

## **PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. MARIO LACBAYAN Y LADERAS AND ROBERTO LACBAYAN Y LADERAS, ACCUSED-APPELLANTS.**

*G.R. No. 125006. August 31, 2000*

Ponente: YNARES-SANTIAGO, J.

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### **YNARES-SANTIAGO, J.:**

Accused-appellants, brothers Mario and Roberto Lacbayan, were charged with the murder of Procopio Yonson before the Regional Trial Court, Branch 96, of Quezon City, in an Information[1] which reads:

“That on or about the 21st day of November, 1993, in Quezon City, Metro Manila, Philippines, the above-named accused conspiring together, confederating with and mutually helping each other, with intent to kill, with treachery, use of superior strength and evident premeditation, did then and there, wilfully, unlawfully and feloniously attack, assault and employ personal violence upon the person of one PROCOPIO YONSON JR. Y VERTUDES, by then and there shooting the latter several times with the use of a gun hitting him on the different parts of his body, thereby inflicting upon him serious and mortal wounds which were the direct and immediate cause of his untimely death, to the damage and prejudice of the heirs of said PROCOPIO YONSON JR. Y VERTUDES.”

As found by the trial court, Delfina, wife of Procopio Yonson, last saw her husband alive at around 3:30 o’clock in the afternoon of November 21, 1993. Yonson was then preparing to leave for Sitio Mabilog, Culiati, Quezon City to collect a P1,000.00 debt from his Kumpadre Nitoy.

Yonson arrived at Sitio Mabilog and proceeded to the house of a certain Rene upon being informed that his Kumpadre Nitoy was there. Accused-appellants, Mario and Roberto Lacbayan, were also at the house of Rene at the time.

A few hours later, Yonson was spotted under a sineguelas tree being assaulted by the two accused-appellants. According to the eyewitness account of Angelina Verona, at around 7:00 o’clock in the evening of November 21, 1993 in Sitio Mabilog, she saw Yonson under a sineguelas tree around four (4) steps away from her house. She heard Mario Lacbayan tell the victim, “Pare, informer ka pala. Gusto mo patayin na kita.” Yonson replied, “Hindi pare, hindi ako lalaban, parang awa mo na.”

Ignoring the pleas of Yonson, Mario shot him with his gun. While Yonson lay prostrate on the ground, Mario and his brother, Roberto, peppered Yonson with bullets. They stopped after making sure that their victim was already dead.

Esmeralda Sioco, another prosecution eyewitness, corroborated the above account of Angelina Verano.

In their defense, accused-appellants denied any knowledge of the incident. However, the trial court found the denial “outrightly incredible and undeserving of any weight,” thus:

“To begin with, their defense being essentially denial, cannot prevail over the positive declarations of the

Prosecution witnesses. Neither can their self-serving versions of non-participation be entitled to greater faith and credence than the firm insistence of Angelina's and Esmeralda's that the accused were the persons who had shot at and killed Yonson. The established rule is that denials constitute self-serving negative evidence which cannot be accorded greater evidentiary weight than the declaration of credible witnesses who testify on affirmative matters. Thus, in case of contradictory declarations and statements, greater weight is generally given to positive testimonies than to mere denials."<sup>[2]</sup>

Consequently, the trial court found the two (2) accused-appellants guilty beyond reasonable doubt of the crime of murder qualified by the circumstance of abuse of superior strength, and sentenced them to suffer the penalty of reclusion perpetua. Additionally, the trial court ordered accused-appellants to pay the heirs of Yonson P50,000.00 as death indemnity, P240,000.00 as compensatory damages, P30,069.00 as moral damages, plus interest and cost of the suit.<sup>[3]</sup>

Hence, this appeal on the following assigned errors:

I. THE TRIAL COURT ERRED IN GIVING UNDUE WEIGHT AND CREDENCE TO THE INCREDIBLE, INCONSISTENT IF NOT CONFLICTING TESTIMONIES OF THE PROSECUTION WITNESSES RELATIVE TO THE INCIDENT IN QUESTION.

II. THE TRIAL COURT ERRED IN NOT GIVING EXCULPATORY WEIGHT TO THE EVIDENCE ADDUCED BY THE DEFENSE.

III. THE TRIAL COURT MANIFESTLY ERRED IN CONVICTING ACCUSED-APPELLANTS OF THE CRIME CHARGED DESPITE FAILURE OF THE PROSECUTION TO PROVE THEIR GUILT BEYOND REASONABLE DOUBT.<sup>[4]</sup>

Basically, accused-appellants assail the credibility of the prosecution witnesses by pointing out alleged inconsistencies, particularly in the testimony of Angelina Verano. Upon closer scrutiny, however, it readily appears that the inconsistencies refer to minor and irrelevant details of the case, to wit: (a) whether Verona's husband was inside their house at the time of the shooting incident; (b) whether the victim's body was taken from the scene of the crime one hour later or a day after; (c) whether Angelina Verano knew of the precise place where the body of Yonson was dumped by his assailants; and (d) whether her children were inside their house during the shooting incident. These so-called inconsistencies are too immaterial to affect the credibility of the prosecution witnesses.

As correctly found by the trial court:

"As far as credibility is concerned, the Court has no hesitation in conceding it to the Prosecution rather than to the Defense. In the first place, no disinterested witness has come forward to contradict the recollections of Angelina and Esmeralda on the shooting of Yonson, notwithstanding that, in all likelihood, the entire neighborhood in Sitio Mabilog had witnessed the occurrence and suffered terrorism through the whole night of November 21, 1993. The Lacbayans would not have had any difficulties of summoning favorable testimony for their trial if they were truly as innocent as they pretend to be. But, alas, only their own sister could step forward in their favor and declare a negative fact. Secondly, the Lacbayan's testimony of not knowing or experiencing any unusual occurrence in the evening of Yonson's death was clearly improbable. To believe them at all would be to belie that several .38 caliber shots were fired within their hearing distance. The faith to be given to evidence depends largely on its concordance with the common knowledge and experience of mankind. Moreover, evidence which is inherently or physically improbable should be disregarded even though it stands uncontradicted. Thirdly, testimony of SPO2 Disuanco that one Josephine Matute had led him to the exact place in the canal where one of the accused had thrown his firearm after the shooting remains uncontested by the Defense."<sup>[5]</sup>

It is perfectly natural for different witnesses testifying on the occurrence of a crime to give varying details as there may be some details which one witness may notice while the other may not observe or remember.[6] In fact, jurisprudence even warns against a perfect dovetailing of narration by different witnesses as it could mean that their testimonies were prefabricated and rehearsed.[7] Finally, a careful examination of the evidence on record shows that while the prosecution witnesses differ in their narration of trivial details like those mentioned on appeal, they did not waver in their identification of the accused-appellants as the perpetrators of the crime.

We have consistently ruled that the trial court judge is the best person to evaluate the veracity of a witness's testimony as he is in the best position to see the demeanor, actuation and countenance of a witness. Hence, this Court generally does not disturb the findings of the trial court except in cases where the judge acted arbitrarily.[8] Finding no arbitrariness on the part of the trial court judge in the case at bar, we see no reason to disturb his conclusions.

Furthermore, we find no irregularity in the behavior of Angelina Verona who professed fear and remained hidden behind the bushes until the killing was completed. Time and again, this Court has ruled that human reaction in the face of peril and traumatic incident is not predictable.[9] Hence, accused-appellants' contention, that the credibility of the eyewitness, Angelina Verona, is suspect because she did not scamper away in fear at the sight of the gruesome crime, is untenable.

We likewise agree with the trial court that the qualifying aggravating circumstance of abuse of superior strength attended the killing. There is abuse of superior strength when the offenders took advantage of their combined strength in order to consummate the offense.[10] Accused-appellants not only took advantage of their superiority in number, they were likewise armed with guns. Yonson, on the other hand, was unarmed and defenseless. Accused-appellant Mario Lacbayan shot the unsuspecting Yonson, hitting him on the temple. While Yonson was lying defenselessly on the ground, the two accused-appellants, Mario and Roberto Lacbayan, pumped more bullets into Yonson's body, ensuring his death. Before they left, they nudged him with their feet to determine whether he was still alive. After ascertaining that their victim was dead, they dragged him towards the neighborhood dumpsite and deposited him there like garbage.

The killing having been qualified by abuse of superior strength, the trial court, therefore, was correct in finding accused-appellants guilty of the crime of murder. Under the law prevailing at the time of the commission of the offense, the penalty for murder was reclusion temporal in its maximum period to death.[11] This is a complex penalty as defined by Article 77 of the Revised Penal Code, viz.:

When the penalty is a complex one, composed of three distinct penalties. --- In cases in which the law prescribes a penalty composed of three distinct penalties, each one shall form a period; the lightest of them shall be the minimum, the next the medium, and the most severe the maximum. x x x.

There being neither mitigating nor aggravating circumstance attendant in the commission of the crime in this case, the proper imposable penalty is the medium period, i.e., reclusion perpetua.[12]

In the body of the decision, the trial court awarded the following:

- (a) P50,000.00 as death indemnity;
- (b) P240,000.00 as compensatory damages (indemnity for lost earnings);
- (c) P30,069.00 as actual damages;
- (d) P100,000.00 as moral damages;
- (e) interest; and

(f) costs of the suit.[13]

On the other hand, in the dispositive portion of the decision, the trial court awarded the following:

- (a) P50,000.00 as death indemnity;
- (b) P240,000.00 as compensatory damages;
- (c) P30,069.00 as moral damages;
- (d) Interest at the legal rate on a], b], and c] hereof from the filing of the information until full payment; and,
- (e) Costs of suit.[14]

The general rule is that where there is a conflict between the dispositive portion or the fallo and the body of the decision, the fallo controls. This rule rests on the theory that the fallo is the final order while the opinion in the body is merely a statement ordering nothing. However, where the inevitable conclusion from the body of the decision is so clear as to show that there was a mistake in the dispositive portion, the body of the decision will prevail.[15]

In the case at bar, there was, obviously, a mistake in the dispositive portion of the decision. Therefore, the P30,069.00 should be awarded as actual instead of moral damages as it constitutes the expenses, which were duly proven and receipted, for the wake, coffin and burial site of the victim Procopio Yonson. In addition, the victim's heirs should be awarded the sum of P100,000.00 for moral damages, conformably with the body of the lower court's decision, which we find to be appropriate.

WHEREFORE, in view of the foregoing, the decision of the Regional Trial Court, Branch 96 finding accused-appellants Mario and Roberto Lacbayan guilty of murder and sentencing them to suffer the penalty of reclusion perpetua is AFFIRMED. Both accused-appellants are likewise held solidarily liable to pay the heirs of Procopio Yonson P50,000.00 as death indemnity, P240,000.00 for lost earnings, P30,069.00 as actual damages, P100,000.00 as moral damages with interest plus cost of the suit.

**SO ORDERED.**

Davide, Jr., C.J. (Chairman), Puno, Kapunan, and Pardo, JJ., concur.

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[1] Dated November 25, 1993, Records, p. 1.

[2] Id., pp. 27-28.

[3] Id., pp. 33-34.

[4] Id., p. 44.

[5] Id., p. 66.

[6] People v. Andres, 296 SCRA 318 (1998); People v. Llanes and Llanes, G.R. No. 116986, February 4, 2000.

[7] People v. Villagonzalo, et al., 238 SCRA 215 (1994).

[8] People v. Jamiro, 279 SCRA 290 (1997).

[9] People v. Sumallo, et al., G.R. No. 116737, May 24, 1999; People v. Muyco, et al., G.R. No. 132252, April 27, 2000.

[10] *People v. Butler*, 120 SCRA 281 (1983).

[11] Revised Penal Code, Article 248.

[12] Revised Penal Code, Article 64 (1); *People v. Cleopas*, G.R. No. 121998, March 9, 2000; *People v. Bitoon, Sr.*, G.R. No. 112451, June 28, 1999, 309 SCRA 209, at 221.

[13] *Rollo*, pp. 70-71.

[14] *Id.*, pp. 71-72.

[15] *Asian Center for Career and Employment System and Services, Inc. v. NLRC*, G.R. No. 131656, October 12, 1998.

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