

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. MARLON SORIANO Y NARAG, ACCUSED-APPELLANT.

Ponente: CORALES, J.

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CORALES, J.:

This is an appeal[1] from the October 30, 2009 Judgment[2] of the Regional Trial Court (RTC), Branch 3, Tuguegarao City, Cagayan in Criminal Case No. 10121 finding accused-appellant Marlon Soriano (Marlon) guilty of murder under Article 248 of the Revised Penal Code (RPC), as amended by Republic Act No. 7659.

The Antecedents

On February 9, 2004, Marlon stabbed and hacked to death his uncle, Perfecto Narag (Perfecto), a retired Philippine Army soldier who was then 71 years old. Based on the Autopsy Report[3] prepared by Dr. Eugenio Dayag (Dr. Dayag), Perfecto succumbed to the following injuries:

Findings: Multiple stab wounds, head, chest & back region. Laceration on the left hand. Lacerated wound on the left side of the face.

Cause of Death: Severe internal injuries due to multiple stab wounds, head, chest and back region.

Immediately after the incident, Marlon surrendered to Barangay Councilman Benigno Lucas (Lucas) who brought him to the Pulisya ti Umili (PTU) in Annafunan.[4]

On February 10, 2004, Marlon was charged with murder under an Information[5] which reads:

That on February 9, 2004, in the City of Tuguegarao, Province of Cagayan and within the jurisdiction of this Honorable Court, accused MARLON SORIANO y NARAG, armed with a bladed weapon, with intent to kill and with evident premeditation and treachery, did then and there willfully, unlawfully and feloniously stab to death victim PERFECTO NARAG, husband of complainant EDERLINA A. NARAG, inflicting upon him mortal stab wounds which caused his untimely death.

That the crime was committed with the aggravating circumstance of dwelling, and in disregard of the respect due to the offended party on account of his age, being an old man.

When arraigned, Marlon pleaded not guilty to the crime charged[6] but during the initial presentation of evidence for the prosecution, he proposed to plead guilty, without prejudice to his right to prove mitigating circumstance. Accordingly, Marlon was re-arraigned with the assistance of a counsel de oficio and his earlier plea of not guilty was withdrawn and changed to a guilty plea.[7] However, Marlon was re-arraigned after the court discovered that his guilty plea was not in accordance with Section 3, Rule 116[8] of the Revised Rules of Criminal Procedure and the same was improvidently made because he did not truly understand the full consequences of his plea. After reading to him the Information in Itawes dialect, which he fully understood, Marlon entered a plea of not guilty.[9]

As culled from the testimonies of the prosecution's witnesses, it appears that in the afternoon of February 9, 2004,

Perfecto was inside his room when Marlon arrived. Her aunt Ederlina Narag (Ederlina), Perfecto's wife, saw him and asked why he was looking for his uncle. Marlon replied that he only wanted to know who between them is tougher. Suddenly, Marlon went inside the house and into Perfecto's room. Ederlina noticed Marlon's bladed weapon so she followed him and shouted at Perfecto, "Etong, close your door because Marlon is here!" Still, Marlon was able to get in and attacked Perfecto. Ederlina tried to stop him, but the latter pushed her and injured her in the process.

Villamor Pagulayan (Villamor), a nephew of Perfecto and Juanita and driver of the victim's tricycle since 2002, happened to be in the garage of the latter's house and heard Marlon looking for Perfecto. Afterwards, Villamor heard Ederlina shouting. He ran inside the house and proceeded to Perfecto's room where he saw Marlon stabbing his uncle. He immediately wrapped his left arm around Marlon's neck, held the latter's right hand and dragged him out of the room. Villamor returned to Perfecto but Marlon followed and tried to stab him. He went out again and chanced upon Martin Soriano (Martin), Marlon's brother. Instead of helping Villamor, Martin grabbed him by the neck and threatened him not to report the incident to the police. When Villamor was able to break free from Martin's grip, he boarded a tricycle and proceeded to the police station.[10]

SPO4 Guinucay and SPO2 Alay-ay were dispatched to the crime scene. They found Perfecto lying in a pool of blood with multiple stab wounds.[11] Ederlina and Villamor brought Perfecto's mangled body to the People's Emergency Hospital (PEH) in a desperate attempt to revive him.[12]

Dr. Dayag, a former municipal health officer, conducted the autopsy[13] on Perfecto's cadaver and prepared the latter's death certificate.[14] He opined that the wounds at the back area were likely caused by a very forceful blow of a chisel while the wounds at the front area were inflicted by a sharp, pointed instrument.[15]

Meanwhile, Marlon surrendered to Lucas who brought him to PTU Annafunan. He admitted the killing but gave a different account of what transpired. According to Marlon, his family and Perfecto had a misunderstanding over a land inherited by Marlon's mother and Perfecto. Whenever Perfecto gets drunk, he would drive Marlon and his family away from their place. In the afternoon of February 9, 2004, Perfecto went to Marlon's house shouting and asking him to go out. When he tried to confront his uncle, the latter swung his bolo hitting him in the knee. Marlon ran to the kitchen and got a chisel. As he was emerging from the door, Perfecto tried to hack him again but before he could be hit, Marlon stabbed Perfecto. They were already three (3) meters away from Marlon's house when the scuffle occurred and there were several onlookers but no one tried to pacify them. After his surrender, the police officer allegedly brought Marlon to the PEH to treat his wounded knee, however, he was unable to get a copy of his medical certificate.[16]

The Ruling of the RTC

In its October 30, 2009 Judgment,[17] the RTC noted Marlon's admission that he stabbed Perfecto and stressed that the only issue for resolution was the imposable penalty. It did not consider evident premeditation but appreciated the qualified aggravating circumstance of treachery because of the manner by which the killing was executed. The court a quo found that Perfecto was totally unaware of the imminent danger against his person when Marlon attacked him inside his house. The fact that Ederlina warned Perfecto of Marlon's presence is of no moment because the victim was unable to defend himself considering that he was unarmed. It stressed that Marlon deliberately chose a manner of attack that insured the attainment of his evil design without detriment to himself. The RTC did not also give credence to Marlon's claim that the stabbing occurred outside of Perfecto's house and gave more weight to Ederlina's testimony that the stabbing happened inside Perfecto's room as corroborated by Villamor and SPO4 Guinucay.

In computing the penalty, the court a quo held that the mitigating circumstance of voluntary surrender offset one

of the two generic aggravating circumstances, i.e., dwelling and disregard to the victim's age, but considering that the penalty for murder is indivisible, the higher penalty would be imposed. It then disposed the case as follows:

WHEREFORE, the accused MARLON SORIANO y Narag is found GUILTY beyond reasonable doubt of MURDER as defined in Article 248 of the Revised Penal Code, as amended by Republic Act No. 7659 and is hereby sentenced to suffer the penalty of Reclusion Perpetua without possibility of parole. Said accused is ORDERED to pay the heirs of Perfecto Narag the amount of P75,000.00 as civil indemnity; P75,000.00 as stipulated actual damages; P50,000.00 as moral damages; and P25,000.00 as exemplary damages; and to pay the costs of suit. (Emphasis appears in the original text of the Judgment)

Insisting on his innocence, Marlon filed the present appeal with this lone assignment of error:

THE TRIAL COURT GRAVELY ERRED IN CONVICTING ACCUSED-APPELLANT OF MURDER DESPITE THE PROSECUTION'S FAILURE TO ESTABLISH WITH MORAL CERTAINTY THE QUALIFYING CIRCUMSTANCE OF TREACHERY.[18]

Marlon faults the RTC in giving credence to Villamor's testimony because he allegedly did not witness the actual stabbing of Perfecto. He also questions Villamor and Ederlina's credibility due to their alleged bias considering their relationship with Perfecto. He alleges that the RTC erred in disregarding SPO1 Tangan's testimony which corroborated Marlon's claim that Perfecto hacked him with a bolo prompting him to get a chisel and stab his attacker. In essence, Marlon contends that Perfecto provoked him to retaliate and the stabbing happened as a spur of the moment, not as a result of a pre-concieved or deliberate attack, which negates the presence of treachery.

This Court's Ruling

The appeal lacks merit.

Testimonies of Prosecution's Witnesses More Credible than Accused-Appellant's

It has been held time and again that factual findings of the trial court, its assessment of the credibility of witnesses and the probative weight of their testimonies and the conclusions based on these factual findings are to be given the highest respect[19] because it had the better opportunity to observe the witnesses firsthand and note their demeanor, conduct and attitude under grueling examination.[20] On the other hand, the reviewing magistrate has none of the advantages peculiar to the trial judge's position, and could rely only on the cold records of the case and on the judge's discretion.[21] Thus, the trial court's assessment of the credibility of witnesses and their testimonies would not be disturbed absent any showing that it has overlooked, misapprehended or misapplied certain facts or circumstances of weight and substance which could substantially affect the outcome of the case.[22] We assiduously examined the records and We find no reason to either depart from this established doctrine or to review, much less, overturn the factual findings of the court a quo.

Marlon tried to destroy the credibility of the prosecution's witnesses by belaboring on their relationship with the victim, Ederlina and Villamor being Perfecto's wife and nephew, respectively. Such emphasis is misplaced. Blood relationship between a witness and the victim does not, by itself, impair the credibility of the witness. In fact, the relationship with the victim would render the testimony more credible as it would be unnatural for a relative who is interested in vindicating the crime to accuse somebody other than the real culprit. There is absolutely nothing in our laws to disqualify a person from testifying in a criminal case in which said person's relative was involved, if the former was really at the scene of the crime and was a witness to the execution of the criminal act.[23] Indisputably, Ederlina was with Perfecto in their home when Marlon attacked his uncle. She clearly described the events that took place before, during, and after her husband was stabbed and her testimony remained consistent and unwavering even on cross-examination. Thus, her positive testimony is enough to convict Marlon of the crime charged.

Further, Marlon's claim that the stabbing occurred outside of their respective houses does not inspire belief. We quote with approval the following disquisition of the RTC, viz.:

The version of the accused that the stabbing incident happened outside their house cannot be given credence. First, it is uncorroborated even if accused claimed that there were persons outside their house during the incident. Second, the testimony of prosecution witnesses Villamor Pagulayan and Ederlina Narag that the accused stabbed the victim inside the latter's room was corroborated by SPO4 Avelino Guinuay who testified that he found the victim's body with multiple stabbed (sic) wounds lying inside his room with a pool of blood. Defense conveniently did not present evidence on what happened to the victim after the stabbing incident that should have explained why the victim's body was found in his room even if the stabbing incident happened outside the house of the accused.[24]

There is also no merit in Marlon's contention that his testimony was corroborated by SPO1 Tangan. It bears stressing that SPO1 Tangan did not witness the stabbing incident; his testimony surrounding Perfecto's killing was purely based on Marlon's narration and not of his own personal knowledge. As such, his testimony regarding the killing is inadmissible for being hearsay. It is a basic rule in evidence that a witness can testify only on the facts that he knows of his own personal knowledge or those which are derived from his own perception. He may not testify on what he merely learned, read or heard from others because such testimony is considered hearsay and may not be received as proof of the truth of what he has learned, read or heard.[25]

Treachery: Duly Established; Qualified the Killing to Murder

Under Article 248 of the RPC, any person who shall kill another shall be guilty of murder and shall be punished by reclusion perpetua to death if it was committed with treachery. In relation thereto, Article 14, paragraph 16 states that "there is treachery when the offender commits any of the crimes against the person, employing means, methods or forms in the execution thereof which tend directly and specially to insure its execution, without risk to himself arising from the defense which the offended party might make. "The essence of treachery is that the attack is deliberate and without warning, done in a swift and unexpected manner, affording the hapless, unarmed and unsuspecting victim no chance to resist or escape." [26]

It may be said, as postulated herein, that the suddenness of the attack would not, by itself, suffice to support a finding of treachery. However, where proof obtains that the victim was completely deprived of a real chance to defend himself against the attack, as in the instant case, thereby ensuring its commission without risk to the aggressor, and without the slightest provocation on the part of the victim, the qualifying circumstance of treachery ought to and should be appreciated. Verily, what is decisive is that the attack was executed in a manner that the victim was rendered defenseless and unable to retaliate.[27]

As earlier discussed at length, the positive testimony of Ederlina established that Marlon purposely sought the unsuspecting Perfecto with intent to inflict mortal wound on him. Perfecto was unarmed at that time and there was no means of escape because he was trapped inside his room. In fact, Perfecto was about to close the door to his room when Marlon suddenly and swiftly stabbed him. Lastly, Marlon aimed at Perfecto's head, chest and back ensuring that he would not have a chance to retaliate. Obviously, the way it was executed made it impossible for the victim to respond or defend himself. He just had no opportunity to repel the sudden attack, rendering him completely helpless.[28]

The following observations of the RTC is also apt:

The fact that Ederlina Narag was able to shout at the victim to close his room does not rule out the presence of treachery. It has been ruled that while a victim may have been warned of possible danger to his person, in treachery what is decisive is that the attack was executed in such a manner as to make it impossible for the

victim to retaliate. The case at bar typifies this doctrine for the victim had no opportunity to defend himself precisely because it was simply unexpected to be the subject of an attack right inside his own abode and he was unarmed, with no opportunity to put up a defense. It must also be noted that the victim was already old and that his reflexes could have been worn down by age so he could not have been in a position to swiftly and sufficiently ward off the attack. xxx

Accordingly, We sustain the findings of the RTC that Marlon is guilty beyond reasonable doubt of murder.

Damages

However, We find it necessary to modify accused-appellant's civil liability. The RTC correctly awarded P75,000.00 civil indemnity and P50,000.00 moral damages but the actual damages should be reduced to P25,000.00 which is the amount of expenses stipulated by Ederlina in her testimony.[29] The awarded exemplary damages should also be increased to P30,000.00 in line with recent jurisprudence.[30]

All the foregoing monetary awards shall earn interest at the legal rate of 6% per annum from the date of finality of this decision until fully paid.[31]

WHEREFORE, the appeal is DENIED and the October 30, 2009 Judgment of the Regional Trial Court Branch 3, Tuguegarao City, Cagayan in Criminal Case No. 10121 is AFFIRMED with MODIFICATIONS. As modified, accused-appellant MARLON SORIANO Y NARAG is hereby ordered to pay the Heirs of Perfecto Narag P25,000.00 actual damages and P30,000.00 exemplary damages, and all monetary awards are subject to 6% interest per annum from the time of finality of this Decision until fully paid. All other aspects of the October 30, 2009 Judgment stand.

SO ORDERED.

Villon (Chairperson) and Macalino, JJ., concur.

[1] See Notice of Appeal relation to November 26, 2009 Order of the RTC giving due course to said appeal, records, pages 269 and 270, respectively.

[2] Penned by Judge Marivic A. Cacatian-Beltran, rollo, pages 16-28.

[3] Records, pages 132-135.

[4] See page 8 of the October 30, 2009 Decision, *supra*, at note 1.

[5] Records, page 1.

[6] See April 5, 2004 Order, *ibid.*, page 36.

[7] See July 16, 2004 Order, *ibid.*, page 48.

[8] Sec. 3. Plea of guilty to a capital offense; reception of evidence. - When the accused pleads guilty to a capital offense, the court shall conduct a searching inquiry into the voluntariness and full comprehension of the consequences of his plea and shall require the prosecution to prove his guilt and the precise degree of culpability. The accused may also present evidence on his behalf.

[9] See November 27, 2008 Order, records, pages 213-214.

[10] TSN, Villamor Pagulayan, February 14, 2005, pages 4-5 and August 15, 2007, pages 2-7.

[11] TSN, SPO4 Avelino Guinucay, June 13, 2008, pages 3-12.

- [12] TSN, Villamor Pagulayan, August 15, 2007, page 7.
- [13] See Autopsy Report dated February 9, 2004, *supra*, at note 3.
- [14] Records, page 17.
- [15] TSN, Dr. Eugenio Dayag, June 20, 2008, pages 4-18.
- [16] TSN, Marlon Soriano, June 3, 2009, pages 9-17.
- [17] *Supra*, at note 2.
- [18] See Brief for the Accused-Appellant, rollo, page 63.
- [19] *People v. Mamaruncas*, G.R. No. 179497. January 25, 2012.
- [20] *People v. Martin*, G.R. No. 172069. January 30, 2008 citing *People v. Omar*, G.R. No. 120656. March 3, 2000.
- [21] *People v. Paraiso*, G.R. No. 131823. January 17, 2001.
- [22] See *People v. del Rosario*, G.R. No. 189580. February 9, 2011.
- [23] *People v. Castellano*, G.R. No. 130596. February 15, 2002.
- [24] Page 10 of the October 30, 2009 Judgment, *supra*, at note 2.
- [25] See *Miro v. Mendoza*, G.R. Nos. 172532 & 172544-45. November 20, 2013.
- [26] See *People v. Nelmidia*, G.R. No. 184500. September 11, 2012, citing *People v. Barde*, G.R. No. 183094. September 22, 2010.
- [27] *People v. Satonero*, G.R. No. 186233. October 2, 2009.
- [28] See *People v. Ortiz*, G.R. No. 188704. July 7, 2010.
- [29] TSN, Ederlina Narag, September 5, 2008, page 4.
- [30] See *People v. Rarugal*, G.R. No. 188603, January 16, 2013.
- [31] *Ibid*.

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