

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. EXPEDITO ALFON, ACCUSED-APPELLANT.

G.R. No. 126028. March 14, 2003

Ponente: AZCUNA, J.

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AZCUNA, J.:

Expedito Alfon appeals the December 18, 1995 decision^[1] of the Regional Trial Court (RTC) of San Jose, Camarines Sur (Branch 30) in Criminal Case No. T-1249, finding him guilty of murder as follows:

WHEREFORE, the accused Expedito Alfon is hereby sentenced to suffer the penalty of imprisonment of reclusion perpetua, with the accessory penalties inherent thereto, to indemnify the heirs of the late Tomas Alferez, through the latter's brother Rodolfo Alferez the sum of Fifty Thousand Pesos (P50,000.00) [as civil indemnity, and] the sum of Twenty Four Thousand Two Hundred Twenty Pesos (P24,220.00) as actual damages, both [in] Philippine Currency, and to pay the costs.^[2]

On April 30, 1993, appellant was charged under an information which states:

That on or about 2:00 o'clock in the afternoon of February 18, 1993 at Barangay Oring, Municipality of Caramoan, Province of Camarines Sur, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with intent to kill, with treachery and evident premeditation while armed with a fan knife (balisong biente nueve) without any warning whatsoever did, then and there willfully, unlawfully, and feloniously attack, assault and stab the victim Tomas S. Alferez hitting the latter twice on his chest and other parts of the body thereby inflicting stab wounds which directly caused his instantaneous death on February 18, 1993 as evidenced by the attached Autopsy Report marked as Annex "A" and death certificate marked as Annex "A-1" hereof.

That as a consequence of the unlawful acts of the above-named accused, the heirs of the late Tomas S. Alferez have suffered damages.

ACTS CONTRARY TO LAW.^[3]

Upon his arraignment on July 28, 1993,^[4] appellant, assisted by his counsel de oficio,^[5] pleaded not guilty. After trial, the court a quo rendered the assailed decision.

The prosecution presented four witnesses: Vicente Eusebio, Manuel Rayoso, Dr. Minerva Aguirre, and Rodolfo Alferez. Their testimonies are summarized below.

Vicente Eusebio testified that on February 18, 1993, he was smoking cigarettes in front of the house of Purificacion Reazon at Barangay Oring, Caramoan, Camarines Sur. At around 2:00 p.m., he saw the victim walking from the opposite direction being followed by herein appellant Expedito Alfon. As soon as the victim and appellant were about six meters away from him, appellant came from behind the unsuspecting victim, and suddenly stabbed the latter twice with a knife known as balisong 29. The victim was hit on the left portion of his ribs and on the right side of his chest. As he fell on the ground face down, appellant ran away towards the

seashore. Eusebio shouted for help, and immediately, Manuel Rayoso, Jesus Arranza, and Agripino Lazado responded. They carried the victim to a motorboat and brought him to a doctor in Poblacion, Caramoan. Unfortunately, Tomas Alferez did not survive.[6]

Manuel Rayoso, the second eyewitness, testified that on February 18, 1993, at around 2:00 p.m., while walking near the house of Purificacion Reazon, he saw the victim walking from the opposite direction being followed by the appellant. Shortly thereafter, when the victim and appellant were six meters away from him, he witnessed the appellant suddenly hold the victim's shoulder and stab the latter with a balisong at the lower left side of his chest. Appellant then ran away towards the seashore.[7]

Dr. Minerva Aguirre, Municipal Health Officer of Caramoan who conducted the autopsy of the victim's body, testified on her post mortem findings. As indicated in the autopsy report,[8] she verified that the victim sustained two stab wounds: one on the right lower part of the victim's nipple, and the other on the left lower part of the chest, which she found to be the more fatal. She also found an incised wound on the dorsal part of the victim's right index finger. She stated that a sharp-bladed instrument could have caused the wounds. The cause of death, as declared in said autopsy report, is profuse hemorrhage secondary to stab wound.[9]

Rodolfo Alferez, the victim's brother, testified to prove the civil liability of appellant. He stated that he spent a total of P24,220.00 for the funeral and burial expenses, as itemized in the list of expenses he submitted as evidence.[10]

Appellant Expedito Alfon, on the other hand, interposed the defense of denial. He narrated that in the afternoon of February 18, 1993, he was on his way home from his sister's house. While walking along Sampaguita Street, the victim and his brother Rodolfo Alferez waylaid him. Rodolfo punched appellant on his left eye and later brought out a knife. Appellant ran away and the victim chased him. A fistfight then ensued between appellant and the victim. Rodolfo soon after caught up with them and tried to stab appellant with a knife. Appellant evaded the thrust and Rodolfo hit Tomas instead. Appellant then ran away and later learned that Tomas had died. [11]

The trial court concluded that the eyewitnesses' testimonies convincingly established that appellant had killed the victim with treachery. It, however, ruled out the aggravating circumstance of evident premeditation for lack of proof. It rejected the denial and version of the appellant due to the lack of supporting evidence.

Hence, this appeal.

In his Brief, appellant submits for our consideration the following errors allegedly committed by the trial court:

- THE TRIAL COURT ERRED IN GIVING FULL FAITH AND CREDIT TO THE TESTIMONIES OF THE PROSECUTION WITNESSES.
- THE TRIAL COURT ERRED IN HOLDING THAT THE KILLING OF TOMAS S. ALFEREZ WAS QUALIFIED BY TREACHERY.
- THE TRIAL COURT ERRED IN NOT APPRECIATING THE DEFENSE OF ACCUSED-APPELLANT THAT IT WAS RODOLFO ALFEREZ WHO ACTUALLY STABBED HIS BROTHER TOMAS S. ALFEREZ.
- THE TRIAL COURT ERRED IN NOT ACQUITTING ACCUSED-APPELLANT DESPITE FAILURE OF THE PROSECUTION TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.
- THE TRIAL COURT ERRED IN HOLDING ACCUSED-APPELLANT LIABLE FOR ACTUAL DAMAGES IN THE AMOUNT OF P24,220.00.[12]

Under the first, third and fourth assigned errors, this Court is called upon to determine whether or not the trial

court was correct in finding the evidence of the prosecution sufficient to prove appellant's guilt beyond reasonable doubt, and in rejecting the version of the defense.

Appellant contends that the trial court erred in giving credence to the eyewitnesses' testimonies, which he insinuates to be incredible and unreliable.

As his first point, he asserts that considering the circumstances of the stabbing incident as narrated by the prosecution and the location of the injuries, an attack from behind is hardly believable. He avers that assuming that he was indeed following the victim prior to the attack, it could have been easier and more convenient for him to stab the victim's back. However, as it now appears, the injuries are all found on the front of the victim. He thus argues that in the ordinary course of things, the attack was more likely frontal, contradictory to the testimonies of the prosecution.

This Court is not convinced. The two eyewitnesses testified that appellant came from behind before stabbing the victim since the former was following the latter prior to the sudden attack. Eusebio's detailed account of the manner of assault explains why the injuries are on the front of the victim, despite the assailant having come from behind:

xxx xxx xxx

Q: You said a while ago that you saw the accused following the victim, Tomas Alferez [b]efore [he] was stabbed twice. Would you go down the witness stand and demonstrate to us how Expedito Alfon approached Tomas Al[f]erez and stabbed him?

A: Expedito Alfon went towards the right side of Tomas Alferez coming from behind and suddenly stabbed Tomas Alferez using his right hand in an embracing position with his left hand on the victim's left shoulder [and] with his right hand striking the victim [with] a swinging motion hitting the victim's left lower rib. The second strike hit the victim on the right portion of his body.

(STENOGRAPHER'S NOTE: The witness demonstrated the act by using the Interpreter as medium.)(13)

Though not as specific, the testimony of the second eyewitness, Rayoso, is corroborative on the aforesaid manner of attack:

xxx xxx xxx

Q:

And when you saw this Expedito Alfon, the accused [whom] you pointed a while ago[,] following this Tomas Alferez , what happened next?

A:

He [held] the shoulder and stabbed him.

Q:

From behind?

A:

From behind.

Q:

As you said from behind, Tomas Alferez was stabbed. Was he hit when stabbed by Expedito Alfon?

A:

Yes sir.

Q:

Where?

A:

(Witness pointed to the lower left side of the chest/breast.)[14]

Unrefuted on cross, these testimonies on the manner of attack sufficiently establish beyond reasonable doubt that the assailant came from behind, held the shoulder of the victim with one hand, and in a sudden and swift manner, stabbed the front of the victim with the other hand. The argument that it could have been more convenient for appellant, who was behind the victim, to stab at the back cannot prevail over the testimonies of the eyewitnesses. Furthermore, the manner as testified to is the more plausible one, as it shows that the assailant aimed to stab the front of the victim while holding the latter's shoulder from behind, to ensure the execution of the act and the instant death of the victim. The evidence is indisputable that one of the injuries inflicted on the victim was so severe that death most likely occurred in not more than five minutes.[15]

As his second point, appellant seeks to inject reasonable doubt on the ground of the alleged conflicting evidence of the prosecution on the number of stabbing blows executed by the assailant. Witness Eusebio testified that the victim was stabbed twice,[16] while in the narration of witness Rayoso, it appears that the victim was stabbed only once.[17] Dr. Aguirre, on the other hand, opined in her testimony that the assailant most likely threw three stabbing blows.[18]

The argument fails. First, with regard to the inconsistencies in the eyewitnesses' testimonies, this Court holds that these are insufficient to affect the essential veracity of their testimonies. It is settled that conflict in testimonies of witnesses in describing details of an event may be due to differences in observations and memory which do not necessarily imply falsehood on their part.[19] Inconsistencies on minor details do not impair the credibility of the witnesses where there is consistency in relating the principal occurrence and positive identification of the assailant.[20] In the present case, though the two eyewitnesses differed as to the number of stabbing blows, they were unwavering and consistent in declaring that they witnessed no less than the appellant stabbing the victim at the chest with the use of a balisong. Second, as regards the doctor's testimony, this Court notes that her opinion that the assailant most likely threw three stabbing blows was only surmised from her finding of three injuries. Such finding does not discount the possibility that the third wound on the victim's finger could have been caused in the victim's attempt to parry the appellant's knife. Given these, therefore, the alleged discrepancy fails to render the eyewitnesses' testimonies unreliable and incredible. As this Court has consistently held, inconsistencies on minor details reinforce rather than weaken credibility.[21]

Against the evidence presented by the prosecution, which the trial court found sufficient and convincing, appellant interposes denial as his defense. He begrudges the trial court for not appreciating his defense that it was Rodolfo Alferez who stabbed the victim.

This Court agrees with the trial court's observation that the version of the appellant is doubtful. First, the two disinterested eyewitnesses both testified that Rodolfo was not at the scene during the incident. This point in said testimonies was confirmed by Rodolfo himself, and was not challenged by the defense. Second, appellant's version evidently conflicts with the physical evidence showing that the victim suffered three injuries. Assuming that Rodolfo indeed hit the victim by mistake, the two other wounds remain unexplained. Third, appellant failed to present evidence on any ill-motive Rodolfo and Tomas Alferez would have against appellant. The fact that that

there was no bad blood between the families of the brothers and appellant was even stipulated by the parties.[22] Fourth, and more importantly, appellant failed to present any independent evidence other than his own denial to bolster his claim. It is doctrinal that to merit credibility, denial must be buttressed by strong evidence of non-culpability.[23] If unsubstantiated by clear and convincing evidence, it is negative and self-serving, deserving no greater value than the testimony of credible witnesses who testify on affirmative matters.[24] In the case at bar, appellant miserably failed to overcome the eyewitnesses' testimonies, which positively identified him as the perpetrator of the crime.

In view of the foregoing, this Court concurs with the trial court in attributing full faith and credence to the testimonies of the disinterested eyewitnesses and in disregarding the denial of appellant. As between categorical testimonies that ring of truth on one hand, and a bare denial on the other, the former must prevail.[25] The rule is settled that the trial court's evaluation of the credibility of witnesses will not be disturbed by this Court on appeal, absent any arbitrariness or oversight of facts and circumstances of weight and substance.[26] In this case, this Court finds no reason to reverse the findings of the court a quo.

In his second assigned error, appellant avers that the killing could not have been attended by treachery considering that the wounds were inflicted on the front of the victim. As discussed earlier, he seeks to cast doubt on the prosecution's averment that the attack came from behind, arguing that the attack could be more likely frontal.

The essence of treachery is the unexpected and sudden attack on the victim which renders the latter unable and unprepared to defend himself by reason of the suddenness and severity of the attack.[27] This criterion applies, whether the attack is frontal or from behind. Even a frontal attack could be treacherous when unexpected and on an unarmed victim who would be in no position to repel the attack or avoid it.[28] The fact that the location of the fatal stab wound is in front does not in itself negate treachery.[29] In the case at bar, it was established that appellant came from behind, went towards the right of the victim, and suddenly stabbed the victim's chest while holding the latter's left shoulder. Evidence shows that, first, at the time of attack, the victim was not in a position to defend himself, as he was unarmed and totally unsuspecting when appellant suddenly held and stabbed him; and second, appellant consciously and deliberately adopted the particular means of attack, as he was seen surreptitiously following the victim with a balisong tucked under his waist. Clearly therefore, treachery attended the crime.

Finally, as to the civil liability imposed by the trial court, some modifications are in order. The trial court erred in awarding actual damages in the amount of P24,220. To recover actual damages, it is necessary to prove the actual amount of loss with a reasonable degree of certainty, on the basis of competent proof and the best evidence obtainable.[30] The prosecution in this case merely presented the testimony of the victim's heir, and a list of funeral and burial expenses made by the same witness without producing any receipt or other evidence to support the claim. There was thus no sufficient proof to sustain the trial court's award of actual damages. Be that as it may, considering that it cannot be denied that the heirs suffered some pecuniary loss though the exact amount cannot be proved with certainty, an award of P25,000 by way of temperate damages is appropriate.[31] In addition to this, this Court likewise grants the amount of P25,000 as exemplary damages given the presence of the qualifying circumstance of treachery.[32] The civil indemnity for the victim in the amount of P50,000 is sustained.

All things considered, this Court is convinced that appellant Expedito Alfon is guilty of murder. Given that the crime was committed prior to the effectivity of the New Death Penalty Law (Republic Act No. 7659),[33] the appropriate penalty under Article 248 of the Revised Penal Code prior to its amendment is reclusion temporal in its maximum period to death. Inasmuch as there is neither mitigating nor aggravating circumstance, the penalty of reclusion perpetua imposed by the trial court is correct.[34]

WHEREFORE, the decision of the court a quo is AFFIRMED with the MODIFICATION that in addition to the civil indemnity of P50,000, appellant is further ordered to pay the heirs of the victim P25,000 as temperate damages and P25,000 as exemplary damages. The award of actual damages is deleted. Costs de oficio.

SO ORDERED.

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

[1] Written by Judge Alfredo A. Cabral.

[2] RTC Decision, p. 9; RTC Records, p. 188.

[3] Rollo, p.8.

[4] Certificate of Arraignment, records, p. 24; Order, records, p. 26.

[5] Atty. Sabino Briones.

[6] TSN, February 2, 1994, pp. 5-10.

[7] TSN, August 22, 1994, pp. 2-3.

[8] RTC Records, pp. 4-5.

[9] TSN, March 1, 1994, pp. 3-6.

[10] TSN, February 21, 1995, pp. 2-5.

[11] TSN, April 4, 1995, pp. 2-4.

[12] Rollo, pp. 64-65.

[13] TSN, February 2, 1994, pp. 8-9.

[14] TSN, August 22, 1994, p. 3.

[15] TSN, March 1, 1994, p. 6.

[16] TSN, February 2, 1994, pp. 6-7.

[17] See Note 13, supra.

[18] TSN, March 1, 1994, p. 9.

[19] *People v. Mamac*, 332 SCRA 547 (2000).

[20] *People v. De Leon*, 332 SCRA 37 (2000).

[21] *People v. Villar*, 322 SCRA 380 (2000).

[22] RTC Records, p. 29.

[23] *People v. Visperas, Jr., et. al.*, G.R. No. 147315, January 13, 2003.

[24] *People v. Lustre*, 330 SCRA 189 (2000).

[25] *People v. Alvero*, 329 SCRA 737 (2000).

[26] See Note 24, *supra*.

[27] *People v. Lopez et. al.*, G.R. No. 141112-13, January 14, 2003.

[28] *People v. Adrales*, 322 SCRA 424 (2000); *People v. Tampon*, 258 SCRA 115 (2000).

[29] *People v. Bello, et. al.*, G.R. No. 139054, December 9, 2002.

[30] *People v. De la Tongga*, 336 SCRA 687 (2001).

[31] *People v. Ronas*, 350 SCRA 663 (2001).

[32] *People v. Sicad, et. al.*, G.R. No. 133833, October 15, 2002.

[33] Took effect on December 31, 1993.

[34] *People vs. Flores*, 252 SCRA 31 (1996).

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