

ELIGIO MADRID, PETITIONER, VS. COURT OF APPEALS, REGIONAL TRIAL COURT AND PEOPLE OF THE PHILIPPINES, RESPONDENTS.

G.R. No. 130683. May 31, 2000

Ponente: MENDOZA, J.

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MENDOZA, J.:

This is a petition for review on certiorari of the decision[1] of the Court of Appeals affirming the conviction by the Regional Trial Court, Branch 9, Aparri, Cagayan, of petitioner Eligio Madrid[2] and his co-accused Arsenio Sunido of the crime of homicide, for the killing on May 21, 1992 of Angel Sunido in Buguey, Cagayan.

The information against them charged --

That on or about May 21, 1992, in the municipality of Buguey, province of Cagayan, and within the jurisdiction of this Honorable Court, the said accused, Arsenio Sunido y Silos and Eligio (Melencio) Madrid, armed with a sharp pointed instrument, conspiring together and helping each other, with intent to kill did then and there wilfully, unlawfully and feloniously attack, assault and stab one Angel Sunido and inflicting upon hi[m] stab wounds on his body which caused his death.

CONTRARY TO LAW.

When arraigned on October 6, 1992, petitioner and Arsenio Sunido pleaded "not guilty" to the crime charged,[3] whereupon trial ensued. The prosecution presented three witnesses, namely: Remedios Sunido, wife of the victim; Merdelyn Sunido, the victim's daughter; and Dr. Teddy Unida, medico-legal examiner.

Remedios Sunido adopted as her testimony on direct examination, the affidavit executed by her at the Buguey Police Station on June 1, 1992. In said affidavit, she narrated that Arsenio and Angel Sunido were brothers who, previous to May 21, 1992, had a quarrel over a fighting cock which Arsenio claimed was his. At around 12 noon of May 21, 1992, Angel Sunido and Jerry Escobar had drinks in the former's house. Under the influence of alcohol, Angel provoked a fight with Arsenio. As a result, as Angel was walking back to his house after taking Escobar home, he was stopped by Arsenio and two companions, one of whom was petitioner. Arsenio's companions held Angel by the arms as Arsenio stabbed him several times on different parts of the body. Arsenio and his companions afterwards fled using petitioner's tricycle.[4]

Remedios Sunido was cross-examined on the basis of her affidavit. She testified that Arsenio did not pass by their house on May 21, 1992. On further questioning, however, she testified that Arsenio came to their house at around seven o'clock in the morning of that day as Angel and some friends were having drinks. It was during that visit that Angel provoked a quarrel with Arsenio concerning the fighting cock.[5] On re-direct examination, it was stipulated that the family of Angel incurred P4,000.00 as expenses for his death.[6]

Merdelyn Sunido also executed an affidavit before the police on June 2, 1992.[7] She stated that her father, her uncle Arsenio, and some visitors were drinking in their house on May 21, 1992. The brothers quarrelled over a fighting cock which she claimed Arsenio took from their yard. Angel then accompanied Jerry Escobar to his

home. Because of the bad blood between the brothers, on his way back from Escobar's house, Angel was attacked by Arsenio Sunido, with the help of petitioner and an unidentified man, and stabbed Angel to death.[8] On the witness stand, Merdelyn testified that at around noon of May 21, 1992, her father Angel and the latter's friends, Jerry Escobar and a certain Rudy, were in their house having drinks.[9] At 12 noon, Angel took Jerry Escobar home. Either on the way to or back from Escobar's house, Angel was stopped by Arsenio Sunido who was with petitioner and another person. Petitioner and his companion held Angel's hands, raising them upwards, with petitioner holding him by the right hand, while his companion held Angel by the left hand. And then, Arsenio started attacking Angel with a knife. After seriously wounding Arsenio, the three fled. Merdelyn said she witnessed the incident because she was just approximately five meters away from the place where it happened.[10]

The other witness for the prosecution was Dr. Teddy A. Unida, municipal health officer of Buguey, who conducted the autopsy on the body of Angel Sunido. His findings were embodied in a medical certificate,[11] which showed the following wounds suffered by Angel Sunido:

DIAGNOSIS:

1. Incised wound - 6 cm. in length - 1 cm. deep, located at the left temporal region.
2. Stab wound - 3 cm. in length, 8 cm. deep, located at right anterior lower thorax.
3. Stab wound - 4 cm. in length - 6 cm. deep, located at right anterior lower thorax. Direction - Antero-posterior.
4. Stab wound - 3 cm. in length - 6 cm. deep, located at left anterior lower thorax. Direction - Antero-posterior.
5. Stab wound - 6 cm. in length - 6 cm. deep, located at the right upper [quadrant] of the abdomen-anterior. Direction - Antero-posterior.
6. Stab wound - 3 cm. in length - 6 cm. deep, located at left upper [quadrant] of the abdomen-anterior. Direction - Antero-posterior.
7. Stab wound - 1½ cm. in length - 3 cm. deep, located at the right side of the abdomen-lateral. Direction - Right to left.
8. Stab wound - 2½ cm. - 5 cm. deep, located at left lower [quadrant] of the abdomen. Direction - Antero-caudal.
9. Stab wound - 2 cm. in length - 8 cm. deep, located at the left side of the abdomen-lateral. Direction - Left to right.

Dr. Unida testified that based on these wounds, it could be concluded that the assailant was in front of the victim and that he used a sharp-edged instrument, like a bolo with a pointed tip, in killing the latter. It is possible that either the assailant and the victim were in a standing position facing each other or the victim was lying on the ground with his face upwards. Stab wound nos. 2, 3, 4, 5, 6, 7 and 8 were fatal injuries causing the victim's death in the absence of medical attendance. As to how many assailants were responsible for the wounds, he said that judging from the variance in the size and shape of the wounds, it was possible that there was more than one assailant or that more than one weapon was used. However, Dr. Unida stressed that there was no certainty as to this because the elasticity of the skin makes it difficult to conclude exactly what type of instrument was used on the basis of the length of the stab wounds alone.[12]

On the other hand, the defense presented as witnesses Jerry Escobar,[13] petitioner, Arsenio Sunido and Alipio

Valdez.

Jerry Escobar was the person who, according to the wife and daughter of the victim, the latter took home after having drinks in their house. Jerry testified that he dropped by the house of Angel Sunido between six and seven o'clock in the morning of May 21, 1992, on his way to buy chicken feeds. According to Jerry, he and Angel had drinks until 12 o'clock noon with another persons whom Angel introduced as guests from the Ilocos province. At around 10 o'clock in the morning, Arsenio Sunido and petitioner arrived in Arsenio's house in a Tamaraw vehicle. Angel's house was located behind that of Arsenio, approximately 10 meters away. Upon seeing his brother and his companion, Angel provoked Arsenio to a fight over a fighting cock which Angel claimed belonged to him. He drew a line on the ground with his knife as he continued to provoke Arsenio. The two brothers then grappled with each other and fell to the ground. Arsenio was able to land on top of Angel and from this vantage point was able to wrest the knife with which he stabbed Angel several times. Jerry said he then ran away. Petitioner was near the Tamaraw vehicle at the time of the incident. Jerry denied Remedios Sunido's claim that Angel accompanied him (Jerry) to his house. He said Angel was too drunk to have done so. He further belied Remedios' claim that petitioner held Angel by the arm while Arsenio stabbed Angel. Jerry said that he was bothered in his conscience by allegations of other witnesses that Angel took him home.[14] When cross-examined, Jerry clarified that neither Arsenio nor petitioner drank liquor with them. He only saw Arsenio and petitioner at around 10 o'clock in the morning when they went to Arsenio's house on their way to haul palay. It was then that Angel challenged Arsenio to a fight as Angel took out his knife. Several people witnessed the fight between the two brothers, but no one intervened because of fear. Jerry further clarified that petitioner ran to the Tamaraw vehicle when the brothers started fighting. Jerry said that he did not report what he witnessed to anyone because he was not directly involved in the case. But he decided to testify and relate what he witnessed as his conscience bothered him.[15]

Petitioner testified next. He said he was a businessman with seven children, all of whom finished college. His business consisted of three rice mills, one located in Maddalero and two in Cabanbunan, Gonzaga. The manager of the Maddalero rice mill was Arsenio Sunido. On May 21, 1992, at around 10 o'clock in the morning, Arsenio informed him that they needed to buy palay, for which reason they got into his Tamaraw jeep, with Arsenio driving. They proceeded to Arsenio's house in Maddalero. Arsenio parked the vehicle in front of his house. When Arsenio alighted from the vehicle, Angel ran towards him with a knife. When he saw this, petitioner said he ran away from the scene and toward the farm. While in hiding, he heard the brothers arguing. Petitioner denied that he held Angel's hands as Arsenio stabbed Angel.[16] During cross-examination, petitioner explained that he only knew Angel as the brother of Arsenio. He reiterated that he ran away because he was frightened by the sight of the knife. He never saw what happened to the brothers. Nor did he inquire about the incident. He just heard from other people what had happened since he did not return to Maddalero until a month later.[17]

The other defense witness was Arsenio Sunido, who testified that he managed the rice mill of petitioner in Maddalero, Buguey, Cagayan. On May 21, 1992, at around 10 o'clock in the morning, he left his house to see petitioner. He noticed several persons, including Angel, drinking gin in the yard outside the latter's house. Angel saw him and began challenging him to a fight. It appears that Arsenio had lost a fighting cock about two weeks before. He claimed that the fighting cock in Angel's yard belonged to him. Despite provocation from his brother, Arsenio simply went about his way and left the house to fetch petitioner in Gonzaga, Cagayan where the latter was residing. Upon arriving in petitioner's house, Arsenio informed him that they needed money to buy palay. For this reason, petitioner dispatched his Tamaraw jeepney and accompanied Arsenio to Sta. Teresita where they bought palay. They then proceeded to Arsenio's house in Maddalero, arriving there at around 11 to 12 o'clock noon. They were met by Angel Sunido who was drunk. Armed with a knife, Angel rushed towards Arsenio with intent to kill the latter, saying "I will kill you now." When Angel was around two meters away from him, Arsenio

alighted from the vehicle and charged toward Angel.

On cross-examination, Arsenio testified that he did not see petitioner anymore during the incident because the latter ran away. After alighting from the Tamaraw, Arsenio slipped and fell. A struggle ensued and Arsenio was able to wrest the knife away from Angel. Arsenio then stabbed Angel several times. When he realized what he did, Arsenio dropped the knife, wanting to embrace his dead brother for he never really intended to kill him. He immediately surrendered to Alipio Valdez, the vice mayor, who brought him to the police precinct of Buguey.[18] On further cross-examination, Arsenio explained that the misunderstanding between him and his brother arose out of a fighting cock then in Angel's possession. He claimed that the fighting cock, a breeder, was his but he no longer paid any attention to his brother's claim, being aware of the latter's temperament. However, on the date in question, Angel challenged him to a fight as he was leaving his house. When Arsenio returned to his house, together with petitioner, Angel met them and threatened to kill Arsenio as the latter was about to alight from the vehicle. With his back against the Tamaraw jeepney, Arsenio lost his balance and fell down. Angel jumped on him. After taking the knife away from his brother, Arsenio stabbed Angel. Angel ran towards a mango tree and died there. Arsenio then went to Vice Mayor Valdez' house and told Valdez that he stabbed his brother. Upon request of Arsenio, Vice Mayor Valdez accompanied him to the police station. On re-direct examination, Arsenio reiterated that his brother was an ex-convict, having been convicted of rape with homicide. He, on the other hand, had never been charged of any crime before the present case.[19]

Alipio Valdez, vice mayor of Buguey, Cagayan, testified that Arsenio went to his house on May 21, 1992, informing him that he stabbed someone. Since Arsenio was willing to surrender himself to the proper authorities, hence, Vice Mayor Valdez accompanied him to the Buguey Police Department.[20] When cross-examined, Valdez repeated that Arsenio asked for his protection and, thus, he personally accompanied him to the police station.[21]

For purposes of rebuttal, Remedios Sunido denied Arsenio's claim that the knife used in killing Angel belonged to the latter. She explained that it could not have been her husband's knife because Angel did not carry a knife when he accompanied Jerry home.[22]

After trial, the lower court rendered a decision convicting Arsenio Sunido and Eligio Madrid of the crime of homicide. The dispositive portion reads:

WHEREFORE, the Court hereby finds the accused guilty beyond reasonable doubt of the crime of homicide, the penalty for which is reclusion temporal (Art. 249, Revised Penal Code) attended by evident premeditation, abuse of superior strength and availment of means to weaken the defense (Art. 14, pars. 13 and 15, R.P.C.). There is more than ample evidence to establish conspiracy. Therefore, the act of one is the act of all (People v. Noguero, Jr., 218 SCRA 85, 96). The accused are hereby sentenced to serve imprisonment of nineteen (19) years; seven (7) months; and nine (9) days to twenty (20) years of reclusion temporal maximum, including all its accessory, penalties. They are further directed to indemnify the heirs of the deceased jointly and severally P50,000.00 for the latter's death; P25,000.00 for moral damages; and P50,000.00 for exemplary damages, there being more than one aggravating circumstance and considering the manner the crime was committed, to serve as deterrent to others, with prejudice to the grant of parole or pardon.

Costs against the accused.

SO ORDERED.[23]

Petitioner appealed to the Court of Appeals which rendered a decision, dated September 17, 1997, affirming the trial court's decision, subject to modifications, viz.:

WHEREFORE, foregoing considered, the appealed decision is hereby AFFIRMED with the following

modification:

1. The accused-appellant Arsenio Sunido is sentenced to suffer the indeterminate penalty of six (6) 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, with the mitigating circumstance of voluntary surrender appreciated in his favor thus offsetting the aggravating circumstance of use of superior strength; and
2. The accused-appellant Madrid is sentenced to suffer the indeterminate penalty of six (6) years and one (1) day of prision mayor, as minimum, to seventeen (17) years, four (4) months and one (1) day of reclusion temporal as maximum with the aggravating circumstance of the use of superior strength considered against him.

The appealed decision is AFFIRMED in all other aspects.

SO ORDERED.[24]

Petitioner assigns the following issues in his petition:

1. Did the Cagayan RTC bolt so far from SC bearings

(a) in not satisfying the constitutional standard of clear and distinct articulation of the facts and law in trial court decision writing?

(b) in not correctly interpreting Sec. 1, Rule 132 of the Revised Rules on Evidence by saying it heard the prosecution witnesses' testimonies even when all the prosecution offered for Remedios and Merdelyn's direct examination were their affidavits and in setting aside the requirement of oral testimony for direct examination (which, unlike affidavits, gives occasion for judicial observation of witness deportment)?

(a) in failing to apply the SC's time gap test?

(b) in disregarding the SC's natural tendency rule?

(c) in glossing over the SC's unacceptable identification test?

(d) in ignoring the SC's common experience standard?

(e) in passing over the SC's motive test?

(f) in neglecting the relative's contra-testimony test pointed out by the SC?

(g) in not making a statement versus physical evidence comparison ordained by the SC?

(h) in not applying the SC's chronology test?

(i) in overlooking the no hide, no appearance, no surrender factors pointed out by the SC?

(j) in slighting the victim of identification by association possibility singled out in a SC decision before?

(k) in not applying the SC's equipoise test in favor of petitioner?

(l) in not adhering to the SC's search for truth standard?

(m) in not recognizing the operative legal effect of a plea of self-defense by co-accused Arsenio Sunido in that he alone owned up to the killing?

2. Did the Court of Appeals so far sanction all those 15 departures by the Cagayan RTC as to call for the Supreme Court's exercise of the power of supervision?[25]

As is often the case, the question here is whether the prosecution evidence is sufficient to prove beyond

reasonable doubt petitioner's guilt. In general, we adhere to the principle that the assessment made by the trial judge of the credibility of witnesses will not be disturbed on appeal.[26] Having heard the testimony of the witnesses and observed their demeanor on the witness stand, the judge is in a better position to determine the issue of credibility.[27] However, where there is a showing that some facts or circumstances of weight and substance which would have affected the result of the case have been overlooked, misunderstood or misapplied, we will not hesitate to make our own evaluation of the evidence.[28] Such is the case here.

First. The trial court's decision, for all its length - 23 pages - contains no analysis of the evidence of the parties nor reference to any legal basis in reaching its conclusion. It contains nothing more than a summary of the testimonies of the witnesses of both parties. The only discussion of the evidence is be found in the following paragraphs:

Their testimony convinced the Court. On the other hand, accused's evidence bears the indicia of fabrication. Defense witnesses from their demeanor, manner of testifying and evasive answers were far from credible.

From the evidence on record, the Court believes and so hold that the prosecution has satisfactorily proved the accused [guilty] beyond reasonable doubt. Prosecution's witnesses testified in a straightforward manner.

Considering the circumstances immediately prior to the commission of the crime, and the manner the same was committed, the Court believes that the aggravating circumstances of evidence premeditation and abuse of superior strength, as well as availment of means to prevent the deceased from defending himself were sufficiently established. The severality, location and severity of the injuries inflicted as well as their nature, proved that there were more than one assailants. Murder should have been the proper offense charged. However, we can only convict the accused for homicide.[29]

The decision does not indicate what the trial court found in the testimonies of the prosecution witnesses to consider the same "straightforward" when, as will presently be shown, they are in fact contradictory and confused. Nor does the decision contain any justification for the appreciation of aggravating circumstances against the accused, much less some basis for finding conspiracy among them.

In view of the weight given to its assessment of a witness' credibility on appeal, the trial court should exert effort to ensure that its decisions present a comprehensive analysis or account of the factual and legal findings which would substantially address the issues raised by the parties.

Art. VIII, §14 of the Constitution provides:

No decision shall be rendered by any court without expressing therein clearly and distinctly the facts and the law on which it is based.

No petition for review or motion for reconsideration of decision of the court shall be refused due course or denied without stating the basis therefor.

In the same vein, Rule 120, §2 of the Rules of Criminal Procedure provides:

Form and contents of judgments. -- The judgment must be written in the official language, personally and directly prepared by the judge and signed by him and shall contain clearly and distinctly a statement of the facts proved or admitted by the accused and the law upon which the judgment is based.

If it is of conviction, the judgment shall state (a) the legal qualification of the offense constituted by the acts committed by the accused, and the aggravating or mitigating circumstances attending the commission thereof, if there are any; (b) the participation of the accused in the commission of the offense, whether as principal, accomplice, or accessory after the fact; (c) the penalty imposed upon the accused; and (d) the civil liability or damages caused by the wrongful act to be recovered from the accused by the offended party, if there is any,

unless the enforcement of the civil liability by a separate action has been reserved or waived.

In case of acquittal, unless there is a clear showing that the act from which the civil liability might arise did not exist, the judgment shall make a finding on the civil liability of the accused in favor of the offended party.

The decision fails to comply with these constitutional and statutory requirements. As we said in our decision in *People v. Bugarin*:^[30]

The requirement that the decisions of courts must be in writing and that they must set forth clearly and distinctly the facts and the law on which they are based serves many functions. It is intended, among other things, to inform the parties of the reason or reasons for the decision so that if any of them appeals, he can point out to the appellate court the finding of facts or the rulings on points of law with which he disagrees. More than that, the requirement is an assurance to the parties that, in reaching judgment, the judge did so through the processes of legal reasoning. It is, thus, a safeguard against the impetuosity of the judge, preventing him from deciding by *ipse dixit*. Vouchsafed neither the sword nor the purse by the Constitution but nonetheless vested with the sovereign prerogative of passing judgment on the life, liberty or property of his fellowmen, the judge must ultimately depend on the power of reason for sustained public confidence in the justness of his decision. The decision of the trial court in this case disrespects the judicial function.

Second. The Court of Appeals sustained petitioner's conviction on the strength of the testimonies given by Remedios and Merdelyn Sunido. No independent evidence, however, incriminating petitioner on the death of Arsenio Sunido has been presented by the prosecution. Although they claimed that petitioner held the victim's right hand while Arsenio stabbed him, their testimony should have been given the strictest scrutiny in view of the fact that Remedios and Merdelyn Sunido are the wife and daughter, respectively, of the victim.^[31]

In fact, Merdelyn Sunido gave contradictory accounts of how her father was stabbed by Arsenio while petitioner allegedly held the victim. These contradictions raise doubts on whether she really witnessed the incident and on the part allegedly played by petitioner. More specifically, the contradictions and inconsistencies relate to the following questions: Did Arsenio go to the victim's house in the morning of May 21, 1992? Did the victim provoke his brother Arsenio into a quarrel? Was there or was there not a quarrel? When was the victim attacked by Arsenio and the latter's companions, which allegedly included petitioner, while allegedly taking Jerry Escobar to his house or after he had done so and the victim was returning to his house? After the incident, what vehicle did the assailant use while fleeing, Arsenio's Tamaraw vehicle or a tricycle?

In her affidavit before the Buguey police which formed her direct examination, Merdelyn stated:

Q04 - Why did your uncle Arsenio Sunido, stab your father?

A - Before the incident my uncle Arsenio Sunido, came to our house and forcibly took the rooster (fighting cock) inside our poultry and there when my father Angel Sunido arrived my mother told him that his rooster place[d] inside our poultry was taken by his brother Arsenio, so on May 21, 1992, my father and uncle Arsenio and some visitors have drinking session at our residence and there not long after, my father inquire my uncle regarding the rooster which was taken by my uncle which begun their quarrel and after the drinking spree, my father accompanied his friend Jerry Escobar to his house and when my father return that was the time when when (sic) Melencio Madrid and one companion hold my father while uncle Arsenio Sunido stabbed several times that causes his death along the road near the house of my uncle.^[32]

However, Merdelyn also testified and her testimony is shot through and through with contradictions and inconsistencies, as the following portions of the transcript of stenographic notes show:

Q: Let us make it clear, you said that your father accompanied Jerry Escobar to their house, in whose house did your father come from?

A: From our house, sir.

Q: Now, when your father accompanied Jerry Escobar to their house, what happened next?

A: He was met by Melecio Madrid, a companion.

Q: And you said they met your father, what did these Melecio Madrid and a companion do?

A: They held my father, sir.

Q: How did they hold your father?

A: Witness raised her both arms.

Q: Now, you said these 2 persons naming Melecio Madrid and a companion held the hands of your father, what hand when this Mel Madrid held?

A: Left hand, sir.

Q: What hand also did the [companion] of Melecio Madrid hold?

A: Right hand, sir.

Q: When these 2 persons Melecio Madrid and a companion held the hands of your father upward, what happened next?

A: My uncle stabbed my father, sir.

Q: Was your father hit?

A: Yes, sir.[33]

But when on cross-examination, Merdelyn testified:

Q: You said a while ago that while your father [was] accompanying Gerry Escobar in going home, two persons one was Melecio Madrid and unidentified person accosted your father, am I correct?

A: Yes, sir.

Q: That was the time when they were still going to the house of Gerry Escobar as alleged by you a while ago, am I correct?

A: No, sir.

Q: Did you ever see your uncle Arsenio Sunido between 7:00 o'clock in the morning and immediately before the alleged stabbing incident?

....

A: Yes, sir.

Q: Where was your uncle at the time when you saw him?

A: Outside their house.

Q: Did your father do anything when you saw your uncle Arsenio Sunido?

A: There was, sir.

Q: What did your father do?

A: He inquired about a lost chicken.

Q: Then, what did your father do after asking Arsenio Sunido about a lost rooster?

A: Nothing.

....

Q: He did not even provoke his brother Arsenio Sunido?

A: He did not sir, he only inquired a lost chicken.

Q: You want to impress the Court that your father did not provoke Arsenio Sunido, is that what you mean?

A: Yes, sir.[34]

On whether Arsenio went to the victim's house in the morning of May 21, 1992 and the brothers had an altercation, Merdelyn made statements even more irreconcilable from the previous ones she made, manifesting a tendency to improvise and embellish her story when confronted with her inconsistencies. To quote:

Q: Considering that you insist that your uncle Arsenio Sunido was present in your house in that morning of May 21, 1992, as appearing in your affidavit and you also insist during the direct and cross-examination that your uncle Arsenio Sunido was not there present, which is correct now, your statement in your affidavit or your statement in the direct-examination and in the cross-examination?

A: My statement in the affidavit, sir.

Q: So what is correct then was the one incorporated in the affidavit and you confirmed that the brothers Arsenio Sunido and your father quarrelled each other?

A: He just informed him something, sir.

....

COURT:

Q: Did they quarrel?

A: No, sir.

ATTY. BULSECO:

Q: So you are again changing your answer in your affidavit particularly as appearing in paragraph 8 that your uncle quarrelled with your father?

A: No, sir.

Q: Which is correct then, they quarreled or they did not quarrel?

A: They quarrelled, sir.

Q: How long did your father and your uncle quarrel each other?

A: A long while, sir.

Q: You said that Gerry Escobar and one Rudy stayed in your house from 6:00 o'clock in the morning up to 11:00 o'clock on May 21, 1992, but they only started drinking at 11:00 o'clock in the morning is that correct?

A: Yes, sir.

Q: And from that period of time, was your uncle present?

A: He was not there present, sir.[35]

Thus, in her affidavit dated June 2, 1992,[36] Merdelyn testified that her uncle, Arsenio Sunido, joined Angel Sunido, Jerry Escobar and a certain Rudy in drinking liquor at Angel's house. But, several times during her cross-examination, Merdelyn testified that her uncle was not present during her father's drinking session with his friends.[37] When confronted with the discrepancy in her affidavit and her testimony, Merdelyn answered that her statement in her affidavit was the truth, that her uncle was indeed in their house in the morning of May 21, 1992,[38] only to deny later that her uncle was in their house from six o'clock to 11 o'clock in the morning.[39] That was not the end of her answer to the question. In the next breath, Merdelyn asserted her uncle was present at the drinking session, although he stayed for a short while only at around 10:30 in the morning of that date.[40]

Merdelyn showed the same tendency to vacillate between two contradictory statements with regard to the quarrel which arose between her father and her uncle. In her affidavit, Merdelyn stated that during the drinking session, her father inquired about the rooster which Arsenio had taken, thus provoking a quarrel between the two brothers.[41] But when asked later whether her father and uncle had an altercation over the same subject matter, Merdelyn denied that they had. When asked again whether her father and uncle quarrelled, Merdelyn later replied that they, in fact, quarrelled for a long while.[42]

Even the vehicle allegedly used by Arsenio Sunido and petitioner in fleeing from the scene of the crime is uncertain. Merdelyn narrated in her affidavit that after the incident, petitioner took a tricycle to escape.[43] However, nowhere in her testimony did she mention the tricycle. Instead, she said she saw petitioner's Tamaraw jeepney parked in front of Arsenio's house.[44] Considering that Merdelyn testified that she was only five meters away from the place where her father was allegedly stabbed,[45] she could not have failed to notice that petitioner alighted from a jeepney.

Even more telling is the inconsistency in Merdelyn's testimony when Arsenio Sunido, allegedly with the assistance of petitioner and another companion, attacked Angel. In her affidavit, Merdelyn narrated that her father was attacked while returning to their house after accompanying Jerry Escobar home.[46] However, on the stand, Merdelyn changed her story and testified that it was on the way to Jerry Escobar's house that her father was assaulted.[47] Several times more after this in her testimony, Merdelyn vacillated as to the actual time her father was attacked, whether before or after Angel allegedly brought Jerry Escobar home.[48]

Inconsistencies on negligible details do not destroy the truth of a witness' testimony, so long as they refer only to collateral or incidental matters. But by no means can the inconsistencies and contradictions in Merdelyn's testimony be characterized as trivial or insignificant. Her propensity to make contradictory statements reflects her own uncertainty as to the actual events leading to her father's death. It is clear that she speaks not from memory or experience. She cannot even give a definite chronology of the events that transpired before her father was killed. We are convinced that she was simply fashioning her story and making spur-of-the-moment improvisations in an attempt to render her testimony credible. Instead of so doing, she exhibited a disposition to fabricate that makes her testimony unworthy of belief and credence.

We have held that sworn statements executed before police officers are usually incomplete and, therefore, contradictions in the sworn statement of a witness and her testimony are frequently brushed aside as inconsequential so long as they refer to minor and reconcilable matters. But this rule does not apply when the discrepancies touch on substantial matters as in the case at bar.[49]

Further eroding Merdelyn's testimony is her recital of petitioner's participation in the killing of her father. She

claimed that petitioner and another person held the victim by raising his arms, with petitioner holding the right hand while his companion held the left hand of the victim.[50] Petitioner is an old man, almost 64 years old.[51] It taxes one's credulity to be told that petitioner could hold the much younger victim so that the latter could be more easily attacked by Arsenio. It is noteworthy that no attempt was even made to identify the third person who allegedly held the other arm of the victim to facilitate the attack by Arsenio. Merdelyn did not even describe his appearance. Indeed, the information[52] only mentions Arsenio Sunido and Eligio Madrid as having conspired to kill Angel Sunido. No mention was made of this mysterious man, even as a John Doe, leading us to think that he exists only as a figment of Merdelyn and Remedios Sunido's imagination.

Evidence, to be believed, must not only proceed from the mouth of a trustworthy witness but must likewise be credible in itself. While there is no hard and fast rule to determine the truthfulness of one's testimony, that which conforms, however, to the quotidian knowledge, observation and experience of man is often deemed to be reliable.[53]

Nor can the testimony of Remedios Sunido be given credence any more than Merdelyn's testimony can be believed. In lieu of direct examination in court, the prosecution presented the affidavit which Remedios executed before the police on June 1, 1992.[54] In said affidavit, Remedios stated:

Q - Why said Arsenio [Sunido], your brother in-law stab his brother, your husband which caused his death?

A - They have a misunderstanding in connection with a chicken only.

Q - When and where this incident happened?

A - On May 21, 1992, at 12:00 o'clock noon more or less at Brgy. Maddalero, Buguey, Cagayan particularly at the road east of our house.

Q - Will you narrate in brief [surrounding] circumstances how the incident happened?

A - That prior to the incident, my husband and his brother Arsenio [Sunido] have a quarrel regarding to the chicken which we placed inside our poultry, because my brother in-law Arsenio [Sunido] claimed to be the owner, however, on that day they just stop [their] quarrel, but on May 21, 1992, we have a visitor and have a drinking spree and thereafter my husband Angel [Sunido] is under the [influence] of liquor he made provocation to his brother Arsenio [Sunido] and there they begun[their] quarrel.

Q - After that what happened next if any?

A - After they have finished their drinking spree with [our] visitor he went and accompanied him in their [residence] and there when my husband came back that was the time that my brother in-law Arsenio [Sunido] together with his companion took hold and stab my husband several times causing his death.

Q - Do you know the companion of Arsenio [Sunido] at that time?

A - One only of them whom I know his name MELENCIO MADRID while the other I don't know his name, but they are both resident[s] of Casiitan, Gonzaga, Cagayan.

Q - What was the participation of the companion of Arsenio [Sunido] at that time?

A - They took hold of my husband where Arsenio [Sunido] stab my husband several times, on the different parts of his body.

Q - After that what happened next if any?

A - I saw him ride on the [tricycle] of Melecio Madrid and they went away.[55]

But during her cross-examination, Remedios Sunido testified as follows:

....

ATTY. BULSECO:

Q: You said in your affidavit that on May 21, 1992, your husband and visitor have a drinking spree, and you said that Arsenio Sunido was not there, how did he provoke Angel Sunido?

A: Yes, sir.

Q: And you also said that they begun their quarrel there, is that correct?

A: Yes, sir.

COURT:

Q: When did your husband provoke your brother-in-law?

A: It was May, sir.

Q: What date?

A: May 22, sir.

Q: Are you sure that your husband was stabbed on May 21, 1992 in what occasion?

A: There was no occasion, sir.

Q: Is it not a fact that at the time of the drinking spree your husband provoked your brother-in-law?

A: Yes, sir.

Q: Therefore, your brother-in-law was also present in the drinking spree?

A: No, sir. He was in their house he did not participate in the drinking spree.

Q: In what particular place did your husband provoke your brother-in-law?

A: In our backyard, sir.

Q: And this was after the drinking session?

A: Yes, sir.

Q: Why your husband provoked your brother-in-law?

A: Because of the chicken, sir.

Q: When your husband provoked your brother-in-law, were your visitors still around?

A: Yes, sir.

Q: Who was that visitor?

A: Cousin, sir.

Q: What is the name?

A: Jerry Escobar and one companion, sir.

....

ATTY. BULSECO:

Q: You stated in your affidavit, that one of the accused Eligio Madrid allegedly held your husband when the accused Arsenio Sunido stabbed your husband, is it not a fact that immediately prior to the stabbing incident, you saw Melencio Madrid and Arsenio Sunido inside a tamarao jeepney?

A: No, sir.

Q: How far were you when you saw Eulogio Madrid held your husband and Arsenio Sunido allegedly stabbed your husband?

A: 7 to 10 meters away, sir.

Q: And you were beside your house at that time, is it not?

A: No, sir.

Q: Will you please tell the Honorable Court then where was the accused allegedly came from before the stabbing incident?

A: From their house, sir.

Q: For how long a time did you learn that your late husband provoked Arsenio Sunido?

A: I did not witness, sir.[56]

When further questioned during her re-direct examination, Remedios Sunido related:

FISCAL MIGUEL:

Q: In your answer to question No. 8, that there was a quarrel between your husband and your brother-in-law regarding with a chicken, when was the quarrel started?

A: May 21, 1992, sir.

Q: What time?

A: I cannot remember, sir.

Q: Was it before your husband started drinking or after?

A: After, sir.

Q: How many times did your husband provoke your brother-in-law?

A: Only once, sir.

Q: You said that the quarrel started in connection with a chicken, what was the chicken all about that start the quarrel?

A: My brother-in-law claimed that the chicken was his own, sir.

Q: And when your brother-in-law claimed that the chicken was his own, what did your husband tell him if [you] know?

A: He told me why he took his chicken, sir.

Q: And this confrontation between your husband and your brother-in-law was in Ma[y] 21, 1992?

A: Yes, sir.

Q: And this started what you called the provocation in the part of your husband?

A: It was not a provocation, sir.

Q: What do you mean then?

A: He insisted claiming the chicken, sir.

COURT:

Q: Who insisted?

A: My husband, sir.[57]

As can be seen, Remedios Sunido's testimony, like that of her daughter Merdelyn, is replete with inconsistencies and contradictions that render its veracity doubtful. Her answers oftentimes are not responsive to the questions propounded to her. She even committed a mistake as to the date when the provocation was made by her husband, stating a date which is a day after he died.

Moreover, in her affidavit, she stated that petitioner took a tricycle in escaping after the incident. But, as stated earlier, it has already been proven that petitioner used a Tamaraw jeepney for transportation. Considering that Remedios testified that she was only seven to 10 meters away from the place where her husband was attacked, she could not have failed to notice what type of vehicle petitioner was using if she actually witnessed the event. Remedios' dubious narrative of her husband's killing fails to convince us. The tenor of her testimony suggests that it is based not on what she remembers but more on what she imagines to have occurred at the time her husband was killed. In *People v. Lucero*, we held that the unnatural and contradictory testimony of a witness, coupled with substantial discrepancies between his testimony and his sworn statement, makes him unreliable as a witness.[58]

Likewise, the considerable length of time which lapsed before Merdelyn and Remedios Sunido made their statements before the police puts into question the claim that they actually witnessed the killing of Angel Sunido. It is true that delay in reporting a crime, if adequately explained, is not sufficient to cast doubt on the truthfulness of a witness' testimony as, for instance, the delay may be explained by the natural reticence of most people and their abhorrence to get involved in a criminal case.[59]

But the eyewitnesses involved in this case are the wife and daughter of the victim. One would naturally expect that they would not be anxious to help the police arrest the person or persons responsible for the killing of their loved one. Instead of doing so, however, Remedios and Merdelyn Sunido only made their statements to the police on June 1, 1992[60] and June 2, 1992,[61] respectively, more than one week after the incident they allegedly witnessed. This fact is made even more strange by the statements of Remedios and Merdelyn Sunido that not long after the incident, Barangay Councilman Amor de los Santos arrived followed by members of the Buguey Police.[62] In a similar case where a daughter delayed in reporting to the proper authorities who was responsible for her father's death, the Court held:

. . . She had a very early opportunity to do so because the police officers of the town were there at the scene of the crime, where she was also, just two hours after her father was shot and killed. The most natural reaction of a witness to such an incident, indeed a *res gestae*, would have been to tell her mother about it, and subsequently the police authorities, who had, as earlier adverted to, responded to the summons for help two hours after the reported murder. Human nature would have compelled her to declare that she had seen, and in fact, could identify, the assailant of her father. But she withheld that vital information from everybody for an unreasonable length of time (at least four days after the commission of the crime, by her own statement), which makes her testimony suspect. Teresita's testimony smacks of fabrication and, therefore, can not support a

conviction.[63]

The testimonies of Merdelyn and Remedios Sunido do not prove beyond reasonable doubt that petitioner participated in the killing of Angel Sunido. We cannot accept such testimonies as establishing the guilt of petitioner. As we said in *People v. Comesario*:^[64]

. . . An accused enjoys the presumption of innocence. He need not prove what is legally presumed. If he so desires he may present evidence on his behalf, but no matter how weak it is, he still deserves an acquittal. This is because the prosecution must not rely on the weakness of the evidence for the defense but on the strength of its own evidence. Unless the prosecution has overturned the presumption of innocence, acquittal is inevitable.

Indeed, Arsenio Sunido admitted that he was solely responsible for the death of his brother Angel Sunido. Thus, he testified:

Q: What time did you arrive in Maddalero particularly on May 21, 1992?

A: Between 11:00 o'clock to 12:00 o'clock.

Q: What unusual incident if any that transpired just immediately after you arrived at Maddalero, Buguey, Cagayan between 11:00 to 12:00 of May 21, 1992?

A: At that time we arrived the place, we noticed the deceased already provoking.

Q: To whom was he provoking?

A: Anybody that passes-by at that time.

Q: And when you noticed that he was provoking anybody that passes-by, what happened?

A: Because he was very near where we were, he met us with the intention of stabbing us with his knife.

Q: Were there persons present when he attempted to stab you?

A: There were other people sir, one is Jerry Escobar who was with him in drinking.

Q: Can you tell the Court the identity or names of the other persons present when the deceased attempted to stab you?

A: I can name some of them, sir.

Q: Can you name to this Honorable Court?

A: Rudy who is from Ilocos; Gerry Escobar; I can not identify the others.

Q: How far were you in relation to Angel Sunido at the first time he attempted to stab you?

A: Four (4) meters away from me, sir.

Q: You said you drove the Tamaraw jeepney, where did you park the Tamaraw jeepney in relation to the house of Angel Sunido?

A: Near my yard, sir.

Q: And how far that passenger jeepney in relation to you when Angel Sunido attempted to inflict injuries to you?

A: Around five (5) meters only.

Q: And what did you do when he attempted to stab you?

A: Both of us with Eligio Madrid alighted from the Tamaraw.

COURT:

Q: What did he threaten you with?

A: "Immuko" knife with 8 inches more or less long.

....

Q: You demonstrate how he threatened you with that knife?

A: Witness demonstrated rushing towards me (Court Interpreter) saying "I will kill you now" patayenka tatta, with the knife swining in an upward motion (Witness assuming that he is Angel Sunido). And with the knife with his right hand in downward motion directed towards me (Court Interpreter).

APP MIGUEL:

Q: How far did the deceased reach you?

A: About two (2) meters.

Q: Now, when he reached two meters away from you, you said you alighted from the Tamaraw jeepney, is that right?

A: Yes, sir.

Q: You alighted towards him or away from him?

A: When I alighted from the Tamaraw jeepney I moved back.

Q: Does the Tamaraw jeepney have a door?

A: Its an open door.

Q: You jumped using that open door while stopped driving?

A: Yes, sir.

Q: And necessarily your movement was towards the deceased or when you alighted from the Tamaraw jeepney your direction was towards the deceased?

A: Yes, sir, I have no other choice.

....

COURT:

Cross-examination?

....

ATTY. BULSECO, JR.:

Q: At that precise moment, when you alighted from the Tamaraw jeepney where was Eligio Madrid seated?

A: At the right side.

Q: You want to impress the Court, before he alighted he was seated right beside you, is that right?

A: Yes, sir.

Q: What happened after you alighted?

A: I did not see Mr. Eligio Madrid because he ran away.

Q: My point is, you said that you alighted from the Tamaraw jeepney when the deceased was going towards you with a knife, after alighting from that Tamaraw jeepney, what happened next?

A: When I was retreating I kept my watch on him.

COURT:

Q: You retreated towards the Tamaraw jeepney, is that right?

A: Yes because I was encircled and after that I [slipped] and fell.

Q: And after you fell down facing upward, what happened next?

A: When I fell, I kept on anticipating what move would he do next and that was the time I was able to [grab] him, sir.

Q: Was he dr[u]nk at that time?

A: Yes, sir.

Q: Now, when you were anticipating the attempt, what happened next?

A: After wrested possession of the knife from him, I lost my cool. I have a mental block-out and stabbed him.

Q: How many times did you stab him?

A: I cannot recall anymore.

Q: Now, when you first stabbed him, was he on top of you or you were on top of him?

A: He was on top, sir.

Q: And he was very drunk?

A: Thats what I noticed, sir.

Q: Did you not push him when you were able to wrestle possession of the knife?

A: I did not know how many times I stabbed him because I have a mental block out.

....

COURT:

Q: Now, were you lying down at all times when you kept on stabbing your brother?

A: Yes, sir.

Q: There was never anytime that you were standing?

A: None. When I got back my senses I dropped the knife.

Q: My question is, in all these nine (9) stab wounds that you inflicted, was there any time that you were standing?

A: None that I know, of these where I stabbed my brother while in standing position.

ATTY. BULSECO, JR.:

Q: And after recovering your senses, what did you do if any?

A: After stabbing my brother I wanted to embrace him for the reason that I did not really intend to kill him.

Q: And what happened next?

A: After dropping the knife I immediately surrendered myself to Vice-Mayor Alipio Valdez.

COURT:

Q: On that same date?

A: Yes, sir.[65]

Arsenio Sunido's testimony is credible. There was animosity between him and the deceased concerning the loss of a fighting cock. The deceased provoked him and he reacted by stabbing the victim. The quarrel was thus between brothers. There is nothing in the record to suggest that petitioner had any part in that quarrel. He was Arsenio's employer. He had no reason to feel aggrieved by the loss of the fighting cock. And if, as the prosecution tried to prove, Arsenio had merely been provoked by the deceased who was then drunk, how could Arsenio and petitioner have conspired to commit the crime? The fact is that petitioner and Arsenio happened to drop by Angel's house because they were buying palay to mill. Petitioner was the owner of three rice mills, and Arsenio was the manager of one of the rice mills. Whatever business ties existed between Arsenio and petitioner have no bearing on the fight between the brothers Angel and Arsenio. Not having participated in any manner in the fight between the brothers, petitioner cannot be held responsible for Angel's death.

WHEREFORE, the decision of the Court of Appeals is hereby REVERSED and petitioner is hereby ACQUITTED of the crime of homicide.

SO ORDERED.

Bellosillo, (Chairman), and Buena, JJ., concur.

Quisumbing, and De Leon, Jr., JJ., on leave.

[1] Per Justice Eugenio S. Labitoria and concurred in by Justices Salome A. Montoya and Roberto A. Barrios of the Eleventh Division of the Court of Appeals.

[2] Also referred to as Eulogio, Melecio or Melencio Madrid in the records.

[3] Records, p. 87.

[4] Exh. 1; Id., p. 7.

[5] TSN, pp. 5-15, Nov. 18, 1992.

[6] Id., p. 18.

[7] Exh. A; Exh. 2.

[8] Ibid.

[9] TSN, pp. 7-8, Nov. 19, 1992.

[10] TSN, pp. 8-13, Nov. 19, 1992.

[11] Exh. C; Records, p. 2.

[12] TSN, pp. 5-19, March 23, 1993.

[13] Also referred to as Gerry Escobar in the records.

[14] TSN, pp. 5-13, May 4, 1993.

- [15] Id., pp. 14-24.
- [16] TSN, pp. 4-13, May 5, 1993.
- [17] Id., pp. 14-23.
- [18] TSN, pp. 5-26, May 6, 1993.
- [19] TSN, pp. 3-20, Sept. 22, 1993.
- [20] TSN, pp. 10-12, Sept. 21, 1993.
- [21] Id., pp. 16-17.
- [22] TSN, pp. 8-11, Jan. 11, 1994.
- [23] Records, p. 245; RTC Decision, p. 23.
- [24] CA Decision, p. 14; Rollo, p. 56.
- [25] Petition, pp. 14-16; Id., pp. 23-25.
- [26] *People v. Barellano*, G.R. No. 121204, Dec. 2, 1999.
- [27] *People v. Durado*, G.R. No. 121669, Dec. 23, 1999.
- [28] *People v. Barellano*, supra.
- [29] Records, p. 245; RTC Decision, p. 23.
- [30] 339 Phil. 570, 580 (1997). See also *People v. Nadera*, G.R. Nos. 131384-87, Feb. 2, 2000.
- [31] *People v. Gil*, 284 SCRA 563 (1998).
- [32] Exh. A, Exh. 2. (Emphasis added)
- [33] TSN, pp. 9-11, Nov. 19, 1992. (Emphasis added)
- [34] TSN, pp. 25-28, Nov. 19, 1992. (Emphasis added)
- [35] TSN, pp. 7-9, Dec. 8, 1992.
- [36] Exh. A; Exh. 2.
- [37] TSN, pp. 20-21, Nov. 19, 1992; TSN, p. 9, Dec. 8, 1992.
- [38] TSN, p. 7, Dec. 8, 1992.
- [39] Id., p. 9.
- [40] Id., pp. 9-10.
- [41] Exh. A; Exh. 2.
- [42] TSN, pp. 8-9, Dec. 8, 1992.
- [43] Exh. A; Exh. 2.
- [44] TSN, pp. 13-14, Dec. 8, 1992.
- [45] TSN, p. 13, Nov. 19, 1992.
- [46] Exh. A; Exh. 2.
- [47] TSN, p. 10, Nov. 19, 1992.
- [48] See TSN, p. 25, Nov. 19, 1992; TSN, pp. 15-16, Dec. 8, 1992.
- [49] *People v. Maongco*, 230 SCRA 562 (1994).
- [50] TSN, pp. 10-11, Nov. 19, 1992.
- [51] TSN, p. 3, May 5, 1993.
- [52] See Records, p. 1.
- [53] *People v. Niño*, 290 SCRA 155 (1998).
- [54] Exh. 1.
- [55] Ibid.
- [56] TSN, pp. 10-14, Nov. 18, 1992. (Emphasis added.)
- [57] Id., pp. 16-18. (Emphasis added.)
- [58] *People v. Lucero, Jr.* 197 SCRA 717 (1991).
- [59] *People v. Paraiso*, G.R. No. 127840, Nov. 29, 1999.

[60] Exh. 1.

[61] Exh. A.

[62] Exh. 1; Exh. A.

[63] *People v. Mendoza*, 174 SCRA 432, 447 (1989); See also *People v. Valeriano*, 226 SCRA 694 (1993) and *People v. Jalon*, 215 SCRA 680 (1992).

[64] 306 SCRA 400, 405 (1999).

[65] TSN, pp. 13-25, May 6, 1993. (Emphasis added)

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