

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ZENAIDA MANALAD @ EDENG TOMBOY, ACCUSED-APPELLANT.

G.R. No. 128593. August 14, 2002

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

Accused-appellant Zenaida Manalad @ Edeng Tomboy, in alleged conspiracy with four unidentified persons who were named in the information as John, Peter, Charlie and Sonny Doe, were charged with the murder of one Herman Miclat under an information[1] which reads:

That on or about the 31st day of January 1993, in Kalookan City, Metro Manila, and within the jurisdiction of this Honorable court, the above-named accused conspiring together and mutually helping one another, with treachery and evident premeditation and with deliberate intent to kill, did then and there wilfully, unlawfully, feloniously attack and stab one HERMAN MICLAT, JR., y SADI @ BONG on the vital of his body with a fan knife, which the herein accused was then provided, thereby inflicting upon the latter serious physical injuries which caused his death.

Contrary to law.

Only accused-appellant Zenaida Manalad was arraigned since her co-accused were at large. She pleaded not guilty. The case thereafter proceeded to trial.

At about 3:00 in the morning of January 31, 1993, Gerry Orbino, a fish vendor, was on his way to the fishport at Dagat-dagatan, Navotas on board a pedicab. On the corner of Tilapia Street, he saw accused-appellant, Zenaida Manalad @ Edeng Tomboy, stab someone twice with a ten-inch bladed weapon. He was about fourteen to fifteen meters away and the area was lighted by an electric lamppost. Thereafter that, accused-appellant and her four male companions scampered away. Orbino got a good look at accused-appellant because she passed in front of him. The victim, who turned out to be Herman Miclat, Jr., also ran away holding his bloodied chest.[2]

The victim was brought by his sister to the Ospital ng Kalookan, where he later expired. The autopsy report stated that the victim sustained several stab and incised wounds, hematoma, abrasions and lacerated wounds.[3] The stab wound at the back was the most fatal because it pierced the liver and the lungs.[4]

According to Myrna Miclat Avila, a sister of Herman Miclat, the latter's common-law wife, Gloria Miclat, is accused-appellant's sister; and that Herman Miclat had a dispute with accused-appellant and the latter's mother, Diega Manalad, over a parcel of land.[5] The victim's daughter, Crisanta, testified that one week prior to the killing, Diega approached her and said, "Antang, wala ka ng nanay, mawawalan ka pa ng tatay." [6]

In her defense, accused-appellant denied the killing. She alleged that she was asleep in her house, which was located at 51 Guido III, Maypajo Street, Caloocan City, at 5:00 a.m. of January 31, 1993.[7] Gloria Manalad, accused-appellant's sister, and a certain Rosario Diodin, testified that the eyewitness, Gerry Orbino, knew the victim and his sisters even before the incident.[8] Their testimonies were presented to refute Orbino's statement

that he did not know the victim, Herman Miclat, when he witnessed the killing.

On December 23, 1996, the Regional Trial Court of Caloocan City, Branch 121, rendered judgment convicting accused-appellant of the crime of murder, to wit:

WHEREFORE, premises considered, the accused ZENAIDA MANALAD (a.k.a. Edeng Tomboy) is hereby found GUILTY beyond reasonable doubt of the crime of MURDER and is accordingly sentenced to suffer the penalty of RECLUSION PERPETUA and to pay the heirs of the victim FIFTY THOUSAND PESOS (P50,000.00) for actual and compensatory damages, funeral expenses in the amount of THIRTEEN THOUSAND PESOS (P13,000.00), and moral damages in the amount of ONE HUNDRED THOUSAND PESOS (P100,000.00) and to pay the costs of the suit.[9]

Accused-appellant interposed the present appeal, raising the following errors:

I.

THE TRIAL COURT ERRED WHEN IT DECLARED THAT GERRY ORBINO'S IDENTIFICATION WAS CATEGORICAL AND ACCURATE THAT IT WAS THE ACCUSED-APPELLANT WHO STABBED AND KILLED HERMAN MICLAT, JR.

II.

THE TRIAL COURT ERRED WHEN IT FAILED TO DECLARE THAT THE TESTIMONIES OF THE PROSECUTION WITNESSES, MORE PARTICULARLY ORBINO IS CLOUDED WITH UNCERTAINTIES AND IMPROBABILITIES, THUS, UNWORTHY OF BELIEF THAT THE TRIAL COURT IS DUTY BOUND TO DISREGARD.

III.

THE TRIAL COURT ERRED WHEN IT DID NOT CONSIDER THE TESTIMONY OF DR. ZALDARIAGA, THE MEDICO LEGAL EXPERT WHO CONFIRMED THE AUTOPSY REPORT THAT THE RELATIVE POSITION OF THE ASSAILANT IN RELATION TO THE DECEASED AT THE TIME OF THE STABBING WAS THAT THE ACCUSED WAS AT THE BACK OF THE DECEASED.

IV.

THE TRIAL COURT ERRED WHEN IT FAILED TO CONSIDER THAT THERE IS NO MOTIVE FOR THE ACCUSED TO KILL THE DECEASED, THUS, ITS ABSENCE ENTITLED THE ACCUSED TO ACQUITTAL.

V.

THE TRIAL COURT ERRED IN NOT DECLARING THAT IT IS UTTERLY UNBELIEVABLE FOR THE WITNESS ORBINO TO BE AT THE SCENE OF THE INCIDENT ON THE DATE AND TIME THE CRIME WAS ALLEGEDLY COMMITTED.

VI.

THE TRIAL COURT ERRED WHEN A GENERAL AND SWEEPING STATEMENT WAS DECLARED THAT THE TOTALITY OF THE EVIDENCE FOR THE PROSECUTION POINTS TO THE GUILT OF THE ACCUSED ZENAIDA MANALAD WITH MORAL CERTAINTY.

VII.

THE TRIAL COURT ERRED WHEN IT DECLARED THAT THE ACCUSED-APPELLANT SUDDENLY DISAPPEARED FROM HER RESIDENCE AFTER THE KILLING.

VIII.

THE TRIAL COURT ERRED WHEN IT DID NOT DECLARE THAT THE LONG SILENCE OF JERRY ORBINO TO REPORT WHAT HE SAW ON 31 JANUARY 1993 RENDERED HIS TESTIMONY BIASED, IF NOT FABRICATED, THUS, UNWORTHY OF CREDENCE.

IX.

THE TRIAL COURT ERRED IN CONVICTING THE ACCUSED-APPELLANT.[10]

Most of the errors assigned by accused-appellant relate to the credibility of the eyewitness, Gerry Orbino. In this connection, the oft-repeated rule is that the evaluation of the credibility of witnesses and their testimonies are best undertaken by the trial court because of its unique opportunity to observe the witnesses' deportment, demeanor, conduct and attitude under grilling examination. As this opportunity is denied the appellate court, the lower court's findings of fact and assessment of the credibility of witnesses are generally binding on this Court absent a clear showing that they were reached arbitrarily or that the trial court had plainly overlooked certain facts or substance of value which, if considered, might affect the result of the case.[11]

In the case at bar, the trial court found that Orbino was categorical in his identification of accused-appellant as the person who stabbed the victim, Herman Miclat, Jr. It even noted that Orbino's identification was accurate as he was only fourteen to fifteen meters away and the scene of the crime was well-lighted by a streetlamp. We also pored over the transcripts of Orbino's testimony and affirm the findings of the trial court. Indeed, Orbino was straightforward in his narration of the events. He did not waver even during cross-examination by defense counsel. Significantly, the questions propounded by the cross-examiner failed to destroy or even impair the credibility of the eyewitness.

The fact that Orbino was the only eyewitness presented does not diminish the probative value of the prosecution's evidence. The testimony of a lone eyewitness, if found positive and credible by the trial court, is sufficient to support a conviction especially when the testimony bears the earmarks of truth and sincerity and had been delivered spontaneously, naturally and in a straightforward manner. Witnesses are to be weighed, not numbered. Evidence is assessed in terms of quality and not quantity. Therefore, it is not uncommon to reach a conclusion of guilt on the basis of the testimony of the lone witness. For although the number of witnesses may be considered a factor in the appreciation of evidence, preponderance is not necessarily with the greatest number and conviction can still be had on the basis of the credible and positive testimony of a single witness.[12]

Accused-appellant invokes peripheral issues to impeach Orbino's credibility, such as his choice of route. Specifically, the defense argues that it was improbable for Orbino to be on Tilapia Street because the most accessible and convenient route from his residence to the Navotas Fishport was via the C-3 Road. As correctly ruled by the trial court:

Be that as it may, it is not for the Court to speculate on the witness' motive for taking Tilapia Street and not the C-3 Road as there could have been some factors unrelated to the instant case which prompted him to act as he did. What remains undeniable is the fact that the witness saw the accused and her male companions attack the deceased.[13]

Accused-appellant also argues that Orbino's delay in reporting the crime eroded his credibility. We do not agree. Different people react differently to a given stimulus or type of situation, and there is no standard form of behavioral response when one is confronted with a strange, startling or frightful experience.[14] A witness' delay in reporting what he knew about a crime does not render his testimony false or incredible, for the delay may be explained by the natural reticence of most people to get involved in a criminal case.[15]

Accused-appellant likewise professes lack of motive to kill the victim. Again, there is nothing in this case which will warrant a disregard of the factual findings of the trial court on this score. After appreciating the testimonies of the victim's family, the trial court was convinced that the victim and accused-appellant, who were in-laws, were involved in a land controversy which provided sufficient motive for the killing. We have no reason to depart from such conclusion. More importantly, the issue of lack of motive on the part of accused-appellant is irrelevant because motive gains importance only when the identity of the culprit is doubtful.[16] As we stated earlier, the prosecution was able to establish accused-appellant's identity through the eyewitness account of Gerry Orbino.

Accused-appellant's defense of denial and alibi must fail, considering that accused-appellant was positively identified by an eyewitness who harbored no ill motive against her. Besides, accused-appellant was unable to show that it was impossible for her to have been at the locus criminis or its immediate vicinity at the time of the commission of the crime.[17] As she herself stated, the place where the victim was stabbed is only more than thirty minutes away from her house by jeepney or tricycle, and more than one hour away if traversed by foot.[18]

While we affirm the trial court's finding that accused-appellant was responsible for the killing of Herman Miclat, Jr., we do not agree that the crime committed was Murder. The trial court erred in appreciating the qualifying circumstances of treachery and evident premeditation. Orbino did not testify on the events that led to the stabbing. Hence, there is no showing whether the attack was swift and unexpected; or whether the victim did not expect the attack or gave the slightest provocation. In order to appreciate treachery as a modifying circumstance in a continuous aggression, it must be shown to have been present at the inception of the attack.[19]

Moreover, the fact that the fatal wounds were found at the back of the deceased does not, by itself, compel a finding of treachery. It is not enough that the means employed by the malefactor gave the victim no opportunity to defend himself or to retaliate as when the attack came from behind. To sustain a finding of treachery, an equally important requirement is that the means, method or form of attack must be shown to have been deliberately adopted by the appellant with a special view to the accomplishment of the act without risk to the assailant from any defense that the party assailed might have made.[20]

In the same manner, the attendance of evident premeditation was not proved. In order to appreciate this circumstance, the following must be shown: (1) the time when the accused decided to commit the crime; (2) an overt act manifestly indicating that he has clung to his determination; and (3) sufficient lapse of time between the decision and the execution to allow the accused to reflect upon the consequences of his act.[21] In the absence of proof of the events immediately preceding the killing, the decision and determination to kill the victim cannot be established.

Thus, the crime committed by accused-appellant is Homicide, penalized under Article 249 of the Revised Penal Code by reclusion temporal. There being neither mitigating nor aggravating circumstance, the penalty shall be imposed in its medium period, pursuant to Article 64 (1) of the Revised Penal Code. Applying the Indeterminate Sentence Law, accused-appellant shall be entitled to a minimum term to be taken from the penalty next lower in degree, prision mayor. Therefore, accused-appellant shall be sentenced to suffer an indeterminate penalty of eight (8) years and one (1) day of prision mayor, as minimum, to fourteen (14) years, eight (8) months and one (1) day of reclusion temporal, as maximum.

There is a need to modify the trial court's award of damages. The amount of P50,000.00 is maintained, not as actual and compensatory damages but as civil indemnity for loss of life.[22] The amount of P100,000.00 as moral damages must be reduced to P50,000.00. The purpose for such award is to compensate the heirs of the victim for injuries to their feelings and not to enrich them.[23] Finally, the award of P13,000.00 for funeral expenses must be deleted. It appears that said amount was based on the contract for funeral services.[24] However, a contract for

funeral services is not proof that what was stipulated in the contract was eventually paid. Hence, the contract cannot be considered as proof of the amount of the loss.[25]

WHEREFORE, in view of the foregoing, the decision of the Regional Trial Court of Caloocan City, Branch 121, in Criminal Case No. C-47707, is MODIFIED. Accused-appellant is declared GUILTY beyond reasonable doubt of the crime of Homicide and is sentenced to suffer the indeterminate penalty of Eight (8) years and One (1) day of Prison Mayor, as minimum, to Fourteen (14) years, Eight (8) months and One (1) day of Reclusion Temporal, as maximum, and is ORDERED to pay the heirs of the deceased Herman Micalat, Jr., the sums of P50,000.00 as death indemnity and P50,000.00 as moral damages.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Vitug, and Austria-Martinez, JJ., concur.

[1] Dated August 3, 1994, Criminal Case No. C-47707 (94); Rollo, p. 3.

[2] TSN, January 25, 1995, pp. 2-8.

[3] Exh. "K".

[4] TSN, April 4, 1995, p. 7.

[5] TSN, January 26, pp. 5-6.

[6] TSN, February 7, 1995, p. 20.

[7] TSN, September 27, 1995, pp. 4, 17.

[8] TSN, July 18, 1995, pp. 2-4; TSN, August 1, 1995, pp. 5-6.

[9] Penned by Judge Adoracion G. Angeles; Rollo, pp. 12-22, at 22.

[10] Rollo, pp. 36-38.

[11] People v. Samson, G.R. No. 124666, February 15, 2002.

[12] People v. Cabote, G.R. No. 136143, November 15, 2001.

[13] Decision, p. 9; Rollo, p. 20.

[14] People v. Ayupan, et al., G.R. No. 140550, February 13, 2002.

[15] People v. Ubaldon, G.R. No. 129389, October 17, 2001.

[16] People v. Orpilla, G.R. No. 118073, January 25, 2002.

[17] People v. Baluya, G.R. No. 133005, April 11, 2002.

[18] TSN, September 27, 1995, p. 17.

[19] People v. De Leon, G.R. No. 144052, March 6, 2002.

[20] People v. Belga, 258 SCRA 583, 598 1996.

[21] People v. Callet, G.R. No. 135701, May 9, 2002.

[22] People v. Nicholas, G.R. No. 142044, November 23, 2001.

[23] People v. Obosa, G.R. No. 129688, April 2, 2002.

[24] Exh. "A".

[25] People v. Baniaga, G.R. No. 139578, February 15, 2002.

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