PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. MARCOS CALIBOSO Y AGRABANTE, ACCUSED-APPELLANT.

Ponente: YBAÑEZ, J.

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YBAÑEZ, J.:

This is an appeal from the Decision dated 18 October 2010, of the Regional Trial Court, Branch 214, Mandaluyong City, in Criminal Case No. MC-08-11572 for Murder, finding the accused guilty as charged, the dispositive portion of which states:

> "WHEREFORE, premises considered, this Court finds accused MARCOS CALIBOSO Y AGRABANTE GUILTY beyond reasonable of the crime of Murder. Although the imposable penalty for the offense of Murder is Death, in consideration of Republic Act No. 9346 or the Act Prohibiting the Imposition of the Death Penalty, this court, is constrained to impose and hereby imposes only the penalty of reclusion perpetua. Accused is ordered to pay the heirs of Joseph S. Rolloque the amount of P27,801.50 as actual damages representing funeral, medical and transportation expenses, P75,000.00 as civil indemnity, and P50,000.00 as moral damages. Further, lost earning capacity in the amount of P1,896,595.20 is awarded as enunciated in People of the Philippines vs. Rolly Gidoc.
>
> **SO ORDERED."[1]**

The Facts

On 1 July 2007, at around 8:00 o'clcok in the evening, Roberto Nicolas was at his house located at Block 39 Welfareville Compound, Mandaluyong City, when he heard a commotion at the house of his neighbor, Joseph Rolloque, located across the street. Roberto saw Marcos Caliboso step out of Rolloque's house and fled away. Calaboso returned to Rolloque's house accompanied by five (5) other men. Caliboso kept shouting at Rolloque, telling him to come out of the house and face him.[2]

Afterwards, Alvin De Villa, Relloque's brother-in-law arrived. De Villa tried to pacify Caliboso but the latter punched De Villa on the face.[3] De Villa fled away and went to the nearby Police Precinct for assistance.[4] Caliboso and his companions then began pushing Rolloque's wooden wall in order to break it down and succeeded.[5]

Subsequently. Caliboso began throwing stones at Rolloque.[6] The latter fled his house but stumbled in the middle of the road not far from Caliboso.[7] Caliboso and his companions caught up with Rolloque and started hitting him on the head with pieces of wood. Caliboso and his companions took turns in hitting Rolloque with pieces of wood on the head.

During the affray, one of the malefactors grabbed a hollow block and dropped the same on Rolloque's head. Thereafter, a bystander shouted "tama na, patay na yang ginarote niyo". Caliboso and his companions then fled away and left Rolloque. Rolloque was rushed to a nearby hospital where he eventually died.

On 3 July 2007, Marina Rolloque, mother of Joseph requested the Philippine National Police Crime Laboratory for an autopsy of the cadaver of Joseph Rolloque. Dr. Emmanuel Aranas conducted the autopsy. Dr. Aranas concluded that Joseph Rolloque found that the latter sustained fractures in his skull which caused massive bleeding inside his brain which caused his proximate death. Dr. Aranas said that such fractures may be caused by a hard blunt object such as a piece of wood.

On 10 March 2008, Marcos Caliboso, alias Teddy was charged in an Information dated 7 February 2008 for the crime of Murder defined and punishable under Article 248 of the Revised Penal Code. Said Information alleges that:

> That on or about the 01st of July 2007, in the City of Mandaluyong, Philippines, a place within the jurisdiction of this Honorable court, the above-named accused, conspiring, confederating together with two (unidentified persons whose true identities and present whereabouts are still unknown, with intent to kill, armed with a piece of wood and stones, with abuse of superior strength which qualify such killing to murder did, then and there willfully, unlawfully and feloniously attack, assault and use personal violence upon the person of Joseph Rolloque by then and there beating, hitting him in different parts of his body and smashing his face, thereby inflicting upon the latter injuries which directly caused his instantaneous death.
>
> CONTRARY TO LAW.[8]

On 28 January 2009, accused Marcos Caliboso, assisted by counsel de oficio, pleaded Not Guilty to the crime charged.[9]

On 25 February 2009, pre-trial was held. Thereafter, trial ensued.

In a Decision dated 18 October 2010,[10] the trial court found the accused guilty of the crime charged and ordered him to pay the heirs of victim Joseph Rolloque the amount of P27,801.50 as actual damages, P75,000.00 as civil indemnity and P50,000.00 as moral damages, plus P1,896,595.20 for loss of earning capacity.

Undaunted, the accused perfected the instant appeal, contending that:

> I
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> THE TRIAL COURT SERIOUSLY ERRED IN CONVICTING THE ACCUSED-APPELLANT OF THE CRIME CHARGED DESPITE THE APPARENT INCREDIBILITY OF THE ALLEGED EYEWITNESSES' TESTIMONY.
>
> II
>
> THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT OF THE CRIME CHARGED DESPITE THE PROSECUTION'S FAILURE TO POSITIVELY ESTABLISH THE IDENTITIES OF THE ASSAILANTS.[11]

The appeal is not meritorious.

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We shall pass upon the two (2) assigned errors jointly and simultaneously.

Accused-appellant contends that the trial court committed a reversible error in relying heavily on the prosecution evidence and specifically on the testimony of prosecution witness Roberto Nicolas. Accused-appellant further contends that said witness could not have seen the victim's assailants because the incident happened at night with lights only coming from “gaseras” inside the nearby houses.

We are not persuaded.

Prosecution witness Roberto Nicolas testified that he was able to see the incident as well as the person involve because there were lights coming from different houses around the place. Said witness also testified that he saw the accused-appellant because there were lights like petromax, “gaseras” and bulbs coming from the inside of the houses around the area.[12] Witness, who was more or less ten (10) meters positively identified the accused-appellant while hitting the deceased Joseph Rolloque with a piece of wood. Settled is the rule that when conditions of visibility are favorable and the witnesses do not appear to be biased, their assertion as to the identity of the malefactor should normally be accepted.[13]

The Court gives great weight and respect to the foregoing RTC findings and conclusions which were chiefly based on its evaluation of the credibility of the witnesses, and the veracity and probative value of said witnesses' testimonies. The matter of assigning values to declarations on the witness stand is best and most competently performed by the trial judge, who had the unmatched opportunity to observe the witnesses and to assess their credibility by the various indicia available but not reflected on the record. The demeanor of the person on the stand can draw the line between fact and fancy. The forthright answer or the hesitant pause, the quivering voice or the angry tone, the flustered look or the sincere gaze, the modest blush or the guilty blanch — these can reveal if the witness is telling the truth or lying through his teeth.[14]

It is settled that when the issue is one (1) of credibility of witnesses, appellate courts will generally not disturb the findings of the trial courts considering that the latter are in a better position to decide the question as they have heard the witnesses and observed their deportment and manner of testifying during the trial. It is for this reason that the findings of the trial court are given the highest degree of respect. These findings will not ordinarily be disturbed by an appellate court absent any clear showing that the trial court has overlooked, misunderstood, or misapplied some facts or circumstances of weight or substance which could very well affect the outcome of the case.[15] In the present case, We do not see any clear showing that the trial court had indeed overlooked, misunderstood, or misapplied some facts or circumstances of weight or substance which would warrant the acquittal of the accused-appellant from the crime charged.

Accused-appellant likewise contends that the medical findings by prosecution witness Dr. Aranas do not deserve credence as it did not indicate that the wounds inflicted by the accused-appellant was the victim's cause of death.

We are likewise not persuaded.

It must be pointed out that even without the testimony of the doctor who prepared the Medico-Legal Report, the fact and cause of death of the victim had been established. The Medico-Legal Report was presented to show the extent of injuries suffered by the victim. It also corroborated in its material points, the testimonies of the other prosecution witnesses. In fact, the testimony of Dr. Aranas established that the victim died of internal injuries in the head caused by a blunt object such as a piece of wood. On the other hand, prosecution witness Nicolas testified that accused-appellant hack the victim on the head with a piece of wood.[16]

Equally undeserving of consideration is accused-appellant's defense of denial and alibi. Alibi cannot prevail over the positive testimony of prosecution witnesses Nicolas and De Villa with no improper motive to testify falsely

against him. As aptly observed by the trial court:

> To controvert these accusations, accused simply denied liability by shifting liability to one Raymond Sinco who was not even charged in the case. Neither testimonial nor documentary evidence was presented to corroborate his claim that he was just a bystander when the killing happened.

Between the positive and categorical testimony of the prosecution witnesses as to the fact that accused-appellant Caliboso was the author of the crime, on one hand, and his unsubstantiated denial on the other, We are inclined to uphold the former.

Finally, in line with jurisprudence, the amount of P30,000.00 as exemplary damages is also imposed following the Decision of the Supreme Court in People vs. Malicdem[17] and People vs. Laurio.[18]

WHEREFORE, Decision dated 18 October 2010, of the Regional Trial Court, Branch 214, Mandaluyong City, in Criminal Case No. MC-08-11572 is hereby AFFIRMED with MODIFICATION that the amount of P30,000.00 as exemplary damages is also awarded. No costs.

SO ORDERED.

Dimaampao, (Chairperson), and Sadang, JJ., concur.

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[1] Ibid., p 7 of the Decision dated 18 October 2010.

[2] TSN, 13 May 2009, p. pp. 13-14.

[3] TSN, 27 May, 2009, p. 11; and TSN, 27 May 2009, p. 12.

[4] TSN, 13 May, 2009, p. 11.

[5] TSN, 13 May 2009, pp. 14, 19.

[6] TSN, 13 May 2009, pp. 16, 19.

[7] TSN, 13 May, p. 20.

[8] Records, p. 1.

[9] Records, pp. 2; 3; and 4.

[10] Ibid., Decision dated 18 October 2010.

[11] Rollo, p. 1; 6 of the Brief for the Accused-Appellant, pp. 48-70.

[12] TSN, 3 May 2009, p. 40.

[13] Settled is the rule that when conditions of visibility are favorable and the witnesses do not appear to be biased, their assertion as to the identity of the malefactor should normally be accepted, Ibid.

[14] People of the Philippines vs. Dante Dejillo and Gervacio “Dongkoy” Hoyle, Jr., G.R. No. 185005, December 10, 2012.

[15] People of the Philippines vs. Rustico Bartolino y Ampis, G.R. No. 179498, August 3, 2010.

[16] TSN, 13 May 2009, pp. 20-23.

[17] G.R. No. 184601, November 12, 2012, 685 SCRA 193.

[18] G.R. No. 182523, September 13, 2012, 680 SCRA 560.

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