32] People of the Philippines vs. Jalbonian, G.R. No. 180281, July 01, 2013.

[33] People of the Philippines vs. Torion, G.R. No. 120469, May 18, 1999.

[34] People of the Philippines vs. Beltran, G.R. No. L-31860, November 29, 1974.

[35] TSN, February 22, 2000, p. 12.

[36] People of the Philippines vs. Salafranca, G.R. No. 173476, February 22, 2012.

[37] Sec 36, Rule 130, Rules of Court.

[38] Supra, Note 29.

[39] People of the Philippines vs. Besmonte, G.R. No. 103306, April 5, 1993.

[40] People of the Philippines vs. Lejano, G.R. No. 176389, G.R. No. 176389.

[41] Supra, Note 30.

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