

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. EDUARDO BUENAVENTURA, SR. Y CORPUZ AND EDUARDO BUENAVENTURA, JR., ALIAS “JOJO”, ACCUSED-APPELLANT.

Ponente: SALAZAR-FERNANDO, J.

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SALAZAR-FERNANDO, J.:

Before this Court is an appeal from the Decision[1] dated January 8, 2013 of the Regional Trial Court, Fourth Judicial Region, Branch 14, Nasugbu, Batangas in Criminal Case No. 949 entitled: “People of the Philippines, Plaintiff, versus Eduardo Buenaventura, Sr. y Corpuz and Eduardo Buenaventura, Jr. alias “Jojo”, Accused.”, the dispositive portion of which reads:

“WHEREFORE, foregoing premises considered, this Court found accused EDUARDO BUENAVENTURA, SR. Y CORPUZ and EDUARDO BUENAVENTURA, JR., alias “JOJO” GUILTY beyond reasonable doubt of the crime of MURDER as charged qualified by treachery and are hereby sentenced to suffer the penalty of RECLUSION PERPETUA. The accused are ordered to pay, jointly and severally, the heirs of Felipe Zambal the following amount, viz:

- a) Php75,000.00 as civil indemnity;
- b) Php75,000.00, as moral damages; and
- c) Php30,000.00, as exemplary damages

SO ORDERED.”

The facts are:

In an Information[2] dated June 3, 1994, accused-appellants Eduardo Buenaventura, Sr. y Corpuz (Eduardo, Sr. for brevity) and Eduardo Buenaventura, Jr. alias “Jojo” (Eduardo, Jr. for brevity) were charged with Murder defined and penalized under Article 248 of the Revised Penal Code, the accusatory portion of which reads:

“That on or about the 8[th] day of April, 1994, at about 8:00 o'clock in the evening, at Barangay Binubusan, Municipality of Lian, Province of Batangas, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating together as well as acting in common accord and mutually helping each other, while armed with a sharp bladed instrument similar to that of a samurai sword and balisong knife, with intent to kill, with treachery and evident premeditation and without any justifiable cause, did then and there willfully, unlawfully and feloniously attack, assault, hack and stab with the said weapons, suddenly and without warning one Felipe P. Zambal, thereby inflicting upon the latter multiple hacking and stabbed (sic) wounds on the different parts of his body, which directly caused his instantaneous death.

Contrary to law.”

This case was ordered[3] archived on September 19, 1995 since both accused-appellants remained at large for more than six (6) months from the time of the filing of the issuance of the warrant of arrest to the proper police

officer. On August 1, 2005, accused-appellant Eduardo, Jr. was arrested, thus the case was retrieved from the archives as per Order[4] dated August 2, 2005. When arraigned on September 6, 2005,[5] he pleaded not guilty to the charge. The pre-trial conference insofar as accused-appellant Eduardo, Jr. is concerned, was held and terminated on June 7, 2007.[6] Before the prosecution could start presenting its witnesses, accused-appellant Eduardo, Sr. was apprehended on September 17, 2007.[7] He was arraigned on October 23, 2007,[8] pleading not guilty to the charge. The pre-trial conference insofar as accused-appellant Eduardo, Sr. was terminated on the same day, after the parties agreed to adopt their respective evidence marked during the preliminary conference.[9] Thereafter, trial on the merits for both accused-appellants ensued.

The prosecution presented Elias Zambal and Dr. Jaime C. Valientes, as witnesses, while the defense presented both accused-appellants and Reynaldo Sevilla y Bustamante, as witnesses.

Elias Zambal testified that: on April 8, 1994 at about 8:00 o'clock in the evening, he was at the barangay plaza of Binubusan, Lian, Batangas, watching bingo games in a "perumahan"; there was a "perumahan" at that time because of the forthcoming barangay fiesta; his brother Felipe Zambal was also in the "perumahan", about eight (8) arms length away from him; he noticed both accused-appellants Eduardo, Sr. and Eduardo, Jr., who he had known for years, approach his brother whose back was turned on them; he then saw accused-appellant Eduardo, Sr. hack his brother with a samurai sword causing the latter to fall down on his back; he was not able to shout or warn his brother because the accused-appellants immediately attacked as they approached; while his brother was lying prostrate on the ground, accused-appellant Eduardo, Jr. stabbed him with a "balisong" or fan knife and accused-appellant Eduardo, Sr. continued to deliver more hacking blows; both accused-appellants alternately delivered hacking and stabbing blows on his brother, inflicting upon him multiple injuries in the different parts of his body; the hacking and stabbing of Felipe Zambal lasted for a few minutes, after which both accused-appellants left and proceeded to the dark portion of the plaza; he was not able to help his brother because he feared that he would also be hacked and stabbed by the accused-appellants; instead, he proceeded to the house of his parents which is a few minutes of walking from the plaza and informed them of the incident; together with his parents, he returned to the place of the incident and found some police officers already there, investigating the incident and taking pictures of the cadaver of his brother; after the killing of his brother, both accused-appellants were not seen again in their place.[10]

Dr. Jaime Valientes, declared that: on April 8, 1994 at 10:45 o'clock in the evening, he conducted a postmortem examination on the victim, Felipe Zambal, at the residence of the latter; he reduced his findings in writing, however, the original thereof was lost when he transferred residence; upon examination, he found the victim, Felipe Zambal, to have sustained a number of hacking and stab wounds on the head and other parts of his body, some of which were fatal in nature; the hack wounds he suffered could have been caused by a large sharp bladed instrument like a bolo, while the stab wound could have been caused by a sharp pointed instrument like a knife; if the first injury inflicted on the victim was fatal, the succeeding ones could have been inflicted while he was already lying prostrate on the ground; the hack and stab wounds inflicted upon the victim could not have been caused by the same bladed instrument and there could be more than one assailant.[11]

For his defense, accused-appellant Eduardo, Sr. testified that: between 6:00 o'clock in the evening of April 8, 1994 and 5 o'clock in the morning of the following day, he and his brother were at the cockpit in El Paso, Nasugbu, Batangas doing his work as a gaffer and handler of fighting cocks; he arrived at the cockpit early to wait for the fighting cocks of Mayor Barcelon of Nasugbu, Batangas that would be entered in a derby later that night; aside from his brother, he was with the men of Mayor Barcelon; as far as he is concerned, there was no unusual incident that happened in the evening of April 8, 1994; he was not in Brgy. Binubusan, Lian, Batangas in the evening of April 8, 1994 and there was no occasion that he saw the victim, Felipe Zambal, on the said night; his

son, Eduardo, Jr. was in Sitio Mainit, Brgy. Binubusan, Lian, Batangas on the night of April 8, 1994, after sending him there on an errand; the reason why he was implicated in this case was his stand against the selling of illegal drugs by the brothers Elias Zambal, Vicente Zambal and Felipe Zambal; the brothers had not been prosecuted in court for any crime, but he already reported their illegal activities to their barangay captain.[12]

Utilizing his Judicial Affidavit[13] as his testimony on direct examination, accused-appellant Eduardo, Jr. declared that: on April 8, 1994, he was instructed by his father to get the chicken and to sleep in the house of his godmother, Ofelia Buenaventura, at Sitio Mainit, Brgy. Binubusan, Lian, Batangas; he was to accompany his ninang because her husband, Ruperto Buenaventura, would go with his father to a cockfight derby which would last all night; he left his house at about 6:00 o'clock in the evening and arrived at his ninang's house about thirty minutes later; he went there at night so that he could easily catch the chicken in the dark; after catching the chicken, he and his ninang had their dinner and went to sleep early because there was no electricity in her house; there was no unusual incident that happened during his stay in the house of his ninang; after breakfast, he went home where his aunts, Paulina and Imelda, told him that his life was in danger and that he should immediately leave; according to his aunts, Felipe Zambal was killed and he was one of the suspects in the killing; his uncle fetched him in a car and took him to Quezon City where he was told to stay in the meantime until it becomes clear who killed Felipe Zambal; after a two-year stay in Quezon City, he learned that a case against him and his father was filed for the killing of Felipe Zambal; Felipe Zambal was notorious in their barangay for selling marijuana; he does not know of any reason why he would be implicated in the killing, other than the fact that his father, who was the chief of the barangay tanod, had repeatedly warned the Zambals to desist from selling marijuana.

Defense witness Reynaldo B. Sevilla's Judicial Affidavit[14] which constitutes his testimony on direct examination states that: he earns a living by breeding and caring for fighting cocks; in the morning of April 8, 1994, he was at the cockpit at El Paso, Nasugbu, Batangas and stayed there until 5:00 o'clock in the afternoon, then he went home, and at about 7:00 o'clock in the evening, he went back to the cockpit at El Paso, Nasugbu, Batangas with his kumpare, as both of them had entries in the derby; at the cockpit, they looked for accused-appellant Eduardo, Sr. and commissioned him to put gaffs on their fighting cocks; the derby was held at 10:00 o'clock in the evening; they spent the night at the cockpit with accused-appellant Eduardo, Sr. and they went home at about 7:30 o'clock in the morning of the following day.

After trial, the lower court rendered the assailed decision convicting both accused-appellants of the crime charged. Hence, this appeal, assigning the following errors:

I

THE TRIAL COURT GRAVELY ERRED IN GIVING CREDENCE TO THE PROSECUTION EYEWITNESS TESTIMONY.

II.

THE TRIAL COURT GRAVELY ERRED IN HOLDING THAT THE DEFENSE WITNESS LACK CREDIBILITY.

The appeal has no merit.

For being interrelated, both assigned errors shall be discussed simultaneously.

The accused-appellants argue that: the testimony of Elias Zambal, the lone prosecution witness who allegedly saw the killing of Felipe Zambal, is doubtful because it is illogical and unnatural that he would just watch and stand idly without helping his brother who was being attacked by the assailants; it is also unbelievable that the assailants

of Felipe Zambal would leave him (Elias Zambal) unscathed; his explanation that he feared for his life is doubtful considering the fact that there were many people around who he could have sought help from; if it is true that he saw his brother killed, his conduct before and after the incident contradict human nature; according to the prosecution, the incident happened in a peryahan where a lot of people were expected to be present, yet only one witness came forward to testify; besides, the accused-appellants could not have committed the crime charged openly in the presence of the people roaming around, some of whom are watching the bingo game; while the defense of alibi interposed by the accused-appellants is inherently weak and easily fabricated, the guilt of the accused is determined by the strength of the evidence presented by the prosecution and not the weakness of the defense; the lower court should not have brushed aside the evidence for the defense due to perceived contradictions and inconsistencies of defense witnesses' testimonies because those inconsistencies merely refer to trivial matters which do not affect the veracity of said witnesses' accounts; it should also be considered that the perceived contradictions might have been due to human imperfections and lapse of time, as the incident happened more than eight (8) years before the defense witnesses testified.

The Solicitor General counters that: Elias Zambal's running away from the armed assailants is within the range of normal human behavior and any person under similar circumstances could not be expected to come to the victim's succor or summon a panicked crowd for aid, as suggested by the accused-appellants; as ruled by the Supreme Court, witnesses may react to a crime in different ways, and that there is no "standard form of human behavioral response to a strange, startling and frightful event, and there is no standard rule by which witnesses to a crime must react"; the assessment by the trial court of the witness' testimony is entitled to great weight, if not finality, having heard first hand the testimonies of witnesses and observed their demeanor and manner of testifying; while both accused-appellants claim that they could not have been at the scene of the crime when the killing happened, there was no physical impossibility for them to be at the scene of the crime at 8:00 o'clock in the evening of April 8, 1994; and, the lower court correctly gave credence to the testimony of Elias Zambal, based on a long standing rule that as between the positive identification of the accused as the perpetrator of the crime and the defense of alibi and denial, the former must prevail.

This Court defers to the findings of the lower court. It is a well-settled rule that the trial court's assessment of witnesses' credibility will not be disturbed on appeal, absent any showing of palpable error or grave abuse of discretion.[15] Appellate courts generally accord credence to the factual findings of the trial court, for the latter was in the best position to observe the witnesses' deportment and manner of testifying.[16] In the present case, this Court finds no cogent reason to overturn the ruling of the lower court that the testimony of prosecution's lone witness, Elias Zambal, is credible.

The accused-appellants' argue that the testimony of Elias Zambal is doubtful because he did not do anything while his brother was being attacked and that it was unbelievable that the assailants of his brother would leave him unscathed. They contend that Elias Zambal's conduct before and after the incident were contrary to human experience.

This Court is not convinced.

As correctly pointed out by the Solicitor General, there is no standard form of human response when one is confronted with a strange, frightful, or startling situation. Witnesses react differently depending upon their situation and state of mind.[17] It is not unthinkable for Elias Zambal to flee or run away from the crime scene while his brother was being repeatedly hacked and stabbed by the accused-appellants. In fact, by sheer instinct of self-preservation, Elias Zambal's act of leaving the scene of the crime was the right decision under the circumstances. He could not have confronted or stopped the accused-appellants who were both armed with deadly weapons, for fear that he would also be attacked. It would be foolhardy on his part to even try to intervene or stop

the accused-appellants from attacking his brother. While it is a natural reaction for a person to defend a close relative who is under attack, the instinct of self-preservation comes first. "Since the olden times, no impulse has been proven so powerful than that of self-preservation." [18]

Accused-appellants' argument that it was unbelievable that the victim's assailants would leave Elias Zambal unscathed given his proximity to his brother, presupposes that said assailants were aware of his presence and that they also intended to harm him. However, there is no showing on record that the accused-appellants saw or were aware of the presence of Elias Zambal when they attacked his brother. Thus, contrary to accused-appellants' argument, there is nothing illogical or unnatural in the conduct of prosecution witness Elias Zambal before, during and after the incident which would render his testimony doubtful.

The fact that only one witness testified for the prosecution despite the fact that the incident happened in a peryahan and in the presence of many people would not make the version of the prosecution doubtful or incredible. The rule is that the testimony of one witness is sufficient to sustain a conviction, if such testimony positively establishes the guilt of the accused beyond reasonable doubt. [19] Moreover, the doctrine of long standing that the testimony of a lone witness, if credible and positive, is sufficient to convict an accused applies only to eyewitnesses. [20] Elias Zambal is an eyewitness to the killing of his brother Felipe and the issue of whether or not his testimony is sufficient to establish the guilt of the accused-appellants beyond reasonable doubt boils down to his credibility and that of his testimony. The lower court correctly found prosecution witness Elias Zambal, as well as, his testimony credible. There is nothing on record which would indicate that Elias Zambal's account on the killing of his brother on the night of April 8, 1994, was fabricated in order to pin down the accused-appellants. As for his relationship to the victim in this case, Supreme Court in the case of *People vs. Gaviola* [21] said:

"X x x. The relationship of this witness with the victim does not disqualify him from taking the witness stand. Rather, his innate desire to bring to justice those whom he personally knew committed a crime against a close relative makes his identification of the accused all the more credible."

In contrast, the accused-appellants' testimonial evidence is self-serving and does not inspire belief. They interposed the defenses of alibi and denial, claiming that they were somewhere else at the time of the commission of the crime.

For alibi to prosper the person pleading this excuse must show that (a) he was somewhere else and not at the crime scene at or about the time of the killing; and, (b) it was physically impossible for him to be at the place of the crime. [22] In this case, the accused-appellants failed to show that it was physically impossible for them to be at the place of the crime when Felipe Zambal was killed. Accused-appellant Eduardo, Sr. admitted that the distance between Barangay Binubusan, Lian Batangas and El Paso, Nasugbu, Batangas, where he claims to be in the evening of April 8, 1994, can be negotiated in thirty (30) minutes by tricycle. On the other hand, Sitio Mainit, where accused-appellant Eduardo, Jr. alleged to have stayed on the night of April 8, 1994, is also in Barangay Binubusan. Thus, it was not physical impossible for both accused-appellants to be at the place of the crime when it was committed. As the Supreme Court ruled in *People vs. Bibat*, [23] positive identification, where categorical and consistent and without any showing of ill motive on the part of the eyewitness testifying on the matter, prevails over alibi and denial.

Moreover, the accused-appellants failed to present evidence why Elias Zambal would testify falsely against them. While they claim that the Zambal brothers were drug pushers, they failed to present evidence to prove said allegation. Granting, arguendo, that said brothers were drug pushers and accused-appellant Eduardo, Sr., being the chief of the barangay tanod, was against their illegal activities, it is highly improbable that Elias Zambal would testify falsely against them and let the real culprit go scot-free.

Significantly, after the killing of Felipe Zambal on April 8, 1994, both accused-appellants immediately left their residence. After this case was filed, both of them remained at large for more than ten (10) years and, when they testified, they failed to satisfactorily explain why they fled. It is a well-established rule that flight is an evidence of guilt.

In sum, the lower court did not err in finding both accused-appellants guilty of the crime charged and in imposing the proper penalty therefor.

WHEREFORE, the appeal is DENIED. The Decision dated January 8, 2013 of the Regional Trial Court of Nasugbu, Batangas, Branch 14 is AFFIRMED.

SO ORDERED.

C E R T I F I C A T I O N

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

Bruselas, Jr. A.D., and Gaerlan, S.H., JJ., concur.

[1] Record, pp. 292-313

[2] Record, pp. 1-2

[3] Per Order dated September 19, 1005, Record, p. 11

[4] Record, p. 15

[5] Record, p. 20

[6] Record, p. 67

[7] Record, p. 75

[8] Record, p. 86

[9] Record, p. 86

[10] TSN, February 21, 2008; June 9, 2011

[11] TSN, March 26, 2012

[12] TSN, May 14, 2012

[13] Exhibit "1", Record, pp. 260-262

[14] Exhibit "2", series, Record, pp. 266-267

[15] People v. Oliver, GR No. 123099, February 11, 1999; People v. Barredo, GR No. 122850, October 7, 1998; People v. Gaddi, 170 SCRA 649, February 27, 1989; People v. Pascual, 204 SCRA 618, December 5, 1991; People v. Naparan, 225 SCRA 714, August 30, 1993; People v. Deopante, 263 SCRA 691, October 30, 1996; and People v. Escandor, 265 SCRA 444, December 9, 1996.

[16] People v. Atop, GR Nos. 124303-05, February 10, 1998, and People v. Agbayani, 284 SCRA 315, January

16, 1998.

[17] Rivera vs. Court of Appeals and People, 332 SCRA 416 (2000).

[18] Zapatos vs. People, G.R. Nos. 147814-15, September 16, 2003

[19] People vs. Montero, 76 SCRA 437, 444 (1977).

[20] People vs. Tomaquin, G.R. No. 133188, July 23, 2004

[21] G.R. No. 126125, March 09, 2000

[22] People vs. Narsico, G.R. No. 103875, September 18, 1996

[23] 290 SCRA 27 1998

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