

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. RODOLFO RAMOS Y ENRIQUEZ, APPELLANT.

G.R. No. 125898. April 14, 2004

Ponente: AZCUNA, J.

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AZCUNA, J.:

On appeal is the Decision dated May 21, 1996 of the Court of Appeals finding appellant Rodolfo Ramos y Enriquez guilty of the crime of murder and sentencing him to suffer the penalty of reclusion perpetua.[1]

The information under which appellant was charged states, as follows:

That on or about October 6, 1991, in the City of Manila, Philippines, the said accused, did then and there willfully, unlawfully and feloniously with intent to kill and with treachery and evident premeditation, attack, assault and use personal violence upon one ERWIN PUNZALAN Y MERCADO, by then and there stabbing the latter with a bladed weapon on the different parts of his body, thereby inflicting upon him mortal stab wounds which were the direct and immediate cause of his death thereafter.[2]

In his arraignment on February 26, 1992, appellant, assisted by counsel, pleaded not guilty to the charge of murder.[3]

Appellant's conviction was principally based on the testimony of a sole eyewitness, Rigor Almodovar.

On October 13, 1991, Rigor Almodovar voluntarily reported to the Homicide Division of the Western Police District (WPD), disclosing his knowledge of a stabbing incident he witnessed on the night of October 6, 1991. He executed a sworn statement[4] wherein he related that at around 11:00 p.m. of the same date, he was riding his bike on his way home when he noticed a man being stabbed in front of Alhambra Cigarette Factory at the corner of Tayuman and Juan Luna Streets. He witnessed the assailant stab the victim three times with a bladed weapon. He was unable to get a close look at the victim, but was able to describe the assailant as 5'5" to 5'7" in height, with burly built, fair complexion and wavy hair. He narrated therein that the assailant kept stabbing the victim even as the latter was running away. It was only when the victim fell down to the ground that the assailant fled towards Tayuman Street. Almodovar further stated that his sleepless nights spent thinking that he could suffer the same fate had prompted him to volunteer information on the incident. He was thereafter asked by the police investigator to look at the detainees at the station. Upon seeing appellant as one of the detainees lined up, Almodovar pointed to him as the assailant.

On the witness stand, Almodovar testified[5] that from a distance of 3 meters, and with the light coming from the electric post, he was able to observe that the victim, then surrounded by four men, was facing appellant when the stabbing occurred. He recalled seeing appellant use a knife with a 6-inch blade. He saw blood coming out of the victim's body, but was unable to recognize the latter's face. He declared that he did not have personal knowledge of the victim's identity and only learned thereof when he saw the incident reported in the newspapers. Neither was he acquainted with appellant. He also stated that he never talked to anyone about what he witnessed until two weeks after, when he reported to the police out of his own volition. On cross-examination, he stated that he did

not mention in his sworn statement that the assailant was accompanied by three other men because appellant was the only one he recognized.

David Mercado,[6] the victim's uncle, testified on the medical and funeral expenses he incurred, the receipts of which were allegedly kept by the victim's mother who resides abroad.

PO3 Rafael Melencio,[7] police officer from the WPD, was initially assigned as the investigator of the case. He testified that at 11:35 p.m. of the night in question, he received information that an unidentified person was found dead along Tayuman Street in front of Alhambra Cigarette Factory. He proceeded to the crime scene and found the victim's lifeless body with stab wounds on the chest and hand. No eyewitness surfaced, but he gathered from his investigation that the victim just came from the house of the latter's girlfriend who resided 30 meters away. He prepared an Advance Information Report, which the prosecution submitted as documentary evidence.[8]

Pfc. Alfredo Salazar,[9] an investigator of the WPD, Homicide Division, testified that on October 13, 1991, a witness by the name of Rigor Almodovar personally came to their office to volunteer information on the stabbing of Erwin Punzalan. Salazar took Almodovar's statement, prepared the Progress Report, and presented the witness to the Inquest Prosecutor, who charged appellant with murder. He thereafter prepared the Booking Sheet and Arrest Report of appellant, who was then already being detained for a separate charge.

Sr. Inspector Florante Baltazar,[10] Medico-Legal Officer of the Philippine National Police, conducted an autopsy on the cadaver of the victim. He testified on his findings as indicated in the Autopsy Sketch[11] and Medico-Legal Report[12] he submitted. His examination disclosed that the victim suffered two fatal stab wounds on the chest and one stab wound on the left hand, which he opines to be a defense injury. Finding no injuries at the back of the victim, he stated that the relative position of the victim and the assailant was more likely to be frontal.

As the sole witness for the defense, appellant Rodolfo Ramos[13] interposed the defense of alibi. He declared that on October 6, 1991, from 8:00 a.m. until 11:30 p.m., he was in the company of his four friends in his residence at Franco Street, Tondo, Manila, arranging T-shirts for sale. About five to seven days later, while selling at the Pritil Market, he was picked up by the police authorities and was brought to the police station. He claimed that the police officers attempted to extract a confession from him by beating him up at the police station, as a result of which his dentures got broken and he sustained contusions and abrasions on different parts of his body. He further testified that there was no police line-up during the investigation, for he was then standing alone outside the detention cell when he was identified by the witness Almodovar.

On April 18, 1994, the Regional Trial Court of Manila, Branch 19, rendered a decision finding appellant guilty of murder. It rejected the defense of alibi in light of appellant's failure to present other witnesses to substantiate it. Hence it sentenced appellant, as follows:

WHEREFORE, and in view of all of the foregoing considerations, the accused RODOLFO RAMOS Y ENRIQUEZ alias Dupong, is hereby found guilty beyond reasonable doubt of the crime of MURDER defined and penalized under paragraph 1 of Article 248 of the Revised Penal Code, it appearing that even as the victim was already attempting to run away, the accused pursued him and continued to stab him until he fell on the ground. Consequently, the accused is hereby sentenced to suffer the penalty of imprisonment from TWELVE (12) YEARS and ONE (1) DAY to SEVENTEEN (17) YEARS and FOUR (4) MONTHS of reclusion temporal, and to pay the heirs of the victim the sum of P15,000.00 for funeral expenses, P10,000.00 for medical expenses and the sum of P50,000.00 for the life of Erwin Punzalan y Mercado, which the accused snuffed out from him.

SO ORDERED.[14]

Appellant sought recourse to the Court of Appeals, which affirmed the findings of the trial court. It however raised the penalty from reclusion temporal to reclusion perpetua and deleted the award of medical expenses. The dispositive portion of its May 21, 1996 Decision reads, as follows:

WHEREFORE, the decision appealed from is hereby AFFIRMED with the MODIFICATION that the penalty imposed upon accused-appellant, RODOLFO RAMOS y ENRIQUEZ, should be raised to, as he is hereby sentenced to suffer, the penalty of reclusion perpetua, and the award of P10,000.00 for medical expenses is deleted.

After the lapse of the period for filing a motion for reconsideration, the Division Clerk of this Court, following Section 13, Rule 124, Revised Rules of Court, is hereby ordered to desist from entering judgment; instead she should elevate this case with its complete records to the Supreme Court for review.

SO ORDERED.[15]

Hence the instant appeal. Appellant questions his conviction on the same grounds on which he anchored his appeal to the Court of Appeals:

I.

THE TRIAL COURT GRAVELY ERRED IN FINDING THE ACCUSED GUILTY OF THE CRIME OF MURDER DESPITE FAILURE OF THE PROSECUTION TO PROVE POSITIVE IDENTIFICATION THAT ACCUSED WAS THE ASSAILANT.

II.

THE TRIAL COURT GRAVELY ERRED IN DISREGARDING THE DEFENSE OF ALIBI INTERPOSED BY THE ACCUSED.[16]

In addition, appellant in his supplemental brief contests his conviction of murder despite the prosecution's failure to prove the attendance of treachery.[17]

Appellant argues that the prosecution failed sufficiently to prove his identification as the assailant. Claiming that it was the policemen who pointed to him for the witness to identify, he puts emphasis on the following portion of Almodovar's testimony:

Q

How were you made to identify the accused at the Homicide Section?

A

I was told to describe and then they pointed to me.[18]

Appellant's assertion misleads. When seen in the context of the rest of the witness's testimony, it can be gleaned that the aforecited statement was subsequently clarified by Almodovar himself, thus:

Q

Why[,] where was the accused at that time when you gave your statement?

A

He was already at the Homicide Section.

Q

While giving your statement all along you can see the accused from the detention cell?

A

Yes sir.

Q

After giving that statement you were brought to the detention cell?

A

Yes sir.

Q

Or the accused [was] brought out from the detention cell?

A

They were asked to line up inside the prison cell and I was asked to point.[19]

This Court sees no indication of suggestive identification from the foregoing testimony. The policemen had asked Almodovar to identify the assailant from among the detainees lined up, without suggesting to the witness whom to point to. As correctly found by the Court of Appeals, he had already given a detailed description of the assailant before he was brought near the detention cell to view the detainees lined up.[20]

Further, it bears stressing that appellant gave no proof of ill-motive for Almodovar to testify falsely against him. Appellant himself admitted in court that he met the witness for the first time only during the investigation.[21] Absent any ill-motive, this Court can only conclude that his act in imputing the responsibility for the crime on appellant stemmed from a legitimate desire to bring the perpetrator to justice.[22] As held in numerous decisions, when there is no evidence that the principal witness for the prosecution is moved by improper motives, such witness is entitled to full faith and credit.[23]

Against the positive identification by the eyewitness, appellant offered nothing but the lame defense of alibi. Alibi is the weakest of defenses, as it is easy to contrive and difficult to disprove.[24] To merit serious consideration, this defense must be supported by credible corroboration, preferably from disinterested witnesses.[25] In the present case, not one of appellant's four friends who were allegedly with him on the night of the incident came forward to corroborate his alibi.

Moreover, for the defense of alibi to prosper, it is not enough to show that the accused was somewhere else when the crime was committed. He must further demonstrate that it was physically impossible for him to have been at the scene of the crime at the time of the commission thereof.[26] Appellant, who was allegedly in his residence within the area, glaringly failed in this regard. His unsubstantiated defense of alibi therefore fails to overturn the prosecution's evidence proving his guilt.

Although the prosecution sufficiently established that appellant inflicted the fatal stab wounds on the victim, this Court holds that there was insufficient proof of treachery to qualify the crime to murder. Treachery is never presumed.[27] Like any other qualifying circumstance, it must be proven with equal certainty and clearness as the crime itself.[28] The prosecution has the burden to prove that at the time of the attack, the victim was not in a position to defend himself, and that the offender consciously and deliberately adopted the particular means, method and forms of attack employed by him.[29]

In this case, the only evidence the prosecution presented to prove treachery was the sworn statement executed by the eyewitness which in part stated: “[N]akita ko po itong lalaki na binanggit ko na may hawak na patalim at inundayan ng saksak ang isang lalaki, tumatakbo na nga palayo yung lalaki ay hindi pa rin nito tinitigilan ng pagsaksak hanggang sa bumagsak na ito....”[30] In his testimony, however, the witness failed to recount the aforesaid manner by which the victim was stabbed. While on the witness stand, Almodovar narrated the assault as follows:

Q

While on your way home, do you recall any unusual incident, Mr. Witness?

A

Yes sir. When I was passing [by] Alhambra Cigarette Factory, I saw 4 men.

x x x x x x x x

Q

Upon seeing these 4 person[s], what else transpired?

A

I saw that there was a commotion, so I stopped to a distance of 3 meters.

x x x x x x x x

Q

What happened when you stopped?

A

When I saw the 4 men, one of them stabbed the victim.

Q

How many times did you see that person stab the victim?

A

Three times, sir.

x x x x x x x x

Q

You said that you saw the man stab the victim 3 times, [were] you able to see if the victim was hit by that stab?

A

I saw blood coming from the victim's body.

x x x x x x x x

Q

After you saw the accused stab the victim for 3 times, what else happened?

A

I stopped, but when I saw the incident, I ran away.

x x x x x x x x

Q

By the way, what was the relative position of the accused to the victim when the latter was stabbed by him?

A

They were facing each other.[31]

The foregoing readily shows that all he testified to was seeing the assailant stab the victim three times while the two were facing each other. Noticeably, he omitted to describe how the assailant purportedly kept stabbing the victim while the latter was running away, as what is stated in his affidavit. As a rule, testimonial evidence or oral testimony commands greater weight than a mere affidavit.[32] The omission of this important detail hence weakened the prosecution's proof of treachery.

It is moreover noted from the foregoing testimony that Almodovar witnessed only the moment when appellant stabbed the victim. No evidence was presented to establish the circumstances prior to the very moment of aggression. It has been held that where the lone witness did not see the commencement of the assault, treachery cannot be considered.[33]

More importantly, this Court observes that the allegedly treacherous manner of the attack as the witness declared in his sworn statement fails to draw support from the prosecution's physical evidence. The autopsy report[34] disclosed that the victim sustained all injuries at the front, and none at the back. It further showed a stab wound on the victim's left hand, which the Medico-Legal found to be a defensive wound.[35] Clearly, there were indications that the victim had the opportunity to resist appellant's attack, thereby negating the existence of treachery.

For failure of the prosecution to prove treachery or any other circumstance which would qualify the killing to murder, appellant should only be held liable for the crime of homicide.[36] Article 249 of the Revised Penal Code imposes the penalty of reclusion temporal for homicide. Considering that there was neither mitigating nor aggravating circumstance present in the commission of the crime, the penalty has to be imposed in the medium period. Applying the Indeterminate Sentence Law, appellant should therefore be sentenced to suffer the penalty of eight years and one day of prision mayor medium, as minimum, to fourteen years and eight months of reclusion

temporal medium, as maximum.[37]

Coming now to the award of damages, the P50,000 civil indemnity was correctly awarded. The Court finds the award of actual damages for the funeral expenses unwarranted for lack of supporting receipts. However, in lieu thereof, temperate damages in the amount of P25,000 are awardable in line with the ruling in *People v. Abrazaldo*.^[38] Furthermore, jurisprudence dictates the grant of moral damages in the amount of P50,000 to the victim's heirs in recognition of the latter's emotional suffering brought about by the violent death of their loved one.^[39]

WHEREFORE, the appealed Decision is hereby MODIFIED. Appellant is found GUILTY beyond reasonable doubt of homicide and, consequently, he is sentenced to suffer an indeterminate penalty of eight years and one day of prision mayor medium, as minimum, to fourteen years and eight months of reclusion temporal medium, as maximum. He is further ordered to pay the heirs of the victim the amounts of P50,000 as civil indemnity, P50,000 as moral damages, and P25,000 as temperate damages in lieu of the award for the funeral expenses which is deleted. Costs de oficio.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Panganiban, Ynares-Santiago, and Carpio, JJ., concur.

[1] Rollo, pp. 23-32.

[2] Records, p. 1.

[3] Id., at 28.

[4] Id., at 137, Exhibit "A."

[5] TSN, May 18, 1992, pp. 2-16.

[6] TSN, July 1, 1992, pp. 2-6.

[7] TSN, October 14, 1992, pp. 2-6.

[8] Records, pp. 138-139, Exhibit "B."

[9] TSN, February 10, 1993, pp. 1-9.

[10] TSN, April 28, 1993, pp. 1-7.

[11] Records, pp. 143-144, Exhibit "F."

[12] Records, p. 145, Exhibit "G."

[13] TSN, August 2, 1993, pp. 1-14.

[14] CA Rollo, p. 41.

[15] Rollo, p. 32.

[16] CA Rollo, p. 50.

[17] Rollo, pp. 16-18.

[18] TSN, May 18, 1992, p. 14.

- [19] Ibid., Underscoring supplied.
- [20] Rollo, p. 29.
- [21] TSN, August 2, 1993, pp. 12-13.
- [22] People v. Baltazar, G.R. No. 143126, July 31, 2003.
- [23] People v. Villanueva, G.R. No. 139177, August 11, 2003.
- [24] People v. Visperas, Jr., 395 SCRA 128 (2003).
- [25] People v. Colonia, G.R. No. 138541, June 12, 2003.
- [26] People v. Tumanon, 351 SCRA 676 (2001).
- [27] People v. Colonia, supra, note 25.
- [28] People v. Visperas, Jr., supra, note 24.
- [29] People v. Castellano, G.R. No.139412, April 2, 2003.
- [30] Supra, note 4.
- [31] TSN, May 18, 1992, pp. 3-7.
- [32] People v. Mandao, 393 SCRA 292 (2002), citing People v. Milliam, 324 SCRA 155 (2000).
- [33] People v. Simon, 209 SCRA 148 (1992).
- [34] Supra, note 12.
- [35] TSN, April 28, 1993, p. 7.
- [36] People v. Bates, G.R. No. 139907, March 28, 2003.
- [37] Lucas v. People, G.R. No. 149492, January 20, 2003.
- [38] 397 SCRA 137 (2003).**
- [39] People v. Baltazar ,supra, note 22.

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