PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROMMEL REYES Y OCAMPO @ “MEL, RAM”, ACCUSED-APPELLANT.

Ponente: REYES-CARPIO, A., J.

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REYES-CARPIO, A., J.:

This is an Appeal,[1] filed under Rule 122 of the 2000 Revised Rules of Criminal Procedure, filed by the accused-appellant, Rommel Reyes y Ocampo, seeking the reversal of his conviction in Criminal Case No. MC04-8516-H rendered by the Regional Trial Court of Mandaluyong City, Branch 213 on June 25, 2013.

THE CASE

In two (2) separate Informations,[2] dated September 13, 2004, accused-appellant Rommel Reyes y Ocampo was charged with murder and illegal possession of ammunition committed as follows: Criminal Case No. MC04-8516-H –

> “That on or about the 11[th] day of September 2004, in the City of Mandaluyong, Philippines, a place within the jurisdiction of this Honorable Court, the above-named accused, armed with a fan knife (balisong), with intent to kill, evident premeditation and treachery, did then and there willfully, unlawfully and feloniously stabbed (sic) one Dionesio (sic) But y Barrientos on the neck, thorax and abdomen, thereby inflicting upon the latter mortal wounds which directly caused his death.
>
> CONTRARY TO LAW.”[3]

Criminal Case No. MC-04-8517 –

> “That on or about the 11[th] day of September 2004, in the City of Mandaluyong, Philippines, a place within the jurisdiction of this Honorable Court, the above-named accused, without any legal authority and/or license to possess ammunitions, being then a private person, did there and then willfully, unlawfully and feloniously possess, two (2) pcs of live ammunitions of 12 Gauge Shot Gun, in violation of the above-cited law.
>
> CONTRARY TO LAW.”[4]

Upon arraignment, accused-appellant entered his plea of not guilty to both charges.[5] Trial then proceeded.

PROSECUTION'S VERSION

On September 11, 2004, at around 11:00 o'clock in the evening, Bantay Bayan Reonilo Estrella was walking toward the barangay outpost along Nueve de Pebrero Street, Barangay Mauway whereupon he noticed four (4) men, including the accused-appellant, on a drinking spree at a store near Block 3. He also overheard accused-appellant say “sabihin nyo lang kung gusto nyo titirahin ko.”

Meanwhile, Asuncion Monilla, a resident of Nueve de Pebrero St., Mandaluyong City, was inside her living room when she heard a thud sound coming from her bedroom.[6] She went to check the same and when there was nothing out of the ordinary in the room, she peeped through her bedroom window which faced the alley.[7] She

then saw the victim, Barangay Tanod Dionisio But lying on the ground while being stabbed by a tall man with curly hair.[8]

According to Monilla, she saw a man stabbing the victim with a “Batangueño's” knife for approximately five minutes, hitting the latter on the chest, neck and other parts of the body.[9] She also described the knife to be around six (6) to seven (7) inches in height, including the handle with a width of approximately one and a half (1 ½) inches.[10] When the man was done stabbing the victim, he kicked the latter and left the place passing by the witness's bedroom window.[11] Monilla also noticed that the man still held the knife, which was wrapped in a bloody handkerchief.[12] When the man was gone, she reported the incident to the police who took her statement at the Mandaluyong Police Station.[13]

At around 11:35 p.m., Lucia But, wife of the victim, was at home when she heard a commotion.[14] She went outside to see what was happening and saw several people about seven (7) to (8) meters away from their house.[15] The crowd was gathered around her husband, victim Dionisio But, who was sprawled on the ground with several stab wounds.[16] Lucia's son rushed the victim to the Mandaluyong Medical Center[17] but she was later informed that efforts to save his life were futile.[18]

PO1 Elmer Tatco received a radio call regarding the incident sometime between 11:45 p.m. and midnight while he was on duty.19 He responded to the call together with PO1 Macutay and Bantay Bayan Arnold.[20] When they reached the scene of the crime, the victim and the assailant were already gone. [21] PO1 Tatco was informed that the assailant was a tall, thin man with a fair complexion who went toward the direction of Torres Street. [22] Following this tip, the officers proceeded to Torres Street where they saw two (2) men boarding a cab which they were able to stop.[23] PO1 Tatco noticed that there was one other passenger inside the cab who was tall, thin and fair-skinned who was then changing his clothes inside the cab.[24] This prompted the police officers to search the car, resulting to the recovery of a pair of short pants, a shirt with bloodstains and an eight-inch fan knife with ragged edges stained with blood.[25] They were also able to recover two (2) pieces of live 12-gauge shotgun ammunitions from the pocket of accused-appellant.[26] Since accused-appellant fit the description of But's assailant, the police officers proceeded with his arrest. The recovered items were surrendered to PO1 Nerito Lebrido of the CIU who forwarded the same to the Scene of the Crime Operatives (SOCO).

P/Supt. Pierre Paul F. Carpio, Chief of the PNP Crime Laboratory Office of the Southern Police District conducted the post-mortem examination on the victim and prepared a medico-legal report thereon. He determined the cause of death to be hemorrhagic shock secondary to multiple stab wounds of the neck, thorax and abdomen, as reflected in Medico-Legal Report No. M-3999-04, particularly detailed as follows:

> “POST-MORTEM FINDINGS:
>
> Fairly nourished, fairly developed, male cadaver in rigor mortis with postmortem lividity of the dependent portion of the body. Conjunctive are pale, Skin and nailbeds are cyanotic.
>
> HEAD AND NECK:
>
> 1)
>
> Stab wound with 8 stitches, right lateral neck region, measuring 3.0 x 1.6 x 3.0 cms from the anterior midline.

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THORAX AND ABDOMEN:

1)

Stab wound with 3 stitches, left pectoralis region, deep =3.0 cm measuring 3 x 1.2, 8.0 cm from the anterior midline, directed posteriorwards and to the right. Piercing the underlying soft tissues and muscle underneath, thoracic aorta, right ventricle of the heart.

2)

Stab wound with 2 stitches, left pectoralis region, deep=7.5 cm, measuring 1.7 x 0.6, 12.0 cm from the anterior midline, directed posteriorwards and upwards. Fracturing the 2nd left anterior rib and piercing the underlying soft tissues and muscle underneath and upper lobe of the left lung ang fracturing 6-7th left anterior ribs.

3)

Area of multiple stab wound, right lateral abdominal region, with largest diameter measuring 2.3 x 0.5 and smallest diameter measuring 2.0, 0.5, 2.3 cm from the anterior midline. Piercing the underlying soft tissues and muscle underneath, liver, diaphragm and gallbladder.

4)

Stab wound, right lateral abdominal region, deep = 7.5cm, measuring 2.0, 0.7, 19 cm from the anterior midline.

5)

Area of multiple abrasion, left suprascapular region, measuring 4.0 x 1.0, 13 cm from the posterior midline.

6)

Abrasion, right suprascapular region, measuring 1.0 x 1.0, 24 cm from posterior midline.

7)

Stab wound-superficial, lumbar region, measuring 1.7, 0.5, 7.0 cm from posterior midline with a point of exit at the adjacent region, measuring 1.5 x 0.5, 7.0 cm from the posterior midline."[27]

According to Dr. Carpio's findings, there were no defense wounds and the victim's injuries indicated that the weapon used was a single-bladed pointed instrument. The recovered ammunitions, meanwhile, were examined by P/Supt. Enrique Agtarap who prepared the corresponding ballistics report which were determined to be serviceable/live cartridges.[28]

The prosecution presented the testimonies of Lucia But, Reonillo Estrella, PO1 Tatco, PO1 Lebrido, Dr. Carpio, P/Supt. Enrique Agtarap and Asuncion Monilla who, identified accused-appellant as the perpetrator.[29] To support the testimonies of the witnesses, the following, among other things, were also formally offered as evidence: (1) Arrest Report and Affidavit of Arrest,[30] dated September 11, 2004; (2) Certificate of Death[31] of

the victim; (3) official receipts[32] of expenses for the funeral and burial of the victim; (4) Medico-Legal Report No. M-3999-04,[33] dated September 28, 2004; (3) the shotgun cartridges recovered from accused-appellant; (4) Firearms Identification Report No. FAIS-113-2004,[34] dated September 14, 2004; and (5) a Certification[35] from the Firearms and Explosives Division of the PNP, dated June 4, 2009, stating that accused-appellant was not a registered holder of any kind and caliber of firearm.

VERSION OF THE DEFENSE

The defense, meanwhile, offered the testimony of accused-appellant Rommel Reyes who denied knowing the victim or the latter's wife prior to September 11, 2004.[36] Accused-appellant admitted that he was engaged in a drinking session by a friend of his neighbor in Brgy. Mauway.[37]

Accused-appellant also stated that he did not have any grudge against the victim, not being acquainted with the latter.[38] According to accused-appellant, he was not used to drinking too much and on occasions that he did, he could not recall his actions and sometimes cannot say how he got home,[39] which was what happened on the night the victim was stabbed. Accused-appellant also could not recall the events leading up to his arrest but stated that he was not totally unconscious.[40] All he could remember was that he was arrested while he was inside a taxi on his way home to his father's house in Rosario, Pasig.[41]

FINDINGS OF THE TRIAL COURT

After weighing the evidence presented before it, the trial court rendered the appealed Joint Judgment,[42] dated June 25, 2013, ruling in this wise:

> "WHEREFORE, premises considered, judgment is hereby rendered, as follows:
>
> a) in Criminal Case No. MC04-8516-H, accused, ROMMEL REYES y OCAMPO, GUILTY for the murder of Dionisio But y Barrientos hence, he is sentenced to suffer the penalty of imprisonment of RECLUSION PERPETUA.
>
> Further, accused ROMMEL REYES y OCAMPO , is ordered to pay to the heir of the victim the following:
>
> - actual damages in the amount of twenty-eight thousand and two hundred eighty pesos (28,280.00);
>
> - moral damages in the amount of fifty thousand pesos (P50,000.00);
>
> - civil indemnity in the amount of fifty thousand pesos (P50,000.00); and
>
> - exemplary damages in the amount of thirty thousand pesos (P30,000.00).

Likewise, interest of six percent (6%) per annum from finality of judgment shall likewise be imposed on the award of damages in line with the case of People v. Paling.

b) in Criminal Case No. MC04-8517, the charge for Violation of Republic Act No. 8294 (illegal possession of ammunitions), the same is ordered DISMISSED.

Finally, the period of detention of accused at the Mandaluyong City Jail is fully credited in his favor while the pieces of evidence subject of both cases are forfeited in favor of the government to be disposed of in accordance with the existing rules.

SO ORDERED.”[43]

Hence, this appeal on his conviction in Criminal Case No. MC04-8516-H.

ASSIGNMENT OF ERRORS

Accused-appellant raises the following errors on the part of the trial court:

> I.
> The Lower Court committed reversible error when it convicted the Appellant of Murder.
>
> II.
> The Lower Court committed reversible error when it ruled in favor of the prosecution's evidence on positively (sic) identification of the Accused.
>
> III.
> The Lower Court committed reversible error in not acquitting Accused of Murder amidst the infirmity and doubtful character of the prosecution's evidence.[44]

Accused-appellant points out alleged inconsistencies in the testimony of eyewitness Asuncion Monilla regarding the circumstance leading her to peer through her window. Accused-appellant also tries to cast doubt on the validity of the search and seizure. It is argued that PO1 Tatco's act of stopping the cab where accused-appellant was boarded was unjustified because PO1 Tatco had less than mere reasonable and articulable speculation that its occupant had been engaged in a criminal activity.[45] Thus, it is maintained that the search conducted by the officers was not an incident to a lawful arrest, making the evidence seized therein inadmissible.

Accused-appellant also questions the finding of evident premeditation and treachery which qualified the offense to murder.

RULING

Monilla's testimony is credible –

The defense questions an alleged inconsistency in the testimony of Monilla, claiming that she initially stated that she heard a thud sound while she was in her kitchen, as reflected in her Sworn Statement given before the police but she later testified that she was in her living room when she heard the sound. It is also contended that it was contrary to ordinary human experience for Monilla to watch a stabbing incident for five (5) minutes without fearing for her own life.

In her Sinumpaang Salaysay,[46] the witness stated:

> “S: Ganito po ito, nasa kusina po ako at magtitimpla ng gatas ng makarinig ako ng ingay na nagmumula sa may bintana sa ibaba ang ginawa ko ay pumunta ako sa gawing binata at sumungaw ako para alamin kung ano ang ingayan na iyon at nagulat na lang ako ng makita ko itong si But na nakahiga at pinagsasaksak ni Reyes.”[47] (Emphasis Ours)

During her testimony, however, the witness testified that she was “at the sala mixing milk” when she heard a thud.48 A careful reading of the transcript of Monilla's testimony explains the alleged inconsistency on her location when she heard the thud which led her to peek out of her bedroom window. When asked regarding the size of her house, she stated that the same was smaller than the courtroom, to wit:

> “Q- Will you please describe to us this house of yours as to its size, more or less?
>
> A- A little bit smaller than this courtroom.

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PROS. SILAO:

More or less, about 6x5 square meters, your hour.

COURT:

Atty. Cruz, are you willing to stipulate on that?

ATTY. CRUZ:

Yes, your honor."[49] (Emphasis Ours)

Considering the aforesaid size of the house, it would, therefore, be easy to confuse the witness whether she was in the living room or the kitchen as the space is too small to clearly determine the exact part of the house she was in.

On the fact that she went on watching accused-appellant stabbing the victim for five (5) minutes without fearing for her life, it must be duly noted that the witness saw accused-appellant through a window from inside her house. Thus, she had no reason to believe that accused-appellant would come after her. Further, ordinary reactions of people differ and cannot be expected during such an event as human nature has proven to be unpredictable in the face of an unexpected occurrence.

Jurisprudence is consistent that the credibility of a witness is not affected by minor inconsistencies such as her exact location when she heard a sound that led her to witness the commission of a felony. As held in People vs. Dadao:[50]

> "Given the natural frailties of the human mind and its capacity to assimilate all material details of a given incident, slight inconsistencies and variances in the declarations of a witness hardly weaken their probative value. It is well-settled that immaterial and insignificant details do not discredit a testimony on the very material and significant point bearing on the very act of accused-appellants. As long as the testimonies of the witnesses corroborate one another on material points, minor inconsistencies therein cannot destroy their credibility. Inconsistencies on minor details do not undermine the integrity of a prosecution witness." (Emphasis Ours)

Legality of arrest and seizure of items –

It is argued that the search conducted by PO1 Tatco and his companions was in violation of the right of accused-appellant against unlawful searches and seizures. The defense explains that the warrantless arrest conducted by PO1 Tatco was not among those allowed in Rule 113, Section 5, which provides:

> "SEC. 5. Arrest without warrant; when lawful. – A peace officer or a private person may, without a warrant, arrest a person:
>
> (a)
>
> When, in his presence, the person to be arrested has committed, is actually committing, or is attempting to commit an offense;
>
> (b)
>
> When an offense has just been committed and he has probable cause to believe based on personal knowledge

> of facts or circumstances that the person to be arrested has committed it; and
>
> (c)
>
> When the person to be arrested is a prisoner who has escaped from a penal establishment or place where he is serving final judgment or is temporarily confined while his case is pending, or has escaped while being transferred from one confinement to another.

In cases falling under paragraphs (a) and (b) above, the person arrested without a warrant shall be forthwith delivered to the nearest police station or jail and shall be proceeded against in accordance with section 6 of Rule 112." (Emphasis Ours)

It is maintained that the accused-appellant did not commit the offense in the presence of PO1 Tatco nor is he an escapee from a penal establishment thus, it must be determined if the instant case falls squarely under paragraph (b) of the aforequoted provision.

In People vs. Coaged,[51] the Supreme Court emphasized that police officers must not rely on a single suspicious circumstance but rather, there should be the presence of more than one seemingly innocent activity, which, taken together, warranted a reasonable inference of criminal activity, which fits the concept of probable cause. As early as the case of People vs. Montilla,[52] the Supreme Court has adhered to the concept of probable cause to mean an apparent state of facts found to exist upon reasonable inquiry which would induce a reasonably intelligent and prudent man to believe that the accused person has committed the crime.

In the instant case, PO1 Tatco was given the information that the perpetrator was tall, thin, and fair-skinned man who headed toward Torres Street. It was only logical, therefore for his group to proceed to the location. There was nothing in the records of the case that revealed there were other people in the said street other than those boarding the cab, including accused-appellant. When PO1 Tatco stopped the cab to verify if the suspect was inside the car,[53] he noticed accused-appellant seated inside the vehicle in a position "as if parang ayaw niyang magpakita sa akin. (PO1 Tatco)"[54] The police officer further noticed that accused-appellant fit the general description given to him by the informant and was in the process of changing his clothes, as he was then buttoning up his short pants.[55]

To a police officer, while sitting inside a cab is not enough to elicit suspicion, the fact that accused-appellant was trying to avoid the officer and changing his clothes inside a car located in the same street where the victim's attacker fled would certainly imply that there was something wrong. Mere suspicion was strengthened upon noticing that the accused-appellant's physical appearance matched the description given to him. Thus, PO1 Tatco had probable cause to believe that accused-appellant who was changing his clothes in a taxi cab in Torres Street was involved in the stabbing incident.

Since the arrest of accused-appellant was lawful, the subsequent search of the cab was also legal, pursuant to Rule 126 of the Rules on Criminal Procedure, to wit:

> "SEC. 13. Search incident to lawful arrest. – A person lawfully arrested may be searched for dangerous weapons or anything which may have been used to constitute proof in the commission of an offense without a search warrant." (Emphasis Ours)

Treachery is present –

The concept of treachery is well-established – there is treachery when the offender commits any of the crimes against the person, employing means, methods or form in the execution thereof which tend directly and specially

to insure its executions, without risk to himself arising from the defense which the offended party might make.[56] Thus, there are two (2) conditions which must concur for treachery to be appreciated: (1) the employment of means of execution that gives the person attacked no opportunity to defend himself or to retaliate; and (2) the means of execution was deliberate or consciously adopted.[57]

In this case, while there was no witness to testify on how the altercation started, the autopsy conducted on the victim's body revealed the lack of defensive wounds which leads to the conclusion that the victim was deprived of any opportunity to avoid the attack or defend himself. As pointed out by the Supreme Court in People vs. Aquino,[58] even when the victim was forewarned of the danger to his person, treachery may still be appreciated since what is decisive is that the execution of the attack made it impossible for the victim to defend himself or to retaliate. This is further cemented by the account of the eyewitness that the victim was already lying on the ground and the accused-appellant still continued stabbing him. As succinctly held by the trial court:

> "Pertinently, it should be noted that the eyewitness account of Monilla established that accused stabbed the victim for several times while already sprawled on the ground. The victim was already defenseless and has no more chance to counter-attack the accused. Hence, treachery can be appreciated in the instant case.
>
> On the other hand, the defense, the accused himself, on the witness stand, admitted that he joined a drinking session at the same place where the victim was killed. After he stabbed for several times the victim (sic), he fled the scene of the crime and was thereafter apprehended by the police officers.
>
> Albeit accused denied recalling what exactly took place when he was no longer sober, the additional circumstantial evidence of his admission that he was at the scene of the crime before and after the incident occured (sic), is a judicial admission which conclusively binds the party making it. He cannot thereafter take a position contradictory to, or inconsistent with his acts since facts admitted do not require proof and cannot be contradicted unless it is shown that the admission was made through palpable mistake or that no such admission was made."[59]

Defense of denial has no evidentiary value –

Accused-appellant interposed the defense of denial.

The Supreme Court, in People vs. Barcela,[60] emphasized that denial is an intrinsically weak defense which must be buttressed with strong evidence of non-culpability to merit credibility. Here, there is nothing to corroborate accused-appellant's claim that he did not commit the crime he was charged with. Accused-appellant's defense of denial cannot be given more credence than the positive identification by Monilla who clearly saw the former stabbing the victim.

In People vs. Rom,[61] it was ruled that the defense of denial assumes significance only when the prosecution's evidence is such that it does not prove guilt beyond reasonable doubt, which is not the case here. Accused-appellant's testimony, unsubstantiated by any evidence, is negative self-serving evidence which cannot be given greater evidentiary weight than the testimony of several prosecution witnesses who testified on affirmative matters.[62]

WHEREFORE, in view of the foregoing, the Appeal is hereby DENIED. The conviction of Rommel Reyes y Ocampo for Murder, rendered by the Regional Trial Court of Mandaluyong City, Branch 213 in Criminal Case No. MC04-8516-H in its Joint Judgment dated June 25, 2013 is AFFIRMED.

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SO ORDERED.

Carandang, R.D, Chairperson, and Barza, R.F., JJ., concur.

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[1] See Order, dated November 11, 2013, Records, vol. III, p. 65

[2] Records, vol. I, p. 3 and vol. II, p. 1

[3] Records, vol. I, p. 3

[4] Records, vol. II, p. 1

[5] See Order, dated September 30, 2004, Records, vol. II, p. 24

[6] TSN, January 19, 2005, p. 6

[7] TSN, January 19, 2005, p. 7

[8] TSN, January 19, 2005, p. 10

[9] TSN, January 19, 2005, p. 11

[10] TSN, January 19, 2005, p. 12

[11] TSN, January 19, 2005, pp. 12-13

[12] TSN, January 19, 2005, pp. 13-14

[13] TSN, January 19, 2005, p. 14

[14] TSN, January 12, 2005, pp. 5-6

[15] TSN, January 12, 2005, p. 6

[16] TSN, January 12, 2005, pp. 7-8

[17] TSN, January 12, 2005, pp. 8-9

[18] TSN, January 12, 2005, p. 9; See also Certificate of Death, dated September 12, 2004, Records, vol. I, p. 14

[19] TSN, February 9, 2005, p. 5

[20] TSN, February 9, 2005, p. 6

[21] Ibid.

[22] TSN, February 9, 2005, pp. 7-8

[23] Ibid.

[24] TSN, February 9, 2005, pp. 9 and 21

[25] TSN, February 9, 2005, p. 13

[26] TSN, February 9, 2005, p. 22

[27] Records, vol. II, p. 417

[28] See Firearms Identification Report No.FAIS-113-2004, Records, vol. II, p. 418

[29] TSN, January 19, 2005, p. 10

[30] Records, vol. II, p. 396

[31] Records, vol. I, p. 14

[32] Records, vol. II, pp. 398-399

[33] Records, vol. II, p. 400

[34] Records, vol. II, p. 401

[35] Records, vol. II. p. 403

[36] TSN, June 22, 2011, pp. 5-6

[37] TSN, June 22, 2011, p. 7

[38] TSN, June 22, 2011, p. 8.

[39] TSN, June 22, 2011, p. 10

[40] TSN, June 13, 2012, pp. 5-6

[41] TSN, June 13, 2012, pp. 6-9

[42] Rollo, pp. 35-51

[43] Rollo, pp. 50-51

[44] Brief for Accused-Appellant, Rollo, p. 22

[45] Rollo, p. 29

[46] Records, Vol. II, p. 409

[47] Ibid.

[48] TSN, January 19, 2005, p. 6

[49] TSN, January 19, 2005, p. 5

[50] G.R. No. 201860, January 22, 2014

[51] G.R. No. 200334, July 30, 2014

[52] G.R. No. 123872, January 30, 1998

[53] TSN, February 9, 2005, p. 21

[54] TSN, February 9, 2005, p. 20

[55] TSN, February 9, 2005, p. 25

[56] People vs.Umawid, G.R. No. 208719, June 9, 2014

[57] People vs. Consorte y Franco, G.R. No. 194068, July 9, 2014

[58] G.R. No. 201092, January 15, 2014

[59] Rollo, pp. 46-47

[60] G.R. No. 208760, April 23, 2014

[61] G.R. No. 198452, February 19, 2014

[62] See People vs. Rom, G.R. No. 198452, February 19, 2014

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