

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ALEX BANTILLO, ERNESTO ASUNCION, LARRY ASUNCION, RODOLFO ATANAS, PAQUITO FERNANDEZ AND ANORING BADANDO, ACCUSED, ALEX BANTILLO...

G.R. No. 117949. October 23, 2000

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

This is an appeal from the decision[1] rendered on March 17, 1994, by the Regional Trial Court of Iloilo City, Branch 25, in Criminal Case No. 35146, finding accused-appellants Alex Bantillo and Ernesto Asuncion guilty of murder.

On August 31, 1990, Assistant Provincial Prosecutor Arsenio Villa charged Alex Bantillo, Ernesto Asuncion, Larry Asuncion, Rodolfo Atanas, Paquito Fernandez and Anoring Badando with the crime of murder, allegedly committed as follows:

"That on or about the 6th day of March, 1990, in the Municipality of Carles, Province of Iloilo, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually helping one another to better realize their purpose, with deliberate intent and decided purpose to kill, armed with unlicensed firearms (pugakhang), with treachery and evident premeditation and without any justifiable cause or motive, did then and there wilfully, unlawfully and feloniously assault, attack and shoot one FRANCISCO TEMBLOR with the firearms they were then provided, inflicting upon their said victim multiple gunshot wounds on the head and on the different parts of his body, which caused the instantaneous death of said Francisco Temblor.

CONTRARY TO LAW."[2]

Upon arraignment, Alex Bantillo and Ernesto Asuncion, assisted by counsel, entered a plea of not guilty.[3] Thereafter, trial on the merits ensued. Subsequently, the trial court rendered judgment, disposing as follows:

"WHEREFORE, premises considered, there being a plethora of proof showing that accused Ernesto Asuncion and Alex Bantillo are guilty beyond any shadow of doubt of the crime of Murder as charged, with the qualifying circumstance of treachery and aggravating circumstances of superiority of force and band, and without any mitigating circumstance, said accused are hereby sentenced to suffer the penalty of Reclusion Perpetua with the accessory penalties as provided in Article 41 of the Revised Penal Code and they are also ordered to indemnify the family of the victim the sum of P50,000.00 as well as the amounts of P30,000.00 and P20,000.00 as moral and exemplary damages, respectively, and to pay the costs.

SO ORDERED."[4]

The factual antecedents of this case as culled from the records are as follows:

Ruel Temblor (Ruel), the son of the victim, testified that at about 7:30 in the morning of March 6, 1990, he

accompanied his father, the deceased Francisco Temblor, to cut coconut lumber in Barangay Batuanan, Carles, Iloilo, two kilometers away from their residence. They walked along the seashore near an ascending and rocky portion where there were coconut trees and bushes. He was ahead of his father, by about 30 meters. While walking, Ruel heard gunfire and, as he looked back, he saw his father fall to the ground. He then saw six persons, all carrying long homemade firearms known as "pugakhang", rush and surround his father. He witnessed Alex Bantillo shoot his father on the head. Thereafter, all the assailants ran towards the hills and vanished. Ruel then proceeded to Barangay Barangalan to seek the help of their employer, Eric Lacson. But upon finding that Lacson was not there, he went home and informed his mother (Celedonia) what happened to his father. Together with four male companions, Ruel immediately returned to the scene of the crime to attend to his dead father until a doctor and policemen arrived. He said that his family incurred expenses in the amount of P20,000.00 for the wake and funeral of his father.[5]

Ruel positively identified the appellants in open court. He testified that he personally knew the six perpetrators because all used to reside in the same barangay. He added that Ernesto Asuncion is his first cousin while Larry Asuncion is Ernesto's son. He opined that Ernesto Asuncion had a grudge against his father, that is why they killed him. He stated that Ernesto Asuncion lost as barangay captain because his father supported another candidate in the person of Romerico (Mariano) Asuncion.[6]

Ruel's testimony was corroborated in its material points by another eyewitness, Alfredo Bandojo. Bandojo declared that at about 7:30 in the morning of March 6, 1990, he went to Barangalan aboard a pumpboat to get coconut lumber stocked along the seashore. As they moored their pumpboat along the beach at the tip of Batuanan, he saw Ruel walking along the seashore followed by his father. Suddenly, he heard a series of explosions and saw the six accused persons, coming out of the bushes and coconut trees carrying long homemade firearms. The assailants descended to where the victim fell and then Alex Bantillo shot the victim on the head and thereafter the perpetrators went away.[7]

Dr. Judy Ann Trumpeta testified that she conducted the post-mortem examination of the victim's body. She found that it bore fifteen gunshot wounds. Significantly, she found Francisco's frontal bone as well as his left and right parietal bones exploded, exposing the victim's brain. As there were powder burns on the wounds, she opined that some shots were fired at close range probably less than three meters. She declared that the cause of the victim's death is cardiorespiratory arrest secondary to hypovolemic shock secondary to multiple gunshot wounds.[8]

The incident was reported to the Carles, Iloilo police. They conducted an investigation but failed to apprehend any suspect. Two days after the incident, Ruel went to the police station and gave the names of the suspects except the name of Ernesto Asuncion.[9]

Of the six perpetrators, only Alex Bantillo and Ernesto Asuncion were apprehended and tried. The others still remain at large. Therefore, this case concerns only these two appellants.

For his defense, Alex Bantillo denied shooting Francisco. He claimed that he was in Barangay Manlot digging white clay at the time of the incident; that he had no reason to kill the victim as he has no grudge against him; that it was Eric Lacson who implicated him in the crime because the latter resented his joining the Free Farmers Federation and not supporting Lacson's candidacy during the barangay elections.[10]

Ernesto Asuncion denied taking part in the crime. He corroborated the alibi of his co-accused Bantillo. He insisted that he was in Manlot supervising the dyeing of clay starting at four o' clock in the morning on the day the incident took place. He said he too had no reason to kill the victim. Nonetheless, he agreed that Batuanan was accessible to Manlot by pumpboat in less than an hour or in one hour and a half at most. [11]

The defense presented three other witnesses. First, Rolando Saturnino declared that Alex Bantillo, Ernesto Asuncion and Larry Asuncion were indeed working in Manlot at the time the victim was killed.[12] Second, Romerico Asuncion, who was the incumbent barangay captain of Batuanan, stated that at about 7:00 o' clock in the morning he was along the seashore of Batuanan waiting for a pumpboat when Celedonia and Ruel, wife and son respectively of the victim, told him that Francisco was killed but they did not know the perpetrators. He also said that his brother, Ernesto Asuncion, was in Manlot at the time of the incident because the latter resided there.[13] Third, Eduardo Casibual disputed Ruel's eyewitness testimony. He declared that he was at the house of the victim when a boy arrived and told Celedonia and Ruel that Francisco was killed. He added, mother and son rushed to the beach where the incident took place.[14]

The trial court found the version of the defense unworthy of credence. It ruled that the denial and alibi put up by the defense is unavailing in the light of the positive and convincing identification of the appellants as the authors of the crime. Considering the evidence presented by the prosecution and the defense, the court found appellants guilty as charged. Insisting on their innocence, appellants promptly filed their notice of appeal.[15] In their bid to obtain reversal of their conviction, appellants now raise the following errors allegedly committed by the trial court:

"1. THE HONORABLE LOWER COURT ERRED IN GIVING FULL CREDENCE TO THE TESTIMONIES OF PROSECUTION WITNESS RUEL TEMBLOR AND ALFREDO BANDOJO, THAT:

a. THEY ACTUALLY SAW THE KILLING AS NOTHING IMPAIR OR OBSTRUCT (sic) THEIR VIEW OF THE CRIME BEING COMMITTED AT ABOUT 7:00 O'CLOCK IN THE MORNING;

b. BOTH ACTUALLY SAW ALEX BANTILLO SHOT FRANCISCO TEMBLOR IN THE HEAD.

2. THE HONORABLE LOWER COURT ERRED IN GIVING FULL CREDENCE TO THE TESTIMONY OF RUEL TEMBLOR THAT HIS FATHER WAS KILLED BECAUSE HIS FATHER HELPED ROMERICO ASUNCION INSTEAD OF ERNESTO ASUNCION IN THE LAST BARANGAY ELECTION.

3. THE HONORABLE LOWER COURT ERRED IN GIVING FULL CREDENCE TO THE TESTIMONY OF RUEL TEMBLOR THAT HE DID NOT REPORT TO BARANGAY CAPTAIN ROMERICO ASUNCION THE INCIDENT BECAUSE THEY ARE NO LONGER IN GOOD TERMS.

4. THE HONORABLE LOWER COURT ERRED IN NOT TAKING INTO ACCOUNT THAT IMMEDIATELY AFTER THE INCIDENT NO MENTION WAS MADE WHO KILLED FRANCISCO TEMBLOR OR WHO WERE THE PERPETRATORS.

5. THE HONORABLE LOWER COURT ERRED IN NOT GIVING WEIGHT TO THE TESTIMONY OF ROMERICO ASUNCION THAT WHEN RUEL TEMBLOR AND HIS MOTHER CALLED FOR HIM, THEY DID NOT MENTION ANYBODY WHO SHOT FRANCISCO TEMBLOR.

6. THE HONORABLE LOWER COURT ERRED IN NOT GIVING FULL CREDENCE TO THE TESTIMONY OF EDUARDO CASIBUAL THAT RUEL TEMBLOR AND HIS MOTHER WAS (sic) AT THEIR HOUSE WHEN SOMEBODY INFORMED THEM ABOUT THE DEATH OF FRANCISCO TEMBLOR.

7. THE HONORABLE LOWER COURT ERRED IN NOT GIVING CREDENCE TO THE DEFENSE OF ALIBI OF THE ACCUSED.

8. THE HONORABLE LOWER COURT ERRED IN NOT ACQUITTING ALL THE ACCUSED."[16]

Notwithstanding the formulation of eight issues by appellants, in our view, the fundamental issue to be resolved is whether or not the trial court erred in affording credence to prosecution's evidence. We shall also consider the

weight and credibility of appellants' defense.

In this case, prosecution witnesses Ruel Temblor and Alfredo Bandojo both claim seeing appellants surround Francisco after the latter was shot. They claim that as the victim lay on the ground, Alex Bantillo shot him on the head. Appellants deny the charges against them. They aver that they were somewhere else at the time of the incident. Moreover, appellants insist that Ruel could not have witnessed the killing as he was in his house at the time of the incident. He was seen by Eduardo Casibual there. In any case, appellants argue, Ruel should have been killed too if indeed he was with his father because the assailants would not spare a witness to tell the tale. As regards Bandojo, appellants simply characterized him as "all-seeing witness", thus, unbelievable.[17]

On this issue, this Court has almost invariably ruled that the assessment of the credibility of witnesses is left largely to the trial court because of its opportunity, unavailable to the appellate court, to see the witnesses on the witness stand and determine by their conduct and demeanor whether they are testifying truthfully and objectively. The determination of credibility is the domain of the trial court, and the matter of assigning values to the testimonies of the witnesses is best performed by it. Thus, unless significant circumstances have been missed or omitted, the evaluation by the trial judge of the credibility of witnesses is well-nigh conclusive on the Court.[18] Additionally, we have consistently ruled that when there are conflicting versions of the prosecution and the defense, as in this case, the findings of the trial court are generally entitled to great weight.[19]

Reviewing the evidence of the prosecution and of the defense, we see no reason to doubt the testimony of the prosecution witnesses. Ruel and Bandojo knew appellants personally for a long time. Both positively identified appellants. Their view of the incident was unobstructed, and they witnessed the incident directly. Their distance from the crime scene was only a few meters. And it happened at around 7:00 o'clock in the morning. Fourth, they had no ill-motive to falsely implicate the appellants.

Appellants insist that Ruel could not be an eyewitness as he was seen in his house at the time of the incident. Suffice it to state that between the positive testimony of a witness and negative testimony of another, the former prevails. Ruel Temblor's testimony that he was at the scene of the crime when the incident happened prevails over the declaration he was not there. Moreover, we note that Ruel's version is corroborated by Bandojo. This adds credence to the prosecution's story. Regarding the defense argument that Ruel should have been killed too if indeed he was at the scene of the shooting, the same is highly speculative if not fallacious, to say the least.

In any case, Bandojo's testimony deserves full credence. Other than branding Bandojo as "all-seeing witness," appellants miserably failed to impeach his clear testimony. Under rigorous cross-examination, Bandojo remained steadfast in his assertion that appellants perpetrated the crime. Additionally, there is nothing to indicate that Bandojo was moved by dubious or improper motives to testify falsely against appellants, thus, his testimony is worthy of belief.[20] In our view, Bandojo's testimony alone would be enough to convict appellants. Taken in conjunction with Ruel's, said testimony seals their fate.

Noteworthy, testimonies of the defense witnesses, which were intended to bolster the appellants' alibi, are far from convincing. They do not bear the earmarks of truth. As noted by the trial court, witness Eduardo Casibual stated that when he accidentally met for the first time the wife of Ernesto in Estancia, Iloilo, in August 1990, she asked him to testify for her husband. They had not known each other before that.[21] Yet, prior to that meeting, Casibual insisted that he never met with relatives of the appellants.[22] How then did she know that Casibual saw the shooting incident so as to qualify as a witness thereon? The trial court noted that Casibual had conferred with the appellants and the defense lawyer about his testimony on the day of the hearing on January 28, 1993.[23] There is another contradiction in Casibual's testimony. Casibual first declared that he had never gone to the victim's house until the day the crime occurred, yet he later admitted that he went to the house of the deceased

thrice before to have his boat repaired.[24] That his testimony could have been contrived or tailored for the defense lessens its value and credibility.

The testimony of Romerico Asuncion deserves less weight. In his direct examination, he declared that he was in the beach waiting for a boat to Estancia, Iloilo, when Celedonia and Ruel told him of Francisco's death. But, during the cross-examination, he stated that he was near his house when mother and son told him about the killing.[25] Furthermore, it is improbable that the Temblors would seek Romerico Asuncion's help when they had a grudge against each other.

Next, appellant Ernesto Asuncion argues that he could not have killed Francisco just because the latter supported another candidate in the barangay elections. He avers that the motive ascribed to him is too flimsy. On this point, it must be stressed that motive is a state of one's mind which others cannot discern. It is not an element of the crime, and so it does not have to be proved.[26] In fact, lack of motive for committing a crime does not preclude conviction. It is judicial knowledge that persons have been killed or assaulted for no reason at all.[27]

Appellants also assail the credibility of the testimony of Ruel because allegedly he did not report the crime to the barangay officials of Batuanan, but informed his employer about the incident ahead of his own mother. Even if these were true, they do not destroy the value of his testimony. There is no standard behavioral response when one is confronted by a frightful event. Some may be shocked into insensibility while others react irrationally. The general rule is that witnesses react to a crime in different ways.[28] As explained by Ruel during his cross-examination, their relationship with the barangay authorities of Batuanan is not good and so he did not report the incident immediately to them.[29] Nonetheless Romerico Asuncion, then the barangay chief, admitted that Ruel and Celedonia informed him of Francisco's death soon after it happened.[30] Ruel also stated that he proceeded to his employer first because he intended to seek help in transporting the body of his father.[31] As observed by the Solicitor General, Ruel's employer was in better position to render assistance on the matter, while his mother would almost be shocked and paralyzed into inaction by the news of her husband's death.

What about the alibi of the appellants? For their alibi to prosper it is not enough to prove that the appellants were somewhere else when the offense was committed, but it must likewise be demonstrated that they were so far away that they could not have been physically present at the place of the crime or its immediate vicinity at the time of its commission.[32] As earlier mentioned, appellants insisted that they were in Manlot working at the time of the incident. Even if true, this does not preclude their being present at the scene of the crime which is accessible by pumpboat. As admitted by appellant Ernesto Asuncion, from Manlot one can reach Batuanan in one hour to one hour and a half by pumpboat. Moreover, the alibi presented by the defense crumbles in the face of the positive identification of the appellants as the perpetrators of the crime.[33]

We likewise agree with the trial court that treachery attended the killing of Francisco. The appellants waited in ambush behind the coconut trees and bushes, and suddenly unleashed volleys of gunfire at the unsuspecting victim. The sudden and unexpected attack and the deliberate manner the attack was carried out is undoubtedly treacherous.[34] The number and location of wounds inflicted upon the victim attest to this treachery. The testimonies of the prosecution witnesses that after the victim had fallen to the ground, the assailants surrounded then shot him again are supported by the medical findings that some wounds have powder burns, indicating the close distance when the victim was fired at.

However, the trial court erred in separately taking into account the aggravating circumstances of band and superior strength. Treachery absorbs both aggravating circumstances. Both refer essentially to the use of the combined strength of the assailants to overpower the victim and consummate the killing[35]

As to moral damages in the amount of P30,000.00, the trial court's award should be upheld. Under Article 2219

(1) of the Civil Code, moral damages may be recovered in a criminal offense resulting in physical injuries. In their generic sense, "physical injuries" includes death. Moral damages compensate for the mental anguish, serious anxiety and moral shock suffered by the victim and his family as the proximate result of the wrongful act. They are recoverable where a criminal offense results in physical injuries which culminate in the death of the victim. No proof of pecuniary loss is necessary in order that such damages may be adjudicated, and assessment thereof is left to the discretion of the court.[36]

For the public's edification, exemplary damages are awarded, particularly in criminal cases where one or more aggravating circumstances attended the offense.[37] In this case, home-made firearms (pugakhang) were used to perpetrate the killing. Although we find no generic aggravating circumstance to justify exemplary damages in the amount of P20,000.00 awarded by the trial court, in this case such award is justified to impress on the public the state's abhorrence to the proliferation of firearms.

The heirs of the victim are also entitled to recover P20,000.00 for the amount they spent for the wake and funeral expenses of the deceased as found by the trial court. Accordingly, actual damages of P20,000.00 are properly awarded to the heirs of the victim.

WHEREFORE, the decision rendered on March 17, 1994, by the Regional Trial Court of Iloilo City, Branch 25, in Criminal Case No. 35146, finding appellants Alex Bantillo and Ernesto Asuncion GUILTY of the crime of MURDER beyond reasonable doubt is AFFIRMED, and they are hereby sentenced to suffer the penalty of reclusion perpetua, and ordered to pay the heirs of the victim the amounts of P50,000.00 as death indemnity, P20,000.00 as actual damages and P30,000.00 as moral damages, and P20,000.00 as exemplary damages. Costs against the appellants.

SO ORDERED.

Bellosillo, (Chairman), Mendoza, Buena, and De Leon, Jr., JJ., concur.

[1] Rollo, pp. 20-28.

[2] RTC Records, p. 1.

[3] Id. at 32-33.

[4] Rollo, pp. 27-28.

[5] TSN, August 29, 1991, pp.5-17.

[6] Id. at 3-5.

[7] TSN, May 21, 1992, pp. 3-17.

[8] TSN, June 13, 1991, pp. 5-12 ; RTC Records, p. 108.

[9] TSN, November 11, 1993, pp. 7-17.

[10] TSN, October 22, 1993, pp. 6-26.

[11] TSN, April 16, 1993, pp. 4-15.

[12] TSN, September 18, 1992, p. 7; Rollo, p. 23.

[13] TSN, November 6, 1992, pp. 4-11.

- [14] TSN, January 27, 1993, pp. 4-8.
- [15] Rollo, p. 29.
- [16] Id. at 46-47.
- [17] Id. at 51-54.
- [18] People vs. Mangahas, GR-118777, July 28, 1999, p. 13.
- [19] People vs. Molas, 286 SCRA 684, 689 (1998).
- [20] People vs. Banguis, 291 SCRA 279, 288 (1998).
- [21] TSN, January 28, 1993, p. 9.
- [22] Ibid.
- [23] Ibid.; April 15, 1993, p. 12.
- [24] TSN, April 15, 1993, pp. 17, 20.
- [25] TSN, November 6, 1992, pp. 6, 12.
- [26] People vs. Rabutin, 272 SCRA 197, 208 (1997).
- [27] People vs. Cabodoc, 331 Phil 491, 507 (1996).
- [28] People vs. Adoviso, 309 SCRA 1, 14 (1999).
- [29] TSN, October 4, 1991, p. 5.
- [30] TSN, November 6, 1992, p. 5.
- [31] TSN, August 29, 1991, p. 11.
- [32] People vs. Javier, 336 Phil 177, 187 (1997).
- [33] People vs. Ferrer, 255 SCRA 19, 35 (1996).
- [34] People vs. Patrolla Jr., 254 SCRA 467, 475 (1996).
- [35] F. D. Regalado. Criminal Law Conspectus (2000), pp. 85 and 98, citing People vs. Medrana, 110 SCRA 130, 145 (1981) and People vs. Mori, 55 SCRA 382, 403 (1974).
- [36] People vs. Tambis, 311 SCRA 430, 442 (1999).
- [37] Article 2230, Civil Code.

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