PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. PASCUA GALLADAN Y BUNAY, ACCUSED-APPELLANT.

G.R. No. 126932. November 19, 1999

Ponente: BELLOSILLO, J.

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BELLOSILLO, J.:

On 12 June 1995 at around 11:00 o'clock in the evening Sgt. Moreno R. Bernardo, SPO4 Donato M. Legasi, Sgt. Apolinario Galladan and SPO3 Ramirez Era attended a wake at Lok Street, Zone 18, Staff Housing Area, Pembo, Fort Bonifacio, Makati City. Upon learning that SPO4 Pascua Galladan was in the vicinity, the group of Sgt. Bernardo (with SPO4 Legasi, Sgt. Galladan and SPO3 Ramirez) hurriedly left to avoid any confrontation with SPO4 Pascua Galladan as there was bad blood between SPO4 Pascua Galladan and Sgt. Galladan dating as far back as 1991.

On leaving the wake, Sgt. Bernardo walked side by side with Sgt. Galladan while SPO4 Legasi and SPO3 Ramirez walked behind. After traversing twenty (20) to twenty-five (25) meters, SPO4 Pascua Galladan suddenly appeared and shot Sgt. Galladan hitting him on the forehead. Sgt. Bernardo and SPO4 Legasi immediately dropped to the ground and after a few moments ran for safety. Three (3) more successive shots were heard with a bullet piercing the thigh of Sgt. Bernardo.

SPO2 Reynaldo Arcibal of the Makati Police Station investigated the incident. He went to the crime scene and there he saw the body of Sgt. Galladan lying face down; it was lifeless.

Lerma Galladan, widow of Sgt. Apolinario Galladan, went to the Makati Police Station in the afternoon of 16 June 1995 and informed the police authorities that SPO4 Pascua Galladan and his nephew Limbert Bagay were the possible suspects in the killing of her husband because of their long-standing grudge.

Testifying in his defense, accused SPO4 Pascua Galladan alleged that at the time of the incident he was in the rented house of his daughter in Cavalry Hills, Pembo, Makati City, and left for Baguio early the following morning; alibi, in other words.

But the trial court sustained the prosecution and ruled -

> Here, the controlling fact is that Sgt. Moreno R. Bernardo and SPO4 Donato Legasi clearly and consistently testified that they saw accused SPO4 Pascua Galladan, a person already well-known to them as the one who shot Apolinario R. Galladan. The unwavering identification negates accused's alibi[1] x x x x Another point that discredits accused's alibi is, Cavalry Hills, West Rembo, the place where the accused claimed he was at the time of the shooting and Lok Street, Rembo, Makati City are neighboring barangays. It is not impossible for accused to be at the scene of the crime at the time of the commission thereof x x x[2]

The court a quo found that the qualifying circumstance of treachery attended the killing. The victim, together with his three (3) companions, were hurriedly walking away from the wake after having been informed of the presence of SPO4 Pascua Galladan. They were fleeing from the place in the hope of avoiding any kind of confrontation

with SPO4 Pascua Galladan. They were totally unaware of the fact that accused-appellant was waiting in ambush for them. Although some of them were likewise armed, they were utterly unprepared for the suddenness of the attack. Without uttering a word, SPO4 Pascua Galladan suddenly shot Sgt. Apolinario Galladan hitting him mortally on the head.

Consequently, the trial court convicted SPO4 Pascua Galladan of murder after having ascertained that treachery qualified the killing. Correspondingly, SPO4 Pascua Galladan was sentenced to reclusion perpetua and to indemnify the heirs of Sgt. Apolinario Galladan P14,500.00 as actual damages and P50,000.00 as moral damages.

As regards accused Limbert Bagay who has remained at large, the court a quo set aside the warrant of arrest after finding that no probable cause existed against him and returned the Information to the Office of the City Prosecutor for further investigation.

SPO4 Pascua Galladan appeals his conviction. He assails the decision of the court a quo arguing that "a great portion of the appealed decision dwelt on the rationalization of the trial court in discrediting the evidence for the defense. Not much was said about the reasons why it gave credence to the testimonies of the prosecution witnesses."[3] He concludes that "the trial court did not subject the prosecution's evidence to the rigid test of reason although said yardstick was strictly applied in appreciating that of the defense."[4]

We cannot agree with accused-appellant's appraisal of the decision of the trial court. The assessment of factual matters lies within the province and expertise of trial courts. We, more often than not, accord due respect to their findings absent any showing of grave abuse of discretion. In the instant case, we find nothing amiss in the factual assessment by the court below. That it dwelt lengthily criticizing the evidence presented by the defense is its own way of presenting its reasons why it chose to give credence to the version of the prosecution. Aside from general statements and conclusions bereft of any basis, the defense did not offer any satisfactory proof that the lower court gravely abused its discretion.

Contrary to the allegation of the defense, the evidence presented by the prosecution is far from weak. Two (2) prosecution witnesses categorically and positively identified accused-appellant as the person who shot Sgt. Apolinario Galladan on the head at close range. Placed side by side with the alibi of accused-appellant, positive identification must certainly prevail.

Significantly, the alibi of accused-appellant cannot prosper. For alibi to be validly invoked, not only must he prove that he was somewhere else when the crime was committed but he must also satisfactorily establish that it was physically impossible for him to be at the crime scene at the time of commission. In the instant case, accused-appellant only attempted to prove that he was at a different place when Sgt. Galladan was gunned down. He did not even attempt to establish that it was impossible for him to be at the locus criminis when the offense was committed. For this fact alone, his alibi must fail.

Likewise, the defense endeavors to cast doubt on the credibility of the prosecution witnesses by implying that their testimonies are tainted with glaring inconsistences. In particular, it points to the seemingly conflicting versions of the prosecution as to how the supposed grudge between SPO4 Pascua Galladan and Sgt. Galladan started. It likewise cited the inconsistency between the narrations of Sgt. Bernardo and SPO4 Legasi. Supposedly, Sgt. Bernardo remarked that there was moonlight at the time of the incident. On the other hand, SPO4 Legasi testified that it was dark.

Plainly, the inconsistencies in the testimonies of the prosecution witnesses referred only to minor matters and not to those crucial to the case. Assuming there were indeed inconsistencies regarding the incident from which stemmed the bad blood between accused-appellant and Sgt. Galladan, and, on the other hand, whether there was

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moonlight or not, the fact remains that there was indeed a long-standing feud between SPO4 Pascua Galladan and Sgt. Apolinario Galladan and that the latter was shot point blank on the night of 12 June 1995. Those supposed contradictions do not detract from the fact that accused-appellant was positively identified as the assailant of Sgt. Galladan. Under the facts, there can be no other conclusion than that accused-appellant SPO4 Pascua Galladan treacherously shot Sgt. Apolinario Galladan to death at around 11:00 o'clock in the evening of 12 June 1995.

There seems to be no dispute as regards the award by the trial court of P14,500.00 for actual damages and P50,000.00 for moral damages to the heirs of Sgt. Galladan. However, the trial court failed to award civil indemnity, which is separate and distinct from moral damages. Article 2206 of the Civil Code provides that when death occurs as a result of a crime, the heirs of the deceased are entitled to be indemnified for the death of the victim without need of any evidence or proof thereof. Consequently, and conformably with People v. Española,[5] we should award P50,000.00 more as civil indemnity for the death of the victim.

WHEREFORE, the Decision of the court a quo finding accused-appellant SPO4 Pascua Galladan guilty of murder and sentencing him to suffer the penalty of reclusion perpetua, and to PAY the heirs of Sgt. Apolinario Galladan P14,500.00 for actual damages and P50,000.00 for moral damages is AFFIRMED. Accused-appellant is further ordered to PAY another P50,000.00 as civil indemnity for death conformably with prevailing jurisprudence, and the costs.

SO ORDERED.

Mendoza, Quisumbing, Buena, and De Leon, JJ., concur.

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[1] Decision penned by Judge Roberto C. Diokno, RTC-Br. 62, Makati City; Rollo, p. 24.

[2] Id., p. 25.

[3] Brief for the Accused-Appellant, p. 7; Rollo, p. 53.
[4] Ibid.

[5] G.R. No. 119308, 18 April 1997, 271 SCRA 689, 716.

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