

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ERNESTO PARDUA, ROGELIO PARDUA, GEORGE PARDUA, AND WARLITO PARDUA, ACCUSED-APPELLANTS.

G.R. No. 110813. June 28, 2001

Ponente: PARDO, J.

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PARDO, J.:

The case is an appeal from the decision[1] of the Regional Trial Court, Isabela, Roxas, Branch 23 convicting accused Ernesto Pardua, Rogelio Pardua, George Pardua and Warlito Pardua of murder and sentencing each of them to reclusion perpetua and to indemnify jointly and severally the heirs of the victim Toribio Simpliciano in the amount of P62,000.00 as actual and compensatory damages, and an additional sum of P150,000.00 as moral and exemplary damages and to pay the costs.

Only accused Ernesto Pardua was charged in the original information.[2] On May 13, 1991, at the arraignment, accused Ernesto Pardua pleaded not guilty to the crime charged.[3]

After the prosecution presented two witnesses, namely, Orlando Simpliciano and Alfredo Villanueva, on May 21, 1991, the prosecution filed a motion to admit amended information to include accused Rogelio, Warlito and George, all surnamed Pardua and one Robert dela Cruz, who remained at large.[4]

The two prosecution witnesses were recalled for the retaking of their testimony against the three other accused. Of the two, only Orlando Simpliciano was presented for cross-examination because Alfredo Villanueva could no longer be located.

On July 3, 1991, the trial court admitted the amended information filed by 4[th] Assistant Provincial Prosecutor Efren M. Cacatian of Isabela,[5] charging accused Ernesto Pardua, Rogelio Pardua @ Angkuan, Warlito Pardua @ Pollit, George Pardua and Robert Dela Cruz with murder, committed as follows:

"That on or about the 9th day of November, 1989, in the municipality of Roxas, province of Isabela, Philippines and within the jurisdiction of this Honorable Court, the herein accused, conspiring, confederating together and helping one another, with evident premeditation and treachery, did then and there willfully, unlawfully and feloniously, with intent to kill suddenly and unexpectedly and without giving him chance to defend himself, assault, attack, club and hack with long bolos (panabas) one Toribio Simpliciano inflicting upon him multiple stab and hack wounds on the different parts of his body which directly caused his instantaneous death due to massive hemorrhage and skull fracture.

"CONTRARY TO LAW."

Upon arraignment on November 4, 1991, accused Rogelio Pardua and George Pardua entered a plea of "not guilty" to the offense charged.[6] Warlito Pardua, however, was arrested later on and was arraigned on December 9, 1991. He, likewise, entered a plea of "not guilty."[7] Robert de la Cruz remained at large.

The facts are as follows:

About 8:00 in the morning of November 9, 1989, Toribio Simpliciano and his hired farm hands, including his nephews, Alfredo Villanueva and Orlando Simpliciano, were plowing Toribio's rice field in Rang-ayan, Roxas, Isabela. All five accused, riding on a trailer drawn by a "kuliglig" arrived at said place. Forthwith, they jumped off the trailer and attacked Toribio. Rogelio Pardua hacked Toribio with a long bolo locally known as "Tabas" hitting him on the neck and the hips while Warlito Pardua, then holding a piece of wood known as "dos por dos", hit the hapless victim as the latter fell to the ground. Then too, George Pardua and his brother-in-law Robert de la Cruz hit the fallen Toribio with their own long bolos while Ernesto Pardua, armed with a shotgun called "quebrang" in the locality, mauled the victim and pointed the same to Toribio's farm companions to prevent them from coming to the rescue of Toribio. Thereafter, the five assailants hurried back to their ride and left the scene. Seeing the assailants gone, Toribio's companions rushed him to the hospital, where he later expired.[8]

Leonora Simpliciano, widow of the victim, testified that while she was sweeping their yard in front of their house that fateful morning, she overheard Atty. Bugarin talking with the accused Ernesto, Rogelio, Warlito, George and Robert in the house of one Danny Jose. Atty. Bugarin, who resented his ejection from the house of Adora, daughter of Toribio and Leonora, told assailants that if they would kill Toribio, he (Atty. Bugarin) would be responsible for them. Leonora then saw Danny Jose hand a firearm to Rogelio. Sensing imminent danger to her husband's life, she hastened to seek assistance from the police but soon after she reached the police station, somebody arrived and frantically said her husband was slain in the ricefield. She also suffered mental anguish and pain, she had sleepless nights and could hardly eat.[9]

On November 10, 1989, Dr. Conrado L. Gabriel, Municipal Health Officer of Ilagan, Isabela, examined Toribio Simpliciano and issued a post-mortem examination report.[10] He testified there was a fracture on the victim's skull, possibly caused by a blunt instrument; head stab wounds, about two (2) centimeters in length and one-half (1/2) inch depth, possibly caused by a sharp, triangular instrument; echymotic swollen eyes, possibly caused by a hard blow in the eyes; wound cutting the nape of the neck around 6 and 7 inches long, 3 inches deep, almost separating the head from the body; wounds on the buttocks, around 4 inches long and 3 inches deep. Cause of death: massive hemorrhage with skull fracture.[11]

Accused Ernesto Pardua invoked self-defense. He was an agricultural lessee of the riceland owned by Toribio and the latter tried to wrest physical possession of the riceland. He narrated that on that morning while he was fixing the dikes in the ricefield to let the water flow in, Toribio arrived with seven others, some of whom were Esperidio Pillos, Orlando Simpliciano, and Pablo Obra. When they got down from their tractors or "kuliglig", Toribio, armed with an air rifle and holding a fork with two blades, pointed the gun at Ernesto, and told him to go home. Ernesto refused to leave the riceland where he derived his income. Toribio fired the gun at Ernesto, hitting the latter on his right arm. Acting in self-defense, Ernesto grabbed the gun and thereafter swung and hacked Toribio with the bolo or "panabas" he (Ernesto) was holding at the time. Ernesto could not remember how many times he attacked Toribio because he saw darkness. Finally seeing his victim fall, he wanted to surrender but because he was afraid of a reprisal from Toribio's companions, he took a passenger bus to Manila to escape.[12]

Rogelio Pardua and his son, George, denied participation in the killing, as they claimed that they discerned trouble when they heard people shouting from Ernesto's ricefield but they did nothing because they were busy working in their own ricefields. Rogelio, however, was the one who hailed the tricycle that brought Toribio to the hospital.[13]

Warlito Pardua did not take the witness stand to deny his participation.

On April 27, 1993, the trial court rendered a decision,[14] the dispositive portion of which reads:

"WHEREFORE, in the light of the foregoing findings and conclusions the Court believes and so holds that the

prosecution has ably and satisfactorily proved the guilt of the accused beyond any iota of doubt as principals of the offense charged qualified by evident premeditation. Having acted in conspiracy, the commission thereof attended by the following aggravating circumstances: abuse of superior strength and in utter disregard of the due respect to their elder, the deceased Toribio Simpliciano, and without any mitigating circumstance to offset the same, the Court hereby sentences each and every one of them to suffer the penalty of Reclusion Perpetua with all the accessory penalties provided for by law; to indemnify jointly and severally the deceased victim Toribio Simpliciano the sum of P62,000.00 as actual and compensatory damages, and an additional sum of P150,000.00 by way of moral and exemplary damages, and to pay the costs.

"SO ORDERED."

Hence, this appeal.[15]

In their appeal, accused-appellants question the credibility of the prosecution witnesses. According to them, only Ernesto committed the hacking that led to Toribio's death and he did so to defend his landholding from the unlawful entry of his brother-in-law, Toribio.

It is well settled that the findings of a trial court on the credibility of witnesses deserve great weight, given the clear advantage of a trial judge over an appellate magistrate in the appreciation of testimonial evidence. It is well-entrenched that the trial court is in the best position to assess the credibility of witnesses and their testimonies because of its unique opportunity to observe the witnesses firsthand and note their demeanor, conduct and attitude under grueling examination. These are the most significant factors in evaluating the sincerity of witnesses and in unearthing the truth. In the absence of any showing that the trial court's calibration of credibility was flawed, we are bound by its assessment.[16]

We have carefully reviewed the testimonies of the witnesses both for the prosecution and the defense as well as other evidence. We are convinced that the trial court correctly held that the accused-appellants' guilt was established beyond reasonable doubt. We have no reason to doubt the testimony of Orlando and Juanito. They recounted details of the horrifying experience of seeing their uncle, Toribio, killed, in a manner reflective of honest and unrehearsed testimony. Their candid, plain, straightforward account of the untoward incident that happened in broad daylight and in an open field, was free of significant inconsistencies, unshaken by rigid cross-examination.

Accused-appellants fault the trial court for considering the testimony of Juanito, who was not among those present at the scene of the crime by Orlando and Alfredo, and whose name was not listed in the information as among the prosecution witnesses. According to accused-appellants, Juanito's testimony is a fabrication, for he saw nothing of the incident which befell his uncle, Toribio.

The Court is not persuaded. As long as a person is qualified to become a witness, he may be presented as one regardless of whether his name was included in the information or not.[17]

The reason why Juanito was not mentioned by Orlando and Alfredo as one of their companions at the scene of the crime is explained by the fact that Juanito arrived in the farm later for the purpose of asking his uncle, Toribio, to help him cultivate his farm. Juanito, however, failed to talk to his uncle because as he was about to do so, the accused-appellants came and suddenly attacked Toribio; Juanito's presence could possibly not have been noticed by Orlando and Alfredo because their attention at that time was focused on the startling occurrence that was unfolding before them.

Accused-appellants claimed that Orlando and Juanito were biased witnesses for they were nephews of the victim. The prosecution could have presented other companions of the victim at the time of the hacking incident, like Esperidion Pillos, Alfredo Villanueva, Bobot Pillos, Ely la Fuente and Mariano la Fuente, who were not relatives

of Toribio.

Accused-appellants' contention deserves scant consideration. Mere relationship of Orlando and Juanito to the victim does not automatically impair their credibility as to render their testimonies less worthy of credence where no improper motive may be ascribed to them for testifying. In fact, a witness' relationship to a victim, far from rendering his testimony biased, would even render it more credible as it would be unnatural for a relative who is interested in vindicating the crime to accuse somebody other than the real culprit.[18]

In like manner, Leonora's testimony that she heard her brothers plan the killing of her husband, deserves great weight and credence. In her desire to bring to justice her husband's assailants, she would not falsely impute to her own brothers the killing of her husband. This goes against the grain of human nature and is therefore unlikely.

The failure of the other companions of the victim to testify is of no moment. The defense could have presented them as their witnesses in order to ferret out the truth. The defense failed to do so.[19]

The defense belabored to point out an inconsistency in Orlando's testimony, particularly with regard to the participation of George. In his affidavit, Orlando stated that George was unarmed at the time Toribio was hacked and that his participation, if any, was the boxing of Toribio. At the trial, however, he testified that George also hacked Toribio.

The discrepancy is not substantial enough to impair the credibility of Orlando or impair the evidence for the prosecution. Rather, such minor lapse manifests truthfulness and candor and erases suspicion of a rehearsed testimony.[20]

The attempt to project the victim as the aggressor with appellant Ernesto acting in self-defense is self-serving and a last minute afterthought. The evidence is bereft of any support for appellant's claim that the victim fired at him with an air rifle. No injury on the body of the appellant was shown. Furthermore, if it were true that Toribio shot Ernesto with an air rifle and Ernesto, reacting to what Toribio had done, hacked the latter in self-defense, Ernesto had no reason whatsoever not to divulge the same to his lawyer who went to see him at the municipal jail after his arrest and during his detention there. Ernesto related the information that he hacked his brother-in-law in legitimate self-defense only two years thereafter, during the trial of this case.[21] Such omissions lead to the conclusion that Ernesto's story is a pure fabrication.

Regarding the civil liability of the accused, the trial court ordered the accused to pay the heirs of Toribio Simpliciano, the sum of P62,000.00 as actual and compensatory damages, and an additional sum of P150,000.00 as moral damages and exemplary damages, and to pay the costs.

The trial court's award of actual damages for funeral expenses in the amount of P62,000.00 is reduced to P30,000.00. We find the expenses for the interment, amounting to P30,000.00, to be duly supported by receipts. We have held that to justify an award of actual damages, there must be competent proof of the amount of the loss. Credence can be given only to claims which are duly supported by receipts or other credible evidence.[22]

As regards moral damages, Under current case law, P50,000.00 is a reasonable amount to award as moral damages to the heirs of a victim in a murder case.[23]

However, civil indemnity is automatically awarded to the heirs of the victim without need of further proof other than the death of the victim.[24] Thus, we award the amount of P50,000.00 as civil indemnity for the death of Toribio Simpliciano, in line with current jurisprudence.[25]

WHEREFORE, the decision of the Regional Trial Court, Branch 23, Roxas, Isabela, is **AFFIRMED** with **MODIFICATION**. Accused-appellants Ernesto Pardua, Rogelio Pardua, George Pardua and Warlito Pardua are

found guilty beyond reasonable doubt of murder, and are each sentenced to reclusion perpetua and all its accessory penalties. They are ordered to pay jointly and severally the heirs of the victim Toribio Simpliciano in the amounts of P30,000.00 as actual damages, P50,000.00 as moral damages and civil indemnity of P50,000.00 and costs.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Puno, and Kapunan, JJ., concur.
Ynares-Santiago, J., on official business abroad.

[1] In Criminal Case No. 301; Decision, dated April 27, 1993, Judge Teodulo E. Mirasol, presiding, Rollo, pp. 21-27.

[2] RTC Record, p. 77.

[3] RTC Record, p. 111.

[4] RTC Record, p. 116 with the attached amended information signed by Prosecutor Efren M. Cacatian, RTC Record, p. 117.

[5] RTC Record, p. 149.

[6] Certificates of Arraignment, RTC Record, pp. 169-170.

[7] Certificate of Arraignment, RTC Record, p. 184.

[8] TSN, May 20, 1991, pp.15-22, pp. 70-94.

[9] TSN, April 7, 1992, pp. 2-8.

[10] Exhibit "A", RTC Record, p. 12.

[11] TSN, May 27, 1991, pp. 10-17.

[12] TSN, June 24, 1992, pp. 3-20.

[13] TSN, August 13, 1992, pp. 11-17; TSN, September 16, 1992, pp. 10-12.

[14] Rollo, pp. 21-27.

[15] Filed on April 30, 1993; RTC Record, p. 289.

[16] *People vs. Mosqueda*, 313 SCRA 694 [1999].

[17] *People vs. Tan*, 314 SCRA 413 [1999].

[18] *People vs. Batidor*, 303 SCRA 335 [1999].

[19] *People vs. Kyamko*, 222 SCRA 183 [1993].

[20] *People vs. Reyes*, 349 Phil. 39 [1998]; *People vs. Obello*, 348 Phil. 89 [1998].

[21] TSN, July 9, 1992, pp. 11-17.

[22] *People vs. Dulay*, G. R. No. 127842, December 15, 2000.

[23] *People vs. Jabonero*, G. R. No. 132247, May 21, 2001.

[24] People vs. Gonzales, G.R. No. 138402, August 18, 2000.

[25] People vs. Catampongan, 318 SCRA 674 [1999].

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