PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. WILSON CATAMPONGAN, PAQUITO CAMAY AND CASIUS CATAMPONGAN, ACCUSED, WILSON CATAMPONGAN AND PAQUITO CAMAY, APPELLANTS.

G.R. No. 131732. November 19, 1999

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

The Court reiterates the well-entrenched rule that the trial court's assessment of the credibility of witnesses is accorded great respect, absent any showing that circumstances of weight and substance, which if considered would materially affect the result of the case, have been overlooked, misunderstood or misinterpreted.

The Case

Before us is Wilson Catampongan and Paquito Camay's appeal of the Decision[1] f the Regional Trial Court (RTC) of Cataingan, Masbate (Branch 49) in Criminal Case No. 395, which convicted them of murder and sentenced them to reclusion perpetua.

First Assistant Provincial Prosecutor Andres B. Barsaga Jr. charged appellants, together with Casius[2] atampongan, in an Information dated February 24, 1989, which reads:

> "That on or about December 9, 1988, in the afternoon thereof, at [B]arangay Matagangtang, Municipality of Placer, Province of Masbate, Philippines, within the jurisdiction of this court, the said accused conspiring and helping each other with intent to kill, evident premeditation, treachery and superiority of strength did then and there willfully, unlawfully and feloniously box, strike with a piece of wood and stab with a knife one ANTONIO VILLANUEVA, Sr, hitting the latter on the different parts of the body, which directly caused his instantaneous death."[3]

With the assistance of Counsel de Oficio Gerundino Cantillep, appellants pleaded not guilty when arraigned on July 2, 1991.[4] Casius Catampongan was not arraigned because he was at large.

Trial proceeded against the two appellants. On September 9, 1997, the RTC promulgated its assailed Decision, which disposed as follows:

> "ACCORDINGLY, the court finds the accused PAQUITO CAMAY and WILSON CATAMPONGAN guilty beyond reasonable doubt of the crime of MURDER and hereby sentences each [with] the penalty of RECLUSION PERPETUA, with all the accessory penalt[ies] under the [Revised Penal Code], and shall indemnify the legal heirs [in] the amount of P50,000 for the death of Antonio Villanueva, Sr., P30,000 as moral damages and P5,000 as attorney's fees.
>
> "With costs de oficio."

Hence, this appeal.[5]

The Facts

Version of the Prosecution

In its Brief, the Office of the Solicitor General narrates the facts, as viewed by the prosecution, in this wise:[6]

> "The incident happened at about 2:00 o'clock in the afternoon of December 9, 1998 in Matagangtang, Placer, Masbate. Antonio Villanueva, Sr. and his son were on their way to their farm in Sitio Taganas, passing by the houses of appellant Camay and Ismael Enero. Antonio Villanueva, Jr. was surprised when appellant Camay suddenly boxed his father twice. Thereafter, appellant Wilson Catampongan held the elder Villanueva, binding the latter's arms crosswise at the back. With his knife, Cassius Catampongan stabbed Villanueva, Sr., hitting him thrice. Appellant Camay picked up a piece of wood and began hitting Villanueva, Sr. at the forehead, cheeks, breast and knees. Villanueva, Jr. who was about thirteen (13) years old at the time, was too afraid to do anything. He ran home and informed his mother of the incident.
>
> "The incident was also witnessed by Nila Francisco Casas, who was on her way home to Matagangtang from buying viand in Aguada. She saw appellants ganging up on Villanueva, Sr. Appellant Wilson Catampongan was the one who held the victim's arms at the back while Cassius Catampongan stabbed him with a fan knife. Appellant Camay, in turn, clubbed Villanueva, Sr. with a piece of wood. Villanueva, Sr., fell to the ground face down. Casas ran to inform Villanueva, Sr.'s wife, her elder sister, [of] what happened to her husband. There were other people who witnessed the whole incident and they helped in bringing the victim to his house.
>
> "The postmortem examination conducted on the cadaver of the victim reveals that Villanueva, Sr. sustained two (2) fatal stab wounds at the left side of the chest penetrating the thoracic cavity, and an incise wound near the left wrist. The victim also had multiple abrasion[s] at the right forehead, face, chin, forearm, elbow and both knees, consistent with injuries sustained from being hit by a blunt instrument. The cause of death was listed as `shock due to hemorrhage due to stab wounds on the chest'."

Version of the Defense

Denying criminal responsibility for the death of Antonio Villanueva Sr., appellants narrate the facts as follows:[7]

> "The records of this case disclose that the appellants and the victim appeared to be residents of Barangay Mata[g]angtang, Placer, Masbate. In the afternoon of December 9, 1988, appellants Paquito Camay and Wilson Catampongan were s[ea]ted [o]n a bench outside the store of appellant Paquito Camay. While they were talking with each other, both saw Antonio Villanueva, Sr. approaching them who was drunk looking for Paquito Camay. Upon seeing Paquito Camay, the victim boxed him first and then pulled his bolo from his waist and chased Paquito Camay who ran away towards [the area] inside his fence but stumbled while running and then and there [he] stabbed Paquito Camay at the back. Paquito Camay was rendered unconscious because of his stab wound and did not know what happened next. He was brought to the Cataingan Emergency Hospital for treatment and was able to regain consciousness only while he was on the truck on his way to the hospital. The incident was witnessed by the people in the Barangay and the other accused-appellant, Wilson Catampongan, in fact, corroborated Paquito Camay's testimony and asserted that he merely tried to pacify the victim [and keep him from] further attacking Paquito Camay. After appellant Wilson Catampongan failed to pacify the victim the other accused, Cassius Catampongan, arrived and told the victim not to stab Paquito Camay as he was already dead, yet the victim refused to listen so he was stabbed by Cassius Catampongan to prevent him from further stabbing Paquito Camay and then the victim fled bumping upon a tree twice but finally dropped on the ground dead."

Ruling of the Trial Court

The trial court convicted appellants on the strength of the credible testimonies of Nila Francisco Casas and Antonio Villanueva Jr., ruling that they had no ill motive to testify falsely and that their positive assertions prevailed over the negative statements of the defense witnesses. It rejected the claims of appellants thus:

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> "Further, Paquito Camay's defense of `unconsciousness' is belied by the fact that his back injury is slight in nature as shown by the medico-legal certificate. The truth as declared and proved by the prosecution is that he attacked the deceased with a piece of wood causing several injuries on the body of the victim. In like manner, Wilson Catampongan's defense of `only pacifying the victim' is false on the face of the declaration of the prosecution witnesses that he `pulled the arms of the victim and held him from behind' when Cassius Catampongan stabbed him [t]hus, cooperating in the killing of the victim."[8]

Ruling that the testimonies of the defense witnesses were not credible, the lower court explained:

> "xxx [T]he testimon[ies] of the accused and their witnesses suffered from biases and/or inconsistencies and x x x they failed to make themselves worthy of belief. Thus, the court has keenly observed, viz:
>
> "1) The biased testimony of Bibiano Tenorio who lived in another barangay four kilometers from the place of the crime but claimed he was there at Paquito Camay's store to buy goods which were also available in his barrio;
>
> "2) The coached testimony of Serafin Bedrijo is replete [with] material inconsistencies and [he] admitted that the usual route in going to his house [would] not pass by Paquito Camay's store;
>
> "3) The biased and evasive testimony of barangay captain Alfreda Gulay (aunt of Paquito Camay)."[9]

Assignment of Errors

In their Brief, appellants contend that the trial court erred in the following instances:

> "1. x x x holding the appellants liable for the crime that appellants did not commit;
>
> "2. x x x holding that appellants conspired and cooperated with [each] another when Cassius Catampongan stabbed and wounded the victim to death."[10]

Simply put, the issue is whether the prosecution evidence is sufficient to prove appellants' guilt beyond reasonable doubt.

This Court's Ruling
The appeal has no merit.

Main Issue:
Sufficiency of the Prosecution Evidence

Eyewitness Antonio Jr., son of the victim, narrated in a consistent, clear and straightforward manner how appellants assaulted his father.[11] Pertinent portions of his testimony are reproduced hereunder:

> "Q.
>
> While going to your farm together with your father and on your way to the farm, do you remember if there was an unusual incident that occurred?
>
> A.
>
> Yes, sir.
>
> Q.
>
> What was that incident?
>
> A.
>
> Paquito Camay boxed my father and he was hit twice on the left side.

INTERPRETER:

Witness demonstrating where his father was hit twice, on the left side and on his back.

ATTY. FRANCISCO:

Q.

After Paquito Camay boxed your father twice, on the left side of his body, what happened next?

A.

Wilson Catampongan held him.

Q.

Will you please demonstrate to this Honorable Court how Wilson Catampongan held your father?

A.

Yes, sir.

Q.

How?

INTERPRETER:

At this juncture, the witness stands up, holds both of his hands on his back (himakid) crosswise.

ATTY. FRANCISCO:

Q.

After Wilson Catampongan held the arms of your father crosswise, what happened next?

A.

Casius Catampongan stabbed him.

COURT:

Q.

Was he hit?

A.

Yes, sir.

Q.

Where?

A.

He was hit on his left breast near the armpit.

ATTY. FRANCISCO:

Q.

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How many times did Casius Catampongan stab your father?

A.

Three (3) times.

COURT:

Q.

All on the left armpit?

A.

He was hit also on the left side near the breast and the other one [was] on the right wrist.

Q.

After your father Antonio Villanueva, Sr. was stabbed by Casius Catampongan, what happened next?

A.

Paquito Camay picked up a piece of wood.

Q.

How big?

A.

It [was] a long piece of wood.

INTERPRETER:

Witness demonstrating by extending both his arms

ATTY. FRANCISCO:

Q.

What did Paquito Camay do with that piece of wood?

A.

He struck my father with that piece of wood.

Q.

How many times?

A.

He struck him many times.

Q.

Was your father hit by that piece of wood?

A.

Yes, sir.

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COURT:

Q.

Where?

A.

He was hit on the forehead, both cheeks, at the breast and knees."[12]

Nila Francisco Casas, another eyewitness, corroborated the testimony of Antonio Jr.[13] and was, like the latter, accorded credence by the court a quo. Well-entrenched is the doctrine that the trial court's factual findings are accorded great respect and are binding on this Court, unless substantial facts and circumstances were overlooked which, if considered, would materially affect the result of the case.[14] The defense has failed to show that the trial court committed such error.

Indeed, there was no proof that the prosecution witnesses testified falsely or unbelievably against the accused. Verily, the fact that Antonio Jr. was the son of the victim rendered his testimony more credible. Expectedly, his primary consideration was to see that justice would be done; hence, it would have been unnatural for him to accuse the wrong persons and thereby let the real culprits go free.[15]

Furthermore, the testimonies of the eyewitnesses that the three accused cooperated in stabbing the victim and hitting him with a piece of wood were supported by the postmortem examination, which revealed the following:

"Multiple abrasions at the right forehead, right cheek, right face, right chin, right elbow, right forearm and both knees[.]

"Stab wound, about 2.5 cm. long, located 2cm. below the left nipple, penetrating into the thoracic cavity[.]

"Stab wound, about 2.5 cm. long, located at the left lateral lower chest, penetrating into the thoracic cavity[.]

"Incised wound about 1.5 cm. long, distal forearm, ulnar side, left[.]"[16]

Contrary to appellants' contention, the absence of a broken skull or broken knees was not inconsistent with the accounts of the prosecution witnesses. The abrasions on the victim's forehead, right cheek, right face, right chin, right elbow, right forearm and both knees sufficiently supported the claim of the prosecution witnesses that the victim had repeatedly been beaten with a piece of wood.

Likewise, the trial court was correct in not according credence to the testimonies of the defense witnesses, which consisted chiefly of denials. It is axiomatic that negative assertions cannot prevail over the positive testimonies of credible witnesses.[17]

Furthermore, the testimonies of the defense witnesses were not congruent on some important points. First, Appellant Paquito Camay testified that the victim tried to punch him; however, none of the other defense witnesses who claimed to have seen the incident supported his assertion. Second, Defense Witness Bibiano Tenorio testified that the victim also tried to stab Casius, but the other witnesses -- Serafin Bedrijo, Alfreda Reoyan Gulay and Wilson Catampongan -- were silent on this point, stating instead that Casius merely tried to pacify the victim. Third, contrary to the contention of appellants, Defense Eyewitness Alfreda Reoyan Gulay stated that she did not see Casius stab the victim.[18] Fourth, Alfreda claimed that she informed Lita Villanueva, wife of the victim, of the incident. However, Lita testified that it was her son Antonio Jr. and her sister Nila Casas who informed her of her husband's death. Fifth, Alfreda also testified that Antonio Sr. stabbed Paquito at the back, on the left side near the waistline. However, the Medico-legal Report submitted by the defense showed that Paquito had a "2 cm stab wound up to the muscle, (L) lumbar area, paraspinal line."[19]

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It should be noted that the defense presented the aforementioned Medico-legal Report to support its claim that the victim had stabbed Appellant Paquito Camay. Such evidence, however, failed to establish that the victim had actually done so. The medico-legal officer who issued the report did not even take the witness stand. Besides, it was purportedly issued only on September 23, 1991, almost three years after the stabbing incident.

Additional Matters:
Conspiracy, Treachery and Damages
Conspiracy

The concerted actions of appellants and Casius Catampongan revealed a common design to kill the victim: Wilson Catampongan held the hands of the victim in order to immobilize him; then Paquito Camay clubbed the victim, who was also stabbed three times by Casius. In conspiracy, it is not necessary that all co-conspirators deliver fatal blows to the victim.[20] The act of one is the act of all.[21] Hence, co-conspirators are all considered principal perpetrators of the crime committed.[22] In the present case, appellants and Casius clearly cooperated to accomplish their objective - to kill the victim.

Treachery

Treachery was properly appreciated by the trial court. The means, method or manner of attack employed by appellants offered no risk to themselves from any defense or retaliatory act which the victim might resort to.[23] The victim was unarmed and defenseless, for his arms were held back by Appellant Wilson while he was being attacked by Casius and Paquito. Clearly, the sudden, unexpected and unprovoked attack by appellants and Casius Catampongan constituted treachery. Although the Information also alleged abuse of superior strength, this aggravating circumstance cannot be appreciated, because it is deemed absorbed by treachery.[24]

Damages

We agree with the trial court that the heirs of the victim are entitled to moral damages. The widow testified that she and her family suffered pain and anxiety as a result of her husband's death.[25] However, the award of P30,000 should be increased to P50,000.[26]

Furthermore, we affirm the award of attorney's fees to the victim's heirs, who retained a lawyer to represent them during the trial.[27] We also concur in the award of P50,000 as indemnity ex delicto to the heirs of the victim, consistent with existing jurisprudence.[28]

WHEREFORE, the appeal is hereby DENIED and the assailed Decision AFFIRMED, with the MODIFICATION that the award of moral damages is INCREASED to P50,000. Costs against the appellants.

SO ORDERED.

Melo (Chairman), Vitug, Purisima, and Gonzaga-Reyes, JJ., concur.

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[1] Penned by Judge Henry B. Basilla.

[2] Spelled "Cassius" in other parts of the records.

[3] Rollo, p. 6.

[4] Records, p. 99.

[5] The case was deemed submitted for resolution on July 8, 1999, when this Court received the appellee's Brief. The filing of a reply brief was deemed waived, as none was submitted within the reglementary period.

[6] Brief for the Appellee, pp. 2-4; rollo, pp. 90-92. It was signed by Solicitor General Ricardo P. Galvez, Assistant Solicitor General Roman G. del Rosario and Solicitor Irahlyn P. Sacupayo-Lariba.

[7] Appellants' Brief, pp. 2-3; rollo, pp. 59-60. The Brief was signed by Atty. Raul R. Estrella.

[8] Assailed Decision, p. 8; rollo, p. 20.

[9] Ibid., p. 9; rollo; p. 21.

[10] Appellants' Brief, p. 3; rollo, p. 60.

[11] See People v. De Guia, 280 SCRA 141, October 2, 1997; People v. Salvame, 270 SCRA 766, April 4, 1997.

[12] TSN, January 14, 1992, pp. 4-7

[13] TSN, October 8, 1991, pp. 2-15.

[14] People v. Juatan, 260 SCRA 532, 537, August 20, 1996; People v. Lua, 256 SCRA 539, 546, April 25, 1996; People v. Ballagan, 247 SCRA 535, 543-544, August 23, 1995; People v. Ong Co, 245 SCRA 733, 742, July 11, 1995; People v. Sibug, 229 SCRA 489, 496, January 24, 1994; People v.Yap, 229 SCRA 787, 792-793, February 9, 1994; People v. Simon, 209 SCRA 148, 156, May 21, 1992; People v. Mauyao, 207 SCRA 732, 738, April 6, 1992; People v. Salameda, 111 SCRA 405. 410, January 30, 1982.

[15] People v. Sion, 277 SCRA 127, August 11, 1997; People v. Bundang, 272 SCRA 641, May 27, 1997.

[16] Records, p. 148.

[17] People v. Tabaco, 270 SCRA 32, March 19, 1997.

[18] TSN, July 9, 1997, p. 5.

[19] The sketch shows that the wound was in the upper left torso. (Records, p. 320)

[20] People v. Azugue, 268 SCRA 711, February 26, 1997; People v. De Roxas, 241 SCRA 369, February 15, 1995.

[21] People v. Andres, GR No. 122735, September 25, 1998; People v. Sumalpong, 284 SCRA 464, January 20, 1998; People v. Leangsiri, 252 SCRA 213, January 24, 1996; People v. Salison Jr., 253 SCRA 758, February 20, 1996; People v. Obzunar, 265 SCRA 547, December 16, 1996.

[22] People v. Alas, 274 SCRA 310, June 19, 1997; People v. Nardo, 270 SCRA 672, April 4, 1997; People v. Abarri, 242 SCRA 39, 45, March 1, 1995; People v. Cayanan, 245 SCRA 66, 77, June 16, 1995.

[23] People v. Unarce, 270 SCRA 756, April 4, 1997; People v. Navarro, GR No. 129566, October 7, 1998; People v. Ombrog, 268 SCRA 93, February 12, 1997; People v. Cayabyab, 274 SCRA 387, June 19, 1997.

[24] People v. Cheng, 279 SCRA 129, September 15, 1997; People v. Sancholes, 271 SCRA 527, April 18, 1997; People v. Violin, 266 SCRA 224, January 14, 1997; People v. Torrefiel, 256 SCRA 369, April 18, 1996.

[25] TSN, January 14, 1992, p. 20.

[26] See People v. Espanola, 271 SCRA 689, April 18, 1997.

[27] Under Article 2208 (11) of the Civil Code, the award of attorney's fees is justified when the trial court deems it just and equitable.

[28] People v. Vermudez, GR No. 119464, January 28, 1999; People v. Albao, 287 SCRA 129, March 6, 1998.

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