

SEVERINO ANTONIO, PETITIONER, VS. THE COURT OF APPEALS AND THE PEOPLE OF THE PHILIPPINES, RESPONDENTS.

G.R. No. 100513. June 13, 1997

Ponente: HERMOSISIMA, JR., J.

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HERMOSISIMA, JR., J.:

These cases have been consolidated in a Resolution[1] by this Court dated September 19, 1994 to avoid possible conflicting decisions that may arise as they involve the same facts and incidents.

G.R. No. 100513 is a petition for review of the decision[2] of the Court of Appeals[3] promulgated on April 30, 1991 in CA-G.R. CR No. 07956, affirming with slight modifications the decision[4] of the Regional Trial Court of Malabon, Branch 72, finding the petitioner Severino Antonio guilty beyond reasonable doubt of the crime of murder.

On the other hand, G.R. No. 111559 is an appeal from the decision[5] dated December 11, 1992, of the Regional Trial Court of Malabon, Branch 74, in Criminal Case No. 6741-MN, finding also the accused-appellant Carlito Antonio y Linao guilty beyond reasonable doubt of the crime of murder by direct participation.[6]

Antecedent facts follow:

On July 25, 1988, an Information[7] was filed against both Severino Antonio and Carlito Antonio, blood brothers, charging them with the crime of murder, defined and penalized under Article 248 of the Revised Penal Code,[8] before the Regional Trial Court of Malabon, Branch 72, in Criminal Case No. 6741-MN, committed as follows:

“That on or about January 20, 1988, in the Municipality of Navotas, Metro Manila, and within the jurisdiction of this Honorable Court, the above-named accused conspiring, and confederating together with one (1) alias Oryo and one (1) John Doe, whose true named (sic) and whereabouts are still unknown and who are still at large, mutually helping one another, with intent to kill, treachery and evident premeditation, armed with gun, did then and there willfully, unlawfully, and feloniously attack, assault and shoot with the said firearm one GONZALO GUTIERREZ, thereby inflicting upon the victim gunshot wounds at the back and head, which directly caused his death.”

Subsequently, a warrant of arrest was issued against both accused, but only Severino Antonio was arrested on August 18, 1988 and subsequently tried. At that time, his co-accused Carlito Antonio, an overseas contract worker, was abroad. Hence, the arrest warrant could not be served against him and trial had to proceed without his participation.

Petitioner Severino Antonio pleaded not guilty and thereafter trial proceeded as to him.

On September 18, 1989, the trial court rendered judgment finding Severino Antonio guilty of murder, the dispositive portion of which reads:

“WHEREFORE, premises considered, judgment is hereby rendered finding the accused Severino Antonio

GUILTY beyond reasonable doubt of the crime of murder, defined and penalized under Art. 248 of the Revised Penal Code. There being neither mitigating nor aggravating circumstance, and applying the provisions of the Indeterminate Sentence Law, said accused is hereby sentenced to a prison term ranging from TWELVE (12) YEARS of prison mayor, as minimum, to SEVENTEEN (17) YEARS, FOUR (4) MONTHS, and ONE (1) DAY of reclusion temporal, as maximum, together with all the accessory penalties thereof. He is also ordered to pay the heirs of GONZALO GUTIERREZ the sum of THIRTY THOUSAND (P 30,000.00) PESOS as indemnification for the latter's death.

Cost against the accused.

SO ORDERED.”[9]

From this Decision,[10] petitioner Severino Antonio appealed to the Court of Appeals.[11] On April 30, 1991, the appellate court affirmed the aforesaid decision[12] of the court a quo with slight modifications, appreciating the presence of conspiracy and treachery, but not the circumstance of evident premeditation. The decretal portion of said decision states:

“WHEREFORE, judgment is hereby rendered, finding appellant Severino Antonio guilty beyond reasonable doubt of the crime of murder, qualified by treachery. The imposable penalty is from reclusion temporal in its maximum period to reclusion perpetua. (People vs. Melgar, 137 SCRA 718), since death penalty, which was prescribed in Article 248 of the Revised Penal Code, has already been abolished by the 1987 Constitution (People vs. Guevarra, 155 SCRA 327, 335). There being no other modifying circumstances attending the commission of the crime, and applying the Indeterminate Sentence Law, as amended, appellant Severino Antonio is sentenced to the penalty of, from fifteen (15) years of reclusion temporal, as minimum, to twenty (20) years of reclusion temporal, as maximum, and to indemnify the heirs of the deceased Gonzalo Gutierrez the sum of P50,000.00 (People vs. Sison, G.R. No. 86453, September 14, 1990) without subsidiary imprisonment in case of insolvency.

With this modification, the judgment appealed from is hereby affirmed in all other respects.

IT IS SO ORDERED.”[13]

Petitioner Severino Antonio moved to have the decision reconsidered, but the same was denied in a Resolution[14] dated June 20, 1991; hence, he filed the instant petition for review on certiorari[15] with this Court.

Before us, petitioner pleads for his acquittal by raising the following errors:

“I

THE COURT OF APPEALS ERRED IN IGNORING THE VERY CONVINCING REAL EVIDENCE OF THE GUNSHOT WOUNDS BELYING THE TESTIMONIES OF THE PROSECUTION'S 'EYEWITNESSES.'

II

THE COURT OF APPEALS LIKEWISE ERRED IN GIVING CREDENCE TO THE STORIES OF THESE 'EYEWITNESSES' IN THE LIGHT OF THE CIRCUMSTANCES SURROUNDING THIS CASE.

III

IT WAS ALSO AN ERROR FOR THE RESPONDENT COURT TO SACRIFICE TRUTH FOR A DUBIOUS TECHNICALITY AND IGNORING THE PROSECUTION'S EVIDENCE IN THE ONGOING TRIAL OF CO-ACCUSED CARLITO ANTONIO.

IV

THE COURT OF APPEALS LIKEWISE ERRED IN STATING 'FINDINGS OF FACTS' WITHOUT STATING FROM WHICH THEY ARE BASED; AS INDEED IT MADE 'FINDINGS OF FACTS' NOT SUPPORTED BY ANYTHING ON RECORD."^[16]

Carlito Antonio was in turn arrested on June 23, 1990 pursuant to an alias warrant of arrest dated June 18, 1990. He was tried under the same Information,^[17] by the lower court.

When arraigned, accused-appellant Carlito Antonio, assisted by counsel, entered a plea of not guilty. After the prosecution rested its case, the appellant filed a Demurrer to Evidence dated April 16, 1991, but the same was denied by the trial court in its Order^[18] dated July 16, 1991.

After trial, the court a quo rendered its decision dated December 11, 1992, the dispositive portion of which reads:

"WHEREFORE, in the light of the foregoing, and finding the accused, CARLITO ANTONIO y LINAO guilty beyond reasonable doubt of the crime of Murder by direct participation, he is hereby sentenced to suffer the penalty of reclusion perpetua, and to indemnify the heirs of the deceased the amount of Thirty Thousand (P 30,000.00) Pesos Philippine Currency. With costs of suit against the accused.

SO ORDERED."^[19]

Aggrieved by the trial court's decision,^[20] accused-appellant Carlito Antonio appealed his case to us.

In his appellant's brief, the herein appellant raises the following assignment of errors:

"I

THE TRIAL COURT FAILED TO GIVE IMPORTANCE TO THE GUNSHOT WOUNDS.

II

IT LIKEWISE ERRED IN EXCUSING THE ADMITTED CONTRADICTIONS AND INCONSISTENCIES OF THE PROSECUTION'S WITNESSES AS 'TRIVIAL, INSIGNIFICANT AND UNIMPORTANT.'

III

THE TRIAL COURT SHOULD HAVE GRANTED THE DEMURRER TO EVIDENCE.

IV

NO SUFFICIENT MOTIVE FOR THE KILLING WAS SHOWN."^[21]

On the other hand, the Solicitor General maintains that the trial court's decision^[22] convicting accused-appellant Carlito Antonio should be affirmed and further prays that the civil indemnity awarded by the court a quo should

be increased to P50,000.00 from the award of P 30,000.00.[23]

The undisputed facts involving the charge of murder against both accused, as culled from the records of both the trial court[24] and appellate court[25] follows:

“The accused CARLITO ANTONIO and SEVERINO ANTONIO are the brothers-in-law of the victim, Gonzalo Gutierrez, the latter being the husband of the accused’ elder sister, Mrs. Priscilla Antonio-Gutierrez x x x. The victim and his family together with Carlito and his family, Severino, Areng, Betty and Erly lived in separate houses situated in the Antonio compound which is owned by the mother of the Antonios.

At about 7:00 o’clock in the evening of July 20, 1988, Jaime Robles, a candidate for councilor but lost, was in Barangay Wawa, Tangos, Navotas, Metro Manila, on a house to house visit to thank people or voters who supported him in the local election. He was then conversing with Luis Pantaleon and Jonathan Narciso. On the other hand, Reynaldo Gutierrez was also there on Santos Street, and was talking to one Sony Sengco, when his father Gonzalo Gutierrez arrived in the place on his way to their residence nearby. Reynaldo followed his father. Suddenly Carlito Antonio, x x x appeared from behind of the latter, and at close range fired at him in the back. When Gonzalo stumbled after walking a few steps, he was picked up by appellant Severino Antonio, brother of Carlito Antonio, and one Oryo, held him by the two arms and dragged him across the street near the gate of the Abalos compound. Oryo held a knife. Both Severino Antonio and Oryo forced Gonzalo to kneel down, and while the latter was in that position, Carlito Antonio, grabbing Gonzalo’s head by the hair, poked a pistol on his left temple. Gonzalo pleaded for forgiveness and that he be brought to the hospital.

It appears that Gonzalo Gutierrez was claiming ownership of the compound which belonged to the mother of Gonzalo’s wife and the Antonio brothers; Gonzalo was saying that he was the master or boss ‘naghari-harian’ of the place, which the Antonio brothers strongly resented. To the plea of Gonzalo, Carlito replied that he must die now, and fired his gun at the head of Gonzalo. Reynaldo could not do anything to protect his father because he was afraid, and another one, a companion, was holding a gun warning him not to move or else he would also be killed. All that he could say was a plea to stop the shooting; ‘tama na, tama na’. Still not satisfied, Carlito fired his gun, hitting Gonzalo on the neck. All the four (4) assailants fled from the scene. Gonzalo was brought by Reynaldo to the house, together with his brother Camilo Gutierrez, who arrived, while Robles went to the Office of the Barangay to seek the assistance of the police, but there was no officer around, so he went home. Robles’ auntie Sonia arrived, and informed Robles that Gonzalo (Along) was killed. Robles told her that he already knew about it and suggested that he already be brought to the funeral parlor.

The case was investigated by the police of Navotas. One of the investigators was Cpl. Wilfredo Mendoza. The latter was informed by Reynaldo Gutierrez that one of the killers of his father was appellant Severino Antonio. Not knowing how to file the case, Reynaldo did not go to the police headquarters not until April 22, 1988, when he gave his written statement to PFC. Manolo Rodriguez narrating how his father, Gonzalo, was shot and killed by Carlito Antonio, appellant Severino Antonio, one Oryo and still another person, and how the four hatched the plan at about noon time at the seashore which he (Reynaldo) overheard when he passed by.

An autopsy was performed by Dr. Benjamin Dizon, Municipal Health Officer of Navotas. His examination showed that the cause of death of Gonzalo Gutierrez was multiple gun shot wounds on the head, neck and back. In the course of his post-mortem examination, he prepared a human sketch, where he depicted and indicated that he found bullet wounds on the head, the point of entry on the left temple and the point of exit was on the forehead or ‘tuktok’; bullet wounds on the back of the neck below the right ear as the point of entry and wound on the back below the left armpit as point of exit; and bullet wound on the back, on the left side near the waistline as the point of entry, and wound on the front left side below the ribs as the point of exit. x x x.

For the defense, Carlito Antonio averred that on the day the incident happened, he left his house at around 10:00 a.m. to go to the Magsaysay Lines at T.M. Kalaw St., Manila, in connection with his job application as a seaman. He stayed in that office until 4:00 p.m. of that day. After that, he proceeded to his aunt Clarita Guevarra and arrived there at 5:30 p.m.. There he saw a child of her cousin named Vener. He stayed there up to 10:00 p.m. as he was exchanging stories with her aunt. The accused-appellant also presented two (2) witnesses in the person of Mrs. Filomena Antonio Besido and Mrs. Clarita Guevarra which substantially corroborated his testimony.”[26]

The Court, after a thorough evaluation and painstaking review of the records of these cases, conformably with the existing laws and jurisprudence on the matter, is of the firm position that the herein petition lacks merit.

As the first and second assigned errors of the brothers Antonio in these consolidated cases are identical, we shall discuss them jointly.

Both the herein petitioner Severino Antonio and accused-appellant Carlito Antonio contend that the testimonies of the prosecution’s two principal witnesses, Reynaldo Gutierrez and Jaime Robles, on the nature and position of the gunshot wounds sustained by the victim, Gonzalo Gutierrez, and how these were inflicted, do not correspond with, and are belied by, the physical evidence as depicted in the testimony of Navotas Municipal Health Officer, Dr. Benjamin Dizon, the Government doctor who conducted the post-mortem examination of the victim. They both assail the trial court for giving more weight to the testimony of the prosecution witnesses despite certain errors, inconsistencies and contradictions in their declarations. In particular, they assert the following:

“Gunshot wounds ‘B-1’ and ‘B-2’ do not tally with the ‘eyewitness’ account. The slug in ‘B-1’ went inside the back portion of the head and exited at the front while the assailant was at the left side of the victim who were both standing. But the eyewitnesses testified that Gonzalo who was kneeling then was pleading to Carlito, Carlito was holding his hair, answered cruelly ‘kailangang mamatay ka, then pulled the trigger as the gun was pointed at his temple.

Gunshot ‘B-2’ had its slug entering at the lower behind at the right ear and exiting at the right area with the assailant in a much higher level. The ‘eyewitnesses’ account had the shot fired immediately after the shot at the temple as the victim’s head hang down. They evidently again mistook the point of entry and exit from one another. Note that the doctor denied the possibility that Gonzalo was in a kneeling position even as the Fiscal led him to answer in such a manner.”[27]

After carefully examining the records of these cases, we find the above-quoted allegations to be untenable. The court sees no reason to set aside the findings of fact of the trial court, which are supported by the testimony of witnesses who have no reason whatsoever to testify falsely against the accused-brothers. A witness’ testimony ought to be entitled to great weight when his accusing words are directed against a close relative.[28] It goes beyond logic and normal human experience for a kinsman to prosecute a blood relative. He risks the ire and reprisal of other relatives, if he were not guided by truth and motivated by a quest for justice. Time and again, we have ruled in a catena of authorities that the findings of the trial court on the credibility of witnesses should not be disturbed because the trial judge is in a better position to rule on questions of fact, he having observed the deportment of the witnesses and their manner of testifying during the trial,[29] except when it appears in the record that the trial court had overlooked, ignored, or disregarded some fact or circumstance of weight or significance that, if considered, would alter the result.[30] The petitioner and accused-appellant failed to demonstrate that their case falls under such an exception. Thus, as elucidated by the court a quo:

“The medico-legal findings on the cause of death of the victim, Gonzalo Gutierrez confirms the eye witnesses accounts of the incident. Dr. Benjamin Dizon who autopsied the remains of the deceased confirmed that three (3) shots were fired at the victim, with his medical finding that, the victim sustained three (3) bullet wounds, to wit: a)

bullet wounds on the head, the point of entry on the left temple and the point of exit on the forehead 'Tuktok'; b) bullet wounds on the back of the neck below the right ear as the point of entry, and wound on the back below the armpit as the point of exit; c) bullet wound on the back, on the left side near the waistline as the point of entry, and the wound on the front side below the ribs as point of exit.

The finding of the doctor as to the location of the points of entry and exit of the bullet wounds sustained by the victim, is consistent and conformable with the eyewitnesses testimony. To the mind of the Court, any variance thereof as to the exact location and nature of the wounds would be inconsequential and trivial matters and would not affect the credibility of the witnesses. It is common experience that the human eye and mind could not perceive with mechanical precision and with exactitude all the details of an incident. Especially in this case when a murder was committed and the eyewitnesses to the gruesome killing are the close relatives of the victim and the assailants. xxx

In no occasion or instance that this Court entertains doubt as to the credibility of the prosecution's witnesses. It always adheres to the legal principle or doctrine that, the testimony itself must not only be credible but also the source thereof. xxx"[31]

As to the other alleged contradictions and inconsistencies regarding the testimony of the prosecution's witnesses, we find that they relate only to trivial, insignificant and unimportant matters and consequently do not materially impair or impugn the very testimony of said witnesses. Accordingly, it has been held by this Court in the case of *People vs. Daen, Jr.*[32] that, "a witness is not expected to remember an occurrence with perfect recollection down to insignificant and minute details." Errorless testimonies cannot be expected especially when a witness is recounting details of a harrowing experience[33] and as long as the mass of testimony jibes on material points, the slight clashing statements dilute neither the witnesses' credibility nor the veracity of their testimony. Such inconsistencies on minor details would even enhance credibility as these discrepancies indicate that the responses are honest and unrehearsed.[34]

We find that the positive testimony of eyewitnesses, like Gutierrez and Robles, has a greater probative value than the hypothetical statements made by a witness who was not even present at the locus criminis, like Dr. Dizon.

The petitioner and accused-appellant further contend that the delay in reporting the crime to the police was inexcusable and unreasonable and that the reasons given therefor are mere conjectures and suppositions not supported by evidence on record. Therefore, they allege that the delay in reporting the crime to the police authorities casts doubt on the credibility of the prosecution witnesses.

To this contention, we find no merit.

The delay on the part of eyewitnesses Reynaldo Gutierrez and Jaime Robles, assuming there was any, was not unreasonable. It is a well-established rule needing minimal discussion that delay or vacillation in reporting a crime, if sufficiently explained, does not impair the credibility of witnesses and their testimony nor destroy its probative value.[35] Delay of a witness in revealing to the authorities what he knows about a crime does not render his testimony false, for the delay may be explained by the natural reticence of most people and their abhorrence to get involved in a criminal case.[36] And, the natural reluctance of witnesses to volunteer information to the police authorities in criminal cases is consistent with normal behavior and is a matter of judicial notice.[37]

In the case at bench, Reynaldo Gutierrez sufficiently accounted for the delay in reporting the crime to the police, while Jaime Robles explained the reason for his reluctance to be involved in the case. The Court of Appeals ruled on the matter in this manner:

“It would appear that, out of sheer ignorance or lack of sufficient education, and his being in a state of helplessness, witness Reynaldo Gutierrez was not able to go to the police headquarters and give his statement not until much later.

However, when Cpl. Wilfredo Mendoza was investigating the case, he was already informed by Reynaldo that one of the killers of his father was appellant Severino. xxx

There can be no doubt as to the presence of Reynaldo Gutierrez at the scene of the killing to enable him to witness the shooting of his father, as the same is confirmed by the other present witness Jaime Robles who was also present at the scene of incident. As a matter of fact, witness Reynaldo was prevented from extending any help to his beleaguered father, as one of the companions of appellant held him at bay by poking a gun at him. And as soon as the killers left, Reynaldo went to approach his father and brought him to their home. If Reynaldo was not there to witness the incident, appellant could have easily checked with Sony Sengco, with whom witness was talking immediately before his father was shot, and appellant could have made him as his witness to dispute the witness’ claim that he was there after the scene of the shooting.

As to the witness Jaime Robles, it would appear that he did not want to be involved as he simply went to the barangay office to look for a policeman, and having failed to find one he simply went home. It appears that Robles is related to both the family of appellant and the deceased. He is the cousin of the Antonios by his father side; he is also the cousin of the deceased by his mother side. He was terribly depressed and saddened about the whole affair, since the parties involved are his relatives. Be that as it may, we do not find said witness to be a false one. As we examined the records, he testified in a clear and straight forward manner, responsive and positive, indicating that he is a truthful witness. We find no motive why he should testify falsely against appellant if the truth was that he was not there at the scene and witnessed the commission of the crime. Hence, notwithstanding the fact that he did not come forward and report the incident to the police authorities, like other persons or bystanders who were present and saw the incident and did not also take the trouble to go to the police station, witness Jaime Robles’ credibility was not affected thereby. It is well-known that eyewitnesses to killings usually do not want to undergo the trouble and inconvenience of an investigation and of appearing in court, being grilled by lawyers and being exposed to reprisal from the accused (*People vs. Medrana*, 110 SCRA 130, 141). Initial reluctance of witnesses to volunteer information about a criminal case and their unwillingness to be involved in criminal investigations are common and do not affect their credibility (*People vs. Untalasco*, 125 SCRA 159, 170).”[38] (Underlining supplied)

As to the assigned error, to wit:

“The trial court, of course, denied the demurrer. But it did not say there was proof beyond reasonable doubt of the accused’s guilt. Neither did it consider the various points raised by the accused against the testimonies of the alleged two ‘eyewitnesses’. The trial court merely stated that there is a *prima facie* proof the accused , and that the two eyewitnesses ‘pinpointed to the accused Carlito Antonio as the triggerman.’”[39]

we find the contention to be not well-taken. Judicial action on a motion to dismiss or demurrer to the evidence is left to the exercise of sound judicial discretion. Unless there is a grave abuse thereof, amounting to lack of jurisdiction, the trial court’s denial of a motion to dismiss may not be disturbed.[40] In the case at bench, the trial court, after hearing the evidence presented by the prosecution, was convinced that said evidence was sufficient to warrant a finding of guilt. In its Order dated July 16, 1991 denying appellant’s Demurrer to Evidence filed on April 12, 1991, the trial court stated that:

“In clear contrast with the case at bar, the prosecution has at least shown *prima facie* the guilt of the accused, or as frequently stated, the essential element of the crime charged. The uncontroverted facts remain that the deceased

Gonzalo Gutierrez was shot three (3) times on the different parts of his body at Navotas, Metro Manila in the 20th day of January 1988 at around 7:00 P.M. The doctor who conducted the autopsy and post-mortem examination on the body of the deceased testified that the cause of death was gunshot wounds. That the two (2) witnesses, namely: Reynaldo Gutierrez and Jaime Robles testified that they saw the actual killing and pinpointed to the accused Carlito Antonio as the triggerman. As to the motive of the killing, the Court took note that even the accused admitted that there was existing family feud between the deceased and the accused-brothers, Carlito and Severino Antonio.”[41] (Underlining supplied)

Hence, although the trial court did not expressly state in its Order[42] denying appellant’s demurrer to evidence that there was “proof beyond reasonable doubt,” such degree of proof was actually existing and present in the aforesaid Order. The prosecution was successful in proving every fact and circumstance essential to show the guilt of the accused. The court a quo found: (a) the uncontroverted facts remain that the deceased Gonzalo Gutierrez was shot three (3) times on the different parts of the body at Navotas, Metro Manila in the 20th day of January 1988 at around 7:00 P.M.; (b) two (2) witnesses, namely: Reynaldo Gutierrez and Jaime Robles testified that they saw the actual killing and pinpointed the accused Carlito Antonio as the triggerman; and (3) the accused admitted that there was an existing family feud between the deceased and the accused-brothers, Carlito and Severino Antonio.[43]

Furthermore, in denying a demurrer to evidence, the court need not state that the prosecution has established “proof beyond reasonable doubt.” It is sufficient that words of similar import, such as those stated in this case – “the essential elements of the crime charged,”[44] - be present to indicate that there was a finding of guilt beyond reasonable doubt against the accused. Therefore, the trial court did not commit any error in its Order dated July 16, 1991 denying the appellant’s demurrer to evidence for there was sufficient compliance.

Going now to the alibi interposed by the accused-appellant, we find the same to be bereft of merit.

It is undisputed jurisprudential rule that, for the defense of alibi to prosper, the accused must prove not only that he was at some other place at the time the crime was committed but that it was physically impossible for him to be at the locus criminis at the time of the alleged crime.[45] This the appellant failed to prove. Moreover, alibi becomes less plausible as a defense when it is mainly established by the accused himself and his immediate relatives and not by credible persons.[46] Besides, 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 which if not substantiated by clear and convincing evidence are negative and self-serving evidence undeserving of weight in law.[47]

In the instant case, the herein accused-appellant and petitioner was definitely identified and established as having been in the Antonio compound at about 6:00 P.M. of January 20, 1988 by no less than their elder sister, Priscilla A. Gutierrez.[48] Moreover, Carlito Antonio was positively identified by prosecution witnesses Reynaldo Gutierrez and Jaime Robles as the one who shot and killed, together with co-accused Severino Antonio and a certain Oryo, the victim Gonzalo Gutierrez on January 20, 1988 at Wawa, Navotas, Metro Manila.[49] Thus, the trial court stated:

“On the other hand, witnesses, Reynaldo Gutierrez and Jaime Robles had positively identified the assailants and their testimonies corroborate each other on material points. Both of them testified that they personally witnessed the killing of Gonzalo Gutierrez by accused, Carlito Antonio and his co-conspirators on the fateful evening of January 20, 1988 in Wawa, Tangos, Navotas, Metro Manila. They positively identified Carlito Antonio as the gunwilder(sic) and narrated in a detailed and straight-forward manner how the latter fired his gun at the back of the victim while he was walking towards his house. Thereafter, Severino and Oryo grasped the hands of the

victim, and dragged the latter about four (4) meters away towards the gate of the Ablola family, where they forced the victim to kneel down. Carlito Antonio then grabbed the victim's head by hair and pointed a gun on his left temple and after a few exchange of words squeezed the trigger. After the shot, the victim's head hanged forward 'lumungayngay' and at this precise moment Carlito shot again the victim on his neck." [50]

Finally, while in his fourth assigned error, accused-appellant Carlito Antonio contends that:

"Aside from a vague reference to a family dispute (which was uncorroborated and the specifics of which are not stated), there is no clear motive for the killing. With such a brutal, merciless assault, the rage of the assailants must have been great. What brought such anger? What impelled such demonic act? There's no answer from the prosecution's evidence." [51]

it is our holding that this argument is without merit, because motive is not essential to convict when there is no doubt as to the identity of the culprit. [52] The fact that the witnesses had positively and categorically identified the accused as the malefactors, negatives the need for establishing the motive for the killing of the victim. [53]

But, the motive behind the killing of Gonzalo Gutierrez was in fact satisfactorily established by the testimony of prosecution witness Reynaldo Gutierrez when the latter testified that:

Q. By the way, do you know any personal misunderstanding exist between your father and your uncles before January 20, 1988?

A. Yes, sir. There was.

Q. What was that?

A. About our land, sir.

Q. You said there was a misunderstanding between your father and the two (2) accused about your land will you please tell this honorable court what is that misunderstanding about the land?

A. Because they say that my father wants to act as King in our compound.

Q. They complain that your father was acting as a king in your compound, what compound are you referring to?

A. The land of my grandmother, sir.

Q. You said it was the land of your grandmother, in that compound, who was residing?

A. Our house is near the house of my uncles, sir.

Q. You said your house is near the house of your uncles, who are these uncles?

A. They are Tiyo Caring, Sebing, Areng, Betty and Erly.

Q. These Caring and Sebing, are they the same accused Carlito Antonio and Severino Antonio in this case?

A. Yes, sir.

Q. You stated that it was complained or rather they complained that your father was acting as a King in this compound, who made that complaint that your father is 'naghahari-harian.'

A. My uncle, sir.

Q. Who in this particular, among your uncles?

A. Carlito Antonio, Sir.

Q. You said that the compound where your house and the houses of your uncles situated is owned by your grandmother, whose grandmother you are referring to?

A. My grandmother in my mother side, sir." [54] (Underlining supplied)

Priscilla Gutierrez, another prosecution witness likewise corroborated the above-quoted testimony. We quote

relevant portions of her testimony:

“Q. It is admitted by the defense that you are a sister of the accused, Carlito Antonio and Severino Antonio, now will you please tell the Honorable Court who among the three (3) of you is the eldest?

A. I am the one, sir.

Q. It is also admitted by the defense that you Carlito Antonio and Severino Antonio live in the same compound?

A. Yes, sir.

Q. In whose compound do you and accused, Severino and Carlito Antonio live?

A. To our mother, sir.

Q. Do you want to tell this Honorable Court that the land on which your houses are erected are owned by your mother?

A. Yes, sir.

Q. How long have you and your brothers Severino and Carlito been neighbors in the compound owned by your mother before January 20, 1988?

A. It has been a long time, about 20 years now, sir.

Q. As neighbors, did your husband get along with your brothers Carlito and Severino?

A. Before we were in good terms but later on we have a misunderstanding between them, sir.

Q. What was that misunderstanding between your husband and your brother, Carlito?

A. They are claiming that we are occupying a bigger portion of the lot and saying that my husband was and I quote, 'NAGHAHARI-HARIAN.'”[55] (Underlining supplied)

As to civil indemnity, we hold that the amount of P30,000.00 awarded by the trial court in Criminal Case No. 6741-MN dated December 11, 1992,[56] to the heirs of the victims should be increased to P50,000.00, in line with present jurisprudence.[57]

WHEREFORE, premises considered, the petition for review in G.R. No. 100513 is DISMISSED for lack of merit, while the judgment appealed from in G.R. No. 111559, except for the above mentioned modification, is AFFIRMED in all other respects.

SO ORDERED.

Bellosillo, Vitug, and Kapunan, JJ., concur.

Padilla, (Chairman), J., on leave.

[1] Rollo of G.R. No. 111559, p. 160.

[2] Composed of J. Jaime M. Lantin, ponente; JJ. Reynato S. Puno (division chairman) and Cesar D. Francisco, concurring.

[3] Fifth Division.

[4] Penned by Judge Benjamin M. Aquino, Jr. dated September 18, 1989, p. 5; Original Records, p. 58.

[5] Penned by Judge Bienvenido L. Reyes.

[6] Rollo of G.R. No. 111559, p. 38.

[7] Original Records, p. 7.

[8] Art. 248. Murder. – Any person who, not falling within the provisions of Article 246 shall kill another, shall be guilty of murder and shall be punished by reclusion perpetua, to death if committed with any of the following attendant circumstances:

1. With treachery, taking advantage of superior strength, with the aid of armed men, or employing means to weaken the defense or of means or persons to insure or afford impunity.
2. In consideration of a price, reward or promise.
3. By means of inundation, fire, poison, explosion, shipwreck, stranding of a vessel, derailment or assault upon a railroad, fall of an airship, or by means of motor vehicles, or with the use of any other means involving great waste and ruin.
4. On occasion of any of the calamities enumerated in the preceding paragraph, or of an earth quake, eruption of a volcano, destructive cyclone, epidemic or other public calamity.
5. With evident premeditation.
6. With cruelty, by deliberately and inhumanly augmenting the suffering of the victim, or outraging or scoffing at his person or corpse.

[9] Decision of the Trial Court dated September 18, 1989, p. 5; Original Records, p. 58.

[10] Ibid.

[11] Docketed as CA-G.R. CR No. 07956.

[12] Decision of the Trial Court dated September 18, 1989, p.5; Original Records, p. 58.

[13] Decision of the Court of Appeals in CA-G.R. CR No. 07956 dated April 30, 1991, pp. 12-13; Rollo of G.R. No. 100513, pp. 91-92.

[14] Rollo of G.R. No. 100513, p. 94.

[15] Docketed as G.R. No. 100513.

[16] Petition dated August 7, 1991, p. 9; Rollo of G.R. No. 100513, p. 15.

[17] Original Records, p. 7.

[18] Original Records, p. 230.

[19] Decision of the Trial Court in Crim. Case No. 6741-MN dated December 11, 1992, p. 16; Rollo of G.R. No. 111559, p. 38.

[20] Ibid.

[21] Appellant's Brief dated January 10, 1994, p. 1; Rollo of G.R. No. 111559, p. 45.

[22] Decision of the Trial Court in Crim. Case No. 6741-MN dated December 11, 1992, p. 16; Rollo of G.R. No. 111559, p. 38.

[23] Brief for Plaintiff-Appellee dated May 23, 1994, pp. 31-32; Rollo of G.R. No. 111559, pp. 135-136.

[24] Decision of the Trial Court in Crim. Case No. 6741-MN dated December 11, 1992, pp. 2-8; Rollo of G.R. No. 111559, pp. 24-30.

[25] Decision of the Court of Appeals in CA-G.R. CR No. 07956 dated April 30, 1991, pp. 2-4; Rollo of G.R. No. 100513, pp. 81-83.

[26] From the Decisions, *supra*.

[27] Petition dated August 7, 1991, pp. 19-20; Rollo of G.R. No. 100513, pp. 25-26; Appellant's Brief dated January 10, 1994, p. 16; Rollo of G.R. No. 111559, p. 60.

[28] See *People vs. Lao*, 249 SCRA 137 [1995].

[29] *People vs. Cabiles*, 248 SCRA 207 [1995]; *People vs. Acuña*, 248 SCRA 668 [1995]; *People vs. Lazaro* 249 SCRA 234[1995]; *People vs. Lua*, 256 SCRA 539 [1996].

[30] *People vs. Pidia*, 249 SCRA 687 [1995]; *People vs. Sanchez*, 250 SCRA 14 [1995]; *People vs. Polongco*, 251 SCRA 503 [1995].

[31] Decision of the Trial Court in Crim. Case No. 6741-MN dated December 11, 1992, pp. 11-13; Rollo of G.R. No. 111559, pp. 33-35.

[32] 244 SCRA 382 [1995].

[33] *People vs. Cura*, 240 SCRA 234 [1995].

[34] *People vs. Pacapac*, 248 SCRA 77 [1995]; *People vs. Ledesma*, 250 SCRA 166 [1995]; *People vs. Español*, 256 SCRA 137 [1996].

[35] *People vs. Villanueva*, 242 SCRA 47 [1995]; *People vs. Reoveros*, 247 SCRA 628 [1995]; *People vs. Francisco*, 249 SCRA 526 [1995].

[36] *People vs. Punzalan*, 153 SCRA 1 [1987].

[37] *People vs. Sabillano* , 198 SCRA 196 [1991]; *People vs. Caringal*, 176 SCRA 404 [1989].

[38] Decision of the Court of Appeals in CA-G.R. CR No. 07956 dated April 30, 1991, pp. 6-9; Rollo of G.R. No. 100513, pp. 85-88.

[39] Appellant's Brief dated January 10, 1994, pp. 23-24; Rollo of G.R. No. 111559, pp. 67-68.

[40] *People vs. Mercado*, 159 SCRA 453 [1988].

[41] Order dated July 16, 1991, pp. 3-4; Original Records, pp. 229-230.

[42] Dated July 16, 1991, p. 4; Original Records, p. 230.

[43] Order dated July 16, 1991, pp. 3-4; Original Records, pp. 229-230.

[44] Order dated July 16, 1991, p. 3; Original Records, p. 229.

People vs. Umali, 241 SCRA 17 [1995]; *People vs. Rivera*, 242 SCRA 20 [1995]. [45]

[46] *People vs. Caritativo*, 256 SCRA 1 [1996].

[47] *People v. Amania*, 248 SCRA 486 [1995].

[48] T.S.N., February 25, 1991, pp. 11-13.

[49] T.S.N., October 8, 1990, pp. 18-26; T.S.N., December 12, 1990, pp. 12-26.

[50] Decision of the Trial Court dated December 11, 1992, p. 11; Rollo of G.R. No. 111559, p. 33.

[51] Appellant's Brief dated January 10, 1994; p. 30; Rollo of G.R. No. 111559, p. 74.

[52] *People v. Cabrera*, 241 SCRA 28 [1995].

[53] *People v. Reoveros*, 247 SCRA 628[1995].

[54] T.S.N., October 8, 1990, pp. 15-18.

[55] T.S.N., February 25, 1991, pp. 8-10.

[56] Rollo of G.R. No. 111559, p. 38.

[57] *People vs. Bartulay*, 192 SCRA 621 [1990]; *People vs. Dasig*, 221 SCRA 549 [1993]; *People vs. Javier, et al.*, G.R. No. 84449, March 4, 1997.

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