

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
REYNALDO SALAMEDA ALIAS "LIKING", ALIAS
"BABY" AND JESUS FERNANDEZ ALIAS
"DENGKE", DEFENDANTS-APPELLANTS.**

G.R. No. L-48274. January 30, 1982

Ponente: FERNANDEZ, J.

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FERNANDEZ, J.:

This is an appeal from the decision of the Court of First Instance of Leyte, Branch V, Ormoc City in Criminal Case No. 1048-0, entitled "The People of the Philippines, Plaintiff versus Reynaldo Salameda alias "Liking", alias "Baby" and Jesus Fernandez alias "Dengke", the dispositive part of which reads:

"WHEREFORE, the Court finds the accused, REYNALDO SALAMEDA and JESUS FERNANDEZ, GUILTY beyond reasonable doubt of the crime of MURDER and this Court hereby sentences each of the accused to life imprisonment and to jointly and severally indemnify the heirs of the victim in the sum of P12,000.00 and to pay the costs.

"The weapon used in the commission of the offense is ordered confiscated. They are credited with their preventive imprisonment, as provided for by law.

"SO ORDERED.

"Ormoc City, Philippines, February 24, 1978.

(SGD) NUMERIANO G. ESTENZO

J u d g e"[1]

The accused, Reynaldo Salameda alias "Liking", alias "Baby" and Jesus Fernandez alias "Dengke" were charged with the crime of murder in the following information:

"That on or about the 15th day of August, 1977 at past 12:00 midnight at the OSCO Compound, Barangay Ipil, this city, and within the jurisdiction of this Honorable Court, the abovenamed accused REYNALDO SALAMEDA alias Liking, alias Baby and JESUS FERNANDEZ alias Dengke, conspiring together, confederating with and mutually helping and aiding one another, with treachery and evident premeditation and with intent to kill, did then and there willfully, unlawfully and feloniously attack, assault, stab and wound the person of ROSALINO TAPALLA, JR., without giving the latter sufficient time to defend himself, thereby consequently inflicting upon the latter mortal wounds which caused his death. Post Mortem Examination is hereto attached.

"In violation of Article 248, Revised Penal Code. ORMOC CITY, September 9, 1977.

(SGD) ARTURO F. TUGONON

Acting City Fiscal"[2]

At the arraignment, both accused pleaded not guilty. Trial on the merits followed.

The accused-appellants assign the following errors:

"I

"THE COURT A QUO ERRED IN BELIEVING THE TESTIMONY OF REYNALDO ROJAS, ALLEGED LONE EYE-WITNESS AND DECLARING ACCUSED-APPELLANTS GUILTY OF MURDER AS CHARGED IN THE INFORMATION

"II

"THE COURT A QUO ERRED IN APPRECIATING THE CIRCUMSTANTIAL EVIDENCE AS SUFFICIENT TO SUSTAIN CONVICTION OF ACCUSED-APPELLANTS"[3]

The facts, as narrated in the Appellant's Brief, are:

"On August 17, 1977, in the morning, there was found an unidentified cadaver at the seashore in Sitio Revolver, Bgy. Bantigue, Ormoc City. The cadaver was photographed by a team from the Homicide Section of the Ormoc City INtegrated National Police. The cadaver was brought to the morgue of the Ormoc General Hospital in Ormoc City. At about 11:00 o'clock in the morning of that day, the cadaver was allegedly identified to be that of Rosalino Tapalla, Jr., a former resident of Bgy. Ipil, Ormoc City, (t.s.n., p. 61).

"At the morgue of said hospital, a post-mortem examination was conducted by Dr. Virgilio Marson, Assistant City Health Officer of the Ormoc City Health Department. The doctor opined that the cause of death was hemorrhage, secondary to multiple wounds."[4]

Under counter-statement of facts, the appellee narrated the following:

"On August 14, 1977, Rosalino Tapalla, Sr., a resident of Bo. Ipil, Ormoc City, met the accused Jesus Fernandez at the tennis court of the Ormoc Sugar Company (OSCO). Fernandez told him to inform his son, Rosalino Tapalla, Jr. to report to a boat (for work) (pp. 12, 14, 17, tsn, Oct. 4, 1977). The elder Tapalla, did as requested and told his son to report for work (pp. 17-18, id.). Rosalino Tapalla, Jr. went to the boat past twelve o'clock midnight of Aug. 15, 1977 (p. 18, id.).

"In the evening of August 15, 1977, past 12:00 o'clock, Reynaldo Rojas was at the conveyor near the Servo Balance of the OSCO sugar warehouse, Ormoc Sugar Central at Bo. Ipil. He was going up the conveyor to work. He was following Rosalino Tapalla, Jr. At that time the accused Jesus Fernandez and Reynaldo Salameda were coming down the conveyor from the direction of the guntry (pp. 4-5, tsn, Oct. 5, 1977). They met Rosalino Tapalla at the middle of the catwalk. They stopped for a while. Suddenly, Fernandez and Salameda assaulted and stabbed Rosalino Tapalla, Jr. as a result of which Tapalla fell down. He then was thrown into the sea by the accused (pp. 5, 8, 9, id.). When the accused were already almost approaching Reynaldo Rojas, the latter went down the conveyor and went home (p. 9, id.).

"The cadaver of Rosalino Tapalla, Jr. was recovered (p. 18, tsn, Oct. 4, 1977). Post mortem examination conducted on the cadaver on August 19, 1977, by the Assistant City Health Officer of Ormoc City showed the following as cause of death 'Hemorrhage secondary to multiple wounds' (pp. 4-5, Oct. 5, 1977; Exh. "A", p. 10, Record)."[5]

The defense of both accused is alibi.

The accused, Reynaldo Salameda, testified that he was on the M/V Spacious and that he had no participation in the commission of the crime.

The accused, Jesus Fernandez, also declared that he had nothing to do with the commission of the crime,

inasmuch as during the whole day of the killing he was on the boat M/V Spacious working as guard.

The trial court gave more credence to the testimony of Reynaldo Rojas who saw the accused Reynaldo Salameda and Jesus Fernandez kill the victim Rosalino Tapalla, Jr. The trial court held that the negative testimony of the witnesses for the accused cannot prevail over the positive testimony of Reynaldo Rojas.

In finding the two accused guilty of the crime charged, the trial court also considered the following:

"Circumstances also indicate that the accused in the present case are guilty of the crime in that, when on August 9, 1977, there was a gathering, the said accused were looking for the victim in the present case. Second, the accused Jesus Fernandez told the father of the victim the necessity of the said victim to report for duty on August 15, 1977. And third, the testimony of Celso Eamiguel to the effect that the said victim borrowed the shoes and manifested that he was ordered to report for duty on August 15, 1977. And fourth, the finding of bloodstains at the catwalk of the conveyor where the alleged crime, as testified by Reynaldo Rojas, had taken place. All these circumstantial evidence has strengthened the testimony of the eyewitness to the commission of the crime." [6]

It appears from the errors assigned in the brief of the accused-appellants that the issues raised are factual. They are assailing the findings of fact of the trial court based on the credibility of witnesses.

It is well settled that when the resolution of a factual issue hinges on the credibility of the witnesses, the findings of fact of the trial court will not be disturbed unless the said trial court overlooked facts of record which may change the result of the case.

Thus, in *People vs. Mercado*, [7] this Court held:

"We have held in a long line of cases that when the issue is one of credibility of witnesses, appellate courts will generally not disturb the finding of the trial court, considering that it is in a better position to decide the question, having heard the witnesses themselves and observed their deportment and manner of testifying during the trial, unless it has plainly overlooked certain facts of substance and value that, if considered, might affect the result of the case (*People v. Garcia*, L-44364, April 27, 1979, 89 SCRA 440; *People v. Gargoles*, L-40885, May 18, 1978, 83 SCRA 282; *People v. Pascual*, L-27569, October 28, 1977, 80 SCRA 1; *People v. Ancheta*, L-29581-82, October 30, 1974, 60 SCRA 333; *People v. Boduso*, L-30450-51, September 30, 1974, 60 SCRA 60; *People v. Cardenas*, L-29090, April 29, 1974, 56 SCRA 631; *People v. Carandang*, L-31012, August 15, 1973, 52 SCRA 259; *People v. Espejo*, L-27708, December 19, 1970, 36 SCRA 400.). Thus, it is incumbent upon the accused-appellants to satisfy this Court that the trial court, in giving full faith and credence to the testimonies of eyewitnesses Remedios Moron and Matilde Elias, has plainly overlooked certain facts of substance and value that, if considered, might affect the result of the case."

The foregoing doctrine was reiterated by this Court in the case of *People v. Lacson* [8] where this Court said:

"The conclusions reached by the trial court on the credibility of the contending witnesses are not to be disturbed. This is not only because of the peculiar competence of the trial court to observe first-hand the witnesses' manner of testifying, their demeanor and deportment as they confronted each other during the trial, but also because its conclusions are justified upon a judicious review of the evidence. As the records stand, there appears nothing of substantial importance that could justify a reversal."

The appellants have not shown that the trial court overlooked important facts which may change the result of the case. Indeed, the arguments in the brief of the appellants are concentrated on the alleged error of the trial court in giving credence to the testimony of the eye-witness, Reynaldo Rojas.

It is to be noted that the trial court did not rely exclusively on the sole testimony of Reynaldo Rojas. The trial court considered established circumstantial evidence which supported the testimony of the eye-witness, Reynaldo

Rojas.

Moreover, the defense of alibi cannot prevail over the positive testimony of the eyewitness Reynaldo Rojas who saw the two accused kill the victim, Rosalino Tapalla, Jr.[9]

WHEREFORE, the decision of the Court of First Instance of Leyte, Branch V, Ormoc City, is hereby affirmed, with costs against the appellants.

SO ORDERED.

Teehankee, (Chairman), Makasiar, Guerrero, Melencio-Herrera, and Plana, JJ., concur.

[1] Decision, Rollo, p. 80.

[2] Rollo, p. 23.

[3] Brief for the Accused-Appellants, p. 1, Rollo, p. 55.

[4] Idem., pp. 3-4.

[5] Brief for the Appellee, pp. 3-4, Rollo, p. 91.

[6] Decision, Rollo, p. 77.

[7] 97 SCRA 232, 248-249.

[8] 102 SCRA 457, 463.

[9] People vs. Yutila, 102 SCRA 264, 272; People vs. Boado, 103 SCRA 607.

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