

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. GERLITO PELEN Y MUÑERA, ACCUSED-APPELLANT.*G.R. No. 131827. September 03, 1999*

Ponente: YNARES-SANTIAGO, J.

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Before us is an appeal from a decision rendered by the Regional Trial Court of Gumaca, Quezon, Branch 62, convicting accused-appellant Gerlito Pelen of the crime of murder for the death of Maximo Perlada, and sentencing him to suffer the penalty of reclusion perpetua.

On December 12, 1993, at around 7:00 o'clock in the evening, the deceased, Maximo Perlada, and his wife, Narcisa, were riding on a carabao on their way home to Barangay Ilayang Yuni, Mulanay, Quezon, from a ricemill. Upon reaching the boundary of Barangays Ilayang Yuni and Sumagunson, six men blocked the couple's path and shouted, "Don't move." Almost instantly, a flashlight was focused on the deceased and a gun was fired hitting him in the head[1]. Narcisa recognized her neighbor, herein accused-appellant Gerlito Pelen, as the one who fired the shot.[2]

The couple fell off the carabao. While on the ground, Maximo was shot again by an unidentified companion of the accused-appellant. Accused-appellant then held Narcisa by the arm and pulled her away from her husband, as the latter was mercilessly stabbed to death by the other unidentified men. When Narcisa shouted for help and for mercy, she was told, "If you don't want to die you run." [3]

The hapless woman thus ran home and thereafter proceeded to the barangay captain to report the incident. She also went to the Office of the Army Detachment later and reported the death of her husband but, preoccupied as she was with the arrangements for his burial, she failed to mention the name of accused-appellant as one of the assailants. She was able to report the incident to policemen Rogelio Revillosa and Gil Belarmino only in the afternoon of the following day, December 13, 1993, since the town of Mulanay was quite far from the place where they buried her husband.[4]

Postmortem findings conducted on the deceased by Municipal Health Officer Heriberto Morales of the Rural Health and Family Planning Clinic of Mulanay, Quezon showed the following injuries:

- (a) Wound, circular, 1 cm. in diameter with a contusion collar (hematoma), 2 cms. above the right ear, 11 cms. deep directed medially
- (b) Wound, circular, 1 cm in diameter, with contusion collar (hematoma) bone deep, anterior aspect of the right shoulder
- (c) Wound, stabbed, 3 cms. width, 9 cms. long near tip of the sternum, left side, directed upward and posteriorly
- (d) Wound, stabbed, 4 cms. width, 3 cms long, just beside the tip of the right scapula, directed anteriorly

(e) Wound, stabbed, at the level of the 3rd lumbar vertebrae near the right paravertebral line, 3 cms. width, 10 cms long, directed downwards and anteriorly.[5]

On December 14, 1993, Narcisa gave a sworn statement implicating accused-appellant and a certain Cesar Rey in the killing of her husband.[6] In her statement, Narcisa explained that she and her husband were tenants of Cesar and Solomon Rey, who owned the lot on which their house stood. Cesar Rey wanted to evict them from the land and, on numerous occasions prior to her husband's death, went to their house, accompanied by accused-appellant Gerlito Pelen, and threatened to kill their family if they refuse to vacate.

On August 23, 1994, an information was filed before the Regional Trial Court of Gumaca, Quezon, Branch 64, against accused-appellant Gerlito Pelen and Cesar Rey for the murder of Maximo Perlada. At the arraignment, both accused pleaded not guilty.

During the trial, Narcisa positively identified herein accused-appellant as the one who shot her husband but stated that she did not see Cesar Rey as one of the six men who attacked the deceased during the night in question.[7]

Accused-appellant Gerlito Pelen, for his part, testified that the Perladas were his neighbors for the past three (3) years, their houses being only 300 meters apart. On the night in question, accused-appellant maintained that he was at home from 6:00 o'clock to 8:00 o'clock in the evening together with the rest of his family. His son, JR, was suffering from diarrhea at that time so he summoned his neighbor, Expedito Patubo, a quack doctor, to attend to the boy.[8]

The next day, accused-appellant learned from Patubo that their neighbor, Maximo Perlada, was killed. He immediately felt a sense of pity because the deceased had many children. At around 3:00 o'clock of the same day, policemen came to his house and invited him for questioning regarding the death of the deceased. Accused-appellant was appalled to know that he was the suspect in the murder of the deceased.[9]

Accused-appellant's story is corroborated by Expedito Patubo,[10] the quack doctor. Patubo testified that on December 12, 1993, he called on accused-appellant's house to minister to his son who was suffering from diarrhea. Patubo stayed there from 6:00 o'clock to 8:00 o'clock in the evening. The next day, Patubo came to know that a neighbor, Maximo Perlada, had been killed the night before. Patubo was shocked when accused-appellant was picked up by the police for questioning as one of the suspects in the killing of the deceased.[11]

On March 12, 1997, the trial court rendered a decision finding accused-appellant Gerlito Pelen guilty beyond reasonable doubt of the crime of murder with the generic aggravating circumstance of nighttime and sentenced him to suffer the penalty of reclusion perpetua. Cesar Rey was acquitted for insufficiency of evidence. The dispositive portion of the decision reads:

"WHEREFORE, premised on the foregoing considerations, this Court finds GERLITO PELEN guilty beyond reasonable doubt of the crime of murder with a generic aggravating circumstance and hereby sentences said Gerlito Pelen to suffer an imprisonment of RECLUSION PERPETUA. Gerlito Pelen is also ordered to indemnify the heirs of Maximo Perlada in the amount of P50,000.00 for the death of said Maximo Perlada. The bail bond posted for the provisional liberty of accused Gerlito Pelen is hereby ordered cancelled and declared of no further force and effect and ordered returned to the bondsman. Let Gerlito Pelen be remitted first to the Provincial Jail of Quezon Province, Lucena City, prior to his commitment to the National Penitentiary at Muntinlupa.

For insufficiency of evidence, Cesar Rey is hereby ACQUITTED of the crime of murder. His bail bond is likewise ordered cancelled and declared of no further force and effect and ordered returned to the bondsman.

SO ORDERED.”

Accused-appellant interposed this appeal, arguing that the testimony of Narcisa, who was the lone eyewitness to the killing, is unreliable because of her unexplained failure to immediately identify him as the author of the crime. Accused-appellant surmises that his implication was done by Narcisa upon the advice of the police.[12]

We are not convinced. Well entrenched is the tenet that this Court will not interfere with the trial court’s assessment of the credibility of the witnesses, absent any indication or showing that the trial court has overlooked some material facts or gravely abused its discretion.[13] In this case, we find none of the indications which justify a reversal of the findings of fact of the trial judge, and that Narcisa’s identification of accused-appellant as one of her husband’s killers is convincing enough to sustain accused-appellant’s conviction.

Prior to the incident, Narcisa already knew accused-appellant since they were neighbors. She testified that on the night in question, she recognized accused-appellant when he grabbed her by the arm to pull her away from her fallen husband. During her cross-examination, defense counsel attempted to show that Narcisa’s eyesight may not have been clear and accurate owing to the darkness and the sudden burst of light. Narcisa, however, insisted that it was accused-appellant whom she saw and whose form and silhouette she recognized in the dark.

“Q: So, at the time when they flash their flashlight on you and your husband you were surprise, is that correct?

A: Yes sir.

“Q: And you also (sic) surprise (sic) when they flash their flashlight to you and your husband and you immediately heard the gun shot?

A: Yes, sir.

“Q: And you were also surprised because the group of men who fired at your husband did not say any words or did not make any warning, is that correct?

A: They only said, “do not move” and at the same time I heard the shot, sir.

“Q: So may be you recognized Pelen only after the gun was served, is that correct?

A: Yes, sir.

“Q: And only at the time your husband fell on the ground.

A: If you personally know a person even he does not talk by the structure of the body when he is near you, you can recognize him, sir.”[14]

Accused-appellant likewise posits that Narcisa’s failure to name him to the barangay chairman as one of the assailants renders her testimony incredible. The records disclose otherwise. Contrary to accused-appellant’s claim, and as clarified by Narcisa on the stand, she did not tell the barangay chairman that her husband was slain by six unidentified men; rather what she merely stated was that her husband was killed. Indeed, a person who has just witnessed a violent occurrence, and one involving a loved one, cannot be expected to think clearly and coherently as to be able to narrate all details of the incident.

“Q: And is it not correct, Mr. (sic) Witness, that you informed the barangay chairman that your husband was killed by six (6) unidentified persons?

A: No, sir.

“Q: So what did you tell the barangay chairman with regards the identity of the six (6) persons who killed your husband?

A: I told them to help me because my husband was killed, sir.

“COURT:

“Q: Did you tell the Barangay Chairman as to who killed your husband?

A: No, Your Honor.”[15]

Even then, we find that the delay was not unreasonable. To be sure, on December 14, 1993, only two days after the incident, Narcisa was at the police precinct giving her sworn statement wherein she readily named accused-appellant as the person who shot her husband in the head.[16] When she was asked why she failed to identify accused-appellant at the first opportunity, she replied that she was preoccupied with the preparations for her husband’s burial.[17]

In other cases, we gave credence to the testimonies of witnesses notwithstanding delay in the reporting of the crime where the witness is related to the victim and the delay is justifiable. We held that delay in revealing what a witness knows about a crime does not, by itself, render his testimony unworthy of belief particularly when he is related to the victim.[18]

“In a large number of cases, it has been held that the lapse of a considerable length of time before a witness comes forward to reveal the identity of the assailant does not taint the credibility of the witness and his testimony. In the case of *People v. Dominguez, et al.*[19], the Court explained the settled doctrine that delay on the part of the witnesses in informing the authorities of what they know about the occurrence of a crime will not, by itself, affect their credibility where such delay is satisfactorily explained. Likewise, in *People v. Gamboa*,[20] the Court reiterated that delay on the part of the witnesses to immediately report the identity of the offender to the police investigators does not affect their credibility, especially so when the witnesses are related to the victim.”[21]

In his Brief, accused-appellant assigns as error the giving of weight to Narcisa’s uncorroborated testimony. Witnesses, however, are weighed and not numbered. The testimony of a single witness may suffice for conviction if it is otherwise trustworthy and reliable. That the prosecution had only one eyewitness hardly affects its cause. There is no law which requires that the testimony of a single witness needs corroboration except where the law expressly mandates such corroboration.[22]

Given the circumstances under which the crime was committed, there can be no other eyewitness than Narcisa Perlada. Hence, her lone testimony, considering that it has the badge of truthfulness and is worthy of belief, suffices to sustain a judgment of conviction against accused-appellant.

On the whole, we have found nothing in the records that would compel us to disturb the findings of fact and assessment of credibility of the witnesses by the trial court. There is nothing to indicate that the trial court overlooked, misunderstood, or misapplied some facts or circumstances of weight and substance which could have affected the result of the case. Thus, we must yield to the oft-repeated rule that the trial court’s evaluation of the

testimony of a witness is accorded the highest respect because it had the direct opportunity to observe the witnesses on the stand and to determine if they were telling the truth or not.[23] Appellate magistrates, on the other hand, do not have this privilege.

“As this Court has reiterated often enough, the matter of assigning values to declarations at the witness stand is best and most competently performed or carried out by a trial judge who, unlike appellate magistrates, can weigh such testimony in light of the accused’s behavior, demeanor, conduct and attitude at the trial.”[24]

Furthermore, we are unable to give credence to accused-appellant’s alibi that he was at home when the murder was committed, in light of his positive identification by Narcisa Perlada. In countless cases, we have declared that positive identification destroys the defense of alibi and renders it impotent. Further, for alibi to merit serious consideration, it must be so convincing as to preclude any doubt that the accused could not have been physically present at the place of the crime or its vicinity at the time of its commission.[25] It should be noted that accused-appellant, who was a neighbor of the Perladas, lived in Barangay Ilayang Yuni, Mulanay, Quezon, located at about the same barangay where Maximo was slain.

WHEREFORE, based on the foregoing, the appealed decision of the Regional Trial Court of Gumaca, Quezon, Branch 67, dated March 12, 1997, is AFFIRMED in toto.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Puno, Kapunan, and Pardo, JJ., concur.

[1] Exhibit “A”.

[2] TSN, March 8, 1995, p. 6.

[3] Ibid.

[4] TSN, March 8, 1995, pp. 12-16.

[5] Exh. “B.”

[6] Exh. “A” to “A1.”

[7] TSN, March 8, 1995, p. 12.

[8] TSN, October 11, 1995, pp. 3-4.

[9] TSN, October 11, 1995, pp. 5-6.

[10] In TSN, August 17, 1995, pp. 8-9, Expedito Patubo’s name was written as Lito Pinatubo.

[11] TSN, August 17, 1995, pp. 9-11.

[12] Appellant’s Brief, Rollo, pp. 48-89.

[13] *People v. Sabalones*, 294 SCRA 751, at 781 (1998).

[14] TSN, March 8, 1995, pp. 19-20; underscoring provided.

[15] Ibid., at p. 13-14.

[16] Exhibit “A” to “A-1”.

[17] TSN, March 8, 1995, p. 16.

[18] *People v. Bundang*, 272 SCRA 641, 651 [1997].

[19] G.R. No. 100199, January 18, 1993, 217 SCRA 170.

[20] G.R. No. 91374, February 25, 1991, 194 SCRA 372.

[21] *People v. Reoveros*, 247 SCRA 628, at 632-33 (1995).

[22] *People v. Daraman*, 294 SCRA 27, 44-45 (1998).

[23] *People v. Manalili*, 294 SCRA 220, 238-39 (1998).

[24] *People v. Sabalones*, 294 SCRA 751, at 781 (1998); citing *People v. Aranjuez*, G.R. No. 121898, January 29, 1998, per *Romero*, *People v. Castillo*, 273 SCRA 22, June 12, 1997.

[25] *People v. Manalili*, 294 SCRA 220, 250-51 (1998).

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